



# Inquiry into Annual and Financial Reports 2023–2024

## Answer to question on notice

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Asked by: Ms Deborah Morris MLA

Addressed to: Ms Victoria Engel SC, Director of Public Prosecutions

Reference: Office of the Director of Public Prosecutions

Hearing: 13 February 2025

In relation to: Discontinued cases

Question received: 21 February 2025

Answer Due: 27 February 2025

(1) Please specify the number of cases that were discontinued per year over the past five years

(a) Please specify how many cases were discontinued based on “public interest” per year for the past five years

(2) Please specify how many family and domestic violence cases were discontinued per year over the past five years

(a) Of these, please state how many were discontinued on the grounds of “public interest” per year over the past five years

Ms Victoria Engel SC: The answer to the Member’s question is as follows:

1. In relation to questions 1 and 2, the definition of ‘discontinued’ (due to the nature of the recording system of the ODPP) will include matters where some charges were discontinued but other charges proceeded, for example a plea of guilty to the most serious charge with less serious charges discontinued. The figures also include matters where police have charged an accused but soon after charge have reevaluated the matter and asked the ODPP to discontinue the matter (also known as a NETO request) and matters which have proceeded to hearing but had to be discontinued because a critical witness has refused to attend Court.

In the reporting year 2023 – 2024 the number of matters discontinued was 227, which was 9.36% of matters prosecuted by the office in that year. Most of these were discontinued prior to the current Director’s appointment, in May 2024.

In the reporting year 2022 – 2023, 191 matters were discontinued, which was 7.75% of matters prosecuted by the office in that year.

In the reporting year 2021-2022, 222 matters were discontinued which was 8.37% of matters prosecuted by the office in that year.

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In the reporting year 2020-2021, 258 matters were discontinued which was 8.15% of matters prosecuted by the office in that year.

In the reporting year 2019-2020, 185 matters were discontinued which was 6.83% of matters prosecuted by the office in that year.

- (a) The Prosecution Policy sets out that every prosecution that proceeds must (i) have reasonable prospects of conviction and (ii) be in the public interest. The factors going to the evaluation of whether a prosecution is in the public interest are exhaustively set out in the Policy, and include the seriousness of the alleged offence, the prior criminal history if any of the accused, and the likely outcome in the event of a conviction. A full list of relevant factors can be found here: [Prosecution-Policy-2021.pdf](#).

It is an evaluative and complex judgement. Where an alleged victim does not wish to give evidence, or has asked that the prosecution be discontinued, this will be considered under this aspect of the prosecution test, and a matter may be discontinued on this basis. I wrote about the complex assessment in the Bar News in November 2024: [Bar Bulletin - November 2024 Edition](#).

It is also not uncommon for an assessment to be made, as to whether a prosecution proceeds, on a combination of the two tests.

Given the volume of matters prosecuted by the office, the office records discontinuance of matters but is unable to produce statistics for the underlying rationale for discontinuance, noting the decision can often be multifaceted, rather than falling into a neat category.

2. In the reporting year 2023-2024 the number of family violence matters discontinued was 103, which was 12.65% of matters prosecuted by the office in that year.

In the reporting year 2022-2023 the number of family violence matters discontinued was 55, which was 8.76% of matters prosecuted by the office in that year.

In the reporting year 2021-2022 the number of family violence matters discontinued was 37, which was 7.64% of matters prosecuted by the office in that year.

In reporting year 2020-2021 the number of family violence matters discontinued was 39, which was 7.12% of matters prosecuted by the office in that year.

In reporting year 2019-2020 the number of family violence matters discontinued was 19, which was 3.97% of matters prosecuted by the office in that year.

- (a) Please see the response at 1(a). In addition, in the family violence space, discontinuance is particularly complex. This is also affected by the pro-arrest policy of police in the family violence space, which can give rise to issues of 'mutual charging' of both parties, and possibly misidentification. See paper on misidentification here for further information: [Misidentification-and-its-impact-on-Justice-speech-2024-ACT-DPP.pdf](#). It is also not uncommon for my staff to be faced with complainants whose safety is at risk by a continued prosecution, or who refuse to attend Court requiring a difficult

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determination of whether to seek a warrant for the arrest of a vulnerably family violence complainant or whether to discontinue the prosecution.

In the reporting year 2021 – 2022, Approved for circulation to the Standing Committee on Legal Affairs

Signature:



Date: 28/02/2025

By the Director of Public Prosecutions, Ms Victoria Engel SC