



Office of the Director of Public Prosecutions

ANNUAL REPORT 2020

DIRECTOR'S FOREWORD

Director of Public Prosecutions, Mr Christopher Pryde



To quote Charles Dickens, 2020 was “the best of times, it was the worst of times.” The pandemic was making itself felt throughout the world and Fiji’s economy contracted by 20% meaning our budgets were reduced but, thankfully, we did not need to make any staff member redundant and nor were salaries reduced.

We did however need to reduce much of our spending and find innovative ways to continue working under trying circumstances. We implemented COVID-safe protocols at all offices around Fiji and set up a Viber group to ensure official communication was continued especially for those effected by the intermittent “work-from-home” protocols when curfews and lockdowns were implemented to stem the COVID tide and the courts were closed. We also successfully held our first “Zoom” meetings.

We were all especially grateful for the work of our drivers during this period who worked constantly taking files from the registries to the homes of legal officers and back again. We had lucky escapes from the worst of Cyclone Harold over Easter and later in the year from Cyclone Yasa. We also recorded, with sadness, the death of Mr Justice Suresh Chandra, one of Fiji’s most

distinguished judges.

2020 was also the year that the Office of the Director of Public Prosecutions (ODPP) celebrated its 50th year of existence and we were determined to celebrate the event. This consisted of locking a time capsule (actually a wooden box handmade by inmates from the Naboro Correctional Facility) to be opened in 2070 and filled with personal items from the staff representing their time at the ODPP. We also started a commemorative book documenting the first 50 years of the ODPP (1970 – 2020) which we hope to publish soon.

Despite our challenges, we managed to “keep calm and carry on” which became our unofficial motto. The Serious Fraud Division established a Proceeds of Crime Task Force to focus more of our efforts on money laundering and we had our first successful unexplained wealth declaration granted by the Lautoka High Court since the Proceeds of Crime Act was amended in 2012 to allow for these applications.

Christopher T. Pryde

Director of Public Prosecutions

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Vision

A modern and professional prosecution service that fosters national goals and aspirations of peace and good governance through the rule of law.

Mission

To promote and uphold the rule of law by providing a modern, professional and effective prosecution service to the people of Fiji.

Values

- Independence
- Fairness
- Courage

Guiding Principles

The ODPP operates in accordance with the principles enshrined in the Constitution of the Republic of Fiji, with international standards for prosecutions, and with principles of corporate good governance.

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Role of the ODPP

The Office of the Director of Public Prosecutions (ODPP) was first established in 1970. It has continued in existence as an independent regulator of criminal proceedings in Fiji by virtue of successive legal instruments and, today, operates within the powers and functions assigned to the Director of Public Prosecutions (DPP) by virtue of section 117 of the Constitution of the Republic of Fiji.

Independence of the ODPP

Section 117 empowers the DPP to:

- a) institute and conduct criminal proceedings;*
- b) take over criminal proceedings that have been instituted by another person or authority (except proceedings instituted by the Fiji Independent Commission Against Corruption (FICAC));*
- c) discontinue, at any stage before judgment is delivered, criminal proceedings instituted or conducted by the DPP or another person or authority (except proceedings instituted or conducted by FICAC); and*
- d) intervene in proceedings that raise a question of public interest that may affect the conduct of criminal proceedings or criminal investigations. The powers of the DPP may be exercised by the DPP personally, or through other persons acting on the DPP's instructions.*

The Constitution at section 117 (10) states:

In the exercise of the powers conferred under this section of the Constitution, the DPP shall not be subject to the direction or control of any other person or authority, except by a court of law or as otherwise prescribed by this Constitution or a written law.

Under the Constitution, the Parliament is to ensure that adequate funding and resources are made available to the ODPP to enable it to independently and effectively exercise its powers and perform its functions and duties.

The Constitution also empowers the DPP to appoint any legal practitioner, whether from Fiji or from another country, to be a public prosecutor for the purposes of any criminal proceeding; and gives the DPP authority to appoint, remove and institute disciplinary action against all staff (including administrative staff) of the ODPP.

Criminal Prosecution

The DPP commands a crucial position within the criminal justice system and within a democratic nation.

The DPP reviews and, where warranted, sanctions prosecutions before the Magistrates' and the High Courts of Fiji. Cases of special difficulty or of public interest in the Magistrates' Courts are processed and, where necessary, prosecuted by the ODPP. Summary offences are ordinarily prosecuted by Police Prosecutors with oversight by the DPP.

The DPP files appeals, where warranted, to the High Court, Court of Appeal and Supreme Court. Counsel at the ODPP contribute to the continual development of Fiji's criminal jurisprudence by making submissions in relation to appeals before the High Court, Court of Appeal and Supreme Court.

The ODPP, under the direction of the DPP, plays a key role in supporting the enforcement of criminal laws, international laws, treaties and conventions that the Fijian Government has ratified, as well as contributing towards the continued development and maintenance of a just and fair criminal justice system.

The ODPP also conducts a variety of training programmes for Police Prosecutors and prosecutors from other government agencies.

Another major component of our work involves the provision of written advice to the Commissioner of Police, the Director of the Criminal Investigation Department and to other governmental departments and statutory organisations.

Prosecution Policy

The Prosecution Code is followed by all police prosecutors and all state prosecutors in order to ensure that justice is done. It is a public document followed by all prosecutors when deciding whether to charge a person with an offence.

Drafting Criminal Charges

Prosecutors are bound by legal and ethical obligations that govern their every basic conduct as State Prosecutors. State Prosecutors select charges that:

- a) reflect the seriousness of the offence;*
- b) give the court adequate sentencing powers;*
- c) enable the case to be presented in a clear and simple way; and*
- d) adequately reflect the true criminality of the offender's conduct.*

ODPP Offices



The ODPP has nine offices around the country with its headquarters based in Suva.

Headquarters has three sub-divisions: the Serious Fraud Division, the Sexual Crimes Division and the General Crimes Division. All corporate sections have their headquarters in Suva with administrative and registry support offices assigned to regional officers around the country. The Appeals Division is also based at headquarters.

There are five offices in the Western Division (Sigatoka, Nadi, Lautoka, Ba and Rakiraki). There are two offices in the Northern Division (Labasa and Savusavu) and one in the Eastern Division (Nausori).

Overall, the principal role of each divisional office is to assist the DPP in the delivery of a fair and independent prosecution service committed to the rule of law.

Serious Fraud Division

The Serious Fraud Division (SFD) is a division of the Office of the Director of Public Prosecutions that is based on the second floor of Gunu House. The Serious Fraud Division deals with serious financial crimes, money laundering, and proceeds of crime matters. The main areas of focus are offences such as deception, abuse of office, corruption, theft or larceny by servant, and conspiracy to defraud and breaches under the Financial Transactions Reporting Act. The Division also undertakes mutual legal assistance requests and extradition applications. In 2020, the SFD established a new taskforce, the Proceeds of Crime Taskforce (POCTF).

Core Functions

The SFD prosecutes matters as directed by the Director. The majority of the cases dealt by the Division deal with deception, money laundering, theft and dishonesty offences. The Division also handles applications under the Mutual Assistance in the Criminal Matters Act, as well as under the Extradition Act. The Division also makes application for restraint and forfeiture under the Proceeds of Crime Act (POCA). With the introduction of the Proceeds of Crime Taskforce, applications are now streamlined through the head of the POCTF, Senior Legal Officer, Ms Moira Konrote.

The SFD also assists stakeholders in terms of anti-money laundering regimes. The team of officers at the SFD engage actively in training other stakeholders on a number of topics, such as money laundering, proceeds of crime

applications, unexplained wealth declarations, financial fraud, extradition and mutual legal assistance.

The SFD team also actively takes part in the Anti-Money Laundering Working Groups (Legal and Law Enforcement). In 2020, Ms Konrote, as a representative of the DPP, became the Chair of the AML Legal Working Group. Ms Konrote and Mr Saif Shah were also active participants in the Legal and Law Enforcement Working Groups.

Team

The SFD was staffed by a Principal Legal Officer and five legal officers in 2020. Ms Jayneeta Prasad continued as the Manager Serious Fraud. Ms Mehzabeen Khan resigned and was replaced by Ms Moira Konrote as Senior Legal Officer. Mr Saif Shah, Ms Nimisha Shankar and Mr Sahil Shiraz continued as legal officers. The year also saw Ms Swastika Sharma, who was previously based at Sexual Crimes Division, join the SFD.

Training

The Division provides training for Police on money laundering, fraud and proceeds of crime matters. The members of the Division are also actively involved in upgrading their skills in prosecuting fraud matter through in-house ODPP training sessions. As this year brought in the first wave of COVID 19, all overseas training trips were cancelled.

Serious Fraud Division

Year in Review

In 2020, the Division dealt with a number of cases that involved cybercrime, money laundering, deception, theft and giving false information.

The SFD continued to handle theft or misappropriation matters where the victims were known and had trusted the offender, for instance where employees stole from their employers.

There were a number of charges that arose in cases involving employees stealing money, such as fraudulent falsification of accounts, theft and money laundering. The charging of money laundering in some matters were the subject of much judicial discussion in the past year, as in the case of **Raj v The State [2020] FJCA Crim. App. No. 96 of 2018**. The single Judge of Appeal, when faced with the argument that *“money laundering involves the transfer of money obtained from criminal activity into ‘legitimate’ channels to disguise its illegal origins or a series of financial transactions intended to transfer ill-gotten gains into legitimate money or other assets. She goes on to contend that the money she stole was ‘clean money’ and any subsequent dealings with it would have been money laundering as it became proceeds of crime after it was stolen and not before that.”*

In dealing with this argument, the Judge stated:

“However, it is clear that for an accused to commit money laundering it is sufficient if

another person other than the accused has derived or realised money or any other property by the commission of a serious offence (‘generating crimes’) and then for the accused to directly or indirectly engage in some other transaction involving such proceeds of crime; the accused need not be the person who derives or realises proceeds of crime. On the other hand, in a given situation it is also possible that the accused could initially derive or realise proceeds of crime and he could thereafter engage in money laundering by engaging directly or indirectly in some other transaction involving such proceeds of crime.”

As the law in relation to money laundering is developing, so is the law in relation to deception. In 2020, a number of convictions in relation to obtaining property by deception charges were appealed and led to quashing of convictions in some instances because the Court was not satisfied with the evidence in relation to “deception”.

In **Mani v The State [2020] FJHC Crim. App. No.HAA 8 of 2020**, the appellant had been charged with obtaining financial advantage by deception, having allegedly obtained money to install some blinds but had failed to do so. The appellant had pleaded guilty to the charge and was convicted in the Magistrates’ Court.

Serious Fraud Division

Year in Review

The High Court on appeal stated:

“Section 316 of the Crimes Act provides that ‘deception’ means an intentional or reckless deception, whether by words or other conduct, and whether as to fact or as to law, and includes:

(a) a deception as to the intentions of the person using the deception or any other person; and

(b) conduct by a person that causes a computer, a machine or an electronic device to make a response that the person is not authorized to cause it to do.”

However, the said definition does not clearly define what a ‘deception’ is. In Blackstone’s Criminal Practice 2007 at page 402 it is stated thus;

“The best known judicial definition of deception is that of Buckley J in Re London and Globe Finance Corporation Ltd [1903] 1 Ch 728 at p.732:

To deceive isto induce a man to believe that a thing is true which is false.”

This was quoted with approval in **DPP v Ray [1974] AC 370** and is consistent with the normal dictionary meaning of the term, ...”



The SFD Team (back row -L-R) Legal Officers, Sahil Shiraz, Swastika Sharma, Nimisha Shankar. (Front Row-L-R) Senior Legal Officer, Moira Konrote, Manager SFD Principal Legal Officer, Jayneeta Prasad and Legal Officer, Saif Shah.

In line with these authorities, the Court quashed the conviction in the matter as it was not satisfied that the element of deception was met. Promises to do something in the future and failure to do so does not satisfy the element of deception.

Serious Fraud Division

Year in Review

In a landmark decision for Proceeds of Crime Act applications, the Lautoka High Court granted the DPP's application for the first unexplained wealth declaration. The Proceeds of Crime (Amendment) Act 2012 allows the DPP to apply to the High Court (Civil Jurisdiction) for an unexplained wealth declaration in respect of any person who maintain a standard of living above that which is commensurate with his or her present or past emoluments or in respect of any pecuniary resources or property disproportionate to a person's present or past lawful emoluments.

The DPP's application to the High Court for an unexplained wealth declaration was in relation to \$28,000 cash found in possession of the respondent Keshni Lata.

The cash was found in Ms Lata's possession after a police search of the vehicle she was travelling in on 1 March 2019. She claimed the money was from the sale of another vehicle. The State had argued that the money was the proceeds from the sale of illicit drugs for which her husband was under investigation.

As well as making a declaration that the \$28,000 was unexplained wealth, the Lautoka High Court ordered that the \$28,000 be forfeited to the State.

Proceeds of Crime Taskforce (PCTF)

The SFD welcomed the appointment of Senior Legal Officer, Ms Moira Konrote to head the newly established Proceeds of Crime Taskforce

(POCTF).

The PCTF will be the central liaison point in the ODPP for money laundering and proceeds of crime matters and will be responsible for developing working relationships with other proceeds of crime agencies such as the police anti-money laundering unit, the Financial Intelligence Unit, the Fiji Revenue and Customs Service, as well as international agencies such the New Zealand Asset Recovery Unit.



Senior Legal Officer, Moira Konrote heads the newly-created Proceeds of Crime Taskforce, a specialist unit with the Serious Fraud Division.

General Crimes Division

The General Crimes Division (GCD) is the largest division within the ODPP. Based on the ground floor of Gunu House, the GCD prosecutes a variety of cases from the Magistrates' Court to the High Court. Besides prosecution, the members of GCD conduct appeals before the High Court, Court of Appeal and Supreme Court.

Core Functions

The GCD is responsible for the prosecution of offences against public order, international order, the administration of lawful authority, sexual offences, prostitution, abortion, offences against the person (including murder, manslaughter and infanticide), crimes against humanity, offences endangering life and health, criminal recklessness and negligence, offences against a person's liberty and traffic offences, to name a few.

The GCD is also responsible for providing legal advice on general crime file dockets to the DPP.

Team

In 2020, the GCD was led by Principal Legal Officer Ms Juleen Fatiaki from January–September and who thereafter was succeeded by Principal Legal Officer Ms Sherlyn Kiran. Assistant Director of Public Prosecutions Mr Lee Burney played a supervisory role.

The team consisted of the following Officers:

- Senior Legal Officer, Ms Shirley Tivao
- Senior Legal Officer, Mr Eoghn Samisoni

- Legal Officer, Ms Wakesa Elo
- Legal Officer, Ms Sujata Lodhia
- Legal Officer, Ms Bhavna Khantharia
- Legal Officer, Mr Zenith Zunaid
- Legal Officer, Mr Neelraj Sharma
- Legal Officer, Ms Pream Ram
- Legal Officer, Ms Monisha Naidu
- Legal Officer, Ms Estein Thaggard

Training

The Division assisted in providing training to Police on offences other than fraud and child sensitive matters.

The members of the Division were also actively involved in upgrading their skills and knowledge pertaining to the criminal justice system through in-house ODPP training sessions, which were held on the last Friday of every month.

As a result of the COVID-19 pandemic, the team had to utilise other modes of conducting training for the ODPP. When hosting the training for the month of September with the topic of Examination-in-Chief, the team canvassed the various issues associated with conducting trials with witnesses via an online platform.

General Crimes Division

Year in Review

In 2020, the Division dealt with cases, such as murder, manslaughter, aggravated robbery, aggravated burglary, arson, theft and serious assault offences.

One of the noteworthy case of 2020 was **State v Rusiate Rokobulou [HAC 63/18]**.

The accused with others was charged with one count of Aggravated Robbery after committing a violent robbery at Dignified Crematorium at Nakasi. They assaulted the security guard with a piece of timber ultimately breaking one of his legs before making off with various items within the complex. They gained entry into the complex when this particular accused, Rusiate Rokobulou, used his elbow/ arm to break one of the windows at the entrance of the crematori-

um, injuring himself in the process and leaving a trail of blood throughout.

During his Record of Interview, the accused vehemently denied any involvement in the robbery. He was asked by the Police whether or not he would agree to his buccal sample being taken for DNA testing. The accused agreed and, after having the process explained by the Forensics Officer in itaukei and filling out the generic consent form, his buccal sample was extracted. After testing the same, the results confirmed that the accused's sample and the blood found at the crematorium was a match. The DNA evidence was the only evidence that the State had against the accused.

Issues at Trial

The accused was represented by counsel during the Voir Dire trial where the only issue was the admissibility of the buccal sample that was taken from the accused. Defence argued that the accused did not give his informed consent as he was not properly advised of the consequences of having his sample being taken and that the taking of the same breached his constitutional rights.



Back Row L-R: Wakesa Elo, Neelraj Sharma Bhavna Kantharia, Eoghn Samisoni, Shirley Tivao, Zenith Zunaïd.

Middle Row L-R: Pream Ram, Juleen Fatiaki, Monisha Naidu, Sujata Lodhia, Estein Thaggard. Front Row L-R: ADPP Lee Burney, DPP Christopher Pryde.

General Crimes Division

The defence relied on the decision in **State v Kitione Vakadranu HAC 276/16**, where a different Judge had thrown out the DNA sample that the State was relying on and, in that case, the Defence also relied on similar grounds. In this case, after having accepted that perhaps the Police could/ should have done more to advise the accused to assist him in giving informed consent, the court ruled that the taking of the buccal sample did not breach the accused's constitutional rights, particularly articles 11, 13 and 14. The DNA evidence was ruled admissible in the interests of justice. The Judge summed up the same at paragraph 33 of the Voir Dire Ruling as follows:

As it is explained above in this ruling, equating the providing of bodily sample with a confession of a suspect is a misconstruction. Therefore section 13(1)(d) [and 14(2)(j)] of the Constitution has no relevance to obtaining of a buccal sample. Section 14(2)(j) is any way applicable after a person is charged and therefore is not relevant to the issue at hand. Even if the obtaining of the relevant sample with consent but without informed consent, is regarded as unlawful, for the reasons explained above, section 14(2)(k) of the Constitution is not breached by admitting the relevant DNA evidence for the reason that the interests of justice requires the said evidence to be admitted. (Emphasis added)

At the trial, the DNA evidence was again accepted by the court and the Judge agreed with the unanimous opinion of the assessors, and accordingly convicted the accused.

Another noteworthy case of 2020 was **State v Sanjay Lakhan [HAC 160/20]**.

On 19 May 2020, the accused wounded his wife and step-daughter with a cane knife after a heated dispute about his wife's alleged affair with a police officer. As a result, the accused was charged with two counts of Act with Intent to Cause Grievous Harm: contrary to Section 255 (a) of the Crimes Act 2009. The defence did not contest the fact that PW1 and PW2 were wounded by the accused, but took up the position that his conduct that led to wounding wife and stepdaughter was involuntary.

On the contrary, it was the position of the prosecution that the accused had the requisite intention, that is, the actions of the accused were voluntary, calculated and that he was aware of his actions at the time of the offence. The defence raised in this case was similar to what is termed as the "defence of sane automatism due to a psychological blow". The defence argued that their defence was similar to the "battered woman syndrome." The defence completely denied that the accused had the required intention. The defence said that the accused did not act consciously and that he did not know what happened. It was pointed out that the accused had taken up the position that he could not remember what happened even when he was questioned by the police in relation to this matter on 19 May 2020. It was the position of the defence that the accused was very angry, 'out of his mind' and heartbroken after he saw his wife (PW1) with another man in his house in the early morning on 18 April 2020.

General Crimes Division

Thereafter, from that day, he had allowed his wife and stepdaughter to come back into the house, and that he was ill-treated by them all throughout. Finally, on 19 May 2020, the wife denied talking to the said 'policeman' when the accused confronted her after hearing the conversation between the two over the phone that morning. After being assaulted by the stepdaughter the accused was hurt, he was 'very stressed' and 'his brain went crazy' and from there on, his actions were involuntary. The assessors unanimously found the accused guilty of both counts as charged.

During the summing up, Justice Perera had noted that "no witness can look into an accused's mind and describe what it was at the time of the alleged incident. Therefore, it is not possible to have direct evidence regarding an accused's state of mind. The intention of an accused can only be inferred based on relevant proven facts and circumstances. Therefore, in relation to this element, you should consider all the facts and the circumstances you would decide that the prosecution has proven beyond reasonable doubt; such as, what the accused had said and done before, during and after the incident, how the injuries were inflicted, where on the relevant witness' body the injuries were inflicted, the weapon used to inflict the injuries and the nature of the injuries that were inflicted, so that you will be able to decide whether or not the accused had the intention to maim, disfigure or disable the relevant witness, or to do some grievous harm to that witness in relation to each count." Justice Perera ruled that he was

unable to accept the accused's version that he wounded his wife and stepdaughter unconsciously to be probable given the totality of the evidence and that he was satisfied beyond reasonable doubt that the conduct in question of the accused on 19 May 2020 was voluntary. This is because the accused had clarity of mind to remember where the cane knife was kept and to go to the stepdaughter's room and to take it from underneath the mattress after the event he claims that made his 'brain go crazy'. The Judge further ruled that it was clear that the accused had made a conscious decision in selecting the weapon he used to inflict the wounds on his wife and stepdaughter. In addition, given the conversation the accused had with the victims whilst committing the offence, it was clear that the accused was conscious of what he was doing. He was ultimately sentenced to 3 years; 5 months; and 22 days with a non-parole period of 11 months and 22 days.



The DPP Christopher Pryde with LO Neelraj Sharma who received the Best Trial Junior Award at the 2020 Black Tie Awards Night.

Sexual Crimes Division

The Sexual Crimes Division is a specialised division in the ODPP. It is located at level 3 Dolphins Plaza, Suva. The Sexual Crimes Division handles serious sexual offence cases involving children, juveniles and vulnerable victims.

The Sexual Crimes Division prosecutes criminal offences such as rape, incest, sexual assaults, indecent assaults, abduction, defilement, and infanticide. Specialised prosecutors also make special measure applications on behalf of children, juveniles and vulnerable victims under the Juveniles Act, Crimes Act, Criminal Procedure Act, Child Welfare Act, and Domestic Violence Act.

Core Functions

The decision to prosecute a criminal matter is the prerogative of the DPP. The Sexual Crimes Division renders legal advice to the DPP on sexual offences involving children, juveniles and vulnerable victims. The initial advice by a legal officer is first submitted to the SCD Manager for vetting before a final decision is made by the DPP. Prosecutors at the Sexual Crimes Division conduct trials in the Magistrates' Courts, High Courts and appeals in the High Court, Court of Appeal and Supreme Court. The officers at

SCD also provide advice to Police on the sufficiency of evidence on various legal matters; as well as advice to other government departments and agencies on prosecution.

Team

The Sexual Crimes Division is headed by Principal Legal Officer, Meli Vosawale. Other members include Senior Legal Officer, Kimberly Semisi, Senior Legal Officer, Unaisi Tamanikayaroi, Legal Officers, Swastika Sharma and Sadaf Shameem. In the latter part of the year, the Division welcomed two new legal officers, Joeli Nasa and Unal Lal and Ms Swastika Sharma was transferred to the Serious Fraud Division.



The SCD Team (Back L-R)- Manager SCD Principal Legal Officer Meli Vosawale, Senior Legal Officer, Unaisi Tamanikayaroi, Legal Officer Joeli Nasa, Legal Officer, Unal Lal, Senior Legal Officer Kimberly Semisi and Legal Officer Sadaf Shameem with DPP Christopher Pryde.

Sexual Crimes Division

Year in Review

There were quite a number of successful prosecutions recorded by the Division in the Magistrates' Courts, High Courts and appeals in the appellate Courts in 2020.

Here are a few noteworthy cases.

In **State v Sukulu Tikoitoga**, the accused was charged with numerous Rape charges with a high degree of violence involved. The prosecutor applied to have the accused declared a 'Habitual Offender' since he had 22 previous convictions for offences involving violence, with only one previous conviction of a similar nature to that of which he was convicted. The High Court declared the accused a 'Habitual Offender', stating that the accused was a threat to society and women.

In **State v Waisake Tulavu**, where a pastor had committed various sexual offences on three women who had joined as members of the church needing spiritual deliverance and prayer. In sentencing the accused, the trial Judge stated:

"The representation was false in that sexual acts did not form any legitimate part of a prayer of deliverance in the church of which he was a recognised pastor. The misrepresentation was fraudulent because the offender knew that the representation that he made was false at the time that he made it."

His final sentence after a guilty plea was 16 years' imprisonment with a non-parole period of 12 years.

In **Rajesh Kamal Narayan v State**, wherein the

appellant was convicted for raping a 16-year old female, the Court of Appeal, when dismissing the appellant's ground that the verdict was unreasonable, stated in the ruling that:

"This was not a case of the complainant's word against the appellant's word. There was medical evidence supportive of an act of sexual intercourse as alleged by the complainant but denied by the appellant. The complaint themselves had been reasonably prompt. No sinister motive for false fabrication had been suggested by the appellant either. Both versions ran parallel to a great extent, the only point of departure being what happened at Suva Point."

Appeals Division

When an accused has been convicted or acquitted after a criminal trial, this does not necessarily bring the proceedings to an end. If either parties are dissatisfied by the outcome of the trial, one may lodge an appeal to a higher court, be it a High Court or the Court of Appeal or the Supreme Court against conviction, sentence or acquittal. The Appellate Courts can remedy any errors in the trial process, enhance or reduce a sentence for an accused person.

There are procedural requirements as provided for under the Criminal Procedure Act, the Court of Appeal Act and the Supreme Court Act in terms of the appeal period. A vital require-

ment that needs to be considered when in the process of analysing a case on appeal is “the time factor.” This is one of the core functions of the Appeals Division is vetting the legal opinions from legal officers throughout the whole of Fiji.

TEAM

The Division continues to be led by Ms Pauline Madanavosa, a Principal Legal Officer together with another Principal Legal Officer, Ms Sherlyn Kiran and Mr Ranjeel Kumar, a Senior Legal Officer. Throughout the year, the Division has had the assistance from paralegals who have three-month tenures with the ODPP.



The Appeals Team: Back (L-R) Assistant DPPs Mr Lee Burney and Dr Andrew Jack. Front (L-R) Senior Legal Officer, Mr Rajneel Kumar, Manager Appeals Division Principal Legal Officer Ms Pauline Madanavosa, DPP, Mr Christopher Pryde, Principal Legal Officer Ms Sherlyn Kiran and Assistant DPP Ms Elizabeth Rice.

Appeals Division

Every year there would be quarterly sessions whereby the Full Bench of the Court of Appeal and the Supreme Court would sit. Unfortunately, due to the COVID-19 pandemic there was only one session for the Court of Appeal in the month of February. However, cases that were before the single judge continued throughout the year, this involved mentioned matters and leave hearings.

There are three cases that need to be highlighted for they were interesting decisions.

Inoke Raikadroka & Mohammed Sheefaz Sagaitu v State Criminal Appeal No. AAU0080 of 2014 (27 February 2020)

Following a joint trial before the Suva High Court, presided over by His Lordship The Honourable Justice Paul K. Madigan, both appellants, who had been male sex workers and aged 24 years at trial, had been unanimously found guilty. On 06 June 2014, Raikadroka had been convicted for two counts of Slavery contrary to section 103(1)(a) of the Crimes Act and five counts of Domestic Trafficking in Children contrary to section 117(1)(a)(b)(c)(i) of the Crimes Act while Sagaitu had been convicted for two counts of Domestic Trafficking in Children, also contrary to section 117(1)(a)(b)(c)(i) of the Crimes Act. Raikadroka had also been charged with two alternative counts of Aggravated Sexual Slavery in relation to the two primary counts of Slavery, which became irrelevant post trial. While on 09 June 2014, he was sentenced to concurrent terms of 14 years for the two slavery counts and 16 years for the five domestic child trafficking counts with a non-parole term

of 14 years. Sagaitu received a concurrent sentence of 12 years' imprisonment with a non-parole term of 10 years. All said proven offences had been committed against two sisters, aged 15 and 17 years old during the alleged material times spanning 1 June 2012 to 31 December 2012. On 18 May 2018, both appellants had been given leave to appeal their respective convictions and sentences by the Court of Appeal. Thereafter, on 27 February 2020 before the Full Bench of the Court Appeal (nil dissenting), Raikadroka's convictions for the two Slavery counts were set aside as it was held that there had been insufficient evidence that Raikadroka had treated either sister as a slave, that is, he had neither acted as he had owned them as things or had exercised such control over either of them in a manner to deprive them of their individual liberties. Vis-à-vis, the undisputed facts that both under-aged sisters had knowingly and voluntarily engaged in the sex trade with Raikadroka acting as a pimp. Both appellants had also argued that since both sisters had consented to being prostitutes with Raikadroka and Sagaitu acting as their pimps, the Domestic Child Trafficking convictions were erroneous in law; however, the Court of Appeal had upheld the respective trafficking convictions after having examined section 103 of the Crimes Act at length and determined that consent of the victim or subject is immaterial and is no defence to the charge of Domestic Child Trafficking, which aims to protect children from being sexually exploited.

Appeals Division

Both appellants had also argued that the trial Judge had been biased; however, after considering the trial records at length, vis-à-vis applicable case laws, no such claim was made out as it was held that the trial Judge had not acted improperly albeit merely made comments, which were unfortunate but not tantamount to causing prejudice towards either appellant.

With regards to sentences, the Court of Appeal did not provide a guideline on Domestic Child Trafficking as section 6 of the Sentencing and Penalties Act had not been complied with, while accepting that a range of 12 to 18 years' imprisonment was reasonable for Domestic Child Trafficking. However, the sentences for both appellants were varied as it was held that the trial Judge had failed to take into account relevant considerations regarding the nature of the offending and respective culpabilities of the appellants, where Raikadroka was re-sentenced to concurrent terms of 15 years' imprisonment with a non-parole term of 12 years, and Sagaitu was resentenced to 12 years' imprisonment with a non-parole term of nine years' imprisonment. Both varied sentences backdated to 9 June 2014.

The State v Etuate Dreduadua Criminal Appeal No.AAU65 of 2016 (27 February 2020) cannabis cultivation; sentencing; appellate approach to rehabilitation and societal reintegration. The Respondent, referred to as Dreduadua for convenience, was unanimously found to have been guilty for unlawfully culti-

vating 10 kilograms of cannabis sativa between 1 December 2014 to 6 January 2015 at Savusavu in the Northern Division, where on 26 May 2016, he was convicted in a trial that had been presided over by Justice Paul K. Madigan. The exact number of cultivated plants were unknown while the forensic/ chemistry evidence at trial had conclusively revealed that the illicit cultivation had resulted in 10 kilograms of seized cannabis sativa plants. On 26 May 2016, Dreduadua was sentenced to two years' and eight months' imprisonment with a non-parole term of two years, as the trial Judge mistook the offending as a category 3 offence under the Court of Appeal guideline **Kini Sulua/ Michael Ashley Chandra v The State** cannabis sentencing authority.

The State had filed a timely Notice of Appeal, outlining the obvious error of law in the sentencing principle where on 9 July 2019, the Court of Appeal had granted leave to appeal the impugned sentence. Subsequently, on 27 February 2020 the Full Bench of the Court of Appeal (nil dissenting) agreed with the State's appeal and held that the trial Judge had indeed erred in principle in applying a category 3 range to a category 4 offending and substituted the sentence with that of a term of seven years imprisonment, with effect from 26 May 2016. This was deemed to have been partly served by 5 November 2018 when the respondent had already been released from prison and had been reintegrated into society without further criminal issue.

Appeals Division

The Court of Appeal, was concerned with regards to the rehabilitation of the respondent, given his societal reintegration while about a year and a half had elapsed since his reintegration and the Full Bench determining this appeal. As a result, the Court of Appeal declined to have the balance of the respondent's varied sentence made effective.

Sailasa Qalivere Criminal Appeal No. AAU71 of 2017 (27 February 2020) – Sentencing for Aggravated Robbery (Street Mugging) where home invasion tariff was applied.

The Appellant, referred to as Qalivere for convenience, was aged 19 when he and an unknown accomplice had robbed civilian Umesh Chand of FJ\$50 cash and a FJ\$90 Nokia mobile phone along a Suva City street at about 0200 hours on 3 July 2016. On 11 January 2017, the Suva Magistrates' Court, acting under extended jurisdiction, sentenced Qalivere to 8 years' and 6 months' imprisonment based on his own unequivocal guilty plea and admission of the summary of facts. The appellant had subsequently obtained leave to appeal his sentence, which he argued was harsh and excessive as it had relied on an improper sentencing guideline.

The Full Bench of the Court of Appeal (nil dissenting) agreed with Qalivere that the sentence was indeed harsh and excessive and wrong in principle as the Magistrate had applied the Supreme Court's Wallace Wise 08-16 years tariff band, tailored for invasion type of aggravated robberies. While Qalivere's case had been in the street mugging category where the applicable tariff was found in the similar in fact Court of

Appeal authority of Savenaca Raqauqau, which provided a tariff of 18 months to 5 years' imprisonment.

As a result, the Honourable Full Bench of the Court of Appeal had set aside Qalivere's impugned sentence and substituted the same with a three-year term with effect from 11 January 2017 with directions that Qalivere be released forthwith as he had already completed his substituted sentence when the Full Court delivered its Judgment on 27 February 2020.

Northern Divisional Office

The Northern Division of the Office of the Director of Public Prosecutions is based on the ground floor of Macuata House, Labasa and at Level 1, Planters House, Savusavu. The Northern Division deals with cases from the provinces of Bua, Cakaudrove, Macuata and outer islands like Kioa, Rabi and Taveuni.

There is a High Court in the Northern Division at Labasa and Magistrates' Courts at Savusavu, Taveuni and Nabouwalu. Our prosecutors handle serious criminal cases of all nature in all Courts across the Northern Division.

Core Functions

The Northern Division prosecutes matters as directed by the DPP. The majority of the cases dealt with by the Division included various sexual offences, ranging from the most serious, such as rape to indecent assault. Other serious cases dealt with were offences like murder, manslaughter, arson, acts intended to cause grievous harm, unlawful possession of illicit drugs, fraud and breach of curfew offences.

Team

In 2020, the Northern Division was staffed by an Acting Principal Legal Officer, a Senior Legal Officer and a Legal officer. Ms Darshani Rao continued as the Manager North until October, after which she was replaced by Principal Legal Officer, Ms Juleen Fatiaki. Ms Amelia Vavadakua carried on as Senior Legal officer.

The year also saw the departure of Legal officer,

Inia Rakaria in October. He was replaced by Ms Sheenal Swastika in November 2020 on transfer from the Eastern Division.

The Legal team was supported by Typist, Ms Neha Sharma, Litigation Officer, Mr Muni Sharma, Litigation Officer, Ms Nazmeen Khan and Driver, Dhirend Chand.

ADPP, Dr Andrew Jack played a supervisory role.



Legal Officer, Inia Rakaria, ADPP, Andrew Jack, Manager Northern Division Acting Principal Legal Officer Darshani Kumar and DPP Christopher Pryde.

Training

As part of its role in the ODPP, the ODPP North held monthly workshops with Police Prosecutors, Prosecutors from the Ministry of Health, and Prosecutors from the Commerce Commission, LTA Prosecutors and members of the legal fraternity. The workshops covered all aspects of matters in relation to criminal law.

Northern Divisional Office

In 2020, the Northern Division prosecuted a wide range of cases. Of particular interest was the case of **State v Yogesh Rohit Lal HAC 46/19**.

The accused was charged with the murder of his wife who, prior to the incident, had physically separated from him and lived with her parents in a rural area out of Labasa.

The accused person had lured the deceased out of her house by cutting off power supply to her house. When she came out to enquire, the accused struck her multiple times with a cane knife he brought from his house. When the charge was put to him, he entered a plea of guilty.

During his mitigation he blamed the deceased for his actions. His Lordship, Mr Justice Goundar in sentencing said:

The victim's character is of little relevance in sentencing. Even if Ms Devi was of promiscuous character, she had a right to life. She may have wanted to move on with her life after separation, but the offender was obsessed with her. He frantically pursued her after separation. He also involved the elders from his community to convince her to reconcile and return to him. It appears that their differences were irreconcilable and that the marriage had broken down. Ms Devi stood her ground not to return to the offender for the reasons best known to her.

The motive for the killing is clear. The offender could not accept that Ms Devi had a right to autonomy and a right to choose her own course in life. He could not accept that she no longer wanted to be in a relationship with him. He considered himself entitled to insist that Ms Devi conform to his wishes rather than pursuing her own. The prospect of Ms Devi pursuing a new relationship was galling to him. He felt ridiculed when Ms Devi rejected him. In response to her perceived temerity, he killed her, his own wife and the mother of his three children.



The DPP Christopher Pryde with LO Sheenal Swastika who received the Most Promising Prosecutor Award at the 2020 ODPP Annual Black Tie Awards Night.

Western Divisional Office

The ODPP Lautoka serves as Divisional Headquarters for five district offices at Sigatoka, Nadi, Lautoka, Ba and Rakiraki.

These offices come under the supervision of the Divisional Manager West and Principal Legal Officer, Mr Semi Babitu.

Training

As part of its role in the ODPP, the ODPP West also held monthly workshops with Police

Prosecutors, Prosecutors from the Ministry of Health, and Prosecutors from the Commerce Commission, LTA Prosecutors and members of the legal fraternity. The workshops covered all aspects of matters in relation to Criminal law. These workshops were conducted by legal officers from the Western Division.



ODPP Western Team Back (L-R) Senior Legal Officer Rukalesi Uce, Legal Officer Saini Naibe, Manager Western Division, Principal Legal Officer Semi Babitu, Legal Officers Taitusi Teunuku, Simione Seruvatu, Prenika Lata, Arshnal Kumar and Rajshneel Chand with DPP Christopher Pryde.

Western Divisional Office

Year in Review

The ODPP Western Office has dealt with a number of cases involving various offences from the Magistrates' Court to the Supreme Court. In this report, there were two cases in the Court of Appeal, which shed light to the issue of grounds relied on by an appellant and the submissions that argued the grounds of appeal submitted by an appellant.

Noteworthy cases are two cases from the Western Division that were heard in the Court of Appeal, both of which came up for leave hearing, **Janendra Narayan Pal v State** in AAU 145 of 2019 and **Daya Prasad v State** in AAU 049 of 2019.

The Court of Appeal noted that since the case of **Rokodreu v State in AAU 0139 of 2014**, an appellant's grounds of appeal should be drafted with reasonable particulars so that the opposing party can effectively respond to them. The threshold for leave in the Court of Appeal was 'arguable ground of appeal' whereas now, it is 'reasonable prospect of success' for a timely appeal. For enlargement of time, the threshold is 'real prospect of appeal' for an appeal filed out of time.

Therefore, it is now more important than ever before for an appellant to submit exact evidence or instances of alleged shortcomings or deficiencies in the material available with the appellant at the leave to appeal stage (or extension of time or bail pending appeal), such as bail pending trial ruling, *voir dire* ruling, other interlocutory rulings made during the trial,

summing-up, the judgment and the sentence order, as the case may be. These documents are usually made available to the accused or their counsel at the trial stage.

The Court of Appeal had noted that a notice of appeal or an application for leave to appeal (or an application for extension of time or bail pending appeal application) containing grounds of appeal which do not substantially meet the above requirements or are filed in negligent or careless disregard of them may also run the risk of the single judge of the Court dismissing the appeal on the basis that it is vexatious or frivolous under section 35(2) of the Court of Appeal Act.

In essence, it is vital that when a party files an appeal in the Court of Appeal, the party must ensure that the grounds submitted and the submissions relied on must cover the grounds of appeal relied on or they may risk the appeal being dismissed at the leave stage.

Eastern Divisional Office

The ODPP Nausori prosecutes offences throughout the Eastern Division, which primarily includes provinces of Tailevu, Lomaiviti, Rewa and Naitasiri.

The ODPP Nausori serves the Magistrates' Courts at Nausori, Korovou Tailevu, Vunidawa, Valelevu and Levuka Courts. Furthermore, State Counsel based at Nausori prosecutes indictable offences from the Eastern Division jurisdictions before the High court of Fiji in Suva and also deals with the appeal matters in Court of Appeal and the Supreme Court.

The core function of the Eastern Division office

is prosecuting general crimes, which comprise murder, cultivation and possession of illicit drugs, rape, property offences, fraud and arson, and other common offences.

Team

The Nausori ODPP is headed by Principal Legal Officer Eastern, Mr Yogesh Prasad and supported by two divisional State Counsels, Ms Sheenal Swastika and Mr Setefano Komaibaba. Two new Legal Officers joined the Nausori office, Ms Michelle Lomaloma and Ms Naazish Ali in the second half of the year. Ms Sheenal Swastika was transferred to the Northern Divisional Office. The administration staff are Ms Veena Prasad who looks after the registry and litigation work, supported by Ms Sophaia Takayawa.

Training

The Eastern Division team of the ODPP actively participates in training summary prosecutors in the Division and also does regular monthly training for the Police summary prosecutors from the Central, Southern and Eastern Divisions. The Manager Eastern Divisional Office, Principal Legal Officer, Mr Yogesh Prasad was also responsible for conducting trainings for police and statutory regulators during the ODPP Basic and Advanced Prosecutions Courses.



Legal Officer, Michelle Lomaloma, Manager Eastern Division, Principal Legal Officer Yogesh Prasad, Legal Officers Setefano Komaibaba, Naazish Ali and Sheenal Swastika with DPP Christopher Pryde.

Eastern Divisional Office

Year in Review

In 2020, there was a marked increase in sexual and property-related offences, such as child and adult rape, sexual offences and aggravated burglary. One notable and disturbing case was in the matter of **State v Avyash Mani Goundar HAC 247 of 2019**.

The step father took advantage of a nine-year old victim who was financially depended on him. The step father committed multiple sexual offences against the victim until the matter was reported. The matter went for trial and the accused was unanimously found guilty by the assessors and the trial judge concurred with the opinion of the assessors and convicted him. The accused was sentenced to 13 years' imprisonment with a non-parole period of 11 years and 10 months.

In the matter of **State v Sanjeet Singh HAC 196 of 2019**, a step-father carried out prolonged sexual abuse of his stepdaughter in a rural squatter settlement in Nausori. The victim was kept in the house as a sex slave from 2014 to 2018 until she escaped and reported the matter to authorities. The accused was arrested and charged for multiple representative counts of rape covering the over 4-year period. The accused was found guilty after trial. The learned trial judge imposed the highest sentence ever meted out in the history of child rape cases when he sentenced the accused to life imprisonment with a non-parole period of 45 years. The despicable and horrendous act attracted the maximum sentence to deter other offenders as stated by the trial judge in his

sentencing remarks.

Trials of child abuse perpetrators continued in the High Court and in the matter of **State v Vilikesa Ralagi HAC 303 of 2019**, where a distance uncle was indicted for one count of penile rape. The trial judge convicted and sentenced the accused to 13 years with a non-parole of 10 years.

Corporate Services Division

The Corporate Services Division is responsible for the implementation, monitoring and evaluation of ODPP policies and governance frameworks.

The overarching goal of this Division is to sustain a supportive framework for a result-orientated set of policies and procedures for the ODPP to achieve its stated objectives.

The Division also has the responsibility of ensuring that all policies relating to ODPP staff are based on principles of accountability, transparency, integrity, team work, efficiency and leadership.

The Division is also responsible for organising training programmes and other specific projects and duties assigned by the DPP from time to time.

Over the past year, the Corporate Services Division focused on continuous improvements to increase efficiency and accountability, improve services to criminal justice and streamline administration work.

The year saw the improvements in efficiency and effectiveness of service and support service delivery.

Human Resources Management

The Human Resources Department (HR) continues to play a critical role in ensuring the ODPP has a high-performing and engaged workforce.

The HR Manager has various roles and responsibilities, including recruiting, motivating, retaining the best people, sustaining a high per-

forming workforce and meeting legal compliance. The function of the Human Resources Manager is to promote excellence in human resource management and support in the implementation of the best practices of organisational strategies.

Core Function

The ODPP HR Department provides administrative duties that are aligned with the values of integrity, excellence and wellness. The core functions of the HR Department are:

- *equal employment opportunities;*
- *workplace diversity;*
- *organisational effectiveness;*
- *employee wellbeing;*
- *employment and compensation;*
- *performance management;*
- *work environment free from harassment, bullying and discrimination; and*
- *employee relations and communication.*

The Corporate Services Division and the HR department were headed by the Principal Administrative Officer, Ms Charlotte Nambiar. The Corporate Services Division is responsible for the entire administrative and financial functions for the ODPP Fiji-wide. There are several departments that fall under the Corporate Services Division and under the supervision of Director Corporate Services and Human Resources Ms Charlotte Nambiar.

Corporate Services Division

Employee Movement

Staff Appointments 2020

1. Jeshmi Kumar – 06/03/20
2. Sheetal Chand – 29/06/20
3. Naazish Ali – 20/07/20
4. Monisha Naidu – 20/07/20
5. Michelle Lomaloma – 20/07/20
6. Pream Ram – 20/07/20
7. Estein Thaggard -20/07/20
8. Unal Lal- 20/07/20
9. Preeyanka Goundar- 31/09/20
10. Joeli Nasa- 10/09/20

Staff Resignations 2020

1. Mehzabeen Khan – 18/02/20
2. Preeyanka Goundar- 06/03/20
3. Lavenia Bogitini – 21/05/20
4. Josaia Niudamu – 26/05/20
5. Jeshmi Kumar- 17/08/20
6. Sujata Lodhia – 14/10/20

Staff Termination 2020

1. Moumita Chowdhury – 28/01/20
2. Inia Rakaria – 6/10/20

Staff Non-Renewal of Probationary Status 2020

1. Malini Rekha- 03/08/20

Accounts and Finance Division

The Accounts and Finance Division of the ODPP is based at the headquarters in Suva.

The section is responsible for: management of office funds in terms of payments (bills and invoices); providing financial advice for ongoing and new operating expenditures; accommodation and travel arrangements; ensuring timely payment of salary and wages to all staff; budget preparation; assisting the auditors and answering audit queries; revenue management; and preparing weekly, fortnightly and monthly reconciliations.

Team

The section comprises the following staff:

- Accountant -Sharon Prasad
- Acting Assistant Accountant-Michelle Singh
- Accounts Clerk -Melvin Narayan
- Accounts Clerk -Shivneel Sharma (Resigned 07/08/2019).
- Ronesh Chand joined office as the Accounts clerk on 07/08/2019.

BUDGET CLASSIFICATION:

Spending

Major spending for the year are from the following:

- Personal Emoluments – payment of salary and upgrade of salary upon contract renewal.
- Payment of overtime.
- Allowances – payment of housing allow-

ance, acting allowance and gratuity allowance.

- Wages, Overtime and Allowance (Meals) – payment of wages, meals and overtime for unestablished staff (stand-by duties, early morning pick-ups for witnesses and office staff).
- Travel and Communications – increase in subsistence (hotel accommodation and meal claims), travel (local and overseas), payment of monthly bills for TFL, Vodafone, Wi-Fi and dedicated line.
- Incidentals – purchase of tea items and biscuits, water refills, cleaning items, first-aid items, payment for hygiene services, grass cutting, custom clearance charges and payment for security services.
- Purchase and repair of office equipment (office chair, steel cabinet, bookshelf, whiteboard, notice board, shredder, binding machine, office table, visitors chair and ladder.)
- IT – purchase of toners, external hard drive, fax machine, time/ attendance machine, laptop, printer, wireless keyboard and mouse, camcorder and repairs to multi-functional printers.
- Stationeries and Printing – includes A4 paper, DPP notepad, legal paper, summon forms, charge sheets, A4 and A5 minute sheets, dividers, diary, and other office stationeries. This also includes printing of annual reports.

Accounts and Finance Division

- Repair and Maintenance – includes two major renovations at ODPP Lautoka and ODPP Ba. Repair of Library and Corporate reception.
- Training – ODPP monthly training, monthly police prosecution workshop, Hampel training, advance prosecution workshop, and the ODPP awards night.
- Payment to ITEC – annual maintenance for cases software.
- Payment of per-diem allowance for overseas training.
- Purchase of legal wear.
- Witness Payment – court allowance, travel, accommodation and meals for both local and overseas witnesses.
- Payment of utility bills (EFL, CDP, water, fuel) and annual subscriptions.

Savings

Major savings are from SEG 1, SEG 4, and SEG 5. This is due to the following:

- Existing vacant positions.
- Vehicle Repair and Maintenance – no major repair and maintenance of vehicles.
- Court witnesses and fees – funds were not utilised during the lockdown period in March–April 2020.
- Prosecution courses – funds were not utilised as there was no overseas training due to Covid-19.

Revised Budget for the ODPP

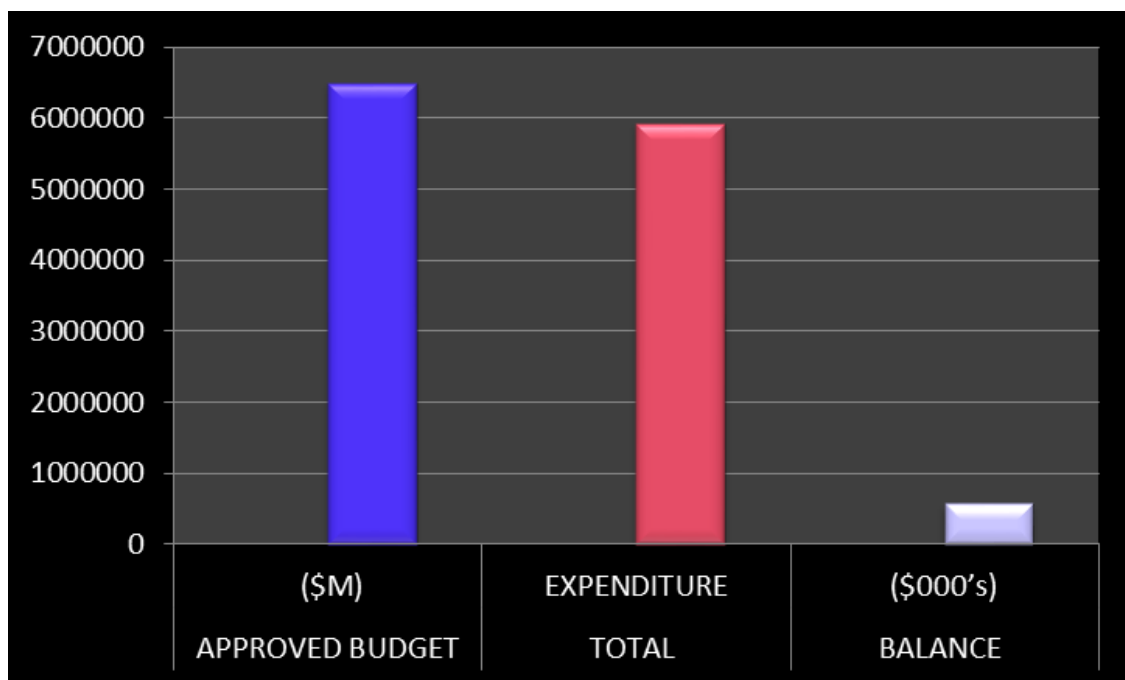
- The Covid-19 response budget was announced on 27 March, 2020 for the next four months of the financial year (April-July 2020). This was done due to the Covid-19 pandemic which had drastic effects on the economy.
- The budget for ODPP was reduced by \$714,222, from \$7,210,831 to \$6,496,609.
- The major allocations that were affected were:
 - Personal emoluments
 - FNPF
 - Allowances (established and un-established)
 - Spare parts and maintenance
 - IT equipment and toners
 - Court witnesses and fees
 - Prosecution course

Accounts and Finance Division

SUMMARY OF EXPENDITURES AUGUST 2019 – JULY 2020

ALLOCATION	APPROVED BUDGET (\$M)	TOTAL EXPENDITURE (\$M)	BALANCE (\$000's)
0905 (ODPP)	6,496,609	5,927,734	568,875

APPROVED BUDGET & TOTAL EXPENDITURE FOR AUGUST 2019 TO JULY 2020



Accounts and Finance Division

ELECTRONIC FUND TRANSFER (EFT) vs. CHEQUES

- Most of the payments made during the year were through EFT. Vendors are accepting the changes that are currently ongoing in government with the use of EFT mode, which is faster and more secure.
- The number of cheques issued in this financial year was much less compared to previous years. Only in exceptional cases were cheques issued to avoid disruption of services.

TOTAL	
CHEQUES	\$369,752
EFT	\$2,262,526
TOTAL PAYMENT	\$2,632,278



Accounts and Finance Team (L-R) Melvin Narayan, Accountant Sharon Prasad, Director Corporate Services, Charlotte Nambiar, Michelle Singh and Ronesh Chand.

ODPP Library

The ODPP has a well-resourced and well-structured library based at its headquarters in Suva. The use of the library is limited to the staff of the ODPP but the resources are made available to other stakeholders, such as the Fiji Police Force, the Fiji Military Forces, the Fiji Independent Commission against Corruption (FICAC) and in-house lawyers in other Ministries upon request.

The Library is allocated with its own budget, which is used to pay subscriptions for legal texts from overseas publishers and to purchase local statutes when required.

The Librarian, Mr Ziad Hussein, regularly circulates legislative updates, new decisions and case law for all ODPP lawyers. Counsel are also assisted with their individual research queries and regularly supplied with up-to-date legal resources.

Law Library Text Books

The Following law text books were purchased during the year 2020.

QTY	Title	Price
		FJD(\$)
3	Archbold: Criminal Pleading, Evidence and Practice 2020	3340.85
1	Taylor on Criminal Appeals 2 nd Edi-	613.19
4	Blackstone's Criminal Practice 2020	3157.60

Distributions of books were as follows:

- Three copies of Archbold 2020 – a copy each to Suva, Labasa and Lautoka.
- Four copies of Blackstone's – a copy each to,

Suva, Labasa, Lautoka and Nausori.

Annotated Laws

Four copies of annotated laws were purchased for our new legal officers: Crimes Act, Criminal Procedure Act, Sentencing and Penalties Act, and Bail Act.

Revised Laws of Fiji

ODPP has also received the service amendments Numbers 8 to 11 this year for Revised Laws of Fiji. These amendments were for all 20 volumes and for all five sets, which we had purchased initially. The amendments are updated accordingly by the librarian for DPP's set and for the Library's set.

Library Management Software

All textbooks which were received in 2020 have been catalogued and catalogued data has been uploaded into this system. Apart from Law textbooks, all judgments that were received by the library from January to December 2020 have also been successfully converted into e-format and uploaded into this system. These authorities include Magistrates' Court, High Court, Fiji Court of Appeal and Supreme Court judgments.

Cloud Hosting for Liberty – Library Management Software

Since 2019, ODPP library has hosted its Library Management Software on the cloud. Liberty is now successfully running on the cloud and it is accessible from any PC, as long as the user has the correct link and login details. The cloud hosting is facilitated by Softlink Australia, who are suppliers of Liberty.

ODPP Library

Library Subscriptions

The Library has made payments for renewal of subscriptions for the following:

Date	Payee	Particulars	Amount
12/02/2020	LexisNexis Aust. Ltd	Payment for Revised Laws of Fiji Amendment- Service 8	AUD \$1595.65
25/02/2020	NZ Law Society	Subscription renewal for NZ Law Talk	NZD \$190.00
25/03/2020	LexisNexis NZ Ltd	Aust. Crim. Trial Direction – Issue No. 79	NZD \$ 972.08
22/04/2020	Serendip Inv. Pty Ltd	Annual Subscription for Government Gazettes - 2020	FJD \$625.00
18/05/2020	Softlink Aust.	Liberty Support and Maintenance	AUD \$1743.39
10/06/2020	LexisNexis Australia	Revised Laws of Fiji – Service 9	AUD \$1206.25
04/09/2020	LexisNexis Australia	Revised Laws of Fiji – Service 10	AUD \$327.30
27/10/2020	LexisNexis Australia	Revised Laws of Fiji – Service 11	AUD \$338.55
02/11/2020	Economist Subscription Centre	Economist Newspaper	USD \$439.00
09/12/2020	LexisNexis (NZ) Ltd	New Zealand Law Journal	NZD \$890.00
16/12/2020	Soflink Aust.	Cloud Hosting for Liberty Software	AUD \$2193.98

Collection of Judgments

The ODPP Library has completed indexing and sorting all hardcopies of judgments which were received in the year 2019. The Library is also in the process of paginating 2018 judgments. These include Magistrates' Court, High Court, Court of Appeal and Supreme Court judgments. Once this is completed, these judgments will be sorted and stored in alphabetical order.

Library Requests

Apart from acquiring and updating library resources, the Library also ensures that all daily library requests, including searching of case laws (local and overseas), legal research, photocopying, binding and preparing disclosures for filing, are completed and provided to the requesting officer in the required time.



ODPP Librarian Ziad Hussein outside the new ODPP Library at the Lomanikoro House.

ODPP Registry

An efficient file management system is critical for the ODPP to deliver its services to the courts and to members of the public. The Registry Section continually works to improve its service delivery by updating and refining its filing systems and by improving its use of technology. Each divisional and district registry has an officer assigned who is responsible for the smooth running of the registry.

The ODPP Registry is based in the middle floor at ODPP Headquarters. The Registry is headed by Kiran Singh who works with three experienced staff.

The main functions of the registry are:

- *receiving notice from Court, police dockets from Police and submissions from law firms;*
- *conducting data entry of relevant details from police dockets and notices and opening of physical files;*
- *dispatching received documents to the officer in carriage;*
- *filing and serving documents to law firms and prisons;*
- *preparing daily causelists with legal officer's names marked on them;*
- *closing physical files and sending police dockets back to police;*
- *being in charge of storing closed files;*
- *liaising with the National*

Archives of Fiji and sending closed files to them for proper storage;

- *preparing court records for appeal matters;*
- *liaising with Police in order to serve notice of appeal to respondents who are out of prison;*
- *preparing of court clearance for officers who wish to travel overseas; and*
- *assisting legal officers in compiling disclosures and submissions.*



ODPP Registry Team (Back): Shalen Kumar, (Front L-R) Sheetal Chand, Director Corporate Services Charlotte Nambiar, Registry Manager Kiran Singh, Susana Vuniani.

ODPP Registry

2020 was a challenging year for the Suva Registry due to the Covid-19 pandemic. For three weeks, all legal officers and some corporate staff were told to work from home for safety reasons. The Judiciary was not sitting but giving out next dates, except for urgent matters. For the ODPP, only the essential staff were in the office. The Suva Registry was handled by one person only and the Registry had to ensure that all criminal matters handled by the ODPP were updated daily. The Registry had to get the next dates from Court and update the database regularly in order to ensure that no future appearances in Court were missed. For urgent court sittings, the Registry had to arrange for an officer to appear in court on time.

During these three weeks, the Suva Registry continued to receive dockets from the Police in regards to breaches of curfew hours. Being a one-man team, the solitary staff member had to ensure that the files were opened and given for allocation on time. The documents received from law firms had to be scanned and emailed to the legal officers so that they could continue to prepare submissions/ responses from home. The operation of the Suva Registry continued during the 2020 Covid-19 pandemic; however, the work was not affected though changes to some of the work strategies were necessary. Technology played a large part during this time making it possible to liaise with the legal officers who were working from home, and it also became easier to liaise with the stakeholders online instead of collaborating with them face-to-face.

During 2020, two registry staff members received awards during the Annual Awards Night. Ms Kiran Singh was given the Outstanding Performance Award (Corporate); Mr Shalen Kumar was given the award for the longest serving staff having completed 20 years of service at the ODPP. In 2020, the ODPP Registry had packed files for the years 2011 to 2013 in the archival cartons, according to the standards of the National Archives of Fiji. These files were ready to be taken to the Archive for safe storage; however, due to the space capacity at the National Archives of Fiji, the Suva Registry had to store it at the ODPP's newly acquired storage room at Mitchell Street. In 2020, the Suva Registry had closed around 1120 files.

ODPP IT

The Information Technology (IT) section provides assistance to ODPP staff on all technology-related matters and continuously encourages the creative and innovative use of technology to achieve the ODPP's stated objectives.

The IT section provides a secure, highly reliable technological infrastructure along with a high-quality service and support systems for staff at the ODPP. Mr Rajnesh Narayan, Senior Systems Analyst, with the assistance of Mr Amitesh Prasad, managed the IT Section in 2020.

They facilitated all Skype conference calls between the ODPP offices across the country during the Professional Officers Talanoa Sessions, and during meetings.

The IT section is also responsible for the management of training videos and the maintenance of CASES. The Section is responsible for IT-related purchases and maintenance as stated below:

Multifunctional Colour Photocopier

The ODPP purchased two multifunctional photocopiers for use by the Administration, Appeals and Registry sections in the Suva Office. The photocopier, namely the Konica Minolta Bizhub C458, was purchased as per ITC tender award at a price of **\$23,460**. There was a necessity to buy new machines as the old machines had been in continuous use for over five years and retaining and running the machines would have resulted in the recurrence of problems due to deteriorating parts, thus incurring considerable costs.

Multifunctional Printers

Colour and mono multifunctional printers were purchased as replacements and new assignments to administrative staff and legal officers. The total cost for procuring six printers was **\$5,871.95**.

Laptops

The ODPP purchased 12 laptops costing **\$23,635.25**. Laptops were purchased for new staff and as replacements for aging laptops.

Desktop Computers

The ODPP purchased six desktop computers costing **\$15,322.50**. Computers were purchased for new staff and as replacements.

External Hard Drives

A total of 17 External Hard drives were purchased and deployed to various offices for backup purposes. The hard disks were used for court disclosures, and some were kept for server backup, and recovery disks. Total cost of purchases was **\$2,693**.

ICT Accessories

The ODPP purchased ICT accessories and devices, such as LAN Tester, Cat 6 cable down tool, external DVD drives, RAM, laptop bags, and Bluetooth speakers. Other accessories were a toolkit, headsets, USBs, labelling machine, cleaning kits, HDMI cable, computer monitors and network accessories.

ODPP IT

Network Equipment

TP Link 4G routers costing \$798 and two Cisco managed switches for Lautoka and Nausori office worth \$5286.46 were purchased as part of equipment upgrade. An Engenius outdoor router worth \$1065 was purchased to maintain network connectivity for the offices in the West.

Sound System Accessories

A replacement portable microphone headset valued at \$290 was purchased for use during the monthly workshops, police prosecution training, DPP conference and other ODPP training programmes.

Uninterruptible Power Supply (UPS)

A total of 10 UPS costing \$3,850 were purchased and installed for desktop computers, server and network switch for protection against power surges and power cuts.

Wireless Keyboard and Mouse

Most ODPP officers are using laptops where the wear and tear of frequent use of the keypads and inbuilt touchpads causes deterioration. As a preventive measure and to preserve the lifespan of the laptop, an additional 15 wireless keyboards and mouse devices costing \$795 were purchased.

Biometric Time machines

Biometric time machines were purchased for the ODPP Nausori and Labasa Offices. These time machines cost \$994.00 and were replace-

ments for existing written-off machines.

Camera with Accessories

A total of two Canon camcorders with tripod and other camera accessories, such as Canon Speed Flash Tamron lens, memory cards costing \$5,700 were purchased for video review training sessions, exhibit photos and official events.



ODPP IT Team (L-R) Amitesh Prasad, DHR Charlotte Nambiar, and Rajnesh Narayan.

ODPP Media

The ODPP acknowledges that the public's interest in information must be balanced against the need to maintain the integrity of the criminal process. Hence, the ODPP, through its Media Liaison Officer (MLO), diligently strives to assist the public in understanding how the criminal justice system works and, specifically, the role of the DPP within it.

Through its MLO, Ms Farisha Ahmed, the ODPP assists the public and media organisations in their reporting of court proceedings by providing media updates and press statements when needed. However, the type and nature of information released is dependent upon the stage and nature of the proceedings being commented on, and whether they are subject to any legal prohibition or competing public interest.

In 2020, the MLO continued with all her duties as required, including additional duties that were assigned to her during the course of the year, which included starting the ODPP internal newsletter, Office Buzz, ODPP calendar, and working on the ODPP's 50th Anniversary Book project that would document the first 50 years of the DPP's office.

Core Functions

- *Providing a quality information service*
- *Writing and editing media releases, in-house newsletters, brochures, other publications*
- *Contributing to the development and the design of the Annual Reports*
- *Accurate reporting of progress on cases*
- *Responding to queries from individuals,*

journalists and other organisations

- *Maintaining and updating the ODPP website*
- *Updating the ODPP Wikipedia page with reliable information*
- *Analysing media reports, collating articles of interest to the office for follow-up action*
- *Working on the ODPP calendar (Design and pictures)*
- *ODPP official photographer*
- *Collating and publishing the ODPP's monthly statistics on serious crime*



Media Liaison Officer, Farisha Ahmed.

ODPP Media

Media Updates

A total of 62 media updates were released in 2020, including the monthly sexual and non-sexual offences statistics. These updates were released on request and as directed by the DPP or if there was heightened media attention, as well as public interest.

However, the type and nature of information released was dependent upon the stage and nature of the proceedings and whether they were subject to any legal prohibition. Media organisations were encouraged to seek clarification on matters, even when reporters were present in Court to report on proceedings.

ODPP Sexual and Non-Sexual Offences Statistics

The ODPP continued to release monthly sexual and non-sexual offences statistics. These statistics are recorded by the DPP and forwarded to the MLO at the beginning of each month. These statistics also include offences committed by police officers.

Each time the DPP signs an Information (Indictment), he records details, such as the charges, number of counts, the type of offence, the location, the sex of the offender, as well as the victim and other details relating to the case. The MLO compiles the information from the raw data into a narrative and tabular format, following the previous years' precedents. The statistics are tabulated and issued to the media and general public at the beginning of each month through the ODPP Twitter feed and are

simultaneously uploaded to the ODPP website.

The MLO received numerous requests for statistics from Government and non-government organisations, as well religious bodies and students.

Media Monitor

The MLO monitors news articles on a daily basis to ensure that media organisations accurately report court proceedings and information released from the ODPP. The ODPP receives updates on news stories, local and overseas, through the Department of Information's media output that collects and disseminates news stories every day. The MLO also looks at news articles published in the newspapers, media websites, both local and overseas, on a daily basis to ensure that there has been accurate reporting in relation to the ODPP and court proceedings.

Annual Report

The MLO is also responsible for collating all the quarterly reports and compiling the Annual Reports. The design and layout is approved by the DPP. After receiving all quarterly reports from Divisional Managers, the MLO compiles all the information and forwards it to the DPP for review and approval. Changes are made to the reports as directed by the DPP.

ODPP Media

Corrections Sought from Media Organisations

The MLO is required to check for news articles and, if any incorrect reporting is noticed, it is her task to ensure that a correction is sought from the responsible media outlet. In 2020, a total of nine corrections were sought from the print media, namely the Fiji Times and the Fiji Sun. Print media is expected to put a correction in the next day's publication. There were also instances where online media organisations were requested to correct stories on their online platform. These are usually done through verbal or phone complaints and the organisations are expected to immediately correct the error to avoid other media organisations, especially the online media, picking up the incorrect story and running it on their platform.

Website Maintenance

The MLO is responsible for maintaining the ODPP website and ensuring the contents are updated as and when required. The ODPP in 2020 had to install a security service legal agreement to protect the website due to a website downtime that occurred in November 2020. The service level agreement is a security update, which will be done yearly to ensure that there are no other issues with the website or any virus. The agreement was entered on between the ODPP and Webmedia Pacific. The agreement also provides weekly backups of the ODPP website mainframe and blocks any unusual traffic or activity that is not from the ODPP

MLO. The MLO ensures that the website security and the hosting is renewed yearly to avoid any disruptions to the running of the Website.

Social Media

The ODPP has accounts on two social media sites; Twitter and LinkedIn. The MLO is responsible for monitoring these two sites. All media updates and press releases are also disseminated through the two social media accounts when required. The MLO occasionally shares event photos from around the ODPP upon DPP's approval.

ODPP Calendar

In 2020, the DPP decided to launch the ODPP calendar. Ms Ahmed was tasked to design and select pictures she took throughout the year for the 2021 calendar. Instead of focusing on public holidays only, the ODPP calendar also outlines dates for in-house training and events.

ODPP Media

ODPP 50th Anniversary

To celebrate the ODPP's 50th Anniversary, the MLO was tasked to create a 50th Anniversary Committee to work on an Anniversary Book and the Time Capsule. The book documents the first 50 years of the ODPP's history. Ms Ahmed was also tasked to contact former DPPs to share their experience at the ODPP during their time. For the Time Capsule, Ms Ahmed organised a competition for staff to design an ODPP crest to celebrate the 50th Anniversary. The ODPP Time Capsule was sealed at a ceremony on 9 October 2020 and currently resides on the top floor of the Gunu House. The Anniversary Book is still in the works to be released later.



ODPP Internal Newsletter

In 2020, the MLO was tasked to create an internal newsletter for the ODPP to keep staff informed of developments around the office. The MLO Ms Farisha Ahmed developed the internal newsletter and titled it 'Office Buzz.' The newsletter is a snapshot of the various activities and changes that happen in the ODPP each month. Every month, MLO decides on a theme and focuses the newsletter on that theme, which is usually a topical issue not only for the office but also for professional and personal development. The newsletter also contains pictures from events, new ideas, recipes, advertisements and other interesting day-to-day content to give staff something else to look forward to other than work related issues. This was well received by staff who continue to assist with pictures and ideas to include in the newsletter.



The DPP, Mr Christopher Pryde sealed the 50th Anniversary Time capsule on 9.10.20

ODPP Transcription Unit

After the establishment of the ODPP Transcription Unit in 2017, Ms Akanisi Vosanibola as ODPP Transcriber, continued to provide assistance to the ODPP legal officers by transcribing a number of digitally recorded interviews.

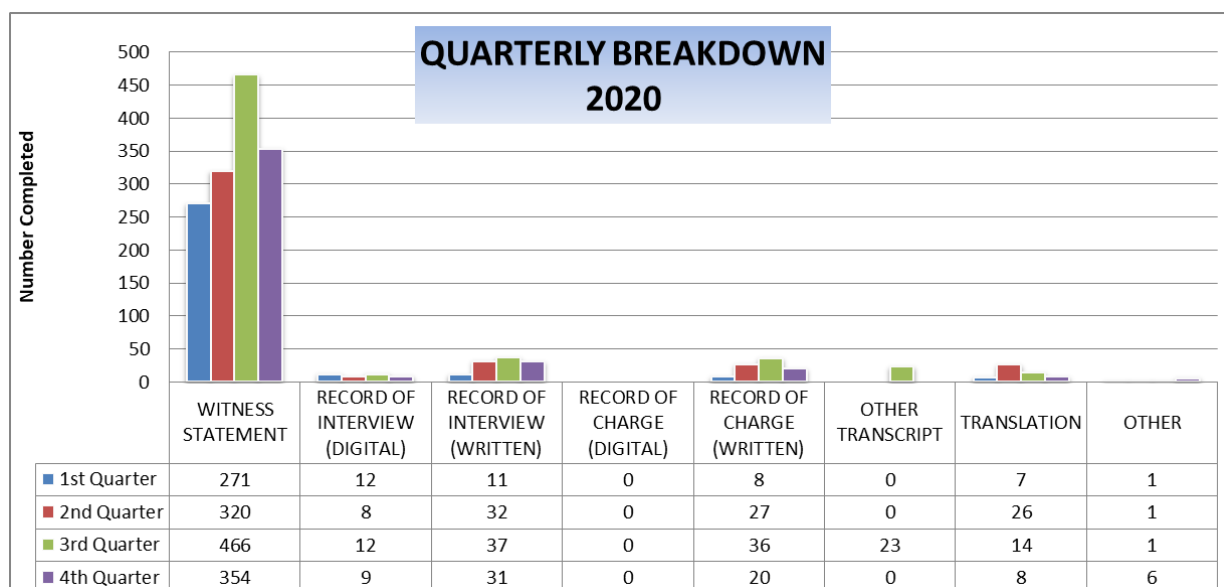
In 2020, the Ms Vosanibola successfully completed transcribing over 50 digitally recorded interviews from the vernacular language into English as part of the formal record of interview for serving on the defence, and for use in Fiji's criminal Courts. The ODPP established the Transcription Unit to assist the Police by providing an independent and professional transcription service.

The digitally recorded interview procedure is part of a pilot project, which was introduced in November 2016 by the Police, marking a new era in Fiji where caution interviews for all suspects will be digitally recorded. The digitally recorded interviews and the transcripts are later used in Court, to provide greater transparen-

cy in the arrest and detention procedure and better justice outcomes by reducing the need for preliminary trials (voir dire) to determine whether a confession is voluntary.



ODPP Transcriber, Ms Akanisi Vosanibola.



ODPP Transcription Unit

SUMMARY OF DIGITALLY RECORDED CAUTIONED INTERVIEWS COMPLETED AS AT 31 DECEMBER 2020

Month	Number Of Case Files	Number Of Accused	Number Of Videos/ Transcripts	Number Of Translations
January	0	0	0	0
February	3	3	12	5
March	0	0	0	0
April	0	0	0	0
May	1	1	2	2
June	2	2	6	5
July	0	0	0	0
August	1	1	9	0
September	2	2	3	0
October	1	4	4	0
November	1	1	1	0
December	1	1	4	0
TOTAL	12	15	41	12

Training and Professional Development

Training in the ODPP has been a key priority and has helped support the professional development of its staff, in particular, lawyers. The impact of training is reflected in the quality of their work and mentoring of new officers who join the organisation. Training programmes for lawyers incorporate the development of soft skills, namely their communication skills, professionalism, leadership, team work, networking and service with honesty.

Monthly Training Programmes for the Professional Legal Staff

The ODPP organised nine Monthly Training Workshops for its professional legal staff in 2020. The responsibility of selecting training themes and designing workshop materials were undertaken on a rotation basis between each of the three Divisions based at Suva. Each Division is responsible for arranging a diverse team of facilitators to conduct the training. Professionals and academics, such as former and current High Court Judges and legal consultants were invited to participate to ensure lawyers had the opportunity to learn about developments in the criminal justice system from experts within the field. The day-long programmes were designed to be interactive and involved participatory group presentations and a variety of discussion activities.

The training subjects were well researched, and the training materials and group exercises were also tailor-made to address identified weaknesses and strengths, with the overall aim of enhancing productivity.

Professional Officers “Talanoa” Sessions (POTS)

POTS are informal “talanoa” or discussion sessions among legal staff held every second Friday of the month.

As knowledge and experience sharing among colleagues is part of the culture at the ODPP, this session allows staff to discuss issues and concerns that one may have encountered whilst attending to his or her matters in Court during the week. Discussions include issues relating to court ethics and court etiquette and how legal staff can better their performance and service as advocates at the Bar. POTS also serves as a coaching and mentoring platform where the DPP, ADPPs and senior lawyers can listen and exchange experiences with newer members of the ODPP team.

External Training and Development

The ODPP facilitates the participation of its lawyers at external, local and international training workshops, including the Attorney General’s Conference. The ODPP successfully completed Basic and Advanced Prosecution Course training, facilitated by Principal Legal Officer, Mr Yogesh Prasad, who was assisted by fellow ODPP Legal Officers. These training courses were for Police and other Statutory Prosecutors, seeking to improve their prosecutorial skills in the court room.

Training and Professional Development

Basic Prosecution Course and the Advanced National Prosecution Course –The Basic Prosecution Course was a four-week course while the Advanced Prosecution Course was an intensive six-week course designed to further hone police prosecutors' trial preparation skills and advocacy at the bar table.

Basic Prosecution Course for Statutory Regulators- A Basic Prosecution Course was also designed to assist regulatory and statutory bodies with the aim of equipping these officers with basic trial preparation skills in prosecuting matters under their legislation. This was the first time the ODPP had organised training for statutory regulators in its continuous effort to improve the prosecution service in Fiji.

Local and Overseas Workshops

Due to the COVID-19 pandemic, the ODPP budget was reduced, which saw a revised training plan. With travel restrictions, all overseas training scheduled for year 2020 was cancelled; certain restrictions imposed, such as social distancing, affected the booking of venues, which resulted in the cancellation of planned conferences. However, in spite of the setback, our training section managed to successfully organise in-house training for both legal and corporate participants, resulting in a total of eighteen (18) local training sessions being conducted in 2020 of which seven (7) were police prosecution training, six (6) were ODPP monthly training, one (1) HAMPLE method training, one (1) basic prosecution training, one (1) basic regulators training, one (1) advanced regulators training and one (1) Fire Wardens training.



Basic prosecution course for police and statutory regulators conducted by PLO Yogesh Prasad before COVID-19.

ODPP Conference

The ODPP Conference was scheduled for June; however, due to COVID-19 pandemic and restrictions on the number at gatherings, the conference was cancelled.

University of the South Pacific (USP) Career and Entrepreneurial Fair 2020

The ODPP participated at the two-day USP Career and Entrepreneurial Fair 2020. The ODPP set up an information booth and used this as an opportunity to provide information on career prospects at the ODPP to interested individuals. Due to the COVID-19 pandemic, the USP fair was moved from May to 2-3 September 2020.

Year in Pictures



Sealing of the ODPP 50th Anniversary Time Capsule.

Year in Pictures



ODPP staff celebrate Fiji's and ODPP's 50th Year Anniversary.

Year in Pictures



ODPP Staff created awareness on breast cancer during Pinktober.

Year in Pictures



2020 Diwali celebrations at the ODPP.

Year in Pictures



The ODPP Social Committee organised different fundraising events in 2020.

Year in Pictures



ODPP Black Tie Awards Night 2020.

Year in Pictures



ODPP Black Tie Awards Night 2020.

Comments and enquiries should be addressed to:

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