



DIRECTOR OF PUBLIC PROSECUTIONS, TASMANIA

ANNUAL REPORT 2005-2006

This Report is prepared for submission to the Attorney-General in accordance with the requirements of Section 15 of the *Director of Public Prosecutions Act 1973*, to report on the performance of my functions during the 12 months ending on 30 June in each year.

During the year staff in my Office have undertaken the prosecution of all criminal trials, pleas of guilty, breaches of suspended sentences or conditional discharges and bail applications in the Supreme Court, the conduct of lower court appeals and appeals in the Court of Criminal Appeal, and all civil litigation on behalf of the State of Tasmania. The Office has also provided representation and advice to Agencies and Departments involved in prosecutions and proceedings in Courts of Petty Sessions and Tribunals and representation, where appropriate, for officers of Courts and Tribunals and other decision-makers whose decisions or actions become the subject of applications for review.

A high level of activity and efficiency was maintained by staff in my Office, resulting in the maintenance of the finalisation of similar numbers of criminal matters as last year. As slightly fewer defendants were committed to the Supreme Court than in the previous year there has occurred a small reduction in the number of defendants pending as at the same time last year. The differences however are too small to be considered a trend of any kind. Rather, it is more likely that the last few years represent an equilibrium of sorts – that by consistently high application and diligence of every member of this Office the efficient utilisation of judicial time available for criminal matters will allow for the determination of about the same number of matters each year.

It should not be thought that my Office has an unhealthy focus on numbers of finalisations. Of far greater importance is the maintenance of high standards of preparation, advocacy and legal skills necessary to prosecute fairly and effectively, in order that cases be finalised in accordance with justice.

There are several interesting developments, some of which were started in or precede the period under report, which deserve mention. With the Attorney-General's support and the Deputy Commissioner of Police's agreement, there will soon be a rationalisation of summary prosecutions, which will recognise that

the continuous presence of Police prosecutors in Magistrates' Courts makes them the more appropriate prosecutors of various offences on behalf of various Agencies, which prosecutions we have hitherto been doing. This Office will continue to do the frequently complex workplace and environmental prosecutions, electoral prosecutions and, of course, prosecutions where Police may have some conflict. Additionally, we will take on an overseeing role in relation to traffic matters where death has resulted.

The Chief Justice has convened and chaired a committee of interested persons, including me, which has made recommendations to improve the quality of committal proceedings and streamline the passage of indictable matters through the Court of Petty Sessions. The proposals involve some administrative and some legislative changes and the Attorney-General has indicated he will support the latter. It is expected that this Office will become involved far earlier in the committal process than presently, and it may also result in us conducting more committal hearings than at present (many are done by Police prosecutors). Whether we can accommodate these changes on present staffing remains to be seen, although the Secretary has indicated some extra clerical administrative assistance will be made available. A trial in the Southern region of our earlier involvement by reviewing files prior to committal has shown positive results in terms of charge selection, discharge and identification of areas for further investigation and has been extended to the Northern region. The proposed administrative and legislative change in this area is likely to significantly enhance those positive outcomes.

A further, recent, development is the appointment by the Commissioner of Police of a senior police officer to a DPP liaison role, which appointment is expected to enhance the quality of file presentation, communication and organisation of materials and witnesses.

Last year I drew attention to the high number of appeals to the Supreme Court of the refusal of bail by Magistrates. Then there were 204 such applications dealt with. In the year reported on there were 182, of which 82 were granted, 88 refused and 12 withdrawn. This only represents a small change from the previous year and the proportion of applications granted continues to suggest that far too often Magistrates are refusing bail when Judges would have granted it.

One hundred and forty nine summary prosecutions were lodged, one hundred and sixty five finalised. Forty four lower court appeals were lodged and the same number finalised. It is appropriate that I here recognise the great contribution Mr Frank Neasey made to the State in the 19 years he was employed in this Office, particularly in the area of summary prosecutions and lower court appeals where for many years he was the senior counsel in charge. In the year of report Mr Neasey took up a senior position in the Solicitor-General's Office, so fortunately the great expertise he developed in these areas is still available to us by way of opinion.

CRIMINAL CASES IN THE SUPREME COURT

During this year a total of 537 persons were presented for trial, plea or discharge in the Supreme Court (*see Table 1*). 506 persons were committed for trial, compared with 533 the previous year.

TABLE 1

Year	Persons Presented	Persons Convicted	Persons Acquitted	Persons Discharged
1996-97	309	240	20	39
1997-98	335	262	24	49
1998-99	505	401	23(1) ¹	80
1999-00	711	562	45 ²	103
2000-01	445	333	68 ³	79 ⁴
2001-02	462	319	32	111
2002-03	616	446	38	132
2003-04	567	390	43	134
2004-05	533	375	43 ⁵	115
2005-06	537	389 ⁶	47 ⁷	101 ⁸

¹ 1 person found unfit to plead

² 1 person found not guilty by reason of insanity & 1 person whose jury failed to reach a verdict

³ 1 person found not guilty by reason of insanity & 3 persons to be retried

⁴ 1 person deceased before trial

⁵ 3 persons found not guilty by reason of insanity

⁶ 1 life prisoner re-sentenced

⁷ 4 persons not guilty by reason of insanity

⁸ 4 persons found unfit to plead after inquiry

Table 2 below shows that the number of persons whose cases were pending at the end of the period fell from 286 last year to 264 this year.

TABLE 2

Area	2001-02	2002-03	2003-04	2004-05	2005-06
Hobart	137	82	122	124	113
Launceston	75	66	77	119	91
Burnie	52	55	46	43	60
Total	264	203	245	286	264

Table 3 below shows the major groupings of crime by convicted persons. Crimes of personal violence appear to show a significant rise. Some of that might be attributed to Safe at Home measures.

TABLE 3

CRIME (TYPE) MAJOR GROUPINGS BY PERSONS CONVICTED

Crime (Type)	2003-04 %	2004-05 %	2005-06 %
Dishonesty (aggravated/armed robbery, stealing, burglary, receiving, fraud, etc.)	39.24	29.83	18.96
Personal violence (murder, manslaughter, assault, wounding, grievous bodily harm)	23.30	21.21	35.58
Arson & injury to property	8.86	7.69	8.31
Sex crimes (rape, unlawful sexual intercourse/relationship, indecency)	13.17	15.38	12.22
Perjury & perverting the course of justice	6.07	6.19	5.97
Drugs	6.07	7.32	12.21
Other ungrouped (includes indictable fisheries crime, conspiracy, causing death by dangerous driving, escape, abduction & other)	3.29	12.38	6.75

Table 4 below shows the types of disposal of criminal matters and there appear to be no significant trends departing from previous years.

TABLE 4

COMPARATIVE TABLE RELATING TO THE DISPOSAL OF CRIMINAL MATTERS

Year	No. of Persons Presented	Pleas of Guilty	Dealt with other than as Plea	No. of Persons Tried
1996-97	309	214	39	56
1997-98	335	234	49	52
1998-99	505	368	80	56
1999-00	711	488	104	119
2000-01	445	260	79	106
2001-02	462	244	111	107
2002-03	616	357	132	127
2003-04	567	315	134	118
2004-05	533	294	118	121
2005-06	537	299	102	136

Of those persons tried -

Year	Convictions	Acquittals	Found Insane	Retrials
1996-97	36	20	0	1
1997-98	28	24	0	0
1998-99	33	23	0	1
1999-00	74	43	1	1
2000-01	73	29	1	3
2001-02	75	32	0	0
2002-03	89	38	0	0
2003-04	75	43	0	0
2004-05	81	37	3	0
2005-06	89	43	4	0

CIVIL LITIGATION

I noted last year that a restructuring process had been enabled which would relieve me from personal carriage of civil files as a solicitor. That did not fully come to pass, but I have been able to be relieved of quite a few. The State is very well served by the arrangements concerning civil litigation, which is being attended to in a timely and appropriate manner at a cost which, compared to regimes for State litigation in every other Australian State or Territory, is astonishingly low.

The categories below are perhaps a little too broad to reflect it (and may be refined next year) but it is the case that administrative law litigation is on the rise, and personal injury/workers' compensation litigation is declining.

TABLE 5
CATEGORIES OF CIVIL MATTERS OPENED (BY %)

Category	2002-03	2003-04	2004-05	2005-06
Employment (workers' compensation & common law)	54	54.8	54.07	45.18
Other (incl. occupier liability, administrative & industrial)	24.2	31	32.24	40.53
Medical Negligence	14.3	8.7	8.14	8.30
Debt Recovery	5.2	2.6	3.3	2.65
Housing	1.6	0.3	0.65	0
Anti-Discrimination	1.2	2.6	1.6	3.34

CONCLUSION

The year ending 30 June 2006 was a productive year for this Office. The lawyers employed here are appropriately recognised as among the leading members of the legal profession and good citizens. The clerical and production staff also contribute greatly to our results and, although she retired just outside the year reported on, I would conclude by recognising the significant contribution of Mrs Jan Wright who for years was in charge of the production unit. She managed great changes in technology and production methods and left us with sound and efficient systems for the future.

T J Ellis SC
DIRECTOR OF PUBLIC PROSECUTIONS