



DISTRICT COURT OF WESTERN AUSTRALIA  
**Annual Review**

**2016**

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as at 31 December 2016	

# FROM THE CHIEF JUDGE

The business of the Court is driven by the judicial oath which is inscribed on the front of the District Court building and states: *To do right to all manner of people, according to the law, without fear or favour, affection or ill-will.*

2016 was a remarkable year for the District Court for two reasons. The Court experienced a substantial increase in its workload in its criminal jurisdiction. The Court also introduced an eCourt in the Court's civil jurisdiction.

## Increase in Workload in Criminal Jurisdiction

The number of criminal matters committed to the District Court in 2016 increased by 15.5% on the previous year. Over a period of 5 years the increase has been 26%. In Perth the increase over 5 years has been 30.9%. These increases have been substantially driven by an alarming increase in illicit drug cases. The number of illicit drug cases committed to the District Court increased by 34.6% in 2016 and by 81.3% over the past five years. The impact these increases had on the Court's operation is demonstrated by the backlog of cases waiting to be dealt with by the Court (that is, cases waiting to be finalised). The number of illicit drug cases waiting to be dealt with in 2016 increased by 43.8% and over a five year period by an alarming increase of 161.7%.

A further complication in the workload of the Court is that trials are now becoming longer and more complex. In part this is due to amendments introduced in 2004 to the *Evidence Act 1905* and the *Criminal Procedure Act 2004*, which over a period of time have led to more trials involving multiple charges, multiple accused persons and/or multiple complainants. This is particularly the case for trials concerning illicit drug offences and sex offences.

## Civil Jurisdiction Workload

The civil jurisdiction workload of the District Court has remained relatively stable over 2016.

There were 5,371 new civil cases lodged in 2016. This is a 5.6% increase on the number of cases lodged in 2015. The Court continued last year's trend of finalising around two-thirds of its civil cases within 12 months.

## Impact of Increased Criminal Workload on Judges

To maximise the use of judicial resources, the Court has a policy of over-listing criminal matters by 50%. This means that if trials do not proceed due to late pleas of guilty, discontinuances by the State or adjournments, the judicial resources of the Court are not wasted. A negative aspect of this policy is that Judges have less time out of court for research, contemplation time for sentencings and preparation of written decisions. The aggregate sitting time of Judges in the Court has increased over a 2 year period up to 30 June 2016 by 14.5%.



## Retirement of Two Judges

On 12 February 2016 his Honour Judge Fenbury (the Senior Judge of the Court) retired from the Court after 21 years and 2 weeks on the Bench. This included a period from 1996 to 1998 when his Honour was the President of the Children's Court. The length of service of Judge Fenbury was outstanding.

On 23 March 2016 his Honour Judge Keen also retired having reached the compulsory retirement age.

On behalf of the District Court, I would like to acknowledge and thank Judge Fenbury and Judge Keen for their services to the Court and to the people of the State of Western Australia.

### **Judicial Appointments**

I am most grateful that the previous Government, recognising the workload of the District Court, appointed immediate replacements on the Bench for Judge Fenbury and Judge Keen. On 21 February 2016 his Honour Judge Gething was appointed to the Court to replace Judge Fenbury. On 23 March 2016 his Honour Judge Troy was appointed to the Court to replace Judge Keen.

### **Need for Additional Resources**

The increasing workload in the Court's criminal jurisdiction means that the Court needs additional Judges to be appointed to the Court. Based upon the substantial increase in the criminal workload of the Court, I believe that an additional two Judges are needed so the Court can maintain the appropriate level of judicial service that is expected from it by the community. Although I appreciate that there are competing demands upon the State budget, the importance of providing proper judicial resources is fundamental to the operation of a democratic society, and a necessary component of maintaining law and order within the community.

### **eCourt**

Last year I reported that the Judges of the Court had resolved to support the implementation of an eLodgment system in the civil jurisdiction of the District Court under a modernisation plan of the Court and Tribunal Services Division of the Department of the Attorney General. As from 4 July 2016 all documents lodged in the District Court in its civil jurisdiction are electronically lodged. There are two methods of electronically lodging documents; either through a portal or by hardcopy documents being electronically scanned at the registry. It is anticipated that sometime in 2017 the Court will mandate that members of the legal profession, when lodging documents in the civil jurisdiction of the District Court, must use the portal.

It is anticipated that in approximately four years' time the Court will largely have paperless files in its civil jurisdiction.

### **Contributions to the Court**

Finally, I thank the Court's Judges, Registrars and all the 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.

**Kevin Sleight**  
**Chief Judge**

District Court of Western Australia

# THE DISTRICT COURT AT A GLANCE

## OUR 2016 ACHIEVEMENTS

### The Court

- Due to a significant increase in the criminal workload the median time to criminal trial for matters committed to the Court increased to 34 weeks (an increase of 9.7% on the previous year). The median time to sentence for matters committed to the Court increased to 22 weeks (an increase of 9.1% on the previous year).
- Used video-conferencing facilities to prisons to deal with 789 persons in custody which equated to approximately 239 hours of courtroom usage. This results in savings in the Department of Corrective Services' costs of transportation and saves persons in custody from the inconvenience of unnecessary trips to court.
- Continued to finalise 70% of all new civil cases within 12 months of lodgment, despite the continuing increase in new lodgments.
- Implemented a complete eLodgment capability in the civil jurisdiction.
- Developed and implemented eFile processes for all new cases from 4 July 2016.
- Delivered two information sessions and three professional development sessions on "Modernising Justice with eLodgment" to members of the legal profession. Continued to liaise with the profession following implementation.

## OUR 2017 PRIORITIES

- Seek further judicial resources to cope with the increase in the criminal jurisdiction workload.
- Implement eLodgment through a website portal for all legal professionals
- Continue the implementation of eFile processes for the civil jurisdiction.

## 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 unlimited jurisdiction for all personal injury claims.

### Appellate: Appeals from:

- Magistrates exercising civil jurisdiction;
- Criminal Injuries Compensation Assessors; and
- Arbitrators under Part XI of the *Workers' Compensation and Injury Management Act 1981*.

## 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

- 455 criminal trials including 87 circuit trials
- 1,121 people committed for trial
- 1,391 people committed for sentence
- 49 civil trials
- 4,902 new actions commenced by writ
- 113 appeals determined
- 2,153 civil mediations and settlement conferences

## OUR PEOPLE

- 28 judges (3 serving in other jurisdictions)
- 5 registrars
- 37.2 registry staff
- 52.6 judicial support staff

## OUR BUDGET

An amount of \$22.6 M

# OUR JUDGES

The following were the Judges of the Court as at 31 December 2016:

## Chief Judge

His Honour Judge Kevin Frederick Sleight

## Judges

His Honour Judge Denis John Reynolds  
His Honour Judge Philip Richard Eaton  
His Honour Judge Philip Pierre McCann  
Her Honour Judge Julie Anne Wager  
His Honour Judge Andrew Steven Stavrianou  
Her Honour Judge Troy Denise Sweeney SC  
His Honour Judge Bruce James Hamilton Goetze  
His Honour Judge Michael John Bowden  
Her Honour Judge Anette Margret Ilse Schoombee  
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 QC  
His Honour Judge Anthony Samuel Derrick SC  
His Honour Judge Timothy Sharp  
Her Honour Judge Audrey Gillian Braddock SC  
His Honour Judge David Ronald Parry  
His Honour Judge Robert Enos Cock QC  
His Honour Judge Mark Edward Herron  
Her Honour Judge Vicki Laura Stewart  
His Honour Judge Laurence Mark Levy SC  
Her Honour Judge Linda Petrusa SC  
His Honour Judge Michael John Gething  
His Honour Judge Alan Laurence Troy

## 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 RE Cock, QC  
*Chairperson, Prisoners Review Board*

## Judicial retirements since December 2015

His Honour Allan David Fenbury retired on 12 February 2016.

His Honour Richard Ellis Keen retired on 23 March 2016.

## Judicial appointments since December 2015

His Honour Judge Michael John Gething was appointed on 12 February 2016.

His Honour Judge Alan Laurence Troy was appointed on 23 March 2016.

## Judicial movements since December 2015

His Honour Judge Parry was released from the State Administrative Tribunal to the District Court. on 20 June 2016.

## Registrars as at 31 December 2016

Principal Registrar	Shane Melville
Registrar	George Augustus Kingsley
Registrar	Lyn Dorothy Wallace
Deputy Registrar	Simon Peter Harman
Deputy Registrar	Richard John Hewitt

# CRIMINAL JURISDICTION

The Court deals with all serious criminal offences that must be tried before a Judge and jury, or a Judge sitting alone, except those for which the maximum term of imprisonment that can be imposed is life imprisonment. Prosecutions determined by the Court include serious assaults, sexual assaults, serious fraud, commercial theft, burglary and drug related offences.

Please note that figures may differ slightly from those previously published due to regular data integrity checks.

## LODGMENTS

Criminal lodgments increased significantly in 2016 with 2,515 new accused matters lodged, a 15.5% (337 matters) increase when compared with 2,178 matters in the previous year. This was primarily due to a 34.6% increase in lodgments for Illicit Drug offences, 5.9% increase in Sexual

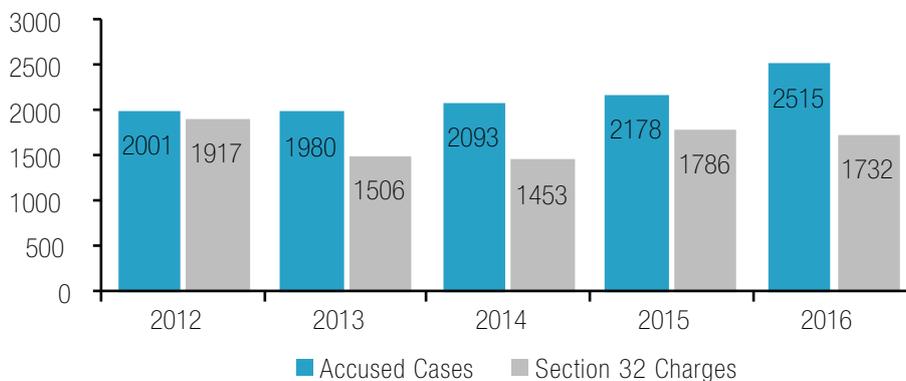
Assault and related offences and 21.4% increase in Unlawful Entry with Intent / Burglary Break and Enter lodgments.

Included in graph 1 below is the number of additional summary charges requested 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 request to be sentenced by the sentencing Judge on any outstanding summary charges to which they have pleaded guilty in the Magistrates Court.

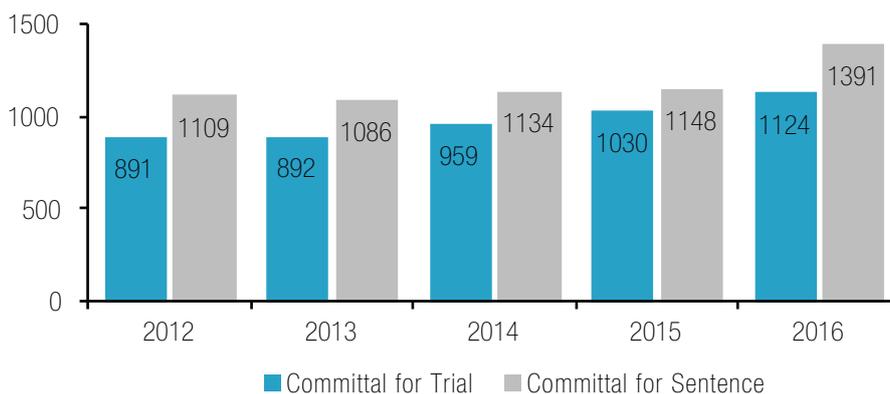
In 2016 there were 1,732 Section 32 charges lodged, 54 or 3% less than the 1786 lodged in 2015.

Graph 2 below, illustrates the division in the Court's work between matters committed for trial and those committed for sentence. There were 94 (9.1%) more committals for trial lodged with the Court in 2016 than in the previous year. There were 243 (21.2%) more committals for sentence lodged with the Court in 2016 than in the previous year.

**GRAPH 1** Accused Matters and Section 32 Charges Lodged



**GRAPH 2** Accused Lodgments by Committal Reason



Graph 3 below, displays the spread of the Court’s criminal workload in relation to accused matters lodged, as between the metropolitan area and the 12 regional locations to which the Court circuits. It illustrates an increase in metropolitan (192) and an increase in circuit (145) lodgements, with an overall increase of 337 accused matters lodged.

**FINALISATIONS**

There were 2,222 criminal matters finalised in 2016, 180 (8.8%) more than the 2,042 in 2015.

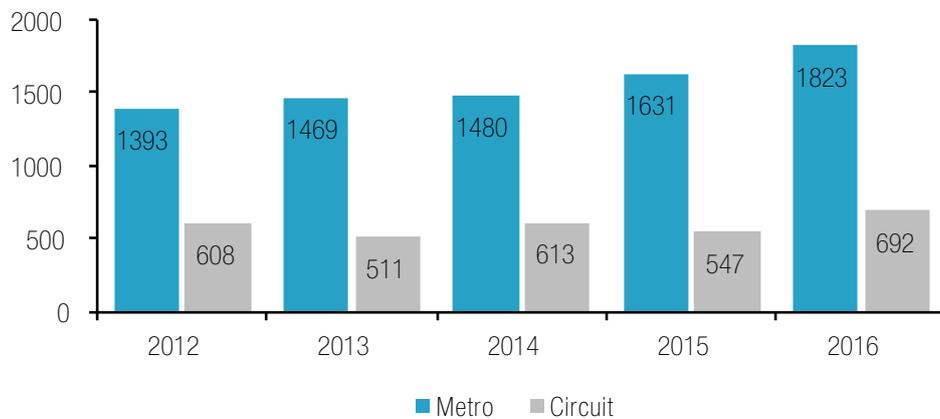
A greater number of matters were lodged (2,515) than were finalised (2,222) which resulted in the Court achieving a clearance index of 88.3%, a slight decline on the clearance index of 91.5% achieved in 2015.

The 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.

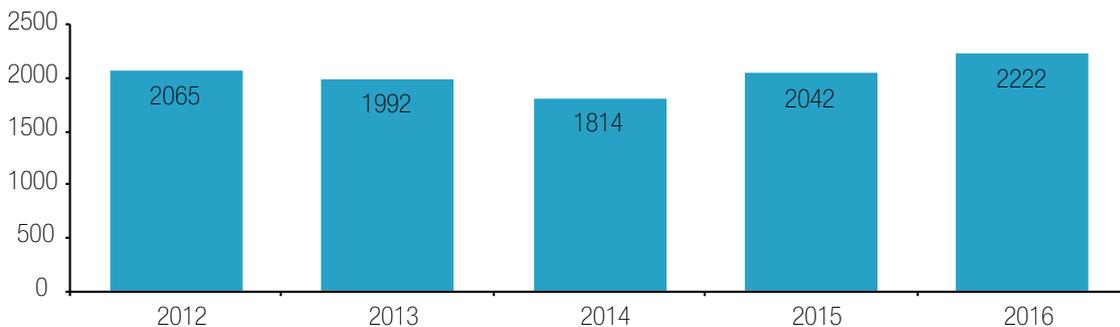
A total of 908 criminal matters were listed for trial state-wide, 12.1% (98) more than the 810 listed in 2015. Of these matters 455 proceeded, being 50% of the matters listed and 9.9% (41) more than the 414 conducted in 2015.

It is the Court’s practice to list more matters in a month 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.

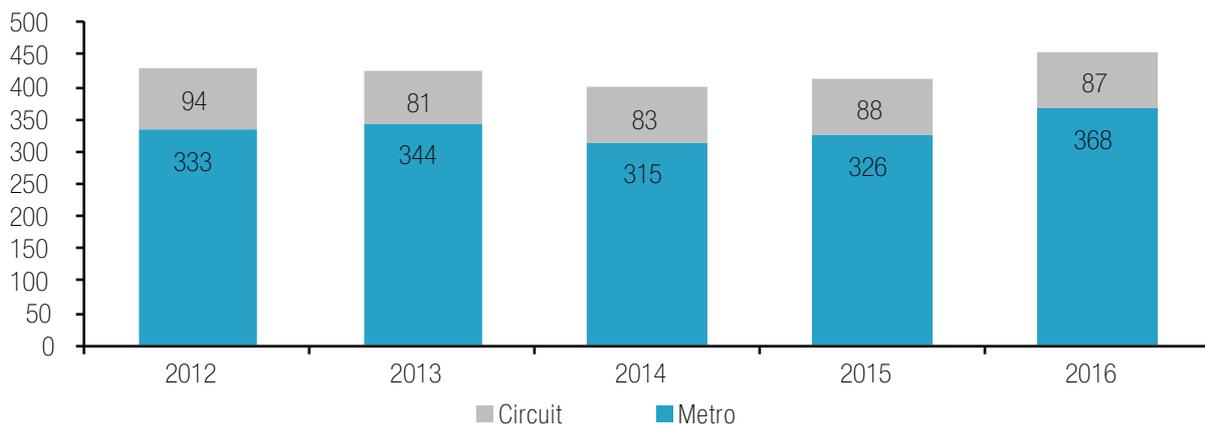
**Graph 3 Accused Lodgments by Region**

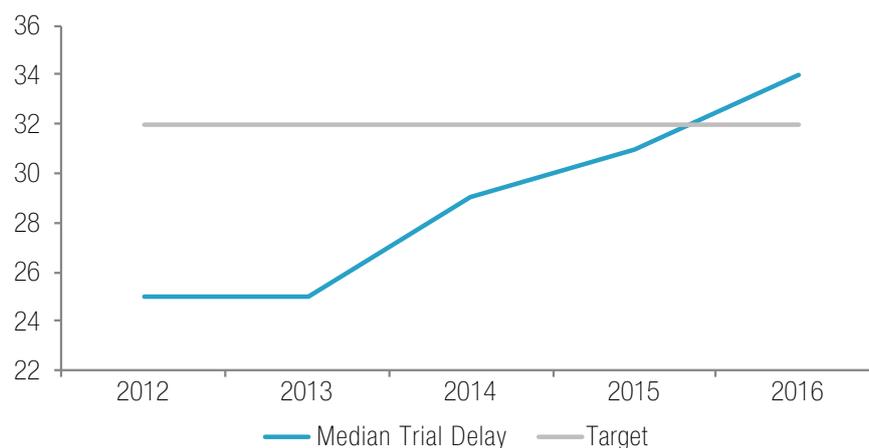


**Graph 4 Accused Matters Finalised**



**Graph 5 Criminal Trials Proceeding**



**Graph 6 Median Trial Delay Trend**

The average length of all trials state-wide is 3.19 days, very similar to the 3.21 days in 2015.

The average length of the 368 criminal trials conducted in Perth during 2016 was 3.19 days, comparable to the 3.29 days in 2015.

In 2016, there were 113 trials conducted state-wide where the trial duration was 5 days or greater, 3 more than 2015. Accommodating lengthy trials can be resource intensive 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.

Graph 6 illustrates the Court's median delay to criminal trial since 2012, with the 12 month moving average for 2016 recorded as 34 weeks in December 2016. 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 is 32 weeks. Prior to 2014 the Court had consistently maintained a median delay to criminal trial at around 26 weeks. The increase to 29 weeks in 2014 was due primarily to the Court operating for 10 months of the year with two fewer judges. The increase to 31 weeks in 2015 and to 34 weeks in 2016 is primarily due to the growth in committals for trial.

## CASE EXAMPLE

### A CRIMINAL MATTER PROCEEDING TO A TRIAL HEARING AT THE MEDIAN TIME OF 34 WEEKS FROM COMMITTAL

On 25 June 2014, the accused was arrested and charged by summons by police with three offences of supplying a prohibited drug, namely methylamphetamine, to another.

The accused had his first appearance in the Magistrate's Court on 1 July 2014. The presiding Magistrate granted the accused bail in the sum of \$50,000.00, surety of the same amount and imposed reporting and residential conditions.

On 15 October 2015, following 14 appearances in the Magistrates Court, the accused was committed to appear in the District Court on 22 January 2016.

On 18 January 2016, an indictment was signed in respect of three counts of supplying a prohibited drug, namely methylamphetamine to another.

At the accused's first appearance in the District Court on 22 January 2016, defence counsel advised the Court that the matter was ready to proceed to a trial, estimated to take six days. The prosecution was still awaiting a full PathWest report and informed the Court that due

to witness availability the matter should be listed for trial after 31 May 2016. Taking into account the Court's availability to list the matter for a six day trial, the presiding Judge listed the matter for trial commencing 13 June 2016. The Judge also ordered that the State complete disclosure by 15 April 2016.

On 13 June 2016, the commencement of the trial was adjourned due to issues relating to the admissibility of the evidence and the fact that some witnesses were overseas and unavailable. The jury was finally empanelled on 15 June 2016.

On 23 June 2016, the jury found the accused not guilty on count 3 and the Judge ordered that a judgment of acquittal be entered on count 3. Following further deliberation, on 23 June 2016, the jury came back with a majority verdict of guilty on the remaining 2 counts.

On 24 June 2016, the Judge sentenced the accused to a total term of five years' imprisonment with parole eligibility, declared the accused a drug trafficker and made an order for the destruction of the drugs.

**SENTENCING**

Of the 2,222 accused matters finalised in 2016, 1,754 resulted in a sentence being handed down. This is an increase of 101, or 6.1%, when compared with the 2015 figures of 1,653 being sentenced.

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 eight weeks after the date of their committal. An appearance at a sentence mention hearing is before a Registrar who ensures that the Prosecutor has filed an indictment, that a pre-sentence

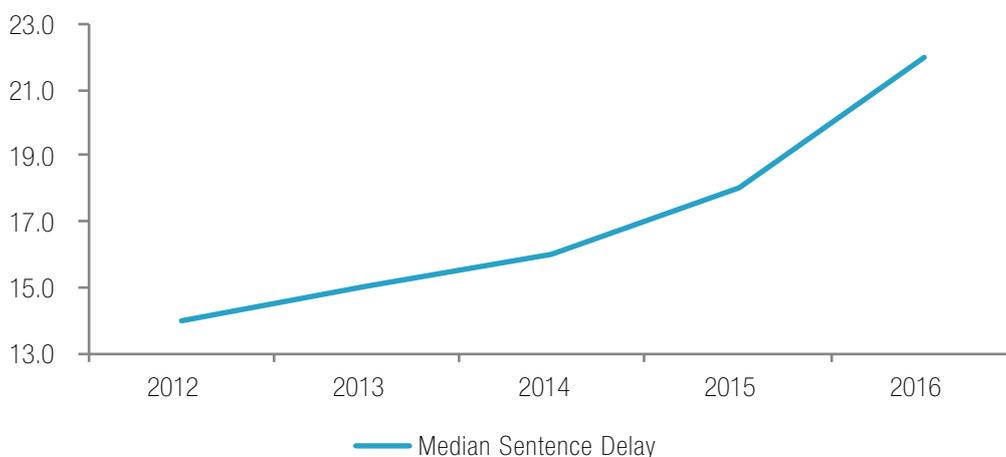
report is available if required (or is in the process of being prepared) and that in all other respects the matter is ready to proceed to a sentencing hearing.

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

The Court’s median delay to sentence is illustrated in Graph 7. It is the measurement in weeks between the date of committal from the Magistrates Court and the first planned sentencing hearing in the District Court.

The median delay for 2016 is 22 weeks, three weeks more than in December 2015.

**Graph 7 Median Sentence Delay Trend**



**CASE EXAMPLE**

**A COMMITTAL FOR SENTENCE MATTER PROCEEDING TO A SENTENCING HEARING AT THE MEDIAN TIME OF AROUND 22 WEEKS FROM COMMITTAL**

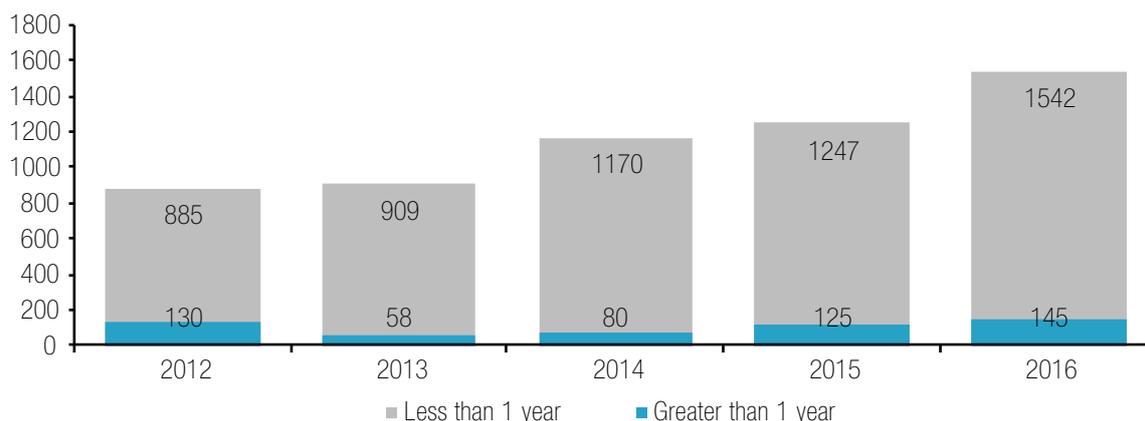
On 22 January 2016, police charged a man with nine charges of fraud to a total value in excess of \$150,000. The offences were alleged to have been committed on nine separate occasions between 14 January 2013 and 11 September 2013. The accused was released on \$10,000 bail with bail conditions which required him to report to a police station, not to contact witnesses and to surrender his passport.

On 8 February 2016, at the initial mention hearing in the Magistrates Court, the accused was remanded for a week. His bail was increased to \$100,000 and a surety in the amount of \$100,000 was required. Further bail conditions relating to overseas travel were imposed.

On 15 February 2016, the presiding Magistrate again adjourned the matter for the accused to obtain legal advice. At the next appearance on 14 March 2016, the accused pleaded guilty to all nine charges and was committed to a sentence mention hearing in the District Court on 13 May 2016. The Magistrate also ordered a written pre-sentence report.

On 13 May 2016, the accused appeared before the District Court at a sentence mention list. As the case was ready for sentencing before a Judge, the Registrar bailed the accused to appear for sentencing on 18 August 2016. The presiding Judge sentenced the accused to a term of imprisonment of two years and eight months. The accused was made eligible for parole and ordered to pay compensation totalling \$148,405.

**Graph 8 Criminal Matters on Hand**



**MATTERS ON HAND**

There are 1,687 criminal matters on hand, 315 (23%) more than the 1372 in 2015. This increase is primarily due to the increase in lodgments as explained earlier. Of the matters on hand as at 31 December 2016, 91% were less than or equal to 12 months in age, similar to the previous year.

**THE DISTRICT COURT ON CIRCUIT**

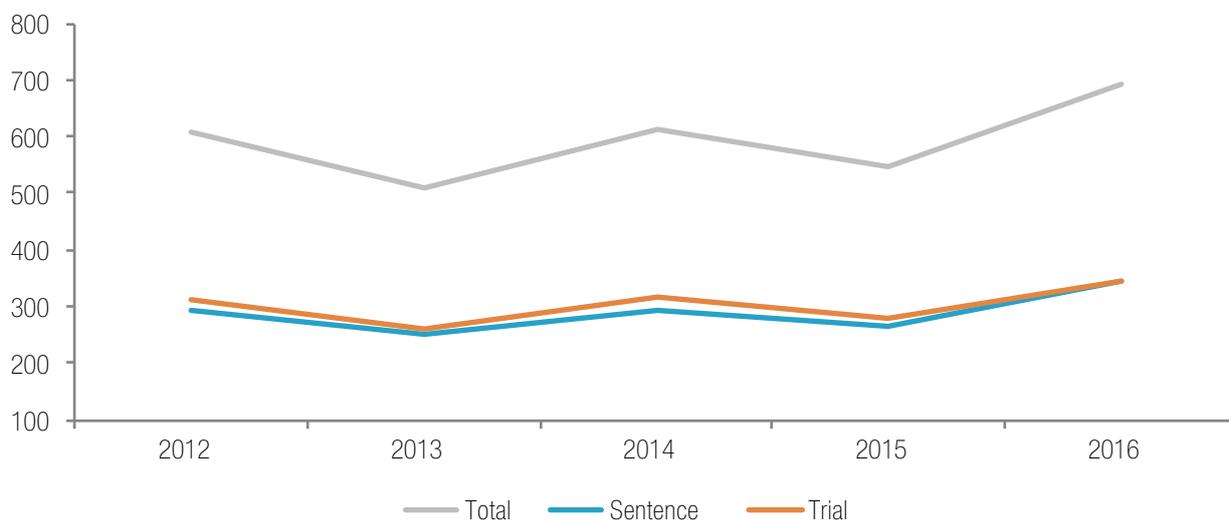
The District Court is committed to the delivery of fair, equitable and accessible justice services for all citizens of Western Australia. Therefore, in addition to the main registry of the Court which is located within the Perth central

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 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.

**Graph 9 Circuit Criminal Lodgments**



Circuit Lodgments					
Year	2012	2013	2014	2015	2016
Sentence	294	253	295	267	346
Trial	313	258	318	280	346
<b>Total</b>	<b>607</b>	<b>511</b>	<b>613</b>	<b>547</b>	<b>692</b>

The average length of a criminal trial at circuit locations visited by the Court during 2016 was 3.2 days, the same as 2015.

Trial dates were allocated for 211 circuit trial matters during the year, 7.5% or 17 matters less than 2015. 87 of those matters, or 41%, proceeded to a trial. This was one matter less than last year.

The median delay to criminal trial at circuit locations is illustrated in graph 10 below. The 12 month moving average as at the end of December 2016 was 36 weeks. This is a three week decrease on the 39 weeks recorded in December 2015. This is due primarily to additional circuits being scheduled.

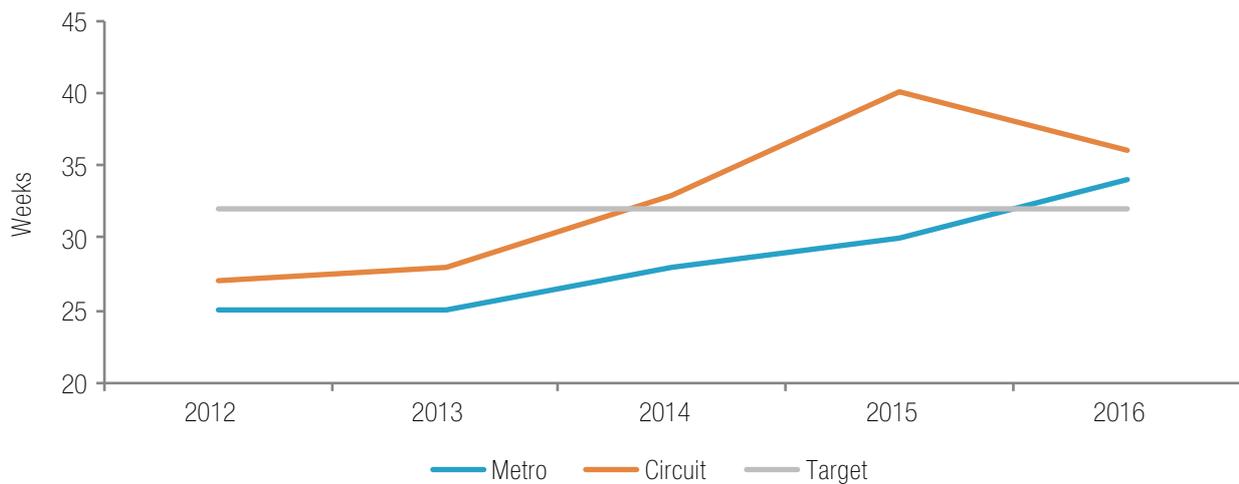
**INITIATIVES**

To reduce the number of listed trials that did not proceed an amendment to the Criminal Listing Certificate was introduced requiring confirmation from defence counsel that they have firstly, advised the accused of the discounts available under the *Sentencing Act 1995* for pleas of guilty and secondly, that delay in entering a plea of guilty will result in the extent of that discount being reduced.

An improvement to listing practices for circuit Trial Listing Hearings was introduced to develop consistency in approach to listing circuit matters.

An upgrade to technology in Esperance Court allows for the provision of running transcript for all criminal trials.

**Graph 10 Median Trial Delay Trend Metro -v- Circuit**



# 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. In practice it hears all damages claims for injuries sustained in motor vehicle accidents as the Magistrates Court does not have jurisdiction to deal with those claims.

Please note that figures may differ slightly from those previously published due to regular data integrity checks.

## CASELOAD

The Court’s civil caseload in 2016 continued to be heavily weighted in favour of personal injury claims with the majority arising from industrial accidents and motor vehicle accidents.

Most personal injury 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 injury 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 by convening directions hearings, making programming orders and progressing cases towards

resolution. It is the Court’s aim to ensure that the parties to an action participate in a mediation conference with the aim of settlement, at the earliest possible time after they come into possession of information that will allow for meaningful discussion.

The Court has appellant jurisdiction for appeals from the decisions of other Courts and Tribunals, as follows:

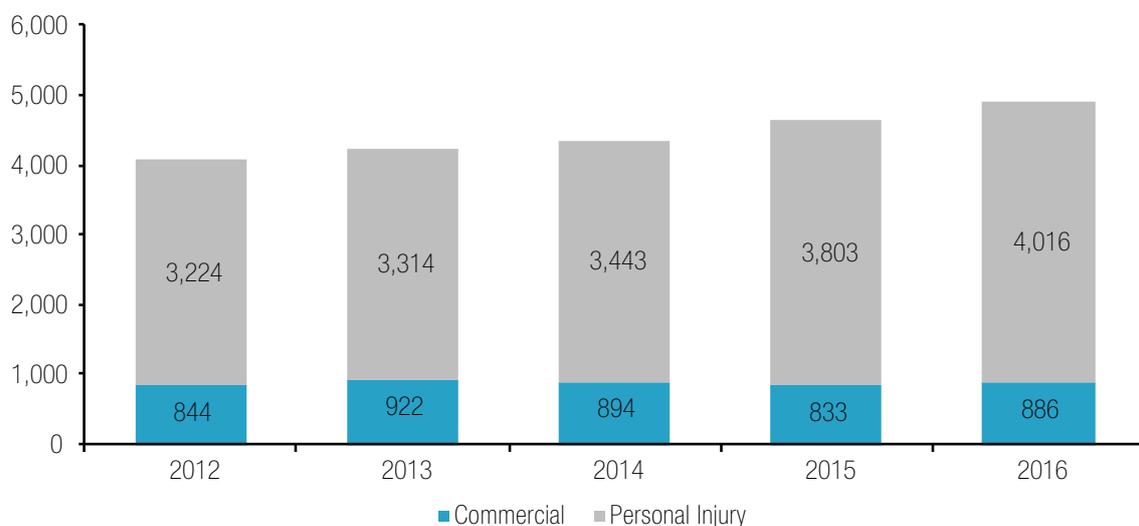
- Appeals from the decisions of Magistrates sitting in the civil jurisdiction of the Magistrates Court (includes appeals against restraining orders, either made or refused);
- Appeals against the decisions of Assessors of the Criminal Injuries Compensation Tribunal for awards or non-awards to victims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

## LODGMENTS

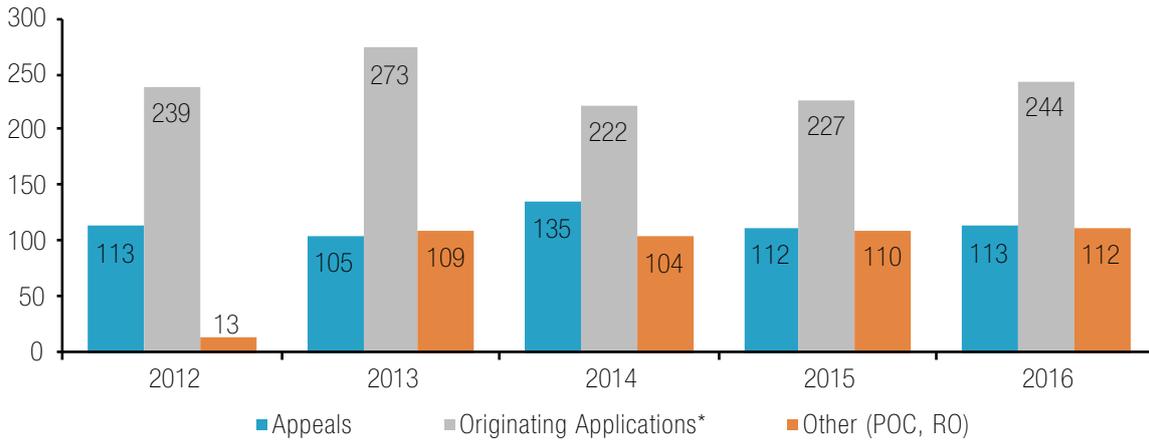
There were 5,371 new civil case lodgments including appeals in 2016, 286 or 5.6% more than the 5,085 in 2015.

New writs lodged increased by 5.6% in 2016 with 4,902 new writs lodged compared with 4,636 writs lodged in 2015 (See Graph 11). Personal injury claims accounted for 82% of all new writs lodged in 2016 with the remaining 18% made up of commercial claims. This result is the same as last year.

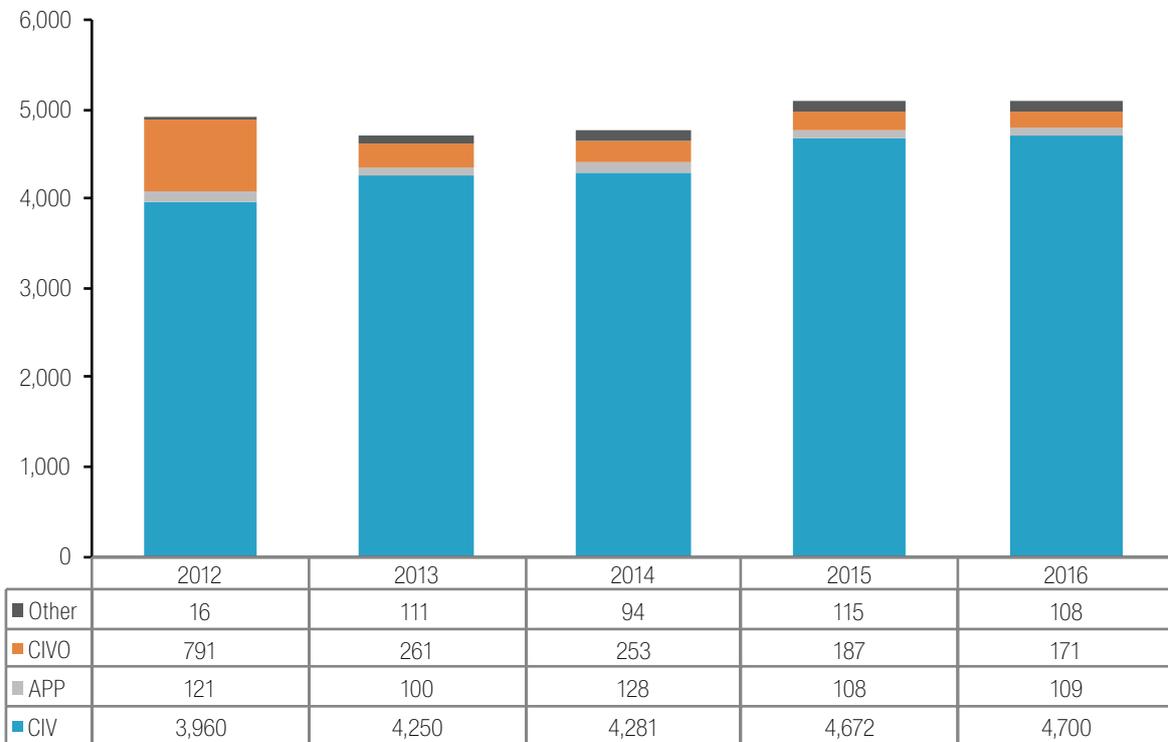
**Graph 11: Civil Lodgments (Writs Only)**



**Graph 12: Civil Lodgments (Appeals and Originating Summons)**



**Graph 13: Civil Finalisations**



**FINALISATIONS**

Civil litigation is managed through an extensive programme of case management and alternative dispute resolution.

The success of the programme is measured by the fact that very few civil cases actually proceed to a trial in the District Court. Of the 4,700 Writ of Summons civil cases finalised in 2016, 150 were listed for trial, 16 or 12% more than the 134 listed in 2015. 49 cases, or 1% of the total, proceeded to trial, similar to the 51 cases in 2015.

A total of 2,153 pre-trial conferences and mediations were conducted by the Registrars of the Court in 2016. This

represents 141 fewer than 2015 (2,294) and is likely to be the result of work undertaken by the legal profession to resolve the case before Registrar involvement.

The Court has five Registrars. All are experienced mediators.

The Court’s aim is to finalise more cases than are commenced each year. The number of cases finalised in 2016 (5,088) compared favourably with the number of new cases commenced (5,371) resulting in a clearance index of 95%.

The median time to settle a case prior to trial is 15 weeks, five weeks less than the 20 weeks in 2015.

## CASE EXAMPLE

### MEDIAN CASE SETTLED WITHOUT TRIAL (15 WEEKS AFTER COMMENCEMENT)

A solicitor representing a small business company, electronically lodged, via the District Court website, a writ of summons on 28 July 2016, claiming \$252,589.01, interest and costs for a breach of a contract made between June 2013 and May 2016.

By its Statement of Claim the plaintiff claimed that the defendant failed to pay on a number of invoices raised in respect of construction work over a three year period and pursuant to the terms of the agreements, the defendant was liable to pay the plaintiff interest at the rate of 6% per annum on each amount due and payable under each payment claim.

On 8 August 2016, also by way of electronic lodgement, the defendant company entered an appearance to the plaintiff's writ of summons.

On 25 August 2016 the plaintiff applied for a summary judgment pursuant to Order 14 rule 3(1) of the *Rules of the Supreme Court 1971 (WA)*. This application was

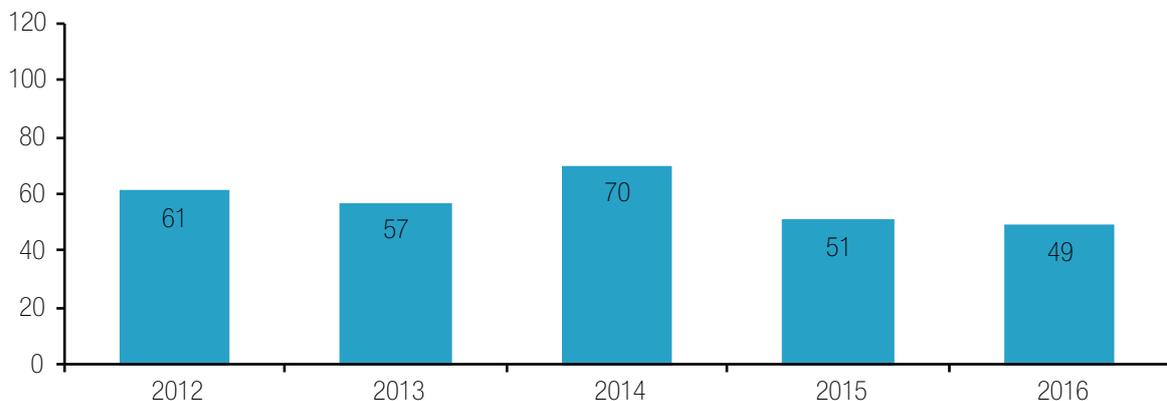
listed to be heard before a Registrar in chambers on 14 September 2016.

On 13 September 2016, the plaintiff filed a minute of orders consented to by the defendant, seeking to adjourn the hearing on 14 September 2016. The orders were granted and the hearing relisted for 6 October 2016.

On 6 October 2016, the plaintiff filed a minute of proposed orders requiring the defendant to file and serve any affidavit in relation to the plaintiff's application by 13 October 2016, the plaintiff to file and serve an outline of submissions and a list of authorities by 20 October 2016 and for the defendant to file and serve an outline of submissions by 27 October 2016. The presiding Registrar made those orders and the application was further adjourned to a special appointment on 9 November 2016.

However, pursuant to a minute of proposed orders signed by both the parties filed 9 November 2016, judgment was entered for the plaintiff against the defendant in the sum of \$193,348.50 with no order as to costs.

**Graph 14: Civil Cases Proceeding to Trial**

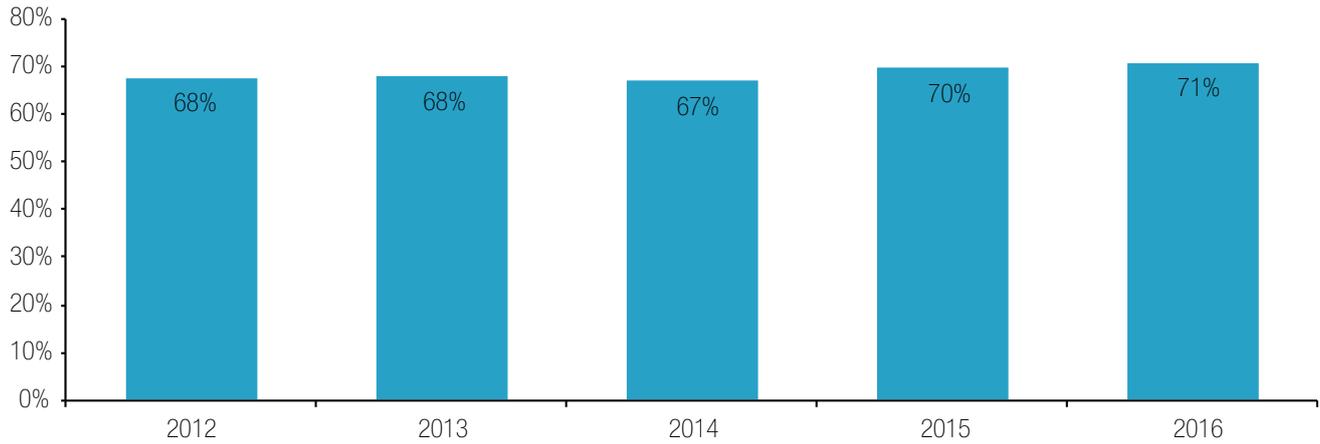


There were 49 civil trials conducted in 2016, 2 less than 2015. Of these cases, 8 proceeded to trial where the duration of the trial was greater than 5 days, 6 fewer than in 2014.

The average length of a civil trial in 2016 is 3.2 days. This is a 31% decrease on the 2015 (4.6 days) figure. Success in mediation often means it is the more complex cases that

proceed to trial and, by their nature, require more time to resolve. Clearing these cases will result in a lower average length of trial.

Approximately 70% of the Court's civil cases were finalised within a period of 52 weeks of their commencement in 2016, a similar result to the previous year.

**Graph 15: Percentage of Civil Cases Finalised within 52 Weeks**

The median time to finalise a civil case by trial decreased from 154 weeks in 2015 to 132 weeks in 2016.

## CASE EXAMPLE

### MEDIAN CASE DETERMINED AFTER A TRIAL WITHIN 132 WEEKS

A plaintiff commenced an action by writ of summons on 7 May 2014 claiming damages and interest as a result of injuries suffered in an accident between two motor cyclists alleged to have occurred on 13 August 2013.

The defendant entered an appearance on 26 May 2014 and on 12 June 2014 the plaintiff filed an amended writ of summons pursuant to Order 21 Rule 5 of the *Rules of the Supreme Court 1971 (WA)* to amend the date on which the accident occurred.

In the plaintiff's statement of claim filed on 17 June 2014, the plaintiff alleged that the accident was caused by the negligent driving of the defendant and claimed that he sustained soft tissue injuries, fractured metatarsals and psychiatric injuries. It was alleged he was taken by ambulance to hospital where he was treated and underwent surgery.

On 6 November 2014 the defendant filed a notice of change of solicitor and on 27 November 2014 filed a defence and counterclaim in which the defendant claimed that the accident was caused by negligence of the plaintiff in that, among other things, the plaintiff attempted to overtake while the defendant was turning right. The defendant claimed damages for injuries including a fractured collarbone.

On 27 November 2014 the court issued a case management timetable pursuant to rule 37(1) of the *District Court Rules 2005 (WA)* requiring the plaintiff to enter the case for trial before 27 March 2015.

On 19 March 2015, the plaintiff entered the case for trial and the Court listed the matter to a pre-trial conference hearing on 3 June 2015.

At the pre-trial conference the parties were unable to reach agreement and accordingly the Registrar made orders that the action be adjourned to a listing conference on 3 August 2015, there be a trial on the issue of liability only, parties have leave to adduce expert evidence at the trial, and by 15 July 2015 the plaintiff and defendant serve on each other copies of the reports of any expert witnesses, the substance of which the parties intend to rely on at trial.

At the listings conference held on 3 August 2015 there were unresolved issues regarding expert evidence. As a result the listings conference was adjourned for 6 weeks. On 14 September 2015, the Court made orders that the trial on liability extend to the counterclaim as well as the claim and listed the action for a trial for a two-day trial on 23 and 24 February 2016.

Judgment was handed down on 6 April 2016 following a three day trial held on 24, 25 and 26 February 2016. Each party was found to have contributed to the accident with the defendant being ordered to pay 80% of the plaintiff's damages to be assessed and the Plaintiff being ordered to pay 20% of the defendant's damages to be assessed.

Subsequently the defendant changed solicitors following which the case was listed for a pre-trial conference on 17 November 2016. At the conference, by the consent of the parties, final judgment in an amount agreed by the parties was entered for the plaintiff.

**CASES ON HAND**

There were 4,133 cases on hand in December 2016, 247 (6.4%) more than the 3,886 cases on hand in December 2015. 61.3% of cases on hand were less than 52 weeks of age, similar to the 2015 position.

**APPELLATE JURISDICTION**

There were 113 civil appeals lodged with the court in 2016. Of these:

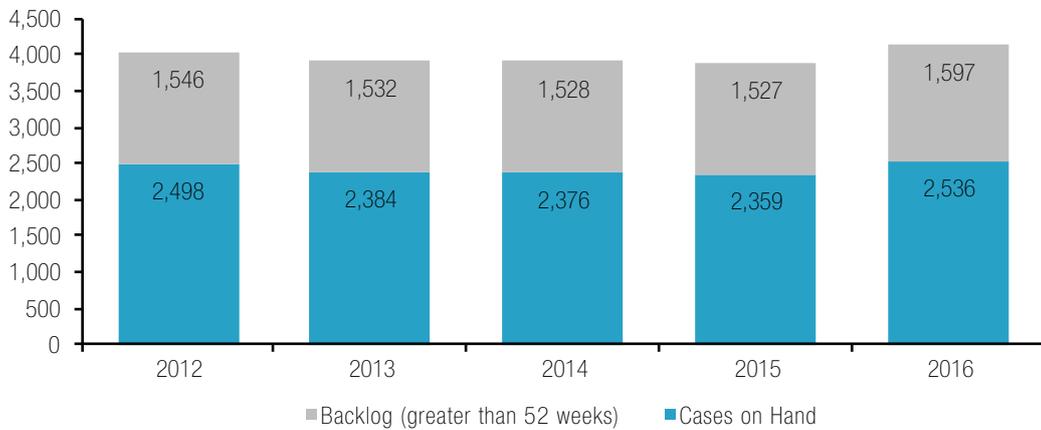
- 63 arose from the decisions of Magistrates exercising jurisdiction under the *Magistrates Court (Civil Proceedings) Act 2004* and the *Restraining Orders Act 1997*;

- 27 arose from the decisions of Criminal Injuries Compensation Assessors; and
- 23 arose from the decisions of arbitrators made under Part XI of the *Worker’s Compensation and Injury Management Act 1981*.

The Court finalised 109 appeals in 2016 with 81% of the appeals being resolved within 12 months of their lodgment. The Court aims to resolve all appeals lodged with the Court within 12 months of their commencement.

Information on appeals and material to assist self-represented persons with the lodgment of an appeal are available on the District Court website.

**Graph 16: Cases on Hand and Backlog**



# OTHER HIGHLIGHTS

## PROFESSIONAL DEVELOPMENT FOR MEMBERS OF THE JUDICIARY

All available Judges attended the District Court of WA Judicial Conference held in April 2016. The conference was opened by the former Attorney-General, the Hon Michael Mischin. Topics included dependence on illicit drugs, drug related offending and victim offender mediation. The operation of the Drug Court and the Aboriginal Alcohol and Drug Service were also discussed.

Once per month a Judge of the Court presents at lunchtime a paper on a recent decision of the Court of Appeal or the High Court of Australia. Also Judges attend a number of seminars throughout the year organised by various judicial education bodies.

Registrars of the Court undertook professional development for the purpose of maintaining their accreditation with the Mediator Standards Board.

## STAFF LEARNING AND DEVELOPMENT

Staff of the Court completed refresher training in a range of compulsory corporate online training modules in 2016.

New employees completed the Department's induction procedures and online training modules covering 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.

## THE COURT'S 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.

The workload of the registry was challenged this year with the need for staff to be involved in the detailed and ongoing development of the system and procedures required for the successful implementation of eLodgment and eFiles. This is a work in progress and will continue into 2017.

A total of 43,232 documents were lodged in 2016, 5,246 or 12% electronically. Prior to implementation of eLodgment in July 2016, eLodgment accounted for only 1,321 or 6% of documents lodged.

# DISTRICT COURT COMMITTEES AS AT 31 DECEMBER 2016

## Management Council Committee

Chief Judge Sleight (Chair)  
Judge Fenbury (until his retirement 12 February 2016)  
Judge Reynolds (from February 2016)  
Judge Eaton  
Judge Stavrianou  
Judge Davis  
Judge Derrick  
Principal Registrar Melville  
S Owen – Executive Manager

## Civil Administration Committee

Judge Eaton  
Judge Stavrianou  
Judge O'Neal  
Judge Birmingham  
Principal Registrar Melville  
S Owen – Executive Manager  
J Petrovski – Manager Case Management  
G Drew – Manager Trials  
W Hawley – Manager Customer Support

## Criminal Administration Committee

Chief Judge Sleight (Chair)  
Judge Bowden  
Judge Scott  
Judge Derrick  
Judge Cock  
Principal Registrar Melville  
S Owen – Executive Manager  
J Petrovski – Manager Criminal Case Management  
G Drew – Manager Trials  
W Hawley – Manager Customer Support  
K Woods – Listing Coordinator  
J Howard – Senior Associate  
K Trenkovski – Criminal Listings (Circuits)  
B Stockey – Business Performance Manager

## eCourts Civil Committee

Chief Judge Sleight (Chair)  
Justice Mitchell (Supreme Court)  
Judge Eaton  
Judge Stavrianou  
Principal Registrar Melville  
Registrar Kingsley  
S Owen – Executive Manager  
J Petrovski – Manager Case Management  
W Hawley – Manager Customer Support  
J Howard – Senior Associate  
K Downsborough – Business Representative  
M Jackson – Executive Manager Courts Technology Group  
A Redpath – Courts Technology Group

## Library Committee

Chief Judge Sleight (Chair)  
L Lyon – Manager Library & Info Services (DotAG)  
W Lei – Librarian  
S Owen – Executive Manager

## District Court Building Committee

Judge Eaton (Chair)  
Judge Stevenson  
Principal Registrar Melville  
S Owen – Executive Manager  
A Stevenson – Executive Manager Business Services  
P Smith – Manager Court Services Audio Visual  
R Randall – Director Court Risk Assessment Directorate  
M Shaw – Operations Manager, Western Liberty Group  
B Konrath – Account Manager, BGIS  
P Bangs – Regional Manager, DTI  
R Smart – Contract Manager G4S

## Technology Committee

Judge Stavrianou (Chair)  
Judge Keen (until March 2016)  
Judge Davis  
Judge Braddock  
Principal Registrar Melville  
S Owen – Executive Manager  
A Stevenson – Executive Manager Business Services  
A Wong – Director, Information Services (DotAG)  
M Jackson – Executive Manager Court Technology Group (DotAG)  
P Smith – Manager Audio Visual (DotAG)  
L Wood – IT Support  
J Howard – Senior Associate  
D Raffa – Technology Officer  
M Shaw – Operations Manager, Western Liberty Group  
B Konrath – Account Manager, BGIS

## Judges' Continuing Legal Education Committee

Chief Judge Sleight  
Judge Wager (Chair)  
Judge O'Neal  
Judge Staude

## Judges' Benchbook Committee

Judge McCann  
Judge Stavrianou  
Judge Davis

**2017 District and County Court Judges' Biennial Conference Committee**

Chief Judge Sleight  
Judge Wager (Chair)  
Judge Schoombee  
Judge Scott  
Judge Staude  
Judge Levy  
J Stampalia – Acting Executive Director Court and Tribunal Services  
S Owen – Executive Manager

**EXTERNAL COMMITTEES**

**His Honour Chief Judge Sleight**

Member, Heads of Jurisdiction Committee  
Member, Chief Justice's Senior Counsel Committee  
Member, Strategic Criminal Justice Forum  
Member, Equality Before the Law Bench Book Committee  
Chair, Inter-Jurisdictional Education Committee

**His Honour Judge Reynolds**

President of Totius (from February 2016)

**His Honour Judge Eaton**

Member, Executive Committee of the Governing Council, Judicial Conference of Australia (from February 2016)

**Her Honour Judge Wager**

Chair, Board of Management Palmerston Association WA Inc.  
Member, Inter-Jurisdictional Education Committee  
Member, National Judicial College of Australia Council  
Member, National Judicial College of Australia National Judicial Orientation Program Steering Committee

**Her Honour Judge Schoombee**

Board, Outcare Incorporated

**His Honour Judge Stevenson**

Member, Resolution Institute  
Member, Schools Conflict Resolution and Mediation Program (SCRAM)  
Member, Western Australian Dispute Resolution Association (WADRA)  
Member, Courts Jury Advisory Committee  
SQNLDR, RAAF Standby Reserve (Legal) (ADF)  
Member, Law Society Alternative Dispute Resolution

Committee

**His Honour Judge Staude**

Member, Law School Advisory Board, University of Notre Dame.

**Her Honour Judge Braddock**

Member, State Committee, Indigenous Justice Issues

**His Honour Judge Levy**

Member, Chief Justice's Non-Contentious Evidence Sub-Committee  
Representative, Acceptance of Electronic Briefs for Prosecution (Commonwealth Prosecutions) Sub Committee

**Registrar Kingsley**

Member, Law Society Courts Committee  
Member, Law Society Ethics Committee  
Member, Law Society Family Court Delay Working Group  
Legal Member, Curtin University Human Research Ethics Committee



**DISTRICT COURT OF  
WESTERN AUSTRALIA**

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