

# The Public Defenders

Annual Review

2016 - 2017



The Hon. Mark Speakman MP  
Attorney General  
52 Martin Place  
SYDNEY NSW 2000

Dear Attorney General,

**2016 – 2017 Annual Review**

Pursuant to section 17 of the *Public Defenders Act 1995*, I am pleased to forward the Public Defenders' report for the year ending 30 June 2017 for tabling in Parliament.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Mark Ierace', written in a cursive style.

Mark Ierace SC  
Senior Public Defender

18 December 2017

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## Foreword

The highlight of this year was the celebration of the 75<sup>th</sup> anniversary of the office of the Public Defender. Acting Justice Peter Hidden AM, now retired from the Supreme Court and a former Senior Public Defender, was the keynote speaker at a dinner held last November to mark this milestone. He spoke, amongst other things, about the early days of this office beginning with the appointment of the first Public Defender, Gordon Champion, on 11 November, 1941. Prior to this appointment, the granting of legal aid for serious criminal trials was at the discretion of the then Crown Law authorities. For less serious matters, indigent accused had to rely on the “dock brief” to obtain counsel.

From that time, this office has grown from “the” Public Defender, to 28 Public Defenders, who are fully independent from government in the provision of our services and the conduct of our matters. Our role in the criminal justice system has also grown since those early days, to include involvement in law reform, participation in various legal policy and working groups and the provision of significant input on practical strategies to address broader justice issues, such as the current District Court trial and sentence backlog and legal education.

I have commented in previous reports on the vital role Public Defenders have played in assisting with District Court Special Call-overs, particularly in regional courts. We have continued to put considerable resources and effort into these sittings and have achieved remarkable results, resolving between 31 - 54 % of matters in which we have been briefed.

Similarly, we have continued our commitment to the Rolling List Court (RLC) at the Downing Centre, again with very pleasing results. An interim report prepared by the Bureau of Crime Statistics and Research (BOCSAR), released in October 2016, found an increase of 20 per cent in the number of guilty pleas balloted to the RLC, coupled with a higher completion rate of 65 per cent as compared with the control group of 37 per cent. BOCSAR’s final report will be released soon.

A further strategy to reduce the court backlog is our involvement in long and complex trials, listed in the Sydney District Court. At present, there are over 70 trials of six weeks or more duration, waiting determination. I have redirected a number of Public Defenders to be available to be briefed in such trials; we expect to see the results of this deployment in the next financial year.

We were pleased to welcome Peter McGrath SC, formerly a Crown Prosecutor, as Deputy Senior Public Defender. The additional funds provided for the District Court backlog also enabled the appointment of three additional Public Defenders, with a fourth position to be filled by January 2018. When the backlog passes, the number of Public Defenders will decrease to pre-backlog levels.

At the conclusion of his speech, Acting Justice Peter Hidden AM described the institution of the Public Defenders as one of the most important reforms of the criminal justice system of the last century, and described the title of Public Defender as one to be borne with pride. As we continue to make a significant contribution to reducing caseload, developing jurisprudence and policy reform, I could not agree more.

Mark Ierace SC - **Senior Public Defender**

## **The Role of Public Defenders**

Public Defenders are barristers appointed as independent statutory officers by the Governor of NSW under the *Public Defenders Act 1995* (“the Act”).

The principal duty of a Public Defender is to represent persons charged with serious criminal offences who have been granted legal assistance (generally referred to as legal aid), by Legal Aid New South Wales (“LAC”), the Aboriginal Legal Service (NSW/ACT) Limited (“ALS”), or Community Legal Centres (“CLCs”). Public Defenders may also assist in matters such as inquests and government inquiries.

As barristers, Public Defenders are bound by the *Legal Profession Uniform Conduct (Barristers) Rules 2014* and related legislation and are therefore subject to the same disciplinary regime for professional conduct as other counsel.

## **Organisational Structure and Duties of Public Defenders**

### **The Senior Public Defender**

The Senior Public Defender, Mark Ierace SC, is responsible to the Attorney General for the proper exercise of his functions under the Act. Those functions are set out in detail in Section 8(1) and include:

- the making of arrangements and giving of directions to ensure the effective and efficient conduct of Public Defenders’ work;
- providing advice and assistance to Public Defenders and monitoring their work;
- consulting with the LAC, ALS and CLCs on the provision of legal assistance to legally assisted persons; and
- advising the Attorney General on law reform.

The Senior Public Defender also conducts a Supreme Court trial and appellate practice in addition to his management and legal policy responsibilities.

### **Deputy Senior Public Defenders**

The Act provides that the Governor may appoint one or more Deputy Senior Public Defenders. There are currently two Deputy Senior Public Defender positions occupied by Craig Smith SC and Peter McGrath SC. The functions of a Deputy Senior Public Defender include assisting the Senior Public Defender as required in addition to the conduct of trial and appellate practices. The Senior and Deputy Senior Public Defenders form the management team for chambers and also work together on high level policy and law reform matters.

### **Functions of Public Defenders**

The functions of a Public Defender are set out at Section 10 of the Act and include:

- advising and appearing in criminal proceedings
- advising on matters referred by the Senior Public Defender
- carrying out other related functions as may be specified by the Attorney General in consultation with the Senior Public Defender and

- providing representation in Parole Board and mental health legislation proceedings and related matters.

The Senior Public Defender may establish written guidelines on the exercise of the above functions of the Public Defenders, however this does not derogate “from the authority of a Public Defender in respect of the conduct of any proceedings” (section 6 (4)).

## Appointment of Public Defenders

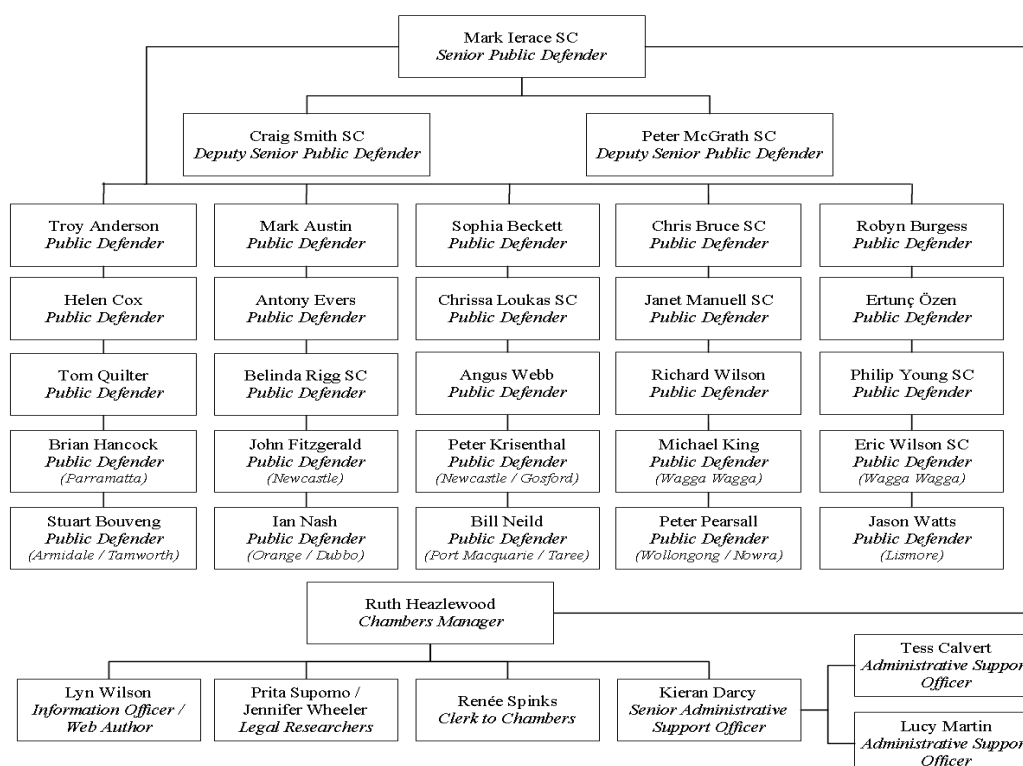
The terms of appointment under the Act were changed in 2007 to remove life tenure for Public Defenders appointed after the commencement of the new provisions. Public Defenders may now be appointed for a period of up to seven years following a probationary period of 12 months as an Acting Public Defender.

Public Defenders appointed for a seven year term must have their performance reviewed under the *Guidelines for the Appointment of Public Defenders* by a review committee at the conclusion of each seven year period. They may be appointed for a further seven years if recommended by the review committee. The Senior Public Defender and Deputy Senior Public Defenders are appointed for renewable terms of seven years.

There are now 28 Public Defender positions for the whole of NSW. Three of these positions have been created with the provision of additional funding to help address the District Court backlog. A fourth position will be filled next financial year.

Two Public Defender positions are fully funded by the LAC on an ongoing basis as set out in the annual service level agreement available on our website.

### Organisational Chart as at 30 June 2017



## Legal Representation

Public Defenders represent legally assisted people defined by the Act as “a person who is a legally assisted person within the meaning of the *Legal Aid Commission Act 1979* or who is receiving legal assistance through a community legal centre”.

The definition of community legal centre includes an “Aboriginal legal service or other community legal centre within the meaning of section 48H of *the Legal Profession Act 1987*.”

About 87 per cent of this year’s work was briefed by the LAC, either directly, or by private solicitors acting under a grant of legal aid. Matters referred by the ALS account for approximately 13 per cent of Public Defenders’ work.

This year Public Defenders **accepted 1000 requests** for assistance and **declined 2078 requests**. Matters are declined for a number of reasons, including conflict of interest or more commonly, due to the unavailability of a Public Defender.

## Highlights of the year

### 75<sup>th</sup> Anniversary of Public Defenders

On 11 November 1941, Gordon Champion was appointed as the first Public Defender for NSW. We celebrated the 75<sup>th</sup> anniversary of this momentous event in the company of Public Defenders both past and present with a dinner held on 12 November 2016.

The guest speaker was Acting Justice Peter Hidden AM, retired Supreme Court Judge and former Senior Public Defender. In his speech, Acting Justice Hidden AM spoke in detail about the history of this office noting the appointment of a Public Defender was an initiative of the then Attorney General, C.E. (Clarrie) Martin. Attorney General Martin sought to address the inadequacy of the ad hoc system of legal aid in criminal trials. At that time legal assistance was made through a discretionary grant of aid by Crown Law authorities in very serious cases, and the system of “dock briefs” in less serious cases.

Attorney General Martin brought in the *Legal Assistance Act 1943* to establish the Office of the Public Solicitor, the predecessor of the Legal Aid Commission NSW. Over the years a number of solicitors who worked for that office were appointed as Public Defenders.

Gordon Champion continued in his role as Public Defender until he died on his way to court in August 1945, having carried a huge workload during his tenure. He was succeeded by Fred Vizzard QC who was later joined by Clarrie Cullen in 1953, appearing in country courts.

In 1965, Howard Purnell QC was appointed as the first Senior Public Defender and Ernest Byron QC was appointed to replace Fred Vizzard QC, who retired.

In 1969, during the tenure of the then Attorney General, John Maddison, the *Public Defenders Act 1969* was passed making the Public Defenders independent statutory officers. By then the office and the high reputation of Public Defenders as criminal advocates was well established.



Acting Justice Hidden AM pointed out that it was impossible in his speech to do justice to the many achievements of the Public Defenders in those early years and over the long period since. There were many notorious cases where Public Defenders were briefed and many that led to important High Court decisions including *Veen v the Queen (No.2)* (1988) 164 CLR 465. He also noted the statutory role of the Senior Public Defender in guideline judgments.

Many Public Defenders have moved on to higher office including appointments to the District Court, Supreme Court and notably the appointment of Virginia Bell AC to the High Court.

Justice Hidden AM paid tribute to those Public Defenders who have died, including Judge Bob Belliar – the first Aboriginal Public Defender and Judge of the NSW District Court.

In closing his speech he emphasised the importance of the day to day work of the Public Defenders at the coalface at both trial and appellate level: the work which gains no public recognition but which profoundly affects the lives of so many ordinary people. He saw the institution of the Public Defender as one of the most important reforms of the criminal justice system of the last 100 years, and described the title of Public Defender as one to be borne with pride.

*The above is an edited version of Acting Justice Hidden AM's speech. He acknowledged the research of Dr Greg Woods QC who provided a draft of a chapter of the second volume of his as yet unpublished "History of the Criminal Law in NSW", and the reminiscence of Bill Hosking QC, who also provided some of the draft of his book "Justice Denied", which has since been published.*

### **Success in the High Court**

Two successful High Court appeals were conducted by Belinda Rigg SC with Sophia Beckett as junior in the matter of Barbieri.

In *IL v The Queen* [2017] HCA 27, the appellant was involved in a joint criminal enterprise to manufacture a commercial quantity of a prohibited drug. The co-offender died as a result of a fire probably caused by him in the course of the drug manufacturing process. The appellant was charged with murder and manslaughter in addition to various drug offences. The murder charge was based on constructive murder as the appellant and deceased had participated in a joint criminal enterprise to manufacture drugs and the death of the co-offender occurred as a result of this activity.

At trial, the Judge directed the jury to acquit the appellant of both the murder and manslaughter charges on the basis that the appellant's liability was secondary in so far as her participation in the joint criminal enterprise was concerned. As the deceased committed no crime in killing himself the appellant could not be held liable as a principal in the second degree.

The Crown appealed this decision and the CCA upheld the appeal on the basis that the participation of the appellant in the joint criminal enterprise was primary and ordered a new trial.

On appeal to the High Court the orders of the CCA were set aside on the basis that section 18 (1) *Crimes Act* 1900 (NSW) does not apply to self-killing.

In *The Queen v Barbieri* [2017] HCA Trans 111, the Crown sought special leave to appeal the decision of the CCA in *Barbieri v R* [2016] NSWCCA 295 to reduce the sentence of the appellant, who had pleaded guilty to the murder of a police officer.

The appellant's mother, who was also involved in the killing, pleaded guilty to manslaughter on the basis of substantial impairment (a delusional disorder). The appellant shared this delusional disorder with his mother by way of a 'folie a deux'. The mother was sentenced to a total of 9 years imprisonment, with a NPP of 6 years 6 months, for the manslaughter.

The appellant had also offered to plead guilty to manslaughter on the basis of substantial impairment but his offer was refused by the Crown. However, the Crown did make the concession that the appellant was suffering from a 'significant cognitive impairment' at the time of the killing and therefore a life sentence was not mandated under s.19B of the *Crimes Act 1900*.

The sentencing judge accepted that the appellant had relevantly suffered from a delusional disorder but found it was "secondary" to that of his mother's and that, since his physical separation from his mother (post-arrest), he had "substantially recovered" from his disorder. The judge sentenced the appellant to 35 years imprisonment with a NPP of 26 years.

On appeal, the CCA found the sentencing judge had erred in his application of sentencing principles relevant to mentally ill offenders. The CCA allowed the severity appeal and re-sentenced the appellant to a term of 21 years 3 months imprisonment, with a NPP of 15 years.

The Crown's special leave application to the High Court to appeal the CCA's decision was refused.

### **The "Rolling List Court" (RLC) pilot program**

The aim of this program is to resolve trial matters by early case management, thus reducing the time taken from committal to finalisation and ultimately addressing some of the factors leading to the current backlog of cases in the District Court.

This initiative was developed in collaboration with the Chief Judge of the District Court, the Office of the Director of Public Prosecution (ODPP), LAC and Public Defenders. It is based on the successful model in place in certain regional courts with a local Public Defender and Crown Prosecutors. Counsel are typically briefed earlier than in other metropolitan courts, and the ongoing working relationships between them and their respective instructing solicitors from the LAC and ODPP leads to a more efficient disposition of matters. The close and daily interaction of these personnel builds a level of professional trust and communication which enables issues in a trial or sentence matter to be identified at an earlier stage, thus saving time and expense, particularly if the matter can be resolved before trial by an early plea of guilty or appropriate charge modification.

The pilot program began in the Downing Centre District Court in April 2015, with two Public Defenders and two Crown Prosecutors, instructed by a specific team of LAC and ODPP solicitors. One Judge is allocated to manage the work of the court. The criteria for referral of a trial to the Rolling List Court is that it is an in-house legal aid matter with an estimate of no more than two weeks, no co-accused, no fitness issues and it is a state prosecution.

As the program progressed, Campbelltown, Parramatta and Penrith District Courts were added to the court catchment area.

This year **101 matters were completed in the RLC**. A preliminary evaluation of the program by the NSW Bureau of Crime Statistics and Research (BOCSAR) found that by July 2016, a “significantly higher proportion of matters balloted to the RLC had been finalised compared with matters dealt with in the general court list (65% vs. 37%).”

BOCSAR also noted in that report the RLC achieved a higher percentage of guilty pleas before trial compared with the control courts (63% vs. 41%), with guilty pleas being entered within 3 months in approximately 18% of matters compared with 5% in other courts.<sup>1</sup>

## Special call-overs in the District Court

Public Defenders assisted with Special Call-overs at Coffs Harbour, Gosford and Port Macquarie District Courts. The success of these special call-overs is due to the close co-operation between Public Defenders, Legal Aid, ALS, the ODPP and Crown Prosecutors, Judges, Courts and Corrective Services in ensuring the whole process runs as efficiently as possible. It is estimated **between 31 – 54 per cent of matters in which Public Defenders were briefed were resolved before trial**, resulting in a significant reduction of pending trials in the District Court and overall savings to the justice budget.

## Service Level Agreements

Formal arrangements for access to our services are contained in Service Level Agreements (“SLAs”), which are negotiated annually with the LAC and ALS.

The SLAs set a framework for the type of work undertaken by Public Defenders, with priority given to more serious, lengthy and complex matters in the District, Supreme and higher appellate courts. By focusing on these high-cost matters, Public Defender services are used in the most efficient and effective manner. These agreements ensure we regularly consult with the parties and help maintain strong relationships with the LAC and ALS.

The SLAs also set out the regional and metropolitan sittings of the Supreme and District Courts covered by Public Defenders. We aim to balance our resources to ensure that regional and remote communities have equal access to Public Defenders whenever possible. **The ratio of Sydney court matters to regional courts was 49:51**, reflecting the additional resources directed to regional District Courts at Tamworth, Armidale, Port Macquarie and Taree.

Public Defenders receive funding from both the LAC and ALS under these agreements (see Funding and Accountability).

## Determining Priorities by Service Level Agreements

The acceptance and allocation of briefs to Public Defenders is largely determined by the service level agreements with the LAC and ALS. The purpose of these agreements is to

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<sup>1</sup>[http://www.bocsar.nsw.gov.au/Pages/bocsar\\_news/bb120-NSW-Rolling-List-Court-Evaluation.aspx](http://www.bocsar.nsw.gov.au/Pages/bocsar_news/bb120-NSW-Rolling-List-Court-Evaluation.aspx)

ensure the most cost effective use of our mutual resources. The types of matters where Public Defenders are briefed include:

- Supreme Court trials
- long and/or complex District Court trials
- circuit work at nominated regional centres
- appellate work in the High Court, Court of Criminal Appeal and Court of Appeal; and
- committal hearings involving serious criminal charges.

Public Defenders may also appear in coronial inquiries either at the request of the LAC, ALS or the Crown Solicitor's Office.

The distribution of work (matters completed this year) across the various court jurisdictions is approximately as follows:

- District Court, 65%
- Supreme Court, 8%
- Court of Criminal Appeal, 16%
- High Court, 1%
- Local and Children's Courts, 10%.

**Preparation time amounted to 2,130 days** with an additional **2,608 conference hours** spent with solicitors, clients and witnesses. This year Public Defenders spent **1,874 days in court**.

Representation in regional and non-metropolitan court sittings now accounts for approximately 51 per cent of our work. Public Defenders are located at Orange (1), Lismore (1), Newcastle (2), Tamworth (1), Port Macquarie (1), Wollongong (1) and Wagga Wagga (2). One Public Defender is located at the Parramatta Justice Precinct.

Public Defenders also provide representation at other circuit sittings of regional District Courts and regional Supreme Court sittings as needed.

## Annual Statistics for matters completed 2016-17

	STATE	C'WEALTH	TOTAL
Children's Court	10	1	11
Coroner's Court	0	0	0
Local Court	59	3	62
Drug Court	0	0	0
District Court	480	4	484
State Parole Authority	0	0	0
Supreme Court	60	0	60
Mental Health Review Tribunal	1	0	1
CCA Advices	91	2	93
Court of Appeal Advices	0	0	0
High Court Advices	5	1	6
CCA Appeals	24	1	25
Court of Appeal Appeals	0	0	0
High Court Appeals	3	1	4
<b>GRAND TOTAL</b>			<b>746</b>

### Impact of long and complex trials

Public Defenders are often briefed in lengthy and complex trials to help contain the cost of such matters. This year, one trial with multiple accused and charges has taken over a year from committal to completion with the Public Defender briefed in the matter spending 232 days in court.

The allocation of a Public Defender to such long trials will have an impact on the total number of matters completed in the year as they are not available to do other trials. Preparation time is also extensive given the voluminous briefs provided in such matters.

Comparison of matters completed over consecutive financial years are therefore not necessarily indicative of increasing or decreasing workloads or productivity and any comparison of annual figures should be treated with caution.

### Other Assistance Provided

Public Defenders are an important resource for the legal profession. This year they provided **254 instances of assistance** to the profession on legal, ethical and practice issues either by telephone or brief written advices.

Our website is a valuable resource for the profession, students and the general public. The sentencing tables and other resources on the website are used both by practitioners and the judiciary, who regularly comment on the usefulness of this resource.

## **Public Defenders and the Justice System**

Public Defenders have long been regarded as an integral part of the justice system. Their extensive experience as criminal barristers is well recognised by all participants in the administration of criminal justice. Both the LAC and ALS use the services of Public Defenders in difficult and complex cases whenever possible to ensure the most cost effective use of legal aid resources.

In addition to providing representation to legally aided clients, Public Defenders play an important role beyond the courtroom through their involvement in government and other committees tasked with policy development.

The Senior Public Defender is a member of the:

- NSW Sentencing Council
- Department of Justice Criminal Justice Transformation Board
- District Court Criminal Business Sub-committee
- Legal Aid Crime and Grants Sub-committee (occasional member)
- District Court Backlog Committee
- Department of Corrective Services Legal Users Group

### **Committees of the NSW Bar Association and Related Bodies**

Public Defenders work closely with the NSW Bar Association at many different levels. Chrissa Loukas SC was elected Junior Vice President of the NSW Bar Association and is also a director of the Law Council of Australia.

A number of other Public Defenders are also actively involved in Bar Association committees including;

- The NSW Bar Association's Criminal Law Committee
- Indigenous Barristers Strategy Working Party and the Indigenous Barrister's Trust
- Joint Working Party on Over-representation of Indigenous People in the Criminal Justice System
- Professional Conduct Committee
- Legal Aid Committee
- Wellbeing Committee
- Law Council of Australia National Law Committee

## **Participation in Justice Agency committees**

- Crime and Justice Reform Committee
- Royal Commission into Institutional Responses to Child Sexual Abuse Criminal Justice Working Group
- Child Sexual Assault Evidence Pilot Committee
- Child Sexual Assault Judicial Reforms and Monitoring Implementation Group
- District Court Criminal Listing Committee
- District Koori Court working group
- LAC Specialist Barristers and Solicitors Panels, including the Children's Criminal Law panel
- Western NSW Community Legal Centre Committee
- The Bugmy Evidence Project – a joint project of Norton Rose Fulbright and the ALS.

## **Funding and Accountability**

### **Funding**

The primary source of funding is the Department of Justice. The Public Defenders' **budget for this financial year was \$10,547,000** which represents the net cost of services. Employee-related expenses continue to represent about 85 per cent of the budget.

**Additional funding of \$1,051,000** was provided by the NSW Government as part of the funding strategy to address the District Court backlog. This enabled the recruitment of two additional Public Defender positions for Port Macquarie, Tamworth and Sydney District Courts.

Additional revenue is obtained under the SLAs from:

- The **LAC**, which provided **\$855,758**. This amount funds two Public Defender positions and provides partial funding for one legal research officer.
- The **ALS**, which provided **\$177,000**.

Fees from the Public Defenders Annual Criminal Law Conference and the "Under 5's Practical Advocacy Course" provide additional revenue.

(Full details of the Public Defenders' budget are available from the NSW Department of Justice.)

### **Accountability**

The Public Defenders are accountable to the Attorney General and his Department through the provision of reports on agreed performance indicators which are based on the number of completed briefs within defined jurisdictions. Regular reports may also be provided on the progress of business plan initiatives, financial management and risk assessments.

Annual statistics are provided to the LAC and ALS as required under the service level agreements.

Although Public Defenders are not public servants the office has adopted the administrative policies and procedures of the Department. Administrative support staff are public servants and therefore bound by both the *Government Sector Employment Act 2013* and *Public Finance and Audit Act 1983*.

Senior clerks employed by the Public Defenders are responsible for the day-to-day management of administrative, human resources and financial matters.

### **Business Plan**

The priority for this year continues to be working with other justice agencies to address the District Court backlog. Considerable effort and resources have gone into assisting with Special Call-overs and the Rolling List Court.

An additional strategy of focussing on long and complex trials listed at the Sydney District Court was implemented to further assist with reducing the backlog. This will have greater impact in the following year.

The online “*Request for Public Defender*” form for legal practitioners went live this year. Many practitioners have adopted this method to request our services which provides a more streamlined approach to this process. The aim is to have the majority of requests made using the online form within the next 12 months.

### **Law Reform**

An important function of Public Defenders under the Act is the provision of advice to the Attorney General and others on law reform. Public Defenders are routinely invited to make submissions on criminal law reform at the request of the NSW and Australian Law Reform Commissions, Criminal Law Review, NSW Sentencing Council and Parliamentary Committees of Inquiry. In addition, a number of Public Defenders participate in law reform committees and advisory groups.

Written submissions made during the year include the following:

- Review of Mandatory Pre-trial Defence Disclosure Legislation
- Justice Legislation Amendment (Committal and Guilty Plea) Bill 2017
- Justice Portfolio Miscellaneous Bill ( Spring Session) 2017
- Statutory review of ‘one punch’ laws

### **Aboriginal Graduate Lawyers Program**

Since 2001, Public Defenders have provided an Aboriginal Law Graduates Program following approval by the then Attorney General for funding under the Indigenous Justice Strategy. The Department provided funding of \$52,000 this year.

The initial aim of the program was to provide financial and mentoring assistance to Aboriginal law graduates wishing to establish themselves at the NSW Bar. The program was expanded in 2006 to include all Aboriginal law graduates needing assistance to



move into a legal career, not just those wishing to go to the Bar. Funding can now be directed to pay for the practical legal training (PLT) component necessary for admission to practise as a solicitor. Under this program, Public Defenders may pay the course fees and salary for successful applicants, usually for a period of up to six months.

This year we provided a placement for one new law graduate, Danielle Hobday. We were also able to continue to employ Emma Hudson-Buhagiar and both provided invaluable para-legal support to the Rolling List Court team and to other staff in Chambers.

Danielle Hobday wrote the following about her experience of the program:

*“I feel extremely grateful to have been a part of the Public Defenders, Aboriginal Graduate Lawyers Program from July 2016 to February 2017.*

*This program was a valuable opportunity to me in many ways. The program provided me with financial assistance, supervision and mentoring by some of the finest Barristers within NSW.*

*This program allowed me to complete the requirements of my Practical Legal Training Studies with the College of Law in a supportive and encouraging environment. Further it prepared me for the processes and preparation required for legal casework, equipped me with the legal skills required as a practitioner and exposed me to the mechanics of the court room, particularly the Rolling List Court.*

*The opportunity to work alongside some of the finest advocates, work on high profile cases all whilst being supported in a positive environment will remain one of the most influential experiences in my career. It pushed me to stop doubting my ability, and reinforced the very reason I wanted to become a lawyer.*

*Having the opportunity to be a Graduate at the Public Defenders was a positive influence on my legal career and maintained my vision to eventually join the NSW Bar. I will always praise this program and the opportunities it creates for upcoming Aboriginal lawyers.”*

## **Continuing Professional Education**

### **Practical Advocacy Course for “Under 5 Barristers”**

We were pleased to be able to run this course after a year’s break. The course is aimed at barristers of 5 years or less standing to provide practical skills in criminal advocacy. We are able to call upon a number of District Court Judges as well as Public Defenders to speak on topics such as opening and closing addresses; cross-examination; examination in chief; juries; sentencing and appeals to the Court of Criminal Appeal. There were 21 participants for the six month course.

### **Annual Conference**

The Annual Criminal Law Conference continues to be very popular with criminal law practitioners within NSW and interstate and was again completely sold out this year.

The conference was formally opened by the Attorney General, the Hon. Mark Speakman MP. The key note speaker was The Hon. Justice Stephen Gageler AC who spoke about appellate advocacy. The Hon. Justice Peter McClellan spoke on perspectives from the Royal Commission and its impact on criminal trials and Judge Dina Yehia SC of the Sydney District Court gave a presentation on trial advocacy.

A full copy of the program and conference papers can be located at our website [www.publicdefenders.nsw.gov.au](http://www.publicdefenders.nsw.gov.au).

### **Public Defenders occasional seminars**

This year we conducted the following seminars for the profession:

- An information session on the child sexual offences evidence pilot for defence lawyers.
- A seminar with the Faculty of Law, University of NSW on “Section 137 – probative value and unfair prejudice post *IMM v The Queen*.”
- A seminar and panel discussion on “Tendency post *Hughes v The Queen*.”
- A continuing professional evidence session at the NSW Bar Association on ‘Scientific Knowledge or Subjective Opinion? Forensic Evidence Workshops for Criminal Law Advocates’.

### **Other contributions to training**

Public Defenders are invited to speak at seminars and conferences conducted by Legal Aid NSW, the Aboriginal Legal Service, Young Lawyers, the NSW Bar Association, the College of Law and other tertiary institutions.

Craig Smith SC and Peter McGrath SC, Deputy Senior Public Defenders both provide advocacy training for the Australian Advocacy Institute to Australian and international lawyers.

We also provide tutors for readers at the Bar, internships for law students undertaking external placement programs and practical legal training as well as year 10 work experience opportunities. These placements are highly prized and we receive many applications from law students wishing to work with Public Defenders. At the same time, Public Defenders and staff benefit from the interaction and work of dedicated, intelligent and passionate students who demonstrate their commitment to social justice and the practice of criminal law by choosing to undertake a placement with us.

Public Defenders provide mentoring under various programs including the Lucy Mentoring Program and the NSW Bar Association’s Aboriginal Mentoring Program.

Peter McGrath SC spoke on the ABC radio program The Law Report on the impact of “vicarious trauma” on the mental health of criminal law practitioners.

### **Government Information (Public Access) Act 2009 (GIPAA)**

Public Defenders meet the requirements of the GIPA Act to provide open access to information for the public where possible and without charge. Our website provides access to the following documents:

- Annual reports
- Service Level Agreements
- Relevant legislation
- Guidelines for Appointment of Public Defenders
- Legal research materials

- Information on internships
- Papers prepared by Public Defenders
- Conference papers

Legal professional privilege precludes access to clients' information.

We have had no requests made under GIPAA this year.

One complaint was received regarding an inaccuracy occurring in an old case summary in the Short Notes section on our website. This case summary was removed from the website.

## Public Defenders 2016-2017

<b>Senior Public Defender (SPD)</b>		
Mark Ierace SC	appointed 7 year term re-appointed 7 year term	16.07.2007 14.07.2014
<b>Deputy Senior Public Defenders (DSPD)</b>		
Craig Smith SC	acting fixed term appointment* appointed DSPD 7 year term	13.06.2006 13.06.2008 18.09.2014
Peter McGrath	appointed DSPD 7 year term	23.01.2017
<b>Public Defenders</b>		
Troy Anderson	acting	15.05.2017
Mark Austin	permanently appointed	05.06.1995
Sophia Beckett	acting short term secondment as Crown Prosecutor fixed term appointment*	29.03.2016 30.05.2016 01.07.2016 29.03.2017
Stuart Bouveng	acting fixed term appointment*	15.08.2016 15.08.2017
Chris Bruce SC	permanently appointed (currently part-time)	26.04.1988
Robyn Burgess	acting (part-time) permanently appointed (part-time)	13.12.2000 10.11.2005
Helen Cox	permanently appointed (currently part-time)	17.07.1995
Antony Evers	acting fixed term appointment*	14.07.2014 29.03.2017
John Fitzgerald	acting fixed term appointment*	25.01.2010 25.01.2011
Brian Hancock	acting fixed term appointment* re-appointed 7 year term	29.08.2005 29.10.2009 29.10.2016
Michael King	acting fixed term appointment*	30.08.2010 30.08.2011
Peter Krisenthal	acting fixed term appointment*	14.07.2014 09.09.2015
Chrissa Loukas SC	permanently appointed	17.07.1995
Janet Manuell SC	acting fixed term appointment* re-appointed 7 year term	06.02.2007 13.06.2008 24.06.2015
Ian Nash	acting fixed term appointment*	23.01.2012 23.01.2013
Bill Neild	acting fixed term appointment*	05.09.2016 05.09.2017
Ertunc Ozen	acting fixed term appointment*	27.05.2013 03.06.2014
Peter Pearsall	permanently appointed	06.12.2001
Tom Quilter	acting	08.05.2017
Belinda Rigg SC	acting permanently appointed	27.01.2004 13.07.2006
Jason Watts	acting fixed term appointment*	03.06.2013 27.05.2014
Angus Webb	permanently appointed	15.07.1996
Eric Wilson SC	acting permanently appointed	27.01.1998 09.08.2001
Richard Wilson	acting fixed term appointment*	23.01.2012 23.01.2013
Philip Young SC	permanently appointed	24.07.2002

\* Appointment for fixed term of 7 years renewable under 2007 amendments to the Act.

## **Contact Details**

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### **Chambers Manager**

Ruth Heazlewood

### **Clerk to Chambers**

Renee Spinks

### **Hours**

Monday to Friday between the hours of 8.30am and 5.00pm