



**Government
of South Australia**

Director of Public
Prosecutions

**DIRECTOR
OF
PUBLIC PROSECUTIONS**

Annual Report

2011-12

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ISSN 1833-7902

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DIRECTOR'S OVERVIEW

This annual report marks the 20 year anniversary of the Office of the Director of Public Prosecutions. The Office was established through the Director of Public Prosecutions Act, 1991 and the Office came into existence on 6 July 1992. South Australia became the last State or Territory to adopt an independent statutory prosecuting authority. This anniversary is a timely reminder of why the Office was established. It was brought into existence so that this State would have an independent prosecution authority. As the first Director, Mr Paul Rofe QC stated in the first Annual Report:

“The rationale for an independent statutory prosecuting authority is obvious. The prosecution function in the criminal justice system needs to be free from any actual or perceived influence.”

The community can be confident that I, and my staff, are fiercely independent and there has been no hint of any political interference in the work of this Office in the last 12 months.

As others have observed before me, the independence of the Office is not absolute. There is the potential within the DPP Act for directions to be given by the Attorney General. None have been given in the last 12 months. As should be the case with any Attorney General, the current Attorney General shows a keen interest in the criminal justice system and has wanted to inform himself as to how the criminal justice system might be improved. His interest has been healthy and has been welcome but he has in no way interfered with the independence of the Office.

Given the Office's 20 year anniversary it is appropriate to look back over the last 20 years to consider some of the things that have been achieved. There have been many high profile cases. There have been controversial cases and issues. There have been times when the Office has been under considerable scrutiny. Throughout all of this the Office has been able to focus upon its core responsibility of providing the best possible prosecution service with the resources available to it. The work of this Office has routinely had a positive impact upon the lives of people who have been subjected to serious crime.

It is also instructive to look at what the Office was like 20 years ago and how it compares to today. On the day that the Office opened its doors there were 44 staff. Today, the Office is supposedly funded for 145.18 staff. However, it must be noted that, in order to meet the budget provided, I am unable to employ that number. The amount of money provided to the Office in its budget for all of the other things required to run an office such as this is so inadequate that I must operate at a less than complete staffing complement in order to make up the shortfall. For most of the past 12 months the Office has had approximately 10-12 staff less than our full complement. Notwithstanding, the Office's budget was still exceeded. This, the increasing level of work and its increasing complexity, places the Office under continuing pressure to meet its obligations to the court and to the community in the way it should be expected.

Over the last 12 months considerable efforts have been put into reducing the amount of money that is spent on “briefing out” matters to external counsel at the time of trial. I am pleased to say that in the last 12 months the Office has been able to reduce that amount from \$830,000 to \$555,000. Increasing the amount of trial work that is done within the Office has the significant added benefit of giving the Office greater oversight of the quality of the work

that is done at trial. Subject to resources, the efforts to reduce the amount of money spent on briefing out and to do as much of that work in-house as possible under the influence of senior lawyers in the Office will continue.

In 1992, a single solicitor in the Office handled all of the files involving sexual offences against children. Today, there is not a single staff member who does not deal with such matters as part of their everyday practice. The amount of work of this type has plainly increased since 1992. I suggest that there is a greater recognition in the community that such offending takes place and more complainants are coming forward. It is a sad reflection on our society that such offending is so prevalent. This work remains very difficult for all of those involved. I am confident that the Office handles these matters better today than it did in 1992. I mean no criticism by that observation. However, over time I am confident that we have learnt how to prosecute such matters better. In addition, there has been important legislative reform that has, among other things, permitted alleged victims to give their evidence without having to see the accused.

Further, one of the most significant developments in the Office in the last 20 years has been the creation of, and growth of, the Witness Assistance Service. Today there are 11 Witness Assistance Officers. This dedicated team of social workers provided support to complainants and their families in 1041 matters for the year. Four of these Witness Assistance Officers are dedicated to matters involving child complainants. The overwhelming majority of those involve alleged sexual offences. The Witness Assistance Officers work collaboratively with solicitors and prosecutors to support complainants and their families to understand the criminal justice system. For those matters that proceed to trial, the Witness Assistance Officers provide essential support in preparing witnesses for the experience of giving evidence. In 1992 there were no such staff in the Office. The first Witness Assistance Officer joined the Office in 1995 and for many years there was only one. The creation of a Witness Assistance Service and the growth of that service, is one of the most significant achievements of the Office in the last 20 years. This Office has led the way in providing additional services to victims. During this year, with the support of the Commissioner for Victim's Rights, a dedicated meeting room for child victims was opened in the Office.

Among the senior lawyers in the Office in 1992 was a prosecutor who held the position of Crown Counsel. This was a position for an experienced senior counsel. This position existed until 2004 but was never filled after that. I am pleased that shortly after my appointment as Director it has recently been "recreated" as the position of Chief Crown Prosecutor. The Office requires the Chief Crown Prosecutor to conduct lengthy and complex trials and appeals. These are matters that require detailed and lengthy preparation by a person with the skills and experience of senior counsel. It is imperative that these complex matters are handled by a counsel of considerable ability and experience without this person being distracted by other responsibilities.

In May of this year James Pearce QC was appointed to this position. With the greatest respect to others, in my opinion Mr Pearce QC is the leading jury advocate in this State. His appointment is proper recognition of his skill and value to the Office.

In addition approval has been given for the creation of two new positions - Deputy Director (Solicitor) and Deputy Director (Counsel). In the past, there has only been a single Deputy Director. The creation of these two roles is important. The work of the Office has grown to the point that there needs to be a Deputy Director directly responsible for each of the different

types of work the Office does. The work done by trial counsel and the work done by the solicitors who handle, and resolve, the bulk of the legal work of the Office is different.

The Deputy Director (Solicitor) will have the core responsibility of managing the solicitor work of the Office while the Deputy Director (Counsel) will have the core responsibility of managing the trial counsel in the Office as well as conducting complex trials and appeals. Having two Deputy Directors will help me to maintain a presence in court and contribute on a day to day basis to the development of policy that hopefully will have a positive impact upon the criminal justice system. It will also assist me in maintaining meaningful contact with my staff.

The creation of new roles referred to above is not the only significant change that has taken place in the last 12 months. In April of this year my predecessor, Mr Stephen Pallaras QC, completed his 7 year term as Director. Many things changed during Stephen's tenure. There was more than one restructure of the Office. The budget and staffing of the Office increased and Stephen was tireless in maintaining a public profile that contributed to the role of the Office being promoted and better understood. It is important that I acknowledge the service that he provided to this Office and to the State of South Australia.

It has been instructive for me to look back over the last 20 years of the Office in order to write this forward. The Office has a very proud history. It has done a great deal of important work. It has done that work well and South Australians have been very well served. It is plain that the Office has increased dramatically in this period and far more than an increase in resources has recognised.

There are many reasons for this. They include a consistent drive by Governments to increase the seriousness of certain offences with the consequence that some offences that previously could have been dealt with in the Magistrates Court now must be handled by this Office. There have been many, many amendments to legislation relevant to the criminal law. If there has been a legislative amendment in the last 20 years that has made things simpler for this Office, it has escaped me. In addition, police have different investigative techniques available to them than they did 20 years ago and the use of forensic evidence has become far more common. In my view, the expectations of the courts have also become greater and this Office must consult with, and inform victims, in a much more detailed way than ever before. In short, the number of matters that this Office handles has not only increased but each matter is also more complex.

To review the history of the Office I have perused a number of past annual reports. In those reports, resources is a constant theme. It is an issue that has not gone away.

In the first few weeks of my assuming the position as Director it was necessary for me to seriously explore the possibility of ceasing to take responsibility for major indictable matters in the Magistrates Courts. This was necessary because the Office faced additional budget cuts in the 2012-13 year and beyond. These proposed cuts meant that the Office needed to look at ways of reducing its workload. For the criminal justice system, ceasing to have responsibility for major indictable matters in the metropolitan courts would have been a retrograde step. The involvement of this Office so early in the life of a prosecution is essential for an effective and efficient service. Matters can be appropriately negotiated by experienced lawyers. For those matters that cannot be resolved - the preparation for the trial can begin. This Office's

involvement saves significant resources for police and for the courts. It also contributes to the best possible outcomes being achieved for victims and the accused.

However, the proposed cuts, coupled with a failure of the Government to meet the Office's request for additional resources to meet additional workloads, meant that such a significant step had to be seriously contemplated.

In the end, it was not a step that I needed to take. Shortly after the State Budget, I was advised that although the Office had been unsuccessful in receiving additional resources for its increased workload, the foreshadowed budget cuts did not have to be made. This enabled me not to take the step of withdrawing this Office's involvement in major indictable matters in the Magistrates Courts.

Nonetheless the Office remains under pressure. The request for additional resources in advance of the State Budget was a responsible and justifiable one based on workloads. Obviously enough, not having to make the foreshadowed cuts was welcome news but I have noted above that I am not funded sufficiently to be able to employ all of the staff that I should have. It can be anticipated that the issue of adequate resourcing of this Office will be something that I will be taking up in my term as Director.

I conclude by thanking all of my staff for their work in the last 12 months. All have worked tirelessly to meet the expectations that the people of South Australia should have of this Office.

Adam Kimber SC
Director of Public Prosecutions

THE 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.

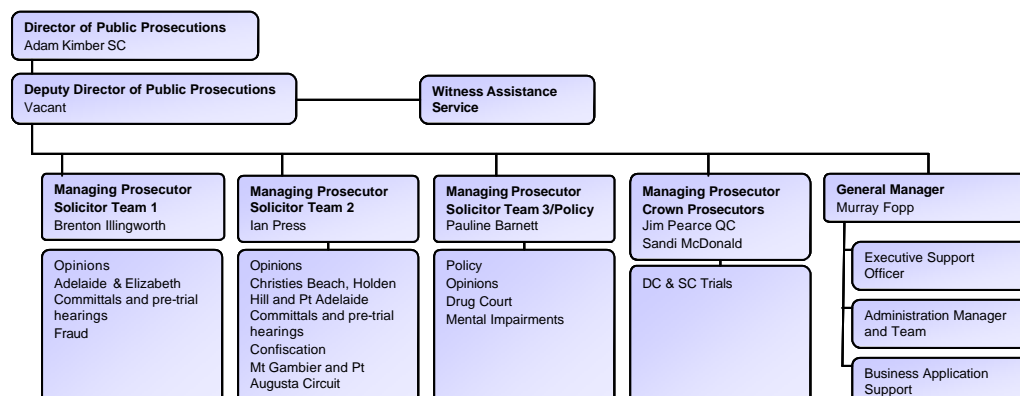
Corporate Values

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

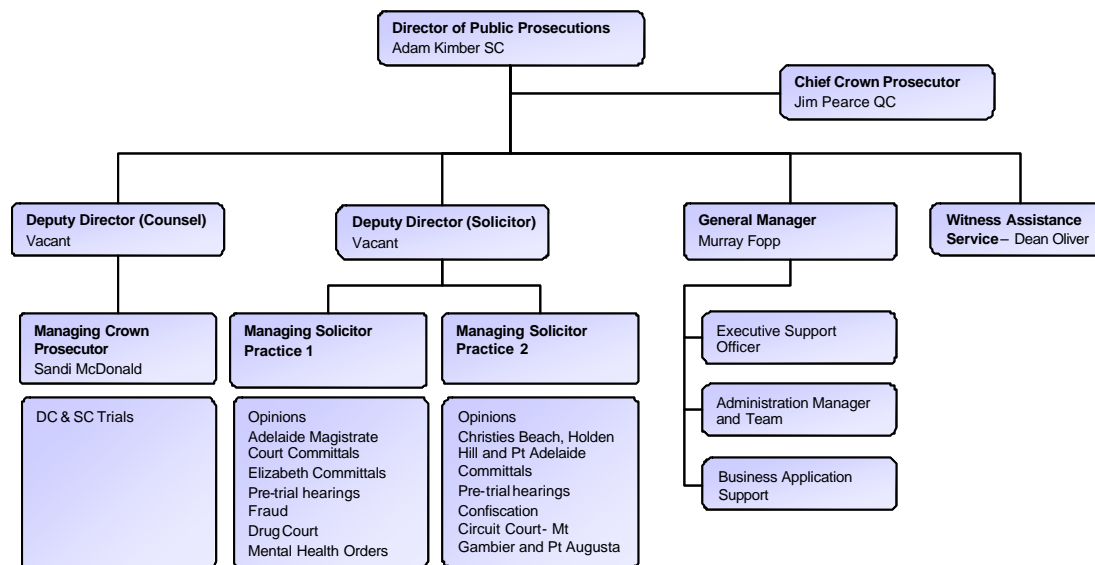
- the highest standard of ethical and professional conduct, objectivity, honesty and sensitivity;
- full public accountability for the quality of service provided by the Office and for the administration of public funds;
- a commitment to excellence by regular review and continuous improvement of its 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.

ORGANISATIONAL STRUCTURE

Organisational Structure to May 2012



Organisational Structure from May 2012



GOVERNANCE

Management Committees

Executive Committee

The *Executive Committee* consists of the Director, Deputy Directors and General Manager (Chair). The Executive Committee 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. With the change to the senior executive structure in May 2012, the composition of the Committee changes. The Committee continues to be supported by three sub-committees—Legal Policy and Practice Management, Corporate Support, and Training & Professional Development—each headed by a member of the Executive Committee.

Internal Committees and Steering Groups

Continuing Legal Education Program

In its second year of operation the Mandatory Continuing Professional Development scheme, in conjunction with this Office's Continuing Legal Education (CLE) program, has seen a variety of topics presented to the legal practitioners of this Office.

The CLE committee has worked towards ensuring that solicitors and prosecutors of this Office are presented with a range of topics relevant and specific to the work of the ODPP.

The range of presenters has been as diverse as the range of topics offered: Members of SAPOL, Forensic Science SA, the Judiciary, ODPP managing prosecutors, members of the Bar and members of the Legal Practitioners Board. They have all generously contributed their time and have presented on such topics as negotiating with defence, car crash reconstruction, prosecution openings and closings, the *Witness Protection Act (1996)*,

disclosure, courtroom advocacy, the workings of the Legal Practitioners Conduct Board, and a review of *The Evidence (Discreditable Conduct) Amendment Act 2011*.

The program continues to offer its reciprocal arrangement with the Crown Solicitors Office when sessions are organised which are relevant to that organisation.

Policy Committee

The Policy Committee comprises members from within the office of the DPP and from the Legislative Services Section of the Attorney-General's Department. It generally meets every 6 weeks to consider and provide feedback as appropriate on issues arising from within the Office as well as referrals from the broader Department.

In 2011-12, the Committee reviewed and provided feedback to the Director of Public Prosecutions or the Attorney-General, as appropriate, on issues including:

- Legislative reform of child pornography offences
- The Summary Offences (Filming Offences) Bill
- The Legal Practitioners (Miscellaneous) Amendment Bill 2012

Legal Recruitment and Staffing

This year saw two significant appointments- Mr Adam Kimber SC as the Director of Public Prosecutions and Mr James Pearce QC as Chief Crown Prosecutor. The appointment of Adam Kimber SC as Director meant the Office was without a Deputy Director for a number of months during this year. Prior to the end of the year, approval was given for the Office to establish the positions of Deputy Director (Solicitor) and Deputy Director (Counsel). This will result in a change to the management structure of the Office. The selection process was underway as at the end of the financial year. The Office also advertised for applicants to fill the managerial positions left vacant in 2010-11. These three managerial positions were filled by internal applicants.

The approved staff establishment for 2011-12 was 145.18 FTE. This number comprised 89.8 legal staff, 44.3 admin staff and 11 Witness Assistance Officers. A number of legal staff returned from maternity leave and leave without pay. The return of these experienced lawyers greatly benefitted the office.

Throughout the year, the number of staff actually employed by the ODPP was less than 145. As a result of budgetary savings allocated to all sections of the Attorney-General's Department, the ODPP did not replace all staff on leave and delayed the replacing of some staff upon their resignation. This necessarily impacted upon both legal and administrative staff in all sections of the Office.

The number of files received by the Office did not decline, but at times the number of staff left to deal with those files did. Immediately prior to June 30 however, the Office was able to advertise for LEC1 legal applicants to form a pool of entry level lawyers to replace and backfill at least some vacancies. A number of excellent candidates have again been selected for the pool to ease the pressures experienced by the Office when staff leave.

The last two months of the financial year saw 8 experienced staff leave or indicate their intention to leave in the near future. These temporary absences are due to staff transferring to other Government agencies and maternity leave. The introduction into the Office of a large

number of inexperienced lawyers presents challenges for the Office. However the comprehensive CLE program and structured supervision from managers will assist to minimise the impact of this change.

Whilst the Office continues to consider strategies to retain staff, it has been noted that the retention rate of the ODPP is similar to other comparable Government agencies. The number of staff leaving on parental leave or to obtain experience in other Government agencies is largely beyond the control of the Office. With that in mind, the Office continues to concentrate on processes designed to efficiently and thoroughly train and supervise new staff and provide options for those returning to the Office in need of flexible working arrangements.

OPERATIONS

Financing Public Prosecutions

Parliament increased the appropriation for *Public Prosecutions* by \$1,133,000 to \$20,188,000 in 2011-12¹.

From this appropriation, the Office received \$17,454,000, with a further \$405,000 revenue from the Victims of Crime Fund to fund confiscation of the proceeds of crime².

The Office understands that approximately one million dollars of the increased appropriation was for reimbursing the Courts Administration Authority for *witness costs*. The remainder of the appropriation withheld by the Attorney-General's Department (AGD)—approximately \$1.73 million—contributes to AGD corporate overheads and the provision of corporate services to the Office (other than rent, IT costs and financing charges which are recovered from the Office's allocated budget). The disposal of these withheld funds is reported by the Attorney-General's Department.

	2010-11 Allocation³ (\$,000s)	2011-12 Allocation⁴ (\$,000s)	2011-12 Actual⁵ (\$,000s)
Revenue Sources			
From Appropriation	17,360	17,454	17478
Victim of Crime Fund	398	405	377
Other	18.5	19.1	16
Total Revenue	17,777	17,878	17,871
Expenditure			
Staff remuneration	14,239	14,674	14,316
Goods and Services	1,319	950	1,565
AGD Charges (Rent, IT etc)	2,093	2,149	2,292
AGD Depreciation	129	129	129
Total Expenses	17,780	17,902	18,302

¹ Source: 2011-12 Budget Paper 4, Vol 1 - Agency Statement Statement, p.20.

² These funds cover the salaries of the Confiscation Unit which pays the proceeds of confiscations back into the Fund.

³ Source: 2010-11 ODPP Budget Assumptions, Attorney-General's Department

⁴ Source: 2011-12 Budget Assumptions, Attorney-General's Department

⁵ Source: 2011-12 ODPP Finance Operating Statement for Period 14, Attorney-General's Department

Even with a small staff increase, Salary expenditure increased by just 0.6% over the previous year—less than inflation—due to vacancies maintained to meet savings targets and to fund the shortfall in the Goods and Services allocation.

The funding for Goods and Services again fell well short of the actual cost—this year, by \$758,000. While this funding model is maintained, the Office will be unable to balance its budget without seriously depleting its workforce which already operates above safe workloads recommended by an independent organisational review and at levels well in excess of other Australian jurisdictions.

Staffing levels

In April 2008 the Government announced that an additional 7 FTE positions would be funded from 2011-12 and the remaining 5.9FTE funded for work flowing from the Children in State Care Commission of Inquiry would expire on 30 June 2011. The net result was an increase of 1.1 FTE in 2011-12 compared to the previous year.

	Approved for 2010-11	Approved for 2011-12	Change in 2010-11
Executive Group	3	3	
Legal (Including managers)	87.43	88.83	+1.4
Witness Assistance Officers	11.6	11.0	-0.6
Administration staff	42.05	42.35	+0.3
Total FTE ¹	144.08	145.18	+1.1

The Commissioner for Victims' Rights funds three full- and one part-time Witness Assistance Officers dedicated to the provision of services to child victims and witnesses, and also funds the salaries of up to 4.5FTE legal and administration staff working on the confiscation of assets of crime. Further details about the Office's confiscation activities can be found on page 17.

AGD Corporate Services

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

OTHER OPERATIONS

Business Plan Outcomes

The following initiatives were identified in the 2011-12 ODPP Business Plan. A comment on the outcome accompanies each.

Special Directions Hearings in the District Court

Extra work is needed to support SDH in the District Court. However, there has been a net benefit to the Office and CJS because Judges expect prosecution and defence counsel to be prepared and offer views on the strength of the prosecution case. This guidance at an early stage assists all parties and encourages early resolution by way of a plea or reducing (or dropping) charges when appropriate.

Publishing of Director's Statement of Prosecution Policy and Guidelines

The Policy and Guideline is an internal document to guide staff and briefed counsel. With a new Director in place, the draft will undergo a final review prior to publication.

Promote and support staff engagement with leadership and management develop

Ten future leaders commenced tertiary leadership and management development programs—from Cert IV to graduate diplomas. .

Respond to client satisfaction survey – better satisfy witnesses and victims

Two initiatives were developed for consideration: expanding the survey to include witnesses not assisted by the WAS; and developing action plans to improve ODPP performance against high-importance (to respondents) survey measures. Due to resource limitations, the ODPP Executive decided not to proceed with either.

Assist disabled witnesses and victims to give evidence in court proceedings

DPP, Stephen Pallaras QC, met with the Commissioner for Victims' Rights and the Disability Party MHR. However, the ODPP was not briefed to prosecute any matters with victims or witnesses with the level of disability covered by legislation that prompted this initiative.

Port August Circuit Court Committal Pilot

With encouragement from the magistrate presiding over committals in the PA magistrates court, this office agreed to a six month trial during which its solicitors would assume the role, usually performed by police, of appearing for the crown during the committal stage of serious indictable criminal prosecutions.

The pilot commenced in May 2011 and concluded in on 13 February 2012. Appearances were conducted by CCTV with Circuit solicitors appearing from 45 Pirie Street. Proofings were also conducted by CCTV in conjunction with face-to-face proofings for sensitive matters when solicitors attended at Port Augusta for the District Court Circuit.

Between the period 1 May and 31 December 2011, the matters of thirty-two accused were finalised by this Office under the pilot. Of the 32 matters finalised, the Office succeeded in ensuring only 6 were committed for trial (18.75%) and 12 were committed for sentence (37.5%). Of the remaining 14 (43.75%), 8 (25%) were TNE'd altogether, 2 (6.25%) resolved by a plea to minor indictable/summary charges and 4 (12.5%) were returned to SAPOL on minor indictable/summary charges.

When compared to data kept by this Office for matters received from the whole of the Northern Circuit area in the 6 months before the pilot commenced (1 November 2010 to 30 April 2011) the figures compare favourably. In that period, the ODPP received matters

relating to 78 accused. Of those matters, 10 were committed for sentence (12.82%) with the balance (68 matters) committed for trial (87.18%); of those 68 matters committed for trial; 20 were immediately the subject of a White Paper and did not progress past arraignment (29.41%), 21 (30.88%) were resolved by way of a plea and 13 were discontinued after arraignment (19.11%), 4 matters proceeded to trial and verdict and one accused was found unfit to stand trial (7.35%); 9 matters (13.23%) remained unresolved at the time of concluding the pilot.

From the point of view of this Office, the committal pilot was a success. The resolution rates of matters in the pilot is in line with data that this Office has collected about its performance in the metropolitan committal courts over many years, and justifies ODPP involvement in Committals.

Prosecution Results

OUTPUT:	KEY RESULT AREAS		
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.		
Performance Indicators: 2011 - 2012	Descriptions	Target	Actual result for 2011 - 2012
Quantity	Early resolution in Magistrates Court (a)	>45%	57.19%
Guilty Pleas	Early Pleas (b)	>20%	40.25%
	Late Pleas (c)	<40%	57.25%
	Defendant pleads early to some charges, late to other charges (d)		2.50%
Verdicts	Guilty Verdict at trial (e)	>60%	58.40%
	Overall conviction rate (f)	>70%	68.78%
Nolles	Nolle Prosequi Rate (g)	<15%	15.69%
	Late and Very Late Nolle Prosequi (h)	<50%	68.84%
	Very Late Nolle Prosequi (i)	<15%	51.76%
Footnotes	<p>(a) Prosecution Briefs resolved at the Committal Stage, i.e. the resolution is entered before the matter is committed to the District or Supreme Court, shown as a percentage of the total number of Prosecutions Briefs resolved within the reporting period (excluding Circuit).</p> <p>(b) Prosecution Briefs resolved by way of a guilty plea at the Committal Stage, i.e. the plea is entered in the Magistrates Court, 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, i.e. the plea is entered in the District or Supreme Court, shown as a percentage of the total number of prosecution 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, i.e. a plea to some of the charges is entered in the Magistrates Court, and a plea to remaining charges is entered in the District or Supreme Court, 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 (Guilty, Not Guilty and Prasad) within the reporting period.</p> <p>(f) Prosecution Briefs resolved by way of a conviction in the District or Supreme Courts (either by guilty verdict or guilty plea), shown as a percentage of the total number of Prosecution Briefs resolved in the District & Supreme Courts within the reporting period.</p> <p>(g) Prosecution Briefs resolved by way of a Nolle Prosequi, shown as a percentage of the total number of Prosecution Briefs resolved in the District & Supreme Court within the reporting period.</p> <p>(h) 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>(i) Prosecution Briefs for which a Nolle Prosequi was entered within a month before and a week after 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>		

Notes:

- 1) These statistics exclude summary matters and drug court matters.
- 2) The glossary at Appendix D will assist with terms used in these statistics.

Notable Prosecutions

R v Kageregere

Murder. The accused and his wife were recent immigrants from Burundi. There had been a history of domestic violence by the accused to his wife in Victoria. The couple had moved to South Australia with their young child to avoid the influence of her family. The accused was charged with murdering his wife by setting their flat alight which resulted in her burning to death. The accused elected for the trial to proceed by Judge alone. The Trial Judge found the accused guilty of Murder.

R v Heffernan and Stephens

Murder. Having spent the day drinking and smoking cannabis these two accused went out looking for someone to rob. Tragically, they met the victim who was on his way home after a night out. The victim invited the two accused home for a drink. His sister found him dead the next day in the lounge room. He had been repeatedly stabbed and beaten. Some of the victim's property had been stolen. The case presented against the accused was circumstantial and was based primarily on items of the deceased's property as well as weapons used during the murder being located in the accused's possession. One of the accused also made admissions to his brother. A jury found both guilty of Murder.

RvP

The accused was charged with the attempted murder and rape of his former partner. The events arose out of domestic discord and the accused wanting more out of the relationship than the victim was prepared to give. In the early hours of 8 June 2011 the victim returned to the home she shared with the accused after attending a social event at the home of a friend. There had been arguing on the telephone throughout the night. On arriving home the accused attacked the victim strangling her until she was unconscious. He then raped her. The victim had no recollection of having been raped because of her state of reduced consciousness following the strangulation. The rape was established by proving intimate injuries that she was found to have suffered together with some observations of the victim's 12 year old child who was home at the time.

While the attack was going on police arrived at the house. They located the accused on top of the victim in a bedroom of the house. He still had a knife in his hand and the victim had suffered a knife wound to her upper chest.

At trial the accused admitted having strangled and stabbed the victim. He denied that he had raped the victim and denied that in inflicting the injuries that he had intended to kill her.

The trial was heard without a jury. The accused was convicted of the Rape. He was acquitted of Attempted Murder. He had however pleaded guilty to the alternative charge of Causing Serious Harm with Intent to Cause Serious Harm.

R v Mannix, Melbourne and Ormond

All three accused were charged with Murder and Aggravated Causing Serious Harm with Intent to Cause Serious Harm.

The two victims and a friend, who were all unknown to the accused, were walking home from an Australia Day Celebration past a property where all three defendants were staying.

The first accused got into an argument with the murder victim and dragged him into the front yard of the property. The second accused (who was the first defendant's brother) appeared from the property and struck the victim with a metal bar to the head and killing him.

The second accused then used the same bar to strike the second victim whose skull was fractured.

All three accused then joined in an attack upon the deceased and second victim.

The first accused pleaded guilty to Murder, and the second was convicted after trial. The third accused was acquitted of Murder but convicted of Causing Harm with Intent to Cause Harm to the second victim.

R v Francis

Francis, an ex AFL football player, was charged with multiple offences of violence occurring over a 10 year period against his ex wife. The offences were part of an ongoing and abusive relationship in which the accused regularly threatened and beat his partner. Some of the offences of Aggravated Threatening Harm were tape recorded by his wife who was at the time a serving police officer.

The defendant was convicted of a number of offences after trial and sentenced to 4 years imprisonment with a non parole period of 15 months, the sentence being upheld on appeal.

R v Abrahamzadeh

The accused and his wife had migrated to Australia when their three young children were still very young. The accused ran his household by terrorising his family with frequent violent outbursts. Eventually the accused's wife summonsed the courage to flee the family home and her husband taking the three children with her. They went into hiding. The accused eventually tracked his wife down at a community New Years function and repeatedly stabbed her to death in front of about 300 other guests.

The accused maintained his pleas of 'not guilty' and the matter proceeded to trial. After the prosecution had called all of the witnesses, the accused indicated that he would give evidence. Part way through cross examination he changed his plea to guilty. For the offence of Murder the accused was sentenced to life imprisonment with a non-parole period of 27 years.

R v B, B, R, S and W

In August 2011, four youths and an adult stood trial in the Supreme Court for the stabbing murder of Akol Akok and the wounding of Dor Achiek. The charges arose out of an unprovoked attack on a group of Sudanese men who were socialising at an oval at Wingfield.

Originally, five youths and an adult were charged. Shortly before the trial began an immunity from prosecution was granted to one of the youths in return for his testimony at the trial.

The trial ran in excess of three months. The legal issues that arose during the trial included joint enterprise to commit murder, aiding and abetting murder and the permissible use of the evidence of an accomplice to the crime.

All accused were found guilty by verdict of the jury of the murder of Akol Akok and of Causing Harm with Intent to Cause Harm to Dor Achiek. Two of the accused have appealed their convictions.

Court of Criminal Appeal

In 2011-2012 forty nine appeals against conviction were heard and finalised before the Court of Criminal Appeal. Thirty five of these appeals were dismissed.

As well as this there were fifty two defence appeals against sentence. Thirty one of these appeals were dismissed.

The Director sought permission to appeal the sentence imposed in thirteen matters. Permission was granted in seven and the sentences were increased.

Appeals Against Conviction

The following matters are provided by way of illustration of the types of matters argued before the Court of Criminal Appeal in 2011-2012.

***R v Wildy* [2011] SASCF 131**

The applicant was tried by jury with Indecent assault (two counts), attempted unlawful intercourse and unlawful sexual intercourse. The issue that arose on appeal was the use that could be made of the appellant's conduct in making two financial payments to the victim. The court was also required to consider the appropriate directions to be given to a jury in relation to such evidence. It was held that the evidence was properly admitted and the directions were adequate. The appeal was dismissed.

***R v Kageregere* [2012] SASCF 17**

The appellant was charged with murder and arson. It was the prosecution case that he had set his flat alight deliberately intending to cause the death of his wife. The trial was conducted without a jury before the Chief Justice. The appellant complained about various aspects of the Reasoning of the trial judge in arriving at a finding of guilt in particular that the trial judge failed to give adequate consideration to the appellant's state of mind at the relevant time. The Court of Criminal Appeal held that there had been no error in the reasoning process of the trial judge.

***R v Gavare* [2012] SASCF 52**

This was a matter that had attracted much media attention. The appellant had been charged with the murder of an elderly woman. It was the prosecution case that the appellant had killed the deceased for monetary gain. The appellant elected for trial by judge alone. At the appeal the appellant complained that the evidence was such that the Court should have returned a verdict of manslaughter as opposed to murder. That submission was rejected and the appeal was dismissed.

***R v Heffernan; R v Stevens* [2012] SASCF 70**

Both appellants had been convicted of murder. They had accompanied the deceased to his home with the intention of robbing him. Whilst there a fight developed which culminated in the deceased's death. Both appellants appealed their convictions on the basis that the directions to the jury about self defence were inadequate. The directions on this topic were found to be adequate and the appeal was dismissed.

***R v Pearse* [2011] SASFC 65**

The appellant was found guilty by a jury of one count of causing death by dangerous driving. The appellant appealed that conviction on the basis that the trial judge had misdirected the jury as to the meaning of driving in a manner dangerous to the public. The appeal was dismissed on the basis that the directions that were given adequately conveyed to the jury the test that they should apply.

Prosecution Appeals Against Sentence

***R v Marien* [2011] SASFC 116**

The accused ('the respondent') had pleaded guilty to persistent sexual exploitation of a child. The victim was the daughter of the respondent's former partner. At the relevant time she was between nine and ten years old. The respondent was initially sentenced to a head sentence of five years with a non parole period of three years and four months imprisonment. On appeal the sentence was increased to ten years imprisonment with a non parole period of five years.

***R v McKay* [2012] SASFC 59**

The respondent had been found guilty by a jury of trafficking methylamphetamine. At the time of the offence he was subject to a suspended sentence for two previous convictions of possessing ecstasy for sale. The sentencing judge had revoked the suspended sentence (three years and six months with a non parole period of two years) and imposed a new sentence of two years to be served cumulatively on the earlier sentence. The total sentence was five years imprisonment with a non parole period of eighteen months. The Director appealed the sentence on the basis of both the inadequacy of an eighteen month non parole period as well as the erroneous approach adopted in terms of reviewing and extending the old non parole period. The appeal was allowed and the matter was remitted back to the District Court for resentencing.

***R v Perdikiyiannis, Condo and Peabody* [2011] SASFC 82**

Each of the respondents pleaded guilty to aggravated causing serious harm with intent, theft and attempted theft. Condo pleaded guilty to some additional charges. Each of the offences occurred in the context of respondents settling a personal dispute in relation to the use of a motor vehicle. Each of the respondents had received the same head sentence despite significant differences in their backgrounds and criminal antecedents. The appeal was allowed and each of the respondents was given a new sentence that reflected their individual culpability and personal circumstances.

***R v Smith* [2012] SASFC 77**

The respondent had pleaded guilty to the offence of trafficking in a large commercial quantity of a controlled drug (3, 4-methylenedioxymethcathinone). This drug had been found at the respondent's residence. He had been sentenced to a head sentence of twenty four months imprisonment with a non parole period of twelve months. That sentence was suspended. The Director appealed the sentence on the basis that it was manifestly inadequate and that the sentencing judge had erred in his direction to suspend the term of imprisonment. The appeal

was allowed and the respondent received a new sentence of six years imprisonment with a non parole period of three years. That sentence was not suspended.

R v Freer [2011] SASCF 73

The respondent pleaded guilty to two counts of unlawful sexual intercourse with a person under the age of fourteen years. At the time of the offending the victim was between the ages of ten and thirteen years. The respondent was in a de facto relationship with the victim's mother. The respondent received a head sentence of ten years imprisonment with a non parole period of four years. On appeal the non parole period was increased to six years.

The Director also sought permission to appeal the sentences in the matters of *R v Narayan*, *R v Pauly*, *R v Tran and Tran* and *R v Verrall*. In each of these permission to appeal was refused.

Witness Assistance Service

In 2011-12 the Witness Assistance Service (WAS) continued to assist victims of crime and crown witnesses in many of the Office's most serious criminal prosecutions.

Demand for witness support rose in 2011-12. Despite a small staff reduction, more personal assistance was delivered, including to witnesses and victims living in regional and remote areas.

The Office of the Commissioner for Victims' Rights continued to fund 3.6FTE social workers specifically to assist some of the most vulnerable victims of crime, children.

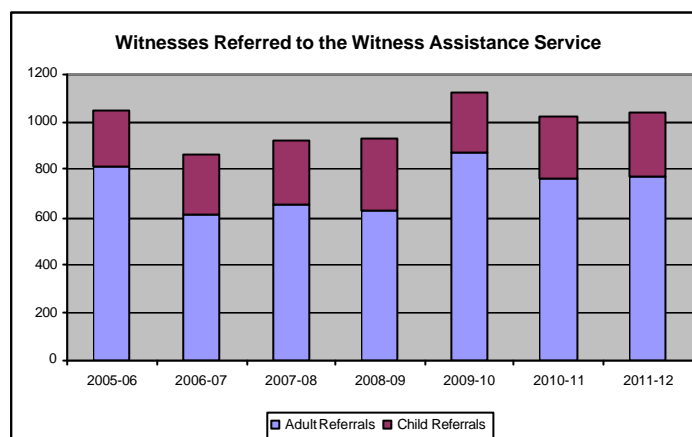
WAS Service Delivery

New Referrals	2010 -11	2011-12	Change
Total New Referrals	1,025	1,041	+ 1.6%
New Adult Referrals	761	766	+ 0.7%
New Child Referrals	264	275	+ 4.2%
Activity - Face-to-Face			
Face-to-Face Services	2,165	2587	+ 19.5%
Time Spend Providing Face-to-Face Services (hrs)	2,663	3,609	+ 35.5 %
Attendance at Proofing Meetings	1159	1374	+ 18.6%
Court Attendance / Support	583	737	+ 26.4%
Court familiarisation / Preparation	160	182	+ 13.8%
Assistance with Victim Impact Statement	129	135	+ 4.7%
Court Companion Support	134	159	+ 18.7%

Other WAS Highlights

Recognising that formal and relatively austere interview rooms can be stressful places for children—and with generous assistance from the Commissioner for Victims Rights—the Office commissioned a Child Interview space specifically designed for children. The welcoming and colourful environment is designed to reduce stress on children participating in pre-trial proofings with prosecutors, police and the WAS social workers.

The WAS continued its education role with training for SAPOL Victim Contact Officers and new detectives. In a new initiative, the WAS delivered victim awareness and criminal court procedure training to Community Corrections and Disability Services staff.



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 the 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 \$2,281,169 into the Victims of Crime Fund for the financial year ending 30 June 2012.

Criminal Assets Confiscation	2009-10	2010-11	2011-12
Briefs received	209	186	327
Briefs finalised	167	214	195
Deposited to Victims of Crime Fund	\$924,728	\$2,219,598	\$2,281,169

Drug Court Files

Under a 2004 Memorandum of Administrative Arrangement between the Courts Administration Authority, the Departments of Health and Correctional Services and the Attorney-General's Department, the Office participates in the Drug Court Program. Drug Court offers a diversionary program to eligible offenders under which they receive supervision, monitoring and assistance in dealing with their drug dependence. Satisfactory completion of the program, typically lasting about twelve months, is taken into account at sentencing. The Office receives ongoing funding for one lawyer and one law clerk to conduct the Drug Court business on behalf of the Director.

Over the years the volume of work has remained relatively static, with 142 Drug Court Briefs received in 2011-12.

Information Technology

During 2011-12 Justice Business services conducted a review of IJP Case Tracking, the Office's 2003- vintage information system for its core business activity, criminal prosecutions. Having confirmed and documented significant shortcomings in the current system and identified significant opportunities for improvement, a business case for a commercial off-the-shelf replacement and a budget bid for funding this were developed. However, the funding was not approved.

As a result, opportunities to improve business practice and build capability for current and future needs will need to be deferred. Nevertheless, the Office is indebted to Justice Business Services for its conduct and resourcing of the review and development of the business case and budget bid.

The Office also appreciates the cooperation of the JIS (Justice Information System) partners. During the year Justice Technology Services developed a number of enhancements to address identified deficiencies, adapt the system to new legislation and to provide additional capability. With the support of SAPOL and the Courts Administration Authority, a Bail Information module incorporated within IJP Case Tracking. This welcome enhancement gives Solicitors and Law Clerks immediate access to complete and up to date bail agreements for current defendants and the conditions associated with that bail.

DPP Website

During 2011-12, the Office website (www.dpp.sa.gov.au) averaged over 2200 'hits' each month. (A 'hit' is counted each time a visitor opens a page.)

Community Engagement

The Office's Client Satisfaction Survey results for 2011-12 were consistent with those of previous years with, over 90 responding that ODPP staff were professional at all times, 85% were satisfied with the services they received, with 81% having their needs fully met.

The results also show room for improvement in the timely provision of information and updates (78% satisfied) and access to information and support (79% satisfied).

Encouragingly, where 72.5% of respondents had a neutral impression of the ODPP prior to their involvement with the Office, 83.3% reported a positive or very positive impression following their involvement.

APPENDIX A

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 Commission 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 the DPP considered 46, and approved 44 applications for warrants under the *Listening and Surveillance Devices Act 1972*.

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

Officer travelling: Stephen Pallaras QC, DPP
Destination: Marrakesh, Morocco
Purpose: Fifth Annual Conference & General Meeting of International Association of Anti-Corruption Authorities (IAACA)
Date: 18-27 October 2011
Cost to ODPP: \$157.35
NB: Travel associated costs met by IAACA

Officer travelling: Stephen Pallaras QC, DPP
Destination: Hong Kong
Purpose: International Association of Anti-Corruption Authorities (IAACA)
Public Service Announcement Competition & Workshop
Date: 5-12 December 2011
Total Cost to ODPP: \$8,049.65

APPENDIX B

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*.

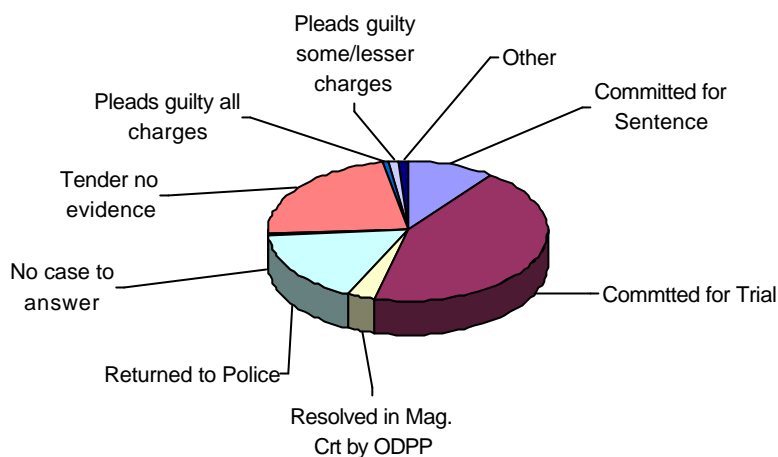
Example: If the DPP is prosecuting John Citizen on multiple charges arising from a single police investigation, one Brief will be reported. If the DPP is prosecuting him on charges arising from two unrelated police investigations, two Briefs will be reported. If John and Jane Citizen are both charged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

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

Prosecutions Briefs - Received and Outcomes (Committal)		
	2011-12	2010-11
Total Prosecution Briefs Received	2831	2780
Outcomes of Briefs During Committal Stage (Table A)	2564	2543
Please note that "Outcomes of Briefs" during the reporting period do not correlate directly with the 'Briefs Received' during the reporting period. A percentage of the Brief Outcomes will have been received in a previous reporting period, and a percentage of the 'Briefs Received' will be finalised in a future reporting period.		

Table A				
Committal - Brief Outcomes				
Outcomes - at Committal Stage	Adelaide 2011-12		Adelaide 2010-11	
<i>Committed for Sentence</i>	257	10.02%	273	10.74%
<i>Committed for Trial</i>	1124	43.84%	1043	41.01%
Resolved in Mag. Crt by ODPP	80	3.12%	46	1.81%
Returned to Police	430	16.77%	366	14.39%
No case to answer	9	0.35%	5	0.20%
Tender no evidence	588	22.93%	666	26.19%
Pleads guilty all charges	18	0.70%	43	1.69%
Pleads guilty some/lesser charges	26	1.01%	46	1.81%
Other	32	1.25%	55	2.16%
Total	2564	100.00%	2543	100.00%

Committal Court: Brief Outcomes



Prosecutions Briefs - Received and Finalised (District and Supreme Courts)		
	2011-12	2010-11
Briefs Committed for Sentence (Adelaide)	257	273
Briefs Committed for Trial (Adelaide)	1124	1043
Briefs Received into the Circuit District and Supreme Courts	224	276
Briefs Finalised in the District and Supreme Courts (Adelaide & Circuit) (Table B)	1287	1487

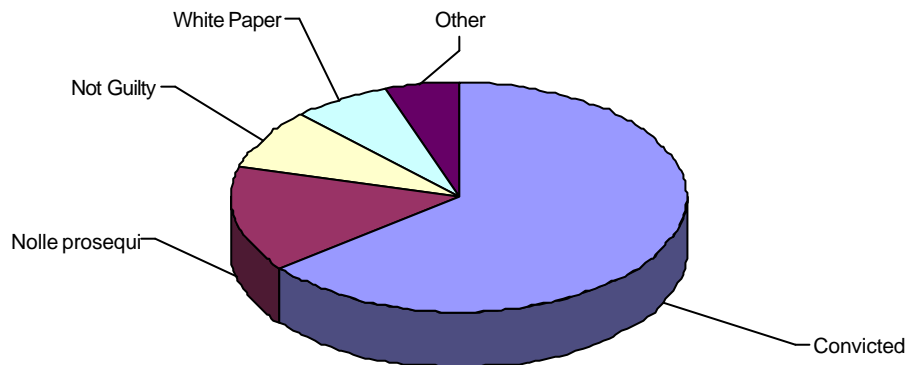
Please note that the 'Briefs Finalised' during the reporting period do not correlate directly with the 'Briefs Received' during the reporting period. The time that lapses between the receipt of a prosecution brief in the office, and the finalisation of that brief in the District or Supreme Court can 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.

Table B

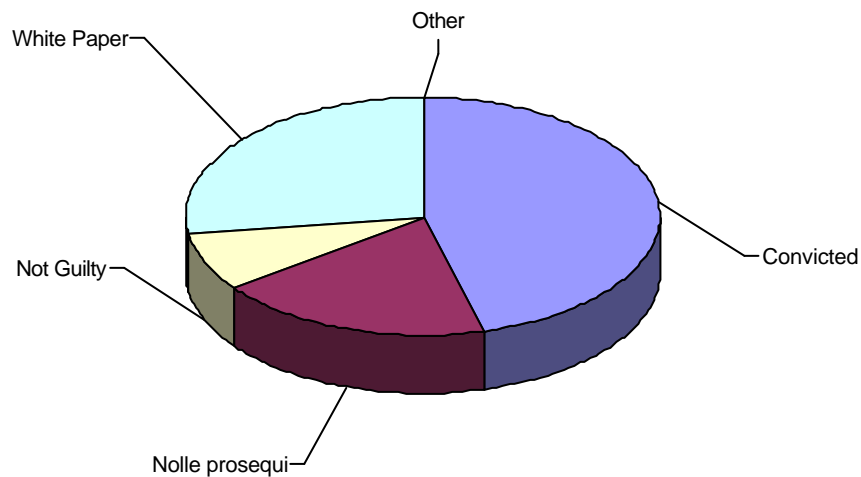
Brief Outcomes: District and Supreme Courts

Outcomes	Adelaide 2011-12		Circuit 2011-12		Adelaide 2010-11		Circuit 2010-11		Adelaide 2009-10		Circuit 2009-10	
Convicted	695	64.53%	96	45.71%	769	136	719	152				
Nolle Prosequi	159	14.76%	40	19.05%	241	61	237	68				
Not Guilty	91	8.45%	16	7.62%	90	19	87	23				
White Paper	75	6.96%	58	27.62%	79	43	58	44				
Other	57	5.29%	0	0.00%	42	7	43	9				
Total	1077	100.00%	210	100.00%	1221	266	1144	296				

Brief Outcomes: District & Supreme Courts (Adelaide)



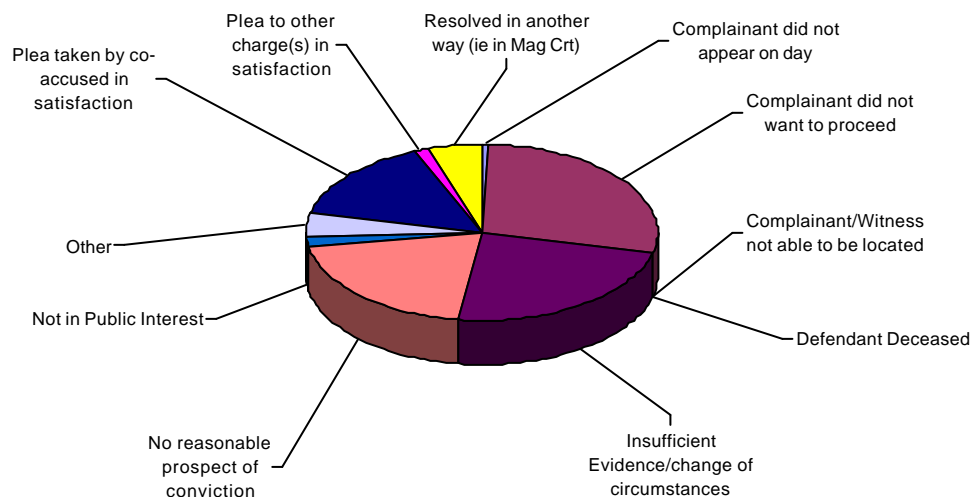
Brief Outcomes: District & Supreme Courts (Circuit)

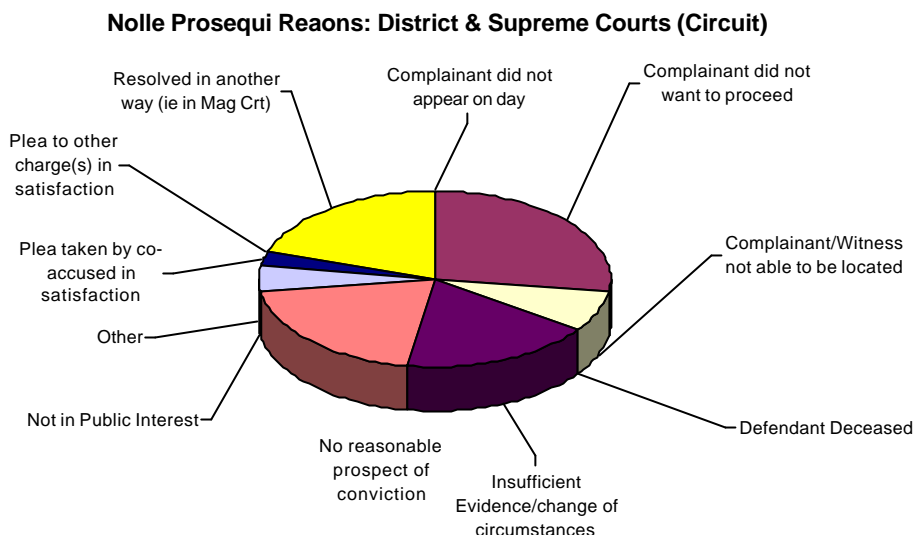


Nolle Prosequi Reasons: District and Supreme Courts

Nolle Prosequi Reasons	Adelaide 2011-12		Circuit 2011-12		Adelaide 2010-11	Circuit 2010-11	Adelaide 2009-10	Circuit 2009-10
Complainant did not appear on day	1	0.63%	0	0.00%	2	0	0	0
Complainant did not want to proceed	45	28.30%	11	27.50%	60	26	75	28
Complainant/Witness not able to be located	0	0.00%	3	7.50%	9	1	6	1
Defendant Deceased	0	0.00%	0	0.00%	1	1	0	0
Insufficient Evidence/change of circumstances	37	23.27%	7	17.50%	10	6	26	3
No reasonable prospect of conviction	32	20.13%	8	20.00%	97	18	89	22
Not in Public Interest	3	1.89%	0	0.00%	3	0	0	0
Other	7	4.40%	2	5.00%	6	3	4	6
Plea taken by co-accused in satisfaction	24	15.09%	1	2.50%	26	0	21	1
Plea to other charge(s) in satisfaction	2	1.26%	0	0.00%	3	0	0	0
Resolved in another way (ie in Mag Crt)	8	5.03%	8	20.00%	24	6	16	7
Total	159	100.00%	40	100.00%	241	61	237	68

Nolle Prosequi Reasons: District & Supreme Courts (Adelaide)



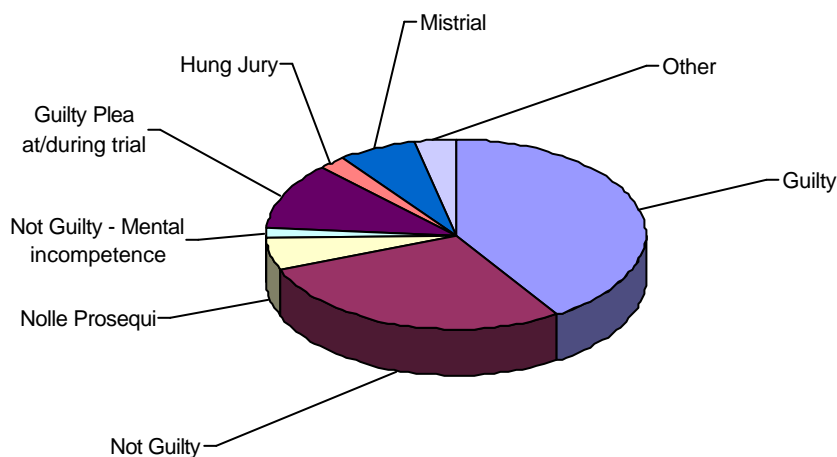


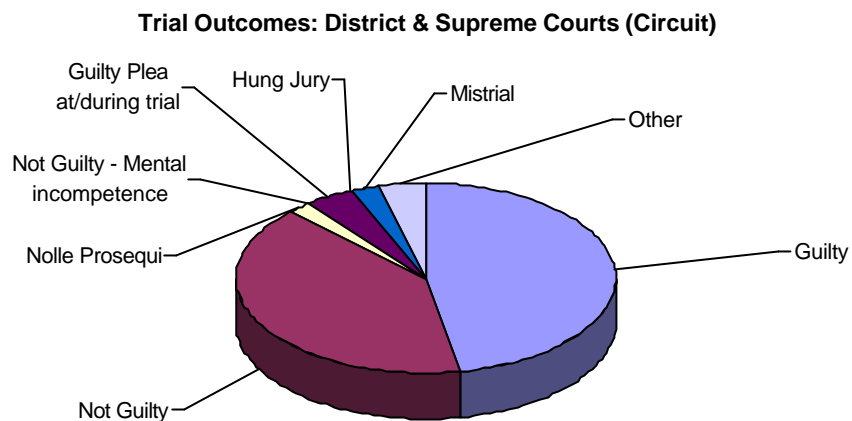
Trials - Listed, Finalised and Vacated			
	2011-12	2010-11	2009-10
Total Number of Trials Listed in the District and Supreme Court (Adelaide & Circuit)	1168	1448	1245
Number of Trials Finalised (Adelaide & Circuit) (Table C)	386	361	371
Number of Trials Vacated (Adelaide & Circuit) (Table D)	804	1073	883
<p>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.</p>			

Table C

Trial Outcomes that Proceeded: District and Supreme Courts

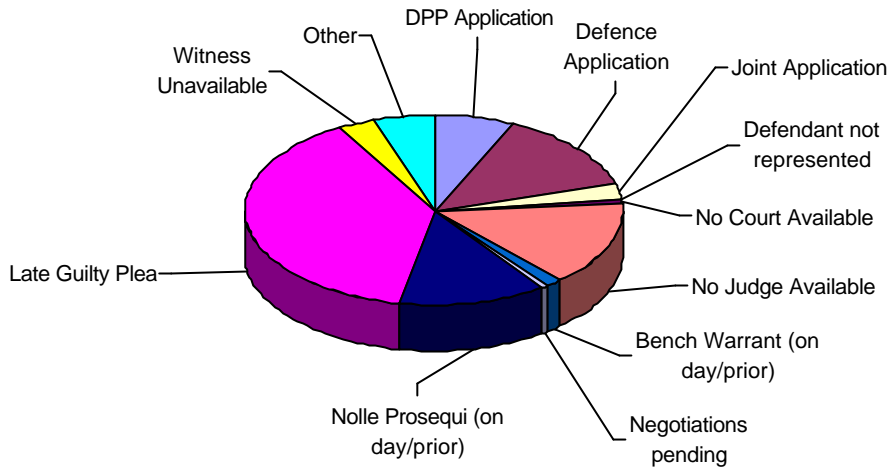
Trial Outcomes	Adelaide 2011-12		Circuit 2011-12		Adelaide 2010-11	Circuit 2010-11	Adelaide 2009-10	Circuit 2009-10
	Count	Percentage	Count	Percentage				
Guilty	139	41.00%	22	46.81%	136	22	117	20
Not Guilty	95	28.02%	19	40.43%	89	19	87	23
Nolle Prosequi	19	5.60%	1	2.13%	10	1	9	4
Not Guilty - Mental incompetence	5	1.47%	0	0.00%	4	0	9	0
Guilty Plea at/during trial	39	11.50%	2	4.26%	29	5	35	5
Hung Jury	7	2.06%	0	0.00%	6	1	12	1
Mistrial	23	6.78%	1	2.13%	25	2	21	3
Other	12	3.54%	2	4.26%	11	1	24	1
Total Trials Finalised	339	100.00%	47	100.00%	310	51	314	57

Trial Outcomes: District & Supreme Courts (Adelaide)

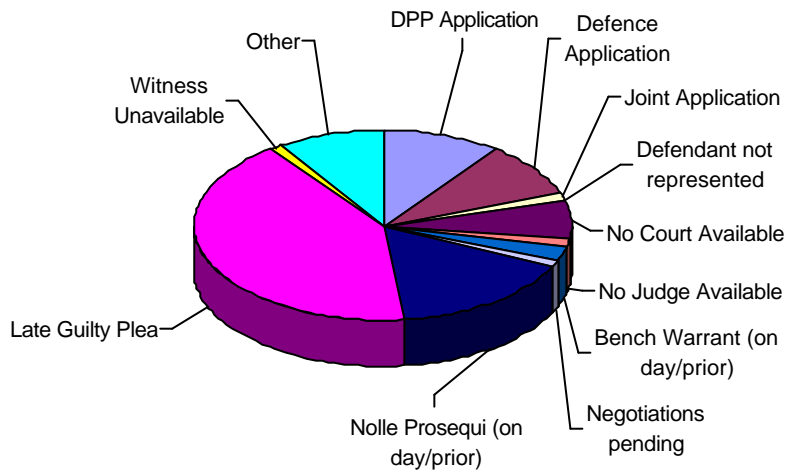
**Table D****Reasons for Vacated Trials: District and Supreme Courts**

Reason Trial Vacated	Adelaide 2011-12		Circuit 2011-12		Adelaide 2010-11	Circuit 2010-11	Adelaide 2009-10	Circuit 2009-10
	Count	Percentage	Count	Percentage				
DPP Application	49	6.83%	9	10.34%	23	7	47	5
Defence Application	96	13.39%	8	9.20%	101	19	77	20
Joint Application	20	2.79%	1	1.15%	11	3	0	0
Defendant not represented	1	0.14%	0	0.00%	2	1	1	0
No Court Available	6	0.84%	6	6.90%	2	40	8	89
No Judge Available	102	14.23%	1	1.15%	256	9	104	0
Bench Warrant (on day/prior)	11	1.53%	2	2.30%	9	3	12	2
Negotiations pending	4	0.56%	1	1.15%	17	0	3	0
Nolle Prosequi (on day/prior)	92	12.83%	14	16.09%	136	22	136	17
Late Guilty Plea	276	38.49%	36	41.38%	313	41	277	31
Witness Unavailable	22	3.07%	1	1.15%	11	3	24	0
Other	38	5.30%	8	9.20%	35	9	27	3
Total Trials Vacated	717	100.00%	87	100.00%	916	157	716	167

Reasons for Vacated Trials: District and Supreme Courts (Adelaide)



Reasons for Vacated Trials: District & Supreme Courts (Circuit)



Appeals						
Crown Appeals	Against Sentence		Against Conviction		Other Grounds	
	2011-12	2010-11	2011-12	2010-11	2011-12	2010-11
Allowed	7	8	2		1	0
Dismissed	9	12	0		2	0
Total Crown Appeals decided	16	20	2	0	2	0
Defence Appeals	Against Sentence		Against Conviction		Other Grounds	
	2011-12	2010-11	2011-12	2010-11	2011-12	2010-11
Conviction quashed	0	0	13	16	0	0
Sentence reduced	19	10	0	0	1	0
Appeal Dismissed	31	29	35	28	0	0
Other outcome	2	1	2	2	1	0
Total Defence Appeals decided	52	40	50	46	2	0
Leave to Appeal Applications	By DPP Against Sentence		By Defence Against Sentence		By Defence Against Conviction	
	2011-12	2010-11	2011-12	2010-11	2011-12	2010-11
Abandoned / Withdrawn	0	0	8	9	11	7
Dismissed	0	0	23	14	11	5
Sentence reduced	0	0	0	0	0	0
To CCA	0	1	49	30	43	43
Other	0	0	0	0	0	0
Total Applications	0	1	80	53	65	55

Adjudication and Opinion Outcomes				
Adjudication Outcomes	2011-12		2010-11	2009-10
Charge major Indictable	1752	84.80%	1946	2074
Charge Minor Indictable	169	8.18%	137	158
Charge Summary	59	2.86%	58	71
Do not lay charges	34	1.65%	51	47
Other	52	2.52%	163	
Total Adjudications finalised	2066	100.00%	2355	255
Opinion Outcomes				
Opinion Outcomes	2011-12		2010-11	2009-10
Charge major Indictable	11	15.49%	48	72
Charge Minor Indictable	3	4.23%	11	15
Charge Summary	0	0.00%	8	2
Do not lay charges	32	45.07%	68	35
Other	25	35.21%	42	76
Total Opinions finalised	71	100.00%	177	200

Other Brief Types			
Criminal Assets Confiscation		Mental Impairment	
No of Briefs received during the period	327	No of Briefs received during the period	24
No of Briefs finalised during the period	195	No of Briefs finalised during the period	7

APPENDIX C

Glossary

<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 court affirms (agrees with) the lower court decision, the appeal is dismissed</p> <p>Generally, the DPP can appeal against sentence only (not against an acquittal). The defendant can appeal against both a sentence and conviction.</p>
<i>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 have separate Briefs. Unrelated charges stemming from a separate criminal activity has a separate Brief. Co-accused will each have a Brief in relation to a crime for which they are both being prosecuted. Unless otherwise indicated, ODPP statistics are based on the number of Briefs.
<i>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>	Criminal Law Consolidation Act 1935

<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, or a statement made by a police officer, signed by the person giving the statement.
<i>Defendant</i>	In the Magistrates Court the <i>Accused</i> 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) An accused may be 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.

<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 .) See also <i>TNE</i> and <i>White Paper</i> .
<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 up on 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>Proofing</i>	A meeting between a witness and the prosecutor taking the matter to trial. The police Investigating Officer is present and, where appropriate, a Witness Assistance Officer. The Proofing allows the prosecutor to test the evidence before trial and provide information about the trial process to the witness.
<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.

SAPOL

South Australian Police

Sentence

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.

Subpoena

A legal document requiring attendance in court to give evidence and/or the production of a document or exhibit.

Standard of proof

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'.

Summary Offence

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.

Suspended Sentence

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.

TNE (tender no evidence)

A decision by the DPP at the committal stage not to proceed with some or all charges. (See also nolle prosequi)

VIS

See Victim Impact Statement

Victim Impact Statement

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.

Voir Dire

Legal argument before the judge in court but without the jury present.

White Paper

Court document lodged following a decision by the DPP at the arraignment stage not to proceed with some or all charges. (See also nolle prosequi)

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