



Heads of Prosecuting Agencies Conference (HOPAC)

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**COVID: Challenges, Responses and
Digital Transformation.**

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Introduction

When COVID hit our shores, the Australian Government commissioned forecasting on how the pandemic could unfold against several models and scenarios.¹ The objective was to manage demand for intensive care unit (ICU) beds, the capacity of which was being expanded to around 7,000 beds Australia wide.

The modelling measured the likely period of time to reach the peak demand, measured in weeks from outbreak generally considered to be the start of March 2020, and compared this to peak daily demand for ICU beds under 3 different models:

- Uncontrolled measures - peak 17 weeks (early July).
- Isolation and quarantine measures - peak 26 weeks (early September).
- Isolation, quarantine and social distancing measures - peak 43 weeks (end of the year).

The health ramification for each model looked bleak.

Uncontrolled model - around 89% of the population would catch the virus, with 38% requiring some medical care, and only 15% of people who required an ICU bed would get one.

Isolation and quarantine model – around 68% of the population would catch the virus, with 29% needing medical care and around 30% of people requiring ICU beds getting one.

Isolation, quarantine and social distancing model – this was broken into two levels of social distancing:

Under the least restrictive level, there would be a 25% reduction in transmission due to social distancing, 38% of people would be infected, 16% would require medical care with 80% of people in need of an ICU bed getting one.

Under the most restrictive level, there would be a 33% reduction in transmission due to social distancing, 12% of people would get the virus and only 5% would require some medical care, and everyone who needed an ICU bed over the course of the pandemic could access one.

At that stage, the most likely scenario was a closing down of the community for the remainder of 2020, with the likelihood that even then, up to 20% of people in need may not receive an ICU bed.

Courts response

In response, on 16 March 2020, the ACT Minister for Health declared a public health emergency in the ACT pursuant to section 119 of the *Public Health Act 1997* (ACT). Over the weeks that followed seven (7) emergency directions were issued closing restaurants, cafés and gyms, limiting gatherings and directing compliance with the now familiar social distancing requirements of a maximum room occupancy of 1 person per 4 square metres.

I should first point out that we are the only jurisdiction in Australia where the Office of the Director of Public Prosecutions services all matters in all courts, from minor traffic matters in the ACT

¹ Impact of COVID-19 in Australia, Ensuring the health system can respond 7 April 2020- [Impact of COVID-19 in Australia – ensuring the health system can respond | Australian Government Department of Health](#).

Magistrates Court through to serious indictable matters in the ACT Supreme Court, as well as appeals to the ACT Court of Criminal Appeal and the High Court of Australia.

On 16 March 2020, our Supreme Court issued a media release announcing new hygiene measures for trials, then on 23 March the Court issued Practice Direction 1 of 2020 imposing various additional measures restricting movement within the court precincts. This was updated on 7 April ceasing jury trials altogether, with the Legislative Assembly passing legislation denying accused people access to jury trials during the course of the pandemic. Whilst the Supreme Court imposed access and social distancing requirements and suspended jury trials and limited the number of new judge alone trials, future judge alone trials and Court of Appeal matters were bought forward such that the court remained highly operational for the first six months.

On 27 March 2020, the Magistrates Court issued COVID-19 Measures (No 4), that reduced court operations to daily mention lists, and weekly family violence lists essentially ceasing all disputed criminal hearings, however much of the children's court lists remained untouched.

Under the relevant health directions, my office was deemed an essential service that enabled me to remain fully operational if I so declared, however at that stage my focus was on keeping a sufficiently healthy workforce to maintain a functioning society at a time that life as we knew it had ground to a halt for the foreseeable future.

In light of the significantly reduced Magistrates Court operations which represents around 80% of our work, on Monday 30 March 2020, I executed our COVID-19 Business Continuity Plan effectively splitting my workforce into three semi-autonomous crews consisting of support staff, paralegals, and all levels of lawyers from junior to senior prosecutors that would collectively service the Magistrates Court and minor matters in the Supreme Court on rotating two-day rosters, with Crown Chambers remaining fully operational to service the indictable and appeals practice in the Supreme Court as demand required, however everything that could be done from a lawyer's home, was to be done from home.

Technological response

The hero of our COVID response, was our IT Manager who quickly rolled out a range of technology.

Fortunately, at the time COVID hit we had just commissioned a brand-new court complex, and we were rolling out a new IT plan to interface with the court's technological capabilities, utilising a centralised G drive accessed through a ROAM interface on personally issued laptops. This was initially designed to facilitate the ability for lawyers to plug their laptop into the courts interface, to access their brief of evidence located on the office G drive and lead the evidence direct to the court room.

The IT section quickly deployed the ROAM interface, allowing the G drive to be accessed via internet chips or WIFI from homes, so staff became completely mobile, including the ability to access the full range of office drive (files / folders / emails) as well as a range of electronic meeting interfaces such as Webex and MS Teams from a personally issued laptop with an internet chip.

This meant that not only could our staff access everything they could in the office from their homes, they also had the ability to appear in court remotely using either Webex or MS teams from wherever they were located. This created an unprecedented practice of appearing in judge alone trials, sentences and appeals from rapidly set up home workspaces that quickly became the norm.

Fortunately, the court infrastructure enabled it to interface with a range of off-the-shelf communication products, such as FaceTime or Messenger, to allow witnesses to appear in court using a range of personal android and Apple devices.

For the more file intensive work such as the mention lists in the Magistrates Court, we set up three virtual courtrooms using large Webex boards, one on each of the three levels of our office. We had runners to deliver files to staff homes for preparation, with the list prosecutors and relevant support staff coming to the office and appearing from the virtual court rooms within our office.

Whilst the Federal joint cabinet announced a three-step recovery plan that commenced from midnight Friday 8 May 2020, as with most jurisdictions, periodic lockdowns and rolling restrictions became a regular visitor for the two years that followed, as we rode the ebbs and flows of the evolution of the COVID pandemic and its various surges and variants. This resulted in us periodically returning to normal operations, before re-entering lockdowns of various severity.

Challenges

As you are aware, all prosecution agencies deal with challenging and confronting subject matter and evidence. This is exacerbated when working in the isolation of one's home. It also presents challenges in allowing such sensitive material to enter the sanctity of one's home.

The office structure breaks the office into seven function specific teams, with an eighth team dedicated to the confiscation of criminal assets each headed by a Supervising Prosecutor, and Crown Chambers that manage our serious indictable work headed by the Chief Crown Prosecutor.

We rapidly rolled out a series of training initiatives including resilience training through 'The Resilience Project', vicarious trauma training through Blue Knot and trained the entire office in mental health first aid through Mental Health First Aid Australia. Each of the respective training programs were directed at different challenges that presented themselves through dealing with confronting subject matter, in stressful situations in the isolation of one's home.

As part of the Resilience Project training, staff were given personal diaries and an associated app to chart their mood and daily challenges, as well as acknowledging things such as exercise, sleep and diet.

The vicarious trauma training was directed at assisting staff to identify the signs and symptoms of trauma in themselves, including the warning signs of dealing with confronting subject matter in isolation, including diarising any concerns or warning signs.

The Mental Health First Aid training assists staff to identify the warning signs of mental stress in others, by looking at key behaviours ranging from physical appearance to changes in the way they talk about both life in general and work.

The office also implemented regular meetings within the specific office teams so that all of the week's experiences were brought to a weekly Teams meeting to allow staff to express how they were feeling, in an environment that allowed other team members to assess the wellbeing of other team members, and address issues as needed.

We acknowledged that in such trying times, we were each other's biggest assets and greatest responsibility, and the weekly virtual team meetings also allowed staff to discuss their current matters and the challenges they presented as well as their week and months ahead, to replicate the think tanking that occurred organically with a central workplace. Maintaining the support of a team

structure, and the ability to provide pastoral care of our staff in isolation was possibly one of the greatest risks and biggest challenges during the pandemic.

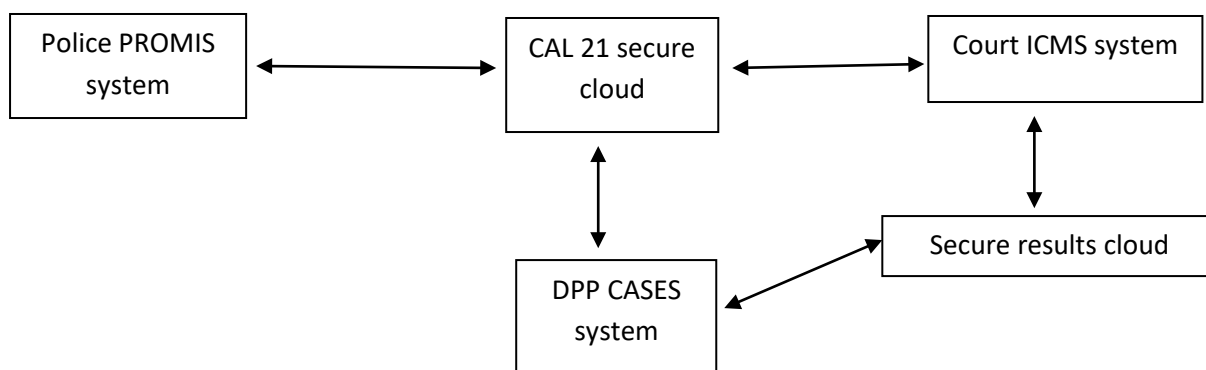
I acknowledge that this structure was far from perfect, but as with most organisations, we determined that we could not let the pursuit of the perfect become the enemy of the good, and settled in for the best we could achieve in what we knew were unprecedented circumstances.

Residual benefits

As William Wycherley wrote in 'Love in a Wood', necessity is the mother of invention, and the necessity of COVID transformed our operations in many ways that remain today.

The first benefit was the setting up of a secure cloud to allow data sharing between our CASES system, the Police PROMIS system and the courts ICMS system. The Cloud was initially populated with charge data from the Police PROMIS system that was taken up and sorted by our CASES system and the Courts ICMS. The savings to data entry became immediately apparent so we explored expansion.

The next phase was the export of court results from the Courts ICMS system to the secure cloud. We spent some money developing coding script to automatically sort the data into the data fields within the DPP CASES system, meaning all court results were able to be automatically populated.



The final stage was to create an automatic exchange of previously paper functions such as the DPP bench sheets in which we record events beyond the results, and bail conditions which we previously recorded manually. It eventually transpired that prosecutors attend court with an iPad with legislation and a laptop with CASES access to record events beyond results on electronic bench sheets, and all other data entry was obsolete as it was automatically populated from its source.

This was initially made necessary through the geographic separation of the bench, prosecutor and defence lawyer, however, has remained even though they all now appear in the same location. This has saved significant data entry and addressed data entry errors.

Finally, we established a Sharepoint between our office, the courts, and defence firms to do everything from electronically tender documents in court, through to serve electronic copies of briefs of evidence, meaning we are now 99% paperless.

Not only has this created significant reductions in manual handling but has reduced our carbon footprint and reduced costs.

I experienced many obstacles to the changes, and I broke down my learnings to four points.

- 1) Identify your blockers - those who adopt the roll of coming up with reasons why something cannot happen, rather than finding ways to make it happen.
- 2) Change the language of those around you, from we can't do X because Y, to we can do X if Y.
- 3) Master the art of blank canvas vision, and strip issues down to bare metal and build from scratch.
- 4) Develop the art of process mapping, and process map every step to identify all non-value added components, and constantly look for potential automation of manual functions.

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