



OFFICE OF THE
DIRECTOR OF
PUBLIC PROSECUTIONS
NEW SOUTH WALES

ANNUAL REPORT 2002–2003



• INDEPENDENT • EFFICIENT • FAIR • JUST



THE OFFICE

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 Courts.
- 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 proceeding 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 a counsel or solicitor in any proceedings which are carried on by the Director.

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 State 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.

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.

DIRECTOR'S CHAMBERS



Mr R J Debus MP
Attorney General
Level 36, Governor Macquarie Tower,
1 Farrer Place
Sydney NSW 2000

Dear Attorney

2002–2003 Annual Report

Pursuant to section 34 of the Director of Public Prosecutions Act 1986 and in compliance with the Annual Reports (Departments) Act 1985 and the Public Finance and Audit Act 1983, I am pleased to forward to you, for laying before both Houses of Parliament, my Office's report and financial statements for the year ending 30 June 2003.

Yours faithfully

A handwritten signature in black ink, which appears to read 'N R Cowdery'. The signature is fluid and cursive.

N R Cowdery AM QC
Director of Public Prosecutions

31st October 2003

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Director's Overview

Director's Overview

Prosecuting crime is a core business of government and adequate resources simply have to be made available for it to be done efficiently and effectively. The work of the Office is demand-driven and we are working in a system not of our creation and not subject to our control: a system that imposes its own timetables. Consequently there is very little flexibility possible in the internal management of our workload. Although we continually strive to improve our efficiency, we reached the limits of flexibility and resources in this year.

This was recognised by the Attorney General, who appointed an inter-departmental Base Budget Review Committee to investigate and report. Sterling work was done by the committee and I thank and congratulate all members. At the end of the year additional funding was provided for the next year – not all that is required, but enough to ease the burdens of many and extend slightly the reach of the services we provide.

This is my ninth Annual Report and the Office's 16th. It is my pleasure to report once again that the State is well served indeed by nearly 600 of my officers (comprising 94 Crown Prosecutors, nearly 300 lawyers and nearly 200 administrative staff including 16 Witness Assistance Service officers) in 11 offices around the State, responding to the demands of criminal justice to the highest professional standard. This is reflected in the public praise that is given throughout the year.

There is nothing automatic in our conduct. Legislation is constantly changing, the public continues to require more of us, the legal process becomes more and more demanding, individual cases present their own challenges and personal and professional standards impose more obligations upon us. This is reflected in the changing levels of service delivered by front line prosecutors and their support staff, in court and in the Office.

Our work for the year is described in the pages of this Annual Report and I commend it to you. Many progressive initiatives taken by the Office in many areas are continuing to improve our efficiency and effectiveness. These are reported upon elsewhere in this document.

It was naturally a matter of some pride and great pleasure to be appointed a Member in the General Division of the Order of Australia in the Queen's Birthday Honours list on 9 June. The citation reads: "For service to the development and practice of criminal law, and to the fostering of international co-operation in the area of human rights". I accept the award also on behalf of all those with whom it has been my pleasure to work in those fields, in many countries and over many years. I include here the officers of the ODPP.

Independence and Accountability

No new Prosecution Guidelines were issued in this year; however a comprehensive review will result in the re-issue of Guidelines next year. No guideline under section 26 of the Director of Public Prosecutions Act 1986 has been received from the Attorney General, nor has notice been received from him of the exercise by him of any of the functions described in section 27. No request has been made to the Attorney General pursuant to section 29.

The Executive Board, which I chair, continued its work. It contains two independent members and, while not involved directly in the prosecution function, it provides valuable assistance to and enhanced accountability for the Office on matters of management and administration.

Yet again the Opposition has sought recently to introduce legislation to establish a Parliamentary Joint Committee to

"monitor and review" the exercise of my functions. This is the third attempt at legislation since my appointment, although the subject has been aired publicly on about eight occasions. It is also proposed to limit the term of office of future Directors to seven years. Both proposals are unnecessary and contrary to principle and deserve to fail.

Senior Staff

Messrs R D Ellis and G E Smith continued in office as Deputy Directors.

Crown Prosecutors

- Mr P S Dare continued as Acting Deputy Senior Crown Prosecutor. He was appointed Senior Counsel on 1 October.
- Ms J E Cash and Messrs S G Apps, R J Willis and J D Favretto continued as Acting Crown Prosecutors.
- Ms N J Adams continued as Acting Crown Prosecutor until appointment as Crown Prosecutor on 4 July.
- Ms V J Lydiard continued as Acting Crown Prosecutor until appointment as Crown Prosecutor on 8 August.
- Messrs K H Alder, D K Brack, P A Leask, J H Pickering, M G Pincott and D N Wilson continued as Acting Crown Prosecutors until appointment as Crown Prosecutors on 26 September.
- Ms S C Dowling was appointed Acting Crown Prosecutor on 15 July and Crown Prosecutor on 21 December.
- Ms J A Baly was appointed Crown Prosecutor on 2 September.
- Messrs P E Barrett, R A Hulme, M C Marien and D McK Howard, Crown Prosecutors, were appointed Deputy Senior Crown Prosecutors on 3 September.
- Ms M M Cunneen was appointed Acting Deputy Senior Crown Prosecutor on 3 September.
- Mr W G Roser was appointed Acting Crown Prosecutor and Acting Deputy Senior Crown Prosecutor on 3 September and Crown Prosecutor on 26 September.
- Ms J A Culver was appointed Crown Prosecutor on 30 September.
- Dr P J P Power and Messrs J L A Bennett and R A Hulme were appointed Senior Counsel on 1 October.
- Mr G C Corr and Ms G M O'Rourke were appointed Acting Crown Prosecutors on 7 October.
- Mr M A Macadam QC resigned as Deputy Senior Crown Prosecutor on 7 October upon retirement.
- Mr P J Barnett was appointed Deputy Senior Crown Prosecutor on 16 October.
- Mr B J Knox SC was appointed Crown Prosecutor on 4 November.
- The Annual Crown Prosecutors' Conference was held at Leura in April.
- The NSW Bar Association's Continuing Professional Development program applies to Crown Prosecutors and complementary educational sessions were held in house.

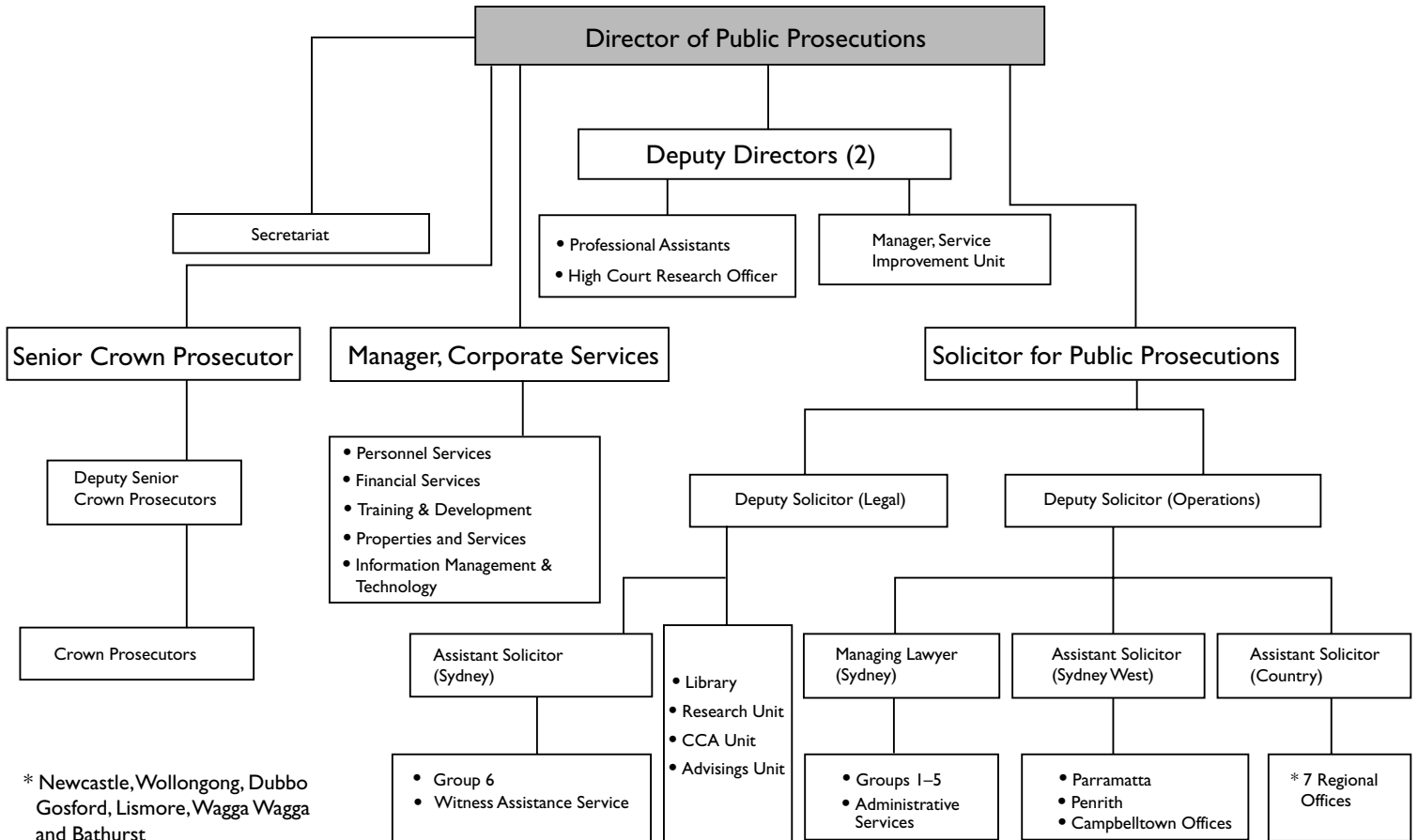
Travel

- The Deputy Directors and I have continued to visit regional offices, at times delivering papers in MCLE sessions.
 - I have participated in various NSW and interstate conferences and meetings on a range of matters connected with the criminal law.
 - The Conference of Australian Directors of Public Prosecutions (CADS) met in Sydney in August and during the HOPAC conference (see below) in Darwin in May.
 - In September I attended a conference of the International Association of Forensic Sciences in Montpellier, France and then the 7th Annual Conference and General Meeting of the International Association of Prosecutors (of which I am still President) in London, England.
 - In April I presided over a meeting of the Executive Committee of the IAP in Lyon, France.
 - In April I attended the Commonwealth Law Conference in Melbourne.
 - In May I attended the biennial HOPAC (Heads of Prosecuting Agencies Conference) in Darwin.
 - In May/June I attended an International Bar Association seminar on Transnational Crime in Brussels, Belgium and (in my IAP capacity – as an observer) attended the 4th Conference of Prosecutors General of Europe in Bratislava, Slovak Republic.
- I remain firmly convinced that the fight against crime cannot be waged in geographical isolation. We need to know the methods being employed by our colleagues in other jurisdictions and to cooperate with them. One of the most effective ways to do this is to meet and talk with them face to face.
- It is in that spirit also that the ODPP plays host to many groups of visiting prosecutors (and occasionally judges) from other countries throughout the year and my officers and I participate in meetings and information sessions in which experiences and ideas are freely exchanged.



Management and Organisation

Organisational Structure



Management Structure

Nicholas Cowdery AM QC BA, LL.B

Director of Public Prosecutions

Appointed Director of Public Prosecutions in 1994. He was admitted as a barrister in NSW in 1971 and practised as a Public Defender in Papua New Guinea from 1971 to 1975 when he commenced

private practice at the Sydney bar. He took silk in 1987 and practised in many Australian jurisdictions. He was an Associate (Acting) Judge of the District Court of New South Wales

for periods in 1988, 1989 and 1990. He is President of the International Association of Prosecutors.

Roy Ellis B.Leg.S

Deputy Director of Public Prosecutions

Member of Clerk of Petty Sessions Office from 1973 to 1979. Member of Clerk of the Peace Office from 1979 to 1984. Admitted to the Bar in 1981. Appointed a Crown Prosecutor in 1984 and a Deputy

Senior Crown Prosecutor for the Northern Territory in 1986. Appointed a Crown Prosecutor in 1987 and a Deputy Senior Crown Prosecutor for New South Wales in 1997. Appointed as Deputy Director of Public Prosecutions in November 1999.

Provides advice to the Director of Public Prosecutions; appears in the High Court and other appellate courts; reviews recommendations by Crown Prosecutors on various matters; assists in the management of the Office and performs the Director's functions as delegated.

Greg Smith B.Leg.S, LL.M

Deputy Director of Public Prosecutions

Practised as a Solicitor from admission in 1973 in two city firms and later at the Commonwealth Deputy Crown Solicitor's Office, Sydney from 1975 to 1984, mainly in the Prosecutions Section including a period as Instructing Solicitor to Stewart Royal Commission into Drug Trafficking. On establishment of the Commonwealth DPP Sydney office, acted as Senior Assistant DPP 1984–1985. Appointed as

Senior Advisor (Legal) to National Crime Authority, Sydney, 1985–1987. Admitted to the Bar in 1987. Appointed a NSW Crown Prosecutor in 1987 and Deputy Senior Crown Prosecutor in January 1998. Seconded to the ICAC as Counsel Assisting 1992–1993. Appointed as Deputy Director of Public Prosecutions in April 2002.

Provides advice to the Director of Public Prosecutions; appears in the High Court and other appellate courts; reviews recommendations by Crown Prosecutors on various matters; assists in the management of the Office and performs the Director's functions as delegated.

Steve O'Connor (BAB), Dip CRIM

Solicitor for Public Prosecutions

Admitted as lawyer in 1978. He was a member of the Public Trust Office from 1973 before joining the Clerk of the Peace in 1983. After the creation of the Office of the Director of Public Prosecutions in 1987, appointed to the

position of Assistant Solicitor, and then Deputy Solicitor for Public Prosecutions. In 1988, appointed as the Solicitor for Public Prosecutions. Seconded to the Legal Aid Commission in 1992. Appointed an Acting Magistrate in 1999.

Acts as a solicitor in the conduct of prosecutions on behalf of the Director. Manages the resources of the Solicitor's Office statewide.

Patrick McMahon Grad Certif in Management, AFAIM

Manager, Corporate Services

Employed in the NSW Police Service for over 25 years in a variety of administrative and management positions culminating in the position of Regional Manager, Support Services (South). Joined NSW Fisheries as Director, Corporate Services in 1992

and commenced with the Office of the Director of Public Prosecutions as Change and Improvement Manager in 1996. Appointed as Manager, Corporate Services in February 1999.

Responsible for personnel, training and development, financial management, information management and technology, and property functions of the Office.

Mark Tedeschi QC MA, LLB

Senior Crown Prosecutor

Previously a private barrister and a lecturer in law. He has been a Crown Prosecutor since 1983, a Queen's Counsel since 1988, and Senior Crown Prosecutor since 1997. He is the author of a book on 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.

Prosecutes major trials in the Supreme and District Courts. Responsible for the management of Crown Prosecutors Chambers, and the briefing of private Barristers.

Significant Committees

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

Executive Board

The ODPP Executive Board consists of the Director (Chair), two Deputy Directors, Senior Crown Prosecutor, Solicitor for Public Prosecutions, Manager Corporate Services and two independent members. Current independent members are 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
- provide periodic reports on its operations to the Attorney General and report to the Attorney General upon request on any matter relating to the exercise of its functions, or, after consultation with the Attorney General, on any matters it considers appropriate.

Management Committee

This Committee comprises of the Director, two Deputy Directors, Senior Crown Prosecutor, Solicitor for Public Prosecutions, Manager Corporate Services, Deputy Solicitors (Legal and Operations),

Assistant Solicitors (Sydney, Sydney West and Country). The Committee meets monthly. Its primary function is to discuss operational and management issues including budgetary management as well as

being a forum for sharing information on the activities, challenges and initiatives of the various functional areas of the Office.

Audit Committee

This Committee is chaired by a Deputy Director of Public Prosecutions with the Solicitor for Public Prosecutions, Senior Crown Prosecutor, Manager Corporate Services and Manager Service Improvement Unit as members.

Representatives of the Audit Office of NSW and of the internal audit provider attend meetings by invitation.

The Audit Committee monitors the internal audit function 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 implementation 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, Manager Corporate Services, Deputy Solicitor (Legal), Assistant Solicitor (Country), a Deputy Senior Crown Prosecutor, Manager, Information Management & Technology Services, Managing Lawyer (Sydney) and the

Assistant Manager (Information Management) as Executive Officer.

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

ODPP Internal Committees/Steering Groups

Committee Steering Group	ODPP Representative	
Executive Board	Nicholas Cowdery AM QC (chair) Roy Ellis Greg Smith	Stephen O'Connor Patrick McMahon Mark Tedeschi QC
	Independents Sandra Egger	John Hunter
Management Committee	Nicholas Cowdery AM QC Roy Ellis Greg Smith Patrick McMahon Stephen O'Connor Mark Tedeschi QC	Craig Smith Robyn Gray Philip Dart Graham Bailey Claire Giroto
Information Management & Technology Steering Committee	Craig Smith (Chair) Graham Bailey Michael Sands Patrick McMahon Hop Nguyen	Stephen O'Connor Diane Harris Robyn Gray William Dawe QC
Audit Committee	Roy Ellis (chair) Mark Tedeschi QC Stephen O'Connor Patrick McMahon Jeff Shaw	
Occupational Health and Safety Committee	Country Region Colin Shaw (chair) Roger Hyman David O'Neill (proxy) Susan Ayre (proxy) Sydney Office Helen Langley Andrew Dzedzic Jenny Wells (proxy) Ross Stainer (proxy)	Employer Representatives Susan Maxwell Philip Dart Peter Bridge Gary Corkill (proxy) Claire Giroto (proxy) Sydney West Michael Frost Christopher Brown (proxy) Jim Hughes (proxy)
Crowns Committee	Mark Tedeschi QC (chair) Christopher Maxwell QC Peter Dare SC William Dawe QC	David Frearson Daniel Howard Nicolas Harrison
PSA/Management Committee	Graham Bailey Gary Corkill David Curran	Andrew Dzedzic Claire Giroto Patrick McMahon



Achievements

The Office is unable, at present, to report against some Performance Indicators. However, a system known as the Organisational Performance Management System (OPSM) is to be developed in 2003–04. This project is to provide the capacity for the ongoing collection, analysis

and reporting of data for management purposes and involves the acquisition of business management software and the configuration of that software to provide management reports on ODPP workloads and productivity. This project will be undertaken in conjunction with Activity

Based Costing and will provide the information necessary to report against all PI's. This should be taken into account in relation to PI's 1.1 (a, b & c), 1.3 (a, c & d), 3.2 (a & b)

Key Result Area 1: Just, independent and timely conduct of prosecutions

Goal	Strategy	Outcome
1.1 To provide a just and independent prosecution service	1.1.1 Continually review, evaluate and improve standards for criminal prosecutions 1.1.2 Improve the timeliness and quality of briefs through liaison with investigative agencies	Achievement of justice

Performance Indicator

- 1.1(a) Percentage of cases where costs are awarded due to the conduct of the prosecution
- 1.1(b) Percentage of matters conducted without complaint
- 1.1(c) Proportion of matters returning a finding of guilt

Report:

A practice review program has been designed on CASES (the Office's computerised case management/tracking system) that will assist in reviewing casework. The program is called the Practice Review Report and it will be introduced next financial year.

All briefs to counsel are required to be signed off by a Managing Lawyer and the brief cover sheet invites feedback from counsel as to quality issues.

Key Result Area 1: Just, independent and timely conduct of prosecutions

Goal	Strategy	Outcome
1.2 To uphold ethical standards	1.2.1 Provide executive information reports on ethical issues	Increased public confidence
	1.2.2 Develop and implement education programs to achieve understanding and adherence to standards	

Performance Indicator

1.2(a) Ratio of reports of unethical behaviour to staff numbers

Report:

Reports have been provided to the Executive Board as a standing agenda item for all meetings. The reports provide details of all allegations of unethical behaviour and of the action taken or proposed. The Board monitors the progress of any inquiries. Finalised matters are included in the reports, providing the Board with the opportunity to identify any emerging trends. Statistical information is published on the Office's Intranet (DPPNet) each month so that all staff are kept informed.

During the reporting period fifteen staff were reported for alleged unethical behaviour. This represents 2.5% of the total staff number. The results of investigation into the allegations were:

- Under Investigation 3
- No Action 3
- Counselling 5
- Dismissed 2
- Referred to Police Service 1
- Officer Resigned 1

Following an ethics research project conducted by St James Ethics Centre, education programs are to be developed. These are planned for implementation in 2003–04.

Key Result Area 1: Just, independent and timely conduct of prosecutions

Goal	Strategy	Outcome
1.3 To provide timely prosecution services	1.3.1 Comply with relevant time standards	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) Average number of days between arrest and committal for trial
- 1.3(d) Average number of days between committal for trial and first trial date

Report:

The provision of advice to police within the one month time standard was not achieved in all matters due to lack of sufficient resources and because of the PSA imposed work bans. The Commissioner of Police was advised of this.

The proportion of District Court trials vacated in 2002–03, on application of the Crown, was 14.7%.

Key Result Area 2: Victim and witness services

Goal	Strategy	Outcome
2.1 provide assistance and information to victims and witnesses	2.1.1 Deliver services to victims and witnesses, in accordance with the guarantee of service	Greater sense of confidence by victims and witnesses

Performance Indicator

- 2.1(a) Level of victim and witness satisfaction (by survey)
- 2.1(b) Percentage of relevant matters where WAS officer assigned
- 2.1(c) Percentage of relevant matters where WAS officer was assigned within target timeframe

Report:

The ODPP biennial victim and witness survey was conducted during 2002/03. The survey showed an improvement in customer satisfaction over previous years. Details of the survey results have been included in the Customer Response report at Appendix 39 at page 86.

Annual Statistics for WAS 2002–2003

Total new registrations = 2218 (A registration may include the victim, a witness, family of the deceased or a parent/carer of a child or young person).

% of total new registrations for priority matters (Child Sexual Assault (CSA), Adult Sexual Assault (ASA) and matters involving death etc) = 73.19%

% of contact service hours for priority matters (CSA, ASA, and matters involving death etc) = 88.20%.

Key Result Area 3: Accountability and efficiency

Goal	Strategy	Outcome
3.1 To satisfy the accountability requirements of courts, Parliament and ODPP policies	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	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 (by audit)

Report:

All statutory reports were completed and submitted within the required timeframe.

The Internal Audit Committee monitors compliance with ODPP policies. The level of such compliance has been found to be extremely high. The Committee reviews all audit reports and where a breach of Office policy is identified, corrective action is taken.

Key Result Area 3: Accountability and efficiency

Goal	Strategy	Outcome
3.2 To be efficient in the use of resources	3.2.1 Measure costs and time associated with prosecution functions undertaken	Value for money
	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	

Performance Indicator

- 3.2(a) Cost per court day serviced
- 3.2(b) Cost per matter disposed of
- 3.2(c) Expenditure within budget

Report:

Policies for Studies Assistance; Use of Portable Devices; Corporate Cards and Official Travel; Career Break Scheme; Conditions of Employment; Crown Prosecutors Conditions of Employment; Employment of Temporary Staff; Placement of Volunteers; Overtime and Part-Time Work were revised and published during the year. Policies governing Procurement, the use of Taxi Cabs and Public Transport and Mobile Phones were also developed and published.

The Office contained expenditure within budget for 2002–03, although this was achieved with a degree of industrial disputation due to a temporary reduction of staff. Senior members of the Office participated with senior representatives of NSW Treasury, Premier's Department and the Attorney General's Department in a review of the ODPP base budget, initiated by the Attorney General. On completion of the review, a detailed report was provided to the Attorney General on 4 June 2003, in which a number of financial and managerial recommendations were made.

Employee Self Service: The ODPP Kiosk release was introduced, enabling staff and managers to access personnel information, including leave and payroll details and position history.

Integrated Document Management System (IDMS): User Acceptance Testing, training materials, disaster recovery documentation and system build documentation were completed. System implementation is planned for 2003–04.

Disaster Recovery: Project progressed to schedule with deliverables completed – IT Infrastructure Review, Business Impact Analysis, Backup & Recovery Procedures Review.

Training & Development Branch assessed new software to improve its capacity for recording and managing T&D information.

Key Result Area 4: Staff resourcing and development

Goal	Strategy	Outcome
4.1 To recruit and retain quality staff	4.1.1 Market career opportunities	High quality, committed staff
	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	

Performance Indicator

- 4.1(a) Percentage of staff turnover
- 4.1(b) Percentage of salary increments deferred

Report:

40 law graduates have undertaken placements in para legal positions over the past 12 months. The graduates are employed on a temporary basis following a competitive selection process.

Staff Turnover for 2002/2003 was 5.9% compared with 7.3% for 2001/2002. The Australian HR Benchmark in 2001 was 15.16%.

A review of the ODPP recruitment policy and procedures conducted during the reporting year. The draft policy and procedures has been distributed to stakeholders for comment. Implementation is anticipated in 2004.

The Director's Excellence Awards were presented to:

- Individual Award: Mr Peter Bridge, Manager Properties & Services for his excellent project management of the refurbishment of ODPP Head Office.
- Group Award: CASES 2 Development & Implementation Team for the successful completion of the CASES 2 Project.
- Staff Recognition Awards were introduced within the Corporate Services Division during the year. Award recipients were: Kirralee Perry, Leader Shrestha, Malcolm Young, Peter Low, Bill Gibson, Nigel Richardson, Diane Keelan and Scott Sigmond.
- Equity strategies are included in the workplans and performance agreements of all managers.
- During the reporting period one (1) salary increment was deferred.

Key Result Area 4: Staff resourcing and development

Goal	Strategy	Outcome
4.2 To provide workplace support	4.2.1 Provide staff with accommodation, equipment and facilities in accordance with Office standards	A safe, supportive, equitable and ethical work environment
	4.2.2 Develop and implement OH&S and workplace relations policies	

Performance Indicator

- 4.2(a) Average worker's compensation claims per staff member
- 4.2(b) Average sick leave absences per staff member

Report:

The average workers compensation claim cost per employee (as at 31 March 2003) was \$119 compared to \$212 for 2001/2002. The Fund average at 31 March 2003 was \$368.

Average sick leave per staff member during 2002/2003 was 5.34 days, compared with 5.38 days during 2001/2002. The Australian HR Benchmark in 2001 was 6.35 days.

ODPP Accommodation standards are adhered to for all new works.

26 EEO and OH&S workshops were conducted, with 320 participants.

Key Result Area 4: Staff resourcing and development

Goal	Strategy	Outcome
4.3 To provide professional development and training	4.3.1 Implement training and development according to organisation and individual needs	Staff with the skills and knowledge to perform effectively
	4.3.2 Promote staff participation in Performance Management	

Performance Indicator

4.3(a) Ratio of staff training needs fulfilled to needs identified

Report:

Systems are being developed for gathering meaningful data to enable the Office to report on the ratio of training needs fulfilled.

Organisational needs were identified through an assessment of corporate documents such as risk assessment audits, requests from Management Committee, discussions at Managers meetings, organisational changes (eg Technology) and external factors. Programs and activities were developed to ensure all needs were addressed.

Individual needs were identified through performance management plans and discussions with individuals and their supervisors.

Cumulative statistics 2002–03

Number of learning programs:	215
Number of studies assistance participants:	30
Total days study leave accessed:	100 days
Total tertiary fees reimbursements:	\$17,000

Key Result Area 5: Improvements in the criminal justice system

Goal	Strategy	Outcome
5.1 To improve the Criminal Justice system	5.1.1 Participate in inter-agency and external fora	A more effective and efficient criminal justice system
	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	

Performance Indicator

- 5.1(a) Average number of days from charge to matter disposal
- 5.1(b) Number of submissions made on proposed and existing legislation

Report:

The Police-DPP Prosecution Liaison Standing Committee ('the Committee'), made up of representatives from the ODPP, the Crown Prosecutors and the Police meets quarterly. The objectives of the Committee are to adopt a co-operative approach in identifying and addressing the need for procedural, processing and legislative change concerning the conduct of criminal prosecutions. The Committee also receives references from the 9 Prosecution Liaison Groups that meet throughout the State. These Prosecution Liaison Groups have local police, ODPP and Crown Prosecutor representatives as well as a representative from the Committee.

The ODPP has participated in various interagency working parties convened by the Attorney General's Department relating to bail reform; Part 10A of the Crimes Act; video conferencing; Aboriginal Justice; Young Adult Offenders; child sexual assault jurisdiction pilot; court security; and, pre-trial disclosure.

The ODPP has also participated on various interagency committees – eg Court user groups; the Attorney General and Police Ministry Joint Committee on Confiscation arising from Drug Summit; Local Court Rules Committee; Law Society Criminal Law and Government Solicitors Committees; Inter Agency Extradition Committee; Merit Steering Committee; and, Criminal Listing Review Committee.

The ODPP has submitted 16 proposals for legislative reforms.

The ODPP submission in relation to the review of the law of manslaughter was commended by the Hon. Mervyn Finlay QC.

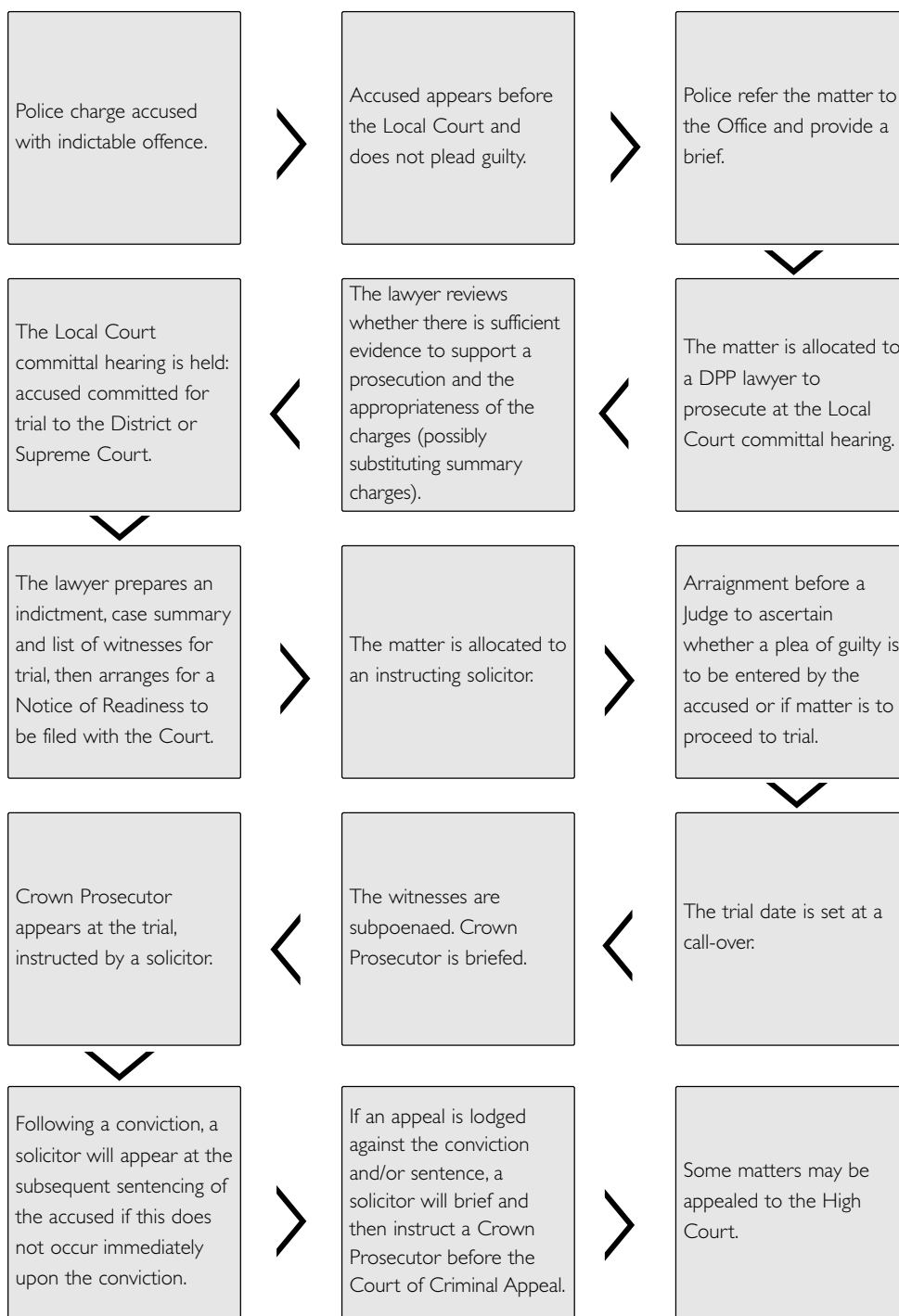
Acronyms

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
•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 Criminal Law Education
•ODPP	Office of the Director of Public Prosecutions (NSW)
•SALO	Sexual Assault Liaison Officer
•WAS	Witness Assistance Service



From Charge To Trial

An Outline of a Typical Defended Matter



Not all matters proceed all the way to trial:

- the accused may be discharged in the Local Court;
- the accused may, depending on the seriousness of the charge/s, be dealt with summarily in the Local Court;
- the accused may plead guilty in the Local Court to the indictable charge/s and, again depending on their seriousness, be committed for sentence to the District or Supreme Court;
- after committal for trial the accused may enter a plea of guilty (at arraignment or at any time up to and including the trial); or
- the Director can at any stage, discontinue proceedings.



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.

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 ODP.

Section 14

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

Section 15

An amendment to the DPP Act, 1986 eliminates the requirement to reproduce the Director’s Guidelines each year. However, new guidelines prepared during the reporting year must be published.

Section 19

The Director requests the Attorney General to grant indemnities and give undertakings from time to time.

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, 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; finding a bill of indictment in respect of an indictable offence, in circumstances where the person concerned has not been committed for trial; appealing under s5D of the Criminal Appeal Act 1912 to the Court of Criminal Appeal against a sentence.

The Director shall include in Annual Reports 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

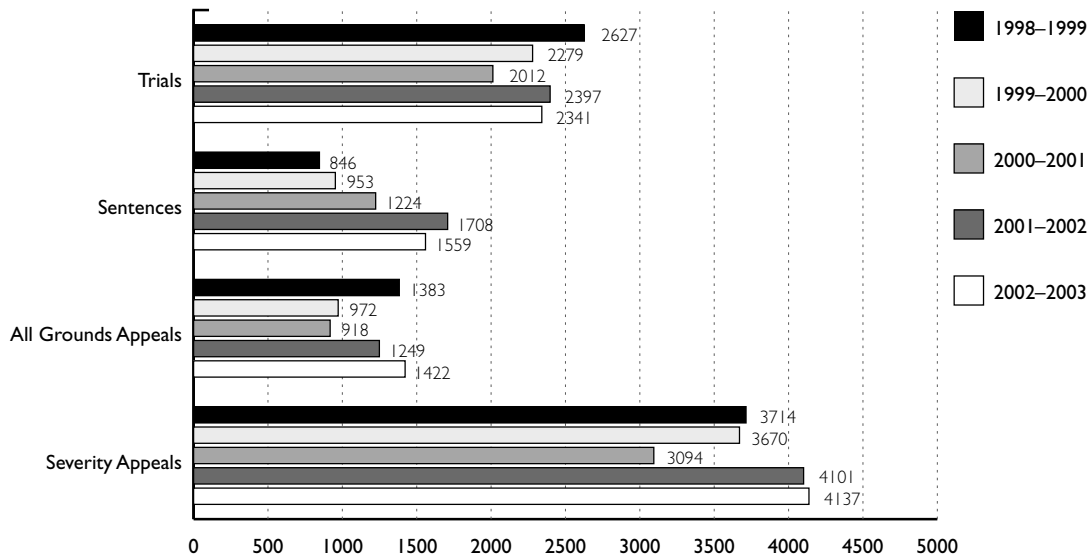


Appendices

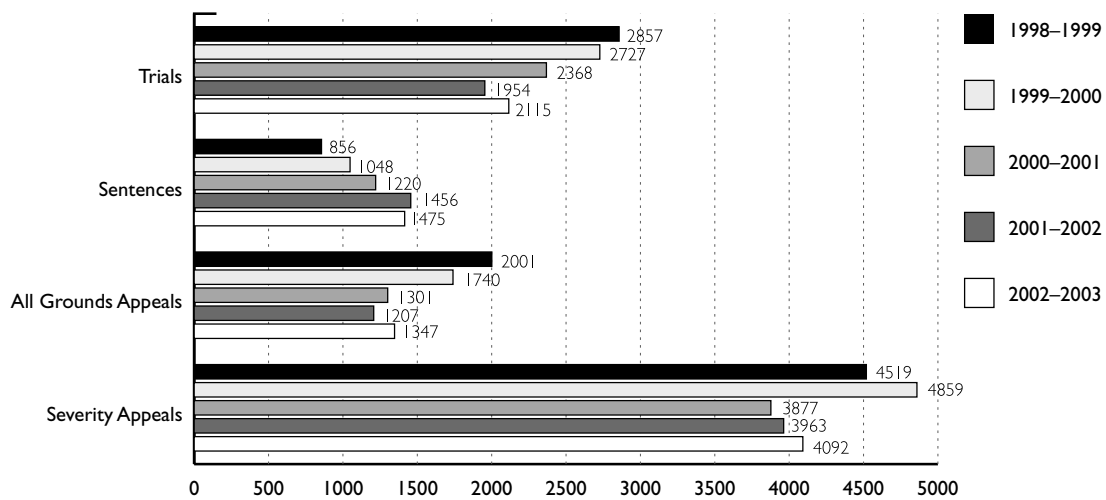
Appendix I

District Court – State Summary

District Court Matters Received – State



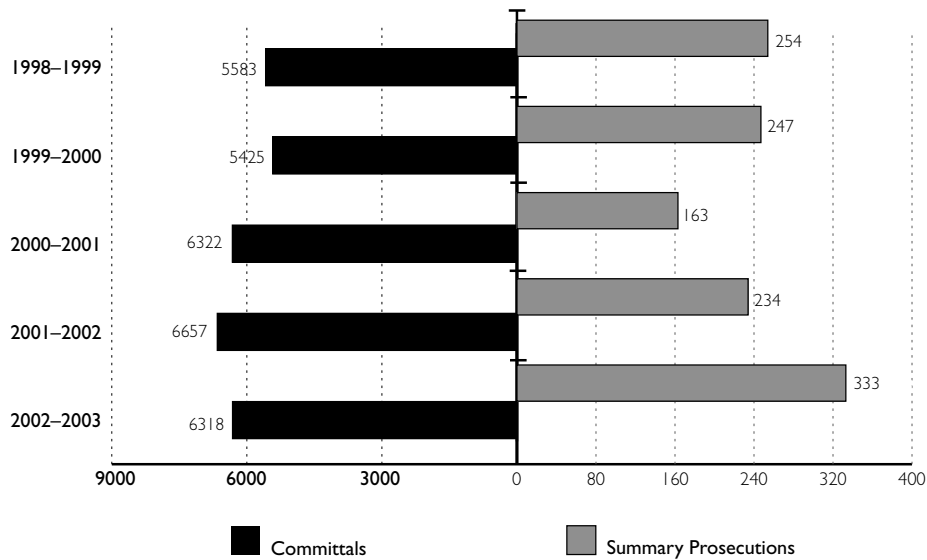
District Court Matters Completed – State



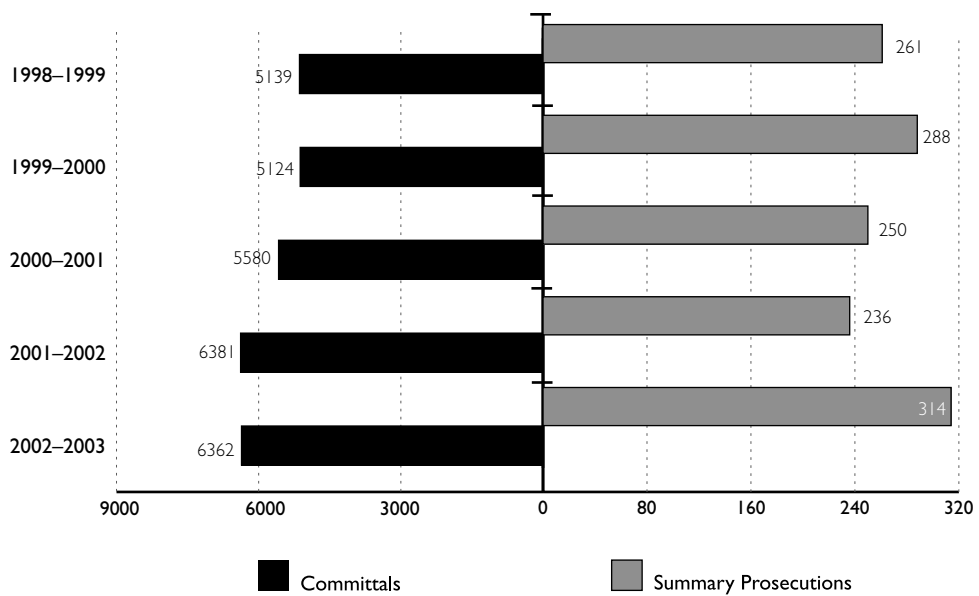
Appendix 2

Local Court – State Summary

Local Court Matters Received – State



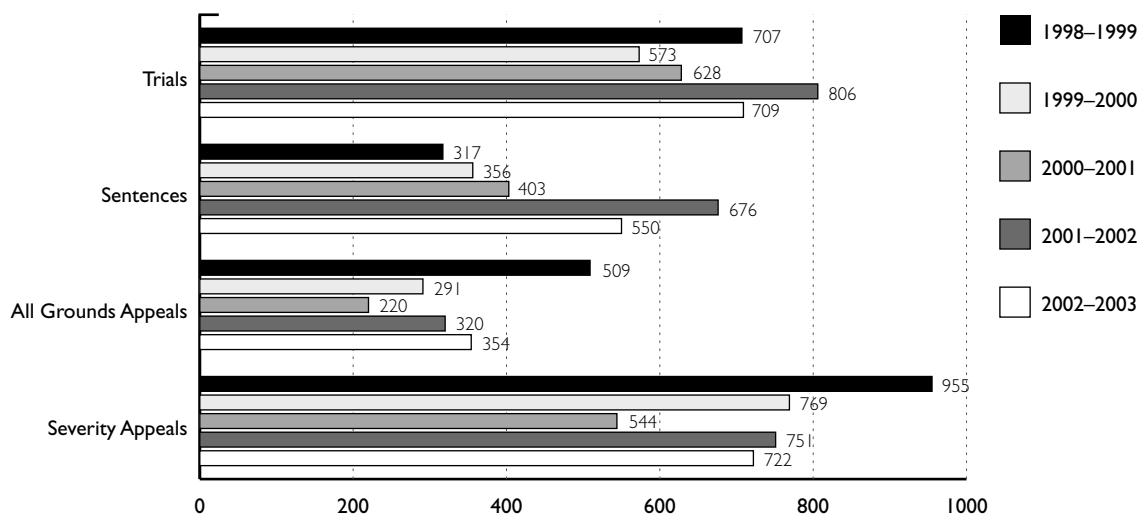
Local Court Matters Completed – State



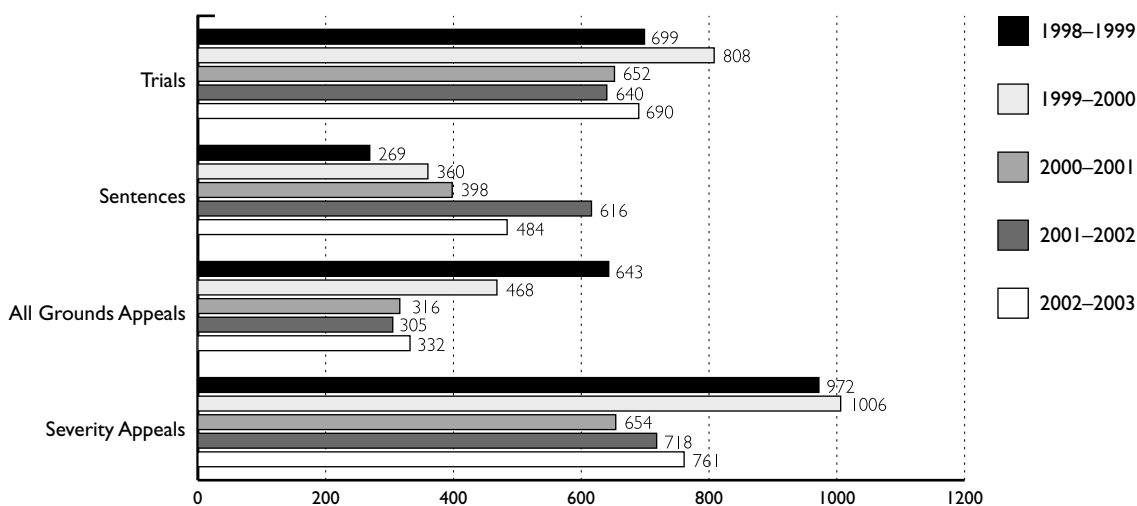
Appendix 3

District Court – Sydney Summary

District Court Matters Received – Sydney



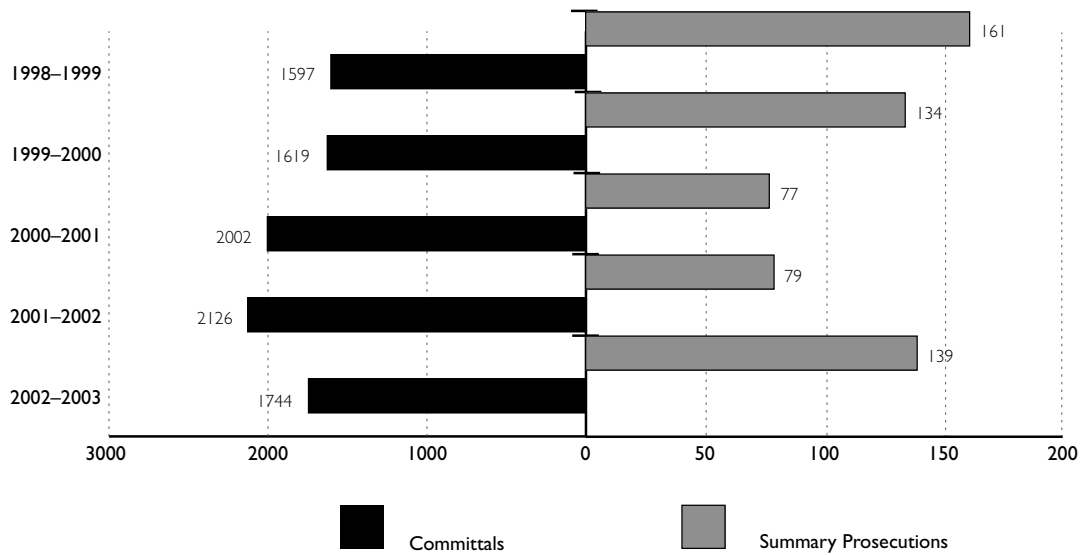
District Court Matters Completed – Sydney



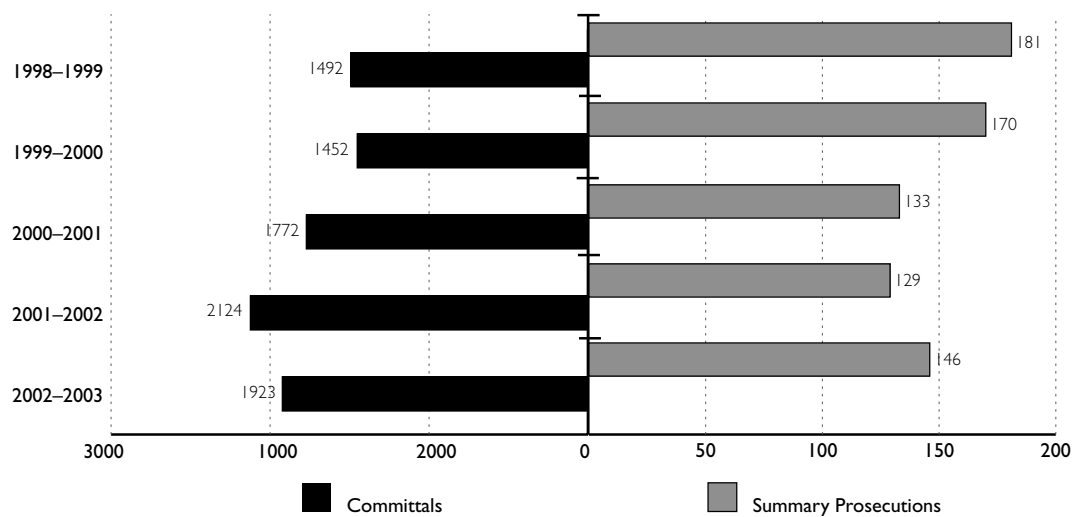
Appendix 4

Local Court – Sydney Summary

Local Court Matters Received – Sydney



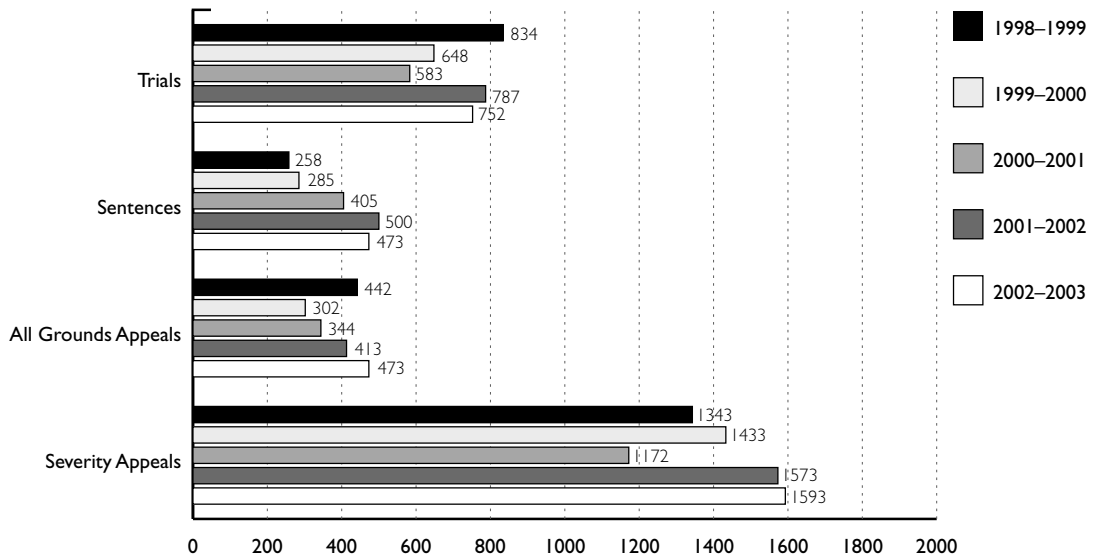
Local Court Matters Completed – Sydney



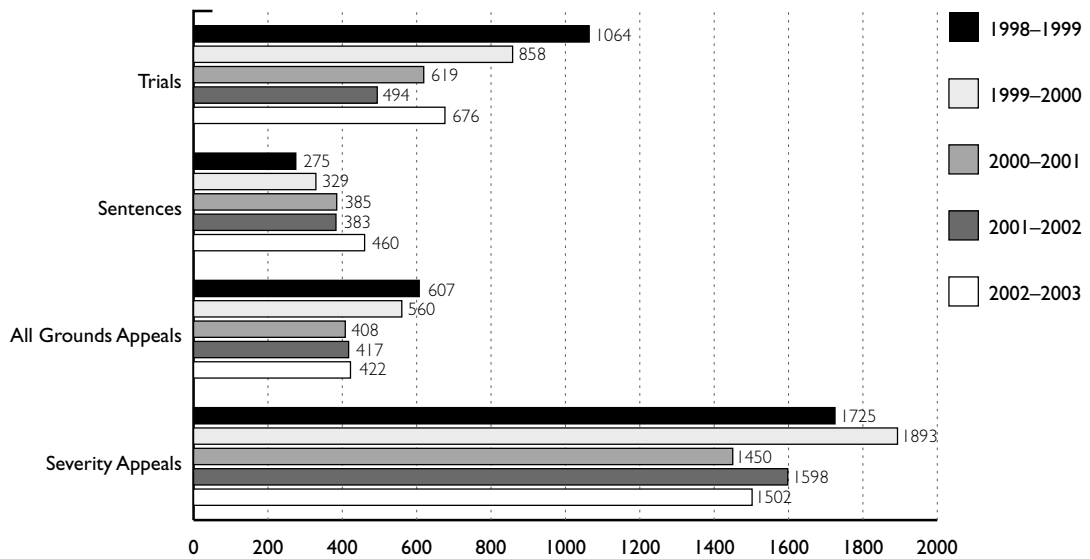
Appendix 5

District Court – Sydney West Summary

District Court Matters Received – Sydney West



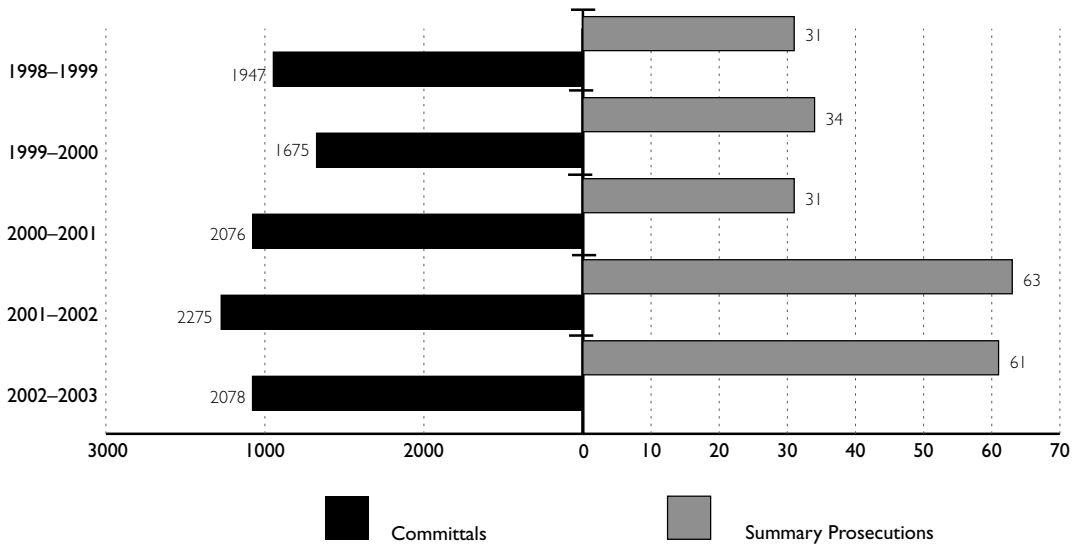
District Court Matters Completed – Sydney West



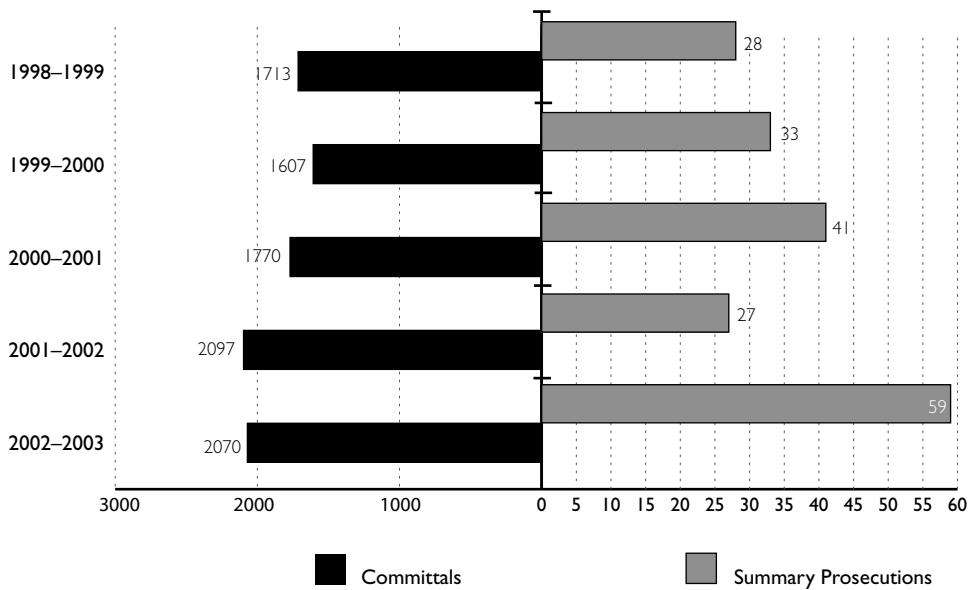
Appendix 6

Local Court – Sydney West Summary

Local Court Matters Received – Sydney West



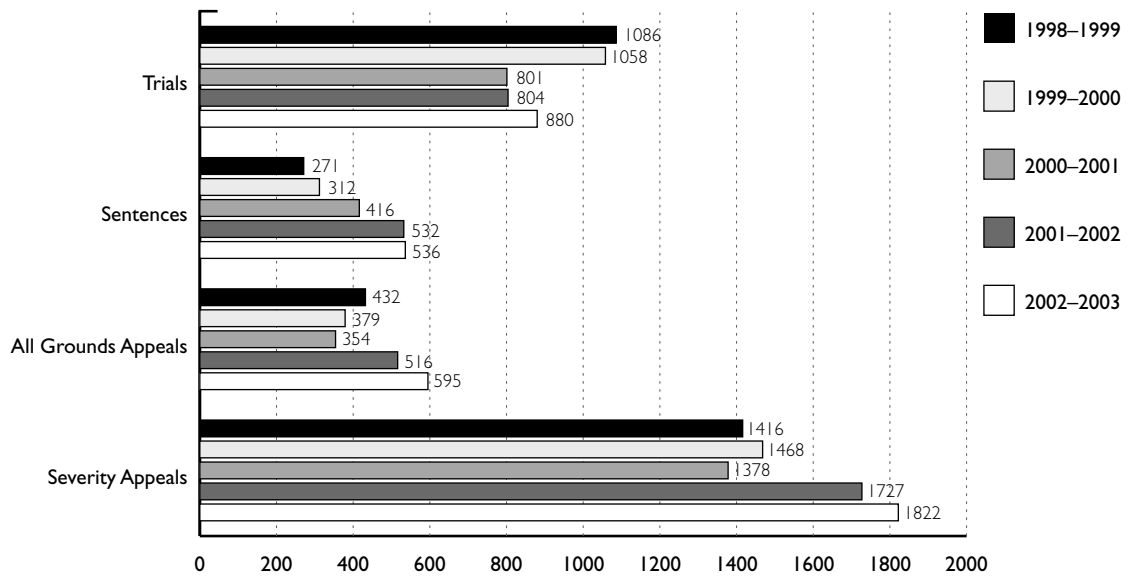
Local Court Matters Completed – Sydney West



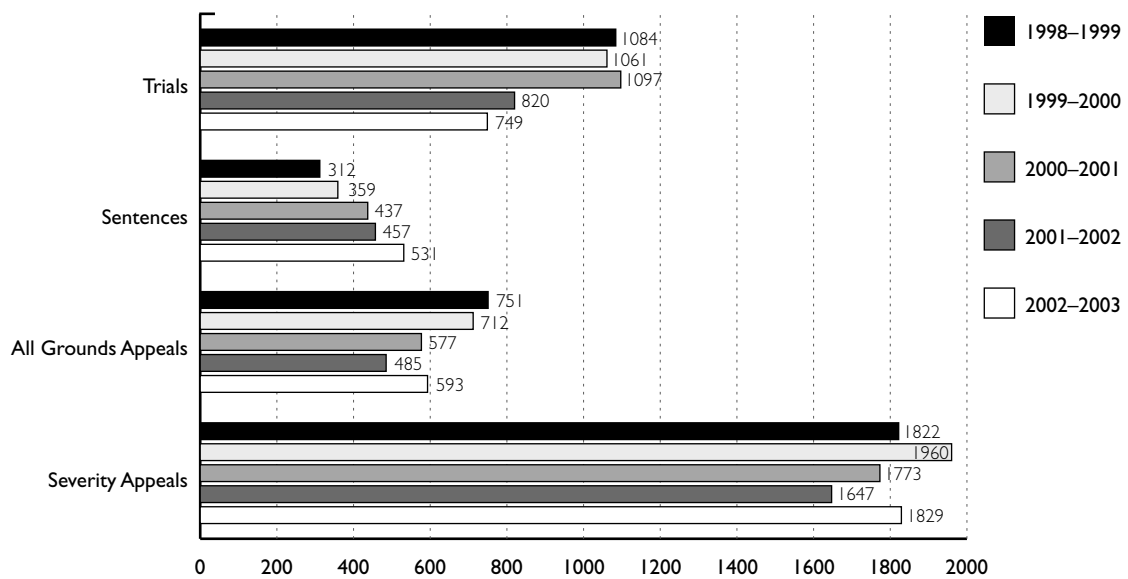
Appendix 7

District Court – Country Summary

District Court Matters Received – Country



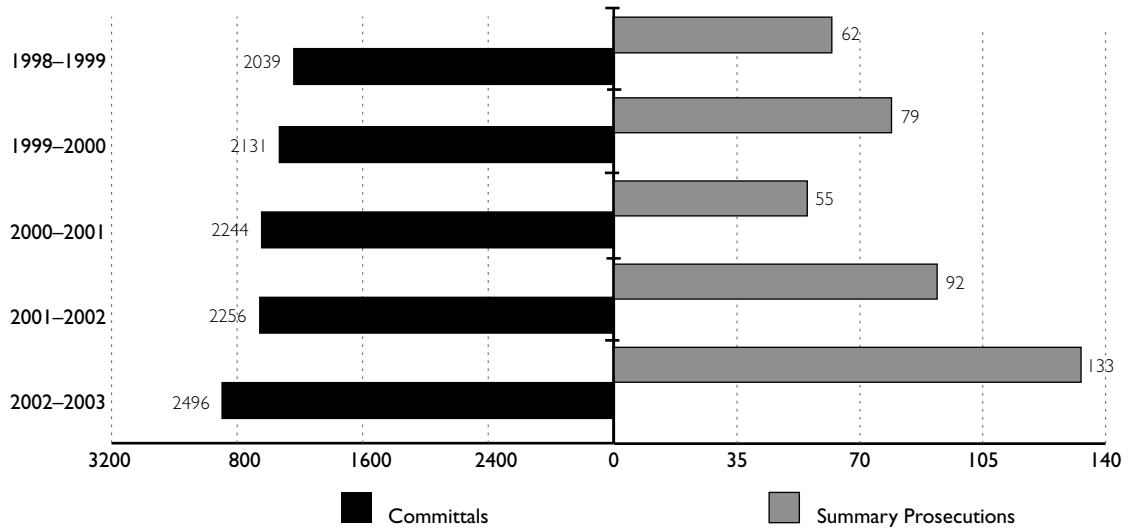
District Court Matters Completed – Country



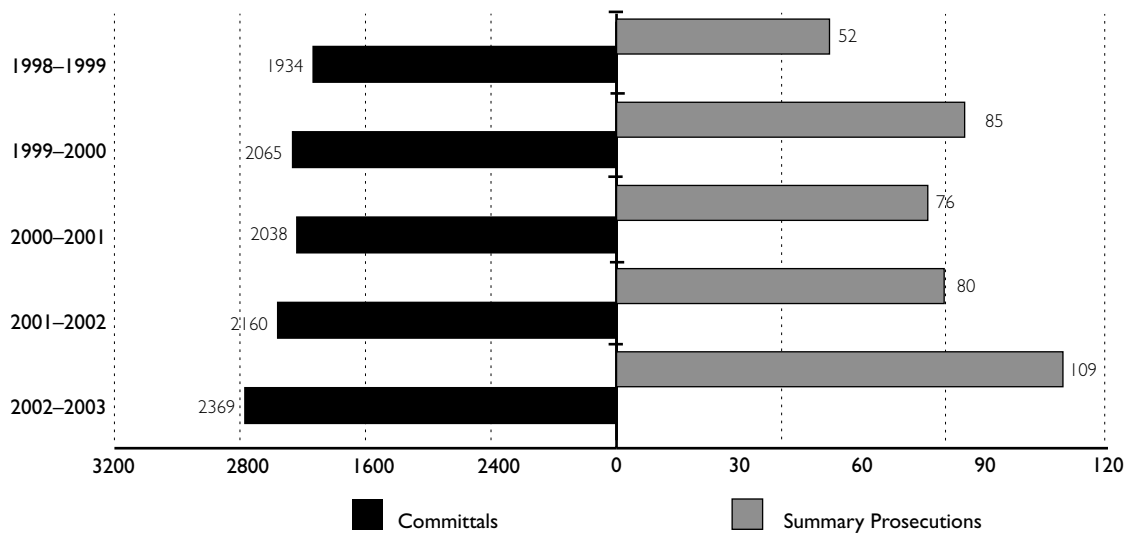
Appendix 8

Local Court – Country Summary

Local Court Matters Received – Country



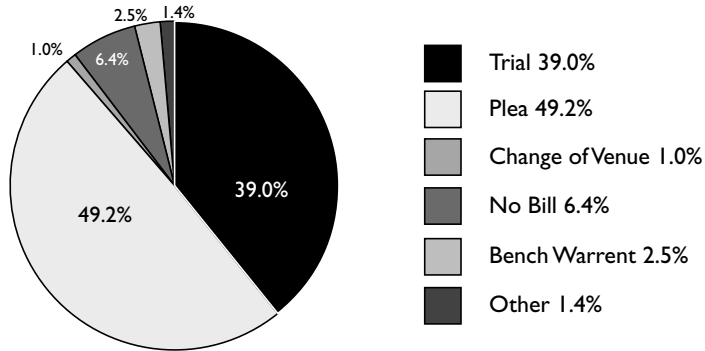
Local Court Matters Completed – Country



Appendix 9

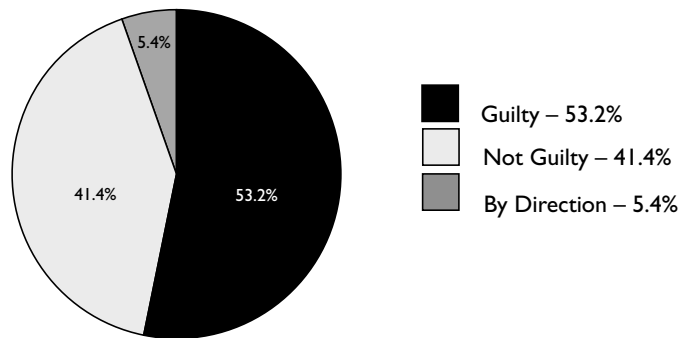
District Court – Trial Statistics

Disposal of Trials Listed

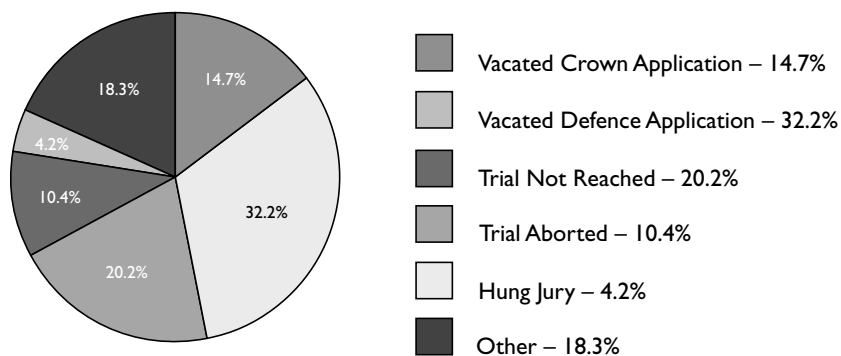


Trial Verdicts Comparison	1998–1999	1999–2000	2000–2001	2001–2002	2002–2003
Guilty	44.6%	42.8%	43.7%	41.4%	53.2%
Not Guilty	45.3%	43.9%	46.7%	48.8%	41.4%
By Direction	10.1%	13.3%	9.5%	9.8%	5.4%

Trials Verdicts



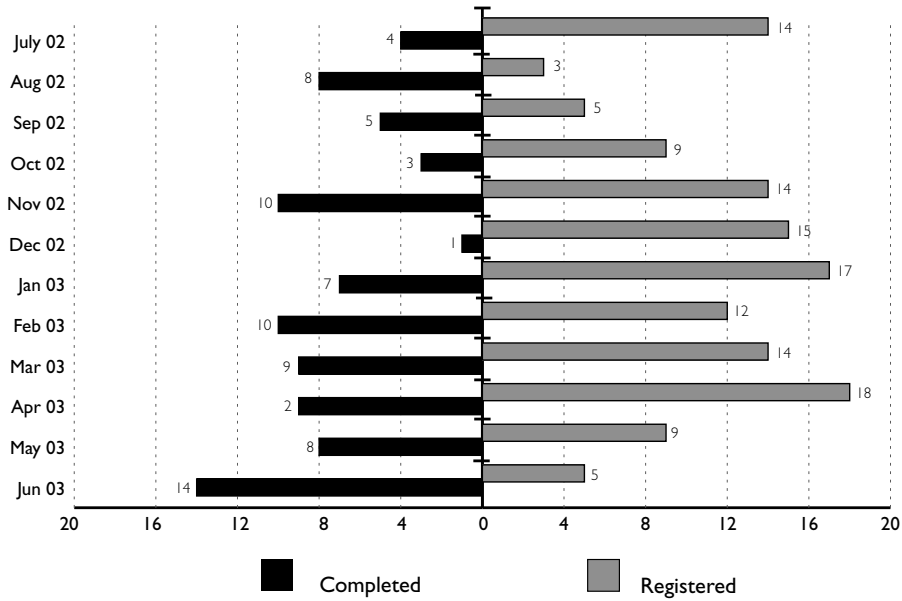
Trials Adjourned



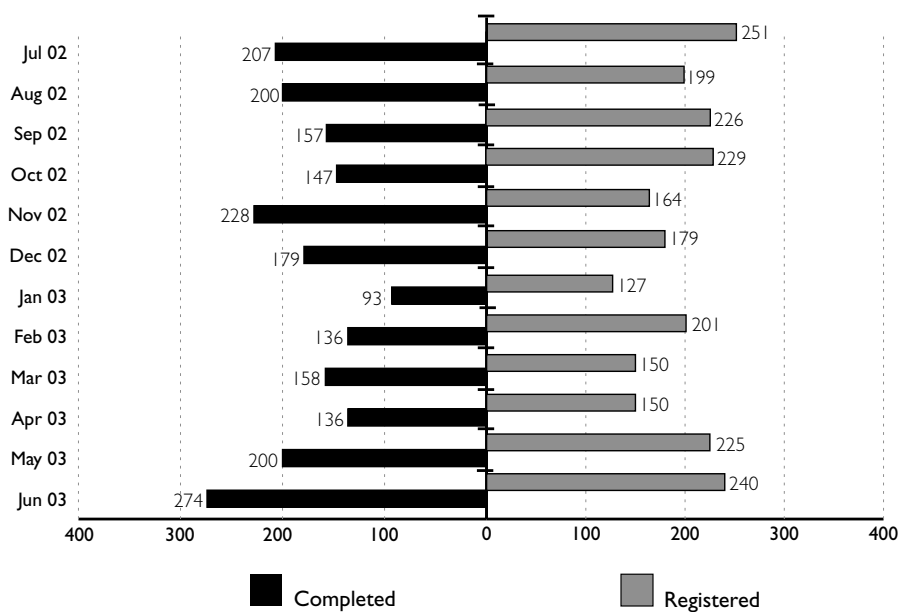
Appendix 10

Trials Registered and Completed

Supreme Court Trials Registered and Completed in 2002–2003



District Court Trials Registered and Completed in 2002–2003



Appendix II

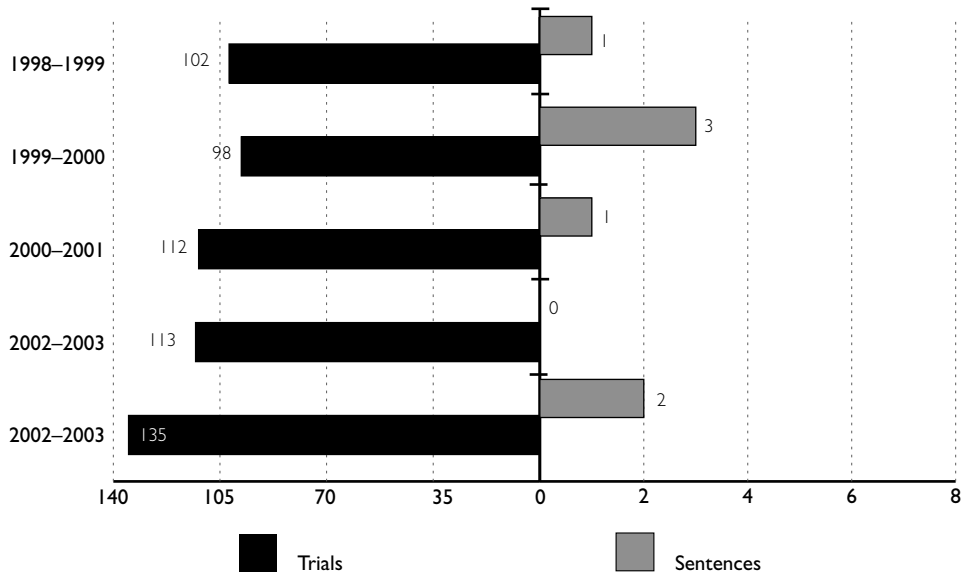
Local Court Committals – July 2002 to June 2003

Regional Office	Registrations	Disposals						On hand at End of June 2003	
		Committed for Trial	Committed for Sentence	Summarily Convicted	Discharged	Discont	Other		Total
Sydney Registrations	1744								
Group 1		121	135	70	11	22	58	417	197
Group 2		125	118	85	25	9	47	409	222
Group 3		175	108	47	23	20	46	419	192
Group 4		158	105	76	20	18	60	437	193
Group 5		0	0	0	0	0	0	0	0
Group 6		68	6	57	19	25	8	183	95
Admin Services		0	2	0	0	3	53	58	29
Sydney	1744	647	474	335	98	97	272	1923	928
Parramatta	818	250	232	116	21	25	121	765	396
Penrith	564	198	64	110	22	32	147	573	258
Campbelltown	696	239	136	133	32	45	147	732	339
Sydney West	2078	687	432	359	75	102	415	2070	993
Newcastle	570	182	123	86	30	49	92	562	254
Lismore	373	132	56	95	9	32	73	397	155
Dubbo	281	98	23	37	19	18	57	252	91
Gosford	325	93	84	34	16	29	54	310	103
Wagga Wagga	269	65	41	52	13	9	46	226	113
Wollongong	520	145	101	70	23	63	80	482	168
Bathurst	158	57	35	25	5	5	13	140	79
Country	2496	772	463	399	115	205	415	2369	963
State Totals	6318	2106	1369	1093	288	404	1102	6362	2884

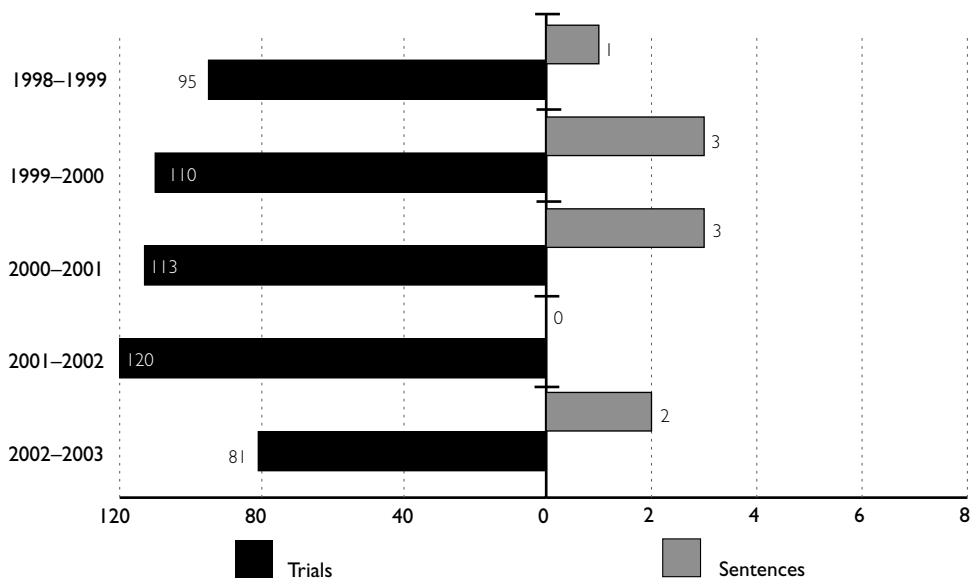
Appendix 12

Supreme Court – State Summary

Supreme Court Matters Received– State



Supreme Court Matters Completed – State



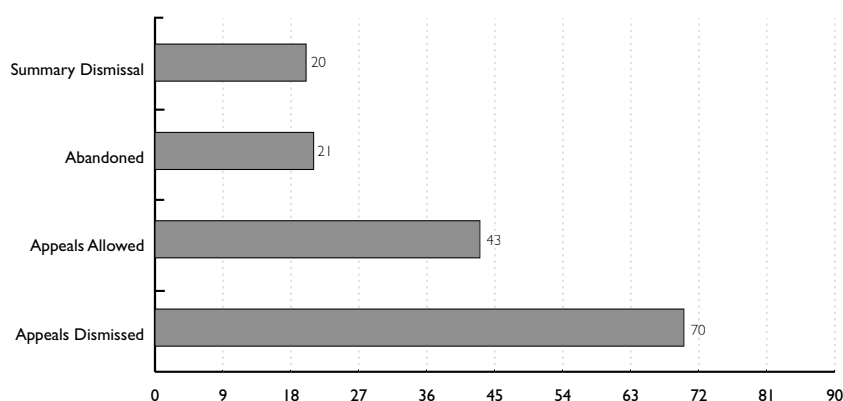
Appendix 13

Court of Criminal Appeal and High Court

Court of Criminal Appeal	1998–1999	1999–2000	2000–2001	2001–2002	2002–2003
A. Appeals by Offenders finalised					
Conviction and sentence appeals	151	125	144	119	154
Sentence appeals	164	146	239	246	185
Summary dismissals	108	85	72	114	71
Appeals abandoned	180	163	169	212	149
TOTAL	603	519	624	691	559
	1998–1999	1999–2000	2000–2001	2001–2002	2002–2003
B. Crown Appeals finalised					
Abandoned	6	4	8	14	16
Allowed	31	25	30	40	32
Dismissed	17	17	17	33	36
TOTAL	54	46	71	79	84
	1998–1999	1999–2000	2000–2001	2001–2002	2002–2003
C. Appeals against interlocutory judgments or orders (s.5F appeals)					
	13	25	20	14	35
D. Stated cases from the District Court					
	6	1	6	2	1
E. Total of all appeals finalised					
	676	591	721	786	679

High Court matters finalised	1998–1999	1999–2000	2000–2001	2001–2002	2002–2003
Completed applications for special leave to appeal					
Applications by the offender	27	33	39	27	22
Applications by the Crown	1	1	1	0	0
Hearings conducted after grant of special leave to appeal					
Appeal by offenders	7	5	6	6	4
Appeal by the Crown	0	1	0	1	0

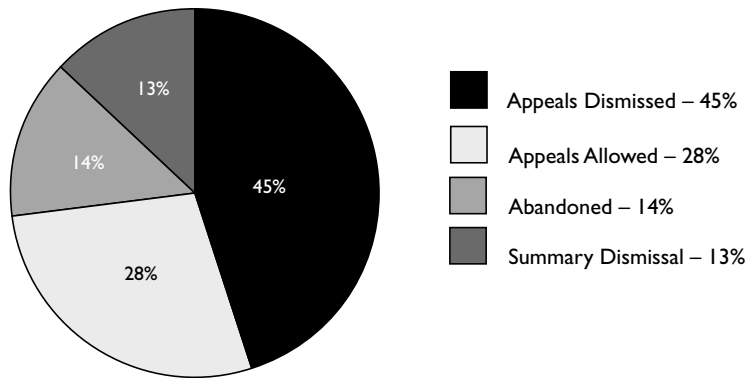
Conviction and Sentence appeals finalised in 2002–03 in Court of Criminal Appeal – Breakdown by numbers



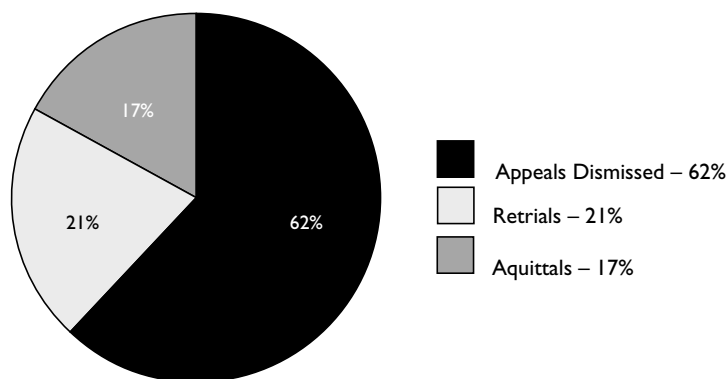
Appendix I3 Continued

Court of Criminal Appeal and High Court

Conviction and sentence appeals finalised in 2002/03 in Court of Criminal Appeal –
Breakdown by percentage



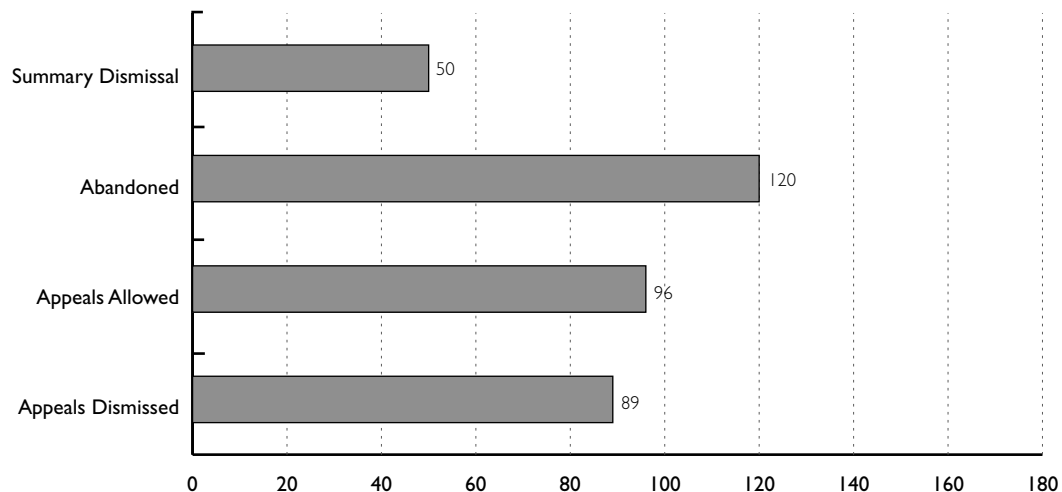
Results of finalised conviction and sentence appeals in 2002/03 in Court of Criminal Appeal –
Breakdown by percentage



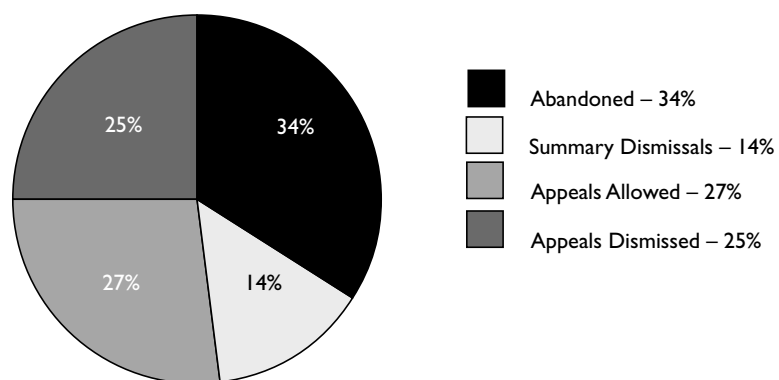
Appendix I3 Continued

Court of Criminal Appeal and High Court

Sentence appeals finalised in Court of Criminal Appeal in 2002/03 –
Breakdown by number



Sentence appeals finalised in 2002/03 in Court of Criminal Appeal –
Breakdown by percentage



Appendix 14

Significant Legislative Changes

Criminal Procedure Reform in the Local Courts

Major reforms to criminal procedure in the Local Courts were introduced on 7 July 2003 with the commencement of three Acts which received assent in 2001. The underlying philosophy of the reforms is to set out clear, streamlined procedures for commencing and hearing cases in the Local Court. The new changes are

embodied in the **Justices Legislation Repeal and Amendment Act 2001** (No 121), the **Criminal Procedure Amendment (Justices and Local Courts) Act 2001** (No 119) and the **Crimes (Local Courts Appeal and Review) Act 2001** (No 120). Prior to the operation of this legislation, criminal procedure in the Local Court was

regulated, for more than one hundred years, by the provisions of the **Justices Act 1902** (NSW).

A summary of the new legislative regime appears below.

Justices Legislation Repeal and Amendment Act 2001

Assent 19/12/2002, Gaz 199 28/12/2001 p 10824. Section s 3(1) and 3(2), in so far as they repeal ss 145A(1) and 145B of the **Justices Act** commenced 10/4/2002, Gaz 72 12/4/2002 p 2201.

Commencement of remainder 7/7/2003, Gaz 104, 27/7/2003 p 5978.

The principal object of the **Justices Legislation Repeal and Amendment Act 2001** is to repeal the **Justices Act 1902** and other Acts and to amend a range of other legislation to effect substantive change and or to modernise terminology and remove outdated references. The most extensive amendments made by the Act relate to the **Local Courts Act**.

The Criminal Procedure Amendment (Justices and Local Courts) Act 2001

Assent 19/12/2001. Commencement 7/7/2003, Gaz 104, 27/6/2003 p 5976. Commencement of Sch 1[17] 19/4/2002, Gaz 72, 12/4/2002 p 2200.

The objects of the **Criminal Procedure Amendment (Justices and Local Courts) Act 2001** are: (1) to bring together in one Act all of the provisions that relate to criminal proceedings in each of the jurisdictions; (2) to more logically group together the provisions under the **Criminal Procedure Act**; and (3) to simplify the procedure for dealing with criminal matters in the Local Court. The **Criminal Procedure Amendment**

(Justices and Local Courts) Act 2001 amends the **Criminal Procedure Act** in the following ways. First, it re-enacts, with some modifications, provisions currently contained in the **Justices Act** relating to the conduct of criminal proceedings in local courts and the jurisdiction of Local Courts and magistrates in relation to those proceedings. Secondly, it re-enacts without significant modification provisions from the **Supreme Court (Summary Jurisdiction) Act 1967** and the **Land and Environment Court Act 1979** relating to summary criminal proceedings in the Supreme Court and Land and Environment Court. Lastly, it re-numbers and re-arranges most of the existing provisions in the **Criminal Procedure Act**.

The **Crimes (Local Courts Appeal and Review) Act 2001**, the third Act in the reform package, consolidates and simplifies the criminal appeal and review provisions previously contained in the **Justices Act**. This Act introduced fewer significant changes than the other two Acts in the package. This was in part because the appeal provisions of the **Justices Act** had been substantially amended in 1998 and were therefore more modern to begin with. The **Crimes (Local Courts Appeal and Review) Act 2001** re-enacts Parts 4A, 5, 5A and 5B of the now repealed **Justices Act**. It contains provisions that are comparable in nature and reach to those previously found in the **Justices Act** and it clarifies and simplifies the law making it clearer and easier to find. The Act deals only with appeals from Local Court

decisions in criminal proceedings and not with appeals from other proceedings such as those under Part 6 of the **Local Courts Act 1982**. However, minor amendments to **Local Courts Act 1982** and other Acts have had the effect of applying Parts 2, 3, 4 and 5 of the **Crimes (Local Courts Appeal and Review) Act 2001** to such appeals.

Crimes (Sentencing Procedure) Amendment (Standard Minimum Sentencing) Act 2002 (No 90)

Assent 22/11/2002, Gaz 263, 20/12/2002 p 10735. Commencement of amendments to the **Crimes (Sentencing Procedure) Act 1999** relating to standard minimum sentencing and to the **Crimes Act 1900** relating to sexual assault on 1/2/2003. Commencement of amendments relating to the creation of a New South Wales Sentencing Council on 17/2/2003, Gaz 39 of 7/2/2003, p759.

The principal objects of the Act are two fold. First, it seeks to establish a scheme of standard minimum sentencing for a number of serious offences. Secondly, it constitutes the New South Wales Sentencing Council to advise the Minister on sentencing matters. The changes contained in the legislation aim to promote consistency and transparency in sentencing and public understanding of the sentencing process.

The Act creates a new s 21A in the **Crimes (Sentencing Procedure) Act**. This

Appendix I4 Continued

Significant Legislative Changes

Criminal Procedure Reform in the Local Courts

section sets out specific aggravating and mitigating circumstances that are to be taken into account by sentencing courts in determining the appropriate sentence for an offence, if those circumstances are relevant and known to the court. The court is also required to take into account any other objective or subjective factor that affects the relative seriousness of the offence. The requirement for a court to take into account these aggravating and mitigating factors and other matters applies in sentencing for any offence, not only to the offences that are subject to a standard non-parole period under Division 1A of Part 4 of the **Crimes (Sentencing Procedure) Act**.

The Act introduces a new s 44 which changes the manner in which a court can set a non-parole period. Under the previous s 44 of the **Crimes (Sentencing Procedure) Act**, in sentencing an offender to imprisonment for an offence, the court was required to first set the term of the sentence and secondly to set a non-parole period for the sentence. Previously under s 44(2) the non-parole period was to be not less than three quarters of the term of sentence, unless the court determined that there were special circumstances, in which case it was required to record the reason for its decision. The new s 44 requires the sentencing court to set a non-parole period for the sentence (the period during which the offender may not be released on parole) before setting the balance of the term of the sentence, that is, the period during which the offender may be released on parole. The balance of the term of the sentence must not exceed one-third of the non-parole period for the sentence, unless the court decides that there are special circumstances. The new s 44 is a necessary consequence of the introduction of the scheme of standard

non-parole periods. The effect of the new s 44 is to maintain, by a different method of calculation, the existing presumptive ratio between the non-parole period of a sentence and the period during which the offender may be released on parole. Section 44 applies to all sentencing matters irrespective of whether the offence comes within the standard non-parole sentencing scheme of the new Division 1A.

The Act further amends the **Crimes (Sentencing Procedure) Act** to set a standard non-parole period for a number of serious offences. Under the Act the sentencing court sets the standard non-parole period as the non-parole period for an offence included in the new sentencing scheme, unless the court determines there are reasons for setting a non-parole period that is longer or shorter than the standard non-parole period. A court that sets a non-parole period that is longer or shorter than the standard non-parole period for an offence must record its reasons for doing so and must identify in the record of its reasons each factor to which it had regard.

These changes are embodied in a new Division 1A called "Standard non-parole periods" (comprising ss 54A–54D) which has been added to Part 4 of the **Crimes (Sentencing Procedure) Act**. The Division provides for standard non-parole periods for a number of serious offences listed in the Table to the Division and which include:

- murder where the victim belongs to a specified occupational category
- wounding with intent to do bodily harm or resist arrest
- certain assault and wounding offences involving injury to police officers
- certain sexual assault offences

- sexual intercourse with a child under ten years of age
- certain robbery and break and enter offences
- car-jacking
- intentionally causing a bushfire
- certain offences involving commercial quantities of prohibited drugs, and
- unauthorised possession or use of a firearm.

The standard non-parole period for an offence represents the non-parole period for an offence in the middle of the range of objective seriousness for offences in the Table to this Division.

The Act also reforms provisions of the **Crimes Act** concerning sexual assaults on children by: (1) increasing the maximum penalty for sexual intercourse with a child under ten, or attempted sexual intercourse with a child under ten years of age, from 20 to 25 years (ss 66A, 66B); and (2) by removing two redundant offences dealing with homosexual intercourse with a child under ten: ss 78H and 78I.

Bail Amendment (Repeat Offenders) Act 2002 (No 34)

Assent 24/6/2002. Commencement 1/7/2002, Gaz 106, 28/6/2002 p 4675.

The **Bail Amendment (Repeat Offenders) Act 2002** amends the **Bail Act 1978** to remove the presumption in favour of bail for certain repeat offenders and in other cases, to create additional criteria that must be considered when determining bail. The Act also creates a new bail condition requiring accused persons to agree to reside in bail hostels while at liberty on bail. An important change is the creation of a new s 9B which introduces

Appendix 14 Continued

Significant Legislative Changes

Criminal Procedure Reform in the Local Courts

exceptions to the presumption in favour of bail established by s 9 of the **Bail Act**.

Section 9B(1) removes the presumption in favour of bail for a person who commits another offence whilst on bail, on parole, while subject to a good behaviour bond, or while subject to a sentence but not in custody. Section 9B(2) removes the presumption in favour of bail where an offender has previously been convicted for failing to appear before a court in accordance with a bail undertaking in contravention of s 51 of the **Bail Act**.

Section 9B(3) removes the presumption in favour of bail where a person is charged with an indictable offence and they have previously been convicted of one or more indictable offences. Section 9B applies to offences charged on or after its commencement, even where those offences were committed prior to the commencement of the Act.

The Act also provides new criteria to be considered in the making of bail applications. Under the new criteria, a court or authorised officer is required, when making a determination as to the grant of bail, in respect of an Aboriginal or Torres Strait Islander person, to consider that person's background and community ties in a context that is relevant to Aboriginal or Torres Strait Islander persons. Section 32 of the **Bail Act** is also amended to add a requirement that the court or authorised officer, when making a determination as to the grant of bail, consider any special needs of a person charged with an offence who is under the age of 18 years, who is an Aboriginal person or a Torres Strait Islander, who has an intellectual disability or who is mentally ill.

Victims Legislation Amendment Act 2003 (No 10)

Assent 5/6/2003, Gaz 97, 13/6/2003 p 5621. Commencement 23/6/2003, Gaz 101, 20/6/2003, p 5777.

The **Victims Legislation Amendment Act 2003** (No 10) has three principal objectives. First it amends the **Crimes (Sentencing Procedure) Act** to enable victims of certain crimes (or their representatives) to read out victim impact statements in court. Secondly, it amends the Charter of Victims Rights contained in the **Victims Rights Act 1996** to require that victims of crime be informed in a timely manner of certain information about the prosecution of an accused. This information includes a requirement that victims of certain crimes be consulted before a decision is made to modify or not proceed with charges or to accept a plea to a less serious charge. Thirdly, the Act amends the **Victims Support and Rehabilitation Act 1996** to expand the category of persons able to apply for payments for approved counselling services to include the immediate family of the victims of homicide involving the use of a motor vehicle.

Appendix 15

Significant Judicial Decisions

High Court of Australia

De Gruchy v The Queen [2002] HCA 33

8 August 2002

De Gruchy was convicted of murdering his mother, sister and brother. The prosecution established no motive for the crimes. DNA tests revealed that blood found in the hallway and above the mother's bed could have come from De Gruchy but not from the other members of the family. A doorknob in the main bedroom bore a left palm print of De Gruchy within a smear of blood. De Gruchy said he was at his girlfriend's house and relied on evidence of his good character. During his closing address the Crown Prosecutor commented that whoever committed the murders had a "disturbed mind". On appeal De Gruchy said this comment and the trial judge's (purported) failure to properly direct the jury about it could have led the jury to ignore the absence of motive (ie) directions should have been given to make clear the "positive significance" of the absence of motive.

The High Court dismissed the appeal. The trial judge's directions about the comment were adequate. Since the prosecution is not required to prove motive, it would have been wrong for the judge to say that the absence of motive had "positive significance." There is a difference between an absence of proven motive and a proven absence of motive. Here there was no evidence of motive. The case did not require a specific direction.

Dhanhoa v The Queen [2003] HCA 40

5 August 2003

Dhanhoa was convicted of robbery in company with wounding and kidnapping. The victim gave evidence that he met four men of Indian or Sri Lankan appearance in a hotel. He invited them to his flat. After a

few minutes all four of them set upon him, wounded him, robbed him, took him from his flat at knife-point and attempted to force him into a car with a view to taking him to an automatic teller machine. The victim escaped. The prosecution case was conducted as one of joint criminal enterprise (ie an agreement between the four men to attack the victim). The case did not depend upon assigning to Dhanhoa any particular role in the events. Dhanhoa agreed that he went to the flat but said he left when an argument started.

On appeal it was argued on Dhanhoa's behalf that s 116 of the Evidence Act 1995 (NSW) required the trial judge to give the jury a warning about the potential unreliability of the victim's identification evidence even though it was not disputed or in issue. His trial counsel did not ask for a direction. Section 116(1) provides: "If identification evidence has been admitted, the judge is to inform the jury that there is a special need for caution before accepting identification evidence".

The court dismissed the appeal. Section 116 should not be read to mean that whenever identification evidence has been admitted a judge is required to warn the jury. The section must be read in the context of the adversarial system of trial in which the parties define the issues. A warning is only required when the evidence is disputed. That was not the case here.

Heron v The Queen [2003] HCA 17

8 April 2003

Heron was convicted of murder. It was not in dispute that there was a fight between him and the victim, that in the course of the fight the victim suffered a wound from a sharp object, that Heron ran away and that the deceased died soon afterwards.

The prosecution case was that the fatal wound was caused by Heron stabbing the deceased with a knife. Heron testified at his trial. He said he did not have any knife in his possession and that the wound could have been caused by a shard of glass from glasses broken in the course of the fight. Heron's trial counsel asked the trial judge to instruct the jury on provocation on the basis that the victim struck Heron and called him a "black ----" (even though Heron maintained he did not stab the victim). On his appeal to the High Court Heron argued that the trial judge's directions on the issue of provocation occasioned a miscarriage of justice. This was a new ground of appeal. The directions were not raised as a ground of appeal in the Court of Criminal Appeal.

The High Court dismissed the application for special leave to appeal. To permit a new ground of appeal to be added in the High Court requires exceptional circumstances to be shown. Here there were no exceptional circumstances. Although provocation was technically open on the evidence, it was remote from the way that the defence conducted its case. The trial judge's directions did not result in a miscarriage of justice. Heron's conviction was inevitable.

NSW Court of Criminal Appeal

R v Whyte [2002] NSWCCA 343

20 August 2002

In this case the Court of Criminal Appeal reformulated its Guideline Judgment for dangerous driving causing death or grievous bodily harm. The court said: "A frequently recurring case of an offence under s 52A has the following characteristics: (i) young offender (ii) of good character with no or limited prior

Appendix 15 Continued

Significant Judicial Decisions

convictions (iiii) death or permanent injury to a single person (iv) the victim is a stranger (v) no or limited injury to the driver or the driver's intimates (vi) genuine remorse (vii) plea of guilty of limited utilitarian value. A custodial sentence will usually be appropriate unless the offender has a low level of moral culpability, as in the case of momentary inattention or misjudgment. The court identified several aggravating factors: (i) extent and nature of the injuries inflicted (ii) number of people put at risk. (iii) degree of speed (iv) degree of intoxication or of substance abuse.(v) erratic or aggressive driving (vi) competitive driving or showing off (vii) length of the journey during which others were exposed to risk (viii) ignoring of warnings (ix) escaping police pursuit (x) degree of sleep deprivation (xi) failing to stop. Items (iii) to (xi) relate to the moral culpability of an offender. With respect to the length of custodial sentences, the court said that for offences against ss 52A(1) and (3) for the typical case: "Where the offender's moral culpability is high, a full time custodial head sentence of less than three years (in the case of death) and two years (in the case of grievous bodily harm) would not generally be appropriate." For the aggravated version of each offence under s 52A an appropriate increment is required. Other factors, such as the number of victims, will also require an appropriate increment.

NSW Court of Appeal

Hardman v DPP (NSW) [2003] NSWCA 130

29 July 2003

Police stopped the appellant's tabletop vehicle shortly after midnight on a public

road near Moree. The appellant, who was licensed as a professional shooter, had a loaded rifle in a bracket on the dashboard inside the cabin of the vehicle. He was charged with having in his possession, in a public place, a loaded firearm, contrary to s 93G of the Crimes Act 1900.

In the Local Court he conceded that the item in question was a firearm, that it was loaded and that he had possession of it, but argued that that he did not have possession of the loaded firearm in a public place within the meaning of s 93G. The Magistrate ruled accordingly, and dismissed the information at the prima facie stage.

The DPP (NSW), who took over the conduct of the matter, appealed to the Supreme Court which upheld the appeal:

DPP v Hardman [2002] NSWSC 714

29 July 2003

Justice Simpson held that the magistrate erred in the approach taken to the meaning of the phrase "in a public place." Whilst acknowledging that s 8 of the Crimes Act does not constitute a definition of "public place", the relevant effect of s 8 is to extend the meaning of "public place" to encompass, inter alia, a vessel or vehicle which is ordinarily private, but which comes within the description in the section. It could not be said that a motor vehicle on a public road is ordinarily a private place. It is no more and no less than a motor vehicle in a public place. Its occupants are not removed from the public place in which the vehicle is located by reason of the insulation or structure of the vehicle.

The appellant appealed to the NSW Court of Appeal on the ground that Simpson J had misdirected herself as to

the proper construction of s 8 of the Crimes Act, and as to the correct test to be applied in determining whether the alleged offence had taken place in a public place. By a majority, the court allowed the appeal, concluding that the interior of the appellant's motor vehicle was not a "public place", and possession of a loaded firearm within that vehicle did not constitute possession "in a public place" within the meaning of s 93G. Section 8 does not set out the core meaning of the expression "public place"; rather, its purpose is to indicate when the scope of the application of that expression can be extended.

An application for Special Leave to appeal to the High Court has been filed.

Supreme Court

Shephard v DPP (NSW) [2003] NSWSC 83

28 February 2003

This decision resolved uncertainty as to whether a Local Court has jurisdiction to deal with a Table 1 matter summarily where the defendant has never appeared before the court, with the consequence that he has not been served with a brief of evidence, and the court has not set a time in which he may elect that the matter be dealt with on indictment.

The defendant Shephard was charged with break, enter and steal, an offence listed in Table 1 to Schedule 1 to the Criminal Procedure Act 1986. When he failed to appear at the Local Court to answer the charge the magistrate purported to deal with the matter ex parte pursuant to ss 75A – 75E of the Justices Act 1902 and convicted him. A subsequent application under s 100D of the Justices Act to have the conviction annulled was refused.

Appendix 15 Continued

Significant Judicial Decisions

The defendant then appealed to the Supreme Court pursuant to s 104 of the Justices Act, contending that the magistrate lacked jurisdiction to deal with the matter summarily as the preconditions for summary jurisdiction in relation to a Table 1 offence set out in Division 3, Part 2 of the Criminal Procedure Act had not been complied with. It was noted that pursuant to s 20 of the Criminal Procedure Act summary jurisdiction was only available if the defendant had not elected in accordance with the provisions of Division 3 to have the matter dealt with on indictment. It was argued that it could not be said that the defendant had not made this election as he had not been served with a brief of evidence (as required by s 25) and the court had not set a time in which an election was required to be made (as required by s 23).

In response, the Director argued that the requirement to serve a brief and set a time for election only applied if and when the defendant appeared.

The Supreme Court accepted the defendant's contentions and allowed the appeal. The court noted that one purpose of the provisions of Part 2, Division 3 was to ensure that a person charged with a Table 1 offence was not deprived of the right to have the offence dealt with on indictment unless he had been provided with the means to make a considered and informed decision as to the issue. In interpreting the relevant provisions the court took into account this purpose, and held that while the competing interpretations of the relevant provisions urged by the parties were both open, the court should prefer that which least qualified the right of a person charged

with an indictable offence to have the offence dealt with on indictment.

DPP v Darby [2002] NSWSC 1157

28 November 2002

This case concerned the question of whether the actions of a police drug detection dog in indicating the detection of a scent by placing his nose on the defendant's pocket could be considered a "search".

On the evening of the offence a police officer with a drug detection dog was patrolling in Oxford Street, Sydney, when the dog picked up a scent and led the officer towards the defendant. The dog then placed his nose on the outside of the defendant's pocket and sat down. The officer identified himself to the defendant, however the defendant walked away. The dog walked with him, continuing to indicate the source of the scent by repeatedly placing his nose on the defendant's pocket. As a result of suspicions aroused by the dog's behaviour, police searched the defendant, and located cannabis and methylamphetamine.

The defendant was charged with possession of the drugs, and the charges came on for hearing in the Local Court. At the hearing it was contended on behalf of the defendant that the dog's actions in putting his nose on the defendant's pocket amounted to an unlawful search by police, and hence that the evidence of the finding of the drugs was unlawfully obtained, and should be excluded pursuant to s 138 of the Evidence Act 1995. The magistrate acceded to these submissions, excluded the evidence, and dismissed the charges.

The DPP appealed to the Supreme Court against the dismissal of the charges pursuant to s 104 of the Justices Act 1902.

The Supreme Court upheld the appeal, quashed the magistrate's orders dismissing the charges, and remitted the matters to the magistrate to be determined according to law. After referring to various authorities the court held that the actions of the police drug detection dog in indicating to police the source of the scent detected did not constitute a search. Rather the dog's reactions represented no more than a basis for the formation of a reasonable suspicion on behalf of the police officers that the defendant was in possession of a prohibited drug. The subsequent search of the defendant by police was therefore lawful pursuant to s 37(4) of the Drug Misuse and Trafficking Act 1985, and no question of the exclusion of evidence or the application of s 138 of the Evidence Act arose.

In relation to a further argument that the dog's actions constituted an unlawful assault of the defendant, the court held that the magistrate had not found that there had been any assault.

An application for leave to appeal to the Court of Appeal against this decision is currently pending.

Appendix I 6

Publications of the ODPP (NSW)

Many ODPP (NSW) publications can be obtained from our web site at www.odpp.nsw.gov.au

Corporate Information

ODPP (NSW) Annual Reports

The **Annual Report** provides comprehensive information on the office's major achievements and policy developments, in addition to statistical, financial and management information. The first Annual Report of the office was prepared for the year ended 30 June 1988.

Access Copies are available from the ODPP (NSW) Library by telephoning 9285 8912 between 9.00 am–5.00 pm weekdays or by writing to the Manager, Library Services, ODPP (NSW) Locked Bag A8, Sydney South, NSW, 1232. The most recent **Annual Report** is on the ODPP (NSW) website.

Cost: No charge.

ODPP (NSW) Corporate Plan 2002–2005

The **Corporate Plan 2002–2005** contains information on the office's goals, objectives and implementation strategies which will guide the operation of the ODPP until 2005.

Access Copies are available from the ODPP (NSW) Library by telephoning 9285 8912 between 9.00 am–5.00 pm weekdays or by writing to the Manager, Library Services, ODPP (NSW), Locked Bag A8, Sydney South, NSW 1232. Also available on the ODPP (NSW) website.

ODPP (NSW) Prosecution Policy and Guidelines

This document contains a detailed description of the ODPP (NSW) Prosecution Policy and Prosecution Guidelines issued in March 1998. Its provisions are applied by persons acting in or representing the interests of the Crown or the Director under the **Director of Public Prosecutions Act 1986 (NSW)**.

The policy and guidelines document is currently being revised and is expected to be reissued in September 2003.

Access Copies are available from the ODPP (NSW) Library by telephoning 9285 8912 between 9.00 am–5.00 pm weekdays or by writing to the Manager, Library Services, ODPP (NSW), Locked Bag A8, Sydney South, NSW 1232. Also available on the ODPP (NSW) website.

Cost: No charge.

Statement of Affairs and Summary of Affairs under the Freedom of Information Act 1989

The Statement of Affairs and the Summary of Affairs of the ODPP (NSW) under the **Freedom of Information Act 1989** provide information about the office's compliance with the Act as at the reporting dates specified in the legislation.

Access Copies of these documents can be obtained by telephoning the Executive Assistant to the Solicitors' Executive on (02) 9285 8733 between 9.00 am–5.00 pm weekdays or by writing to the Executive Assistant, Solicitors' Executive, ODPP (NSW), Locked Bag A8, Sydney South, NSW, 1232. Also available on the ODPP (NSW) website.

Cost: No charge.

Legal Research Publications

Advance Notes

Published 11 times per year by the Research Unit of ODPP (NSW), **Advance Notes** comprise summaries of judgments of the NSW Court of Criminal Appeal and NSW Court of Appeal and selected High Court decisions.

Access Advance Notes are available through the Legal Information Access Centre at the State Library of NSW or on an annual subscription basis in paper copy or electronic (Microsoft word) form. For subscription enquiries please contact

the Principal Research Lawyer, Research Unit, ODPP (NSW), Locked Bag A8, Sydney South NSW 1232 or telephone (02) 9285 8761.

Cost: \$300 per annual subscription.

Evidence Act Cases 1995–1999

Edited by Hugh Donnelly. **Evidence Act Cases 1995–1999** comprises 195 summaries of almost all NSW Court of Criminal Appeal decisions, High Court cases and a selection of Supreme Court and Court of Appeal cases on the Evidence Act 1995 (NSW), Table of Contents, Table of Legislation and Subject Index. Available in soft cover only. Access Available in the State Library of NSW. To purchase a copy please forward a cheque for \$75 (incl GST) payable to ODPP (NSW) to the Principal Research Lawyer, Research Unit, ODPP (NSW), Locked Bag A8, Sydney South, NSW, 1232. For sales enquiries telephone (02) 9285 8761 between 9.00–5.00 pm weekdays.

Cost: \$75 incl gst.

Evidence Act Cases 2000

Edited by Hugh Donnelly. Comprises summaries of most 2000 NSW Court of Criminal Appeal decisions, all High Court cases and a selection of Supreme Court and Court of Appeal cases on the **Evidence Act 1995 (NSW)**, Table of Contents, Table of Legislation and Subject Index. Available in soft cover only.

Access: Available in the State Library of NSW. To purchase a copy please forward a cheque for \$75 (incl GST) payable to ODPP (NSW) to the Principal Research Lawyer, Research Unit, ODPP (NSW), Locked Bag A8, Sydney South, NSW, 1232. For sales enquiries telephone (02) 9285 8761 between 9.00–5.00 pm weekdays.

Cost: \$75 incl gst.

Appendix I6 continued

Publications of the ODPP (NSW)

Information to Assist Witnesses and Victims of Crime

Your Rights as a Victim

This pamphlet was prepared to inform victims of crime as to how the ODPP (NSW) addresses their statutory rights and to provide details of who to contact if these rights have not been observed. The pamphlet also informs victims about how to contact the Witness Assistance Service.

Access Available to the public by contacting the Witness Assistance Service on telephone (02) 9285 8949 or 1800 814 534 between 9.00 am–5.00 pm weekdays or by writing to the Manager, Witness Assistance Service, ODPP (NSW) Locked Bag A8, Sydney South, NSW, 1232. Also available on the ODPP (NSW) website.

Cost: No charge.

Being a Witness

This pamphlet provides prosecution witnesses with information about their role in the prosecution process, how to prepare for attending court, and what happens in the court room. It explains the role of the ODPP (NSW) and provides details of how witnesses can suggest ways to improve the service provided to them. This pamphlet also informs witnesses about the Witness Assistance Service.

Access: This pamphlet is issued to witnesses by ODPP (NSW). Available to the public by contacting the Witness Assistance Service on telephone (02) 9285 8949 or 1800 814 534 between 9.00 am–5.00 pm weekdays or by writing to the Manager, Witness Assistance Service, ODPP (NSW) Locked Bag A8, Sydney South NSW 1232. Also available on the ODPP (NSW) website.

Cost: No charge.

Information for Court Support Persons

This pamphlet was jointly prepared by NSW Health and ODPP (NSW) to advise persons providing court support for victims of crime. It offers information on the role of support persons and appropriate behaviour in court.

Access: This pamphlet is issued to court support persons by ODPP (NSW). Available to the public by contacting the Witness Assistance Service on telephone (02) 9285 8949 or 1800 814 534 between 9.00 am–5.00 pm weekdays or by writing to the Manager, Witness Assistance Service, ODPP (NSW) Locked Bag A8, Sydney South, NSW, 1232. Also available on the ODPP (NSW) website.

Cost: No charge.

About the ODPP (NSW)

This document contains information about the role of the ODPP (NSW) in the prosecution process, the courts, victims and Crown witnesses and the Witness Assistance Service.

Access: This document is provided to victims of crime and prosecution witnesses. Available to the public by contacting the Witness Assistance Service on telephone (02) 9285 8949 or 1800 814 534 between 9.00 am–5.00 pm weekdays or by writing to the Manager, Witness Assistance Service, ODPP (NSW) Locked Bag A8, Sydney South, NSW, 1232. Also available on the ODPP (NSW) website.

Cost: No charge.

Victim Impact Statement Information Package

This package was prepared jointly by the ODPP (NSW) and the Victims of Crime Bureau. It contains information to assist in preparing any victim impact statement authorised by law to ensure that the full effect of the crime upon the victim is placed before the sentencing court.

Access: For copies of the package contact the Witness Assistance Service on telephone (02) 9285 8949 or 1800 814 534 between 9.00 am–5.00 pm weekdays or by writing to the Manager, Witness Assistance Service, ODPP (NSW) Locked Bag A8, Sydney South, NSW, 1232. Also available on the ODPP (NSW) website.

Cost No charge.

Supporting Your Child Though a Criminal Prosecution

This pamphlet provides some helpful hints for parents and carers who are supporting a child witness during a criminal prosecution. It also offers guidance for parents and carers in coping with their own concerns about the process.

Access: Available to the public by contacting the Witness Assistance Service on telephone (02) 9285 8949 or 1800 814 534 between 9.00 am–5.00 pm weekdays or by writing to the Manager, Witness Assistance Service, ODPP (NSW) Locked Bag A8, Sydney South, NSW, 1232. Also available on the ODPP (NSW) website.

Cost: No charge.

Witness Assistance Service Information Sheet

This information sheet provides information for victims of crime and prosecution witnesses about the services available through the Witness Assistance Service.

Access Available to the public by contacting the Witness Assistance Service on telephone (02) 9285 8949 or 1800 814 534 between 9.00 am–5.00 pm weekdays or by writing to the Manager, Witness Assistance Service, ODPP (NSW) Locked Bag A8, Sydney South NSW 1232. Also available on the ODPP (NSW) website.

Cost No charge.

Appendix 16 continued

Publications of the ODPP (NSW)

ODPP (NSW) Disability Action Plan

The Disability Action Plan was developed in accordance with s 9 of the **Disability Services Act 1993** (NSW) to ensure the needs of people with disabilities are met.

Access: Available from the ODPP (NSW) Service and Improvement Unit on telephone (02) 9285 8874 between 9.00 am–5.00 pm weekdays or by writing to the Manager, Service and Improvement Unit, ODPP (NSW) Locked Bag A8, Sydney South, NSW, 1232. Also available on the ODPP (NSW) website.

Cost: No charge.

Equal Employment Opportunity

Equal Employment Opportunity Annual Report

The ODPP (NSW) **Equal Employment Opportunity Annual Report** provides details of progress in the implementation of the previous financial years EEO Management Plan and details objectives and strategies that are being implemented in the current financial year. **Access** Copies are available by contacting the Manager, Personnel Services on (02) 9285 8867 between 9.00 am–5.00 pm weekdays or by writing to the Manager, Personnel Services, ODPP (NSW), Locked Bag A8, Sydney South, NSW 1232.

Cost: No charge.

Ethnic Affairs Priority Statement

The **Ethnic Affairs Priority Statement** describes the four principles of cultural diversity and the initiatives implemented by ODPP (NSW) to give effect to these principles. **Access** Copies available by contacting the Executive Assistant to the Solicitors' Executive on (02) 9285 8733 or by writing to the Executive Assistant Solicitors' Executive, ODPP (NSW), Locked Bag A8, Sydney South, NSW 1232.

Cost No charge.

Appendix 17

2002–2003 EEO Achievements

The EEO statistics were produced as part of the NSW Public Sector Workforce Profile. The number of women employed within the Office increased from 347 to 365 and the number of men employed decreased from 292 to 288.

The number of women earning salaries above \$68,986 (non-SES) increased from 90 to 106 and the number of men in the same salary band increased from 180 to 189.

The Office employed two cadets under the Aboriginal and Torres Strait Islander Cadetship Program.

The following policies were implemented during the year:

- Working From Home;
- Grievance and Dispute Resolution;
- Workplace Relations.

Appendix 18

EEO Statistics

Table 1

Percent of Total Staff by Level

LEVEL	Subgroup as Percent of Total Staff at each Level				Subgroup as Estimated Percent of Total Staff at each Level				
	TOTAL STAFF (Number)	Respondents	Men	Women	Aboriginal People & Torres Strait Islanders	People from Racial, Ethnic, Ethno-Religious Minority Groups	People Whose Language First Spoken as a Child was not English	People with a Disability	People with a Disability Requiring Work-related Adjustment
< \$28,710	4	100.0%	50.0%	50.0%	50.0%	25.0%			
\$27,710 – \$37,708	14	85.7%	50%	50%		16.7%	16.7%	25%	
\$37,709 – \$42,156	83	79.5%	12%	88%		43.9%	31.8%	7.6%	6.1%
\$42,157 – \$53,345	133	75.2%	21%	79%		30%	16%	9%	2%
\$53,346 – \$68,985	118	69.5%	41%	59%	1.2%	18.3%	12.2%	3.7%	2.4%
\$68,986 – \$86,231	169	76.3%	54%	46%		23.3%	14%	7.8%	3.1%
> \$86,231 (non SES)	126	44.4%	77%	23%		16.1%	7.1%	5.4%	3.6%
> \$86,231 (SES)	6	100%	66.7%	33.3%		16.7%	16.7%	33.3%	16.7%
TOTAL	653	69.7%	44.1%	55.9%	0.7%	25.7%	15.8%	7.7%	3.3%

Table 2

Percent of Total Staff by Employment Basis

LEVEL	Subgroup as Percent of Total Staff at each Level				Subgroup as Estimated Percent of Total Staff at each Level				
	TOTAL STAFF (Number)	Respondents	Men	Women	Aboriginal People & Torres Strait Islanders	People from Racial, Ethnic, Ethno-Religious Minority Groups	People Whose Language First Spoken as a Child was not English	People with a Disability	People with a Disability Requiring Work-related Adjustment
Permanent Full-Time	502	69.1%	51%	49%	0.3%	26.2%	17.3%	8.1%	4%
Part-Time	58	84.5%	6.9%	93.1%		28.6%	16.3%	2%	
Temporary Full-Time	71	62%	25.4%	74.6%		20.5%	6.8%	9.1%	2.7%
Part-Time	15	53.3%	33.3%	66.7%		25%			
Contract SES	5	100%	80%	20%		20%	20%	40%	20.0%
Non SES									
Training Positions	2	100%	50%	50%	100%				
Casual									
TOTAL	653	69.7%	44.1%	55.9%	0.7%	25.7%	15.8%	7.7%	3.3%

Appendix 19

Government Energy Management Plan (GEMP)

During the reporting period 2002–2003 and as will be reported in the Office of the Director of Public Prosecution's (ODPP) GEMP Report 2003, the ODPP continues in its endeavours and commitment to reduce energy consumption and utilise at least 5% Green Power:

Education and commitment of staff; reduce wastage by 'equipment-off' and 'lights-off' policies throughout the Office at night; engagement of power-save facilities on equipment (where those facilities are available); purchase in-contract electricity, including Green Power and purchase of energy efficient star rated equipment, are the methods the ODPP utilises to realise this commitment.

The ODPP has utilised opportunities such as refurbishments, the most recent being the 265 Castlereagh Street refurbishment, to improve energy efficiency by implementing energy management methodology. This includes the individual light switching of offices, meeting and conference rooms. Complete cleaning of all fluorescent light fittings and diffusers and re-tubing with reduced wattage high efficiency tubes. This task has been included as part of the Office's annual maintenance program.

The ODPP's Manager, Corporate Services, has the overall responsibility for the energy management of the Office, with the day to day GEMP-related tasks and follow-up action towards meeting the Office's energy goals, being the responsibility of the Manager, Properties & Services.

The ongoing goals of the ODPP under the GEMP include:

1. Assisting the Government to achieve a reduction of the statewide total energy consumption for government buildings of 15% and 25% of the 1995 level for the years 2001 and 2005 respectively. This has been a real challenge for the ODPP because of increasing

accommodation needs as a result of growth.

2. Upgrading to energy efficient facilities within Head Office and Regional Offices particularly those offices that have been refurbished.
3. Purchasing electricity within Government contracts to ensure the minimum 5% Green Power content is obtained.
4. Continuing to purchase equipment that complies with SEDA's energy star rating requirements.
5. Acquiring fuel-efficient diesel and gas powered vehicles where opportunities exist.
6. Increasing staff awareness of energy management best practices.

The achievement of these goals directly relates to the Office's Corporate Plan Key Result Area 3, Goal 3.2, Accountability and Efficiency. Refer to the Achievements Report in this Annual Report.

Future Direction

The ODPP has introduced energy efficiencies through the introduction of Office policy; by complying with Government direction in respect to purchasing Green Power and in-contract energy and equipment and by educating staff to use energy efficient methodologies and a common-sense approach to energy management. The ODPP does not have a great deal of opportunity in this regard in that we utilise the basic power sources, but the ODPP has the commitment to assist the Government in attaining its energy management goals.

The ODPP will experience further staffing growth in the 2003–2004 financial year as a result of the budget review, and this will see the need for further accommodation acquisition and a subsequent increase in Office overall energy usage.

The ODPP's GEMP Report for 2003 is currently being prepared for submission to the Ministry of Energy and Utilities. The information supplied in the 2003 GEMP Report will be detailed in the 2003–2004 Annual Report.

Appendix 20

Waste Reduction and Purchasing Plan and Recycling

The Office of the Director of Public Prosecutions (ODPP) is committed to the responsibility of introducing waste reduction mechanisms and pursuing recycled products for use in the Office providing the short and long term operational needs of the Office are met. The key reporting areas from the Office's WRAPP 2003 are reproduced below.

Inclusion of WRAPP principles in corporate plans and operational policies and practices

The Office's Corporate Plan 2002–2005, Key Result Area (KRA) 3, 3.2, 'To be efficient in the use of resources'. The strategies to achieve this KRA are 3.2.4 'Increase efficiency through improved technology' and 3.2.6 'Manage finances responsibly'.

The Office is achieving this KRA by upgrading equipment facilities that will provide efficiencies in high-speed double sided printing from PC's that has not been available in the past via desk top printers. Efficiencies will be realised in printing time, paper and consumable costs. These printing arrangements have only recently been implemented, so the effect on paper usage and expenditure of these efficiencies has not been realised as yet but significant savings are expected.

Ensuring contract specifications requiring the purchase of recycled content products where appropriate

The ODPP's purchasing policy requires purchases to be made under Government contract wherever possible. This ensures the ODPP complies with this key reporting area.

Improving waste avoidance and recycling systems across the agency

The ODPP has implemented recycling measures and provided the facilities to

make recycling easy, throughout the Office.

As mentioned above, equipment enhancements have been put in place to reduce paper usage.

Establishing data collection systems to report agency progress

Purchase orders, invoices, statistics recorded by equipment, surveys and physical checks, have provided the data required by the ODPP to prepare the 2003 WRAPP.

Increasing the range and quantity of recycled content materials being purchased

The situation has not changed over the years in respect to the ODPP purchasing recycled copy paper products. Recycled copy paper is not on the ODPP's agenda for copying of court documents simply because of its unstable nature.

The ODPP will be pursuing the purchase and use of other recycled products such as envelopes, post-it-notes etc.

Raising staff awareness about the WRAPP and best-practice management of waste and purchasing of recycled content materials

The Office's WRAPP has been published on the ODPP's internet.

Recycling advertising has been placed on every floor of the Office and on Office notice boards.

The Office has issued instructions to staff as to best practice methods for the operation of Office equipment to ensure copying and printing is double-sided.

Appendix 2I

Chief Executive Service and Senior Executive Service

Number of CES/SES positions	Total CES/SES	Total CES/SES	Total CES/SES	Total CES/SES
Level:	30 June 2000	30 June 2001	30 June 2002	30 June 2003
SES Level 1	3	3	3	3
SES Level 2	3	3	3	3
SES Level 3	—	—	—	—
SES Level 4	—	—	—	—
SES Level 5	—	—	—	—
SES Level 6	—	—	—	—
Statutory Appointments				
Under the DPP Act	4	4	4	4
Number of positions filled by women	2	2	2	2

*The Director of Public Prosecutions, Deputy Directors of Public Prosecutions and Solicitor for Public Prosecutions are statutory appointees, appointed under the Director of Public Prosecutions Act 1986.

CEO Statement of Performance

Name:	Nicholas Cowdery AM QC
Position and level:	Director of Public Prosecutions The Director of Public Prosecutions is a statutory appointment under Section 4 of the Director of Public Prosecutions Act 1986
Period in position:	Full year
Comment:	The Director is not appointed under the Public Sector Employment and Management Act 2002. The Director is responsible to Parliament and there is no annual performance review under the Public Sector Employment and Management Act 2002.

Staff Numbers	30 June 2000	30 June 2001	30 June 2002	30 June 2003
Statutory Appointed and SES	85	85	100	104
Lawyers	256	268	280	282
Administration and Clerical Staff	190	189	193	199
Total	531	542	573	585

Recruitment Statistics	1999/2000	2000/01	2001/02	2002/03
Senior Executive Service	0	0	1	0
Statutory Appointments	1	0	1	0
Crown Prosecutors	5	5	19	14
Prosecution Officer (Lawyers)	35	30	74	33
Prosecution Officer (Administrative)	60	75	64	70
Total	101	110	159	117

Appendix 22

Report of the Chief Information Officer on Major IM&T Projects During 2002–03

Integrated Document Management System (IDMS)

This is an office wide system for the electronic classification, management, storage and retrieval of all document types, whether electronic or paper that was completed in June 2003. The system is yet to go live due to unrelated industrial action.

Electronic Briefs Project (e-briefs)

This is an interagency project led by the ODPP to make briefs of evidence available to stakeholders in electronic form. The e-Briefs project has been piloted in Sydney, Sydney West and Newcastle during 2002/2003. The pilot will continue into 2003/2004.

Disaster Recovery

Computer hardware has been made more resilient with the implementation of a Storage Area Network and server farms. The Disaster Recovery Plan is being developed to promptly restore computer services in the event of equipment or application failures. A Business Continuity Plan is also being prepared, providing a framework for the development of manual procedures to ensure continuity of ODPP business operations in case of a total disaster.

Roll out of the Sun Financial & Business System

The SUN system was rolled out to all regional offices, providing direct access to financial management information and self-service facilities to cost centre managers.

Eric 'Siphon'

The Eric Siphon project to improve information exchange with Police systems was implemented to expedite bail matters in the Supreme Court and is available for expansion to include District Court Appeals.

PC Upgrade

PCs at the end of their 3 year lease have been upgraded office-wide to more current models running Windows XP, with multimedia capabilities, more powerful processors and sufficient disk storage to support new applications including CASES 2 & IDMS

DPP Kiosk

Updates to the Chris Personnel system were implemented to allow staff to access personnel information directly over the intranet.

Appendix 23

Freedom of Information Act 1989 (NSW)

Name of Agency

Office of the Director of Public Prosecutions (ODPP).

Period

1 July 2002 to 30 June 2003.

Contact

Freedom of Information Coordinator
Deputy Solicitor (Legal)
Telephone (02) 9285 8733

Summary

The ODPP is an agency under the Freedom of Information Act 1989 (FOI Act). Pursuant to section 9 and Schedule 2 of the FOI Act, the ODPP is exempt from the Act in relation to its prosecuting function. A copy of the ODPP Summary of Affairs as at 30 June 2003 under the FOI Act is included in this Appendix.

Applications and Other Details

In the period 1 July 2002 to 30 June 2003 the ODPP received five applications under the FOI Act for access to documents. The documents requested in three applications were determined to be exempt because the documents related to the prosecuting function of the ODPP. The applicants were advised accordingly. In relation to one application, all of the documents sought were provided. In relation to one application, no relevant documents were held by the ODPP.

During the reporting period:

- No Ministerial Certificates were issued.
- All applications for access to documents were processed within 21 days.
- No requests for internal review were received.

- No inquiry under the FOI Act was made or is pending by the Ombudsman.
- No request for the amendment or notation of records was received.
- The administration of the FOI Act has had no significant impact on the ODPP's activities, policies or procedures.
- No significant issues or problems have arisen in relation to the administration of the FOI Act within the ODPP.
- The cost of processing FOI requests was not significant.
- No matters concerning the administration of the FOI Act by the ODPP have been referred to the District Court.

	Personal		Other		Total	
	2002-03	2001-02	2002-03	2001-02	2000-03	2001-02
Number Received	5	8	0	0	5	8
Number Completed	5	8	0	0	5	8
Transferred Out	0	1	0	0	0	1
Total Processed	5	8	0	0	5	8
Results*						
Granted in Full	1	2	0	0	1	2
Granted in Part	0	2	0	0	0	2
Refused	3	4	0	0	3	4
Completed	5	8	0	0	5	8

* Note – See “Summary” section for explanation of results.

Appendix 23 Continued

Summary of Affairs as at 30 June 2003

Freedom of Information Act 1989 section 14

This Summary of Affairs was prepared pursuant to section 14(1)(b) and 14(3) of the Freedom of Information Act 1989 (the Act).

The prosecution policy of the Office of the Director of Public Prosecutions (ODPP) is set out in the "Prosecution Policy and Guidelines of the Director of Public Prosecutions", which was last issued in March 1998. The Policy is currently under review and a revised version will be published later this year. A copy of the current policy can be obtained from the ODPP web site, <http://www.odpp.nsw.gov.au> or from the ODPP Head Office Library at 265 Castlereagh Street, Sydney, by telephoning any member of the Library staff on (02) 9285 8912 between 9am and 5pm on weekdays. The publication is available at no charge. The publication may be inspected by arrangement with a member of the Library staff at the ODPP Head Office at 265 Castlereagh Street, Sydney.

The ODPP has published to its officers four internal procedural manuals relating to the performance of its prosecuting functions, namely the Sentencing Manual, the Child Sexual Assault Manual, the Court of Criminal Appeal Guide and the Solicitors Manual, and a number of Research Flyers on significant aspects of the ODPP's practice. The Director of Public Prosecutions, the Deputy Directors and the Solicitor for Public Prosecutions also publish memoranda to ODPP officers and Crown prosecutors in relation to procedural matters relating to the performance of the ODPP's prosecuting functions. These documents are for internal use only (for training, operational and reference purposes), and are not available to members of the public, in the normal course, for inspection or for purchase. There are exemptions in the Act applicable to

operational documents of this type.

The most recent Statement of Affairs of the ODPP published under section 14(1)(a) of the Freedom of Information Act was published as at 30 June 2003.

A copy of the Statement of Affairs and/or a copy of the Summary of Affairs can be obtained from the ODPP website (<http://www.odpp.nsw.gov.au>) or by telephoning the Executive Assistant to the Solicitor's Executive at the ODPP Head Office at 265 Castlereagh Street, Sydney on (02) 9285 8733 between 9am and 5pm on weekdays. The Statement and the Summary are available at no charge.

A copy of the Statement of Affairs and/or the Summary of Affairs may be inspected by arrangement with the Executive Assistant at the ODPP Head Office at 265 Castlereagh Street, Sydney.

Appendix 24

Risk Management and Insurance

The Manager, Corporate Services has overall responsibility for risk management. The Manager, Personnel Services and Manager, Properties & Services are responsible for the day to day functions of risk management for Workers' Compensation and Motor Vehicles respectively.

In the 2002–2003 reporting period the Office's motor vehicle claims as at 30 June 2003 numbered twenty-one, representing an average cost per claim of \$3,048.00. This compares with eighteen claims received during 2001/2002 (as at 30 June 2002), at an average cost per claim of \$3,444.00.

In the 2002/2003 reporting period, the Office's workers' compensation claims as at 30 June 2003 numbered seventeen, representing an average cost per claim of \$4,176.47 or an average cost per employee of \$121.37. This compares with twenty-seven claims received during 2001/2002 (as at 30 June 2002), representing an average cost per claim of \$1,629.63 or an average cost per employee of \$76.79.

During the reporting period the Office's Internal Audit Committee approved the conduct of Regional Office security reviews to ensure personal, premises and information security is afforded the appropriate level of protection.

As at 30 June 2003, reviews have been undertaken of the Lismore, Parramatta, Penrith and Campbelltown regional offices and the Office's premises within the Burwood Court Complex. Recommendations of security improvements have been presented to the Office's executive and approved and action is underway to have the necessary work undertaken.

Reviews of Gosford, Newcastle, Wagga Wagga, Dubbo and Bathurst regional offices will be undertaken between July and December 2003.

Following a risk assessment of the ground floor, 265 Castlereagh Street, recommendations are being implemented to enhance the current security measures in-place and therefore provide improved protection for security staff and staff of the Office.

During the reporting period, the Office's Minimum Security Standards were reviewed and published on the Office's intranet.

Appendix 25

Occupational Health and Safety

Workplace safety training courses were conducted during 2002–2003 to equip managers with the necessary skills to assess the work areas of staff and assist staff in the correct manual handling techniques. Providing managers with this level of training places experts throughout the Office's workplace. The Office considers this will assist in the reduction of injuries sustained from occupational overuse and lifting.

Another positive step in the reduction of lifting injuries is the action to increase the number of station wagons in the Office's motor vehicle fleet. The station wagon reduces the height of the lift to stow and remove boxes and cases of files. New luggage bags and trolleys have been introduced and a standard size file box has been approved and ordered for supply in early October 2003. These boxes limit the amount of files/items stored and therefore standardises the weight to a manageable limit of 16 kilograms.

An information booklet on correct manual handling activities has been published on the Office Intranet, together with information on Health Risks to Employees from Contagious Diseases, following concerns about risks associated with contracting SARS.

The introduction of the Office's new security/ photo ID access passes has had a positive effect from an OH&S perspective also. An agreed entry procedure eliminates the need for staff to lift cases of files on to the conveyor belt for x-ray purposes when entering the Downing Centre Court Complex. This procedure is being negotiated with security management at other court houses.

During the year a number of court security issues have been raised with the Sheriff and measures put in place to manage specific incidents. A wider review

will be undertaken during the next financial year with the Attorney General's Department accepting the successful tenderer's bid. The ODPP is expecting to contribute to the review, being one of the major users of the Courts.

The Manager Personnel Services, Manager Properties and Services and the ODPP's Public Service Association delegate, conducted a workplace inspection of the head office premises and OH&S Committee members have conducted workplace inspections of five (5) regional offices during the reporting year. The inspections of the remaining five (5) regional offices will be conducted during the latter half of 2003.

Issues identified as a result of these inspections were assessed and remedial action taken.

At least one workplace inspection of each office will be undertaken per annum.

Appendix 26

Witness Assistance Service Report

Background

The Witness Assistance Service (WAS) has been part of the ODPP since its establishment in 1993 and there are 3 full-time WAS Officers and 1 part-time WAS Officer located in Sydney Office, 1 full-time and 1 part-time position at both Campbelltown and Parramatta Office, and equivalent to 1 full-time position in each of the 8 other DPP Offices (Penrith, Newcastle, Wollongong, Wagga Wagga, Gosford, Lismore, Dubbo and Bathurst).

The Manager of the WAS, the Sexual Assault Liaison Officer (Senior Lawyer) and the WAS Officer (Indigenous Identified) positions have statewide briefs and are located at Sydney Office. There is 1 Administrative Officer located at Sydney Office. This means there is currently a total of 18.6 staff within WAS Statewide. The WAS Manager liaises with 20 Managing Lawyers and the ODPP Solicitors Executive in ensuring that the WAS provides a consistent service across NSW.

As highlighted in the Samuels Report 2002, the WAS is an important and integral professional arm of the Office to ensure that the rights and needs of victims of crime and vulnerable prosecution witnesses are met. In response to the recommendations of the Samuels Report the ODPP made a submission to the Attorney General's Department in July 2002 for additional funding to further enhance the WAS by a substantial number of positions. This submission was also included as part of the ODPP base budget review report dated 4 June 2003 which outlined the base level funding requirements of the ODPP. The government made an election commitment to enhance the WAS and it is hoped the WAS can be significantly expanded in the next reporting year.

Current role and functions of the WAS

A diverse range of services are available to victims of crimes and vulnerable witnesses through WAS and include the following.

- Information about the legal process, general updates on the progress of the matter; services available, victims rights and witness entitlements;
- Psychosocial assessment and case planning for special needs and support needs at court;
- Referral for counselling, practical assistance and support;
- Liaison with solicitors and Crown Prosecutors;
- Support during conferences with lawyers for vulnerable victims and witnesses when required;
- Court preparation and court familiarisation;
- Coordination and/or provision of court support;
- Crisis counselling and intervention related to the impact of the legal process;
- Debriefing in relation to the legal process and outcomes;
- Post-court follow-up;
- Inter-agency liaison and policy advice.

The WAS is available for all ODPP victims and witnesses, however due to high demand on the service and the current staffing levels, WAS has found it necessary to increasingly prioritise services so that some groups of victims and witnesses receive a more comprehensive service than others. During 2002-2003 WAS has prioritised its services in two ways:

1. *Priority matters prosecuted by the DPP include:*

- Child sexual assault and other crimes against children;
- Matters involving death including homicide, manslaughter and dangerous driving causing death;
- Adult sexual assault and historical child sexual assaults;
- Domestic violence offences which fall into the category of serious indictable offences or all ground appeals;
- Crimes such as serious physical assault / grievous bodily harm / malicious wounding / attempted murder / armed robberies do not generally come under the WAS early referral scheme and victims are referred to WAS by ODPP lawyers and external agencies on a needs basis.

2. *Priority is also given to certain vulnerable and special needs groups:*

- Children and young people under 18 years (and their carers);
- People with disabilities (intellectual, psychiatric, physical, sensory disabilities);
- Aboriginal and Torres Strait Islander people;
- Older people especially those who are frail or disabled;
- People experiencing severe trauma in relation to being a victim;
- People who experience particular difficulty with cultural or language barriers;
- People who are experiencing other disadvantage, hardship or health problems.

It is hoped that with additional WAS Officer positions the service of WAS can be expanded to a larger cohort of victims and witnesses.

Appendix 26 Continued

Witness Assistance Service Report

Service Delivery 2002- 2003

New WAS Registrations recorded during 2002–2003 totalled 2218 which is 421 more new registrations than for the previous year 2001–2002, and an increase of 1084 new registrations since 2000–2001. During 2002–2003, 88.20% of contact service delivery hours were provided to victims and witnesses in the current WAS priority categories (as listed above).

Currently there are 2501 open files on the WAS database. WAS Officers' caseloads average 150 open files for full-time staff. One of the case management challenges is the fact that many cases stay in the legal process for many years, which means cases remain open for a considerable period of time.

In many instances an open file represents multiple victims or several family members of the deceased. Hence the registered number of files is a conservative estimate of the number of victims or witnesses that a WAS Officer may be providing a service to at any one time.

During 2002–2003 WAS has had to prioritise child sexual assault victims and vulnerable witnesses with a disability for court support. As a result a considerable number of victims of violent crimes (including victims of sexual assault) have had to give evidence or attend court proceedings while unsupported inside the courtroom. When WAS Officers are on leave there is currently no funding available for backfilling positions. This particularly impacts on service provision for regional DPP offices where there are solo WAS officers.

Child Sexual Assault (CSA)

In February 2003 the Government announced the commencement of the Child Sexual Assault Jurisdiction Pilot at

Parramatta as a response to the release on 13 November 2002 of the Legislative Council Standing Committee on Law and Justice Report on Child Sexual Assault Prosecutions.

The WAS Manager and Sexual Assault Liaison Officer have participated on the CSA Jurisdiction Project team and attended meetings for a number of working parties. WAS Officers in Sydney and Sydney West have been involved in supporting children who have utilised the new remote witness suite. Those WAS Officers have assisted with the development of the pilot project by providing feedback reports on identified operational and support issues to both the ODPP and the CSA Jurisdiction Project Team.

Vulnerable Witnesses

A number of victims of crime and prosecution witnesses have particular needs related to either a disability or the trauma associated with the nature of the crime. WAS Officers are involved in the assessment of the special needs of vulnerable witnesses who are required to come to court to give evidence. The WAS Officers liaise closely with ODPP solicitors and Crown Prosecutors as to a witness's special needs. WAS Officers have worked, particularly at an interagency level, to ensure the special needs of witnesses who have a disability are met. Such liaison has involved support workers, advocates, counsellors, Court Reporting Branch, Court Technical Officers, Sheriff's Officers and others depending on each individual's circumstances. This case management approach to addressing such things as barriers to communication has enhanced access to the criminal justice system for several victims and witnesses with a disability.

Considerable time is spent by WAS

Officers in advocating on a case-by-case basis to ensure that the special needs of vulnerable victims and witnesses are addressed. If there is legislation introduced in the future to enable vulnerable witnesses to have the option of using the special provisions that are currently available for child witnesses this would create a climate of greater certainty and less anxiety for victims and vulnerable witnesses who have to give evidence at court. This may also mean WAS Officers could have more time available for court preparation and court support for these witnesses.

Aboriginal Victims and Witnesses

There is only one WAS Officer (Indigenous Identified) for indigenous victims of crime and witnesses in NSW which presents many challenges. During 2002–2003 the Aboriginal WAS Officer has prioritised liaison with the regional ODPP Offices, police and other external agencies to promote the position, and to establish better ways of identifying Indigenous victims and witnesses so that a more proactive service can be provided in the future.

The Aboriginal WAS Officer has established a referral protocol with WAS Officers providing monthly reports of matters involving indigenous victims and witnesses. This protocol is to be expanded to ODPP solicitors over the next financial year.

The Aboriginal WAS Officer continues to receive support from Norimbah Aboriginal Support Unit at the Attorney General's Department, which is greatly appreciated, and belongs to the Norimbah Aboriginal Workers Network.

Appendix 26 Continued

Witness Assistance Service Report

State-wide Operations and Standards

In order to manage the increasing demand on the service WAS Officers have implemented a number of innovative and proactive strategies. As an extension of the proactive best practice early referral system developed by WAS in the past, an innovative enhancement has been made to the ODPP databases. For every prosecution matter where WAS has registered a contact with a victim or witnesses, this matter now carries a WAS ICON on the CASES database to alert ODPP lawyers of WAS involvement and the contact details for the WAS Officer. When the WAS ICON does not exist solicitors can contact WAS to refer the matter for WAS involvement.

WAS Officers have increasingly focussed on making early contact with victims of crime to provide information, arranging early and pre-trial conferences and providing court preparation. Another service delivery initiative has been the introduction of group court preparation programs for some prosecution witnesses. This initiative has developed out of the need to make the most effective and efficient use of existing staffing resources with increasing number of referrals.

Sydney WAS has piloted Court Preparation Seminars on some Monday mornings prior to court at the Sydney District Court for prosecution witnesses in violent crime matters who have not had previous court preparation. WAS Officers have also provided group court preparation sessions at the request of ODPP lawyers for violent crime matters where there are a large number of witnesses.

Sessions have involved between 2 and 25 people in attendance. WAS Officers are very aware of the importance of not

discussing the evidence or any aspects of a case with witnesses under these circumstances. The feedback on these seminars has been positive from both the participants and the lawyers dealing with those witnesses. This initiative is likely to be expanded over the next year with additional staffing resources.

ODPP pamphlets have been updated to accommodate changes in the rights for victims of crime. More recently WAS has assisted the ODPP in drafting a new standard letter that is to be sent to victims in relation to convictions, sentencing, Victim Impact Statements and the victim's registers.

The WAS has bi-monthly State-wide meetings in Sydney for all WAS staff where standard operational and policy areas are addressed. State-wide meetings also include peer supervision, case presentations and professional development components. In addition, WAS Officers meet at a regional level for Sydney, Sydney West and Country.

During 2002-2003 WAS staff attended a number of State-wide professional development seminars and workshops and conferences to enhance knowledge and skills and to promote interagency networking and liaison. These have included:

- Seminar on the Pre-trial Diversion Program for Sex Offenders and New Street Adolescent Sex Offenders Program by Dale Tolliday, Director Cedar Cottage and New Street Program.
- Seminar on Forensic Patients and the Victims Register at the Centre for Mental Health by Susan Hatcher at CMH.
- Seminar on Post Traumatic Stress Disorder by Psychiatrist Dr Steven Allnut

- Forum Discussion with three representatives of Norimbah Aboriginal Support Unit and Network. This forum explored effective ways of supporting the role of the Aboriginal WAS Officer within a mainstream WAS Service in ODPP.
- Practice and Prevention Conference: Contemporary Issues in Sexual Assault in NSW.
- Joint Investigation and Response Team NSW Forum

WAS Officers have been provided with regular policy and legal updates by the Assistant Solicitor (Sydney), WAS Manager, the Sexual Assault Liaison Officer and ODPP Research Unit. The WAS Manager provides regular individual supervision for some WAS Officers. Unfortunately the individual professional supervision needs of several WAS Officers cannot be met with current resources. However it is hoped this will be addressed with any future enhancement, which will include the creation of a number of Senior WAS Officer positions to assist with provision of clinical supervision for all WAS Officers.

Interagency Liaison and Policy Development.

At an Interagency level, the WAS Manager has represented WAS on the ODPP Sexual Assault Review Committee, at the Victims of Crime Interagency Meetings and various subcommittees. The Assistant Solicitor (Sydney) is the ODPP representative on the Victims Advisory Board.

There has been attendance by WAS Officers at Police Liaison Group meetings and informal liaison with services such as Department of Corrective Service, Mission Australia Court Support Service, Victims of Crime Bureau, sexual assault services and the various victim groups.

Appendix 26 Continued

Witness Assistance Service Report

A liaison forum for Sexual Assault and Child Protection workers was held at in Sydney West to enhance interagency liaison with WAS and the ODPP. High workloads have unfortunately prevented other sexual assault liaison forums being organised over the past year.

During 2002–2003 WAS has contributed to the development, or review, of a number of publications, information resources and interagency guidelines. The WAS Manager and Sexual Assault Liaison Officer have provided consultation on draft ODPP policy and procedure documents, and have assisted the ODPP provide comment on policy, legislative or systemic reform in a number of areas pertaining to victims of crime

Sexual Assault Liaison Officer

In addition to the roles already mentioned, the Sexual Assault Liaison Officer has represented the ODPP on several committees pertaining to sexual assault issues. During 2002–2003 these have included:

- JIRT State Management Group
- JIRT State Management Group Training Subcommittee
- NSW Police Adult Sexual Assault Interagency
- New South Wales Police Adult Sexual Assault Interagency Legal Issues Subcommittee
- New South Wales Police Adult Sexual Assault Interagency Drug Facilitated Sexual Assault Subcommittee
- Sexual Assault Investigation Kit Meeting (SAIK) (Health)
- NSW Interagency Guidelines for Responding to Adult Sexual Assault

- CSA Jurisdiction Pilot and various subcommittees
- Victims of Crime Interagency Group
- ODPP Sexual Assault Review Committee
- “Practice and Prevention: Current Issues in Sexual Assault in NSW” Conference Organising Committee

Community Education, Training and Consultation

The WAS has provided education and training for a number of organisations and groups over the past year, including NSW Health Specialist Sexual Assault Training for New Workers and Mission Australia volunteer telephone counsellors and court support workers. WAS presented at several Victims of Crime Forums for Workers from Non-English Speaking Background, which were coordinated by the Victims of Crime Bureau. WAS also provided a presentation at the JIRT Forum in June 2003.

WAS has provided service orientation and familiarisation to the courts, remote witness facilities and CCTV for new child protection and sexual assault workers on request. WAS is often requested to provide information to organisations for displays, forums and victim information kits. The service also provides case consultation for external agencies with the permission of victims or witnesses.

The WAS has continued to provide an opportunity for a number of student placements. These include longer-term practicums for social work, social work/ law, and master of forensic psychology students, and shorter-term orientation programs, and court familiarisation sessions for tertiary students and work experience students.

Future developments and challenges

With the hope for expansion of the WAS, a more comprehensive service will be able to be provided to a larger number of victims and witnesses. There will also be the challenge of reviewing service delivery towards an even more proactive service delivery model and an opportunity to develop a number of resources to ensure victims and witnesses are kept appropriately informed about the legal process and their rights and entitlements.

Appendix 27

Overseas Travel Information

Staff Member	Dates, Places and Travel Details	Approval Details	Total Cost
Kiely SC John (Mr Kiely unable to travel) Magnus Ken	7–10 July 2002 Paris, France Australian Bar Association Annual Conference	Request dated 2 April 2002. Approval dated 30 April 2002. Request dated 26 June 2002 for Magnus to attend instead of Kiely. Approval dated 16 July 2002	Nil travel costs
Ellis Roy Herbert Siobhan Ghabrial Jehane	2–5 July 2002 Prato, Italy International Institute of Forensic Studies Inaugural Conference on Expert Evidence	Request dated 2 April 2002. Approval dated 30 April 2002.	\$3,638.50
Tedeschi QC Mark	26 July–1 August 2002 Tonga Legal assistance to the government of Tonga	Request dated 25 July 2002. Approval dated 26 August 2002. Funded by the Tongan Government.	Nil travel costs
Davies Gayle	18–24 August 2002 Glasgow, Scotland International Federation of Library Associations and Institutions	Request dated 3 June 2002. Approval dated 4 July 2002	\$1,064.37
Turner Georgia	26 August–20 December 2002 London, England Exchange with the Crown Prosecution Service	Request dated 8 August 2002. Approval dated 16 & 26 August 2002	\$8,884.00

Appendix 27 Continued

Overseas Travel Information

Staff Member	Dates, Places and Travel Details	Approval Details	Total Cost
Cowdery AM QC Nicholas	2–6 September 2002 Montpellier, France 16th meeting of the International Association of Forensic Sciences	Request dated 7 May 2002. Approval dated 21 June 2002.	\$10,608.80
Cowdery AM QC Nicholas Huggett Sarah Michie Peter Babb Lloyd	8–12 September 2002 London, England Annual Conference and General Meeting of the International Association of Prosecutors (IAP).	Request dated 7 May 2002. Approvals dated 21 June 2002 and 31 July 2002.	\$15,244.79
Hobart Mark Baxter Wright Jon	30 September 2002 Vanuatu Legal assistance	Request dated 24 September 2002. Approval dated 27 September 2002. Funded by Department of Foreign Affairs.	Nil travel costs
Tillers Arnis	13 October–8 November 2002 Pretoria, South Africa Exchange of lawyers with National Prosecuting Agency of South Africa 20–25 October 2002 Durban, South Africa International Bar Association (IBA) Annual Conference	Request and approval dated 18 August 2002.	\$7,044.80
Adams Natalie	20–25 October 2002 Durban, South Africa International Bar Association Annual Conference	Request dated 3 June 2002. Approval dated 4 July 2002.	\$2,810.18

Appendix 27 Continued

Overseas Travel Information

Staff Member	Dates, Places and Travel Details	Approval Details	Total Cost
Ellis Roy	12–18 January 2003 Pacific Island Law Officers' Meeting (PILOM) Litigation Skills Program	Request dated 18 December 2002. Approval dated 20 December 2002. Airfares and travel allowance provided by AusAID. Program to provide accommodation.	Nil travel costs
Willis Ray Fernando Michelle	16–18 February 2003 Bangkok, Thailand International Association of Prosecutors (IAP) Asia-Pacific Regional Conference	Request dated 26 November 2002. Approval dated 20 December 2002.	\$1,058.96
Hudson Adelle Henry Kylie	19–21 March 2003 The Hague, The Netherlands International Association of Prosecutors (IAP) 3rd European Regional Conference	Hudson Request dated 26 November 2002. Approval dated 20 December 2002. Henry Request dated 6 January 2003. Approval dated 8 January 2003.	\$1,238.04
Cowdery AM QC Nicholas	6–8 April 2003 Lyon, France Chairing half-yearly meeting of Executive Committee of IAP	Request dated 3 February 2003. Approval dated 5 February 2003.	\$7,951.98
Hobart Mark Baxter-Wright Jon	24 April–9 May 2003 Vanuatu Prosecution assistance to the Government of Vanuatu	Request received on 7 May 2003 from AusAID. All expenses met by AusAID and fees to be paid to ODPP for services provided by Mark Hobart.	Nil travel costs

Appendix 27 Continued

Overseas Travel Information

Staff Member	Dates, Places and Travel Details	Approval Details	Total Cost
Cowdery AM QC Nicholas	<p>23–26 May 2003 Brussels, Belgium</p> <p>Conduct and speak at the International Bar Association (IBA) Transnational Crime Seminar</p> <p>31 May–3 June 2003 Bratislava, Slovak Republic</p> <p>Observer (as President of IAP) at meeting of Prosecutors General of Countries of Council of Europe</p>	<p>Request dated 3 February 2003.</p> <p>Approval dated 5 February 2003.</p>	\$12,684.19

Total cost to Office for overseas travel: \$72,228.61

Appendix 28

Internal Audit

The Internal Audit Committee comprises:	Manager, Service Improvement	responses to those reports. The Office's internal audit providers and representatives of the NSW Audit Office attend meetings by invitation. The Committee reports to the Executive Board.
Deputy Director (Chair)	The following Audits were conducted:	
Senior Crown Prosecutor	• Fixed Assets review	
Solicitor for Public Prosecutions	• Purchasing and Accounts Payable review	
Manager, Corporate Services	The Committee meets to review audit reports and monitors management	

Appendix 29

System Reviews and Program Evaluations.

- An Operational review of the Wollongong Region Office was completed. This review assessed numerous matters against the identified critical issues in the prosecution process to identify best practice and improve systems.
- Security Reviews of Lismore, Campbelltown and Parramatta Region Offices were completed to assess personal, office and information security systems and identify areas for improvement.
- A comprehensive Fraud and Corruption Risk Assessment of the Office was completed to assess the adequacy of existing controls to determine if additional fraud and corruption counter measures are required.

Appendix 30

Consultants 2002–2003

PAYEE	CATEGORIES	Paid (GST exclusive)
NSW Dept of Public Works and Services	Organisational Review	\$12,335
System Union Pty Limited	Information Technology	\$2,990
Peter Symonds Media Relations	Media Relations	\$66,109
Frontier Software Pty Limited	Information Technology	\$1,313
Garry Cousing Indexing	Management Services	\$3,344
Sphere Associates	Management Services	\$900
Point Zero Pty Limited	Management Services	\$36,223
ITEC Software Pty Ltd	Information Technology	\$14,960
IAB Services Management Consulting Group	Management Services	\$33,570
CMG IT Services Pty Limited	Information Technology	\$1,200
SAI Global Limited	Information Technology	\$225
Dibbs Barker Gosling	Legal	\$6,399
Doll Martin Associates Pty Limited	Management Services	\$10,875
Bureau Of Meteorology	Legal	\$199
HEAS Consultant Psychologists	Management Services	\$350
TOTAL		\$190,992

Appendix 3 I

Community Relations and Principles of Multiculturalism Report

During 2002–03 the ODPP continued to implement the principles of multiculturalism set out in section 3 of the Community Relations and Principles of Multiculturalism Act 2000.

It remained the policy of the ODPP in its conduct of criminal proceedings to deal with all witnesses and accused and other persons with whom its officers came into contact having proper regard to, and respect for, their different linguistic, religious, racial and ethnic backgrounds. In accordance with the Director's Prosecution Policy and Guidelines, the ODPP conducted criminal proceedings throughout the year in a way which did not discriminate against any group or individual on the basis of race, gender, culture, religion, language or ethnic origin.

The ODPP continued to offer externally provided interpreting services to prosecution witnesses involved in conferences with ODPP lawyers. No formal agreement between the Community Relations Commission and the ODPP has been entered into. However, the ODPP has always relied almost exclusively upon the Commission to supply its language services (both for interpreting services and translated materials).

All training programs conducted by the ODPP for its staff had regard to cultural diversity, and all training providers are required to adhere to the ODPP Code of Conduct, which requires respect for individual differences and non discriminatory behaviour. Training courses addressing methods of dealing sensitively with victims and witnesses continued to be run regularly this year; eg Conferencing Skills workshops. It is proposed to continue these courses next year. Components addressing cultural awareness will be included in courses relating to prosecution of sexual assault and matters involving indigenous victims, to be conducted next year. All ODPP lawyers

must participate in regular EEO training as a pre-requisite to retaining a practising certificate.

The ODPP Witness Assistance Service (WAS) provides a Statewide specialist service for witnesses and victims of crime in matters being prosecuted by the ODPP. Within WAS there is an identified position for an Aboriginal Witness Assistance Officer. The interpreter service number is prominently displayed on all WAS brochures published by the ODPP. All brochures are on the ODPP website. Subject to the availability of funding, WAS plans to include with the letter sent to all victims in matters being prosecuted by the ODPP, a sheet containing a paragraph in various languages advising how the recipient can contact the ODPP via the Telephone Interpreter Service.

The ODPP maintains its commitment to a culturally diverse workplace and to equal employment principles. The profile of the NSW population is reflected in its workforce. The ODPP's EEO achievements are separately listed in Appendix 17. The ODPP continued to promote and utilise the Employee Assistance Program.

In January 2003 the Deputy Director provided litigation training to government law officers, including prosecutors, from Pacific Island nations at the Pacific Island Law Officers' Meeting in Fiji. Prosecutors and judicial officers from several Provinces in China visited the ODPP throughout the year for briefings and training by ODPP officers. Lawyers and public officials from Indonesia, Malaysia and Japan also visited the Office for briefings on our work. From April to August 2002, the ODPP participated in a Prosecutors Exchange with the Federal Prosecutions Service in Canada. An ODPP lawyer has taken up a position as Adviser to the Public Prosecutors Office as part of the Vanuatu Legal Sector Strengthening Program. A Vanuatuan prosecutor also

worked with the ODPP on a placement as part of that program. Participation in these initiatives will continue next year.

Appendix 32

Staff Awards

Director's Service Excellence Awards

The Director's Service Excellence Awards were approved on 1 February 2000 and are presented annually. The awards were implemented to allow the Director to formally endorse the efforts and commitment of individuals and teams in striving for excellence in professional service. These awards are designed to recognise excellence in both individual and team performance by all staff and Crown Prosecutors.

Recipients

2000.

Team Recipients

1. The Sydney Centralised Committals Team

Jane Culver, Rhonda Ianna, Peter Bugden, Peter Burns, Laurie Gray, Michael Crowe, Terry Heavener, Tim Macintosh, Geoffrey Denman, Patrick Broad, Bruce Love, Lynne MacDonald.

2. The "Cosmo" Team

Dominique Kelly and Huw Baker.

3. The Research Unit

Hugh Donnelly, Rowena Johns, Angela Voukelatos, Marta Jankovic, Michelle Pratley, Natalie Sheridan-Smith, Prita Supomo.

4. The Guideline Judgements Team

Sashi Govind, Hugh Donnelly, Carolyn Griffiths, Kimberly Sobb, Cathie Williams, George Galanis, Richard Stride, Rosa Ranieri, Natalie Sheridan-Smith

5. Drug Court

Johanna Pheils and Peter Stanhope

Individual Recipients

1. Leader Shrestha
2. Elizabeth Walker
3. Katie Singh

2001.

Team Recipients

1. The Campbelltown Office of the ODPP

Individual Recipients

1. Gareth Christofi
2. Sheelagh Stone

2002.

Team Recipients

CASES2 Development & Implementation Team

Michael Sands, Lorie Parkinson, Patrick Quill, and Peter Low

Individual Recipients

1. Peter Bridge
2. Margaret Cunneen
3. Terry Thorpe
4. Helen Langley

'Corporate Services Staff Recognition Awards':

Awards have been introduced to acknowledge outstanding work within the Corporate Services Division of the Office. During 2002–03, awards were made to the following members of staff:

- Leader Shrestha (Information Management & Technology Branch)
- Kirrely Perry (Group 1, Solicitor's Office)
- Malcolm Young (Solicitor's Office)
- Peter Low (Information Management & Technology Branch)
- Bill Gibson (Financial Services Branch)
- Nigel Richardson (Personnel Services Branch)
- Scott Sigmond (Personnel Services Branch)
- Diane Keelan (Corporate Services Executive)

Appendix 33

Some Cases Dealt With During The Year

R v STYMAN & OTHERS – Death of victim after “000” call treated as hoax

The victim in this case was a 71 year old woman. The three accused broke into her Greenwell Point home, took \$23,000, and left her bound and gagged. One of the accused made a “000” call the police, but it was treated as a hoax call and not acted upon. The victim’s body was found, still bound and gagged, ten days later. After a trial lasting 15 weeks two of the accused were convicted of murder and aggravated breaking and entering and sentenced to life imprisonment. The third accused was convicted of manslaughter and aggravated breaking and entering, and sentenced to 14 years imprisonment with a non parole period of 9 years. In sentencing the accused, the presiding judge noted that the victim had died a lonely and terrifying death. The case attracted considerable attention, including questions in parliament and media interest, as a result of the consequences of the 000 call having been treated as a hoax.

R v GUIDER – Conviction arising out of disappearance of Samantha Knight in 1986

Nine year old Samantha Knight disappeared from Bondi in 1986. Her body has never been found. Over the years her disappearance attracted considerable media attention, and in 2001 the accused, a former gardener, was charged with her murder. The Crown accepted a plea of guilty to manslaughter, which the presiding judge described as appropriate. The court heard that the accused had put sleeping medication in Samantha Knight’s drink, but had not intended that it cause her death. The court also heard that the accused had told a fellow prisoner at Long Bay gaol that her body was initially buried in a park, but later dug up and dumped in a bin near Guider’s workplace. The accused was sentenced to 17 years imprisonment,

with a non parole period of 12 years. During the sentencing proceedings the presiding judge described the police investigation as dogged and determined.

Death in Fire at Ethnic Affairs Commission Office

The accused was an interpreter with the Ethnic Affairs Commission. It was alleged he attended the Ashfield Office of the Commission and set fire to the building. As a result of the fire one worker died and a number were injured. Outside the scene of the fire the accused approached police and told them he had started the fire. He said that letters explaining his actions could be found near the back door of the premises. At that location police found several letters by the accused. In them he expressed fear that there was a conspiracy to murder him, involving an assassination order by the Prime Minister. The accused was charged with murder and maliciously damaging a building with intent to endanger life. He was committed for trial to the Supreme Court, but was ultimately found unfit to stand trial.

R v VAN KREVEL – Soliciting death of accused’s father

In 2000 Jack Van Krevel was murdered in the early hours of the morning at his Albion Park home. His daughter Belinda Van Krevel was in the house at the time. She reported the murder to police, telling them that she had left the house after hearing noises and seeing blood on the floor. Subsequently Keith Schrieber was charged with the murder. In 2001 he pleaded guilty to murder and was sentenced to 16 years imprisonment with a non parole period of 12 years. Schrieber had been in a sexual relationship with the accused at the time of the murder. In June 2001, following lengthy police enquiries, the accused was arrested and charged with her

father’s murder, and was committed for trial to the Supreme Court. In February 2003 the Crown accepted a plea of guilty to “solicit to murder”, and the accused was sentenced to imprisonment for 6 years with a non parole period of 4 years. The case attracted considerable publicity, both because of the nature of the offence, and because the accused’s brother, Mark Valera, had previously been convicted and sentenced to life imprisonment for the mutilation murders of former Wollongong mayor Frank Arkell, and shopkeeper David O’Hearn.

Stabbing on Gore Hill Freeway

The accused was the estranged wife of the victim. They had arranged to meet to discuss domestic matters. The accused got into the rear seat of the victim’s car and they commenced drove along the Gore Hill Freeway, north of the Sydney Harbour Bridge. It was alleged that when they were in the vicinity of Artarmon the accused produced a knife from a bag and commenced to stab the victim to the left side of his upper body. The victim stopped the car and exited. He commenced to walk on the roadway seeking help from other motorists. The victim ran towards the victim and was seen to stab him again. A truck driver who had witnessed the attack approached the accused and disarmed her. She was then restrained by a number of witnesses until the arrival of police. The victim died as a result of the attacks. The accused was charged with murder and committed for trial to the Supreme Court. She was subsequently found unfit to stand trial.

Appendix 34

Code of Conduct

1. The need for a Code

The role of the Office of the Director of Public Prosecutions (ODPP) in the criminal justice system requires an ongoing commitment by its officers to the following goals:

Professionalism

Independence

Fairness

The maintenance of public confidence in the prosecution process

Professionalism demands competent and efficient discharge of duties, promotion of justice, fairness and ethical conduct and a commitment to professional self development.

Independence demands that there be no restriction by inappropriate individual or sectional influences in the way the ODPP operates and makes its decisions. Public functions must be performed competently, consistently, honestly and free from improper influences.

Fairness demands that public functions be performed with manifest integrity and objectivity, without giving special consideration to any interests (including private interests) that might diverge from the public interest. If improper factors are considered (or appear to have been considered) the legitimacy of what is done is compromised, even where the particular outcome is not affected.

The maintenance of public confidence in the prosecution process requires that public officials consider not only the objective propriety of their conduct, but also the appearance of that conduct to the public. An appearance of impropriety by an individual has the potential to harm the reputation of that individual and the reputation of the ODPP.

2. The Code's principles

Ethical behaviour requires more than a mere compliance with rules. This Code seeks to outline the ethical standards and principles which apply to officers, and to sketch the spirit rather than the letter of the requirements to be observed.

The Code is an evolving document that will be modified periodically according to our experience. In order to assist in understanding the standards of conduct expected, the Code includes illustrations of circumstances that might be confronted. The examples should not be regarded as exhaustive or prescriptive.

The following principles will guide the work of ODPP officers.

3. Accountability

In general terms officers are accountable to the Director and, through the Attorney General, to the Parliament and people of New South Wales. When acting in the course of their employment officers must comply with all applicable legislative, professional, administrative and industrial requirements. The sources of the main requirements, duties and obligations are listed in Appendix A. Officers should be aware of them insofar as they apply to their professional status and to their particular role and duties within the ODPP.

4. Integrity and Public Interest

Officers will promote confidence in the integrity of the ODPP's operations and processes. They will act officially in the public interest and not in their private interests. A sense of loyalty to colleagues, stakeholders, family, friends or acquaintances is admirable; however, that sense of loyalty cannot diverge from, or conflict with, public duty. Officers will behave in a way which does not conflict with their duties as public officials.

5. Effectiveness and efficiency

Officers will keep up to date with advances and changes in their areas of expertise and look for ways to improve performance and achieve high standards in a cost effective manner.

6. Decision making

Decisions must be impartial, reasonable, fair and consistently appropriate to the circumstances, based on a consideration of all the relevant facts, law and policy and supported by documentation which clearly reflects this.

7. Responsive service

Officers will deliver services fairly, impartially and courteously to the public and stakeholders. In delivering services they will be sensitive to the diversity in the community.

They will seek to provide relevant information to stakeholders promptly and in a way that is clear, complete and accurate.

8. Respect for people

Officers will treat members of the public, stakeholders and colleagues fairly and consistently, in a non-discriminatory manner with proper regard for their rights, special needs, obligations and legitimate expectations.

9. To whom does the Code apply?

The Code applies to:

- The Director
- Deputy Directors
- Crown Prosecutors
- The Solicitor for Public Prosecutions.
- All staff within the ODPP whether or not they are permanent or temporary employees.

Appendix 34 Continued

Code of Conduct

- Persons on secondment, work experience, volunteer employment and work training schemes in the ODPP.

In their work, officers are individually accountable for their acts and omissions. In addition, managers of staff employed under the Public Sector Employment and Management Act 2002 are accountable for the acts and omissions of their subordinate staff. This does not mean that managers will be held responsible for every minor fault of subordinate staff. It means that managers will be called to account for unsatisfactory acts or omissions of their subordinate staff if these are so serious, repeated or widespread that managers should know of them and address them, if they are exercising the level of leadership, management and supervision appropriate to their managerial position.

Throughout this Code, the terms “officer” and “officers” include Crown Prosecutors, Deputy Senior Crown Prosecutors, the Senior Crown Prosecutor, the Solicitor for Public Prosecutions, all members of the Solicitor’s Executive, the Deputy Directors of Public Prosecutions and the Director of Public Prosecutions.

10. How are ethical issues resolved?

If there is an ethical issue or problem, it should be addressed. Our professional colleagues should be encouraged likewise. For staff employed under the Public Sector Employment and Management Act, the first point of contact should be the appropriate line manager. For Crown Prosecutors, the first point of contact should be the Senior Crown Prosecutor. If the matter cannot be resolved or if it is inappropriate to raise it with such a person, then a more senior person within the ODPP or a member of an appropriate professional ethics committee or a member of the PSA/ODPP Committee or a union official or delegate should be approached.

11. Breach of the Code

Serious breaches of the Code of Conduct must be reported. The reports may be made orally or in writing to (as appropriate):

- The Director
- Senior Crown Prosecutor
- The Solicitor
- Manager, Corporate Services
- The appropriate Line Manager

Failure to comply with the Code’s requirements, ODPP policies or any other legal requirement or lawful directive, may, in the case of staff employed under the Public Sector Employment and Management Act, render an officer subject to a range of administrative and legal sanctions. These sanctions may include a caution, counselling (including retraining), deferral of a pay increment, a record made on a personal file, suspension, or preferment of criminal or disciplinary charges (including external disciplinary action in the case of legal practitioners) with the imposition of a range of penalties, including dismissal.

Sanctions against a Director, a Deputy Director or a Crown Prosecutor are subject to the Director of Public Prosecutions Act, the Crown Prosecutors Act and the Legal Profession Act. A breach of the Code may also be reported to the ICAC, Law Society, Bar Association, Legal Services Commissioner or other relevant professional body.

12. Guidelines

While there is no set of rules capable of providing answers to all ethical questions in all contexts, the following will assist in identifying and determining responses. The guidelines are not meant to be exhaustive; rather they alert officers to the contexts in which problems may arise.

13. Personal behaviour

Officers are obliged:

- not to harass or discriminate against colleagues, stakeholders or members of the public on the grounds of sex, race, social status, age, religion, sexual preference or physical or intellectual impairment;
- to report harassment or discrimination to a manager or other senior officer;
- to be courteous and not use offensive language or behave in an offensive manner;
- to respect the privacy, confidence and values of colleagues, stakeholders and members of the public, unless obliged by this Code or other lawful directive or requirement to disclose or report.

14. Professional Behaviour

Officers must:

- comply with the Director’s Prosecution Policy and Guidelines;
- work diligently and expeditiously, following approved procedures;
- maintain adequate documentation to support decisions made by them. In the case of prosecutors this should include decisions in relation to plea negotiations, elections and Form 1’s;
- give dispassionate advice;
- be politically and personally impartial in their professional conduct;
- take all reasonable steps to avoid and report any conflicts of interest: personal, pecuniary or otherwise;
- report any professional misconduct or serious unprofessional conduct by a legal practitioner, whether or not employed by the ODPP;

Appendix 34 Continued

Code of Conduct

- notify to the Director, as soon as practicable, the fact and substance of any complaint made against the officer to the Legal Services Commissioner, NSW Bar Association or NSW Law Society, pursuant to part 10 of the Legal Profession Act 1987;
- comply with the professional conduct and practice rules of those professional associations that apply;
- comply with all reasonable instructions and directions issued to them by their line management, or, in the case of Crown Prosecutors (for administrative matters), the Senior Crown Prosecutor.

15. Public comment/confidentiality

Officers will:

- not publish or disseminate outside the ODPP any internal email, memorandum, instruction, letter or other document, information or thing without the author's or owner's consent, unless this is necessary for the performance of official duties or for the performance of union duties or is otherwise authorised by law (for example, pursuant to a legislative provision or court order);
- within the constraints of available facilities, securely retain all official information, especially information taken outside the ODPP. Information should not be left unattended in public locations, including unattended in motor vehicles or unsecured courtrooms, unless there is no reasonable alternative course available in the circumstances. The degree of security required will depend upon the sensitivity of the material concerned and the consequences of unauthorised disclosure;
- use official information gained in the course of work only for the performance of official duties or for the performance of official union duties;
- comply with the requirements of the Privacy and Personal Information Protection Act 1998 relating to the use and disclosure of personal information, and take reasonable steps to ensure that private contractors engaged by the ODPP are aware of these requirements;
- not access or seek to access official information that they do not require to fulfil their duties;
- not make any official comment on matters relating to the ODPP unless authorised;
- comply with the Director's Media Contact Guidelines.

16. Use of official resources facilities and equipment/financial management

Officers will:

- follow correct procedures as handed down by Treasury and in ODPP instructions;
- observe the highest standards of probity with public moneys, property and facilities;
- be efficient and economic in the use of public resources and not utilise them for private purposes unless official permission is first obtained;
- not permit the misuse of public resources by others;
- be aware of and adhere to the ODPP Policy and Guidelines on the Use of Email;
- not create, knowingly access, download or transmit pornographic, sexually explicit, offensive or other inappropriate material, using email, or the internet (examples of such material include offensive jokes or cartoons (sexist/racist/smutty), offensive comments about other staff members and material which is racist, sexist, harassing, threatening or defamatory). If such material is received, immediately delete it

and advise the line manager or the Senior Crown Prosecutor, as appropriate;

- use official facilities and equipment for private purposes only when official permission has been given. Officers must ensure that the equipment is properly cared for and that their ability and that of others to fulfil their duties is not impeded by the use of the equipment. Occasional brief private use of email or the internet is permissible, provided that this does not interfere with the satisfactory performance of the user's duties. Telephones at work may be used for personal calls only if they are local, short, infrequent and do not interfere with work;
- comply with the copyright and licensing conditions of documentation, services and equipment provided to or by the ODPP.

17. Office motor vehicles

Do not under any circumstances drive an office vehicle while under the influence of alcohol or of any drug which impairs your ability to drive.

18. Secondary employment

For staff employed under the Public Sector Employment and Management Act, prior written approval of the Director is required before engaging in any paid employment, service or undertaking outside official duties.

For Crown Prosecutors the consent of the Attorney General or the Director must be obtained before engaging in the practice of law (whether within or outside New South Wales) outside the duties of his/her office, or before engaging in paid employment outside the duties of his/her office. In relation to a Director, a Deputy Director and the Solicitor for Public Prosecutions, the consent of the Attorney General must be obtained in similar circumstances.

Appendix 34 Continued

Code of Conduct

Officers will not seek, undertake or continue with secondary employment or pursue other financial interests if they may adversely affect official duties or give rise to a conflict of interest or to the appearance of a conflict of interest.

19. Post separation employment

Officers must not misuse their position to obtain opportunities for future employment. Officers should not allow themselves or their work to be influenced by plans for, or offers of, employment outside the ODPP. If they do, there is a conflict of interest and their integrity as well as that of the ODPP is at risk. Officers should be careful in dealings with former employees and ensure that they do not give them, or appear to give them, favourable treatment or access to any information (particularly privileged or confidential information). Where officers are no longer employed, attached to or appointed to the ODPP, they must not use or take advantage of confidential information obtained in the course of their duties unless and until it has become publicly available.

20. Acceptance of gifts or benefits

An officer will not accept a gift or benefit if it could be seen by the public as intended, or likely, to cause him/her to perform an official duty in a particular way, or to conflict with his/her public duty. Under no circumstances will officers solicit or encourage any gift or benefit from those with whom they have professional contact.

Token gifts or benefits up to an approximate value of \$50 may be accepted, but only where refusal may offend and there is no possibility that the officer might be, or might appear to be, compromised in the process. This concession only applies to infrequent situations and not to regular acceptance of such token gifts or benefits. No other gifts or benefits may be accepted without the prior permission of the appropriate

manager or senior officer. Such permission must be recorded in writing in the appropriate administrative file.

Acceptance of bribes and the offering of bribes are offences. The solicitation of money, gifts or benefits in connection with official duties is an offence. If an officer believes that he/she has been offered a bribe or that a colleague has been offered or accepted a bribe, that must be reported in accordance with the procedures for notification of corrupt conduct.

21. Conflicts of interest

In order to ensure that the ODPP's work is impartial, and is seen to be so, officers' personal interests, associations and activities (financial, political or otherwise) must not conflict with the proper exercise of their duties.

In many cases only the officer will be aware of the potential for conflict. The primary responsibility is to disclose the potential or actual conflict to a manager or other senior officer, so that an informed decision can be made as to whether the officer should continue with the matter:

Officers should assess conflicts of interest in terms of perception as well as result. With conflicts of interest, it is generally the processes or relationships that are important, rather than the actual decision or result. If there has been a potential or actual conflict then the decision or action becomes compromised, even if the decision or action has not been altered by the compromising circumstances.

Conflicts of interest may arise for example where (but this list is not to be regarded as exhaustive):

- an officer has a personal relationship with a person who is involved in a matter which he/she is conducting (e.g. the victim, a witness, a police officer; the defendant or

defendant's legal representative). This has the potential to compromise an officer's ability to make objective professional judgments; for example as to the extent of prosecution disclosure to the defence;

- secondary employment or financial interests that could compromise an officer's integrity or that of the ODPP;
- party political, social or community membership or activities may conflict with an officer's public duty (e.g. prosecuting someone known to be a member or participant of the same or a rival political party, social or community organisation);
- personal beliefs or those of others are put ahead of prosecutorial and ODPP obligations;
- an officer or friend or relative has a financial interest in a matter (including goods and services) that the ODPP is dealing with.

Conflicts may also arise in those contexts covered by professional practice and conduct rules of the Law Society and Bar Association, and the conduct rules of other relevant professional bodies.

If in any doubt as to whether there is a conflict, or the appearance of a conflict, an officer should make a confidential disclosure and seek advice.

22. Court character references

Crown Prosecutors, lawyers and all other officers are not to use Crown Prosecutors' or ODPP letterheads when giving written character references to be used in court proceedings.

References may be given, but in the officer's private capacity. However, it is permissible to state (in writing or in evidence) that the officer is a Crown Prosecutor or a lawyer or officer employed by the ODPP.

Appendix 34 Continued

Code of Conduct

If an officer is to be called to give character evidence by the defence (or it is reasonably expected that he/she will be called) prior notice (being before the day of court at the very latest, but otherwise as soon as it is known) is to be given to either the Senior Crown Prosecutor (or a Deputy Senior Crown Prosecutor in his absence) or the Solicitor for Public Prosecutions or a Deputy Solicitor for Public Prosecutions by a Crown Prosecutor (in the first case), lawyer or other staff member (in the second case).

This notice will assist in avoiding any embarrassment to the prosecutor in the matter.

When giving a written reference or evidence in court it is to be made known expressly that the officer is doing so privately and not in his/her capacity as a Crown Prosecutor, lawyer or other officer employed by the ODPP.

23. Notification of bankruptcy, corrupt or unethical conduct and protected disclosures

If an officer becomes bankrupt, or makes a composition, arrangement or assignment for the benefit of creditors, the officer must promptly notify the Director; and provide the Director, within a reasonable time, with such further information with respect to the cause of the bankruptcy, or the making of the composition, arrangement or assignment, as the Director requires.

All officers have a responsibility to report conduct that is suspected to be corrupt. Corrupt conduct is defined in sections 7 and 9 of the Independent Commission Against Corruption (ICAC) Act 1988. The definition is intentionally very broad but the key principle is misuse of public office, or breach of public duty. Corrupt conduct occurs when:

- a public official carries out public duties dishonestly or unfairly

- anyone does something that could result in a public official carrying out public duties dishonestly or unfairly
- anyone does something that has a detrimental effect on official functions, and which involves any of a wide range of matters, including fraud, bribery, official misconduct and violence.
- a public official misuses his/her position to gain favours or preferential treatment or misuses information or material obtained in the course of duty.

Conduct is not corrupt in terms of the ICAC Act unless it involves (or could involve) a criminal offence, a disciplinary offence or reasonable grounds to dismiss a public official.

The Director has a duty under the Act to report to the ICAC any matter which, on reasonable grounds, concerns, or may concern, corrupt conduct. The ODPP also has an established procedure with the Police Service pursuant to which allegations of suspicious or corrupt conduct by police officers are reported directly to the appropriate agency.

In appropriate circumstances the ODPP will report unethical behaviour by professionals to the relevant professional association (e.g. the Law Society, Bar Association or Legal Services Commissioner).

The Protected Disclosures Act encourages and facilitates the disclosure of corruption, maladministration and waste in the public sector. Procedures for the making of protected disclosures about these matters can be found in the Protected Disclosures Procedures.

APPENDIX A

Relevant legislative, professional, administrative and industrial requirements and obligations

The main requirements, obligations and duties to which we must adhere are found in:

- Director of Public Prosecutions Act 1986
 - Public Sector Employment and Management Act 2002
 - Crown Prosecutors Act 1986
 - Legal Profession Act 1987
 - Victims Rights Act 1996
 - Independent Commission Against Corruption Act 1988
 - Protected Disclosures Act 1994
 - Anti-Discrimination Act 1977
 - Occupational Health and Safety Act 2000
 - Public Finance and Audit Act 1983
 - State Records Act 1998
 - Freedom of Information Act 1989
 - Privacy and Personal Information Protection Act 1998
 - (Cth) Racial Discrimination Act 1975
 - (Cth) Sex Discrimination Act 1984
- The main requirements, obligations and duties are given effect to, explained or contained in the following policies, rules, guidelines and manuals:
- Director's Prosecution Policy and Guidelines
 - Professional Conduct and Practice Rules, Law Society of NSW
 - NSW Bar Rules

Appendix 34 Continued

Code of Conduct

- AASW Code of Ethics and NSW Psychologists Board Code of Ethical Conduct
- Corporate Services Division, Administrative Policies & Procedures Manual
- Solicitors Manual
- Sentencing Manual
- Child Sexual Assault Manual
- Witness Assistance Service Manual
- NSW Solicitors Manual (Riley)
- Personnel Handbook
- ODPP Policies (refer to DPPNet)
- Protected Disclosures Procedures
- Guarantee of Service
- Corporate Plan
- Charter of Principles for a Culturally Diverse Society

Appendix 35

Disability Action Plan

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

The Office is participating in the development of a Justice Portfolio Disability Action Plan, which provides key interagency strategies and activities planned by the justice sector over the next four years to improve the delivery of services to people with disabilities. The primary objective of the Plan is to ensure

that people with disabilities have access to the NSW justice system fairly and easily while their legal rights and individual needs are respected and addressed. Specific Office strategies will complement the Plan which is due for publication this year.

Appendix 36

Director Of Public Prosecutions Policy and Guidelines

No new Guidelines were issued during the reporting period nor were any amendments made to the current Prosecution Policy and Guidelines as issued in March 1998.

Refer to the Publications appendix regarding the method to obtain a copy of the Policy and Guidelines.

Appendix 37

ODPP Representatives on External Committees/Steering Groups

Committee Steering Group	ODPP Representative
Aboriginal Affairs Policy Justice Cluster Committee	Philip Dart
Advisory Committee to the DNA Laboratory	Nicholas Cowdery AM QC
Apprehended Violence Legal Issues Coordination Committee (reviews problems associated with apprehended violence orders)	Philip Dart
Attorney General's Criminal Justice Forum	Nicholas Cowdery AM QC
Attorney General's Inter-Departmental Committee on Mental Health (Criminal Procedure) Act	Daniel Howard
Bail Act Working Group	Sharon Harris
Bar Association: Criminal Law Committee	Patrick Barrett Daniel Howard Brian Knox SC Virginia Lydiard Peter Miller
Bar Association: Professional Conduct Committees	William Dawe QC Daniel Howard Brian Knox SC Luigi Lamprati Greg Smith Frank Veltro
Bar Association: Various other Committees	Nicholas Cowdery AM QC (Human Rights) Wendy Robinson QC (Bar History) Luigi Lamprati (Education) Michael Barr (Equal Opportunity) Virginia Lydiard (Equal Opportunity) David Frearson (Indigenous Lawyers Sub-Committee) John Pickering (Young Barristers)
Bar Council	Virginia Lydiard
Cabinet Office Senior Officers Group on Child Protection (continually reviews child protection in NSW)	Philip Dart
Child Sexual Assault Jurisdiction Inter-agency Project Team	Philip Dart Lee Purches Amy Watts
Committee on Intellectual Disability in the Criminal Justice System	Amy Watts
Community Justice Conferencing Pilot Scheme for Young Adult Offenders Working Party	Philip Dart
Conference of Australian Directors of Public Prosecutions	Nicholas Cowdery AM QC
Court of Criminal Appeal Users Group	Dominique Kelly
Court Security Committee	John Kiely SC Stephen O'Connor
Criminal Justice System Chief Executive Officers' Standing Committee	Nicholas Cowdery AM QC

Appendix 37 Continued

ODPP Representatives on External Committees/Steering Groups

Committee Steering Group	ODPP Representative
Criminal Law Committee of the Law Society of NSW	Robyn Gray
Criminal Law Accreditation Committee of the Law Society of NSW (Mr Favretto is also a member of the Specialist Accreditation Board of the Law Society of NSW)	John Favretto (Chair)
Criminal Listing Review Committee (reviewing listings in the District Court)	Craig Smith Peter Dare SC
District Court Criminal Listing Committee	Patrick Barrett
Drug Misuse and Trafficking Act Working Group	Janis Watson-Wood
Forensic Services Group	Paul Conlon SC
Government Lawyers Committee of the Law Society of NSW	Claire Giroto
Heads of Prosecuting Agencies Conference	Nicholas Cowdery AM QC
Homicide Squad Advisory Committee	Patrick Barrett
Innocence Panel	Nicholas Cowdery AM QC
Inter-agency Exhibit Management Committee	Claire Giroto Stephen O'Connor
Inter-agency Guidelines for Responding to Adult Sexual Assault Committee	Amy Watts
Interdepartmental Committee on the Crimes (Forensic Procedures) Act 2000	Nicholas Cowdery AM QC
Interdepartmental Committee to review the Mental Health (Criminal Procedure) Act 1990	Craig Williams
Internal Affairs Liaison Group	Janis Watson-Wood
International Association of Prosecutors	Nicholas Cowdery AM QC
Joint Investigation Response Teams State Management Group and Training Sub-Committee	Amy Watts
Justice Safety Task Force	John Kiely SC
Local Court Rules Committee	Robyn Gray
Magistrates Early Referral Into Treatment (MERIT) – Statewide Steering Group	Claire Giroto
National Advisory Committee for the Centre for Transnational Crime Prevention (University of Wollongong)	Nicholas Cowdery AM QC
National DPP Executives Conference	Craig Smith Patrick McMahon
National Institute of Forensic Sciences Advisory Panel	Nicholas Cowdery AM QC
National Sexual Assault Reform Committee	Nicholas Cowdery AM QC
NSW Sentencing Council	Nicholas Cowdery AM QC
Police Adult Sexual Assault Interagency Committee and Legal Issues and Drug Facilitated Sexual Assault Sub-Committees	Amy Watts

Appendix 37 Continued

ODPP Representatives on External Committees/Steering Groups

Committee Steering Group	ODPP Representative
Police-DPP Prosecution Liaison Standing Committee	David Frearson Claire Girotto Stephen O'Connor Michael Sands Craig Smith
Police Forensic Services/DAL/ODPP Liaison Committee	Roy Ellis Paul Conlon SC
Police Integrity Commission Liaison Group	Janis Watson-Wood
Sentencing Council Sub-Committee on Abolition of Short Sentences	Robyn Gray
Sexual Assault Review Committee	Philip Dart (Chair) Julie Lannen Stephen O'Connor Lee Purches Samantha Smith Vivien Swain Amy Watts
Supreme Court Users' Group	Johanna Pheils
Supreme Court Criminal Law Users' Committee	Roy Ellis Patrick Barrett
University of Sydney Institute of Criminology Advisory Committee	Nicholas Cowdery AM QC
Victims Advisory Board under the Victims Rights Act	Philip Dart
Victims of Crime Inter-agency Committee	Philip Dart Lee Purches
Violence Against Women Senior Officers Group	Philip Dart

Appendix 37 Continued

State-Wide Prosecution Liaison Groups

Prosecution Liaison Group	ODPP Representative
Hunter	Graham Bailey Vicki Weldon Clifford Fraser Julie Lannen
Northern	Graham Bailey Colin Cupitt Chris Smith
Southern	Graham Bailey Peter Burns Alison Dunn
South-West	Graham Bailey Susan Maxwell Susan Ayre
Sydney East	Geraldine Beattie Robert Heanes
Sydney North	Craig Hyland Michael Sands
Sydney South West	Judith Nelson Philippa Smith
Sydney West	Claire Girotto Jim Hughes Elisabeth Armitage Sharon Holdsworth Clare Partington
Western	Graham Bailey Ron England Roger Hyman

Appendix 38

Guarantee of Service

The Office's Role

The role of the Office of the Director of Public Prosecutions (ODPP) is to independently advise in, review, institute and conduct proceedings that relate to criminal offences and to improve and ensure the effectiveness of the Criminal Justice System.

The ODPP is responsible for the:

- prosecution of committal proceedings and some summary matters before the Local Courts;
- prosecution of indictable offences in the District and Supreme Courts; and
- conduct of appeals on behalf of the prosecution in the superior courts and the High Court.

Values and Commitments

The staff of the ODPP value and are committed to:

- The independent status of the Office.
- The achievement of justice.
- The highest standards of ethical and professional conduct.
- Responsiveness to the needs of those involved in the prosecution process especially victims and witnesses.
- Encouragement of and respect for diversity within the Office.
- Decision making based on merit, the public interest and the legitimate interests of others.
- Cohesiveness, flexibility and teamwork. Responsiveness to change. Co-operation with other agencies.

Co-Operation with Other Agencies

The Office plays a crucial role in the criminal justice system. However the achievement of many of our objectives depends not only on our efforts but on

the willingness of other participants in the system to support them. We need to communicate and consult effectively with all participants in exploring ways of improving the criminal justice system.

Charter of Victims Rights

Prosecutors must have regard to the Charter of Victims Rights and implement it to the extent that it is relevant and practicable to do so.

- The victim should be consulted if consideration is being given to lessening or withdrawing the charges in the Local Court.
- The victim must be informed if a decision is taken not to prosecute the accused person. Reasons for not continuing to prosecute the accused person will usually be provided on written application.
- The victim can ask to be kept informed of the progress of the case by contacting the ODPP lawyer handling the case or the Witness Assistance Service.
- Information is provided about the victim's role in the prosecution process.
- The court must be informed of the victim's need for protection from the accused person when the court decides on bail.
- The victim should be informed about the accused persons bail conditions where they affect the victim or his or her family.
- The victim's home address and telephone number will be kept confidential wherever possible.
- A victim impact statement will be tendered if the victim desires it, and the legislation permits it, provided that the statement complies with the legislation.

The ODPP Witness Assistance Service

The ODPP Witness Assistance Service provides prosecution witnesses, including victims of crime, with support throughout the prosecution process. The Service helps victims to understand the criminal justice process and can also arrange counselling and other support services if requested. Our Witness Assistance staff can be contacted on:

- Sydney (02) 9285 8949
- TTY (02) 9285 8646
- Outside Sydney toll free 008 814 534

Appendix 39

Consumer Response

This Office undertakes a comprehensive victim and witness satisfaction survey biennially, as the main qualitative measure of our service. The following table shows the percentage of respondents in the 2002 survey who rated the overall level of service provided by the ODPP as "good" or "very good."

On asking respondents in the 2002 survey to rate the overall level of service provided by the Office, the satisfaction rates were higher than those in the 1994, 1996, 1998 and 2000 surveys:

It is again clear from comments made by respondents that the defining issue in relation to satisfaction with the service provided by this Office is the level of communication received from the Office. Positive comments refer to our staff as "professional", "informative", "supportive", "helpful", "courteous" and "polite". Negative comments included "uncommunicative", "overall lack of communication and information", "no explanation of what was expected", "no contact".

The 2002 survey results (as was the case in 2000) indicate that case outcomes have no significant impact on service satisfaction levels.

Region	1994%	1996%	1998%	2000%	2002%
Sydney	42	53	39	50	60
Sydney West	50	40	47	57.5	88.8
Country	32	52	45	56.9	58.9
State Average	41	48	44	55.2	60.8



Audited Financial Statements 2002–2003



OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS

Financial Statements for the Year Ended 30 June 2003

Statement by the Director

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

- (a) the accompanying financial statements have been prepared in accordance with the provisions of the Public Finance and Audit Act 1983, the Financial Reporting Code for Budget Dependent General Government Sector Agencies, the applicable clauses of the Public Finance and Audit Regulation 2000 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) there are no circumstances which would render any particulars included in the financial statements to be misleading or inaccurate.

A handwritten signature in black ink, appearing to read 'N R Cowdery'.

N R Cowdery AM QC
Director of Public Prosecutions

16th October 2003



GPO BOX 12
SYDNEY NSW 2001

INDEPENDENT AUDIT REPORT

OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS

To Members of the New South Wales Parliament

Audit Opinion

In my opinion, the financial report of the Office of the Director of Public Prosecutions (the Office):

- (a) presents fairly the Office's financial position as at 30 June 2003 and its financial performance and cash flows for the year ended on that date, in accordance with applicable Accounting Standards and other mandatory professional reporting requirements in Australia, and
- (b) complies with section 45E of the *Public Finance and Audit Act 1983* (the Act).

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

The Director's Role

The financial report is the responsibility of the Director of Public Prosecutions. It consists of the statement of financial position, the statement of financial performance, the statement of cash flows, the summary of compliance with financial directives and the accompanying notes.

The Auditor's Role and the Audit Scope

As required by the Act, I carried out an independent audit to enable me to express an opinion on the financial report. My audit provides *reasonable assurance* to members of the New South Wales Parliament that the financial report is free of *material* misstatement.

My audit accorded with Australian Auditing and Assurance Standards and statutory requirements, and I:

- evaluated the accounting policies and significant accounting estimates used by the Director in preparing the financial report, and
- examined a sample of the evidence that supports the amounts and other disclosures in the financial report.

An audit does *not* guarantee that every amount and disclosure in the financial report is error free. The terms 'reasonable assurance' and 'material' recognise that an audit does not examine all evidence and transactions. However, the audit procedures used should identify errors or omissions significant enough to adversely affect decisions made by users of the financial report or indicate that the Director had failed in his reporting obligations.

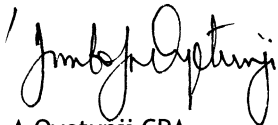
My opinion does *not* provide assurance:

- about the future viability of the Office,
- that the Office has carried out its activities effectively, efficiently and economically,
- about the effectiveness of its internal controls, or
- on the assumptions used in formulating the budget figures disclosed in the financial report.

Audit Independence

The Audit Office complies with all applicable independence requirements of Australian professional ethical pronouncements. The Act further promotes independence by:

- providing that only Parliament, and not the executive government, can remove an Auditor-General, and
- 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 are not compromised in their role by the possibility of losing clients or income.



A Oyetunji CPA
Assistant Director of Audit

SYDNEY
16 October 2003

Statement of Financial Performance

for the Year Ended 30 June 2003

	Notes	Actual 2003 \$'000	Budget 2003 \$'000	Actual 2002 \$'000
Expenses				
Operating expenses				
Employee related	2(a)	58,564	50,318	51,153
Other operating expenses	2(b)	9,318	10,570	10,012
Maintenance	2(c)	503	547	545
Depreciation and amortisation	2(d)	2,502	2,130	1,440
Other expenses	2(e)	3,005	3,057	3,064
Total Expenses		73,892	66,622	66,214
Less:				
Retained Revenue				
Sale of goods and services	3(a)	155	175	65
Investment income	3(b)	38	35	37
Grants and contributions	3(c)	40	–	113
Other revenue	3(d)	313	44	502
Total Retained Revenue		546	254	717
Gain on disposal of non-current assets	4	6	5	5
Net Cost of Services	19	73,340	66,363	65,492
Government Contributions				
Recurrent appropriation	5	61,512	57,777	55,886
Capital appropriation	5	5,184	4,914	3,819
Acceptance by the Crown Entity of employee benefits and other liabilities	6	8,856	5,986	6,665
Total Government Contributions		75,552	68,677	66,370
SURPLUS FOR THE YEAR FROM ORDINARY ACTIVITIES		2,212	2,314	878
TOTAL REVENUES, EXPENSES AND VALUATION ADJUSTMENTS RECOGNISED DIRECTLY IN EQUITY				
		–	–	–
TOTAL CHANGES IN EQUITY OTHER THAN THOSE RESULTING FROM TRANSACTIONS WITH OWNERS AS OWNERS				
	15	2,212	2,314	878

The accompanying notes form part of these statements.

Statement of Financial Position

as at 30 June 2003

	Notes	Actual 2003 \$'000	Budget 2003 \$'000	Actual 2002 \$'000
ASSETS				
Current Assets				
Cash	8	732	181	190
Receivables	9	758	1,241	1,237
Inventories	10	2	2	2
Total Current Assets		1,492	1,424	1,429
Non-Current Assets				
Plant and Equipment	11	13,316	13,410	10,626
Total Non-Current Assets		13,316	13,410	10,626
Total Assets		14,808	14,834	12,055
LIABILITIES				
Current Liabilities				
Payables	12	3,606	2,776	3,394
Provisions	13	3,998	4,750	3,667
Other	14	220	504	504
Total Current Liabilities		7,824	8,030	7,565
Non-Current Liabilities				
Provisions	13	1,148	644	644
Other	14	1,117	1,339	1,339
Total Non-Current Liabilities		2,265	1,983	1,983
Total Liabilities		10,089	10,013	9,548
Net Assets		4,719	4,821	2,507
EQUITY				
Reserves	15	551	551	551
Accumulated funds		4,168	4,270	1,956
Total Equity		4,719	4,821	2,507

The accompanying notes form part of these statements.

Statement of Cash Flows

for the Year Ended 30 June 2003

	Notes	Actual 2003 \$'000	Budget 2003 \$'000	Actual 2002 \$'000
CASH FLOWS FROM OPERATING ACTIVITIES				
Payments				
Employee related		(50,731)	(45,417)	(44,748)
Other		(14,763)	(15,263)	(15,176)
Total Payments		(65,494)	(60,680)	(59,924)
Receipts				
Sale of goods and services		149	175	58
Interest Received		31	31	73
Other		2,298	1,133	3,105
Total Receipts		2,478	1,339	3,236
Cash Flows from Government				
Recurrent appropriation		61,512	57,777	56,172
Capital appropriation		5,184	4,914	3,819
Cash reimbursements from the Crown Entity		2,047	1,550	1,439
Net Cash Flows from Government		68,743	64,241	61,430
NET CASH FLOWS FROM OPERATING ACTIVITIES	19	5,727	4,900	4,742
CASH FLOWS FROM INVESTING ACTIVITIES				
Proceeds from sale of plant and equipment		6	5	5
Purchases of plant and equipment		(5,191)	(4,914)	(4,739)
NET CASH FLOWS FROM INVESTING ACTIVITIES		(5,185)	(4,909)	(4,734)
NET INCREASE/(DECREASE) IN CASH		542	(9)	8
Opening cash and cash equivalents		190	190	182
CLOSING CASH AND CASH EQUIVALENTS	8	732	181	190

The accompanying notes form part of these statements.

Supplementary Financial Statements

Summary of Compliance with Financial Directives

for the Year Ended 30 June 2003

	2003				2002			
	Recurrent Appropriation	Expenditure/ Net Claim on Consolidated Fund	Capital Appropriation	Expenditure/ Net Claim on Consolidated Fund	Recurrent Appropriation	Expenditure	Capital Appropriation	Expenditure
	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000
ORIGINAL BUDGET APPROPRIATION/EXPENDITURE								
• Appropriation Act	57,777	57,777	4,914	4,914	54,153	54,153	3,459	3,459
	57,777	57,777	4,914	4,914	54,153	54,153	3,459	3,459
OTHER APPROPRIATIONS/ EXPENDITURE								
• Treasurer's Advance	3,735	3,735	740	270	2,180	1,733	360	360
	3,735	3,735	740	270	2,180	1,733	360	360
Total Appropriations Expenditure/Net Claim on Consolidated Fund (includes transfer payments)	61,512	61,512	5,654	5,184	56,333	55,886	3,819	3,819
Amount drawn down against Appropriation	–	61,512	–	5,184	–	56,172	–	3,819
Liability to Consolidated Fund*	–	–	–	–	–	286	–	–

The Summary of Compliance is based on the assumption that Consolidated Fund moneys are spent first (except where otherwise identified or prescribed).

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

Notes to and Forming Part of the Financial Statements for the Year Ended 30 June 2003

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Notes to and Forming Part of the Financial Statements

for the Year Ended 30 June 2003

I SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

(a) Reporting Entity

The Office of the Director of Public Prosecutions (the Office), as a reporting entity, comprises all the operating activities under the control of the Office.

The reporting entity is consolidated as part of the NSW Total State Sector and as part of the NSW Total State Sector Accounts.

(b) Basis of Accounting

The Office's financial statements are a general purpose financial report which has been prepared on an accruals basis and in accordance with:

- applicable Australian Accounting Standards;
- other authoritative pronouncements of the Australian Accounting Standards Board (AASB);
- Urgent Issue Group (UIG) Consensus Views;
- the requirements of the Public Finance and Audit Act and Regulations; and
- the Financial Reporting Directions published in the Financial Reporting Code for Budget Dependent General Government Sector Agencies or issued by the Treasurer under section 9(2)(n) of the Act.

Where there are inconsistencies between the above requirements, the legislative provisions have prevailed.

In the absence of a specific Accounting Standard, other authoritative pronouncements of the AASB or UIG Consensus View, the hierarchy of other pronouncements as outlined in AAS 6 "Accounting Policies" is considered.

Except for certain plant and equipment, which are recorded at valuation, the financial statements are prepared in accordance with the historical cost convention. All amounts are rounded to the nearest one thousand dollars and are expressed in Australian currency.

(c) Revenue Recognition

Revenue is recognised when the Office has control of the good or right to receive, it is probable that the economic benefits will flow to the Office and the amount of revenue can be measured reliably. Additional comments regarding the accounting policies for the recognition of revenue are discussed below.

(i) *Parliamentary Appropriations and Contributions from Other Bodies*

Parliamentary appropriations and contributions from other bodies (including grants and donations) are generally recognised as revenues when the office obtains control over the assets comprising appropriations/contributions. Control over appropriations and contributions is normally obtained upon the receipt of cash.

An exception to the above is when appropriations are unspent at year-end. In this case, the authority to spend the money lapses and generally the unspent amount must be repaid to the Consolidated Fund in the following financial year. As a result unspent appropriations are accounted for as liabilities rather than revenue.

The liability is disclosed in Note 14 as part of "other current liabilities". The amount will be repaid and the liability will be extinguished next financial year.

(ii) *Sale of Goods and Services*

Revenue from the sale of goods and services comprises revenue from the provision of products and services i.e. user charges. User charges are recognised as revenue when the Office obtains control of the assets that result from them.

Notes to and Forming Part of the Financial Statements

for the Year Ended 30 June 2003

I SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (cont.)

(iii) *Investment income*

Interest revenue is recognised as it accrues.

(d) **Employee Benefits and other provisions**

(i) *Salaries and Wages, Annual Leave, Sick Leave and On-Costs*

Liabilities for salaries and wages (including non-monetary benefits), annual leave and vesting sick leave are recognised and measured in respect of employees' services up to the reporting date at nominal amounts based on the amounts expected to be paid when the liabilities are settled.

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.

Treasury Managed Fund calculates hindsight premiums each year. However in regard to workers compensation the final hindsight adjustment for the 1997/1998 fund year and an interim adjustment for the 1999/2000 fund year has not yet been calculated. The basis for calculating the hindsight premium is currently being reviewed and will not be resolved until next financial year.

(ii) *Accrued salaries and wages – reclassification*

As a result of the adoption of Accounting Standard AASB 1044 "Provisions, Contingent Liabilities and Contingent Assets", accrued salaries and wages and on-costs has been reclassified to "payables" instead of "provisions" in the Statement of Financial Position and the related note disclosures, for the current and comparative period. On the face of the Statement of Financial Position and in the notes, reference is now made to "provisions" in place of "employee entitlements and other provisions". Total employee benefits (including accrued salaries and wages) are reconciled in Note 13 "Provisions".

(iii) *Long Service Leave and Superannuation*

The Office's liabilities for long service leave and superannuation are assumed by the Crown Entity. The agency 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".

Long service leave is measured using present value methodology. In the past, as permitted in AASB 1028, the Crown has relied on the short-hand method to approximate the present value of long service leave, based on the remuneration rates at year-end for all employees with five or more years of service. However, recent calculations by the Government Actuary indicate that this approach for budget dependant agencies resulted in liabilities that are lower than what would have been calculated by more accurate present value calculations. As long service leave is assumed by the Crown, the only effects on the Office's operating results of this changed methodology will be in respect of those on-costs not assumed by the Crown.

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 (i.e. Basic Benefit and First State Super) is calculated as a percentage of the employees' salary. For other superannuation schemes (i.e. State Superannuation Scheme and State Authorities Superannuation Scheme), the expense is calculated as a multiple of the employees' superannuation contributions.

Notes to and Forming Part of the Financial Statements for the Year Ended 30 June 2003

I. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (cont.)

(iv) Other Provisions

Other provisions exist when the entity has a present legal, equitable or constructive obligation to make a future sacrifice of economic benefits to other entities as a result of past transactions or other past events. These provisions are recognised when it is probable that a future sacrifice of economic benefits will be required and the amount can be measured reliably.

Any provisions for restructuring are recognised either when a detailed formal plan has been developed or will be developed within prescribed time limits and where the entity has raised a valid expectation in those affected by the restructuring that it will carry out the restructuring.

(e) Insurance

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

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

Revenues, expenses and assets are recognised net of the amount of GST, except where:

- 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.
- receivables and payables are stated with the amount of GST included.

(g) 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 determined as the fair value of the assets given as consideration plus the costs incidental to the acquisition.

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

Fair value means the amount for which an asset could be exchanged between a knowledgeable, willing buyer and a knowledgeable, willing seller in an arm's length transaction.

Where settlement of any part of cash consideration is deferred, the amounts payable in the future are discounted to their present value at the acquisition date. The discount rate used is the incremental borrowing rate, being the rate at which a similar borrowing could be obtained.

(h) Plant & Equipment

Plant and equipment costing \$5,000 and above individually are capitalised.

Notes to and Forming Part of the Financial Statements

for the Year Ended 30 June 2003

I. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (cont.)

(i) Revaluation of Physical Non-Current Assets

Physical non-current assets are valued in accordance with the "Guidelines for the Valuation of Physical Non-Current Assets at Fair Value" (TPP 03-02). This policy adopts fair value in accordance with AASB 1041 from financial years beginning on or after 1 July 2002. There is no substantive difference between the fair value valuation methodology and the previous valuation methodology adopted in the NSW public sector.

Where available, fair value is determined having regard to the highest and best use of the asset on the basis of current market selling prices for the same or similar assets. Where market selling price is not available, the asset's fair value is measured as its market buying price i.e. the replacement cost of the asset's remaining future economic benefits. The Office is a not profit entity with no cash generating operations.

Each class of physical non-current assets is revalued every 5 years and 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 assets was completed on 30 June 2001 and was based on independent assessment. Non-specialised assets with short useful lives are measured at depreciated historical cost, as a surrogate for fair value.

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 is separately restated.

Otherwise, any balances of accumulated depreciation existing at the revaluation date in respect of those assets are credited to the asset account 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 reserve, 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 surplus/deficit, the increment is recognised immediately as revenue in the surplus/ deficit.

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

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 reserve in respect of that asset is transferred to accumulated funds.

(j) Depreciation of Non-Current Physical Assets

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 entity.

All material separately identifiable component assets are recognised and depreciated over their shorter useful lives, including those components that in effect represent major periodic maintenance.

The estimated useful life to the entity for each class of asset is:

Office Equipment	7 years
Computer Equipment	4 years
Library Books	15 years
Furniture & Fittings	10 years
Software	4 years

Notes to and Forming Part of the Financial Statements for the Year Ended 30 June 2003

I. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (cont.)

(k) Maintenance and repairs

The costs of maintenance are charged as expenses as incurred, except where they relate to the replacement of a component of an asset, in which case the costs are capitalised and depreciated.

(l) Leased Assets

Operating lease payments are charged to the Statement of Financial Performance in the periods in which they are incurred.

(m) Receivables

Receivables are recognised and carried at cost, based on the original invoice amount less a provision for any uncollectible debts. An estimate for doubtful debts is made when collection of the full amount is no longer probable. Bad debts are written off as incurred.

(n) Inventories

The Office holds a small number of corporate wardrobe items for resale to staff at "cost recovery" price only. The inventories are stated at cost value.

(o) Other Assets

Other assets including prepayments are recognised on a cost bases.

(p) Payables

These amounts represent liabilities for goods & services provided to the Office.

(q) Interest Bearing Liabilities

The Office does not have any interest bearing liabilities.

(r) Budgeted Amounts

The budgeted amounts are drawn from the budgets as formulated at the beginning of the financial year and with any adjustments for the effects of additional appropriations, s 21A, s24 and/or s 26 of the Public Finance and Audit Act 1983.

The budgeted amounts in the Statement of Financial Performance and the Statement of Cash Flows are generally based on the amounts disclosed in the NSW Budget Papers (as adjusted above). However, in the Statement of Financial Position, the amounts vary from the Budget Papers, as the opening balances of the budgeted amounts are based on carried forward actual amounts i.e. per the audited financial statements (rather than carried forward estimates).

(s) Lease Incentives

Lease incentives are recognised initially as liabilities and then reduced progressively over the term of the leases. The amount by which the liability is reduced on a pro-rata basis is credited to other revenue. Lease incentives include, but are not limited to, up-front cash payments to lessees, rent free periods or contributions to certain lessee costs such as the costs of relocating to the premises.

Notes to and Forming Part of the Financial Statements

for the Year Ended 30 June 2003

2 EXPENSES

	2003 \$'000	2002 \$'000
(a) Employee related expenses		
Salaries and wages (including recreation leave)	45,760	41,232
Superannuation	5,251	4,322
Long service leave	3,605	2,343
Workers' compensation Insurance	345	370
Payroll tax and fringe benefit tax	3,020	2,673
On-cost on Long Service Leave	388	–
Temporary Staff	195	213
	58,564	51,153
(b) Other operating expenses		
Auditor's remuneration – audit or review of the financial reports	56	33
Bad and doubtful debts	–	5
Operating lease rental expense – minimum lease payments	4,247	4,466
Outgoings	172	181
Insurance	103	95
Books	262	276
Cleaning	173	184
Consultants	191	197
Fees – Private Barristers	161	354
Fees – Practising Certificates	190	176
Fees – Security	132	146
Gas & Electricity	179	186
Motor Vehicles	180	165
Postal	107	109
Courier	22	25
Printing	101	81
Stores and equipment	470	492
Telephones	925	725
Training	178	247
Travel *	908	862
Other	561	1,007
	9,318	10,012
(c) Maintenance		
Repairs and maintenance	503	545
	503	545

* Travel expenses represent expenditure incurred by all staff of the Office for 2002–2003.

Notes to and Forming Part of the Financial Statements for the Year Ended 30 June 2003

2 EXPENSES (cont.)

	2003 \$'000	2002 \$'000
(d) Depreciation		
Computer Equipment	1,221	644
General Plant and Equipment	1,160	700
Library Collection	121	96
	2,502	1,440
(e) Other expenses		
Allowances to Witnesses	2,932	3,040
Ex-gratia payments	73	21
Maintenance Costs of Non Australian Citizens	–	3
	3,005	3,064

3 REVENUES

	2003 \$'000	2002 \$'000
(a) Sale of goods and services		
Sale of goods	6	7
Rendering of services		
Commissions – Miscellaneous Deductions	6	5
Costs Awarded	48	25
On-cost – Officers on loan	12	10
Appearance Fees	82	17
Training fees	1	1
Total sale of goods and rendering of services	155	65
(b) Investment Income		
Interest	38	37
	38	37
(c) Grants and contributions		
Grants from other agencies	40	113
	40	113
(d) Other revenue		
Lease Incentive	220	472
Other revenue	93	30
	313	502

Notes to and Forming Part of the Financial Statements for the Year Ended 30 June 2003

4 GAIN ON DISPOSAL OF NON-CURRENT ASSETS

	2003 \$'000	2002 \$'000
Proceeds from disposal	6	6
Written down value of assets disposed	–	1
Net gain on disposal of plant and equipment	6	5

5 APPROPRIATIONS

	2003 \$'000	2002 \$'000
Recurrent appropriations		
Total recurrent drawdowns from Treasury (per Summary of Compliance)	61,512	56,172
Less: Liability to Consolidated Fund (per Summary of Compliance)	–	286
Total	61,512	55,886
Comprising:		
Recurrent appropriations (per Statement of Financial Performance)	61,512	55,886
Total	61,512	55,886
Capital appropriations		
Total capital drawdowns from Treasury (per Summary of Compliance)	5,184	3,819
Less: Liability to Consolidated Fund (per Summary of Compliance)	–	–
Total	5,184	3,819
Comprising:		
Capital appropriations (per Statement of Financial Performance)	5,184	3,819
Total	5,184	3,819

6 ACCEPTANCE BY THE CROWN ENTITY OF EMPLOYEE BENEFITS AND OTHER LIABILITIES

	2003 \$'000	2002 \$'000
The following liabilities and/or expenses have been assumed by the Crown Entity or other government agencies:		
Superannuation	4,870	4,153
Long Service Leave	3,605	2,344
Payroll Tax on Superannuation	381	168
	8,856	6,665

7 PROGRAMS/ACTIVITIES OF THE OFFICE

The Office operates on one program "26.1.1 Crown Representation in Criminal Prosecutions". The objective of the program is to provide the people of New South Wales with an independent, fair and just prosecution service.

Notes to and Forming Part of the Financial Statements for the Year Ended 30 June 2003

8 CURRENT ASSETS – CASH

	2003 \$'000	2002 \$'000
Cash at bank and on hand	552	10
Permanent Witness Advance	180	180
	732	190

Cash comprises cash on hand and bank balances within the Treasury Banking System. Interest is earned on daily bank balances at the monthly average NSW Treasury Corporation (Tcorp) 11 month unofficial cash rate adjusted for a management fee to Treasury. The Office does not have any bank overdraft facility.

Cash assets recognised in the Statement of Financial Position are reconciled to cash at the end of the financial year as shown in the Statement of Cash Flows as follows:

	2003 \$'000	2002 \$'000
Cash on hand and cash at bank (per Statement of Financial Position)	732	190
Closing Cash and Cash Equivalents (per Statement of Cash Flows)	732	190

9 CURRENT ASSETS – RECEIVABLES

All trade debtors are recognised as amounts receivable at balance date. Collectability of trade debtors is reviewed on an ongoing basis. Debts which are known to be uncollectible are written off. A provision for doubtful debts is raised when some doubt as to collection exists. The credit risk is the carrying amount (net of any provision for doubtful debts). No interest is earned on trade debtors. The carrying amount approximates net fair value. Sales are made on 30 day terms. Receivables are stated with the amount of GST included.

	2003 \$'000	2002 \$'000
Sale of Goods & Services	92	328
Prepayments	371	519
Interest	20	12
Long Service Leave and Super	–	6
Advances	23	39
GST Recoverable from ATO	252	333
Total Current Assets – Receivables	758	1,237

10 CURRENT ASSETS – INVENTORIES

	2003 \$'000	2002 \$'000
Corporate Wardrobe		
At Cost	2	2
	2	2

Notes to and Forming Part of the Financial Statements for the Year Ended 30 June 2003

11 NON-CURRENT ASSETS – PLANT AND EQUIPMENT

	2003 \$'000	2002 \$'000
Plant and Equipment		
At Fair Value	27,545	22,360
Less: Accumulated Depreciation	14,229	11,734
Total Plant and Equipment at Net Book Value	13,316	10,626

The Office considers that the written down value approximates to the fair value.

Reconciliations

Reconciliation of the carrying amounts of plant and equipment at the beginning and end of the current and previous financial year is set out below.

	2003 \$'000	2002 \$'000
Carrying amount at start of year	10,626	6,107
Additions	5,191	5,961
Disposals	(6)	(2)
Depreciation expense	(2,495)	(1,440)
Carrying amount at end of year	13,316	10,626

12 CURRENT LIABILITIES – PAYABLES

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 Treasurer's Direction 219.01. If trade terms are not specified, payment is made no later than the end of the month following the month in which an invoice or a statement is received. Treasurer's Direction 219.01 allows the Minister to award interest for late payment. No interest was paid during the year (30 June 2002: \$nil). The carrying amount approximates net fair value.

	2003 \$'000	2002 \$'000
Accrued salaries and wages and on-costs	1,552	1,386
Creditors	1,383	1,600
Accruals	671	408
	3,606	3,394

Notes to and Forming Part of the Financial Statements for the Year Ended 30 June 2003

13 CURRENT/NON-CURRENT LIABILITIES – PROVISIONS

	2003 \$'000	2002 \$'000
CURRENT		
Employee benefits and related on-costs		
Recreation leave	3,655	3,391
On-cost on Long Service Leave	39	–
Payroll Tax on-cost for recreation leave and long service leave	304	276
Total Provisions – Current	3,998	3,667
NON-CURRENT		
Employee benefits and related on-costs		
On-cost on Long Service Leave	349	–
Payroll Tax on-cost for long service leave	799	644
Total Provisions – Non-Current	1,148	644
Aggregate employee benefits and related on-costs		
Provisions – current	3,998	3,667
Provisions – non-current	1,148	644
Accrued salaries, wages and on-cost (Note 12)	1,552	1,386
Total Provisions	6,698	5,697

14 CURRENT/NON-CURRENT LIABILITIES – OTHER

	2003 \$'000	2002 \$'000
CURRENT		
Liability to Consolidated Fund	–	286
Deferred Income	220	218
Total Liabilities – Current	220	504
NON-CURRENT		
Deferred Income	1,117	1,339
Total Liabilities – Non-Current	1,117	1,339

Notes to and Forming Part of the Financial Statements for the Year Ended 30 June 2003

15 CHANGES IN EQUITY

	Accumulated Funds		Asset Revaluation Reserve		Total Equity	
	2003 \$'000	2002 \$'000	2003 \$'000	2002 \$'000	2003 \$'000	2002 \$'000
Balance at the beginning of the financial year	1,956	1,078	551	551	2,507	1,629
Changes in equity – other than transactions with owners as owners						
Surplus/(deficit) for the year	2,212	878	–	–	2,212	878
Total	2,212	878	–	–	2,212	878
Balance at the end of the financial year	4,168	1,956	551	551	4,719	2,507

Asset Revaluation Reserve

The Asset revaluation reserve 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 Physical Non-Current Assets" as discussed in note 1(k).

16 COMMITMENTS FOR EXPENDITURE

Operating Lease Commitments

	2003 \$'000	2002 \$'000
Future non-cancellable operating lease rentals not provided for and payable		
Not later than one year	5,179	4,967
Later than one year and not later than 5 years	14,247	12,490
Later than 5 years	3,800	6,666
Total (including GST)	23,226	24,123

Non cancellable leases relate to commitments for accommodation for Head Office and the 10 regional offices throughout the State, lease of computer equipment and motor vehicles. Commitments for accommodation are based on current costs and are subject to future rent reviews.

The total "Operating Lease Commitments" above includes input tax credits of \$2.081 m (30 June 2002 :\$2.193) that are expected to be recoverable from the Australian Taxation Office.

17 CONTINGENT LIABILITIES

	2003 \$'000	2002 \$'000
Possible claims arising from litigation	22	1,367
	22	1,367

Notes to and Forming Part of the Financial Statements for the Year Ended 30 June 2003

18 BUDGET REVIEW

Net Cost of Services

The actual net cost of services was higher than the budget by \$6.977 million, primarily due to the additional funding provided from the Treasurer's Advance Account and not original budget, for the salary increase awarded by SOORT to statutory officers amounting to \$1.654 m, Core funding shortfall amounting to \$2.0 m and Drug Court program amounting to \$0.081 m.

Further Net Cost of Services increased due to the adoption of Australian Accounting Standard AASB 1028 "Employee Benefits". As a result recreation leave expense increased by \$0.16 m, Long Service Leave on-costs increased by \$0.501 m and Long Service Leave expense increased by \$1.888 m.

Assets and Liabilities

Total current assets were \$0.068 m higher than budget, due to increased quantum of prepayments and GST refund collectable from the Australian Taxation Office.

Total non-current assets were lower than budget by \$0.094 m, due to higher than expected depreciation of \$0.372 m. This increase is offset by additional net capital funds of \$0.27 m received from the Treasurer's advance account.

Total liabilities were \$0.076 m higher than budget, due to a net increase in accrued salaries.

Cash Flows

Net cash flow from operating activities was higher than budget by \$0.827 m, due to receipt of additional capital funding of \$0.27 m and reserving cash balance of \$0.561 m to pay salaries on 3 July 2003 as per Treasury's advise.

Net cash flow from investing activities was higher than budget by \$0.276 m, due to additional fitout expenditure of \$0.74 m, which is offset by the carried forward e-Briefing project expenditure of \$0.47 m to next year.

19 RECONCILIATION OF CASH FLOWS FROM OPERATING ACTIVITIES TO NET COST OF SERVICES

	2003 \$'000	2002 \$'000
Net cash used on operating activities	5,727	4,742
Net cash used on capital expenditure	–	1,220
Cash flows from Government/Appropriations	(68,743)	(61,144)
Acceptance by the Crown Entity of employee benefits and other liabilities	(6,808)	(5,226)
Depreciation	(2,502)	(1,440)
Decrease/(Increase) in provisions	(835)	(586)
Increase/(decrease) in prepayments and other assets	(479)	289
(Increase)/decrease in Creditors	(212)	(1,574)
Net (loss)/gain on sale of plant and equipment	6	5
Increase/(Decrease) in deferred income	220	(1,492)
Liability to con fund	286	(286)
Net cost of services	(73,340)	(65,492)

20 AFTER BALANCE DATE EVENTS

The Office is not aware of any circumstances that occurred after balance date which would render particulars included in the financial statements to be misleading.

END OF AUDITED FINANCIAL STATEMENTS

Account Payment Performance

1 July 2002 to 30 June 2003

To facilitate comparison against actual performance, an internal target level of 82% was set for the financial year 2002/2003

	Current Year	Previous Years	
	2002/2003	2001/2002	2000/2001
Aging of Accounts Paid:			
Current (ie.within due date)	\$15,309,966	\$15,862,266	\$12,937,498
Less than 30 days overdue	\$2,135,236	\$2,265,752	\$2,848,941
Between 30 and 60 days overdue	\$874,467	\$344,262	\$416,148
Between 60 and 90 days overdue	\$326,501	\$95,385	\$90,256
More than 90 days overdue	\$2,822	\$69,718	\$154,381
Accounts Paid on time:			
Percentage of accounts paid on time	82%	85%	79%
Total of accounts paid on time	\$15,309,995	\$15,862,266	\$12,937,498
Total of account paid	\$18,649,022	\$18,637,383	\$16,447,224

There were no instances where interest was payable under Clause 2AB of the Public Finance and Audit Regulations resulting from the late payment of accounts.

Reasons for Accounts Not Paid on Time:

Experienced funding problems and additional funds received from Treasury only during the latter part of the financial year.

Initiatives Implemented to Improve Payment Performance:

Cost Centre Managers have been requested to control the expenditure within allocated funds.

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OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS LOCATIONS

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Facsimile: (02) 9285 8600

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Sydney Downtown

Newcastle

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Telephone: (02) 4929 4399
Facsimile: (02) 4926 2119

DX:7867

Parramatta

Level 3, 146 Marsden Street
PARRAMATTA NSW 2150
PO Box 3696, PARRAMATTA NSW 2124
Telephone: (02) 9891 9800
Facsimile: (02) 9891 9866

DX:8210

Regional Offices

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Level 3, Centrecourt Building
101 Queen Street
PO Box 1095 CAMPBELLTOWN NSW 2560
Telephone: (02) 4629 2811
Facsimile: (02) 4629 2800

DX:5125

Dubbo

Ground Floor, 130 Brisbane Street
PO Box 811, DUBBO NSW 2830
Telephone: (02) 6881 3300
Facsimile: (02) 6882 9401

DX:4019

Gosford

Level 2, 107–109 Mann Street
PO Box 1987, GOSFORD NSW 2250
Telephone: (02) 4323 2655
Facsimile: (02) 4323 1471

DX:7221

Lismore

Level 3 Credit Union Centre
101 Molesworth Street
PO Box 558, LISMORE NSW 2480
Telephone: (02) 6627 2222
Facsimile: (02) 6627 2233

DX:7707

Bathurst

Level 2
State Government Office Block
140 William Street,
PO Box 701 BATHURST NSW 2795
Telephone: (02) 6332 2555
Facsimile: (02) 6332 6800

Penrith

Level 3, Danallam House
311 High Street, PENRITH NSW 2750
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NSW 2750
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Facsimile: (02) 4721 4149

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Wagga Wagga

Level 3, 43–45 Johnston Street
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Telephone: (02) 6925 8400
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Wollongong

Level 2, Centretown Plaza
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WOLLONGONG EAST NSW 2520
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Wollongong Court

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