



DPP  
COMMONWEALTH DIRECTOR  
OF PUBLIC PROSECUTIONS

97-98

---

ANNUAL REPORT 1997-1998

---



DPP

COMMONWEALTH DIRECTOR  
OF PUBLIC PROSECUTIONS

97-98

ANNUAL REPORT 1997-1998

© Commonwealth of Australia 1998

ISSN 1043-6420

This work is copyright. Apart from any use as permitted under the *Copyright Act 1968*, no part may be reproduced by any process without prior written permission from AusInfo. Requests and inquiries concerning reproduction and rights should be addressed to the Manager, Commonwealth Information Services, AusInfo, GPO Box 84, Canberra ACT 2601.



# DPP

Commonwealth Director of Public Prosecutions

Brian Martin QC

Your reference:

Our reference:

The Hon. Darryl Williams AM QC MP  
Attorney-General  
Parliament House  
CANBERRA ACT 2600

My dear Attorney,

I have the honour to submit my report on the operations of the Office of the Director of Public Prosecutions for the year ending 30 June 1998, in accordance with section 33(1) of the *Director of Public Prosecutions Act 1983*.

Yours faithfully,

BRIAN MARTIN QC  
Director  
1 September 1998



# Office of the Commonwealth Director of Public Prosecutions

## Head Office

Director: Brian Martin QC  
4 Marcus Clarke St, Canberra City ACT 2600  
Tel: 02 62065666, Facsimile: 02 62065684  
GPO Box 3104, CANBERRA ACT 2601

## Sydney Office

Deputy Director: Jim Jolliffe  
Level 35, Pacific Power Building, 201 Elizabeth St,  
SYDNEY NSW 2000  
Tel: 02 9321 1100, Facsimile: 02 9264 8241,  
Locked Bag A4020, SYDNEY SOUTH NSW 1235

## Melbourne Office

Deputy Director: Mark Pedley  
22nd Floor, 200 Queen St,  
MELBOURNE Vic 3000,  
Tel: 03 9605 4333, Facsimile: 03 9670 4295  
GPO Box 21A, MELBOURNE Vic 3001

## Brisbane Office

Deputy Director: Paul Evans  
19th Floor, MLC Court, 15 Adelaide St,  
BRISBANE Qld 4000  
Tel: 07 3224 9444, Facsimile: 07 3229 4124  
GPO Box 847, BRISBANE Qld 4001

## Townsville sub-Office

Assistant Director: Gary Davey  
3rd Floor, 188 Wills St,  
TOWNSVILLE Qld 4810  
Tel: 07 4772 7177, Facsimile: 07 4772 1358  
PO Box 1233 TOWNSVILLE Qld 4810

## **Perth Office**

Deputy Director: Ian Bermingham  
8th Floor, 66 St Georges Terrace, PERTH WA 6000  
Tel: 08 9264 7264, Facsimile: 08 9264 7266  
GPO Box B92, PERTH WA 6001

## **Adelaide Office**

Deputy Director Paul Foley  
11th Floor, Sun Alliance House, 45 Grenfell St,  
ADELAIDE SA 5000  
Tel: 08 8238 2600, Facsimile: 08 8231 8257  
GPO Box 2562, ADELAIDE SA 5001

## **Hobart Office**

Assistant Director: Julie Read  
8th Floor, 188 Collins St,  
HOBART Tas 7000  
Tel: 03 62205005, Facsimile: 03 62205425  
GPO Box 366D, HOBART Tas 7001

## **Australian Government Solicitors' Office: Darwin**

9th Floor, National Mutual Centre, 11 Cavenagh St,  
DARWIN NT 0800  
Tel: 08 89431444, Facsimile: 08 89431420  
GPO Box 4700, DARWIN NT 0801

# Contents

|                             | Page   |
|-----------------------------|--|
| <b>Compliance statement</b> | <b>ix</b>  |
| <b>Director's overview</b>  |  |
| <b>Chapter 1</b>            | <b>Office of the DPP</b>                               |
|                             | Senior Management Chart                                |
|                             | 5  |
| <b>Chapter 2</b>            | <b>Exercise of statutory powers</b>                    |
|                             | <b>7</b>   |
| <b>Chapter 3</b>            | <b>Corporate Prosecutions and General Prosecutions</b> |
|                             | <b>13</b>  |
| <b>Chapter 4</b>            | <b>Criminal Assets</b>                                 |
|                             | <b>25</b>  |
| <b>Chapter 5</b>            | <b>Practice management</b>                             |
|                             | <b>33</b>  |
| <b>Chapter 6</b>            | <b>Law reform and other issues</b>                     |
|                             | <b>39</b>  |
| <b>Chapter 7</b>            | <b>Significant cases</b>                               |
|                             | <b>43</b>  |
| <b>Chapter 8</b>            | <b>Resource management</b>                             |
|                             | Overview   |
|                             | 59   |
|                             | Human resources  |
|                             | 61   |
|                             | Financial management                                   |
|                             | 63   |
|                             | Other areas  |
|                             | 65   |
|                             | Resource management tables                             |
|                             | 69   |
| <b>Appendix 1</b>           | <b>Statement under the Freedom of Information Act</b>  |
|                             | <b>75</b>  |
| <b>Appendix 2</b>           | <b>Statement on Prosecution Disclosure</b>             |
|                             | <b>77</b>  |
| <b>Glossary</b>             | <b>86</b>  |
| <b>Compliance index</b>     | <b>87</b>  |
| <b>Financial statements</b> | <b>89</b>  |
| <b>Index</b>                | <b>133</b>   |





## Compliance statement

This report has been prepared for the purpose of section 33 of the *Director of Public Prosecutions Act 1983*.

Section 33(1) requires that the Director of Public Prosecutions shall, as soon as practicable after 30 June each year, prepare and furnish a report to the Attorney-General with regard to the operations of the Office during the year. Section 33(2) provides that the Attorney-General shall cause a copy of the report to be laid before each House of the Parliament within 15 sitting days of receipt.

The Report has been prepared in accordance with the *Requirements for Departmental Annual Reports*.

As aids to access, the report includes a table of contents, a glossary, an alphabetical index and a compliance index showing where each item that is required under the guidelines, and which is applicable to the DPP, can be found.

Anyone interested in knowing more about the DPP should have regard to the following documents:

- *Prosecution Policy of the Commonwealth*;
- *DPP Corporate Plan*;
- *DPP Information Booklet*;
- *Guidelines for Dealings between Commonwealth Investigators and the Commonwealth Director of Public Prosecutions*; and
- *Program Performance Statement for the Attorney-General's Portfolio*.

The DPP has a homepage on the Internet which can be accessed at [www.nla.gov.au/dpp/dpphp.html](http://www.nla.gov.au/dpp/dpphp.html).

The DPP has also produced an information video entitled *Prosecuting in the Public Interest*, which outlines the work of the office. Copies of the documents or the video can be obtained by writing to the DPP at any of the addresses that appear at the start of this Report.



## Director's overview

My second report of the Office of the Commonwealth Director of Public Prosecutions comes at the end of a challenging year in which the staff have demonstrated a high level of competence and the capacity to deal with a range of diverse and difficult legal and managerial problems. I thank all staff for their conscientious efforts which have ensured the continued efficient operation of the Office in accordance with the high standards expected of us.

A number of developments have occurred during the past year and none is more pleasing than the opening of our office in Hobart. Prosecution and Criminal Assets work in Tasmania had previously been performed on behalf of the DPP by the Australian Government Solicitor. I thank the AGS for their excellent service over the years.

The DPP is a national practice and it is important that it have a presence in all States and Territories. I look forward to providing the best possible service to the investigating agencies and the courts in Tasmania. In the current year we anticipate taking the final step to completing our national cover by opening an office in Darwin.

The mention of Hobart and Darwin highlights the size of the area covered by this Office and the diversity of cultures and practices that are encountered by our officers in the course of their work. The Townsville Office carries the responsibility of prosecutions from the Great Barrier Reef to Thursday Island, while across the country in Perth a similarly vast area is covered including Christmas and Cocos (Keeling) Islands. It is not a simple task to cater for the diversity created by such distances and to achieve a consistent practice throughout Australia.

Consistency in practices is one of the objectives we hope to promote with the completion this year of a policy on the disclosure of material available to the prosecution in criminal



*Brian Martin QC*  
*Commonwealth Department of Public Prosecutions*

cases. A copy of the policy appears as an Appendix to this Report. I thank the AFP, NCA and other investigative agencies for their assistance in this project.

Prosecutors are sometimes referred to as "ministers of justice" and it is essential that they strive to ensure that every accused person receives a fair trial. This policy is directed at one feature of that Crown obligation and is designed to ensure that all relevant material is made known to a person charged with a criminal offence as soon as is reasonably possible. We have endeavoured to strike a balance between that aim and the need to protect the interests of witnesses and victims as well as protecting confidential details that the public interest requires should not be disclosed such as the identity of informers and confidential details of police methodology. The operation of the guidelines will be kept under constant review.

The guidelines are also designed to assist investigative agencies in meeting their responsibility to make full disclosure of all relevant material to the DPP. Events in this country and overseas in our recent history have resulted in a mood of distrust in some sections of the legal profession which remain sceptical that investigative agencies will honour their obligations to the full extent. I am confident that the existence of the new Commonwealth guidelines together with those issued by State Directors will assist in overcoming this distrust and will promote better relationships between investigative agencies and the legal profession.

In conjunction with clear guidelines for early and complete prosecution disclosure, however, there is an urgent need for an improvement in disclosure by the defence. Improved defence disclosure is required to assist juries in identifying the issues and understanding the evidence and in order to improve the efficiency of our criminal justice system. The legal profession, legal aid bodies and Directors of Public Prosecutions across Australia are actively working together in order to achieve early and effective reform. Considerable consensus on the direction of reform was achieved at a conference in Brisbane early in July 1998. While there are differences as to the extent of the reforms required, the recognition of the need for reform and the progress made to date suggests that considerable improvement can be achieved in the near future.

I reported last year that the Office is conscious of its responsibility to conduct an efficient operation and, with this need in mind, the Best Practice Review Committee had been brought into operation. The results of its work in Sydney are encouraging and it is currently close to completing a review in Brisbane. It is an unenviable task and I thank the members of this Committee for their considerable efforts. I also thank the staff in both Sydney and Brisbane for their cooperation and assistance.

Our work in this direction continued during the year with the introduction of a Practice Management Unit, based in Head Office. This group has the task of overseeing practices and procedures across the Office and is involved in implementing the recommendations of the Best Practice Review Committee.

The Practice Management Unit was responsible for overseeing the conduct of our first client survey. It is important that this Office understands and appreciates the needs of the investigating agencies as well as receiving information from those agencies as to their perceptions of the DPP. While it is important that the DPP remain independent and impartial, we work closely with other agencies. Their views as to the efficiency and other aspects of our practice are important. I am pleased to report that the outcome of the survey was generally positive. Some areas requiring improvement were identified and we will be addressing the problems in those areas in the immediate future.

I thank the officers of those agencies who assisted in that survey and the heads of the various agencies, particularly those represented on HOCOLEA, for their continued cooperation. Effective law enforcement requires a coordinated approach. This Office maintains good and effective relations with all Commonwealth agencies involved in law enforcement as well as with the State and Territory Directors.

In addition to confronting the continual challenges on the legal front, the Office ventured into unfamiliar administrative territory to negotiate a Work Place Agreement with the Commonwealth Public Sector Union and non-SES staff. It was a major challenge and I thank the staff for their cooperation. The Agreement has been signed and has been certified by the Australian Industrial Relations Commission. It will apply until the year 2000. I express my particular gratitude to the DPP working group whose long hours of work have produced a successful result.

The new Agreement provides for a modest wage increase which will place extra strain on our financial resources. Like many Government bodies, this Office has reduced its workforce and sought to improve the efficiency of its operations in order to meet shrinking budgetary allocations over a number of years. There is, however, a limit to the reductions that can be absorbed and to efficiencies available to offset those reductions. If recent Government initiatives in the area of law enforcement result in an influx of prosecutions, this Office will require further assistance in order to maintain its competent and efficient service.

Finally, I thank the Attorney-General, the Honourable Daryl Williams AM QC MP for his continued interest and support and his ongoing commitment to the proper functioning of this Office. That gratitude extends to his personal staff and the officers of his Department with whom we have an excellent relationship and whose assistance is greatly appreciated.

The optimism I expressed at the conclusion of last year's report was well founded. That optimism remains and I look forward to a year in which we continue to develop and improve our service to the Australian community.

Brian Martin QC



– CHAPTER 1 –

## Office of the DPP

### Establishment

The DPP was established under the *Director of Public Prosecutions Act 1983* and began operations in 1984. The Office is headed by a Director, who is appointed for a statutory term of up to seven years.

The current Director, Brian Martin QC, was appointed from the South Australian Bar for five years commencing on 10 March 1997. There is provision under section 18 of the DPP Act for the Director to be appointed subject to terms and conditions. No terms or conditions were specified in the case of the present Director.

The DPP is within the portfolio of the Commonwealth Attorney-General, but the Office operates independently of the political process. Under section 8 of the DPP Act the Attorney-General has power to issue guidelines and directions to the DPP. That can only be done after there has been consultation between the Attorney-General and the Director. In addition, any direction or guideline must be in writing and a copy must be published in the *Gazette* and laid before each House of Parliament within 15 sitting days.

There were no directions under section 8 during 1997-98.

### Corporate plan

The DPP revised its Corporate Plan in 1996-97. The current Plan covers the period 1997 to 2000.

The DPP's vision is to provide a prosecution service to the Commonwealth and the people of Australia which is fair, independent, accountable, effective and efficient in order to advance social justice by deterring and discouraging breaches of Commonwealth law and ensuring that serious offenders are brought to justice.

### Social justice and equity

The DPP advances social justice and equity by enforcing the criminal law for the benefit of all members of the community and by ensuring that all alleged offenders are treated equally.



## Role

The primary role of the DPP is to prosecute offences against Commonwealth law, including the Corporations Law, and to recover the proceeds of Commonwealth crime.

The majority of Commonwealth prosecutions, other than the occasional private prosecution, are conducted by the DPP. The remaining cases consist mainly of high-volume matters which, for reasons of convenience, are conducted by other agencies under arrangement with the DPP. State authorities also conduct some Commonwealth prosecutions, again for reasons of convenience. The DPP is also responsible for the conduct of prosecutions for offences against the laws of Jervis Bay and Australia's external territories, other than Norfolk Island.

The DPP is not an investigative agency. It can only prosecute when there has been an investigation by the Australian Federal Police or another investigative agency. However, the DPP regularly provides advice and other assistance during the investigative stage, particularly in large and complex matters. The Commonwealth's main investigative agencies are the AFP, the National Crime Authority and the Australian Securities and Investments Commission. However, many other agencies have an investigative role and the DPP receives briefs of evidence from, and provides legal advice to, a wide range of different agencies.

## Prosecution policy

Decisions made in the prosecution process are regulated by guidelines set out in the *Prosecution Policy of the Commonwealth*. That document has been tabled in Parliament and is available from any DPP office listed at the front of this report.

The threshold issue in any criminal case is whether charges should be laid, or continued, against the alleged offender. In general terms, there is a two stage test that must be satisfied:

- there must be sufficient evidence to prosecute the case (which requires not just that there be a prima facie case but that there also be reasonable prospects of conviction); and
- it must be clear from the facts of the case, and all the surrounding circumstances, that prosecution would be in the public interest.

It is not the DPP's role to decide whether a person has committed a criminal offence or to press for conviction at all costs. The prosecutor's role is to present all relevant admissible evidence to the jury, or other tribunal of fact, so that it can determine, after considering any additional evidence that may be presented by the defence, whether it is satisfied beyond reasonable doubt that the defendant is guilty as charged.

Other topics addressed in the Prosecution Policy include:

- indemnities;
- mode of trial;
- charge bargaining;
- declining to proceed after committal;
- ex-officio indictments; and
- prosecution appeals.

## Functions and powers

The DPP is created by statute and has the functions and powers which are given to the Director by legislation. Those functions and powers are found in sections 6 and 9 of the DPP Act and in specific legislation like the *Proceeds of Crime Act 1987*.

The main functions of the Director have already been discussed. The Director also has a number of miscellaneous functions including:

- to prosecute indictable offences against State law where, with the consent of the Attorney-General, he holds an authority to do so under the laws of that State;
- to conduct committal proceedings and summary prosecutions for offences against State law where a Commonwealth officer is the informant;
- to assist coroners in inquests and inquiries under Commonwealth law;
- to appear in extradition proceedings and proceedings under the *Mutual Assistance in Criminal Matters Act 1987*; and
- to apply for superannuation forfeiture orders under Commonwealth law.

The Director also has the function under section 6(1)(g) of the DPP Act to recover pecuniary penalties in matters specified in an instrument signed by the Attorney-General. To date there has only been one instrument signed under section 6(1)(g) which has general application. That instrument was signed on 3 July 1985 and, among other things, it ensures that the DPP has power to conduct all prosecutions under taxation laws.

The DPP does not normally conduct prosecutions under the *Customs Act 1901*, except in the case of narcotics offences. The responsibility for prosecuting non-narcotic matters, which are enforceable by quasi-criminal proceedings, rests with the Australian Government Solicitor.

## Organisation

The DPP has a Head Office in Canberra and regional offices in Sydney, Melbourne, Brisbane, Perth, Adelaide and Hobart. There is also a sub-office of the Brisbane Office in Townsville.

At present the DPP has no office in the Northern Territory. Commonwealth prosecutions and related civil proceedings in the Northern Territory are conducted on behalf of the DPP by the Australian Government Solicitor pursuant to an arrangement under section 32 of the DPP Act.

Head Office provides policy and legal advice to the Director, coordinates activities across Australia, liaises at national level with other agencies and provides administrative support to the Director. Head Office is also responsible for conducting prosecutions for Commonwealth offences in the ACT and for related criminal assets proceedings.

The DPP regional offices are responsible for conducting prosecutions and civil recovery action in the relevant region.

## Senior Management Chart

(as at 30 June 1998)





- CHAPTER 2 -

## **Exercise of statutory powers**

### **No bill applications**

The Director has power under section 9(4) of the DPP Act to decline to proceed in the prosecution of a person who has been committed for trial by a magistrate.

This power has only been partially delegated. Senior officers in the regional offices have power to reject a no bill application made at the court door if it clearly lacks merit. In any other case a no bill application received from a defendant, and any proposal by a regional office not to file an indictment, must be referred for decision by the Director or the First Deputy Director.

In the past year there were 52 no bill applications received from defendants or their representatives. Of these, 20 were granted and 32 refused. A further 23 prosecutions were discontinued on the basis of a recommendation from a regional office without prior representations from the defendant. The total number of cases discontinued was 43. A breakdown of these statistics appears in Table 1 at the end of this chapter.

Of the matters discontinued, the sufficiency of evidence was the main factor in 27 cases. A breakdown of these statistics appears in Table 2 at the end of this chapter.

### **Appeals**

The Director has the power to appeal against an inadequate sentence, to seek review of a ruling by a magistrate on a point of law, and to appeal against a grant of bail.

The Office only appeals in cases where there is a clear public interest in seeking review of a decision. All proposed appeals must be referred for decision by the Director or the First Deputy Director unless the appeal period is about to expire, in which case a Deputy Director may file appeal papers and seek retrospective approval.

Statistics on the number of appeals lodged by the DPP during the year appear in Table 3 at the end of this chapter. Statistics on the outcome of appeals by the DPP in cases decided during 1997-98 are set out in the Prosecution Tables that appear later in this Report.

## Indemnities

Section 9(6) of the DPP Act empowers the Director to give an undertaking to a potential witness in Commonwealth proceedings that any evidence the person may give, and anything derived from that evidence, will not be used in evidence against the person other than in proceedings for perjury.

Section 9(6B) enables the Director to give a similar undertaking to a potential witness in State proceedings where there is a risk of the witness disclosing the commission of offences against Commonwealth law.

Section 9(6D) empowers the Director to give an undertaking to a person that they will not be prosecuted under Commonwealth law in respect of a specified offence or specified conduct.

In some cases the only way of proceeding against serious offenders is to call evidence from lesser participants in the criminal scheme. It is desirable that lesser offenders be prosecuted before they are called as witnesses. However, that is not always possible.

In the past year the Director or First Deputy Director signed a total of 34 undertakings under sections 9(6), 9(6B) and 9(6D) in 24 matters. In some cases, indemnities were given to more than one witness. A breakdown of these figures appears in Table 4 at the end of this chapter.

The Director also has power under section 30(5) of the *National Crime Authority Act 1984* to give an undertaking to a person who has been summonsed to appear before the NCA that any evidence they may give, and anything derived from that evidence, will not be used in a prosecution for an offence against Commonwealth law, other than perjury. The Director signed three undertakings under that Act in the past year.

## Taking matters over

Under section 9(5) of the DPP Act the Director has power to take over a prosecution for a Commonwealth offence that has been instituted by another person and either carry it on or bring it to an end. This power was not exercised during 1997-98.

## Ex-officio indictments

The Director has power under section 6(2D) of the DPP Act to file an indictment against a person for charges in respect of which they have not been committed for trial. The Director exercised the power eight times in 1997-98. Details are at Table 5 at the end of this chapter.

## **Consent to conspiracy proceedings**

Under provisions of the Crimes Act which came into force in 1995, conspiracy proceedings must not be commenced without the consent of the Director. In 1997-98 the Director gave consent in relation to 74 defendants who were being prosecuted in respect of 28 alleged conspiracies. A breakdown of these statistics appears in Table 6 at the end of this chapter.

## **Corporate prosecutions more than five years after offence**

In accordance with the government's response to the Report of the Parliamentary Joint Committee on Corporations and Securities, the DPP is required to report on the number of cases referred to the DPP by the ASIC where proceedings are commenced more than five years after the alleged offence.

In 1997-98 three prosecutions were instituted for alleged offences which were more than five years old.

In Tasmania one defendant was charged with nine counts of stealing alleged to have occurred more than five years before the charges were laid. The ASIC did not receive a complaint in relation to the matter until August 1997, shortly after the company that was affected by the alleged offences discovered that they had occurred. Charges were laid in September 1997.

In Victoria two defendants in unrelated matters were charged under the Victorian *Crimes Act 1958* with offences which were more than five years old. In both matters the charges related to ongoing conduct, part of which occurred more than five years before the charges were laid. The ASIC commenced investigating both matters in late 1996.



## Tables

**Table 1: No bill matters in 1997-98**

|                                  |    |
|----------------------------------|----|
| Applications by defence: Granted | 20 |
| Applications by defence: Refused | 32 |
| Action by DPP                    | 23 |
| Total discontinued               | 43 |

**Table 2: Reasons for discontinuing prior to trial in 1997-98**

|                         |    |
|-------------------------|----|
| Evidentiary reasons     | 27 |
| Public interest reasons | 14 |
| Both                    | 2  |
| Total                   | 43 |

**Table 3: DPP appeals against sentence in 1997-98**

|              |    |
|--------------|----|
| Drugs        | 14 |
| Fraud        | 15 |
| Corporations | 2  |
| Other        | 49 |
| Total        | 80 |

**Table 4: Indemnities in 1997-98**

|                         |    |
|-------------------------|----|
| Sections 9(6) and 9(6D) | 33 |
| Section 9(6B)           | 1  |
| NCA Act                 | 3  |
| Total indemnities       | 37 |
| No of matters           | 27 |

**Table 5: Ex officio indictments in 1997-98**

|       |   |
|-------|---|
| Drugs | 3 |
| Fraud | 4 |
| Other | 1 |
| Total | 8 |

**Table 6: Defendants prosecuted where Director consented to conspiracy proceedings in 1997-98**

|                    |    |
|--------------------|----|
| Drugs              | 44 |
| Fraud              | 18 |
| Other              | 12 |
| Total defendants   | 74 |
| No of conspiracies | 28 |



- CHAPTER 3 -

## **Corporate Prosecutions and General Prosecutions**

### **Corporate prosecutions**

The DPP has been responsible for prosecuting offences against the Corporations Law and the old Cooperative Scheme laws since 1991. The cases are handled by lawyers working in specialist Corporate Prosecutions branches.

The responsibility for investigating breaches of the corporations laws rests with the Australian Securities and Investments Commission. The ASIC prosecutes minor regulatory matters itself but when an investigation discloses the commission of a serious criminal offence, the ASIC refers the matter to the DPP for prosecution.

The ASIC and DPP have settled guidelines for the investigation and prosecution of corporate crime. Among other things, the guidelines set out the DPP's role at the investigation stage. The DPP provides early advice to the ASIC in the investigation of suspected offences. This is particularly important in corporate fraud cases where investigations can be long and resource intensive. Early involvement by the DPP can help to direct the investigation to areas that are most likely to result in prosecution. There is regular liaison between the ASIC and the DPP at head of agency, management and operational levels.

In the course of the year the Corporate Prosecutions branches took on responsibility for conducting all large fraud prosecutions where there is a corporate element and for conducting prosecutions under the *Trade Practices Act 1974*. Prosecutions in both of those areas tend to raise the same logistic problems as corporate prosecutions, and often raise similar legal and evidential issues.

### **General prosecutions**

The General Prosecutions branches conduct all DPP prosecutions other than those for corporate offences. They also handle extradition proceedings and court work arising from mutual assistance requests by foreign countries, although officers from other branches also do work in those areas.

The conduct of litigation is the most obvious part of the work of the General Prosecutions branches. However, there is also work involved in preparing cases for hearing, providing advice and other assistance to investigators, drafting charges, and settling applications for search warrants, listening devices and telephone intercepts. DPP officers are also involved in training investigators. The DPP does not normally run training courses, but it participates in courses run by other agencies addressing topics within its area of expertise.

In extradition matters the DPP conducts litigation in Australia when a foreign country has sought the return of a person found in Australia. The DPP does so acting on instructions from the foreign country transmitted through the Attorney-General's Department. There were 13 such cases in 1997-98. In the same period, Australia sought extradition from a foreign country in eight Commonwealth cases.

The Commonwealth does not have its own criminal courts. The DPP prosecutes mainly in State and Territory courts, which are vested with jurisdiction to deal with Commonwealth matters under section 68 of the *Judiciary Act 1903*. The result is that DPP prosecutors operate under different procedures, and sometimes different rules of evidence, in each jurisdiction.

The majority of court work is conducted in-house by DPP lawyers or in-house counsel. However, the DPP briefs counsel from the private Bar if the case requires expertise or resources which are not available in-house. The DPP also often briefs local solicitors or police prosecutors to represent it on mentions and pleas of guilty in matters dealt with in country areas.

## **Tax and Centrelink units**

For some time now the DPP has had a specialist Tax prosecutions unit in each of the Sydney and Melbourne offices. That has proved to be an effective way of handling tax cases. It has allowed the DPP to develop expertise in the area and to coordinate the work involved in prosecuting cases and providing advice to investigators. In particular, it gives the investigators a single point of contact with the DPP and a single source of advice.

In the course of the year the DPP set up a Centrelink prosecutions unit in both Sydney and Melbourne. That initiative builds upon the experience acquired in operating the Tax units. The Centrelink units operate in the same way as the Tax units and have the same purpose.

## Prosecution tables

**Table 1: Outcomes of prosecution action in 1997-98**

|  |       |
|--|-------|
| No of defendants convicted after summary proceedings       | 4 341 |
| No of defendants convicted after prosecution on indictment | 402   |
| No of defendants committed for trial                       | 513   |
| No of discharges after committal                           | 13    |
| Total acquittals   | 165   |

**Table 2: Summary prosecutions in 1997-98: outcomes**

|   |       |
|---|-------|
| Defendants convicted after a plea of guilty     | 4 102 |
| Defendants convicted after a plea of not guilty | 239   |
| Total defendants convicted                      | 4 341 |
| Defendants acquitted after a plea of not guilty | 115   |
| Total   | 4 456 |

**Table 3: Summary prosecutions in 1997-98: summary**

|  |       |
|--|-------|
| Defendants with charges outstanding at 1 July 1997   | 1 712 |
| Defendants with warrants outstanding at 1 July 1997  | 158   |
| Defendants prosecuted during year                    | 4 456 |
| Defendants dealt with some other way                 | 328   |
| Defendants added during year                         | 5 156 |
| Defendants with charges outstanding at 30 June 1998  | 1 925 |
| Defendants with warrants outstanding at 30 June 1998 | 143   |

**Table 4: Committal proceedings in 1997-98: outcomes**

|  |     |
|--|-----|
| Defendants committed after a plea of guilty      | 136 |
| Defendants committed after a plea of not guilty  | 377 |
| Total defendants committed                       | 513 |
| Defendants discharged after a plea of not guilty | 13  |
| Total  | 526 |

**Table 5: Committal proceedings in 1997-98: summary**

|  |     |
|--|-----|
| Defendants awaiting committal at 1 July 1997         | 305 |
| Defendants with warrants outstanding at 1 July 1997  | 1   |
| Defendants committed or discharged during year       | 526 |
| Defendants dealt with some other way                 | 11  |
| Defendants added during year                         | 465 |
| Defendants awaiting committal at 30 June 1998        | 222 |
| Defendants with warrants outstanding at 30 June 1998 | 3   |

**Table 6: Prosecutions on indictment in 1997-98: outcomes**

|   |     |
|---|-----|
| Defendants convicted after a plea of guilty     | 314 |
| Defendants convicted after a plea of not guilty | 88  |
| Total defendants convicted                      | 402 |
| Defendants acquitted after a plea of not guilty | 50  |
| Total   | 452 |

**Table 7: Prosecutions on indictment in 1997-98: summary**

|   |     |
|---|-----|
| Defendants awaiting trial on indictment or sentence at 1 July 1997  | 394 |
| Defendants with warrants outstanding at 1 July 1997                 | 3   |
| Defendants prosecuted during year                                   | 452 |
| Defendants dealt with some other way                                | 67  |
| Defendants added during year  | 583 |
| Defendants awaiting trial on indictment or sentence at 30 June 1998 | 453 |
| Defendants with warrants outstanding at 30 June 1998                | 6   |

**Table 8: Prosecutions on indictment in 1997-98: duration of trials**

|              |     |
|--------------|-----|
| 1 – 5 days   | 50  |
| 6 – 10 days  | 33  |
| 11 – 15 days | 17  |
| 16 – 20 days | 5   |
| 21 – 25 days | 6   |
| 26 – 30 days | 3   |
| Over 30 days | 7   |
| Total trials | 121 |

**Table 9: Appeals: prosecution appeals against sentence in summary matters in 1997-98**

|                             |      |
|-----------------------------|------|
| Number of appeals upheld    | 14   |
| Number of appeals dismissed | 3    |
| Total number of appeals     | 17   |
| % of appeals upheld         | 82.4 |

**Table 10: Appeals: prosecution appeals against sentence in indictable matters in 1997-98**

|                             |      |
|-----------------------------|------|
| Number of appeals upheld    | 12   |
| Number of appeals dismissed | 9    |
| Total number of appeals     | 21   |
| % of appeals upheld         | 57.1 |

**Table 11: Appeals: defence appeals in summary matters in 1997-98**

|   |     |
|---|-----|
| Number of appeals against sentence upheld                 | 40  |
| Number of appeals against sentence dismissed              | 116 |
| Number of appeals against conviction upheld               | 7   |
| Number of appeals against conviction dismissed            | 21  |
| Number of appeals against conviction & sentence upheld    | 5   |
| Number of appeals against conviction & sentence dismissed | 19  |
| Total number of appeals                                   | 208 |



**Table 12: Appeals: defence appeals in indictable matters in 1997-98**

|   |    |
|---|----|
| Number of appeals against sentence upheld                 | 18 |
| Number of appeals against sentence dismissed              | 31 |
| Number of appeals against conviction upheld               | 4  |
| Number of appeals against conviction dismissed            | 10 |
| Number of appeals against conviction & sentence upheld    | 3  |
| Number of appeals against conviction & sentence dismissed | 13 |
| Total number of appeals                                   | 79 |

**Table 13: Legislation: defendants dealt with summarily in 1997-98**

|   |     |
|---|-----|
| Australian Citizenship Act                    | 2   |
| Australian Federal Police Act                 | 7   |
| Bankruptcy Act                                | 20  |
| Census and Statistics Act                     | 32  |
| Child Support (Registration & Collection) Act | 8   |
| Childcare Rebate Act                          | 9   |
| Civil Aviation Act & Regulations              | 46  |
| Commonwealth Electoral Act                    | 9   |
| Companies Code                                | 3   |
| Copyright Act                                 | 4   |
| Corporations Law                              | 39  |
| Crimes (Aviation) Act                         | 16  |
| Crimes (Currency) Act                         | 14  |
| Crimes Act                                    | 572 |
| Criminal Code                                 | 3   |
| Customs Act                                   | 75  |
| Export Control Act                            | 12  |
| Export Market Development Grants              | 6   |
| Export Meat Orders                            | 10  |
| Family Law Act                                | 3   |
| Federal Airports Corporation Act              | 4   |
| Financial Transaction Reports Act             | 95  |
| Fisheries Management Act                      | 341 |

|   |              |
|---|--------------|
| Great Barrier Reef Marine Park Act & Regulations          | 95           |
| Health Administration Act                                 | 13           |
| Health Insurance Act                                      | 30           |
| Marriage Act  | 2            |
| Migration Act   | 71           |
| National Crime Authority Act                              | 2            |
| National Health Act                                       | 9            |
| National Parks & Wildlife Act & Regulations               | 8            |
| Other non-Commonwealth legislation                        | 71           |
| Passports Act   | 13           |
| Primary Industries Levy Collection                        | 4            |
| Protection of Sea (Prevention of Pollution) Act           | 2            |
| Public Order (Protection of Persons & Property) Act       | 29           |
| Quarantine Act  | 10           |
| Radiocommunications Act                                   | 3            |
| Social Security Act                                       | 2 832        |
| State drug legislation                                    | 30           |
| Statutory Declarations Act                                | 2            |
| Student Assistance Act                                    | 72           |
| Taxation legislation                                      | 223          |
| Telecommunications Act                                    | 5            |
| Therapeutic Goods Act                                     | 7            |
| Trade Marks Act   | 3            |
| Trade Practices Act                                       | 5            |
| Veterans Entitlements Act                                 | 15           |
| Wildlife Protection (Regulation of Exports & Imports) Act | 7            |
| Other   | 50           |
| <b>Total</b>  | <b>4 943</b> |

---

**Table 14: Legislation: defendants dealt with on indictment in 1997-98**

|   |     |
|---|-----|
| Bankruptcy Act  | 5   |
| Companies Code  | 6   |
| Corporations Law  | 19  |
| Crimes Act  | 189 |
| Crimes (Currency) Act                                     | 7   |
| Criminal Code   | 2   |
| Customs Act   | 209 |
| Financial Transaction Reports Act                         | 5   |
| Health Insurance Act                                      | 5   |
| Migration Act   | 10  |
| Navigation Act  | 2   |
| Non-Commonwealth legislation                              | 17  |
| Passports Act   | 3   |
| Quarantine Act  | 2   |
| Social Security Act                                       | 6   |
| State drug legislation                                    | 26  |
| Wildlife Protection (Regulation of Exports & Imports) Act | 2   |
| Other   | 9   |
| Total   | 524 |

**Table 15: Crimes Act: defendants dealt with summarily in 1997-98**

|  |     |
|--|-----|
| Breach of recognisance (ss. 20A, 20AC) | 3   |
| Damage property (s.29)                 | 14  |
| False pretences (s.29A)                | 3   |
| Imposition (s.29B)                     | 123 |
| False statements (s.29C)               | 6   |
| Fraud (s.29D)                          | 38  |
| Administration of justice (ss.32-50)   | 8   |
| Forgery etc (ss.65-69)                 | 36  |
| Stealing or receiving (s.71)           | 60  |
| Falsification of books (s.72)          | 5   |
| Personating public officers (s. 75)    | 6   |

|  |            |
|--|------------|
| Resisting public officers (s. 76)              | 7          |
| Computer offences (ss. 76A - 76E)              | 30         |
| Espionage and official secrets (ss. 77 – 85D)  | 3          |
| Postal offences (ss. 85E - 85ZA)               | 36         |
| Telecommunications offences (ss. 85ZB - 85ZKB) | 160        |
| Trespass on Commonwealth land (s.89)           | 31         |
| Other  | 3          |
| <b>Total</b>                                   | <b>572</b> |

**Table 16: Crimes Act: defendants dealt with on indictment in 1997-98**

|   |            |
|---|------------|
| False pretences (s.29A)                       | 4          |
| Imposition (s.29B)                            | 57         |
| Fraud (s.29D)                                 | 89         |
| Offences relating to justice (ss.32-50)       | 9          |
| Forgery etc (ss.65-69)                        | 4          |
| Disclosure by Commonwealth officer (s.70)     | 1          |
| Stealing or receiving (s.71)                  | 7          |
| Falsification of books, records (s.72)        | 3          |
| Computer offences (ss.76B - 76E)              | 5          |
| Espionage and official secrets (ss. 77 – 85D) | 2          |
| Postal offences (ss.85E – 85ZA)               | 2          |
| Conspiracy (s.86)                             | 6          |
| <b>Total</b>                                  | <b>189</b> |

**Table 17: Referring agencies: defendants dealt with summarily in 1997-98**

|  |     |
|--|-----|
| Australian Bureau of Statistics                | 22  |
| Australian Competition and Consumer Commission | 5   |
| Australian Customs Service                     | 21  |
| Australian Electoral Commission                | 8   |
| Australian Federal Police                      | 523 |
| Australian Fisheries Management Authority      | 135 |
| Australian Horticultural Corporation           | 1   |
| Australian Maritime Safety Authority           | 2   |

|   |              |
|---|--------------|
| Australian Postal Corporation                             | 72           |
| Australian Protective Service                             | 11           |
| Australian Quarantine and Inspection Service              | 21           |
| Australian Securities and Investments Commission          | 50           |
| Australian Taxation Office                                | 249          |
| Australian Telecommunications Authority                   | 2            |
| Australian Wine and Brandy Corporation                    | 1            |
| Centrelink  | 3 001        |
| Civil Aviation Safety Authority                           | 35           |
| Comcare Australia   | 3            |
| Dept of Administrative Services                           | 1            |
| Dept of Defence   | 2            |
| Dept of Employment Education Training and Youth Affairs   | 9            |
| Dept of Environment                                       | 79           |
| Dept of Finance   | 1            |
| Dept of Fisheries (WA state)                              | 190          |
| Dept of Health and Family Services                        | 2            |
| Dept of Immigration and Multicultural Affairs             | 44           |
| Dept of Primary Industries & Energy                       | 19           |
| Dept of Transport and Communications                      | 1            |
| Dept of Treasury  | 1            |
| Dept of Veterans Affairs                                  | 20           |
| Federal Airports Corporation                              | 3            |
| Health Insurance Commission                               | 64           |
| Insolvency Trustee Services Australia                     | 2            |
| Insurance and Superannuation Commission                   | 1            |
| National Crime Authority                                  | 11           |
| National Registration Authority (Agric and Vet Chemicals) | 1            |
| Non-Commonwealth agencies (other than State police)       | 31           |
| Royal Commission of Inquiry                               | 1            |
| Spectrum Management Agency                                | 1            |
| State police  | 291          |
| Therapeutic Goods Administration                          | 6            |
| <b>Total</b>  | <b>4 943</b> |

---

**Table 18: Referring agencies: defendants dealt with on indictment in 1997-98**

|   |            |
|---|------------|
| Australian Customs Service                            | 7          |
| Australian Federal Police                             | 358        |
| Australian Postal Corporation                         | 6          |
| Australian Securities and Investments Commission      | 43         |
| Australian Taxation Office                            | 7          |
| Centrelink  | 51         |
| Civil Aviation Safety Authority                       | 1          |
| Dept of Defence                                       | 4          |
| Dept of Employment Education Training & Youth Affairs | 1          |
| Dept of Immigration and Multicultural Affairs         | 2          |
| Dept of Primary Industries & Energy                   | 1          |
| Dept of Veterans Affairs                              | 3          |
| Health Insurance Commission                           | 6          |
| National Crime Authority                              | 18         |
| Non-Commonwealth agencies (other than State police)   | 2          |
| State police  | 14         |
| <b>Total</b>  | <b>524</b> |



- CHAPTER 4 -

## **Criminal Assets**

### **Practice**

The recovery of criminal assets forms an important adjunct to the prosecution work of the DPP. The work is performed, in the main, by Criminal Assets branches which have lawyers who specialise in assets work and which include, or have access to, the services of financial analysts.

The work is designed to ensure that offenders are not only prosecuted for their crimes but are also stripped of the profits they have made. The work generally returns more than it costs but the primary purpose is to punish and deter offenders, not to return a profit. There is as much need in this area as in prosecutions to ensure that alleged offenders are treated fairly and consistently. There is also a need to ensure that recovery action is coordinated with the related prosecution.

The DPP's effectiveness depends on support from the Australian Federal Police, the National Crime Authority and the other agencies which do the investigative work. The DPP also works closely with the Insolvency and Trustee Service Australia which is responsible for securing, managing and realising property under the PoC Act.

The total amount recovered under the criminal assets initiative for 1997-98 was \$7 048 592. As at 30 June 1998, the total value of property that was subject to restraining orders was \$27 million.

### **Policy**

The DPP does not take recovery action in every case where a person has obtained money as a result of committing a Commonwealth offence. In some cases, there is nothing the DPP can usefully add to normal debt recovery processes. In other cases there is no money available to recover.

The factors that the DPP looks at in deciding whether to take recovery action include whether there is a basis for recovery if the DPP does not get involved, the size of the debt, whether the offender holds assets offshore or in a false name, whether the alleged offender appears likely to resist recovery action and whether there is a need to coordinate the recovery and prosecution actions.

The DPP has three main avenues open to pursue the proceeds of Commonwealth crime. They are:



• **Proceeds of Crime Act**

The PoC Act provides a scheme to trace, freeze and confiscate criminal assets. The Act is conviction based, which means that no final orders can be made unless a person has been convicted of an indictable offence against Commonwealth law. However, there are provisions which allow the courts to make restraining orders to ensure that property is not dissipated while the criminal proceedings run their course.

There are also provisions in the PoC Act which enable the courts to look behind the corporate veil. The courts are entitled to look at whether the defendant has effective control over property even if he or she has no legal title to it.

The PoC Act applies to all indictable offences against Commonwealth law, although it is used mainly in relation to drug offences and serious fraud against the Commonwealth.

• **Customs Act**

Division 3 of Part XIII of the Customs Act contains a scheme which is similar to that under the PoC Act. However, the scheme applies only to drug offences and it is not conviction based.

The Customs Act provisions are used less frequently than the PoC Act, generally if there are no Commonwealth charges or there is some other reason why action cannot be taken under the PoC Act.

• **Civil remedies function**

The DPP is given a civil remedies function under sections 6(1)(fa) and 6(1)(h) of the DPP Act. The function is to take, or coordinate or supervise the taking of, civil remedies in matters connected with an actual or proposed prosecution. The function does not involve any new powers of recovery. What it does is enable the DPP to enforce, or coordinate the enforcement of, traditional civil remedies where the money at stake represents the proceeds of crime.

The civil remedies function can only be exercised to recover unpaid taxes and in matters or classes of matter that have been specified in an instrument signed by the Attorney-General. However, on 23 October 1995 the then Attorney-General signed an instrument which gives the DPP power to exercise the civil remedies function in any matter which gives rise to a civil liability towards the Commonwealth, provided the matter is connected to an actual or proposed prosecution.

**Management**

There is a Criminal Assets branch in each DPP regional office other than Hobart. There is also a Criminal Assets branch in Head Office which coordinates the work in this area and conducts case work in the ACT. Criminal assets work in Hobart is currently run from Melbourne.

The DPP maintains a computerised Criminal Assets Recording System to keep track of cases in the criminal assets area. CARS has proven invaluable for managing casework and for maintaining accurate records of action taken.

**Superannuation orders**

The Criminal Assets branches also conduct proceedings under the *Crimes (Superannuation Benefits) Act 1989* and Part VA of the *Australian Federal Police Act 1979*. Under the *Crimes (Superannuation Benefits) Act* a Commonwealth employee who has been convicted of a corruption offence, and has been sentenced to more than 12 months imprisonment, can lose the government funded component of their superannuation benefits. There are similar provisions in the AFP Act, although members of the AFP can also lose government funded superannuation if found guilty of some types of disciplinary offence.

The mechanism involves the Attorney-General issuing an authorisation to the DPP to apply for a superannuation order. The court that hears the application must make an order if it is satisfied that the preconditions have been met. The effect of a superannuation order is that the defendant loses all rights to employer paid benefits under the relevant superannuation scheme, but is entitled to be paid an amount equal to their own contributions plus interest.

In 1997-98 the DPP obtained nine superannuation orders under the *Crimes (Superannuation Benefits) Act* and one under Part VA of the *Australian Federal Police Act*. Details are set out in the following table.

| Name     | State | Act     | Date     |
|----------|-------|---------|----------|
| Evans    | WA    | CSB Act | 26/9/97  |
| Sampson  | WA    | CSB Act | 27/10/97 |
| Howes    | Vic   | CSB Act | 19/12/97 |
| Keogh    | Vic   | CSB Act | 19/12/97 |
| McKendry | Vic   | CSB Act | 9/2/98   |
| Halnan   | WA    | CSB Act | 17/2/98  |
| Martin   | Vic   | CSB Act | 3/3/98   |
| Aslander | SA    | CSB Act | 27/3/98  |
| Pirone   | SA    | AFP Act | 27/3/98  |
| Allen    | Vic   | CSB Act | 11/5/98  |

**Review of the PoC Act**

As at the date of this Report, the Australian Law Reform Commission is conducting a review of the Proceeds of Crime Act and related legislation including the Crimes (Superannuation Benefits) Act. The Commission is due to present a report to government at the end of 1998. The DPP has made a submission to the ALRC.

The review is timely given that the PoC Act has now been in operation for over ten years. The terms of reference for the review raise some basic issues about the scope of the legislation. However, the DPP is hopeful that the opportunity will also be taken to address some practical issues which have arisen in applying the legislation.

**Criminal assets recovery tables****Table 1: PoC Act: orders made and forfeitures secured in 1997-98**

|  |             |
|--|-------------|
| No. of restraining orders obtained               | 28          |
| Estimated net value of property restrained       | \$7 205 037 |
| No. of PPOs obtained                             | 8           |
| Value of PPOs                                    | \$2 103 455 |
| No. of S.19 forfeitures obtained                 | 32          |
| Estimated value of property forfeited under S.19 | \$1 010 551 |
| No. of s.30 forfeitures                          | 7           |
| Estimated value of property forfeited under S.30 | \$1 829 786 |

**Table 2: PoC Act: restraining orders in force as at 30 June 1998**

|  |              |
|--|--------------|
| No. of restraining orders in force         | 83           |
| Estimated net value of property restrained | \$26 647 891 |

**Table 3: PoC Act: money recovered in 1997-98**

|   |             |
|---|-------------|
| No. of PPOs paid  | 11          |
| Amounts paid under PPOs                                     | \$359 420   |
| No. of S.19 forfeitures realised                            | 32          |
| Amounts recovered from S.19 forfeitures                     | \$1 181 748 |
| No. of S.30 forfeitures realised                            | 7           |
| Amounts recovered from S.30 forfeitures                     | \$2 929 447 |
| No. of cases where amounts recovered from settlements, etc. | 3           |
| Amounts recovered from settlements, voluntary payments etc  | \$129 872   |
| Total recovered   | \$4 600 487 |

**Table 4: Customs Act: restraining orders, pecuniary penalty orders, seizures & condemnation of property involving DPP in 1997-98**

|  |          |
|--|----------|
| No. of restraining orders obtained     | -        |
| Estimated value of property restrained | -        |
| No. of PPOs obtained                   | -        |
| Value of PPOs                          | -        |
| No. of cases where property seized     | 3        |
| Estimated value of seized property     | \$94 200 |
| No. of condemnations                   | 2        |
| Estimated value of condemned property  | \$87 500 |

**Table 5: Customs Act: restraining orders in force as at 30 June 1998**

|  |           |
|--|-----------|
| No. of restraining orders in force         | 2         |
| Estimated net value of property restrained | \$375 170 |

**Table 6: Customs Act: money recovered in 1997-98**

|   |           |
|---|-----------|
| No. of PPOs paid  | 1         |
| Amounts paid under PPOs                                     | \$5 000   |
| No. of cases where condemned property realised              | 3         |
| Amounts recovered from realisation of condemned property    | \$132 250 |
| No. of cases where amounts recovered from settlements, etc. | -         |
| Amounts recovered from settlements, voluntary payments etc. | -         |
| Total recovered   | \$137 250 |

**Table 7: Civil remedies: property secured, judgments and reparation orders obtained by DPP in 1997-98**

|  |           |
|--|-----------|
| No. of cases where property secured by injunction or otherwise | 2         |
| Estimated value of property secured by injunction or otherwise | \$104 458 |
| No. of judgments and reparation orders obtained                | 8         |
| Amount of judgments and reparation orders                      | \$726 124 |

**Table 8: Civil remedies: money recovered in 1997-98**

|   |             |
|---|-------------|
| No. of judgments and reparation orders paid                 | 2           |
| Amounts paid under judgments and reparation orders          | \$20 444    |
| No. of cases where amounts recovered from settlements, etc. | 16          |
| Amounts recovered from settlements, bankruptcy etc.         | \$2 290 411 |
| Total recovered   | \$2 310 855 |

**Table 9: Criminal Assets: Total recoveries for 1997-98**

|   |                    |
|---|--------------------|
| Proceeds of Crime Act ppo                           | \$359 420          |
| Proceeds of Crime Act s.19 forfeiture               | \$1 181 748        |
| Proceeds of Crime Act s.30 forfeiture               | \$2 929 447        |
| Proceeds of Crime Act settlement and other payments | \$129 872          |
| <b>Proceeds of Crime Act total</b>                  | <b>\$4 600 487</b> |
| Customs Act ppo                                     | \$5 000            |
| Customs Act condemnation                            | \$132 250          |
| <b>Customs Act total</b>                            | <b>\$137 250</b>   |
| Civil remedies judgments & reparations              | \$20 444           |
| Civil remedies settlements and other payments       | \$2 290 411        |
| <b>Civil remedies total</b>                         | <b>\$2 310 855</b> |
| <b>Grand total</b>                                  | <b>\$7 048 592</b> |



- CHAPTER 5 -

## Practice management

### Practice management unit

In 1998 the DPP set up a practice management unit based in Head Office with the charter of overseeing the conduct of the DPP's legal practice across Australia.

The development is a recognition of the importance of ensuring that Commonwealth offenders are treated in the same way across regions and that, as far as possible, the DPP's practices are consistent. The move is also a recognition that there are benefits for the Office as a whole in sharing experiences across the regions and in pooling expertise in some of the more esoteric areas of the DPP's practice.

The Practice Management Unit will have primary responsibility for developing guidelines on legal management issues and will be involved in implementing recommendations made by the Best Practice Review Committee. That Committee has completed a review of the Sydney Office and is close to completing a review of the Brisbane office. The Committee will review all DPP offices.

### Manuals

In January 1998 DPP and Centrelink issued the *Centrelink Investigator Manual*. The document, which took several years to develop, provides practical guidance to Centrelink investigators on how to go about conducting a criminal investigation and producing a brief of evidence which will meet the needs of the DPP.

In March 1998 the DPP issued the third revision of the DPP's *Search Warrants Manual*. That Manual provides practical guidance to prosecutors and investigators on how to go about drafting, obtaining and executing search warrants under Commonwealth law. The Manual includes standard form documents for applications and warrants under the most frequently used search warrant provisions. The Manual, and the standard form documents, are updated on a yearly basis to make sure that they remain current.

In the same month, the DPP issued the first edition of its *Electronic Monitoring Warrants Manual*. That Manual deals with applications for warrants for telephone intercepts and listening devices. It will also be updated on a yearly basis.



## **DPP Survey**

In the course of the year, the DPP conducted its first client survey. The survey marks a growing recognition that the DPP does not operate in a vacuum. Effective law enforcement depends on cooperation and the DPP has a responsibility to assist other agencies to perform their role in the process.

The survey involved sending out 545 questionnaires to over 30 agencies across the Commonwealth. The DPP received a total of 372 replies, a response rate of 68%.

Overall the persons surveyed were happy with the performance of the DPP and a high percentage of responses to all multiple choice questions were in the good to excellent range. There were only a few criticisms of the DPP but some areas were rated less highly. These included timeliness of DPP action and level of consultation when the DPP changed or discontinued charges.

A summary of the responses to multiple choice questions appears at the end of this chapter.

## **Performance indicators**

### **Introduction**

The DPP's Performance Indicators measure outcomes in key areas where changes in the operating environment or operating methods will produce changes to the indicators. They are an early warning system designed to flag potential problems. The indicators do not attempt to measure performance in every area of DPP activity.

A change to an indicator, or a failure to meet a particular target, does not necessarily mean that the DPP has failed to perform to an acceptable standard. The DPP does not operate in isolation and a change in an indicator may be caused by factors that are outside the DPP's control. That can only be determined after analysis when it is known what caused the change in the relevant indicator.

**Prosecutions**

The following table lists the DPP's performance indicators for prosecutions for 1997-98 and compares them with the figures for 1996-97.

| <b>Description</b>  | <b>No. of defs</b>  | <b>%</b> | <b>Target</b> |
|---|---------------------|----------|---------------|
| Prosecutions resulting in a conviction 1997-98            | 4 742(out of 4 910) | 96%      | 90%           |
| Figures for 1996-97                                       | 4 541               | 97%      |               |
| Defended summary hearings resulting in conviction 1997-98 | 239 (out of 354)    | 67%      | 60%           |
| Figures for 1996-97                                       | 203                 | 66%      |               |
| Defended committals resulting in committal 1997-98        | 377 (out of 390)    | 96%      | 80%           |
| Figures for 1996-97                                       | 289                 | 92%      |               |
| Defended trials resulting in conviction 1997-98           | 90 (out of 140)     | 64%      | 60%           |
| Figures for 1996-97                                       | 76                  | 68%      |               |
| Prosecution sentence appeals upheld in summary matters    | 14 (out of 17)      | 82%      | 60%           |
| Figures for 1996-97                                       | 7                   | 87%      |               |
| Prosecution sentence appeals upheld after trial 1997-98   | 12(out of 21)       | 57%      | 60%           |
| Figures for 1996-97                                       | 3                   | 42%      |               |

**Criminal Assets**

The following table lists the DPP's performance indicators for criminal assets cases.

| Description  | No. of defs | %    | Target |
|--|-------------|------|--------|
| Applications for restraining orders that succeeded       | 28          | 100% | 90%    |
| Figures for 1996-97                                      | 60          | 100% |        |
| Applications for pecuniary penalty orders that succeeded | 8           | 88%  | 90%    |
| Figures for 1996-97                                      | 16          | 100% |        |
| Applications for forfeiture orders that succeeded        | 32          | 94%  | 90%    |
| Figures for 1996-97                                      | 35          | 90%  |        |
| Damages awarded against DPP under undertakings           | Nil         | -    | -      |
| Figures for 1996-97                                      | Nil         |      |        |
| No of cases legal costs awarded against DPP (i)          | Nil         | -    | -      |
| Figures for 1996-97                                      | 4           |      |        |
| Amounts paid for costs awarded against DPP               | \$9 559     | -    | -      |
| Figures for 1996-97                                      | \$17 803    |      |        |

(i) Costs may not be paid in the year that they were awarded.

Performance Indicators for resource management appear in Chapter 8.

**Analysis**

The performance indicators are substantially the same for last year, both for Prosecutions and Criminal Assets, with the exception of the figure for prosecution sentence appeals after trial. The DPP is operating within appropriate parameters in areas covered by the indicators.

**DPP Survey: Summary of Responses to multiple choice questions**

|   | Poor | Acceptable | Good       | V good     | Excellent |
|---|------|------------|------------|------------|-----------|
| Overall performance in last 12 mths                                       | 5    | 32         | 99         | <b>157</b> | 64        |
| Overall performance in previous years                                     | 14   | 54         | 92         | <b>116</b> | 35        |
| Quality of DPP's written advice   | 4    | 23         | 76         | <b>159</b> | 68        |
| Timeliness of DPP's written advice  | 12   | 50         | 103        | <b>115</b> | 49        |
| Quality of DPP's oral advice  | 2    | 21         | 79         | <b>162</b> | 86        |
| Timeliness of DPP's oral advice   | 6    | 33         | 73         | <b>144</b> | 91        |
| Prosecutions–availability of legal advice                                 | 6    | 27         | 62         | <b>136</b> | 90        |
| Crim Assets–availability of legal advice                                  | 4    | 9          | 47         | <b>54</b>  | 33        |
| Prosecutions–responsiveness to inquiries                                  | 8    | 31         | 88         | <b>144</b> | 74        |
| Crim Assets–responsiveness to inquiries                                   | 3    | 12         | 45         | <b>62</b>  | 26        |
| Prosecutions–turnaround times in work                                     | 29   | 71         | <b>107</b> | 92         | 29        |
| Crim Assets–turnaround times in work                                      | 6    | 24         | <b>51</b>  | 44         | 15        |
| Prosecutions–fairness of prosecutions                                     | 5    | 26         | 83         | <b>106</b> | 42        |
| Consultation when DPP decides not to prosecute on public interest grounds | 15   | 32         | 66         | <b>80</b>  | 34        |
| Consultation when DPP varies charges                                      | 17   | 53         | 59         | <b>94</b>  | 40        |
| Consultation when DPP withdraws charges                                   | 17   | 47         | 53         | <b>82</b>  | 30        |
| DPP understanding of agency function                                      | 11   | 38         | 84         | <b>143</b> | 79        |
| Training–willingness to participate                                       | 4    | 15         | 39         | <b>78</b>  | 66        |
| Training–contribution of DPP speakers                                     | 1    | 15         | 35         | <b>74</b>  | 59        |
| Relationships–DPP management with agency managers                         | 4    | 17         | 67         | <b>111</b> | 92        |
| Relationships–DPP lawyers with investigators                              | 4    | 21         | 66         | <b>140</b> | 84        |
| Relationships–DPP support staff with investigators                        | 5    | 9          | 67         | <b>117</b> | 47        |
| Relationships–DPP lawyers with agency lawyers                             | 3    | 8          | 32         | <b>44</b>  | 17        |

Note: The three most common responses to each question are highlighted and the most common response is shown in bold.



- CHAPTER 6 -

## Law reform and other issues

One of the objectives of the DPP is to provide recommendations on laws or proposed laws of the Commonwealth relating to the criminal justice system. This chapter outlines some of the issues which arose in 1997-98.

### Model Criminal Code

In 1997-98 the Model Criminal Code Officers Committee released three discussion papers as part of the project to develop a Model Criminal Code. The three discussion papers dealt with serious drug offences, administration of justice offences and fatal offences against the person. The DPP has provided comments on the first two discussion papers, and at the time of writing is preparing a submission on the third.

The discussion paper issued by the MCCOC on serious drug offences was concerned with the illicit domestic trade in drugs, whereas the focus of the Commonwealth's law enforcement effort is on the illicit international trade. As the various proposals made by the MCCOC could not be translated into Commonwealth law without some variation, in February 1998 the Attorney-General's Department released a discussion paper entitled *Serious Drug Offences in Commonwealth Jurisdiction – Criminal Code and Customs Act 1901* which dealt with how the recommendations made by the MCCOC could be implemented in the Commonwealth context.

In commenting on the discussion paper the Director stated that if some of the recommendations were implemented it would become substantially more difficult to successfully prosecute Commonwealth drug offences. Indeed, the inevitable consequence of those proposals, if adopted, would be more and longer trials in this area.

The Director also stated that the discussion paper had overstated the desirability of harmonising Commonwealth, State and Territory laws. While there are differences in those laws, they are not as significant as the discussion paper had suggested and it was an overstatement to say that those differences had impeded law enforcement efforts.

The Director stated that he had no objection to Commonwealth drug offences being relocated into the *Criminal Code Act 1995*. However, the Code's drug offences should be based in the main on the recommendations made by the Gibbs Committee in its Final Report in December 1991.

## Enforcement of fines

In 1996 the NSW Parliament passed the *Fines Act 1996*. Although the Act was assented to in November 1996, it did not come into operation until early 1998.

The Fines Act established a different regime for the enforcement of fines to that previously applying in NSW. In particular, under the Act the NSW courts no longer have any role in the enforcement of a fine. That is now the responsibility of the State Debt Recovery Office. The enforcement options available to that Office include the suspension or cancellation of a driver's licence, the cancellation of vehicle registration, the taking of civil action (such as the garnisheeing of wages), making a community service order and imprisonment.

Section 15A of the Commonwealth Crimes Act applies State and Territory laws to the enforcement and recovery of fines imposed in respect of federal offenders. However, as the State Debt Recovery Office is not a court, the DPP considered that the exercise of some of the enforcement options available to that Office in respect of a federal fine defaulter might involve the invalid exercise of federal judicial power. The DPP accordingly referred the matter to the Criminal Law Division of the Attorney-General's Department. The advice obtained by that Division was to the effect that the enforcement mechanisms provided under the Fines Act went beyond what was contemplated by section 15A of the Crimes Act and some of the enforcement options available under the Fines Act could not be used against federal fine defaulters as they would involve the exercise of federal judicial power by a body that is not a court.

*The Crimes Amendment (Enforcement of Fines) Act 1998* (which came into operation on 29 June 1998) amends section 15A of the Crimes Act to provide a new mechanism for applying State and Territory laws with respect to the enforcement or recovery of fines imposed on Commonwealth offenders. In particular, where a State or Territory law provides for the enforcement of a fine in a manner which would involve the exercise of judicial power by a person or authority other than a court, then such a State or Territory law will be modified in its application to a federal fine defaulter.

## Report of the Parliamentary Joint Committee on the NCA

In its report entitled *Third Evaluation of the NCA* the Parliamentary Joint Committee on the NCA recommended that the NCA itself, and not the various Directors of Public Prosecutions, should make the decision whether to indemnify a witness who claims the privilege against self incrimination at a hearing before the NCA.

The DPP does not support this recommendation. In the view of this Office the conferral on the relevant prosecuting authority of the power to give an undertaking under section 30 of the NCA Act does not involve a "role/responsibility mismatch" as the Parliamentary

Joint Committee has stated (at paragraph 4.70 of the report). To confer on the NCA the power to give such an undertaking would not merely allow the NCA to make its own investigation decisions. An undertaking under section 30 may amount to a conferral of immunity from prosecution, and that is properly a function of the relevant prosecuting authority.

## **Controlled operations**

The DPP has recommended to the Attorney-General's Department that Part 1AB of the Crimes Act should be amended to extend the protection afforded by a certificate under section 15M of that Act to a civilian who participates in a controlled operation by arrangement with a law enforcement agency. The DPP has also recommended that the offences covered by a section 15M certificate should include State or Territory offences relating to the supply of narcotic goods.

The objective of almost all controlled operations relating to the importation of narcotic goods is either to ascertain the identity of those who arranged the importation or to obtain evidence against a person who is already suspected of being involved in the importation. To achieve those objectives usually it will be necessary for the controlled operation to involve the supply of the imported narcotics, or part of them, to those suspected of being involved in the importation.

In that regard, it is apparent from the report tabled in Parliament under section 15T of the Crimes Act for 1996-97 that the most usual scenario for the issue of a section 15M certificate is where narcotic goods are detected at the Customs barrier in circumstances where law enforcement authorities have no prior knowledge of the importation. Most of the controlled operations conducted in those cases involve a supply of the narcotic goods, or part thereof, to the intended recipient in circumstances where the police involved may commit an offence under State law of supply or a related offence.

In some cases a civilian may also be involved in the controlled operation by arrangement with the police. That usually occurs where a courier who has been detected at the Customs barrier agrees to cooperate with police by participating in a controlled delivery. While in some cases the success of the controlled operation will depend on the courier agreeing to cooperate with the police, in doing so it can be expected that the participation of the courier may involve that person committing offences against both Commonwealth and State law.

Given that most controlled operations require the police to engage in conduct which will involve the supply of narcotic goods to the target of the operation, it is illogical to provide only a partial exemption from criminal liability for the police, and no exemption for people who cooperate with them. If the police were to decide not to conduct any controlled operations which would involve the commission of State offences or the



involvement of civilians there would be few controlled operations and it would become more difficult to investigate and successfully prosecute those who organise and finance drug importations.

### **Sentencing of federal offenders**

The DPP has recommended that section 20A of the Crimes Act be amended at the next suitable opportunity to correct an anomaly in the section which has the effect that a monetary penalty imposed under section 20A(5)(c)(ia) is unenforceable.

- CHAPTER 7 -

## Significant cases

All criminal proceedings are significant for the people who are directly affected by them, either as defendants, victims or witnesses. However some cases have wider significance, usually because they set a legal precedent, they illustrate a point of general relevance or they are the first prosecution under a particular law. This chapter outlines some of the cases dealt with in the past year which fall into that category.

### General cases

#### **Abas, Bere and Bakuama**

These three defendants were masters of Indonesian fishing vessels which were apprehended fishing unlawfully in Australian waters. They were convicted of offences against the *Fisheries Management Act 1991*. In each case the DPP applied for an order from the magistrate for forfeiture of the fishing vessel under section 106 of the Fisheries Management Act. In each case the order was refused on the basis that the defendant was a first offender and that forfeiture of the vessel would impose hardship. The DPP appealed.

The appeals were upheld by the Supreme Court of WA on the basis of principles laid down by the High Court in *Cheatley v R* (1972) 127 CLR 291. The High Court found that, where there has been a deliberate incursion into Australia's fishing zone, forfeiture is the only effective way of ensuring that the objectives of properly managing, conserving and protecting Australia's fishing stocks are achieved. There is a need for stern action in these cases because of the difficulty and expense involved in the surveillance, enforcement and management of the vast area of the Australian Fishing Zone and the attraction of Australia's fishing stocks to foreign fishing vessels.

Among other things, the decisions by the Supreme Court of WA confirm that the principles laid down in *Cheatley's* case do not cease to apply simply because the offending vessel was a relatively primitive sailing craft and not a large and sophisticated vessel.

#### **ADI Limited**

This case involved the first prosecution in NSW for breaches of Commonwealth legislation dealing with the occupational health and safety of people employed by government business enterprises. The defendant, which was formerly known as Australian Defence Industries, was charged under section 16(1) of the *Occupational*

*Health & Safety (Commonwealth Employment) Act 1985* for failing to take all reasonably practicable steps to protect the health and safety of its employees.

ADI Limited operates a munitions factory in Mulwala, NSW. The factory produces high explosives and ammunition for the defence forces. It also has employees tasked with the destruction of waste materials of a dangerous and volatile nature. Those persons are known as burning ground operators and the place where materials are destroyed is known as the burning pad. In March 1993, a burning ground operator was killed and a second employee severely injured when an explosion occurred during the process of placing explosive material onto the burning pad.

The prosecution alleged a number of failures on the part of ADI, including failure to ensure that there was appropriate testing of materials, a failure to ensure that the order for destruction of the materials was implemented in a systematic fashion, a failure to ensure that the burning ground operators were properly trained, and a failure to provide appropriate supervision to ensure adherence to the correct methods.

ADI Limited pleaded guilty to the charges. The company was fined \$75 000.

### **Operation Calculus**

This case arose from a surveillance operation conducted by the AFP and the Australian Customs Service between August and December 1996. It resulted in the seizure of eight tonnes of cannabis resin, the largest importation yet detected in Queensland. Eighteen people were arrested and charged with drug importation offences.

The drugs were landed at Poona, on the Queensland coast opposite Fraser Island, after being brought to Australia aboard an ocean-going yacht called the Highlander. The Highlander travelled to a pre-arranged location near the Solomon Islands where it met with a delivery vessel and took the drugs on board. Those arrested included the coordinator of the importation in Australia, the captain and crew of the Highlander, the shore crew, transporters, people responsible for communications with the Highlander while it was at sea and people responsible for storing the drugs on arrival.

To date 14 people have been convicted and have been sentenced to terms of imprisonment ranging between eight and 14 years. One person has been acquitted and three others are awaiting trial.

The Highlander, two small punts and three motor vehicles were seized under the provisions of the Customs Act and were later sold by the Official Trustee. Action is also being taken under the Proceeds of Crime Act against a number of the defendants.

### **Operation Caribou**

Operation Caribou was an AFP investigation which resulted in the arrest of 26 people in 1994 and the seizure of nearly 15 tonnes of cannabis resin. All of the defendants were

charged with conspiring to import drugs except one who was charged with conspiring to pervert the course of justice.

Ten defendants, including the main principals Victor Spink and Raymond Dumbrell, pleaded guilty prior to the committal hearing and were sentenced to various terms of imprisonment. The charges did not proceed against six defendants, either because the DPP decided not to prosecute or the defendant died. That left ten defendants before the courts. They were committed for trial following a joint committal hearing.

The DPP was faced with the prospect of running a single joint trial which would have involved more than 600 witnesses, 5 000 intercepted telephone calls, and up to ten sets of defence counsel. The DPP decided to try each defendant separately to keep the case manageable, and to minimise the time each defendant would have to spend in court. The DPP also negotiated arrangements with the defendants on a case by case basis to reduce the number of witnesses needed in each case, and to reduce the time needed to run the evidence. In many cases the defence agreed to allow AFP case officers to give evidence of uncontested facts in the form of a narrative summary.

A number of trials were conducted in 1997 and 1998. One defendant pleaded guilty during the trial, two were found guilty by a jury, four were acquitted and one trial remains outstanding. The remaining cases did not proceed.

### **Chai and Lim**

The defendants in this case were a husband and wife who imported 660 grams of heroin into Australia from Bangkok. The street value of the heroin was between \$1.5 and \$2 million. The defendants hid some of the drugs in their clothing and carried the rest internally. The drugs in the clothing was found by Customs Officers at Brisbane Airport. The other drugs were found after the defendants were x-rayed. The defendants were charged with importing heroin and Chai was also charged with being knowingly concerned in the importation of heroin.

Chai pleaded guilty to the charges against him. He was sentenced to 15 years imprisonment with a non-parole period of seven years. He appealed against sentence but his appeal was dismissed.

Lim pleaded not guilty and raised the defence of marital coercion. Lim was found guilty by the jury. She was initially sentenced to 12 years imprisonment with a non-parole period of six years but that was reduced on appeal to ten years imprisonment with a non-parole period of five years.

### **Crichton-Browne**

The defendant in this case pleaded guilty to two charges of defrauding the Commonwealth. He was a serving member of the Commonwealth Parliament at the time of the offences and was entitled to be accompanied by his wife or a nominated person when he travelled on official business.

On two occasions the defendant booked travel in the names of himself and his wife but travelled with a woman who was not his wife. One trip involved travel from Perth to Broome and back and the other involved travel from Perth to Norfolk Island and back. The defendant improperly obtained travel benefits worth approximately \$4 500, although he voluntarily repaid that sum. The defendant was convicted of both offences and fined a total of \$8 000.

### **Foo, Tan and others**

This case involved the prosecution of five people for offences arising from the importation of 21kg of heroin into Darwin. As with most importations into the NT, the drugs were intended for markets further south and the importation was organised mainly from outside the NT. The investigation was conducted in Darwin, Perth and Sydney, involved officers of the AFP, the NCA, the NSW Police and the NT Police, and ran for over six weeks in the period leading up to the importation.

The drugs were brought into Darwin by one of the offenders on board a cargo boat. The people arrested included that person, two people who rowed out to collect the drugs in Darwin harbour, the planned distributor and two other organisers. This was not a case where only lower ranking offenders were prosecuted.

Three of the defendants pleaded guilty and the other two were convicted after a jury trial. They were sentenced to terms of imprisonment ranging from 24 years with a non-parole period of 16 years, to 12 years with a non-parole period of eight years.

### **FTR Act offences**

In the past year there were a large number of prosecutions under section 15 of the *Financial Transaction Reports Act 1988* for offences by people who failed to declare the transfer of currency into or out of Australia. In NSW alone there were 17 cases in which the defendant was convicted and the money involved in the offence was forfeited, in whole or in part, under section 19 of the *Proceeds of Crime Act*. The total amount forfeited in those cases was over \$900 000. Three of the largest forfeitures occurred in the matters of Lam, Nip and Tsui.

Lam was a 74 year old Sydney resident who was detected attempting to travel from Australia to Hong Kong. During a routine baggage examination, Customs officers found A\$100 000 in five bundles which were wrapped in tissue paper and hidden in trouser pockets inside a suitcase. The defendant, who had not declared that he was carrying the cash, was convicted of one offence against section 15 of the FTR Act and the magistrate ordered forfeiture of all the money.

Nip was also detected at Sydney airport en route for Hong Kong. He did not declare that he was carrying cash. During a baggage search, Customs officers found A\$241 000, 600 000 Yen and US\$11 500. Nip was convicted of one offence against section 15 of the FTR Act and the magistrate again ordered forfeiture of all the money.

Tsui, a Canadian national, was detected attempting to leave Australia with \$159 800 in Australian currency that he had not declared. The currency was concealed in Tsui's suitcase. Tsui told police that he had been asked by a friend in Hong Kong to come to Australia where he would be contacted in Sydney by another man to discuss business. Once in Sydney an unidentified man had contacted Tsui and then given him the two packages containing the money. Tsui was also convicted of an offence against section 15 of the FTR Act and the magistrate also ordered forfeiture of all the money.

### **Gorgy**

The defendant was a pharmacist who purchased a pharmacy in Narellan in 1990. Between June 1990 and September 1991 he defrauded the Commonwealth on thirty occasions by supplying false information to the Health Insurance Commission in support of claims for pharmaceutical benefits. The defendant consistently claimed benefits for medication he had not issued.

On some occasions the defendant altered the details shown on a doctor's prescription, to make it appear that the doctor had prescribed different medication from that actually prescribed, or had authorised repeats that were not in fact authorised. On other occasions he supplied different medication from that prescribed, but claimed benefits for the medication shown in the prescription. The defendant also induced some patients to sign for additional scripts and repeats and sometimes forged the signature of a patient on a script or repeat.

The defendant was charged with 30 counts of defrauding the Commonwealth and 19 counts under section 103(5) of the *National Health Act 1953* of making a false representation. He was convicted after a jury trial and was sentenced to two years imprisonment, to be released on a bond after 12 months.

### **McCleary v DPP**

This case involves an action by an acquitted defendant to enforce an undertaking as to damages. The defendant was acquitted after the trial judge ruled evidence inadmissible because a warrant issued under the *Telecommunications (Interception) Act 1979* was not dated by the judge who signed it.

The applicant's position is, in effect, that the undertaking as to damages is self-executing. Once there has been an acquittal, the only questions left are causation and quantum. The DPP's position is that enforcement of the undertaking is a discretionary remedy and that the court is entitled to look behind the acquittal to see whether the applicant has clean hands.

On 17 July 1998 the Supreme Court of WA delivered judgment on an appeal and cross-appeal from preliminary rulings. The court made the following findings:

- The court did not accept that an undertaking should only be enforced if the court finds that the DPP acted unreasonably in applying for a restraining order. The court noted that such a finding would rob the undertaking of practical effect in the majority of cases;
- The court held that the DPP cannot call evidence to show that the defendant was, in fact, guilty of the offences charged against him;
- The DPP can, however, lead evidence to show that the defendant's acquittal was obtained by fraud. The court noted that that would normally involve showing that the defendant or a defence witness committed perjury;
- The DPP can also lead evidence to show that the property under restraint was used in, or acquired from, the commission of offences other than those that are the subject of the acquittal; and
- The transcript of the trial can be used to show what was said at the trial (on the issue of fraud) but cannot otherwise be tendered as evidence at the enforcement proceedings.

As far as the telephone intercept material was concerned, the court found that it could be used in the enforcement action to show fraud or the commission of other offences. In reaching this result, the court found that the ruling by the trial judge rejecting the telecommunications interception material was wrong. The defect in the warrant was an irregularity and the warrant was saved by section 75(1) of the Telecommunications (Interception) Act.

### **Operation Miasto**

This case involved the prosecution of four people for a series of offences involving the importation and sale of heroin and laundering of the proceeds of crime. The case was investigated by the NCA, with assistance from the authorities of Hong Kong, which is where the defendants were sending the money.

The Hong Kong authorities ran their own prosecution, based in part on evidence obtained in Australia under a Mutual Assistance request. The defendant in those proceedings was convicted of conspiring to traffic dangerous drugs and money laundering and was sentenced to imprisonment for 30 years.

The prosecution began when officers of the NCA executed search warrants at two premises in inner-western Sydney. In one they found a total of 5.88 kg of heroin in a heroin re-processing room. In the other they found seven sauna water systems which had the rear panel removed to reveal a concealed area. Two of the systems contained heroin.

The investigators also found cash and documents which showed that large amount of money had been remitted to Hong Kong. In all \$10.5 million was sent to Hong Kong in the period from January to November 1995.

The Australian defendants were convicted of conspiring to launder money and a variety of drug related offences. Their sentences ranged from 13 years and six months, with an additional term of four years and six months, down to five years and nine months with a non-parole period of two years and nine months. However, there are a range of appeals and cross-appeals against sentence that still need to be resolved.

### **Operation Niacin**

This prosecution resulted from a long running investigation into the activities of a syndicate which is believed to have imported drugs over many years. The syndicate had access to a fleet of commercial cargo ships which they used to carry drugs. The AFP obtained evidence which showed that the syndicate was planning to import a boat load of cannabis and that it had imported an earlier shipment of 15 tonnes of cannabis into South Australia in 1996. The evidence also showed that the syndicate had remitted large sums of money to the Philippines and other places.

Charges were eventually laid against 16 people for offences relating to the 1996 importation, the planned importation and money laundering offences. The syndicate had access to large sums of money. \$5.1 million was found secreted in the deck freezer of a fishing vessel that was en route to the Philippines. Five of the defendants were charged with money laundering offences by participating in the purchase of the Bunyip Inn Guesthouse at Berry, NSW using drug money. The Bunyip Inn is an historic building and had previously operated as a bank.

At the time of writing four defendants have pleaded guilty to all charges against them and one defendant has pleaded guilty to some of the charges against him. One defendant has been tried and convicted and one has been tried and acquitted. Charges against the remaining defendants are still to be heard. The defendants are spread across three States and the prosecutions are being handled by three DPP offices.

### **Nicholas**

In this case the High Court upheld the validity of recent amendments made to the *Crimes Act 1914* to allow the prosecution to lead evidence obtained in the course of a controlled drug operation conducted before the amendments came into effect.

The defendant was charged with drug offences following a controlled operation which involved Australian and Thai officials bringing heroin into Australia. Before the case came on for trial the High Court delivered its judgment in *Ridgeway v R* (1995)129ALR41 ruling, in effect, that the prosecution cannot lead evidence to show that drugs were imported unlawfully if the importation was effected by law enforcement officers. In July 1996 parliament passed an amendment to the Crimes Act to exempt law enforcement officers from criminal liability where they import drugs as part of a controlled operation and to provide that the prosecution can lead evidence of an importation carried out prior to the amendment.



The defendant challenged the legislation on a number of bases, the main one being that the new provision was an interference with judicial power in that it directed the courts to admit evidence obtained as a result of unlawful conduct.

The High Court, by a five to two majority, rejected the challenge finding that parliament does not usurp judicial power simply by passing laws dealing with evidence and procedure. The case was remitted to the County Court of Victoria for further hearing. The case is reported at (1998)151ALR312.

### **Peters**

In this matter the High Court reviewed conflicting lines of authority on what test should be applied to prove dishonesty where a person has been charged with conspiracy to defraud.

The case involved a solicitor charged with conspiring to defraud the Commonwealth. It was alleged that he arranged a mortgage on behalf of a client which he knew was a sham designed to evade the payment of income tax. The defendant was convicted by a jury. He appealed unsuccessfully to the Court of Appeal of Victoria and then appealed to the High Court. The issue on appeal was whether the trial judge had directed the jury correctly on the issue of dishonesty.

The trial judge told the jury that they must be satisfied that what the defendant agreed to do was dishonest by the standards of ordinary and reasonable honest people and, if it was, that the defendant realised it was dishonest by those standards. The defendant argued that the test of dishonesty should be subjective.

The High Court found that dishonesty is not a separate element of the offence of conspiracy to defraud. The relevant question is whether the means intended to achieve the fraud were dishonest. However, the Court was divided on what test should be applied at that point.

Toohy and Gaudron JJ found that it is only in a borderline case that a trial judge need say anything on the issue of dishonesty. Usually there will be no issue that, if proved, the relevant conduct was dishonest and a direction on dishonesty will be superfluous. In borderline cases the jury should be told that the question of dishonesty should be determined by the application of the standards of ordinary, decent people.

McHugh and Gummow JJ found that the question of dishonesty is a matter for the trial judge not the jury. The question will turn on the intention, knowledge and state of belief of the alleged offender but the question of whether the alleged offender thought they were acting honestly is irrelevant.

Kirby J favoured a purely subjective test of dishonesty, but withdrew his opinions in favour of those of Toohy and Gaudron JJ in order to ensure that there was a majority judgment. The consequence is that the approach favoured by Toohy and Gaudron JJ now applies in Australia.

The appeal was dismissed. Under the majority view, the trial judge should not have said anything about dishonesty but what he said was more favourable to the defendant than it needed to be. Accordingly there was no miscarriage of justice. The case is reported at (1998) 151 ALR 51.

### **Postiglione and Savvas**

The defendants in this case were serving prison sentences for unrelated drug offences. They decided to organise a drug importation from inside prison. The plan involved arranging for people outside the jail to bring cocaine from South America and heroin from Thailand. Postiglione and Savvas were both charged with conspiring to import heroin and conspiring to import cocaine. The evidence against them consisted largely of material obtained by the use of listening devices in the visitors' section of Long Bay Gaol.

Postiglione pleaded guilty to the charges against him and agreed to give evidence against other offenders. He was sentenced to 18 years imprisonment with a non-parole period of 13 years and ten months, to be served concurrently with his existing sentence. The sentencing court noted that, but for cooperation, the sentence would have been 21 years imprisonment with a non-parole period of 16 years and ten months. Postiglione appealed against the sentence but the appeal was dismissed.

Postiglione gave evidence against Savvas, who was convicted and sentenced to 25 years imprisonment with a non-parole period of 18 years. As Postiglione had nearly completed his earlier sentence and Savvas was only part of the way through his, the effect of the sentences was to increase Postiglione's existing non-parole period by 11 years and Savvas's by six years.

Postiglione again appealed against sentence. The appeal was dismissed by the NSW Court of Criminal Appeal, but Postiglione was given special leave to appeal to the High Court. The appeal was upheld, on the basis that there was unacceptable disparity between the sentences given the degree of cooperation provided by Postiglione. The case went back to the Court of Criminal Appeal, which sentenced Postiglione to 14 years imprisonment with a non-parole period of ten and a half years. Postiglione has filed another application for special leave to appeal to the High Court.

Savvas became NSW's most sought-after criminal when he escaped from Goulburn Gaol. He was re-apprehended some months later dining at a city restaurant. A short time later he was found dead hanging in his cell, apparently after a plan to escape with convicted backpacker murderer Ivan Milat became known to the authorities.

### **Prabowo**

This case involved an extradition request from Indonesia for alleged offences of embezzlement, fraud, forgery and failure to record a banking transaction. It was the first extradition request received from Indonesia under a treaty which came into force in 1994.

Prabowo was an Indonesian citizen. The offences were allegedly committed in the course of his employment as a bank manager. Prabowo was arrested in Australia under a provisional warrant and was found to be extraditable by a magistrate. However, on appeal, the Federal Court found that the material provided in relation to the banking offence was insufficient to establish dual criminality. There was no directly equivalent offence in Australia. The Court was prepared to look at whether the conduct alleged against Prabowo would amount to fraud under Australian law, but it was not clear whether the Indonesian authorities alleged that Prabowo had acted with an intention to defraud.

Following the appeal, Indonesia submitted a second extradition request and Prabowo was arrested a second time. He was again found to be extraditable by a magistrate and he again appealed to the Federal Court. The appeal was unsuccessful before a single judge and unsuccessful before the Full Federal Court. Prabowo applied for special leave to appeal to the High Court but the application was refused.

The unsuccessful arguments raised on appeal were that the supporting documents from Indonesia were not properly certified because they had been certified by a police officer and not a judicial officer, and that the banking offence did not fall within the offences listed in the extradition treaty with Indonesia. On the last point, the Federal Court found that it was not part of the magistrate's duty to determine whether the conduct alleged against Prabowo fell within the offences listed in the treaty.

#### **Operation Scuba: Abdallah, Abdul-Hadi and Simeonides**

This was a drug prosecution arising from the importation of 1kg of cocaine hidden inside a scuba tank. Abdallah was the principal of the syndicate, Abdul-Hadi acted as a middleman and Simeonides as courier. The drugs were detected at the Customs barrier. The AFP arranged for a substitution of the bulk of the drugs and allowed the scuba tank to run. As a result, it was possible to prosecute and convict the people who organised the importation as well as the courier.

The principal offender, Abdallah was sentenced to 17 years imprisonment with a non-parole period of 12 years and four months. This was his second conviction for a drug importation offence, so he was exposed to a maximum penalty of life imprisonment. The first conviction occurred in 1987, at which time he was sentenced to 14 years imprisonment with a non-parole period of six and a half years.

#### **Tam, Mao and Law**

The defendants were part of an organisation which imported large quantities of heroin into Australia. Between January 1994 and January 1995 there were five shipments of goods from Bangkok to Sydney. The last shipment was made up of glass pictures which were found to have 40kg of heroin hidden inside them. The prosecution case was that all

five shipments contained heroin. The case was based heavily on the similarities between the five importations.

In each case the importers used the same shipping carrier, shipping company, airline, freight agent and customs agent. The cases in which the goods were packed were similar as were the goods themselves. Shortly before each importation an Asian man, who was not a resident of Australia, arrived in Sydney and took out a lease of premises to which the goods were eventually consigned. Neither that man or anybody else lived in the premises at any relevant time.

After each of the first four importations, large sums of money were sent from Sydney to Hong Kong and Canada, always in amounts of less than \$10 000, which is the threshold for the reporting requirement under the Financial Transaction Reports Act.

These defendants were charged with conspiring to import a commercial quantity of heroin. Tam and Mao pleaded guilty and Tam provided assistance to the authorities. Tam was sentenced to imprisonment for 16 years, with a non-parole period of ten years, and Mao was sentenced to imprisonment for 24 years, with a non-parole period of 16 years.

Law was extradited from Hong Kong to face charges in this matter. He was convicted after a trial but has not yet been sentenced.

### **Wilson**

Wilson was the proprietor of a business called Exotic Pools operating at Springwood south of Brisbane. Between 1992 and 1995 Wilson defrauded the Australian Taxation Office of almost \$300 000 in unpaid sales tax. The business deducted \$115 000 from salaries but did not send it on to ATO. The business also submitted quarterly sales tax returns which showed that it had built 40 swimming pools over the relevant period. In fact the business had built 247 swimming pools on which sales tax of over \$200 000 was payable.

At the same time that he was submitting the false sales tax returns, Wilson was claiming refunds for sales tax paid prior to the High Court decision in *Mutual Pools and Staff Pty Ltd v Commissioner of Taxation* (1992) 173 CLR 450, where the High Court struck down legislation imposing sales tax on in-ground swimming pools constructed on site.

Wilson was charged with defrauding the Commonwealth and imposing on the Commonwealth. He pleaded guilty and was sentenced to two years imprisonment to be released after serving eight months. The sentencing judge noted that Wilson obtained an unfair advantage over his business competitors by not paying his taxes.

## Corporate prosecutions

### Byrnes and Hopwood

Byrnes and Hopwood were directors of a company called Magnacrete Ltd. Without consulting the other directors they caused Magnacrete to enter into agreements under which the company guaranteed a bank loan of \$1.7 million taken out by another company and lodged a cash deposit of \$2 million as further security for the loan. The arrangements were done to benefit the other company, Jeffcott Investments Ltd. Byrnes and Hopwood were also directors of Jeffcott Investments. Ultimately, Magnacrete lost the cash deposit and went into liquidation.

The defendants were each charged with one offence against section 229(4) of the Companies (SA) Code and Byrnes was also charged with two offences against section 564(1) of that Code. On 3 August 1993 the defendants were convicted after a trial before a judge alone. That procedure was available because the charges were for offences against a State law.

At first instance Byrnes and Hopwood were ordered to pay fines of \$8 000 and \$4 500 respectively. The DPP appealed against the sentences on the basis that they were manifestly inadequate. The South Australian Court of Criminal Appeal upheld the appeal, set aside the fines and substituted sentences of imprisonment for 18 months with a non-parole period of 12 months in the case of Byrnes, and 12 months with a non-parole period of eight months in the case of Hopwood. Byrnes and Hopwood have both applied for special leave to appeal to the High Court.

### Cribb

The defendant was a stockbroker who pleaded guilty to ten counts of insider trading. The offences were committed in March 1995 and involved the purchase of shares in a company called Cortecs International Limited.

The defendant was given the task of finding 700 000 shares in Cortecs to fill a purchase order by a foreign purchaser. The defendant knew that the foreign purchaser was prepared to pay 65 cents per share. At the time, shares in Cortecs were trading at between 40 to 51 cents. The defendant used the services of his company, his employer and two of his clients to purchase a total of 436 000 shares at the prevailing market price. The shares were immediately sold to the foreign purchaser at the higher price. The case involved a misuse of inside information for personal gain.

The defendant was convicted of ten offences against section 1002G(2)(b) of the Corporations Law. He was ordered to pay a fine of \$20 000. Cribb was the first person to be convicted of insider trading in WA.

### **Goward**

Goward is the former chairman and managing director of Westmex Limited. He was charged in separate matters with one offence against section 125 of the Securities Industry (NSW) Code and two offences under section 35 of the *Crimes Act 1914* of giving false testimony at a public examination before a Deputy Registrar in Bankruptcy.

The first charge related to a statement made by Goward in a press announcement on 6 December 1989 which was likely to induce the purchase of Westmex shares and which he ought to have known was false and misleading. The statement was to the effect that over the two months prior to 6 December 1989 no director of Westmex had sold Westmex shares. In fact, in November 1989 Goward arranged for the sale of approximately 733 800 Westmex shares which were held in the name of a private company controlled by him. The sale yielded approximately \$720 000.

At the time of the press announcement the share price of Westmex shares had been falling and Goward's private company was the single largest shareholder in Westmex. Westmex was placed into liquidation in February 1990.

Goward pleaded guilty to the charge and was sentenced to two years imprisonment with an additional term of ten months. He has lodged an appeal against sentence.

The charges under the *Crimes Act* concerned denials by Goward that he purchased a diamond ring from a jeweller in 1991 and that he arranged for the duplication of a set of wedding and engagement rings in 1992. The false denials were an attempt to prevent the Deputy Registrar in Bankruptcy from getting full details of his financial position. Goward was found guilty of the offences after a two week trial. He was sentenced to eight months imprisonment with a non-parole period of six months.

### **Heilbronn**

This case involved the alleged use of a "Phoenix company" to evade the payment of sales tax. The defendant was a director of a company called Vesofe Pty Ltd which was part of a group of companies involved in importing computer components, assembling them into computers and selling the computers. The responsibility for paying sales tax on the computers fell on Vesofe. By February 1994 there was a debt of \$657 000 owing in unpaid sales tax. At that point the defendant decided to wind up Vesofe and set up a new company.

The defendant arranged for any asset of Vesofe that had any value to be transferred to the new company, at minimal value. All the unsaleable and doubtful stock was left with Vesofe. ATO took action to wind up Vesofe, as the company could not pay the tax debt.

The defendant was charged with one offence against section 232(6) and 1317FA(1) of the Corporations Law of improperly using his position as a director of a company with intent to defraud creditors of the company and one offence against section 590(1)(b)(ii) of the

Corporations Law of failing to deliver to the liquidator the books and records of the company. He was found guilty by the jury on both counts. He was sentenced to two years imprisonment, to be released on a bond after nine months, on the first count and nine months imprisonment to be served concurrently on the second count.

This was the first time that a defendant has been found guilty by a jury of an offence involving the provisions of section 1317FA(1) of the Corporations Law.

Heilbronn has appealed against conviction and sentence. The appeal is yet to be heard.

### **Johnson, Fuller and Cummings**

The defendants in this case have been charged with offences of misapplying company funds under the *Criminal Law Consolidation Act 1935* (SA) and of improper use of position under the Companies (SA) Code. Johnson has also been charged with conspiracy to defraud.

The charges relate to a scheme whereby a public company, of which Fuller and Cummings were directors, acquired rights in the Burbank Oil Fields in Oklahoma USA at a price of US\$28 million from companies controlled by Johnson. It is alleged that the price was grossly inflated and that the rights in the oil field were only worth US\$3.7 million. The alleged purpose was to transfer US\$24.3 million of assets from the public company to private companies controlled by the defendants.

Johnson left Australia before charges were laid in the matter. An extradition request has been made to the UK. Fuller and Cummings were committed for trial in June 1995.

Shortly after they were committed for trial, Fuller and Cummings applied for a stay of the prosecution on the basis that they could not afford legal representation and had been refused legal aid. The applications were dismissed at first instance, on the basis that both defendants are legal practitioners and are capable of defending themselves. The defendants appealed against that decision. On 29 August 1997 the appeal was upheld by the SA Court of Criminal Appeal. The court made an order staying further proceedings until adequate funding is made available for legal representation.

In 1997 Fuller and Cummings made a further application for legal aid under new Commonwealth guidelines. The application was refused. On 18 February 1998 the trial was adjourned pending the outcome of funding negotiations between the SA Legal Services Commission and the Commonwealth Attorney-General's Department. Those negotiations are continuing.

In 1997 Johnson was found extraditable in the UK. In August 1997 the Home Secretary signed a warrant for Johnson's extradition. Johnson sought judicial review of that action. On 31 July 1998 the application was dismissed. Johnson has sought leave to appeal.

In January 1997 Johnson also commenced proceedings in Australia under the *Administrative Decisions (Judicial Review) Act 1977* challenging the decision to lay the informations which underpin the extradition request. That matter has been adjourned to 24 August 1998.

### **La Rosa**

This case involved a scheme to attract money for overseas investments. Thirteen investors invested a total of approximately \$1.8 million in the scheme following invitations from La Rosa. They were told that their money would be invested in the Standard Chartered Bank in Manilla in the Philippines and would be used to trade in money.

The investors were told that there would be 40 to 60 trades per year and that each one would generate an income of 2% of the amount invested, which would be paid weekly. They were told that the minimum investment amount was US\$50 000 and that funds could not be withdrawn for 12 months. They were also told that the investment scheme was legal but required confidentiality. La Rosa subsequently purported to move the scheme to the Bank of America in Albuquerque, New Mexico but the scheme remained essentially the same.

The investors lost most of their investment while La Rosa retained approximately \$150 000 worth of commissions. La Rosa did not lodge an approved deed in respect of the scheme.

In February 1995, as a result of civil proceedings brought by the ASC, as it then was, La Rosa and those associated with him agreed not to solicit further funds for the scheme and not to retain any more commissions.

La Rosa pleaded guilty to 13 offences against sections 1065(1) and 1311(1)(a) of the Corporations Law. He was sentenced to four years imprisonment with a minimum of two years and four months but that was reduced on appeal to two years imprisonment with a minimum of one year.

This case illustrates the effective use of civil and criminal proceedings in tandem. The civil proceedings shut the scheme down and prevented further loss to the investing public and the criminal proceedings followed this up with a substantial penalty which should act as an effective deterrent to future conduct of this kind.

### **Lewis and Bauer**

Lewis was a licensed investment adviser to whom people gave money for investment in a money market account that was pooled to earn interest. Bauer was his daughter. She kept the books and ran the office. Contrary to the instructions of investors, the defendants drew upon the money to prop up failing businesses and pay personal expenses. The offences continued from late 1987 until the fund was frozen by the ASC, as it then was, on 4 January 1994.



Both defendants were convicted on 12 counts of misappropriation under the Criminal Code of Queensland. Lewis was also convicted on four counts under the Corporations Law. Lewis was sentenced to two years imprisonment and Bauer was sentenced to 12 month imprisonment to be released on a bond after three months.

Because of the length of time over which the offences were committed, the case involved a very large number of documentary exhibits and a complex financial analysis. ASIC's litigation support system was used for the preparation and presentation of the matter and considerably reduced the length of the trial.

### **Reid**

Reid was the director and deputy chairman of Southern Cross Airlines Holdings Limited which was set up to operate a third airline in Australia. During his involvement with Southern Cross, Reid engaged in a pattern of dishonest behaviour that resulted in the theft of just under \$11 million from Southern Cross. Reid used \$5 million of that money to reduce his private debt to Westpac, \$462 700 went to pay tax owed by a company he controlled and the rest went to buy shares in Southern Cross for himself and members of his family.

The charges against Reid related to a range of illegal acts, including presenting false documents to Westpac so that the bank used Southern Cross' money to reduce Reid's personal debts and stealing \$462 700 that was paid to Southern Cross by the State of Queensland to pay for flight crew training. Reid also used Southern Cross money to buy shares in Southern Cross to make up a shortfall from a share float and he used Southern Cross money to buy shares in that company for himself and his family.

Reid was charged with 23 counts of theft, false accounting and similar offences against the Corporations Law and the Victorian *Crimes Act 1958*. He was convicted by a jury on the 72nd day of the trial. He was sentenced to ten years imprisonment with a minimum of eight years. He has lodged appeals against conviction and sentence.

A mutual assistance request was made in this case asking that evidence be taken from witnesses residing in the USA who were not prepared to travel to Australia to give evidence. The prosecution relied on the provisions of the *Foreign Evidence Act 1994* to admit the testimony into evidence. The trial judge delivered a ruling prior to the trial admitting the testimony into evidence pursuant to section 25(1) of the Foreign Evidence Act.

- CHAPTER 8 -

## Resource management

### Overview

#### Management

There is a resource management branch in each regional office, other than Hobart, and a resource management section in Head Office. They work under the overall direction of the Deputy Director, Corporate Management. Head Office plays a coordinating role in areas of national importance and provides media liaison and publishing services. Operational responsibility has been largely devolved to the regional offices, except for Hobart where resource management services are currently provided from Head Office.

The resource management section in Head Office is responsible for both financial and human resource management. The section is headed by a manager and has two team leaders who specialise in the different disciplines involved. This merged arrangement allows the DPP to coordinate the many reforms currently underway in the Australian Public Service.

The resource management branches in the regional offices are headed by an Executive Officer who works under the supervision of the Deputy Director for that State.

#### Significant developments

Resource management in the APS is undergoing fundamental change with all agencies having to implement a wide range of government initiatives. These include workplace relations reforms, including agency bargaining, changes flowing from the review of the Public Service Act and the introduction of the Financial Management and Accountability Act, the introduction of accrual accounting and outcome/output based budgeting, devolved banking, competitive tendering, outsourcing and the devolution of responsibilities from central agencies to operational areas.

On 10 August 1998 the Australian Industrial Relations Commission certified an agreement negotiated between the DPP and the Community and Public Sector Union under section 170LJ of the Workplace Relations Act. The agreement applies to all non-SES staff and will run until June 2000.

The Agreement provides for the rationalisation of classifications, rationalised leave and allowance arrangements, a focus on the personal development of staff and a four per cent salary increase. The next step will be to negotiate Australian Workplace Agreements with SES staff.

In the course of the year the DPP also implemented a new resource management information system, known as SAP R/3. SAP R/3 is a new generation financial system, and the DPP is one of the first budget funded agencies to implement a system of this kind. The exercise involved considerable cost and effort, but the Office is now well placed to cope with the various management reforms in progress in the APS.

The DPP has also reviewed its financial and personnel practices and replaced its financial and personnel instructions. The DPP took on payroll responsibility, from July 1998, and also implemented a new library system, called FIRST.

It has not been possible for the DPP to respond to all the new initiatives simultaneously. The Office has had to prioritise the work tasks and deal with projects as resources have allowed. The Office is operating under transitional arrangements in some areas.

#### **Performance indicators**

The key performance indicators for the resource management area are set out in the following table.

#### **Performance indicators for the resource management function**

|  | <b>1997-98</b> | <b>1996-97</b> |
|--|----------------|----------------|
| % of total staff who are part of Executive and Support sub-program (i) | 26.1%          | 23.8%          |
| % of budget expended on Executive and Support sub-program              | 26%            | 23.6%          |

- (i) The Executive and Support sub-program includes the costs of providing library and information technology services for the Office as well as general administrative support. Under an accrual budgeting environment these costs will be apportioned directly to primary sub-programs through depreciation and overhead costing.

The indicators appear to show an increase in the proportion of total staff who are part of the Executive and Support sub-program. Normally that would mean that the DPP is spending proportionately more of its budget on administrative support. However, the increase this year results from a change to the accounting practice rather than any change of substance. Some officers who perform support functions in the Corporate Prosecutions area, and who were previously counted under the prosecutions program, are now counted as support staff. The new accounting method is more accurate than the old. There has been no significant change to the DPP's staffing ratios.

## Human resources

### Staffing

As at 30 June 1998 the number of operational staff was 413 (412 at 30 June 1997). A breakdown of this figure appears in Tables 1 to 4 at the end of this Chapter. Average operational staffing for the year was 397 (415 for 1996-97).

Staff movements of permanent APS officers at the SES level resulted in four gains and four losses. None of the losses involved intra-agency mobility. The gains involved three DPP officers promoted to SES positions and one appointment from outside the APS.

The percentage of staff dedicated to executive and support was 26.1 percent (23.8 percent in 1996-97). As already noted, the increase reflects a change to the accounting practice rather than a change of substance.

There were no requests during the year for post separation employment under chapter 13 of the *Guidelines on Official Conduct for Commonwealth Public Servants*.

### Training and development

The Certified Agreement requires all staff members to enter into an annual personal development plan in May/June each year. All staff will be appraised against their plan under a simplified appraisal process.

During the year the DPP put considerable effort put into training staff on the new SAP R/3 system and into informing staff of the human resource management changes that flow from the Workplace Relations Act and that are likely to flow from the review of the Public Service Act. Training was also provided on financial reforms and the FIRST library system.

The DPP offices also conducted regular in-house legal training, usually on a monthly basis. This training is designed to keep legal skills current and to ensure that DPP lawyers comply with the continuing legal education requirements that apply to them. Each office also provided training, as required, on occupational health and safety issues, including stress management and ergonomics.

Direct expenditure on external training for the year was approximately \$314 400, which is 1.2 per cent of total salary expenditure (\$221 500 and 0.8 per cent in 1996-97). In addition, considerable in-house and on the job training was conducted during the year which is not costed.

### Staff interchange

The DPP has an interchange program under which officers can be placed with local or overseas organisations if resources are available. A number of staff transferred, on either a temporary or permanent basis, to other public sector agencies in the course of the year. However, there were no formal placements under the interchange program.

### **Occupational health and safety**

The DPP has an OH&S agreement with the CPSU. All offices have OH&S representatives and deputies. New representatives are selected and trained as the need arises. There is at least one formal workplace inspection in each office during each year. No problems of major significance were found during 1997-98.

There are regular OH&S committee meetings in each office. The first priority is given to minimising potential problems, especially those that may result from the introduction of new technology. If there is a problem, the DPP's practice is to engage specialists with the skills needed to carry out inspections and to develop strategies to overcome the problem.

### **Equal employment opportunity**

Each State office has an officer responsible for the implementation of EEO under the direction of the Deputy Director. Head Office provides advice and coordination for the State offices and a member of Head Office is the designated EEO coordinator.

The DPP's EEO profile is shown in Table 5 at the end of this Chapter. The table is based on information volunteered by staff and staff can choose not to disclose their EEO status. Accordingly the information may not be complete.

The office employs one Aboriginal legal cadet in Sydney and two in Brisbane. The employment levels for EEO target groups have not varied significantly since last year, although 65% of staff seeking voluntary redundancy were female.

It is not clear why more women than men are leaving the DPP. Exit questionnaires and interviews suggests that there is no perception that the DPP discriminates against members of target groups. The Certified Agreement requires the DPP to promote a workplace that is compatible with family life and to focus on the personal development of staff.

The major EEO priorities for 1998-99 will be:

- finalise the DPP's workplace diversity plan;
- prepare guidelines for part-time work, home-based work and job sharing; and
- continue EEO awareness training.

### **Performance pay**

The DPP does not have a performance pay scheme for its officers. Accordingly there were no payments of performance based pay during 1997-98.

The Certified Agreement does not include provision for performance pay.

### **Industrial democracy**

The Certified Agreement provides for a Workplace Relations Committee to replace the former National Consultative Council. That committee will be set up during 1998-99.

Regular ID meetings were held under the old regime during 1997-98. Issues raised included office relocation, accommodation, part-time work and the Certified Agreement itself.

## Financial management

### General

As already noted, the DPP has implemented the SAP R/3 Financial Management Information system to support changes required under the Financial Management and Accountability Act and the move to full accrual accounting and output/outcome based budgeting.

The move to full accrual accounting and budgeting, along with devolved banking, will impose significant new responsibilities and workloads on DPP staff. The initiatives will be implemented over the next year. The Office is operating in a transitional mode in the meantime.

### Financial statements

Audited financial statements are included at the end of this Report. The DPP's total revenue and expenses, and the budget for 1997-98, are shown in Table 6 at the end of this Chapter.

Total expenditure for 1997-98 was \$52.584 million, against a budget of \$55.799 million (in 1996-97 expenditure was \$54.241 million against a budget of \$58.476 million). The underspending against budget resulted mainly from the deferral of parts of the asset replacement and IT re-equipment programs.

The reduction in expenditure from 1996-97 resulted mainly because there were less payments for voluntary redundancies and there was a reduction in legal costs awarded against the DPP.

### Program budgeting

The DPP has two sub-programs for the purposes of external reporting: Commonwealth Prosecutions (which includes Corporate prosecutions) and Criminal Assets. Executive and Support costs are apportioned against the two operational programs. Details of activities under each sub-program appear in the relevant chapters of this Report. The expenditure incurred under each sub-program is set out in the financial statements at the end of this Report.

For further information on the DPP budget see *Attorney-General's Program Budget Measures Statements* for 1997-98 and 1998-99. The relevant entries are under sub-program 6.7.

### **Financial reporting and management information systems**

The DPP now operates two key management information systems, the SAP R/3 Resource Management Information system and a Fines and Costs debtors system.

### **Accounting policy**

The *Financial Management and Accountability Act 1997* took effect from 1 January 1998. This Act devolves the responsibility for financial management to the Chief Executive Officers of Commonwealth agencies and it imposes additional responsibilities and workloads on agencies. The DPP has developed a set of Director's (Chief Executive Officer's) Financial Instructions. The old financial arrangements remained in force as a transitional arrangement while the new instructions were developed.

During 1997-98 the DPP failed to gazette some purchases in excess of \$2 000 within the required time-frame. All such purchases were subsequently gazetted outside the required reporting period. In most cases, the delay was connected with the changeover to the SAP R/3 system.

### **Accounts processing**

The DPP is still reviewing its accounts processing practices, and the degree of devolution of financial responsibility, as part of the move to accrual accounting. The new system requires different skills than the old and that may mean that some processes that have been decentralised will have to be re-centralised.

The DPP uses Australian Government credit cards wherever it is practicable to do so. The DPP is progressively implementing electronic funds transfer where it is a suitable form of payment and has commenced examining options for devolved banking when it is implemented next year.

### **Claims and losses**

In 1997-98 the DPP had no claims or losses which individually resulted in net costs to the Commonwealth of \$50 000 or more.

The DPP also had no claims which resulted in aggregate costs to the Commonwealth in the ranges \$10 000 to \$20 000 and \$20 000 to \$50 000.

### **Capital works management**

The DPP had no major capital works projects that cost \$6 million or more in 1997-98.

### **Agency evaluations**

As noted elsewhere in this Report, the DPP is progressively reviewing the operations of each region through the Best Practice Review Committee.

In 1993-94 the DPP participated, together with the Department of Finance and the Attorney-General's Department, in a tripartite review of the Office as a whole. The criminal assets function, fines and costs activities, and the IT area were all reviewed separately prior to that. In addition, in 1992-93, the DPP was represented on a portfolio review of the Corporate Prosecutions function.

Accordingly, all major activities of the DPP have been reviewed in recent years.

## **Other areas**

### **Information technology**

The DPP computer installation is largely made up of IBM-compatible personal computers, local and wide area networks and in-house applications running in a client-server environment. Windows 95 and Office 97 are the basic office administrative systems.

The DPP maintains the following in-house systems:

- Case Recording and Information Management System (CRIMS), which records details of prosecutions handled by the DPP;
- Criminal Assets Recording System (CARS), which records and tracks action by the Criminal Assets branches;
- Fines and Costs (FACS), which records and disperses fines and costs imposed by courts; and
- File Registry System (FILE), which keeps a record of administration files.

The DPP operates a SAP R/3 Resource Management Information System on Hewlett-Packard Unix minicomputers, using an Oracle database, for financial, payroll and human resource management. The Office also operates the FIRST library system utilising Windows NT and Oracle on file servers.

The DPP has developed a computer court presentation system called CLARITY which assists with the preparation, management and presentation of evidence in complex cases. CLARITY has been widely used in cases ranging from money laundering to corporate prosecutions.

The Office extended the Wide Area Network to include Hobart when the DPP set up an office in Tasmania.

In 1998-99 the DPP will continue an ongoing program to upgrade its existing IT environment and will expand the WAN to Darwin when the DPP sets up an office in the NT. The DPP will also set up a Microsoft Intranet to facilitate the internal dissemination of information.



The DPP has identified IT and non-IT systems that must be Year 2000 compliant. At present, the DPP is finalising a Year 2000 testing strategy, and expects to develop a contingency plan during 1998/99. The DPP regularly reports on its Year 2000 readiness to Office of Government Information Technology.

### **Libraries**

The DPP has a library in each region and in Head Office. The libraries operate as a network providing reference and information services to all offices. Each library has at least one professional librarian. All libraries have access to local and overseas on-line sources and they provide legal staff with desk-top access to in-house and commercial databases on disc and CD-ROM. The libraries also provide a current awareness service to lawyers.

The Head Office library has a national coordinating role and manages national DPP in-house databases, manuals and current awareness services. The systems/cataloguing librarian maintains the library management system and is responsible for network cataloguing. The librarians meet regularly and jointly develop library policies and procedures for the network.

The DPP uses the ISYS text retrieval system for most of its in-house databases and for commercial databases which do not have their own text retrieval system. The in-house databases will be moved to the DPP Intranet over the next year and will be searchable using ISYSWEB.

In the course of the year, the DPP implemented a new library management system called FIRST. The system will allow desktop access to the library catalogue with links to full-text documents and databases.

### **Accommodation**

In 1997-98 the DPP spent approximately \$6.8 million on accommodation and occupied a total of 16 522 square metres (\$6.0 million and 17 020 square metres in 1996-97). A breakdown of these figures appears in Table 7 at the end of this Chapter. The increase in expenditure was expected and occurred because rent free periods expired on some leases. The figures do not include office space for Hobart.

No significant changes were made to office accommodation in 1997-98.

### **Consultancy services**

Details of expenditure for 1997-98 are shown in Table 8 at the end of this Chapter. A significant part of the cost related to consultants contracted under the OGIT shared suite arrangements for implementation of management information systems and payments to in-house counsel.

### **Fraud control and internal audit**

The DPP issued its current Fraud Control Plan in 1995. The plan will be reviewed in 1998-99 following the implementation of the new resource management systems and instructions.

There were no cases of internal fraud reported during the year and there were no relevant disciplinary proceedings under the Public Service Act.

### **Public relations**

All media inquiries are handled by an executive assistant who works in Head Office and can be contacted on (02) 62065606 during office hours. The DPP's policy is to provide accurate information on any matter which is on the public record. However, the DPP will generally not disclose information on cases that are yet to come before the courts.

The executive assistant also provides a daily media summary to DPP officers via the computer network. The summary forms the basis of a database which can be used for research purposes.

A corporate video, *Prosecuting in the Public Interest*, explains the work of the Office. Copies of the video can be obtained from any DPP office.

The DPP did not undertake any advertising campaigns or market research in 1997-98.

### **External scrutiny**

The DPP was referred to in one report by the Auditor-General in 1997-98. That was Audit Report No. 22 of 1997-98 entitled *Results of 1996-97 Financial Statements Audit of Commonwealth Entities*. The comments made in that report in respect of the DPP were that the audit report on the financial statements was unqualified and the result of the audit of the accounts and records was satisfactory.

The DPP was referred to in one report by a Parliamentary Committee. That was Report No. 358 of the Joint Committee of Public Accounts and Audit entitled *Review of the Auditor-General's Reports 1996-97 Third Quarter*. That Report includes a report on Audit Report No. 23 which dealt with the recovery of the Proceeds of Crime.

The Joint Committee made one recommendation which affects the DPP, namely:

*Agencies associated with the recovery of proceeds of crime should jointly develop and implement procedures designed to ensure that all proceeds recovered are clearly identified and attributed to the appropriate agency.*

After consultation, the DPP has reviewed the operation of the Criminal Assets Recording System to ensure that the identity of the referring agency is accurately recorded in all future cases where money is recovered.

The DPP was not referred to in any report by the Ombudsman and there were no adverse findings against the management practices of the DPP by a court or tribunal.

**Status of women**

The DPP does not have specific policies addressing the status of women, other than in relation to employment issues addressed under EEO. The DPP does its part to ensure that there is no discrimination against women in the criminal process.

The DPP does not have a women's unit. The responsibility for ensuring that proper attention is paid to the status of women rests on the Deputy Directors.

**Environmental matters and energy management**

The DPP endeavours to make the best use of resources. It uses energy saving methods where possible in its operations. It also uses technology to minimise energy use, including automatic switch-off devices on electrical equipment. The DPP gives preference to environmentally sound products and waste paper is recycled.

**Freedom of information**

The DPP had one outstanding request under the Freedom of Information Act at the start of the year and received six requests during the year. In one case access was granted in full, in two cases access was granted in part, in two cases access was refused, in one case the application was withdrawn and one request was outstanding at the end of the year. Of the requests dealt with, four were dealt with within 30 days and one within 60 days.

**Business regulation**

The DPP has no direct role in business regulation other than to prosecute criminal offences in appropriate cases. The DPP's activities in Corporate Prosecutions are reported in Chapter 3.

**Public comment**

The DPP does not have formal arrangements to inviting comments from the general public. However, any person is free to write to the DPP at the addresses shown at the front of this Report.

**Privacy**

No reports were served on the DPP by the Privacy Commissioner under section 30 of the Privacy Act in the past year.

## Resource management tables

**Table 1: Staff as at 30 June 1998**

| Classification | ACT       | NSW        | Vic.       | Qld       | SA        | WA        | Tas.     | Total      |
|----------------|-----------|------------|------------|-----------|-----------|-----------|----------|------------|
| Director       | 1         |            |            |           |           |           |          | 1          |
| SES Band 3     | 2         |            |            |           |           |           |          | 2          |
| Band 2         | 2         | 1          | 1          | 1         | 1         | 1         |          | 7          |
| Band 1         | 4         | 7          | 6          | 5         | 1         | 3         |          | 26         |
| Legal 2        | 8         | 24         | 22         | 12        | 7         | 8         | 2        | 83         |
| Legal 1        | 3         | 27         | 19         | 11        | 5         | 5         | 2        | 72         |
| SITO A         | 2         |            |            |           |           |           |          | 2          |
| SITO B         | 1         |            | 1          |           |           |           |          | 2          |
| SITO C         | 2         | 2          | 1          |           |           |           |          | 5          |
| ITO 2          |           | 1          | 2          |           |           | 2         |          | 5          |
| ITO 1          |           |            |            |           | 1         |           |          | 1          |
| SPO B          | 1         |            |            |           |           |           |          | 1          |
| SPO C          | 2         | 1          | 1          | 1         | 1         | 1         |          | 7          |
| PO 2           | 1         | 1          |            |           |           |           |          | 2          |
| PO 1           |           |            | 1          |           |           |           |          | 1          |
| SOG A          | 1         |            |            |           |           |           |          | 1          |
| SOG B          | 2         | 3          | 3          | 1         | 1         | 1         |          | 11         |
| SOG C          | 1         |            |            |           |           |           |          | 1          |
| ASO 6          | 3         | 2          | 2          | 2         | 1         | 1         |          | 11         |
| 5              | 1         | 1          | 1          |           |           |           |          | 3          |
| 4              | 7         | 16         | 9          | 12        | 1         | 6         |          | 51         |
| 3              | 6         | 17         | 11         | 5         | 5         | 10        |          | 54         |
| 2              |           | 12         | 18         | 3         | 1         | 1         | 3        | 38         |
| 1              |           | 3          | 1          |           |           |           |          | 4          |
| ABCAD          |           |            |            | 2         |           |           |          | 2          |
| Agency         | 4         | 5          | 1          | 1         | 3         | 6         |          | 20         |
| <b>Totals</b>  | <b>54</b> | <b>123</b> | <b>100</b> | <b>56</b> | <b>28</b> | <b>45</b> | <b>7</b> | <b>413</b> |

Note: Inoperative staff not included: Paid 11 Unpaid 22

**Legend:** SES Senior Executive Service; SITO Senior Information Technology Office; SPO Senior Professional Officer; SOG Senior Officer Grade; ASO Administrative Service Officer; ABCAD Aboriginal Cadet Legal

**Table 2: Staffing summary for 1997-98**

|  |     |
|--|-----|
| Statutory Office holders               | 1   |
| Total staff employed under the PS Act  | 381 |
| Total staff employed under the DPP Act | 12  |
| Agency staff                           | 20  |
| Total                                  | 413 |

The total number of temporary staff included in this table is 25.

**Table 3: Staff as at 30 June 1998 by gender and category**

| Category                    | Full-time |        | Part-time |        |
|-----------------------------|-----------|--------|-----------|--------|
|                             | Male      | Female | Male      | Female |
| Director                    | 1         |        |           |        |
| Senior Executive Service -  |           |        |           |        |
| Band 3                      | 2         |        |           |        |
| Band 2                      | 6         | 1      |           |        |
| Band 1                      | 18        | 8      |           |        |
| Legal                       | 74        | 60     | 1         | 20     |
| Senior Officer & equivalent | 17        | 12     |           | 2      |
| ASO & equivalent            | 50        | 110    | 1         | 10     |
| Grand total 393             | 168       | 191    | 2         | 32     |

Agency staff are not included in the above figures

**Table 4: Staff usage by office in 1997-98**

| Office                 | Estimated average staffing 1998-99 | Actual average staffing 1997-98 |
|------------------------|------------------------------------|---------------------------------|
| Head Office            | -                                  | 51.1                            |
| NSW                    | -                                  | 127.6                           |
| Vic.                   | -                                  | 96.6                            |
| QLD                    | -                                  | 55.6                            |
| SA                     | -                                  | 27.9                            |
| WA                     | -                                  | 38.4                            |
| Tas (from 1 July 1998) |                                    | n/a                             |
| Total                  | 406                                | 397.2                           |

**Table 5: Staff usage by program in 1997-98**

| Office              | Estimated average staffing 1998-99 | Actual average staffing 1997-98 |
|---------------------|------------------------------------|---------------------------------|
| Prosecutions        | -                                  | 258.8                           |
| Criminal Assets     | -                                  | 34.8                            |
| Executive & Support | -                                  | 103.6                           |
| Total               | 406                                | 397.2                           |

**Table 6: EEO profile as at 30 June 1998**

| Classification    | Male | Female | ATSI | PWD | NESB1 | NESB2 |
|-------------------|------|--------|------|-----|-------|-------|
| Director          | 1    |        |      |     |       |       |
| SES 3             | 2    |        |      |     |       |       |
| SES 2             | 6    | 1      |      |     |       | 1     |
| SES 1             | 18   | 8      |      |     | 1     | 2     |
| Legal             | 75   | 80     | 2    | 5   | 5     | 11    |
| SOG A/B/C & Equiv | 17   | 14     |      |     | 2     | 2     |
| ASO 1-6 & Equiv   | 51   | 120    | 2    | 5   | 8     | 24    |
| Total             | 393  | 170    | 4    | 10  | 16    | 40    |

Agency staff and inoperative staff are not included in the above figures

**Legend:**

ATSI: Aboriginal and Torres Strait Islanders

PWD: People with disabilities

NESB1: Non-English Speaking Background (first generation, born overseas and whose first language was not English).

NESB2: Non-English Speaking Background (second generation, arrived in Australia before age five along with Australian-born people with parents of NESB).

**Note:** The above categories, other than male or female, only include officers who have voluntarily identified themselves as belonging to a particular group. The figures in the above table may accordingly be incomplete.

**Table 7: Revenue and expenses over past four years and budget for 1998-99**

|          | <b>1995-96<br/>(\$'000)</b> | <b>1996-97<br/>(\$'000)</b> | <b>1997-98<br/>(\$'000)</b> | <b>1998-99 est<br/>(\$'000)</b> |
|----------|-----------------------------|-----------------------------|-----------------------------|---------------------------------|
| Receipts | 2 086                       | 2 285                       | 2 570                       | 2 504                           |
| Expenses |                             |                             |                             |                                 |
| Budget   | 58 279                      | 58 476                      | 55 799                      | 55 665                          |
| Actual   | 52 220                      | 54 241                      | 52 584                      |                                 |

**Table 8: Accommodation costs and usage in 1997-98**

| <b>Program</b>   | <b>Space occupied (m2)</b> |                | <b>Cost (\$m)</b> |                |
|------------------|----------------------------|----------------|-------------------|----------------|
|                  | <b>1996-97</b>             | <b>1997-98</b> | <b>1996-97</b>    | <b>1997-98</b> |
| Prosecutions     | 9 853                      | 9 216          | 3.521             | 3.834          |
| Criminal Assets  | 1 720                      | 1 302          | .592              | .542           |
| Exec and Support | 5 447                      | 6 004          | 1.887             | 2.497          |
| Total            | 17 020                     | 16 522         | 6.000             | 6.873          |

**Table 9: Consultancies for 1997-98**

| <b>Consultant</b>                    | <b>Purpose</b>                   | <b>Cost</b>  | <b>Period</b>  | <b>Reason used</b>                |
|--------------------------------------|----------------------------------|--------------|----------------|-----------------------------------|
| <b>Head Office</b>                   |                                  |              |                |                                   |
| DWR&SB *                             | Development of Cert. Agreement   | \$3 550.00   | April-May 98   | Expertise not available in office |
| Daryl Dixon *                        | Redundancy options               | \$250.00     | Aug 98         | Expert advice required            |
| Michelle Moufarrege *                | Assistance with archiving system | \$537.50     | May-June 98    | Expertise not available in office |
| Telstra *                            | Provision of receptionists       | \$60 181.75  | Jun 97-Jun 98  | Expertise not available in office |
| W Berkeley *                         | After hours security             | \$12 650.00  | Jul 97-Jul 98  | Expertise not available in office |
| Crain *                              | H-P Unix operating system        | \$3 005.00   | Mar-Apr 98     | Expertise not available in office |
| SAP *                                | Implementation of SAP R/3        | \$173 250.00 | Jul 97-Jun 98  | Expertise not available in office |
| Software Consulting Services Pty Ltd | Implementation of SAP R/3        | \$61 075.00  | Jun-Dec 97     | Expertise not available in office |
| Setac *                              | Configuration of SAP R/3         | \$38 503.50  | Feb-May 98     | Expertise not available in office |
| Hays Personnel Services *            | Preparation of fin. statements   | \$27 157.54  | July 97-Oct 97 | Qualified staff on SAP project    |
| Imageword *                          | Word macro conversion            | \$13 081.25  | Dec 97         | Expertise not available in office |
| Opalsys *                            | Word macro conversion            | \$13 048.75  | Jan-Feb 98     | Expertise not available in office |
| Optimus Prime *                      | Implementation of FIRST system   | \$108 150.00 | Oct 97-Oct 98  | Expertise not available in office |
| Phoenix International *              | Data conversion- FIRST system    | \$200.00     | Feb 98         | Expert advice required            |
| J Michie *                           | Loose leaf filing                | \$5 332.50   | Jul 97-Jun 98  | Resources not available in office |
| <b>Sydney office</b>                 |                                  |              |                |                                   |
| M lerace *                           | In-house counsel                 | \$114 583.37 | Jun 97-May 98  | In-house counsel                  |
| Careers Connection *                 | IT consultant                    | \$47 602.38  | Nov 97-Apr 98  | Expertise not available in office |
| Lateral Systems *                    | IT consultant                    | \$18 837.00  | Apr 98-Jun 98  | Expertise not available in office |



---

COMMONWEALTH DIRECTOR OF PUBLIC PROSECUTIONS

---

|                                       |                                |                     |                                    |                                   |
|---------------------------------------|--------------------------------|---------------------|------------------------------------|-----------------------------------|
| Henge Systems *                       | Litigation support system      | \$13 483.25         | May 97-<br>Apr 98                  | Expertise not available in office |
| Davidson Trahaire *                   | Employee's assist. program     | \$6 250.00          | Jul 97-Jun 98                      | Expertise not available in office |
| <b>Melbourne office</b>               |                                |                     |                                    |                                   |
| William Stuart *                      | In-house counsel               | \$20 000.00         | Mar 98-<br>Jun 98                  | In-house counsel                  |
| Nick Robinson *                       | In-house counsel               | \$121 664.00        | Jul 97-<br>Jun 98                  | In-house counsel                  |
| Occupational Services *               | Employee's assist. program     | \$3 200.00          | Jan 98-<br>Dec 98                  | Expertise not available in office |
| Commonwealth Rehabilitation Service * | Office ergonomics training     | \$2 500.00          | Jul 98                             | Expertise not available in office |
| Aust. Property Group *                | Sub-lease report               | \$16 397.50         | Jan 97-<br>Aug 98                  | Expertise not available in office |
| Interiors Australia *                 | Fitout consulting              | \$7 710.00          | Jul 97-Sep 97<br>Mar 98-<br>Jun 98 | Expertise not available in office |
| <b>Perth office</b>                   |                                |                     |                                    |                                   |
| Kim Griffiths *                       | Financial analytical services. | \$12 541.00         | Aug 97-<br>Dec 97                  | Expertise not available in office |
| <b>TOTAL</b>                          |                                | <b>\$904 741.29</b> |                                    |                                   |

Consultancies marked \* were not publicly advertised.

## Appendix 1

### Statement under the Freedom of Information Act

Under section 8(1)(b) of the *Freedom of Information Act 1982* the DPP is required to publish up-to-date information on the following matters:

(a) Particulars of the organisation and functions of the agency, indicating as far as practicable the decision-making powers and other powers affecting members of the public that are involved in those functions.

Information on this is contained throughout this Report, but particularly in Chapters 1 and 2.

(b) Particulars of any arrangements that exist for bodies or persons outside the Commonwealth administration to participate, either through consultative procedures, the making of representations or otherwise, in the formulation of policy by the agency, or in the administration by the agency of any enactment or scheme.

People charged with Commonwealth offences, or who are the subject of criminal assets proceedings, may make representations to the Director concerning the proceedings against them either directly or through their legal representatives. Any matters raised will be taken into account when a decision is made whether to continue the prosecution or the criminal assets proceedings.

(c) Categories of documents that are maintained in the possession of the agency, being a statement that sets out, as separate categories of documents, categories of such documents, if any, as are referred to in paragraph 12(1)(b) or (c) and categories of documents, if any, not being documents so referred to, as are customarily made available to the public, otherwise than under the Act, free of charge upon request.

The following categories of documents are made available (otherwise than under the Freedom of Information Act) upon request:

- DPP Annual Report;
- copies of the texts of addresses or speeches made by the Director and other senior officers;
- *The Prosecution Policy of the Commonwealth : Guidelines for the making of decisions in the prosecution process; and*
- *Guidelines for Dealings between Commonwealth Investigators and the Commonwealth Director of Public Prosecutions.*

(d) Particulars of the facilities, if any, provided by the agency for enabling members of the public to obtain physical access to the documents of the agency.

Facilities for the inspection of documents, and preparation of copies if required, are provided at each DPP office. Copies of all documents are not held in each office and therefore some documents cannot be inspected immediately upon request. Requests may be sent or delivered to the FOI Coordinating Officer at any of the addresses set out at the beginning of this Report. Business hours are 8:30 a.m. to 5:00 p.m.

- (e) Information that needs to be available to the public concerning particular procedures of the agency in relation to Part III, and particulars of the officer or officers to whom, and the place or places at which, initial inquiries concerning access to documents may be directed.

There are no particular procedures that should be brought to the attention of the public. Initial inquiries concerning access to documents may be made at any of the addresses set out at the beginning of this Report.

## Appendix 2

### Statement on Prosecution Disclosure

#### Section A: Introduction

A1. This statement deals with:

- advance disclosure of the prosecution case in matters that are to proceed on indictment (Section B),
- advance disclosure of the prosecution case in summary matters (Section C),
- the disclosure of matters affecting the credibility or reliability of a prosecution witness (Section D),
- the disclosure of "unused material" (Section E),
- the procedures for the referral to the DPP of matters affecting the credibility or reliability of a prosecution witness and unused material (Section F).

The requirements imposed on prosecutors by this statement are to be complied with subject to any State or Territory laws which are applicable in the prosecution of Commonwealth offences pursuant to the relevant provisions of the *Judiciary Act 1903*.

A2. In this statement a reference to an "investigating agency" is a reference to the Australian Federal Police, the National Crime Authority or other Commonwealth department or agency which conducts investigations into offences against Commonwealth law.

#### Section B: Advance disclosure of the prosecution case in matters that are to proceed on indictment

B1. In matters that are to proceed on indictment the law and practice applying in all Australian jurisdictions makes provision for advance disclosure to the defence of the evidence the prosecution intends to rely on at the trial. For the most part disclosure of the prosecution case takes place in the course of committal proceedings. Where, however, the prosecutor intends to rely at the trial on evidence which was not advanced at the committal hearing the prosecutor should disclose that additional evidence to the defence with as much notice as is reasonably practicable.

B2. Where the prosecution intends to call a witness whose evidence was not relied on at the committal hearing the defence should be provided with a copy of the witness's statement. If the witness has not made a written statement, the defence should be so advised. However, the statement should not include the address or

telephone number of the proposed witness (whether residential or business) unless the address or telephone number is relevant to the prosecution case.

- B3. The defence should be provided with reasonable access to any proposed exhibit which was not relied on at the committal hearing and, where it is practicable to do so, a photocopy or photograph of any such exhibit.
- B4. Where the prosecutor is of the opinion that to make advance disclosure of additional evidence in accordance with the preceding paragraphs of this section would be reasonably likely to lead to a prospective prosecution witness being intimidated or result in some other interference with the course of justice the prosecutor may delay disclosing the additional evidence until a time more proximate to the witness giving evidence.

**Section C: Advance disclosure of the prosecution case in summary matters**

- C1. Where the matter is to be dealt with summarily in most Australian jurisdictions the prosecution is under no duty, whether under statute or at common law, to make advance disclosure to the defence of the evidence upon which it intends to rely. Nevertheless, ordinarily it will be in the overall interests of justice for the defence to be provided with advance notice of such evidence.
- C2. Where the defendant has entered a plea of not guilty in proceedings for summary conviction the DPP should provide the defence with the following:
  - (a) copies of any written statements by persons whom the prosecution intends to call to give evidence at the hearing. If the prosecution intends to call a person who has not made a written statement, the defence should be so advised.
  - (b) reasonable access to inspect proposed exhibits and, where it is practicable to do so, photocopies or photographs of such exhibits.

A statement referred to in paragraph (a) should not include the address or telephone number (whether residential or business) of a person whom the prosecution intends to call as a witness unless the address or telephone number of that person is relevant to the prosecution case.

- C3. Subject to paragraph C4, the material referred to in paragraphs (a) and (b) should be provided to the defence with as much notice as is reasonably practicable.
- C4. The prosecutor may decline to make advance disclosure of particular information in accordance with paragraph C2 if the prosecutor is of the opinion that to do so would be reasonably likely to lead to a prospective prosecution witness being intimidated or result in some other interference with the course of justice. Where particular information has been withheld in accordance with this paragraph the defence should be so informed.<sup>1</sup>

<sup>1</sup> In some cases it may be sufficient to merely delay disclosure of the particular information.

**Section D: Disclosure of matters affecting the credibility or reliability of a prosecution witness**

- D1. This section applies to summary trials, committal proceedings and trials on indictment.
- D2. The prosecution is under a duty to disclose to the defence information in its possession which is relevant to the credibility or reliability of a prosecution witness. For example, that information may consist of:
- (a) a previous conviction,<sup>2</sup>
  - (b) a statement made by a witness which is inconsistent with any prior statement,
  - (c) an adverse finding in other criminal proceedings or in non-criminal proceedings (such as disciplinary proceedings, civil proceedings or a Royal Commission),
  - (d) evidence before a Royal Commission which reflects adversely on a prosecution witness,
  - (e) any physical or mental condition which may affect reliability,
  - (f) any concession which has been granted to a witness in order to secure that person's testimony for the prosecution.
- D3. Where the prosecution is in possession of information which is relevant to the credibility or reliability of a prosecution witness that information should be disclosed to the defence:
- (a) in matters to be disposed of summarily – as soon as reasonably practicable after the defendant has entered a plea of not guilty and the case has been set down for hearing,
  - (b) in matters to be dealt with on indictment – prior to the committal proceedings.
- D4. Paragraphs D5 to D10 provide more detailed guidance on some of the matters listed in paragraph D2.

**Previous convictions**

- D5. It would impose an excessive burden on an investigating agency to require it to cause a criminal history check to be made of every person the prosecution intends to call as a witness for the prosecution.
- D6. The prosecutor should request a criminal history check of a prosecution witness where there is reason to believe that the credibility of the prosecution witness may be in issue.

---

<sup>2</sup> "Conviction" includes any order of a court whereby the court, upon being satisfied that the charge is proved, releases the offender without proceeding to conviction.

- D7. While the duty to disclose to the defence the previous convictions of a prosecution witness extends only to relevant prior convictions, a prior conviction recorded against a prosecution witness should be disclosed unless the prosecutor is satisfied that the conviction could not reasonably be seen to affect credibility having regard to the nature of, and anticipated issues in, the case. In that regard, previous convictions for perjury and offences involving dishonesty should always be disclosed.
- D8. While the disclosure of prior convictions recorded against a prosecution witness in accordance with the above paragraphs does not depend on a request by the defence, it is open to the defence to request the prosecution to provide it with the details of any criminal convictions recorded against any prosecution witness who would not be the subject of a criminal history check initiated by the prosecution in accordance with paragraph D6. Such a request should be complied with where the prosecutor is satisfied that the defence has a legitimate forensic purpose for obtaining this information.<sup>3</sup>

**Adverse findings in non-criminal proceedings**

- D9. Where a prosecution witness has been the subject of an adverse finding in proceedings of the kind referred to in paragraph D2(c), the matter should be disclosed to the defence unless the prosecutor is satisfied that the finding could not reasonably be seen to affect credibility having regard to the nature of, and anticipated issues in, the case. Findings involving dishonesty should always be disclosed. On the other hand, it may not be necessary to disclose adverse findings, for example, of inefficiency, incompetence or disobedience to orders.

**Concessions to witnesses<sup>4</sup>**

- D10. The prosecution should disclose:
- (a) any concession provided to a witness with respect to his or her involvement in criminal activities in order to secure his or her evidence for the prosecution, whether as to choice of charge, the grant of an undertaking under subsection 9(6) or subsection 9(6D) of the *Director of Public Prosecutions Act 1983* or otherwise.
  - (b) any monetary or other benefit that has been claimed by, or offered or provided to, a witness. This does not include any payments made in the ordinary and usual course of securing the evidence of a witness (eg the payment of travel and accommodation expenses or the fees of expert witnesses),

<sup>3</sup> For example, the prosecution would not normally initiate a criminal history check in accordance with paragraph D6 in respect of purely formal witnesses. In the event the defence requested criminal history checks of such witnesses it would have to satisfy the prosecutor that it had a legitimate forensic purpose for seeking such information.

<sup>4</sup> see paragraph D2(f)

- (c) where the witness participated in the criminal activity the subject of the charges against the defendant, whether the witness has been dealt with in respect of his or her own involvement and, if so, whether the witness received a discount on sentence as a result of undertaking to cooperate with law enforcement authorities in relation to the current matter.

**Section E: Disclosure of unused material**

- E1. This section applies to summary trials, committal proceedings and trials on indictment.
- E2. For the purposes of this statement "unused material" is all information relevant to the charge/s against the defendant which has been gathered in the course of the investigation and which:
- (a) the prosecution does not intend to rely on as part of its case, and
  - (b) either runs counter to the prosecution case (that is to say, points away from the defendant having committed the offence) or might reasonably be expected to assist the defendant in advancing a defence.
- "Unused material" also includes information of the kind referred to in paragraph (b) which is in the possession of a third party (see paragraph E11). However, it does not include information affecting the credibility or reliability of a prosecution witness, which is dealt with in section D of this statement.
- E3. The prosecution should disclose to the defence all unused material in its possession unless, in respect of particular material :
- (a) it is considered that the material is immune from disclosure on public interest grounds,
  - (b) disclosure of the material is precluded by statute, or
  - (c) it is considered that legal professional privilege should be claimed in respect of the material.
- E4. In matters to be disposed of summarily the prosecution should disclose any unused material to the defence as soon as reasonably practicable after the defendant has entered a plea of not guilty and the case has been set down for hearing.
- E5. In matters to be dealt with on indictment the prosecution should disclose any unused material to the defence prior to the committal proceedings.<sup>5</sup>
- E6. Where the defendant has entered a plea of guilty the prosecution should disclose to the defence any information in its possession which might reasonably be expected to be of assistance to the defence on the hearing of the plea.

<sup>5</sup> Where no committal proceedings were conducted the prosecution should disclose any unused material to the defence as soon as reasonably practicable after the defendant has been informed of the decision to proceed with a trial on indictment.



- E7. The requirement to disclose unused material is a continuing one.
- E8. Where it is feasible to do so disclosure should take the form of providing the defence with copies of the unused material. However, where that is not feasible (for example because of the bulk of the material) the defence should be provided with a schedule which lists the unused material, with a description sufficient to make clear the nature of that material. The defence should then be informed that arrangements may be made to inspect the material.
- E9. If particular unused material has been withheld from disclosure on the basis that the material is immune from disclosure on public interest grounds, is the subject of a claim of legal professional privilege or disclosure is precluded by statute, the defence should be so advised. Where material has been withheld from disclosure on the ground that it is considered to be immune from disclosure on public interest grounds the defence should be informed in general terms of the basis of the claim (for example, that it would disclose the identity of an informant or the location of premises used for surveillance) unless to do so would in effect reveal that which it would not be in the public interest to reveal.
- E10. In some cases it will be sufficient to merely delay disclosure.<sup>6</sup>
- E11. Where the prosecution is aware that material of the kind referred to in paragraph E2(b) is in the possession of a third party (that is, a person or body other than the prosecution or the investigating agency) the prosecution should inform the defence of the name of the third party and the nature of the material. The defence should also be informed of the address of the third party (if known) unless there is good reason for not doing so. Where the third party's address is not disclosed it may be necessary for the prosecutor to facilitate communication between the defence and the third party.
- E12. Where the prosecution is in possession of a statement from a person who can give material evidence but the person will not be called as a witness for the prosecution as the prosecution does not regard the person as credible, in addition to providing the defence with the name and address of the person ordinarily the defence should also be provided with a copy of the statement.<sup>7</sup>

<sup>6</sup> For example, where disclosure of particular unused material might prejudice ongoing investigations in such a case it may be sufficient to delay making disclosure of the material until after the investigations have been completed.

<sup>7</sup> There will be some circumstances where the prosecution would be justified in withholding such a statement from the defence.

**Other material**

E13. There may be cases where, having regard to:

- (a) the absence of information available to the prosecutor as to the lines of defence to be pursued, and/or
- (b) the nature, extent or complexity of the material gathered in the course of the investigation,

there may be special difficulty in accurately assessing whether particular material satisfies the description of unused material. In these cases, after consultation with the relevant investigating agency, the prosecutor may permit the defence to inspect such material.

**Section F: Procedures for the referral to the DPP of matters affecting the credibility or reliability of a prosecution witness and unused material**

F1. In this section a reference to "potentially disclosable material" is a reference to material which the investigating agency considers is unlikely to form part of the prosecution case but which is either:

- (a) unused material, or
- (b) material affecting the credibility or reliability of a person who is likely to be called as a witness for the prosecution.

F2. The material upon which the prosecution case is based is assembled by the relevant investigating agency, whether or not it is eventually used as part of the prosecution case, and only rarely does the DPP generate any material which can be the subject matter of disclosure to the defence. Accordingly, the DPP must depend on the investigating agency to inform it of the existence of material which, while it will not form part of the prosecution case, should nevertheless be disclosed to the defence in accordance with this Statement. In this regard, it will not be a sufficient answer to the non-disclosure of material that should have been disclosed to the defence that the material was in the physical possession of the investigating agency and had not been brought to the attention of the prosecution. Implicit in the duty cast on the prosecution to disclose such material of which it is aware to the defence is a concomitant obligation which is imposed on the investigating agency to inform the DPP of the existence of such material of which it is aware.

F3. When forwarding the prosecution brief to the DPP, or as soon as practicable thereafter, the investigating agency should inform the DPP of the existence of any other material that it considers is potentially disclosable material. In cases of doubt the investigating agency should err on the side of informing the DPP of the existence of the particular material.

- F4. The investigating agency should also inform the DPP of the existence of any potentially disclosable material of which it is aware and which is in the possession of a third party (that is, a person or body other than the prosecution or the investigating agency).
- F5. Subject to paragraphs F7 to F13 (which deal with potentially disclosable material which may be subject to public interest immunity) the DPP should be provided with copies of potentially disclosable material unless that is not feasible (for example, because of the bulk of the material). If it is not feasible to provide copies, the DPP should be provided with a schedule listing each item of potentially disclosable material with a description sufficient to enable the DPP to make an informed decision whether the particular material should be disclosed.
- F6. The officer in charge of the investigation should advise the DPP in writing that to the best of the officer's knowledge and belief the DPP has been informed of the existence of all potentially disclosable material or that there is no such material.

**Public interest immunity**

- F7. The investigating agency should also provide the DPP with a separate schedule listing any potentially disclosable material which the investigating agency considers may be immune from disclosure to the defence on public interest grounds, together with the reasons why it is considered that the particular material is subject to public interest immunity. Examples of such material are:
- (a) material relating to the identity or activities of informants, undercover police officers or other persons supplying information to law enforcement authorities;
  - (b) material revealing the location of any premises or other place used for surveillance, or the identity of any person allowing a law enforcement officer to use any premises or other place for surveillance;
  - (c) material revealing, either directly or indirectly, investigative techniques and methods relied upon by law enforcement agencies in the course of a criminal investigation (for example, covert surveillance techniques) or other methods of detecting crime;
  - (d) material the disclosure of which might facilitate the commission of other offences or hinder the prevention or detection of crime;
  - (e) material relating to national security;
  - (f) material received from an intelligence or security agency;
  - (g) material given in confidence.

This list is not intended to be exhaustive. Rather it represents material which, in most circumstances, it will not be in the public interest to disclose. For the purposes of this Statement such material is referred to as "sensitive material".

- F8. In exceptional circumstances, where the investigating agency considers that the particular material is so sensitive that it should not be entered on the schedule, the existence of the material should be revealed to the prosecutor separately.
- F9. In the first instance it will not be necessary for the investigating agency to provide the DPP with copies of the material referred to in paragraph 8. However, it may be necessary in some instances for the prosecutor to peruse such material. In such cases it will be a matter for agreement between the investigating agency and the prosecutor whether it will be appropriate for the DPP to be provided with a copy of the material or whether it will be necessary for the prosecutor to attend at the offices of the investigating agency to view the material.
- F10. Where the prosecutor receives sensitive material from the investigating agency, that material will not be disclosed to the defence without first consulting with the investigating agency. The purpose of such consultation is to allow the investigating agency the opportunity to raise any concerns as to the disclosure of the material, and in particular to indicate whether it intends to pursue a claim of public interest immunity in the event the prosecutor considers that the material should be disclosed to the defence.
- F11. Where the prosecutor considers that sensitive material should be disclosed to the defence, as it is unused material, but the investigating agency disagrees although it does not intend to claim public interest immunity, the matter should be referred to the Director of Public Prosecutions for decision. Where the Director considers that the prosecution cannot fairly continue without disclosure the Director will decide whether the prosecution should be continued or abandoned. In some cases, however, it may be possible to proceed on different charges which would not require the disclosure of the subject material.
- F12. Where the investigating agency pursues a claim of public interest immunity the question of disclosure will be determined by the outcome of the claim. However, in the event the claim is unsuccessful the DPP will consider, following consultation with the investigating agency, whether the overall interests of justice require that the material be disclosed or, alternatively, that the prosecution be abandoned.
- F13. Where part only of a witness statement contains sensitive material in some cases it may be appropriate to request the witness to make a second statement omitting the sensitive material. The second statement will then be disclosed to the defence, either as part of the prosecution case or because it is unused material, and the defence informed that the first statement is withheld on the ground that it is subject to public interest immunity.
-

## Glossary

|         |  |
|---------|--|
| AFP     | Australian Federal Police                            |
| AGS     | Australian Government Solicitor                      |
| ASC     | Australian Securities Commission                     |
| ASIC    | Australian Securities and Investments Commission     |
| ATO     | Australian Taxation Office                           |
| CARS    | Criminal Assets Recording System                     |
| CPSU    | Community and Public Sector Union                    |
| CRIMS   | Case Reporting and Information Management System     |
| DPP     | Director of Public Prosecutions                      |
| DWR&SB  | Department of Workplace Relations and Small Business |
| EEO     | Equal Employment Opportunity                         |
| FTR Act | Financial Transactions Reports Act                   |
| ID      | Industrial Democracy                                 |
| LAN     | Local Area Network                                   |
| HOCLEA  | Heads of Commonwealth Law Enforcement Agencies       |
| MCCOC   | Model Criminal Code Officers Committee               |
| NCA     | National Crime Authority                             |
| OGIT    | Office of Government Information Technology          |
| OH&S    | Occupational Health and Safety                       |
| PoC Act | Proceeds of Crime Act                                |
| SES     | Senior Executive Service                             |

# Compliance Index

| Topic                        | Item No. | Location              |
|------------------------------|----------|-----------------------|
| Chief Officer's Statement    | 01 - 04  | page xi               |
| Aids to access               | 05       | page ix               |
| Glossary                     | 07       | page 124              |
| Index                        | 06       | page 133              |
| <b>Corporate Overview</b>    |          |                       |
| - objectives                 | 08       | page 1                |
| - social justice overview    | 09       | page 1                |
| - corporate structure        | 10 - 11  | page 5                |
| - portfolio legislation      | 12- 15   | Not applicable to DPP |
| - statutory authorities      | 16 - 17  | Not applicable to DPP |
| - non-statutory bodies       | 18 - 21  | Not applicable to DPP |
| - government companies       | 22 - 24  | Not applicable to DPP |
| - major documents            | 25       | page ix               |
| <b>Program Reportings</b>    |          |                       |
| - activities                 | 26 - 27  | Ch. 2 to 8            |
| - social justice             | 28 - 29  | page 1                |
| <b>Human Resources</b>       |          |                       |
| - staffing overview          | 30 - 32  | page 59               |
| - performance pay            | 33 - 34  | page 62               |
| - training                   | 35 - 38  | page 61               |
| - interchange scheme         | 39       | page 61               |
| - EEO                        | 40       | page 62               |
| - industrial democracy       | 41       | page 62               |
| - OH & S                     | 42       | page 62               |
| - post-separation employment | 43       | page 61               |
| <b>Other Resources</b>       |          |                       |
| - financial statements       | 44       | page 63               |
| - claims and losses          | 45 - 47  | page 64               |
| - purchasing                 | 50 - 51  | page 63               |
| - consultancy services       | 52 - 57  | page 66               |
| - capital works              | 58       | page 65               |
| - laboratory services        | 59       | Not applicable to DPP |

**External Scrutiny**

|                            |         |         |
|----------------------------|---------|---------|
| - Auditor-General          | 60 - 63 | page 67 |
| - parliamentary committees | 64 - 66 | page 67 |
| - Ombudsman                | 67 - 69 | page 67 |
| - courts and tribunals     | 70 - 72 | page 67 |
| - FOI                      | 73      | page 68 |
| - privacy                  | 74 - 79 | page 68 |
| - comments                 | 80 - 81 | page 68 |

**Impact Monitoring**

|  |         |         |
|--|---------|---------|
| - business regulation                            | 82 - 82 | page 68 |
| - status of women                                | 84      | page 68 |
| - environmental matters and energy<br>management | 85 - 90 | page 68 |

OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS  
INDEPENDENT AUDIT REPORT





## INDEPENDENT AUDIT REPORT

To the Attorney-General

### Scope

I have audited the financial statement of the Office of the Director of Public Prosecutions for the year ended 30 June 1998. The financial statements comprise:

- Statement by the Chief Executive Officer and Chief Financial Officer
- Departmental and Administered statements of:
  - Revenues and Expenses
  - Assets and Liabilities
  - Revenues and Expenses by Program
  - Cash Flows
  - Schedule of Commitments
  - Schedule of Contingencies
  - Notes to and forming part of the Financial Statements.

The Office's Chief Executive Officer is responsible for the preparation and presentation of the financial statements and the information they contain. I have conducted an independent audit of the financial statements in order to express an opinion on them to you, the Attorney-General.

The audit has been conducted in accordance with the Australian National Audit Office Auditing Standards, which incorporate the Australian Auditing Standards, to provide reasonable assurance as to whether the financial statements are free of material misstatement. Audit procedures included examination, on a test basis, of evidence supporting the amounts and other disclosures in the financial statements, and the evaluation of accounting policies and significant accounting estimates. These procedures have been undertaken to form an opinion as to whether, in all material respects, the financial statements are presented fairly in accordance with Australian Accounting Standards, other mandatory professional reporting requirements (Urgent Issues Group Consensus Views) and statutory requirements so as to present a view of

GPO Box 707 CANBERRA ACT 2601  
Centenary House 19 National Circuit  
BARTON ACT  
Phone (02) 6203 7300 Fax (02) 6203 7777

the Office which is consistent with my understanding of its financial position, its operations and its cash flows.

The audit opinion expressed in this report has been formed on the above basis.

**Audit Opinion**

In my opinion,

- (i) the financial statements have been prepared in accordance with Schedule 2 of the Finance Minister's Orders
- (ii) the financial statements give a true and fair view, in accordance with applicable Accounting Standards, other mandatory professional reporting requirements and Schedule 2 of the Finance Minister's Orders, of the financial position of the Office of the Director of Public Prosecutions as at 30 June 1998 and the results of its operations and its cash flows for the year then ended.

Australian National Audit Office



David C. McKean  
Executive Director

Delegate of the Auditor-General

Canberra  
24 September 1998

# OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS

## FINANCIAL STATEMENTS 1997-98

### CONTENTS

|   |
|---|
| Certification of the Financial Statements             |
| Departmental Revenues and Expenses                    |
| Administered Revenues and Expenses                    |
| Departmental Assets and Liabilities                   |
| Administered Assets and Liabilities                   |
| Departmental Revenues and Expenses by Program         |
| Administered Revenues and Expenses by Program         |
| Departmental Cash Flows                               |
| Administered Cash Flows                               |
| Schedule of Commitments                               |
| Schedule of Contingencies                             |
| Notes to and forming part of the Financial Statements |

OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS

FINANCIAL STATEMENTS 1997-98

STATEMENT BY THE  
CHIEF EXECUTIVE OFFICER  
AND  
CHIEF FINANCIAL OFFICER

---

In our opinion, the attached financial statements give a true and fair view of the matters required by Schedule 2 to the Finance Minister's Orders made under Section 49 of the *Financial Management and Accountability Act 1997*.



BRIAN MARTIN QC  
Director

Dated: 24/9/98



Stela Walker  
Ag Deputy Director  
Corporate Management

Dated: 24/9/98

**OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS**  
**DEPARTMENTAL REVENUES AND EXPENSES**  
for the year ended 30 June 1998

|  | Note | 1997-98<br>\$'000 | 1996-97<br>\$'000 |
|--|------|-------------------|-------------------|
| <b>NET COST OF SERVICES</b>                    |      |                   |                   |
| <b>Expenses</b>                                |      |                   |                   |
| Employees                                      | 4    | 26,375            | 27,051            |
| Suppliers                                      | 5    | 24,640            | 23,748            |
| Depreciation and amortisation                  | 6    | 3,548             | 1,839             |
| Net losses from disposal of Assets             | 7    | 162               | 152               |
| Write down of assets                           | 8    | 103               | 766               |
| <b>Total Expenses</b>                          |      | <b>54,828</b>     | <b>53,556</b>     |
| <b>Revenues from Independent Sources</b>       |      |                   |                   |
| Sale of goods and services                     | 9    | 31                | 0                 |
| Reversal previous asset write-downs            | 10   | 0                 | 1,472             |
| Interest Received                              | 11   | 0                 | 0                 |
| Other revenues                                 | 12   | 215               | 38                |
| <b>Total Revenues from Independent Sources</b> |      | <b>246</b>        | <b>1,510</b>      |
| <b>Net Cost of Services</b>                    |      | <b>54,582</b>     | <b>52,046</b>     |
| <b>REVENUES FROM GOVERNMENT</b>                |      |                   |                   |
| Appropriations used for:                       |      |                   |                   |
| Ordinary annual services (net appropriations)  | 13   | 50,776            | 58,283            |
| Resources received free of charge              | 14   | 1,859             | 2,031             |
| <b>Total Revenues from Government</b>          |      | <b>52,635</b>     | <b>60,314</b>     |
| <b>Operating Surplus/(Deficit)</b>             |      | <b>(1,947)</b>    | <b>8,268</b>      |
| Accumulated Results at 1 July 1997             |      | 2,819             | (6,411)           |
| Adjustment to Accumulated Results              | 20   | 558               | 0                 |
| Change in accounting policy                    |      | 0                 | 962               |
| <b>Accumulated Results at 30 June 1998</b>     |      | <b>1,430</b>      | <b>2,819</b>      |

The Departmental Revenues and Expenses Statement should be read in conjunction with the accompanying notes.

**OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS**  
**ADMINISTERED REVENUES AND EXPENSES**  
for the year ended 30 June 1998

|  | Note | 1997-98<br>\$'000 | 1996-97<br>\$'000 |
|--|------|-------------------|-------------------|
| <b>REVENUES</b>                              |      |                   |                   |
| Fines and costs revenues                     |      | <b>3,068</b>      | 2,649             |
| Other revenues                               |      | <b>172</b>        | 215               |
| Reversal of previous asset write down        | 15   | <b>865</b>        | 31                |
| <b>Total Revenues</b>                        |      | <b>4,105</b>      | 2,895             |
| <b>EXPENSES</b>                              |      |                   |                   |
| Net write-down of Assets                     | 16   | <b>1,741</b>      | 1,693             |
| <b>Total Expenses</b>                        |      | <b>1,741</b>      | 1,693             |
| <b>Net Contribution to Government</b>        |      | <b>2,364</b>      | 1,202             |
| <b>TRANSFERS</b>                             |      |                   |                   |
| Cash to Official Commonwealth Public Account |      | <b>(2,052)</b>    | (2,114)           |
| <b>Net change in Administered Assets</b>     |      | <b>312</b>        | (912)             |
| Accumulated results at 1 July                |      | <b>4,116</b>      | 5,028             |
| <b>Accumulated Results at 30 June</b>        |      | <b>4,428</b>      | 4,116             |

The Administered Revenues and Expenses Statement should be read in conjunction with the accompanying notes.

**OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS**  
**DEPARTMENTAL ASSETS AND LIABILITIES**  
as at 30 June 1998

|                                      | Note | 1997-98<br>\$'000 | 1996-97<br>\$'000 |
|--------------------------------------|------|-------------------|-------------------|
| <b>DEBT</b>                          |      |                   |                   |
| Other                                | 17   | <b>7,543</b>      | 5,143             |
| <b>Total Debt</b>                    |      | <b>7,543</b>      | 5,143             |
| <b>PROVISIONS AND PAYABLES</b>       |      |                   |                   |
| Employees                            | 18   | <b>7,346</b>      | 7,205             |
| Suppliers                            | 19   | <b>1,909</b>      | 2,111             |
| <b>Total Provisions and Payables</b> |      | <b>9,255</b>      | 9,316             |
| <b>EQUITY</b>                        |      |                   |                   |
| Accumulated results                  |      | <b>1,430</b>      | 2,819             |
| Reserves                             |      | <b>1,442</b>      | 0                 |
| <b>Total equity</b>                  | 20   | <b>2,872</b>      | 2,819             |
| <b>Total Liabilities and Equity</b>  |      | <b>19,670</b>     | 17,278            |
| <b>FINANCIAL ASSETS</b>              |      |                   |                   |
| Cash                                 | 22   | <b>181</b>        | 268               |
| Receivables                          | 21   | <b>4,316</b>      | 5,712             |
| <b>Total Financial Assets</b>        |      | <b>4,497</b>      | 5,980             |
| <b>NON-FINANCIAL ASSETS</b>          |      |                   |                   |
| Infrastructure, plant and equipment  | 24   | <b>12,153</b>     | 8,735             |
| Intangibles                          | 25   | <b>1,129</b>      | 798               |
| Other                                | 26   | <b>1,891</b>      | 1,765             |
| <b>Total Non-Financial Assets</b>    |      | <b>15,173</b>     | 11,298            |
| <b>Total Assets</b>                  |      | <b>19,670</b>     | 17,278            |
| <b>Current Liabilities</b>           |      | <b>6,042</b>      | 5,176             |
| <b>Non-Current Liabilities</b>       |      | <b>10,756</b>     | 9,283             |
| <b>Current Assets</b>                |      | <b>6,388</b>      | 7,745             |
| <b>Non-Current Assets</b>            |      | <b>13,282</b>     | 9,533             |

The Departmental Assets and Liabilities Statement should be read in conjunction with the accompanying notes.

**OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS**  
**ADMINISTERED ASSETS AND LIABILITIES**  
as at 30 June 1998

|                                     | Note | 1997-98<br>\$'000 | 1996-97<br>\$'000 |
|-------------------------------------|------|-------------------|-------------------|
| <b>EQUITY</b>                       |      |                   |                   |
| Accumulated results                 |      | 4,428             | 4,116             |
| <b>Total equity</b>                 | 27   | <u>4,428</u>      | <u>4,116</u>      |
| <b>Total Liabilities and Equity</b> |      | <u>4,428</u>      | <u>4,116</u>      |
| <b>FINANCIAL ASSETS</b>             |      |                   |                   |
| Cash                                | 23   | 211               | 71                |
| Receivables - fines and costs       | 28   | 4,217             | 4,045             |
| <b>Total financial Assets</b>       |      | <u>4,428</u>      | <u>4,116</u>      |
| <b>Total Assets</b>                 |      | <u>4,428</u>      | <u>4,116</u>      |
| <b>Current liabilities</b>          |      | Nil               | Nil               |
| <b>Non-current liabilities</b>      |      | Nil               | Nil               |
| <b>Current assets</b>               |      | 4,306             | 3,908             |
| <b>Non-current assets</b>           |      | 122               | 208               |

The Administered Assets and Liabilities Statement should be read in conjunction with the accompanying notes.



**OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS**  
**DEPARTMENTAL REVENUES AND EXPENSES BY PROGRAM**  
for the year ended 30 June 1998

|  | Sub-Program 1<br>Prosecutions |                   | Sub-Program 2<br>Criminal Assets |                   | TOTAL             |                   |
|--|-------------------------------|-------------------|----------------------------------|-------------------|-------------------|-------------------|
|  | 1997-98<br>\$'000             | 1996-97<br>\$'000 | 1997-98<br>\$'000                | 1996-97<br>\$'000 | 1997-98<br>\$'000 | 1996-97<br>\$'000 |
| <b>NET COST OF SERVICES</b>                    |                               |                   |                                  |                   |                   |                   |
| <b>Expenses</b>                                |                               |                   |                                  |                   |                   |                   |
| Employees                                      | 22,903                        | 23,451            | 3,472                            | 3,600             | 26,375            | 27,051            |
| Suppliers                                      | 22,972                        | 22,204            | 1,668                            | 1,544             | 24,640            | 23,748            |
| Depreciation and amortisation                  | 3,142                         | 1,565             | 406                              | 274               | 3,548             | 1,839             |
| Net losses from sales of assets                | 142                           | 130               | 20                               | 22                | 162               | 152               |
| Transfer of receipts to Administered Ledger    | 103                           | 0                 | 0                                | 0                 | 103               | 0                 |
| Other costs of providing goods and services    | 0                             | 652               | 0                                | 114               | 0                 | 766               |
| <b>Total expenses</b>                          | <b>49,262</b>                 | <b>48,002</b>     | <b>5,566</b>                     | <b>5,554</b>      | <b>54,828</b>     | <b>53,556</b>     |
| <b>Revenues from independent sources</b>       |                               |                   |                                  |                   |                   |                   |
| Sales of goods and services                    | 31                            | 0                 | 0                                | 0                 | 31                | 0                 |
| Reversal of previous asset write downs         | 0                             | 1,252             | 0                                | 220               | 0                 | 1,472             |
| Interest Received                              | 0                             | 0                 | 0                                | 0                 | 0                 | 0                 |
| Other revenues                                 | 207                           | 32                | 8                                | 6                 | 215               | 38                |
| <b>Total revenues from independent sources</b> | <b>238</b>                    | <b>1,284</b>      | <b>8</b>                         | <b>226</b>        | <b>246</b>        | <b>1,510</b>      |
| <b>Net cost of services</b>                    | <b>49,024</b>                 | <b>46,718</b>     | <b>5,558</b>                     | <b>5,328</b>      | <b>54,582</b>     | <b>52,046</b>     |
| <b>REVENUES FROM GOVERNMENT</b>                |                               |                   |                                  |                   |                   |                   |
| Appropriations used for:                       |                               |                   |                                  |                   |                   |                   |
| Ordinary annual services (net appropriations)  | 45,757                        | 51,340            | 5,019                            | 6,943             | 50,776            | 58,283            |
| Resources received free of charge              | 1,850                         | 2,023             | 9                                | 8                 | 1,859             | 2,031             |
| <b>Total revenues from government</b>          | <b>47,607</b>                 | <b>53,363</b>     | <b>5,028</b>                     | <b>6,951</b>      | <b>52,635</b>     | <b>60,314</b>     |
| <b>Operating surplus / (deficit)</b>           | <b>(1,417)</b>                | <b>6,645</b>      | <b>(530)</b>                     | <b>1,623</b>      | <b>(1,947)</b>    | <b>8,268</b>      |

The Departmental Revenues and Expenses by Program Statement should be read in conjunction with the accompanying notes. Costs associated with Executive and Support Program were allocated across the Prosecutions and Criminal Assets Programs. See Note 2.3

**OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS**  
**ADMINISTERED REVENUES AND EXPENSES BY PROGRAM**  
for the year ended 30 June 1998

|  | Sub-Program 1<br>Prosecutions |                   | Sub-Program 2<br>Criminal Assets |                   | TOTAL             |                   |
|--|-------------------------------|-------------------|----------------------------------|-------------------|-------------------|-------------------|
|  | 1997-98<br>\$'000             | 1996-97<br>\$'000 | 1997-98<br>\$'000                | 1996-97<br>\$'000 | 1997-98<br>\$'000 | 1996-97<br>\$'000 |
| <b>REVENUES</b>                            |                               |                   |                                  |                   |                   |                   |
| Fines and costs revenue                    | 3,068                         | 2,649             | Nil                              | Nil               | 3,068             | 2,649             |
| Reversal of previous asset write down      | 865                           | 31                | Nil                              | Nil               | 865               | 31                |
| Transfer from Departmental Ledger          | 103                           | Nil               | Nil                              | Nil               | 103               | Nil               |
| Other revenue                              | 69                            | 215               | Nil                              | Nil               | 69                | 215               |
| <b>Total revenues</b>                      | <b>4,105</b>                  | <b>2,895</b>      | <b>Nil</b>                       | <b>Nil</b>        | <b>4,105</b>      | <b>2,895</b>      |
| <b>EXPENSES</b>                            |                               |                   |                                  |                   |                   |                   |
| Net write-down of assets                   | 1,741                         | 1,693             | Nil                              | Nil               | 1,741             | 1,693             |
| <b>Total expenses</b>                      | <b>1,741</b>                  | <b>1,693</b>      | <b>Nil</b>                       | <b>Nil</b>        | <b>1,741</b>      | <b>1,693</b>      |
| <b>Net contribution/cost to government</b> | <b>2,364</b>                  | <b>1,202</b>      | <b>Nil</b>                       | <b>Nil</b>        | <b>2,364</b>      | <b>1,202</b>      |
| <b>TRANSFERS</b>                           |                               |                   |                                  |                   |                   |                   |
| Cash to Commonwealth Public Account        | (2,052)                       | (2,090)           | Nil                              | 24                | (2,052)           | (2,114)           |
| <b>Net Change in administered assets</b>   | <b>312</b>                    | <b>(888)</b>      | <b>Nil</b>                       | <b>(24)</b>       | <b>312</b>        | <b>(912)</b>      |
| Accumulated results at 1 July              | 4,116                         | 5,004             | Nil                              | 24                | 4,116             | 5,028             |
| <b>Accumulated results at 30 June</b>      | <b>4,428</b>                  | <b>4,116</b>      | <b>Nil</b>                       | <b>Nil</b>        | <b>4,428</b>      | <b>4,116</b>      |

The Administered Revenues and Expenses by Program Statement should be read in conjunction with the accompanying notes.

**OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS**  
**DEPARTMENTAL CASH FLOWS**  
for the year ended 30 June 1998

|  | Note | 1997-98<br>\$'000 | 1996-97<br>\$'000 |
|--|------|-------------------|-------------------|
| <b>OPERATING ACTIVITIES</b>                          |      |                   |                   |
| <b>Cash Received</b>                                 |      |                   |                   |
| Appropriations                                       |      | 52,063            | 53,777            |
| Receipts from independent sources                    |      | 413               | 44                |
| <b>Total Cash Received</b>                           |      | <b>52,476</b>     | <b>53,821</b>     |
| <b>Cash Used</b>                                     |      |                   |                   |
| Employees  |      | 26,169            | 27,132            |
| Suppliers  |      | 24,515            | 23,650            |
| <b>Total Cash Used</b>                               |      | <b>50,684</b>     | <b>50,782</b>     |
| <b>Net Cash from Operating Activities – Increase</b> | 29   | <b>1,792</b>      | <b>3,039</b>      |
| <b>INVESTING ACTIVITIES</b>                          |      |                   |                   |
| <b>Cash Received</b>                                 |      |                   |                   |
| Proceeds from sale of property, plant and equipment  |      | 127               | 157               |
| <b>Total Cash Received</b>                           |      | <b>127</b>        | <b>157</b>        |
| <b>Cash Used</b>                                     |      |                   |                   |
| Purchase of property, plant and equipment            |      | 1,914             | 2,835             |
| Purchase of leasehold improvements                   |      | 0                 | 269               |
| <b>Total Cash Used</b>                               |      | <b>1,914</b>      | <b>3,104</b>      |
| <b>Net Cash from Investing Activities - Decrease</b> |      | <b>(1,787)</b>    | <b>(2,947)</b>    |
| <b>Net increase (or decrease) in cash held</b>       |      | <b>5</b>          | <b>92</b>         |
| add cash at 1 July                                   |      | 268               | 176               |
| Less cash transferred to Administered Statements     |      | (92)              | 0                 |
| <b>Cash at 30 June</b>                               |      | <b>181</b>        | <b>268</b>        |

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

**OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS**  
**ADMINISTERED CASH FLOWS**  
for the year ended 30 June 1998

|  | Note | 1997-98<br>\$'000 | 1996-97<br>\$'000 |
|--|------|-------------------|-------------------|
| <b>OPERATING ACTIVITIES</b>                  |      |                   |                   |
| <b>Cash Received</b>                         |      |                   |                   |
| Fines and costs received                     |      | 2,020             | 1,903             |
| Other  |      | 172               | 215               |
| <b>Total Cash Received</b>                   |      | <b>2,192</b>      | <b>2,118</b>      |
| <b>Cash Used</b>                             |      |                   |                   |
| Cash to Official Commonwealth Public Account |      | 2,052             | 2,114             |
| <b>Total Cash Used</b>                       |      | <b>2,052</b>      | <b>2,114</b>      |
| <b>Net Cash from Operating Activities</b>    | 30   | <b>140</b>        | <b>4</b>          |
| <b>Net increase/(decrease) in cash held</b>  |      | <b>140</b>        | <b>4</b>          |
| add cash at 1 July                           |      | 71                | 67                |
| <b>Cash at 30 June</b>                       |      | <b>211</b>        | <b>71</b>         |

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

**OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS**  
**SCHEDULE OF COMMITMENTS**  
for the year ended 30 June 1998

|                                     | Note | Departmental  |               | Administered |            |
|-------------------------------------|------|---------------|---------------|--------------|------------|
|                                     |      | 1997-98       | 1996-97       | 1997-98      | 1996-97    |
|                                     |      | \$'000        | \$'000        | \$'000       | \$'000     |
| <b>BY TYPE</b>                      |      |               |               |              |            |
| <b>CAPITAL COMMITMENTS</b>          |      |               |               |              |            |
| Infrastructure, plant and equipment |      | Nil           | Nil           | Nil          | Nil        |
| <b>Total capital commitments</b>    |      | <b>Nil</b>    | <b>Nil</b>    | <b>Nil</b>   | <b>Nil</b> |
| <b>OTHER COMMITMENTS</b>            |      |               |               |              |            |
| Operating leases                    |      | 39,563        | 42,929        | Nil          | Nil        |
| Goods and services (except Legal)   |      | 728           | 354           | Nil          | Nil        |
| Legal services                      | 2.16 | 7,655         | 6,431         | Nil          | Nil        |
| <b>Total other commitments</b>      |      | <b>47,946</b> | <b>49,714</b> | <b>Nil</b>   | <b>Nil</b> |
| <b>COMMITMENTS RECEIVABLE</b>       |      |               |               |              |            |
|                                     |      | Nil           | Nil           | Nil          | Nil        |
| <b>Net commitments</b>              |      | <b>47,946</b> | <b>49,714</b> | <b>Nil</b>   | <b>Nil</b> |
| <b>BY MATURITY</b>                  |      |               |               |              |            |
| One year or less                    |      | 11,944        | 12,972        | Nil          | Nil        |
| From one to two years               |      | 9,069         | 6,668         | Nil          | Nil        |
| From two to five years              |      | 18,378        | 17,407        | Nil          | Nil        |
| Over five years                     |      | 8,555         | 12,667        | Nil          | Nil        |
| <b>Net commitments</b>              |      | <b>47,946</b> | <b>49,714</b> | <b>Nil</b>   | <b>Nil</b> |
| <b>Operating Leases</b>             |      |               |               |              |            |
| One year or less                    |      | 6,907         | -             | Nil          | Nil        |
| From one to two years               |      | 6,580         | -             | Nil          | Nil        |
| From two to five years              |      | 17,522        | -             | Nil          | Nil        |
| Over five years                     |      | 8,554         | -             | Nil          | Nil        |
|                                     |      | <b>39,563</b> | <b>0</b>      | <b>Nil</b>   | <b>Nil</b> |

**OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS**  
**SCHEDULE OF CONTINGENCIES**  
for the year ended 30 June 1998

|                          | Departmental |             | Administered |            |
|--------------------------|--------------|-------------|--------------|------------|
|                          | 1997-98      | 1996-97     | 1997-98      | 1996-97    |
| <b>NET CONTINGENCIES</b> | <b>N/A*</b>  | <b>N/A*</b> | <b>Nil</b>   | <b>Nil</b> |

**SCHEDULE OF UNQUANTIFIABLE CONTINGENCIES**

\* If a matter being prosecuted by the DPP is defended successfully, the court may order that the DPP meet certain costs incurred by the defence. If a matter is being prosecuted by the DPP and assets are frozen under the *Proceeds of Crime Act*, this Office gives an undertaking against potential losses in respect of assets administered by the Commonwealth. If the related prosecution is unsuccessful, damages can be awarded against the DPP. Costs and damages so awarded are met from the DPP or client organisations annual appropriations for Legal Expenses.

Although costs and damages have been awarded against the DPP and will continue to be awarded from time to time, the DPP is unable to declare an estimate of liabilities not recognised nor undertakings due to the uncertainty of the outcome of matters, but more particularly to the sensitivity of the information related to matters still before the courts.

**OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS**  
**NOTES TO THE FINANCIAL STATEMENTS**

For the year ended 30 June 1998

| <b>Note</b> | <b>Description</b>   |
|-------------|--|
| 1           | Objectives   |
| 2           | Summary of Significant Accounting Policies                     |
| 3           | Events Occurring After Balance Date                            |
| 4           | Employee Expenses  |
| 5           | Supplier Expenses  |
| 6           | Depreciation and amortisation                                  |
| 7           | Net Losses from Disposal of Assets                             |
| 8           | Write-down of Assets   |
| 9           | Sale of Goods and Services                                     |
| 10          | Reversal previous Asset write-downs                            |
| 11          | Interest Received  |
| 12          | Other Revenue  |
| 13          | Reconciliation of Running Costs                                |
| 14          | Resources Received Free of Charge                              |
| 15          | Administered Reversal previous Asset write-downs               |
| 16          | Administered Net write-down of Assets                          |
| 17          | Other Debt   |
| 18          | Employees Provisions and Payables                              |
| 19          | Suppliers Provisions and Payables                              |
| 20          | Equity   |
| 21          | Receivables  |
| 22          | Departmental Cash  |
| 23          | Administered Cash  |
| 24          | Infrastructure, Plant and Equipment                            |
| 25          | Intangible Assets  |
| 26          | Other Assets   |
| 27          | Analysis of Administered Equity                                |
| 28          | Administered Receivables                                       |
| 29          | Reconciliation Net Cash from Operating Activities              |
| 30          | Reconciliation Administered Net Cash from Operating Activities |
| 31          | Receipts to the Consolidated Revenue Fund                      |
| 32          | Details of Expenditure from Annual Appropriations              |
| 33          | Receipts and Expenditure of Reserve Money Fund                 |
| 34          | Executive Remuneration   |
| 35          | Services provided by the Auditor-General                       |
| 36          | Act of Grace Payments, Waivers and Amounts Written-off         |
| 37          | Financial Instruments  |

**OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS**  
**NOTES TO THE FINANCIAL STATEMENTS**  
For the year ended 30 June 1998

**NOTE 1 - OBJECTIVES**

The objectives of the Office of the Director of Public Prosecutions are as follows:

- To prosecute alleged offences against the criminal law of the Commonwealth, in appropriate matters, in a manner which is fair and just.
- To ensure that offenders are deprived of the proceeds and benefits of criminal activity and to ensure the pursuit of civil remedies.
- To assist and cooperate with other agencies to ensure that law enforcement activities are effective.
- To contribute to the improvement of Commonwealth criminal law and criminal justice system generally.
- To preserve and enhance public confidence in the prosecution process and criminal justice system.
- To manage resources efficiently and provide an effective service to the Commonwealth.

The program objectives for the Prosecutions, Criminal Assets and Executive and Support Programs are detailed within Appendix 2 the Office of the Director of Public Prosecutions Corporate Plan.

**NOTE 2 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES**

**2.1 Basis of Accounting**

The Financial Statements are required by section 49 of the *Financial Management and Accountability Act 1997 (FMA)*, and are a general purpose financial report.

The statements have been prepared in accordance with Schedule 2 of the FMA Orders made by the Minister of Finance and Administration. Schedule 2 requires that the Financial Statements are prepared:

- in compliance with Australian Accounting Standards, Accounting Guidance Releases and Urgent Issues Group consensus views; and
- having regard to Statements of Accounting Concepts.

The Financial Statements have been prepared on an accrual basis and are in accordance with historical cost convention, except for certain assets which, as noted, are at valuation. Except where stated, no allowance is made for the effect of changing process on the results or the financial position.

The continued existence of the Office in its present form, and with its present programs, is dependent on Government policy and on continuing appropriations by Parliament for the Office's administration and programs.

**2.2 Departmental and Administered Items**

Departmental assets, liabilities, revenues and expenses are those that are controlled by the Office, including:

- Computers, plant and equipment used in providing goods and services;
- Liabilities for employee entitlements;
- Revenues from running costs appropriations; and
- Employee expenses and other administrative expenses incurred in providing goods and services.



## NOTE 2 - STATEMENT OF SIGNIFICANT ACCOUNTING POLICIES (continued)

### 2.2 Departmental and Administered Items (continued)

Administered items are those items which are controlled by the Government and managed or oversighted by the Office on behalf of the Government. Items classified as Administered include:-

- Administered fines and costs receivables awarded to the Commonwealth;
- Administered fines and costs revenue and expenses;
- Miscellaneous revenue collected and deposited into the CRF.

The purpose of the separation of Departmental and Administered items is to enable assessment of administrative efficiency of the Office in providing goods and services.

The basis of accounting described in Note 2.1 applies to both Departmental and Administered items.

Schedule 2 requires that Administered transactions be accounted for on a double entry basis. The effect of this requirement is that transfers of cash to and from the Official Commonwealth Public Account (CPA) will be reported on the face of the Statement of Administered Revenues and Expenses where operating transactions are involved, and that, where transactions involving financial assets and liabilities not arising from operations are involved, receivables from and payables to the CPA will be recognised in the Statement of Administered Assets and Liabilities.

Administered items are distinguished from Departmental items in the Financial Statements by shading.

### 2.3 Allocation of Costs and Revenues to Primary Programs

The cost of goods and services provided by programs to other programs within the Office (including overhead costs) and any revenues have been attributed to those other programs.

The Office reports under three sub programs - Prosecutions (which includes Corporate Prosecutions), Criminal Assets and Executive and Support (which includes Library and Information Technology services).

Direct costs have been allocated against the sub program which incurred these costs where possible. Common costs and/or services are apportioned amongst sub programs Prosecutions and Criminal Assets.

| SUB PROGRAM           | Average Staffing levels<br>1997-98 | Square Metres occupied<br>1997-98 |
|-----------------------|------------------------------------|-----------------------------------|
| Prosecutions          | 258.76                             | 48.4%                             |
| Criminal Assets       | 34.77                              | 12.4%                             |
| Executive and Support | 103.59                             | 39.2%                             |
| Total                 | 397.12                             | 100%                              |

For the purposes of the Departmental Revenue and Expenditure by Program Statement, FMO 11(4) requires that Executive and Support transactions be reported against Prosecutions and Criminal Assets Programs.

### 2.4 Appropriations

Schedule 2 requires that amounts received as appropriations for running costs operations are to be recognised according to their nature under the Running Costs Arrangements. Under these arrangements, the Office receives a base amount of funding by way of appropriation for running costs each year. The base amount may be supplemented in any year by a carryover from the previous year of unspent appropriations up to allowable limits, as well as by borrowing's at a discount against future appropriations of the base amount.

## **NOTE 2 - STATEMENT OF SIGNIFICANT ACCOUNTING POLICIES (continued)**

### **2.4 Appropriations**

The Office recognised:

- As revenue, an amount equal to the base funding appropriated in 1997/98 plus the carry over amount as at 30 June 1998 less the carry over amount as at 30 June 1997; and
- As a receivable, an amount equal to the amount of unspent appropriation carried over as at 30 June 1998.

### **2.5 Resources Received Free of Charge**

Services received free of charge are recognised in the statement of Revenues and Expenses as revenue when and only when a fair value can be reliably determined and the services would have been purchased if they had not been donated. Use of those resources is recognised in the Net Cost of Services.

### **2.6 Employee Entitlements**

The liability for employee entitlements includes provision for annual leave and long service leave. No provision has been made for sick leave as sick leave is non vesting and the average sick leave taken in future years by employees of the Office is estimated to be less than the annual entitlement for sick leave.

The liability for annual leave and the current portion of long service leave reflects the value of total annual leave entitlements of all employees at 30 June 1998 and is recognised at the nominal amount.

The non-current portion of the liability for long service leave is recognised and measured at the present value of the estimated future cash flows to be made in respect of all employees at 30 June 1998. In determining the present value of the liability, the Office has taken into account attrition rates and pay increases through promotion and inflation.

No liability is shown for superannuation in the statement of Departmental Assets and Liabilities as the employer contributions fully extinguish the accruing liability which is assumed by the Commonwealth.

### **2.7 Leases**

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

Operating lease payments are charged to the statement of Departmental Revenues and Expenses on a basis which is representative of the pattern of benefits derived from the leased assets. The net present value of future net outlays in respect of surplus space under non-cancellable lease arrangements is expensed in the period in which the space becomes surplus.

Lease incentives taking the form of 'free' leasehold improvements and rent free holidays are recognised as liabilities. These liabilities are reduced by allocating lease payments between rental expense and reduction of the liability.

### **2.8 Cash**

Cash includes notes and coins held, deposits held at call with a bank or financial institution and the balances of commercial trust accounts held in the Official Commonwealth Public Account.

## NOTE 2 - STATEMENT OF SIGNIFICANT ACCOUNTING POLICIES (continued)

### 2.9 Acquisition of Assets

Assets are recorded at cost on acquisition except as stated below. The cost of acquisition includes the fair value of assets transferred in exchange and liabilities undertaken.

Assets acquired at no cost, or for nominal consideration, are initially recognised as assets and revenues at their fair value at the date of acquisition, unless acquired as a consequence of restructuring administrative arrangements.

### 2.10 Property, plant and equipment

#### **Asset recognition threshold**

Purchases of property, plant and equipment are recognised initially as cost in the statement of Assets and Liabilities, except for purchases costing less than \$300, which are expensed in the year of acquisition (other than where they form part of a group of similar items which are significant in total). This includes:

- Library holdings are valued by an expert valuer at second hand replacement value. The \$300 threshold is not applied to library holdings. Only Law Reports are capitalised and all other library acquisitions are expensed in the year of acquisition. Library holdings are not depreciable and will be re-valued each three years; and
- The \$300 threshold is not applied to Artworks. Artwork capitalised consists of originals, limited edition prints and prints. Artwork holdings are not depreciable and will be re-valued each three years.

#### **Revaluation**

During the year the Office revalued all fitout assets using the deprival method. The revalued cost reflects the current replacement cost.

The effect of revaluing using the deprival method is to reflect current replacement costs and ensure that the depreciation charge reflects the current cost of the service potential consumed during each period.

#### **Depreciation and Amortisation**

Depreciable property, plant and equipment assets are written-off to their estimated residual values over their estimated useful lives to the Office using, in all cases, the straight line method of depreciation. Leasehold improvements include office fitout and purpose built furniture, and are amortised on a straight line basis over the lesser of the estimated useful life of the improvements or the unexpired period of the lease.

Depreciation/amortisation rates (useful lives) and the methods are reviewed at each balance date and necessary adjustments are recognised in the current, or current and future reporting periods, as appropriate. Residuals are re-estimated for a change in prices only when the assets are revalued.

Depreciation and amortisation rates applying to each class of depreciable asset are as follows:

|                               | 1997-98     | 1996-97     |
|-------------------------------|-------------|-------------|
| Leasehold Improvements        | Lease Term  | Lease Term  |
| Property, Plant and Equipment | Useful Life | Useful Life |
| Intangibles                   | Useful Life | Useful Life |

The aggregate amount of depreciation allocated for each class of asset during the reporting period is disclosed in Note 6.

## NOTE 2 - STATEMENT OF SIGNIFICANT ACCOUNTING POLICIES (continued)

### 2.11 Taxation

The Office is exempt from all forms of taxation with the exception of Fringe Benefits Tax.

### 2.12 Foreign Currency

Transactions denominated in a foreign currency are converted at the exchange rate at the date of the transaction.

### 2.13 Insurance

In accordance with Commonwealth Government policy, assets are not insured and losses are expensed as they are incurred.

### 2.14 Comparative Figures

With the exception of the allocation of costs and revenues to primary programs (refer note 2.5), comparative figures have been adjusted to conform with changes in presentation in these Financial Statements.

### 2.15 Rounding

Amounts have been rounded to the nearest \$1,000 except in relation to the following:

- Act of grace and waivers;
- Remuneration of Executives; and
- Remuneration of Auditors.

### 2.16 Commitments

The amount shown as legal services commitments on the Schedule of Commitments represents estimated costs where legal counsel has been engaged to act on behalf of the DPP. Although legal services cannot be contracted, these estimates are undertakings that are expected to create future liabilities.

## NOTE 3 - EVENTS OCCURRING AFTER BALANCE DATE :

There were no events occurring after balance date that had any material effect on the 1997-98 Financial Statements.

## NOTE 4 - EMPLOYEE EXPENSES

|                                      | 1997-98<br>\$'000 | 1996-97<br>\$'000 |
|--------------------------------------|-------------------|-------------------|
| Remuneration (for services provided) | 25,993            | 25,914            |
| Separation and redundancy            | 382               | 1,137             |
| <b>Total Employee Expenses</b>       | <b>26,375</b>     | <b>27,051</b>     |

## NOTE 5 – SUPPLIERS EXPENSES

|                                 | 1997-98<br>\$'000 | 1996-97<br>\$'000 |
|---------------------------------|-------------------|-------------------|
| Supply of goods and services    | 19,920            | 19,252            |
| Operating leases                | 4,720             | 4,496             |
| <b>Total Suppliers Expenses</b> | <b>24,640</b>     | <b>23,748</b>     |

## NOTE 6 – DEPRECIATION AND AMORTISATION

The aggregate amounts of depreciation or amortisation expensed during the reporting period for each class of depreciable asset (other than for business operations) are as follows:

|   | 1997-98<br>\$'000 | 1996-97<br>\$'000 |
|---|-------------------|-------------------|
| Leasehold Improvements *                          | 1,417             | 376               |
| Property, Plant and Equipment                     | 1,742             | 1,216             |
| Intangibles                                       | 389               | 247               |
| <b>Total (other than for business operations)</b> | <b>3,548</b>      | <b>1,839</b>      |

\* Depreciation expenses for 1997-98 are approximately \$1.1m higher than they would have been as a result of the bringing to account fitout assets not previously recognised.

## NOTE 7 – NET LOSSES FROM DISPOSAL OF ASSETS

|  | 1997-98<br>\$'000 | 1996-97<br>\$'000 |
|--|-------------------|-------------------|
| Non-financial assets - property, plant and equipment | 162               | 151               |
| Intangibles  | 0                 | 1                 |
| <b>Total losses from Disposal of Assets</b>          | <b>162</b>        | <b>152</b>        |

## NOTE 8 - WRITE DOWN OF ASSETS

|   | 1997-98<br>\$'000 | 1996-97<br>\$'000 |
|---|-------------------|-------------------|
| Non-Financial assets                              |                   |                   |
| - Plant and equipment                             | 0                 | 608               |
| - Transfer to Administered Ledger                 | 103               | 0                 |
| - Intangibles                                     | 0                 | 158               |
| <b>Total (other than for business operations)</b> | <b>103</b>        | <b>766</b>        |

**NOTE 9 – SALES OF GOODS AND SERVICES**

|                                  | 1997-98<br>\$'000 | 1996-97<br>\$'000 |
|----------------------------------|-------------------|-------------------|
| Sub lease of leased office space | 31                | 0                 |
|                                  | <u>31</u>         | <u>0</u>          |

**NOTE 10 – REVERSAL PREVIOUS ASSET WRITE-DOWNS**

|  | 1997-98<br>\$'000 | 1996-97<br>\$'000 |
|--|-------------------|-------------------|
| Adjustment to increase incentive liability not previously recorded                 | 0                 | 486               |
| Accumulated depreciation written back on the reassessment of useful life of assets | 0                 | 522               |
| Accumulated depreciation written back on the duplicated computer assets            | 0                 | 350               |
| Accumulated depreciation written back on the duplicated software assets            | 0                 | 114               |
| <b>Total Revenues from Independent Sources</b>                                     | <u>0</u>          | <u>1,472</u>      |

**NOTE 11 – INTEREST RECEIVED**

A total of \$72.32 interest was received during 1997-98.

**NOTE 12 – OTHER REVENUE**

|                             | 1997-98<br>\$'000 | 1996-97<br>\$'000 |
|-----------------------------|-------------------|-------------------|
| Prosecution costs recovered | 155               | 0                 |
| Other S31 receipts          | 60                | 38                |
| <b>Total Other Revenue</b>  | <u>215</u>        | <u>38</u>         |

**NOTE 13 – RECONCILIATION OF RUNNING COSTS**

|   | 1997-98<br>\$'000 | 1996-97<br>\$'000 |
|---|-------------------|-------------------|
| Running costs appropriation spent (Div 132)               | 52,584            | 53,978            |
| Less FMA S31 receipts                                     | 518               | 200               |
|   | <u>52,066</u>     | <u>53,778</u>     |
| Add carry over 30 June                                    | 3,215             | 4,505             |
| Less carry over 1 July                                    | (4,505)           | 0                 |
| <b>Revenue from Government – Ordinary Annual Services</b> | <u>50,776</u>     | <u>58,283</u>     |

#### NOTE 14 - RESOURCES RECEIVED FREE OF CHARGE

The resources received free of charge which have been recognised in the Departmental Revenues and Expenses are:

|  | 1997-98<br>\$'000 | 1996-97<br>\$'000 |
|--|-------------------|-------------------|
| - Department of Finance<br>Provision of accounting and payroll services  | 9                 | 9                 |
| - Attorney Generals Department<br>Provision of prosecutions and related services in<br>Tasmania and the Northern Territory, by AGS | 1,780             | 1,932             |
| - Victorian Government<br>Department of Justice  | 5                 | 0                 |
| - Australian National Audit Office<br>Audit of Financial Statements  | 65                | 90                |
| <b>Total Resources Received Free of Charge</b>   | <b>1,859</b>      | <b>2,031</b>      |

#### Services received free of charge but not recognised are:

- **Australian Archives** - Storage and disposal facilities.
- **State Prosecutors** - Conduct of minor prosecutions on behalf of the DPP in remote locations. Includes Australian Federal Police, State Police forces and Authorities.
- **Victorian Government Department of Justice** - Provision of office and furniture at the Melbourne Magistrates Court was costed for the first time in 1997-98.

#### NOTE 15 – ADMINISTERED REVERSAL OF PREVIOUS ASSET WRITE DOWN

|  | 1997-98<br>\$'000 | 1996-97<br>\$'000 |
|--|-------------------|-------------------|
| Decrease in Provision for Doubtful Debts           | 836               | 0                 |
| Reinstate receivables previously written off       | 29                | 31                |
| <b>Total Reversal of Previous Asset Write Down</b> | <b>865</b>        | <b>31</b>         |

#### NOTE 16 - ADMINISTERED NET WRITE-DOWN OF ASSETS :

A significant amount of debts outstanding may not be recovered, as fines and costs may be converted by serving time in prison, by performing community service or similar provisions. A number of fines and costs are also be written off as irrecoverable.

|  | 1997-98<br>\$'000 | 1996-97<br>\$'000 |
|--|-------------------|-------------------|
| <b>Financial Assets</b>                  |                   |                   |
| Write off                                | 802               | 296               |
| Prison Sentence                          | 157               | 125               |
| Community Service Order                  | 285               | 163               |
| Transferred to other Agency              | 497               | 555               |
| Increase in Provision for Doubtful Debts | 0                 | 554               |
| <b>Total Net Write-Down of Assets</b>    | <b>1,741</b>      | <b>1,693</b>      |

**NOTE 17 – OTHER DEBT**

|                                  | 1997-98<br>\$'000 | 1996-97<br>\$'000 |
|----------------------------------|-------------------|-------------------|
| Restructuring revenue in Advance | 125               | 0                 |
| Lease incentives                 | 7,418             | 5,143             |
| <b>Total Other Debt</b>          | <b>7,543</b>      | <b>5,143</b>      |

**NOTE 18 – EMPLOYEE PROVISIONS AND PAYABLES**

|   | 1997-98<br>\$'000 | 1996-97<br>\$'000 |
|---|-------------------|-------------------|
| Salaries and Wages                            | 748               | 275               |
| Recreation and Long Service leave             | 6,598             | 6,930             |
| <b>Total Employee Provisions and Payables</b> | <b>7,346</b>      | <b>7,205</b>      |

**NOTE 19 – SUPPLIERS PROVISIONS AND PAYABLES**

|                                | 1997-98<br>\$'000 | 1996-97<br>\$'000 |
|--------------------------------|-------------------|-------------------|
| Trade Creditors                | 1,909             | 2,076             |
| Other Creditors                | 0                 | 35                |
| <b>Total Supplier Payables</b> | <b>1,909</b>      | <b>2,111</b>      |

**NOTE 20 - EQUITY**

| Item   | Accum. results | Asset Revaluation Reserve | Total equity |
|--|----------------|---------------------------|--------------|
|  | \$'000         | \$'000                    | \$'000       |
| Balance at 1 July 1997                           | 2,819          | -                         | 2,819        |
| Operating result                                 | (1,947)        | -                         | (1,947)      |
| Recognition of Assets not previously recognised: |                |                           |              |
| - Property, Plant & Equipment                    | 4,155          | -                         | 4,155        |
| - Lease Incentives                               | (3,597)        | -                         | (3,597)      |
| Revaluation of Assets                            | -              | 1,442                     | 1,442        |
| <b>Balance at 30 June 1998</b>                   | <b>1,430</b>   | <b>1,442</b>              | <b>2,872</b> |



## NOTE 21 - RECEIVABLES

|                               | 1997-98<br>\$'000   | 1996-97<br>\$'000   |
|-------------------------------|---------------------|---------------------|
| Appropriations                | 3,215               | 4,505               |
|                               | <u>3,215</u>        | <u>4,505</u>        |
| Goods and services            | 1                   | 106                 |
| Less doubtful debts           | Nil                 | Nil                 |
|                               | <u>1</u>            | <u>106</u>          |
| Other                         |                     |                     |
| - other Commonwealth entities | 0                   | 1                   |
| - other entities*             | 1,100               | 1,100               |
| Less doubtful debts           | Nil                 | Nil                 |
|                               | <u>1,100</u>        | <u>1,101</u>        |
| <b>Total Net Receivables</b>  | <u><b>4,316</b></u> | <u><b>5,712</b></u> |

\*Other Receivables from other entities represents a right to receive fitout.

Receivables (gross) which are overdue are aged as follows:

|                     | 1997-98<br>\$'000 | 1996-97<br>\$'000 |
|---------------------|-------------------|-------------------|
| Over due by:        |                   |                   |
| • less than 30 days | 4,316             | 5,711             |
| • 30 to 60 days     | 0                 | 0                 |
| • more than 60 days | 0                 | 0                 |
|                     | <u>4,316</u>      | <u>5,712</u>      |

## NOTE 22 – DEPARTMENTAL CASH

|  | 1997-98<br>\$'000 | 1996-97<br>\$'000 |
|--|-------------------|-------------------|
| <b>Cash at bank</b>  |                   |                   |
| Legal advance accounts – Cash at Bank                      | 112               | 124               |
| Collectors receipts account                                | 0                 | 92                |
| <b>Cash on hand</b>  |                   |                   |
| General advance accounts                                   | 0                 | 4                 |
| Other advance accounts, cash floats                        | 57                | 36                |
| <b>Cash on trust - held in Commonwealth Public Account</b> |                   |                   |
| DPP law enforcement projects – Cash at Bank                | 2                 | 12                |
| DPP law enforcement projects – Cash at Call                | 10                | 0                 |
| <b>Total cash at bank and on hand</b>                      | <u><b>181</b></u> | <u><b>268</b></u> |

The DPP Law Enforcement Project Trust Account was established on 25 March 1993. Monies in this Trust Account were to be expended on law enforcement and drug rehabilitation and education projects for the purpose of Section 34D of the *Proceeds of Crime Act 1987*.

**NOTE 22 – DEPARTMENTAL CASH (continued)**

All S31 receipts not recognised in the Department of Finance Ledger as at 30 June 1998 are deemed to be Administered receipts. The opening balance as at 1 July 1997 was treated Administered cash and transferred to the Administered Financial Statements.

At the 30 June The Department of Finance and Administration (DoFA) made an investment of cash balances of the Reserved Moneys and Commercial Activities Funds. This investment is to be reflected in the relevant Department's Financial Statements. Due to the nature of the DPP's operations, investments are not normally made by the Office. As the disclosed investments were made by DoFA, and in accordance with existing arrangements, interest earned from these investments will vest with DoFA.

**NOTE 23: ADMINISTERED CASH**

|  | <b>1997-98</b> | 1996-97   |
|--|----------------|-----------|
|  | <b>\$'000</b>  | \$'000    |
| <b>Cash on Trust held outside Official Commonwealth Public Account</b> |                |           |
| Fines and costs – cash at bank   | 211            | 71        |
| <b>Total administered cash at bank</b>                                 | <b>211</b>     | <b>71</b> |

**NOTE 24 – INFRASTRUCTURE, PLANT AND EQUIPMENT**

|   | 1997-98<br>\$'000    | 1996-97<br>\$'000   |
|---|----------------------|---------------------|
| <b>Land and buildings</b>                   |                      |                     |
| Leasehold Improvements at cost              | 135                  | 4,056               |
| Leasehold Improvements at Valuation (a)     | 12,570               | 0                   |
| Less accumulated amortisation               | <u>6,287</u>         | <u>1,515</u>        |
| <b>Total Land and Buildings</b>             | <u><b>6,418</b></u>  | <u><b>2,541</b></u> |
| <b>Plant and equipment:</b>                 |                      |                     |
| Computers at cost                           | 5,762                | 5,176               |
| Less accumulated depreciation               | <u>3,195</u>         | <u>2,366</u>        |
|   | <b>2,567</b>         | <b>2,810</b>        |
| Furniture at cost                           | 2,034                | 1,519               |
| Less accumulated depreciation               | <u>1,327</u>         | <u>695</u>          |
|   | <b>707</b>           | <b>824</b>          |
| Plant and equipment at cost                 | 2,694                | 2,300               |
| Less accumulated depreciation               | <u>1,409</u>         | <u>937</u>          |
|   | <b>1,285</b>         | <b>1,363</b>        |
| Artwork at cost                             | <u>156</u>           | <u>165</u>          |
|   | <b>156</b>           | <b>165</b>          |
| Library Holdings at valuation - (b)         | <u>1,020</u>         | <u>1,032</u>        |
| <b>Total Plant and Equipment</b>            | <u><b>5,735</b></u>  | <u><b>6,194</b></u> |
| <b>Total Land and Plant &amp; Equipment</b> | <u><b>12,153</b></u> | <u><b>8,735</b></u> |

- (a) All fitout assets were revalued effective 1/7/97. The revaluation was a Director's valuation using the deprival method having regard to estimated current building costs.
- (b) The library law report holdings were valued by Ross Wishart from Point of Law in July 1994 based on the second hand market value. Point of Law are dealers in second hand law reports.

**NOTE 24 – INFRASTRUCTURE, PLANT AND EQUIPMENT (continued)**

**Analysis of Infrastructure, Plant and Equipment (including at cost and at valuation) :**

| Item  | Infrastructure, Intangibles<br>plant and<br>equipment |              | Total<br>\$'000 |
|---|---|--------------|-----------------|
|   | \$'000  | \$'000       |                 |
| <b>Gross value at 1 July 1997</b>                     | <b>14,248</b>   | <b>1,659</b> | <b>15,907</b>   |
| Additions   | 1,221   | 686          | 1,907           |
| Disposals   | (886)   | (101)        | (987)           |
| Other movements                                       | 6,707   | 141          | 6,848           |
| Revaluation   | 3,081   | 0            | 3,081           |
| Sub-total at 30 June 1998                             | 24,371  | 2,385        | 26,756          |
| Accumulated depreciation/amortisation at 1 July 1997  | 5,513   | 861          | 6,374           |
| Depreciation charge for assets held at 1 July 1997    | 2,714   | 316          | 3,030           |
| Depreciation charge for additions                     | 445   | 73           | 518             |
| Adjustment for disposals                              | (773)   | (6)          | (779)           |
| Adjustment for other movements                        | 2,680   | 12           | 2,692           |
| Revaluation   | 1,639   | 0            | 1,639           |
| Accumulated depreciation/amortisation at 30 June 1998 | 12,218  | 1,256        | 13,474          |
| <b>Net book value at 30 June 1998</b>                 | <b>12,153</b>   | <b>1,129</b> | <b>13,282</b>   |
| Net book value at 1 July 1997                         | 8,735   | 798          | 9,533           |

**NOTE 24 – INFRASTRUCTURE, PLANT AND EQUIPMENT (continued)**

Infrastructure, plant and equipment at valuation (library holdings and leasehold improvements)

| Item                                   | Infrastructure,<br>plant and<br>equipment<br>\$ | Total<br>\$ |
|--|---|-------------|
| <b>As at 30 June 1998</b>              |   |             |
| Gross value (a)                        | 13,650  | 13,650      |
| Accumulated depreciation/ amortisation | 6,285   | 6,285       |
| Net book value                         | 7,365   | 7,365       |
| <b>As at 30 June 1997</b>              |   |             |
| Gross value                            | 1,020   | 1,020       |
| Accumulated depreciation/ amortisation | 0   | 0           |
| Net book value                         | 1,020   | 1,020       |

(a) Leasehold Improvements revalued during 1997-98.

**NOTE 25 - INTANGIBLE ASSETS**

|                                | 1997-98<br>\$'000 | 1996-97<br>\$'000 |
|--------------------------------|-------------------|-------------------|
| Computer Software at cost      | 2,384             | 1,659             |
| Less accumulated amortisation  | 1,255             | 861               |
| <b>Total Intangible Assets</b> | <b>1,129</b>      | <b>798</b>        |

**NOTE 26 - OTHER ASSETS:**

|   | 1997-98<br>\$'000 | 1996-97<br>\$'000 |
|---|-------------------|-------------------|
| <b>Other Non Financial Assets :</b>     |                   |                   |
| Prepayments paid                        | 1,891             | 1,724             |
| Fitout advance*                         | 0                 | 41                |
| <b>Total other Non Financial Assets</b> | <b>1,891</b>      | <b>1,765</b>      |

\*Fitout advance related to monies remaining in trust with Australian Property Group for the fitout of the Head Office of the Office of the Director of Public Prosecutions as at 30 June 1997.

**NOTE 27 – ANALYSIS OF ADMINISTERED EQUITY**

|                         | <b>Accumulated<br/>results<br/>\$'000</b> | <b>Total<br/>equity<br/>\$'000</b> |
|-------------------------|---|------------------------------------|
| Balance at 1 July 1997  | 4,116                                     | 4,116                              |
| Operating result        | 312                                       | 312                                |
| Balance at 30 June 1998 | 4,428                                     | 4,428                              |

**NOTE 28****ADMINISTERED RECEIVABLES :**

Administered receivables consists of monies due to the Commonwealth from successful prosecutions by the DPP.

|  | <b>1997-98<br/>\$'000</b> | <b>1996-97<br/>\$'000</b> |
|--|---------------------------|---------------------------|
| <b>Current :</b>                                 |                           |                           |
| Fines and costs due to the DPP                   | 5,249                     | 5,758                     |
| Less doubtful debts                              | 1,154                     | 1,921                     |
| Net current administered receivables             | <u>4,095</u>              | <u>3,837</u>              |
| <b>Non-current :</b>                             |                           |                           |
| Fines and costs due to the DPP                   | 157                       | 312                       |
| Less doubtful debts                              | 35                        | 104                       |
| Net non current administered receivables         | <u>122</u>                | <u>208</u>                |
| <b>Total net administered receivables</b>        | <u>4,217</u>              | <u>4,045</u>              |
| <b>ADMINISTERED RECEIVABLES - AGE ANALYSIS :</b> |                           |                           |
| <b>Gross administered receivables</b>            | <u>5,406</u>              | <u>6,070</u>              |
| Not overdue                                      | 906                       | 1,157                     |
| Overdue less than 30 days                        | 253                       | 187                       |
| Overdue 30 to 60 days                            | 355                       | 175                       |
| Overdue more than 60 days                        | 3,892                     | 4,551                     |
| <b>Total administered receivables</b>            | <u>5,406</u>              | <u>6,070</u>              |

**NOTE 29 – RECONCILIATION NET CASH FROM OPERATING ACTIVITIES**

|  | 1997-98<br>\$'000 | 1996-97<br>\$'000 |
|--|-------------------|-------------------|
| Net cost of services   | (54,582)          | (52,046)          |
| Revenue from Government  | 52,635            | 60,314            |
| Depreciation/amortisation  | 3,548             | 1,839             |
| Net Loss on disposal of non-financial assets                             | 191               | 152               |
| Adjustment for duplicate recording of assets                             | Nil               | 766               |
| Accumulated depreciation written back upon re-assessment of useful lives | Nil               | (522)             |
| Accumulated depreciation written back on duplicated assets               | Nil               | (464)             |
| Cheques raised in prior year cancelled 97/98                             | 4                 | Nil               |
| Write down of Asset  | 103               | Nil               |
| Adjustment to cash opening balances                                      | (14)              | Nil               |
| (Increase)/Decrease in receivables                                       | 1,291             | (5,599)           |
| (Increase)/Decrease in other assets                                      | (126)             | 504               |
| Increase/(Decrease) in supplier payables                                 | (202)             | (1,839)           |
| Increase/(Decrease) in provisions  | 141               | (81)              |
| Increase/(Decrease) in other liabilities                                 | (1,197)           | 15                |
|  | <hr/>             | <hr/>             |
| <b>Net cash provided by operating activities</b>                         | <b>1,792</b>      | <b>3,039</b>      |

**NOTE 30 – RECONCILIATION ADMINISTERED NET CASH FROM OPERATING ACTIVITIES**

|   | 1997-98<br>\$'000 | 1996-97<br>\$'000 |
|---|-------------------|-------------------|
| Net contribution to government                      | 2,364             | 1,202             |
| Cash to Commonwealth Public Account from operations | (2,052)           | (2,114)           |
| Net change in administered assets -                 | 312               | (912)             |
| (Increase) Decrease in receivables                  | (172)             | 2,868             |
| (Decrease) in creditors                             | Nil               | (1,951)           |
|   | <hr/>             | <hr/>             |
| <b>Net Cash provided by Operating Activities</b>    | <b>140</b>        | <b>5</b>          |

### NOTE 31 - RECEIPTS TO THE CONSOLIDATED REVENUE FUND

|  | 1997-98<br>Budget<br>\$'000 | 1997-98<br>Actual<br>\$'000 | 1996-97<br>Actual<br>\$'000 |
|--|-----------------------------|-----------------------------|-----------------------------|
| Receipts offset against outlays                          |                             |                             |                             |
| - Section 31 of the <i>Financial Management Act 1997</i> | 398                         | 518                         | 200                         |
| Administered receipts                                    |                             |                             |                             |
| - Fines and costs  | 2,962                       | 1,918                       | 1,899                       |
| - Miscellaneous  | 10                          | 134                         | 215                         |
| <b>Total Receipts</b>                                    | <b>3,370</b>                | <b>2,570</b>                | <b>2,314</b>                |

### NOTE 32 - DETAILS OF EXPENDITURE FROM ANNUAL APPROPRIATIONS

| ORDINARY ANNUAL SERVICES                     | 1997-98<br>Budget<br>Estimates *<br>\$'000 | 1997-98<br>Additional<br>Approp.<br>\$'000 | 1997-98<br>Total<br>Approp.<br>\$'000 | 1997-98<br>Actual<br>Expenditure<br>\$'000 | 1996-97<br>Actual<br>Expenditure<br>\$'000 |
|--|--|--|---------------------------------------|--|--|
|  | Act No 1                                   | Act No.3                                   |                                       |  |  |
| Division 132 Director of Public Prosecutions |  |  |                                       |  |  |
| 1. Running Costs                             | 54,194                                     | 2,119                                      | 56,313                                | <b>52,598</b>                              | 53,978                                     |

\* Budget Estimates includes deemed Section 31 Appropriation.

### NOTE 33 - RECEIPTS AND EXPENDITURE OF RESERVE MONEY FUND

#### DPP services, other government and non-departmental bodies

- Legal Authority - *FMA*, Section 20 & 21.
- Purpose - payment of costs in connection with services performed on behalf of other governments and non-departmental bodies (COMCARE expenses).

|                           | 1997-98<br>Actual<br>\$'000 | 1997-98<br>Budget<br>\$'000 | 1996-97<br>Actual<br>\$'000 |
|---------------------------|-----------------------------|-----------------------------|-----------------------------|
| Receipts and Expenditure- |                             |                             |                             |
| Opening balance 1 July    | 27                          |                             | 20                          |
| Receipts                  | 7                           | 103                         | 17                          |
| Expenditure               | 7                           | 103                         | 10                          |
| Closing balance 30 June   | 27                          |                             | 27                          |

The Trust Account operates for the purpose of receiving, from COMCARE, amounts payable to employees under determinations in accordance with the *Safety, Rehabilitation and Compensation Act 1988*. All balances are in cash.



### NOTE 33 - RECEIPTS AND EXPENDITURE OF RESERVE MONEY FUND (continued)

The DPP pays an annual premium to COMCARE for workers compensation. Until a determination is made by COMCARE, this Office makes payments from the salary notional item to the employee.

When COMCARE makes a determination in respect of a case they pay monies into the Trust Account to meet the determined costs. Upon receiving a determination and funds from COMCARE, the Office processes a journal to credit that amount back to salary expenditure and to debit the Trust Account.

The balance of \$27,142 as at 30 June 1997 (\$19,737 as at 30 June 1996) for the Trust Account is the total of amounts received from COMCARE to be paid to claimants in accordance with determinations.

#### DPP Law Enforcement Projects

- . Legal Authority - *FMA*, Section 20 & 21
- . Purpose - for the expenditure of moneys on law enforcement projects selected for the purpose of section 34D of the *Proceeds of Crime Act 1987*.

|                                   | 1997-98<br>Actual<br>\$'000 | 1997-98<br>Budget<br>\$'000 | 1996-97<br>Actual<br>\$'000 |
|-----------------------------------|-----------------------------|-----------------------------|-----------------------------|
| Receipts and Expenditure -        |                             |                             |                             |
| Opening balance 1 July            | 12                          | -                           | 12                          |
| Receipts                          | Nil                         | -                           | Nil                         |
| Expenditure                       | Nil                         | -                           | Nil                         |
| Closing balance 30 June (Note 19) | 12                          | -                           | 12                          |

All balances are in cash.

### NOTE 34 - EXECUTIVE REMUNERATION

In relation to the \$10,000 band of total remuneration that commences at \$100,000 and each successive \$10,000 band, the number of executive officers whose total remuneration in connection with the management of the affairs of the Office of the Director of Public Prosecutions for the reporting period are as follows:

|                        | 1997-98<br>Number | 1996-97<br>Number |
|------------------------|-------------------|-------------------|
| Total Remuneration     |                   |                   |
| \$100,000 to \$110,000 | 7                 | 17                |
| \$110,001 to \$120,000 | 15                | 15                |
| \$120,001 to \$130,000 | 3                 | Nil               |
| \$130,001 to \$140,000 | 3                 | 2                 |
| \$150,001 to \$160,000 | 2                 | 1                 |
| \$160,001 to \$170,000 | Nil               | 1                 |
| \$180,001 to \$190,000 | 1                 | Nil               |
| \$190,001 to \$200,000 | Nil               | 1                 |
| \$210,001 to \$220,000 | Nil               | 1                 |
| \$240,001 to \$250,000 | 1                 | Nil               |

The aggregate total remuneration of the executives identified above is: **\$3,989,360**      \$4,478,536

The DPP does not have a Performance Pay scheme for its officers. There were no payments of Performance Pay during the 1996-97 or 1997-98 financial years.

**NOTE 35 - SERVICES PROVIDED BY THE AUDITOR-GENERAL**

| 1997-98 | 1996-97 |
|---------|---------|
| \$      | \$      |

Financial statement audit services are provided free of charge. The notional fee for services provided by the Australian National Audit Office in relation to the audit of the Financial Statements is estimated at:

|                 |                 |
|-----------------|-----------------|
| <b>\$65,000</b> | <b>\$90,000</b> |
|-----------------|-----------------|

No other services were provided by the Auditor General.

**NOTE 36 - ACT OF GRACE PAYMENTS, WAIVERS AND AMOUNTS WRITTEN-OFF**

During the 1997-98 Financial Year there were no Act of Grace payments. There were also no Waivers.

**NOTE 37: FINANCIAL INSTRUMENTS**

**a) Terms, conditions and accounting policies**

| <b>Financial Instrument</b>               | <b>NOTE</b> | <b>Accounting Policies and Methods (including recognition criteria and measurement basis)</b>  | <b>Nature of Underlying Instrument (including significant terms &amp; conditions affecting the amount, timing and certainty of cash flows)</b>  |
|---|-------------|--|---|
| <b>Financial Assets</b>                   |             | Financial Assets are recognised when control over future economic benefits is established and the amount of the benefit can be readily measured.   |   |
| Cash - Deposits at Call<br>Cash – At Bank | 22<br>23    | Deposits are recognised at their nominal amounts. Interest accrues to the Commonwealth and is not reported by the DPP.   | The DPP had a Deposit at Call placed on its behalf by DoFA at 30 June. Cash at Bank is used for daily activities.   |
| Receivables                               |             | Receivables are reported at their nominal amounts due less any provision for bad or doubtful debts where applicable. Collectability of debts is reviewed during the financial year. Provisions are made when collection of the debt is judged to be less rather than more likely.  | Receivables are with the Commonwealth and external entities. Departmental receivables consist of appropriations carryover and right to receive fitout. Administered receivables consist of fines and costs awarded. |
|   |             |  |   |
| <b>Financial Liabilities</b>              |             | Financial liabilities are recognised when a present obligation to another party is entered into and the amount of the liability can be reliably measured.  |   |
| Lease Incentives                          | 17          | Lease Incentives are reported at their undiscounted nominal value at the time of signing the lease. The amount of the liability is reduced on a straight line basis over the life of the lease by allocating lease payments between rental expense and reduction of the liability. | The DPP has received fitout entitlement and rent holidays for four property operating leases. Lease payments are made monthly.  |
| Trade Creditors                           | 19          | Creditors and Accruals are recognised at their nominal amounts, being the amounts at which the liabilities will be settled. Liabilities are recognised to the extent that the goods and services have been received (and irrespective of having been invoiced).                    | Creditors are entities that are part of the Commonwealth legal entity and external to the Commonwealth. Settlement is usually made net 30 days.   |

**NOTE 37: FINANCIAL INSTRUMENTS (continued)**

**b) Interest Rate Risk: Departmental**

| Financial Instrument               | Note | Floating Interest Rate |                 | Fixed Interest Rate |                 |                 |                 |                 |                 | Non Interest Bearing |                 |                 | Total           |                 |                 | Weighted Av. Effective Int. Rate |                 |     |     |
|------------------------------------|------|------------------------|-----------------|---------------------|-----------------|-----------------|-----------------|-----------------|-----------------|----------------------|-----------------|-----------------|-----------------|-----------------|-----------------|----------------------------------|-----------------|-----|-----|
|                                    |      | Rate                   |                 | 1 to 2 yrs          |                 | 2 to 5 yrs      |                 | > 5 yrs         |                 | Bearing              |                 |                 | Total           |                 |                 | Effective Int. Rate              |                 |     |     |
|                                    |      | 97-98<br>\$'000        | 96-97<br>\$'000 | 97-98<br>\$'000     | 96-97<br>\$'000 | 97-98<br>\$'000 | 96-97<br>\$'000 | 97-98<br>\$'000 | 96-97<br>\$'000 | 97-98<br>\$'000      | 96-97<br>\$'000 | 97-98<br>\$'000 | 96-97<br>\$'000 | 97-98<br>\$'000 | 96-97<br>\$'000 | 97-98<br>\$'000                  | 96-97<br>\$'000 |     |     |
| <b>Financial Assets</b>            |      |                        |                 |                     |                 |                 |                 |                 |                 |                      |                 |                 |                 |                 |                 |                                  |                 |     |     |
| Cash at Bank                       | 22   | -                      | -               | -                   | -               | -               | -               | -               | -               | -                    | -               | -               | -               | 114             | 218             | 114                              | 218             | n/a | n/a |
| Cash At Call                       | 22   | -                      | -               | -                   | -               | -               | -               | -               | -               | -                    | -               | -               | -               | 10              | 10              | 10                               | 10              | n/a | n/a |
| Receivables                        | 21   | -                      | -               | -                   | -               | -               | -               | -               | -               | -                    | -               | -               | -               | 4,316           | 5,712           | 4,316                            | 5,712           | n/a | n/a |
| <b>Total Financial Assets</b>      |      | -                      | -               | -                   | -               | -               | -               | -               | -               | -                    | -               | -               | -               | 4,430           | 5,930           | 4,440                            | 5,930           |     |     |
| <b>Total Assets</b>                |      |                        |                 |                     |                 |                 |                 |                 |                 |                      |                 |                 |                 |                 |                 |                                  |                 |     |     |
| <b>19,670 17,278</b>               |      |                        |                 |                     |                 |                 |                 |                 |                 |                      |                 |                 |                 |                 |                 |                                  |                 |     |     |
| <b>Financial Liabilities</b>       |      |                        |                 |                     |                 |                 |                 |                 |                 |                      |                 |                 |                 |                 |                 |                                  |                 |     |     |
| Lease Incentives                   | 17   | -                      | -               | -                   | -               | -               | -               | -               | -               | -                    | -               | -               | -               | 7,543           | 5,143           | 7,543                            | 5,143           | n/a | n/a |
| Trade Creditors                    | 19   | -                      | -               | -                   | -               | -               | -               | -               | -               | -                    | -               | -               | -               | 1,909           | 2,111           | 1,909                            | 2,111           | n/a | n/a |
| <b>Total Financial Liabilities</b> |      | -                      | -               | -                   | -               | -               | -               | -               | -               | -                    | -               | -               | -               | 9,452           | 7,254           | 9,452                            | 7,254           |     |     |
| <b>Total Liabilities</b>           |      |                        |                 |                     |                 |                 |                 |                 |                 |                      |                 |                 |                 | 16,798          | 14,459          | 16,798                           | 14,459          |     |     |

**NOTE 37: FINANCIAL INSTRUMENTS (continued)**

**b) Interest Rate Risk: Administered**

| Financial Instrument          | Note | Floating Interest Rate |                 | Fixed Interest Rate |                 |                 |                 |                 |                 | Non Interest Bearing |                 |                 | Total           |                 | Weighted Av. Effective Int. Rate |                 |                 |
|-------------------------------|------|------------------------|-----------------|---------------------|-----------------|-----------------|-----------------|-----------------|-----------------|----------------------|-----------------|-----------------|-----------------|-----------------|----------------------------------|-----------------|-----------------|
|                               |      | 97-98<br>\$'000        | 96-97<br>\$'000 | 1 yr or less        |                 | 1 to 2 yrs      |                 | 2 to 5 yrs      |                 | > 5 yrs              |                 | 97-98<br>\$'000 | 96-97<br>\$'000 | 97-98<br>\$'000 | 96-97<br>\$'000                  | 97-98<br>\$'000 | 96-97<br>\$'000 |
|                               |      |                        |                 | 97-98<br>\$'000     | 96-97<br>\$'000 | 97-98<br>\$'000 | 96-97<br>\$'000 | 97-98<br>\$'000 | 96-97<br>\$'000 | 97-98<br>\$'000      | 96-97<br>\$'000 |                 |                 |                 |                                  |                 |                 |
| <i>Financial Assets</i>       |      |                        |                 |                     |                 |                 |                 |                 |                 |                      |                 |                 |                 |                 |                                  |                 |                 |
| Cash at Bank                  | 23   | -                      | -               | -                   | -               | -               | -               | -               | -               | -                    | 211             | 71              | 211             | 71              | n/a                              | n/a             | n/a             |
| Receivables                   | 28   | -                      | -               | -                   | -               | -               | -               | -               | -               | -                    | 4,217           | 4,045           | 4,217           | 4,045           | n/a                              | n/a             | n/a             |
| <b>Total Financial Assets</b> |      | -                      | -               | -                   | -               | -               | -               | -               | -               | -                    | 4,428           | 4,116           | 4,428           | 4,116           |                                  |                 |                 |
| <b>Total Assets</b>           |      |                        |                 |                     |                 |                 |                 |                 |                 |                      | 4,428           | 4,116           | 4,428           | 4,116           |                                  |                 |                 |

**NOTE 37: FINANCIAL INSTRUMENTS (continued)****c) Net Fair Values of Financial Assets and Liabilities: Departmental**

|  | Note | 1997-98                         |                                    | 1996-97                         |                                    |
|--|------|---------------------------------|------------------------------------|---------------------------------|------------------------------------|
|  |      | Total Carrying Amount<br>\$'000 | Aggregate net fair value<br>\$'000 | Total Carrying Amount<br>\$'000 | Aggregate net fair value<br>\$'000 |
| <b>Departmental Financial Assets</b>                   |      |                                 |                                    |                                 |                                    |
| Cash at Bank   | 22   | 114                             | 114                                | 218                             | 218                                |
| Cash at Call   | 22   | 10                              | 10                                 | -                               | -                                  |
| Receivables  | 21   | 4,316                           | 4,316                              | 5,712                           | 5,712                              |
| <b>Total</b>   |      | <b>4,440</b>                    | <b>4,440</b>                       | <b>5,930</b>                    | <b>5,930</b>                       |
| <b>Departmental Financial Liabilities (Recognised)</b> |      |                                 |                                    |                                 |                                    |
| Lease Incentives                                       | 17   | 7,543                           | 7,543                              | 5,143                           | 5,143                              |
| Trade Creditors  | 19   | 1,909                           | 1,909                              | 2,111                           | 2,111                              |
| <b>Total</b>   |      | <b>9,452</b>                    | <b>9,452</b>                       | <b>7,254</b>                    | <b>7,254</b>                       |

**c) Net Fair Values of Financial Assets and Liabilities: Administered**

|                                      | Note | 1997-98                         |                                    | 1996-97                         |                                    |
|--------------------------------------|------|---------------------------------|------------------------------------|---------------------------------|------------------------------------|
|                                      |      | Total Carrying Amount<br>\$'000 | Aggregate net fair value<br>\$'000 | Total Carrying Amount<br>\$'000 | Aggregate net fair value<br>\$'000 |
| <b>Departmental Financial Assets</b> |      |                                 |                                    |                                 |                                    |
| Cash at Bank                         | 23   | 211                             | 211                                | 71                              | 71                                 |
| Receivables                          | 28   | 4,217                           | 4,217                              | 4,045                           | 4,045                              |
| <b>Total</b>                         |      | <b>4,428</b>                    | <b>4,428</b>                       | <b>4,116</b>                    | <b>4,116</b>                       |

*Financial Assets*

The net fair values of Cash and Receivables represents the current undiscounted value of these items. Receivables are disclosed after taking into account provisions.

*Financial Liabilities*

The net fair values of Lease Incentives and Trade Creditors represents the current undiscounted value of these items.

**NOTE 37: FINANCIAL INSTRUMENTS (continued)**

**d) Credit Risk Exposures**

The DPP's maximum exposures to credit risk at reporting date in relation to each class of recognised financial assets is the carrying amount of those assets as indicated in the Statement of Assets and Liabilities.

The DPP has no significant exposures to any concentrations of credit risk.

All figures for credit risk referred to do not take into account the value of any collateral or other security.

## APPENDIX: GLOSSARY OF TERMS

**ACT OF GRACE PAYMENTS:** Section 34A of the *Audit Act 1901* provides that, in special circumstances, the Commonwealth may pay an amount to a person notwithstanding that the Commonwealth is not under any legal liability to do so.

**ADVANCE TO THE MINISTER FOR FINANCE (AMF):** The contingency provisions appropriated in the two Supply Acts and the two annual Appropriation Acts to enable funding of urgent expenditures not foreseen at the time of preparation of the relevant Bills. These funds may also be used in the case of changes in expenditure priorities to enable 'transfers' of moneys from the purpose for which they were originally appropriated to another purpose pending specific appropriation.

**ANNUAL APPROPRIATIONS:** Acts which appropriate moneys for expenditure in relation to the Government's activities during the financial year. Such appropriations lapse on 30 June. They are the Appropriation Acts.

**APPROPRIATION:** Authorisation by Parliament to expend public moneys from the Consolidated Revenue Fund or Loan Fund for a particular purpose, or the amounts so authorised. All expenditure (ie outflows of moneys) from the Commonwealth Public Account must be appropriated (ie authorised by the Parliament).

**APPROPRIATION ACT (No 1):** An act to appropriate moneys from the Consolidated Revenue Fund for the ordinary annual services of Government.

**APPROPRIATION ACT (No 2):** An act to appropriate moneys from the Consolidated Revenue Fund for other than ordinary annual services. Under existing arrangements between the two Houses of Parliament this Act includes appropriations in respect of new policies (apart from those funded under Special Appropriations), capital works and services, plant and equipment and payments to the states and the Northern Territory.

**APPROPRIATION ACTS (Nos 3 and 4):** Where an amount provided in an Appropriation Act (No 1 or 2) is insufficient to meet approved obligations falling due in a financial year, additional appropriation may be provided in a further Appropriation Act (No 3 or 4). Appropriations may also be provided in these Acts for new expenditure proposals.

**AUDIT ACT 1901:** The principal legislation governing the collection, payment and reporting of public moneys, the audit of the Public Accounts and the protection and recovery of public property. Finance Regulations and Directions are made pursuant to the Act. The Audit Act is expected to be repealed with effect from late 1997 and replaced with three new acts, including the Financial Management and Accountability Act which will define the accounting environment for this Office in future years.

**COMMITMENTS:** Obligations or undertakings to make future payments to other entities that exist at the end of the reporting period and have not been recognised as liabilities in either the Departmental or Administered Assets and Liabilities Statement. Obligations include those arising under agreements equally proportionately unperformed. Undertakings are unconditional promises that are expected to create future liabilities.



**COMMONWEALTH PUBLIC ACCOUNT (CPA):** The main bank account of the Commonwealth, maintained at the Reserve Bank in which are held the moneys of the Consolidated Revenue Fund, Loan Fund and Trust Fund. (The DPP is not responsible for any transactions relating to the Loan Fund).

**COMPENSATION and LEGAL EXPENSES:** Includes legal outgoings incurred in the course of a prosecution. It comprises largely payments to barristers and solicitors, but also includes case related costs such as transcript, interpreters, court fees, process serving, witness expenses and other legal outgoings.

**CONSOLIDATED REVENUE FUND (CRF):** The principal working fund of the Commonwealth mainly financed by taxation, fees and other current receipts. The Constitution requires an appropriation of moneys by the Parliament before any expenditure can be made from the CRF.

**CONTINGENCIES:** Conditions, situations, or circumstances that exist at the end of the reporting period, create uncertainty as to possible gain or loss to DPP and will be confirmed only on the occurrence or non-occurrence of one or more uncertain future events.

**CURRENT:** An asset or liability that, in the ordinary course of operations, would be consumed or converted into cash or be due and payable within 12 months after the end of the financial year.

**EXPENDITURE:** The total or gross amount of money spent by the Government on any or all of its activities (ie the total outflow of moneys from the Commonwealth Public Account) (c.f. 'Outlays'). All expenditure must be appropriated (ie authorised by the Parliament), see also 'Appropriation'. Every expenditure item is classified to one of the economic concepts of outlays, revenue (ie offset within revenue) or financing transactions.

**FINANCIAL ASSET:** Any asset that is cash, a contractual right to receive cash or another financial asset from another entity, a contractual right to exchange financial instruments with another entity under conditions that are potentially favourable or an equity instrument of another entity.

**FINES and COSTS:** Amounts awarded by the Courts as fines and costs penalties as a result of prosecutions under Commonwealth legislation. A significant amount of potential receipts may not be received, as fines and costs may be converted by serving time in prison, by performing community service or similar provisions. A number of fines and costs will also be written off as unrecoverable.

**LIABILITY:** An item that represents a future sacrifice of service potential or future economic benefits that the Office is presently obliged to make, as a result of past transactions or other past events. Includes provisions for employee entitlements, excluding superannuation.

**OUTLAYS:** An economic concept which shows the net extent to which resources are directed through the Budget to other sectors of the economy after offsetting recoveries and repayments against relevant expenditure items ie. outlays consist of expenditure net of associated receipt items. The difference between outlays and revenue determines the Budget balance (ie surplus or deficit). See also 'Appropriation'; and 'Receipts offset within outlays'.

**PREPAYMENTS:** Prepayments include amounts paid by the Office in respect of goods or services (excluding approved grants) that have not been received as at 30 June.

**RECEIPTS:** The total or gross amount of moneys received by the Commonwealth (ie the total inflow of moneys to the Commonwealth Public Account). Every receipt item is classified to one of the economic concepts of revenue, outlays (ie offset within outlays) or financing transactions. See also 'Revenue'.

**RECEIPTS NOT OFFSET WITHIN OUTLAYS:** Receipts classified as 'revenue'. See also 'Revenue'.

**RECEIPTS OFFSET WITHIN OUTLAYS:** Refers to receipts which are netted against certain expenditure items because they are considered to be closely or functionally related to those items.

**REVENUE:** Items classified as revenue are receipts which have not been offset within outlays or classified as financing transactions. The term 'revenue' is an economic concept which comprises the net amounts received from taxation, interest, regulatory functions, investment holdings and government business undertakings. It excludes amounts received from the sale of government services or assets (these are offset within outlays) and amounts received from loan raising's (these are classified as financing transactions). See also 'Receipts'.

**TRUST FUND:** a cash based, non lapsing appropriation, used either as a working account for activities with a commercial orientation or to hold monies for specific purposes set out in legislation or under arrangements where the Commonwealth is a trustee for private monies.



# Index

## A

Abas, Bere and Bakuama, 43  
 Adi Limited, 43  
*Australian Federal Police Act 1979*, 27

## B

Byrnes and Hopwood, 54

## C

Chai and Lim, 45  
 Compliance Index, 87-8  
 Compliance Statement, ix  
 Corporate Prosecutions and General Prosecutions, 13-23  
     Corporate prosecutions, 13  
     General Prosecutions, 13-14  
     Prosecution tables, 15-23  
     Tax and Centrelink units, 14  
 Cribb, 54  
 Crichton-Browne, 45-6  
*Crimes Act*, 9  
     *Crimes (Superannuation Benefits) Act*, 27  
 Criminal Assets, 25-31  
     Civil remedies function, 26  
     Criminal Assets Recovery tables, 28-31  
*Criminal Matters Act 1987*, 3  
*Customs Act 1901*, 3, 26

## D

Directors overview, xi-xiii

## E

Exercise of statutory powers, 7-11  
     Consent to conspiracy proceedings, 9  
     Corporate Prosecutions more than five years after offence, 9  
     Ex-officio indemnities, 8  
     Indemnities, 8  
     Tables, 10-11  
     Taking matters over, 8

## D

*DDP Corporate Plan*, ix  
*DDP Information Booklet*

DPP Survey, 34  
     Management, 26-7  
     Manuals, 33  
     Performance indicators, Criminal Assets, 36  
     DDP Survey: Summary of Responses to multiple choice questions, 37  
     introduction, 34  
     Prosecutions, 35  
     Financial Statements, 89-123  
     Departmental assets and Liabilities, 96  
     Departmental Cash Flows, 100  
     Departmental Revenues and Expenses by program, 98  
     Independent Audit Report, 89-91  
     Notes to the Financial Statements, 104-5  
     Revenues and Expenses, 94  
     Statement by the Chief Executive Officer and the Chief Financial Officer, 93  
     Statement of Significant Accounting  
 Polices, 106-115  
 Review of the PoC Act, 28  
     Superannuation orders, 27

## E

Environmental matters and energy management, 68  
     External scrutiny, 67  
     Fraud control and internal audit, 67  
     Freedom of information, 68  
     Information technology, 65-6  
     Libraries, 66  
     Privacy, 68  
     Public comment, 68  
     Public Relations, 67  
     Resource management tables, 69-4  
     Indemnities, 8  
     Tables, 10-11  
     Taking matters over, 8  
 Exercise of statutory powers, 7-11  
     Consent to conspiracy proceedings, 9  
     Corporate Prosecutions more than five

years after offence, 9

Ex-officio indemnities, 8

## F

Foo, Tan and others, 46

FTR, Act offences, 46-7

Financial Statements, 89-123

Freedom of Information, Statement under the Act,

## G

Glossary, 86, 124-6

Goward, 55

*Guidelines for Dealings between Commonwealth Investigators and the Commonwealth of Public Prosecutions*, ix

## H

Helbronn, 55-6

Human resources, 61-3

Equal employment opportunity, 62

Financial management, 63-4

Industrial democracy, 62-3

Occupational health and safety, 62

*Official Conduct for Commonwealth Servants*, 61

Other areas, accommodation, 66

Business regulation, 68

Consultancy services, 66

Environmental and energy management, 68

External Scrutiny, 67

Fraud control and internal audit, 67

Freedom of Information, 68

Information technology, 65-6

Libraries, 66

Privacy, 68

Public comment, 68

Public Relations, 67

Performance pay, 62

Resource management tables, 69-4

Staff interchange, 61

Staffing, 61

Status of women, 68

Training and development, 61

## J

Johnson, Fuller and Cummings, 56-7

## L

La Rosa, 57

Law Reform and other issues, 39-42

Controlled operations, 41-2

Enforcement of fines, 40

Model Criminal Code, 39

Report of the Parliamentary Joint Committee on the NCA, 40-1

Sentencing of federal offenders, 42

Lewis and Bauer, 57-8

## M

McCleary v DPP, 47-8

Manuals, 33

## N

*National Crime Authority Act 1984*, 8

Nicholas, 49-50

## O

Office of the DPP, Establishment, 1

Corporate Plan, 1

Financial management, 63-5

Functions and powers, 3

Independent audit report, 89

Organisation, 3-4

Prosecution policy, 2-3

Role, 2

Social justice and equity, 1

Offices of the Commonwealth Director of Public Prosecutions, v-vi

Operation Calculus, 44

Operation Caribou, 44-5

Operation Miasto, 48-9

Operation Scuba: Abdalla, Abdul-Hadi and Simeonides, 52

Overview, 59-60

Management, 59

## P

Performance indicators, 60

Performance indicators for the resource management function, 60

Policy, 25

Practice, 25

- Practice Management unit, 33-7
  - Analysis, 36
  - Criminal assets, 36
  - DDP Survey, 34
  - Manuals, 33
  - Performance indicators, 34
  - Prosecutions, 35
  - Proceeds of Crime Act*, 3, 25, 26
- Postigione and Savvas, 51
- Prabowo, 51-2
- Practice Management, 33
- Program Performance Statement for the Attorney-Generals Portfolio, ix
- Prosecution Policy of the Commonwealth*, 2
- Prosecution Policy of the Commonwealth*, 2
- Prosecution Tables, 15
- R**
- Reid, 58
- Requirements for Departmental Annual Reports*, ix
- Resource Management. 59-70
  - Accounting policy, 64
  - Accounts processing, 64
  - Agency evaluations, 64-5
  - Capital works management, , 64
  - Claims and losses, 64
  - Financial reporting and management information systems, 64
  - Financial statements, 63
  - Accommodation, 66,
  - Business regulation, 68
  - Consultancy services, 66
  - General, 63
  - Other areas, 65-9
  - Program budgeting, 63
  - Performance indicators, 60
- S**
- Status of Women, 68
- Senior management chart, 5
- Significant cases, 43-58
  - General cases, 43-53
  - Abas, Bere and Bakuama, 43
  - Adi Limited, 43
  - Chai and Lim, 45
  - Crichton-Browne, 45-6
  - Foo, Tan and others, 46
  - FTR, Act offences, 46-7
  - Gorgy, 47
  - McCleary v DPP, 47-8
  - Nicholas, 49-50
  - Operation Calculus, 44
  - Operation Caribou, 44-5
  - Operation Miasto, 48-9
  - Operaton Scuba: Abdalla, Abdul-Hadi and Simeonides, 52
  - Peters, 50-1
  - Postigione and Savvas, 51
  - Prabowo, 51-2
  - Tam, Mao and Law, 52-3
  - Wilson, 53
  - Corporate prosecutions
  - Byrnes and Hopwood, 54
  - Cribb, 54
  - Goward, 55
  - Helbronn, 55-6
  - Johnson, Fuller and Cummings, 56-7
  - La Rosa, 57
  - Lewis and Bauer, 57-8
  - Reid, 58
  - Statement on Prosecution Disclosure, 77
  - Adverse findings in non-criminal proceedings, 80
  - Concessions to witnesses, 80-1
  - Other material, 83
  - Previous convictions, 79-80
  - Public interest immunity, 84-5
  - Section A: introduction, 77
  - Section B: Advance disclosure of the prosecution case in matters that are to proceed to indictment, 77-8
  - Section C: Advance disclosure of prosecution case in summary matters, 78
  - Section D: Disclosure of matters affecting the credibility reliability of a prosecution witness, 79
  - Section E: Disclosure of unused material, 81-2
  - Section F: Procedures for the referral to the DDP of matters affecting the credibility or reliability of the prosecution witness and unused material, 83-4

Statement under *Freedom of Information*

Act 1982, 75-6

Statement on Prosecution Disclosures, 77

**T**

Tam, Mao and Law, 52-3

*Trade Practices Act 1974*, 13