

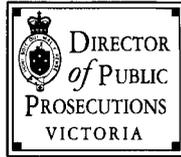


Annual Report 2001-2002

Director of Public Prosecutions

Committee for Public Prosecutions

Office of Public Prosecutions



PAUL COGHLAN Q.C.
Director

26 September 2002

The Honourable Mr Robert Hulls, MLA
Attorney-General for the State of Victoria,
55 St Andrews Place,
Melbourne, 3002
VICTORIA.

Dear Attorney-General,

I have pleasure in submitting to you an annual report for the year 1 July 2001 to 30 June 2002, comprising:

- My Annual Report pursuant to Section 12 of the *Public Prosecutions Act 1994*.
- The Annual Report of the Committee of Public Prosecutions pursuant to section 45 of the *Public Prosecutions Act 1994*.
- The Solicitor for Public Prosecution's Annual Report pursuant to the *Financial Management Act 1994*.

Yours faithfully,

PAUL COGHLAN Q.C.
Director of Public Prosecutions.

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director of public prosecution's report

Introduction

This is my first overview. I was appointed Director on 9 October 2001 but prior to that I was Acting Director for all but a few weeks of the year.

In last year's Annual Report the then Director Geoff Flatman Q.C. made some detailed observations about the respective roles of the Director and the Office of Public Prosecutions (O.P.P).

In general I endorse those remarks and I continue to have a strong and harmonious relationship with the Solicitor of Public Prosecutions, Kay Robertson, and with the O.P.P staff. Together with the Crown Prosecutors we form an effective team engaged in the prosecution of indictable offences in Victoria.

Structure

The functions which the Director performs are more formally described in detail later in this report under the heading "Legal Functions". Expressed briefly the Director is responsible for the prosecution of indictable offences in this State and exercises the function ancillary to but necessary for the carrying out of those prosecutions.

The Director has a separate function relating to the Confiscation Act 1977 (Vic) in relation to the restraining of property but even that is an adjunct to prosecution function.

The Office of Public Prosecutions conducts proceedings on behalf of the Director. The Solicitor for Public Prosecutions manages the Office and briefs Crown Prosecutors and other practitioners to appear on behalf of the Director.

The Solicitor and Crown Prosecutors are independent statutory officers appointed by the Governor-in-Council.

The Crown Prosecutors have two major functions to perform. They are to make presentment in the name of the Director and appear on behalf of the Director.

The Crown Prosecutors are ultimately responsible to the Director for the performance of their functions but on a day to day basis they are under the direct

Reports

supervision of the Chief Crown Prosecutor W.H. Morgan-Payler Q.C.

I spent from 1994 to 2001 in prosecutors' chambers. From early 1995 I was Chief Crown Prosecutor. I take this opportunity to acknowledge the help, support and co-operation I was given in those chambers by all who were there during that time.

In particular I always had strong support from W.H. Morgan-Payler Q.C. Senior Crown Prosecutor (Major Trials) and I have had his continued help and support since he became Chief Crown Prosecutor.

It is important to note that almost all the important cases which involve the Director of Public Prosecutions are conducted by Crown Prosecutors.

The work is to the highest standard and always appears to be conducted fairly, enthusiastically, thoroughly and quite often at some personal expense.

Solicitors within the Office of Public Prosecutions also appear as advocates and I am happy to have them appear on my behalf in appropriate cases.

The Victorian Bar is briefed on a daily basis and this organisation gains by having available to it a strong independent Bar. Although it would be possible to employ sufficient Crown Prosecutors and solicitor advocates to do all the appearance work required, I regard the balance between us and the Bar as being a practical, sensible and advantageous one.

The staff employed with the Office of Public Prosecutions is a dedicated one and all are to be thanked for their

contribution during the year. All in all the organisation is operating effectively.

The overall contribution to the criminal justice system is important. Many of the initiatives for change within the system depend upon the hard work and dedication of people within this organisation.

We are all committed to a more efficient criminal justice system which fairly reflects the interests of both accused people and victims of crime.

Victims of Crime

It may have taken a long time to come about but victims are now properly acknowledged as having a stake in the prosecution process.

Through the Office of Public Prosecutions and in particular the Witness Assistance Service (WAS) as much assistance as possible is given to victims.

The most important features are keeping the victim informed of his or her rights, of what is going on and giving them a say about the case.

It must be borne in mind that although victims are integrally involved in the case, the prosecution is at all times the responsibility of the Director.

It is not always possible to give accord to the full wishes of the victims but a continuing effort will be made to accommodate them and to help them understand the process in which we are jointly involved.

Reports

Sentence

Much public debate now occurs about the question of sentence and in particular the adequacy of sentence.

The Director does have the power to appeal against sentence and does exercise that power.

There are, however, strict legal restraints on Director's Appeals.

In general it is only appropriate to appeal where there has been some specific error in sentencing or the sentence is so manifestly inadequate as to constitute an error of law.

It is important to note that the Director cannot appeal just because he is of the view that a different sentence should have been imposed.

The views of the victim, the police, the O.P.P staff and Crown Prosecutors are always taken into account. It is inevitable that the public will have a view about sentence in particular cases.

Where the public debate is reasonably informed and considered the Director will be assisted by it. Debate based only on emotional reaction is unhelpful.

The sentencing process is a complicated one and is becoming increasingly complex. The more information which is obtained about any sentence which is imposed helps to inform the debate.

Judges usually provide quite detailed reasons for the sentence which they impose which will include a summary of the facts of the case, details of the matters pertinent to the sentencing of the particular offender (both for and against) and details of the legal principles which have to be applied.

Unless full regard is had to those matters the debate will be less than informed.

It follows that appeals will not necessarily be taken in every case where a request is made.

The Work Done

It will emerge from this report that, although the functions of the Director can be described fairly briefly, the work which has to be done has many facets and can have many complications.

At almost every step of the prosecution process regard will have to be given to issues which arise. Whether it is bail, evidence, charge, plea, forfeiture, sentence, appeal and all the steps associated with these matters, somebody has to give proper consideration to the aspect then under consideration.

Such consideration will involve the police, the victim, the staff of the O.P.P, Crown Prosecutor and often the Director.

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Changes

When the Public Prosecutions Act 1994 (Vic) was passed Geoff Flatman Q.C. became Chief Crown Prosecutor, I became Senior Crown Prosecutor (Major Trials) and Bill Morgan-Payler Q.C. became a Senior Crown Prosecutor. Bernard Bongiorno Q.C. was then the Director.

In early 1995, Geoff Flatman Q.C. became the Director, I became the Chief Crown Prosecutor and Bill Morgan-Payler Q.C. became the Senior Crown Prosecutor (Major Trials).

From then until 2001 the only real movement in Prosecutors' Chambers was that Caroline Douglas was appointed to the County Court.

The year 2001 was to prove an important one for changes. Geoff Flatman Q.C. was appointed to the Supreme Court and Graeme Hicks S.C. and Meryl Sexton were appointed to the County Court. I became Director and Bill Morgan-Payler Q.C. became Chief Crown Prosecutor. Geoff Horgan S.C. and Julian Leckie were appointed Senior Crown Prosecutors.

I was very pleased to welcome Michelle Williams, Ray Gibson and Gabrielle Cannon who were appointed Crown Prosecutors.

I had much to do with both Graeme Hicks S.C. and Meryl Sexton. I congratulate them on their appointments and thank them for the work which they performed as prosecutors, and for their personal support.

Peter Wood was appointed to the position of Executive Director, Enforcement at ASIC. Peter had a fundamental effect on the operation of the O.P.P. He was largely responsible for putting the Office in a sound financial position and his contribution cannot be overrated.

I worked very closely with Geoff Flatman Q.C. when he was the Director. He had an enormous influence on the organisation and in particular in relation to the attitude to victims of crime.

There was much controversy at the time of his appointment; Geoff simply got on with doing the job, set an outstanding example of how the job ought to be done and demonstrated the true meaning of independence.

His leadership was very important and a great stabilising force. His appointment to the Supreme Court was very well deserved and was welcomed by all. His untimely death was a matter of profound sorrow to us all.

Reports

committee of public prosecution's report

The Committee for Public Prosecutions is established under Section 42 of the Public Prosecutions Act 1994.

The Committee consists of the Director of Public Prosecutions (Chairperson), Chief Crown Prosecutor, Solicitor for Public Prosecutions and a person nominated by the Governor in Council. The person so nominated is Ms Jan King.

The functions of the Committee are set out in Section 43 of the Public Prosecutions Act 1994. The Committee is required to generally advise on the operation of the prosecutorial system with a view to ensuring that it operates in an effective, economic and efficient manner. Other functions include assistance in the co-ordination of the operations of the Director and Office of Public Prosecutions, giving directions to members of the police force and others concerning offences or classes of offences to be referred to the Director; establishing guidelines on the circumstances in which certain decisions are not subject to the requirement that a Director's Committee be convened; establishing guidelines on the circumstances in which solicitors from the OPP should appear in court; establishing guidelines on the treatment of victims of crime and recommending to the Attorney-General the removal from office of any Crown Prosecutor.

The Committee can provide guidance and advice but cannot give any direction to the Director, Chief Crown Prosecutor, Crown Prosecutor or Solicitor with respect to the performance or exercise of their statutory functions or powers.

Meetings were held during the year on the following dates:

- 30 October 2001
- 19 February 2002
- 16 April 2002

The Committee noted that the funding for the refurbishment of the third floor of 565 Lonsdale Street should ensure better working conditions for staff as well as benefits derived from the improved training facilities.

The Committee received reports at each meeting on the financial state of the Office.

There was discussion regarding the processes and safeguards that should be in place prior to the Committee making any recommendation to the Attorney General for the removal of a crown prosecutor.

The Committee expressed concern that Victoria still does not have statutory protection from civil liability for OPP officers and prosecutors acting bona fide in the course of prosecutions. It advises that the effective operation of the prosecutorial system may require such legislation as exists in other states.

Reports

office of public prosecution's report

Objectives and functions

The Office of Public Prosecutions (OPP) is established under Section 40 of the Public Prosecutions Act 1994. The OPP consists of the Solicitor for Public Prosecutions and other staff who are necessary to enable the Office to do its work.

The Solicitor is appointed by the Governor in Council under Section 37 of the Public Prosecutions Act 1994 and is subject to the Public Sector Management and Employment Act 1998 as if he or she were a Department Head with the meaning of the Act.

The primary function of the OPP is to prepare and conduct effectively, economically and efficiently on behalf of the Director of Public Prosecutions proceedings in the High Court, Supreme Court and County Court in respect of indictable matters.

The OPP also acts on behalf of the Director in committal proceedings, coronial inquests, confiscation proceedings and ancillary proceedings.

Essentially, the OPP is a solicitor's office with one client: the Director of Public Prosecutions.

The OPP works to assist the Director in carrying out his or her statutory functions by preparing and conducting proceedings on behalf of the Director.

The OPP has an additional function to assist the Committee for Public Prosecutions.

In the performance of these functions, OPP staff are required to have regard to the need to ensure that the prosecutorial system gives appropriate consideration to the concerns of the victims of crime.

Overview

The last twelve months can be described as one of change and renewed effort.

I would like to acknowledge the contribution of Geoff Flatman QC in his role as Director of Public Prosecutions.

Following his appointment to the Supreme Court I was pleased to work with Paul Coghlan QC, the Director of Public Prosecutions, and Bill Morgan-Payler, Chief Crown Counsel, who were both appointed during the year.

The quality and volume of work undertaken during the year is a credit to both the legal and the support staff.

Of particular note is the increased work output as measured by the PRISM phase report. Tables and graphs relating to work undertaken and court hearings are contained in the appendices.

The O.P.P. benefited from additional funding following the Review undertaken by Smart Consulting and Research (the Smart Review).

Reports

The funding enabled the employment of 15 additional solicitors to cope with the additional work flowing from changes to Committal procedures and the Crimes (Criminal Trials) Act 1999 and associated Practice Notes. Recruitment and training of the new staff took some months.

Also as a result of the Smart Review, the O.P.P. has;

- Restructured the employment of para-legals,
- Reviewed and determined to continue offering articles of clerkship,
- Implemented a system for monitoring briefing of crown prosecutors and the cost of briefing external barristers,
- Negotiated with police on delivery of briefs, and
- Commenced a review of the Office advocate positions

The Smart Review made several recommendations with respect to collection and reporting of statistics.

The O.P.P. is intending to review its reporting systems once the full potential of CJEP is realised.

The issue of personal liability of solicitors, crown prosecutors and barristers briefed by the O.P.P. remains a concern.

The Court of Appeal in *Cannon v Tahche* (2002) VSCA 84 found that solicitors employed by the O.P.P. and barristers briefed could not be sued for misfeasance in public office as they were not public officers.

The respondent to the appeal has filed an application seeking leave to appeal to the High Court.

The larger issue of achieving the balance between accountability for decisions and protection for prosecutors from pressures which may influence decision making will need to be addressed in the coming year.

During 2001/02 a significant effort was made to ensure that the service provided in country Victoria was at least as good as in Melbourne.

Following extensive consultation, the Circuit Section was restructured into three regional sections, reflecting the County Court regions. The new structure will allow the legal staff to have greater continuity in management of files.

One area identified as unsatisfactory is our inability to extend our Witness Assistance Service for witnesses and victims in country Victoria.

The Police Association and Community and Public Sector Union both imposed work bans during the last half of 2001.

Although we were not a party to the disputes and both the unions and management were of assistance during the period, the result was an increased work load on our staff to ensure that witnesses attended court and evidence was available.

Victims of Crime

The Witness Assistance Service (WAS) was restructured this financial year to increase service capacity. It now comprises two social workers and a 'junior' social worker/admin support worker. The previous structure had two social workers with an unqualified administrative officer.

Reports

The staff continued to provide support, information, counselling, referral, liaison and assistance to families of deceased, victims and witnesses in all categories of cases prosecuted by this Office.

Social workers provided assistance in metropolitan and, to a more limited extent, regional courts in both jurisdictions.

WAS staff also provided training and staff development to agencies and community organisations, as well as to staff within the OPP through the Continuing Legal Education training programs.

Training was provided to:

- Victims Assistance Programs
- Victims Referral and Assistance Program
- Centres Against Sexual Assault
- Sexual Offence and Child Abuse Unit – Victoria Police
- Court Network Volunteer Training Programs
- Community Agencies/Organisations within the Gippsland Region

WAS staff attended the Forensic Disabilities Conference and a seminar on changes to Crimes Compensation at Leo Cussen Institute.

WAS staff also provided input to the Victorian Law Reform Commission in relation to the Sexual Offences Law and Procedure Discussion Paper.

During the year WAS received 964 referrals including 286 involving children and young people. WAS received 80% of referrals for all cases from within the OPP and dealt with many witnesses from

culturally and linguistically diverse backgrounds as well as witnesses with issues involving 'special needs' (psychiatric disability, physical disability, intellectual disability). Full statistics are provided in Appendix C.

CJEP

The OPP has worked cooperatively with the County Court during the introduction of its new computerised case management system, called SCT.

The County Court's Case List Management Project is one of the CJEP projects and following implementation of the CLMS case management processes during the year 2000 - 2001, the Court in 2001 – 2002 implemented SCT the parallel information technology system operating in support of these new processes.

The new system commenced operating in the Melbourne County Court on 8 October 2001 and was extended to all Circuit County Courts on 1 January 2002.

The OPP has also continued to work with the CJEP team on the Electronic Brief/Progressive Disclosure project.

The Presentment Module will allow OPP solicitors to create and manage the presentment in the electronic brief.

The original application was insufficient for the needs of the OPP, and the design has been modified to cater for cases involving multiple accused and assignment of charges to specific co-accused. The design document was settled during the year and by the end of the year user acceptance testing had been scheduled to commence.

Legal functions

legal functions

Overview

The Director of Public Prosecutions is an independent statutory officer appointed by the Governor in Council.

The Director's primary functions are to institute, prepare and conduct proceedings in the High Court, Supreme Court or County Court in respect of any indictable offence (Public Prosecutions Act 1994 section 22 (1)(a)).

The Director has further functions including those ancillary to his primary functions and those set out in legislation. The Office of Public Prosecutions prepares and conducts proceedings on behalf of the Director.

One of the most critical decisions the Director has to make is whether to commence proceedings in a particular case.

The Director has adopted national guidelines to be applied in making these decisions.

The guidelines are available on the OPP's webpage, www.legalonline.vic.gov.au, or in hard copy by contacting the OPP.

Full statistics are contained in the appendices to this report. The number of trials and matters where a plea of guilty has been entered has declined compared with the previous year.

This may be due to a reduction in capacity of the County Court while it was moving to its new location and the availability of Supreme and County Court judges.

However the number of appeals from the Magistrates' Court to the County Court that were completed appears to be plateauing following a significant reduction in 1998/99.

There was also an increase in the number of appeals to the Court of Appeal completed during the year.

While the number of cases completed in courts has not increased, the workload of the prosecution in bringing matters to Court (as evidenced by the outputs) has increased.

Confiscation Act 1997

Under the Confiscation Act 1997 ("the Act"), the Director may apply to any Court for a restraining order preventing a person from disposing of or otherwise dealing with property.

The underlying purpose of obtaining a restraining order is to ensure that property is available for forfeiture or to satisfy the payment of a pecuniary penalty order.

In addition, the Director may obtain a restraining order over the defendant's property for the purpose of satisfying any

Legal functions

restitution order or compensation order that may be made under the Sentencing Act 1991. In the relevant period, restraining orders were obtained in relation to property with an estimated value of \$9,654,075

The Director may also apply to both the County and Supreme Courts of Victoria for confiscation orders.

A confiscation order can be either a forfeiture order, forfeiting tainted property to the Minister, or a pecuniary penalty order ordering that the defendant pays the State an amount of money equal to the benefit that was derived by the defendant from the commission of the offence.

In addition to forfeiture orders, the Director may, where a person is convicted of an automatic forfeiture offence (that is, trafficking in a commercial quantity of a drug of dependence, cultivation of a commercial quantity of a narcotic plant or obtaining property or a financial advantage by deception involving more than \$100,000.00) rely on the automatic forfeiture provisions under the Act.

Essentially, under automatic forfeiture, once the Director has a restraining order for the purpose of automatic forfeiture and the defendant is convicted of an automatic forfeiture offence, the onus is on the defendant to satisfy the Court that the restrained property was lawfully acquired.

If the defendant can satisfy the court of this, then the property is excluded from the operation of the restraining order, otherwise after 60 days from the date of conviction, the restrained property is

automatically forfeited to the Minister.

In the relevant period, property with an estimated value of \$230,830 was forfeited to the Minister and pecuniary penalty orders in the sum of \$209,878 were made.

On behalf of victims of crime, the Director applied for restitution orders (s.84 Sentencing Act 1991) and compensation orders (ss.85B and 86 Sentencing Act 1991). During the relevant period, restitution orders to the value of \$578,298 and compensation orders to the value of \$979,065 were made.

During the relevant period, the Supreme Court of Victoria delivered judgement in the case of DPP v Tat Sang Loo & ors (2002) VSC 231. This case involved an application under section 70 of the Confiscation Act 1997.

The effect of the decision is that property belonging to a third party, but under the "effective control" of the defendant would be available to satisfy a pecuniary penalty order made against the defendant.

As a result of this decision it will be more difficult for defendants to avoid payment of a pecuniary penalty order by transferring their assets to third parties.

Entry of Nolle Prosequi (Discontinuance of Prosecutions)

In the period under review, applications for the entry of nolle prosequi submitted by the legal representatives of accused persons or forwarded by Crown Prosecutors were acceded to on 81 occasions either wholly or in part.

Legal functions

Indemnities from Prosecution, Undertakings or Letters of Comfort

Thirty-four Director's Undertakings were issued to a total of 25 witnesses who gave evidence in fourteen separate prosecutions involving a total of twenty-two accused persons.

Consents to Prosecute

In the period under review, the Director consented to file presentments in relation to 24 matters, pursuant to s.321 Crimes Act 1958.

With regard to the commencement of a prosecution under the Legal Profession Practice Act 1958, the Director granted four such consents, pursuant to that Act.

In the relevant period, 19 consents or authorities to prosecute were granted by the Director for the commencement of a prosecution in cases involving offences pursuant to ss.47A, 50 or 69 Crimes Act 1958.

No consents were granted by the Director for the commencement of a prosecution pursuant to s.92 (2) Estate Agents Act 1980.

One consent was granted by the Director for the commencement of a prosecution pursuant to s.129 Adoption Act 1984.

No consents were granted by the Director for the commencement of a prosecution pursuant to s.69A Juries Act 1967.

No consents were granted by the Director for the commencement of a prosecution pursuant to ss.3(4) or 4(4) Judicial Proceedings Reports Act 1958.

Extraditions and Interstate Transfers

Interstate extradition proceedings were undertaken for the return to Victoria of three persons charged with various offences.

There were no applications made under the provisions of the Prisoners (Interstate Transfer) Act 1983 for the interstate transfer of prisoners to face trial in Victoria.

Direct Presentments

In the relevant period, the Director directly presented an accused person on 89 occasions. Most of these cases involved Special Decisions, pursuant to s.3(c) Public Prosecutions Act 1994, where an accused was in fact committed for trial, but the presentment contained additional or varied counts to those initially charged.

Referrals pursuant to s.21(3) Coroners Act 1985

If the Coroner believes that an indictable offence has been committed in connection with a death that he/she has investigated, he/she is obliged to forward a report to the Director.

On receipt of the Coroner's report, the circumstances surrounding the death are considered by this Office and a recommendation is made as to whether criminal charges should be laid. In the relevant period, there were seven such referrals.

Legal functions

Appearing or Instructing Counsel to Appear to Assist the Coroner in Inquests pursuant to s.22 (1)(b)(iii) Public Prosecutions Act 1994 and to s.46 (2) Coroners Act 1985

The Coroner may request, and the Director may agree to allow counsel to appear to assist the Coroner in any Inquests under the Coroners Act 1985. In the relevant period, there were 16 such inquests where the Director agreed to so assist the Coroner.

Appeals pursuant to s.92 Magistrates' Court Act 1989

Pursuant to Magistrates' Court Act 1989 s.92, appeals on a question of law may be taken from the Magistrates' Court to a single judge of the Supreme Court either by the police informant or by the defendant.

The Director may appear upon a s.92 appeal on behalf of the police informant as appellant or in those cases where the informant is respondent to an appeal brought by the defendant.

Matters determined pursuant to s.92 in the Supreme Court may subsequently be taken on further appeal to the Court of Appeal.

During the period in question, the Director was requested in 11 cases to institute an appeal on behalf of Police Informants and conducted such appeals in four cases.

During the same period, the Director acted for Respondent Police Informants in three matters.

A total of 15 s.92 appeals were heard and completed by the Supreme Court during the period in question, some of those matters having been instituted in the previous financial year.

During the period in question, 17 s.92 appeals were taken to the Court of Appeal and the relevant hearings completed. At the end of the period in question, there were six s.92 matters awaiting determination in the Court of Appeal.

Contempt of Court

There was one prosecution for contempt of court commenced in the reporting period.

Conflict of Interest

There were no matters referred to the Attorney-General pursuant to s.29(1) Public Prosecutions Act 1994 because of a possible conflict of interest during the relevant reporting period.

Appeals

appeals by the director of public prosecution's

Overview

Section 35 Judiciary Act 1903 (Commonwealth) provides jurisdiction for the High Court to hear and determine appeals by the Director of Public Prosecutions. Appeals can only be brought by "Special Leave" of the Court itself. Section 35A sets out the criteria for granting "Special Leave". There is a heavier burden on the Crown in bringing appeals in that appeals should only be brought in exceptional cases.

Section 567A Crimes Act 1958 and s.84 Magistrates' Court Act 1989, each give the Director power to appeal sentences imposed by trial Judges and Magistrates respectively.

The power of appeal however is not unlimited. It is constrained by certain well-defined legal limits.

As the power of the Crown to appeal is at least a partial encroachment on the fundamental legal principle that a person should not be placed in double jeopardy, it is important that in exercising the right of appeal conferred by statute, a Director applies sound legal principles to such appeals.

In addition to appeals against sentence, s.92 Magistrates' Court Act 1989 empowers the Director to act on behalf of police informants in appeals to the

Supreme Court against orders made by the Magistrates' Court where such appeals involve a question of law.

The criterion applied in these cases to determine whether an appeal should be launched is whether there is a reasonably arguable question of law that, if decided differently, would have affected the outcome of the case.

As the vast majority of cases in the Magistrates' Court are decided on disputed questions of fact, it is relatively rare that the opportunity arises for an appeal to be brought by the Director using this section.

Where a person has been acquitted at trial, or in the County Court upon appeal from the Magistrates' Court, the Director has a power to refer a question of law to the Court of Appeal, pursuant to s.450A Crimes Act 1958. The Bail Act 1977 and the Confiscation Act 1997 confer other powers of appeal on the Director.

Details of Director's Appeals

High Court

At the commencement of the period under review, there were no pending appeals or applications for special leave to appeal to the High Court of Australia, brought by the Director. In the period under review one

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new application by the Director was filed. The Director was respondent in seven applications for special leave to appeal heard in the High Court. Special leave was refused in each case.

The Director was not respondent in any full appeals heard in the High Court.

Court of Appeal (Victoria)

A Crown appeal should not be launched unless an error of sentencing principle by the sentencing judge can be demonstrated.

This general rule was most recently affirmed by the High Court in *Everett v. The Queen* (1994) 181 CLR 295, wherein approval was specifically given to the comment made by Barwick C.J. in *Griffiths v. The Queen* (1977) 137 CLR 293 at 310 that:

"An appeal by the Attorney-General should be a rarity, brought only to establish some matter of principle and to afford an opportunity for the Court of Criminal Appeal to perform its proper function in this respect, namely, to lay down principles for the governance and guidance of courts having the duty of sentencing convicted persons."

Referring to that passage, the High Court (Brennan, Deane, Dawson, and Gaudron JJ.) at 300 said:

"The reference to 'matter of principle' in that passage must be understood as encompassing what is necessary to avoid the kind of manifest inadequacy or inconsistency in sentencing standards which Barwick C.J. saw as constituting 'error in point of principle'."

The criteria for the instituting of a Director's appeal against sentence have also been the subject of detailed comment by the Victorian Court of Appeal, particularly in *R v. Clarke* [1996] 2 VR 520 and *R v. O'Rourke* [1997] 1 VR 246.

All sentences passed by Supreme Court and County Court Judges are reviewed in the Office according to the principles discussed in authorities such as Griffiths, Everett, Clarke and O'Rourke. During the period in question 16 Director's appeals were instituted pursuant to s.567A Crimes Act 1958.

Of the appeals heard, three were dismissed and seven were allowed. Five appeals were abandoned and one remained part-heard at the end of the period in question. The details of each completed appeal are as follows:

1. The Court allowed an appeal against the sentence of three years imprisonment, wholly suspended for three years imposed upon Albert Habib Joseph for eleven counts of indecent assault. The prisoner was re-sentenced on 7 September 2001. The total effective sentence was unchanged and the order for suspension made again. It was further ordered that three months of each of the sentences on six counts be served cumulatively on each other and upon the sentence imposed on another count.
2. The Court allowed an appeal against the sentence of eighteen months wholly suspended for two years and a fine of \$31,000 imposed upon Gary Glazner for five counts of being an

Appeals

- unlicensed prostitution service provider contrary to s.22(1) Prostitution Control Act 1994 and two counts of living in part on earnings from prostitution. A new sentence of thirty months suspended for two and a half years was substituted.
3. The Court allowed an appeal against the sentence of fifteen months with a non parole period of six months imposed upon "G" for one count of incest and one count of an indecent act with a child under 16. A new sentence of four years with a non parole period of eighteen months was substituted.
 4. The Court allowed an appeal against the sentence (without conviction) of a community based order for two years with 250 hours unpaid community work, imposed upon Douglas James North for one count of aggravated burglary, one count of causing injury intentionally and one count of causing injury recklessly. Convictions were recorded on each count and a sentence of imprisonment for fifteen months wholly suspended for two years was substituted.
 5. The Court allowed an appeal against the sentence of three years imprisonment, wholly suspended for three years imposed upon Graham Raymond Fellows for one count of rape. The sentence was varied to include a custodial component of twelve months.
 6. The Court allowed an appeal against the sentence of an intensive corrections order for six months imposed upon Peter Anthony Brown for one count of trafficking in a drug of dependence (cannabis). A new sentence of twelve months imprisonment with a non parole period of six months was substituted.
 7. The Court allowed an appeal against the sentence of eight years imprisonment with a non parole period of four and a half years imposed upon "B.A.B." for five counts of rape, one count of malicious wounding and nine counts of incest. A new sentence of twelve years with a non parole period of eight years was substituted.
 8. The Court dismissed an appeal against the sentence of three years detention in a youth training centre imposed upon "R.E.E." for four counts of rape, one count of aggravated burglary, one count of false imprisonment and one count of threatening to inflict serious injury.
 9. The Court dismissed an appeal against the sentence of two years imprisonment of which eighteen months was suspended for a period of two years imposed upon Maria Raddino for one count of theft.
 10. The Court dismissed an appeal against the sentence of eighteen years imprisonment with a non parole period of thirteen years imposed upon Colin Earle Graham for one count of murder.

Appeals

County Court

In the relevant reporting period, seven appeals instituted by the Director against decisions of Magistrates, pursuant to s.84 Magistrates' Court Act 1989, were heard. The details of those appeals are as follows:

DPP-V-ALICK WILLIAMS

Williams was charged with an offence of exceeding the prescribed concentration of alcohol for which he was placed on an undertaking for one year without conviction.

An appeal against sentence was allowed and he was convicted and fined \$200, all licences held were cancelled and he was disqualified from driving for 12 months.

DPP-V-NIKKI MARRINER

The respondent pleaded guilty at the Magistrates' Court to charges of unlicensed driving and obtaining property by deception and three charges of theft.

These offences were committed in breach of a suspended sentence previously imposed on the respondent .

It was ordered that the suspended sentence be extended by twelve months and that the respondent be imprisoned for four months to be served by way of an Intensive Corrections Order in relation to the breaching offences.

The appeal was dismissed.

DPP-V-JOE POMPEY

The respondent had pleaded guilty at the Magistrates' Court to a charge of recklessly causing serious injury and was sentenced to eight months imprisonment, five months of such sentence being suspended for eighteen months.

On appeal the respondent was sentenced to twelve months imprisonment with six months suspended for a period of twenty-four months.

DPP-V-CITYWIDE SERVICE SOLUTIONS PTY. LTD.

The company was prosecuted for failing to provide and maintain a safe plant and systems of work and failing to provide information, instruction, supervision and training. An aggregate fine of \$55,000 with conviction was imposed.

On appeal the company was convicted and fined \$60,000 in respect to the first charge and \$25,000 in respect to the second charge.

DPP-V-STEVE OWEN HOLLAND

The respondent was convicted of charges of refusing to accompany for a breath test, using an unregistered motor vehicle and driving at speed dangerous for which he was fined \$800, his licence was cancelled and he was disqualified from driving for two years.

The appeal was allowed and the respondent was convicted and fined \$800, his licence was cancelled and he was disqualified from driving for four years.

Appeals

DPP-V-CHRISTOPHER HAY AND ROBERT VALENTIC

At the Magistrates' Court the respondent Hay pleaded guilty to charges of cultivating a narcotic plant, possessing cannabis, theft, failing to store firearms correctly, possessing illegally acquired wildlife, being a licence holder did keep inaccurate records and import wildlife without a permit.

The respondent Valentic pleaded guilty to charges of cultivating a narcotic plant, possessing cannabis, theft, possessing an unregistered firearm, possessing illegally acquired wildlife and keeping a controlled pest. Both respondents were placed on undertakings without conviction to be of good behaviour for one year.

Appeals against sentence were allowed and the respondent Hay was convicted and ordered to pay an aggregate fine of \$2,000; Valentic was convicted and ordered to pay a fine of \$1,750.

DPP-V- PC AND AC

This matter was heard first in the Children's Court where the respondents were sentenced without conviction to one year's probation for offences of intentionally causing injury and affray.

Appeals against both respondents were allowed and they were sentenced to twelve month youth supervision orders with conviction.

Section 92 Appeals

Details of appeals pursuant to s.92(2) Magistrates Court Act 1989 are contained in the part titled Legal Functions

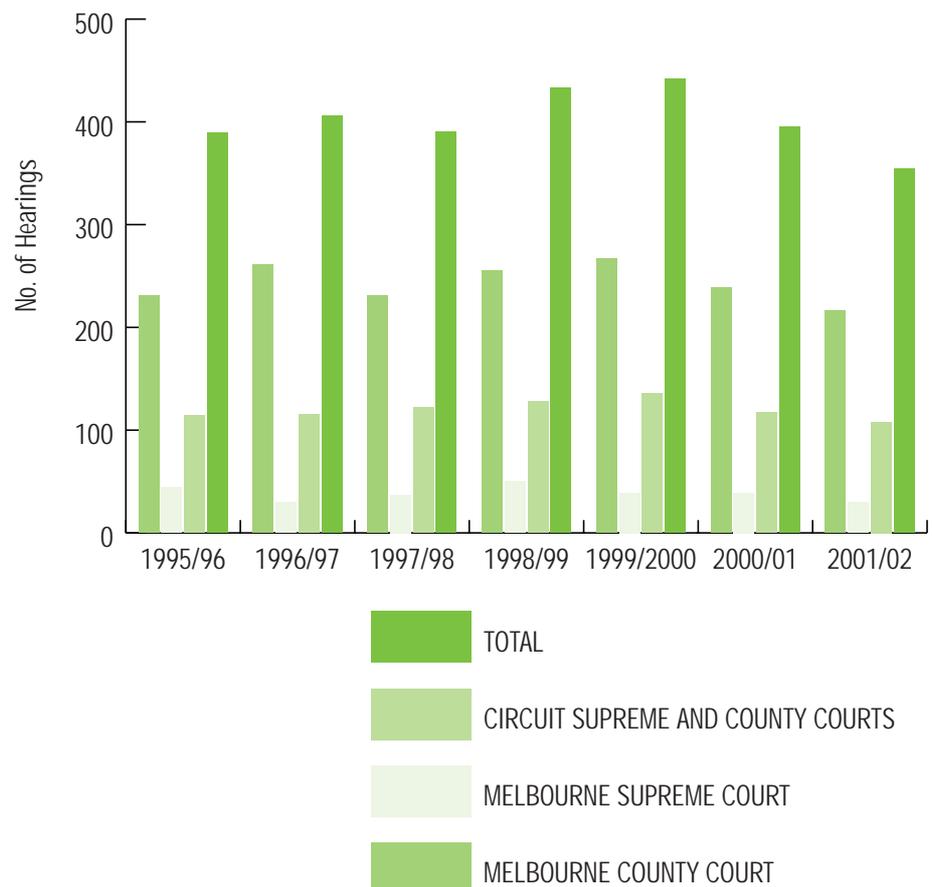
Director of Public Prosecution's Reference.

No Director's References pursuant s.450A Crimes Act 1958 were heard by the Court of Appeal during the relevant period.

Appendix A

trials conducted

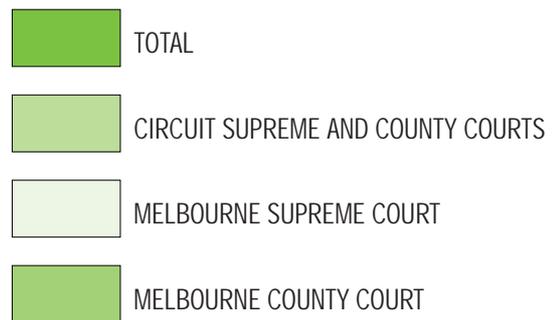
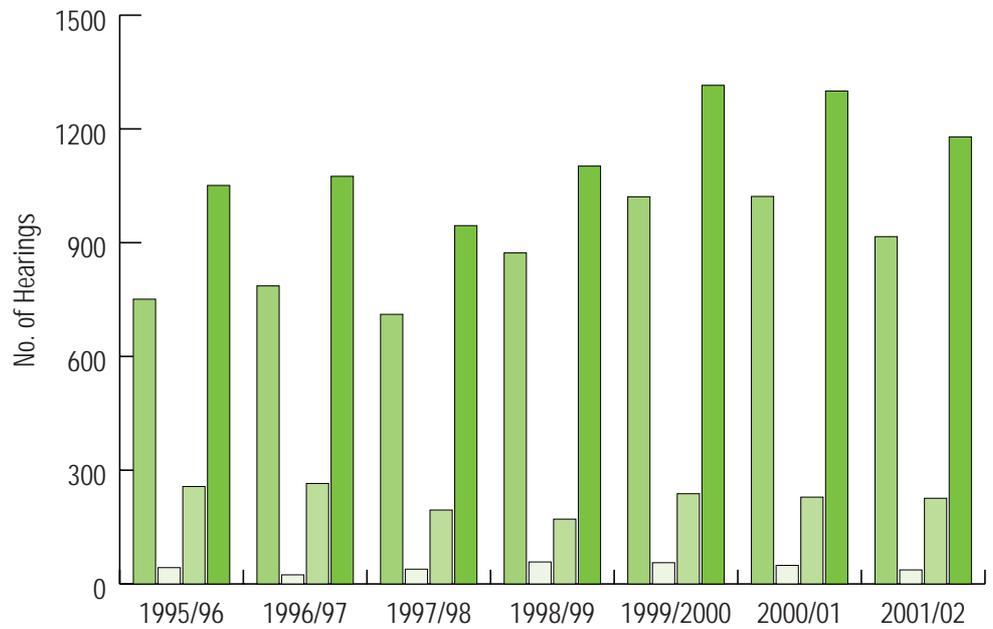
YEAR	1995/96	1996/97	1997/98	1998/99	1999/2000	2000/01	2001/02
MELBOURNE COUNTY COURT	231	261	231	255	267	239	216
MELBOURNE SUPREME COURT	44	30	37	50	39	39	30
CIRCUIT SUPREME & COUNTY COURTS	114	115	122	128	136	117	108
TOTAL	389	406	390	433	442	395	354



Appendix A

plea of guilty hearings conducted

YEAR	1995/96	1996/97	1997/98	1998/99	1999/2000	2000/01	2001/02
MELBOURNE COUNTY COURT	751	786	711	873	1021	1022	916
MELBOURNE SUPREME COURT	43	24	39	58	56	49	37
CIRCUIT SUPREME & COUNTY COURTS	257	265	195	171	238	229	226
TOTAL	1051	1075	945	1102	1315	1300	1179



Appendix A

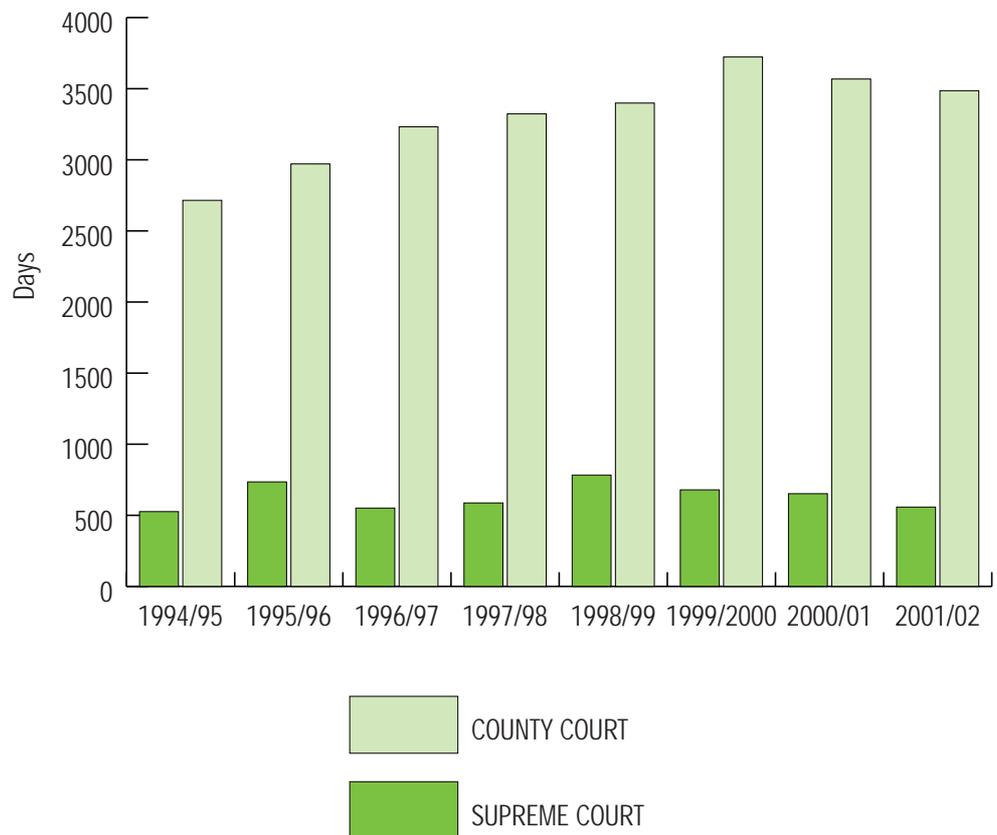
case outcomes as a percentage of total case disposals

YEAR	1994/95	1995/96	1996/97	1997/98	1998/99	1999/00	2000/01	2001/02
GUILTY PLEAS PRE-TRIAL	62.2%	61.4%	60.1%	58.0%	59.0%	63.6%	66.4%	68.0%
GUILTY PLEAS LISTED AS TRIALS	7.2%	7.4%	7.0%	6.6%	6.3%	6.7%	5.8%	5.3%
GUILTY PLEAS (TOTAL) AS A % OF DISPOSALS	69.4%	68.8%	67.1%	64.6%	65.3%	70.3%	72.2%	73.3%
TRIAL - CONVICTION	11.6%	12.1%	12.6%	15.8%	15.6%	14.0%	14.4%	14.0%
TRIAL - ACQUITTAL	10.6%	11.2%	12.7%	10.9%	10.1%	9.6%	8.1%	8.0%
TRIALS (TOTAL) AS A % OF DISPOSALS	22.2%	23.3%	25.3%	26.7%	25.7%	23.6%	22.5%	22.0%
OTHER DISPOSALS	8.3%	7.8%	8.6%	8.7%	9.1%	6.1%	5.4%	4.7%
GUILTY AS A % TRIAL OUTCOMES	52.1%	51.7%	49.8%	59.0%	60.7%	59.3%	64.1%	64.0%
ACQUITTALS AS A % OF TRIAL OUTCOMES	47.9%	48.0%	50.2%	41.0%	39.3%	40.7%	35.9%	36.0%
GUILTY OUTCOME AS A % OF TOTAL CASES	81.0%	80.9%	79.7%	80.4%	80.9%	84.3%	86.6%	87.3%

Appendix A

judge sitting days

YEAR	1994/95	1995/96	1996/97	1997/98	1998/99	1999/2000	2000/01	2001/02
SUPREME COURT	526	735	551	587	783	679	652	558
COUNTY COURT	2715	2971	3232	3323	3399	3723	3568	3486

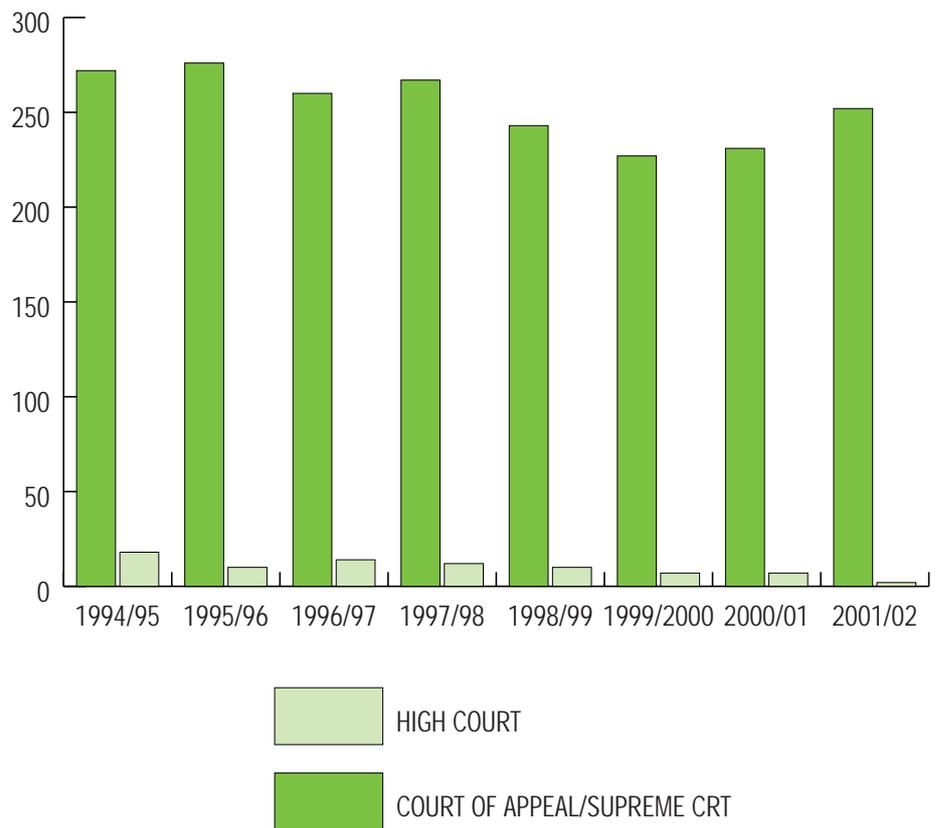


Appendix A

appeal hearings completed

YEAR	1994/95	1995/96	1996/97	1997/98	1998/99	1999/2000	2000/01	2001/02
COURT OF APPEAL/SUPREME CRT	272	276	260	267	243	227	231	252
HIGH COURT	18	10	14	12	10	7	7	2

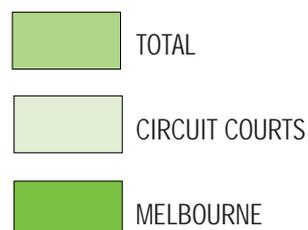
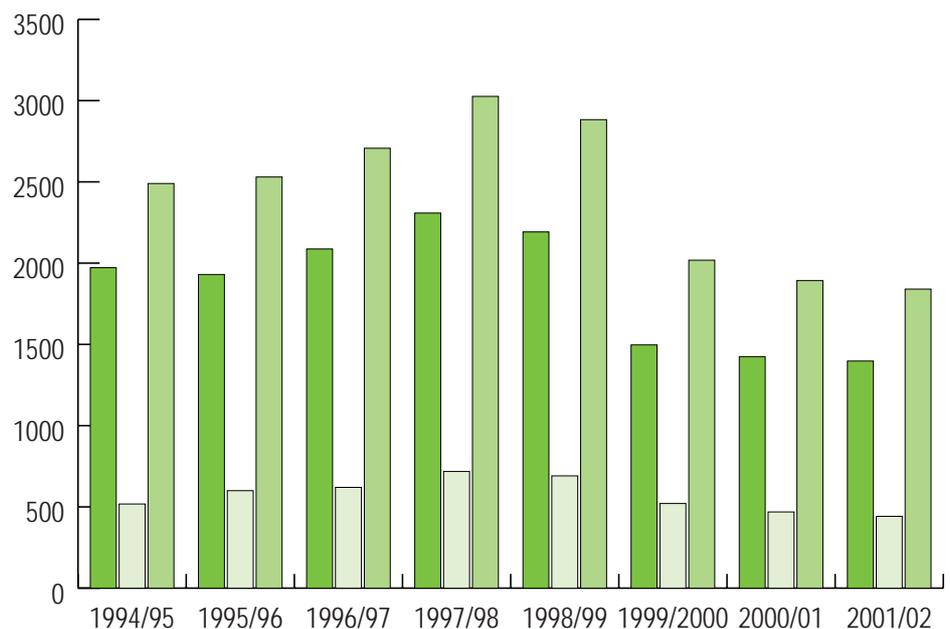
NOTE: High Court includes applications for Leave to Appeal



Appendix A

county court appeals completed

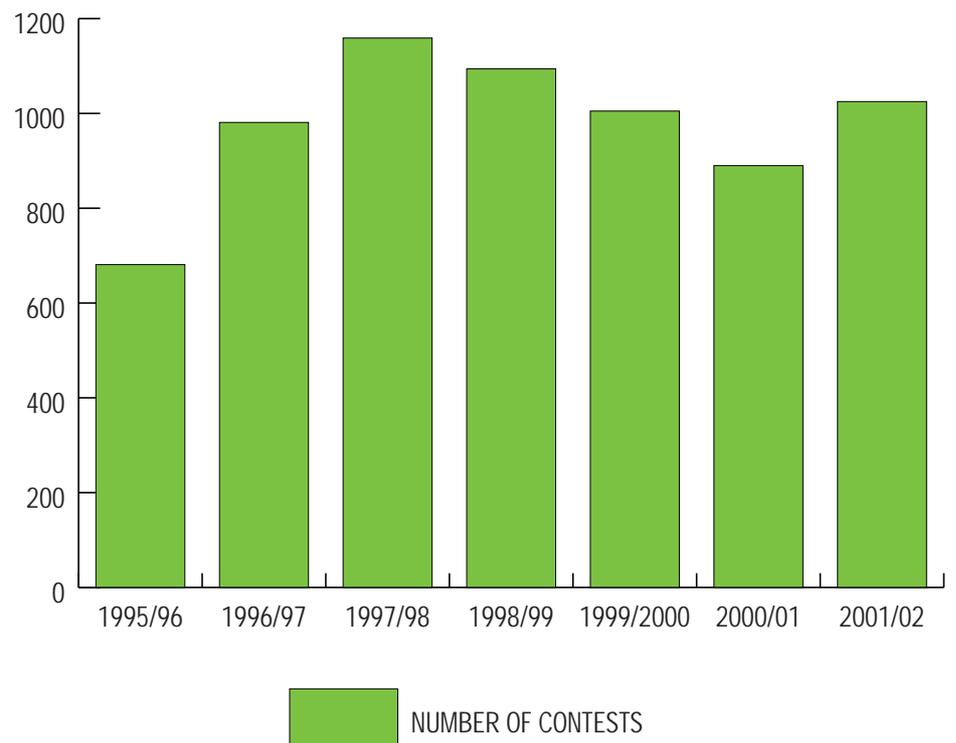
YEAR	1994/95	1995/96	1996/97	1997/98	1998/99	1999/2000	2000/01	2001/02
MELBOURNE	1972	1930	2087	2308	2192	1497	1424	1398
CIRCUIT COURTS	518	600	620	718	691	521	469	442
TOTAL	2490	2530	2707	3026	2883	2018	1893	1840



Appendix A

contested committals

YEAR	1995/96	1996/97	1997/98	1998/99	1999/2000	2000/01	2001/02
NUMBER OF CONTESTS	681	981	1159	1094	1005	890	1025

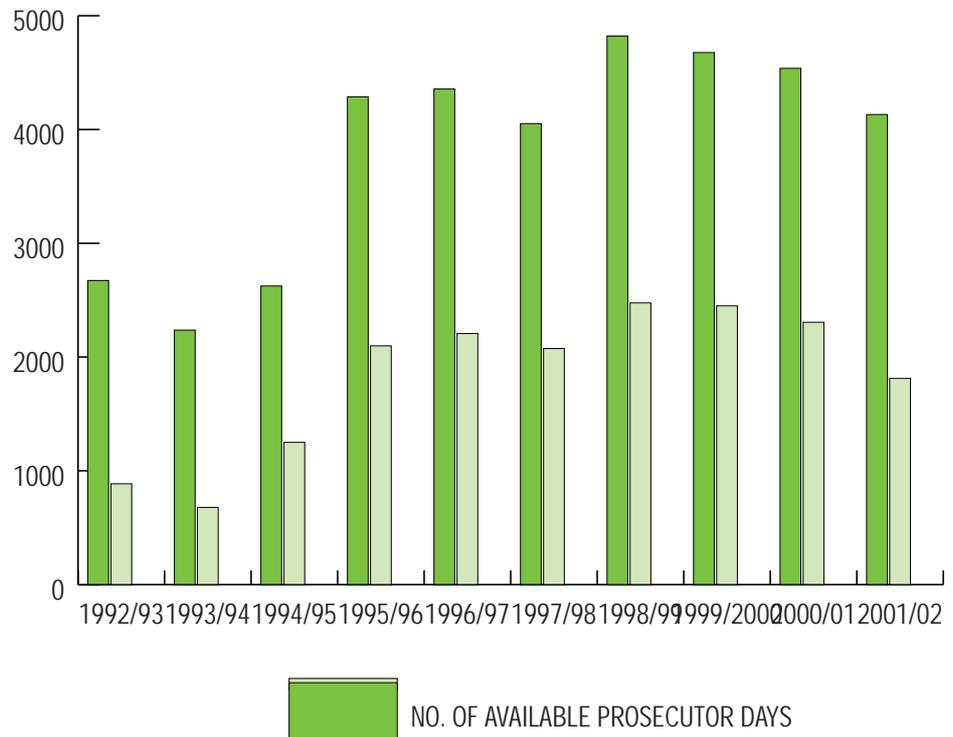


Appendix A

prosecutor appearance rates

YEAR	1992/93	1993/94	1994/95	1995/96	1996/97	1997/98	1998/99	1999/2000	2000/01	2001/02
NO. OF AVAILABLE PROSECUTOR DAYS	2673	2237	2625	4288	4356	4052	4821	4677	4538	4132
NO. OF PROSECUTOR APPEARANCE DAYS	886	678	1251	2098	2207	2075	2476	2450	2306	1813
% APPEARANCE DAYS / AVAILABLE DAYS	33.15%	30.31%	47.66%	48.93%	50.67%	51.21%	51.36%	52.38%	50.82%	43.88%

NOTE: (1) These figures do not allow for leave, chambers work or preparation. They represent the number of appearances as a percentage of the total available court days multiplied by the number of Prosecutors. (2) Two Crown Prosecutors were on long term sick leave during this period.

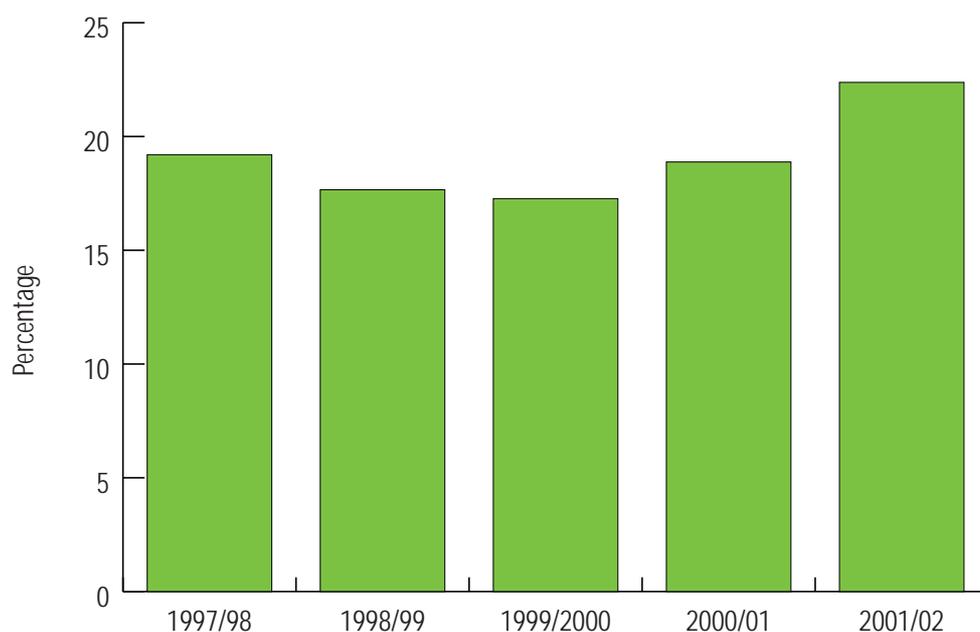


Appendix A

external counsel fees as a percentage of total expenditure

YEAR	1997/98	1998/99	1999/2000	2000/01	2001/02
EXTERNAL COUNSEL FEES	\$3,780,000	\$3,623,000	\$3,710,000	\$4,138,788	\$5,031,000
TOTAL EXPENDITURE	\$19,686,000	\$20,517,000	\$21,477,000	\$21,921,078	\$22,477,000
PERCENTAGE	19.20%	17.66%	17.27%	18.88%	22.38%

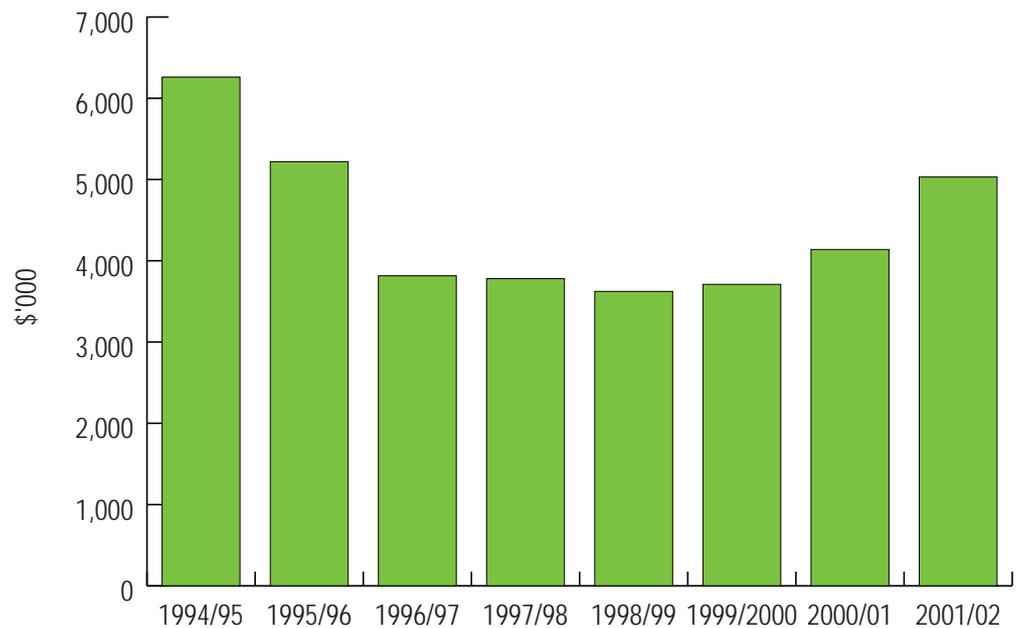
NOTE. Total expenditure for 1998/99 includes costs relating to depreciation, amortisation, government finance charges and building rental of which only part was previously allocated against the Office of Public Prosecutions. Because of changed government reporting requirements the relevant cost for these items for 1997/98 cannot accurately be identified and the percentage stated for 1997/98 is overestimated if these costs were to be included.



Appendix A

expenditure on external counsel fees

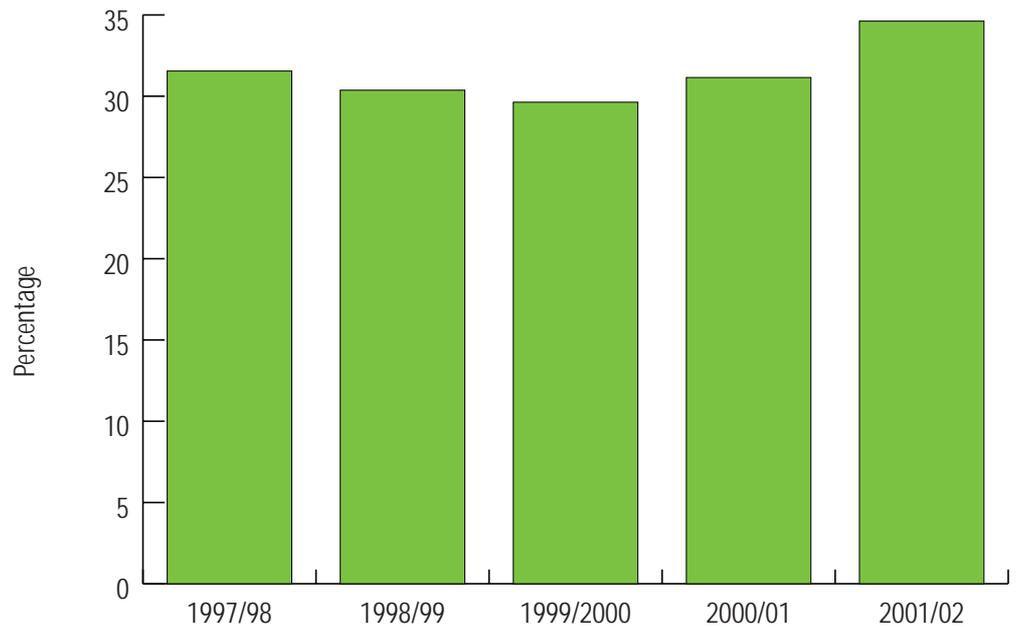
YEAR	1994/95	1995/96	1996/97	1997/98	1998/99	1999/2000	2000/01	2001/02
EXTERNAL COUNSEL FEES	\$6,260,000	\$5,219,000	\$3,815,000	\$3,780,000	\$3,623,000	\$3,710,000	\$4,138,778	\$5,031,000



Appendix A

counsel appearance costs as a percentage of total expenditure

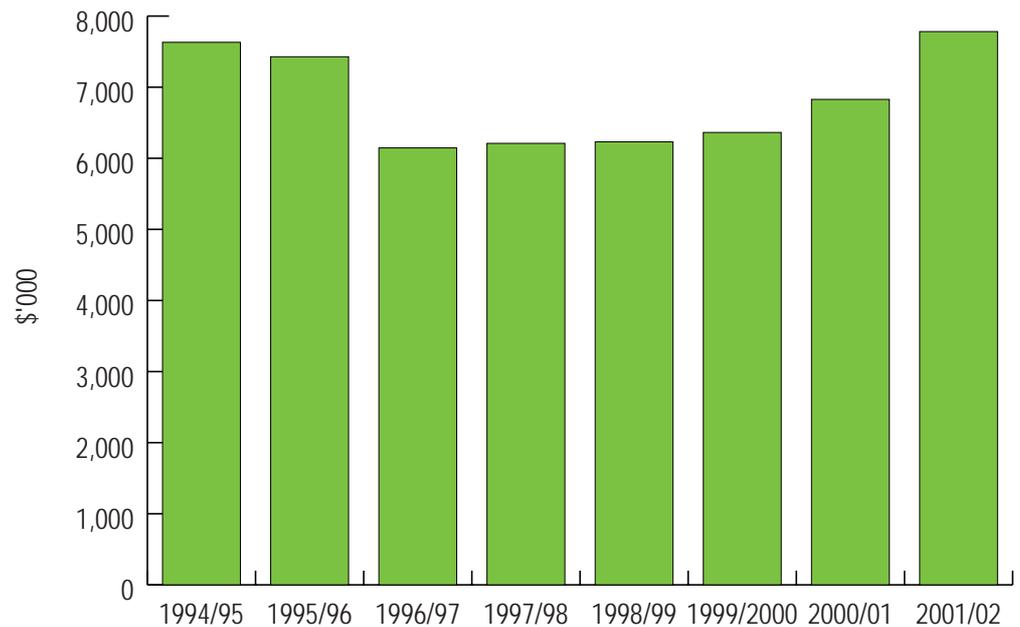
YEAR	1997/98	1998/99	1999/2000	2000/01	2001/02
APPEARANCE COSTS	\$6,210,000	\$6,231,000	\$6,363,000	\$6,828,109	\$7,782,000
TOTAL EXPENDITURE	\$19,686,000	\$20,517,000	\$21,477,000	\$21,921,078	\$22,477,000
PERCENTAGE	31.55%	30.37%	29.63%	31.15%	34.62%



Appendix A

counsel appearance costs

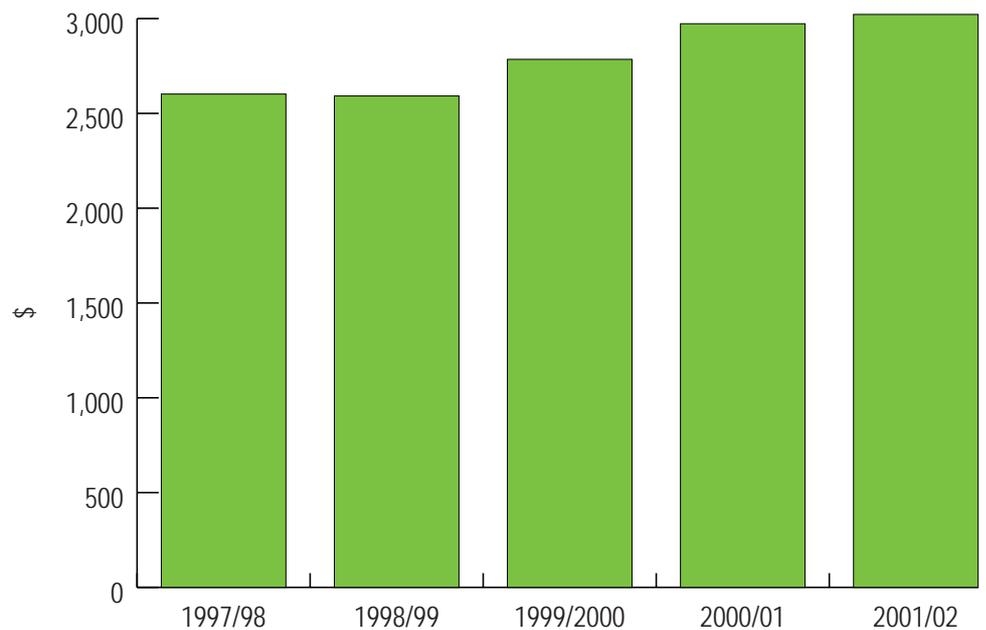
YEAR	1994/95	1995/96	1996/97	1997/98	1998/99	1999/2000	2000/01	2001/02
APPEARANCE COSTS	\$7,631,000	\$7,428,000	\$6,146,000	\$6,210,000	\$6,231,000	\$6,363,000	\$6,828,109	\$7,782,000



Appendix A

approximate average cost per matter prosecuted expressed in full cost and accrual terms

YEAR	1997/98	1998/99	1999/2000	2000/01	2001/02
APPROXIMATE COST	\$2,602	\$2,592	\$2,785	\$2,973	\$3,022



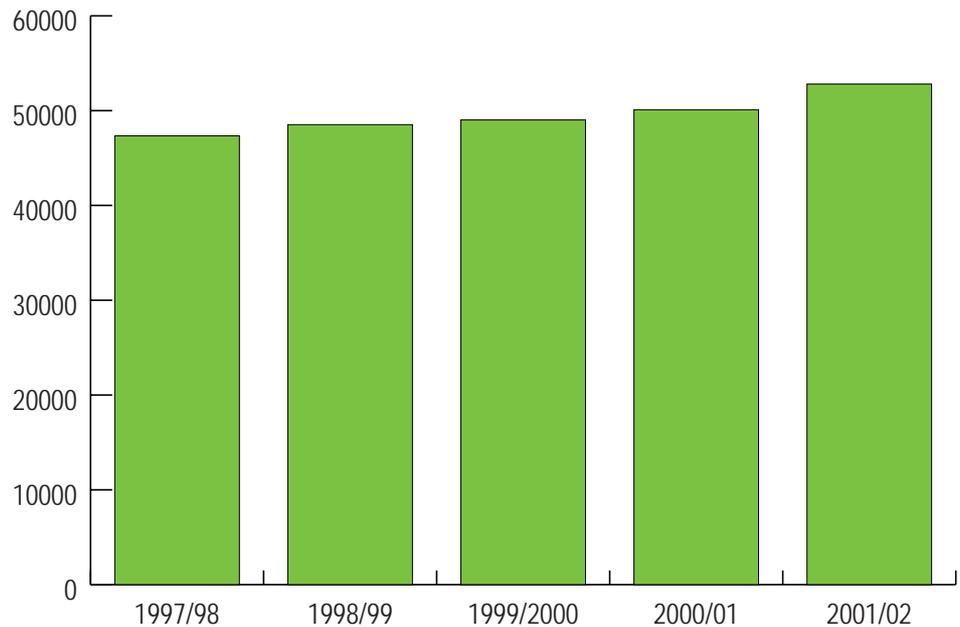
Appendix B

outputs

YEAR	1997/98	1998/99	1999/2000	2000/01	2001/02
BRIEFS PREPARED & HEARINGS ATTENDED	47343	48522	49020	50097	52800
AVERAGE NUMBER PER STAFF	247.9	254.0	248.8	249.2	258.7

NOTE

1. The output target for 2001/02 was 51,000.
2. Outputs counted are a combination of briefs prepared on behalf of the Director and hearings attended on behalf of the Director.
3. Because of nuances in the Magistrates' Court system (Court Link), each day of a hearing in the Magistrates' Court counts as a hearing.



Appendix C

witness assistance case referrals with special needs

WITNESS CATEGORY	NUMBER	PERCENT
Child Witness Age 10-16 years	237	48%
Child Witness Age Under 10 years	49	10%
Substance Abuse Issues	10	2%
Hearing Impaired	4	1%
Intellectually Disabled	17	3%
Non English Speaking Background	97	20%
Psychiatric Disability	31	6%
Psychiatric Disability including sight & hearing impaired	21	4%
Requires Interpreter	20	4%
Other	8	2%
TOTAL	494	100%

Appendix C

witness assistance case referrals by category

CATEGORY	REFERRALS	PERCENT
Arson	6	1%
Murder	101	15%
Attempted Murder	25	4%
Culpable Driving	34	5%
Adult Sexual Assault	105	15%
Armed Robbery	27	4%
Child Sexual Assault - Adult	93	14%
Child Sexual Assault - Child	130	19%
Physical Assault - Adult	65	10%
Physical Assault - Child	5	0.7%
Burglary/Theft	16	2%
Fraud	12	2%
Mental Impairment	14	2%
Threat to kill	4	0.3%
Other	39	6%
TOTAL	676	100%

Appendix D

freedom of information

Freedom of Information Requests During the Year

There were 32 requests under the Freedom of Information Act 1982 received by the Office of Public Prosecutions in the year ended 30 June 2002.

Nature and Outcome of Requests

This Office received thirty-two requests made pursuant to the Freedom of Information Act 1982 during the period 1 July 2001 to 30 June 2002.

Requests Received	32
Outcomes:	
Requests transferred to Victoria Police	0
Request relating to documents not held	6
Access granted in full or in part	15
Access denied in full or in part	4
Further particulars sought in relation to request	5
Access not yet determined	1
Others	1
Total	32

Applications for Internal Review

There were two applications for Internal Review pursuant to s.51(1) of the Freedom of Information Act 1982 of decisions made by the Freedom of Information Officer.

VCAT Review

The Victorian Civil and Administrative Tribunal received and determined one application for review pursuant to s.50(2) Freedom of Information Act 1982 of a decision by the principal officer in the relevant reporting period.

Freedom of Information Processes

Categories of Documents

The O.P.P. maintains electronic and paper based files. The computerised case management system, PRISM, provides a complete file registration and file management system.

Files are initially recorded when they are allocated a file number. All details of the accused, addresses, sureties and witnesses are entered. Further information is added as the matter progresses.

A paper based case file is maintained in every matter conducted on behalf of the Director. The files contain court documents and records of all

Appendix D

communications and work undertaken in the particular matter.

The Bail and Breaches Section maintains spreadsheet of bail applications which records applications in chronological order from the date of receipt of documents into the O.P.P.. This section also maintains an index of files of breaches of non-custodial orders such as Community Based Orders.

The Policy, Advising and Court of Appeal Section maintains an electronic database that records all matters handled by this section.

The Human Resources section maintains an alphabetical index to all persons employed in the office and containing a brief work history, leave details and so on.

The Requisitions Book maintains a record of each order as it is raised, its allocated number and details of the order such as cost.

The Accounts Register (Non-Professional Assistance Register) is a register of recurring expenditure (e.g. photocopying machine rental), and an entry is raised each time an invoice is received or goods supplied to the Office.

The Professional Assistance Register is an alphabetical ledger of all barristers briefed by the O.P.P., specialists, psychiatrists, court reporting, accountants and other professional assistance and contains details of claims made for payment after appearances at court or provision of advice.

The Fixed Assets Register is a register of all assets owned by the Office including description, cost and location of item.

The Director's Files cover a variety of subjects, including matters where the Director's consent is required to prosecute a matter, advice has been given on various legal matters, answers given to public inquiries and newspaper clippings on particular cases.

Administrative files contain material relevant to general office issues, and therefore contain reports, correspondence and file notes for subjects such as Freedom of Information legislation and transfer of files to the Public Records Office.

Access Arrangements

It is the aim of the Freedom of Information Act 1982 to make the maximum amount of information available to Victorians promptly and inexpensively.

To facilitate this, applications must be as specific and precise as possible to enable quick identification and searching for the relevant documents .

Access to information is obtainable through written request. Delegated officers handle the processing and determination of the application.

The Solicitor for Public Prosecutions handles any request for internal review.

Applicants can request photocopies of documents, or to inspect the documents in the office, or such other measures as are appropriate to their application.

Appendix D

It is helpful if applicants provide a telephone number as a point of contact for the Freedom of Information Officer for any points of clarification or discussion relating to the request.

Sometimes the Office cannot grant full or even partial access to documents because it considers them to be "exempt", and the Principal Officer has, therefore, decided to deny access to them. These types of documents are detailed in Part IV of the Freedom of Information Act 1982.

The Principal Officer, will identify such documents and set out the reasons for this exempt status in the "Access Decision" letter sent to the Applicant.

If the Applicant wishes to challenge a decision of the Principal Officer, he/she may appeal to the Administrative Appeals Tribunal, or the Ombudsman if there is a complaint about the way the request has been handled.

Charges under the Act

The Act was not designed as a revenue-raising measure; it specifies that access to information be provided at the lowest reasonable cost.

The charges were amended by the Freedom of Information (Access Charges) Regulations 1993 that came into force on 1 July 1993. These charges are now regulated thus:

- Application Fee: A request must be accompanied by a fee of \$20.00;
- Search Fees: where the Office has to identify and locate documents - \$20.00 per hour (minimum \$5.00);

- Supervision Fees: where a document is inspected by an Applicant within the Office - \$10.00 per hour;
- Photocopy Fees: 50 cents per A4 page;
- Deposits: a deposit of \$25.00 may be requested before the Office will grant access, if the calculated charge does not exceed \$100, or if the calculated charge exceeds \$100.00, 50% of the calculated charge.

These charges will be waived if the conditions in Section 22 of the Act are met, e.g. if the applicant is a Member of Parliament, if the information was accessed in the public interest, or if the applicant is impecunious.

Amendment of Personal Records

After a document containing information relating to the personal affairs of a person has been released to that person, or in the case of a deceased person, that person's next of kin, the Applicant can request the correction of any information held on the file where it is considered that this information is inaccurate, incomplete, or gives a misleading impression.

Requests for amendments must be in writing and must specify:

- (a) an address for service of notices;
- (b) particulars of why the person making the request believes the information to be incomplete, incorrect, out-of-date or misleading; and
- (c) the amendments he or she wishes to be made.

Appendix D

Where the Principal Officer accedes to the request, the record may be either altered or amended by annotation.

Where the Principal Officer refuses to make the amendment, he must notify the applicant in writing of the decision advising of:

- (a) the findings on any material questions of fact, the material on which those findings were based and the reasons for the decision;
- (b) his/her name and designation, and
- (c) the Applicant's rights of review to the Administrative Appeals Tribunal in respect of the decision.

If the Tribunal affirms the Principal Officer's decision, the Applicant may insist that a notation be made to the record specifying why he/she claims the information it contains is incomplete or otherwise inaccurate.

The notation then becomes part of the document and may be disclosed pursuant to the Act.

Nominated Officer/Contact Officer

Requests for access to documents in the Office of Public Prosecutions under the Freedom of Information Act 1982 may be directed to:

Freedom of Information Officer,
Office of Public Prosecutions,
9th Floor, 565 Lonsdale Street,
MELBOURNE VIC 3000

Attention: "Freedom of Information"

Further Information on F.o.I. Act

Further information on the operation of the Freedom of Information Act 1982 may be obtained from:

- (a) Freedom of Information Act 1982;
 - (b) Freedom of Information Handbook; or
 - (c) Freedom of Information Regulations;
- that are available from the Information Victoria Bookshop.

Appendix E

Human resources

Table 1 – Aggregate workforce data as at 30 June 2002

Employment Status	Male	Female	Total Staff	Variation from previous year
Permanent	75.8	80.8	156.6	+4.8
Temporary	5	13.5	8.5	-3.1
Casual	-	-	-	-

Notes:

(a) Includes only staff on the payroll as at 30 June 2002.

(b) Staffing figures have been expressed as full time equivalents (FTE).

(c) Staffing figures include 2 Executive Officers.

(d) Staffing figures do not include 22 Governor in Council appointees. (Director, Solicitor, Crown Prosecutors)

(e) Staffing figures do not include 7 Articled Clerks.

Table 2 – Classifications by gender as at 30 June 2002

Classification	Full-Time				Part-Time			
	Male	Female	Total	Variation from previous year	Male	Female	Total	Variation from previous year
VPS-5	12	6	18	+1	-	.8	.8	-
VPS-4	42	22	64	+6	.8	4.4	4.4	0
VPS-3	15	14	29	-5	-	.8	.8	+8
VPS-2	7	33	40	+16	-	2.1	2.1	+1.1
VPS-1	4	16	20	+8	-	1	1	0
Sub-Total	80	91	171	+26	.8	8.3	9.1	+1.9

Note: Includes all temporary staff. Temporary staff were not counted in previous Annual Reports (24 in total)

Appendix E

Table 3 - Profile of executive officers by gender as at 30 June 2002

Classification	Male	Variation from previous year	Female	Variation from previous year	Total	Variation from previous year
Eo-3	2	-	-	-	2	-
Eo-2	-	-	-	-	-	-
Eo-1	-	-	-	-	-	-
Total	2	-	-	-	2	-

Merit and Equity Programs

The OPP forms part of the Justice portfolio and generally applies the same employment processes as those applying within the Department of Justice. In relation to the specific reporting requirements set out in the Commissioner's Directions, the position is as follows:

Selecting on Merit

The Solicitor for Public Prosecutions made 9 appointments without general advertisement during the 2001/02 financial year. All of these appointments were as a result of appointing candidates to positions with identical duties and requirements to those of positions advertised in the Victorian Public Service Notices.

There was also one appointment made due to the specialist nature of the position.

Reviewing Personal Grievances

The O.P.P. did not receive a Personal Grievance Application during the 2001/02 financial year.

Managing and Valuing Diversity

The O.P.P. has continued to participate in the Government's Youth Employment Initiative. Over the past five years the O.P.P. has had varied training programs that enabled trainees to gain experience and exposure to a number of administrative areas.

Having regard to the success of the Youth Employment Initiative in OPP, a further four trainees have been engaged.

All new appointments are included in a formal two-day Induction Program.

This program includes the provision of information relating to the Code of Conduct and other aspects of employment.

Appendix E

Upholding Public Sector Conduct

The code of Conduct issued by the Commissioner of Public Employment under s.37(1)(a) Public Sector Management and Employment Act 1998 has been issued to all existing staff and is provided to all new appointees. A Code of Conduct for OPP staff is also published in the Office Manual.

All employees of the Office with current or future responsibilities for purchasing goods and/or services or contracting external service providers have attended or are progressively attending relevant contract management courses. This ensures that there is a very clear understanding of probity and integrity issues and relevant processes.

Occupational Health and Safety

In accordance with the occupational Health and Safety Act 1985 and the O.P.P.'s Human Resource Management Policies and Guidelines, the Office continues in its endeavours to provide a working environment for all staff members and visitors which is safe and without risk to health.

To facilitate this a Committee comprising seven members of staff and three management representatives has been established to;

- Improve cooperation in instigating, developing and carrying out measures designed to ensure the occupational health and safety of staff, and

- Formulate, review and disseminate the standards, rules and procedures relating to occupational health and safety which must be carried out or complied with in the workplace.

This Committee meets every three months or as needed.

During the year the Office;

- Engaged a contractor specialising in ergonomics to assist staff with office layout, computer location/installation and posture,
- Engaged a contractor to develop, train and monitor staff in evacuation and emergency (eg bomb threats) policies,
- Continued to provide an Employee Assistance Program to assist staff through short term professional counselling and consulting for both employees and members of their immediate family who face problems of personal, family related or employment nature,
- Maintained a financial assistance program for staff who, due to the computerisation of the office require spectacles for their use of computers,
- Provided an Influenza Vaccination Program to reduce the possibility of staff suffering influenza,
- Reviewed the number and requirements of First Aid Officers and provided additional training and provisions where necessary, and

Appendix E

- Continued to regularly review all Office
 - policies and procedures relating to OHS
 - key performance indicators
 - reporting registers of injuries and causes of accidents
 - Workcover claims
 - Rehabilitation and early return to work practices

As a direct result of the endeavours of the O. H. & S Committee this Office has seen a considerable reduction in WorkCover Insurance premiums over the past 12 months.

Employee Relations

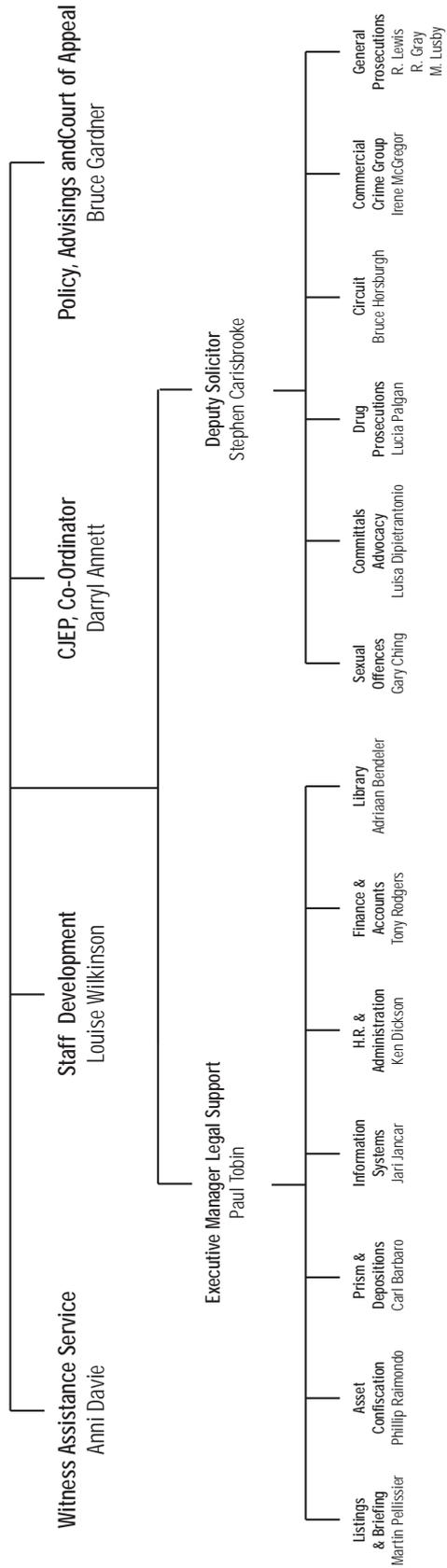
The OPP is a party to the Public Sector Enterprise Partnership Agreement. During the year senior management met with the CPSU to keep them informed of various issues at the OPP.

There have been no industrial disputes during the year.

Appendix E

Solicitor for Public Prosecutions

Kay Robertson



Appendix F

directory and supplementary information

Responsible Minister:

THE HONOURABLE ROBERT HULLS MLA
Attorney-General
55 St Andrews Place
Melbourne Vic 3001

Accountable Officer:

KAY ROBERTSON
Solicitor for Public Prosecutions
565 Lonsdale Street
Melbourne Vic 3000

Senior Staff and Major Responsibilities:

STEPHEN CARISBROOKE
Deputy Solicitor

Responsibilities:

The Legal Practice: General Prosecutions
and Specialist Prosecutions Sections,
Circuit Courts.

PAUL TOBIN
Executive Manager

Responsibilities:

Corporate Services: Human Resources,
Finance, Information Systems,
Confiscation of Profits, Strategic Planning,
Briefing Policy and Practice, Depositions.

Audit Committee

The Audit Committee met three times
during the year. The membership of the
Audit Committee during the year was:

G. Bryant Independent
Chairman (Until November 2001)

G. Wert Independent
Chairman (From November 2001)

R. Turnley Internal Audit,
Department of Justice

S. Carisbrooke Deputy Solicitor

P. Tobin Executive Manager

Consultancies

There were no consultancies exceeding
\$100,000 and one consultancy with
expenditure of \$7,260 during the year.

Information available on request

Information on the following items in
relation to the financial year has been
prepared and is available on request

Statement that declarations of pecuniary
interest have been completed by all
relevant officers

Details of publications produced and the
places where they can be obtained

Financials

financial report

30 June 2002

Directory

Responsible Minister

The Honourable Mr Robert Hulls MLA

Solicitor for Public Prosecutions

Kay Robertson

Financials

statement of financial performance for the year ended 30 June 2002

	Notes	2002 \$'000	2001 \$'000
Revenues from ordinary activities			
Government Grants	3	22,914	21,839
Other Revenue	3	91	131
		23,005	21,970
Expenses from ordinary activities			
Employee entitlements	4	(13,679)	(13,790)
Depreciation and amortisation	4	(157)	(260)
Capital asset charge		(76)	(66)
Supplies and services	4	(8,565)	(7,789)
Other expenses from ordinary activities		(91)	(128)
Correction of fundamental error	5		(16)
		(22,568)	(22,049)
Result from ordinary activities		437	(79)
Net result for the reporting period			
		437	(79)
Net increase in asset revaluation reserve		0	0
Total revenues, expenses and revaluation adjustments recognised directly in equity		0	0
Total changes in equity other than those resulting from transactions with Victorian State Government in its capacity as owner	11	437	(79)

The above statement of financial performance should be read in conjunction with the accompanying notes.

Financials

statement of financial position

as at 30 June 2002

	Notes	2002 \$'000	2001 \$'000
Current assets			
Cash assets	6,12	71	71
Receivables	7,12	55	54
Amounts due from related parties	7,12	2,652	1,575
Total current assets		2,778	1,700
Non-current assets			
Property, plant & equipment	8	2,398	853
Total non-current assets		2,398	853
Total assets			
		5,176	2,553
Current liabilities			
Payables	9,12	905	740
Provisions	10	1,258	1,197
Other		14	70
Total current liabilities		2,177	2,007
Non-current liabilities			
Provisions	10	2,833	2,363
Total non-current liabilities		2,833	2,363
Total liabilities			
		5,010	4,370
Net assets			
		166	(1,817)
Equity			
Contributed capital	11	1,546	0
Reserves	11	195	195
Accumulated surplus(deficit)	11	(1,575)	(2,012)
Total equity		166	(1,817)

The above statement of financial position should be read in conjunction with the accompanying notes.

Financials

statement of cash flows

for the year ended 30 June 2002

	Notes	2002 \$'000	2001 \$'000
Cash flows from operating activities			
Receipts from Government		21,796	22,016
Payments to suppliers and employees		(21,719)	(21,823)
		77	193
Capital asset charge		76	0
Net cash inflow from operating activities	18	153	193
Cash flows from investing activities			
Payments for property, plant and equipment		(1,702)	(194)
Proceeds from sale of property, plant and equipment		3	1
Net cash out flow from investing activities		(1,699)	(193)
Cash Flows from financing activities			
Proceeds from capital contribution by State Government		1,546	0
Net cash inflow (outflow) from financing activities		0	0
Net increase (decrease) in cash held		0	0
Cash at the beginning of the financial year		71	71
Cash at the end of the financial year	6	71	71

The above statement of cash flows should be read in conjunction with the accompanying notes.

Financials

note 1

summary of significant accounting policies

This general purpose financial report has been prepared in accordance with the Financial Management Act 1994, Australian Accounting Standards, Statements of Accounting Concepts and other authoritative pronouncements of the Australian Accounting Standards Board, and Urgent Issues Group Consensus Views.

It is prepared in accordance with the historical cost convention, except for certain assets and liabilities which, as noted, are at valuation. The accounting policies adopted, and the classification and presentation of items, are consistent with those of the previous year, except where a change is required to comply with an Australian Accounting Standard or Urgent Issues Group Consensus View, or an alternative accounting policy or an alternative presentation or classification of an item, as permitted by an Australian Accounting Standard, is adopted to improve the relevance and reliability of the financial report.

(a) Reporting entity

All funds through which the Office controls resources to carry on its functions have been included in this financial report.

In the process of reporting on the Office as a single unit, all transactions and balances between those funds have been eliminated in full.

(b) Objectives and funding

The Office's objectives are to conduct an effective, economical and efficient prosecution service as an integral part of the criminal justice system. The service, it provides, must meet community expectations of fairness, impartiality and independence in the application of criminal law.

The Office is predominantly funded by grants from the Department of Justice.

(c) 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 costs directly attributable to the acquisition.

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

Where settlement of any part of cash consideration is deferred, the amounts payable in the future are discounted to their present value as at the date of acquisition. The discount rate used is the incremental borrowing rate, being the rate at which a similar borrowing could be obtained from an independent financier under comparable terms and conditions.

(d) Revenue recognition

Government grants, donations and other contributions are recognised as revenues in the statement of financial performance when the office obtains control over the respective assets. Control over appropriations are normally obtained upon their receipt or official notification whichever is earlier.

Financials

(e) Receivables

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

Collectability of debtors is reviewed on an ongoing basis. Debts which are known to be uncollectable are written off.

(f) Revaluations of non-current assets

Subsequent to initial recognition as assets, non-current physical assets other than plant and equipment are measured at fair value. Plant and equipment are measured at cost. Revaluations are made with sufficient regularity to ensure that the carrying amount of each asset does not differ materially from its fair value at the reporting date. Annual assessments will be made, supplemented by independent assessments, at least every three years. Revaluations are conducted in accordance with the Department of Treasury and Finance's Policy Paper, Valuation of Non-Current Physical Assets.

Revaluation increments are credited directly to the asset revaluation reserve, except that, to the extent that an increment reverses a revaluation decrement in respect of that class of asset previously recognised as an expense in net result, the increment is recognised immediately as revenue in net result.

Revaluation decrements are recognised immediately as expenses in the net result, except that, to the extent that a credit balance exists in the asset revaluation reserve in respect of the same class of assets, they are debited directly to the asset revaluation reserve.

Revaluation increments and decrements are offset against one another within a class of non-current assets.

Change in revaluation policy

In previous reporting periods up to 30 June 2001, land was measured at market value.

For the reporting period ending 30 June 2002, the Office elected to continue the market value basis for measuring land and the cost basis for measuring all plant and equipment.

Accordingly, the change in accounting policy for land, plant and equipment has had no impact on either the current year statement of financial performance or the opening accumulated surplus.

The change in measurement basis is to comply with the accounting requirements of AASB 1041 and the Department of Treasury and Finance Policy Paper, Valuation of Non-Current Physical Assets.

(g) Depreciation of property, plant and equipment

Depreciation is calculated on a straight line basis to write off the net cost or 'deemed' net cost of each item of plant and equipment over its expected useful life to the Office. Estimates of the remaining useful lives for all assets are reviewed at least annually. The expected useful lives are as follows:

Plant & Equipment	5 - 15 Years
-------------------	--------------

Where items of plant and equipment have separately identifiable components which are subject to regular replacement, those components are assigned useful lives distinct from the item of plant and equipment to which they relate.

(h) Leasehold improvements

The cost of improvements to or on leasehold properties is amortised over the unexpired period of the lease or the estimated useful life of the improvement to the Office, whichever is the shorter. Leasehold improvements held at the reporting date are being amortised over 10 years.

Financials

(i) Leased non-current assets

A distinction is made between finance leases which effectively transfer from the lessor to the lessee substantially all the risks and benefits incident to ownership of leased non-current assets, and operating leases under which the lessor effectively retains substantially all such risks and benefits.

Finance leases are capitalised. A lease asset and liability are established at the present value of minimum lease payments. Lease payments are allocated between the principal component of the lease liability and the interest expense.

The lease asset is amortised on a straight line basis over the term of the lease, or where it is likely that the Office will obtain ownership of the asset, the expected useful life of the asset to the Office. Lease assets held at the reporting date are being amortised over periods ranging from 5 to 15 years.

Incentives received on entering into operating leases are recognised as liabilities. Lease payments are allocated between interest (calculated by applying the interest rate implicit in the lease to the outstanding amount of the liability), rental expense and reduction of the liability.

Other operating lease payments are charged to the statement of financial performance in the periods in which they are incurred, as this represents the pattern of benefits derived from the leased assets.

(j) Payables – Trade and other creditors

These amounts represent liabilities for goods and services provided to the Office prior to the end of the financial year and which are unpaid. The amounts are unsecured and are usually paid within 30 days of recognition.

(k) Maintenance and repairs

Plant of the Office is required to be overhauled on a regular basis. This is managed as part of an ongoing major cyclical maintenance program. The costs of this maintenance are charged as expenses as incurred, except where they relate to the replacement of a component of an asset, in which case the costs are capitalised and depreciated in accordance with note 1(g). Other routine operating maintenance, repair costs and minor renewals are also charged as expenses as incurred.

(l) Goods and services tax

Revenues, expenses and assets are recognised net of GST except where the amount of GST incurred is not recoverable, in which case it is recognised as part of the cost of acquisition of an asset or part of an item of expense. The net amount of GST recoverable from, or payable to, the Australian Taxation Office (ATO) is included as part of receivable or payables in the statement of financial position. The GST component of a receipt or payment is normally recognised on a gross basis in the statement of cash flows in accordance with Accounting Standard AAS 28 Statement of Cash Flows. As the Department of Justice manages the GST transactions on behalf of OPP, the OPP GST component of its receipts and/or payments are recognised in the Department's financial statements.

(m) Employee entitlements

(i) Wages, salaries and annual leave

Liabilities for wages, salaries and annual leave are recognised, and are measured as the amount unpaid at the reporting date at current pay rates in respect of employees' services up to that date.

(ii) Long service leave

A liability for long service leave is recognised, and is measured as the present value of expected future payments to be made in respect of services provided by employees up to the reporting date.

Financials

Consideration is given to expected future wage and salary levels, experience of employee departures and periods of service. Expected future payments are discounted using interest rates on national Government guaranteed securities with terms to maturity that match, as closely as possible, the estimated future cash outflows.

A current liability is recognised for the amount expected to be paid within 12 months.

(iii) Superannuation

The amounts charged to the statement of financial performance in respect to superannuation represents the contributions made by the Office to the superannuation fund.

(n) Cash

For purposes of the statement of cash flows, cash includes short-term deposits that are readily convertible to cash on hand and are subject to an insignificant risk of changes in value, net of outstanding cheques yet to be presented by the Office's suppliers and creditors (see note 6)

(o) Capital asset charge

The capital asset charge is imposed by the Department of Treasury and Finance and represents the opportunity cost of capital invested in the non-current physical assets used in the provision of outputs. The charge is calculated on the carrying amount of non-current physical assets (excluding heritage assets).

(p) Resources provided and received free of charge

Contributions of resources and resources provided free of charge are recognised at their fair value. Contributions in the form of services are only recognised when a fair value can be reliably determined and the services would have been purchased if not donated.

(q) Contributed Capital

Urgent Issues Abstract 38 Contributions by Owner Made to Wholly-Owned Public Sector Entities and Accounting and Financial Reporting Bulletin No. 39 Accounting for Contributed Capital and No. 40 Establishment of Opening Balances and Formal Designation for Contributed Capital require entities subject to certain conditions being achieved, to deem all their accumulated surplus as the opening balance for contributed capital.

As at 30 June 2001 the Office had accumulated losses of \$2,012,000. Accounting and Financial Reporting Bulletin (AFRB) No 40 Establishment of Opening Balances and Formal Designation for Contributed Capital states that an entity is prohibited from deeming accumulated losses as a negative opening balance for contributed capital. Consequently, compliance with AFRB 40 has resulted in no changes to the opening accumulated loss balance and no requirement for the establishment of an opening balance for contributed capital.

Other transfers that are in the nature of contributions or distributions have been designated as contributed capital.

(r) Rounding of amounts

Amounts in the financial report have been rounded to the nearest thousand dollars, or in other cases, to the nearest dollar.

Financials

note 2

output of the office

Description of output group:

The number of briefs prepared for hearings and the attendance at hearings on the behalf of the Director of Public Prosecutions.

Outcome expected:

An effective, economical and efficient prosecution service which is an integral part of the criminal justice system.

As there is only one output group within the Office, related revenue and expenditure is outlined in the Statement of Financial Performance.

Financials

note 3 revenue

(a) Revenue by source

	Operating		Non-Operating	
	2002	2001	2002	2001
	\$'000	\$'000	\$'000	\$'000
Revenue from Government				
Grants from Department of Justice	22,914	21,839		
Resources received free of charge or for nominal consideration	91	131		
	23,005	21,970	0	0
Revenue from other parties				
Proceeds from sale of Fixed assets			3	1
Funds Transferred to Department of Justice			(3)	(1)
	0	0	0	0
Total Revenue	23,005	21,970	0	0

(b) Conditional grants

The Office of Public Prosecutions has no conditional grants.

Financials

note 4 results from ordinary activities

	2002 \$'000	2001 \$'000
Net gains and expenses		
Result from ordinary activities includes the following specific net gains and expenses:		
Net gains		
Net gain on disposal		
Property, plant and equipment	3	1
Expenses		
Employee entitlements		
Salary and wages	10,706	10,885
Superannuation (refer note 17)	742	845
Annual leave and long services leave expense	1,484	922
Other on-costs (fringe benefits tax, payroll tax and workcover levy)	747	1,138
Total employee entitlements	<u>13,679</u>	<u>13,790</u>
Depreciation		
Plant & Equipment	144	258
Total depreciation	<u>144</u>	<u>258</u>
Amortisation		
Leasehold improvements	13	2
Total amortisation	<u>13</u>	<u>2</u>
Total depreciation and amortisation	<u>157</u>	<u>260</u>
Supplies and Services		
Professional services and witness payments	5,591	4,951
Rent and Property	934	851
Training and development	49	66
Information Technology	189	194
Other operating expenses	1,789	1,715
Audit Services	13	12
Total Supplies and services	<u>8,565</u>	<u>7,789</u>
Rental expense relating to operating leases		
Minimum lease payments	327	235
Total rental expense relating to operating leases	<u>327</u>	<u>235</u>

Reports

note 5 correction of fundamental error

In the 1999 financial year the Office of public prosecutions moved its assets into the Oracle Assets module for the first time. However the accumulated depreciation balance between the Asset system and the Oracle Assets module for Plant & Equipment was different. This difference was not picked up in the 1999 or 2000 financial years. Therefore, to correct the Plant and Equipment accumulated depreciation balance, \$15,814 was expensed in 2001 Financial Year.

The closing balance of the Asset Revaluation Reserve for the financial year 2000 was reported as \$158,000, whereas it should be \$195,000, as correctly recorded in the general ledger. The closing balance of the Accumulated Funds reported for the financial year 2000 should be \$1,932,590, as correctly recorded in the general ledger. This variance is due to a difference between the net result reported and that carried forward on the general ledger. The net effect of these variances is to understate total equity by \$18,000.

Due to an accrual that was not identified in the 2000 financial year as having been reversed, trade creditors was incorrectly reduced to account for this entry. This error had the effect of understating trade creditors by \$16,921.

A 2001 expense was identified as been incorrectly included in 2000 financial year. This expense was excluded from the figures reported but not amended in the general ledger. This error had the effect of overstating the trade creditors by \$2,195 in the general ledger.

In the year ended 30 June 2000 these errors had the effect of overstating profit, understating accumulated depreciation, and therefore understating accumulated deficit by \$16,000. The restated financial information for the financial year ended 30th June 2001 is presented as follows had the error not been made. There were no fundamental errors during the year to 30 June 2002

	2001 \$'000
Restatement of accumulated deficit	(Restated)
Previously reported accumulated deficit at the beginning of the financial year (note 11c)	(1,933)
Net result	(79)
Correction of fundamental error	16
Restated net result	(63)
Restated accumulated deficit at the end of the financial year	(2,012)

Reports

note 5 correction of fundamental error (cont.)

	2001 \$'000
Revenue from ordinary activities	(Restated)
Grants	21,839
Resources received free of charge	131
	<u>21,970</u>
Expenses from ordinary activities	
Employee benefits	(13,790)
Depreciation and amortisation expense	(260)
Capital asset charge	(66)
Supplies and services	(7,789)
Other expenses from ordinary activities	(128)
	<u>(63)</u>
Net result for the reporting period	(63)
Net increase in asset revaluation reserve	
	<u>o</u>
Total revenues, expenses and revaluation adjustments recognised directly in equity	o
Total changes in equity other than those resulting from transactions with Victorian State Government in its capacity as owner	<u>(63)</u>
	(Restated)
Amount owing from Department of Justice	
Balance at the end of the financial year as previously reported	1,575
Correction of fundamental error	o
Restated balance at the end of the financial year	<u>1,575</u>
	(Restated)
Restatement of current liabilities	
Balance at the end of the financial year as previously reported	740
Correction of fundamental error	o
Restated balance at the end of the financial year	<u>740</u>

Financials

note 6 cash assets

	2002 \$'000	2001 \$'000
Cash at Bank and On-Hand	71	71
	<u>71</u>	<u>71</u>

The above figures are reconciled to cash at the end of the financial year as shown in the statement of cash flows as follows:

Balances as above	71	71
Balances per statement of cash flows	<u>71</u>	<u>71</u>

note 7 receivables

	2002 \$'000	2001 \$'000
Current		
Debtors	55	54
Amounts due from related parties	2,652	1,575
	<u>2,707</u>	<u>1,629</u>

Aggregate carrying amount of receivables

Current	<u>2,707</u>	1,629
	<u>2,707</u>	<u>1,629</u>

Other debtors

These amounts generally arise from transactions outside the usual operating activities of the office. Interest may be charged at commercial rates where the terms of repayment exceed six months. Collateral is not normally obtained.

Financials

note 8

property, plant & equipment

	2002 \$'000	2001 \$'000
Land		
Freehold land at valuation 2000*	500	500
	<u>500</u>	<u>500</u>
Leasehold Improvements		
Leasehold improvements - at cost	1,362	21
Less: Accumulated amortisation	(21)	(7)
	<u>1,341</u>	<u>14</u>
Total land and leasehold improvements	<u>1,841</u>	<u>514</u>
Plant and Equipment		
At cost	2,058	1,760
Less: Accumulated depreciation	(1,524)	(1,444)
	<u>534</u>	<u>316</u>
Total plant and equipment	<u>534</u>	<u>316</u>
	<u>2,375</u>	<u>830</u>
Cultural assets		
At cost	23	23
	<u>23</u>	<u>23</u>
Total cultural assets	<u>23</u>	<u>23</u>
Total	<u>2,398</u>	<u>853</u>

* Valuation was carried out by the Valuer General as part of the Revaluation of the Department of Justice's Land and Buildings during 2000.

Financials

note 8

property, plant & equipment (cont.)

Reconciliations

Reconciliations of the carrying amounts of each of property, plant and equipment at the beginning and end of the current and previous financial year are set out below:

	Freehold Land (\$000)	Leasehold Improvement (Fitouts) (\$000)	Plant & Equipment (\$000)	Cultural Asset (\$000)	Computer Equipment (\$000)	Total (\$000)
2002						
Carrying amount at start year	500	14	52	23	264	853
Additions		1,340	6		356	1,702
Disposals			0		(65)	(65)
Less accumulated depreciation on disposals					65	65
Depreciation/amortisation expense (note 4)		(13)	(10)		(134)	(157)
Carrying amount at end of year	500	1,341	48	23	486	2,398

	Freehold Land	Leasehold Improvement (Fitouts)	Plant & Equipment	Cultural Asset	Computer Equipment	Total
2001						
Carrying amount at start year	500	16	75	23	318	932
Additions			4		190	194
Disposals					(9)	(9)
Less accumulated depreciation on disposals					9	9
Net additions through restructuring					(1)	(1)
Net transfers free of charge					4	4
Depreciation/amortisation expense (note 4)		(2)	(11)		(247)	(260)
Fundamental error to depreciation			(16)			(16)
Carrying amount at end of year	500	14	52	23	264	853

Financials

note 9 payables

	2002 \$'000	2001 \$'000
Accrued Employee Expense	34	0
Trade Creditors	871	740
	<u>905</u>	<u>740</u>

The trade creditors amounts are exclusive of GST. The Department of Justice pays GST on behalf of this Office. It should be recognised that as all creditor invoices are payable by this Office, in the event of the Department of Justice failing to pay the GST, this Office remains liable, except any GST paid would be refunded by the ATO. To recognise the legal liability to creditors, they should be grossed up by 10%.

note 10 provisions

	2002 \$'000	2001 \$'000
Current		
Employee Entitlements		
Annual Leave	943	934
Long Service Leave	315	263
	<u>1,258</u>	<u>1,197</u>
Non-current		
Employee Entitlements		
Long Service Leave	2,833	2,363
	<u>2,833</u>	<u>2,363</u>
Aggregate carrying amount of provisions		
Current	1,258	1,197
Non-current	2,833	2,363
	<u>4,091</u>	<u>3,560</u>

Financials

note 11

equity and movements in equity

	Note	2002 \$'000	2001 \$'000
(a) Reserves			
Asset revaluation reserve		195	195
		<u>195</u>	<u>195</u>
Movements			
Asset revaluation reserve			
Opening Balance 1 July, 2001		195	158
Correction of fundamental error	5	0	37
Balance 30 June 2002		<u>195</u>	<u>195</u>
(b) Contributed Capital			
Balance 1 July, 2001		0	0
Capital contribution by Victorian State Government		1,546	0
Balance 30 June 2002		<u>1,546</u>	<u>0</u>
(c) Accumulated surplus			
Accumulated surplus (deficit) at the start of the financial year		(2,012)	(1,933)
Net result		437	(79)
Accumulated surplus (deficit) at the end of the financial year		<u>(1,575)</u>	<u>(2,012)</u>
(d) Nature and purpose of reserves			
Asset revaluation reserve			
The asset revaluation reserve is used to record increments and decrements on the revaluation of the non current assets, as described in accounting policy note 1(f).			
	Note	2002 \$'000	2001 \$'000
Total equity at the beginning of the financial year		(1,817)	(1,720)
Fundamental error		0	(18)
Contributions of equity	11(b)	1,546	
Total changes in equity recognised in the statement of financial performance		437	(79)
Total equity at the end of the financial year		<u>166</u>	<u>(1,817)</u>

Financials

note 12

financial instruments

(a) **Cash and cash equivalents**

The carrying amount is the principal amount

(b) **Receivable and payables**

Receivables are carried at nominal amounts less any provision for doubtful debts. A provision for doubtful debts are maintained to recognise that collection of the full nominal amount is no longer probable. The terms of trade are 30 days from the invoice date.

(c) **Creditors and accruals**

Liabilities are recognised for amounts to be paid in the future for goods and services received, whether or not invoiced to the Office and are usually paid within 30 days of recognition.

(d) **Credit risk exposure**

The Office's maximum exposures to credit risk at balance date in relation to each class of recognised financial asset is the carrying amount of those assets as indicated in the Statement of Financial Position.

(e) **Interest rate risk exposure**

The Office's exposure to interest rate risk and the effective weighted average interest rate by maturity periods is set out in the following table. For interest rates applicable to each class of assets or liability refer to individual notes to the financial statements.

Exposures arise predominantly from assets and liabilities bearing variable interest rates as the Office intends to hold fixed rate assets and liabilities to maturity.

Financials

note 12

financial instruments (cont.)

(e) Interest Rate risk exposure (cont.)

2002

Fixed interest maturing in:

Description	Note	Floating Interest Rate \$'000	1 year or less \$'000	Over 1 to 5 years \$'000	More than 5 years \$'000	Non-bearing interest \$'000	Total \$'000
Financial Assets							
Cash and deposits	6	71	-	-	-	-	71
Receivables	7	-	-	-	-	55	55
Amount due from related entities	7	-	-	-	-	2,652	2,652
Total		71	-	-	-	2,707	2,778
Weighted average interest rate		n/a				n/a	n/a
Financial Liabilities							
Payables	9	-	-	-	-	905	905
						905	905
Net Financial Assets (liabilities)		71	-	-	-	1,802	1,873

2001

Fixed interest maturing in:

Description	Note	Floating Interest Rate \$'000	1 year or less \$'000	Over 1 to 5 years \$'000	More than 5 years \$'000	Non-bearing interest \$'000	Total \$'000
Financial Assets							
Cash and deposits	6	71	-	-	-	-	71
Receivables	7	-	-	-	-	54	54
Amount due from related entities	7	-	-	-	-	1,575	1,575
Total		71	-	-	-	1,629	1,700
Weighted average interest rate		n/a				n/a	n/a
Financial Liabilities							
Payables	9	-	-	-	-	740	740
						740	740
Net Financial Assets (liabilities)		71	-	-	-	889	960

Financials

note 12

financial instruments (cont.)

(f) Net fair value of financial assets and liabilities

(i) On-balance sheet

The net fair value of cash and cash equivalents and non-interest bearing monetary financial assets and financial liabilities of the Office approximates their carrying amounts.

The net fair value of other monetary financial assets and financial liabilities is based upon market prices where a market exists or by discounting the expected future cash flows by the current interest rates for assets and liabilities with similar risk profiles.

For non-traded equity investments, the net fair value is based on the underlying net assets, future maintainable earnings and any special circumstances pertaining to a particular investment.

The carrying amounts and net fair values of financial assets and liabilities at reporting date are:

	2002		2001	
	Carrying amount \$'000	Net fair value \$'000	Carrying amount \$'000	Net fair value \$'000
On-balance sheet financial instruments				
Financial assets				
Cash	71	71	71	71
Receivables	55	55	54	54
Amount due from related entities	2,652	2,652	1,575	1,575
Non-traded financial assets	2,778	2,778	1,700	1,700
Financial liabilities				
Payables	905	905	740	740
Non-traded financial instruments	905	905	740	740

Other than those classes of assets and liabilities denoted as "traded", none of the classes of financial assets and liabilities are readily traded on organised markets in standardised form.

Financials

note 13

ministers and accountable officers

In accordance with the Directions of the Minister for Finance under the Financial Management Act 1994, the following disclosures are made regarding responsible person for the reporting period.

Names

The persons who held the above positions in the Department and the Office are as follows:

Attorney-General The Hon. Rob Hulls, MP

1 July 2001 to 30 June 2002

Acting Attorney-General The Hon. Robert Cameron, MP

22 December 2001 to 29 January 2002

4 July 2001 to 13 July 2001

4 April 2002 to 14 April 2002

Secretary to the Department of Justice Peter Harmsworth

1 July 2001 to 30 June 2002

Acting Secretary to the Department of Justice John Charleson

24 December 2001 to 11 January 2002

2 May 2002 to 24 May 2002

Accountable officer Ms K Robertson

1 July 2001 to 30 June 2002

Remuneration

Remuneration received or receivable by the Accountable Officer in connection with the management of the Office during the reporting period was in the range:

\$150,000 - \$160,000 (\$160,000 - \$170,000 in 2001)

Ministerial remuneration is disclosed in the annual report of the Department of Premier and Cabinet. Remuneration received or receivable by the Secretary in connection with the management of the Department during the reporting period is disclosed in the annual report of the Department of Justice.

Other transactions

Other related transactions and loans requiring disclosure under the Directions of the Minister of Finance have been considered and there are no matters to report

Financials

note 14 remuneration of executives

The total remuneration of the two executive officers, other than the Accountable Officer, during the reporting period are shown in the first two columns in the table below in their relevant income bands. The base remuneration of executive officers is shown in the third and fourth columns. Base remuneration is exclusive of bonus payments, long-service leave payments, redundancy payments and retirement benefits. Further to the issuing of Accounting and Financial (AFR) Bulletin No. 37 in May 2002, the definition of an executive officer does not now include Governor-in-Council appointments as statutory office holders. In the periods reported prior to 2002, Governor-in-Council appointments were included as part of the remuneration of executives.

Income Band	Total Remuneration		Base Remuneration	
	2002	2001	2002	2001
\$100,000 - \$109,999	0	1	2	6
\$110,000 - \$119,999	1	4	0	3
\$120,000 - \$129,999	1	7	0	2
\$130,000 - \$139,999	0	2	0	0
\$140,000 - \$149,999	0	1	0	0
\$160,000 - \$169,999	0	1	0	0
\$170,000 - \$179,999	0	1	0	1
\$180,000 - \$189,999	0	5	0	5
\$210,000 - \$219,999	0	1	0	1
Total Numbers	2	23	2	18
Total Amount	\$234,211	\$3,285,655	\$211,283	\$2,507,819

Other Transactions of Responsible persons and their related entities

There are no related transactions between the Office and Responsible person related entities in 2001-02.

note 15 remuneration of auditors

Audit fees paid or payable to the Victorian Auditor-General's Office for audit of the Office's financial report:

	2002 \$'000	2001 \$'000
Paid as at 30 June	6	4
Payable as at 30 June	7	8
	13	12

Financials

note 16 commitments for expenditure

Capital commitments

There are no outstanding capital commitments as at 30 June 2002 (2001:\$nil)

Lease commitments

Operating leases

Commitments for minimum lease payments in relation to cancellable and non cancellable operating leases are payable as follows:

	2002 \$'000	2001 \$'000
Within one year	112	110
Later than one year but not later than 5 years	81	125
Later than 5 years	0	0
Commitments not recognised in the Financial Statements	<u>193</u>	<u>235</u>
Representing:		
Cancellable operating leases	56	45
Non-Cancellable operating leases	<u>137</u>	<u>190</u>
	<u>193</u>	<u>235</u>

Financials

note 17 employee entitlements

	2002	2001
	\$'000	\$'000
Employee entitlement liabilities		
Provision for employee entitlements		
Current	1,258	1,197
Non-current	2,833	2,363
Aggregate employee entitlement liability	4,091	3,560
Employee numbers		
Average number of employees during the financial year	211	205
As explained in notes 1(m)(ii) and (iii), the amounts for long service leave and superannuation are measured at their present values. The following assumptions were adopted in measuring present values:		
	2002	2001
(a) Long service leave		
Weighted average rates of increase in annual employee entitlements to settlement of the liabilities	6.90%	5.70%
Weighted average discount rates	5.66%	5.77%
Weighted average terms to settlement of liabilities	12 Years	12 Years

Financials

note 17 employee entitlements (cont.)

Government Employees' Superannuation Fund

No liability is recognised in the statement of financial position for the Office's share of the State's unfunded superannuation liability. The State's unfunded superannuation liability has been reflected in the financial statements of the Department of Treasury and Finance.

However, superannuation contributions for the reporting period are included as part of salaries and associated costs in the statement of financial performance of the Office.

The name and details of the major employee superannuation funds and contributions made by the Office are as follows:

Fund	Contribution for the Year	Contribution for the Year	Contribution outstanding at Year End	Contribution outstanding at Year End
	2002 \$	2001 \$	2002 \$	2001 \$
S.S.B - Revised Scheme	214,318	115,693	0	0
S.S.B - New Scheme	308,513	452,246	0	0
Vic. Super Scheme	340,778	253,870	0	0
Other private funds	51,763	23,339	0	0
Total contributions to all funds	915,372	845,148	0	0

The private superannuation funds include:

- Kayser Super
- Vic Bar Superannuation
- BC Superannuation Fund
- DENBEE Holdings
- UniSuper
- Retire Invest.
- Law Institute Superannuation Scheme

The bases for contributions are determined by the various schemes.

The requirements of the Superannuation Industry (Supervision) Act 1993 are fully complied with.

All employees of the Office are entitled to benefits on retirement, disability or death from the Government Employees' Superannuation Fund. This Fund provides defined lump sum benefits based on years of service and final average salary.

The above amounts were measured as at 30 June of each year, or in the case of employer contributions they relate to the years ended 30 June.

Financials

note 18

reconciliation of results from ordinary activities to net cash inflow from operating activities

	Notes	2002 \$'000	2001 \$'000
Results from ordinary activities		437	(79)
Depreciation and amortisation	4	157	260
Adjustments to fixed assets		0	1
Correction of Accum depn		0	16
Net gain on sale of non-current assets		(3)	(1)
Net transfers free of charge		0	(4)
Change in operating assets and liabilities, net of effects from restructuring		(1)	(26)
Decrease (increase) in receivables		(1)	(26)
Decrease (increase) in Amounts Due from Related Entities	7	(1,077)	203
Decrease (increase) in Prepayments		0	20
Increase (decrease) in trade creditors		131	(309)
Increase (decrease) in Provisions (LSL and AL)	10	531	62
(Decrease) in other operating liabilities		(56)	(5)
Increase (decrease) in accruals		34	55
Net cash inflow from operating activities		153	193

Financials

accountable officer's declaration

Office of Public Prosecutions**ACCOUNTABLE and CHIEF FINANCIAL OFFICER'S DECLARATION**

We certify that the attached financial statements for the Office of Public Prosecutions have been prepared in accordance with Part 9 of the Directions of the Minister for Finance under the Financial Management Act 1994, applicable Australian Accounting Standards and other mandatory professional reporting requirements.

We further state that, in our opinion, the information set out in the statement of financial performance, statement of financial position, statement of cash flows and notes to and forming part of the financial statements, presents fairly the financial transactions during the year ended 30 June 2002 and financial position of the Office as at 30 June 2002.

We are not aware of any circumstance which would render any particulars included in the financial statements to be misleading or inaccurate.



Paul Tobin
Chief Finance and Accounting Officer
Office of Public Prosecutions

Melbourne

26/09/2002



Kay Robertson
Solicitor for Public Prosecutions
Office of Public Prosecutions

Melbourne

26/09/2002

Reports

auditor general's report



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AUDITOR GENERAL
VICTORIA

26 September 2002

Contact: Margaret Salter Telephone: 8601 7007
File No: 35.01.04.09/3

Ms K. Robertson
Solicitor for Public Prosecutions
Office of Public Prosecutions
DX 21 02 90
Melbourne 3000

Dear Ms Robertson,

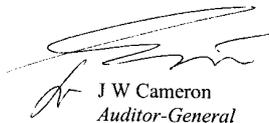
An unqualified audit opinion on the Office's financial report for the year ended 30 June 2002 was forwarded to you on 26 September 2002. That audit opinion was for inclusion in the Office's Annual Report to the Parliament.

Under relevant auditing guidelines issued by Australian Accounting Bodies, a separate audit opinion is required where an organisation presents its financial statements on its internet web site. This opinion incorporates an additional paragraph addressing audit issues relating to the electronic presentation of financial reports.

Accordingly, I now enclose a signed opinion on the Office's financial report for the year ended 30 June 2002 for inclusion on your web site.

Please contact Margaret Salter, Director, Financial Audit, if you have any queries concerning this matter.

Yours sincerely,



J W Cameron
Auditor-General

Financials

five year performance summary

	2002	2001	2000	1999	1998
	\$'000	\$'000	\$'000	\$'000	\$'000
Total Revenue	23,005	21,970	20,979	21,009	19,498
Net Result form Operating Activities	437	(79)	(399)	(436)	492
Net Cash Flow	153	193	131	(76)	(8)
Total Assets	5,176	2,553	2,829	2,615	1,855
Total Liabilities	5,010	4,370	4,549	4,094	3,789

Financials

compliance index

Compliance index to Disclosure Requirements 2000/2001

The Annual Report is prepared in accordance with the Financial Management Act 1994 and the Directions of the Minister for Finance.

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