



**DIRECTOR OF PUBLIC  
PROSECUTIONS**

**NORTHERN TERRITORY  
OF  
AUSTRALIA**

**A N N U A L**

**R E P O R T**

**2003-2004**

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

**FOURTEENTH ANNUAL REPORT**

**FOR YEAR ENDED 30 JUNE 2004**



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Printed by the Government Printer of the Northern Territory



**Director of Public Prosecutions  
Northern Territory**

Rex Wild QC

30 September 2004

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Australia

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

Dear Attorney-General

**ANNUAL REPORT 2003-2004**

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 2003 to 30 June 2004.

This is the fourteenth Annual Report of the Office since its establishment in January 1991 and the ninth since my appointment in February 1996.

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 had 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](http://www.nt.gov.au/justice/dpp)) or on request. It is hoped that the information contained within the Report and on the website in respect of the Office will advance public knowledge of its operations and its role in the criminal justice system.

The various guidelines provide 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



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## 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



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## 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.*



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## 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.





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## DIRECTOR'S OVERVIEW

### Introduction

The core business of the Office of the Director of Public Prosecution (ODPP) is prosecuting. I believe it does that job in the Northern Territory very well. The ODPP has a very professional staff, well-qualified and appropriately experienced to carry out its function. From time-to-time the Office leadership can be distracted from the key role by the concerns raised by budgetary restraints and other administrative routines. There is little doubt that the inclusion of the Office within the Department of Justice has meant more, rather than less, bureaucracy.

However, with a sympathetic ear from the Chief Executive Officer of the Department of Justice, Richard Coates, and many of his staff, and the diplomacy and management skills of our Business Manager, Lilia Garard, this Office has been able to maintain a certain level of administrative and financial independence such that its essential business has not suffered.

### Resource Issues

In the main, the ODPP has been well looked after. However, there are outstanding areas of need for further financial provision. The Witness Assistance Service (WAS), particularly in the bush springs to mind. The need for a permanent professional presence in Katherine and a dedicated team for forfeiture matters are also matters for which resources will be pursued in 2004-2005.

I referred earlier to *essential business*. The Office has had to reduce its involvement in quasi-criminal matters. I found it necessary to write to Mr Coates on 16 April 2004 in the following terms:

*I have in the past taken the view that it is desirable that all prosecuting work in the Northern Territory be, as far as possible, conducted by the same organisation. Obviously enough, that should be the Office of the Director of Public Prosecutions. With this in mind, some time ago I took on the responsibility of providing advice and conducting prosecutions for various matters referred to me by agencies other than the police.*

*I find that it is quite impossible to continue to take on this additional work. It is often complicated (in fact, almost always so) and does not have the advantage of having been the subject of a police investigation. There is almost always a great deal of follow-up investigative work to be done and my prosecutors must take charge of that to some extent and direct those investigations.*

*In short, I can no longer accept instructions of this kind.*

It is conceded that the *Bradley Murdoch* prosecution has created significant financial pressures, and the Government has met those without complaint. Similarly, the re-accommodation of the ODPP in Darwin is now planned to occur by the middle of 2005 and this will be in what is expected to be excellent offices in the Old Admiralty House building. The Office will maintain its geographical independence from other areas of the Department which, it is suggested, is important.

As the section of this report on WAS notes, the pattern for clients and victim impact statement numbers over the years has been to show a gradual increase. However, it will be unrealistic to expect any further growth, irrespective of witness and victim needs, because all WAS officers are working to (and beyond, much of the time, I suspect) capacity. Any expansion of the service can only be with an associated increase in resources.

One highlight of the financial year, as it were, was the granting of funds to enable WAS to produce a training DVD/video to enable it to assist people in remote communities to understand the justice process. The DVD/video was to be produced by Burrundi Pictures and was expected to be ready by September 2004.

### **Legislative Changes**

During the year, the *Sentencing (Crime of Murder) and Parole Reform Act* was enacted and came into operation. The effect of the Act is to provide for standard minimum non-parole periods for the offence of murder. The transitional provisions have meant that prisoners sentenced in the early eighties, and therefore due for parole consideration shortly, have been the subject of review by me. Section 19 of the Act casts this responsibility on the Director. Two applications were lodged with the Court by 30 June 2004 with another anticipated. These matters will be the subject of further comment next year. The Court by then will have had the opportunity to consider the effect of the legislation and its potential impact on life prisoners will be known.

The *Criminal Property Forfeiture Act* became operative in June 2003. Since then, caseloads associated with the Act have continued to grow in the Office.

From existing staff, a team of five lawyers and one administrative officer is sharing carriage of the matters. Since the inception of the legislation, 48 matters have been completed and there are currently 32 active files. To date approximately \$154,000.00 in cash, four vehicles and various sundry items have been forfeited under the Act. Property currently under restraint and pending forfeiture includes approximately \$214,000.00 in cash, fifteen vehicles, pieces of real estate and other sundry items. Proceedings under the Act are civil and progress independently from any related criminal matters. They represent a genuine expansion in workloads on the staff in this Office and hence the request made for an increase in resources to meet these additional demands.

### **Murdoch Prosecution**

I have mentioned the case involving *Bradley Murdoch*. It is not appropriate to discuss it in any depth. It remains very much sub-judice. As at the end of June 2004, a committal proceeding was part-heard and expected to conclude in August. It was thought that if Mr Murdoch was committed to trial, such trial could take place in the first half of the 2005 calendar year. Resources will continue to be applied towards the matter. There is some reference to the resources necessary to undertake this prosecution elsewhere in this report but it is not intended to provide any detail at this stage. A further report will be provided in next year's Annual Report.

The case, involving the allegation as it does of the murder of English backpacker Peter Falconio, has received enormous publicity throughout Australia and overseas, particularly in the United Kingdom. It became necessary to obtain the services of a media liaison officer. Jane Munday has performed that role admirably to date. I am grateful to her for diverting the media from me and my staff.

The Chief Justice and Judges of the Supreme Court kindly allowed the Darwin Court of Summary Jurisdiction to use Court Six to conduct the committal. It was newly fitted out as the e-court in time for the hearing. We were very grateful for the personnel of the Department of Justice, Corporate Services, who facilitated the speedy completion of the facilities.

### **New Chief Justice**

Enough has no doubt been said already in other places, but I record again the ODPP's welcome to the Chief Justice Brian Ross Martin who commenced in January 2004. He has already demonstrated a very pragmatic approach to the business of the Court (he is determined to *fix* arraignment day) and is very approachable.

I take the opportunity of again thanking, on behalf of the prosecuting service, the former Chief Justice Brian Frank Martin AO for his contribution to the administration of criminal justice in the Northern Territory.

## **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, the Business Plan and aspects of 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](http://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**

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 Victim Support Unit

(now Witness Assistance Service) 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 also thank my executive assistant, Tricia Smith, who provides effective and friendly support, at all times. Her co-ordination of the preparation of the report has been first-class.

It is also recorded that sections of this report have been drafted by staff members or police officers. That on *Summary Prosecutions* is by Senior Sergeant Stuart Davis (Darwin) and Senior Sergeant Rob Burgoyne (Alice Springs); on *Witness Assistance Service* by Nannette Hunter and on *Aboriginal Support* by Colleen Burns. I thank them for their contributions.

I repeat the earlier recognition of the whole of the staff of ODPP, Darwin and Alice Springs, administration and professional. I believe we presently have a marvellous blend of mature and experienced people with the young and enthusiastic. It is a very loyal group, working with a common goal and I think it is overall as good a team as anyone could hope for. Thank you for your efforts and support this year!

### **Directions**

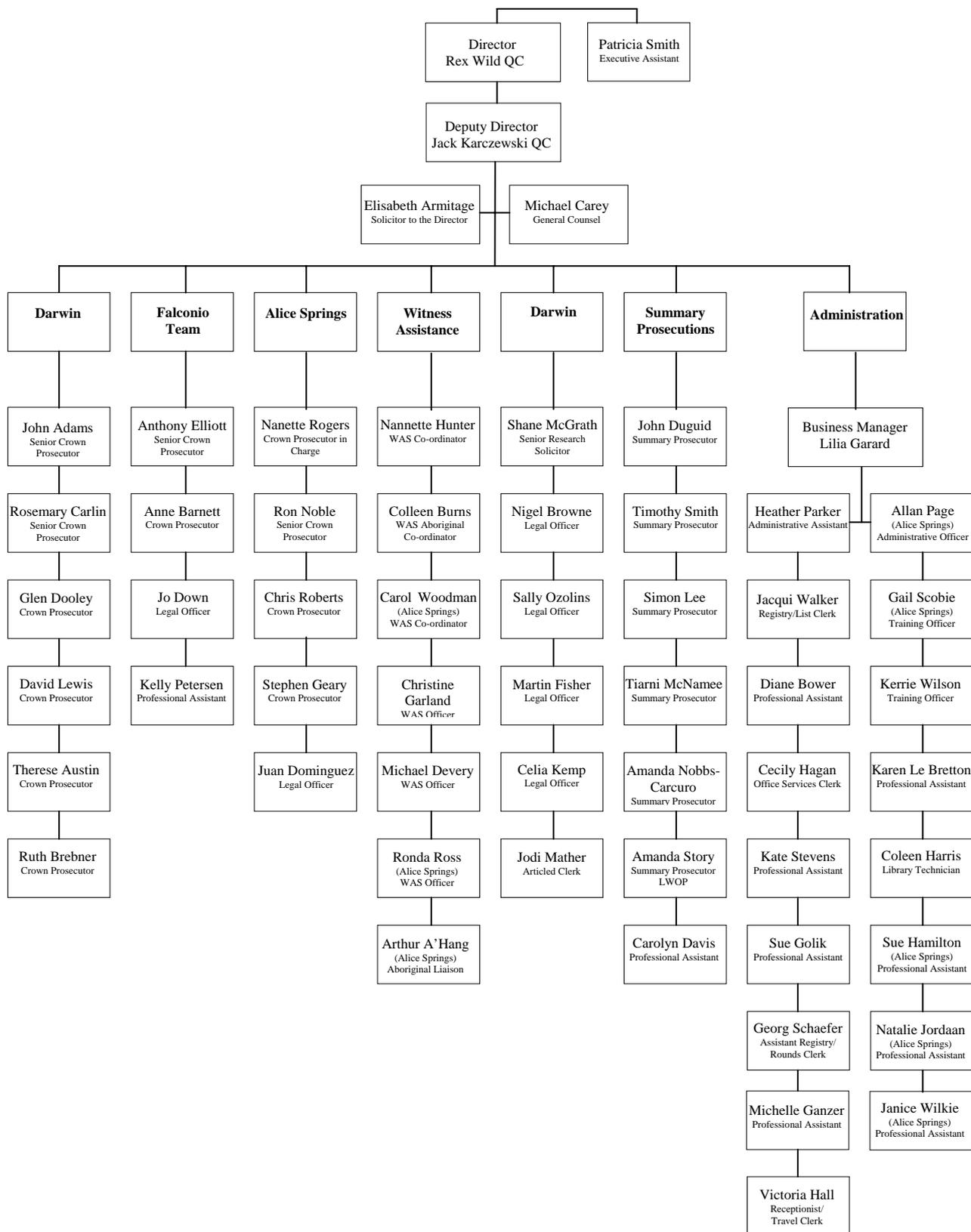
Pursuant to the *Director of Public Prosecutions Act*, there is provision for the Attorney-General to provide directions to the Director of Public Prosecutions as to the general policy to be followed in the performance of a function of the Director. Any such direction shall be in writing and shall be 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 2004



## DPP ORGANISATION CHART AS AT 30 JUNE 2004





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## 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.*



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## BUSINESS PLAN AND PERFORMANCE

### Information Technology

#### *Intranet and Internet*

The ODPP internet is used to provide an on-line information service to the public. See item on ODPP Website in Section on *Professional Activities* (below) for further details.

Internal IT management programs include:

- Casenet
- DPP Opinion Register
- DPP Law Register
- Electronic Diary

#### HRM and HRD issues

The staff of the ODPP is undoubtedly the most valuable resource of the Office. Approximately 50% of the staff are professionals including Crown Prosecutors, Summary Prosecutors, Law Officers, Library Technicians and Witness Assistant Service personnel.

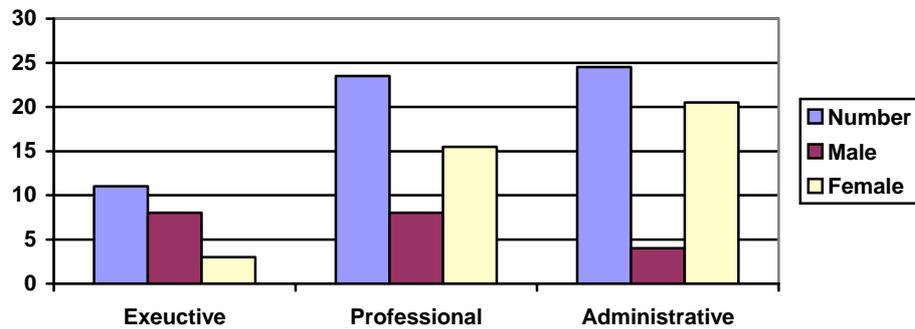
As at 30 June 2004 the total number of staff was 58. A breakdown of this figure appears below:

Level	Number	Female	Male
Director	1		1
ECO3	1		1
ECO1	6	2	4
EO3	2	1	1
E02	1		1
E01	-	-	-
P4	3	2	1
P3	5	3	2
P2	5.5	4.5	1
P1	10	6	4

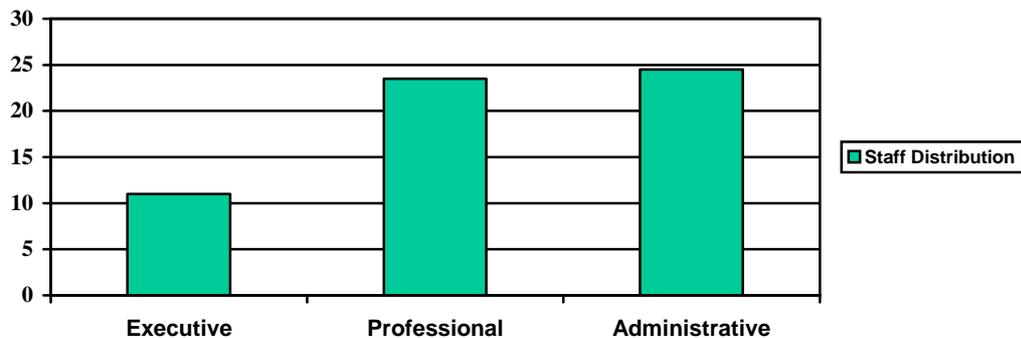
A07	1	1	-
A06	-	-	-
A05	4	2	2
A04	7	7	-
A03	11.5	10.5	1
A02	1	-	1
A01	-	-	-
<b>Total</b>	<b>58</b>		

All staff are employed under the *Public Sector Employment & Management Act*.

### Gender Percentages by Stream



### Staffing Streams as at 30 June 2004



### Training and Development

As part of the ODPP Business Plan, each employee is required to have a personal development plan. This is reviewed each year.

If a training need is identified by either the supervisor or the employee, the Office endeavours to ensure that relevant training is provided as part of the performance management cycle.

Each personal development plan is tailored to meet the needs of the individual to ensure that the employee has the skills required for their current positions

and the skills needed for career development. The personal development plans are also used to develop training programs and to ensure that every staff member receives a fair allocation of limited resources.

The Office conducts regular in-house continuing legal education (CLE) training to ensure that prosecutors are updated in applicable legal education requirements.

It is mandatory that all new employees attend a cross-cultural course. As at 30 June 2004, 74% of all employees had attended such a course.

In 2003-2004, \$53,265.00 was spent on training. This represents 0.9% of the total budget and 4.3% of the operational budget.

### **Capital works and minor new works**

#### **Darwin**

During 2003-2004 the ODPP continued to seek additional accommodation to fulfil current and future requirements.

The ODPP has experienced a shortage of suitable office space within the Darwin region to adequately perform all its functions.

Existing Darwin accommodation was reviewed by the Department of Corporate and Information Services (DCIS), resulting in the acquisition of new office space at Old Admiralty House (OAH).

OAH met the Office's physical requirements and will better reflect the function and business of the Office within the community. It is anticipated that the ODPP will occupy the new premises in July 2005.

#### **Alice Springs**

In 2003-2004 additional office space was acquired within the existing premises (Level 1, Centrepoint Building).

The existing layout was not functional and could not accommodate existing requirements. Refurbishment of office space was undertaken in 2003-2004.

The new fitout allowed better use of floor space for both the ODPP and Summary Prosecutions without incurring additional lease costs.

The refurbishment resulted in six additional offices. The attractive modern décor is conducive to a friendlier and more efficient work place.

It is noted that Police provided significant financial support for this refurbishment.

## **Status of Women**

The responsibility of ensuring that proper attention is paid to the status of women rests with the Director and Deputy Director as part of the normal management of the Office.

As at 30 June 2004, 67% of all ODPP employees were women and 54% of professional positions were filled by women.

The ODPP also works with other agencies involved in the criminal justice process to ensure that there is no discrimination against women or any other group of people, in the criminal justice process.

The implementation of a part-time working agreement resulted in three employees (including one in the professional stream) successfully undertaking part-time work agreements.

## **Study Assistance**

The ODPP's Studies Assistance Scheme is available to employees wishing to enhance their career potential through formal education. Priority is given to courses which are relevant to the achievement of the Office's goals and objectives.

The commitment to learning and skill development is underpinned by Equal Employment Opportunity (EEO) principles and is reinforced through the personal development plans.

All permanent, permanent part-time and temporary employees are eligible to apply to undertake or continue an approved course of study.

The level of support is assessed on merit and based on the needs of the work area and learning outcomes identified in personal development plans.

The number of studies assistance participants as at 30 June 2004 was four, which represents 7.5% of the staff.

## **Occupational Health & 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, lawn bowls and other Life Be In It programs.

**Partnerships, collaboration, consultation, public education and conference facilitation**

See under *Professional Activities – Community Involvement*.

**Biennial Conference**

The ODPP holds an in-house conference for prosecutors, both Crown and Summary, biennially. The Conference was held this year at Gagudju Crocodile Inn, Jabiru from 19-21 March 2004. This was the fifth biennial conference. Invitations were extended to police prosecutors from outer Darwin regions including bush courts, Commonwealth prosecutions in Darwin and Forensic Services.

See under *Professional Activities - Continuing Legal Education*.

<b>Performance Measures</b>	<b>2002-03 Actual</b>	<b>2003-04 Target/Budget</b>	<b>2003-04 Estimate</b>	<b>2003-04 Actual</b>	<b>2004-05 Budget</b>
<b><i>Quantity</i></b>					
New matters	958	830	1 100	1317	1 045
Clients	646	636	636	712	670
<b><i>Quality</i></b>					
Establish a case to answer before the court (percentage of total cases)	88%	83%	95%	n/a	n/a
Establish sufficient evidence before the Court of Summary Jurisdiction				96%	85%
Findings of guilt in the Supreme Court	n/a	n/a	n/a	n/a	85%
Convictions after committal	91%	88%	n/a	n/a	n/a
Convictions after trial or hearing	72%	70%	70%	72%	70%
WAS Client satisfaction	95%	85%	85%	97%	85%
<b><i>Timeliness</i></b>					
Disclosure not later than 14 days before committal	84%	78%	n/a	n/a	n/a
Service of s.105A brief of evidence not later than 14 days before committal	n/a	n/a	80%	91%	80%
Filing of indictments within 28 days of committal	n/a	n/a	n/a	n/a	85%
Meeting client timeframes	90%	80%	80%	85%	80%
<b><i>Cost</i></b>					
Average cost per completed matter	\$6 141	\$6 686	\$6 209	\$5 743	\$6 300
Average cost per client	\$1 013	\$970	\$1 192	\$1 180	\$1 093

## **Strategic directions**

Strategic directions and business priorities 2004-2005 will remain the same as in the past year.

## BUSINESS PLAN 2004-2005

<i>Major Strategies</i>	<i>Activities</i>	<i>Action Plan</i>
<p>Provide an effective, efficient and independent prosecutorial service to the Territory</p>	<p><i>Business Process</i>            Conduct cases in accordance with the Director's Guidelines.</p> <p>Improve the provision of service by:</p> <p>(i) law reform and</p> <p>(ii) management of court listings (focusing on reduction in delays).</p> <p><i>Financial</i>            Provide a cost effective prosecution service.</p>	<p>Conduct a review of the Director's Guidelines.</p> <p>Train professional staff on any changes to the Guidelines.</p> <p>Provide a copy of the Guidelines to privately briefed members of the bar.</p> <p>Provide advice on existing criminal law and recommendations for its reform.</p> <p>Liaise with courts and court users in development of effective and efficient listing methods.</p> <p>Develop and maintain effective management procedures by:</p> <ul style="list-style-type: none"> <li>• Prosecutors minimising their applications for adjournments.</li> <li>• Obtaining best value for money in terms of witness expenses including airfares and accommodation and outside counsel fees.</li> </ul> <p>Monitor/analyse and improve DPP performance measures, focusing on quality, quantity, timeliness and costs by analysing variance.</p> <p>Identify and address factors impacting on the accuracy of reports produced from the case management system.</p> <p>Efficiently manage and monitor briefings to the private bar by implementing measures of communication between Counsel, WAS and Solicitor to the Director.</p>

<i>Major Strategies</i>	<i>Activities</i>	<i>Action Plan</i>
	<p data-bbox="459 439 991 510"><i>People and Learning</i> Provide a qualified and professional service.</p> <p data-bbox="459 1794 823 1827">Provide appropriate resources.</p>	<p data-bbox="1023 271 1458 365">Undertake an independent review to evaluate the delivery of corporate services to the Office.</p> <p data-bbox="1023 499 1437 593">Recruit and retain qualified and/or specialised lawyers and support personnel by:</p> <ul data-bbox="1023 633 1485 1798" style="list-style-type: none"> <li data-bbox="1023 633 1453 728">• Increasing the presence of qualified prosecutors in courts, particularly in remote localities.</li> <li data-bbox="1023 768 1461 835">• Working towards consistency of salaries for like positions.</li> <li data-bbox="1023 875 1469 969">• Professional staff participating in Continuing Legal Education Programs.</li> <li data-bbox="1023 1010 1449 1077">• Maintaining a rotation program for summary prosecutors.</li> <li data-bbox="1023 1149 1469 1216">• Professional staff participating in biennial legal conferences.</li> <li data-bbox="1023 1256 1426 1323">• Staff participating in monthly meetings.</li> <li data-bbox="1023 1350 1485 1417">• Providing mentoring opportunities for junior lawyers.</li> <li data-bbox="1023 1458 1437 1525">• Developing appropriate career paths.</li> <li data-bbox="1023 1552 1477 1686">• Recognising good performance at annual reviews by providing a structured career path within the Office.</li> <li data-bbox="1023 1731 1422 1798">• Young lawyers instructing or junioring in trials.</li> </ul> <p data-bbox="1023 1827 1477 1921">Provide accommodation and equipment in compliance with OH&amp;S standards.</p> <p data-bbox="1023 1962 1485 2022">Review the provision and accessibility of library services at remote court</p>

<i>Major Strategies</i>	<i>Activities</i>	<i>Action Plan</i>
<p>Provide quality services to the Community</p>	<p>Improve the quality of legal briefings.</p> <p><i>The Community</i> Provide support for victims of and witnesses to crime.</p>	<p>localities by enhancing the quality of IT equipment.</p> <p>Meet with the minister to discuss significant impact of budgetary restraints on the delivery of services to remote areas including office accommodation and personnel.</p> <p>Assist Police with detective and prosecutors training.</p> <p>Allow the Police access to the ODPP Law Register and of professional staff to senior prosecutors for legal advice.</p> <p>Contribute to improving the provision of victim and witness facilities within the NT by participating in a whole of Government approach to new and ongoing initiatives.</p> <p>Provide appropriate services for indigenous clients by increasing the presence of WAS officers in courts, particularly in remote localities and ensuring that all staff participate in cross-cultural training.</p> <p>Ensure that a victim impact statement or report is presented to the court in all cases where there is an identifiable victim.</p>

<i>Major Strategies</i>	<i>Activities</i>	<i>Action Plan</i>
	<p>Increase community awareness of services provided to victims and witnesses.</p>	<p>Provide client contact within 7 days of receipt of matter.</p> <p>Client satisfaction surveys to be distributed one quarter per year.</p> <p>Maintain close relationships with other agencies and bodies whose aim is to provide services to victims of crime.</p> <p>Promotion of victim and witness services to community and government organisations by presence at show circuits, etc.</p>



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## PROFESSIONAL STAFF

Staff membership has undergone a large number of changes during the year. Articled clerks Celia Kemp (Darwin) and Juan Dominguez (Alice Springs) duly completed their articles and were admitted to practice. Celia has since been appointed as a legal officer and continues with the Darwin Office in that capacity. Juan is employed as a legal officer in Alice Springs. The only new articled clerk taken on was Jodi Mather in Darwin.

The professional staff significantly changed during the year. Alexis Fraser left after ten years valuable service in Alice Springs and Darwin; Georgia McMaster after nearly four years in both Offices, and Brett Harris in Darwin. Mark Johnson left us to join the local Bar.

Two significant sets of appointments were made. Firstly, it became obvious that the prosecution of *Bradley Murdoch* would absorb considerable resources, of both staff and logistics. It was necessary to employ three additional professional staff, supported by an administrative officer. Anthony Elliott was asked to concentrate on the Murdoch matter and it was necessary to employ a replacement Senior Crown Prosecutor. Rosemary Carlin from the Victorian ODPP has proved an excellent choice in this regard.

Anne Barnett (Commonwealth ODPP) and Josephine Down (returning to us after time overseas and in Western Australia) are the assisting Crown Prosecutor and instructing Solicitor/Legal Officer respectively.

Elisabeth (Libby) Armitage was recruited from the New South Wales ODPP to become the Solicitor to the Director. This has proved an inspired choice as Libby has already made a grand contribution to the administration of the legal practice of the Office.

Amanda Story (Clark), Summary Prosecutor, proceeded on 12 months leave of absence in February 2004 and Simon Lee joined us on a limited term appointment. Tiarni McNamee and Amanda Nobbs-Carcuro, formerly Summary Prosecutors, have taken up positions as Crown Prosecutor and Legal Officer respectively to fill positions made vacant by Georgia McMaster's resignation and

the promotion of Ruth Brebner to Crown Prosecutor. Some of these staffing changes were imminent as of 30 June 2004. David Robertson joined Summary Prosecutions in Darwin (SPD) in June 2004 and Michael Fay was due to start in July 2004.

It is confidently hoped that the professional staffing is settled for the foreseeable future. The make-up of the staff is as good as one could hope for.

In Darwin, we had increased last year 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. That has continued to operate successfully.

Profiles of the new professional staff appear below.

**Rosemary Carlin**

**Senior Crown Prosecutor**

Rosemary graduated with Bachelor of Science and Bachelor of Laws with (Hons) from Melbourne University in 1984. She worked for a short time in private practice before joining the Melbourne Office of the Commonwealth ODPP in December 1985. She spent a year in the ACT working in both head office of the Commonwealth ODPP and the (then) branch office (now ACT ODPP). Following that she joined the Victorian Bar in 1991 and in 1998 she was appointed an Associate Crown Prosecutor with the ODPP Victoria. In 2000 she was re-appointed as a Crown Prosecutor in that Office for a period of 4 years. In November 2003 she took leave of absence from that position to join this Office as a Crown Prosecutor and subsequently a Senior Crown Prosecutor.

**Elisabeth (Libby) Armitage**

**Solicitor to the Director**

Libby graduated from the University of Sydney in 1989 with a combined Arts/Law (Hons) degree. She was a Legal Officer with the Department of Education before joining Allen, Allen and Hemsley as a solicitor in commercial litigation. In 1991 Libby joined the ODPP (NSW), carrying a general criminal practice for two years before joining the Special Crime Unit. For several years Libby worked part-time. Her time away from the workplace was devoted to raising her three children and to completing a Master of Laws (Criminal Jurisprudence) from the University of NSW. She first came to the Northern Territory on a short secondment to the ODPP during the wet season of 2002-2003, and returned to NSW as Managing Lawyer of the Campbelltown Office. In January 2004 Libby and her family moved to the NT so she could take up her current position.

**Anne Barnett****Crown Prosecutor**

Anne Barnett graduated from Flinders University of South Australia in 1997 and was admitted to practise in South Australia in 1998. She was employed at Caldicott & Co Solicitors primarily practising in criminal law until moving to the Melbourne Office of the Commonwealth ODPP in 2000. Anne took up a contractual position with the Northern Territory ODPP in January 2004 as a Crown Prosecutor.

**Josephine Down****Legal Officer**

Josephine has a Bachelor of Arts from the University of Adelaide, and graduated from the Northern Territory University in Law in 1999. Josephine commenced employment with the ODPP in April 1999 as a part-time librarian. In 2000 Josephine undertook her Articles of Clerkship with the Office and following her admission she was employed as a junior prosecutor, until her departure in mid August 2001. Josephine worked in London for six months, and then moved to Perth where she was employed as a solicitor by the Royal Commission into whether there has been any corrupt or criminal conduct by Western Australian Police Officers. Josephine has returned to the Office to join the team assembled in relation to the prosecution of *Bradley Murdoch*.

**Simon Lee****Summary Prosecutor**

Simon completed his Bachelor of Arts (Hons) at Monash University in 1989. Following graduation he worked in Japan for the Oil and Gas Division of Mitsubishi Corporation for five years. Simon then moved to England where he completed his law degree at the University of Durham in 1996. He worked as a Japanese Government Bond trader at Nomura International in London before returning to Australia to work in the commercial litigation department at Freehills in Perth. Joining the Regular Army in 2002, he was posted to Darwin as a Legal Officer to 1 Brigade before joining SPD in January 2004.

**David Robertson****Summary Prosecutor**

David has a Bachelor of Arts from Monash University and graduated from the Northern Territory University with a Bachelor of Laws (Hons) in 2002. He was awarded the Supreme Court Medal for 2002 for the graduating student showing outstanding academic achievement and leadership (thus following in the footsteps of Summary Prosecutor, Martin Fisher who achieved this same distinction in 2001). David left an 18 year career in the media (finally as Head of News and

Current Affairs ABC Northern Territory) to take up a para legal position in 2002 at Miwatj Aboriginal Legal Service in Arnhemland while completing his thesis. He completed his Articles at Miwatj in 2003, during which time he had leave to appear in all matters except hearings in the Court of Summary Jurisdiction and Local Courts in Nhulunbuy, on Groote Eylandt, Elcho Island and Numbulwar. David returned to Darwin in June 2004 and commenced employment with the ODPP.

### **Jodi Mather**

### **Articled Clerk**

Jodi was born and raised in Melbourne. She was employed as a Clerk of Courts for three years in Victoria before accepting a position as a Court Officer in Alice Springs. In 1998 Jodi was transferred to Darwin with the Office of Courts Administration allowing her to undertake her law degree. She continued full-time employment whilst studying and in 2002 Jodi accepted an opportunity to work on secondment within the Anti-Discrimination Commission. In 2003 Jodi was appointed Associate to the former Chief Justice Brian Martin and upon his retirement completed her articled clerkship with ODPP. Jodi expected to be admitted to practice in August 2004.



## 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. This will be dealt with first.

### General Workload

This is best demonstrated in the following chart:

<b>BREAKDOWN OF PROSECUTION CASES</b>				
For the period 1 July 2003 to 30 June 2004				
Number of Matters dealt with by:	<b>DARWIN</b>		<b>ALICE SPRINGS</b>	
Trial	25	(32)	9	(12)
Re-trial	1	(3)	-	(-)
Plea	165	(114)	61	(45)
Justice Appeal	72	(96)	12	(27)
Case Stated	-	(-)	-	(-)
Voir Dire	1	(10)	-	(1)
297A	4	(3)	-	(-)
Nolle Prosequi	8	(20)	2	(4)
Committal	169	(381)	56	(60)
Court of Criminal Appeal	17	(8)	-	(-)
Court of Criminal Appeal (Mention)	40	(-)	-	(2)
Court of Appeal	1	(3)	-	(-)
Court of Appeal (Mention)	5	(-)	-	(-)
High Court	1	(-)	-	(-)
Summary Court Mention*	1355	(674)	714	(1375)
Supreme Court Mention**	969	(621)	326	(127)
Summary Prosecution	142	(176)	90	(136)
Breach Supreme Court Bond	47	(27)	10	(6)
Supreme Court Warrant	31	(41)	14	(14)
Summary Court Warrant	71	(36)	44	(63)
<b>Totals</b>	<b>3121</b>	<b>(2246)</b>	<b>1338</b>	<b>(1869)</b>
<b>NB:</b> The figures in brackets are for the period 1 July 2002 to 30 June 2003				
* 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.

In the Annual Report of 2001-2002 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.*

Last year, I said:

*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.*

This useful trend has continued. This year there were 65 ex officio indictments filed (63, last year) which confirms the positive trend. This is a good outcome for all stakeholders.

## **Results**

Of those tried by jury in the Supreme Court last year 72% (compared with 56% in the previous year) were convicted and 34% (44%) acquitted. Overall, when pleas of guilty and nolle prosequis are included, the conviction rate was 91% (81%) of all matters disposed of in the Supreme Court. This is a more than acceptable outcome, generally consistent with previous years but better than last year by some way.

## **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 emerge, with the facility to deal with them urgently. The committee comprises the Director, Deputy Director, General Counsel, Solicitor

to the DPP, the Crown Prosecutor in charge of the Alice Springs Office. representatives from the Senior and other Crown Prosecutors, legal officers and of each of the Summary Prosecutions offices and WAS.

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. Because of the importance of the appeal process, however, I am providing the following information on that process. This includes the results of appeals in 2003-2004 and matters which have been the subject of consideration by the High Court.

### **Appeals**

It is a function of the Director of Public Prosecutions to:

- (i) institute and conduct, or to conduct as respondent, any appeal or further appeal relating to prosecutions upon indictment in the Supreme Court;
- (ii) request and conduct a reference to the Court of Criminal Appeal under s. 414(2) of the *Criminal Code*; and
- (iii) institute and conduct, or to conduct as respondent, any appeal or further appeal relating to prosecutions not on indictment, for indictable offences, including the summary trial of indictable offences.

Some explanation of these functions is required.

As to (i), pursuant to s.414(1)(c) of the *Criminal Code*, the Director may appeal to the Court of Criminal Appeal against any sentence imposed by the Supreme Court following prosecution upon indictment. The Director is not required to obtain the leave of the Court to appeal against sentence. The appeal lies as of right. The Director cannot appeal against a jury verdict of not guilty.

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By way of contrast, a person found guilty on indictment in the Supreme Court may appeal to the Court of Criminal Appeal against the finding of guilt on any ground that involves a question of law alone or, with the leave of the Court, against the finding of guilt on any ground of appeal that involves a question of fact alone or question of mixed law and fact and, with the leave of the Court, against the sentence passed on the finding of guilt.

As to (ii), the Director may, in a case where a person has been acquitted after his trial on indictment in the Supreme Court, refer any point of law that has arisen at the trial to the Court of Criminal Appeal for its consideration and opinion thereon. Although the acquitted person is entitled to make submissions to the Court, the opinion of the Court upon the reference cannot affect the trial in respect of which the reference was made or any acquittal in that trial.

As to (iii), pursuant to s.163(1) of the *Justices Act*, both the Director and the offender may appeal to the Supreme Court against any sentence imposed by the Court of Summary Jurisdiction following conviction for a minor indictable offence. A person found guilty of having committed a minor indictable offence in the Court of Summary Jurisdiction may appeal to the Supreme Court against that finding of guilt. Leave to appeal is not necessary. The appeal lies as of right. In September 2001, s.163(3) of the *Justices Act* was amended to give the prosecution a right of appeal from an order or adjudication of the Court of Summary Jurisdiction dismissing a charge of a minor indictable offence. Leave to appeal is not necessary. The appeal lies as of right.

A judge of the Supreme Court hearing an appeal from the Court of Summary Jurisdiction may refer the whole or part of that proceeding to the Full Court of the Supreme Court for determination.

An unsuccessful appellant to the Supreme Court may appeal the decision of that court to the Court of Appeal. Leave to appeal is not necessary. The appeal lies as of right. The prosecution, as of right, can appeal against an order of the Supreme Court quashing the finding of guilt made by the Court of Summary Jurisdiction and the Court of Appeal is empowered to quash the order of the Supreme Court and reinstate the conviction recorded in the Court of Summary Jurisdiction.

The Court of Criminal Appeal, the Court of Appeal and the Full Court are each constituted by not less than three judges of the Supreme Court.

The Director's Guidelines which deal with appeals against inadequacy of sentence remind prosecutors that appellate courts have long maintained that prosecution appeals should be a rarity, instituted for the purposes of enabling the courts to maintain adequate standards of punishment, to correct idiosyncratic views of individual judges as to particular crimes or classes of crime and to remedy those sentences which are so disproportionate to the seriousness of the

offence as to shock the public conscience. As recently as 2000, in the decision of the High Court of Australia in *Dinsdale v The Queen* [2000] 202 CLR 321 at paragraph 62, Kirby J affirmed the proper role of prosecution appeals against sentence in the following terms:

*For reasons of legal history and policy, the position of Crown appeals against sentence has long been regarded, in Australia and elsewhere, as being in a class somewhat different from that of an appeal against sentence by a convicted offender. When first introduced, Crown appeals were considered to cut across "time-honoured concepts" of the administration of criminal justice in common law legal systems. For this reason, it has sometimes been said that, as a "matter of principle", such appeals should be a comparative rarity. The attitude of restraint reflected in such remarks has often been justified on the basis that a Crown appeal against sentence puts the prisoner in jeopardy of punishment for a second time, a feature that is ordinarily missing from an appeal, or application for leave to appeal, brought by those who have been sentenced. The consequence is that where the Crown appeals, it is normally obliged to demonstrate very clearly the error of which it complains. The further consequence is that, where such demonstration succeeds, it is conventional for the appellate court to impose a substituted sentence towards the lower end of the range of available sentences. This convention tends to add an additional restraint upon interference, given the strong resistance that exists against appellate "tinkering" with sentences.*

Tables A and B below summarise the results of appeals from and to the Supreme Court decided during the period 1 July 2003 – 30 June 2004.

The Office was involved in two matters before the High Court during the reporting period.

In *DPP v WJI* the Director applied for special leave to appeal from the decision of the Court of Criminal Appeal which decided adversely to the Director, two questions of law referred to it for consideration pursuant to s.414(2) of the *Criminal Code*. The Director's reference followed the respondent's acquittal in the Darwin Supreme Court of a charge of having sexual intercourse with another person without the consent of the other person (rape). The questions of law referred to the Court of Criminal Appeal arose out of directions given by the trial judge to the jury regarding the accused's intention and belief at the time of the commission of the alleged offence. The questions were:

1. Was the learned trial judge correct in directing the jury, in respect of the elements of the offence prescribed by s.192(3) of the *Criminal Code*, that the Crown must prove beyond reasonable doubt, *not only*
  - (a) that the accused had sexual intercourse with the complainant,  
and

- (b) that the complainant did not give her consent to the accused having sexual intercourse with her

*but also*

- (c) that the accused intended to have sexual intercourse with the complainant without her consent?
2. Was the learned trial judge correct in directing the jury, in respect of the issue of the accused's mistaken belief as to consent, that such a mistaken belief need not be based on reasonable grounds?

The Court of Criminal Appeal, by a majority of 4 to 1, answered each question in the affirmative. The decision of the Court of Criminal Appeal is reported as *Director of Public Prosecutions Reference No 1 of 2002* [2002] NTCCA 11, 12 NTLR 176.

The High Court granted special leave to appeal following a hearing in Canberra on 12 September 2003. The appeal was heard in Canberra on 5 March 2004. The court reserved its decision. No decision had been delivered as at 30 June 2004.

In *Pascoe (Jamilmira) v Hales* the applicant defendant applied for special leave to appeal from the decision of the Court of Appeal allowing a prosecution appeal against inadequacy of sentence. The point sought to be agitated was the recognition to be given to the operation of Aboriginal customary law in assessing what is proper punishment.

The offender, a 49 year old Aboriginal male, was sentenced by the Court of Summary Jurisdiction to 13 months imprisonment to be suspended after four months after pleading guilty to having unlawful sexual intercourse with a female under the age of 16 years. The offender claimed the victim, a 15 year old Aboriginal female, was his promised wife. The offender's appeal to the Supreme Court against severity of sentence was successful and the offender was re-sentenced by that court to 24 hours imprisonment. The prosecution's appeal to

the Court of Appeal resulted (by majority) in the sentence being increased to 12 months imprisonment to be suspended after one month. The decision of the Court of Appeal is reported as *Hales v Jamilmira* [2003] NTCA 9, 142 NTR 1. The High Court refused an application by the offender for special leave to appeal following a hearing in Melbourne on 13 February 2004.

**TABLE A**

<b>Outcome of Defence Appeals to Court of Criminal Appeal/ Court of Appeal/Full Court 2003-2004</b>			
	Conviction	Sentence	Other
Allowed	2	5	0
Dismissed	6	5	0
Discontinued		1	

<b>Outcome of Prosecution Appeals and References to Court of Criminal Appeal/Court of Appeal/Full Court 2003-2004</b>		
	Sentence	Other
Allowed	5	3
Dismissed	0	0

\* This figure includes the case of *Nine Network Pty Ltd v McGregor & Ors* [2004] NTSC 27 wherein the prosecution supported the making of a suppression order challenged by the plaintiff on appeal.

**TABLE B**

<b>Outcome of Defence Justices' Appeals 2003-2004</b>			
	Conviction	Sentence	Other
Allowed	11	38	3
Dismissed	6	27	1
Discontinued	1	33	0
Total	18	98	4

<b>Outcome of Prosecution Justices' Appeals</b>		
<b>2003-2004</b>		
	Dismissal of Charge	Sentence
Allowed	1	2
Dismissed	1	0
Discontinued	0	1
<b>Total</b>	<b>2</b>	<b>3</b>

## **ODPP website**

Reference has already been made to the ODPP website ([www.nt.gov.au/justice/dpp](http://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
- Witness Assistance Service (formerly Victim Support Unit)
- Aboriginal support
- Aboriginal Employment & Career Development Strategy 2000-2004
- Equal Employment Opportunity Management Plan
- Progress of a typical matter from charge to trial
- Memorandum of Understanding in respect of Summary Prosecutions
- Update on Falconio matter

## **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 indicated 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 WAS.

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 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 been a significant year for continuing legal education. In addition to a number of seminars held in-house, the fifth biennial conference was held at Kakadu, the fourth time at this location. In 2000 it was held in Darwin.

Fourteen separate papers were presented during the 48 hours of the Kakadu Conference using almost entirely our own resources. Dominic McCormack from Aboriginal Interpreters Service made a valuable contribution with a paper on *Interpreters*. The guest speaker at the conference dinner was His Honour, Acting Chief Justice Angel. Magistrate Jenny Blokland also attended and made a significant presentation. It was an excellent conference and I thank the organising committee comprising Michael Carey (Chairman), Nanette Rogers, Shane McGrath and Lilia Garard. I also thank members of the professional team, including WAS personnel, for their presentations made to the conference.

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.

## **Community Involvement**

The Director of Public Prosecutions presents the course of *Advocacy* at the Charles Darwin University. He is assisted by, inter alia, other staff members. Other professional staff lecture in individual subjects such as *Evidence*. The ODPP Crown Prosecutors and legal officers are actively involved in providing both the public and private sector with public education.

In 2003-2004 the Office provided the following training programs and courses:

- Witness training for Probation and Parole Services,
- Juvenile court procedures, rights and obligations in the criminal system for the staff at the Don Dale centre, volunteer services and community legal centres,
- Counsellor confidentiality and victim impact statements for counsellors from Ruby Gaea,
- Evidence and the Criminal Law for detectives,
- Child Sexual Assault and Community Based policing for the NT Police,
- Child Protection and Sex Offender courses for Correctional Services staff, sexual assault counsellors from both the private and public sector,
- ODPP and the law generally for careers night at St Philips College, Alice Springs,
- Consent and mandatory reporting for rural nursing practitioners within the southern region,
- Volunteer work with Darwin Community Legal Service,
- Advanced courses for Police prosecutors.

In addition ODPP staff participate amongst others in the following community based board and committees:

Board of NT Carers,  
Crime Victims Advisory Committee and  
Judicial Committee of Northern Territory Rugby Union.

## **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.

There were two such meetings during this year. The Directors have also 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), Edinburgh (2001) and Darwin (2003). 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. The Northern Territory hosted an extraordinarily successful conference last year.

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.

It is anticipated that the next conference will be held in September 2005, jointly hosted by Ireland and Northern Ireland. It promises to be another excellent meeting.

### **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 did attend the Washington Conference in August 2003 where the general theme has the very topical one of *the fight against terrorism: a global effort*.

Papers were presented from a wide range of speakers, revealing a common attitude to the problems but with different solutions. The conference was addressed by, inter alia, representatives from Belgium, Korea, Switzerland, France, South Africa as well as the host nation and those from (former) Commonwealth countries.

As expected, some excellent networking opportunities became available and the conference is an ideal opportunity to make and maintain contacts at an international level which could become very useful as our world continues to contract.

### **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 that 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.

The Director again produced a play reading for the conference. This time it was on the trial of *Bentley* (in the United Kingdom, in 1981) entitled *A Matter Of Profound Regret, Derek William Bentley's Birthright To A Fair Trial* which was well received. There were, inter alia, papers on *Aboriginal customary law, fitness to plea, mandatory sentencing statistics* and *terrorism*.

Highlights included the wonderful speech by Noel Pearson who spoke passionately and largely without notes on the plight of the Aboriginal people in

Cape York and Professor Chris Griffiths, a forensic Odontologist, who was the dental expert involved in the identification of the victims of the Bali bombing. We also had Justice Michael Kirby from the High Court who made his usual thoughtful contribution and took a part in the play-reading of *R v Bentley*.

It is hoped that the tenth biennial conference may be held, once again, in Bali. It is expected to be fixed for 1 July 2005.

### **Australian Association of Crown Prosecutors**

The Office will be hosting the Sixth Annual Conference of the Australian Association of Crown Prosecutors in Darwin on 14-16 July 2004. The Association is a national body representing Crown Prosecutors, which has been active in promoting law reform, making submissions to Government and various activities concerning the professional development of prosecutors. The Northern Territory is represented on the Executive of the Association by the Deputy Director, Jack Karczewski QC.

The annual conference was the most significant event on the Association's calendar. Speakers at the forthcoming conference will include The Honourable Justice Olsson from South Australia, and Crown Prosecutors from around the country who will discuss the Snowtown Case in South Australia, people smuggling, prosecution disclosure, the use of interpreters and presentation of appeals. There will also be experts discussing forensic science and arson, and the use of technology in presenting cases. One session will allow delegates to see the operation of the new *eCourt* in the Supreme Court.

The Attorney General is expected to welcome the delegates at a function on the opening day. It is expected that there will be 69 delegates (including seven overseas delegates, four of whom who are sponsored by AusAID), which will make this the best attended conference of the Association to date.



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## SUMMARY PROSECUTIONS

### Darwin

#### Background

Summary Prosecutions in Darwin and Alice Springs consists of civilian legal practitioners employed by the ODPP, members of the Northern Territory Police 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).

#### 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 – at least one day per month
- Nguiu – at least one day per month
- Daly River - one day each second month and
- Galiwin'ku - one day each third month.

One legal practitioner from SPD is sent to each circuit. At times a Police prosecutor will also attend to assist. 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	3	3.5
Constable & Senior Constable	2	6
Auxiliary	2	1
Legal Practitioners	6	6
AO3	4	4

## 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 OIC from May 1997 to April 2001), resumed as OIC on 1 July 2002 and was the OIC until 11 March 2004, when Senior Sergeant Lorraine Carlon returned to the OIC's position, having previously fulfilled the role in 2001-2002. Peter Thomas has been seconded to a role as special projects officer, attached to the Northern Territory Police Crime Command.

## Police staff

The police members are employed under the *Police Administration Act*. They are entitled to appear in court, on the Director's behalf, pursuant to 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. 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. Their duties include 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 SPD) are:

**Sergeants:**

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

**Senior Constables:**

- David Peach (1997 until his resignation from the service in May 2004)
- Mick Brennan (2003)
- Tania McKinney (May 2004)

**Constables:**

- David Moore (2000)
- Karen Sanderson (2002)
- Andrew Littman (March 2004)
- Sandi-Lee Atkins (April 2004).

The Police Auxiliaries' roles are to-

- issue summonses for all witnesses in both summary and committal proceedings in Darwin
- arrange the service in NT 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 ODPP 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, WAS with liaison, travel and transport of Aboriginal witnesses.

The Police Auxiliaries during the reporting period were:

- Senior Auxiliary Karren Brown (1996)
- Senior Auxiliary Helen Smith (2000 until commencement of extended leave and leave without pay from February 2004)
- Senior Auxiliary Brigid Young (February – May 2004)

- Maria Gordon (May 2004).

The thirteen police staff attached to SPD had an average length of service in the section of 3 years and 4 months. Three of them had 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 2004, 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, 1997)  
Tiarni McNamee (2000)  
John Duguid (2001)  
Amanda Nobbs-Carcuro (2002)  
Timothy J. Smith (2002)

Martin Fisher (2003)  
Simon Lee (January 2004).

## **Public Sector employees**

One AO3 position is funded by ODPP to provide administrative support to the legal practitioners. The other three AO3 positions are employed by Police, to attend to word processing, file tracking and archiving.

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

PA to prosecutors: Cecily Hagan (2002–Mar 2004), Carolyn Davis (Mar 2004)

Karen Maher (2002), Tiffany Kilian (2002) and Hayley Barber (2003)

## **Liaison with WAS**

SPD continues to have close liaison with the ODPP Witness Assistance Section (WAS). WAS 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 CSJ and the JC. It also provides a support service to victims and witnesses within the CSJ.

## **Other Resources**

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

Summary Prosecutors attended the Biennial ODPP Conference, held at Jabiru in March 2004. This conference always represents a great learning experience from exposure to the materials presented by guest presenters and the opportunities for discussion with experienced ODPP counsel.

## **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 CDU 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 and Therese Austin of ODPP conducted 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, took place between 17 and 28 May 2004. 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.

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.

### **Caseload**

The caseload for SPD remains high. Statistics indicate the following:

	<b>2002-2003</b>	<b>2003-2004</b>
Summary file listings	12,500	13,607
Matters listed for contested hearings	379	683
Matters listed for Contest Mentions	431	863

### **General Comment**

The ODPP gives significant support to Summary Prosecutions through advice and shared facilities.

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, ODPP Alice Springs. SPAS carries out the following functions:

- receiving initial files including, arrest, summons and domestic violence order applications
- checking of files and determining appropriate charges

- issuing summonses for service by police
- making applications to breach sentencing orders as appropriate
- all preliminary mentions of files in court
- opposing bail applications in appropriate cases
- prosecuting guilty pleas in the lower courts
- receiving all prosecution briefs from Department of Correctional Services, for
  - breach of home detention
  - breach of community work orders
  - conditional 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 Juvenile and Summary Jurisdiction courts except for:
  - matters which are of a serious or complex nature
  - matters involving difficult or complex points of law
  - matters involving indecency
  - other matters considered appropriate to be handled by senior counsel.

## Location

Summary Prosecutions 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.

## 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 OIC. He is responsible for managing the section, answering correspondence, conducting hearing and bail 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 and acts as OIC when required. He can conduct hearing matters and is conducting more bush courts as additional courts are added to SPAS responsibilities (12 in 2005).

Sergeant Kevin Winzar is a police hearing prosecutor with a wealth of experience in this area.

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

Juan Dominguez also provides additional assistance from the staff of ODPP.

Senior Constable Bruce Hosking is the Prosecutions Constable and is responsible for the initial preparation of files including computer entry, 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 Summary Prosecutions 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.

Senior Police Auxiliary Pat Arnell performs the duties of liaison between police and prosecutors, both Summary Prosecutions 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 both local and interstate
- 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 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 Witness Assistance Service with liaison, travel and transport of Aboriginal witnesses
- other police duties as required.

The AO2 position (currently vacant) gives valuable administrative assistance and types complaints, informations, summonses, deals with correspondence and locates, maintains and tracks files as required.

The ODPP Witness Assistance Service continues to assist with an increased number of requests for *Crimes (Victims' Assistance) Act* information and compilation of victim impact statements for the CSJ.

### **Bush courts**

Bush courts are held at Hermannsburg, Papunya, Yuendumu, Mutitjulu (Yulara) and Kintore bi-monthly. Additional courts at Elliott, Kalkaringi and Lajamanu are carried out every three months. A prosecutor attends all courts as required for hearing matters. For six months of the year SPAS supplied a prosecutor to the Ali Curung/Tennant Creek circuit on a monthly basis due to police staff shortages there. Other bush courts at Ti Tree and Harts Range will commence from October 2004 and from January 2005 SPAS will also be responsible for all matters except first mentions at Tennant Creek, severely stretching current resources.

### **Training and advice**

Training was unable to be carried out by ODPP staff during the year due to workload. Senior Sergeant Eaton, a former prosecutor carried out the prosecutions part of the Aboriginal Community Police Officer course held in Alice Springs in June 2004.

Summary Prosecutions 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 basic prosecution duties at Ali Curung, Hermannsburg, Papunya, Yuendumu, Kintore, Elliott, Kalkaringi, Lajamanu and Mutitjulu (Yulara).

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

### **Caseload**

The caseload for the section continues to remain very high given the current staff establishment, statistics indicate the following:

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**2002-2003**

**2003-2004**

#New files (Arrest/Summons/DVO)	3024	3588
^Hearings Set (Alice Springs)	725	484
*Hearings Conducted (Alice Springs)	287	392
Bush courts attended (days)	22	61
*Liquor Commission Hearings	6	2

#Unlike Darwin, Alice Springs only compiles bush station files for mention in Alice Springs (usually in custody matters) so any comparison with fresh files from that location and subsequent comparison of staff must be tempered with this in mind.

^ The large figure for 2002-2003 was caused by a CAALAS policy to set more hearings.

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

The above figures highlight the urgent need for a permanent staff increase with a 19% increase in new files and 36% increase in hearings (32% and 280% increases since 2001-2002 when the last staff increase took place). SPAS now permanently services 3 Magistrates and 8 bush courts (5 in 2001-2002), with another 4 coming on line in 2004-2005.

### **General Comment**

A submission was made during the year to police management for more staff due to the high increase in files (32% in fresh files since the last staff increase in 2001/02) and increase in Magistrates to three. A similar submission was made to ODPP re another hearing prosecutor where hearings proceeding to the hearing date have gone from 102 in 2001-2002 to 392 in 2003-2004 an increase of 280%. Due to financial constraints however nothing has been done on a permanent basis. Juan Dominguez from ODPP is used as a valuable stopgap in the hearing area and Sergeant Bourne is currently assisting in the bail and arrest area.

The Alice Springs ODPP gives significant support to SPAS through advice and shared facilities. This is underlined by one permanent ODPP sponsored prosecutor (3 days a week) and another hearing prosecutor used part time by SPAS to assist with the large increase in contested hearings.

SPAS continues to strive to maintain a close working relationship with both the ODPP and Police.





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## **WITNESS ASSISTANCE SERVICE**

### **(FORMERLY VICTIM SUPPORT UNIT)**

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 was established in April 1997. In early 2004 a decision was made to change the name to the Witness Assistance Service (WAS). The WAS team consists of six witness assistance officers. In Darwin: Nannette Hunter, WAS Co-ordinator; Colleen Burns, Aboriginal Support Co-ordinator; Christine Garland and Michael Devery, WAS officers. In Alice Springs: Carolyn Woodman, WAS Co-ordinator (South) and Ronda Ross, WAS officer. WAS in Darwin also has some wonderful administrative support from Kerrie Wilson.

The WAS 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, behind a screen or in a closed court.

### **Information**

WAS notifies victims of crime about the service and invites them to make contact. Witnesses are provided with several publications at the appropriate time. These include the Northern Territory Charter for Victims of Crime, the WAS pamphlet and the Victim Impact Statement booklet which includes an updated pro-forma for victims who choose to prepare a victim impact statement independently.

WAS 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 witnesses whose matters would be dealt with by Summary Prosecutions Darwin. In the past year 590 witnesses were sent letters.

### **Referral**

Victims, witnesses and their families can be referred to appropriate agencies for counselling including specialist sexual assault, domestic violence counselling, psychologists, psychiatrists or solicitors for financial assistance claims. WAS 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**

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

### **Interpreters**

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

### **Victim impact statements**

WAS 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. This can include a comment to the court on the appropriate orders that the court may make.

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.

Since the beginning of this scheme WAS has assisted more than 1800 victims to prepare a victim impact statement.

### **Committee work**

WAS fully participates in the professional business of the ODPP. This is shown by WAS membership on various internal committees.

### **Executive Committee**

WAS members participate in the Executive Committee of the ODPP. WAS representation on the committee is rotated on a quarterly basis.

### **Professional Staff Meetings**

WAS members attend all of these meetings.

### **Sexual Assault Committee**

All three WAS Co-ordinators are members of this ODPP committee which works to ensure that sexual assault matters are dealt with appropriately.

Members of WAS also 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 WAS Co-ordinator and Aboriginal Support Co-ordinator attend the Crime Victims Advisory Committee (CVAC) meetings. CVAC has recently started to investigate the establishment of a Victims' Register in the Northern Territory.

### **Domestic Violence Advisory Committee**

This committee was set up to assist Northern Territory Legal Aid Commission in the management of the Domestic Violence Legal Service. The WAS Co-ordinator is a member of this committee.

### **Domestic Violence Network**

Members of WAS regularly attend meetings of this network of service providers in the domestic violence area. Up to seventeen organisations participate. It is a valuable forum to discuss issues of mutual interest.

## **Victims of Crime NT (VOC)**

The WAS Co-ordinator and the executive officer of VOC meet regularly to ensure the services are complementary and to discuss issues of mutual interest.

## **Training and Community Education**

Members of WAS regularly participate in giving presentations to groups of people who come into contact with witnesses in their workplace. This year this work included seven presentations to various groups of police officers including domestic violence liaison officers, detectives and recruits. WAS again participated in Law Week by attending community forums and talking to secondary school students. Other presentations WAS participated in included a domestic violence panel at the Magistrates' Conference and a mock court for Sexual Assault Referral Centre doctors.

## **Show Circuit**

In 2003 WAS participated in the first Department of Justice Show Circuit display. WAS members attended Alice Springs, Katherine and Darwin shows. The Director and other ODPP staff attended the Darwin show.

## **Prosecutors**

WAS gives all new prosecutors whether recruited to SPD or ODPP an orientation presentation about the role of WAS.

## **Publications**

WAS is responsible for two publications, a booklet, *Victim Impact Statements* and a pamphlet, *Witness Assistance Service* which was revised in March 2004.

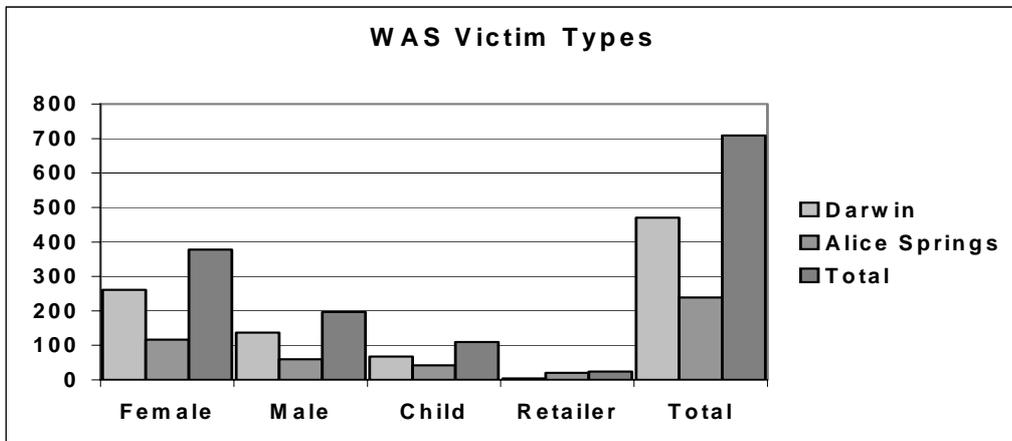
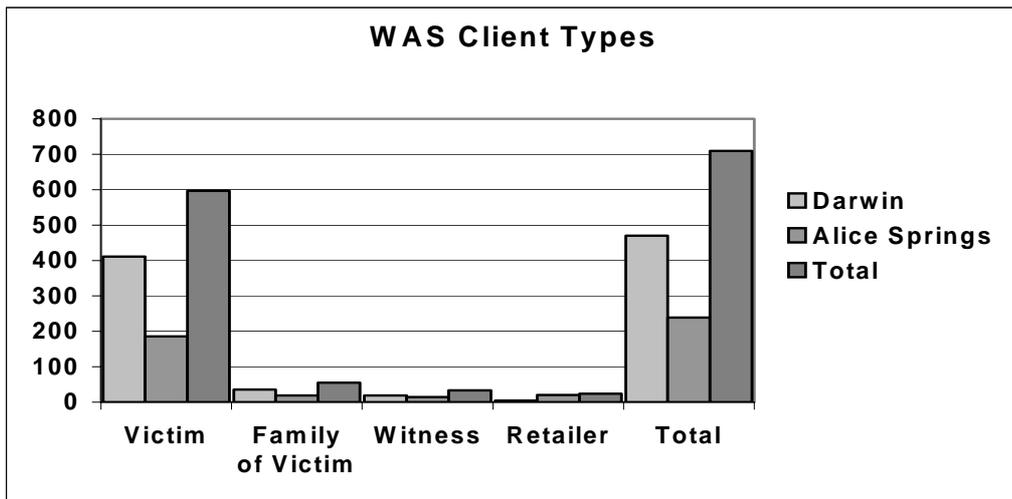
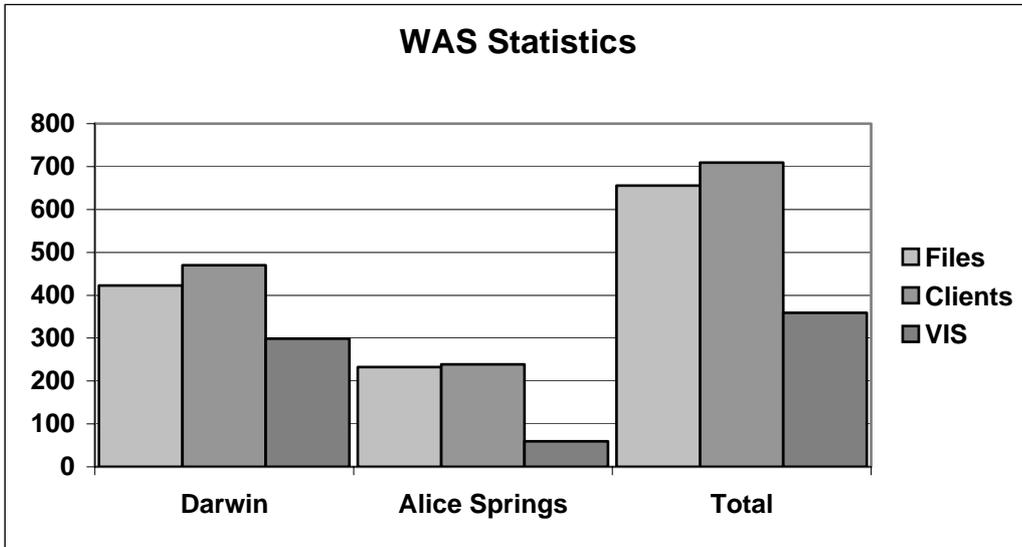
## **Children's Room**

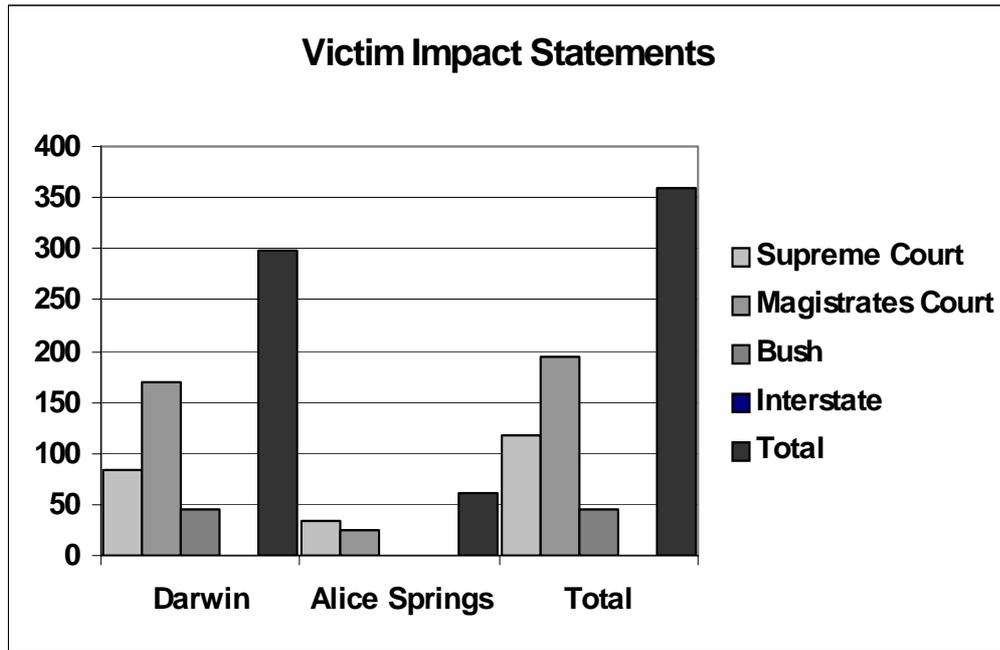
The Supreme Court in Darwin now has a Children's Room where child witnesses have a private area to use while waiting to give evidence. The room was the result of cooperation between ODPP and Court Support Services. It is a friendly and colourful space which has already had much use.

## **New Office**

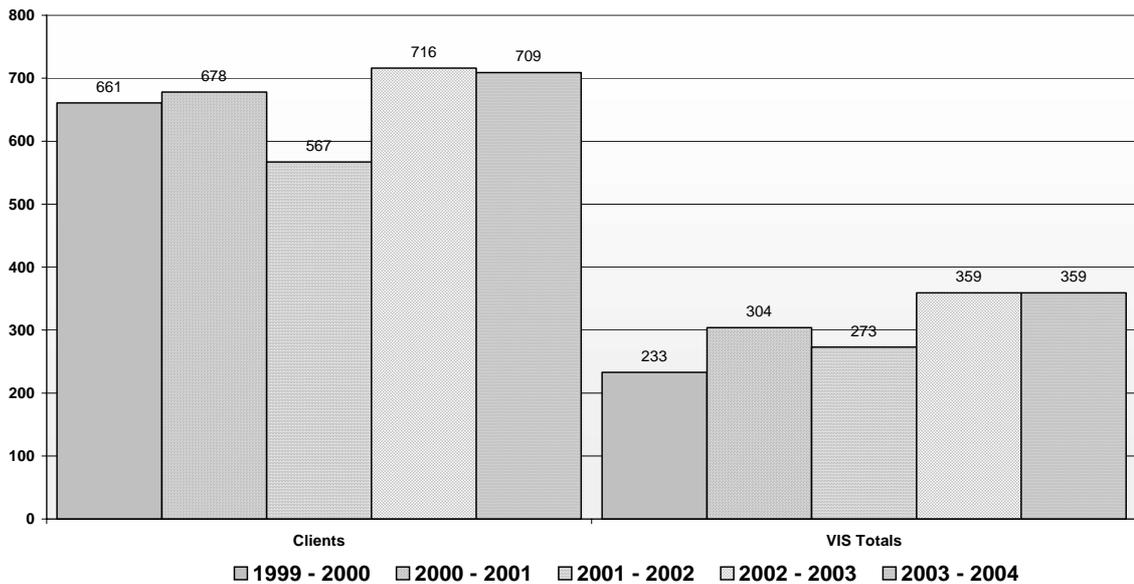
WAS is now located on the ground floor of Tourism House, Darwin. The new surroundings have a pleasant and calming atmosphere which is much appreciated by all who visit. WAS is proud of the new space and thanks all those who assisted in making it happen. The official opening of the new area was a well attended and enjoyable occasion.

## 2003 – 2004 STATISTICS





**NT - Financial Years 1999 - 2004**



The pattern for WAS clients and victim impact statements numbers over the years has been to show a gradual increase.

However these numbers have stabilised. WAS officers have increased services to remote communities. Each member of the WAS team has worked at a number of communities to support witnesses appearing in bush courts. This is an increasingly demanding and time consuming aspect of our work.

It would be unrealistic to expect any further growth in client numbers as all WAS officers are working to capacity. Any future expansion of the service will need to be underpinned by an increase in staffing levels.

### **Client Satisfaction Survey**

WAS surveyed clients from October to December 2003. There was a 63% response from those surveyed. The results were very positive. The service was rated at good or very good by 93% of victims who were given assistance with preparing victim impact statements. 83% of witnesses who received court support rated the service as good or very good.

### **Alice Springs**

This year has been a busy one with some key changes to our work. As usual most of our day-to-day work has been with women and children. Much of this continues to be provided in and around the Alice Springs area, though we are managing increasingly, to offer services to more remote areas on a regular basis. We welcomed Ronda Ross to WAS. Ronda replaced Merle Thomas who resigned during the year. Ronda brings a wealth of experience in working with people and has already made a useful contribution.

Shortly after Ronda's arrival we attended the biennial ODPP conference in Kakadu which provided, among other things, an opportunity to meet with Darwin colleagues. As usual the presentations were informative and sometimes provoking. It was at the conference that the decision was made to change the name. The new name was announced - Witness Assistance Service – a name which better reflects our work.

This year the Co-ordinator (South) has been able to hand on the work associated with Crimes (Victims' Assistance) matters and this has freed up time for other duties including more visits to distant places to assist witnesses. A number of *bush trips* have been undertaken this year, both to assist witnesses generally and to attend court. Communities visited by the WAS officer have included Ltyentye Apurte (Santa Teresa), Ntaria (Hermannsburg), Kaltukatjara (Docker River), Mutitjulu (Uluru) and Tennant Creek. Bush courts are regularly attended at Tennant Creek. One court attendance, for a committal was at Mutitjulu. Other bush courts are attended as necessary.

The Co-ordinator (South) has also made a number of trips to Tennant Creek as well as a trip to Elliott and one to Uluru.

The Aboriginal Interpreter Service continues to provide assistance. Ensuring sufficient notice assists in the timely provision of an interpreter. We nevertheless continue, on occasion, to experience delays and adjournments due to lack of available and appropriate interpreters. Interpreters are essential to the cultural requirements of witnesses (for example, language barriers, gender, kinship to either party) as well as assisting prosecutors when proofing and in court.

The Office has been substantially renovated. Work has been undertaken with some disruption and discomfort over some months. Despite this, services to those affected by crime have continued unabated and the responses we have had from those clients, who experienced the renovations, have been generally positive.

An opportunity recently presented to show the Attorney-General over the prosecution facilities at court. Following the visit we were advised that the court is to undergo substantial upgrading and that the opportunity is there to improve the facilities for witnesses.

Clearly the coming year will provide new interests and challenges.



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## **ABORIGINAL SUPPORT**

### **Bush Court Circuits – Darwin and Katherine**

The Aboriginal Support Co-ordinator has taken over the co-ordination of WAS staff attendance at bush courts. This attendance at bush courts has become quite significant in that all WAS staff are now playing an active role when required to provide support to witnesses in remote areas. The strength of the WAS team is their flexibility in covering many cases in urban and remote courts.

In the past twelve months the Aboriginal Support Co-ordinator attended eighteen bush courts in both Darwin and Katherine Circuits. The total of bush courts covered was 37 trips in 2003-2004.

Staff could not attend two other bush courts due to unavailability of accommodation at the time of court. Some of the issues that prevent WAS staff attending bush courts are non-availability of seats on planes, non-availability of accommodation and unavailability of WAS staff because of other court commitments. WAS staff were not able to attend some bush courts in the wet season due to flooding or poor road conditions, when most stakeholders would rely on plane travel.

### **Bush Court Letters**

This past twelve months saw the introduction of WAS bush court letters distributed, with assistance from Coleen Harris, the ODPP library technician. There were 126 WAS letters sent out to victims of crime in remote communities. The reasoning behind sending out bush court letters is for victims of crime to be informed much the same as those living in urban centres. At this point in time, letters are only sent to victims of personal injury. It is envisaged that if WAS is already in attendance at bush courts, then it will provide support and assist in preparation of victim impact statements for those victims of property offences.

## **Vulnerable Witness Equipment at Bush Courts**

WAS staff have been instrumental in ensuring vulnerable witness equipment is utilised in sensitive cases at bush courts. It is noted that Court Support Services have also ensured that most major regional bush courts have proper screens available.

## **Aboriginal Staff**

At present there are five Aboriginal staff employed in ODPP. Nigel Browne is a legal officer, Colleen Burns is the Aboriginal Support Co-ordinator, Michael Devery and Ronda Ross (Alice Springs) are both WAS officers and Jack A'Hang is the Aboriginal Liaison Officer.

A welcome is extended to new Aboriginal staff member Ronda Ross who joined ODPP and WAS during the year. Rhonda has a wealth of experience and her local networks in the Alice Springs indigenous community will be a great asset to WAS and ODPP.

The Aboriginal Law Cadetship is still on offer by the ODPP and Charles Darwin University's law department in combination. It is hoped to fill this position in the near future.

## **Participation in Conferences, Committees, Forums, Meetings, Workshops**

Crime Victims Advisory Committee  
Attendance at committee meetings.

Top End Women's Legal Service  
Participation at the AGM, Management Committee, Planning Day and other staff social events.

Department of Justice  
Darwin and Katherine Show Circuits

Domestic Violence Legal Service (NTLAC)  
Launch of the Service

Indigenous Employment Forum  
Attendance at forum in Darwin

Indigenous Women's Policy Round Table  
Attendance at meetings

Women's Police Round Table  
Attendance at meetings

Galiwinku Law and Justice Project  
Attendance at meeting regarding WAS court involvement

Sexual Assault Committee  
Attendance at meetings

ODPP Alice Springs Office  
Interview panel for new WAS staff member

Sexual Assault Workshop  
Attendance at workshop

Indigenous Court Seminar  
Attendance at seminar

Burrundi Pictures  
Attendance at meetings to discuss WAS DVD/video Project

Aboriginal Interpreter Service  
Attendance at meetings regarding interpreters summonsed as witnesses

### **Presentations**

NT Police recruits

ATSIS Indigenous Women's Conference

Department of Chief Minister – Strong Families Project

### **Conclusion**

It has been a very busy year for WAS staff. It has continued to give presentations and attend various workshops, committee meetings as well as undertaking its core business. Special mention is made of Christine Garland's computer skills used in all WAS presentations which has certainly given a professional edge. This has been confirmed by the positive responses received from these presentations.

The big coup this year for WAS was the securing of funds for a DVD/video produced by Burrundi Pictures. The DVD/video is a training tool that WAS staff will use when giving presentations to individuals or groups. Hopefully the DVD/video will be able to assist people from remote communities understand the

justice process and what to expect when they have to come to court in the urban centres.

Bush courts have provided and will continue to provide more work for WAS staff. Statistics continue to show an increase in workload. It certainly has been a great team effort this past twelve months.