



**Government
of South Australia**

Director of Public
Prosecutions

**DIRECTOR
OF
PUBLIC PROSECUTIONS**

Annual Report

2009-10

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ISSN 1833-7902

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DIRECTOR'S OVERVIEW

Prosecuting is a curious business. It depends for its *raison d'être* on the existence of people who are prepared to break the laws of our society and upon them being caught. But in order to best serve the community for which it works and in order to play an effective role in contributing to the peace and good order of our community, it needs more. It needs that community to speak out about issues which cause concern or apprehension.

In my dealings with the public there is one issue that stands out above all others - the proliferation and use of guns in our community.

We are well on the way to becoming a community that is used to the presence of guns, if not (yet) accepting of them. It is no longer unusual to see in our media, stories of shootings or gun seizures. Rival families think nothing of shooting dead their adversaries in broad daylight. Rival gangs think nothing of shooting into houses or into public restaurants in their attempts to kill. We can imagine in our darkest moments where this might lead us. Americans have had to endure the tragedies of mass killings and school massacres for many years now. They didn't always happen - at least not with such frequency.

For our part, we are becoming desensitised to the presence of guns in much the same way that our gradual exposure to illegal drugs saw that trickle become a flood and reach a point where stories about the use and trafficking of illegal drugs have become as much a part of our regimen of daily news as have the weather reports.

The question is not whether the tiny percentage of gun club enthusiasts in our midst have the "right" to shoot guns - the question is whether our community as a whole is safer and better off living in a community with guns or in a community without guns. For in our still small (comparatively) community the decision is still ours to make, but as with the scourge of illegal drugs, it won't be so forever. Can anyone seriously question the proposition that the community pays far too high a price to continue to indulge gun owners in their selfishness?

The impact of guns in our community of course brings into focus the issue of criminal gangs. Government has made legislative attempts to deal with these criminals and, at the time of writing, the High Court is about to adjudicate on part of that legislative regime. No matter the outcome of the High Court proceedings, there are still strong and effective measures that can and must be taken to deal with criminal gangs. I am still firmly of the view that appropriate legislation is the starting point. Legislation that will look at the purposes for which groups are formed, whether here or overseas, and if those purposes do or have included violence or criminal conduct then the continued existence of those gangs should be outlawed. This is a fight that can be won.

The Office's role in these issues is a crucial one, for when the police have finished their work, ours begins. It is our task to assess the evidence provided to us, decide whether a prosecution will be instituted and then to manage the evidence and witnesses so that the case is presented clearly and fairly. The judgement calls made along the way both by those lawyers who prepare the case for court and also by those lawyers who actually present the case in court, require a steady nerve and a mature outlook. The community has a right to expect that it has a prosecution service which has the quality, the ability, the skill and the resources to meet these daily demands.

In this regard it is clear to me that the Office is quickly regaining the confidence that was shaken by the events that occurred before my appointment. There is a growing maturity and willingness to constantly examine the way in which we do our business and look for ways to improve it. This is no doubt in large part due to the leadership and steadiness of my senior staff, particularly those in the Executive and also to the manner in which my Deputy, Mr Adam Kimber, has so ably fulfilled his role.

Indicative of the mood to strive for excellence within the Office is our move to revolutionise the manner in which we handle our files. Over the coming year we will be transferring to a system that will enable our solicitors to have far more personal control over the progress of their files in a way that will also enable them to have a more in depth knowledge of each file. The purpose is to reduce as far as possible the number of hands that each file passes through within the Office and to thereby produce a better and more efficient result.

We will also be providing a more formalised regimen of in-house training particularly for those who wish to develop their court room skills, although this will be made available to all lawyers in the Office.

The struggle that this Office has had to achieve appropriate resourcing is well known. I acknowledge that in recent times we have been allocated sufficient funds to avert any crisis occurring but this is still far from optimal. We are still a very long way from being appropriately resourced. File loads although lower, are still high, clerical and administrative support is stretched beyond its limit and our very limited accommodation spread as it is over four floors is a growing issue for efficiency and future growth.

Our I.T. systems are totally inadequate and we struggle to achieve accurate reporting in response to the many demands of government. While recognising that this is an issue that cannot be resolved without significant investment, what is concerning is that no allowance is being made for the beginnings of a resolution. As an Office we are technologically backward. Government must realise that technology brings efficiencies and better service delivery. The transformation to a technologically savvy Office is long overdue and provision for it should begin now.

While experience has shown that this Office has never received what it has asked for in terms of appropriate funding, one thing is very certain and that is that we are in absolutely no position to have our resources diminished or reduced. I have previously said that our business will never shrink in size and experience has shown us that it is destined to perpetually increase. Government must understand and accept this to be so. There should be little argument that we must be resourced to meet those challenges as no Director would ever want to be in the position of having to tell government, the community or victims of crime that certain trials could not proceed due to a cut in resources.

Despite the continuing debates over policy, legislation and funding, the core work of our Office, preparing and presenting cases for prosecution, continues to be in the hands of a group of dedicated, hard working, skilled and in large measure young men and women who do an outstanding job. I salute them and congratulate them all on the excellent service they continue to provide to this community. To our administrators and secretarial staff, to our lawyers and wonderful "WASIES" (Witness Assistance Service Officers) so ably led by Mr Dean Oliver, thank you all.

Last but certainly not least, I would like to again acknowledge the tremendous support and assistance provided to me by The Captain, my Executive Assistant Ms Dianne Flynn whose unbounding energy and endless skills have once again been of fantastic benefit not only to me but to the whole Office.

Stephen Pallaras QC
Director of Public Prosecutions

MANAGEMENT AND ORGANISATION

Mission

To provide the people of South Australia with an independent and effective criminal prosecution service which is timely, efficient and just.

Vision

The Director and staff are committed to providing a criminal prosecution service which:

- applies the highest ethical and professional standards instituting, and where necessary terminating proceedings, without fear or favour in order to provide public confidence in the administration of justice within South Australia;
- is recognised for its independence, professionalism and standards of excellence;
- endeavours to deal with victims of crime with sensitivity and respects their special needs; and
- strives for excellence, efficiency and effective communication in its work with police, the courts and other entities within the criminal justice system.

Corporate Values

The values which provide a framework for the functions within the Office are:

- the highest standard of ethical and professional conduct, objectivity, honesty and sensitivity;
- full public accountability for the quality of service provided by the Office and for the administration of public funds;
- a commitment to excellence by regular review and continuous improvement of its performance;
- a commitment to the promotion of competence and professionalism in staff through training and continuous staff development, recognising that staff are our most important resource; and
- sensitivity to and understanding of the needs of victims and witnesses.

Functions of the Director

The functions of the Director are specified in the *Director of Public Prosecutions Act 1991*. They are to:

- lay charges of indictable or summary offences against the law of the State;
- prosecute indictable or summary offences against the law of the State;
- claim and enforce, either on behalf of the Crown or other persons, civil remedies that arise out of, or are related to, prosecutions commenced by the Director;
- take proceedings for or in relation to the confiscation of profits of crime;
- institute civil proceedings for contempt of court;
- enter a *nolle prosequi* or otherwise terminate a prosecution in appropriate cases;
- grant immunity from prosecution in appropriate cases;
- exercise appellate rights arising from proceedings of the kind referred to above;
- carry out any other function assigned to the Director by any other Act or by regulation under this Act;
- do anything incidental to the foregoing.

Stakeholders

The key stakeholders for the Office are the Attorney-General and his department, the South Australian Parliament, the judiciary, victims, (and, on their behalf, the Commissioner for Victims' Rights) witnesses, SA Police, the Courts Administration Authority, Department for Correctional Services, accused persons and others in the criminal justice system. The Office continues its support to the key stakeholders and the criminal justice system by providing representation on various committees, steering groups and working parties.

Strategic Focus

In a relatively stable year in terms of senior appointments and staff numbers, the focus in 2009-10 shifted from how to cope with work loads, to engineering the organisation and its business processes for more effective and efficient prosecution services.

Strategic initiatives that commenced in 2009-10 included a review of *whole of life* management of Solicitor files in the office, an appropriate structure for the current size and direction of the Office and an emphasis on the development of trial counsel.

The Office continued to review its measures of performance. The ability to differentiate between the effectiveness and efficiency of the Office and that of the criminal justice system as a whole remains a challenge. The Office retains the objective of implementing valid, reliable and meaningful measures for this Office and providing useful and transparent performance data for the people of South Australia.

Legislative Framework

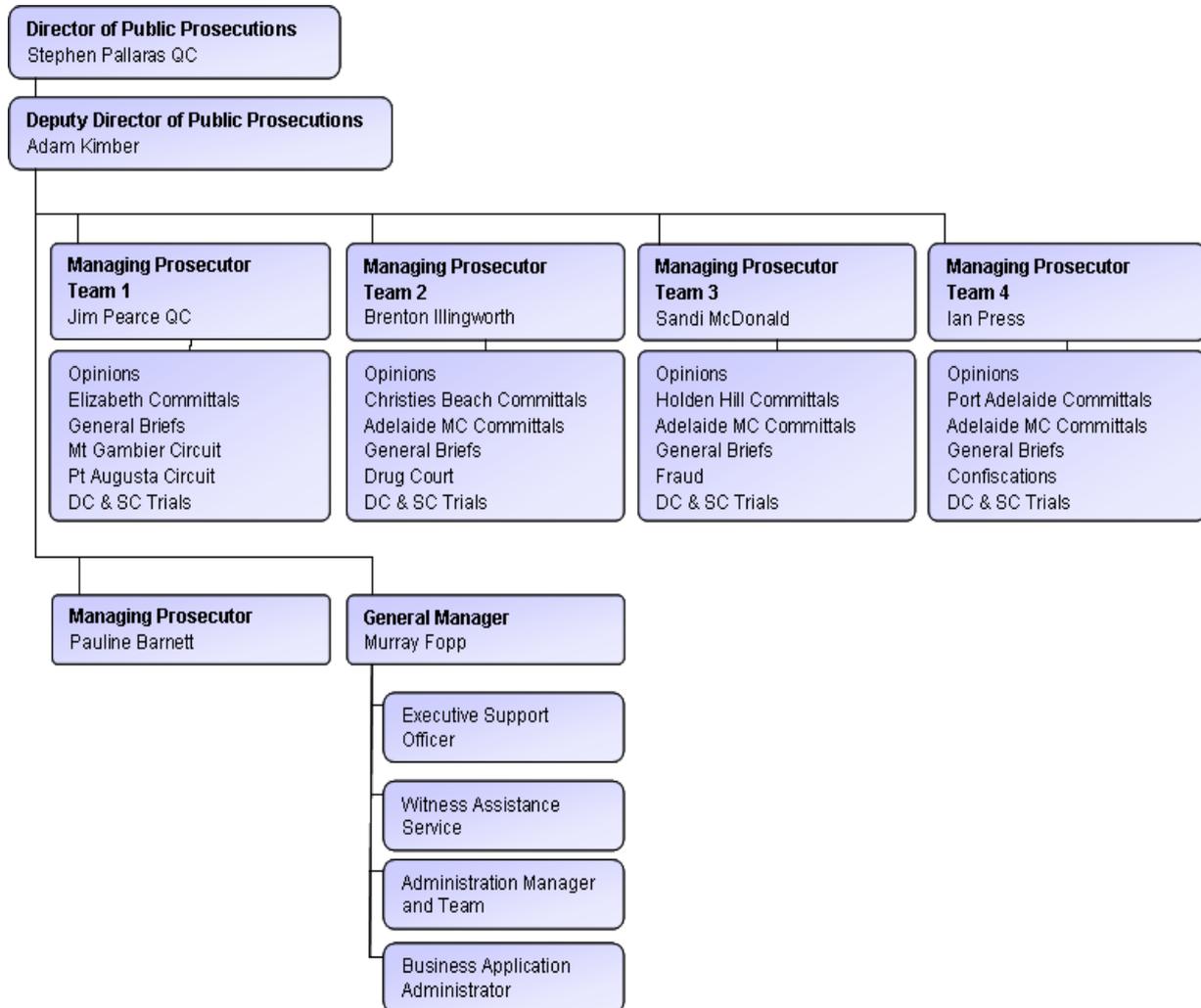
The following legislation was relevant to the legislative, professional, administrative and industrial requirements and obligations for the operation of the Office during the year.

These Acts may be accessed via the Legislation SA website, www.legislation.sa.gov.au.

Bail Act 1985
Controlled Substances Act 1984
Correctional Services (Parole) Amendment Act 2005
Criminal Assets Confiscation Act 2005
Criminal Law Consolidation (Instruments of Crime) Amendment Act 2005
Criminal Law (Forensic Procedures) Act 1998
Criminal Law (Sentencing) Act 1988
Criminal Law (Undercover Operations) Act 1995
Criminal Law Consolidation Act 1935
Director of Public Prosecutions Act 1991
District Court Act 1991
Equal Opportunity Act 1984
Evidence Act 1929
Firearms Act 1977
Freedom of Information Act 1991
Legal Practitioners Act 1981
Listening and Surveillance Devices Act 1972
Magistrates Court Act 1991
Occupational Health, Safety and Welfare Act 1986
Public Finance and Audit Act 1987
Public Sector Management Act 1995

Serious and Organised Crime (Control) Act 2008
State Records Act 1997
Statutes Amendment (Sentencing of Sex Offenders) Act 2005
Statutes Amendment and Repeal (Aggravated Offences) Act 2005
Summary Offences Act 1953
Summary Procedures Act 1921
Supreme Court Act 1935
Telecommunications (Interception) Act 1975 (Commonwealth Act)
Victims of Crime Act 2001

Organisational Structure



Organisational Profile

The core business of the Office, performed on behalf of the Director of Public Prosecutions, is conducted in four multi-disciplinary Legal Practice Teams, allowing each Practice to maintain carriage of a matter from receipt of a prosecution brief from SAPOL through to finalisation. This year the Office trialed *end-to-end* management of files with a single solicitor taking a prosecution brief through the committal and general (preparation for trial) stages.

Each Practice has a mix of experienced trial counsel (barristers) and solicitors to ensure the Practice has the expertise to manage most cases through to finalisation.

Law Clerks work within Practices to provide legal administrative support. Witness Assistance Officers are assigned in a 'consultancy' role to each Practice. This multi-disciplinary makeup ensures each Practice has the necessary resources for the roles and responsibilities assigned to it, and the ability to apply them as its management team determines.

The Deputy Director has a specific role in managing the non-prosecutorial affairs of the Office including occupational health and safety, risk management, workforce planning, review of work practices, emerging demands and opportunities, and fine tuning the roles and responsibilities of manager and supervisors, both legal and non-legal—although with significant trial and appeal commitments this is a challenge.

Executive Profiles

Stephen Pallaras QC - Director of Public Prosecutions

Graduated from Monash University, Victoria, in 1974, and was admitted as a barrister and solicitor of the Supreme Court of Victoria and the High Court of Australia in 1975, as a barrister and solicitor of the Supreme Court of Western Australia in 1979 and as a barrister and solicitor of the Supreme Court of Hong Kong in 1992. Appointed a Queen's Counsel in 2000. Has successfully prosecuted a number of high profile cases in Western Australia and Hong Kong including cases of international fraud, international drug trafficking, corruption, criminal defamation and murder. Executive Committee Member of both the International Association of Prosecutors and the International Association of Anti Corruption Agencies.

Stephen Pallaras QC was appointed in April 2005 as the second Director of Public Prosecutions in South Australia under the Director of Public Prosecutions Act 1991.

Adam Kimber BA (Juris), LLB (Hons), GDLP - Deputy Director of Public Prosecutions

Graduated from the University of Adelaide in 1993 and worked as an Associate in the Supreme Court and then briefly in private practice before joining the ODPP in 1995. Prosecuted in the District and Supreme Courts, then managed a group of solicitors and concentrated on appellate counsel work. Rejoined the Prosecutions Section as a Senior Prosecutor in 2005. Became the Deputy Director in 2008. Significant trial experience in the District and Supreme Courts.

Adam Kimber was appointed as Deputy Director of Public Prosecutions in December 2008. Prosecutes major trials in the District and Supreme Courts. Conducts appellate work in the Court of Criminal Appeal and High Court. Subject to the direction of the Director, manages all facets of the Office.

Murray Fopp MBA, BPublicAdmin, AssocDipEng (Electronics), Cert IV in Training and Workplace Assessment - General Manager

For many years Murray worked in broadcast engineering, in 1990 becoming Regional Operations Manager responsible for ABC, SBS and Radio Australia transmitter networks throughout South Australia and the Northern Territory. In 1996 he launched a private consultancy in regulatory compliance and community consultation. Murray joined the Office in October 2005.

The General Manager provides high-level management services including strategic and business planning, risk management, financial management, and the provision of comprehensive corporate services to the Office. Also responsible for the executive level oversight of the Witness Assistance Service. Plays a key role in policy development and training and development within the Office.

Pauline Barnett LLM - Managing Prosecutor

Admitted as a legal practitioner in 1986. A member of the Crown Solicitor's Office from 1985 to 1994 in the Advising Section. For eighteen months, Pauline was seconded to the Attorney-General's Office as Principal Private Secretary to the Hon CJ Sumner MLC from November 1988 until April 1990. In 1994 she joined the Office as an MLS 1 Solicitor and in 1997 was appointed as Managing Solicitor.

Acts as solicitor and counsel in the conduct of prosecutions and appeals on behalf of the Director. Currently responsible for the full implementation of the Organisational Review and for the development and implementation of new work practices arising out of recent changes to legislation and from the recommendations of the Criminal Justice Taskforce.

James Pearce QC LLB GDLP - Managing Prosecutor

James graduated from The University of Adelaide in 1987. He worked in private practice before joining the ODPP in 1990. Between 1990 and 1996 James worked as a prosecutor, conducting trials in the District and Supreme Courts. Between 1996 and 1998 James worked as In House counsel at a commercial law firm before rejoining the ODPP in 1998. Since that time he has worked as a Senior Prosecutor at the ODPP conducting complex trials in the District and Supreme Courts. In January 2008, James was appointed as Queen's Counsel.

Prosecutes major trials in the District and Supreme Courts. Conducts appellate work in the Court of Criminal Appeal. Responsible for the management and supervision of one of the four practice teams in the office

Brenton Illingworth - Managing Prosecutor

Graduated from the Law Society Certificate in Law, including five years of articles in 1979. Admitted as a legal practitioner in December 1979. Worked in private practice until 1985, then joined the Crown Solicitor's Office Criminal Prosecution Section as Senior Assistant Crown Prosecutor. From 1990 to 1992 worked at the Bar as defence counsel, particularly in the area of War Crimes Prosecution. Returned to the Crown Solicitor's Office, Civil Litigation Section in 1992. Was appointed Managing Solicitor in 1993 and subsequently Assistance Crown Solicitor of Civil Litigation in 2005. Appointed to the position of Managing Prosecutor at the Office of the Director of Public Prosecutions in 2009.

Prosecutes trials in the District and Supreme Courts. Conducts appellate work in the Court of Criminal Appeal. Responsible for the management and supervision of one of the four practice teams in the Office.

Sandi McDonald BA (Juris), LLB, GDLP - Managing Prosecutor

Graduated from the University of Adelaide in 1993 and was admitted as a legal practitioner in 1994. Commenced employment as a prosecutor in the ODPP immediately upon admission. Since that time has prosecuted criminal trials in the District and Supreme Courts as well as conducting appellate work in the Court of Criminal Appeal. In more recent years has focussed on more serious and complex trial and appellate work whilst managing a practice team.

Prosecutes major trials in the District and Supreme Courts. Conducts appellate work in the Court of Criminal Appeal. Responsible for one of the office's practice teams and portfolios including the Continuing Legal Education program.

Ian Press - Managing Prosecutor

Graduated from the University of Adelaide in 1989 and admitted as a practitioner in December 1989. Worked for the Legal Services Commission between 1989 and 2000 as a defence solicitor and counsel in the Adelaide and Port Adelaide offices, and as part of the War Crimes Defence Unit. Appeared as counsel in all jurisdictions. Joined the ODPP in October 2000 undertaking roles in the Solicitors, Committal and Prosecution Sections. Appointed to the position of Senior Solicitor in 2004 and Managing Prosecutor in 2008.

Has conduct of complex files, prosecutes trials and conducts appellate work in the Court of Criminal Appeal. Responsible for the management and supervision of one of the four practice teams in the office

Management Committees

Executive Committee

The *Executive Committee* consists of the Director, Deputy Director, the five Managing Prosecutors and the General Manager (Chair). The Executive meets monthly and has overall responsibility for the establishment, implementation and evaluation of the strategic direction of the Office. It has final responsibility for policy and also determines appropriate responses to the important legal issues affecting the Office generally. In late 2009-10 the Executive Committee decided to review its role and operation. This review was on-going at the end of the reporting year.

Internal Committees and Steering Groups

Continuing Legal Education Program

This year the ODPP continued to run its own in house continuing legal education program for the benefit and development of all of the legal staff. This year we were fortunate enough to have a number of external speakers, including members of the judiciary, present at a number of these sessions. Some of the topics dealt with have been:-

- Disclosure - Panel made up of senior members of the ODPP
- Recent Developments in Drug Offences - Drug Investigation Branch of SAPOL
- Mental Impairment - His Honour Mueke J
- Clandestine Drug Laboratories - Scientists from The State Forensic Science Centre
- Cross Examination - The Honourable Justice Lander
- Examination in Chief - The Honourable Justice Vanstone
- Sentencing Submissions - His Honour Judge Rice

It should be noted that whilst members of the management team play a role in the organisation of this program, the program could not continue to run in the way that it has without a number of members of staff who make up the CLE committee. This committee takes on responsibility for tasks ranging from selecting themes and topics to liaising with speakers. It is the combined effort of all of these individuals that has meant that we have had a very successful CLE program this year.

Workforce and Workflow Planning

“Cradle to Grave” File Management

In 2006 an Organisational Review of the ODPP recommended the creation of four multi-disciplined legal teams. A number of new legal management positions were created to ensure that legal staff were appropriately supported and that they could receive instructions in a timely and efficient manner. It was initially determined that while the teams would be responsible for the end-to end, or “Cradle to Grave” carriage of files, the individuals in those team would carry out discrete functions.

Consequently there were solicitors who exclusively handled the committal stage for their teams, practice solicitors who handled matters in the superior courts and prosecutors who carried out the trials.

During 2009-10 one practice team ran a pilot, using those matters proceeding through their committal stage in the Elizabeth Magistrates Court. The aim of this pilot was to determine whether there were efficiencies for solicitors handling a ‘hybrid practice’. A ‘hybrid practice’ involves solicitors handling the committal stage of each file allocated to them, and then retaining conduct of any of those same files that proceed right through to the trial preparation stage in the superior court.

The review of the pilot determined early results to be sufficiently promising to consider adopting the approach for the whole of the office. In particular the benefits were found to be:

- Arraignment files were prepared and provided to Managers in a more timely fashion.
- Fewer files were being read by more than one solicitor.
- Complainants, Witness Assistance Offices and Investigating Police Officers did not need to deal with more than one solicitor.
- Over time, Solicitors became trained in more than one area of this Office’s work.
- In handling files from “cradle to grave”, solicitors felt an increased responsibility and ownership of their work.
- Solicitors and Managers built a stronger relationship when working together for the life of a file. It is hoped that the Office can establish a structure that allows each solicitor to have a single manager. This manager will have a greater connection with the work of the solicitors for whom they are responsible.

It is anticipated that this approach will best support recent reforms in the criminal justice system, designed to increase resources at the early stages of a prosecution to more quickly identify guilty pleas and thus reduce trial delays.

New Prosecutor Development Program

With the exclusion of managers, there were nineteen prosecutors engaged in trial work at the end of the reporting period. In the 2009-10 reporting period this Office ran 314 District Court and Supreme Court trials in Adelaide and a further 57 matters proceeded to trial in the Circuit Courts. There were, of course, a significant number of trials which were prepared by prosecutors but did not proceed because an accused entered a late guilty plea, the DPP entered a nolle prosequi or because there was not a judge or court room available.

Given the volume of trial work, it was necessary to brief a significant number of trials to the private bar. Aside from the considerable financial cost of this high level of briefing, it is difficult for this Office to maintain effective quality control of those briefed prosecution matters.

2009-10 saw a number of less experienced ODPP prosecutors begin to take on trial work. There is considerable work involved in ensuring these prosecutors are given the necessary assistance in the preparation and conduct of their trials. This was acknowledged by the Office with the formation of a junior prosecutors group to provide assistance to seven less experienced prosecutors. To facilitate a shared learning framework, these prosecutors were accommodated in an open plan area with three of the most senior prosecutors in the Office on hand to provide intensive instruction on trials.

While the program got off to a slow start because of accommodation difficulties, the early stages have shown sufficient promise to encourage the Office to commence a formal training program for these prosecutors on an ongoing basis. The Director will take personal responsibility for the delivery of this training in conjunction with other senior prosecutors.

It is anticipated that this program will ensure that prosecutors gain intensive experience in the next twelve months so that they are capable of running complex trials to the standard expected by the community and the court.

Policy Committee

In 2009-10 the policy Committee continued to meet every 6 weeks to consider legislation referred to this Office for comment. The Committee is established to consider both legislation and internal office policy issues, but the focus has been on legislation referred for comment. From the start of 2010, membership of the Committee grew to 14 members, made up of Legal Managers, Solicitors, Prosecutors, a representative from the Administrative team and a Witness Assistance Officer. Jane Abbey recently returned to the Office in a Policy role and assumed the duties of Executive Officer for the Committee. Matthew Goode from the Policy and Legislation section of the Attorney General's Department continued to provide a liaison point for the discussion of new legislation.

During the financial year the Committee provided oral or written comments on the following topics:

- Forfeiture powers for forfeiture of child pornography and associated storage media
- Witness fees and expenses
- Intervention Orders (Prevention of Abuse) Bill 2009
- Discussion Paper on Knife Laws in South Australia
- Television Cameras access to Court Proceedings
- Costs in Criminal Proceedings in the District and Supreme Courts
- Criminal Law (Clamping, Impounding and Forfeiture of Vehicles) Variation Regulations
- Firearms Definitions

Recruitment and Staffing

The office had an approved staffing establishment of 145.88 FTE at the end of the 2009-10 reporting period. Of this number 88.23 FTE were legal staff, 43.05 FTE were administrative staff and 11.6 FTE were Witness Assistance Officers. Over the course of the financial year approximately 20 staff left the office either permanently, or for substantial periods of time due to study leave, maternity leave or leave without pay. The resignation of 7 legal staff with considerable accumulated experience between them created some difficulties for the office.

In August 2009, the office established a pool of potential employees from which to fill vacancies arising from resignations and extended leave. The pool consisted of a number of relatively inexperienced lawyers, however the creation of this pool allowed the office to reduce the time taken to fill vacancies. Delays in recruitment and an inability to fill short term vacancies have historically been the main cause of the shortfall in the number of staff employed at the office. It has been the role of the Legal Staffing Committee to fill vacancies as soon as possible to ensure the number of staff employed is as close to the FTE allowance as possible. Other procedures implemented during the year to streamline the filling of vacancies and to allocate short term resources to those areas of the office in greatest need resulted in an increase, from the previous year, in the average number of staff working in the office.

To provide flexible working arrangements for staff the office has approved a number of applications to work from home in circumstances where both the needs of staff and the needs of the office have been approved.

ODPP Client Satisfaction Survey (Pilot) Project

The Office implemented a *Client Satisfaction Pilot Survey Project* in 2009-10.

Participants, those victims and witnesses who had dealings with the Witness Assistance Service, were asked anonymously how satisfied they were with various aspects of the Office's service.

By 30 June 2010, over 350 surveys had been sent out and around 80 responses received.

While it is too early to make any definite conclusions about the survey results (given the relatively small number of respondents to date), preliminary analysis indicates that:

- 82.7% of survey respondents were *satisfied* or *very satisfied* with the quality of services they received from the Office.
- 81.0% of survey respondents *agree* or *strongly agree* that the services and supports provided by the Office met their needs.

While initial results show positive satisfaction rates with ODPP services, satisfaction rates with *Prosecution Case Outcomes*¹ (66.7%) and *Sentence Outcomes*² (61.5%) were lower. This is an important trend to note and in part reflects case and sentence outcomes not always meeting victims' expectations.

This is the first time that the Office has formally measured clients' impressions and experiences of the services we provide and the Office is encouraged by the interest and response rates to date.

Trends and patterns will be further analysed and reported on in future Annual Reports.

¹ *Prosecution Case Outcomes* indicate the 'result' of the prosecution - found guilty, pleaded guilty, acquitted, prosecution abandoned or other.

² Sentencing Outcomes include imprisonment, non-custodial sentence, suspended sentence, release on licence, or no sentence outcome.

CORPORATE OVERVIEW

Financing Public Prosecutions

Parliament increased the appropriation to the ODPP by \$1.36 million to \$18,295,000 in the 2009-10 State Budget³. Of this, the Office received \$17.7 million from the Attorney-General's Department plus \$392,000 from the Victims of Crime Fund⁴.

The Office of the DPP has no control over the portion withheld by the Attorney-General's Department nor is it able to detail how it is used. The Office understands the withheld amount is used to fund Departmental corporate services and overheads.

| | 2008-09 Allocation (\$,000s) | 2009-10 Allocation ⁵ (\$,000s) | 2009-10 Actual ⁶ (\$,000s) |
|----------------------------|------------------------------------|---|---|
| Revenue Sources | | | |
| From Appropriation | 15,119 | 18,095 | - |
| Victim of Crime Fund | 384 | 392 | - |
| Other | 11 | 18 | - |
| Total Revenue | 15,514 | 18,505 | - |
| Expenditure | | | |
| Staff remuneration | 11,604 | 14,756 | 13,548 |
| Goods and Services | 1,650 | 775 | 2,258 |
| AGD Charges (Rent, IT etc) | 1,586 | 2,222 | 2,255 |
| AGD Depreciation | 20 | 125 | 119 |
| Total Expenses | 14,860 | 17,878 | 18,180 |

Staff remuneration increased in line with additional staff numbers. The Goods and Services allocation was cut for the third consecutive year.

Once again the cost of Goods and Services significantly exceeded the funds available, with a total cost—excluding Attorney-General's Department-provided corporate services—of \$2.26 mil and just \$775,000 available. The funds available for essential goods and services (after payments to the Attorney-General's Department) has dropped from \$1.66 mil in 2006-07 to less than half this amount in 2009-10 despite a 33% increase in staff and, of course, inflation over this period. Most, but not all of the shortfall, was covered by savings in the Salary budget—due partly to the lag between funding commencing for, and the filling of, newly approved positions, and labour market forces which dictate recruitment of relatively junior legal staff to replace higher paid experienced staff. With no further staff growth forecast, the ability to balance the budget from unspent salary will diminish even further in future years.

Cost for Briefing Out—the practice of engaging external counsel for some court hearings and trials—rose after falling each year since 2006-07. This year Briefing Out represented almost 40% of the total ODPP spend on Goods and Services and consumed more than the total amount available to the Office to spend on all Goods and Services. Further details on Briefing Out can be found on page 37.

³ Source: 2009-10 Budget Paper 4, Vol 2 - Portfolio Statement, p.7.23

⁴ These funds cover the salaries of the Confiscation Unit which pays the proceeds of confiscations back into the Fund.

⁵ Source: 2009-10 Budget Assumptions, Attorney-General's Department

⁶ Source: 2009-10 Period 12 ODPP Finance Operating Statements, Attorney-General's Department

The cost of travel and related expenditure continues to be a challenge. In the reporting year, travel costs increased by 50% to \$207, 000. However, more than half of the increase can be attributed to the cost of prosecuting the Heyward and Minter murder trial in Mt Gambier. Pressure also comes from the increase in sitting days in Circuit Court, particularly at Port Augusta and the need for Witness Assistance Officers and legal staff to meet witnesses and victims—particularly vulnerable witnesses—living in regional and remote areas or interstate. The Office continues to consider alternatives, including regional offices, but currently these are not considered cost-effective.

Staffing levels

As announced by the Government in April 2008, the Office received an additional 16 positions in 2009-10 —7.5 full time equivalent positions to resource prosecutions in the re-opened Sturt St Courts, 3.5 FTE for work flowing from the Children in State Care (Mullighan) Commission of Inquiry and 2.5 FTE for Serious and Organised Crime work.

| Program | 2009-10 Staff Increase (Full Time Equivalent - FTE) |
|---|---|
| Serious and Organised ('bikie') Crime | 2.5 |
| Children in State Care (Mullighan) Inquiry | 3.5 |
| Sturt St Courts | 7.5 |
| General staff level (baseline funding) | 0.0 |
| Total | 13.5 |

The allocation of resources for Serious and Organised Crime was reviewed resulting in the loss of 2.5 FTE positions during the year. The review was anticipated and the positions were kept vacant until the decision was made. The Office had 145.88 FTE positions after the review.

| | Approved at end of 2008-09 | Change approved for 2009-10 | Approved at end of 2009-10 |
|--------------------------------|----------------------------------|--------------------------------------|----------------------------------|
| Executive Group | 3 | | 3 |
| Legal (Including managers) | 81.23 | +7 | 88.23 |
| Witness Assistance Officers | 10.5 | +1.1 | 11.6 |
| Administration staff | 37.65 | +5.4 | 43.05 |
| Total FTE ¹ | 132.38 | +13.5 | 145.88 |

Notes

1 Includes staff working in on-going, separately-funded positions in the Office.

The Office continued to receive funding from the Commissioner for Victims' Rights for three full- and one part-time Witness Assistance Officers dedicated to the provision of services to child victims and witnesses.

Salaries for 4.5 FTE Confiscation staff are recovered from the Victims of Crime Fund into which the proceeds of confiscated assets are paid. Further details can be found at page 23.

DIRECTIONS UNDER THE DPP ACT 1991

Directions from the Attorney-General

There was no direction or guideline 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 year

Directions to the Commissioner of Police

There was no direction issued 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 year.

Listening and Surveillance Devices Act 1972

Pursuant to section 12 (1) of the *Director of Public Prosecutions Act 1991* the Office reports that during the year it considered and approved 19 warrants issued under the *Listening and Surveillance Devices Act 1972*.

PROSECUTION RESULTS

| OUTPUT: | PROSECUTION RESULTS | | |
|--|---|---------------|----------------------------------|
| Description: | ODPP contributes to these outputs through providing advice to Police, assistance for victims and witnesses, solicitor and counsel services on all matters ultimately heard in the District and Supreme Courts and all matters finalised in the Magistrates Court, as well as administration of confiscation orders issued by the Courts. | | |
| <i>Performance Indicators: 2009-10</i> | <i>Descriptions</i> | <i>Target</i> | <i>Actual result for 2009-10</i> |
| Quantity | Early resolution in the Magistrates Court (other than by guilty Plea to major charges) (a) | >50% | 56.86% |
| Guilty Pleas | Very Early pleas (b) | >25% | 29.97% |
| | Early pleas (c) | >60% | 62.26% |
| | Early pleas on some charges (with other charges going to trial) (d) | >2% | 3.37% |
| Verdicts | Guilty verdicts at trial (e) | >60% | 56.4% |
| | Conviction rate (f) | 60 - 70% | 61.87% |
| Nolles | Percentage of Nolles entered after matter listed for trial (g) | <60% | 61.24% |
| | Percentage of Nolles entered within 8 weeks of the scheduled commencement of trial (h) | <30% | 49.51% |
| Footnotes | <p>(a) Prosecution Briefs resolved at the Committal Stage, shown as a percentage of the total number of Prosecutions Briefs resolved within the reporting period (excluding Circuit and Drug Court).</p> <p>(b) Prosecution Briefs resolved by way of a guilty plea to major charges at the Committal Stage, shown as a percentage of the total number of briefs resolved by way of a guilty plea within the reporting period.</p> <p>(c) Prosecution Briefs resolved by way of a guilty plea after being Committed for Trial, shown as a percentage of the total number of briefs resolved by way of a guilty plea within the reporting period.</p> <p>(d) Prosecution Briefs resolved by way of a guilty plea after being Committed for Trial and Sentence, shown as a percentage of the total number of briefs resolved by way of a guilty plea within the reporting period.</p> <p>(e) Trials resolved by way of a guilty verdict, shown as a percentage of all trial verdicts within the reporting period.</p> <p>(f) Prosecution Briefs resolved by way of a conviction (either by guilty verdict or guilty plea), shown as a percentage of the total number of prosecution briefs resolved in the District and Supreme Courts within the reporting period.</p> <p>(g) Prosecution Briefs for which a Nolle Prosequi was entered after the brief was listed for trial, shown as a percentage of the total number of prosecution briefs resolved by way of a Nolle Prosequi within the time period.</p> <p>(h) Prosecution Briefs for which a Nolle Prosequi was entered eight weeks or less before the start date of the trial, shown as a percentage of the total number of prosecution briefs resolved by way of a Nolle Prosequi within the time period.</p> | | |

Developing New Key Performance Indicators (KPIs)

The Office has developed a new set of KPIs for future reporting. These KPIs will complement the Prosecution Results (above) which report on the broader criminal justice results for the past financial year. Prosecution Results reflect statistical data which is impacted by South Australia Police, Courts and Defence Counsel.

Given the need to reduce trial delays in the criminal courts the first two KPIs for the Office measure the efforts of this Office to reduce the issues in contention at trial and identify early pleas to the charges alleged. The next three measure our success in retaining quality staff, ensuring their professional development and providing training. We have a KPI measuring the satisfaction of victims with the assistance provided by the Office. Finally we have measures assessing our performance in providing timely advice to government on law reform issues and in participating in the ongoing legal education of stakeholders and the community.

Goal - To reduce trial delays in the criminal courts

1. Indicator

The number of matters for which letters requesting a case conference in the Adelaide Committal Court are sent to Defence to be > 40%

2. Indicator

That a Notice to Admit will be sent on 70% of files within two weeks of Arraignment.

Goal - Retention of quality staff

3. Indicator

Percentage of staff turnover to be < 10%. Counting rules on the number of permanent FTEs departing the Office on a permanent basis as a percentage of staff establishment numbers on 1 July.

Goal - To provide workplace support

4. Indicator

The number of management hours spent in OHS&W training or instruction and professional development per year to be at least 10 hours per manager.

Goal - To embrace the skills and knowledge of management and staff

5. Indicator

Percentage of staff personal development plans implemented.

Goal - To provide satisfactory assistance to victims and witnesses

6. Indicator

That the percentage of victims and witnesses satisfied or very satisfied with the quality of services they receive from this Office is > 80% measured by survey.

Goal - To influence policy and law reform

7. Indicator

Respond to Government requests for advice on law reform issues within the required timeframe
> 90%

Goal - To participate in the ongoing legal education of stakeholders and the community

8. Indicator

Participating in stakeholder training and public forums reported on each year.

These eight KPIs will be reported against in the next financial year.

BUSINESS OPERATIONS

Prosecution Highlights

Some of the significant work undertaken by the Office during 2009-10 included:

High Court

One application for special leave to appeal was finalised before the High Court during 2009-10. It was an application for permission to appeal a conviction. It was dismissed.

Court of Criminal Appeal

Defence Appeals Against Conviction

Thirty-one defence appeals against conviction were heard and finalised before the Court of Criminal Appeal during 2009-10. Twenty-three of these appeals were dismissed. In six of the appeals, a re-trial was ordered. In one appeal, the conviction was quashed and no re-trial ordered. One appeal was withdrawn.

Crown Appeals Against Sentence

In 2009-10 the Director sought permission to appeal against sentences imposed in five matters. In four, the appeal was allowed and the sentence increased. In one, the appeal was dismissed.

Defence Appeals against Conviction

R v Sparrow [2009] SASC 209

The appellant was tried before a jury for Attempted Aggravated Robbery. The issue in the trial was identification. The appellant had been selected from photographs. As the appellant's appearance was unique, police had significantly altered the appearance of others in the selection of photographs. The

appellant argued in such circumstances the identification should have been excluded. The Court of Criminal Appeal held the identification to be admissible.

***R v Brown* [2009] SASC 226**

The appellant was convicted of a number of sexual offences against a child. He was also found not guilty of some counts. The offences had taken place in the 1970s. On appeal, it was argued that the verdicts were inconsistent and that fresh evidence should be admitted on the appeal. The Court held that the different verdicts could be explained on the face of the case. The Court refused to receive the fresh evidence.

***R v Dawson-Ryan* [2009] SASC 259**

The appellant was convicted at trial of multiple sexual offences against six victims over a period of about 16 years. At trial, the directions given on complaint and the impact of delay were those given under the new section 34CB and section 34M of the *Evidence Act*, 1929. The Court held that given the date of the Information that had initiated the proceedings in the District Court, the directions appropriate were those at common law. Nonetheless, the directions given dealt with the relevant matters and the convictions were upheld.

***R v Hajistassi* [2010] SASC 111**

The appellant was found guilty by a jury of murder. He appealed his conviction on a number of grounds. The Court dismissed the appeal. Among issues dealt with by the Court in its judgment are: the admissibility of past acts of violence by the deceased when an issue in the trial is self-defence, the use of out of court statements by an accused for testimonial purposes, and the circumstances in which the defence of provocation must be left.

***R v J, JA* [2009] SASC 401**

This judgment deals with the operation of section 34CA of the *Evidence Act*, 1929 and the admissibility of out of court statements by “protected witnesses”. By majority the Court held that the section established three conditions for admissibility:

1. The Court must be satisfied that the statement has sufficient probative value to justify admission.
2. The protected witness must have been called, or be available to be called, as a witness.
3. The Court must give permission for the protected witness to be cross-examined on matters arising from the evidence.

All members of the court agreed that there was a lack of clarity in the drafting of section 34CA and that further consideration was warranted by Parliament. More recently, this section has again been considered by the Court of Criminal Appeal in *R v Byerley* [2010] SASFC 3.

Crown Appeals against Sentence

***R v McNamara* [2009] SASC 227**

The Sentencing Judge imposed a sentence of 4 years and 6 months with a non-parole period of 18 months for the sentence of Serious Criminal Trespass and Theft and Causing Serious Harm with Intent to do Serious Harm. The last of these offences involved the assault of a police officer with a bottle,

causing severe lacerations to his face and neck and requiring repeated surgery. The Court emphasised the seriousness with which assaults against police officers are to be viewed. The sentence was increased to 6 years 9 months with a non-parole period of 4 years.

***R v How* [2009] SASC 236**

Mr How was found guilty at trial of one count of Unlawful Sexual Intercourse and one count of Indecent Assault. He was originally sentenced to imprisonment for 3 years and 6 months with a non-parole period of 20 months. On appeal, this sentence was increased to 6 years with a non-parole period of 2 years 9 months.

***R v White* [2010] SASC 77**

Mr White pleaded guilty to six counts of Unlawful Sexual Intercourse. The victim was his niece. The appellant had previously been sentenced in New South Wales for sexual offending against the same child. A sentence of 4 years and 6 months with a non-parole period of 3 years was originally imposed. On appeal the sentence was increased to a head sentence of 6 years 2 months with a non-parole period of 4 years 1 month.

***R v Bennett* [2010] SASC 166**

Mr Bennett was found guilty at trial of a number of sexual offences against three boys. A sentence of 9 years with a non-parole period of 4 years 6 months was originally imposed. On appeal, the sentence was increased to a head sentence of 12 years with a non-parole period of 7 years.

Defence Appeals against Sentence

***R v White* [2009] SASC 239**

The appellant pleaded guilty to lighting a number of bush fires in the Adelaide Hills. A sentence of 13 years with a non-parole period of 9 years was imposed. The appellant appealed the sentence. On appeal the head sentence of 13 years was not interfered with but the non-parole period was lowered to 6½ years.

***R v Jongewaard* [2009] SASC 346**

At trial the appellant was found guilty of Aggravated Due Care and Failing to Stop and Give Assistance. The sentence of 2 years with a non-parole period of 9 months was imposed. The appellant appealed against the failure to suspend that sentence. The appeal was dismissed.

Trials

R v Garry Francis NEWMAN

Garry Francis Newman was tried and convicted by a Supreme Court jury of the murder of 15-year old Carly Ryan. Newman, from Victoria, was jointly tried with his son, whose identity is suppressed by virtue of him being a youth at the time of his arrest. The trial was presided over by Justice Kelly. A *voir dire* hearing concerning the admissibility of various pieces of evidence lasted 20 days. At the commencement of the trial before the jury, Garry Newman pleaded guilty to manslaughter. That plea was not accepted by the prosecution. At the trial the prosecution led a vast body of circumstantial evidence including technical and expert evidence concerning tidal movements, computer analysis, telephone tower tracking, DNA, handwriting comparison, soil analysis and forensic podiatry. At the

conclusion of the trial which lasted 58 days, Garry Newman was unanimously convicted of murder. His son was acquitted of murder and manslaughter. Garry Newman was sentenced to life imprisonment with a non-parole period of 29 years. An appeal against conviction is pending.

R v CHEA

The accused was charged with the offence of murder. The deceased was shot and killed outside of his home at Black Forest. On the prosecution case he had been shot by a business associate of the accused, Mr Fry. The accused and Mr Fry were involved in a pawn broking business. The deceased was a client of that business. Together the accused and Mr Fry had visited the deceased. The prosecution alleged that the visit had taken place for the purpose of seeking payment of an outstanding debt. During the course of that meeting the deceased was shot and killed by Mr Fry. On the prosecution case the accused was responsible for the actions of Mr Fry having regard to the principles of joint enterprise.

The case of the appellant at trial was that he had no knowledge of Mr Fry being in possession of a firearm before its production in the course of the argument. In addition, it was alleged by the accused that Mr Fry might have shot the deceased in order to defend the accused. Mr Fry had passed away prior to the trial.

The accused was found not guilty.

R v CURTIS

Mr Curtis was charged with the murder of his de facto wife. She had been severely beaten at a house in Coober Pedy. Mr Curtis was one of a number of people present at the house at the time of the beating. Some of these people gave evidence in the prosecution case. In the prosecution case Mr Curtis had beaten the deceased after accusing her of having been unfaithful to him.

Mr Curtis was tried before a jury in Port Augusta. He was found not guilty of murder but guilty of manslaughter.

Mr Curtis had a history of violence towards the deceased. Prior to sentencing the prosecution applied for him to be declared a serious repeat offender under section 20B of the *Criminal Law (Sentencing) Act, 1988*. The Sentencing Judge made the declaration. This was the first such declaration since the introduction of the relevant provision.

R v Glyn DOUGHERTY & Ryan DOUGHERTY

The defendants who were brothers, were tried and convicted in the Supreme Court in respect of offences of aggravated serious criminal trespass and causing serious bodily harm with intent to cause serious bodily harm.

The defendants had forced their way into the kitchen of the victim's Riverland home at night, and then jointly attacked him with a cricket bat and a crow bar in front of his 9 year old son and another.

The beating was so severe that it fractured the base of the victim's skull causing a brain injury which, had it been left untreated, could have been fatal.

The defendants were sentenced to eleven and a half years imprisonment (with a non-parole period of nine years), and nine and a half years (with non-parole period of five years) respectively.

R v Matthew HEYWARD & Jeremy MINTER

The defendants were tried and convicted after an eight week trial in the Supreme Court sitting at Mount Gambier, for the murder of Glenys Heyward, the first defendant's mother.

The defendants had participated in a plan with the deceased's husband to abduct and murder her in July of 2007.

The deceased, who had issued court proceedings involving the family home and dairy farm had been lured by her son to an address in Mount Gambier where Minter and the victim's husband had been waiting. The deceased was then transported from Mount Gambier to an address in Wilkin, Victoria, where her body was recovered from a pit some months later.

The deceased's husband committed suicide in prison before the matter went to trial.

The defendants were each sentenced to life imprisonment, with non parole periods of 23 years.

R v JONES and LANE

Matthew Jones and Grant Lane were jointly charged with the murder of Brett Bamford in the early hours of New Years Day 2009. Mr Bamford's body was located in the driveway of an address at Davoren Park. It was alleged that a dispute had developed between the occupant of the premises and the two accused. The dispute escalated and it was alleged that Mr Jones and Mr Lane returned and Mr Jones was armed with a loaded sawn off rifle. Mr Jones pointed the rifle at Mr Bamford and it discharged. Mr Bamford died at the scene.

On his arrest Mr Jones told the police he had taken the gun to the Davoren park address intending to "menace" people by pointing it at them. He claimed the gun had malfunctioned in some way and had accidentally discharged. Mr Lane did not answer questions when arrested and did not give evidence. He had at no time been armed with the gun and the prosecution had the challenge of proving he knew that Mr Jones was in possession of the gun, and that he intended to at least produce it.

The gun was located by the police and did malfunction in the condition it was in when located.

After a trial lasting just under 3 weeks, the jury must have accepted as a reasonable possibility that the gun had malfunctioned. Mr Jones was acquitted of murder but convicted of manslaughter. The jury must have accepted as a reasonable possibility that Mr Lane had not been part of any joint plan to present or discharge the gun and he was acquitted of all charges.

Mr Jones is yet to be sentenced.

R v MARSHALL

The accused was charged with the murder of her long term partner. The murder was alleged to have occurred in their home, and the victim had been bashed, shot, stabbed and left to die.

It was the prosecution case that the accused murdered the victim after learning that the victim was planning to leave the accused for her (the accused's) brother. Furthermore, it was the prosecution case that the accused wore ugg boots, which left a bloody trail from the victim to the kitchen where she retrieved a knife, and back again to the victim.

At trial, the defence was that the accused was at the cemetery visiting gravesites at the time of the murder.

It was a trial by Judge alone, and the accused was acquitted of murder.

R v LAWRIE & WARREN

The two accused were jointly charged with the murder of a 50 year old man at Ceduna. The prosecution alleged that the two accused approached the deceased at his Ceduna home late one night, and asked him to drive them to nearby Thevenard. The deceased agreed to this. An altercation developed when the men arrived at Thevenard, during which the deceased was assaulted and rendered unconscious. There was incontrovertible evidence that both accused were present at the time of this assault. It was alleged that the two accused then drove the deceased to an isolated location on the outskirts of Ceduna, where the deceased was bashed to death with a rock and tree branch. His car was set alight. Forensic evidence linked the accused Mr Warren to the crime scene. There was no forensic evidence to link Mr Lawrie to the location of the killing.

The accused Mr Lawrie did not give evidence in his own defence. For his part, the accused Mr Warren chose to give evidence. Initially, he denied any involvement in the killing. He blamed his co accused Mr Lawrie, for the murder. However in cross-examination, he eventually admitted that this account was false. He confessed that he was responsible for inflicting the fatal injuries, and that his co-accused Mr Lawrie was not present at the time of the killing. During the course of his evidence he made a full confession to the crime of murder. He was re-arraigned in the presence of the jury and entered a plea of guilty to the charge of murder. He was then convicted of this crime by the jury.

In light of the confession, and some of the material disclosed within it, Prosecutors and Police re-assessed the evidence against Mr Lawrie. After a thorough re-evaluation of the evidence that was now available, the decision was made to enter a nolle prosequi against Mr Lawrie.

Mr Warren was sentenced to life imprisonment with a non-parole period of 23 years.

Confiscation of Assets of Crime

The *Criminal Assets Confiscation Act 2005* gives the Director of Public Prosecutions the power to seek to confiscate proceeds and instruments of crime. The Act allows, among other things, the following:

- The court can make a restraining order over property, so that it is not disposed of while criminal proceedings run their course.
- The court can make a forfeiture order, forfeiting property which is proceeds of an offence, or was used in connection with the commission of an offence.
- The court can make a pecuniary penalty order, which is an order that a monetary sum be paid to the Crown, 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.

Money received from the sale of forfeited property and pecuniary penalty orders is paid into the Victims of Crime Fund.

The ODPP deposited the amount of \$924,728 into the Victims of Crime Fund for the financial year ending 30 June 2010. In the previous financial year the ODPP deposited \$1,408,372 into the fund. The amount deposited this year represents a 34.3% decrease on the previous year's amount.

| Criminal Assets Confiscation | |
|---------------------------------------|-----|
| No of Briefs received during 2009-10 | 209 |
| No of Briefs finalised during 2009-10 | 167 |

Statistical Overview

The Office provides statistical information on the number of matters completed during the year and other performance indicators.

General counting rules

Unless otherwise stated all tables and charts report the number of *Briefs*.

Example: If the DPP is prosecuting John Citizen on multiple charges arising from a single police investigation, one Brief will be reported. If the DPP is prosecuting him on charges arising from two unrelated police investigations, two Briefs will be reported. If John and Jane Citizen are both charged in relation to the same offence, two Briefs (one for each defendant) will be reported.

The Glossary at Appendix D will assist with terms used in the following charts.

Adelaide Prosecutions

Adelaide Prosecution Briefs - Received and Finalised

| | 2009-10 | 2008-09 | 2007-08 |
|--|---------|---------|---------|
| Total Prosecution Briefs Received | 2604 | 2534 | 1985 |
| Briefs Finalised During Committal Stage (Table A) | 1436 | 1222 | 1030 |
| Briefs Finalised in the District or Supreme Court (Table B) | 1144 | 1003 | 1074 |

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.

Adelaide Prosecution Brief Outcomes

Table A

Adelaide Committal - Total Brief Outcomes

| Magistrates (Committal Court) Stage | District or Supreme Court Stage | | | |
|---|---------------------------------|------------------------------|---------------------------------|------------------------------------|
| | Resolved in Committal Court | Resolved before Trial Listed | Trial Listed but resolved prior | Resolved after proceeding to Trial |
| Outcomes - at Committal Stage | 2009-10 | 2008-09 | 2007-08 | |
| Resolved in Mag. Crt by ODPP | 85 | 5.92% | 68 | 72 |
| Returned to Police | 389 | 27.09% | 339 | 198 |
| No case to answer | 10 | 0.70% | 13 | 3 |
| Tender no evidence | 586 | 40.81% | 504 | 439 |
| Pleads guilty all charges (inc C/S) | 249 | 17.34% | 243 | 240 |
| Pleads guilty some/lesser charges (inc C/S) | 49 | 3.41% | 30 | 55 |
| Other | 68 | 4.74% | 25 | 23 |
| Total | 1436 | 100.00% | 1222 | 1030 |

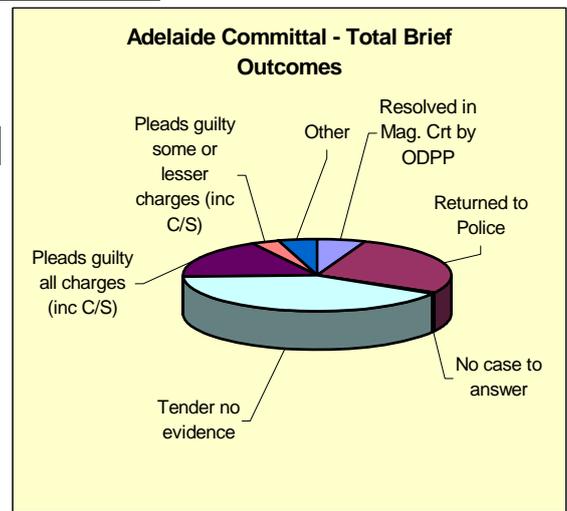
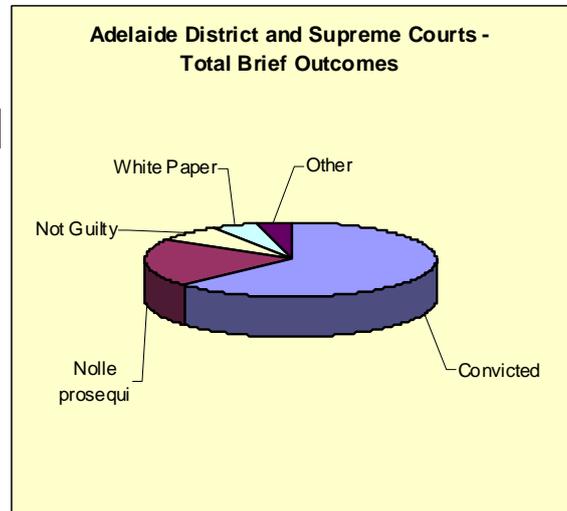


Table B

Adelaide District and Supreme Courts - Total Brief Outcomes

| Magistrates (Committal Court) Stage | District or Supreme Court Stage | | | |
|---|---------------------------------|------------------------------|---------------------------------|------------------------------------|
| | Resolved in Committal Court | Resolved before Trial Listed | Trial Listed but resolved prior | Resolved after proceeding to Trial |
| Supreme & District Court matters finalised | 2009-10 | 2008-09 | 2007-08 | |
| Convicted | 719 | 62.85% | 664 | 789 |
| Nolle prosequi | 237 | 20.72% | 183 | 140 |
| Not Guilty | 87 | 7.60% | 73 | 71 |
| White Paper | 58 | 5.07% | 37 | 33 |
| Other | 43 | 3.76% | 46 | 41 |
| Total | 1144 | 100.00% | 1003 | 1074 |



Tables B (i) (ii) and (iii) on the next page show the breakdown of the prosecution stages at which these outcomes were achieved in the District and Supreme Courts. Table B (iv) shows the reasons for the Nolle Prosequis that were entered by the ODPP during these stages.

Table B (i)

Adelaide District and Supreme Courts - Brief Outcomes Prior to Listing for Trial

| Magistrates (Committal Court) Stage | District or Supreme Court Stage | | | |
|---|---------------------------------|------------------------------|---------------------------------|------------------------------------|
| | Resolved in Committal Court | Resolved before Trial Listed | Trial Listed but resolved prior | Resolved after proceeding to Trial |
| Outcomes - Resolved prior to trial | | | | |
| | 2009-10 | 2008-09 | 2007-08 | |
| Returned to Police | 5 | 1.11% | 1 | |
| White Paper | 58 | 12.89% | 37 | 33 |
| Mentally Unfit | 3 | 0.67% | 4 | |
| Pleads guilty all charges | 235 | 52.22% | 293 | 264 |
| Pleads guilty some/lesser charges | 66 | 14.67% | 46 | 84 |
| Nolle all charges | 63 | 14.00% | 60 | 46 |
| Other | 20 | 4.44% | 26 | 16 |
| Total | 450 | 100.00% | 467 | 443 |

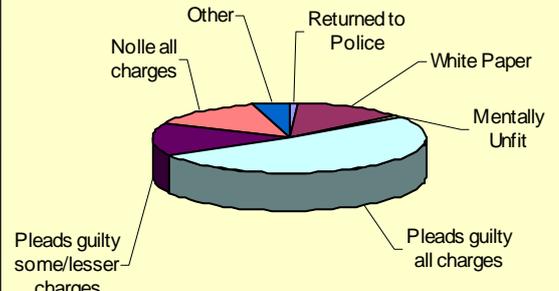


Table B (ii)

Adelaide District and Supreme Courts - Brief Outcomes After Listing, but Before Proceeding to Trial

| Magistrates (Committal Court) Stage | District or Supreme Court Stage | | | |
|--|---------------------------------|------------------------------|---------------------------------|------------------------------------|
| | Resolved in Committal Court | Resolved before Trial Listed | Trial Listed but resolved prior | Resolved after proceeding to Trial |
| Outcomes of Briefs listed for trial | | | | |
| | 2009-10 | 2008-09 | 2007-08 | |
| Pleads guilty all charges | 152 | 33.93% | 110 | 193 |
| Pleads guilty some/lesser charges | 123 | 27.46% | 83 | 116 |
| Mentally Unfit | 1 | 0.22% | 2 | 10 |
| Nolle all charges | 161 | 35.94% | 120 | 93 |
| Other | 11 | 2.46% | 5 | 8 |
| Total | 448 | 100.00% | 320 | 420 |

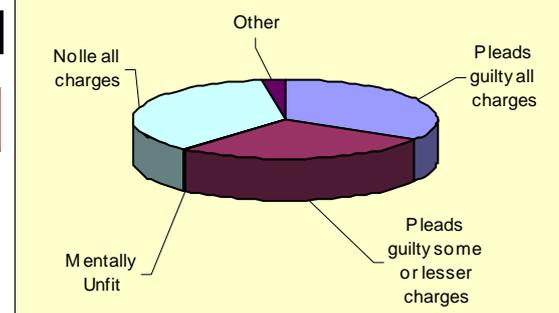


Table B (iii)

Adelaide District and Supreme Courts - Brief Outcomes After Proceeding to Trial

| Magistrates (Committal Court) Stage | District or Supreme Court Stage | | | |
|--|---------------------------------|------------------------------|---------------------------------|------------------------------------|
| | Resolved in Committal Court | Resolved before Trial Listed | Trial Listed but resolved prior | Resolved after proceeding to Trial |
| Outcomes of Briefs listed for trial | 2009-10 | 2008-09 | 2007-08 | |
| Found guilty all charges | 58 | 23.58% | 60 | 64 |
| Found guilty some/lesser charges | 41 | 16.67% | 62 | 56 |
| Pleads Guilty all charges | 16 | 6.50% | 4 | 4 |
| Pleads Guilty some/lesser charges | 24 | 9.76% | 6 | 8 |
| Plea during/after Voir Dire | 4 | 1.63% | 0 | 0 |
| Found Not Guilty all charges - acquitted | 86 | 34.96% | 70 | 61 |
| Not Guilty - Mental Incompetence | 1 | 0.41% | 3 | 10 |
| Nolle all charges | 13 | 5.28% | 3 | 1 |
| Other | 3 | 1.22% | 8 | 7 |
| Total | 246 | 100.00% | 216 | 211 |

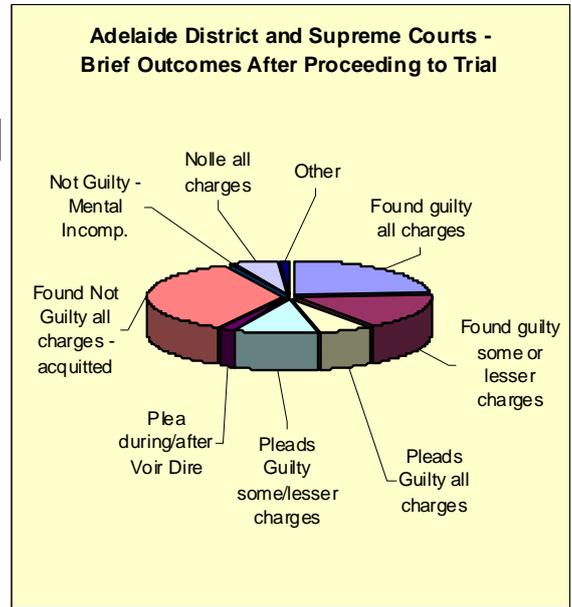
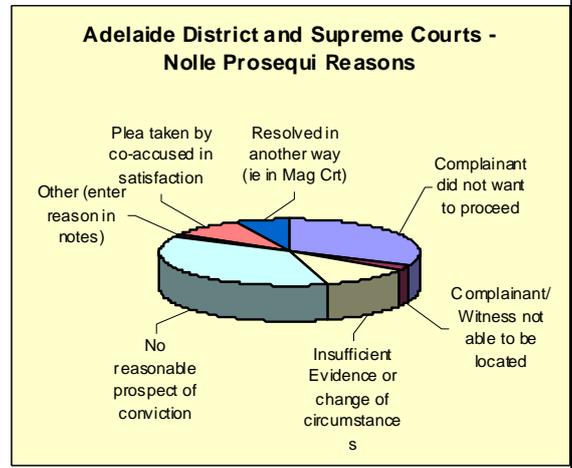


Table B (iv)

Adelaide District and Supreme Courts - Nolle Prosequi Reasons

| Nolle Prosequi - Reasons | 2009-10 |
|---|------------|
| Complainant did not want to proceed | 75 |
| Complainant/Witness not able to be located | 6 |
| Insufficient Evidence/change of circumstances | 26 |
| No reasonable prospect of conviction | 89 |
| Other (enter reason in notes) | 4 |
| Plea taken by co-accused in satisfaction | 21 |
| Resolved in another way (ie in Mag Crt) | 16 |
| Total | 237 |



Adelaide Trials - Listed, Finalised and Vacated

| | 2009-10 | 2008-09 | 2007-08 |
|--|---------|---------|---------|
| Total Number of Trials Listed in the District and Supreme Court | 1028 | 865 | 903 |
| Number of Trials Finalised (Table C) | 314 | 262 | 259 |
| Number of Trials Vacated (Table D) | 716 | 593 | 591 |

Please note that a single brief may have multiple trials listed during the reporting period. For example, a Trial may be listed in relation to the brief of John Citizen, but may be vacated. The trial may then be listed again during the reporting period, and could proceed and finalise. This would be counted as two trials listed, one trial vacated and one trial finalised during the reporting period.

Adelaide Trial Outcomes

Table C

Adelaide District and Supreme Courts - Outcomes of Trials that Proceeded

| Trials - Adelaide District and Supreme Court | | | | |
|--|------------------|----------------|----------------|------------|
| | Trials Proceeded | | Trials Vacated | |
| | 2009-10 | 2008-09 | 2007-08 | |
| Trial Outcomes - Adelaide | 2009-10 | 2008-09 | 2007-08 | |
| Guilty | 117 | 37.26% | 117 | 112 |
| Not Guilty | 87 | 27.71% | 74 | 62 |
| Nolle Prosequi | 9 | 2.87% | 16 | 10 |
| Not Guilty - Mental incompetence | 9 | 2.87% | 4 | 1 |
| Guilty Plea at/during trial | 35 | 11.15% | 13 | 19 |
| Hung Jury | 12 | 3.82% | 1 | 7 |
| Mistrial | 21 | 6.69% | 19 | 20 |
| Other | 24 | 7.64% | 18 | 28 |
| Total Trials Finalised | 314 | 100.00% | 262 | 259 |

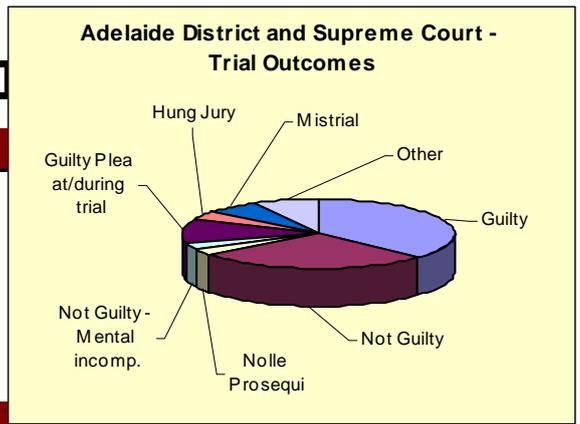
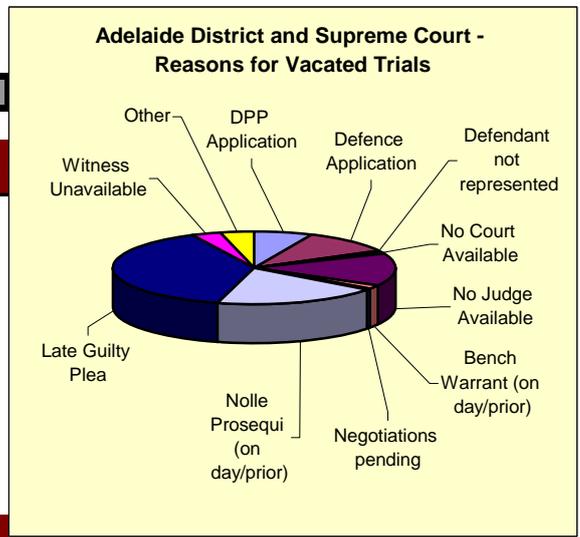


Table D

Adelaide District and Supreme Courts - Reasons for Vacated Trials

| Trials - Adelaide District and Supreme Court | | | | |
|--|------------------|----------------|----------------|------------|
| | Trials Proceeded | | Trials Vacated | |
| | 2009-10 | 2008-09 | 2007-08 | |
| Reason Trial Vacated - Adelaide | 2009-10 | 2008-09 | 2007-08 | |
| DPP Application | 47 | 6.56% | 47 | 26 |
| Defence Application | 77 | 10.75% | 106 | 72 |
| Defendant not represented | 1 | 0.14% | 2 | 0 |
| No Court Available | 8 | 1.12% | 22 | 15 |
| No Judge Available | 104 | 14.53% | 93 | 103 |
| Bench Warrant (on day/prior) | 12 | 1.68% | 10 | 13 |
| Negotiations pending | 3 | 0.42% | 10 | 5 |
| Nolle Prosequi (on day/prior) | 136 | 18.99% | 91 | 74 |
| Late Guilty Plea | 277 | 38.69% | 161 | 223 |
| Witness Unavailable | 24 | 3.35% | 26 | 18 |
| Other | 27 | 3.77% | 25 | 42 |
| Total Trials Vacated | 716 | 100.00% | 593 | 591 |



*Circuit Prosecutions***Circuit Prosecution Briefs - Received and Finalised**

| | 2009-10 | 2008-09 | 2007-08 |
|--|---------|---------|---------|
| Total Prosecution Briefs Received into the Circuit District and Supreme Courts* | 343 | 377 | 236 |
| Briefs Finalised in the District or Supreme Court** (Table E) | 296 | 271 | 256 |

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.

* Includes briefs received after being committed to the District or Supreme Court for sentence to be handed down.

**Does not include briefs that are committed to the District or Supreme Court for which ODPP attend at the sentence. For reporting purposes, the finalisation of these briefs is regarded to have occurred when a plea was entered at the Committal Stage

Circuit Prosecution Brief Outcomes

| <u>Circuit Committal Outcomes</u> | | | |
|--|--|--|---|
| Magistrates (Committal Court) Stage | District or Supreme Court Stage | | |
| Resolved in Committal Court | Resolved before Trial Listed | Trial Listed but resolved prior | Resolved after proceeding to Trial |
| | | | |

NB - The ODPP does not deal with matters in the Circuit Courts during their Committal Stage. The Committal Stage of Circuit Court matters is dealt with by prosecutors from the South Australian Police.

| <u>Table E</u> | | | | |
|--|--|--|---|------------|
| <u>Circuit District and Supreme Courts - Total Brief Outcomes</u> | | | | |
| Magistrates (Committal Court) Stage | District or Supreme Court Stage | | | |
| Resolved in Committal Court | Resolved before Trial Listed | Trial Listed but resolved prior | Resolved after proceeding to Trial | |
| | | | | |
| Circuit District and Supreme Courts - Total Outcomes | | | | |
| Supreme & District Court matters finalised | 2009-10 | 2008-09 | 2007-08 | |
| Convicted | 152 | 51.35% | 136 | 129 |
| Nolle prosequi | 68 | 22.97% | 51 | 44 |
| Not Guilty | 23 | 7.77% | 21 | 11 |
| White Paper | 44 | 14.86% | 55 | 47 |
| Other | 9 | 3.04% | 8 | 25 |
| Total | 296 | 100.00% | 271 | 256 |

Tables E (i) (ii) and (iii) on the next page show the breakdown of the prosecution stages at which these outcomes were achieved in the Circuit District and Supreme Courts. Table E (iv) shows the reasons for the Nolle Prosequis that were entered by the ODPP during these stages.

The pie chart illustrates the distribution of total brief outcomes. The largest segment is 'Convicted', followed by 'Nolle prosequi', 'Not Guilty', 'White Paper', and 'Other'.

Table E (i)

Circuit District and Supreme Courts - Brief Outcomes Prior to Listing for Trial

| Magistrates (Committal Court) Stage | District or Supreme Court Stage | | | |
|---|---------------------------------|------------------------------|---------------------------------|------------------------------------|
| | Resolved in Committal Court | Resolved before Trial Listed | Trial Listed but resolved prior | Resolved after proceeding to Trial |
| | | | | |
| Outcomes - Resolved prior to trial | 2009-10 | 2008-09 | 2007-08 | |
| White Paper | 44 | 22.45% | 55 | 47 |
| Pleads guilty all charges | 70 | 35.71% | 70 | 62 |
| Pleads guilty some/lesser charges | 33 | 16.84% | 29 | 21 |
| Nolle all charges | 42 | 21.43% | 38 | 32 |
| Other | 7 | 3.57% | 8 | 15 |
| Total | 196 | 100.00% | 200 | 177 |

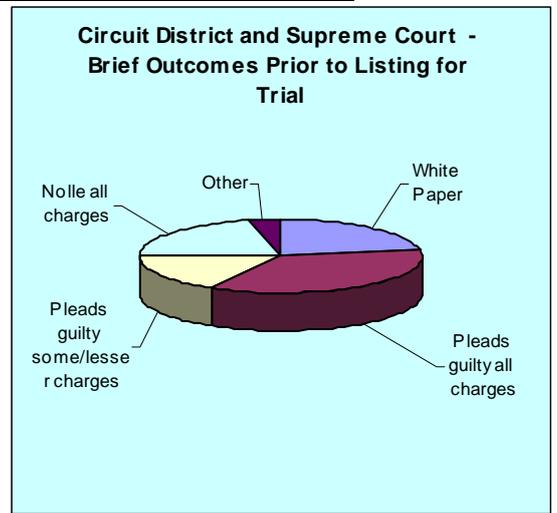


Table E (ii)

Circuit District and Supreme Courts - Brief Outcomes After Listing, but Before Proceeding to Trial

| Magistrates (Committal Court) Stage | District or Supreme Court Stage | | | |
|--|---------------------------------|------------------------------|---------------------------------|------------------------------------|
| | Resolved in Committal Court | Resolved before Trial Listed | Trial Listed but resolved prior | Resolved after proceeding to Trial |
| | | | | |
| Outcomes of Briefs listed for trial | 2009-10 | 2008-09 | 2007-08 | |
| Pleads guilty all charges | 13 | 27.66% | 12 | 10 |
| Pleads guilty some/lesser charges | 12 | 25.53% | 16 | 16 |
| Nolle all charges | 21 | 44.68% | 12 | 10 |
| Other | 1 | 2.13% | | 5 |
| Total | 47 | 100.00% | 40 | 41 |

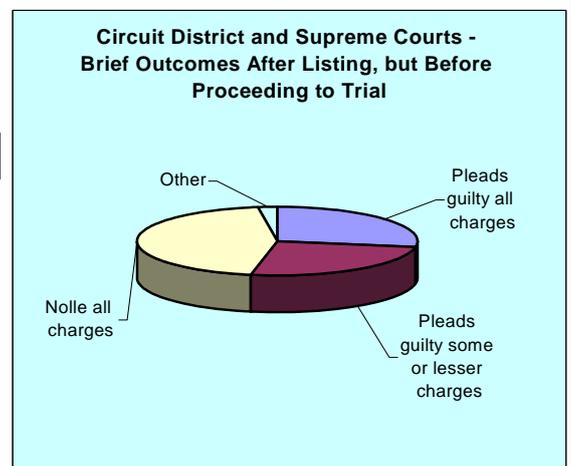


Table E (iii)

Circuit District and Supreme Courts - Brief Outcomes After Proceeding to Trial

| Magistrates (Committal Court) Stage | District or Supreme Court Stage | | |
|--|---------------------------------|---------------------------------|------------------------------------|
| | Resolved before Trial Listed | Trial Listed but resolved prior | Resolved after proceeding to Trial |
| Resolved in Committal Court | | | |
| Outcomes of Briefs listed for trial | 2009-10 | 2008-09 | 2007-08 |
| Found guilty all charges | 11 | 20.75% | 2 |
| Found guilty some/lesser charges | 3 | 5.66% | 5 |
| Pleads Guilty All Charges | 2 | 3.77% | 1 |
| Pleads Guilty Some/Lesser charges | 6 | 11.32% | 1 |
| Plea During/After Voir Dire | 2 | 3.77% | 0 |
| Found Not Guilty all charges - acquitted | 23 | 43.40% | 21 |
| Nolle all charges | 5 | 9.43% | 1 |
| Other | 1 | 1.89% | 0 |
| Total | 53 | 100.00% | 31 |

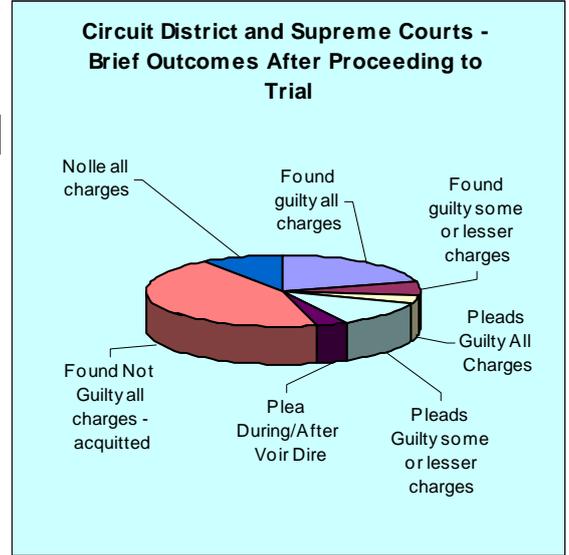
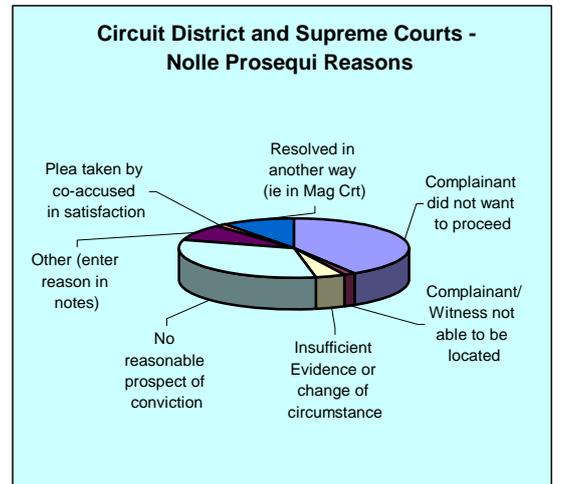


Table E (iv)

Circuit District and Supreme Courts - Nolle Prosequi Reasons

| Nolle Prosequi - Reasons | 2009-10 | |
|---|----------------|----------------|
| Complainant did not want to proceed | 28 | 41.18% |
| Complainant/Witness not able to be located | 1 | 1.47% |
| Insufficient Evidence/change of circumstances | 3 | 4.41% |
| No reasonable prospect of conviction | 22 | 32.35% |
| Other (enter reason in notes) | 6 | 8.82% |
| Plea taken by co-accused in satisfaction | 1 | 1.47% |
| Resolved in another way (ie in Mag Crt) | 7 | 10.29% |
| Total | 68 | 100.00% |



Circuit Trials - Listed, Finalised and Vacated

| | 2009-10 | 2008-09 | 2007-08 |
|--|---------|---------|---------|
| Total Number of Trials Listed in the District and Supreme Court | 217 | 156 | 98 |
| Number of Trials Finalised (Table F) | 57 | 32 | 43 |
| Number of Trials Vacated (Table G) | 167 | 93 | 58 |

Please note that a single brief may have multiple trials listed during the reporting period. For example, a Trial may be listed in relation to the brief of John Citizen, but may be vacated. The trial may then be listed again during the reporting period, and could proceed and finalise. This would be counted as two trials listed, one trial vacated and one trial finalised during the reporting period.

Circuit Trial Outcomes

Table F

Circuit District and Supreme Courts - Outcomes of Trials that Proceeded

| Trials - Circuit District and Supreme Court | | | | |
|---|------------------|----------------|----------------|-----------|
| | Trials Proceeded | | Trials Vacated | |
| | 2009-10 | 2008-09 | 2007-08 | |
| Trial Outcomes - Adelaide | | | | |
| Guilty | 20 | 35.09% | 6 | 11 |
| Not Guilty | 23 | 40.35% | 20 | 9 |
| Nolle Prosequi | 4 | 7.02% | 3 | 11 |
| Guilty Plea at/during trial | 5 | 8.77% | 3 | 4 |
| Hung Jury | 1 | 1.75% | 4 | 0 |
| Mistrial | 3 | 5.26% | 2 | 3 |
| Other | 1 | 1.75% | 1 | 5 |
| Total Trials Finalised | 57 | 100.00% | 39 | 43 |

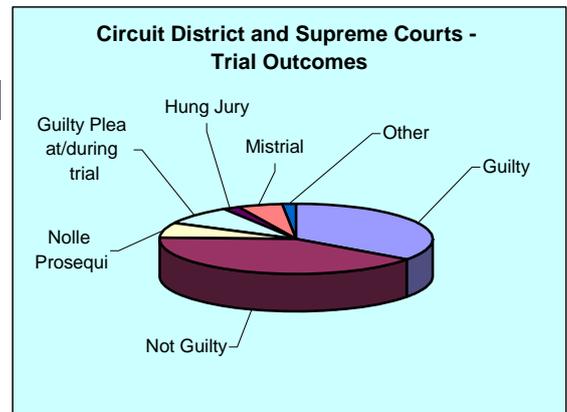
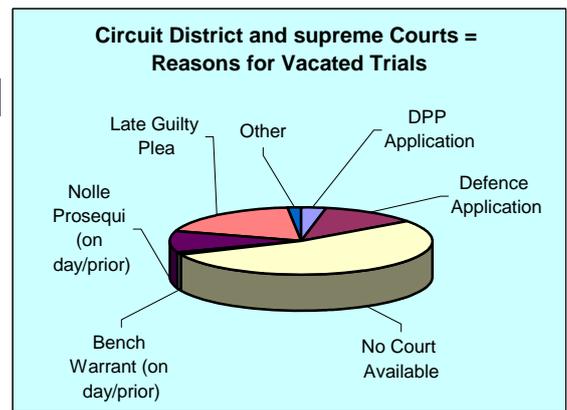


Table G

Circuit District and Supreme Courts - Reasons for Vacated Trials

| Trials - Circuit District and Supreme Court | | | | |
|---|------------------|----------------|----------------|-----------|
| | Trials Proceeded | | Trials Vacated | |
| | 2009-10 | 2008-09 | 2007-08 | |
| Reason Trial Vacated - Adelaide | | | | |
| DPP Application | 5 | 2.99% | 0 | 2 |
| Defence Application | 20 | 11.98% | 16 | 11 |
| No Court Available | 89 | 53.29% | 26 | 7 |
| Bench Warrant (on day/prior) | 2 | 1.20% | 3 | 2 |
| Nolle Prosequi (on day/prior) | 17 | 10.18% | 11 | 8 |
| Late Guilty Plea | 31 | 18.56% | 27 | 18 |
| Other | 3 | 1.80% | 10 | 10 |
| Total Trials Finalised | 167 | 100.00% | 93 | 58 |



*Criminal Court of Appeal***Appeals**

| Crown Appeals | Against sentence | | Other grounds | | | |
|--------------------------------------|-------------------------|-----------|-----------------------------|-----------|-------------------------------|-----------|
| | 2009-10 | 2008-09 | 2009-10 | | 2008-09 | |
| Allowed | 4 | 5 | | | | |
| Dismissed | 1 | 2 | 1 | | | |
| Total Crown Appeals decided | 5 | 7 | 0 | 1 | | |
| Defence Appeals | Against sentence | | Against conviction | | Other Grounds | |
| | 2009-10 | 2008-09 | 2009-10 | 2008-09 | 2009-10 | 2008-09 |
| Conviction quashed | 2 | 1 | 6 | 8 | | |
| Sentence reduced | 5 | 9 | | | | |
| Appeal Dismissed | 16 | 16 | 23 | 21 | 5 | |
| Other outcome | 1 | 6 | 2 | 4 | 2 | |
| Total Defence Appeals decided | 24 | 32 | 31 | 33 | 0 | 7 |
| Leave to Appeal Applications | By DPP against sentence | | By Defence against Sentence | | By Defence against Conviction | |
| | 2009-10 | 2008-09 | 2009-10 | 2008-09 | 2009-10 | 2008-09 |
| Abandoned / Withdrawn | | | 5 | 6 | 2 | 7 |
| Dismissed | 1 | | | 11 | 13 | 5 |
| Sentence reduced | | | | | 3 | |
| To CCA | | | 30 | 27 | 29 | 33 |
| Other | | | | | | |
| Total Applications | 0 | 0 | 46 | 49 | 36 | 49 |

Other Brief Types

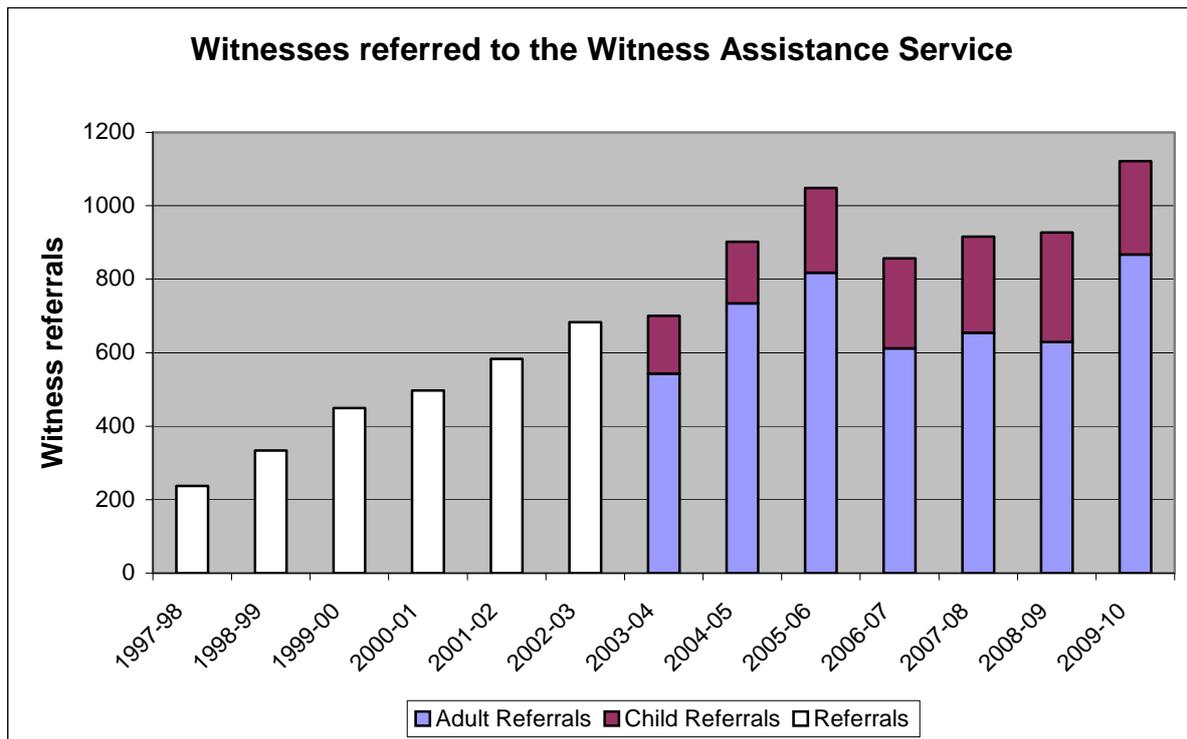
The Office has conduct of a number of other brief types associated with criminal prosecutions. Of significant note is the work we do in relation to Criminal Assets Confiscations (see page 23), the matters for which we adjudicate and provide opinions to the South Australian Police, and our conduct of matters relating to persons detained as a result of Mental Impairment.

Adjudication and Opinion Outcomes

| Adjudication Outcomes | 2009-10 | | 2008-09 | 2007-08 |
|--------------------------------------|-------------|----------------|-------------|-------------|
| Charge major Indictable | 2074 | 79.62% | 2092 | 1867 |
| Charge Minor Indictable | 158 | 6.07% | 122 | 135 |
| Charge Summary | 71 | 2.73% | 52 | 59 |
| Do not lay charges | 47 | 1.80% | 58 | 39 |
| Other | 255 | 9.79% | 141 | 58 |
| Total Adjudications finalised | 2605 | 100.00% | 2465 | 2158 |
| Opinion Outcomes | 2009-10 | | 2008-09 | 2007-08 |
| Charge major Indictable | 72 | 36.00% | 82 | 125 |
| Charge Minor Indictable | 15 | 7.50% | 14 | 38 |
| Charge Summary | 2 | 1.00% | 2 | 25 |
| Do not lay charges | 35 | 17.50% | 64 | 93 |
| Other | 76 | 38.00% | 63 | 191 |
| Total Opinions finalised | 200 | 100.00% | 225 | 472 |

Mental Impairment

| Mental Impairment | |
|---------------------------------------|----|
| No of Briefs received during 2009-10 | 17 |
| No of Briefs finalised during 2009-10 | 11 |

Witness Assistance Service***Office of the DPP Website***

During 2009-10, the Office website averaged over 1400 'hits' each month. (A hit is counted each time a visitor opens a page.)

CHANGES IN THE CRIMINAL JUSTICE SYSTEM

The Adelaide Magistrates Court Case Conferencing Pilot continued during 2009-10. As a part of this pilot, the Adelaide Magistrates Court allowed for up to four half hour case conferences per week. These case conferences were facilitated with the objective of increasing the number of matters that were able to reach an early and appropriate resolution. Even for those matters that are not able to be resolved early in the criminal prosecution process, case conferencing can assist in clarifying a range of issues and reduce the time required to prepare matters for trial.

Participants provided very positive feedback during a recent evaluation of the first twelve months of this pilot. The evaluation suggests that in excess of 135 days of court sitting time has been saved as a result of case conferencing. A sub-group of the Criminal Justice Ministerial Taskforce will continue to monitor this pilot, enabling the further building of evidence to support the potential expansion of the program in the future.

GENERAL MANAGER'S REPORT

Consolidation of progress made in recent years placed the Office in a position where it could review operations and consider further changes. We are aware that challenges remain—to achieve greater efficiencies, to deliver improved services and to do so in a challenging economic environment.

We have looked at how the Office can align itself better with the Attorney-General's Department's strategies particularly to be more community facing, innovative and collaborative, and to engage staff in meaningful work in a rewarding workplace. The recent Staff Survey shows the employees of the Office are a highly dedicated and professional group and we want to build on this.

Staffing the Office

Sixteen additional positions for 2009-10 were announced by government in April 2008 as part of a three year staffing plan. Five of these were for work flowing from the Serious and Organised Crime (Control) Act 2008. Filling of these positions was delayed pending a review of the distribution of S&OC funding. The Office retained 2.5 of these positions. The increase of 13.5 FTE for the year was a welcome increase of legal, administrative and witness assistance resources.

Office Technology

Justice Technology Services continues to provide support to the Office in maintaining and enhancing the Case Tracking database. The Office is totally dependent on the Attorney-General's Department for IT skills and resources. The shortfall in the system's capabilities, primarily but not solely due to the abandonment of the second phase of the Integrated Justice Project, which was to deliver important functions, has been reported previously. The Office has briefed the Attorney-General's Department on the deficiencies and requested that expert resources be made available to assess the existing system and opportunities to improve the use of IT in support of the prosecution process.

The Office installed a video conference terminal enabling it to communicate with victims, witnesses and others in remote locations without the disruption and cost of travel.

This year the Office began upgrading its computer facilities in the Adelaide, Port Augusta and Mt Gambier court precincts. The new facilities will give prosecutors working in the courts, remote access to the Office's database and other essential information, and high-speed access to on-line research tools.

Knowledge Management

The Office has decided on tools that will be used to deploy the planned On-Line Prosecution Guide which, when complete, will enable the Office to capture corporate knowledge and make it readily accessible to all staff, alongside essential internal and external on-line resources. Generating, collecting and managing the content will be a challenge but it is essential that prosecutors have the tools to do their job professionally and efficiently.

Accommodation

With an extra sixteen staff planned for 2009-10, the Office was, at the start of the year - and having previously rejected off-site overflow accommodation - negotiating with the Attorney-General's Department for additional space. The cooperation of Justice Business Services in securing an area within the building was appreciated. We now have each of the Legal Practice Teams, each with about a quarter of the Office's staff and work, on different floors. The Witness Assistance Service of twelve social workers is on yet another floor.

In 2009-10, the AGD's 'restack' and renovation of 45 Pirie Street moved a little closer to realisation and the Office looks forward to consolidating its operations onto fewer floors.

AGD Corporate Services

The Office continues to rely on the AGD for all corporate services—human resources, facilities management, finance, procurement, OHS&W, ICT, corporate communications and media, and library, to name a few—and we thank the individuals and teams involved for their assistance throughout the year. We are encouraged by those who have shown a great willingness to assist; to see the issues from the perspective of the Office and its staff; and to advocate for the Office's needs.

Staff Training and Development

The Office completed its program, commenced in 2008-09, of sending executive managers to four or five-day Executive Leadership Development programs at Mt Eliza Business School. Eleven Executives attended the AGD's Chief Executive's leading Change program and have been involved in on-going activities under the *Make a Difference* program.

Information and training sessions were run for lawyers as part of the Office's Continuing Legal Education (CLE) program with ten sessions being video recorded for future use by staff. The ODPP also participates in relevant CLE sessions run by the Crown Solicitor's Office and the Law Society.

Staff across the Office participated in external training, most of which was arranged through the Justice Portfolio Organisational Learning Framework.

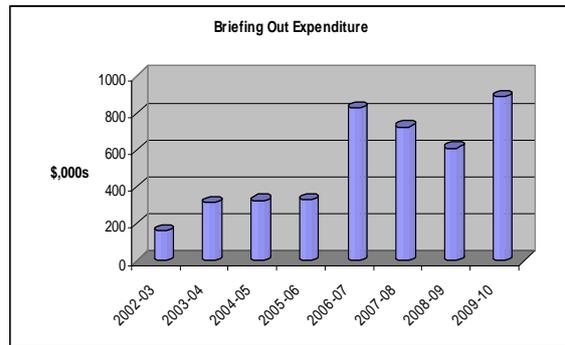
Contribution to Justice projects and programs

The Office has been an active participant in a number of Justice-wide initiatives, sometimes providing significant contribution, at other times reviewing and commenting on draft documents and program. The initiatives include:

- Parole Information Project
- Justice Video Conferencing project
- Criminal Justice Ministerial Task Force
- Victims of Crime Ministerial Advisory Committee
- AGD Restorative Justice Reference Group

Briefing Out

The Office briefs external counsel to appear in court on behalf of the DPP in both city and country (Circuit) courts. This is necessary when the Office has insufficient suitably experienced staff counsel to cover all listed trials and contributes to development of criminal advocacy within the private sector. The graph shows Briefing Out expenditure over recent years. Like the rapid growth in 2006-07, the increase in 2009-10 is due to an influx of relatively junior lawyers in the Office. The upward trend was evident in the last half of 2008-09 and, as reported in last year's Annual Report, attributed to the loss of four of the Office's most senior prosecutors, including two Queen's Counsel, during 2008-09.



Administrative Manager's Report

Staff

The Office of the Director of Public Prosecutions offers a number of full-time or part-time opportunities for ongoing, term contract staff with a variety of employment conditions and flexible working arrangements.

A number of staff took advantage of work-life balance by utilizing the Department's flexible working options to work from home, or to use flexi-time, depending on their job roles.

Staff of the Office of the Director of Public Prosecutions are all located at 45 Pirie Street.

I congratulate the Administration staff once again for their continued input and efforts in supporting the Legal staff of the office.

Human Resources support is provided at a corporate level through the Attorney-General's Department.

Occupational Health, Safety & Injury Management

As the Office of the Director of Public Prosecution is a division of the Attorney-General's Department, Occupational Health and Safety matters are largely reported in the annual report of the Justice Portfolio incorporating the Department of Justice and the Attorney-General's Department.

The Office of the Director of Public Prosecution continues to offer

- flu vaccinations to staff with the cost borne by the agency
- worksite assessments by occupational therapist

Training and Development

The opportunity to undertake Personal Development is offered by the Attorney General's Department and is communicated to staff via the Intranet.

The Office of the Director of Public Prosecution continues to provide in house training for professional staff, specifically to meet their needs. In 2009-10 a number of legal managers attended

Mount Eliza in Victoria, in response to individual training needs identified by the Office. Additional legal staff took the opportunity to participate in other external training and public information sessions.

The Office of the Director of Public Prosecution offered work experience to a number of secondary students during 2009-10. A number of law students wishing to complete the practical legal training component of their professional qualifications also undertook placements in the office.

Witness Assistance Service Report

In 2009-10 the Witness Assistance Service (WAS) experienced an increased demand for its services to victims of crime, witnesses for the prosecution and their immediate family members in matters dealt with by the Office.

The Witness Assistance Service, comprised of twelve Senior Social Workers, assisted victims of crime and witnesses for the prosecution with information and support. The Commissioner for Victims' Rights continued to fund several positions specifically to assist child and adolescent victims.

Significant numbers of services were provided to victims of crime and prosecution witnesses in the most serious criminal matters being prosecuted by the Office. These included murder, attempted murder, manslaughter, causing death by dangerous driving, child sex offences, historical sexual offences, rape and other serious violent (aggravated) offences.

The WAS also had significant involvement with victims and families in sensitive criminal matters where alleged offenders were determined to be *Mentally Incompetent* or *Unfit to Stand Trial*.

The Service saw an increase in demand for services to victims and witnesses in regional and remote areas.⁷

WAS Year in Review

The activities of the WAS continue to be influenced by the needs, requests and referral patterns of victims and witnesses.

During 2009-10, *New Referrals* to the Service grew by a sizable 21.0% (1122 new referrals compared to 927 the previous year). Where *New Child Referrals* decreased by 14.4% (255 compared to 298), the number of *New Adult Referrals* increased significantly by 37.8 % (a total of 867 compared to 629).

This represents a significant total increase in *New Referrals* to the Service and the highest rate of *New Referrals* since the establishment of the Service 1995.

Where *New Child Referrals* decreased by 14.4% the time spend providing services and support to young children and adolescents increased by 13.6% (from 797.9hrs to 906.8hrs). This is a notable trend and, in part, reflects the growing complexity and time needed when working with child and adolescent victims of alleged sex offences and their immediate family members.

The Service experienced a 19.6% increase in the actual numbers of face-to-face services provided to victims and witnesses. Of particular note, significant increases were made in *Court Attendance / Support* (33.4%) and *Court Companion Support* (31.3%) activities representing WAO's increased support of victims and witnesses at court hearings. *Attendance at Proofing Meetings* increased by a

⁷ Pt Augusta, Pt Pirie, Whyalla, Ceduna, Pt Lincoln, Mt Gambier, Riverland and APY Lands

sizable 15.7% representing the important role performed by Witness Assistance Officers during sensitive meetings with legal staff.

| Activity | 2008-2009 | 2009 - 2010 | % Change |
|-------------------------------------|-------------|-------------|---------------|
| Attendance at Proofing Meetings | 1095 | 1267 | +15.7% |
| Court Attendance / Support | 476 | 635 | +33.4% |
| Court familiarisation / Preparation | 166 | 172 | + 3.6% |
| Assistance with VIS | 100 | 111 | + 11.0% |
| Court Companion Support | 99 | 130 | + 31.3% |
| Total Face -to-face Services | 1936 | 2315 | +19.6% |

WAS Activity levels in 2009-10 compared to the previous year

OTHER HIGHLIGHTS

The WAS worked collaboratively with other criminal justice agencies – government and non government - and continued to deliver training and information sessions to groups supporting victims of crime and their families.

The Service also provided in-house training to legal and administrative staff of the Office with particular emphasis on *Working with Child and Adolescent Victims and their Families*

The Service continued its key role on the Attorney-General's *Victims of Crime Ministerial Advisory Committee and Restorative Justice Reference Group* and jointly developed, with the *Guardian of Children and Young People*, a working agreement for dealing with sexual offences involving Children in Care.

The Service developed a range of *Information Fact Sheets* for victims of crime including information explaining the legal process associated with *Mental Impairment* and *Unfitness to Stand Trial* legal matters.

APPENDIX A

Publications and Information

The Office publishes information about its services and provides information about services available from other agencies for victims and witnesses. Some publications are produced jointly by the Office and other government and non-government organisations. ODPP publications are available through the Office's Internet site. This website is regularly updated and provides links and information about the criminal justice system, employment opportunities and work experience.

The following publications are available on the Office of the DPP website - www.dpp.sa.gov.au.

- ODPP Annual Reports
- *Director of Public Prosecutions Act 1991* and links to relevant legislation
- *DPP Statement of Prosecution Policy and Guidelines*
- *Witness Assistance Service - Information* leaflet (Information for witnesses and victims of crime)
- *Unlocking the Homicide Maze* (Produced by the ODPP in conjunction with the Homicide Victims Support Group)
- *An Important Job - Going to Court* (specifically written for child victims/witnesses)
- *What Choice Do I Have?* - Information for people who have experienced rape or sexual assault (jointly produced by the ODPP and Yarrow Place Rape and Sexual Assault Service).

The following internet sites provide further information related to the work of the Office.

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| <i>Office of the Director of Public Prosecutions</i> | www.dpp.sa.gov.au |
| <i>Commissioner for Victims' Rights</i> | www.voc.sa.gov.au |
| <i>SA Police</i> | www.sapolice.sa.gov.au |
| <i>Yarrow Place Rape & Sexual Assault Service</i> | www.yarrowplace.sa.gov.au |
| <i>Courts Administration Authority</i> | www.courts.sa.gov.au |
| <i>Department for Correctional Services</i> | www.corrections.sa.gov.au |

APPENDIX B

Compliance Reporting

The following matters are incorporated within the Annual Report of the Attorney-General's Department.

- Aboriginal reconciliation Statement
- Asbestos Management
- Consultants
- Contractual arrangement
- Disability Action Plan Reporting
- Energy Efficiency Action Plan Reporting
- Equal Employment Opportunity
- Executive Employment Reporting
- Financial Reporting
- Fraud
- Greening of Government
- Human Resource Reporting
- Occupational Health, Safety & Injury Management
- Regional Impact Assessment Statements

Freedom of Information

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

Overseas Travel

The Director made the following overseas trips in 2009-10

Destination: Kyiv, Ukraine
 Purpose: International Association of Prosecutors (IAP) Conference
 Date: 5 - 10 September 2009
 Total Cost to ODPP: \$15,650

Destination: Cape Town, South Africa
 Purpose: Heads of Prosecution Agencies Conference (HOPAC)
 Date: 11 - 13 September 2009
 Total Cost to ODPP: \$8607

Destination: Salvador, Brazil
 Purpose: Executive Committee Meeting of the International Association of Anti-Corruption Authorities (IAACA)
 Twelfth United Nations Congress on Crime Prevention and Criminal Justice
 Date: 9 - 19 April 2010
 Total Cost to ODPP: Travel Expenses met by the IAACA

Destination: Taiwan
 Purpose: Ministry of Justice
 Date: 16 - 22 May 2010
 Total Cost to ODPP: Travel Expenses met by Ministry of Justice, Taiwan.

APPENDIX C**External training**

| SESSION | ODPP REPRESENTATIVE |
|--|-----------------------------|
| Criminal Justice Seminars - Adelaide (Law Week) - Berri - Pt Adelaide | Witness Assistance Officers |
| Flinders University Law Students Mentoring Program | Telfer, E |
| Governor's Leadership Program, Law and Order Seminar. Presentation - Leadership and Communications 13th October 2009 | Pallaras, S |
| Heads of Prosecuting Agencies Conference (HOPAC), Capetown, South Africa. Presentations; 1. Technology and its impact on the Prosecutor 2. Jury Verdicts 10th -13th Nov 2009. | Pallaras, S |
| Ministry of Justice, Taiwan. Information Sessions & Discussions with Taiwanese Prosecutors, Presentations: ODPP SA, Australian criminal justice system and prosecution processes 17th - 20th May 2010. | Pallaras, S |
| SA Police Investigator Training Course Topic - Giving evidence | Telfer, E |
| SA Police Clandestine Drug Laboratory Investigation and Safety course Topic - Legal issues relating to clandestine drug laboratory prosecutions 4th September 2009 | Matteo, C |
| SA Police Prosecutors Training course Topic: Witness Proofings | Ingleton, K |

| SESSION | ODPP REPRESENTATIVE |
|--|-----------------------------|
| SA Police Topic: Cross Examination of Police Officers | Agnew, S Cairney, A |
| SA Police Investigators Training Course Topic: 'Interviewing' | Agnew, S Telfer, E |
| SA Police Topic: Investigators Training Exercise | Edge, C |
| SA Police Prosecutor Qualifying Course. Presentation - The Committal Process and Rule 20 Applications. 23rd July 09 and 26th November 09 | Alessandrini, M |
| Senior Leadership Program Attended Mt Eliza, Melbourne - 13-17 July 2009, | Pallaras, S |
| TAFE Interagency Child Abuse Investigation Training - 4 sessions | Witness Assistance Officers |
| University of Adelaide, Law School. Presentation - Sentencing 16th October 2009 | Pallaras, S |
| University of Adelaide, Law School Presentation - Cross Examination Techniques | Norman, M |
| Victim Support Service Volunteer Court Companion Training | Witness Assistance Officers |
| Victim Support Service Parent Group | Witness Assistance Officers |
| Yarrow Place Topic: Expert Witness Training for training of General Practitioners 21st May 2010 | Wilkinson, M |
| Yarrow Place Topic: Expert evidence training for sexual assault examiners 21st May 2010 | Matteo, C |
| Yarrow Place Topic: Expert Witness Training Practical Exercise for General Practitioners giving evidence in court. | Duong, Lisa |

APPENDIX D

Glossary

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|---------------------------------|---|
| <i>Accused</i> | A person who is alleged to have committed an offence. |
| <i>Acquit</i> | To find an accused person not guilty at a trial. |
| <i>Adjourn</i> | To delay a court hearing, until later that day, to a future date or indefinitely. |
| <i>Adjudication</i> | Legal advice sought by, and given to, SA Police in the metropolitan area on the appropriateness of draft charges intended to be laid on the first appearance after arrest. Adjudication requests are generally turned around within two hours in time for the accused's first appearance in the Magistrates Court (the morning of the day after arrest if bail has been refused). See also <i>Opinion</i> . |
| <i>Affidavit</i> | A sworn or affirmed written statement which may be used as a substitute for oral evidence. |
| <i>AGD</i> | Attorney-General's Department |
| <i>Antecedent Report</i> | A report that lists a person's previous criminal convictions. |
| <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 affirms (agrees with) the lower court decision, the appeal is dismissed</p> <p>The DPP can appeal against sentence only (not against an acquittal). The defendant can appeal against both a sentence and conviction.</p> |
| <i>Appellant</i> | When a party (prosecution or accused) appeals against a court decision, he/she is referred to as the appellant throughout the appeal process. See also <i>Respondent</i> . |
| <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 will have separate Briefs. Unrelated charges stemming from a separate criminal activity will have a separate Brief. Co-accused will have a Brief each for the criminal activity being prosecuted. |
| <i>Burden of Proof</i> | The onus of proving disputed facts. In criminal trials the onus is almost always on the prosecution to prove the facts, including the charge. Defence does not have to prove innocence. See also Standard of Proof. |
| <i>CLCA</i> | <i>Criminal Law Consolidation Act 1935</i> |

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| <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>Committed for Sentence</i> | If, at the committal proceedings, the accused pleads guilty, the magistrate will order the accused person to appear before a District or Supreme Court to be sentenced according to law. |
| <i>Convicted</i> | Found guilty of the crime charged or of a lesser charge. |
| <i>Crown</i> | The Crown means the State. |
| <i>Declarations</i> | A written witness statement given to police, signed by the person giving the statement. |
| <i>Defendant</i> | In the Magistrates Court the accused may be referred to as the defendant. |
| <i>Directions Hearing</i> | A pre-trial administrative hearing to ensure that all parties are ready for trial and to set a trial date. |
| <i>Exhibit</i> | A document or physical item tendered as evidence in a court hearing or referred to in an affidavit. |
| <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 Criminal Assets Confiscation Act, 2005 for the confiscation of property of a person convicted of a criminal offence. |
| <i>Form 7</i> | An application to the Full Bench of the Supreme Court for leave to appeal following rejection of an application to appeal by a single judge. |
| <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>Information</i> | An Information is the document that formally initiates the prosecution process when lodged with the court prior to Arraignment. It names the accused, details of the charge or charges and the names of witnesses. |
| <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>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>Mentally Incompetent</i> | <ol style="list-style-type: none"> (1) Where an accused is found not guilty on grounds of mental competence at the time the offence was committed (CLCA Part 8A) and declared liable to supervision. (2) Where a person is found by a court to be mentally unfit to stand trial because they can not satisfactorily assist in their own defence. |
| <i>Minor Indictable Offence</i> | Those indictable offences where the maximum term of imprisonment exceeds two years but is less than five years. Minor indictable offences are heard and determined in the District Court. |

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| <i>Nolle Prosequi</i> | 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 (available on the ODPP website - http://www.dpp.sa.gov.au .) |
| <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 dependant upon the Parole Board. |
| <i>Not Guilty</i> | (1) A plea by an accused that he/she did not commit the crime charged. (2) The finding of a court that the accused is acquitted of the charges. |
| <i>Objective elements</i> | The elements of a crime other than the mental state of an alleged offender. If an accused is found unfit to stand trial due to a mental impairment, the court will decide whether the criminal act occurred as alleged without turning its mind to the guilt of an alleged offender. |
| <i>Opinion</i> | Advice requested by SA Police from the ODPP in accordance with SAPOL guidelines which permit discretion to request an Opinion in some situations but mandates specified categories of offence be referred to the ODPP for an Opinion. Following a detailed examination of the charges, the available evidence and a review of all statements and the account of interview of the alleged offender, the ODPP may confirm charges should proceed as laid, advise a change of charges or recommend further investigation. It may also confirm an arrest or report is justified on the basis of the material provided. |
| <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>Precedent</i> | A judicial decision on a point of law which is binding on all courts lower in the hierarchy. |
| <i>Resolved Summarily</i> | Matters where <i>major indictable</i> charges have been reduced to <i>minor indictable</i> or <i>summary</i> charges and finalised by guilty plea or trial in the Magistrates Court. |
| <i>Respondent</i> | The party (prosecution or the accused) called to respond in a higher court to an appeal by the other party against a decision of a lower court. |
| <i>Restraining Orders</i> | 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. 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. Domestic violence restraining orders prevent a defendant from contact with specific people or visiting specific addresses. 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. |

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| <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>Subpoena</i> | A legal document requiring attendance in court to give evidence and/or the production of a document or exhibit. |
| <i>Standard of proof</i> | The degree of certainty which must be established to prove a charge. In criminal proceedings facts must be proven 'beyond reasonable doubt'. In civil proceedings the contested facts are proven 'on the balance of probabilities'. |
| <i>Summary Offence</i> | An offence with a maximum possible prison sentence less than two years. Summary offences are tried in the Magistrates Court and not sent for trial before a judge and jury. Police prosecutors (not the DPP) normally prosecute summary offences. |
| <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. |
| <i>VIS</i> | See Victim Impact Statement |
| <i>Victim Impact Statement</i> | A written statement prepared by a victim and read or presented in Court to inform the Court of the impact of a crime on a victim. |
| <i>Voir Dire</i> | Legal argument before the judge in court but without the jury present. |

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