



### Prosecution Services for Partner Agencies

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#### BACKGROUND

1. Strong relationships between the CDPP and investigative agencies is fundamental to the efficient and effective delivery of prosecution services to agencies and the Australian community. The CDPP is referred briefs of evidence by over 40 federal agencies as well as from State and Territory police forces. Many of those agencies have a long history of working collaboratively with the CDPP. The CDPP places great value on the strong relationships which it has with all of its partner agencies and recognises the vital role agencies play throughout the entire prosecution process. It is not possible for the CDPP to fulfil its strategic objectives without closely partnering with investigative agencies.
2. The CDPP is committed to taking every opportunity to enhance the quality of the service it delivers to agencies and to further strengthen its relationships with agencies through both traditional forms of engagement and more innovative approaches. The CDPP recognises that building deeper relationships comes from engagement in a variety of ways and at all levels of the organisation, from case officers through to senior managers. Fundamental to the strength of the relationship with each investigative agency is an understanding of one another's objectives, strategic goals and processes. The CDPP is committed to understanding the objectives, strategies and processes of partner agencies and to assisting them to fulfil those objectives through a process of ongoing engagement. Such engagement takes the form of general liaison (often through a network of specialised liaison officers), case based

meetings and litigation, case reviews, training opportunities, information sessions, field trips and secondments, the provision of key resources through CDPP's partner agency portal and assistance on e-briefs. When viewed in this way, each CDPP staff member is a critical part of the liaison/engagement process.

3. The nature and timing of the CDPP's engagement with partner agencies is unique amongst prosecuting authorities in Australia. A key example is the extent of pre-brief service that the CDPP provides. The CDPP is cognisant of the fact that early assistance to agencies provides the opportunity for more targeted investigations and higher quality briefs which can assist agencies better utilise their precious investigative resources. Early engagement facilitates the ability of the CDPP to be responsive to, and a partner in, achieving the enforcement and regulatory priorities of investigative agencies.
4. The CDPP has formulated a general Guideline<sup>1</sup> to provide a governance framework outlining the roles and responsibilities of the investigative agency and the CDPP throughout the prosecution process. This assists in managing expectations and supports the working relationship. Memoranda of Understanding with the CDPP can be used as an additional mechanism where a bespoke arrangement governing particular activities is needed.
5. The CDPP is an independent statutory agency. The Prosecution Policy of the Commonwealth ('the Prosecution Policy') and the *Director of Public Prosecutions Act 1983 (Cth)* underpin the CDPP's decision making and processes. This framework does not inhibit proactive, innovative and extensive engagement with agencies. Indeed, the Prosecution Policy clearly recognises the importance of collaborative partnerships between the office and investigative agencies. The CDPP recognises and respects that whilst legal advice might be given to an agency, operational decisions must be made by the agency<sup>2</sup>.

## PROSECUTION SERVICES

### Formal/General Liaison and Liaison Officers

6. The CDPP consists of six specialised Legal Practice Groups, each headed by a Practice Group Leader<sup>3</sup>, who is responsible for teams of lawyers in each State or Territory. These Practice Groups are responsible for the following key areas:
  - Commercial, Financial and Corruption;
  - Revenue and Benefits Fraud;
  - International Assistance and Specialist Agencies;
  - Organised Crime and Counter Terrorism;
  - Illegal Imports and Exports; and
  - Human Exploitation and Border Protection.
7. Formal liaison occurs with most agencies, via a framework of liaison meetings (both national Practice Group liaison and regional Branch liaison). Larger agencies will usually meet regularly with the CDPP

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<sup>1</sup> The [Guidelines for dealings between Investigators and the Commonwealth Director of Public Prosecutions](#) is available on the Partner Agency Portal.

<sup>2</sup> Examples of operational decisions include whether an investigation will commence or continue, whether resources will be committed to an investigation or to a particular aspect of it, decisions as to whether to scope an investigation, decisions as to whether to exercise a specific statutory power (eg the power of arrest).

<sup>3</sup> Also known as a Deputy Director.

(often quarterly), enabling each to provide an agency update, identify trends and emerging issues, to provide forecasts regarding referrals and to provide case updates on more important matters. In between liaison meetings, and for non-case based and general enquiries, dedicated liaison officers or Practice Group Co-ordinators are available to respond to queries that the agency might have. Details as to which crime types come within a particular Practice Group can be found on the Partner Agency Portal via the CDPP's website.<sup>4</sup>

### Pre-Brief Advice

8. This service is available to all partner agencies in matters that are sensitive, significant, complex or major, that are of particular importance to an agency's enforcement strategy, that have significant resource implications or that are likely to have an impact on a broader class of cases. Senior members of staff provide this type of advice. 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 agencies. Advice may pertain to areas such as the choice of charges, the elements of offences, any substantive impediments to proving the offence and how these might be addressed, identifying particular witnesses who could be approached and lines of enquiry that might assist, options for scoping the investigation, the seriousness of the offending and any likely public interest considerations<sup>5</sup>.

### Electronic Briefs and Referrals Gateway

9. The CDPP is committed to using technology and digital tools to ensure efficiency and effectiveness in the conduct of its prosecutions. The CDPP will continue to work with partner agencies to transition away from paper briefs to electronic briefs. The CDPP's digital capability team is available to assist agencies with their transition to e-briefs, and to ensure briefs are compliant with the CDPP's "E-brief Referral Guidelines". The CDPP also provides an electronic Referrals Gateway to enable the electronic submission of briefs.

### Brief Assessment Phase

10. Many federal prosecutions are commenced following an assessment of a brief of evidence by the CDPP and the issuing of a summons/charge/court attendance notice. During the brief assessment phase, there will be contact between the case officer who is assessing the matter and the informant. There are often queries relating to the evidence, or pertaining to the need for additional investigations to fill gaps in the evidence. The more complex the matter, the more likely that there will be frequent contact. "In person" meetings with the informant during this phase are typical, particularly in the more complex matters. Ultimately advice will be provided, in accordance with the Prosecution Policy, as to whether a prosecution can be commenced.
11. Brief assessment is considered a critical part of the prosecution service provided to partner agencies. The investigator / case officer relationship is fundamentally important. Each brief assessment is an opportunity to provide constructive feedback as to the strengths and deficiencies of the brief, either directly to the investigator or through more formal liaison processes.
12. The CDPP is committed to ensuring that all matters referred by the agency are dealt with in a timely manner. Upon receiving a complete brief of evidence, the CDPP aims to make a decision on whether

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<sup>4</sup> See *Practice Groups, Crimes Covered and Partner Agencies* resources available on the CDPP Partner Agency Portal. Contact details of the relevant Practice Group Leader and Practice Group Coordinator are available there.

<sup>5</sup> Further information on the advisory role of the CDPP is contained in the [Guidelines and Directions Manual – Advisory Role of the CDPP](#). It should be noted that the [Counter Terrorism Qualified Advice \(Evidence\) Guidelines](#) govern requests made by the Joint Counter Terrorism Team to the CDPP for pre-brief advice on the strength of the evidence in an investigation, prior to submission of a complete brief of evidence. This process enables the CDPP to provide advice on whether a *prima facie* case exists on the basis of the material submitted pursuant to those Guidelines.

there is sufficient evidence to commence the prosecution within internal timeliness targets which are reviewed from time to time. Investigating agencies should refer to the CDPP website for time frames which apply to brief assessments.

### **Court Phase (summary prosecutions, bail, committals, trials and appeals)**

13. Engagement between the CDPP and agencies during the court phase will usually ebb and flow based on what is occurring in the litigation itself and the complexity of the matter. Typically however, the CDPP would:

- Provide regular and timely updates to the informant on the progress of the matter;
- Make requisitions of the informant, explaining the basis of those further enquiries;
- Consult with the informant on all critical decisions throughout the court process (e.g. bail, a change of charges, dealing with reluctant witnesses, the calling of expert witnesses, plea offers, submissions on sentence, appeals, proposed discontinuances);
- Answer queries that the informant might have about the case; and
- Deal with victims, in conjunction with the informant, in accordance with the CDPP Victims of Crime Policy.

For practical information about how to manage daily interactions with investigators on case related matters, prosecutors should consult the [Practical Guide](#) that has been prepared on this topic.

### **Finalisation**

14. A prosecution report is provided in all cases that proceed to court. A post-trial report is prepared following all trials in intermediate and superior courts and also following complex summary hearings. This takes the form of a written report which is forwarded to the agency. As well as providing some quantitative data about the trial itself, the post-trial report also provides qualitative data about the legal and evidentiary issues that arose in the case and provides insight into the efficiency and effectiveness of each agency's performance. The CDPP sees real benefits in reporting on the issues that have arisen during the course of the litigation, by way of a post-trial report, and in recognising achievements as well as areas for improvement by both agencies. These reports can identify systemic issues, and lead to positive changes in processes and future referrals. In addition, the CDPP is available to conduct full case reviews in appropriate matters at the conclusion of a prosecution. This may occur in relation to a significant case or it might relate to a series of cases which formed the basis of a significant project/operation for an agency. Case reviews occur in person, with relevant members of the agency and CDPP participating.

### **Training and Information Sessions**

15. Whilst investigative agencies have the primary responsibility for training their investigators, the CDPP recognises the important complimentary role it can play in providing information and training to investigators. Consequently, where appropriate, the CDPP can provide training and information sessions to partner agencies on relevant topics in order to upskill investigators in relevant areas and to outline the role of the CDPP in the prosecution process. The provision of training should ultimately translate into better quality investigations and briefs of evidence, successful prosecution outcomes and a saving of time and resources for all. CDPP presenters have the benefit of many years of coal face experience in criminal litigation, enabling presenters to be both knowledgeable and practical in their approach. The CDPP is keen to understand the inner workings of investigative agencies and their particular investigative strategies and objectives. Consequently, the CDPP also welcomes the opportunity for agencies to present sessions to CDPP staff on relevant topics.

**Secondments / Co-location**

16. The CDPP's expertise can sometimes be best utilised by seconding or co-locating CDPP staff to the offices of investigative agencies. Whilst such arrangements are not routine, they do provide a valuable opportunity for the unique expertise of CDPP lawyers to be available to an agency where the work of that agency is the sole or a substantial focus of the lawyer. They also enable the CDPP to better understand the enforcement objectives of the agency and the environment in which the agency works as well as providing a unique perspective of the agency's business which can then be communicated to the broader CDPP. Secondments / co-location of staff would usually be based on a specific identified need/objective related to the prosecution process or to a particular case, and are subject to the operational requirements of the CDPP. Such placements might be appropriate to particular agencies for very different reasons, depending on the identified need. The term of any secondment or co-location would be dependent on the objective of the secondment. In appropriate situations, secondments from an agency to the CDPP may also occur. Appropriate governance frameworks would need to be considered to manage risk and to confirm the respective role of the seconded staff member.

**Partner Agency Portal**

17. The CDPP provides partner agencies with a wealth of key information and resources through the Partner Agency Portal. These resources include National Offence Guides, Warrants' Manuals and key Guidelines relating to issues such as disclosure. The Partner Agency Portal is hosted on the CDPP's website at [www.cdpp.gov.au](http://www.cdpp.gov.au).

**OTHER KEY RESOURCES RELATING TO PARTNER AGENCIES**

18. Other key resources are:

- [Partner Agency Engagement Strategy](#)
- [Guidelines for Dealings between CDPP and Investigative Agencies](#)
- [Prosecution Services for Partner Agencies – A Practical Guide](#)