



**DISTRICT COURT OF  
WESTERN AUSTRALIA**

District Court of Western Australia  
**Annual Review 2014**



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# FROM THE CHIEF JUDGE

2014 was a busy year for the Court with a significant increase in the Court's criminal workload.

## Criminal Jurisdiction

There was a 20.5% increase in the number of criminal lodgments in 2014 compared with the lodgments in 2013.

In the Court's 2013 Review, it was reported that the Court would commence the roll out of running transcript to circuit locations for criminal trials. This occurred in Kalgoorlie and Kununurra when the new courthouses became operational. Running transcripts are also provided in Albany. Other regional areas are the focus for completion in 2015.

2014 also saw Sentence Mention Hearings being held before Registrars thus exercising the criminal jurisdiction delegated to them following amendments to the *Criminal Procedure Act 2004*. This enabled Judges to become available for other matters which assisted the functioning of the court.

Just prior to publication of this review an anomaly in the lodgment counting rules was discovered. The anomaly has been occurring since the beginning of the capture of electronic data. The court is currently investigating and will provide updated information in the next review. The five years of comparative data contained in this review has been formulated using the same methodology as used in previous years.

## Civil Jurisdiction

There were 4,800 new civil cases, including appeals, lodged in 2014. This is 71 more cases than in 2013. The Court continued last year's trend of finalising around two thirds of its civil cases within 12 months.

## Judicial Retirements and New Appointments

In February 2014 Her Honour Judge Shauna Marie Deane QC retired after sixteen years of service to the people of Western Australia as a Judge of the Court. In the same month His Honour Judge Jeremy Clive Curthoys was appointed as a Justice of the Supreme Court and President of the State Administrative Tribunal.

The Court welcomed two new Judges; Her Honour Judge Vicki Laura Stewart in October 2014 and His Honour Judge Laurence Mark Levy SC in December 2014.

## Assistance to Supreme Court

In February 2014 Judge Kevin Frederick Sleight was appointed as a Commissioner of the Supreme Court for six months. The District Court welcomed back Auxiliary Judge Henry John Wisbey for this period. The Court thanks Judge Wisbey for his assistance.

## Farewell to Principal Registrar Gething

In January 2014, after 9 years of service to the District Court, Principal Registrar Gething left to take up the position of Principal Registrar at the Supreme Court. The Court has benefitted very greatly from his drive, energy and vision. The Court will continue to benefit from his contributions for many years.

## New Court Executives

In May 2014 Mr Rainer Gilich filled the vacant Principal Registrar position for approximately three months prior to Mr Shane Melville being seconded to the position in August 2014. Principal Registrar Melville's appointment became permanent in December 2014.

A New Executive Manager Ms Su Owen commenced at the Court in January 2014. Ms Owen brings respected skills in management and finance.

## Contributions to the Court

Thanks is given 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.

## Kevin Sleight\*

Chief Judge

DISTRICT COURT OF WESTERN AUSTRALIA

\*On 20 April 2015 and prior to the publication of this Annual Review Chief Judge Peter Martino retired as Chief Judge and was appointed as a Justice of the Supreme Court of Western Australia. Chief Judge Kevin Sleight took office as Chief Judge of the District Court of Western Australia on that same date.

# THE DISTRICT COURT AT A GLANCE

## Our 2014 achievements

### The Court

- With the delay in appointment of two judges the median time to criminal trial for matters committed to the Court increased from 26 to 29 weeks however it remained within the Court's target of 32 weeks.
- Used video-conferencing facilities to prisons to deal with 786 matters which equated to approximately 261 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 two thirds of all new civil matters within 12 months of lodgment, despite the continuing increase in new lodgments.
- The provision of running transcript for criminal trials to Kalgoorlie, Kununurra and Albany.
- Commenced the listing of Sentence Mention Hearings before Registrars exercising criminal jurisdiction delegated to them following amendments to the *Criminal Procedure Act 2004* in 2013.
- Successfully took part, for the first time, in 2014 Open House Perth. Approximately 400 visitors were welcomed into the Court where members of the judiciary and registrars were available to explain court process and answer questions. Open to the public, by way of self-guided tour, were the Registry, the Jury Services area, two criminal and one civil court rooms.
- Jointly led the development of a set of Customer Service Excellence Standards to support the delivery of consistent and professional service to Court registry users.

### Our 2015 priorities

- Continue to pursue funding for improved video conferencing and integration of two to four courtrooms (converting type C courtrooms to type B courtrooms) improving availability and court usage.
- Build on the initial work undertaken during a review of civil case workload and processes to simplify and increase the automated approach for litigants and their lawyers.
- Complete the roll-out of the provision of running transcript to the remaining circuit locations for criminal trials.
- Identify areas of service improvement that will deliver a better court experience.

## 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.

### Appellate: Appeals from:

- Magistrates exercising civil jurisdiction;
- Criminal Injuries Compensation Assessors; and
- Arbitrators under 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

- 398 criminal trials including 83 circuit trials
- 1,102 people committed for trial
- 1,298 people committed for sentence
- 71 civil trials
- 4,337 new actions commenced by writ
- 127 appeals determined
- 2,390 civil mediations and settlement conferences

## Our people

- 28 judges (4 appointed to other jurisdictions)
- 6 registrars (5 full time positions)
- 42.6 registry staff
- 49.6 judicial support staff

## Our budget

An amount of \$21.8 M

# OUR JUDGES

The following were the Judges of the Court as at 31 December 2014:

## Chief Judge

His Honour Judge Peter Dominic Martino

## Judges

His Honour Judge Allan David Fenbury  
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, SC  
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 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

## 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, QC  
*Chairperson, Prisoner Review Board*

## Judicial appointments since December 2013

Her Honour Judge Vicki Laura Stewart was appointed on 28 October 2014

His Honour Judge Laurence Mark Levy SC was appointed on 8 December 2014

## Judicial retirements since December 2013

Her Honour Judge Shauna Marie Deane QC retired on 14 February 2014.

## Registrars

Principal Registrar	Shane Melville
Registrar	George Augustus Kingsley
Registrar	Lyn Dorothy Wallace (Part time)
Deputy Registrar	Simon Peter Harman
Deputy Registrar	Richard John Hewitt
Deputy Registrar	Jacquie Kubacz (Part time)

# 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. Prosecutions determined by the Court include serious assaults, sexual assaults, serious fraud, commercial theft, burglary and drug related offences.

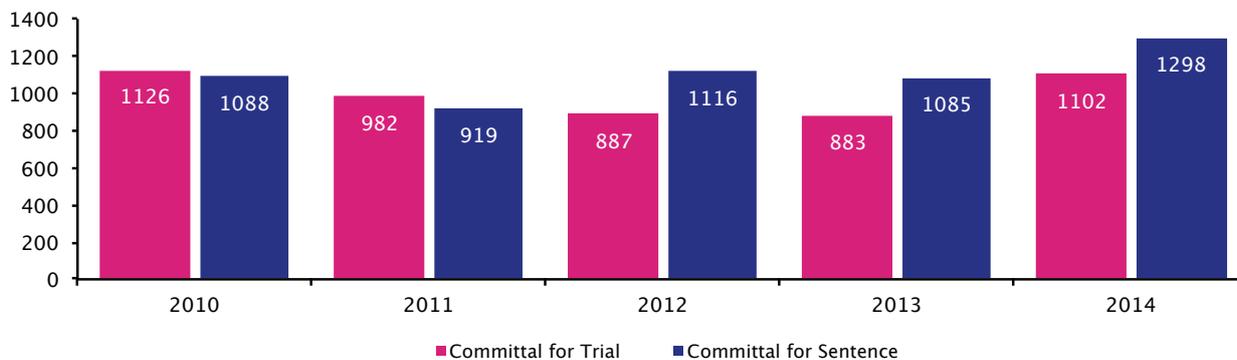
## Caseload

Criminal lodgments increased in 2014 with 2,400 new accused cases lodged, a 20.5% increase when compared with 1,991 cases in the previous year. An accused case or criminal lodgment 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. In 2014 there were 1,534 Section 32 charges lodged, 73 more than 2013.

Graph 2 below, illustrates the division in the Court's work between matters committed for trial and those committed for sentence. There were 219 more committals for trial and 213 more committals for sentence lodged with the Court in 2014 than in the previous year.

**GRAPH 2** Accused Lodgments by Committal Reason



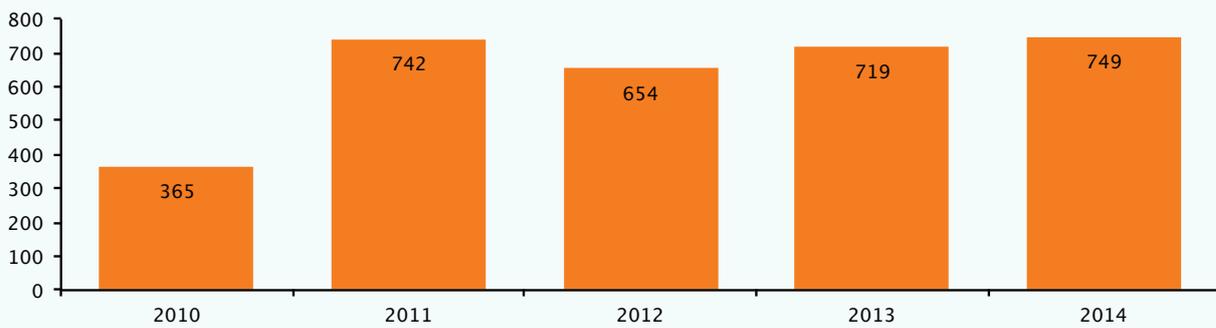
Graph 3 below, displays the spread of the Court’s criminal workload in relation to accused cases lodged, between the metropolitan area and the twelve regional locations at which the Court circuits. It illustrates an increase in both metropolitan (207) and circuit (202) lodgments with an overall increase of 409 accused cases lodged.

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. It illustrates an increase of 30 breach charges on the previous year.

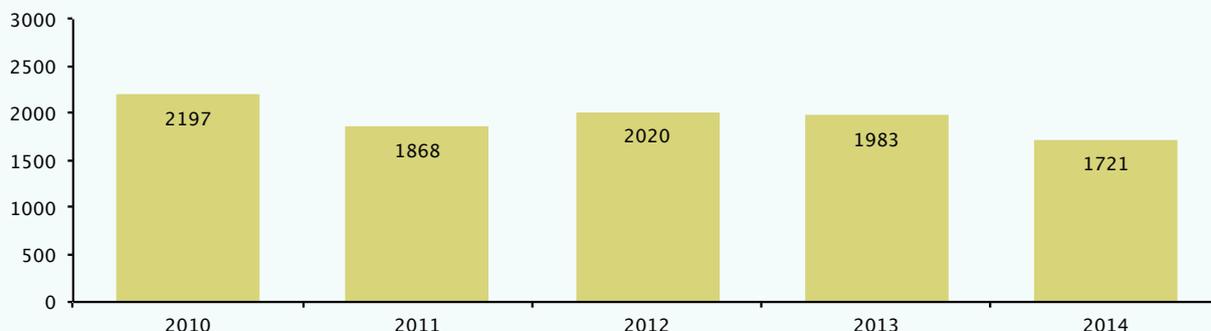
**Graph 3** Accused Lodgments by Region



**Graph 4** Breach Charges Lodged



**Graph 5 Accused Cases Finalised**



**Case Finalisation**

There were 1,721 criminal cases finalised in 2014, 262 fewer than in 2013. This is primarily due to the Court operating for 10 months of the year with two fewer judges.

A greater number of cases were lodged than were finalised which resulted in the Court achieving a clearance index of 71.7%. This is a reduction on the clearance index of 99.6% achieved in the previous year.

The majority of the Court’s judicial resources are concentrated in the criminal jurisdiction of the Court, undertaking activities associated with the conduct of criminal trials.

A total of 733 criminal cases were listed for trial state-wide. Of these cases 398, or approximately 54% of the matters listed, proceeded. This is less than the 425 trials conducted in 2013.

**Graph 6 Criminal Trials Proceeding**



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. Negotiations between the prosecution and defence leading up to a trial may resolve a range of issues, often resulting in charges being discontinued and/or alternative charges substituted.

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.

The average length of a trial is 3.26 days, very similar to the 3.23 days in 2013. The average length of the 315 criminal trials conducted in Perth during 2014 was 3.30 days, the same as in 2013. Refer to District Court on Circuit later in the document for circuit information.

In 2014, there were 84 trials conducted state-wide where the trial duration was five days or greater, 21 fewer than 2013. 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.

### CASE EXAMPLE

#### A CRIMINAL MATTER PROCEEDING TO A TRIAL HEARING AT THE MEDIAN TIME OF 29 WEEKS FROM COMMITTAL

On 4 September 2013 police charged the accused with 4 counts of indecent dealings with children under the age of 13 years and 2 counts of sexual penetration of a child under the age of 13 years.

The accused first appeared in the Magistrates Court at a metropolitan location on 19 September 2013 and was remanded on bail on several occasions before he was, on 7 February 2014, committed for trial before the District Court.

At the first appearance of the accused before the District Court on 2 May 2014, the 6 charges on the indictment were discontinued and a new indictment with 4 ex officio charges of indecent dealings with children under the age of 13 years being children he then knew to be his de facto children and 2 counts of sexual penetration of a child under the age of 13 years, a child he then knew to be his defacto child. The matter was listed by the Judge for a 5 day trial and bail was renewed on the same terms for the accused to appear on 1 September 2014. A date was also set for the evidence of the children to be pre-recorded and taken via closed circuit television prior to the trial.

The trial concluded on the 4th day with the accused being found guilty by the jury on all 6 charges. The Judge remanded the accused in custody to be sentenced on 14 November 2014.

Graph 7 illustrates the Court’s median delay to criminal trial since 2010, with the 12 month moving average for 2014 recorded as 29 weeks in December 2014. 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, despite close monitoring of matters by the Judges of the Court when presiding over trial listing hearings, is due primarily to the Court operating for 10 months of the year with two fewer judges.

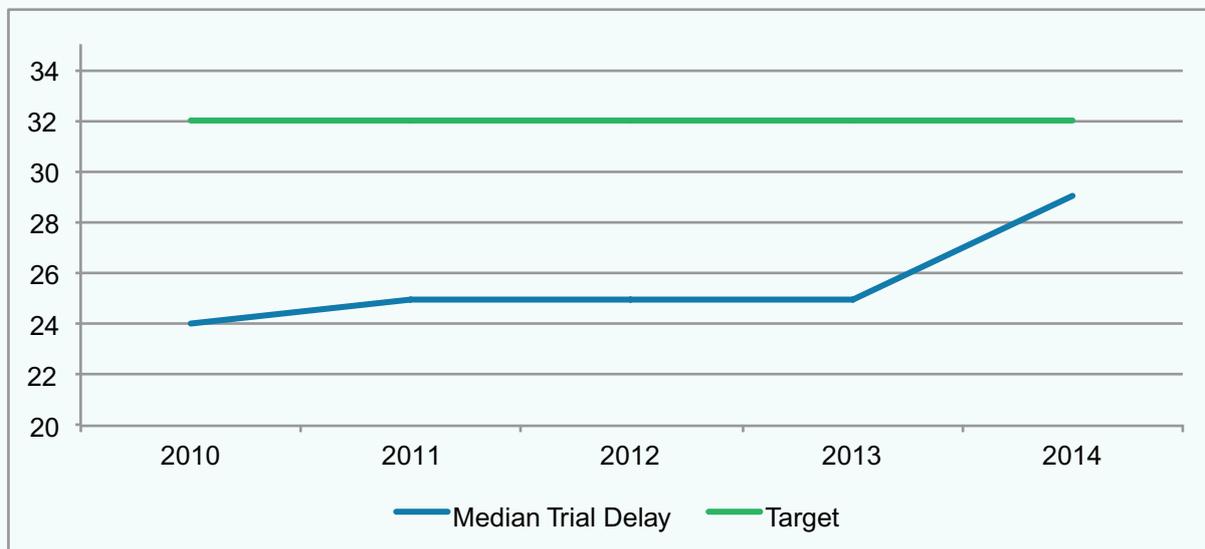
### Sentencing

Of the 1,721 accused cases finalised in 2014, 1,367 resulted in a sentence being handed down. This is a decrease of 226 when compared with the 2013 figures of 1,593 being sentenced.

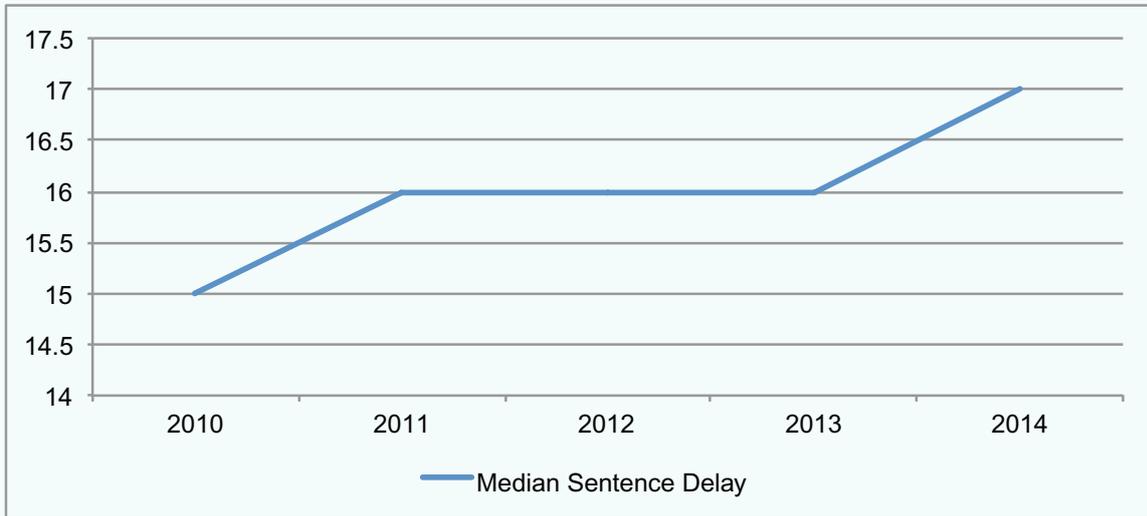
An accused person, who pleads guilty to an indictable offence/s in the Magistrates Court and is committed to the District Court for sentence, can expect to appear at a sentence mention hearing around seven weeks after the date of their committal. An appearance at a sentence mention hearing is before a Registrar (previously Criminal Commissioner), 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.

**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 from the Magistrates Court and the first planned sentencing hearing in the District Court. The median delay for 2014 is 17 weeks, one week more than in December 2013. Sentencing lists were closely monitored throughout 2014 with additional lists introduced when the delay to sentence began to increase.

### CASE EXAMPLE

#### A COMMITTAL FOR SENTENCE MATTER PROCEEDING TO A SENTENCING HEARING AT THE MEDIAN TIME OF AROUND 17 WEEKS FROM COMMITTAL.

The accused was charged by Police on 15 May 2014 with one charge of attempting to pervert the course of justice.

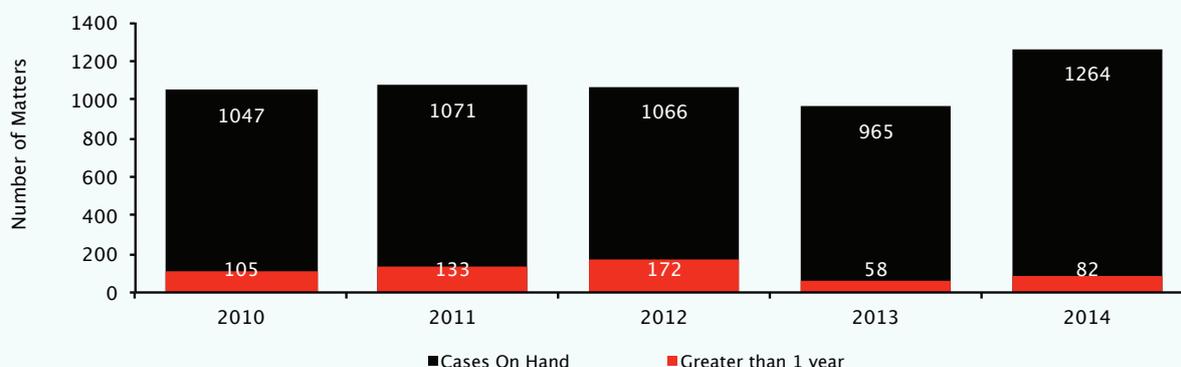
The accused first appeared before the Magistrates Court at Perth on 6 June 2014 and was committed to the District Court on that day following a plea of guilty to the charge. The accused was released on bail and returned to appear in the District Court on 8 August 2014.

On 8 August 2014, the accused appeared in the District Court at a sentence mention list and his defence lawyer sought an adjournment to reappear on 5 September 2014.

On 5 September 2014, the presiding Registrar remanded the accused on bail to appear on 9 October 2014 before a Judge for sentence.

On 9 October 2014, the accused was sentenced to a term of imprisonment of 12 months, suspended for 12 months and a fine of \$2,000.00.

**Graph 9 Criminal Cases on Hand**



**Cases on hand**

There are 1,264 criminal cases on hand, 299 more than in 2013. Of the cases on hand as at 31 December 2014, 94% 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 new Kununurra Court commenced operations on 3 November 2014. The new courthouse includes a jury courtroom, facilities for mediation and pre-trial conferences and a remote witness room. It also includes separate areas for jury deliberation and victims of crime and modern security monitoring.

The Carnarvon Police and Justice Complex is well advanced with a new building under construction which brings together courts, police and community and youth justice services into one facility.

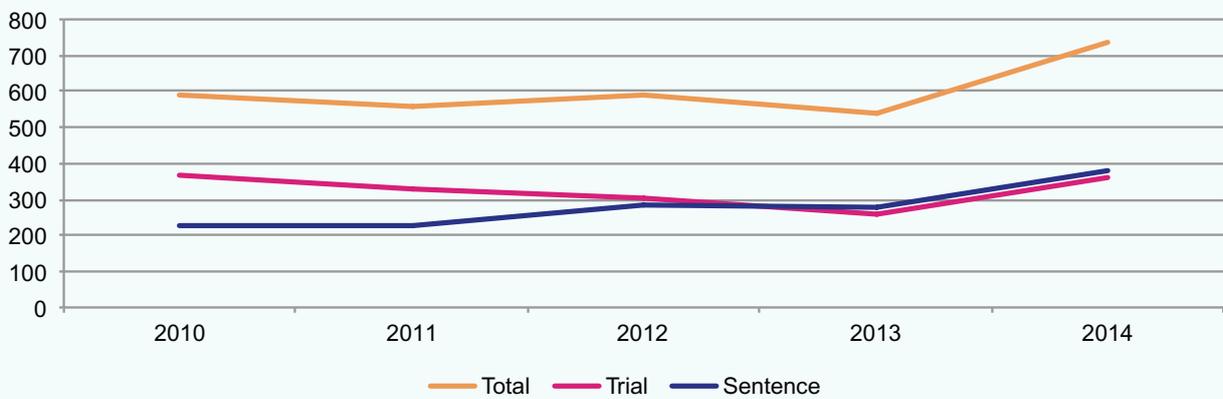
The assistance provided by Magistrates Court staff to Judges and their personal staff when on circuit throughout the State is acknowledged and appreciated by the District Court.

The average length of a criminal trial at circuit locations visited by the Court during 2014 was 3.1 days. This was an increase on the average of 2.9 days recorded for 2013.

Trial dates were allocated for 177 circuit trial matters during the year, 12 fewer than last year. 83 of those matters (47%) actually proceeded to a trial which was two matters more than last year.

The median delay to criminal trial at circuit locations is illustrated in graph 11 below. The 12 month moving average as at the end of December 2014 was 33 weeks. This is a four week increase on 29 weeks recorded in December 2013 due primarily to the Court operating for 10 months of the year with two fewer judges. This result can also be influenced by the placement of a circuit in the calendar month.

**Graph 10** Circuit Criminal Lodgments



**Graph 11** Median Trial Delay Trend Metro -v- Circuit



### Issues and initiatives

Improvements to technology provided the opportunity to implement running transcript for all criminal trials in Kalgoorlie, Kununurra and Albany.

The provision of electronic transcript to counsel where the accused is represented was introduced.

Ongoing requests from other jurisdictions for appropriately secured, jury courtrooms led to a review of availability and ongoing listing trends within the District Court. The Court is working with other jurisdictions to identify and establish other options which will allow for the increasing demand to be met.

The District Court judiciary, multiple government departments and Western Liberty Group and their contractors worked together to provide arrangements that allowed a paraplegic accused to attend court. These arrangements included travel to and from the court, set up and security of the court room and the provision of medical attention, including a carer. Furniture, such as bedding and screens, were also supplied for the duration of the approximately 20 day trial and appearances for sentencing that followed.

### Technology support

A major upgrade to Integrated Courts Management System (ICMS), implemented in November 2013, created a number of issues for the Court. Reports providing statistical and performance information required rewriting which led to a significant delay in publication. A significant increase in the number of users on ICMS also led to a reduction in computer performance such as longer response times and more drop outs. The Court worked with the Courts Technology Group to identify, define and implement solutions to the issues.

# CIVIL JURISDICTION

The District Court’s civil jurisdiction hears and determines 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.

The Court’s civil caseload in 2014 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

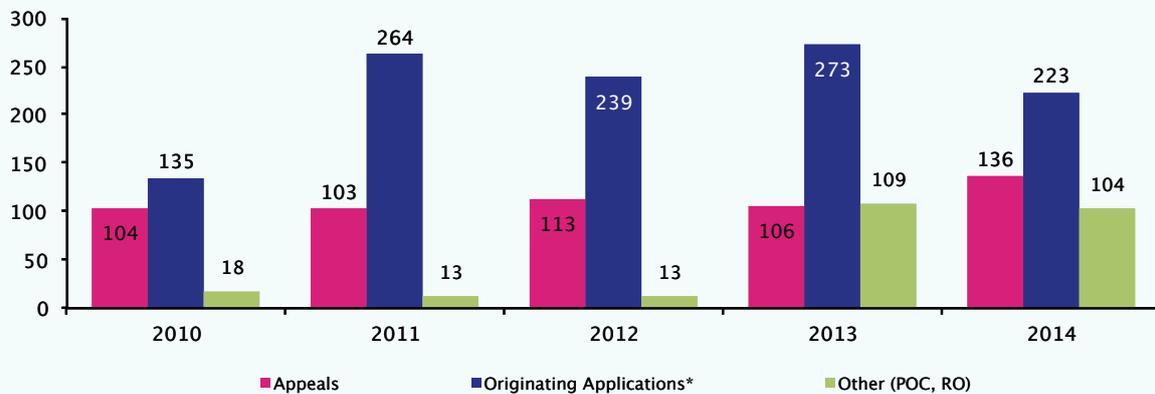
over the sale of businesses and the operation of leases. Commercial disputes are case managed by Registrars of the Court, who take responsibility for a number of actions, thereby convening directions hearings, making programming orders and progressing cases towards resolution. It is the Court’s aim to ensure that the parties to an action participate in a mediation conference, 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 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*.

**Graph 12 Civil Lodgments (Writs Only)**



**Graph 13 Civil Lodgments (Appeal and Originating Summons)**

PLEASE NOTE: In 2011, 2,473 Section 56, *Juries Act 1957* Originating Summons were lodged. This was a one off event due to legislative change and has been removed from the graph to enable like for like comparison of all other matters.

## Caseload

There were 4,800 new civil case lodgments, including appeals, in 2014, 71 (1.5%) more than in 2013.

New writs lodged increased by 2.3% in 2014 with 4,337 lodged compared with 4,238 in 2013 (See Graph 12). Personal injury claims accounted for 79% of all new writs lodged in 2014 with the remaining 21% made up of commercial claims. The percentage split between personal injuries and commercial claims in 2013 was 78% and 22% respectively.

Civil lodgments (Other), as depicted in graph 13, represent the number of 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.

## 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. Of the 4,267 Writ of Summons civil cases finalised in 2014, 71 (1.7%) proceeded to trial in 2014.

The Court has six registrars, all are experienced mediators. To ensure their mediation skills and practice remain in line with Australian best practice, they are required to undertake continuing professional development.

A total of 2,390 pre-trial conferences and mediations were conducted by the Registrars of the Court in 2014. This represents 445 fewer than 2013 and is likely to be the result of work undertaken by the legal profession to resolve the case before registrar involvement.

**Graph 14 Civil Finalisations**



The Court’s aim is to finalise more cases than are commenced each year. The number of cases finalised in 2014 (4,703) compared favourably with the number of new matters commenced (4,800) resulting in a clearance index of 98%.

The median time to settle a case prior to trial is 25 weeks, one week less than the 26 weeks in 2013.

## CASE EXAMPLE

### MEDIAN CASE SETTLED WITHOUT TRIAL (25 WEEKS AFTER COMMENCEMENT)

By writ of summons filed on 24 March 2014 the plaintiff commenced an action against an individual (the first defendant) and the company of which he was a director (the second defendant).

The facts relied upon by the plaintiff were that, on 7 December 2007, the first defendant had borrowed a seven-figure sum by way of a mortgage loan agreement, with the security being a residential property. By a Deed of Guarantee executed on 7 December 2014 by the second defendant, the second defendant had guaranteed the due and punctual payment by the first defendant of all moneys owing to the plaintiff pursuant to the mortgage loan agreement. The plaintiff claimed that the first defendant had failed to make the due payment in January 2013, that a Notice of Default and a Notice of Demand had been duly issued in accordance with the terms of the mortgage loan agreement, and that the amount due remained unpaid.

The plaintiff claimed against the first and second defendants payment of the full amount owing pursuant to the mortgage loan agreement and the guarantee.

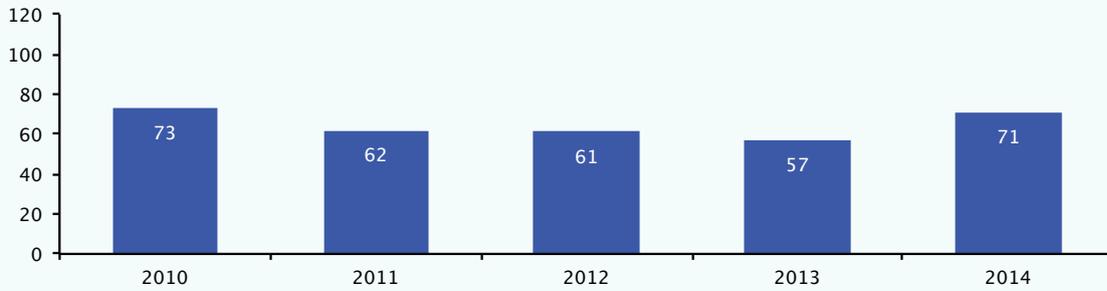
On 24 June 2014 an appearance was entered on behalf of the first and second defendants and, pursuant to the Circular to Practitioners CIV 2008/2, the action was placed in the "commercial list" with a directions hearing listed for 8 August 2014.

At the directions hearing, orders were made in terms of a minute of proposed orders prepared by the plaintiff. The Defendants were ordered to file their defences and any counterclaims by 22 August 2014 and the plaintiff was ordered to file any application for summary judgment pursuant to Order 14 RSC by 29 August 2014.

On 14 August 2014 the first defendant filed his defence, but no defence was filed by the second defendant. The Court issued a case management timetable, requiring that the action be entered for trial by 12 December 2014.

On 2 September 2014 the plaintiff filed a chamber summons seeking summary judgment against the first and second defendants, and the application was listed for hearing on 18 September 2014. At the hearing of the application, there was no appearance on behalf of the first and second defendants. The presiding registrar made orders granting the plaintiff leave to bring the application out of time and, being satisfied that the plaintiff had provided sufficient evidence of its entitlement to the amount claimed, the Registrar ordered that there be judgment in favour of the plaintiff against the first and second defendants in the amount claimed together with the costs of the application and of the action.

**Graph 15 Civil Cases Proceeding to Trial**



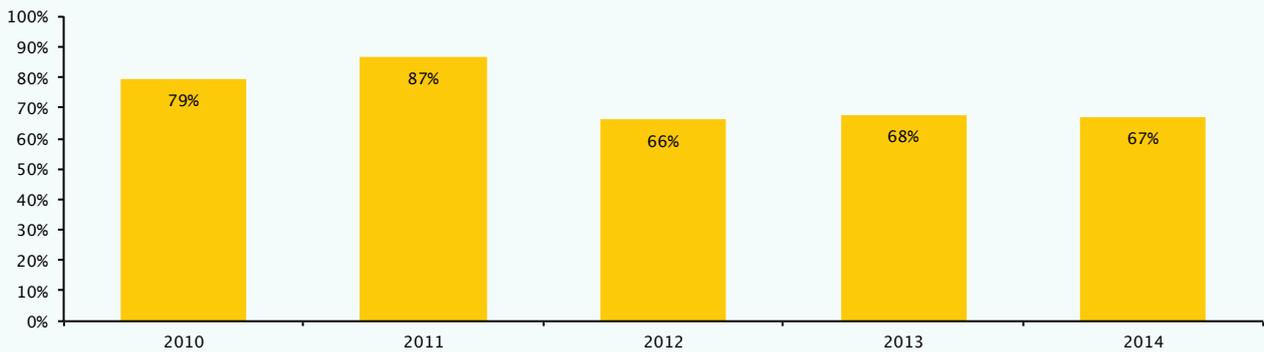
There were 71 civil trials conducted in 2014; 14 more than 2013. Of these matters, 16 proceeded to trial where the duration of the trial was greater than 5 days, 1 more than in 2013.

The average length of a civil trial in 2014 returns to pre-2013 figures of 3.8 days. This is a 12% decrease on the 2013 (4.3 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.

Approximately two thirds of the Court’s civil cases were finalised within a period of 52 weeks of their commencement in 2014, a similar result as in 2013.

The median time to finalise a civil case by trial fell slightly from 116 weeks in December 2013 to 114 weeks in December 2014. The time includes the time that it takes for the presiding Judge to write and deliver their judgment.

**Graph 16 Percentage of Civil Cases Finalised within 52 Weeks**



## CASE EXAMPLE

### MEDIAN CASE DETERMINED AFTER A TRIAL\* WITHIN 114 WEEKS

By writ of summons filed on 29 June 2012 the plaintiff commenced an action against the defendant claiming damages in respect of injuries to his right leg sustained in a motor vehicle accident which took place on 20 May 2011. The collision involved a 5-ton truck driven by the plaintiff, allegedly travelling in the left lane of a dual carriageway, and an articulated prime mover driven by the defendant, which was allegedly travelling in the right lane. The plaintiff claimed that, as his vehicle had been coming up alongside the defendant's vehicle, the defendant had attempted a left-hand turn into the path of the plaintiff's vehicle, causing the collision.

An appearance was entered on behalf of the defendant on 20 July 2012, and the defence was filed on 25 July 2012. The defendant disputed the plaintiff's version of how the accident occurred. The defendant claimed that the plaintiff had been travelling in the right lane behind the defendant and another truck when the defendant had commenced his left-hand manoeuvre, and that the truck immediately behind him had already stopped. The defendant alleged that the plaintiff's own negligence was the sole cause of the accident as the plaintiff had been travelling too close to the vehicle immediately in front of him, had failed to see the defendant's left indicator and had attempted to overtake on the inside when it was unsafe to do so, thereby causing the collision.

The defendant admitted that the plaintiff had sustained some injuries as a result of the collision and that he had suffered pain and received treatment for the injuries.

It was further admitted that the plaintiff had suffered some economic loss as a result of the accident. The defendant did not admit the alleged residual disabilities.

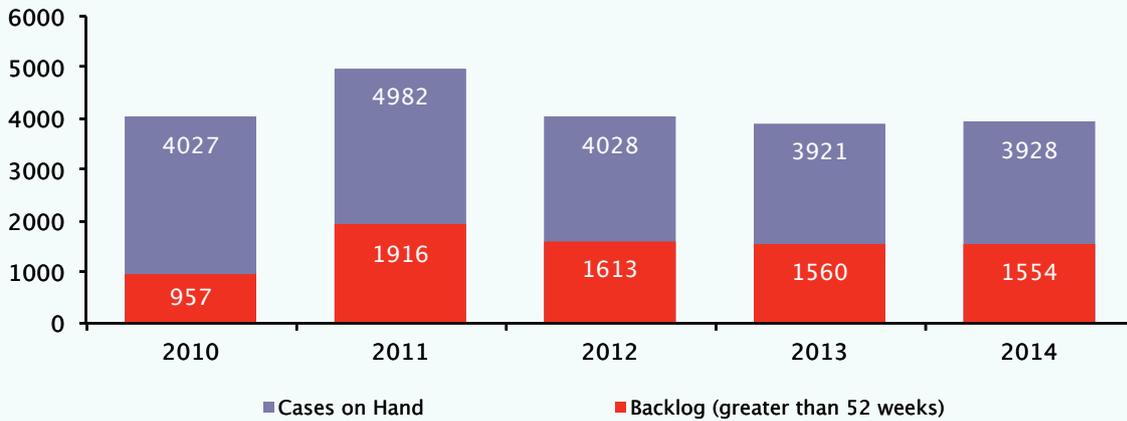
Leave to subpoena medical records prior to trial was granted on 23 November 2012. Pre-trial conferences were held on 14 May 2013 and 7 August 2013, but the case could not be settled. At the end of the second pre-trial conference, an order was made by the presiding Registrar adjourning the action to a listing conference for a trial date to be allocated for the determination of liability only as a preliminary issue.

The hearing of the preliminary issue took place over 14 and 15 January 2014, and on 24 January 2014 the judge's reserved decision was delivered. This was that the defendant was negligent, but the plaintiff's damages should be reduced by 50% for his contributory negligence.

A further pre-trial conference took place on 24 June 2014, but the parties were still unable to settle the action. An order was made by the presiding Registrar that the action be adjourned to a listing conference for the assessment of damages. On 25 August 2014 the listing conference was adjourned because the presiding Registrar was informed that the parties had settled the claim, subject to the execution and filing of the formal documentation. The action was eventually finalised on 3 September 2014 by way of a Consent to Judgment.

\*The trial in this case example was to liability only.

**Graph 17 Cases on Hand and Backlog**



**Cases on hand**

There were 3,928 cases on hand in December 2014, similar to the cases on hand in December 2013. 60% of cases on hand were less than 52 weeks of age, similar to the 2013 position.

**Appellate Jurisdiction**

The appellate jurisdiction of the Court caters 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*.

There were 136 civil appeals lodged with the court in 2014. Of these:

- 72 arose from the decisions of Magistrates exercising jurisdiction under the *Magistrates Court (Civil Proceedings) Act 2004* and the *Restraining Orders Act 1997*;
- 28 arose from the decisions of Criminal Injuries Compensation Assessors;
- 36 arose from the decisions of arbitrators made under Part XI of the *Worker’s Compensation and Injury Management Act 1981*.

The Court finalised 127 appeals in 2014 with 83% 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.

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

# OTHER HIGHLIGHTS

## Professional Development for Members of the Judiciary

The District Court of Western Australia Judicial Conference was held in April 2014 at Mandurah. All Judiciary and Registrars were invited to attend. The conference was opened by the Attorney General the Hon. Michael Mischin. Topics covered included discussion of issues for people affected by trauma and torture, what lies ahead in the WA landscape, understanding psychiatric issues and reports relevant to fitness to plead and/or stand trial and sentencing, and dealing with unrepresented litigants.

In June 2014, Judge Herron attended training for new Judges in Brisbane.

In October 2014, Judge Fenbury attended the Judicial Conference of Australia Colloquium 2014 in Queensland.

Five registrars of the Court attended a one-day professional development seminar which covered Intelligence in Mediation Skills in November 2014. This maintains their accreditation with the Mediator Standards Board.

## Staff Learning and Development

Staff of the Court completed refresher training in a range of compulsory corporate on-line training modules in 2014.

New employees completed the Department’s induction program and on-line 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.

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.

## The Court’s website

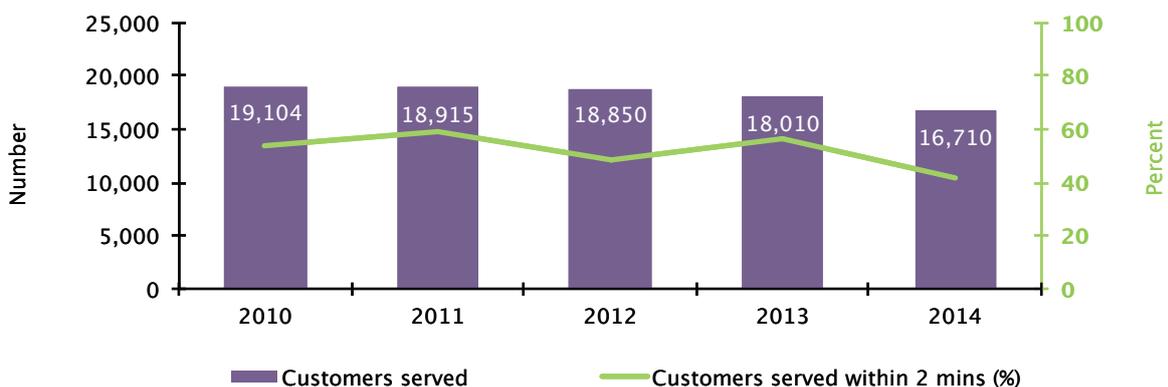
The District Court’s website continued to be a popular source for accessing case and general information about the operations of the District Court by members of the legal profession, self-represented persons and members of the general public. Information available through the website includes practice directions, circulars to practitioners, fee and form information, general updates on civil and criminal procedure and a procedure manual to assist for 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 2014 and although the number of customers served in 2014 was less than in 2013, the volume of documents lodged with the registry continued to increase. This is a trend continued from previous years. The continued absence of one staff member due to long term illness has resulted in fewer customers being served within two minutes.

Graph 18 Registry Customer Service



# DISTRICT COURT COMMITTEES AS AT 31 DECEMBER 2014

## **Civil Administration Committee**

Chief Judge Martino (Chair)  
Judge Eaton  
Judge Stavrianou  
Judge O'Neal  
Judge Birmingham, QC  
Principal Registrar Melville  
S Owen – 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 (Resigned Oct 2014)  
Judge Scott  
Judge Derrick, SC  
Judge Cock, QC  
Principal Registrar Melville  
S Owen – Executive Manager  
J Petrovski – Manager Criminal Case Management  
G Drew – Manager Trials  
W Hawley – Manager Customer Support  
R Shierlaw – Manager Business Services  
K Woods – Listing Coordinator  
J Howard – Senior Associate  
K Trenkovski – Criminal Listings (Circuits)

## **Library Committee**

Chief Judge Martino (Chair)  
L Lyon – Manager Libraries (DotAG)  
Waiman Lei – Librarian  
S Owen – Executive Manager

## **District Court Building Committee**

Chief Judge Martino (Chair)  
Judge Eaton  
Judge Stevenson  
Principal Registrar Melville  
G Jones – Director of Higher Courts  
A Stevenson – Contract Management DCB  
S Owen – Executive Manager  
R Shierlaw – Manager Business Services  
P Smith – Manager Audio Visual (DotAG)  
R Randall – Director Court Security Directorate  
M Shaw – Contract Manager, Western Liberty Group  
Fiona Hermsen, Contract Manager, BJCi  
P Bangs – State Manager, Merrill Corporation Australia  
Shona Annan – Acting Contract Manager G4S

## **Technology Committee**

Judge Stavrianou (Chair)  
Judge Keen  
Judge Davis  
Judge Braddock, SC (Joined Sept 2014)  
Principal Registrar Melville  
S Owen – 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 Howard – Senior Associate  
J Emerson – District Court Technology Officer  
M Shaw – Contract Manager, Western Liberty Group  
Fiona Hermsen, Contract Manager, BJCi

## **Child Witness Committee**

Judge Reynolds, Children's Court  
Judge Sleight, District Court (Chair)  
Magistrate Stewart, Magistrates Court (Resigned Oct 2014)  
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  
S Owen – Executive Manager

## **Judges' Legislation and Procedure Committee**

Chief Judge Martino (Chair)  
Judge Fenbury  
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  
 Chair, Transcript Format Working Group  
 Member, Review of Law Library Facilities Steering Committee  
 Member, Project Steering Committee for the Kalgoorlie, Carnarvon and Kununurra Courthouses  
 Member, eSuperior Courts Committee

### His Honour Judge Fenbury

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

### His Honour Judge Eaton

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

### His Honour Judge Sleight

Chair, Inter-jurisdictional Education Committee  
 Regional Convenor (WA), National Judicial College of Australia (Retired Nov 2014)  
 Member, National Judicial College of Australia, Making Decisions that Affect Children Committee

### Her Honour Judge Wager

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

### His Honour Judge Stevenson

Executive Member, LEADR WA  
 Member, Schools Conflict Resolution and Mediation Program (SCRAM)  
 Member, Western Australian Dispute Resolution Association  
 Member, Jury Advisory Committee  
 Member, Law Library Advisory Committee

### His Honour Judge Staude

Member, Law School Advisory Board, University of Notre Dame

### Her Honour Judge Braddock, SC

Member, Council of the Australasian Institute of Judicial Administration (AIJA)  
 Member, AIJA Indigenous Justice Committee (Resigned Dec 2014)  
 Member, State Committee, Indigenous Justice Issues (Resigned Dec 2014)

### Principal Registrar Melville

Member, Council of Australasian Tribunals (Western Australian Chapter), sub-committee for professional development

### 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  
 Chair, Community Arts Network Pty Ltd

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