



Director of Public Prosecutions

Annual Report

2013-2014



Government of South Australia

Director of Public Prosecutions

Office of the Director of Public Prosecutions

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Director's Overview

The last financial year has been a busy one for the Office of the Director of Public Prosecutions ('the Office') both in relation to the number and complexity of the matters prosecuted as well as the variety of projects it has been involved in which are aimed at delivering efficiencies in the criminal justice system.

Last year I reported that the Office had agreed to assume responsibility for a limited number of major indictable matters listed for trial in the Youth Court. That pilot has been operating successfully since the formal commencement of the relevant Practice Direction on 1 January 2014. Considerable work has been done to embed a successful framework and appropriate processes. The number of matters has been less than anticipated. A review will be done in October 2014 and there will then be discussions about whether this Office should continue to be involved in such matters. If that involvement is to continue, ongoing funding will be needed.

I also reported last year on the desirability of my Office taking responsibility for major indictable matters in the Magistrates Court in country areas. I regret that notwithstanding wide acceptance that the system would benefit significantly from this change, there has been no indication that resources will be made available to enable change to occur. I remain hopeful that the initiative will be advanced. All victims and accused persons should receive the same high quality service that my Office provides to people in the metropolitan area.

This past year has seen close involvement with the Criminal Justice Sector Reform Council which the Attorney-General established in July 2013. That body aims to support initiatives that will improve aspects of the criminal justice system. One of the four major reform projects adopted this year by the Council is a project to investigate opportunities for earlier pleas and the earlier identification of matters that are unlikely to proceed to trial. The Early Resolution Project is the next phase following on from the Holden Hill Pilot which was undertaken in 2012-2013. It is potentially an important step in bringing about the cultural change necessary to make the system more efficient and to reduce delays.

My Office is also involved in a project directed at developing electronic briefs for lodging and use in courts. It is a complex issue and requires a number of agencies to work collaboratively. It will no doubt be some time before the project achieves a successful resolution but change in this area is inevitable.

In relation to the legal work of the Office, it has continued to provide the community with a high quality prosecution service which resolved some 2,700 matters in the past 12 months.

Of particular interest to the community this year were those matters dealing with violence between young men and also those cases involving offending against children.

There has been considerable public debate about offences of violence in public places by young males commonly influenced by alcohol and other drugs. The so called "one punch" or "glassing" cases have received particular attention. The public debate has been healthy. It has given attention to the lifelong consequences that can result from a single act of aggression, consequences that can change the life of a victim and an offender. Some have called for "mandatory" sentences for some acts of violence. While this is a matter of policy, it is not something that I see as necessary. No two incidents of violence, and no two offenders, are ever the same. It is important that the court has the ability to balance all relevant circumstances in arriving at a proper sentence. In addition, the framework for the imposition of strong sentences in appropriate cases exists and the need for sentences that deter such acts of violence is well recognised. As the Honourable Chief Justice has observed in *R v Chalmers* [2012] SASFC 128:

It is plain that the Parliament has adopted a strong sentencing position for offences of violence. Not surprisingly, that position has wide community support. This court has long been concerned about outbreaks of public violence, particularly between young men, and has recognised that, even in the case of short sentences imposed on first offenders, the need to deter violence may demand that those sentences of imprisonment be served immediately.

There continues to be a large number of matters going before the Court where sexual offending is alleged and the complainant is, or was, a child at the time. This Office plays a key role in supporting such complainants and the surveys done by my Office consistently show that the service provided to these, and other complainants, is highly regarded. A key component of this is the Witness Assistance Service within my Office. A properly resourced Witness Assistance Service is an essential component of a modern prosecution service. This being so, it is of great regret that I have had to make a cut to the resourcing of that service to manage within the budget I have been given.

I conclude, as I did last year, by acknowledging the outstanding work that my staff have done over the last 12 months. The quality of the people who work in this Office is apparent to me every day. It is also obvious to those outside the Office. One illustration is the staff who have been seconded to the ICAC and upcoming Royal Commission. My temporary loss is the community's gain in two very important areas. I wish those staff well and look forward to them returning to my Office with additional skills. I thank those remaining for their continued efforts. Each day they ensure the service provided is one in which the community can have confidence.



Adam Kimber SC
Director of Public Prosecutions

Role, Legislation and Structure

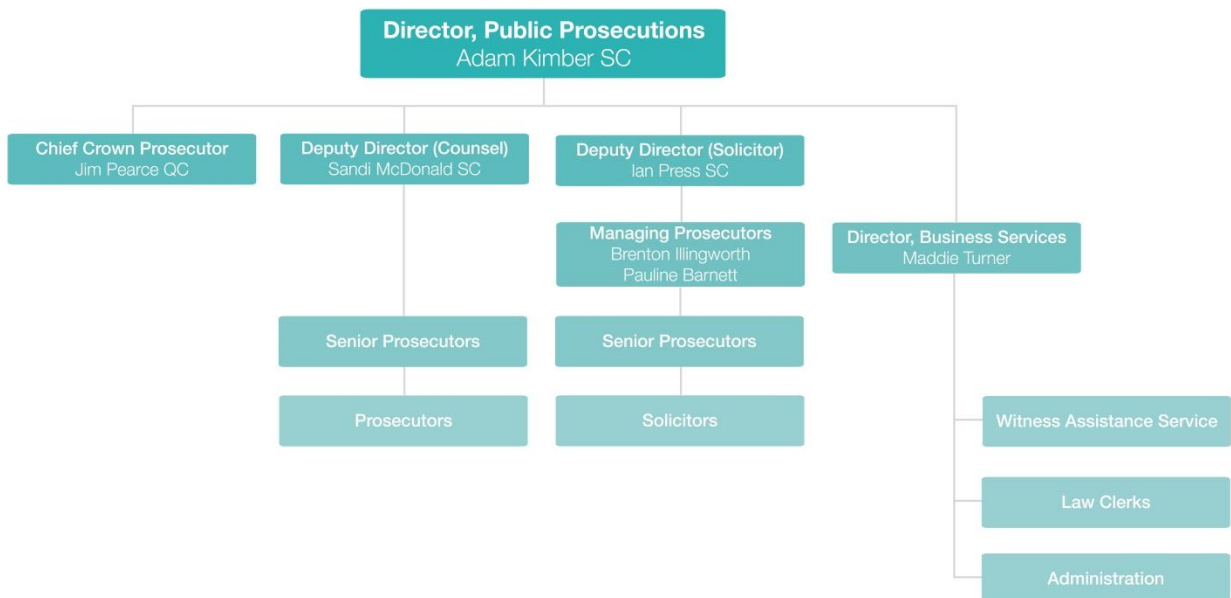
Role

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

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

Organisational Structure

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



Executive

The Executive Committee of the Office comprises the Director, the Deputy Director (Solicitor), the Deputy Director (Counsel), the Managing Prosecutors (existing and former), and the Director, Business Services (6 FTEs). The Executive Committee meet each month and has overall responsibility for the establishment, implementation and evaluation of the strategic direction of the Office. It also has responsibility for policy and determines responses to the important legal issues affecting the Office.

Solicitors' Section

The Solicitors' Section is the largest Section of the Office (52.6 FTE) and resolves around 80% of the files that commence as major indictable prosecutions in the Office. Solicitor work includes committals in the Magistrate's Courts of Adelaide, Christies Beach, Holden Hill and Port Adelaide, pre-trial hearings, preparation of files for trial, fraud and Drug Court matters, mental health orders and circuit court work conducted in Mt Gambier and Port Augusta. The solicitors appear in all criminal courts when submissions are made on guilty pleas, when disputed facts hearings proceed and in relation to permission to appeal and appeal arguments. In the past year, solicitors have also prosecuted some Youth Court trials. Senior members of the Section also undertake appeal work in the Court of Criminal Appeal.

Counsel Section

The Counsel Section comprises 24.8 FTE (including the Chief Crown Prosecutor) and undertakes the prosecution of the most serious criminal pleas and trials within the District and Supreme Courts. In addition to the Director, Deputy Director (Solicitor) and Deputy Director (Counsel), senior members of the Counsel Section may also undertake appeal work in the Court of Criminal Appeal and in the High Court of Australia. The Chief Crown Prosecutor works closely with the Counsel Section.

Witness Assistance Service

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

In 2013-14, there were 11.6 FTE in the WAS team, comprising the Manager and senior social work professionals (Witness Assistance Officers). That staffing complement included 3.6 FTE designated child officer roles funded from the Office of the Commissioner for Victims' Rights.

Business Services

The Business Services Section of the Office is managed by the Director, Business Services. The Section comprises a number of administrative teams including law clerks, secretaries, and administrative staff. In the first half of 2013, a new role of Law Clerk Manager was established to provide oversight and strategic management of the substantial law clerk workforce (27.5 FTE) who work closely with the solicitor teams on all matters conducted by the Office.

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

Administrative staff within the Business Services Section undertake significant support services within the Office including reception, a rounds delivery service, human resource, procurement, records management, health and safety and information technology responsibilities. Administrative staff comprise 10.8 FTE.

During 2013-14 the Business Services Section was heavily involved in implementing recommendations of the Office Administrative Services Review. The Review was completed in March 2013 and made 40 recommendations for improvement in business process, reporting and role definitions. The Review is discussed further later in this Report.

Confiscations Section

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

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

Legislation

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

Directions under *Director of Public Prosecutions Act 1991*

Directions from the Attorney-General

There were no directions or guidelines given by the Attorney-General to the Director of Public Prosecutions pursuant to section 9 of the *Director of Public Prosecutions Act 1991* during the 2013-14 financial year.

Directions to the Commissioner of Police

There were no directions issues to the Commissioner of Police by the Director of Public Prosecutions pursuant to section 11 of the *Director of Public Prosecutions Act 1991* during the 2013-14 financial year.

Listening and Surveillance Devices Act 1972

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

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

Compliance Reporting

Freedom of Information

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

Overseas Travel

No Office employee undertook overseas travel in the 2013-14 financial year.

General Compliance

Reporting on the following aspects of the Office are contained within the Attorney-General's Department Annual Report for 2013-14.

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

Strategic and Future Directions of the Office

Criminal Justice Sector Reform Council

In June 2013, the Premier and the Attorney-General announced a commitment to review the operation of the South Australian justice system with a particular focus on improving interactions.

To that end, in July 2013, the Criminal Justice Sector Reform Council (CJSRC) was formed, comprising heads of relevant Criminal Justice Sector (CJS) organisations including:

- South Australia Police (SA Police)
- Courts Administration Authority (CAA)
- Legal Services Commission
- Department for Correctional Services
- Office of the Director of Public Prosecutions
- Attorney-General's Department (AGD)
- Department for Communities and Social Inclusion
- In addition, the following judicial officers are observers – the Chief Justice, Chief Judge and Chief Magistrate.

The CJSRC aims to support initiatives that will deliver outcomes across the criminal justice system that improve service delivery, ensure that the service is fair and just, increase public confidence and efficiency, and where possible, reduce costs.

The CJSRC, as the leading governance body for Justice Sector Reform, has selected four major reform projects to improve the efficiency and effectiveness of the CJS, being:

- Discretion / Diversion Options - to investigate the use of pre-charge warnings and diversion options to reduce the number of matters coming before the courts, resulting in more efficient use of police and court resources (led by SA Police).
- Early Resolution - to investigate opportunities for early guilty pleas and the early identification of matters that should not proceed (led by the Office).
- High Custody / Remand - to investigate the reasons for high remand rates and find ways to address them (led by the CAA).
- Criminal Justice Information Management - to improve the exchange, timeliness and accuracy of justice information, so that decision makers have access to the right information at the right time to deliver more efficient and just outcomes (led by Attorney-General's Department).

Work on each of the four major projects above has commenced. In addition, a number of much smaller projects, confined to single or dual agency outcomes, have also been endorsed by the CJSRC, each to be completed within a twelve week timeframe.

Therefore, the CJSRC will provide an important focus into the Office's strategic direction for the future.

There are two CJSRC projects in which the Office is playing a key role in the development and implementation of initiatives aimed at generating better processes and championing reform. The Early

Resolution major project (2. above) is the next phase following on from the Holden Hill pilot program, undertaken in 2012-13.

The Online Lunn/Mobile Tablet Device is a much smaller project focussed on the Office, which will allow fast, easy access to online and key business information for all Office staff, irrespective of their location. This will be particularly useful for staff who attend the circuit courts (Mt Gambier and Port Augusta) and staff who require information while at court.

Both of these projects are discussed later in this Report.

Strategic Planning and Organisational Goals: 2014-15

In late 2013-14, the Executive Committee of the Office undertook a strategic planning exercise to identify projects and priorities for the coming financial year (2014-15). The agreed strategies, combined with existing initiatives are documented within the Office Business Plan. Outcomes include:

- As part of the Criminal Justice Sector Reform Council, develop the Early Resolution Project which will provide a detailed, fully usable model for early resolution of major indictable matters within the committal jurisdiction by encouraging guilty pleas. Further information on this project is available further in this Report;
- Undertake a review of the Witness Assistance Service to determine appropriate services, service delivery outcomes and resourcing that provides value to vulnerable witnesses and victims, the Office and other stakeholders;
- Undertake a review of the roles and classification of Law Clerks to ensure a career path plan from trainee to supervisor/specialist law clerk roles within the Office;
- Enhance the Office induction processes to ensure that they reflect a comprehensive program and resource repository for new and existing staff about working in government and in the Office; and
- In conjunction with the Criminal Justice Sector Reform Council, progress the development, purchase and implementation of a prosecution management system for the Office. Further information on this project is available further in this Report.

Performance and Achievements

Office Achievements

Centralised Metropolitan Adelaide Magistrates Court (AMC)

The transition to have all metropolitan major indictable committal hearings centralised to the Adelaide Magistrates Court is now complete. All Office solicitors now attend at the AMC on suburban committals. Attendance at suburban Magistrates Courts is no longer required and the difficulties experienced during the transition, with solicitors being required to be in both suburban courts and AMC, together with their Supreme and District Court appearances, has now been resolved. Efficiencies generated from this initiative include not having to brief others within the Office to cover geographically widespread attendances.

Court Efficiency Reforms

In late 2012, Parliament passed an amending Act, amending a wide range of Acts in relation to Court Efficiency Reform. The primary focus of the Court Efficiency Reform program is to reduce the backlog of criminal cases in the District Court and reduce delays in the finalisation of criminal matters, by allowing Magistrates to sentence offenders who have pleaded guilty to particular types of major indictable offences. This action avoids the need to send these matters to the District or Supreme Courts for sentencing, thus rendering efficiencies in terms of cost and time. The types of offences relevant to this treatment are approved by the Director as appropriate offences to be resolved in the Magistrates Court.

The Reform initiative has been successful and sentences given in the Magistrates Court are consistent with those expected for offences of the relevant type. The Director will continue to review offences appropriate for resolution in the Magistrates Court and expand those types of offences where appropriate.

There is a trend of increasing resolution before the Magistrates Court.

Independent Commissioner Against Corruption (ICAC)

The State has now appointed a Commissioner. Legal practitioners from the Office have been seconded by ICAC to provide dedicated legal support. The impact of flow on work from ICAC on the Office has been limited to date but will increase over the next twelve months and beyond, once investigations are completed.

Commonwealth Royal Commission into Institutional Responses to Child Sexual Abuse (Royal Commission)

The Royal Commission has conducted enquiries in South Australia which include matters which have been dealt with by this Office, although to date, requests for information have largely concentrated on other parties rather than the Office processes. The Office has assisted the Royal Commission and has waived privilege to ensure that the Commissioner has been fully informed about issues impacting upon the Commission's Inquiry. There may be other requests for information which involve the Office in the coming financial year. The Royal Commission work to date has had some impact on staff to provide immediate resources when required to ensure all relevant information, including historical files, are provided in a timely manner to the Commissioner.

Country Court Committals

Despite advocating for a presence in country committals, the absence of funding following the pilot project in 2012-13 has resulted in this Office having limited involvement in the country committal process. This appears to have an impact on the resolution rate of matters before the country courts but without appropriate funding, the Office does not have the available staff to play a pivotal role in the process. This Office is not engaged in the resolution process until the matter is committed to the superior courts.

Youth Court Pilot

From 1 January 2014, the Office formally undertook responsibility for prosecutions relating to rape, aggravated robbery or causing death/serious harm/harm by dangerous driving in the Youth Court as a result of a new Practice Direction withdrawing leave for police prosecutors to appear in that jurisdiction on those matters.

A pilot period of twelve months, from 1 October 2013 until 30 September 2014 was agreed between SA Police and the Office, during which the Office would have conduct of the relevant Youth Court matters.

The first file relating to the new arrangement was received by the Office in October 2013. As at 2 June 2014, the Office had received ten Youth Court files for prosecution. These included some matters in which, although they technically fell outside the Practice Direction, the Office agreed to assume conduct, given their complexity. It is expected that there will be an increase in the matters referred to the Office over time, as all parties become accustomed to the Practice Direction.

In addition to the formal conduct of matters pursuant to the Practice Direction, the Office has worked collaboratively with SA Police in relation to the implementation of the Practice Direction more generally. Outcomes include the identification and implementation of formal processes between the two agencies. One of the key contributors to the success of the Pilot to date has been the positive relationship between SA Police and the Office in these matters.

A determination will be made about whether the Office will continue to conduct Youth Court matters after an analysis and review of the trial period is undertaken in late 2014.

Holden Hill Pilot Program

The Holden Hill Early Resolution Pilot Project was established to identify major indictable files which could be resolved early, by guilty pleas as charged, by guilty pleas to alternative charges or by withdrawal of the charges. The emphasis of the pilot project was on early assessment, early engagement with defence lawyers, early negotiation and therefore timely guilty pleas.

The pilot project ran from October 2012 to October 2013 and was a qualified success. Of 75 files selected for inclusion in the project:

- 44 resolved by way of guilty pleas (either as charged or to lesser alternative offences);
- 15 were withdrawn or discontinued; and
- 16 did not resolve as suggested.

Conclusions were that early identification and negotiation can result in early guilty pleas and withdrawals, saving the cost of ongoing investigations, forensic reports and court appearances. The CJSRC is now sponsoring a project in 2014-15 to develop a model which will encourage early guilty pleas in appropriate cases using the work and findings of the pilot project (Refer to Early Resolution Project).

Continuing Legal Education Program (CLE)

The Office has continued its commitment to providing staff with opportunities for continuing legal education in 2013-14. The Office CLE Committee provided a program which ensured that solicitors and prosecutors of the Office were presented with a range of topics relevant and specific to their work, and enabled them to satisfy the requirements of the Mandatory Continuing Professional Development scheme.

The CLE program has drawn on the depth of knowledge and experience of the Office's senior practitioners. In addition, the Judiciary, the Independent Commissioner Against Corruption, members of SA Police, members of the independent bar and the staff of the Forensic Science SA have all generously contributed their time to prepare and present CLE sessions to staff.

Topics presented have included an overview of the Independent Commissioner Against Corruption and the Office of Public Integrity, advocacy in the committal court, working with child victims and witnesses, preparing and presenting a case of serious fraud, prosecutorial ethics and duties to the court, an introduction to the in-house "Online Guide" and various legislative updates.

The program continues to offer a reciprocal arrangement with the Crown Solicitor's Office when sessions are organised which are relevant to that organisation.

Special acknowledgement should be made to the CLE Committee which comprises, executive, legal and non-legal staff of the Office who have donated many hours of their time to ensuring the continued success of the program.

Witness Assistance Service (WAS)

The WAS continued to assist victims of crime, witnesses for the prosecution and their immediate family members in the most serious criminal matters being prosecuted by the State, including those living in regional and remote areas.

During 2013-14, new referrals to WAS decreased marginally by 3% compared to the previous financial year (a total of 966 compared to 993). This was the result of some temporary, longer term staffing absences during the financial year. New adult referrals decreased by a total of 11% (649 compared to 728); however new child referrals increased significantly by 20% (317 compared to 265).

The increased figures for child referrals reflect a growing trend and is a direct result of a number of high profile prosecution matters involving multiple child victims of sexual offences. Referrals of children to WAS have increased by a total of 89% since 2004. The overwhelming majority (70%) of matters involving children and adolescents relate to those who have been subjected to serious sexual offending. Of those matters, 45% involve children between the ages of 0 and 11; and 55% involve adolescents between the ages of 12 and 17.

Of all victims and witnesses referred to the WAS, 13% have an intellectual or other disability; 10% are from Aboriginal & Torres Strait Islander (ATSI) backgrounds; and 9% are from culturally and linguistically diverse (CALD) backgrounds.

Overall, face-to-face services and supports provided to victims and witnesses fell marginally (both in time spent and number of services provided) during 2013-14. However, in some areas of support including provision of assistance with victim impact statements and court attendance support, the service provision was increased. This was a direct result of large family attendances in a number of high profile homicide and death by driving cases and subsequent convictions.

Training on various aspects of the criminal justice system, prosecution process and Victims of Crime was provided by WAS staff to a range of external stakeholders including SA Police, Forensic Mental Health Services, Victim Support Service, Yarrow Place Rape and Sexual Assault Service, TAFE Justice and Policing students and other allied professionals.

It is anticipated that the Office will host the National (Bi-Annual) Witness Assistance Service Conference in June 2015.

Witness and Victim Feedback

Since March 2010, the Office has routinely received feedback from victims, witnesses and their immediate families through a hard copy survey. The primary aim of the Office Customer Feedback Survey is to formally measure and evaluate customer’s experience of the service standards that the Office aims to meet and uphold. The key service standards include:

- Service quality
- Professionalism of staff
- Being informed/updated on progress of the case
- Provision of information about the legal process
- Timeliness of information and updates
- Access to information and supports

In the 2013-14 financial year, the Office issued a total of 500 surveys seeking witness and victim feedback on the services that they received from the Office. Seventy responses were received, which is a return rate of 14%.

Responses provided the following feedback:

Criteria	% Respondents who responded as “Agree” or “Strongly Agree”
ODDP staff being professional at all times	93%
Having the legal process explained	91%
Receiving a high quality of service	85%
Being informed/updated about the progress of the prosecution case	83%

Key areas for future service improvements include:

- Improving the timeliness of information and updates to victims and witnesses
- Ensuring early access to information and supports
- Further linking of services and support to victims’ needs

Individual Achievements

Paul Rofe Award

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

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

The 2013 recipient was Ms Jane MacInnes, Administrative Co-ordinator within the Office.

The 2014 recipient was Mr Brian Nitschke, Senior Prosecutor within the Counsel Section of the Office.

Public Service Medal

The South Australian Public Service Medal is part of the Australian system of honours and awards. It recognises outstanding service exemplified in attributes such as strong leadership, excellent client service and delivery, innovation and business improvement.

The Office was very proud to learn that one of its Executive staff, Ms Pauline Barnett had been awarded the Public Service Medal as part of the Australia Day 2014 Awards. Ms Barnett was recommended for outstanding public service in the provision of legal advice and reform in the criminal justice system.

Ms Barnett commenced working in the South Australian Public Service as a law graduate in 1985. During her career, she has worked in the Crown Solicitor's Office, the Attorney-General's Office and in the Office of the Director of Public Prosecutions.

Ms Barnett was recognised for her strong advocacy for change resulting in significant reforms in criminal prosecution work, her leadership in mentoring and assisting other public service leaders and senior lawyers, and providing an outstanding role model for women.

Senior Counsel

In September 2013, the Chief Justice, The Honourable Chris Kourakis SC, announced the appointment of two new Senior Counsel. One of those appointments was Mr Mark Norman, a Senior Prosecutor within the Counsel Section of the Office.

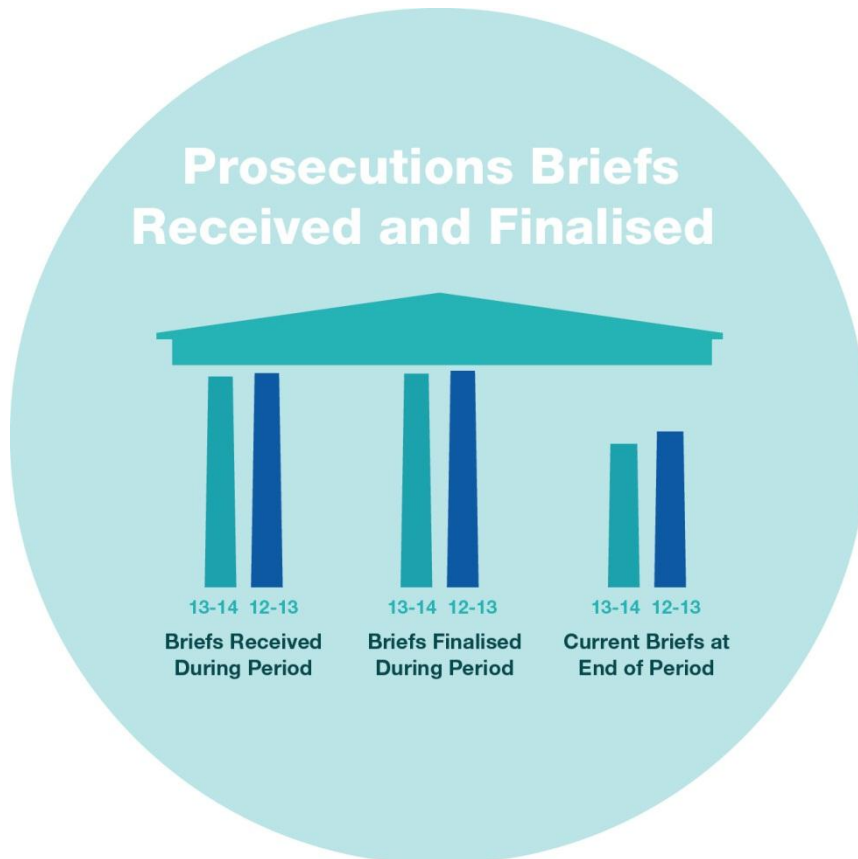
Mr Norman was in private practice in Great Britain for 16 years, during which time he specialised in serious crime. After immigrating to Australia in 2005, he was admitted to practice in South Australia in 2006 and appointed as Senior Prosecutor in the Office in 2007.

Key Performance Indicators

Prosecutions Briefs Received and Finalised

	2013-14	2012-13
Briefs Received During Period	2693	2770
Briefs Finalised During Period	2750	2767
Current Briefs at End of Period	1882	2076

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**
Outcomes at Committal
Stage



**Adelaide
2013-14**

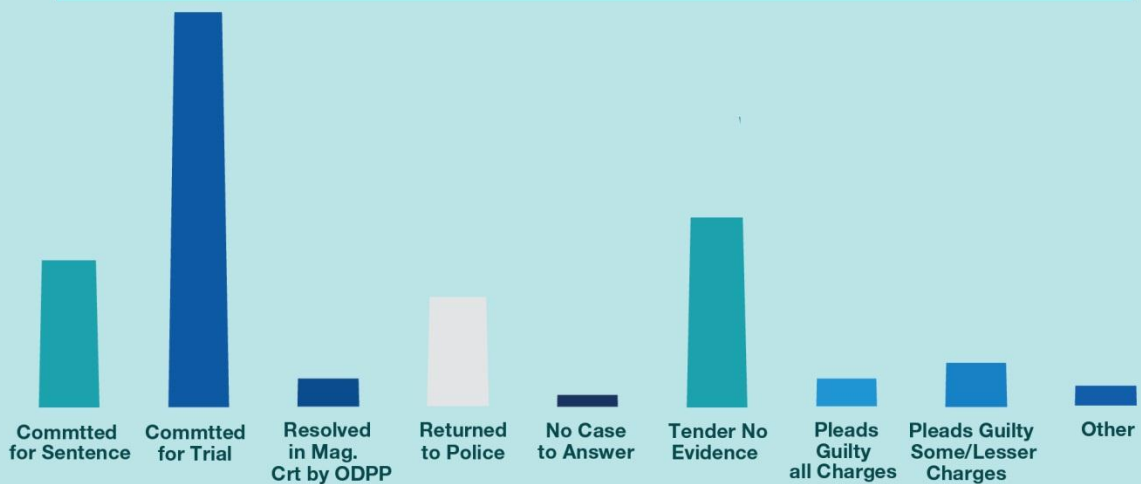


**Adelaide
2012-13**

Committed for Sentence	402	16.72%	284	10.71%
Committed for Trial	972	40.42%	1213	45.76%
Resolved in Magistrates Court by ODP	44	1.83%	64	2.41%
Returned to Police	321	13.35%	410	15.47%
No Case to Answer	11	0.46%	12	0.45%
Tender No Evidence	537	22.33%	555	20.94%
Pleads Guilty all Charges	42	1.75%	31	1.17%
Pleads Guilty Some / Lesser Charges	58	2.41%	43	1.62%
Other	18	0.75%	39	1.47%
Total Trials Finalised	2405	100.00%	2651	100.00%

Please note only Adelaide Committal outcomes are recorded as Circuit Committal proceedings are undertaken by South Australia Police, not the Office of the Director of Public Prosecutions.

Committal Brief Outcomes 2013-14



**Prosecutions
Brief Outcomes**
District and Supreme
Courts



Adelaide
2013-14



Circuit*
2013-14



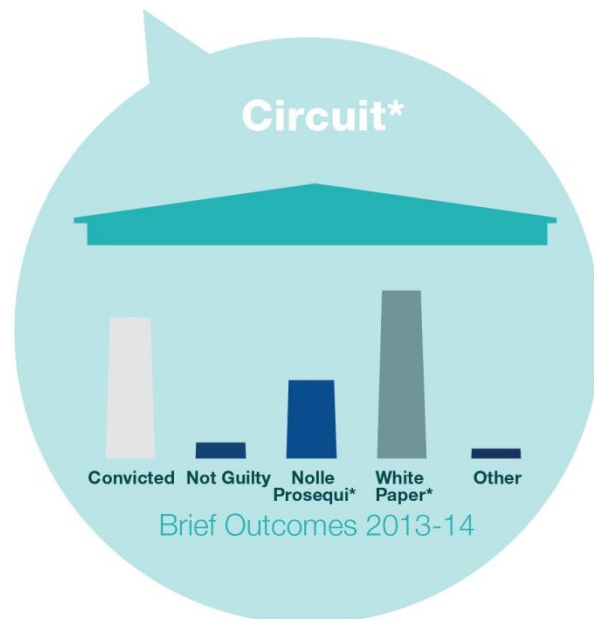
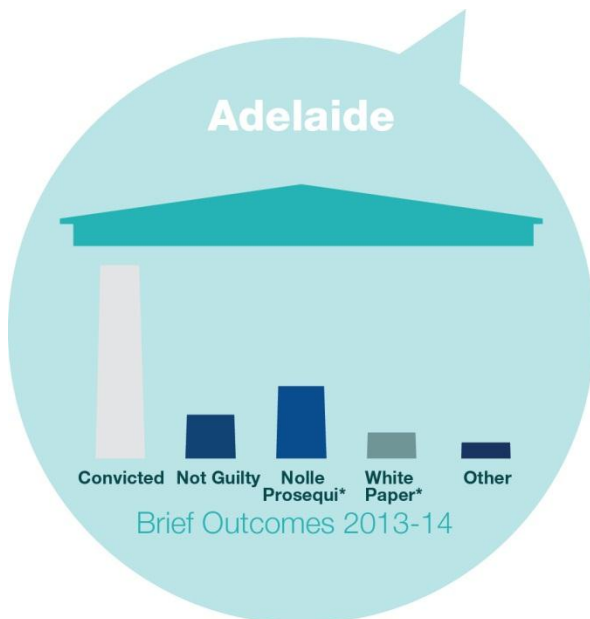
Adelaide
2012-13



Circuit*
2012-13

Outcomes

Convicted	699	66.70%	48	34.53%	725	65.61%	113	51.13%
Not Guilty	74	7.06%	7	5.04%	81	7.33%	14	6.33%
Nolle Prosequi*	192	18.32%	22	15.83%	174	15.75%	32	14.48%
White Paper*	54	5.15%	58	41.73%	73	6.61%	55	24.89%
Other	29	2.77%	4	2.88%	52	4.71%	7	3.17%
Total	1048	100.00%	139	100.00%	1105	100.00%	221	100.00%



Note: * =

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

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

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

Trial Outcomes

District and Supreme Courts - Outcomes of Trials that Proceeded



Adelaide
2013-14



Circuit*
2013-14



Adelaide
2012-13



Circuit*
2012-13

Trial Outcomes



Convicted

Guilty Verdict	137	48.58%	10	40.00%	107	36.15%	18	36.73%
Guilty Plea at / During Trial	33	11.70%	2	8.00%	41	13.85%	1	2.04%



Not Guilty

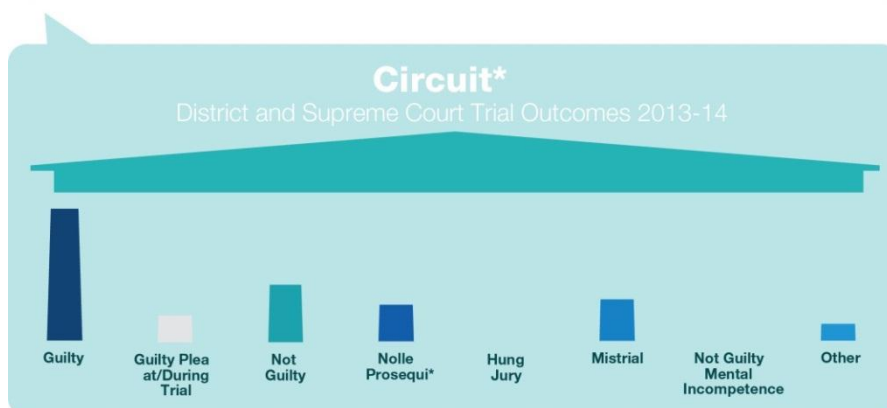
Not Guilty	51	18.09%	5	20.00%	87	29.39%	14	28.57%
Nolle Prosequi*	19	6.74%	3	12.00%	15	5.07%	2	4.08%



Other

Hung Jury	4	1.42%	0	0.00%	10	3.38%	0	0.00%
Mistrial	17	6.03%	4	16.00%	21	7.09%	12	24.49%
Not Guilty - Mental Incompetence	9	3.19%	0	0.00%	3	1.01%	0	0.00%
Other	12	4.26%	1	4.00%	12	4.05%	2	4.08%

Total Trials Finalised	282	100.00%	25	100.00%	296	100.00%	49	100.00%
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Note: * =

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

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

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

Trial Outcomes

District and Supreme Courts - Reasons for Vacated Trials



Adelaide
2013-14



Circuit*
2013-14



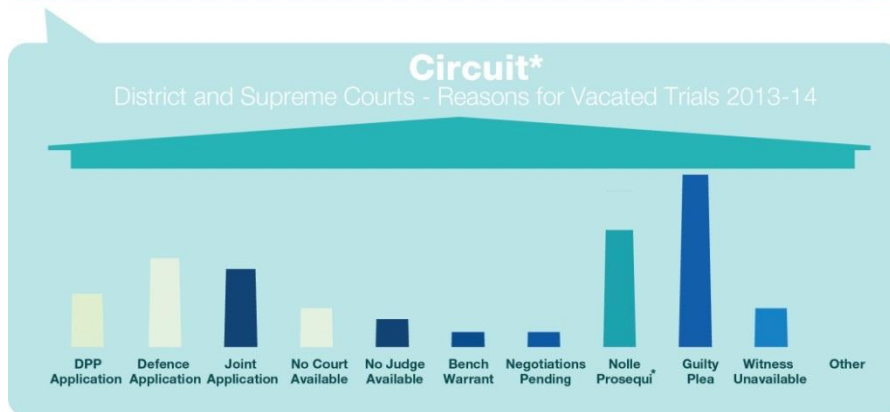
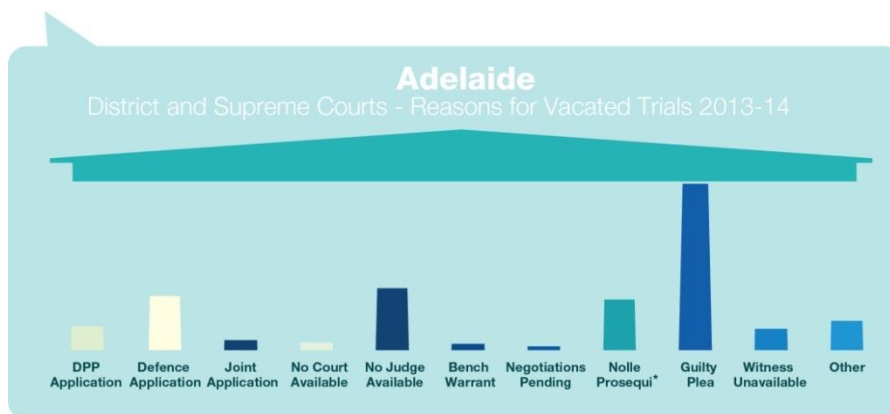
Adelaide
2012-13



Circuit*
2012-13

DPP Application	32	4.62%	4	7.69%	36	4.96%	4	6.06%
Defence Application	91	13.13%	7	13.46%	115	15.84%	7	10.61%
Joint Application	9	1.30%	6	11.54%	20	2.75%	0	0.00%
No Court Available	10	1.44%	3	5.77%	4	0.55%	8	12.12%
No Judge Available	104	15.01%	2	3.85%	98	13.50%	1	1.52%
Bench Warrant (on Day / Prior)	6	0.87%	1	1.92%	9	1.24%	1	1.52%
Negotiations Pending	1	0.14%	1	1.92%	5	0.69%	1	1.52%
Nolle Prosequi* (on Day / Prior)	88	12.70%	9	17.31%	96	13.22%	13	19.70%
Guilty Plea	303	43.72%	16	30.77%	284	39.12%	31	46.97%
Witness Unavailable	17	2.45%	3	5.77%	27	3.72%	0	0.00%
Other	32	4.62%	0	0.00%	32	4.41%	0	0.00%

Total Trials Vacated	693	100.00%	52	100.00%	726	100.00%	66	100.00%
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Note: * =
Circuit: District/Supreme Court sittings on a regular basis at Pt Augusta and Mt Gambier.
Nolle Prosequi: A decision by the DPP not to proceed with the prosecution. The formal recording of that decision by the court. This decision is taken when it is indicated as appropriate by the Statement of Prosecution Policy and Guidelines.
White Paper: Court document lodged following a decision by the DPP at the arraignment stage not to proceed with some or all charges.

Appeals

Crown Appeals	Against Sentence		Other Grounds	
	2013-14	2012-13	2013-14	2012-13
Allowed	1	10	0	0
Dismissed	1	5	0	1
Withdrawn / Abandoned	2	0	0	0
Total Crown Appeals Decided	4	15	0	1

Defence Appeals	Against Sentence		Against Conviction		Other Grounds	
	2013-14	2012-13	2013-14	2012-13	2013-14	2012-13
Conviction Quashed	0	2	19	13	0	0
Sentence Reduced	14	16	0	0	0	0
Appeal Dismissed	25	16	26	17	1	0
Other Outcome	0	3	2	3	1	0
Total Defence Appeals Decided	39	37	47	33	2	0

Leave to Appeal Applications	By Defence Against Sentence		By Defence Against Conviction			
	2013-14	2012-13	2013-14	2012-13		
Abandoned / Withdrawn			7	5	2	10
Dismissed			6	19	13	7
Sentence Reduced			0	0	0	0
To CCA			50	39	45	34
Other			0	2	0	0
Total Applications			63	65	60	51

Adjudication Outcomes

Adjudication Outcomes	2013-14		2012-13	
	Count	Percentage	Count	Percentage
Charge Major Indictable	1899	88.12%	1802	85.24%
Charge Minor Indictable	158	7.33%	204	9.65%
Charge Summary	64	2.97%	59	2.79%
Do Not Lay Charges	19	0.88%	35	1.66%
Other	15	0.70%	14	0.66%
Total Adjudications Finalised	2155	100.00%	2114	100.00%

Systems and Innovation

The Office continues to review existing business processes to identify opportunities to create improvements in efficiency and outcomes. Staff are encouraged to examine their work practices and participate in developing new and modifying existing work practices. Increasingly, new technologies are being explored to provide quicker access to, and improved accuracy of, business information. The Office is supported by the AGD Information Technology Services Branch for technical advice and assistance and can take advantage of newly implemented services such as wi-fi connection within the Office worksite.

Early Resolution Project

The Early Justice Resolution Project is one of the four sponsored major projects advanced by the Criminal Justice Sector Reform Council. This project builds on the model developed by the Office as a 12 month pilot project in the Holden Hill Committal Court. That pilot project identified impediments to early guilty pleas or resolutions (see Holden Hill Pilot). The aim of the Early Resolution Pilot is to develop a detailed, fully usable model which will encourage early guilty pleas in appropriate cases. The model will also identify files that should be discontinued. The project will engage and consult with all relevant parties including defence lawyers through the Legal Services Commission, the Law Society and the Bar Association, the Magistrates Court and the District Court, SA Police and the Department of Correctional Services.

Online Guide

The Online Legal Practice Guide (OLPG) is an electronic legal resource for use by staff of the Office. Creation of the Guide began in 2012 and it became available to all staff in May/June 2013, following training sessions about its use and content. The OLPG content is overseen by an editorial committee comprising a member of the Executive, legal managers, lawyers and administrative staff.

The OLPG is intended to be an up-to-date, easily accessible and succinct starting point for staff to access materials on various legal topics which are the subject of the Office's operations, including internal Office practices and procedures. Aims include avoiding duplication and minimising time on legal research by lawyers who have considerable workloads. The editorial committee places high importance on the OLPG being an accurate reflection of the current law so that lawyers can be confident in placing reliance on it. Staff are encouraged to contribute to the OLPG. A communication system between staff and the editorial committee enables staff to raise issues about content, bring new issues to the committee's attention and contribute to the content.

Importantly, the OLPG provides a communication mechanism so that judgments having immediate impact on the operations of the Office, legislative change and issues impacting upon service to the courts, Government and the community are expeditiously communicated to the whole Office.

The content of the OLPG expanded significantly in 2013-14. In that year, there were a number of significant changes to the law which bear upon the criminal justice system and the operations of the Office. The OLPG was a centralised means by which Office staff could be informed of those changes so that they were readily equipped to deal with them upon their enactment in the course of criminal prosecutions.

Additions to, and expansion of, the OLPG's content will continue in 2014-15 and will include administrative templates and other relevant information so that the OLPG will become the major operation tool for all legal and administrative work of the Office.

Administrative Services Review

In October 2012, the Office conducted a review of all administrative and law clerk functions within the organisation. The key focus of the review was to make recommendations for greater efficiency in the business processes, structure, roles and responsibilities of the clerical workforce within the Office. The review was completed in March 2013 and made 40 recommendations.

A large proportion of the review's recommendations were completed in 2013-14. These include:

- Clarification of administration roles throughout the organisation, including reporting arrangements and structural changes;
- Development of key performance indicators used by the Office both internally and externally and identification of new key performance indicators for administrative roles within the organisation;
- A review and rework of the Office intranet to provide quick and easy access to information for all staff;
- Provision to staff of mobile devices and wireless access external to the Office premises, including at court and in regional areas (this project has now been escalated to the Criminal Justice Sector Reform Council as an early win project); and
- Development of an Office communications strategy, with a framework for communications currently in development.

Online Services and New Technologies

One of the recommendations of the Office Administrative Services Review (see previously in this Report) was a project to investigate into better use of online technologies including legal references. "Lunn" is a colloquialism for a set of legal references written by RM Lunn, QC. The three volumes entitled "Criminal Law South Australia" provide particularly important reference information for prosecutors within the Office, and includes annotated legislation with detailed commentary that comprehensively covers the procedures, practices and rules of evidence relating to criminal law in South Australia.

The project identified that while the Lunn resources could be accessed online, it was not practical to do so unless Office staff had the means to do so whether they were in court, in the Office or at some other location such as regional circuit court. The project therefore included a range of technology advances for the Office to allow staff to access their information irrespective of their location. The project was a collaborative project between the Office and the Criminal Justice Information Management Project team. The outcomes of the project were:

- In conjunction with the AGD Information Management Services Branch, the Crown Counsel Rooms located in the Sir Samuel Way Building were updated with new technology to access the Courts Administration wi-fi network;
- A pilot group of 20 solicitors and prosecutors were provided with Dell Venue mobile tablet devices in place of their desktop computers, providing them with light, portable means of accessing their online information, including the internet, the Office email system, Lunn, the Office Online Legal Practice Guide and other online legal reference systems; and

- Introduction of Office staff to an information management culture and towards an increasing use of technology.

The pilot program will continue for three months in 2014-15, and as the pilot volunteers gain experience with the tablets, backed by a communication strategy, it is expected that cultural shift will occur and further staff will request the switch to mobile tablets.

Prosecution Management System

The Office is currently working with AGD Projects and Information Technology to develop a strategy for the implementation of a new system to provide enhanced prosecution management, case management and document management functionality to modernise business practices. This will improve the ability of the Office to prosecute criminal matters within the State, and provide broader benefits to the criminal justice sector through introducing more efficient and innovative ways of working. This initiative is being considered in the context of broader cross-sector reforms to establish how investment can be maximised for the benefit of the whole criminal justice sector.

Financial Information

The Financial Statements for the Office for 2013-14 are included in the Attorney-General's Annual Report.

The Office received a budget of \$19.019 million for the 2013-14 financial year. This was supplemented by a further \$218,000 in funding from the Attorney-General's Department and the SA Police to provide resources to undertake the pilot Youth Court program. The SA Police contribution of funding (\$118,000) is recognised as external revenue for the purposes of reporting.

To date, the Office has been allocated savings targets of \$280,000 comprising 2013-14 savings of \$208,000 related to use of contract staff and reduction of overall staffing numbers, and a residual savings of \$72,000 from 2011-12. However, negotiations with the AGD Chief Executive resulted in agreement that the allocated savings would take effect on 30 June 2014. This meant, in effect, that although the Office budget was reduced in 2013-14 by the nominated savings amount, there was no commensurate reduction in staffing or resources during that financial year.

On 30 June 2014, the agreed savings target was met when three staff ceased employment with the Office, following acceptance of Targeted Voluntary Separation Packages (TVSP). Two of these staff were administrative/law clerk staff and one was a Witness Assistance Officer.

Summary of ODPF financial data for 2013-14 and 2012-13

	2013-14 Allocation (\$,000)	2013-14 Actual (\$,000)	2012-13 Allocation (\$,000)	2012-13 Actual (\$,000)
Revenue				
Victim of Crime Fund	423	438	413	427
Youth Court Pilot Allocation	118	118	N/A	N/A
Other	15	28	20	13
Total Revenue:	556	584	433	440
Expenditure				
Salaries and Wages	15,326	15,653	15,405	14,646
Goods and Services	1,490	1,199	919	1,532
Internal (accommodation, IT etc)	2,339	2,391	2,313	2,339
Depreciation	82	77	17	81
Total Expense:	19,237	19,320	18,654	18,598

Confiscations

In 2013-14, the work of the Confiscations Section of the Office led to the deposit of \$1,697,319 into the Victims of Crime Fund.

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

Briefing Out

It has long been the practice of the Office to brief members of the independent bar to conduct trials in circumstances in which there is no Office prosecutor available. The Deputy Director (Counsel) indicated in last year's Annual Report that the outsourcing of work to the private bar is an area of Office expenditure that she would like to significantly reduce in light of budget and resources for the Office. In 2012-13, the cost of outsourcing work to the private bar was \$419,747. In 2013-14, that figure has reduced to \$352,299, a saving of 16% on last year's costs. A total of 61 matters were briefed in 2013-14.

However, during the latter half of the financial year, it has become increasingly difficult to maintain the level of trial prosecutors to cover all trials conducted in the Supreme and District Courts. A solicitor new to the Counsel Section requires at least twelve months of training and development to gain the necessary experience to run the number and complexity of trials as their peers who have worked in the Section for some time. The ability of the Office to maintain adequate resources to undertake training and development for counsel work diminishes as budgets are reduced. Although the Attorney-General's Department has exempted the Office from current savings targets for 2014-15, the current resourcing of the Office has been less than optimal for some years to allow for the development of counsel skills in a planned and structured format. There is therefore a risk that external counsel costs may rise in the future as more work is outsourced to the private bar.

Landmark / Significant Cases

The Office has conducted many matters, some of which are notable because they are examples of cases that are the most serious in the criminal calendar, have been widely reported in the press, have generated considerable community concern or represent a growing trend in the type of matter that the Office receives such as “glassing”. The last matter summarised below (Operation Elixir) deals with the emerging trend for large drug prosecutions with a significant number of defendants being arrested and charged at the same time. The importance of the guilty plea legislation (which is also discussed further in the details of the Operation Elixir case below), cannot be overstated in the management of these large matters. Details of the significant pleas, trial or appeal cases are provided in this section:

Guilty Pleas to Murder

R v Airey

Mr Airey pleaded guilty to the murder of Jessie Wilson, a woman from Mount Gambier. In September 2012, Mr Airey met Ms Wilson at a hotel. He did not know Ms Wilson previously. Ms Wilson drove Mr Airey home. He then beat Ms Wilson and strangled her. He left her body by the side of a road, partially removing her clothes to aid decomposition. She was not located for some weeks. After police officers first spoke to Mr Airey about his involvement, he attended a police station where he admitted he was responsible for her death. He pleaded guilty to murder very close to the trial date, and was sentenced to life imprisonment with a non-parole period of twenty five years.

R v McKenzie

Early in the evening of 14 December 2012, Darren Garland was assaulted in the South Parklands. Some hours later, emergency services were called to the area when an unconscious Garland was located laying in a tent in which Leslie McKenzie and his girlfriend had been living in the South Parklands. Mr Garland was taken to the Royal Adelaide Hospital where he died on 20 December 2012, never having recovered consciousness.

On 16 December 2012, Mr McKenzie admitted to police that he had used a cricket bat to hit Garland to the head before running away and returning several hours later to find him unconscious.

Mr McKenzie was charged with the murder of Mr Garland but later pleaded guilty to manslaughter on arraignment in the Supreme Court. He was ultimately sentenced to a period of six years imprisonment with a non-parole period of three years commencing from 16 December 2012.

R v Mieglich

Mr Mieglich was a young man with no criminal record, who had a fascination with death metal. He had an unusual family history in that he survived a fatal car crash which killed his mother and a sister when he was about six years old. He stalked and then shot through the head (leading to lasting brain damage of moderate intensity) a man with whom he had an ongoing argument about a very minor traffic matter.

Some time later Mr Mieglich fatally shot his father in the face while he was asleep at home in his dairy farm house. Mr Mieglich confessed but never really offered much of an explanation for either crime.

Psychiatrists who assessed Mr Mieglich did not believe him to be mentally ill or suffering from a personality disorder. He was described as one of that rare group of people who experience, entertain and eventually act on their violent, homicidal fantasies.

He was sentenced for attempted murder and murder respectively in May 2014. He received a single sentence of life with twenty six years non-parole period for both crimes. There was no appeal against the sentence.

Manslaughter by Criminal Negligence

McPartland and Polkinghorne

Benjamin Robert McPartland and Ashlee Jean Polkinghorne were charged with manslaughter by criminal negligence in relation to the death of four year old Chloe Valentine. Ms Polkinghorne was Chloe's mother and Mr McPartland was Ms Polkinghorne's de facto partner. At the time of Chloe's death, Ms Polkinghorne was aged 20 and Mr McPartland was 26.

The charge related to conduct of Mr McPartland and Ms Polkinghorne in January 2012, involving a children's motorbike that they had bought for Chloe. It was alleged that over a period of three days they made Chloe ride the motorbike, despite it being too big for her and her falling off repeatedly. She suffered serious bruising and other injuries but Ms Polkinghorne and Mr McPartland did not seek medical treatment and instead continued to put Chloe back on the bike. When she lost consciousness, they did not call an ambulance until eight and a half hours later. Chloe died in hospital from head injuries.

Mr McPartland pleaded guilty prior to trial. Ms Polkinghorne pleaded guilty after preliminary hearings on the admissibility of evidence. In sentencing, the Judge found that Mr McPartland and Ms Polkinghorne were equally culpable and used the same starting point of nine years for each of them. Taking into account their pleas, Mr McPartland was sentenced to seven years imprisonment with a non-parole period of four years and two months and Ms Polkinghorne was sentenced to eight years imprisonment with a non-parole period of four years and nine months.

The Office appealed the sentence on the basis it was manifestly inadequate but permission to appeal was refused.

Dangerous Driving

R v Garley

Early on a Sunday morning in November 2013, Mr Garley was driving a car in which he had two passengers. Mr Stanley Horace was in the rear passenger seat of the sedan and a female passenger was in the front passenger seat. Another road user noticed Mr Garley driving in an erratic manner at the time. At one point, Mr Garley's car was driving on the wrong side of Hampstead Road, cutting across the path of an oncoming white taxi. The taxi and Mr Garley's car collided, with impact to the rear passenger side of the Mr Garley's car. The car then started to spin after impact with the taxi, colliding with a tree, where it came to rest. Mr Horace suffered significant injuries and died a short time later that morning.

Mr Garley's blood analysis was found to contain cannabis and alcohol. His blood alcohol content was estimated as probably between 0.12% and 0.17% at the time of the collision.

Mr Garley pleaded guilty to aggravated cause death by dangerous driving. He was sentenced in late August 2014 to a period of two years, six months and two weeks with a non-parole period of two years, two weeks. Mr Garley also had his license suspended for a period of ten years.

R v Sumsion

In June 2011, on an unusually dark afternoon, Mr Shahid Talpur was crossing States Road in Morphett Vale in order to get to his house on the opposite side. As it was peak hour, traffic conditions were medium to heavy. Vehicles had their headlights on. Mr Talpur, who was dressed in dark coloured clothing was in the centre of the road standing waiting for oncoming traffic to pass when he was struck by a vehicle driven by Mr Sumsion. The impact threw Mr Talpur into oncoming traffic in the South bound lane where he was struck by at least two oncoming vehicles and killed.

Mr Sumsion was neither speeding, drunk or under the effects of drugs at the time of the incident. Mr Sumsion was not wearing his glasses that evening despite the fact that this was a condition of his licence and he failed to keep a proper lookout. Mr Sumsion did attempt to swerve his vehicle to avoid Mr Talpur but it was simply too late. Mr Sumsion did, however, stop his vehicle and attempt to offer assistance and was fully cooperative with police.

Mr Sumsion pleaded guilty to causing death by dangerous driving. He was sentenced to three years six months. This was reduced to two years and nine months on account of his plea of guilty, cooperation and remorse. A non-parole period of two years and two months was imposed. Given the circumstances of the offending, the background as to why Mr Sumsion was not wearing his glasses, his youth, otherwise good character and remorse, the sentence was suspended upon Mr Sumsion entering into a good behaviour bond for a period of three years with a condition that he be under supervision for a period of two years. Mr Sumsion was disqualified from holding or obtaining a licence to drive a motor vehicle for ten years.

Aggravated Causing Harm with Intent to Cause Harm

R v Laoutaris

This matter related to a “glassing” that occurred in August 2013 at a licensed venue. Upon entering the front bar of the hotel, the victim observed Mr Paul Laoutaris, a person he had known for approximately twelve years, standing some metres away from him. Mr Laoutaris approached the victim and struck him in the forehead with a wine glass that he was holding. The incident was captured on CCTV security footage.

Mr Laoutaris pleaded guilty to the charge. The prosecution submitted that an immediate prison term was warranted in order to deter others from committing “glassing” assaults on innocent patrons of licenced premises. Mr Laoutaris was sentenced to two years and ten months imprisonment with a non-parole period of eighteen months. The sentence of imprisonment was suspended upon the defendant entering into a bond to be of good behaviour for a period of two years.

R v Jackson

Mr Richard Jackson was a serving police officer in South Australia. Mr Jackson was prosecuted for abusing his position of trust in committing an offence of unlawful sexual intercourse against a child to whom he was allocated the role of “victim management” for her in relation to another sexual assault.

In February 2013, Mr Jackson attended an incident where a 16 year old victim of alleged rape and physical assault resided. Mr Jackson was allocated a position of trust, that of “victim management” in relation to the victim.

In the days that followed, contact between Mr Jackson and the victim increased from meetings related to the taking of statements, to texting, to a meeting where sexual intercourse took place.

Mr Jackson was arrested following a complaint by a relative of the victim and charged with unlawful sexual intercourse.

Mr Jackson pleaded guilty at committal. He was sentenced to one year and five months with a non-parole period of nine months, after discount for his plea. That sentence was suspended.

The Office filed an application for permission to appeal against the sentence. The appeal has been heard but judgement is yet to be delivered.

Murder and Manslaughter

R v Humbles

Mr Humbles was charged with one count of murder and two counts of attempted murder. He was alleged to have come into a street in Warradale armed with a handgun and shot and killed a young man and shot at his two companions. There was no motive for his actions. His defence for the charges was that he was so intoxicated that he did not form the intention to kill or do grievous bodily harm. Mr Humbles was a child at the time of the alleged offending (he was about a week short of his eighteenth birthday). Following a trial before a judge alone, Mr Humbles was convicted of all charges. He was sentenced to a non-parole period of twenty three years.

The accused appealed both the conviction and sentence. The appeal against the conviction was dismissed but the appeal against sentence was allowed with a result that the non-parole period was reduced to seventeen years.

R v Gardiner

Mr Gardiner was charged with one count of murder. He was alleged to have beaten his de facto wife causing significant injuries, one of which caused internal bleeding from which she died. This occurred at a relatively isolated site just outside Strathalbyn. His defence was that he was so intoxicated that he did not form the intention to kill or do grievous bodily harm. Following a trial before a judge alone he was convicted of murder. The Judge was satisfied that when he inflicted the fatal injury, he had, at the very least, an intention to cause grievous bodily harm. He was sentenced to a non-parole period of twenty three years. This matter was a retrial, after the accused succeeded in his appeal against his first conviction which was also a trial by judge alone.

The accused sought leave to appeal against conviction but this was refused. He has applied for leave to appeal directly to the Court of Criminal Appeal. This matter has now been agreed and judgement is reserved.

R v Bridgland

Mr Bridgland was charged with the manslaughter of a Dutch national during an incident which occurred in the car park of a Gawler hotel. It was alleged that the tragic events which led to the victim's death began when the deceased went to the aid of a young man who was being assaulted. While the deceased was speaking to an associate of the accused, Mr Bridgland approached and delivered one punch to the side of the head of the deceased. This blow caused a rupture of an artery and almost instantaneous death. The events were captured on CCTV from the hotel security cameras.

Mr Bridgland's defence was that it wasn't he who delivered the fatal blow and even if it was, he had acted in self-defence and/or the defence of another. Following a trial before a judge alone, Mr Bridgland was convicted of manslaughter. The judge found that the person who punched the deceased was the accused. Mr Bridgland was sentenced to six years and nine month jail with a non-parole period of five years and three months.

Mr Bridgland appealed his conviction, but the appeal was dismissed.

R v Papalia

Domenico Papalia was jointly charged with Steven Zenuni with one count of murder. It was alleged that Mr Papalia lured the deceased to the property of his grandparents at Two Wells where the deceased was bashed to death by the two men with two hammers. The deceased was a friend of Mr Papalia's and the prosecution case was that Mr Papalia's motive for the murder was financial gain - Papalia having knowledge of a sum of money the deceased had stored in a safe at his house.

Shortly before the trial commenced, Mr Zenuni pleaded guilty to murder and was sentenced to a non-parole period of ten years and six months. Mr Zenuni gave evidence for the prosecution at Mr Papalia's trial. His evidence was that he attacked the deceased with a hammer at Mr Papalia's instigation and the deceased fought back. While Mr Zenuni and the deceased were fighting, Mr Papalia took up a sledgehammer and hit the deceased twice to his head. Mr Papalia's defence was that he was present when the deceased was killed by Steven Zenuni and a third man, but that he played no role in his murder.

Following a trial before judge and jury, the accused was convicted of murder. He was sentenced to a non-parole period of twenty two years.

The accused appealed his conviction, but the appeal was dismissed.

Multiple Drug Trafficking Charges

Operation Elixir

Operation Elixir was a Drug and Organised Crime Task Force investigation into trafficking of heroin and methamphetamine in South Australia. It commenced in June 2012 with the majority of arrests occurring in May 2013. Over 40 individuals were arrested and charged with drug trafficking, money laundering and criminal organisation offences.

The files are being prosecuted as three drug trafficking syndicates. The matters vary in seriousness and complexity, from organised commercial drug trafficking involving the trafficking of large commercial quantities of drugs from interstate, to mid-level and street level trafficking of heroin and methamphetamine within the state.

In 2013, legislative amendments to the Criminal Law (Sentencing) Act 1988 created a statutory regime for the reduction of sentences on account of a defendant's plea of guilty. Those amendments came into operation on 4 March 2013. The amendments created an incentive for defendant's to plead guilty at an early stage of proceedings to obtain a sentencing discount. The effectiveness of these amendments can be seen in relation to a prosecution such as this involving a significant number of defendants.

One defendant, who had sold drugs to an undercover police officer, pleaded guilty within four weeks of her first appearance and was entitled to a discount of up to 40%. She was sentenced in the District Court for that offending and other matters and the Judge allowed a reduction of 33%. Another defendant who was before the Supreme Court for a bail review, pleaded guilty to two charges of trafficking in a controlled drug. His sentence was reduced by 30%, the maximum amount prescribed by legislation. To date, 15 defendants have been committed for sentence. They range from low end street level offenders, to the targets of the investigation, including two defendants who are charged with participating in a criminal organisation and trafficking in a large commercial quantity of a controlled drug.

Glossary

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

Matter	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.
Non-Parole Period	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.
Pecuniary Penalty Order	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.
Police Prosecutors	Members of SA Police who prosecute offences in the Magistrates Court.
Plea	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 or not guilty</i> .
Restraining Orders	<p>Restraints placed by a court to prevent a person from acting in a particular manner—for example, to prevent the accused from contacting or approaching victims or witnesses.</p> <p>Restraining orders made by a court under section 24 of the <i>Criminal Assets Confiscation Act 2005</i> prevent person(s) disposing of or otherwise dealing with specified property until criminal offences and confiscations proceedings are resolved.</p> <p>Domestic violence restraining orders prevent a defendant from contact with specific people or visiting specific addresses.</p> <p>Paedophile restraining orders prevent a defendant from loitering near children or in the vicinity of specified locations, for example, schools, malls, playgrounds and public toilets.</p>
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.
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.

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