

Office of the
Director of Public Prosecutions
for WESTERN AUSTRALIA

Annual Report
2004/05

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Statement Of Compliance

In accordance with s.62 of the *Financial Administration and Audit Act 1985* and with s.32 of the *Director of Public Prosecutions Act 1991*, I hereby submit for the information of the Attorney General and presentation to Parliament, the Report of the Office of the Director of Public Prosecutions for the period ending 30 June 2005.

The report has been prepared in accordance with the provisions of the *Financial Administration and Audit Act 1985*.

In accordance with s.31(1) of the *Public Sector Management Act 1994*, I also report that there has been compliance with public sector standards and codes of ethics.

ROBERT COCK QC

Director of Public Prosecutions
Chief Executive Officer
Accountable Officer



Mission Statement

The mission of the Office of the Director of Public Prosecutions is to provide the people of Western Australia with an independent and effective criminal prosecution service which is both fair and just.

The core work of the ODPP is to conduct criminal prosecutions in the Supreme and District Courts. The ODPP also conducts all appellate work flowing from those prosecutions.

The ODPP manages a range of proceeds of crime matters pursuant to the *Criminal Property Confiscation Act 2000* and the *Misuse of Drugs Act 1981*.

The ODPP manages a range of committal matters at the Magistrates Court, Central Law Courts, Perth, and has jurisdiction over indictable offences triable summarily and summary offences in Magistrates Court. The ODPP assumes responsibility for the prosecution of the more serious offences in the Children's Court and has the conduct of all matters in the Drug Court that are dealt with on indictment.

Overview: The Year in Brief

The 2004/05 financial year has been one of growth and adjustment to the raft of legislative reforms that have been implemented in the administration and content of the criminal law. The internal administrative structures of the office have been reviewed, and legal practices and procedures strengthened, enabling the office to give full effect to the new modernised and consolidated criminal justice system in Western Australia.

This year, the Costing and Workflow Project Group was formed to conduct a review of the operational workflow of the office in order to ascertain the way in which our practice structures align with the criminal justice environment; and how those structures might be adjusted to improve delivery of service to the community. The Review focused on internal operational processes, particularly the carriage and control of matters by prosecutors and the administrative support of paralegal staff, as well as the fusion of the office and its major stakeholders. New positions have been created within the office to cater for expanding workflow, such as the position of Director of Corporate Services, which was set up to support the business administration aspect of the office.

The ODPP is currently exploring new IT initiatives, such as the possibility of linking the Western Australia Police and the Court IT systems in order to streamline processes and facilitate earlier notification of incoming workload.

Early in this reporting year, the Sentencing Team was created with a view to increasing our efficiency in dealing with all sentencing matters. This initiative included a small team of paralegal staff supporting 5 counsel specialising in sentencing matters before the Supreme and District Courts. The dedicated specialist role of this team has demonstrated an increase in quality and efficiency of service to courts, victims of crime and the Police. In addition, the increased and focused participation in other specialised courts, such as the Drug Court, has enabled the ODPP to participate more effectively in therapeutic jurisprudence practices.

Established in April 2004, the Kalgoorlie Pilot Project has achieved greater efficiency for prosecutions on circuit by developing and implementing strategies to address the challenges that arise from the difficult logistics of regional Western Australia. Increased dedication of professional resources to the area, as well as the development of circuit specific protocols and procedures have resulted in a more efficient and effective prosecution

service in Kalgoorlie. It is envisaged that the Project will continue and will be adapted for implementation in other regional centres.

The ODPP/Western Australia Police Liaison Committee continues to be an effective and efficient means of communication between the two agencies. Regular Committee meetings identify and resolve issues relating to the professional relationship between the two agencies, as well as their interaction with other major stakeholders, in order to ensure that each agency compliments the other and to improve service to the community whilst retaining the separate and distinct functions of criminal investigation and prosecution.

The flurry of legislative activity this year and the necessary adjustments flowing from it have been a challenge for the office, necessarily adapting and adjusting to the new administrative structures of the criminal justice system. One particular challenge arises out of the enactment of the *Criminal Procedure Act 2004*, which necessitated changes to old practices and terminologies and brought the procedure for the summary jurisdiction into line with those in the superior courts. The office continues to play a key role in discussion with government agencies in the preparation of further reforms on areas including sexual assault, DNA evidence, and confiscation laws.

The Confiscations Unit has experienced growth and expansion over 2004/05, taking on new staff and strengthening communications with the ODPP indictment teams and the Western Australia Police Proceeds of Crime Squad. Confiscations have reported an increased output over the last reporting year, achieving a significant overall increase in payments into the Confiscation Proceeds Account.

Throughout the year, the Training and Education Committee has been involved in the preparation of seminars and workshops for legal and non-legal staff, recognising the importance of continued legal and para-legal education, especially in light of internal restructures and recent legislative activity.

The ODPP is currently revising and updating its complaints policy procedure. This task, in accordance with the whole of government complaints management strategy, has its objectives in increasing community awareness and access to complaints mechanisms, and monitoring and evaluating feedback in such a way as to ensure that service delivery is improved in line with the interests of stakeholders.

The development and improvement of our organisation is a continuous process, accentuated this year by a focused workflow and performance review. These measures were

conducted to ensure that our office operates efficiently and effectively with the criminal justice system in which it operates. I am encouraged by the enthusiasm of my staff in participating in reviews and receiving new initiatives and I am confident of the value of those measures in improving the service that this office provides to the community.

The Director's Legal Practice

The Director of Public Prosecutions is responsible for the prosecution of all accused persons charged with indictable state offences in Western Australia's superior courts. In addition, the Office of the Director of Public Prosecutions (ODPP) has become increasingly involved in the Children's Court, Magistrates and Drug Courts.

To undertake this work, State Prosecutors employed by the ODPP have the carriage of, and appear on matters, in each of the courts of criminal jurisdiction across the state. These include the Magistrates Court in Perth, the District Court, the Children's Court and Supreme Court - in Perth and in regional centres, the Court of Appeal and the High Court of Australia.

The Director also has responsibility for the forfeiture and confiscation of assets and other proceeds of crime. This allied and expanding civil practice is primarily undertaken in the Supreme Court and on occasions in the District, Family and Magistrates Courts.

This report highlights the major achievements and activities of the Director's staff in delivering a prosecutorial service to the people of Western Australia during 2004/05.

As foreshadowed in previous years' annual report, new interrogation software has been introduced to the office. This software has enabled more sophisticated and accurate reporting from the ODPP's practice management database. While some anomalies in historical data collection have now been confirmed, the historical data has been included to facilitate comparative analysis and trends over time.

Updated statistical information has also been provided in an identical form to that of previous years' reports to enable meaningful comparisons.

Glossary

Adjournment means that the matter is postponed to a later date or time.

A **Bench Warrant** is a written authorisation (warrant) issued by a judicial officer for the arrest of a person.

Prosecution Notice is the process by which a matter is commenced in the Magistrates Court.

An **Accused** is a person alleged in a prosecution notice or indictment to have committed an offence. The term accused has been consistently used throughout the annual report.

A **Fast Track** (otherwise known as an expedited committal) occurs where the accused pleads guilty at the earliest opportunity and is committed to the relevant superior court for sentence.

Hung Jury means a jury which cannot reach a unanimous verdict or, where permitted by law, a majority verdict.

An **Indictment** is a written charge of an indictable offence presented in the Supreme or District Court in order that the person be tried by that court.

Mistrial is a trial which has been aborted by an order of a judge due to some legal or procedural irregularity and that may give rise to the trial being recommenced at a later point in time.

Notice of Discontinuance is the formal document presented to the court, which discontinues a prosecution.

PG means a plea of guilty by the accused.

PNG means a plea of not guilty by the accused. As a result, the accused exercises his or her right to put the State to proof on the alleged offences.

Pre-recording is the process by which the evidence of a child or vulnerable witness is recorded on videotape prior to the actual trial.

Sentence means the penalty imposed by the court for an offence.

Status Hearing is an appearance in a superior court to determine the progress of a matter in preparation for actual trial.

A **Trial** is a court hearing whereby factual and legal issues are examined by a judge and/or jury to determine an accused's guilt or innocence.

Magistrates Court - Perth

Prosecutions heard in the District or Supreme Courts usually commence in the Magistrates Court. The Western Australia Police has responsibility for investigating and then charging alleged offenders. They do this by lodging a prosecution notice and bringing the accused before the court, either by arrest or by way of summons.

The Police are normally responsible for the conduct of any charge on an indictable offence while it remains in the Magistrates Court. It is ordinarily upon committal of a charge to the District Court or the Supreme Court that the ODPP takes over the responsibility for the carriage of that prosecution.

An exception to this arrangement was introduced to the Magistrates Court matters in early 1997. Since then, the ODPP's presence at the pre-committal stage has enabled State Prosecutors to review and advise upon the disclosure/committal hearing brief, the adequacy of the evidence and appropriateness of the charges.

The success of this approach is measured by the number of guilty pleas identified at an early stage, the substitution of appropriate summary charges (including appearing on sentence) and the withdrawal of charges where there is insufficient evidence to proceed. The State Prosecutors' presence in the court three days a week also enables them to appear on bail hearings involving accused who are to be committed to the superior courts. During 2004/05, the ODPP received 739 matters relating to 831 accused for conduct in the Magistrates Court.

Received matters for conduct in the Perth Magistrates Court

	2003/04	2004/05
Matters Received	761	739
Accused Received	828	831

The following table shows the total number of matters managed by the ODPP in the Magistrates Court and the disposition of those matters from the lower court during the 2004/05 reporting period.

Disposal of matters involving State Prosecutors in the Perth Magistrates Court during 2004/05

	# Acc 2003/04	% Of 03/04 total	# Acc 2004/05	% Of 04/05 total
Committed – PG	79	10%	69	8%
Committed – PNG	479	59%	611	76%
Committed – No Plea	125	16%	39	5%
Dealt with Summarily	26	3%	13	2%
Bench Warrant	65	8%	29	4%
Charges withdrawn/ Accused discharged	32	4%	41	5%
TOTAL	806	100%	802	100%

NOTE 1: The number of matters received by the ODPP for conduct of proceedings and the number of matters finalised in the same reporting period is not a 1:1 ratio.

District & Supreme Courts

The majority of the work in the criminal practice comes by way of committal from the 29 regional and metropolitan Magistrates Courts across the state. A charge is committed by a Magistrate on a committal mention where a plea of guilty or not guilty is entered.

All indictable charges are committed to a superior court either after initial or full disclosure has been provided to an accused by the Police¹.

District Court in Perth and regional centres

Committals

During 2004/05, a total of 2339 matters involving 2543 accused were committed to the District Court. Of these, 665 matters involving 694 accused were committed on a fast-track plea of guilty.

Number of Matters received, and Accused disposed of by fast track, in the District Court

	2003/04	2004/05
Total matters	2547	2339
No. of Accused	2828	2543
Fast-track matters	840	665
% of total matters	31%	28%
No. of Accused (FT)	896	694

Procedural Appearances

The progress of any matter through the District Court is punctuated by various procedural hearings including an arraignment hearing, a status hearing

and sometimes pre-recording and directions hearings.

Matters proceeding by way of a fast-track plea of guilty are grouped together into fast-track lists, which are heard twice a week. These lists contain anywhere between 5-20 matters for sentence. In 2004/05, State Prosecutors appeared on 101 fast-track lists.

Matters proceeding by way of committal for sentence or committal for trial are grouped together into pleas lists, which are heard up to 15 times per month in Perth, Perth metropolitan and regional centres. In 2004/05, State Prosecutors appeared on 192 Pleas Day lists.

Matters ready for trial are allocated trial dates at status hearings. During 2004/05, State Prosecutors appeared on 81 status hearings lists.

Number of attendances on procedural lists in the District Court during

	2003/04	2004/05
Fast-track lists	101	101
Pleas Day lists	228	192
Status hearings	86	81

Pre-recording Hearings

The evidence of witnesses may, in limited circumstances such as child witnesses, be recorded in advance of the trial. These hearings involve the witness attending at the video recording facility to give evidence and be cross-examined in a specially convened court in the absence of a jury. At trial this recorded evidence is played to the jury and the trial proceeds

¹ This is with the exception of matters where the Court decides to have the charge dealt with summarily by the Magistrates Court.

in the normal way. In 2004/05, State Prosecutors appeared on 134 pre-recording hearings.

Number of pre-recording hearings in the District Court

	2003/04	2004/05
Pre-recording hearings	85	134
% Increase	-	+ 57%

Trials

During 2004/05, a total of 1200 matters involving 1413 accused were listed for trial in the District Court. In a number of those matters State Prosecutors appeared at pre-trial directions hearings. Of the matters listed, 651 trials involving 767 accused proceeded.

Number of trials listed in the District Court

	2003/04	2004/05
No of trials listed	902	1200
No of Accused listed for trial	1059	1413

The following table records the disposition of those matters.

Summary of outcomes of matters proceeding at Trial in District Court by accused outcome.

	2003/04	% of 03/04 Matters	2004/05	% of 04/05 Matters
Conviction	314	55%	405	53%
Acquittal	202	35%	293	38%
Hung Jury	38	7%	35	5%
Mistrial	14	3%	34	4%
TOTAL	568	100%	767	100%

NOTE 1: The number of matters received by the ODPP for conduct of proceedings and the number of matters finalised in the same reporting period is not a 1:1 ratio.

NOTE 2: In some matters where multiple accused are involved each Accused receives a different outcome resulting in a higher number of outcomes than matters.

The reasons why listed matters did not proceed to trial in 2004/05 appear below.

Summary of reasons why trials did not proceed by accused outcome

	2003/04	% of 03/04 Matters	2004/05	% of 04/05 Matters
Adjournments	235	51%	393 ¹	61%
Pleas of guilty	145	32%	162	25%
Discontinuances	62	14%	63	10%
Bench Warrants	14	3%	28	4%
TOTAL	458	100%	646	100%

Brief out

The ODPP has a policy of conducting as much of its court work in-house as possible. However, when State Prosecutors are unavailable, court work is briefed to counsel from the independent bar and private profession. In 2004/05, 258 District Court trials and 17 pre-recordings were briefed to external counsel.

The significant increase in the number of trials briefed out can be attributed to the over listing of trials in Perth and the rolling lists in Kalgoorlie, Bunbury, Geraldton and Albany. This means the ODPP has to be prepared for trials that may not proceed.

Number of trial and pre-recording appearances briefed out

	2003/04	2004/05
Trials	162	258
Pre-recordings	16	17

¹ This number may also represent pleas of guilty and other outcome types not counted separately as that outcome type. This is a result of data entry discrepancies.

Supreme Court in Perth and regional centres

Committals

During 2004/05, a total of 172 matters involving 233 accused were committed to the Supreme Court. Of these, 34 matters involving 35 accused were committed on a fast-track plea of guilty.

Number of Matters received, and Accused disposed of by fast track, in the Supreme Court

	2003/04	2004/05
Total matters	171	172
No. of Accused	201	233
Fast-track matters	26	34
% of total matters	15%	17%
No. of Accused (FT)	26	35

Procedural Appearances

The progress of any matter through the Supreme Court is punctuated by various procedural hearings including arraignment, status hearings and directions hearings. Matters proceeding by way of fast-track plea of guilty, committal for sentence or committal for trial are initially grouped together for mention in pleas lists. These mentions are ordinarily heard twice a month. During 2004/05, State Prosecutors appeared on 26 pleas day lists.

Matters ready for trial are allocated trial dates at status hearings. In 2004/05, State Prosecutors appeared on 22 status hearings lists.

Number of procedural appearances attended in the Supreme Court

	2003/04	2004/05
Pleas day lists	35	26
Status Hearings	12	22

Pre-recording Hearings

The evidence of witnesses may, in limited circumstances such as child witnesses, be recorded in advance of the trial. These hearings involve the witness attending at the video recording facility to give evidence and be cross-examined in a specially convened court in the absence of a jury. At trial this recorded evidence is played to the jury and the trial proceeds in the normal way. In 2004/05, there was 1 pre-recording hearing.

Trials

A total of 109 matters involving 167 accused were listed for trial in the Supreme Court. In a number of those matters State Prosecutors appeared at pre-trial directions hearings. Of those matters listed, 67 trials involving 79 accused proceeded.

Number of trials listed in the Supreme Court

	2003/04	2004/05
No of trials listed	104	109
No of Accused listed for trial	164	167

The following table records the disposition of those matters.

Summary of outcomes of matters appearing for Trial in Supreme Court by accused outcome

	2003/04	% of 03/04 Matters	2004/05	% of 04/05 Matters
Conviction	41	51%	54	68%
Acquittal	32	40%	16	20%
Hung Jury	5	6%	6	8%
Mistrial	3	3%	3	4%
TOTAL	81	100%	79	100%

NOTE 1: The number of matters received by the ODPP for conduct of proceedings and the number of matters finalised in the same reporting period is not a 1:1 ratio.

NOTE 2: In some matters where multiple accused are involved each Accused receives a different outcome resulting in a higher number of outcomes than matters.

The reasons why those matters listed did not proceed to trial in 2004/05 is as follows:

Summary of reasons why trials did not proceed by accused outcome

	2003/04	% of 03/04 Matters	2004/05	% of 04/05 Matters
Adjournments	36	55%	61	70%
Pleas of guilty	23	35%	24	27%
Discontinuances	4	6%	2	2%
Bench Warrants	2	4%	1	1%
TOTAL	65	100%	88	100%

Brief out

The ODPP's policy is to conduct as much of its court work in-house as possible. However, when State Prosecutor resources do not permit, court work is briefed to counsel from the independent bar and private profession. In 2004/05, 16 Supreme Court trials were briefed to external counsel.

Number of trial and pre-recording appearances briefed out

	2003/04	2004/05
Trials	15	16
Pre-recordings	0	0

Supreme and District Court Circuit Sittings

procedural hearings at circuit sittings held
at the 13 regional court centres:

During 2004/05 State Prosecutors
appeared on trials and various other

	2003/04		2004/05	
	# Times per year	# Days listed	# Times per year	# Days listed
CIRCUIT				
Albany	10	125	10	170
Bunbury	10	140	10	140
Busselton	8	50	7	40
Carnarvon	6	30	7	35
Esperance	8	40	8	40
Geraldton	10	125	9	125
Kalgoorlie	10	125	10	140
Kimberley (Broome, Derby, Kununurra)	10	125	10	170
Meekatharra	1	1	3	3
Pilbara (South Hedland, Karratha)	10	80	10	110
Total	83	841	84	973

Comparative Summary for Supreme & District courts

Previous annual reports have presented
data relating to Supreme and District Court
matters as a combined figure. This year's

report endeavours to separate the data to
provide a comprehensive outline of the
activities in each jurisdiction. Presentation
of data as a combined figure will continue
until there is sufficient historical data to
move to a new style of reporting.

Total number of matters for the Supreme and District Courts

	2000/01	2001/02	2002/03	2003/04	2004/05
No. of Matters	2776	2595	2612	2718	2511
% change	+0.5%	-6.5%	+0.7%	+4.2%	-7.6%

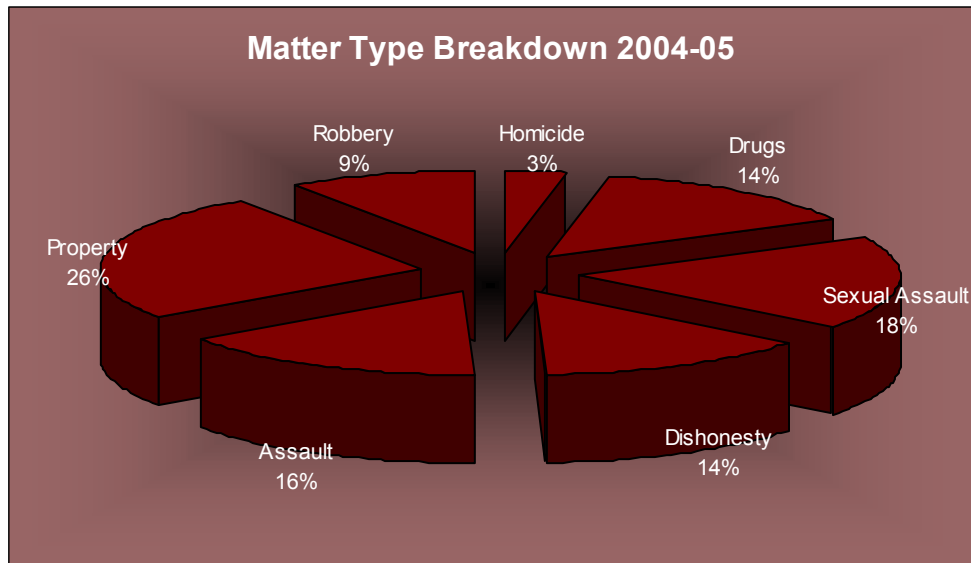
In 2004/05 a total of 2511 matters were
committed from the Magistrates Court to
the District and Supreme Courts. These
matters related to 2776 accused. The
number of matters was slightly less than
that in 2003/04.

The following table is representative of the
types of matters committed to the superior

courts during the reporting period. Where
an accused is charged with a variety of
offences the matter type recorded reflects
the most serious of these offences.

Total Matters by Court

	2003/04	2004/05
District Court	2547	2339
Supreme Court	171	172
Total Matters	2718	2511

Breakdown of matter types committed to the Supreme and District Courts in 2004/05

The comparative data over the past 5 years detailing the number of trials listed to the percentage actually proceeding is

broadly consistent with previous years. The following table provides this data.

Summary of Trials Listed against number proceeding for the Supreme and District Courts

	2000/01	2001/02	2002/03	2003/04	2004/05
Total Trials listed	1171	1049	1014	1006	1309
Trials proceeding	662	628	580	583	718
% Trials proceeding	57%	60%	57%	58%	55%
Trials not proceeding	509	421	434	423	591
% Trials not proceeding	43%	40%	43%	42%	45%

Of those trials listed and which did not proceed in the reporting period, the explanations are as follows:

- adjournments sought by the prosecution or defence;
- pleas of guilty entered shortly before, or on the first day of the trial;
- Absence of a court room or Judge;

- the prosecution discontinuing all or part of the matter; or
- the accused absconding before the trial.

Comparative information why listed trials have not proceeded over the last 5 years appears over.

Reasons why listed trials did not proceed in District and Supreme Courts by accused outcome

	2000/01	2001/02	2002/03	2003/04	2003/04 %	2004/05	2004/05 %
Adjournments	213	194	207	206	47%	454	62%
Pleas of Guilty	197	145	153	163	37%	186	25%
Discontinuances	82	69	63	55	12%	65	9%
Bench Warrants	17	13	11	16	4%	29	4%
TOTAL	509	421	434	440	100%	734	100%

Of the trials that proceeded during 2003/04 the outcomes were broadly consistent with recent years. The table

below contains outcome information over a 5 year period.

Outcomes for Accused tried in the Supreme and District Courts by accused outcome

	2000/01	2001/02	2002/03	2003/04	2003/04 %	2004/05	2004/05 %
Convicted of some or all counts	408	413	408	353	53%	459	54%
Totally acquitted	302	246	212	234	35%	309	36%
Hung Jury	20	30	18	43	7%	41	5%
Mistrial	13	38	38	17	3%	37	5%
Other	3	2	0	13	2%	-	-
TOTAL	746	729	676	660	100%	846	100%

Single Judge Appeals

In limited circumstances, an Accused can appeal a conviction recorded in, or a penalty imposed by, a Magistrates Court. The State of WA can, in limited circumstances, appeal an acquittal recorded in, or a penalty imposed by, the Magistrates Court. Either the accused or The Director can apply for leave to appeal.

The following tables indicate the number of appeals which proceeded before a single judge on a State of WA and accused basis.

Summary of Single Judge Appeals lodged In 2004/05

	2001/ 02	2002/ 03	2003/ 04	2004/ 05
State				
Conv.				
Sent.	1	2	4	2
Other	3	1	1	
Accused				
Conv.	7	11	10	5
Sent.	16	24	8	18
Other	4	1	2	1
Total	31	25	39	26

The following table illustrates the results of Single Judge Appeals in 2004/05.

Summary of Appeal outcomes for Single Judge Appeals during 2004/05.

	State	Accused	Total
Allowed	-	11	11
Dismissed	-	2	2
Discontinued	-	1	1
Reserved	-	-	-
Yet to be heard	2	10	12
TOTAL	2	24	26

Court of Appeal

The Court of Appeal is the first avenue of appeal for decisions arising out of the District, Children's and Supreme Courts. Leave to appeal can be sought by both the State of WA and the accused.

The following tables indicate the number of appeals commenced by both the State of WA and the accused, and their outcomes.

Summary of Appeals lodged in the Court of Appeal during 2004/05

	2001/ 02	2002/ 03	2003/ 04	2004/ 05
State				
Conv.		1	4	2
Sent.	18	12	14	13
Other	1	1	2	
Accused				
Conv.	66	75	70	89
Sent.	95	97	115	106
Other				6
Total	180	205	186	216

The following table sets out the outcomes of Court of Appeal matters commenced in 2004/05.

Summary of Appeal outcomes in the Court of Appeal during 2004/05

	State	Accused	Total
Allowed	5	19	24
Dismissed	2	33 ¹	35
Discontinued	1	42	43
Reserved	-	5	5
Yet To Be Heard	7	102	109
TOTAL	15	201	216

NOTE 1: Includes 1 struck out Appeal

High Court Appeals

The High Court of Australia is the final court of appeal in the country. Special leave is required to appeal a decision of the Court of Appeal. The following table indicates the number of applications for special leave to appeal lodged in the High Court over the past 4 years.

Summary of Appeals lodged in the High Court over the past 4 years

	2001/02	2002/03	2003/04	2004/05
State	1	-	-	1
Accused	20	11	23	13
TOTAL	21	11	23	14

The following table sets out the outcomes of the High Court matters commenced in 2004/05.

Summary of Appeal outcomes in the High Court during 2004/05

	State	Accused	Total
Allowed	-	-	-
Dismissed	-	1	1
Discontinued	1	2	3
Reserved	-	1	1
Yet To Be Heard	-	9	9
TOTAL	1	13	14

Drug Court

Drug Court is a specialist treatment court offered to accused with a drug problem. Those participants are charged with an indictable offence and plead guilty at the earliest opportunity. The Drug Court does not accept accused who are charged with sexual offences, high level violence offences or those facing mandatory imprisonment or are declared drug traffickers.

A Police Prosecutor appears when the matter is dealt with summarily, and The ODPP assumes conduct of all matters that are dealt with on indictment. The role of the ODPP in the Drug Court is to provide submissions as to the accused's eligibility to apply for entry, their suitability to be on the Drug Court program, and their progress and suitability if they are accepted to remain on the program.

During 2004/05, 61 indictable matters were referred to the ODPP for conduct in the Perth Drug Court.

Summary of matters received by the ODPP for conduct in Drug Court.

	2003/04	2004/05
# Matters	290	61

NOTE 1: The figure for 2003/04 was calculated as number of appearances for all files, not number received.

Children's Court

The Children's Court deals with young people between the ages of 10 and 18 (inclusively) who are charged with a criminal offence. The President of the Children's Court deals with the most serious of the criminal offences allegedly committed by young people.

Previously, the ODPP appeared before the President of the Children's Court on an ad hoc basis. On 30 June 2003, the ODPP acquired the responsibility for the conduct of all matters before the President of the Court, following an agreement between the courts and the Attorney General.

Matters conducted in Children's Court

The following tables show the number of matters received by the ODPP for conduct in the Children's Court for the 2004/05 financial year.

Summary of matters received by the ODPP for conduct in Children's Court.

	2003/04	2004/05
# Matters	320	214
# Accused	347	272

Procedural Appearances

A child is charged and has a number of appearances before a Magistrate before they are required to plead to the charge. If they plead guilty and the Magistrates sentencing powers are inadequate, then the matter is referred to the President for sentencing. In some cases submissions will be made on one day and the decision will be reserved, requiring a prosecutor to attend the court on a later day to collect

the decision. Submissions may be made for multiple Accused on one day. In 2004/05, the ODPP appeared on 220 sentencing lists.

If the child pleads not guilty, the Magistrate makes the decision as to the seriousness of the offence to determine if the matter should be tried before the President.

In preparation for trial, the matter will be listed for a status hearing to determine the readiness of the parties for trial and to list the matter for trial. The court's practice is to list a status hearing every Monday. However, additional status hearings may be listed as required. The ODPP appeared at 50 status hearings in 2004/05.

Status Hearings in the Children's Court

	2003/04	2004/05
Status Hearings	64	50

Pre-recording Hearings

Similar to the superior courts, the evidence of a child witness may be recorded in advance of the trial. In 2004/05, State Prosecutors appeared on ONE pre-recording hearing.

Number of pre-recording hearings in the Children's Court

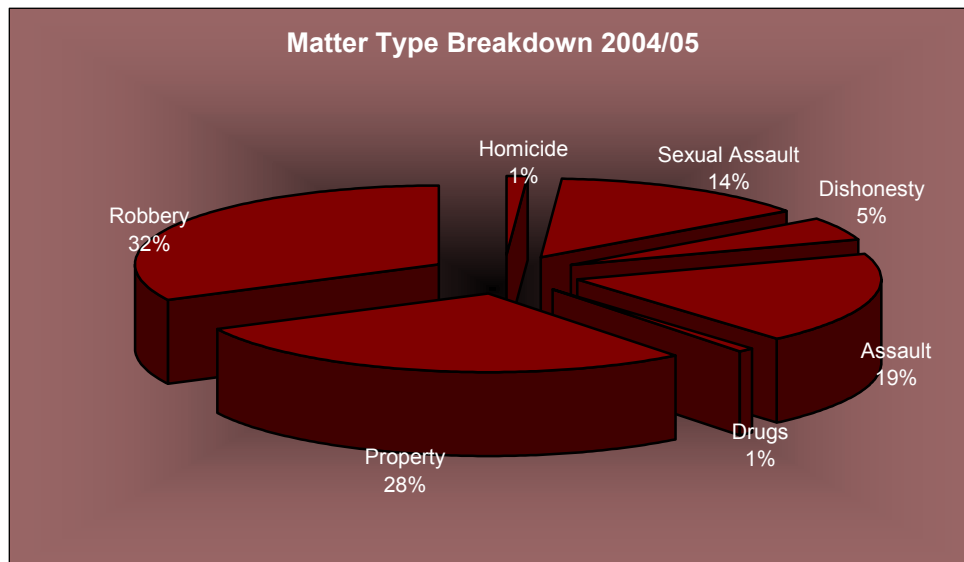
	2003/04	2004/05
Pre-Recordings	8	1

Matter Types

The following information is representative of the types of matters the ODPP receives

to prosecute in the Children's Court jurisdiction

Breakdown of matter types committed to the Children's Court in 2004/05



Trials

During 2004/05, a total of 66 matters involving 87 Accused were listed for trial in the Children's Court. Of those matters listed, 23 trials involving 31 Accused proceeded.

Number of trials listed in the Children's Court.

	2003/04	2004/05
No of trials	70	66
No of Accused listed for trial	87	87

The following table records the disposition of those matters.

Summary of outcomes of matters appearing for Trial in Children's Court by accused outcome

	2003/04	2003/04 %	2004/05	2004/05
Convicted	21	24%	18	21%
Acquitted	9	10%	13	15%
Did not proceed	57	66%	56	64%
TOTAL	87	100%	87	100%

The reasons why listed matters did not proceed to trial in 2004/05 are as follows:

Reasons why matters did not proceed in the Children's Court by accused outcome

	2003/04	2003/04 %	2004/05	2004/05 %
Bench Warrant	2	3%	2	4%
Acc. Discharged/ Charges withdrawn	7	12%	9	16%
Plea of Guilty	26	46%	13	23%
Adjourned	21	37%	32 ¹	57%
Accused Deceased	1	2%	-	-
TOTAL	57	100%	56	100%

¹ This number may also represent pleas of guilty and other outcome types not counted separately as that outcome type. This is a result of data entry discrepancies.

Proceeds of Crime

The *Criminal Property Confiscation Act 2000* (*Confiscation Act*) has been in operation for four and a half years. The *Confiscation Act* enables the Police or the Director to obtain interim orders freezing the assets of some Accused. It also provides for the confiscation (in some circumstances automatically and in other circumstances following a hearing) of property acquired as a result of criminal activity and property used for criminal activity.

The *Confiscation Act* targets property which is owned² by:

- someone whose wealth has not been lawfully acquired;
- someone whose property was acquired³ through criminal activity; and
- someone who is declared to be a drug trafficker.

The *Confiscation Act* also targets property that is:

- used or intended to be used in the commission of an offence; and
- derived⁴ from the commission of an offence.

The Police have power under the *Confiscation Act* to obtain freezing notices from Magistrates or Justices of the Peace, and the Director has power to obtain Freezing Orders from the superior courts. In the reporting period a total of 133 Freezing Notices were obtained. Whilst the

Confiscations Unit provided ongoing advice to the Proceeds of Crime Squad with respect to several investigations that may result in future applications for Freezing Orders, no Freezing Orders were sought in 2004/05

A comparative table showing the experience since 2000/01 appears below:

Freezing Notices and Freezing Orders obtained since the commencement of the Confiscation Act

	2000 /01	2001 /02	2002 /03	2003 /04	2004 /05
Notice ⁵	41	115	58	68	133
Order	2	9	7	6	0
TOTAL	43	124	65	74	133

Individuals who claim an interest in property that has been frozen following a Freezing Notice or Freezing Order are entitled to object to the confiscation of that property. The *Confiscation Act* provides that these objections must be received within specified time frames, usually within 28 days of the serving of the Freezing Notice or Order. The person objecting carries the responsibility of establishing that the property was not crime derived or used for criminal activity, or was not the property of the drug trafficker. The majority of objections assert an interest in property registered in the name of declared drug traffickers (mortgagee, spouse or other beneficial interest). A single Freezing Notice or Freezing Order may give rise to multiple objections.

² Includes property effectively controlled or given away

³ Directly or indirectly

⁴ Directly or indirectly

⁵ In certain circumstances multiple Freezing Notices are issued for the one person. This necessary practice explains some portion of the variations between financial years.

The outcome of the Freezing Notices and Freezing Orders, and the objections to those Freezing Notices and Freezing

Orders, since the commencement of the Act appears below:

Outcomes of Freezing Notices, Freezing Orders and Objections since commencement of the Confiscation Act

	Total issued	Total finalised	Number cancelled	Number leading to confiscation	Number of objections received	Objections dismissed	Objections successful
Notice	415	184	60	705	618	95	107
Order	24	5	0	5	58	10	2

A total of 83⁶ objections were finalised this reporting period⁷, resulting in 39 objections being dismissed and 44 succeeding.

Number of objections to freezing orders and notices that were received and finalised

	2003/04	2004/05
Objections received	139	149
Objections dismissed	21	39
Objections successful	23	44
Total Objections finalised	44	83

As the majority of property confiscated follows a conviction and declaration that the convicted person is a drug trafficker, the number of people who have been declared drug traffickers is relevant to the volume of confiscation proceedings commenced. Upon declaration that a convicted person is a drug trafficker all of the property of that person is confiscated to the state. While many individuals declared as drug traffickers have no assets, proceedings have been commenced against many declared drug traffickers during 2004/05. During 2004/05, 53 people were declared drug traffickers.

It should be noted that formal confiscation may not necessarily occur within the same reporting year as a declaration that a person is a drug trafficker.

The proceeds of confiscated assets are paid into the Confiscation Proceeds Account and the Attorney General has the power to make grants from the account for a range of purposes. In 2004/05 a total of \$1,830,527 was paid into the Confiscation Proceeds Account from property of declared drug traffickers.

Drug Trafficker Declarations and money paid into Confiscation Proceeds Account in 2004/05

	2003/04	2004/05
Declarations made	71	53
Amount paid into account	\$719,815	\$1,830,527
% variation	0%	+154%

⁶ 78 for Freezing Notices and 5 for Freezing Orders.

⁷ This may include objections finalised to Freezing Notices issued prior to this reporting year.

The following table illustrates the number and types of applications made since the commencement of the *Confiscation Act*.

Number and type of applications made since Confiscation Act commenced

	2000/ 01	2001/ 02	2002/ 03	2003/ 04	2004/ 05	Total made	Total finalised	No. leading to confiscation
Unexplained Wealth Declaration	8	4	3	2	0	17	4	3
Criminal Benefits Declaration	2	2	2	4	0	10	2	2
Crime Used Property Substitution Declaration	0	1	2	1	0	4	2 ¹	1
TOTAL	10	7	7	7	0	31	8	6

The following table shows the number of proceedings finalised where a declaration of confiscation was made.

Proceedings where declaration of confiscation made

	2000/ 01	2001/ 02	2002/ 03	2003/ 04	2004/ 05	Total Made	Number leading to confiscation
On grounds that person declared Drug Trafficker	0	9	19	17	25	70	70
On grounds that property Crime-Used or Crime-Derived	1	16	3	2	7	29	29
On grounds of Crime Used Property Substitution	0	0	1	0	1	2	2
On grounds of Unexplained Wealth	0	0	0	1 ³	1	14	2
Criminal Benefits	0	0	0	0	1	1	1
Total Declarations	1	25	23	20	35	104	69

The following table shows the total amount arising from all confiscations, paid into the Confiscation Proceeds Account since January 2001.

Cash money paid to the Confiscation Proceeds Account since Confiscation Act commenced

	2000/01	2001/02	2002/03	2003/04	2004/05
Paid into account ⁴	\$417,074	\$779,533	\$1,388,500	\$1,170,275	\$2,091,774
% variation	0%	+87%	+78%	-16%	+79%

¹One application fell away as the property was confiscated on another basis

² Property may be frozen under more than one heading, usually on the grounds that a person may be declared a drug trafficker as well as on the grounds that the property is crime-used or crime derived. Where a property is confiscated on the basis of a person being declared a drug trafficker, it is only recorded as confiscated under that heading and is not recorded separately as confiscated on any other ground.

³The declaration of confiscation was made under section 7 of the Act on the basis that no objection was filed.

⁴ These figures may include some monies forfeited to the State under the now repealed *Crimes (Confiscation of Profits) Act 1988*.

Misuse of Drugs Act

During 2004/05, the ODPP managed a number of matters pursuant to the *Misuse of Drugs Act 1981* (*Misuse of Drugs Act*) which resulted in revenue of \$247,073 being paid into the State's Consolidated Fund. The following table illustrates the number of applications recorded, and

revenue derived from applications under the *Misuse of Drugs Act* and the *Crimes (Confiscation of Profits) Act 1988* in recent years. There is a decline in the number of applications and monies forfeited pursuant to these Acts since 2000/01, as a result of applications now being taken under the *Confiscation Act*.

Number of applications recorded and amount paid to revenue over the last 5 years

	1999/00	2000/01	2001/02	2002/03	2003/04	2004/05
No. Of Applications	142	137	39	49	39	41
Paid to Revenue	\$415,620	\$285,039	\$343,522	\$184,787	\$100,498	\$247,073
% variation	0%	-31%	+21%	-46%	-46%	+146%

Extraditions

Each year a number of accused leave the jurisdiction before they can be tried for the offences alleged against them. As well, on occasions convicted offenders escape custody and leave the jurisdiction. One of the powers of the Director is to authorise requests for extradition of Accused or

convicted persons. In 2004/05, 30 requests for extradition were approved, 25 for accused residing interstate, and 5 for accused residing overseas.

The following is a breakdown of the extradition approvals over the past five years.

Number of Extradition applications approved over the last 5 years

	2000/01	2001/02	2002/03	2003/04	2004/05
No. Of Applications Approved	13	16	8	45	30

Policy and Legislative

Reform

Policy

Agency Interaction

The work of the ODPP is inseparably linked with that of the Western Australia Police, Victim Support Service (VSS) and the Courts.

WAPS: The ODPP/Western Australia Police Liaison Committee continues to identify and resolve issues relating to the practices and procedures of the two agencies and the way in which they interact, with a view to improving the quality of service provided to the community by each agency. In particular, initiatives to streamline the movement of evidentiary material between the ODPP, the Police, and other external stakeholders, as well as initiatives addressing the quality of legal communication between the two agencies, are in the process of being implemented. It is envisaged that these initiatives will avoid wastage of resources and will facilitate a more efficient relationship between the investigative and prosecutorial functions of the Western Australian criminal justice system.

VSS: The co-operative relationship between the VSS and the ODPP continues to be of mutual benefit. As a result of regular meetings, service delivery by both agencies continues to improve. For example, the introduction of new legislation this year, that enables complainants of 'serious sexual offences' to

be declared 'special witnesses', thus giving them the benefit of using closed circuit television when giving their evidence, has lead to a significant increase in demand for the limited facilities available. An increase in the need for support for these complainants from the VSS has also eventuated. In order to ensure that as many complainants as possible benefit from this new legislation, and obtain the support available to them from the VSS, the ODPP has introduced a new initiative. Additional letters are being mailed to all victims of serious sexual offences informing them of the options now available to them, and encouraging them to contact the VSS for court support. The ODPP is also facilitating the VSS's ability to contact complainants through the Police Officer who conducted the investigation of the relevant matter.

Child Witness Services: The ODPP's good working relationship with CWS, and the open channels of communication, assist both agencies to identify and improve on procedures to the benefit of child victims and witnesses. The visits by new ODPP staff to the CWS premises to become familiar with CWS staff and the role of the CWS has continued this year, with both new prosecutors and clerical staff finding the visits informative and useful.

CWS Reference Group: The ODPP representative on this group has continued to work on the sub-committee headed by Judge Jackson, in co-operation with other members, to update the Judges' Guidelines relating to the Evidence of

Children and Special Witnesses. With the introduction on 1 January 2005 of the new sexual assault legislation, the draft that was close to finalization last year required extensive reviewing. The changes in procedure brought about by the legislation, that now allows visually recorded interviews with children by police to be used in court as evidence-in-chief, or part thereof, needed to be incorporated into the Guidelines. Similarly, terminology under the new *Criminal Procedure Act* required updating. The final draft of the Guidelines is now close to completion.

Visually Recorded Interviews with Children Protocols

Pursuant to participation in a Working Group convened by Judge Jackson to address the procedural changes required by the introduction of the legislation that permits the use of visually recorded interviews as evidence-in-chief at trial, the ODPP has played a significant role in the preparation of inter-agency protocols. It is hoped to have these protocols finalised in the ensuing weeks, in anticipation of the first of the visually recorded interview matters reaching the Courts. The agencies taking part in the Working Group are the District Court, the Magistrates Court, the Children's Court, the Police, DCD, the Department of Justice, CWS, the Family Court and the ODPP.

Prosecution Policy and Guidelines Review

The Director of Public Prosecutions Statement of Public Policy and Guidelines was reviewed during the last reporting year in light of changes in criminal procedure and the increased scope of the work undertaken by the ODPP. The new Guidelines were Gazetted on 3 June 2005.

Kalgoorlie Project

The Kalgoorlie Pilot Project was established in April 2004 and continued to be undertaken by the Office throughout the year 2004/2005. The continued operation of the pilot followed consultation with local indigenous service groups and other government agencies in the region, as well as regional police that highlighted the need for effective conduct of prosecutions in circuit sittings affected by a number of difficulties that arise from the logistics prevalent in Western Australia. The challenges in circuit prosecutions, and in particular the Kalgoorlie area, arise from the vast distances covered and the isolation of many Aboriginal communities and the fact that many prosecution witnesses are drawn from such communities. The Pilot focused on dedicating professional and clerical staff to the Kalgoorlie circuit prosecutions who had experience and training in culturally sensitive cases. A number of refined strategies were developed to address the challenges and issues initially identified by stakeholders. Training seminars and the development of circuit specific protocols and procedures have resulted in

streamlining workloads, sharper and culturally aware approaches and stronger communication links with various stakeholders. Efficiencies have been achieved as evidenced by a reduction in the loss of court time and trends toward a reduction in waiting time between committal and actual trial. The positive feedback from stakeholders including the judiciary, reflect well on the success of the Project. The efficiencies and feedback have emerged notwithstanding the continuing strong flow of committals from the Magistrates Court to the Superior Courts sitting at Kalgoorlie. The Project is planned to continue in the Kalgoorlie region and subject to appropriate resources will be adapted as a prosecution model for other regional circuits.

Legislative Reform

The DPP has had ongoing involvement with the Government's legislative reform agenda, playing a key role in consultation with government agencies in the preparation of reform, as well as providing instruction to the Parliamentary Counsel for the drafting of Bills.

Criminal Procedure Act 2004

The *Criminal Procedure Act 2004* gives effect to recommendations by the Law Reform Commission of Western Australia for a comprehensive code of criminal practice and procedure. The new Act modernises and consolidates criminal proceedings for both summary and indictable matters; and brings procedures

in the summary jurisdiction into line with those in superior courts.

Sexual Offender Legislation

The *Criminal Law Amendment (Sexual Assault and Other Matters) Act 2004* was the first in a package of reforms that aimed at addressing some of the limitations of the current criminal trial process and provide mechanisms for the protection of sexual assault complainants whilst continuing to balance the rights of the accused.

The ODPP is involved in the development of a second package of reforms which propose to introduce Habitual Sexual Offender legislation in WA. That legislation would provide for a system whereby at or near the end of their sentence, sex offenders can be ordered, upon application to the Supreme Court, to be further detained if they continue to present a risk to the community if they were released. All of the proposed reforms are aimed at addressing various concerns about the way the crime of sexual assault is responded to, to alleviate some of the stresses caused to victims and encourage greater reporting of sexual assaults.

Violence Restraining Orders

Procedures have been developed and are being updated to facilitate prosecutors seeking violence restraining orders as a matter of course in appropriate circumstances during sentencing.

Criminal Property Confiscation Act 2000

A committee has been formed comprising of members from the DPP and The Law Society of WA to consider appropriate reforms to existing confiscation laws. The reforms, amongst other things, will pay attention to the importance of protecting the interests of innocent third parties in confiscation proceedings.

DNA Evidence

The *Evidence Amendment Act 2004* came into operation on 18 June 2005. The Act creates a certificate which confirms the authenticity of the DNA testing process. The certificate is evidence of when the item was received at the laboratory, when it was examined, that a DNA profile (or a number of DNA profiles) were obtained, and that all required procedures for dealing with the item were complied with. The Act sets out a standard procedure if the contents of the certificate are challenged, which removes the requirement for witnesses to be called on a continual basis.

Summary Prosecutions

The *Director of Public Prosecutions Amendment Act 2004* was assented to on 8 September 2004. That Act allows the DPP to take over and conduct prosecutions for summary offences, enabling more scope for the development

of universal policies and guidelines. The State Solicitor's Office will maintain the primary responsibility for summary prosecutions that are commenced by government departments and agencies.

The following Protocol, issued by direction of the Attorney General, is intended to govern the circumstances in which the DPP may exercise his power to take over a prosecution being conducted by the State Solicitor:

Pursuant to Section 27 of the *Director of Public Prosecutions Act 1991* I direct as follows:

1. The DPP would not seek to take over such a prosecution unless he believed compelling public interest considerations existed that required it.
2. The DPP would not seek to take over such a prosecution without first consulting the State Solicitor.
3. In the normal course, the DPP would not take over such a prosecution unless the State Solicitor consented to it or requested it.
4. In the event there was a difference of opinion between the DPP and the State Solicitor over whether such a prosecution should be taken over by the DPP, they would seek the guidance of the Solicitor General as to the appropriate course.

Staff involvement in external committees

A number of the ODPP staff contribute to Committees external to the Office.

Amnesty International Australia National Legal Team	Chris Williams (Convenor)
Appeal Costs Board	Robert Cock QC (Chairman)
Australian Red Cross International Humanitarian Law Advisory Committee (WA)	Chris Williams
Child Witness Service Reference Group	Mary Moffet
Consumer Advice Committee	Benjamin Wyatt (Dep. Chairperson)
Criminal Practice and Procedure Committee	Robert Cock QC Ken Bates Troy Sweeney
Crime Research Centre WA	Robert Cock QC (Board Member)
Criminal Lawyers Assoc. of WA Committee	Ken Bates (Vice President) Robert Wilson
Data Management and Exchange Advisory Committee	Valter Guarino
Fresh Start Perth Naltrexone Programme	Robert Wilson (Board Member)
Institute of Restorative Justice and Penal Reform	Nicole Lockwood
Interagency Children's Court Committee	Tanya Watt
International Criminal Law Congress Committee	Ken Bates
Labour Lawyers Committee	Benjamin Wyatt (Vice-President)
Law Society of WA Criminal Law Committee Equal Employment Opportunity Committee Ethics Committee	Ken Bates, Simon Stone, Patti Chong Patti Chong Nicole Lockwood
Legal Practice Board Management Committee Supreme Court Library Committee	Robert Cock QC (Member) Robert Cock QC Robert Cock QC
Legal Practitioners Disciplinary Tribunal	Robert Cock QC (Member)
Magistrates Court Liaison Committee	Tanya Watt
National Sexual Assault Law Reform Committee	Robert Cock QC
SCALES Management Committee	Michael Perrella (Chairperson)
State Witness Protection Committee	James Mactaggart
Women Lawyers of WA Committee	Patti Chong

Human Resources and Human Resource Management

Organisational Structure

The period 2004/05 saw the consolidation of the Practice Management Model for the ODPP which had been implemented in the previous year following the Deakin Report.

To that end, the ODPP structure remained effectively based on the core business of the Office.

Consultant and Senior State Prosecutors: these are the most experienced Prosecutors in the office and conduct the most complex legal matters. They are authorised to sign indictments and approve *notice of discontinuance*. They provide support and advice to the General Indictment Teams and the Children's Court, Drug Court and Magistrates Court Team.

General Indictment Teams: these teams, headed by a Practice Manager are responsible for all indictable prosecutions in the metropolitan and regional sittings of both the Supreme and District Courts. Each of the three Indictment Teams comprises a number of State Prosecutors and supporting clerical, secretarial and paralegal staff.

Confiscations Team: this team, headed by a Practice Manager, plays a unique role in

the Office. Acting as solicitors in civil litigation, this team manages a range of matters, including bringing forfeiture proceedings, pursuant to the *Criminal Property Confiscation Act 2000*.

Children's Court, Drug Court and Sentencing Team: this team, headed by a Practice Manager, has responsibility for the management of committal mentions in the Perth Magistrates Court. The team also appears for the State in the Drug Court and undertakes some Children's Court prosecutions.

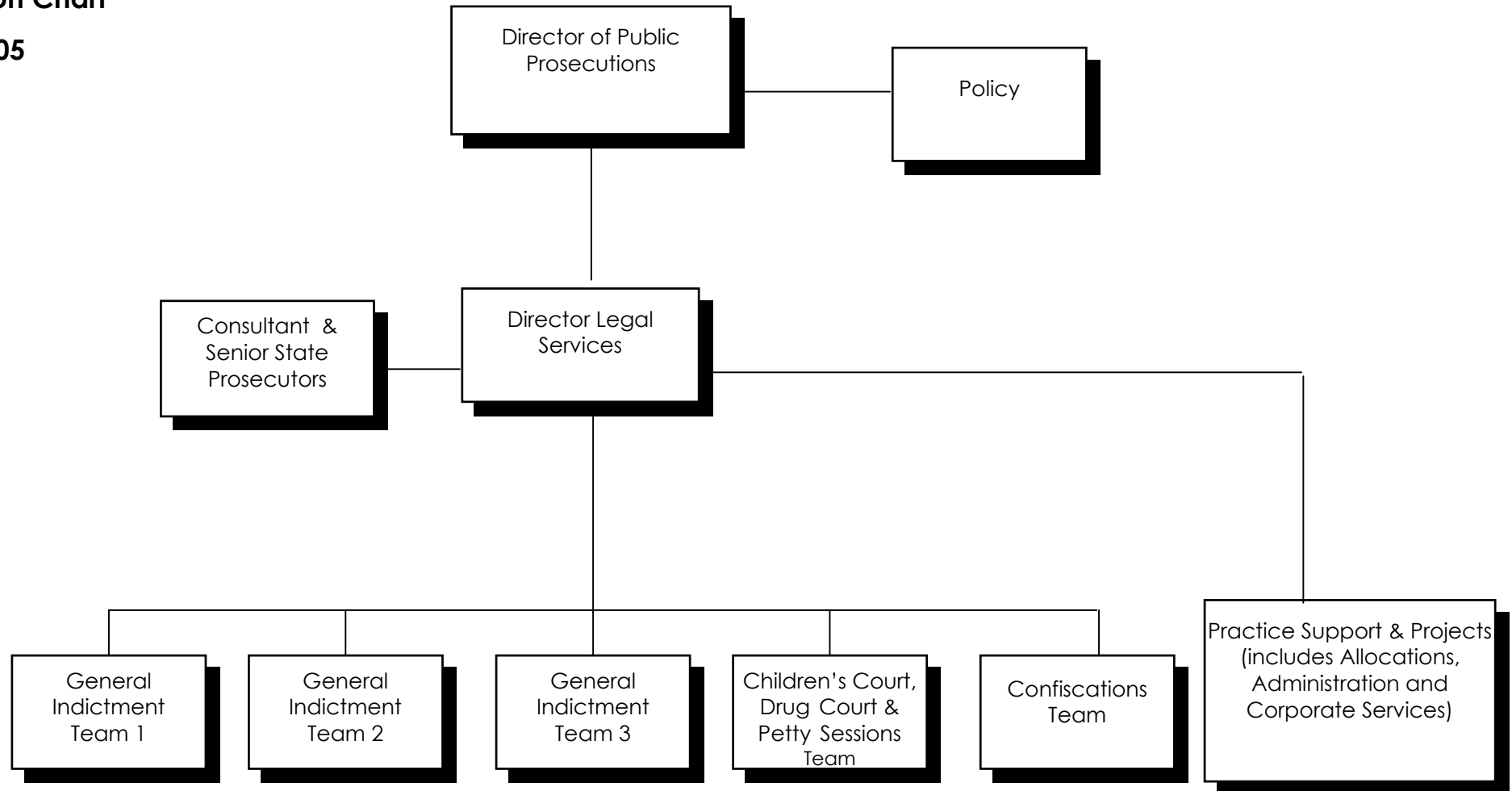
Practice Support and Projects: this team provides administrative, allocations and knowledge management support for the legal practice, and includes the implementation of some specific projects such as the continued piloting of the 'rolling list' in the Kalgoorlie District – in conjunction with the Chief Judge of the District Court – and the implementation of a human resources and change management focus.

Policy: this team is headed by the Director of Public Prosecutions and is responsible for legislative reform conducted by the Office. This team also provides advice upon request to the Attorney General, other Ministers and external bodies on the operation of the law.

Director of Public Prosecutions for Western Australia

Organisation Chart

30 June 2005



Employment Statistics

As at 30 June 2005 the ODPP comprised of:

150.736 (full-time equivalent)

179 Staff (head count)

The following tables give a breakdown of the composition of the workforce during this period:

LEGAL PRACTICE

	GI Team 1			GI Team 2			GI Team 3			CC, DC & PC Team			Confiscations		
	T	M	F	T	M	F	T	M	F	T	M	F	T	M	F
Lawyers	16	9	7	17	9	8	18	9	9	14	5	9	7	4	3
Legal Support	11	7	4	8	4	4	8	3	5	14	2	12	3	1	2
TOTAL	27	16	11	25	13	12	26	12	15	28	7	21	10	5	5

	Executive			Counsel			Director Legal Services			Corporate		
	T	M	F	T	M	F	T	M	F	T	M	F
Lawyers	3	2	1	9	8	1	8	2	6			
Legal Support	3		3				7		7	9	3	6
TOTAL	6	2	4	9	8	1	15	2	13	9	3	6

SUPPORT

	Listings			Records			Costings / Workflow Review		
	T	M	F	T	M	F	Y	M	F
Lawyers							1	1	
Legal Support	6	3	3	12	4	8	5	1	4
TOTAL	6	3	3	12	4	8	6	2	4

* Some employees seconded out or on leave without pay, therefore duplicate people in the same position.

Equal Employment Opportunity Breakdown

The following statistics represent the diverse workforce of the ODPP in the 2004/05 period:

	% Of Staff
Women	49.1%
People from Culturally Diverse Backgrounds	2.23%
Indigenous Australians	1.67%
People with Disabilities	0.0%

These figures comply with the Public sector Priority Area targets set for 2003 in the areas of representation of women and indigenous Australians in the workforce. The ODPP acknowledges that efforts to increase the representation of people with disabilities needs to be increased and plans to put strategies into place in 2005/06.

Youth Outcomes

During 2004/05, the ODPP employed a total of 18 staff who were under the age of 25. This represents a total of 10 per cent of the staff. The Office continued to support youth and training initiatives including participation in school-based traineeships, the employment of Articled Clerks, participation in the National Indigenous Cadetship Program and the high use of the Public Sector Management entry-level recruitment list.

Public Sector Standards and Ethical Codes

Public Sector Standards in Human Resource Management: the Human Resources Manager role was continued in 2004/05 to aid compliance monitoring in-house and obviate the need for external advice from agencies such as the Department of Justice. In the period 2004/05 one application for breach in Recruitment was received by this Office and dismissed on investigation by the Office of Public Sector Standards.

Public Sector Code of Ethics: the ODPP's extensive Code of Conduct, which uses the WA Public Sector Code of Ethics as its base, continued to be accessed and used by all staff.

Employment Initiatives

Human Resources advisory and consultancy service: the HR advisory service was continued in 2004/05, providing managers and staff with in-house assistance in relation to HR and change management. The HR Manager was a standing member of the Office's senior Management Group and participate in and report to meetings of that Group.

Led by the HR Consultant, the implementation of a HR IT assisted system, HR Kiosk, has continued and extended functionality relating to staff movements is being explored.

Recruitment and Selection: the Human Resources Manager and Consultant have been actively implementing the Recruitment and Selection consultancy model trialed in 2004. The model ensures that managers are supported in their decision making process through advice in relation to selection methodology and compliance issues. The use of "recruitment pools" has been an effective tool and will continue to be used extensively by the Office.

Workplace Diversity Initiatives: the continuing involvement by the Office in the National Ingenious Cadetship Program has ensured ongoing assistance to two Indigenous Australian students in their legal studies. In addition, the program has allowed the cadets to gain valuable paid work

experience during their vacation breaks and contributed to their continued learning.

As at 30 June 2005, four officers identified themselves as coming from a Culturally or Linguistically Diverse background.

School-Based Initiatives: during 2004/05 the Office continued to support three positions in the School-based Clerical Traineeship Program. Working in partnership with high schools and training providers, the Office has provided training places for Year 10 and 11 students to gain on-the-job training and experience, which allows them to attain nationally recognised certificate level qualifications.

Workers Compensation

There were no worker's compensation claims in 2004/05. This outcome demonstrates the Office's commitment to best practise occupational health and safety standards.

Training and Development

Ongoing Professional Development: the 2004/05 period saw the continuation of two key training and education committees within the Office. These included:

The Legal Training and Education Committee: the committee focussed on harnessing the in-house knowledge and

experience of its senior staff that conducted presentations and advocacy skills workshops for junior Prosecutors. Other experts from partnership agencies such as the Western Australia Police Service also contributed skills, time and information to the ongoing professional development of the Office's State Prosecutors.

The Paralegal, Clerical and Secretarial Training and Education Committee: the committee focussed on an ongoing commitment to customer service training, to ensure that all support staff were made aware of the criminal justice system and the Office's role. Experts from partnership agencies were also called upon to provide training and information to further support witnesses.

Professional and Industry Investment

In 2004/05 the Office made a significant contribution to the ongoing training and professional development of the legal fraternity. The acceptance of five articulated clerks and the acceptance of over 30 vacation clerks and other legal students into the Office, from all of the State's Law Schools has not only seen an investment in the industry, but has also provided mentoring and coaching opportunities for existing staff.

Corporate Services and Initiatives

Disability Services Plan

In 2004/05, the ODPP continued to ensure that people with disabilities, their families and carers were able to fully access the ODPP's services.

Information about ODPP services is available on request in formats that meet the communication requirements of people with disabilities. Video conferencing facilities are available at the ODPP's office to enable ODPP witnesses to give evidence remotely for trials held in country centres. These facilities are also available for prosecutors to conference with other sites that may assist people with disabilities not having to attend in person at the ODPP.

Customer Focus

Regional Development

Outcome 1: Government decision-making is based on a thorough understanding of regional issues

Through the Kalgoorlie pilot program, consultation has taken place with members of the Kalgoorlie community, and the indigenous community in particular, about procedures used by the DPP to prepare matters for trial. New procedures for dealing with regional trials are being developed in light of the information received through the consultation process.

Outcome 2: Planning in partnership for a sustainable future

The key area where the ODPP can have an impact on issues of sustainability in regional areas is through the improvement of the service which is provided to regional centres. Service delivery improvements are explained in Outcome 3.

Outcome 3: Effective Government service delivery to regions

This is an area that the ODPP has identified as requiring improvement. As ODPP does not have regional offices and conducts all trial preparation from Perth, practices will need to be improved to ensure effective trial preparation. The Kalgoorlie Pilot Project Officer is examining procedural issues and changes are being made to improve service delivery in regional centres. It is intended that upon successful completion of this project, changes will be rolled out into all regional centres where the ODPP conducts its matters.

Complaints Management

The ODPP is currently revising and updating its complaints policy procedure. This task, in accordance with the whole of government complaints management strategy, has its objectives in increasing community awareness and access to complaints mechanisms, and monitoring and evaluating feedback in such a way as to ensure that service delivery is

improved in line with the interests of stakeholders.

Energy Smart Initiative

The table below shows the ODPP's baseline energy consumption against which future energy consumption will be measured. Whilst baseline figures are generally equivalent to actual consumption in 2001/02, the ODPP's baseline figure was adjusted by the Sustainable Energy Development Office to recognise past energy saving initiatives progressively implemented, in conjunction with the building managers since 1998/99.

The table shows that the ODPP exceeded the 5 per cent consumption reduction target:

	Baseline	2004/05	Variation %
Energy Consumption (MJ)	1,158,493	1,005,883	-13.1%
Energy Cost	\$34,380	\$32,250	-6.1%
Greenhouse Gas Emissions (tonnes of CO ₂)	296	257	-13.2%

Staff awareness programs implemented within the office previously, have also contributed to our continuing improvement in this area.

Waste Paper Recycling

The ODPP is committed to reducing the amount of waste paper produced by the day to day running of the Office. To this end we have engaged Security

Shredding Services to remove and recycle confidential and non-confidential documents. Collections occur every 2-3 weeks for the 4 recycling stations located throughout the office.

Public Interest Disclosures

There have been no Public Interest Disclosures in the reporting period.

Record Keeping Plan

Sections 12 and 61 of the State Records Act 2000 require each government agency to have a record-keeping plan approved by the State Records Commission that describes how records are created, maintained, managed and disposed of in accordance with the Commission's Standards and Principles.

The Office of the Director of Public Prosecution's Records Keeping Plan (RKP 2004206) was approved by the State Records Commission on 18 November 2004.

The State Records Commission Standard 2 – Record keeping Plans, Principle 6 – Compliance requires the Department includes within its annual report an appropriate section that addresses the following points:

SRC requirement	ODPP Compliance
1 The efficiency and effectiveness of the organisation's record-keeping systems are evaluated not less than once every five years	<ul style="list-style-type: none"> The record keeping system was last evaluated as part of the compilation of the Record keeping Plan developed during 2003 and submitted in February 2004. The ODPP is developing a comprehensive revision of its record-keeping practices; paying particular attention to a number of compliance issues. A revised RKP is to be submitted to SRC by 31 November 2005.
2 The organisation conducts a record-keeping training program	<ul style="list-style-type: none"> During 2003-2004 record-keeping information was provided to ODPP staff by way of internal newsletters, email and information sessions. The record keeping training programme for ODPP is under development and the implementation will commence in 2005/06.
3 The efficiency and effectiveness of the record-keeping training program are reviewed from time to time	<ul style="list-style-type: none"> The record keeping training programme will be subject to ongoing review once implemented.
4 The organisation's induction program addresses employees' roles and responsibilities with regard to their compliance with the organisation's record-keeping plan	<ul style="list-style-type: none"> The ODPP's induction program will be reviewed as part of the development of the record keeping training program to ensure compliance against the record keeping plan.

Costings and Workflow Project

In 2004/05 the DPP formed the Costings and Workflow Project Group to undertake the costing of the Prosecution service. As a key participant in the administration of criminal justice, the ODPP must be positioned to understand and respond to legislative and procedural change and the potential resource impact that initiatives from elsewhere in the criminal justice system may have.

The scope of this project has been determined in consultation with the Department of Treasury and Finance (DTF). The purpose of the project is to embed an operationally efficient and sustainable prosecution service where the working environment ensures a manageable workload for all staff. That service must be delivered with clarity as to its base level cost.

Within the ODPP, the project group will undertake:

- A comprehensive costing of the delivery of the prosecution service
- A review of financial systems and reporting
- Improvement to process and performance measurement
- Continuing workflow reforms
- Ongoing consultation with staff
- Identify opportunities to manage demand on the ODPP within the context of the level of allocated resources.

As at the 30 June 2005 the work of the Costings and Workflow Project Group was still ongoing with an expected completion date of the end of August 2005.

Electoral Act 1907

Section 175ZE of the *Electoral Act 1907* requires public sector agencies to publish details of all expenditure incurred in 2004/05 on advertising agencies, market research organisations, polling organisations, direct mail organisations and media advertising organisations. Other than expenditure associated with the advertisement of staff positions, the ODPP did not incur any expenditure in the above areas in 2004/05.

Publications

The following publications are available from the ODPP:

General Information:

Annual Report to Parliament for each financial year since 1992/93

Information Brochures:

- About the ODPP
- Information for Victims of Crime
- Witness Information
- Customer Service Charter

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FURTHER INFORMATION

For any further information on the operations of the Office of the Director of Public Prosecutions or for copies of any of the above publications please visit our website at www.dpp.wa.gov.au or contact us.

Relations with the Attorney General

Although the *Director of Public Prosecutions Act 1991* provides for a process of formal consultation, it has never been necessary to resort to that process because there is ongoing communication on a regular basis. Although an Attorney General is removed from the prosecution process, the Minister nevertheless has a vital interest in the criminal justice system as a whole. It is appropriate that the Attorney General seeks advice from many parties, including the ODPP.

There have been no occasions of political interference with the functions of the ODPP during the year under review.

Relations with the Department Of Justice

Throughout 2003/04 the ODPP drew on a range of corporate services provided by the Department of Justice under a service level agreement. These included human resources, library, information technology, procurement and financial services.

The ODPP acknowledges and thanks the Department of Justice for the continued provision of these services in the 2004/05 financial year.

Financial Matters

Salaries

The following table indicates the breakdown and classification of staff members and salaries within the ODPP.

Classification Level	Occupational Group	Salary (\$ per annum)	Female	Male	Total
TEA	Tea Attendant	24,868 - 25,457	1		1
TRAINEE/CADET	Trainee / Cadetship	9,859 < 23,391	5		5
Level 1	Clerical / Administrative	15,361 – 37,366	9	3	15
Level 2	Administrative	38,661 – 42,957	25	12	37
Level 2/4	Legal	50,156 – 57,677	2	1	3
Level 3	Paralegal / Administrative	44,543 – 48,362	15	5	20
Level 4	Administrative	50,156 – 53,008	4	2	6
Level 4/5	Legal	55,765 – 67,148	11	8	19
Level 5	Coordinator	55,795 – 61,664	3	1	4
Level 6	Managerial	64,928 – 71,898	1	1	2
Level 6/7	Legal	75,659 – 81,092	6	9	15
Level 7	Managerial	75,659 – 81,092	1		1
Level 7/8	Legal	85,693 – 101,629	8	6	14
Class 1	Legal	111,509	10	8	18
Class 2	Legal	117,458	2		2
Class 3	Legal		3	7	10
Class 4	Legal	145,982		1	1
Sal & Allow Tribunal	Executive / Legal	> 150,000	1	5	6
TOTAL					179

Brief Out Expenditure

The following table indicates the pattern of expenditure for External Briefing of matters.

The ODPP's brief out expenditure varies significantly due to various factors including, but not limited to, court workload, staff absence and trials listed for extended periods.

The ODPP endeavours to retain as much work in-house as possible and brief out matters only where necessary.

	1999/00	2000/01	2001/02	2002/03	2003/04	2004/05
No. of matters briefed	240	352	458	161	276	422
Expenditure	\$446,531	\$680,525	\$869,635	\$386,389	\$604,929	\$841,446
% variation	0%	+52%	+28%	-56%	+57%	+39%

Introduction

The core work of the Office of the Director of Public Prosecutions is to prosecute serious criminal offences in the Supreme Court, District Court and before the President of the Children's Court. The ODPP will also appear if any of those matters proceed to appeal. In addition the ODPP initiates actions pursuant to the *Criminal Property Confiscation Act* and the *Misuse of Drugs Act* and manages committal proceedings in the Magistrates Court at the Central Law Courts, Perth.

Workflow

The ODPP has no control over the number, complexity or flow of criminal matters referred to it. Legislative changes, the prevalence of crime in society, rates of arrest and the choice of charges by the investigating police cause the number of criminal matters to fluctuate.

The ODPP is only one part of the criminal justice system where the essential focus remains on the alleged offender. Neither the courts nor the ODPP can deny an accused person the right to trial and appeal, and the timeframe for ultimate resolution of a criminal matter is very largely in the hands of the person charged and his or her lawyer. What the ODPP seeks to do in conjunction with other agencies is to appropriately manage that part of the criminal justice process which by statute is assigned to it.

Mission And Outcome

The mission of the ODPP is to *provide the people of Western Australia with an independent and effective criminal prosecution service which is both fair and just.*

Services

Service 1 – Criminal Prosecutions remains as the ODPP's principal output and essentially represents the core work of the ODPP. The key outcome under this output is to *provide a fair and independent criminal prosecution service for the State for Western Australia.*

Criminal offences prosecuted by the ODPP are to be found in the *Criminal Code* and the *Misuse of Drugs Act* which together cover virtually the full range of offences dealt with by the District Court and Supreme Court on indictment.

An indictment is the document on which the charges are set out. It is signed by an authorised because its importance lies in the fact that it is the formal document advising the court and the accused of the charges laid and without it the court cannot proceed.

The work of prosecuting is carried out by State prosecutors responsible to the Director of Public Prosecutions. They have the task of analysing a brief

prepared by the investigating police, assessing the accuracy of the charges and the evidence. Once the indictment is presented to the relevant court, State prosecutors represent the State in court on every appearance by an accused, whether it be on a question of bail, a plea, a trial, a sentence or an appeal.

Representing the State in criminal proceedings places obligations on prosecutors to adhere to legal principles and published guidelines issued under Section 24 of the *Director of Public Prosecutions Act, 1991*. To prosecute fairly is to prosecute according to law and in accordance with the ODPP's published prosecution policy which amplifies the relevant legal principles. Those principles are fundamental to our criminal justice system, are of universal application and govern matters on which the State is accountable to the accused person and the court.

While the ODPP must be accountable as a public sector agency, its first point of accountability in every criminal matter is to the court, which has a legal obligation to ensure that the prosecution is conducted fairly. The court has the power to prevent any impropriety or abuse of process if it believes that State prosecution decisions are wrong or impact in any way adversely on the accused's right to fairness. In reality there is probably no agency in government where the day-to-day decisions of its staff are so constantly under judicial scrutiny.

The following four key performance indicators have been developed in an

attempt to reflect the performance of the ODPP in meeting its outcome of providing the state with a fair and independent criminal prosecution service.

Service 2 – Confiscation of Assets – was introduced in the 2002/03 financial year. The role of the ODPP under this output is to confiscate property acquired as a result of criminal activity, property used for criminal activity and the property of a declared drug trafficker. Much of this work is conducted in close co-operation with the WA Police Service and is largely subject to the *Criminal Property Confiscation Act 2000*. This is new, innovative and largely untested legislation and accordingly the work of the ODPP in this area of law is still emerging. The performance indicators included here are likewise emerging and will be refined over time.

Performance Indicators

Statement Of Certification

I hereby certify that the performance indicators are based on proper records, are relevant and appropriate for assisting users to assess the Office of the Director of Public Prosecutions' performance, and fairly represent the performance of the Office of the Director of Public Prosecutions for the financial year ending 30 June 2005.



ROBERT COCK QC
DIRECTOR OF PUBLIC PROSECUTIONS
CHIEF EXECUTIVE OFFICER
ACCOUNTABLE OFFICER

15 August 2005



AUDITOR GENERAL

INDEPENDENT AUDIT OPINION

To the Parliament of Western Australia

OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS PERFORMANCE INDICATORS FOR THE YEAR ENDED 30 JUNE 2005

Audit Opinion

In my opinion, the key effectiveness and efficiency performance indicators of the Office of the Director of Public Prosecutions are relevant and appropriate to help users assess the Office's performance and fairly represent the indicated performance for the year ended 30 June 2005.

Scope

The Director's Role

The Director is responsible for developing and maintaining proper records and systems for preparing performance indicators.

The performance indicators consist of key indicators of effectiveness and efficiency.

Summary of my Role

As required by the Financial Administration and Audit Act 1985, I have independently audited the performance indicators to express an opinion on them. This was done by looking at a sample of the evidence.

An audit does not guarantee that every amount and disclosure in the performance indicators is error free, nor does it examine all evidence and every transaction. However, my audit procedures should identify errors or omissions significant enough to adversely affect the decisions of users of the performance indicators.

D D R PEARSON
AUDITOR GENERAL
14 October 2005

Service 1 – Criminal Prosecutions

Indicator No. 1 Establishing A Case To Answer

The State will satisfy the Court in more than 95% of trials that the accused person has a case to answer.

Explanatory Note

This indicator rests upon a fundamental legal proposition that the State must establish a prima facie case against an accused person. The question of whether a prima facie case exists is a matter of law and involves a consideration of the evidence to determine whether the trier of fact (usually the jury) could conclude beyond reasonable doubt that all of the elements of the offence have been established.

Unless the available and admissible evidence establishes a prima facie case against an alleged offender, the prosecution must fail as a matter of law. The judge will terminate the proceedings because there is no case to answer.

Where, in the opinion of the ODPP, the available material does not support a prima facie case, the prosecution should not proceed under any circumstances. It is necessary therefore for the ODPP to make sure that the charges proceeded with to trial meet the required legal standard through an accurate, objective and professional assessment of the case.

This indicator measures the effectiveness with which that case assessment has been performed and the fairness of the decision to prosecute.

Performance Outcome 2004/2005

Of the 718 trials prosecuted by the ODPP in 2004/2005 involving 847 accused persons whose trials proceeded, the ODPP demonstrated a case to answer on all or some counts listed on the indictment in respect to 825 (or 97.4%) of accused.

Trends Over Time

The outcome for 2004/2005 is consistent with previous reporting years as is illustrated in the following table.

Year	Case to answer
2004/2005	97.4% ¹
2003/2004	97.9%
2002/2003	98.7%
2001/2002	98.6%
2000/2001	98.4%
1999/2000	98.6%

[¹ The estimate from the 2004/2005 Budget Statements was 98%].

Service 1 – Criminal Prosecutions

Indicator No. 2 Convictions After Trial

The ODPP should secure a conviction for an offence in not less than 50% of criminal trials on indictable matters.

Explanatory Note

Convictions after trial generally result from decisions of juries over which the ODPP can exercise no control. It is not the role of the ODPP to secure convictions at any cost but to fairly and effectively present the evidence to the jury or Court.

Nonetheless, it would be surprising and perhaps a cause for community concern if the conviction rate after trial consistently fell below 50%. It also needs to be remembered that this indicator measures the result after an offender has put the State to proof in a criminal trial. It does not measure the high percentage of matters where the offender pleads guilty prior to trial.

This indicator provides some measure of the effectiveness of the ODPP to prosecute indictable matters and in part may be seen as confirming the propriety of the decision to prosecute.

Performance Outcome 2004/2005

Of the 847 accused persons whose trials proceeded in the Supreme and District Courts in 2004/2005, 459 (or 54.2%) were convicted of one or more of the charges brought against them.

Trends Over Time

The percentage of accused persons put on trial who are convicted of one or more charges has remained fairly constant over recent reporting years as is illustrated in the following table:

Year	Convictions After Trial
2004/2005	54.2%
2003/2004	53.5%
2002/2003	60.4%
2001/2002	56.6%
2000/2001	54.7%
1999/2000	58.8%

Service 1 – Criminal Prosecutions

Indicator No. 3 Early Advice To Court On Charges

At least five days prior to the first appearance of the accused person the ODPP will file an indictment or a notice of discontinuance in the relevant Court Registry.

Explanatory Note

An **indictment** is the fundamental document providing the accused person with knowledge of the charges to be answered and giving the court the jurisdiction to deal with the charges.

A **notice of discontinuance** is a document giving formal advice to the court that charges against an accused person will not be proceeded with.

The indictment permits the court to proceed and a notice of discontinuance terminates proceedings.

In part this indicator is a measure of efficiency in that it sets a timeframe within which the ODPP will advise the court in each case of its decision to proceed with or discontinue charges.

The indicator also goes to an issue of fairness in that the documentation to the court permits the court to regulate its listings and permits the accused person time to take advice and make an early decision on a plea.

This timeframe is subject to a number of factors outside the control of the ODPP. They include:

late receipt of committal papers from Magistrates Court,

unavailability of evidence on a particular aspect of the brief; and

the need to co-ordinate charges against co-offenders.

Performance Outcome 2004/2005

In 51.5% of prosecutions, the indictment or the notice of discontinuance was filed with the court at least 5 days prior to the first appearance of the accused person. Overall, the ODPP filed an indictment or notice of discontinuance either before the first appearance of the accused or at least within the initial sittings month in 79% of matters.

Trends Over Time

Year	Early Advice
2004/2005	51.5% ¹
2003/2004	53.2%
2002/2003	48.0%
2001/2002	51.6%
2000/2001	50.3%
1999/2000	58.1%

[¹ The estimate from the 2004/2005 Budget Statements was 65%].

Service 1 – Criminal Prosecutions

Indicator No 4 Cost Per Prosecution

In conducting criminal prosecutions the ODPP will use its resources to achieve an optimal cost per prosecution.

Explanatory Note

As a Consolidated Fund agency with no capacity to levy fees or charges for its services the ODPP has no need to maintain a comprehensive matter costing system.

Criminal prosecutions vary greatly as to type of offence, complexity and length. Some matters may be concluded within a short time upon an early plea of guilty. Others requiring a trial and perhaps an appeal may not be concluded for a number of years and can be very demanding of resources.

Given these factors, it is difficult to provide an accurate and meaningful cost per prosecution. The figure below has been determined by dividing the number of committals into the ODPP's "Total Cost of Services"

Performance Outcome 2004/2005

With the above qualifications, the average cost per prosecution in 2004/2005 was approximately \$6,543.

Trends Over Time

The outcome for 2004/2005 is consistent with previous years as illustrated by the following table.

Year	Cost Per Matter
2004/2005	\$6,543 ¹
2003/2004	\$5,449
2002/2003	\$5,171
2001/2002	\$5,131
2000/2001	\$4,447
1999/2000	\$4,227

[¹ The estimate from the 2004/2005 Budget Statements was \$5,040]

Service 2 – Confiscation of Assets

Indicator No 1 Successful Applications for Freezing Orders

The ODPP will satisfy the Court in more than 95% of Applications for a Freezing Order that an order should be made by the Court.

Explanatory Note

A Freezing Order is obtainable under the Criminal Property Confiscation Act by the ODPP and is designed to stop property being disposed of or otherwise dealt with until the Court determines the confiscation proceedings.

The ODPP determines through objective and professional assessment whether there is sufficiency of evidence to justify the making of an application for a Freezing Order. Where, in the opinion of the ODPP, the available material does not support a Freezing Order, the ODPP will not make such an application.

This indicator measures the effectiveness of the assessment as to the decision to seek a Freezing Order.

Performance Outcome 2004/2005

There were no applications made for freezing orders in the 2004/2005 period.

Trends Over Time

The outcome for 2004/2005 is consistent with previous reporting years as is illustrated in the following table.

Year	Successful Applications for Freezing Orders
2004/2005	N/A ¹
2003/2004	100%
2002/2003	100%
2001/2002	100%
2000/2001	100%

[¹ The estimate from the 2004/2005 Budget Statements was 98%]

Service 2 – Confiscation of Assets

Indicator No 2 Cost per Matter

In conducting confiscation matters the ODPP will use its resources to achieve an optimal cost per matter.

Explanatory Note

Confiscation proceedings vary greatly as to the type of application, complexity and length of time required to resolve them. Some proceedings can be dealt with relatively quickly, such as where there is no objection to the application for confiscation. Some proceedings are, by virtue of the underlying factual matrix or by virtue of the type of application, for example, applications for unexplained wealth declarations, complex in nature. Some proceedings that do not appear to be complicated may result in a number of objections which raise complex legal and factual issues and which may require comprehensive financial analysis and investigation. Proceedings may also take considerable time where the criminal charges must be finalised first, including the trial and appeals processes, which can take a number of years and, accordingly, can be very demanding of resources.

Given these factors, it is difficult to provide an entirely meaningful average cost per matter reflective of the practice of the section as a whole. The figure below has been determined by dividing the total number of objections received into the total cost of running the ODPP Confiscation team

Performance Outcome 2004/2005

With the above qualification, the average cost per matter in 2004/2005 was \$2,494.

Trends Over Time

In 2002/2003, the method of calculation of the average cost per matter was determined by dividing the number of Freezing Notices and Freezing Orders into the cost of running the ODPP Confiscation team. It is considered that this method of calculation did not recognise the number of objections received which give rise to much of the daily workflow practices of the section. The 2002/03 comparative figures have been recalculated on the same basis as the 2003/04 and 2004/05 figures.

Year	Cost Per Matter
2004/2005	\$2,494 ¹
2003/2004	\$6,862
2002/2003	\$5,578

[¹ The estimate from the 2004/2005 Budget Statements was \$11,129]



AUDITOR GENERAL

INDEPENDENT AUDIT OPINION

To the Parliament of Western Australia

OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 2005

Audit Opinion

In my opinion,

- (i) the controls exercised by the Office of the Director of Public Prosecutions provide reasonable assurance that the receipt and expenditure of moneys, the acquisition and disposal of property, and the incurring of liabilities have been in accordance with legislative provisions; and
- (ii) the financial statements are based on proper accounts and present fairly in accordance with applicable Accounting Standards and other mandatory professional reporting requirements in Australia and the Treasurer's Instructions, the financial position of the Office at 30 June 2005 and its financial performance and cash flows for the year ended on that date.

Scope

The Director's Role

The Director is responsible for keeping proper accounts and maintaining adequate systems of internal control, preparing the financial statements, and complying with the Financial Administration and Audit Act 1985 (the Act) and other relevant written law.

The financial statements consist of the Statement of Financial Performance, Statement of Financial Position, Statement of Cash Flows, Schedule of Expenses and Revenues by Service, Summary of Consolidated Fund Appropriations and Revenue Estimates, and the Notes to the Financial Statements.

Summary of my Role

As required by the Act, I have independently audited the accounts and financial statements to express an opinion on the controls and financial statements. This was done by looking at a sample of the evidence.

An audit does not guarantee that every amount and disclosure in the financial statements is error free. The term "reasonable assurance" recognises that an audit does not examine all evidence and every transaction. However, my audit procedures should identify errors or omissions significant enough to adversely affect the decisions of users of the financial statements.

D D R PEARSON
AUDITOR GENERAL
14 October 20005

OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS
Statement of Financial Performance
for the year ended 30 June 2005

	Note	2005 \$	2004 \$
COST OF SERVICES			
Expenses from ordinary activities			
Employee expenses	4	12,045,025	10,653,847
Supplies and services	5	2,412,815	1,985,875
Depreciation expense	6	196,683	177,788
Accommodation expense	7	1,271,372	1,262,791
Carrying amount of non-current assets disposed of	9	6,380	-
Other expenses from ordinary activities	8	1,649,216	1,684,591
Total cost of services		<u>17,581,491</u>	<u>15,764,892</u>
Revenues from ordinary activities			
Revenue from non-operating activities			
Other revenues from ordinary activities	10	<u>132,705</u>	<u>147,381</u>
Total revenues from ordinary activities		<u>132,705</u>	<u>147,381</u>
NET COST OF SERVICES		<u>17,448,786</u>	<u>15,617,511</u>
REVENUES FROM STATE GOVERNMENT			
Service Appropriation		17,879,000	13,825,000
Contribution from Confiscation Proceeds Account		400,000	500,000
Liabilities assumed by the Treasurer		55,536	58,053
Resources received free of charge		<u>738,638</u>	<u>806,463</u>
Total revenues from State Government		<u>19,073,174</u>	<u>15,189,516</u>
CHANGES IN NET ASSETS		1,624,388	(427,995)
TOTAL CHANGES IN EQUITY OTHER THAN THOSE RESULTING FROM TRANSACTIONS WITH WA STATE GOVERNMENT AS OWNERS		<u>1,624,388</u>	<u>(427,995)</u>

The Statement of Financial Performance should be read in conjunction with the accompan

OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS
Statement of Financial Position
as at 30 June 2005

	Note	2005 \$	2004 \$
Current Assets			
Cash assets	21(a)	805,790	86,175
Restricted cash assets	12	-	359,910
Receivables	13	70,445	38,524
Amounts receivable for services	14	200,000	200,000
Other assets	15	4,416	7,656
Total Current Assets		<u>1,080,651</u>	<u>692,265</u>
Non-Current Assets			
Amounts receivable for services	14	1,094,000	321,000
Property and equipment	16	683,815	722,724
Total Non-Current Assets		<u>1,777,815</u>	<u>1,043,724</u>
TOTAL ASSETS		<u>2,858,466</u>	<u>1,735,989</u>
Current Liabilities			
Payables	17	242,924	519,067
Provisions	18	1,260,083	1,398,229
Other liabilities	19	-	337,085
Total Current Liabilities		<u>1,503,007</u>	<u>2,254,381</u>
Non-Current Liabilities			
Provisions	19	1,202,672	953,209
Total Non-Current Liabilities		<u>1,202,672</u>	<u>953,209</u>
Total Liabilities		<u>2,705,679</u>	<u>3,207,590</u>
Equity	20		
Contributed equity		407,000	407,000
Accumulated surplus / (deficiency)		<u>(254,213)</u>	<u>(1,878,601)</u>
Total Equity		<u>152,787</u>	<u>(1,471,601)</u>
TOTAL LIABILITIES AND EQUITY		<u>2,858,466</u>	<u>1,735,989</u>

The Statement of Financial Position should be read in conjunction with the accompany

OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS
Statement of Cash Flows
for the year ended 30 June 2005

	Note	2005 \$	2004 \$
CASH FLOWS FROM STATE GOVERNMENT			
Service appropriation		16,906,000	13,548,000
Contribution from Confiscation Proceeds Account		400,000	500,000
Capital contributions		-	48,000
Holding account drawdowns		200,000	152,000
Net cash provided by State Government		<u>17,506,000</u>	<u>14,248,000</u>
Utilised as follows:			
CASH FLOWS FROM OPERATING ACTIVITIES			
Payments			
Employee Costs		(10,835,939)	(9,074,214)
Supplies and Services		(6,246,986)	(5,073,381)
GST payments		(530,149)	(454,954)
Receipts			
Receipts from services		104,792	147,381
GST receipts		526,141	480,116
Net cash provided by/(used in) operating activities	21(b)	<u>(16,982,141)</u>	<u>(13,975,052)</u>
CASH FLOWS FROM INVESTING ACTIVITIES			
Proceeds from sale of non-current physical assets		-	-
Purchase of non-current physical assets		(164,154)	(335,747)
Net cash provided by/(used in) investing activities		<u>(164,154)</u>	<u>(335,747)</u>
Net increase/(decrease) in cash held		359,705	(62,799)
Cash assets at the beginning of the financial year		<u>446,085</u>	<u>508,884</u>
CASH ASSETS AT THE END OF THE FINANCIAL YE	21(a)	<u>805,790</u>	<u>446,085</u>

The Statement of Cash Flows should be read in conjunction with the accompanying notes.

OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS
Schedule of Expenses and Revenues by Service
for the year ended 30 June 2005

	Criminal Prosecutions		Confiscation of Assets		TOTAL	
	2005	2004	2005	2004	2005	2004
	\$	\$	\$	\$	\$	\$
COST OF SERVICES						
Expenses from ordinary activities						
Employee expenses	11,154,644	9,979,639	890,381	674,208	12,045,025	10,653,847
Supplies and services	2,267,747	1,812,644	145,068	173,231	2,412,815	1,985,875
Depreciation expense	186,848	168,899	9,835	8,889	196,683	177,788
Accommodation expenses	1,208,778	1,205,333	62,594	57,458	1,271,372	1,262,791
Carrying amount of non-current assets disposed of	6,061	-	319	-	6,380	-
Other expenses from ordinary activities	1,605,273	1,635,680	43,943	48,911	1,649,216	1,684,591
Total cost of services	16,429,351	14,802,195	1,152,140	962,697	17,581,491	15,764,892
Revenues from ordinary activities						
Revenue from non-operating activities						
Other revenues from ordinary activities	132,705	147,381	-	-	132,705	147,381
Total revenues from ordinary activities	132,705	147,381	-	-	132,705	147,381
NET COST OF SERVICES	16,296,646	14,654,814	1,152,140	962,697	17,448,786	15,617,511
REVENUES FROM STATE GOVERNMENT						
Service appropriation	17,679,000	13,625,000	200,000	200,000	17,879,000	13,825,000
Contribution from Confiscation Account	-	-	400,000	500,000	400,000	500,000
Liabilities assumed by the Treasurer	55,536	58,053	-	-	55,536	58,053
Resources received free of charge	685,793	750,628	52,845	55,835	738,638	806,463
Total revenues from State Government	18,420,329	14,433,681	652,845	755,835	19,073,174	15,189,516
CHANGE IN NET ASSETS	2,123,683	(221,133)	(499,295)	(206,862)	1,624,388	(427,995)
TOTAL CHANGES IN EQUITY OTHER THAN THOSE RESULTING FROM TRANSACTIONS WITH WA STATE GOVERNMENT AS OWNERS	2,123,683	(221,133)	(499,295)	(206,862)	1,624,388	(427,995)

The Schedule of Expenses and Revenues by Service should be read in conjunction with the accompanying notes.

OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS
Summary of Consolidated Fund Appropriations and Revenue Estimates
for the year ended 30 June 2005

	2005 Estimate \$	2005 Actual \$	Variance \$	2005 Actual \$	2004 Actual \$	Variance \$
DELIVERY OF SERVICES						
Item 62 Net amount appropriated to deliver services	12,653,000	16,443,000	3,790,000	16,443,000	13,257,000	3,186,000
Amount Authorised by Other Statutes						
- Salaries and Allowances Act 1975	568,000	1,436,000	868,000	1,436,000	568,000	868,000
Total appropriations provided to deliver services	13,221,000	17,879,000	4,658,000	17,879,000	13,825,000	4,054,000
CAPITAL						
Item 141 Capital Contribution	-	-	-	-	48,000	(48,000)
ADMINISTERED TRANSACTIONS						
Administered Grants and Transfer Payments	1,200,000	1,582,621	382,621	1,582,621	1,251,169	331,452
GRAND TOTAL OF APPROPRIATIONS	14,421,000	19,461,621	5,040,621	19,461,621	15,124,169	4,337,452
Details of Expenses by Service						
Criminal Prosecutions	14,114,000	16,429,351	2,315,351	16,429,351	14,802,195	1,627,156
Confiscation of Assets	690,000	1,152,140	462,140	1,152,140	962,697	189,443
Total Cost of Services	14,804,000	17,581,491	2,777,491	17,581,491	15,764,892	1,816,599
Less total revenues from ordinary activities	(714,000)	(132,705)	581,295	(132,705)	(147,381)	14,676
Net Cost of Services	14,090,000	17,448,786	3,358,786	17,448,786	15,617,511	1,831,275
Adjustment (I)	(869,000)	430,214	1,299,214	430,214	(1,792,511)	2,222,725
Total appropriations provided to deliver services	13,221,000	17,879,000	4,658,000	17,879,000	13,825,000	4,054,000
Capital Expenditure						
Purchase of non-current physical assets	200,000	164,154	(35,846)	164,154	335,747	171,593
Adjustments for other funding sources	(200,000)	(164,154)	35,846	(164,154)	(287,747)	(123,593)
Total capital expenditure	-	-	-	-	48,000	48,000

OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS
Summary of Consolidated Fund Appropriations and Revenue Estimates
for the year ended 30 June 2005

	2005 Estimate \$	2005 Actual \$	Variance \$	2005 Actual \$	2004 Actual \$	Variance \$
DETAILS OF REVENUE ESTIMATES						
Revenues disclosed as Administered Revenues	<u>1,200,000</u>	<u>3,028,103</u>	<u>1,828,103</u>	<u>3,028,103</u>	<u>1,354,443</u>	<u>1,673,660</u>

(I) Adjustments are related to movements in cash balances and other accrual items such as receivables, payables and superannuation.

The Summary of Consolidated Fund Appropriations and Revenue Estimates is to be prepared on an accruals basis.

The Summary of Consolidated Fund Appropriations, Variance to Budget and Actual should be read in conjunction with the accompanying notes.

This Summary provides the basis for the Explanatory Statement information requirements of TI 945, set out in Note 23.

1 Office of the Director of Public Prosecutions mission and funding

The mission of the Office of the Director of Public Prosecutions (the "DPP" for the purpose of these notes) is to provide the people of Western Australia with an independent and effective criminal prosecution service which is both fair and just.

The DPP is funded by Parliamentary appropriations. It does not provide services on a fee-for-service basis. The financial statements encompass all funds through which the DPP controls resources to carry on its functions.

2 Significant accounting policies

The following accounting policies have been adopted in the preparation of the financial statements. Unless otherwise stated these policies are consistent with those adopted in the previous year.

General Statement

The financial statements constitute a general purpose financial report which has been prepared in accordance with Accounting Standards, Statements of Accounting Concepts and other authoritative pronouncements of the Australian Accounting Standards Board and Urgent Issues Group (UIG) Consensus Views as applied by the Treasurer's Instructions. Several of these are modified by the Treasurer's Instructions to vary the application, disclosure, format and wording. The Financial Administration and Audit Act and the Treasurer's Instructions are legislative provisions governing the preparation of financial statements and take precedence over Accounting Standards, Statements of Accounting Concepts and other authoritative pronouncements of the Australian Accounting Standards Board and UIG Consensus Views. The modifications are intended to fulfil the requirements of general application to the public sector, together with the need for greater disclosure and also satisfy accountability requirements.

If any such modification has a material or significant financial effect upon the reported results, details of that modification and where practicable, the resulting financial effect is disclosed in individual notes to these financial statements.

Basis of accounting

The financial statements have been prepared in accordance with Accounting Standard AAS 29 'Financial Reporting by Government Departments'.

The statements have been prepared on the accrual basis of accounting using the historical cost convention, except for certain assets and liabilities which, as noted, are measured at fair value.

Administered assets, liabilities, expenses and revenues are not integral to the DPP in carrying out its functions and are disclosed in the notes to the financial statements, forming part of the general purpose financial report of the DPP. The administered items are disclosed on the same basis as is described above for the financial statements of the DPP. The administered assets, liabilities, expenses and revenues are those which the Government requires the DPP to administer on its behalf. The assets do not render any service potential or future economic benefits of the DPP, the liabilities do not require the future sacrifice of service potential or future economic benefits to the DPP, and the expenses and revenues are not attributable to the DPP.

As the administered assets, liabilities, expenses and revenues are not recognised in the principal financial statements of the DPP, the disclosure requirements of Accounting Standard AAS 33, Presentation and Disclosure of Financial Instruments, are not applied to administered transactions.

(a) Service Appropriation

Service Appropriations are recognised as revenues in the period in which the DPP gains control of the appropriated funds. The DPP gains control of appropriated funds at the time those funds are deposited into the DPP's bank account or credited to the holding account held at the Department of Treasury and Finance.

(b) Contributed Equity

Under UIG 38 "Contributions by Owners Made to Wholly-Owned Public Sector Entities" transfers in the nature of equity contributions must be designated by the Government (owners) as contributions by owners (at the time of, or prior to transfer) before such transfers can be recognised as equity contributions in the financial statements. Capital contributions (appropriations) have been designated as contributions by owners and have been credited directly to Contributed Equity in the Statement of Financial Position. Capital appropriations which are repayable to the Treasurer are recognised as liabilities.

(c) Net Appropriation Determination

Pursuant to section 23A of the Financial Administration and Audit Act, the net appropriation determination by the Treasurer provides for retention of the following moneys received by the DPP:

- Executive Vehicle Scheme;
- Confiscation Account;
- Miscellaneous Revenue;
- Proceeds from the provision of Community Education Services;

In accordance with the determination, the DPP retained \$106,995 in 2005 (\$147,381 in 2004).

Retained revenues may only be applied to the services specified in the 2004-2005 Budget

(d) Grants and other contributions

Grants, donations, gifts and other non-reciprocal contributions are recognised as revenue when the DPP obtains control over the assets comprising the contributions. Control is normally obtained upon their receipt.

(e) Acquisition of assets

The cost method of accounting is used for all acquisitions of assets. Cost is measured as the fair value of the assets given up or liabilities undertaken at the date of acquisition plus incidental

Assets acquired at no cost or for nominal consideration, are initially recognised at their fair value at the date of acquisition.

(f) Depreciation of non-current assets

All non-current assets having a limited useful life are systematically depreciated over their useful lives in a manner which reflects the consumption of their future economic benefits.

The policy is to depreciate such assets if their purchase cost is \$1,000 or more. Amounts with a lower value are expensed.

Depreciation is calculated on the straight line basis, using rates which are reviewed annually. Expected useful lives for each class of depreciable asset are:

Office equipment	10 years
Computer hardware	5 years
Computer software	5 years
Leasehold improvements	10 years

(g) Leases

The DPP has entered into a number of operating lease arrangements for buildings, motor vehicles and office equipment where the lessors effectively retain all of the risks and benefits incident to ownership of the items held under the operating leases. Equal instalments of the lease payments are charged to the Statement of Financial Performance over the lease term as this is representative of the pattern of benefits to be derived from the leased property.

(h) Cash

For the purpose of the Statement of Cash Flows, cash includes cash assets and restricted cash

(i) Accrued salaries

The accrued salaries suspense account (refer note 12) consists of amounts paid annually into a suspense account over a period of 10 financial years to largely meet the additional cash outflow in each eleventh year when 27 pay days occur in that year instead of the normal 26. No interest is received on this account.

Accrued salaries (refer note 19) represent the amount due to staff but unpaid at the end of the financial year, as the end of the last pay period for that financial year does not coincide with the end of the financial year. Accrued salaries are settled within a few days of the financial year end. The DPP considers the carrying amount of accrued salaries to be equivalent to the net fair value.

(j) Receivables

Receivables are recognised at the amounts receivable as they are due for settlement no more than 30 days from the date of recognition.

Collectability of receivables is reviewed on an ongoing basis. Debts which are known to be uncollectible are written off. A provision for doubtful debts is raised where some doubt as to

(k) Payables

Payables, including accruals not yet billed, are recognised when the DPP becomes obliged to make future payments as a result of a purchase of assets or services. Payables are generally

(l) Employee benefits

Annual leave

This benefit is recognised at the reporting date in respect to employees' services up to that date and is measured at the nominal amounts expected to be paid when the liabilities are settled.

Long service leave

Leave benefits are calculated at remuneration rates expected to be paid when the liabilities are settled. A liability for long service leave is recognised after an employee has completed four years of service. An actuarial assessment of long service leave undertaken by Price Waterhouse Coopers in 2004 determined that the liability measured using the short hand method was not materially different from the liability measured using the present value of expected future payments.

This method of measurement of the liability is consistent with the requirements of Accounting Standards AASB 1028 "Accounting for Employee Benefits".

Superannuation

Staff may contribute to the Pension Scheme, a defined benefits pension scheme now closed to new members, or the Gold State Superannuation Scheme, a defined benefit lump sum scheme now also closed to new members. All staff who do not contribute to either of these schemes become non-contributory members of the West State Superannuation Scheme, an accumulation fund. The DPP contributes to this accumulation fund in compliance with the Commonwealth Government's Superannuation Guarantee (Administration) Act 1992. All of these schemes are administered by the Government Employees Superannuation Board (GESB).

The superannuation expense is comprised of the following elements:

- (i) change in the unfunded employer's liability in respect of current employees who are members of the Pension Scheme and current employees who accrued a benefit on transfer from that Scheme to the Gold State Superannuation Scheme; and
- (ii) employer contributions paid to the Gold State Superannuation Scheme and West State Superannuation Scheme.

The superannuation expense does not include payment of pensions to retirees as this does not constitute part of the cost of services provided by the DPP in the current year.

A revenue "Liabilities assumed by the Treasurer" equivalent to (i) is recognised under Revenues from State Government in the Statement of Financial Performance as the unfunded liability is assumed by the Treasurer. The GESB makes the benefit payments and is recouped by the Treasurer.

The DPP is funded for employer contributions in respect of the Gold State Superannuation Scheme and the West State Superannuation Scheme. These contributions were paid to the GESB during the year. The GESB subsequently paid the employer contributions in respect of the Gold State Superannuation Scheme to the Consolidated Fund.

The liabilities for superannuation charges under the Gold State Superannuation Scheme and West State Superannuation Scheme are extinguished by payment of employer contributions to the GESB.

Employee benefit on-costs

Employee benefit on-costs, including payroll tax, are recognised and included in employee benefit liabilities and costs when the employee benefits to which they relate are recognised as liabilities and expenses. (See notes 4 and 18).

(m) Resources received free of charge or for nominal value

Resources received free of charge or for nominal value which can be reliably measured are recognised as revenues and as assets or expenses as appropriate at fair value.

(n) Comparative figures

Comparative figures are, where appropriate, reclassified so as to be comparable with the figures presented in the current financial year.

(o) Rounding of amounts

Amounts in the financial statements have been rounded to the nearest dollar.

3 Services of the DPP

Information about the DPP's services is set out in the Schedule of Expenses and Revenues by Service. Information about DPP's administered expenses, revenue, assets and liabilities is set out in notes 28 and 29.

The two key services of the DPP are:

Service 1: Criminal Prosecutions

The DPP conducts prosecutions against people accused of serious breaches of the State's criminal laws. These prosecutions are principally conducted on indictments in the Supreme and District Courts sitting at Perth and also in major country locations. Prosecutions are conducted on behalf of the State, independently of external influences and in accordance with law and a published statement of the DPP's prosecution policy and guidelines.

Service 2: Confiscation of Assets

The DPP will act effectively to institute and conduct proceedings in a just and fair manner to confiscate property acquired as a result of criminal activity, property used for criminal activity and property of a declared drug trafficker.

OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS
Notes to the Financial Statements
for the year ended 30 June 2005

	2005 \$	2004 \$
4 Employee expenses		
Salaries and wages	9,382,156	8,290,409
Annual and long service leave	1,228,015	1,082,499
Superannuation	1,069,749	959,503
Other related expenses	365,105	321,436
	<u>12,045,025</u>	<u>10,653,847</u>
5 Supplies and Services		
Goods and supplies	263,020	207,081
Services and contracts	1,411,157	972,331
Resources received free of charge (see note 11).	738,638	806,463
	<u>2,412,815</u>	<u>1,985,875</u>
6 Depreciation expense		
Leasehold improvements	48,531	38,581
Equipment	148,152	139,207
	<u>196,683</u>	<u>177,788</u>
7 Accommodation expense		
Building rental operating lease expense	<u>1,271,372</u>	<u>1,262,791</u>
8 Other expenses from ordinary activities		
Witness expenses	862,390	873,083
Equipment and vehicles operating lease expense	115,696	130,855
Communication expenses	132,130	117,118
Electricity and water	51,252	50,867
Building and equipment repairs and maintenance	31,115	147,174
Insurance	44,027	47,297
Other expenses (I)	412,606	318,197
	<u>1,649,216</u>	<u>1,684,591</u>
(I) Other expenses includes the carrying value of Non Current Assets which have been disposed.		
9 Net gain (loss) on disposal of non-current assets		
<u>Loss on Disposal of Non-Current Assets</u>		
Office equipment	(6,380)	-
	<u>(6,380)</u>	<u>-</u>
10 Other revenues from ordinary activities		
Contributions to motor vehicle scheme	15,309	29,223
Other revenue	117,396	118,158
	<u>132,705</u>	<u>147,381</u>

OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS
Notes to the Financial Statements
for the year ended 30 June 2005

	2005 \$	2004 \$
11 Revenues from State Government		
Appropriation revenue received during the year:		
Service appropriations (I)	17,879,000	13,825,000
Contribution from Confiscation Proceeds Account (II)	400,000	500,000
The following liabilities have been assumed by the Treasurer during the financial year: (III)		
Superannuation	55,536	58,053
Resources received free of charge (IV)		
Determined on the basis of the following estimates provided by agencies:		
Department of Justice		
- corporate services	712,554	782,050
Department of Housing and Works		
- property management services (notional management fee based on lease payments)	9,333	8,084
Valuer General's Office		
- valuation services	16,751	16,329
	738,638	806,463

(I) Service appropriations are accrual amounts reflecting the full cost of services delivered. The appropriation revenue comprises a cash component and a receivable (asset). The receivable (holding account) comprises the depreciation expense for the year and any agreed increase in leave liability during the year.

(II) At the direction of the Attorney General, money is paid out of the Confiscation Proceeds Account to the DPP for reimbursement of costs associated with administering the Criminal Property Confiscation Act 2000. In prior financial years, this contribution was classified as Revenue from Ordinary Activities.

(III) The assumption of the superannuation liability by the Treasurer is only a notional revenue to offset the notional superannuation expense reported in respect of current employees who are members of the pension scheme and current employees who have a transfer benefit entitlement under the Gold State scheme.

(IV) Where assets or services have been received free of charge or for nominal consideration, the DPP recognises revenues (except where the contributions of assets or services are in the nature of contributions by owners in which case the DPP shall make a direct adjustment of equity) equivalent to the fair value of the assets and/or the fair value of those services that can be reliably determined and which would have been purchased if not donated, and those fair values shall be recognised as assets or expenses, as applicable.

OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS
Notes to the Financial Statements
for the year ended 30 June 2005

	2005 \$	2004 \$
12 Restricted cash assets		
Current		
Accrued salaries suspense account (I)	-	359,910
	-	359,910
(I) Amount held in the suspense account is only to be used for the purpose of meeting the 27th pay in a financial year that occurs every 11 years.		
13 Receivables		
Trade Debtors	27,913	-
GST receivable	42,532	38,524
	70,445	38,524
14 Amounts receivable for services		
Current	200,000	200,000
Non-Current	1,094,000	321,000
	1,294,000	521,000
This asset represents the non-cash component of service appropriations. It is restricted in that it can only be used for asset replacement or payment of leave liability.		
15 Other assets		
Prepayments	4,416	7,656
16 Property and equipment		
Leasehold improvements		
At cost	485,304	485,305
Accumulated amortisation	(203,624)	(155,094)
	281,680	330,211
Office Equipment and Computers		
At cost	1,296,643	1,288,821
Accumulated depreciation	(894,508)	(896,308)
	402,135	392,513
	683,815	722,724

OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS
Notes to the Financial Statements
for the year ended 30 June 2005

	2005 \$	2004 \$
Reconciliations of the carrying amounts of property and equipment at the beginning and end of the current financial year are set out below.		
Leasehold improvements		
Carrying amount at start of year	330,211	161,960
Additions	-	206,832
Disposals	-	-
Amortisation	(48,531)	(38,581)
Carrying amount at end of year	<u>281,680</u>	<u>330,211</u>
Office Equipment and Computers		
Carrying amount at start of year	392,513	402,805
Additions	164,154	128,915
Disposals	(6,380)	-
Depreciation	(148,152)	(139,207)
Carrying amount at end of year	<u>402,135</u>	<u>392,513</u>
	<u>683,815</u>	<u>722,724</u>
17 Payables		
Trade and other creditors	<u>242,924</u>	<u>519,067</u>
18 Provisions		
<u>Current</u>		
Annual leave	694,119	783,660
Long service leave	<u>565,964</u>	<u>614,569</u>
	1,260,083	1,398,229
<u>Non-current</u>		
Long service leave	<u>1,202,672</u>	<u>953,209</u>
	1,202,672	953,209
19 Other liabilities		
<u>Current</u>		
Accrued salaries and wages		
Nil working days accrued to 30 June 2005 (2004, 9 working days).	<u>-</u>	<u>337,085</u>

OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS
Notes to the Financial Statements
for the year ended 30 June 2005

	2005 \$	2004 \$
20 Equity		
Equity represents the residual interest in the net assets of the Department. The Government holds the equity interest in the Department on behalf of the community. The asset revaluation reserve represents that portion of equity resulting from the revaluation of non-current assets.		
Contributed equity		
Opening balance	407,000	359,000
Capital contributions (I)	-	48,000
Closing balance	<u>407,000</u>	<u>407,000</u>
(I) Capital Contributions have been designated as contributions by owners and are credited straight to equity in the Statement of Financial Position.		
Accumulated surplus / (deficiency)		
Opening balance	(1,878,601)	(1,450,606)
Change in net assets	1,624,388	(427,995)
Closing balance	<u>(254,213)</u>	<u>(1,878,601)</u>

21 Notes to the Statement of Cash Flows

(a) Reconciliation of cash

Cash at the end of the financial year as shown in the Statement of Cash Flows is reconciled to the related items in the Statement of Financial Position as follows:

Cash assets	805,790	86,175
Restricted cash assets (refer note 12)	-	359,910
	<u>805,790</u>	<u>446,085</u>

OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS
Notes to the Financial Statements
for the year ended 30 June 2005

	2005 \$	2004 \$
(b) Reconciliation of net cost of services to net cash flows provided by/(used in) operating activities		
Net cost of services	(17,448,786)	(15,617,511)
Non-cash items:		
Depreciation expense	196,683	177,788
Superannuation expense	55,536	58,053
Resources received free of charge	738,638	806,463
Net (gain)/loss on sale of property and equipment	6,380	-
(Increase)/decrease in assets:		
Receivables	(27,913)	-
Other current assets	3,240	99,199
Increase/(decrease) in liabilities:		
Current Payables	(276,143)	177,100
Current provisions	(138,146)	131,269
Other current liabilities	(337,085)	84,515
Non-current provisions	249,463	82,910
Change in GST receivables	(4,008)	25,162
Net cash provided by/(used in) operating activities	<u>(16,982,141)</u>	<u>(13,975,052)</u>

22 Commitments for expenditure

Lease commitments

Commitments in relation to leases contracted for at the reporting date but not recognised as liabilities:

Within 1 year	1,320,638	1,287,895
Later than 1 year and not later than 5 years	759,663	1,981,839
	<u>2,080,301</u>	<u>3,269,734</u>

23 Explanatory statement

The Summary of Consolidated Fund Appropriations and Revenue Estimates discloses appropriations and other statutes expenditure estimates, the actual expenditures made and revenue estimates and payments credited to the Consolidated Fund. Appropriations are now on an accrual basis.

The following explanations are provided in accordance with Treasurer's Instruction 945. Significant variations are considered to be those greater than 10% and \$25,000.

(i) Significant variances between estimate and actual - Total appropriation to deliver

Total appropriation provided to deliver services for the year	Over	\$4,658,000
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Increased funding was required to meet:

- Additional workload arising from allocation of extra judicial resources sitting in crime in the Supreme and District Courts and inefficiencies caused by over listing cases in the District Court in the city and country;
- Service expansion in the Children's Court and Drug Court;
- An increasing number of large prosecutor intensive cases;
- Changing court processes; and
- Growth in Confiscations section.

Total revenues from ordinary activities	Under	\$581,295
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The revenue estimate included a contribution of \$690,000 from the Confiscation Proceeds Account. However, as a consequence of a change in accounting treatment, contributions from the Confiscation Proceeds Account are now classified as Revenue From State Government.

Details of Expenses by Service

Criminal Prosecutions	Over	\$2,315,351
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Expenses exceeded estimates as a consequence of:

- court driven initiatives to reduce trial backlogs translating to an increased workload within the agency and inefficiencies caused by over listing cases;
- an increasing number of large Prosecutor intensive cases; and
- rapid expansion of responsibilities in the Children's Court and Drug Court.

Confiscation of Assets	Over	\$462,140
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This reflects an increase in the volume of matters handled by the confiscation section. Also a number of pieces of litigation which are substantial in both size and complexity have been very demanding of resources and necessitated the employment of additional staff.

(ii) **Significant variances between actual and prior year actual - Total appropriation to deliver**

Total appropriation provided to deliver services for the year	Increase	\$4,054,000
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Increased funding was required to meet:

- Additional workload arising from allocation of extra judicial resources sitting in crime in the Courts and inefficiencies caused by over listing cases in the District Court in the city and
- Service expansion in the Children's Court and Drug Court;
- An increasing number of large prosecutor intensive cases;
- Changing court processes; and
- Growth in Confiscations section.

Total revenues from ordinary activities	Under	\$14,676
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A reimbursement of \$45,000 under the National Indigenous Cadetship Program was not received until after the end of the financial year.

Details of Expenses by Service		
Criminal Prosecutions	Increase	\$1,627,156

Expenses increased as a consequence of:

- court driven initiatives to reduce trial backlogs translating to an increased workload within the agency and inefficiencies caused by over listing cases;
- an increasing number of large Prosecutor intensive cases; and
- rapid expansion of responsibilities in the Children's Court and Drug Court.

Confiscation of Assets	Increase	\$189,443
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The practice of the confiscation section has seen an increase in the volume of matters handled by the section. In addition and notably during the reporting year the section has had the conduct of a number of pieces of litigation which are substantial in both size and complexity which have necessitated the employment of additional staff and which have generally been more demanding of resources

(iii) **Significant variances between estimate and actual - Capital Contribution:**

No significant variance

(iv) **Significant variances between actual and prior year actual - Capital Contribution:**

Decrease	\$48,000
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The variation represents a decrease from 2004 in the capital contribution from government, in line with the DPP's planned asset replacement program.

(v) **Significant variances between estimate and actual, and actual and prior year actual - Administered revenues:**

Estimate and actual	Over	\$1,828,103
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The DPP's administered revenue principally relates to proceeds of crime matters. Revenue from this source is largely based on the number and outcome of court proceedings. This is a volatile source of revenue and although it is trending upwards it is difficult to accurately estimate the amount of revenue to be derived in any given year.

Actual and prior year	Over	\$1,673,660
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This is a volatile source of revenue and although trending upwards, will vary significantly from year to year, depending on the number and monetary size of the cases finalised.

24 Financial instruments

Interest rate risk exposure

The DPP does not have any interest bearing accounts and is therefore not subject to any interest rate risk exposure.

Credit risk exposure

All financial assets are unsecured.

Amounts owing by other government agencies are guaranteed, therefore no credit risk exists in respect of those amounts. In respect of other financial assets the carrying amounts represent the DPP's maximum exposure to credit risk. At the reporting date no amounts were owed by other government agencies.

25 Remuneration of Senior Officers

Remuneration

The number of senior officers whose total of fees, salaries, superannuation and other benefits for the financial year, fall within the following bands are:

\$	2005	2004
10,001 - 20,000	-	1
20,001 - 30,000	-	1
50,001 - 60,000	-	3
110,001 - 120,000	-	1
120,001 - 130,000	1	-
140,001 - 150,000	4	1
290,001 - 300,000	-	1
300,001 - 310,000	-	1
340,001 - 350,000	1	-
420,001 - 430,000	1	-
The total remuneration of senior officers is:	<u>\$1,473,182</u>	<u>\$1,076,753</u>

The superannuation included here represents the superannuation expense incurred by the DPP in respect of senior officers.

No senior officers are members of the Pension Scheme.

26 Remuneration of Auditor

Remuneration to the Auditor General for the financial year is as follows:

Auditing the accounts, financial statements and performance indicators	<u>\$12,500</u>	<u>-</u>
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27 Supplementary financial information

- There were no losses of public moneys and other public property through theft or default during the financial year (2004, nil).
- There were no Pecuniary (Administered) penalty orders written off during the financial year
- There were no gifts of public property by the DPP during the financial year (2004, nil).
- Capital commitments at 30 June 2005 were \$0 (at 30 June 2004, \$0).
- There were no events occurring after the reporting date at the end of the financial year (2004, nil).
- There were no contingent liabilities at the end of the financial year (2004, nil).
- The DPP had no related bodies during the financial year (2004, nil).
- The DPP had no affiliated bodies during the financial year (2004, nil).

OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS
Notes to the Financial Statements
for the year ended 30 June 2005

28 Administered Expenses and Revenues	2005	2004
	\$	\$
Expenses		
Supplies and services (I)	400,000	650,000
Grants	935,548	500,671
Transfer payments to Consolidated Fund	247,073	100,498
Total administered expenses	1,582,621	1,251,169
Revenues		
Crimes (Confiscation of Profits) Act	-	-
Misuse of Drugs Act	349,263	125,812
Criminal Property Confiscation Act	2,647,381	1,210,635
Petty Session forfeitures	31,459	17,996
Total administered revenues	3,028,103	1,354,443
29 Administered Assets and Liabilities		
Current Assets		
Cash assets	2,080,719	1,035,272
Receivables	896,302	201,169
Total Administered Current Assets	2,977,021	1,236,441
Total Administered Assets	2,977,021	1,236,441
Current Liabilities		
Payables	296,586	1,487
Total Administered Current Liabilities	296,586	1,487
Total Administered Liabilities	296,586	1,487
Notes to Administered Items		
(I) Administration Expenses are included in supplies and services		

30 Impact of Adopting Australian Equivalents to IFRS

The impact of adopting AIFRS including the key differences in accounting policies

Reconciliation of total equity as presented under previous AGAAP to that under AIFRS:

	30 June 2005 \$	1 July 2004 \$
Total equity under previous AGAAP	152,787	(1,471,601)
Adjustments to accumulated surplus/(deficiency):		
Increase in long leave liability under AIFRS (1)	-	(83,188)
Total equity under AIFRS	<u>152,787</u>	<u>(1,554,789)</u>

The adjustments are explained as follows:

(1) Under AASB 119, changes to Long Service Leave calculations include the need to separate on-costs (workers compensation and payroll tax are now classified as Other Employee Costs), and using a different method for determining the current and non-current provisions (all unconditional Long Service Leave is now classified as current). The calculation of Long Service Leave liability under IFRS continues to be on the same basis as AASB 1028 (i.e. on present value basis). The AASB has announced that a Government bond rate, as per AASB 1028, should be used in the calculation. A full review of the Long Service Leave liability was performed in December 2004 and adjustment was taken up in the 2004/05 financial year.