



BUDGET BRIEF

DEPARTMENT OF PUBLIC PROSECUTIONS

HEAD 75

Department Overview

Mr. Chairman,

The mission of the Department of Public Prosecutions is to uphold and honour the duties of the criminal justice system of Bermuda. To that end, we will be guided by principles of fairness and equity, maintaining the honourable tradition of the legal profession. We will be ever mindful of the obligations to serve the public interest and criminal justice agencies with care, consistency and integrity. As guardians of the law, we will prosecute in a manner that is fearless, impartial, transparent and diligent.

The following are the objectives for the Department of Public Prosecutions:

- To promote the effective, fair, impartial, and efficient prosecution of criminal offences.
- To promote high standards and principles in the administration of criminal justice including procedures to guard against or address miscarriages of justice in support of the rule of law.
- To promote and enhance those standards and principles which are generally recognized internationally as necessary for the proper and independent prosecution of offences.
- To promote professional interests of prosecutors and to enhance the recognition of their crucial role in achieving criminal justice.
- To promote good relations between individual prosecutors and policing agencies; to facilitate the exchange and dissemination among them of information, expertise and experience; and, to that end, to encourage the use of information technology.
- To enhance the presentation of the prosecution of cases before the courts.

- To maintain a team of highly competent administrative professionals to carefully handle the day-to-day responsibilities of the department with great detail, and confidentiality which is a critical and essential element in helping prosecutors fulfill their mandate.

Mr. Chairman,

2014/2015 has been another demanding year for the Department of Public Prosecutions. The department's staff continued to experience an unusual increase in workload due to the increase of serious/complex trials including those which are gang related as well as gun crimes. Increasingly we are experiencing trials with many defendants and thus requiring many defense counsel. Further, serious trials involve increasingly complex forensic evidence and sometimes now require the use of protected witnesses which can lengthen trials. The department's Crown Counsel continue to experience back to back prosecutions of cases. Despite these substantial challenges they have had

considerable success in the prosecution of most of these serious/complex crimes.

Current Account Expenditure

2014/15 vs. 2015/16

ORIGINAL ESTIMATE 2014/15	\$2,930,000
ESTIMATE 2015/16	\$3,097,000
INCREASE	\$ 167,000
% INCREASE	6%

The Current Account Expenditure Estimates for **HEAD 75**, The Department of Public Prosecutions, begins on **Page B-78** of the Estimates of Revenue and Expenditure Book. A total of **Three Million Ninety Seven Thousand dollars (\$3,097,000)** has been allocated to the Department of Public Prosecutions which includes its Witness Care Unit. This represents an increase of **One Hundred Sixty Seven Thousand dollars (\$167,000)** or **Six percent (6%)** from the 2014/15 Estimates.

Public Prosecutions

2014/15 vs. 2015/16

ORIGINAL ESTIMATE 2014/15	\$2,787,000
ESTIMATE 2015/16	\$2,943,000
INCREASE	\$ 156,000
% INCREASE	6%

Mr. Chairman,

Two Million, Nine Hundred Forty Three Thousand dollars (\$2,943,000) has been allocated to The Department of Public Prosecutions. This represents an increase of **One Hundred and Fifty Six Thousand Dollars (\$156,000)** or **6%**.

The majority of the increase is due to salaries. With the increase in crime, the Department of Public Prosecutions is in dire need of senior and seasoned prosecutors. Accordingly, one of the Crown Counsel (Junior Grade) post is being converted to a Senior Crown position.

The Department of Public Prosecutions continues to uphold its mandate to train Bermudian prosecutors/successors for all

positions. Therefore, the provision of adequate training will continue to be emphasized to ensure the proper development and skill enhancement of Bermudian lawyers to fill senior positions within the Department of Public Prosecutions.

Witness Care Unit

2014/2015 vs. 2015/16

ORIGINAL ESTIMATE 2014/15	\$143,000
ESTIMATE 2015/16	\$154,000
INCREASE	\$ 11,000
% INCREASE	8%

Mr. Chairman,

One Hundred and Fifty Four Thousand dollars (\$154,000) has been allocated to Witness Care Unit. This represents an increase of Eleven Thousand dollars (**\$11,000**) or **8%**.

The Witness Care Unit is responsible for providing information and support to all victims and witnesses. It is their single point of contact.

The Witness Care Unit's responsibilities are to:

- Keep witnesses informed and positively engaged throughout the process.
- Encourage and provide support and updated information to victims and witnesses regarding the progress of criminal trials.
- Provide someone to talk to in confidence about their status as a witness.
- Conduct pre-trial visits of all courts in Bermuda ensuring the victim/witness is familiar with the courtroom procedures prior to the trial.
- Provide the witness with information about the outcome of the case including any appeals.
- Advise the witness of court dates.
- Provide a safe and comfortable place to meet and wait prior to giving evidence.

- When appropriate, refer the witness/victim to other professional external agencies.
- Following the outcome of a guilty plea or conviction, the Witness Care Unit assists victims and witnesses with completing a victim impact statement. This statement gives the opportunity to express feelings, concerns, and trauma as a result of crime.

The Witness Care Unit consists of two Witness Care Officers and it is ultimately managed by the Deputy Director (Administration) of the Department of Public Prosecutions.

Mr. Chairman,

The following are four excerpts from testimonies that were received from witnesses/victims over the past financial year. They refer to the good work done by witness care officers Ms. Park and Ms. Marcus.

"Good Afternoon Ms. Park,

I am emailing to express my appreciation for you as the Witness Care Officer that helped my daughter and me through the most difficult time in our lives thus far. As you know, the process of going through a trial can almost be as traumatizing as the incident that caused you to have to stand trial in the first place. Without your guidance and support our experience could have been far worse.

I'll never forget the very first call you made to me to introduce yourself and explain your role in the trial process. I was immediately reassured that I was doing the right thing and felt that I was being cared for by an experienced team of professionals.

When I saw you in action at the first hearing, I knew you were the perfect person for your job. You were like a mother, a bodyguard and a counselor all wrapped up in one. To watch you work is truly amazing!! Words can't express

the appreciation I have for your ability to provide such nurturing comfort in a deeply frightening setting.

As my daughter and I approach the final stage of our journey, I hope we will all celebrate a well-deserved victory, but if not, I will always have the memory that we were well cared for during the fight. Thank you so much for all you do! With sincere adoration and gratitude."

"I am writing to express my experience with working with my witness care officer Ms. Park.

Firstly I would like to say that she has been simply amazing. From the moment she first contacted me, it felt as if I had known her forever. She has handled my case with absolute care and compassion.

I would like to take this opportunity to thank Ms. Park for her hard work and dedication."

"Ms. Marcus, I am writing to commend you for your level of professionalism and attentiveness to my concerns during a very difficult time. You guided me through the entire court process of giving evidence in Court and as a result you made me feel relaxed and confident. From the initial contact with you to the Victim Impact Statement and sentencing letter you were a careful listener and offered me assistance."

"The Management and Staff of our Company wish to express to you and your team our appreciation for your outstanding service that you provided to our company during the past year during the numerous shoplifting offences. Ms. Marcus, our staff are comfortable with the way in which they were handled by your department , the reassuring communication in helping us understand the court procedures has been most important to us. Your department has given our managers and staff the confidence they need when appearing in Court."

During the past year the Witness Care Unit assisted 1,100 civilian witnesses bringing the total number of victims/witnesses that the Witness Care Unit provided assistance and care to over 4000 since its inception.

The Unit consistently receives positive feedback from members of the public who were either victims and/or witnesses involved in a criminal trial.

Performance Measures

Mr. Chairman,

During the fiscal year 2014/15, the Department of Public Prosecutions handled approximately one thousand (1,000) criminal cases in the Magistrates Court. There were seven thousand (7,000) traffic cases completed during the financial year. In the Supreme Court there were a total number of 15 trials completed and fifty (50) cases disposed of and there were thirty five (35) indictments filed in 2014/15. In the Bermuda Court of Appeal,

thirteen (13) appeals were carried over to the following year and fifteen (37) appeals will be disposed of by the end of 2014/15.

Staffing

Mr. Chairman,

Under the direction of the Director of Public Prosecutions there is a compliment of fourteen attorneys who are all engaged in the prosecution of offences and appear when appropriate in the Magistrates' Court, Drug Court, Supreme Court, the Bermuda Court of Appeal and the Privy Council. The prosecutors also provide legal advice to ministries and departments on matters relating to offences. Additional staff includes one Manager of Finance & Administration, one Litigation Manager, four Administrative Assistants, and one Receptionist. In addition, the department employs two Witness Care Officers.

Training

Mr. Chairman,

Training has always been and continues to be viewed as a high priority for both counsel and administrators within the Department of Public Prosecutions. This focus on training is to ensure that Bermuda continues to have robust and skilled staff who are able to meet the changing face of crime and the increasing legal complexity that arises because of it.

Last year, the Department of Public Prosecutions forecasted training to take place in March 2014. As such, the Department had a 1½ day in house training workshop for all prosecutors and administrative staff; the focus was on team building and advocacy skills training.

Additional forecasted training took place in March 2014 when the Department of Public Prosecutions conducted training pertaining to the Judicial Enforcement Management System (JEMS) which is

used to track and maintain criminal court records in both the Magistrates' Court and the Supreme Court.

The Department has continued, and will continue, to develop training opportunities within Bermuda and overseas, which are relevant, effective and which represent value for money given the fiscal realities that we find ourselves in today.

Landmark Cases of 2014/2015

Mr. Chairman,

The following cases were of great public interest in that they involved high profile defendants and/or were complex both legally and factually.

LANDMARK CASES OF 2014/15

The Queen v Wolda Gardner & Rickai Dickinson

This matter involved the reprisal Murder of George Lynch which occurred as a direct result of witnesses giving evidence in a Supreme Court trial wherein gang members were on trial. The

case involved the use of social media evidence, forensic evidence and the evidence of former associates of the aforementioned gang. The trial highlighted the actuality and severity of witness intimidation in Bermuda. A conviction was secured. **The prosecutors were Carrington Mahoney and Nicole Smith.**

The Queen v Prince Edness

This matter was in relation to the cold case murder of Jason Lightbourne in 2006. The Defendant was eventually acquitted but this matter has the distinction of being the first Supreme Court trial to occur in the Dame Lois Brown Evans Building. Unusually during the trial, the defendant admitted being a leader of the Parkside gang. A few days after his acquittal he was shot dead. **The prosecutors were Rory Field, Carrington Mahoney and Takiyah Burgess.**

The Queen v Steve Symonds

This matter involved the attack on an officer of the Court, on the grounds of the Supreme Court, as a result of her performing her

duties to the Family Court. The Defendant plead guilty to charges of Deprivation of Liberty and Assault Occasioning Bodily Harm.

The prosecutors were Carrington Mahoney and Kenlyn Swan.

The Queen v Devon Hewey & Cervio Cox

This matter involves the Attempted Murder Shooting incident outside of the then Shine's Club. The Defendants were acquitted of all charges but this matter was the first in which cell-site evidence was admitted into evidence in a trial in the courts of Bermuda. **The prosecutors were Carrington Mahoney and Larissa Burgess.**

R v. Julian Washington

This was a case of the premeditated murder of Stefan Burgess and attempted murder of his friend Devano Brimmer. The Defendant opened fire as the victims were celebrating Stefan Burgess' birthday at his apartment in Glebe Road. In the absence of a witness positively identifying the Defendant, the case turned upon complex forensic evidence including Gunshot residue

analysis and DNA. The Defendant was convicted and order to serve a term of life imprisonment, with a minimum term to serve of 25 years before becoming eligible for parole. **The prosecutors were Garrett Byrne and Victoria Greening**

R v Wardman

This was a driving case where the victim had to be air evacuated to the US due to a life threatening blood clot on the brain. The trial involved complex evidence to prove who the driver was. A count on the indictment, namely failing to provide the necessities of life, was the first time that the offence had been used in Bermuda. It expands the concept of the duty of a person to act where they have a responsibility to another and it being criminal not to take action in certain circumstances. The defendant was convicted of all 4 counts. **The prosecutors were Rory Field and Victoria Greening**

Court of Appeal: Craig Hatherley and Lorenzo Lottimore

This was a case where the Defendants had been convicted by a jury of conspiring to import BMD \$760,000 worth of heroin into Bermuda. The arrangement had been to hide the drugs on board flights from Philadelphia airport to Bermuda. The case involved the use of a cooperating witness who agreed to work with the FBI by covertly recording telephone calls from the Defendants and the evidence of an undercover agent who secretly filmed Hatherley handing over the heroin to him in New York. The Defendants were ordered to serve lengthy terms of imprisonment. The Court of Appeal rejected all grounds and dismissed the appeal. **The Prosecutor was Garrett Byrne.**

Court of Appeal: Grant & Blakeney

This was a case where the defendants had been convicted by a jury of the attempted murder of two people by gunshot at the Southside Cinema. This appeal raised the issue of admissibility of gang evidence, the admissibility of low levels of gunshot residue and its components, and the admissibility of low level

DNA evidence. It is now the leading local authority on those forensic issues, as the Court of Appeal upheld the conviction, and gave guidance on the admissibility of forensic evidence.

The Prosecutors were Cindy Clarke and Larissa Burgess

Court of Appeal: Janis Zegelis

This was a case where the defendant had been convicted by a jury of the importation of Cocaine worth \$48,617,250, ammunition and a firearm. This was the largest importation of drugs into Bermuda. This appeal included the issue of the defence of Duress. The Court of Appeal upheld the conviction, and this case is now the leading local authority on the defense of Duress. **The Prosecutors were Director Rory Field, Cindy Clarke and Takiyah Burgess**

Court of Appeal: Jomar Caines

This was a case where the defendant had been convicted of (amongst other things) the Sexual Exploitation, and Deprivation of

Liberty of a 10 year old boy. This appeal clarified the circumstances upon which a sentencing judge should make a Delayed Eligibility for Parole Order. The Court of Appeal confirmed the sentence of 12 years imprisonment, and also confirmed that the defendant had to serve half of that sentence before being eligible for parole. This case is now the leading local authority on Delayed Eligibility for Parole Orders. **The Prosecutor was Cindy Clarke**

Future Events

Mr. Chairman,

In March 2015, the Department of Public Prosecutions is planning a two day in house training which will include focusing on issues arising out of sexual offences and the prosecutorial aspects of pre-trial applications.

A major future project for the Department of Public Prosecutions will be creating a successful structure to deal with the Public

Access to Information Act requirements. This will be done to increase transparency while ensuring operations are not effected.

Mr. Chairman,

A project is being developed to provide outreach and community partnership to assist with reducing juvenile crime and deflecting young people from gangs. Prosecutors assist in providing their time and expertise. It follows a project developed in Los Angeles to teach children that the choices they make today can affect their lives forever. The Los Angeles curriculum focuses on the legal and social consequences of juvenile crimes, such as truancy, illicit drug use and shoplifting. The project teaches students techniques for resolving conflict and resisting peer pressure. Other lessons promote tolerance and respect for diversity. The program concludes with students performing a scripted mock trial, putting into practice what they have learned about the criminal justice system. The intent would be to develop a program tailor made for the issues among juveniles in Bermuda.