



ACT
Government

DIRECTOR OF PUBLIC PROSECUTIONS
ANNUAL REPORT

2023–24



ACT DPP

Contact for this Report

General enquiries about this report should be directed to:

Katie Cantwell | Head of Corporate
The Office of the Director of Public Prosecutions (ACT)
GPO Box 595, Canberra ACT 2601
Phone 02 6207 5399
Email: DPPCorporate@act.gov.au

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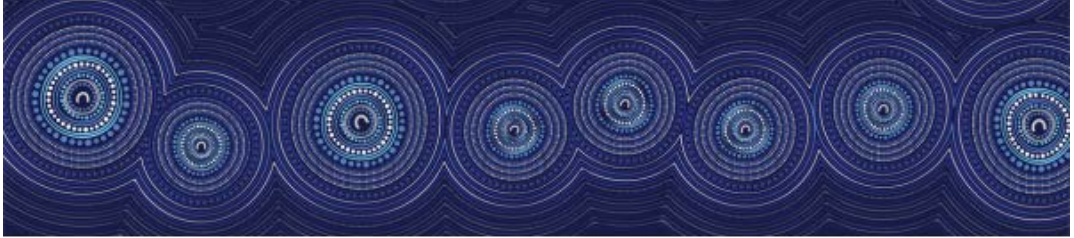


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Information about the directorate and an electronic version of this annual report can be found on the website, dpp.act.gov.au.

Content warning: this report contains case studies which some readers may find triggering.



The Director of Public Prosecutions (ACT) acknowledges the Ngunnawal people as traditional custodians of the ACT and recognise any other people or families with connection to the lands of the ACT and region.

We respect the Aboriginal and Torres Strait Islander people, particularly our Aboriginal and Torres Strait Islander staff, and their continuing culture and contribution they make to the Canberra region and the life of our city.

Artwork by Ngarrindjeri Jordan Lovegrove

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Transmittal certificate

Transmittal certificate



The Office of the Director of Public Prosecutions (ACT)

27 September 2024

Mr Shane Rattenbury MLA
Attorney-General for the ACT
ACT Legislative Assembly
London Circuit
Canberra ACT 2611

Dear Attorney-General,

DIRECTOR OF PUBLIC PROSECUTIONS (ACT) 2023-24 ANNUAL REPORT

I present my Annual Report for the year ended 30 June 2024. This report has been prepared in accordance with section 7(2) of the *Annual Reports (Government Agencies) Act 2004* and in accordance with the requirements under the Annual Report Directions. It has also been prepared in alignment to the *Director of Public Prosecutions Act 1990*.

I certify that the information in the attached report, and information provided for whole of government reporting, is an honest and accurate account, and that all material information on the operations of the Director of Public Prosecutions has been included for the period of 1 July 2023 to 30 June 2024.

I hereby certify that fraud prevention has been managed in accordance with the *Public Sector Management Standards 2006* (repealed), Part 2.3 (see section 113, *Public Sector Management Standards 2016*).

Section 15 of the *Annual Reports (Government Agencies) Act 2004* requires that you present the report to the Legislative Assembly within 15 weeks of the end of the reporting year. As the 15-week period coincides with the caretaker period ahead of the ACT Election on 19 October 2024, the Annual Report must be tabled on the second sitting day of the new Assembly.

Yours faithfully,

Victoria Engel SC

Director of Public Prosecutions (ACT)

Reserve bank Building 20-22 London Circuit CANBERRA CITY 2601

P: +61 2 6207 5399 | E: dpp.act.gov.au | GPO Box 595 CANBERRA CITY 2601

Compliance statement

The 2023–24 Director of Public Prosecutions (ACT) Annual Report must comply with the Annual Report Directions (the Directions) made under section 8 of the *Annual Reports (Government Agencies) Act 2004*. The Directions are found at the ACT Legislation Register: www.legislation.act.gov.au.

The Compliance Statement indicates the subsections, under Parts 1 to 5 of the Directions, that are applicable to the office of the Director of Public Prosecutions, ACT and the location of information that satisfies these requirements:

Part 1 Directions Overview

The requirements under Part 1 of the Directions relate to the purpose, timing and distribution, and records keeping of annual reports. The 2023–24 Director of Public Prosecutions (ACT) Annual Report complies with all subsections of Part 1 under the Directions.

To meet Section 15 Feedback, Part 1 of the Directions, contact details for the Director of Public Prosecutions (ACT) are provided within the 2023–24 Annual Report to afford readers the opportunity to provide feedback.

Part 2 Reporting entity Annual Report Requirements

The requirements within Part 2 of the Directions are mandatory for all reporting entities and the Director of Public Prosecutions (ACT) complies with all subsections. The information that satisfies the requirements of Part 2 is found in the 2023–24 Annual Report as follows:

- A. Transmittal Certificate, see page 8
- B. Organisational Overview and Performance, inclusive of all subsections, see from page 16 to page 19, and Performance Analysis, inclusive of all subsections, from page 20 to page 68.
- C. Financial Management Reporting, inclusive of all subsections, see pages 80 to 82.

Part 3 Reporting by Exception

The Director of Public Prosecutions (ACT) has nil information to report by exception under Part 3 of the Directions for the 2023–24 reporting year.

Part 4 Directorate and Public Sector Body Specific Annual Report Requirements

The office of the Director of Public Prosecutions (ACT) is not required to report under Part 4 of the Directions.

Part 5 Whole of Government Annual Reporting

All subsections of Part 5 of the Directions apply to the office of the Director of Public Prosecutions (ACT). Consistent with the Directions, the information satisfying these requirements is reported in one place for all ACT Public Service directorates, as follows:

- › Bushfire Risk Management, see the annual report of the Justice and Community Safety Directorate (JACS Directorate).
- › Human Rights, see the Annual Report of the JACS Directorate.
- › Legal Services Directions, see the Annual Report of the JACS Directorate.
- › Public Sector Standards and Workforce Profile, see the Annual State of the Service Report; and
- › Territory Records, see the Annual Report of Chief Minister, Treasury and Economic Development Directorate (CMTEDD).

ACT Public Service Directorate Annual Reports can be found online at the following address:

http://www.cmd.act.gov.au/open_government/report/annual_reports

From the Director



Photo: Director of Public Prosecutions, Victoria Engel SC

This is my first Annual Report as the DPP for the ACT, having commenced my term on 6 May 2024. Whilst my time in the role during the reporting period has been short, it did not take long to recognise the quality of staff within the office, who work exceptionally hard every day to deliver a fair and effective independent prosecution service on behalf of the ACT community. I am very proud to be their Director, and to present this report on their behalf.

The office of the Director of Public Prosecutions ACT (DPP) is unique amongst its state and territory counterparts in that it has the responsibility of prosecuting all crimes in the ACT, that is, all charges that come before the Magistrates Court and the Supreme Court. No other state or territory based DPP has this breadth of function.¹

This presents its own challenges and opportunities. For example, most allegations involving family violence are heard to finality before the Magistrates Court. The one prosecution model in the ACT presents a great opportunity to work collaboratively with other services and stakeholders, to deliver a best-practice, trauma-informed prosecution service in the family violence space. It also presents unique challenges, given the high volume of work prosecuted in the Magistrates Court: 814 family violence matters were finalised in the reporting year, 740 of which were heard in the Magistrates Court. That presents an enormous workload for the office, within just one area of crime prosecuted by the office.

¹ All other states or Territories have a Police Prosecution service, which sees most matters before the Magistrates Court or Local Court prosecuted by police officers.

Every prosecution that is taken over by the office requires significant work by my staff. Under the Prosecution Policy, every matter requires consideration of whether there are reasonable prospects of conviction, and whether the prosecution is in the public interest. This requires my staff to assess briefs of evidence compiled by ACT policing, make their own assessment of the matter, and prepare matters for hearing. This will inevitably involve consultation with ACT policing, for example requests to clarify evidence obtained, and consultation on the appropriate charges, as well as consultation with defence practitioners. It also involves working with complainants, witnesses, and victims – keeping them up to date as the matter progresses and preparing them for what might happen in the prosecution process, including what to expect if a matter is contested. Not least, it also involves the actual conduct of often complex hearings through the Court system.

One of my focuses since commencing as Director, has been to consider how we can provide the ACT community with a prosecution service that meets its obligations to victims and witnesses. Communication is often key. The historical structure of the office has meant the majority of communication with victims, witnesses and complainants has fallen to the individual lawyer working on a case, who is tasked with significant other responsibility on a file, and a significant number of matters in their individual case load. This has differed from other DPPs, most of which have a robust and well-resourced Witness Assistance Service (WAS), whose primary responsibility is to ensure adequate and up-to-date communication with witnesses, victims and complainants, and to support them through the prosecution process.

WAS is an integral part of the DPP - an essential frontline service to ensure witnesses and victims are given the support they need from within the DPP to navigate the criminal justice system. This includes access to information on how their matter is proceeding and what to expect through the Court process. A well-resourced WAS gives witnesses and victims agency from within the DPP.

When I commenced in May 2024, the ACT DPP had three WAS officers. By way of contrast, in the same reporting period, the Northern Territory DPP had 14 WAS officers including a senior WAS manager, Queensland DPP had 22 WAS officers, South Australian DPP had 14, the Victorian DPP had over 30 WAS officers, and the NSW DPP had 64 WAS officers, including numerous manager roles.²

Those three WAS officers carried an exceptional load in the reporting year, supporting witness, victims and complainants in 379 matters, an increase from 329 in the previous reporting year. However, with 799 new family violence matters in the reporting year, and 201 sexual violence matters commenced in the reporting year (up 24.8% from the previous reporting year), let alone the many other matters prosecuted by the office, involving vulnerable witnesses and children, the gap is obvious.

² It is noteworthy that these numbers refer to the support available for witnesses, victims and complainants in other DPPs, none of which conduct the prosecutions for all crimes in their respective states or Territories.

In my experience, a properly resourced WAS bridges the gap between the prosecution lawyers and witnesses, proactively keeps a witness informed, helps to prepare a witness for the Court process, and acts as a support person if required during Court. A robust WAS has the added benefit of upskilling prosecutors in a trauma informed practice, and acts as a protective mechanism from the impacts of vicarious trauma for all staff. WAS also refer witnesses to external support services where appropriate, and work closely with external support agencies, to ensure a best-practice approach.

The end of the reporting period saw some short-term assistance provided to the office, from the Confiscation of Criminal Assets (COCA) Distribution Surplus Funds. The WAS scheme received \$404,346 for limited expansion of the team for a 12-month period. Recruitment for these roles commenced immediately and positions are filled at the time of writing. I look forward to working with the Government in the next reporting year to ensure this function within the DPP is resourced adequately, such that victims, witnesses and complainants receive the support needed through the prosecution process, and to bring the ACT into line with other jurisdictions.

The short-term funding received for the limited WAS expansion in fact comes from the work of the DPP. COCA is responsible for the confiscation of criminal assets in the ACT, and is a lesser known yet important part of the DPP. These funds are distributed across the ACT's justice system. Over the reporting period, the DPP restrained property with an estimated accumulated value of \$6.2m³. During the reporting period, the Attorney General approved the use of \$2,628,459 of distributable funds from the Confiscated Assets Trust Fund. Distributable funds were made available for a range of criminal justice and law enforcement activities.

This reporting year also saw a significant change in the leadership team in the office. Thank you to those who committed many years of service to the office, and who moved on to new opportunities in the reporting year. In June 2024, Trent Hickey stepped into the Acting Deputy Director of Public Prosecutions role, and following a recent competitive recruitment round has been appointed as Deputy Director (Crown Chambers). Katie Cantwell was also confirmed in the reporting year as Senior Director, Corporate & Governance (Head of Corporate). Trent and Katie, together with the rest of their teams, have provided me with exceptional support over the first few months of my tenure, for which I am very grateful.

I have also been very fortunate to build strong professional connections with heads of other agencies in the ACT, including (but not limited to) the ACT's Chief Police Officer, the ACT Acting Victims of Crime Commissioner, the CEO of Legal Aid, and the heads of jurisdiction. I am looking forward to continuing to work collaboratively with all aspects of the criminal justice sector in the ACT in 2024–2025.

3 Estimated value of restrained property is gross value only and does not take into account the value of any encumbrances

Looking forward

Looking forward to the next reporting year, one of my focuses is to ensure the office is properly funded to allow it to deliver a prosecution service that has the trust and confidence of the ACT community. As the workload and complexity of prosecutions continues to increase, so must the resourcing of this office. In the sexual assault space alone, the last reporting year saw an increase of 24.8% in the number of matters commenced.

As my staff and I continue to look to improve practices, to ensure we are delivering a level of service expected by the community, that cannot be achieved without the adequate resourcing of the office, given the breadth, number of matters and complexity of the work we do. This is particularly so given the often traumatic and difficult content of work my staff are exposed to.

In August 2024, the Select Committee on Estimates 2024-2025 recommended that the ACT Government provide additional funding to the ACT Office of the Director of Public Prosecutions to hire additional prosecutors. I look forward to working with Government to put this recommendation into effect in the next reporting year.

Acknowledgements

I would like to thank all the staff of the DPP, each of whom contribute to delivering the ACT's prosecution service. I would also like to acknowledge and thank the many victims I have engaged with over my first few months in the office, all of whom have generously given their time to provide feedback and views on how the office can provide a best-practice prosecution service to the community in the ACT.

The vast majority of work the office does happens outside of the public gaze, and requires dedication, expertise and commitment. The hard work of my staff, and the privilege I have in leading them, is not lost on me.

DPP at a glance

2023–24 Highlights

5,231 matters across all Courts	201 sexual offence matters commenced in Court	88 appeals
814 family violence matters were completed in Court	\$2,628,459 Confiscated Assets Trust Fund went to criminal justice programs – thanks to the work of our COCA team	379 matters supported by WAS

Snapshot of the DPP

Our Director, Victoria Engel SC was appointed on the 6th of May 2024, making her the first female DPP for the ACT.

68.4% of staff identify as female	31.6% of staff identify as male	2% of staff identified as Aboriginal and Torres Strait Islander
31% of staff identified as speaking another language at home/parent speaking another language other than English		11% of staff identified as LGBTIQ+

Organisational overview and performance

Organisational overview

The Role and Functions of the office

The office of the Director of Public Prosecutions (ACT) was established by the *Director of Public Prosecutions Act 1990* ('the Act') to institute, conduct and supervise prosecutions and related proceedings. It comprises the Director of Public Prosecutions ('Director'), an independent statutory officer appointed by the ACT's Executive, and staff employed under the *Public Sector Management Act 1994*, to assist the Director.

The DPP (ACT), an independent prosecution authority of and for the ACT, is solely under the control of the Director. The Director has complete independence in relation to the operations of the office. Nevertheless, it is important to note that the office works closely with the courts, the legal profession, police and other investigators, victims' representatives, and other government agencies. The current Director, Victoria Engel SC, was appointed on 6 May 2024. The Director is aided by an Executive team in running the full operations of the office.

The Director reports to the Attorney-General of the Territory. The Act requires the Director and the Attorney-General to consult with each other, if required, concerning the functions and powers of the Director. The Attorney-General may give directions of a general nature to the Director, however, such directions can only be given after prior consultation with the Director. The Attorney-General's directions should also be presented to the Legislative Assembly and be published as a notifiable instrument.

The Director makes prosecutorial decisions independent of political influence or control. The Director's prosecuting role is independent of the police and other investigative agencies. Once a prosecution has been instituted, all prosecutorial decisions are made by the Director. There were no such directions given in the 2023–24 reporting period.

The principal duties of the Director include the following:

- › to institute and conduct prosecutions, both summary and indictable;
- › to institute and respond to appeals;
- › to restrain and confiscate assets used in, or derived from, the commission of criminal offences;
- › to assist the coroner in inquests and inquiries; and
- › to provide advice to the police and other investigative agencies.

Some of the important statutory functions of the Director include the following:

- › to institute a prosecution on indictment where there has been no committal for trial (known as an ex officio indictment);

- › to decline to proceed further in a prosecution and bring it to an end;
- › to take over and conduct, or discontinue, prosecutions instituted by another person (other than the Attorney-General);
- › to give to a person an undertaking that specified evidence will not be used against them, or that they will not be prosecuted for a specified offence or conduct; and
- › to give directions or furnish guidelines to the chief police officer and other persons specified in the Act, including investigators and prosecutors.

Prosecutors are 'ministers of justice', a phrase which sums up the unique position of the prosecutor in the criminal justice system. Prosecutors act in accordance with the procedures and standards as provided by the law. They are also guided in their role by the Prosecution Policy and further directions and guidelines issued by the Director under the Act.

Internal accountability

During the majority of the reporting period, the DPP had six prosecutors holding executive positions at the Senior Executive Service ('SES') level.

Senior Executives and their primary responsibilities

The Deputy Director (Crown Chambers) and Deputy Director (Criminal Practice) report to the Director. Their responsibilities include assisting the Director with the management of the office, forming part of the Executive responsible for strategic, budget and policy decisions, and the making of legal directions under delegated authority. Both roles involve significant leadership and mentoring in the office. The Deputy Director (Crown Chambers) also conducts more complex litigation in the Supreme Court, including in relation to committals and trials on indictment, and appears in relation to more complex appeal matters.

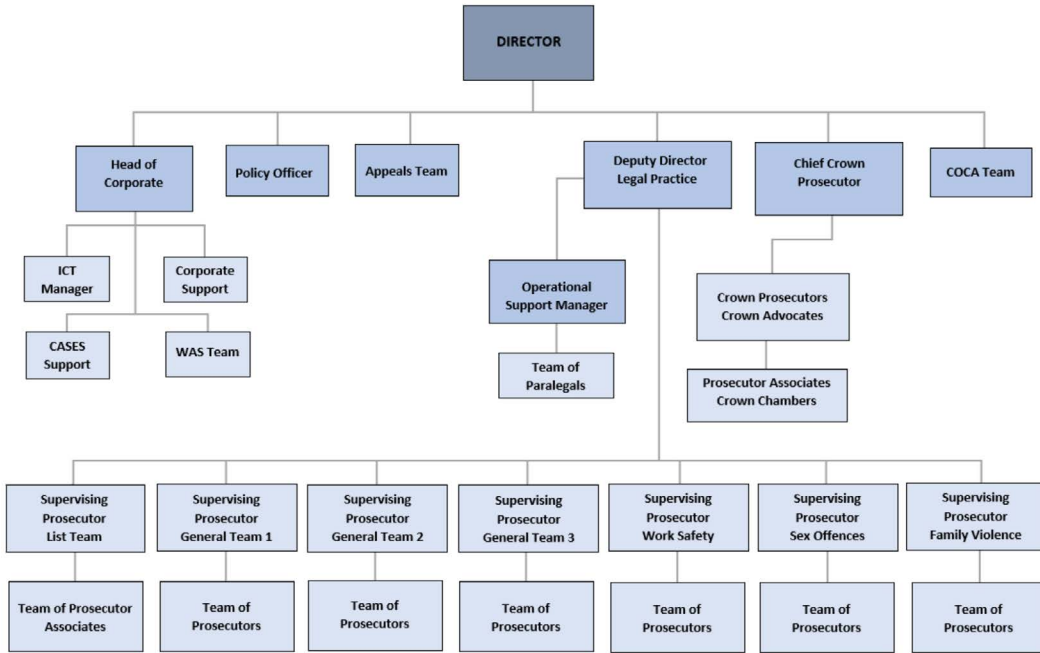
Crown Prosecutors appear and conduct complex matters including trials and appeals. They, together with the Director and Deputy Director (Crown Chambers) will usually appear in the most serious prosecutions in the ACT. They also manage these matters, ensuring that high-level advice is provided to the Director on the progress of files, liaise closely with victims and witnesses, and police. These roles also provide legal advice to the Director on a range of matters.

The Director and Senior Executives are paid in accordance with the determinations of the ACT Remuneration Tribunal, and relevant laws and instruments including the *Public Sector Management Act 1994* and the *Public Sector Management Standards 2016*.

Organisational chart

The office structure for the reporting period followed the below organisational chart.

Figure 1: Organisational Structure



DPP Working Committees

A number of internal committees inform the work of the office.

Executive Committee

The Executive Committee oversees the legal, operational and administrative functions of the office. The Director, Deputy Director (Crown Chambers), Deputy Director (Criminal Practice), Head of Corporate Services, and the Practice Manager sit on the Executive Committee to provide necessary consistency. The Director chairs the committee, which works across policy (legal and operational), budgetary, office management, resource allocation, staff welfare and legal matters. The Committee meets weekly and has now moved towards recording and distributing minutes, to ensure better transparency within the office.

Working Environment Group

The DPP (ACT) has a Working Environment Group which meets monthly to discuss matters affecting staff and their working environment. The Working Environment Group Terms of Reference was reviewed and updated as of June 2023.

Membership is made up of representation from all areas within the office.

The objectives of the Working Environment Group are to:

- › Be an Advisory Group; to monitor, raise and escalate workplace health and safety concerns or risks to the DPP Executive for consideration or action.
- › Facilitate cooperation between the DPP (ACT) Executive, employees and other parties in relation to workplace safety matters, and health and wellbeing.
- › Disseminate information relating to issues affecting employment conditions, working environment and health and wellbeing at work to facilitate a spirit of cooperation for office activities such as fund raising and social function coordination; and
- › Be a Tier 3 WHS forum that further informs the Tier 1 JACS Directorate WHS meetings, held quarterly.

Training and Development

The office runs a Continuing Professional Development (CPD) program. The CPD program is a vital training tool for all legal staff that focusses on professional development of legal staff in the technical aspects of the criminal justice process and laws of evidence. CPD sessions are presented fortnightly, with a focus on practical and emerging issues, enhancing the skills and the knowledge of prosecutors. The CPD program also benefits from external presenters and experienced external lawyers providing training sessions.

In addition to training to its staff, the DPP (ACT) also provides training to external stakeholders such as ACT policing, including in the sexual assault space.

DPP Stakeholders

The DPP (ACT) works with a number of organisations as part of delivering its prosecutorial function and supporting witnesses and victims of crime through the criminal justice system.

In an independent capacity, the DPP collaborates with ACT Police, Victim Support ACT (VSACT), the Legal Aid Commission (ACT), the ACT Bar Association, the ACT Public Sector, the ACT Courts and Tribunals, the ACT Women's Legal Centre, First Nations justice stakeholders, and various other not-for-profit organisations focussed on supporting the Canberra community and its interaction with the criminal justice system.

Performance Analysis

DPP's Criminal Practice

The DPP sits across four judicial jurisdictions: the Children's Court, the Magistrates Court, the Industrial Court and the Supreme Court.

The Children's Court has jurisdiction to hear all juvenile matters except for an offence involving life imprisonment.

The Magistrates Court has jurisdiction to hear summary matters, and indictable matters where parties consent. The Magistrates Court scope has a jurisdictional limit to impose sentences of up to five years imprisonment, whereas the Supreme Court has no jurisdictional limits for indictable offences.

The Magistrates Court of the Australian Capital Territory has an increased jurisdiction compared to other Australian States and Territories where a District Court operates. While less serious matters are dealt with, by and large, in the Magistrates Court, serious matters are also prosecuted to finality within this jurisdiction. Grade 1 to 3 prosecutors regularly appear in the Magistrates Court, while Grade 3 and above prosecutors regularly appear in the Supreme Court.

Developments in the Criminal Practice

The workload within the Summary Courts (Magistrates Court and Children's Court) has continued to increase. This is best illustrated with reference to the family violence workload. In the reporting year, 799 family violence matters commenced, of which the DPP took over prosecution of all 799 matters. In addition, 814 family violence matters were finalised by the office, of which 740 family violence matters were heard to finality in the Magistrates Court. Most family violence prosecutions involve complex factors, including appropriate consultation and support to victims, witnesses and complainants, as well as the preparation of the prosecution and the hearing itself, usually conducted by a prosecutor within the Criminal Practice. The fact that most family violence prosecutions proceed to hearing or finality in the Magistrates Court (as is the case with other jurisdictions), presents a particular opportunity and workload pressure for the DPP in the ACT, as we prosecute all matters before the Magistrates Court. The sheer number of family violence matters finalised in the Magistrates Court this reporting year demonstrates the significant workload faced by the DPP.

The office also appears in a number of lists in the Magistrates Court and Children's Court including general mention and sentence lists several times a week, daily bail lists, Children's Court list, and **two** Family Violence lists each week. This is in addition to appearing in part-heard lists before particular Magistrates, appearing in the Galambany Court in circle sentencing twice per week, and conducting hearings during block listing periods.

Changes to the listing practices in the Magistrates Court in the reporting year have resulted in an increased workload for the DPP. During the reporting period, the Magistrates Court

commenced trialing a twice weekly mention list (on Mondays and Thursdays) before a Registrar, to deal with mostly administrative adjournments prior to matters reaching a Magistrate. This has resulted in the office needing to staff an additional prosecutor in court for these days. Likewise, another practice that has increased in frequency is the splitting of daily bail lists. This has regularly required an additional prosecutor to be rostered on standby to appear in court.

Special fixture 'block listings' have also experienced growth during this reporting period. While block listing in the Magistrates Court has been a more efficient method for listing matters, the increase in workload has proved challenging. This is in addition to prosecutors conducting more complex contested hearings which fall, or continue part heard, outside of the block listing periods.

During the reporting period, there has been an increase from 15 block list periods to 21 block list periods, with a further increase in the 2024–25 period anticipated. This has resulted in general hearing lists and family violence hearing lists occurring closer together with less recovery period between them. Not only have prosecutors been increasingly called upon to pick up hearings overflow from the family violence listing periods, but these increased block listing periods have only exacerbated the overlap with the Supreme Court Central Listing periods, which further stretches the resources of the office.

Navigating the recent changes has been challenging, yet it is a testament to the staff's commitment to pursuing the community's interest in an efficient and effective independent prosecution service.

Magistrates Court

All criminal matters prosecuted by the DPP commence in the Magistrates Court, and the vast majority of criminal prosecutions, are finalised there either by way of a plea of guilty or a defended hearing. Hearings can range from parking infringements and traffic offences through to aggravated robberies and burglaries. Sentences and hearings in the Magistrates Court are predominantly staffed by prosecutor associates and junior prosecutors. However, more senior prosecutors, including members of Crown Chambers, may appear for complex or high-profile matters.

The Magistrates Court lists large numbers of hearings within condensed periods, often one or two weeks. Junior prosecutors are often responsible for multiple hearings listed in the same period, or hearings listed back-to-back for several days in a row. It is sometimes the case that due to this over listing, a prosecutor is required to appear in a hearing which has been prepared by a different prosecutor. This is challenging but provides excellent opportunities for junior prosecutors to quickly upskill to assess a brief of evidence and think on their feet.

Magistrates Court Cases

The following are examples of Magistrate Court hearings run to conclusion.

Police v Dawalibi

The offender pleaded guilty to a single charge of contravening a protection order against a young person. The accused contravened the protection order by allowing the young person to attend his apartment for the purpose of injecting drugs. Despite seeing the young person inject themselves with drugs, the offender failed to call for medical assistance or call for an ambulance. The young person was subsequently seen suffering from an overdose and was later conveyed to hospital for treatment.

The offender had a lengthy criminal history involving terms of imprisonment. During sentencing, Special Magistrate Wilson, observed the offender was in a position of significant trust and authority, and noted the young person was particularly vulnerable. The offender spent approximately four months in custody prior to sentencing and was ultimately sentenced in March 2024, to a term of five months imprisonment.

Police v Sullivan

The offender, on three separate instances, was stopped by a mobile police patrol for driving in a manner which garnered their attention. Each of these traffic stops resulted in the offender being charged with drive motor vehicle with alcohol in blood/breath. Pursuant to section 19(1) of the *Road Transport (Alcohol and Drugs) Act 1977*. The offending happened on three separate occasions, all within approximately one month of the previous offence.

The first two charges were prescribed concentration of alcohol (PCA) level two offences (0.070 and 0.052, respectfully), whilst the final offence, dated 15 December 2023, had a reading of 0.167, which is classed as a level four offence.

Pleas of guilty were indicated to all offences on its first mention. The matter took six months to proceed to sentence due to delays with a Court Alcohol and Drug Assessment Service (CADAS) report. Convictions, fines, and disqualification periods were made for each offence, with an 18-month disqualification period and a 12-month Good Behaviour Order (GBO) being imposed for the last offence.

Supreme Court

There have been a number of changes within the Supreme Court. The workload in the Supreme Court continues to increase in its complexity. Given the nature of matters prosecuted in that Court, the proper prosecution of these files requires the adequate allocation of resources to it from within the DPP.

There has also been an increase in funding for more places for participants in the Drug and Alcohol Sentencing List (DASL), which is expected to filter through in the next reporting

period. The Court has increased the number of days it is sitting each week. Previously, DASL reviews and sentences took place on Fridays. The addition of two Acting Justices presiding over the DASL list, in the reporting year, saw the workload spread over four days with reviews on Tuesdays and Fridays and sentences on Mondays and Thursdays. This has required more prosecution staff to service the additional sitting days.

There has also been an increase in prosecutors from the Criminal Practice instructing in Court of Appeal matters and Supreme Court trials. This is best practice for a range of reasons, including that it provides continuity for victims, witnesses and complainants, and removes unnecessary double-handling of often sensitive material. It also provides better training and mentoring for prosecutors within the Criminal Practice and brings the office into line with other jurisdictions. The upward trend for workloads in the Superior Courts looks set to continue into the next reporting period.

Supreme Court Cases

The following is an example of a Supreme Court prosecution which proceeded to sentence during the reporting period.

DPP v Hogan

This offender had been released in the community on suspended sentences for offences of escaping custody and contravening a Family Violence Order. 13 days after his release, the offender engaged in further serious offending. The offender strangled his partner, who at the time was 17 years of age and 12 weeks post-partum, while she lay on a bed. The victim was unable to breathe during the strangulation. The offender then made threats to kill himself, stated he did not want their son, and then held a knife to the victim's throat and threatened to kill her. The victim was able to talk the offender down and the pair left the home, following which the victim fled to a nearby greenbelt and called 000. Police stayed on the phone with the victim while she hid in some bushes, while the offender paced around calling for her to come out and again threatening to kill her. A Family Violence Order, as well as a Good Behaviour Order, were in effect against the offender at the time.

The offender was arrested several days later after the courts issued a warrant. He was refused bail and was remanded in custody. While the offender was in the AMC, he made several phone calls contacting the victim, contrary to the Family Violence Order. The offender would call third parties, such as National Australia Bank and Winnunga Nimmitjyah Health Service, and ask the staff member who answered to connect him to the victim. At times, the offender lied and said he had dementia, and the victim was his "support worker". On one occasion, the offender pretended to be a police officer in an attempt to contact the victim via phone.

The offender pleaded guilty to one count of aggravated choke/suffocate/strangle, one count of aggravated intentional threat to kill, three counts of contravening a family violence order, two further counts of attempting to contravene a family violence order, and one count of impersonating a police officer. The offender made an application in the Supreme Court for his sentence to be dealt with by way of a Drug and Alcohol Treatment Order; that is, a sentence of

imprisonment suspended upon entry into a rigorous rehabilitation program run through the Supreme Court and a treatment team.

The DPP submitted against this course on the basis that – while he had a substance misuse problem – the offender’s criminogenic risk factors were predominantly informed by his attitude towards the victim, and his propensity for family violence and coercive control. The DPP, with the assistance of family violence services, obtained a psychological report to put before the Court on risk factors involved with family violence offenders.

Ultimately, the Supreme Court declined to impose a Drug and Alcohol Treatment Order and the offender received a three-year term of imprisonment. At sentence, the Judge noted that while drug and alcohol rehabilitation would no doubt play an important role in the offender living a crime-free life, it was not an appropriate disposition for these matters.

Drug and Alcohol Sentencing List

The Drug and Alcohol Sentencing List ('DASL') is a sentencing list that forms part of the Supreme Court that commenced operation in December 2019. It is a therapeutic sentencing option available for people whose drug and alcohol use has substantially contributed to their offending. Drug courts, in various forms, also exist in other Australian and international jurisdictions.

A Drug and Alcohol Treatment Order ('DATO') is a sentencing option available to offenders in the Supreme Court who have pleaded guilty to an offence/s and are eligible for such an order.

To be eligible, participants must:

- › Be over 18 years and live in the ACT;
- › Have entered or indicated a guilty plea;
- › Likely to be imprisoned between one and four years;
- › Have no other sentencing orders in place;
- › Be dependent on alcohol or other drugs;
- › Give informed consent to the order being made; and
- › Not have committed a serious violence offence or a sexual offence.

A DATO enables offenders who meet the eligibility criteria to have their sentence of imprisonment fully suspended on condition that the offender agrees to complete a treatment program which is overseen by a judge. The DASL provides a therapeutic and holistic approach to justice and managing an offending participant’s treatment plan.

Once an offender is sentenced to a DATO, their DATO is supervised in the DASL. The sitting judge is supported by the DASL treatment team which is comprised of:

- › The Director-General Justice and Community Safety, represented by a community corrections officer;
- › The Director-General ACT Health, represented by employees of the Alcohol and Other Drug Service;
- › The DPP, represented by a prosecutor;
- › The Legal Aid Commission, represented by a solicitor from Legal Aid ACT;
- › The Chief Police Officer of the ACT, represented by an ACT police officer; and
- › The treatment team has also been assisted by representatives of ACT Housing.

A DATO enables offenders to not only address their drug/alcohol issues, but also provides the support and tools for offenders to reintegrate and become productive member of the community.

The DATO is split into three phases:

1. Stabilisation – abstinence from drugs/alcohol;
2. Consolidation – intensive treatment; and
3. Reintegration – preparation for independence and return to the community.

Graduation to each phase is dependent upon the successful completion of each phase, as recommended by the treatment team. The DATO is administered through a behavioural contract between the offender and the treatment team providing a framework for boundaries, accountability, rewarding of positive conduct and the sanctioning of negative conduct.

Crown Chambers

Crown Chambers was established in 2019. Crown Chambers is an internal chamber of the DPP.

The prosecutors in Crown Chambers deal with the most complex and serious trials, sentencing and appellate matters. Crown Chambers members most usually appear in the ACT Supreme Court and the Court of Appeal. Crown Chambers will often maintain carriage or oversight of the prosecution of homicide matters, sexual offending, crimes involving personal violence, serious drug trafficking matters, and prosecutions involving outlaw motorcycle gangs (OMCGs).

Crown Chambers also oversees requests for advice from other agencies, such as ACT policing, the ACT Integrity Commission and the Coroner. Crown Chambers takes the lead in developing and delivering Continuing Professional Development (CPD) for prosecutors across the DPP.

Notable cases by Crown Chambers

The following are some of the more noteworthy cases that the Crown Chambers prosecuted in the reporting period.

DPP v Ware

In 2022, the ACT adopted an ‘affirmative consent’ model of consent that defines consent to sexual activity as informed agreement that must be actively and affirmatively communicated.

In August 2023, Joshua Ware, was tried in relation to two counts of sexual intercourse without consent. The incidents occurred one month apart. The DPP case was that the accused had groomed the victim through showering her with gifts, plying her with drugs and taking advantage of her while she was intoxicated by sexually assaulting her. The accused’s evidence was that all sexual activity was consensual because the complainant “did not say no”. The jury were directed as to what constituted consent. The jury returned guilty verdicts on both charges and Ware was sentenced.

This was the second trial in the ACT to proceed under the post-amendment consent law, and the first to result in guilty verdicts. The convictions have been appealed.

DPP v Reed; Shillingsworth

Two co-accused were tried in relation to a fire at Old Parliament House on 30 December 2021. The DPP case was that the fire was intentionally lit during a protest. The fire caused extensive damage and repair works cost \$5.1 million.

Mr Reed was charged with arson, and Mr Shillingsworth Jnr was charged with arson by way of joint commission. Mr Reed was said to have lit the fire, and Mr Shillingsworth Jnr was said to have been the leader of the protest. Security cameras were painted over, and a ring of protestors formed a horseshoe around the doors in the moments prior to the fire beginning. The DPP prosecuted both accused in a jury trial before the Supreme Court, and both were found guilty and later sentenced.

DPP v Hyde; Sibley

Two co-accused were tried in relation to an allegation that they stood over and violently assaulted a debtor in the middle of the night at a house in Tuggeranong. The incident arose in the context of drug trafficking.

The co-accused and a small group of their companions, one of whom was also charged and had pled guilty, were said to have unlawfully confined, assaulted and robbed the complainant over the course of an hour. A hammer was used to intimidate the complainant, and he was punched in the face repeatedly. The incident came to an end when the complainant convinced the assailants to permit him to go to the toilet, where he broke through a small bathroom window and escaped.

The matters proceeded to a Supreme Court jury trial, run by the DPP. The two accused were convicted of all charges by a jury, and they were later sentenced. The convictions have been appealed.

DPP v Hicks (a pseudonym)

The accused was charged with two counts of incite murder, and two counts of theft. On the DPP case, she had attempted to hire a 'hitman' through the dark-web commissioning the execution of her parents.

The accused transferred bitcoin to secure the contract. Approximately a week prior to the conduct detailed above, the accused entered the victims' premises and used their computer to unlawfully transfer \$40,000 from her parents' bank accounts to her own.

A Supreme Court trial was listed to commence on 4 March 2024. The DPP sought an advanced ruling concerning the admissibility of the inculpatory evidence obtained from the dark-web. The evidence was ruled admissible on 23 February 2024. The accused was arraigned on 27 February 2024 and entered pleas of guilty to the two incite murder charges with two theft charges placed on a schedule.

The offender is due to be sentenced in late 2024.

DPP v Weldon

The accused was charged with two counts of aggravated burglary, and two counts of theft.

The DPP case against the accused was circumstantial. A distinctive pry-bar (with a slight bend in the middle) used in one of the burglaries as observed in CCTV footage. The same pry-bar was observed in different CCTV footage being taken into accused's residence approximately an hour after the last in time burglary. The DPP was successful in an application to adduce coincidence reasoning as between the separate locations. The matter proceeded to a Supreme Court trial, heard by a judge alone. The accused gave evidence denying any involvement in the offending. He was found guilty of both counts and the related thefts.

Appeals Unit

The appeals unit sits within Crown Chambers. The unit consists of one prosecutor led by a Crown Prosecutor and is under the direction of the Director and Deputy Director (Crown Chambers).

The DPP conducts appeals, including judicial review applications in the ACT Supreme Court, Court of Appeal and High Court of Australia as both a respondent and appellant. Additionally, the appeals unit responds to leave applications, including leave to appeal interlocutory decisions, and leave to appeal out of time and appeal bail applications.

The past reporting year saw a significant increase in the number of Supreme Court appeals dealt with by the office, a total of 88 appeals up from 76 in the previous reporting year.

The table below represents the number of appeal matters in the reporting year.

Table 1: Number of appeal matters - 1 July 2023 to 30 June 2024

Description	Defence Appeals	Crown Appeals	Total
Supreme Court	50	3	53
Court of Appeal	26	5	31
High Court	4		4
Total	80	8	88

Appeals in the Supreme Court

The majority of appeals lodged in the Supreme Court are against the severity of sentences imposed in the Magistrates Court. In accordance with the principles which apply to Crown appeals, DPP instated appeals are rare. The DPP also responds to judicial review applications from the Magistrates Court.

The total number of appeals in the Supreme Court for the 2023–24 period was 53 appeals. This number consisted of 50 defence appeals (sentence, conviction and judicial review proceedings) and three prosecution appeals against inadequacy of sentence and a dismissal of charges.

Court of Appeal

The majority of appeals lodged in the ACT Court of Appeal are against convictions (jury verdicts) and severity of sentence. Appeals in the Court of Appeal are often very complex, particularly against conviction.

The Crown has no right of appeal against verdicts acquittal. Crown appeals to the Court of Appeal are rare and are generally against sentences considered to be erroneous and manifestly inadequate. Occasionally, the Crown may institute a reference appeal relating to the correction of a legal error or settling of legal principle, which does not change the outcome but is reserved to ensure the applications of correct legal principles in furtherance of the administration of justice.

The total number of appeals in the Court of Appeal for 2023–24 was 31 consisting of 26 defence appeals (against sentence and conviction) and five prosecution appeals against inadequacy of sentence.

High Court

Appeals to the High Court are less frequent. Appeals in this jurisdiction are highly complex. A majority of the cases involve responses to applications for special leave to appeal by offenders. The circumstances in which the High court will grant special leave are exceptional and are

guided by the criteria found in s 35A of the *Judiciary Act 1903 (Cth)*. In criminal matters, applications must usually demonstrate a point of general principle to be considered, that the decision is demonstrably wrong or that the administration of justice requires intervention to avoid a miscarriage of justice.

Applications for special leave to appeal may be dealt with on the papers or proceed to an oral hearing before a court of three judges. Where an appeal is granted, the proceedings are heard before a bench of either five or seven justices.

In the period of 2023–24, the DPP has responded to three applications for special leave to appeal and has appeared in one full-court (seven justices) appeal hearing.

Notable cases by the Appeals Unit

The following are some of the more noteworthy appeal cases worked on within the 2023–24 reporting period.

Supreme Court

Agarwal v Coutts

The appellant was charged with one offence of committing an act of indecency against a person under the age of 16 years, contrary to s 61(2) of the *Crimes Act 1900 (ACT)*. This offence was a representative count involving offending between November 2019 and February 2020. The victim of the offence was 14 years old and an employee at the appellant's frozen custard store. The appellant was responsible for the employee roster and regularly rostered the victim to work shifts where the only other staff member was himself. During the relevant period, the appellant committed various indecent acts against the victim.

The DPP prosecuted the matter in the Magistrates Court. The appellant pleaded guilty to the charge just prior to the victim having to give evidence. He came to be sentenced by Magistrate Theakston, having consented to summary jurisdiction for the Magistrate's Court to hear the charge.

It was an agreed fact that the victim had experienced severe trauma and has had to undertake extensive psychological counselling as a result of the appellant's offending. The impact of the offending was also described in victim impact statements of the victim and her mother and her father.

On 24 November 2023, Magistrate Theakston sentenced the appellant to 21 months' imprisonment with a non-parole period of 11 months. Shortly after imposition of the sentence, the appellant filed a notice of appeal against the severity of his sentence.

The appellant made an application for appeal bail on 11 December 2023 which was refused by McCallum CJ. A subsequent application for appeal bail was allowed by Loukas-Karlsson J. on 16 February 2024 and the appellant was released on bail pending resolution of his appeal.

The appeal was heard by Baker J. The grounds of appeal against the sentence imposed included, alleged errors by the magistrate in determining how the sentence of imprisonment was to be served, factual errors and that the sentence manifestly excessive.

On 8 April 2024, Baker J dismissed all grounds of appeal. Her Honour found that on a fair reading of the magistrate's reasons on sentence, it was clear that he rejected the appropriateness of a sentence other than a sentence involving full-time custody. As to the alleged factual error, it was contended by the appellant that the magistrate had erred in finding that the offending was 'planned'. Justice Baker rejected this argument, noting that the facts of the offending demonstrated the victim had requested to work night shifts and with other young people, however the appellant regularly rostered the victim to work in the afternoon with only him present. Her Honour concluded at [54] that, "[i]n all of those circumstances, the inescapable inference is that the offending occurred "in a deliberate and planned way".

As for the appellant's contention that his sentence was manifestly excessive, Baker J observed that the offending was serious, involved an "acute breach of trust perpetrated against a young and vulnerable victim over whom the appellant wielded considerable authority and power by virtue of his position as her employer" (at [82]). Her Honour reiterated the significant and profound impact of the offending on the victim, and that the appellant had not expressed genuine remorse or insight into his offending. Although the appellant was otherwise of prior good character, Baker J observed "the appellant's good character could not justify a substantial mitigation of the sentence to be imposed, particularly in circumstances where the offending against the victim was not isolated" (at [83]).

Her Honour concluded at [84] that it was necessary for the sentence be "of a duration and form which gave effect to the strong need for denunciation and accountability, recognition of the harm caused to the victim and the community and for general and specific deterrence, and that the facilitation of rehabilitation should not outweigh these sentencing considerations." She observed that the Magistrate was correct in his determination that a condign sentence was required and that the sentence imposed was well within his permissible exercise of discretion.

As a consequence of dismissing the appellant's appeal, and because he had been granted appeal bail, the appellant was returned to custody to continue to serve his term of imprisonment.

Bourke v Styche

The respondent had been charged with 14 offences which included 12 offences of committing an act of indecency without consent, contrary to s 60(1) of the *Crimes Act 1900* (ACT) and two offences of stalking, contrary to s 35 of the *Crimes Act 1900* (ACT).

The charges related to conduct alleged to have occurred over several days in 2020 at several clothing stores in an outlet centre and a suburban shopping centre. The charges involved six separate complainants, each of whom was a female sales assistant who assisted the

respondent when he was trying on pants or tights in a changeroom. The alleged acts of indecency concerned the accused directing the attention of the sales assistant to his erect penis, or an object that looked like an erect penis, through various tactics. This included touching and stroking his penis and drawing attention to his penis with words and other actions.

The DPP prosecuted the matter in the Magistrates Court. The respondent pleaded not guilty to the charges and the matter proceeded to a hearing before Magistrate Lawton over several days. The respondent gave evidence denying the allegations, including that he had an erection, touched his penis or said the words alleged by each of the complainants. The magistrate ultimately dismissed all charges. He found each of the complainants were honest and reliable but found that he could not reject the respondent's version of events.

The prosecution brought an appeal against the magistrate's dismissal of 10 of 14 charges, each of which involved the respondent committing an act of indecency. The sole ground relied upon was that the decision should not in law have been made as the magistrate's reasons were inadequate. The prosecution contended that the reasons of the magistrate did not meet the minimum standard required in several respects, including that they failed to identify the issues for determination in fact and law; they failed to deal with the evidence relevant to each charge, instead combining all the complainants and incidents together as a homogenous group which meant that the magistrate failed to resolve the critical areas of contest between the parties. As part of that failure, there was a failure to resolve the material factual disputes that were required to be resolved before the verdict could be arrived at.

Further, it was argued that the lack of such analysis meant that the reasoning process then failed to appreciate the impact of the tendency evidence and as a result, failed to deal adequately with the tendency evidence. There was a failure to engage in any analysis of the coincidence reasoning with respect to each incident and how the evidence featured in the determination of the prosecution case for each charge. The prosecution submitted that even on a fair review of the reasons, it was not possible from the reasons given to understand what specifically the magistrate had a reasonable doubt about, or why he had such a doubt.

The appeal was heard by McWilliam J. The respondent argued that the prosecution's appeal was incompetent because the error alleged (inadequate reasons) did not fall within the available grounds of review in the relevant appeal statute. Further he argued the magistrate's reasons in the circumstance were not inadequate.

Justice McWilliam concluded the appeal was not incompetent, and that errors in the reasoning process, as well as jurisdictional errors fall within the relevant review ground. As a complaint of inadequate reasons is an error of law, the prosecution was entitled to argue the decision should not in law have been made by reason of inadequate reasons. In respect of the substantive complaint, her Honour concluded that the magistrate's reasons were inadequate amounting to an error of law. Her Honour concluded that the decision to dismiss the charges should not in law have been made. Her Honour allowed the appeal and remitted the charges for further hearing before a different magistrate.

The respondent has appealed McWilliam J's decision allowing the prosecution's appeal to the Court of Appeal which will be heard in August 2024.

Phillips (a pseudonym) v Burton

The appellant was charged with committing an act of indecency on a person under 16 years of age, contrary to s 61(3) of the *Crimes Act 1900* (ACT). The DPP prosecuted the matter in the Magistrates Court. The appellant pleaded not guilty to the charge and the matter proceeded to a defended hearing before Chief Magistrate Walker.

The victim of the offence had recently turned 10 years old. She was a friend of one of the appellant's daughters. The friend's parents had separated, and she spent 50 percent of the time living with her mother and 50 percent of the time living with her father. On the evening of 27 November 2021, the victim went to a sleepover at the appellant's home. The appellant went out to a party, leaving the children in the care of a babysitter. With the agreement of the appellant, the babysitter left before the appellant returned home.

The victim gave evidence that she and the appellant's daughter went to bed on a double mattress on the lounge room floor. The appellant's daughter was asleep when the appellant returned home. The victim gave evidence that the appellant laid down next to her and touched her on her vulva and bottom. In order to stop him doing what he was doing, she got up off the mattress and went to the kitchen for a glass of water. She waited for the appellant to leave and then went back to the mattress and went to sleep.

The appellant gave evidence. He said that when he came home from the party, he saw the two girls apparently asleep on the lounge room floor and he went to bed. He suggested that the victim had a motive to make false allegations against him. That purported motive was that he had been having an affair with victim's mother and her husband, the victim's stepfather, had found out about it. Since then, the victim's stepfather had become obsessed with him and wanted to harm him.

Chief Magistrate Walker found the appellant guilty of the offence. The appellant appealed his conviction to the Supreme Court which was heard by Berman AJ. The appellant argued that the Chief Magistrate had erred in several respects, including reversing the onus of proof and relying upon tendency reasoning. He also argued that the finding of guilt was unreasonable and could not be supported by the evidence.

Acting Justice Berman concluded none of the alleged errors had been substantiated and that the finding of guilt was well open on the evidence before the Chief Magistrate. Having reviewed the evidence, his Honour concluded that that the victim had clearly given an honest and accurate account of what happened to her on 27 November 2021. He found that her evidence was compelling, particularly her description of what she smelt, how she felt, and how she brought the incident to an end.

The appeal was consequently dismissed. The appellant's matter was returned to the Magistrates Court and he was subsequently sentenced to a term of full-time imprisonment by Chief Magistrate Walker.

Court of Appeal

Porter v The Queen

The appellant was sentenced for several child sexual offences against four different victims. The offending involved the appellant using a child to produce and possess child exploitation material and grooming and engaging in a sexual relationship with a child.

The DPP prosecuted the matter through the committal process in the Magistrates Court, and in the Supreme Court, where the appellant pleaded guilty, however disputed some aspects of the DPP case. In particular, the appellant contended that the sexual activity that occurred during the relationship was limited to 14 or 15 occasions, two of which involved penile-anal penetration. The prosecution case was that the appellant engaged in sexual activity with the victim on 35 to 45 occasions and that all but the first occasion involved penile-anal penetration. There was a further contention by the prosecution that on one occasion the appellant ejaculated into the victim's anus while not wearing a condom. This was denied by the appellant.

The DPP conducted the sentencing proceedings, and the disputed facts hearing, which was heard by Loukas-Karlsson J. Both the victim and appellant gave evidence and were cross-examined. In March 2022 the primary judge published her reasons containing the factual findings arising from the hearing: *R v Porter (No 2)* [2022] ACTSC 50 ("*Porter (No 2)*"). Her Honour found that the prosecution established beyond reasonable doubt that:

- (i) The sexual activity between the victim and appellant occurred on at least 35 occasions;
- (ii) That all but the first occasion involved penile-anal intercourse; and
- (iii) That on one occasion the appellant ejaculated into the victim's anus.

The appellant was sentenced by Loukas-Karlsson J to a total effective term of 20 years imprisonment with a non-parole period of 12 years and six months.

The appellant appealed his sentence on the basis that Loukas-Karlsson J's reasons on sentence (including the disputed facts) were inadequate because they involved extensive copying of the prosecutor's submissions. He further contended that her factual finding as to the number of occasions of sexual activity which was subject of the disputed facts hearing was not open on the evidence and that the sentence imposed was manifestly excessive.

The appeal was heard by the full bench (Mossop, Baker and Bromwich JJ). The appeal was allowed in part. Their Honour's acknowledged there was extensive copying by the judge from the prosecution's submissions. Their Honours noted at [78] – [79] that:

It is clear from the authorities outlined above that whilst the unattributed replication of a party's submissions in a judicial decision is to be strongly discouraged, such copying does not, without more, vitiate a judgment.

The vice in the copying of a party's submissions in a judgment is not in plagiarism or the appropriation of a party's intellectual property. Accordingly, determining whether a judgment has been vitiated by unattributed copying does not involve an assessment of the proportion of original material contained in the judge's reasons. Rather, the question to be asked is whether the copying is such that it should be inferred that the primary judge has not made an independent decision on the whole of the evidence and the law.

However, it was concluded that whilst "there are aspects of the judgment which are of concern (notably, the nature of the proceedings, the form and extent of the copying, and the lack of attribution)", the reasons nonetheless sufficiently demonstrated that the primary judge gave independent and impartial consideration to the evidence and the issues. Their Honour's accordingly rejected this ground of appeal.

In relation to the disputed factual finding, a review of the evidence and the reasons demonstrated the finding that the appellant had engaged in offending conduct on at least 35 occasions was erroneous. Although Loukas-Karlsson J found the victim to be credible in his evidence, the Court noted there were significant doubts as to the reliability of his estimation of the occasions of sexual activity. The Court acknowledged however that the lack of imprecision in the victim's recall does not reflect adversely on the victim's honesty. It is common for children who are regularly abused over a lengthy period to have difficulty providing information as to the specific dates or other identifying information as to particular offences. Nonetheless, the Court found the evidence before Loukas-Karlsson J was not sufficient to establish the extent of the sexual activity beyond a reasonable doubt. Accordingly, this ground was upheld and the Court proceeded to re-sentence the appellant.

Following the appeal, the appellant's sentence was reduced to one of 17 years imprisonment, with a non-parole period of 11 years.

Fleury v DPP

The DPP prosecuted the matter through the committal process in the Magistrates Court, and the appellant was committed to the Supreme Court to be sentenced for numerous drug, violence and weapons offences. The DPP appeared in the sentence proceedings before the Supreme Court, where the offender was sentenced by McWilliam J to imprisonment for periods totalling three years, nine months and 22 days. A non-parole period of 23 months was imposed.

During the sentencing proceedings, there was no dispute that the appellant's offending was driven by his dependency on prohibited drugs. The appellant's counsel had indicated to McWilliam J that he sought to be referred for drug and alcohol treatment order (DATO), which would allow him to participate in the Drug and Alcohol Sentencing List (DASL). Participants in that list are permitted to serve a sentence of imprisonment in residential rehabilitation or in the community subject to accepting intensive treatment and monitoring and on the condition that they remain sober and drug-free. They are supported by a multi-disciplinary team that provides medical treatment, drug and alcohol counselling and supervision by

Community Corrections officers. They are required to undergo regular drug testing, initially three times a week, and to appear for regular “check-ins” with the DASL judge.

While the appellant was on remand awaiting sentence, the appellant had made significant progress towards rehabilitating himself and was a likely candidate for a DATO. However, on 22 February 2022, between the time when the appellant had first appeared in the Supreme Court and the finalisation of his matters, the Court published a Notice to Practitioners advising that DASL was “at capacity” and in effect closed the list: see Supreme Court of the Australian Capital Territory, *Notice to practitioners: Drug and Alcohol Sentencing List – Pause on new referrals*, 22 February 2022.

At his sentencing before McWilliam J, her Honour noted the DASL list was closed, and accordingly declined to refer the appellant for a DATO. The appellant appealed against his sentence alleging error by reason of being denied a sentencing option, being a DATO. The appeal was heard by the Full Court (McCallum CJ, Loukas-Karlsson and Kennett JJ) who allowed the appeal.

It was argued that there was no error in not ordering a DATO assessment because “the utility and availability of the sentencing option – whether as a matter of law or practical administration – is a relevant consideration”. It was submitted that “if, as in this case, the DASL had no capacity for further referrals, and therefore no capacity for it to make a DATO, there would be no utility in ordering any DATO assessment”. It was also noted there was a privative clause which operated to oust the Court’s jurisdiction to hear appeals from a decision not to order a DATO assessment.

The Court however concluded that the McWilliam J did not exercise the discretion not to order a DATO assessment. Rather, their Honours concluded that she had declined to order an assessment because she had been told, administratively, that the sentencing option of a DATO was foreclosed. The Court observed that effectively, the sentencing option was taken away from McWilliam J by the executive. The Court concluded that as a result of an internal administrative decision to, in effect, close the DASL list, McWilliam J regarded the discretion to order a DATO assessment, which is a condition precedent to making a DATO, as being unavailable. In taking that approach, her Honour denied the existence of her jurisdiction in that she regarded a sentencing option as unavailable which, according to the applicable law, was available. Because this error was jurisdictional in nature, the privative clause did not operate to oust the Court’s jurisdiction to hear and determine the appeal.

The Court accordingly allowed the appeal and remitted the proceeding to McWilliam J for re-sentencing.

Alexander v Bakes

The DPP prosecuted the matter in the Magistrates Court. After a five-day hearing, the appellant was found guilty of 65 charges of theft contrary to s 308 of the *Criminal Code 2002* (ACT). The Magistrate found the appellant not guilty on five charges. The charges relate to the appellant’s role as president of the Gungahlin United Football Club. For some time, the

club operated without a treasurer, with the appellant performing that role. During that time, from September 2017 until June 2018, the appellant operated the club's main bank account. He also had possession of a debit card attached to a separate club account.

The appellant appealed to the Supreme Court, with the DPP continuing to have conduct of the matter. The appeal was heard by Berman AJ. The appellant alleged a number of errors. Firstly, he contended the magistrate had erred in permitting the prosecution to amend the charges. The appellant submitted that at hearing, his solicitor (who also appeared on the appeal) had a "killer point" with regards to some of the charges. Unfortunately, the magistrate permitted the amendment of the charges which killed this killer point. It was submitted on the appeal that had he known the magistrate would allow the amendment, his solicitor may have focused on looking at the other evidence. This ground was ultimately rejected.

His Honour considered a number of other grounds which he also rejected. However, his Honour allowed the appeal in part. The appellant contended his convictions were unreasonable and should be set aside. His Honour ultimately found that in respect of some of the charges, the magistrate ought to have held a doubt, and accordingly set those convictions aside. The remaining convictions were confirmed.

The appellant then appealed to the Court of Appeal. The Full Court (Mossop, Baker and Abraham JJ) dismissed the appeal, concluding the findings of guilt which were confirmed by Berman AJ were open on the evidence. Further, their Honour's concluded the magistrate's decision to permit the amendment of the charges as the amendment was unnecessary having regard to the relevant offence provision. However, they concluded there was no error in allowing the amendment, even at the late stage of the proceeding. In determining the appeal, the Court also discussed the principles which apply to a review of a verdict from the Magistrates Court.

High Court

Vunilagi v The Queen

In the early hours of 3 November 2019, a 22-year-old woman met and began socialising with Simon Vunilagi, Isimeli Vatanitawake, Josefa Masivesi and Ratu Macanawai at a bar. They all travelled to Mr Masivesi's unit where the DPP alleged that each man sexually assaulted the complainant. Each man was charged with a number of offences and all were due to face trial in 2020.

As a result of the COVID-19 pandemic, jury trials were suspended and the ACT Government passed a number of legislative amendments to the *Supreme Court Act 1933* (ACT) to facilitate the continuation of judge alone trials. One such amendment introduced s 68BA, which allowed the court to order an accused be tried by judge alone, notwithstanding the absence of that accused's election for trial by judge alone, if satisfied it would "ensure the orderly and expeditious discharge of the business of the court; and ... is otherwise in the interests of justice.": s 68BA(3).

Given the length of the trial and the number of co-accused, the matter was not able to proceed by way of a jury trial in mid-2020 and in the short to medium term thereafter. Mr Vatanitawake, Mr Masivesi and Mr Macanawai were remanded in custody awaiting trial. All three supported the making of an order for a judge alone trial. Mr Vunilagi was on bail and opposed the order. On 13 August 2020, Murrell CJ made an order under s 68BA for the trial to proceed before a judge sitting alone.⁴

The trial ran before Murrell CJ for 13 days in September 2020, conducted by the DPP. The DPP case was that the complainant was heavily intoxicated when she met the four men. It was alleged that when she arrived at the unit Mr Vunilagi took the complainant into the bedroom and, followed by Mr Vatanitawake, Mr Macanawai and Mr Masivesi, engaged in various acts of sexual intercourse and acts of indecency with the complainant without her consent. At the conclusion of the trial, Murrell CJ reserved her reasons and in October 2020 handed down her judgment. Her Honour found Mr Vunilagi guilty of eight of the 11 counts with which he was charged, Mr Vatanitawake guilty of the sole count charged and Mr Masivesi guilty of the three counts with which he was charged. Her Honour found Mr Macanawai not guilty of all counts.⁵

Each of the three accused found guilty appealed their convictions to the Court of Appeal. The DPP had conduct of the matters before the Court of Appeal. The grounds alleged that the verdicts were unreasonable and unsupported having regard to the evidence, and that the trial judge “impermissibly and unfairly introduced evidence into her deliberations that was not before her Honour...”. Mr Vunilagi also appealed on further grounds asserting that the order for a judge alone trial was made under a constitutionally invalid provision and consequently caused a miscarriage of justice. Given the constitutional nature of these grounds, the Attorney-General of the ACT intervened in the appeal.

The Court of Appeal (Mossop, Loukas-Karlsson JJ and Abraham AJ) unanimously dismissed the appeals. The Court rejected the ground asserting that the verdicts were unreasonable. To the extent that the second ground involved submissions that the trial judge reasoned through “gender stereotyping”, the Court rejected this argument and agreed with the Crown’s submission that “it ought to go without saying, engaging in ‘amorous’ and consensual behaviour with men earlier in the evening does not provide carte blanche consent to sexual activity (with all men) later”: at [140].

The Court also rejected each of Mr Vunilagi’s challenges to the validity of s 68BA and held that there was no basis to suggest that the making of the order for a judge alone trial precluded Mr Vunilagi from receiving a fair trial or occasioned a miscarriage of justice.

Mr Vunilagi appealed the Court of Appeal’s decision (only in relation to the constitutional grounds) to the High Court. The DPP continued to have carriage of the matter.

The High Court unanimously dismissed Mr Vunilagi’s appeal, both as to the *Kable* principle and breach of s 80 of the *Constitution*. In the joint reasons, Kiefel CJ, Gleeson and Jagot JJ

4 *R v Vunilagi; R v Vatanitawake; R v Masivesi; R v Macanawai* [2020] ACTSC 225.

5 *R v Vunilagi; R v Vatanitawake; R v Masivesi; R v Macanawai (No 2)* [2020] ACTSC 274.

concluded the purpose of s 68BA(4) was to provide procedural fairness to any person who might be affected if the order proposed to be made under subs (3) was made. It ensured that no accused person would have their mode of trial altered without first being given notice of that proposal and the opportunity to be heard with respect to it. Mr Vunilagi had accepted that procedural fairness was required if a court's procedure can be said to conform to the *Kable* principle.

Similarly, Gordon and Steward JJ held that section 68BA(4) was a procedural fairness provision, giving some minimum content to the obligation by providing for seven days for the parties to respond. In that respect, the giving of notice and hearing of submissions, whether express under s 68BA(4) or implied (as it would have been in the absence of s 68BA(4)), were indeed necessary for the power in s 68BA(3) to conform with the *Kable* principle. The duty to give notice under s 68BA(4) was, therefore, neither arbitrary nor devoid of criteria, nor properly construed as a power. It was a duty that needed to be complied with before the court made an order under s 68BA(3).

Further, Edelman J concluded Section 68BA(4) required that the court take into account the case management considerations in s 68BA(3) to decide whether a trial by judge alone might be ordered. That approach is wholly compatible with the institutional integrity of the Supreme Court.

The Court further concluded that section 80 of the *Constitution* did not apply to Mr Vunilagi's offences. At all relevant times, ss 54 and 60 of the *Crimes Act* were laws of the Australian Capital Territory and that was the case even though s 34(4) had its source in Commonwealth law. Justice Gageler (as his Honour then was), observed that with effect from at least 28 May 1992, the *Crimes Act* and each of its provisions has operated substantively as a law of the Legislative Assembly, enacted in the exercise of the legislative power conferred by s 22 of the *Australian Capital Territory (Self-Government) Act 1988* (Cth), and not as a law of the Commonwealth.

It was noted that the submission that "any law of the Commonwealth" in s 80 included a law made by a subordinate legislature of a territory would require re-opening and overruling this court's decision in *R v Bernasconi* (1915) 19 CLR 629. Chief Justice Kiefel, Gleeson and Jagot JJ found it was not necessary to review that decision because, regardless of the decision in *Bernasconi*, Mr Vunilagi's contention could not be reconciled with the proposition, for which there was good authority, that by granting territories self-government, the Commonwealth created new bodies politic, the laws of which are distinct from the laws of the Commonwealth Parliament. Justices Gordon and Steward also concluded that the offences for which the appellant was tried and convicted did not fall within the meaning of "offence[s] against any law of the Commonwealth" in s 80 of the *Constitution*. It was, therefore, unnecessary for this court to consider distinguishing or re-opening *Bernasconi*.

His Honour Edelman J agreed the appeal should be dismissed, however dissented with respect to the reopening of *R v Bernasconi*. His Honour concluded however that as a matter of the interpretation of s 80 of the *Constitution*, ss 54 and 60 of the *Crimes Act* have not been laws of the Commonwealth for decades concerns the smaller issue of interpretation that was

raised, but not decided, in *R v Bernasconi*. It is not necessary to consider whether a similar application could re-explain the result in *R v Bernasconi*, which would have the effect that the result in *R v Bernasconi* would not be overruled.

Vuolo v Fall

The appellant was found guilty of one charge of stalking following a hearing on 2 and 3 March 2022 before Magistrate Theakston. The DPP prosecuted the matter in the Magistrates Court. The offence was found proved in relation to the appellant stalking his ex-partner on six occasions on 4 February, 8 February, 31 March, 16 April, 10 May, and 14 May 2020.

The appellant and the victim were married from 2010 to 2017. They shared three children, aged 10, seven and four at the time of the offending. The victim and the appellant commenced an informal care arrangement for changeover of their children. Changeover would occur at carpark in Gold Creek, ACT.

On each of the six occasions found by the Magistrate, following changeover of the children, the appellant followed the victim in his car, or was close to and ahead of her in his car and backtracked to be behind her. On these occasions, the victim was in her own car driving to her home and sometimes to her new partner's home. On some occasions, the children were with the victim in her car, and on other occasions they were with the appellant in his car. On each occasion, the appellant followed the victim on several roads and turns on a route inconsistent with driving directly to his home.

The victim recognised the appellant's car and observed him on each of these occasions. She took evasive action including taking alternative routes, pulling into alternative streets, and parking for a period of minutes and waiting to avoid him. The Magistrate found that the appellant had followed and backtracked to be near the victim and that his conduct amounted to stalking. The appellant was found to have been "at least reckless" as to whether his behaviour would cause the victim apprehension or fear of harm.

The appellant was found guilty on 3 March 2022. He was sentenced on 20 April 2022. Magistrate Theakston proceeded pursuant to section 17(2)(b) *Crimes (Sentencing) Act 2005* (ACT) (CSA), whereby, without proceeding to conviction, the appellant was placed on good behaviour order for a period of 12 months with a core condition that that the appellant be of good behaviour for that period.

The prosecution appealed seeking a review of the sentence imposed pursuant to Division 3.10.3 of the *Magistrates Court Act 1930* (ACT) (MCA), on the basis the sentence was manifestly inadequate or otherwise in error. The respondent asserted a number of specific errors, as well as asserting the sentence imposed for the offence was manifestly inadequate.

The appeal was heard by Kennett J on 24 August 2022 with orders allowing the appeal made on 15 September 2022: *Fall v Vuolo* [2022] ACTSC 249. His Honour rejected the prosecution's grounds asserting specific error, however allowed the appeal on the basis the sentence imposed by Magistrate Theakston was manifestly inadequate: *Fall v Vuolo* at [25] – [34]. His

Honour set aside the sentence and resentenced the appellant by imposing a conviction and ordering him to be of good behaviour for a period of 12 months.

The appellant then appealed to the Court of Appeal. The Full Court (Baker, McWilliam and Abraham JJ) dismissed the appellant's appeal: *Vuolo v Fall* [2023] ACTCA 33. Whilst their Honour's found Kennett J had erred in suggesting that a disposition by way of a non-conviction order did not attract "punishment", his Honour was correct to find the magistrate's sentence was manifestly inadequate and thus allow the prosecution's appeal. Consequently, it was appropriate to dismiss the appeal.

The appellant then sought special leave to appeal to the High Court. The arguments which the appellant sought to argue had not been raised in either proceeding below, including challenging established authority in the jurisdiction relating to non-conviction orders.

The High Court refused special leave to appeal. It was concluded the appellant's appeal lacked sufficient prospect of success and that the appeal was an inappropriate vehicle to consider the approach to s 17 dispositions. Accordingly, leave was refused.

Sexual Offences Unit

The Sexual Offence Unit (SOU) is made up of a specialist team of prosecutors experienced in the preparation and prosecution of sexual offence matters within the ACT. The SOU is led by a supervising prosecutor and is supported by two senior prosecutors and two junior prosecutors. The SOU also works closely with Crown Chambers, and the Director and Deputy Directors, who provide advice, guidance and direction on SOU files.

The SOU works collaboratively with SACAT. The SOU leader meets on a monthly basis with SACAT leadership to ensure optimum service is delivered to victims of sexual offences. SOU prosecutors deliver training to SACAT groups and bi-annual training to the new recruits at the Australian Federal Police (AFP) College.

The SOU work closely with the office's WAS team to engage with complainants, their families and vulnerable witnesses as early as possible. SOU prosecutors regularly engage with the special provisions in the *Evidence (Miscellaneous Provisions) Act 1991*, which are designed to reduce trauma associated with giving evidence and enhance the witness's ability to give their best evidence.

Further, legislative change in recent years has positively impacted the prosecuting of sexual offences in the ACT. As mentioned above there are special measures that can aid in realising a trauma-informed response to complainants engaged by the SOU. These special measures include:

- › The introduction of intermediaries being available for witnesses who have a communication difficulty pursuant to chapter 1A *Evidence (Miscellaneous Provisions) Act 1991*,
- › The automatic recording of a sexual offence complainant's evidence, pursuant to s69 *Evidence (Miscellaneous Provisions) Act 1991*,

- › The title of s56 has changed to Persistent Sexual Abuse of Child or Young Person Under Special Care. This change was the result of victim-survivors advocating for language change to reflect the seriousness of the crime and the importance of language in charging abusers,
- › On 12 May 2022, the *Crimes (Consent) Amendment Act 2022* introduced the affirmative consent laws.

It has to some extent, changed the law in relation to sexual offences. In Part 3 of the *Crimes Act 1900*, for example, is a communicative model of consent, consent is not presumed, and negated consent laws have been updated to reflect changing community expectations.

Following the Board of Inquiry into the Criminal Justice System in the ACT, the ACT Government approved and funded a pilot of embedding a Senior Prosecutor within SACAT. The embedded prosecutor role commenced on 29 January 2024 and received initial funding for a period of seven months, which was later extended until the end of 2024. Moving forward in the next reporting year, this advice work and collaboration with ACT policing will continue from within the DPP.

In July 2021, the ACT Government established a Sexual Assault Prevention and Response (SAPR) Program to coordinate the community, the service sector, unions and relevant stakeholders on responses to sexual assault in the ACT. A senior member of the SOU was an active member of the SAPR Law Reform Working Group which recommended several justice system reforms and legislative amendments, including the affirmative communicative model of consent. The Steering Committee accepted all of the recommendations made by the SAPR Law Reform Working Group and the '*Listen. Take Action to Prevent, Believe and Heal Report*' (the report) was presented to Government on 13 December 2021. The report made 24 recommendations to improve how the ACT prevents and responds to sexual violence in our community.

On 30 April 2024, the *Sexual Assault (Police) Review Report* (the 'Report') was released, this was in response to Recommendation 15 of SAPR. The Report examined 684 sexual assault cases reported to ACT Policing between 1 July 2020 and 31 December 2021 which did not progress to charge. The Report made a number of recommendations to the ACT Government to improve the quality of investigation and response to sexual assault allegations. New prosecution files, arising from SAPR, began in the reporting year.

The DPP's prosecution statistics for sexual offences for the reporting year are provided below.

Table 2: Sexual Offences: Trials and Sentences in the Supreme Court - 1 July 2023 to 30 June 2024

Description	Matters
Trials	
Trials	13
Trial Days in Court	89
Trial Outcomes	
Guilty Verdicts	5
Not Guilty Verdicts	5
Other	3
Awaiting verdict	
Sentencing Proceedings	
Accused sentenced after committal for sentence or after committal for trial/changed plea or re-sentenced after breach	14
Notices declining to proceed further	5

Table 3: Breakdown of Sexual Offence matters in different courts - 1 July 2023 to 30 June 2024

Description	Magistrates Court	Childrens Court	Supreme Court	Total
Sexual Offence matters commenced	125	8	68	201
Sexual Offence matters completed	42	4	29	75
Sexual Offence matters proved	28	2	18	48
Sexual Offence matters discontinued	7	1	5	13
Sexual Offence breach matters	4			4

Notable cases by the Sexual Offences Unit (SOU)

The following are examples of SOU prosecutions, in collaboration with Crown Chambers and the WAS team, which proceeded to hearing or trial during the reporting period.

DPP v Valentino (a pseudonym)

This offence was described by the sentencing judge as a very serious example of the offence of sexual intercourse with a child.

The offender was a man in his 50's who had a teenage son named Tom (a pseudonym). At the time of the offence, Tom was on remand in juvenile detention. The victim was the 15-year-old girlfriend of Tom, and she spent some time at the offender's home, while Tom was in detention, as she had nowhere else to stay.

On the evening of 5 January 2024, when the victim was staying at the offender's home, the offender woke her up whilst she was asleep in the offender's son's bed and asked the complainant 'what would she do for Tom?' The victim replied, 'pretty much anything,' the offender then told the victim that he had control over whether Tom was released from juvenile detention, and that if the victim performed a sexual act on him, then he would let Tom out, and that the victim and Tom would be fine.

The offender sexually assaulted the victim in multiple ways over a number of hours. The victim sustained physical injuries from the offending conduct, which persisted for a month.

The offender entered a plea of guilty to a rolled-up count of sexual intercourse without consent. In sentencing the offender, Acting Justice Berman stated, "(a)ll offences of sexual intercourse with a child under the age of 16 are serious, but as I have just noted, this is a particularly serious example of this offence. The sentence I impose upon the offender must mark that circumstance in a very concrete way. Members of the community are entitled to expect that the courts are responding to offending of this kind in a way which demonstrates just how wrong the offenders conduct was".⁶

The offender was sentenced to a term of imprisonment of eight years, with a non-parole period of five years.

DPP v Pah Eh

The offender was convicted of a single count of persistent sexual abuse of a child or young person under special care and was sentenced to a term of two years and three months imprisonment with a non-parole period of one year and three months, following his plea of guilty.

The offender had a difficult childhood, he was born in a refugee camp in Thailand and his father died when he was young, and his mother abandoned him and his siblings. He migrated to Australia when he was 12, shortly after he began to attend a church in the ACT.

When the offender was aged 23, he began to socialise with the 15-year-old victim, who he had met at church. The victim and offender were distantly related. The offender told the victim that he had romantic feelings for her and over a number of months he engaged in regular sexual acts, escalating in severity, with the victim. The acts occurred in isolated locations and were sometimes met with resistance by the victim which was ignored by the offender. As the offender was an older male relative of the victim, he was in a position of trust.

⁶ DPP v Valentino (a pseudonym) [2024] ACTSC 140

In sentencing the offender, the court accepted that the offender was a naïve and vulnerable young man for his age. However, the court found that general deterrence was of prime importance when sentencing for offences of this nature. The court recognised that children are vulnerable and sometimes make the wrong decisions which can lead them to being harmed. The court held that it is important to protect children from people like the offender who use them for sexual gratification.

Russell v Sarvari

The accused was charged with four offences of committing an act of indecency without consent, arising out of an incident in November 2022 where the complainant, a young woman, attended the offender's tailoring shop to have a dress altered. The offending occurred when the offender indecently touched the complainant and made sexualised comments to her during the tailoring process. In the days after the incident the offender contacted the complainant, sending her five text messages which included messages with love heart emojis.

The offender pleaded not guilty, and the matter proceeded to a three-day hearing in the Magistrates Court. The complainant and the accused gave evidence in the hearing. The accused denied doing anything inappropriate to the complainant during the tailoring session and explained that the messages were sent in an attempt to follow up on payment.

The Court accepted the victim's version of events, and rejected the offender's evidence, except where it was consistent with the victim's evidence.

The offender was found guilty of the offences of acts of indecency without consent, and will be sentenced in September 2024.

Family Violence Unit

During the 2023–2024 reporting period, the office continued to maintain a specialist family violence unit ('FV Unit'), responsible for conducting and overseeing prosecutions of offences committed in the context of family relationships. This includes offences of personal violence, contraventions of family violence orders and damage to property.

The FV Unit includes a supervising prosecutor, two senior prosecutors and five prosecutors. Prosecutors appear in bi-weekly family violence lists (FV lists) held in the Magistrates Court. This frequency was increased in January 2023 from one to two lists per week, with an additional FV sentencing list on Tuesday afternoons in the general list. The FV list deals with mentions, pre-hearing mentions, committals to the Supreme Court and sentencing proceedings. Prosecutors in the FV Unit also maintain caseloads of hearing matters that proceed in the Magistrate's Court, and some serious offences that will ultimately be committed to the Supreme Court. Family violence hearings continued to be heard in bulk listing periods, known as family violence special fixtures lists, throughout the year. Each special fixtures list runs for approximately one to two weeks, and these are held every one to two months. In addition, family violence hearings are regularly heard outside of the special fixtures list.

The FV Unit strives to provide a consistent approach to FV matters which is achieved by reviewing files at a very early stage of the proceedings, prior to the first mention, and by the early allocation of FV matters to a prosecutor immediately following a plea of not guilty. The FV Unit also continues to work closely with external agencies, including ACT Policing's Family Violence Coordination Unit, Domestic Violence Crisis Service, Children, Youth and Families and Victim Support ACT. A family violence prosecutor or WAS officer attends a weekly meeting with these external stakeholders ('case tracking') to ensure that relevant information is shared between agencies. The FV Unit is involved in provision of training to ACT Policing in relation to conducting Family Violence Evidence in Chief Interviews and other matters specific to the prosecution of family violence offences. The FV Unit has also provided training on our role in the criminal justice system to Children, Youth and Families.

The office recognises the significant public interest in prosecuting offences involving family violence, and this informs many of the decisions taken in respect of family violence proceedings prosecuted by the FV Unit in accordance with the Prosecution Policy.

Table 4: Breakdown of Family Violence matters in different courts - 1 July 2023 to 30 June 2024

Description	Magistrates Court	Childrens Court	Supreme Court	Total
FV matters commenced	722	47	30	799
FV matters completed	740	48	26	814
FV matters proved	568	27	20	615
FV matters discontinued	92	8	3	103
FV breach matters	75	7	9	91

Notable cases by the Family Violence Unit

The following are examples of FV prosecutions which proceeded to hearing or trial during the reporting period.

Police v CI

CI pleaded not guilty to a single count of contravening a Family Violence Order (FVO) by way of messaging his estranged wife by SMS. There was an exception to the prohibition on contact in the FVO if the contact was "in relation to the adult protected person, in writing or by SMS only for the purposes of facilitating contact handover of the respondent's children or to discuss their safety and welfare". The text messages that were said to constitute the breach included ostensibly friendly messages from the accused to the complainant (the adult protected person) requesting a copy of a report in relation to their family law proceedings, and "offering a peace treaty" to work out a co-parenting plan in relation to the children without the intervention or involvement of lawyers. There was also a lengthy message about finances

which purported to be couched in the language of being in relation to the welfare of the children.

The matter proceeded to a contested hearing in which most of the conduct was undisputed and the principal considerations for the court were whether the messages fell within the exceptions to contact in the FVO; and whether the accused was reckless as to whether the contact constituted a breach of the order. The prosecution submitted that the messages, in the context of a relationship involving family violence, were manipulative and underhanded and were aimed at engaging the complainant in discussions about property settlement and provision of a report outside of communication via lawyers. The accused was found guilty of the charge, which was held to be a contravention of the order. He was found to have been reckless as to whether the communication would breach the order.

The victim submitted a detailed Victim Impact Statement at sentence in which she talked at length about the emotional and psychological impact of the messages on her wellbeing. The accused was convicted and fined \$2000, as he was already subject to two Good Behaviour Orders in the Supreme Court for violent offending against the same victim.

Police v EN

The accused was charged with a number of offences arising out of a sustained incident against his partner, namely, minor property damage of some bowls, choking (by hand), choking (by smothering - with a pillow), assault occasioning actual bodily harm, two common assaults and forcible confinement.

The matter proceeded to hearing over three days. The accused gave evidence, which the court did not accept as credible or reliable.

The complainant made an immediate complaint. She was required to provide a description of the incident to six people within four hours of the incident, including ambulance officers, police and hospital staff. The court held that there were limited inconsistencies between those versions and that any such inconsistencies were unsurprising given the number and duration of assaults. The court ultimately found that the complainant was an impressive, consistent, reliable and credible witness.

The damage property charge was not proved due to uncertainty as to which bowls were thrown and who owned them. The forcible confinement was not proved because while the complainant felt unable to leave, there was doubt from the Court as to whether the accused was intentionally confining her for the full duration.

The accused was found guilty on the remaining charges. He had no other relevant criminal history. The court held at sentence that family violence is a scourge and should be deterred, and that the accused had limited insight or remorse. Rehabilitation was particularly important given his youth, but so too was recognising the harm done to the victim and denouncing his conduct. He received a total effective sentence of two years imprisonment to be served by way of an intensive corrections order.

Police v SN

The accused was charged with one count of common assault that was aggravated by family violence. The accused was the complainant's partner at the time, and both had just arrived in Canberra from interstate. The matter proceeded to hearing and the accused was found guilty and convicted. The court was assisted by CCTV footage which depicted the demeanour of the complainant and the accused immediately prior to the incident. The court was also assisted by the evidence of two independent witnesses who were members of the public that witnessed the accused's demeanour prior to the assault and immediately afterwards. The accused did not give evidence; however, he did participate in a record of interview which was partially played at the hearing. The complainant gave evidence both via an evidence-in-chief interview and through sworn evidence on the day. The Magistrate found that the prosecution witnesses were frank, impressive and forthright. His Honour did not accept the denials put forward by the accused in his police interview.

The accused was convicted and, following the tender of subjective material and submissions made on his behalf, sentenced to a Good Behaviour Order for one month.

Police v Hughes

In July 2023, the accused and his partner argued about money. During that argument, the accused threw something hard at the complainant's back, pushed her in the shoulder and gave her two upper-cut punches to the face. At the time, the complainant was about eight months pregnant. She suffered a black eye. The complainant fled the house on foot. A concerned dogwalker passed the complainant in the street, had a conversation with her and called police.

In February 2024, the accused breached his bail conditions and returned to the complainant's home. The pair argued. The complainant walked into the backyard and crouched on the ground. The accused repeatedly struck the complainant to the head and took her phone. She again sustained a black eye.

Both incidents proceeded to contested hearings. The prosecution called evidence from the responding police officers, the dogwalker, and the complainant. The accused was convicted on all charges. He was sentenced to a total term of 20 months' full-time imprisonment and fined \$2,000.

Witness Assistance Service

The Witness Assistance Service (WAS) function in the DPP provides support and information for witnesses and victims involved in criminal cases.

During the reporting period, there were three WAS officers employed within the DPP. WAS officers work closely with DPP prosecutors and various external agencies to ensure witnesses and victims have access to available services and resources that are appropriate to their needs. WAS officers often attend court with a witness or victim, offering emotional and practical support. This can include offering trauma reducing comforts (therapeutic items) such as

weighted blankets, weighted toys for child victims and witnesses, arranging remote witness rooms if there is a need, and organising court dogs as a support mechanism during court appearances.

WAS officers provide various other supports to victims and witnesses throughout the court process, including through in person meetings, contact via phone and email to provide regular and relevant updates, information relating to support services, assistance in the preparation of victim impact statements and debriefings after court proceedings.

WAS assist specifically where there is a vulnerable victim or witnesses in sexual offence matters and matters where children are required to give evidence. Unfortunately, the DPP is not able to appoint a WAS officer to many matters, and whilst the 2023–24 reporting period shows continued growth in WAS team practice numbers, this still only represents a fraction of the vulnerable victims and witnesses where WAS support is required. The WAS team look forward to being able to provide support to a greater number of victims, witnesses and complainants in the next reporting year.

During the 2023–24 reporting period, one of the most significant updates was the purchase and availability of a wider variety of therapeutic items for witnesses, and making the meeting rooms less 'sterile' and more 'cosy and inviting' to support victims, witnesses and complainants who attend the DPP to discuss difficult content, and to prepare for Court. The DPP thanks Victim Support ACT (VSACT) for assisting the office in providing the funds required to achieve this.

WAS continues to provide updated relevant information in attending weekly Family Violence Case Tracking meetings as part of DPP's involvement in the FVIP (Family Violence Intervention Program). The forum ensures that assistance is offered to those identified as not receiving or engaging support throughout the court process.

Register of Victims Complaints

WAS continues to maintain a register of complaint matters in accordance with subdivision 3A.7.2 of the *Victims of Crimes Act 1994 (ACT)* (VOC Act), as defined in s18D of the VOC Act. A victim can complain if they believe the DPP has not complied with their rights, or if a victim is otherwise dissatisfied with the office's service in relation to victims' rights. Justice agency complaints by a victim are referred to WAS and to the appropriate prosecutor to review the matter. During the 2023–24 reporting period, one matter was recorded.

WAS Team case study

The following is an example of a WAS support matter which proceeded through the Supreme Court during the reporting period.

DPP v Wajid Kakar

The accused, Wajid Kakar, resided in a share house. In February 2021, Mr Kakar attacked three people who were inside his home. Two people were his house mates, and one was a guest

of a house mate. The accused repeatedly stabbed and chopped the victims with a butcher's knife and a meat cleaver. One of the victims died as a result of his injuries, the others suffered multiple critical injuries, but were ultimately saved via emergency surgery. The attack resulted in prominent and visible scars on the surviving victims, and severe ongoing psychological trauma as result of the incident.

Over more than two years of the prosecution process, expert psychiatrist reports were ordered and considered for the accused. Expert medical opinions were given by two forensic psychiatrists and a Professor of Pharmacology. The experts were of the unanimous opinion that, at the time of the offence, the accused was suffering a mental impairment (a psychotic disorder, most likely schizophrenia) which was of such a nature that he was unable to control his conduct and that he did not appreciate that the conduct was wrong. The DPP agreed that special verdicts were to be entered, and Justice Baker accepted the expert opinions.

On 31 August 2023, a special verdict was handed down and found the accused not guilty by reason of mental impairment under s 321 (2) of the *Crimes Act 1900* (ACT).

There is a requirement in s302(2) of the *Crimes Act* to set a nominated term. Justice Baker handed down an overall aggregate sentence of 30 years' imprisonment, expiring in 2051, the maximum time the offender will be detained (the timeframe was in line with the length of imprisonment if the offender was not acquitted by way of mental impairment).

The offender was ordered to be detained in custody for immediate medical review by the ACT Civil and Administrative Tribunal (ACAT) under s180 of the *Mental Health Act 2015*, pursuant to s 324(2)(a) of the *Crimes Act 1900* (ACT). It was up to ACAT to determine the length of time the offender was to remain in detention. However, on 9 September 2023, the offender died at the Dhulwa Mental Health Unit.

The prosecutor requested WAS to liaise with the next of kin of the deceased victim. The level of WAS contact and information provided was based on the wishes of the victims and their families. It was necessary to take into consideration the sensitivity, grief and ongoing trauma that the victims and families were subjected to. Each victim and family member required different levels of engagement with the WAS officer throughout the prosecution process.

As the next of kin of the deceased attended each time the matter was before the court, WAS support included the following:

- › Questions and concerns were frequently addressed by WAS or relayed to the prosecutor throughout the process.
- › WAS team further relayed feedback from the family to the prosecutors –
 - › non-legal jargon written information to assist the family to understand the complexity of the prosecution process when the offender has a mental impairment and has been dealt with by a special verdict.
 - › their frustrations with the adjournments, delays and the long prosecution process.

- › Coordinated meetings between the family, the prosecutor, the police and the family's counselling supports.
- › Organised remote witness room facilities within the court precinct for family members who didn't want to be in the courtroom, including at the special verdict, where the WAS team arranged for victims and various family members to occupy both the courtroom and the remote witness rooms, allowing them to have their own space and privacy, without the need to interact with others involved in the matter.
- › Provided court support.
- › Liaising with the family's counselling support contact throughout the process to ensure the family were supported at meetings, at court and at other times.
- › Parking for the family each time they attended court or the DPP office.

The other two surviving victims suffered physically and psychologically, however there was minimum contact with the WAS team. A number of first responders were also affected, and members of the public including when one of the surviving victims sought assistance from a neighbour. WAS also provided next in court dates to one of the first responders, as requested.

Breakdown of WAS matters – 1 July 2023 to 30 June 2024

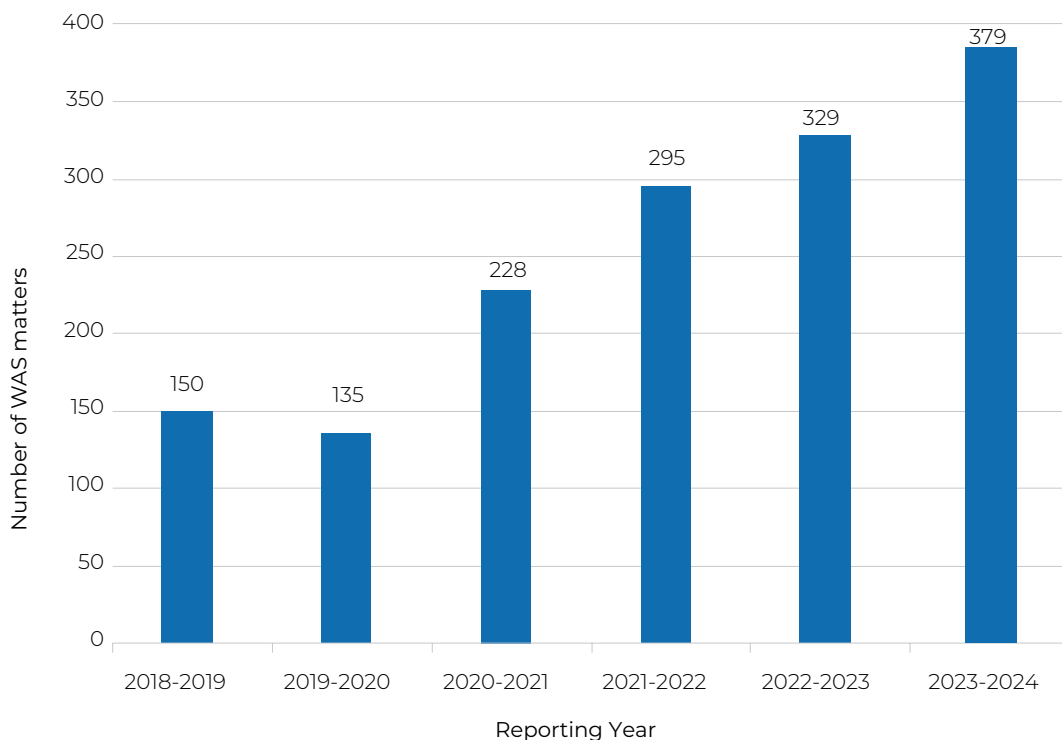
A breakdown of all matters involving WAS in the reporting year is provided below:

Table 5: Breakdown of WAS matters – 1 July 2023 to 30 June 2024

Offence type Categories	Number of WAS matters	Percentage*
Adult Sexual Assault	130	34.3
Child Sexual Assault	109	28.8
Historical Sexual Assault	54	14.2
Less Serious Violence Offences (adult)	5	1.3
Less Serious Violence Offences (child)	1	0.3
Serious Violence Offences (adult)	27	7.1
Serious Violence Offences (child)	2	0.5
Child Pornography	3	0.8
Other	35	9.2
Significant Trauma	1	0.3
Death	12	3.2
TOTAL	379	100

*Figures have been rounded up after the first decimal point.

Figure 2: Number of WAS matters in comparison – 2018–19 to 2023–24



Disability Liaison Officer

In accordance with the Disability Justice Strategy, a Disability Liaison Officer (DLO) continues to remain an important component of the DPP WAS team. The DLO's objective is to ensure people with a disability have access to appropriate resources and information and feel recognised throughout their interactions within the justice system.

Alongside the practical element of the role, the DLO continued looking at systemic change and improving office functions within the DPP. A challenge of this role within the office, is the number of victims, witnesses and complainants with disabilities has meant the focus of the role has been on providing front-facing support to those witnesses, rather than systemic change and reporting. The office will continue to work with Disability Justice in the next reporting year to ensure that the DLO space is well serviced, noting the front-facing part of the DPP role in this space.

Improvements and software upgrades to CASES continue, with data capturing, consistency in information sharing and identification of disabilities all contributing to the DPP's commitment to the pillars of the Disability Justice Strategy.

Confiscation of Criminal Assets (COCA)

The Director's powers under the *Confiscation of Criminal Assets Act 2003* ('COCA Act') remain effective tools in combatting serious and organised crime. The COCA Act is founded on the core tenet of public policy that a person should not be enriched by the commission of an offence. To this end, the DPP pursues the restraint and forfeiture of property where there is clear evidence the property was either used in the commission of an offence or the property is the proceeds of crime. The restraint and forfeiture of assets also acts as a key deterrent to criminal activity.

The DPP administers the Director's powers under the COCA Act by initiating confiscation proceedings in both the Magistrates Court and Supreme Court. The office has a team of specialised lawyers dedicated to working on confiscations proceedings (the COCA Team). In such proceedings, the Court may order the restraint or forfeiture of property derived from, or used in the commission of, an offence. The Court may also order the accused pay the Territory the value of benefits they derived from the offence. These proceedings ensure that no person is enriched by engaging in criminal activity and deprives persons of any property used, or intended to be used, in the commission of an offence. By initiating restraint, forfeiture and penalty order proceedings on behalf of the Director, the COCA team facilitates the administration of the COCA Act.

The COCA Team also enables the effective use of auxiliary information gathering functions provided for by the COCA Act. The COCA Team applies to the Courts for examination orders for persons suspected to have information or documents relating to ongoing criminal investigations. They then oversee the production of documents and compulsory examinations of offenders and their associates under the examination orders. The COCA Team works closely with the AFP's Criminal Assets Investigations Team (CAIT) and representatives from the Public Trustee and Guardian in carrying out their functions under the COCA Act.

Over the reporting period, the DPP restrained property with an estimated accumulated value of \$6.2.⁷ Property that was restrained during the reporting period included six residential properties, 11 motor vehicles, 18 bank accounts, five cryptocurrency accounts, jewellery worth an estimated \$192,000 and 23 seizures of cash totalling \$564,065.

During the reporting period, the Attorney General approved the use of \$2,628,459 of distributable funds from the Confiscated Assets Trust Fund.⁸ The distributable funds were made available for a range of criminal justice and law enforcement activities including; the Law Reform and Sentencing Advisory Council, an electronic monitoring feasibility study, family counselling at the Alexander Maconochie Centre and the extension of the embedded prosecutor initiative at the ACT Policing's Sexual Assault and Child Abuse Team. It is worth noting however that the object of the Act is not to raise money but to take away the profits from criminal activity.

⁷ Estimated value of restrained property is gross value only and does not take into account the value of any encumbrances.

⁸ *Confiscation of Criminal Assets (Distribution of Surplus Funds) Approval 2024 (No1)*.

COCA Cases

The following is an example of a COCA matter dealt with by the COCA team during the reporting period.

Op Athos

The accused in this matter came to the attention of police following investigations into the supply of anabolic steroids and other controlled drugs and declared substances in the Territory. The trafficking organisation was understood to operate across several southern states, with the organisation utilising the Australia Post network to facilitate supply to end-consumers. The accused were also believed to utilise multiple bank accounts to facilitate the sale of substances and laundering of proceeds of crime.

The confiscation proceedings commenced with an application by the Director for monitoring orders directed to a number of financial institutions. Monitoring orders are an information gathering order under the COCA Act which compel financial institutions to provide police with a person's transaction information over a specified period. It was alleged that the offenders used stolen identities to create bank accounts through which they would launder money from the sale of anabolic steroids and controlled drugs. The monitoring orders were critical in obtaining information supporting the suspicion that the offenders laundered through these accounts, as well as identifying accounts and quantifying the funds that moved through them.

Approximately \$2,576,000 was identified as having been withdrawn from the accounts in less than a two-year period.

In anticipation of the execution of search and arrest warrants in respect of the accused, the Director obtained restraining orders in relation to the funds standing to the credit of each of the stolen identity accounts, as well as the restraint of a residential property, several BMWs, multiple motorcycles, cryptocurrency accounts and hard wallet devices. The restraining orders were made on the basis the property was under the effective control of the accused and tainted property, and otherwise required to satisfy a penalty order.

Police executed search warrants at the residences of the accused and discovered an extensive and elaborate anabolic steroid and prescription drug trafficking business operating from the garage of an O'Connor residence.

It was apparent the accused each performed separate and distinct roles in the organisation, from packing and posting packages, to providing the premises for storage and packaging of the inventory, to managing the finances and taking orders from customers through online portals. The accused were subsequently charged with offences including the supply of anabolic steroids and dealing with proceeds of crime.

Work Safety Unit

The DPP has a Work Safety Unit which is dedicated to prosecuting offences against the *Work Health and Safety Act 2011 (ACT)* and *Work Health and Safety Regulation 2011 (ACT)*. This Unit works closely with WorkSafe ACT in relation to matters proceeding to prosecution before the courts.

Work safety breaches can be dealt with in various ways including through out-of-court mechanisms such as enforceable undertakings or the issuing of infringement notices which carry substantial financial penalties. However, where such avenues of compliance are either inappropriate or have been exhausted, prosecutions will be instituted by this office in the ACT Industrial Court.

WHS Cases

The following are examples of WHS cases that proceeded to prosecution during the reporting year.

Karl Allred

The accused operated a painting business which was contracted to paint the external surfaces of a townhouse complex in Kingston. The accused engaged a number of workers who did not have industry certifications to work at heights, and who were from a non-English speaking background.

The accused did not properly induct the workers into the site nor properly explain the associated risk assessment and safe work method statements to the workers. During May and June 2020, the workers conducted the external painting works at the site, however, the accused, as the foreman for the painting works and as the person in charge of the site, was not present for extended periods of time to oversee the painting works and to ensure the work was being undertaken in a safe manner.

On 9 June 2020, the accused departed from the site and left his workers unsupervised to do work on the lower areas of the site. A worker tied two ladders together and accessed the townhouse roof without any fall protection in place in order to adjust the rope on the fall arrest system. The top ladder slipped to the side and caused the worker to lose his balance and fall more than 5.5m to the ground. The worker sustained a spinal cord injury and a traumatic brain injury. The worker will remain a paraplegic for life.

This office prosecuted the accused for failing to provide adequate supervision and for failing to provide adequate instruction, information or training to its workers. The accused pleaded guilty to a Category 2 charge (Failure to comply with health and safety duty) in the ACT Industrial Court. Due to the accused's subjective and limited financial circumstances, the Court imposed a conviction, the maximum Good Behaviour Order period of three years and a work health and safety order pursuant to s 238 of the *Work Health and Safety Act 2011 (ACT)*.

JSC Pty Ltd

The accused company was undertaking construction work at a site in Condor. In May 2023, WorkSafe inspectors observed a worker, who was not wearing any respirable protection equipment, standing beside an excavator which was being used on broken concrete from a retaining wall. There was no water suppression system being used to minimise the risk of dust being created by the work undertaken.

A prosecution was instituted against the accused in the ACT Industrial Court. Subsequently, the accused paid an infringement notice penalty for failing to provide personal protective equipment to workers contrary to r 44(2) of the *Work Health and Safety Regulation 2011 (ACT)*, and the court proceedings against it were discontinued.

Titan Cranes & Rigging Pty Ltd

The accused company was conducting tower crane work at a construction site in Turner. It had a safe work method statement which prohibited the performance of a cradle lift unless it was the only option and only after consultation and a risk assessment had taken place. In November 2023, WorkSafe inspectors observed the accused performing a cradle lift of multiple formwork products and a skip bin. No consultation had taken place and no risk assessment had been conducted in relation to this cradle lift.

The accused did not pay an infringement notice issued by WorkSafe ACT for failing to comply with its safe work method statement contrary to r 300(2) of the *Work Health and Safety Regulation 2011 (ACT)*. A prosecution was instituted against the accused in the ACT Industrial Court. Subsequently, the accused paid the infringement notice penalty and the court proceedings against it were discontinued.

Breakdown of WHS matters – 1 July 2023 to 30 June 2024

The table below reflects the WHS matters prosecuted by the DPP in the reporting period.

Table 6: Breakdown of WHS matters – 1 July 2023 to 30 June 2024

Act	Matters (No.)	Proved/Fine Paid
Work Health and Safety Act 2011	2	1
Work Health and Safety Regulation 2011	1	

Regulatory

As well as prosecuting the typical criminal offences that occur in the ACT, the DPP also has responsibility for prosecuting offences which relate to the contravention of various regulations. These regulations are created to ensure that appropriate health, safety and protection standards are adhered to in the ACT. These matters cover a diverse range of regulatory offences and they are referred to our office from various regulatory agencies – such as offences relating to the neglect or mistreatment of animals, referred by the RSPCA; offences relating to improper handling or preparation of food sold by restaurants or cafes, referred by ACT Health; offences relating to noise pollution by home-owners, referred by the ACT Environment Protection Authority; or offences relating to the construction of buildings in the ACT, referred by Access Canberra.

Breakdown of Regulatory matters – 1 July 2023 to 30 June 2024

The below table sets out the number of regulatory matters that were finalised by the DPP during the reporting year.

Table 7: Breakdown of Regulatory matters – 1 July 2023 to 30 June 2024

Act	Matters (No.)	Proved/Fine Paid
Animal Welfare Act 1992	2	1
Agents Act 2003	1	1
Public Unleased Land Act 2013	24	12
Food Act 2001	3	2
Litter Act 2004	6	1
Total	36	17

When a regulatory matter is referred to our office, the regulatory agency ordinarily provides a brief of evidence relating to the potential offence or offences alleged to have occurred. Often this agency will also provide our office with a recommendation as to what potential charges it believes arise from the facts. The DPP then carries out a review and assessment of this evidence. Following this, and in consultation with the relevant regulatory agency, our office determines whether a prosecution should commence, and if so, what charges are warranted.

Regulatory Cases

The following are examples of WHS cases that proceeded to prosecution during the reporting year.

Rising Wood Pty Ltd

One matter referred to the DPP during the reporting period from ACT Health, related to the business conduct of a Canberra supermarket.

In this case, it was alleged that this particular supermarket was breaching various provisions of the *ACT Food Act 2001* and the Australia New Zealand Food Standards Code. The allegations included conduct such as mislabelling certain food products (for example, the removal of the expiry dates or best before dates on certain food products for sale), the improper handling and storage of food products, conducting an unregistered food business, not employing a food safety supervisor, and the failure to notify ACT Health of a change of any relevant details of the food business.

One of the issues that arose in this matter, which can often arise when dealing with regulatory offences relating to a business, is whether the charges should be laid with respect to the company or against the managers and operators of the business. This matter was further complicated by the fact the official records were somewhat ambiguous as to whether, at the relevant time, the supermarket business was being operated by a corporation or by the individual managers of the supermarket.

In this case, it was determined that the best approach was to lay charges against both the corporate entity and the individual managers as co-accuseds, which avoided the possibility of any charges being later dismissed due to the incorrect entity being charged. Ultimately, this matter resolved with pleas of guilty entered by the corporation in full satisfaction of the misconduct carried out by this supermarket, and in August 2023, the corporation was convicted in the Magistrates Court and ordered to pay a fine of \$16,500.”

Damien Hennock

In a further matter, referred to the DPP by the RSPCA, the accused was charged alongside his partner with aggravated animal cruelty; failure to give an animal appropriate treatment for illness, disease or injury (as a back-up); and failure to give an animal appropriate care (as a further back-up).

RSPCA inspectors responded to reports of an emaciated Dachshund called ‘Slinky’ at the accused’s address. They found it to have a protruding spine, rib cage and pelvis. The dog was seized and assessed by a veterinarian who found it be suffering from starvation for at least one month, and was perhaps a week away from death.

The accused reported to police that his dog was stolen. RSPCA inspectors made contact with the accused, who said that the dog was ill and had been throwing up food but that he had not taken it to the vet. Further veterinary treatment by the RSPCA revealed 72cm of fabric in Slinky’s stomach and small intestine.

The accused accepted full responsibility for the matter and pleaded guilty to the failure to provide appropriate treatment for illness charge. The other charges against him and his partner were withdrawn. He paid the veterinary fees of the RSPCA, and no conviction was recorded.

Parking Matters

The DPP also prosecutes parking infringements.⁹ As shown in the table below, there were a total of 194 parking matters completed in the financial year. This was inclusive of 61 convictions, eight charges proven and dismissed, one charge proven but no conviction recorded and six charges dismissed. For the majority of the remaining parking infringements there was no evidence offered by the prosecution. Often this happens because the offender has responded to the infringement notice and paid the fine before the hearing date.

Parking matters managed by the DPP in the reporting period are reflected below.

Table 8: Breakdown of Parking matters – 1 July 2023 to 30 June 2024

	Matters
Conviction	61
Proved no conviction	1
Proved dismissed	8
Dismissed	6
Withdrawn	29
No Evidence to Offer	89
Total	194

List Team

The List Team is currently comprised of six Prosecutor Associates (Prosecutor Associate List Team, or 'PALs'), a Senior Prosecutor and a Supervising Prosecutor. The team is also assisted by Grade 1 – 2 Prosecutors, particularly those who have been recently promoted from being PALs themselves. The team is further assisted by paralegals, who help with the administrative preparation of files and the provision of material to defence practitioners.

PALs are junior lawyers, and the List Team is often their first court-based advocacy role. Some PALs have already had experience within the DPP, having worked as Prosecutor Associates in Crown Chambers (Prosecutor Associate Crown Chambers, or 'PACs', who instruct on trials but do not appear themselves).

⁹ Infringements are issued by Access Canberra and the AFP for breaching the current *Road Transport (Road Rules) Regulation 2017* and the *Road Transport (Safety and Traffic Management) Act 1999*.

The List Team has operated as an entry-level position to the DPP for several years now, and several PALs have now gone on to become prosecutors and senior prosecutors.

The PALs appear in the ACT Magistrates Court and Childrens Court several times each week.

The structure of listings changed in early 2024, with administrative matters largely being dealt with before a Registrar's list, which sits twice weekly. PALs also appear in general Magistrates list, which sit three time per week, and the bail list, which sits every day. In these lists, PALs appear in matters ranging from simple first mentions, through to complex sentences, contested bail applications, interstate extraditions, and committals to the Supreme Court. PALs appear in the Childrens Court lists, which deals with mentions, sentences and bail applications for young persons under the age of 18 charged with criminal offences. In total, the small team staffs a minimum of 19 lists per week.

Whether the charge is for low-range drink driving or for murder, almost every matter in the Territory will start its journey through the court system in a Magistrates Court list. A single list will have anywhere between five to 90 files. The PALs play a crucial role in reviewing charges, liaising with the Australian Federal Police, and responding to correspondence from defence practitioners.

DPP Statistics from 1 July 2023 to 30 June 2024

The statistics used in this Annual Report are generated from the DPP's Criminal Advocacy Support and Enquiry System ('CASES'). The counting unit is a matter, which is defined as a charge or group of charges relating to an offence. Generally, matters reported are those finalised within the reporting period. "Finalisation" describes how a criminal charge is concluded by a criminal court level. Of particular note, a transfer to another court level (for example a committal either for trial or sentence) concludes the matter in one court level and initiates it in another court level. Other matters may be reported as being conducted rather than completed, which captures matters that have been prepared and argued in court, and are awaiting the court handing down its judgment, that can sometimes take a number of months.

All offences in CASES are classified using the 16 divisions set out in the Australian and New Zealand Standard Offence Classification 1234.0 ('ANZSOC')¹⁰. Where tables refer to matters being "disaggregated by matter type", this is a reference to the ANZSOC divisions. The National Offence Index ('NOI')¹¹ is a ranking of all ANZSOC groups and supplementary ANZSOC codes¹².

¹⁰ See catalogue 1234.0, *Australian and New Zealand Standard Offence Classification (ANZOC)*, 2011 at <https://www.abs.gov.au/statistics/classifications/australian-and-new-zealand-standard-offence-classification-anzsoc/2011>.

¹¹ See 1234.0.55.001 – *National Offence Index*, 2018 at <https://www.abs.gov.au/statistics/classifications/national-offence-index/latest-release>.

¹² *The NOI has been developed by the ABS as a statistical tool to enable the output of nationally comparable offence information within the field of crime and justice statistics. The NOI is a tool which provides an ordinal ranking of the offence categories in the ANZSOC according to perceived seriousness in order to determine a principal offence. The purpose of the NOI is to enable the representation of an offender by a single offence in instances where multiple offences occur within the same incident or where defendants have multiple charges in criminal cases.*

This ranking is based on the concept of 'offence seriousness'. Where a finalised defendant has multiple charges within a matter, the principal offence is determined by the type of finalisation and/or the highest ranked ANZSOC using the NOI.

Table 9: Total matters finalised by jurisdiction

Description	Matters
Childrens Court	430
Magistrates Court	4505
Industrial Court	3
Supreme Court	270
Court of Appeal	19
High Court	4
Total	5231

*Note: Childrens Court, Magistrates Court and Industrial Court matters include committals to the Supreme Court. Supreme Court matters include Supreme Court appeals and matters where a Notice Declining to Proceed was filed.

Table 10: Matters finalised disaggregated by matter type

Description	Matters
Homicide and related offences	
Childrens Court	1
Magistrates Court	5
Industrial Court	
Supreme Court	11
Court of Appeal	1
High Court	
Sub Total	18
Acts intended to cause injury	
Childrens Court	124
Magistrates Court	682
Industrial Court	
Supreme Court	44
Court of Appeal	3

Description	Matters
High Court	1
Sub Total	854
Sexual assault and related offences	
Childrens Court	11
Magistrates Court	110
Industrial Court	
Supreme Court	40
Court of Appeal	5
High Court	1
Sub Total	167
Dangerous or negligent acts endangering persons	
Childrens Court	16
Magistrates Court	138
Industrial Court	
Supreme Court	17
Court of Appeal	2
High Court	1
Sub Total	174
Abduction and related offences	
Childrens Court	9
Magistrates Court	149
Industrial Court	
Supreme Court	14
Court of Appeal	3
High Court	1
Sub Total	176
Robbery, extortion and related offences	
Childrens Court	44

Description	Matters
Magistrates Court	69
Industrial Court	
Supreme Court	41
Court of Appeal	3
High Court	
Sub Total	157
Unlawful entry with intent/burglary, break and enter	
Childrens Court	40
Magistrates Court	155
Industrial Court	
Supreme Court	42
Court of Appeal	1
High Court	
Sub Total	238
Theft and related offences	
Childrens Court	85
Magistrates Court	396
Industrial Court	
Supreme Court	19
Court of Appeal	
High Court	
Sub Total	500
Deception and related offences	
Childrens Court	2
Magistrates Court	26
Industrial Court	
Supreme Court	6
Court of Appeal	1

Description	Matters
High Court	
Sub Total	35
Illicit drug offences	
Childrens Court	2
Magistrates Court	102
Industrial Court	
Supreme Court	17
Court of Appeal	
High Court	
Sub Total	121
Weapons and explosives offences	
Childrens Court	18
Magistrates Court	170
Industrial Court	
Supreme Court	5
Court of Appeal	
High Court	
Sub Total	193
Property damage and environmental pollution	
Childrens Court	23
Magistrates Court	143
Industrial Court	
Supreme Court	2
Court of Appeal	
High Court	
Sub Total	168
Public order offences	
Childrens Court	22

Description	Matters
Magistrates Court	125
Industrial Court	
Supreme Court	1
Court of Appeal	
High Court	
Sub Total	148
Road traffic and motor vehicle regulatory offences	
Childrens Court	15
Magistrates Court	1587
Industrial Court	
Supreme Court	5
Court of Appeal	
High Court	
Sub Total	1607
Offences against justice procedures, government security and government operations	
Childrens Court	17
Magistrates Court	595
Industrial Court	
Supreme Court	5
Court of Appeal	
High Court	
Sub Total	617
Miscellaneous offences	
Childrens Court	1
Magistrates Court	53
Industrial Court	3
Supreme Court	1
Court of Appeal	

Description	Matters
High Court	
Sub Total	58
Coronial	
Childrens Court	
Magistrates Court	
Industrial Court	
Supreme Court	
Court of Appeal	
High Court	
Sub Total	0
Total	5231

Table 11: Committals to the Supreme Court

Description	Matters
Childrens Court	9
Magistrates Court	235
Industrial Court	
Total	244

Table 12: Committals to the Supreme Court disaggregated by matter type

Description	Childrens Court		Magistrates Court		Industrial Court		Total
	Trial	Sentence	Trial	Sentence	Trial	Sentence	
Homicide and related offences	1		4	1			6
Acts intended to cause injury			15	11			26
Sexual assault and related offences	4	3	55	6			68
Dangerous or negligent acts endangering persons			3	6			9
Abduction and related offences			10	5			15
Robbery, extortion and related offences			21	11			32
Unlawful entry with intent/burglary, break and enter		1	22	18			41
Theft and related offences			2	9			11
Deception and related offences			3	3			6
Illicit drug offences			8	6			14
Weapons and explosives offences			4	7			11
Property damage and environmental pollution			3				3
Public order offences							0
Road traffic and motor vehicle regulatory offences							0
Offences against justice procedures, government security and government operations				2			2
Miscellaneous offences							0
Total	5	4	150	85	0	0	244

Table 13: Plea of Guilty after Committal for Trial

Description	Matters
Plea of guilty after committal for trial	75
Plea of guilty after trial listed	48
Total matters subpoenas issued	38
Plea of guilty on day of trial	10
Plea of guilty within one week of trial	10
Plea of guilty within 2-4 weeks of trial	10
Plea of guilty more than 4 weeks before trial	18

Table 14: Supreme Court Matters

Description	Matters
Trials	
Trials	29
Trial Days in Court	146
Trial Outcomes	
Guilty Verdicts	17
Not Guilty Verdicts	7
Other**	4
Awaiting verdict	1
Sentencing Proceedings	
Accused sentenced after committal for sentence/after committal for trial-changed plea	126
Accused re-sentenced after breach	41
Total sentences	167
Notices declining to proceed further	11

*Note: This includes trials which resulted in a hung jury or were aborted. Such matters are not “finalised” for the purposes of the table on ‘Total matters finalised by jurisdiction’ on page 60 and the table on ‘Matters finalised disaggregated by matter type’ on page 60.

Table 15: Appeals

Description	Defence Appeals	Crown Appeals	Total
Supreme Court	50	3	53
Court of Appeal	26	5	31
High Court	4		4
Total	80	8	88

*Note: These include appeals which were discontinued, withdrawn, or in respect of which leave to appeal was refused; and matters where the appeal hearing was completed during the reporting period and the decision was reserved.

Scrutiny

The DPP is subject to scrutiny from the ACT Auditor-General, the ACT Ombudsman and the Integrity Commission. There were no relevant reports during the financial year. From time to time, the Director appears before various committees of the Legislative Assembly. During the financial year, the previous Acting Director appeared at Estimates on 18 July 2023, and Annual Report Hearings on 22 November 2023.

Audit of Reviewable Decisions

Pursuant to the recommendations in the *Criminal Justice Report* of the RCIRCSA,¹³ *Director's Instruction No. 14.1*¹⁴ and *Director's Instruction No. 14.2*¹⁵ were issued. These Director's Instructions are in relation to decisions to discontinue prosecutions, and the review of such decisions. *Director's Instruction 14.2* specifically provides that an audit is to be conducted on decisions that have been subject to review during the financial year. This is to ensure that the relevant procedures have been complied with by the office in relation to the reviews of decisions to discontinue prosecutions. Thus, an Audit Committee was formed at the end of the financial year to look into all the automatically reviewable decisions during the 2023–2024 financial year. The *Audit Report* and its accompanying *Record of Reviewable Decisions - Audit 2023–2024* are located in Appendix D (page 114) and E (page 115) respectively.

¹³ Refer to recommendations 40-43 of the Royal Commission into Institutional Responses to Child Sexual Abuse (Criminal Justice Report, Parts III to VI, 2017).

¹⁴ Refer to Appendix B on page 104 for *Director's Instruction No. 14.1 - Review of a Decision to Discontinue a Prosecution*.

¹⁵ Refer to Appendix C on page 105 for *Director's Instruction No. 14.2 - Reviewable Decisions to Discontinue - Contact with Complainants, Review Processes and Auditing*.

Risk Management

The DPP's risk management arrangement is primarily managed under the broader risk management framework of the Justice and Community Safety Directorate to provide a more consistent and synergistic approach to risk management. The approach emphasises that the management of risk is the responsibility of all employees within the office.

Internal Audit

The DPP's internal audit arrangements are primarily managed under the broad enterprise risk management framework of the ACT JACS Directorate. The focus of internal audit with DPP is to review and provide opportunity for business operations and controls as part of the DPP's governance framework and continuous improvement.

ACT JACS Directorate's responsibility under the *Financial Management Act 1996* includes the maintenance of an Audit Performance and Improvement Committee (APIC) to consider governance structures as outlined in the ACT Government's Internal Audit Framework. The APIC is an integral part of the governance arrangements of the JACS Directorate, with particular emphasis being placed on continual practice improvements, internal control mechanisms, risk management strategies, internal audit and ethical behaviour and integrity. Details of the APICs arrangements can be found in the JACS Directorate's 2023–24 Annual Report¹⁶.

Fraud Prevention

The DPP (ACT) has measures in place to guard against fraud and corruption.

These include:

- › A conflict of interest register;
- › Strict accounting and recording procedures in relation to cash payments;
- › The requirement that at least two people be involved in the approval process for the expenditure of any money; and
- › A prohibition on prosecutors discontinuing a matter which they have carriage of. Where a prosecutor wishes to discontinue a matter they have carriage of, approval is required by a more senior lawyer.
- › The DPP's fraud and corruption measures are also integrated into the JACSD's Fraud and Corruption Prevention Plan, which provides the framework for raising awareness of, reducing and managing instances of fraud and corruption in the JACS Directorate.

¹⁶ <https://www.justice.act.gov.au/about-us/annual-reports>

Freedom of Information

The *Freedom of Information Act 2016* ('FOI Act') commenced on 11 January 2018, replacing the *Freedom of Information Act 1989*.

Under the FOI Act, the DPP must make information available via an open access scheme. This is the [ACT Government's Open Access website](#)¹⁷. If the information is not available on the Open Access website, the person seeking the information is encouraged to contact the DPP as well as the formal FOI procedure if that is necessary. In many cases, it may be possible to access information more quickly and efficiently via the DPP. Notwithstanding the Open Access governance arrangements that are available to the public. If there is a need for a formal application under the FOI Act, the application must include:

- › A clear description of the documents requested
- › An email or postal address of the applicant
- › Evidence of identity is seeking personal information
- › Authority for an agent to act if the applicant has engaged a lawyer or is represented by a third part.

The FOI application may be sent in writing to the DPP postal address or by email to foiactdpp@act.gov.au. Further information on FOI applications can be found on our website at <http://www.dpp.act.gov.au/publications/freedom-of-information>.

The DPP is also required to maintain a disclosure log¹⁸ in accordance with section 28 of the FOI Act. Information provided to an applicant through an FOI request is published on the disclosure log between three and ten working days after the decision notice has been sent out to the applicant. The disclosure log includes the following information:

- › The FOI application
- › The decision notice
- › The documents/information released pursuant to the request.

Applications for personal information will not be published on the disclosure log. If the information requested is of a highly sensitive nature, this too will not be published on the disclosure log.

¹⁷ <https://www.act.gov.au/open-access>

¹⁸ <https://www.dpp.act.gov.au/publications/freedom-of-information>

FOI Access Applications

Information about freedom of information access applications made under the FOI Act during the financial year is provided below.

Table 16: FOI Access Applications

Access Applications	Total
On hand at the beginning of the financial period	2
Received during the financial period	12
Finalised / completed	13
On hand at the end of the financial period	1
Decided within timeframe (section 40)	11
Decided outside timeframes but within extended timeframes agreed to with the applicant (section 40)	1
Decided outside timeframes but within extended timeframes agreed to with the Ombudsman (section 40)	0
Not decided within the statutory timeframes in the FOI Act, i.e. deemed decisions.	1
Where a fee or charge was applied	0
For Ombudsman review (section 74)	1
Applications made to ACAT	0
Decisions confirmed through Ombudsman review (section 82(2)(a))	0
Decisions varied through Ombudsman review (section 82(2)(b))	0
Decisions set aside and substituted through Ombudsman review (section 82(2)(c))	0
Where a decision gave full access (section 35(1)(a)).	3
Where a decision gave partial access (section 35(1)(c)).	5
Where a decision refused access (section 35(1)(c)).	5
Decisions to publish open access information (section 24(1))	0
Decisions not to publish open access information (section 24(1))	0
Decisions not to publish a description of open access information withheld (section 24(1))	0
Requests made to amend personal information	0

Community engagement and support

The DPP consults with the Attorney-General, the ACT legal profession, ACT policing, Women's Legal Centre, Domestic Violence Crisis Service (DVCS), and various ACT Government agencies, among others.

The Director is consulted on policy decisions by Government, across all matters within the Criminal Justice space, and provides feedback and suggestions on policy matters to the Government of the day.

The following sponsorship was provided by the Director during the year ending 30 June 2024.

Table 17: Community engagement and support

Organisation/Recipient	Project Purpose	Summary	Amount
University of Canberra	Sponsorship of prize in Criminal Law	Promotes excellence in criminal law studies, highlights the office as a centre of excellence in the criminal law and contributes to the quality of criminal lawyers in the ACT	\$500 Engraved medal and cash prize

Aboriginal and Torres Strait Islander Reporting

In 2019 (calendar year) the DPP launched its Office Employment Diversity Statement (OEDS) which aims to have a workforce commensurate with the community most impacted by its functions.

Office Employment Diversity Statement

The DPP Office Employment Diversity Statement (OEDS) is as follows:

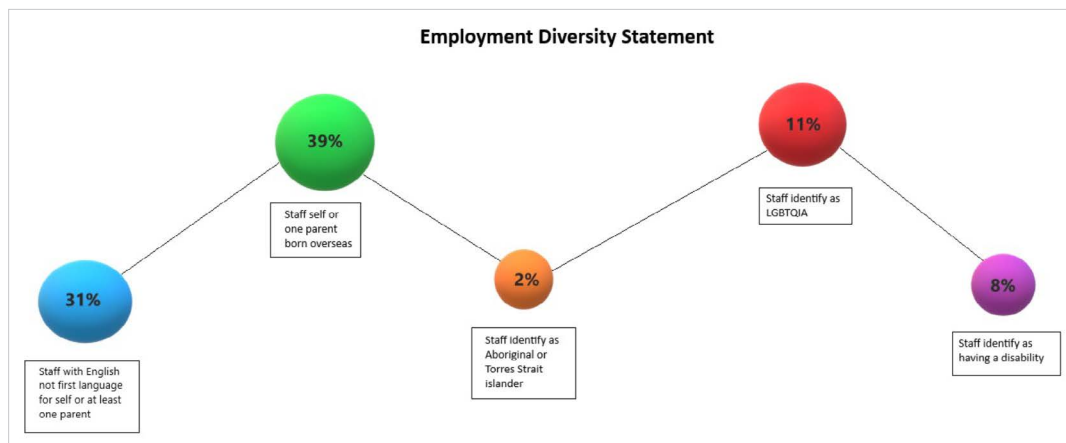
- › The DPP aims to promote employment equality, diversity and inclusion for those of all ages, colours, races, ethnic or national origins, sexual orientation, marital and parental status, physical impairment, disability and religious beliefs.
- › The DPP recognises, respects, promotes and celebrates the value of diversity and adopts inclusive policies and strategies such as the Capital of Equality – ACT Government LGBTIQ+ Strategy (Capital of Equality Strategy).
- › THE DPP supports all four strategy objectives of the Capital of Equality Strategy in particular objectives 2 and 3¹⁹.

¹⁹ <https://www.cmtedd.act.gov.au/policystrategic/the-office-of-lgbtqiqa-affairs/capital-of-equality-act-government-lgbtqiqa-strategy>

- › The DPP aims to ensure diverse employees feel safe and welcome, and aims to have open diversity reflecting the community standards as set out in the Capital of Equality Strategy and the OEDS of the DPP.
- › The DPP aims to have the number of First Nations staff not less than 5% of total staff.
- › The DPP aims to be an inclusive and safe environment for LGBTIQ+ people, people of all religions, ethnic and culturally diverse persons, and those with a disability.
- › The DPP will report annually on the percentage of staff who choose to identify with the following criteria:
 - a. English not as a first language for self or at least one parent
 - b. Self or at least one parent born overseas
 - c. Identifies as Aboriginal and/or Torres Strait Islander
 - d. Identifies as LGBTIQ+ or other
 - e. Identifies as having a disability

Diagram of DPP Employment Diversity Statement

Figure 3: Office Employment Diversity Statement



Work Health and Safety

The DPP's Health and Wellbeing Policy outlines its commitment to the provision of a healthy and safe workplace.

DPP employees are encouraged and supported to access and utilise the ACT Government Employment Assistance Program (EAP), the office's preferred provider for the provision of EAP services being Life Unlimited which are available to all DPP staff and their immediate family members.

There is additional assistance by way of access to these services due to the vicarious trauma risk of dealing with sensitive subject matter on a consistent basis.

The DPP also works with employees to prevent workplace injuries, by offering ergonomic workstation assessments, and ergonomic office equipment, ensuring staff are set up at their respective workstations or offices in a safe and correct manner. Further, the DPP Working Environment Group is a forum to raise and escalate workplace health and safety concerns directly to the DPP executive for consideration and action.

The office also attends the JACS Directorate Director-General Tier 1 Safety Health and Wellbeing Committee on a quarterly basis. This committee comprises representation from senior executives, health and safety representatives and unions. The office had two elected Health and Safety Representatives in the reporting period.

The office continued its focus on preventative measures during the 2023–24 reporting year, ensuring staff were offered various training sessions and wellbeing programs, which included the following:

- › Health and wellbeing checks
- › ACT Government funded influenza vaccine
- › Fire Warden training
- › First Aid training
- › Health and Safety Representative training
- › Mental Health First Aid training
- › Vicarious trauma training

The nature of the work undertaken by the DPP is such that the continued improvement of strategies and assistance to staff is necessary and is a continued focus for the office heading into the next reporting year.

WHS Notifiable incidents

During the reporting period, there were no reports or notices given under the *Work Health and Safety Act 2011* and no directions issued.

The office encourages the reporting of workplace incidents. Figures shown in the following table are based on data provided by the CMTEDD's Workplace Injury Performance Unit.

Table 18: WHS Notifiable incidents

Events Notified to WorkSafe	*Total Incidents	Total Worker Incidents	Harassment Contacts
0	<5	<5	0

Human Resource Management

The DPP supports staff wellbeing in a variety of ways including health and wellbeing initiatives and other professional training opportunities.²⁰ The nature of the work done by the office is complex, challenging and confronting nature of work, and therefore both adequate staffing levels and supports are necessary. This has been a focus of the Director since her appointment, and will continue to be over the next reporting year.

During the reporting period, several staff participated in Mental Health First Aid (MHFA) training in addition to Vicarious Trauma training. The MHFA course covered the signs and symptoms of common and disabling mental health problems in adults, how to provide initial help, where and how to seek professional assistance, what help has been shown by research to be effective, and how to provide first aid in crisis situations.

Legal staff also participated in the training and seminar sessions organised as part of the DPP's CPD program.²¹

ARIns Reporting

Three (3) ARIns were provided during the reporting year of which one (1) was terminated due to internal promotions.

²⁰ Refer to Work Health and Safety on page 74.

²¹ Refer to Continuing Professional Development on page 19.

Table 19: Agency profile

Branch/Division	FTE	Headcount
Director of Public Prosecutions	93.7	98
Total	93.7	98

Table 20: FTE and headcount by gender

	Female	Male	Non-Binary	Total
FTE by Gender	63.7	30.0	0	93.7
Headcount by Gender	67	31	0	98
% of Workforce	68.4%	31.6%	0%	100.0%

Table 21: Headcount by classification and gender

Classification Group	Female	Male	Non-Binary	Total
Administrative Officers	10	1	0	11
Executive Officers	2	2	0	4
Legal Support	19	8	0	27
Prosecutors	33	19	0	52
Senior Officers	2	1	0	3
Statutory Office Holders	1	0	0	1
Total	67	31	0	98

Table 22: Headcount by employment category and gender

Employment Category	Female	Male	Non-Binary	Total
Casual	0	0	0	0
Permanent Full-time	48	28	0	76
Permanent Part-time	9	0	0	9
Temporary Full-time	9	3	0	12
Temporary Part-time	1	0	1	0
Total	67	31	0	98

Table 23: Headcount by Diversity Group

	Headcount	% of Total Staff
Aboriginal and/or Torres Strait Islander	2	2.0%
Culturally & Linguistically Diverse	9	9.2%
People with a Disability	5	5.1%

Table 24: Headcount by age group and gender

Age Group	Female	Male	Non-Binary	Total
Under 25	12	6	0	18
25-34	31	17	0	48
35-44	17	3	0	20
45-54	4	3	0	7
55 and over	3	2	0	5

Table 25: Headcount by average years of service and gender

Gender	Female	Male	Non-Binary	Total
Average years of service	4.5	4.4	0	4.4

Table 26: Recruitment and Separation Rates

Classification Group	Recruitment Rate	Separation Rate
Total	30.4%	26.7%

Ecologically Sustainable Development

The DPP is committed to the principles of ecologically sustainable development, and whilst opportunities for significant contributions in this regard are limited, the following continuing efforts and waste reduction initiatives are maintained at the office:

- › a recycling program with each member of staff having a separate recycling container and larger containers located throughout the office;
- › the use of recycled paper and toner cartridges;
- › purchasing consumable items with recycling properties;
- › a policy of 'double sided' photocopying;
- › electricity conservation by maintaining a lights-off policy after hours or when staff are absent from work; and
- › minimising power by ensuring computers are turned off at the end of each day.

Table 27: Sustainable development performance – current and previous financial year

Indicator as at 30 June	Unit	Current FY	Previous FY	Percentage change
Stationary energy usage				
Electricity use	Kilowatt hours	126,788	129,839	-2.35%
Natural gas use (non-transport)	Megajoules	N/A	N/A	N/A
Diesel use (non-transport)	Kilolitres	N/A	N/A	N/A
Transport fuel usage				
Electric vehicles	Number	N/A	N/A	N/A
Hybrid vehicles	Number	N/A	N/A	N/A
Hydrogen vehicles	Number	N/A	N/A	N/A
Total number of vehicles	Number	N/A	N/A	N/A
Fuel use – Petrol	Kilolitres	N/A	N/A	N/A
Fuel use – Diesel	Kilolitres	N/A	N/A	N/A
Fuel use – Liquid Petroleum Gas (LPG)	Kilolitres	N/A	N/A	N/A
Fuel use – Compressed Natural Gas (CNG)	Gigajoules	N/A	N/A	N/A
Water usage				
Water use	Kilolitres	Unavailable	Unavailable	

Indicator as at 30 June	Unit	Current FY	Previous FY	Percentage change
Resource efficiency and waste				
Reams of paper purchased	Reams	2,175	2,978	-26.9%
Recycled content of paper purchased	Percentage	100%	100%	0%
Waste to landfill	Litres	36,720	30,960	18.6%
Co-mingled material recycled	Litres	30,480	37,440	18.6%
Paper & Cardboard recycled (incl. secure paper)	Litres	86,640	72,720	19.1%
Organic material recycled	Litres	0	0	0%
Greenhouse gas emissions				
Emissions from natural gas use (non-transport)	Tonnes CO ₂ -e	N/A	N/A	N/A
Emissions diesel use (non-transport)	Tonnes CO ₂ -e	N/A	N/A	N/A
Emissions from transport fuel use	Tonnes CO ₂ -e	N/A	N/A	N/A
Total emissions	Tonnes CO ₂ -e	0	0	0%

Notes

1. Please note that some data reported in the table above may differ slightly from figures reported in the Annual Report. These are due to updates to agency occupancy and historical consumption data. Where actual data is not available, the Enterprise Sustainability Platform provides estimations using an accrual function. Accruals are calculated from the average annual daily consumption of the most current 12-month period applied for the number of days of missing data.
2. No water consumption data is captured in the ESP for the DPP's occupancy. The ACT Government is not formally billed for its water consumption as it is factored into the landlord's rent.
3. Emissions reported for stationary energy and transport fuels include Scope 1 and Scope 2 emissions only. Scope 1 are direct emissions from sources owned and operated by the government including: emissions from transport fuel and natural gas use. Scope 2 are indirect emissions from mains electricity.

Financial Management Reporting

Financial Management Analysis

Financial reporting obligations under the *Financial Management Act 1996* is reported by the JACS Directorate. DPP is a downstream agency.

Financial Statements

The financial transactions of the office for the year ending 30 June 2024 are subsumed within the audited financial statements of the JACS Directorate. Any data that is provided below should be read in conjunction with the JACS Directorate financial statements.

For information related to the budget outcomes, please refer to the JACS Directorate's audited financial statements for 2023–24 (Output 1.4)²². It should be noted that total expenses in Output 1.4 include the JACS Directorate's allocated overheads.

Capital Works

During the 2023–24 reporting period, the office undertook no capital works.

Asset Management

The DPP managed assets with a total net book value of \$1.071m as at 30 June 2024. This comprised both leased and owned assets.

Table 28: Assets Managed

Asset Category	Ownership	Qty
Leasehold Improvements	Owned	1
Plant and Equipment	Owned	3
Computer Software	Owned	2
Motor Vehicle Lease	Leased	2
Leasehold Improvements – Make Good	Leased	2

During 2023–2024, all motor vehicles were disposed of.

On 30 June 2024, the office had no properties not being utilised or identified as surplus.

²² Refer to Statement of Performance on page 81

Asset Upgrades and Maintenance

There were no significant asset upgrades during the reporting period.

The expenditure on repairs and maintenance was \$28,924 which represents less than two (2) percent of the asset replacement value.

In 2023–24, the office conducted no audits for building fit-out condition or hazardous materials.

Government Contracting

For year ending 30 June 2024, the online ACT Government Contracts Register records contracts with suppliers of goods, services and works, with a value of \$25,000 or more. Following are the suppliers of services with a value greater than \$25,000 recorded on the Register:

Table 29: Suppliers of goods, services and works

Name of Contractor	Description or Reason for Contract	Expenditure 2023–2024	Date services commenced	Procurement Type
Thomson Reuters	Research Resources	\$94,453	01 July 2021	Single Select
Itec Software Pty Ltd	Case Management System	\$75,900	01 July 2018	Single Select

These contracts do not address the Aboriginal and Torres Strait Islander Procurement Policy. Further information on this can be found in the 2023–2024 JACS Directorate Annual Report.

Statement of Performance

The following is extracted from the JACS Directorate's audited financial statements for the financial year:

Output Class 1 Justice Services - Output 1.4 Public Prosecutions

Description: Prosecution of summary and indictable matters, at first instance and on appeal, provision of assistance to the Coroner and provision of witness assistance services.

Table 30: Output Class 1 Justice Services - Output 1.4 Public Prosecutions

	2023-2024 Original Target	2023-2024 Actual	Variance %
Total cost (\$'000)	18,180	19,505	9
Controlled Recurrent Payments	16,066	15,986	1
Accountability Indicators			
a) Average cost per matter finalised	\$3,000	\$3,727	24
b) The percentage of cases where the brief is served within two weeks of it being received from the ACT Police	80%	86%	7
c) The percentage of cases where the indictment, case statement and questionnaire are filed within the timeframes specified at directions in the Supreme Court	80%	85%	6

- › The variance of 24% on the average cost per matter finalised is attributable to a combination of factors including an increase in matters committed for trial resulting in a significant increase in days spent in court, and a significant increase in employee expenses, including termination expenses. The variance is also attributable to higher witness expenses and increases in rental charges to the DPP office space.

Territory Records

The DPP has a current records Management Program (the Program) that is approved by the Director. A copy has been provided to the Director of Territory Records. Records management Procedures have been created and implemented throughout the office in accordance with the Program. Appropriate training and resources are available to staff to implement the Program.

Pursuant to section 19 of the *Territory Records Act 2002*, the Director of Territory records approved the Records Disposal Schedule – Public Prosecution Records for the office. Refer to *Territory Records (Records Disposal Schedule – Public Prosecutions Records) Approval 2018 (No1)* being Notifiable Instrument NI2018-710, effective 14 December 2018.

The DPP's policy and procedures include specific arrangements for preserving records containing information that may allow people to establish links with their Aboriginal and Torres Strait Islander heritage. The office is working on improving the process for established links via our case management system, CASES.

The DPP has responded to the commencement of Part 3 of the *Territory Records Act 2002* which refers to 'accessing an agency's records.' Nevertheless, the Director of Territory Records has not made any Section 28 declaration under Part 3 of the *Territory Records Act 2002*. The section 28 declaration is in relation to the application of provisions of the FOI Act.

Appendices

Appendix A

Pursuant to section 12(4) of the *Director of Public Prosecutions Act 1990* the Annual Report must include a copy of each direction or guideline given by the Director pursuant to section 12 of the Act that is in force at the end of the reporting period. This appendix includes the Prosecution Policy of the Australian Capital Territory.

Prosecution policy of the Australian Capital Territory

1. Introduction

1. On 1 July 1991 the Director of Public Prosecutions Act 1990 ('the DPP Act') came into effect. It established an Office of the Director of Public Prosecutions ('DPP') controlled by the Director of Public Prosecutions ('the Director') for the Australian Capital Territory ('the ACT').
 - 1.1 The DPP Act ensures the effective removal of the prosecution process from the political arena by affording the Director an independent status in that process. While under section 20 of the DPP Act the Attorney-General may give directions or furnish guidelines to the Director in relation to the performance or exercise by the Director of their functions or powers, such a direction or guideline must be of a general nature and must not refer to a particular case. Further, the Attorney-General must not give a direction or furnish a guideline unless they have consulted with the Director. Any such direction or guideline is a notifiable instrument and must be presented to the Legislative Assembly.
 - 1.2 The DPP Act also ensures that the prosecutor's role will be independent of police and other investigative agencies. Of course, in practice, there will need to be cooperation and consultation between the respective bodies. Nonetheless, once an investigation has culminated in a prosecution, any decision as to whether or not it should proceed will be made independently by the DPP. In the ACT that independence extends to summary prosecutions as well.
 - 1.3 The Director's functions are also carried out independently of the courts: as the High Court has said, "our courts do not purport to exercise control over the institution or continuation of criminal proceedings, save where it is necessary to do so to prevent an abuse of process or to ensure a fair trial".
 - 1.4 The purpose of a criminal prosecution is not to obtain a conviction; it is to lay before a court what the prosecution considers to be credible evidence relevant to what is alleged to be a crime. Accordingly, prosecutors have strikingly been called "ministers of justice". A prosecutor represents the community: as Deane J has observed, they must "act with fairness and detachment and always with the objectives of establishing the whole truth

in accordance with the procedures and standards which the law requires to be observed and of helping to ensure that the accused's trial is a fair one".

- 1.5 Although the role of the prosecutor excludes any notion of winning or losing, the prosecutor is entitled to present the prosecution's case firmly, fearlessly and vigorously, with, it has been said "an ingrained sense of the dignity, the seriousness and the justness of judicial proceedings".
- 1.6 Further, the prosecution's right to be treated fairly must not be overlooked. Indeed, in the ACT, the Human Rights Act 2004, provides that everyone - the accused, members of the community and victims of crime - has the right to have criminal charges, and rights and obligations recognised by law, decided by a competent, independent and impartial court or tribunal after a fair and public hearing.
- 1.7 The ACT is a human rights compliant jurisdiction, and all staff of the DPP must be mindful of the principles underlying the Human Rights Act and its purpose, as they conduct the business of the DPP. In particular, they are responsible for respecting, protecting and promoting the human rights that are set out in that Act.
- 1.8 This policy is not intended to cover every conceivable situation which may be encountered during the prosecution process. Where law or policy ends, discretion begins. Prosecutors must seek to resolve a wide range of issues with judgement, sensitivity and common sense. It is neither practicable nor desirable to fetter the prosecutor's discretion too much because the demands of justice and fairness will vary from case to case.
- 1.9 From time to time, the Director may issue directions or furnish guidelines pursuant to section 12 of the DPP Act. This policy supersedes the previous policy and guidelines and directions, save for the Director's disclosure guideline which came into effect on 3 August 2020 and remains in effect.

2. The decision to prosecute

General criteria

- 2.1 It is not the case that every allegation of criminal conduct must culminate in a prosecution. The decision to prosecute should not be made lightly or automatically but only after due consideration. An inappropriate decision to prosecute may mean that an innocent person suffers unnecessary distress and embarrassment. Even a person who is technically guilty may suffer undue hardship if, for example, they have merely committed an inadvertent or minor breach of the law. On the other hand, an inappropriate decision not to prosecute may mean that the guilty go free and the community is denied the protection to which it is entitled. It must never be forgotten that the criminal law reflects the community's pursuit of justice and the decision to prosecute must be taken in that context.
- 2.2 Further, the resources available for prosecution are finite and should not be wasted pursuing inappropriate cases, a corollary of which is that the available resources are employed to pursue, with appropriate vigour, those cases worthy of prosecution.

- 2.3 Whilst a number of general principles may be articulated, it is not possible to reduce such an important discretion to a mere formula. Plainly, the demands of fairness and consistency will be important considerations, but the interests of the victim, the accused and the general public must all be taken into account. (In this context the term “the accused” includes an alleged offender, an accused and an accused.)
- 2.4 The decision to prosecute can be understood as a two-stage process. First, does the evidence offer reasonable prospects of conviction? If so, is it in the public interest to proceed with a prosecution?
- 2.5 The initial consideration will be the adequacy of the evidence. A prosecution should not be instituted or continued unless there is reliable evidence, duly admissible in a court of law, that a criminal offence has been committed by the person accused. This consideration is not confined to a technical appraisal of whether the evidence is sufficient to constitute a prima facie case. The evidence must provide reasonable prospects of a conviction. If it is not of sufficient strength any prosecution would be unfair to the accused and a waste of public funds.
- 2.6 The decision as to whether there is a reasonable prospect of a conviction requires an evaluation of how strong the case is likely to be when presented in Court. It must take into account such matters as the availability, competence and credibility of witnesses and their likely impression on the arbiter of fact. The prosecutor should also have regard to any lines of defence which are plainly open to or have been indicated by the accused, and any other factors which are properly to be taken into account and could affect the likelihood of a conviction.
- 2.7 The factors which need to be considered will depend upon the circumstances of each individual case. Without purporting to be exhaustive they may include the following:
- (a) Are the witnesses available and competent to give evidence?
 - (b) Do they appear to be honest and reliable?
 - (c) Do any appear to be exaggerating, defective in memory, unfavourable or friendly towards the accused, or otherwise unreliable?
 - (d) Do any have a motive for being less than candid?
 - (e) Are there any matters which may properly form the basis for an attack upon the credibility of a witness?
 - (f) What impressions are the witnesses likely to make in court, and how is each likely to cope with cross-examination?
 - (g) If there is any conflict between witnesses, does it go beyond what might be expected; does it give rise to any suspicion that one or both versions may have been concocted; or conversely are the versions so identical that collusion should be suspected?

- (i) Are there any grounds for believing that relevant evidence is likely to be excluded as legally inadmissible or as a result of some recognised judicial discretion?
 - (j) Where the case is largely dependent upon admissions made by the accused, are there grounds for suspecting that they may be unreliable given the surrounding circumstances?
 - (k) If identity is likely to be an issue, is the evidence that it was the accused who committed the offence sufficiently cogent and reliable?
 - (l) Where several accused are to be tried together, is there sufficient evidence to prove the case against each of them?
- 1.8 If the assessment leads the prosecutor to conclude that there are reasonable prospects of a conviction, they must then consider whether it is in the interest of the public that the prosecution should proceed. In many cases the interests of the public will only be served by the deterrent effect of an appropriate prosecution. Mitigating factors may always be put forward by an offender when the court is considering the appropriate sentence to be imposed, and it will usually be appropriate that they be taken into account only in that manner. Generally, the more serious the offence the more likely it will be that the public interest will require that a prosecution be pursued.
- 1.9 Nevertheless, the Director is invested with significant discretion, and, in appropriate cases, must give serious consideration to whether the public interest requires that the prosecution be pursued. Many factors may be relevant to the public interest, and the weight which should be accorded to them will depend upon the circumstances of each case. Without purporting to be exhaustive those factors may include the following:
- (a) the seriousness or, conversely, the triviality of the alleged offence;
 - (b) whether it is of a “technical” nature only;
 - (c) any mitigating or aggravating circumstances;
 - (d) the youth, age, physical health, mental health or special vulnerability of the accused, a witness or victim;
 - (e) the antecedents and background of the accused;
 - (f) the staleness of the alleged offence;
 - (g) the degree of culpability of the accused in relation to the offence;
 - (h) the effect on public order and morale;
 - (i) the obsolescence or obscurity of the law;
 - (j) whether the prosecution would be perceived as counterproductive, for example, by bringing the law into disrepute;
 - (k) the availability and efficacy of any alternatives to prosecution;

- (l) the prevalence of the alleged offence and need for deterrence, both personal and general;
- (m) whether the consequences of any resulting conviction would be unduly harsh and oppressive;
- (n) whether the alleged offence is of considerable public concern;
- (o) any entitlement of a person or body to criminal compensation, reparation or forfeiture if prosecution action is taken;
- (p) the actual or potential harm occasioned to any person as a result of the alleged offence,
- (q) the attitude of the victim of the alleged offence to a prosecution;
- (r) the need to give effect to regulatory priorities;
- (s) the likely length and expense of a trial;
- (t) whether the accused is willing to cooperate in the investigation or prosecution of others, or the extent to which they have already done so;
- (u) the likely outcome in the event of a finding of guilt having regard to the sentencing options available to the court;
- (v) whether the alleged offence is triable only on indictment; and
- (w) the need to maintain public confidence in such basic institutions as parliament and the courts.

2.10 Plainly the decision to prosecute must **not** be influenced by:

- (a) the race, ethnic origin, social position, marital status, sexual preference, sex, religion or political associations or beliefs of the accused or any other person involved (unless they have special significance to the commission of the particular offence or should otherwise be taken into account as a matter of fairness to the accused – see for example subparagraphs 3.26-3.27);
- (b) any personal feelings concerning the alleged offender or victim;
- (c) any political advantage, disadvantage or embarrassment to the government or any political group or association; or
- (d) the possible effect of the decision on the personal or professional circumstances of those responsible for the decision.

Prosecution of juveniles

- 2.11 Special considerations apply to the prosecution of juveniles. In this context a juvenile is a child (a person who is under 12 years old) or a young person (a person who is 12 years old or older, but not yet an adult). The best interests of the juvenile must always be considered. Juveniles should be encouraged to accept responsibility for their behaviour and should be dealt with so as to provide them with the opportunity to develop in socially responsible ways. Prosecution of a juvenile must always be regarded as a severe step. Generally, a much stronger case can be made for methods of disposal which fall short of prosecution unless the seriousness of the alleged offence or the circumstances of the juvenile concerned dictate otherwise. In this regard, ordinarily the public interest will not require the prosecution of a juvenile who is a first offender in circumstances where the alleged offence is not serious.
- 2.12 Different considerations may apply in relation to traffic offences where infringements may endanger the lives of the young driver and other members of the community.
- 2.13 In deciding whether or not the public interest warrants the prosecution of a juvenile regard should be had to such of the factors set out in subparagraph 2.9 as appear to be relevant and to the following matters:
- (a) the seriousness of the alleged offence;
 - (b) the age, apparent maturity and mental capacity of the juvenile;
 - (c) the available alternatives to prosecution and their likely efficacy;
 - (d) the sentencing options available to the court if the matter were to be prosecuted; the family circumstances of the juvenile particularly whether those with parental responsibility appear willing and able to exercise effective discipline and control over the juvenile;
 - (e) the juvenile's antecedents including the circumstances of any previous cautions that they may have been given; and
 - (f) whether a prosecution would be likely to have an unduly harsh effect on the juvenile or otherwise be inappropriate, having regard to such matters as the vulnerability of the juvenile and their family circumstances.
- 2.14 Under no circumstances should a juvenile be prosecuted solely to secure access to the welfare powers of the court.

Prosecution of Corporations

- 2.15 As a general rule a reference in an Act to a person includes a reference to a corporation as well as an individual. Consequently, a corporation may be liable for any criminal offence except those that by their very nature cannot be committed by an artificial entity, for example sexual offences. From time to time the question arises whether it will be appropriate for a corporation to be charged with an offence, instead of, or as well as, an individual.

- 2.16 A thorough enforcement of the criminal law against corporate offenders, where appropriate, will have a deterrent effect, protect the public, and support ethical business practices. Prosecuting corporations, where appropriate, will capture the full range of criminality involved and thus lead to increased public confidence in the criminal justice system. Prosecution of a corporation should not be seen as a substitute for the prosecution of criminally culpable individuals such as directors, officers, employees, or shareholders. Prosecuting such individuals provides a strong deterrent against future corporate wrongdoing. Equally, when considering prosecuting individuals, it is important to consider the possible liability of the company where the criminal conduct is for corporate gain.
- 2.17 As a general rule it is best to have all connected offenders - corporate and individual - prosecuted together at the same time.
- 2.18 There will be occasions when it will be appropriate to charge a natural person with being an accessory to an offence committed by a corporation, notwithstanding that there is no charge against the corporation itself. The situations where this might be appropriate may include where the corporation has ceased to exist, or is in administration, liquidation or receivership.
- 2.19 It should be noted that the fact that a corporation is insolvent will not of itself preclude the prosecution of the corporation.
- 2.20 In deciding whether the prosecution of a corporation is required in the public interest, without purporting to be exhaustive, the public interest factors at subparagraph 2.9 and those set out below may be relevant. The weight which should be accorded to them will depend upon the circumstances of each case:
- (a) a history of similar conduct (including prior criminal and regulatory enforcement actions against it), and conversely, the lack of such a history;
 - (b) whether the corporation had been previously subject to warnings, sanctions or criminal charges and had nonetheless failed to take adequate action to prevent future unlawful conduct, or had continued to engage in the conduct;
 - (c) whether the corporation's board of directors or a high managerial agent of the corporation engaged in the conduct or authorised or permitted the commission of the alleged offence;
 - (d) whether the conduct alleged is part of, or was encouraged or tolerated by, an existing corporate culture within the corporation;
 - (e) the failure of the corporation to create and maintain a corporate culture requiring compliance with the contravened law, or conversely, the existence of a genuinely proactive and effective corporate culture encouraging compliance;
 - (f) the failure of the corporation to provide adequate systems for giving relevant information to relevant people in the corporation;

- (g) failure to report wrongdoing within a reasonable time of the offending coming to light;
- (h) a genuinely proactive approach adopted by the corporate management team involving self-reporting and remedial actions, including the compensation of victims;
- (i) the availability of alternative civil or regulatory remedies that are likely to be effective and more proportionate;
- (j) whether the offending represents isolated actions by individuals, for example by a rogue director;
- (k) the fact that the offending is not recent in nature, and the corporation in its current form is effectively a different body to that which committed the offences;
- (l) whether the corporation is in administration, liquidation or receivership.

Discontinuing a prosecution

2.21 Generally, the considerations relevant to the decision to prosecute set out above will also be relevant to the decision to discontinue a prosecution. The final decision as to whether a prosecution proceeds rests with the Director. However, wherever practicable, the views of the police (or other referring agency) and the views of the victim will be sought and taken into account in making that decision. Of course, the extent of that consultation will depend on the circumstances of the case in question, and in particular on the reasons why the Director is contemplating discontinuing the prosecution. It will be for the Director to decide on the sufficiency of evidence. On the other hand, if discontinuance on public interest grounds is contemplated, the views of the police or other referring agency, and the views of the victim will have greater relevance.

3. Other decisions in the prosecution process

Choice of Charges

- 3.1 In many cases the evidence will disclose conduct which constitutes an offence against several different laws. Care must be taken to choose charges which adequately reflect the nature and extent of the criminal conduct disclosed by the evidence and which will enable the court to impose a sentence commensurate with the gravity of the conduct. It will not normally be appropriate to charge a person with a number of offences in respect of the one act but in some circumstances it may be necessary to lay charges in the alternative.
- 3.2 The charges laid will usually be the most serious available on the evidence. However, it is necessary to make an overall appraisal of such factors as the strength of the evidence, the probable lines of defence to a particular charge and whether or not trial on indictment is the only means of disposal. Such an appraisal may sometimes lead to the conclusion that it would be appropriate to proceed with some other charge or charges.

- 3.3 The provisions of a specific Act should normally be relied upon in preference to the general provisions of the Crimes Act 1900 or Criminal Code 2002 unless such a course would not adequately reflect the gravity of the criminal conduct disclosed by the evidence.
- 3.4 There is a particular need for restraint in relation to conspiracy charges. Whenever possible, substantive charges should be laid reflecting the offences actually committed as a consequence of the alleged conspiracy. However, there are occasions when a conspiracy charge is the only one which is adequate and appropriate on the available evidence. Where conspiracy charges are laid against a number of accused jointly it is important to give due consideration to any risk that a joint trial may be unduly complex or lengthy or may otherwise cause unfairness to one or more of the accused.
- 3.5 Under no circumstances should charges be laid with the intention of providing scope for subsequent charge negotiation.

Mode of trial

- 3.6 Summary disposition usually provides the speediest and most efficient disposition of justice. In relation to some indictable offences, the prosecution has the power to elect whether those matters are dealt with summarily. In other cases, the consent of the prosecution may be required before an indictable matter can be dealt with summarily.
- 3.7 In making the election or giving or withholding consent for summary disposal, each case is to be considered on its merits. The over-riding consideration is to achieve justice. The principal matter to be considered will be whether in the circumstances the Magistrates Court can adequately deal with the matter should it proceed to sentence. In turn, that will depend on:
 - › the nature and circumstances of the alleged offending;
 - › any other matters that a court would have to consider in sentencing the alleged offender, were the offence to be proved; and
 - › the criminal history if any of the alleged offender.
- 3.8 Other factors to be considered are:
 - › whether the alleged offence is part of a series of related alleged offences, and if so whether it is appropriate to deal with those alleged offences summarily;
 - › whether there are any co-offenders of the alleged offender, and if so whether it is appropriate for the alleged offender to be dealt with together with the co-offenders; and
 - › any delay, increased costs or adverse effects upon witnesses likely to be occasioned by proceeding on indictment.
- 3.9 Under no circumstances will the election be made, or consent given or withheld, for tactical reasons.

Consent to prosecution

3.10 The Director has been authorised to give consent to the prosecution of a number of offences. This is to ensure that prosecutions are not brought in inappropriate circumstances. The reason for the requirement for consent is a factor which should be taken into account in deciding whether to prosecute. For example, consent may be required to ensure that mitigating factors are taken into account, or to prevent prosecutions in trivial matters. In such cases the question of consent is really bound up in the decision whether to prosecute. Other cases may involve a use of the criminal law in sensitive or controversial areas, such as conspiracy, or may involve important considerations of public policy, such as administration of justice offences.

Charge negotiation

- 3.11 Charge negotiation involves negotiations between the defence and the prosecution in relation to the charges to be proceeded with. Such negotiations may result in the accused pleading guilty to a fewer number of charges, or to a less serious charge or charges, with the remaining charges either being not being proceeded with or being taken into account on a schedule. It may also result in agreement for matters to be dealt with summarily. In some cases it may involve agreement about the content of the statement of facts to be put before the court.
- 3.12 There are obvious benefits to the criminal justice system from a plea of guilty. The earlier it is achieved, the greater will be the benefits accruing to the accused, the victim, witnesses and the community. Accordingly, negotiations between the defence and the prosecution are to be encouraged. They may occur at any stage and may be initiated by the prosecution or the defence. Charge negotiations must be based on principle and reason, and not on expediency. A clear record of the negotiations must be kept in the interests of transparency and probity.
- 3.13 A plea of guilty may be accepted following appropriately authorised plea negotiations if the public interest is satisfied on consideration of the following matters:
- (a) whether the plea reasonably reflects the essential criminality of the conduct and provides an adequate basis for sentencing;
 - (b) whether it will save a witness, particularly a victim or other vulnerable witness from the stress of testifying in a trial;
 - (c) the desirability of prompt and certain dispatch of the case;
 - (d) the need to avoid delay in the dispatch of other pending cases;
 - (e) the time and expense involved in a trial and any appeal proceedings;
 - (f) any deficiencies in the available evidence;
 - (g) in cases where there has been a financial loss to any person, whether the accused has made restitution or arrangements for restitution;

- (h) the views of the police or other referring agency; and
- (i) the views of the victim, where those views are available and if it is appropriate to take those views into account.

- 3.14 An alternative plea will not be considered where its acceptance would produce a distortion of the facts and create an artificial basis for sentencing, where facts essential to establishing the criminality of the conduct would not be able to be relied upon, or where the accused asserts or intimates that they are not guilty of an offence to which they are offering to plead guilty.
- 3.15 Sentencing of offenders is a matter for the court. It is not to be the subject of agreement or purported agreement between the prosecution and defence.

Jury selection

- 3.16 In exercising the right to challenge or stand aside prospective jurors the prosecution must not attempt to select a jury which is not representative of the community including as to age, sex, ethnic origin, marital status or economic or social background.

Retrials

- 3.17 Where a trial has ended without a verdict, prompt consideration should be given to whether or not a retrial is required. Factors to be considered include:
- (a) the reason the trial ended, that is, whether the jury was unable to agree or other reason;
 - (b) whether or not another jury would be in any better or worse position to reach a verdict;
 - (c) the seriousness of the alleged offence;
 - (d) the cost to the community;
 - (e) the cost to the accused;
 - (f) whether the accused has spent time in custody;
 - (g) the views of the victim.
- 3.18 Where two juries have been unable to agree upon a verdict, a third or additional trial will be directed only in exceptional circumstances.

Sentence

- 3.19 The prosecution has an active role to play in the sentencing process.
- 3.20 As the High Court has said, a prosecutor should draw to the attention of the court what are submitted to be the facts that should be found, the relevant principles that should be applied and what has been done in other (more or less) comparable cases. It is not

the role of the prosecutor to proffer some statement of the specific result they consider should be reached, or a statement of the bounds within which that result should fall.

- 3.21 If it appears there is a real possibility that the court may make a sentencing order that would be inappropriate and not within a proper exercise of the sentencing discretion, the prosecutor may make submissions on that issue. This will be particularly so if, where a custodial sentence is appropriate, the court is contemplating a noncustodial penalty, or where a conviction is appropriate, the court is contemplating a non-conviction order.
- 3.22 Where facts are asserted on behalf of an accused which are contrary to the prosecutor's instructions or understanding, the prosecutor should press for a trial of the disputed issues, if the resolution of such disputed facts is in the interests of justice or is material to sentence.
- 3.23 Co-operation by convicted persons with law enforcement agencies should be appropriately acknowledged and, if necessary, tested at the time of sentencing. On no occasion will it be appropriate for material such as police testimony as to an accused's assistance to authorities, to be handed directly to the court. Such material should be given to the prosecutor and tendered to the court by the prosecutor at the prosecutor's discretion.
- 3.24 Where an offender is unrepresented, the prosecutor should, as far as practicable, assist the court by putting all known relevant matters before the court, including such matters as may amount to mitigation.
- 3.25 A prosecutor should not in any way fetter the discretion of the Director to appeal against the inadequacy of a sentence (including by informing the court or an opponent whether or not the Director would, or would be likely to, appeal, or whether or not a sentence imposed is regarded as appropriate and adequate).

Sentencing indigenous offenders

- 3.26 The DPP recognises the overrepresentation of indigenous offenders in custody in Australia, including in the ACT. The High Court has said that the "high rate of incarceration" of indigenous offenders must not be taken into account when sentencing an indigenous offender. However, an offender's indigenous identity may explain or throw light on the offending and the circumstances of the offender.
- 3.27 A prosecutor should, as far as practicable, draw the court's attention to any relevant matters associated with or related to the offender's indigenous background. Without purporting to be exhaustive, this may include the following:
 - (a) the socio-economic circumstances in which the offender has been raised, including the absence of educational and employment opportunities;
 - (b) that the offender has experienced social exclusion or discrimination;
 - (c) that the offender has been raised in a community surrounded by substance abuse and/or violence;

- (d) that the offender has been separated from their birth parents and/or community, for example by placement in foster care;
- (e) that the offender has suffered physical, sexual or emotional abuse;
- (f) that a lengthy term of imprisonment may weigh more heavily on the offender by reason of culture factors.

4. Disclosure

- 4.1 The prosecution is under a continuing obligation to make full disclosure to the accused in a timely manner of all material known to the prosecution which can be seen on a sensible appraisal by the prosecution:
- › to be relevant or possibly relevant to an issue in the case;
 - › to raise or possibly raise a new issue whose existence is not apparent from the evidence the prosecution proposes to use; or
 - › to hold out a real as opposed to fanciful prospect of providing a lead to evidence which goes to either of the previous two matters.
- 4.2 The prosecution is also under a duty to disclose to the defence information in its possession which is relevant to the credibility or reliability of a prosecution witness, for example:
- › a relevant previous conviction or finding of guilt;
 - › a statement made by a witness which is inconsistent with any prior statement of the witness;
 - › a relevant adverse finding in other criminal proceedings or in non-criminal proceedings;
 - › evidence before a court, tribunal or Royal Commission which reflects adversely on the witness;
 - › any physical or mental condition which may affect reliability;
 - › any concession which has been granted to the witness in order to secure their testimony for the prosecution.
- 4.3 The prosecution must fulfil its duty of disclosure as soon as reasonably practicable. The prosecution's duty of disclosure continues throughout the prosecution process and any subsequent appeal.
- 4.4 In fulfilling its disclosure obligations the prosecution must have regard to the protection of the privacy of victims and other witnesses. The prosecution will not disclose the address or telephone number of any person unless that information is relevant to a fact in issue and disclosure is not likely to present a risk to the safety of any person.

- 4.5 The prosecution's duty of disclosure does not extend to disclosing material:
- › relevant only to the credibility of defence (as distinct from prosecution) witnesses;
 - › relevant only to the credibility of the accused;
 - › relevant only because it might deter an accused from giving false evidence or raising an issue of fact which might be shown to be false; or
 - › for the purpose of preventing an accused from creating a forensic disadvantage for themselves, if at the time the prosecution became aware of the material it was not seen as relevant to an issue in the case or otherwise disclosable.
- 4.6 The prosecution may refuse to disclose material on the grounds of public interest immunity or legal professional privilege.
- 4.7 Where material has been withheld from disclosure on public interest grounds, the defence should be informed of the claim of immunity and the basis for the claim in general terms unless to do so would reveal that which it would not be in the public interest to reveal. In some cases it will be sufficient to delay rather than withhold disclosure. For example, if disclosure might prejudice ongoing investigations, disclosure could be delayed until after the investigations are completed.
- 4.8 Legal professional privilege will ordinarily be claimed against the production of any document in the nature of an internal DPP advice or opinion. Legal professional privilege will not be claimed in respect of any record of a statement by a witness that is inconsistent with their previous statement or adds to it significantly, including any statement made in conference and any victim impact statement, provided the disclosure of such records serves a legitimate forensic purpose.
- 4.9 The duty on the prosecution to disclose material to the accused imposes a concomitant obligation on the police and other investigative agencies to notify the prosecution of the existence and location of all such material. If required, in addition to providing the brief of evidence, the police or other investigative agency shall certify that the prosecution has been notified of the existence of all such material.
- 4.10 Where known, in accordance with Director's disclosure guideline which has been in effect since 3 August 2020 (see Annexure 1), the prosecution is under a duty to disclose the existence of:
- (a) Relevant protected material that is subject of a claim of privilege or immunity;
 - (b) Relevant material that is subject of a statutory publication restriction;
 - (c) Relevant unprotected material that is not subject to a claim of privilege or immunity or a statutory publication restriction.

5. The unrepresented accused

- 5.1 Particular care must be exercised by a prosecutor in dealing with an accused without legal representation. The basic requirement, while complying in all other respects with this policy, is to ensure that the accused is properly informed of the prosecution case so as to be equipped to respond to it, while the prosecutor maintains an appropriate detachment from the accused's interests.
- 5.2 So far as practicable, oral communications with an unrepresented accused should be witnessed. Communications should be promptly noted in all cases. A record should be maintained of all information and material provided to an unrepresented accused. Prosecutors may also, where appropriate, communicate with the accused through the court.
- 5.3 A prosecutor has a duty to ensure that the trial judge gives appropriate assistance to the unrepresented accused.
- 5.4 While a prosecutor has a duty of fairness to an accused, it is not a prosecutor's function to advise an accused about legal issues, evidence, inquiries and investigations that might be made, possible defences, or the conduct of the defence.

6. Private prosecutions

- 6.1 Not all prosecutions are initiated by police officers or other officials acting in the course of their public duty. The right of a private individual to institute a prosecution has been described as "a valuable constitutional safeguard against inertia or partiality on the part of authority". Nevertheless, the right is open to abuse and to the intrusion of improper personal or other motives. Further, there may be considerations of public policy why a private prosecution, although instituted in good faith, should not proceed, or at least should not be allowed to remain in private hands. Consequently, section 8 of the DPP Act enables the Director to take over the conduct of prosecutions initiated by another person. Thereafter the prosecution may be continued or brought to an end.
- 6.2 Section 13 of the DPP Act provides that where the Director has taken over the conduct of a private prosecution or is considering doing so the informant must provide to the Director a full report of the circumstances giving rise to the prosecution together with copies of the statements of any witnesses and other documentary evidence, and furnish any further information the Director requires. In addition, section 14 of the DPP Act enables the Director to seek police assistance in investigating the matter. These provisions enable a full assessment to be made of the prosecution case before any decision is made or, alternatively, after the matter has been taken over.
- 6.3 Given the large range of circumstances which may give rise to a private prosecution it is impracticable to lay down inflexible rules as to the manner in which the discretion will be exercised. In general, however, a private prosecutor will be permitted to retain the conduct of the proceedings unless:

- (a) there is insufficient evidence to justify the continuation of the prosecution, that is to say, there is no reasonable prospect of a conviction being secured on the available evidence;
- (b) the prosecution is not in the public interest;
- (c) there are reasons for suspecting that the decision to institute a private prosecution was actuated by improper motives or otherwise constituted an abuse of the prosecution process; or
- (d) it would not be in the interests of justice for the conduct of the prosecution to remain within the discretion of a private individual having regard to the gravity of the offence and all the surrounding circumstances.

6.4 Where a private prosecution is instituted to circumvent an earlier decision of the Director not to proceed with a prosecution for the same offence, it will usually be appropriate to take over the prosecution with a view to bringing it to an end.

7. Undertaking that a person will not be prosecuted

7.1 The Director has a power under the DPP Act to give an undertaking that a person will not be prosecuted for a specified offence or in respect of specified acts or omissions. Where such an undertaking has been given, no proceedings may subsequently be instituted in respect of the offence or conduct so specified. The undertaking may be given subject to such conditions (if any) as the Director considers appropriate.

7.2 In principle it is desirable that the criminal justice system should operate without the need to grant any concessions to persons who have participated in the commission of offences or who have guilty knowledge of their commission. It is obviously a grave step to grant, in effect, immunity from prosecution to someone apparently guilty of a serious offence. However, it has long been recognised that exceptional cases do arise in which the interests of justice demand that such a course be pursued.

7.3 As a general rule an accomplice should be prosecuted irrespective of whether they are to be called as a witness, subject of course to the usual evidentiary and public interest considerations being satisfied. If tried and convicted or acquitted with respect to the offences in issue, the person will then be a compellable witness for the prosecution, without the need for the issuing of an undertaking. Upon pleading guilty the accomplice who is prepared to co-operate in the prosecution of another can expect to receive a substantial reduction in the sentence that would otherwise have been appropriate.

7.4 The central issue in deciding whether to give an accomplice an undertaking under the DPP Act is whether it is in the overall interests of justice that the opportunity to prosecute the accomplice in respect of their own involvement in the crime in question should be foregone in order to secure their testimony in the prosecution of another. The factors to be considered include:

- (a) the importance of the evidence which may be obtained as a result of the undertaking;
- (b) the extent of the criminal involvement of the person seeking the undertaking compared with that of the accused;
- (c) whether the person seeking the undertaking has given a full and frank statement of their prospective evidence, including an acknowledgement of their own role in the offences in issue;
- (d) the character, credibility and previous criminal record of the person concerned;
- (e) whether any inducement has been offered to the person to give the evidence sought; and
- (f) whether there is any other means of obtaining the evidence in question, including by granting the person a more limited undertaking such as under subsection 9(1) or subsection 9(4) of the DPP Act.

7.5 Any undertaking given by the Director will generally be subject to the condition that the recipient of the undertaking will give evidence as and when called to do so, and that any evidence the person is called upon to give will be given truthfully, accurately and on the basis that the person will withhold nothing of relevance.

7.6 Requests for consideration of the giving of an undertaking will usually come from the police. Where such a request is made, the Director should be provided with a full copy of the brief of evidence against the principal offender, a copy of the brief or other material against the proposed witness, a full and frank statement signed by the proposed witness, and a comprehensive report adverting to each of the standard indemnity criteria, as listed above. Given that undertakings will rarely be given, it is prudent for investigators to consult with the Director as soon as practicable if they intend requesting an undertaking for a potential witness in criminal activity under investigation.

7.7 Where an accomplice receives any concession from the Director in order to secure their evidence, for example, whether as to choice of charge, or the grant of an undertaking under the DPP Act, the terms of the agreement or understanding between the prosecution and the accomplice should be disclosed to the court and to the defence.

8. Victims of crime

8.1 In exercising their functions, the Director and all members of the staff of the DPP must have regard to the governing principles in the Victims of Crime Act 1994 as well as the Director's Instruction Nos. 1, 2, 7, 13, 14.1 and 14.2 outlining victim's rights in relation to particular prosecutorial decisions.

8.2 Victims are to be accorded sympathetic and dignified treatment. They have a right to information about the progress of investigations and the prosecution of the offender, including the charges and any modifications to the charges. A victim should be told

about any decision not to proceed with a charge against the accused. Further, a victim should be told about the trial process and of the rights and responsibilities of witnesses and be given an explanation of the outcome of criminal proceedings, including of any sentence and its implications. Victims must be informed of the outcome of finalised court proceedings in a timely fashion.

- 8.3 There should be concern for the safety and wellbeing of victims, including protecting them from unnecessary contact with the accused and defence witnesses during the course of a trial or hearing.
- 8.4 A number of agencies which exercise a function in the administration of justice are responsible for ensuring these principles are adhered to, including the DPP, police, and victim support agencies. Those agencies must work together in a complementary way.
- 8.5 Consideration must be given from the early stages of contact with the victim, and/or their families, to involvement in the case by the witness assistance service of the DPP. In all appropriate cases, victims should be advised of this service and where necessary referred to it.
- 8.6 Victims may make victim impact statements pursuant to Part 4.3 of the Crimes (Sentencing) Act 2005. Prosecutors should ensure that the opportunity to prepare an adequate victim impact statement has been given, and that when one is prepared it contains relevant material to assist the court in the sentencing process. They must also ensure that victims are aware of their right to present the statement as a written statement or as a statement to be given orally in court.

9. Publication of reasons

- 9.1 Where the Director decides to exercise the power conferred by the DPP Act to decline to proceed further with a prosecution, reasons may be given to any enquirer with a legitimate interest in the matter. For example, the person said to be the victim of the alleged offence or those responsible for the investigation will normally be informed. It is acknowledged that the community through the media have a legitimate interest in the administration of justice and where a person has been publicly committed for trial there will generally be no objection to the reasons for any decision not to proceed with such a trial being made public.
- 9.2 However, reasons will not be given where to do so might give rise to further harm or serious embarrassment to a victim, a witness or to the accused, or where such a step might significantly prejudice the administration of justice. Similarly, even where reasons are given it may be necessary to limit the amount of detail disclosed. Under no circumstances will the Director engage in public debate concerning the reasons.
- 9.3 Reasons will not normally be given for a decision to discontinue proceedings before there has been any public hearing, because to do so would involve publishing allegations against members of the community in circumstances where there is insufficient evidence to substantiate them or, for some other reason, a prosecution would not be justified.

10. Prosecutor's duties under the ACT Bar rules

- 10.1 Crown Prosecutors and Senior Prosecutors will hold Practising Certificates issued by the ACT Bar Association. This policy incorporates aspects of the ACT Bar rules.
- 10.2 A prosecutor must fairly assist the court to arrive at the truth, must seek impartially to have the whole of the relevant evidence placed intelligibly before the court, and must seek to assist the court with adequate submissions of law to enable the law properly to be applied to the facts.
- 10.3 A prosecutor must not press the prosecution's case for a conviction beyond a full and firm presentation of that case.
- 10.4 A prosecutor must not, by language or other conduct, seek to inflame or bias the court against the accused.
- 10.5 A prosecutor must not argue any proposition of fact or law which the prosecutor does not believe on reasonable grounds to be capable of contributing to a finding of guilt and also to carry weight.
- 10.6 A prosecutor must disclose material in accordance with paragraph 4 ('Disclosure') of this policy.
- 10.7 A prosecutor who has decided not to disclose material to the opponent, as required under subparagraph 10.6 of this policy, must consider whether:
- (a) the defence of the accused could suffer by reason of such nondisclosure;
 - (b) the charge against the accused to which such material is relevant should be withdrawn; and
 - (c) the accused should be faced only with a lesser charge to which such material would not be so relevant.
- 10.8 A prosecutor must call as part of the prosecution's case all witnesses:
- (a) whose testimony is admissible and necessary for the presentation of all of the relevant circumstances;
 - (b) whose testimony provides reasonable grounds for the prosecutor to believe that it could provide admissible evidence relevant to any matter in issue;
 - (c) whose testimony or statements were used in the course of any committal proceedings; and
 - (d) from whom statements have been obtained in the preparation or conduct of the prosecution's case unless the opponent consents to the prosecutor not calling a particular witness;
- and except where:-

- (e) the only matter with respect to which the particular witness can give admissible evidence has been dealt with by an admission on behalf of the accused;
 - (f) the prosecutor believes on reasonable grounds that the administration of justice in the case would be harmed by calling a particular witness or particular witnesses to establish a particular point already adequately established by another witness or other witnesses; or
 - (g) the prosecutor believes on reasonable grounds that the testimony of a particular witness is plainly untruthful or is plainly unreliable by reason of the witness being in the camp of the accused; provided that:-
 - (h) the prosecutor must inform the opponent as soon as practicable of the identity of any witness whom the prosecutor intends not to call on any ground within (e), (f) or (g) together with the grounds on which the prosecutor has reached that decision.
- 10.9 A prosecutor who has reasonable grounds to believe that certain material available to the prosecution may have been unlawfully obtained must promptly:
- (a) inform the opponent if the prosecutor intends to use the material; and
 - (b) make available to the opponent a copy of the material if it is in documentary form.
- 10.10 A prosecutor must not confer with or interview any of the accused except in the presence of the accused's representative.
- 10.11 A prosecutor must not inform the court or the opponent that the prosecution has evidence supporting an aspect of its case unless the prosecutor believes on reasonable grounds that such evidence will be available from material already available to the prosecutor.
- 10.12 A prosecutor who has informed the court of matters within subparagraph 10.11 of this policy, and who has later learnt that such evidence will not be available, must immediately inform the opponent of that fact and must inform the court of it when next the case is before the court.
- 10.13 A prosecutor must not seek to persuade the court to impose a vindictive sentence or a sentence of a particular magnitude, but:
- (a) must correct any error made by the opponent in address on sentence;
 - (b) must inform the court of any relevant authority or legislation bearing on the appropriate sentence; and
 - (c) must assist the court to avoid appealable error on the issue of sentence;
 - (d) may submit that a custodial or non-custodial sentence is appropriate; and
 - (e) may inform the court of an appropriate range of severity of penalty, including a period of imprisonment, by reference to relevant appellate authority

10.14 A barrister who appears as counsel assisting an inquisitorial body such as the National Crime Authority, the Australian Securities Commission, a Royal Commission or other statutory tribunal or body having investigative powers must act in accordance with subparagraphs 10.2, 10.4 and 10.5 as if the body were the court referred to in this policy and any person whose conduct is in question before the body were the accused referred to in subparagraph 10.4.

Appendix B

Director's instruction no. 14.1 - Review of a decision to discontinue a prosecution

Background

Under applicable instructions,²³ a decision to discontinue a prosecution or significantly amend a statement of facts must not be taken without first consulting the complainant (with child complainants, this includes the parent or guardian).

In relation to matters involving an identifiable victim, such consultations should take place unless there are compelling reasons not to do so.

It must be recognised that a decision to discontinue in particular a sexual offence is a matter of potentially great moment for a complainant. Specific rules apply therefore for discontinuing an entire proceeding involving an identifiable victim (as to which, see Director's Instruction 14.2 - Reviewable Decisions to Discontinue – Contact with Complainants, Review Processes and Auditing).

Procedure for review of a decision to discontinue

In such cases, if a decision to discontinue is in prospect, the prosecutor must not only consult the complainant but also advise the complainant that if they are dissatisfied with a decision to discontinue a matter, they can ask that the decision be **reviewed** by the DPP.

The procedure is:

- › The prosecutor consults the complainant and records their views.
- › If the complainant is opposed to the discontinuation of the matter, the prosecutor is to inform the complainant that, if a decision is made to discontinue, they may ask that the decision be reconsidered by the DPP.
- › The prosecutor prepares a recommendation on discontinuance to the Deputy Director or Assistant Director, which sets out all material matters including the views of the complainant.

²³ Director's Instruction No. 1: Discontinuing Prosecutions and significantly amending Statements of Facts in the Supreme Court; and Director's Instruction No. 2 - Causing prosecutions to be brought to an end and significantly amending statements of facts in the Magistrates Court.

- › If a decision is made to discontinue the matter, then a record of the decision and the reason for it is made.
- › If a complainant has indicated dissatisfaction with the decision, then the matter will be reviewed by the Director (this may be an automatic review or a review at request: see Director's Instruction 14.2 - Reviewable Decisions to Discontinue – Contact with Complainants, Review Processes and Auditing).
- › In reviewing the decision, the Director will take into account the views of the complainant, the reason for the decision and any other material matters that are relevant including any matters relevant from the brief of evidence.

Audit of compliance

A record must be taken of each of the steps in the process on the Record of Reviewable Decisions form (RORD). At the completion of each financial year a RORD audit will be conducted in relation to each matter discontinued in that year, to establish whether the procedure set out in this instruction has been complied with.

The audit will be undertaken by an audit committee appointed by the Director. The results of the audit will be published in the annual report of the Director for the year in question.

Appendix C

Director's instruction no. 14.2 - Reviewable decisions to discontinue – contact with complainants, review processes and auditing

Aim of Instruction

The purpose of this Instruction is to ensure compliance with recommendations 40-43 of the Royal Commission into Institutional Responses to Child Sexual Abuse (*Criminal Justice Report*, Parts III to VI, 2017):

DPP complaints and oversight mechanisms

40. Each Australian Director of Public Prosecutions should:

- a. have comprehensive written policies for decision-making and consultation with victims and police
- b. publish all policies online and ensure that they are publicly available
- c. provide a right for complainants to seek written reasons for key decisions, without detracting from an opportunity to discuss reasons in person before written reasons are provided.

41. *Each Australian Director of Public Prosecutions should establish a robust and effective formalised complaints mechanism to allow victims to seek internal merits review of key decisions.*
42. *Each Australian Director of Public Prosecutions should establish robust and effective internal audit processes to audit their compliance with policies for decision-making and consultation with victims and police.*
43. *Each Australian Director of Public Prosecutions should publish the existence of their complaints mechanism and internal audit processes and data on their use and outcomes online and in their annual reports.*

It must be recognised that a decision to discontinue in particular a sexual offence is a matter of potentially great moment for a complainant. Specific rules therefore apply for discontinuing an offence with an identifiable complainant.

This Instruction should also be read in line with:

- › **Decisions to Discontinue Prosecutions – Victims’ Right of Review Director’s Guideline***;
- › **The ACT DPP Prosecution Policy***;
- › **Director’s Instruction No. 1:** Discontinuing prosecutions and significantly amending Statements of Facts in the Supreme Court*;
- › **Director’s Instruction No. 2:** Causing prosecutions to be brought to an end and significantly amending statements of facts in the Magistrates Court and Children’s Court*;
- › **Director’s Instruction No.7:** Charge negotiations in the Supreme Court*;
- › **Director’s Instruction No. 13:** Guidelines for contact with complainants in sexual offence matters*;
- › **Director’s Instruction No.14.1:** Review of a decisions to discontinue a prosecution*;
- › **Internal RORD Audit Form;** and
- › **Template:** email to complainant re right of review.

*These documents are available on the DPP website.

Application

This Instruction outlines the procedure to be followed when making a reviewable decision in a prosecution involving an identifiable complainant.

A **reviewable decision** means a decision to discontinue the entirety of a prosecution involving an identifiable complainant. This includes:

- › a decision to withdraw all charges or discontinue proceedings involving the complainant (including by filing a Notice Declining to Proceed Further in a Prosecution);
- › a decision to offer no evidence (NETO) in proceedings involving the complainant.

A reviewable decision **does not** include:

- › a decision to significantly amend a Statement of Facts;
- › a decision to reduce a charge/s to less serious charge/s, or to a fewer number of charges, in satisfaction of an indictment or information.

A reviewable decision does not include a decision not to bring proceedings involving a complainant. However, where the Office has provided an opinion to an investigative agency that no charge/s are to be laid in a matter, that opinion is a reviewable decision subject to the agency requesting a review in its own right, or on behalf of a complainant.

For the purposes of this Instruction, a complainant is a complainant in a prosecution conducted by the DPP, and also includes:

- › a close family member or partner of a deceased person in homicide cases; and
- › where appropriate the views of a child complainant should be sought directly, however if not appropriate, a parent or guardian of a child complainant.

After a reviewable decision has been made, there are two types of review process available:

- › review at request; or
- › automatic review.

A decision that is subject to **automatic review** means that the decision will be reviewed without requiring the complainant to request a review. A decision that is subject to **review at request** will be reviewed only when a request for review is made by the complainant, in accordance with this procedure.

The type of review process available depends on the charge for which the prosecution will be discontinued. If a decision is made to discontinue more than one charge, the review process available will be the one which applies to the most serious charge.

Table 31: Types of prosecution and reviews available

Type of prosecution	Type of review available
Homicide offence ²⁴	Automatic review
Sexual offence ²⁵	
Serious violent offence ²⁶	
Less serious violent offence ²⁷	Review at request
Any other offence against an identifiable complainant named in the information	

Recommending a Discontinuance

1. Prosecutor with carriage of a matter considers that a reviewable decision should be made. This can be at own initiative, following defence representations, or a request by the complainant or informant.
2. Prosecutor fills out a **RORD** (Record of Reviewable Decisions) on CASES.

At this point, the prosecutor should contact the complainant to ascertain the complainant's views unless there are compelling reasons not to do so. If there are compelling reasons not to contact the complainant, these should be documented in the RORD.

Contact with the complainant may be made through the Witness Liaison Officer or the informant. A file note should be created and saved in Folder 22 on CASES, documenting contact with the complainant and recording their views. If the complainant is unable to be contacted, reasonable attempts at contacting them must be documented in the file note.

The prosecutor should not only consult the complainant, but also advise them that if they are dissatisfied with a decision to discontinue a matter they can ask that the decision be reconsidered by the DPP.

3. Prosecutor saves all supporting documentation for RORD into Folder 22 on CASES.
4. Prosecutor sends RORD to supervising lawyer:
 - › For FV offences – FV supervising lawyer;
 - › For sexual offences – SO supervising lawyer;
 - › For all other matters – supervising lawyer of team.

²⁴ A 'homicide offence' includes any offence where the death of a person has occurred.

²⁵ The offences listed in the *Evidence (Miscellaneous Provisions) Act 1991*, section 41.

²⁶ The offences listed in the *Evidence (Miscellaneous Provisions) Act 1991*, section 40.

²⁷ The offences listed in the *Evidence (Miscellaneous Provisions) Act 1991*, section 39.

5. Supervising lawyer records recommendation in RORD, and sends this document by email (copying in the prosecutor) to:
 - a. for strictly indictable matters²⁸ – the Deputy Director (or, if unavailable, the Assistant Director);
 - b. for summary/indictable matters, or summary-only matters²⁹ – the Assistant Director (or, if unavailable, the Deputy Director).
6. Deputy Director or Assistant Director records decision in RORD, including the reason/s for the decision.
7. Deputy Director or Assistant Director sends email to prosecutor and supervising lawyer, advising of decision and obligation on prosecutor to contact the complainant, informant, defence, court and witnesses in accordance with this Instruction.
8. If the decision is to proceed, the prosecutor must advise the informant and the complainant.
9. If the decision is to discontinue, and the decision is subject to automatic review, go to 'Reviewing a discontinuance'.
10. If the decision is to discontinue, and the decision is subject to review at request, the prosecutor must advise the informant and the complainant of the decision. First contact with the complainant should be made by phone, and a file note should be made of this conversation.

The prosecutor should explain to the complainant the reasons for the decision, as well as the right to seek a review. When giving reasons for the decision, the prosecutor should be mindful that the decision may be overturned on review. The prosecutor should ensure that any reasons given would not interfere with the conduct of a future trial, if it were to proceed.

Immediately after advising the complainant by phone, the prosecutor should send a follow-up email to the complainant. This email should set out the decision, the right to seek an internal review, how to apply for a review and how the review process works, including the right to seek written and oral reasons following review.

11. The file should be marked **SUBJECT TO REVIEW** on the front cover, and kept until the end of the review period. As far as possible, the prosecutor should refrain from communicating the decision to discontinue to the court or defence until the complainant has positively communicated that they will not request a review, or **7 days** have elapsed since the decision was communicated to the complainant.

28 See *Crimes Act 1900*, section 375.

29 See *Crimes Act 1900*, section 375 and *Legislation Act 2001*, section 190.

Reviewing a discontinuance

1. If the decision is subject to automatic review, go to step 3.
2. If the decision is subject to review at request, the complainant has 7 days to request a review of the decision from the time they were first informed of the decision.³⁰ The complainant may request a review either over the phone or by email.

The prosecutor should send an email to the complainant, acknowledging receipt of the request and advising of a timeframe for when the complainant will be notified of the outcome of review.

3. If the matter calls for an automatic review, or a review is requested in accordance with this Instruction, this must be brought to the attention of the Director³¹ as soon **as possible**. The prosecutor should provide the Director with the CASES reference (with all relevant documentation saved therein) and a copy of the brief of evidence.
4. The Director has 7 days to review the decision (depending on the timeframe of the matter),³² having regard to the documents saved on Folder 22 in CASES (including the file note documenting the complainant's views, the RORD and supporting documents and any request for review by complainant) and the brief of evidence. The decision will be considered in accordance with the Prosecution Policy.

The Director must consider the case afresh, by examining all the evidence and the views of the complainant, and forming an independent view of the sufficiency of the evidence, the prospects of conviction and the public interest considerations, before scrutinising the approach taken by the original decision-maker, including the reason/s for the decision.

The Director may ask police to obtain additional evidence or refer to legal authorities not considered by the original decision-maker.

5. Once the review is complete, the Director should record in the RORD whether the original decision is endorsed/not endorsed and notify the prosecutor and Deputy/Assistant Director of the outcome.
6. The prosecutor must then contact the complainant to explain the outcome of review. If the decision to discontinue is endorsed, the prosecutor should inform the complainant prior to informing the court, and should offer the complainant the right to both:
 - a. discuss the reasons for the decision with the Director in person (in the presence of a Witness Liaison Officer or support person, if desired);and

30 Depending on the court timetable, this timeframe may be shorter. If the request is received outside of this timeframe, the prosecutor should immediately raise this with the Director for further consideration.

31 If the Director is unavailable, the matter should be reviewed by either the Deputy Director or the Assistant Director, depending on who made the original decision.

32 If a trial is listed to commence within 7 days of a decision to discontinue, the request for review must be made as soon as possible, as the timeframe for the review process will be shorter. In some cases, it may not be possible to review the decision before notice of the decision is communicated to the court. In those circumstances, the decision will still be reviewed by the Director, but the matter may not be able to be prosecuted.

- b. receive a letter containing the Director's written reasons for the decision (which must be requested within **14 days** of the final decision being communicated to the complainant).³³
7. If written reasons are requested for the decision, the Director should:
 - a. Provide written reasons to the complainant within **14 days**;
 - b. Consult with any allocated Witness Liaison Officer prior to providing written reasons to the complainant;
 - c. Ensure that written reasons are not provided in circumstances where:
 - i. statutory or other restrictions prohibit or limit the release of such information;
 - ii. the giving of reasons may affect a related case (for example, the prosecution of a co-offender) which is before the court.
 - d. If the circumstances in 7(c) are present at the time of the request, the request should remain under active review, so that if and when the circumstances are no longer applicable, further consideration may be given to the provision of reasons at that time.
8. Following the giving of reasons for the decision, the Witness Liaison Officer should follow up with the complainant to ensure that they are referred to agencies for further support as required.

Audit of compliance

A record must be made of each of the steps in the above process on the RORD. At the end of each financial year, an audit will be conducted in relation to reviewable decisions in that year, to establish whether the procedures set out in this Instruction have been complied with, and to target areas of non-compliance for future training and monitoring.

Auditing of compliance will be conducted based on the following records on CASES:

- › Document: RORD (Record of Reviewable Decisions) – Discontinuing a matter involving an identifiable complainant
- › Document: File note – complainant contact re discontinuance
- › Document: Email to complainant – right to review
- › Document: Letter providing reasons for discontinuance

It is therefore **crucial** that each of the above documents be saved and entered into CASES by the prosecutor, the Deputy Director / Assistant Director, and the Director.

³³ If the request is received outside of this timeframe, the prosecutor should immediately raise this with the Director for further consideration.

The audit will be undertaken by an Audit Committee, appointed by the Director towards the end of the financial year. The Audit Committee should hold at least 3 meetings for the purpose of auditing reviewable decisions and recording compliance with the procedures set out in this Instruction.

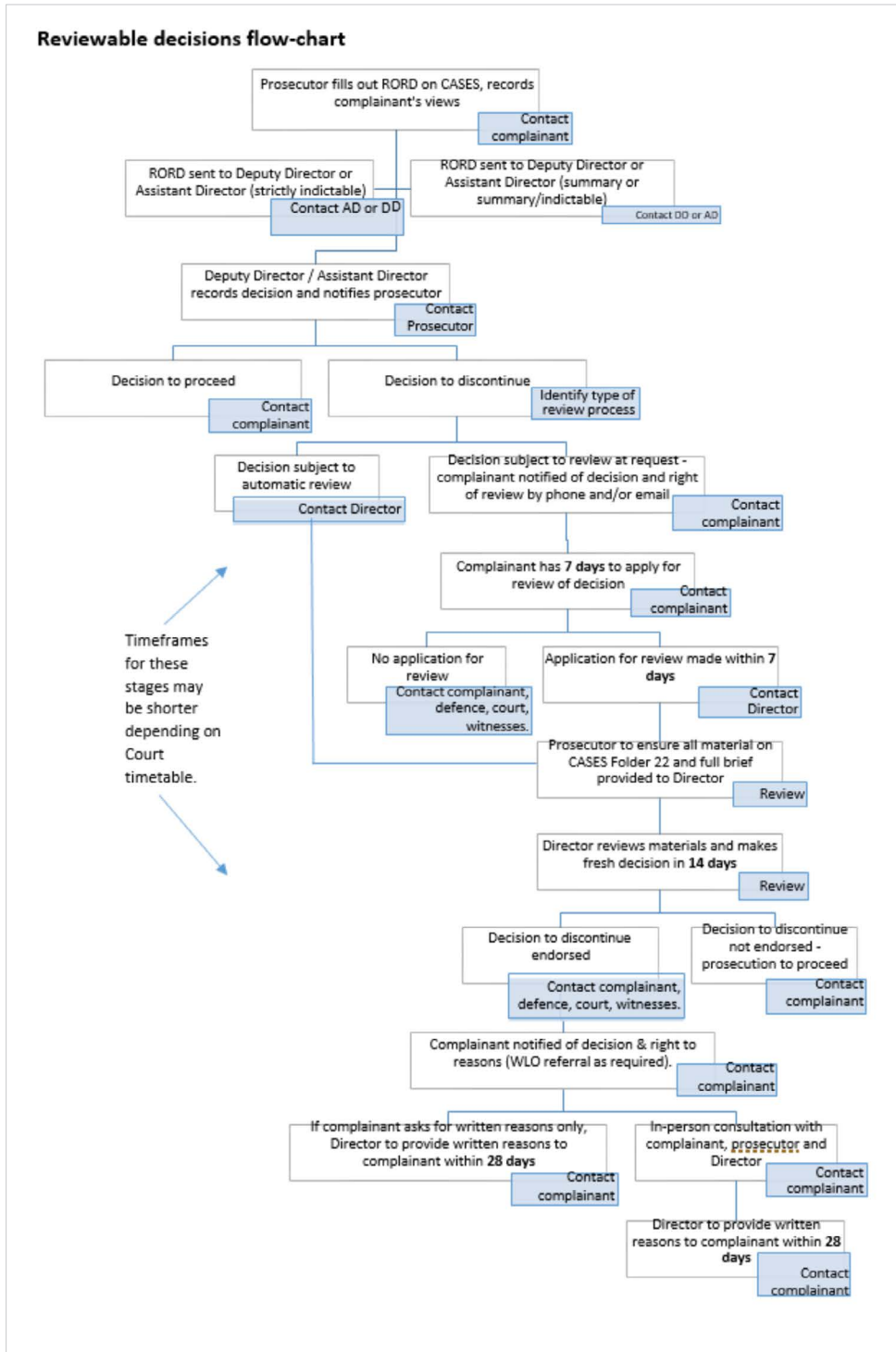
The results of the audit should be recorded on the 'Internal RORD Audit Form', which must be placed on the file. If, during the audit, it is discovered that the procedure undertaken in relation to a reviewable decision was not followed in accordance with this Instruction, the Audit Committee must review and consider the basis of that decision.

At the end of the financial year, the Audit Committee must provide copies of all completed Internal Audit Forms to the Director, and raise any areas of persistent non-compliance with the Director. The Audit Committee must also prepare a short annual report for the Director outlining relevant information, including:

- › the number of files audited;
- › the types of matters audited (e.g. 'sexual offence');
- › the level of compliance with the procedures in this Instruction;
- › a breakdown and summary of any compliance issues, and suggested measures for addressing those issues in the Office.

The results of the audit will be published in the annual report of the Director for the year in question.

Figure 4: Reviewable decisions flow chart



Appendix D

Audit report on legal compliance of procedures relating to reviewable decisions³⁴

Audit Report on Legal Compliance of Procedures relating to Reviewable Decisions

Victoria Engel SC
Director of Public Prosecutions, ACT

Pursuant to *Director's Instruction 14.2 on Reviewable Decisions*, an audit committee comprising of Alexandra Back, Harry Wagner and Louis Loizou, conducted an internal audit of the records of all reviewable decisions to discontinue prosecutions made between 1 July 2023 to 30 June 2024.

We conducted the audit in accordance with the requirements laid out in *Director's Instruction 14.2*. In performing our tests of compliance, we examined whether the procedures set out in *Director's Instruction 14.2* have been complied with.

The attached document, the *Record of Reviewable Decisions - Audit 2023-2024*,

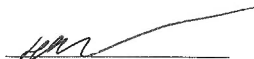
- shows that there were 90 reviewable decisions in the financial year ended June 2024;
- describes the type of offences of these reviewable decisions;
- the level of compliance with the procedures in *Director's Instruction 14.2*;
- provides a breakdown and summary of any compliance issues if any;
- compliance/all options explored were met in 108 matters;
- Non compliance occurred in 3 matters – for these matters, one was a training issue and that has since been rectified, the other 2 were a miscommunication re authorising discontinuance. That is being assessed for the following financial year matters.

The following is a breakdown of the type of matters that made up the audit for the 2022-2023 financial year:

- 17 x Assault matters
- 45 x family violence matters
- 24 x theft/property/robbery/damage matters
- 3 x sexual assault matters
- 1 x drug matter

This Audit Report is prepared solely for the purposes of the Office of the Director of Public Prosecutions' 2023-2024 Annual Report.

For the purposes of this Audit Report, the Audit Committee was appointed by the Director at the end of the 2023 - 2024 financial year on 22 August 2024 and held three separate meetings on 6 September 2024, 10 September and 13 September 2024 to conduct the required examination of documents against the relevant procedures in *Director's Instruction 14.2*.



Harry Wagner
Audit Team Leader
Office of the Director of Public Prosecutions
23 September 2024

³⁴ This audit report refers to the record of decisions that have been automatically reviewed by the DPP over the reporting year.

Appendix E

Record of reviewable decisions - audit 2023–2024³⁵

Table 32: Record of reviewable decisions - audit 2023–2024

No.	Accused	Offence type	Compliance with Director's Instruction 14.2	Status of Prosecution
1.	M A	Obstruct Territory public official x 2, affray x 2, fight in a public place	YES	Matter finalised
2.	M A	FV – Aggravated common assault	YES	Matter finalised
3.	M A	FV – Forcible confinement	YES	Matter to be withdrawn
4.	Z A	Common assault	YES	Matter finalised
5.	A A	FV – Common assault x 2, AOABH, Possess offensive weapon with intent	YES	Matter finalised
6.	K B	Aggravated robbery, joint commission aggravated robbery	YES	Matter finalised
7.	E B	Joint commission aggravated robbery	YES	Matter finalised
8.	K B	FV – Aggravated common assault, aggravated AOABH	YES	Matter finalised
9.	J B	Ride/drive m/v w/out consent, unlawful possession of stolen property, assault police, numberplate/rego not properly issued	YES	Matter proceeding on some charges
10.	C B	Reckless threat to kill, damage property under \$5000, damage property	YES	Matter finalised
11.	C B	Joint commission minor theft	YES	Matter finalised
12.	K B	FV – Aggravated dangerous drive. Possess prohibited weapon. Aggravated common assault. Forcible confinement. Take motor vehicle without consent. Aggravated common assault. Contravene FVO.	YES	Matter finalised

³⁵ This is a record of decisions that have been automatically reviewed by the DPP over the reporting year.

No.	Accused	Offence type	Compliance with Director's Instruction 14.2	Status of Prosecution
13.	T B	FV – Damage property x 2, choke/suffocate/strangle, common assault	YES	Matter finalised
14.	V B	Ride SMV, make off without payment	YES	Matter finalised
15.	T B	Affray, common assault x 2	YES	Matter proceeding on one charge of common assault
16.	B J B	FV – Aggravated AOABH	YES	Matter finalised
17.	H C	FV – Aggravated common assault x 3, aggravated property damage	YES	Matter finalised
18.	J C	Furious/ reckless/dangerous driving, not give particulars to other driver at crash scene x 2, fail to stop motor vehicle for police, damage police vehicle, drive motor vehicle at police	YES	Matter finalised
19.	N C	FV – Aggravated common assault	YES	Matter finalised
20.	C C	FV – Contravene FVO, Aggravated common assault, reckless threat to kill	NO	Matter finalised
21.	J C	Recklessly inflict GBH	YES	Matter finalised
22.	J C	Reckless threat to kill another person	YES	Matter finalised
23.	M D	Theft x numerous	YES	Matter finalised
24.	T D	Aggravated assault OABH FV	YES	Matter finalised
25.	E D	FV - Aggravated common assault, aggravated property damage	YES	Matter finalised
26.	L D	Trespass on premises x 2	YES	Matter finalised
27.	P D	Common assault x 2, AOABH, use carriage service to threaten serious harm, use carriage service to menace/ harass	YES	Matter finalised
28.	M E	FV – Aggravated common assault x 2	YES	Matter finalised
29.	T F	Burglary, theft	YES	Matter proceeding on other charges
30.	H F	FV - Aggravated property damage	YES	Matter finalised
31.	M F	Obstruct territory official, assault police	YES	Matter to be discontinued
32.	S F	FV – Aggravated property damage	YES	Matter finalised
33.	L G	FV – Aggravated threat to inflict GBH, threat to cause arson	YES	Matter finalised

No.	Accused	Offence type	Compliance with Director's Instruction 14.2	Status of Prosecution
34.	D G	Obstruct police, assault police x 2	YES	Matter finalised
35.	J G	Threat to kill	YES	Matter proceeding on other charges
36.	E G-A	FV – Aggravated common assault	YES	Matter finalised
37.	B G	FV - Aggravated common assault, choke/suffocate/strangle, aggravated AOABH	YES	Matter proceeding on charges against another complainant
38.	A H	Assault police x 3, attempt assault police x 2, obstruct police	YES	Matter finalised
39.	E H	Joint commission minor theft x 2	YES	Matter finalised
40.	R H	FV – Aggravated common assault, choke suffocate, strangle a person	NO	Matter finalised
41.	J H	Aggravated robbery x 2, attempt agg robbery, joint commission minor theft x 2, joint commission common assault, joint commission aggravated robbery using force x 2, attempt joint commission aggravated robbery	YES	Matter proceeding on two charges (PG)
42.	E J	Minor theft, reckless threat to kill another person	YES	Matter proceeding on charge of minor theft
43.	A K	FV – Aggravated common assault	YES	Matter finalised
44.	A K	Aggravated robbery	YES	Matter proceeding on alternative charge
45.	M K	FV – Aggravated common assault	YES	Matter finalised
46.	S K	FV – Aggravated AOABH	YES	Matter finalised
47.	S K	Sexual intercourse w/out consent	YES	Matter finalised
48.	J K	Joint commission theft, joint commission damage property, joint commission aggravated burglary, Ride/drive m/v w/out consent	YES	Matter finalised
49.	R K	Unlawful possession of stolen property x 5, traffic in controlled drug other than cannabis, fail to stop motor vehicle for police, ride bicycle, not wear helmet, possess prohibited substance	YES	Matter finalised (proceeded on two charges)
50.	M K	AOABH	YES	Matter finalised
51.	A K	AOABH	YES	Matter finalised

No.	Accused	Offence type	Compliance with Director's Instruction 14.2	Status of Prosecution
52.	J L	Aggravated burglary intent to steal	YES	Matter proceeding on a replacement charge
53.	D L	FV - AOABH	YES	Matter finalised
54.	H L	Ride/drive motor vehicle w/out consent, joint commission theft, joint commission aggravated robbery, joint commission arson	YES	Matter finalised
55.	I L	FV – Aggravated property damage	YES	Matter finalised
56.	Z L	Aggravated burglary, intent to steal, joint commission theft, joint commission AOABH	YES	Matter finalised
57.	M M	Attempt sexual intercourse w/out consent. sexual intercourse without consent under 10yrs x 3, act of indecency in presence of person under 10 yrs	YES	Matter finalised
58.	S M	FV – Intentionally wound	YES	Matter finalised
59.	J M	FV – Aggravated property damage x 2, reckless threat to kill person	YES	Matter finalised
60.	K M	Ride/drive M/Vehicle w/out consent	YES	Matter finalised
61.	E M	FV – Aggravated common assault x 2, aggravated AOABH	YES	Matter finalised
62.	S M	FV – Aggravated common assault, aggravated property damage	YES	Matter finalised
63.	S M	Possess knife in a public place, possess offensive weapon, AOABH, wounding	YES	Matter will be withdrawn
64.	B M	FV – Choke, suffocate, strangle person	YES	Matter finalised
65.	I M	Common assault	YES	Matter proceeding on different charge unrelated to this complainant
66.	K N	FV – Aggravated common assault	N/A	Matter finalised
67.	N N	FV – Aggravated property damage	YES	Matter finalised
68.	M O	FV – Common assault	N/A	Matter finalised
69.	E O	Aggravated burglary – intent to steal, damage property	N/A	Matter finalised
70.	E P	FV- Aggravated property damage	YES	Matter finalised
71.	D P	FV – aggravated AOABH	YES	Matter finalised
72.	J P	FV – aggravated AOABH	YES	Matter finalised

No.	Accused	Offence type	Compliance with Director's Instruction 14.2	Status of Prosecution
73.	E R	FV – aggravated common assault, aggravated AOABH	NO	Matter finalised
74.	S R	FV – Stalking	YES	Matter finalised
75.	C R	FV – Aggravated common assault, possess offensive weapon with intent	YES	Matter finalised
76.	D S	FV – Aggravated property damage x 2	YES	Matter finalised
77.	L S	Obstruct territory official, trespass on premises	YES	Matter finalised
78.	B S	FV - Contravene FVO	YES	Matter finalised
79.	P S	FV – Threat to kill, behave in an offensive manner while trespassing, trespass, aggravated common assault	YES	Matter finalised
80.	D S	P possess stolen property	YES	Matter proceeding on another charge
81.	D S	FV - Aggravated AOABH	YES	Matter finalised
82.	A S	FV- Aggravated property damage x 2	YES	Matter finalised
83.	S S-R	Ride m/v w/out consent	YES	Matter finalised
84.	O T	Minor Theft, unlawful possession of stolen property	YES	Matter finalised
85.	D T	Stalking	YES	Matter finalised
86.	D W	Ride/drive m/vehicle w/out consent	YES	Matter to be withdrawn
87.	G W	Act of indecency without consent	YES	Matter finalised
88.	M W	Joint commission aggravated robbery	YES	Matter still proceeding
89.	A W	FV – Aggravated common assault x 2	YES	Matter finalised
90.	Y X	FV – Aggravated common assault, aggravated property damage	YES	Matter finalised

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Abbreviations and acronyms

ABS	Australian Bureau of Statistics
ACAT	ACT Civil and Administrative Tribunal
ACT	Australian Capital Territory
ACTCS	ACT Corrective Services
ACTPS	ACT Public Sector
AFP	Australian Federal Police
AG	Attorney-General of the Territory
ANZSOC	Australian and New Zealand Standard Offence Classification
APIC	Audit Performance and Improvement Committee
ARIns	Attraction and Retention Incentives
ATSI	Aboriginal and Torres Strait Islander
AVL	Audio Visual Link
CA	Court of Appeal
CARHU	Child and Risk Health Unit
CASES	Criminal Advocacy Support and Enquiry System (this is the DPP's Case Management System)
CJ	Chief Justice
CMTEDD	Chief Minister, Treasury and Economic Development Directorate
COCA	Confiscation of Criminal Assets
COVID-19	Corona virus disease 2019
CPD	Continuing Professional Development
CPS	Child and Protection Services
CRCC	Canberra Rape Crisis Centre
Cwth	Commonwealth
CYPS	Child and Youth and Protection Services
DASL	Drug and Alcohol Sentencing List (DASL)
DATO	Drug and Alcohol Treatment Order
DPP	Director of Public Prosecutions

DVCS	Domestic Violence Crisis Service
EAP	Employee Assistance Program
FAMSAC	Forensic and Medical Sexual Assault Care
F CPP	Fraud and Corruption Prevention Plan
FOI	Freedom of Information
FTE	Full Time Equivalent
FV	Family Violence
FVIP	Family Violence Intervention Program
FVEIC	Family Violence Evidence in Chief Interview
HC	High Court
ICMS	Integrated Court Management System
ICT	Information Communication Technology
JACSD	Justice and Community Safety Directorate
LGBTQIA	lesbian, gay, bisexual, transgender, queer or questioning, intersex, and asexual or allied
MC	Magistrates Court
NOI	National Offence Index
NSW	New South Wales
ODPP	Office of Director of Public Prosecutions
OEDS	Office Employment Diversity Statement
OMCG	Outlaw Motorcycle Gang
PTG	Public Trustee and Guardian
RCIRCSA	Royal Commission into Institutional Responses to Child Sexual Abuse
RSPCA	Royal Society for the Prevention of Cruelty to Animals
RORD	Record of Reviewable Decisions
SACAT	Sexual Assault and Child Abuse Team
SARP	Sexual Assault Reform Program
SC	Supreme Court
SES	Senior Executive Service
TD	Trial Directions

VSACT Victim Support ACT

WAS Witness Assistance Service

WEGIES Working Environment Group

WHS Work Health and Safety

Glossary of technical terms

A1 list	Criminal General List - Matters dealt with include adjournments, short sentences, uncontested or simple applications, uncontested committals, and case management will be dealt with in the morning and longer sentences will be listed in the afternoon.
A2 list	Criminal bail/sentence list - Matters dealt with include first appearances from custody; contested bail applications or variations and bail reviews; related issues which can be dealt with expeditiously, such as entry of a plea or ordering of reports unless the Magistrate forms the view that they are more appropriately moved to another list; applications for extradition pursuant to the <i>Service and Execution of Process Act 1992</i> (Cwlth); and Sentencing Administration Board warrants.
ACT Auditor-General	Refers to the ACT Auditor-General who conducts independent financial and performance audit on ACT Government agencies and those entities in receipt of ACT Government funding or resources. The results of these audits are reported to the ACT Legislative Assembly and ACT community.
ACT Bar Association	The professional body that regulates barristers in the ACT. It represents the interests of members who practise at the private bar.
ACT Bar Council	It manages the general business of the ACT Bar Association and is responsible for regulating the professional conduct, practice and etiquette to be observed by practising barristers.
ACT's Executive	The members of the Executive are the Chief Minister and such other Ministers as are appointed by the Chief Minister.
accused	person charged with an offence, usually an indictable offence.
actus reus	refers to the act or omission that comprise the physical elements of a crime as required by statute.
acquit	When the Magistrate, jury or appeal court finds that a person is not guilty of the crime.
adjournment	To ask the court to delay your court case until a later date. The delay is referred to as an adjournment. This is a break in legal proceedings, either for part of a day or put off until another day.
advocate	An individual who presents or argues another's case; one who gives legal advice and pleads the cause of another before a court or tribunal.
agencies	administrative units of the ACT Public Service.
aggravated burglary	where burglary is committed by two or more people; or during the burglary, an offensive weapon is used.
aggravated robbery	where a person commits robbery in a group with one or more people or commits robbery whilst having a weapon in their possession.

aggravating factors	Circumstances that make an offence much more serious. Facts or details about the offence, the victim and/or the offender that tend to increase the offender's culpability and the sentence they receive.
alcohol use disorder	Alcohol use disorder (includes alcoholism) is alcohol use that involves problems controlling one's drinking, being preoccupied with alcohol, continuing to use alcohol even when it causes problems, having to drink more to get the same effect, or having withdrawal symptoms when one rapidly decreases or stops drinking.
antecedents	Refers to the life history and previous convictions of a accused in a criminal case. This information is given to the court before sentence is given. The criminal history of the convicted plays a role in the frame of the punishment.
appeal	To take a case to a higher court in order to challenge a decision. The person who appeals is the appellant. Not all decisions can be appealed.
appellant	The party appealing a court's decision. This can be the accused or the prosecution.
appellate	Relating to appeals; reviews by superior courts of decisions of inferior courts.
Attorney-General of the Territory	The Minister who has the responsibility for the administration of justice in the Territory.
Attraction and Retention Incentive ('ARIn')	An ARIn may be offered where a position is deemed critical to the operation of the Directorate or its business unit; requires employees with specialist qualifications or specialist or high level skills; the skills required by the position are in high demand in the marketplace, or the position would incur significant costs to replace. An ARIn may contain enhanced pay rates, provision for privately plated vehicles or other terms and conditions of employment where the Director-General and Head of Service considers there is a clear, unambiguous and exceptional need.
audio visual link ('AVL')	The AVL facility is a form of video conferencing using cameras and television screens, that allows two-way communication to a remote location. AVL may be used to take evidence from witnesses not able to attend the location, e.g. for witnesses who are interstate or overseas. Using AVL for bail hearings reduces unnecessary transportation of prisoners to and from Court, especially to regional locations and increases the security for court users.
B list	Children's Court general list.
bail	The release of a accused into the community until a court decides the charge(s) against the person. Bail orders always include a condition that the accused must attend court hearings. Additional conditions such as a requirement to live at a certain address or report to police may be added to a person's bail undertaking.
beyond reasonable doubt	This is the level to which the prosecution in a criminal proceeding must prove that the accused person committed the alleged offence.
brief of evidence	Refers to the things that make up the case against a person if they have been charged with a crime. This can include the charge sheet, the informant's statement, their criminal record and other documents the police have about their matter.

callover	Cases often appear in the court's lists several times before there is a hearing, or before sentencing occurs. These court appearances are known as 'callovers' or 'mentions'. They are used to find out how one will plead, and how much time the court will need to allocate for a hearing.
common assault	where a person has either threatened to harm another person or where unlawful force has been used without the persons consent.
common law	The law based on previous court decisions and customs as distinct from statute law created by Parliament.
case management	This is an active judicial intervention in matters before the Court, intended to decrease resolution times and ensure the efficient use of Court resources.
charge	A statement giving the details of a crime an accused person is claimed to have committed.
child	A person below the age of 12 years.
Childrens Court	A court that hears offences committed by children and young people. The Childrens Court is a special court of the Magistrates Court..
closing address	The closing statement by counsel to the trier of facts, after all parties have concluded their presentation of evidence.
Code	<i>Criminal Code 2002 (ACT).</i>
committed for sentence	The magistrate can commit the accused to a superior court for sentencing if: it is an indictable offence; or if there is not the required consent; or the magistrate is of the opinion that the interests of justice require committal to a superior court.
committed for trial	Where a magistrate determines that there is a case to answer, the matter will be committed for trial in the Supreme court. The term committed for trial means sending the matter to one of the higher court jurisdictions.
community service work	This is an alternative to prison and involves the offender doing voluntary work in the community. The offender may be ordered to do work such as plant trees, remove graffiti, work with homeless people, or anything else the supervising officer deems suitable.
complainant	person against whom it is alleged a crime has been committed, usually used in the context of sexual assault.
concurrent sentence	Individual sentences for each offence that are ordered to be served at the same time. This means the shortest sentence is subsumed into the longest sentence (also called the 'head sentence').

controlled drug	A drug or other substance that is tightly controlled by the government because it may be abused or cause addiction. The control applies to the way the substance is made, used, handled, stored, and distributed. Controlled substances include opioids, stimulants, depressants, hallucinogens, and anabolic steroids. In the ACT illegal drugs are called 'drugs of dependence' or 'controlled drugs' or 'prohibited substances'.
conviction	A determination of guilt made by a court.
co-offender	Co-offending is defined as the act of committing crime alongside one or more accomplices.
count	Each separate statement in a complaint which states a cause of action which, standing alone, would give rise to a lawsuit, or each separate charge in a criminal action.
core conditions	Conditions that one on a good behaviour order ('GBO') will have e.g. to not commit any more crimes while on a GBO; to tell the court of a change of address or other contact details within two days; to tell the court if charged with a new crime within two days; to go to court if asked by the police to do so; and to follow any other conditions set by the courts.
coronavirus	Coronaviruses are a large family of viruses that cause respiratory infections. These can range from the common cold to more serious diseases like SARS (severe acute respiratory syndrome), MERS (Middle East respiratory syndrome) and the more recent coronavirus disease (COVID-19).
coroner	Coroners hold inquests into violent, sudden, or suspicious deaths. Coroners investigate deaths, fires and explosions, helped by police and a team of their own investigators.
Court of Appeal	The Supreme Court is known as the Court of Appeal when exercising its appellate jurisdiction.
COVID19	Coronavirus disease 2019 is an infectious disease caused by severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2).
criminal case conferencing	Refers to negotiations between the prosecution and defence to discuss issues in dispute in order to bring about an early resolution to proceedings. Such negotiations may result in the amendment, substitution or withdrawal of charges and/or the agreement as to a factual basis of sentence and submissions on the sentence range.
Criminal Central Listing callover	The list will be called over before a Judge. Parties will advise the Court on matters which could affect the hearing, including whether the matter is to proceed by trial by jury or a trial by judge alone, whether there are any pre-trial applications or hearings in the matter, any prospects of the matter resolving without the need for a trial, counsel and witness unavailability during the sitting time, the expected duration of the trial, any requirement for CCTV, video conferencing or the recording of evidence, etc.
criminal history	A record of the offences a person has been convicted of.
Crown	In higher courts the prosecution may be referred to as the Crown that is, representing the Queen in the rights of the Commonwealth.

Crown Prosecutor	the prosecutor in the Supreme Court or Court of Appeal.
cumulative sentence	Individual sentences for each offence that are ordered to be served one after the other.
accused	a person charged with an offence.
Deputy Director	Deputy Director of the Office of the Director of Public Prosecutions.
Director	Director of Public Prosecutions.
directorates	administrative units of the ACT Public Service.
Director-General	person appointed to head an administrative unit of the ACT Public Service under Division 3.4 of the <i>Public Sector Management Act 1994</i> .
evidence	Material presented to a court to prove or disprove a fact. It can include what witnesses say as well as documents and other objects.
evidence-in-chief	Questioning of a witness by the party who called the witness to give evidence, other than questioning re-examination.
evidential burden	The burden of adducing evidence that suggests a reasonable possibility that the matter exists or does not exist.
excluded offences	Refers to the excluded offences laid out in Part 2.2 of Schedule 2 (Trial by Judge Alone - excluded offences) in the <i>Supreme Court Act 1933</i> .
exhibit	A document or object that is provided as evidence in a court case or referred to in a sworn statement.
ex officio indictment	Even if committal proceedings have not taken place, or if a magistrate has found during committal proceedings that there is insufficient evidence for a trial, the DPP may file a special information or indictment, called an <i>ex officio information/indictment</i> , against the offender and they must then stand trial in the normal manner in the Magistrates Court or Supreme Court.
FI list	This refers to the Family Violence List in the Family Court. Accuseds charged with family violence offences are to appear in the FI list.
FOI Act	<i>Freedom of Information Act 2016</i> .
forcible confinement	A person who unlawfully confines or imprisons another person.
FV Unit	Family Violence Unit.
good behaviour order	A good behaviour bond is a period of time when the offender must show good behaviour to avoid jail. It comes with numerous conditions such as participating in drug and alcohol counselling, staying away from certain people, and reporting to the supervising officer. Failure to follow the conditions may lead to harsher penalties ranging from simple warnings to imprisonment.

ground rules hearing	This is a pre-trial process that involves the parties and judge to address issues, including the manner and content of cross-examination, and the comprehension capacity and communication needs of vulnerable witnesses and assisting parties to plan their questions. It will be required in criminal proceedings in any matter in which an intermediary has been appointed.
guilty	When a accused enters a plea of guilty, they accept responsibility for the offence. When a accused pleads not guilty, a jury will determine the guilt of the accused if the matter proceeds as a trial in a higher court. Where a accused pleads not guilty in the Magistrates Court, the magistrate determines the guilt of the accused.
Head of Service	person appointed to head the ACT Public Service under Division 3.2A of the <i>Public Sector Management Act 1994</i> .
head sentence	The total period of imprisonment imposed. A person will usually be released on parole or a suspended sentence before the entire head sentence is served.
hearing	A proceeding where the evidence is presented to the court after an accused or accused has pleaded not guilty.
High Court	Refers to the High Court of Australia. The highest court in the Australian judicial system. The High Court only deals with legal matters of wider public importance and is not a sentencing court.
historical offences	a term used to describe offences that have occurred in the distant past.
hung jury	An outcome where the jury cannot agree whether the accused is guilty or not.
incarceration	confinement in a jail or prison.
indictable offence	an offence required or able to be dealt with in the Supreme Court.
indictment	A formal accusation of the commission of a criminal offence in Supreme Court proceedings.
Industrial Court	Refers to the ACT Industrial Court. The Court has jurisdiction to deal with industrial or work safety matters.
inter alia	amongst other things.
intermediary	Intermediaries are skilled communication specialists who assist vulnerable witnesses to give their best evidence. Their role is to help communication with the witness and to assist the witness to give evidence to police and in court.
intermediary program	The ACT's Intermediary Program commenced in January 2020 and is actively providing intermediaries to assist police and courts' engagement with vulnerable witnesses in criminal matters.
judicial review	The court's review of an administrative decision on the basis of a legal error in the decision-making process.

jury	A group of (usually) 12 people chosen at random from the general community who are tasked with the responsibility of determining whether the accused is guilty on the evidence presented in a criminal trial.
leave to appeal	A accused must first seek permission to appeal before their appeal can be heard by the Court of Appeal. The leave to appeal argument will be heard before a single judge in the Supreme Court.
Legislative Assembly	Refers to the Legislative Assembly for the ACT, i.e. the parliament for the nation's capital. It was established after self-government in 1989. It performs both territory and local level functions and makes decisions that impact the lives of those who live and work in the ACT.
lockdown	During the COVID-19 pandemic, the term lockdown was used for actions related to mass quarantines or stay-at-home orders.
LSD	LSD, also known colloquially as acid, is a hallucinogenic drug. The effects of the drug include altered thoughts, feelings, and awareness of one's surroundings.
Magistrate	The person who hears the case and decides the sentence in the Magistrates Court or the Childrens Court.
Magistrates Court	The first tier of the ACT courts system. Most criminal cases are heard in this court in some form.
manslaughter	The act of causing another person's death without the intent to do so.
mental health order	Where a person does not have decision-making capacity or where their mental illness/ disorder is placing them or the community at significant risk, involuntary measures may be required to provide them with the necessary assessment, treatment, care or support. There are a number of mental health orders that ACAT can make under the <i>Mental Health Act 2015</i> including: Psychiatric Treatment Orders; Community Care Orders; Restriction Orders; Forensic Psychiatric Treatment Orders; and Forensic Community Care Orders.
mental impairment	This includes senility, intellectual disability, mental illness, brain damage and severe personality disorder.
mention	This is where the case appears in court for a brief time, usually to deal with a procedural matter and is not the 'hearing' of the matter. This includes setting dates and deciding bail.
methamphetamine	Methamphetamine is a powerful, highly addictive stimulant that affects the central nervous system. It is also known as meth, blue, ice, and crystal.
miscarriage of justice	This is a reference to an outcome in a judicial proceeding that is unjust; especially an error made in a court of law that results in an innocent person being punished or a guilty person being free.

	<p>The model litigant policy is founded upon the concepts of behaving ethically, fairly and honestly to model best practice in litigation. The model litigant rules are about fair play, about the prosecution conducting its case, about ensuring that the community has good reason to trust the DPP and the way its prosecutors conduct the prosecution.</p>
model litigant	<p>The model litigant guidelines apply to civil rather than criminal proceedings and are therefore not directly applicable to the work of the Office. In making decisions in the prosecution process, prosecutors are guided by the procedures and standards which the law requires to be observed, and in particular by the Prosecution Policy promulgated by the Director. Like the origins of the model litigant principles, that policy reflects the higher standards of behaviour and disclosure required of the Crown.</p>
non-conviction order	<p>Where the offender is found guilty, the court may make an order directing the charge to be dismissed if satisfied that it is not appropriate to impose any punishment, or a good behaviour order. (Section 17 of the Crimes (Sentencing) Act 2005).</p>
non-parole period	<p>The time a person serves in prison before being released on parole or becoming eligible to apply for release on parole.</p>
notice of appeal	<p>A written document filed by the appellant with the court and a copy of which is sent to the respondent. This is the initial step in the appeals process. It informs the court and the party in whose favour a judgment or order has been made that the unsuccessful party seeks a review of the case.</p>
notifiable instrument	<p>A statutory instrument that is declared to be a notifiable instrument by an Act, subordinate law, disallowable instrument or another notifiable instrument. As with disallowable instruments, this 'declaration' is generally included in the provision that authorises the making of the instrument.</p> <p>If a primary law gives power to do something by notifiable instrument, then: (a) if the thing is done, it must be done by instrument; and. (b) that instrument is a notifiable instrument.</p> <p>Examples of notifiable instruments include notices of road closures and declarations about public holidays.</p>
Objective seriousness of the offence	<p>The outer limits of a sentence depend on the gravity of the offence in light of its objective circumstances. A court must make a 'real assessment of the objective criminality of the offending'.</p> <p>Objective seriousness is how serious the particular instance of the offence is. A case may fall at the lower end of seriousness for an offence and attract a very minor penalty, or it may be towards the most serious example of the offence and attract close to the maximum penalty. To determine the objective seriousness of an offence, the judge must take into account the facts and circumstances of the offence, the maximum penalty that can be ordered for such an offence, as well as any aggravating factors (factors that make the offence more serious) and mitigating factors (factors that may reduce the sentence).</p>

offender	A person who has been found guilty of an offence, or who has pleaded guilty to an offence.
offence	A criminal act.
Office	Office of the Director of Public Prosecutions. The Office consists of the Director and the members of the staff of the office.
on the papers	If a decision is to be made 'on the papers', the court will usually make orders for one to file their written evidence or submissions in relation to that particular decision before it is scheduled to be handed down.
onerous	excessively burdensome or troublesome; causing hardships.
onus of proof	The responsibility to prove a case in court. In criminal trials, the prosecution must prove its case, leaving no reasonable doubt about it.
oral hearing	A person and their representative can attend, or their representative can attend the hearing without them. This is a hearing in which all the participants are physically present in the same place, receiving the same information at the same time.
paralegal	An individual who is employed or retained by a lawyer, law office, corporation, governmental agency, or other entity and who performs specifically delegated substantive legal work for which a lawyer is responsible. Paralegals perform tasks requiring knowledge of the law and legal procedures.
parole	The conditional release of a person from prison. When a person is released on parole, they serve the unexpired portion of their prison sentence in the community under supervision.
physical distancing	This is the practice of maintaining a greater than usual physical space between oneself and other people or of avoiding direct contact with people or objects in public places during the outbreak of a contagious disease in order to minimize exposure and reduce the transmission of infection.
plaintiff	The person who initiates or files a case with a court.
plea	The response by the accused to a criminal charge — 'guilty' or 'not guilty'.
practice direction	Practice directions are procedural guidelines issued by judges of the Supreme Court. The directions are designed to complement existing legislation, rules and regulations and may refer to issues including the use of the court precinct, appearances by practitioners and parties, and case management.
practising certificate	Once admitted as a lawyer in Australia you must hold a practising certificate before you can practise law in any Australian jurisdiction. Different bodies issue practising certificates in different jurisdictions.

pre-sentence report	This report is prepared by ACTCS based on interviews with the offender and information on the reasons for offending; the offender's attitude to the offence, including whether they are remorseful; any history of offending; any history of drug and alcohol misuse or mental health concerns; their prospects for rehabilitation; and their risk of reoffending. The pre-sentence report also sets out the available sentencing options and indicates the offender's suitability for these various options.
proofing	A victim of crime or witness for the prosecution may be asked to attend a meeting, or number of meetings, at the DPP. 'Proofing' is a meeting with the prosecutor who has conduct of the prosecution case involving the accused.
Reading program	This is a mandatory stage of the qualification process for barristers, in which a trainee barrister must appear with a qualified barrister for a specified period.
remote witness room	The remote witness room enables vulnerable people, complainants and sexual offence witnesses in prescribed sexual offence proceedings to give evidence by means of closed-circuit television facilities or other technology that enables communication with the courtroom. Witnesses are also entitled to have a support person with them in the remote witness room which is considered to be part of the court. For the safety of witnesses their location is confidential.
resentence	To impose a new or revised sentence or punishment on someone who has already been sentenced for a crime.
respondent	The party responding to an appeal or application before a court.
restraining order	A court order that prohibits someone from doing something.
probation	Probation allows a person convicted of a crime the chance to remain in the community instead of going to jail. Probation requires that one complies with certain court-ordered rules and conditions under the supervision of a probation officer. Typical conditions may include performing community service, meeting with one's probation officer, refraining from using illegal drugs or excessive alcohol, avoiding certain people and places, and appearing in court during requested times.
search warrant	search warrants involve the right of police to enter someone's home and search the premises for the purpose of investigating matters. Search warrants are issued by magistrates on the basis of information provided on oath by police officers.
self-represented	A person who does not have a lawyer to appear for them in court and who presents their case to the court themselves.
sentence	The penalty that the court imposes on a person who has been found guilty of an offence.
sentencing proceedings	A person who pleads guilty, or is found guilty, may wish to call evidence in mitigation of the penalty. Matters considered at sentencing include age, good character, previous good record, and the circumstances of the offence.
shutdown	temporary closure of services or business.

Silk	A Silk lawyer is the colloquial name given to a Senior Counsel who is selected by an independent panel committee due to their knowledge, experience and skill. Senior counsels are colloquially known as “silks” because their robes include a gown made of silk. (Junior counsels wear gowns made of cotton.)
SC Registrar’s TD List	Supreme Court Registrar’s Trial Directions List.
SO Unit	Sexual Offences Unit.
submission	The opinion, argument, etc. put forward by a party in a court case.
subpoena	This is a document that is served on any party in proceedings to require that documents relevant to the court case be produced to the court. People can also be subpoenaed to appear in court to give evidence.
suicidal ideation	Suicidal ideation, also known as suicidal thoughts, is thinking about, considering, or planning suicide. The range of suicidal ideation varies from fleeting thoughts, to extensive thoughts, to detailed planning.
summary offences	This is an offence that is punishable by two years imprisonment or less (section 190 of the <i>Legislation Act 2001</i>). As a general rule, there is no statute of limitations for an offence punishable by more than 6 months imprisonment, meaning that most summary offences can, be prosecuted outside of a 12 month-time frame (section 192 of the <i>Legislation Act 2001</i>).
Supreme Court	The highest state court in ACT. It comprises the trial division and the Court of Appeal.
suspended sentence	A sentence of imprisonment that is not served, unless there is a breach of an attached good behaviour order.
social distancing measures (COVID-19)	These measures include not shaking hands, or exchanging physical greetings, and wherever possible, staying at least 1.5 metres away from others.
special leave to appeal	Where an appeal decision is denied by the Court of Appeal, special leave may be made to the High Court. This can only be done in exceptional circumstances and must involve a ‘question of law of general importance’.
statement of facts	A brief outline of the allegations.
statutory limitation	The period within which time court proceedings must be issued.
stay the proceedings	An order that a particular legal action stop. A stay may be for a fixed period, until certain events occur, or permanent.
tendency evidence	This is evidence ‘of the character, reputation or conduct of a person, or a tendency that a person has or had’, adduced to prove that the person ‘has or had a tendency (whether because of the person’s character or otherwise) to act in a particular way, or to have a particular state of mind’.
Territory	Refers to the ACT. The ACT is established as a body politic under the Crown by the name of the ACT.

the Act	the <i>Director of Public Prosecutions Act 1990</i> .
the financial year	Refers to the 2023–2024 financial year or reporting year.
trial	A hearing in a court where all evidence is heard, and a final decision is made.
trial directions	Orders made by the registrar in relation to the conduct of a proceeding. Before the trial or hearing of a matter, a registrar may give directions so that the parties involved will be properly ready. The directions usually set down a list of steps to be taken by the parties and the deadline for those steps. The steps usually involve filing of material and defining the issues that require a decision by the Court.
upholding an appeal	A court finding in favour of the appellant.
verdict	The decision of a jury in a criminal trial as to whether an accused is guilty or not guilty of an offence.
victim	A person who has suffered harm directly because of a criminal offence, or a family member or dependant of a person who has died or suffered harm because of a criminal offence.
victim impact statement	A statement written by a victim that may be read or presented to a court after an offender has been found guilty and before they are sentenced. The VIS informs the court about the harm suffered by the victim as a result of the offence. In sentencing, the court is required to consider a number of factors including the injury, loss or damage to a victim, resulting from the offence.
Victims of Crime Charter	This is a charter embodying a raft of victim's rights provided for in the <i>Victims of Crimes Act 1994</i> and the <i>Human Rights Act 2004</i> .
witness	A person who appears in court to give direct information about something relevant to the case the court is hearing.
young person	A young person is a person who is 12 years old or older, but not yet an adult. An adult is as a person who is at least 18 years old.

Contact sources

Agency	Website / Contact Details
Access Canberra	https://www.accesscanberra.act.gov.au/
ACT Audit Office	https://www.audit.act.gov.au/
ACT Bar Association	https://www.actbar.com.au/
ACT Corrective Services	http://www.cs.act.gov.au/
ACT Environment Protection Authority	https://www.accesscanberra.act.gov.au/app/answers/detail/a_id/3149/-/environment-protection

ACT Health	https://health.act.gov.au/
- Alcohol and Other Drug Service	https://www.health.act.gov.au/services/alcohol-and-drug-services
ACT Integrity Commission	https://www.integrity.act.gov.au/
ACT Ombudsman	https://www.ombudsman.act.gov.au/
ACT Policing	https://police.act.gov.au/
ACT Policing's Family Violence Coordination Unit	https://police.act.gov.au/safety-and-security/family-violence
ACT Policing Victim Liaison Office	Victims Liaison Office Telephone: (02) 6245 7441 Email: Victims-Liaison-Office@afp.gov.au
Alexander Maconochie Centre	http://www.cs.act.gov.au/custodial_operations/types_of_detention/alexander_maconochie_centre
Australian Bureau of Statistics	https://www.abs.gov.au/
Australian Federal Police	https://www.afp.gov.au/
Canberra Rape Crisis Centre	https://www.cccc.org.au/
Chief Minister, Treasury and Economic Development Directorate	https://www.cmtedd.act.gov.au/
Child and Youth Protection Service	https://www.communityservices.act.gov.au/ocyfs/children/child-and-youth-protection-services
Child at Risk Health Unit	https://www.health.act.gov.au/services-and-programs/women-youth-and-children/children-and-youth/child-risk-health-unit
Domestic Animal Services	https://www.cityservices.act.gov.au/pets-and-wildlife/domestic-animals/dogs/about-das
Domestic Violence Crisis Service	https://dvcs.org.au/
Forensic and Medical Sexual Assault Care (Canberra Hospital)	https://www.health.act.gov.au/hospitals-and-health-centres/canberra-hospital
Human Rights Commission	https://hrc.act.gov.au/
Justice and Community Safety Directorate	https://justice.act.gov.au/
Legal Aid Commission	https://www.legalaidact.org.au/
Legislative Assembly for the Australian Capital Territory	https://www.parliament.act.gov.au/home
Public Trustee and Guardian	https://www.ptg.act.gov.au/

Territory Records Office	https://www.territoryrecords.act.gov.au/home
Royal Society for the Prevention of Cruelty to Animals	https://www.rspca-act.org.au/
Victim Support ACT	https://www.victimsupport.act.gov.au/home
WorkSafe ACT	https://www.worksafe.act.gov.au/ https://www.accesscanberra.act.gov.au/app/home/workhealthandsafety/worksafeact
