



**DISTRICT COURT OF
WESTERN AUSTRALIA**

District Court of Western Australia
Annual Review

2013

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FROM THE CHIEF JUDGE

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

Criminal Jurisdiction

There was a decrease in the number of criminal lodgments of approximately 59, compared with the lodgments in 2012.

In the Court's 2012 Review, I reported that a priority for the Court in 2013 was to increase the use of telephone conferencing for circuit trial listing hearings thereby enabling prosecution and defence counsel to attend hearings by phone at their office without the need to physically attend at a regional court.

I am pleased to report that, following successful testing, this was fully implemented at Bunbury Court.

2013 also saw continued and increased use of video-conferencing links from courts to prisons and other designated places. This reduces the need for prisoners, witnesses and judges to physically attend court and makes accessing justice across the State easier, safer, cheaper and faster.

Civil Jurisdiction

There were 4,729 new civil cases, including appeals, lodged in 2013. This is 309 more cases than in 2012. The Court continued last year's trend of finalising around two thirds of its civil cases within 12 months. This is a particularly pleasing outcome considering that the Court continued to operate with a part time Registrar for extended periods throughout 2013.

Judicial Retirements and new appointments

His Honour Judge Henry John Wisbey retired in May 2013. His Honour Judge Mark Edward Herron was welcomed to the Court as a new Judge in July 2013.

Retirement of Mr Graham Bruce

The Court's Executive Manager Mr Graham Bruce completed his work at the court. I benefited greatly from his wisdom, experience and knowledge. After a period of leave Graham retired after 50 years of service in the Department.

Contributions to the Court

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

Format of the Annual Review

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

Peter Martino

Chief Judge

DISTRICT COURT OF WESTERN AUSTRALIA

THE DISTRICT COURT AT A GLANCE

Our 2013 achievements

The Court

- Reduced the median time to criminal trial for matters committed to the Court at Perth by one week to around 25 weeks.
- Moved from video-link to audio-link Trial Listing Hearings for the Bunbury / Busselton circuit locations thus enabling prosecution and defence counsel to attend hearings by phone at their office without the need to physically attend at a regional court and making courtrooms in circuit locations available for other hearings.
- Used video-conferencing facilities to prisons to deal with 1,010 matters which equated to approx. 340 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.
- Introduced a practice of adjourning hearings to a date to be fixed, rather than adjourning without a date. This promotes resolution of matters within a reasonable time.
- Continued to finalise two thirds of all new civil matters within 12 months of lodgement, despite the high level of new lodgements.
- Implemented changes to the process of issuing Subpoenas to allow for a less formal and less resource intensive approach.
- Improved video conferencing and integration of three courtrooms (converting type C courtrooms to type B courtrooms) improving availability and court usage.

Our 2014 priorities

- Commence the roll-out of the provision of running transcript to circuit locations for criminal trials.
- Continue to pursue funding to fit out a courtroom in the District Court Building with conferencing style equipment to enable the interpretation of proceedings to more than one accused in matters where a number of the accused speak the same language.
- Improvement to service delivery in circuit locations with the new Kalgoorlie and Kununurra courthouses becoming fully operational.
- List Sentence Mention Hearings before Registrars exercising criminal jurisdiction delegated to them following amendments to the Criminal Procedure Act 2004.
- Commence a review of civil case workload and processes to simplify and increase the automated approach for litigants and their lawyers.

- Commence a review of records management to ensure availability and accessibility as and when required.
- 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

- 425 criminal trials including 81 circuit trials
- 883 people committed for trial
- 1,085 people committed for sentence
- 57 civil trials
- 4,238 new actions commenced by writ
- 98 appeals determined
- 2835 civil mediations and settlement conferences

Our people

- 28 judges
- 5 registrars
- 42.6 registry staff
- 49.6 judicial support staff

Our budget

An amount of \$21 M

OUR JUDGES

The following were the Judges of the Court as at 31 December 2013:

Chief Judge

His Honour Judge Peter Dominic Martino

Judges

His Honour Judge Allan David Fenbury
Her Honour Judge Shauna Marie Deane
His Honour Judge Denis John Reynolds
His Honour Judge Philip Richard Eaton
His Honour Judge Kevin Frederick Sleight
His Honour Judge Philip Pierre McCann
Her Honour Judge Julie Anne Wager
His Honour Judge Andrew Steven Stavrianou
Her Honour Judge Troy Denise Sweeney
His Honour Judge Bruce James Hamilton Goetze
His Honour Judge Richard Ellis Keen
His Honour Judge Michael John Bowden
Her Honour Judge Anette Margret Ilse 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
His Honour Judge Anthony Samuel Derrick
His Honour Judge Timothy Sharp
Her Honour Judge Audrey Gillian Braddock
His Honour Judge David Ronald Parry
His Honour Judge Jeremy Clive Curthoys
His Honour Judge Robert Enos Cock
His Honour Judge Mark Edward Herron

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

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

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

His Honour Judge T Sharp
Deputy President State Administrative Tribunal

His Honour Judge DR Parry
Deputy President State Administrative Tribunal

His Honour Judge RE Cock
Chairperson, Prisoner Review Board

Judicial appointments since December 2012

His Honour Judge Mark Edward Herron was appointed on 1 July 2013.

Judicial retirements since December 2012

His Honour Judge Henry John Wisbey retired 31 May 2013.

Criminal Commissioners

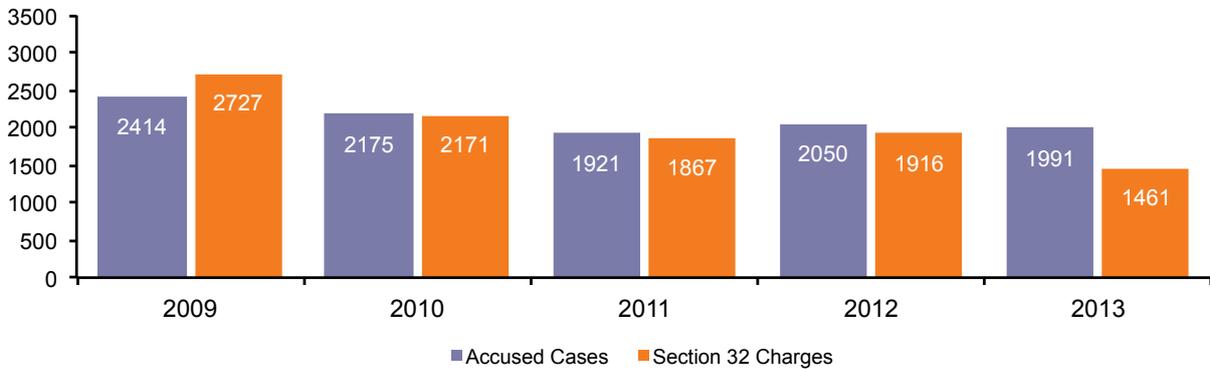
Michael John Gething (Principal Registrar)
Richard John Hewitt (Deputy Registrar)

Registrars

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

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.

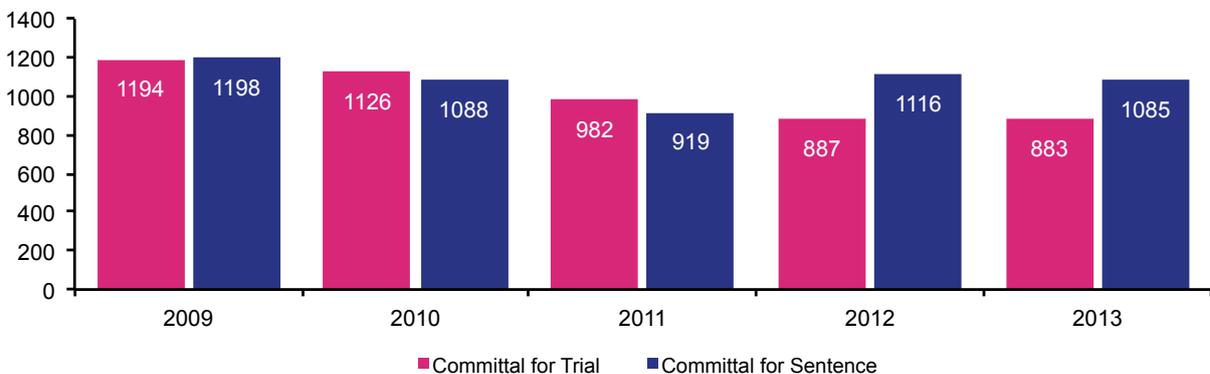
Caseload

Criminal lodgements decreased in 2013 with 1991 new accused cases lodged compared with 2050 cases reported in the previous year. An accused case or criminal lodgement is recorded as one defendant with one or more charges having the same registration date. Secondary processes (e.g. breaches of penalty orders, bail, etc) are not included as new accused cases.

Included in Graph 1 above is the number of additional summary charges called in by accused persons pursuant to a section 32 *Sentencing Act 1995* notice, to be dealt with by the Court when sentencing. This procedure allows an accused who is to be sentenced, following conviction in the District Court, to call in and be sentenced by the sentencing Judge on any outstanding summary charges to which they have pleaded guilty in the Magistrates Court. In 2013 there were 1461 Section 32 charges lodged, 455 fewer than 2012.

Graph 2 below, illustrates the division in the Court's work between matters committed for trial and those committed for sentence. There were 4 fewer committals for trial and 31 fewer committals for sentence lodged with the Court in 2013 than in the previous year. No committal reason was recorded in 23 cases.

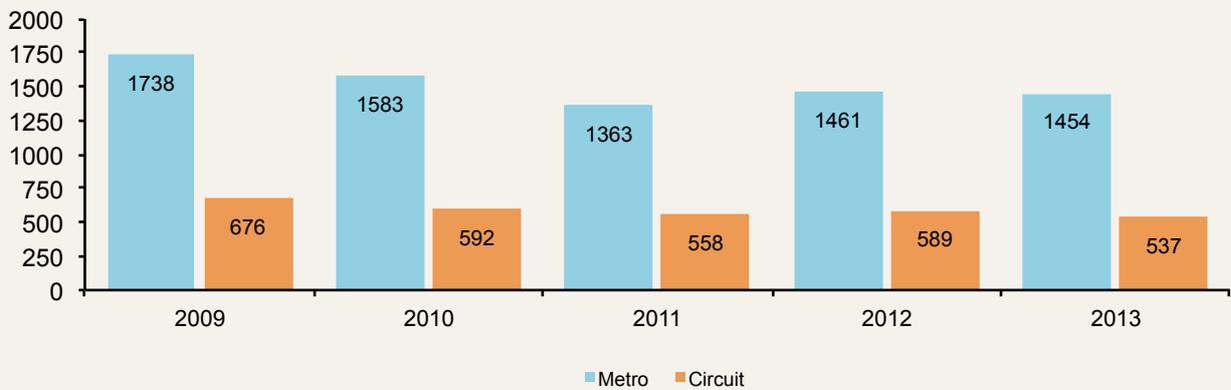
GRAPH 2 Accused Lodgments by Committal Reason



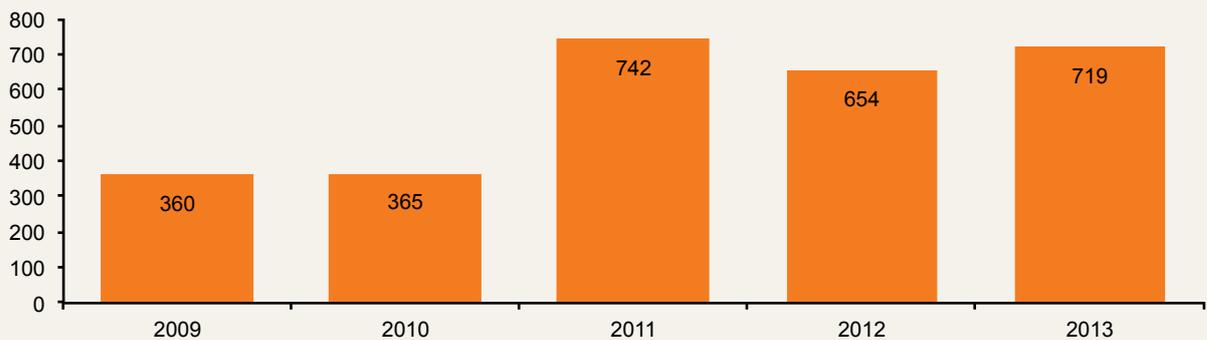
Graph 3 below, displays the spread of the Court’s criminal workload in relation to accused cases lodged, as between the metropolitan area and the twelve regional locations to which the Court circuits. It illustrates a decrease in both metropolitan (7) and circuit (52) lodgments with an overall decrease of 59 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 65 breach charges on the previous year.

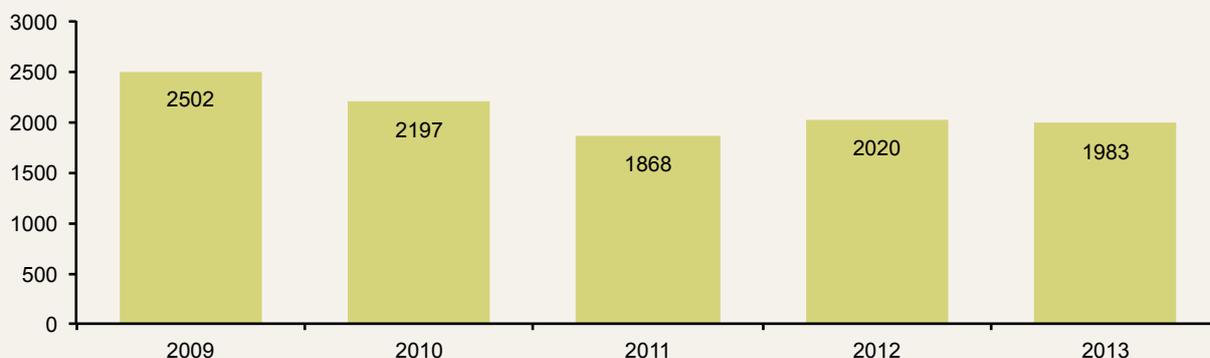
Graph 3 Accused Lodgements by Region



Graph 4 Breach Charges Lodged



Graph 5 Accused Cases Finalised



Case Finalisation

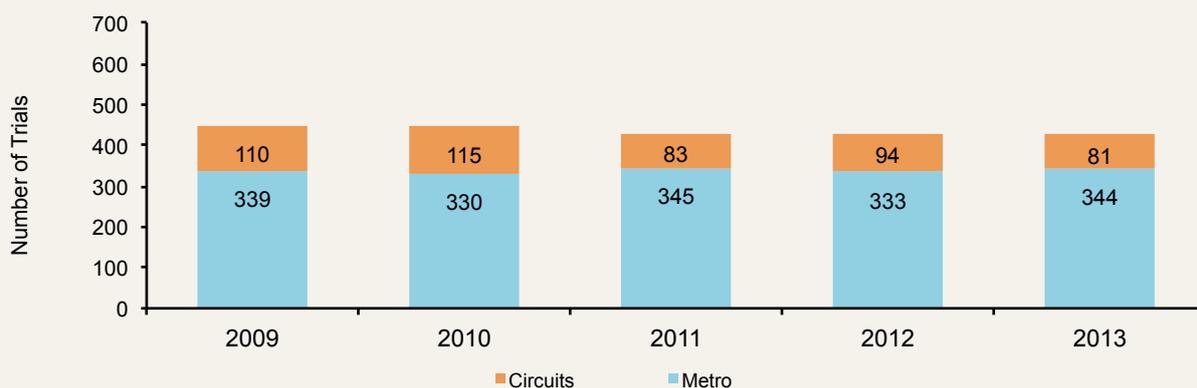
There were 1983 criminal cases finalised in 2013, 37 fewer than in 2012. This is primarily due to fewer lodgments.

A greater number of cases were lodged than were finalised which resulted in the Court achieving a clearance index of 99.6%. This is an improvement on the clearance index of 98.5% achieved in the previous year.

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 748 criminal cases were listed for trial state-wide. Of these cases 425, or approximately 57% of the matters listed, proceeded. This is comparable with the 427 trials conducted in 2012.

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 withdrawn and 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 3.23 days, again very similar to the 3.18 days in 2012. The average length of the 344 criminal trials conducted in Perth during 2013 was 3.30 days, very similar to the 3.4 days in 2012. Refer to District Court on Circuit later in the document for circuit information.

In 2013, there were 105 trials conducted state-wide where the trial duration was five days or greater, the same number as in 2012. Accommodating lengthy trials can be a resource intensive exercise for the Court, with additional time being taken up with the case management of the many issues that arise in the period leading up to trial. The additional time taken is beneficial however, as it ensures that any issues that arise in relation to the trial, are addressed at an early stage and the prospect of delay at the commencement of the trial is reduced or avoided.

CASE EXAMPLE

A CRIMINAL MATTER PROCEEDING TO A TRIAL HEARING AT THE MEDIAN TIME OF 25 WEEKS FROM COMMITTAL

On 9 May 2012 at Perth International Airport police charged the accused with intentionally importing, without prior approval, tier 2 goods comprising child pornography, being reckless to the fact that the goods were tier 2 goods and being goods the importation of which was prohibited under the Customs Act.

The accused first appeared in the Perth Magistrates Court on 10 May 2012 and was remanded on bail to re-appear in the Magistrates Court on 18 May 2012.

The accused appeared before the Magistrates Court on several occasions between 12 May 2012 and 16 January 2013, at which time he was committed for trial before the District Court.

At the first appearance of the accused before the District Court on 12 April 2013, the Commonwealth Director of Public Prosecutions successfully sought to amend the indictment to break the one count down into four counts consistently with the case that four electronic devices had been imported containing child pornography.

The accused's counsel also made an application for several witnesses who resided overseas to be permitted to give their evidence by video link at the trial. The Judge adjourned the matter to a 5 day trial commencing 15 July 2013 and listed the application for evidence to be given by video link to a directions hearings on 17 May 2013.

Graph 7 illustrates the Court’s median delay to criminal trial since 2009, with the 12 month moving average for 2013 recorded as 26 weeks in December 2013. Median trial delay measures the period in which an accused person waits for their first trial date in the District Court, following committal for trial by the Magistrates Court.

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

Sentencing

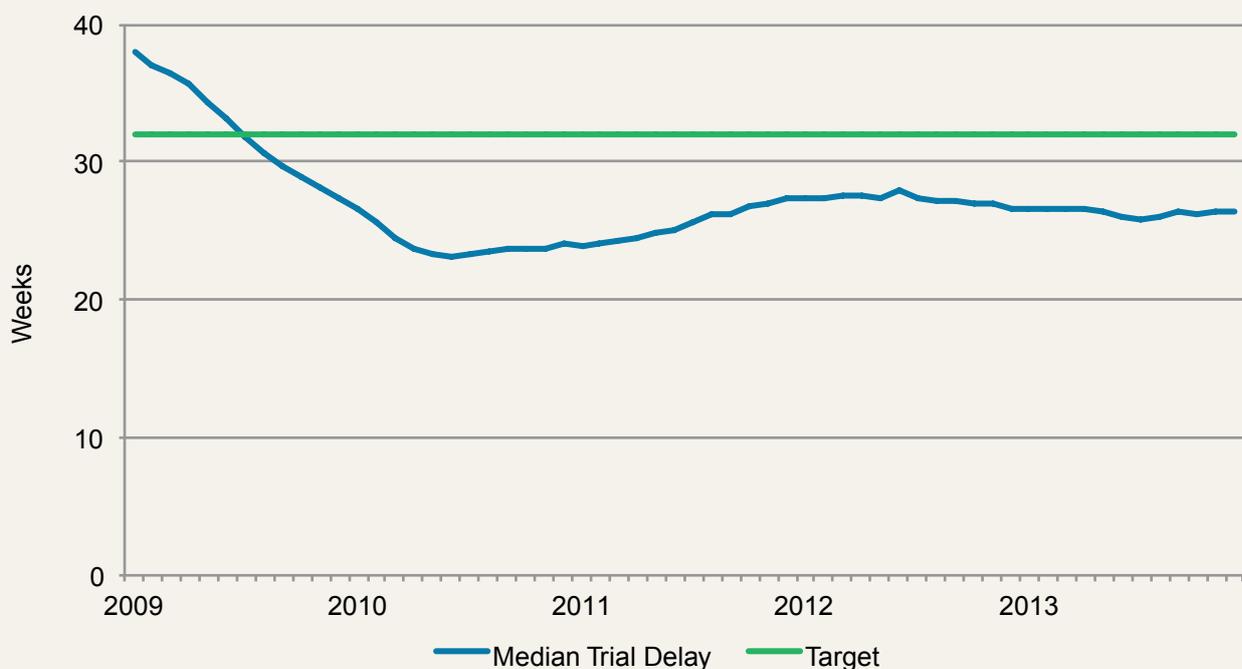
Of the 1,983 accused cases finalised in 2013, 1,593 resulted in a sentence being handed down. This is an increase of 146 when compared with the 2012 figures of 1,447 being sentenced.

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 Criminal Commissioner, who ensures that the DPP 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 8. It is the measurement in weeks between the date of committal in the Magistrates Court and the actual sentencing hearing in the District Court. The delay fluctuated between 14 and 18 weeks throughout 2013 with the 12 month moving average registered at 16 weeks in December 2013. Sentencing lists were closely monitored throughout 2013 with additional lists introduced when the delay to sentence began to increase.

Graph 7 Median Trial Delay Trend



Graph 8 Median Sentence Delay Trend



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

CASE EXAMPLE

A COMMITTAL FOR SENTENCE MATTER PROCEEDING TO A SENTENCING HEARING AT THE MEDIAN TIME OF AROUND 15 WEEKS FROM COMMITTAL

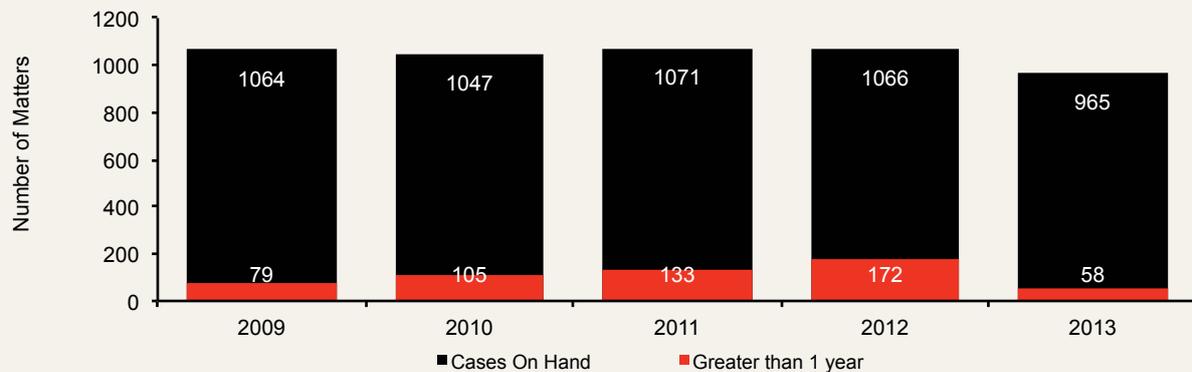
Two accused were arrested and both were charged by Police on 26 November 2012 with one charge of aggravated burglary and one charge of unlawful wounding.

Both accused first appeared before the Magistrates Court at Fremantle on 27 November 2012 and were released on bail to reappear on 7 December 2012. The matter had several other hearings in the Magistrates Court primarily to vary bail.

On 6 March 2013 following a plea of guilty to the charges, each accused was committed for sentence to appear at the District Court sittings in Perth on 1 May 2013. The presiding Commissioner renewed bail for both accused and remanded them to a sentencing day on 14 June 2013.

On 14 June 2013 the State of WA discontinued the unlawful wounding charge for both accused and filed an indictment for each accused containing a single count of aggravated burglary. Both accused pleaded guilty following which their lawyers addressed the Court on mitigating circumstances and the contents of the pre-sentence reported prepared by the Department of Corrective Services. The matter was remanded to 20 June 2013 for sentencing of each accused.

On 20 June 2013, one of the accused was sentenced to 2 years and 8 months imprisonment and made eligible for parole. The remaining accused was sentenced to 2 years 8 months imprisonment which was suspended for 2 years with reporting and supervision requirements attached requiring him to undergo alcohol and drug counselling.

Graph 9 Criminal Cases on Hand

Cases on hand

There are 965 criminal cases on hand, 273 fewer than in 2012. Data correction accounted for the removal of 202 cases on hand, with the balance indicative of a consistent effort by the Court to finalise as many cases as are committed to the Court. Of the cases on hand as at 31 December 2013, 94% were less than or equal to 12 months in age, an improvement of 10% on 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 court buildings at Kununurra and Carnarvon have been programmed for replacement. That program is well advanced in the case of Kununurra with a new court building under construction on the existing site and a contemporary transportable court building located on an alternative site. The temporary facility, which is of a high standard, is able to accommodate a criminal trial presided over by a Judge sitting with a jury. Construction has begun on a new site for the replacement court and police complex in Carnarvon.

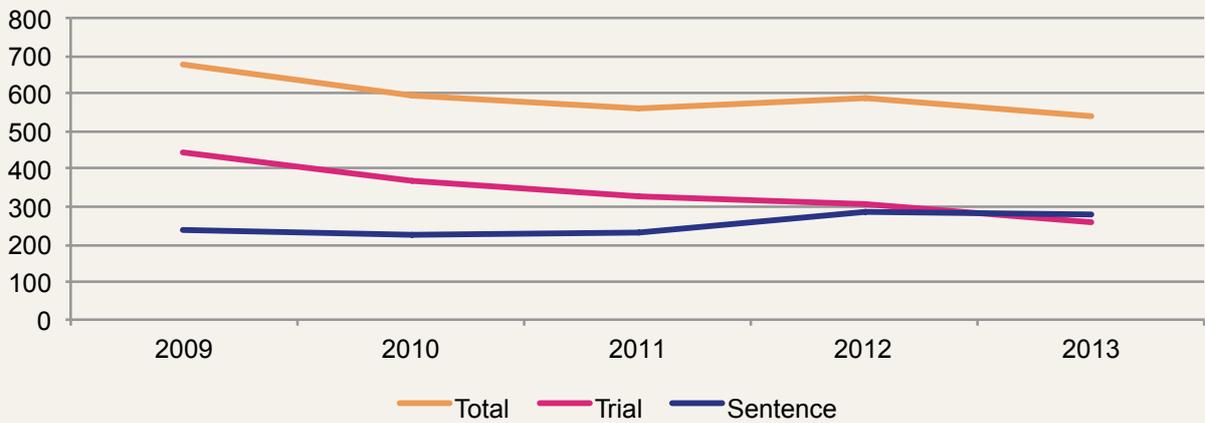
The assistance provided by Magistrates Court staff to Judges and their personal staff when on circuit throughout the State is acknowledged and appreciated by the District Court.

The average length of a criminal trial at circuit locations visited by the Court during 2013 was 2.9 days. This was an increase on the average of 2.3 days recorded for 2012.

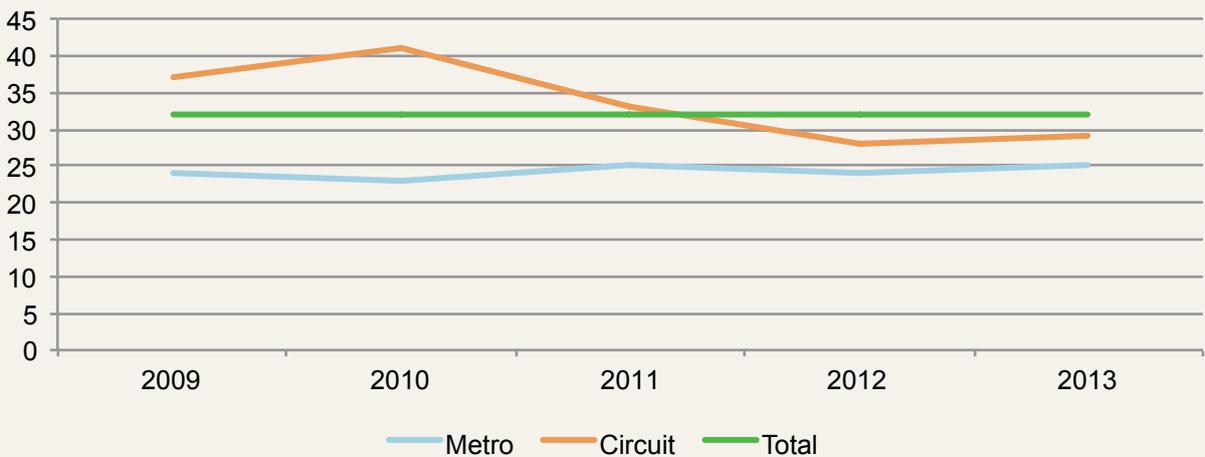
Trial dates were allocated for 189 circuit trial matters during the year, 5 more than last year. 81 of those matters (43%) actually proceeded to a trial which was 13 matters less than last year.

The median delay to criminal trial at circuit locations state-wide is illustrated in graph 10 below. The 12 month moving average as at the end of December 2012 was 29 weeks. This is a two week increase on 27 weeks recorded in December 2012. This result can 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 a number of practice changes. These included:
 - The use of telephone conferencing facilities for Trial Listing Hearings was established as normal practice for the Bunbury / Busselton circuit.
 - Increased use of video-link to the prison for the sentencing of persons in custody.
- Three courtrooms were upgraded in the Perth District Court building. This provided improved video conferencing facilities in the courtroom and the integration of those facilities with other areas of the court. These upgrades improved courtroom availability and usage.
- A criminal trial was held on Christmas Island in April 2013. Due to the existing courtroom not being large enough to accommodate the jury trial the function room at the local community recreation centre was utilised as a court room. The Sports Hall and the function room at the Cricket Club were also used to provide amenity for the jurors. The trial went for three days and proceeded without complication.

Technology support

During 2013 there were a number of technology improvements that benefitted the court. A new transcription service was implemented across the court with few issues. eBook resources became available from the library making access to research easier and quicker. The standard operating system for all PC's was upgraded to Windows 7 and Office 2010. Video conferencing network infrastructure was migrated from ISDN to IP delivering cost savings to the court.

A major upgrade to ICMS was implemented in November 2013 bringing the criminal division of the Magistrates Court into the system. Initial performance issues caused concerns in terms of speed of response and system availability. The court continues to work with Courts Technology Group for ongoing improvements.

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.

The Court’s civil caseload in 2013 continued to be heavily weighted in favour of personal injury claims with the majority arising from industrial accidents and motor vehicle accidents.

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

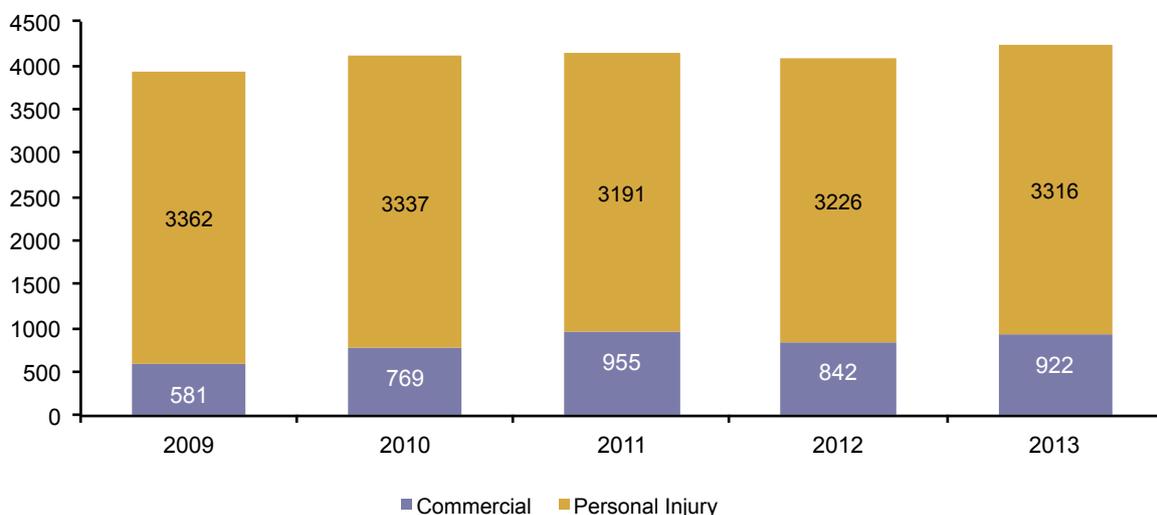
The remainder of the Court’s civil business comprises commercial cases that include debt recovery, disputes over the sale of businesses and the operation of leases. Commercial disputes are case managed by registrars of the Court, who take responsibility for a number of actions, thereby convening directions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

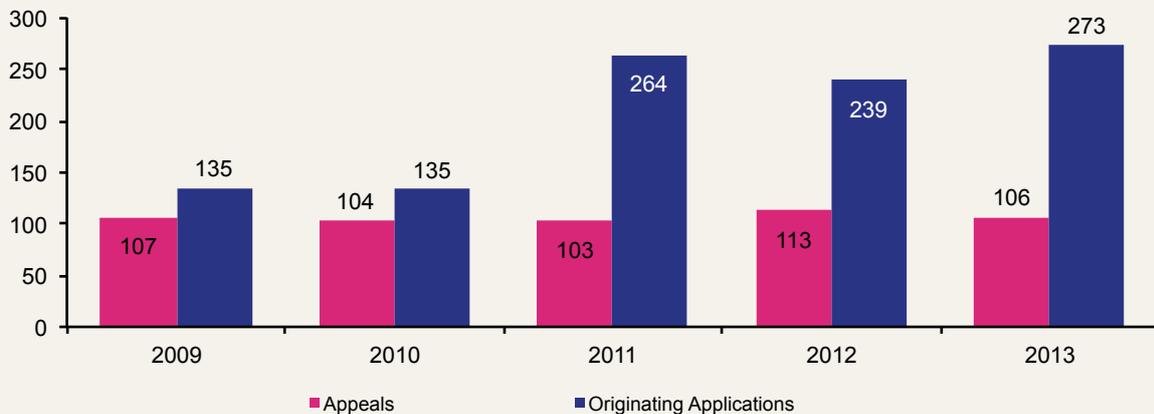
It is the Court’s aim to ensure that the parties to an action participate in a mediation conference, leading to settlement, at the earliest possible time after they come into possession of information that will allow for meaningful discussion.

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

- Appeals from the decisions of Magistrates sitting in the civil jurisdiction of the Magistrates Court (includes appeals against restraining orders, either made or refused);
- Appeals against the decisions of Assessors of the Criminal Injuries Compensation Tribunal for awards or non-awards to victims of crime; and
- Appeals from the decisions of 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 4,729 new civil case lodgments, including appeals, in 2013, 309 (7%) more than in 2012.

New writs lodged increased by 4.2% in 2013 with 4,238 new writs lodged compared with 4,068 writs lodged in 2012 (See Graph 12). Personal injury claims accounted for 78% of all new writs lodged in 2013 with the remaining 22% made up of commercial claims. The percentage split between personal injuries and commercial claims in 2012 was 79% and 21% respectively.

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

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

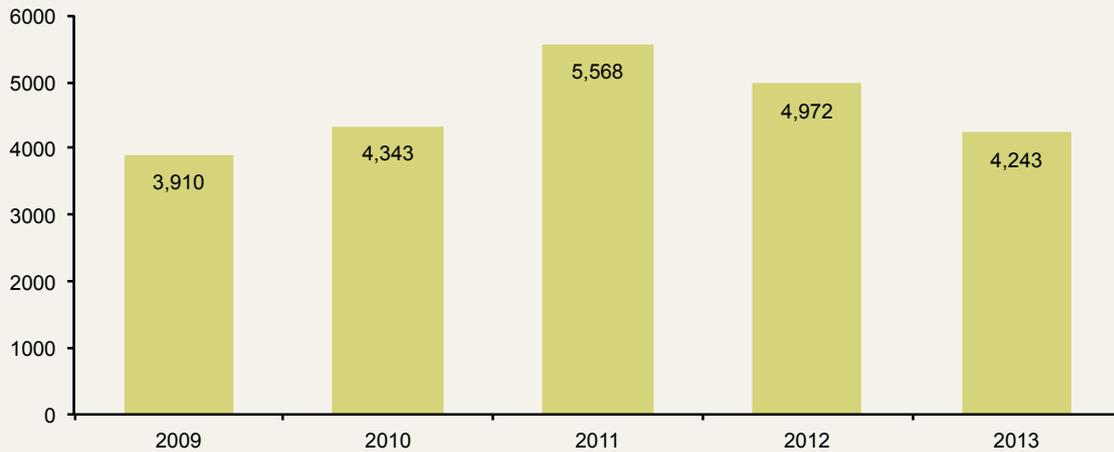
Case finalisations

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 4,243 civil cases finalised in 2013, 57 (1.4%) proceeded to trial in 2013.

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

A total of 2,835 pre-trial conferences and mediations were conducted by the registrars of the Court in 2013. This represents 247 fewer than 2012 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 2013 (4,243) compared favourably with the number of new matters commenced (4,238) resulting in a clearance index of 100%.

The median time to settle a case prior to trial is 26 weeks, three weeks less than the 29 weeks in 2012.

CASE EXAMPLE

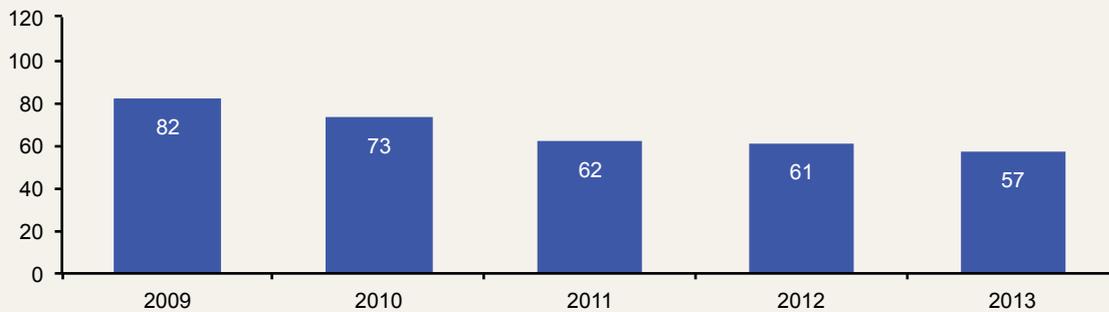
MEDIAN CASE SETTLED PRIOR TO TRIAL (26 WEEKS AFTER COMMENCEMENT)

By writ of summons filed on 17 April 2013, the plaintiff claimed damages in respect of personal injury which she had sustained in a motor vehicle accident on 14 May 2012. Liability was admitted on behalf of the defendant by his statutory insurer, which entered an Appearance on 22 April 2013 and filed a Defence on the same day. The only issue in dispute between the parties was the amount of damages to which the plaintiff was entitled.

The plaintiff, who had been riding her motorcycle at the time of the collision, claimed to have suffered injuries which included an undisplaced fracture to her left wrist, soft tissue injuries to the cervical spine and a benign lump in her left breast.

A case management time table was issued by the Court on 22 April 2013, requiring that the case be entered for trial by 20 August 2013.

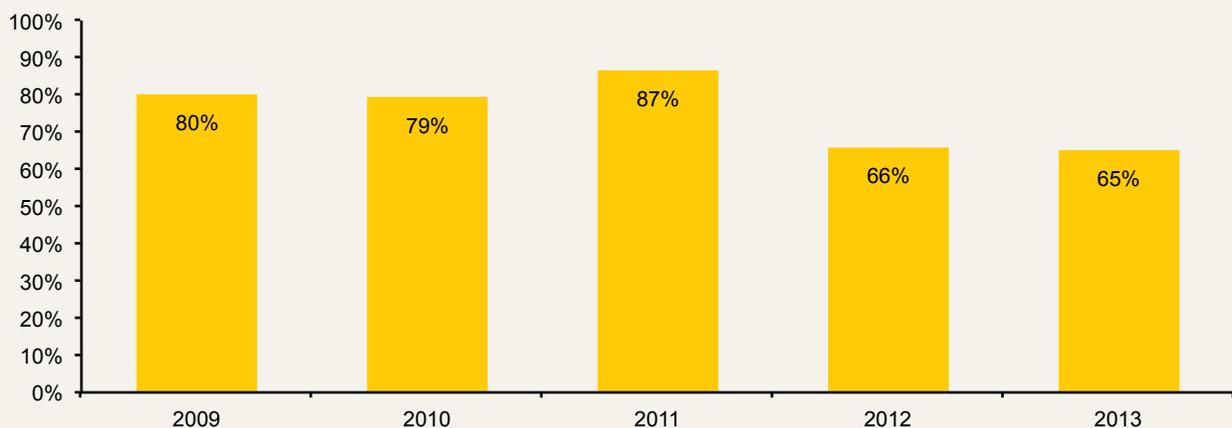
On May 2013 the plaintiff’s Particulars of Damages were filed, and the action was duly entered for trial on 4 June 2013 with a pre-trial conference listed for 10 July 2013. The parties conferred at the first pre-trial conference and consented to an adjournment. On 19 September 2013, when the parties conferred for a second time in pre-trial conference, agreement was reached. On 18 October 2013, judgment was entered by consent in favour of the plaintiff in the sum of \$10,233.50.

Graph 15 Civil Cases Proceeding to Trial

There were 57 civil trials conducted in 2013; 4 fewer than 2012. Of these matters, 15 proceeded to trial where the duration of the trial was greater than 5 days, 1 fewer than in 2012.

The average length of a civil trial in 2013 was 4.3 days, which is a 12% increase on the 2012 (3.8 days) figure. Success in mediation often means that it is the more complex cases proceed to trial and, by their nature, require more time to resolve.

The Report on Government Services national benchmark for cases finalised within 52 weeks is 90%. Approximately two thirds of the Court's civil cases were finalised within a period of 52 weeks of their commencement in 2013, a similar result as in 2012.

Graph 16 Percentage of Civil Cases Finalised within 52 Weeks

CASE EXAMPLE

MEDIAN CASE DETERMINED AT TRIAL WITHIN 117 WEEKS

By writ of summons filed on 21 April 2011 the plaintiff commenced an action against the defendant claiming damages of approximately \$700,000 for breach of a building contract.

The defendant entered an Appearance on 20 May 2011 and the Court listed the action for a Directions Hearing on 8 July 2011. On 8 July 2011 the presiding Registrar made programming orders and adjourned the Directions Hearing to 9 September 2011.

The defendant filed a defence and counterclaim on 22 August 2011 and a case management timetable was issued by the Court pursuant to rule 30(1) of the District Court Rules, requiring that the action be entered for trial by 20 December 2011.

On 9 September 2011 the presiding Registrar made revised programming orders and adjourned the Directions Hearing to 16 September 2011, on which date further revised programming orders were made, the Entry for Trial date was reset to 4 May 2012, and the Directions Hearing was further adjourned to 17 February 2012.

These multiple Directions Hearings and repeated extensions to the Entry for Trial milestone were necessary due to the complexity of detail in the pleadings and the extremely large number of discoverable documents. There were amendments to pleadings and each party requested extensive further and better particulars of the other's pleadings.

On 17 February 2012, 9 March 2012 and 13 April 2012 there were further Directions Hearings and the action was adjourned to a full-day's Special Appointment Directions hearing before a Registrar in Chambers on a date to be fixed. The purpose of the hearing was to deal with outstanding procedural matters, and the parties were required to file outlines of written submissions.

As the milestone for Entry for Trial had been neither met nor extended, on 7 May 2012 the Court issued a Notice of Default (Entry for Trial) advising the parties that unless the plaintiff entered the action for trial on or before 22 May 2012 the case would become inactive. On 23 May 2012, the case was put on the Inactive Cases List. Entry

for Trial papers were filed by the defendant on 30 June 2012, and the action was allocated a pre-trial conference on 17 July 2012.

The Special Appointment Directions hearing took place on 12 July 2012 and the presiding Registrar reserved his decision. At the pre-trial conference five days later a Listing Conference date was set down for 13 August 2012, with a Directions Hearing to take place on 3 August 2012. The registrar's reserved decision was handed down on 23 July 2012, and there followed a period of compliance with the various procedural orders made.

At the Directions Hearing on 3 August 2012, the listing conference date was vacated and orders were made relating to the exchange of expert evidence.

On 13 September 2012 orders were made on the plaintiff's ex parte application for early return of subpoena for documents.

The defendant filed a chamber summons on 29 October 2012, seeking orders for discovery of particular documents and further and better answers to interrogatories. This application was heard by way of a Special Appointment on 9 November 2012. The presiding Registrar delivered an ex tempore decision dismissing the defendant's application and adjourned the action to a Listing Conference on 10 December 2012.

On 16 November 2012 the defendant filed a Notice of Appeal against the decision of the Registrar delivered on 9 December 2012. The Appeal was given the hearing date before a judge in Chambers on 18 January 2013.

On 6 December 2012 orders were made on the defendant's ex parte application for subpoena for documents.

The judgment in respect of the Appeal against the Registrar's decision was handed down on 22 January 2013, allowing the appeal. The plaintiff was ordered to give discovery of particular documents and further and better answers to interrogatories within 21 days.

Continued next page

CASE EXAMPLE continued

At the Listing Conference which took place on 11 February 2013, the action was listed for a Directions Hearing on 22 May 2013 and set down for a 7-day trial in July 2013. On 22 May 2013 orders were made for the filing of Papers for the Judge, lists of witnesses, etc.

In late June 2013 the Court was informed that the plaintiff had entered into administration. On 4 July 2013, orders were made that the plaintiff’s solicitors cease to be the solicitors for the plaintiff, that the plaintiff’s action against the defendant be stayed. In the Supreme Court on 4 July 2013 orders were made

by a Judge in Chambers that the defendant have leave to proceed with its counterclaim in the District Court Action, but that it be prohibited from enforcing any judgment obtained without leave of the Supreme Court.

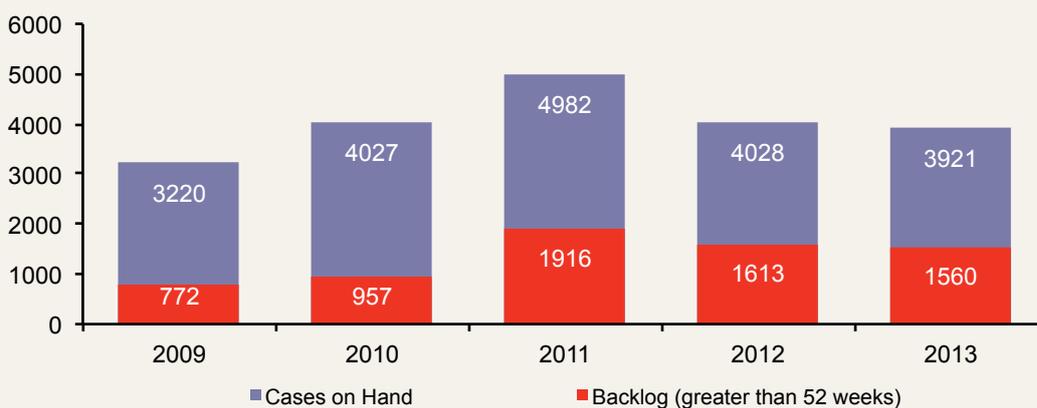
The trial of the counterclaim took place on 8 July 2013, and on 22 July 2013 the Judge ordered that there be a judgment in favour of the defendant in the sum of \$83,320.12, subject to the plaintiff’s being prohibited from enforcing payment other than with the leave of the Supreme Court of Western Australia.

The median time to finalise a civil case by trial increased from 89 weeks in December 2012 to 116 weeks in December 2013. This increase is primarily due to a change in the calculation method. The time includes the time that it takes for the presiding Judge to write and deliver their judgment.

Cases on hand

There were 3,921 cases on hand in December 2013, a decrease of 3% on the cases on hand in December 2012. 60% of cases on hand were less than 52 weeks of age, similar to the 2012 position.

Graph 17 Cases on Hand and Backlog



Appellate Jurisdiction

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

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

There were 106 civil appeals lodged with the court in 2013. Of these:

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

The Court finalised 99 appeals in 2013 with 92% 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 procedural guidance on the appeal process to self represented persons. Information on appeals and material to assist self represented persons with the lodgement of an appeal is available on the District Court website.

Issues and initiatives

- The reduction of the Court's trust account balance through the on-going review of old appeal files and the refund of \$100 deposits for security of costs, payments into court and other unclaimed deposits.
- Pursuance of business cases for funding to enhance civil ICMS to improve access to eLodgment, leading to increased numbers of registered users.
- Continuation of the review to civil procedures in line with feedback received from the legal profession to enable a simple commercial dispute to have mediation occur within 3 months of the matter commencing and a trial within 6 months of commencement.
- A process and functional review was undertaken which identified a number of areas for possible improvement. The review formed the foundation for a budget proposal which was unsuccessful.

OTHER HIGHLIGHTS

Professional development for members of the Judiciary

Seventeen judges from the Court attended the Biennial District and County Court Judges Conference 2013 in Brisbane between 26 and 29 June 2013

In October 2013 Judge Fenbury attended the Judicial Conference of Australia Colloquium 2013 in Sydney.

The five registrars of the Court received ongoing training in order to maintain their accreditation with the Mediator Standards Board. They undertook a one day professional development seminar which covered specific approaches for dealing with difficult people.

Staff learning and development

Staff of the Court completed refresher training in a range of compulsory corporate on-line training modules in 2013.

New employees completed the department’s induction procedures 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.

Internet website

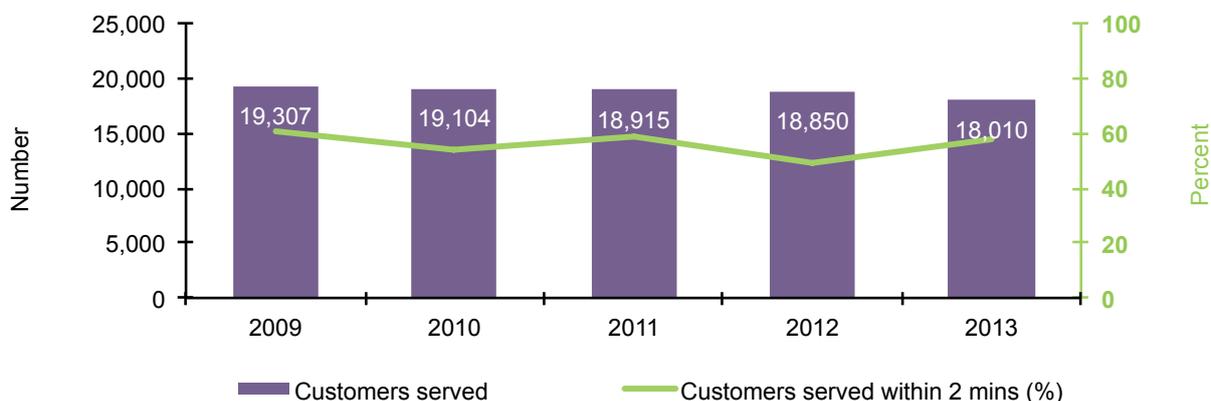
The District Court’s website continued to be a popular source for accessing case and general information about the operations of the District Court by members of the legal profession; self represented persons and members of the general public. Information available through the website includes practice directions, circulars to practitioners, fee and form information, general updates on civil and criminal procedure and a procedure manual to assist 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 2013 and although the number of customers served in 2013 was less than in 2012, the volume of documents lodged with the registry continued to increase. This is a trend continued from the previous year.

Graph 18 Registry Customer Service



DISTRICT COURT COMMITTEES AS AT 31 DECEMBER 2013

Civil Administration Committee

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

Criminal Administration Committee

Chief Judge Martino (Chair)
Judge Fenbury
Judge Bowden
Judge Schoombee
Judge Scott
Judge Derrick
Judge Cock
Principal Registrar Gething
S Taylor – Acting 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 Taylor – Acting Executive Manager

District Court Building Committee

Chief Judge Martino (Chair)
Judge Eaton
Judge Stevenson
Principal Registrar Gething
G Jones – Director of Higher Courts
A Stevenson – Contract Management DCB
S Taylor – Acting 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
J Spellacy – Contract Manager, Brookfield Johnson Controls
P Bangs – State Manager, Merrill Corporation Australia
K Marlow – Contracts Manager G4S

Technology Committee

Judge Stavrianou (Chair)
Judge Keen
Judge Davis
Principal Registrar Gething
S Taylor – Acting 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
J Spellacy – Contract Manager, Brookfield Multiplex

Child Witness Committee

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

Judges' Continuing Legal Education Committee

Chief Judge Martino
Judge Sleight
Judge Wager (Chair)
Judge O'Neal
Judge Staude
S Taylor – Acting Executive Manager

Judges' Legislation and Procedure Committee

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

Judges' Benchbook Committee

Chief Judge Martino
Judge McCann
Judge Stavrianou
Judge Bowden
Judge Davis

EXTERNAL COMMITTEES

His Honour Chief Judge Martino

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

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

Principal Registrar Gething

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

Registrar Kingsley

Member, Law Society Courts Committee
 Member, Law Society Ethics Committee

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