

THE OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS
NEW SOUTH WALES



ANNUAL REPORT 2011 - 2012



THE OFFICE

The Office of the Director of Public Prosecutions (the ODPP) was established by the *Director of Public Prosecutions Act 1986* ("the DPP Act") and commenced operation on 13 July, 1987. The creation of a Director of Public Prosecutions changed the administration of criminal justice in New South Wales. The day to day control of criminal prosecutions passed from the hands of the Attorney General to the Director of Public Prosecutions.

There now exists a separate and independent prosecution service which forms part of the criminal justice system in New South Wales. That independence is a substantial safeguard against corruption and interference in the criminal justice system.

Functions

The functions of the Director are specified in the DPP Act and include:

- Prosecution of all committal proceedings and some summary proceedings before the Local Court
- Prosecution of indictable offences in the District and Supreme Courts
- Conduct of District Court, Court of Criminal Appeal and High Court appeals on behalf of the Crown; and
- Conduct of related proceedings in the Supreme Court and Court of Appeal.

The Director has the same functions as the Attorney General in relation to:

- Finding a bill of indictment, or determining that no bill of indictment be found, in respect of an indictable offence, in circumstances where the person concerned has been committed for trial
- Directing that no further proceedings be taken against a person who has been committed for trial or sentence; and
- Finding a bill of indictment in respect of an indictable offence, in circumstances where the person concerned has not been committed for trial.

Section 21 of the DPP Act provides that the Director may appear in person or may be represented by counsel or a solicitor in any proceedings which are carried on by the Director or in which the Director is a part.

The functions of the Solicitor for Public Prosecutions are prescribed in section 23 of the DPP Act. These are:

- (a) to act as solicitor for the Director in the exercise of the Director's functions; and
- (b) to instruct the Crown Prosecutors and other counsel on behalf of the Director:

The functions of Crown Prosecutors are set out in section 5 of the *Crown Prosecutors Act 1986*. They include:

- (a) to conduct, and appear as counsel in, proceedings on behalf of the Director
- (b) to find a bill of indictment in respect of an indictable offence
- (c) to advise the Director in respect of any matter referred for advice by the Director
- (d) to carry out such other functions of counsel as the Director approves.

ODPP NEW SOUTH WALES

OUR ROLE

To provide for the people of New South Wales an independent, efficient, fair and just prosecution service.

OUR VISION

A criminal prosecution system that is accepted by the community as being equitable and acting in the public interest.

OUR STAKEHOLDERS

The NSW Parliament, the Judiciary, the Courts, Police, victims, witnesses, accused persons and others in the criminal justice system and the community.

OUR VALUES

■ **Independence**

Advising in, instituting and conducting proceedings in the public interest, free of influence from inappropriate political, individual and other sectional interests.

■ **Service**

The timely and cost efficient conduct of prosecutions.

Anticipating and responding to the legitimate needs of those involved in the prosecution process, especially witnesses and victims.

■ **Highest Professional Ethics**

Manifest integrity, fairness and objectivity.

■ **Management Excellence**

Continual improvement.

Encouraging individual initiative and innovation.

Providing an ethical and supportive workplace.

OUR REFERENCE

DIRECTOR'S CHAMBERS

YOUR REFERENCE

DATE

18 October 2012



Letter of Transmittal

Hon G E Smith SC MLC
Attorney General
Level 31, Governor Macquarie Tower
1 Farrer Place
SYDNEY NSW 2000

Dear Attorney

2011-2012 Annual Report

I am pleased to forward to you the 25th Annual Report for the Office of the Director of Public Prosecutions (ODPP) for presentation to Parliament. This report encompasses the ODPP's financial statements and performance review for the financial period 2011-2012.

This report has been prepared in accordance to section 34 of the *Director of Public Prosecutions Act 1986* and in compliance with the guidelines from the *Annual Reports (Departments) Act 1985*, *Annual Reports (Departments) Regulation 2010* and the *Public Finance and Audit Act 1983*.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Lloyd Babb'.

Lloyd Babb SC
Director of Public Prosecutions

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DIRECTOR'S OVERVIEW

DIRECTOR'S OVERVIEW

This is my second annual report since having been appointed Director in July 2011 and the 25th annual report for my Office. The Office I lead is staffed by excellent officers and prosecutors. The challenges to prosecuting in the modern criminal justice system are great. I am committed to ensuring this state has an effective ODPP that delivers high quality service to the community.

The greatest asset of the ODPP is the people who work here. The prosecuting staff, support staff and the corporate services team all work together to provide a most professional and effective prosecution service.

The ODPP offered excellent training courses on a diverse variety of subjects throughout the year. I have attended and spoken at a number of training sessions myself. Each of our 10 Offices have facilities which has enabled me to address all staff at the same time across the State in real time via the internet, an opportunity that I have taken advantage of on a number of occasions over the last year.

Throughout the year the ODPP has made many submissions to stakeholders and responded to requests to engage in the consultation process on improving the criminal justice system. The ODPP is committed to taking a leadership role in proposing strategies to improve the criminal justice system. I continually work at building a strong relationship with all stakeholders.

One significant and proactive example of working together with our stakeholders and leading change to the justice system was the ODPP involvement in the Sexual Assault Communications Privilege (SACP) Pilot. The ODPP along with its project partners received the NSW Law and Justice Foundations Pro Bono Partnership Award for the SACP Pilot. The Pilot achieved considerable law reform in relation to the privilege and resulted in the grant of funding for the establishment of a SACP Specialist Service within the Legal Aid Commission of NSW.

The ODPP IT Team has been working hard at improving all aspects of the ODPP's IT requirements. Activity Based Costing (ABC) was introduced for matters during the financial year, with data being collected on 100% of matters over 11 months of the year. The Joined up Justice Data Exchange project undertaken by the ODPP and the Legal Aid Commission of NSW has worked hard this year to enable the electronic exchange of information between JusticeLink (the common case management system across the Supreme, District and Local Courts), the ODPP and Legal Aid Commission for NSW.

This year the ODPP was required to prosecute and manage a number of extremely lengthy and complex trials including two multiple accused murder trials, each with durations in excess of 90 days.

No guideline under section 26 of the Director of Public Prosecutions Act 1986 has been received from the Attorney General, nor has he given me notice that he wishes to exercise any function described in section 27, or requested that I not exercise certain functions in relation to a particular case pursuant to section 29.

Looking towards the future, I wish to focus over the next year on reforming the policies and procedures of the ODPP. I propose to review the delegations that I make of my powers to officers and to review the Prosecution Guidelines.

The ODPP continues to be a diverse and equitable workplace. Currently, 61.9% of all ODPP staff are female and 57% of our solicitors are women. This is a very positive situation and reflects well on the ODPP's commitment to attracting women lawyers.

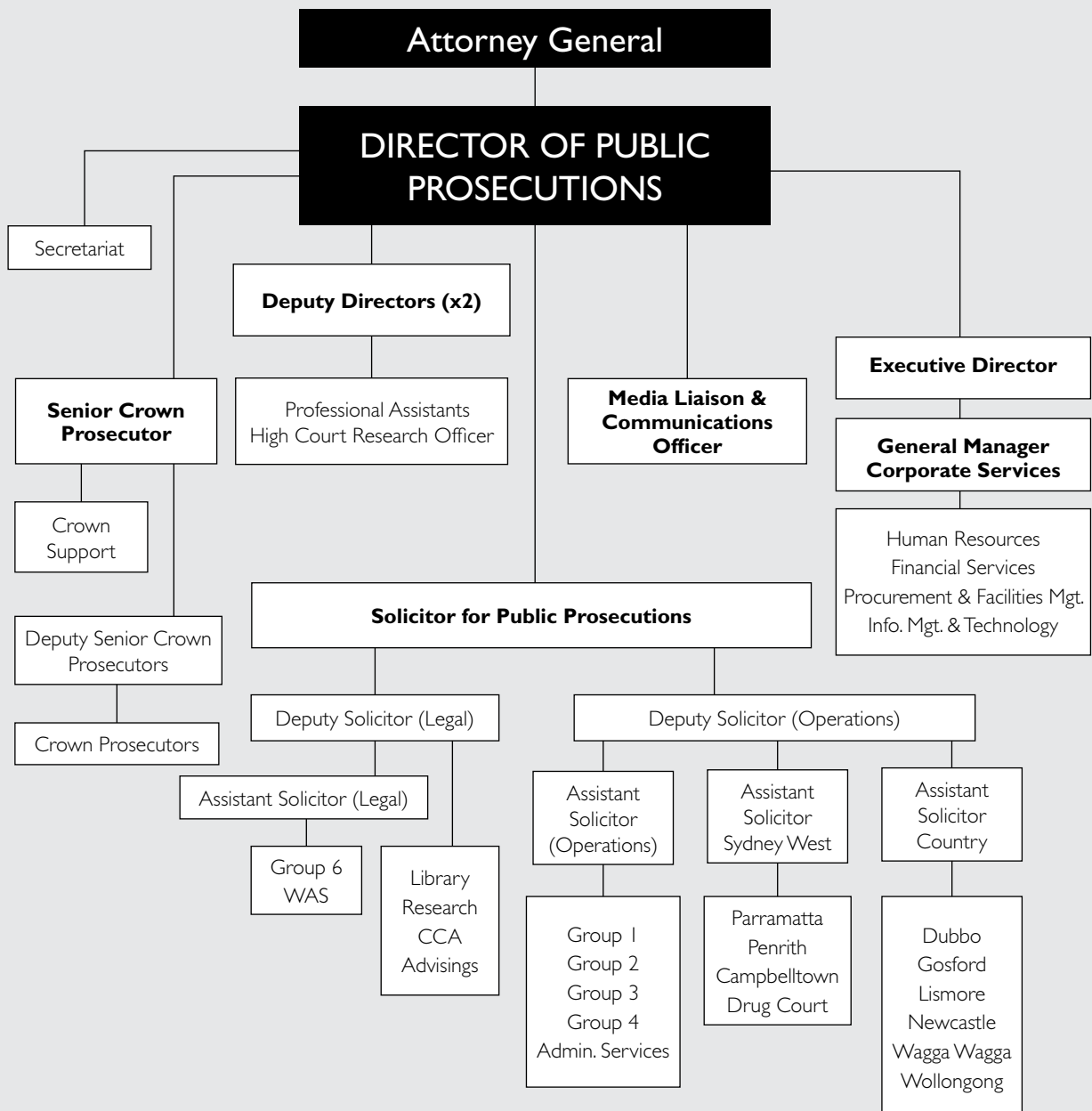
I extend my congratulations to Louise O'Neill, Maria-Rosa Etnasios and Lee Purches who were the recipients of my Excellence Awards for this year. This is well deserved recognition of their outstanding service and also that of the members of the units within the ODPP of which they are a part.

I would like to thank all ODPP staff from across the State, for the dedication and outstanding work of the past year. I am proud to work alongside such dedicated staff.

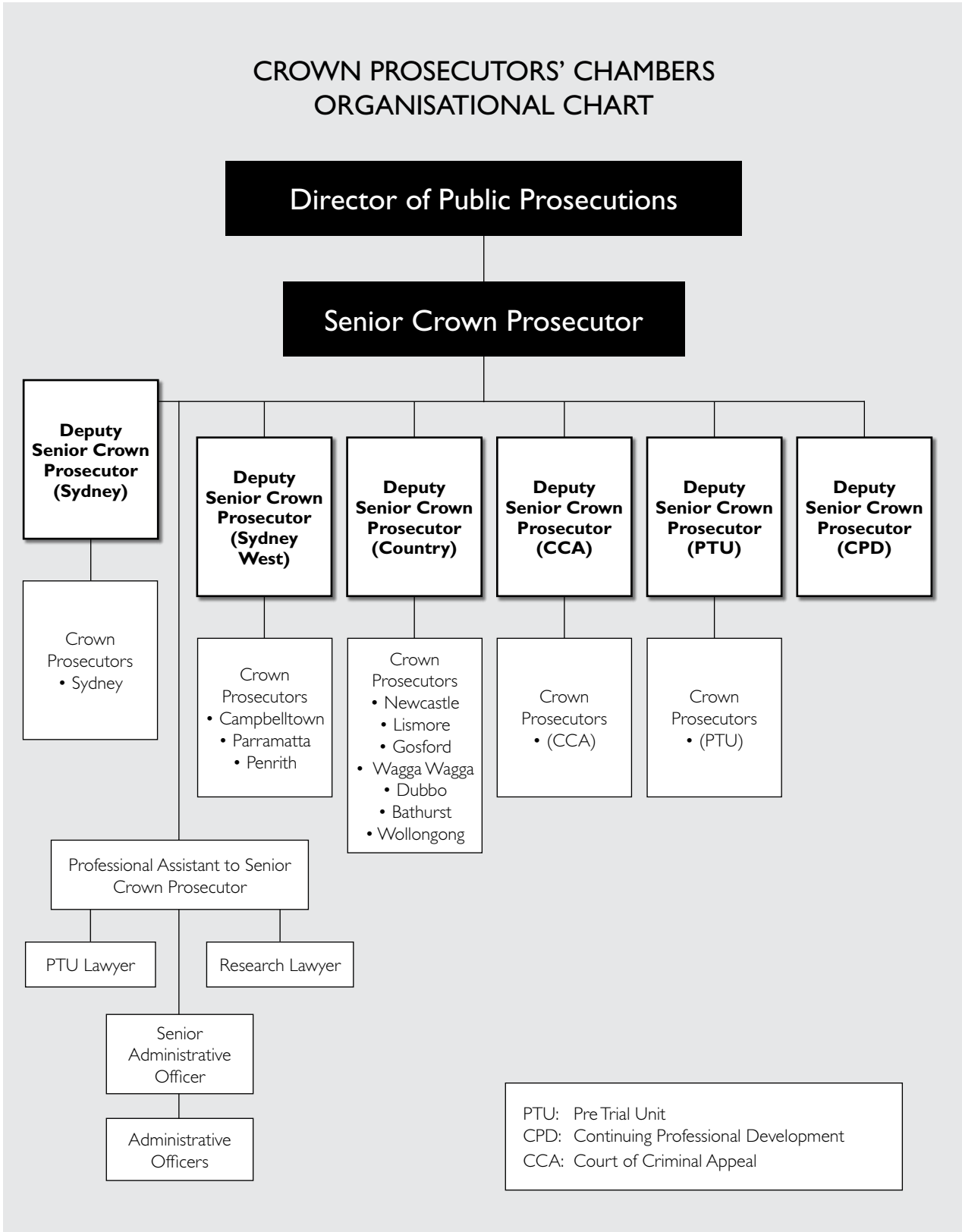
MANAGEMENT AND ORGANISATION

ORGANISATIONAL STRUCTURE

ORGANISATIONAL STRUCTURE OF THE OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS & CROWN PROSECUTORS CHAMBERS



Organisational Structure (continued)



MANAGEMENT STRUCTURE

Lloyd Babb SC BA MA LLB

Director of Public Prosecutions

Appointed Director of Public Prosecutions in July 2011. Before appointment as DPP, practised as a barrister for 16 years. Had worked as a solicitor in private practice and for the Office of the Director of Public Prosecutions before admission as a barrister. Appointed a Crown Prosecutor in 1998. Seconded as Director of the Criminal Law Review Division 2003 to 2005 and an Acting Public Defender 2006 until 2007. Appointed Senior Counsel and Crown Advocate in 2007. Member of the Bar Council of the Bar Association of New South Wales between 1995 and 2000. He is New South Wales' third DPP.

Keith Alder B. Leg S

Deputy Director of Public Prosecutions

Admitted as a solicitor in 1988, and, in that same year was employed as a solicitor in the Office of the Director of Public Prosecutions. Managing Lawyer of the Penrith Regional Office before his appointment as a Trial Advocate in 1998. Appointed as a Crown Prosecutor in 2001 before his appointment as a Deputy Senior Crown Prosecutor in 2010. Seconded to the Office of the Ombudsman and the Independent Commission Against Corruption. Appointed Deputy Director of Public Prosecutions in November 2011.

John Pickering BEC LLB

Deputy Director of Public Prosecutions

Admitted as a solicitor in 1993, and, in that same year employed as a solicitor in the Office of the Director of Public Prosecutions. Appointed as a Trial Advocate in 1998, and appointed as a Crown Prosecutor in 2001. Appointed as an Acting Deputy Senior Crown Prosecutor in January 2012. Appointed Deputy Director of Public Prosecutions in February 2012.

Mark Tedeschi QC MA LLB

Senior Crown Prosecutor

Has been a Crown Prosecutor since 1983. He was previously a private barrister. He has been a Queen's Counsel since 1988, and Senior Crown Prosecutor since 1997. He is the author of a book in international trade law and of numerous articles on environmental law, social welfare law, business law, mental health law and criminal law. He is the President of the Australian Association of Crown Prosecutors and a visiting

Professor in the Centre for Transnational Crime Prevention at the University of Wollongong. He is a member of the Board of Directors of the National Art School in Sydney.

Stephen Kavanagh LLB

Solicitor for Public Prosecutions

Practised as a solicitor following admission in 1973 in a city firm and later at the State Crown Solicitor's office from 1976 to 1988, primarily in the areas of civil, criminal and constitutional law. Following the establishment of the ODPP in 1987, appointed as Managing Lawyer (Advisings Unit) in 1989 undertaking responsibility for a wide range of appellate litigation conducted by the unit in the Supreme and High court. Appointed Solicitor for Public Prosecutions in June 2004.

Nigel Hadgkiss APM LLB MComm

Executive Director (1 July 2011 to 9 March 2012)

Joined Royal Hong Kong Police 1969 then AFP in 1977. Awarded Australian Police Medal (APM) in 1995 Queen's Birthday Honours List as Director Operations, Royal Commission into NSW Police. Winston Churchill Fellowship (1988) and Visiting Fellow, Osgoode Hall Law School, York University, Toronto (1999). Resigned from AFP in 2000 as Assistant Commissioner to become a National Director, National Crime Authority (now Australian Crime Commission). 2002-2008 was Director, Building Industry Taskforce and Deputy Commissioner, Australian Building & Construction Commission. Appointed Executive Director in October 2008.

Bernard O'Keeffe B. Bus FCPA

Chief Financial Officer & General Manager, Corporate Services

Joined the NSW Public sector in 1977 and worked in a number of finance roles with the Government Printing Office and Department of Education and Training. Joined Arnott's Biscuits in 1988 as the Cost and Management Accountant. From that point on held a variety of CFO, senior financial, business management and business consulting roles in the private sector including a multi-national company. Appointed Chief Financial Officer of the ODPP in June 2009 and the General Manager, Corporate Services in 2010. Appointed to the Advisory Board for the NSW Public Sector Community of Finance Professionals in 2010 and the NSW Public Sector Committee for CPAs Australia in 2011.

Management Structure (continued)

Executive Board

The ODPP Executive Board consists of the Director (Chair), Executive Director (ceased membership March 2012), two Deputy Directors, Senior Crown Prosecutor, Solicitor for Public Prosecutions, General Manager Corporate Services and two non-executive independent members. In 2011-2012 the non-executive independent members were Associate Professor Sandra Egger of the Faculty of Law, University of NSW and Mr John Hunter, Principal, John Hunter Management Services.

The Board meets bi-monthly and its role is to:

- advise the Director on administrative and managerial aspects of the ODPP with a view to ensuring that it operates in a co-ordinated, effective, economic and efficient manner;
- advise the Director on issues relating to strategic planning, management improvement and monitoring performance against strategic plans;
- monitor the budgetary performance of the ODPP and advise the Director on improving cost effectiveness;
- identify and advise the Director on initiatives for change and improvement in the criminal justice system; and
- ensure that the Attorney General receives reports upon request of any matter relating to the exercise of ODPP functions, or, after consultation with the Attorney General, on any matters it considers appropriate.

The Board publishes an agenda prior to each meeting and minutes are kept of its proceedings.

Management Committee

This Committee comprises the Director, Executive Director (ceased membership 2012), two Deputy Directors, Senior Crown Prosecutor, Solicitor for Public Prosecutions, General Manager Corporate Services, Deputy Solicitors (Legal and Operations) and Assistant Solicitors (Sydney West and Country).

The Committee meets monthly. Its primary functions are as follows:

- to report, discuss and resolve upon action on operational and management issues affecting the ODPP, including (but not limited to) workload and resource allocation;
- to consider monthly financial reports and to initiate action where funding and expenditure issues are identified;
- to discuss issues affecting major policy decisions and other matters requiring referral to the ODPP Executive Board and;

- to serve as a forum for discussion by senior management of any matter affecting the operations of the ODPP, including the activities, challenges and initiatives of the various areas within the Office.

The Committee publishes an agenda prior to each meeting and minutes are kept of its proceedings.

Crown Prosecutors' Chambers

Crown Prosecutors are appointed under the Crown Prosecutors Act 1986. Their functions are set out in s5 of that Act and are:

- to conduct, and appear as counsel in, proceedings on behalf of the Director;
- to find a bill of indictment in respect of an indictable offence;
- to advise the Director in respect of any matter referred for advice by the Director; and
- to carry out such other functions of counsel as the Director approves.

The Crown Prosecutors of New South Wales comprise one of the largest "floors" of barristers in the State. They are counsel who, as statutory office holders under the Crown Prosecutors Act 1986, specialise in the conduct of criminal trials by jury or judge alone in the Supreme and District Courts, as well as in criminal appeals. The vast bulk of criminal jury trials in this State are prosecuted by Crown Prosecutors. They also regularly provide advice to the Director of Public Prosecutions on the continuation or termination of criminal proceedings. Occasionally they appear at coronial inquests, inquiries under Part 7 of the *Crimes (Appeal and Review) Act 2001* and in unusually complex committal proceedings.

A number of Crown Prosecutors are seconded from time to time as counsel to other organisations such as the ICAC, the Police Integrity Commission, the Legal Representation Office, the Public Defenders Office and the Criminal Law Review Division of the Attorney General's Department. There are also a significant number of former Crown Prosecutors who are Judges of the Supreme Court and District Court. The Crown Prosecutors are almost all members of the NSW Bar Association and participate in its Council, its Committees (including Professional Conduct Committees) and its collegiate life.

There are Crown Prosecutors located in Chambers in the City of Sydney, in Sydney West at Parramatta, Campbelltown and Penrith, and also at regional locations in Newcastle, Wollongong, Lismore, Dubbo, Wagga Wagga and Gosford.

Management Structure (continued)

The Crown Prosecutors come under the administrative responsibility of the Senior Crown Prosecutor, who is responsible in turn to the Director of Public Prosecutions, also an independent statutory officer.

While the Director can furnish guidelines to the Crown Prosecutors with respect to the prosecution of offences, he may not issue guidelines in relation to particular cases.

The independence of the Crown Prosecutors as Counsel is guaranteed by the Crown Prosecutors Act. The Crown Prosecutor is therefore in most respects an independent counsel with only one client, namely the Director of Public Prosecutions.

Administrative support to the Crown Prosecutors is provided by the Office of the Director of Public Prosecutions.

SIGNIFICANT COMMITTEES

The following committees are established to augment strategic and operational management of the Office:

Audit and Risk Committee

The Audit and Risk Committee in accordance with Treasury Policy, operates and is made up of an independent chair, an independent member and a representative of ODPP management.

Representatives of the Audit Office of NSW, the Deputy Director, Solicitor's Office and the General Manager Corporate Services attend meetings by invitation.

The Audit and Risk Committee monitors the internal audit, risk management and anti-corruption functions across all areas of the Office's operations, ensuring that probity and accountability issues are addressed.

Information Management and Technology Steering Committee

The IM&T Steering Committee (IM&TSC) is the management body convened to ensure and promote effective use and management of information and technology; to guide the selection, development and implantation of information and technology projects and to assure the strategic and cost effective use of information and systems to support ODPP activities. The Committee consists of the Chief Information Officer (currently the Deputy Solicitor (Operations)) as Chair; Solicitor for Public Prosecutions, General Manager Corporate Services, Deputy Solicitor (Legal), Assistant Solicitor (Country), a Deputy Senior Crown Prosecutor, Manager Information Management & Technology Services and the Assistant Solicitor (Operations).

The Committee meets bi-monthly and minutes of meetings are published on the Office's Intranet.

REPORT AGAINST CORPORATE PLAN

Key Result Area I: Just, Independent and Timely Conduct of Prosecutions

Goal	I.1 To provide a just and independent prosecution service
Strategy	I.1.1 Continually review, evaluate and improve standards for criminal prosecutions I.1.2 Improve the timelines and quality of briefs through liaison with investigative agencies
Outcome	Achievement of justice
Performance Indicator	I.1(a) Proportion of matters returning a finding of guilt I.1(b) Percentage of cases where costs are awarded due to the conduct of the prosecution I.1(c) Number and value of confiscation orders made

Measures

I.1(a) Proportion of matters returning a finding of guilt:

81.6 % of all matters concluded in the Supreme and District Courts resulted in findings of guilt, either by way of verdict following trial or by way of plea.

See Appendix 2, Item 1 for details.

I.1(b) Percentage of cases where costs are awarded due to the conduct of the prosecution:

In this reporting period, costs were awarded in 0.04% of the 15,736 cases dealt with due to the conduct of the prosecution. These figures do not represent all matters completed but those that may attract an award of costs.

See Appendix 3, Item 5 and Appendix 6 for details.

I.1(c) Number and value of confiscation order made:

In this reporting period there were 262 confiscations applications with 240 confiscation orders made. The total estimated value of property confiscated was \$2.1 Million. The proportion of successful applications was 92%.

See Appendix 5 for details.

Key Result Area 1: Just, Independent and Timely Conduct of Prosecutions (continued)

Goal	1.2	To uphold ethical standards
Strategy	1.2.1	Develop and implement processes and programs to enhance understanding of, and adherence to, ethical standards
Outcome		Staff and Crown Prosecutors are aware that ethical behaviour is required in all aspects of ODPP operations
Performance Indicator	1.2(a)	Number of corporate activities or processes implemented or reviewed each year

Measures

1.2(a) The ODPP Code of Conduct continues to be given prominence at staff meetings and induction courses conducted through the year.

Solicitors and Trial Advocates undertook a two hour presentation by NSW Ombudsmen on practical aspects of protected disclosures at the annual Solicitors' Training and Development Day in December.

The Audit & Risk Committee comprises an independent chair an independent member and a representative of ODPP management, thus ensuring compliance with Treasury circulars. The Committee meets four times a year.

As part of their on-going professional development, Crown Prosecutors are required to undertake courses in ethics. These courses are included in the Annual Crown Conference.

Key Result Area 1: Just, Independent and Timely Conduct of Prosecutions (continued)

Goal	1.3 To provide timely prosecution services
Strategy	1.3.1 Comply with relevant time standards
Outcome	Speedy resolution of matters
Performance Indicator	1.3(a) Percentage of advisings completed in agreed time 1.3(b) Proportion of trials listed which were adjourned on the application of the Crown 1.3(c) Number of days between arrest and committal for trial

Measures

1.3(a) Percentage of advisings completed in agreed time:

The Office provides various advising services in different categories.

Advisings as to election: 74 % completed within 14 days:

Advisings as to criminal proceedings: 28 % completed within 30 days:

50 % completed within 90 days:

See Appendix 3 Item 1 for details

1.3(b) Proportion of District and Supreme Court trials listed that were adjourned on the application of the Crown:

In this reporting period, 98 matters, or 4.6% of trial listings (totalling 2,124 listings) were adjourned on the application of the Crown.

See Appendix 2, Item 4 for details.

1.3(c) Number of days between arrest and committal for trial in the Local Court was 224 days on average, and 196 days between arrest and committal for sentence.

Key Result Area 2: Victims and Witness Services

Goal	2.1	To provide assistance and information to victims and witnesses
Strategy	2.1.1	Deliver services to victims and witnesses in accordance with ODPP Prosecution Guidelines.
Outcome		Greater sense of inclusion in the prosecution by victims and witnesses
Performance Indicator	2.1(a)	Level of victim and witness satisfaction (by survey)
	2.1(b)	Number of victims and witnesses assisted by the Witness Assistance Service (WAS)

Measures

2.1(a) Level of victim and witness satisfaction

The ODPP biennial survey of victims and witnesses was conducted in 2011 and revealed overall consistency in the levels of customer satisfaction. Of those surveyed, 77% of witnesses and victims rated the service provided by the Office of the Director of Public Prosecutions as "good" or "very good".

See Appendix 4 for details of previous victim and witness surveys.

2.1(b) Number of victims and witnesses assisted by the Witness Assistance Service (WAS):

A total of 4741 victim and witness files were active at the end of the 2011 -12 reporting year.

See Appendix 4 for details of the service provided by WAS.

Key Result Area 3: Accountability and Efficiency

Goal	3.1 To satisfy the accountability requirements of courts, Parliament and ODPP policies
Strategy	3.1.1 Promote a stakeholder focus 3.1.2 Maintain appropriate records concerning all decisions made 3.1.3 Provide timely and accurate reports
Outcome	Recognition of the Office's achievements
Performance Indicator	3.1(a) Level of compliance with statutory reporting requirements 3.1(b) Level of compliance with ODPP policies

Measures

- 3.1(a) All Statutory Reports have been provided within the prescribed timeframes.
- Annual Financial Statements 2011-12 completed and submitted to the Auditor-General within the set deadline of 31 July 2012.
 - Fringe Benefit Tax (FBT): Annual return for 2011-12 submitted by due date of 21 May 2012 and quarterly payments made up to June 2012.
 - Business Activity Statement (BAS): Monthly returns submitted up to June 2012 by due dates.
 - Waste Reduction and Purchasing Plan (WRAPP): The 1 April 2010 – 31 March 2011 biennial report was submitted on 2 August 2011. The next WRAPP Report is due in 2013.
- 3.1(b) The Audit and Risk Committee monitors compliance with ODPP policies. The level of such compliance has been found to be high. The Committee reviews all audit reports and, where a breach of Office policy is identified, corrective action taken.

Key Result Area 3: Accountability and Efficiency (continued)

Goal	3.2	To be efficient in the use of resources
Strategy	3.2.1	Measure costs and time associated with prosecution functions undertaken
	3.2.2	Continually review, evaluate and improve systems, policies and procedures
	3.2.3	Distribute resources according to priorities
	3.2.4	Increase efficiency through improved technology
	3.2.5	Improve access to management information systems
	3.2.6	Manage finances responsibly
Outcome		Value for money
Performance Indicator	3.2(a)	Cost per matter disposed of
	3.2(b)	Expenditure within budget

Goal	3.2	To be efficient in the use of resources
Strategy	3.2.7	Measure costs and time associated with prosecution functions undertaken
	3.2.8	Continually review, evaluate and improve systems, policies and procedures
	3.2.9	Distribute resources according to priorities
	3.2.10	Increase efficiency through improved technology
	3.2.11	Improve access to management information systems
	3.2.12	Manage finances responsibly
Outcome		Value for money
Performance Indicator	3.2(a)	Cost per matter disposed of
	3.2(b)	Expenditure within budget

Measures

3.2(a) Cost per matter disposed of:

The Activity Based Costing System was implemented during the year. Complete data in relation to the cost of particular types of matters is not yet available.

Pending that data, the average cost of a matter for this reporting period was \$7,750.

This figure represents the net cost of services divided by the total number of matters conducted of the following type:

Advisings (201), Special Committals (6,016) and Summary Hearings (517), Trials (1,831) and Sentences (1,932), Applications for Leave to Appeal and Appeals to the High Court (20) and CCA (284), Bail Applications (1,496), Conviction Appeals (All Grounds Appeals) to the District Court (1,656), Costs Appeals (6) and Leniency Appeals to the District Court (20).

In the preceding reporting period the average cost of a matter was \$7,589, and in the 09-10 reporting period it was \$7,458.

Note that these figures do not include the cost of providing advisings as to election (2,910 referrals completed), Severity Appeals to the District Court (5,408) and call-ups for breaches of bonds (593).

If these matters are included, the average cost of a matter for this reporting period is \$4,731. For the preceding reporting period the figure was \$4,568 and for the 09-10 reporting period it was \$4,255.

3.2(b) The Office operated within the allowable Controlled Net Cost of Service Limits for the financial year:

- The Executive Board and Management Committee review monthly and bi-monthly finance reports.

Key Result Area 4: Staff Resourcing and Development

Goal	4.1 To recruit and retain quality staff
Strategy	4.1.1 Market career opportunities 4.1.2 Review, evaluate and improve recruitment practices 4.1.3 Recognise good performance 4.1.4 Integrate equity strategies into all management plans
Outcome	High quality, committed staff
Performance Indicator	4.1(a) Percentage of staff turnover 4.1(b) Percentage of compliance with Recruitment and Selection Policy 4.1(c) Percentage of salary increments deferred

Measures

4.1(a) Staff turnover for 2011/2012 was 13.7%, in comparison with a 9.2% turnover in 2010/2011.

4.1(b) An external audit of the Recruitment and Selection policy and procedures of the Office was conducted during the financial year, and a series of recommendations received. As a result the policy is currently under review and will be updated and implemented in the next reporting year.

Recruitment and selection activities were closely monitored throughout this year to ensure compliance with policy. Sixteen staff received specific training in Selection Techniques and the Office continues to promote the refresher training available via the E-learning module from Department of Premier and Cabinet.

4.1(c) No salary increments were deferred during 2011-2012.

Key Result Area 4: Staff Resourcing and Development (continued)

Goal	4.2	To provide workplace support
Strategy	4.2.1 4.2.2	Provide accommodation, equipment and facilities in accordance with Office and WH&S standards Develop and implement WH&S and workplace relations policies
Outcome		A safe, supportive, equitable and ethical work environment
Performance Indicator	4.2(a) 4.2(b) 4.2(c) 4.2(d) 4.2(e) 4.2(f)	Average sick leave absences per capital Percentage reduction in workplace injuries Percentage reduction in the proportion of employees still off work at 8, 12 and 26 weeks from date of injury Percentage reduction in the average cost of workers compensation claims Percentage improvement in the number of injured workers who are placed in suitable duties within one week of the date that they become fit for suitable duties as specified on the medical certificate Managers provided with appropriate information, instruction and training in WH&S and injury management

Measures

- 4.2(a) Average Sick Leave for the Office for 2011/2012 was 5.75 days, in comparison with an average of 6.10 days in 2010/2011.
- 4.2(b) There was a 35% reduction in workers compensation claims when compared to last year.
- 4.2(c) Individual medical restrictions have provided a challenge in reducing the overall number of injured workers who remain off work at 8, 12 and 26 weeks. The Office continues to ensure that injured workers are returned to work as soon as they are deemed medically fit to resume duties.
- 4.2(d) The Office continued to exceed the Working Together target of a 5% reduction in the average cost of claims during 2011/2012. Our overall reduction (as reported by NSW SI Corp) is 59.4% for 2011/2012.
- 4.2(e) The Office has maintained its 100% record with respect to managing injured workers within statutory timeframes. All workers injured within the reporting period have been returned to suitable duties and provided with graduated return-to-work plans in line with the medical restrictions presented.
- 4.2(f) The Office continues to provide appropriate information, instruction and training to managers in their roles and responsibilities. Following the introduction of new Workplace Health & Safety legislation, a Workcover representative presented an information session to the Executive on changes to responsibility and accountability. The Office also rolled out a Workplace Wellbeing Strategy during the reporting period and all managers received intensive training in recognising and dealing with psychological illness and injury.

During the reporting period the Office continued to improve the nature and frequency of WH&S related reporting and analysis. Detailed reports measuring various related issues such as claims experience, time lost and type of injury are provided to senior management on a monthly basis to assist with determining strategic direction for addressing WHS related concerns.

Key Result Area 4: Staff Resourcing and Development (continued)

Goal	4.3 To enhance the skills and knowledge of our people
Strategy	4.3.1 Implement training and development activities to address priority organisational and individual learning needs 4.3.2 Increase participation in learning and development activities 4.3.3 Increase use of the ODPP Performance Management system
Outcome	Staff and Crown Prosecutors who are able to perform effectively in a changing and challenging environment
Performance Indicator	4.3.(a) Learning needs identified and implemented 4.3.(b) Learning and development participation rate 4.3.(c) Percentage of Personal Development Plans received

Measures

The following training has occurred between July 2011 and June 2012. All legal training was in line with organisational priorities determined in conjunction with the Deputy Solicitor (Legal). All training held at Head Office unless otherwise specified.

Internal Training

- Solicitors Training and Development Day - 2011 (5 x seminars – approx. 1 hour each)
- Solicitors Pre -Training Day Sessions (2 hour - 1/2 day sessions) x 9
- WAS Training and Development Day 2011 (5x Seminars - approx. 1 hour each)
- MCLES x 20
- MCLE's at Regional offices (Parramatta, Lismore, Campbelltown, Newcastle, Dubbo) x 8
- Microsoft Upgrade x 4
- Recruitment and selection course (2 days) x 1
- WAS Introduction x 1
- echnology Induction x 2
- WAS technology Induction x 2
- CASES ABC x 19 (1 – 3 hour sessions)
- CPD's Organised by Crown Support x 7
- Intermediate Short Matters x 1
- Short Matters Intermediate x 2
- Prosecuting Matters involving Aboriginal Complainants of Sexual Assault - Head office and various Regional Offices x 1
- Directors Address – Muldrock v The Queen (1 hour session)
- Crown Prosecutors Conference held – April – (2 days)
- WAS Grief and Loss Workshop x 1
- Practice Management Workshop x 1

- Workplace Wellbeing Information sessions & Managers - 14
- Instructing in Trials - x 1 (Parramatta)
- Advocacy Presentation - Introduction to Advocacy x 1 (Parramatta)
- Culling Training x 1 (Parramatta)
- Document examination x 1 (Lismore)
- Introduction to Advocacy x 1 (Parramatta)
- LDP Corporate Services and ABC x 1
- LDP District Court Visit x 1
- LDP DPP Prosecutions and Guidelines x 1
- LDP Ergonomics and WHS x 1
- LDP File and Practice Management x 1
- LDP Instructing in Trials x 1
- LDP Practice and Procedure x 1
- LDP Office Policy and Procedures x 1
- LDP Overview of Sydney Operations x 1
- LDP Overview of the LDP and DPP x 1
- LDP Human Resources Induction x 1
- LDP Post Trial and Sentence Procedure x 1
- LDP Preparation of a Crown Brief x 1
- LDP Preparing a matter for Criminal Trial x 1
- LDP WAS Overview x 1
- Managing Psychological Injury or Illness and Difficult Behaviours x 3 (various offices)
- Resilience in the Workplace x 2

Key Result Area 4: Staff Resourcing and Development (continued)

Intra – Agency co-ordinated training:

- Professional Police Development days x 5, (Police Expert Referral Team)
- Legal aid MCLEs x 2
- Confiscations x 1 Corrimal Police LAC

- Workforce Metrics essentials NSW x 2
- Excel 2010 Introduction x 1
- ISO 27001 Lead Auditor x 1
- Vmware v Sphere: Troubleshooting (v4) x 1
- End of Year Processes x 2

External Training for ODP

- Aboriginal Sexual Assault – ECAV (Educational Centre Against Violence)
- Challenges for the Jury System in the 21st century x 1
- CLE Hunter Drug Court – Newcastle x 1
- Criminal Trial Case Management x 1
- Frontier: Chris 21 Administration x 1
- Frontier: HR21 Administration x 1
- Frontier Report designer: Introduction x 1
- Media Skills/Interview Skills x 1
- How to Stay Well at Work x 1
- The Art of Mindful Healing x 1
- PPIPA Training (Advanced) x 1
- Solution Focussed Brief Therapy x 1
- NSW Child Protection and Wellbeing Interagency Conference x 1
- Suicide Risk Assessment x 3
- PHP & MYSQL level 1 x 1
- The Body and Grief x 1
- Truth Testimony and Relevance x 1
- ITJS-1 Introduction to JavaScript x 1
- Children and Mental Health Forum x 1
- Sibling Sexual Abuse Symposium x 1
- Bad Kids or Hurt Kids? Tools for Communication x 1
- AIJA Conference x 1
- Introductory PIPPA Training x 1
- Loss and Grief work with Children and young people x 1
- Cert IV Aboriginal Family Health x 1
- ACSSA Forum. What Price Prosecution x 1
- Violence, Resistance and the Power of Language x 1
- Senior First Aid Two Day Course x 1
- WHS Consultation x 1
- Anger Management x 1
- WHS Consultation x 1
- Apply first aid recertification x 4
- Adjustable Footrest x 1
- CPA Congress - 3 Day x 1
- The Indispensable Assistant x 1
- PSRMA end of year Seminar x 1
- Report Designer Introduction x 1
- 2012 Frontiers of Trauma Tour Workshop x 1
- HR21 Administration Course x 1
- Chris21 Administration x 1
- Implementation of Payroll x 1

Total Number of Learning and Development sessions (internal & external & Intra - Agency): 190

Studies Assistance

- Number of Studies Assistance participants: 13
- Total days of study leave accessed: 137.37
- Total Study re-imburements: \$22,132.25

Key Result Area 5: Improvements in the Criminal Justice System

Goal	5.1 To improve the Criminal Justice system
Strategy	5.1.1 Participate in inter-agency and external fora 5.1.2 Develop solutions in partnership with stakeholders to streamline and improve court listing systems 5.1.3 Initiate and contribute to law reform to improve the criminal justice process
Outcome	A more effective and efficient criminal justice system
Performance Indicator	5.1(a) Average number of days from arrest to matter disposal 5.1(b) Number of submissions made on proposed and existing legislation

Measures

5.1(a) Average number of days from arrest to matter disposal

The average number of days from registration to disposal of matters across jurisdictions is **398**; the median for this measure is **297**.

See appendix 3, *Timeliness, for details of length of time for matters to progress through the criminal justice system.*

5.1(b) Submissions on proposed and existing legislation and committee representation:

The Office was represented in a large number of inter-agency committees, court user groups and working parties with the main aim of considering the reform of the criminal law and to implement new legislation. During the past year the ODPP has continued to work with the pro bono scheme to provide legal representation for victims of sexual assault to enforce the sexual assault communications privilege in criminal trials.

The ODPP and its Project Partners received the NSW Law and Justice Foundations Pro Bono Partnership Award for the Sexual Assault Communications Privilege (SACP) Pilot. Not only did the Pilot achieve considerable law reform in relation to the privilege but it also resulted in the grant of funding for the establishment of the SACP Specialist Service within the Legal Aid Commission of NSW.

The Director has made numerous submissions on proposals for law reform identified by the Attorney General, Law Reform Commissions, Legislative Council Standing Committee on Law and Justice and the Sentencing Council. Examples include: the review of sentencing, family violence, jury instructions, review of the election process and table offences, review of the Children's (Criminal Proceedings) Act and synthetic drugs.

Submissions and recommendations were sent to the Attorney General in respect of the following issues:

- Naming of children in connection with criminal proceedings

- Amendments to section 5B of the Criminal Appeal Act
- Abolition of Spousal Immunity
- Choking in domestic violence cases
- Management of exhibits
- Amendment to DPP Act in response to R v Lipton

The ODPP also assisted with a number of research projects including:

- the ARC Juries and Expert Evidence Project,
- Dr David Bright, National Drug and Alcohol Research Centre, "the application of social network analysis to law enforcement strategies in combating illicit drug markets", and
- Amanda White, Macquarie University, "The role of neuropsychological assessments in fitness to stand trial cases".

The Office continues to participate in the Strengthening Victims Rights Government Implementation Group formed by Victims Services at the Department of Attorney General and Justice (DAGJ). Activities of this forum include the creation of a Code of Practice to implement the Victims Charter as well as a review of Court Support Services conducted by Price Waterhouse Cooper. The latter has involved an ODPP representative on the Steering Committee with consultations by PWC with a number of ODPP Crown Prosecutors, solicitors and WAS Officers. Extensive submissions have been provided to PWC on the role of WAS and the needs of victims and witnesses involved in criminal prosecutions.

The ODPP has participated in the Reference Group for reviewing the tenders of, the scripting of and filming of a court preparation DVD with DAGJ's Victim Services.

The ODPP has been liaising with DAGJ to facilitate the implementation of their JusticeLink system. The Courts have implemented a single multi-jurisdictional court management application, and as part of the JusticeLink project a "close to

Key Result Area 5: Improvements in the Criminal Justice System (continued)

real time" interface is being developed. The ODPP, together with the Legal Aid Commission are developing an electronic interface with JusticeLink. This project is expected to be completed in the 2012-13 financial year.

The ODPP participates in the Justice Sector Information Exchange Co-ordinating Committee (JSIECC) to facilitate the implementation of applications such as JusticeLink and the associated Secure JusticeLink Information Extract (SCIE). One of the aims of JSIECC is to discuss and progress projects that are of benefit across the JSIECC member agencies. Electronic transmission of indictments is a major project and a scope is being prepared to assess the funding required to progress this aspect of the interface.

The ODPP and the Legal Aid Commission Joint Working Party continue to meet to share expertise and resources across a wide range of IM&T activities.

Senior members of the ODPP regularly meet with senior officers of the NSW Police Force (ODPP/Police Liaison Standing Committee) to discuss interagency issues.

The ODPP participates in over 20 interagency committees and court user groups, as well as representation on various Bar Association Committees, the NSW Law Society Criminal Law Committee and the Law Council of Australia Criminal Law Committee.

DIRECTOR OF PUBLIC PROSECUTIONS ACT 1986

Important Provisions

Section 4(3)

The Director is responsible to the Attorney General for the due exercise of the Director's functions, but nothing in this subsection affects or derogates from the authority of the Director in respect of the preparation, institution and conduct of any proceedings.

Section 7(1)

The principal functions and responsibilities of the Director are:

- to institute and conduct prosecutions in the District and Supreme Courts;
- to institute and conduct appeals in any court;
- to conduct, as respondent, appeals in any court.

Section 7(2)

The Director has the same functions as the Attorney General in relation to:

- finding bills of indictment;
- determining that no bill be found;
- directing no further proceedings;
- finding ex officio indictments.

Section 8

Power is also given to the Director to institute and conduct proceedings of either a committal or summary nature in the Local Court.

Section 9

The Director can take over prosecutions commenced by any person (and see section 17).

Section 11

The power to give consent to various prosecutions has been delegated to the Director.

Section 13

The Director can furnish guidelines to Crown Prosecutors and officers within the ODPP.

Section 14

Guidelines can also be issued to the Commissioner of Police with respect to the prosecution of offences.

Section 15

Guidelines furnished each year must be published in the Annual Report.

Section 15A

Police must disclose to the Director all relevant material obtained during an investigation that might reasonably be expected to assist the prosecution or defence case.

Section 18

The Director may request police assistance in investigating a matter that may be taken over by the Director.

Section 19

The Director may request the Attorney General to grant indemnities and give undertakings from time to time, but may not do so himself/herself.

Section 24

Appointment to prosecute Commonwealth offences is provided for by this section.

Section 25

Consultation with the Attorney General is provided for.

Section 26

The Attorney General may furnish guidelines to the Director.

Section 27

The Attorney General shall notify the Director whenever the Attorney General exercises any of the following functions:

- finding a bill of indictment;
- determining that no bill be found;
- directing no further proceedings;
- finding ex officio indictments;
- appealing under s5D of the *Criminal Appeal Act 1912* to the Court of Criminal Appeal against a sentence.

The Director shall include in the Annual Report information as to the notifications received by the Director from the Attorney General under this section during the period to which the report relates.

Section 29

If the Director considers it desirable in the interests of justice that the Director should not exercise certain functions in relation to a particular case, the Director may request the Attorney General to exercise the Attorney General's corresponding functions.

Section 33

The Director may delegate certain of his/her functions.

APPENDICES

APPENDIX I: QUANTITY/PRODUCTIVITY

I. Number of matters finalised, disaggregated by matter type.

This is represented by the number of matters received and completed.

APPENDIX I – STATE SUMMARY – LOCAL COURT

Table 1 – Local Court matters received and completed

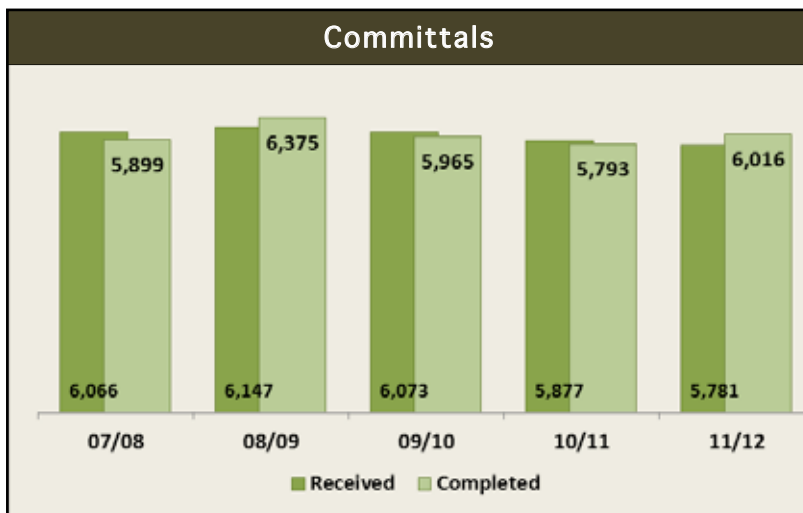
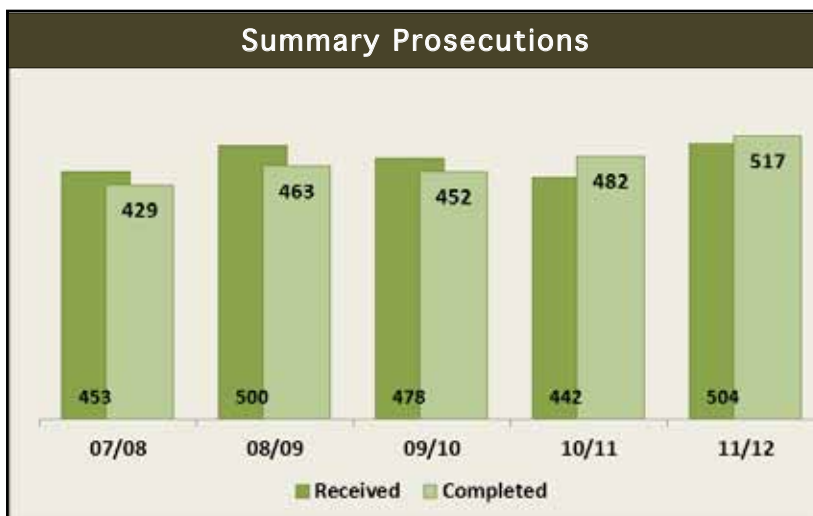


Table 2 – Local Court matters received and completed



Appendix 1: Quantity/Productivity (continued)

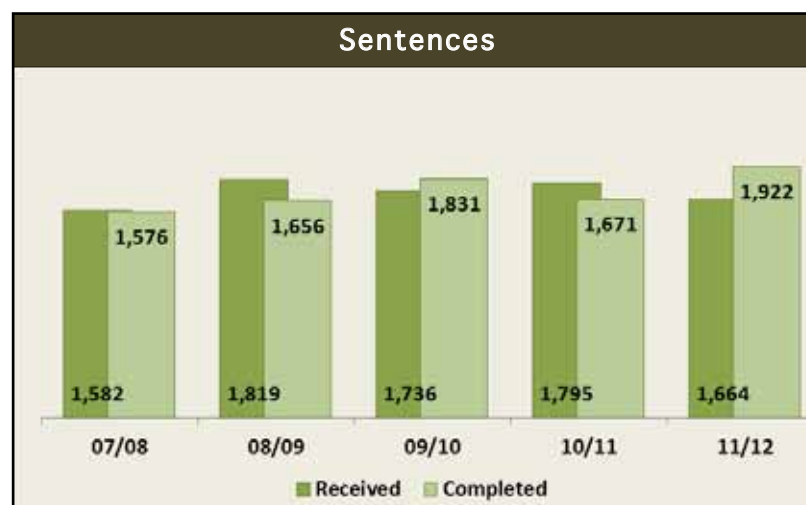
APPENDIX I – STATE SUMMARY – DISTRICT COURT

Table 3 – Matters committed for trial to the District Court and finalised*



* For manner of finalisation see appendix 2 Item 3

Table 4 – Matters committed for sentence to the District Court and finalised

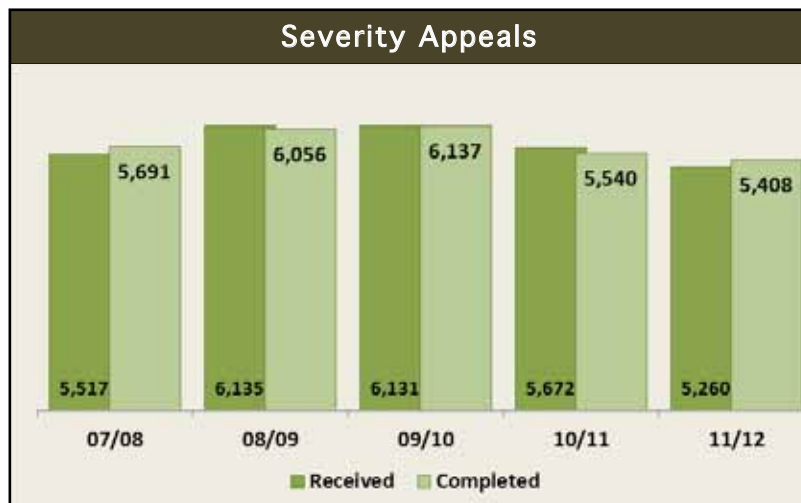


Appendix 1: Quantity/Productivity (continued)

Table 5 – District Court Conviction Appeals received and completed



Table 6 – District Court Severity Appeals received and completed



Appendix I: Quantity/Productivity (continued)

APPENDIX I – STATE SUMMARY – SUPREME COURT

Table 7 – Supreme Court Trials received and completed

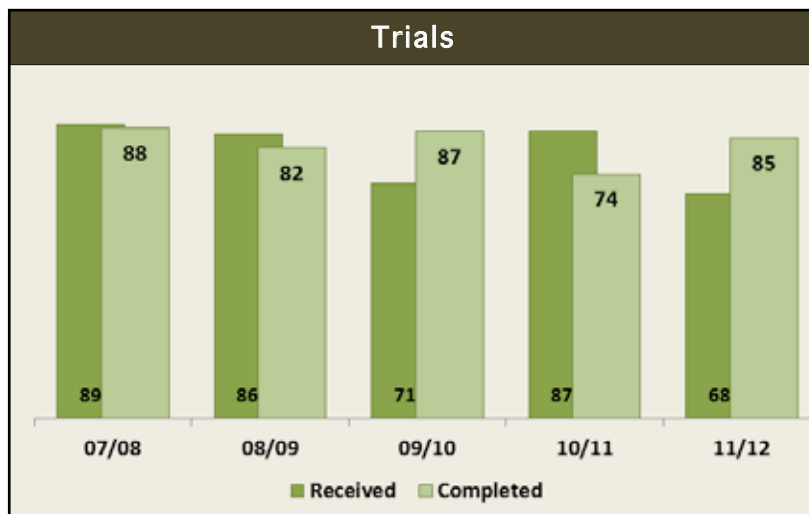
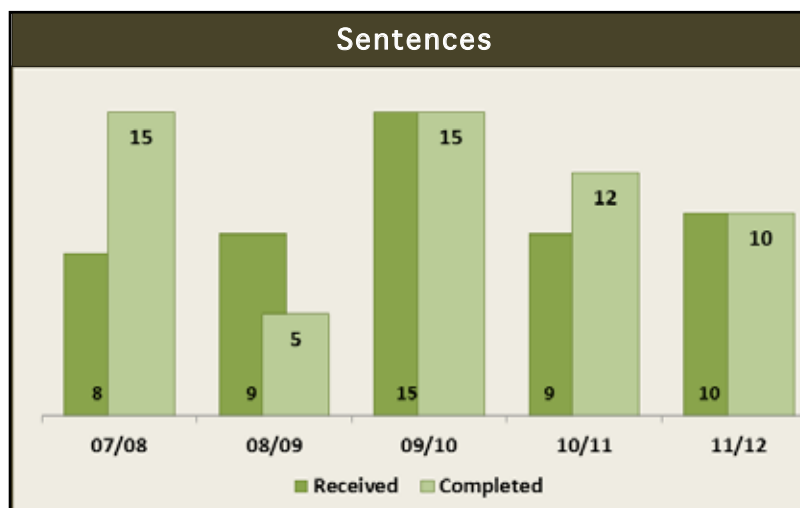


Table 8 – Supreme Court sentences received and completed



Appendix 1: Quantity/Productivity (continued)

APPENDIX I – COURT OF CRIMINAL APPEAL

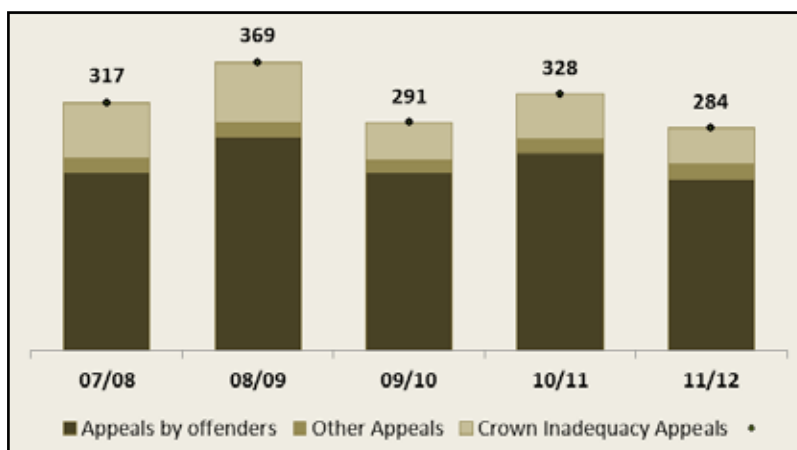
Table 9 – Appeals by Offenders finalised					
Appeals by offenders	2007/08	2008/09	2009/10	2010/11	2011/12
Conviction and sentence appeals	74	81	55	87	69
Sentence appeals	154	193	173	166	150
Total Appeals by offenders	228	274	228	253	219

Table 10 – Other appeals finalised					
Other Appeals	2007/08	2008/09	2009/10	2010/11	2011/12
Crown Inadequacy Appeals *	72	78	48	57	45
Appeals against interlocutory judgments or orders (s.5F appeals)	16	15	15	17	19
Stated cases from the District Court	1	2	0	1	1
Total Other Appeals	89	95	63	75	65

* See Appendix 2, Item 5 for number and proportion of Crown Inadequacy Appeals finalised and results

TOTAL APPEALS FINALISED IN CCA	317	369	291	328	284
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Table 11 - Appeals finalised in CCA

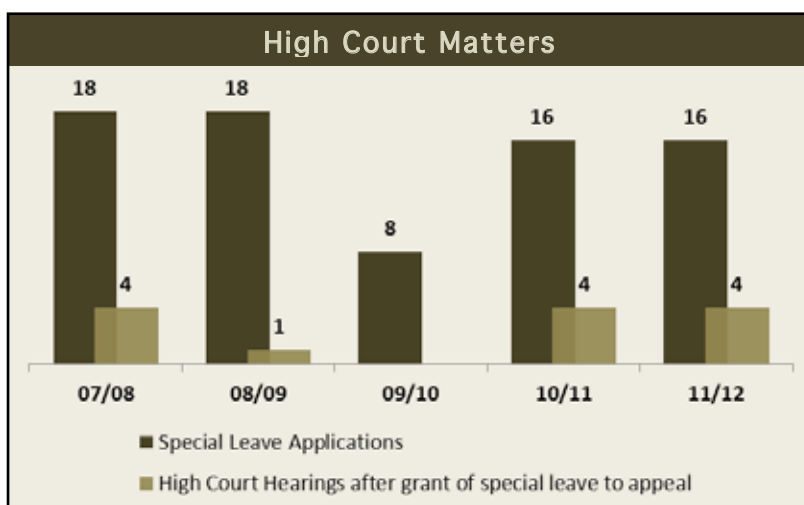


Appendix 1: Quantity/Productivity (continued)

APPENDIX 1 – HIGH COURT

Table 12 – High Court matters finalised					
	2007/08	2008/09	2009/10	2010/11	2011/12
Completed applications for special leave to appeal					
Applications by the offender	18	18	8	16	16
Applications by the Crown	0	0	0	0	0
Hearings conducted after grant of special leave to appeal					
Appeal by offenders	4	1	0	4	4
Appeal by the Crown	0	0	0	0	0

Table 12 – High Court Matters



APPENDIX 2: QUALITY/EFFECTIVENESS

Statistics provided in this Appendix relate to results, and should not be compared to Registrations/Quantity in Appendix 1

1. Number and proportion of matters resulting in a finding of guilt, either as a plea of guilty or conviction after trial.

This is represented by the number of sentence matters completed, the number of pleas entered in trial matters and the number of verdicts of guilty entered as a proportion of all sentence and trial matters completed.

A total of 1,831 matters committed for trial and 1,932 matters committed for sentence were finalised in the reporting period in the District and Supreme Courts.

3,072 (82%) of these matters resulted in findings of guilt.

In the last reporting period 77% of matters resulted in a finding of guilt.

Supreme Court

A total of 85 matters committed for trial and 10 matters committed for sentence to the Supreme Court were finalised in the reporting period.

65 (68 %) of these matters resulted in a finding of guilt.

In the previous reporting period 52% of Supreme Court matters returned a finding of guilt.

District Court:

A total of 1,746 matters committed for trial and 1,922 matters committed for sentence to the District Court were finalised in the reporting period.

3,007 (82%) returned a finding of guilt.

In the last reporting period, 80% of District Court matters resulted in a finding of guilt.

2. Number and proportion of matters returning a finding of guilt after defended trial, overall:

A total of 477 trials were completed in the Supreme and District Courts following a defended trial.

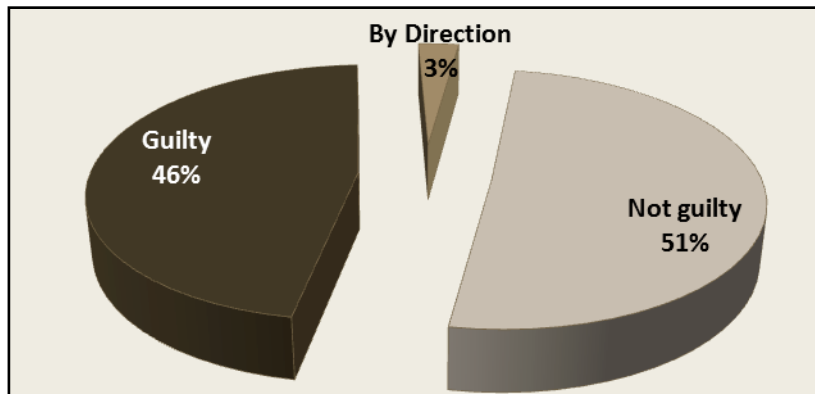
244 (47%) returned verdicts of guilty.

15 (3 %) returned verdicts of not guilty by direction.

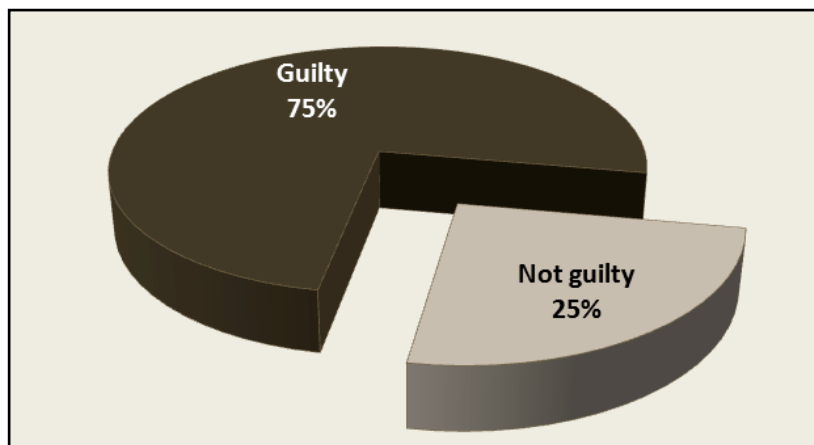
265 (51%) returned verdicts of not guilty.

Appendix 2: Quality/Effectiveness (continued)

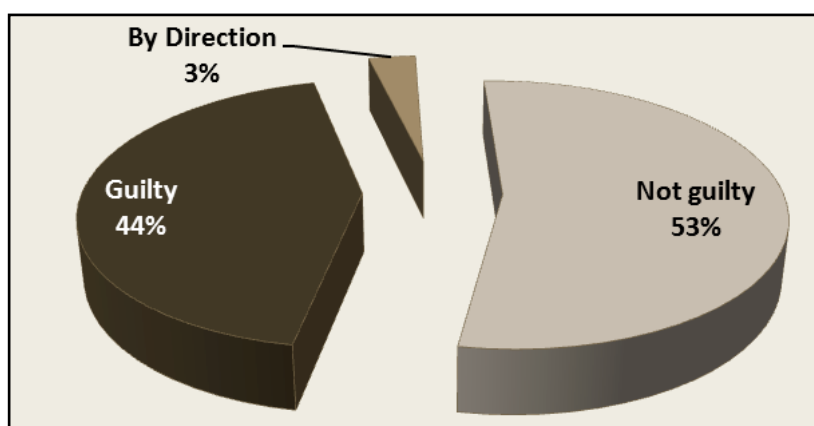
Trial Verdicts – Overall by number and percentage



Trial Verdicts – Supreme Court by number and percentage



Trial Verdicts – District Court by number and percentage

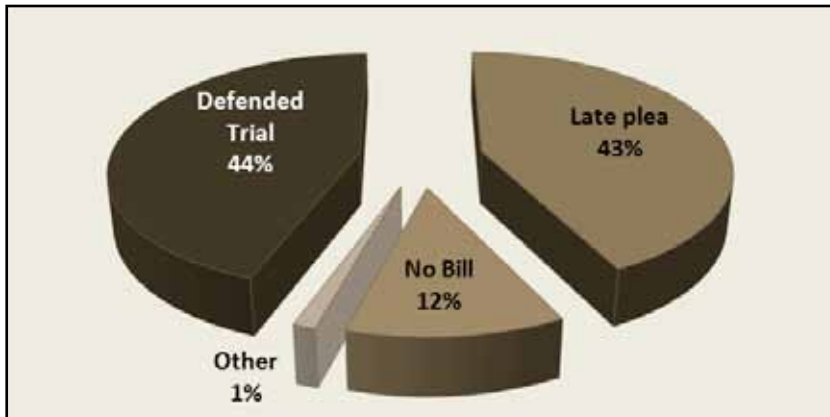


Appendix 2: Quality/Effectiveness (continued)

3. Trial disposals*

District Court

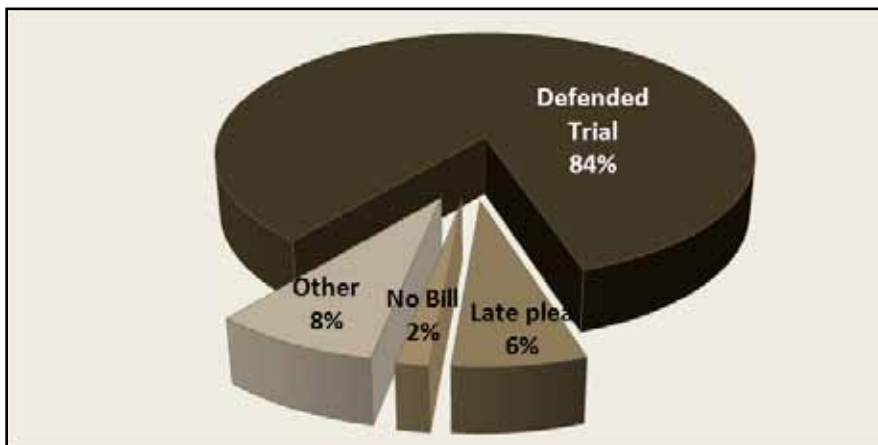
- 472 (44%) were disposed of by way of defended trial.
- 455 (43%) were disposed of by way of late plea.
- 124 (12%) were discontinued after committal for trial.
- 13 (1%) were disposed by other means (e.g., deceased, changed venue, remitted to Local Court, discontinued before eve of trial or placed on Form 1).



Supreme Court

- 52 (84%) were disposed of by way of defended trial.
- 4 (6%) were disposed of by way of late plea.
- 1 (1%) was discontinued after committal for trial.
- 5 (8%) were disposed by other means (e.g., unfit to be tried).

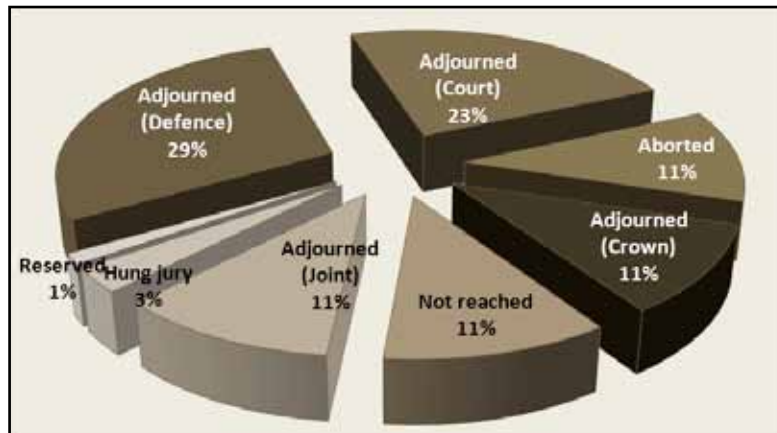
*The figures represent matters listed for trial during the reporting period, not the number of trial matters finalised.



Appendix 2: Quality/Effectiveness (continued)

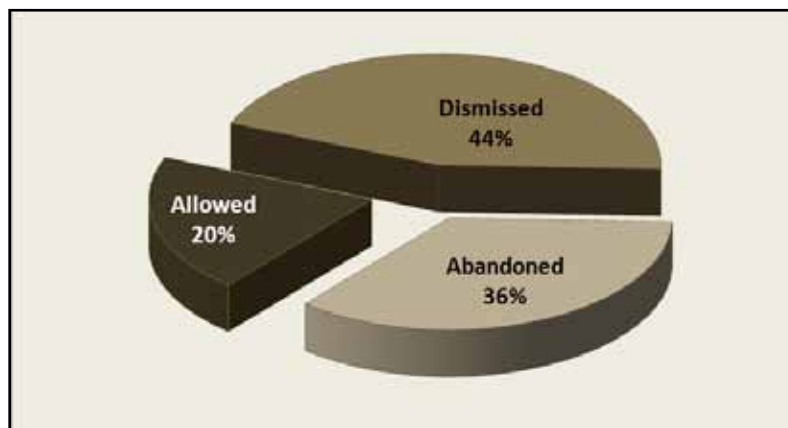
4. Matters listed for trial in the District Court that were adjourned or not completed

Adjourned, defence application	250	29%
Adjourned, by court	203	23%
Trial aborted	99	11%
Adjourned, Crown application	94	11%
Not reached	97	11%
Adjourned, joint application	95	11%
Hung jury	26	3%
Judgement reserved	11	1%
Total number of trial listings that were adjourned:	875	



5. Number and proportion of successful sentence appeals by Crown in the Court of Criminal Appeal

45 appeals on the inadequacy of sentence were finalised by the Crown in this reporting period
 9 (20 %) were allowed.
 20 (44 %) were dismissed.
 16 (36 %) were abandoned.



Appendix 2: Quality/Effectiveness (continued)

6. Local Court Committal disposals

State-wide

A total of 6,016 committals were completed in the reporting period.

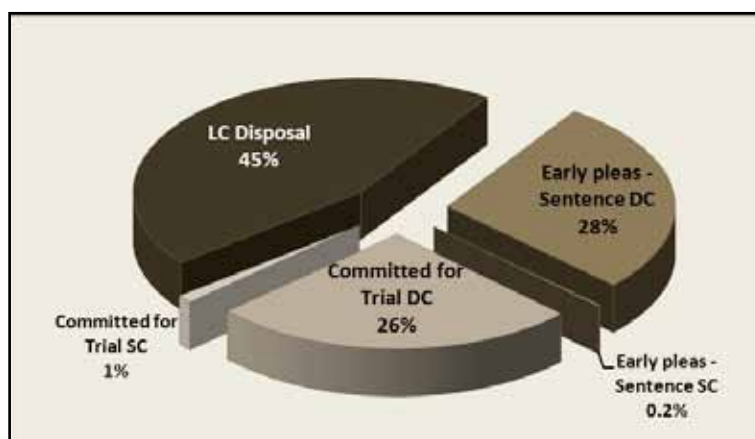
1,664 (28%) early pleas were committed for sentence to District Court.

10 (0.2%) early pleas were committed for sentence to Supreme Court.

1,571 (26%) were committed for trial to the District Court.

68 (1%) were committed for trial to the Supreme Court.

2,703 (45%) were disposed of in the Local Court.



7. Child Sexual Assault Summary Prosecutions

A total of 218 Child Sexual Assault summary prosecutions were conducted in the Local and Children's Court.

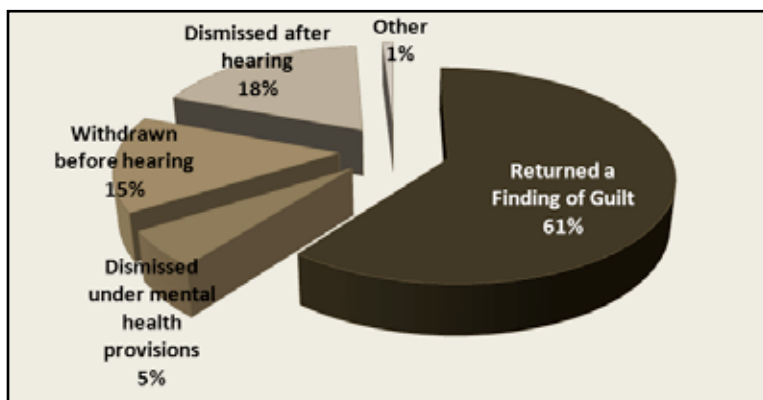
132 (61%) returned a finding of guilt.

32 (15%) were withdrawn before hearing.

40 (18%) were dismissed after hearing.

12 (6%) were dismissed under mental health provisions.

2 (1%) Other (e.g., deceased).



Appendix 2: Quality/Effectiveness (continued)

8. Matters discontinued after committal order

After an accused has been committed for trial or for sentence, the question sometimes arises whether the prosecution should continue. This may occur either as a result of an application by the accused, or on the initiative of the DPP.

In the reporting period submissions were received to discontinue a total of 793 matters.

184, or 23% were discontinued.

Of that 184 that were discontinued, 92 or 50% were discontinued because the complainant did not wish the matter to proceed.

The remainder were discontinued because there was no real prospect of conviction having regard to the nature or quality of the evidence at the time the submission was made. The discontinuance of 184 matters represents 5% of all cases finalised after committal and 10% of trial matters completed.

SANCTIONS

The Attorney General has delegated to the Director, by orders published in the Government Gazette, authority to consent to prosecutions for particular offences. Such delegation is permitted by Section 11(2) of the Director of Public Prosecutions Act 1986. Section 11(6) provides. The Director shall notify the person who gives an authorisation under this section of the giving or refusal of consent under the authorisation.

The giving and refusal of consent pursuant to these authorisations for the year 2011 – 2012 are as follows:

Consent given

- Section 66F(3), Crimes Act 1900 (sexual intercourse with person with cognitive impairment) x 11
- Section 66F(4), Crimes Act 1900 (attempted sexual intercourse with person with cognitive impairment) x 1
- Section 61M(1)(3)(e), Crimes Act 1900 (aggravated indecent assault of person with cognitive impairment) x 3
- Section 61O(1A)(3)(d), Crimes Act 1900 (aggravated act of indecency with person with cognitive impairment) x 1
- Section 78A, Crimes Act 1900 (incest) x 1
- Section 9(1)(s), Surveillance Devices Act 2007 (unlawful installation of tracking device) x 1

Consent refused

- Section 66F(2), Crimes Act 1900 (sexual intercourse with person with cognitive impairment by person responsible for care) x 1
- Section 66F(3), Crimes Act 1900 (sexual intercourse with person with cognitive impairment) x 1
- Section 78A, Crimes Act 1900 (incest) x 1

APPENDIX 3: TIMELINESS

I. Number and proportion of advisings completed in agreed time:

A total of 2,910 referrals for election were processed in the reporting period.

2,152 (74%) were completed within 14 days¹

A total of 201 referrals for advice as to sufficiency of evidence or appropriateness of charges were completed in the reporting period:

57 (28%) were completed within 30 days

101 (50%) were completed within 90 days²

¹ The decision to elect may be delayed because a proper consideration of the appropriate jurisdiction cannot be made purely on the facts prepared by the police. Where a brief of evidence is required to properly inform this decision, delays in the provision of advice may be occasioned until that brief is received.

² Advisings as to criminal proceedings often relate to difficult and complex cases requiring further investigation by police. In addition, agreement may be reached for a longer period for completion of the advice to ensure quality advice is provided. These statistics include time spent in further investigation and collection of evidence by police and other agencies. 40% of Advisings Briefs required further investigation.

2. Summary matters

Average and median number of days between:

Arrest and service of brief	144 (average) 86 (median)
Service of brief and disposal	165 (average) 103 (median)
Date of arrest and disposal	287 (average) 233 (median)

3. Local Court Committals

Average and median number of days between:

Arrest and brief service

<i>Committals for trial</i>	95 (average) 61 (median)
<i>Committals for sentence</i>	93 (average) 60 (median)

Brief service and committal

<i>Committals for trial</i>	129 (average) 108 (median)
<i>Committals for sentence</i>	103 (average) 73 (median)
<i>Summary disposal</i>	147 (average) 109 (median)

4. Disposal in Higher Courts

Average and median number of days between:

Committal and completion

<i>Matters committed for trial</i>	335 (average) 300 (median)
<i>Matters committed for sentence</i>	172 (average) 134 (median)

Court of Criminal Appeal

Notice of Appeal to finalisation	196 (average) 178 (median)
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High Court

Application for special leave to finalisation	215 (average) 206 (median)
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Appendix 3: Timeliness (continued)

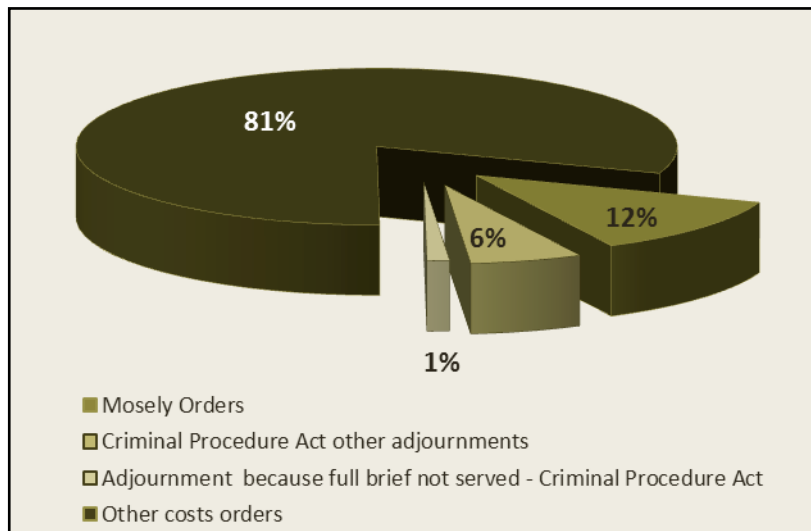
5. Costs awarded against the ODP: Applications for adjournment

The Criminal Procedure Act provides for costs to be awarded against the prosecutor in the Local Court where an adjournment of proceedings is sought. There is no power in the District Court to make an order for costs against the Crown as a condition of granting an adjournment: *R v Mosely* (1992) 28 NSWLR 735. However the Court in an appropriate case can ask the Crown to agree voluntarily to pay the costs.

The following table sets out a comparison between 2007/8, 2008/9, 2009/10, 2010/11, 2011/12 where costs were awarded on prosecution applications for adjournment. In one matter costs (1%) were awarded because the NSW Police had failed to serve a full brief within the timetable specified by the court.

Matters where costs were awarded on adjournment					
	2007/8	2008/9	2009/10	2010/11	2011/12
“Mosely Orders”	2	5	1	9	10
Criminal Procedure Act other adjournments	6	9	15	4	5
Adjournment because full brief not served – Criminal Procedure Act	11	11	5	7	1
Other costs orders	38	44	33	44	67
Total	57	69	54	64	83

Costs awarded on adjournment 2011/12



APPENDIX 4: SERVICE TO VICTIMS AND WITNESSES

Key Performance Indicators

1. ODPP Prosecution with Witness Assistance Service (WAS) Involvement

During 2011-2012 WAS prioritised involvement in the following ODPP prosecution matters:

- All matters involving death including homicide, dangerous driving
- Child Sexual Assault (both children and adults)
- Adult Sexual Assault
- Domestic Violence
- Child Physical Abuse

WAS is involved in other types of matters where victims and witnesses come under special priority groups.

2. Time taken to making initial direct contact with victims or witness registered with WAS

During 2011-2012, the average time between allocation of a matter to a WAS Officer and making initial direct contact with the victim or witness was 38.9 days. This is ten days outside the recommended timeframe in the new WAS Best Practice Referral and Case Management Protocol that was introduced in June 2012. The protocol is being implemented in the new financial year.

The time taken from registration to initial contact also increased from 34.5 days in 2010-2011 to 52.3 days in 2011-2012.

Factors impacting on time taken to make initial contact include:

- Staff vacancies
- Number of matters on the referral waiting lists
- Time taken to obtain victims contact details from police or solicitor for early referrals
- Victims not contactable for some period of time
- Victim's family not identified for sometime
- Contact delayed due to recommendations by solicitor or police
- Victim initially requests no contact but later utilises the service
- Time lag between a matter being registered on the WAS database and matter being allocated to a WAS Officer
- Delays in resolution of matters at court.

3. Interagency liaison in case management and broader community involvement

During 2011-2012 the WAS engaged in interagency liaison at two levels in order to enhance service delivery to victims and witnesses:

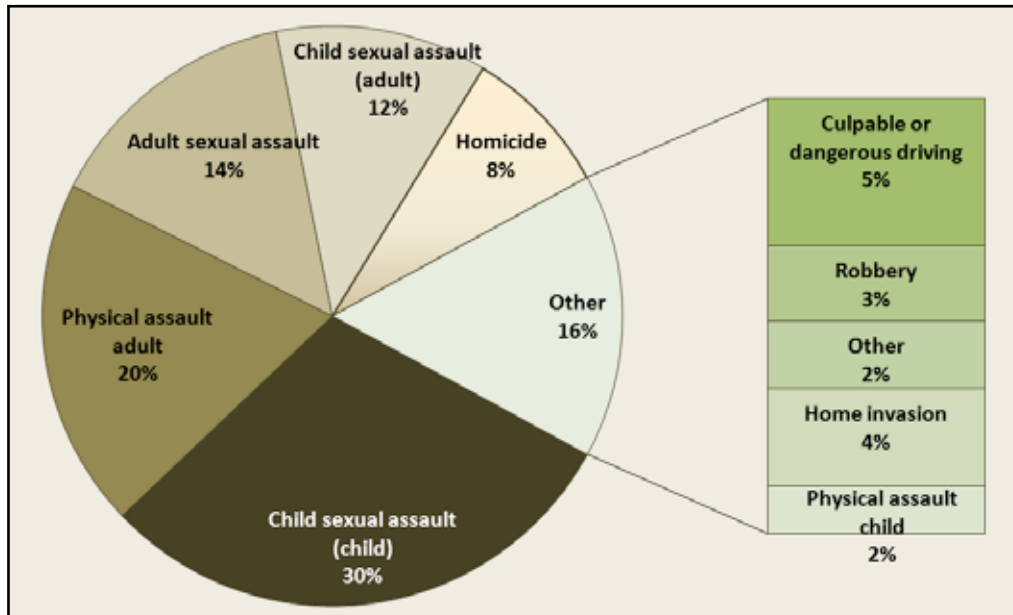
- At a case management level there were 11,860 liaison contacts with other agencies outside the ODPP and 130,616 minutes spent in interagency liaison as part of service delivery to victims and witnesses. This was a very large increase from both 2010-2011 and 2009-2010 and is indicative of the ongoing commitment by WAS to enhancing liaison with interagency partners in supporting victims and witnesses.
- At a broader interagency level there were 7675 minutes spent participating in interagency committees, forum, working groups, liaison meetings. Details of interagency activities are provided later in this report.

Appendix 4: Service to victims and witnesses (continued)

Witness Assistance Service Delivery Outcomes

During 2011-2012 there were 2195 new referrals and WAS registrations. Of the 2195 WAS referrals, 76.6% (1682) constituted early referrals which were obtained electronically or at an early stage from ODPP legal clerks. An additional 18% (396) WAS referrals were received from ODPP solicitors and managing lawyers. (Non-priority matters where there are vulnerable victims or witnesses are also referred to WAS by ODPP solicitors, managing lawyers and Crown Prosecutors.) Referrals were also received from Police, JIRT, counsellors, family and friends and victims and witnesses themselves.

Graph 1 - New Referrals to the Witness Assistance Service 2011- 2012



Graph 1 shows the percentage of new WAS registrations by matter type during 2011-2012. WAS priority matters include: child sexual assault (child) 30.0%; child sexual assault (adult) 11.8%; adult sexual assault 14.5%; child physical assault 1.7%; homicide 8.4%; and dangerous driving matters involving death 5.4%. These priority matters accounted for 71.8% (1575) of new registrations during 2011-2012. In addition, 17.1% of all WAS registrations which were identified as being domestic or family violence related crimes.

Total number of victims and witnesses provided a service

Many matters remain in the criminal justice system for a number of years. In such instances WAS involvement in matters can carry over into the next financial year; or files are re-activated as required. Therefore the number of active files where a WAS service is being provided is a much higher figure than the number of new referrals and is a more accurate picture of the work load for WAS during the financial year.

Table 1 provides a breakdown of the 4,741 active WAS files where service contacts were registered during 2011-2012, compared to 4,487 active WAS files in 2010-2011. This table also provides a picture of the workflow between WAS in various locations during 2011-2012.

Appendix 4: Service to victims and witnesses (continued)

Table 1: Number of Active WAS files 2011-2012

Location as at earliest contact date		Location as at latest contact date	
Campbelltown	348	Campbelltown	221
Central West	55	Central West	35
Dubbo	145	Dubbo	68
Gosford	193	Gosford	167
Lismore	313	Lismore	25
Newcastle	691	Newcastle	745
Parramatta	562	Parramatta	457
Penrith (incl. Central West)	498	Penrith (including Central West)	611
Sydney	1,373	Sydney	1,575
Wagga	242	Wagga	241
Wollongong	378	Wollongong	403
Total	4,741	Total	4,741

The figures in the first column of Table 1 (**Location at earliest contact date**) represents the WAS caseloads by location at early contact when a matter is in the earlier stages of the prosecution process. The figures in the second column (**Location at latest contact date**) indicate the caseloads handled by WAS in each location as matters progress through the legal process.

Many factors impact the workflow and movement of matters from one WAS team to another:

- Large matters are transferred from the regions to Sydney WAS for court events. These include homicides trials, large multi-victim trials or hearings, any hearing or trial that requires a 4 week sitting or more, complex or special interest matters.
- Some matters follow the Judge for part-heard hearings or sentencing.
- Some matters are moved from one office to another to ensure WAS services are covered - when there is a vacancy or a staff member on a longer leave period, for example.
- The Aboriginal victims and witnesses may initially be registered by a generalist WAS Officer and then referred to one of the Aboriginal Witness Assistance Officers.
- Where there are outreach models like Central West - WAS Officers based at Penrith and Newcastle WAS assist with Dubbo matters.

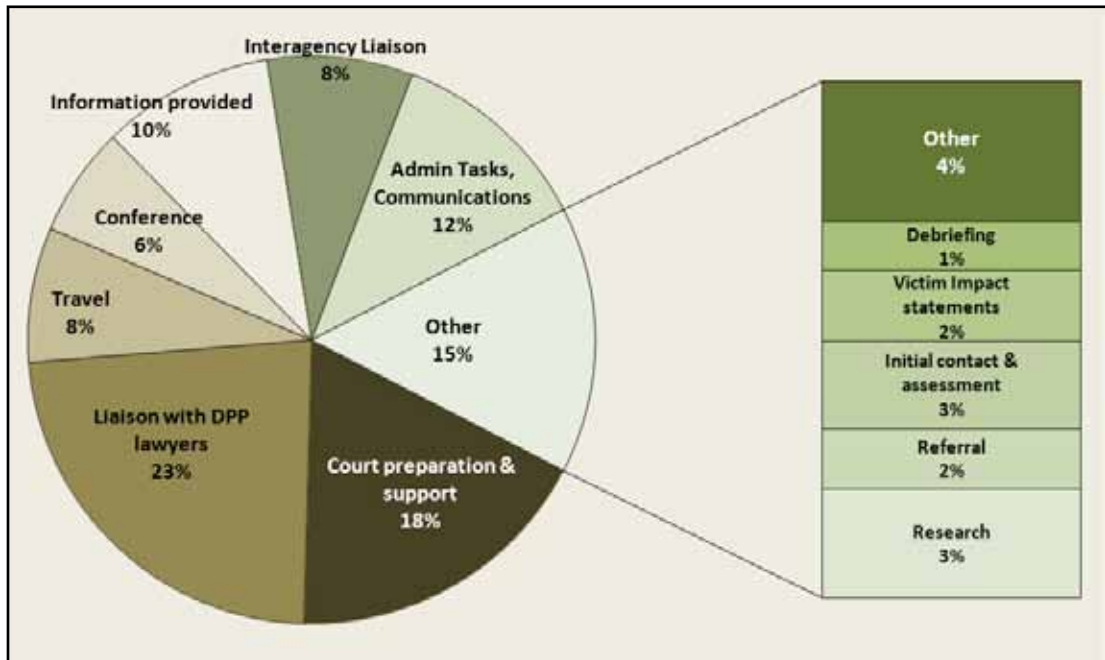
WAS Services provided during 2011- 2012

During 2011-2012 WAS Officers made 101,319 case management service contacts - a total time expenditure of 1,575,210 minutes. This includes (but is not limited to) all liaison - police, solicitors, counsellors and inter-agency staff. Of these contacts, 26,319 were direct contacts with victims and witnesses and 661,228 minutes were spent in direct contact with the victims or witness.

Graph 2 provides a breakdown of the percentage of time spent on various service delivery areas. The largest amount of time - 23% - was spent in liaison with solicitors and Crown Prosecutors (23%), reflecting the importance of liaison to create an effective multidisciplinary team approach for providing services to victims and witnesses.

Appendix 4: Service to victims and witnesses (continued)

Graph 2 - Services provided by Witness Assistance Service 2011-2012

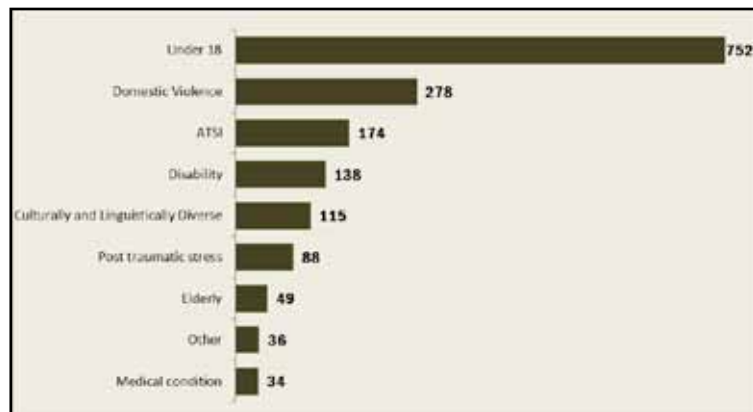


Other service contacts taking up considerable time were court support, administration and communication tasks, information provision, interagency liaison with police and other services, support provided in various types of conferences and travel to provide a service (particularly in rural areas). Specific services such as assessment, court preparation and court familiarisation, referral to other services, assistance with victim impact statements and information about victim registers are one-off type services, and this is reflected in the total amount of time spent on those duties.

Special priority groups and vulnerable witnesses

WAS prioritises services for victims of crime and vulnerable witnesses with special needs. The special priority groups registered by WAS during 2011-2012 are represented in Graph 3.

Graph 3 - Witness Assistance Service Special Priority Groups 2011-2012



Appendix 4: Service to victims and witnesses (continued)

In 2011-2012, victims or witnesses were assessed as fitting one or more of the WAS special priority groups as follows: 152 people with a disability including acquired brain injury, intellectual or cognitive disability, physical disability, sight or hearing impairment and mental health disabilities.

- 752 children and young people under 18 years of age. This figure is higher than the figure for 2010-2011.
- 174 people identified as being of Aboriginal or Torres Strait Islander descent or both. This figure is higher than the 132 in 2010-2011.
- 138 people were identified as having a disability including cognitive disability, mental health disability and other disabilities such as intellectual disability, physical disability, sight or hearing impairment and acquired brain injury.
- 88 victims were identified as experiencing severe post traumatic stress symptoms.
- 278 victims were identified as being domestic violence victims.
- 115 people experienced barriers related to their culturally and linguistically diverse backgrounds.
- 49 older or frail aged people or people with serious health problems.
- 34 people with serious medical conditions.

Sexual Assault and Domestic Violence Victims and Witnesses

Of the 2,195 new referrals to WAS 1,235 (56.3%) were victims or witnesses in sexual assault matters (child and adult), a similar percentage to the previous financial year. WAS continued to be involved in a number of historical child sexual assault matters with a large number of complainants and sexual offences witnesses. Sexual offences witness category includes witnesses against whom the accused person is alleged to have committed a sexual offence.

Graph 4 - Domestic and family violence related matters - New WAS registrations 2011-2012

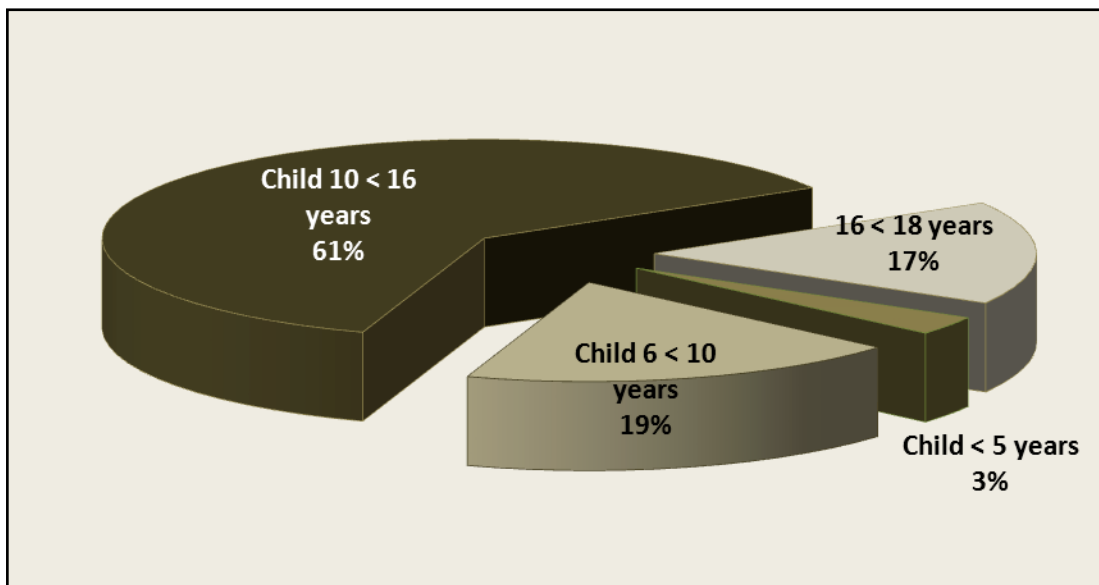


During 2011-2012 there were 376 (17.1%) new WAS registrations which were identified as domestic and family violence related matters, including domestic homicide. In total 278 victims were identified in the domestic violence special needs category and 32 children were registered against domestic violence related matters.

Appendix 4: Service to victims and witnesses (continued)

Children and young people as victims and witnesses

Graph 5 - Special Priority Group – Children and Young People Under 18 years



During 2011-2012 there were 752 new WAS registrations for children and young people under 18 years of age. Graph 4 provides a breakdown of children and young people under the age of 18 years accessing the WAS service. Of the 752 registrations, there were 23 children in the 5 years and under category (3%); 141 children in the 6-10 years category (18.75%); 461 in the 10-16 years category (61%) and 127 between the ages of 16 and 18 years (16.8%). This breakdown is consistent with the previous year: Child sexual assault (CSA) matters.

Of the total 752 registrations of children and young people under the age of 18 years 608 (80.5%) were victims or witnesses in CSA matters, with 13 children under the age of 6; 130 children between the age of 6 and under 10 years; 396 children and young people aged between 10 and 16 years; and 69 young people in the 16 and under 18 year group. There were also 16 young people in the 16-18 year age group who were victims of recent sexual assaults (categorised as adult sexual assault matters) and a further 27 children and young people registered against historical child sexual assault matters.

Child sexual assault (CSA) matters

Of the total 752 registrations of children and young people under the age of 18 years 608 (80.5%) were victims or witnesses in CSA matters, with 13 children under the age of 6; 130 children between the age of 6 and under 10 years; 396 children and young people aged between 10 and 16 years; and 69 young people in the 16 and under 18 year group. There were also 16 young people in the 16-18 year age group who were victims of recent sexual assaults (categorised as adult sexual assault matters) and a further 27 children and young people registered against historical child sexual assault matters.

Appendix 4: Service to victims and witnesses (continued)

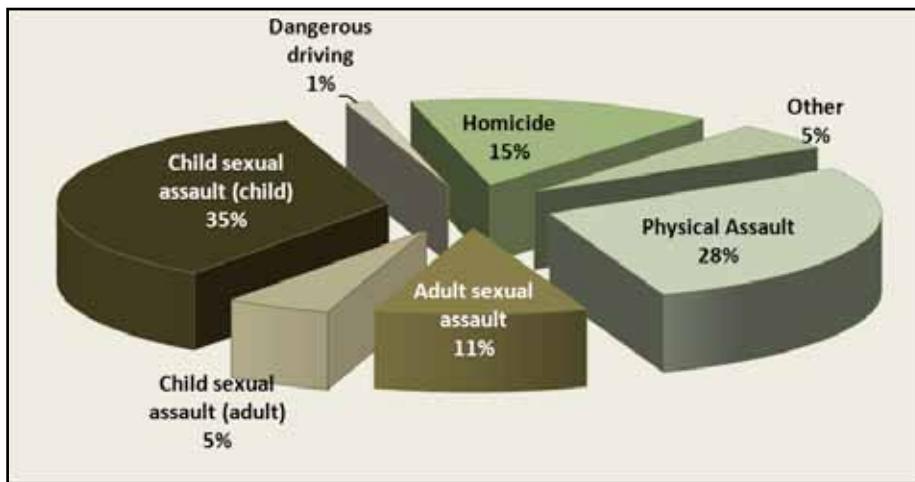
Others matters involving children

Other types of matters involving children and young people registered with WAS during 2010-2011 included

- 31 in child physical assault matters
- 15 children and young people as victims or witnesses in adult physical assault matters (majority being domestic violence related)
- 25 in home invasion and robbery matters and
- 13 children in matters involving death such as homicide and dangerous driving.

Indigenous Victims and Witnesses

Graph 6: - Aboriginal and Torres Strait Islander Victims and Witnesses New WAS registrations by matter type 2011-2012



Total registrations of Aboriginal and Torres Strait Islander victims and witnesses in 2011-2012 were 174, which is higher than the totals of the last two years. This represents approximately 7.93% of new WAS registrations.

Graph 6 details the new WAS registrations for Aboriginal victims, family victims and witnesses during 2011-2012. Of the Aboriginal victims and witnesses receiving a service, 35% were in child sexual assault matters, 5.1% in historical child sexual assault matters, 10.3% in adult sexual assault matters, 28.1% in physical assault matters (generally domestic and family violence related matters) and 14.9% in homicide matters involving the death of the primary victim.

Victims and Witness Survey

The ODPP biennial survey of victims and witnesses was conducted in 2011 the results of which can be read in the ODPP Annual Report 2010-2011. The next biennial survey will be conducted in 2013 and reported in the ODPP Annual Report 2012-2013.

APPENDIX 5: RECOVERY OF PROCEEDS OF CRIME

Confiscation of Proceeds of Crime Act 1989 (CoPoCA)

The Director of Public Prosecutions may commence proceedings for the forfeiture of assets and pecuniary penalty orders pursuant to CoPoCA after a conviction has been recorded. In NSW the Crime Commission also has responsibility for taking confiscation proceedings under the Criminal Assets Recovery Act 1990; such proceedings are not conviction-based. The Crime Commission usually commences proceedings in matters where there are significant amounts that may be forfeited to the State.

On 1 January 2008 amendments to CoPoCA commenced, providing greater power to the NSW Police Force and ODPP to freeze tainted property and confiscate of the proceeds of drug trafficking. Subsequently, the ODPP has made a number of administrative changes to the way proceedings pursuant to CoPoCA are handled. Prosecution Guideline 30 was also amended to highlight the obligations of all ODPP lawyers and Crown Prosecutors to identify and pursue confiscation action where appropriate.

Resources

The ODPP receives recurrent funding of \$310,000 per annum to fulfil the obligations required under CoPoCA. This funding covers employment of a full time confiscation lawyer in Sydney while the remainder pays for other resources including information technology development and training.

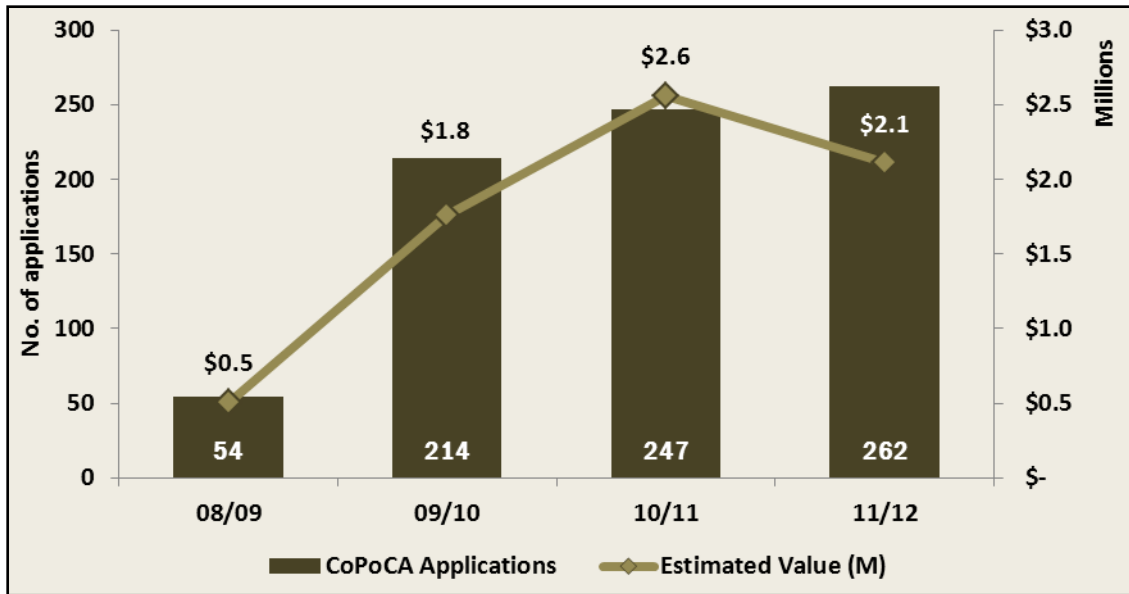
Performance and Statistics

The Deputy Solicitor (Legal) reports quarterly to the Management Committee on the performance of the Office pursuant to CoPoCA. During the 2011/2012 financial year, there was a significant rise in the number of applications made pursuant to the Act. Particulars appear in the following table and graph.

	2008/09	2009/10	2010/11	2011/12
Number of Orders Applied for (FO, PPO & DPO)	54	214	247	262
Number of Orders Granted	49	199	240	240
Number of Forfeiture Orders (FO)	43	188	226	223
Number of Pecuniary Penalty Orders (PPO)	1	7	4	9
Number of Drug Proceeds Orders	5	19	10	8
Percentage of matters where application was successful	91%	93%	97%	92%
Total Estimated Value of property confiscated (Millions)	\$0.5	\$1.8	\$2.6	\$2.1

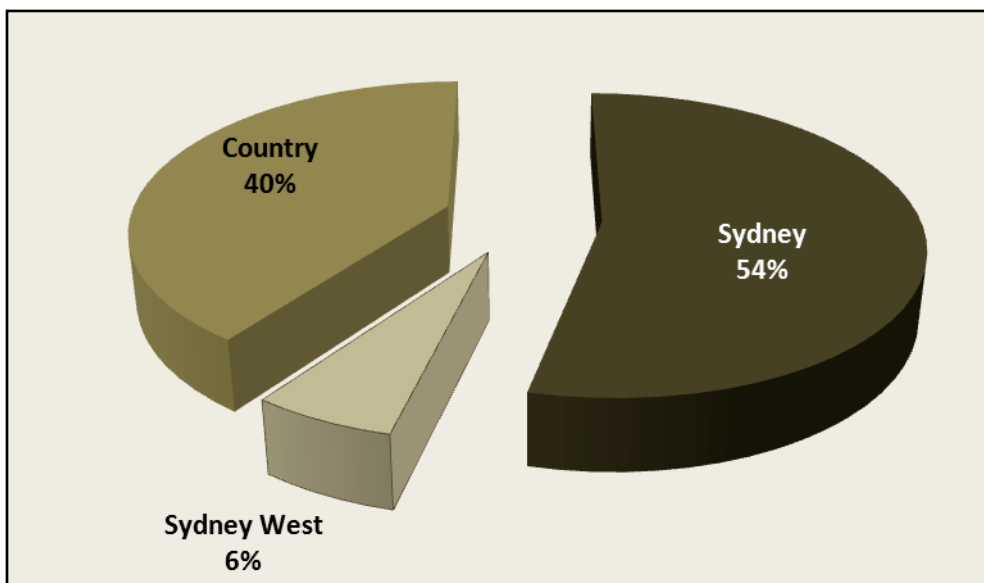
Appendix 5: Recovery of proceeds of crime (continued)

Number of Applications and estimated value



Cash was the most common property confiscated, followed by motor vehicles. Computers used in child pornography, mobile phones and hydroponics equipment were also forfeited. The following table depicts the estimated value of property confiscated by region.

CoPoCA estimated value by region 2011/12



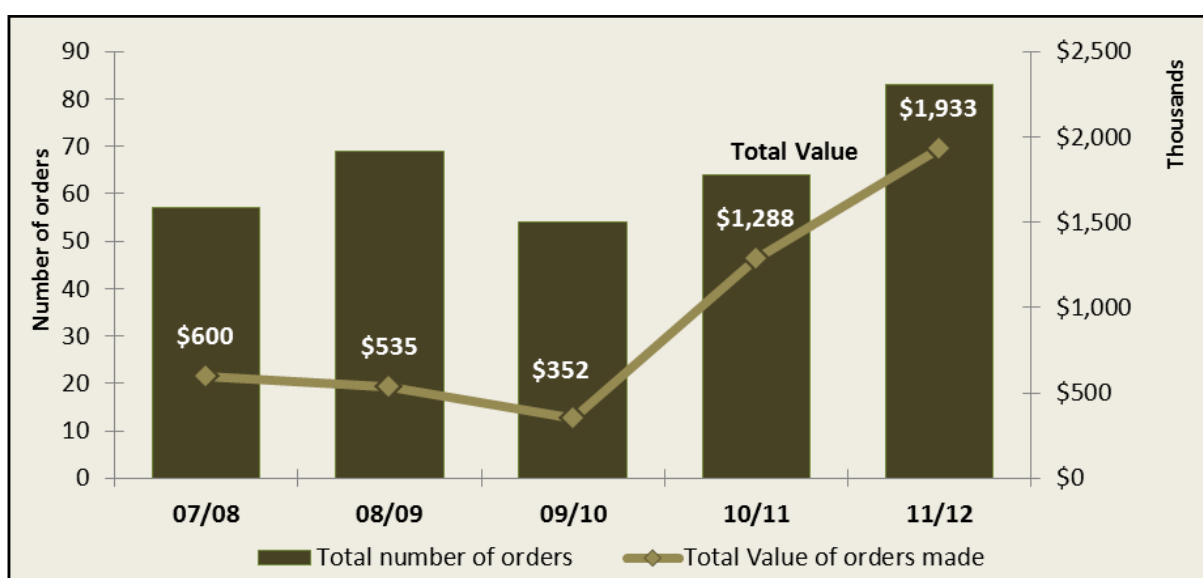
Between 1 July 2011 and 30 June 2012, 1839 matters have been identified on CASES where confiscation action warrants consideration.

APPENDIX 6: COST EFFICIENCY

Costs were awarded against the ODPP in 2011/12 in 83 matters; this is an increase from 64 matters in 2010/11. The total value of costs orders made in 2011/12 was \$1,932,711.

Matters where costs awarded against ODPP					
	2007/09	2008/09	2009/10	2010/11	2011/12
Criminal Procedure Act	39	59	35	35	49
Costs in Criminal Cases Act	11	5	14	17	12
“Mosely” Orders	2	5	1	9	10
Crimes (Appeal & Review) Act	5	0	4	1	11
CoPoCA				2	1
Total number of orders	57	69	54	64	83
Total value of orders made	600	535	352	1,288	1,933
Number of matters dealt with by ODPP in period	15,123	17,023	16,862	16,254	15,736
Number of costs awarded where fault of prosecution	9	12	6	18	6
Percentage of matters where costs orders were made due to the conduct of the prosecution	0.05%	0.07%	0.04%	0.11%	0.04%

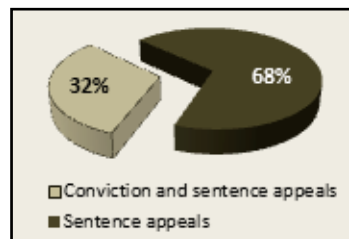
Value and number of costs orders awarded against the ODPP



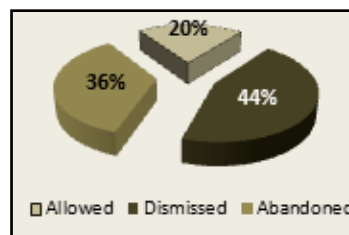
APPENDIX 7: CCA STATISTICS

Finalised Appeals in 2011-2012

A. Appeals by offenders	219
Conviction and sentence appeals	69
Sentence appeals	150



B. Crown Inadequacy Appeals Finalised	45
Allowed	9
Dismissed	20
Abandoned	16

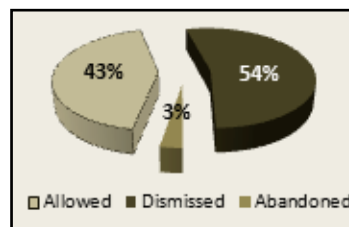


C. Appeals Against Interlocutory Judgments Or Orders (s.5F Appeals)	19
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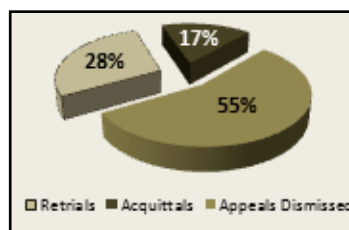
D. Stated Cases From The District Court	1
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Total Appeals Finalised	284
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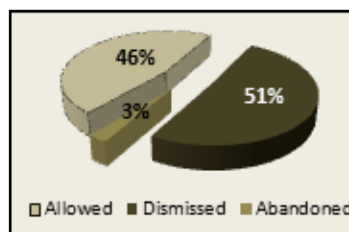
Conviction And Sentence Appeals Finalised In 2011-2012 in Court of Criminal Appeal	No.	%
Appeals Allowed	30	43%
Appeals Dismissed	37	54%
Abandoned	2	3%
Summary Dismissal	0	0%



Results of Finalised Conviction and Sentence Appeals in Court of Criminal Appeal in 2011-2012	No.	%
Retrials	19	28%
Acquittals	11	16%
Appeals Dismissed	37	55%



Sentence Appeals Finalised In Court Of Criminal Appeal In 2011-2012	No.	%
Summary Allowed	70	47%
Appeals Dismissed	76	51%
Abandoned	4	3%
Summary Dismissals	0	0%



APPENDIX 8: SIGNIFICANT LEGISLATION

Crimes Amendment (Reckless Infliction of Harm) Act 2012 (No 41)

Assent and commencement 21 June 2012.

The **Crimes Amendment (Reckless Infliction of Harm) Act 2012** (No 41) amends the Crimes Act 1900 in relation to certain criminal offences which have, as one of their essential elements, "reckless wounding" or the "reckless infliction of grievous bodily harm". Here "grievous bodily harm" means "really serious bodily injury".

A few years ago in 2007, the **Crimes Amendment Act 2007** replaced the essential element of "malice" in various criminal offences (eg malicious wounding) with the more modern term of "recklessness".

After the 2007 Act commenced, the case of **Blackwell v R** [2011] NSWCCA 93 came before the courts. The Court of Criminal Appeal in **Blackwell** held that the 2007 amendments meant the offence of "recklessly inflicting grievous bodily harm" increased what the Crown was required to prove to establish the offence. The 2007 Act required the Crown to prove recklessness as to causing grievous bodily harm, not simply some physical harm.

This effect was unintended by the legislators and to remedy the situation the **Crimes Amendment (Reckless Infliction of Harm) Act 2012** was enacted by parliament.

The **Crimes Amendment (Reckless Infliction of Harm) Act 2012** provides that a person who commits the offence of "recklessly causing grievous bodily harm" if they cause grievous bodily harm to another, and are reckless as to causing the less serious injury of actual bodily harm to that person or another. Sections 35, 60, 60A, 60E and 105 of the **Crimes Act 1900** are amended to make this change.

The amendments made by the **Crimes Amendment (Reckless Infliction of Harm) Act 2012** apply to an offence committed, or allegedly committed, on or after 21 June 2012.

Director of Public Prosecutions Amendment (Disclosures) Act 2011 (No 65)

Assent and commencement 25 November 2011.

The case which led to the law being changed

R v Lipton [2011] NSWCCA 247 dealt with the practices between the NSW Police Force and the Director of Public Prosecutions for the disclosure of documents etc sought by accused persons and others.

Mr Lipton had pleaded guilty to drug offences and was awaiting sentence. He believed that his friend, MB, may have been a

police informant who played a role in his arrest and charge for the offences to which he pleaded guilty. He wished to learn the status of MB, as it was possibly relevant to his sentence proceedings. Mr Lipton's legal representatives applied for the production of certain documents by the NSW Police Force, the Director of Public Prosecutions and others.

In September 2009, NSW Police had provided the Director of Public Prosecutions with a disclosure certificate that said sensitive material existed which was not in the brief of evidence supplied to the DPP concerning Mr Lipton's case. In October 2009, Mr Lipton's solicitors asked the DPP to produce documents concerning MB's involvement in the offences to which Mr Lipton pleaded guilty. The DPP refused and the issue was dealt with in the District Court. That court refused to order the production of the documents. The Court of Criminal Appeal dismissed Mr Lipton's appeal from that decision: **Lipton v R** [2010] NSWCCA 175. The matter returned to the District Court where Mr Lipton applied for, and was granted, a stay of sentence: **R v Richard Lipton (No 2)** [2010] NSWDC 295. In granting the stay, the District Court held that the DPP was required to obtain and inspect the sensitive material, decide whether it was relevant to Mr Lipton's sentence and advise Mr Lipton's lawyers accordingly.

The DPP appealed against this ruling to the Court of Criminal Appeal under Section 5F(2) of the **Criminal Appeal Act 1912**. In deciding the issue, the Court of Criminal Appeal held that the NSW Police Force is required, under Section 15A of the **Director of Public Prosecutions Act 1986**, to physically produce all relevant material to the DPP: **R v Lipton** [2011] NSWCCA 247.

Legal change following the Lipton case

Following **R v Lipton** [2011] NSWCCA 247 the **Director of Public Prosecutions Amendment (Disclosures) Act 2011** was passed by NSW Parliament. It was assented to and commenced on 25 November 2011.

The Act allows the existing disclosure practices between the NSW Police Force and the Director of Public Prosecutions to continue until 1 January 2013.

Section 15A of the **Director of Public Prosecutions 1986** is amended to provide that police officers investigating indictable (serious) offences are not required to disclose to the Director of Public Prosecutions information, documents etc obtained during the investigation which are subject to a legitimate claim of privilege, public interest immunity or statutory immunity. In these cases, the police must inform the Director that they have obtained the information, documents etc. Section 36 is amended to provide interim arrangements for existing matters NSW Police and the Director of Public Prosecutions are dealing with. These arrangements (called transitional provisions) extend the amending Act to

Appendix 8: Significant Legislation (continued)

proceedings for indictable offences which commenced before 25 November 2011.

Criminal Case Conferencing Trial Repeal Act 2012

Assent and commencement 14 March 2012.

In 2008, the **Criminal Case Conferencing Trial Act 2008** established a 12 month trial scheme for participation in the conferencing of criminal cases. The aim of scheme was to encourage early plea negotiations in certain criminal matters before committal proceedings began. It called for the Crown and the legal representative of the accused to participate in a compulsory conference to determine whether there was any offence to which the accused was prepared to plead guilty before being committed for trial or sentence. The conferencing included other matters listed in Section 12(3) of the Act in respect of which the accused and the prosecution could reach agreement.

The scheme applied to certain indictable offences at nominated courts where a court attendance notice was filed on or after 1 May 2008 but before 1 May 2009; or before any later date listed in the Regulations, regardless of whether the offence was committed before or after 1 May 2008.

The 2008 Act codified discounts that judges could apply for guilty pleas for matters covered by the scheme. If an offender pleaded guilty at any time before being committed for sentence, the court was required to apply a sentence discount of 25 per cent. If an offender pleaded guilty to an offence after committal for trial, the court could decide to apply a discount of up to 12.5 per cent unless there were "substantial grounds" for allowing a discount of more than 12.5 per cent but less than 25 per cent. Where these discounts applied, the sentencing procedures in Sections 21A and 22 of the **Crimes (Sentencing Procedure) Act 1999**, and any relevant common law sentencing guidelines, did not apply.

The codification of sentence discounts operated as an acknowledgment of the savings in time and resources that would otherwise be spent if the trials were run. The scheme avoided further potential trauma to victims which may occur if the offences were prosecuted, and it reflected the remorse demonstrated by the accused person who pleaded guilty.

In 2012, a decision was made to discontinue the scheme and so parliament passed the **Criminal Case Conferencing Trial Repeal Act 2012**. This legislation repealed the 2008 Act which set up the scheme together with the **Criminal Case Conferencing Trial Regulation 2008**.

Although the scheme has been discontinued, the 2012 Act preserves an entitlement to a 25 per cent sentence discount

for a guilty plea entered before committal. In a similar vein, the application of a discount under the scheme to any offender who, before 14 March 2012, had pleaded guilty to an offence after committal for trial is also continued. Certain procedural protections which existed under the 2008 legislation are also preserved.

Courts and Crimes Legislation Amendment Act 2012 (No 11)

Assent and commencement 21 March 2012.

The **Courts and Crimes Legislation Amendment Act 2012** makes miscellaneous changes to Acts which deal with crimes, court proceedings, the Director of Public Prosecutions and fine enforcement. A summary of the main changes appears below.

Amendments to the Criminal Procedure Act 1986 and Criminal Procedure Regulation 2010

The existing law provides that summary offences (less serious offences) are dealt with by the Local Court. Indictable offences (serious criminal offences) can be dealt with by the District Court and/or the Supreme Court. However, two Tables of offences under the **Criminal Procedure Act 1986** allow certain indictable offences to be dealt with by the Local Court in certain circumstances. Table 1 lists indictable offences which can be dealt with by the Local Court, unless the prosecutor or person charged decides otherwise. Table 2 lists indictable offences which can be dealt with by the Local Court unless the prosecutor decides otherwise.

Maximum penalties for Table Offences

Section 267 sets out the maximum penalty for an indictable offence in Table 1, dealt with summarily under Chapter 5 of the **Criminal Procedure Act 1986**, where the maximum penalty is not provided by law. Section 267(3) is amended to provide that the maximum fine the Local Court can impose for a Table 1 offence is, subject to the other provisions in that section, 100 penalty units or the maximum fine which applies to the offence, whichever is the lesser. Further amendment was made to provide that the maximum term of imprisonment which the Local Court can impose for a Table 1 offence (except offences under the Drug Misuse and Trafficking Act 1985) is increased from 12 months to two years.

Section 268 sets out the maximum penalty for an indictable offence, dealt with summarily under Table 2, where the maximum penalty is not provided by law. A new list of the maximum fines which the Local Court can impose for indictable offences, dealt with summarily under Table 2, is provided in Section 268(2). A fine may be imposed, as referred to in Section 268(2A), for an offence in addition

Appendix 8: Significant Legislation (continued)

to, or instead of, any sentence of imprisonment that may be imposed by law: Section 268(2AA).

Changes to requirements for dealing with “child abuse” material

Changes have been made to the requirements for using random samples of child abuse material (previous called “child pornography”) in court proceedings for offences of using children to produce child abuse material and producing, disseminating and possessing child abuse material.

The definition of “authorised analyst” in Section 289A is removed. Section 289A is amended to add a definition of “authorised classifier” of child abuse material. “Seized material”, in proceedings for an offence involving child abuse material is now defined in Section 289A as material:“(a) that came into the possession of a police officer in the course of the exercise of functions as a police officer; and (b) some of which is alleged child abuse material that is the subject of the proceedings”.

Clause 27A is added to the **Criminal Procedure Regulation 2010** to clarify that “NSW Police Force members who have completed training in the classification of child abuse material arranged or conducted by the NSW Police Force are “authorised classifiers” under Section 289A **Criminal Procedure Act 1986**.

Use of “random sample evidence” in child abuse material cases

Section 289B deals with random sample evidence used in child abuse material cases. The section is amended in several ways. For example, the term “authorised analyst” is replaced with the new term of “authorised classifier”. “Authorised classifiers” are allowed to examine what is now referred to, more simply, as “seized material”.

Protected confidences

Section 299B deals with protected confidences. It is amended to clarify certain matters concerning the protection of confidential communications made by alleged victims of sexual assault to counsellors. Section 305A deals with subpoenas for producing counselling communications. It is amended to change the power under the **Criminal Procedure Regulations 2010** to make provision for the issue and service of subpoenas.

New Table offences

Table 1 to the **Criminal Procedure Act 1986** lists indictable offences (serious offences) which can be dealt with by the Local Court unless the prosecutor or person charged decides otherwise. The Table is amended to add certain fraud

offences involving amounts over \$5,000 which appear in the **Conveyancers’ Licensing Act 2003** and the **Property, Stock and Business Agents Act 2002**.

Table 2 to the **Criminal Procedure Act 1986** lists indictable offences which can be dealt with in the Local Court unless the prosecutor decides otherwise. Table 2 is amended by adding certain fraud offences involving less than \$5,000 which appear in the **Conveyancers’ Licensing Act 2003** and the **Property, Stock and Business Agents Act 2002**.

The **Courts and Crimes Legislation Amendment Act 2012** makes interim or transitional arrangements for offences already committed, or matters already on foot, which would otherwise be affected by the new legislation. These detailed arrangements are set out in Schedule 2, Part 25 of the **Criminal Procedure Act 1986**.

Amendments to the Director of Public Prosecutions Act 1986

The **Director of Public Prosecutions Act 1986** is amended regarding provisions which apply the **Judges’ Pensions Act 1953** to the Director of Public Prosecutions. The amendments enable the Director to receive a pension under the **Judges’ Pensions Act 1953** on retirement for reasons of ill-health or allows the spouse of the office holder to receive a pension, if the Director dies in office. Section 36(9) is added to the **Director of Public Prosecutions Act** to extend this amendment to a Director holding office immediately before the **Courts and Crimes Legislation Amendment Bill 2012** was tabled in parliament.

Amendment to the Fines Act 1996

Section 13 clarifies that an automated computer system can be used to refer overdue court imposed fines to the State Debt Recovery Office for making a court fine enforcement order.

Crimes Amendment (Consorting and Organised Crime) Act 2012 (No 3)

Assent 14 March 2012. Commencement 9 April 2012.

A summary of the principal changes made by this Act appears below.

Amendments to the Crimes Act 1900

Section 93GA is amended to create a new offence of firing at a dwelling-house or other building in the course of organised criminal activity with reckless disregard for a person’s safety. The maximum penalty is 16 years imprisonment. For this offence, “organised criminal activity” includes firing into a

Appendix 8: Significant Legislation (continued)

dwelling-house following arrangement and planning of that act with others; as part of a series of related shootings; or in the course of other criminal activity, such as shootings in a “turf war” between drug syndicates.

Section 93GA(4) is added to provide that where a jury is not satisfied that an accused person is guilty of an offence under Sections 93GA(1A) or (1B), they may find the person guilty of an offence under Section 93GA(1) **Crimes Act 1900**.

Criminal Groups

Part 3A, Div 5 of the **Crimes Act 1900** is renamed “Criminal groups”.

Section 93T deals with participation in criminal groups. Section 93T(1) previously created the offence of participating in a criminal group, where the participant knew that it was a criminal group and knew, or was reckless about, whether their participation contributed to criminal activity. The offence has been changed so that a person who participates in a criminal group is now guilty of a crime if they (a) know, or ought reasonably know, it is a criminal group, and (b) know, or ought reasonably know, that their participation contributes to any criminal activity. The maximum penalty is five years imprisonment.

Following these amendments, it is hoped that an offence under Section 93T(1) **Crimes Act 1900** will better apply to members of criminal groups, and people on the fringes of those groups, who contribute to the group’s criminal offending.

Section 93T(1A) creates an offence of directing the activities of a criminal group where the person: (a) knows it is a criminal group, and (b) knows, or is reckless about, whether that participation contributes to any criminal activity. The maximum penalty is ten years imprisonment. This offence applies to senior members of criminal groups, and any person who “tells a group member what to do or makes the decisions that determine what the group will do”. eg. Ordering a group member to carry out a drive-by shooting.

Section 93T(4A) creates an offence of directing the activities of a criminal group whose activities are organised and on-going in certain circumstances. Those circumstances are where the person (a) knows it is a criminal group and (b) knows, or is reckless about, whether that participation contributes to any criminal activity. The maximum penalty is 15 years imprisonment. The offence applies to sophisticated organisations such as outlaw motorcycle gangs as well as one-off gang activities.

Section 93TA deals with receiving a material benefit sourced from the criminal activities of criminal groups. Under Section 93TA(1) a person who receives a material benefit from a criminal group, derived from criminal activities carried out

by the group, is guilty of an offence where the following are made out. The person (a) knows it is a criminal group, and (b) knows, or is reckless about, whether the benefit is derived from criminal activities of the group. The maximum penalty is five years imprisonment. Under Section 93TA(2) a material benefit sourced from the criminal activities of a criminal group is “a material benefit derived or realised, or substantially derived or realised, directly or indirectly, from the criminal activities of a group.”

An offence under Section 93TA(1) includes persons who knowingly receive a material benefit from a criminal group, but who are not participants or direct contributors in a group’s criminal activity. eg. A locksmith who changes the locks at a criminal group’s meeting place and is paid by someone on behalf of the criminal group (assuming the required mental elements of the offence are proved). The offence excludes payments made by those who have no direct connection with the group. eg. A gang member’s payments for his family’s grocery bill.

Section 93U deals with alternative verdicts. It is amended to provide that where a jury is not satisfied of an accused person’s guilt of an offence under Section 93T(1A) or (4A), they may find the person guilty of an offence under Section 93T(1). Section 93U(2) is added to provide that where a jury is not satisfied of an accused person’s guilt of an offence under Sections 93T(1), (1A) or (4A), they may find the person guilty of an offence under 93TA.

Part 3A, Div 7 of the **Crimes Act 1900** deals with consorting. Section 546A, which previously provided for the offence of consorting with convicted persons, is repealed. A new Div 7 of Part 3A is added. The new Division 7 creates the offence of habitually consorting with convicted offenders: Section 93X(1). The maximum penalty for this offence is three years imprisonment or a fine of 150 penalty units, or both. Here “consort” means to associate in person or by any other means such as electronic communication via Facebook, Twitter and SMS.

A “convicted offender” is a person who has been convicted of an indictable (serious) offence (excluding offences under Section 93X): Section 93W. To habitually consort with convicted offenders, a person must associate with at least two convicted offenders on at least two occasions: Section 93X(2). The official warning required by Section 93X(1)(b) is an oral or written warning by a police officer to a convicted offender, warning them that their dealings with another convicted offender amount to an offence: Section 93X(3).

Consorting under Section 93X(1) excludes coincidental or accidental meetings at a bus stop, corner shop, or while buying a coffee etc. Certain forms of consorting do not constitute dealing with a person under Section 93X(1), as long as the

Appendix 8: Significant Legislation (continued)

accused person can satisfy the court that their conduct was reasonable in the circumstances.

Consorting under Section 93X(1) excludes coincidental or accidental meetings at a bus stop, corner shop, or while buying a coffee etc. Certain forms of consorting do not constitute dealing with a person under Section 93X(1), as long as the accused person can satisfy the court that their conduct was reasonable in the circumstances.

The **Crimes Amendment (Consorting and Organised Crime) Act 2012** requires the Ombudsman to prepare a report on the operation of Part 3A, Div 7 two years after the Act commences.

Amendments to the Criminal Assets Recovery Act 1990

Section 6 is amended to extend the definition of a "serious criminal offence" to an offence under Section 93TA of the **Crimes Act 1900**.

Amendments to the Criminal Procedure Act 1986

Offences under Section 93T(1A) and Section 93T(4A) of the **Crimes Act 1900** are added to Table 1 of the **Criminal Procedure Act**. Table 1 lists indictable (serious) offences which are dealt with by the Local Court unless the prosecutor or person charged decides otherwise. Offences under Sections 93TA and 93X **Crimes Act 1900** are also added to Table 2 of the **Criminal Procedure Act**. Table 2 lists indictable offences which are dealt with by the Local Court unless the prosecutor decides otherwise.

Amendments to the Police Act 1990

Section 207A deals with integrity testing programs carried out by the Commissioner. It is amended to provide that an authorised person who commits an act or omission for an integrity testing program is not guilty of an offence under Section 93X **Crimes Act 1900**.

APPENDIX 9: SIGNIFICANT JUDICIAL DECISIONS

High Court of Australia

Muldrock v The Queen [2011] HCA 39

Standard non-parole periods

On 19 March 2007 Derek Muldrock (the applicant), who is intellectually impaired, was charged with aggravated indecent assault offence under Section 61M(1) **Crimes Act 1900** and sexual intercourse with a child under the age of 10 pursuant to section 66A Crimes Act. Section 66A of the Crimes Act carries a standard non-parole period (SNPP).

In the District Court, the applicant pleaded guilty (receiving a 25 per cent discount on sentence) to one count of sexual intercourse with a child under the age of 10. The other charge was taken into account on a Form 1. A sentence of imprisonment comprising a non-parole period of 96 days, and a balance of term of 8 years and 269 days, backdated to expire on the day of sentence, was imposed.

This sentence reflected the applicant's intellectual impairment and the availability of a place at a residential facility for the rehabilitation of sex offenders.

The applicant appealed against sentence to the NSW Court of Criminal Appeal and the Crown cross appealed against asserted inadequacy of sentence. The applicant's appeal was refused and the Crown appeal was allowed. The NSWCCA resented the applicant to a term of imprisonment comprising a non-parole period of 6 years, 8 months and a balance of term of 2 years, 4 months.

On 11 March 2011 Mr Muldrock was granted special leave to appeal to the High Court of Australia. The High Court set aside the orders of the CCA and remitted the matter for the offender to be re-sentenced.

The court held it is essential to recognise that fixing a non-parole period is but one part of the larger task of passing an appropriate sentence. It is not to be treated as if it were the necessary starting point or the only important end-point in framing a sentence. It is important to understanding the operation of Div 1A **Crimes (Sentencing Procedure) Act** to recognise that the reference to Section 21A in Section 54B(3) permits the court to take into account all of the common law factors that are relevant to the determination of a sentence as well as the specific matters referred to in Sections 21A(1)(c), 21A(2) and 21A(3): [19].

Section 54B must be read as a whole. A combined reading of Sections 54B(2), 54B(3) and 21A requires an approach to sentencing for Div 1A offences that is consistent with the approach described by McHugh J in *Markarian v The Queen* (2005) 228 CLR 357 at [51] whereby the judge identifies all

the factors that are relevant to the sentence, discusses their significance and then, informed by all the factors of the case, makes a value judgment as to the appropriate sentence: [26]. Sections 54B(2) and 54B(3) oblige the Court to take into account the full range of factors in determining the appropriate sentence for the offence. In that task the Court is to be mindful of two guideposts: the maximum penalty and the standard non-parole period. The objective seriousness of the offence as referred to in Section 54A(2) is to be determined wholly by reference to the offending without reference to matters personal to the offender or class of offenders: [27].

A standard non-parole period only represents the non-parole period for an hypothetical offence in the middle of the range of objective seriousness without regard to the range of aggravating and mitigating factors in an individual case: [31]. It may be that a "likely outcome" of adding the court's awareness of the standard non-parole period to the various considerations is that there will be a move upwards in the length of the non-parole periods for some offences: [31].

The CCA did not take sufficient account of the offender's mental retardation: [9]. It is not clear from the language used by the CCA which of the judge's findings it rejected: that the offender's intellectual disability is "significant"; or that general deterrence had no place in sentencing: [48]-[49]. On either analysis the CCA erred in its approach to the evidence of the offender's disability: [49].

NSW Court of Criminal Appeal

R v Richard Lipton [2011] NSWCCA 247

Scope of Director of Public Prosecution's duty of disclosure

Mr Richard Lipton, the respondent, pleaded guilty to two counts of supplying a large commercial quantity of a prohibited drug contrary to Section 25(2) **Drug Misuse and Trafficking Act 1985**. The respondent had made various drug deals with a NSW undercover police officer. During the time the drug dealings occurred, the respondent was in a personal relationship with MB.

In September 2009, NSW Police had provided the DPP with a police disclosure certificate which indicated there was sensitive material not contained in the brief of evidence. This certificate was issued in purported compliance with Section 15A of the **Director of Public Prosecutions Act 1986** (the DPP Act). On 9 October 2009 the respondent's solicitors unsuccessfully requested the DPP to produce documents concerning MB's involvement in the offences to which Mr Lipton had pleaded guilty. The respondent's solicitor issued a

Appendix 9: Significant Judicial Decisions (continued)

subpoena to the Commission of NSW Police and the NSW Crime Commission seeking production of the documents. King DCJ declined production finding that the respondent had not identified a legitimate forensic purpose which would warrant the documents being produced.

The respondent sought, and was granted, a stay of sentence proceedings until the Crown disclosed documents concerning communications between MB and NSW Police: *R v Richard Lipton (No 2)* [2010] NSWDC 295. In granting the stay Finnane DCJ held that there could be no question of public interest immunity between the NSW Police and the DPP. Further the DPP was obliged to obtain and inspect the specified material, form an opinion as to its relevance on sentence, and communicate this opinion to the respondent's legal advisers.

The DPP appealed against this ruling under Section 5F(2) **Criminal Appeal Act 1912**. The NSWCCA dismissed the appeal for the reasons below.

(1) The NSW Police Force is obliged, under Section 15A of the **DPP Act 1986**, to physically produce all relevant material to the DPP. Section 7 of the **DPP Act 1986** confers primary responsibility for conducting prosecutions for indictable offences on the Director of Public Prosecutions. The Director cannot properly discharge this role without access to all information relevant to an issue in a matter. The Director's duty to act fairly is undermined where police merely advise that they hold relevant information, without providing it. Where the DPP is aware of material that may assist the defence case, and it is subject to a claim of public interest immunity, it should be disclosed to the accused: *R v Reardon (No 2)* (2004) 60 NSWLR 454 at [46]-[65]; *R v Ward* [1993] 2 All ER 577.

(2) The Director was obliged to form his own view about whether material relating to MB was relevant and potentially subject to a public interest immunity claim, and to advise the respondent accordingly. This conclusion is based on a consideration of the **DPP Act 1986**, particularly Sections 7 and 15A and relevant case law. Section 7 of the **DPP Act** sets out the responsibilities of the Director, which include instituting and conducting, on behalf of the Crown, prosecutions for indictable offences. Section 15A imposes a duty on police officers to disclose to the Director "all relevant information ... obtained during the investigation that might reasonably be expected to assist the case for the prosecution" or the accused. Under Section 15A(2)(c) this duty continues until one of three events occurs, including the acquittal or conviction of the accused.

The information is to be provided to enable the prosecution to "sensibly appraise" whether it should be disclosed to the accused. Section 15A adopts language conventionally used to describe the prosecution's duty of disclosure to an accused.

Subject to any public interest immunity, that duty obliges the prosecution to disclose all material which may assist the defence: *R v Reardon (No 2)*. "An anterior common law duty to disclose such material to the prosecution is imposed on the police": *R v Solomon* [2005] SASC 265; (2005) 92 SASR 331.

The court found that the police disclosure certificate was invalid to the extent that it purported to allow police to withhold relevant material from the DPP. Although police could advise the DPP of their interest in claiming public interest immunity, when they produced material, the DPP is required to form his own view about whether the material is relevant to an issue in the matter and, if so, to advise the respondent accordingly, including in relation to any proposed claim of public interest immunity. In a proposed public interest immunity claim, the Director's view is not determinative because a decision can only be made by a court in response to a public interest immunity application.

Note

Following this decision, NSW Parliament enacted the **Director of Public Prosecutions Amendment (Disclosures) Act 2011** (No 65). The Act was assented to and commenced on 25 November 2011. It allows the current disclosure practices between the NSW Police Force and the Office of the Director of Public Prosecutions (NSW) to continue until 1 January 2013.

Whelan v R [2012] NSWCCA 147

The appellant was convicted of dangerous driving occasioning death, contrary to Section 52A(1)(c) of the **Crimes Act 1900**. He was driving home at about 4.30am on 17 May 2009 when he pulled out to overtake a convoy of four 4-wheel drive vehicles, each towing a boat. He collided head on with a vehicle being driven in the opposite direction. A passenger in that vehicle was pregnant. She suffered a placental abruption. Her baby was born prematurely 4 days later, but the baby died on 23 June 2009. Medical evidence in the appellant's trial established that the baby died as a result of a complication arising from pre-mature birth, namely, necrotizing enterocolitis ('NEC'), the result of a perforated intestine, and not as a result of the motor vehicle accident [33]. The defence case at trial was that the jury would not be satisfied beyond reasonable doubt that causation had been proven in light of the evidence that the baby was born healthy at birth but later died after developing NEC and that whilst the accident had caused the premature birth it had not caused the baby's death [71].

In the appeal to the CCA, the appellant accepted that a "person" for the purposes of Section 52A includes a child injured in utero who is born alive following an impact with a motor vehicle and lives independently but then dies as the result of injuries sustained in the accident [65].

Appendix 9: Significant Judicial Decisions (continued)

The Court noted, "Whether or not the causal chain on which the Crown relied was established on the evidence, was a matter for the jury" [72]. At [78]-[79] it was said, "in Section 52A of the Crimes Act a distinction has been drawn between an impact which results in the death of a foetus in utero, which, if the other elements of the offence are established, will result in an offence under Section 52A(3); and an impact which results in a baby who is born alive, but who dies later as the result of the impact, which will result in a Section 52A(1) offence. If the evidence establishes that the impact was a substantial cause of the death of the foetus after birth, the Section 52A(1) offence will be established, whether the death is caused by pre-birth injury, or by the prematurity of the child at birth itself. It must not be overlooked that in the case of an impact which results in the death of a foetus in utero, it is a Section 52A(3) offence in respect of the mother which will arise, if the other elements of the offence are present. That is an offence concerned with dangerous driving which results in grievous bodily harm. Importantly, the definition of 'grievous bodily harm' includes in paragraph (a) 'the destruction (other than in the course of a medical procedure) of the foetus of a pregnant woman, whether or not the woman suffers any other harm'"

At [81] the CCA said that the elements of a Section 52A(1) offence do not alter in a case where the death in question is that of a baby who is born alive after an impact. The CCA also said [88], "In terms of causation, it follows that even if premature birth is not itself considered to be an injury to a foetus, if the child is born alive as the result of the impact, but later dies because of the immaturity of its organs and systems at the birth which the impact caused, such a death may be treated as if it were the result of the impact. Such a child is capable of being the victim of a Section 52A(1) offence. Evidence that the death was the result of the prematurity of the baby at the birth caused by the impact will establish that an offence under Section 52A(1) was committed, if the other elements of the offence are proven".

Millwood [2012] NSWCCA 2

The Court dismissed an appeal by the Crown against the sentence imposed on the respondent for an offence of aggravated dangerous driving occasioning death, and aggravated dangerous driving occasioning grievous bodily harm. The respondent had a severely dysfunctional childhood characterised by neglect of his mother and stepfather who were heroin addicts. His stepfather was also physically abusive. The respondent also witnessed the death of his mother from a heroin overdose at the age of 16. The respondent's behaviour degenerated from an early age and he began to

use alcohol and illicit drugs. At [69] the Court extended the principles in *Fernando* (1992) 76 A Crim R 58 to the personal circumstances of the respondent who was not of Aboriginal descent. Simpson J (with whom Bathurst CJ and Adamson J agreed) said that she was not prepared to accept that "an offender who has the start in life that the respondent had bears equal moral responsibility with one who has had what might be termed a "normal" or "advantaged" upbringing. Common sense and common humanity dictate that such a person will have fewer emotional resources to guide his (or her) behavioural decisions. I should not be taken as implying that such a person bears no moral responsibility; but I consider that the DPP's submission significantly underestimates the impact of a dysfunctional childhood. Indeed, it sits uneasily with the immediately preceding acknowledgement that his upbringing had been "tragic and dysfunctional". That his background is a relevant consideration affording some (although limited) mitigation is entirely consistent with the approach taken by Wood J (as he then was) in *R v Fernando* (1992) 76 A Crim R 58, a decision which has repeatedly been followed in this Court. If that were not so, there would be no purpose in sentencing courts receiving, as they invariably do, evidence concerning the personal background of offenders".

Boughen; Cameron [2012] NSWCCA 17

The power for sentencing judges to impose intensive correction orders (ICOs) commenced on 1 October 2010, but it was in 2012 that the Court of Criminal Appeal began developing principles concerning such orders. In *R v Boughen; R v Cameron* [2012] NSWCCA 17 the Court allowed an appeal by the (Cth) DPP against the imposition of ICOs on two respondents. Apart from the Court determining that the appropriate starting point for the sentences was 6 years (rendering manifestly inadequate the 2 years imposed at first instance), Simpson J (with whom Hislop J and Latham J agreed) said at [109], "it is clear that the principal focus of this sentencing option is rehabilitation". Her Honour added that "[t]his was a case in which, although the sentencing judge made no express findings concerning rehabilitation, it is plain that rehabilitation is an irrelevant consideration. There should be no, or minimal, prospect of either of the respondents re-offending. That in itself renders the use of the Intensive Correction Order inappropriate. It may be that the removal of the Periodic Detention option has deprived sentencing judges of one vehicle by which to express denunciation of the conduct under consideration; but that is the clear expression of the will of the legislature. The Intensive Correction Order should not be used as a substitute for that now unavailable option" (at [110]).

Appendix 9: Significant Judicial Decisions (continued)

NSW Supreme Court

Roads and Traffic Authority of NSW v Tamara O'Sullivan [2011] NSWSC 1258

Court ordered license disqualifications commence on the date of conviction

On 19 February 2011 Ms O'Sullivan (the first defendant) committed two driving offences. The first offence was driving a motor vehicle with a high range of prescribed concentration of alcohol in her blood contrary to Section 9 **Road Transport (Safety and Traffic Management) Act 1999** (the *pca* offence). The second offence was driving at a speed exceeding 45 kilometres per hour above the relevant speed limit (the speeding offence). A police officer administered a breath test to Ms O'Sullivan, issued a suspension notice and asked that she surrender her licence: Section 205(1A)(a) of the **Road Transport (General) Act 2005**.

In the Local Court, Ms O'Sullivan entered pleas of guilty to both offences. For the *pca* offence, a fine and a driving disqualification for 12 months dating from 19 February 2011 was imposed. This disqualification date was not the date of conviction. For the speeding offence, a fine and six month driver disqualification dating from 19 February 2012 was imposed. This disqualification date was not the date of conviction.

The RTA brought proceedings in the Supreme Court because the magistrate refused to concede that an error had been made in backdating the driver disqualification.

The issue for the court was whether a court ordered driver disqualification begins on the date of conviction or on some other date. To decide this it was necessary for the court to consider several Acts which apply to the matter. In examining the disqualification for the speeding offence, the court looked at rule 10-2 of the Road Rules 2008 (NSW), which deals with penalties and disqualifications for speeding offences. The automatic disqualification provided for by rule 10-2(3)(b) arises from conviction and must commence on that date. Subject to the limitations in rule 10-2(4), a court may order a longer or shorter disqualification period, but it does not have the power to order the disqualification to commence on a date other than the date of conviction. Rule 10-2(9) "expressly provides that a period of disqualification ordered under r 10-2(3)(b) commences on the date of the conviction for the offence to which it relates." The Supreme Court therefore held that the Local Court order disqualifying Mr O'Sullivan for the speeding offence was made without power and involved jurisdictional error.

The court also considered the disqualification for the *pca* offence. Part 5.4, Div 4 of the **Road Transport (General) Act 2005** was held to apply. The suspension notice issued to Ms O'Sullivan was given under Section 205 of that Act. Under Section 188(2)(d)(i) an automatic three year period of disqualification, as a result of conviction, must commence on the date of conviction. Under Section 188(2)(d)(ii) a court has the power to order a different disqualification period, but must order that the disqualification begin on the date of conviction. Section 205(6) of the **Road Transport (General) Act 2005** does not confer a power on a magistrate to make an order under Section 188(2)(d)(ii) to begin a disqualification order from a date other than the date of conviction.

APPENDIX 10: 2011-2012 EEO ACHIEVEMENTS

The Office continues to promote completion of the EEO Survey during staff inductions and has maintained an 88% response rate. Staff are also asked to submit EEO data when applying for learning and development opportunities.

Formal induction programs include the provision of relevant and appropriate EEO information (including Fairways, Department of Premier and Cabinet information flyer, an extract from the Office Grievances handling procedures) and also contain an interactive activity to promote Dignity in the Workplace.

The Office continued the targeted Indigenous Legal Development Programme placement this year. Additional external Indigenous support was sought to assist with the recruitment process. The Office also continues to encourage applications from experienced Indigenous lawyers by advertising large recruitment campaigns in the Koori Mail.

The Office progressed in establishing an agreement with the National Disability Recruitment Co-ordinator to commence advertising all positions within the disability network.

15% of new starters this year were young people (under the age of 25) and the average age of new recruits was 35. The Office will continue with ongoing recruitment and retention of young people next year.

The Office conducted an 'Issues in EEO, Discrimination and Employment Law' session as part of the ongoing MCLE/CPD learning program which was attended by 114 staff.

The introduction of Activity Based Costing (ABC) has provided the capacity for improved workload analysis. This analysis will assist with equity of workload across the Office into the future. The Office is currently implementing a business intelligence tool which will provide managers with improved access to a range of data to assist with the ongoing management and support of their staff.

The Office continues to provide flexible work options to ensure staff are working reasonable hours, taking time off and achieving work life balance. As at 30 June 2012, 12% of staff in the Office were working part time. There was also an increase in the number of staff engaging the carer support service that is available.

Every year the Office celebrates International Women's Day with an address from a respected member of the legal community. This year Justice Megan Latham spoke to a large audience of ODPP staff.

The Office continues to ensure, when reviewing any policy, that equity and diversity factors are considered and all related decisions are equitable and non-discriminatory.

APPENDIX 11: EQUAL EMPLOYMENT OPPORTUNITIES STATISTICS

A. Trends in the Representation of EEO Groups						
	% of Total Staff					
EEO Group	Benchmark or Target	2008	2009	2010	2011	2012
Women	50%	62%	62%	61%	60%	61.9%
Aboriginal people and Torres Strait Islanders	2.6%	0.7%	0.8%	0.7%	0.8%	0.7%
People whose first language was not English	19%	17%	16%	16%	16%	14.8%
People with a disability	NA	7%	5%	5%	5%	5.9%
People with a disability requiring work-related adjustment	1.5%	1.7%	3.2%	2.2%	1.9%	1.8%

B. Trends in the Distribution of EEO Groups						
	Distribution Index					
EEO Group	Benchmark or Target	2008	2009	2010	2011	2012
Women	100	82	83	85	86	85
Aboriginal people and Torres Strait Islanders	100	n/a	n/a	n/a	n/a	n/a
People whose first language was not English	100	88	89	91	91	91
People with a disability	100	93	94	94	95	96
People with a disability requiring work-related adjustment	100	96	n/a	n/a	n/a	n/a

Notes:

1. Staff numbers are as at 30 June.
2. Excludes casual staff.
3. A Distribution Index of 100 indicates that the centre of the distribution of the EEO group across salary levels is equivalent to that of other staff. Values less than 100 mean that the EEO group tends to be more concentrated at lower salary levels than is the case for other staff. The more pronounced this tendency is, the lower the index will be. In some cases the index may be more than 100, indicating that the EEO group is less concentrated at lower salary levels.
4. The Distribution Index is not calculated where EEO group or non-EEO group numbers are less than 20.

APPENDIX 12: GOVERNMENT ENERGY MANAGEMENT PLAN (GEMP)

The Office continued to practice sound energy management during 2011-2012 and achieved a 5-Star NABERS rating in the recent assessment (June 2012) of the Sydney Office. The ODPP is committed to assist the Government in attaining its energy management goals.

The Office submitted the 2011 GEMP Report in October 2011 and will submit the 2012 Report in October 2012.

The ODPP continues to practice and promote sound energy management methodologies, which include:

- Buying and using energy efficient equipment, lighting and utilities;
- Practicing energy saving methodologies and eliminating waste when equipment, lighting and utilities are not being used;
- Buying energy at the most economical price and within the Government's 776 and 777 contracts;
- Purchasing energy efficient star-rated equipment and providing training in its operation; and
- Ensuring all major refurbishments improve the Office's energy management by implementing energy management methodologies.

The ODPP's General Manager, Corporate Services, continues to have overall responsibility for the energy management of the Office.

Day to day GEMP-related tasks are the responsibility of the Manager, Procurement and Facilities Branch.

The ODPP's ongoing goals under the GEMP include:

- Assisting the Government to achieve a reduction of State-wide total energy consumption for government buildings by attaining the highest tenancy star-rating possible. The Sydney Office, which is in excess of 8,000m², received a NABERS rating of 5-Stars for the second successive year.
- Upgrading the energy efficient facilities at every opportunity, particularly during refurbishments and when lighting upgrades to efficient sensor operated systems can be affected.
- Purchasing electricity within Government contracts 776 and 777 to ensure maximum savings.
- Continuing to purchase equipment that complies with energy star-rating requirements and reducing overall equipment numbers by consolidating copiers, printers, facsimile and scanning machines into Multi-Function Devices (MFD). The Office has successfully undertaken a printer rationalisation project to achieve this, in conjunction with power, toner and paper purchases and maintenance costs efficiencies. The Office will trial the automatic default for the MFD units to double-sided printing and copying. While this is not expected to achieve power savings for the ODPP, it will have overall cost savings and reduce paper usage.
- The ODPP is investigating the change from petrol to diesel fuel in the fleet vehicles at some locations as a potential efficiency saving. This review is in its early stages.
- Increasing staff awareness of energy management by publishing best practice methodology and providing facilities to undertake best practice, (i.e. placement of power points above modular furniture and within easy reach so power points can be turned-off easily at the close of business).

Future Direction

The assessment of the NABERS tenancy energy rating for our Parramatta Office has commenced. It is expected that a similar 5-Star rating as attained at the Sydney Office will be attained at Parramatta.

APPENDIX 13: WASTE REDUCTION AND PURCHASING PLAN AND RECYCLING (WRAPP)

Overview

The Office continues to implement procurement strategies to reduce waste, utilise Government contracts to buy recycled or 'green' products (carbon neutral) and recycle or reuse furniture and equipment where possible.

The ODPP's office profile is:

- Sydney office at 175 Liverpool Street, Sydney
- Greater Sydney offices at Parramatta, Penrith and Campbelltown
- Country offices at Lismore, Newcastle, Gosford, Dubbo, Wollongong and Wagga Wagga

As the ODPP's Regional offices (except Parramatta and Lismore) occupy only a small portion of space within multi-tenanted buildings, not all building lessors support recycling and waste reduction nor provide space for storage and collection of recycling items.

Facilities exist within the Sydney and Parramatta offices to have recycled office products such as paper and cardboard and co-mingled items collected. The Lismore office also has a co-mingled collection system in place.

Recycling of equipment and furniture is conducted across the organisation, as is the procurement of paper products that are carbon neutral or manufactured with recycled content.

A significant highlight noted in the Office's 1 April 2010 – 31 March 2011 bi-annual WRAPP Report to the Office of Environment and Heritage (OEH) was that all waste generated from the redevelopment/refurbishment of the new ODPP Office at 4 George Street, Parramatta was recycled and no waste was reported as being dumped to landfill.

Strategies to Recycle and Reduce Waste

The Office follows established Government strategies and where possible follows agency established strategies or negotiated contracts to ensure the reduction of waste recycling within the Office. Strategies adopted are:

Paper wastes

- Purchase of multi-function devices (MFDs) that offer multiple page and double-sided copying
- Ensure clear and concise instructions and training in the use of copying machines and printers
- Purchase of multi-destination (internal) envelopes
- Enhance our recycling and reuse achievements in respect to waste products and stationery

Equipment

- Reduce equipment through the purchase of multi-function devices that combine the copy, printer, facsimile and scanning facilities
- Trade the MFDs in at the expiry of their serviceable life (5 years) and reuse as re-engineered machines or strip for the supply of parts (this has been achieved by relocating machines to low use ODPP chambers in Court Houses)
- At the expiry of their serviceable life, computers are recycled for the use of appropriate parts or re-engineered as usable machines

Toner Cartridges

- Where possible all toner cartridges are collected and recycled
- Furniture is re-used, sold at auction, tender or transferred to other Government Departments

Furniture

- Furniture is re-used, sold at auction, tender or transferred to other Government Departments
- Under the 10 year task chair replacement program, the Office renewed a large quantity of its task chairs under contract and was able to recycle all replaced chairs under a guaranteed arrangement with the contract supplier

Electricity

- In addition to turning off powered items at the completion of the day, the Office installs efficient lighting systems in all new fitouts
- Photocopiers have power reduce buttons
- Air conditioning plant is fitted with timers to limit operation only to business hours
- Energy efficient hot water systems are used in bathrooms and kitchens
- Electricity contract 777 and 776 are being utilised where available

Water

- Water efficient taps are used in bathrooms and kitchens
- Auto flushing systems in the men's toilets
- Showers are fitted with water saving heads
- Hydra boil or mini boil hot water units are installed to eliminate water wastage

Appendix 13: Waste Reduction and Purchasing Plan and Recycling (WRAPP) (continued)

Stock Item	Recycled	Environmental Accreditation	Elemental Chlorine Free	Wood Fibre Sustainable Forests	Archival	ISO14001 International Standard
Folders	40-60%	✓	✓	✓		
Letterhead		✓	✓		✓	✓
Compliments Slips		✓	✓		✓	✓
Business Cards		✓	✓			✓
Envelopes	80-90%					
Brochures	30%	✓	✓	✓		

APPENDIX 14: CHIEF EXECUTIVE SERVICE AND SENIOR EXECUTIVE SERVICE

Number of CES/SES Positions	Total	Total	Total	Total	Total	Total	Total	Total
Level:	30 June 2005	30 June 2006	30 June 2007	30 June 2008	30 June 2009	30 June 2010	30 June 2011	30 June 2012
SES Level 1	3	3	2	3	3	3	3	3
SES Level 2	3	3	2	3	3	2	2	2
SES Level 3	-	-	-	-	-	-	-	-
SES Level 4	-	-	-	-	-	-	-	-
SES Level 5	-	-	-	-	-	-	-	-
SES Level 6	-	-	-	-	1	1	1	-
Statutory Appointments								
Under the DPP Act*	4	4	3	4	4	4	4	4
Number of positions filled by women	2	2	1	3	4	3	4	4

* The Director of Public Prosecutions, Deputy Director of Public Prosecutions and Solicitor for the Public Prosecutions are statutory appointees, appointed under the Director of Public Prosecutions Act 1996

Staff Numbers	30 June 2005	30 June 2006	30 June 2007	30 June 2008	30 June 2009	30 June 2010	30 June 2011	30 June 2012
Statutory Appointed & SES	105	105	100	97	94	92	90	89
Lawyers	315	324	311	299	301	300	320	319
Administration & Clerical Staff	233	225	219	216	211	210	212	209
Total	653	654	630	612	606	602	622	617

Staff Profile used to prepare above statistics

Recruitment Statistics	2006/07	2007/08	2008/09	2009/2010	2010/2011	2011/2012
Senior Executive Service	0	0	1	0	0	0
Statutory Appointed	0	0	0	0	0	3
Crown Prosecutors	2	1	0	2	0	5
Prosecution Officer (Lawyers)	25	19	28	18	32	33
Prosecution Officer (Admin)	41	45	48	35	50	49
Total	68	65	77	55	82	90

As per Workforce Profile, all new starters within the financial year

Appendix 14: Chief Executive Services and Senior Executive Service (continued)

Chief Executive Officer Statement of Performance

The Director of Public Prosecutions is a statutory appointment under Section 4 of the Director of Public Prosecutions Act 1986. The Director is responsible to Parliament and there is no annual performance review under the Public Sector Employment and Management Act 2002.

Luigi Maria Baliano Lamprati SC	
Period in position:	1 July 2011 – 17 July 2011
Position and level:	Acting Director of Public Prosecutions
Remuneration:	\$390,550 pa (salary plus allowance as at 30 June 2011)

Lloyd Babb SC	
Period in position:	18 July 2011 to 30 June 2012
Position and level:	Director of Public Prosecutions
Remuneration:	\$400,310 pa (salary plus allowance as at 30 June 2012)

Senior Executive Performance Statement

Nigel Hadgkiss	
Position Title:	Executive Director
SES Level:	6
Remuneration:	\$320,650 (Total Package)
Period in Position:	Appointed 29 October 2008 Contract expires 2012, ceased on 9 March 2012

Mr Hadgkiss achieved the performance criteria contained in his performance agreement.

Mr Hadgkiss' duties included:

- ensuring the internal audit function adopted a risk-based methodology
- assessing and responding to audit issues
- establishing the ODPP's Internal Audit Charter and Risk Register

APPENDIX 15: REPORT OF THE CHIEF INFORMATION OFFICER ON MAJOR IM&T PROJECTS DURING 2011/2012

Activity Based Costing (ABC)

This project involved the development and implementation of the ABC Planner screens and associated functions in CASES to facilitate the ODPP moving to 100% costing of matters. The project oversaw the introduction of the ABC Planner screens, customised functions for the Crown Prosecutors Chambers, WAS, PTU and Drug Court and Flex-Kiosk interfaces. After office-wide staff training, the project was successfully completed in July 2011.

CASES Workflow Review

The Office undertook a comprehensive review of workflow systems to provide greater assurance of the accuracy of ODPP information in line with the Auditor-General's recommendations of improved data management practices. The aim of this project is to review and consolidate the management of the CASES workflows into a single coherent source of information, rationalise the existing workflows to remove unused or obsolete workflows, develop a model for the ongoing governance of the workflows and identify options to improve data integrity and CASES User Support. The project was successfully completed in December 2011.

ICT Infrastructure Upgrades

Automation of Backup Processes

The aim of this project is to implement a solution to backup ODPP data to disk and replace the current tape backup method. The project was successfully completed in July 2011.

Automation of Disaster Recovery Processes

The project aims to use VMWare software to fully automate the processes of restoring all critical ODPP application services and data operated from the DR site at the Penrith office. The automated processes will be used in the event of a disruption to services at Head Office caused by hardware or software failures. The project was successfully completed in July 2011.

Internet Security

The aim of this project is to implement hardware based Internet security appliances (Bluecoat and CISCO Ironport) to replace existing WebMarshall and MailMarshall software based applications. Due to rapid changes in web-based malware attacks, hardware based solutions are considered to be more efficient than software based methods. The project was successfully completed in September 2011.

Implementation of Service Desk software (HEAT)

PRISM software has been replaced by HEAT as the new service desk software for IM&T. PRISM provides the necessary ITIL compliance and reporting requirements for the service desk operations. The project was successfully completed for the IM&T Branch in March 2012. The software will be implemented across all Corporate Services branches for problem, incident and change management requirements in 2012-13.

Printer Rationalisation

This project is one of the ICT saving strategies initiated by the ICT Sub-Group of the Corporate Services Reform Group (CSRG) and is one of the ODPP saving strategies reported to Treasury. The project aims to adopt the use of Canon Multi-Function Devices (MFD) as the default network printers, supplemented by a number of standard HP printers. The project also aims to maximise the use of the shared printer resources by standardising the users per printer across all ODPP offices. The project was successfully completed in May 2012.

IM&T Disaster Recovery Plan

This project aims to deliver the IM&T Disaster Recovery Plan to ensure the continuation of critical business operations that rely on information systems and processing facilities, in the event of a disaster. This plan will provide an effective solution to restore critical business information systems within the required time frame as identified in the ODPP Business Impact Analysis.

A full test of the DR procedures for critical services was successfully completed in June 2012.

Appendix 15: Report of the Chief Information Officer on Major IM&T Projects During 2011/2012 (continued)

Email Archiving

This project complies with NSW Premier & Cabinet's memorandum M2004-14 and the State Records Act requiring all business emails generated or received by an agency to be kept. This has resulted in the activation of archiving to meet the requirement along with other business and technical needs. The project is expected to be completed by September 2012.

Security Certification

The IM&T Information Security Management System for the activities of the IM&T Branch of the ODPP has been re-certified in September 2011.

JusticeLink and Joined up Justice (Juj)

Justicelink is a project of the Department of Justice & Attorney General (DJAG), designed to implement a common case management system across the Local, District and Supreme Courts. It has commenced operation in the Supreme, District and Local Courts with read only access granted to specified users within the Office of the Director of Public Prosecutions (ODPP).

The Joined up Justice (Juj) Data Exchange Project is a joint project undertaken by the ODPP and Legal Aid NSW (LANSW). The project will develop interface programs to electronically exchange information between JusticeLink, the CASES application at the ODPP and LANSW and also ATLAS at LANSW. The project is now expected to be completed in July 2012.

APPENDIX 16: GOVERNMENT INFORMATION (PUBLIC ACCESS) ACT 1989 (NSW)

Name of Agency

Office of the Director of Public Prosecutions (ODPP)

Period

1 July 2011 to 30 June 2012

Contact

Right to Information Officer

A/Deputy Solicitor (Legal)

Telephone (02) 9285 8669

Summary

The ODPP is an agency under the Government Information (Public Access) Act 2009 (GIPA Act). Pursuant to section 43 and clause 1 of Schedule 2 of the GIPA Act, information in respect of the ODPP's prosecuting functions is "excluded information".

In the period 1 July 2010 to 30 June 2011 the ODPP received no valid and 17 invalid applications under the GIPA Act for access to documents. The ODPP was consulted by 4 Agencies pursuant to Section 30 of the Act.

Pursuant to Section 7(3) of GIPA the ODPP is obliged to review its program for the release of government information. In the period 1 July 2011 to 30 June 2012 the Right to Information Officer has been involved in developing a new website for the ODPP. All information published by the ODPP is being reviewed in connection with this project. No new information has been released in this period. The new website is expected to be launched by the end of 2012.

Statistical information about access applications

Table A: Number of applications by type of application and outcome*

	Access granted in full	Access granted in part	Access refused in full	Information not held	Information already available	Refuse to deal with application	Refuse to confirm/deny whether information is held	Application withdrawn
Media	0	0	0	0	0	0	0	0
Members of Parliament	0	0	0	0	0	0	0	0
Private sector business	0	0	0	0	0	0	0	0
Not for profit organisations or community groups	0	0	0	0	0	0	0	0
Members of the public (other)	0	0	0	0	0	0	0	0

*More than one decision can be made in respect of a particular access application. If so, a recording must be made in relation to each such decision. This also applies to Table B.

Appendix 16: Government Information (Public Access) Act 1989 (NSW)(Continued)

Table B: Number of applications by type of application and outcome*

	Access granted in full	Access granted in part	Access refused in full	Information not held	Information already available	Refuse to deal with application	Refuse to confirm/deny whether information is held	Application withdrawn
Personal information applications	0	0	0	0	0	0	0	0
Access applications (other than personal information applications)	0	0	0	0	0	0	0	0
Access applications that are partly personal information applications and partly other	0	0	0	0	0	0	0	0

*A **personal information application** is an access application for personal information (as defined in clause 4 of Schedule 4 to the Act) about the applicant (the applicant being an individual).

Table C: Invalid applications

Reason for invalidity	No of applications
Application does not comply with formal requirements (section 41 of the Act)	0
Application is for excluded information of the agency (section 43 of the Act)	17
Application contravenes restraint order (section 110 of the Act)	0
Total number of invalid applications received	17
Invalid applications that subsequently became valid applications	0

Appendix 16: Government Information (Public Access) Act 1989 (NSW)(Continued)

Table D: Conclusive presumption of overriding public interest against disclosure: matters listed in Schedule 1 to Act

Reason for invalidity	Number of times consideration used*
Overriding secrecy laws	0
Cabinet information	0
Executive Council information	0
Contempt	0
Legal professional privilege	0
Excluded information	0
Documents affecting law enforcement and public safety	0
Transport safety	0
Adoption	0
Care and protection of children	0
Ministerial code of conduct	0
Aboriginal and environmental heritage	0

*More than one public interest consideration may apply in relation to a particular access application and, if so, each such consideration is to be recorded (but only once per application). This also applies in relation to Table E.

Table E: Other public interest considerations against disclosure: matters listed in table to Section 14 of Act successful

Responsible and effective government	0
Law enforcement and security	0
Individual rights, judicial processes and natural justice	0
Business interests of agencies and other persons	0
Environment, culture, economy and general matters	0
Secrecy provisions	0
Exempt documents under interstate Freedom of Information legislation	0

Appendix 16: Government Information (Public Access) Act 1989 (NSW)(Continued)

Table F: Timeliness

	Number of applications
Decided within the statutory timeframe (20 days plus any extensions)	0

Table G: Number of applications reviewed under Part 5 of the Act (by type of review and outcome)*

	Decision varied	Decision upheld	Total
Internal review	0	1	1
Review by Information Commissioner*	0	1	1
Internal review following recommendation under section 93 of Act	0	0	0
Review by ADT	0	1	1
Total	0	2	2

*The Information Commissioner does not have the authority to vary decisions, but can make recommendations to the original decision-maker. The data in this case indicates that a recommendation to vary or uphold the original decision has been made by the Information Commissioner.

Table H: Applications for review under Part 5 of the Act (by type of applicant)

	Number of applications for review
Applications by access applicants	1
Applications by persons to whom information the subject of access application relates (see section 54 of the Act)	1

APPENDIX 17: RISK MANAGEMENT AND INSURANCE ACTIVITIES

Internal Audit and Risk Management Attestation for the 2011-2012 Financial Year for Office of Director of Public Prosecutions

I, Lloyd Babb, am of the opinion that the Office of the Director of Public Prosecutions has internal audit and risk management processes in place that are, in all material respects, compliant with the core requirements set out in Treasury Circular NSW TC 09/08 Internal Audit and Risk Management Policy. These processes provide a level of assurance that enables the senior management of the Office of the Director of Public Prosecutions to understand, manage and satisfactorily control risk exposures.

I, Lloyd Babb, am of the opinion that the Audit and Risk Committee for Office of Director of Public Prosecutions is constituted and operates in accordance with the independence and governance requirements of Treasury Circular NSW TC 09/08. The Chair and Members of the Audit and Risk Committee are:

Jon Isaacs	Independent Chair	(31 August 2009 – 31 August 2012)
Patricia Azarias	Independent Member I	(16 October 2009 – 16 October 2012)
Chris Maxwell	Non-independent Member I	(26 February 2010 – 26 February 2012)
Sashi Govind	Non-independent Member I	(26 February 2012 – 31 August 2012)

Lloyd Babb SC
Director of Public Prosecutions
Date: 20 August 2012

Nominated Department Contact Officer

Keith Alder
 Deputy Director
 Level 19, 175 Liverpool St,
 Sydney 2000

Risk Management

A number of internal audits were conducted throughout the year covering Procurement, Recruitment, Accounts Payable, and Banking. The Office accepted the improvement recommendations made by the internal auditor.

Insurance Activities

Motor Vehicles:

During the 2011-2012 reporting period, the Office's Motor Vehicle claims numbered eighteen (18) as of 30 June 2012. This represents an average net cost per vehicle of \$4,800 in damaged/lost claim payments. The number of claims reported for the full 2010-2011 reporting year was fourteen (14) at an average net cost per vehicle of \$4,000 damaged/lost. The 2011-2012 full year therefore showed an increase of four in the number of damaged/lost claims, and an increase in the net cost per vehicle of \$800. NOTE: One (1) claim was regarded as large which incurred a net cost greater than \$25,000.

Property:

In the 2011-2012 reporting period, the Office's Property Claims were nil.

Miscellaneous:

In the 2011-2012 reporting period, the Office's Miscellaneous Claims were nil.

APPENDIX 18: WORK HEALTH AND SAFETY (WHS) PERFORMANCE

Following the introduction of the new Work Health Safety Legislation in early 2012, a further review of the ODPP's proposed Work Health and Safety Plan (WHS) was required. Work will continue on the development and implementation of the WHS Management Plan throughout 2012/13.

The Office's focus remains on the prevention and management of psychological injury. In keeping with the consultative processes, the Office engaged the services of highly experienced and eminently qualified external provider; Robyn Bradey. Ms Bradey, in consultation with the ODPP, designed and conducted several workshops across the Office. These focussed on the skills and knowledge required of managers when dealing with this complex issue.

Several more general wellbeing forums were conducted by Ms Brady and all ODPP employees were encouraged to attend. Both the Workshops and open forums were very well received. The ODPP's Workplace Wellbeing Policy & Procedures and a Workplace Wellbeing Strategy is due for implementation early in the next financial year.

The Office continues to pursue practical and cost effective options to reduce the risk of workplace injuries and the consequent worker's compensation claims. Strategies being considered to reduce the incidence of "overuse" related injuries caused by keyboard work have focussed attention on voice recognition software (VRS) options for the Office. In 2011/12, the Office conducted trials using a previously untried VRS. Several ODPP VRS users were asked to compare VRS options with software more commonly used in the Office to gauge its suitability. Results from these trials have been positive and the Office will now be looking at the cost benefits of providing VRS more widely as part of the proposed Office computer roll out at the end of 2012/13.

The ODPP Hazard Identification checklist that focuses on office ergonomics and the general work space continues to generate opportunities for raising workplace safety awareness in an office environment. The Checklist has led to an increase in one-on-one workplace assessments and, in turn, the provision of equipment useful for injury prevention.

While the focus remains on injury prevention and general wellbeing, the Office improved its First Aid capability in 2011/12 by acquiring Automated External Defibrillators for all ODPP offices. This is in line with the Work Health Safety philosophy of the Office and all First Aid Officers have been provided with relevant training.

With the conclusion of the Working Together Strategy (WTS) in 2012, it is worth noting several results in the area of worker's compensation and workplace rehabilitation against the nominated WTS targets. WTS reporting for this year identified:

- 35% reduction in the Number of Compensable Injuries (compared to the previous year)
- 59% reduction in the Average Cost of Claims (WTS target being 5%)
- 118% increase in Average Time on Weekly Benefits – Section 36 (first 26 weeks). Benefit payments in smaller Agencies such as the ODPP are prone to volatile results against these targets. This was evident in 2011/12 where the Office experienced a notable increase as a result of just three reported injuries.
- 64% reduction in Average Time on Weekly Benefits - Section 37 (post 26 weeks) (WTS target being 5%)

These statistics have been incorporated into monthly reporting processes to ensure the Executive Board and Management Committee are well informed to create a broader strategic approach to injury prevention and management as we move into 2012/13.

APPENDIX 19: OVERVIEW OF THE WITNESS ASSISTANCE SERVICE (WAS)

Overview of the Witness Assistance Service (WAS)

The Witness Assistance Service (WAS) works in close partnership with solicitors and Crown Prosecutors to provide assistance to victims and vulnerable witnesses and assist the ODPP meet its obligations under the Charter of Victims Rights (Victims Rights Act 1996).

As a frontline service, the WAS provides a specialist service to victims of serious violent crimes and vulnerable witnesses in certain prosecution matters. Essential to the effectiveness of WAS is the proactive model of service delivery that is strength-based and resilience focussed. While recognising the trauma experienced by victims of crime, WAS Officers continue to be inspired by the strength that victims display in surviving both the crime committed against them and the criminal justice process.

The WAS utilises a case management model of service delivery in the provision of services to victims and witnesses. This means services provided vary depending on individual needs, the involvement of other services and the progress of the matter through the legal process. Intensive services are generally provided for the more vulnerable victims and witnesses or those who for various reasons do not have support from other services. Matters in which WAS Officers are involved can be complex and challenging and the service has covered many multiple victims matters over the last year.

The professional qualifications, training and experience of WAS Officers means that they have the skills to assess the special needs for victims and witnesses. WAS liaise with solicitors and Crown prosecutors in developing a case management plan to meet those needs. The WAS Officers' professional background also means they have the skills to assess and assist victims or witnesses who may be in crisis or at risk.

In November 2011 the WAS employee related funding, which was administered by the NSW Department of Attorney General and Justice (DAGJ), reverted back to the ODPP. Up until that time monthly reports on service outcomes were provided to DJAG in line with the Funding and Performance Accountability Framework for the Witness Assistance Service.

As of June 30th, the WAS continued to have 33 substantive positions state-wide including 24 WAS Officers positions, 3 Aboriginal WAS Officer positions and 3 Senior WAS Officers. Continuing this staffing establishment will be contingent on the outcome of the ODPP Base Budget Review for 2012. Unfortunately the number of priority matters outweighs the capacity of WAS Officers. Heavy caseloads and the backlog of unallocated matters remain a constant challenge. Despite looking at new ways of working, additional resources are required to adequately address the short fall in service provision.

WAS Initiatives during 2011- 2012

WAS Best Practice Referral and Case Management Protocol

During 2012 the WAS Best Practice Referral Protocol was reviewed and replaced with the WAS Best Practice Referral and Case Management Protocol which was released in June 2012 for implementation from 1 July 2012.

The aims of the revised protocol:

- To ensure early referral of priority matters and proactive referral to WAS of matters that are screened by solicitors.
- To ensure the best possible service delivery to victims and witnesses within existing WAS resources.
- To provide greater assistance to WAS Officers in understanding the requirements and aspects of the WAS role.
- To provide a more comprehensive orientation guide for new WAS Officers in regard to assessment and case management.
- To assist managing lawyers and solicitors in understanding the WAS role and what can be expected of a WAS Officer.
- To ensure that accountability procedures are clear and meaningful with links to key performance indicators.

Features of the revised protocol:

- Revised timeframe for initial contact to fit with current practices and developments on the WAS database.
- Links to other policy documents.
- A new information box specific to Indigenous victims and witnesses.
- Tables outlining Critical WAS Contacts with victims and witnesses and the minimum standard for WAS contact with victims and witnesses.
- Examples of WAS Service Contact Codes to use on the WAS database at various stages in the legal process.
- A new WAS Service Contact Code on WAS database for consent to exchange information with particular agencies obtained from the victim/ witness.
- A comprehensive assessment guideline for both primary victims and family victims in death matters.
- Minor improvements to the Victim Information Sheet - Initial Contact Checklist.

Implementation of the new protocol:

- The protocol was presented at the Combined Managers meeting on 14 June 2012 and the document was distributed by e-mail to all ODPP Managing Lawyers, Managers Support Services, Managing Clerks, and the ODPP Solicitors Executive.
- The protocol will be located on the ODPP Intranet.

Appendix 19: Overview of the Witness Assistance Service (continued)

The Sentencing Process – Fact Sheet

In March 2012 the WAS released a new information sheet “The Sentencing Process” to assist victims and witnesses in understanding and preparing for the sentencing process. This fact sheet was the direct result of issues being raised by some victims and the suggestion that more information could be made available to assist victims understand the sentencing process, reasons for delays and adjournments along with practical information.

Pilot Intake and Referral Officer Position

Piloting of a WAS Intake and Referral Officer (IRO) position has taken place in Sydney West throughout the financial year. This has been a two day per week position filling days against the part time work agreements of two Sydney West WAS Officers. The IRO position has primarily been responsible for matters within the Penrith and Campbelltown unallocated caseloads. They assist in making early contact with victims to provide information and referral even if matters have not yet been allocated to a WAS Officer.

The IRO has focused on registering matters, obtaining contact details of victims and witnesses, making initial contact, undertaking an assessment and providing information on WAS and the ODPP.

Witness Assistance Services at Head Office and in the regions

The WAS is divided into four areas: Sydney Head Office, Sydney West, Northern NSW and South West NSW.

The past year has been busy and challenging with a considerable increase in the number of active files and matters being transferred from the regions which is evident in Table 1. Sydney WAS is required to work with the very large multiple victim matters and cases where there are very lengthy trials often on top of a normal caseload. Caseloads are constantly above the recommended workload agreement. At the same time WAS Officers have made time to ensure they keep abreast of professional development and contribute to interagency liaison and community education.

Factors impacting on regional areas during 2010-2011 have included:

- Staff vacancies and staff being on leave (with innovative measures to ensure adequate service delivery at these times)
- High unallocated caseloads
- Centralising of trials at Sydney West Courts
- Managing the demand of covering circuit courts

- Court facilities in some rural locations
- The tyranny of distance.

Creative solutions have been adopted to address some of the staffing issues and high number of unallocated priority matters. For example the piloting of the WAS Intake and Referral Officer position at Sydney West (mentioned above); providing state-wide cover for the Dubbo office when all staff were on leave; and the assistance provided by the Newcastle Office in ensuring services to Aboriginal Victims and witnesses in matters prosecuted by the Dubbo Office.

Despite their busy workloads regional WAS Officers have maintained a commitment to community education and training, interagency liaison and professional development.

Regional meetings have provided an opportunity to discuss best practice standards, training opportunities, interagency presentations, creating greater links with local service providers and a forum for peer supervision.

Children and young people as victims and witnesses

Children and young people as victims and witnesses in ODPP prosecutions are a priority for WAS service delivery. The WAS is committed to ensuring that children and young people who are victims or witnesses of crime, are referred to appropriate counselling and support services and that the referrals are made in the best interest of the child.

The WAS aims to ensure that all child witnesses receive specialist court preparation and court familiarisation suited to their individual developmental needs. WAS Officers also coordinate and provide court support for children or young people who are giving evidence via closed circuit television. The child's support person can also be assisted in understanding their role in supporting the child while giving evidence.

Indigenous Victims and Witnesses

The WAS continues to prioritise services for Aboriginal and Torres Strait Islander victims and witnesses. The WAS has three substantive Aboriginal identified WAS Officers positions. Each Aboriginal WAS Officer covers approximately a third of the state – a substantial task in terms of time and travel.

The generalist WAS Officers also assist Aboriginal victims and witnesses where appropriate or where the Aboriginal WAS Officers are unable to assist. WAS Officers have had relevant cultural competency training in responding to child sexual assault in Aboriginal communities through the Education Centre Against Violence as well as other cultural awareness training sessions.

Appendix 19: Overview of the Witness Assistance Service (continued)

In October 2011 the Aboriginal WAS Officer based at Dubbo went on maternity leave. Recruitment for a temporary replacement was unsuccessful. An innovative outreach model was implemented with the WAS team at Newcastle working closely with the generalist WAS Officer at Dubbo and under the guidance of the Aboriginal WAS Officer for the northern region. This model was implemented as a temporary measure to ensure Aboriginal victims and witness in matters prosecuted by the Dubbo Office received a service. Our thanks go to the Aboriginal WAS Officer in the Northern Region for her efforts in ensuring availability of services to Aboriginal victims and witnesses in the Western, Central West and Far West areas. While this temporary measure was effective the priority remains for the Aboriginal WAS Officer vacancy to be filled.

Supervision, Training and Professional Development

Clinical supervision is provided for regional WAS Officers by Senior WAS Officers based at Parramatta, Newcastle and Wollongong. In the absence of a Senior WAS Officer based in Sydney, WAS Officers currently receive external clinical supervision for 2 hours per month as a group supervision session. Arrangements have been made for the Sydney/Sydney West Aboriginal WAS Officer to attend external cultural supervision at the Butucarbin Aboriginal Corporation.

When WAS has the capacity, student placements are encouraged. Two WAS Officers at Sydney supervised a social work student from the University of NSW and Parramatta WAS have provided several WAS orientation sessions to a variety of social work students throughout the year.

Professional and career development for WAS Officers has been supported through secondment opportunities with a WAS Officer from Campbelltown taking up a secondment with Victims Services in 2011 and a Sydney WAS Officer taking leave to take up a 12 month placement with the Commonwealth DPP at the end of July 2012. The Aboriginal WAS Officer based at Penrith began the Advanced Diploma of Aboriginal Trauma Counselling conducted by the Education Centre Against Violence (ECAV). A number of WAS Officers are undertaking further degrees or post graduate courses.

Two orientation training programs were conducted for new WAS Officers in July 2011 and April 2012. These comprehensive two week programs were contributed to by WAS Officers, Solicitors, Crown Prosecutors, Executive Officers, Corporate Services, the Library and a range of external agencies. Additional orientation training was provided on an individual level and by teleconference.

ODPP Solicitors Office Training and Development Program

In December 2011 WAS Officers attended the ODPP Solicitor Professional Development and Training Day and workshop day. This again proved to be very successful providing WAS Officers with the opportunity to gain training alongside their legal colleagues, and to network and build working partnerships. WAS enjoyed contributing to the workshop program by organising and facilitating sessions that were well attended and highly regarded by solicitors as well as WAS Officers.

Other training attended by WAS Officers includes:

- NSW Combined Universities Social Work Field Education Colloquium, held at UNSW, October 2011.
- WAS Technology Induction Day 15 November 2011 - attended by a number of newer WAS Officers.
- JIRT Conference 17 November 2011.
- Keep Them Safe Conference 29 and 30 November 2011.
- Prosecuting Matters Involving Aboriginal Complainants of Sexual Assault ECAV workshop 16 and 17 November 2011.
- 'Small Acts of living: Violence, resistance and the power of language' presented by Allen Wade from The Brief Therapy Institute on 1-2 December 2011.
- ACWA research forum: "Did you ever see a social worker look happy? What children and young people want from child welfare and protection services" on 14 February 2012.
- Managing Psychological Injury and Illness and Difficult Behaviours in the Legal Environment Managers Workshop presented by Robyn Brady.
- ODPP Staff Wellbeing Workshops by Robyn Brady attended by WAS Officers.
- LawAccess presentation on LawAccess, LawAssist and AVOs.
- National Forum on Forensic Evidence in Sexual Assault 7 March 2012.
- 'Frontiers of Trauma Workshop' in March 2012.
- Legal Aid Sexual Assault Communications Privilege presentation.
- "Teaching Social Work Skills to Students on Placement" seminar by Professor Pamela Trevithick, Buckingham New University for field educators at UNSW 11 April 2012.
- WAS State-wide Grief and Loss training workshop -12 April 2012.
- Sibling Abuse 1 day Symposium at Westmead Children's Hospital 30 May 2012.

Appendix 19: Overview of the Witness Assistance Service (continued)

- "The Body and Grief" ACGB Workshop by Greg Roberts on 28 May 2012.
- Presentation by Sydney Children's Hospital Child Protection Unit for Sydney WAS on 9 May 2012 1.30 – 2.45pm.
- Truth Testimony and Relevance Symposium in Melbourne 15 and 16 May 2012.
- Victims Services Media Training Day 19 June 2012.
- WAS Officers attended a number of ODPP MCLE sessions throughout the year.
- WAS regional meetings have included presentations by various external organisations.

Training, Orientation and Community Education Provided For External Agencies

- NSW State Librarian Jeanette Buckley participated in the WAS Orientation in Sydney on 14 November 2011 and is assisting in developing an updated resource for WAS regarding provisions for child witnesses internationally.
- ECAV "Strong Aboriginal Women and the law" Workshops at Tweed Heads 21 July 2011 and Bowraville 27 October 2011 and at Redfern 10 November 2011).
- ODPP Legal Development Program (LDP) 28 February 2012.
- Parramatta WAS presented to the LDP solicitors based at Parramatta on the role of WAS and best practice in working with victims, witnesses and in a multi disciplinary team - 22 March 2012.
- ECAV Specialist Sexual Assault Training in August 2011.
- Rape Crisis New Counsellors training 11 October 2011.
- "Complexities of Young People Giving Evidence" presentation as part of refresher training program for VWCCS volunteers 27 April 2012.
- "Supporting Witness Under Cross Examination" workshop for Mission Australia Court Support Service volunteers. 4 May 2012.
- Presentation on WAS and victim issues for the Macquarie University Students for Community Legal Engagement (MUSCLE) 8 May 2012.
- "Conducting a DPP prosecution, decision making and contact with victims and witness" presentation for the Victims Service Development Day Friday 11 May 2012.
- Training session on WAS for new volunteers with Mission Australia Court Support Service on 22 May 2012.

Interagency Committees, Liaison and Consultations

During 2011-2012 the WAS represented the ODPP on a number of interagency committees, forums, reference and working groups and consultations related to victims

and witness issues. WAS Officers liaise regularly with both government and non-government organisations. In particular WAS is appreciative of the liaison with police, court staff, sexual assault services, victims services, victim support groups and court support services.

Key Interagency Representation

The WAS Senior Lawyer / Acting Assistant Solicitor (Legal) and WAS represented the ODPP on a number of key interagency committees over past year:

- ODPP Sexual Assault Review Committee.
- JIRT State Management Group.
- NSW Police Force Sex Crimes Squad Advisory Council.
- Apprehended Violence Legal Issues Coordinating Committee.
- Forensic Interagency - Sexual Assault Working Group.
- JIRT State Management Group.
- NSW Police Sexual Assault Interagency.
- Sexual Assault Communications Privilege Service, Legal Aid, Steering Committee.
- Department of Attorney General and Justice (DAGJ) Victims Advisory Group Meeting and various sub committees.
- DAGJ Victims Services Victims of Crime Interagency Forum.
- DAGJ Victims Services Better Court Support Project Steering Committee.
- DAGJ Victim Services Better Court Support Tender Selection Panel.
- DAGJ Victims Advisory Council Remote Witness Facilities Working Group.
- DAGJ Justice Journey DVD Project Reference Group.
- National DPP Witness Assistance Services Managers Meeting 17 May 2012.

Other interagency committees, forums and liaison activities

- Arabic Workers Network Meetings - attended by WAS Officer Hanan Amer.
- Sexual Assault Service Regional Meeting at Wagga Community Health on the 31st January 2012.
- Sexual Assault on call training at Wagga Community Health on the 15th February 2012.
- Department of Aboriginal Affairs Aboriginal Taskforce for Western Sydney Aboriginal Community meeting at Rooty Hill 8 February 2012.
- Penrith Aboriginal Workers Support Group.
- Western Sydney Koori Interagency at Mt Druitt.
- Gosford WAS Officer met with the caseworkers from the Domestic Violence Support Unit at Gosford Police

Appendix 19: Overview of the Witness Assistance Service (continued)

- Station in February to explain the WAS role.
- Hunter Sexual Assault Service bi-monthly meeting and WAS presentation 17 August 2012.
- Meeting with Lismore Sexual Assault Service 21 September 2012.
- Prosecution Liaison Group Meeting at Wagga 29th March and 19 July 2012.
- New WAS Officers undertook a service visit to Victims Services, FFMPU and Diversity Services at Parramatta Justice Precinct 13 April 2012.
- Meetings with NSW Ombudsman ACSA Audit team.
- Meetings with Senior Solicitor SACP Service Legal Aid NSW.
- ECAV launch of "Sharing the Unthinkable" and Jacaranda Project Manual 15 November 2011.
- Prince of Wales Hospital Child Protection Unit - Liaison visit by Sydney WAS Thursday 17 November 2011.
- VWCCS Review of Police Witness Area at the Downing Centre 2 December 2011 – Sydney WAS Officers.
- HVSG pre-trial support meeting for families 29 February 2012, WAS Manager and Crown Prosecutor were guest speakers.
- HVSG Information night for Quakers Hill Nursing Home matter Wednesday 2 May 2012.
- Submission and cross jurisdictional report for the ODPP Base Budget Review.
- Participation in review of NSW Police Health and ODPP Guidelines for Responding to Adult Victims of Sexual Assault.
- Re-drafting sections for the review of the NSW Police Health and ODPP Guidelines for Responding to Adult Victims of Sexual Assault.
- Development of a WAS three year planning initiative.
- Revised WAS Best Practice Referral and Case management Protocol 2012.
- Updated WAS Service Contact Standards.
- Development of new WAS information sheet "The Sentencing Process".
- Development of policy clarifying the WAS role in Sexual Assault Communications Privilege Process.

WAS Contribution to Policy Development, Legislative Reform, Research and Resources

During 2011-2012 the WAS contributed to a number of project working groups and have provided input to submissions, ministerial requests and policy development.

- Provided feedback on draft scripts and initial cut Victims Services Justice Journey DVD.
- Meeting and submission written for NSW Ombudsman Audit into the implementation of the 5 year interagency plan for responding to child sexual assault in Aboriginal communities.
- Aboriginal WAS Officer met with the NSW Ombudsman and provided them with feedback regarding the Aboriginal WAS Officer positions and Aboriginal CSA matters.
- Submission for the Ministerial Advisory Panel on the interagency plan for responding to child sexual assault in Aboriginal communities.
- Submission and response for the Better Court Support project team.
- Drafting the ODPP obligations for the Charter of Victims Rights Code of Practice.

APPENDIX 20: OVERSEAS TRAVEL INFORMATION

Staff Member	Date, Place and Travel Details	Reason for Travel and Expenses (\$AUD)	Total Cost
L Babb SC	20-22 March 2012 Singapore	Head of Prosecuting Agencies Conference Sustenance \$419.52, Airfare \$3,974.76, Accommodation \$1,117.32, Others \$19.46	\$5,531.06
		TOTAL	\$5,531.06

APPENDIX 21: CONSULTANTS

(a) Consultancies each engagement costing more than \$50,000

Consultant	Category	Name of project and purpose	Cost excluding GST
Internal Audit Bureau of NSW	Management Services	Business continuity plan	\$55,384
Total consultancies equal to or more than \$50,000			\$55,384

(b) Consultancies each engagement costing less than \$50,000

CATEGORIES	TOTAL No. OF ENGAGEMENTS	COST Exc. GST
Management Services	Two	\$10,815
Information Technology	One	\$5,632
Total consultancies each engagement costing less than \$50,000		\$16,447

APPENDIX 22: ETHNIC AFFAIRS

PRIORITY STATEMENT

The ODPP continues to meet its commitment to the Community and Ethnic Affairs Priority Statement. All staff endeavour to ensure that members of the community are afforded every respect when dealing with the ODPP.

The Office continues to adhere to the Memorandum of Understanding implemented in 2008 with the Community Relations Division and the Department of Attorney General and Justice. All witnesses, victims and accused are entitled to access free interpreter services and the Office consistently ensures these entitlements are met.

Witness Assistance Service

The ODPP Witness Assistance Service (the WAS) prioritises service delivery to sexual assault complainants, family of deceased victims in homicide and danger driving matters, domestic violence victims, children, Aboriginal and Torres Strait Islanders, people with a disability, the elderly and other vulnerable witnesses and special needs groups. A number of victims and witnesses can experience cultural or language barriers. WAS Officers consult with ODPP solicitors and Crown Prosecutors to assess the special needs and support issues victims and witnesses may have when they deal with our lawyers and give evidence at court.

While some victims and witnesses who have cultural and language difficulties can often communicate effectively day-to-day, stress and anxiety can result from their interaction with the criminal justice system. The WAS utilises interpreter services for both face-to-face and telephone contacts with victims and witnesses so that the victim or witness can use their primary language. Victims are also able to utilise both interpreters and translation services when writing their victim impact statements. When an interpreter is required for giving evidence at court, the interpreters are booked by the ODPP solicitors through the courts.

Training

The ODPP training programs for all staff have components covering cultural diversity. Training providers are required to adhere to the ODPP Code of Conduct, which requires respect for individual differences and non-discriminatory behaviours. In March 2012 the Office conducted a session titled Issues in EEO, Discrimination and Employment Law. The presentation was given by Chris Ronalds AM SC. In June 2012 the Office conducted a training session for its staff on working with interpreters with a session called Interpreting Process and Professional Ethics. It was presented by Associate Professor Ludmilla Stern from the University of New South Wales.

Interagency Groups

The ODPP regularly participates in interagency meetings and forums which address issues for victims of crime and vulnerable witnesses. The ODPP participates in a number of committees and consultation processes with representatives of ethnic communities. The WAS regularly liaises with a range of relevant services and regularly updates the resources available for people from culturally and linguistically diverse background.

International Delegations

The Office has hosted two delegations from mainland China in the last year. This is a marked reduction to previous years; anecdotal evidence would suggest a reluctance to travel in some parts of the world because of the global financial crisis. The Office remains open to all requests from delegations and inquiries after the end of the reporting year suggest that more will be hosted in the coming year.

APPENDIX 23: SOME CASES DEALT WITH DURING THE YEAR

DPP v Elskaf [2012] NSWSC 21

The Defendant was stopped by police while driving a black Ferrari motor vehicle in Kings Cross in the early hours of the morning. Police officers informed him that he had executed a left hand turn contrary to a red traffic signal.

The Defendant subsequently elected to defend the traffic infringement notice in the Local Court on the basis that it was not his vehicle that police observed executing the illegal left hand turn.

The matter was heard before Magistrate O'Shane in the Local Court. Prior to any witnesses being called and after her enquiring as to the number of witnesses to be called, the Magistrate indicated that she only wanted to hear from the two police officers who saw the alleged offence not two other police officers who stopped the relevant vehicle further down the road.

During the course of the hearing the police prosecutor made a further application for the other latter two police officers to be called. That application was denied by the Magistrate and it was further indicated that the tender of the police officers' statements would be of little assistance.

The Magistrate went on to find that there was no prima facie case and dismissed the matter on the basis that the evidence of the original two police officers was unreliable. She then granted an application for costs made by the Defendant, in the amount of \$1650, on the basis that the proceedings were initiated without reasonable cause or in bad faith.

An appeal to the Supreme Court by the DPP against the dismissal of the proceedings was allowed and the matter was remitted to the Local Court for rehearing, before another Magistrate, on the following grounds:

- (i) The prosecutor was denied procedural fairness in that the Magistrate should have, but did not, permit the prosecution to call the witnesses that the prosecutor submitted were relevant. The relevance of their evidence could have been assessed after it had been heard.
- (ii) The Magistrate misapplied the test for determining whether or not a prima facie case had been made out by the prosecution, in that she did not determine whether there was evidence which, if accepted and taken at its highest, could amount to proof of the offence charged.
- (iii) The Magistrate gave inadequate reasons for her determination. The mere statement that the evidence of a witness was unreliable, without any analysis as to why that was so, is not sufficient to discharge a Magistrate's judicial obligation to give reasons.

DPP v Langford [2012] NSWSC 310

The Defendant was intoxicated and driving a motor vehicle which left the roadway and collided with a hot water system of a residential house. A local resident approached the Defendant's vehicle, smelt alcohol on the Defendant's breath and observed a child passenger in the rear of the vehicle. The resident took the keys from the ignition of the vehicle and told the Defendant not to leave the scene as she had called the police.

Soon after, Sergeant Shepherd arrived at the scene. He smelt alcohol on the breath of the Defendant and noticed she had trouble standing and balancing when she exited the vehicle. She was told she was under arrest for driving under the influence. The Defendant was then twice subjected to a roadside breath test, which surprisingly did not detect the presence of alcohol. Wine casks, open and unopened, were located in the vehicle.

Sergeant Shepherd then directed a police constable to take the Defendant and the child to the hospital to check on their welfare and so that blood and urine samples could be taken from the Defendant. At the hospital a triage nurse took the blood and urine samples from the Defendant at the direction of the police constable. Subsequent analysis provided a blood/alcohol reading of 0.258grams of alcohol per 100ml of blood (a high range prescribed concentration of alcohol).

Before the Local Court Magistrate, the defence successfully argued that the blood and urine samples had been illegally obtained and that therefore the evidence regarding the blood/alcohol reading should not be admitted into evidence. The charge of driving with a high range prescribed concentration of alcohol was therefore dismissed as there was no other evidence of the blood/alcohol reading available.

An appeal to the Supreme Court by the DPP was allowed and the matter remitted to the Local Court for rehearing. Before the Supreme Court it was conceded that the blood and urine samples taken at the hospital had been unlawfully obtained. It was apparent that the Defendant had not been taken to the hospital for treatment as a result "of a road accident" nor was she properly subjected to "a sobriety assessment" prior to her arrest. Therefore the prerequisites within Sections 20 and 26 of the Road Transport (Safety and Traffic Management) Act were not satisfied prior to the blood and urine samples being taken from the Defendant.

However, before the Supreme Court it was successfully argued that the provisions of Section 138 of the Evidence Act, dealing with the exclusion of improperly or illegally obtained evidence, had not been correctly applied by the Magistrate.

It was held the Magistrate erred in her discretion under Section 138, to exclude the evidence of the blood/alcohol

Appendix 23: Some Cases dealt with during the year (continued)

reading, in that she failed to fully evaluate the seriousness of the offence in the given circumstances, failed to give adequate reasons and gave undue weight to “broad policy matters” regarding police using the powers of arrest to take blood and urine samples. It was further determined that the Magistrate made no finding that the police had acted in deliberate breach of the law or acted recklessly in unlawfully obtaining the blood and urine samples; nor that police did not genuinely believe the Defendant needed to be taken to hospital for treatment, after veering off the road, but were rather using the circumstances opportunistically to “ground the power to detain her for the sampling to be undertaken” at the hospital.

DPP v Sukhera [2012] NSWSC 311

The Defendant’s licence to drive a motor vehicle was suspended after a fine default. In April 2011, the defendant was stopped by police who had detected his driver’s licence status using mobile automated number plate recognition software.

The Defendant admitted to driving while suspended and also returned a positive breath test to alcohol - 0.029 grams of alcohol per 210 litres of breath. As a suspended driver he was “a special category driver”. This meant he could not drive a motor vehicle with a concentration of 0.02 grams or more, but less than 0.05 grams, of alcohol in 210 litres of breath.

As a result the Defendant was charged with driving a motor vehicle while licence suspended and driving a motor vehicle whilst present in his breath the special range prescribed concentration of alcohol.

The Defendant pleaded guilty to both offences before the Magistrate in the Local Court. For the driving while licence suspended offence the Magistrate found the offence proved but did not record a conviction against the Defendant, placing him on a good behaviour bond pursuant to Section 10 of the Crimes (Sentencing Procedure) Act. The Magistrate refused to accept the guilty plea and dismissed the related charge on the basis he was only a special category driver because his driver’s licence had been suspended, and he was therefore in a “catch 22” situation in that his liability for one offence was dependent on his liability for the other.

An appeal to the Supreme Court by the DPP against the dismissal of the second charge was allowed and the matter was remitted to the Local Court for rehearing. In coming to that decision the Supreme Court Justice agreed with the DPP’s submissions that the Magistrate had failed to provide adequate reasons for dismissing the second offence. It was further determined that the Defendant had not been placed in a double jeopardy situation by the laying of the second charge by the prosecution nor was it an abuse of process for the prosecution to do so. A person can be prosecuted for a

number of distinct offences arising out of the same course of conduct. In this instance, the constituent elements and the factual allegations relied upon to prove each offence were quite different. Each required proof of a fact which the other did not. That is, the elements of neither offence were wholly included in that of the other: *Pearce v R* (1998) 194 CLR 610.

R v William Ngati

In the late afternoon of New Years Eve 2009 William Ngati and Kaine Bell entered liquor stores in Peakhurst and East Hills, committing robberies with offensive weapons at both venues. Ngati was armed with a large kitchen knife while Bell carried a shortened firearm. They fled both stores in a van owned by Ngati’s de facto partner. Ngati drove the vehicle.

Police received a broadcast of the offences, identifying the getaway van by its number plate. On locating the van about 4 kilometres from the East Hills liquor store, police attempted to stop the vehicle and a police pursuit was initiated when Ngati failed to stop.

The pursuit led onto the M5 after driving through main roads of south-west Sydney and Liverpool at speeds of 60 to 100 kilometres over the posted speed limits. Traffic was heavy at most times and Ngati frequently drove on the incorrect side of the road and contrary to other road rules. Most of the pursuit was captured by in-car video by police, as well as Polair video footage.

While travelling on the M5 motorway around the Campbelltown area, Ngati attempted to veer into the another lane and in doing so, the front passenger side corner of the van impacted with the rear driver’s side of a Subaru sedan driven by Aimee Sassine in another lane. Also in the Impreza were Ms Sassine’s partner Justin Wright and their 19 month old daughter Skye Sassine. Ms Sassine and Mr Wright were wearing seat belts and Skye was strapped into an approved child seat positioned behind her mother.

The collision between the vehicles caused the Subaru to turn in an anti-clockwise rotation and impact heavily with the metal railing and a concrete barrier separating the lanes of north and south bound traffic.

As a result of the impact, Skye Sassine received serious injuries and despite efforts from Police and ambulance personnel at the scene, she was unable to be revived. Skye Sassine was pronounced deceased later that evening with the cause of death cited as head injuries.

After the collision, Ngati and Bell alighted from the vehicle. Bell was arrested close to the collision site. Ngati was clipped by a moving police vehicle. He got up and approached a vehicle which had stopped around the collision area and attempted to take the vehicle and eject the driver and passengers.

Appendix 23: Some Cases dealt with during the year (continued)

He was arrested by police at this time. A backpack he was carrying contained gloves, balaclavas, the firearm and some of the proceeds from the robberies. Two knives were also recovered from the van.

It could not be determined if Ngati was under the influence of any substance at the time of the offence as morphine was administered to him at the hospital in response to his injuries, thus making it difficult to determine if heroin was used prior to the offence.

Pleas of guilty were entered into for offences of manslaughter, robberies with offensive weapon and attempt to take motor vehicle. Three further robbery offences and an offence of using an offensive weapon to avoid apprehension were taken into account on Form 1 pursuant to section 32 of the Crimes (Sentencing Procedure) Act 1999. The Form 1 offences were in relation to matters arising from investigations following the manslaughter. All offences occurred in the Christmas 2009 period leading up to New Years Eve.

Sentence proceedings commenced on 19 April 2012 and included the reading of Victim Impact Statements by Aimee Sassine and Justin Wright.

On 25 May 2012 Ngati was sentenced to periods of 20 months to 5 years for the take vehicle and robbery offences and 13 years, 6 months for the manslaughter offence. A total non-parole term of 14 years was imposed.

Sentencing judge, Judge Frearson SC noted that Ngati had numerous opportunities for rehabilitation but made no attempt to rehabilitate himself, and instead attempted to excuse his criminality.

The manslaughter offences led to the introduction of "Skye's Law" providing penalties for offenders who commence high-speed police chases to evade arrest with maximum imprisonment terms of 3 to 5 years now specified in Section 51B Crimes Act 1900.

DPP v Walford [2011] NSWSC 759

In December 2009 the Defendant assaulted the Complainant at a gathering at a mutual friend's house. The Defendant and Complainant did not really know each other prior to this incident.

As a result of being charged with the assault an apprehended violence order (AVO) in the respect of the Defendant was applied for and obtained by the police.

In March 2010 the Complainant informed the police that the Defendant had breached the AVO by, on the day of the complaint, approaching her residential apartment block and looking towards her apartment. She had observed this

from her neighbour's apartment which was next door to her apartment. The Defendant was subsequently arrested and charged with knowingly contravening a prohibition specified in an AVO.

In her evidence before the Local Court Magistrate, the Complainant said she had seen the Defendant between the date of the initial assault and the date of her subsequent complaint, that she had seen him around her apartment block on a number of occasions and complained to police, and that he had breached the AVO.

The police officer in charge of the matter gave evidence that he did not hold an identification parade after arresting the Defendant for the breach of the AVO because the Complainant had identified the Defendant by name to him and she had had previous dealings with the Defendant.

The Magistrate dismissed the breach of the AVO charge after excluding the visual identification evidence given by the Complainant of the Defendant because there had been no identification parade held: Section 114 of the Evidence Act. The Magistrate did not believe there was a sufficient relationship between the Defendant and the Complainant to forgo the requirement for an identification parade to be held.

An appeal to the Supreme Court by the DPP against the dismissal of the charge was allowed and the matter was remitted to the Local Court for rehearing. After an analysis of Section 114 of the Evidence Act (which deals with the exclusion of visual identification evidence) the Court held that the Complainant had identified the Defendant (at or about the time of the commission of the offence) to the police and the evidence was incorrectly excluded. Recognition evidence amounting to identification can be given, without an identification parade being held, if made prior to any identification in court. The assertion having been made at or about the time of the commission of the offence leads to the inescapable conclusion that it would not have been reasonable to have held an identification parade: Section 114(a)(b). The scheme of Section 114 is understood by establishing when the "identification" is first made by the witness. If the witness has made an out-of-court identification, it is at that time at which the reasonableness of holding the identification parade is to be considered. If, however, the identification occurs for the first time in Court then the provisions of Section 114(2) of the Evidence Act would be clearly engaged.

The Defendant appealed the decision of the Supreme Court to the Court of Appeal. That judgment is currently reserved before the Court of Appeal.

APPENDIX 24: CREDIT CARD CERTIFICATION

During the 2011/12 financial year, credit card use within ODPP was in accordance with Premier's Memoranda, Treasurer's Directions and award conditions for travel related expenses

Credit card use

Credit card use within ODPP is largely limited to:

- claimable work related travel expenses.
- expenditure for minor purchases, where the use of credit cards is a more efficient means of payment.

Monitoring credit card use

The following measures and practices are used for providing guidelines and monitoring the efficient use of credit cards within ODPP:

- Officers are issued with a monthly credit card statement to verify and certify that all expenses were incurred for official purposes. Acquittals are examined and authorised by officers with appropriate financial delegation.
- A review of usage levels and appropriateness of credit card limits is conducted at least annually, and more frequently as required.
- A half-yearly report is submitted to Treasury certifying that credit card use by ODPP staff is within guidelines.

APPENDIX 25: DISABILITY ACTION PLAN

The Office of the Director of Public Prosecutions remains committed to implementing the Disability Policy Framework and ensuring that any difficulties experienced by people with disabilities in gaining access to our services are identified and eliminated wherever possible.

The key objectives of the plan are to ensure that:

- All members of the community have equal access to our services;
- There is no discrimination against people with disabilities in our services or workplaces; and
- Disability principles are incorporated into the Office's policies and practices.

Achievements in 2011 – 2012

- Victims and witnesses with a disability are one of the main groups prioritised by the Witness Assistance Service (WAS). In 2011-2012 WAS provided case management services to 138 victims and witnesses with identified disabilities including intellectual and cognitive disabilities, physical disabilities, sensory disabilities and mental health disabilities. This included 36 victims of adult sexual assault, 12 victims of historical child sexual assault and 26 child victims of child sexual assault. The WAS liaises closely with ODPP staff and external agencies such as Courts, Diversity Services with Department of Attorney General and Justice (DAGJ), and Intellectual Disability Rights Service Criminal Justice Support Network, to enable people with disabilities to participate in the criminal justice system and to give their evidence to the best of their ability. Vulnerable witnesses under the Criminal Procedures Act 1986 are entitled to give evidence via CCTV and to have a support person with them while giving evidence. WAS Officers will assist in informing witnesses of their entitlements and prepare the witness to give evidence. The WAS Officer coordinates court support for the witness and will provide it if not provided by other services. New WAS Officers have been encouraged to participate in an interagency visit to Diversity Services at DAGJ as part of their orientation program.
- Emergency procedures continue to be regularly reviewed and modified to provide safe evacuation of persons with a disability. Emergency teams in the Office have been trained in these procedures.

- Facilities and furniture are modified as required to accommodate the needs of staff who have a disability or require some type of modification to accommodate reasonable adjustment to enable them to work comfortably. This includes the adjustment of desk heights and the provision of low line shelving where required.
- The employment of an officer at the Office's Wagga Wagga regional office saw adjustments made to the internal fitout including the provision of easily accessible bathroom facilities, changed parking facilities and building access improvements including an external ramp.
- The Office has updated its Motor Vehicle Parking Policy prioritising access for staff and visitors with special needs.
- 6% of new starters disclosed that they had a disability; this is an increase from 5% last year.
- The Office promoted the disclosure of disability during inductions throughout 2011/2012 and will continue to promote disclosure and awareness in the future.
- 5% of higher duties opportunities in 2011/2012 were undertaken by staff with a disability; this is an increase from last year.
- Total representation of staff with a disability employed during the 2011/2012 year was 5.5% (based on staff who responded to the EEO Data Questionnaire). This is an increase from last year.
- 52 Managers attended specific training in Managing Psychological Injury or Illness and over 200 staff attended awareness information sessions on the same topic as part of the Office's Workplace Wellbeing Strategy.

APPENDIX 26: ODPP INTERNAL COMMITTEES / STEERING GROUPS

Committee/Steering Group	ODPP Representative	
Executive Board	Lloyd Babb SC (Chair) Keith Alder John Pickering Mark Tedeschi QC Nigel Hadgkiss (until 9 March 2012)	Stephen Kavanagh Bernie O'Keeffe John Hunter (External representative) Sandra Egger (External representative)
Management Committee	Lloyd Babb (Chair) Keith Alder John Pickering Mark Tedeschi QC Nigel Hadgkiss (until 9 March 2012) Graham Bailey	Johanna Pheils Sashi Govind Bernie O'Keeffe Stephen Kavanagh Claire Giroto
Audit & Risk Committee	Jon Isaacs (Chair / Independent) Patricia Azarias (Independent)	Chris Maxwell QC (Member) Sashi Govind (Deputy Member)
Information Management & Technology Steering Committee	Claire Giroto (Chair) Stephen Kavanagh Richard Herps Graham Bailey	Sashi Govind Wendy Carr Bernie O'Keeffe Hop Nguyen
Crown Prosecutors Management Committee	Mark Tedeschi QC Richard Herps Merv Grogan Peter Barnett SC Phil Ingram SC Lou Lungo Frank Veltro Deborah Carney (Crown Support)	Siobhan Herbert Gina O'Rourke Phil Hogan (alt. Peter McGrath) Kara Shead (alt. Sarah Huggett) Huw Baker (alt. Brad Hughes) Michael Fox (alt. Paul Cattini) Craig Everson (Treasurer)

Appendix 26: ODPP Internal Committees/Steering Groups (continued)

Committee/Steering Group	ODPP Representative	
Occupational Health & Safety Committee	<p>Sydney Office Melissa Day Vesna Medica Jenny Wells (Proxy)</p> <p>Employer Representatives Peter Burns Peter Bridge Keith Holder Nigel Richardson (Proxy)</p>	<p>Sydney West Peter Phythian</p> <p>Country Bree Chisholm Gwen Edwards Amanda Kerr Tamara Shields (Proxy) Andrew McMaster (Proxy)</p>
PSA / Management Joint Consultative Committee	<p>Nigel Richardson (Chair) Nigel Hadgkiss (until 9 March 2012) Claire Giroto Stephen Kavanagh Graham Bailey Sashi Govind Bernie O'Keeffe</p>	<p>Wendy Carr Amanda Brady (PSA) Fiona Horder (PSA) Jenny Wells (PSA) Andrew Horowitz (PSA) Nick Player (PSA Industrial Officer)</p>
Accommodation Committee	<p>Bernie O'Keeffe (Chair) Nigel Hadgkiss (until 9 March 2012) Jenny Wells (PSA)</p>	<p>Mark Tedeschi QC Stephen Kavanagh Peter Bridge Keith Holder</p>
Disability Action Plan Implementation Committee	<p>Peter Bridge Deborah Carney Anna Cooper</p>	<p>Diana Weston Katarina Golik Lee Purches</p>

APPENDIX 27: STAFF AWARDS

- 20 staff received 10 year service awards during the reporting period.
- 24 staff received 20 year service awards during the reporting period.
- This year the Director's Excellence Awards nomination categories were modified to recognise Individual, Team and Manager outstanding service delivery to the Office and the NSW community impacted by the Office. The following staff members are the recipients of Director's Service Excellence Awards for 2012.

Type	Name	Team/Location
Individual	Louise O'Neill	Witness Assistance Service, Newcastle
Individual	Maria-Rosa Etnasios	Court of Criminal Appeal, Sydney
Manager	Lee Purches	Witness Assistance Service, Sydney

APPENDIX 28: CONSUMER RESPONSE

The Office undertakes a Witness Satisfaction Survey biennially as the main qualitative measure of its service. The next survey is due in the next reporting period and will be presented in the next annual report.

The chart below shows the steady increase in the percentage of respondents who rated the service as 'good' or 'very good' in the surveys conducted by the Office for the past 9 years.

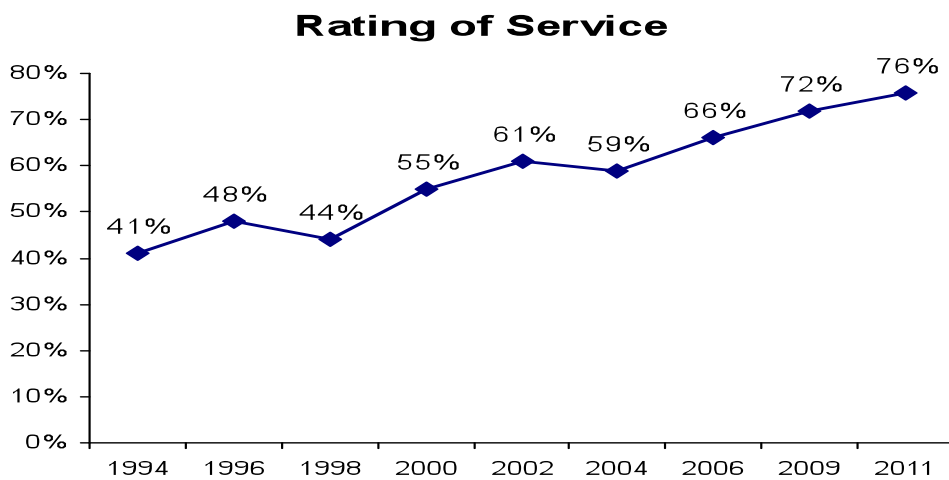


Chart 1: Comparison of Rating of Services of ODPP from 1994 to 2011

The survey further revealed that witnesses with WAS contact expressed greater satisfaction with ODPP services.

Comments regarding higher satisfaction ratings included good communication about the case, its progress and court processes. The survey also revealed that the level of professionalism and emotional support received from the Office were significant factors in relation to satisfaction with the service.

Dissatisfaction with the service included comments expressing frustration with a lack of communication about progress of cases, court delays and general discontent about court decisions.

Overall the survey results showed that ODPP staff are successful in assisting the majority of respondents through a traumatic experience in the Criminal Justice System.

APPENDIX 29: ODPP REPRESENTATIVES ON EXTERNAL COMMITTEES/STEERING GROUPS

Committee/Steering Group	ODPP Representative
Apprehended Violence Legal Issues Coordination Committee (reviews problems associated with apprehended violence orders)	Johanna Pheils Amy Watts
Australian Association Crown Prosecutors	Mark Tedeschi QC Mark Hobart SC Terence Thorpe
Bar Association: Bar Council	Virginia Lydiard
Bar Association: Criminal Law Committee	Sally Dowling Nicole Noman SC Kara Shead Sarah Huggett Keith Alder
Bar Association: Professional Conduct Committees	Mark Hobart SC Brad Hughes SC Natalie Adams Virginia Lydiard
Bar Association: Various other Committees	Peter Miller (Indigenous Barristers Strategy Working Party) Virginia Lydiard (EEO Committee) Margaret Cunneen SC (Chair of Barristers in Schools Program)
Conference of Australian Directors of Public Prosecutions	Lloyd Babb SC
Court Information Act Advisory Group	Helen Cunningham
Court of Criminal Appeal/Supreme Court Crime Users Group	David Arnott SC Phil Ingram SC Dominique Kelly
Court Security Committee	John Kiely SC Claire Giroto
Criminal Justice System Chief Executive Officers – Senior Officers' Group	Johanna Pheils
Criminal Law Committee of the Law Society of NSW	Johanna Pheils
Criminal Listing Review Committee (reviewing listings in the District Court)	Claire Giroto
DNA Review Panel	Keith Alder
Heads of Prosecuting Agencies Conference	Lloyd Babb SC
Homicide Squad Advisory Council	Patrick Barrett
International Association of Prosecutors	Lloyd Babb SC
Joined Up Justice Governance Committee	Wendy Carr Hop Nguyen
Joint Investigation Response Teams State Management Group	Amy Watts
Justice Sector Information Exchange Co-ordinating Committee (JSIECC)	Wendy Carr Hop Nguyen

Appendix 29: ODPP Representatives on External Committees/Steering Groups (Continued)

Committee/Steering Group	ODPP Representative
Law Council of Australia Criminal Law Committee	Stephen Kavanagh
Local Court Rules Committee	Johanna Pheils
Magistrates Early Referral Into Treatment (MERIT) – Statewide Steering Group	Sashi Govind
National DPP Executives Conference	Claire Giroto Nigel Hadgkiss Bernie O'Keeffe
NSW Case Law Users' Group	Helen Cunningham
DAGJ Better Court Support Steering Committee	Amy Watts
NSW Sentencing Council	Lloyd Babb SC
Parramatta CC Criminal Court User Group	Sashi Govind
Police Cold Case Justice Project	Patrick Barrett
Police Integrity Commission Liaison Group	Lisa Viney
Police-ODPP Prosecution Liaison Standing Committee	Graham Bailey Claire Giroto Stephen Kavanagh Johanna Pheils Sashi Govind Wendy Carr
Professional Standards Liaison Group	Lisa Viney
Sex Crimes and Joint Investigation Response Squad Advisory Council Meeting	Amy Watts Lee Purches
Legal Aid Sexual Assault Communications Privilege Service Reference Group	Johanna Pheils Amy Watts
Sexual Assault Review Committee	Julie Lannen Lee Purches Amy Watts Kara Shead Sarah Huggett
Standing Inter-agency Advisory Committee on Court Security	Claire Giroto
Victims Advisory Board under the Victims Rights Act	Johanna Pheils
Victims of Crime Inter-agency Committee	Lee Purches
Video Conferencing Steering Committee	Johanna Pheils
Victims of Crime Advisory Group	Amy Watts Lee Purches

ACRONYMS

Acronym	Definition
ABC	Activity Based Costing
AIJA	Australian Institute of Judicial Administration
BOCSAR	Bureau of Crime Statistics and Research
CASES	Computerised Case Tracking System
CCA	Court of Criminal Appeal
COCOG	Council on the Cost of Government
COPS	Computerised Operating Policing System
CSA	Child Sexual Assault
DAL	Division of Analytical Laboratories
DADHC	Department of Aging, Disability and Home Care
DAP	Disability Action Plan
EAP	Employee Assistance Program
ERIC	Electronic Referral of Indictable Cases
FIRST	Future Information Retrieval & Storage Technology Library Management System
GSA	Guided Self Assessment
ICAC	Independent Commission Against Corruption
IDITC	Interdepartmental Information Technology Committee
JIR	Joint Investigation Responses
JIRT	Joint Police/Department of Community Services Child Abuse Investigation and Response Teams
MCLE	Mandatory Continuing Legal Education
MIDAS	Mid Size Agency
ODPP	Office of the Director of Public Prosecutions (NSW)
SALO	Sexual Assault Liaison Officer
WAS	Witness Assistance Service

AUDITED FINANCIAL STATEMENTS 2011/12

**Office of the Director of Public Prosecutions
Statement by Director for the year ended 30 June 2012**

Pursuant to Section 45F of the Public Finance and Audit Act 1983, I state that:

- (a) the accompanying financial statements have been prepared in accordance with applicable Australian Accounting Standards, the requirements of the *Public Finance and Audit Act 1983*, and the Financial Reporting Directions published in the Financial Reporting Code for Budget Dependent General Government Sector Agencies, the applicable clauses of the *Public Finance and Audit Regulation 2010* and the Treasurer's Directions;
- (b) the statements exhibit a true and fair view of the financial position and transactions of the Office; and
- (c) I am not aware of any circumstances which would render any particulars included in the financial statements to be misleading or inaccurate.



Lloyd Babb SC
Director of Public Prosecutions

Sydney
2 October 2012



INDEPENDENT AUDITOR'S REPORT

Office of the Director of Public Prosecutions

To Members of the New South Wales Parliament

I have audited the accompanying financial statements of the Office of the Director of Public Prosecutions (the Office), which comprise the statement of financial position as at 30 June 2012, the statement of comprehensive income, statement of changes in equity, statement of cash flows, service group statements and a summary of compliance with financial directives for the year then ended, notes comprising a summary of significant accounting policies and other explanatory information.

Opinion

In my opinion, the financial statements:

- give a true and fair view of the financial position of the Office as at 30 June 2012, and of its financial performance and its cash flows for the year then ended in accordance with Australian Accounting Standards
- are in accordance with section 45E of the *Public Finance and Audit Act 1983* (the PF&A Act) and the Public Finance and Audit Regulation 2010

My opinion should be read in conjunction with the rest of this report.

Director's Responsibility for the Financial Statements

The Director is responsible for the preparation of the financial statements that give a true and fair view in accordance with Australian Accounting Standards and the PF&A Act, and for such internal control as the Director determines is necessary to enable the preparation of the financial statements that give a true and fair view and that are free from material misstatement, whether due to fraud or error.

Auditor's Responsibility

My responsibility is to express an opinion on the financial statements based on my audit. I conducted my audit in accordance with Australian Auditing Standards. Those standards require that I comply with relevant ethical requirements relating to audit engagements and plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgement, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the Office's preparation of the financial statements that give a true and fair view in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Office's internal control. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by the Director, as well as evaluating the overall presentation of the financial statements.

I believe the audit evidence I have obtained is sufficient and appropriate to provide a basis for my audit opinion.

My opinion does *not* provide assurance:

- about the future viability of the Office
- that it has carried out its activities effectively, efficiently and economically
- about the effectiveness of its internal control
- about the assumptions used in formulating the budget figures disclosed in the financial statements
- about the security and controls over the electronic publication of the audited financial statements on any website where they may be presented
- about other information that may have been hyperlinked to/from the financial statements.

Independence

In conducting my audit, I have complied with the independence requirements of the Australian Auditing Standards and relevant ethical pronouncements. The PF&A Act further promotes independence by:

- providing that only Parliament, and not the executive government, can remove an Auditor-General
- mandating the Auditor-General as auditor of public sector agencies but precluding the provision of non-audit services, thus ensuring the Auditor-General and the Audit Office of New South Wales are not compromised in their roles by the possibility of losing clients or income.



Jack Kheir
Director, Financial Audit Services

2 October 2012
SYDNEY

Office of the Director of Public Prosecutions
Statement of comprehensive income for the year ended 30 June 2012

	Notes	Actual 2012 \$'000	Budget 2012 \$'000	Actual 2011 \$'000
Expenses excluding losses				
Operating expenses				
Employee related	2(a)	89,832	87,918	83,686
Other operating expenses	2(b)	16,742	15,210	15,638
Depreciation and amortisation	2(c)	2,736	3,166	4,055
Other expenses	2(d)	<u>2,832</u>	<u>3,701</u>	<u>2,756</u>
Total expenses excluding losses		<u>112,142</u>	<u>109,995</u>	<u>106,135</u>
Revenue				
Recurrent appropriations	3(a)	95,283	95,930	90,794
Capital appropriations	3(a)	1,814	1,814	1,548
Sale of goods and services	3(b)	49	68	55
Investment revenue	3(c)	246	185	182
Grants and contributions	3(d)	2,837	2,837	2,820
Acceptance by the Crown Entity of employee benefits and other liabilities	3(e)	9,311	7,775	6,923
Other revenue	3(f)	<u>786</u>	<u>29</u>	<u>91</u>
Total Revenue		<u>110,326</u>	<u>108,638</u>	<u>102,413</u>
Gain / (loss) on disposal	4	<u>11</u>	<u>5</u>	<u>8</u>
Net result	14 , 16	<u>(1,805)</u>	<u>(1,352)</u>	<u>(3,714)</u>
Other comprehensive income				
Net increase / (decrease) in plant and equipment asset revaluation reserve		-	-	(356)
Total other comprehensive income		<u>-</u>	<u>-</u>	<u>(356)</u>
TOTAL COMPREHENSIVE INCOME		<u>(1,805)</u>	<u>(1,352)</u>	<u>(4,070)</u>

The accompanying notes form part of these financial statements.

**Office of the Director of Public Prosecutions
Statement of financial position as at 30 June 2012**

	Notes	Actual 2012 \$'000	Budget 2012 \$'000	Actual 2011 \$'000
ASSETS				
Current assets				
Cash and cash equivalents	6	5,453	4,041	5,556
Receivables	7	<u>1,144</u>	<u>829</u>	<u>776</u>
Total current assets		<u>6,597</u>	<u>4,870</u>	<u>6,332</u>
Non-current assets				
Plant and equipment	8	12,517	12,461	13,738
Intangible assets	9	<u>779</u>	<u>418</u>	<u>493</u>
Total non-current assets		<u>13,296</u>	<u>12,879</u>	<u>14,231</u>
Total assets		<u>19,893</u>	<u>17,749</u>	<u>20,563</u>
LIABILITIES				
Current liabilities				
Payables	10	4,067	3,310	3,784
Provisions	11	10,211	8,139	8,776
Other	12	<u>158</u>	<u>150</u>	<u>574</u>
Total current liabilities		<u>14,436</u>	<u>11,599</u>	<u>13,134</u>
Non-current liabilities				
Provisions	11	2,138	422	2,305
Other	12	<u>-</u>	<u>1,820</u>	<u>-</u>
Total non-current liabilities		<u>2,138</u>	<u>2,242</u>	<u>2,305</u>
Total liabilities		<u>16,574</u>	<u>13,841</u>	<u>15,439</u>
Net assets		<u>3,319</u>	<u>3,908</u>	<u>5,124</u>
EQUITY				
Accumulated funds		<u>3,319</u>	<u>3,908</u>	<u>5,124</u>
Total equity		<u>3,319</u>	<u>3,908</u>	<u>5,124</u>

The accompanying notes form part of these financial statements.

**Office of the Director of Public Prosecutions
Statement of changes in equity for the year ended 30 June 2012**

	Accumulated Funds	Assets Revaluation Surplus	Total
	\$'000	\$'000	\$'000
Balance at 1 July 2011	<u>5,124</u>	<u>-</u>	<u>5,124</u>
Net result for the year	<u>(1,805)</u>	<u>-</u>	<u>(1,805)</u>
Other comprehensive income:			
Net increase/(decrease) in property, plant and equipment	<u>-</u>	<u>-</u>	<u>-</u>
Total other comprehensive income	<u>-</u>	<u>-</u>	<u>-</u>
Total comprehensive income for the year	<u>(1,805)</u>	<u>-</u>	<u>(1,805)</u>
Balance at 30 June 2012	<u>3,319</u>	<u>-</u>	<u>3,319</u>
Balance at 1 July 2010	<u>8,838</u>	<u>356</u>	<u>9,194</u>
Net result for the year	<u>(3,714)</u>	<u>-</u>	<u>(3,714)</u>
Other comprehensive income:			
Net increase/(decrease) in property, plant and equipment	<u>-</u>	<u>(356)</u>	<u>(356)</u>
Total comprehensive income for the year	<u>(3,714)</u>	<u>(356)</u>	<u>(4,070)</u>
Balance at 30 June 2011	<u>5,124</u>	<u>-</u>	<u>5,124</u>

**Office of the Director of Public Prosecutions
Statement of cash flows for the year ended 30 June 2012**

	Notes	Actual 2012 \$'000	Budget 2012 \$'000	Actual 2011 \$'000
CASH FLOWS FROM OPERATING ACTIVITIES				
Payments				
Employee related		(78,698)	(80,623)	(76,121)
Other		<u>(21,979)</u>	<u>(21,236)</u>	<u>(19,357)</u>
Total payments		<u>(100,677)</u>	<u>(101,859)</u>	<u>(95,478)</u>
Receipts				
Recurrent appropriation		95,441	95,930	91,368
Capital appropriation (excluding equity appropriations)		1,814	1,814	1,548
Sale of goods and services		49	68	55
Interest received		209	203	165
Grants and contributions		2,837	2,837	2,820
Cash transfers to the Consolidated Fund		(574)	(574)	-
Other		<u>2,588</u>	<u>1,875</u>	<u>1,955</u>
Total receipts		<u>102,364</u>	<u>102,153</u>	<u>97,911</u>
NET CASH FLOWS FROM OPERATING ACTIVITIES	16	<u>1,687</u>	<u>294</u>	<u>2,433</u>
CASH FLOWS FROM INVESTING ACTIVITIES				
Proceeds from sale of plant and equipment		24	5	9
Purchases of plant and equipment		(1,353)	(1,714)	(1,559)
Other		<u>(461)</u>	<u>(100)</u>	<u>-</u>
NET CASH FLOWS FROM INVESTING ACTIVITIES		<u>(1,790)</u>	<u>(1,809)</u>	<u>(1,550)</u>
CASH FLOWS FROM FINANCING ACTIVITIES				
NET CASH FLOWS FROM FINANCING ACTIVITIES		<u>-</u>	<u>-</u>	<u>-</u>
NET INCREASE (DECREASE) IN CASH		(103)	(1,515)	883
Opening cash and cash equivalents		<u>5,556</u>	<u>5,556</u>	<u>4,673</u>
CLOSING CASH AND CASH EQUIVALENTS	6	<u>5,453</u>	<u>4,041</u>	<u>5,556</u>

The accompanying notes form part of these financial statements.

Supplementary financial statements

Office of the Director of Public Prosecutions
Service group statements for the year ended 30 June 2012

	Service Group 1 Prosecutions * 2012 \$'000	2011 \$'000	Service Group 2 Victim and Witness Assistance * 2012 \$'000	2011 \$'000	Not Attributable 2012 \$'000	2011 \$'000	Total 2012 \$'000	2011 \$'000
OFFICE'S EXPENSES AND INCOME								
Expenses excluding losses								
Operating expenses								
• Employee related	86,567	80,808	3,265	2,878	-	-	89,832	83,686
• Other operating expenses	16,151	15,101	591	537	-	-	16,742	15,638
Depreciation and amortisation	2,596	3,907	140	148	-	-	2,736	4,055
Other expenses	-	-	2,832	2,756	-	-	2,832	2,756
Total expenses excluding losses	105,314	99,816	6,828	6,319			112,142	106,135
Revenue**								
Recurrent appropriations	-	-	-	-	95,283	90,794	95,283	90,794
Capital appropriations	-	-	-	-	1,814	1,548	1,814	1,548
Sale of goods and services	49	55	-	-	-	-	49	55
Investment revenue	237	176	9	6	-	-	246	182
Grants and contributions**	-	107	2,837	2,713	-	-	2,837	2,820
Acceptance by the Crown Entity of employee benefits and other liabilities	-	-	-	-	9,311	6,923	9,311	6,923
Other revenue	785	88	1	3	-	-	786	91
Total revenue	1,071	426	2,847	2,722	106,408	99,265	110,326	102,413
Gain / (loss) on disposal	10	8	1	-	-	-	11	8
Net result	(104,233)	(99,382)	(3,980)	(3,597)	106,408	99,265	(1,805)	(3,714)
Other comprehensive income								
Increase / (decrease) in assets revaluation reserve	-	(356)	-	-	-	-	-	(356)
Total other comprehensive income	-	(356)	-	-	-	-	-	(356)
TOTAL COMPREHENSIVE INCOME	(104,233)	(99,738)	(3,980)	(3,597)	106,408	99,265	(1,805)	(4,070)

* The names and purposes of each service group are summarised in note 5

** Appropriations are made on an entity basis and not to individual service groups. Consequently, government contributions must be included in the 'Not Attributable' column.

Supplementary financial statements

Office of the Director of Public Prosecutions
Service group statements for the year ended 30 June 2012

	Service Group 1 Prosecutions * 2012 \$'000	Service Group 1 Prosecutions * 2011 \$'000	Service Group 2 Victim and Witness Assistance * 2012 \$'000	Service Group 2 Victim and Witness Assistance * 2011 \$'000	Not Attributable 2012 \$'000	Not Attributable 2011 \$'000	Total 2012 \$'000	Total 2011 \$'000
OFFICE'S ASSETS & LIABILITIES								
Current assets								
Cash and cash equivalents	5,213	5,323	240	233	-	-	5,453	5,556
Receivables	1,114	765	30	12	-	-	1,144	777
Total current assets	<u>6,327</u>	<u>6,088</u>	<u>270</u>	<u>245</u>	-	-	<u>6,597</u>	<u>6,333</u>
Non-current assets								
Plant and equipment	11,859	13,041	658	697	-	-	12,517	13,738
Intangibles	738	468	41	25	-	-	779	493
Total non-current assets	<u>12,597</u>	<u>13,509</u>	<u>699</u>	<u>722</u>	-	-	<u>13,296</u>	<u>14,231</u>
TOTAL ASSETS	<u>18,924</u>	<u>19,597</u>	<u>969</u>	<u>967</u>	-	-	<u>19,893</u>	<u>20,564</u>
Current liabilities								
Payables	3,683	3,440	384	345	-	-	4,067	3,785
Provisions	9,868	8,496	343	280	-	-	10,211	8,776
Other	-	161	158	413	-	-	158	574
Total current liabilities	<u>13,551</u>	<u>12,097</u>	<u>885</u>	<u>1,038</u>	-	-	<u>14,436</u>	<u>13,135</u>
Non-current liabilities								
Provisions	2,057	2,226	81	79	-	-	2,138	2,305
Total non-current liabilities	<u>2,057</u>	<u>2,226</u>	<u>81</u>	<u>79</u>	-	-	<u>2,138</u>	<u>2,305</u>
TOTAL LIABILITIES	<u>15,608</u>	<u>14,323</u>	<u>966</u>	<u>1,117</u>	-	-	<u>16,574</u>	<u>15,440</u>
NET ASSETS	<u>3,316</u>	<u>5,274</u>	<u>3</u>	<u>(150)</u>	-	-	<u>3,319</u>	<u>5,124</u>

* The names and purposes of each service group are summarised in note 5

Supplementary financial statements

Office of the Director of Public Prosecutions
 Summary of compliance with financial directives for the year ended 30 June 2012

	2012				2011			
	Recurrent Appropriation \$'000	Expenditure / Net Claim on Consolidated Fund \$'000	Capital Appropriation \$'000	Expenditure / Net Claim on Consolidated Fund \$'000	Recurrent Appropriation \$'000	Expenditure / Net Claim on Consolidated Fund \$'000	Capital Appropriation \$'000	Expenditure / Net Claim on Consolidated Fund \$'000
ORIGINAL BUDGET APPROPRIATION / EXPENDITURE								
• Appropriation Act	95,930	95,283	1,814	1,814	88,459	87,485	1,548	1,548
	95,930	95,283	1,814	1,814	88,459	87,485	1,548	1,548
OTHER APPROPRIATIONS / EXPENDITURE								
• Treasurer's Advance	-	-	-	-	3,470	3,309	-	-
	-	-	-	-	3,470	3,309	-	-
Total Appropriations / Expenditure / Net Claim on Consolidated Fund (includes transfer payments)	95,930	95,283	1,814	1,814	91,929	90,794	1,548	1,548
Amount drawn down against Appropriation		95,441		1,814		91,368		1,548
Liability to Consolidated Fund *		158		-		574		-

The summary of compliance is based on the assumption that Consolidated Fund monies are spent first (except where otherwise identified or prescribed).

* The "Liability to Consolidated Fund" represents the difference between the "Amount drawn down against Appropriation" and the "Total Expenditure / Net Claim on Consolidated Fund".

**Office of the Director of Public Prosecutions
Notes to the financial statements for the year ended 30 June 2012**

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4	Gain / (Loss) on Disposal
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**Office of the Director of Public Prosecutions
Notes to the financial statements for the year ended 30 June 2012**

1 Summary of Significant Accounting Policies

(a) Reporting entity

The Office of the Director of Public Prosecutions (the Office) is a NSW government entity. The Office is a not-for-profit entity (as profit is not its principal objective) and it has no cash generating units. The Office is consolidated as part of the NSW Total State Sector Accounts.

These financial statements for the year ended 30 June 2012 have been authorised for issue by the Director on 2 October 2012.

(b) Basis of preparation

The Office's financial statements are general purpose financial statements which have been prepared in accordance with:

- applicable Australian Accounting Standards (which include Australian Accounting Interpretations)
- the requirements of the *Public Finance and Audit Act 1983* and Regulation and
- the Financial Reporting Directions published in the Financial Reporting Code for NSW General Government Sector Entities or issued by the Treasurer.

Plant and equipment are measured at fair value. Other financial statement items are prepared in accordance with the historical cost convention.

Judgements, key assumptions and estimations management has made are disclosed in the relevant notes to the financial statements.

All amounts are rounded to the nearest one thousand dollars and are expressed in Australian currency.

(c) Statement of compliance

The financial statements and notes comply with Australian Accounting Standards, which include Australian Accounting Interpretations.

(d) Insurance

The Office's insurance activities are conducted through the NSW Treasury Managed Fund Scheme of self insurance for Government entities. The expense (premium) is determined by the Fund Manager based on past claim experience.

(e) Accounting for the Goods and Services Tax (GST)

Income, expenses and assets are recognised net of the amount of GST, except that:

- the amount of GST incurred by the Office as a purchaser that is not recoverable from the Australian Taxation Office is recognised as part of the cost of acquisition of an asset or as part of an item of expense and
- receivables and payables are stated with the amount of GST included.

Cash flows are included in the statement of cash flows on a gross basis. However, the GST components of cash flows arising from investing and financing activities which are recoverable from, or payable to, the Australian Taxation Office are classified as operating cash flows.

(f) Income recognition

Income is measured at the fair value of the consideration or contribution received or receivable. Additional comments regarding the accounting policies for the recognition of income are discussed below.

(i) Parliamentary appropriations and contributions

Except as specified below, parliamentary appropriations and contributions from other bodies (including grants and donations) are generally recognised as income when the Office obtains control over the assets comprising the appropriations / contributions. Control over appropriations and contributions is normally obtained upon the receipt of cash. Appropriations are not recognised as income in the following circumstances:

Office of the Director of Public Prosecutions
Notes to the financial statements for the year ended 30 June 2012

1 Summary of Significant Accounting Policies (cont'd)

(f) *Income recognition (cont'd)*

- Unspent appropriations are recognised as liabilities rather than income, as the authority to spend the money lapses and the unspent amount must be repaid to the Consolidated Fund.
- The liability is disclosed in note 12 as part of 'Current liabilities - Other'. The amount will be repaid and the liability will be extinguished next financial year.

(ii) Rendering of services

Revenue is recognised when the service is provided or by reference to the stage of completion (based on labour hours incurred to date).

(iii) Investment revenue

Interest revenue is recognised using the effective interest method as set out in AASB 139 *Financial Instruments: Recognition and Measurement*.

(g) *Assets*

(i) Acquisitions of assets

The cost method of accounting is used for the initial recording of all acquisitions of assets controlled by the Office. Cost is the amount of cash or cash equivalents paid or the fair value of the other consideration given to acquire the asset at the time of its acquisition or construction or, where applicable, the amount attributed to that asset when initially recognised in accordance with the requirements of other Australian Accounting Standards.

Assets acquired at no cost, or for nominal consideration, are initially recognised at their fair value at the date of acquisition.

Fair value is the amount for which an asset could be exchanged between knowledgeable, willing parties in an arm's length transaction.

(ii) Capitalisation thresholds

Plant and equipment and intangible assets costing \$5,000 and above individually (or forming part of a network costing more than \$5,000) are capitalised.

(iii) Revaluation of plant and equipment

Physical non-current assets are valued in accordance with the 'Valuation of Physical Non-Current Assets at Fair Value' Policy and Guidelines Paper (TPP 07-1). This policy adopts fair value in accordance with AASB 116 *Property, Plant and Equipment*.

Plant and equipment is measured on an existing use basis, where there are no feasible alternative uses in the existing natural, legal, financial and socio-political environment. However, in the limited circumstances where there are feasible alternative uses, assets are valued at their highest and best use.

Fair value of plant and equipment is determined based on the best available market evidence, including current market selling prices for the same or similar assets. Where there is no available market evidence, the asset's fair value is measured at its market buying price, the best indicator of which is depreciated replacement cost.

The Office revalues each class of plant and equipment at least every five years or with sufficient regularity to ensure that the carrying amount of each asset in the class does not differ materially from its fair value at reporting date. The last revaluation of the Office's library books was completed on 30 June 2011 and was based on an independent assessment.

Non-specialised assets with short useful lives are measured at depreciated historical cost, as a surrogate for fair value.

**Office of the Director of Public Prosecutions
Notes to the financial statements for the year ended 30 June 2012**

1 Summary of Significant Accounting Policies (cont'd)

(g) *Assets (cont'd)*

(iii) Revaluation of plant and equipment (cont'd)

When revaluing non-current assets by reference to current prices for assets newer than those being revalued (adjusted to reflect the present condition of the assets), the gross amount and the related accumulated depreciation are separately restated.

For other assets, any balances of accumulated depreciation at the revaluation date in respect of those assets are credited to the asset accounts to which they relate. The net asset accounts are then increased or decreased by the revaluation increments or decrements.

Revaluation increments are credited directly to the asset revaluation surplus, except that, to the extent that an increment reverses a revaluation decrement in respect of that class of asset previously recognised as an expense in the net result, the increment is recognised immediately as revenue in the net result.

Revaluation decrements are recognised immediately as expenses in the net result, except that, to the extent that a credit balance exists in the asset revaluation surplus in respect of the same class of assets, they are debited directly to the asset revaluation surplus.

As a not-for-profit entity, revaluation increments and decrements are offset against one another within a class of non-current assets, but not otherwise.

Where an asset that has previously been revalued is disposed of, any balance remaining in the asset revaluation surplus in respect of that asset is transferred to accumulated funds.

(iv) Impairment of plant and equipment

As a not-for-profit entity with no cash generating units, AASB 136 *Impairment of Assets* effectively is not applicable. AASB 136 modifies the recoverable amount test to the higher of fair value less costs to sell and depreciated replacement cost. This means that, where an asset already measured at fair value, impairment can only arise if selling costs are material. Selling costs are regarded as immaterial.

(v) Depreciation of plant and equipment

Depreciation is provided for on a straight-line basis for all depreciable assets so as to write off the depreciable amount of each asset as it is consumed over its useful life to the Office.

All material separately identifiable components of assets are depreciated over their shorter useful lives.

Office equipments	5 years
Office furniture and fittings	10 years
Computer equipments	4 years
Photocopiers	5 years
PABX equipments	5 years
Laptop computers	3 years
Servers	3 years
Library books	15 years

(vi) Restoration costs

The estimated cost of dismantling and removing an asset and restoring the site is included in the cost of an asset, to the extent it is recognised as a liability.

(vii) Maintenance

Day-to-day servicing costs or maintenance are charged as expenses as incurred, except where they relate to the replacement of a part or component of an asset, in which case the costs are capitalised and depreciated.

**Office of the Director of Public Prosecutions
Notes to the financial statements for the year ended 30 June 2012**

1 Summary of Significant Accounting Policies (cont'd)

(g) *Assets (cont'd)*

(viii) Leased assets

A distinction is made between finance leases which effectively transfer from the lessor to the lessee substantially all the risks and benefits incidental to ownership of the leased assets, and operating leases under which the lessor effectively retains all such risks and benefits.

Operating lease payments are charged to the statement of comprehensive income in the periods in which they are incurred. Property lease fixed escalations are spread equally over the period of the lease term.

(ix) Intangible assets

The Office recognises intangible assets only if it is probable that future economic benefits will flow to the Office and the cost of the asset can be measured reliably. Intangible assets are measured initially at cost. Where an asset is acquired at no or nominal cost, the cost is its fair value as at the date of acquisition. Software is classified as intangible assets.

Development costs are only capitalised when certain criteria are met.

The useful lives of intangible assets are assessed to be finite.

Intangible assets are subsequently measured at fair value only if there is an active market. As there is no active market for the Office's intangible assets, the assets are carried at cost less any accumulated amortisation.

The Office's intangible assets are amortised using the straight line method over a period of 4 years.

Intangible assets are tested for impairment where an indicator of impairment exists. If the recoverable amount is less than its carrying amount the carrying amount is reduced to recoverable amount and the reduction is recognised as an impairment loss.

(x) Receivables

Short-term receivables with no stated interest rate are measured at the original invoice amount where the effect of discounting is immaterial.

(xi) Impairment of financial assets

All financial assets, except those measured at fair value through profit and loss, are subject to an annual review for impairment. An allowance for impairment is established when there is objective evidence that the entity will not be able to collect all amounts due.

For financial assets carried at amortised cost, the amount of the allowance is the difference between the asset's carrying amount and the present value of estimated future cash flows, discounted at the effective interest rate. The amount of the impairment loss is recognised in the net result for the year.

When an available for sale financial asset is impaired, the amount of the cumulative loss is removed from equity and recognised in the net result for the year, based on the difference between the acquisition cost (net of any principal repayment and amortisation) and current fair value, less any impairment loss previously recognised in the net result for the year.

Any reversals of impairment losses are reversed through the net result for the year, where there is objective evidence. However, reversals of impairment losses on an investment in an equity instrument classified as 'available for sale' must be made through the revaluation surplus. Reversals of impairment losses of financial assets carried at amortised cost cannot result in a carrying amount that exceeds what the carrying amount would have been had there not been an impairment loss.

(xii) Derecognition of financial assets and financial liabilities

A financial asset is derecognised when the contractual rights to the cash flows from the financial assets expire; or if the Office transfers the financial asset:

- where substantially all the risks and rewards have been transferred or

**Office of the Director of Public Prosecutions
Notes to the financial statements for the year ended 30 June 2012**

1 Summary of Significant Accounting Policies (cont'd)

(g) *Assets (cont'd)*

(xii) Derecognition of financial assets and financial liabilities (cont'd)

- where the Office has not transferred substantially all the risks and rewards, if the entity has not retained control.

Where the Office has neither transferred nor retained substantially all the risks and rewards or transferred control, the asset is recognised to the extent of the Office's continuing involvement in the asset.

A financial liability is derecognised when the obligation specified in the contract is discharged or cancelled or expires.

(xiii) Other assets

Other assets are recognised on a cost basis.

(h) *Liabilities*

(i) Payables

These amounts represent liabilities for goods and services provided to the Office and other amounts. Payables are recognised initially at fair value, usually based on the transaction cost or face value. Subsequent measurement is at amortised cost using the effective interest method. Short-term payables with no stated interest rate are measured at the original invoice amount where the effect of discounting is immaterial.

(ii) Financial guarantees

The Office has reviewed its financial guarantees and determined that there is no material liability to be recognised for financial guarantee contracts as at 30 June 2012 and at 30 June 2011. However, refer note 15 regarding disclosures on contingent liabilities.

(iii) Employee benefits and other provisions

(a) Salaries and wages, recreation leave, sick leave and on-costs

Liabilities for salaries and wages (including non-monetary benefits), recreation leave and paid sick leave that are due to be settled within 12 months after the end of the period in which the employees render the service are recognised and measured in respect of employees' services up to the reporting date at undiscounted amounts based on the amounts expected to be paid when the liabilities are settled.

Long-term recreation leave that is not expected to be taken within twelve months is measured at present value in accordance with AASB 119 *Employee Benefits*. Market yields on government bonds of 4.05% are used to discount long-term recreation leave.

Unused non-vesting sick leave does not give rise to a liability as it is not considered probable that sick leave taken in the future will be greater than the benefits accrued in the future.

Crown Prosecutors are entitled to compensatory leave when they perform duties during their vacation. Unused compensatory leave gives rise to a liability and is disclosed as part of recreation leave.

The outstanding amounts of payroll tax, workers' compensation insurance premiums and fringe benefits tax, which are consequential to employment, are recognised as liabilities and expenses where the employee benefits to which they relate have been recognised.

(b) Long service leave and superannuation

The Office's liabilities for long service leave and defined benefit superannuation are assumed by the Crown Entity. The Office accounts for the liability as having been extinguished, resulting in the amount assumed being shown as part of the non-monetary revenue item described as 'Acceptance by the Crown Entity of employee benefits and other liabilities'.

Office of the Director of Public Prosecutions
Notes to the financial statements for the year ended 30 June 2012

1 Summary of Significant Accounting Policies (cont'd)

(h) *Liabilities (cont'd)*

(iii) Employee benefits and other provisions (cont'd)

Long service leave is measured at present value in accordance with AASB 119 *Employee Benefits*. This is based on the application of certain factors (specified in NSWTC 11/06) to employees with five or more years of service, using current rates of pay. These factors were determined based on an actuarial review to approximate present value.

The superannuation expense for the financial year is determined by using the formulae specified in the Treasurer's Directions. The expense for certain superannuation schemes (e.g. Basic Benefit and First State Super) is calculated as a percentage of the employees' salary. For other superannuation schemes (ie State Superannuation Scheme and State Authorities Superannuation Scheme), the expense is calculated as a multiple of the employees' superannuation contributions.

(c) Other provisions

Other provisions exist when: the Office has a present legal or constructive obligation as a result of a past event; it is probable that an outflow of resources will be required to settle the obligation; and a reliable estimate can be made of the amount of the obligation.

Any provisions for restructuring are recognised only when the Office has a detailed formal plan and the Office has raised a valid expectation in those affected by the restructuring that it will carry out the restructuring by starting to implement the plan or announcing its main features to those affected.

If the effect of the time value of money is material, provisions are discounted at 4.05% , which is a pre-tax rate that reflects the current market assessments of the time value of money and the risks specific to the liability.

(i) *Equity and reserves*

(i) Revaluation surplus

The revaluation surplus is used to record increments and decrements on the revaluation of non-current assets. This accords with the Office's policy on the revaluation of property, plant and equipment as discussed in note 1(g)(iii)

(ii) Accumulated Funds

The category 'Accumulated Funds' includes all current and prior period retained funds.

(j) *Budgeted amounts*

The budgeted amounts are drawn from the original budgeted financial statements presented to Parliament in respect of the reporting period, as adjusted for section 24 of the PFAA where there has been a transfer of functions between departments. Other amendments made to the budget are not reflected in the budgeted amounts.

(k) *Comparative information*

Except when an Australian Accounting Standard permits or requires otherwise, comparative information is disclosed in respect of the previous period for all amounts reported in the financial statements.

(l) *Lease incentive*

Lease incentives payable under operating leases are recognised initially as liabilities, The incentive is subsequently amortised over the lease term, as a reduction of rental expenses. The straight-line method is adopted for reduction of rental expense.

(m) *Witness expenses*

Witness expenses are paid to witnesses who attend conferences with the Office and court to give evidence for the prosecution. Witness expenses are designed to minimise financial hardship and are paid towards lost income and direct out of pocket expenses such as travel expenses incurred in attending court.

**Office of the Director of Public Prosecutions
Notes to the financial statements for the year ended 30 June 2012**

1 Summary of Significant Accounting Policies (cont'd)

(n) The following new Accounting Standards have not been applied and are not effective..

AASB 9 and AASB 2010-07 regarding financial instruments. This standard applies to annual reporting periods beginning on or after 1 January 2013

AASB 12 regarding disclosure of interests in other entities. This standard applies to annual reporting periods beginning on or after 1 January 2013

AASB 13 regarding fair value measurement. This standard applies to annual reporting periods beginning on or after 1 January 2013

AASB 119 and AASB 2011-10 regarding employee benefits. This Standard applies to annual reporting periods beginning on or after 1 January 2013

AASB2010-2 regarding reduced disclosure requirements. This Standard applies to annual reporting periods beginning on or after 1 July 2013

AASB 2010-10 regarding removal of fixed dates for first time adopters. This standard applies to annual reporting periods beginning on or after 1 January 2013

AASB2011-4 regarding individual key management personnel disclosure requirements. This Standard applies to annual reporting periods beginning on or after 1 July 2013

While the impact of these standards in the period of initial application has not been specifically quantified, they are not expected to materially impact the financial statements.

Office of the Director of Public Prosecutions
Notes to the financial statements for the year ended 30 June 2012

2 Expenses Excluding Losses

	2012	2011
	\$'000	\$'000
(a) Employee related expenses		
Salaries and wages (including recreation leave)	69,915	67,687
Superannuation - defined benefit plans	2,967	3,174
Superannuation - defined contribution plans	4,484	4,423
Long service leave	6,186	3,582
Workers' compensation insurance	515	353
Payroll tax and fringe benefit tax	4,549	4,435
On-cost on long service leave	1,146	17
Temporary staff	70	15
	<u>89,832</u>	<u>83,686</u>
	2012	2011
	\$'000	\$'000
(b) Other operating expenses include the following:		
Auditor's remuneration - audit of the financial statements	56	48
Cleaning	276	287
Consultancy costs	72	73
Insurance	300	293
Motor vehicle expenses	258	322
Operating lease rental expense - minimum lease payments	7,688	7,291
Telephone	702	599
Printing	118	80
Stores and equipment	502	480
Training	148	143
Travel	1,234	983
Other expenses	800	1,010
Outgoings	415	437
Books	137	133
Fees - private barristers	1,890	1,533
Fees - practising certificates	283	273
Fees - security	213	164
Gas and electricity	394	345
Postage	129	133
Courier	15	12
Maintenance*	1,112	999
	<u>16,742</u>	<u>15,638</u>
<i>* Reconciliation - Total maintenance</i>		
Maintenance expense - contracted labour and other (non-employee related), as above	1,112	999
Employee related maintenance expense included in Note 2(a)	16	16
Total maintenance expenses included in Note 2(a) + 2(b)	<u>1,128</u>	<u>1,015</u>
	2012	2011
	\$'000	\$'000
(c) Depreciation and amortisation expense		
Depreciation		
Plant and Equipment	1,749	1,938
Computer equipment	731	792
Library collection*	81	1,142
Total Depreciation	<u>2,561</u>	<u>3,872</u>
Amortisation		
Intangible	175	183
	<u>2,736</u>	<u>4,055</u>

* 2011 Depreciation of Library collection included \$904,138 valuation decrement.

Office of the Director of Public Prosecutions
Notes to the financial statements for the year ended 30 June 2012

2 Expenses Excluding Losses (cont'd)

	2012	2011
	\$'000	\$'000
(d) Other expenses		
Allowances to witness	2,774	2,659
Ex-gratia payments	6	74
Living expenses of non Australian citizens defendants	<u>52</u>	<u>23</u>
	<u>2,832</u>	<u>2,756</u>

3 Revenue

	2012	2011
	\$'000	\$'000

(a) Appropriations*Recurrent appropriations*

Total recurrent draw-downs from NSW Treasury (per Summary of compliance)	95,441	91,368
Less: Liability to Consolidated Fund (per Summary of compliance)	<u>158</u>	<u>574</u>
	<u>95,283</u>	<u>90,794</u>

Comprising:

Recurrent appropriations (per Statement of comprehensive income)	<u>95,283</u>	<u>90,794</u>
	<u>95,283</u>	<u>90,794</u>

Capital appropriations

Total capital draw-downs from NSW Treasury (per Summary of compliance)	1,814	1,548
Less: Liability to Consolidated Fund (per Summary of compliance)	<u>-</u>	<u>-</u>
	<u>1,814</u>	<u>1,548</u>

Comprising:

Capital appropriations (per Statement of comprehensive income)	<u>1,814</u>	<u>1,548</u>
	<u>1,814</u>	<u>1,548</u>

	2012	2011
	\$'000	\$'000

(b) Sale of goods and services

Rendering of services	2	2
Commissions - miscellaneous deductions	1	2
Cost awarded	40	38
Appearance fees	5	13
On-cost - Officers on loan	<u>1</u>	<u>-</u>
	<u>49</u>	<u>55</u>

	2012	2011
	\$'000	\$'000

(c) Investment revenue

Interest revenue from financial assets not at fair value through profit or loss	<u>246</u>	<u>182</u>
	<u>246</u>	<u>182</u>

Office of the Director of Public Prosecutions
Notes to the financial statements for the year ended 30 June 2012

3 Revenue (cont'd)

	2012	2011
	\$'000	\$'000

(d) Grants and contributions

Contribution from Budget Dependant agencies	2,837	2,820
	2,837	2,820

	2012	2011
	\$'000	\$'000

(e) Acceptance by the Crown Entity of employee benefits and other liabilities

The following liabilities and / or expenses have been assumed by the Crown Entity or other government agencies:

Superannuation - defined benefit	2,967	3,174
Long service leave	6,186	3,582
Payroll tax	158	167
	9,311	6,923

	2012	2011
	\$'000	\$'000

(f) Other revenue

Other revenue	786	91
	786	91

\$0.633 M revenue in 2012 represents costs recovered from WA ODPP for representation by the NSW ODPP in the Western Australia Rayney matter.

4 Gain / (Loss) on Disposal

	2012	2011
	\$'000	\$'000

Gain / (loss) on disposal of computer equipment

Proceeds from disposal	24	9
Written down value of assets disposed	(13)	(1)
Net gain / (loss) on disposal of office equipment	11	8

5 Service Groups of the Office**(a) Service Group 1 Prosecutions**

Purpose: To provide the people of New South Wales with an efficient, fair and just prosecution service.

Description: This service group covers instituting and conducting prosecutions and related proceedings for indictable offences under NSW laws in the Supreme Court, District Court and Local Court on behalf of the Crown. This includes providing advice to police and investigative agencies on evidentiary matters, participating in the law reform process and capturing the proceeds of crime.

Office of the Director of Public Prosecutions
Notes to the financial statements for the year ended 30 June 2012

5 Service Groups of the Office (cont'd)

(b) Service Group 2 Victim and Witness Assistance

Purpose: To provide victims and witnesses with relevant information and support in the prosecution process.

Description: This service group covers providing information, referral and support services to victims of violent crimes and to vulnerable witnesses who are giving evidence in matters prosecuted by the Director of Public Prosecutions. This includes assisting victims and witnesses to minimise the traumatic impact of the court process, providing access to services in remote areas and assisting indigenous victims and witnesses.

Service Group 'Statement of assets and liabilities' and 'Statement of expenses and income' are provided in the supplementary financial statements.

6 Current Assets - Cash and Cash Equivalents

	2012 \$'000	2011 \$'000
Cash at bank and on hand	5,410	5,513
Permanent witness advance	<u>43</u>	<u>43</u>
	<u>5,453</u>	<u>5,556</u>

For the purposes of the statement of cash flows, cash and cash equivalents include cash at bank, cash on hand and witness advances float given to courthouses.

Cash and cash equivalent assets recognised in the statement of financial position are reconciled at the end of the financial year to the statement of cash flows as follows:

	2012 \$'000	2011 \$'000
Cash and cash equivalents (per statement of financial position)	<u>5,453</u>	<u>5,556</u>
Closing cash and cash equivalents (per statement of cash flows)	<u>5,453</u>	<u>5,556</u>

Refer note 17 for details regarding credit risk, liquidity risk, and market risk arising from financial instruments.

7 Current Assets - Receivables

	2012 \$'000	2011 \$'000
Rendering of services	264	1
Goods and Services Tax recoverable from ATO	238	210
Prepayments	508	463
Interest	125	89
Advances	<u>9</u>	<u>13</u>
	<u>1,144</u>	<u>776</u>

Details regarding credit risk, liquidity risk and market risk, including financial assets that are either past due or impaired, are disclosed in note 17.

Office of the Director of Public Prosecutions
Notes to the financial statements for the year ended 30 June 2012

8 Non-Current Assets - Plant and Equipment

	Plant and Equipment
At 1 July 2011 - fair value	
Gross carrying amount	33,136
Accumulated depreciation	<u>(19,398)</u>
Net carrying amount	<u>13,738</u>
At 30 June 2012 - fair value	
Gross carrying amount	32,265
Accumulated depreciation	<u>(19,748)</u>
Net carrying amount	<u>12,517</u>

Reconciliation

A reconciliation of the carrying amount of plant and equipment at the beginning and end of the current reporting period is set out below.

Year ended 30 June 2012

Net carrying amount at start of year	13,738
Additions	1,353
Disposals	(13)
Net revaluation increment less revaluation decrements	-
Depreciation expense	<u>(2,561)</u>
Net carrying amount at end of year	<u>12,517</u>

\$'000

At 1 July 2010 - fair value

Gross carrying amount	34,689
Accumulated depreciation	<u>(18,067)</u>
Net carrying amount	<u>16,622</u>

At 30 June 2011 - fair value

Gross carrying amount	33,136
Accumulated depreciation	<u>(19,398)</u>
Net carrying amount	<u>13,738</u>

Year ended 30 June 2011

Net carrying amount at start of year	16,622
Additions	1,344
Disposals	(1)
Net revaluation increment less revaluation decrements	(1,260)
Depreciation expense	<u>(2,967)</u>
Net carrying amount at end of year	<u>13,738</u>

9 Non-Current Assets - Intangible assets

	Software and Others \$'000
At 1 July 2011	
Cost (gross carrying amount)	10,144
Accumulated amortisation	<u>(9,651)</u>
Net carrying amount	<u>493</u>
At 30 June 2012	
Cost (gross carrying amount)	9,048
Accumulated amortisation	<u>(8,269)</u>
Net carrying amount	<u>779</u>

Office of the Director of Public Prosecutions
Notes to the financial statements for the year ended 30 June 2012

	Software and Others \$'000
Reconciliation	
Year ended 30 June 2012	
Net carrying amount at start of year	493
Additions	461
Amortisation (recognised in "depreciation and amortisation")	<u>(175)</u>
Net carrying amount at end of year	<u>779</u>
At 1 July 2010	
Cost (gross carrying amount)	9,946
Accumulated amortisation	<u>(9,469)</u>
Net carrying amount	<u>477</u>
At 30 June 2011	
Cost (gross carrying amount)	10,144
Accumulated amortisation	<u>(9,651)</u>
Net carrying amount	<u>493</u>
Year ended 30 June 2011	
Net carrying amount at start of year	477
Additions	199
Amortisation (recognised in "depreciation and amortisation")	<u>(183)</u>
Net carrying amount at end of year	<u>493</u>

10 Current Liabilities - Payables

	2012 \$'000	2011 \$'000
Payables		
Accrued salaries, wages and on-costs	1,836	1,735
Creditors	1,623	1,427
Accruals	<u>608</u>	<u>622</u>
	<u>4,067</u>	<u>3,784</u>

Details regarding credit risk, liquidity risk and market risk, including a maturity analysis of the above payables, are disclosed in note 17.

11 Current / Non-Current Liabilities - Provisions

	2012 \$'000	2011 \$'000
Current		
Employee benefits and related on-costs		
Recreation leave	5,783	5,618
On-cost on recreation leave and long service leave	2,327	1,410
Payroll tax on-cost for recreation leave and long service leave	<u>1,802</u>	<u>1,571</u>
	<u>9,912</u>	<u>8,599</u>
Other provisions		
Restoration costs	210	77
Rent adjustment reserve	66	77
Lease incentive	<u>23</u>	<u>23</u>
	<u>299</u>	<u>177</u>
Total provisions - current	<u>10,211</u>	<u>8,776</u>

Office of the Director of Public Prosecutions
Notes to the financial statements for the year ended 30 June 2012

11 Current / Non-Current Liabilities - Provisions (cont'd)

	2012 \$'000	2011 \$'000
Non-current		
Employee benefits and related on-costs		
On-cost on long service leave	105	59
Payroll tax on-cost for long service leave	<u>77</u>	<u>66</u>
	<u>182</u>	<u>125</u>
Other provisions		
Restoration costs	1,650	1,744
Rent adjustment reserve	11	118
Lease incentive	<u>295</u>	<u>318</u>
	<u>1,956</u>	<u>2,180</u>
Total provisions - non-current	<u>2,138</u>	<u>2,305</u>
 Aggregate employee benefits and related on-costs		
Provisions - current	9,912	8,599
Provisions - non-current	182	125
Accrued salaries, wages and on-costs (note 10)	<u>1,829</u>	<u>1,735</u>
	<u>11,923</u>	<u>10,459</u>

Movements in provisions (other than employee benefits)

Movements in each class of provision during the financial year, other than employee benefits are set out below:

	Lease incentive \$'000	Restoration costs \$'000	Rent adjustment reserve \$'000	Total \$'000
2012				
Carrying amount at the beginning of financial year	341	1,821	195	2,357
Additional provisions recognised	-	39	-	39
Amounts used	<u>(23)</u>	<u>-</u>	<u>(118)</u>	<u>(141)</u>
Carrying amount at end of financial year	<u>318</u>	<u>1,860</u>	<u>77</u>	<u>2,255</u>

12 Current / Non-Current Liabilities - Other

	2012 \$'000	2011 \$'000
Current		
Liability to consolidated fund	<u>158</u>	<u>574</u>
	<u>158</u>	<u>574</u>

Office of the Director of Public Prosecutions
Notes to the financial statements for the year ended 30 June 2012

13 Commitments for Expenditure

	2012	2011
	\$'000	\$'000

(a) Other expenditure commitments

Aggregate other expenditure for the acquisition of insurance and software maintenance contracted for at balance date and not provided for:

Not later than one year	40	69
Total (including GST)	40	69

The total "other expenditure commitments" above includes input tax credit of \$0.04 M (30 June 2011 : \$0.006 M) recoverable from Australian Taxation Office.

	2012	2011
	\$'000	\$'000

(b) Operating lease commitments

Future non-cancellable operating lease rentals not provided for and payable;

Not later than one year	8,205	8,349
Later than one year and not later than five years	17,374	23,463
Later than five years	10,841	9,639
Total (including GST)	36,420	41,451

The total "operating lease commitments" above includes input tax credit of \$3.311 M (30 June 2011:\$3,768M) recoverable from Australian Taxation Office.

Non-cancellable leases relate to commitments for accommodation for ten leased premises throughout the state and lease of motor vehicles. Commitments for accommodation are based on current costs and are subject to future rent reviews.

14 Budget Review**Net result**

The Office throughout the later part of the 2011/12 financial year projected that the net result for the financial year would be under budget. After balance date in July 2012, Treasury provided an actuarial valuation for long service leave liability that was much greater than anticipated due to a reduction in the bond rates. This increased the long service leave total expense by \$3.591M greater than projected. This long service leave adjustment was not within the control of the Office and caused the final net result to be greater than the budgeted net result by \$453K. Without this adjustment the Office would have been well within budget limits reporting a result \$3.138M better than budget.

The actual net result was higher than the Treasury budget by \$453K, primarily due to:

Over budget expenditure \$5.269M

- \$3.591M for crown accepted employee related expenditure due to increase in actuarial valuation of LSL liability by Treasury
- \$1.202M increased private barrister expenditure owing to insufficient Crown Prosecutors to meet court demand and prosecution services provided to Western Australia ODPP
- \$0.141M Workers Compensation hindsight adjustment to Treasury managed fund not known at budget preparation
- \$0.335M other working expenses including maintenance costs, stores, counsel for Supreme Court litigation and temporary agency staff

Office of the Director of Public Prosecutions
Notes to the financial statements for the year ended 30 June 2012

14 Budget Review (cont'd)Under budget expenditure \$3.122M

- \$1.140M decreased salary expenses due to Crown Prosecutor vacancies and employees on LSL taken in service
- \$0.582M decreased superannuation expenses due to the increased number of employees belonging to the superannuation guarantee charge funds and a decrease in those belonging to defined benefit funds
- \$0.531 decreased depreciation expense due to an accelerated write of furniture, fit out and make good provision resulting for the head office relocation in 2009, revaluation of the Library in 2010 and timing of capital works expenditure
- \$0.869M reduced number and amount of witness expense claims

Increased Revenue \$1.688M

- \$1.536M Acceptance by the Crown Entity of employee benefits and other liabilities due to Treasury's valuation of LSL liability at year end, and reducing number of employees belonging to defined benefit superannuation funds
- \$0.633M due to cost recovery for prosecution services for the Western Australia DPP. NSW ODPP is appearing in the matter of Rayney on behalf of Western Australia ODPP
- \$0.166M mainly due to increased bank interest rates and additional miscellaneous revenue
- \$0.647 decrease in recurrent appropriation due to estimated reduced witness payments

Gain on sale of assets: \$0.006M

- \$0.006 – Disposal of office equipment

Assets and liabilities

Non-current assets are \$0.417M higher than budget due to decreased depreciation due to an accelerated write of furniture, fit out and make good provision resulting from the HO relocation in 2009, revaluation of the Library in 2010 and timing of capital works expenditure in 2011-12

Current assets increased by \$1.721M. \$1.412M in cash and \$0.309M in receivables

Non-current liabilities decreased by \$0.104M. \$0.210M restoration cost transfer to current liabilities, \$0.106M increase in oncost on LSL

Current liabilities increased by \$2.831M. Increases in payables \$0.751M due to timing in cash payments, provisions and other \$2,080M due to employee related items

Cash flows

Net cash flow from operating activities was \$1.393M higher than budget due to \$1,235M timing in payments of creditors and \$0.158M liability to con fund.

15 Contingent Liabilities and Contingent Assets**Contingent liabilities**

The Office was not aware of any contingent asset or liability as at 30 June 2012 (nil in 2011) that may materially affect the future results of the Office.

Office of the Director of Public Prosecutions
Notes to the financial statements for the year ended 30 June 2012

16 Reconciliation of Cash Flows from Operating Activities to Net Result

	2012	2011
	\$'000	\$'000
Net cash flow from operating activities	1,687	2,433
Depreciation and amortisation	(2,736)	(4,055)
Decrease / (increase) in provisions	(1,268)	(1,324)
Increase / (decrease) in prepayments and other assets	361	(146)
Decrease / (Increase) in creditors	(276)	(280)
Decrease / (increase) in other liabilities	416	(335)
Increase/(decrease) in Assets	<u>11</u>	<u>(7)</u>
Net result	<u>(1,805)</u>	<u>(3,714)</u>

17 Financial Instruments

The Office's principal financial instruments are outlined below. These financial instruments arise directly from the Office's operations or are required to finance the Office's operations. The Office does not enter into or trade financial instruments, including derivative financial instruments, for speculative purposes.

The Office's main risks arising from financial instruments are outlined below, together with the Office's objectives, policies and processes for measuring and managing risk.

The Director has overall responsibility for the establishment and oversight of risk management and reviews and agrees policies for managing each of these risks. Risk management policies are established to identify and analyse the risks faced by the Office, to set risk limits and controls and to monitor risks. Compliance with policies is reviewed by the Audit and Risk Committee on a continuous basis.

(a) Financial instrument categories

Financial Assets	Note	Category	Carrying Amount	Carrying Amount
Class:			2012	2011
			\$'000	\$'000
Cash and cash equivalents	6	N/A	5,453	5,556
Receivables ¹	7	Receivables measured at cost	399	103
Financial Liabilities				
Class:	Note	Category	Carrying Amount	Carrying Amount
			2012	2011
			\$'000	\$'000
Payables ²	10	Financial liabilities measured at cost	3,194	3,455

¹ Excludes statutory receivables and prepayments

² Excludes statutory payables and unearned revenue

(a) Credit risk

Credit risk arises when there is the possibility of the Office's debtors defaulting on their contractual obligations, resulting in a financial loss to the Office. The maximum exposure to credit risk is generally represented by the carrying amount of the financial assets (net of any allowance for impairment).

Credit risk arises from the financial assets of the Office, including cash and receivables. No collateral is held by the Office. The Office has not granted any financial guarantees.

Credit risk associated with the Office's financial assets, other than receivables, is managed through the selection of counterparties and establishment of minimum credit rating standards.

**Office of the Director of Public Prosecutions
Notes to the financial statements for the year ended 30 June 2012**

17 Financial Instruments (cont'd)**Cash**

Cash comprises cash on hand and bank balances within the NSW Treasury Banking System. Interest is earned on daily bank balances at the monthly average NSW Treasury Corporation (TCorp) 11am unofficial cash rate, adjusted for a management fee to NSW Treasury.

Receivables - trade debtors

All trade debtors are recognised as amounts receivable at balance date. Collectibility of trade debtors is reviewed on an ongoing basis. Procedures as established in the Treasurer's Directions are followed to recover outstanding amounts, including letters of demand. Debts which are known to be uncollectible are written off. An allowance for impairment is raised when there is objective evidence that the entity will not be able to collect all amounts due. This evidence includes past experience, and current and expected changes in economic conditions and debtor credit ratings. No interest is earned on trade debtors. Sales are made on 30 day terms.

The Office is not materially exposed to concentrations of credit risk to a single trade debtor or group of debtors. Based on past experience, debtors that are not past due (2012: \$nil; 2011: \$nil) and not less than 3 months past due are not considered impaired. Together, these represent 100% of the total trade debtors. Most of the Office's debtors have a 100% credit rating. There are no debtors which are currently not past due or impaired whose terms have been renegotiated.

(b) Liquidity risk

Liquidity risk is the risk that the Office will be unable to meet its payment obligations when they fall due. The Office continuously manages risk through monitoring future cash flows planning to ensure adequate holding of high quality liquid assets. The objective is to maintain a balance between continuity of funding and flexibility through the use of overdrafts, loans and other advances.

During the current and prior years, there were no defaults or breaches on any payable. No assets have been pledged as collateral. The Office's exposure to liquidity risk is deemed insignificant based on prior periods' data and current assessment of risk.

The liabilities are recognised for amounts due to be paid in the future for goods or services received, whether or not invoiced. Amounts owing to suppliers (which are unsecured) are settled in accordance with the policy set out in NSW TC 11/12. For small business suppliers, where terms are not specified, payment is made not later than 30 days from date of receipt of a correctly rendered invoice. For other suppliers, if trade terms are not specified, payment is made not later than the end of the month following the month in which an invoice or a statement is received. For small business suppliers, where payment is not made within the specified time period, simple interest must be paid automatically unless an existing contract specifies otherwise. For payments to other suppliers, Office may automatically pay the supplier simple interest. No interest was paid during the year (30 June 2012: \$nil, 30 June 2011: \$nil).

(a) Market risk

The Office's borrowing is nil. The Office has no exposure to foreign currency risk and does not enter into commodity contracts.

(i) Interest rate risk

The Office has no interest bearing liabilities.

(ii) Other price risk

The Office has no direct equity investments.

Financial instruments are generally recognised at cost and the carrying amount is a reasonable approximation of fair value.

18 After Balance Date Events

The Office is not aware of any circumstances that occurred after balance date, which would materially affect the financial statements.

End of audited financial statements

Account Payment Performance

1 July 2011 to 30 June 2012

Ageing of accounts payable at the end of each quarter

Quarter	Current (ie within due date) \$	Less than 30 days overdue \$	Between 30 and 60 days overdue \$	Between 60 and 90 days overdue \$	More than 90 days overdue \$
September					
All suppliers	1,077,295	5,838		-	-
Small business suppliers	-	-	-	-	-
December					
All suppliers					
Small business suppliers	942,155	-	-	-	-
March					
All suppliers	966,674	-	-	405	-
Small business suppliers	-	-	-	-	-
June					
All suppliers	1,622,780	-	-	-	-
Small business suppliers	32,505	-	-	-	-

Details of accounts due or paid within each quarter

	September	December	March	June
Number of accounts due for payment				
All suppliers	1381	1546	1433	2234
Small business suppliers	30	29	34	30
Number of accounts paid on time				
All suppliers	1380	1544	1425	2231
Small business suppliers	30	29	34	30
Actual percentage of accounts paid on time (based on number of accounts)				
All suppliers	99.93%	99.87%	99.44%	99.87%
Small business suppliers	100.00%	100.00%	100.00%	100.00%
Dollar amount of accounts due for payment				
All suppliers	\$ 5,210,352	\$ 5,431,972	\$ 5,564,689	\$ 8,675,958
Small business suppliers	\$ 193,907	\$ 145,795	\$ 215,844	\$ 132,996
Dollar amount of accounts paid on time				
All suppliers	\$ 5,210,044	\$ 5,431,486	\$ 5,540,001	\$ 8,759,103
Small business suppliers	\$ 193,907	\$ 145,795	\$ 215,844	\$ 132,996
Actual percentage of accounts paid on time (based on dollar amount of accounts)				
All suppliers	99.99%	99.99%	99.99%	99.99%
Small business suppliers	100.00%	100.00%	100.00%	100.00%
Number of payments for interest on overdue accounts				
All suppliers	-	-	-	-
Small business suppliers	-	-	-	-
Interest paid on late accounts				
All suppliers	-	-	-	-
Small business suppliers	-	-	-	-

Reasons for Accounts Not Paid on Time

Suppliers invoices were not received on time for payment.

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Note: Each Office is open Monday to Friday (excluding Public Holidays) **from 9.00 a.m. to 5.00 p.m.** Appointments may be arranged outside these hours if necessary.



OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS
NEW SOUTH WALES