



**DIRECTOR  
OF PUBLIC  
PROSECUTIONS**  
NORTHERN TERRITORY

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**DIRECTOR OF PUBLIC PROSECUTIONS  
NORTHERN TERRITORY OF AUSTRALIA**

**A N N U A L     R E P O R T**

**2018-2019**

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**DIRECTOR OF PUBLIC PROSECUTIONS**

**NORTHERN TERRITORY**

**TWENTY-NINTH ANNUAL REPORT**

**FOR YEAR ENDED 30 JUNE 2019**

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Director – WJ Karczewski QC

30 September 2019

Mr Gerry McCarthy MLA  
Acting Attorney-General and Minister for Justice  
Parliament House  
State Square  
DARWIN NT 0810

Dear Attorney-General

## **ANNUAL REPORT 2018-2019**

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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 Director of Public Prosecutions for the period 1 July 2018 to 30 June 2019.

Yours sincerely



WJ KARCZEWSKI QC

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## OFFICE LOCATIONS

### 1. **NORTHERN REGIONAL OFFICE DARWIN (Head Office)**

Level 3, Old Admiralty Tower  
68 The Esplanade  
DARWIN NT 0800  
GPO Box 3321  
DARWIN NT 0801

Telephone: (08) 8935 7500  
Fax: (08) 8935 7552  
Free Call: 1800 659 449

### 2. **SOUTHERN REGIONAL OFFICE ALICE SPRINGS**

1st Floor, Centrepont Building  
Cnr Hartley Street & Gregory Terrace  
ALICE SPRINGS NT 0870  
PO Box 2185  
ALICE SPRINGS NT 0871

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

### 3. **KATHERINE OFFICE**

Level 1, Ground Floor (Rear)  
Randazzo Building  
Katherine Terrace  
KATHERINE NT 0850  
PO Box 1295  
KATHERINE NT 0851

Telephone: (08) 8973 8813  
Fax: (08) 8973 8866

# MISSION STATEMENT

## MISSION

The mission of the Director of Public Prosecutions is to provide the Northern Territory community with an independent, professional and effective criminal prosecution service.

## VISION

The vision of the Director of Public Prosecutions is to provide the highest quality prosecution service to Territorians.

## GOALS

Achieving the following goals is recognised as being fundamental to achieving our mission and vision:

- *To operate with integrity,*
- *To deliver an independent, professional and efficient service,*
- *To operate as a committed and dedicated team of professionals,*
- *To provide a fair and just service to victims and the accused, and*
- *To be respectful to the needs of victims, witnesses and to the interest of the community.*

## Mission Statement in Kriol

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 det sambodi en ola widnijmob go la kot gudwei, nomo hambag en nomo bla meigim yu fil sheim. DPP-mob duwim dijkain wek bla album eberibodi la Northern Territory jidan seifwan en gudbinjigeja.

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



## DIRECTOR'S OVERVIEW

I begin the overview to this year's Annual Report the same way as I began the overview to last year's Annual Report and that is by saying that the challenge has been to do more with less. In fact, 2018-2019 was more challenging than 2017-2018 because of the more than usual number of staff departures from the office, particularly at the senior management level.

- The Business Manager, Lilia Cercarelli, left the office in August 2018 after almost 16 years of service after winning a position in another agency.
- The Assistant Business Manager, Bebelyn Cabunsol, left the office in November 2018 after winning a temporary position in another agency.
- The Office Manager, Julie Crea, left the office in October 2018 after winning a position in another agency.
- The WAS Manager, Bill Munro, retired from the NTPS in April 2019.
- The A/Manager, Summary Prosecutions Darwin, Sandy Lau, left the office in December 2018 after winning a position in another agency.

In addition there were permanent and temporary losses in all 4 divisions of the office as outlined elsewhere in this report.<sup>1</sup> The division which suffered the greatest loss was Summary Prosecutions which saw the departure of nine prosecutors, seven permanently and two temporarily. The Witness Assistance Service (WAS) saw the departure of three support officers, two permanently and one temporarily. Crown prosecutions saw the departure of six Crown prosecutors, five permanently and one temporarily. Administrative Support saw the departure of 10 staff, nine permanently and one temporarily. Two paralegals left permanently as did one Registry staff member. The inevitable time lag in filling these positions as well as the time consumed by staff engaged in the recruitment / selection process and the subsequent training of new staff, all contributed to placing an additional burden on remaining staff to make good the shortfall while at the same time performing their normal duties.

A number of the departures in the prosecutor ranks were due to staff being successful in obtaining newly created positions in Police or Territory Families, invariably at a higher level. Clearly, possessing the prosecutor's skill set was to the advantage of the successful applicants.

In last year's Annual Report<sup>2</sup> I made mention of the difficulties in filling the one existing prosecutor position in Katherine and of the need to establish a second prosecutor's position in Katherine. Because of the recognised futility in attempting to fill the Katherine prosecutor position, during the reporting year prosecutors from Darwin continued to service Katherine

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<sup>1</sup> In summary, there were 33 separations from the office, 29 permanent and four temporary.

<sup>2</sup> At pages 9-19 and 35-36.

and the Katherine region. I am pleased to report that circumstances have changed as a result of restructuring within Summary Prosecutions. This has enabled a second prosecutor position to be allocated to the Katherine office on a full time basis.

The two Katherine prosecutor positions will be advertised early in the 2019-2020 reporting year.

During the financial year, the Department of the Attorney-General and Justice received an increase in base funding of \$15 million. Of this, the DPP received a base funding increase of \$0.8 million, a further \$0.2 million was provided ongoing from reinvested agency savings, with effect from 2019-20. Responding to the Government's focus on returning to budget, the DPP engaged a well-known and highly reputable courts resource modeller, Mr Tony Lansdell, to develop a resource modelling tool aimed at measuring the resources required to provide prosecutorial services according to changes in demand.

Development of the resource modelling tool by Mr Lansdell began in early 2019 with key DPP staff identifying various functions and activities relevant to their work unit. These functions have been further categorised according to the time required to complete tasks and their complexity. The intent for the model is to enable more accurate prediction of the resources required in response to changes in demand. It will also be used as the evidence base for future funding bids.

The project identified a number of areas for improvement, particularly in relation to data management and specific bodies of work that were not previously recognised as reportable outputs. The project is expected to be completed by the end of September 2019.

The additional funding will be divided between personnel and operations costs.

On the personnel front, the additional funding will be used to fund two additional summary prosecutor positions in Darwin at the P3 and P2 level, an AO3 registry front line service officer in Darwin and to top up funding for the Darwin based .5 FTE WAS officer to a full time FTE position.

These positions will be advertised in the 2019-2020 reporting year.

Late in the previous reporting year, the high turnover of Professional Legal Assistants was recognised as a concern within Crown Prosecutions, prompting a re-evaluation of the positions. This exercise resulted in the positions increasing from an AO3 to AO4 designation.<sup>3</sup>

It is anticipated that the re-evaluation of the Professional Legal Assistants positions from AO3 to AO4 will stem the flow of administrative staff to higher paying positions in other agencies, and that the two new positions in Summary Prosecutions Darwin together with the additional summary prosecutor position in Katherine will go some distance to relieving the workload and make Summary Prosecutions a more attractive place to work.

I am pleased to report the appointment of Mr David Morters as Senior Counsel.<sup>4</sup> Mr Morters SC is a Senior Crown Prosecutor who works in the Darwin office. Mr Morters commenced working in the DPP in October 2011 and since 2015 has specialised in the prosecution of

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<sup>3</sup> Further details of this process can be found at page 43 of this Report.

<sup>4</sup> The appointment took effect from 24 September 2018.

fraud and fraud related cases and, until funding for that purpose ceased on 31 December 2018, was head of the fraud prosecutions unit in the office. A note of the fraud prosecutions undertaken in the reporting year appears at pages 29-30 of this report.

The appointment of an advocate as Senior Counsel is a significant career milestone. Appointments are made by the Chief Justice.<sup>5</sup> The attributes required for appointment as Senior Counsel are (a) an exemplary knowledge and understanding of the law, (b) a high level of skill as an advocate, (c) integrity and trustworthiness, (d) commitment to the best traditions of the bar and to the administration of justice, and (e) maturity of judgment acquired from substantial experience in legal practice.<sup>6</sup> Mr Morters is the third Crown Prosecutor employed by this Office to be appointed a Senior Counsel in the Northern Territory.<sup>7</sup>

The workload in the current year was much the same as in the previous year with the exception of Local Court hearings and pleas<sup>8</sup> and in the area of appeals where there was a significant increase in activity particularly at the Court of Criminal Appeal level.<sup>9</sup>

This year saw the last of the prisoners found guilty of murder and sentenced before the commencement of the *Sentencing (Crime of Murder) and Parole Reform Act* (the Reform Act)<sup>10</sup> dealt with under the transitional provisions of that Act. A full report on the operation of the Reform Act and the result of any application made by the DPP to increase the non-parole period fixed by the transitional provisions of the Reform Act appear on pages 30-34, and at Appendix B at pages 54-64.

I sincerely thank all my staff for the tremendous effort they have put in to service the courts and the community in what has been a very difficult year. The fact that they have done so with little complaint speaks volumes of their professionalism.

Section 26 of the *Director of Public Prosecutions Act* provides that the Director is not subject to direction by the Attorney-General or any other person in the performance of the Director's functions.

Section 28 of the *Director of Public Prosecutions Act* permits the Attorney-General, after consultation with the Director, to issue to the Director directions as to the general policy to be followed in the performance of a function of the Director. Every such direction must be in writing and must be included in the Director's Annual Report. A direction may not be issued in respect of a particular case.

No directions were issued by the Attorney-General to me during the reporting year under either section 26 or 28.

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<sup>5</sup> In the Northern Territory, the appointment of Senior Counsel by the Chief Justice replaced the appointment of Queens Counsel by the Administrator in Council in January 2008.

<sup>6</sup> Supreme Court (Senior Counsel) Rules 2007, rule 4.

<sup>7</sup> The first appointment was that of Dr Nanette Rogers SC, the Assistant Director in charge of the Alice Springs Office at the time, in October 2009. The second appointment was that of Mr Matthew Nathan SC in September 2015.

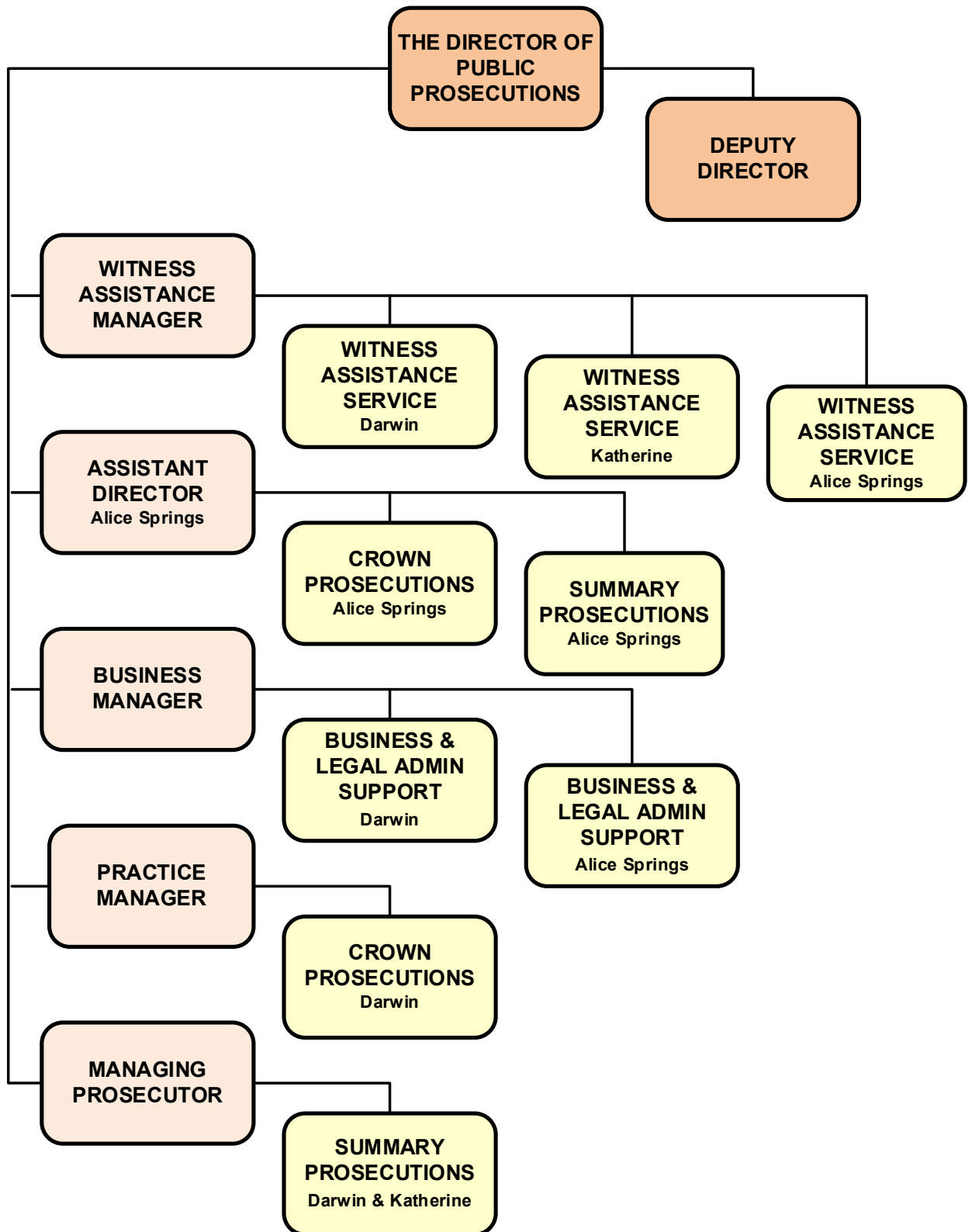
<sup>8</sup> An increase from 6,738 to 7,037.

<sup>9</sup> See the Tables at pages 22-23 for details.

<sup>10</sup> The Reform Act commenced on 11 February 2004.



## ORGANISATIONAL CHART





## FUNCTIONS OF THE DIRECTOR OF PUBLIC PROSECUTIONS

The functions of the Director of Public Prosecutions (hereinafter referred to as the DPP) are set out in Part 3 of the *Director of Public Prosecutions Act 1990* (hereinafter referred to as the DPP Act). These functions are 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 *Coroners Act 1993* 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) the power to conduct proceedings under the *Criminal Property Forfeiture Act 2002* and if, as a result of the proceedings a person becomes liable to pay an amount to the Territory or property is forfeited to the Territory under a court order, it is a function of the Director to take any further proceedings that may be required to recover the amount or enforce the forfeiture or order;
- (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; and
- (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.

## REPORT ON PROSECUTION FUNCTIONS

Key Deliverables	Current Year		Previous Years Actuals		
	2018-19 Budget	2018-19 Actual	2017-18	2016-17	2015-16
New matters	9,400	8,998	9,686	9,214	9,418
Finalisations:					
- Supreme Court pleas	450	389	418	426	483
- Supreme Court trials	60	55	64	69	55
- Supreme Court withdrawn	40	22	22	45	41
- Not committed to Supreme Court	N/A	N/A	N/A	N/A	N/A
- Local Court hearings/pleas	7,000	7,037	6,738	6,483	6,805
- Local Court withdrawn	800	585	841	814	463
- Appeals at all levels	60	83	59	63	84
Findings of guilt (including guilty pleas)					
- in Supreme Court	94%	98%	97%	96%	93%
- in Local Court	97%	97%	97%	97%	97%
Convictions after trial or hearing	97%	92%	97%	97%	97%
Witness Assistance Service clients	1,730	1891*	2,216	1,934	1,923
* Staff shortages including recruitment to the WAS Manager's position directly impacted on the number of clients assisted.					

## **Charges requiring DPP's consent or signature**

Certain offences cannot be commenced without the consent of the DPP or a Crown Law Officer which term is defined to mean the Attorney-General or the DPP and includes a person authorized under a law of the Territory to exercise a power or perform a function in the name of or on behalf of a Crown Law Officer.<sup>11</sup> Similarly, indictments charging certain offences and documents evidencing significant prosecutorial decisions can only be signed by the DPP or a Crown Law Officer.

Pursuant to s 10(2) of the DPP Act, a Deputy DPP may exercise the powers and perform the functions of the DPP. However, the exercise of the powers and functions by a Deputy DPP is subject to the direction and control of the DPP.

The more important provisions are identified and reported against below.

A Table of Comparison Data for the last five years is at Appendix A.<sup>12</sup>

## **Conspiracy**

Section 43BJ of the *Criminal Code* creates the offence of conspiracy. Section 43BJ(10) provides that proceedings for an offence of conspiracy must not be commenced without the consent of the DPP.

During the reporting year no consents to commence proceedings for this offence were sought or given.

## **Criminal Defamation**

Part VI Division 7 of the *Criminal Code* creates the offences of unlawfully publishing defamatory matter and publishing or threatening to publish defamatory matter with intent to extort money.<sup>13</sup>

Section 208 of the *Criminal Code* provides that a prosecution of an offence against Division 7 cannot be begun except by the direction of a Crown Law Officer.

During the reporting year no directions to commence proceedings for an offence against this Division were sought or given.

## **Distributing Intimate Images**

Part VI Division 7A of the *Criminal Code* creates offences relating to the distribution of intimate images.<sup>14</sup>

Section 208AD of the *Criminal Code* provides that a prosecution of a child for an offence against Division 7A must not be commenced without the consent of the DPP.<sup>15</sup>

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<sup>11</sup> See definition of Crown Law Officer in s 1 of the *Criminal Code*.

<sup>12</sup> The Table is incomplete as historical data on some of the matters now being reported on was not previously kept.

<sup>13</sup> Sections 204 and 205 of the *Criminal Code*.

<sup>14</sup> Sections 208AB and 208AC of the *Criminal Code*.

<sup>15</sup> A child is a person under the age of 18 years. See the definitions of adult and child in s 1 of the *Criminal Code*.

During the reporting year no consents to commence proceedings for this offence were sought or given.

### **Money Laundering**

Part VII Division 3A of the *Criminal Code* creates offences relating to money laundering. Section 231E of the *Criminal Code* provides that a prosecution for an offence against Division 3A must not be commenced without the consent of the DPP.

During the reporting year two consents to commence proceedings for this offence were sought or given.

### **Maintaining a relationship of a sexual nature with a child under 16**

Section 131A(2) of the *Criminal Code* creates the offence of an adult maintaining a relationship of a sexual nature with a child under the age of 16 years. Section 131A(9) provides that an indictment charging this offence must be signed by the DPP.

During the reporting year five indictments charging this offence were signed.

### **No True Bill**

Section 297A of the *Criminal Code* provides that when a person charged with an indictable offence has been committed for trial and it is not intended to put him on his trial, a Crown Law Officer shall issue a certificate to that effect and deliver it to the person committed. The effect of the document is that any conditions of bail cease to have effect or, if the committed person has not been released on bail, the warrant of commitment ceases to have effect.

The filing of a No True Bill is the alternative to the filing of an indictment.

During the reporting year six No True Bills were issued.

### **Ex-officio indictments**

When a person charged with an indictable offence has been committed for trial and it is intended to put him on his trial for the offence, the charge is to be reduced to writing in a document that is called an indictment. The indictment is to be signed by a Crown Law Officer.<sup>16</sup>

Section 300 of the *Criminal Code* provides that a Crown Law Officer may sign an indictment against any person for any offence whether the accused person has been committed for trial or not. These indictments are called ex-officio indictments.

In the normal course of events, ex-officio indictments are signed at the request of an accused person with a view to by-passing the preliminary examination procedure in the

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<sup>16</sup> Section 298 of the *Criminal Code*.

Local Court and expediting a plea of guilty in the Supreme Court.<sup>17</sup>

In the reporting year three ex-officio indictments were signed and filed in the Supreme Court.

### **Nolle Prosequi**

Section 302 of the *Criminal Code* provides that after an indictment charging an accused person with an offence has been filed in the Supreme Court, a Crown Law Officer may inform the Court that the Crown does not intend to proceed further upon that indictment, or in relation to a charge contained in the indictment, then pending in the Court. The manner in which the Court is informed is by the filing of a document called a nolle prosequi.

In the reporting year 14 nolle prosequi were signed and filed in the Supreme Court.

### **Taking over proceedings**

Section 13 of the DPP Act provides that it is a function of the DPP to take over a prosecution, not on indictment, for an indictable offence brought by another person and to take over and conduct proceedings in respect of a summary offence.

Section 14 of the DPP Act provides that it is a function of the DPP to take over an appeal relating to a prosecution which has been instituted by another person.

No prosecutions or appeals were taken over by the DPP in the reporting year.

### **Indemnities and undertakings**

Section 21(2) of the DPP Act provides that the DPP may grant an indemnity from prosecution, whether on indictment or otherwise and may give an undertaking that an answer given or a statement or disclosure made by a person will not be used in evidence against the person.

No indemnities were granted or undertakings given during the reporting year.

### **Joint trial arrangements with Commonwealth DPP**

There exists between the Commonwealth DPP and the Territory DPP an arrangement for the conduct of Territory prosecutions by the Commonwealth DPP, and for the conduct of Commonwealth prosecutions by the Territory DPP.<sup>18</sup>

The arrangement is given effect by each DPP delegating to the other the power to sign and present indictments, including ex-officio indictments, in respect of an offence against the law of the conferring jurisdiction and to conduct on behalf of the DPP for the conferring jurisdiction the trial on such an indictment. The arrangement also deals with the conduct of summary prosecutions, preliminary examinations and appeals.

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<sup>17</sup> The advantage for the accused in consenting to proceeding by way of ex-officio indictment is to maximise discount on sentence. The Northern Territory Court of Criminal Appeal has held that pleas of guilty or indications of pleas of guilty at the earliest possible opportunity accompanied by true remorse are entitled to attract a greater reduction than late pleas which are not accompanied by true remorse. *Wright v The Queen* (2007) 19 NTLR 123 at 125 [32].

<sup>18</sup> Similar arrangements exist between other State and Territory DPPs and the Commonwealth DPP.

The purpose of the arrangement is to facilitate a single prosecution of an accused person who has been charged with both Commonwealth and Territory offences. Without the arrangement, separate trials would have to be held for the Commonwealth offences and for the Territory offences. A common situation which enlivens the arrangement is when an accused person is charged with possessing child abuse material, an offence against Territory law,<sup>19</sup> and making available child pornography material using a carriage service and / or accessing child pornography material using a carriage service, both of which are offences against Commonwealth law.<sup>20</sup>

The arrangement requires consultation between the Territory and Commonwealth DPPs in order to determine the question of which jurisdiction should prosecute all of the offences.

In the reporting year consultation between the Commonwealth DPP and the Territory DPP took place on nine occasions resulting in the Commonwealth DPP prosecuting five cases on behalf of the Territory and the Territory prosecuting four cases on behalf of the Commonwealth.

## Appeals

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

- (i) institute and conduct, or 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.

An explanation of the appeal process can be found on the DPP website under the Appeals tab.

**TABLE A** below contains the results of applications for leave to appeal determined by a single judge *on the papers* during the reporting period.

**NB:** *The figures in brackets in each of the tables below are for the period 1 July 2016 to 30 June 2017.*

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<sup>19</sup> Contrary to s 125B(1) of the *Criminal Code* (NT).

<sup>20</sup> Contrary to s 474.19(1) of the *Criminal Code* (C'th).



**TABLE A**

**Outcome of defence applications for leave to  
appeal from the Supreme Court to the Court of  
Criminal Appeal determined by a single judge  
on the papers  
2018-2019**

	Conviction	Sentence
Granted	2 (3)	8# (8)
Refused	5* (2)	11** (4)
Discontinued	4 (1)	3 (5)
Total	11 (6)	22 (17)

\* Each of the five applicants refused leave to appeal against conviction applied to have their applications re-heard and determined by the Court of Criminal Appeal constituted by three judges. The results of those further applications are as follows:

- One application was heard and determined in the reporting year. Leave to appeal was granted and the appeal was allowed. As the application was argued as if it were an appeal, the result has been included in Table B.
- One application was heard and determined by the Court on the papers without hearing oral argument. Extensive written submissions had been filed by the parties. The Court published written reasons for decision. The application for leave to appeal was refused. The result has been included in Table B.
- One application was heard but not determined in the reporting year. The decision was reserved.
- One application was subsequently discontinued in the reporting year before the re-hearing.
- One application was not heard in the reporting year and has been listed for hearing in December 2019.

\*\* Seven of the 11 applicants refused leave to appeal against sentence applied to have their applications re-heard and determined by the Court of Criminal Appeal constituted by three judges. The results of those further applications are as follows:

- Two applications were heard and determined in the reporting year. One application was successful; leave to appeal was granted and the appeal was allowed. The second application was unsuccessful; leave to appeal was refused. As both applications were argued as if they were appeals, the results have been included in Table B.
- Two applications were heard but not determined in the reporting year. The decisions were reserved.
- Two applications were subsequently discontinued in the reporting year before the re-hearing.
- One application was not heard in the reporting year and has been listed for hearing in December 2019.

# One applicant granted leave to appeal against sentence discontinued the application before the re-hearing of the application for leave to appeal.

**TABLE B** below summarises the results of appeals from the Supreme Court to the Court of Criminal Appeal and Court of Appeal decided during the reporting period. **TABLE B** also includes rulings of an interlocutory nature made by single judges exercising the powers of the Court of Criminal Appeal in matters such as applications for an extension of time within which to apply for leave to appeal and applications for bail where written reasons for decision have been published by the Court.

**TABLE B**

**Outcome of defence appeals from the Supreme  
Court to the Court of Criminal Appeal / Court of  
Appeal / Full Court  
2018-2019**

	Conviction	Sentence	Other
Allowed	3 (1)	7 (3)	0 (0)
Dismissed	7* (3)	5 (6)	0 (1)
Discontinued	0 (0)	1 (0)	0 (0)
Total	4 (2)	9 (6)	0 (1)

\* Included in this figure was one re-hearing of an application by the Court of Criminal Appeal constituted by three judges where the application for leave to appeal against conviction was refused by a single judge. Also included in this figure is an application for leave to appeal which was referred for determination by three judges without the application first having been determined by a single judge on the papers. Both applications were determined following oral argument. As both applications were argued as if they were appeals, the results have been included in Table B.

**Outcome of prosecution appeals  
and references from the Supreme  
Court to the Court of Criminal  
Appeal / Court of Appeal / Full Court  
2018-2019**

	Sentence	Other
Allowed	2 (1)	1 (0)
Dismissed	0 (1)	0 (0)
Discontinued	0 (0)	0 (0)
Total	2 (2)	1 (0)

No questions of law were reserved by a trial court for the consideration of the Court of Criminal Appeal pursuant to s 408 of the *Criminal Code*.

No proceedings were referred by a single judge to the Full Court for consideration or determination pursuant to s 21 of the *Supreme Court Act*.

No point of law following the acquittal of a person after his trial on indictment was referred to the Court of Criminal Appeal for its consideration and opinion by the DPP pursuant to s 414(2) of the *Criminal Code*.

**TABLE C** below summarises the results of appeals from the Local Court to the Supreme Court decided during the reporting period.

**TABLE C**

**Outcome of defence appeals from the Local Court to the Supreme Court at Darwin  
2018-2019**

	Conviction		Sentence		Other	
Allowed	3	(3)	9	(9)	0	(0)
Dismissed	6	(12)	10	(18)	0	(2)
Discontinued	3	(10)	9	(11)	0	(1)
<b>Total</b>	<b>12</b>	<b>(25)</b>	<b>28</b>	<b>(38)</b>	<b>0</b>	<b>(3)</b>

**Outcome of prosecution appeals from the Local Court to the Supreme Court at  
Darwin  
2018-2019**

	Dismissal of Charge		Against Inadequacy of Sentence		Other	
Allowed	3	(0)	5	(2)	0	(0)
Dismissed	1	(1)	0	(0)	0	(0)
Discontinued	1	(0)	0	(1)	0	(0)
<b>Total</b>	<b>5</b>	<b>(1)</b>	<b>5</b>	<b>(3)</b>	<b>0</b>	<b>(0)</b>

**Outcome of defence appeals from the Local Court to the Supreme Court at  
Alice Springs  
2018-2019**

	Conviction		Sentence		Other	
Allowed	0	(0)	1	(4)	0	(0)
Dismissed	0	(2)	2	(7)	0	(0)
Discontinued	3	(2)	1	(3)	0	(0)
<b>Total</b>	<b>3</b>	<b>(4)</b>	<b>4</b>	<b>(14)</b>	<b>0</b>	<b>(0)</b>

**Outcome of prosecution appeals from the Local Court to the Supreme Court at  
Alice Springs  
2018-2019**

	Dismissal of Charge		Against Inadequacy of Sentence		Other	
Allowed	1	(2)	2	(0)	0	(0)
Dismissed	0	(0)	1	(0)	0	(0)
Discontinued	0	(0)	0	(0)	0	(0)
<b>Total</b>	<b>1</b>	<b>(2)</b>	<b>3</b>	<b>(0)</b>	<b>0</b>	<b>(0)</b>

### High Court of Australia

The Office was involved as respondent in three applications for special leave to the High Court of Australia during the reporting period.

**Kerinaia v The Crown in the  
Right of the Northern Territory**

**15 August 2018  
Bell & Gageler JJ  
[2018] HCASL 224**

The applicant was charged with seven offences under the *Criminal Code*, the *Summary Offences Act* and the *Traffic Act*. Before the charges were heard in the Local Court, the applicant filed a Notice under s 78B of the *Judiciary Act* (C'th) claiming that the proceedings in the Local Court involved a matter arising out of the Constitution or its interpretation which could only be determined by the High Court of Australia. The issue which the Notice sought to raise was whether the members of the Commonwealth Parliament who created and enacted legislation divesting judicial authority to the Northern Territory had a right to sit in Parliament given, so it was said, that they were British subjects and citizens and there was no record that they had renounced their citizenship.

On 7 February 2018, the Local Court found the applicant guilty of one count of assault with a circumstance of aggravation. The applicant was found not guilty of the other charges. On 23 February 2018, the Local Court sentenced the applicant to imprisonment for one month to be suspended after serving one day.

On 21 March 2018, the applicant purported to institute an appeal in the Supreme Court against the finding of guilt. Section 171(2) of the *Local Court (Criminal Procedure) Act* (NT) provides that every appeal shall be instituted within 28 days from the time of the conviction, order or adjudication appealed against. The last day to institute an appeal from the finding of guilt was 7 March 2018. It is a condition precedent to the valid institution of an appeal that the appeal be commenced within time. Although in limited circumstances, the Supreme Court has the power to extend time within which to appeal and to dispense with compliance with any condition precedent to the right of appeal, the applicant did not seek any such orders nor did the Supreme Court make any such orders.

On 11 May 2018, the applicant filed in the High Court an application to remove into that Court the whole of the case said to be pending in the Supreme Court. The basis of the application was the supposed dual citizenship of NT and federal Parliamentarians past and

present which was said to affect the legitimacy of the legislation under which the applicant was charged, and, in the absence of any treaty between the Crown, the NT and the applicant's tribe, the Local Court had no jurisdiction to hear the charges and it was only the High Court which could determine the ability of past and present parliamentarians to sit and pass laws.

The removal application was opposed by the Northern Territory primarily on the ground that there was no "cause pending" in the Supreme Court within the meaning of s 40(1) of the *Judiciary Act* (C'th). The Territory submitted that there was no appeal on foot in the Supreme Court because the conditions precedent to the valid institution of an appeal had not been complied with.

The application for removal of the appeal from the Supreme Court into the High Court was dealt with upon the papers filed by the parties.

The High Court dismissed the application holding that it raised no question warranting the attention of the High Court.

**Niehaus v The Queen**

**7 November 2018  
Gordon & Edelman JJ  
[2018] HCASL 336**

The applicant was charged with eight counts of sexual intercourse without consent against two victims. Counts 1 to 4 alleged offending against victim A. Counts 5 to 8 alleged offending against victim A's younger sister, victim B. The appellant pleaded not guilty to all eight charges. Following a trial by jury, he was found not guilty of all charges relating to victim A. On the charges relating to victim B, the appellant was found not guilty of two charges (counts 7 and 8) and, by majority verdict, guilty of two charges (counts 5 and 6). The applicant appealed to the Court of Criminal Appeal against his convictions on counts 5 and 6.

On the hearing of the appeal, the appellant argued that the guilty verdicts on counts 5 and 6 are unreasonable because they are necessarily inconsistent with the not guilty verdicts on counts 7 and 8.

Applying established principles, the Court of Criminal Appeal held that for the appellant to succeed "he must satisfy the court that the two verdicts cannot stand together, meaning thereby that no reasonable jury who had applied their mind properly to the facts in the case" could possibly have found the appellant guilty of counts 5 and 6 and simultaneously not guilty of counts 7 and 8. If there was a proper and reasonable way to reconcile the verdicts, allowing the Court to conclude that the jury performed its functions as required, then it should be accepted that the jury has so performed its functions.

The Court unanimously dismissed the appeal holding that the not guilty verdicts did not necessarily mean that the jury disbelieved that evidence of victim B. The Court held that there was a range of logical and common sense reasons the jury may have had for having a reasonable doubt about counts 7 and 8 which did not entail disbelieving the evidence of victim B about the appellant's continuing abuse and were not, therefore, inconsistent with accepting her evidence in relation to counts 5 and 6 beyond reasonable doubt. See **Niehaus v The Queen** [2018] NTCCA 10.

The applicant then applied for special leave to appeal to the High Court of Australia on the grounds that the Court of Criminal Appeal erred (i) in finding that the verdicts of guilty delivered on counts 5 and 6 were not unreasonable because they were not necessarily inconsistent with the verdicts of not guilty returned on counts 7 and 8 on the indictment, and (ii) in finding that the verdicts of guilty on counts 5 and 6 were supported by the evidence and were not unsafe and unsatisfactory.

As to the first ground, the applicant submitted that there was nothing about the nature or quality of the evidence for counts 5 and 6 which could explain the difference in verdict with counts 7 and 8. Further, that any concerns the jury had about the complainant's credit with respects to counts 7 and 8, should have extended to counts 5 and 6. It was submitted that the Court of Criminal Appeal did not set out a sufficient evidentiary basis for their finding that the differences in verdicts could be reconciled.

In relation to the second ground, the applicant argued that there was evidence before the court which should have raised significant concerns over the credibility of victim B, and which made the verdicts unsafe and unsatisfactory.

The High Court determined the application on the papers without the need for oral argument. The High Court held that the proposed grounds of appeal would not enjoy sufficient prospects of success to warrant a grant of special leave to appeal. The application was dismissed.

**Manolas v The Queen**

**15 February 2019**  
**Nettle & Edelman J**  
**[2019] HCATrans 017**

A Darwin Supreme Court jury found the applicant guilty of 20 counts of stealing property contrary to s 210(1) of the **Criminal Code** (NT). Many of the facts were not in dispute at the trial.

The appellant was a 50% shareholder and director of a company A. The other 50% of Company A was owned by a company wholly owned by another individual. Company A owned a business called Bar Zushi which was managed by the applicant. The applicant was also a shareholder and director of Company B which traded as a franchise bookstore business called Dymocks Casuarina ("Dymocks"). Between April 2010 and November 2013, the applicant used money from the property of company A to assist the Dymocks business, which was in financial difficulties. Although this money was appropriated in different amounts and in different ways over this period of time, the effect of what the applicant did was to transfer company A money to the benefit of Dymocks. The applicant did not deny that he did this. He gave evidence at his trial, in which he admitted transferring Company A money to Dymocks and not informing the other director of Company A. However, he asserted that all of these individual transfers were "a loan" and that, at the time he made those transfers, he intended that the money would be paid back to Company A at some future time. He testified that he expected that the Dymocks business would "turn around" and he would be able to refund the money from Dymocks income or the proceeds of a sale of Dymocks. He also testified that he believed that his 50% shareholding in Company A was "security" over the money taken from Company A in that, if the money could not be repaid from Dymocks, it could be recovered from the sale of his shareholding in Company A. He also testified that he believed that if Dymocks collapsed then it would have an adverse effect on Company A because if Dymocks went down and he became bankrupt then his shares would be taken, he would not be in a position to manage the

business and (he asserted) his fellow director was not capable of doing so. That would mean the end of the Bar Zushi business to the financial detriment of Company A. In that way, he said he was looking after the interests of both companies.

The applicant appealed to the Court of Criminal Appeal against his convictions on the ground that the trial judge erred in respect of the directions given to the jury regarding the element of intention to deprive. Section 209(1) of the **Criminal Code** provides that an owner may be deprived of property in one of two different ways: (a) where the owner is permanently deprived of the property, or (b) where the property is appropriated or borrowed by someone who does not intend to permanently deprive the owner of the property but intends “to treat the property as his own to dispose of ... regardless of the rights of” the owner, for example, by lending it to another person. The applicant’s complaint related to the direction given regarding (b). The trial judge directed the jury that

*“ ... the prosecution does not have to prove that the accused did not make a subjective assessment and somehow took into account in that assessment the interests of Company A as he saw them. That is not what the prosecution has to prove beyond reasonable doubt. The prosecution has to prove, to succeed on this prosecution, that the accused did not have appropriate regard for the rights of the company as owner of the property. It is the ownership rights of the company that (element b) is concerned with.”*

On the hearing of the appeal, the appellant contended that as long as a person has some regard to the interests of the owner of the property, he cannot be said to intend to treat the property as his own to dispose of regardless of the rights of the owner.

The Court of Criminal Appeal unanimously dismissed the appeal holding that the jury had been correctly directed regarding the element of intention to deprive. See **Manolas v The Queen** [2018] NTCCA 12.

The applicant then applied for special leave to appeal to the High Court of Australia against the decision of the Court of Criminal Appeal.

In dismissing the application for special leave the High Court said;

*“Although we are not necessarily persuaded that the reasoning of the Court of Criminal Appeal of the Northern Territory is entirely correct, in this matter it was not suggested at trial and there was no evidence that the appellant honestly and reasonably believed that he was authorised by (Company A) to pay away its moneys to, or to the use of, the applicant’s own company, (Dymocks), still less that he honestly or reasonably believed in the existence of a state of affairs which, as a matter of law, would have amounted to such authorisation.*

*Thus, the only issue on appeal to the Court of Criminal Appeal was whether the words “regardless of the rights of the person to whom it belonged” in section 209(1) of the Criminal Code 1983 (NT) imported a requirement for the Crown to negative beyond reasonable doubt that the applicant subjectively believed that the payments were in the best interests of Company A. There is no reason to doubt that the Court of Criminal Appeal was correct in holding that the Crown was not required to do so.*

*Accordingly, an appeal to this Court would not enjoy sufficient prospects of success to warrant the grant of special leave”.*

## **Fraud Prosecutions      2018-2019**

During this financial year the office received funding for a dedicated fraud unit up until 31 December. The funding was used to support the engagement of 4.5 full time employees dedicated to the preparation of serious and complex allegations of criminal fraud. Since its disbandment the office continues to rely on the services of a specialist senior fraud prosecutor to manage the majority of fraud prosecutions.

Notable prosecutions over the year include:-

- The prosecution of Christopher Deutrom former manager of Elders Real Estate operations in Darwin for fraud of about \$220,000 committed against his employer. Mr Deutrom was sentenced to five years imprisonment after a three week trial.
- The successful defence in the High Court of a challenge to the conviction of George Manolas who had earlier been convicted of fraud in the order of \$170,000 committed upon a company of which he was the operations manager.
- The conviction of the two operators of a Ponzi investment scheme, Colin Voeuk and Aimee Pittman, who duped investors into investing \$1,744,000 of which in excess of \$1 million was falsely appropriated. Voeuk and Pittman subsequently pleaded guilty and were sentenced to seven years and six months imprisonment.
- The conviction of Walter Wilton for his part in the defrauding of Royal Darwin Hospital of about \$150,000 through a fraudulent procurement scheme. Wilton received a sentence of three years and six months imprisonment.
- The conviction of Timothy Schwab, the owner of a construction company, for defrauding a government indigenous employment program. The total value of the deceptions exceeded \$213,000. Schwab was sentenced to four years imprisonment.
- Conviction following plea of Michael Wilkie, an employee of a Katherine based business for fraudulent representing indigeneity in a statutory declaration submitted by his employer in support of a claim under the Indigenous Employment Scheme. The employer received a benefit of \$96,688.28 as a result of the false representation. Wilkie was sentenced to imprisonment for six months which was wholly suspended.
- The conviction of a Nigerian national, Emmanuel Okoh, for a business email compromise fraud from which he obtained a benefit of \$42,000. Okoh was sentenced to three years imprisonment.
- The prosecution of Suzanne Meyering, the book keeper of a local tiling business for fraud of about \$85,000. Ms Meyering was sentenced to three years imprisonment after a two week trial.
- Several prison guards pleaded guilty in the Local Court to frauds committed against the Department of Corrections involving the falsification of medical certificates.



The office retains carriage of several other prosecutions which are likely to resolve in the next financial year. They include:-

- The prosecution of an Alice Springs based company and its operations manager for fraud committed against the indigenous employment scheme.
- The prosecution of a Darwin accountant for fraud in the order of \$450,000 committed against a client. This matter is listed for trial in August 2019.
- The prosecution of a Darwin based police officer for theft upon a local charity.
- The prosecution of two Nigerian nationals for their part in a computer fraud which is alleged to have resulted in their obtaining of benefits in excess of \$400,000. The matter is listed for trial in September 2019.
- The prosecution of a prison guard for offences committed against his employer, the Department of Corrections. He has been committed on 19 counts of fraud and one count of attempting to pervert the course of justice.
- The prosecution of the CEO of an Aboriginal Corporation for a fraud committed against her employer in excess of \$178,000. The matter has been committed for trial but no trial dates have been set at this stage.
- Ongoing prosecution of George Manolas for further 116 counts of fraud against the business he operated. For legal argument on 29 & 30 July 2019.

### **Applications under s 19 of the *Sentencing (Crime of Murder) and Parole Reform Act 2003***

In the 1980s, the only sentence that could be passed upon a person convicted in the Northern Territory of the offence of murder was imprisonment for life. Up until 1 January 1984, s 5 of the *Criminal Law Consolidation Act* (NT) provided that the mandatory sentence for murder was life imprisonment with hard labour. Both that Act and the *Criminal Code* (NT), which came into force on 1 January 1984, provided that the sentence for murder could not be mitigated or varied. If a sentence of life imprisonment was imposed, s 4(3)(b) of the *Parole of Prisoners Act* (NT) precluded the fixing of a non-parole period.

The *Sentencing (Crime of Murder) and Parole Reform Act 2003* (NT) ("the Reform Act") changed this sentencing regime. The Reform Act commenced on 11 February 2004. By the Reform Act, the *Sentencing Act 1995* (NT) ("the *Sentencing Act*") was amended to provide, by s 53A, that when sentencing a prisoner to life imprisonment for murder, a court must, except in certain circumstances, fix a non-parole period. If a non-parole period was fixed it had to be not less than 20 years or, if certain aggravating circumstances applied, not less than 25 years.<sup>21</sup> Section 53A(5) of the *Sentencing Act 1995* provided that a court

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<sup>21</sup> The aggravating circumstances set out in s53A (3) are any of the following:

- (a) the victim's occupation was police officer, emergency services worker, correctional services officer, judicial officer, health professional, teacher, community worker or other occupation involving the performance of a public function or the provision of a community service and the act or omission that caused the victim's death occurred while the victim was carrying out the duties of his or her occupation or for a reason otherwise connected with his or her occupation;
- (b) the act or omission that caused the victim's death was part of a course of conduct by the offender that included conduct, either before or after the victim's death, that would have constituted a sexual offence against the victim;
- (c) the victim was under 18 years of age at the time of the act or omission that caused the victim's death;
- (d) if the offender is being sentenced for 2 or more convictions for unlawful homicide;

might refuse to fix any non-parole period *“if satisfied the level of culpability in the commission of the offence is so extreme the community interest in retribution, punishment, protection and deterrence can only be met if the offender is imprisoned for the term of his or her natural life without the possibility of release on parole”*.

Transitional provisions were made, in ss 17-21 of the Reform Act, in respect of prisoners who were then serving sentences of life imprisonment for murder. Section 18 provided that, subject to the other provisions of the Reform Act, the sentence of a prisoner, who at the commencement of the Reform Act was serving a sentence of life imprisonment for murder, *“is taken to include a non-parole period of 20 years”* or, if the prisoner was serving sentences for two or more convictions for murder, *“each of the prisoner’s sentences is taken to include a non-parole period of 25 years”*.

Section 19 of the Reform Act permitted the Director of Public Prosecutions to apply to the Supreme Court to revoke the non-parole period set by s 18 and to fix a non-parole period longer than the 20 or 25 years specified by s 18, or to refuse to fix any non-parole period. Section 19(4) of the Reform Act provided that the Supreme Court may fix a non-parole period longer than 20 or 25 years *“if satisfied that, because of any objective or subjective factors affecting the relative seriousness of the offence, a longer non-parole period is warranted.”*

Section 19(3) specified the circumstances in which the Supreme Court must fix a non-parole period of 25 years which circumstances were almost identical to those referred to in s 53A(3).

Section 19(5) prescribed the circumstances in which the Supreme Court *“may refuse”* to fix a non-parole period in terms identical to those identified in s 53A(5) of the *Sentencing Act*. That is, the Court may refuse to fix a non-parole period *“if satisfied the level of culpability in the commission of the offence is so extreme the community interest in retribution, punishment, protection and deterrence can only be met if the offender is imprisoned for the term of his or her natural life without the possibility of release on parole”*.

The Reform Act left it to the discretion of the DPP as to whether an application should be made in any particular case. Section 19(2) of the Reform Act provided that if the DPP was to make an application to the Supreme Court, the application had to be made no earlier than 12 months before the first 20 years of the prisoner’s sentence was due to expire, or if, at the commencement of the Reform that period had expired, within 6 months after that commencement. In other words, the DPP was not permitted to make an application to the Supreme Court until the prisoner had commenced serving the 20<sup>th</sup> year of the sentence.

At the time of the commencement of the Reform Act,<sup>22</sup> there were 30 prisoners who had been found guilty of murder and sentenced to imprisonment for life to whom the transitional provisions applied. One other prisoner had transferred his sentence to another jurisdiction and had left the Territory before the Reform Act commenced.<sup>23</sup> The table at Appendix B lists the transitional prisoners in chronological order of the commencement date of their

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(e) if the offender is being sentenced for one conviction for murder and one or more other unlawful homicides are being taken into account;

(f) at the time the offender was convicted of the offence, the offender had one or more previous convictions for unlawful homicide.

<sup>22</sup> 11 February 2004.

<sup>23</sup> David Troy Masters.

sentence, with the earliest commencement date first. The table also shows whether an application was made by the DPP to increase the non-parole period and the result of that application. All transitional prisoners have now had their sentences reviewed by the DPP as and when required since February 2004. The list of transitional prisoners has been exhausted and no further applications remain to be made by the DPP under s 19 of the Reform Act.

The table at Appendix B can be summarised as follows. The DPP made application to increase the non-parole period fixed by s 18 of the Reform Act in 11 cases and declined to make an application in 14 cases. The DPP was unable to make an application in three cases as the prisoner had transferred to another State pursuant to the provisions of the *Prisoner (Interstate Transfer) Act* before the commencement of the 20<sup>th</sup> year of their sentence and in two cases because the prisoners died in custody before the commencement of the 20<sup>th</sup> year of their sentences.

Of the 11 applications made by the DPP to increase the non-parole period, eight applications were successful and three were unsuccessful.

The applications made by the DPP generated a deal of work in the appellate courts. There were four appeals to the Court of Criminal Appeal / Full Court, one application for special leave to appeal to the High Court of Australia and two appeals to the High Court of Australia.

One case in particular, that of *Jonathon Bakewell*, is worthy of mention.

The application at first instance was based on the fact that the prisoner broke into a young woman's flat at night while she was present in the dwelling with intention of having unlawful sexual intercourse with her without her consent and forcibly having sexual intercourse with her in a manner that resulted in her death. The judge hearing the application found beyond reasonable doubt that the act or omission that caused the deceased's death was part of a course of conduct by the prisoner that included conduct before the victim's death that would have constituted a sexual offence against the victim. The judge found that but for s 19(3) of the Reform Act he would have determined that a term of 20 years was the minimum term that justice required that the prisoner must actually serve in prison.<sup>24</sup> The DPP's application was allowed and the non-parole period was increased from 20 years to 25 years.<sup>25</sup>

The prisoner appealed against this determination to the Court of Criminal Appeal which allowed the appeal holding that the discretion conferred by s 19(1)(b) of the Reform Act which provided that the Supreme Court on the application of the DPP may dismiss the application was not constrained by the mandatory direction contained in s 19(3). The Court of Criminal Appeal held that the direction found in s 19(3) only has effect if the court first determines, in its unfettered discretion, not to dismiss the application and to revoke the period fixed by s 18. Taking into account the finding of the trial judge that but for s 19(3) he would not have revoked the 20 year non-parole period, and having considered the matter afresh, the court was of the view that the interest of the community were best served by permitting the 20 year non-parole period to stand.<sup>26</sup> The DPP's application was dismissed.

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<sup>24</sup> Section 19(3)(b) provided that the Supreme Court must fix a non-parole period of 25 years if that act or omission that caused the victim's death was part of a course of conduct by the prisoner that included conduct, either before or after the victim's death, that would have constituted a sexual offence against the victim.

<sup>25</sup> *DPP v Bakewell* [2007] NTSC 51.

<sup>26</sup> *Bakewell v The Queen* (No 2) 22 NTLR 164.

Following the decision of the Court of Criminal Appeal in *Bakewell v The Queen*, the Reform Act was amended to overcome the effect of the decision and to make it clear that if the facts of a particular case include the presence of aggravating circumstances (such as existed in the case of Bakewell), then (i) the DPP must make an application to the court to have the standard 20 year non-parole term extended, and (ii) once the court is satisfied these circumstances are established, the court must impose at least a 25 year minimum term. The Supreme Court's discretion to dismiss an application in these circumstances was excluded.

The amending legislation was made retrospective so as to allow a further application to be made by the DPP in the case of Bakewell notwithstanding the fact that the previous application had been dismissed by the Court of Criminal Appeal.<sup>27</sup>

A second application was made to the Supreme Court to extend Bakewell's non-parole period from 20 years to 25 years. At the hearing questions of law were raised and were referred to the Full Court of the Supreme Court for determination. The questions involved the validity of the amending legislation and the integrity of the second application. The Full Court held that the amending legislation was not invalid and that the Director's second application should not be permanently stayed.<sup>28</sup>

The prisoner then appealed to the High Court of Australia where the matter was decided on a ground which, although ventilated in earlier and related proceedings before a single judge,<sup>29</sup> had not been argued as being a legal impediment to the DPP's application before the Full Court. The issue raised by the High Court concerned the effect of Bakewell's transfer from the Northern Territory to South Australia.

The prisoner had been transferred to South Australia in April 2005 pursuant to the provisions of the *Prisoners (Interstate Transfer) Act 1983* (NT) ("the Transfer Act") well before the DPP's original application was filed in June 2007. Section 23(1)(a) of the Transfer Act provided that, upon the arrival of a prisoner in a participating State pursuant to an order of transfer, every Northern Territory sentence of imprisonment imposed upon the prisoner ceased to have effect in the Territory except for the purpose of an appeal against or review of a conviction, finding of guilt, judgment or sentence made, imposed or fixed by a court of the Territory. South Australia was a participating State. Section 28(2)(a) of the *Prisoners (Interstate Transfer) Act 1982* (SA) provided that where a translated sentence or a minimum term deemed to have been fixed by a corresponding court of South Australia was varied or quashed on a review by or appeal to a court of the participating State where the sentence or minimum term was imposed or fixed, the sentence or minimum term was deemed to have been varied or quashed to the same extent by a corresponding court of South Australia. The Northern Territory was a participating State for the purposes of the South Australian Act.

The High Court allowed the prisoner's appeal holding that from the time the prisoner arrived in South Australia the life sentence imposed by the Supreme Court of the Northern Territory ceased to have effect in the Territory and a life sentence was deemed to have been imposed by the Supreme Court of South Australia. Further, the minimum non-parole period of 20 years fixed by operation of s 18(a) of the Reform Act was deemed to have been fixed

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<sup>27</sup> *Sentencing (Crime of Murder) and Parole Reform Amendment Act 2008*.

<sup>28</sup> *Bakewell v The Queen (No 3)* (2008) NTLR 174.

<sup>29</sup> *DPP v Bakewell* [2007] NTSC49; 21 NTLR 171.

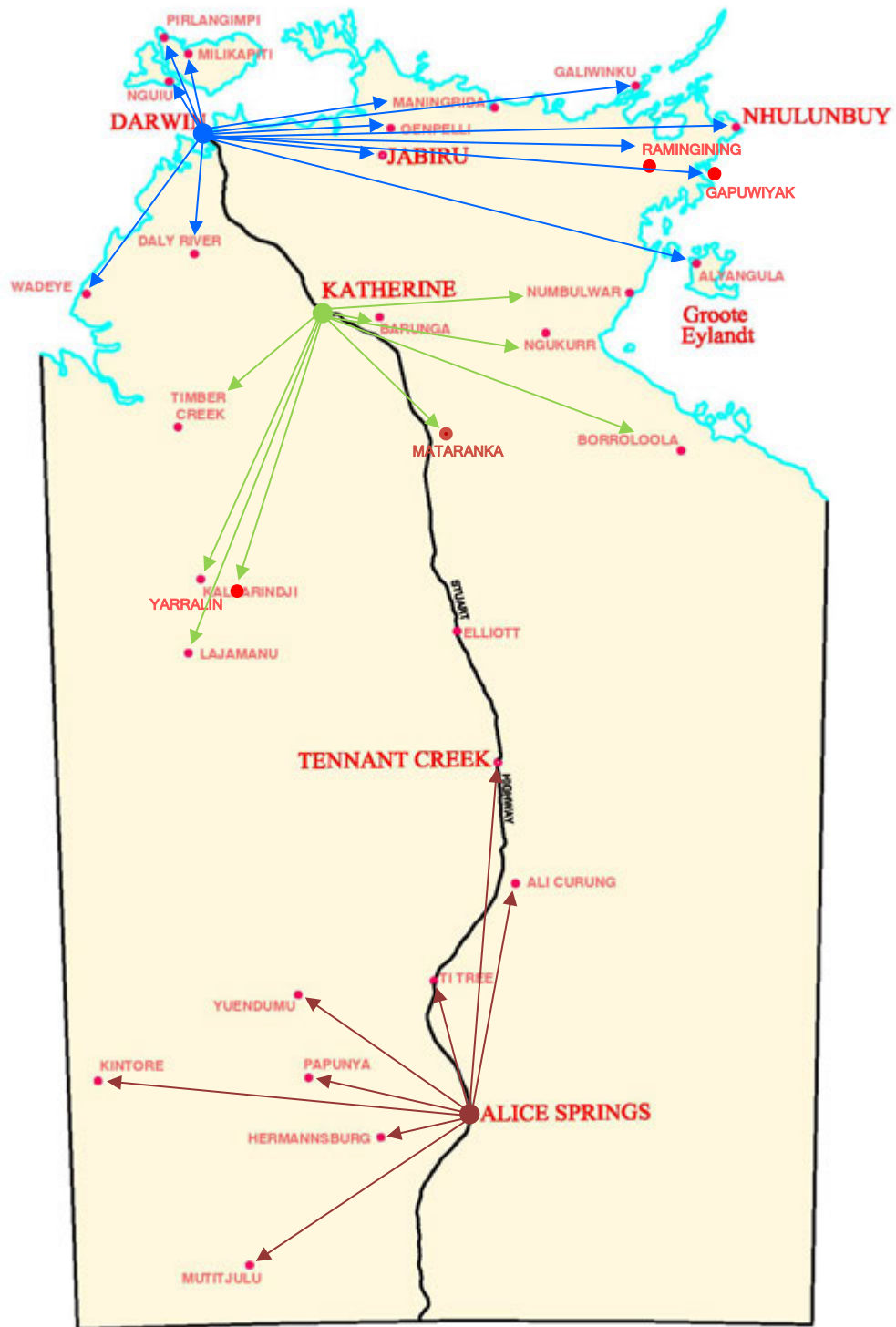
by the Supreme Court of South Australia. The Director's application was not for a review of a sentence made, imposed or fixed by a court of the Northern Territory. Hence, no order fixing a new non-parole period could be made by the Supreme Court of the Territory under the Reform Act.

The result of the High Court decision was that the 20 year non-parole fixed by s 18(a) of the Reform Act in respect of Bakewell's sentence remained in place.

### **Intra agency co-operation**

During the reporting year the Office responded to 14 requests from the Legal Policy Division of the department. Given the independence of the DPP, any advice given or comments provided by the Office is restricted to advice of a technical nature. In the main the advice sought concerned new legislation or amendments to existing legislation.

# NT COURT LOCATIONS



## SUMMARY PROSECUTIONS

The Summary Prosecutions Division of the DPP is responsible for the conduct of prosecutions and prosecution-related activities in the Local Court and the Youth Justice Court.

Summary Prosecutions sections exist in three geographical locations:

- Summary Prosecutions Darwin (SPD);
- Summary Prosecutions Katherine (SPK); and
- Summary Prosecutions Alice Springs (SPA).

Each section is staffed by civilian lawyers employed by the DPP (“summary prosecutors”).

For all Darwin matters, summary prosecutors now appear at each stage of the criminal proceedings initiated by the laying of charges by Police. In addition to prosecuting matters referred to them by Police, summary prosecutors also appear on instructions from Northern Territory Correctional Services and Territory Families in relation to various kinds of breach proceedings.

In Katherine and Alice Springs, and at all of the various Northern Territory circuit courts, Police prosecutors appear in the initial stages of “bail and arrest” and case management procedures of criminal matters. Summary prosecutors then assume responsibility for the matters at the *voir dire* and / or hearing stage, or when they are requested to take carriage of complicated or sensitive plea hearings or applications.

SPD, SPK and SPA have individual responsibility for designated circuit courts over large geographical regions within the Northern Territory. The circuit court serviced by each section appear on the map at page 34 of this Report. Summary prosecutors appearing in circuit courts are also expected to provide support and assistance to the remote stationed police members with respect to all aspects of criminal prosecution.

The Darwin Summary Prosecution unit is supervised by the Summary Prosecutions Manager who is responsible for approximately 15 professional staff in Darwin and 1 in Katherine, with overall oversight for the division by the Deputy Director.

In the last reporting year the unit faced significant challenges with the departures of a number of prosecutors placing a further strain on the resources of the unit. One of the key changes to address the capacity of staff was a restructure of the unit to focus on developing the skills and experience around the preparation and presentation of contested hearings. Files were allocated to prosecutors earlier and opportunities for advocacy experience in the Supreme Court were provided to experienced summary prosecutors. This restructure also saw a change in the work roles of support staff.

## **KATHERINE**

In Katherine the significant challenges faced by the summary prosecutor position was the subject of comment in last year's report<sup>30</sup>. Those challenges were ongoing in the current reporting year and continue to provide a significant hurdle to successfully filling the Katherine position. However significant groundwork has been laid to address these issues by securing funding for two full time summary prosecutors to be engaged in Katherine (the existing P3 position and an additional P2 prosecutor), positively ratifying the division of labour between police and SPK, and developing accommodation relief arrangements to alleviate the high cost of living in the region.

## **ALICE SPRINGS**

The Alice Springs Summary Prosecution unit, much like its Darwin counterpart, also faced the issue of sufficient staffing levels following the departure of two summary prosecutors. Plans are underway to increase staffing numbers in this unit with the transfer of funding for an existing Crown prosecutor position to be used to support the appointment of a senior summary prosecutor in the next financial year.

Domestic violence offending continues to comprise the largest discrete category of cases dealt with by the summary prosecution units. This has been reflected in plans by the Courts to establish a specialist Domestic Violence Court in Alice Springs. This initiative will have an ongoing impact on staffing levels and training for the Alice Springs DPP office.

## **YOUTH MATTERS**

The findings and recommendations of the Royal Commission into the Protection and Detention of Children in the Northern Territory continue to have a significant influence in this jurisdiction. The unique challenges in dealing with youth offenders has been reflected in the creation of the position of Youth Team Practice Manager. The position has provided a consistency of approach to the prosecution of youth matters and allows consideration of large and complex youth files as well as the accumulation of expertise in this developing area

## **WORKING WITH POLICE**

The Summary Prosecutions units and police, in particular in Katherine and Alice Springs, continue to have a close working relationship. This partnership based on open communication and serving the public interest is crucial to maintain an effective and just criminal justice system. The work of the Judicial Operations Section within NT Police continues to play an integral role in this relationship ensuring that there is a clearly identified pathway for advice and assistance.

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<sup>30</sup> See the 2017-2018 Annual Report at pages 35-36.



## WITNESS ASSISTANCE SERVICE

The role of the Witness Assistance Service (WAS) is to provide support to victims, witnesses and their families throughout the court process.

The services provided by WAS are set out in two brochures entitled “Witness Assistance Service” and “Your Voice in Court” which brochures are available throughout the NT at police stations, court houses, health clinics and at various other locations where services to victims are provided.

Detailed information about WAS and the criminal justice process is available also on the DPP website at <http://agd-dpp.sp.nt.gov.au/DPP/Documents/WAS.aspx>

WAS services each of the court locations shown on the map which appears on page 34 of the report.

The usual FTE complement of WAS is 8.5 WAS Officers, deployed in DPP offices as follows:

- Darwin – Manager and 3.5 WAS officers who service the Northern Region and East Arnhem Land;
- Katherine – 1 WAS officer and a .5 Professional Assistant administration officer who service the Katherine region; and
- Alice Springs – 3 WAS officers who service the Alice Springs and Barkley regions.

During the reporting year, staff numbers were depleted by -

1. the retirement of the WAS Manager, Bill Munro, in April 2019,
2. the temporary departure of the WAS officer in Katherine in May 2019 on maternity leave,
3. the permanent departure of a Darwin WAS officer in May 2019 after winning a promotional position with another agency, and
4. the temporary departure of an Alice Springs WAS officer in June 2019 to another agency.

The retiring WAS Manager, Bill Munro, commenced with the DPP in November 2014 as a re-deployee from Corrections. Mr Munro had over 20 years of experience in a variety of roles in a Correctional Centre and in Community Corrections, including urban and remote settings before joining the DPP. I wishes Mr Munro well in his retirement. Recruitment for the Manager’s position had not been completed by the end of the reporting year.

As a result of the budget increase referred to in the Director's overview, the office will now be able to increase the .5 FTE WAS officer position in Darwin to a fulltime FTE.

WAS delivered many informal presentations at Court open days and to individuals and small groups at other locations. Formal presentations were delivered to government and non-government organisations such as NT police, Red Cross and Women's crisis centres. WAS officers visiting remote communities for court sittings maintained relationships with health centres and other community organisations to encourage referrals for Aboriginal victims and witnesses.

During the reporting year, AGD Corporate Communications was engaged to assist in the development of a communications strategy for WAS. The results were pleasing.

Firstly, the two brochures mentioned at the beginning of this section<sup>31</sup> were tested for their suitability for readers with low English literacy and scored high in readability. The brochures appear at Appendices C and D respectively.

Secondly, two new community engagement initiatives were identified for development to enable victims and witnesses to (i) contact WAS for information and assistance at an early stage of court proceedings, and (ii) familiarise themselves about court attendance.

The first initiative involves the implementation of an automated notification process for victims in Local Court matters at an early stage of the court proceedings. Presently, victims in Local Court matters only get referred to WAS in contested hearings or where the victim is considered particularly vulnerable or distressed. In order to make victims feel more involved into the criminal justice process, it is proposed that an automated text message will be sent to any victim where a mobile number has been provided by the officer in charge of the case. The message will invite victims to contact WAS for information and assistance at an early stage in order to prepare them for the journey through the criminal justice system. This initiative is to be trialled in the greater Darwin area in the 2019-2020 reporting year to determine the efficacy of the initiative and the impact on resources.

The second initiative involves the preparation of two short videos about attending court. It is proposed to place the videos on the DPP website and to encourage witnesses and victims to access the videos to familiarise themselves with court procedure so as to reduce the stress associated with being involved in court proceedings. It is anticipated that both videos will be placed on the DPP website in the 2019-2020 reporting year.

Two WAS officers attended the NT Language and the Law Conference held in Alice Springs on 5, 6 and 7 April 2019. The conference was run in close co-operation with the Aboriginal Interpreter Service and the Interpreting and Translation Service NT and aimed to improve access to justice for those in the community for whom English is not their first language.

Potential training opportunities associated with the recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse were identified and training options were explored through the Blue Knot Foundation, National Centre of Excellence for Complex Trauma. The Department decided to arrange for an in-house consultant to deliver a training session on Trauma-Informed Practice in the Legal and Justice Sector which was held on 31 May 2019 and attended by three WAS officers.

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<sup>31</sup> Both brochures were developed in the 2017-2018 reporting year.

During the reporting year preparations were undertaken by WAS to host the bi-annual National WAS Conference to be held in Darwin on 12 and 13 August 2019. The theme of the conference will be Change: Meeting the Challenge and New Horizons, with a focus on changes that specifically occurred in response to the recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse.

WAS no longer receives requests for assistance in relation to pre-sentence conferences pursuant to s 84(1) of the *Youth Justice Act*. As mentioned in last year's Annual Report,<sup>32</sup> WAS participation in these conferences was inappropriate and unduly strained very limited resources. Victims of Crime (VOC) NT support officers now support victims throughout the pre-sentence conference process.

During the reporting year, 1891 new clients (victims and witnesses) were referred to WAS.<sup>33</sup> The decrease in client numbers from the previous reporting year is no doubt partly attributable to the reduction in the number of WAS officers throughout the year for the reasons outlined on page 37 of this report.

During the reporting year the Aboriginal Support Co-ordinator, Colleen Burns, was recognised for having 20 years' service as a WAS Officer in the DPP. Colleen's profile upon joining the DPP was reported in the 1998-1999 Annual Report at page 20 and is reproduced below.

*Colleen Burns graduated from the Northern Territory University with a Bachelor of Arts in Welfare Studies in May 1993. She won a Bishop O'Loughlin Scholarship in her third year. She worked in various non-government agencies before taking up a position in 1994 with Territory Health Services in Family Youth and Children's Services (now called Family and Community Services). During her last eight months at Territory Health Services, she was the Acting FYCS Senior of the Palmerston Community Care Centre. She has been on various committees over the years dealing with youth, women, Aboriginal and Islander issues. She commenced with the Office in March 1999.*

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<sup>32</sup> At page 40.

<sup>33</sup> A decrease of 325 from the 2017-2018 year.

# **BUSINESS & LEGAL ADMINISTRATIVE SUPPORT**

The DPP consists of four separate business units.

- Crown Prosecutions
- Summary Prosecutions
- Witness Assistance Service
- Business Support & Legal Administration

## **BUSINESS SUPPORT**

The Business Support team consists of 4.5 full time equivalent staff, a Business Manager, Assistant Business Manager, Darwin Office Manager, Travel Clerk and part-time Alice Springs Office Manager.

During the reporting year there was a considerable turnover of staff in Business Support with the permanent departure of the Business Manager and Darwin Office Manager and the temporary departure of the Assistant Business Manager.

I would like to extend my special thanks to former Business Manager, Lilia Cercarelli, for almost 16 years of service to the office. Ms Cercarelli was employed in the office as Business Manager from June 1998 to January 2008 and then again from May 2012 to August 2018. In between times, she held several managerial positions with Licencing, Regulation and Alcohol Strategy and with Courts and Tribunals.

The new Business Manager, Michael Gragg, commenced employment in November 2018. Prior to taking up the position with the DPP, Mr Gragg was the Business Manager with Territory Families. Mr Gragg commenced working in the NTPS in 1994 and brings to the office a broad range of experience having worked in various capacities with several government departments.

Business Support is responsible for the delivery of a range of services to all DPP staff as well as ensuring the division meets its corporate responsibilities. Services include Human Resource and Financial Management, Information Technology, Records and Information Management, Continual Business Improvement, Corporate Citizenship, staff & witness travel and administrative services.

Major challenges this year have been in relation to the overall financial position of the NT Government. The need to “do more with less” is not something easily achieved when the complexity or level of incoming work cannot be regulated. The focus of Business Support has been on streamlining processes, eliminating duplication of services and reducing unnecessary bureaucracy without affecting compliance.

Towards the end of the financial year DPP was provided with an additional budget injection of \$800,000 for the 2018-2019 financial year and \$1 million ongoing. This increase was in

response to a relatively consistent overspend over the past five years which, despite introducing initiatives over recent years aimed at reducing expenditure, has been an ongoing concern for the division. A portion of this funding will be allocated to the employment of two additional prosecutors, one registry officer and the increase in hours for the part time WAS officer. These positions will be recruited to in the 2019-2020 financial year.

Additional challenges have been in relation to the management of official staff and witness travel for the division. Travel and witness expenses account for a large portion of the DPP operational budget and require continual scrutiny to ensure resources are maximised. In line with the NTG Travel policy framework, the majority of travel is booked through the corporate travel provider QBT. The only exceptions are where commercial options are not available and accommodation is booked directly with suppliers.

Notwithstanding the involvement of QBT, much work is still required to be done in the office in order to organise and properly record and account for witness travel.

Unlike staff travel, arrangements for witnesses involve a considerably greater administrative effort as the travel clerk is required to liaise with and co-ordinate a number of stakeholders including WAS, prosecutors, police officers, external support services and witnesses. Last minute changes to court trial / hearing listings are a regular occurrence requiring not just cancellation of travel and / or accommodation arrangements but also notifying witnesses, who are often located in remote locations or interstate, of the changed circumstances.

The relatively large volume and complex nature of travel to and from remote communities throughout the Territory is predominantly the responsibility of one dedicated travel clerk. In addition to providing relief when the Darwin based travel clerk is on leave, the lower volume of travel for the southern region is managed by the Office Manager based in Alice Springs.

Lack of suitable or reasonably priced transport and accommodation options often results in additional budget stress and less than ideal services being accessed, particularly in relation to accommodation in remote communities. The use of shared charters for air travel and accessing audio visual links for witnesses where possible were also considered as cost saving measures and will be continued into 2019-2020. Police visiting officer quarters are used where possible to reduce accommodation expenses. While the office is grateful for the support from Police, limited availability, the poor amenity of some facilities and basic lack of infrastructure make this an option of last resort in some locations.

In an effort to reduce duplication and improve efficiencies, travel processes were reviewed during the reporting year and a number of changes introduced. While this had some positive impact, the large volume of work still proved difficult to manage within the limited resources available.

## **LEGAL ADMINISTRATION**

While part of Business Support, the Legal Administration team focus on providing Summary and Crown prosecutors with support managing the administrative aspects of legal matters. The unit encompasses Registry staff, Professional Legal Assistants and Paralegals.

## **REGISTRY**

The registry team provides records management and administrative support services DPP staff, clients and other stakeholders. Registry staff are responsible for making up new files, managing diary entries for all prosecutors, registering file movements and making data entries in CaseNet.

During the year, two staff members within the work unit attained their 20 year service milestones. The Information Manager, Jacqui Walker, completed all her service within the DPP. Jacqui started her career in the office as a rounds clerk and in addition to now being the Information Manager is also the Subject Matter Expert who will assist in the deployment of the Attorney Manager module of Odyssey Justice Suite to the office. Andreas Andreou transferred to the DPP in 2015 and holds the position of Registry Manager. Before transferring to the DPP, Andreas held numerous positions with Courts and Tribunals.

## **PROFESSIONAL LEGAL ASSISTANTS (PLAs)**

The PLAs provide secretarial and paralegal support to Crown Prosecutors.

In previous years, the DPP experienced a high turnover of AO3 PLAs. To ensure appropriate staffing levels, the work unit was required to undertake frequent recruitment actions placing additional strain on already stretched resources. High staff turnover<sup>34</sup> resulted in a negative impact on the continuity of administrative support and contributed to low morale within the team. In an effort to address the issue of retention, the positions were re-evaluated. The positions were found to have a number of increased responsibilities and activities since their original introduction, and were assessed at the AO4 level.

The additional funding required to support the higher designation was managed within existing resources and resulted in one of the seven PLA positions not being filled. Subsequent recruitment action was undertaken to fill four positions in Darwin and two in Alice Springs. This action, while resulting in one less position overall, improved staff retention with only one staff departure in the 8 months since the change was actioned.

## **PARALEGALS**

Paralegals provide administrative support to the summary prosecutors in Darwin. Functions include file creation and management including making requisitions for outstanding evidence from the police and managing disclosure of evidentiary material to the defence. The DPP does not provide paralegal support to summary prosecutors in Katherine and provides limited administrative support to summary prosecutors in Alice Springs.<sup>35</sup>

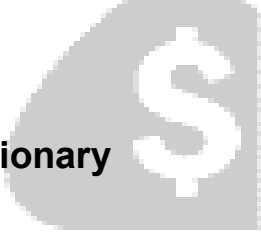
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<sup>34</sup> Often to higher paid positions but less demanding positions in other agencies.

<sup>35</sup> Police prosecutions in Katherine and Alice Springs have not been civilianised as is the case in Darwin and accordingly the primary responsibility for providing administrative support to summary prosecutors in these locations rests with Police.

## FINANCE

### EXPENDITURE 30 JUNE 2019

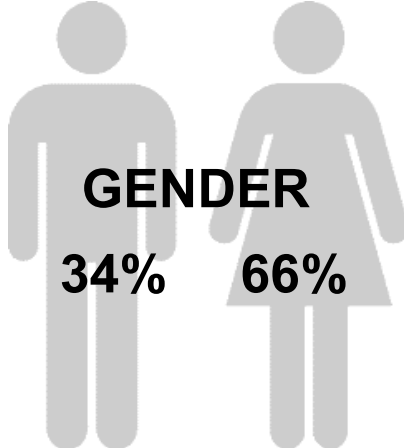


Budget	\$12,755,000
Personnel	\$9,272,000
Operational	\$2,968,000
Non-discretionary	\$43,000
Surplus	\$472,000

## HUMAN RESOURCES

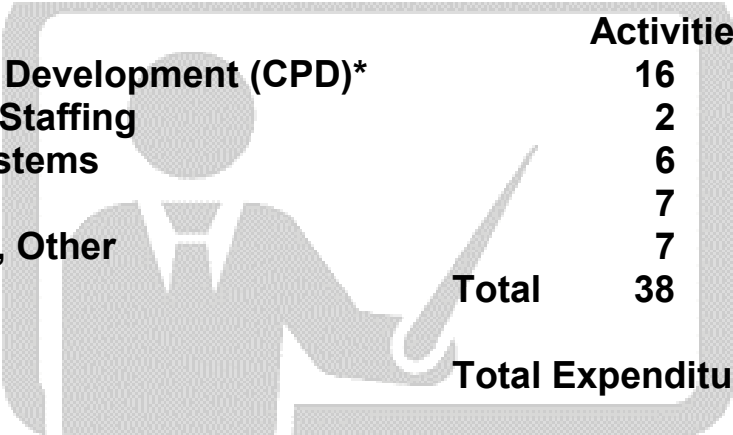


<b>FTE</b>	<b>74.47</b>
Professional	40.00
Admin Legal Support	29.60
Admin Business Support	4.87



<b>GENDER</b>
34% 66%

## STAFF TRAINING & CONFERENCES



	Activities	Attendees
Professional Development (CPD)*	16	133
Recruitment/Staffing	2	10
Business Systems	6	9
Corporate	7	33
Conferences, Other	7	90
<b>Total</b>	<b>38</b>	<b>275</b>
<b>Total Expenditure</b>		<b>\$44,983</b>

\*Professional legal staff are required to have achieved a minimum of 10 Continual Professional Development points throughout the calendar year to maintain their eligibility to hold a Practising Certificate within the NT. Some CPD activities are also represented in the total for Conferences.

A breakdown of all staff training activities can be found at Appendix E.

During the reporting year the DPP continued to deliver on its commitment to provide a comprehensive professional development program to all staff. During the year, staff participated in and attended a number of training programs and conferences.

Professional development was delivered through a variety of methods, including employees performing higher duties, on-the-job training, mentoring and presentations delivered by internal experts. All professional development sessions were video linked in real time to the Alice Springs office. Internal legal training sessions are recognised by the Northern Territory Law Society as continuing professional development (CPD) activities for the purposes of the Legal Profession Regulations.

In addition, the DPP covered costs associated with renewal of practising certificates for all its prosecutors.

## **CONFERENCES**

### **National Executives Conference**

Held in Sydney late March 2019, the conference was attended by the Business Manager and attracted participants from all national jurisdictions including two representatives from New Zealand. The conference is held annually and provides attendees with the opportunity to present a jurisdictional overview on hot topics and to share experiences on new and innovative practices.

A number of presentations were delivered on subjects including business operations and contemporary legal practices. Not surprisingly, the challenges facing other jurisdictions are not dissimilar to those of the NT with funding, staffing and improving efficiencies being topics covered by presenters. A common thread in all jurisdictions was the push to move into the digital world with a strong focus on improved Information Technology and working towards paperless trials. Attendees reflected positively on their respective government's willingness to support projects aimed at facilitating the move to digital. Staff wellbeing initiatives is another area where a number of states are focussing resources, with most offices supporting a dedicated human resource unit.

### **Association of Crown Prosecutors (AACP) Conference**

In July 2018, two Crown prosecutors from the Darwin office attended the annual conference of the Australian Association of Crown Prosecutors (AACP), hosted by the Queensland DPP. The conference, which is hosted by a different jurisdiction each year, focuses on challenges encountered by Crown prosecutors who regularly appear in jury trials and in appeals from jury trials. The conference was based in Cairns and covered a range of topics including challenges in prosecuting a trial in multicultural Australia, advocacy in respect of vulnerable witnesses, the use of new DNA procedures, and developments in technology in prosecuting large-scale online frauds.

### **Criminal Lawyers of the Northern Territory (CLANT) Conference**

Fourteen prosecutors, including the Director, attended the 17<sup>th</sup> Biennial Conference of CLANT held at the Hyatt Regency Hotel, Sanur, Bali, between 22 June and 28 June 2019.



The Office paid for each delegate's registration fee<sup>36</sup> and delegates paid for their airfares<sup>37</sup> and accommodation.

Presenters included Chief Justice of the Northern Territory, Michael Grant, former NT Legal Aid barrister and now Victorian County Court judge, George Georgiou SC and acting NT Supreme Court Justice, Dean Mildren.

Below is a link to presenters' bios and the papers presented.

[https://clant.org.au/the\\_bali\\_conference/2019-true-crime-nt-murder-et-al/](https://clant.org.au/the_bali_conference/2019-true-crime-nt-murder-et-al/)

Attendance at the conference presented delegates with the opportunity to claim CPD points.

### **Conference of Australian Directors of Public Prosecutions (CADs)**

All Australian DPPs meet twice a year to discuss matters of mutual interest. The meetings are normally held over two days. Each jurisdiction takes turns in hosting the conference. In the reporting year, the meetings were held in Brisbane on 18 and 19 October 2018 and in Sydney on 28 February and 1 March 2019.

The NT DPP attended both meetings.

### **INFORMATION TECHNOLOGY**

DPP staff continue representation on various working groups established to manage the implementation of the Odyssey Project. The project will see the introduction of an end to end paperless justice system. In December 2016, AGD awarded the Integrated Case Management System (ICMS) contract to Tyler Technologies Australia Pty Ltd (Tyler) to provide case management capabilities and electronic lodgement to the NT Courts (Local and Supreme) and Tribunals. The software, called Odyssey Justice Suite, is a unified suite of products that provides seamless integration from arrest through to disposition. The Odyssey Case Manager module will replace the Court functions currently provided by the Integrated Justice Information System (IJIS). The first roll out of Odyssey Case Manager has been for the NT Civil and Administration Tribunal.

In January 2018, AGD engaged Tyler to provide case, workflow and evidence management capabilities to the DPP. The Odyssey Attorney Manager module is fully integrated with Case Manager for sharing and tracking court case information and documents needed for hearing and trial preparation in real time.

The configuration and implementation of the Odyssey Justice Suite, Case Manager and Attorney Manager modules for the Local and Supreme Courts and the Director of Public Prosecutions is part of a multi-unit approach within AGD.

Development of the Attorney Manager module was due to commence in the latter part of the reporting year however, changes in the project timeline have resulted in this phase of the project being delayed. As a result of Machinery of Government changes during the

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<sup>36</sup> Totalling \$13,090.

<sup>37</sup> Except in the case of Alice Springs based delegates in respect of whom the Office paid for return airfares from Alice Springs to Darwin so as to put them on an equal footing with Darwin based delegates.

reporting year, responsibility for managing the Odyssey project now lies with the Department of Corporate and Information Services (DCIS). A meeting between DPP and the DCIS is scheduled for early 2019-2020, where a full status report and revised timeline will be provided.

During the reporting year, operating systems for several IT applications used by the DPP were superseded. Migration to the new systems for the public access DPP Internet and CaseNet legal file management system were relatively straight forward and required little input from Business Support.

The DPP Intranet Portal used by staff is a SharePoint application.<sup>38</sup> Migration to the new operating system for SharePoint occurred during a major internal upgrade of the portal. The new version includes access to additional legal resources, a complete revision of the information contained within the system and a redesigned look and feel of the site. To date, a significant body of work has been completed in-house by the acting Research Solicitor who also carries a court caseload. The upgrade has been undertaken within existing resources and will continue into 2019-2020.

In an effort to improve connectivity and efficiencies in accessing legal material, the Business Support team undertook an audit of all ICT assets within DPP. Outdated and faulty hardware was identified and programmed for replacement. Due to an NTG-wide shortage of suitable hardware, upgrades will be staggered over the next financial year.

Of major concern to the DPP is ensuring that the CaseNet file management system remains operational until the implementation of the Attorney Manager module of the Odyssey Justice Suite.<sup>39</sup> CaseNet was upgraded at considerable cost approximately 10 years ago, and was not designed to contain the current level of data. In addition, the system does not have the functionality to support end to end case management processes or provide the level of reporting required by the office.

The latter part of the reporting year saw a significant increase in the number of issues resulting in system downtime or dramatically reduced operating speeds. Several patches were deployed to address these concerns with longer term solutions to be considered in the early part of 2019-2020. DPP commenced negotiations with the Department of Corporate and Information Services to identify potential solutions outside of the Odyssey project and to have the requirements of DPP recognised as a priority. This work will continue into next year.

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<sup>38</sup> The DPP portal is an important electronic research facility for prosecutors giving access to an extensive internal data base and to many external data bases.

<sup>39</sup> This issue was discussed in the 2017-2018 Annual Report at pp 50-51.

## **CORPORATE CITIZENSHIP**

### **Charles Darwin University**

The DPP actively supports the Charles Darwin University College of Business and Law by providing an annual prize for Outstanding Academic Achievement in Law, Justice and the State. The recipient of this year's award was Mr Errol Chua.



Mr Chua pictured receiving his award from Chief Justice Michael Grant.

### **Presentations and Training Programs provided by the DPP**

Throughout the reporting period the DPP continued to provide a number of presentations and training programs to various stakeholders across the criminal justice sphere. These included:

- Attorney-General and Justice (AGD):
  - Presentation to GDLP Law Students
  - Presentation at the AGD Orientation program
- NT Police:
  - Investigative Interviewing Presentation
  - Investigation Course – Criminal Code, Evidence Act, Sexual Offences and Homicides
  - Detectives Training Course – Evidence Act and Sexual Offences
  - Child Forensic Interviewing Course
  - Moot Court – Investigation Course

- NT Law Society:
  - Practical Advocacy Workshop – Senior Crown Prosecutors assisted in the delivery of the Workshop as trainers demonstrating techniques and passing on their knowledge and experience
- Sexual Assault Referral Centre:
  - Law and Advocacy as an Expert Witness
  - Moot Court

WAS also provided presentations and training programs to external agencies including:

- Local and Supreme Courts
  - Local Court Open Day at Katherine and Darwin
  - Supreme Court Open Day in Darwin
  - Law Week activities
- NT Police
  - Police Training College
- Community Support Groups
  - Red Cross
  - Domestic Violence support groups

### **Solomon Islands – Northern Territory Twinning Program**

As reported in last year's Annual Report,<sup>40</sup> this Office has, in the three previous reporting years, hosted two prosecutors from the Solomon Islands Office of Director of Public Prosecutions as part of a professional skills development program.

The project is part of the Solomon Islands Justice Program (SIJP), a bilateral assistance program of the Australian and Solomon Islands governments. The SIJP is administered by the Department of Foreign Affairs and Trade (DFAT). The associated costs for participants in the program are covered by the Australian Government (DFAT) through the SIJP.

As also discussed in last year's report, in 2017, representatives from the Australian High Commission in the Solomon Islands<sup>41</sup> and the SIJP Twinning Program,<sup>42</sup> attended at our office to express DFAT's gratitude and satisfaction with the program, to make arrangements for its continuance and to discuss ways of improving the program. One of the suggestions made by DFAT to improve the program was a visit to the Solomon Islands by a representative from this Office involved in the twinning program for a period of one week prior to the attachment of the Solomon Islands prosecutors. The expenses for this "reverse twinning" exercise would be borne by DFAT.

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<sup>40</sup> 2017-2018 Annual Report at pages 54-56.

<sup>41</sup> Karyn Murray, Counsellor, Strategy, Governance and Justice.

<sup>42</sup> Kevin Raue.

During the period 6 to 10 May 2019, Matthew Nathan SC, Deputy Director, travelled to the Solomon Islands to provide training to the staff of the Solomon Islands DPP and to observe the roles and responsibilities of Solomon Island prosecutors in order to improve the effectiveness of the Twinning Program for future participants. The visit was well received with the Solomon Islands DPP requesting that this occur annually and that it be extended to two weeks from next year.



Deputy Director, Matthew Nathan SC, (front row, second from right) together with Solomon Islands DPP, Ronald Bei Talasasa (front row, third from right) and prosecutors in Honiara

The advice received from all parties during this visit was that the support provided by this Office over the last three years was highly regarded and that the program had the strong support of the Solomon Islands Government and DFAT. Individual positions were much sought after amongst Solomon Island DPP staff and highly valued by past participants.

The 2019 attachment sought by DFAT, which included extending the participants to three, inclusive of an administrative support officer, was agreed to by the NT DPP. The two Solomon Island prosecutors and one administrative support officer who attended Darwin for a six week period from 13 May 2019 to 21 June 2019 were Elma Rizzu, Dalcy Benapitu and Margaret Buga. During their attachment they were exposed to all aspects of the operations of the DPP (NT) and were given the opportunity to observe the workings of the Katherine Local Court.





Dalcy Benapitu, Margaret Buga and Elma Rizzu at the Katherine Court House

At the end of their attachment, the attendees sent the following expression of gratitude.

Dear Director, Executive Management and Staff,

*All good things must come to an end as they say. Today is our last day of the six weeks placement with your office and must admit that we are sad to leave. We have had an amazing six weeks here in this prestigious office with all the wonderful staff both Legal and Admin. It was a great experience for us in office and out of office. We have learned a lot from presentations by the Director and Deputy Director and by observing the Prosecutors (Summary and Crown) in the Local Court, Supreme Court and Court of Criminal Appeal. Coming from a very small jurisdiction to experience and learn from a big jurisdiction as yours is overwhelming, we are indeed grateful to be given this opportunity.*

*So much has been learnt over the past 6 weeks in Prosecutions service, Registry, Witness Assistance Service and from the two Executive Assistants. We are certain that we will take back what we believe will help build our office and improve the services offered by all the key players in the Criminal Justice System of Solomon Islands.*

*Thank you Director for this opportunity, we are grateful indeed for your continuous support for this Twinning Programme. We are also grateful to the Solomon Islands Justice Programme for the administration of this programme.*

*Thank you to the Deputy Director for making the trip to Katherine a wonderful one and for your presentations.*

*We wish you and your staff God's blessing.*

*Tagio tumas (Thank you)*

*Dalcy, Margaret and Elma*

**TABLE OF COMPARISON DATA FOR CHARGES REQUIRING THE DPP'S CONSENT OR SIGNATURE**

Offence / Function	18 - 19	17 - 18	16 - 17	15 - 16	14 - 15	13 - 14
Conspiracy s 43BJ(10) <i>Code</i>	0	0	~	~	~	~
Criminal defamation s 208 <i>Code</i>	0	0	0	0	0	0
Distributing intimate images s 208AD <i>Code</i>	0	0	x	x	x	x
Money laundering s 231E <i>Code</i>	2	0	~	~	~	~
Maintaining a relationship of a sexual nature with a child under 16 s 131A <i>Code</i>	5	3	~	~	~	~
No true bill s 297A <i>Code</i>	6	4	0	19	12	6
Ex-officio indictment s 300 <i>Code</i>	3	5	10	18	25	~
Nolle prosequi s 302 <i>Code</i>	14	17	26	24	23	19
Taking over proceedings for summary offence s 13 DPP Act	0	0	0	1	0	0
Taking over appeal s 14 DPP Act	0	0	0	0	0	0
Granting immunities and undertakings s 21 DPP Act	0	0	~	~	~	~
Joint trial arrangements with C'th DPP	9	8	~	~	~	~

~ Data on this offence / function was not previously kept.

x This provision came into existence on 9 May 2018.



	PRISONER	COMMENCEMENT DATE OF SENTENCE	NPP FIXED BY THE ACT	APPLICATION MADE BY DPP	COURT RESULT	COURT PROCEEDINGS / COMMENTS
1	<b>NEAL</b> , Thomas	29.04.81	20 years	No		The prisoner was convicted of murder in Queensland in April 1981 and sentenced to life imprisonment. He transferred to the NT in February 1987 pursuant to the <i>Prisoners (Interstate Transfer) Act</i> and his life sentence became a NT sentence. When the Reform Act commenced on 11 February 2004 his life sentence was taken to include a NPP of 20 years.
2	<b>CRABBE</b> , Douglas John Edwin	18.08.1983	25 years	Yes	Application successful.  25 year NPP revoked.  30 year NPP fixed.	<b>Supreme Court</b> [2004] NTSC 63; 145 NTR 50; 150 A Crim R 523
3	<b>LITTLE</b> , James Edward Albert	16.05.1984	20 years	No		

	PRISONER	COMMENCEMENT DATE OF SENTENCE	NPP FIXED BY THE ACT	APPLICATION MADE BY DPP	COURT RESULT	COURT PROCEEDINGS / COMMENTS
4	<b>LEACH</b> , Martin	16.05.1984	25 years	Yes	<p>Application successful. 25 year NPP revoked.</p> <p>Refuse to fix NPP.</p> <p>Prisoner's appeal to CCA dismissed.</p> <p>Prisoner's appeal to the High Court dismissed.</p>	<p><b>Supreme Court</b> [2004] NTSC 60; (2004) 14 NTLR 44;</p> <p><b>Court of Criminal Appeal</b> [2005] NTCCA 18; 16 NTLR 117;</p> <p><b>High Court of Australia</b> (2007) 230 CLR 1</p>
5	<b>ALBURY</b> , Andrew	05.07.84	20 years	Yes	<p>Application successful.</p> <p>20 year NPP revoked.</p> <p>Refuse to fix a NPP.</p>	<p><b>Supreme Court</b> [2004] NTSC 59</p>

	PRISONER	COMMENCEMENT DATE OF SENTENCE	NPP FIXED BY THE ACT	APPLICATION MADE BY DPP	COURT RESULT	COURT PROCEEDINGS / COMMENTS
5	<b>ALBURY</b> , Andrew	05.07.84	20 years	Yes	Application successful.  20 year NPP revoked.  Refuse to fix a NPP.	<b>Supreme Court</b> [2004] NTSC 59
6	<b>AHWAN</b> , Jacob	23.12.1985	20 years	Yes	Application to increase NPP to 25 years dismissed at first instance.  DPP appeal to CCA allowed.  20 year NPP revoked.  25 year NPP fixed.  Prisoner's application for	<b>Supreme Court</b> [2005] NTSC 47;  <b>Court of Criminal Appeal</b> [2005] NTCCA 21; 17 NTLR 1]  <b>High Court</b> [2006] HCA Trans 349

					special leave to appeal to High Court refused.	
	<b>PRISONER</b>	<b>COMMENCEMENT DATE OF SENTENCE</b>	<b>NPP FIXED BY THE ACT</b>	<b>APPLICATION MADE BY DPP</b>	<b>COURT RESULT</b>	<b>COURT PROCEEDINGS / COMMENTS</b>
7	<b>WILLIRI</b> , James Farrell	07.03.1988	20 years	No		
8	<b>ROSTRON</b> , Dennis	04.10.1988	25 years	Yes	Application successful.  25 year NPP revoked.  28 year NPP fixed.	<b>Supreme Court</b> [2013] NTSC 3
9	<b>BENDER</b> , John Allan	26.11.1988	25 years	No		An application to increase the NPP could not have been made earlier than 26.11.2007.  No application could be made by the DPP as the prisoner transferred his sentence to Western Australia in 2006 pursuant to the provisions of the <i>Prisoners (Interstate Transfer) Act</i> and from that time no longer

						<p>was a NT prisoner to whom the Reform Act applied.</p> <p>See the decision of the High Court of Australia in <i>R v Bakewell</i> (2009) 238 CLR 287.</p>
	PRISONER	COMMENCEMENT DATE OF SENTENCE	NPP FIXED BY THE ACT	APPLICATION MADE BY DPP	COURT RESULT	COURT PROCEEDINGS / COMMENTS
10	<b>BAKEWELL,</b> Jonathan Peter	27.02.1988	20 years	Yes	<p>Application successful at first instance.</p> <p>20 year NPP revoked.</p> <p>NPP increased to 25 years.</p> <p>Prisoner's appeal to CCA allowed.</p> <p>25 year NPP quashed.</p> <p>20 year NPP re-instated.</p>	<p><b>Supreme Court</b> [2007] NTSC 49; 21 NTLR 171; [20007] NTSC 51;</p> <p><b>Court of Criminal Appeal( No 2)</b> [2008] NTCCA 3; 22 NTLR 164;</p>

					<p>Prisoner's appeal to CCA challenging validity of amending legislation to overcome the effect of the CCA's decision in <i>Bakewell (No 2)</i> dismissed.</p> <p>Prisoner's appeal to High Court allowed.</p>	<p><b>Court of Criminal Appeal (No 3)</b> [2008] NTSC 51; 22 NTLR 174;</p> <p><b>High Court of Australia</b> (2009) 238 CLR 287</p> <p>Appeal allowed on a ground not argued in the CCA. Held that as the prisoner had transferred his sentence to South Australia in April 2005 under the provisions of the <i>Prisoners ((Interstate Transfer) Act</i> (NT) before the DPP made the application to the Supreme Court to increase the NPP, he no longer was a NT prisoner to whom the Reform Act applied.</p>
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	PRISONER	COMMENCEMENT DATE OF SENTENCE	NPP FIXED BY THE ACT	APPLICATION MADE BY DPP	COURT RESULT	COURT PROCEEDINGS / COMMENTS
11	<b>HEISS</b> , Daniel Lothar	05.08.1989	20 years	Yes	Application dismissed.	<b>Supreme Court</b> [2009] NTSC 26
12	<b>KAMM</b> , Peter Michael	05.08.1989	20 years	Yes	Application dismissed.	<b>Supreme Court</b> [2009] NTSC 26
13	<b>MUNGATOPI</b> , Gonzales	02.11.1989	20 years	Yes	Application successful.  20 year NPP revoked.  25 year NPP fixed.	<b>Supreme Court</b> [2009] NTSC 58; 25 NTLR 139
14	<b>TIPILOURA</b> , Cosmos	19.04.1990	20 years	No		
15	<b>BAKER</b> , Shaun Maurice	19.11.1990	20 years	No		

	PRISONER	COMMENCEMENT DATE OF SENTENCE	NPP FIXED BY THE ACT	APPLICATION MADE BY DPP	COURT RESULT	COURT PROCEEDINGS / COMMENTS
16	<b>THOMSON</b> , Christopher	19.11.1990	20 years	No		
17	<b>JOYCE</b> , Glenn Robert	16.12.1990	20 years	No		
18	<b>NELSON</b> , Edward Jagamara	21.04.1991	20 years	No		
19	<b>PRESLEY</b> , Stevan Patrick	16.12.1990	20 years	No		
20	<b>CHARLIE</b> , Kenny	11.08.1994	20 years	No		



	PRISONER	COMMENCEMENT DATE OF SENTENCE	NPP FIXED BY THE ACT	APPLICATION MADE BY DPP	COURT RESULT	COURT PROCEEDINGS / COMMENTS
21	<b>HORRELL</b> , Edward James	29.08.1994	20 years	Yes	Application successful.  20 year NPP revoked.  27 year NPP fixed.	
22	<b>MELBOURNE</b> , Roy Bernard	27.07.1995	20 years	No		
23	<b>CONOLE</b> , Ian Richard	04.12.1995	20 years	No		An application to increase the NPP could not have been made earlier than 04.12.2014.  No application could be made by the DPP as the prisoner transferred his sentence to Western Australia in 2006 pursuant to the provisions of the <i>Prisoners (Interstate Transfer) Act</i> and from that time no longer was a NT prisoner to whom the Reform Act applied.

						See the decision of the High Court of Australia in <i>R v Bakewell</i> (2009) 238 CLR 287.
	<b>PRISONER</b>	<b>COMMENCEMENT DATE OF SENTENCE</b>	<b>NPP FIXED BY THE ACT</b>	<b>APPLICATION MADE BY DPP</b>	<b>COURT RESULT</b>	<b>COURT PROCEEDINGS / COMMENTS</b>
24	<b>LOFTY</b> , Graham	15.07.1996	20 years	No		
26	<b>HUDSON</b> , Shaun	29.11.1998	20 years	Yes	Application successful.  20 year NPP revoked.  26 year NPP fixed.	
27	<b>FITTOCK</b> , Peter Andrew	07.11.1998	20 years	No		An application to increase the NPP could not have been made earlier than 07.11.2017.  No application was made by the DPP as the prisoner died in custody in 2014.

	PRISONER	COMMENCEMENT DATE OF SENTENCE	NPP FIXED BY THE ACT	APPLICATION MADE BY DPP	COURT RESULT	COURT PROCEEDINGS / COMMENTS
28	<b>LAI</b> , Quo Cheng	25.04.1999	20 years	No		<p>An application to increase the NPP could not have been made earlier than 25.04.2018.</p> <p>No application could be made by the DPP as the prisoner transferred his sentence to Victoria in 2007 pursuant to the provisions of the <i>Prisoners (Interstate Transfer) Act</i> and from that time no longer was a NT prisoner to whom the Act applied.</p> <p>See the decision of the High Court of Australia in <i>R v Bakewell</i> (2009) 238 CLR 287.</p>
29	<b>JARC</b> , Anthony Werner	23.06.1999	20 years	No		
30	<b>NELSON</b> , Ronnie	18.01.2002	20 years	No		<p>An application to increase the NPP could not have been made earlier than 18.01.2021.</p> <p>No application was made by the DPP as the prisoner died in custody in 2017.</p>

**CONTACT YOUR NEAREST OFFICE  
OR CALL THE  
FREECALL NUMBER 1800 659 449**

#### **DARWIN**

Level 3, Old Admiralty Tower  
68 The Esplanade  
Darwin NT 0800  
Phone: 08 8935 7500  
Fax: 08 8935 7552  
Postal: GPO Box 3321, Darwin NT 0801



## **WITNESS ASSISTANCE SERVICE**

### **WITNESS EXPENSES**

A witness may be entitled to claim allowances subject to the approval of the Director of Public Prosecutions.

A witness may be entitled to:

- meal allowance;
- accommodation allowance;
- travelling allowance; and/or
- an allowance for loss of earnings in accordance with the policy.

**For more information please  
visit our website at:**

**[dpp.nt.gov.au/witness-assistance/Pages/default.aspx](http://dpp.nt.gov.au/witness-assistance/Pages/default.aspx)**

You can also access DVDs about going to court and other services that are available for support.

#### **KATHERINE**

Ground Floor Rear, Randazzo Building  
Katherine Terrace  
Katherine NT 0850  
Phone: 08 8973 8813  
Fax: 08 8973 8866  
Postal: PO Box 1295, Katherine NT 0851

#### **ALICE SPRINGS**

Level 1, Centre Point Building  
Hartley Street  
Alice Springs NT 0870  
Phone: 08 8951 5800  
Fax: 08 8951 5812  
Postal: PO Box 2185, Alice Springs NT 0871

### **WE CAN**

- ✓ help you understand how the courts work
- ✓ be with you in court while you wait to give evidence
- ✓ tell you about welfare, health, counselling and legal services available
- ✓ help you prepare a Victim Impact Statement
- ✓ tell you how to claim witness expenses



**DIRECTOR  
OF PUBLIC  
PROSECUTIONS**  
NORTHERN TERRITORY

# WITNESS ASSISTANCE SERVICE

## WHO WE ARE

Witness Assistance Service (WAS) is a part of the Director of Public Prosecutions (DPP) office and provides support to witnesses and victims across the Northern Territory, including Tennant Creek and remote locations where court is held.

## WHAT WE DO

The DPP recognises that giving evidence in a court of law can be stressful. It is quite normal to feel anxious or nervous and WAS can assist.

We can help you by providing you with information that will help you understand the court system, support you at court and work with the prosecutor to assist you to give evidence. We can also provide you with other support you may require.



## OUR SERVICES

### WE CAN GIVE INFORMATION ABOUT:

- The court process.
- Your rights and entitlements in relation to the court process.
- The status of the matter and court hearing dates, times and venue.
- Giving evidence, and what you should expect during the court process.
- Completing a Victim Impact Statement (VIS).
- The Crime Victims Services Unit (CVSU) and the Victims Register.

## YOUR PROTECTION:

It is important to tell the police if you have any concerns for your safety.

- Rooms are provided at the courts in Darwin, Katherine and Alice Springs for you to wait in away from the accused.
- Facilities are provided for vulnerable witnesses to give evidence by video.
- Steps can be taken to withhold your address and personal details from the defendant.

## INTERPRETERS

- Interpreters help people who have difficulty with English.
- We can arrange an interpreter to assist you throughout the court process.







**Anything you include must be truthful, accurate and relevant to the crime for which the offender has been found guilty.**

**Who gets to see the Victim Impact Statement?**  
The prosecutor, the offender and the offender's lawyer must be given a copy of the VIS before it is presented to the Judge. You can be cross-examined (asked questions in court) on the contents by the offender's lawyer.

**Who can help to prepare the Victim Impact Statement?**  
Usually victims prepare their own statements. Help is available from the Witness Assistance Service or Police. You can also have assistance from a counsellor, psychologist or psychiatrist.

**For more information about completing a Victim Impact Statement or appearing in court visit: [dpp.nt.gov.au](http://dpp.nt.gov.au) or free call 1800 659 449**

**Interpreter Services**  
Interpreter services help people who have difficulty with English.

**For help with an Aboriginal language phone (08) 8935 7500**

**For help with other languages phone (08) 8999 7566**



**YOUR VOICE IN COURT**

**A guide to making a Victim Impact Statement**



**DIRECTOR OF PUBLIC PROSECUTIONS**  
NORTHERN TERRITORY



### What is a Victim Impact Statement?

A Victim Impact Statement (VIS) explains how a crime has harmed the victim. It is usually a written statement signed by the victim and presented to the Judge in court before the offender is sentenced. (Sentencing Act, Subdivision 2, victim impact statements and victim reports)

### Why make a Victim Impact Statement?

A VIS gives you the opportunity to tell the court how a crime has, or is still affecting you. The court can take this information into account when sentencing the offender.

### Do I have to make a Victim Impact Statement?

The court wants to know how you have been affected by the offence. While it is voluntary, a VIS is your opportunity to tell the Judge and the offender in your own words how you have been affected.

If you don't provide a VIS, the prosecutor must provide a report to the court about the effect of the crime on you. This is called a Victim Report.

### Who can make a Victim Impact Statement?

Anyone who is a victim of a crime or has been directly affected by a crime can make a statement.

### Does the Victim Impact Statement have to be in writing?

The VIS is usually written or typed and you can add a letter, poem, drawing, photo or other attachment if it relates to how the crime has affected you.

You can provide an oral report. This means asking the Judge for permission to say in court how you have been affected by the crime. If the statement is in writing you will need to sign the document before it is given to the Judge.



### Who presents the Victim Impact Statement in court?

The statement is usually presented to the Judge in court by the prosecutor. You may ask the Judge for permission to tell the court in your own words what effect the crime had on you.

### When is the Victim Impact Statement prepared?

The statement can be prepared any time before the court sentencing date. You may also update your VIS at any time before the court sentences the offender.

### What information should I include?

You should include details of any physical or mental harm and other loss or damage you suffered as result of the crime.

#### This may include:

- injuries such as broken bones, nerve damage
- how injuries have affected your daily life
- any long-term impacts of injuries on your life
- any medical treatment required, including future or ongoing medical treatment
- how the crime has affected any relationships with your partner, family, friends or co-workers
- any emotions or feelings related to the crime (such as hurt, anger, fear, frustration)
- effects on your lifestyle and activities (such as trouble sleeping, eating, working)
- any treatment such as counselling for depression, anxiety, stress
- loss of earnings
- medical treatment expenses needed because of the crime
- what order you would like the Judge to make in sentencing the offender



### What information should I not include?

- Details of the offence, you do not need to explain how the crime happened. The Judge in court will already know that.
- Details of other offences
- Any inaccurate or untruthful statements
- An opinion of the personality or character of the offender
- Inappropriate or offensive language

Description	Type	Date/s	Type	Date/s	Location	Attendees
AGD Orientation	Corporate	31/07/2018	Corporate	31/07/2018	Darwin	6
Bi-annual Conference*	Conference	13-14/08/2018	Conference	13-14/08/2018	Darwin	45*
Senior First Aid	Corporate	16-17/08/2018	Corporate	16-17/08/2018	Darwin	3
Workers Compensation for Managers and Supervisors	Personnel	23/08/2018	Personnel	23/08/2018	Darwin	1
Defend People with Mental Health Issues	Legal	8/10/2018	Legal	8/10/2018	Darwin	1
Forensic decision making for defending clients with mental health issues	Legal	8/10/2018	Legal	8/10/2018	Darwin	2
More effective Supervision of Junior lawyers	Legal	9/10/2018	Legal	9/10/2018	Darwin	1
Managing Fitness for Work	Personnel	9/10/2018	Personnel	9/10/2018	Darwin	2
Coincidence and Tendency evidence for DV matters	Legal	25/10/2018	Legal	25/10/2018	Darwin	20
JES Evaluator Introductory Workshop	Recruitment	31/10-02/11/2018	Recruitment	31/10-02/11/2018	Darwin	1
Vicarious Trauma Training	Legal	2/11/2018	Legal	2/11/2018	Darwin	2
Fire Warden Training	Corporate	9/11/2018	Corporate	9/11/2018	Darwin	6
4WD Training	Corporate	13-14/11/2018	Corporate	13-14/11/2018	Katherine	1
Introduction to the Mental Health List presented by Sandy Lau - CPD	Legal	26/11/2018	Legal	26/11/2018	Darwin	9
TRIPS Travel Request Information Processing System	Business Systems	7/12/2018	Business Systems	7/12/2018	Darwin	2
EIMS Postmaster, Coder, Approver	Business Systems	12/12/2018	Business Systems	12/12/2018	Darwin	1
Real Learning	Other	21-22/01/2019	Other	21-22/01/2019	Darwin	1
Advanced Trial Advocacy Course	Legal	21-25/01/2019	Legal	21-25/01/2019	Melbourne	1



Business Objects XI - Finance (BOXI)	Business Systems	31/01/2019	Business Systems	31/01/2019	Darwin	<b>1</b>
ECMS Cardholder/Verifier	Business Systems	31/01/2019	Business Systems	31/01/2019	Darwin	<b>2</b>
The Prosecutor as a Model Litigant' presented by Stephen Geary - CPD	Legal	31/01/2019	Legal	31/01/2019	Darwin	<b>9</b>
Australian Advocacy Institute Vulnerable Witness Course	Legal	2/02/2019	Legal	2/02/2019	Darwin	<b>8</b>
Project Management Fundamentals	Corporate	07-08/02/2019	Corporate	07-08/02/2019	Darwin	<b>1</b>
Simplified Training and Special Measures Information Training Session	Recruitment	14/02/2019	Recruitment	14/02/2019	Darwin	<b>9</b>
GL Inquiries	Business Systems	19/02/2019	Business Systems	19/02/2019	Darwin	<b>1</b>
Appropriate Workplace Behaviour	Corporate	14/03/2019	Corporate	14/03/2019	Alice Springs	<b>13</b>
Mental Health & Wellbeing in the Workplace	Personnel	20/03/2019	Personnel	20/03/2019	Darwin	<b>1</b>
National Executives Meeting	Conference	21-22/03/2019	Conference	21-22/03/2019	Sydney	<b>1</b>
ASP Intensive CPD	Legal	23/03/2019	Legal	23/03/2019	Alice Springs	<b>4</b>
Children's Court Practitioner Training Conference*	Conference	28-29/03/2019	Conference	28-29/03/2019	Darwin	<b>6*</b>
Buy Local Advocate Industry Briefing by Denys Stedman	Business Systems	4/04/2019	Business Systems	4/04/2019	Darwin	<b>2</b>
Language and The Law Conference	Conference	5-7/04/2019	Conference	5-7/04/2019	Alice Springs	<b>5</b>
My Legal Career: to Design or Grow Organically?	Legal	22/05/2019	Legal	22/05/2019	Darwin	<b>1</b>
Freedom of Information	Corporate	29/05/2019	Corporate	29/05/2019	Darwin	<b>3</b>
Trauma Informed Care	Other	31/05/2019	Other	31/05/2019	Darwin	<b>18</b>
Onsite Trauma Response	Personnel	5/06/2019	Personnel	5/06/2019	Darwin	<b>1</b>
CLANT Criminal Law Conference*	Conference	22-29/06/2019	Conference	22-29/06/2019	Bali	<b>14*</b>
Jury Trial Prep	Legal		Legal		Alice Springs	<b>5</b>

*\* Included in total numbers of both conferences and CPD activities on p 43 of the report.*