

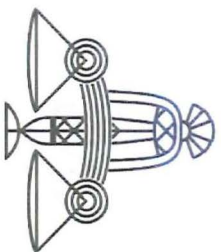


**DIRECTOR
OF PUBLIC
PROSECUTIONS**
NORTHERN TERRITORY

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

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

2015-2016



**DIRECTOR
OF PUBLIC
PROSECUTIONS**
NORTHERN TERRITORY





**DIRECTOR
OF PUBLIC
PROSECUTIONS**
NORTHERN TERRITORY

DIRECTOR OF PUBLIC PROSECUTIONS

NORTHERN TERRITORY

TWENTY-SIXTH ANNUAL REPORT

FOR YEAR ENDED 30 JUNE 2016



**DIRECTOR
OF PUBLIC
PROSECUTIONS**
NORTHERN TERRITORY





DIRECTOR
OF PUBLIC
PROSECUTIONS
NORTHERN TERRITORY

30 September 2016

Ms Natasha Fyles MLA
Attorney-General and Minister for Justice
Parliament House
State Square
DARWIN NT 0800

Dear Attorney-General

ANNUAL REPORT 2015-2016

In accordance with the requirements of section 33 of the *Director of Public Prosecutions Act*, I submit to you the Annual Report on the performance of the Director of Public Prosecutions for the period 1 July 2015 to 30 June 2016.

Yours sincerely

W.J. KARCZEWSKI QC

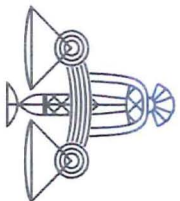


**DIRECTOR
OF PUBLIC
PROSECUTIONS**
NORTHERN TERRITORY



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DIRECTOR
OF PUBLIC
PROSECUTIONS
NORTHERN TERRITORY



OFFICE LOCATIONS

1. NORTHERN REGIONAL OFFICE DARWIN (Head Office)

Level 5, Old Admiralty Tower
68 The Esplanade
DARWIN NT 0800
GPO Box 3321
DARWIN NT 0801

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

2. SOUTHERN REGIONAL OFFICE ALICE SPRINGS

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

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

3. KATHERINE OFFICE

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

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



MISSION STATEMENT

MISSION

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

VISION

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

GOALS

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

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



Mission Statement in Kriole

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

Det wek bla olabat, jei gada album yu bla dijkain trabul:

maiti ib pilijimen im rekin samwan bin meigim brabli nogudwan trabul, laiga ib jei merdrem o kilimbat yu; ib jei stilimbat o demijim enijing blanganta yu.

Maiti det pilijimen rekin det ting im lilbit nogudwan, wal olabat pilijimenmob teigim la kot. O maiti det pilijimen rekin det trabul im rili rongwei, wal det DPP-mob gada teigim la kot det nogudwan sambodi.

Det DPP-mob olabat teigim yu pleis la kot, seimwei laig det Liguleid teigim pleis la det sabodi weya olabat rekin imin duwim rongwan ting.

Det DPP-mob gan weistimbat taim en mani en olabat gan libim dijan hiya rul bla olabat wek:

- Ola weka onli gada woriyabat faindimbat raitwan wed bla wot bin hepin - nomo laigim yu o heitim yu o yu femli o enibodi.
Jei gan toktok la enibodi bla yu bijnij, onli la jeya weka wen jei albumbat yu.
- Det DPP-mob wandim stap gudwan binji seimwei la yu en la det sambodi weya olabat rekin imin duwim det nogudwan ting.
Jei wandi album yu gidim det samwan hu bin duwim det samting rong en faindat la kot raitwei bla banijim bla wot imin du.
- Olabat DPP-mob wandi meigim bla yu en en det sambodi en ola widnijmob go la kot gudwei, nomo hambag en nomo bla meigim yu fil sheim. DPP-mob duwim dijkain wek bla album eberibodi la Northern Territory jidan seifwan en gudbinjigeja.

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



**DIRECTOR
OF PUBLIC
PROSECUTIONS**
NORTHERN TERRITORY



DIRECTOR'S OVERVIEW

In March 2016, extensive amendments were made to the ***Evidence Act*** and the ***Domestic and Family Violence Act***.¹ The purpose of the amendments was to implement a number of recommendations of the Review of Vulnerable Witness Legislation Report. The Explanatory Statement tabled in the Legislative Assembly stated that:

The proposed amendments will strengthen existing vulnerable witness provisions and protections, thereby reducing the impact and trauma of court proceedings on vulnerable witnesses. This will also ensure that witnesses are more confident and comfortable giving evidence, which will likely lead to more successful prosecutions.

Two noteworthy amendments were made to the ***Evidence Act***. The first was to include a list of factors to be considered by the court when assessing the question of whether a witness is vulnerable. The court can now have regard to any relationship between the witness and the defendant to the proceedings. Consequently, in a domestic violence situation, the relationship of the parties is now a relevant factor when determining the vulnerability of witnesses' and the protections available to them when giving evidence. Secondly, the operation of s 21B of the ***Evidence Act*** was expanded to the lower courts so that it now applies to serious violence and sexual offences heard by any Territory court, not only the Supreme Court. Section s 21B requires the court, if so requested by the prosecutor, to (a) admit into evidence an audio visual recorded statement of a vulnerable witness made to an authorised person (normally a statement made to a police officer during the course of the investigation), or (b) to hold a special sitting of the court for the purpose of conducting an examination, or part of an examination, of a vulnerable witness (with a view to recording as early as possible the evidence of a vulnerable witness to be used as evidence in the proceedings at some later time).

While these amendments are welcomed, the reality of the situation is that the amended s 21B is incapable of application in most, if not all, of the lower court circuit locations listed on pages 40, 41, 42 and 43 of this report as none of these locations have the facilities and equipment necessary to play and record the evidence as required by law. Parliament acknowledged these shortcomings in the amendments by providing that the court must accede to a prosecutor's request under s 21B unless there is good reason for not doing so. In deciding that question, the court is required to take into account

¹ The amendments were effected by the ***Justice Legislation Amendment (Vulnerable Witnesses) Act 2016*** which commenced on 23 March 2016

“whether a recorded statement can be played or a special sitting can be held in the courtroom for the proceedings”.²

During the reporting year, no applications were made by prosecutors to utilise the provisions of s 21B in the Local Court.

Another aspect of facilities (or lack thereof) particularly at lower court circuit locations needs to be mentioned. One of the key issues identified by stakeholders in the Alice Springs Integrated Response (ASIR) to Family and Domestic Violence is the provision of appropriate facilities (including safe waiting areas) for victims at court. The reason given for providing these facilities is to ensure that victims and vulnerable witnesses are not intimidated or influenced by the defendant or supporters of the defendant during court hearings. This issue is not restricted to the Alice Springs region. The proposition that victims and vulnerable witnesses generally are intimidated and influenced before and during court proceedings cannot be disputed. It is not uncommon for prosecutors to receive requests from victims who have allegedly been assaulted by a person with whom they are / have been in a domestic relationship to withdraw pending charges against the defendant. Alternatively, victims sometimes advise prosecutors that their statement is incorrect and that they wish to change it. The changes sought to be made normally favour the defendant and disadvantage the victim. In many of these cases the only explicable reason for the request is that the victim has been subjected to pressure from the defendant or those in the camp of the defendant to withdraw the charge or to dilute incriminating evidence.

Sadly, in most if not all of the remote locations in which the lower courts sit, there is no room or place where victims or witnesses who are prepared to come to court to give evidence, can escape the gaze of those intent on deterring them from doing so. For victims or vulnerable witnesses in those circumstances, their trauma is not reduced. For them there is no safety, not even during court proceedings. Thus the plight of victims remains unchanged.

The 2015-2016 reporting year saw a further substantial increase in the number of cases dealt with in both the Supreme Court and in the Local Court. In the Supreme Court the number of guilty pleas increased to 483, up from 436 in the previous reporting year. In the Local Court the number of cases dealt with increased from 6,450 to 6,805. There was also an overall increase in the number of appeals heard and determined at all levels. The number of Supreme Court trials following a plea of not guilty remained relatively steady.³

The Office was involved in several high profile cases during the reporting year. There was the successful prosecution of the principal of Latitude Travel, Alexandra Kamitsis, for defrauding the NT Government Pensioner and Carer Concession Scheme. Brief particulars of the outcome of this case, as well as the outcome of other notable fraud prosecutions undertaken in the reporting year, appear on page 36 of this report.

A case which received no publicity but was very significant in legal terms not only for the Northern Territory but also for each of the other five jurisdictions which have adopted

² *Evidence Act* s 21B(3A)

³ 55 trials in the reporting year compared to 57 trials in the 2014-2015 reporting year.

the model Uniform Evidence Law,⁴ was that of *IMM v The Queen*⁵ a note of which appears on page 33 of this report. The significance of this High Court decision is that it resolved a sharp conflict of opinion which had developed between the New South Wales Court of Appeal⁶ and the Victorian Court of Appeal⁷ as to whether a trial judge could take into account the reliability of evidence in assessing its probative value and its admissibility. The High Court favoured the reasoning of the New South Wales Court of Appeal and disapproved of the reasoning of the Victorian Court of Appeal. The High Court held that in determining relevance and admissibility of evidence, a trial judge must act on the assumption that the jury will accept the evidence. This assumption necessarily precludes any consideration by the trial judge as to whether the evidence is credible. Nor is it necessary for a trial judge to determine whether the evidence is reliable. The High Court held that the evident policy of the Act was that, generally speaking, questions as to the reliability or otherwise of evidence are matters for a jury, albeit that a jury would need to be warned by the trial judge about evidence which may be unreliable.⁸

On the staffing front, the most significant and pleasing event during the reporting year was the appointment of Mr Matthew Nathan as Senior Counsel.⁹ Mr Nathan SC is a Senior Crown Prosecutor who works in the Darwin office.¹⁰ The appointment of an advocate as Senior Counsel is a significant career milestone. Appointments are made by the Chief Justice.¹¹ Attributes required for appointment as Senior Counsel are (a) exemplary knowledge and understanding of the law, (b) a high level of skill as an advocate, (c) integrity and trustworthiness, (d) commitment to the best traditions of the bar and to the administration of justice, and (e) maturity of judgment acquired from substantial experience in legal practice.¹² The announcement of Mr Nathan's appointment was well received by the legal community. Mr Nathan is the second Crown Prosecutor employed by this Office to be appointed a Senior Counsel in the Northern Territory.¹³

I would like to sincerely thank all staff for their continued dedication and professionalism. All staff, professional and administrative, regularly work under pressure to meet court and administrative deadlines. They do so without complaint. They acquit themselves well.

Section 26 of the *Director of Public Prosecutions Act* provides that the Director is not subject to direction by the Attorney-General or any other person in the performance of the Director's functions. Section 28 of the *Director of Public Prosecutions Act* permits the Attorney-General, after consultation with the Director, to issue to the Director directions as to the general policy to be followed in the performance of a function of the

⁴ The Commonwealth, New South Wales, Victoria, Tasmania and the Australian Capital Territory.

⁵ [2016] HCA 14, (2016) 90 ALJR 529

⁶ *R v Shamouil* (2006) 66 NSWLR 228; [2006] NSWCCA 112

⁷ *Dupas v R* (2012) 40 VR 182; [2012] VSCA 328

⁸ Pursuant to s 165 of the Act

⁹ The appointment took effect from 15 September 2015

¹⁰ A short biography of Mr Nathan appears on page 18 of the Report

¹¹ In the Northern Territory, the appointment of Senior Counsel by the Chief Justice replaced the appointment of Queens Counsel by the Administrator in Council in January 2008.

¹² Supreme Court (Senior Counsel) Rules 2007, rule 4

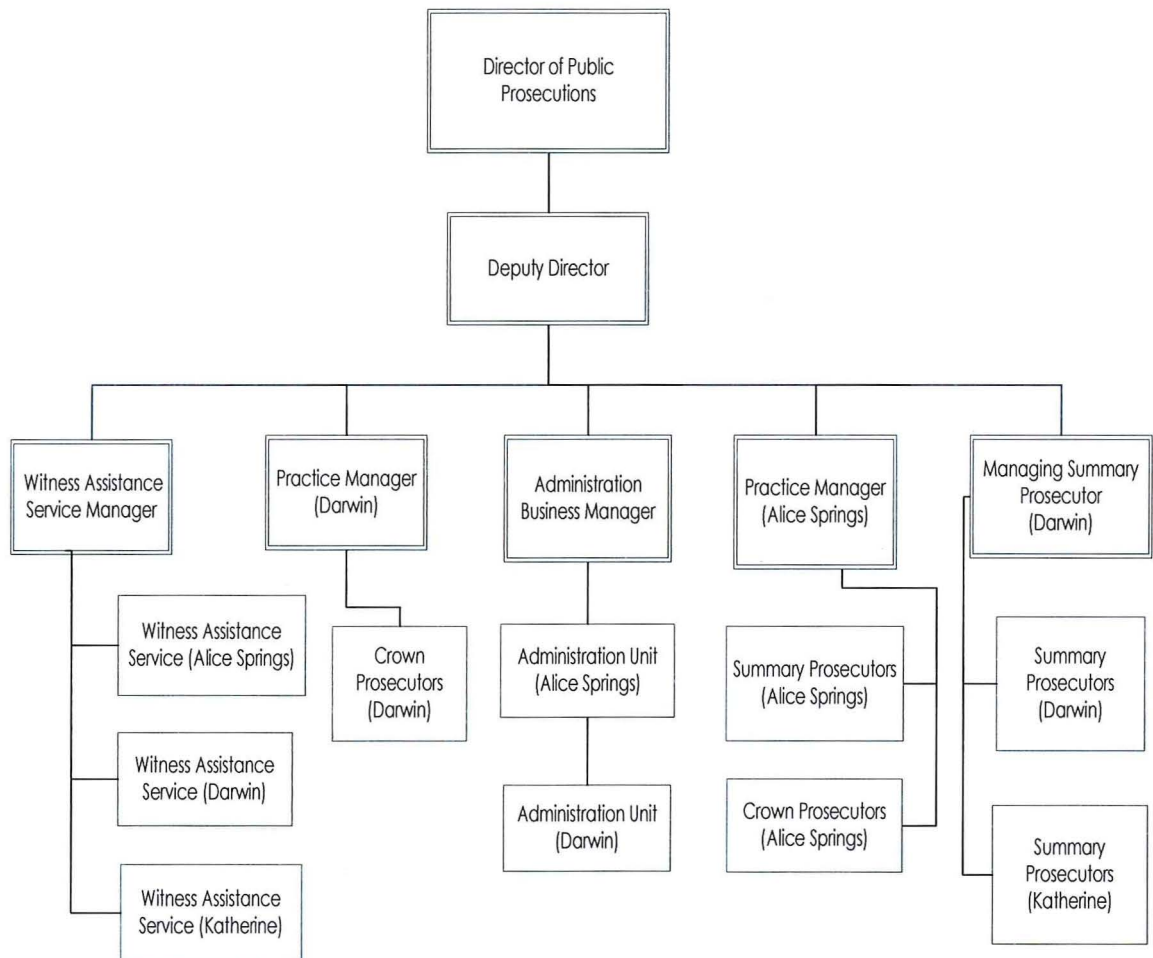
¹³ The first appointment was that of Dr Nanette Rogers SC, the Assistant Director in charge of the Alice Springs Office at the time, in October 2009

Director. Every such direction must be in writing and must be included in the Director's Annual Report. A direction may not be issued in respect of a particular case.

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



DPP ORGANISATION CHART





DIRECTOR
OF PUBLIC
PROSECUTIONS
NORTHERN TERRITORY



FUNCTIONS OF THE DIRECTOR OF PUBLIC PROSECUTIONS

The functions of the Director of Public Prosecutions (hereinafter referred to as the Director) are set out in Part 3 of the **Director of Public Prosecutions Act**. These functions are as follows:

- (a) the preparation and conduct of all prosecutions in indictable offences;
- (b) the preparation and conduct of committal proceedings;
- (c) to bring and conduct proceedings for summary offences;
- (d) the assumption where desirable of control of summary prosecutions;
- (e) to institute and conduct prosecutions not on indictment for indictable offences including the summary trial of indictable offences;
- (f) the power to institute and conduct or take over any appeal relating to a prosecution or to conduct a reference under s.414 of the **Criminal Code**;
- (g) the right to appeal against sentences imposed at all levels of the court hierarchy;
- (h) the power to grant immunity from prosecution;
- (i) the power to secure extradition to the Northern Territory of appropriate persons;
- (j) the power to participate in proceedings under the **Coroners Act** and, with the concurrence of the Coroner, to assist the Coroner if the Director considers such participation or assistance is relevant to the performance of some other function of the Director and is justified by the circumstances of the case;
- (k) the power to conduct proceedings under the **Criminal Property Forfeiture Act** and if, as a result of the proceedings a person becomes liable to pay an amount to the Territory or property is forfeited to the Territory under a court order, it is a function of the Director to take any further proceedings that may be required to recover the amount or enforce the forfeiture or order;
- (l) to provide assistance in the Territory to other state or Commonwealth Directors of Public Prosecutions;

- (m) to institute, intervene in and conduct proceedings that are concerned with or arise out of any function of the Director, or to otherwise do anything that is incidental or conducive to the performance of the function of the Director;
- (n) the power to furnish guidelines to Crown Prosecutors and members of the police force related to the prosecution of offences; and
- (o) to require information or to give directions limiting the power of other officials.

General Powers

The Director has power to do all things that are necessary or convenient to be done for the purpose of performing the functions of the Director and may exercise a power, authority or direction relating to the investigation and prosecution of offences that is vested in the Attorney-General.



HUMAN RESOURCE MANAGEMENT AND DEVELOPMENT

As at 30 June 2016 the total number of Full Time Equivalent (FTE) staff was 85.

Position Level	Total FTE	Female	Male
Director	1		1
Legal Staff			
EO4C	1		1
EO2C	1		1
EO1C	3		3
SP2	5.7	2.7	3
SP1	7.5	4.5	3
P3	5.6	3	2.6
P2	18	8	10
Graduate	1	1	
Total Legal Staff	43.8	19.2	24.6
Witness Assistance Service (WAS)			
SAO2	1		1
P3	1	1	
P2	1	1	
AO6	1	1	
AO5	5	4	1
AO3	1.5	0.5	1
Total WAS Staff	10.5	7.5	3
Administrative Staff			
SAO1	1	1	
AO7	1	1	
AO6	1	1	
AO5	5.9	4.9	1
AO4	5.5	4.5	1
AO3	16.77	15.77	1
Total Administrative Staff	31.17	28.17	3
TOTAL FTE	* 85.47	54.87	30.6

*Total number of FTE includes:

2 x Part time employees;

2 x Casual employee and;

4.5 x Temporary positions filled as at 30 June 2017 to focus on special prosecutions;

In 2015-16, DPP has a total number of 8.82 FTE, or 10% identified as coming from Indigenous Australian group.

Corporate Overview

The DPP was successful in implementing initiatives that focused on staff, technology, and work processes. All initiatives were designed to improve productivity and advance the provision of prosecutorial services throughout the Northern Territory. Highlights and achievements are outlined below.

Financial information

The Financial Statements for the office for 2015-16 are consolidated as part of the Department of the Attorney-General and Justice (AGD) financial statements. The consolidated statements are included in the AGD Annual Report.

The DPP received an expenditure budget of \$11.5M in 2015-16.¹⁴ The Office is grateful to the Chief Executive Officer for the financial support provided to it during the year. This included funding for an additional 4.5 full time employees to address the increase in fraud matters, funding to undertake an independent review of the Office, and funding for further enhancements to CaseNet, the office's computerised case management system.

The Office experienced a significant number of legal vacancies during the financial year, which contributed to a reduction in overall personnel costs for the year. A number of those vacancies were generated by the transfer of senior legal staff into positions allocated to undertake fraud matters. The transfer of those staff reduced the availability of in-house staff to take on new matters and, as a result, the office experienced a significant increase in external briefing costs during the year.

Our People

As mentioned in the Overview, on 15 September 2015, Mr Matthew Nathan, a Senior Crown Prosecutor who works in the Darwin Office, was appointed Senior Counsel by the Chief Justice.

Mr Nathan SC was admitted to practice in the Supreme Court of Queensland in 2001 and worked in the Office of the Director of Public Prosecutions in that state. He was appointed a Senior Crown Prosecutor in 2006. Mr Nathan came to the Northern Territory in 2008 where he took up a position as a Senior Crown Prosecutor. In July 2012 Mr Nathan was appointed the Sexual Assault Senior Crown Prosecutor specialising in the prosecution of serious adult and child sexual offending. He also appears as lead counsel in other complex criminal trials and regularly appears in the Court of Criminal Appeal.

Mr Nathan is the second Senior Crown Prosecutor employed by the DPP to be appointed Senior Counsel in the Northern Territory.¹⁵

¹⁴ \$9.430M personnel and \$2.070M operational

¹⁵ The first appointment was that of Dr Nanette Rogers SC, the Assistant Director in charge of the Alice Springs office at the time, in October 2009

Training

The DPP is committed to providing professional development programs for all staff. During the year staff participated and attended a number of training programs and conferences.

The DPP offered a variety of in-house Continuing Professional Development (CPD) presentations. These presentations, delivered by experienced prosecutors, are designed to ensure that prosecutors keep their skills current and to assist prosecutors to comply with Law Society continuing legal education requirements. All internal training sessions were video-linked to the Alice Springs office. In addition to training expenses, the DPP covers costs associated with renewal of practicing certificates for all its prosecutors.

Direct expenditure on external training for 2015-16 was \$40,000.00.

The following table lists the professional development and training activities supported and funded by the DPP in 2015-2016 and the number of staff who participated.

2015-16 Courses and Conferences Attended	
COURSE / CONFERENCE	Number of Staff Attended
4WD Training course	1
Australian Association of Crown Prosecutors (AAPC)	4
AGD Orientation	2
AIM Research Project - focus group	1
Australian Womens Lawyers Conference	1
Basic Restorative Prac- Real Justice	6
Buy Local Training - Procurement Requirements	2
Conference of Australian Directors (CADs Sydney)	1
Conference of Australian Directors (CADs Canberra)	1
Certificate IV in Legal Services	1
Child Development and Trauma Impact	5
Communicating Across Languages	1
CPD - 3 days inhouse Conference	9
CPD - Advocacy Workshop 2015	9
CPD - COMMIT Information Session	14
CPD - Cross Examinations (inhouse)	22
CPD - Mental Health Diversion	1
CPD - Examination in Chief (inhouse)	9
CPD - Forensic accounting	2
CPD - Identifications and Circumstantial Evidence	2
CPD - Keep Calm	1
CPD - Language and the Law	9
CPD - Opening and Closing Address	20
CPD - Plea Negotiation and Settlement (inhouse)	11
CPD - Pleas and Sentencing Submissions (inhouse)	8
CPD - Practice Management and JA determinations	11
CPD - Proofings Witnesses and notes (inhouse)	12
CPD- Relationship Evidence (inhouse)	14
Cross Cultural training	25
Domestic Violence Forum	1
EIMS Coder training	1
Emotional Resilience Workshop	16
Fire Warden Training	3
First Aid training	5
Freedom of Informations - Information Act training	2
HR Forum	2
Improving Employee Performance	3
International Womens Day - Leadership Symposium	1
Job Evaluation System (JES) training and refresher	1
Law Week - Cabinet to Court Program	1
Leadership Program - Machinery of Government	1
Mentor Workshop - Pilot	4
Merit Selection Training (OCPE)	2
National Executive Business Managers Conference	5
Performance Management Workshop	3
Punctuation Unpacked	6
Recruitment and Selection Training (AGD)	10
Succeeding in Leadership	1
Witness Assistance Services Workshop	8
WH&S for Senior Manager	1
Work Health and Safety	4
Writing Better Cabinet Submissions	2

Membership and working groups

The DPP has representatives on the following committees and working groups:

- AGD Audit & Risk Committee
- AGD Executive Leadership Group
- AGD Emergency Management Committee
- AGD Indigenous Reference Group
- AGD IJIS Business Advisory Group
- AGD People Matter Working Group
- AGD White Ribbon Committee
- Crimes Victim Advisory Committee
- Criminal Court Users Forum
- Criminal Lawyers Association NT
- Domestic Violence Local Reference Group, Alice Springs
- ODPP National Executives Meeting
- Sexual Assault Network Darwin
- Work, Health and Safety Committee

Development of Summary Prosecutors

The Judges of the Local Court hold an annual conference. In 2015-16, the conference was held on 17, 18 and 19 August 2015. During this period, the Local Court sat for a limited period each morning.

The lower workload over the three day conference period allowed Summary Prosecutions to facilitate a three-day workshop. The workshop was held in Darwin with summary prosecutors from the Alice Springs office attending via video conference whilst the Katherine prosecutors travelled to Darwin.

Presentation were delivered by senior Crown prosecutors and members of the NT Police Force. Topics presented included expert evidence, prosecutorial ethics, charge negotiating, fraud prosecutions, youth justice, the ***Evidence (National Uniform Legislation) Act*** and costs.

The workshop concluded with a team-building exercise, which included NT Police demonstrating the usage of the BEEIII speed radar and the Drager breath analysis device.

Development of Witness Assistance Service (WAS)

WAS held its annual staff workshop on 20 and 21 August 2015 in Darwin. WAS officers from all three offices attended. Topics covered included working with prosecutors when dealing with child witnesses, the role of WAS officers in the proofing of witnesses, navigation of the new CaseNet system and management of complex cases.

The participants also received feedback from those officers who attended the national WAS conference in Adelaide in May 2015. The workshop also provided an opportunity

for WAS officers to discuss work issues and how to maintain a healthy work-life balance.

Presentation and training programs provided by the DPP

During the 2015-16 reporting year the DPP provided a number of presentations and training sessions to the following organisations:

- GDLP Law Students
- NT Police:
 - The **Evidence (National Uniform Legislation) Act** ("the ENULA")
 - Child Forensic Interviews (CFIs) – practice, procedure and evidentiary issues
 - **Criminal Code** - sex offences and changes effected by the ENULA.
 - Role of the DPP and Criminal Justice System (detectives training)
- Sexual Assault Referral Centre:
 - Court advocacy and evidentiary issues
 - Court Workshop
 - Review of procedure and evidence

Witness Assistance Service delivered presentations to the following organisations/groups:

- Alice Springs Aboriginal Interpreter Services
 - Alice Springs Domestic Violence Local Reference Group
 - Darwin Aboriginal and Islander Women's Shelter (DAIWS)
 - Darwin Community Legal Services
 - Darwin Domestic Violence Legal Services
 - Tennant Creek Women's Shelter
 - Top End Women's Legal Service
 - Ruby Gaea
 - Lajamanu Safety House
 - Lajamanu Childcare centre
 - Milingimbi Safe House
 - Nhulunbuy Safe House
 - Kalkaringi Safe House
 - NT Police
 - North Australian Aboriginal Family Legal Service (NAAFLS)
 - Katherine Local Reference Group
- Witness Assistance Services participated in the Supreme Court Open Day, which was held at the Darwin Supreme Court on 22 August 2016.

Interstate conference

National Executives Meeting

A highlight of the year was the opportunity for the office to host the meeting of National Executives in April 2016. This meeting is held annually and is attended by managers from DPP offices across Australia and New Zealand.

The aim of the meeting is to keep abreast of national issues, initiatives and service trends. It is a forum to discuss models of service delivery and issues of national relevance. The conference was extremely well attended and highly successful.

Association of Crown Prosecutors Conference (ACCP)

In July 2015 four Crown prosecutors from the Darwin and Alice Springs offices attended the annual conference of the ACCP in Melbourne. The conference was hosted by the Victorian Office of Public Prosecutions. The conference is hosted by a different jurisdiction each year and focuses on challenges encountered by 'coalface' Crown prosecutors who regularly appear to conduct criminal trials and appeals. This year's conference program included topics on prosecutorial ethics, DNA evidence, examination and cross examination of expert witnesses, and a presentation on the prosecution of offences arising from the 'Black Saturday' bushfires in February 2009.

Work Experience

The DPP provides work experience opportunities to both tertiary and secondary students. The placements usually run for one week and are designed so that a student can gain an insight into the operations of the DPP and to the working environment of lawyers.

As the work of a prosecutor is often of a sensitive and confronting nature, care is taken in the selection of cases to which the students are exposed. Students are given the opportunity to shadow a prosecutor during the week and attend court with the prosecutor. The student can ask questions about the prosecution process generally and observe basic office and practice skills.

The Darwin office provided work experience to six high school students from Essington School, MacKillop Catholic College, Darwin High School and Tiwi College and to two tertiary students from the University of South Australia and Charles Darwin University.

Corporate citizenship

The DPP actively supports the Charles Darwin University (CDU) Law Faculty by providing annual sponsorship of the School of Law prize for Outstanding Academic Achievement in Practical Advocacy. The recipient of the prize awarded in May 2016 in a ceremony held at the Supreme Court in Darwin was Ms Allison O'Neill.

Mentoring Program Solomon Islands

In February 2016, four lawyers from the Solomon Islands Office of Public Prosecutions and Public Solicitor's Office travelled to Darwin for a four-week visit as part of a professional skills development program.

The placement of the Solomon Islander lawyers in Darwin was part of the Solomon Islands Justice Program, a bilateral assistance program of the governments of Australia and the Solomon Islands. Two of the Solomon Islands lawyers were placed with the Territory's DPP, one with the NT Legal Aid Commission and one with the North Australian Aboriginal Justice Agency. The lawyers placed with the DPP were Florence Joel and Andrew Kelesi.

A program was developed which exposed them to all facets of office activities.

The feedback received from Florence and Andrew was that their experience in Darwin was extremely satisfying and rewarding. They each identified a number of initiatives that would be valuable if able to be replicated in their offices back in the Solomon Islands.

Health and well-being

The Office continues to be focused on providing initiatives that improve the health and wellbeing of our staff. Emotional resilience workshops were conducted in Darwin and Alice Springs. The workshops were well received, with 16 new employees attending.

Other health and wellbeing programs directed through the Department of the Attorney - General and Justice included:

- Employee Assistance Program;
- Building Better Coping Strategies; and
- Influenza vaccinations.

These programs reinforced our commitment to the prevention and management of psychological injury and improving general physical wellbeing.

Information Technology

CaseNet enhancements

The DPP maintains a computerised Case Management System (CaseNet) which tracks and maintains data essential to the proper maintenance of individual files and the court diary used by practice managers when allocating work to prosecutors.

As reported in the 2014-15 Annual Report, as a result of enhancements made to both the Integrated Justice Information System (IJIS)¹⁶ and to CaseNet, it became possible to automatically import data from IJIS into the CaseNET system. Outcomes from IJIS for

¹⁶ IJIS is the computer system used by government agencies such as Police, courts and Corrections. Data such as charges, court outcomes and next in court dates are entered into IJIS by Police and court staff.

both Local Court and Supreme Court matters Territory wide are now imported automatically into CaseNet. WAS also receives updated information from IJIS.

In August 2015, further enhancements were undertaken ensuring links for the “next in court dates” from IJIS were displayed in all areas of CaseNet, that related cases for co-defendants appear on the home page and in all related files, and that Court order details were populated in the order notes field.

Reporting capabilities were developed, with implementation scheduled in the 2016-17 financial year.

*The introduction of the **Local Court Act**, which commenced on 1 May 2016 also required major changes to, and testing of, CaseNet. A project officer was allocated to work with AGD ICT in the development, testing and deployment of data for both the reporting module and the implementation of changes required to facilitate the amendments brought about by the **Local Court Act**.*

DPP Review

In April 2016 AGD, on behalf of the DPP, engaged KPMG to conduct a review of resources, systems and processes of the DPP. The purpose of the review was to provide an opinion on whether the DPP's resources, systems and operational processes are sufficient, efficient and effective to deliver effective services into the foreseeable future. The outcome of the review was not finalised as at 30 June 2016.



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OUTPUT PERFORMANCE MEASURES

Key Deliverables	Current Year		Targets	Previous Years		
	2015-16 Budget	2015-16 Actual	2016-17 Budget	2014-15 Actual	2013-14 Actual	2012-13 Actual
New matters	9,400	9,418	9,400	8,551	8,180	1,906
Finalisations:						
- Supreme Court pleas	450	483	450	436	275	341
- Supreme Court trials	60	55	60	57	43	53
- Supreme Court withdrawn	40	41	40	36	25	45
- Not committed to Supreme Court	0	0	0	1	0	0
- Summary hearings/pleas	7,000	6,805	7,000	6,450	4,372	972
- Summary charges withdrawn	800	463	800	728	504	249
- Appeals at all levels	60	84	60	62	56	62
Findings of guilt (including guilty pleas):						
- in Supreme Court	94%	93%	94%	93%	94%	94%
- in Court of Summary Jurisdiction	98%	98%	98%	98%	94%	89%
Convictions after trial or hearing	97%	97%	97%	97%	95%	90%
Filing of indictments within 28 days of committal ¹	63%	45%	N/A	55%	71%	57%
Supreme Court matters withdrawn less than 28 days before a trial was to commence ²	52%	26%	N/A	50%	53%	69%
Witness Assistance Service clients ³	1,730	1,923	1,730	1,717	1,643	1,822

¹ The new CaseNet system imports data directly from the IJIS system, which does not accurately record filing of all indictments. A complete data set for this item is no longer available and it is therefore no longer a measurable key deliverable. Further reporting against this item will cease effective 1 July 2016.

² The new CaseNet System imports data directly from the IJIS system. IJIS system does not provide this data. This performance measure will no longer be used.

³ Temporary funding of the 0.5 position until 30 June 2016 resulted in increased resources within Witness Assistant Service and therefore increased ability to assist clients.



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PROFESSIONAL ACTIVITIES

General Workload

Matters completed in the Local Court (Criminal Division) and the Youth Justice Court			
Workload Overview	2015-16	2014-15	2013-14
Guilty (including guilty pleas)	6,805	6,450	4,372
Committed	475	700	389
Not Guilty/Not Committed	144	157	155
Withdrawn	463	728	504
Total Local Court and Youth Matters	7,887	8,035	5,420
Matter completed in Supreme Court			
Pleas	483	436	275
Trial guilty	28	24	20
Trial not guilty	20	31	20
Trial Mistrial	7	2	3
Ex Officio indictment	18	25	28
Nolle Prosequi	24	23	19
Section 297A certificates (no true bill)	19	12	6
Total (not including section 297A certificates)	599	553	371

Appeals

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

- (i) institute and conduct, or conduct as respondent, any appeal or further appeal relating to prosecutions upon indictment in the Supreme Court;
- (ii) request and conduct a reference to the Court of Criminal Appeal under s.414(2) of the **Criminal Code**; and
- (iii) institute and conduct, or to conduct as respondent, any appeal or further appeal relating to prosecutions not on indictment, for indictable offences, including the summary trial of indictable offences.

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

A summary of decisions of the Court of Criminal Appeal, Court of Appeal and Full Court for the reporting year can be found on the DPP website under the tab Legal Resources / Case Studies.

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

NB: The figures in brackets in each of the tables below are for the period 1 July 2014 to 30 June 2015.

TABLE A

**Outcome of defence applications for leave to appeal from
the Supreme Court to the Court of Criminal Appeal
determined by a single judge *on the papers*
2015-2016**

	Sentence		Conviction	
Granted	4	(2)	4*	(1)
Refused	5***	(4)	1**	(1)
Discontinued	2	(1)	1	(1)
Total	11	(7)	6	(3)

* Two applicants granted leave to appeal against conviction discontinued their appeals prior to hearing.

** The unsuccessful applicant applied to have his application re-heard and determined by the Court of Criminal Appeal constituted by three judges. The application was listed for hearing in the 2016 - 2017 reporting year.

*** Four unsuccessful applicants applied to have their applications re-heard and determined by the Court of Criminal Appeal constituted by three judges. One applicant subsequently discontinued the application before the re-hearing. One application was heard in the reporting year and the decision reserved with no decision having been delivered by 30 June 2016. One application was listed for rehearing in the 2016 / 2017 reporting year. One applicant went to hearing and after being informed by the court that if the appeal was successful the Court had power to *increase* the sentence, did not pursue the application further. As the Crown prepared this matter as if it were an appeal and as the matter came before the Court, the result has been included in Table B as an appeal against sentence dismissed.

Table B below summarises the results of appeals from the Supreme Court to the Court of Criminal Appeal and Court of Appeal decided during the reporting period.

TABLE B

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

2015-2016

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

* Included in this figure were two re-hearings of applications by the Court of Criminal Appeal constituted by three judges where the applications for leave to appeal against severity of sentence were refused by a single judge in the previous reporting year. The applications were determined following oral argument. As the applications were argued as if they were an appeal, the results have been included in Table B. Both applications were unsuccessful and leave to appeal was refused.

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

2015-2016

	Sentence		Other	
Allowed	0	(4)	2	(0)
Dismissed	0	(0)	1	(0)
Discontinued	1	(1)	0	(0)
Total	1	(5)	3	(0)

**Outcome of referral of question of law to Full
Court pursuant to section 21
of the Supreme Court Act**

2015-2016

Decided in favour of prosecution	0	(0)
Decided in favour of defence	0	(0)

Table C below summarises the results of appeals from the Court of Summary Jurisdiction to the Supreme Court decided during the reporting period.

TABLE C

**Outcome of defence appeals from the Court of Summary Jurisdiction to the Supreme Court at Darwin
2015-2016**

	Conviction	Sentence	Other
Allowed	3 (4)	7 (18)	0 (1)
Dismissed	4 (7)	13 (12)	2 (0)
Discontinued	1 (6)	7 (9)	0 (0)
Total	8 (17)	27 (39)	2 (1)

**Outcome of prosecution appeals from the Court of Summary Jurisdiction to the Supreme Court at Darwin
2015-2016**

	Dismissal of Charge	Against inadequacy of Sentence	Other
Allowed	1 (0)	0 (0)	1 (1)
Dismissed	0 (3)	0 (1)	0 (0)
Discontinued	1 (1)	2 (4)	1 (0)
Total	2 (4)	2 (5)	2 (1)

TABLE C

**Outcome of defence appeals from the Court of Summary Jurisdiction to the Supreme Court at Alice Springs
2015-2016**

	Conviction	Sentence	Other
Allowed	0 (0)	9 (4)	0 (0)
Dismissed	1 (0)	2 (2)	0 (0)
Discontinued	2 (2)	5 (0)	1 (0)
Total	3 (2)	16 (6)	1 (0)

TABLE C

**Outcome of prosecution appeals from the Court of Summary Jurisdiction to the
Supreme Court at Alice Springs
2015-2016**

	Against Dismissal of charge		Against inadequacy of Sentence		Other	
Allowed	0	(0)	0	(0)	0	(0)
Dismissed	0	(2)	0	(2)	0	(0)
Discontinued	0	(0)	1	(0)	0	(0)
Total	0	(2)	1	(2)	0	(0)

High Court

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

The Office was involved as respondent in two applications for special leave to appeal in one appeal to the High Court

IMM v The Queen

3 February, 14 April 2016

**French CJ, Kiefel, Bell, Gageler, Keane, Nettle & Gordon JJ
[2016] HCA 14; (2016) 90 ALJR 529**

A Darwin Supreme Court jury found the appellant guilty of two counts of indecent dealing with a child and one count of having sexual intercourse with a child under the age of 16 years. The complainant was the appellant's step-granddaughter.

The prosecution was permitted to adduce "tendency evidence", given by the complainant, that while the complainant and another girl were giving the appellant a back massage, the appellant ran his hand up the complainant's leg. Section 97(1)(b) of the *Evidence (National Uniform Legislation) Act* (NT) ("the Act") provides that evidence that has "significant probative value" be excepted from the "tendency rule", which would otherwise render the evidence inadmissible. The prosecution was also permitted to adduce "complaint evidence", which was evidence of complaints made by the complainant to other persons concerning the appellant's conduct. The trial judge refused to exclude the complaint evidence under s 137 of the Act, which provides that evidence must be excluded where its probative value is outweighed by the danger of unfair prejudice to the defendant. The trial judge approached the task of assessing the probative value of both the tendency evidence and the complaint evidence on the assumption that the jury would accept the evidence.

The appellant appealed against his conviction to the Court of Criminal Appeal contending, relevantly, that the trial judge erred in admitting the tendency evidence and the complaint evidence. On 19 December 2014 the Court of Criminal Appeal unanimously dismissed the appeal. See *IMM v The Queen* [2014] NTCCA 20.

By grant of special leave given on 16 October 2015, the appellant appealed to the High Court. See [2015] HCATrans 266.

The Court held, by majority that, in determining the "probative value" of evidence under the Act, a trial judge must proceed on the assumption that the jury will accept the evidence, and as such it follows that no question as to credibility or reliability of the evidence can arise.

The High Court held, by majority, that the probative value of the complaint evidence was potentially significant. Further, the evidence did not create the prejudice to which s 137 of the Act referred, and as such the evidence was admissible.

However the Court also held, by majority, that evidence from a complainant adduced to show an accused's sexual interest can generally have limited, if any, probative value. Accordingly, the tendency evidence was not admissible under s 97(1)(b). It followed that the trial miscarried.

The Court set aside the order of the Court of Criminal Appeal and ordered that the appeal be allowed, that the appellant's conviction be quashed and that there be a new trial of the offences of which the appellant was convicted.

Prior v Mole

No D3 of 2016

At 3:30 pm on New Year's Eve 2013, the applicant and two other Aboriginal men were drinking red wine in a public place within 2 km of licensed premises. They also had some bottles of beer. In doing so he was committing an offence against the **Liquor Act**. As two police officers (Constables F & B) drove by in a marked police car, the applicant raised the middle finger of his right hand and shouted something. The officers turned the car around and stopped near the applicant. When Const B realized the applicant was drinking wine, he poured out the contents. Const F began to write out an infringement notice. The applicant was intoxicated. He swore at the police. This gave rise to count 1, behaving in a disorderly manner in a public place. Const B apprehended the applicant and placed him in custody under s 128 of the **Police Administration Act** ("the PAA") which provides that a member of the Police Force may, without warrant, apprehend a person and take the person into custody if the member has reasonable grounds for believing (a) the person is intoxicated, (b) the person is in a public place, (c) because of the person's intoxication the person may intimidate, alarm or cause substantial annoyance to people, or (d) the person is likely to commit an offence. Following the applicant's apprehension, and while he was being placed in the police vehicle, he spat on a third police officer (Sgt O'D), who had attended. The applicant was then arrested for assaulting Sgt O'D in the course of his duty. This assault constituted count 2. While the police vehicle in which the applicant was being conveyed was stopped at traffic lights, he stood up, undid his zipper, withdrew his penis and attempted to urinate on the following police vehicle occupied by Consts B and F. This act

(behaving in an indecent manner in a public place) constituted count 3. In the Court of Summary Jurisdiction, the applicant pleaded not guilty to all three counts and was found guilty of all three counts.

The applicant then appealed against the findings of guilt to the Supreme Court. The Supreme Court allowed the appeal, the applicant's convictions on counts 2 and 3 were set aside and he was acquitted of those counts. The Supreme Court found that although the applicant was lawfully apprehended, the evidence about counts 2 and 3 was obtained in consequence of an impropriety and should have been excluded under s 138 of the **Evidence (National Uniform Legislation) Act** ("the ENULA"). The impropriety was said to be a breach of Police General Order A7, which provides that an arrest should be an action of last resort. The General Order states that police powers of arrest and the taking of persons into protective custody under the PAA should be read in conjunction with General Order A7. The Court found that Consts B and F did not give genuine consideration to the general order and that there were other options available to police. By failing to give consideration to the order and to the available options to apprehension, Consts B and F breached the order and their behaviour fell below the minimum standards of acceptable police conduct. See **Prior v Mole** [2015] NTSC 65.

The prosecution then appealed to the Court of Appeal against the orders of the Supreme Court, quashing the convictions on counts 2 and 3. The essence of the complaint before the Court of Appeal was that the Supreme Court wrongly equated the apprehension of the applicant under the protective custody provisions in the PAA s 128 with a criminal arrest. The issue was whether the evidence in respect of counts 2 and 3 was obtained "in consequence of an impropriety". The appeal was allowed. The order setting aside the convictions on counts 2 and 3 and ordering the applicant's acquittal on those counts was set aside and the convictions were re-instated. The Court of Appeal held that taking a person into civil protective custody was not the equivalent of a criminal custodial arrest and that questions of necessity and appropriateness arose when considering the exercise of the power of criminal arrest. The Court of Appeal held that it is not a pre-condition for the exercise of the power of placing someone into protective custody that in every case the police officer must turn his or her mind to what alternatives may exist.

The Court concluded that even if the evidence did establish that the officer did not turn his mind to that question, and even if the Court were of the opinion that the officer ought to have asked more questions before concluding that the respondent should be taken into protective custody, these are questions upon which reasonable minds may differ. The Court was not of the view that failing to ask these questions or to consider other options in the circumstances constituted conduct that was clearly inconsistent with the minimum standards which society should expect and require of those entrusted with powers of law enforcement. See **Mole v Prior** [2016] NTCA 2, (2016) 304 FLR 418.

The applicant subsequently applied to the High Court for special leave to appeal, claiming that the Court of Appeal had erred in its interpretation and application of s 128 PAA, 138 of the ENULA and of Police General Order A7. That application had not been determined or listed for hearing as at 30 June 2016.

Fraud Prosecutions

As mentioned earlier in this report,¹⁷ the Office received funding for an additional 4.5 full-time employees to prosecute persons suspected of involvement in defrauding the NT Government Pensioner and Carer Concession Scheme (PCCS). These additional positions were established in April 2015.

The primary focus of attention was the much publicised police investigation into Latitude Travel.

In November 2015, a Darwin Supreme Court jury found the principal of Latitude Travel, Alexandra Kamitsis, guilty of 20 counts of obtaining a benefit by deception. After the verdict, the offender pleaded guilty to further charges of obtaining by deception and official corruption. In all the total benefits obtained amounted to almost \$124,000. The offender was sentenced to a total of three years and 11 months to be suspended after 18 months. Restitution in the sum of \$110,338 was made to the Department of Health. Subsequently, three other travel agents pleaded guilty to defrauding the PCCS. The total amount of fraud pleaded to by each of these travel agents was \$69,416 of which \$28,902 was repaid at the time of sentencing and a restitution order in the sum of \$40,514 was made.

The unit has managed a large number of other frauds which has resulted in pleas of guilty. One of the larger matters was the plea by Rosalie Lalara to theft from the Groote Eyland Aboriginal Trust in the sum of \$475,006.79. For that offending she was sentenced to imprisonment for five years suspended after 18 months.

In Alice Springs an accountant, Johaness Joubert, pleaded guilty to stealing \$549,641.87 from his employer and clients of his employer over a three year period. He was sentenced to seven years and six months imprisonment with a non-parole period of three years and nine months.

A Superintendent in the NT Police, Desmond Green, pleaded guilty to fraud in the sum of \$4,235.62 whilst serving as the officer in charge at Tenant Creek Police Station.

In addition to these matters, pleas were entered in relation to six other incidents involving frauds to the total value of \$187,391.

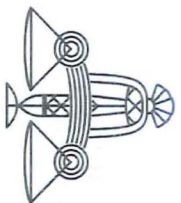
The work of the unit remains ongoing with several matters currently before the court including a travel agent alleged to have defrauded PCCS of \$64,000 through submission of false invoices, the theft by an office manager of approximately \$189,000 from her employer and the theft by a partner of a local company of \$138,000 from that company

Paul Mossman, former Chief of Staff to the Honourable Bess Price, faces trial in the Supreme Court commencing 14 October 2016 on three counts of corruption. The allegations of corruption relate to benefits allegedly received by Mossman from Alexandra Kamitsis, whose business Latitude travel provided about \$360,000 in travel

¹⁷ On page 18 under Financial Information

services for Minister Price's office over the 18 month period whilst Mossman was Chief of Staff.

A trial date has been set in November 2016 for the prosecution of the manager of the NT Police Firearms Registry for theft of firearms surrendered to the police.



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SUMMARY PROSECUTIONS

The Summary Prosecutions Division of the Director of Public Prosecutions is responsible for the conduct of prosecutions and prosecution related activities in the Local Court.¹⁸

Summary Prosecutions sections exist in three geographical locations:

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

Each section is staffed by civilian lawyers employed by the DPP.

In addition to prosecuting matters referred to them by police, Summary Prosecutors also appear on instructions from the Department of Correctional Services in relation to breaches of suspended sentences, home detention orders, community work orders and good behaviour bonds.

Historically, prior to December 2013 throughout the Northern Territory, Police prosecutors appeared in all bail and arrest matters in the Court of Summary Jurisdiction and in the Youth Justice Court. Police prosecutors appeared in a majority of plea matters as well as contest mentions in both courts. This practice now pertains only in Alice Springs, Katherine and other bush Court locations where Police continue to run bail and arrest matters. DPP civilian prosecutors in these locations only conduct contested hearings and complicated or sensitive pleas.

Summary Prosecutions Darwin (SPD)

Since December 2013, SPD has been entirely civilianised and operates as a division within the DPP. It has complete prosecutorial responsibility for all charges laid by members of the Police within the SPD geographical area. For all matters in Darwin, civilian Summary Prosecutors, all of whom are qualified lawyers, appear at all stages from first mention to finalisation. This includes mentions, bail applications, directions hearings, pleas and hearings.

SPD staff also appear on the first mention of matters which are ultimately destined for the Supreme Court prior to those matters being referred to the Crown Prosecutions

¹⁸ The Local Court came into existence on 1 May 2016. It replaced the Court of Summary Jurisdiction.

Division of this office. The SPD has 17 civilian lawyers, seven administrative positions and a travel clerk.

A number of significant changes have directly affected the operations of SPD and have increased the workload during the reporting period including:

- In February 2016 a separate Youth Justice Court was established in the TCG Building in Mitchell Street Darwin. This court now sits 4 - 4½ days per week in a separate geographical location to that of the Local Court. Previously the Youth Justice Court sat only on Monday, Tuesday and Friday each week and at the same location and within the same building as the Local Court.
- The establishment at the Local Court of a specialist Mental Health Diversion List which sits each Tuesday and Thursday requiring an additional prosecutor. Given the nature of the matters being dealt with, the lists often take significant time to work through, even for a small number of matters. Servicing the mental health list is resource intensive.

It has become apparent over time that the establishment of a specialist separate Youth Justice Court facility, coupled with an increase in high volume youth offending has increased the Courts' demands on the prosecution. In particular the Youth Justice Court has made it clear that before hearing any submissions on sentence the Court also requires the prosecution to provide detailed and critical assessments of material submitted to it for consideration. As a consequence, prosecutors appearing in the YJC are expected to read every report prepared on the youth (not just reports prepared for the matter before the court) before making submissions in respect of outcomes. This in turn has highlighted the need for more experienced and specialised prosecutors to appear in the Youth Justice Court.

The move towards specialist, separate, resource-intensive lists which require separate prosecutors to attend different Court locations simultaneously has increased demand on human resources. Whereas previously, to service the demands of the various Courts situated in the one location, SPD was able to switch additional prosecutors between the Courts at short notice; this is now logistically impossible because the Local Court and the Youth Justice Court (the latter sitting almost full time) sit in two separate locations.

SPD prosecutors travel thousands of kilometres each week by road and aircraft across the top end of the Northern Territory to service numerous bush courts that sit in remote locations:

- Alyangula – three days each month
- Borroloola – three days every two months
- Daly River – one day every two months
- Galiwinku – one day every four months
- Gapuwiyak – one day every three months
- Jabiru – one day every two months
- Maningrida – two to three days each month
- Nhulunbuy – three days each month
- Numbulwar – one day every three months
- Oenpelli – two days each month

- Pirlingimpi – one day every three months
- Ramingining – one day every two months
- Wadeye (Port Keats) – two to three days each month
- Wurrumiyanga (Nguui) – two days each month

Given the remote locations of these courts and the infrequent sittings, the hearing lists for each day at these locations can range from 2-9 hearings per day. In order to properly prepare these matters for hearing, significant preparation time leading up to the hearings is required.

SPD prosecutors receive significant logistical support from remote NT Police stations during bush court sittings where NT Police and SPD prosecutors work closely together. Such support is appreciated and required in order for SPD prosecutors to work efficiently and safely in many of these remote locations.

When attending remote locations SPD prosecutors work with WAS officers and interpreters as much as possible to assist in minimising challenges faced by witnesses attending court in these locations.

Following the civilianisation of prosecutions in the Darwin region in December 2013, police made various operational changes to the way they interact with this Office. For the period of this report, the Judicial Operations Section (JOS) has been responsible for laying charges on police briefs and acts as the primary liaison unit for the DPP.

The establishment of JOS was welcomed and it continues to be a vital component in ensuring the successful transfer of prosecution files to SPD for conduct through the Court process. JOS provides a single point of contact for this Office in respect of the myriad of issues which arise on a daily basis in relation to the prosecution process generally and which must be addressed quickly.

In turn, JOS was intended to give the police hierarchy a clearer overview of matters such as the standards of briefs of evidence presented to this Office for prosecution and the ability to identify issues in respect of which remedial action, such as training, is required.

Again, as was reported last year, I am pleased to report that the relationship between JOS and SPD has proved a successful one and the nature and scope of the interaction has been expanded to improve prosecution services generally.

Following civilianisation, there had been a period where the responsibility of laying charges was pushed back to operational police members. In practice this proved to be somewhat problematic. Consequently, police operations remitted this responsibility to JOS in July 2015 and in the current reporting period JOS has had the operational responsibility of laying charges. The practice of JOS assuming responsibility for the laying of charges has resulted in the consistency and quality of charges improving considerably; hopefully this will continue. This is a critical aspect of an efficient prosecution service.

Throughout the reporting period the SPD Managing Prosecutor met with JOS members regularly to discuss issues affecting both police and SPD and continued with the

collaborative 'Failed Prosecution Review', during which unsuccessful prosecutions are discussed and assessed with a view to identifying systemic or procedural deficiencies affecting the conduct of matters.

JOS has also continued to be a valuable conduit to Police generally. In the later part of the current reporting period the SPD Managing Prosecutor and the Acting Sergeant of JOS commenced joint training sessions with police patrol groups. It is anticipated that these training sessions will continue into the future.

The various processes implemented to improve service delivery have reinforced the desirability and need for JOS to work collaboratively with SPD.

The day-to-day management of prosecutors in SPD rests with the Managing Prosecutor, who in turn reports to the Deputy Director. There are two supervising prosecutors within the division.

The Deputy Director meets with the Managing Prosecutor SPD, the Officers in Charge of the Police Prosecutions Units in Alice Springs¹⁹ and Katherine²⁰ and with representatives from JOS regularly.

The Managing Prosecutor SPD also attends the Director's weekly Executive Committee meeting and the Director's weekly meeting with the Office Business Manager, Assistant Business Manager and the Crown Practice Manager.

Summary Prosecutions Katherine (SPK)

For the majority of the reporting period SPK continued to be staffed by one civilian Summary Prosecutor who is co-located with the Katherine Police Prosecutions Unit. That prosecutor has no administrative assistant. The SPK prosecutor conducts all contested criminal hearings including contested Youth Justice Court matters before the resident Judge²¹. Given the prosecutor's unique placement within Katherine Prosecutions, the prosecutor works closely with and receives significant support from Police prosecutors within the unit.

The civilian summary prosecutor appears in the Local Court in both Katherine and the surrounding remote bush courts at the following communities:

- Barunga - one day every two months.
- Kalkaringi - one day every two months
- Lajamanu - one day every two months
- Ngukurr - one- two days day every two months
- Timber Creek – one day every four months
- Yarralin - one day every two months

Like the bush courts serviced by SPD, the hearing lists for each day at these locations can range from 2-10 hearings per day. In order to properly prepare these matters for

¹⁹ By way of video link

²⁰ By way of telephone conference

²¹ Previously called Magistrate.

hearing, significant preparation time leading up to the hearings is required at the bush circuit location, which is an ongoing challenge given the heavy listings in Katherine itself.

Furthermore, funding only one civilian prosecutor by the Police to conduct all contested hearings in the Katherine region has been challenging for a number of years.²² However, it is becoming increasingly challenging in circumstances where the legal aid agencies²³ and small legal practices have approximately 11 criminal defence solicitors between them appearing regularly.

In the last financial year, due to the significant workload of the sole prosecutor employed in Katherine, SPD assumed servicing of courts in Ngukurr on a bi-monthly basis.

The sole civilian lawyer employed in Katherine for the last two reporting periods returned to the Darwin Office to take up a position in the Crown Prosecutions division toward the end of the reporting period and the Katherine position was vacant at the end of the reporting period. Consequently, Darwin Prosecutors have been required to travel to Katherine on a weekly rotational basis, placing further demands on limited resources in Darwin.

Summary Prosecutions Alice Springs (SPAS)

Summary Prosecutions Alice Springs (SPAS) is staffed by four civilian prosecutors who have minimal administrative support. The SPAS prosecutors appear in the Local Court in Alice Springs on a daily basis and the following communities in contested hearing matters:

- Ali Curung - one day every two months
- Papunya - one day every two months
- Tennant Creek - one week twice a month
- Ti Tree - one to two days every two months
- Yuendumu - two days every two months
- Mutitjulu - one day every two months
- Kintore - one day every two months
- Elliott - one day every three months
- Hermannsburg - one day every month

As of 30 June 2016, the four SPAS Prosecutors included three younger practitioners who joined the Office in the latter half of the reporting year. This turnover of staff is indicative of the issues the Office faces in retaining and recruiting staff in a remote area. The new practitioners have enthusiastically embarked on the necessary steep learning curve to quickly gain experience in the fast-paced environment of the Local Court.

As mentioned in the introduction, the civilian prosecutors are briefed by the Officer in Charge of Police Prosecutions, South. That officer holds the rank of Senior Sergeant

²² The Katherine Prosecutor position is funded by Police under the MOU (Memorandum of Understanding)

²³ The North Australian Aboriginal Justice Agency and the Northern Territory Legal Aid Commission

and is based in Alice Springs. Currently that officer also has administrative responsibility for summary prosecutions in the Katherine area.

One of the difficulties encountered by prosecutors in Centralia is the lack of trained interpreters in the various Aboriginal languages. In addition to their traditional role of interpreting during court proceedings, interpreters are being called upon by the prosecution and defence to fulfil an increasing range of functions including interpreting during conferences with victims, witnesses and defendants, interpreting what an accused said in his or her language during a recorded police Interview, and interpreting intercepted telephone conversations. The small number of trained interpreters makes it more difficult for matters to proceed expeditiously through the courts.

Another matter of growing concern is the inadequate facilities for victims of crime and witnesses when they attend court. The basic facilities at the existing court house in Alice Springs, which currently serves as the Supreme Court and the Local Court, no doubt will improve when the new Supreme Court building opens for business in 2017. However, basic facilities such as remote CCTV rooms and safe waiting rooms for victims and witnesses are non-existent at all other courts in the region.



WITNESS ASSISTANCE SERVICE

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

WAS provides victims and witnesses with:

- Information;
- Support;
- Referrals; and
- Assistance with the preparation of Victims Impact Statements.

WAS employs 8.5 Witness Assistance Officers located in:

- Darwin – 4.5 staff who service the Northern Region and East Arnhem Land;
- Katherine – 1 staff who services the Katherine region; and
- Alice Springs – 3 staff who service the Alice Springs and Barkley regions.

During the reporting year, additional funding was provided to increase the part-time position in Darwin to full-time for the 2015-16 financial year, which increased the level of support to victims and witnesses in Darwin and in the remote courts serviced by the Darwin office.

In order to assist victims and witnesses who have hearing difficulties, hearing aids were purchased for all three offices. The devices are available to be used by WAS clients during conferences with prosecutors and when giving evidence in court.

As part of a strategy to improve and increase service delivery in regional areas, a greater emphasis was placed on the Katherine Office with the employment of a new coordinator. WAS conducted an increased number of information sessions to safe houses and other stakeholders within the Katherine region.

Information sessions were delivered to:

- Kalkaringi Safe House
- Lajamanu Safe House
- Lajamanu Childcare Centre
- North Australian Aboriginal Family Legal Service (NAAFLS)
- Katherine Local Reference Group and;
- 3 sessions to NT Police Patrol Groups

There has also been an increase in WAS attendance at remote courts. The outcome has been an increased number of referrals of victims and witnesses to WAS from other services and an increase in the number of clients attending the WAS Katherine office seeking information and support. Stakeholder feedback has been very positive about the increase in service delivery to the region.

In Darwin, WAS conducted information sessions to NT police²⁴ and to stakeholders in the Darwin area and in remote communities on the Local Court circuit.

Information sessions delivered to other stakeholders:

- Darwin Aboriginal and Islander Women's Shelter (DAIWS);
- Darwin Community Legal Services;
- Darwin Domestic Violence Legal Services;
- Top End Women's Legal Service;
- Ruby Gaea;
- Milingimbi Safe House and;
- Nhulunbuy Safe House.

Alice Springs officers delivered training on supporting victims attending court to the Tennant Creek (Women's Shelter) Outreach Service. The service provides support to female victims of domestic and family violence and their children. Information sessions were provided to the Aboriginal Interpreter Service. Alice Springs staff attended the local Domestic Violence Reference Group meetings for Alice Springs and Tennant Creek. Additionally, Alice Springs officers were part of a working group that organised the Sexual Assault Awareness Month activities facilitated by the Sexual Assault Referral Centre in April 2016.

In 2016 a whole of government website was developed to allow members of the public to access information more readily. Information on WAS has been placed on the new NT Government website and can be accessed through the link <https://nt.gov.au/law/courts-and-tribunals/going-to-court-as-a-witness>. The website information includes the DVD, "Telling Your Story" that shows a victim going through the court process in both the Local Court and Supreme Court. The role that a WAS officer plays in assisting the victim is highlighted. Victims and witnesses are directed to the website if they have access to the internet.

During the reporting year, at the request of the Director of Public Prosecutions, a review was undertaken of the form of the Victim Impact Statement (VIS) and accompanying information brochure to determine if the information contained in both documents was current and reflected the intent of the legislation.²⁵ The review involved stakeholder input, research of VISs from other Australian jurisdictions and examination of the relevant Northern Territory legislation. A new information brochure and form of VIS will be introduced later in 2016.

WAS held its annual workshop on 20 and 21 August 2015 in Darwin. WAS officers from all three offices attended. Topics covered included working with prosecutors when

²⁴ A recruit course and a senior investigator course

²⁵ **Sentencing Act** sections 106A and 106B

dealing with child witnesses, the role of WAS officers in the proofing of witnesses, changes to the electronic file management system (CaseNet) and management of complex cases. The participants also received feedback from those officers who attended the national WAS conference in Adelaide in May 2015. The workshop also provides an opportunity for WAS officers to discuss work issues and how to maintain a healthy work-life balance.

During the reporting year:

- WAS participated in the open day at the Darwin Supreme Court on 22 August 2015 to promote the role of WAS, with WAS officers manning a booth to answer queries and provide information to members of the public.
- WAS officers delivered 10 information sessions to stakeholders in the Darwin, Katherine and Alice Springs regions, 5 sessions to safe houses in remote areas and 5 sessions to NT police.

During the reporting year, 983 new matters with 1,923 new clients (victims and witnesses) were referred to WAS and officers assisted in the preparation of 197 Victim Impact Statements in the Darwin region, 106 in the Alice Springs and Barkly region and 21 in the Katherine region.
