



Director of Public Prosecutions

Annual Report

2014-2015



Government of South Australia

Director of Public Prosecutions

Office of the Director of Public Prosecutions

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Director's Overview



Adam Kimber SC
Director of Public Prosecutions

In the course of the last financial year my Office has continued to meet its obligation to provide an effective, fair and independent criminal prosecution service for the people of South Australia.

As always there have been matters that have attracted public debate. Informed debate is healthy. The criminal law has always provided a setting for different points of view.

Sentencing has always been, and always will be, of considerable interest to the community. Recently the Attorney-General published a discussion paper about alternative approaches to sentencing. Sentencing reform is a matter of policy and ultimately a matter for the Parliament. However, I welcome discussion about different approaches to sentencing. Part of that discussion must focus, as it no doubt will, upon mandatory approaches. They are, in my view, rarely, if ever, appropriate. No two offences, nor two offenders, are ever the same. The complexity of the myriad of matters to be balanced in arriving at an appropriate sentence does not lend itself to mandatory approaches.

Like the work of many offices, the work of my Office takes place in a challenging setting. The number of matters for which the Office is responsible continues to increase, as does their complexity. The number of briefs received has increased by about 10%. However, for all of that, this Annual Report shows that my Office has kept pace. Despite this increased workload, we have finalised just as many matters as before. This alone demonstrates that we have used our resources more efficiently. The increased workload for an Office that is meeting its obligation to be efficient raises real issues about sustainability.

We cannot afford to stand still and must continue to look for improvements. We know more about our work than we ever did before. The continuing challenge is to work tirelessly to make the right decisions as early as we can. This isn't something that is always completely within my Office's control. It can only deal with the material that it has at any given time. The material upon which we are asked to base our decisions can change as can the level of engagement of the accused and those acting for them.

Over the last twelve months my Office has continued to make a contribution towards broader issues in the criminal justice system. Two of the major projects supported by the Criminal Justice Sector Reform Council, the Early Resolution Project and the Country and Circuit Committals Project, are being led by my Office. This is occurring with considerable assistance from those outside the Office with expertise in projects of this type.

As I have said many times before, the role of the victim in the criminal justice system has been the greatest change in the criminal law in recent decades. I have commenced a detailed review of the Witness Assistance Service within my Office. I expect to come from that review new and innovative ways to provide support to victims.

Better use of technology must be part of the solution, not just with respect to how we deal with victims, but how my Office deals with all of its work. It has been particularly pleasing to have been successful in receiving funding for the development, and implementation, of a Practice Management System. The right system, utilised well, has the potential to enable resources within the Office to be better used and may provide benefits to other agencies as well. I acknowledge the support of the Chief Executive of the Attorney-General's Department and his staff in assisting significantly with the bid made for this funding and with respect to the expertise that will be needed to ensure that this project becomes a success.



Adam Kimber SC

Director of Public Prosecutions

Role and Structure

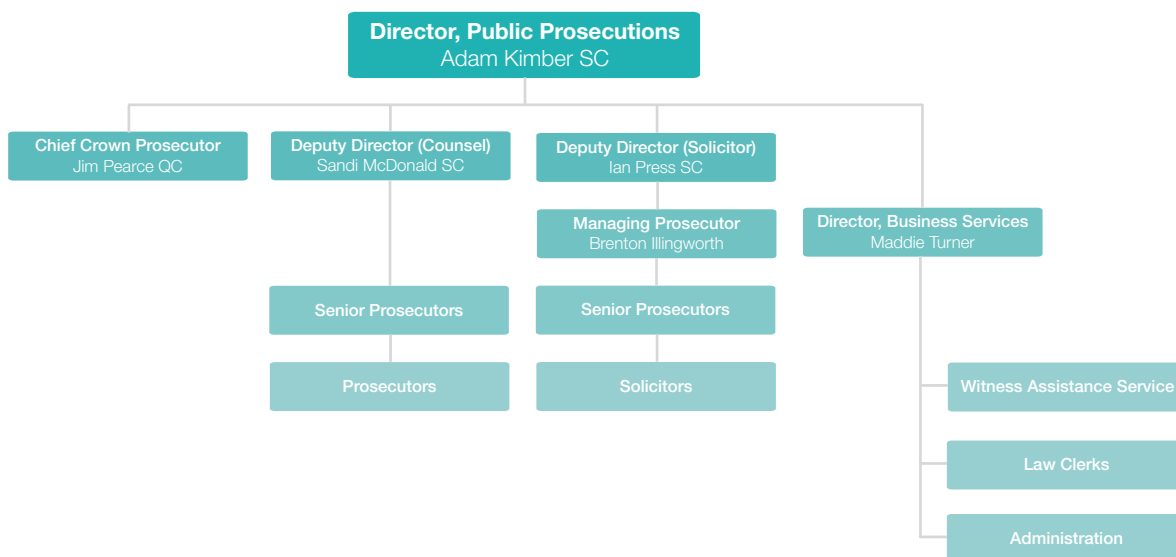
Role

The Director of Public Prosecutions is a statutory officer, independent of the Attorney-General’s Department, who initiates and conducts criminal prosecutions in the Magistrates, District and Supreme Courts of South Australia. The Director of Public Prosecutions also initiates and conducts appeals in the Full Court of South Australia and the High Court of Australia.

The objective of the Office of the Director of Public Prosecutions (‘the Office’) is to provide the people of South Australia with an independent and effective criminal prosecution service that is timely, efficient and just. The Office pursues this objective through application of the Director of Public Prosecutions’ guidelines. The benefit to the South Australian community is the provision of an effective prosecution service which is essential to the rule of law.

Organisational Structure

**Office of the
Director of Public Prosecutions**
Organisation Chart



Executive

The Executive Committee of the Office comprises the Director, the Deputy Director (Solicitor), the Deputy Director (Counsel), the Managing Prosecutor and the Director, Business Services (5 FTEs). The Executive Committee meet each month and has overall responsibility for the establishment, implementation and evaluation of the strategic direction of the Office. It also has responsibility for policy and determines responses to the important legal issues affecting the Office.

Solicitors' Section

The Solicitors' Section is the largest Section of the Office (54.6 FTE) and resolves around 80% of the files that commence as major indictable prosecutions in the Office. Solicitor work includes committals in the Magistrates Court in the metropolitan area, pre-trial hearings, preparation of files for trial, fraud and Drug Court matters, mental health orders and circuit court work conducted in the superior courts in Mt Gambier and Port Augusta. The solicitors appear in all criminal courts when submissions are made on guilty pleas, when disputed facts hearings proceed and in relation to permission to appeal and appeal arguments. Senior members of the Section also undertake appeal work in the Court of Criminal Appeal.

Overview from Deputy Director (Solicitor) Ian Press SC



Ian Press SC

Deputy Director (Solicitor) of Public Prosecutions

The past financial year has been amongst the busiest in the Solicitor Section's history. In addition to handling the usual workload of the Office, the Section has been required to provide dedicated lawyers to undertake the solicitor's work on a number of unusually large, protracted and complex prosecutions and enquiries. These matters include responses to the Commonwealth Royal Commission into Institutional Responses to Child Sexual Abuse, the prosecution of an increasing number of large drug syndicates and the prosecution of a number of police officers arising out of an ICAC investigation. Any one of these prosecutions would have placed a strain on an already busy Solicitor Section. As will be obvious from statistics elsewhere in the annual report, the number of prosecutions referred to the ODPP by SA Police this past year has not decreased from previous years. To the contrary, it has increased by more than 250 files to 2970. The receipt of these large, complex and sensitive prosecutions in addition to the normal workload has required the solicitors and the senior members of the Section to manage a very challenging work environment. I would like to take this opportunity to thank the staff and their managers for their efforts as they continue to try to ensure that the work of the Section meets the standards expected by the court and the community.

Notwithstanding the additional demands imposed by the above prosecutions, the Section has managed to maintain momentum with the reforms arising out of the Attorney-General's Criminal Justice Sector Reform Council which the Attorney-General established in July 2013. We have actively pursued early resolution on matters through our involvement in the Early Resolution Court and by working with defence counsel to maximise the use of the early guilty plea legislation and the courts efficiency legislation. This work has seen an increasing number of guilty pleas entered by defendants at an earlier time in the process. Such work reduces some of the distress to victims and avoids the delays and expense associated with matters being listed for trial in the superior jurisdictions of the Supreme Court and District Court of South Australia.

The Section has responded to several notices from the Commonwealth Royal Commission into Institutional Responses to Child Sexual Abuse. The Section has worked hard to provide immediate resources when required to ensure all relevant information, including historical files, are provide in a timely manner to the Commissioner.

Our role in the Youth Court unfortunately came to an end during this year and police have resumed conduct of the prosecution of all major indictable matters in that jurisdiction. The pilot was in our view a success, however resourcing issues prevented our further involvement.

The Section has taken part in the Chief Justice's eBrief Steering Committee to advance the electronic lodgement of briefs by this Office. Such a process will, it is hoped, save money and stream-line disclosure to defendants. Disclosure to defence by use of a USB stick has begun as a pilot. This will be the first step in a process of electronic lodgement. In a work environment that has historically relied heavily on hard-copies of documents, staff have been required to adapt their work practices. We are confident that we will make further significant advances with the forthcoming implementation of the Practice Management System.

The Court of Criminal Appeal has sometimes run for two weeks instead of one over the past 12 months. Approximately 130 appeals were heard during the year in that court. This has placed additional pressure on the Section and the Office. The large number of complex criminal trials and the loss of experienced staff have reduced the availability of staff from the counsel section to assume the conduct of appeals. Much of the appeal work has therefore fallen to the Solicitor Section. Again, I would like to acknowledge the work of the solicitors and the senior members of the whole of the Office for their efforts researching for the appeals, preparing the outlines of argument and appearing as counsel in relation to this critical work of the Office.

The next 12 months looks to be as challenging as the past financial year but I am confident that the Solicitor Section will continue to provide the effective and professional service that the community expects from our Office.

Confiscations Section

The *Criminal Assets Confiscation Act 2005* gives the Director of Public Prosecutions the power to seek to confiscate proceeds and instruments of crime. The staff of the Confiscations Section of the Office total 3.0 FTE. The staff undertake the necessary work in order to effect outcomes under the Act such as:

- Making application to the court for restraining orders over property to ensure that it is not disposed of during the course of criminal proceedings;
- Making application to the court for forfeiture orders in which property which is the proceeds of an offence, or was used in connection with the commission of an offence, can be forfeited; and
- Making application for pecuniary penalty orders in which a monetary sum is paid to the Victims of Crime Fund based on the value of benefits received from the commission of an offence or the value of property used in connection with the commission of an offence.

In 2014-15, the work of the Confiscations Section of the Office led to the deposit of \$1,161,617 into the Victims of Crime Fund.

Criminal Assets Confiscations	2014-15	2013-14	2012-13
Briefs Received	271	283	218
Briefs Finalised	236	269	247
Deposited to Victims of Crime Fund	\$1,161,617	\$1,697,319	\$2,320,296

Counsel Section

The Counsel Section comprises 22.8 FTE (including the Chief Crown Prosecutor) and undertakes the prosecution of the most serious criminal pleas and trials within the District and Supreme Courts. In addition to the Director, Deputy Director (Solicitor) and Deputy Director (Counsel), senior members of the Counsel Section may also undertake appeal work in the Court of Criminal Appeal and in the High Court of Australia. The Chief Crown Prosecutor works closely with the Counsel Section.

Overview from Deputy Director (Counsel) Sandi McDonald SC



Sandi McDonald SC
Deputy Director (Counsel) of Public Prosecutions

Over the past 12 months the Counsel Section has faced a number of major challenges which, when considered in combination, have resulted in great demands on the trial prosecutors and particularly the more senior members of the team. The life of an ODPP prosecutor is never an easy one but the events of the last 12 months have meant that we have asked more and more of our people. They have responded by continuing to conduct the serious criminal trials of this state with professionalism and integrity. For that I thank them. One can never underestimate the toll of dealing each day with someone's tragedy or loss; of standing up and advocating for a proper outcome in a criminal trial. That is what my prosecutors do. For the duration of each trial they immerse themselves entirely in a situation in which someone's or some people's lives have been, and will be, irrevocably changed. Then when they finish that one, they dust themselves off and face the next. There are few careers in which the challenges and the rewards could be greater. I am proud of my people and the work that they do in difficult circumstances. It would be easy to focus on the negatives of the last 12 months. I instead intend to focus on the positives.

The Counsel Section has been significantly understaffed over the last 12 months. The main reasons for that have been the loss of a number of prosecutors and the absorption of a number of large prosecutions by the Section.

A constant issue for the Counsel Section is the retention of prosecutors with appropriate experience and ability. In a sense the Office creates this problem for itself. The Office provides such an excellent training ground and support for our prosecutors that they are constantly sought after by other organisations and agencies. Over the last 12 months we have lost members of the Counsel Section to the Magistracy, the Legal Services Commission, ICAC, the Child Protection Systems, Royal Commission and the Independent Bar. Hopefully a number will return back to the Section but those who do not take with them the experience and training provided to them in their time at the ODPP.

The second reason that I provided for the reduction in number of trial prosecutors available to the Office is the absorption of three unusually large matters by the Section. Two members of the Counsel Section are working exclusively on the retrial of *R v Keogh*, two are extensively involved in the prosecution of 11 members of the Nomads Outlaw Motorcycle Gang for various serious and organised crime offences and 4 are solely devoted to the prosecution of *R v Pfennig* involving the 1983 murder of Louise Bell. I personally am involved in the latter of these two matters. Whilst they obviously have an impact on resources they also provide those who work on them an opportunity to be involved in some of the most complex and serious criminal trial work. By committing such

talented and experienced prosecutors to these matters we are ensuring that the Office provides the State with the best service possible in relation to these important cases.

Whilst over recent months there has been an attempt by the media to portray a poor relationship between SA Police and the ODPP, from my perspective and that of my Section there continues to be a healthy, collaborative working relationship between the prosecutors and the members of SA Police with whom they work so closely. If anything over time those relationships have improved. In some complex matters senior members of the Counsel Section have been working collaboratively and providing early advice to investigators to ensure that these matters are prosecuted expeditiously and efficiently as possible. At the end of every murder trial a debriefing is carried out at the Major Crime Branch. These meetings are a new development and only commenced in the last 12 months. In attendance at each of those debriefings are the police and prosecutors who were involved in that case as well as myself, Detective Superintendent Des Bray and Detective Inspector Greg Hutchins. The intent behind the debriefings is to attempt to ensure that we continue to learn from and improve as a group moving into future murder trials.

Every day in the Counsel Section I see positive, healthy working relationships between prosecutors and SA Police investigators. Those relationships are based on mutual respect and understanding of the important role that each plays.

When I first commenced at the ODPP there were very few women working in the Counsel Section. It was seen as man’s work. Over the years the number of women has increased significantly however, there remains an ongoing issue with women continuing to work as trial counsel with a young family. The plain fact of the matter is that as things currently stand the trial courts sit five days a week and once a trial commences it runs to conclusion. That of course makes it extremely difficult for a person who wants or needs to work part-time to take up such a role.

I am committed to exploring different ways in which we can make it possible for women with young children to continue on with their careers in the Counsel Section. At the moment we have in place a flexible work arrangement for two of the female prosecutors in the Section. A third was planned and discussed but didn’t come into fruition for unrelated reasons. I am of the view that it just cannot be that for a woman to work as trial counsel they must make a decision to work full-time. For some families that might work, for others it won’t. I hope over the next few years we can continue to trial and explore further ways in which to achieve flexibility that will enable women in the section to avoid being forced to make a decision between family and career. Maybe ultimately that will be reflected in greater gender balance in judicial appointments.

It has been a difficult year. Next year is unlikely to be much easier. I think it’s important to take the time to stop and remember what important work we do and of the quality of the service that the Counsel Section provides.

I want to finish by saying that I know the members of the Counsel Section feel privileged to carry out the work that they do. In turn I think that the community is privileged to be represented by such committed, talented and hard working group of people.

Briefing Out

It has long been the practice of the Office to brief members of the independent bar to conduct trials in circumstances in which there is no Office prosecutor available. Significant work was undertaken in 2012-13 and 2013-14 to reduce the cost to the Office of briefed out work. However, in the latter half of 2013-14 it became increasingly difficult to maintain a level of Office trial prosecutors to cover all trials conducted in the Supreme and District Courts. This trend has continued into 2014-15, with a sharply increasing level of briefed out matters that is likely to continue for at least the first half of 2015-16. In part, this is due to the commitment of internal counsel to a number of complex matters.

The following table provides a summary of matters briefed over the last five years:

Year	2010-2011	2011-2012	2012-2013	2013-2014	2014-2015
Number of matters	234	118	118	76	185
Total Cost	\$948,267	\$542,668	\$492,876	\$375,731	\$730,850

Business Services Section

The Business Services Section of the Office is managed by the Director, Business Services. The Section comprises a number of administrative teams including the Witness Assistance Service (WAS), law clerks, secretaries, and administrative staff. Overall, the Section is responsible for human resource management, financial services, information management, work, health and safety, administrative policy and procedures, procurement, records management, risk management and a range of other specific legal support functions such as law clerks, secretarial, reception and rounds delivery.

There are currently 26.7 FTE law clerks within the Office, managed by a Law Clerk Manager, and two team leaders. General administrative staff within the Business Services Section comprise 12.7 FTE.

Secretarial staff number 3.6 FTE and are supervised by the Administration Co-ordinator. The model used by the Office is that of a secretarial pool where all typing work is centralised and prioritised. The majority of typing requirements for solicitors involve complex court documents, general typing, as well as work for the Witness Assistance Service.

Overview from the Director, Business Services

Some projects undertaken within the Business Services Section during 2014-15 include:

Law Clerk Review and Classification

In this financial year, the Office implemented outstanding recommendations from the 2012-13 Office Administrative Services Review. More specifically, this involved a review of all law clerk job and person specifications and an assessment of classification of all law clerk roles. This has been a large project in which significant consultation has occurred with law clerks across the Office. The outcome of the project will be finalised in early 2015-16 but the work done to date clearly provides greater clarity around roles and responsibilities of law clerks, and also provides agreed performance indicators for each role that will link into the performance development and review process.

Wellbeing Checks

The ODPP has developed a pilot program of Wellbeing Checks to provide an alternative strategy to ensure that our staff are working in a safe and healthy environment. In particular, Wellbeing Checks are to assist staff in the management of their health in a work environment where they can be exposed to distressing and confronting material. Staff also have access to a general Employee Assistance Program (EAP). The pilot program will offer a finite number of Wellbeing Checks to staff, and dependant upon the uptake of these sessions, further sessions will become available. The sessions are confidential. It is hoped that staff may consider undertaking an annual Wellbeing Check as a proactive part of managing their own health and wellbeing. An assessment of the pilot project will be undertaken in 2015-16.

Website Upgrade

During 2014-15, the Office undertook a project resulting in a significant upgrade of the external website (www.dpp.sa.gov.au). The new website will be launched in October 2015, but all information on the site has been reviewed and updated. The hosting platform for the site has been upgraded and will now facilitate online applications for work experience and student placement, and in the future, will provide podcasts and videos as an alternative form of information delivery to the public. Examples include a virtual court tour.

Printing Resources

In April 2015, the Office took delivery of five new multi-function devices (photocopier/scanner/printers) which replaced aged and inefficient photocopiers across the Office. In addition to the savings that are anticipated from a reduced rate of printing per page, the Office has also undertaken planning to reduce the number of stand alone printers as a result of using "follow-

me” printing from the multi-function devices. This functionality provides staff with complete confidentiality in their printing by allowing them to collect their printing from any device across the Office. Printing of all jobs under their name will be activated by swiping staff access cards on the relevant machine. This will further eliminate paper wastage from printing to incorrect machines and forgetting to collect printing jobs. Follow-me printing will be implemented in early 2015-16.

Witness Assistance Service (WAS)

The Witness Assistance Service (WAS) provides a range of targeted services and supports to victims of crime, witnesses for the prosecution, and their immediate family members who are involved in the most serious criminal matters being prosecuted by the State. These people may be especially vulnerable due to the type and nature of the criminal offences involving them and/or as a result of their personal circumstances. The WAS staff ensure that all of their clients have access to information and support services and are aware of their rights and responsibilities when dealing with the criminal justice system. Information, education, support and referral services are also provided to those living in regional and remote areas.

In 2014-15, there were 9.8 FTE in the WAS team, comprising the Manager and senior social work professionals (Witness Assistance Officers). That staffing complement included 3.6 FTE designated child officer roles funded from the Office of the Commissioner for Victims’ Rights. WAS staffing decreased overall from 11.6FTE in the previous financial year as part of the Office contribution to government savings efficiencies, and this reduction in staffing resources resulted in some reassessment of, and change, in the priority of matters dealt with by the WAS.

Overview from the Manager, WAS

During 2014-15, new referrals to WAS decreased marginally by 5% compared to the previous financial year (a total of 922 compared to 966). This is partly a reflection of changes made to the referral and allocation criteria in response to reduced staff resourcing of the WAS. The WAS reduced services to victims in matters rated as Priority 3 which includes Aggravated Assault, Aggravated Theft, Aggravated Robbery, Threaten to Kill, Endanger Life, Cause Harm and Aggravated Serious Criminal Trespass. In 2013-14, Priority 3 matters accounted for 30% of the WAS workload.

The effect of changing the priority of services provided by the WAS is likely to have been far more visible but concurrently, during the 2014-15 financial year, the WAS experienced an unexpected influx of serious domestic and family violence matters. These referrals represented 40% of all new referrals in comparison to the previous financial year of 15%. The increase in these types of matters is the likely result of changes to the SA Police charging practices and an increased WAS focus on such matters. These matters require both a significant legal and support focus, given the level of ongoing risk faced by many victims. Hence as a result, although Priority 3 matters were no longer dealt with by WAS, the increase in domestic and family violence matters resulted in only a 5% decrease in overall referrals.

Adult referrals decreased by 2% during the financial year (636 compared to 649 in 2013-14) and child referrals decreased by 10% (286 compared to 317 in 2013-14).

Overall, face-to-face services and supports provided to victims and witnesses fell by 17% in comparison to the number of services provided during 2014-15. Similarly, the time spent providing those services also significant decreased by 29% in comparison to 2013-14. The most notable decrease in face to face services was for court companionship (63% decrease between financial years). This is once again the result of the review and change in priority of services provided by the WAS and an increased reliance on Victim Support Services to provide the court companionship service. In addition, WAS assistance with preparation of victim impact statements decreased by 42% in the 2014-15 financial year compared to the previous year. This might be attributed to the reduction in service provision to Priority 3 matters where conviction rates and pleas are more likely than in other categories of matters.

As outlined in the 2013-14 Annual Report, in June 2015 the South Australian WAS hosted the national Witness Assistance Service Conference which is held biennially. Further information about this event is provided at page 14.

As part of its Strategic Goals for 2014-15, the Office committed to undertaking a review of the WAS to ensure that it continues to provide valuable services within a changing criminal justice environment. The internal review commenced in mid-June 2015 and will examine, analyse and make recommendations to the ODPP Executive Committee in relation to the scope, level and value of services to be provided by WAS in the future. It will also consider better use of technology in streamlining processes and optimising the WAS distribution of victim and witness information and support service. Both internal and external WAS stakeholders will be consulted for input into the review. The review is scheduled to be completed by the end of October 2015.

Legislation, Directions and Compliance Reporting

Legislation

The Office of the Director of Public Prosecutions is established under and governed by the *Director of Public Prosecutions Act 1991*.

Directions under *Director of Public Prosecutions Act 1991*

Directions from the Attorney-General

There were no directions or guidelines given by the Attorney-General to the Director of Public Prosecutions pursuant to section 9 of the *Director of Public Prosecutions Act 1991* during the 2014-15 financial year.

Directions to the Commissioner of Police

There were no directions issues to the Commissioner of Police by the Director of Public Prosecutions pursuant to section 11 of the *Director of Public Prosecutions Act 1991* during the 2014-15 financial year.

Listening and Surveillance Devices Act 1972

In December 2012, the *Listening and Surveillance Devices Act 1972* was amended so that applications did not require approval from the Office.

Pursuant to section 12(1) of the *Director of Public Prosecutions Act 1991*, the Office considered no applications for warrants under the *Listening and Surveillance Devices Act 1972*.

General Compliance

Freedom of Information

The Office is an “exempt agency” for the purposes of the *Freedom of Information Act 1991*.

Overseas Travel

From late February to mid-March 2015 two staff visited The Hague in the Netherlands in relation to the prosecution of a sensitive matter, at a total cost to the Office of \$5,545.

Reporting on the following aspects of the Office is contained within the South Australian Attorney-General’s Department Annual Report for 2013-14.

- | | |
|--|--|
| 1. Management of Human Resource Information | 11. Reporting Against the <i>Carers Recognition Act 2005</i> |
| 2. Employee Numbers, Gender and Status | 12. Disability Access and Inclusion Plans |
| 3. Executives | 13. Asbestos Management in Government Buildings |
| 4. Leave Management | 14. Urban Design Charter |
| 5. Workforce Diversity | 15. <i>Whistleblowers Protection Act 1993</i> |
| 6. Voluntary Flexible Working Arrangements | 16. Energy Efficiency Action Plan Reports |
| 7. Leadership and Management Development | 17. Greening of Government Operations Framework |
| 8. Accredited Training Packages | 18. Regional Impact Assessment Statements |
| 9. Employment Opportunity Programs | 19. Financial Performance |
| 10. Work Health and Safety and Injury Management | 20. Contractual Arrangements |
| | 21. Fraud Consultants |

Strategic and Future Directions of the Office

Criminal Justice Sector Reform Council

In July 2013, the Criminal Justice Sector Reform Council (CJSRC) was formed, comprising heads of all relevant Criminal Justice Sector (CJS) organisations, including the ODPP. In addition, the Chief Justice, Chief Judge and Chief Magistrate are observers to CJSRC meetings. The Attorney-General chairs the CJSRC. The CJSRC aims to support initiatives that will deliver outcomes across the criminal justice system that improve service delivery, ensure that the service is fair and just, increase public confidence and efficiency, and where possible, reduce costs.

The CJSRC continues to provide an important focus into the Office's strategic direction for the future.

The Office continues to develop and lead the Early Resolution Project, which is one of the five initial major reform projects selected by the CJSRC.

Another of the CJSRC initial major reform projects was the establishment of the Criminal Justice Information Management (CJIM) Project which has worked over the last 18 months to improve the exchange, timeliness and accuracy of justice information to give decision-makers access to the right information at the right time to deliver more efficient and just outcomes. The Office works in partnership with the CJIM Project on all of its current technology and information management initiatives, including the Prosecution Management System, Country Court Committals and tablet devices/Online Lunn projects (see page 24 for more information on these initiatives). This collaboration ensures that the solutions implemented for the Office not only meet business needs but also facilitate information exchange between CJS agencies (such as the Office and SA Police) that is uninterrupted, consistent, accurate and efficient.

Strategic Planning and Organisational Goals: 2015-16

In the latter half of 2014-15, the Executive Committee undertook a strategic planning exercise to identify projects and priorities for the coming financial year (2015-16). The agreed strategies are documented within the Office Business Plan. Outcomes include:

- Continuing to work with the Criminal Justice Sector Reform Council (CJSRC) in relation to efficiency and reform projects. In particular, the Office will lead a project to evaluate the benefits of transferring responsibility for circuit and country committals to the ODPP;
- As part of the ODPP Prosecution Management System Project, developing a functional specification which reflects the Office's business requirements and approaching the market in an open tender process to determine a system for purchase and implementation;
- Undertaking a pilot program of Wellbeing Checks to support Office staff who are exposed to violent/distressing/sensitive material on an ongoing basis, to assist them to build resilience and ensure that they are working in a safe environment;
- Investigating and developing the scope of the role of the Legal Education Officer to ensure the Office provides appropriate training and development to its legal staff and to continue to implement knowledge management strategies using the Online Guide as a key information repository across the Office.

Legislative Changes relevant to the ODPP

Bail Act 1985

Amended by:

- *Statutes Amendment (Arrest Procedures and Bail) Act 2013*
 - Commencement Pt 2 (ss 4-13) & Sch 1 - 1 October 2014

Criminal Law Consolidation Act 1935

Amended by:

- *Criminal Law Consolidation (Sexual Offences – Cognitive Impairment) Amendment Act 2014*
 - commencement 30 March 2015
- *Statutes Amendment (Attorney-General's Portfolio) Act 2014*
 - commencement Pt 4 (ss 6 - 10) - 1 April 2015

Criminal Law (Sentencing) Act 1988

Amended by:

- *Criminal Law (Sentencing) (Character Evidence) Amendment Act 2014*
 - Commencement 3 August 2014.
- *Criminal Law (Sentencing) (Suspended Sentences) Amendment Act 2014*
 - Commencement 2 November 2014
- *Statutes Amendment (Attorney-General's Portfolio) Act 2014*
 - Commencement Pt 5 (s 11) - 11 December 2014

Evidence Act 1929

Amended by:

- *Evidence (Identification Evidence) Amendment Act 2013*
 - Commencement 7 July 2014

Criminal Investigation (Covert Operations) Act 2009

Amended by:

- *Independent Commissioner Against Corruption (Miscellaneous) Amendment Act 2014*
 - Commencement Sch 1 (cl 1) - 27 November 2014

Summary Offences Act 1953

Amended by:

- *Statutes Amendment (Arrest Procedures and Bail) Act 2013*
 - Commencement Pt 3 (ss 14 - 17) - 1 October 2014
- *Statutes Amendment (Attorney-General's Portfolio) Act 2014*
 - Commencement Pt 7 (s 13) - 1 April 2015

Performance and Achievements

Office Achievements

Hosting of the National Witness Assistance Service Conference

One of the highlights of the year was the opportunity for the WAS to host the National Witness Assistance Service Conference in June 2015. This conference is held biennially and is attended by managers and staff from Witness Assistance Services within Public Prosecution agencies across various states, Territories, the Commonwealth as well as Child Witness Services in Victoria and Western Australia.

The aim of the conference is to keep abreast of national issues, initiatives and service trends. It is a forum to discuss models of service delivery, practice expertise and discuss issues of national relevance.

The conference theme focussed on “Practice, Policy and Politics” and how these areas currently impact on WAS service delivery. Guest speakers included Mr Michael O’Connell, Commissioner for Victims Rights, who presented on national and international trends in victim assistance and Dr David Plater and Ms Emily Harper who presented how best to obtain evidence from vulnerable victims and witnesses in Australia’s criminal justice system. There were also a number of papers presented by Witness Assistance Officers from around the country.

A number of themes were addressed during the conference including the provision of services to regional and remote communities, developments in managing risk in domestic and family violence practice, the practice and use of intermediaries with vulnerable victims and WAS workloads, case demands and practice priorities.

The conference was extremely well attended and highly successful. It showcased the important work being undertaken across the nation and the focus for WAS services in the future. It was a significant achievement for the South Australian WAS and the Office.

Early Resolution Project

In October 2011, the Attorney-General established the Major Indictable Briefs Review Committee to inquire into, and make recommendations for change to current practices, procedures and legislation with respect to major indictable briefs. A 12 month pilot program in the Holden Hill Magistrates Court was subsequently undertaken by the Office which aimed to expedite the resolution of matters that could reasonably be expected to resolve within the committal jurisdiction, in order to address the significant number of matters that currently resolve late in the process by a guilty plea or as a result of the withdrawal of charges.

Early resolution of matters is supported by recent legislative changes including the *Criminal Law (Sentencing) (Guilty Pleas) Amendment Act 2012* which encourages defendants to plead guilty at an earlier stage and the *Statutes Amendment (Courts Efficiency Reforms) Act 2012* which is aimed at increasing the utilisation of the Magistrates Court.

To build on the results of the pilot program the Major Indictable Early Resolution Process was developed by the Criminal Justice Information Management (CJIM) Project Team, in partnership with the Office, after extensive consultation with the criminal justice sector organisations. The first matter in the Major Indictable Early Resolution list was heard on 10 March 2015. As at 5 June 2015, there have been 26 matters selected for early resolution, three of which are currently on-going and four which were not able to progress due to non-attendance of the defendant.

There have been no significant issues in relation to the project. SA Police has been extremely proactive with regard to this process and have been very prompt in providing information requested by ODPP for early resolution matters. All stakeholders, including SA Police, Courts, Legal Services Commission, Department of Correctional Services and private defence counsel have been supportive of the initiative to date.

The Early Resolution Project Board approved the continuation of this project in June 2015. Work to identify the benefits realised across the CJS as a result of the Early Resolution Project will be undertaken over the next financial year and will be used to inform the decision as to whether or not the project should continue.

Country Court Committals

In 1994, a Working Party chaired by the Chief Judge identified potential savings to the criminal justice system if the ODPP intervened in the committal process prior to the point of committal. The establishment of a similar process in other States had resulted in the reduction of at least 20% of matters proceeding to trial. A pilot study was established and the results were encouraging. Results indicated significant benefits as a consequence of the Office's involvement in the committal process. As a direct consequence of this involvement, \$5 million in additional costs had been saved, resulting in Cabinet funding the ODPP to undertake metropolitan committals. However, circuit and country court committals continued to be the responsibility of SA Police.

The country committal courts currently serviced by SA Police are Kadina/Clare, Murray Bridge and Berri. The ODPP takes conduct of these matters after they are committed to the District or Supreme Courts.

In April 2015, the CJSRC approved a project, led by the Office, to evaluate the benefits of transferring responsibility for circuit and country committals to the ODPP. The project aims to deliver a Feasibility Report to the CJSRC by the end of November 2015. The Feasibility Report will examine existing processes and volumes of circuit and country committals, impacts on agencies and organisations, and undertake a cost benefit analysis for transferring the function from SA Police to the ODPP. It will recommend to the CJSRC the most appropriate model for consideration.

The project seeks to provide improved criminal justice services for victims, witnesses and accused whose matters are dealt with outside the metropolitan area and earlier identification of appropriate resolutions for such matters. The project may also benefit from existing justice sector reforms such as the Early Resolution Court, the Guilty Plea Discount legislation and the Court's Efficiency legislation.

Online Guide Development

Many staff in the ODPP have worked in the organisation for many years and have developed processes, precedents and collections of information that are invaluable to all staff. To capture this information and boost efficiency, the Office is developing an Online Guide to legal and business information for staff.

The Office's target in 2014–15 was to build this online resource. It updated its intranet to a more contemporary platform and the guide is now available on that intranet. Documents added to the Online Guide included practice notes, advices and legal topics of interest, new court judgements, and forms and templates that are issued by courts. A team of law clerks developed the online version of the Law Clerk Manual which is now published on the intranet. While progress is evident, business improvement of this sort requires resources and time, which has been challenging with increasing workloads in 2014–15.

Witness and Victim Feedback

Since March 2010, the Office has routinely received feedback through a hard copy survey which is provided to each victim, witness and members of their immediate families to whom the Witness Assistance Service provided support. The primary aim of the Office Customer Feedback Survey is to formally measure and evaluate customer's experience of the WAS service standards that the Office aims to meet and uphold. The key service standards include:

- Service quality
- Professionalism of staff
- Being informed/updated on progress of the case
- Provision of information about the legal process

- Timeliness of information and updates
- Access to information and supports

In the 2014-15 financial year, the Office issued a total of 350 surveys seeking witness and victim feedback on the services that they received from the Office. Sixty seven responses were received, which is a return rate of 19%. This is an improved rate on the 2013-14 response of 14%.

From 2010 to date 2,650, WAS surveys have been issued with 470 replies received (a steady return rate of 18.0%). Some general statistics include:

- 73% reported involvement with the ODPP for a period greater than 12 months;
- 72% of survey respondents are adult females;
- 76% of survey respondents are direct victims of crime who have involvement in:
 - Sexual related offences (52%)
 - Personal harm related offences (25%)
 - Other serious/violent offences (6%)
- Other respondent categories include:
 - Family members of homicide and fatal driving offences (8%)
 - Parents of child victims of sexual offences (16%)

WAS Survey responses in 2014-15 are tabulated below and provided in comparison to the previous financial year:

Criteria	% Respondents who responded as "Agree" or "Strongly Agree"	
	2014-15	2013-14
ODPP staff being professional at all times	98%	93%
Having the legal process explained	91%	91%
Receiving a high quality of service	88%	85%
Being informed/updated about the progress of the prosecution case	89%	83%

These results are extremely pleasing as they show increasing satisfaction in performance against key indicators. Before their interaction with the Office, 75% of respondents rated their impression of the ODPP as "Neutral" or "Negative". After dealing with the Office in relation to their matter, 90% of respondents rated their impression of the Office as "Positive" or "Very Positive".

Continuing Legal Education Program (CLE)

The Office has continued its comprehensive program of continuing legal education (CLE) in 2014-15. The Office CLE Committee facilitated a program providing a broad range of topics for solicitors and prosecutors of the Office. Their attendance at these sessions satisfy the requirements of the national Mandatory Continuing Professional Development scheme.

The majority of the CLE program draws on the depth of knowledge and experience of the Office's senior practitioners, and from time to time, specific subject matter experts are sourced externally.

Topics presented included Trial Basics Part 1 and Part 2, Role of the Coroner's Court, Public Interest Immunity, Internet Child Exploitation and Offender Rehabilitation. A total of 12 CLEs were presented in 2014-15 with an average attendance rate of 39 legal staff per session.

In addition, the Attorney-General, the Judiciary, members of SA Police, members of the independent bar and the staff of the Forensic Science SA have all generously contributed their time to prepare and present CLE sessions to staff.

The CLE Committee, which comprises, executive, legal and non-legal staff of the Office, has donated many hours of its time to ensure the continued success of the program.

Individual Achievements

Paul Rofe Award

In May 2013, South Australia's first Director of Public Prosecutions, Mr Paul Rofe QC, passed away. The Office established the Paul Rofe Memorial Award to honour Mr Rofe's name and reputation, and to recognise his service and contribution to the Office, the legal profession and the South Australian community. Recipients of the Paul Rofe Award represent the Office values of strength, justice, compassion and excellence.

The award is presented annually and is inclusive of all Office staff. Nominations by Office staff are considered by a selection panel which represents a cross section of managerial, non-managerial, legal and administrative staff. The panel considers nominations in the context of leadership, support to colleagues, service to the Office, having a noted impact on others, and for outstanding performance of their duties, thus recognising both day to day and extraordinary achievements of staff. The Director considers the recommendation of the selection panel and makes the final determination.

The 2015 recipient was Ms Lisa Dunlop, Prosecutor within the Counsel Section of the Office.

Senior Counsel

In September 2014, the Chief Justice, The Honourable Chris Kourakis SC, announced the appointment of Mr Ian Press, Deputy Director (Solicitor) as Senior Counsel. Mr Press, who has held the position of Deputy Director since September 2012, was one of six new Senior Counsel appointments announced at this time.

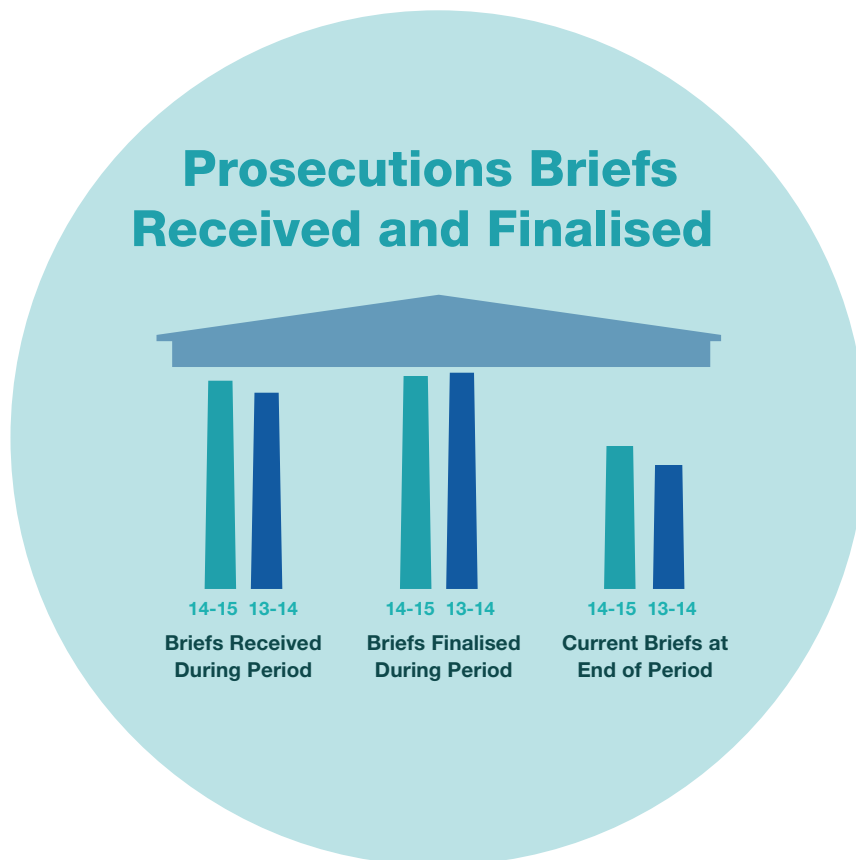
Mr Press began his legal career at the Legal Services Commission after being admitted as a practitioner in the Supreme Court of South Australia in December 1989. He was admitted to the High Court in September 1995. Since joining the Office in 2000, Mr Press has held increasingly senior prosecutorial and managerial positions.

Key Performance Indicators

Prosecutions Briefs Received and Finalised

	2014-15	2013-14
Briefs Received During Period	2977	2693
Briefs Finalised During Period	2736	2750
Current Briefs at End of Period	2090	1882

Please note that the 'Briefs Finalised' during the reporting period do not correlate directly with the 'Briefs Received' during the reporting period. The time that lapses between the receipt of a prosecution brief in the Office, and the finalisation of that brief in the District or Supreme Court can be as much as twelve months or more. Therefore, a percentage of the 'Briefs Finalised' will have been received in a previous reporting period, and a percentage of the 'Briefs Received' will be finalised in a future reporting period.



**Prosecutions
Briefs Outcomes**
District and Supreme
Courts



Adelaide
2014-15



Circuit*
2014-15



Adelaide
2013-14

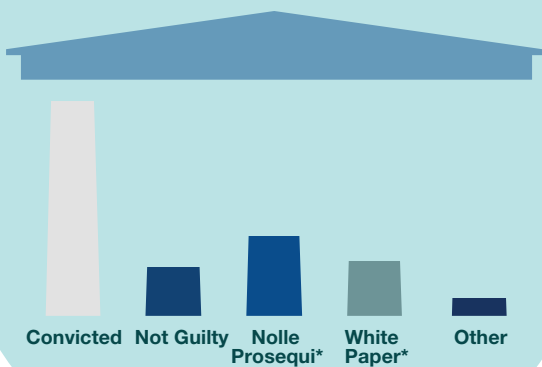


Circuit*
2013-14

Outcomes

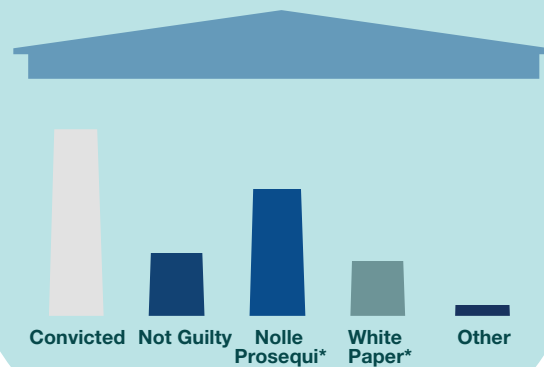
Convicted	591	62.81%	81	48.80%	699	66.70%	48	34.53%
Not Guilty	70	7.44%	20	12.05%	74	7.06%	7	5.04%
Nolle Prosequi*	164	17.43%	44	26.51%	192	18.32%	22	15.83%
White Paper*	89	9.46%	19	11.45%	54	5.15%	58	41.73%
Other	27	2.87%	2	1.20%	29	2.77%	4	2.88%
Total	941	100%	166	100.00%	1048	100.00%	139	100.00%

Adelaide



Brief Outcomes 2014-15

Circuit*



Brief Outcomes 2014-15

Note: * =
Circuit: District/Supreme Court sittings on a regular basis at Pt Augusta and Mt Gambier.
Nolle Prosequi: A decision by the DPP not to proceed with the prosecution. The formal recording of that decision by the court. This decision is taken when it is indicated as appropriate by the Statement of Prosecution Policy and Guidelines.
White Paper: Court document lodged following a decision by the DPP at the arraignment stage not to proceed with some or all charges.

Trial Outcomes

District and Supreme Courts - Outcomes of Trials that Proceeded



Adelaide
2014-15



Circuit*
2014-15



Adelaide
2013-14



Circuit*
2013-14

Trial Outcomes

	Adelaide 2014-15	Circuit* 2014-15	Adelaide 2013-14	Circuit* 2013-14
Convicted				
Guilty Verdict	142 47.97%	15 38.46%	137 48.58%	10 40.00%
Guilty Plea at / During Trial	37 12.50%	0 00%	33 11.70%	2 8.00%
Not Guilty				
Not Guilty	66 22.30%	18 46.15%	51 18.09%	5 20.00%
Nolle Prosequi*	12 4.05%	1 2.56%	19 6.74%	3 12.00%
Other				
Hung Jury	9 3.04%	1 2.56%	4 1.42%	0 0.00%
Mistrial	22 7.43%	2 5.13%	17 6.03%	4 16.00%
Not Guilty - Mental Incompetence	0 0.00%	0 0.00%	9 3.19%	0 0.00%
Other	8 2.70%	2 5.13%	12 4.26%	1 4.00%
Total Trials Finalised	296 100.00%	39 100.00%	282 100.00%	25 100.00%

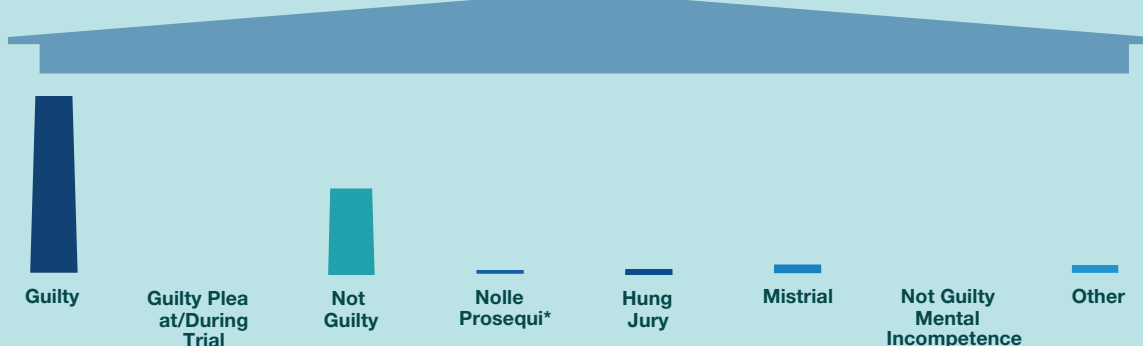
Adelaide

District and Supreme Court Trial Outcomes 2014-15



Circuit*

District and Supreme Court Trial Outcomes 2014-15



Note: * =

Circuit: District/Supreme Court sittings on a regular basis at Pt Augusta and Mt Gambier.

Nolle Prosequi: A decision by the DPP not to proceed with the prosecution. The formal recording of that decision by the court. This decision is taken when it is indicated as appropriate by the Statement of Prosecution Policy and Guidelines.

White Paper: Court document lodged following a decision by the DPP at the arraignment stage not to proceed with some or all charges.

Trial Outcomes

District and Supreme Courts - Reasons for Vacated Trials



Adelaide
2014-15



Circuit*
2014-15



Adelaide
2013-14



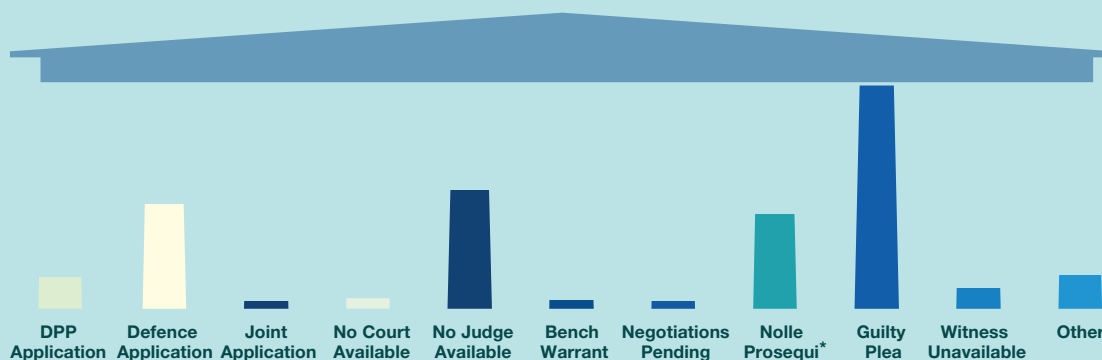
Circuit*
2013-14

DPP Application	39	5.35%	6	8.00%	32	4.62%	4	7.69%
Defence Application	117	16.05%	7	9.33%	91	13.13%	7	13.46%
Joint Application	11	1.51%	0	0.00%	9	1.30%	6	11.54%
No Court Available	11	1.51%	8	10.67%	10	1.44%	3	5.77%
No Judge Available	132	18.11%	5	6.67%	104	15.01%	2	3.85%
Bench Warrant (on Day / Prior)	5	0.69%	1	1.33%	6	0.87%	1	1.92%
Negotiations Pending	3	0.41%	0	0.00%	1	0.14%	1	1.92%
Nolle Prosequi* (on Day / Prior)	100	13.72%	18	24.00%	88	12.70%	9	17.31%
Guilty Plea	254	34.84%	25	33.33%	303	43.72%	16	30.77%
Witness Unavailable	21	2.88%	0	0.00%	17	2.45%	3	5.77%
Other	36	4.94%	5	6.67%	32	4.62%	0	0.00%

Total Trials Vacated 729 100.00% 75 100.00% 693 100.00% 52 100.00%

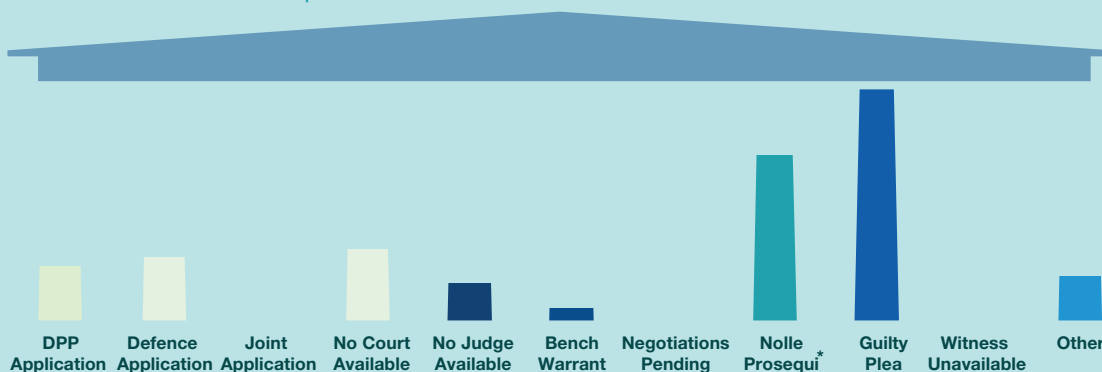
Adelaide

District and Supreme Courts - Reasons for Vacated Trials 2014-15



Circuit*

District and Supreme Courts - Reasons for Vacated Trials 2014-15



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White Paper: Court document lodged following a decision by the DPP at the arraignment stage not to proceed with some or all charges.

Appeals

Crown Appeals	Against Sentence		Against Conviction		Other Grounds	
	2014-15	2013-14	2014-15	2013-14	2014-15	2013-14
Allowed	5	1	0	0	0	0
Dismissed	4	1	0	0	1	0
Withdrawn / Abandoned	1	2	0	0	1	0
Total Crown Appeals Decided	10	4	0	0	2	0

Defence Appeals	Against Sentence		Against Conviction		Other Grounds	
	2014-15	2013-14	2014-15	2013-14	2014-15	2013-14
Conviction Quashed	0	0	11	19	0	0
Sentence Reduced	27	14	0	0	0	0
Appeal Dismissed	23	25	21	26	0	1
Other Outcome	4	0	3	2	1	1
Total Defence Appeals Decided	54	39	35	47	1	2

Leave to Appeal Applications	By DPP Against Sentence		By Defence Against Sentence		By Defence Against Conviction	
	2014-15	2013-14	2014-15	2013-14	2014-15	2013-14
Abandoned / Withdrawn	0	0	9	7	8	2
Dismissed	0	0	21	6	15	13
Sentence Reduced	0	0	0	0	0	0
To CCA	0	0	59	50	35	45
Other	0	0	0	0	0	0
Total Applications	0	0	89	63	58	60

Adjudication Outcomes

Adjudication Outcomes	2014-15		2013-14	
Charge Major Indictable	2190	87.60%	1899	88.12%
Charge Minor Indictable	182	7.28%	158	7.33%
Charge Summary	67	2.68%	64	2.97%
Do Not Lay Charges	30	1.20%	19	0.88%
Other	31	1.24%	15	0.70%
Total Adjudications Finalised	2500	100%	2155	100.00%

Systems and Innovation

The Office continues to review existing business processes to identify opportunities to create improvements in efficiency and outcomes. Staff are encouraged to examine their work practices and participate in developing new and modifying existing work practices. Increasingly, new technologies are being explored to provide quicker access to, and improved accuracy of, business information. The Office is well supported by the AGD Information and Communication Technology (ICT) Branch and Criminal Justice Information Management (CJIM) Project staff for advice and assistance. In 2014-15, the groundwork for some very exciting innovation in information management was laid and 2015-16 is envisaged to bring significant change in business processes and the way the Office manages its information.

Online Services, Systems and New Technologies

Prosecution Management Project

As one of the major stakeholders in South Australia's CJS, the Office plays a critical role in the prosecution process. Investments made across the sector designed to strengthen CJS efficiencies will be constrained without the introduction of modern system capabilities within the Office. Investment in a prosecution management system for the Office will support the creation, storage and transfer of electronic information. Examples in the future may include the collation and lodgement at court of eBriefs, through a "seamless" electronic information flow between the Courts, the SA Police and the Office. Currently the Office manages its information through manual processes in a hardcopy format with some statistical information captured in an outdated system called Case Tracking.

In February 2014, the CJSRC supported the business case for the Office to replace its Case Tracking application with a modern, commercial "off- the- shelf" product that would provide efficiencies in the prosecution of criminal matters and provide opportunities to improve the interactions with other justice sector systems such as those used by SA Police. This is seen as an important component of the CJS reform.

In 2015-16 the Office received funding from the State Budget to purchase and implement a Prosecution Management System.

The project to deliver the system will commence in July 2015, and at this early stage of planning, is envisaged to be complete by approximately February 2017.

Tablet Devices and Online Lunn

In 2013-14, the Office commenced a project to promote and progress the use of online legal resources and better technologies for legal staff. Twenty staff were provided with mobile tablet devices in place of their desktop computers, providing them with a portable means of accessing online information including the internet, email and online legal resources such as "Lunn".¹

A project implementation review was undertaken in April 2015 to evaluate the benefits of the project. Overall the pilot users were positive about using mobility devices and receptive to increased usage of new technology. However, a number of opportunities for improvement were identified and pursued as part of the review. These included:

- Using an electronic version of Lunn rather than the online version appeared to work better for some users during the pilot project. As a result, negotiations with the publisher have resulted in access by the pilot users to both the online and electronic versions of the product to identify differences and preferences as part of the ongoing trial project in 2015-16;

¹ "Lunn" is a colloquialism for a set of legal references written by RM Lunn, QC. The three volumes entitled "Criminal Law South Australia" provide particularly important reference information for prosecutors within the Office and includes annotated legislation and details commentary that cover the procedures, practices and rule of evidence relating to criminal law in South Australia.

- The functionality and performance of the remote access software in use resulted in a very mixed perception of reliability and accessibility. However in late 2014-15, the AGD ICT Services Branch upgraded its remote access environment to provide very quick, reliable and efficient access for staff to the Office network and their information.

In 2015-16, the Office will extend the online services program to 40 legal staff and has determined a current standard tablet device as the Microsoft Surface Pro 3.

Financial Information

The Financial Statements for the Office for 2014-15 are consolidated as part of the Attorney-General's Department Financial Statements. The consolidated statements are included in the Attorney-General's Department Annual Report.

The Office received an expenditure budget of \$19.3 million in 2014-15. The Office is very grateful to the Chief Executive and the other agencies of the Attorney-General's Department for the support provided during the financial year, which included exemption for the Office from savings targets. As a result, the Office met budget as at 30 June 2015.

The Office experienced a significant number of legal vacancies during the financial year, which contributed to a reduction in overall salary costs for the year. A number of those vacancies were generated by the transfer of senior legal staff into key roles in other organisations such as the State Child Protection Systems Royal Commission and the Independent Commissioner Against Corruption and Office for Public Integrity. While it has proved difficult for the Office to quickly replace the loss of expertise resulting from the departure of such staff, it is pleasing that the Office staff are perceived by many to be very experienced and valuable. However, the loss of those key staff, particularly in the Counsel Section, has affected the availability of senior in-house counsel staff and as a result, the Office experienced a significant increase in briefing out costs during the year.

	2014-15 Budget (\$'000)	2014-15 Actual (\$'000)	2013-14 Budget (\$'000)	2013-14 Actual (\$'000)
Revenue				
Victim of Crime Fund	453	372	423	438
Youth Court Pilot allocation	40	40	118	118
Other	15	17	15	28
Total Revenue	508	429	556	584
Expenditure				
Salaries and Wages	15,429	15,312	15,326	15,653
Goods & Services (inc. briefing out)	1,452	1,610	1,490	1,199
Internal (accommodation, IT etc)	2,370	2,367	2,339	2,391
Depreciation	72	71	82	77
Total Expenses	19,323	19,360	19,237	19,320

Landmark / Significant Cases

The Office has conducted many matters, some of which are notable because they are examples of cases that are the most serious in the criminal calendar, have been widely reported in the media, have generated considerable community concern or represent a growing trend in the type of matter that the Office receives such as those involving Outlaw Motorcycle Gangs.

R v Cekic, Ciantar, Dettman, Niemann and Paunovic

Five members or nominees of the Finks OMCG Central and South chapters were charged with Aggravated Causing Serious Harm with Intent. The victim was another member of the Finks who was associated with the North chapter. The assault took place at the Finks North Side Clubrooms. The prosecution asserted that the victim was assaulted with a variety of weapons, including pool cues and a table. Among other injuries, the victim suffered multiple fractures, two collapsed lungs and an ongoing brain injury. The case was circumstantial and relied on CCTV footage showing the five accused arriving at the club rooms with other club members and awaiting the attendance of the victim. There was no footage from inside the club rooms. The Chief Justice, sitting as a trial judge without a jury, found the accused guilty. Upon sentencing, the Chief Justice declared one of the accused to be a serious repeat offender. The accused have been sentenced to head sentences of between 7 years 10 months and 15 years with non-parole periods of between 4 years 9 months and 12 years. They have appealed.

R v Westwood

Mr Westwood was sentenced in September 2014. He pleaded guilty at the trial to four counts of Persistent Sexual Exploitation of a Child, seven counts of Indecent Assault, Unlawful Sexual Intercourse and Producing Child Pornography in relation to seven boys between 1993 and 2012. The earliest of the offences was committed whilst Mr Westwood was on parole for three offences of Unlawful Sexual Intercourse and three offences of Indecent Assault committed against his daughter in 1989. (The judge also took into account a conviction from the 1970s for Carnal Knowledge.)

Mr Westwood was sentenced to 19 years and 10 months imprisonment cumulative on 11 months and 14 days of unexpired parole making a total head sentence of 21 years 9 months and 14 days. He was declared to be a serious repeat offender which meant that his non parole period had to be 4/5 of the head sentence and was set at 17 years.

R v McCoolle

Mr McCoolle pleaded guilty and was committed for sentence on eighteen charges relating to his exploitation of children. The offences were committed between mid 2011 and 10 June 2014, the date of arrest. Many of the charges related to sexual abuse perpetrated against six children in the care of Mr McCoolle during his employment as a residential care worker with Families SA. Additional production and dissemination of child pornography charges related to these children and one other, who was not in his care nor known to him through his employment. A further charge of Aggravated Possession of Child Pornography related to the vast collection of child exploitation material on Mr McCoolle's computer. He was later charged and pleaded guilty to related offending by the Commonwealth Director of Public Prosecutions in relation to his role as the head administrator of an international child pornography website.

Mr McCoolle was given a combined head sentence for the State and Commonwealth offending of 35 years. A non-parole period of 24 years was set for the State offending which, combined with the minimum terms set for the Commonwealth charges, resulted in a total non-parole period of 28 years. Mr McCoolle has applied for permission to appeal this sentence.

R v Lowe

In August 2003, Nanette Clarke was discovered by her de-facto partner and son unconscious, lying face first in the foot well of the passenger seat of her vehicle which was parked in the driveway of her Port Lincoln home. She had been beaten multiple times around the head with an aluminium pole in the dining room of her home. The crime scene was consistent with the perpetrator being interrupted during the crime and fleeing the scene. An unknown male's DNA was identified on the handle of a bucket of water near blood staining in the dining room. DNA of the same profile was also located on the inside of a balaclava, ropes, make-shift manacles and weapon which were left at the scene. The unknown male's blood was also located inside the house. The crime had a significant impact on the community of Port Lincoln however, despite widespread publication and extensive investigation, remained unsolved. In September 2012, Nicholas Lowe was charged with fraud perpetrated on the Victims of Crimes Fund while working as a law clerk in the Crown Solicitor's Office and a sample of his DNA was taken. Forensic analysis revealed that Lowe's DNA profile matched that of the unknown male's DNA located at the crime scene. At the time of the crime Lowe was in a relationship with Nanette Clarke's step-daughter and residing in Port Lincoln. In July 2015, upon a retrial, Lowe was found guilty by a unanimous jury verdict of the attempted murder of Nanette Clarke of Port Lincoln in 2003. In sentencing, His Honour Justice Blue acknowledged that the crime was premeditated and serious. Lowe was sentenced to 20 years cumulative on the 10 year head sentence Lowe was serving in relation to the fraud matter. The existing non-parole period of 7 years was extended by 13 years to 20 years. Mr Lowe has made application to appeal against his conviction.

R v Brougham

The appellant was convicted of manslaughter after a trial by Judge alone on the charge of Murder. The circumstances were that appellant and the deceased were together naked in a spa bath at the deceased's house, both significantly affected by alcohol. After consensual sexual intercourse, the deceased grabbed the appellant's foot and bit it, which may have caused the appellant to kick out at the deceased. The Judge found that the appellant then seriously assaulted the deceased by hitting her with a clenched fist in the head and face, and delivering deliberate blows to her ribs by either punches, kicks or stomps. After attempting to give CPR, the appellant fled the scene without seeking medical help. The deceased was found lying naked in the garden by her daughter the following day. The cause of death was a combination of blunt chest trauma and blunt head trauma.

The trial judge was not convinced beyond a reasonable doubt that when the appellant assaulted the deceased he did so with the requisite intent to kill or do grievous bodily harm and therefore acquitted him of murder. The trial judge found the appellant guilty of Manslaughter on the basis that his assaults constituted an unlawful and dangerous act which led to the deceased's death. Mr Brougham was sentenced to 15 years imprisonment with a non-parole period of 12 years

The Director appealed against the acquittal on murder. The appeal was dismissed.

Mr Brougham appealed against his sentence. The Court of Criminal Appeal dismissed his appeal against sentence. In doing so, the Court made important comments on the issues of:

- Leaving the victim of an assault of this nature without seeking medical attention for her as an aggravating feature of the offence (of manslaughter in this case);
- The distinction between aggravating features at common law and the regime of aggravated offences under the *Criminal Law Consolidation Act*;
- The relevance of, and what constitutes negotiations and co-operation for the purposes of attracting a discount from the mandatory minimum sentence for the purpose of s32A (3) (c) of the *Sentencing Act*;
- Appropriate sentences for manslaughter.

Glossary

<i>Accused</i>	A person who is alleged to have committed an offence.
<i>AGD</i>	Attorney-General's Department
<i>Appeal</i>	<p>An application to a higher court to review a decision of a lower court regarding a conviction or sentence. If the higher court agrees with the <i>appellant</i> that the lower court made an error, the lower court decision is quashed or overturned. A different sentence will be imposed or, in the case of appeal against conviction, a new trial may be ordered or the <i>appellant</i> may be acquitted.</p> <p>If the higher court affirms (agrees with) the lower court decision, the appeal is dismissed</p> <p>Generally, the DPP can appeal against sentence only (not against an acquittal). The defendant can appeal against both a sentence and conviction.</p>
<i>Arraignment</i>	After a defendant is committed to stand trial in the District or Supreme Court he/she must formally plead to the charges. This first appearance in the District or Supreme Court is the arraignment.
<i>Arrest</i>	To apprehend or take into custody a person suspected of having committed a crime.
<i>Bail</i>	Once a person has been arrested and charged with an offence, that person must remain in gaol unless that person has legal authority to remain out of gaol. When a person receives such authority that person is said to have been granted bail. Bail may be on the accused's own undertaking to appear or with sureties (promises made by others) and subject to conditions.
<i>Brief</i>	The DPP file relating to the prosecution of one defendant on one charge or multiple related charges. Co-accused have separate Briefs. Unrelated charges stemming from a separate criminal activity has a separate Brief. Co-accused will each have a Brief in relation to a crime for which they are both being prosecuted. Unless otherwise indicated, ODPP statistics are based on the number of Briefs.
<i>Committal Proceedings</i>	After a person is charged with an indictable offence they appear before a magistrate who determines if there is sufficient evidence upon which to order that they stand trial before a judge and jury in the District or Supreme Court.
<i>Convicted</i>	Found guilty of the crime charged or of a lesser charge.
<i>Crown</i>	The Crown means the State.
<i>Defendant</i>	In the Magistrates Court the <i>Accused</i> may be referred to as the <i>Defendant</i> .
<i>Forensic Science</i>	The use of science or technology to investigate and establish facts or evidence in a court of law. Forensic scientists search for and examine physical evidence to establish or disprove links between material or a person and the scene of the crime or another person.
<i>Forfeiture Orders</i>	Orders granted under the <i>Criminal Assets Confiscation Act 2005</i> for the confiscation of property of a person convicted of a criminal offence.
<i>Indictable Offence</i>	An offence, either major indictable or minor indictable, for which the accused has an initial right to be tried by a judge and jury.
<i>Major Indictable Offence</i>	Those indictable offences where the maximum term of imprisonment exceeds five years. All major indictable offences are heard and determined in the District and Supreme Courts
<i>Matter</i>	The prosecution of one or more defendants charged in relation to a crime. Where two or more defendants are charged (irrespective of the number of charges laid) the Office will have a Brief for each defendant.

<i>Non-Parole Period</i>	The period a prisoner must serve without any eligibility for parole. When a judge imposes a sentence of imprisonment, a non-parole period will generally also be imposed. This is the minimum period the prisoner will serve before he/she is eligible for release. If this period is greater than five years, the release of the prisoner is dependent upon the Parole Board.
<i>Pecuniary Penalty Order</i>	An order by a court that the defendant pay to the Crown a sum of money based on the value of the benefits derived by the defendant from the commission of the offence or the value of the instrument of the offence.
<i>Police Prosecutors</i>	Members of SA Police who prosecute offences in the Magistrates Court.
<i>Plea</i>	A plea is the formal response of an accused at trial or arraignment. At the accused's trial the charge is read out to the accused (i.e., the accused is arraigned) and the accused then formally responds by saying he or she is <i>guilty</i> or <i>not guilty</i> .
<i>Restraining Orders</i>	<p>Restraints placed by a court to prevent a person from acting in a particular manner—for example, to prevent the accused from contacting or approaching victims or witnesses.</p> <p>Restraining orders made by a court under section 24 of the <i>Criminal Assets Confiscation Act 2005</i> prevent person(s) disposing of or otherwise dealing with specified property until criminal offences and confiscations proceedings are resolved.</p> <p>Domestic violence restraining orders prevent a defendant from contact with specific people or visiting specific addresses.</p> <p>Paedophile restraining orders prevent a defendant from loitering near children or in the vicinity of specified locations, for example, schools, malls, playgrounds and public toilets.</p>
<i>Sentence</i>	The penalty imposed on the accused if he/she pleads, or is found guilty of an offence. For murder there is a mandatory head sentence of life imprisonment. The judge will usually set a non-parole period.
<i>Suspended Sentence</i>	A judge giving a sentence of imprisonment may suspend the sentence on condition that the defendant enters into a bond to be of good behaviour and to comply with any other conditions of the bond.



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