



**DIRECTOR
OF PUBLIC
PROSECUTIONS**
NORTHERN TERRITORY

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

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

2021-2022



DIRECTOR OF PUBLIC PROSECUTIONS

NORTHERN TERRITORY

THIRTY-SECOND ANNUAL REPORT

FOR YEAR ENDED 30 JUNE 2022





DIRECTOR
OF PUBLIC
PROSECUTIONS
NORTHERN TERRITORY

Director – Lloyd Babb SC

30 September 2022

Mr Chansey Paech MLA
Attorney-General and Minister for Justice
Parliament House
State Square
DARWIN NT 0810

Dear Attorney-General

ANNUAL REPORT 2021-2022

In accordance with the requirements of section 33 of the *Director of Public Prosecutions Act 1990*, I submit to you a report on the performance of the functions of the Director of Public Prosecutions for the period 1 July 2021 to 30 June 2022.

Yours sincerely

LLOYD BABB SC

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Appendix A – DPP 2020-2021 Training Table



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, Centrepoint 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

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.*

DIRECTOR'S OVERVIEW

I am pleased to present the 2021-2022 Annual Report outlining the functions and performance of my Office for the last financial year. Despite the impacts of the COVID-19 pandemic on the justice system generally during the reporting period the Office has done considerable work and achieved much. Thank you to ODPP staff and stakeholders for your continued commitment to quality service delivery.

INTRODUCTION

This is my first annual report as the DPP for the NT and may I begin by saying how proud I am to have been appointed the Territory's fifth Director of Public Prosecutions on 14 March 2022. I come to the position with a legal career of over 30 years, focused largely in criminal law and working in both prosecutions and defence. My appointment as the Territory's DPP follows closely on the conclusion of my 10 year term as the New South Wales DPP in July 2021. Although my appointment as Director only commenced in March 2022 I was already familiar with the office and prosecution work in the Territory because I was briefed by the office during the last financial year in *The Queen v Hoffmann*; a significant multiple murder trial. Leading the team in *Hoffmann* was an excellent introduction to the workings of the Office and of the justice system in the NT; importantly, I saw the talent and commitment in both legal and non-legal DPP staff.

THE LAST QUARTER

My ownership of the role is relatively short for this reporting period - nevertheless I have attempted to dive in, learn and begin to develop my own leadership relationship with my team.

While settling in to my new home in Darwin, my first weeks in the office were spent meeting face to face with every DPP staff member.

This was an important way for me to begin to understand the needs of the office and to let people know about my vision and commitment. I was impressed by the high levels of skill and dedication expressed by staff in their work to fulfil our vision and our purpose in this office, a vision that includes always operating with integrity, while we provide an independent, professional and efficient prosecution service. I thank every one of the staff for sharing their experience of working in the office.

I also listened to people's experiences at work, including views about the ways in which the Office can do better. I am committed to building an organisation which provides an excellent service and which values and supports staff.

I learned a lot from this initial contact and I continue to have a connected approach to my role as a leader and people manager.

My first weeks as DPP also included meetings with other important stakeholders in the criminal justice system, including the heads of jurisdiction for the Supreme and Local Courts of the Territory, the CEO the Department of Attorney General and Justice, the CEO

of the Legal Aid Commission, the principal lawyers for the North Australian Aboriginal Justice Agency, other senior members of the legal profession in the Territory and the Commissioner of Police. My office works closely with these and other stakeholders - together we are all part of the criminal justice system. My own leadership style is collegiate. I believe that strong, professional and transparent communications are always important and in a smaller jurisdiction like ours they are essential to operating effectively and efficiently. I look forward to continuing dialogue and teamwork with the sector as we go forward.

Some of you may know that I have committed to visiting communities outside of Darwin which are part of the circuit courts. In all circuit courts visited 33 communities, many of which are extremely remote.

I've had the opportunity to meet with leaders in a number of communities so far and to understand how the court system operates in remote parts of the Territory. This experience has also been invaluable. My visits so far include Kintore, Maningrida, Wadeye and Wurrumiyanga. In some cases I have attended as a senior visitor and observer. In other cases I've had the chance to accompany my prosecutors and see and assist with their everyday work. I see this as another way of leading from the front and personalising my commitment to my staff, the profession and to communities across the NT.

The Aboriginal Justice Agreement was launched on 9 August 2021. It is a significant development for the Territory that will see changes in the way the DPP interacts with Aboriginal Territorians who have contact with the justice system. The AJA is about doing better for our community as a whole by focussing on more effective engagement in the criminal justice system for First Nations people - as victims, offenders, witnesses and families. Over one third of our population are First Nations. It is in all our interests, as a community, to keep seeking solutions that deliver safe and equitable outcomes and which contribute to a future of prosperity and productivity for every Territorian.

HIGHLIGHTS

I have long held the view that there are great efficiencies to be gained from harnessing technology. Since beginning in my role in March I have been progressing a digitisation project which had already commenced in the office. I am very pleased with how far along this road the Territory DPP has come. Summary Prosecutions in Darwin is now almost completely paperless. There are plans to extend the digital file system in a staged approach Territory wide which will make all criminal briefs transferable between all locations. There has been significant consultation with defence lawyers, police and the courts to make this a smooth transition that system works well for all stakeholders. Starting with summary matters was the logical place because the briefs are generally less voluminous and less complex. My experience in prosecuting the Hoffmann trial demonstrated to me that the digital brief is able to be used efficiently in a case with a great many statements, high volumes of digital evidence and complex issues. I expect we will make much more progress in 22/23.

STAFF

Prosecutors and support staff do a difficult job which always comes with resourcing challenges. Staffing levels during this reporting year, along with staff movements, the

pandemic and other factors have at times made the provision of high quality prosecutions challenging and onerous for staff.

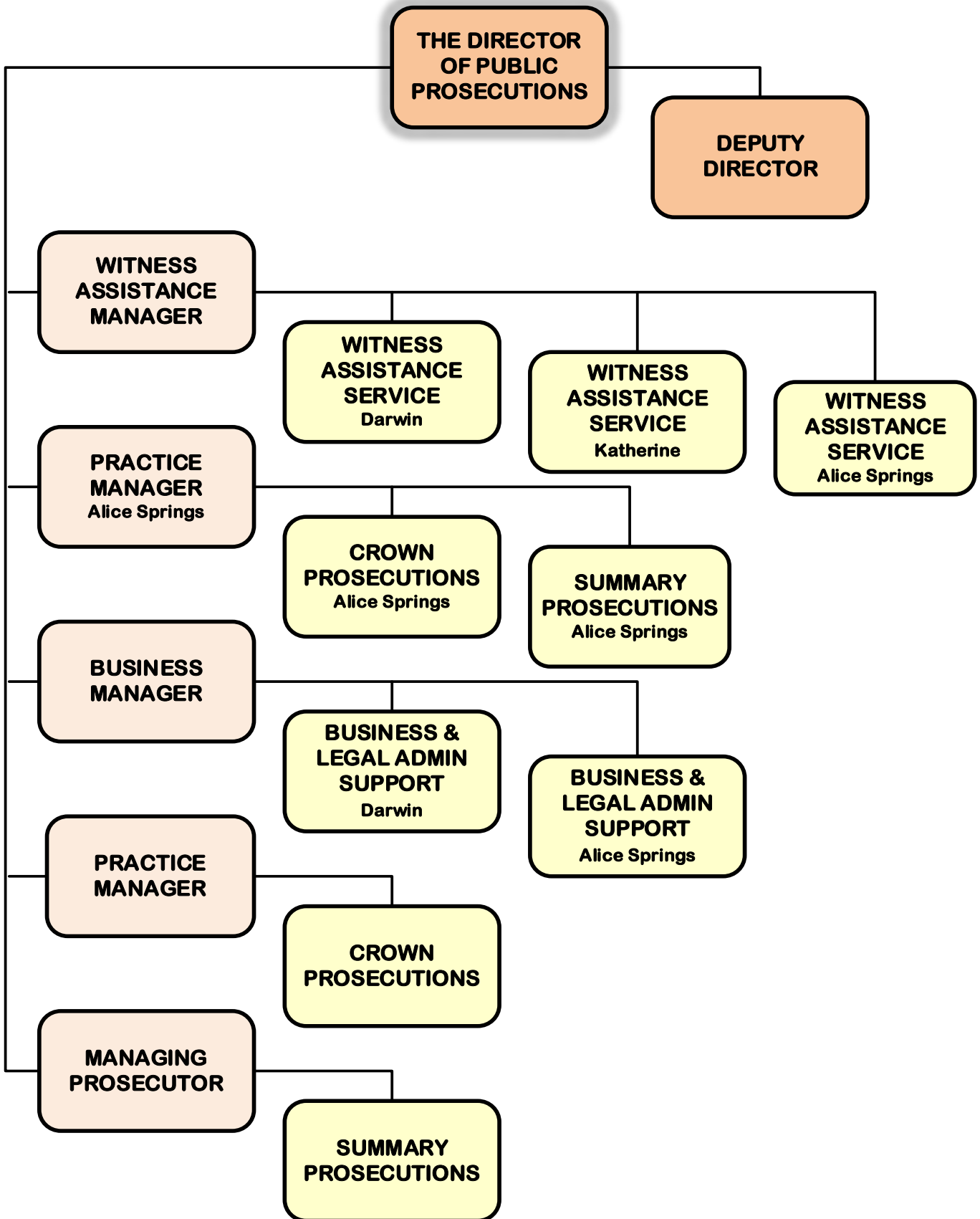
Measures put in place - including briefing work that would normally be done by DPP lawyers to external counsel, engaging locums to backfill positions until permanent staff can be recruited to a vacant position and seconding staff from other agencies – have assisted but like all organisations we should strive towards lasting organisational change and sustainability. Considerable efforts were being made to fill all vacant positions. Over the course of the reporting year 33 new staff were hired. I will continue to make sustainability a focus of my leadership work. I want to retain and attract excellent staff and I want the NT DPP to be regarded as an employer of choice.

Congratulations to Cecily Hollingworth and Helen Spowart who left the office to take up judicial appointments. Significant appointments within the Office during the year include the appointment to Senior Crown Prosecutor roles of Steve Ledek, who has risen internally through the ranks and Marty Aust who joined the office bringing his wealth of experience gained from representing Aboriginal people at NAAJA.

I thank Nicholas Pappas KC for his time as Acting Director for almost 8 months of this reporting year. He was very ably supported by Victoria Engel who has now been confirmed after a full recruitment process in her position as the Deputy Director of Public Prosecutions.

I commend all staff for their exceptional contributions and achievements throughout the year. I look forward to our progress together in the year ahead.

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

Output Reporting

Key Deliverables	Current Year		Previous Years Actuals		
	2021-22 Budget	2021-22 Actual	2020-21	2019-20	2018-19
New Matters	9,400	7,658	9,039	9,312	8,998
Finalisations					
- Supreme Court pleas	450	417	325	356	389
- Supreme Court trials	60	65	72	50	55
- Supreme Court withdrawn	40	18	26	35	22
- Local Court hearings/pleas	7,000	5,469	6,386	6,498	7,037
- Local Court withdrawn	800	413	507	461	585
- Appeals at all levels	60	51	46	60	83
Findings of guilt (including guilty pleas)					
- In Supreme Court	94%	95%	95%	97%	98%
- In Local Court	97%	98%	97%	98%	97%
Convictions after trial or hearing	97%	89%	91%	91%	92%
Witness Assistance Service clients	1,730	1,776	2,155	1,855	1,891

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.¹ Similarly, indictments charging certain offences and documents evidencing significant prosecutorial decisions can only be signed by the DPP or a Crown Law Officer.

¹ See definition of Crown Law Officer in s 1 of the *Criminal Code*.

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.

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 one consent to commence proceedings for this offence was 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.²

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.³

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.⁴

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 four consents to commence proceedings for this offence were given.

² Sections 204 and 205 of the *Criminal Code*.

³ Sections 208AB and 208AC of the *Criminal Code*.

⁴ 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*.

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 one indictment charging this offence was 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 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 three 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.⁵

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 Local Court and expediting a plea of guilty in the Supreme Court.⁶

In the reporting year four 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.

⁵ Section 298 of the *Criminal Code*.

⁶ 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].

In the reporting year 9 nolle prosequis were signed and filed in the Supreme Court.

No indemnities were granted or undertakings were 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.⁷

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.

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,⁸ 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.⁹

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 seven occasions resulting in the Commonwealth DPP prosecuting four cases on behalf of the Territory and the Territory prosecuting three cases on behalf of the Commonwealth.

⁷ Similar arrangements exist between other State and Territory DPPs and the Commonwealth DPP.

⁸ Contrary to s 125B(1) of the *Criminal Code* (NT).

⁹ Contrary to s 474.19(1) of the *Criminal Code* (C'th).

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 2020 to 30 June 2021.

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* 2021-2022

	Conviction	Sentence
Granted	0 (1)	0 (2)
Refused	1 (1)	0 (3)
Discontinued	0 (1)	0 (0)
Total	1 (3)	0 (5)

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.¹⁰ **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.

¹⁰ Table B only shows decisions actually delivered by the Court. It does not show cases which were argued during the reporting year and the decision reserved. Nine appeals were argued in the reporting year in which the Court had reserved its decision and had not delivered its decision as at 30 June 2021.

TABLE B

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

2021-2022

	Conviction		Sentence		Other	
Allowed	2	(1)	0	(4)	1	(0)
Dismissed	8	(0)	0	(4)	2	(0)
Discontinued		(0)	0	(0)		(0)
Total	10	(1)	0	(8)	3	(0)

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

2021-2022

	Sentence		Other	
Allowed	3	(0)	0	(0)
Dismissed	3	(0)	0	(1)
Discontinued	1	(1)	0	(0)
Total	7	(1)	0	(1)

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
2020-2021**

	Conviction		Sentence		Other	
Allowed	0	(0)		(0)		(0)
Dismissed	1	(0)	4	(5)		(0)
Discontinued	0	(0)	12	(13)		(0)
Total	1	(0)	16	(18)		(0)

**Outcome of prosecution appeals from the Local Court to the Supreme Court at Darwin
2021-2022**

	Dismissal of Charge		Against Inadequacy of Sentence		Other	
Allowed	0	(0)	4	(3)	0	(2)
Dismissed	4	(4)	4	(2)	0	(0)
Discontinued	2	(1)	2	(2)	0	(0)
Total	6	(5)	10	(7)	0	(2)

**Outcome of defence appeals from the Local Court to the Supreme Court at Alice Springs
2021-2022**

	Conviction		Sentence		Other	
Allowed	0	(8)	1	(3)	0	(0)
Dismissed	0	(2)	12	(0)	0	(0)
Discontinued	0	(3)	19	(2)	0	(0)
Total	0	(13)	32	(5)	0	(0)

There were no prosecution appeals from the Local Court to the Supreme Court in Alice Springs during this reporting period.

High Court Appeals

During the reporting year the DPP had 1 appeal in the High Court which was allowed. An application for Special Leave by an offender was refused

CCA Summary – Cases of interest

The Queen v EG [2022] NTCCA 10

On 9 June 2022, the Court of Criminal Appeal (Southwood, Kelly and Barr JJ) allowed a Crown appeal against sentence for 28 sexual offences against four known child victims (including his daughter) and seven unidentified child victims including incest. The respondent was originally sentenced to an aggregate sentence of 6 years with a non-parole period of 4 years. The Court of Criminal Appeal found the original sentence to be manifestly inadequate and resented the respondent to 12 years and 3 months with a non-parole period of 6 years and 8 months – reduced to 10 years and 6 months with a non-parole period of 5 years and 6 months noting the increased sentence was more onerous as a result of the application for parole process having begun. The Court also found that “(t)he

absence of evidence of future psychological harm in child sex cases, because of the young age of the victim or the lack of consciousness of the victim, should not be used as a mitigating factor to benefit the offender” (at [92]) and that “(s)entencing Judges are entitled to proceed on the basis that serious sexual assaults can be expected to have adverse psychological consequences.” (at [96])

The Queen v Kahu-Leedie [2022] NTCCA 4

On 28 February 2022, the Court of Criminal Appeal (Kelly, Blokland and Brownhill JJ) allowed a Crown appeal against sentence for a serious sexual assault at Casuarina Beach car park, resulting in significant internal injuries to the victim. The Court of Criminal Appeal found the sentence imposed was manifestly inadequate and resentenced the respondent to a total sentence of 11 years with non-parole period of 7 years and 9 months. The original sentence was a total term of imprisonment of 8 ½ years with non-parole period of 6 years.

Foster v The Queen [2021] NTCCA 8

The appellant appealed against his conviction for one count of indecent assault on a child under the age of 16 and one count of having sexual intercourse without consent with the same child, relating to an assault against a 12 year old victim, his daughter’s school friend. The sole ground of appeal was that the verdicts of guilty were unreasonable and could not be supported by the evidence. The hearing before Grant CJ, Kelly and Brownhill JJ took place on 10 June 2021, with a decision delivered on 19 November 2021. The Court of Criminal Appeal dismissed the appeal against conviction. Of importance, they noted that “(i)t is now well-recognised, if not notorious, that it is common for child sexual assaults to occur in the family home and/or in brazen circumstances” (at [9]).

CROWN PROSECUTIONS

The Crown Prosecutions Unit of the ODPP is responsible for the conduct of prosecutions in the High Court, the Court of Criminal Appeal, the Court of Appeal, the Supreme Court and in the Local Court. The Crown Prosecutions Unit had a busy year with a high number of complex Supreme Court trials, a high number of Court of Criminal Appeal matters and overall significant work load.

DARWIN

The Darwin Crown unit is comprised of 16 lawyers and 6 legal support staff. In the current reporting year, there was a significant amount of recruitment due to high staff turnover, appointments to the Bench and moves to other agencies.

ALICE SPRINGS

The Alice Springs Crown unit is comprised of 5 lawyers and 4 legal support staff. The Alice Springs Crown unit experienced significant staffing issues during the reporting year due to staff departures.

Staff across both locations worked exceptionally hard to continue to deliver a high quality service to the community.

TRAINING TO OUTSIDE AGENCIES DELIVERED BY CROWN

Prosecutors provided training to the following agencies:

NT Police

- Darwin Moot Court sessions to the NT Police Constable Recruit Squad from 10-12 November 2021 and from 31 May 2022 – 2 June 2022.
- Alice Springs Moot Court sessions
- Training on giving evidence
- Vulnerable Witness training
- Interviewing accused
- Detective Course (Darwin) in August 2021 – and four sessions (Criminal Code Act, Rules of Evidence, Sex Offences, Homicide and Death)
- Sexual Assault Referral Centre training

- Investigative Interviewing Level 2 (Alice Springs)
- Investigators Course (Darwin)

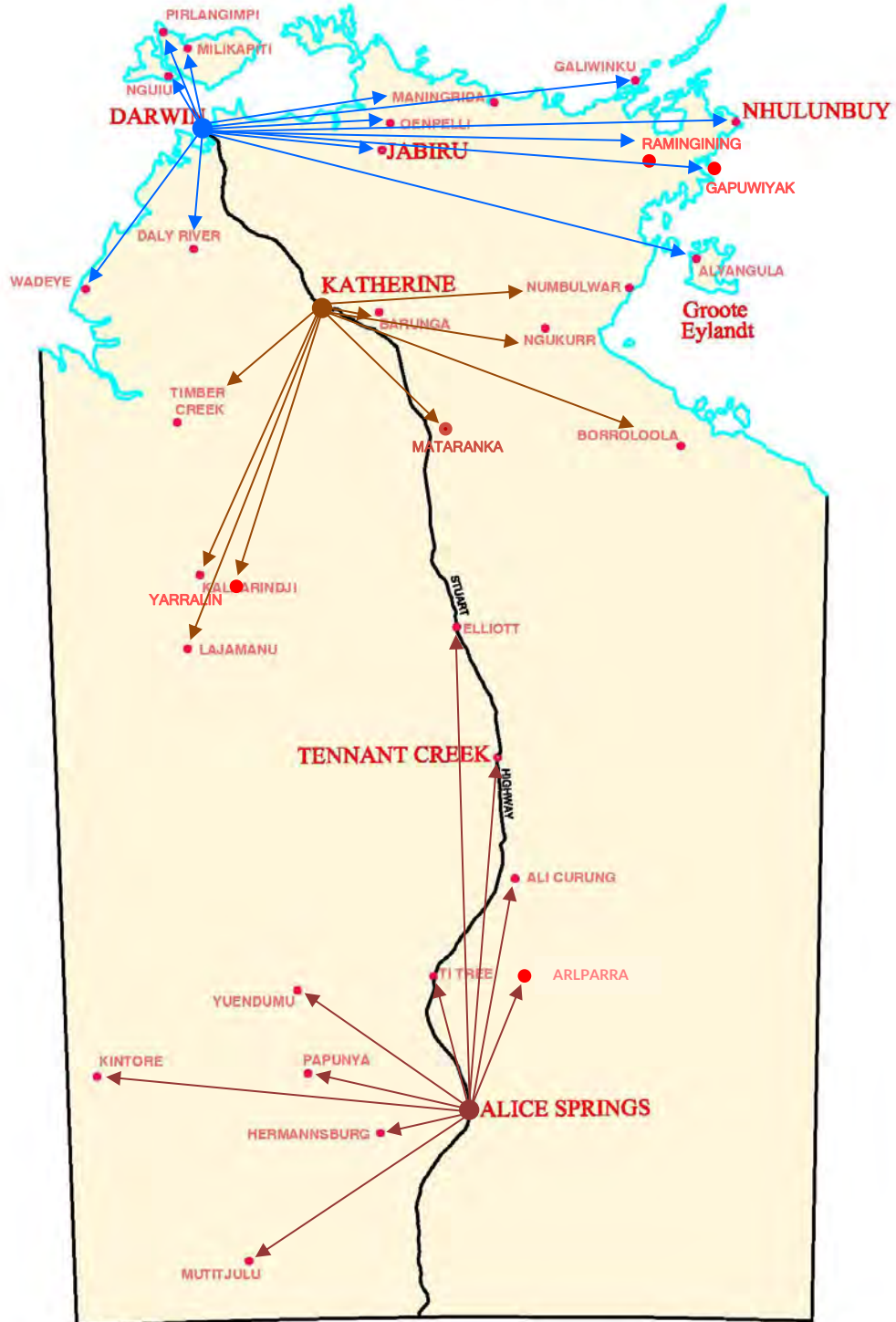
NT Corrections

A DPP presentation was given to new Probation and Parole Officers on 11 October 2021, and 31 May 2022. The topics covered were the Role of the DPP, Sentence and Breaches, Court Proceedings and Evidence.

Forensics and Sexual Assault Referral Centre

- Moot Court training in March 2022

NT COURT LOCATIONS



Northern Territory Government
Department of Planning and Infrastructure
15/08/2005



SUMMARY PROSECUTIONS

The Summary Prosecutions Unit of the ODP 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)
- Summary Prosecutions Alice Springs (SPA)

Each section is staffed by civilian lawyers employed by the OPP ("summary prosecutors").

For all Darwin matters, summary prosecutors appear in all criminal proceedings regardless of the seriousness of the offences, where charges are initiated by Police. They have conduct of the Bail and Arrest list, Direction Hearing list, Mental Health list and the Hearing list for adult and youth matters. 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 21 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.

DARWIN

The Darwin Summary Prosecution unit is supervised by the Summary Prosecutions Manager who is responsible for approximately 18 professional staff and 2 paralegals in Darwin and 2 professional staff in Katherine, with overall oversight for the division by the Deputy Director.

In the current reporting year SPD had difficulty in maintaining consistent workable staffing levels. There was a significant amount of recruitment due in large part to internal movement or movement of staff to other agencies.

Summary Prosecutions in Darwin is now almost paperless by the continued progression and implementation of Evidence.com. There is a plan to extend this digital solution in a staged approach territory wide which will make criminal briefs transferable between all locations enabling both police and civilian prosecutors to upload evidence and access a virtual files, reducing administrative effort in handling paper files.

Special recognition and thanks to Mark Seiler who initiated and continued to progress evidence.com throughout the year.

ALICE SPRINGS AND KATHERINE

This year, there has been significant expenditure on securing external counsel to prosecute in Alice Springs and Katherine. The problem became acute in Katherine after the resignation of two staff members in April 2022. Recruiting experienced staff to these positions has been challenging. Recruitment in the traditional manner on limited sites unfortunately did not attract many applicants and there were significant delays in recruitment. In the last quarter of the reporting year the office has chosen to follow a different recruitment process, creating one pool of applicants for multiple positions across all DPP offices.

The Katherine office is temporarily located at the Randazzo Building awaiting the refurbishment of the Government Centre. It is anticipated that the work will be completed in 2023, and that the office will then move in Katherine

Youth Matters

This year in July the Supreme Court delivered a decision in *Rigby v ND* clarifying what the prosecution have to prove to rebut the presumption in section 38 (2) Criminal Code. The section provides that a youth 14 years or under is excused from criminal responsibility for an offence unless the prosecution proves the youth had the capacity to know that he/she ought not to do the act. The court clarified in *Rigby v ND*, the prosecution is not required to prove at the time of the commission on an offence a youth had the capacity to know that the conduct in question was seriously wrong as opposed to just wrong.

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 Policy Unit within NT Police continues to play an integral role in this relationship ensuring that there is a clearly identified communication pathway between this Office and operational police for advice and assistance.

WITNESS ASSISTANCE SERVICE

The Witness Assistance Service (WAS) provides an individualised service that supports victims, witnesses and their families throughout their involvement in the criminal justice process. We believe that in all prosecutions, victims of crime should be treated with courtesy, respect and dignity and have access to certain information about the case. These rights are set out in the Director of Public Prosecutions Guidelines for prosecutors and in the Northern Territory Charter for Victims of Crime.

WAS staff are based in Darwin, Katherine and Alice Springs and provide services in the Local and Supreme Courts, as well as regularly traveling to regional and remote court locations as shown on the map on page 21.

The usual FTE is 9.5 WAS officers located at:

- Darwin – Manager and 4 WAS Officers who service the Northern Region and East Arnhem Land;
- Katherine – 1 WAS Coordinator and 0.5 Professional Assistant who service the Katherine Region; and
- Alice Springs – 1 WAS Coordinator and 2 WAS Officers who service the Alice Springs and Barkly Regions.

Staffing changes in the financial year included the appointment of Pam Stanley as WAS Coordinator in Katherine, and Deanna Willets as WAS Officer in Alice Springs. Sheriden Appel, the WAS Coordinator in Alice Springs took a period of extended leave allowing the secondment of Adedamola Olabegi from Territory Families, Housing and Communities.



Deanna Willets, Adedamola Olabegi and Debbie Ledbetter outside the Alice Springs Supreme Court

Service provision

The WAS team provided a service to 1730 clients across the NT during the 2021/22 financial year. This was a reduction on the previous year due to the impact of Covid-19 and suspension of circuit courts across the Territory. A total of 324 victims were assisted with their Victim Impact Statements, and 293 were presented to the Court during this period.

During the reporting period, WAS staff travelled to the following regional and remote court locations:

Tennant Creek
Elliott
Mataranka
Kalkaringi
Borroloola

Ngukurr
Yarralin
Nhulunbuy
Lajamanu

Galiwinku
Wurrimiyanga
Wadeye
Barunga



Colleen Burns, James Bainbridge and Long Nam H, heading to Borroloola Bush Court in a Charter



Visitor to Tennant Creek Court

Interagency activities and networks

WAS continued to work with key stakeholders including the Women's Safety Services of Central Australia, Victims of Crime NT (VOCNT), Domestic Violence Legal Service, and Crime Victims Services Unit to ensure victims are receiving an integrated and responsive service. WAS staff have contributed to key projects and policy initiatives aimed at improving victim's experiences including the Alice Springs Domestic Violence Court Specialist Approach and the Domestic and Family Violence Justice Reform Working Group.

WAS representatives regularly attend and participate in the Crime Victims Advisory Committee (CVAC) whose function is to advise the Attorney General and Minister for Justice on matters affecting the interests or rights of victims. In the reporting period, the frequency of CVAC meetings have been impacted by COVID 19.

BUSINESS & LEGAL ADMINISTRATIVE SUPPORT

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 0.5 full time equivalent Alice Springs Office Manager. The Office Manager in Alice Springs also has responsibility for managing the Registry functions in the office. Staffing levels have remained relatively steady throughout the year.

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 access and support, records and information management, continual business improvement, staff & witness travel and general administrative services.

COVID-19

In late June 2021, the NT experienced its first lockdown as a result of COVID-19. Only essential workers, which included DPP staff, were authorised to attend workplaces. While the office was well equipped to deal with the operational restrictions imposed by Government, the disruption to circuit courts and travel restrictions in remote communities made it extremely difficult to manage staff and witness travel. COVID-19 restrictions eased in the final quarter however, the re-establishment of domestic travel services resulted in increased visitor numbers which continued to impact on the availability of accommodation for staff and witnesses.

Over the past 12 months a large number of staff either contracted COVID-19 or were deemed a close contact of someone who tested positive. Thankfully the majority of staff were asymptomatic or only experienced minor symptoms. While it was a requirement for close contacts or those staff COVID-19 positive to self-isolate, for the most part staff who had no or mild symptoms, were able to work from home.

ICT

As previously reported, the ageing case management system CaseNet, was due to be replaced with Attorney Manager in March 2022. This did not prove to be a viable solution for the office so the DPP ceased participating in the development of Attorney Manager and began looking at potential alternatives. During 2022/23 DPP will work with the Department of Corporate and Digital Development, to identify a case management system capable of meeting the requirements of the DPP.

Summary Prosecutions in Darwin is now almost paperless by the continued progression and implementation of Evidence.com. There is a plan to extend this digital solution in a staged approach territory wide which will make criminal briefs transferable between all locations enabling both police and civilian prosecutors to upload evidence and access a virtual file, reducing administrative effort in handling paper files.

BUDGET

The DPP commenced the year with a budget of \$12.75M. An additional \$1.272M was provided in November 2021, to offset expenditure associated with two highly complex profile cases.

There were a number of staff departures which had a significant impact on the capacity of the office to manage workloads. Staffing shortages were exacerbated by delays in recruitment and the movement of a number of key personnel into different roles. These shortages continued throughout the year, significantly increasing the requirement to brief matters to the private bar. To address staffing shortages and budget over run in relation to legal expenses, the department provided a further \$1.047M in March 2022.

REGISTRY

Registry staff have continued to develop processes in support of the digital transformation. The introduction of paperless courts for Bail and Arrest, Youth and Directions Hearings has seen a noticeable reduction in physical paperwork and has improved efficiencies in a number of areas, particularly in the ability to quickly identify and share documentation.

While there have been improvements, Registry staff are required to undertake a significant amount of editing before the brief of evidence is at a stage where it is ready for disclosure. DPP has been working with Police to develop processes which would allow for a more structured brief to be provided through the new SerPro system due to be rolled out in late 2022. This should see a significant decrease in the need to edit the brief and allow Registry staff to undertake more technical work, relieving pressure on prosecutors.


PROFESSIONAL LEGAL ASSISTANTS

Previously part of the Business & Legal Administrative Support Unit, responsibility for the Professional Legal Assistants was transferred to the Crown Prosecutions Unit, with the supervisor reporting directly to the Practice Manager North.

This move was thought to more accurately align the professional legal assistants with the prosecutors they support and to develop a more collegial work environment.

FINANCE

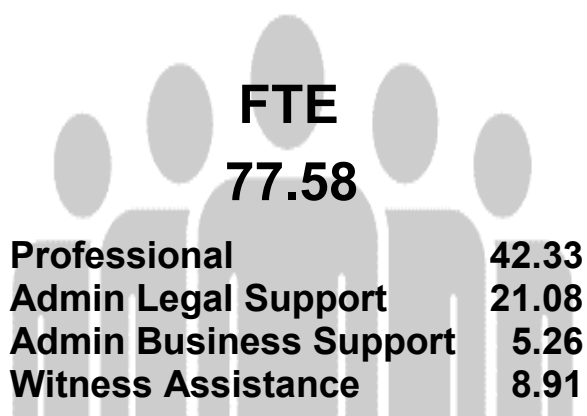
EXPENDITURE 30 JUNE 2021



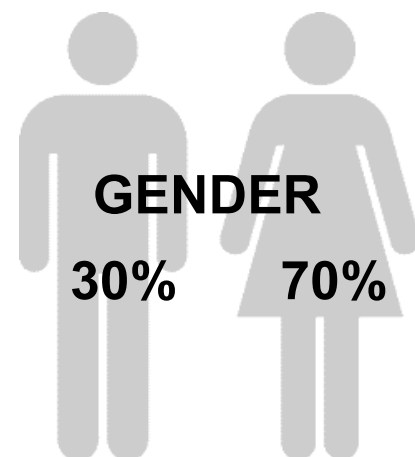
Budget	\$15,407,099
Revenue	\$775
Personnel	\$10,909,656
Operational	\$5,243,440
Non-discretionary	\$46,315
Variation	-\$792,311

HUMAN RESOURCES

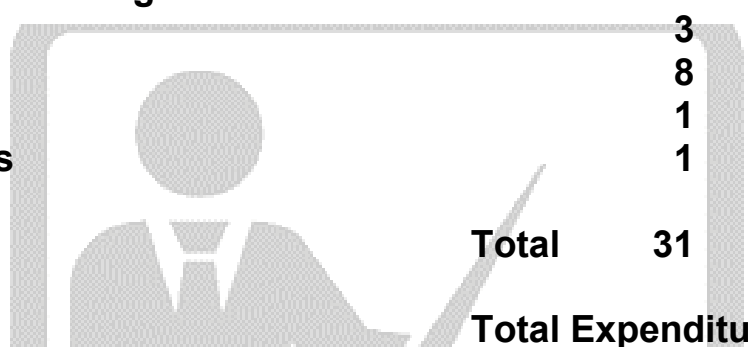
2021/22 AVERAGE



FTE	77.58
Professional	42.33
Admin Legal Support	21.08
Admin Business Support	5.26
Witness Assistance	8.91



STAFF TRAINING & CONFERENCES



	Activities	Attendees
Professional Development (CPD)*	17	332
Recruitment/Staffing	1	7
Wellbeing	3	3
Corporate	8	16
Legal other	1	1
Conferences	1	25
Total	31	384
Total Expenditure		\$16,017

*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.

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

DPP 2021-22 Training

Description	Type	Date/s	Provider	CPD Points	Attendees
First Aid	Corporate	21-22/07/2021	St Johns	No	1
CPD: How to Find the Cases You Need - Tips For Making Your Legal Research Easier	Legal	29/07/2021	DPP	Yes	13
CPD: Getting The Most out of Police Technology	Legal	12/08/2021	DPP	Yes	15
CPD: Proofing Witnesses; the Dos and Don'ts	Legal	12/08/2021	DPP	Yes	13
CPD: Running Hearings/Trials - Back to Basics	Legal	12/08/2021	DPP	Yes	14
Merit Selection Training	Corporate	Various	OCPE	No	7
Mindfulness & Managing Stress	Corporate	16/09/2021	EASA	No	1
Time Management Workshop	Corporate	23/09/2021	EASA	No	8
Understanding Self Car & Culture	Corporate	8/10/2021	EASA	No	1
Understand and Respond To Burnout	Corporate	28/10/2021	EASA	No	1
Criminal Pre-trial Preparation Masterclass	Legal	19/11/2021	Legalwise	Yes	1
Leadership in Action: Standards With Style	Corporate	2-3/12/2021	Managing Matters	No	1
CPD: Bail & Arrest 101	Legal	9/12/2021	DPP	Yes	16
CPD: Closing Addresses	Legal	3/02/2022	DPP	Yes	24
CPD: Evidence 101 (& 38 & 55 & 65...) Back To Basics	Legal	3/02/2022	DPP	Yes	26
CPD: Best Story Wins: and Other Advice for New Prosecutors	Legal	10/02/2022	DPP	Yes	18
CPD: Objecting to Defence Plea Materials	Legal	17/02/2022	DPP	Yes	24
CPD: Advocacy	Legal	23/02/2022	DPP	Yes	30
CPD: Ethics	Legal	23/02/2022	DPP	Yes	31
CPD: Evidence 101 (& 38 & 55 & 65...) Back To Basics Part 2	Legal	24/02/2022	DPP	Yes	17
CPD: Youth Justice: Baby Steps in Court & <i>doli incapax</i> is Not a Dirty Word	Legal	9/03/2022	DPP	Yes	22
CPD: Trial Directions; Tricks Of The Trade	Legal	17/03/2022	DPP	Yes	19
CPD: Emails and <i>inter alia</i> & FOI Implications for Emails & Still Haven't Found What You're Looking For... & the New Portal	Legal	24/03/2022	DPP	Yes	25
CPD: DVLS and Their Role in the Justice System	Legal	31/03/2022	DVLS	Yes	20
CPD: Prosecuting Summary Hearings: Tips & Tricks	Legal	5/05/2022	DPP	Yes	5
First Aid Training: Provide Cardiopulmonary Resuscitation	Corporate	24/05/2022	St Johns	No	1
Leaders Playbook Group Coaching Training	Corporate	24/05/2022	EASA	No	1
The Leaders Playbook - Individual Coaching	Corporate	24/05/2022	EASA	No	1
Effective Communication Skills	Corporate	26/05/2022	EASA	No	2
Emerging Leaders Series: Leadership Styles & Role Clarity	Corporate	2/06/2022	EASA	No	1
CLANT Conference 2022	Legal	28/06 - 01/07/2022	CLANT	No	25