



**Government
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Director of Public
Prosecutions

**DIRECTOR
OF
PUBLIC PROSECUTIONS**

Annual Report

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DIRECTOR'S OVERVIEW

As I write this overview, I have on my desk a list of all of the proposals for legislative reform about which my Office has been asked to comment over the last 12 months. It is a long list.

Many proposals have resulted in legislation being passed. In some instances, the impact of this legislative change has been small for my Office. In other instances, it has been considerable. This is particularly so with respect to the reforms in the area of discounts for guilty pleas and, should I consent, the ability of the Magistrates Court to sentence for certain major indictable offences. Both of these are reforms that have the potential to be positive ones for the criminal justice system. As each of these reforms only came into effect relatively recently, it is too early to provide any meaningful insight into their impact. However, they create the possibility of a meaningful shift in the early resolution of matters. This is often promoted as being in the interests of the more efficient running of the Courts and SAPOL. These things are, of course, true. However, not to be overlooked is the positive impact that early resolutions can have for victims and those close to them. The sometimes protracted nature of the criminal justice system causes significant additional trauma for people who have been victims of crime. It is pleasing to see reforms that might assist victims.

The list of reforms raises other issues. The burden of legislative change is easy to overlook, but is considerable. The Courts look to my Office to assist them in being up to date with legislative reform. That is particularly so when those reforms impact upon the admissibility of evidence and sentencing as many of them do. Over the last 12 months, considerable time has been devoted to changing work practices and to the education of staff about changes that have been brought about in these areas.

Another area where there has been an increased workload due to new legislation is as a consequence of the mandatory requirement under section 34P of the Evidence Act, 1929 for a notice to be filed in Court in every matter in which "discreditable conduct" is to be led as part of the evidence at trial. While this section came into effect in June 2012, in a practical sense this particular obligation has only had an impact in the last 12 months. It is an obligation that has come without any improvement to the conduct of criminal trials but which has added considerably to the workload of this Office. It is, I am sure, an unintended consequence of an important piece of legislative reform. I have spoken to the Attorney-General. I am confident he understands the issue and is committed to it being addressed by placing an amendment before Parliament that will address this unnecessary burden.

The goal of all proposals for legislative reform must be to improve the criminal justice system and the community's confidence in it. Legislation is an important weapon in looking for improvements. However, it is not the only answer. To this end, there have been two initiatives considered over the last 12 months that do not involve legislative reform that I wish to highlight. One involves something that has been achieved. The other is yet to be achieved.

First, the achievement. Following discussions with the Senior Judge of the Youth Court, SAPOL and the Chief Executive of the Attorney-General's Department, from 1 October 2013 this Office will have responsibility for the prosecution of a limited number of major indictable matters listed for trial in the Youth Court. This initiative is only possible because of funding provided by both the Chief Executive and SAPOL. At this stage, this is no more than a pilot program for a 12 month period. The benefits will need to be adequately measured as my Office's involvement in this area will not be able to continue unless there is a commitment to

ongoing funding. However, I have no doubt that the expertise that this Office has in prosecution work will bring the best possible results for the community. As the experts in prosecution work, there is a place for this Office to be using its skills more broadly when adequate funding can be provided.

Second, the area where nothing substantial has been achieved to date. It is an area where the case for change cannot be questioned. To date nothing has yet been able to be achieved that would see my Office take responsibility for major indictable matters in the Magistrates Court in country areas.

Almost 20 years ago this Office took over the responsibility for this work in the metropolitan courts. The benefits of this have been considerable. Among them, early identification of appropriate charges, greater consistency in prosecution attitudes to resolutions and submissions on sentence, as well as significantly greater engagement with alleged victims by prosecutors and witness assistance staff from an early stage in the court process. Despite the undoubted success of that reform almost 20 years ago, it is still the case that like matters in the country courts are handled by police prosecutors. The only reasons for this are geography and funding. SAPOL has a presence in many country regions and so these matters are handled by police prosecutors until committed to the District Court or the Supreme Court for trial or sentence. It is only at that time that my Office becomes responsible. This approach deprives the accused, alleged victims, the Court and the broader community of the benefits that the early involvement of my Office can bring.

Geography is no longer a sufficient reason for this to continue. Resources like video conferencing are widely, albeit not universally, available in the country courts. For this reason alone, it is time for change. Subject to a determination of the funding that will be needed and proper processes being agreed to with SAPOL and the Magistrates Court, my Office should assume responsibility for these matters with my staff appearing from Adelaide via video link. In addition, where necessary, the overwhelming majority of conferences with alleged victims can be done in the same way. Such an approach will reduce the burden on police prosecutors in country areas. Reliable data collected by my Office over a long period gives confidence that matters will be resolved sooner and to appropriate charges. In turn, this will see alleged victims in country areas receive the same high quality service that my Office provides to people in the metropolitan areas.

In the current budget setting, perhaps those stakeholders who might benefit from less work through this Office being involved in these matters will need to commit to sacrifice resources to see reform in this area achieved. Ultimately, that is for others to decide. However, my Office has already done a considerable amount of work to identify some of the processes that would need to be agreed upon as well as the likely benefits that would flow. I am not aware of anyone who would suggest that the system would not be improved if this occurred. I am hopeful that the coming 12 months that this is an initiative that can be advanced.

I conclude with two important matters. First, an acknowledgment of the outstanding work that my staff have done over the last 12 months. They have worked tirelessly to deal with the pressures of the criminal justice system. The community is exceptionally well served. In October last year the Office was able to celebrate its 20 year anniversary with a function attended not only by current staff but also by past employees and leaders in the criminal justice system. It was important for staff to see through this function the proud history that this Office has and the important contribution that each of them make.

Second, I acknowledge that South Australia's first DPP, Mr Paul Rofe QC, passed away in May 2013. Paul was a giant in the history of criminal prosecution work in this state. His leadership skills were unique. The positive influence that he had on this Office is felt to this day. He would be proud of what this Office continues to achieve for the community.

Adam Kimber SC
Director of Public Prosecutions

DEPUTY DIRECTORS' REPORTS

Historically, one person has acted as the Deputy or Associate Director to the Director of Public Prosecutions. However, the organisational and practical needs of the Office have continued to evolve over the last decade. Therefore, in 2012-13, the Director created two Deputy Director roles, to reflect the different focus of the Solicitor Section and the Counsel Section, on the legal work undertaken by the Office.

The need to introduce a level of specialisation into each section reflected the increasing complexities associated with the preparation and prosecution of serious criminal pleas and trials. The work done by trial counsel is different to the work done by solicitors, who handle and resolve the bulk of the legal work of the Office. This difference needs to be managed accordingly.

Deputy Director - Solicitor Report

The solicitors continue to prepare matters for trial and to appear in all criminal courts when submissions are made on guilty pleas, when disputed facts hearings proceed, for some mental incompetence trials and in relation to permission to appeal arguments. However, in the last twelve months, there have been a number of significant changes to the way the section operates, and it is anticipated that there will be more in the next twelve months.

The first important change was the centralisation of metropolitan committals to the Adelaide Magistrates Court. It is anticipated that by December 2013, the centralisation process will be complete. This initiative initially created some difficulties for the Office as solicitors continued to service the metropolitan courts while at the same time appearing in the Adelaide Magistrates Court for those new matters transferred to the city. Given the need for solicitors to also appear in the District and Supreme Courts there is a need to ensure that the listing of committal matters in Adelaide allows the solicitors to accommodate all the demands on their time.

The section has also advocated strongly to have a presence in committals in country areas as set out in the Director's Overview. To support this proposed initiative the Office has collected data over a long period. This information indicates strongly that matters would be resolved sooner if this Office handled them from their inception.

A second significant change resulted from legislative amendments designed to stipulate sentencing discounts for early guilty pleas, and to allow for some major indictable matters to be finalised in the Magistrates Court. These amendments will potentially reduce the number of matters being committed to the District Court, thus reducing the time that defendants, victims and witnesses must wait before the trial can proceed. It is critical to identify those matters which can be resolved in the Magistrates Court, to ensure that the serious contested matters in the Superior Courts are dealt with in a timely fashion.

When the Office took over metropolitan committals in 1996-97 there were approximately 1,200 defendants commencing a major indictable committal/trial process. By the last financial year that number had increased to approximately 2,800 defendants. The Office must be vigilant in resolving those matters suitable for resolution as early as possible. Not only is this beneficial to victims and defendants, it also assists in ensuring the District and Supreme Courts of this State are not put under further pressure.

A third important initiative which may lead to efficiencies for the criminal justice system is a pilot commenced in the Holden Hill Committal Court for a period of 12 months. A senior manager from the Solicitor's Section was taken off-line for the period of the pilot to work with Holden Hill investigators. The purpose of the pilot has been to identify impediments to early guilty pleas or resolutions and to gauge the costs inherent in such an intensive intervention. It has required the manager to be available to provide early advice on the appropriate charges as soon as a person is arrested for major indictable offences, to identify those outstanding enquiries that are crucial to the investigation, and to initiate contact with defence counsel to commence early discussions. The pilot is still underway but it is hoped that valuable data about where and how to focus resources will be obtained, providing a solid foundation to make the committal process more efficient.

A fourth important initiative is the creation of a dedicated training resource. The task of prosecuting serious crime is becoming increasingly complex. Any survey of the statute books in the past decade will show significant amendments to the substantive criminal law and to the procedures to now be adopted in the courts. Every legislative amendment brings with it additional work for staff in changed work practices, training, reporting requirements to assess the success or otherwise of the changed practices, and assisting the Court to identify and adapt to those changes.

To keep abreast of the changes and to provide the necessary training the office has established an on-line guide for staff, and has created a position for a Legal Education Officer. The incumbent has provided invaluable assistance to the Office in the short time she has been working with us and has helped to develop the on-line guide into an easily accessible and instructive legal resource.

The next twelve months will present significant challenges for the section as we seek to stay on top of an increasing workload, respond to Departmental savings targets, change our practices to respond to the jurisdictional changes of the Magistrates Court, participate in the pilot for prosecuting some Youth Court trials, and manage sentencing matters in the Country Courts by video links. I anticipate that, by the end of 2013-14, the necessary foundations to promote and ensure early guilty pleas will have been laid.

I would also like to take this opportunity to thank the hard working solicitors, managers and administrative staff in my section for all their efforts. They have worked tirelessly to provide a professional and efficient prosecution service to the community in this State.

Ian Press

Deputy Director of Public Prosecutions - Solicitor

Deputy Director - Counsel Report

In September 2012, I was appointed Deputy Director of Public Prosecutions - Counsel. The creation of this specialised Deputy position was a reflection of the value that the Office places on a highly skilled counsel section committed to vigorously and fairly prosecuting the most serious crimes committed in this State.

The Counsel Section of the Office conducts trials in relation to a range of serious offences including murder, sexual assault, manslaughter, offences of violence, drug offences, causing death and bodily harm by dangerous driving, and fraud. Senior members of the Counsel Section also conduct appeals in the Court of Criminal Appeal and in the High Court of Australia. The legal staff within this section are very often the public face of the Office and as such are open to public scrutiny. It is for that reason that it is important that the lawyers not only have the appropriate skills but are trained and developed to a standard which the community would expect of its prosecutors.

In 2006, the Office dismantled the Counsel Section. Instead prosecutors were assigned to each of the solicitor teams as recommended by the Lizard Drinking Review. In my view this structural change was not a success. To the contrary, in diluting the skill set of a committed Counsel Section by spreading those individuals across the whole of the Office we failed to succession plan. We did not focus on maintaining and improving the skills of those responsible for conducting trials and we did not effectively identify and develop future trial counsel.

As a consequence in 2010 we re-established the Counsel Section so that inexperienced prosecutors were co-located with experienced prosecutors. This change allowed the skills of those experienced lawyers to be more readily available to juniors to provide the intense guidance and supervision they needed. A formal training and development programme has commenced and I am already seeing the benefits in terms of junior staff feeling more confident to take up more difficult and complex trials.

This growing pool of mid ranging experienced trial counsel has provided benefits for solicitors in the Office as well. First, there are more opportunities available for those solicitors who wish to concentrate on counsel work and move into the section. Secondly, there are more prosecutors available to those solicitors who are running their own trials. The prosecutors act as a mentor to solicitors conducting trials for the first few times and hence skills are improving across the Office.

The increase in lawyers' trial skills in the Office has meant that we are now in the position to expand our jurisdiction to match the needs of the criminal justice system. For example, we will now be providing counsel for some Youth Court trials as a consequence of the Senior Judge of the Youth Court asking this Office to become involved in some of the more complex trial work in that court.

Secondly, an arrangement has been reached in which this Office will make counsel available to assist the ICAC. It is too early yet to say exactly what form this assistance will take, but the creation of any such role can only be beneficial to both organisations.

This broader involvement is a positive development for the criminal justice system as it puts experienced counsel into areas which have a need for that expertise. It is also good for staff, as it exposes them to some of the diversity of work which would be available to them at the Independent Bar. This is a significant asset when it comes to retaining our best staff.

The final matter that I wish to mention is that of briefing out trials to the Independent Bar. It has long been the practice of the ODPP to brief members of the independent bar to conduct trials in circumstances in which there is no ODPP prosecutor available. As a result of dismantling the Counsel Section briefing out increased dramatically. In a time of significant budget cutbacks this was an area of expenditure which we looked to significantly reduce. That has very much been a large part of my focus since the re-establishment of the section. This has required considerable effort from every member of the Counsel Section. Those efforts have been successful. Briefing out has now been reduced back to a reasonable level. I do however, issue a word of caution. If we wish to continue to offer the community the level and quality of prosecution that they are entitled to expect then we need to keep a continued focus on the training and development of trial counsel. In the current budgetary climate we have struggled to find trial prosecutors to cover all of the trials conducted in the Supreme and District Courts. When that is the primary focus, it leaves few resources to devote to the development of skills of the staff within the section. That is something that needs to be addressed in the year ahead.

I am excited at the prospects for the next twelve months and look forward to continuing to work with my team to continue to represent the South Australian community in our courts. I thank all of those in the Counsel Section who have worked together to re-establish a team of highly skilled and committed prosecutors who have and will continue to offer an excellent service to our State.

Sandi McDonald SC
Deputy Director of Public Prosecutions - Counsel

SIGNIFICANT PLEAS, TRIALS OR APPEALS

Pleas

Jalloul and Mohammadi

Mohammadi pleaded guilty to aggravated threatening life. Jalloul pleaded guilty to aggravated endangering life and aggravated possessing a firearm without a licence. The defendants were sentenced on 18 July 2013.

The brief facts of the matter are that both defendants were previously members of an Outlaw Motorcycle Gang (OMG). On the evening of Sunday 18 December 2011, Jalloul was having dinner at Café Paesano in the North Adelaide Village. He claimed at sentencing submissions that he was there to meet another member of an OMG to hand back his "patch". He had a loaded firearm concealed on his person.

At about 9:45pm Mohammadi entered the restaurant and pointed what we ultimately did not dispute was a replica firearm in the direction of Jalloul. Jalloul immediately removed his firearm and proceeded to fire no less than five rounds in the direction of Mohammadi as he left the restaurant and ran through the Village. The restaurant and the Village itself were crowded with diners and other members of the public, including young children.

After a discount for his plea, Mohammadi was sentenced to a head sentence of four years and eight months with a non parole period of two years and ten months (that included two months which was the unexpired balance of a previous sentence).

Jalloul was serving a sentence for unrelated matters of three years seven months and eleven days with a non parole period of twenty-one months. A new head sentence of ten years, four months and four days and a non parole period of six years and three months was imposed.

Statutes Amendment (Serious and Organised Crime) Act 2012

Legislative amendments introduced by this Act were relied upon by the Office for the first time in an aggravated robbery trial.

Six accused were charged with aggravated robbery, and were alleged to have participated in a home invasion where the victim was assaulted and forcibly detailed. Motorcycles and other property were taken.

One of the aggravating features alleged by the Office was that the offending was committed for the benefit of two or more members of a criminal organisation. Each of the accused were alleged to be members of, or associated with, a motorcycle club.

Applications for bail were made by the accused in the Adelaide Magistrates Court. In opposing bail in relation to each accused, the Office made an application pursuant to the recently introduced section 3A of the *Bail Act 1985* seeking each accused to be declared serious and organised crime suspects. This was the first time that a South Australian Court was required to interpret and consider the operation of that section. In a ruling delivered on 11 October 2012, the Adelaide Magistrates Court determined each accused to be serious and organised crime suspects, and refused bail for the accused who elected to proceed to make applications for bail.

During the course of the proceedings, one accused applied for a review of Magistrates Court decision regarding bail in the Supreme Court. Whilst that review of bail was ultimately abandoned by the accused involved, the Supreme Court Justice hearing the matter observed

that the original decision to declare the accused a serious and organised crime suspected appeared appropriate.

All accused entered not guilty pleas in the Magistrates Court, and the matter was committed for trial to the District Court. The District Court was unable to hear the trial within six months from the date in which serious and organised crime suspect determinations were made. However, the listing of the matter was expedited by the District Court, and the trial commenced on 27 May 2013.

Prior to trial, one accused entered a plea of guilty to the charged offending. That accused later gave evidence against his co-accused at the trial.

All accused elected for the trial to be heard by judge alone, and a decision about the verdict has been reserved by the trial judge.

R v McGlynn

The offender was part of the Holden Hill Early Resolution Pilot Program.

The passage through the Courts of her matters are instructive and illustrate some of the strengths and weaknesses of the Pilot Program.

The facts are unremarkable. The offender was charged with Aggravated Serious Criminal Trespass after she was caught red-handed committing a residential break-in on a house in October 2012. The victim arrived back at his house in the middle of the morning on that day, only to see two people leaving his back door. When he realised that the two people were intruders and were carrying some of his property, he shouted at them and ran towards them. The male intruder ran and was never apprehended. The home-owner managed to grab the offender. He held on to her and called the police on his mobile phone.

After adjudication defence counsel was advised as soon as possible. The relevant documents were forwarded to defence who were urged to obtain instructions for an early guilty plea. On the face of the allegations the defendant was caught red handed and had no defence however an early guilty plea was still not forthcoming.

Firstly, the offender was actively unwilling to plead guilty despite the strength of the Crown case against her. She attempted to plead guilty to a lesser charge (on a factual basis quite contrary to the clear evidence) and, when the Crown did not agree, proceeded to dismiss her lawyers. Despite the somewhat turbulent process on the way to a guilty plea, the Crown did not request a full and detailed brief from the investigating police because the Crown was confident that a reduced brief should be sufficient. Eventually, after numerous Court appearances and discussions with her new lawyers, the offender pleaded guilty as charged and was sentenced in the District Court. There was a significant saving in terms of police resources however even with an overwhelming Crown case the prosecution was required to engage in numerous discussions with counsel and attend in court on several occasions before it was finalised.

The offender was also charged with a second, almost identical offence. This offence was actually the first offence in time but, because she was reported rather than arrested, the charges arrived in Court after the latter break-in. This matter was, again, a residential trespass from April 2012. Similarly, a home-owner was at home when he noticed two women inside his house. He approached them and attempted to physically detain them but they were both

able to flee after a brief struggle. One of the offenders dropped a bottle inside of the house. Subsequent DNA analysis from the bottle matched the offender's DNA profile.

The Crown forwarded a summary of evidence and the offender subsequently entered a guilty plea on the basis of that summary. A full brief was not required. A DNA report was not required. The District Court was presented with detailed agreed facts, upon which she was sentenced. This second offence shows the optimum use of the Pilot Program: defence counsel was able to take instructions early, there was a very early guilty plea based on the apprehension report and no brief was required. This represented significant efficiencies and savings for SAPOL, Courts and State Forensic Science. However, significant work was still required by this Office.

The offender was sentenced to four years imprisonment with a one year non parole period, which included a ten month reduction for the time she had spent in custody. This sentence was cumulative upon her balance of unexpired parole of one year, three months and twenty nine days.

Trials

R v Caroline Ruth KOENIG

Ms Koenig was charged with murdering her de facto partner, Gregory Ellbourn. It was alleged that in May 2011 she murdered the deceased, most likely by giving him a lethal dose of an anti-depressant drug that she was prescribed. It was alleged that she then kept his death secret by hiding his body in her backyard shed for about six months, before dumping his body on the side of a dirt track to be found by a member of the public in November 2011. Mr Ellbourn was an interstate truck driver whom had stopped turning up to work in May 2011. Ms Koenig convinced people that Mr Ellbourn was still alive by telling stories about where he was, and maintaining control of his financial affairs. The Prosecution alleged a financial motive for the murder, and relied in part upon Ms Koenig having allegedly offered people money to kill the deceased, and then having admitted to having knowledge of his death after he had disappeared.

The trial ran for just over three weeks in February 2013. Ms Koenig was found not guilty.

R v JW

JW, a youth, was charged with one count of murder. It was alleged that in 2010, when JW was 14 years of age, he was part of a joint enterprise with another 14 year old boy, JT, to murder 63 year old Pirjo Kempainen. JT pleaded guilty to the murder of Ms Kempainen at committal. He received a discount in his sentence in part for his promise to give evidence for the prosecution in the trial of JW.

The evidence of JT was the backbone of the prosecution case against JW. JT's evidence was that he and JW discussed murdering someone for some weeks prior to the murder of Ms Kempainen, and that it was JW who selected Ms Kempainen as the person to be killed. JT's evidence was that on the night of the murder, he and JW went to the Ms Kempainen's house on two occasions armed with knives. On the first visit, the murder was not carried out. On the second visit, after initially approaching the back door of the property, JW retreated to a tree approximately 50 metres across the road from the home where he told JT that he did not want to kill Ms Kempainen anymore. On the Crown case, whilst under that tree, JW agreed with JT that he should kill Ms Kempainen, and then agreed to go into the house after she had been killed. Forensic evidence established that JW had been inside Ms Kempainen's home at a time after she was murdered, but there was no independent evidence of a joint enterprise

between JW and JT to murder Ms Kemppainen. Proof of that plan could only be found in the evidence of JT.

The accused was found not guilty by unanimous verdicts.

R v Austin and Schaij

Timothy Austin (a police officer) was convicted of ten counts of abuse of public office under s251 of the *Criminal Law Consolidation Act 1935* by providing his brother-in-law and co-accused David Schaij with information obtained from the secure police database on ten occasions between May and December 2010. The information provided was names and addresses for people that Mr Schaij was seeking to locate as part of his work as a 'skip locator' for a national investigating company. Mr Schaij's employment required him to locate debtors so they could be contacted to recover monies owed by them or to repossess property, mainly cars the subject of financial agreements. Mr Schaij was convicted of ten counts of counselling or procuring an abuse of public office (s267) because he requested the information from Mr Austin.

In sentencing the Learned Sentencing Judge described the conduct of Mr Austin as low-level police corruption and a serious breach of his duties as a police officer. He was sentenced to twelve months imprisonment with a non parole period of six months. Ms Schaij received six months imprisonment. Both sentences of imprisonment were suspended upon entering into a \$1,000 bond to be of good behaviour for twelve months.

This matter is currently the subject of an appeal.

R v Fitzgerald and Sumner

In the early hours of the evening, Sumner was at a house in Elizabeth with family members. There were a number of arguments and altercations that resulted in Sumner leaving, being collected by his mother. Both Sumner and his mother threatened to return later that night. Later that night a group of ten or so men kicked in the front and rear door of the home. Once inside the house the group used weapons to assault two of the occupants. Kym Drover was killed in the attack and Leon Karpany suffered serious harm.

Sumner was recognised as one of the people involved in the altercation by four people from inside the house. He was seen making threats whilst inside the house and also using a weapon. One of the weapons used during the attack was a didgeridoo that was obtained by the intruders from inside the house. DNA of both victims and of the accused Fitzgerald was located on the didgeridoo. The DNA was the only piece of evidence linking the accused Fitzgerald to the offending. The prosecution case was one of joint enterprise. The other men involved in the attack remain unknown. Each accused appealed their convictions. Both convictions were upheld by the Court of Criminal Appeal.

This matter is now the subject of an application for Special Leave to appeal to the High Court.

R v Bonython-Wright

Mr Bonython-Wright was charged with the sexual abuse of two youths that he had met in the 1980s through his employment as a youth and social worker. It was alleged that he had supplied each boy with cannabis in the context of creating an environment in which they would be susceptible to the sexual acts. Mr Bonython-Wright was convicted after a trial by jury. He was sentenced to a period of imprisonment for ten years with a non-parole period of six years.

Mr Bonython-Wright appealed his conviction. The conviction was upheld. The Court of Criminal Appeal considered the proper use for evidence of each complainant in the case involving the other in light of the new discreditable conduct provisions of the *Evidence Act* and provided useful guidance for similar cases in the future.

This matter is now the subject of an application for Special Leave to appeal to the High Court.

R v Klaasen and Spinotti

Mr Klassen and Mr Spinotti were charged with murder resulting from an assault on the deceased inside his home. Following the assault the deceased was conscious and active. He collapsed and died two days later. The matter raised complex issues of causation and whether an intervening act might have caused the death rather than the assault. The matter resolved without trial with Klaasen pleading guilty to manslaughter and Spinotti to assisting an offender.

R v Dalton

Ms Dalton was charged with 271 counts of Falsification of Accounts. It was alleged that while employed in the Department of Family and Youth Services she had invented 271 women (each with invented children) over a period of four years, each of whom she claimed were in need of financial assistance to relocate due to domestic violence. The money provided to these falsified people was in fact used by Ms Dalton's own purposes. The prosecution case rested on two limbs. Firstly, multiple searches of independent databases could not locate any evidence of the existence of the 271 applicants. Secondly, an obvious correlation existed between the defendant's personal bank records and the bank records of her workplace at Family and Youth Services.

The Voir Dire started on 4 February 2013 and ran for two weeks. The jury of fourteen (originally fifteen) was empanelled on 18 February 2013. The trial ran until 20 March 2013. Ms Dalton gave evidence and was cross examined for one and a half days. The jury returned a verdict of guilty for each count. On 6 September 2013 Ms Dalton was sentenced to a term of imprisonment of five years with a non-parole period of two and a half years. She was ordered to pay restitution of \$100,425.

Appeals

Huynh, Duong, Sem v The Queen (High Court)

All three men were charged with the murder of a young man Thea Kheav during a fight which broke out at a party in suburban Adelaide in December 2007. The three men were convicted of murder on the basis that they were participants in a joint enterprise to kill or seriously injure someone at the party using a knife or similar weapon. The prosecution was not able to prove whom inflicted the fatal wounds.

The men appealed their convictions to the Court of Criminal Appeal and subsequently to the High Court of Australia. They complained that the trial Judge had failed to give adequate directions about participation in the joint enterprise, and failed to adequately deal with the case for each man in the summing up.

The appeals were dismissed.

R v Mustac (Court of Criminal Appeal)

Mr Mustac pleaded guilty to trafficking in a large commercial quantity of cannabis. He was sentenced to three years imprisonment with a non-parole period of one year. On a prosecution appeal against the sentence, the Court of Criminal Appeal substituted a sentence of seven years and six months with a non-parole period of five years. On appeal the court considered that the sentence was manifestly inadequate and that the discount given for what was a late guilty plea was too generous.

An application for Special Leave to appeal to the High Court has been lodged by Mr Mustac.

R v M (No 2) (Court of Criminal Appeal)

Mr M was convicted on a re-trial of sexual abuse against four separate complainants. On appeal the Court of Criminal Appeal considered whether the trial in relation to each complainant was properly heard together, and what use could be made of the evidence of each on the case involving the other. The court considered that the directions to the jury were deficient and carried a risk that the jury might reason impermissibly in relation to that evidence. Those directions related to the new discreditable conduct provisions of the *Evidence Act*. The court also considered that the directions about forensic disadvantage suffered by the accused because of the passage of time were inadequate.

The court ordered a re-trial.

Moore, Faehrmann, Price-Austin v R

Mr Moore, Mr Faehrmann and Mr Price-Austin had been involved at a high level in a cannabis trading enterprise which transported cannabis to Mintabie in the far North. A high proportion of the customers buying the cannabis were Aboriginal people from the adjacent APY Lands communities. At first instance this Office called evidence about the devastating impact that cannabis was having in the APY communities. The impact was demonstrably worse than the effect of cannabis in urban communities. The sentencing Judge regarded the fact that the trading enterprise targeted these communities as a significant aggravating feature. The sentence imposed on each was as follows: Faehrmann ten years three months imprisonment, non parole period seven years; Moore eight years and three months imprisonment, non parole period one year, six months and fourteen days; Price-Austin six years and nine months, non parole period four years and five months. Each man appealed the sentence imposed on him, saying it was manifestly excessive and the Judge wrongly took into account some features of aggravation.

The court has reserved its decision.

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.

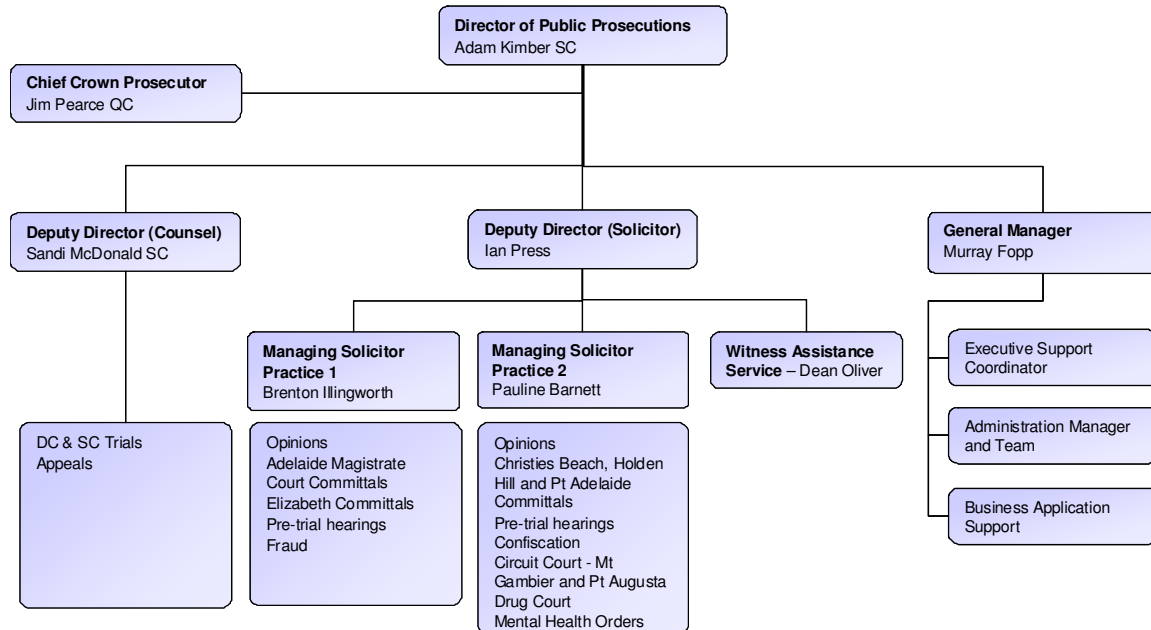
Corporate Values

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.

GOVERNANCE

Organisational Structure



Management Committees

Executive Committee

The Executive Committee consists of the Director, Deputy Directors, Legal Practice Managers and the 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 determines responses to the important legal issues affecting the Office.

Other Committees

The Office has a number of committees that contribute to the strategic direction of the Office, and that deal with operational issues. These include the Legal Policy Committee, Senior Solicitor/Prosecutor Committee and the Case Tracking Reference Group.

GENERAL MANAGER'S REPORT

Staffing levels

The approved staffing level of the Office was unchanged from 2011-12. However, the allocated budget was \$1.3million less than the amount needed to employ the approved positions. Consequently up to twelve positions were vacant during the year.

	Approved for 2012-13	Approved for 2011-12	Change in 2012-13
Executive Group	3.0	3.0	-
Legal (including managers)	88.83	88.83	-
Witness Assistance Officers	11.0	11.0	-
Administration staff	42.35	42.35	-
Total FTE	145.18	145.18	0

The Commissioner for Victims' Rights funds three full-time and one part-time Witness Assistance Officers dedicated to the provision of services to child victims and witnesses. The Victims of Crime Fund finances the salaries of 4.5 legal and administration staff working on the confiscation of assets of crime.

AGD Corporate Services

The Office continues to rely on the Attorney-General's Department (AGD) for corporate services—human resources, facilities management, finance, procurement, security, workplace safety & welfare, information and communication technologies, corporate communications, media monitoring and library services. 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.

Information and Communications Technology

The Office continues to look for a replacement Practice Management System, as recommended by an AGD review of the Office's IT needs. Unfortunately funding has not been provided.

While the Office's internal IT systems have significant gaps, the integration of justice IT systems in South Australia is as good as — and in most respects, better than — any other in Australia. The ODPP benefits greatly from participation in the Justice Information System (JIS), and from the support given by the service provider, Justice Technology Services, and the JIS partners, particularly SA Police and the Courts Administration Authority.

Electronic lodgment of court documents is actively being explored by the criminal justice sector. The Office will need significantly expanded and upgraded systems capability in order to participate in this inevitable and essential development.

FINANCIAL REPORTING

Parliament appropriated \$21,551,000 for Public Prosecutions for 2012-13¹. Of this appropriation, the Office received \$18,110, 902 with a further \$413,000 revenue from the Victims of Crime Fund, to finance the Office's Confiscation of the Proceeds of Crime activities².

The Office understands that \$700,000³ of the appropriation was for reimbursing the Courts Administration Authority for witness expenses. The remainder of the appropriation withheld from the Office—approximately \$2.7 million—contributes to AGD corporate overheads and corporate services (other than rent, IT costs and financing charges which are recovered from the Office's allocated budget).

	2012-13 Allocation ⁴ (\$,000s)	2012-13 Actual ⁵ (\$,000s)	2011-12 Allocation ⁶ (\$,000s)
Revenue Sources			
From Appropriation	18,237	18,105	17,454
Victim of Crime Fund	413	427	405
Other	20	13	19.1
Total Revenue	18,554		17,878
Expenditure			
Staff remuneration	15,405	14,645	14,674
Goods and Services	919	1,532	950
AGD Charges (Rent, IT etc)	2,313	2,339	2,149
AGD Depreciation	17	18	129
Total Expenses	18,670	18,545	17,902

Significant Cost Pressures

Since at least 2004-05, no funding has been received to cover the increased cost of Goods and Services caused by inflation, nor for remuneration increases determined by the Independent Remuneration Tribunal for the Director of Public Prosecutions. The Office has met the shortfall by employing less staff, with up to twelve positions vacant during 2012-13.

Expenditure on Goods and Services exceeded funding by over \$600,000. This is the smallest deficit in the last five years but only achieved by a \$1.3 million reduction in the Salary expenditure and extreme restraint in other expenditure, especially Briefing Out.

As reported in previous years, while this funding model is maintained, the Office will be unable to balance its budget without seriously depleting its workforce which already operates with file loads well in excess of its counterparts in other States and Territories.

Savings Targets

While \$600,000 in savings were removed from the Office's 2012-13 Budget, on-going savings of \$166,000 remain. With a balanced budget, the Office met its savings target this year.

¹ Source: 2012-13 Budget Paper 4, Vol 1 - Agency Statement, p.21.

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

³ Source: 2012-13 Period 14 Operating Statement for Witness Expenses.

⁴ Source: 2012-13 ODPP Finance Operating Statement for Period 14, Attorney-General's Department

⁵ Source: 2012-13 ODPP Finance Operating Statement for Period 14, Attorney-General's Department

⁶ Source: 2011-12 Budget Assumptions, Attorney-General's Department

TRAINING AND DEVELOPMENT

Continuing Legal Education

In accordance with its commitment to Continuing Legal Education (CLE), the Office coordinated the delivery of 16 CLE activities in 2012-13.

The committee which arranges and presents CLE activities is overseen by a senior prosecutor, its members including lawyers with a wide range of experience. There is a broad range of input about topics and the level at which the activities are pitched. Speakers are drawn from both within the office, as well as from the judiciary, the wider legal profession and other stakeholders. Speakers have included the Chief Justice, a number of Supreme Court and District Court judicial officers, experienced defence counsel, speakers from the Legal Practitioner's Conduct board, SAPOL officers and forensic scientists.

Topics for the 2012-13 CLE Program included the following sessions and papers:

- Advocacy (Chief Justice , Kourakis CJ)
- Effective prosecution from a Judicial perspective (Justice Nyland)
- Advocacy in committal courts (Maria Panagiatidis SM)
- How to approach and negotiate with Defence Counsel
- Approaches to proofing complainants and vulnerable witnesses
- Obtaining, analysing and presenting telecommunications evidence
- Assessing fitness to stand trial reports
- Confiscations legislation
- Guilty plea legislation and serious firearms offences
- A new approach to presenting DNA Evidence after "Starmix"
- CSI: How the scene is processed
- Firearms: What the expert's report means
- Home detention: How does it work in practice
- Police Dogs and their use in investigations
- An introduction to the concept of Restorative Justice
- Ethics of Prosecution and Defence

External Training

The Office conducted a number of training sessions for external stakeholders in 2012-13. The sessions delivered both Legal and Witness Assistance Service content, and covered a variety of topics such as:

- SAPOL Police Prosecutors Training Course: Cross-Examination exercise
- SAPOL Police Prosecutors Training Course: Proofings
- SAPOL Sexual Crime Investigation Branch (SCIB) training seminar: Child pornography offences and SAPOL/DPP protocol for dealing with child exploitation material
- SAPOL Drug Investigation Branch (DIB) General Investigators course: Expert evidence in drug cases
- DCS: Victim Empathy Training
- VSS: Court Companion Training
- TAFE SA: Interagency Training, Child Protection
- Law Society: Advocacy training sessions
- National Institute of Forensic Science: Expert witness training

PERFORMANCE

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.

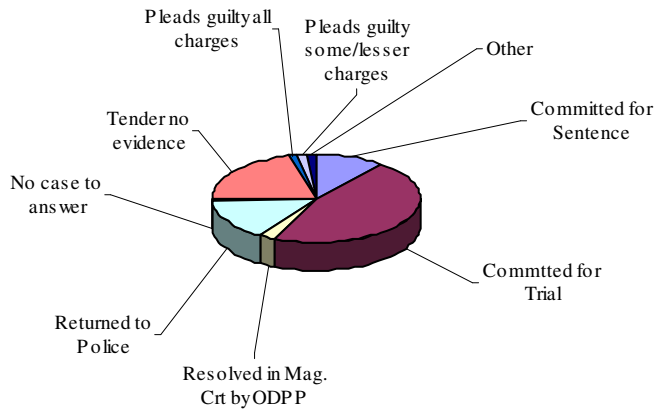
The Glossary will assist with terms used in the following charts.

Prosecutions Briefs - Received and Finalised		
	2012-13	2011-12
Briefs Received During Period	2770	2831
Briefs Finalised During Period	2767	2727
Current Briefs at End of Period	2076	2069

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

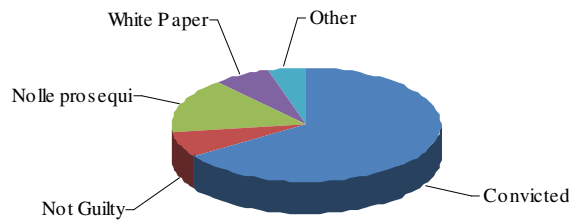
Prosecutions Brief Outcomes: Committal				
Outcomes	Adelaide 2012-13		Adelaide 2011-12	
Committed for Sentence	284	10.71%	257	10.02%
Committed for Trial	1213	45.76%	1124	43.84%
Resolved in Mag. Crt by ODPP	64	2.41%	80	3.12%
Returned to Police	410	15.47%	430	16.77%
No case to answer	12	0.45%	9	0.35%
Tender no evidence	555	20.94%	588	22.93%
Pleads guilty all charges	31	1.17%	18	0.70%
Pleads guilty some/lesser charges	43	1.62%	26	1.01%
Other	39	1.47%	32	1.25%
Total	2651	100.00%	2564	100.00%

Committal - Brief Outcomes

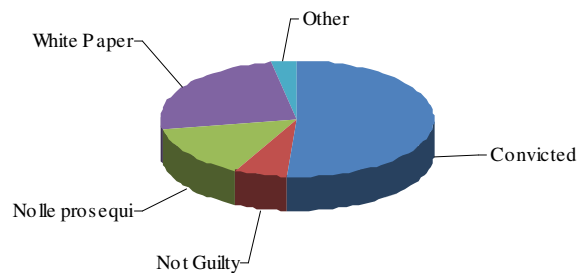


Prosecutions Brief Outcomes: District and Supreme Courts									
Outcomes	Adelaide 2012-13		Circuit 2012-13		Adelaide 2011-12		Circuit 2011-12		
	Convicted	725	65.61%	113	51.13%	695	64.53%	96	
Not Guilty	81	7.33%	14	6.33%	91	8.45%	16	7.62%	
Nolle Prosequi	174	15.75%	32	14.48%	159	14.76%	40	19.05%	
White Paper	73	6.61%	55	24.89%	75	6.96%	58	27.62%	
Other	52	4.71%	7	3.17%	57	5.29%	0	0.00%	
Total	1105	100.00%	221	100.00%	1077	100.00%	210	100.00%	

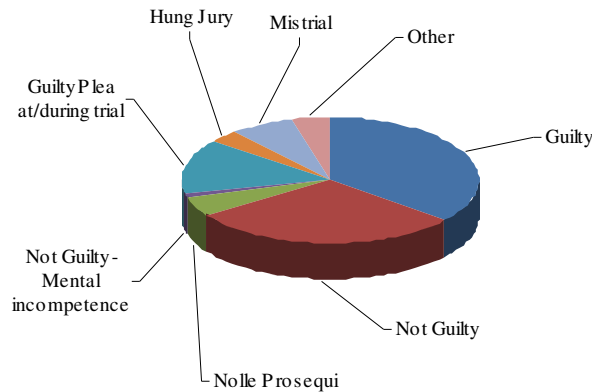
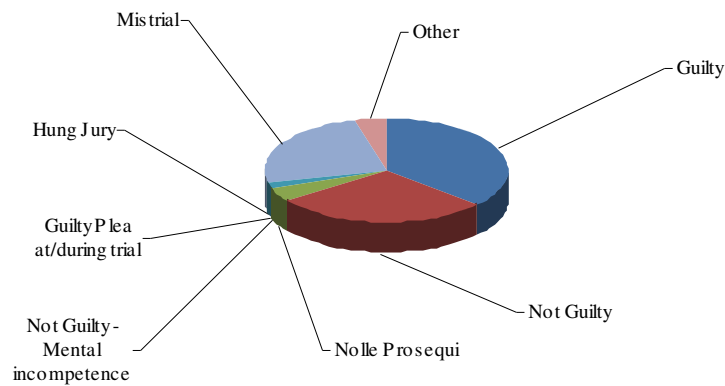
Brief Outcomes (Adelaide)



Brief Outcomes (Circuit)



Trial Outcomes								
District and Supreme Courts - Outcomes of Trials that Proceeded								
Trial Outcomes	Adelaide 2012-13		Circuit 2012-13		Adelaide 2011-12		Circuit 2011-12	
Guilty	107	36.15%	18	36.73%	139	41.00%	22	46.81%
Not Guilty	87	29.39%	14	28.57%	95	28.02%	19	40.43%
Nolle Prosequi	15	5.07%	2	4.08%	19	5.60%	1	2.13%
Not Guilty - Mental incompetence	3	1.01%	0	0.00%	5	1.47%	0	0.00%
Guilty Plea at/during trial	41	13.85%	1	2.04%	39	11.50%	2	4.26%
Hung Jury	10	3.38%	0	0.00%	7	2.06%	0	0.00%
Mistrial	21	7.09%	12	24.49%	23	6.78%	1	2.13%
Other	12	4.05%	2	4.08%	12	3.54%	2	4.26%
Total Trials Finalised	296	100.00%	49	100.00%	339	100.00%	47	100.00%

Adelaide District and Supreme Court - Trial Outcomes**Circuit District and Supreme Court - Trial Outcomes**

Appeals						
Crown Appeals	Against Sentence		Against Conviction		Other Grounds	
	2012-13	2011-12	2012-13	2011-12	2012-13	2011-12
Allowed	10	7	0	2	0	1
Dismissed	5	9	0	0	1	2
Total Crown Appeals decided	15	16	0	2	1	3
Defence Appeals						
Defence Appeals	Against Sentence		Against Conviction		Other Grounds	
	2012-13	2011-12	2012-13	2011-12	2012-13	2011-12
Conviction quashed	2	0	13	13		0
Sentence reduced	16	19	0	0		1
Appeal dismissed	16	31	17	35		0
Other outcome	3	2	3	2		1
Total Defence Appeals decided	37	52	33	50	0	2
Leave to Appeal Applications						
Leave to Appeal Applications	By DPP Against Sentence		By Defence Against Sentence		By Defence Against Conviction	
	2012-13	2011-12	2012-13	2011-12	2012-13	2011-12
Abandoned / Withdrawn	0	0	5	8	10	11
Dismissed	0	0	19	23	7	11
Sentence reduced	0	0	0	0	0	0
To CCA	0	0	39	49	34	43
Other	0	0	2	0	0	0
Total Applications	0	0	65	80	51	65

Adjudication Outcomes				
Adjudication Outcomes	2012-13		2011-12	
Charge Major Indictable	1802	85.24%	1752	84.80%
Charge Minor Indictable	204	9.65%	169	8.18%
Charge Summary	59	2.79%	59	2.86%
Do not lay charges	35	1.66%	34	1.65%
Other	14	0.66%	52	2.52%
Total Adjudications finalised	2114	100.00%	2066	100.00%

CONFISCATIONS

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; and
- 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 \$2,320,296 into the Victims of Crime Fund for the financial year ending 30 June 2013.

Criminal Assets Confiscation	2012-13	2011-12
Briefs received	218	327
Briefs finalised	247	195
Deposited to Victims of Crime Fund	\$2,320,296	\$2,275,170

WITNESS ASSISTANCE SERVICE

Overview

In 2012 - 2013 the Witness Assistance Service (WAS) continued to assist victims of crime and witnesses for the prosecution in the most serious criminal matters being prosecuted by the Office; including those living in regional and remote areas.⁷

Budget pressures resulted in a decrease in the WAS staffing establishment (11.0 FTE from 11.6 FTE). This contributed to a decrease in the number of overall services provided to victims and witnesses; a corresponding decrease in new referrals accepted by the service; and the introduction of a 'waiting list' for new referrals for the first time since 2008.

The Office of the Commissioner for Victims' Rights continued to fund a number of designated Child Officer positions (3.6 FTE) allowing the Office to continue to provide a range of specialist and targeted services and supports to this vulnerable population of victims and witnesses.

WAS Year in Review

During 2012-2013, new referrals to the Service marginally decreased by 4.7% compared to the previous financial year (992 compared to 1041). New adult referrals decreased by 5.0% (a total of 728 compared to 766); and new child referrals also decreased by 3.6% (265 compared to 275).

The Service experienced a 9.6% decrease in the overall numbers of face-to-face services and supports provided to victims and witnesses (2383 compared to 2587). Similarly, the time spent providing face-to-face services and supports marginally decreased by 0.5% (from 3,609 hrs to 3,590 hrs).

Small decreases were also noted in all areas of service delivery including court attendance / support (-11.5%), attendance at proofing meetings (-8.4%), court familiarisation / preparation (-8.0%) and assistance with VIS (-3.5%). The most significant decrease was in the area of court companion support (-17.0%) due to Victim Support Service (VSS) court companion volunteers being used at an increased rate.

Other Highlights

Over the past twelve month period WAS continued to work with significant numbers of external stakeholders; developed new alliances with interagency partners; and adopted a more strategic focus in key areas of policy and practice development.

The WAS continued to provide education and training support to numbers of allied criminal justice system and community based agencies including Community Corrections, SAPOL, Forensic Mental Health Services (James Nash House), Victim Support Service, TAFE (Certificate IV in Interagency Practice - Child Abuse) and the Centre for Restorative Justice. Of particular note the WAS met with members of the Liberian Community (Migrant Resource Centre); and provided additional training support in the area of "Victim Impact Statements: Legalisation, Practice & Politics" to SAPOL Victim Contact Officers, Yarrow Place Rape & Sexual Assault Services staff and Victim Support Service staff.

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

The Manager WAS attended the National Witness Assistance Service Conference and National WAS Managers Meeting in Hobart in February 2013. The review of national standards, practices and service models resulted in a proposal to restructure and improve the management and efficiency of the service. The proposed WAS re-structure was presented to members of the Executive Team at their Executive Team Planning Day in March 2013.

The WAS broadened its participation in key areas of policy & practice development including involvement in the AGD Disability Justice Plan; Sexual Assault & Cognitive Disability Resources Group; Restorative Justice Working Party; AGD Workplace DV Policy; AGD Flexibility in the Workplace Forum; Public Sector Values & Behaviours; Change at South Australia Launch; and Citizen Centric Community of Practice Forums.

Finally the Manager WAS continued to undertake a lead role in 'Customer Feedback' involving victims and witnesses. The details are set out below.

WAS Service Delivery

Activity - New Referrals	2012 - 13	2011 - 12	% Change
Total New Referrals	992	1041	- 4.7%
New Adult Referrals	728	766	- 5.0%
New Child Referrals	265	275	- 3.6%
Activity - Face-to-Face Services	2012 - 13	2011 - 12	% Change
Total Face-to-Face Services	2339	2587	- 9.6 %
Total Time Spend Providing Face-to-Face Services (hrs)	3590	3609	- 0.5 %
Attendance at Proofing Meetings	1258	1374	- 8.4 %
Court Attendance / Support	652	737	- 11.5 %
Court familiarisation / Preparation	166	182	- 8.0 %
Assistance with VIS	131	135	- 3.5 %
Court Companion Support	132	159	- 17.0 %

Witness and Victim Feedback

Since March 2010, the Office has routinely received feedback from Victims, Witnesses & Significant Others via a survey process. To date, 1,700 surveys have been issued, with over 300 replies received (a return rate of 18%).

In 2012-13, the Office was reported to excel in the following areas of service (rated as 'agree' or 'strongly agree'):

- ODPP Staff Being Professional at All Times (92%)
- Having the Legal Process Explained (87%)
- High Quality of Service Received from the Office (87%)

Before their involvement with the Office, 70% of respondents rated their impression of the Office as 'Neutral'. After their involvement with the Office, 83% of respondents rated their impression of the Office as 'Positive' or 'Very Positive'. Furthermore, 63% of respondents were 'Satisfied' or 'Very Satisfied' with the Outcome of the Prosecution Case, and 57% of respondents were 'Satisfied' or 'Very Satisfied' with the Sentence Outcome (where applicable).

DIRECTIONS UNDER THE *DIRECTOR OF PUBLIC PROSECUTIONS 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

The Director undertook no overseas travel during 2012-13.

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 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>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.
<i>SAPOL</i>	South Australian Police

<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>TNE (tender no evidence)</i>	A decision by the DPP at the committal stage not to proceed with some or all charges. (See also nolle prosequi)
<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.
<i>White Paper</i>	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)