



THE OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS

Opening Address by the Director of Public Prosecutions, Mr Christopher Pryde, at the ODPP Conference on Friday 24th June 2022 at The Warwick Fiji.

Members of the Judiciary;

Members of the Fiji Police Force including the police prosecutors;

Members of NGOs;

Members of the media;

DPP State Counsel;

Honoured Speakers;

Ladies and Gentlemen.

1. I would like to begin by extending a very warm welcome to each and every one of you for attending our first DPP's Conference since the end of the pandemic; our last conference was in 2019 and we had to postpone in 2020 and then again in 2021.
2. I had hoped that I would be welcoming everyone to the conference from the deck of a certain Russian-owned superyacht if we had been able to persuade the Americans that the Amadea should remain in Fiji. But, alas. We are nonetheless holding the Conference at an

excellent resort; the Warwick Fiji and I am confident that we will all enjoy our stay.

3. I am grateful to the Chief Justice for allowing the release of our two High Court Justice speakers and to the Commissioner of Police and the RFMF for their contributions in releasing officers to speak. I would also like to thank the overseas speakers and the local speakers for giving up their valuable time to contribute to our conference. I know everyone is very grateful to you.
4. I want to express my gratitude to our State Counsel who will be both speakers and chairs for the topics and to the members of the Conference Committee, particularly, Ms Jayneeta Prasad, who as the chair had the overall responsibility for organising this year's conference, along with Charlotte Nambiar, Sharon Prasad, Kuini Radrodro, Shinal Maharaj, Juleen Fatiaki, (who chaired our 2019 conference) and Shirley Tivao.
5. Also, my thanks to our IT specialist, Kaushik Kumar, who will be handing around the microphones at the question-and-answer sessions and recording the topics. Kaushik will be collecting the papers and presentations from our speakers and they will be put onto a flash drive and made available to everyone after the conference.
6. Finally, I would like to thank our intrepid Media Liaison Officer, Farisha Ahmed, who will be taking photographs throughout the conference so be on your guard and remember to smile sweetly at all times.

7. These are the people responsible for bringing you the conference so may we have a big round of applause please.
8. The theme of the conference is *Attacking the Drug Problem by Removing the Profit* and we have a wide variety of speakers who will provide a range of opinions and perspectives. I am confident the discussions will be robust and informative and I encourage everyone to make use of the question-and-answer session at the end of each topic.
9. The last two years have been challenging and crime, like rust, never sleeps.
10. In Fiji over the past few years, we have seen an increase in drug related offences not just from our home-grown cannabis farmers but from more sophisticated overseas criminal organisations using Fiji as a transit point for the transshipment of hard drugs to other countries in the Pacific, and which, unfortunately but inevitably, has begun to spill over into the local population. We are seeing an increase in hard drugs used and sold locally.
11. We are going to hear what the extent is of the drug problem in Fiji and how we are combatting it. Some of the challenges we face concern the scientific procedures around drug analysis. Are we getting false positives from drug tests? What is the likelihood of contamination of samples? Are convictions that are solely based on positive drug tests reliable and safe? We will also discuss the chain of custody from seizure to court exhibit and what the processes are for the destruction of the drugs.

12. The police are now beginning to make use of developments in forensic technology, particularly DNA testing to assist with investigations. What do we do when a suspect is required to provide a bodily sample as part of a police investigation for analysis purposes but refuses? How do we persuade the court that an order to provide a bodily sample should be granted because it is in the interests of justice to do so? Is this an area that requires legislative intervention along the lines of New Zealand's Criminal Investigations (Bodily Samples) Act 1995?
13. One way we are fighting the drug problem is through the confiscation of assets and we are going to hear how confiscation of assets and asset recovery is approached from Fijian and New Zealand perspectives, not only from a policing perspective but also from a defence perspective. We will hear how the courts deal with the confiscation of assets and some of the issues arising from these applications.
14. Finally, we will hear from the Head of our newly-established (2020) Proceeds of Crime Task Force. The uniqueness of applications under the Proceeds of Crime Act allows a virtuous circle of profit from crime being forfeited to the State and then being redistributed to law enforcement agencies to enable them to locate and confiscate even more proceeds from crime. What are the statistics telling us? How does the Forfeited Assets Fund operate?
15. The final session of the day will look at the Nikolic drug case from an operational perspective.
16. The Nikolic case was important for Fiji because it demonstrated how the various agencies in Fiji; the police, the Navy, the customs and

revenue, and the DPP's Office were able to work with overseas intelligence sources and put together a joint strategy that resulted in seizure of the yacht, then confiscation of the yacht, and finally a conviction of the person responsible for the yacht and in possession of the drugs.

17. This case represented a successful trifecta to use a horse racing metaphor which was apt since the criminal involved, John Nikolic, was a former Australian horse trainer and who also received one of the longest drug smuggling sentences ever handed down in Fiji for his crime, 23 years! There were however operational issues which we will discuss and although we were ultimately successful, a lot could have gone wrong. We need to understand the lessons learnt.
18. On Saturday, for those of you still keen to obtain your full CLE points and who are not too much the worse for wear from the cocktail, we will hear about unexplained wealth declarations and mutual legal assistance requests, two topics in the news recently.
19. Fiji is one of the few countries in the Pacific that has the ability through its Proceeds of Crime Act to apply to the courts for unexplained wealth declarations. If the respondent is a person living beyond their apparent means, they can be called upon to explain how they derived their income. If the court is not satisfied the wealth is legitimate, the unexplained portion of their wealth can be forfeited to the State. There is no need for a criminal conviction and the respondent does not need to be charged with any offence.
20. On the face of it, this is a substantial incursion into an individuals' constitutional right to silence, the right to be presumed innocent, the right against self-incrimination, and the right to own property

and to accumulate wealth. A draconian and constitutionally flawed remedy to proceeds of drug crime or a legitimate and powerful tool in the fight against crime?

21. The last topic on Saturday is on mutual legal assistance. Mutual legal assistance is the life blood of many of our investigations and without which many of our investigations would never proceed. Mutual legal assistance occurs at many levels from the sharing of local intelligence on individuals between respective police forces or financial intelligence units on an informal basis through to the high-level government to government requests for assistance, one of which played out in Fiji's Supreme Court recently. We will hear how these requests operate in practice. We will hear about the court's approach to these requests and what can and cannot be granted by the courts.
22. As with our 2019 Conference on sexual offending, we asked the question, are we doing enough? The same question applies to this year's conference. With all our state-of-the-art laws, procedures, MOUs, regulatory framework and sophisticated technology, are we being effective in removing the profit from the drug problem or are losing the battle? Should we be approaching the problem differently? Should our laws and our procedures be further reviewed or refined? Do some of them go too far? Are the successes we have enjoyed to date merely one-off and the result of luck and unlikely to be repeated or are we heading in the right direction?
23. These are some of the questions I hope we can ponder over the next two days as we listen to our speakers.

24. Finally, I have also been requested by our tennis club to put in a plug for the ODPP inaugural tennis tournament which will start promptly at 4.00 pm tomorrow and after which there will be a short ceremony to hand the tournament trophy to the winning couple. It is not too late to register and participate either as a competitor or to assist with umpiring.
25. Ladies and gentlemen, it is going to be an exciting two days and I would like to, again, thank everyone for attending. I look forward to meeting everyone throughout the conference during our discussions, and at the cocktail, and at the dinner, and on the tennis court.
26. Thank you.

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