



**DISTRICT COURT OF
WESTERN AUSTRALIA**

District Court of Western Australia
Annual Review

2012

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FROM THE CHIEF JUDGE

The Court continues to endeavour to ensure that cases brought before it are resolved fairly and expeditiously and to use processes that are cost effective for litigants.

Criminal Jurisdiction

There was an increase in the number of criminal lodgments of approximately 61, compared with the lodgments in 2011. This was despite a reduction in the number of people smuggling prosecutions as a result of a change in Commonwealth prosecution policy.

In the Court's 2011 Review, I reported that a priority for the Court in 2012 was the continuation of work to improve access to justice at circuit locations throughout the State. Particular emphasis was placed on reducing the backlog of matters awaiting trial and the corresponding median delay to trial.

I am pleased to report that both the backlog and the median delay to trial reduced considerably throughout 2012, with the median delay to trial recording around 27 weeks as at the end of December 2012. This is a pleasing outcome which results from changes made to listing practices and the exercise of greater control by Judges when presiding at trial listing and direction hearings.

Civil Jurisdiction

There were 4068 new civil cases lodged in 2012; this is 78 fewer cases than the 4146 cases lodged in 2011. The Court continued to finalise around two thirds of its civil cases within 12 months. This is a particularly pleasing outcome considering that the Court operated with one Registrar down for an extended period throughout 2012.

Judicial appointment

Judge Robert Enos Cock was welcomed to the Court as a new Judge in March 2012. Judge Cock was appointed as Chair of the Prisoner Review Board. There were no judicial retirements in 2012.

Contributions to the Court

I express my thanks to the Court's Judges and Registrars and all the Court's staff for their hard work which enables the Court to achieve its aim of ensuring fair, expeditious and cost effective resolution of matters brought before it .

Format of the Annual Review

The format of the Annual Review is once again presented with minimal graphics and images to reduce the time required to download the review from the Court's website.

Peter Martino

Chief Judge

District Court of Western Australia

THE DISTRICT COURT AT A GLANCE

Our 2012 achievements

The Court

- Maintained the median time to criminal trial for matters committed to the Court at Perth at around 26 weeks.
- Implemented a range of procedures identified as part of the Circuits Improvement Project to achieve a reduction in the median delay to trial at circuits locations to around 27 weeks. This compares favourably with the median delay to trial at Perth.
- Implemented new functions within its case management system to manage violence restraining orders made as a consequence of sentencing in certain matters and for matters in which removal of life disqualification of a motor drivers' licence is sought.
- Continued to finalise two thirds of all new civil matters within 12 months of lodgement, despite the high level of new lodgements and having one Registrar unavailable for a lengthy period during the year.

Our 2013 priorities

- Look for opportunities to simplify and automate processes for litigants and their lawyers.
- Continue to pursue funding to fit out two courtrooms in the District Court Building with conferencing style equipment to enable the interpretation of proceedings to more than one accused in matters where a number of the accused speak the same language.
- Increase the use of telephone conferencing for circuit trial listing hearings thereby enabling prosecution and defence counsel to attend hearings by phone at their office without the need to physically attend at a regional court.

Our jurisdiction

Criminal: All matters that must be tried before a jury, or Judge alone, except those for which the maximum term of imprisonment that can be imposed is a life sentence.

Civil: General Claims for liquidated sums, debt or damages up to \$750,000 and all personal injury claims.

Our area of operation

Perth	
Albany	389 km from Perth
Broome	1664 km
Bunbury	155 km
Busselton	193 km
Carnarvon	814 km
Derby	1770 km
Esperance	592 km
Geraldton	370 km
Kalgoorlie	544 km
Karratha	1275 km
Kununurra	2214 km
South Hedland	1304 km

Our workload

- 427 criminal trials including 94 circuit trials
- 887 people committed for trial
- 1,116 people committed for sentence
- 61 civil trials
- 4,068 new actions commenced by writ
- 121 appeals determined
- 3082 civil mediations and settlement conferences

Our people

- 28 judges
- 5 registrars
- 37.6 registry staff
- 54.6 judicial support staff

Our budget

An amount of \$20.5 M

OUR JUDGES

The following were the Judges of the Court as at 31 December 2012:

Chief Judge

His Honour Judge Peter Dominic Martino

Judges

His Honour Judge Allan David Fenbury
His Honour Judge Henry John Wisbey
Her Honour Judge Shauna Marie Deane
His Honour Judge Denis John Reynolds
His Honour Judge Philip Richard Eaton
His Honour Judge Kevin Frederick Sleight
His Honour Judge Philip Pierre McCann
Her Honour Judge Julie Anne Wager
His Honour Judge Andrew Steven Stavrianou
Her Honour Judge Troy Denise Sweeney
His Honour Judge Bruce James Hamilton Goetze
His Honour Judge Richard Ellis Keen
His Honour Judge Michael John Bowden
Her Honour Judge Anette Margret Ilse Schoombée
His Honour Judge Christopher Peter Stevenson
His Honour Judge Stephen George Scott
Her Honour Judge Felicity Davis
His Honour Judge Patrick Brian O'Neal
His Honour Judge Simon Elliot Stone
His Honour Judge John Gerard Staude
His Honour Judge Ronald Edward Birmingham
His Honour Judge Anthony Samuel Derrick
His Honour Judge Timothy Sharp
Her Honour Judge Audrey Gillian Braddock
His Honour Judge David Ronald Parry
His Honour Judge Jeremy Clive Curthoys
His Honour Judge Robert Enos Cock

Other appointments held by judges of the District Court of Western Australia

The following District Court Judges are not available to the Court as they are engaged for the appointment indicated below:

His Honour Judge DJ Reynolds
President Children's Court of WA

His Honour Judge T Sharp
Deputy President State Administrative Tribunal

His Honour Judge DR Parry
Deputy President State Administrative Tribunal

His Honour Judge RE Cock
Chairperson, Prisoner Review Board

Judicial appointments since December 2011

His Honour Judge Robert Enos Cock was appointed on 26 March 2012.

Criminal Commissioners

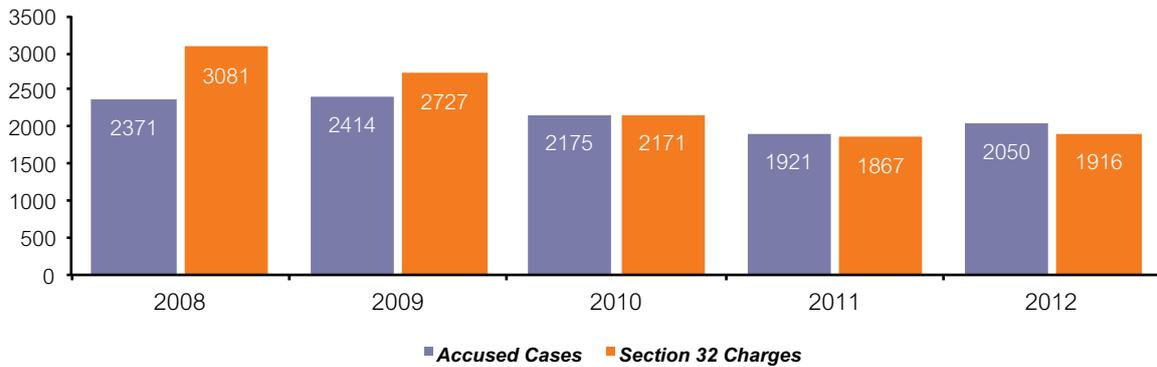
Michael John Gething (Principal Registrar)
Richard John Hewitt (Deputy Registrar)

Registrars

Principal Registrar	Michael John Gething
Registrar	George Augustus Kingsley
Registrar	Lyn Dorothy Wallace (On extended leave of absence)
Deputy Registrar	Simon Peter Harman
Deputy Registrar	Richard John Hewitt
Deputy Registrar	Kathryn Lucinda Hogan (Temporary replacement for Registrar Wallace)

CRIMINAL JURISDICTION

GRAPH 1 Accused Cases and Section 32 Charges Lodged



The Court deals with all serious criminal offences that must be tried before a Judge and jury, or Judge sitting alone, except those for which the maximum term of imprisonment that can be imposed is life imprisonment.

The most common offences determined by the Court include serious assaults, sexual assaults, serious fraud, commercial theft, burglary, drug related offences and people smuggling.

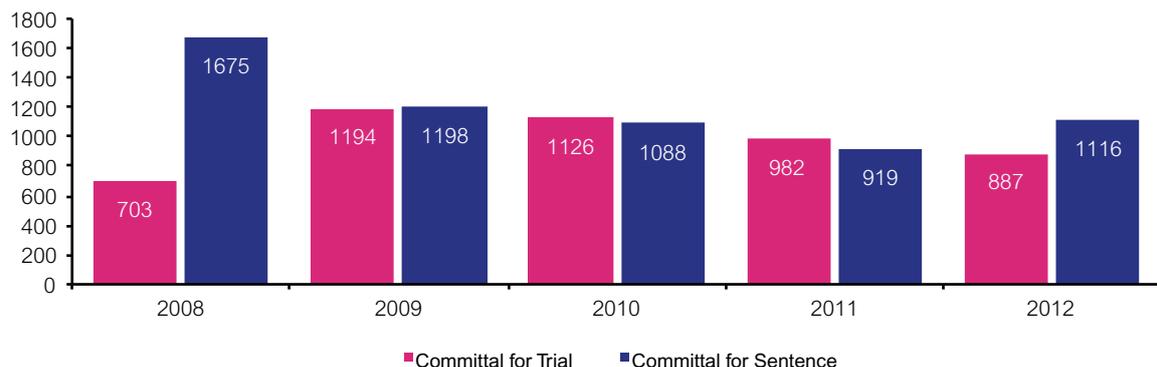
Caseload

Criminal lodgements increased in 2012 with 2050 new accused cases lodged compared with 1921 cases in the previous year. An accused case or criminal lodgement is recorded as one defendant with one or more charges having the same registration date. Secondary processes (e.g. breaches of penalty orders, bail, etc) are not included as new accused cases.

Included in graph 1 above is the number of additional summary charges called in by accused persons pursuant to a section 32 *Sentencing Act 1995* notice, to be dealt with by the Court when sentencing. This procedure allows an accused who is to be sentenced, following conviction in the District Court, to call in and be sentenced by the sentencing Judge on any outstanding summary charges to which they have pleaded guilty in the Magistrates Court.

Graph 2 below, illustrates the division in the Court’s work between matters committed for trial and those committed for sentence. There were 95 fewer committals for trial and 197 more committals for sentence lodged with the Court in 2012, than in the previous year. No committal reason was recorded in 47 cases.

GRAPH 2 Accused Lodgments by Committal Reason



Graph 3 below, displays the spread of the Court’s criminal workload in relation to accused cases lodged, as between the metropolitan area and the twelve regional locations to which the Court circuits. It illustrates an increase in both metropolitan and circuit lodgements with an overall increase of 129 accused cases lodged.

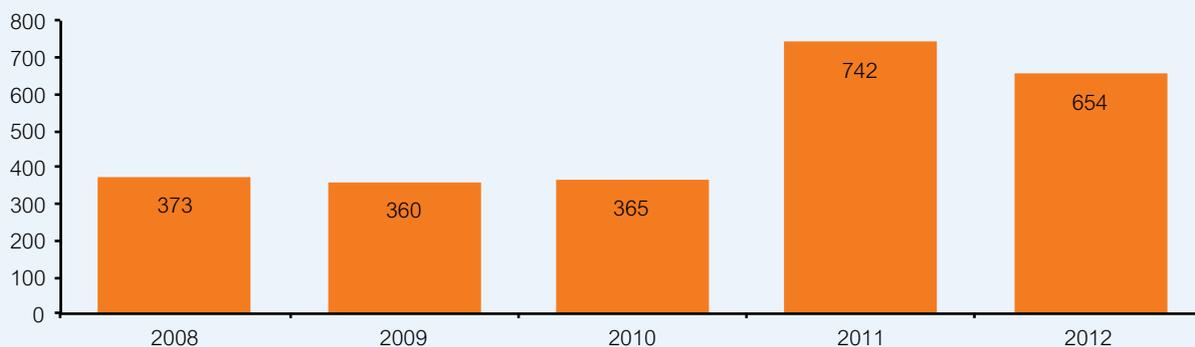
In addition to accused cases and other matters referred to the Court for sentence by way of a section 32 notice, the Court also deals with a number of miscellaneous criminal matters. These matters which include applications for convictions to be spent and the removal of a life disqualification of a motor driver’s licences are now dealt with as a civil lodgement. These matters are discussed later in the report under the heading of ‘Civil Lodgements’.

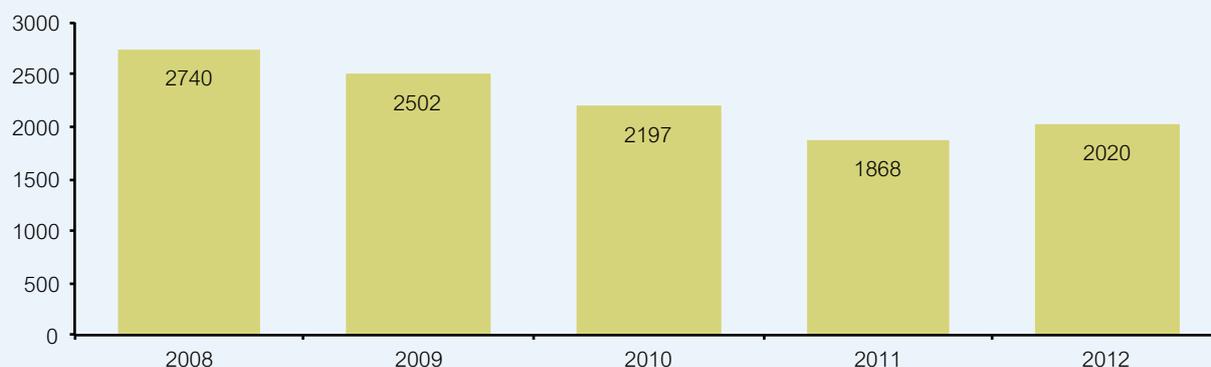
Graph 4 below, shows instances where an offender was brought back to the Court to be re-sentenced following the breach of an order made by the Court.

Graph 3 Accused Lodgements by Region



Graph 4 Breach Charges Lodged



Graph 5 Accused Cases Finalised

Case Finalisation

Each year, the Court strives to finalise more criminal cases than are commenced. As is reflected in graph 5, there were 152 more accused cases finalised in 2012 than in 2011, thereby turning around the trend in recent years of reducing numbers of finalisations.

With a greater number of cases lodged than was finalised in 2012, the Court managed to achieve a clearance index of 98.5%. This is an improvement on the clearance index of 97.2% achieved in the previous year.

The vast majority of the Court's judicial resource is concentrated in the criminal jurisdiction of the Court, undertaking activities associated with the conduct of

criminal trials. The Court conducted 427 criminal trials state-wide during 2012 with the average length of a trial being 3.18 days. This is virtually the same number of trials as was conducted in 2011 and 0.50 of a day less than the average length of trial in 2011.

The average length of a criminal trial conducted in Perth during 2012 was 3.40 days. This represents a 14% decrease on the 3.95 average days of trial in 2011. Although people smuggling trials averaged 6.93 days of hearing in 2012, the number of these trials decreased dramatically in the later part of the year, following a direction issued to the Commonwealth Director of Public Prosecutions by the Commonwealth Attorney General in August 2012.

Graph 6 Criminal Trials Proceeding

A total of 767 criminal cases were listed for trial at Perth and on circuit in 2012. Of these cases, 427 or approximately 56% of the matters listed, proceeded. The major reason for trials not proceeding when listed is that many accused persons change their plea to guilty when a trial date is allocated. Also, negotiations between the prosecution and defence leading up to a trial resolve a range of issues, often resulting in charges being withdrawn and alternative charges substituted. Guilty pleas are often entered to the substituted charges, thereby avoiding the need for a trial.

It is the Court's practice to list more cases in a day than can actually be heard. This enables the Court to compensate for the high rate of trials that fall out for the reasons previously mentioned. Listing in this manner, ensures the optimisation of judicial resources and the attendance of jurors is not wasted.

In 2012, there were 105 trials conducted state-wide where the trial duration was five days or greater. This is a 34% decrease on the number of trials of similar duration that were conducted by the Court in 2011. Accommodating lengthy trials can be a resource intensive exercise for the Court, with additional time being taken up with the case management of the many issues that arise in the period leading up to trial. The additional time taken is beneficial however, as it ensures that any issues that arise in relation to the trial, are addressed at an early stage and the prospect of delay at the commencement of the trial is reduced or avoided.

CASE EXAMPLE

A CRIMINAL MATTER PROCEEDING TO A TRIAL HEARING AT THE MEDIAN TIME OF 26 WEEKS FROM COMMITTAL

Police charged the accused with deprivation of liberty, two counts of sexual penetration without consent in circumstances of aggravation, unlawful wounding with a circumstance of aggravation and unlawful assault and thereby did bodily harm with circumstances of aggravation on 26 September 2011. The accused first appeared in the Magistrates Court at Perth on 26 September 2011 and was remanded in custody to appear by video link on 10 October 2011.

The accused appeared before the Magistrates Court on a number of occasions between October 2011 and 12 April 2012 when the accused was committed for trial before the District Court at Perth.

The first appearance of the accused at the District Court was on 6 July 2012. On that occasion, the charge of unlawful wounding was discontinued by consent and the accused was remanded to stand trial on 17 October 2012 on the remaining charges. The matter came before the Court on 15 October 2012 for an application to vacate the trial date and to pre-record the evidence of two witnesses. One witness failed to appear and the matter was relisted for a further pre-recording on 19 October 2012. The matter was set down for a trial to take place on 11 December 2012.

The matter was early listed on 5 December 2012 at the request of the State, when a notice of discontinuance was filed. The charges, the subject of the indictment were discontinued by the Court, the trial date was vacated and the accused was discharged.

Graph 7 illustrates the Court's median delay to criminal trial since 2008, with the 12 month moving average for 2012 recorded as 26 weeks in December 2012. Median trial delay measures the period in which an accused person waits for their first trial date in the District Court, following committal for trial by the Magistrates Court.

The criminal trial delay target set for the Court by the Department of the Attorney General is 32 weeks. The Court has consistently maintained a median delay to criminal trial at around 26 weeks since mid 2010, due to consistent adherence to listing practices and procedures introduced in 2009 following a review of criminal listings. Continued close monitoring of matters by the Judges of the Court when presiding over trial listing hearings has also influenced the Court's ability to maintain a consistent level of delay to trial.

Sentencing

The Judges of the Court sentenced 2,020 accused persons in 2012. This is an increase of 152 accused persons compared with the 1,868 accused that were sentenced in 2011.

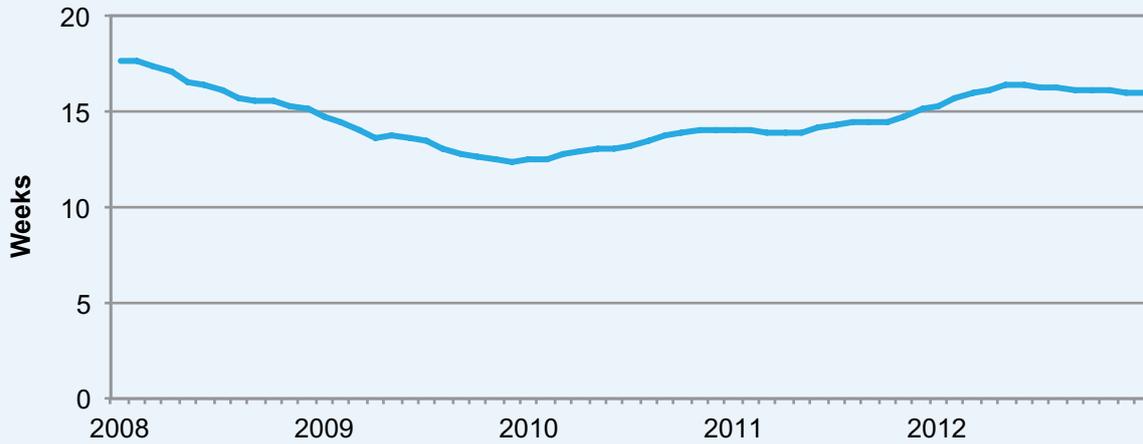
An accused person, who pleads guilty to an indictable offence/s in the Magistrates Court and is committed to the District Court for sentence, can expect to appear at a sentence mention hearing around seven weeks after the date of their committal. An appearance at a sentence mention hearing is before a Criminal Commissioner, who ensures that the DPP has filed an indictment, that a pre-sentence report is available, or is in the process of being prepared and that in all other respects, the matter is ready to proceed to a sentencing hearing.

Sentencing matters are listed in dedicated lists before a Judge on Tuesdays, Thursdays and Fridays of each week.

Graph 7 Median Trial Delay Trend



Graph 8 Median Sentence Delay Trend



The Court’s median delay to sentence is illustrated in graph 8. It is the measurement in weeks between the date of committal in the Magistrates Court and the actual sentencing hearing in the District Court. The delay fluctuated between 14 and 18 weeks throughout 2012 with the 12 month moving average registered at 16 weeks in December 2012. Sentencing lists were closely monitored throughout 2012 with additional lists introduced when the delay to sentence began to increase beyond the Court’s acceptable level of delay.

CASE EXAMPLE

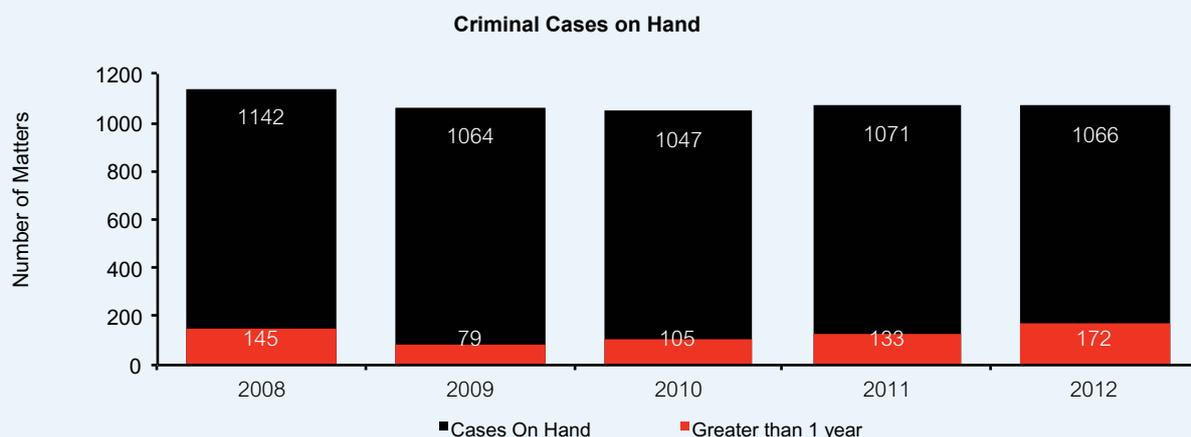
A COMMITTAL FOR SENTENCE MATTER PROCEEDING TO A SENTENCING HEARING AT THE MEDIAN TIME OF AROUND 16 WEEKS FROM COMMITTAL

Police arrested the accused on 2 February 2012 for the offences of being the driver of a motor vehicle involved in an incident occasioning death, dangerous driving in circumstances which subsequently resulted in a death and being the driver of a vehicle, involved in an incident, failed to report the incident.

The accused appeared before the Magistrates Court at Bunbury on 6 February 2012 and was remanded to re-appear on 9 March 2012. Bail was extended. The accused appeared on 9 March 2012 and following a plea of guilty to all charges; the accused was committed for sentence to appear at the District Court sitting a Bunbury on 14 May 2012.

On 14 May 2012, the accused pleaded guilty to all three charges in the indictment; convicted on all charges and sentenced to 4 years imprisonment. The accused was made eligible for parole and disqualified from holding or obtaining a motor driver’s licence for a period of 3 years.

Graph 9 Criminal Cases on Hand



Cases on hand

Criminal cases on hand have remained steady over the past four years with just over 1,000 cases on hand each year. This is indicative of a consistent effort by the Court to finalise as many cases as are committed to the Court. Of the cases on hand as at 31 December 2012, 84% were less than or equal to 12 months in age.

The District Court on Circuit

The District Court is committed to the delivery of fair and equitable justice services for all citizens of Western Australia. Therefore, in addition to the main registry of the Court which is located within the Perth central business district, the Court conducts criminal circuits to the regional locations of Albany, Broome, Bunbury, Busselton, Carnarvon, Derby, Esperance, Geraldton, Kalgoorlie, Karratha, Kununurra and South Hedland.

Court facilities at these locations vary as to their suitability for the conduct of criminal trials by a Judge and jury. Regional court buildings are regularly monitored on behalf of the Department of the Attorney General, as to their utility, by resident staff of the Magistrates Court

The court buildings at Kununurra and Carnarvon have been programmed for replacement. That program is well advanced in the case of Kununurra with a new court building under construction on the existing site and a contemporary transportable court building located on an alternative site. The temporary facility, which is of a high standard is able to accommodate a criminal trial presided over by a Judge sitting with a jury. Planning for a replacement court and police complex in Carnarvon on a new site is well advanced.

The assistance provided by Magistrates Court staff to Judges and their personal staff when on circuit throughout the State is acknowledged and appreciated by the District Court.

The average length of a criminal trial at circuit locations visited by the Court during 2012 was 2.33 days. This represents a slight decrease on the average of 2.99 days recorded for 2011. For the purposes of comparison, the average length of a criminal trial held at Perth in 2012 was 3.40 days.

Trial dates were allocated for 184 circuit trial matters during the year with 94 of those matters (51%) actually proceeded to a trial.

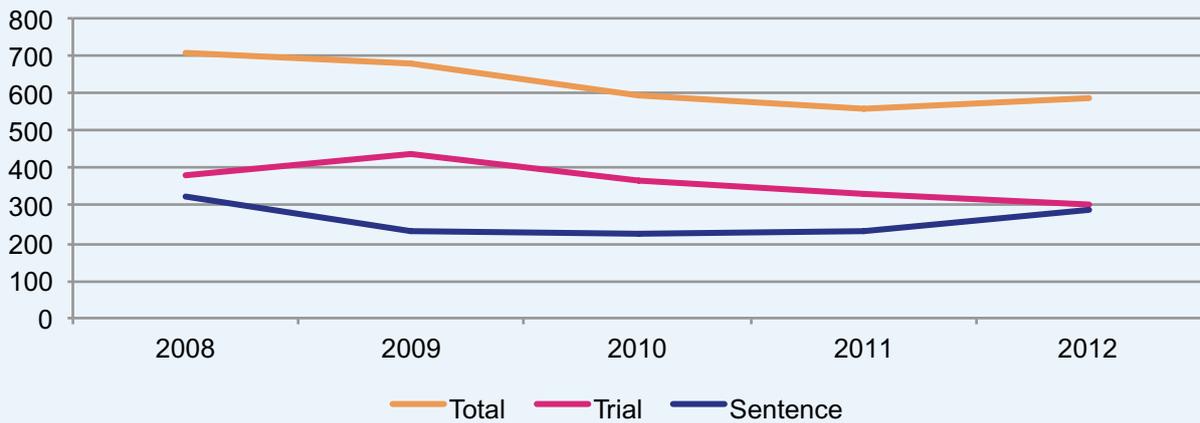
The median delay to criminal trial at circuit locations state-wide is illustrated in graph 10 below. The 12 month moving average as at the end of December 2012 was 27 weeks. This is a five week improvement on 32 weeks recorded in December 2011.

The reduction in delay to criminal trial listing at circuit locations results from:

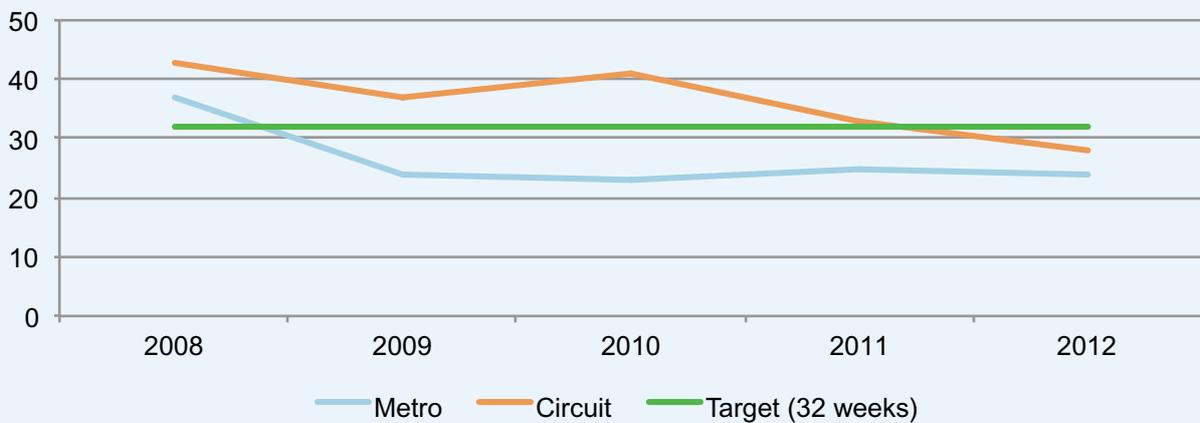
- increased frequency of circuit trial listing hearings;
- increased frequency of circuits to targeted regional locations;

- increased numbers of matters listed for each circuit;
- improved case management of matters listed for trial by the Judges of the Court when presiding at trial listing hearings;
- the conduct of regular directions hearings leading up to trial for lengthy and complex matters; and
- the implementation of a range of improved listing procedures and better file preparation by registry staff.

Graph 10 Circuit Criminal Lodgments



Graph 11 Median Trial Delay Trend Metro -v- Circuit



Issues and initiatives

Circuits Improvement Project

The Circuits Improvement Project mentioned in previous District Court Reviews, concluded in the early part of 2012. Initiatives that were not subject to the provision of additional resources were implemented following an assessment of their immediate and future benefit to the Court and matters requiring additional resources were submitted as part of a future budget proposal.

Procedures introduced which include changes in responsibilities, improved case management and increases in circuit frequency, have had a major influence in reducing the waiting time to trial at circuit locations. The targeted locations of Geraldton, Karratha, Broome and Kununurra, where delay to trial was a real concern, have benefited greatly from the project outcomes.

Review of old arrest warrants

Old cases, in which arrest warrants had been issued and remained outstanding, have been the subject of review since 2011. This work continued throughout 2012 and revealed that in a number of cases, accused persons had actually been arrested by Police on warrants issued by both the District Court and the Magistrates Court, but only dealt with on the Magistrates Court warrants and released without further referral to the District Court.

Discussions with Police resulted in changes to police procedures so that when an accused person is arrested in circumstances where two arrest warrants co-exist, the accused is further detained following their appearance in the Magistrates Court and brought before the District Court to answer to the warrant.

Technology support

During 2012, the Court benefited from two releases associated with the implementation of ICMS criminal into the Magistrates Court. Although the major development of ICMS is for the benefit of the Magistrates Court, there are flow-on benefits for the superior court jurisdictions. A release in September 2012, which transferred the restraining order process from CHIPS to ICMS, provided facilities for the District Court to extract restraining orders and provide them to police electronically. Prior to the September release, the District Court extracted orders using MS Word templates and either hand delivered them to Police or sent them by fax.

CIVIL JURISDICTION

The District Court’s civil jurisdiction is to hear and determine claims for liquidated sums up to \$750,000. The Court has unlimited jurisdiction in claims for damages for personal injury and exclusive jurisdiction for damages claims for injuries sustained in motor vehicle accidents.

The Court’s civil caseload in 2012 continued to be heavily weighted in favour of personal injury claims arising from industrial accidents, motor vehicle accidents and to a lesser extent, occupiers’ liability and medical negligence.

Most personal injuries cases settled at a pre-trial conference either following discussions between the parties or with the assistance of a registrar, acting as a mediator. The Court’s aim is to set down a personal injuries action for a pre-trial conference within six months of the action commencing.

The remainder of the Court’s civil business comprises commercial cases that include debt recovery, disputes over the sale of businesses and the operation of leases. Commercial disputes are case managed by registrars of the Court, who take responsibility for a number of actions, thereby convening directions hearings, making programming orders and progress cases towards resolution. It is the Court’s aim to ensure that the parties to an

action participate in a mediation conference, leading to settlement, at the earliest possible time after they come into possession of information that will allow for meaningful discussion.

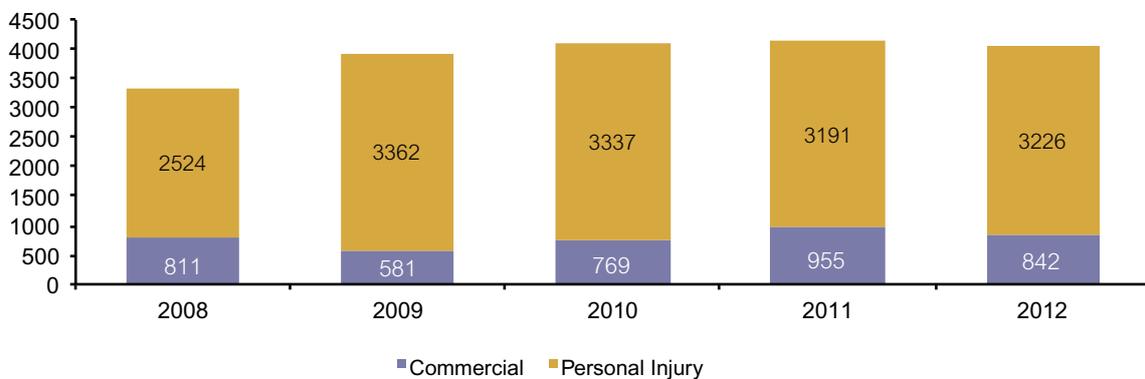
The appellate jurisdiction of the Court caters for appeals from the decisions of other jurisdictions of the Courts and Tribunals, as follows:

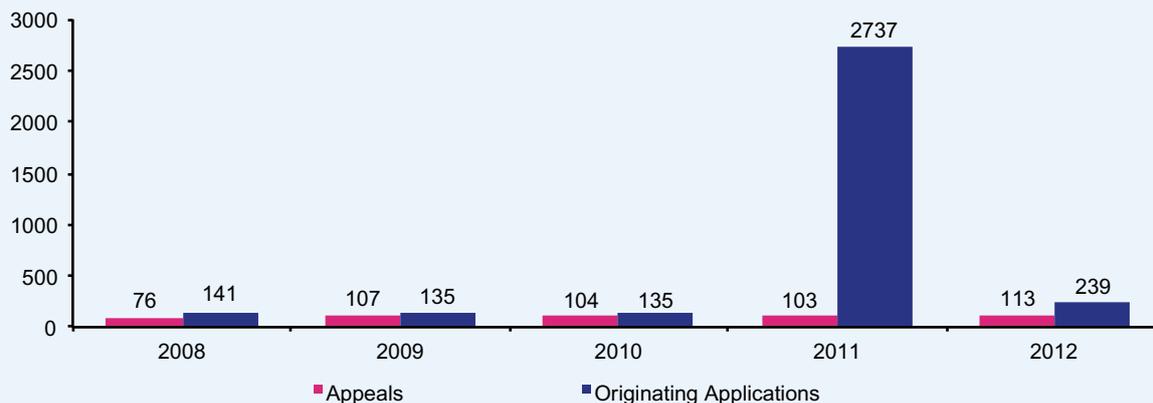
- Appeals from the decisions of Magistrates sitting in the civil jurisdiction of the Magistrates Court (includes appeals against restraining orders, either made or refused);
- Appeals against the decisions of Assessors of the Criminal Injuries Compensation Tribunal for awards or non-awards to victims of crime; and
- Appeals from the decisions of WorkCover Arbitrators, made under Part XI of the *Workers’ Compensation and Injury Management Amendment Act 1981*.

Caseload

Civil case lodgements reduced by 1.9% in 2012 with 4,068 new writs lodged compared with 4,146 writs lodged in 2011 (See Graph 12). Personal injury claims accounted for 79% of all new writs lodged in 2012 with the remaining 21% made up of commercial claims. The percentage split between personal injuries and commercial claims in 2011 was 77% and 23% respectively.

Graph 12 Civil Lodgments (Writs Only)



Graph 13 Civil Lodgments (Appeal and Originating Summons)

Civil lodgements (Other), as depicted in graph 13, represent the number of appeals and originating applications by summons and motion lodged for the year. Examples of originating applications are:

- Leave to compromise a claim made on behalf on an infant.
- Leave to serve a writ outside of the jurisdiction.

Also included in originating applications, is the body of work associated with jury fine enforcement. Changes to the *Juries Act 1957* introduced in October 2011, implemented an infringement notice regime for persons failing to respond to a summons for jury service. The regime, replaced the more formal process of a fine issued by the presiding Judge and enforcement thereafter by the Court (recorded as a civil originating application). Infringement notices are now issued by Sheriff's Officers and if not paid, the infringement is directed by the Sheriff to the Fines Enforcement Registry for enforcement.

A small number of jury fine enforcements continued to be managed by the Court throughout 2012. These matters have now been dealt with and jury fine management and enforcement is no longer a concern for the Court. The change to an infringement notice regime for jury fines, accounts for the significant decrease in civil lodgments (other) between 2011 and 2012.

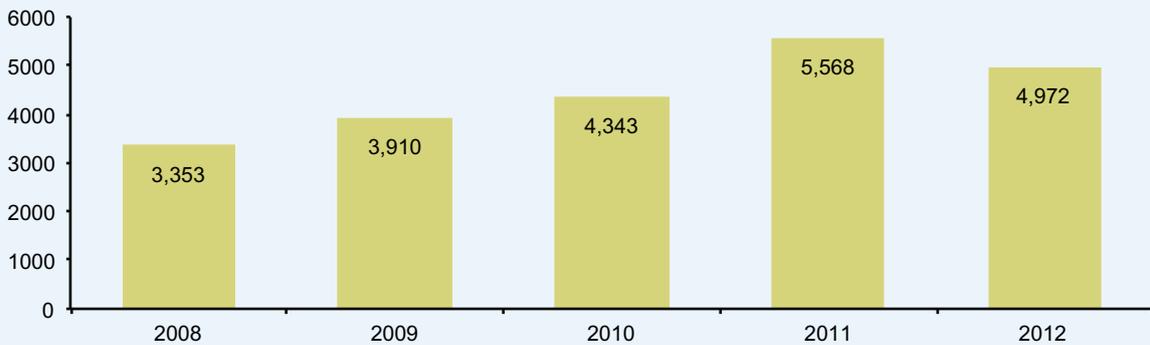
Case finalisations

Civil litigation is managed through an extensive program of case management and alternative dispute resolution. The success of the program is measured by the very few civil cases that actually proceed to a trial in the District Court. Less than 1% of the total number of civil finalisations in 2012 occurred as a result of an actual trial.

The Court has five registrars, all are accredited mediators. To ensure their mediation skills and practice remain in line with Australian best practice, registrars undertake annual mediation training and assessment.

A total of 3,082 pre-trial conferences and mediations were conducted by the registrars of the Court in 2012.

Graph 14 Civil Finalisations



Graph 14 illustrates that 4,972 civil cases were finalised by the Court in 2012. These numbers are more in line with the finalisations that occurred prior to the transfer of jury fine enforcement work from the criminal jurisdiction to civil in 2010. Jury fine management is no longer a concern for the Court.

The Court’s aim is to finalise more cases than are commenced each year. The number of cases finalised in 2012 compared favourably with the number of new matters commenced, resulting in a clearance index of 98%.

CASE EXAMPLE

MEDIAN CASE SETTLED PRIOR TO TRIAL (29 WEEKS AFTER COMMENCEMENT)

The writ of summons was filed on 21 May 2012. The plaintiff’s claim was for damages for personal injuries arising from a motor vehicle accident which occurred in November 2010. The plaintiff, who was the driver of the vehicle, alleged that the accident was caused by the negligent driving of the defendant who entered an intersection contrary to a red light and collided with the plaintiff’s motor vehicle.

The plaintiff suffered a soft tissue injury to her left sided cervical spine, left shoulder and left upper arm, which produced:

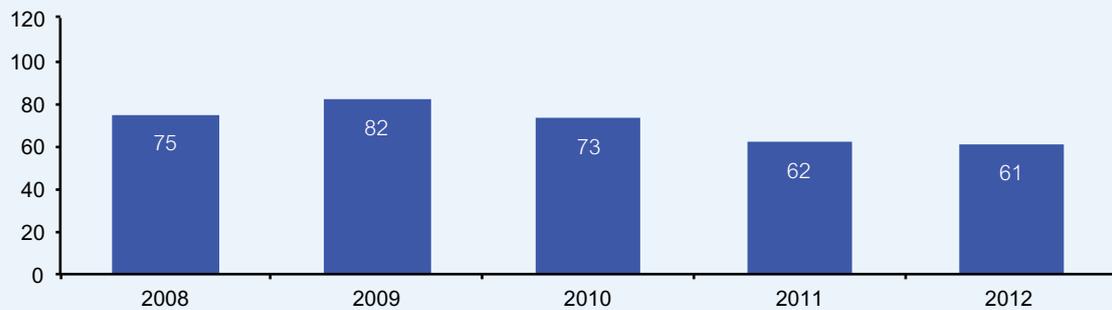
- a) Headaches;
- b) pain, soft tissue and ligament injuries and restricted mobility to the neck, back, shoulders, right leg and left hand;
- c) Depression and anxiety; and
- d) Interrupted sleep.

The defendant entered an appearance on 30 May 2012 and filed a defence on 14 June 2012. A case management timetable was issued by the Court on 14 June 2012 requiring that the case be entered for trial by 12 October 2012.

Entry for trial was not filed by 12 October 2012 and Notice of Default (Entry of Trial) was issued by the Court on 15 October 2012 requiring entry for trial by 30 October 2012, or the action was to become inactive.

Entry for trial was filed on 19 October 2012 and the matter was set down for a pre-trial conference on 13 December 2012.

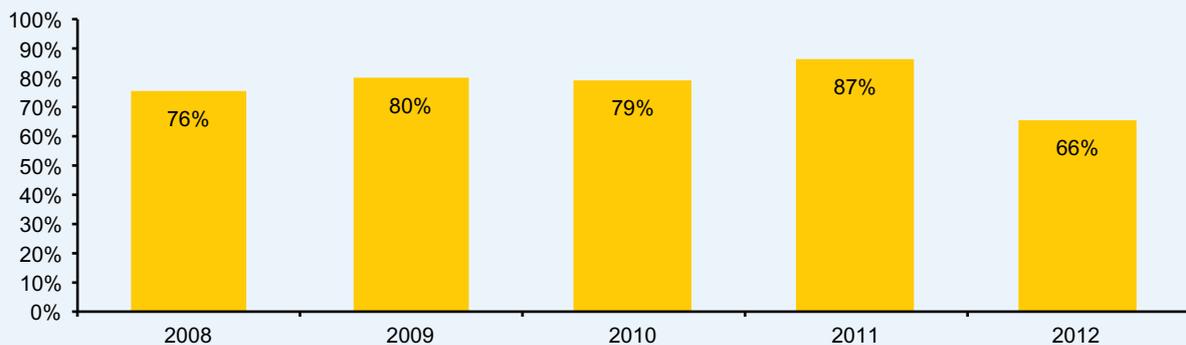
The matter settled at the pre-trial conference with judgment by consent being entered for the plaintiff in the sum of \$35,000.00 with costs fixed at \$13,905.20.

Graph 15 Civil Cases Proceeding to Trial

There were 62 civil trials conducted in 2012; an almost identical outcome to 2011. Of these matters, sixteen proceeded to trial where the duration of the trial was 5 days or greater. This represents an increase of 33.3% on the number of trials of that length conducted in 2011.

The average length of a civil trial in 2012 was 3.8 days, which is the same as the average civil trial length recorded in 2011.

The national benchmark for cases finalised within 52 weeks is 90%. Two thirds of the Court's civil cases were finalised within a period of 52 weeks of their commencement in 2012. The percentage drop from 2011 to 2012 is attributed to the loss of jury fine management and the on-going increase in civil workload.

Graph 16 Percentage of Civil Cases Finalised within 52 Weeks

CASE EXAMPLE

MEDIAN CASE DETERMINED AT TRIAL WITHIN 89 WEEKS

The plaintiff, represented by a solicitor, commenced an action by writ of summons on 2 June 2010, claiming specific performance of a contract entered into on 2 May 2010 for the purchase of a truck; or in the alternative, damages for breach of contract and costs.

A memorandum of appearance was filed on behalf of the defendant on 24 June 2010.

Following the filing of a defence on the 22 July 2010, a case management timetable was issued pursuant to rule 30(1) of the District Court Rules 2005, requiring the filing of an entry for trial by 19 November 2010.

An entry for trial was not filed by the required date and a notice of default of entry for trial was issued on the 22 November 2010. The notice advised that unless the action was entered for trial on or before 7 December 2010, the action will become inactive. No entry for trial was received and the action became inactive on 8 December 2010.

On 28 April 2011, an amended statement of claim and a chamber summons seeking re-activation was filed by the plaintiff's solicitor. The chamber summons was listed for hearing on 18 May 2011. There was no appearance by the plaintiff's solicitor on 18 May 2011 and the Registrar dismissed the application and awarded costs to the defendant. An oral application made by the defendant requested that the defendant's lawyer be removed from the record. That order was made.

A further Chamber Summons was filed by the plaintiff's solicitor and was listed on the 13 June 2011. The defendant was represented by a new solicitor and the plaintiff's application was successful with the action being re-activated. Time to file an entry for trial was extended to 29 July 2011 and the matter was set down for a directions hearing on 22 June 2011.

The direction hearing was subsequently adjourned until 13 July 2011 with an order that the defendant file and serve a defence or an application to strike out the statement of claim by 6 July 2011. The direction hearing of 13 July 2011 was subsequently adjourned and re-listed for 3 August 2011.

On 13 July 2011 the defendant's solicitor filed a chamber summons seeking an order to cease to act for the defendant. That order was made on 15 July 2011.

At the directions hearing of 3 August 2011, the entry for trial milestone was further extended to 19 August 2011, an order was made that the matter be listed for a special appointment pre-trial conference on 21 September 2011 and the defendant filed a notice to act in person. Entry for trial was subsequently filed by the plaintiff's solicitor on the 10 August 2011.

At a special appointment pre-trial conference held on 21 September 2011, the defendant failed to appear and the conference was adjourned sine die.

On 17 October 2011 the plaintiff's solicitor filed a chamber summons seeking to list the matter for trial. The chamber summons was listed on 1 November 2011, adjourned to 8 November 2011 and subsequently adjourned for a listings conference to be held on 28 November 2011.

The action was eventually listed for trial on 19 and 20 December 2011.

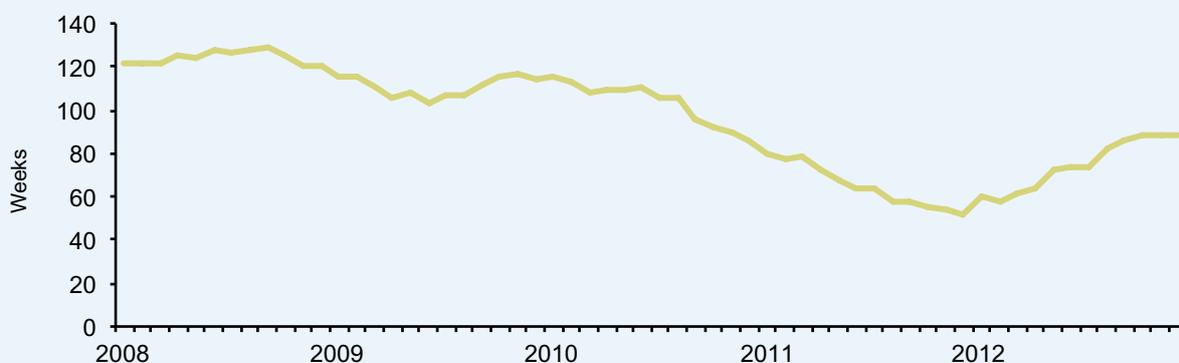
The matter was brought up on 12 December 2011 for the trial dates to be vacated and re-listed for trial on 6 and 7 March 2012. On the first day of the trial, the matter settled by consent with a judgment being entered for the plaintiff in the sum of \$30,000. There was no order for costs.

The median time to finalise a civil case by trial increased from 52 weeks in December 2011 to 89 weeks in December 2012. The time includes the time that it takes for the presiding Judge to write and deliver their judgment. The increase is due to the finalisation of a number of older cases.

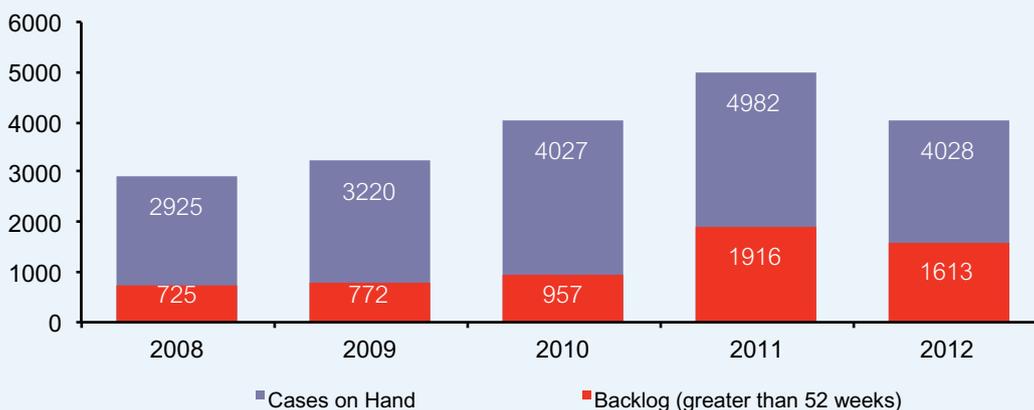
Cases on hand

Notwithstanding the inclusion of jury non-attendance fine matters, since 2008, civil lodgements have displayed an increasing trend. There were 4,028 cases on hand in December 2012, which is a decrease of 19% on the cases on hand in December 2008. 60% of the cases on hand were less than 52 weeks in age.

Graph 17 Median Time to Finalise Civil Trial Matters



Graph 18 Cases on Hand and Backlog



Appeals

There were 113 civil appeals lodged with the court in 2012. Of these:

- 67 arose from the decisions of Magistrates exercising jurisdiction under the *Magistrates Court (Civil Proceedings) Act 2004* and the *Restraining Orders Act 1997*
- 32 arose from the decisions of Criminal Injuries Compensation Assessors
- 14 arose from the decisions of Arbitrators of the Conciliation and Review Directorate of WorkCover WA, made under Part XI of the *Workers' Compensation and Injury Management Amendment Act 1981*.

The Court finalised 121 appeals in 2012 with 75% of the appeals being resolved within 12 months of their lodgement. The Court aims to resolve all appeals lodged with the Court within 12 months of their commencement.

Customer support staff members within the registry readily provide procedural guidance on the appeal process to self represented persons. Information on appeals and material to assist self represented persons with the lodgement of an appeal is available on the District Court website.

Issues and initiatives

- The on-going assessment of the Court's civil workload and procedures to assist in reducing the number of civil cases on hand, particularly older cases on hand;
- On-going monitoring of data entry of new civil lodgments and pleadings for civil matters into ICMS for matters filed at circuit locations state-wide. Provision of training at circuit locations is also undertaken, on an as needs basis;
- The reduction of the Court's trust account balance through the on-going review of old appeal files and the refund of \$100 deposits for security of costs, payments into court and other unclaimed deposits;
- Pursuance of business cases for funding to enhance civil ICMS to improve access to eLodgment, leading to increased numbers of registered users;
- Continue to review civil procedures in line with feedback received from the legal profession to enable a simple commercial dispute to have mediation occur within 3 months of the matter commencing and a trial within 6 months of commencement; and
- Continue to improve appeal procedures to enable the Court to achieve its aim of finalising all appeals within 12 months of their commencement.

OTHER HIGHLIGHTS

Professional development for members of the Judiciary

A range of professional development and education sessions for judicial officers in the form of one hour in-house workshops and presentations were conducted throughout 2012. The sessions were held monthly, with presentations on a range of topics that Judges considered relevant to their day to day activities delivered by a select group of Judges.

The National Judicial College of Australia conducted a three day judgment writing course in Perth in September 2012. That course was attended by Judge Sleight, Judge Wager, Judge Schoombee, Judge Birmingham, Judge Derrick and Principal Registrar Gething.

The five registrars of the Court received ongoing training in order to maintain their accreditation with the Mediator Standards Board. They participated in a full day training workshop in November 2012. The morning session focussed on body language as a means to better understand and develop communication skills and to make the mediation process more effective both for participants and the mediator. The afternoon session dealt with expert evidence and included a presentation by a senior member of the State Administrative Tribunal on concurrent evidence.

Staff learning and development

Staff of the Court completed a range of compulsory corporate on-line training modules in 2012. Many of the modules form part of the department's induction procedures and covered such topics as:

- Introduction to courts and the justice system;
- Court conduct and ethics policy;
- Court counselling and support services;
- Security in Courts and Tribunals;
- Using department passwords
- Confidentiality and information privacy;
- Occupational health and safety; and
- Record keeping awareness.

Other training courses identified during employee development system (EDS) interviews were attended by staff throughout the year to enhance employee development and address gap areas of skills and knowledge.

Registry staff responsible for the extraction of violence restraining orders (VRO) attended training in September 2012 in the lead up to the release of a new restraining order module in ICMS in October 2012. The training was provided in-house by members of the Courts Technology Group development team.

Internet website

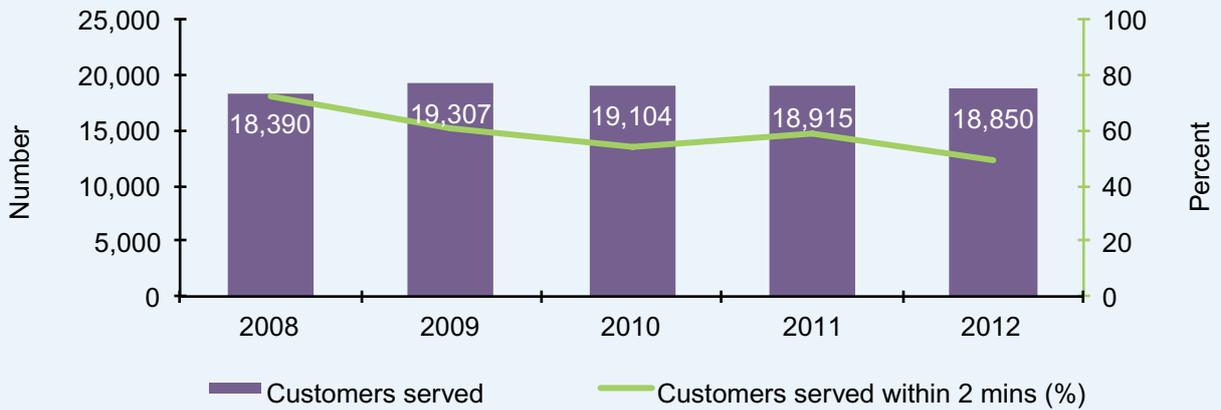
The District Court's website continued to be a popular source for accessing case and general information about the operations of the District Court by members of the legal profession; self represented persons and members of the general public. Information available through the website includes practice directions, circulars to practitioners, fee and form information, general updates on civil and criminal procedure and a procedure manual to assist self represented persons.

Registry Customer Service

The District Court registry counter is a key point of customer service delivery for the Court, providing a range of services for members of the general public and law clerks that attend the Court daily with a facility to transact business on behalf of themselves or in the case of law clerks, their legal firm.

Customer service officers attending to the public at the registry counter assist the Court in meeting its customer service delivery objectives. A high standard of customer service was maintained throughout 2012 and although the number of customers served in 2012 was slightly less than in 2011, the volume of documents lodged with the registry continued to increase.

Graph 19 Registry Customer Service



Summer clerks’ program

As in past years, the Court participated in the two week Summer Law Clerks’ Program 2012 for final year law students. The program is coordinated by the Federal Court with considerable assistance provided by the research assistant to the Chief Judge of the District Court. A number of the participant law students spend time with Judges of the District Court during the program observing the Judges’ daily activities. The other participants had similar experiences, spending time with Judges from the other jurisdictions of the Courts.

The program provided a valuable insight into the operation of the various jurisdictions of the courts and the work of members of the judiciary. All participants came together at various times throughout the two weeks for addresses provided by heads of jurisdiction and other judicial officers of the Courts. At the District Court, the participants were addressed by the Chief Judge on criminal procedure and the Principal Registrar on civil practice and procedure.

DISTRICT COURT COMMITTEES AS AT 31 DECEMBER 2012

Civil Administration Committee

Chief Judge Martino (Chair)
Judge Wisbey
Judge Eaton
Judge Stavrianou
Judge O'Neal
Judge Curthoys
Principal Registrar Gething
G Bruce – Executive Manager
J Petrovski – Manager Case Management
G Drew – Manager Trials
W Hawley – Manager Customer Support
R Shierlaw – Manager Business Services

Criminal Administration Committee

Chief Judge Martino (Chair)
Judge Fenbury
Judge Bowden
Judge Schoombee
Judge Scott
Principal Registrar Gething
G Bruce – Executive Manager
J Petrovski – Manager Criminal Case Management
G Drew – Manager Trials
R Shierlaw – Manager Business Services
K Woods – A/Listing Coordinator
J Howard – Senior Associate
K Trenkovski – Criminal Listings (Circuits)

Library Committee

Chief Judge Martino (Chair)
L Lyon – Manager Libraries (DOTAG)
E Brown – Librarian
G Bruce – Executive Manager

District Court Building Committee

Chief Judge Martino (Chair)
Judge Eaton
Principal Registrar Gething
G Jones – Director of Higher Courts
A Stevenson – Contract Management DCB
G Bruce – Executive Manager
R Shierlaw – Manager Business Services
P Smith – Manager Audio Visual (DotAG)
M Cardy – A/Director Court Security Directorate
J McCombe – General Manager, Western Liberty Group
J Spellacy – Contract Manager, Brookfield Multiplex
P Bangs – Manager, Merrill Corporation Australia
K Marlow – Contracts Manager G4S

Technology Committee

Judge Stavrianou (Chair)
Judge Keen
Judge Davis
Principal Registrar Gething
G Bruce – Executive Manager
R Shierlaw – Manager Business Services
A Stevenson – Contract Management (DotAG)
A Wong – Director, Information Directorate (DotAG)
M Jackson – Manager Court Technology Group (DotAG)
P Smith – Manager Audio Visual (DotAG)
L Wood – IT Support
J Emerson – District Court Technology Officer
J McCombe – General Manager, Western Liberty Group
J Spellacy – Contract Manager, Brookfield Multiplex

Child Witness Committee

Judge Sleight, District Court (Chair)
Judge Reynolds, Children's Court
Magistrate Stewart, Magistrates Court
Magistrate Horrigan, Children's Court
A Burrows, DPP
J Newsham, Child Interview Unit
C White, Child Witness Service
P Urquhart, Criminal Lawyers Association
H Quail, Law Society
L McComish, DOTAG, Court and Tribunal Services

Judges' Continuing Legal Education Committee

Chief Judge Martino
Judge Sleight
Judge Wager (Chair)
Judge O'Neal
Judge Staude
G Bruce – Executive Manager

Judges' Legislation and Procedure Committee

Chief Judge Martino (Chair)
Judge Fenbury
Judge Wisbey
Judge Deane
Judge Eaton
Judge Stevenson

Judges' Benchbook Committee

Chief Judge Martino
Judge McCann
Judge Stavrianou
Judge Bowden
Judge Davis

EXTERNAL COMMITTEES

His Honour Chief Judge Martino

Heads of Jurisdiction Committee
Chief Justice's Senior Counsel Committee
Standing Committee, Strategic Criminal Justice Forum
Member, Review of Law Library Facilities Steering Committee
Member, Project Steering Committee for the Kalgoorlie, Carnarvon and Kununurra Courthouses

His Honour Judge Fenbury

Member, Executive Committee of the Governing Council, Judicial Conference of Australia
President of Totius

Her Honour Judge Deane

Deputy Chair, Board of Centrecare Marriage and Family Service
Member, Advisory Board, Centre for Forensic Science at UWA

His Honour Judge Eaton

Member, Project Steering Committee, proposed Kalgoorlie, Kununurra and Carnarvon Courthouses

His Honour Judge Sleight

Chair, Interjurisdictional Education Committee
Regional Convenor (WA), National Judicial College of Australia

Her Honour Judge Wager

President, Board of Management Palmerston Association WA Inc.
Member, Interjurisdictional Education Committee
Member, National Judicial College of Australia National Judicial Orientation Program Committee.

His Honour Judge Stevenson

Executive Member, LEADR WA
Member, Law Society of WA ADR Committee
Member, Schools Conflict Resolution and Mediation Program (SCRAM)
Member, Western Australian Dispute Resolution Association
Member, Jury Advisory Committee
Member, Law Library Advisory Committee
Honorary Fellow, Faculty of Law, University of Western Australia

His Honour Judge Staude

Member, Law School Advisory Board, University of Notre Dame

Her Honour Judge Braddock

Member, Council of the Australasian Institute of Judicial Administration (AIJA)
Member, AIJA Indigenous Justice Committee
Member, State Committee, Indigenous Justice Issues

Principal Registrar Gething

Member, Law Society of Western Australia Education Committee
Member, Law Society of Western Australia Criminal Law Committee

Registrar Kingsley

Member, Law Society Courts Committee



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