

ANNUAL REPORT

2022-2023



DIRECTOR
OF PUBLIC
PROSECUTIONS
NORTHERN TERRITORY

ACKNOWLEDGEMENT OF COUNTRY

We acknowledge that we live and work on the sacred country of the Traditional Owners throughout the Northern Territory and we pay our deepest respect to the Elders past and present and their continuing connection with the land and waters.



HIGHLIGHTS

2022-2023



7,171 Criminal Listings in the Supreme Court

This is an 83% increase since 2013-2014



6,950 Cases Finalised

This is the number of matters completed this period



Finding of Guilt

There was a finding of guilt in **96%** of matters in the Supreme Court and **98%** of matters in the Local Court



Training Activities

20 training activities attended by 162 participants



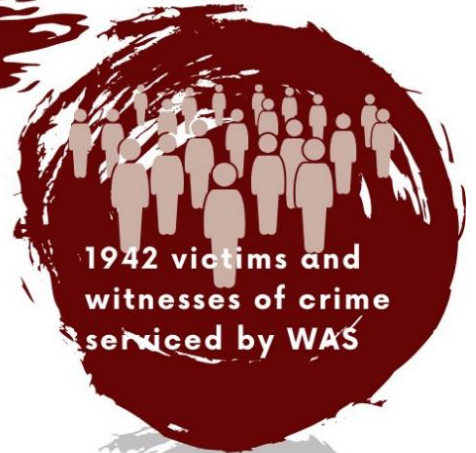
Senior Counsel Appointment

Deputy Director Victoria Engel SC was appointed Senior Counsel during this period



Appointment to the Judiciary

The Alice Springs Practice Manager, Ms Carly Ingles, was appointed as Judge to the Local Court bench



DIRECTOR
OF PUBLIC
PROSECUTIONS
NORTHERN TERRITORY

Table of Contents

ACKNOWLEDGEMENT OF COUNTRY.....	2
HIGHLIGHTS.....	3
LETTER OF TRANSMISSION.....	5
DIRECTOR OF PUBLIC PROSECUTIONS	6
THE OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS	11
FUNCTIONS OF THE DIRECTOR OF PUBLIC PROSECUTIONS	12
REPORT ON PROSECUTORIAL FUNCTIONS.....	13
ORGANISATIONAL CHART.....	17
DPP OFFICE LOCATIONS	18
COURT LOCATIONS	19
CROWN PROSECUTIONS	20
SUMMARY PROSECUTIONS.....	22
WITNESS ASSISTANCE SERVICE.....	25
BUSINESS SUPPORT.....	27

Photo Acknowledgement:

1. Front Cover | Nitmiluk (Katherine) Gorge | Taken by Lang Williamson, Senior Summary Prosecutor
2. Acknowledgement of Country | Ramingining Secret Fishing Spot | Taken by Lang Williamson, Senior Summary Prosecutor



LETTER OF TRANSMISSION



Director – Lloyd Babb SC

30 September 2023

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

Dear Attorney-General

ANNUAL REPORT 2022-2023

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 2022 to 30 June 2023.

Yours sincerely

LLOYD BABB SC

GPO Box 3321
Darwin NT 0801

Director's Chambers
Level 6, Old Admiralty Tower
68 The Esplanade
Darwin NT 0800

P: (08) 8935 7505
F: (08) 8941 8345
W: www.dpp.nt.gov.au



DIRECTOR OF PUBLIC PROSECUTIONS

LLOYD BABB SC

It is a great privilege to present my second Annual Report outlining the functions and performance of my Office for the last financial year; 2022-23.

I begin by acknowledging the traditional custodians of the land upon which the DPP operates throughout the Northern Territory. We pay our respects to Elders past and present and acknowledge the rich culture and continuing deep connection to the land and waters. I wish also to acknowledge a well-known and difficult truth; that Aboriginal people continue to be disproportionately represented as both victims and offenders in our criminal justice system. I cannot offer easy answers to addressing this status quo. However, I do seek to encourage greater involvement of Aboriginal people in the operation of the legal system; as legal representatives; as jurists; as academics. Growing the representation of Aboriginal people in these areas can only strengthen our system and our community.

As I reflect on the year that was, I sincerely thank each of the members of my staff for the significant contributions they have made to the community in the delivery of a quality prosecutorial service. I extend my thanks to the hardworking leadership team; I am grateful for their continued efforts. I thank and recognise our Witness Assistance team for professionally engaging with our stakeholders in often difficult circumstances. I thank our skilled administrative team; without your specialised support the agency could not work effectively. To the dedicated lawyers of the NT DPP - from the most senior to the most junior - thank you for your service and commitment doing what I consider to be one of the most challenging roles a legal professional can undertake. I look forward to working together with you all, ethically, professionally and innovatively into the future.



In a year where the world emerged from the COVID-19 pandemic and faced both old and new challenges, I take pride in the way my Office has adapted and navigated through these times. As with all prosecutorial agencies, a significant measure of our performance is based on finalised matters. I am pleased to report that our finalisation numbers remain strong, despite the difficulties inherent in the prosecutorial environment. While finalised prosecutions are crucial, I want to recognise that, for myriad reasons, prosecutions may not resolve in the anticipated way and that this often belies months of hard work and effort by prosecutors and those colleagues in our allied organisations, including Police, and others in our system recognise your commitment and appreciate your continued application to the work at hand.

The workload shouldered by the Office is increasing year to year, and this period was no exception. Numbers of lodgements and listings before the Local Court, Youth Justice Court and Supreme Court continue to rise, placing a considerable pressure on the DPP. I am incredibly proud of the resilience shown by our people in consistently rising to the challenges and discharging their duties as model litigants with professionalism.

In addition to the growing volume, prosecution matters are also increasing in complexity. This is due to a range of often interrelated factors including, changes in the law, court procedures, evidence, technology, and types of offending. In response to these challenges, I continue to advocate for the critical importance of our work, and to lobby for additional funding for the DPP. I am grateful that this year we have been successful in securing an additional 19 positions; however, there remains an ongoing need for more prosecutors and extra resources to ensure they have opportunities for continuous professional development.

You will notice throughout this report many exceptional photographs. These were all taken by our staff in the course of their travels for work, and submitted as part of a competition in the Office. They showcase the plethora of beautiful places on which we work. The cover photograph was taken by one of our Senior Summary Prosecutors, Lang Williamson, and captures the stunning Katherine Gorge.

As reported last year, I committed to visiting remote communities and am delighted to report that I was able to visit Milingimbi, Wurrumiyanga, Maningrida and Nhulunbuy. I have also visited both the Alice Springs and Katherine DPP offices regularly throughout this period. It is a deeply rewarding experience as the Director to get to know staff and understand their unique work environment. It is also extremely important to me to understand more about our communities and stakeholders; the particularities of country, and how we can work together to ensure the administration of justice in the area of prosecutions.

HIGHLIGHTS

- I was honoured to be asked to speak at the Garma Festival in 2022 on the topic of the Aboriginal Justice Agreement Community Court.
- During the period, I became Chair of the Aboriginal Justice Agreement Community Court Working Group; a dedicated and experienced group providing advice, guidance and recommendations in relation to the establishment of Community Courts. I acknowledge the work of the previous chair, Russell Goldflam, who handed me the reins during this reporting period. My role with the Working Group echoes in some respects my previous involvement on the Wallama Court Working Group, a NSW sentencing court that involves Aboriginal elders in the sentencing process.
- I met with my fellow prosecution agency heads for Australia and New Zealand in Auckland. The meeting was hosted by Meredith Connell, a firm that has the warrant to prosecute for the most populous part of NZ and now the workplace of former NT Deputy Director Matt Nathan SC.
- Five NT DPP delegates attended the Australian Association of Crown Prosecutors (AACP) annual conference in Adelaide and found the experience very beneficial. The NT DPP has been nominated as the host for next year's conference and our Deputy Director was voted as the new President for the AACP.
- In May of this year, NSW District Court Judge her Honour Judge Kara Shead SC visited our Darwin office and delivered a paper "Observations from the Bench". Judge Shead's extensive experience as a Crown Prosecutor and Public Defender prior to being appointed to the Bench ensured she had a broad and valuable perspective to offer to attendees. Invites for the session were extended to our colleagues at the North Australian Aboriginal Justice Agency (NAAJA) and the Northern Territory Legal Aid Commission (NTLAC). The session was streamed to invitees who could not attend personally in Darwin. The session proved so popular that a larger conference room had to be found to accommodate the attendees. Collaborating and knowledge sharing with our colleagues will undoubtedly result in more productive working relationships and overall improvements in justice outcomes in the NT. I am looking forward to more of these events in the next period.
- We progressed work on our new case management system and expect implementation during the next reporting period. Much work has been done to scope requirements for the new system and we anticipate that it will offer solutions for a range of much-needed improvements, including providing greater oversight and the ability to better measure the workload of our staff.
- This year we participated in the bi-annual People Matter Survey. I look forward to deep diving into those results and reporting on the actions we have taken in the next period.



-
- This reporting period there were 8 appeals from convicted persons from the Supreme Court to the Court of Criminal Appeal (CCA). Of these, 6 were dismissed. One of the dismissed appeals, *Bara v Blackwell*, is currently being appealed to the High Court with Special Leave scheduled to be heard in the next period. There were 2 appeals brought by the Crown to the Court of Criminal Appeal, both in relation to sentence. One of those appeals was allowed and one was dismissed. I will be appearing in the *Bara* matter in the High Court and have enjoyed appearing in CCA appeal matters this year.
 - A particular highlight from this period was to host an all-staff wellbeing session delivered by Robyn Bracey. Robyn is a leading Australian Mental Health Accredited Social Worker and an internationally renowned consultant with over 43 years' experience. She is currently the Mental Health Consultant and trainer for the Law Society and Bar Associations in other jurisdictions. Robyn provided us with practical tips on staying well in the law and minimising the negative impacts of vicarious trauma. I am committed to driving continuous improvements in our office culture and providing the best possible workplace for all staff at the DPP.

OUR PEOPLE

Staff shortages continue to be a challenge across the NT. I remain committed to investing in initiatives to increase attraction and retention and to pursue measures to ensure service delivery and provide support to my staff.

To that end, we have launched a new recruitment [website](#) to help drive recruitment and attract more talent. The website provides a 'go to' place for people seeking available positions and wanting to express an interest in a position with the NT DPP. The site offers position descriptions, testimonials, tips about living in the Territory, understanding our people, employment conditions and a range of information of interest to people thinking about applying.

We undertook 79 advertised recruitment actions in this period and have recruited some excellent new staff, both locally and from interstate. We commenced bulk recruitments for our lawyer positions to provide us with pools of merit-tested applicants, and to reduce the number of resource-intensive recruitment actions being undertaken. I thank all the panels that worked above and beyond to complete these recruitment actions and welcome our new team members. Retention of staff remains a priority for the Office.

I am absolutely committed to leading a workplace that values and celebrates inclusivity, equity, diversity, and belonging; and reflects the community we serve. Last period, 68% of our staff are female and the overwhelming majority of our leadership team are female. I am committed to working towards having diversity of representation in our Executive roles and will support career development and succession plans to achieve this. Currently 33% (2 out of 6) of our ECO



positions are female. I am committed to the importance of ensuring that Aboriginal people have opportunities in the law and I will be continuing to pursue options to grow our Indigenous staff across all types of roles.

CELEBRATIONS

In this relatively short report, I cannot possibly mark every success our staff members have achieved. They are myriad; some are publicly recognised achievements, many are personal work goals striven for and met. To each of you, congratulations. Some highlights are:

Carly Ingles who left the Office to take up a judicial appointment on the Local Court Bench. This is testament to, and reflection of, the calibre of staff at the DPP. Witness Assistance Service Officer Jenny Davie was awarded a certificate of recognition for 30 years of service with the NT Public Sector – a well-deserved accolade. Jenny joined the WAS team 15 years ago and continues to be a strong advocate for victims and witnesses. Tamara Grealy duly earned her appointment in this period as a Senior Crown Prosecutor.

My sincere thanks and congratulations also to my Deputy, Victoria Engel SC, who was also appointed Senior Counsel during this period. It is pleasing to see Victoria's skills being publicly recognised in this way. I am ably assisted by Victoria and thank her for her hard work and continuing commitment to the Office.

NEXT PERIOD

I am excited about what the next reporting period will bring for the DPP. I remain committed to innovation and modernisation so that we can become more efficient and effective still. I trust the government will continue to invest in the NT DPP to ensure that we have the necessary staffing numbers and infrastructure to enable us to continuously improve on our charter of providing a first-rate prosecution service to the people of the Territory.

THE OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS

MISSION

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

VISION

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



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.

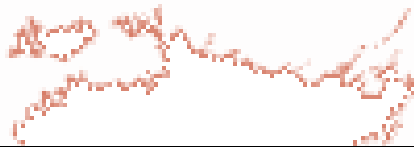
General Powers

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 PROSECUTORIAL FUNCTIONS

FINALISATIONS



Key Deliverables	Current Year		Previous Years	
	2022-23	2021-22	2020-21	2019-20
New Matters	9,060	7,658	9,039	9,312
Finalisations				
- Supreme Court pleas	460	417	325	356
- Supreme Court trials	65	65	72	50
- Supreme Court withdrawn	29	18	26	35
- Local Court hearings/pleas	5,895	5,469	6,386	6,498
- Local Court withdrawn	501	413	507	461
- Appeals at all levels	42	51	46	60
Findings of guilt (including guilty pleas)				
- In Supreme Court	96%	95%	95%	97%
- In Local Court	98%	98%	97%	98%
Convictions after trial or hearing	88%	89%	91%	91%
Witness Assistance Service clients	1,942	1,776	2,155	1,855

JOINT TRIALS WITH THE COMMONWEALTH DPP

The Northern Territory DPP, like other DPPs across Australia, has an arrangement in relation to the conduct of matters where an accused person has been charged with both Commonwealth and Territory offences. The purpose of the arrangement is to facilitate a single prosecution and prosecution agency. The arrangement requires consultation between the NT DPP and the Commonwealth DPP in order to determine the question of which agency should prosecute the offences.

In this reporting period, consultation took place on five occasions resulting in two cases where the NT DPP prosecuted matters on behalf of the Commonwealth DPP and 3 cases where the Commonwealth DPP prosecuted matters on behalf of the NT DPP.



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.

The following appeal finalisations took place over the reporting period:

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

Year	Conviction		Sentence	
	FY22-23	FY21-22	FY22-23	FY21-22
Granted	3	0	2	0
Refused	4	1	3	0
Discontinued	1	0	1	0
Total	8	0	6	0

TABLE B

Outcome of defence appeals from the Supreme Court to the Court of Criminal Appeal/Court of Appeal/Full Court
FY2022-2023

Year	Conviction		Sentence		Other	
	FY22-23	FY21-22	FY22-23	FY21-22	FY22-23	FY21-22
Allowed	1	2	1	0	0	1
Dismissed	5	8	1	0	1	2
Discontinued	1	0	1	0	0	0
Total	7	10	3	0	1	3

N.B. within FY2022-2023, there also were two written decisions delivered by the CCA in relation to applications for leave sought to appeal convictions by convicted persons. Both were refused.

Outcome of prosecution appeals and references from the Supreme Court to the Court of
Criminal Appeal/Court of Appeal/Full Court
FY2022-2023

Year	Sentence		Other	
	FY22-23	FY21-22	FY22-23	FY21-22
Allowed	1	3	0	0
Dismissed	1	3	0	0
Discontinued	0	1	0	0
Total	2	7	0	0

TABLE C

Outcome of defence appeals from the Local Court to the Supreme Court at Darwin
FY2022-2023

Year	Conviction		Sentence		Other	
	FY22-23	FY21-22	FY22-23	FY21-22	FY22-23	FY21-22
Allowed	2	0	4	0	2	0
Dismissed	3	1	3	4	1	0
Discontinued	1	0	0	12	0	0
Total	6	1	7	16	3	0

Outcome of prosecution appeals from the Local Court to the Supreme Court at Darwin
FY2022-2023

Year	Dismissal of Charge		Against Inadequacy of Sentence		Other	
	FY22-23	FY21-22	FY22-23	FY21-22	FY22-23	FY21-22
Allowed	0	0	0	4	0	0
Dismissed	0	4	0	4	0	0
Discontinued	0	2	1	2	0	0
Total	0	6	1	10	0	0

Outcome of defence appeals from the Youth Justice Court to the Supreme Court at Darwin
FY2022-2023

Year	Conviction		Sentence		Other	
	FY22-23	FY21-22	FY22-23	FY21-22	FY22-23	FY21-22
Allowed	0	NA	0	NA	1	NA
Dismissed	0	NA	0	NA	0	NA
Discontinued	1	NA	0	NA	0	NA
Total	1	NA	0	NA	1	NA

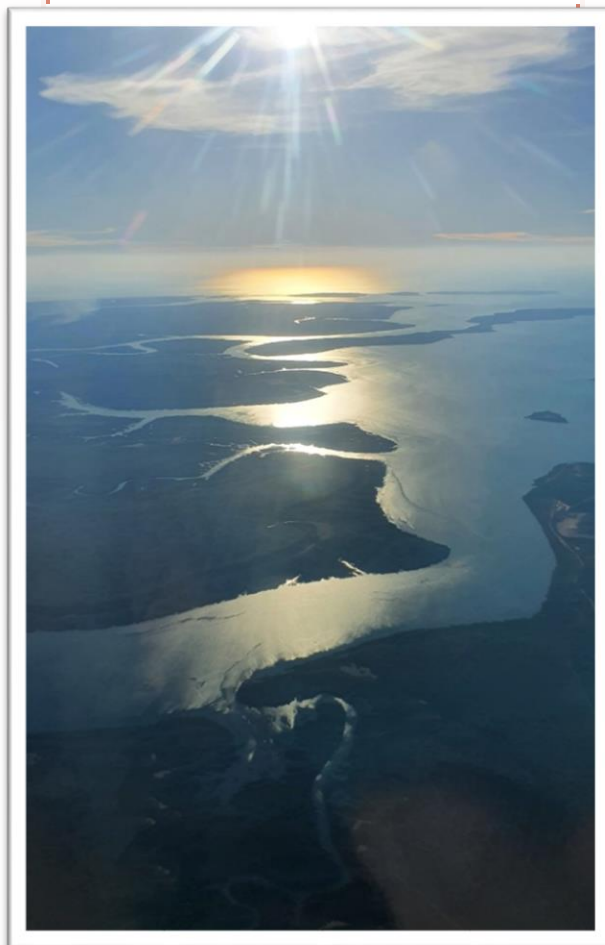


Outcome of prosecution appeals from the Youth Justice Court to the Supreme Court at Darwin
FY2022-2023

Year	Dismissal of Charge		Against Inadequacy of Sentence		Other	
	FY22-23	FY21-22	FY22-23	FY21-22	FY22-23	FY21-22
Allowed	0	NA	0	NA	0	NA
Dismissed	0	NA	0	NA	1	NA
Discontinued	0	NA	0	NA	0	NA
Total	0	NA	0	NA	1	0

Outcome of defence appeals from the Local Court to the Supreme Court at Alice Springs
FY2022-2023

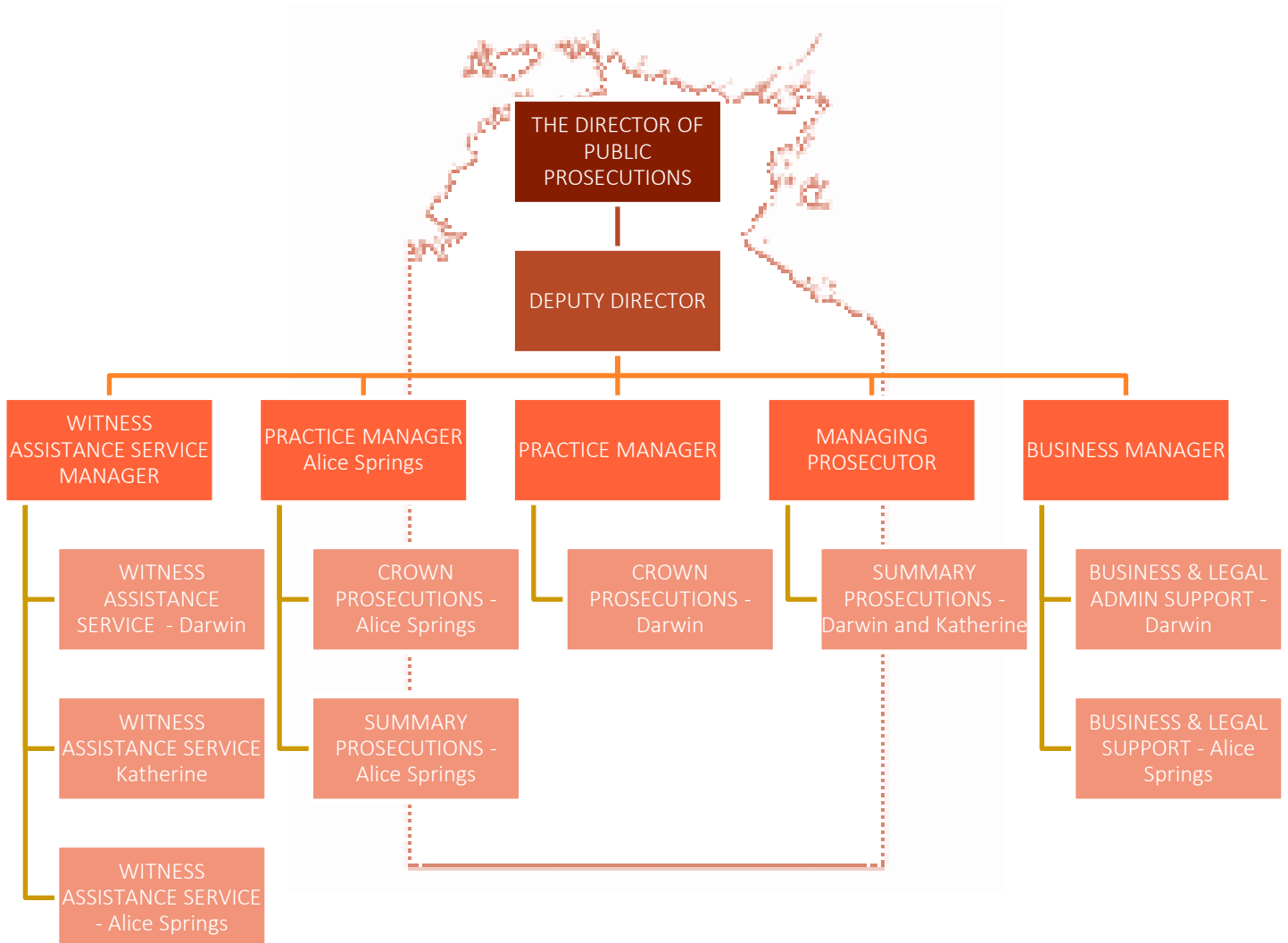
Year	Conviction		Sentence		Other	
	FY22-23	FY21-22	FY22-23	FY21-22	FY22-23	FY21-22
Allowed	1	0	1	1	0	0
Dismissed	1	0	1	12	0	0
Discontinued	0	0	0	19	0	0
Total	2	0	2	32	0	0



*"Coming home from Bush Week in Alyangula"
Photo taken by Witness Assistance Service Officer, Phill Edgar*



ORGANISATIONAL CHART



DPP OFFICE LOCATIONS

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

KATHERINE OFFICE

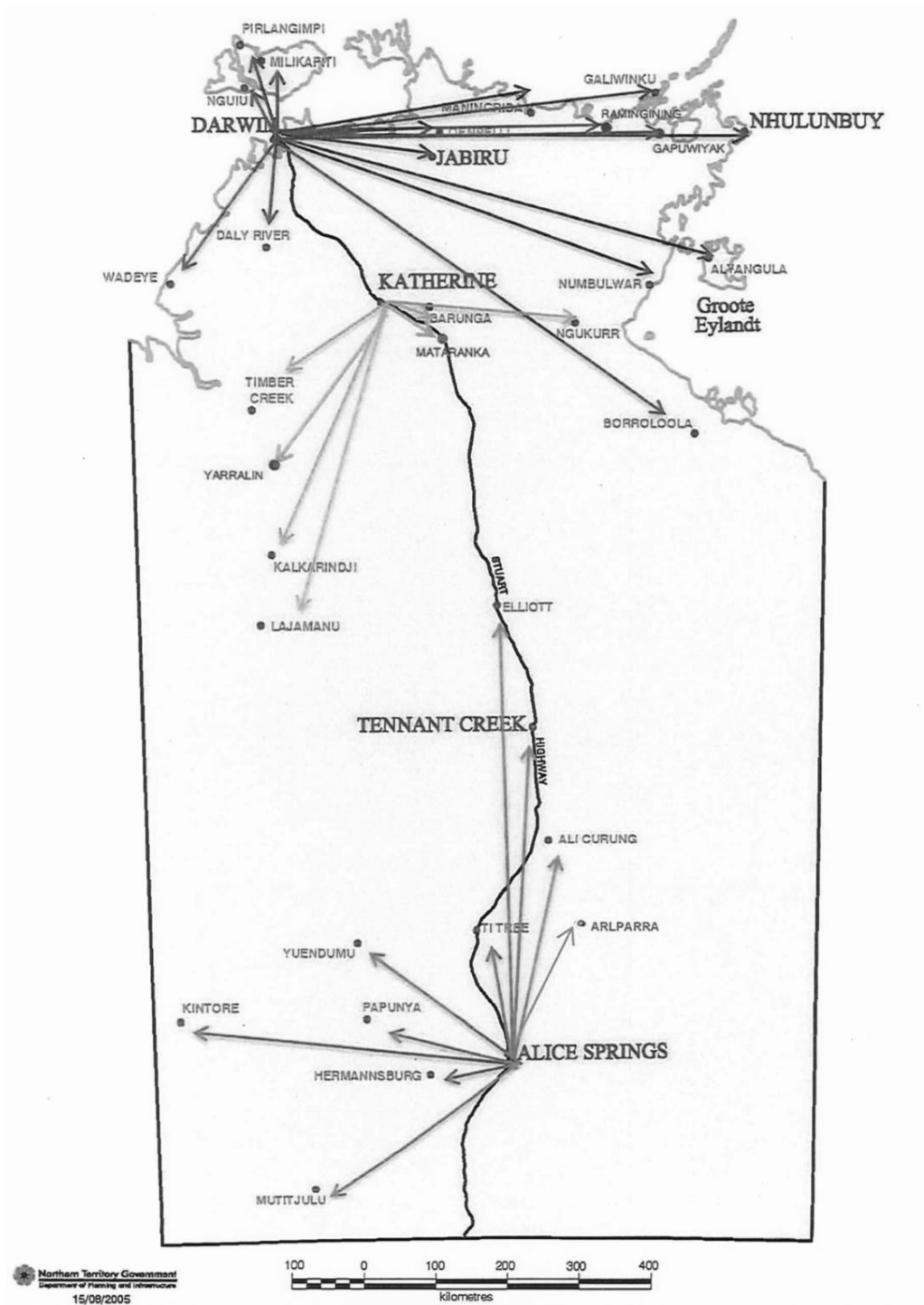
Level 1, Big Rivers Government Centre
5 First Street
KATHERINE NT 0850
PO Box 1295 KATHERINE NT 0851
Telephone: (08) 8973 8813
Fax: (08) 8973 8866

SOUTHERN REGIONAL OFFICE ALICE SPRINGS

Level 1, 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



NT COURT LOCATIONS



CROWN PROSECUTIONS

The Crown Prosecutions Unit of the DPP 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 workload.

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 undertaken.

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 Darwin and Alice Springs worked exceptionally hard to continue to deliver a high-quality service to the community.



Photo taken by Crown Prosecutor Damien Jones at the Supreme Court in Darwin



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 26-28 July 2022, 22-24 November 2022 and 30 January – 2 February 2023
- Alice Springs Moot Court sessions
- Training on giving evidence
- Vulnerable Witness training
- Interviewing accused
- Detective Course (Darwin) in August 2022 – sessions regarding Criminal Code Act, Rules of Evidence, Drugs, Sex Offences, Homicide and Death
- Training and moot court to forensic services staff
- Investigators Course (Darwin)

- Investigative Interviewing Level 2 (Alice Springs)

NT Corrections

- A DPP presentation was given to new Probation and Parole Officers on 2 June 2023. The topics covered were the Role of the DPP, Sentence and Breaches, Court Proceedings and Evidence

Training and Moot Court with Sexual Assault Referral Centre

- Evening workshop and moot court held twice over the last year – August 2022 and May 2023

Notable Decision: *Rigby v TH* [2023] NTSCFC 2

The defendant was an 11-year-old youth charged with serious offences including aggravated robbery contrary to s 211(2) of the *Criminal Code* which carries a maximum penalty of imprisonment for life. The seriousness of the alleged offences meant that the prosecutions had to be dealt with in the Supreme Court if the Youth Justice Court were satisfied the evidence established a prima facie case at the end of committal proceedings.

The defendant sought a temporary stay of the proceeding on the basis that it was an abuse of process in circumstances where the Legislative Assembly had passed the *Criminal Code Amendment (Age of Criminal Responsibility) Act 2022* (NT). The amendments, which were to commence on 7 October 2024 unless the Administrator assigned an earlier date by publishing a notice in the Gazette, meant that from the date of commencement, a youth aged under 12 years at the time of committing an offence could not be held to be criminally responsible; instead of a criminal response to alleged offending, alternative interventions, predominantly through Territory Families, would take place.

A legal issue arose as to whether the Youth Justice Court had an implied power to stay committal proceedings in circumstances where there was no express statutory power to do so, with a special case subsequently stated for the Supreme Court's determination. The Court (Kelly and Barr JJ, Hiley AJ) agreed with the Director's argument that, consistent with the High Court decision of *Grassby v The Queen* (1989) 168 CLR 1 (and numerous intermediate appellate court decisions since), the Youth Justice Court had no such power.



SUMMARY PROSECUTIONS

The Summary Prosecutions Unit 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 offices exist in three locations:

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

Each section is staffed by lawyers employed by the DPP ("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, Directions Hearing list, Mental Health list and the Hearing list for adult and youth matters.

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 once a matter is listed for directions hearing and hearing, 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 19 of this report; these are known as 'Bush Circuits'. 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 Prosecutions unit is managed by the Summary Prosecutions Manager who is responsible for approximately 25 professional staff and 4 paralegals in Darwin, and 2 professional staff in Katherine, with overall oversight for the division by the Deputy Director.



*"Lawyering Territory style"
Photo taken by Senior Summary
Prosecutor Tania Hayward at Elliott Court*



In the current reporting year, SPD has seen improvements in both staffing levels and retention. This is as a result of a combination of matters including:

- An increase in funding allowing the creation of additional professional positions;
- Higher staffing levels has improved workloads;
- Changes to the existing recruitment models, including moving towards global advertisements, creating position 'pools' and advertisements remaining active for up to 3 months at a time; and
- An increase in the number of recruitments and a shortening in the timeframes during which most recruitments were completed.

Summary Prosecutions in Darwin continues to be almost entirely paperless and the existing Evidence.com brief management system received significant updates including its replacement with Axon Justice. There is a continued 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 virtual files, and reducing administrative effort in handling paper files. These changes are expected to take place in the next reporting period, following the long-awaited introduction of police program SerPro (which will replace the current PROMIS system).

ALICE SPRINGS AND KATHERINE

The Alice Springs Summary Prosecutions unit is managed by the Practice Manager Southern, under the oversight of the Deputy Director. There is currently a total of 6 professional staff, with a further member of staff to join in August 2023. Those staff are supported by professional legal assistants (PLAs) and Witness Assistance Service (WAS) officers, who also work with the Crown Prosecutions team in Alice Springs.

This year, the increased funding and altered recruitment processes discussed above have improved staff retention in Alice Springs and reduced the time periods for replacement of staff who leave. This has been supplemented with pathways for allowing summary staff to gain experience in more complex Supreme Court matters, working with Crown prosecutors.

The volume of summary hearings in Alice Springs has remained high, with resultant workload pressure on staff. It remains the case that external counsel are engaged on a relatively frequent basis to assist.

The Katherine office will shortly be relocating to the newly renovated Big Rivers Government Centre.

WORKING WITH POLICE

The Summary Prosecutions units and Police, particularly 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.

Notable Decision: *Rigby v ND* [2022] NTSC 51

The defendant, a youth aged 13 years and 11 months, was charged with assaulting the Assistant Principal at Palmerston College. The matter came before the Youth Justice Court (Judge Armitage) for hearing. As the defendant was a child above the age of 10 and below the age of 14, s 38(2) of the Criminal Code required the Crown to prove beyond reasonable doubt that the defendant “had the capacity to know that [she] ought not do the act” because it was wrong. However, the Youth Justice Court, relying on the Western Australian decision of *RYE v Western Australia* [2021] WASCA 43, construed s 38(2) to require the Crown to prove that the defendant “had the capacity to know that the conduct in question was seriously wrong”. As the Court was not satisfied that the Crown had established that test beyond a reasonable doubt, the prosecution was dismissed.

The Crown appealed to the Supreme Court arguing that the wrong test had been applied. Justice Barr agreed and held that *RYE v Western Australia* was not correct as a general statement of principle. Consistent with the Queensland Court of Appeal decisions of *R v B* [1997] QCA 486, *R v F* (1999) 2 Qd R 157, *R v JJ* [2005] QCA 153, *R v EI* [2009] QCA 177 and *R v TT* [2009] QCA 199, on 6 July 2022, his Honour held that the Youth Justice Court had applied the wrong test. The Crown had to establish that the defendant knew she ought not to have assaulted the Assistant Principal because it was “morally wrong”, rather than “seriously wrong”.

On 17 May 2023, the High Court handed down the decision of *BDO v The Queen* (2023) 409 ALR 152. The Court (Kiefel CJ, Gordon, Steward, Gleeson and Jagot JJ) considered s 28(2) of the Queensland Criminal Code, which was in identical terms to s 38(2). Although the case was primarily concerned with whether the statutory words “had the capacity to know” required something less than proof of actual knowledge, which the Court decided in the affirmative, the Court appeared to accept that s 28(2) (and by extension, s 38(2)) required the Crown to prove that the youth “had the capacity to know that his actions were morally wrong in a serious respect” or were “seriously wrong”.



WITNESS ASSISTANCE SERVICE

The Witness Assistance Service (WAS) provides an individualised service to support 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 to 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.

The WAS team provided a service to 1942 clients across the NT during the 2022/2023 reporting year. This is an increase on the previous period of 1730 clients. A total of 209 victims were assisted with their Victim Impact Statements.

WAS staff are based in Darwin, Katherine and Alice Springs and provide specialist services in the Local and Supreme Courts, as well as regularly travelling to regional and remote court locations. During this reporting period, WAS staff travelled to the following locations:

- Alyangula
- Barunga
- Borroloola
- Kalkarindji
- Lajamanu
- Maningrida
- Mataranka
- Ngukurr
- Nhulunbuy
- Tennant Creek
- Timber Creek
- Wadeye
- Wurrumiyanga
- Yarralin

In October 2022, the WAS team held a two-day conference with staff from Alice Springs and Katherine attending the Darwin office. Guest speakers included Lloyd Babb SC, Victoria Engel SC, Gerard McGeough – Victims Support Program Manager, and Louise Page – CEO Employee Assistance Service Australia (EASA). The Conference concluded with a harbour dinner cruise.



OUR PEOPLE

In 2022, Jenny Davie was awarded a certificate of recognition for 30 years of service with the NT Public Sector. Jenny joined the WAS team 15 years ago. She has worked extensively in the Supreme and Local Courts including many remote locations and is a strong advocate for victims and witnesses. We appreciate Jenny's commitment and passion for her work with witnesses and victims.



In August 2022, Vanessa McConville graduated from the NT Public Sector Management Program with outstanding results. Vanessa received two awards:

- Highest result in Workplace project
- Top performing results for the NT PSMP



Caitlin Shepherd, Colleen Burns, Phill Edgar & Jenny Davie



Colleen Burns, Vanessa McConville, Jenny Davie, Rachael Glaister, Phill Edgar & Pam Stanley



Claire Ransome & Jenny Davie

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 (DVLS), Katherine Women's Legal Service (KWLS), North Australian Aboriginal Family Legal Service (NAAFLS), and Crime Victims Services Unit (CVSU) to ensure victims are receiving an integrated and responsive service.

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.



BUSINESS SUPPORT

Business Support is responsible for the delivery of a range of services to all DPP staff as well as ensuring the division complies with the governing legislation and relevant NTG policies.

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.

OUR TEAM

The Business Support team consists of 5.5 full-time equivalent staff; a Business Manager, Assistant Business Manager, Darwin Office Manager, Recruitment Support Officer, 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 consistent throughout the year.

As a result of a gap in the senior management structure being identified, the position of Business Manager was redesigned.

Recruitment to the newly created role of Assistant Director of Public Prosecutions was undertaken in the latter part of the year with the appointment of Ms Melinda Graczol, to occur in late July 2023.

ICT

As previously reported, the case management system used to manage workflow within the Office, CaseNet, is no longer fit for purpose. After researching cost effective options, a system used by several NTG Independent Offices was identified as a suitable replacement for CaseNet.

The system is a product of the Resolve Software Group and is currently under development. The project is being managed by the Agency Business Systems unit within the Department of Corporate and Digital Development. A broad cross-section of DPP staff participated in workflow and data-mapping workshops throughout the second half of the year. Resolve will complement Axon Justice, the system used to manage the electronic brief of evidence.

User acceptance testing and minor modifications are expected to be undertaken in late 2023, with the new system expected to be fully operational in early 2024.

BUDGET

The DPP commenced the year with a budget of \$13.356M. Additional temporary funding totalling \$1.375M was provided during the year in response to increased workload. \$924K of the additional funding was allocated to the temporary employment of 19 additional staff and the upgrade of two established positions. Funding for these positions was committed to by the Department of the Attorney-General and Justice for a further two years.



Expenditure 30 June 2022
 Rounded to dollars (\$)

Budget	\$14,731,000
Revenue	\$5,822
Personnel	\$11,203,414
Operational	\$4,128,497
Non-discretionary	\$39,228
Variation	\$634,316

REGISTRY

The implementation of the new police system, SerPro, was delayed in this period. The revised timeline of November 2023 has resulted in delays to the restructuring of the legal administrative workforce within the DPP. Legal administrative support staff have been required to maintain both physical and electronic records in some aspects of business, with the electronic editing of material also having a significant impact on resources.

RECRUITMENT

A significant number of recruitment actions were undertaken throughout the year, predominantly as a result of the funding for the additional positions.

In an effort to improve recruitment processes, and to reduce the burden on staff participating on selection panels, a number of changes were introduced during the year. The role of Recruitment Support Officer was created to provide administrative support directly to selection panels. The role is responsible for scheduling referee and applicant interviews, drafting selection documentation and

processing finalised reports through to Employment Services.

Rolling recruitment actions were introduced for professional positions to establish eligibility pools and proactively seek suitable prosecutors. Bulk recruitment was also undertaken for Darwin, Katherine and Alice Springs locations and for Professional 1 to Professional 3 designations.

A careers page was developed which highlights the opportunities available to those who choose a career with the DPP and showcases life in the Northern Territory. The site features testimonials from people who have established successful and rewarding careers as a result of having spent time as a prosecutor within the office.



LEARNING AND DEVELOPMENT

The DPP is committed to providing opportunities for our staff to grow their knowledge base and improve their skills to become more effective in the workplace and to increase job satisfaction. This reporting year we proudly offered 20 training activities which were attended by 162 staff. A number of topics were offered covering many branches of learning and disciplines across both the legal and corporate space. In particular, lawyers were able to meet their continuing legal education requirements. The details of the training is set out on the following page.

Notable Decision: R v Thompson [2023] NTCCA 3

The offender relevantly pleaded guilty to four offences of contravening a domestic violence order (“DVO”) that had been issued for the protection of the offender’s domestic partner contrary to s 120(1) of the Domestic and Family Violence Act 2007 (NT) (“the Act”). In relation to each offence, the Supreme Court (Reeves J) sentenced the offender to imprisonment for three weeks. The Director argued that s 121(6)(b) and (7) required the Court to order that the sentences be served on a cumulative rather than concurrent basis and that a term of imprisonment for 12 weeks had to be imposed. Justice Reeves disagreed and instead sentenced the offender to a total effective term of imprisonment for four weeks. The Director appealed to the Court of Criminal Appeal. The primary issue was whether s 121(6)(b) and (7) applied only to terms of imprisonment that had been imposed on an earlier sentencing occasion, or also operated to require accumulation on prison sentences imposed during the same sentencing exercise. On 23 March 2023, the Court of Criminal Appeal (Grant CJ, Kelly and Blokland JJ) allowed the appeal holding that the provisions required accumulation in both instances. As a result, his Honour ought to have imposed a term of imprisonment for 12 weeks.



	Type	Date/s	Provider	CPD Points	Attendees
Attendance at AIJA Indigenous Youth Justice Conference	Legal	29-30/10/2022	AIJA	Yes	2
Cert IV in Human Resource Management	Corp	12 Months	CDU	NA	1
Communicate with Influence	Corp	19/04/2023	OCPE	NA	3
CPD Topic: A Second Look at s43AI Intention by a Part IIA Hater	Legal	23/02/2023	DPP	Yes	28
CPD Topic: Critical Thinking & Forensic Decision Making	Legal	20/10/2022	DPP	Yes	18
CPD Topic: Reaching Resolution Through Plea Negotiation	Legal	09/02/2023	DPP	Yes	21
CPD Topic: The Aboriginal Witness	Legal	08/09/2022	DPP	Yes	13
CPD Topic: What to Expect When You're Prosecuting Child Sex Offences	Legal	30/03/2023	DPP	Yes	23
Dealing with the Tough Stuff	Corp	21/02/2023	OCPE	NA	1
De-escalate and Soothe Victims (When they are in heightened states)	Legal	14/10/2022		NA	8
Effective Communication Skills	Corp	15/09/2022	Workplace Solutions	NA	1
First Aid	Corp	19-20/04/2023	St John	NA	2
Freedom of Information Training	Legal	18-19/04/2023	Information Consultants	NA	1
Interviewing Children: A Skills-based Course for a Range of Professionals	Legal		Griffiths University	Yes	1
Merit Selection Training	Corp	Various	OCPE	NA	5
Mindfulness and Managing Stress	Corp	22/09/2022	Workplace Solutions	NA	1
NT Bar Association Advocacy Course	Legal	12-23/04/2023	NT Bar Association	Yes	11
Time Management Skills	Corp	20/10/2022	Workplace Solutions	NA	1
Understand and Respond to Burnout	Corp	27/10/2022	Workplace Solutions	NA	1
Vicarious Trauma	Legal	11/08/2022	Robyn Bradey	NA	20

