



CDPP

Australia's Federal Prosecution Service

ANNUAL REPORT
2019–20

COMMONWEALTH DIRECTOR OF PUBLIC PROSECUTIONS

LETTER OF TRANSMITTAL



CDPP

Australia's Federal Prosecution Service

Sarah McNaughton SC
Director

**Commonwealth Director
of Public Prosecutions**

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25 September 2020

Attorney-General
The Hon Christian Porter MP
Parliament House
Canberra ACT 2600

Dear Attorney-General

It is my pleasure to present to you the annual report of the Commonwealth Director of Public Prosecutions (CDPP) for the financial year 2019–20.

The report has been prepared pursuant to section 46 of the *Public Governance, Performance and Accountability Act 2013* and reflects the matters CDPP dealt with and the legislation it administered in pursuing its purpose for the year to 30 June 2020.

I certify I am satisfied CDPP has, in accordance with section 10 of the Public Governance, Performance and Accountability Rule 2014:

- prepared fraud risk assessments and a fraud control plan
- put into place appropriate fraud prevention, detection, investigation recording and reporting mechanisms that meet CDPP's needs
- taken all reasonable measures to minimise the potential incidence of fraud in the CDPP.

There have been no instances of fraud identified for the year to 30 June 2020.

In presenting this annual report, I would like to acknowledge the contribution made throughout the year by my colleagues in the CDPP.

Yours sincerely

Sarah McNaughton SC
Commonwealth Director of Public Prosecutions

ABOUT THE CDP

The Office of the Commonwealth Director of Public Prosecutions (CDPP) is an independent prosecution service established by Parliament to prosecute offences against Commonwealth law.

It is a Commonwealth statutory agency with 10 offices around Australia. The CDPP operates as an independent agency within the Attorney-General's portfolio.



Australia's independent prosecution service

SERVICE



Contributing to a fair, safe and just society

SOCIETY



Prosecuting crimes against the Commonwealth for more than 35 years

JUSTICE



Providing advice to assist our partner agencies during investigations and prosecutions

ADVISE



Conducting efficient and effective prosecutions through the courts

PROSECUTE



Highlighting outcomes to educate the community and deter offenders

EDUCATE

Our aim

To be fair, consistent and professional in everything we do. We recognise, value and develop the knowledge, skills and commitment of our people to deliver Australia's best prosecution service.

Our aim ensures we invest in and build the capability of our people. We enable and support them in their work through our ongoing commitment to digital transformation, modernising our systems, processes and practices. This demonstrates our commitment to innovation, collaboration and diversity as a means to develop our prosecution service in step with the expectations of partner agencies and the broader community.

Our purpose

To prosecute crimes against Commonwealth law through an independent prosecution service that is responsive to the priorities of our law enforcement and regulatory partners, and that effectively contributes to the safety of the Australian community and the maintenance of the rule of law.

To achieve our purpose, we build effective relationships with partner agencies and conduct efficient and effective prosecutions through the courts.

Our outcome

Contribute to a fair, safe and just society by delivering an effective, independent prosecution service in accordance with the *Prosecution Policy of the Commonwealth*.

By delivering this outcome, we build public confidence in the Australian justice system, where the laws of the Commonwealth are respected, offenders are brought to justice and potential offenders are deterred.

STRATEGIC THEMES

The CDPP's strategic framework is based on three themes:



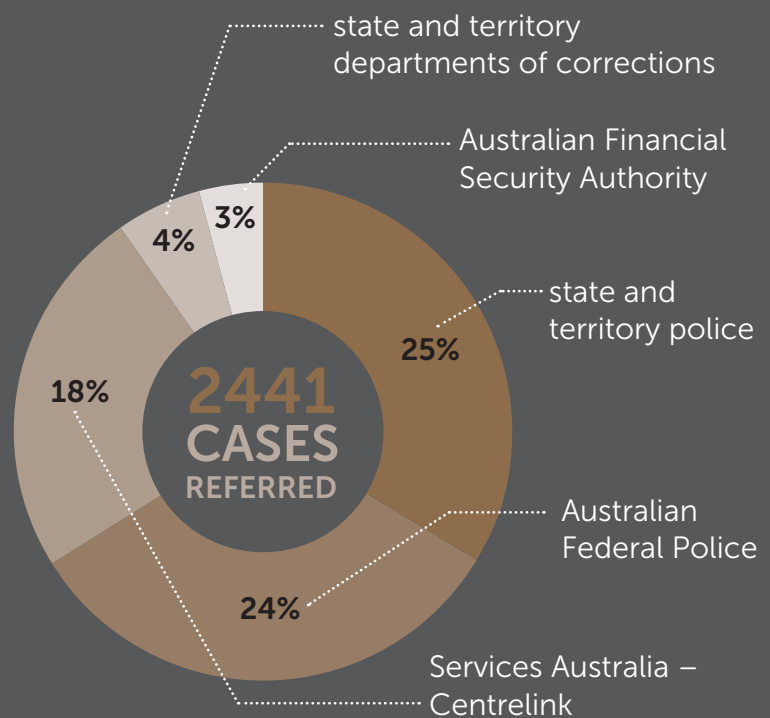
Our strategic themes focus and direct our effort. The matters we prosecute are diverse and complex, reflecting the evolving and expanding nature of offences against Commonwealth laws. Our strategic themes underpin how we set our priorities, providing a framework that enables us to achieve our purpose and deliver our stated outcome.

OUR PARTNERS

We serve the public interest by maintaining strong and effective working relationships with partner agencies.

In 2019–20, 56 partner agencies referred cases to the CDPP:

- 45 Commonwealth investigative agencies
- 11 state and territory agencies
- Total cases referred: 2441, including from:



PROSECUTIONS



4028

Matters before the courts



1896

Cases finalised*



1476

Prosecutions resulting
in a conviction



615

Prosecutions resulting in
immediate imprisonment

APPEALS



8

Prosecution
appeals decided



6

Successful appeals against
the inadequacy of sentence

*The total is derived from: the number of summary, trial and sentence phases closed during the reporting period.

OUR PRACTICE

We have offices in Sydney, Brisbane, Melbourne, Adelaide, Perth, Canberra, Hobart, Darwin, Cairns and Townsville and carry out legal work in the courts of every Australian state and territory.

We are also responsible for prosecuting offences in Jervis Bay and Australia's external territories, including Norfolk Island, Christmas Island and the Cocos Keeling Islands.

INTERNATIONAL ENGAGEMENT



- Jurisdictional (land-based)
- 📍 CDPP Office locations





Vietnam (November 2019):

The CDPP presented two seminars to local prosecutors and police on Electronic Evidence in Investigations and Prosecutions. The seminars were coordinated by the Commonwealth Attorney-General's Department in collaboration with the Supreme People's Procuracy of Vietnam as part of the Indo-Pacific Justice and Security Program.

Indonesia (October 2019):

The CDPP delivered a presentation on electronic evidence and participated in round table discussions at a workshop conducted by the Attorney-General's Office of the Republic of Indonesia which examined approaches to prosecuting counter terrorism and trafficking in persons offences.

Australia (November 2019):

A delegation from the Inspector General's Office of the Ministry of Justice of the Republic of Korea travelled to Australia and met with CDPP staff in Sydney to discuss governance and accountability issues.

The COVID-19 pandemic directly impacted on CDPP's international engagement, with many sessions planned for early 2020 being cancelled. The CDPP is nevertheless committed to providing assistance and support to our international partners and neighbours where it can.

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DIRECTOR'S FOREWORD



2020 has brought all of us unexpected challenges as the pandemic has spread across the world. Australia's response to COVID-19 was rapid and changed the country's environment completely.

In this changed environment, CDPP continued to fulfil its critical role within the criminal justice system, whilst accommodating rapid changes in the legal environment including the altered operational arrangements of our courts across the country. We also responded quickly to safeguard our workforce's health and wellbeing.

With jury trials initially ceasing in many jurisdictions, the legal practice continued to provide core prosecution services, appearing remotely via video conferencing facilities where possible for mentions, bail, pleas and sentences and in appeal matters. There has also been an increased focus on early engagement with the defence to focus on legal issues, with a view to reaching agreement where possible or appropriately resolving matters. As jury trials have started to recommence with modified physical settings in many jurisdictions, we have continued to adapt to help make the new arrangements work well.

Internally, we quickly facilitated further flexibility in our working arrangements—transitioning the majority of our workforce to working from home arrangements. We have made an effort to enable those of our workforce dealing with a range of broader issues, including additional caring responsibilities for children due to changes in schooling, to balance these responsibilities with their work priorities.

We moved quickly to ensure our office sites complied with Commonwealth and state and territory government requirements around physical distancing and additional hygiene measures to prevent the spread of COVID-19. We also established a business continuity Executive Committee to ensure we are well positioned to continue to deliver prosecution services should we have an outbreak of the virus in any of our offices.

Being able to build on the lessons from this time is a key focus for us moving forward. We need to continue to be flexible, and stay committed to the valuable work we do and the relationships we build.

In order to support ongoing capability building across the office and to nurture a culture of ongoing learning and continuous improvement, in 2020 we launched the CDPP Learning and Development Strategy 2020-23. The strategy will drive learning solutions for the office and our investment in the learning and development of our workforce. It is aligned with key identified competencies—digital capability, leadership, legal learning and professional development. Our approach will balance on-the-job learning, social experience and peer learning with formal training opportunities.

On 30 March 2020 the Australian National Audit Office delivered its report on the performance audit of the CDPP, examining the efficiency with which we manage our cases. The CDPP accepted the recommendations of this audit and is working on their implementation over the next 18 months.

We continue to meet the challenges associated with an evolving criminal landscape, as our partner agencies, stakeholders and the community rely on us to navigate an increasingly complex legal environment to secure convictions against those who commit Commonwealth offences.

Throughout the year we also continued to provide important assistance to the Victorian Royal Commission into the Management of Police Informants, which is due to release its final report towards the end of 2020.

In May-June 2020 we undertook our biennial Partner Agency Satisfaction Survey. More than 600 potential participants who had dealt with the CDPP were selected to participate with approximately one third identified by our legal staff and two thirds randomly selected from our legal case management system. An independent provider was engaged to undertake the survey and 562 participants were successfully delivered the survey. The respondents shared valuable insights into our service delivery, including an 88 per cent overall satisfaction rating.

We continue to measure our performance against three key measures, one of which is our biennial partner survey. We also report against meeting the test for prosecution in the *Prosecution Policy of the Commonwealth* and since 2016-17 have met our target of 100 per cent.

Our third reporting measure is prosecutions resulting in a finding of guilt. We report on both the overall finding of guilt rate, as well as finding of guilt rate in defended matters. In 2019-20 we achieved an overall finding of guilt rate of 98 per cent, with a rate of 69 per cent in defended matters.

We also continue to monitor internal KPIs and continue to perform well against our aim of assessing 85 per cent of briefs of evidence within 90 days of receipt.¹

The CDPP has 428 employees (with 417 operative employees), which equated to 415.2 and 404.4 fulltime equivalent employees respectively.

Sixty eight per cent of staff are female and 32 per cent are male, working in 10 offices across the nation, including 297 lawyers, working across all jurisdictions and levels of the court system.

¹ This KPI relates only to briefs received after 1 July 2017 and briefs are suspended pending receipt of additional significant material from partner agencies.

CDPP employees are employed under the *Public Service Act 1999* or the *Director of Public Prosecutions Act 1982* (DPP Act). As at 30 June 2020, all employees were employed under the *Public Service Act 1999*. The Commonwealth Director is a statutory appointment under the DPP Act.

Looking ahead

Over the next year we will continue to balance the needs of our workforce and stakeholders with the challenging times we are facing.

The CDPP's priorities over the next year include continuing to:

- deliver critical digital transformation initiatives
- enhance data analysis and reporting capabilities
- build and maintain an agile and responsive workforce and
- develop and strengthen our relationships with our partner agencies and stakeholders.

The CDPP's flexible working framework and embedded principles and business practices ensured the agency was able to respond to the COVID-19 pandemic in an agile and responsive manner with little impact on our prosecution services.

The experiences gained, and challenges overcome during this period, will act as a foundation for further integrating flexible work practices into the CDPP's workplace culture over the next 12 months and into the future.

I look forward to building on the work we have undertaken over the last year to continue to support our partners and stakeholders.



Sarah McNaughton SC

Commonwealth Director of Public Prosecutions





OVERVIEW

CHAPTER 1

Australia's Independent Prosecution Service

The CDPP was established under the *Director of Public Prosecutions Act 1983* (DPP Act) and began operating on 5 March 1984. The DPP Act sets out the functions and powers of the Director, including independent responsibility for carrying out prosecutions for offences against Commonwealth laws. The Commonwealth Solicitor for Public Prosecutions takes a lead role in supporting the Director to fulfil our statutory obligations, while the Executive Leadership Group oversees legal and corporate functions.

While the CDPP is part of the Commonwealth Attorney-General's portfolio, we operate independently of both the Attorney-General and the political process. However, under section eight of the DPP Act, the Commonwealth Attorney-General has the power to issue directions or guidelines to the Director. Prior to being issued, the Attorney-General must consult with the Director, and any directions or guidelines must be in writing and tabled in Parliament. The CDPP is bound by any directions or guidelines issued by the Attorney-General. Since the CDPP was established, eight directions have been issued. One section eight direction was issued during the reporting period, on 19 September 2019. It revoked a direction issued on 30 October 2014 relating to the prosecution of journalists for disclosure offences and contained a new direction relating to the prosecution of journalists for disclosure offences.

The CDPP is an integral part of the Australian justice system and is committed to upholding the highest professional and ethical standards. We liaise with state and territory prosecuting authorities, and attend valuable national prosecution forums, including the Conference of Australian Directors of Public Prosecutions and the National Executive Officers' Meeting. We work collaboratively with stakeholders at every level of the justice system, contributing to legislative reform and procedural forums to improve the delivery

of our prosecution service and meet the expectations of the broader community.

Our national reach allows us to work efficiently and effectively with partner agencies and state and territory counterparts, to progress our prosecution work and strengthen our working relationships with all stakeholders in the justice system.

During the COVID-19 pandemic, the CDPP remained committed to delivering an efficient and effective prosecution service and continued to provide all of its services (including pre-brief advice, brief assessment and litigation services). Engagement with the courts and stakeholders largely occurred digitally. We rapidly adapted to a range of digital platforms to meet the varying requirements of different courts across the country. Jury trials were initially suspended at the start of the pandemic and subsequently began to recommence in some jurisdictions around the end of the financial year with changed processes to ensure the courts provided a safe workplace for all participants. The CDPP has been active in assisting courts to ensure that jury trials recommence as soon as possible, and as safely as possible.

While delivering an effective prosecution service we continued to ensure the health and wellbeing of all our staff. Our flexible working arrangements allowed staff to quickly adapt to the changed environment and effectively work remotely.

We also work to ensure victims, witnesses, alleged offenders and others affected by the criminal justice process are treated fairly.



The CDPP is committed to promoting and maintaining an organisational culture that values fairness, equity and respect. All staff sign our guideline on official conduct, and are expected to maintain the high ethical standards that are valued across our organisation.



We provide advice to referring agencies, stakeholders and international counterparts about cases, law reform and the application and operation of Commonwealth law.



We contribute to a fair, safe and just society by successfully prosecuting crimes against Commonwealth law.



We treat victims and witnesses with respect and support the most vulnerable through the prosecution process.



We educate the community about the consequences of breaking the law, which sends a strong message of deterrence.

A responsive national legal practice



Our national legal practice group operating model provides an efficient, effective and nationally-consistent federal prosecution service.



The model helps to harness staff expertise to improve the timeliness and effectiveness of prosecutions.



Leveraging the national practice group model means we are able to allocate specialist prosecutors to matters depending on areas of priority and need.

Prosecuting Commonwealth offences

We work in an increasingly dynamic environment prosecuting a diverse range of complex crimes, which are often transnational in nature and regularly involve large quantities of electronic evidence.

Our caseload of complex matters continues to expand and evolve. It includes: criminal cartels, foreign bribery, online child exploitation, sophisticated revenue and benefits fraud, complex tax fraud, fraud by company directors, breaches of directors' duties, large-scale and cross-border organised crime activity including drug offences, human trafficking, slavery and terrorism offences.

We anticipate the profile of our work will continue to change as emerging crime types, such as foreign interference, espionage, and cybercrime shape our prosecutions in the future. To ensure we are able to meet these challenges, the CDPP actively participates in the legislative reform process.

Prosecution services for partner agencies

We continue to refine and improve our prosecution services for our partner agencies. These services cover every aspect of the criminal prosecution process, from pre-brief advice to brief assessment, litigation services during the court process, creation of specialist resources for agencies and liaison activity.

We also collaborate extensively with our partners to build capability and drive improvements in the prosecution process. This collaboration ranges from tailored training and secondments or outposts, to participation in joint initiatives such as government taskforces.

The growing need to digitise prosecution processes has seen us work closely with our partners to design standards for the submission of electronic briefs of evidence (e-briefs). During the financial year, the Commonwealth Director and Australian Federal Police Commissioner signed an historic letter of agreement to formalise e-brief arrangements between the two

agencies. The agreement by the AFP to supply e-briefs in all matters referred to the CDPP for prosecution was a significant step in the digital transformation journey for the CDPP, allowing large volumes of digital evidence to be provided in a consistent format that is easier to manage and prepare for court.

The CDPP's Digital Referrals Gateway enables partner agencies to submit e-briefs to the CDPP for assessment. Significant enhancements to the Digital Referrals Gateway are planned for the 2020–21 financial year to maximise the types and size of the e-briefs the CDPP can receive, while ensuring records and materials are preserved. Enhancing the Digital Referrals Gateway will enable the receipt of digital referrals from partner agencies to automate file opening processes in the CDPP's case management system, caseHQ, giving prosecutors instant access to the materials they need in order to assess the brief to determine whether it is ready to proceed to court.

The enhancement to the Digital Referrals Gateway is a critical component of a digital transformation agenda which is a key priority for the CDPP. Another aspect of this agenda is the establishment of an e-trial solution. In the 2019–20 financial year, the CDPP scoped the ability to deliver an e-trial court presentation system enabling jury members to view evidence on tablets. In the coming year, we aim to develop an agile and flexible e-trial solution to allow the CDPP to streamline court proceedings and decrease reliance upon paper materials when conducting a trial, making the delivery of trials more effective and efficient.

The CDPP recognises our partner agencies rely on prosecution related data. The CDPP continues to enhance its reporting and data analytics capability to provide timely and accurate information for efficient decision making. Robust data analysis also assists us in managing our legal practice and resourcing, while helping us to more accurately predict future trends that will impact on our business.

Each of our legal practice groups actively engages with partner agencies to establish and build strong working relationships. The insights our prosecutors develop help to ensure we provide effective prosecution services that are responsive to the operating environment and our partner agencies' needs.

Connecting with state and territory prosecution services

As the CDPP prosecutes offences in all Australian jurisdictions, we have established procedures with each state and territory prosecution service for trials that involve both Commonwealth and state or territory offences.

We can prosecute indictable offences against state or territory laws where our Director and other senior CDPP legal staff hold an authority to do so under the relevant jurisdiction's laws. In addition, our legal staff can conduct committal proceedings and summary prosecutions on behalf of the Director for offences against state or territory law where a Commonwealth officer is the informant.

Prosecution Policy of the Commonwealth

The *Prosecution Policy of the Commonwealth* applies to all Commonwealth prosecutions. It outlines the principles, factors and considerations our prosecutors must take into account in prosecuting offences against the laws of the Commonwealth.

The policy underpins and promotes consistency and efficiency. It guides decision making throughout the prosecution process for every matter, regardless of the crime type or practice group.

Criteria governing the decision to prosecute—the prosecution test

The CDPP must ensure the test for prosecution is met, as set out under the *Prosecution Policy of the Commonwealth*, when making a decision to prosecute. The test requires that we must be satisfied there is sufficient evidence to prosecute a case and that the prosecution is in the public interest.

To determine if there is sufficient evidence to prosecute a case, we must be satisfied there is both *prima facie* evidence of the elements of the offence and a reasonable prospect of obtaining a conviction. In making this decision, our prosecutors must evaluate how strong the case is likely to be when presented in court. They must take into account matters such as the availability, competence and credibility of witnesses, their likely effect on the arbiter of fact (magistrate or jury), and the admissibility of any alleged confession or other evidence. Our prosecutors also consider any lines of defence open to the alleged offender, and any other factors that could affect the likelihood of a conviction.

In addition, our prosecutors consider if any evidence might be excluded by a court. If that evidence is crucial to the case, this may substantially affect the decision whether or not to prosecute. Our prosecutors need to look closely at the evidence in each matter, particularly in borderline cases.

Once satisfied there is sufficient evidence to justify starting or continuing with a prosecution, our prosecutors then consider whether pursuing a prosecution is in the public interest. This involves assessing all provable facts and surrounding circumstances.

Public interest factors we may consider include:

- whether the offence is serious or trivial
- mitigating or aggravating circumstances
- the age, intelligence, physical health, mental health or vulnerability of the alleged offender, witness or victim
- the alleged offender's criminal history and background
- the passage of time since the alleged offence
- the availability and efficacy of any alternatives to prosecution
- the prevalence of the alleged offence and the need for general and personal deterrence
- the attitude of the victim or victims
- the need to apply regulatory or punitive imperatives, and
- the likely outcome in the event of a finding of guilt.

The decision to prosecute must be made impartially and must not be influenced by reference to race, religion, sex, national origin or political association, activities or beliefs of the alleged offender, or of any other person involved. The decision to prosecute must not be influenced by any possible political advantage or disadvantage to the Government, or to any political group or party.

The *Prosecution Policy of the Commonwealth* is available on the CDPP website at www.cdpp.gov.au.

Measuring compliance with the prosecution test

Our prosecutors are required to certify compliance in addressing the test for prosecution in the *Prosecution Policy of the Commonwealth* by completing a Prosecution Policy Declaration. Since introducing this performance metric, we have achieved 100 per cent compliance.

These declarations are entered electronically into our case recording and information management systems. This has been an important initiative to confirm and capture evidence that the *Prosecution Policy of the Commonwealth* has been addressed. Specifically, it provides assurance that our prosecutors have considered whether there is a *prima facie* case, whether there are reasonable prospects of a conviction, and whether a prosecution is in the public interest at each stage of the prosecution process.

In December 2019 the CDPP also undertook its first annual internal review of a sample of individual case files, across all practice groups, to provide additional assurance that supporting documents on file properly evidenced and supported the application of the Prosecution Policy.

Treating victims of crime with courtesy, dignity and respect

Our dedicated and valued Witness Assistance Service (WAS) provides support to vulnerable victims and witnesses involved in matters we are prosecuting. To ensure we provide consistent and appropriate support, CDPP prosecutors are required to refer the following matters to the WAS, where there are:

- identifiable child victims
- victims of slavery, servitude or forced marriage
- any direct family member of a person who has died as a result of an alleged offence, or
- any victim suffering serious physical or psychological harm as a result of an alleged offence.

In addition to the above categories of victims, the WAS also provides support to other victims.

We have a dedicated web-based service for victims and witnesses of crime. The site provides tailored and timely information, tools and resources to support victims, witnesses and carers through the prosecution process.

The site builds on our understanding that victims and witnesses play a critical role in the prosecution process, and our commitment to ensuring they are treated with respect

Our *Victims of Crime Policy* guides and supports victims and witnesses through the prosecution process and we have established effective processes and procedures linked to the *Prosecution Policy of the Commonwealth*. In all prosecutions, we treat victims with courtesy, compassion, cultural sensitivity and respect for their dignity and entitlements.

To ensure the continued effectiveness of our WAS program, during this financial year, we had an internal audit undertaken which largely confirmed the effectiveness of the service while making useful business improvement recommendations, many of which we will be adopting.

Educating the community about our role

To educate the community about our role and build confidence in the federal justice system we:

- promote prosecution outcomes on the CDPP website at www.cdpp.gov.au
- highlight the positive working relationships we have with partner agencies and state and territory counterparts
- regularly participate in court users forums and committees
- attend relevant legal conferences and events, and
- provide input into legislative reform.

Promoting prosecution outcomes educates the community about the consequences of committing crimes against Commonwealth law and also deters potential offenders.

COMMINSURE FINED \$700,000 FOR HAWKING OFFENCES

In a landmark case, the Colonial Mutual Life Assurance Society Ltd, trading as CommInsure, was fined \$700,000 on 28 November 2019 after earlier pleading guilty to 87 counts of offering to sell insurance products in the course of unlawful, unsolicited telemarketing calls. This conduct is known as 'hawking'.

This was the first prosecution of its kind for these offences in the Corporations Act.

Between October and December 2014, CommInsure, a wholly-owned subsidiary of the Commonwealth Bank of Australia (CBA), through the telemarketing firm Aegon Insights Australia Pty Ltd (Aegon), unlawfully sold life insurance policies known as Simple Life over the phone. CommInsure provided customer contact details to Aegon from CBA's existing customer database.

Calls to 87 CBA customers were unlawful and unsolicited. This meant that those customers were unaware of whether the cover was suited to their personal circumstances, and what exclusions applied.

Some customers were given the opportunity to have the full product disclosure statement (PDS) read to them, but only after they had become bound to acquire the financial product.

Customers were first warned that reading it would take 30 minutes, which discouraged them from taking up the offer.

In one recorded phone call made in 2014, a customer clearly indicated that he was not looking to buy insurance, however the telemarketer persisted and convinced him that he should do so. The telemarketer closed the sale without offering to read him any information that was required to be included in the PDS for the product.

In sentencing, Her Honour Magistrate Atkinson of the Downing Centre Local Court in Sydney said there is a 'significant need for deterrence', and that those who market and sell insurance products 'must ensure that they comply with what is important consumer protection legislation'.

While the maximum available fine was \$1,850,700, Her Honour took into account CommInsure's cooperation with the Australian Securities and Investments Commission (ASIC) and early guilty plea. If the conduct had occurred after March 2019, when new increased penalty provisions came into effect, the maximum applicable penalty would have been \$10,962,000.

Shortly after the sentence was handed down ASIC announced a total ban on unsolicited cold call telephone sales of direct life insurance and consumer credit insurance. This was in line with a recommendation made by the Financial Services Royal Commission.



The background features a light gray color with several overlapping geometric shapes. On the left, there are several thin, parallel lines that fan out towards the center. On the right, there is a larger, more complex shape composed of many thin, parallel lines that create a grid-like or woven appearance. The overall design is clean and modern.

HOW WE OPERATE

CHAPTER 2

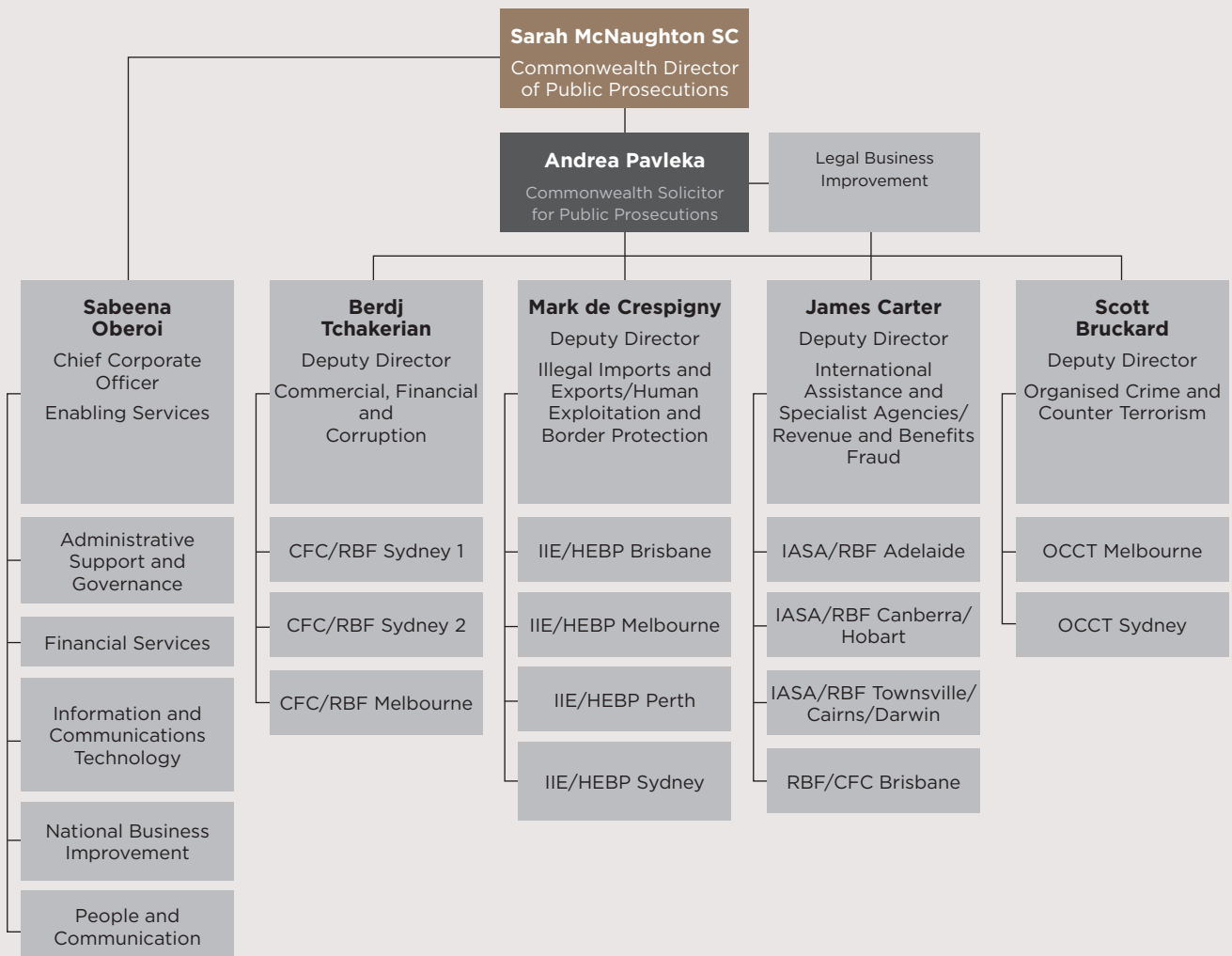
Our organisation

Our organisation is made up of specialist legal practice groups supported by our Enabling Services Group. Together, they form our national practice group model, which is designed to provide a unified and consistent federal prosecution service.

The model allows us to respond to the changing nature and complexity of criminal activity. Our staff are agile, flexible and able to work across practice groups in response to agency referrals or other operational needs. This has been particularly evident in response to the COVID-19 pandemic which has seen staff continue to meet operational demands through the use of digital tools while working remotely.

The national practice model continues to evolve in line with the CDDP’s ongoing commitment to deliver outcomes including the timely provision of pre-brief advice and brief assessments, the early resolution of matters and effective prosecution outcomes while adapting to a new working environment.

Figure 1: Organisational chart as at 30 June 2020



The role of the Director

Our legislative and policy framework establishes the role of our organisation and the statutory position of Director.

Key elements include:

- *Director of Public Prosecutions Act 1983* (DPP Act)
- *Public Governance, Performance and Accountability Act 2013* (PGPA Act)
- *Public Service Act 1999*
- *Prosecution Policy of the Commonwealth*.

The DPP Act established the Office of the Director of Public Prosecutions. It sets out the functions and powers of the Director, including independent responsibility for carrying out prosecutions for offences against Commonwealth law.

The Director delegates most of these functions or powers to CDPP staff. Together, the Director and staff constitute a statutory agency, led by the Director.

The Director also has a number of miscellaneous functions, including to:

- provide legal advice to Commonwealth investigators
- apply for superannuation forfeiture orders under Commonwealth law.

The Commonwealth Solicitor for Public Prosecutions (CSPP) takes a lead role in supporting the Director to fulfil her statutory obligations.

The role of the Commonwealth Solicitor for Public Prosecutions

The Commonwealth Solicitor for Public Prosecutions works with our legal practice groups and Enabling Services Group to make sure we have the essential systems, processes, people and culture in place to fulfil our purpose and deliver outcomes.

The CSPP is committed to ensuring the CDPP is a contemporary and innovative legal practice that operates in a nationally consistent manner.

The CSPP focuses on:

- **ensuring** CDPP staff have access to key legal resources and harness their combined knowledge and experiences in the most efficient way possible
- **encouraging** early and efficient preparation and management of cases, including appropriate digital solutions and engagement of counsel
- **continuing** to foster a greater team-based approach to the way we manage our matters
- **continuing** our deep engagement with partner agencies when it comes to liaison, pre-brief advice and court work
- **continuing** to improve our service to partner agencies, including in relation to timeliness
- **developing** a strong culture and agile workforce by embracing more flexible ways of doing our work
- **developing** staff via diverse work experiences (within and outside our organisation) and ensuring access to relevant and high-quality training and education.

The CSPP leads the Legal Business Improvement (LBI) branch whose remit includes policy, liaison and training. The LBI branch provides the pivotal interface between the legal practice and the Enabling Services Group and provides visibility of the legal practice from a national perspective. This view allows for continued improvement to the day to day operations of the legal practice and aids in achieving national consistency.

The role of the Executive Leadership Group

The Executive Leadership Group (ELG) provides a broad range of strategic and specialist legal expertise in support of CDPP outcomes. Chaired by the Director, the group is comprised of the Commonwealth Solicitor for Public Prosecutions, the Deputy Directors who lead each of the CDPP's specialist practice groups and our Chief Corporate Officer.

Our leaders

Commonwealth Director of Public Prosecutions, Sarah McNaughton SC

On 5 May 2016, the former Attorney-General, Senator the Hon. George Brandis QC, announced the appointment of Ms Sarah McNaughton SC as Commonwealth Director of Public Prosecutions for five years.

Ms McNaughton has 31 years' experience as a legal practitioner, having held a range of roles in private practice and with the CDPP. She has been a respected member of the New South Wales Bar since 1996 and was appointed Senior Counsel in 2011. With specialist expertise in offences related to taxation, corporate crime, drug importation and counter terrorism, Ms McNaughton has appeared as prosecution and defence counsel in complex criminal trials.

She holds Bachelor degrees in Arts (Hons) and Law (Hons), and a Master of Laws from the University of Sydney.

Commonwealth Solicitor for Public Prosecutions, Andrea Pavleka

In February 2017, the Director appointed Ms Pavleka as the Commonwealth Solicitor for Public Prosecutions. Prior to her appointment, Ms Pavleka was Deputy Director of the Illegal Imports and Exports and the Human Exploitation and Border Protection practice groups.

In her career as a criminal prosecutor, spanning 29 years, Ms Pavleka has managed a range of functions across the CDPP's practice, including prosecutions related to drug importations, tax fraud, people smuggling, organised crime and counter terrorism. As a federal prosecutor, she managed major criminal litigation, including some of the CDPP's most complex and long-running trials.

Ms Pavleka has been a member of the senior executive since 2004 and has worked in both the Melbourne and Sydney offices of the CDPP. Ms Pavleka holds a Law degree from the Australian National University.

Deputy Director Organised Crime and Counter Terrorism, Scott Bruckard PSM

Mr Bruckard joined the CDPP in 1987 and has been a member of the ELG since 2014. He leads the Organised Crime and Counter Terrorism practice group, responsible for prosecutions related to terrorism, large-scale drug and tobacco importation, firearms trafficking, money laundering, war crimes and national security.

Mr Bruckard is committed to improving law enforcement outcomes and developing better ways to manage large criminal litigation, particularly through more effective partnerships and the application of new technology.

In June 2016, Mr Bruckard was awarded a Public Service Medal in recognition of his distinguished service to the law enforcement and justice community, particularly his role in leading significant counter terrorism prosecutions.

He holds degrees in Arts and Law from the University of Melbourne.

Deputy Director Revenue and Benefits Fraud and International Assistance and Specialist Agencies, James Carter

Mr Carter has extensive experience in Commonwealth criminal law, having commenced his legal career at the CDPP in 1987. After prosecuting matters in the ACT and NSW, he worked in the areas of law reform and practice management. He then became the Deputy Director for Revenue and Benefits Fraud and in 2019 also assumed responsibility for International Assistance and Specialist Agencies.

Mr Carter has worked extensively with partner agencies across a wide range of criminal offences, prosecuting matters relating to tax, social security and identity fraud, helping to protect the integrity of Commonwealth programs. He has also contributed to the work of the Australian Law Reform Commission, particularly in relation to sentencing federal offenders and the development of Commonwealth criminal law.

Mr Carter has been a member of the senior executive of the CDPP since 2004 and a Deputy Director since 2007. He holds degrees in Law and Arts from the Australian National University, and is a graduate of the Australian Institute of Company Directors.

Deputy Director Illegal Imports and Exports and Human Exploitation and Border Protection, Mark de Crespigny

Mr de Crespigny has national responsibility for a large variety of crime types, including general drug and precursor importation offences, money laundering, child exploitation offences, human trafficking, slavery and people smuggling.

He joined the CDPP in 1989 and has worked in our Sydney, Canberra and Adelaide offices. Mr de Crespigny's experience in successfully prosecuting a range of crime types and managing relationships with key stakeholders underpins his ability to coordinate a broad and complex area of national practice.

As a member of the senior executive for more than 12 years, Mr de Crespigny became responsible for the Illegal Imports and Exports practice group and the Human Exploitation and Border Protection practice group in 2017.

Mr de Crespigny holds degrees in Law and Commerce from the Australian National University.

Deputy Director Commercial, Financial and Corruption, Berdj Tchakerian

Mr Tchakerian joined the CDPP in 1986 and has prosecuted a wide range of cases including fraud and drug matters. He was the CDPP's representative on *Project Wickenby*, a whole-of-government taskforce focused on combatting tax fraud. In this role he worked closely with partner agencies over a number of years to contribute to the success of the taskforce and maintains strong links in this area of law enforcement.

Mr Tchakerian became a member of the CDPP's senior executive in 2000, and in 2017 he became responsible for the Commercial, Financial and Corruption practice group.

He holds degrees in Law and Arts from Monash University.

Chief Corporate Officer, Sabeena Oberoi

Ms Oberoi joined the CDPP in November 2019 as the Chief Corporate Officer heading up the Enabling Services Group and her responsibilities include people, communication, governance, risk, audit, administrative support, library, finance, property, ICT, caseHQ and digital transformation.

Ms Oberoi has been with Australian Public Service for more than 25 years and as a senior executive for more than 12 years. She has extensive experience at senior levels in a wide range of areas including policy development and implementation, business transformation, building capability, driving organisational change and complex stakeholder engagement.

Ms Oberoi has a Bachelor of Mathematics (Hons) and a Bachelor of Commerce in Banking and Finance.



The background features a series of overlapping, semi-transparent geometric shapes in shades of light gray. On the right side, there is a prominent pattern of thin, parallel lines that create a sense of depth and movement, resembling a fan or a stack of pages. The overall aesthetic is clean, modern, and architectural.

OUR NATIONAL PRACTICE

CHAPTER 3

National practice group model

Our current operating model has allowed prosecutors to specialise in a range of crime types, while having flexibility to explore work in different jurisdictions and practice groups when the opportunity or need arises.

The *Prosecution Policy of the Commonwealth* outlines the principles, factors and considerations our prosecutors must take into account when prosecuting offences against the laws of the Commonwealth. It provides the framework for decision-making for all our prosecutions, which means our prosecutors can move seamlessly between practice groups.

Commonwealth Director of Public Prosecutions

Independent responsibility for conducting prosecutions against Commonwealth law.

Commonwealth Solicitor for Public Prosecutions (CSPP)

Lead role in supporting the Director and overseeing the operations of the legal practice and improvements to the legal business via the Legal Business Improvement branch.

Structure of the practice groups

The legal practice groups conduct prosecutions on behalf of the Director.

Each practice group is led by a Deputy Director (Practice Group Leader) who is responsible for:

- prosecutions conducted by the practice group across Australia
- national liaison and delivering prosecution services in relation to the practice group
- policy development for issues that concern the practice group, and
- the CDPP's contribution to law reform related to the crime types prosecuted by the practice group.

The Legal Business Improvement (LBI) branch provides support to the work of the CSPP and the legal practice, through the delivery of technical legal training, policy and advice work.

Our legal practice groups are supported by our customer focused and collaborative Enabling Services Group, led by our Chief Corporate Officer. This includes our National Business Improvement Branch, which oversees and develops technology related business improvements to our legal case management system, e-brief referrals and digital tools.



Commercial, Financial and Corruption

Prosecutes serious financial crimes and corruption offences



International Assistance and Specialist Agencies

Prosecutes matters referred by specialist agencies and provides international assistance in the areas of Mutual Assistance and Extradition



Human Exploitation and Border Protection

Prosecutes child exploitation, human trafficking and slavery offences, people smuggling, migration offences and more



Illegal Imports and Exports

Prosecutes offences associated with protecting Australia's borders, including drug offences such as importation and trafficking



Organised Crime and Counter Terrorism

Prosecutes counter terrorism and large-scale organised crime offences



Revenue and Benefits Fraud

Prosecutes general tax, social security, Medicare and identity fraud



Legal Business Improvement

Focuses on operational aspects of the legal business to enable, support and modernise our legal practice and legal resources; manages the CDPP's external counsel engagements; delivers legal learning and professional development to CDPP lawyers, co-ordinates law reform responses to Attorney-General's Department and Department of Home Affairs



Enabling Services Group

Enables and supports the activities of the legal practice through a range of services—finance, technology, people, communication, records, library, administrative support, governance, risk and audit, digital transformation, national case management system, innovation and digital capability

Commercial, Financial and Corruption

Deputy Director: Berdj Tchakerian

TOP REFERRING AGENCIES

Australian Securities and Investments Commission	77%
Australian Federal Police	14%
Australian Competition and Consumer Commission	4%
Australian Taxation Office	3%

106 REFERRALS 282 MATTERS ON HAND

MATTERS MANAGED

- Complex tax fraud, often with an international dimension
- Fraud by company directors and employees, other breaches of company directors' duties
- *Corporations Act 2001* offences, including: insider trading, market manipulation, insolvent trading, and publishing false or misleading information about company affairs
- Offences involving financial services or consumer credit, such as operating unregistered managed investment schemes or breaches of relevant licensing requirements
- Bribery of foreign public officials and corruption involving Commonwealth officials
- Serious cartel offences, including price fixing, rigged tenders and restricting outputs
- Money laundering linked to financial crime

Role

The Commercial, Financial and Corruption (CFC) practice group prosecutes serious financial crimes, focusing on offences involving corporations, financial markets and services, large-scale tax fraud, criminal cartel conduct and bribery and corruption of Commonwealth and foreign officials.

These white collar crimes are typically complex, difficult to detect and challenging to investigate, while prosecutions are often hard-fought by well-resourced defendants. CFC prosecutions play an essential role in maintaining the integrity of Australia's taxation and financial systems.

Trends in 2019–20 prosecutions

While the disruption caused by COVID-19 since March has impacted on the work of CFC, it is pleasing to note prosecutors have adapted well and met the many challenges of working in a different way effectively. The restrictions have primarily impacted on the conduct of contested trials in all courts, resulting in many of those cases being adjourned. However, other cases have continued, such as appeals and sentencing hearings, with these often being conducted by way of video conferencing technology. Most staff have been working from home during this period and have successfully coped with the challenges this has posed. While there was an initial reduction in referrals from CFC partner agencies, this has not continued.

The Australian Securities and Investments Commission (ASIC) remains the source of most CFC referrals. In the past year, in addition to the usual types of matters referred by ASIC we also received some cases resulting from the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry. We expect even greater numbers of such referrals in the coming year.

CFC is seeing a consistent pattern of referrals from the Australian Competition and Consumer Commission (ACCC) relating to criminal cartel offences, which is a relatively new but very important area of work for the Office. Since undertaking Australia's first prosecution for cartel offences in 2017, two companies have been successfully prosecuted in the Federal Court of Australia, resulting in the imposition of significant fines. Another company prosecuted for cartel offences pleaded guilty this year and is currently awaiting sentencing in the Federal Court. In addition, CFC is currently conducting prosecutions in a number of other cartel matters, with a total of 20 entities (both corporate and individual) facing charges.

Foreign bribery cases continue to be a major focus for CFC, with a number of complex prosecutions currently underway. The most significant of these involves the prosecution of a company and six of its employees in relation to the alleged payment of bribes to officials in the Philippines and Vietnam to obtain work on various infrastructure programs. CFC also has carriage of a number of domestic corruption cases involving allegations of corrupt conduct by public officials.

CFC is an active member of the Serious Financial Crime Taskforce (SFCT), which was established after *Project Wickenby* ended in 2015. The Taskforce was extended for a further four years from 1 July 2019 and will continue to focus on offshore tax evasion and illegal phoenix activity, as well as expanding its activities to deal with transnational and technology-enabled crime and, more recently, serious financial crime affecting the ATO-administered measures of the Commonwealth Coronavirus Economic Response Package.

Operation Elbrus is an SFCT matter investigated by the AFP. It involves a large-scale tax fraud relating to an alleged failure to remit Pay as You Go tax instalments to the Australian Taxation Office, involving more than \$100 million. CFC is currently prosecuting 10 individuals with five other defendants having already pleaded guilty and been sentenced.

CFC prosecutors have embraced the CDPP's digital transformation to find more efficient and effective ways to manage the document intensive cases which are a feature of CFC cases. Prosecutors have developed the capability to use digital tools in analysing complex briefs of evidence and also in marshalling material to facilitate the smooth running of cases in court.

Law reform

On 23 March 2019, the Australian Government announced the jurisdiction of the Federal Court would be expanded to include corporate crime. The CDPP continues its engagement with relevant stakeholders in relation to this policy.

On 10 April 2019, the Australian Law Reform Commission was commissioned by the Australian Government to undertake a comprehensive review of the corporate criminal responsibility regime. CFC provided assistance to the Commission, including meeting with members and

responding to requests for information and data. The Commission's report was delivered on 30 April 2020 and was tabled in Parliament on 31 August 2020. CFC has engaged with partner agencies to discuss the possible impact on our practice of recommendations in this report and will work with Attorney-General's Department in developing policies which are likely to crystallise from the report.

CFC has been an active participant in settling the Code of Practice for Deferred Prosecution Agreements. The new Deferred Prosecution Agreements scheme is contained in the Crimes Legislation Amendment (Combatting Corporate Crime) Bill 2019 introduced to the Senate on 2 December 2019, but yet to be passed.

Stakeholder engagement

CFC continues to play an active role in providing pre-brief advice to partner agencies, including legal advice during active investigations. We engage with investigators early to provide feedback and guidance about what is required for potential briefs to meet the requirements of the *Prosecution Policy of the Commonwealth*. Advice covers a diverse range of topics, but might include identifying evidentiary gaps and what steps may be needed to address them.

We meet our partner agencies on a regular basis at the national, state and territory levels. Our regular collaboration often involves the delivery of training and, increasingly, law reform initiatives. We also provide information sessions on a variety of topics to representatives of our partner agencies.

JAPANESE SHIPPING COMPANY CONVICTED AND FINED \$34.5 MILLION FOR CARTEL CONDUCT

On 2 August 2019, Japanese shipping company Kawasaki Kisen Kaisha Ltd (K-Line) was convicted of criminal cartel conduct and fined \$34.5 million: the largest ever criminal fine imposed under the *Competition and Consumer Act 2010* (Cth).

K-Line pleaded guilty to engaging in a cartel with other shipping companies in order to fix prices on the transportation of cars, trucks, and buses to Australia between 2009 and 2012.

From at least February 1997, K-Line was part of an arrangement with other global vehicle shipping companies, which saw them agree that they would not seek to alter their existing market shares of cargo from manufacturers or otherwise try to win existing business from each other.

This collusion impacted the transportation prices of cars, trucks and buses to Australia from the US, Asia and various European countries. K-Line, and other shipping lines transported these vehicles on behalf of major car manufacturers such as Nissan, Suzuki, Honda, Toyota, Isuzu and others.

Nippon Yusen Kabushiki Kaisha (NYK), another participant in the cartel, was convicted in August 2017. NYK was convicted of criminal cartel conduct and ordered to pay a fine of \$25 million. The investigation and prosecution of other alleged cartel participants is continuing.

This matter has been investigated and prosecuted in a number of other jurisdictions, including the United States, where key K-Line executives have been imprisoned or indicted.

K-Line pleaded guilty to 20 instances in which the company gave effect to cartel provisions between 24 July 2009 and 6 September 2012. The instances were rolled-up into a single charge of giving effect to those provisions, contrary to s44ZZRG(1) of the *Competition and Consumer Act 2010* (Cth).

K-Line's conduct was punishable by a maximum penalty of \$100 million. The court allowed a discount of 28 per cent for K-Line's early guilty plea, contrition, assistance and cooperation. But for K-Line's early guilty plea and cooperation, the fine would have been \$48 million.

In handing down the sentence, Justice Wigney of the Federal Court of Australia said that the "penalty imposed on K-Line should send a powerful message" and that "anti-competitive conduct will not be tolerated and will be dealt with harshly when it comes before this Court.

On just about any view, this was an extremely serious offence against Australia's laws prohibiting cartel conduct. It is likely that the anti-competitive effect of the offending conduct would ultimately have had some impact on Australian consumers of imported vehicles."

Deputy Director of the Commercial, Financial and Corruption practice group, Berdj Tchakerian, said the case reflects the complexity of this type of prosecution.

"The prosecution of criminal cartel cases present a particular challenge to the CDPP as they are complex and difficult to prosecute, often involving conduct committed in a number of different jurisdictions, both domestic and foreign.

Courts sentencing corporations that have engaged in cartel conduct have emphasised the need for denunciation and condign punishment, given such conduct is inimical to and destructive of the competition that underpins Australia's free market economy.

The sentence imposed sends a powerful message to multinational corporations that such conduct will not be tolerated and will be dealt with harshly."

Mr Tchakerian said this case was another example of the close working relationship between the CDPP and Australian Competition and Consumer Commission, which referred the matter to the CDPP.

Human Exploitation and Border Protection

Deputy Director: Mark de Crespigny

TOP REFERRING AGENCIES

State and territory police	43%
Australian Federal Police	37%
State and territory departments of corrections	13%
Australian Border Force	4%
Department of Agriculture, Water and the Environment	1%

750 REFERRALS **789** **MATTERS ON HAND**

MATTERS MANAGED

- Child exploitation
- Trafficking in persons and slavery
- People smuggling
- Passport, visa and other migration fraud
- Telecommunications offences
- Communications offences
- Aircraft and airport offences
- Federal community policing

Role

The Human Exploitation and Border Protection (HEBP) practice group prosecutes a wide variety of offence types including child exploitation offences, trafficking in persons and slavery, people smuggling, passport and migration offences, and offences committed by way of telecommunications services or computers.

A significant proportion of the work involves victims, including child victims. CDPP prosecutors in this area work closely with investigators and the CDPP's Witness Assistance Service (WAS) to ensure that, in the course of dealing with this very challenging work, victims are consulted and are treated with courtesy, compassion, cultural sensitivity and respect for their dignity.

Trends in 2019–20 prosecutions

Prosecuting serious offending committed against children and adult victims of crime is a primary focus of the HEBP practice group. Very lengthy sentences imposed on several offenders this year for sustained and heinous sexual offences against children have emphasised the gravity of the harm involved in these cases.

The number of referrals for Commonwealth child sex offences has significantly increased. Last year we noted the trend towards these matters becoming more complex and this has continued. Several prosecutions have an unusually large number of child victims, others have involved persistent offending overseas over lengthy periods and in others, the volume and severity of child abuse material is notable. Offending increasingly occurs entirely on-line and we have noticed the trend to prosecuting offences with large numbers of child victims contacted that way. The CDPP has shared its experiences with prosecutors overseas as they confront similar international offending.

These developments have led to a greater emphasis on digital forensics, mutual assistance requests and the amount of time allocated to dealing with vulnerable witnesses, both from an evidential point of view and providing support through our WAS.

This year has also been very significant for prosecutions for Human Trafficking and Slavery offences.

- Slavery: Following a jury verdict, the offender was sentenced to over eight years imprisonment regarding two victims held and used as slaves.
- Domestic trafficking in children: Offender sentenced for trafficking a 17 year old child for sex work around Australian cities with four years 10 months imprisonment for this offence as part of a total 11 year sentence for other sexual offences against other victims.

- Human trafficking and forced labour: Appeals against conviction dismissed with sentence varied on appeal but overall terms of imprisonment remaining the same. This case involved forced labour by two offenders in a domestic setting involving coercion and abuse of power, with one of them also committing human trafficking.
- Forced labour: Offender sentenced to a wholly suspended term of one year and six months imprisonment to be of good behaviour for three years for forced labour over eight months in a restaurant setting.
- Forced marriage: Defendant was acquitted by a jury on a re-trial on a charge of causing a person to enter into a forced marriage.

Prosecution services

Providing pre-brief advice to investigative agencies continues to be a significant aspect of HEBP's prosecution service. Early and timely advice is beneficial to both the CDPP and investigative agencies. Liaising with our partner agencies about emerging issues also enables us to focus our resources effectively.

With the COVID-19 pandemic, HEBP moved quickly to prepare materials to assist with emergency requirements under the *Biosecurity Act 2015* (Cth). We liaised with police from the Northern Territory, South Australia and Western Australia who may have been required to enforce the Remote Communities Direction.

Law reform

Our practice group continues to work closely with the Attorney-General's Department and the Department of Home Affairs regarding new legislation and the operation of existing laws.

Fundamental changes to the approach to sentencing Commonwealth child sex offenders was introduced by the *Crimes Legislation Amendment (Sexual Crimes Against Children and Community Protection Measures) Act 2020* which received Assent on 22 June 2020. The Act also increased maximum penalties for many Commonwealth child sex offences, introduced changes to bail, introduced new offences and strengthened vulnerable witness protections. Deputy Director Mark de Crespigny appeared before the Senate Legal and Constitutional Affairs Committee regarding this Bill and the practice group has provided information about the operation of the existing laws and those proposed by the Bill.

Acting on the recommendations of the Royal Commission on the Institutional Responses to Child Sexual Abuse, the *Combatting Child Sexual Exploitation Legislation Amendment Act 2019* introduced new offences into the *Criminal Code 2010* (Cth). Commonwealth officers with certain responsibilities to children in their care will be criminally liable for failing to protect a child at risk of a child sexual abuse offence or failing to report a child sexual abuse offence. The introduction of the new offence of possession or control of child abuse material sourced using a carriage service also ensured that this possession is captured under Commonwealth criminal law. Important changes to wording within legislation were introduced to reflect that all child pornography material offences involve the abuse of children.

Stakeholder engagement

HEBP continues to have close liaison relationships with the AFP and Australian Border Force (ABF). The practice group met regularly with investigators in regional offices and met quarterly at a national level.

We receive a high number of referrals from the state and territory police forces, particularly in relation to Commonwealth child sexual abuse offences. HEBP has a high level of interaction with police functions that specialise in those matters. In many jurisdictions the CDPP meets regularly with the Joint Anti-Child Exploitation Team (JACET), a joint initiative between the AFP and state and territory police forces. HEBP provides practical assistance such as a Bail Guide to identify procedural changes brought by recent legislative change.

HEBP contributes to the Australian Government's National Action Plan to Combat Human Trafficking and Slavery through involvement with government and civil society providing case studies and information from a prosecution perspective and through domestic and international training and engagement with investigators and prosecutors.

The CDPP continues to participate in a number of bodies involved in addressing human trafficking, including the *National Roundtable on Human Trafficking and Slavery*. The CDPP Human Trafficking Slavery Focus Group involving prosecutors from each jurisdiction allows information about issues and experiences from cases to be shared both within CDPP and to other stakeholders, where appropriate. This shared knowledge about the operation of the offence provisions and the vulnerable witness protections assists when providing information to policy makers about legislative reform. It also assists when providing input into government responses to parliamentary inquiries and international trafficking reports (US TIP, UNODC).

Finding a way forward with investigators of child abuse

The investigation, prosecution and sentencing of child abuse offenders pose many challenges. To enable the Court to assess the objective seriousness of the offending, the prosecution presents evidence about the crime and the impact of the offending on the victims and the harm this offending does to the whole community. In cases involving child abuse material, this involves an assessment of the degree of depravity of the material and the offender's involvement with it. Investigators face the challenge of providing information for this assessment alongside their crucial task of identifying and assisting the children. The need to limit exposure of investigators to large quantities of this harmful content is an ongoing concern.

This year, the CDPP has engaged extensively with the AFP and Queensland Police as they move to an internationally based categorisation system for the assessment of child abuse material. Through the Australian Centre to Counter Child Exploitation (ACCCE) and direct liaison with specialist police, CDPP has provided information about how this investigative change can be achieved within the existing needs of the criminal justice system.

The CDPP has been actively involved in the Legal Dialogues organised by the ACCCE. These meetings, bringing investigative, policy and other relevant parties together, have significantly assisted in the development of approaches to these serious crimes.

PAEDOPHILE JAILED FOR CRIMES IN AUSTRALIA AND SOUTHEAST ASIA

On 29 January 2020, a serial paedophile who abused children in Australia and Southeast Asia was sentenced to 35 years' imprisonment, with a non-parole period of 28 years. Boris Kunsevitsky (53) pleaded guilty to sexually abusing 44 children over a period of 16 years, as well as possessing tens of thousands of images and videos of child exploitation material.

Thirty-six of his victims were aged between 10 and 15 years old, another eight were 16 or 17 when they were abused. Of the victims, 37 were Filipino, five were Singaporean, one was Indonesian, and one was Australian.

At the time he committed most of the offences, Mr Kunsevitsky was based in Singapore. He was arrested on 4 September 2017, when he returned to Australia. Mr Kunsevitsky's arrest was triggered by a warrant issued for offences that occurred in Australia. These offences were identified after a referral from German Police to Australian authorities. The referral led to the identification of an Australian victim, who subsequently made a statement of complaint to Victorian Police.

Following Mr Kunsevitsky's return to Australia, police discovered child exploitation material in his possession, which led to the investigation of offending against victims overseas. This ultimately led to Mr Kunsevitsky pleading guilty to 59 offences across three categories of offending.

Mr Kunsevitsky is the second Australian to be sentenced to a very long jail term for sexually exploiting children overseas.

CDPP prosecutors work with investigators and the CDPP Witness Assistance Service to ensure that, in the course of dealing with this very challenging work, victims are treated with courtesy, compassion, cultural sensitivity and respect for their dignity.

In February 2019, the CDPP launched a dedicated site for Victims and Witnesses to support them through the prosecution process. Anyone wishing to report allegations of child sexual abuse can do so via the Australian Centre to Counter Child Exploitation.

A summary of the sentence, charges and offence categories is provided on the CDPP website at www.cdpp.gov.au.

WOMAN WHO HELPED FORCE THAI WOMEN INTO SEX SLAVERY JAILED

On 15 November 2019, Ms Rungnapha Kanbut (57) was sentenced to a term of imprisonment for slavery offences relating to two Thai women.

Following a five and a half week trial, a NSW District Court jury found Ms Kanbut guilty in May 2019 of two counts each of intentionally possessing a slave, exercising powers of ownership over a slave and dealing with the proceeds of crime. She was sentenced to eight years, two months and 30 days' imprisonment, with a non-parole period of five years, two months and 29 days.

The two Thai women voluntarily came to Australia to do sex work in 2004–2005. Ms Kanbut confiscated their passports when they arrived in Sydney and told them they would need to pay off a \$45,000 debt.

The women's travel to Australia was organised by a man they knew only as 'Chang'. Chang took naked photographs of them and threatened to post the photos on the internet if the women attempted to run away.

The victims often had to work up to 12 hours a day at multiple Sydney brothels, with almost all of their earnings going towards their 'debts'.

An Australian Federal Police investigation led to Ms Kanbut's arrest in 2017 when she returned to Australia from overseas.

Significant legal argument took place throughout the trial concerning the legal definition of slavery and

the application of that definition to this case. The jury also requested information on the legal definition of 'slavery'.

To assist the Judge, the prosecution provided submissions setting out the elements and definition of slavery. The Judge ultimately ruled in favour of the prosecution's interpretation of the elements and directed the jury in accordance with those principles.

In matters such as these, much of the prosecution's case relies on the testimony of witnesses, in this instance, of the victims themselves. CDPP prosecutors take great care to ensure that witnesses are treated with respect and dignity.

Language and cultural barriers can have a significant impact on how well victims and witnesses understand what they are going through and what is happening during their case. The CDPP's Witness Assistance Service is dedicated to supporting vulnerable victims and witnesses during the court process, including the provision of interpreters and other culturally appropriate support where required.

In sentencing, Judge Nanette Williams said "general deterrence played an important role in sentencing for slavery offences in particular, to send a firm message to organisers and recruiters. The sentence needed to reflect that Australia would not condone being a destination for the trade, and to ensure that the financiers, managers and organisers of this 'insidious trade' cannot slip through the net".

International Assistance and Specialist Agencies

Deputy Director: James Carter

TOP REFERRING AGENCIES

Australian Financial Security Authority	20%
Great Barrier Reef Marine Park Authority	16%
Australian Federal Police	15%
State and territory police	13%
Australian Fisheries Management Authority	6%
Australian Maritime Safety Authority	6%

420 REFERRALS **441** MATTERS ON **HAND**

MATTERS MANAGED

- Administration of justice offences
- Aged care
- Aviation compliance
- Bankruptcy
- Building and construction industry
- Census offences
- Clean energy schemes
- Crimes at sea
- Criminal justice certificates and visas
- Defence
- Education and training compliance
- Electoral offences
- Environment
- Extradition
- Family day care fraud
- Fisheries
- Indigenous corporations
- Industrial chemicals
- Intellectual property
- Marine safety
- Measurement
- Mutual assistance
- Offences against Commonwealth officials or property
- Radio-communications
- Royal Commission Act offences
- Secrecy, browsing and unauthorised disclosure
- Space activities
- Sports integrity
- Specific regulatory offences
- Therapeutic goods
- Tobacco advertising and plain packaging
- Work, health and safety

Role

The International Assistance and Specialist Agencies (IASA) practice group is responsible for international assistance including extradition and mutual assistance and prosecuting matters referred by specialist agencies. Our partners refer diverse offences spanning a variety of complex legislative schemes.

Trends in 2019–20 prosecutions

IASA has experienced an increase in the complexity and size of briefs referred from a number of our agencies as they target key areas of enforcement concern. Our referrals are diverse and encompass a wide range of important specialist areas. We continue to work closely with over 40 partner agencies from the pre-brief stage and throughout the prosecution process to prosecute in these significant areas.

This year, we have worked closely with our agencies as together we have faced the challenges posed by the COVID-19 pandemic. This has had a very significant impact on the investigation and prosecution of matters. It has been possible for matters to continue to be referred and brought before the courts utilising technology and new ways of working. Court appearances have been electronic to a significant extent using video-link technology or by telephone. We have also worked closely with the courts and defence practitioners using documents in digital form.

IASA had carriage of one of the first jury trials to be held following the suspension of jury trials due to the pandemic, successfully working with the court and the defence to achieve this. Measures were taken to ensure social distancing and the narrowing of issues prior to the proceedings commencing, thereby reducing the number of witnesses that needed to be called and the duration of the trial.

Prosecution services

Much of IASA's work is specialised and compliance focused. To ensure we respond effectively and efficiently to this diverse caseload, we use a Centralised Referral Model (CRM) for many matters. Referrals are assessed by prosecutors with specialist expertise and prosecuted in courts across Australia.

The practice group coordinates the CDPP's proceeds of crime functions and *Freedom of Information Act 1982* (Cth) work. It also has responsibility for prosecutions in the Jervis Bay Territory and Norfolk Island.

Jervis Bay Practice

Matters prosecuted are usually referred as a result of community policing and include driving offences, assault, family violence and theft.

Norfolk Island

The CDPP provides an independent prosecution service for Norfolk Island. Prosecutors rely on a combination of Commonwealth laws, continued Norfolk Island laws and applied New South Wales laws when prosecuting matters in this jurisdiction.

The practice is conducted from our Brisbane Office. In addition to regular travel to the Island for court appearances, our prosecutors often appear via videolink.

Two significant prosecutions were conducted in the Supreme Court of Norfolk Island during 2019–20:

1. A matter listed for trial by jury was resolved prior to trial by way of a plea to a charge of recklessly inflicting grievous bodily harm. The defendant was sentenced to two years and eight months imprisonment, wholly suspended for an operational period of two years and eight months.
2. Another matter involved sexual offending against three children. The defendant pleaded guilty to 31 offences and was sentenced to an effective term of imprisonment of 13 years and three months. The court ordered that the defendant must serve seven years and six months of that sentence in custody before being eligible for parole. Victim impact statements were read in court. This defendant also pleaded guilty to a further two offences, in relation to one of the complainants, in the Court of Petty Sessions.

The CDPP prosecuted a number of summary matters in the Court of Petty Sessions, covering a range of offending. Overall, 21 Norfolk Island matters were finalised before the courts during the reporting period.

Pre-brief engagement

The CDPP regards the provision of pre-brief advice to investigative agencies as a valuable practice that is in the interests of both the CDPP and our partners. The impact of the COVID-19 pandemic saw an increase in agencies seeking pre-brief assistance.

Partner workshops

During the reporting period we conducted workshops with the:

- Civil Aviation Safety Authority (CASA), focusing on the challenges posed by drones, and
- Australian Commission for Law Enforcement Integrity (ACLEI), including discussions on coercive examinations and the recovery of superannuation benefits for Commonwealth employees convicted of corruption offences.

These forums afforded opportunities to collaborate with our partners to effectively deter criminal conduct.

We are increasingly engaging in joint Commonwealth initiatives such as the:

- Family Day Care (FDC) Payment Integrity Interdepartmental Committee (IDC) - working closely with the Department of Education, Skills and Employment as part of the multi-agency FDC Integrity Surge Initiative.
- Integrity Agencies Group - leading coordination, enhancement and promotion of institutional integrity across the Commonwealth.

Family day care

In collaboration with the Department of Education, Skills and Employment, the CDPP continues to prosecute family day care service operators, educators and parents who engage in fraud.

There are currently over 50 defendants before the courts in Victoria and New South Wales for alleged family day care related offending.

Work Health and Safety (WHS)

Our WHS practice continues to expand as we partner with Comcare and the National Offshore Petroleum Safety and Environmental Management Authority to address work health and safety compliance across the Commonwealth.

One contested matter was successfully conducted virtually during the COVID-19 pandemic, with the calling of evidence and Counsel appearing via video-link from our CDPP Melbourne Office to the Adelaide Magistrates Court.

Law reform

This year IASA worked closely with the Department of Home Affairs, Attorney-General's Department (AGD), Department of Foreign Affairs and Trade and the Department of Health. We provided input and comment from a prosecution perspective on a number of legislative proposals, including those relating to a legislative framework for Australia to give effect to future bilateral and multilateral agreements for cross-border access to electronic information and communications data.

International engagement

In September 2019, a representative from our International Assistance (IA) team attended an Expert Group Meeting convened by the Commonwealth Secretariat (ComSec) reviewing the *Model Law on Electronic Evidence*.

Participants shared information and knowledge around the latest developments in their countries, as well as challenges and good practice in the implementation of the laws governing digital evidence.

During the reporting period, we collaborated in capacity building initiatives with our partners in a number of areas, including the:

- Attorney-General's Pacific Legal Policy Twinning Program.
- AFP International Liaison Officers Pre-Embarkation Program.
- Defence Domestic Maritime Security Operations Course (DMSOC).

IASA remains committed to supporting our stakeholders to develop expertise and will continue to seek opportunities to build capacity in our partner agencies as well as within the CDPP.

International Assistance

A dedicated team in IASA provides a vital service to prosecutors facilitating the obtaining of evidence from overseas.

Extradition and mutual assistance is crucial for the effective investigation and prosecution of serious offences such as terrorism, people smuggling, drug trafficking, sexual servitude, bribery of foreign officials, money laundering, and offences relating to child exploitation and abuse material.

The primary responsibility for international assistance rests with the AGD, Australia's central authority for mutual assistance in criminal matters and extradition. The CDPP's international assistance team plays a critical role in enabling requests to be made.

Mutual assistance underpins the international cooperation framework

Mutual assistance is a formal process countries use to assist each other to investigate and prosecute criminal offences and recover the proceeds of crime.

The IA team in IASA collaborates with prosecutors during the mutual assistance process to seek required foreign evidence material that meets Australia's evidentiary needs and conforms to Australia's admissibility requirements. The team also assesses the foreign material received, to ensure that the evidence is relevant and admissible in criminal proceedings.

Requests are often made in conjunction with Commonwealth investigative agencies or joint taskforces comprising law enforcement officers from Commonwealth, state and territory agencies.

In 2019–20 the IA team engaged with CDPP prosecutors and the Attorney-General's Department (AGD) in the preparation of 52 outgoing requests by Australia to 22 foreign countries.

The formal mutual assistance regime runs parallel with the less formal system of international cooperation between investigating agencies, known as 'agency-to-agency' assistance. Formal mutual assistance channels are most commonly used when the request for assistance involves the use of coercive powers, or when the material requested is required in a form that is admissible in criminal proceedings.

The mutual assistance regime rests on a network of international relations and obligations, together with the willingness of participating countries to assist each other. Australia has ratified 30 bilateral mutual assistance treaties and a number of multilateral conventions, which bind the signatories to provide mutual assistance to each other. Countries that are not

signatories to mutual assistance treaties or conventions may also request assistance under the principle of reciprocity.

Extradition ensures criminals can't evade justice by crossing borders

Extradition is a formal process where offenders outside the jurisdiction are returned to the country requesting extradition to be prosecuted or to serve a sentence of imprisonment.

The AGD has sole responsibility for international extradition for all countries, except New Zealand. The CDPP's role in extradition proceedings is requesting extradition be sought in Commonwealth matters and the execution of incoming requests from New Zealand.

The IA team collaborates with CDPP prosecutors to formulate an effective extradition strategy, to meet country specific extradition requirements, and to prepare documentation in support of requests for extradition in serious cases where a person is wanted for prosecution for an offence against Commonwealth law or to serve a sentence of imprisonment.

Outgoing requests

During 2019–20, the CDPP made no requests to the AGD seeking extradition from foreign countries. The CDPP was involved in making one request to New Zealand.

Four people were surrendered to Australia during 2019–20 as a result of extradition requests made in previous years. A further 13 requests from previous years remain ongoing.

Incoming requests

Requests from New Zealand are made on a police-to-police basis and are referred to us by the AFP. The IA team provides extensive assistance to the AFP to give effect to these requests, including the preparation of documents essential to the extradition process.

The CDPP appears on behalf of New Zealand in extradition proceedings before a magistrate to determine whether a person will be surrendered, or in any review or appeal arising from those proceedings. In 2019–20, the CDPP appeared on behalf of New Zealand in relation to extradition proceedings for five people, which resulted in the surrender of four people to New Zealand.

Confiscation of criminal assets

Proceeds of Crime Act 2002

Following the establishment of the Criminal Assets Confiscation Taskforce in 2012, the AFP has primary responsibility for confiscation and recovery action under the *Proceeds of Crime Act 2002* (Cth) (POCA).

Under a Memorandum of Understanding signed in 2014, the CDPP has responsibility for conducting applications for:

- a forfeiture order pursuant to section 48 of the POCA where no restraining order has been sought at the time the application is made
- a pecuniary penalty order pursuant to section 116 of the POCA relating to a person's conviction where no restraining order has been sought at the time the application is made.

Between 1 July 2019 and 30 June 2020, a total of \$3,106,907 was recovered through CDPP actions under the POCA 2002.

Corruption offences and superannuation orders

Pursuant to the *Crimes (Superannuation Benefits) Act 1989* (Cth), the CDPP is responsible for bringing applications seeking forfeiture of the employer-funded component of superannuation payable to the Commonwealth. Under Part VA of the *Australian Federal Police Act 1979* (Cth), the CDPP can seek forfeiture of the employer-funded component of superannuation funds of Australian Federal Police employees who have been convicted of corruption offences.

One superannuation order was made in 2019–20 pursuant to the *Crimes (Superannuation Benefits) Act 1989* (Cth).

No forfeiture action was taken in relation to Part VA of the *Australian Federal Police Act 1979* (Cth).

Freedom of information (FOI)

IASA is responsible for producing national FOI guidance, coordinating reporting responsibilities, and liaising with the Office of the Australian Information Commissioner (OAIC) to ensure the CDPP complies with our obligations pursuant to the *Freedom of Information Act 1982* (Cth).

FOI requests

The CDPP received 45 FOI requests during the 2019–20 reporting period.

Due to the complexity of some of the requests, FOI officers spent approximately 101 days completing FOI related activities.

PLUMBER JAILED OVER \$400,000 SOLAR-POWERED HOT WATER SYSTEM FRAUD

On 5 August 2019, the Brisbane District Court sentenced Brett Stephen Muldoon to four and a half years' imprisonment, to serve a minimum of 15 months, in relation to fraud and false or misleading claims, with respect to the purported installation of over 400 solar water heaters.

Mr Muldoon, a qualified plumber, committed the fraud under the Commonwealth Small-scale Renewable Energy Scheme (SRES), lodging forms falsely stating that he installed air source heat pumps at various residences around Queensland. The registration of these installations resulted in the issuing of Small-Scale Technology Certificates (STCs), which could be bought and sold at a negotiated price.

The forms submitted by the defendant essentially signed over the rights to these certificates from the homeowners and/or himself to an agent, in this case Emerging Energy Solutions Group Pty Ltd (EESG). Between 15 September 2013 and 9 September 2014, EESG, relying on the information provided by the defendant, paid him a total of \$399,382 for STCs relating to installations that had never occurred.

A total of 423 sets of false documents were submitted by Mr Muldoon to EESG, and he was paid for certificates relating to 415 of those purported installations.

Mr Muldoon entered guilty pleas and was sentenced in relation to:

- One count of fraud to the value of \$30,000 or more, contrary to s408C(1)(d) of the *Criminal Code* (Qld).
- One summary offence of false or misleading documents, contrary to s137.2(1) of the *Criminal Code 2010* (Cth).

Fraud against these schemes impacts negatively upon the integrity of the legislative scheme, and the Australian Government's commitment to the Renewable Energy Target, by undermining participants' confidence in the renewable energy sector.

In sentencing, his Honour Judge William Everson said it was clear Mr Muldoon had a "persistent and severe" gambling disorder, and although he took into account Mr Muldoon's admission and cooperation with Clean Energy Regulator investigators and police, Judge Everson said that offending of this kind is serious and a sentence that satisfied the need for general deterrence, punishment and rehabilitation was called for.

WILDLIFE TRAFFICKER HAS SENTENCE INCREASED ON APPEAL

The CDPP successfully appealed the sentence handed down to former Rugby League football player Martin Kennedy for wildlife smuggling, arguing that it was manifestly inadequate.

Mr Kennedy was initially sentenced in June 2019 to three years' imprisonment, to be served by way of an intensive correction order, requiring him to perform 700 hours of community service. At the time of the appeal, Mr Kennedy had already performed approximately 500 hours of this total.

Martin Kennedy pleaded guilty to six offences in total:

- Two related to his attempts to export 33 live shingleback lizards and 10 live native turtles to Sweden.
- Two related to his import and attempts to import from Thailand 23 Chinese softshell turtles, 15 live alligator snapping turtles, 11 neo-tropical stingrays, 10 live snakehead fish and 58 dead ones, two live sugar gliders and 18 dead ones, as well as 15 dead veiled chameleons.
- One related to his illegal possession of two pythons at his Sydney home.
- One related to his dealing with the proceeds of crime, being \$43,550 in cash, which was located hidden in his freezer in his Bondi home in March 2017.

On appeal, the CDPP argued that general deterrence, denunciation, and the protection of the community are critical principles of sentencing when prosecuting cases under the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) (EPBC Act). The CDPP submitted that offending that threatens native species and Australia's biodiversity warrants strong punishment.

On 18 October 2019 the New South Wales Court of Criminal Appeal increased Mr Kennedy's sentence to four years' imprisonment with a non-parole period of two years and six months.

The court said: "The speed with which this appeal was brought, the seriousness of the criminal conduct represented not only by the individual breaches of the EPBC Act, but by the range of regulated native specimens the respondent attempted to export and the range and type of regulated live specimens he imported or attempted to import, and the guidance the sentence provides as a principled approach to sentencing for offending of that kind, strongly suggests that the sentence in this case would have significant utility in providing guidance to sentencing courts in the future."

Illegal Imports and Exports

Deputy Director: Mark de Crespigny

TOP REFERRING AGENCIES

State and territory police	39%
Australian Federal Police	39%
Australian Border Force	12%
State and territory departments of corrections	5%
Department of Agriculture, Water and the Environment	4%

379 REFERRALS **558** MATTERS ON **HAND**

MATTERS MANAGED

- Serious drug and precursor importations
- Tobacco importation
- Firearms importation
- Money laundering
- Other importation and exportation offences

Role

The Illegal Imports and Exports (IIE) practice group prosecutes crimes relating to the integrity of Australia's borders, including drug and drug-precursor importation, general and drug-related money laundering, firearms importation, quarantine breaches, wildlife smuggling and other import and export contraventions including illicit tobacco, agriculture products and steroids.

The impacts of these offences on the Australian community and economy can be devastating. The CDPP prosecutes IIE matters most of which are indictable across all 10 offices. The practice is high-volume and arrest-driven. The IIE practice group prosecutes the largest number of trials of any CDPP practice group.

Trends in 2019–20 prosecutions

There has been an increase in the number of referrals from NSW police of drug importation matters. There has also been a marked increase in the overall complexity of matters being referred to IIE.

Law reform

During 2019–20, IIE continued to work collaboratively with the Department of Home Affairs and the Attorney-General's Department, providing input into legislative reform proposals. This work included:

- the *Criminal Code Amendment (Agricultural Protection) Bill 2019 (Cth)*, which introduced two new offences into the *Criminal Code 2010 (Cth)* relating to the use of a carriage service to incite trespass, property offences or other offences on agricultural land and
- the *Criminal Code Amendment (Firearms Trafficking) Bill 2017 (Cth)*, which will introduce an aggravated offence of trafficking in 50 or more firearms or parts and increased penalties for other offences.

Stakeholder engagement

A continuing key strategic theme for IIE over 2019–20 was building strong and effective partnerships with our partner agencies and stakeholders, fostering cooperation, collaboration and innovation across the criminal justice system. We work closely with partner agencies at all stages of the prosecution process. Our prosecutors maintain strong relationships with stakeholders which are of significant benefit in this area, especially as matters are often complex, time critical and fluid.

Our partner agencies include the Australian Federal Police (AFP), Australian Border Force (ABF) under the Department of Home Affairs, the Department of Agriculture, Water and the Environment, Austrade, and state and territory police. IIE receives regular requests from partner agencies for the development of National Offence Guides and other resources made available through our Partner Agency Portal.

Apart from providing core prosecution services to partner agencies, the practice group also engaged in regular national and regional liaison meetings to ensure a comprehensive understanding of the strategic objectives of each agency. These forums provide a valuable opportunity to discuss trends, identify systemic issues within investigative or prosecution processes, and identify potential law reform and training requirements.

As part of its liaison work, IIE continues to develop and deliver targeted training to the AFP, ABF and state and territory police.

International engagement

On 27 August 2020, IIE representatives met with members of the UN Office on Drugs and Crime. The meeting was facilitated by the Transnational Crime Section of the Department of Foreign Affairs and Trade.

Taskforce participation

As an active member of the Illicit Tobacco Taskforce (ITTF), the CDPP maintains an ongoing focus on matters involving the illegal importation of tobacco products. Taskforce activities have led to an increase in the complexity of briefs of evidence being referred to the CDPP for consideration and prosecution, along with an increase in the requests for pre-brief advice.

The Taskforce aims to disrupt organised and systemic illicit tobacco through a multi-disciplinary approach. This includes collaborating with international partners and law enforcement agencies, to facilitate the production of evidence to support prosecutions.

As a member of the ITTF, the CDPP attends the National Illicit Tobacco Management Group (NITMG) and the National Illicit Tobacco Senior Management Group (NITSMG) meetings. The NITSMG meets

quarterly and provides strategic oversight over the ITTF and the NITMG which meets on a monthly basis. The domestic conference which was to be hosted by the ITTF has been postponed due to the current COVID-19 pandemic. The conference will focus on Australia's law enforcement strategy to combat illicit tobacco, and will provide an opportunity for State and Federal agencies to meet to discuss the issue.

TWO MEN AND COMPANY SENTENCED OVER ILLEGAL IMPORTATIONS OF PIG SEMEN

On 13 August 2019, two men were sentenced in the Perth District Court for their roles in the unlawful importation of pig semen into Australia.

Torben Soerensen (40) was sentenced to three years' imprisonment, to be released after serving 18 months, and Henning Laue (74) was sentenced to two years' imprisonment, to be released after serving eight months. The company for which the men worked, GD Pork Pty Ltd, was given a global fine of \$500,000. Mr Soerensen was involved in eight of the offences committed by GD Pork, while Mr Laue was involved in seven. In April 2020 Mr Soerensen's sentence was altered on appeal so that he would instead be released after serving 12 months imprisonment.

Mr Sorensen was the Sole Director of GD Pork. From 2014, Mr Laue was the production manager of GD Pork Pty Ltd. GD Pork operated a pig breeding program in Pinjarra, Western Australia, which included artificial insemination processes.

Between 2009 and 2017, GD Pork illegally imported pig semen into Australia on 21 occasions. The semen was concealed in bottles in passenger luggage on commercial flights from Denmark into Australia. The semen was then taken to the Pinjarra farm and used to artificially inseminate GD Pork sows.

Australia has bans on the importation of pigs and pig reproductive

materials. No permits have been granted for the importation of foreign pig semen into Australia since 1995, primarily due to the risk of introducing diseases such as Porcine Reproductive and Respiratory Syndrome (PRRS).

Australia is in the very fortunate position of not having PRRS. PRRS is present in Denmark and can be spread via artificial insemination. After the offending was detected, the Department of Agriculture executed biosecurity risk assessment warrants, which showed that PRRS had not been imported as a result of the company's offending.

Danish sows produce, on average, more piglets per year than Australian sows (32.2 piglets per year, compared with the Australian average of 26 piglets per year). The Court found that in using the imported semen, GD Pork obtained a commercial advantage over its competitors, being the opportunity to use the imported pig semen. This opportunity was not available to others in the pork industry.

In sentencing, Her Honour Judge T D Sweeney SC said the most important consideration was that of general deterrence to other like-minded offenders in the pork industry or other industries where there are restrictions in place to protect the safety of Australian stock or crops. "The arrogant disregard of these considerations will be met with serious punishment," Her Honour said. "The punishment for offences of this sort must send a clear message that it is not worth the risk, not financially and not in terms of one's liberty."

NSW POLICE DRUG REFERRALS

In recent years, there has been a fairly steady increase in referrals from the NSW Police in relation to matters involving Commonwealth drug and precursor importation charges. However, in 2019-20 there has been a marked increase:

- 2017-2018 – 29
- 2018-2019 – 33
- 2019-2020 – 98

Some are fairly straightforward matters being investigated by the NSW Police Area Commands (PACs) or some larger ones out of their State Crime Command. The smaller matters involve single accused importing or attempting to possess border controlled drugs contained in parcels sent by mail. However some referrals have involved multiple co-accused and many have related to very large drug seizures.

Key challenges for investigators and prosecutors come from State/federal differences:

- Commonwealth search warrants and controlled operations certificates are obtained under the *Crimes Act 1914* (Cth), whereas NSW search warrants are under *Law Enforcement (Powers and Responsibilities) Act 2002* (NSW) and their controlled operations are under *Law Enforcement (Controlled Operations) Act 1997* (NSW).
- Difference in charging with state drug offences charged on the basis of the gross drug weights and Commonwealth drug offences charged on the amount of pure drugs requiring a higher degree of sampling and analysis.

NSW Police matters referred to this Office will often involve some state offending in addition the Commonwealth charge for importing border controlled drug, such as offences of drug possession or supply offences and sometimes firearms offences. These state offences are different to the offences we usually prosecute.

This has provided us with an excellent opportunity to build on our existing relationships with the NSW Police through early consultation in matters (provision of pre-brief advice, often urgent), consultation in relation to the development of Standard Operating Procedures for the testing of drugs (purity) and development of training for their investigators and highlighting our Partner Agency Portal which contains legal resources to assist the NSW Police investigators.

There has been genuine discussion about feedback from both sides to improve their investigation strategies and brief preparation as well as our delivery of prosecution services.

An example of a matter referred by the NSW Police is that of Mr Yuhui Li who was convicted after trial for importing a commercial quantity of border controlled precursor involving just over 210 kgs of pure ephedrine. Mr Li had rented two storage units in a false name. A consignment containing 50 boxes with 40 smaller boxes within them was delivered from China. Each smaller box contained 30 highlighters. The Australian Border Force examined the boxes and found that the 21,000 highlighters contained ephedrine. NSW Police arranged the delivery of the highlighters to the storage unit. Mr Li then entered the storage unit and was observed to try and open the highlighters. Shortly after he was arrested. The matter went to trial in August 2019 and he was sentenced in December 2019 to nine years imprisonment, non-parole period of six years.

Organised Crime and Counter Terrorism

Deputy Director: Scott Bruckard PSM

TOP REFERRING AGENCIES

Australian Federal Police	76%
State and territory police	23%
Department of Home Affairs	1%

118 REFERRALS **345** **MATTERS ON HAND**

MATTERS MANAGED

- Terrorism
- Organised crime offending such as transnational drug and tobacco importations, firearms trafficking and money laundering
- National security
- War crimes

Role

The Organised Crime and Counter Terrorism (OCCT) practice group is responsible for the prosecution of terrorism offences, large-scale organised crime matters and offences relating to the national security of the Commonwealth.

Prosecutors are skilled in managing cases through a team-based operating model and utilising digital tools in the large, complex and resource intensive cases that the OCCT practice group prosecutes. Prosecutors also provide independent legal advice in tight time frames to partner agencies during the course of active police investigations.

Trends in 2019–20 prosecutions

The work of OCCT prosecutors is increasingly of an international nature, reflecting the globalisation of more serious criminal activity. The matters we prosecuted this year included domestic terrorism linked to terrorist organisations based in the Middle East, alleged foreign fighters returning from Syria, massive narcotics shipments organised by off-shore criminal syndicates and contraventions of United Nations sanctions laws.

Matters referred for prosecution more often than not contain evidence gathered from outside of Australia. Whether such evidence be in the form of social media records obtained from an Internet Service Provider in the United States or a witness statement obtained from resident of a foreign country, our prosecutors work closely with partners and officers of the Attorney-General's Department (AGD) in Canberra to support the collection of admissible evidence from foreign jurisdictions. In addition, an increasing number of the prosecutions we commenced this year targeted persons who were resident in a foreign country or arose out of a successful application for extradition or mutual assistance.

The volume of OCCT referrals received by the CDPP in 2019–20 increased by 19 per cent and our workload continues to increase in complexity. Many of the OCCT matters referred to us for prosecution will require a resource commitment from our prosecutors for some years as these cases make their way through the committal, trial and appeal phases in local state and territory criminal courts.

Since March 2020, the COVID-19 pandemic has delayed the finalisation of a number of significant OCCT cases. While our prosecutors are working closely with partners and stakeholders online to keep as many cases as possible moving through the criminal justice system, the conduct of longer and more complex criminal jury trials at a time of physical distancing continues to present a challenge for our criminal justice system. Further delay in the finalisation of these matters seems likely.

Our early resolution strategies helped to deliver pleas of guilty in a number of important and high profile cases in 2019–20. Pleas of guilty were recorded in 73 of our OCCT cases while some 18 matters proceeded to a contested jury trial across Australia. In total, 16 individuals were convicted of terrorism offences during this period. This brings the total number of individuals convicted of terrorism offences to 86 since 2001.

Large-scale drug importations

A number of large-scale international drug importation matters have been successfully prosecuted during 2019–20 following lengthy and resource intensive trials conducted by prosecutors in OCCT.

A number of these prosecutions related to importations of border controlled drugs which weighed over one tonne. Many of those convicted were sentenced to lengthy terms of imprisonment. In one matter, two offenders were sentenced to life imprisonment with non-parole periods of 22 and 25 years imprisonment.

The prosecution of organised crime and terrorism offences takes place in a global setting and often involves multiple offenders, police informers, foreign evidence, undercover operatives and voluminous briefs of evidence. OCCT is continually building relationships with domestic and international partners to achieve better prosecution outcomes.

Prosecution services

OCCT continues to build strong working relationships with partner agencies such as the Australian Federal Police, Department of Home Affairs, Australian Security Intelligence Organisation, and state and territory police, to meet their enforcement and compliance strategy objectives.

OCCT also continues to provide prosecution services including pre-brief advice in terrorism and more significant organised-crime matters, during active investigations to support partner agencies. The provision of specialist and independent advice aims to assist police in making timely operational decisions in complex investigations. Early cooperation between police and prosecutors in complex criminal investigations also helps to focus investigative resources, improve efficiency and deliver better law enforcement outcomes.

In addition to providing training to partner agencies in areas such as court procedure and evidence, OCCT prosecutors also provide training to Joint Counter Terrorism Teams across Australia. OCCT prosecutors attend regular liaison meetings and take part in collaborative panel discussions designed to deliver better prosecution outcomes.

Law reform

OCCT continued to support the important legislative and policy work of government in 2019–20. We have developed a strong working relationship with staff from the AGD and the Department of Home Affairs in the area of law reform. We aim to provide them with valuable insights and observations regarding the practical application of the laws we rely on to prosecute in order to better inform effective legislative and policy development.

In 2019–20, OCCT prosecutors supported a number of legislative initiatives, including the development of the *Crimes Legislation Amendment (Economic Disruption) Bill 2020*. Our prosecutors also assisted the work of the Independent National Security Legislation Monitor and the Global Counter Terrorism Forum.

Stakeholder engagement

OCCT prosecutors regularly liaise with partner agencies at a regional, national and international level to address issues or trends in current and future prosecutions, that impact on the work of the office.

We provide partner agencies and stakeholders with weekly and quarterly reports on counter terrorism prosecutions to ensure they are kept up to date with accurate information about the conduct of current terrorism prosecutions.

OCCT prosecutors also engage with staff from state and territory police and prosecution agencies, corrections, Legal Aid Commissions and the courts to foster a culture of collaboration on common issues across the criminal justice system, particularly as they relate to the impact of delays caused by COVID-19.

In 2019, OCCT hosted its annual conference for key stakeholders. The conference was held in Melbourne and focused on Global Crime. Conference attendees heard from various law enforcement, government and academic experts on topics such as right wing extremism, battlefield evidence and mutual assistance requests. The annual conference provides an opportunity to strengthen relationships, as well as promoting collaboration between agencies.

International engagement

OCCT Prosecutors participated in a number of international engagements in 2019–20 including:

- Australia, September 2019—Prosecutors hosted a Philippine delegation which was arranged by the Department of Home Affairs. A presentation provided by the OCCT practice group focused on the co-ordination between law enforcement agencies and prosecutors in terrorism matters.
- Indonesia, October 2019—A prosecutor participated in a workshop on approaches to prosecuting terrorism and trafficking in persons cases with the Attorney-General's Office of the Republic of Indonesia and the United States Department of Justice. In addition, the prosecutor assisted with compiling a guidelines manual for Indonesian prosecutors.
- Vietnam, November 2019—A prosecutor participated in two conferences on the topic of electronic evidence. At the conference, the prosecutor provided a presentation explaining the criminal trial process and legislative framework of criminal law in Australia, with case studies to illustrate how electronic evidence is adduced in criminal trials.

LAST OFFENDER SENTENCED FOR THE TERRORIST KILLING OF CURTIS CHENG

On 9 August 2019, one of the CDPP's most high-profile and important series of cases came to a close when Mr Mustafa Dirani (25) was sentenced for his role in the act of terrorism that resulted in the death of NSW Police accountant, Mr Curtis Cheng. Mr Cheng was shot dead outside the New South Wales Police Headquarters in Parramatta by 15 year old Farhad Mohammad on 2 October 2015. Mr Mohammad was killed by police after firing several shots at officers who had responded to the attack. In the robes he was wearing at the time, police found a note that said he had come "to put terror into your hearts".

Mr Dirani helped Mr Raban Alou to obtain the handgun, which was ultimately used in the terrorist act. His role included acting as lookout while the firearm was obtained from another offender, Mr Talal Alameddine, on the day that Mr Cheng was killed. Mr Dirani also provided religious and ideological support and encouragement to his co-conspirators, he provided money to assist in the purchase of the handgun and accompanied Mr Alou to meetings with Mr Alameddine prior to the handgun being obtained.

Following a jury trial in the New South Wales Supreme Court which ran for seven weeks and which was preceded by one week of pre-trial proceedings, Mr Dirani was found guilty and sentenced on 9 August 2019 to a term of imprisonment of 28 years for conspiring with Mr Alou and Mr Atai to do acts in preparation for a terrorist act contrary to s101.6(1) of the *Criminal Code 2010* (Cth). A non-parole period of 21 years was fixed. Mr Dirani was the last offender in these series of prosecutions to be sentenced. The Court found

that Mr Dirani played a significant part in the conspiracy, was a deeply radicalised supporter of Islamic State and was actively involved in the indoctrination of others. Mr Dirani has lodged an appeal against his conviction and sentence which is listed for hearing in the New South Wales Court of Criminal Appeal in 2021.

The police investigation of Mr Alou, Mr Atai and Mr Dirani began as part of Operation Peqin-Fellows, a NSW Joint Counter Terrorism Team investigation commenced in response to the unlawful killing of Mr Cheng. Mr Dirani's co-accused were previously sentenced as follows:

- Mr Raban Alou was sentenced on 1 March 2018 to a term of imprisonment of 44 years. A non-parole period of 33 years was fixed. On 4 October 2019, an appeal against the severity of this sentence was dismissed by the New South Wales Court of Criminal Appeal. On 12 June 2020, an application for special leave to appeal to the High Court of Australia was also dismissed.
- Mr Milad Atai was sentenced on 23 November 2018 to a term of imprisonment of 38 years. A non-parole period of 28 years and 6 months was fixed. On 2 June 2020, an appeal against the severity of this sentence was heard by the New South Wales Court of Criminal Appeal and the judgment is currently reserved.
- Mr Talal Alameddine was sentenced on 18 May 2018 to a term of imprisonment of 17 years and eight months. A non-parole period of 13 years and six months was fixed. On 18 September 2020, the NSW Court of Criminal Appeal granted Mr Alameddine leave to appeal against this sentence, and in lieu imposed an aggregate sentence of 14 years imprisonment, with a non-parole period of 10 years and six months.

THREE MEN JAILED FOR TERROR ATTACK ON SHIA MOSQUE

On 24 July 2019, the Supreme Court of Victoria sentenced Mr Ahmed Mohamed (26), Mr Abdullah Chaarani (28) and Mr Hatim Moukhaiber (31) to lengthy prison terms for engaging in a terrorist act contrary to s101.1(1) of the *Criminal Code 2010* (Cth). The terrorist act involved setting fire to a Shia mosque in suburban Melbourne on 11 December 2016. The fire caused over \$1.5 million in damage to the mosque, requiring its demolition. Mr Mohamed and Mr Chaarani were also found guilty, convicted and sentenced for their role in an earlier and unsuccessful attempt to burn down the same mosque in November 2016.

A jury had returned verdicts of guilty in May of 2019 following a six week trial, preceded by eight weeks of pre-trial proceedings. The jury had considered CCTV footage taken at the mosque, intercepted communications between the offenders' and evidence of the offenders support for Islamic State (IS). The Court found these crimes, which had been motivated by hatred and intolerance, had been committed to advance the cause of IS and inflict terror upon entirely innocent Shia Muslims living peacefully in the community.

The offenders were each sentenced as follows:

- Mr Ahmed Mohamed was sentenced to be imprisoned for 22 years. A non-parole period of 17 years was fixed.
- Mr Abdullah Chaarani was sentenced to be imprisoned for 22 years. A non-parole period of 17 years was fixed.
- Mr Hatim Moukhaiber was sentenced to be imprisoned for 16 years. A non-parole period of 12 years was fixed.

On 17 April 2020, the Victorian Court of Appeal dismissed appeals brought by the three offenders against their convictions. On 15 May 2020, Mr Chaarani and Mr Moukhaiber filed Special Applications for Leave to Appeal to the High Court of Australia.

At an earlier trial in August 2018, Mr Chaarani and Mr Mohammed had also been found guilty by another jury of conspiring to do acts in preparation of, or planning for, a terrorist act contrary to s101.6(1) of the *Criminal Code 2010* (Cth). That terrorist act involved a plot, with co-conspirators Mr Ibrahim Abbas and Mr Hamza Abbas, to commit a mass casualty attack in Federation Square in December 2016. The attack was to involve the detonation of improvised explosives and/or the use of bladed weapons and firearms. Unlike the attack on the mosque, these crimes were preparatory in nature. Nevertheless, the Court found that they constituted an assault on the fundamental values of our society. Mr Chaarani and Mr Mohamed were each sentenced to a further term of imprisonment of 26 years for this offending, 16 years of which will be served in addition to the sentences imposed in relation to the Mosque attack offending.

As a result of the sentences imposed in both matters, Mr Chaarani and Mr Mohamed are each serving a total effective sentence of imprisonment of 38 years. A single non-parole period of 28 years and six months was fixed.

Revenue and Benefits Fraud

Deputy Director: James Carter

TOP REFERRING AGENCIES

Services Australia (Centrelink)	67%
Australian Taxation Office	8%
State and territory police	7%
Services Australia (Medicare)	6%
Department of Health	3%

668 REFERRALS 983 MATTERS ON HAND

MATTERS MANAGED

- General tax fraud and tax compliance including income tax and goods and services tax (GST) fraud
- Social security fraud
- Medifraud
- Fraud-related money laundering
- Identity fraud
- Child support offences
- Counterfeit currency offences
- Other frauds against the Commonwealth including grants fraud and fraud against the National Disability Insurance Scheme

Role

The Revenue and Benefits Fraud (RBF) practice group is responsible for prosecuting fraud against the Australian Government, including general tax fraud, social security fraud, Medicare fraud (patient and provider fraud), National Disability Insurance Scheme fraud, postal, grants, counterfeit currency and identity fraud. RBF also prosecutes fraud-related money laundering.

Commonwealth revenue and benefit systems rely heavily on the integrity and honesty of all Australians. Briefs typically relate to allegations that people have intentionally engaged in conduct and, as a result, received money they knew they were not entitled to. RBF prosecutions play an essential role in protecting Commonwealth resources and ensuring support is provided where it is needed most in the community.

Trends in 2019–20 prosecutions

In response to the COVID-19 pandemic, we have been working with our partner agencies as they navigate restrictions impacting upon investigations and their ability to provide support for prosecutions. We have continued to support agencies in assessing briefs and conducting matters before the Courts, often electronically, as well as working with our partners in a pre-brief capacity.

Services Australia (Centrelink) remains the source of most RBF referrals. We are continuing to see an increase in referrals of more complex cases, including those involving online offending and the use of multiple identities. This has led to greater emphasis on digital and financial forensic analysis, which increases the complexity of briefs of evidence.

Fraud in the family day care context has also been an area of focus for Services Australia (Centrelink). Typically, these offences involve benefit recipients failing to correctly declare their income to Centrelink or claiming benefits for children who are not in their care, in order to obtain benefits to which they are not entitled. The practice group also continued to prosecute frauds involving people falsely claiming single parent benefit payments when they were in a relationship. These prosecutions require evidence to prove the existence of the relationship, including evidence obtained via search warrant and third parties such as employers, real estate agents and hospitals.

RBF also continued to prosecute referrals from Services Australia (Medicare) as they investigate offending against the Pharmaceutical Benefits Scheme and Medicare system (patient fraud).

Our Department of Health medifraud (provider fraud) referrals often involve medical practices operating via complex corporate structures and claiming benefits they were not entitled to. We are continuing to work closely with the Department of Health to effectively prosecute in this area.

In 2019–20, RBF worked closely with the National Disability Insurance Agency and the National Disability Insurance Scheme (NDIS) Fraud Taskforce as they investigate fraud against the NDIS.

We have received a number of new referrals following the first successful prosecution under the Taskforce of Mr OMAR. Following a plea of guilty to four offences under the *Criminal Code 2010* (Cth) Mr OMAR was sentenced in the Melbourne County Court on 11 July 2019 to four years imprisonment to serve two years and six months before being eligible for parole. This was the first prosecution under the Taskforce which resulted in a significant jail term and was an excellent example of collaboration between our agencies.

In 2019–20, we prosecuted a variety of matters referred by the Australian Taxation Office (ATO) involving frauds against the taxation system. These matters may involve intermediaries such as tax agents and accountants who use their clients' taxation accounts and details to obtain benefits they are not entitled to.

The prosecution of Goods and Services Tax (GST) fraud continues to form a significant part of the group's practice. Prosecuting these matters is integral to ensuring compliance with the GST system and protecting Australia's revenue system through effective deterrence.

Prosecution services

We maintained our focus on liaison in 2019–20 with regular national and regional liaison meetings to support our partner agencies despite COVID-19 restrictions. This has included working with partner agencies to facilitate the provision of electronic briefs via our Digital Referrals Gateway and the vast majority of briefs provided are now electronic.

Our liaison includes focusing on capability development in partner agencies and the CDPP. With Services Australia, we have a joint Capability Review Committee to identify training needs and develop resources in relation to our social security fraud work.

Earlier this year we held joint annual conferences with the ATO and Services Australia. These conferences enable us to gain insight into our partner agencies strategic goals and processes, to build capability and identify areas for further development. In August 2019, we held a very helpful Services Australia/CDPP Investigators and Prosecutors Workshop. This focussed on investigators and prosecutors identifying trends and issues in our complex social security fraud cases and included case scenarios and presentations on identity and internal fraud.

RBF liaises closely with the ATO with regular national and regional liaison meetings supported by regular contact at the regional and national level. The practice group has continued to support the work of ATO in-house prosecutors who prosecute less complex summary matters under the *Taxation Administration Act 1953* (Cth).

To further enhance the timeliness and quality of our service, the practice group continued to focus on engaging early with partner agencies. This assistance is appreciated and supports our partners in the development of their enforcement strategies and their investigation of particular crime types.

Law Reform and stakeholder engagement

RBF supports agencies in relation to new policy proposals by providing advice on the practical application of laws in the prosecution context.

RBF continues to work with partner agencies in Taskforce settings. The CDPP is represented by RBF as an advisory member of Taskforce Integrity, the Illicit Tobacco Taskforce, the Black Economy Taskforce and the NDIS Fraud Taskforce. While operational decisions are a matter for investigative agencies, our membership of these multiagency taskforces provides the CDPP with the opportunity to contribute practical advice in relation to prosecuting criminal offences. It also allows us to prepare a coordinated and consistent prosecution response that is linked to the overall goals and objectives of the taskforces.

The CDPP is also a member of the Family Day Care Fraud Interdepartmental Committee. Fraud and non-compliance in the family day care sector impacts on several partner agencies including Services Australia, the ATO and the Department of Education and Training. RBF has been working closely with Services Australia and the CDPP's International Assistance and Specialist Agencies practice group to address this significant risk to Australia's revenue and benefit system.

BRISBANE MAN JAILED FOR IDENTITY THEFT AND INCOME TAX FRAUD

On 4 October 2019, following a plea of guilty to 45 offences of dealing in identification information, 27 offences of obtaining a financial advantage by a deception, 33 offences of attempting to obtain a financial advantage and one offence of attempting to dishonestly obtain a gain, Ryan McCarthy (27) was sentenced in the Brisbane District Court to five years' imprisonment with a non-parole period of 18 months. He was also ordered to pay reparation in the sum of \$167,237.28.

Between September 2015 and July 2016, Mr McCarthy created online job advertisements using the names of both legitimate and fictitious companies. Job seekers applied for these positions and submitted their CVs containing personal details. Mr McCarthy telephoned applicants and conducted phone interviews using various aliases. He then emailed applicants offering them the job and asking them to provide further details, including their driver's licence, bank account details, and tax file number. He then used this identification information to lodge 62 online income tax returns with the Australian Taxation Office (ATO) that were purportedly by the applicants.

A number of Mr McCarthy's victims reported their suspicions to the Australian Cybercrime Online Reporting Network (ACORN) after they realised the jobs they had applied for didn't exist. The ATO commenced an investigation in cooperation with Queensland Police.

Investigators identified 52 victims and discovered that Mr McCarthy had opened 63 bank accounts with 16 different financial institutions. Investigations also revealed he had used phone services subscribed in the names of his victims.

Mr McCarthy dishonestly claimed a total of \$558,584 in refunds in the false income tax returns. As a result, a total of \$187,796.41 was paid into bank accounts controlled by Mr McCarthy. Internal bank anti-fraud measures and efforts by the ATO and Queensland Police resulted in \$370,787.63 in tax refunds being withheld.

In sentencing, his Honour Judge Koppenol DCJ said this offending was a "sophisticated example of serious fraud", and described Mr McCarthy's behaviour as "despicable".

"You should not think, nor should anyone think, that behaviour of this kind is a victimless crime. It is not a victimless crime," Judge Koppenol said. "Your fraud is a fraud on the revenue of our great country. It is therefore a fraud on our whole community. Your activities meant that money that might otherwise have been used for other purposes—community purposes, such as roads and other infrastructure, defence, education, health, welfare, was not used for that purpose but went into your pocket."

CENTRELINK EMPLOYEE LODGED FRAUDULENT CLAIMS TO RECEIVE BENEFITS

On 24 October 2019, after pleading guilty to two counts of obtaining a financial advantage by a deception, Queensland woman and former Department of Human Services employee Rebecca Teece, also known as Rebecca O'Grady, was sentenced in the Downing Centre District Court to 14 months imprisonment. She was released immediately on a recognisance in the sum of \$200 conditioned that she be of good behaviour for a period of 13 months.

Ms Teece was employed by Centrelink between 2012 and 2015 at various offices in New South Wales. During this time she made fraudulent claims for benefits in order to receive a disability support pension.

In late 2012, while working in the Coffs Harbour Centrelink office, Ms Teece applied for a disability support pension in the name of Rebecca O'Grady, submitting a false ophthalmologist report claiming she suffered severe vision impairment. The application was approved and Ms Teece then received disability support payments from December 2012 to May 2015.

In 2014, while working at the Pottsville Centrelink office, Ms Teece applied for and approved her own application for a disability support pension, again for blindness, using the false name Rachel Lewis. Ms Teece then received disability support payments to which she was not entitled, between November 2014 and May 2015.

In March 2015, Ms Teece also applied for and approved two carer's payments using the false name Margaret Lewis.

The total amount obtained by Ms Teece over the course of her offending was \$87,481.73.

In sentencing Ms Teece, His Honour Judge Arnott SC said "There is a significant need for general deterrence in cases of fraud upon the social security system.... The social security system relies on the honesty of applicants. It is based on trust and when the trust is abused sentences must be salutatory." In relation to Ms Teece's conduct he said "During the course of her criminal activity she created false documents and continued to exploit the trust of the Commonwealth administrative processes to her financial advantage".

This matter was investigated and referred by Services Australia (formerly known as the Department of Human Services).

Legal Business Improvement

Role

The Legal Business Improvement (LBI) branch focuses on the many operational aspects of enabling, supporting and modernising the CDPP's legal practice. The branch also supports the Commonwealth Solicitor for Public Prosecutions and the Director by providing specialist advice and support in the areas of policy development, law reform, engagement of external counsel, partner agency engagement, legal learning and professional development and post-trial analysis.

Key activities include:

- developing and maintaining key resources, internal policies and guidelines relating to the legal practice
- maintaining and refreshing a list of experienced barristers appointed to the CDPP's External Counsel Panel, together with a number of junior and senior counsel briefed who are not part of the CDPP panel
- maintaining resources integral to the work of partner agencies including various warrant manuals
- managing content and proactively communicating time-critical information to partner agencies through our secure Partner Agency Portal
- managing and developing induction resources and the Continuing Legal Education program for all prosecutors
- coordinating external advocacy training
- providing partner agencies and CDPP prosecutors with analysis of post-trial reports to identify any systemic issues arising in investigations and prosecutions

- managing and analysis of complaints and feedback, with a view to identifying any systemic issues that need addressing, and
- liaising and engaging with the Attorney-General's Department and the Department of Home Affairs regarding law reform issues.

Legal Learning and Professional Development (LLPD)

LBI branch incorporates the Legal Learning and Professional Development team. This team delivers a coordinated and structured education program designed to build the knowledge and skills of our Federal Prosecutors.

The programs and activities align with our strategic objectives and our goals of:

- providing the skills to build legal capability for all lawyers and levels
- delivering sustainable continuous improvement both as prosecutors and public servants
- instilling confidence so lawyers perform their work knowing they are supported, and
- reinforcing national consistency of approach in our prosecution work.

We aim to embed a learning culture across the legal practice, encouraging our lawyers to adopt this approach throughout their career with the CDPP. We do this by providing information and training at induction, comprehensive e-resources, on the job learning and targeted activities and training programs.

Developing a learning culture helps to build and maintain an agile, diverse, healthy and highly-skilled legal workforce, and ensures the CDPP is able to attract, manage, and retain high-performing legal staff. This will enable us to continue to provide a high-quality prosecution service now and into the future.

Through our national programs and activities, we strive for a healthy and resilient legal workforce that is collaborative, innovative and diverse. We support our employees in their career pathways by building their capabilities and confidence to enable them to reach their full potential.

In 2019–20, LBI facilitated the following activities:

- a digital workshop produced by the Australian Advocacy Institute (AAI) entitled “Remote Advocacy Skills - Communication in the Virtual Courtroom” was made available to legal staff, following the cancellation of AAI’s usual “in person” advocacy program for CDPP prosecutors due to the pandemic. LBI also made available a paper prepared by the CDPP’s Federal Advocate entitled “Principles for Remote Advocacy” which provides tips for effective online advocacy. Both these products have been invaluable given the impact of the pandemic on court hearings around Australia and the courts’ requirements to appear virtually

- a Federal Prosecutor Induction Workshop was held in November 2019. These workshops are integral for newly-recruited Federal Prosecutors, and are run in conjunction with our induction program for new starters. Each workshop includes a pre-event dinner hosted by the Director, practice group leaders and other senior lawyers within the CDPP. This is followed by a full day workshop of various presentations and practical sessions. These events provide an opportunity for our newest Federal Prosecutors to meet, engage with and learn from the Director, Executive Leaders and other CDPP lawyers. Due to the pandemic the next scheduled workshop will be held in a virtual learning environment, and
- in collaboration with the CDPP’s national Continuing Legal Education (CLE) Committee LBI helped deliver a CLE program for lawyers on a diverse range of topics and in line with the legal training needs identified by staff through our annual survey. Given the onset of the pandemic, during 2020 these CLEs were delivered virtually to lawyers and have been extremely well attended with between 100 and 150 participants from around the country participating. Various formats have been employed to maximise interactivity and staff engagement, including panel format presentations and pre reading, as well as real time questions, and post event polling of participants for future evaluation.

In addition, LBI undertook significant planning activity aimed at improving all components of its LLPD program going forward. A key plank in the planning process was the launch of the 2020-23 LLPD Strategy.

Key Policies and Guidelines

LBI helped deliver a raft of new and revised policies and guidelines to the legal practice during the course of the year. Of particular significance were resources relating to prosecution disclosure including a brand new resource, *Guidelines on Disclosure for Prosecutors* and an updated resource, *Guidelines on Disclosure for Investigators*. LBI also released a Practice Management Guide for prosecutors.

Governance support

LBI continued to support the work of auditors reviewing some of CDPP's internal processes. These included the ANAO audit of CDPP's Case Management during 2019, an internal audit review by KPMG of CDPP's personal information holdings in November 2019 and a Management Initiated Review of CDPP's Risk Management Engagement Strategy, also conducted by KPMG in November/December 2019.

External counsel

One of the most significant stakeholders we partner with is the private bar, as the CDPP engages counsel to appear and advise on some of our more complex cases. LBI manages and provides the vetting process for applications for appointment of suitable counsel to the CDPP external junior counsel panel, and advises the legal practice in relation to the consistent setting of counsel fees and terms and conditions of engagement. Our panel approach has helped us to improve gender equity and diversity in our briefing practices, while providing a simple application process for counsel seeking to work with the CDPP.²

Panel counsel, those directly briefed who are not on the panel, and senior counsel together make up a stable of almost 700 counsel available to be briefed by the CDPP. In collaboration with the National Business Improvement branch, in October 2019, LBI facilitated the entry of counsel expertise search terms into the CDPP's Case Management system for our external counsel cohort, using data gathered from past briefings, bar profiles and information supplied by counsel. Lawyers seeking to select counsel to appear or advise in their matters can now do so with instantaneous access to a rich data set of experience and expertise.

The Commonwealth Solicitor for Public Prosecutions (CSPP) has also established a regular e-newsletter for our external counsel, which allows us to keep counsel informed of developments, initiatives and events relevant to their work. This mechanism has been used, for example, to communicate with counsel during the pandemic. This enabled the CDPP to confirm its approach and priorities, including our intention to have a strong focus on early resolution to ensure any potential backlog of cases (particularly jury trials) was minimised.

Complaints and feedback

In November 2018, LBI established a dedicated Feedback and Complaints page on the CDPP external website. The page sets out the process for making a complaint or providing feedback to either a dedicated email address, or via a web form. The page also includes a link to the CDPP complaints policy and summarises what an accused person, witness, victim of crime or member of the public can expect when they lodge a complaint.

² In 2016, the CDPP adopted the National Model Gender Equitable Briefing Policy set out by the Law Council of Australia. The LBI branch provides both internal and external reporting on gender diversity.

The formalisation of the CDPP's complaints and feedback handling processes is a direct response to recommendations made by the Royal Commission into Institutional Responses to Child Sexual Abuse.

The following is a summary of anonymised statistical information regarding complaints and feedback received in the 2019–20 financial year (the reporting period):

- there were 12 submissions of complaints/feedback received by the CDPP during the reporting period
- half (six) were submitted via the web form from the CDPP website. Another four were received via email, with one submitted by letter and one by telephone
- seven were received from defendants that were or are being prosecuted by CDPP. Three were received from members of the public, one was a victim of crime and one an applicant for a position at CDPP
- the subjects of the complaints/feedback varied from dissatisfaction with process (four), unfair decision making (three), behaviour of CDPP staff (three), and feedback on the CDPP website content (two), and
- all complaints were acknowledged in writing within two business days and were investigated. In all but one case (in which no action was required), a written response was provided. The length of time taken to investigate and provide a written response varied from between one and 49 days, with an average time taken of 14.6 days.

The ELG reviews this data annually with a view to identifying and actioning any systemic issues.

Victims and Witnesses

It is important in all prosecution action that victims are treated with courtesy, compassion, cultural sensitivity and respect for their dignity and entitlements.

The CDPP *Victims of Crime Policy* sets out our obligations towards victims of crime including our responsibility to keep them informed of the progress of the prosecution and to consult with them where appropriate.

In addition to establishing effective processes and procedures linked to the *Prosecution Policy of the Commonwealth*, we have a dedicated and valued Witness Assistance Service to support the most vulnerable victims and witnesses involved in the matters we prosecute.

Witness Assistance Service

Our Witness Assistance Service (WAS) is a national service provided by qualified social workers located in our Sydney and Melbourne offices. The WAS consisted of seven full time equivalent positions during the reporting period.

Our WAS staff provide a range of information and support services including updates on the progress of a prosecution, general information about the prosecution process, court tours, referrals to support services, support at court and during conferences with legal staff, and information concerning victim impact statements and reparation orders.

The WAS delivers these services in accordance with the *Prosecution Policy of the Commonwealth* and *Victims of Crime Policy*.

Referrals to the service

The WAS Referral Guidelines require that all identifiable child victims and victims of slavery, sexual servitude and forced marriage offences be referred to the Witness Assistance Service by prosecutors. Likewise, any direct family member of a person who has died as a result of an alleged offence, or any victim suffering really serious physical or psychological harm as a result of an alleged offence must be referred to the WAS. Such matters, known as Category A matters, must be referred to the WAS within 21 days of their arrival in the office in order to ensure that the most vulnerable victims of crime are provided with information and support as early as possible in the prosecution process.

In 2019–20, the WAS received and accepted 992 new victims/witness referrals, relating to 218 new prosecution matters and eight previously referred matters. A total of 253 (approximately 25 per cent) of all new victims/witnesses referred were children. There were 10,260 instances of contact with victims/witnesses referred to the service.

Information resources for victims including the *Witness Assistance Service Referral Guidelines* are available on our website at www.cdpp.gov.au.

Table 1: New Witness Assistance Services referrals 2019–20

OFFENCE TYPE	MATTERS	VICTIMS/WITNESSES*
Online child sexual exploitation	90	468
Other child sex offences	8	38
Cause harm to a Commonwealth public official	10	19
Work health and safety	9	33
Human trafficking	5	9
Terrorism	4	12
Miscellaneous	92	413
TOTAL	218	992

* Includes parents/caregivers of child victims

Training and education

The WAS provides presentations and training to CDPP prosecutors and administrative support staff.

Between July and December, the Witness Assistance Manager and Assistant Director (Illegal Imports and Exports, Human Exploitation and Border Protection, Brisbane) delivered internal national training regarding *Plea Negotiations and Victims of Crime* to 124 prosecutors across the office.

In November, the WAS delivered a presentation at the formal induction program organised for new CDPP prosecutors in Sydney. Numerous informal inductions sessions were also provided to new prosecutors by the Witness Assistance Service throughout the reporting period.

In June, the WAS delivered internal training to prosecutors regarding *Victim Impact Statements and Reparation Orders*. This presentation was delivered via teleconference and approximately 100 prosecutors from across the whole office linked in to participate.

During the reporting period, the WAS delivered numerous internal training sessions to administrative support staff across the whole office that aimed to raise awareness and knowledge regarding our policy obligations towards victims of crime, promote a high quality nationally consistent approach to our work with victims of crime and promote effective working relationships.

The WAS also delivers training and presentations to various external stakeholder agencies.

In August, the Witness Assistance Manager attended the National Witness Assistance Service conference in Darwin and delivered a presentation titled *Royal Commission into Institutional Responses to Child Sexual Abuse*—the CDPP’s response.

The WAS staff regularly liaise with staff from the Red Cross Support for Trafficked People Program in order to help ensure that victims and witnesses involved in trafficking related prosecutions are provided with information and support. In November the WAS hosted mutual training sessions in both Sydney and Melbourne, for staff from the Red Cross Support for Trafficked People Program and the WAS. In December the WAS provided further training to Red Cross staff in Sydney. These training sessions assist both agencies to better understand each other's respective roles and responsibilities and promote more effective working relationships.

In February, the WAS delivered a presentation to a delegation of officials visiting Australia from Vietnam, the topics covered included the CDPP Victims of Crime policy, the Witness Assistance Service Referral Guidelines and the role of the Witness Assistance Officer.

In June, the WAS delivered a webinar presentation to staff from Indonesia's Witness and Victim Protection Agency. This session was organised by the Department of Home Affairs and was delivered to approximately 100 people via teleconference.

In June, the WAS delivered training via teleconference to a staff member from Anglicare who provides support services to victims of crime who reside on Norfolk Island.

Information Resources for Victims and Witnesses

The WAS contributed to the maintenance of the CDPP Victims and Witnesses microsite. This website includes a range of information resources designed to assist victims of crime, caregivers and other stakeholders involved in Commonwealth prosecutions.

National Victims of Crime Liaison Group

The National Victims of Crime Liaison Group is co-chaired by the Witness Assistance Manager and the Assistant Director (Illegal Imports and Exports, Human Exploitation and Border Protection). This group is made up of staff from each office around the country and met quarterly during 2019–20 for the purpose of assisting the CDPP to provide the best possible support for victims of crime. This group is also an important channel to share information and identify opportunities for ongoing improvement.





PERFORMANCE AND REPORTING

CHAPTER 4

Annual Performance Statement



CDPP

Australia's Federal Prosecution Service

Sarah McNaughton SC
Director

**Commonwealth Director
of Public Prosecutions**

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I, Sarah McNaughton SC, as the accountable authority of the Commonwealth Director of Public Prosecutions, present the 2019–20 annual performance statements of the Commonwealth Director of Public Prosecutions, as required under subsection 39(1)(a) of the *Public Governance, Performance and Accountability Act 2013* (PGPA Act). In my opinion, the annual performance statements are based on properly maintained records, accurately reflect the CDPP's performance in the reporting period and comply with subsection 39(2) of the PGPA Act.

Sarah McNaughton SC
Commonwealth Director of Public Prosecutions

ENTITY PURPOSE

To prosecute crimes against Commonwealth law through an independent prosecution service responsive to the priorities of our law enforcement and regulatory partners, to effectively contribute to the safety of the Australian community and to uphold and maintain the rule of law.

ENTITY OUTCOME 1

Contribute to a fair, safe and just society by delivering an effective, independent prosecution service in accordance with the *Prosecution Policy of the Commonwealth*.

Analysis of performance against our purpose

Figure 2: CDPP performance Criteria

PERFORMANCE CRITERION NUMBER 1: PROSECUTION POLICY COMPLIANCE	PERFORMANCE CRITERION NUMBER 2: PARTNER AGENCY SATISFACTION	PERFORMANCE CRITERION NUMBER 3: PROSECUTIONS RESULTING IN A FINDING OF GUILT
<p>Compliance in addressing the terms of the test for prosecution in the <i>Prosecution Policy of the Commonwealth</i>, namely existence of a <i>prima facie</i> case, reasonable prospects of conviction and that prosecution is required in the public interest, when deciding to commence or continue a prosecution.</p>	<p>Quantitative and qualitative evidence is gathered about partner agency satisfaction with CDPP timeliness, relevance to partner agency business, responsiveness and level of communication via a biennial survey. The results deliver a comprehensive evidence base to inform continuous improvement.</p>	<p>3A. Total matters: The finding of guilt rate is calculated by taking the total number of defendants found guilty as a percentage of the total number of defendants found guilty or acquitted. The calculation covers both defended matters and matters where the defendant has pleaded guilty. The calculation does not include defendants where the CDPP discontinued the prosecution against them in its entirety or where a prosecution has commenced and the defendant failed to appear before the court.</p> <p>3B. Defended matters: The finding of guilt rate is calculated by taking the total number of defendants found guilty in defended matters as a percentage of the total number of defendants found guilty or acquitted in defended matters. A defended matter is a trial on indictment or a summary hearing/summary trial. It does not include defendants where the CDPP discontinued the prosecution against them in its entirety or where a prosecution has commenced and the defendant failed to appear before the court.</p>
<p>Criterion source: Portfolio Budget Statements 2019–20 pages 204-205; CDPP Corporate Plan 2020-24 page 10</p>	<p>Criterion source: Portfolio Budget Statements 2019–20 pages 204-205; CDPP Corporate Plan 2020-24 page 11</p>	<p>Criterion source: Portfolio Budget Statements 2019–20 pages 204-205; CDPP Corporate Plan 2020-24 pages 12-13</p>
<p>Result against performance criterion 2019–20 Target: 100% Result: 100% 2018–19 Target: 100% Result: 100% 2017–18 Target: 100% Result: 100%</p>	<p>Result against performance criterion 2019–20 Target: 90% Result: 88% 2017–18 Target: 90% Result: 87%</p>	<p>Result against performance criterion 2019–20 Target: 3A : 90% Result: 3A: 98% Target: 3B: 70% Result: 3B: 69% (Note: 3B only measured from 2019–20) 2018–19 Target: 90% Result: 97% 2017–18 Target: 90% Result: 97%</p>
<p>This performance measure has been in place since 2015. Following various system changes, the collection of data is now wholly electronic and Prosecution Policy Declarations (PPDs) are now generated at up to 19 decision points, giving a far richer data set for monitoring compliance than was originally the case. In December 2019, the CDPP also undertook its first annual internal review of a sample of individual case files, across all practice groups, to provide additional assurance that supporting documents on file properly evidenced and supported the application of the Prosecution Policy.</p>	<p>The independent biennial survey is conducted every two years and results are reported in the Annual Report. The next survey will be activated in May/June of 2022 and the results will be published in the 2021-22 Annual Report.</p>	<p>Records stretch back more than 15 years in relation to Measure 3A, providing a useful, quantitative measure of CDPP outputs. The CDPP considers it is useful to retain this quantitative indicator in support of performance measurement into the future.</p> <p>Measure 3B is a new performance measure for the CDPP from the 2019–20 year, and represents a move towards more comprehensive reporting. Multiple statutory, prosecution, and performance statistics are also collected, analysed and provided on our website for interested stakeholders.</p>

Performance criterion 1: Compliance in addressing the terms of the test for prosecution in the *Prosecution Policy of the Commonwealth*

This performance measure has been in place since November 2015. The prosecution test under the *Prosecution Policy of the Commonwealth* the *Prosecution Policy* requires the prosecutor to determine whether there is a *prima facie* case and reasonable prospects of a conviction, and whether a prosecution is required in the public interest, when deciding to commence or continue the prosecution. Compliance for this measure occurs via a *Prosecution Policy Declaration* (PPD), which must be completed by the decision maker, confirming the application of the prosecution test.

The PPD is directed at providing assurance that the prosecution test has been addressed and also references information on the file that supports the decision made (for example, summaries, file notes, Minutes, submissions). The test set out in the *Prosecution Policy* is integral to all cases considered and prosecuted by the CDPP. It is of fundamental importance to the manner in which we undertake our work, and its proper application reinforces the independence of the CDPP. Consequently, assurance that the policy is being applied at key junctures in the prosecution process is vital.

From shortly before the start of 2017–18, the CDPP moved from a paper file based internal audit and compliance framework to a more reliable wholly electronic one. During 2017–18, PPDs were generated at five decision points (one for each phase) within the CDPP's Case Recording Information Management System (CRIMS) database and were utilised throughout the prosecution process. The move to electronic PPDs streamlined reporting and allowed us to measure the application of the *Prosecution Policy* at a greater number of points in the prosecution process than

occurred in the previous financial year.

From August 2018, the CDPP launched a new electronic case and document management system known as caseHQ. CaseHQ replaced several legacy business systems, including CRIMS. All new legal files received by the CDPP from that date were opened in caseHQ with CRIMS maintaining files created prior to 29 August 2018. Up until July 2020 CDPP prosecution files were managed across two case management systems, and PPD reports were generated from both CRIMS and caseHQ. PPDs are generated within caseHQ at 18 decision points (increased to 19 during the reporting period) in the prosecution process. An electronic PPD is generated and required to be completed by the decision maker.

A data migration project commenced in late 2019 to progressively migrate open cases in CRIMS into caseHQ. That project was completed in July 2020 so all active cases now reside exclusively in one case management system, being caseHQ. The caseHQ system is designed so it is not possible to finalise key legal decision making tasks in caseHQ until a PPD is completed.

In addition, the CDPP has introduced an annual sampling and 'deep dive' of prosecution files from across all practice groups, to enable verification that supporting documents properly evidence the application of the prosecution test. This provides an additional level of assurance for this performance measure.

These various system and process changes have increased the overall reliability and completeness of the measure and enhanced the CDPP's capacity to monitor and audit performance against this measure on an ongoing basis, and address any potential lack of timely compliance.

Throughout this period, there has been oversight by the Audit Committee and publication of results in the Annual Report.

Performance criterion 2: Partner agency satisfaction with CDPP service delivery

Understanding partner agency perceptions of the CDPP across a range of service areas provides valuable insights that help shape and improve processes, procedures and performance, thereby allowing us to be responsive to the priorities of our law enforcement and regulatory partners.

A CDPP partner agency satisfaction survey was first conducted in 2015–16 and since that time it has been conducted biennially in 2017–18 and 2019–20. This survey has established a methodology and baseline to track satisfaction on an ongoing basis. In refining the methodology for the 2020 survey, two key issues were considered, namely, the ability to compare the results with previous surveys and addressing ANAO recommendations from a recent performance audit of the CDPP's Case Management.³

To align with the introduction of the biennial satisfaction survey in 2015–16, the CDPP set a partner agency satisfaction target of 90 per cent⁴. The CDPP uses an independent provider to conduct the biennial survey, and following analysis of results, ensuring areas for improvement are identified and actioned.

The CDPP is pleased that on each occasion it has conducted the survey, partner agency satisfaction has increased. The 2019–20 survey result revealed an 88 per cent overall satisfaction rate, up one percent from 87 per cent in 2017–18 and up from 83 per cent in 2015–16.

In our most recent survey, we achieved a statistically robust response rate of 38.9 per cent with a total of 219 individuals participating. The highest number of responses were from the Australian Federal Police, the Department of Human Services and state and territory police.

Following analysis of the feedback from the 2020 survey, the CDPP will explore ideas and strategies to ensure that our service delivery to partner agencies continues to improve.

Performance criterion 3: Prosecutions resulting in a finding of guilt

3A—Total matters: The finding of guilt rate is calculated by taking the total number of defendants found guilty as a percentage of the total number of defendants found guilty or acquitted. The calculation covers defended matters, matters where the defendant has pleaded guilty and findings of guilt that result in a non-conviction sentencing outcome. The calculation does not include defendants where the CDPP discontinued the prosecution against them in its entirety⁵ or where a prosecution has commenced and the defendant failed to appear before the court.

The CDPP has consistently exceeded the target of 90 per cent set for this measure.

There can be a variety of reasons for why a matter might be discontinued after it has commenced, including evidence no longer being available (for example, the death of a witness) or factors changing that mean it is no longer in the public interest to prosecute.

³ The methodology for the 2019–20 survey can be found at Appendix 4.

⁴ Agencies are asked to score the CDPP on a scale of 0 to 10, where 10 is 'very satisfied' and 0 is 'very dissatisfied'. For the purposes of the survey results and Performance Criterion 2, the CDPP regards a score of between 7 to 10 as evidencing 'satisfaction'

⁵ Information relating to discontinuances can be found at p 87 of the Annual Report

'Conviction' includes any finding of guilt by jury or tribunal of fact including but not limited to where a conviction is recorded. As to the latter, a court may proceed to impose a 'non-conviction' disposition. This most commonly occurs in less serious matters, where extenuating circumstances exist.

Defendants may be prosecuted for more than one offence; a defendant is counted as being 'convicted' if at least one offence is recorded with an outcome of 'proven'.

Progress reports are provided monthly to the Executive Leadership Group. There is also oversight by the Audit Committee and results are published annually in the Annual Report.

This measure is inter-related with Performance criterion 1, in that a proper application of the Prosecution Policy test should inevitably link to prosecution outcomes, including the level of convictions.

3B—Defended matters: The finding of guilt rate is calculated by taking the total number of defendants found guilty in defended matters as a percentage of the total number of defendants found guilty or acquitted in defended matters. A defended matter is a trial on indictment or a summary hearing/summary trial. The calculation covers findings of guilt that result in a non-conviction sentencing outcome. It does not include defendants where the CDPP discontinued the prosecution against them in its entirety or where a prosecution has commenced and the defendant failed to appear before the court.

This is a new performance measure for the CDPP from the 2019–20 year, and it is a subset of 3A. Defended matters absorb significant resources within the CDPP and reporting on this aspect of the CDPP's work represents a move towards more comprehensive reporting.

Prosecution statistics

Table 2: Outcomes of successful prosecutions in 2019–20

DESCRIPTION	No.
Defendants convicted of offences prosecuted summarily	884
Defendants convicted of offences prosecuted on indictment	592
Defendants committed for trial or sentence	472

Table 3: Summary prosecutions in 2019–20

DESCRIPTION	No.
Defendants convicted after a plea of guilty	797
Defendants convicted after a plea of not guilty	28
Defendants convicted ex parte	59
Total defendants convicted	884
Defendants acquitted after a plea of not guilty	7
Total defendants convicted and acquitted	891

Table 4: Committals in 2019–20

DESCRIPTION	No.
Defendants committed after a plea of guilty	247
Defendants committed after a plea of not guilty	225
Total defendants committed	472
Defendants discharged after a plea of not guilty	4
Total defendants committed and discharged	476

Table 5: Prosecutions on indictment in 2019–20

DESCRIPTION	No.
Defendants convicted after a plea of guilty	539
Defendants convicted after a plea of not guilty	53
Total defendants convicted	592
Defendants acquitted after a plea of not guilty	30
Total defendants convicted and acquitted	622

Table 6: Prosecution appeals against sentence in 2019–20

APPEAL TYPE	OUTCOME	SUMMARY	INDICTABLE
Appeals against sentence	Upheld	1	5
	Dismissed	0	3
Total		1	8

Table 7: Defence appeals in 2019–20

APPEAL TYPE	OUTCOME	SUMMARY	INDICTABLE
Against conviction only	Upheld	2	5
	Dismissed	2	9
Against sentence only	Upheld	25	23
	Dismissed	10	20
Conviction and sentence	Upheld	1	5
	Dismissed	2	3
Total		42	65

In 2019–20, there were 33 successful defence appeals against sentence in New South Wales. Of these, 10 matters (30.3%) involved the judgment in *Xiao v R* [2018] NSWCCA 4 as a ground of appeal. Xiao is authority for the fact that, prior to 22 June 2020, a sentencing court in New South Wales had to take into account the utilitarian value of an accused's guilty plea in Commonwealth matters. Xiao resulted in a number of defence appeals by other Commonwealth accused between 2018–2020. On 22 June 2020, new Federal legislation commenced to provide that the utilitarian value of an accused's guilty plea is a matter to be considered in sentencing for Commonwealth matters in all jurisdictions of Australia.

Prosecution performance indicators

Table 8: Prosecution indicators for 2019–20

DESCRIPTION	TARGET	OUTCOME	NO. SUCCESSFUL (TOTAL)
Prosecutions resulting in a conviction*	90%	98%	1476 (1513)
Defendants in defended summary hearings resulting in conviction	60%	80%	28 (35)
Defendants in defended committals resulting in a committal order	80%	99%	472 (476)
Defendants tried on indictment and convicted	70%	64%	53 (83)
Prosecution sentence appeals in summary prosecutions upheld	60%	100%	1 (1)
Prosecution sentence appeals in a prosecution on indictment upheld	60%	63%	5 (8)

* The conviction rate is calculated by taking the number of defendants convicted as a percentage of defendants convicted or acquitted. The calculation does not include defendants where the CDPP discontinued the prosecution against them in its entirety or where a prosecution has commenced and the court has issued a warrant to bring the defendant before the court.

Table 9: Prosecution performance indicators for 2017–20

DESCRIPTION	TARGET	2017–18 OUTCOME	2018–19 OUTCOME	2019–20 OUTCOME
Prosecutions resulting in a conviction*	90%	97%	97%	98%
Defendants in defended summary hearings resulting in conviction	60%	81%	69%	80%
Defendants in defended committals resulting in a committal order	80%	99%	98%	99%
Defendants tried on indictment and convicted	60%	59%	72%	64%
Prosecution sentence appeals in summary prosecutions upheld	60%	100%	67%	100%
Prosecution sentence appeals in a prosecution on indictment upheld	60%	56%	50%	63%

* The conviction rate is calculated by taking the number of defendants convicted as a percentage of defendants convicted or acquitted. The calculation does not include defendants where the CDPP discontinued the prosecution against them in its entirety or where a prosecution has commenced and the court has issued a warrant to bring the defendant before the court.

Brief assessments

The table below lists the finalised brief assessment decisions made by the CDPP under the *Prosecution Policy of the Commonwealth* during 2019–20. Decisions not to commence matters under the Prosecution Policy are reviewed annually by the ELG with a view to identifying any systemic issues which require addressing by the CDPP or by partner agencies.

Table 10: Brief assessment outcomes 2019–20*

ITEM	SUMMARIES COUNT
Decision to commence proceedings	942
Decision not to commence due to insufficient evidence	124
Decision not to commence due to public interest factors	36

*This data does not include finalisation of brief assessments where no decision was made by CDPP under the Prosecution Policy, for example, due to the defendant dying, termination of the investigation by the investigative agency, the investigating agency seeking return of the brief of evidence, where matters are transferred to a state agency to consider prosecution action, or for other relevant reasons.

Statistics about relevant legislation and partner agencies

The following tables provide statistics covering relevant legislation and referring agencies in relation to matters dealt with in 2019–20.

Table 11: Legislation under which charges dealt with summarily and on indictment 2019–20

LEGISLATION	SUMMARY (CHARGES)	INDICTABLE (CHARGES)
<i>Airports (Control of On-Airport Activities) Regulations 1997</i> (Cth)	5	0
<i>Anti-Money Laundering and Counter Terrorism Financing Act 2006</i> (Cth)	1	12
<i>Australian Citizenship Act 2007</i> (Cth)	1	0
<i>Australian Crime Commission Act 2002</i> (Cth)	0	2
<i>Australian Passports Act 2005</i> (Cth)	6	5
<i>Australian Securities and Investments Commission Act 2001</i> (Cth)	1	0
<i>Aviation Transport Security Act 2004</i> (Cth)	3	0
<i>Aviation Transport Security Regulations 2005</i> (Cth)	7	0
<i>Bankruptcy Act 1966</i> (Cth)	235	19
<i>Biosecurity Act 2015</i> (Cth)	27	20
<i>Charter of the United Nations Act 1945</i> (Cth)	0	5
<i>Child Support (Registration and Collection) Act 1988</i> (Cth)	1	0
<i>Civil Aviation Act 1988</i> (Cth)	27	0

LEGISLATION	SUMMARY (CHARGES)	INDICTABLE (CHARGES)
<i>Civil Aviation Regulations 1988 (Cth)</i>	24	0
<i>Civil Aviation Safety Regulations 1998 (Cth)</i>	18	0
<i>Classification (Publications, Films and Computer Games) Act 1995 (Cth)</i>	2	0
<i>Commonwealth Electoral Act 1918 (Cth)</i>	1	0
<i>Competition and Consumer Act 2010 (Cth)</i>	0	1
<i>Copyright Act 1968 (Cth)</i>	3	0
<i>Corporations (Aboriginal and Torres Strait Islander) Act 2006 (Cth)</i>	3	0
<i>Corporations Act 2001 (Cth)</i>	115	40
<i>Crimes (Aviation) Act 1991 (Cth)</i>	17	3
<i>Crimes (Currency) Act 1981 (Cth)</i>	54	33
<i>Crimes (Foreign Incursions and Recruitment) Act 1978 (Cth)</i>	0	2
<i>Crimes Act 1914 (Cth)</i>	8	37
<i>Criminal Code (Cth)</i>	1757	1878
<i>Criminal Code 2007 (Norfolk Island)</i>	5	32
<i>Customs Act 1901 (CI) (Cth)</i>	13	55
<i>Customs Act 1901 (Cth)</i>	56	46
<i>Defence Act 1903 (Cth)</i>	2	0
<i>Environment Protection and Biodiversity Conservation Act 1999 (Cth)</i>	10	25
<i>Environment Protection and Biodiversity Conservation Regulations 2000 (Cth)</i>	28	0
<i>Excise Act 1901 (Cth)</i>	13	4
<i>Export Control Act 1982 (Cth)</i>	0	72
<i>Family Law Act 1975 (Cth)</i>	0	1
<i>Firearms and Prohibited Weapons Act 1997 (Norfolk Island)</i>	5	0
<i>Fisheries Management Act 1991 (Cth)</i>	11	3
<i>Foreign Passports (Law Enforcement and Security) Act 2005 (Cth)</i>	1	1
<i>Great Barrier Reef Marine Park Act 1975 (Cth)</i>	19	0
<i>Great Barrier Reef Marine Park Regulations 1983 (Cth)</i>	19	0
<i>Great Barrier Reef Marine Park Regulations 2019 (Cth)</i>	5	0
<i>Hazardous Waste (Regulation of Exports and Imports) Act 1989 (Cth)</i>	5	0
<i>Health Insurance Act 1973 (Cth)</i>	0	2

LEGISLATION	SUMMARY (CHARGES)	INDICTABLE (CHARGES)
<i>Historic Shipwrecks Regulations 2018 (Cth)</i>	2	0
<i>Jervis Bay Territory Marine Safety Ordinance 2016 (Cth)</i>	1	0
<i>Law Enforcement Integrity Commissioner Act 2006 (Cth)</i>	3	0
<i>Marine Safety (Domestic Commercial Vessel) National Law Act 2012 (Cth)</i>	10	0
<i>Marriage Act 1961 (Cth)</i>	1	0
<i>Migration Act 1958 (Cth)</i>	15	16
<i>National Consumer Credit Protection Act 2009 (Cth)</i>	7	0
<i>National Measurement Act 1960 (Cth)</i>	2	0
<i>Navigation Act 2012 (Cth)</i>	1	0
<i>Passports Act 1938 (Cth)</i>	0	1
<i>Primary Industries Levies and Charges Collection Act 1991 (Cth)</i>	8	0
<i>Protection of the Sea (Prevention of Pollution from Ships) Act 1983 (Cth)</i>	1	0
<i>Quarantine Act 1908 (Cth)</i>	11	26
<i>Radiocommunications Act 1992 (Cth)</i>	1	2
<i>Social Security (Administration) Act 1999 (Cth)</i>	21	0
<i>Social Security Act 1991 (Cth)</i>	7	0
<i>Statutory Declarations Act 1959 (Cth)</i>	2	2
<i>Summary Offences Act 2005 (Norfolk Island)</i>	1	0
<i>Taxation Administration Act 1953 (Cth)</i>	187	0
<i>Therapeutic Goods Act 1989 (Cth)</i>	6	0
<i>Trade Marks Act 1995 (Cth)</i>	1	0
<i>Traffic Act 2010 (Norfolk Island)</i>	17	0
<i>Work Health and Safety Act 2011 (Cth)</i>	9	0
Non-Commonwealth Legislation	301	881
Total	3123	3226

The table below contains names of Commonwealth agencies as at 30 June 2020. In addition to the matters listed there were two private prosecutions, which the Director took over and discontinued as there was insufficient evidence for the charges to proceed.

Table 12: Referring agencies—defendants dealt with summarily and on indictment

REFERRING AGENCY	SUMMARY	INDICTABLE
Australian Border Force	31	61
Australian Building and Construction Commission	0	0
Australian Bureau of Statistics	0	0
Australian Commission for Law Enforcement Integrity	4	0
Australian Communications and Media Authority	0	0
Australian Competition and Consumer Commission *	0	1
Australian Criminal Intelligence Commission *	0	1
Australian Electoral Commission	1	0
Australian Federal Police	236	326
Australian Financial Security Authority	99	3
Australian Fisheries Management Authority	11	2
Australian Maritime Safety Authority	8	0
Australian Securities and Investments Commission	23	20
Australian Taxation Office	26	25
Civil Aviation Safety Authority	12	0
Clean Energy Regulator	2	1
COMCARE	4	0
Department of Agriculture, Water and the Environment *	19	11
Department of Defence	1	1
Department of Education, Skills and Employment *	3	0
Department of Employment, Skills, Small and Family Business	0	0
Department of Foreign Affairs and Trade	5	0
Department of Health	6	4
Department of Home Affairs **	3	0
Department of Industry, Innovation and Science	1	0
Department of Infrastructure, Transport, Cities and Regional Development	0	0
Department of Prime Minister and Cabinet	0	0
Department of Social Services *	1	1
Department of the Environment and Energy	0	0
Department of Veterans' Affairs	0	0

REFERRING AGENCY	SUMMARY	INDICTABLE
Director of National Parks	0	0
Great Barrier Reef Marine Park Authority	37	0
National Disability Insurance Agency *	0	1
National Measurement Institute	1	0
Non Commonwealth Agencies	123	254
Office of the Registrar of Indigenous Corporations	2	0
Services Australia	10	0
Services Australia - Centrelink	409	34
Services Australia - Child Support Agency	0	0
Services Australia - Medicare	72	0
Therapeutic Goods Administration	0	0
Total	1150	746

*New agency on list

**Merged with another agency

'Defendants dealt with' includes not only convictions and findings of guilt, but also: matters resulting in acquittals; prosecutions that are discontinued in accordance with the *Prosecution Policy of the Commonwealth* based on evidentiary or public interest considerations; discontinuances as part of a charge negotiation; when a matter scheduled for trial resolves into a guilty plea; when there is a hung jury; a warrant has been issued and the defendant has absconded; and determinations that a defendant is unfit to be tried. It also includes matters where a charge is issued but is unable to be served, and prosecutions commenced in one jurisdiction and recommenced in another because a defendant has moved. It does *not* include: matters where the CDPP has provided pre-brief advice to an investigative agency; brief assessments that do not proceed to prosecution on evidentiary or public interest grounds; breach proceedings; or matters determined on appeal.

Prosecution appeals

Table 13: Prosecution appeals and outcomes

DESCRIPTION OF APPEAL	2018–19 OUTCOME	2019–20 OUTCOME
Prosecution sentence appeals in summary prosecutions	3 appeals, 2 were upheld	1 appeal, 1 was upheld
Prosecution sentence appeal in a prosecution on indictment	12 appeals, 6 were upheld	8 appeals, 5 were upheld

The *Prosecution Policy of the Commonwealth* provides that the Director’s right to appeal against sentence should be exercised with appropriate restraint. Factors we may consider when deciding to appeal include whether:

- the sentence is manifestly inadequate
- the sentence reveals an inconsistency in sentencing standards
- the sentence proceeded on the basis of a material error of law or fact requiring appellate correction
- the sentencing is substantially and unnecessarily inconsistent with other relevant sentences
- an appeal to a Court of Appeal will enable the court to lay down some general principles for the governance and guidance of sentencing courts
- an appeal will enable the court to establish and maintain adequate standards of punishment for crime
- an appeal will ensure, so far as the subject matter permits, uniformity in sentencing
- an appeal will enable an appellate court to correct an error of legal principle, and
- we only institute appeal proceedings when there are reasonable prospects of success.

The CDPP’s appellate practice plays an important role in providing an effective prosecution service. It also contributes to maintaining public respect in the justice system by seeking to remedy sentences that are significantly out of touch with sentencing standards.

In some cases, CDPP appeals may not be upheld, despite the court finding there has been an error in law or in the application of sentencing principles. In all appeal cases, the appellate courts have a residual discretion not to intervene and re-sentence, if the court believes that to do so would result in an injustice to the offender due to other circumstances. Such cases are still critically important as they provide future guidance about the proper application of legal principles in the sentencing of Commonwealth offenders.

In 2019–20, a total of eight prosecution sentence appeals were decided for indictable matters, with five of the appeals being successful. That represents an outcome of 62 per cent of appeals being upheld, which not only exceeds our target of 60 per cent, but is a significant improvement on the result for the 2018–19 year, which was 50 per cent.

While appellate intervention did not occur in three of the appeals brought by the CDPP, the judgments provided useful guidance in relation to sentencing principles, and in the exercise of the residual discretion on appeal.

Table 14: Prosecution appeals in indictable matters by practice group

PRACTICE GROUP	OFFENCE	TOTAL NUMBER OF APPEALS	NUMBER OF APPEALS UPHELD	NUMBER OF APPEALS NOT ALLOWED
Illegal Imports and Exports (IIE)	Drug importation offences	5	3	2
International Assistance and Specialist Agencies (IASA)	Environment/ Trafficking in wildlife	1	1	0
Organised Crime and Counter Terrorism (OCCT)	Terrorism, Serious and Organised Crime	2	1	1
Total		8	5	3

Notes: IIE: Appeals upheld were in New South Wales (1) Victoria (1) and South Australia (1), appeals dismissed were in South Australia (2)

IASA: Appeal upheld was in New South Wales (1)

OCCT: Appeal upheld was in Victoria (1), appeal dismissed was in New South Wales (1)

Examples of CDPP appeals

DIRECTOR OF PUBLIC PROSECUTIONS (CTH) v FARIQ ALDAKHIR BIN AQBAL OMAR [2019] VSCA 188

Fariq Aldakhir Bin Aqbal Omar (34), pleaded guilty to one charge of importing a commercial quantity of a border controlled drug. Mr Aqbal Omar, who was a flight attendant for Malaysia Airlines, was paid as a drug courier in order to import heroin, which he initially concealed in packages under his clothing upon arrival at Melbourne Airport. His bags were later searched and revealed packages containing 2.65 kilograms of pure heroin, which is nearly double the commercial quantity threshold for heroin. The maximum penalty for the charge is life imprisonment.

Taking into account Mr Aqbal Omar's personal circumstances, including that he would be imprisoned away from his family who are overseas, and the fact that his family would experience hardship, the Melbourne County Court sentenced him to five years and six months imprisonment, with a non-parole period of three years imprisonment.

The Director appealed on the basis of inadequacy of sentence, arguing that sentence did not adequately reflect the nature and circumstances of the offending, or the maximum penalty. The Court of Appeal agreed and noted that the mitigating considerations applicable to the offending are present in most cases involving foreign nationals who act as couriers, and that comparative sentences for other offenders who had committed the same offending showed much longer sentences. The Court increased the original sentence to eight years imprisonment with a non-parole period of five years imprisonment.

R v KENNEDY [2019] NSWCCA 242

Martin Kennedy (30), pleaded guilty to six offences relating to protected wildlife, including attempt to export regulated native specimens, import and attempt to import regulated live specimens, possess non-native Convention on International Trade in Endangered Species regulated specimens, and a proceeds of crime offence. The offending involved trading in lizards, turtles, and a variety of other reptiles for financial gain, and searches revealed \$43,550 in cash located in Mr Kennedy's home. The maximum terms of imprisonment ranged between two years imprisonment for the proceeds of crime offence, to a maximum of 10 years imprisonment for the exportation offences.

Taking into consideration Mr Kennedy's plea of guilty, prospects of rehabilitation, and remorse, the New South Wales District Court sentenced Mr Kennedy to an aggregate term of imprisonment of three years to be served wholly in the community by way of Intensive Correction Order (ICO). No custodial prison sentence was imposed. A condition of the ICO was that Mr Kennedy was to perform 700 hours of community service.

The Director appealed on the grounds that the sentence was manifestly inadequate, including the fact that the sentence did not adequately reflect the principles of general deterrence, specific deterrence, punishment, and denunciation. The Court of Criminal Appeal accepted the Director's submissions, stating that offending which threatens native species and Australia's biodiversity warrants stern punishment. Mr Kennedy was re-sentenced to imprisonment for four years with a non-parole period of two years and six months, to be served in custody.

R v LELIKAN [2019] NSWCCA 316

Renas Lelikan (40), pleaded guilty to one charge of intentionally being a member of a terrorist organisation. The offending involved Mr Lelikan, who identified with the Kurdish ethnic group, spending time in multiple countries outside Australia including Iraq and Turkey, engaging in activities in support of the Partiya Karkerên Kurdistanê (PKK) (Kurdistan Workers' Party), a proscribed terrorist organisation under the *Criminal Code 2010* (Cth). He travelled in the mountains of Iraq with the military arm of the PKK, wore the relevant military uniform and insignia, carried firearms, ammunition and grenades, and promoted and supported the PKK in his writing. The offending spanned approximately two and half years. He had prior convictions for PKK terrorist offences committed in France. The maximum penalty for the offence was 10 years imprisonment.

The New South Wales Supreme Court found that the objective seriousness of the offence was towards the lowest order of seriousness, and sentenced Mr Lelikan to a Community Correction Order (CCO) for a period of three years, with conditions including undertaking 500 hours of community work.

The Director argued that the sentence was manifestly inadequate and appealed on several grounds, including that the sentencing judge had erred in her assessment of the objective seriousness of the offence as being towards the lowest order of seriousness. The Court of Criminal Appeal found some of the Director's grounds to be made out, including finding that the sentencing judge erred by taking into account irrelevant matters such as the 'merits of the terrorist organisation's political or ideological cause'. However, the Court dismissed the appeal, declining to exercise its residual discretion to interfere with Mr Lelikan's sentence, and the Court noted that he had complied with the terms of the CCO to date.

DIRECTOR OF PUBLIC PROSECUTIONS (CTH) v PAUL SAMUEL CACHIA (Unreported, Victorian County Court, 7 February 2020)

Paul Samuel Cachia (44), pleaded guilty to three offences of obtain a financial advantage by deception, attempting to obtain a financial advantage by deception, and dealing in proceeds of crime. Mr Cachia had committed Medicare fraud by submitting false claims to Medicare between 2017 and 2018, totalling over \$30,000 in claims for health services that he did not receive, and he dealt with proceeds of crime by transferring the money he received into various bank accounts. Mr Cachia had relevant prior convictions for dishonesty offences. The maximum penalty for the proceeds of crime charge was one year imprisonment and/or a fine, and for the fraud charges, two years imprisonment and/or a fine.

The offences were indictable offences but were dealt with summarily in the Melbourne Magistrates' Court. The Court convicted Mr Cachia of only two of the three charges, sentenced him to no penalty for the 'obtain financial advantage' charge, and imposed a \$100 fine on each of the other two charges.

The Director appealed on the grounds that the sentence was manifestly inadequate (and also noted that the court had erred in imposing no penalty on one of the charges, which is not an available Commonwealth sentence). The County Court of Victoria upheld the appeal, stating that the offending involved high criminality, and re-sentenced Mr Cachia to convictions on all charges, and a total effective sentence of 13 months imprisonment, with three months to serve before being released on a recognisance to be of good behaviour for 13 months. Reparation was ordered, and Mr Cachia was also ordered to pay \$486.59 in costs.

DIRECTOR'S BAIL APPEALS DURING THE COVID-19 PANDEMIC

The 2020 COVID-19 pandemic has posed new challenges for the Director in responding to bail applications. Consideration by the court of whether to grant bail while a defendant awaits their trial or plea hearing is always a complex task even under ordinary circumstances, and involves factors such as the defendant's risk of flight, being balanced with the possibility of the defendant spending a long period on remand before their matter finalises. For bail applications made during the pandemic, there will always be a necessary consideration of whether the particular circumstances of the pandemic at the time of the bail hearing support the defendant being granted bail, lean against the grant of bail, or hold no relevance to the bail application.

The Director has successfully appealed against recent decisions by the court to grant bail to a defendant where the court has incorrectly made assumptions regarding the future course of the pandemic, for example, where current conditions in custody are more onerous than usual due to COVID-19, it must not assume that these onerous conditions will last for the entirety of any period spent on remand. The future course of the pandemic in Australia cannot be predicted by the court, or indeed by any party to the proceedings.

The Director has also successfully appealed where the court has granted bail to defendants on the basis that exceptional circumstances exist to justify the grant of bail due to what the court has termed a future 'significant delay' in proceedings due to COVID-19. The Appeal Courts have agreed with the Director's submission that delay is one factor of many, and that future delay cannot accurately be predicted during a pandemic where circumstances are ever-changing.

As recently stated by the Victorian Court of Appeal in bail proceedings: “In these cases, as time progresses, much more will be known about the question of delay, and if circumstances change, as many applications for bail as might be necessary can be made (by the defendant)”. Factors such as delay are relevant, but must always be considered in conjunction with the nature of the offending, particularly where the offending is serious. Each bail application is to be determined on a case by case basis, and the Director continues to monitor COVID-19 developments across the country.

Statutory functions and powers

Discontinuance of a prosecution following commitment to trial or the filing of an indictment

After a defendant has been committed for trial, the question sometimes arises whether the prosecution should continue. This can arise either as a result of an application by the defendant or on the CDPP’s own initiative. The Director’s power to discontinue a prosecution is derived from section 9(4) of the *Director of Public Prosecutions Act 1983* (DPP Act). A submission made to the Director to discontinue such a matter is known as a ‘no bill’ application.

The Director’s power to discontinue is delegated to the Commonwealth Solicitor for Public Prosecutions, practice group leaders (Deputy Directors) and branch heads (Assistant Directors) who make these decisions in certain circumstances.

In 2019–20, a total of 23 prosecutions, which the CDPP had carriage of, were

discontinued. These prosecutions were discontinued following commitment to trial or the filing of an indictment because there was either insufficient evidence to proceed or for compelling public interest reasons and include one matter where the prosecution was discontinued because the accused person was deceased.

Taking matters over and discontinuing—private prosecutions

The right for any person to bring a private prosecution is protected in Commonwealth matters by section 13 of the *Crimes Act 1914* and is expressly preserved under section 10(2) of the DPP Act.

Under section 9(5) of the DPP Act, the Director has the power to take over a prosecution for a Commonwealth offence that has been instituted by another person. The Director is empowered to either carry on the prosecution or, if appropriate, to discontinue it.

The Director was required to exercise this power on two occasions during 2019–20. In those cases, the Director took over the prosecution and discontinued it as the evidence was insufficient for the charges to proceed.

Discontinuances in the summary jurisdiction

Apart from the cases that were discontinued in the circumstances outlined above, the CDPP also discontinued 115 matters in the summary jurisdiction in the 2019–20 financial year⁶ on either evidentiary or public interest grounds. These matters were largely in the RBF, IASA and HEBP practice groups.

⁶ For these purposes, a discontinuance in the summary jurisdiction has not been taken to include matters where the case has been discontinued in one jurisdiction due to the case needing to be transferred and re-commenced in another jurisdiction (eg due to the defendant moving residence).

Review of Discontinuances

The Executive Leadership Group reviews the reasons for discontinuances annually with a view to identifying any systemic issues and/or areas for improvement for either the CDPP or partner agencies.

Indemnities

The DPP Act empowers the Director to give an undertaking - referred to as an indemnity - to a potential witness in three circumstances:

- Section 9(6) authorises the Director to give an indemnity 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) empowers the Director to give an indemnity to a person that any evidence he or she may give in proceedings under state or territory law will not be used in evidence against them in a Commonwealth matter.
- Section 9(6D) empowers the Director to give an indemnity to a person that he or she will not be prosecuted under Commonwealth law in respect of a specified offence.

In the past year, the Director provided indemnities under section 9(6) to 21 persons and granted one indemnity under section 9(6B).

Ex-officio indictments

The Director has the function under section 6(2A)-(2D) of the DPP Act to institute prosecutions on indictment, referred to as *ex-officio* indictments. These powers in section 6(2A)-(2C) are used in circumstances where a defendant consents to a prosecution on indictment without

being examined or committed for trial, or where a defendant having been committed on either Commonwealth, state or territory offences, is indicted on different charges from those on which they were committed.

Section 6(2D) of the DPP Act provides that in any other case, where the Director considers it appropriate to do so, the Director may institute a prosecution of a person on indictment for an indictable offence against the laws of the Commonwealth, in respect of which the person has not been examined or committed for trial.

In certain circumstances the decision to present an *ex-officio* indictment is delegated to the Commonwealth Solicitor for Public Prosecutions, practice group leaders and branch heads. In 2019–20, the Director, a practice group leader or Branch Head exercised *ex-officio* powers on 15 occasions.

Consent to conspiracy proceedings

The Director's consent is required before proceedings for Commonwealth conspiracy offences can commence. In 2019–20, the Director consented to the commencement of conspiracy proceedings against 23 defendants in relation to 13 alleged conspiracies.

Consent under section 121(8) of the Family Law Act 1975

The Director's consent is required before proceedings are commenced for an offence against section 121 of the *Family Law Act 1975*, which restricts publication of court proceedings.

During 2019–20, the Director was not required to give consent under this provision.

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GOVERNANCE, AUDIT AND ACCOUNTABILITY

CHAPTER 5

Internal governance

Guiding policies

The legislative and policy framework establishes the role of our organisation and the statutory position of Director. Key elements include:

- *Director of Public Prosecutions Act 1983* (DPP Act)
- *Public Governance, Performance and Accountability Act 2013* (PGPA Act)
- *Public Governance, Performance and Accountability Rule 2014* (PGPA Rule)
- *Public Service Act 1999*
- *Prosecution Policy of the Commonwealth*

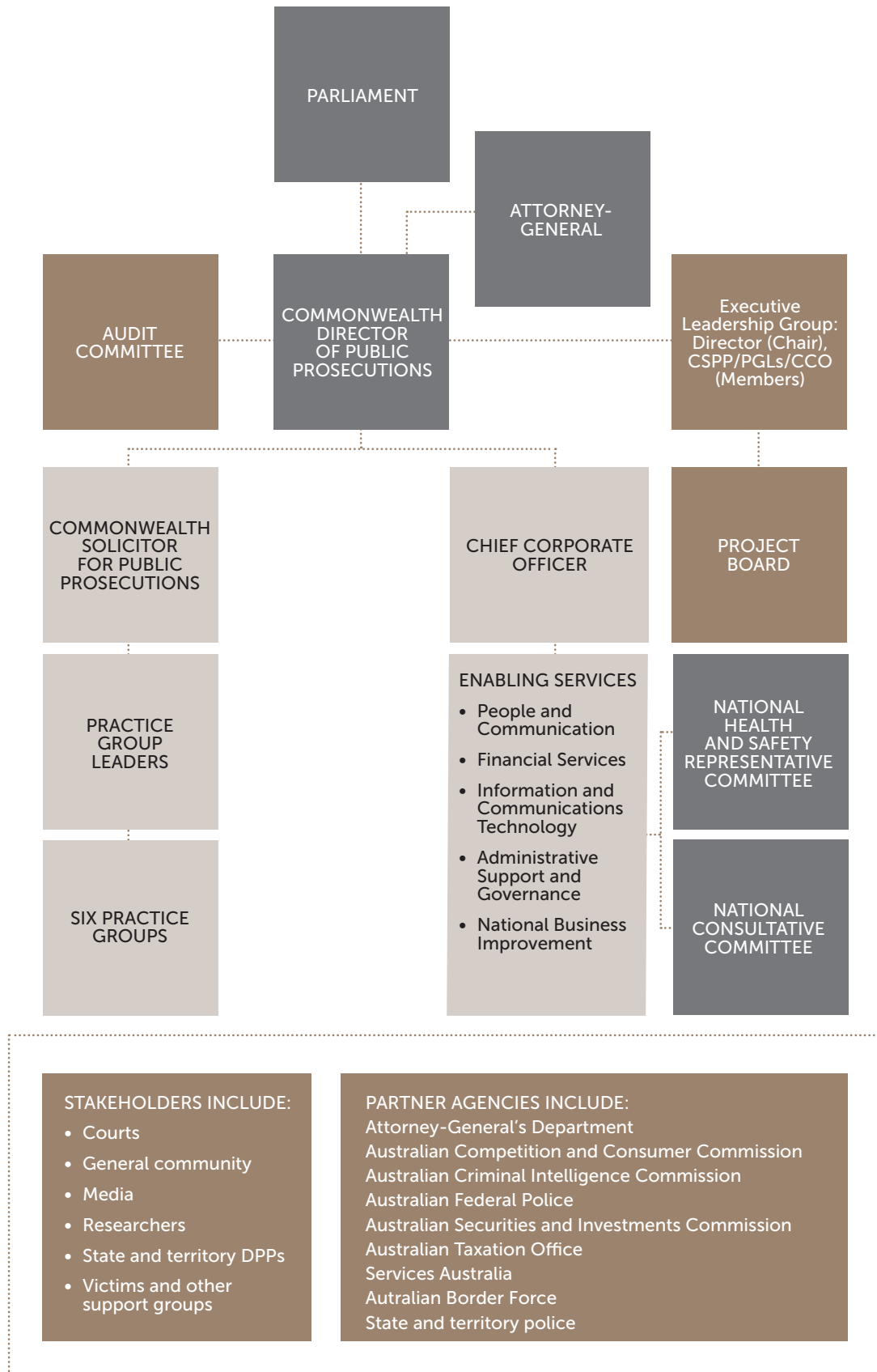
Corporate governance

Governance in the CDPP provides a framework to ensure we meet the standards of fairness, openness, consistency, accountability and efficiency in prosecuting offences against the Commonwealth and, in meeting these standards, maintain the confidence of the public we serve.

Good governance considers both performance and accountability within a risk management framework, rather than trading one off against the other.

We continually refine our governance arrangements to ensure they are fit-for-purpose and clear to everyone. Our governance structure provides clarity on accountabilities, and aligns our work and relationships with our stakeholders. This enables us to work with our partners to achieve the outcome and purpose expressed in our Corporate Plan.

Figure 3: CDPP governance structure at 30 June 2020



Executive Leadership Group

The Executive Leadership Group is the key advisory group to the Director. The Executive Leadership Group meets monthly to:

- identify and consider emerging strategic issues
- monitor and consider legal practice performance and outcomes
- consider, endorse and oversee the strategies and policies of the CDPP on such matters as human resource management, communications, planning, ICT, information management, security and governance
- oversee budget reporting and financial strategy
- ensure national consistency in legal practice and enabling services policies and processes
- oversee strategic planning, including risk identification and management
- oversee implementation, evaluation and improvement of the CDPP's governance structures and processes, and
- consider and approve work plans and outcomes of its sub-committees.

Audit Committee

The Audit Committee provides independent advice and assistance to the Director on the CDPP's financial and performance reporting responsibilities, system of risk oversight and management, and system of internal control under the PGPA Act and Rule and is consistent with the Audit Committee Charter, which is available on our website at www.cdpp.gov.au/publications.

The Committee is chaired by independent member, Mr Ken Moore, and includes two independent members. CDPP representatives who attend regular meetings are the Commonwealth Solicitor for Public Prosecutions, the Chief Corporate Officer, the Chief Financial Officer, the Assistant Director Administrative Support and Governance and the Chief Audit Executive. One senior CDPP officer also attends the meetings as an observer. Representatives from the Australian National Audit Office and other presenting officers attend meetings to address particular agenda items or as agreed with the Chair.

Figure 4: PGPA rule section 17ag(2a)(b)-(e)—audit committee

MEMBER NAME	QUALIFICATIONS, KNOWLEDGE, SKILLS OR EXPERIENCE (INCLUDE FORMAL AND INFORMAL AS RELEVANT)	NUMBER OF MEETINGS ATTENDED/ TOTAL NUMBER OF MEETINGS	TOTAL ANNUAL REMUNERATION
Mr Ken Moore (Chair)	Bachelor of Arts (Economics/Accounting) Fellow CPA Australia Fellow Australian Institute of Company Directors Member of two federal and territory government agency audit committees and a federal government agency client services committee Holds directorships for two organisations Previously held a number of SES positions in the Australian Public Service	4/4	\$13,200
Mr Ian Govey	Bachelor of Laws (Hons), Bachelor of Economics Fellow Australian Academy of Law Chair of a Federal Court audit committee and chair of a private sector compliance committee Director of two not for profit companies Previously Head of the Australian Government Solicitor and held a number of SES positions in the Australian Public Service	4/4	\$13,200
Ms Gabrielle Drennan	Bachelor of Legal Studies Extensive experience as a lawyer Previously held SES positions, in both state and federal public services Previously held Registrar positions in a state Superior Court	4/4	\$13,200

National Health and Safety Representative Committee

In accordance with the *Work Health and Safety Act 2011*, the CDPP takes all reasonably practicable steps to protect the health, safety and wellbeing of our staff and other workers. This includes consulting with workers, who are, or are likely to be, directly affected by a work health or safety matter.

The CDPP's National Health and Safety Representative Committee is the consultative mechanism between management, staff and other workers on work health and safety (WHS) matters. The Committee assists and advises the CDPP on matters affecting the health, safety and wellbeing of its staff and other workers. The Committee is also responsible for disseminating WHS information, in a regular and timely way. The Committee has membership drawn from management and employees with representatives from across the practice group functions and office locations.

In 2019–20, the Committee updated the Workplace Wellbeing Program and provided the consultation platform with staff on the management strategy for responding to COVID-19, including on remote working arrangements. The Committee has also been a key forum to promote the identification, management and mitigation of WHS risks.

The National Health and Safety Representative Committee meets quarterly, however for the 2019–20 period, met five times in response to the COVID-19 pandemic.

National Consultative Committee

The National Consultative Committee is a committee established as part of the CDPP Enterprise Agreement 2017-2020 (EA) to facilitate communication and consultation on agency employment and workplace matters related to the implementation of the EA. It is chaired by the Commonwealth Solicitor for Public Prosecutions and comprises both staff and management representatives.

The National Consultative Committee met four times in 2019–20 and has also been used as a valuable conduit for navigating the challenges of the COVID-19 pandemic.

Project Board

The Project Board is chaired by the Commonwealth Solicitor for Public Prosecutions, and provides focused oversight for major projects across the CDPP to ensure delivery of the stated outcomes. It monitors, evaluates and reports on project progress and risk profiles to the Executive Leadership Group. The Project Board meets monthly and provides a status update to the Executive Leadership Group on a monthly basis.

Risk Management

Risk management is an integral part of our strategy and planning processes. In compliance with the PGPA Act and Rule, as well as the Commonwealth Risk Management Policy, the Director has established an internal risk management framework.

The Executive Leadership Group and Audit Committee actively monitor and manage our Strategic Risk Register, ensuring risk management is effective and continues to support organisational performance.

During the reporting period the Executive Leadership Group established a Strategic Risk Traffic Light Report that provides a snapshot of the risks and mitigations to enhance their oversight. They also reviewed the CDPP Risk Appetite Statement. Additional risks were included in the Strategic Risk Register in consideration of the impact of the COVID-19 pandemic on the CDPP's operational environment. The Executive Leadership Group reviews the risk register on a regular basis.

We are actively building a proactive risk management culture where strategic risks are identified in our Business Plan and then assessed and analysed, with treatments recorded and monitored in the Strategic Risk Register. We also take a proactive risk management approach in our Litigation Management Plans, which help us to manage complex cases. Litigation Management Plans promote active planning of case activities and are updated regularly as matters proceed through the prosecution process.

Fraud management and control

We work diligently to minimise the potential for fraud and corruption through continuous improvement of our fraud control framework and mechanisms. Our Fraud Control Policy helps employees, contractors, consultants and the public understand what fraud is, and encourages employees at all levels to participate in protecting public resources.

During the year, we updated the Fraud Control Plan and developed a Fraud Risk Register and Management Plan which is reviewed and updated by the Executive Leadership Group biannually. Through the Audit Committee we assure senior management that fraud prevention, detection, investigation and reporting mechanisms are in place to meet the requirements of the *Commonwealth Fraud Control Framework 2017*, and specifically section 10(b) of the PGPA Rule.

Fraud reporting

During the period 1 July 2019 to 30 June 2020 there were no reported incidents of fraud.

Public Interest Disclosure

We are committed to the highest standards of ethical and accountable conduct, encouraging, supporting and protecting public officials who report disclosable conduct in accordance with the *Public Interest Disclosure Act 2013*.

We recognise it is important to have an effective system for reporting and investigating disclosable conduct. We provide training for our Authorised Officer network, and have a dedicated email address for disclosures to be made to Authorised Officers, who report to the Director.

Our Public Interest Disclosure Procedure and supporting documents are published on our intranet and on our website at www.cdpp.gov.au.

Ethical standards

Part of developing strong leadership for an organisation like the CDPP, is bringing an ethical framework to our decision making. Everyone at the CDPP undertakes to follow these standards on joining our organisation, and is expected to adhere to the standards throughout their time with us.

The Australian Public Service Commission's Ethics Advisory Service is available to all employees who wish to discuss and seek advice on ethical issues that occur in the workplace and make sound decisions around these issues. Our people can also access policies, guidance and support from our People team and through the Employee Assistance Program.

We also rigorously pursue disclosure and management of conflict of interest.

Our Governance team reviews and strengthens the conflict of interest policy and related guidance and procedures each year to enable all officials under the PGPA Act, including the Director as the accountable authority, to meet their disclosure requirements.

Internal audit

CDPP's internal audit function is undertaken independently from the business areas subject to audits and seeks to improve our operations. It is a major component of our governance framework and helps to achieve objectives by bringing a systematic, disciplined approach to risk management, improvement of controls, and the effectiveness of governance processes.

The activities of our internal auditor are risk-based and detailed in an annual audit plan endorsed by the Audit Committee and approved by the Director. The internal audit plan seeks to coordinate internal audit activity with other assurance activities and mechanisms, including external audits.

During the year, a range of audits were undertaken by our internal audit service provider. The internal auditors did not identify any significant control breakdowns.

Privacy

Our obligations under the *Privacy Act 1988* and the Australian Privacy Principles are guided by our Privacy Policy and National Legal Direction. This covers all privacy considerations in relation to the CDPP's collection and release of personal information.

During the year the Executive Leadership Group appointed a new Privacy Champion and Privacy Officer for the CDPP and approved the Privacy Management Plan. This plan identifies specific, measurable privacy goals and targets and sets out how we will meet our privacy compliance obligations.

No notifiable data breaches were reported in the 2019–20 period.

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ENABLING SERVICES

CHAPTER 6

Enabling Services Group

The Enabling Services Group (ESG) provides support to the legal practice through the delivery of corporate services and continued digital transformation. It consists of five branches.

National Business Improvement Branch

The National Business Improvement (NBI) branch is responsible for fostering innovation and driving business improvements across the legal practice. It continues to drive CDPP's digital transformation agenda and build digital literacy and capability across our workforce. Previously a practice group, NBI transitioned into the ESG as a branch in 2019–20 and now reports to the Chief Corporate Officer.

In August 2018, caseHQ was launched as the CDPP's new case management system and it continues to be enhanced with all files successfully migrated in 2019–20 from the legacy system CRIMS and the inclusion of non-prosecution legal related file types. The data and analytics capability within NBI supports the executive and stakeholders in critical decision making through the delivery of timely and accurate information and data. The data cube that was deployed in February 2020 is now the single source of truth for CDPP's reporting requirements. The data cube draws information from a number of sources including the CDPP's legacy and new case management systems and human resources systems.

Key priorities for 2020–21 for NBI include the enhancement of the Digital Referrals Gateway and e-trial solution, which are core elements of the CDPP's digital transformation agenda. The Digital Referrals Gateway will be enhanced to enable partner agencies to maximise the types and size of the electronic briefs of evidence (e-briefs) the CDPP

can receive while ensuring records and materials are preserved. An agile and flexible e-trial solution will be developed and implemented to allow the CDPP to streamline court proceedings and decrease reliance on paper materials when conducting a trial.

With the onset of COVID-19, NBI responded in an agile and innovative manner to continue to build CDPP's digital capability and effectively transitioned from face to face training to online e-learning packages including the delivery of digital training. In total, 146 training sessions were delivered in 2019–20 to CDPP staff in the use of modern digital support tools and products.

Administrative Support and Governance Branch

The National Administrative Support and Governance branch delivers governance, risk, audit, national administration support and library functions.

The Governance team is responsible for both organisational governance and internal audit. The team provides strategic and operational advice and support to the Executive Leadership Group and senior management on all aspects of public sector governance, in accordance with the relevant legislation and government policy, and independent assurance on compliance with procedures and systems of internal control, and helps management improve business performance. In 2019–20, the team continued to strengthen our governance practices and relationships with our key stakeholders.

The National Administrative Support team provides a range of specialist and general administrative support services to prosecutors. The team focuses on delivering timely, quality services to support the day to day needs of the legal practice, and has a physical presence in each office.

In 2019–20 the National Administrative Support team focused on further developing its capabilities to meet the changing needs of the legal practice through a review of its service offer. The legal practice was consulted on this review. Consideration was also given to legal support arrangements in other prosecutorial and APS agencies. A revised service offer was launched which included an enhanced administrative request system (to further align our services with caseHQ) and better integration of trial and complex matter support services. Clearer information on our national team structure, services and how they can be accessed, was also launched at the same time.

The Library and Research Services team provides specialist research services and managing access to legal resources and training. The team operates a national research support helpdesk that delivers a high quality and efficient research service to all staff.

In 2019–20, the Library and Research Services team developed and introduced a new training policy and program designed to create opportunities to improve skills in legal research and database use. The team also created a set of research toolkits to complement the new training program to enable the legal practice to quickly locate and access materials relevant to specific topics and frequently asked questions. Expanding resources comprising checklists, user manuals, flowcharts and quick reference guides have also been made available to support the legal practice.

Information and Communications Technology Branch

The Information and Communications Technology (ICT) branch provides ICT and records and information management services to all staff. In 2019–20, the branch played a pivotal role in providing dedicated support to staff throughout the pandemic, in particular in enabling staff to work from home and in developing a range of solutions for staff to effectively interact with various courts remotely.

This year the branch provided critical support to the NBI branch in the successful migration of data from the old legal case management system, CRIMS, to the new system, caseHQ as well as the deployment of a data cube. With the cyber threat environment constantly evolving, in 2019–20 a review of the CDPP's cyber environment was undertaken. A number of cyber security tools were deployed and cyber awareness training was provided for all staff to mitigate the current and emerging cyber security risks. The ICT branch continues to deliver enhancements in the enabling technologies to support the NBI branch in delivering the CDPP's digital transformation agenda.

Financial Services Branch

The Financial Services branch provides policy, reporting and advisory support to the CDPP across all areas of finance and office accommodation. Services provided include:

- procurement, contracts, financial delegations and approving expenditure
- payments of accounts payable and receivable, credit cards, petty cash and staff reimbursement
- travel management, movement requisitions, allowances and payments

- policy and guidance including Director's Finance Instructions and financial delegations
- administration of the Financial Management Information System
- financial reporting, budgets and asset management, and
- office accommodation and ancillary services.

People and Communication Branch

The CDPP's People and Communication branch provides enabling and advisory people and communication services to support and inform our executive, managers, employees, partner agencies and other key stakeholders.

Our people are critical to the success of the CDPP to deliver priorities in a rapidly changing environment. Investing in and supporting our workforce to be agile, flexible and digitally capable ensures our employees can proactively respond to challenges, today and into the future. The CDPP's workforce is collaborative, inclusive and innovative and supported to be high performing, healthy and engaged.

CDPP's People teams play an important role in influencing the workforce, work environment and culture, while positioning the CDPP to be responsive to current and emerging priorities and changes in our environment. The teams provide strategic and operational advice on a full range of people related matters including workforce planning, workplace relations and learning and development as well as deliver key people services including recruitment and case management.

Key workforce, Enterprise Agreement, remuneration, wellbeing and other human resources and staffing information is available at Appendix 7: 2019-20 Salary ranges and remuneration and Appendix 9: Our people.

Working across the CDPP to strengthen relationships with stakeholders, the Communication, Media and Parliamentary team facilitates engagement, information sharing and collaboration. The team works with the full range of CDPP's stakeholders, from internal legal practice groups through to partner agencies and the media, to build an understanding of the CDPP's role.

Key achievements of the People and Communication branch during 2019–20 included:

- managing the transition to remote working for most of the workforce in response to the COVID-19 pandemic
- providing ongoing support to staff, managers and the Executive on COVID-19 related matters, including up to date information and guidance from Commonwealth, state and territory agencies and resources to manage wellbeing while working in isolation
- the development of a three year People Strategy and Learning and Development Strategy and associated action plans
- extensive consultation across the agency to shape and prepare for future remuneration increases on expiry of the agency's enterprise agreement
- the introduction of 360 degree feedback for the SES cohort
- a review and subsequent refining of national legal recruitment processes
- further enhancement of the agency's wellbeing program
- successful delivery of the biennial Partner Agency Survey
- ongoing management of the CDPP's suite of digital platforms
- ongoing management of media, ministerial and parliamentary activities, and
- played a critical role in developing a range of internal communication products supporting the agency's response to COVID-19.

DELIVERING THROUGH A PANDEMIC

Over recent years, the CDPP has worked hard to embed modern work practices across the organisation to ensure optimal outcomes, in terms of prosecution results and our people's wellbeing. During 2019–20, the CDPP faced several challenges which placed these practices under the spotlight, highlighting our ability to support employees to balance their work and personal lives, whilst still delivering a highly effective independent prosecution service.

Catastrophic bushfires, smoke haze, devastating floods and most recently the COVID-19 pandemic, have impacted the ability of our people to work at our office sites. In addition to the technological advances made through ongoing digital transformation, and our focus on building digital capability in our people, a flexible work framework enabled CDPP to respond to these crises through transitioning our people to remote working while continuing to deliver our important services to the Australian community.

The CDPP was well positioned to respond to the challenges of isolation and remote work due to the frameworks we already had in place and having progressed our digital transformation journey. We were also able to provide support to other APS agencies to assist with their efforts in implementing pandemic response initiatives for all Australians.

A virtual taskforce was established across Enabling Services to target services, communication, support, advice and information to ensure our people were supported during uncertain times.

Since implementing the flexible working framework, the CDPP has

understood the need for efficient and effective systems and applications to support employees to work flexibly. This provided a solid foundation for a sudden shift to working remotely for the majority of staff in response to the pandemic and enabled the CDPP to respond quickly to changes introduced by courts in each state and territory - each jurisdiction introduced their preferred application to interact digitally with the CDPP and others. This meant that the CDPP lawyers had to quickly adapt to different technological platforms when dealing with courts in different jurisdictions.

During the pandemic, 86 per cent of our employees have been supported to work remotely either partially or full time. A survey of our employees during the pandemic saw an overwhelming majority of respondents reporting that they were still feeling connected to their team, their managers and the agency and high levels of satisfaction with the flexibilities being offered by the CDPP, including remote working.

A small percentage of our employees have been required to attend our office sites due to the nature of their roles. We have mitigated risks to our people working in our office sites by implementing physical distancing practices with associated signage, availability of hand cleaning products, including sanitiser and frequent additional cleaning of our sites, including contact points.

The flexible work framework was designed to support and facilitate an agile and responsive workplace and the challenges faced over the last year have shown the framework enables this very successfully. The CDPP will continue to explore additional flexible working arrangements and evaluate our framework, once restrictions associated with the pandemic pass.



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FINANCIAL SERVICES

CHAPTER 7

Financial performance

Our operations are primarily funded through parliamentary appropriations but we also receive a small component (12.5 per cent) of revenue independently. For example, the Australian Taxation Office transfers part of its appropriation to us to cover the cost of prosecutions for offences under goods and services tax (GST) legislation. The amount receipted in 2019–20 under this arrangement was \$3.5 million. This is accounted for under an arrangement pursuant to section 74 of the *Public Governance, Performance and Accountability Act 2013* (PGPA Act) as agency revenue, and retained for our use.

Operating results

Our operating revenue for 2019–20 was \$95.431 million, which is an increase of \$9.017 million from 2018–19.

Operating expenses for 2019–20 were \$94.511 million (including principal repayments—leased assets (\$5.826 million) and excluding depreciation and amortisation expenses (\$10.337 million)). This is an increase of \$5.168 million compared with 2018–19. The increase was mainly due to our expenses for employee benefits, information and communications technology, advice and training and changes to accounting for leased premises under AASB 116 Leases.

The operating result for 2019–20 was a surplus of \$0.920 million, including principal repayments—leased assets and excluding depreciation and amortisation expenses (in line with the Australian Government's net cash appropriation arrangements).

Asset management

Our major assets are right-of-use leased premises, office fit out, office furniture, computer equipment, purchased software, and library holdings. We conduct an annual stocktake to ensure the accuracy of our asset records.

Purchasing

We undertook our procurement and purchasing in 2019–20 in accordance with the principles set out in the Commonwealth Procurement Rules, which are underpinned by value for money.

We adhered to the core purchasing policies and principles in the Commonwealth Procurement Rules including encouraging competition among actual and potential suppliers, promoting the use of resources in an efficient, effective, economical and ethical manner, and being accountable and transparent during the procurement process.

We apply these principles to our procurement activities through the Director's Finance Instructions and supporting guidelines, which have been developed to ensure we undertake competitive, non-discriminatory procurement processes, use resources efficiently, effectively, economically and ethically, and make decisions in an accountable and transparent manner.

Consultancy services

We engage consultants where we lack specialist expertise or when independent research, review or assessment is required. Typically, we engage consultants to investigate or diagnose a defined issue or problem, carry out defined reviews or evaluations, or provide independent advice, information or creative solutions to assist in our decision making.

Before we engage consultants, we take into account the skills and resources required for the task, the skills available internally, and the cost-effectiveness of engaging external expertise. We make decisions to engage a consultant in line with the PGPA Act and related regulations (including the Commonwealth Procurement Rules and relevant internal policies).

Annual reports contain information about actual expenditure on contracts for consultancies. Information on the value of contracts and consultancies is available on the AusTender website at www.tenders.gov.au.

During 2019–20, we entered into 13 new consultancy contracts with a total actual expenditure of \$269,665 (including GST). In addition, three ongoing consultancy contracts were active during 2019–20, involving a total actual expenditure of \$234,243 (including GST).

Australian National Audit Office access clauses

During the reporting period, we did not enter into any contracts for \$100,000 or more (including GST) that do not provide for the Auditor-General to have access to the contractor's premises.

Exempt contracts

We have exempted the publication of details of prosecution legal counsel on the basis that to do so would disclose exempt matters under the *Freedom of Information Act 1982*.

Procurement initiatives to support small business

We support small business participation in the Commonwealth Government procurement market. Small and Medium Enterprises (SME) and Small Enterprise participation statistics are available on the Department of Finance's website at www.finance.gov.au.

We recognise the importance of ensuring that small businesses are paid on time. The results of the survey of Australian Government Payments to Small Business are available on the Treasury website at www.treasury.gov.au.

Some of the ways our procurement practices support SMEs include:

- using the Commonwealth Contracting Suite for low-risk procurements valued under \$200,000
- communicating in clear, simple language and presenting information in an accessible format and
- adhering to the Pay on Time Policy relating to paying small business suppliers.

External scrutiny

The Auditor-General issued an unmodified audit report for the CDPP's 2019–20 financial statements.

CDPP was the subject of one report tabled by the Auditor-General in parliament during 2019–20, which is titled Case Management by the Office of the Commonwealth Director of Public Prosecutions (Audit Report No. 28 of 2019–20). The audit report included four recommendations to which CDPP agreed.

During the reporting period, there were no decisions of administrative tribunals or the Australian Information Commissioner that have had or may have a significant impact on our operations.

Legal service expenditure

The *Legal Services Directions 2017* require agencies to report expenditure on legal services.

These directions are not intended to cover the handling of criminal prosecutions and related proceedings (see General Note 4 to the Directions). Therefore, our report relates to our administrative activities only.

Our total expenditure on legal services (excluding the handling of criminal prosecutions and related proceedings) during 2019–20 was \$64,695 (excluding GST). Further details are in the following table. This is a statement of legal services expenditure published in compliance with paragraph 11.1(ba) of the *Legal Services Directions 2017*.

Table 15: Legal services expenditure in 2019–20

Expenditure	AMOUNT
Total (external and internal) expenditure	\$64,695
Total internal legal services expenditure	\$0
Total external legal services expenditure	\$64,695
Summary of external legal services expenditure	
Total value of briefs to counsel (A)	\$0
Total value of disbursements (excluding counsel) (B)	\$85
Total value of professional fees paid (C)	\$64,610
Total external legal services expenditure (A + B + C)	\$64,695

Note

- Excludes the handling of criminal prosecutions and related proceedings.

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FINANCIAL STATEMENTS

CHAPTER 8

Financial statements

The audited financial statements included in this report were prepared in accordance with the Public Governance, Performance and Accountability (Financial Reporting) Rule 2015. Detailed information on the accounting policies used to prepare the audited financial statements is included in the notes to the financial statements.

Under current Budget arrangements, the CDPP has one government outcome with one program of activities to achieve this outcome.

Further information about our agency's budget can be found in the Attorney-General's Portfolio Budget Statements.

There were no significant instances of non-compliance with the finance law.

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INDEPENDENT AUDITOR'S REPORT

To the Attorney-General

Opinion

In my opinion, the financial statements of the Office of the Commonwealth Director of Public Prosecutions ('the Entity') for the year ended 30 June 2020:

- (a) comply with Australian Accounting Standards – Reduced Disclosure Requirements and the *Public Governance, Performance and Accountability (Financial Reporting) Rule 2015*; and
- (b) present fairly the financial position of the Entity as at 30 June 2020 and its financial performance and cash flows for the year then ended.

The financial statements of the Entity, which I have audited, comprise the following as at 30 June 2020 and for the year then ended:

- Statement by the Accountable Authority and Chief Financial Officer;
- Statement of Comprehensive Income;
- Statement of Financial Position;
- Statement of Changes in Equity;
- Cash Flow Statement; and
- Notes to the financial statements, comprising a summary of significant accounting policies and other explanatory information.

Basis for opinion

I conducted my audit in accordance with the Australian National Audit Office Auditing Standards, which incorporate the Australian Auditing Standards. My responsibilities under those standards are further described in the *Auditor's Responsibilities for the Audit of the Financial Statements* section of my report. I am independent of the Entity in accordance with the relevant ethical requirements for financial statement audits conducted by the Auditor-General and his delegates. These include the relevant independence requirements of the Accounting Professional and Ethical Standards Board's APES 110 *Code of Ethics for Professional Accountants (including Independence Standards)* (the Code) to the extent that they are not in conflict with the *Auditor-General Act 1997*. I have also fulfilled my other responsibilities in accordance with the Code. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my opinion.

Accountable Authority's responsibility for the financial statements

As the Accountable Authority of the Entity, the Director is responsible under the *Public Governance, Performance and Accountability Act 2013* (the Act) for the preparation and fair presentation of annual financial statements that comply with Australian Accounting Standards – Reduced Disclosure Requirements and the rules made under the Act. The Director is also responsible for such internal control as the Director determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, the Director is responsible for assessing the ability of the Entity to continue as a going concern, taking into account whether the Entity's operations will cease as a result of an administrative restructure or for any other reason. The Director is also responsible for disclosing, as applicable, matters related to going concern and using the going concern basis of accounting unless the assessment indicates that it is not appropriate.

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Auditor's responsibilities for the audit of the financial statements

My objective is to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes my opinion. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with the Australian National Audit Office Auditing Standards will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of the financial statements.

As part of an audit in accordance with the Australian National Audit Office Auditing Standards, I exercise professional judgement and maintain professional scepticism throughout the audit. I also:

- identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for my opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control;
- obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Entity's internal control;
- evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by the Accountable Authority;
- conclude on the appropriateness of the Accountable Authority's use of the going concern basis of accounting and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the Entity's ability to continue as a going concern. If I conclude that a material uncertainty exists, I am required to draw attention in my auditor's report to the related disclosures in the financial statements or, if such disclosures are inadequate, to modify my opinion. My conclusions are based on the audit evidence obtained up to the date of my auditor's report. However, future events or conditions may cause the Entity to cease to continue as a going concern; and
- evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation.

I communicate with the Accountable Authority regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that I identify during my audit.

Australian National Audit Office



Mark Vial
Senior Director

Delegate of the Auditor-General

Canberra

23 September 2020

**OFFICE OF THE COMMONWEALTH DIRECTOR OF PUBLIC PROSECUTIONS
STATEMENT BY THE ACCOUNTABLE AUTHORITY AND CHIEF FINANCIAL OFFICER**

In our opinion, the attached financial statements for the year ended 30 June 2020 comply with subsection 42(2) of the *Public Governance, Performance and Accountability Act 2013* (PGPA Act), and are based on properly maintained financial records as per subsection 41(2) of the PGPA Act.

In our opinion, at the date of this statement, there are reasonable grounds to believe that the Office of the Commonwealth Director of Public Prosecutions will be able to pay its debts as and when they fall due.



Signed

Sarah McNaughton SC
Director
(Chief Executive)

23 September 2020



Signed

Steven Burggraaff
Chief Financial Officer

23 September 2020

OFFICE OF THE COMMONWEALTH DIRECTOR OF PUBLIC PROSECUTIONS
STATEMENT OF COMPREHENSIVE INCOME

For the period ended 30 June 2020

	Notes	Actual 2020 \$'000	Actual 2019 \$'000	Original Budget \$'000
NET COST OF SERVICES				
EXPENSES				
Employee benefits	4A	50,753	49,062	52,036
Suppliers	4B	36,419	39,265	42,189
Depreciation and amortisation	7	10,337	3,785	3,483
Finance costs	4C	12	8	-
Impairment loss on financial instruments		10	6	-
Write-down and impairment of other assets		345	19	-
Costs awarded against the Commonwealth		1,146	983	570
Total expenses		99,022	93,128	98,278
OWN-SOURCE INCOME				
Own-source revenue				
Revenue from contracts with customers	5A	11,464	9,156	10,875
Other	5B	501	678	284
Total own-source revenue		11,965	9,834	11,159
Gains				
Other		255	98	-
Total gains		255	98	-
Total own-source income		12,220	9,932	11,159
Net cost of service		86,802	83,196	87,119
Revenue from Government	5C	83,211	76,482	83,636
Deficit		(3,591)	(6,714)	(3,483)
Total comprehensive income		(3,591)	(6,714)	(3,483)

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

Budget Variances Commentary

Expenses

Total Expenses are \$0.7m higher than budgeted.

Employee benefits were \$1.3m lower than budgeted. The Office of the Commonwealth Director of Public Prosecution's (CDPP's) average staffing level (ASL) of 397.7 was slightly below the planned ASL of 401.2.

Additionally, reductions against budgeted employee benefits resulted from changes in the profile of staff by level, lower than budgeted leave expenses and other minor variations.

Costs awarded against the Commonwealth, which were \$0.6m higher than budgeted, are not reliably predictable.

Significant movements in expenses from the implementation of AASB 16 Leases, which resulted in the recognition of depreciation on right-of-use assets (\$6.2m) and the reduction of supplier expenses as lease payments are now recognised as repayments of liabilities (\$5.8m).

Own-source income

Total own-source revenue increased against budget predominately due to additional funding for prosecution services determined subsequent to the 2019-20 budget.

OFFICE OF THE COMMONWEALTH DIRECTOR OF PUBLIC PROSECUTIONS
STATEMENT OF FINANCIAL POSITION

As at 30 June 2020

	Notes	Actual 2020 \$'000	Actual 2019 \$'000	Original Budget \$'000
ASSETS				
Financial Assets				
Cash and cash equivalents		505	603	486
Trade and other receivables	6A	13,446	11,271	8,228
Total financial assets		13,951	11,874	8,714
Non-Financial Assets¹				
Property	7	53,656	10,505	16,653
Plant and equipment	7	2,984	2,810	4,868
Intangibles	7	3,555	3,277	2,646
Prepayments		1,893	1,227	2,952
Total non-financial assets		62,088	17,819	27,119
Total assets		76,039	29,693	35,833
LIABILITIES				
Payables				
Suppliers		3,596	3,474	3,739
Leases Incentives ²		-	8,427	9,975
Other	8A	853	2,569	886
Total payables		4,449	14,470	14,600
Provisions				
Employee leave provisions		17,354	16,465	16,437
Other	9A	989	811	1,114
Total provisions		18,343	17,276	17,551
Interest bearing liabilities				
Leases	10A	44,288	-	-
Total interest bearing liabilities		44,288	-	-
Total Liabilities		67,080	31,746	32,151
Net Assets		8,959	(2,053)	3,682
EQUITY				
Contributed equity		20,213	16,010	21,665
Reserve		18,491	18,491	18,491
Accumulated deficit		(29,745)	(36,554)	(36,474)
Total Equity		8,959	(2,053)	3,682

1. Right-of-use assets are included in the Property and Plant and equipment line items.
2. The CDPP has applied AASB 16 using the modified retrospective approach and therefore the comparative information has not been restated and continues to be reported under AASB 117.

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

Budget Variances Commentary

Assets

The implementation of AASB 16 Leases, resulted in an additional \$41.3m in right-of-use non-financial assets. Appropriations receivable were higher than budgeted as a result of a small surplus (Note 3).

Liabilities

The implementation of AASB 16 Leases, resulted in an additional \$44.3m in lease liabilities. Lease incentives (budget \$10.0m) were written off to accumulated results on implementation of AASB 16.

OFFICE OF THE COMMONWEALTH DIRECTOR OF PUBLIC PROSECUTIONS
STATEMENT OF CHANGES IN EQUITY

For the period ended 30 June 2020

	Retained earnings		Asset revaluation surplus		Contributed equity/capital		Total equity	
	Actual 2020 \$'000	Actual 2019 \$'000	Actual 2020 \$'000	Actual 2019 \$'000	Actual 2020 \$'000	Actual 2019 \$'000	Original Budget \$'000	Original Budget \$'000
Opening balance								
Balance carried forward from previous period	(36,554)	(29,840)	18,491	18,491	16,010	13,892	17,453	2,953
Adjustment on initial application of AASB 15/AASB 1058	-	-	-	-	-	-	-	-
Adjustment on initial application of AASB 16	10,400	-	-	-	-	-	-	-
Adjusted opening balance	(26,154)	(29,840)	18,491	18,491	16,010	13,892	17,453	2,953
Comprehensive income								
Surplus (Deficit) for the period	(3,591)	(6,714)	-	-	-	-	-	(3,483)
Other comprehensive income	-	-	-	-	-	-	-	-
Total comprehensive income	(3,591)	(6,714)	-	-	-	-	-	(3,483)
Contributions by owners								
Equity injection - appropriation	-	-	-	-	2,345	-	2,345	-
Departmental capital budget funding	-	-	-	-	1,858	2,118	1,867	1,867
Total transactions with owners	-	-	-	-	4,203	2,118	4,212	4,212
Rounding	-	-	-	-	-	-	-	-
Closing balance as at 30 June	(29,745)	(36,554)	18,491	18,491	20,213	16,010	21,665	3,682

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

Accounting Policy

Equity injections

Amounts appropriated which are designated as 'equity injections' for a year (less any formal reductions) and Departmental Capital Budgets (DCBs) are recognised directly in contributed equity in that year.

Budget Variances Commentary

Retained earnings – AASB 16

The CDPD adopted AASB 16 using the modified retrospective approach, under which the cumulative effect of initial application is recognised in retained earnings at 1 July 2019. Detail on the transitional impact of AASB 16 is included at note 1.4 New Australian Accounting Standards.

OFFICE OF THE COMMONWEALTH DIRECTOR OF PUBLIC PROSECUTIONS
CASH FLOW STATEMENT

For the period ended 30 June 2020

	Actual 2020 \$'000	Actual 2019 \$'000	Original Budget \$'000
OPERATING ACTIVITIES			
Cash received			
Appropriations	95,633	88,978	92,786
Rendering of services	11,732	9,758	10,875
Net GST received	4,211	3,899	4,169
Total cash received	111,576	102,635	107,830
Cash used			
Employees	49,065	47,118	50,478
Suppliers	42,146	44,333	45,862
Other	1,521	616	615
Appropriation cash returned to the OPA	12,800	10,600	10,875
Interest payments on lease liabilities	4	-	-
Total cash used	105,536	102,667	107,830
Net cash from (used by) operating activities	6,040	(32)	-
INVESTING ACTIVITIES			
Cash used			
Purchase of property, plant and equipment and intangibles	3,240	2,016	4,212
Total cash used	3,240	2,016	4,212
Net cash from (used by) investing activities	(3,240)	(2,016)	(4,212)
FINANCING ACTIVITIES			
Cash received			
Contributed equity	2,928	2,165	4,212
Total cash received	2,928	2,165	4,212
Cash used			
Principal payments of lease liabilities	5,826	-	-
Total cash used	5,826	-	-
Net cash from (used by) financing activities	(2,898)	2,165	4,212
Net increase (decrease) in cash held	(98)	117	-
Cash and cash equivalents at the beginning of the reporting period	603	486	486
Cash and cash equivalents at the end of the reporting period	505	603	486

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

**OFFICE OF THE COMMONWEALTH DIRECTOR OF PUBLIC PROSECUTIONS
NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS**

For the period ended 30 June 2020

Note 1: Overview

Note 2: Events After the Reporting Period

Note 3: Net Cash Appropriation Arrangements

Note 4: Expenses

Note 5: Own-Source Income

Note 6: Financial Assets

Note 7: Non-Financial Assets

Note 8: Payables

Note 9: Provisions

Note 10: Interest Bearing Liabilities

Note 11: Contingent Assets and Liabilities

Note 12: Related Party Disclosures

Note 13: Key Management Personnel Remuneration

Note 14: Financial Instruments

Note 15: Appropriations

Note 16: Aggregate Assets and Liabilities

OFFICE OF THE COMMONWEALTH DIRECTOR OF PUBLIC PROSECUTIONS NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

For the period ended 30 June 2020

Note 1: Overview

1.1 Objectives of the Entity

The CDPP is an Australian Government controlled entity. It is a not-for-profit entity. The objective of the CDPP is to contribute to a fair, safe and just society by delivering an effective, independent prosecution service in accordance with the *Prosecution Policy of the Commonwealth*.

1.2 The Basis of Preparation

The financial statements are general purpose financial statements and are required by Section 42 of the *Public Governance, Performance and Accountability Act 2013*.

The financial statements have been prepared in accordance with:

- *Public Governance, Performance and Accountability (Financial Reporting) Rule 2015* (FRR); and
- Australian Accounting Standards - Reduced Disclosure Requirements, and Interpretations issued by the Australian Accounting Standards Board (AASB) that apply for the reporting period.

The financial statements have been prepared on an accrual basis and in accordance with the historical cost convention, except for certain assets and liabilities at fair value. Except where stated, no allowance is made for the effect of changing prices on the results or the financial position. The financial statements are presented in Australian dollars and values are rounded to the nearest thousand dollars unless otherwise specified.

1.3 Significant Accounting Judgments and Estimates

In the process of applying the accounting policies listed in the notes, the CDPP has made judgements in relation to:

- the fair value of property, plant and equipment and the related make good; and
- employee provisions;

that have a significant impact on the amounts recorded in the financial statements.

COVID-19 and potential, related uncertainties have been considered in relation to the above judgements. No accounting assumptions or estimates have been identified that have a significant risk of causing a material adjustment to carrying amounts of assets and liabilities within the next reporting period.

1.4 New Australian Accounting Standards

All new/revised/amending standards and/or interpretations that were issued prior to the sign-off date and are applicable to the current reporting period did not have a material effect on the CDPP's financial statements.

Standard/ Interpretation	Nature of change in accounting policy, transitional provisions, and adjustment to financial statements
AASB 15 <i>Revenue from contracts with Customers</i> / AASB 2016-8 <i>Amendments to Australian Accounting Standards – Australian Implementation Guidance for Not-for-Profit Entities</i> and AASB 1058 <i>Income of Not-For-Profit Entities</i>	AASB 15, AASB 2016-8 and AASB 1058 became effective 1 July 2019. AASB 15 establishes a comprehensive framework for determining whether, how much and when revenue is recognised. It replaces existing revenue recognition guidance, including AASB 118 <i>Revenue</i> , AASB 111 <i>Construction Contracts</i> and Interpretation 13 <i>Customer Loyalty Programmes</i> . The core principle of AASB 15 is that an entity recognises revenue to depict the transfer of promised goods or services to customers in an amount that reflects the consideration to which the entity expects to be entitled in exchange for those goods or services. AASB 1058 is relevant in circumstances where AASB 15 does not apply. AASB 1058 replaces most of the not-for-profit (NFP) provisions of AASB 1004 <i>Contributions</i> and applies to transactions where the consideration to acquire an asset is significantly less than fair value principally to enable the entity to further its objectives, and where volunteer services are received.
	The details of the changes in accounting policies, transitional provisions and adjustments are disclosed below and in the relevant notes to the financial statements.

**OFFICE OF THE COMMONWEALTH DIRECTOR OF PUBLIC PROSECUTIONS
NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS**

For the period ended 30 June 2020

AASB 16 Leases	<p>AASB 16 became effective on 1 July 2019.</p> <p>This new standard has replaced AASB 117 <i>Leases</i>, Interpretation 4 <i>Determining whether an Arrangement contains a Lease</i>, Interpretation 115 <i>Operating Leases—Incentives</i> and Interpretation 127 <i>Evaluating the Substance of Transactions Involving the Legal Form of a Lease</i>.</p> <p>AASB 16 provides a single lessee accounting model, requiring the recognition of assets and liabilities for all leases, together with options to exclude leases where the lease term is 12 months or less, or where the underlying asset is of low value. AASB 16 substantially carries forward the lessor accounting in AASB 117, with the distinction between operating leases and finance leases being retained. The details of the changes in accounting policies, transitional provisions and adjustments are disclosed below and in the relevant notes to the financial statements.</p>
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Application of AASB 15 Revenue from Contracts with Customers / AASB 1058 Income of Not-For-Profit Entities

The CDPP adopted AASB 15 and AASB 1058 using the modified retrospective approach, under which the cumulative effect of initial application is recognised in retained earnings at 1 July 2019. Accordingly, the comparative information presented for 2019 is not restated, that is, it is presented as previously reported under the various applicable AASBs and related interpretations.

Under the new income recognition model the CDPP shall first determine whether an enforceable agreement exists and whether the promises to transfer goods or services to the customer are 'sufficiently specific'. If an enforceable agreement exists and the promises are 'sufficiently specific' (to a transaction or part of a transaction), the CDPP applies the general AASB 15 principles to determine the appropriate revenue recognition. If these criteria are not met, the CDPP shall consider whether AASB 1058 applies.

In relation to AASB 15, the CDPP elected to apply the new standard to all new and uncompleted contracts from the date of initial application. The CDPP is required to aggregate the effect of all of the contract modifications that occur before the date of initial application.

Impact on transition

CDPP has recognised no adjustment to retained earnings as a result of the transition to the new accounting standards AASB 15 and AASB 1058.

The recognition of revenue for the year ended 30 June 2020 in accordance with AASB 15 and AASB 1058 has resulted in no changes when compared to previously applicable accounting standards.

Application of AASB 16 Leases

The CDPP adopted AASB 16 using the modified retrospective approach, under which the cumulative effect of initial application is recognised in retained earnings at 1 July 2019. Accordingly, the comparative information presented for 2019 is not restated, that is, it is presented as previously reported under AASB 117 and related interpretations.

AASB 16 provides for certain optional practical expedients, including those related to the initial adoption of the standard. The CDPP applied the following practical expedients when applying AASB 16 to leases previously classified as operating leases under AASB 117:

- Reliance on previous assessments on whether leases are onerous as opposed to preparing an impairment review under AASB 136 *Impairment of assets* as at the date of initial application; and

OFFICE OF THE COMMONWEALTH DIRECTOR OF PUBLIC PROSECUTIONS NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

For the period ended 30 June 2020

- Applied the exemption not to recognise right-of-use assets and liabilities for leases with less than 12 months of lease term remaining as of the date of initial application.

As a lessee, the CDPP previously classified leases as operating or finance leases based on its assessment of whether the lease transferred substantially all of the risks and rewards of ownership. Under AASB 16, the CDPP recognises right-of-use assets and lease liabilities for most leases. However, the CDPP has elected not to recognise right-of-use assets and lease liabilities for some leases of low value assets based on the value of the underlying asset when new or for short-term leases with a lease term of 12 months or less.

On adoption of AASB 16, the CDPP recognised right-of-use assets and lease liabilities in relation to leases of office space and automobiles, which had previously been classified as operating leases.

The lease liabilities were measured at the present value of the remaining lease payments, discounted using the CDPP's incremental borrowing rate as at 1 July 2019. The incremental borrowing rate is the rate at which a similar borrowing could be obtained from an independent creditor under comparable terms and conditions.

The right of use assets were measured at an amount equal to the lease liability, adjusted by the amount of any prepaid or accrued lease payments.

Impact on transition

On transition to AASB 16, the CDPP recognised additional right-of-use assets and additional lease liabilities. Lease incentive and straight-line payables recognised as at 30 June 2019 were cleared to retained earnings.

	1 July 2019
	\$'000
Right-of-use assets recognised - property, plant and equipment	35,068
Prepaid lease expenses at 30 June 2019	(414)
Lease liabilities recognised	(34,654)
Lease Incentive payable cleared	8,239
Lease Straight-line payable cleared	2,161
Balance to Retained Earnings	(10,400)

The following table reconciles the minimum lease commitments disclosed in the CDPP's 30 June 2019 annual financial statements to the amount of lease liabilities recognised on 1 July 2019:

	1 July 2019
	\$'000
Minimum operating lease commitment at 30 June 2019	52,540
Less: restatement of opening balance ¹	(1,687)
Less: commitments for leases commencing after 30 June 2019	(15,374)
Less: short-term leases not recognised under AASB 16	(1,697)
Plus: effect of extension options reasonably certain to be exercised	885
Undiscounted lease payments	<u>34,667</u>
Less: effect of discounting using the incremental borrowing rate as at the date of initial application	(13)
Lease liabilities recognised at 1 July 2019	<u>34,654</u>

1. The Minimum operating lease commitment at 30 June 2019 has been restated to correct the amount previously reported.

1.5 Taxation

The CDPP is exempt from all forms of taxation except Fringe Benefits Tax (FBT) and the Goods and Services Tax (GST).

**OFFICE OF THE COMMONWEALTH DIRECTOR OF PUBLIC PROSECUTIONS
NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS**

For the period ended 30 June 2020

Note 2: Events After the Reporting Period

There have been no events that have the potential to significantly affect the ongoing structure and financial activities of the CDDP.

Note 3: Net Cash Appropriation Arrangements

	2020 \$'000	2019 \$'000
Total comprehensive income/(loss) less depreciation/amortisation expenses previously funded through revenue appropriations	920	(2,929)
Less: depreciation/amortisation expenses previously funded through revenue appropriation	(4,090)	(3,785)
Less: depreciation right-of-use assets	(6,247)	-
Plus: principal repayments - leased assets	5,826	-
Total comprehensive income (loss) - as per the Statement of Comprehensive Income	(3,591)	(6,714)

From 2010-11, the Government introduced net cash appropriation arrangements where revenue appropriations for depreciation/amortisation expenses ceased. Entities now receive a separate capital budget provided through equity appropriations. Capital budgets are to be appropriated in the period when cash payment for capital expenditure is required.

The inclusion of depreciation/amortisation expenses related to ROU leased assets and the lease liability principle repayment amount reflects the cash impact on implementation of AASB 16 Leases, it does not directly reflect a change in appropriation arrangements.

Note 4: Expenses

	2020 \$'000	2019 \$'000
Note 4A: Employee benefits		
Wages and salaries	38,261	35,474
Superannuation		
Defined contribution plans	4,093	3,632
Defined benefit plans	3,495	3,314
Leave and other entitlements	4,692	6,154
Separation and redundancies	-	216
Other employee benefits	212	272
Total employee benefits	50,753	49,062

Accounting Policy

See note 9A: Employee Provisions

Note 4B: Suppliers

Goods and services supplied or rendered

Prosecution legal costs	17,006	16,773
Information and Communication Technology	4,235	3,606
Property	2,218	1,782
Library	1,524	1,323
Services Advice and Training	7,351	6,547
Other	2,034	2,329
Total goods and services supplied or rendered	34,368	32,360

Goods Supplied	2,625	2,600
Services Rendered	31,743	29,760
Total goods and services supplied or rendered	34,368	32,360

**OFFICE OF THE COMMONWEALTH DIRECTOR OF PUBLIC PROSECUTIONS
NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS**

For the period ended 30 June 2020

Other suppliers

Operating lease rentals ¹	-	6,337
Short-term leases	1,540	-
Low value leases	7	-
Workers compensation expenses	504	568
Total other suppliers	2,051	6,905
Total suppliers	36,419	39,265

1. The CDPP has applied AASB 16 using the modified retrospective approach and therefore the comparative information has not been restated and continues to be reported under AASB 117.

The CDPP has short-term lease commitments of nil as at 30 June 2020.

The above lease disclosures should be read in conjunction with the accompanying notes 4C, 5B, 7A and 10A.

Accounting Policy

Expenses

Operating lease payments are expensed on a straight-line basis, which is representative of the pattern of benefits derived from the leased assets.

Short-term leases and leases of low-value assets

The CDPP has elected not to recognise right-of-use assets and lease liabilities for short-term leases of assets that have a lease term of 12 months or less and leases of low-value assets (less than \$10,000). The CDPP recognises the lease payments associated with these leases as an expense on a straight-line basis over the lease term.

	2020 \$'000	2019 \$'000
Note 4C: Finance costs		
Interest on lease liabilities ¹	4	-
Unwinding of discount	8	8
Total finance costs	12	8

1. The CDPP has applied AASB 16 using the modified retrospective approach and therefore the comparative information has not been restated and continues to be reported under AASB 117.

The above lease disclosures should be read in conjunction with the accompanying notes 4B, 5B, 7A and 10A.

**OFFICE OF THE COMMONWEALTH DIRECTOR OF PUBLIC PROSECUTIONS
NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS**

For the period ended 30 June 2020

Note 5: Own-Source Income

	2020 \$'000	2019 \$'000
Note 5A: Revenue from contracts with customers		
Prosecution Services	11,464	9,156
Total rendering of services	11,464	9,156

Disaggregation of revenue from contracts with customers

Type of customer:

Australian Government entities (related parties)	11,464	9,156
	11,464	9,156

Accounting Policy

The CDDP's prosecution services are provided to partner agencies under Memoranda of Understanding (MOU). MOUs contain the specific performance obligation to provide a stand ready prosecution service over specified financial years. Revenue is recognised over-time in line with agreed annual funding set out in each MOU.

Receivables for goods and services, which have 30 day terms, are recognised at the nominal amounts due less any impairment allowance. Collectability of debts is reviewed at the end of the reporting period. Allowances are made when collectability of the debt is no longer probable.

Note 5B: Other Revenue

Resources received free of charge - services from external parties	14	61
Resources received free of charge - auditor's remuneration	82	81
Sublease	366	522
Other	39	14
Total other revenue	501	678

Commitments for sublease rental income receivables are as follows:

Within 1 year	162	383
One to two years	167	162
Two to three years	120	167
Three to four years	119	120
Four to five years	121	119
More than 5 years	-	121
Total sublease rental income commitments¹	689	1,072

1. 2019 commitments for sublease rentals have been restated to correct lease expiry date at one location.

As at 30th June 2020, the CDDP had sublease arrangements at 3 locations with Australian Government entities (2019: 3 locations). Rent for two of these locations of \$143,997 relates to the sublease of CDDP right-of-use assets.

The above lease disclosures should be read in conjunction with the accompanying notes 4B, 4C, 7A and 10A.

Accounting Policy

Resources Received Free of Charge

Resources received free of charge are recognised 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 as an expense. Resources received free of charge are recorded as either revenue or gains depending on their nature.

**OFFICE OF THE COMMONWEALTH DIRECTOR OF PUBLIC PROSECUTIONS
NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS**

For the period ended 30 June 2020

	2020 \$'000	2019 \$'000
<u>Note 5C: Revenue from Government</u>		
Appropriations:		
Departmental appropriations	<u>83,211</u>	<u>76,482</u>
Total revenue from Government	<u>83,211</u>	<u>76,482</u>

Accounting Policy

Revenue from Government

Amounts appropriated for departmental appropriations for the year (adjusted for any formal additions and reductions) are recognised as Revenue from Government when the CDPP gains control of the appropriation. Appropriations receivable are recognised at their nominal amounts.

**OFFICE OF THE COMMONWEALTH DIRECTOR OF PUBLIC PROSECUTIONS
NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS**

For the period ended 30 June 2020

Note 6: Financial Assets

	2020 \$'000	2019 \$'000
Note 6A: Trade and Other Receivables		
Good and Services		
Goods and services	446	367
Total goods and services receivables	446	367
Appropriations receivable:		
For existing programs	12,202	10,549
Total appropriations receivable	12,202	10,549
Other receivables		
GST receivable from the Australian Taxation Office	735	340
Other receivables	79	21
Total other receivables	814	361
Total trade and other receivables (gross)	13,462	11,277
Less impairment loss allowance		
Goods and services	(16)	(6)
Total impairment loss allowance	(16)	(6)
Total trade and other receivables (net)	13,446	11,271

Credit terms for goods and services was 30 days (2019: 30 days).

Accounting Policy

Cash and Cash Equivalents

Cash is recognised at its nominal amount.

Trade receivables

Trade receivables that are held for the purpose of collecting the contractual cash flows where the cash flows are solely payments of principal and interest that are not provided at below-market interest rates, are subsequently measured at amortised cost using the effective interest method adjusted for any loss allowance. Receivables are assessed for impairment at the end of each reporting period. A loss allowance of \$15,632 was recognised as at 30 June 2020 (2019: \$5,848).

The fair value of CDPP's financial assets and liabilities approximate their carrying amounts. The CDPP derived no interest income from financial assets in either the current or prior year.

**OFFICE OF THE COMMONWEALTH DIRECTOR OF PUBLIC PROSECUTIONS
NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS**

For the period ended 30 June 2020

Note 7: Non-Financial Assets

Note 7A: Reconciliation of the Opening and Closing Balances of Property, Plant and Equipment and Intangibles

	Property \$'000	Plant & equipment \$'000	Intangibles \$'000	Total \$'000
As at 1 July 2019				
Gross book value	12,448	3,678	5,839	21,965
Accumulated depreciation/amortisation and impairment	(1,943)	(868)	(2,562)	(5,373)
Total as at 1 July 2019	10,505	2,810	3,277	16,592
Recognition of right of use asset on initial application of AASB 16	35,032	36	-	35,068
Adjusted total as at 1 July 2019	45,537	2,846	3,277	51,660
Additions				
Purchase	1,876	183	1,180	3,239
Right-of-use assets	12,406	38	-	12,444
Lease Incentive	2,390	1,144	-	3,534
Depreciation and amortisation	(2,151)	(1,037)	(902)	(4,090)
Depreciation on right-of-use assets	(6,212)	(35)	-	(6,247)
Disposals	(190)	(155)	-	(345)
Total as at 30 June 2020	53,656	2,984	3,555	60,195
Total as at 30 June 2020 represented by				
Gross book value	62,930	4,814	7,019	74,763
Accumulated depreciation/amortisation and impairment	(9,274)	(1,830)	(3,464)	(14,568)
Total as at 30 June 2020	53,656	2,984	3,555	60,195
Carrying amount of right-of-use assets	41,226	39	-	41,265

No indicators of impairment were found for property, plant and equipment and intangibles. Intangibles includes both purchased software and internally generated software.

No significant property, plant and equipment and intangibles are expected to be sold or disposed of within the next 12 months.

Revaluations of non-financial assets

All revaluations were conducted in accordance with the revaluation policy. CDPD engaged the services of an independent valuer to conduct the revaluations as at 30 June 2018. No revaluation was performed for 2019-20. Management has determined that the carrying value is not materially different to the fair value for property and plant and equipment asset classes.

Contractual commitments for the acquisition of property, plant and equipment and intangible assets

As at 30 June 2020 there were capital commitments of \$2,129,610 (GST exclusive): \$1,179,124 for property (2019: nil); \$763,333 for plant and equipment (2019: nil); and \$187,153 for intangibles (2019: \$45,149). The CDPD are expecting a lease incentive payment of \$1,454,112 in relation to a property capital commitment and capital work completed in 2019-20.

Accounting Policy

Recognition and Depreciation

Assets are recognised initially at cost on acquisition in accordance with the table below.

Depreciable property, plant and equipment assets are written-off to their estimated residual values over their estimated useful lives to the CDPD using, in all cases, the straight-line method of depreciation. Intangible assets are amortised on a straight-line basis.

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Depreciation rates applying to each class of depreciable asset are based on the following useful lives:

	Useful Life (years)	Threshold (\$)
Property	lease term	20,000 or 5% of total value
Plant and equipment	3-30 years	2,000
Intangibles	3-6 years	5,000

The depreciation rates for ROU assets are based on the commencement date to the earlier of the end of the useful life of the ROU asset or the end of the lease term.

Lease Right of Use (ROU) Assets

Leased ROU assets are capitalised at the commencement date of the lease and comprise of the initial lease liability amount, estimated restoration costs and initial direct costs incurred when entering into the lease, less any lease incentives received. These assets are accounted for as separate asset classes to corresponding assets owned outright, but included in the same column as where the corresponding underlying assets would be presented if they were owned.

Following initial application, an impairment review is undertaken for any ROU lease asset that shows indicators of impairment and an impairment loss is recognised against any ROU lease asset that is impaired.

Revaluations

Fair values for each class of asset are determined as shown below:

Asset class	Fair value measured at
Property	Depreciated replacement cost
Plant and equipment	Market selling price and depreciated replacement cost

Following initial recognition at cost, property, plant and equipment (excluding ROU assets) are carried at fair value less subsequent accumulated depreciation and accumulated impairment losses. Valuations are conducted with sufficient frequency to ensure that the carrying amounts of assets do not differ materially from the assets' fair values as at the reporting date. The regularity of independent valuations depends upon the volatility of movements in market values for the relevant assets. The most recent independent valuation was conducted on 30 June 2018. Impairment assessment is carried out on an annual basis.

Assets are revalued in accordance with AASB 116 *Property, Plant and Equipment* approximately every five years unless the annual fair value assessment suggests that there is a material difference between carrying value of assets and their fair value. Where there is a material difference, all assets in that category are revalued.

Revaluation adjustments are made on a class basis. Any revaluation increment is credited to equity under the heading of asset revaluation reserve except to the extent that it reversed a previous revaluation decrement of the same asset class that was previously recognised in the surplus/deficit. Revaluation decrements for a class of assets are recognised directly in the surplus/deficit except to the extent that they reversed a previous revaluation increment for that class.

Any accumulated depreciation as at the revaluation date is eliminated against the gross carrying amount of the asset and the asset restated to the revalued amount.

OFFICE OF THE COMMONWEALTH DIRECTOR OF PUBLIC PROSECUTIONS NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

For the period ended 30 June 2020

Impairment

All assets are assessed annually for impairment. Where indications of impairment exist, the asset's recoverable amount is estimated and an impairment adjustment made if the asset's recoverable amount is less than its carrying amount.

De-recognition

An item of property, plant and equipment is derecognised upon disposal or when no further future economic benefits are expected from its use or disposal.

Intangibles

CDPP's intangibles includes purchased software and internally generated software for internal use. These assets are carried at cost less accumulated amortisation and accumulated impairment losses.

Software is amortised on a straight-line basis over its anticipated useful life. The useful lives of the CDPP's software are 3 to 6 years (2019: 3 to 6 years).

All software assets were assessed for indications of impairment as at 30 June 2020.

Accounting Judgements and Estimates

Fair value measurement

An annual assessment is undertaken to determine whether the carrying amount of assets differs materially from the fair value. Comprehensive valuations are undertaken at least once every five years. The fair value of property, plant and equipment is determined using either the Market Approach or the Cost Approach.

Market Approach

The Market Approach seeks to estimate the current value of an asset in its highest and best use with reference to recent market evidence including transactions of comparable assets. Certain items of land, buildings, leasehold improvements, plant and equipment are valued using the Market Approach. Inputs utilised under the Market Approach comprise market transactions of comparable assets adjusted to reflect differences in price sensitive characteristics including:

- recent market sales of comparable land and buildings adjusted for size and location; and
- current prices for comparable or substitute items of property, plant and equipment available within local second-hand markets or adjusted for location.

Cost Approach

The Cost Approach seeks to estimate the amount required to replace the service capacity of an asset in its highest and best use. In cases where sufficient observable market evidence is unavailable, the Cost Approach is applied and determined as the Depreciated Replacement Cost (DRC).

Certain items of land, buildings, leasehold improvements, plant and equipment are valued using DRC. Under DRC the replacement costs of new assets are adjusted for physical depreciation and obsolescence such as physical deterioration, functional or technical obsolescence and conditions of the economic environment specific to the asset. This is determined based on the estimated physical, economic and external obsolescence factors relevant to the asset under consideration.

**OFFICE OF THE COMMONWEALTH DIRECTOR OF PUBLIC PROSECUTIONS
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For the period ended 30 June 2020

Note 8: Payables

	2020	2019
	\$'000	\$'000
<u>Note 8A: Other payables</u>		
Wages and salaries	610	282
Superannuation	108	51
Lease straight lining ¹	-	2,231
Other	135	5
Total other payables	853	2,569

1. The CDPP has applied AASB 16 using the modified retrospective approach and therefore the comparative information has not been restated and continues to be reported under AASB 117.

Accounting Policy

Supplier and other payables

Supplier and other payables are recognised at cost. Liabilities are recognised to the extent that the goods or services have been received. Supplier and other payables are derecognised on payment. Supplier payables are settled within 30 days.

OFFICE OF THE COMMONWEALTH DIRECTOR OF PUBLIC PROSECUTIONS NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

For the period ended 30 June 2020

Note 9: Provisions

Accounting Policy

Liabilities for short-term employee benefits and termination benefits expected within twelve months of the end of reporting period are measured at their nominal amounts.

Leave

The liability for employee benefits includes provision for annual leave and long service leave.

The leave liabilities are calculated on the basis of employees' remuneration at the estimated salary rates that will be applied at the time the leave is taken, including the CDP's employer superannuation contribution rates to the extent that the leave is likely to be taken during service rather than paid out on termination.

The liability for long service leave has been determined by reference to the work of an actuary as at 30 June 2018. The estimate of the present value of the liability takes into account attrition rates, pay increases through promotion and inflation. Reviews are conducted with sufficient frequency to ensure the adequacy of the provision.

Separation and Redundancy

Provision is made for separation and redundancy benefit payments. There were no provisions for termination as at 30 June 2020 (2019: nil).

Superannuation

CDP's staff are members of the Commonwealth Superannuation Scheme (CSS), the Public Sector Superannuation Scheme (PSS) or the PSS accumulation plan (PSSap), or other superannuation funds held outside the Australian government.

The CSS and PSS are defined benefit schemes for the Australian Government. The PSSap is a defined contribution scheme.

The liability for defined benefits is recognised in the financial statements of the Australian Government and is settled by the Australian Government in due course. This liability is reported in the Department of Finance's administered schedules and notes.

The CDP makes employer contributions to the employees' superannuation scheme at rates determined by an actuary to be sufficient to meet the current cost to the Government. The CDP accounts for the contributions as if they were contributions to defined contribution plans.

The liability for superannuation recognised as at 30 June 2020 represents outstanding contributions.

**OFFICE OF THE COMMONWEALTH DIRECTOR OF PUBLIC PROSECUTIONS
NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS**

For the period ended 30 June 2020

Note 9: Provisions (Continued)

	2020 \$'000	2019 \$'000
Note 9A: Other Provisions		
Provisions for restoration ¹	576	325
Provisions for superannuation ²	413	-
Provisions for surplus lease space ³	-	111
Provisions for costs awarded against the Commonwealth	-	375
Total other provisions	989	811

	Provision for Restoration \$'000	Other provisions \$'000	Total \$'000
As at 1 July 2019	325	486	811
Additional provisions made	498	413	911
Amounts used	-	(486)	(486)
Amounts reversed	(255)	-	(255)
Unwinding of discount or change in discount rate	8	-	8
Total as at 30 June 2020	576	413	989

¹ As at 30 June 2020, the CDPP had agreements for 10 leased premises (2019: 11 premises). Two of these have provisions requiring the CDPP to restore the premises to their original condition at the end of the lease. The CDPP made provisions to reflect the present value of these obligations.

² Additional lump sum superannuation contributions are payable where a shortfall is found in the statutory payments for an employee in a Commonwealth defined benefit scheme. As at 30 June 2020, the CDPP recorded a provision for anticipated lump sum contributions resulting from known changes in employee circumstances.

³ The onerous lease contract expired in June 2020. The net lettable area has been reduced for a new lease of office space at the same premises.

Note 10: Interest Bearing Liabilities

	2020 \$'000	2019 \$'000
Note 10A: Leases		
Lease Liabilities ¹		
Property	44,248	-
Plant and equipment	40	-
Total leases	44,288	-

1. The CDPP has applied AASB 16 using the modified retrospective approach and therefore the comparative information has not been restated and continues to be reported under AASB 117.

Total cash outflow for leases for the year ended 30 June 2020 was \$5,826,463.

Contractual commitments for the lease of property, plant and equipment

As at 30 June 2020 the CDPP had committed to leases which had not yet commenced of \$4,364,928 (GST exclusive): \$4,330,548 for property (2019: nil); and \$34,380 for plant and equipment (2019: nil).

Accounting Policy

Refer Overview section for accounting policy on leases.

OFFICE OF THE COMMONWEALTH DIRECTOR OF PUBLIC PROSECUTIONS NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

For the period ended 30 June 2020

Note 11: Contingent Assets and Liabilities

Quantifiable Contingencies

As at 30 June 2020, the CDPP had no quantifiable contingent assets or liabilities (2019: nil).

Unquantifiable Contingencies

If a matter prosecuted by the CDPP is defended successfully, the court may order that the CDPP meet certain costs incurred by the defendant.

If a matter is being prosecuted by the CDPP and assets are frozen under the *Proceeds of Crime Act 1987* or the *Proceeds of Crime Act 2002*, the CDPP 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 CDPP. Costs and damages so awarded are met from the CDPP and/or client organisation's annual appropriations.

Costs and damages have been awarded against the CDPP by the Courts on some occasions in past financial years. On this basis, it is anticipated that this will occur on some occasions during the next financial year. However, since awards of costs and damages are made by the Courts and the CDPP is unable to control or predict the quantum or number of such awards, the CDPP is unable to quantify its potential future liabilities in this regard. For that reason, the quantum of the anticipated future awards of costs and damages against the CDPP, has not been quantified.

Accounting Policy

Contingent Liabilities and Contingent Assets are not recognised in the Statement of Financial Position but are reported in the notes. They may arise from uncertainty as to the existence of a liability or asset or represent an asset or liability in respect of which the amount cannot be reliably measured. Contingent assets are disclosed when settlement is probable but not virtually certain and contingent liabilities are disclosed when settlement is greater than remote.

Note 12: Related Party Disclosures

Related party relationships: The Office of the Commonwealth Director of Public Prosecutions is an Australian Government controlled entity. Related parties to this entity include the Portfolio Minister and Chief Executive Officer (Accountable Authority), Executive Leadership Group, Chief Financial Officer and other Australian Government entities.

Transactions with related parties: Given the breadth of Government activities, related parties may transact with the government sector in the same capacity as ordinary citizens. These transactions have not been separately disclosed in this note.

Giving consideration to relationships with related entities, and transactions entered into during the reporting period by the entity, it has been determined that there are no related party transactions to be separately disclosed.

**OFFICE OF THE COMMONWEALTH DIRECTOR OF PUBLIC PROSECUTIONS
NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS**

For the period ended 30 June 2020

Note 13: Key Management Personnel Remuneration

Key management personnel are those persons having authority and responsibility for planning, directing and controlling the activities of the entity, directly or indirectly, including any director (whether executive or otherwise) of that entity. The CDPP has determined key management personnel to be the Director of Public Prosecutions, Commonwealth Solicitor for Public Prosecutions, Deputy Directors, Chief Corporate Officer and the Chief Financial Officer. Key management personnel remuneration is reported in the table below:

	2020 \$'000	2019 \$'000
Short-term employee benefits	2,537	2,597
Post-employment benefits	440	449
Other long-term employee benefits	62	58
Termination benefits	12	-
Total key management personnel remuneration expenses^{1,2}	3,051	3,104

Notes

¹ The total number of key management personnel that are included in the above table are 10 (2020:10) representing the people who individually occupied the KMP position during the year.

² The above key management personnel remuneration excludes the remuneration and other benefits of the Portfolio Minister. The Portfolio Minister's remuneration and other benefits are set by the Remuneration Tribunal and are not paid by the CDPP.

Note 14: Financial Instruments

	2020 \$'000	2019 \$'000
Note 14: Categories of Financial Instruments		
Financial assets at amortised cost		
Cash and cash equivalents	505	603
Trade and other receivables	509	388
Total	1,014	991
Carrying amount of financial assets	1,014	991
Financial Liabilities		
At amortised cost:		
Suppliers payable	3,596	3,474
Total	3,596	3,474
Carrying amount of financial liabilities	3,596	3,474

The CDPP recognised a loss on financial instruments of \$9,784 for the year ended 30 June 2020 (2019: \$5,848). There were no gains on financial instruments.

OFFICE OF THE COMMONWEALTH DIRECTOR OF PUBLIC PROSECUTIONS
NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

For the period ended 30 June 2020

Note 15: Appropriations

Table A: Annual Appropriations ('Recoverable GST exclusive')

	2020	2019
	\$'000	\$'000
Annual Appropriation - ordinary annual services	83,211	76,482
Annual Departmental Capital Budget ¹	1,858	2,118
Equity Injections	2,345	-
PGPA Act s74	12,800	10,600
Total appropriation	100,214	89,200
Appropriation applied (current and prior years) ²	98,560	91,144
Variance	1,654	(1,944)

¹ Departmental Capital Budgets are appropriated through Appropriation Acts (No.1, 3 & 5). They form part of ordinary annual services, and are not separately identified in the Appropriation Acts.

² Appropriation applied includes payments for non-financial asset purchases which have been capitalised.

Table B: Unspent Annual Appropriations ('Recoverable GST exclusive')

DEPARTMENTAL		
Cash	505	603
Appropriation Act (No.1) 2018-19	-	9,153
Appropriation Act (No.1) 2018-19 - DCB	-	1,396
Appropriation Act (No.1) 2019-20	9,531	-
Supply Act (No.1) 2019-20 - DCB	523	-
Appropriation Act (No.1) 2019-20 - DCB	1,014	-
Appropriation Act (No.2) 2019-20	1,134	-
Total	12,707	11,152

Note 16: Aggregate Assets and Liabilities

	2020	2019
	\$'000	\$'000
Note 16: Aggregate Assets and Liabilities		
Assets expected to be recovered in:		
No more than 12 months	15,783	12,918
More than 12 months	60,256	16,775
Total assets	76,039	29,693
Liabilities expected to be settled in:		
No more than 12 months	16,073	10,346
More than 12 months	51,007	21,400
Total liabilities	67,080	31,746



The background features a light gray base with several overlapping geometric shapes in a slightly darker shade of gray. On the right side, there is a prominent graphic of multiple thin, parallel lines that fan out from a point, creating a sense of depth and movement. The overall aesthetic is clean, modern, and architectural.

APPENDICES

Appendix 1: Information Publication Scheme

The CDPP is subject to the *Freedom of Information Act 1982* (FOI Act) and is required to publish information to the public as part of the Information Publication Scheme (IPS).

The requirement is in Part 11 of the FOI Act and has replaced the former requirement to publish a section 8 statement in an annual report.

The CDPP website (www.cdpp.gov.au) displays a plan showing what information is published in accordance with the IPS requirements.

Appendix 2: Advertising and market research

During 2019–20 the CDPP did not undertake any advertising or market research projects.

Appendix 3: List of requirements 2019–20

Below is the table set out in Schedule 2 of the PGPA Rule. Section 17AJ(d) requires this table be included in entities' annual reports as an aid of access.

Table 16: List of requirements 2019–20

PGPA RULE REFERENCE	PART OF REPORT	DESCRIPTION	REQUIREMENT	PAGE
17AD(g)	Letter of transmittal			
17AI		A copy of the letter of transmittal signed and dated by accountable authority on date final text approved, with statement that the report has been prepared in accordance with section 46 of the Act and any enabling legislation that specifies additional requirements in relation to the annual report.	Mandatory	I
17AD(h)	Aids to access			
17AJ(a)		Table of contents.	Mandatory	VII–XI
17AJ(b)		Alphabetical index.	Mandatory	168
17AJ(c)		Glossary of abbreviations and acronyms.	Mandatory	162–163
17AJ(d)		List of requirements.	Mandatory	137–143
17AJ(e)		Details of contact officer.	Mandatory	164
17AJ(f)		Entity's website address.	Mandatory	164
17AJ(g)		Electronic address of report.	Mandatory	164
17AD(a)	Review by accountable authority			
17AD(a)		A review by the accountable authority of the entity.	Mandatory	1–3
17AD(b)	Overview of the entity			
17AE(1)(a)(i)		A description of the role and functions of the entity.	Mandatory	6–12
17AE(1)(a)(ii)		A description of the organisational structure of the entity.	Mandatory	16
17AE(1)(a)(iii)		A description of the outcomes and programmes administered by the entity.	Mandatory	III, 10–12
17AE(1)(a)(iv)		A description of the purposes of the entity as included in corporate plan.	Mandatory	III, 70
17AE(1)(aa)(i)		Name of the accountable authority or each member of the accountable authority	Mandatory	18–21
17AE(1)(aa)(ii)		Position title of the accountable authority or each member of the accountable authority	Mandatory	18–21

PGPA RULE REFERENCE	PART OF REPORT	DESCRIPTION	REQUIREMENT	PAGE
17AE(1)(aa)(iii)		Period as the accountable authority or member of the accountable authority within the reporting period	Mandatory	18–21
17AE(1)(b)		An outline of the structure of the portfolio of the entity.	Portfolio departments - mandatory	N/A
17AE(2)		Where the outcomes and programs administered by the entity differ from any Portfolio Budget Statement, Portfolio Additional Estimates Statement or other portfolio estimates statement that was prepared for the entity for the period, include details of variation and reasons for change.	If applicable, Mandatory	N/A
17AD(c)	Report on the Performance of the entity			
	Annual performance Statements			
17AD(c)(i); 16F		Annual performance statement in accordance with paragraph 39(1)(b) of the Act and section 16F of the Rule.	Mandatory	70–71
17AD(c)(ii)	Report on Financial Performance			
17AF(1)(a)		A discussion and analysis of the entity's financial performance.	Mandatory	104–106
17AF(1)(b)		A table summarising the total resources and total payments of the entity.	Mandatory	147
17AF(2)		If there may be significant changes in the financial results during or after the previous or current reporting period, information on those changes, including: the cause of any operating loss of the entity; how the entity has responded to the loss and the actions that have been taken in relation to the loss; and any matter or circumstances that it can reasonably be anticipated will have a significant impact on the entity's future operation or financial results.	If applicable, Mandatory.	N/A
17AD(d)	Management and Accountability			
	Corporate Governance			
17AG(2)(a)		Information on compliance with section 10 (fraud systems)	Mandatory	I
17AG(2)(b)(i)		A certification by accountable authority that fraud risk assessments and fraud control plans have been prepared.	Mandatory	I

PGPA RULE REFERENCE	PART OF REPORT	DESCRIPTION	REQUIREMENT	PAGE
17AG(2)(b)(ii)		A certification by accountable authority that appropriate mechanisms for preventing, detecting incidents of, investigating or otherwise dealing with, and recording or reporting fraud that meet the specific needs of the entity are in place.	Mandatory	I
17AG(2)(b)(iii)		A certification by accountable authority that all reasonable measures have been taken to deal appropriately with fraud relating to the entity.	Mandatory	I
17AG(2)(c)		An outline of structures and processes in place for the entity to implement principles and objectives of corporate governance.	Mandatory	18–21, 90–96, 156–157
17AG(2)(d)– (e)		A statement of significant issues reported to Minister under paragraph 19(1)(e) of the Act that relates to non-compliance with Finance law and action taken to remedy non-compliance.	If applicable, Mandatory	N/A
Audit Committee				
17AG(2A)(a)		A direct electronic address of the charter determining the functions of the entity's audit committee.	Mandatory	92
17AG(2A)(b)		The name of each member of the entity's audit committee.	Mandatory	93
17AG(2A)(c)		The qualifications, knowledge, skills or experience of each member of the entity's audit committee.	Mandatory	93
17AG(2A)(d)		Information about the attendance of each member of the entity's audit committee at committee meetings.	Mandatory	93
17AG(2A)(e)		The remuneration of each member of the entity's audit committee.	Mandatory	93
External Scrutiny				
17AG(3)		Information on the most significant developments in external scrutiny and the entity's response to the scrutiny.	Mandatory	106
17AG(3)(a)		Information on judicial decisions and decisions of administrative tribunals and by the Australian Information Commissioner that may have a significant effect on the operations of the entity.	If applicable, Mandatory	N/A

PGPA RULE REFERENCE	PART OF REPORT	DESCRIPTION	REQUIREMENT	PAGE
17AG(3)(b)		Information on any reports on operations of the entity by the Auditor-General (other than report under section 43 of the Act), a Parliamentary Committee, or the Commonwealth Ombudsman.	If applicable, Mandatory	N/A
17AG(3)(c)		Information on any capability reviews on the entity that were released during the period.	If applicable, Mandatory	N/A
Management of Human Resources				
17AG(4)(a)		An assessment of the entity's effectiveness in managing and developing employees to achieve entity objectives.	Mandatory	61–64, 158–161
17AG(4)(aa)		Statistics on the entity's employees on an ongoing and non-ongoing basis, including the following: (a) statistics on full-time employees; (b) statistics on part-time employees; (c) statistics on gender (d) statistics on staff location	Mandatory	148–156
17AG(4)(b)		Statistics on the entity's APS employees on an ongoing and non-ongoing basis; including the following: • Statistics on staffing classification level; • Statistics on full-time employees; • Statistics on part-time employees; • Statistics on gender; • Statistics on staff location; • Statistics on employees who identify as Indigenous.	Mandatory	148–157
17AG(4)(c)		Information on any enterprise agreements, individual flexibility arrangements, Australian workplace agreements, common law contracts and determinations under subsection 24(1) of the <i>Public Service Act 1999</i> .	Mandatory	154, 158–159
17AG(4)(c)(i)		Information on the number of SES and non-SES employees covered by agreements etc identified in paragraph 17AG(4)(c).	Mandatory	158–159
17AG(4)(c)(ii)		The salary ranges available for APS employees by classification level.	Mandatory	154

PGPA RULE REFERENCE	PART OF REPORT	DESCRIPTION	REQUIREMENT	PAGE
17AG(4)(c)(iii)		A description of non-salary benefits provided to employees.	Mandatory	158–159
17AG(4)(d)(i)		Information on the number of employees at each classification level who received performance pay.	If applicable, Mandatory	159
17AG(4)(d)(ii)		Information on aggregate amounts of performance pay at each classification level.	If applicable, Mandatory	N/A
17AG(4)(d)(iii)		Information on the average amount of performance payment, and range of such payments, at each classification level.	If applicable, Mandatory	N/A
17AG(4)(d)(iv)		Information on aggregate amount of performance payments.	If applicable, Mandatory	N/A
Assets Management				
17AG(5)		An assessment of effectiveness of assets management where asset management is a significant part of the entity's activities	If applicable, mandatory	104
Purchasing				
17AG(6)		An assessment of entity performance against the <i>Commonwealth Procurement Rules</i> .	Mandatory	104–105
Consultants				
17AG(7)(a)		A summary statement detailing the number of new contracts engaging consultants entered into during the period; the total actual expenditure on all new consultancy contracts entered into during the period (inclusive of GST); the number of ongoing consultancy contracts that were entered into during a previous reporting period; and the total actual expenditure in the reporting year on the ongoing consultancy contracts (inclusive of GST).	Mandatory	105
17AG(7)(b)		A statement that “During [reporting period], [specified number] new consultancy contracts were entered into involving total actual expenditure of \$[specified million]. In addition, [specified number] ongoing consultancy contracts were active during the period, involving total actual expenditure of \$[specified million]”.	Mandatory	105

PGPA RULE REFERENCE	PART OF REPORT	DESCRIPTION	REQUIREMENT	PAGE
17AG(7)(c)		A summary of the policies and procedures for selecting and engaging consultants and the main categories of purposes for which consultants were selected and engaged.	Mandatory	105
17AG(7)(d)		A statement that <i>"Annual reports contain information about actual expenditure on contracts for consultancies. Information on the value of contracts and consultancies is available on the AusTender website."</i>	Mandatory	105
Australian National Audit Office Access Clauses				
17AG(8)		If an entity entered into a contract with a value of more than \$100 000 (inclusive of GST) and the contract did not provide the Auditor-General with access to the contractor's premises, the report must include the name of the contractor, purpose and value of the contract, and the reason why a clause allowing access was not included in the contract.	If applicable, Mandatory	105
Exempt contracts				
17AG(9)		If an entity entered into a contract or there is a standing offer with a value greater than \$10 000 (inclusive of GST) which has been exempted from being published in AusTender because it would disclose exempt matters under the FOI Act, the annual report must include a statement that the contract or standing offer has been exempted, and the value of the contract or standing offer, to the extent that doing so does not disclose the exempt matters.	If applicable, Mandatory	105
Small business				
17AG(10)(a)		A statement that <i>"[Name of entity] supports small business participation in the Commonwealth Government procurement market. Small and Medium Enterprises (SME) and Small Enterprise participation statistics are available on the Department of Finance's website."</i>	Mandatory	105
17AG(10)(b)		An outline of the ways in which the procurement practices of the entity support small and medium enterprises.	Mandatory	105–106

PGPA RULE REFERENCE	PART OF REPORT	DESCRIPTION	REQUIREMENT	PAGE
17AG(10)(c)		If the entity is considered by the Department administered by the Finance Minister as material in nature—a statement that “[Name of entity] recognises the importance of ensuring that small businesses are paid on time. The results of the Survey of Australian Government Payments to Small Business are available on the Treasury’s website.”	If applicable, Mandatory	105
Financial Statements				
17AD(e)		Inclusion of the annual financial statements in accordance with subsection 43(4) of the Act.	Mandatory	108–133
Executive Remuneration				
17AD(da)		Information about executive remuneration in accordance with Subdivision C of Division 3A of Part 2-3 of the Rule.	Mandatory	156
Other Mandatory Information				
17AD(f)				
17AH(1)(a)(i)		If the entity conducted advertising campaigns, a statement that “During [reporting period], the [name of entity] conducted the following advertising campaigns: [name of advertising campaigns undertaken]. Further information on those advertising campaigns is available at [address of entity’s website] and in the reports on Australian Government advertising prepared by the Department of Finance. Those reports are available on the Department of Finance’s website.”	If applicable, Mandatory	N/A
17AH(1)(a)(ii)		If the entity did not conduct advertising campaigns, a statement to that effect.	If applicable, Mandatory	136
17AH(1)(b)		A statement that “Information on grants awarded by [name of entity] during [reporting period] is available at [address of entity’s website].”	If applicable, Mandatory	N/A
17AH(1)(c)		Outline of mechanisms of disability reporting, including reference to website for further information.	Mandatory	161
17AH(1)(d)		Website reference to where the entity’s Information Publication Scheme statement pursuant to Part II of FOI Act can be found.	Mandatory	77
17AH(1)(e)		Correction of material errors in previous annual report	If applicable, mandatory	158
17AH(2)		Information required by other legislation	Mandatory	158, 160

Appendix 4: Partner Agency Survey 2020 methodology

Our aim was to survey staff of partner agencies, who have dealt with the CDPP over the last two years, about the quality of the CDPP's service.

Which agencies are partner agencies?

The agencies that investigate and refer cases to the CDPP comprise the largest cohort of partner agencies that the CDPP deals with (eg AFP, state and territory police, Services Australia, ASIC, AFSA). Intelligence agencies that closely assist referring agencies to investigative criminal activity are also partner agencies (eg ASIO) and agencies that work closely with the CDPP in relation to law reform and policy (eg Attorney-General's Department (AGD), Department of Home Affairs).

Methodology for surveying partner agencies

The following methodology was used to provide a representative sample and assure a consistent and robust approach:

1. The sample size was 562⁷ respondents of partner agencies.
2. The population was divided into two strata.

First Stratum

3. Approximately two thirds (351, or 62 per cent) of the sample respondents were informants (ie case officers from the referring agencies) randomly selected from cases that were open in caseHQ or CRIMS between 1 July 2018 and 1 May 2020.
4. These informants were from referring agencies listed in the 2018–19 CDPP Annual Report as well as additional agencies (identified through caseHQ) that had referred briefs during 2019–20.
5. The population of informants in the randomised sample (the 351 from CRIMS and caseHQ) was stratified by referring agency. The total number of survey respondents per agency was determined through the proportion of files that were open during the 1 July 2018–1 May 2020 period. For example, if an agency contributed 10 per cent of the referrals then they would constitute 35 of the total respondents (10 per cent of 351).
6. Upon determining the number of informants per referring agency the random selection of informants was weighted by number of referrals. That is, informants that had made more referrals and subsequently would have had more interactions with the CDPP, would be more likely to be selected.

⁷ More than 600 potential participants who had dealt with the CDPP were selected to participate with approximately one third identified by our legal staff and two thirds randomly selected from our legal case management system. An independent specialist company was engaged to undertake the survey and 562 participants were successfully delivered the survey.

Second Stratum

7. Approximately one third (211, or 38 per cent) of the sample respondents were selected from a data set comprising names provided by CDPP prosecutors. This group was provided the same survey questionnaire as the randomised group of 351 respondents. The respondents who were identified by the CDPP prosecutors were staff from partner agencies who were:
- involved in liaison, policy, law reform, training or similar activities
 - a lawyer
 - a team leader or senior manager
 - a member of an intelligence agency, or
 - an investigator in a case, who was not the informant, but who was someone who was a key member of the investigative team and who had significant dealings with CDPP prosecutors, between 1 July 2018 to 1 May 2020.

It should be noted that the CDPP does not hold a data set of these sorts of people on its business management systems. The only method of accurately surveying these people, is to ask CDPP staff who they have been dealing with. The reason for also including an investigator (who is not an informant on a particular case) within this group is to ensure that the survey is representative, and includes investigators who have significant, as well as current experience of working with the CDPP. This is particularly relevant in larger, more complex cases, where teams of investigators work on cases, but where there may only be one informant listed on the CDPP's computer system for each case.

8. There were a number of agencies identified at step seven that are partner agencies, but not referring agencies, such as AGD and ASIO. Every new partner agency identified was added to the master referring agency list, to form an overall master list of 71 partner agencies.
9. Attempts were made to send at least one survey to each of the 71 partner agencies on the master partner agency list. Ultimately, we were successful in sending at least one survey to 67 partner agencies on the master partner agency list.

Appendix 5: Ecologically sustainable development and environmental performance

The CDPP is committed to the ongoing efficient and effective management of resources. We have initiatives in place that contribute to a more sustainable environment.

Our range of energy saving methods include:

- using technology to minimise energy use, including automatic power-down devices on electrical equipment
- transition to shared data centre locations where possible to reduce our air conditioning requirements
- use of energy efficient lighting control systems throughout CDPP offices to reduce energy usage
- ensuring all our computer equipment is energy-star enabled
- recycling of printer toner cartridges
- transitioning the corporate fleet to small hybrid vehicles
- reducing the need to travel by providing staff with access to video and teleconferencing facilities in our offices, and
- incorporating an energy efficient design in our office fit-out projects with the aim of reducing overall energy usage.

Table 17: CDPP environmental performance 2019–20

ITEM	PERFORMANCE
Office tenant light and power	
Electricity (kWh)	589,517
Green power (kWh)	15,927
Total (GJ)	2,180
Total electricity consumed per employee (MJ)	5,116
Passenger vehicles	
Petrol	5,565 litres
Total	190 gigajoules
Distance	92,394 kilometres
Megajoules/100 kilometres	2.06 /100km
Total CDPP consumption	2,370 gigajoules

Appendix 6: Entity resource statement and expenses by outcome

Entity resources

Table 18: Entity resources statement 2019–20

ITEM	ACTUAL AVAILABLE APPROPRIATION FOR 2019–20	PAYMENTS MADE 2019–20	BALANCE REMAINING 2019–20
	\$'000 (A)	\$'000 (B)	\$'000 (A)-(B)
Departmental			
Annual appropriations – ordinary annual services ¹			
Prior year departmental appropriation	11,152	11,152	-
Departmental appropriation ²	85,069	73,496	11,573
Section 74 relevant agency receipts ³	12,800	12,800	-
Annual appropriations – other services – non-operating			
Equity injection ⁴	2,345	1,211	1,134
Total net resourcing for entity	111,366	98,659	12,707

Notes:

1 Appropriation Act (No. 1) 2019–20

2 Includes an amount of \$1.858m in 2019–20 for the departmental capital budget. For accounting purposes, this amount has been designated as 'contributions by owners'.

3 Retained revenue receipts under section 74 of the PGPA Act.

4 Appropriation Act (No. 2) 2019-20

Expenses by outcome

Table 19: Expenses and resources for Outcome 1 2019–20

OUTCOME 1: CONTRIBUTE TO A FAIR, SAFE AND JUST SOCIETY BY DELIVERING AN EFFECTIVE, INDEPENDENT PROSECUTION SERVICE IN ACCORDANCE WITH THE PROSECUTION POLICY OF THE COMMONWEALTH	BUDGET ¹ 2019–20 \$'000 (A)	ACTUAL EXPENSES 2019–20 \$'000 (B)	VARIATION 2019–20 \$'000 (A)-(B)
Program 1.1: An independent service to prosecute alleged offences against the criminal law of the Commonwealth			
Departmental expenses			
Departmental Appropriation ²	94,511	94,836	(325)
Expenses not requiring appropriation ³	3,767	4,186	(419)
Total expenses for Outcome ¹	98,278	99,022	(744)
	Budget	Actual	
Average staffing level (number)	383	398	

Notes:

1 Full-year budget, including any subsequent adjustment made to the 2019-20 budget at Additional Estimates.

2 Departmental appropriation combines ordinary annual services (Appropriation Act No. 1) and Retained Revenue Receipts under section 74 of the PGPA Act.

3 Expenses not requiring appropriation in the budget year are made up of services received free of charge, depreciation and amortisation expenses.

Appendix 7: 2019–20 Salary ranges and remuneration

2019–20 CDDPP Workforce

PGPA Rule Section 17AG (4)(b)(i) –(iv) Australian Public Sector (APS) Classification and Gender

Table 20: Australian Public Service Act Ongoing Employees Current Report Period in 2019–20

	MALE			FEMALE			INDETERMINATE			TOTAL
	FULL-TIME	PART-TIME	TOTAL	FULL-TIME	PART-TIME	TOTAL	FULL-TIME	PART-TIME	INDETERMINATE	
SES 3	-	-	-	1	-	1	-	-	-	1
SES 2	5	-	5	1	-	1	-	-	-	6
SES 1	7	-	7	8	-	8	-	-	-	15
Principal Federal Prosecutor	12	-	12	22	7	29	-	-	-	41
Senior Federal Prosecutor	27	-	27	49	19	68	-	-	-	95
Federal Prosecutor 2	24	-	24	56	9	65	-	-	-	89
Federal Prosecutor 1	22	-	22	30	1	31	-	-	-	53
EL 2	6	-	6	5	-	5	-	-	-	11
EL 1	3	-	3	9	-	9	-	-	-	12
APS 6	8	-	8	9	1	10	-	-	-	18
APS 5	4	-	4	5	3	8	-	-	-	12
APS 4	5	-	5	23	3	26	-	-	-	31
APS 3	5	-	5	11	2	13	-	-	-	18
APS 2	1	-	1	-	-	-	-	-	-	1
APS 1	3	-	3	-	-	-	-	-	-	3
Other	-	-	-	-	-	-	-	-	-	-
Total	132	-	132	229	45	274	-	-	-	406

- This table includes inoperative employees
- Employees are reported at their substantive classification
- Principal Federal Prosecutor is equivalent to an EL2
- Senior Federal Prosecutor is equivalent to an EL1
- Federal Prosecutor 2 is equivalent to an APS 6
- Federal Prosecutor 1 is equivalent to an APS 4

Table 21: Australian Public Service Act Non-Ongoing Employees Current Report Period in 2019–20

	MALE			FEMALE			INDETERMINATE			TOTAL
	FULL-TIME	PART-TIME	TOTAL MALE	FULL-TIME	PART-TIME	TOTAL FEMALE	FULL-TIME	PART-TIME	TOTAL INDETERMINATE	
SES 3	-	-	-	-	-	-	-	-	-	-
SES 2	-	-	-	-	-	-	-	-	-	-
SES 1	-	-	-	-	-	-	-	-	-	-
Principal Federal Prosecutor	-	-	-	-	-	-	-	-	-	-
Senior Federal Prosecutor	-	-	-	-	-	-	-	-	-	-
Federal Prosecutor 2	-	-	-	-	-	-	-	-	-	-
Federal Prosecutor 1	-	-	-	2	-	2	-	-	-	2
EL 2	-	-	-	-	-	-	-	-	-	-
EL 1	3	-	3	1	-	1	-	-	-	4
APS 6	1	-	1	6	-	6	-	-	-	7
APS 5	-	-	-	2	-	2	-	-	-	2
APS 4	-	-	-	5	-	5	-	-	-	5
APS 3	-	-	-	1	-	1	-	-	-	1
APS 2	-	-	-	-	-	-	-	-	-	-
APS 1	-	-	-	-	-	-	-	-	-	-
Other	-	-	-	1	-	1	-	-	-	1
TOTAL	4	-	4	18	-	18	-	-	-	22

- Employees are reported at their substantive classification
- Other includes Statutory Office holders
- Principal Federal Prosecutor is equivalent to an EL2
- Senior Federal Prosecutor is equivalent to an EL1
- Federal Prosecutor 2 is equivalent to an APS 6
- Federal Prosecutor 1 is equivalent to an APS 4

Table 22: Australian Public Service Act Ongoing Employees Previous Report Period in 2018–19

	MALE			FEMALE			INDETERMINATE			TOTAL
	FULL-TIME	PART-TIME	TOTAL MALE	FULL-TIME	PART-TIME	TOTAL FEMALE	FULL-TIME	PART-TIME	TOTAL INDETERMINATE	
SES 3	-	-	-	1	-	1	-	-	-	1
SES 2	5	-	5	-	-	-	-	-	-	5
SES 1	5	-	5	6	-	6	-	-	-	11
Principal Federal Prosecutor	11	-	11	18	7	25	-	-	-	36
Senior Federal Prosecutor	27	2	29	50	23	73	-	-	-	102
Federal Prosecutor 2	27	1	28	60	5	65	-	-	-	93
Federal Prosecutor 1	15	-	15	29	-	29	-	-	-	44
EL 2	6	-	6	6	-	6	-	-	-	12
EL 1	4	-	4	8	-	8	-	-	-	12
APS 6	3	1	4	10	-	10	-	-	-	14
APS 5	4	-	4	6	1	7	-	-	-	11
APS 4	5	-	5	15	5	20	-	-	-	25
APS 3	6	-	6	10	1	11	-	-	-	17
APS 2	2	-	2	-	-	-	-	-	-	2
APS 1	3	-	3	-	-	-	-	-	-	3
Other	-	-	-	-	-	-	-	-	-	-
Total	123	4	127	219	42	261	-	-	-	388

- This table includes inoperative employees
- Employees are reported at their substantive classification
- Principal Federal Prosecutor is equivalent to an EL2
- Senior Federal Prosecutor is equivalent to an EL1
- Federal Prosecutor 2 is equivalent to an APS 6
- Federal Prosecutor 1 is equivalent to an APS 4

Table 23: Australian Public Service Act Non-Ongoing Employees Previous Report Period in 2018–19

	MALE			FEMALE			INDETERMINATE			TOTAL
	FULL-TIME	PART-TIME	TOTAL MALE	FULL-TIME	PART-TIME	TOTAL FEMALE	FULL-TIME	PART-TIME	TOTAL INDETERMINATE	
SES 3	-	-	-	-	-	-	-	-	-	-
SES 2	1	-	1	-	-	-	-	-	-	1
SES 1	-	-	-	-	-	-	-	-	-	-
Principal Federal Prosecutor	-	-	-	-	-	-	-	-	-	-
Senior Federal Prosecutor	-	-	-	-	-	-	-	-	-	-
Federal Prosecutor 2	-	-	-	1	-	1	-	-	-	1
Federal Prosecutor 1	-	-	-	-	-	-	-	-	-	-
EL 2	-	-	-	1	-	1	-	-	-	1
EL 1	1	-	1	-	1	1	-	-	-	2
APS 6	-	-	-	2	1	3	-	-	-	3
APS 5	-	-	-	-	-	-	-	-	-	-
APS 4	-	-	-	6	-	6	-	-	-	6
APS 3	-	-	-	-	-	-	-	-	-	-
APS 2	-	-	-	-	-	-	-	-	-	-
APS 1	-	-	-	-	-	-	-	-	-	-
Other	-	-	-	1	-	1	-	-	-	1
TOTAL	2	-	2	11	2	13	-	-	-	15

- Employees are reported at their substantive classification
- Other includes Statutory Office holders
- Principal Federal Prosecutor is equivalent to an EL2
- Senior Federal Prosecutor is equivalent to an EL1
- Federal Prosecutor 2 is equivalent to an APS 6
- Federal Prosecutor 1 is equivalent to an APS 4

Table 24: Australian Public Service Act Employees by Full-Time and Part-Time Status Current Report Period In 2019–20

	ONGOING			NON-ONGOING			TOTAL
	FULL-TIME	PART-TIME	TOTAL ONGOING	FULL-TIME	PART-TIME	TOTAL NON-ONGOING	
SES 3	1	-	1	-	-	-	1
SES 2	6	-	6	-	-	-	6
SES 1	15	-	15	-	-	-	15
Principal Federal Prosecutor	34	7	41	-	-	-	41
Senior Federal Prosecutor	76	19	95	-	-	-	95
Federal Prosecutor 2	80	9	89	-	-	-	89
Federal Prosecutor 1	52	1	53	2	-	2	55
EL 2	11	-	11	-	-	-	11
EL 1	12	-	12	4	-	4	16
APS 6	17	1	18	7	-	7	25
APS 5	9	3	12	2	-	2	14
APS 4	28	3	31	5	-	5	36
APS 3	16	2	18	1	-	1	19
APS 2	1	-	1	-	-	-	1
APS 1	3	-	3	-	-	-	3
Other	-	-	-	1	-	1	1
Total	361	45	406	22	-	22	428

- This table includes inoperative employees
- Employees are reported at their substantive classification
- Other includes Statutory Office holders
- Principal Federal Prosecutor is equivalent to an EL2
- Senior Federal Prosecutor is equivalent to an EL1
- Federal Prosecutor 2 is equivalent to an APS 6
- Federal Prosecutor 1 is equivalent to an APS 4

Table 25: Australian Public Service Act Employees by Full-Time and Part-Time Status Previous Report Period in 2018 – 19

	ONGOING			NON-ONGOING			TOTAL
	FULL-TIME	PART-TIME	TOTAL ONGOING	FULL-TIME	PART-TIME	TOTAL NON-ONGOING	
SES 3	1		1				1
SES 2	5		5	1		1	6
SES 1	11		11				11
Principal Federal Prosecutor	29	7	36				36
Senior Federal Prosecutor	77	25	102				102
Federal Prosecutor 2	87	6	93	1		1	94
Federal Prosecutor 1	44		44				44
EL 2	12		12	1		1	13
EL 1	12		12	1	1	2	14
APS 6	13	1	14	2	1	3	17
APS 5	10	1	11				11
APS 4	20	5	25	6		6	31
APS 3	16	1	17				17
APS 2	2		2				2
APS 1	3		3				3
Other				1		1	1
Total	342	46	388	13	2	15	403

- This table includes inoperative employees
- Employees are reported at their substantive classification
- Other includes Statutory Office holders
- Principal Federal Prosecutor is equivalent to an EL2
- Senior Federal Prosecutor is equivalent to an EL1
- Federal Prosecutor 2 is equivalent to an APS 6
- Federal Prosecutor 1 is equivalent to an APS 4

Table 26: Australian Public Service Act Employment Salary Ranges by Classification Level (Minimum/Maximum) Current Report Period in 2019–20

	MINIMUM	MAXIMUM
SES 3	\$294,307	\$320,021
SES 2	\$229,726	\$254,622
SES 1	\$194,240	\$233,555
Principal Federal Prosecutor	\$129,798	\$138,068
Senior Federal Prosecutor	\$98,730	\$120,138
Federal Prosecutor 2	\$71,382	\$87,555
Federal Prosecutor 1	\$63,662	\$70,427
EL 2	\$118,961	\$162,300
EL 1	\$98,730	\$129,815
APS 6	\$77,950	\$94,149
APS 5	\$70,919	\$77,459
APS 4	\$63,662	\$70,427
APS 3	\$57,198	\$62,896
APS 2	\$51,673	\$56,814
APS 1	\$26,845	\$50,127
Minimum/Maximum Range	\$26,845	\$320,021

- Principal Federal Prosecutor is equivalent to an EL2
- Senior Federal Prosecutor is equivalent to an EL1
- Federal Prosecutor 2 is equivalent to an APS 6

- Federal Prosecutor 1 is equivalent to an APS 4
- The salary ranges by classification level are available under an enterprise or collective agreement, maintained salaries from agency movements, individual flexibility agreements, subsection 24(1) determinations and/or common law contracts

PGPA Rule Section 17AG (4)(b)(vi) Indigenous Employment

Table 27: Australian Public Service Act Indigenous Employment Current Report Period (2019–20)

	TOTAL
Ongoing	5
Non-ongoing	0
Total	5

PGPA Rule Section 17AG (4)(b)(vi) Indigenous Employment

Table 28: Australian Public Service Act Indigenous Employment Previous Report Period (2018–19)

	TOTAL
Ongoing	4
Non-ongoing	0
Total	4

2019–20 Executive remuneration disclosure

Table 29: Information about remuneration for key management personnel¹

NAME	POSITION TITLE	SHORT-TERM BENEFITS			POST-EMPLOYMENT BENEFITS	OTHER LONG-TERM BENEFITS			TERMINATION BENEFITS	TOTAL REMUNERATION
		BASE SALARY	BONUSES	BENEFITS AND ALLOWANCES ³		LONG SERVICE LEAVE	LONG-TERM BENEFITS	OTHER		
MCNAUGHTON, Sarah	Director ²	\$478,103	\$0	\$2,515	\$72,653	\$11,873	\$0	\$0	\$565,143	
PAVLEKA, Andrea	Commonwealth Solicitor for Public Prosecutions	\$334,146	\$0	\$2,643	\$54,214	\$7,891	\$0	\$0	\$398,895	
ADSETT, David	Deputy Director ⁴	\$203,934	\$0	\$1,872	\$47,869	\$6,278	\$0	\$0	\$259,954	
BRUCKARD, Scott	Deputy Director	\$250,758	\$0	\$2,958	\$46,341	\$6,278	\$0	\$0	\$306,336	
CARTER, James	Deputy Director	\$265,173	\$0	\$1,541	\$46,341	\$6,278	\$0	\$0	\$319,334	
DE CRESPIGNY, Mark	Deputy Director	\$235,395	\$0	\$32,465	\$45,449	\$5,961	\$0	\$0	\$319,269	
TCHAKERIAN, Berndj	Deputy Director	\$243,398	\$0	\$2,893	\$43,536	\$5,961	\$0	\$0	\$295,788	
OBEROI, Sabeena	Chief Corporate Officer ⁴	\$157,517	\$0	\$744	\$26,320	\$3,767	\$0	\$0	\$188,347	
ASH, Simon	Chief Corporate Officer ¹	\$109,569	\$0	\$1,178	\$15,082	\$2,494	\$0	\$11,714	\$140,037	
BURGGRAAFF, Steven	Chief Financial Officer	\$208,652	\$0	\$1,106	\$42,419	\$5,086	\$0	\$0	\$257,262	

Notes:

- This table is prepared on an accrual accounting basis. Benefits expensed in previous financial years (such as leave taken) are excluded from 2019–20 remuneration.
- The Director's remuneration is set by the Remuneration Tribunal. The 2019–20 determined amount of \$554,220:
 - Excludes annual and long service leave accruals.
 - Includes a notional superannuation component of \$59,745 (15.4% of 387,954 superannuation salary). Actual superannuation contributions, including employer productivity components total \$72,653.
- Other Benefits include:
 - Health and wellbeing reimbursements
 - Car parking
 - Relocation assistance
- Remuneration reported includes a part-year period of service.

Table 30: Information about remuneration for senior executives¹

TOTAL REMUNERATION BANDS ²	NUMBER OF SENIOR EXECUTIVES	SHORT-TERM BENEFITS			POST-EMPLOYMENT BENEFITS			OTHER LONG-TERM BENEFITS			TERMINATION BENEFITS	TOTAL REMUNERATION
		AVERAGE BASE SALARY	AVERAGE BONUSES	AVERAGE OTHER BENEFITS AND ALLOWANCES ³	SUPERANNUATION CONTRIBUTIONS	AVERAGE LONG SERVICE LEAVE	AVERAGE OTHER LONG-TERM BENEFITS	AVERAGE TERMINATION BENEFITS	AVERAGE TOTAL REMUNERATION			
\$0 to \$225,000	5	\$142,400	\$0	\$1,500	\$24,684	\$3,165	\$0	\$0	\$0	\$171,748		
\$225,000 to \$250,000	2	\$194,740	\$0	\$896	\$38,020	\$4,097	\$0	\$0	\$0	\$237,752		
\$250,000 to \$275,000	11	\$217,297	\$0	\$3,927	\$39,013	\$5,391	\$0	\$0	\$0	\$265,627		
\$275,000 to \$300,000	1	\$231,647	\$0	\$250	\$41,088	\$5,389	\$0	\$0	\$0	\$278,374		

Notes:

- 1 This table is prepared on an accrual accounting basis. Benefits expensed in previous financial years (such as leave taken) are excluded from 2019-20 remuneration.
- 2 Remuneration reported includes part-year periods of service, including acting arrangements of greater than three months.
- 3 Other Benefits include:
 - a) Health and wellbeing reimbursements
 - b) Car parking
 - c) Relocation assistance

Information about remuneration for other highly paid staff

No other staff received remuneration greater than \$225,000 during the 2019-20 financial year.

Appendix 8: Corrections to the 2018–19 Annual Report

The CDPP has identified one error in the Director’s Foreword, on page four of the 2018–19 Annual Report. It should have read:

In response to the *Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry*, the Australian Government provided an additional \$41.6 million in funding to the CDPP over eight years.

Appendix 9: Our people

Workforce remuneration

Salary ranges applying to CDPP employment classifications are provided in the tables at Appendix 7.

Non-salary benefits

The CDPP offers staff a number of non-salary benefits including:

- flexible working arrangements
- salary packaging
- onsite and on-line Continuing Legal Education sessions
- studies assistance to eligible employees
- reimbursement of practising certificate and other professional membership fees where appropriate
- annual influenza vaccinations
- access to a health and wellbeing portal and a confidential 24-hour Employee Assistance Program (EAP) for employees and their immediate families
- regular wellbeing checks with qualified psychologists, and
- recognition of employees through service awards and annual law week awards.

Enterprise Agreement and common law contracts

Following extensive consultation with employees across the agency, the CDPP’s Director made a section 24(1) determination under the *Public Service Act 1999* to provide for pay increases following the expiry of CDPP’s enterprise agreement in August 2020. This determination applies to non-Senior Executive Service (SES) employees and was made as an alternative to bargaining for a new enterprise agreement. While all other terms and conditions of non-SES staff continue to be covered by the *CDPP Enterprise Agreement 2017–2020*, the determination provided for two per cent annual salary increases over the next three years.

The first of these pay increases has been deferred for six months in accordance with the determination made by the Assistant Minister to the Prime Minister and Cabinet under section 24(3) of the *Public Service Act 1999*, in response to the impact of the COVID-19 pandemic.

The terms and conditions of employment for substantive and longer term acting SES staff are provided for under individual common law contracts. As at 30 June 2020, there were 26⁸ of these contracts in place. SES remuneration increases have been deferred for an indeterminate period, in line with directions from the Government, due to the impact of COVID-19.

Performance pay

The CDPP does not provide for performance pay.

Section 24(1) determinations

In 2019–20, there were 12 determinations pursuant to section 24(1) of the *Public Service Act 1999*.

Workplace wellbeing

The CDPP's Wellbeing Program is an integral part of our Work Health and Safety arrangements, establishing a framework to strengthen wellbeing policy and practice across the CDPP and prevent psychological injuries.

The Wellbeing Program encourages our people to adopt healthy lifestyles through education, awareness and activities and focusses on creating a healthy, supportive workplace environment through culture, policies and facilities.

The Wellbeing Program includes six monthly wellbeing checks for all legal and legal support employees, and our legal support labour hire workforce. All other employees have the option of having a wellbeing check if they wish and any employee can request an additional wellbeing check at any time.

Wellbeing checks are provided by experienced psychologists and focus on promoting good mental health and providing advice on early intervention strategies, including referral pathways, where stress or other factors are impacting on health, or where there is a potential risk of psychological injury, including vicarious trauma, or cumulative stress. During 2019–20, a total of 659 wellbeing checks were conducted across the CDPP, with checks being conducted over the phone during the pandemic.

Wellbeing awareness sessions were also held, particularly during the COVID-19 pandemic when many staff were working remotely. The sessions focused on: wellness in isolation, practical suggestions to adjusting to new ways of working, supporting family during a pandemic, practising mindfulness, vicarious trauma and resilience and wellbeing. These were delivered on-line.

The CDPP also offers a confidential EAP service at no cost to employees and their immediate families, as well as a manager assistance hotline. For the 2019–20 financial year, the EAP provided 186 hours of support to CDPP employees and their families.

8 This includes 22 substantive SES staff and four non-SES staff on long term acting arrangements.

Our annual Flu Vaccination Program was undertaken in April/May 2020, offering influenza vaccinations to all employees and our labour hire workforce. A total of 243 staff received vaccinations on site and a further 25 received reimbursement for the cost of their vaccine, where they opted to vaccinate offsite.

The CDPP recognises that staff who are fit and healthy will be more productive in the workplace. The CDPP's enterprise agreement provides for reimbursement of up to \$250 a year for approved health and wellbeing activities or equipment. During the pandemic, the CDPP has approved its employees using this provision for the purchase of ergonomic equipment to facilitate safer and healthier work practices, when working from home. Three hundred and thirty three (333) employees received a reimbursement during the reporting period.

Work health and safety

The CDPP's WHS Management System (WHSMS) helps maintain a safe workplace by ensuring staff are not at risk from work, environment, or the actions and omissions of others. This in turn, contributes to a more positive culture and increased retention rates and productivity levels.

Managers and employees at the CDPP are equipped to adequately manage work health and safety in their immediate workplace, consistent with the requirements under the *Work Health and Safety Act 2011* (WHS Act).

Incident reporting

All hazards, incidents and injuries are reported in accordance with the CDPP reporting procedure. Of the 13 hazards, incidents and injuries reported in 2019–20, none resulted in notifiable incidents required to be reported to Comcare. No enforcement measures or improvement notices were issued to the CDPP.

Workers' compensation

In 2019–20, there were no workers' compensation claims accepted by Comcare.

Workplace diversity and inclusion

The CDPP recognises that diversity takes many forms, including cultural background, carer responsibilities, gender, sexual orientation, education, and professional and life experience. The CDPP's progression of its diversity and inclusion agenda was strongly influenced by the CDPP Diversity Network and supported by its *Diversity and Inclusion Strategy 2018-2020* and the *Multicultural Access and Equity Action Plan 2018-2020*.

Key achievements for 2019–20 include:

- Nationally coordinated events celebrating days of significance including International Day of People with Disability, Wear it Purple Day, National Reconciliation Week, International Women’s Day and RUOK? Day.
- Development and implementation of a *Reasonable Adjustments Policy* to ensure an accessible and inclusive work environment that enables employees with disability, injury or illness to fully participate in the workplace to the best of their ability.
- Acknowledgement of Country prominently displayed in all offices and on banners on our internal and external websites and the CDPP’s Partner Agency and Victims and Witnesses Portals.

Reconciliation Action Plan

The CDPP *Reconciliation Action Plan 2018–19* provided the foundations to build a culturally supportive, knowledgeable and responsive workforce; committed to building positive relationships and employment opportunities for Aboriginal and Torres Strait Islander People. A review of the *Reconciliation Action Plan* will seek new actions enabling the organisation to strengthen support and relationships with Aboriginal and Torres Strait Islander People.

Agency Multicultural Access and Equity Action Plan

The CDPP *Multicultural Access and Equity Action Plan 2018–20* identifies actions to enhance services, interactions and responsiveness to culturally and linguistically diverse employees, colleagues, witnesses and victims.

Status of women

At 30 June 2020, 68 per cent of CDPP staff (ongoing and non-ongoing) were female. Within the legal practice, female representation was 69 per cent. At the SES level, female representation was 39 per cent.

National Disability Strategy

The *National Disability Strategy 2010–20* is Australia’s overarching framework for disability reform. It acts to ensure the principles underpinning the United Nations *Convention on the Rights of Persons with Disabilities* are incorporated into Australia’s policies and programs that affect people with disability, their families and carers.

All levels of government will continue to be held accountable for the implementation of the strategy through biennial progress reporting to the Council of Australian Governments. Progress reports can be found at www.dss.gov.au.

Disability reporting is included in the Australian Public Service Commission’s State of the Service reports and the *APS Statistical Bulletin*. These reports are available at www.apsc.gov.au.

Appendix 10: Acronyms and abbreviations

Table 31: List of Acronyms and Abbreviations

ACRONYM	ABBREVIATION
APS	Australian Public Service
ASL	Average staffing level
CDPP	Commonwealth Director of Public Prosecutions
DPP	Director of Public Prosecutions
FOI	Freedom of Information
FTE	Full-time equivalent
GST	Goods and Services Tax
OECD	Organisation for Economic Co-operation and Development
PGPA Act	<i>Public Governance, Performance and Accountability Act 2013</i>
PILON	Pacific Islands Law Officers Network
POC	Proceeds of Crime
POCA	<i>Proceeds of Crime Act 2002</i>
PSM	Public Service Medal
RMS	Rehabilitation Management System
SES	Senior Executive Service
SME	Small and medium enterprises
WHS	Work, health and safety
WHSMS	Work, health and safety management system

Appendix 11: Glossary

Acquit/acquittal/acquitted

When the Magistrate, jury or appeal court find that a person is not guilty of the crime.

Brief or brief of evidence

This is a collection of statements from witnesses (both police and ordinary witnesses), documents, expert reports, medical reports, photographs, bail papers, charge sheets etc. given to the CDPP by the police or investigating agency after they have finished their investigation. We use the material contained in the brief of evidence to decide whether a prosecution should take place and, if so, to prosecute the accused.

Commonwealth federal offence

A criminal offence against a Commonwealth federal law (as opposed to a state or territory law).

Conviction

When a person accused of committing a criminal offence is found guilty of that offence and is convicted, a record of their conviction is recorded on their criminal history.

The Crown

In higher courts the prosecution may be referred to as 'the Crown', the person representing the Queen, who is head of Australia's system of government.

Evidence

Information provided to the court that is used to prove or disprove a fact in issue in court proceedings.

Guilty

To be legally responsible for a criminal offence. When a defendant enters a plea of guilty, they accept responsibility for the offence. When a defendant pleads not guilty, a jury will determine their guilt if the matter proceeds as a trial in a higher court. Where a defendant pleads not guilty in the magistrates or local court, the magistrate determines the guilt of the defendant.

Indictable offence

A serious criminal offence that is usually heard in a higher court before a judge and jury. Less serious indictable offences and summary offences, are usually heard in a local court.

Matter

A prosecution or a proceeding in a court (a 'case') may be referred to as a 'matter'.

No bill/no further proceedings

We may decide that a case will not proceed further, for example, due to insufficient evidence. This may be called entering a 'no Bill' or deciding there will be no further proceedings. A prosecution is discontinued when the court is informed of this.

Offender

A person who is found to have done something against the law. Until this happens, a person charged with an offence will be known as the alleged offender, defendant or accused.

Prosecutor/prosecution

The CDPP lawyer or lawyers conducting a criminal case before the court. Also referred to as Federal Prosecutors.

Prosecution counsel

A CDPP lawyer or private barrister who presents the prosecution case in court on behalf of the CDPP.

Sentencing

A range of penalties can be given during sentencing of an offender including imprisonment, community service orders, good behaviour bonds and fines. The *Crimes Act 1914* requires the court to consider a number of factors in deciding on the sentence for a federal offence, and also requires that the sentence be of a severity appropriate in all the circumstances of the offence.

Victim

A person who has suffered harm as the direct result of an offence or offences.

Witness

Any person who has to come to court and answer questions in front of a Magistrate or judge and jury.

Appendix 12: Publication details

For enquiries regarding the content in this report, please contact:

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The CDPP provides independent prosecution services that contribute to a fair, safe and just Australia where Commonwealth laws are respected, offenders are brought to justice and potential offenders are deterred.

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