



OFFICE OF THE PUBLIC SOLICITOR

Annual Report 2005





Public Solicitors

Annual Report 2005

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INTRODUCTION

LETTER TO THE GOVERNOR GENERAL



His Excellency Grand Chief Sir Paulias Matane G.C.L. GCMG,
KstJ Kt CMG OBE Governor General of Papua New Guinea
Government House Port Moresby

Under Section 19 of the Organic Law on Certain Constitutional
Office Holders the Public Solicitor is required to forward to the
Governor General of Papua New Guinea the Annual Report
for presentation to the National Parliament. The Annual Report
shall include the work of the Constitutional Office with such
recommendations as to improvements as he thinks proper for the
Public Solicitor's Office.

I therefore have the honor of submitting to you for presentation to
Parliament the Annual Report for the period 1st January to 31st
December 2005.

Frazer Pitpit

Public Solicitor



"...AN INSTITUTION FOR THE PEOPLE OF

EXECUTIVE SUMMARY BY THE PUBLIC SOLICITOR

The Office of the Public Solicitor commenced operations in 1958 with the then Department of Law.

The Constitutional Planning Committee recommended that there be established an independent Public Solicitors Office in the country.

Papua New Guinea's Constitution entrenched the independence of the Public Solicitors Office. The Supreme Court Reference No 1 of 1978 reinforced that constitutional independence and goes further by declaring that the Public Solicitors Office is "an institution for the people of Papua New Guinea."

This report is the first to be presented for some years. Previous Public Solicitors and myself have been content to rely on the reports filed by the Attorney General as reflecting the activities of this Office.

There is however a constitutional requirement consistent with the independence of this office that I file this Report. It is clear from the contents that systemic problems within the Office in respect of reporting and collation of data meant that aspects of the Report do not accurately reflect the activities of the office as fully as I would wish. These problems are being addressed.



Public Solicitor and Deputy Public Solicitors

PAPUA NEW GUINEA”

AusAid, through the Law and Justice Sector Program have obtained for me a detailed report identifying vast number of areas within the Office that can be improved. A work plan has been devised to effect the necessary changes and I look forward to the appointment of advisors during 2006 to effect these changes within the Office and improve the capacity of my staff. Many of these changes will be facilitated if the Constitutional independence of this Office was to be reflected in budgetary separation from the Department of Justice and Attorney General.

A report on Budget Separation has been commissioned and Mr Leo Tohichem has been requested to conduct an inquiry and deliver his report by the middle of 2006.

I intend, in 2006 to develop and implement

a Legal Aid Extension Program where para-legals, under the supervision of lawyers from my regional offices, can provide limited advice and assistance to people in isolated areas. Kainantu and Bulolo have been identified as two suitable sites.

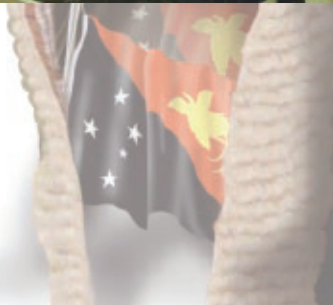
This report recognizes the difficulties of the past and the challenges of the future. I believe that, on the whole and given the obvious limitations on staff and resources, my office has acquitted its constitutional obligations quite well in 2005 and will improve delivery of services during 2006.



Paul Tusais Deputy Public Solicitor - Civil

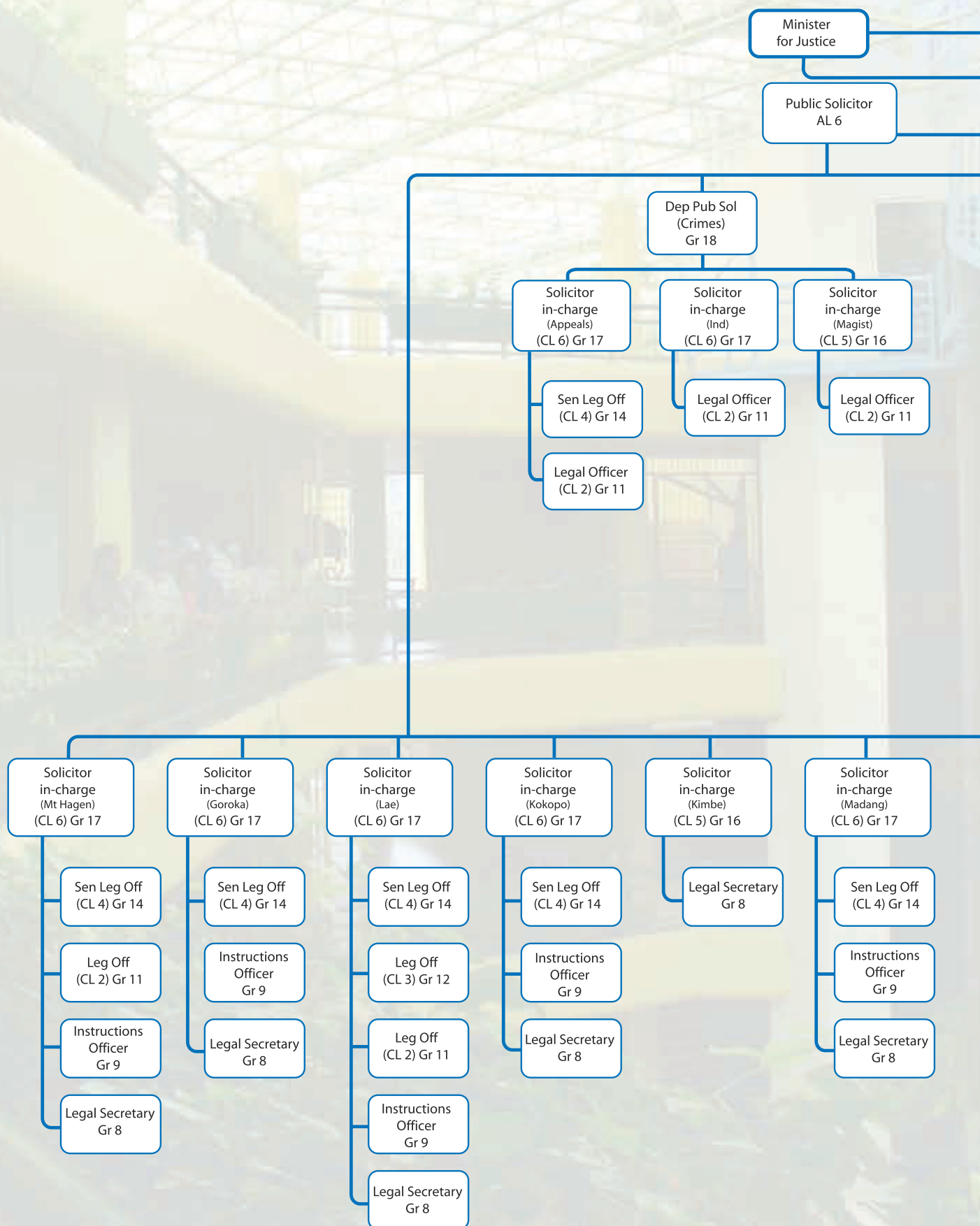


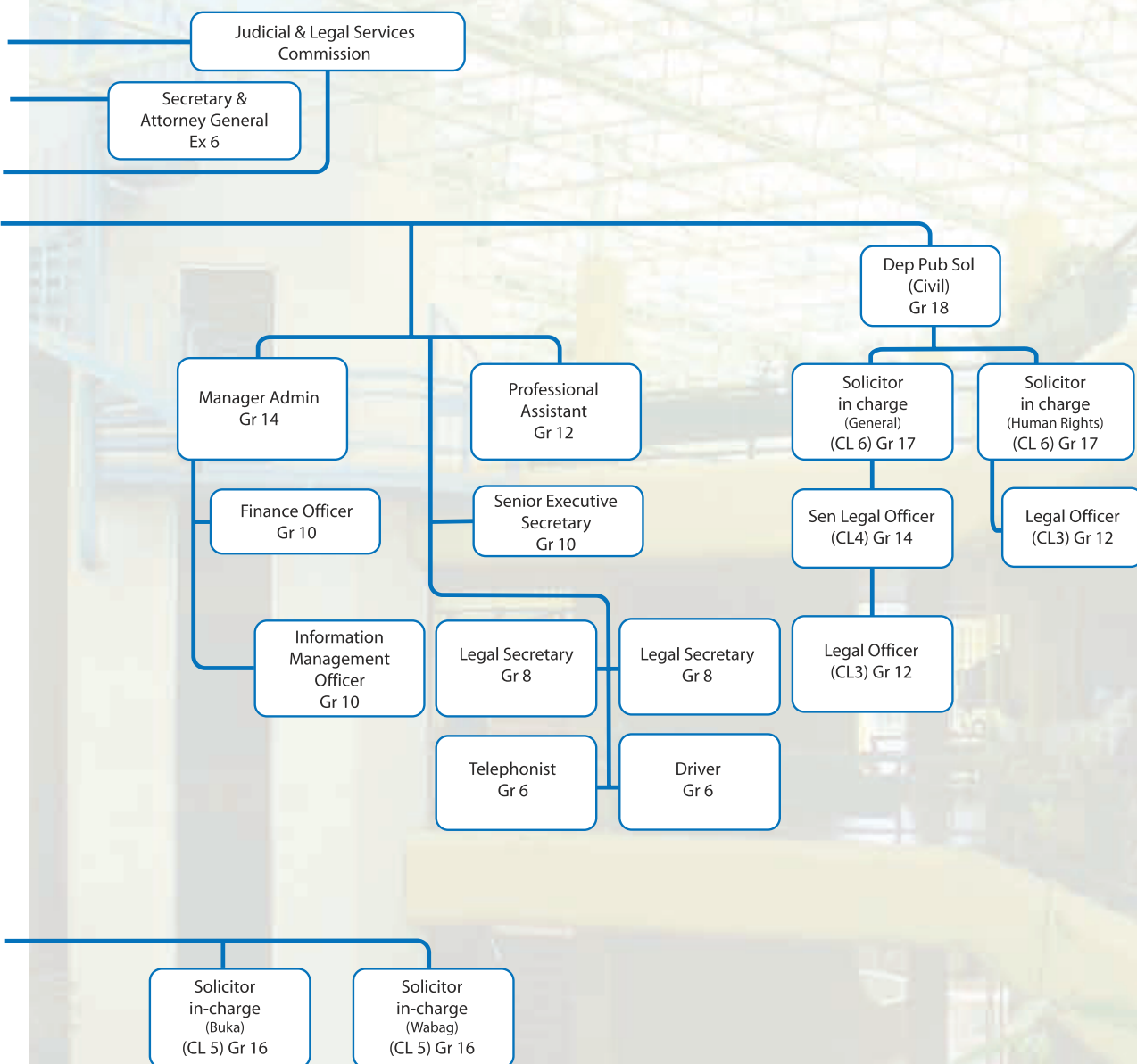
Darrell Sakumai Deputy Public Solicitor - Crimes



ORGANISATIONAL STRUCTURE

THE PUBLIC SOLICITORS OFFICE





AGENCY MISSION AND VISION

The Public Solicitors Office shares the Department of Justice and Attorney General's Mission, and Vision to deliver excellent legal and justice services to the State and People of Papua New Guinea. Paramount among the Public Solicitors aims is the delivery of legal services to those who cannot afford the cost of engaging private lawyers.

REPORT ON OPERATIONS

The Public Solicitor is expected to improve the quality and accessibility of legal aid services and advice to the public. Achieving these two objectives during 2005 was a challenge however it is acknowledged that the Governments resourcing of the Office did enable it to provide legal services to many ordinary people throughout Papua New Guinea.

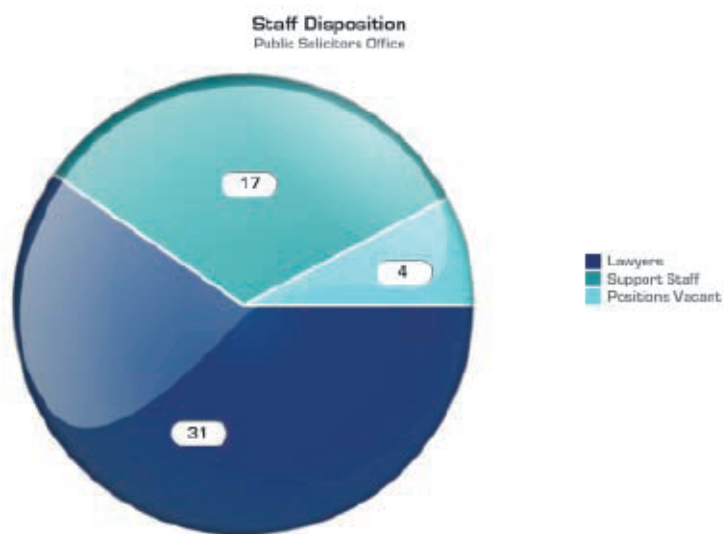
RESOURCES

In the 2005 Budget, the Public Solicitors Office was allocated an operating budget of K2,445,600.

The Department of Personnel Management approved a staff ceiling of 51 positions and most of these positions were filled.

By the end of 2005 there were 31 lawyers on strength, 17 support staff and funded vacancies for 4 lawyers. Please refer to Staff Disposition chart.

Of these 31 lawyers, 17 (54.8%) had less than five years experience and a further 5 (16.1%) had seven to 10 years experience.





The 2005 Budget refers to provision of funds for three vehicles to be maintained by the Department; however the only vehicle purchased and maintained by the Department during this period is a bus located at Boroko and used primarily to ferry lawyers to and from court. All other provincial offices do not have vehicles which are essential to the proper conduct of circuits and the obtaining of instructions from clients and particularly offenders in custody e.g. Kokopo to Kerevat or Goroka to Kainantu prisons. Despite the danger and challenges the offices have performed well as shown by the case loads managed by the respective offices.



STATISTICS

The Public Solicitor manages the largest public legal firm in Papua New Guinea.

The Public Solicitor deals with a large number of criminal cases as well as civil cases.

Public Solicitor Files are generated in two ways i) by way of Application in Criminal and Civil Matters or 2) by receipt of committal depositions in criminal matters only.

Most Legal Aid Applications are for assistance in Civil Matters where a file is open or advice is given with no formal file being created.

Only a small number of Criminal files are as a result of Legal Aid Applications and these are mainly in relation to bail application and appeals.

For a substantial time in 2005, Legal Aid Applications were suspended to allow the Office to deal with the increase in criminal files and to overcome the backlog in civil files. This explains the low number of applications in 2005.

The following statistics demonstrate the volume and variety of work undertaken.

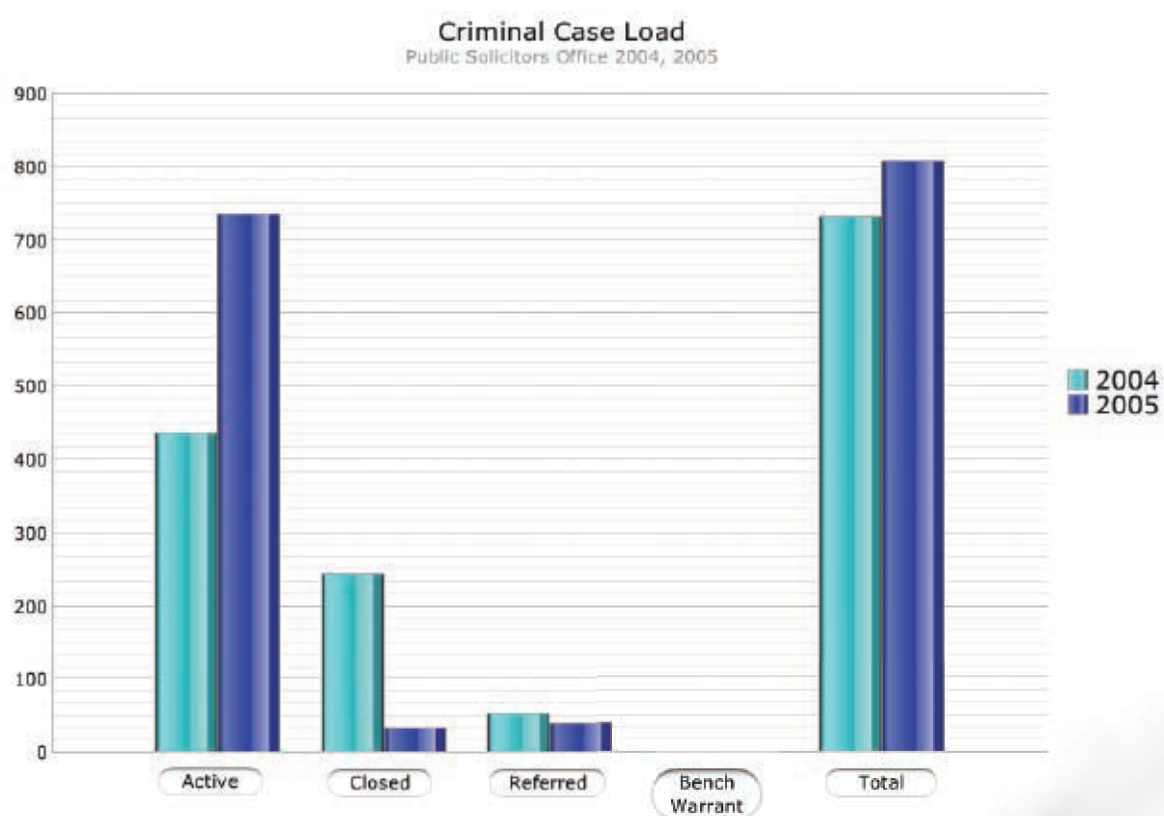
These statistics understate the actual number of cases undertaken, particularly in regional offices, as the data provided in many cases has been incomplete. Whilst

there are some reasons for this (e.g. the need to store files at circuit court houses because of the lack of funds to airfreight files) however most of the causes of incomplete data collection are systemic or attitudinal. This constitutes one of the challenges facing the office.

1. CRIMINAL FILES

	2004	2005
Active	435	735
Closed	244	33
Closed and Referred to Private Counsel	53	40
Bench Warrant	0	0
TOTAL	732	808





Note:

These figures may be understated owing to the lack of accurate circuit & branch office reports.



STATISTICS

2. LEGAL AID APPLICATIONS

(CIVIL CASES ONLY) - N.C.D, LAE & MADANG

Figures not available for other regions.

Year	Received	Refused	Approved	Opinions or Advice Only	Pending Further Instructions	Cases Fees	
						Paid & Allocated	Pending Payment before allocation
2003	1462	671	482	208	101	0	0
2004	1290	582	423	151	29	39	66
2005	853	291	380	93	73	7	10
Total	3605	1544	1285	351	203	46	76

Note:

These figures are understated owing to the failure of lawyers to provide accurate & up to date data.

3. CIVIL FILES

File Type	Active	Completed
Negligent cases mainly for motor vehicle accidents, work places and medical negligence	160	51
Workers Compensation	20	4
Civil Rights cases mainly from police brutality, illegal police raids, and destruction of property in villages and settlements	104	3
Commercial	93	8
Supreme Court Appeals (Civil)	6	-
District Court Appeals (Civil) to National Court	15	4
Legal Aid Advice/Views	121	33
Matrimonial Divorce	33	-
Matrimonial Maintenance	2	2
Infant Settlement	6	2
TOTAL	560	103

SIGNIFICANT ISSUES

1) SEPARATION

Although the available data for 2005 indicates that given the resources allocated to the Office, the outputs were significant, it is the view of the Public Solicitor that much more could have been done if the Office was truly independent.

In October 2005, a consultant, Mr Leo Tohichem was engaged to prepare a report on Budget Separation from the Department of Justice & Attorney General. His Report is expected to be completed towards the middle of 2006.

This report is funded by AusAid through the Law and Justice Sector Program (LJSP).

2) SHEPHERD REPORT

In December 2004, the Public Solicitor outlined his needs to improve the services provided by his office and to strengthen the skills of his professional and support staff.

AusAid engaged Ms Karen Shepherd to prepare a report on the Office which was presented in July 2005. This report identified over 90 areas within the office which could be improved.

As a result of this Report, the Law and Justice Sector Program engaged Professor Chris Roper to devise a work



Office Manager



Clients queue spilling outside Public Solicitor's Office (Boroko)



plan to implement the Shepherd Report. He recommended the engagement of two advisors to assist in training and mentoring of professional staff and strengthening the Office administration.

The Public Solicitor welcomes this support and looks forward to the engagement of these advisors.

3) STAFF LEVELS

It is the view of the Public Solicitor that his staff are under extreme pressure by virtue of the fact that despite increasing numbers of cases and the complexity of cases, staff numbers remain constant.

Although there is provision for 31 lawyers there are currently 4 vacancies which are being filled. The process of advertising, interviewing and filling those vacancies is extremely slow.

In addition lawyers are sometimes occupied in training programs or lengthy overseas studies. While this is to be encouraged, during their absence their positions are not filled and the work load of their colleagues is increased. The same situation arises if a lawyer is suspended for disciplinary reasons. The time involved in dealing with these matters while a staff member is suspended is too long and causes stress within the office.

SIGNIFICANT ISSUES

4) FACILITIES

The working conditions in many offices are not suitable for the proper delivery of professional services. Some office improvement maintenance work was done in 2005 and further works will take place at Boroko headquarters office next year. Renovations at Lae are underway. Many recommendations in relation to facilities are made by Ms Shepherd in her Report.



5) PROCUREMENTS

The current process for procuring goods and services is not effective and in particular does not meet the operational needs and requirements of provincial offices. The necessity is to submit requests (for example for stationary) to Boroko Head Office which then seeks confirmation of availability of funds from the Finance Division of the Department which then leads to the raising of a requisition which is then taken to Waigani for a cheque to be raised, which cheque is then collected and



then posted to the provincial office before goods can be purchased. This obviously is cumbersome and ineffective.

6) TRANSPORT

The Public Solicitor realizes that funds are not available for vehicles to be purchased for all offices, but problems associated with transport in the regions is a significant issue and the cost of hiring vehicles is a huge drain on resources.



Support Staff

POSITIVE OUTPUTS

1. Despite the administrative short comings and the challenges highlighted above, the Department of Justice and Attorney General has been very supportive of the Office.
2. Of all the Divisions constituting the Department of Justice and Attorney General, the Public Solicitor's Office was allocated the highest level of funding under the 2005 recurrent budget to the Department. Despite the low staffing figures given in the budget document, the Department supported and is facilitating the engagement of personnel to the maximum level possible and within the staff ceiling approved by the Department of Personnel Management.
3. For many years the lawyers were arguing for increases in certain allowance under their respective Employment contracts. It was an issue that affected the moral of lawyers and in 2005 the Department managed to secure funding and did satisfactorily address this issue.
4. Through the Department's support one lawyer completed his overseas studies in Melbourne with a Master degree in law (Mr Paul Tusais).



Paralegal Officer Ms. Carol Noel interviewing clients



5. During the year the Australian Government through its Ausaid program, commissioned Ms Karen Shepherd to do a report on the provision of Legal Aid Services by the PNG Public Solicitor's Office. This report was satisfactorily completed and contained 99 recommendations for implementation. The Public Solicitor presented the Report to the Secretary and Attorney General in November of 2005.
6. The Law and Justice Sector Program further funded Mr Chris Roper's travel from Melbourne to the country to look at the Karen's Report and prioritise the 99 recommendations and draw up an implementation strategy.



Female Lawyers Anna Raymond, Maristella Painap & Dinah Dademo returning from workshop.

POSITIVE OUTPUTS

7. The Department further supported the Public Solicitor's proposals for the improvement of the Office. It made submissions to the National Coordination Mechanism (NCM) which then approved seven (7) activities for funding under the LJSP. The activities are as follows;

- Rationalization studies on cost-effective separation of the Public Solicitor's Office K120,000.00.
- Improving Administrative management of the Office K37,000.00.
- Improving Information Storage and Management with actual funding yet to be decided.
- Development of Public Solicitor's Legal Handbook K80,000.00.

- Improved Capacity to Legal Aid Service Delivery. Again funding has yet to be decided.
- Education and Awareness Program on the roles and Responsibilities of Public Solicitor. Funding has yet to be decided.
- Program Management K43,000.00.
- An Office Manageress was recruited under the LJSP to assist with the management of the Office monitoring the expenditure as well as the implementation of the various activities listed above.

Total Funding under the LJSP for 2005 was over K280,000.00.

8. The LJSP further assisted with the redesigning of renovation and re-partitioning of the Public Solicitor's Office accommodation at Boroko Garden City. Actual work commenced in December 2005 with the funding met directly by the LJSP.

9. Assistance from the Department facilitated the drawing up and finalization of Public Solicitor's Work Plan for 2006 to 2007. This work plan is consistent with the Department's Corporate Plan.



Public Solicitor's Branch Heads Meeting

ISSUES FOR 2006 FISCAL YEAR

Providing timely, available and accessible legal assistance to the public continues to be a challenge for 2006. It is our constitutional duty to provide legal assistance quickly and to as many unfortunate people as possible. There are many issues confronting prompt and efficient delivery of legal aid services and the management of the Public Solicitor's Office but they could be summarized as follows;

1. The main challenge is to obtain case-load data from individual lawyers. Obtaining the relevant data on the status of each and all the cases being dealt with by each and all the lawyers in the Office is necessary for two basic reasons. Firstly, these reports assist towards identifying areas of weakness where a lawyer might require support. Secondly, they are necessary to provide proper reports to the Department.

2. The second issue for 2006 is to seek empowerment and enablement to draw up the Public Solicitor's 2007 recurrent budget estimate and forward it directly to the relevant authorities such as the Departments of Treasury and Finance and the Central Agencies Coordination Committee (CACC). With the support and assistance from the Department of Justice and Attorney General we are confident this could be done for the 2007 budget. Monitoring of monthly expenditure levels for 2006 would provide the bases for estimating the 2007 budget.

3. One of the activities under the Sector Strategic Framework is the delivery of accessible legal aid. It is our desire to have this project commence in one of the provinces in 2006. This is a significant challenge to the Office. These are significant challenges but they will not overshadow our commitment to the Department's mission statement by fulfilling the Public Solicitor's objectives of improving the quality and accessibility of legal aid services and advice to the public and strengthening the administrative management of the independent office of the Public Solicitor.



Clients waiting to be served in the Public Solicitor's Office (Boroko)



FINANCIAL REPORTS

It has been highlighted that management of the budget is one of the challenges faced by the Public Solicitor's Office. A lack of communications, lack of monitoring and uninformative reports from the Department of Justice And Attorney General, resulted in K92,654.00 having to be returned to the Treasury Department in December 2005. Most of this sum had been allocated for the briefing out of files where conflict of interest,

lack of expertise, or excessive work loads deemed this desirable. Unfortunately, the Public Solicitor was not provided with accurate reports reflecting the balance at hand, and much of the allocation remained unspent.

The repayment of K29,000 for rent was a direct result of the time taken to submit and process claims for accounts, meaning that rent for October, November and

December were not paid until early 2006.

This resulted in payment from the 2006 Budget and a loss of nearly K30,000 to this office.

In the meantime all provincial offices continued to suffer the lack of basic operational resources such as office stationary, motor vehicles, photocopiers and hygienic office facilities.

Nevertheless, on the whole the Office managed well by utilizing most of its 2005 recurrent budget.

EXPENDITURE ITEM	2005 APPROPRIATION	2005 EXPENDITURE	UNSPENT 2005 FUNDS
111 Salaries & Allowances	1,448,600	1,448,600	Nil
113 Overtime	0	0	0
114 Leave Fares	21,000	21,000	0
116 Contract Officers Education Benefits	0	0	0
121 Travel & Subsistence Expenses	400,000	400,000	0
122 Utilities	30,000	30,000	0
123 Office Materials & Supplies	10,000	10,000	0
124 Operational Materials & Supplies	10,000	10,000	0
125 Transport & Fuel	20,000	19,889	111
127 Rental of property	32,000	3,000	29,000
126 Routine Maintenance Expenses	5,000	5,000	0
135 Other Operational Expenses	20,000	20,000	0
136 Training	15,000	14,260	740
141 Retirement Benefits Gratuities	274,000	274,000	0
142 Membership Fees & Contributions (Brief outs)	150,000	86,571	63,429
222 Purchase of Vehicles	Nil	0	0
TOTALS:	2,445,600	2,352,946	92,654

PUBLIC SOLICITOR'S TRUST ACCOUNT

The Public Solicitor's Trust Account is established under the legal authority of the Public Finance (Management) Act Section 15. The purpose of the Trust Account is to hold monies in trust for and on behalf of clients and related legal costs and disburse those monies to clients entitled to them. It further authorizes Public Solicitor to use funds not held in trust for clients, for other expenditure.

The sources of these funds are largely from civil court cases or related litigation work. The most evident source of these funds is the Motor Vehicle Insurance Trust resulting from accidents monies are held in trust for the victims of these accidents or under 18 years children of deceased parents.

The actual balance as of 31st December 2005 was K473,260.13. During the year K327,449.85 was deposited into the Trust Account and for the same period K350,788.44 was paid out to clients.



DISTRIBUTION OF STAFF BY LOCATION AS AT DECEMBER 2005

LAWYERS

LOCATION	OFFICERS NAME	DESIGNATION	TITLE	YEARS SERVICE
Boroko	FRAZER S. PITPIT	Public Solicitor	COH	21
Boroko	DARRELL SAKUMAI	Deputy Public Solicitor	Crimes	22
Boroko	PAUL TUSAIS	Deputy Public Solicitor	Civil	16
Boroko	ISAR WATTA	Legal Officer CL6	Human Rights	9
Boroko	RUSSELL UWARE	Legal Officer CL5	PLO	11
Boroko	PAGELO NANU	Legal Officer CL15	PLO	12
Boroko	DOKO KARI	Legal Officer		10
Boroko	GEORGE KOREI	Legal Officer CL4	Senior Legal Officer	5
Boroko	DINAH DADEMO	Legal Officer	Senior Legal Officer	5
Boroko	SUZANNE UNUMBA	Legal Officer	Senior Legal Officer	5
Boroko	DAVID GAVARA-NANU	Legal Officer	Legal Officer	3
Boroko	E'AVA S GEITA	Legal Officer	Legal Officer	3
Boroko	PHILIP KAPI	Legal Officer CL6	Legal Officer	2
Boroko	MARISTELLA PAINAP	Legal Officer CL3	Legal Officer	3
Boroko	JEFFREY MESA	Legal Officer CL2	Legal Officer	2
Boroko	MICHAEL NORUM	Legal Officer CL2	Legal Officer	2
Boroko	PHILIP KALUWIN	Legal Officer CL3	Legal Officer	2
Lae	ANNA RAYMOND	Legal Officer CL6	Solicitor In-Charge	7
Lae	LUKE SIMINJI	Legal Officer CL5	Snr. Legal Officer	11
Lae	SALOME MALIAKI	Legal Officer C	Snr. Legal Officer (Appeals)	4
Lae	MWAWESI MWAGAWA	Legal Officer CL4	Snr. Legal Officer	7
Mt. Hagen	BOSIP AIPE	Legal Officer CL6	Solicitor In-Charge	12
Mt. Hagen	PETER KUMO	Snr. Legal Officer	Snr. Legal Officer	4
Mt. Hagen	MATILDA KUPUL	Legal Officer CL2	Legal Officer	2
Mt. Hagen	VACANT		Solicitor In-Charge	
Kokopo	VACANT			
Kokopo	MICHAEL PETER	Legal Officer	Snr. Legal Officer	4
Madang	ANNIE TURI	Legal Officer	Legal Officer	4
Goroka	MICHAEL APIEE	Legal Officer CL6	Solicitor In-Charge	10
Goroka	TIRIA OHUMA	Legal Officer CL4	Snr. Legal Officer	4
Kimbe	OAKAIVA OIWEKA	Legal Officer CL5	Solicitor In-Charge	14
Wabag	VACANT	Legal Officer CL5		
Boroko	VACANT	Legal Officer CL5		

SUPPORT STAFF

LOCATION	OFFICER'S NAME	DESIGNATION	TITLE	YEARS SERVICE
Boroko	REA HITOLO	Admin Officer	Admin. Officer	29
Boroko	POKANA IAMMO	SNR Legal Secretary	Snr. Legal Secretary	9
Boroko	ROBERT TAURAKI	Inform. MGT Officer	Records Manager	14
Boroko	CAROL NOEL	U/A Instructions Clerk	Instructions Clerk	3
Boroko	FREDA PAIT	Legal Secretary	Legal Secretary	4
Boroko	ELIZABETH TIPORA	Legal Secretary	Legal Secretary	5
Boroko	CATHERINE STEVEN	Telephonist	Telephonist	4
Boroko	GABUTU HENAO	Driver	Driver	1
Lae	REBECCA UMABUT	KBO (Legal)	Legal Secretary	4
Lae	CLEMENT KAPOU	Instruction Officer	Instructions Clerk	3
Lae	MICHAEL JACKSON	Messenger/Cleaner		
Mt. Hagen	NAOMI PHILIP	Legal Secretary	Legal Secretary	4
Mt. Hagen	BILLY TAWA	Instruction Officer	Instructions Clerk	4
Kokopo	MARIA LAULABU-VUE	Legal Secretary KBO	Legal Secretary	12
Kokopo	JOSHUA UTUL	Instruction Officer	Instructions Clerk	4
Madang	BIDDY GEMO	Instruction Officer	Instructions Clerk	4
Madang	ELTA POKANAU	KBO (Legal)	Legal Secretary	4
Goroka	SUZIE ONZENG	Legal Secretary	Legal Secretary	16
Goroka	ASIKI NAWAHUSOVAE	Instruction Officer	Instructions Clerk	4

CONTACT DETAILS

OFFICE OF THE PUBLIC SOLICITOR

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OIC, Lae Office



LA E

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Ms. Annie Turi, OIC,

Madang Office



MADANG

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Mr. Michael Apiee,

OIC, Goroka Office



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Mr. Bosip Aipe, OIC,

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Mr. George Korei,

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WABAG

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Mr. Luke Siminji,

Acting OIC, Kokopo
Office



RABAU L

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General Enquiries: Phone 9829629 Facsimile 9829614

Mr. Oakaiva Oiveka,

OIC, Kimbe Office



KIMBE

P O Box 52 Kimbe, West New Britain Province

General Enquiries: Phone 9834930 Facsimile 9834930

