



Magistrates' Court of Victoria







# Letter to the Governor

25 August 2011

To His Excellency The Hon Alex Chernov AO, QC Governor of Victoria Government House MELBOURNE VIC 3004

May it please Your Excellency

On behalf of the Council of Magistrates, I have the honour to present the Report for the year 1 July 2010 to 30 June 2011 to Your Excellency, pursuant to section 15(3) of the *Magistrates' Court Act 1989*.

Yours sincerely

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IAN L GRAY Chief Magistrate

# Report of the Chief Magistrate



"I remain determined to see that the court remains a strong, independent, modern and appropriately resourced court of justice."

# Report of the Chief Magistrate

I am pleased to present the Magistrates' Court of Victoria annual report. This year marks a decade since my appointment as Chief Magistrate, and I remain determined to see that the court remains a strong, independent, modern and appropriately resourced court of justice. Over the past ten years, the court has faced many competing demands, pressures and constraints. This trend continues to date, as the court again experiences annual increases in workload. The court remains committed to a substantial reform program to meet these challenges, including significant listing reform and continuation of work to expand specialist program based services within the court.

The court engages with the community through its various programs for school students, public access events, guided tours, court user forums and information sessions. I am proud of the court's commitment to the education of Victorian youth. It is our hope that highlighting the fundamental principles of the justice system will inform and inspire young people in positive ways.

Case management processes in the court are undergoing a process of modernisation, driven by sessional listings. The primary purpose of this reform is to improve efficiency as a response to ever-increasing court lists. Technological advances in the court, such as the Electronic Filing Appearance System (EFAS), will further improve the collaborative interface between practitioners, coordinators and the court.

I am also proud of the successes of the court's problem-solving initiatives. The independent evaluations of specialist programs such as the Court Integrated Services Program (CISP) and the Neighbourhood Justice Centre (NJC) between 2009 and 2010 have shown that such programs effectively target the underlying causes of crime, and successfully reduce rates of re-offending.

#### **Court Performance**

The court has continued to deal with large increases in its overall caseloads. Comparative statistics over the past five years verify this trend. Consider the growth experienced in the criminal jurisdiction of the court. Between 2006-07 and 2010-11, there has been a 20.4% increase in criminal cases initiated. During this same period, the court increased its finalisation of criminal matters by 36.5%. In the family violence division, since 2006-07, there has been a 32.7% increase in intervention order applications initiated. During this time, finalisation of intervention order matters has increased by 33.2%. In the court's civil jurisdiction, approximately 80% of defended civil claims are finalised within six months. Between 2006-07 and 2010-11, there was a 22.6% reduction in the number of defended claims pending.

Whilst the court has faced substantive pressures as a result of increasing caseloads, it has maintained high levels of efficiency. However, to effectively respond to annual increases in the workload and other demands, the court requires appropriate increases in resources. Matters before the court are multiplying in quantity and complexity. It is essential that the court is provided with funding and resources needed to effectively and efficiently meet the current range of demands and challenges.

#### Sexual Assault Reform Strategy

The Sexual Assault Reform Strategy (SARS) 'Final Evaluation Report', released in April 2011, was prepared by Success Works for the Department of Justice. The SARS report independently evaluated the performance of the Magistrates' Court in its sexual offences jurisdiction, with favourable results. The evaluation concluded that the court's Sexual Offences List improved efficiency in case preparation, and conduct of hearings. Significantly, the SARS report also highlighted the beginning of cultural change, with sexual assault victims reporting improved experiences in the courts and justice system. The SARS report canvassed broader policy issues and concluded with recommendations for future reform. If strategic reform is to be implemented in this specialist area of the court's work, the Magistrates' Court would require increased funding and resources to achieve the objectives.



#### Case Management Reform

The court has been proactive in its efforts to modernise and streamline case management processes.

In particular, the court has implemented 'Sessional Listings' reform. The modernisation of the sessional listing structure in the court will create more flexibility, utilise courtrooms more effectively, enable more productive use of court time, reduce delays, allow the court to control listings through identification of appropriate matters, enable more use of judicial registrars, and allow allocation of vacant sessions for Victorian Civil and Administrative Tribunal (VCAT) and other matters.

From late 2010, sessional listings were progressively rolled out. The new model was introduced in the Geelong Magistrates' Court in early 2011. The results from the Geelong court are positive, with more consistency in court times, reduced numbers of adjournments and increases in case finalisations.

The Melbourne Magistrates' Court is undergoing reform in three incremental stages. The first phase, applicable from 6 June 2011, introduced a new sessional listing time of 9.30am. The court will transition through the remaining phases from early July 2011 onwards.

#### **Funding and Resources**

The court continues to be extremely busy, as is evident in the cumulative statistics for the court's last five reporting years to date. Contributing to these annual increases are variable external factors that affect the court's work, such as legislative changes and broadening of the court's jurisdiction.

The court efficiently manages an ever-increasing and demanding caseload. With the advent of the Courts Executive Service (CES – see below) there is a need for recognition of a revision and increase of the court's baseline funding.

As I have stated in previous reports, I believe the court is, and has been, under-resourced for some years. The court needs firm commitment and support from government for much-needed infrastructure upgrades, maintenance of core business efficiency in the face of rising demand, initiatives to further modernise the court and other key operational and service requirements.

In previous annual reports, I have expressed my concerns regarding sub-standard infrastructure and the need for capital investment in certain regional Magistrates' Courts. These issues remain pressing. For example, the court buildings in the regional headquarters of Shepparton, Dandenong and Wangaratta require urgent upgrades. Inadequate facilities create difficulties for all involved in the court process. The regional courts are responsible for dealing with substantial numbers of cases in their areas. If courthouses and courtrooms remain at inadequate standards, the administration of justice in these regions can be compromised. In this context I note that the government is paying serious attention to the most critical of these infrastructure issues - in particular, the Shepparton Courthouse, and I welcome that change.

#### **Courts Executive Service**

Before the last election the opposition parties announced their intention to reform court administration in Victoria. They proposed a new Courts Executive Service (CES). On assuming government, this proposal has become policy and substantial work done to implement that policy

The new CES will be a separate administrative body responsible to a board and incorporating overall responsibility for the administration of courts and a shared services entity to be known as the CES. All heads of jurisdiction have been intensively involved in the steering committee process and very substantial progress has been made. This reform will sever the administration of courts from executive government – a long-awaited reform in this state. I welcome the government's initiative on this issue and look forward to the advent of the new administrative model, one of the features of which will be that courts will have greater autonomy and appropriate control over their own budgets.

#### Proposed Judicial Complaints Commission Bill

The Bill provides for, amongst other things, the potential removal of Victorian judicial officers on the ground of proven incapacity. The Bill has many positive features and sets up a number of appropriate processes and procedures for handling judicial complaints. However, Victorian magistrates are acutely concerned about the absence in Victoria of an scheme of financial support for magistrates who may have to be removed, or who may have to retire, on the grounds of incapacity, and in the absence of any scheme of support along the same lines as that available to Victorian judges.

The magistrates have asked the government to urgently consider developing a policy framework and legislation, which would serve to provide a system for their financial support in the case of early retirement or removal on the grounds of physical or mental incapacity. There remains an opportunity for significant structural reform of the superannuation entitlement for Victorian magistrates, and it is noted that the current 9% employer contribution compares unfavourably with the 15.4% paid to federal magistrates

#### **International Perspectives**

Since the creation of the 'International Framework for Court Excellence' ('the framework') by the International Consortium for Court Excellence in September 2008, I have reported on the implementation of the framework in the Magistrates' Court. The framework is a significant judicial and administrative evaluation tool, developed using rigorous research on court performance around the world. The concepts and values encapsulated in the framework are compatible with, and applicable in, all judicial environments. The framework is extremely useful as it provides universal qualitative benchmarks to guide courts in their work.

Initially adopted by the Magistrates' Court in September 2009, the framework has since been integrated into the court's policy and operational spheres. The court is using the framework for assessment purposes, and between April and July 2010, a group of 50 magistrates and senior court administrators completed the self-assessment guidelines outlined in the frameworks. These ongoing exercises will assist the court ascertain its baseline assessments, which can then be used to measure future progress and strategic development.

In terms of further engagement on an international level, I recently participated in the *European and International Courts Executive Research Tour* in Dusseldorf-Berlin on 24 May 2011. I presented a seminar on the specialist jurisdictions of the Magistrates' Court; and it was a privilege to deliver information about the court's problem-solving programs to an international audience. Many magistrates engage each year in collaboration with fellow judicial officers from interstate and internationally and I intend to continue supporting these professionally enriching experiences.



#### Integrating Court Programs (ICP) Project

The Magistrates' Court has continued to contribute to the 'Next Generation Courts' (NGC) project, as outlined in previous reports. The principles of the NGC model have since evolved into the 'Integrating Courts Programs' (ICP) project. The ICP project seeks to unify specialist courts into a comprehensive model, and increasingly integrate problem-solving methodology into the court system across Victoria.

# Therapeutic Jurisprudence and Problem Solving Approaches

Over the years, various legislative instruments have amended the *Magistrates' Court Act 1989* to incorporate specialist jurisdictions into Victorian law.

The Koori Court, Court Referral and Evaluation for Drug Intervention and Treatment Program (CREDIT)/Bail Support Program, CISP, NJC, Drug Court, Assessment and Referral Court (ARC) List, Sexual Offences List, Criminal Justice Diversion Program, Family Violence Courts and Services, Mental Health Court Liaison Service and Enforcement Review Program comprise the court's problem-solving framework.

Specialist courts are conduits for the use of law as a therapeutic agent. A problem-solving methodology applied to bail and sentencing, is core business these days for modern summary courts.

#### **Community Information and Engagement**

#### Law Week

Law Week is an annual event presented by the Victoria Law Foundation in conjunction with courts, tribunals and key stakeholders. This year, Law Week was a more ambitious undertaking than previous events. There was an increase in the scope, frequency and duration of activities offered by participating courts and tribunals. The Magistrates' Court once again was pleased to volunteer its courtrooms, judicial and court staff for Law Week activities

The Melbourne Magistrates' Court opened its doors to the public for Law Week's '*Courts Open Day*' on Saturday 21 May. This year saw Open Day activities span an entire day, as opposed to previous half-day events. The court organised and hosted various activities, including a secondary school poster competition award presented by Deputy Chief Magistrate Jelena Popovic, tours of the court's family violence services, guided court and registry tours, mock criminal hearings with sitting magistrates, CISP information sessions, and road safety forums. In addition, the court hosted stalls run by justice agencies, key stakeholders, and community legal centres.

On Open Day, the public were able to see how the court works, meet magistrates and court staff, and be informed about the many services that the court and its stakeholder agencies offer. I wish to especially thank Melissa Biram, Manager of Magistrates' Support Services, and Georgia Rochester, Court Advice Officer, for their hard work and dedication in coordinating this event.

#### **Engagement with Students**

The court is proud of our commitment to engaging with school students through our '*Schools Program*'. The program involves magistrates and registrars giving presentations to secondary school students about the court and the justice system.

Magistrates also dedicated their time to mentoring La Trobe University students in the 'Judicial Mentoring Program'. University students are given first-hand experience of the justice system under the tutelage of judicial officers, and exposure to legal theory and principles in practice. This program also offers the court the opportunity to further engage with, and reach out to, students around Victoria.

The Magistrates' Court has also offered its courtrooms, and magistrates have volunteered their time, for various mooting competitions.

This year, the court has committed to collaborating with educational institutions to facilitate ongoing dialogue with members of the public, and students, across Victoria. A number of magistrates, myself included, have formal relationships with the faculties of law in our universities and these support this collaborative effort.

#### **Engagement in Regional Communities**

The role of the court in regional Victoria is extremely important. The public pays daily attention to regional courts and sentencing decisions in these courts are given, proportionally, greater publicity than those in Melbourne and the suburbs.

The Magistrates' Court continues to engage with suburban and regional communities, with courts located around Victoria providing important platforms for outreach. School groups regularly visit regional courts. Court user forums and public information sessions continue to take place across the state. Taken together, these various activities build community confidence, make the justice system for transparent and connect the court to the community. Youth initiatives in regional areas include the Latrobe Valley diversion programs focusing on road traffic and 'hoon driving' issues, the '*Cool Heads*' program for young drivers in the Hume region, and Sunshine's road safety, Alfred Hospital and '*Pathways to the Future*' programs. These initiatives are directed towards the education and engagement of youth in regional areas.

Mediation in certain matters (for example, neighbourhood disputes) is available at various suburban and regional courts, in collaboration with the Dispute Settlement Centre of Victoria.

#### **Professional Engagements**

Magistrates make important contributions to public debate on issues relevant to the work of the court and again this year I have had the opportunity to do so on a number of occasions. These events allow me and other magistrates, the opportunity to engage in professional dialogue with numerous peak body and stakeholder organisations, and to provide updates about the court's work.

In July 2010, I presented a seminar for the Law Institute of Victoria on 'Criminal Law Practice and Procedure in the Magistrates' Court of Victoria'; and in February 2011, addressed the *Road Trauma Support Services Annual Conference* on the issue of the court's diversion services, and presented a paper on 'Alcohol and Drugs: Diversion, Courts, Prisons – A System in Transition' to the *Victorian Alcohol and Drug Association Conference*.



#### **Internal Committees**

I wish to thank all magistrates for their work on, and contributions to, the court's various committees.

#### **Professional Development**

The Judicial College of Victoria (JCV) Board met on 24 March 2011 to discuss the recommendations in the National Judicial College of Australia (NJCA) '*Review* of the National Standard for Professional Development'. The heads of jurisdiction, and the JCV Board, committed to upholding the five-day national standard for judicial professional development and education. The implication of this commitment is a need to ensure judicial resources are maintained, both as to numbers and timing of appointments, to prevent delay resulting from the commitment to five days.

The court continues to collaborate with the JCV for continual professional development purposes. The JCV continue to provide high quality seminars and programs to judicial officers in Victoria. As the JCV is cross-jurisdictional in scope, it has been necessary for the Magistrates' Court to supplement the JCV's work with its own in-house programs. Over the past year, the court has coordinated jurisdiction-specific professional development days in the areas of indigenous and Koori justice issues, civil and crime. I thank the magistrates and committee members for their contributions to, and coordination of, the court's professional development program.

A new in-house court resource, the '*Court Companion*' was launced in 2011. I would like to thank supervising Magistrate Charlie Rozencwajg, Magistrates Fiona Stewart and Suzie Cameron, and our legal researcher, for their work in the development and ultimate publication of the '*Court Companion*',

#### **Retirements and Appointments**

During the reporting period the court saw the retirement of Magistrates Susan Blashki, Roger Franich, Maurice Gurvich, Peter Power and Frank Jones (on 1 July 2011). I thank each of these very experienced magistrates for their years of service, commitment and dedication to the court and the office of magistrate and wish them well in their retirements. I welcome back Peter Power who was appointed as an acting magistrate shortly following his retirement in February.

During the reporting period the court saw the appointment of five new magistrates. It is with pleasure I welcome Magistrates Ann McGarvie, Ian Watkins, Andrew McKenna and Jan Maclean to the jurisdiction. I also welcome the appointment of former Acting Magistrate Stella Stuthridge to the office of magistrate. The court also saw the appointment of a new acting magistrate in September 2010 and I welcome Gail Hubble in this capacity.

I wish to acknowledge and welcome the appointments of Darrin Cain and Patrick Southey, who both joined the court just outside of the 2010-11 reporting period. Darrin has commenced at the Melbourne Children's Court, while Patrick is currently based at the Melbourne Magistrates' Court.

In addition to the appointment of retired magistrate Peter Power as an acting magistrate, in the new reporting year we have also welcomed the return of former magistrates Tom Hassard and Peter White as acting magistrates.

Finally, I wish to welcome Ms Ruth Andrew who was appointed as the court's sixth judicial registrar in February.

#### Acknowledgments

I wish to thank all of the magistrates, judicial registrars and court staff for their dedication and enthusiasm over this past year. I would like to especially thank the Deputy Chief Magistrates, State Coordinating Magistrate, Regional Coordinating Magistrates and Supervising Magistrates for their exceptional leadership and contributions to the court.

I also wish to thank the Magistrates' Support Services team led by Manager, Melissa Biram. The team is comprised of Court Librarian, Libby Gray, Assistant to the State Coordinating Magistrate, Sharon Hughes, and Legal Researchers, Aranea Carstairs and Lisa Lee. I particularly wish to thank my Executive Assistant, Nola Los, for all her hard work and commitment throughout the year.

I thank the court's Chief Executive Officer, Charlotte Stockwell, for her leadership in court administration and continued support. Thanks also to Graham Hill, Executive Director, Courts, for his advice and assistance.

# Report of the Chief Executive Officer



"The court's caseload has continued to increase to record levels in the past financial year."

# Report of the Chief Executive Officer

I am pleased to present the 2010-11 annual report, and reflect on yet another busy and challenging year for the Magistrates' Court of Victoria.

The past year has been an incredibly busy one for the administration of the court. The court has continued to respond to a large amount of legislative reform across various jurisdictions. This reform resulted in significant changes to our practices and procedures along with major modifications to our ageing case management system. I note that as the court has been implementing changes, staff continued to demonstrate their willingness to bear the burden of an increased workload across many areas of the court. Whilst this is an admirable quality in our staff it is not something that the court can continue to rely on. I am extremely proud of the work of all our court staff, in ensuring court users and the wider community are guided through legislative change with minimal disruption to the operations of the court.

The court continues to deliver a first class service whilst facing sustained budget pressures. With ageing infrastructure and increased demand for interpreting services across many venues of the court, work is being conducted to identify possible areas for savings but this is a challenging issue to manage as many of the cost pressures are outside the court's control.

#### **Court Performance**

The court has been confronted with significant increases in caseload this year. In spite of the increased workload, budget and infrastructure pressures, the court's backlog of cases has continued to decrease. The number of criminal and civil matters pending has decreased approximately 11% and 23% respectively since 2006-07. The year-end criminal backlog level reduced to 30,345, which is the lowest level as at 30 June since 2007. All regions in Victoria recorded criminal clearance rates above target in 2010-11.

Once again the family violence jurisdiction has continued to grow dramatically. The number of interim intervention orders made has increased by 55.8% and final intervention orders by 33.2% since 2006-07.

#### **CISP** Audit

The Court Integrated Services Program (CISP) was the subject of an audit by the Victorian Auditor General during the past financial year. The report tabled by the Auditor General highlighted the excellent project management structure that is currently in place for the CISP within the court. This is a fantastic endorsement of the hard work that has been, and continues to be done, in this area. The CISP also received a further four years of funding to ensure that the program is able to continue to deliver services at its current level. This is a recognition of not only the excellent value of the CISP but also the quality of court staff in managing the program.



#### Infrastructure

I commend our staff for their perseverance at a time when much of our infrastructure is in need of regular and sometimes urgent maintenance. This fact does not make coping with an increased workload any easier. Particularly urgent areas of concern have arisen at the Shepparton and Wangaratta courts and work continues with the Department of Justice to find suitable short and long term solutions. I hope that relief for staff and court users will be found in the near future.

Various locations of the court were affected during the flooding that affected much of Victoria. The flooding affected access to whole towns such as Kerang, while the heavy rain also caused damage to many of the courts across the state. These conditions created considerable challenges for the court and I am proud to say that our staff worked extremely hard to ensure that any disruptions were kept to a minimum.

#### Innovation

The court continues be innovative in the use of new technology. The 'Access Court' project continues to be developed, which will allow the court to provide service to court users at a greater number of regional locations. The court is also developing an e-learning program that will provide an informative and interactive method for the training of all staff across the state. It is encouraging to see the innovative talents of our staff producing real results for the court. I look forward to seeing future innovation continue to allow further steps to be taken in increasing the use of technology and its application in a legal environment.

The Organisational Change and Development team have this year developed and commenced piloting the 'Enable' program. This program will provide court staff with leadership and management training and is aimed at staff in VPS Grade 3-6. By strengthening our leaderships skills there will be a flow on effect to the quality of service that we are able to offer all court users. This is an exciting and challenging program that has received highly positive feedback from initial participants.

#### **Courts Executive Service**

A change in government always brings fresh challenges, and with the new government committing to the establishment of an independent Courts Executive Service, the court has commenced planning for this historic change in earnest. While it is not anticipated that the change will have an impact on the day-today operations of the court, there are significant changes that will take place behind the scenes to our administration. Significant work will continue into next year to enable a smooth transition to the new structure.

#### Acknowledgements

I wish to thank a number of people for their hard work and contribution to the court over the last year. These are the people who make it possible for the court to be innovative, to continually reform and to respond to community needs.

I would like to thank the Chief Magistrate, Ian Gray, and the magistracy for their continued support and willingness to embrace significant reforms.

Thank you also to Graham Hill, Executive Director, Courts, Callum Ingram, Director, Courts and Tribunals Unit and their staff, for their continued assistance and support. I would also particularly like to express my gratitude to John Griffin, who this year retired as Executive Director, Courts, for his invaluable encouragement, support and guidance throughout my time as CEO of the Magistrates' Court.

Finally, I wish to thank my personal staff, the court's Executive Group, and all staff across our venues for their unfailing commitment and dedication to the Magistrates' Court throughout the year.



# Our Court

The Magistrates' Court of Victoria was established under section 4 of the *Magistrates' Court Act* ('the Act') *1989*. The court sits at 54 metropolitan and regional locations and, as at 30 June 2011, comprised of 111 magistrates, 11 acting magistrates and six judicial registrars.

The magistracy is supported by registrars and support staff, including staff working in the Children's Court and the Victims of Crime Assistance Tribunal.

The court exercises a varied, substantial and extensive jurisdiction, which continues to evolve and grow.

Pursuant to section 15(3) of the Act, the magistrates must report annually to the Governor of Victoria on the operation of the court.

#### **Our Jurisdictions**

#### **Criminal Jurisdiction**

The court has jurisdiction to determine and impose sentences for summary offences and a wide range of indictable offences. Where the court does not have jurisdiction to deal with indictable charges, it conducts committal proceedings to determine if there is sufficient evidence for the accused to be committed to stand trial at the Supreme Court or County Court.

#### **Civil Jurisdiction**

The court has jurisdiction to hear and determine claims up to \$100,000. In addition, the court has jurisdiction to hear claims for equitable relief, such as applications for injunctions or for the return of property, or to prevent disposal or dissipation of assets.

#### WorkCover

The court deals with a number of proceedings under the Accident Compensation Act 1985 and the Workers Compensation Act 1958.

#### Industrial Division

The Industrial Division of the court deals with disputes between employees and employers over employee entitlements, whether those entitlements arise under a contract of employment, an industrial instrument, the *Fair Work Act 2009(Cth)*, the *Long Service Leave Act 1993*, the *Public Holidays Act 1993* or the *Outworkers (Improved Protection) Act 2003*.

#### Family Violence and Family Law Jurisdiction

The court has jurisdiction to hear and determine applications for intervention orders to protect family members from family violence under the *Family Violence Protection Act 2008*. The court also hears and determines applications relating to stalking under the *Stalking Intervention Orders Act 2008*. Under both these acts the court can make interim orders in urgent cases. In addition, the court has jurisdiction to deal with some family law cases under the *Family Law Act 1975 (Cth)*, the *Child Support (Assessment) Act 1989 (Cth)* and the *Marriage Act 1961 (Cth)*.



#### **Municipal Electoral Tribunal**

The tribunal hears disputes arising from Victorian local government elections, pursuant to the *Local Government Act 1989*.

#### Victims of Crime Assistance Tribunal

The tribunal provides financial assistance to help victims of crime recover from the physical or mental injuries suffered by them as a result of an act of violence, pursuant to the Victims of *Crime Assistance Act 1996*. All magistrates sit as members of the tribunal.

For more information, please refer to the annual report of the Victims of Crime Assistance Tribunal.

#### Children's Court

The Children's Court of Victoria was established by the *Children and Young Persons Act 1989* (repealed) and is continued by the *Children, Youth and Families Act 2005*. It is a court with two divisions that deals with matters relating to children and young people. One division deals with protection and family law matters and the other division deals with criminal charges against children and young people. All magistrates sit in the Children's Court in locations across Victoria, including a dedicated Children's Court in Melbourne.

For more information, please refer to the annual report of the Children's Court of Victoria.

#### **Coroners Court of Victoria**

Coroners investigate reportable deaths and fire, as set out in the *Coroners Act 2008* and hold inquests where appropriate. In addition, coroners make recommendations regarding public health and safety to assist in reducing the incidence of preventable death and injury within the community. All magistrates are appointed as coroners and do coronial work either at the Coroners Court of Victoria in Melbourne or at country Magistrates' Courts.

For further information, please refer to the annual report of the Coroners Court of Victoria.

#### **Our Services**

#### Registries

The court's registries exist as an integral part of the efficient administration of the court. Every court venue has a registry, predominantly staffed by court registrars.

Court registries are locations where you can attend to pay fines or make arrangements for payment plans or extensions; list applications for a variety of matters such as to have a case reheard or to get your licence back after a drink-driving offence, seek an adjournment of a hearing and get procedural guidance and information about the range of services available from court staff.

Some of things court staff can assist with include:

- provide information on court procedures and processes
- give general information about relevant legislation and court rules
- provide you with court forms or brochures or refer you to the court's website
- refer you to the duty solicitor at court or give you information about legal services in the community that may be able to assist you with legal advice
- advise you about appropriate support services, such as the family violence outreach support workers, Court Network volunteers, Salvation Army or Victims of Crime Helpline.

Court staff cannot provide legal advice.

#### After-Hours Service

The court provides the services of a magistrate and registrar between the hours of 5.00pm and 9.00am on weekdays, and 24 hours on weekends and public holidays. This service deals with urgent applications by police officers that require consideration outside normal court hours, including applications for search warrants and applications for intervention orders.



#### **Court Support and Diversion Services**

The court offers and participates in a variety of services and programs to improve its responsiveness to the community when they attend court. These initiatives support the objectives of the court and provide improved understanding and communications with other courts, the government, court users and the general public. In addition, the support services aim to assist those accused who may present with issues of social or cultural disadvantage. These underlying issues may include having a disability, substance abuse or mental illness, all of which the court aims to address and cater for by offering continually evolving support programs to meet the varying needs of those who require them.

A number of the programs refer court users to various services in the community for treatment and support, while being monitored by the court. Such programs act to reinforce the link between the court and the community and its service system.

A number of the programs refer court users to various services in the community for treatment and support, while being monitored by the court. Such programs act to reinforce the link between the court and the community and its service system.

The support programs offered by the Magistrates' Court can also, in many cases, continue to provide assistance in the higher courts such as the County Court and the Court of Appeal.

#### Specialist Courts and Lists

There are a number of specialist courts and lists within the Magistrates' Court. Their purpose is to improve outcomes for persons presenting at the court as well as for the community. The participants in these courts generally present with one or more underlying issues including social or cultural disadvantage, mental health, disability or substance abuse.

Specialist courts are also a response to the revolving door nature of crime and punishment and, as such, are an attempt to address the pre-existing issues that may have led to offending or other anti-social behaviour.

The specialist courts within the court are generally less formal and more flexible than a traditional Magistrates' Court, and are designed to make the participants more comfortable, therefore encouraging greater compliance and responsiveness to the court orders that are imposed. A specialist court attempts to take a more individualised and service-focussed approach to the sentencing of special needs groups and provides a more realistic method of justice for these groups.

#### **Our Magistrates**

#### Magistrates

Magistrates are appointed by the Governor in Council pursuant to section 7 of the *Magistrates' Court of Victoria Act 1986*. As at 30 June 2011, there were 111 magistrates allocated to the 54 locations of the court.

#### Acting Magistrates

Acting magistrates are appointed pursuant to section 9 of the *Magistrates' Court Act 1986*, and hold office for a period of five years or until reaching retirement age. Whilst the appointment is made by the Governor in Council, the Attorney-General may give notice in writing requiring the acting magistrate to sit on either a full time or sessional basis. Usually such notice is for a period of 12 months.

As at 30 June 2011, there were 11 acting magistrates, eight of which were retired magistrates. Generally, acting magistrates are used to address peak workloads of the court, and also to cover periods of extended leave.

#### Structure

#### Chief Magistrate

Chief Magistrate Ian Gray is the head of the court and our senior judicial officer.

The Chief Magistrate is responsible for:

- assigning duties for magistrates
- calling and chairing meetings of the Council of Magistrates (the 'council')
- making Rules of Court in consultation with Deputy Chief Magistrates
- issuing practice directions
- performing statutory functions.



#### **Deputy Chief Magistrates**

There are currently five Deputy Chief Magistrates appointed to the court. They are:

- Deputy Chief Magistrate Dan Muling
- Deputy Chief Magistrate Jelena Popovic
- Deputy Chief Magistrate Peter Lauritsen
- Deputy Chief Magistrate Felicity Broughton
- Deputy Chief Magistrate Lance Martin

The roles and areas of responsibility of a Deputy Chief Magistrate include:

- assisting the Chief Magistrate as requested or assigned by the Chief Magistrate
- in the absence of the Chief Magistrate, the senior Deputy Chief Magistrate shall act as the Chief Magistrate
- acting within allocated areas of responsibility
- exercising delegated powers in consultation with the Chief Magistrate
- acting as a member of the Management Committee of the court.

#### **Regional Coordinating Magistrates**

The Chief Magistrate appoints a Regional Coordinating Magistrate in each region for a period of three years.

During the reporting period, the Regional Coordinating Magistrates (RCM) were:

- Barwon South West Region
   Magistrate Ronald Saines
- Broadmeadows Region
   Magistrate Robert Kumar
- Dandenong Region Magistrate Lesley Fleming
- Frankston Region Magistrate Ross Betts
- Gippsland Region
   Magistrate Clive Alsop
- Grampians Region
   Magistrate Peter Couzens (from 1 January 2011)
   Magistrate Kay Robertson (to 31 December 2010)

- Heidelberg Region Magistrate Susan Wakeling (from 1 January 2011) Magistrate Jillian Crowe (to 31 December 2010)
- Hume Region
   Magistrate Paul Smith (from 1 January 2011)
   Magistrate Gerard Bryant (to 31 December 2010)
- Loddon Mallee Region
   Magistrate William Gibb
- Neighbourhood Justice Centre
   Magistrate David Fanning
- Ringwood Region
   Magistrate Nunzio La Rosa
- Sunshine Region
   Magistrate Noreen Toohey

The role of Regional Coordinating Magistrates is to:

- allocate magistrates to hear cases in their region
- supervise the disposition of cases in their region
- report regularly to the Chief Magistrate on the operation of their region
- consult with the senior registrar of the region
- develop and implement initiatives and strategies in accordance with council policy

During the 2010-11 period, the Regional Coordinating Magistrates met on 16 July 2010, 12 November 2010, 8 April 2011 and 17 June 2011.

#### Supervising Magistrates

Supervising Magistrates are appointed by the Chief Magistrate for a term of three years to assume responsibility for key areas of the court.

During the reporting period, the Supervising Magistrates were:

- Criminal jurisdiction Magistrate Charlie Rozencwajg
- Civil jurisdiction Deputy Chief Magistrate
   Peter Lauritsen
- Family Violence and Family Law jurisdiction Magistrate Catherine Lamble
- the Victims of Crime Assistance Tribunal Magistrates Amanda Chambers, Andrew Capell (from 1 January 2011) and Magistrate Susan Wakeling (to 31 December 2010)

- the *Sexual Offences List* Deputy Chief Magistrate Felicity Broughton
- the *Koori Court* Deputy Chief Magistrate Jelena Popovic
- Court Support Services and Specialist Programs Deputy Chief Magistrate Jelena Popovic
- Information Technology Deputy Chief Magistrate Dan Muling
- other areas of responsibility as the council determines.

The role of the Supervising Magistrate is to liaise with the magistracy, the administrative staff and the community. Supervising Magistrates also develop protocols, rules and practice directions to be recommended to the Chief Magistrate for implementation, and ensure the dissemination of legislative and procedural changes in the relevant jurisdiction.

#### State Coordinating Magistrate

The Chief Magistrate appoints a State Coordinating Magistrate for a period of three years.

This role is presently held by Deputy Chief Magistrate Lance Martin.

The role and functions of the State Coordinating Magistrate include:

- day-to-day coordination and allocation of magistrates and acting magistrates
- granting and recording of judicial leave entitlements
- developing, implementing and reviewing listing protocols and practices in conjunction with the Chief Magistrate, State Coordinating Registrar and the Chief Executive Officer
- liaising with Regional Coordinating Magistrates, the State Coordinating Registrar and registrars on a statewide basis
- setting of court sitting dates, conferences and meetings in consultation with the Chief Magistrate
- acting as a member of the Management Committee of the court.

#### Operation

#### Council of Magistrates

A council of the permanent magistrates must meet at least once in each year on a day or days fixed by the Chief Magistrate to:

- consider the operation of the Magistrates' Court Act 1989 and the rules
- consider the workings of the officers of the court and the arrangements relating to the duties of court officials
- inquire into and examine any defects that appear to exist in the system of procedure or administration of the law in the court.

During 2010-11 reporting period the Council of Magistrates met on 30 July 2011, 26 November 2010 and 29 April 2011.

#### Executive Committee

The Executive Committee is an annually-elected committee of magistrates chaired by the Chief Magistrate, who represent the Council of Magistrates. Members meet monthly to deal with matters of policy and report to the Council.

#### Jurisdictional Committees

The court has established committees for each jurisdiction of the court. A Supervising Magistrate heads each committee and reports to the Chief Magistrate about the work of their respective committee. Minutes of all committee meetings are circulated to all magistrates.

In this report, the section 'Internal Committees' provides further details on the structure and activities of each of the committees during the reporting period.



#### **Our Judicial Registrars**

Judicial registrars are independent judicial decision makers appointed by the Governor in Council to assist the Magistrates' Court in disposing of a variety of matters that come within the court's criminal and civil jurisdictions. Judicial registrars exercise the powers and jurisdictions as delegated to them by the Chief Magistrate.

There are currently six judicial registrars appointed to the court. They sit at various court locations across the Melbourne metropolitan area as well as regional and rural court venues.

With a core group servicing the Melbourne Magistrates' Court, judicial registrars are now operating in the following regional based courts:

- Ballarat, Werribee, Sunshine and Geelong
- Dandenong, Frankston, Moorabbin and Latrobe Valley (with expansion to include Wonthaggi)
- Heidelberg, Broadmeadows and Shepparton.

#### Matters dealt with by Judicial Registrars

Judicial registrars have the powers to deal with a variety matters within the court's jurisdiction, including the following:

#### Criminal

- hear and determine licence restoration applications under the *Road Safety Act 1986*
- determine applications to remove alcohol interlock device
- all offences which can be dealt with by way of an infringement notice
- conduct the Infringements (PERIN) Court, which sits twice a week at Melbourne
- speeding offences
- certain traffic offences (such as use mobile phones, no "P" plates, fail to stop at stop sign)
- careless driving
- theft from shop (to the value of under \$600)
- wilful damage (to the value of under \$500)
- offensive or indecent behaviour
- parking offences
- Council prosecutions (such as dog attacks, parking offences, local law offences)
- Public Transport Act offences (such as no ticket, feet on seat, disorderly or abusive conduct).

Civil

- exercise the powers under the Magistrates' Court Civil Procedure Rules with some exceptions
- sit up to four times per week in the civil applications court (Court 28) at Melbourne Magistrates' Court and determine civil interlocutory and other applications
- hear and determine civil arbitrations where amount sought is less than \$5000.00
- re-hearing applications.

## Other Duties and Activities performed by Judicial Registrars

#### **Specialist Lists**

- hear and determine matters in the Special Circumstances List, which deals with offenders who suffer a mental or intellectual disability, are homeless or who have a serious addiction to drugs or alcohol
- sit on the Neighbourhood Justice Centre's monthly Special Circumstances List
- consider and determine applications to adjourn criminal proceedings to allow offenders to undertake the court's diversion program.

### Default and Interlocutory (Chamber) Orders – Returns of Search Warrants

Apart from their in-court work, judicial registrars deal with returns of search warrants as well as the majority of civil interlocutory applications, which may be disposed of in chambers. The turn-around time for these matters is usually within 24 hours

The total time spent on these duties (in Melbourne) from January 2010 to December 2010 amounted to 113 days freeing up sitting time for magistrates<sup>1</sup>.

#### Mediations

Judicial registrars conduct the mediations at Melbourne in the court's Industrial Division. Statistics indicate that in the period from June 2010 to May 2011, successful mediations have saved the court an estimated 60 days of sitting time

**Committees and Reviews** 

Judicial registrars are currently involved in the following committees and reviews:

- IMES Koori Strategy Steering Committee
  - Civil Rules Committee
- a committee providing feedback to the review of the *Road Safety Act 1986*

Judicial registrars have also provided:

- input into Monash University Research Project on the Victorian Infringements System
- service as guest speakers to Certificate IV students.

1. These statistics only relate to Melbourne and do not account for time spent on out-of-court work in regional and rural courts.



#### Our Staff

#### Structure

#### **Executive Group**

The court's Executive Group comprises of the:

- Chief Executive Officer
   Ms Charlotte Stockwell
- Principal Registrar, Manager Melbourne and Metropolitan Courts Ms Simone Shields
- Manager, Regional Courts
   Mr Peter McCann
- Manager, Specialist Courts and Court Support Services Mr Simon McDonald
- Manager, Corporate Services
   Mr Victor Yovanche
- Manager, Organisational Change & Development Mr James Christoffelsz
- Manager, Strategic and Business Planning Mr Chris Balfour

The Executive Group (EG) is a decision-making body, formed to effectively address the strategic, operational and political challenges associated with the operation of the Magistrates' Court of Victoria.

The EG is collectively accountable for the operational management of the court and the delivery of objectives contained in the current business plan, strategic plan, and directives from the Department of Justice. The EG is established to support the Chief Executive in effectively discharging his or her responsibilities as the accountable officer.

#### Senior Registrars

Senior registrars manage all court operations within a defined geographical region, and are responsible for providing leadership to all staff employed within the court complex and associated satellite courts within this region. This role ensures all legal, quasijudicial and administrative functions are provided in accordance with the various acts, rules and regulations across all relevant jurisdictions.

#### **Court Registrars**

Registrars of the Magistrates' Court perform a wide range of administrative tasks throughout the court's registries in Victoria. These may include:

- in-court (bench clerk) duties
- client contact (telephone and counter) enquiries
- back-of-office administrative responsibilities.

The role may be performed in a range of jurisdictional contexts, including civil, criminal, family violence, VoCAT, diversion, as well as the Children's and Coroner's Courts and other jurisdictions (VCAT, County and Supreme Courts) as required.

Registrars are also required to exercise powers conferred under the *Magistrates' Court Act 1989*, other acts and rules. These powers involve the preparation and processing of administrative and statutory documentation and the exercise of discretionary quasi-judicial and statutory powers, using professional judgement in applying legislative requirements, established rules and precedents, and the court's practice directions.

A significant function of registrars, deputy registrars and trainee registrars is to work with and assist magistrates in the operation and running of court hearings.

#### Coordinators/Listings Staff

Coordinating and listings staff are court registrars who perform listing and caseflow management duties.

Senior coordinating staff are responsible for supervising and assessing the day to day case workloads and listing practices and procedures of the court, while at the same time maintaining a strategic focus on future listings, resourcing and delays.

They are responsible for monitoring the performance outputs of the court in conjunction with the State Coordinating Magistrate, Regional Coordinating Magistrates and Senior Registrars.

#### Court Support and Diversion Services Staff

Staff in the court support services programs, such as CISP, CREDIT/Bail Support Program and the ARC List, are drawn from a range of health and welfare professions. Typically, they have qualifications and experience in psychology, social work, nursing, welfare, drug and alcohol or related disciplines.

They have diverse work histories, though most have worked in not-for-profit organisations or government programs prior to commencing employment with the court. They share in common a passion for providing assistance to those involved in the criminal justice system.

#### Administrative and Support Staff

The court has a strong network of experienced administrative and support staff who work in specific areas behind the scenes, such as:

- human resources
- information technology
- learning and development
- finance and administration
- contract and corporate management
- strategic planning
- security
- learning and development
- executive and judicial support
- specialist courts and services support
- project roles.

They are an integral part of the efficient running and day to day operations of the court, as well as in the forward planning and strategic direction of the organisation.

# 2010–11 The Year In Review



# Year at a Glance Statistics

CRIMINAL	2008-09	2009-10	2010-11
Cases initiated	167,359	160,444	166,791
Cases finalised	177,987	176,132	177,819
Criminal cases finalised within six months	88.7%	87.8%	88.8%
Cases pending as at 30 June	35,205	30,506	30,345
Criminal cases pending for more than twelve months as at 30 June	8.0%	8.4%	7.7%
Cases finalised at contest mention	9,405	7,521	4,101
Committal proceedings finalised <sup>2</sup>	2,767	2,834	2,953
Cases finalised at ex parte hearings	5,375	4,823	4,193
Appeals lodged against conviction or sentence	2,142	2,721	2,511
Licence restoration applications	12,584	12,838	12,870
Interlock removal applications	3,992	5,388	6,026
Infringement Court enforcement orders made	1,129,275	1,226,665	1,559,261

FAMILY LAW, INTERVENTION ORDERS AND AFTER HOURS	2008-09	2009-10	2010-11
Intervention orders initiated	28,635	30,303	32,921
Family violence intervention orders finalised <sup>3</sup>	23,986	25,911	28,141
Family violence interim orders made <sup>4</sup>	9,505	10,511	11,392
Stalking intervention orders finalised	7,333	7,733	8,344
Stalking interim orders made⁴	3,793	3,974	4,210
Applications for intervention orders received by After Hours Service	7,539	8,582	9,199
Family violence safety notices⁵	2,123	4,836	5,341
Total family law finalisations	1,495	1,591	1,376

2. Committal proceedings finalised includes those matters directed to stand trial and thos summarily finalised in the court.

3. The intervention order figures for 2010-11 are based on the total number of finalised family violence intervention order applications. In previous reports this figure has included matters finalised under the *Stalking Intervention Orders Act 2008*. Counting rules are based on slightly differing rules to that used for reporting the number of cases finalised for output reporting and Budget Paper #3 purposes.

4. Refers to number of intervention orders where at least one interim order was made.

5. Family Violence Safety Notices were introduced under the Family Violence Protection Act 2008, which commenced on 8 December 2008.



CIVIL	2008-09	2009-10	2010-11
Complaints issued or filed	69,259	65,617	59,202
Claims actioned <sup>6</sup>	46,154	45,762	41,796
Claims finalised <sup>7</sup>	45,326	44,926	40,696
Default orders made	38,128	37,444	34,133
Defended claims finalised, comprising:	7,198	7,482	6,563
Pre-hearing conference and mediation	2,656	2,481	2,189
Hearing	2,074	2,295	2,100
Arbitration	2,468	2,706	2,274
Defence notices filed (including WorkCover)	8,026	8,318	7,663
Up to \$10,000 claimed	4,676	4,839	4,209
More than \$10,000 claimed	3,350	3,479	3,454
Defended claims finalised within six months	82.8%	82.3%	79.2%
Defended claims pending as at 30 June	2,266	2,058	1,789
Defended claims pending for more than twelve months as at 30 June	9.0%	7.8%	9.7%

COURT SUPPORT AND DIVERSION SERVICES	2008-09	2009-10	2010-11
Referrals by Program			
Court Integrated Services Program (CISP)	2,218	2,137	2,137
Aboriginal Liaison Officer Program	165	213	174
CREDIT/Bail Support Program			
CREDIT	1,883	1,920	1,676
Bail Support Program	1,527	1,554	1,280
Criminal Justice Diversion Program	7,280	6,963	6,260
Matters Finalised/Heard			
Enforcement Review Program	1,507	1,412	1,762

6. 'Claims actioned' refers to the aggregate of defence notices filed (including WorkCover and default orders made).

7. 'Claims finalised' refers to the aggregate of default orders made and claims finalised at arbitration, open-hearing or pre hearing conference.

# Snapshot of 2010-11

#### General

#### CISP - VAGO

During the past year the Court Integrated Services Program (CISP) was the subject of an audit by the Victorian Auditor General's Office (VAGO). The audit focused on the program management and provided an excellent endorsement for the way in which the CISP is currently being managed by the court.

#### Legislative Reform

During the past year, the court has implemented a large amount of legislative reform across all its jurisdictions. Significant reforms have been implemented in the civil and criminal jurisdictions, with further major reforms continuing into next year.

Many of these reforms have, and will continue to increase the workload of the court often without additional resourcing being provided.

#### **Civil Reform Project**

Significant reforms were implemented this year affecting the civil jurisdiction of the court. The *Civil Procedure Act 2010* ('the Act') introduced new obligations on all litigating parties and gave the court powers to make orders where there was a contravention of those obligations.

The Magistrates' Court Civil Rules Committee also completed their alignment project to coincide with the commencement of the Act. New rules commenced on 1 January 2011, which aligned with the rules of the Supreme and County Courts. This has significantly expanded the rules of the court and made significant changes to the practices and procedures of the court.

Information and training materials were provided to staff and magistrates prior to the commencement of the legislation, and significant works were undertaken to ensure the Courtlink case management system had the capability to manage the changes.

#### Service and Execution of Process Amendment (Interstate Fine Enforcement) Act 2010 (Cth)

The commonwealth government introduced a new system of enforcement of fines between states which commenced in June. The new system allows fines to be registered at an interstate court or fine enforcement agency for enforcement in accordance with that states laws. This removes the necessity for warrants to be issued for fine defaulters and then sent interstate.

The court has taken steps to recall all outstanding enforcement warrants issued under the old legislation and is continuing to work on changes to the Courtlink case management system. Work also continues on implementing the new system and relevant changes to the court's practices and procedures.

#### Other reforms implemented this year include:

- New credit jurisdiction conferred on the court under the National Consumer Credit Protection Act 2009 (Cth)
- Amendments to the Bail Act 1977
- Implementation of the Justice Legislation Amendment Act 2010, which made changes to the court's powers in relation to Home Detention Orders
- Implementation of the *Severe Substance Dependence Treatment Act 2010* which provides a mechanism for persons to make applications to the court for detention and treatment orders
- Implementation of the Crimes Amendment (Bullying) Act 2011, which amended the definition of bullying in the Crimes Act 1958, the Family Violence Protection Act 2008, the Stalking Intervention Orders Act 2008 and the Personal Safety Intervention Orders Act 2010 (affecting both the criminal and intervention order proceedings)
- The Personal Safety Intervention Orders Act 2010 was passed, which will significantly reform nonfamily violence related intervention orders. This act is scheduled to commence in the next financial year. The court has been allocated resourcing for its implementation and has commenced significant works leading to its commencement.



#### Improved Service Delivery

#### Listing Reforms

Sessional listing times were introduced in early 2011. Sessional listings are designed to improve the efficiency of the court by reducing downtime. Sessional listings also allow the court to improve its control over court listings through the gathering of more case specific information by court coordinators.

The introduction of sessional listings provides for a more consistent and even spread of cases throughout hearing days in specific and appropriate lists. The creation of specific lists as part of the sessional listing reforms allows the court to maximise the amount of time judicial officers are utilised to hear cases.

Sessional listings have also assisted in allocating dedicated time out of court for judicial officers to consider Victims of Crime Assistance Tribunal cases, reading and research, and in regional areas, conduct coronial cases. To introduce these reforms, a large amount of consultation occurred between magistrates, judicial registrars, court staff and stakeholders such as Victoria Police and Victoria Legal Aid.

#### Electronic Filing Appearance System

The Electronic Filing Appearance System (EFAS) was introduced at Melbourne Magistrates' Court on 21 February 2011 and has now been rolled out statewide. The EFAS allows practitioners to make their appearance to the coordinator electronically, rather than attending at a counter. This allows the practitioner to go directly to the court room, and it also reduces the number of stakeholders that coordinators are required to interact with on a daily basis.

The filing of an appearance through EFAS provides the court with crucial case management information and assists the court in managing lists with increased efficiency.

#### Automatic Number Plate Recognition Project

The 'Automatic Number Plate Recognition' (ANPR) project commenced in the Magistrates' Court in October 2010.

ANPR technology is utilised by both Victoria Police and the Sheriff's Office. Victoria Police use this technology to detect unregistered vehicles and unlicensed drivers, while the Sheriff's Office uses the technology to detect vehicles with outstanding infringement warrants.

The ANPR project was established to develop and implement an alternative infringement management model within the Magistrates' Court of Victoria, to address the increase in infringement matters referred to the court due to ANPR technology.

The alternative infringement management model selected was the Magistrates' Court Infringement Support Unit (MCISU). The MCISU will commence on 4 July 2011 and operate as a pilot within the court for a period of two years. The unit will be evaluated 12 months after implementation.

The MCISU will centralise administrative processes, including the file management, coordination and listing of infringement matters statewide. The MCISU will assist with the increased number of infringement matters listed at the court due to automatic number plate recognition (ANPR) technology through this administrative support.

It is anticipated that the MCISU will achieve the following objectives:

- alleviate administrative pressure of infringements on court venues
- increase infringement process consistency within the Magistrates' Court
- increase service delivery to stakeholders
- monitor and address statewide infringement management issues.

The project has funded a judicial registrar, project officer and two trainee court registrar positions.



#### Frankston – Ticketing System

Frankston Magistrates' Court introduced an electronic ticketing system for people attending the court. The system is similar to those found in other government offices such as Medicare and VicRoads, and allows court users to wait in a seated area rather than standing in queues. The introduction of the system has reduced the number of people gathering around counters and increased privacy for court users.

All court users are required to take a ticket, and a registrar calls court users to the correct counter using an LCD touch screen and automated call over system. Counters have been re-named and colour coded, to allow ease of access and remove any stigmas attached with appearing at certain counters.

#### Awards and Milestones

#### Geelong Law Courts – 'Green Maker' Initiatives Award

Geelong Court was the recipient of an award from the Commissioner for Environmental Sustainability. Under the Department of Justice 'Green-maker' initiative a series of remediation works were undertaken at the court, achieving substantial environmental benefits as well as actual savings for the running of the court.

Geelong Court staff raised the idea of installing rainwater tanks to provide water for the toilet system in response to the years of water restrictions experienced in the Barwon region. The installation of the tanks was funded by the court. When they are full they hold 4,400 litres of water, providing approximately 44,889 flushes.

Along with this water saving initiative, Geelong Court also underwent an energy audit. The results of this audit prompted an upgrade to the Geelong Law Court's building automation and lighting system, along with the installation of energy efficient and sensor lighting throughout the complex.

This upgrade has reduced Geelong Law Court's power and utilities bills by 26%. As a result of this work the Geelong Court was recognised in the Victorian Premier's Sustainability Awards. Other courts in the region are also now being audited and assessed for similar changes.



#### Judicial Appointments and Retirements

Each year we welcome new magistrates and acting magistrates to the court, while farewelling others to retirement.

#### Appointments

#### Magistrates

Magistrate Stella Stuthridge

Appointed 28 September 2010

Magistrate Stuthridge was appointed as a full-time magistrate following an 18 month period where she was an acting magistrate. She is currently located in the Hume Region.

#### Magistrate Ann McGarvie

Appointed 28 September 2010

Magistrate McGarvie is currently based in the Barwon South West Region.

#### Magistrate lan Watkins

Appointed 2 February 2011

Magistrate Watkins is currently based at the Melbourne Magistrates' Court.

#### Magistrate Andrew McKenna

Appointed 17 May 2011

Magistrate McKenna is currently based at the Melbourne Magistrates' Court.

#### Magistrate Jan Maclean

Appointed 28 June 2011

Magistrate Maclean is currently based at the Melbourne Magistrates' Court.

The following magistrates were appointed just outside the reporting period, but the court wishes to acknowledge:

#### Magistrate Darrin Cain

Appointed 17 July 2011

Magistrate Cain is currently based at the Melbourne Children's Court.

#### Magistrate Patrick Southey

Appointed 3 August 2011

Magistrate Southey is currently based at the Melbourne Magistrates' Court.

#### Acting Magistrates

#### Acting Magistrate Gail Hubble

Appointed 28 September 2010

Acting Magistrate Hubble is currently based at the Sunshine Magistrates' Court.

#### Acting Magistrate Peter Power

Appointed 4 February 2011

Acting Magistrate Power is currently allocated to the Melbourne Children's Court, where he was based prior to his retirement as a magistrate.

The following acting magistrates were appointed just outside the reporting period, but the court wishes to acknowledge:

#### Acting Magistrate Tom Hassard

Appointed 19 July 2011

Acting Magistrate Hassard was previously a magistrate before retiring in November 2009.

#### Acting Magistrate Peter White

Appointed 19 July 2011

Acting Magistrate White was previously a magistrate before retiring in January 2010.

#### **Judicial Registrars**

Judicial Registrar Ruth Andrew

Appointed 2 February 2011

Judicial Registrar Andrew is currently based at Melbourne Magistrates' Court.

#### **Retirements**

Magistrate Susan Blashki Melbourne Children's Court Retired 8 April 2011

Magistrate Peter Power Melbourne Children's Court Retired 3 February 2011

Acting Magistrate Lionel Winton Smith Retired 7 January 2011

Magistrate Roger Franich Melbourne Magistrates' Court Retired 3 December 2010

Magistrate Maurice Gurvich Melbourne Magistrates' Court Retired 12 November 2010

The following magistrate retired just outside the reporting period, but the court wishes to acknowledge:

Magistrate Frank Jones Sunshine Magistrates' Court Retired 1 July 2011

# Committee Reports .

# Committee Reports

There is a very active jurisdictional committee structure within the court. These committees comprise individually of:

- magistrates
- magistrates and court staff
- magistrates, court staff and representatives from external agencies.

These committees support the work of the court across all jurisdictions, with magistrates, registrars and other participants devoting their time to this work over the year.

#### **Executive Committee**

Committee Chair: Chief Magistrate Ian Gray

**Members:** Deputy Chief Magistrate Lance Martin, Magistrates Donna Bakos, Sharon Cure, Phillip Goldberg, Anne Goldsbrough, Kate Hawkins, Fiona Hayes, Fiona Stewart and Susan Wakeling.

The Executive Committee was originally established in 2001 by the Council of Magistrates. Members of the committee are nominated and elected annually. The committee convenes on a monthly basis, and reports to the Council of Magistrates. The committee exercises responsibility for policy matters when the Council of Magistrates is not in session.

The wide range of issues generally covered by the committee include court infrastructure and resources, technology in courtrooms, judicial terms and conditions, judicial professional development, court governance, case management reforms, practice directions, court staff and human resources.

This reporting year, particular issues discussed by the committee include:

- professional development including the need for jurisdiction specific programs for magistrates, effective collaboration between the court and the Judicial College of Victoria (JCV), and maximisation of professional development opportunities
- court governance and the proposed Courts Executive Service (CES)
- sessional listings reform
- audio visual facilities in courtrooms
- judicial entitlements and assignments, and the Judicial Remuneration Tribunal (JRT)
- various internal court policies and guidelines.


# **Professional Development Committee**

**Committee Chair:** Magistrate Audrey Jamieson (to 31/12/2010); Magistrate Jennifer Bowles (from 1/1/2011)

**Members:** Chief Magistrate Ian Gray; Deputy Chief Magistrates Peter Lauritsen, Jelena Popovic; Magistrates Jennifer Bowles, Audrey Jamieson, Caitlin English, Fiona Hayes, Catherine Lamble, Michelle Hodgson, Annabel Hawkins (until 11/4/2011), Ann Collins (since 1/1/2011), Stella Stuthridge (since 11/4/2011) and Kay Robertson (since 3/5/2011).

The Professional Development Committee (PDC) of the Magistrates' Court is a committee of the Council of Magistrates, established to assist the Chief Magistrate to provide for the professional development and training of magistrates. The committee meets once per month.

Audrey Jamieson chaired the PDC as acting chair from 8 April 2008, and then as chair from 1 July 2008 to 31 December 2010. The committee acknowledged Audrey's commitment and dedication to professional development. In her capacity as chairperson, she worked tirelessly to promote the need for professional development and training to be a priority in the court. Her commitment extended to seeking to introduce formalised judicial mentoring within the court. She remains an active and enthusiastic member of the committee.

Annabel Hawkins resigned from the committee from 11 April 2011. The committee acknowledged Annabel's valuable contribution. She provided great assistance, in particular, ensuring that regard was had to the special interests and requirements of magistrates sitting in regional courts. The PDC acknowledged the administrative and organisational support provided by Nola Los, Lesma King and Melissa Biram. Their assistance has been invaluable and very much appreciated.

In addition to promoting ongoing professional development to assist magistrates in the discharge of their office, the committee liaises with the Judicial College of Victoria (JCV) in planning, promoting and delivering judicial education programs. A representative from the JCV, being Carly Schrever (Acting Director, Education) or Fiona Brice (Manager, Programs) attends and participates in the committee meetings and have assisted the PDC during the year.

The committee also provides assistance to the State Coordinating Magistrate in the professional development component of the Country Magistrates' Conference which was held on 19 and 20 August 2010 at the Bendigo Court Complex.

In addition, during the reporting period, Jennifer Bowles, Audrey Jamieson and Caitlin English met with Mr Bernard Teague, former Supreme Court Judge, regarding the introduction of a judicial mentoring program in the court. Mr Teague was awarded a Churchill Fellowship '*Towards Better Judicial Mentoring*'. The committee greatly appreciates the time, interest and knowledge imparted by His Honour. It is anticipated that a pilot program will commence during the next reporting period.

Throughout each reporting period, the PDC is responsible for the coordination and delivery of professional development conferences on a range of current, relevant and significant topics for the benefit of all magistrates. An overview of the conferences conducted during the 2010-11 reporting period, are detailed in the *Professional Development* section of this report.

# Terms and Conditions Committee

Committee Chair: Chief Magistrate lan Gray

**Members:** Magistrates Amanda Chambers, John Hardy, Gregory Levine, Richard Pithouse, Michael Smith and Acting Magistrate Francis Zemljak.

The Terms and Conditions Committee considers specific issues regarding the terms and conditions of magistrates. The committee deals with matters including conditions of judicial appointment, remuneration, entitlements, leave, superannuation, recognition of prior service, living away from home allowances, relocation expenses for magistrates in regional areas and disability entitlements.

The committee is also responsible for the formulation of proposals and submissions to relevant judicial authorities, such as the Judicial Remuneration Tribunal (JRT). Numerous submissions have been made by the committee relating to superannuation, leave and other issues.

Pursuant to the Judicial Remuneration Tribunal Act 1995, the JRT has prescribed powers to make recommendations to the Attorney-General. The JRT handed down its report entitled 'Judicial Allowances and Conditions of Service' in November 2010, and the JRT report was tabled before Parliament in March 2011. In June 2011, the Attorney-General accepted most of the tribunal's recommendations in whole or in part. The Attorney-General agreed to variations on the tribunal's recommendations regarding relocation expenses for magistrates in regional areas, living away from home allowances, recognition of prior service, and long service leave entitlement for the Chief Magistrate. There remains a very significant problem in relation to superannuation and disability/incapacity support for Victorian magistrates.

In the 2007-08 Annual Report I said:

"there are two aspects of the terms and conditions of magistrates which remain of significant concern. The first, and the one relevant to the issue of illness, is the absence of an appropriate modern disability coverage arrangement for long-term disability or illness ... The other issue is the need for development of a modern judicial superannuation scheme."

The court has promoted the modernisation of superannuation arrangements for magistrates, and highlighted the inadequacy and disparity of the present system. For example, magistrates are subject to different superannuation coverage depending on date of appointment, and generally inadequate coverage for disability and incapacity. Previous annual reports have cited independent actuarial evidence provided by accounting firm Mercers that support submissions for reform.

The committee notes that nothing has happened in response. There are pressing reasons for reform and magistrates will be looking to the new government to deal with this issue. In this context, I note that the representation of Australian magistrates to their respective state governments are being supported by the national representative body of Australian magistrates and judges, the Judicial Conference of Australia (JCA).



# **Civil Rules Committee**

**Chair:** Deputy Chief Magistrate and Supervising Magistrate Peter Lauritsen

**Members:** Magistrates Barry Braun, Franz Holzer and Brian Wright; Judicial Registrar Barry Johnstone; Deputy Registrar Mark Vendy; Solicitors, Robert White and John Dunne; Barristers, Frank Ravida and Justin Foster; Deputy Chief Parliamentary Counsel, Judith Middleton and Parliamentary Counsel, Christine Petering and Court Advice Officer, Legislation Alison Paton.

Simone Bingham resigned from the committee during the reporting period.

This committee comprises magistrates, judicial registrar, registrars, members of the legal profession and parliamentary counsel of the Office of the Chief Parliamentary Counsel. During the year, it met on 10 occasions.

Until 1 January 2011, the committee's work was focussed on the finalising the 2010 rules. After 1 January, the committee examined some changes needed to those sets of rules.

Resulting from its work, the following rules were made during the year:

- (a) Magistrates' Court General Civil Procedure Rules 2010;
- (b) Magistrates' Court (Miscellaneous Civil Proceedings) Rules 2010;
- (c) Magistrates' Court General Civil Procedure (Amendment No. 1) Rules 2010;
- (d) Magistrates' Court General Civil Procedure (Amendment No 2) Rules 2010.

The committee assisted in settling Practice Direction No 5 of 2010 dealing with the *Civil Procedure Act 2010*.

The court thanks the efforts of all members of the committee.

# **Dispute Resolution Committee**

Chair: Deputy Chief Magistrate Peter Lauritsen

**Members:** Magistrates Brian Wright and Franz Holzer; Principal Registrar, Simone Shields; Deputy Registrar, Mark Vendy; Marcel Alter; Carey Nichol; Robert Vial; Gina Ralston and Nerida Wallace.

Tanya Turner, one of the court's pre-hearing registrars, also attended the meetings during the year.

This committee comprises magistrates, the Principal Registrar, registrars and members of the legal profession with a particular interest in appropriate dispute resolution.

During the year, the committee has examined and formulated two initiatives in the way appropriate dispute resolution is conducted in the court:

- (a) early neutral evaluation; and
- (b) the single list of external mediators.

Both initiatives are described more fully in the *Civil Jurisdiction* section of this annual report under the heading 'Appropriate Dispute Resolution'.



# **Criminal Law Committee**

**Committee Chair:** Supervising Magistrate Charlie Rozencwajg

Members: Deputy Chief Magistrates Jelena Popovic and Dan Muling; Magistrates Gerard Lethbridge, Lesley Fleming, Sarah Dawes, Peter Reardon, Suzie Cameron, Fiona Stewart, Jack Vandersteen, Tom Barrett, Donna Bakos, Tony Parsons, Martin Grinberg, Sharon Cure; Joseph Walker (court administration representative) and Lisa Lee (research officer).

The Criminal Law Committee oversees the implementation of criminal justice in the Magistrates' Court of Victoria in all its contexts, be it substantive, procedural or administrative. The committee addresses many diverse issues, ranging from the preparation of court responses to proposed governmental draft legislation, to drafting content prescribed forms for, say, bail applications. To ensure effective implementation of its recommendations in key areas, the committee recognised the need to form a bridge with court administration represented by the Department of Justice. In late 2010, a member of the Office of the CEO of the Magistrates' Court was invited to join the committee to assist in the implementation of the committee's recommendations.

Since the commencement of the *Criminal Procedure Act 2009*, the committee has continued to oversee the efficient and effective implementation of the legislation in the summary criminal stream. Committee members also sit on the Summary Steering Committee, which is responsible for the continual assessment and refinement of these summary procedures. This process of refinement is ongoing and conducted in collaboration with Victoria Police prosecutors, Victoria Legal Aid and the Law Institute of Victoria.

Subsequent to the drafting of the Magistrates' Court Criminal Procedure Rules 2009, a standing sub-committee was formed to address issues necessitating the making of rules. This sub-committee is currently chaired by Magistrate Donna Bakos. The committee is currently coordinating the court's responses to the following topics, which are just a few of the issues under the committee's jurisdiction:

- a review of the *Bail Act 1977* undertaken by the Department of Justice
- the Attorney-General's reference to the Sentencing Advisory Council on mandatory sentencing for intentionally or recklessly causing serious injury
- proposals for legislative change to procedures regarding private criminal prosecutions
- the implications on the court's resources of proposed legislation introducing more intensive and broader Community Corrections Orders
- VicRoads review of the *Road Safety Act 1986*. A sub-committee was established, chaired by Magistrate Sharon Cure, to liaise and contribute to the review on behalf of the court
- the court's response to a proposal of the Chief Judge of the County Court for Early Plea Hunting.

This year, the committee has also produced a 'Court Companion' folder to assist and support magistrates across the state. The aim of the Court Companion is to provide magistrates with ready access to information and legislation on commonly occurring legal issues relevant to cases regularly heard in this court. The wide scope of topics covered in the Court Companion range from suppression orders, sentencing principles in state and federal jurisdictions, relevant tests for family violence and stalking intervention orders, interlock provisions under the Road Safety Act 1986 and various cautions to be given to self-represented accused restricting cross-examination of protected witnesses. The Court Companion folder has been distributed to all magistrates in electronic form, and hard copies made available on every bench statewide. I would like to thank Magistrates Suzie Cameron and Fiona Stewart, and Lisa Lee, for their work on this project.

The committee also makes recommendations to the Chief Magistrate to issue practice directions to the prosecution and legal profession. Such recommendations are necessary to ensure the implementation by the court of appropriate procedures, and to increase efficiency within the court's criminal streams. The committee recommended the implementation of a practice direction to ensure compatibility in the use of audio and visual material before the court, and to reduce the need for adjournments due to technical difficulties. Practice Direction 3 of 2011. Audio and Visual Standards for Material Presented in Court, took effect on 1 June 2011. Recently, the committee has recommended the rationalisation of various practice directions relating to bail applications. The committee prepared a draft practice direction for the making of bail applications, which communicates in clear terms the obligations of legal practitioners when filing bail related applications in the court. The draft practice direction also addressed the issue of forum shopping. Practice Direction 4 of 2011 titled Bail Related Applications in the Magistrates' Court commenced operation on 27 June 2011.

The committee has also drafted various forms for use within the court. The aim of such documentation is to promote uniformity and improved application of court processes. These forms have addressed issues such as bail applications, affidavits for the return of property on execution of search warrants, information sheets for witnesses explaining the choice between swearing an oath or making an affirmation before the court, and applications for gaol orders with relation to video-link appearances. Forms have also been drafted by the committee requiring the parties to identify alternative arrangements for witnesses, be it the need for interpreters or the remote witness facility; or the need to identify potential issues that could require the witnesses to receive private legal advice; for example, issues giving rise to sections 18 or 128 of the Evidence Act 2008. It is imperative that the court be made aware of the possibility of these matters arising in a particular case, so that it may give appropriate directions prior to the date of the hearing and ensure the case proceeds without delay.

As noted in the previous annual report, in November 2008 the court formed the Criminal Court Users Group. This group invited representation and participation from key agencies to promote consultation and communication with respect to the court's work. Currently, members of the Criminal Court Users Group include representatives from the Victoria Police prosecutions, Law Institute of Victoria, state OPP, commonwealth DPP, Criminal Bar Association, Forensic Science Laboratory, Victorian WorkCover Authority, Child Witness Service, Office of Corrections, Melbourne Custody Centre and Victoria Legal Aid.

The court is ever concerned to reduce delays, and improve case management processes. In the court's criminal jurisdiction, given the sheer volume of matters heard on a day-to-day basis, this is of enormous significance. Particularly so in the area of drug and DNA analysis undertaken by the Forensic Science Laboratory (FSL). The committee now receives regular updates from FSL representatives of the timelines for various methods of analysis. These updates are regularly distributed to the relevant agency members. More importantly, as a result of participation in this committee, the FSL have agreed to provide preliminary reports in relation to DNA and pharmacology analyses. Though these preliminary reports will not have a full evidentiary status, they will however, be considerably more probative than, for example, the 'spot test' with drugs. Significantly, these preliminary reports will be available at a substantially earlier time than the evidentiary reports. FSL, the Office of Public Prosecutions and Victoria Police are currently finalising a communications strategy to publicise this new procedure to the legal profession. The future introduction of these preliminary reports will have a marked effect on reducing delays in the court, and assist with the early resolution of many cases.

The committee has actively endeavoured to cultivate within defence and prosecution spheres an increased awareness of their respective responsibilities to the court. Particularly so with respect to identifying before the court, at an early stage, potential issues that may affect the timeliness of proceedings. The Criminal Court Users Group forum has addressed the need for early identification of issues such as: alternative facilities for protected witnesses, legal advice for witnesses in relation to issues arising from sections 18 and 128 of the Evidence Act 2008, identification of criminal charges arising in the context of family violence, and a more active approach from police informants in obtaining victim impact statements. The dialogue between representatives of the various agencies and the court, as well as each other, has been a major development in improving the court's processes as well as the relationships between the agencies. This committee provides the court, through these representative agencies, with a direct means of communication to all the professional individuals who come into contact with the court in the criminal jurisdiction.

The committee is also concerned with practices regarding calculation of pre-sentence detention. The hasty calculations of pre-sentence detention at the bar table by defence counsel and prosecutors are frequently incorrect. In 2010, the committee distributed contact details for the Records Office of Corrections Victoria, for prosecutors or defence practitioners to confirm the exact entitlement of an accused to presentence detention. Unfortunately, this procedure has not been adopted with any enthusiasm by either end of the bar table. The committee acknowledged the preferred procedure of requiring a certificate issued by the Office of Corrections stating the precise entitlement to pre-sentence detention of a particular accused, however, this practice has been impeded by resource issues within the Records Office. The committee expressed its support of the Records Office's internal request for further resources to enable it to establish a system of issuing pre-sentence detention certificates. The committee is confident that such a procedure will soon be introduced.

The Criminal Law Committee also reviews procedures for court support services to ensure the efficient use of these services by parties. The committee's purpose is to promote proper use of court services by parties in order to avoid causing unnecessary delay to court processes. The committee regularly liaises with Court Referral and Evaluation for Drug Intervention and Treatment Program (CREDIT) and Court Integrated Services Program (CISP) support services to better understand their resources, procedures and guidelines. This process assists in making magistrates more aware of how such resources may best be utilised. The committee have taken similar approaches to the court's provision of interpreters, and the utilisation of resources such as remote facilities or video-link for alternative witness arrangements. The committee undertakes consultation with relevant service managers and court coordinators in its development of procedures. These procedures are designed to enhance the provision of court support services where appropriate, and to minimise unnecessary delays to proceedings.

The classification of child pornography images in criminal proceedings is another area that the committee has facilitated reform. The committee, through the Criminal Court Users Group, has encouraged a uniform approach to the categorisation of such images with both state and commonwealth prosecutions transitioning from the COPINE rating system to the CETS/Anvil classification scale. This reform will greatly assist the court in the sentencing process.

We live in an age of legislative and administrative change. The criminal committee is a vital part of the court's evolution, dealing with the improvement of existing procedures and the implications of implementing new laws and processes. I heartily thank all the members of the committee for the industrious and collegiate fashion with which they have approached this task and for the vital support they have provided to myself.



# Sexual Assault Management Committee

**Committee Chair:** Deputy Chief Magistrate and Supervising Magistrate Felicity Broughton

Members: Magistrates Clive Alsop, Donna Bakos, Jennifer Bowles, Amanda Chambers, Ann Collins, Sharon Cure, Sarah Dawes, Jo Metcalf, Peter Reardon, Duncan Reynolds, Jennifer Tregent, Jack Vandersteen, Susan Wakeling and Belinda Wallington and Sexual Offences List coordinator, Melanie Quinn.

The creation of the sexual assault portfolio in 2006 was part of the court's response to the implementation of a broad range of initiatives to reform of sexual assault law and practice – the Sexual Assault Reform Strategy ('SARS'). On 17 April 2011, the independent **SARS final evaluation report** by 'Success Works' was released. There is a discussion of the findings relevant to the Magistrates' Court in the 'Sexual Offence List' section of this report.

The Sexual Assault Management Committee meets bi-monthly and has active participation from metropolitan, rural and Children's Court magistrates. The focus of the committee continues to primarily be with the criminal jurisdiction of the court. In summary, the committee considered the following:

 continued implementation issues arising from the Victorian Law Reform Commission's (VLRC) Sexual Offences: Law and Procedure Final Report 2004

- engaging with the SARS evaluators, 'Success Works' regarding the preparation of the final evaluation report
- the further refinement of case conferencing procedures and the promotion of the efficient determination of all cases
- the emerging challenges in relation to the online environment including child pornography and grooming offences
- professional development and judicial education in the area of sexual assault
- appropriate responses to the challenges faced by vulnerable witnesses including children and witnesses with a cognitive impairment
- the introduction of the pilot '*Pre-Sentence Clinical Assessments*' of sex offenders at Melbourne Magistrates' Court which commenced on 6 May 2011
- planning for the regional information sessions conducted at country courts between February and June 2011
- considering the professional development needs of the Magistrates' and Children's Court in the areas of sexual assault.

# Family Violence and Family Law Portfolio Committee

Committee Chair: Magistrate Catherine Lamble

Members: Deputy Chief Magistrate Felicity Broughton; Magistrates Amanda Chambers, Ann Collins, Caitlin English, Anne Goldsbrough, Annabel Hawkins, Kate Hawkins, Graham Keil, Gerard Lethbridge, Jo Metcalf, Denise O'Reilly, Pauline Spencer, Noreen Toohey, Belinda Wallington, Susan Wakeling, Michael Wighton and Acting Magistrate Francis Zemljak, together with the Manager of the Family Violence Projects and Initiatives Unit, Deb Nicholson.

The work of the committee included:

- monitoring the operations of the court in relation to family violence, stalking and family law throughout the state, with particular emphasis on the Family Violence Court Division (FVCD) and Specialist Family Violence Services (SFVS)
- reviewing operations in relation to family violence safety notices in response to the evaluation of family violence safety notices and preparing a submission in relation to the proposed extension of the notices
- considering the recommendations from the Australian Law Reform and New South Wales Law Reform Commissions' family violence inquiry and reviewing court forms in response to those proposals
- contributing to a chapter on the social context of family violence now included in the Judicial College's family violence bench book and establishing processes for the development of a chapter on family law in the magistrates' bench book

- developing professional development programs for magistrates including a workshop for magistrates likely to be sitting in the FVCD, held in November 2010, a workshop for a group of magistrates from across the state in June 2011 and a session on family violence and crime at the professional development day in July 2011
- contributing to consultations with the Department of Justice about the *Personal Safety Intervention Orders Act 2010*, extension of the use of family violence safety notices, other amendments to the *Family Violence Protection Act 2008*, and review of the Family Violence Rules
- developing the Koori Family Violence Support Program in the Melbourne Magistrates' Court
- reviewing the way criminal matters arising from allegations of family violence are identified and managed
- preparing a submission to the Department of Justice about the creation of an indictable offence for second and subsequent breaches of intervention orders
- consulting about changes to procedures in the Family Violence Court Intervention Program for men who do not comply with counselling orders made by the FVCD
- reviewing the Canadian bench book and considering ways by which an Australian version could be developed.

# Victims of Crime Assistance Tribunal Coordinating Committee

**Supervising Magistrates:** Magistrates Amanda Chambers and Andrew Capell

The tribunal's Coordinating Committee is chaired by the tribunal's supervising magistrates, and comprises magistrates and registrars.

Committee Chair: Magistrate Amanda Chambers

**Committee Members:** Deputy Chief Magistrates Dan Muling and Felicity Broughton, Magistrates Andrew Capell, Susan Wakeling, David Fanning, Catherine Lamble, Duncan Reynolds, Luisa Bazzani, Ann Collins, Tony Parsons and Jo Metcalf. Registry staff were represented by Samantha Adrichem (Principal Registrar), Donna Caruana (Standards and Compliance Officer), Kate Salter (Registry Manager) and Sandra Tennant (Acting Registry Manager).

The committee met on a monthly basis over the reporting period and considered a range of issues, including:

- Consideration of the recommendations contained in the *Framework Report – Reviewing Victims of Crime Compensation* prepared by the Department of Justice ('the department') in response to the Victims Compensation Review to which the tribunal and the Magistrates' Court of Victoria made a joint submission, and ongoing participation on the Review Steering Committee and Reference Group. Upon the election of the new government, the department advises it is awaiting further direction from the Attorney General.
- The tribunal's management of, and response to, applications for financial assistance arising from the 2009 Victorian Bushfires. The Delburn and Churchill hearings were conducted by tribunal Members Wakeling and Chambers in October and November 2010, with the majority of applications finalised. The committee acknowledges the commitment and support of the Melbourne Registry and the Latrobe Valley Court where the hearings were conducted. Preparation for the Murrindindi applications, of which there are over 300, was placed on hold upon receipt of advice from Phoenix Taskforce that it no longer considers this fire was the result of a criminal act. The taskforce is now preparing a brief for the coroner.

- Consideration of the *Victims of Crime Assistance Rules 2010* made consequent upon the amendments to the *Victims of Crime Assistance Act 1996* ('the Act') to enable delegation to judicial registrars; liaison with the department regarding a bid for additional judicial registrar resources and the creation of a subcommittee to consider and implement the delegation of tribunal functions to judicial registrars.
- The ongoing operation and oversight of the Koori VOCAT List and endorsement of a proposal to pursue funding for a Koori VOCAT Liaison Officer.
- Redevelopment of the tribunal's website located at www.vocat.vic.gov.au, including relevant review cases. The website was launched by the Attorney General Robert Clark on 22 June 2011.
- Reviewing and distributing to tribunal members the outcome of applications to the Victorian Civil and Administrative Tribunal (VCAT) for the review of tribunal decisions, and an appeal to the Supreme Court of Victoria in the matter of *BvB*.
- Reviewing and considering the issues raised by system deficiencies in the regulation of counselling services provided to victims of crime. Ongoing liaison with the department in respect of this issue and particular instances of concerning practice by private practitioners. Consideration of the Victim Support Agency Analysis of Counselling for Victims of Crime report.
- Development of new and amended guidelines and a practice directions issued by the Chief Magistrate in relation to:
  - 1. Financial Assistance for Funeral Expenses Guideline 1 of 2010
  - 2. Awards of Assistance for Travel Expenses Practice Direction 1 of 2011
  - 3. Costs Guideline Guideline 1 of 2011.
- Identifying relevant content for inclusion in training and professional development events for magistrates and registrars;
- Monitoring statistical information across venues regarding the increasing number of applications for assistance lodged and determined, awards of assistance made (including interim awards, particularly by registrars), and the amount of assistance awarded.



Members of the committee participated in:

- the provision of training to magistrates through small group training sessions, and by addressing magistrates at a professional development conference
- the 2010 registry conference, an annual training event for registrars and administrative staff from across Victoria
- training seminar conducted for VOCAT practitioners at Leo Cussen Institute
- training seminar conducted for staff of the Child Witness Service
- attending Sisters Day Out in Warrnambool
- training seminar conducted for practitioners at the Aboriginal Family Violence Protection Legal Service (AFVPLS)
- liaison with Victoria Police to further facilitate tribunal access to accurate and timely police information
- meeting with representatives of ACRATH and Project Respect and the department in respect of applications for assistance arising out of the trafficking of women
- continuing professional development and information sessions for staff of the Victims Assistance and Counselling Program, Victims of Crime Helpline (Department of Justice) and the Witness Assistance Service within the Office of Public Prosecutions
- providing information about the tribunal at an Open Day at the Melbourne Magistrates' Court during Law Week 2011
- facilitating legal information sessions to the Victorian Bar and the Law Institute Victoria
- regular meetings with the Victims Support Agency to discuss issues relating to services to victims of crime.

The tribunal finalised 6368 applications in 2010-11, compared with 5920 in the previous year and 5002 in 2008-09.

Further information about the tribunal and its activities throughout the reporting period is available from the tribunal's annual report for the year ending 30 June 2011.

Many thanks to the members of the committee for their contribution to the jurisdiction throughout the year, and to all tribunal members for their hard work. Thanks also to all registry staff for their commitment to the jurisdiction. Finally, the tribunal's Principal Registrar, Samantha Adrichem resigned in May 2011 and the committee extends its thanks to her for her dedication to the role, and acknowledges the significant contribution she made to the administration of the tribunal.



# Information Technology Committee

**Committee Chair:** Deputy Chief Magistrate Dan Muling

Members: Magistrate Peter Power; Courts IT Group Manager, Hans Wolf; Magistrates' Court Victoria IT Group Coordinator, Eddie Dolceamore; Corporate Communications Officer, Daphne Christopherson; Applications Services Manager, Ross Capuana; Manager Business Engagement, Knowledge Information and Technology Services, Jon Thomson; Courtlink Manager, Bianca Saunders; In Court Technology Manager, David Hoy; Manager Strategy and Planning, Chris Balfour; and various representatives from the Integrated Courts Management System (ICMS) Team, including Kerry Kirk and Eamon O'Hare.

The court's Information Technology (IT) Committee is an active sponsor of continuous improvement to the Courtlink case management system and is involved in assisting ICMS with information relevant to the Magistrates' Court for CourtView. The committee provides an increasingly comprehensive body of information delivered electronically through the Internet and the Intranet. The committee was involved in the following projects:

- identification of enhancements to Courtlink case management system and monitoring application and system upgrades
- participation in the Integrated Courts Management System (ICMS) project
- digitisation project 'Genette' digital recording changing to 'FTR' (For The Record)
- 'Access Court' pilot linking Latrobe Valley, Korumburra, Wonthaggi and Melbourne courts via IPTV technology. The technology will project a life size image of magistrate, bar table and witness box from one court to another, minimising the need for magistrates to travel and increasing access to justice
- new and improved VOCAT website
- Frankston Court Kiosk and signage project automated ticketing system
- provision of DVD equipment at 19 regional and three metropolitan courts to facilitate the viewing of video evidence.

# Occupational Health & Safety Committee

**Committee Chair:** Magistrate Simon Garnett (from April 2011) Magistrate Charlie Rozencwajg (to March 2011)

**Members:** Magistrates Susan Armour, Simon Garnett, Graeme Johnstone, Noreen Toohey and Brian Wright; court administration representative Ken Young; and Department of Justice representative Gayle Sherwell.

The Occupational Health and Safety Committee meets regularly to discuss occupational health and safety issues. The committee comprises judicial officers as well as representation from the Department of Justice and court administration. Its varied membership helps ensure that the issues before the committee are addressed with input from relevant stakeholders so that health and safety improvements can be achieved expeditiously.

The matters considered by the committee during the reporting period included:

- court security
- ergonomic issues in court
- awareness of driver fatigue.



# The Court at Work

# Jurisdictions of the Court

# **Criminal Jurisdiction**

#### Introduction

Criminal matters in Victoria are predominantly determined in the jurisdiction of the Magistrates' Court of Victoria. Section 25 of the *Magistrates' Court Act 1989* empowers the court to hear a wide range of criminal proceedings including summary offences, indictable offences triable summarily, committal proceedings, bail hearings, and infringement matters. During the court's 2010 to 2011 reporting year, some 177,819 criminal cases were finalised.

The Magistrates' Court has legislative authority to determine matters arising under numerous Acts, both state and federal. State laws applicable in the criminal jurisdiction include the *Criminal Procedure Act 2009, Crimes Act 1958, Crimes (Mental Impairment and Unfitness to be Tried) Act 1997, Evidence Act 2008, Evidence (Miscellaneous Provisions) Act 1958, Sentencing Act 1991, Summary Offences Act 1966, and other legislative Acts and procedural rules. The court can also hear certain matters arising under federal law, such as the <i>Crimes Act 1914, Criminal Code Act 1995, Customs Act 1901, Social Security Act 1991* and other Commonwealth Acts.

In addition to its exceptionally wide scope under crime-specific laws, the criminal jurisdiction is also empowered to hear prosecutions arising from breaches of road safety, transport, local government, health and safety, and other regulatory laws. Statutory agencies such as VicRoads, the Victorian WorkCover Authority, Department of Primary Industry, Environment Protection Agency, and local councils can prosecute offences in the court pursuant to their respective legislation. The Domestic Animals Act 1994, Environment Protection Act 1970, Fair Trading Act 1999, Food Act 1984, Long Service Leave Act 1992, Motor Car Traders Act 1986, Occupational Health and Safety Act 2004, Road Safety Act 1986, Transport Accident Act 1986, and a wide range of other state laws grant jurisdiction to the Magistrates' Court to hear and determine these prosecutions.

#### **Bail Applications**

All bail applications, save for limited exceptions such as murder or treason, are heard in the Magistrates' Court. As bail applications relate to liberty of the subject, the court gives such matters priority. The *Bail Act 1977* outlines factors to be considered in judicial assessment of bail applications; including exceptions to prima facie entitlement, reverse onus requiring exceptional circumstances, show cause offences, and the determination of unacceptable risk and other specified issues.

#### Summary Criminal Jurisdiction

Chapter 3 of the Criminal Procedure Act 2009 outlines relevant procedures for summary proceedings. Summary matters involve property offences to the jurisdictional limit of \$100,000, offences under the *Road Safety Act 1986, Food Act 1984* and various other Acts, less serious assaults, and prohibited behaviour in public places. As distinct from indictable offences, summary proceedings may only be heard in the Magistrates' Court. As with indictable offences, a magistrate must be satisfied beyond reasonable doubt before finding a person guilty of a summary offence.

There is an increasing need for the court's criminal division to be dynamic and flexible, as evidenced from its successful implementation of the legislative changes in the *Criminal Procedure Act 2009* and consequent *Magistrates' Court Criminal Procedure Rules 2009*. The court's judiciary, administration and staff collaborated to enable the effective transition from the previous procedural regime. The impact of legislative changes upon the court's work is ever a topical issue, considering the perpetual nature of legislative changes to the criminal law in Victoria. The implementation of the Criminal Procedure Act 2009 in this jurisdiction has achieved great progress in early resolution of cases and the reduction of delay in the court. These procedures are constantly being refined.



#### Case Conferences

The introduction of the *Criminal Procedure Act 2009* vastly changed the practice and procedure in the court's criminal jurisdiction. A new system of case conferencing was introduced in the summary stream of the Magistrates' Court.

Where a preliminary brief, or full brief, has been served on an accused, a summary case conference must be held prior to the matter being listed for contest mention or contested hearing. The summary case conference system has been effective in increasing resolution outcomes and the identification of issues in dispute, should the matter proceed to a contested hearing.

#### **Mention System**

The mention system assists the court's case management processes. For summary proceedings, the mention date is generally the first date an accused has to attend court. A summary proceeding can be determined on the first mention date only if the accused has indicated an intention to plead guilty to the charges.

In other cases where the matter has not been resolved, a case conference is listed prior to a contest mention. If a matter is subsequently listed for contest mention pursuant to section 55 of the *Criminal Procedure Act 2009*, it is heard before a magistrate and the accused must be in attendance. The contest mention system enables parties to identify their respective positions and explore the prospect of resolution. Often a magistrate's view as to the strength of prosecution evidence is sought in these proceedings. A sentence indication may also be given in such a hearing.

Alternatively, if resolution does not eventuate, the contest mention may be utilised to refine issues, identify disputed matters, estimate numbers of required witnesses, and ascertain whether interpreters or alternative arrangements for witnesses in such a hearing are required. In order to encourage a frank exchange between the parties, the magistrate before whom a contest mention is conducted will not be permitted to hear the summary trial should resolution not result.

The mention system is an essential case management tool for the court to allocate its resources.

#### Indictable Offences Capable of Being Heard Summarily

The types of indictable offences that may be determined in the Magistrates' Court are outlined in section 28 and Schedule 2 of the *Criminal Procedure Act 2009.* These include common law fraud offences, affray, recklessly causing serious injury, obtaining property or financial advantage by deception, robbery and burglary, incitement, secret commissions, dealing with proceeds of crime, drug trafficking and other specified categories of indictable offences. The court's jurisdictional limit is \$100,000 for indictable offences involving theft or criminal damage to property. The jurisdiction of the Magistrates' Court is ever being expanded, enabling the court to increasingly hear more serious matters.

#### **Committal Proceedings**

Indictable offences that fall beyond the Magistrates' Court jurisdiction are dealt with in the court as committal proceedings. Before an accused may be committed for trial to the County or Supreme Courts, a magistrate must determine whether there is evidence of sufficient weight upon which a jury properly directed could convict. The court serves an important role in the judicial administration with respect to committals by providing a filter for those matters where the evidence is insufficient to commit for trial, as well as clarifying the issues in contention for those matters that do progress to trial.

#### Ex parte Hearings

Part 3.3, Division 10, of the *Criminal Procedure Act 2009* enables the court to hold hearings in the absence of the accused ("ex parte") in limited cases. The court may, in certain circumstances where no custodial orders are contemplated, hold ex parte hearings. Ex parte hearings are only available for summary criminal matters. If an accused has been served with his/her charges and fails to attend court to answer the charges, a magistrate may exercise a discretion to hear the matter in the absence of the accused. Irrespective of the absence of the accused, the court must still be satisfied beyond reasonable doubt before a finding of guilt can be made. Notice of the outcome of an ex parte hearing is subsequently forwarded to the accused.



#### Applications for Re-hearing

An accused may apply for re-hearing, or setting aside of, an order made in his/her absence. After the accused satisfies the requirement to serve an application upon any relevant informant, the matter is then determined before a magistrate. Section 94 of the *Criminal Procedure Act 2009* prescribes automatic rehearing in certain cases, upon application. If an application for re-hearing is granted by the court, the case progresses as it normally would in the summary criminal stream.

#### Appeals

An accused who wishes to appeal a Magistrates' Court order in relation to his/her conviction or sentence can do so to the County Court. An accused may do so as of right, and the County Court hearing is a hearing de novo.

An accused seeking to appeal on a point of law may do so to the Supreme Court.

#### Infringements Court

A specific division exists in the court's criminal jurisdiction to deal with enforcement of infringement notices. The Infringements Court deals with warrants and orders for enforcement. Key agencies involved in the Infringements Court are Civic Compliance Victoria, Sheriff's Office and Corrections Victoria.

If a person served with an infringement notice elects to contest the notice in the Magistrates' Court, the hearing will take place in the criminal jurisdiction.

## After Hours Service

The court also has a dedicated After Hours Service that operates between 5.00pm and 8.45am on weekdays, and 24 hours a day on weekends and public holidays. Whilst the bulk of the matters dealt with after hours relate to urgent applications by police for family violence safety notices, family violence or stalking intervention orders; it also hears urgent matters in the criminal jurisdiction, such as applications for search warrants by state and federal agencies.

#### **Judicial Registrars**

The court presently has six judicial registrars who are delegated certain matters in the criminal jurisdiction. Judicial registrars do not determine matters which may involve sentencing accused to imprisonment. Rule 4 of the *Magistrates' Court (Judicial Registrars) Rules 2005* provides that judicial registrars may hear matters such as specified infringements applications, applications for driver licence restoration, traffic and council prosecutions, and return of property seized under search warrants.



# Sexual Offences Management List

Legislation creating the Sexual Offences List ("SOL") in 2006 was one of many system wide initiatives to reform sexual assault law and practice – the Sexual Assault Reform Strategy ("SARS"). This was primarily in response to the 2004 Victorian Law Reform Commission's Report, Sexual Offences: Law and Procedure.

On 17 April 2011, the independent **SARS final evaluation report**<sup>8</sup> by 'Success Works' was released. The final report again confirms the favourable analysis of the Magistrates' Court performance. This is a very significant milestone of which our court can be very proud.

"The Sexual Offences Lists in the Magistrates', Children's and County Courts are speeding up the preparation of cases and improving the efficiency of court hearings"<sup>9</sup>.

This is in part demonstrated by the increase in the rate of early settlement of matters and for guilty pleas being entered as early as possible in the process in the Magistrates' Court. It is to be noted, however, that the rate of guilty pleas per se had not increased.

A significant finding was the change in complainants' attitude to their experience of the criminal justice system.

"... it is also notable that of the 70 victim survivors who responded to the question in our interviews, 83% said they would recommend reporting a sexual assault to the police and pursuing it through the courts if it happened to a family member or someone close to them; 60% without reservations."<sup>10</sup>

The report notes that sexual offences in the summary stream of the Magistrates' Court and summary sexual offences in the Children's Court were not the subject of resources in the SARS. Addressing this deficiency and a number of others is contained in the report's 33 recommendations. These include:

- that the Sexual Offences List be extended to include the summary jurisdiction
- that the Magistrates' Court gives consideration to which courts will administer the Specialist Sexual Offences List incorporating the summary and committal jurisdictions
- that the provision of remote witness facilities be given priority in relevant courts (possibly though the establishment of mobile facilities)
- that the Child Witness Service be extended to include regional access points and regional service provision
- that a special sexual offences prosecution unit be established with police prosecutions to support the prosecution of sexual offence matters in the summary jurisdiction and in suburban courts.

The recommendations are very welcome, save that the court does not support mobile remote witness facilities. The court's pressing infrastructure needs must be addressed more broadly. The court has over many years reported upon the urgent need for buildings and infrastructure upgrades to safely and appropriately meet the needs of vulnerable witnesses, particularly in rural and suburban courts. These concerns have still not been addressed and require urgent attention.

The court now looks forward to the government funding the court to implement the recommendations.

Sexual assault regional information sessions were conducted at country courts between February and June 2011. This was part of a strategy to improve engagement and communication and to better understand the opportunities and challenges specific to country communities. Deputy Chief Magistrate Felicity Broughton and Sexual Offences List Coordinator Melanie Quinn delivered presentations to a broad range of stakeholders across the state. It was a wonderful opportunity to engage with local communities.

8. "Sexual Assault Reform Strategy Final Evaluation Report prepared for the Department of Justice January 2011" by Successworks.

<sup>9.</sup> Op cit. Executive summary page ii.

<sup>10.</sup> Op cit. Executive summary page iii.

The Magistrates' Court has continued its active contribution to the development and implementation of a number of related reforms in other parts of the justice system including:

- the Department of Justice Sexual Assault Advisory Committee
- the Judicial College of Victoria Multi-disciplinary Committee
- the Child Witness Advisory Committee Service which oversees the operation of the Child Witness Service
- the Sexual Offences Advisory Group as part of the review of the *Crimes Act 1958* by the Department of Justice.

Deputy Chief Magistrate Felicity Broughton has continued to lead the Sexual Assault Portfolio. Melanie Quinn has also continued her work as the Sexual Offences List Coordinator. The work of the Sexual Assault Management Committee is discussed in the internal committees section of this report.

The court would again like to acknowledge the high level of engagement and co-operation received from stakeholders to the ongoing process of reform.

# **Civil Jurisdiction**

There are three main areas of the court's civil jurisdiction:

- (a) the general civil jurisdiction
- (b) the jurisdiction conferred by the Accident Compensation Act 1985, and
- (c) the jurisdictions remaining within the Industrial Division of the court. In addition, proceedings between employers and employees, other than those in (b), are heard in the division for the sake of convenience.

#### **General Civil Jurisdiction**

The general civil jurisdiction relates to causes of action where the amount claimed does not exceed 100,000 or, in the case of equitable relief, the value of the relief does not exceed  $100,000^{11}$ .

Within this jurisdiction, there is a sub-set entitled "arbitration for small claims". Unless a court orders otherwise or the regulations provide otherwise, all complaints must be referred to arbitration where the amount of monetary relief is less than \$10,000<sup>12</sup>. There are two features of an arbitration for a small claim. First, the rules of evidence and procedure may be relaxed<sup>13</sup>. Second, the costs of a successful party are regulated by means of a "cap".

As mentioned in last year's annual report, the *National Consumer Credit Protection Act 200*9 (Cth) commenced on 1 July 2010. There has been little work generated in the court by this Act.

The same observation applies to the introduction of the Australian Consumer Law and amendments to the *Fair Trading Act 1999*.

The *Personal Property Securities Act 2009* (Cth) is expected to commence in October 2011. The Act creates a new set of rules governing the priority of competing interests in personal property. Personal property covers all property except land. The courts have jurisdiction according to their respective jurisdictional and constitutional limits<sup>14</sup>. It is not expected that this Act will generate significant amounts of work for the court.

11. S 100(1)(a) and (b) of the Magistrates' Court Act 1989 (the Act).

- 12. S 102(1) and (2) of the Act.
- 13. S 103(2) of the Act.
- 14. S 207.



After years of work, the court made new rules of civil procedure. Those rules appear in two distinct sets of rules:

- (a) the Magistrates' Court General Civil Procedure Rules 2010 and
- (b) the Magistrates' Court (Miscellaneous Civil Proceedings) Rules 2010.

They operated from 1 January 2011.

The Magistrates' Court General Civil Procedure Rules 2010 contain the bulk of the court's civil procedure rules. Generally, they align the court's rules with those of the Supreme and County Courts. The Magistrates' Court (Miscellaneous Civil Proceedings) Rules 2010 contain rules peculiar to the court.

These rules represent the culmination of years of work by members of the court's civil rules committee, past and present.

#### Appropriate Dispute Resolution (ADR)

The court offers four forms of ADR:

- (a) pre-hearing conferences conducted by the court's registrars or deputy registrars
- (b) mediations conducted by the court's judicial registrars and registrars (including deputy registrars)
- (c) mediations conducted by external mediators through the single list of external mediators (SLEM)
- (d) mediations conducted by the Dispute Settlement Centre of Victoria (DSCV)
- (e) early neutral evaluations conducted by magistrates.

The pre-hearing conference remains the primary form of ADR for disputed civil proceedings. Its success is due to the excellent efforts of the court's registrars and deputy registrars. During the year, the court introduced '*Early Neutral Evaluation*' on a pilot basis, with an examination of its operation at the end of its first year. Its essential features are:

- (a) it is a process where the parties obtain a nonbinding evaluation of their dispute from a magistrate, experienced in the court's civil jurisdiction
- (b) the process is aimed at those proceedings of a certain value which experience shows usually require a judicial adjudication after a trial
- (c) it commenced on 1 November 2010 by Practice Direction 4 of 2010
- (d) the evaluation should occur within eight weeks of the filing of the notice of defence
- (e) participation is involuntary parties are required to attend. Ultimately, the court chooses the appropriate proceeding for evaluation. Largely, this is done from a reading of the pleadings (ie statement of claim and notice of defence), however, certain proceedings are unsuitable. For example, where the monetary relief sought is less than \$50,000
- (f) at the evaluation, the parties present their respective cases orally. There is no oral evidence taken. An evaluation of the claim and defence is given
- (g) confidentiality is preserved by section 67 of the *Civil Procedure Act 2010*
- (h) post-evaluation, the magistrate is available to assist in resolving the dispute if requested to do so by the parties. There will be no private caucusing
- (i) if the dispute remains unresolved, the magistrate will make any necessary interlocutory orders and give the parties a trial date.

Although it is too early to evaluate the process, early signs are encouraging.

Also during the year, the court established a single list of external mediators (SLEM). This is a list of qualified mediators prepared to mediate the court's civil disputes. At present, the list contains the names of 144 mediators. Their names appear alphabetically on the court's website. Each name has a link to a short resume of each mediator. The mediators come largely from both arms of the legal profession, however, a small number are not legally trained. The purpose is to allow the parties to select a mediator for their dispute in a convenient form. The mediators have agreed to undertake the mediation for a set, reduced fee and undertake at least three such mediations each year.

Since October 2007, the court has conducted a mediation program in conjunction with the Dispute Settlement Centre of Victoria. The program started at the court at Broadmeadows. It has expanded to the court at Sunshine, Werribee and Morwell. Shortly, it will commence at Ballarat and Sale.

The essential features of the program are:

- (a) defended civil disputes up to \$40,000 are referred to mediation without the consent of the parties;
- (b) the mediations are conducted at the relevant courthouse by mediators provided by DSCV;
- (c) generally, the mediators are retired magistrates and members of the legal profession;
- (d) the mediations occur within four weeks of the filing of the notice of defence;
- (e) the expense of the venue and the mediators are met by the court and DSCV respectively.

The program has been outstandingly successful. For example, the resolution rate at Broadmeadows has remained about 84% since its earliest days.

The program enjoys the support of both arms of the legal profession.

### WorkCover Jurisdiction

The objective of the WorkCover jurisdiction is to hear and determine matters under the *Accident Compensation Act 1958* and the *Workers Compensation Act 1958* as expeditiously as possible.

The court has jurisdiction to hear and determine matters under the *Accident Compensation Act 1958* and arising out of decisions of the Victorian WorkCover Authority, authorised insurer, employer, self-insurer or conciliation officer.

As a result of legislative amendments in 2010, the number and complexity of workers compensation cases issued in the court has increased greatly. At the end of the reporting period, the number of complaints issued this year compared with the previous, had increased by over 17%.

Pursuant to section 43 (1) of the *Accident Compensation Act 195*8, the court now has a like jurisdiction with the County Court of Victoria to consider any question or matter pursuant to the *Accident Compensation Act* and the *Workers Compensation Act* that the County Court has jurisdiction to consider. The only exception is that the court cannot grant a serious injury certificate for common law damages purposes.

Complaints arising in the metropolitan area are issued out of the court at Melbourne. WorkCover complaints originating outside the metropolitan area are heard and determined by magistrates at Ballarat, Bendigo, Geelong, Mildura, Moe, Wangaratta and Warrnambool.

Order 42A of the Magistrates' Court General Civil Procedure Rules 2010 sets out a procedure for the parties to subpoena documents for production to the registrar prior to hearing. However, practitioners are encouraged to utilise Practice Directions 2 and 14 of 2004 to access medical and other records before issuing a subpoena pursuant to Order 42A.

The practice directions enable practitioners to inspect subpoenaed documents at least 14 days prior to the hearing. This has increased the number of contested hearings being dealt with on the first listing of a contest.

Decisions made in the WorkCover jurisdiction are published on the Magistrates' Court and Victorian WorkCover Authority websites.



## Industrial Division

The work of the Industrial Division is concerned primarily with disputes between employees and employers over employee entitlements, whether those entitlements arise under a contract of employment, an industrial instrument or the *Fair Work Act 2009 (Cth)*.

Prosecutions for breach of industrial instruments and of the *Fair Work Act 2009 (Cth)* are regularly dealt with by the division, as well as hearing and determining prosecutions under the *Long Service Leave Act 1992*.

The list is managed from the Melbourne Magistrates' Court and, when required, arrangements are made for hearings to be conducted in regional courts.

#### Mediation

A strong emphasis is placed upon the role of the mediation of cases brought in the division. Skilled judicial registrars have assisted in the resolution of many claims.

# Family Violence Jurisdiction

Magistrate Catherine Lamble is the Supervising Magistrate for Family Violence and Family Law. Each of the Family Violence Court Division (FVCD) and Specialist Family Violence Service (SFVS) courts have a lead magistrate. The Family Violence Programs and Initiatives Unit has administrative responsibility for family violence projects including the FVCD and SFVS. The senior registrars are responsible for the intervention order jurisdiction in their regions but some courts also have dedicated family violence registrars.

The supervising magistrate chairs the Family Violence and Family Law Portfolio Committee. She, together with the Chief Executive Officer or her nominees, represents the magistracy on a variety of external committees including the Department of Justice Family Violence Steering Committee, the Family Violence Roundtable, the Family Violence Stakeholders Reference Group, the Family Violence Projects Monitoring Committee, the Koori Family Violence Support Service Project Board and the Victoria Police/ Magistrates' Court Committee. Because of the relationship between the family violence jurisdiction and other areas of the court such as the criminal jurisdiction, VOCAT and CISP, Magistrate Lamble also sits on a number of other committees within the court.

Contacts have also been established with magistrates and staff in family violence courts and programs in other states to facilitate future consultation on specific areas of law and procedure.

The court is committed to ensuring magistrates and staff receive high quality judicial education and training about family violence. During the reporting period, the court conducted two family violence workshops for magistrates and a session on risk assessment and risk management at one of the court's professional development days. Other sessions in the magistrates' professional development days were relevant to family violence. Magistrates also attend programs provided by the Judicial College of Victoria that inform their work in this area. During the reporting period, the Supervising Magistrate and other magistrates within the jurisdiction conducted presentations on family violence to organisations such as Victoria Legal Aid, Bar Readers' Course, Relationships Australia and the Family Law Pathways Network.



#### Family Violence Resource Officers

Senior registrars nominate registrars who accept special responsibility for the family violence jurisdiction in their regions. They are the people to whom other staff can refer for advice, mentoring and information about family violence issues and they provide feedback about the operation of the *Family Violence Protection Act 2008.* They meet regularly and receive ongoing training facilitated by the Family Violence Programs and Initiatives Unit. In the reporting year, their training included vicarious trauma, amendments to the *Family Violence Protection Act 2008*, the *Personal Safety Intervention Orders Act 2010* and they discussed operating procedures.

#### Family Violence Projects and Initiatives Unit

The Family Violence Projects and Initiatives Unit manages the programs of the FVCD and SFVS. It provides ongoing workforce development for staff in those courts including applicant support workers and respondent workers, and for family violence resource officers across the Magistrates' Court. Staff of the unit liaise, consult and work with the different areas of government involved in family violence, Victoria Police, Victoria Legal Aid, and community organisations and service providers as part of Victoria's integrated response to family violence. The unit achieved full staffing capacity of 4.5 FTE this year, and commenced work on a comprehensive work plan for the coming year. The work plan links to the Magistrates' Court Business Plan and the Family Violence Protection Act 2008.

#### Listing Arrangements

Most courts designate particular days to deal with intervention order applications. Usually family violence cases are heard in a separate list to nonfamily violence intervention order applications. The designation of particular days for intervention order applications facilitate the attendance of prosecutors and police applicants, duty lawyer services and support services for litigants if they are available.

#### Family Violence Court Division (FVCD)

The FVCD sits at Heidelberg and Ballarat Courts. The family violence lists in those courts include intervention order applications, criminal charges arising from family violence incidents, family law proceedings and applications to the Victims of Crime Assistance Tribunal. Division courts include the following key features:

- magistrates are assigned to the division based on their knowledge and experience in dealing with family violence cases
- court staff, police prosecutors and duty lawyers also participate in ongoing development and training about family violence issues and emerging trends
- magistrates making final intervention orders have the power to order men, who have used violence against a female partner or former partner to attend a prescribed men's behaviour change program, aimed at changing violent and abusive behaviour
- an applicant support worker provides information and support to applicants and children at court and referral to support services in the community
- a respondent worker provides information and support to respondents and referrals from the court to support services in the community. The respondent worker's primary role is to undertake eligibility assessments that enable the magistrate to order attendance at the mandated men's behaviour change programs
- additional security staff to ensure the safety of persons affected by violence at court
- outreach services for persons affected by family violence when the applicant support worker believes they need assistance beyond court.



#### Specialist Family Violence Services (SFVS)

The SFVS operate at Melbourne, Sunshine, Werribee and Frankston. Although the services share most of the features of the FVCD, they do not have the same legislative basis nor do they have an annexed prescribed men's behaviour change program. There is limited opportunity for integrating lists for intervention orders and criminal charges arising from family violence. There is no funding for respondent workers, although some courts have secured or are negotiating outreach arrangements with local men's health services to provide support to respondents at court.

#### After Hours Service

This service operates from the Melbourne Magistrates' Court. Registrars and magistrates are on duty for urgent applications by members of Victoria Police and Australian Federal Police between 5.00 pm and 9.00 am each weekday and all weekends and public holidays.

Intervention order applications and family violence safety notices<sup>15</sup> account for approximately 70% of the work of the After Hours Service. Efficient response times are critical in the area of family violence and the service has ensured that 96% of all applications are responded to within 10 minutes. Staff provide procedural information to police enquiring about intervention order applications and family violence safety notices. The After Hours Service collects data about family violence safety notices to assist in their continuing evaluation.

#### Family Violence Safety Notices

During the reporting year, Parliament passed legislation to extend the use of family violence safety notices following an evaluation of the effectiveness of the notices. The court has continued to monitor the use of the notices and to liaise with Victoria Police about ways to address errors and defects in the notices.

#### Vexatious Litigants

There were no orders declaring a person to be a vexatious litigant during the reporting period, however, the court granted leave in a few applications. Two applications were heard and refused. Although declarations have not been made, the Deputy Chief Magistrate hearing the applications has given case management directions to limit opportunities for abuse of the court process.

#### Stalking Intervention Orders

During the reporting year the court has been preparing for the implementation of the *Personal Safety Intervention Orders Act 2010* under the leadership of Magistrate Gerard Lethbridge. Some of the court's work has included consultations with the Judicial College of Victoria about the preparation of materials to inform magistrates and staff about the new Act and the development of a professional development program for magistrates, development of a training procedures manual, working with the Dispute Settlement Centre of Victoria to develop practices and procedures for referrals to mediations in appropriate cases and information pamphlets for court users.

<sup>15.</sup> Police file family violence safety notices with the After Hours Service, pursuant to order 12.01 of the Magistrates' Court (Family Violence Protection) Rules 2008. The After Hours Service does not issue family violence safety notices.

#### Judicial Activities and Community Engagement

During the reporting period, Magistrate Cathy Lamble participated in a number of government committees, as well as presenting at the following events, sessions and forums:

- Family Dispute Resolution practitioners professional development day, *'Family Violence Protection Act'* on 3 August 2010
- Department of Justice, Family Violence Roundtable, joint presentation with Professor Linda Neilson, Canadian National Judicial Institute, regarding electronic bench book on domestic violence and family law on 4 October 2010
- Bar Readers Course, 'Family Violence for Barristers' on 8 October 2010 and 14 April 2011
- Launch of DVD, 'Steps to Safety', a partnership project led by Eastern Community Legal Service and the Law Foundation, held at the Ringwood Court on 2 December 2010
- Family Law Pathways Forum, 'Family Violence in the Magistrates' Court' on 16 June 2011.

## Australian Law Reform Commission Inquiry

During the year, Magistrate Anne Goldsbrough continued her appointment as the part-time Law Reform Commissioner for the Australian Law Reform Commission's (ALRC) inquiry into the interaction of laws and practice in family law, family violence, child protection, sexual assault and criminal laws, while maintaining her Victorian court duties.

The ALRC delivered the two volume report *'Family Violence – a National Legal Response'* in October 2010. The comprehensive analysis of 26 legislative regimes and consultations resulted in 187 recommendations to improve the intersections of law and practice in family law and family violence across Australia.



# Family Law Jurisdiction

The Magistrates' Court has jurisdiction to deal with a number of cases under the *Family Law Act 1975* (Cth), the *Child Support (Assessment) Act 1989* (Cth) and the *Marriage Act 1961* (Cth). Access to the family law jurisdiction in the Magistrates' Court is particularly valuable for rural residents, because sittings of the Federal Magistrates' Court and Family Court may not occur frequently in country areas.

In any year, the court deals with a variety of applications at all its locations. These include:

- children's matters either on an interim basis or by consent
- property and maintenance proceedings arising from married and de facto relationships if the value does not exceed \$20,000 or the parties consent
- child maintenance orders under section 66G of the Family Law Act 1975 (Cth)
- section 117 departure orders for assessments in special circumstances under the *Child Support* (Assessment Act) 1989 (Cth)
- declarations relating to whether persons should be assessed from payment of child support under section 106 of the *Child Support (Assessment Act)* 1989 (Cth)
- declarations of parentage under section 69VA of the Family Law Act 1975 (Cth)
- injunctions for the welfare of children under section 68B of the Family Law Act 1975 (Cth)
- recovery orders for the return of a child under section 67U of the Family Law Act 1975 (Cth)
- the appointment of independent children's lawyers under section 68L of the *Family Law Act* 1975 (Cth)
- consent to the marriage of minors under section 12 of the *Marriage Act 1961* (Cth).

# Exercising Family Law Jurisdiction in Family Violence Cases

There is an important relationship between the family law and the family violence jurisdiction of the Magistrates' Court. Many incidents of violence occur in the context of ongoing parenting arrangements following separation or divorce. Section 90(2) of the *Family Violence Protection Act 2008* requires the court to use its power under section 68R of the *Family Law Act 1975* (Cth), to revive, vary, discharge or suspend the provisions of family law orders relating to persons spending time with children if the family law order is inconsistent with the conditions of an intervention order the court proposes to make.

# **Municipal Electoral Tribunal**

The Municipal Electoral Tribunal ('the tribunal'), constituted under the *Local Government Act 1989*, hears disputes arising from Victorian local government elections. The tribunal is constituted by a magistrate appointed by the Attorney-General. A candidate or ten voters at an election may apply, in writing and within 14 days of the result, for the tribunal to conduct an inquiry into the election.

Upon conducting the inquiry and listening to any evidence called, the tribunal may:

- declare that any person declared duly elected, was not duly elected
- declare any candidate duly elected who was not declared, duly elected
- declare an election void
- · dismiss or uphold an application in whole or in part
- amend or permit the amendment of an application
- order the inspection and copying of documents in connection with the election
- undertake a preliminary review of an application
- award any costs it deems appropriate.

While the rules of evidence do not apply, and the tribunal must act without regard to technicalities or legal forms, the burden of proof remains at all times with the applicant. Application for a review of a decision of the tribunal is made to the Victorian Civil and Administrative Tribunal (VCAT).

The tribunal continues to provide an efficient and effective forum for examination of the conduct of disputed local government elections.

# Specialist Courts and Services



# Koori Court

The need for a Koori Court arose due to an overrepresentation of Aboriginal and Torres Strait Islander people across all levels of the criminal justice system. Despite Victoria having the lowest imprisonment rate of Indigenous offenders in Australia (with the exception of Tasmania), in 2001 it was estimated at the commencement of the adult Koori Court pilot, that Kooris were 12 times more likely to be imprisoned than other Victorians.

The Koori Court program has grown significantly from its initial pilot locations of Shepparton (2002) and Broadmeadows (2003). In 2010-11, adult Koori Courts sat regularly at Shepparton, Broadmeadows, Warrnambool (on circuit to Portland and Hamilton), Latrobe Valley, Bairnsdale, Mildura and Swan Hill. Children's Koori Courts also operated at Melbourne and Mildura, while a county Koori Court is currently being piloted at Latrobe Valley.

# Criminal justice aims

- to reduce Indigenous over-representation in the prison system
- to reduce the failure to appear rate at court
- to decrease the rates at which court orders are breached
- to reduce the rate of repeat offending
- to deter crime in the community generally
- to increase community safety.

## Community building aims

- to increase Indigenous ownership of the administration of the law
- to increase positive participation by Koori offenders and community
- to increase accountability of the Koori community for Koori offenders
- to promote and increase community awareness about community codes of conduct and standards of behaviour.

Whilst the Koori Court administers Victorian state law in accordance with all relevant Acts, the Koori Court offers an alternative approach to sentencing by enhancing the ability of the court to address the underlying issues that lead to a person's offending, and to put in place programs and treatments that are designed to address these issues. By doing this, the Koori Court can have a significant effect on reducing re-offending by accused persons who appear before it.

# Activity

For the 2010-11 year, the Koori Courts sat on 200 occasions and finalised 1007 matters.

# Workforce

The Koori Court currently employs 57 Aboriginal community elders and respected persons around the state, along with an additional 14 full-time operational program staff members. The courts remain the largest employer of Aboriginal and Torres Strait Islander staff members within the Department of Justice. In addition, approximately 25 magistrates regularly sit at the various Koori Court locations around the state.

# Wamba Wamba language Initiative

In July 2009, the Swan Hill Koori Court launched its Wamba Wamba Language initiative, which has seen the use of local Aboriginal Wamba Wamba language spoken by elders and respected persons at the opening and closing of each matter heard at Swan Hill Koori Court. This is a significant innovation for the Magistrates' Court, and is a powerful cultural aspect of the Swan Hill Koori Court.



#### Case study

"Kevin"<sup>16</sup> a 53 year old man appeared at Koori Court charged with exceeding .05 and driving whilst disqualified. The blood alcohol content was established to be in the very high range, namely 0.190. He had a long history of drink driving offences and alcohol-related criminal offending including intentionally causing injury. All previous drink-drive matters were serious, with one charge involving a reading of 0.249.

Kevin had not previously appeared in Koori Court and had always had his cases heard in mainstream court. He was from a well-known and well-regarded family in country Victoria. The elders sitting with the magistrate knew of Kevin and his family, and were aware of his long-standing alcohol abuse issues.

Kevin was assessed for a Community Based Order (CBO). The magistrate requested that as part of his CBO, he be assessed for his suitability to participate in the program offered by Corrections Victoria at Wulgunggo Ngalu Learning Place. Wulgunggo Ngalu is a purpose-built residential facility at Yarram which provides Koori men with the opportunity to learn new skills, reconnect with and strengthen their culture, and participate in programs and activities to help them address their offending behaviour.

Kevin remained at Wulgunggo Ngalu for six months, during which time he remained abstinent from alcohol, attended retraining programs, undertook community work and completed alcohol programs as well as participated in activities with elders to strengthen culture. Kevin also converted outstanding fines to community work and completed all work hours. Some of his fines had progressed to the stage of warrants of imprisonment and were being enforced by Sheriff's Officers. In relation to those matters, the fines were also converted to community work. Community work was completed and all fines were expunged.

Kevin has returned to his family and local community, continues to be abstinent from alcohol and is working. The Koori Court officer remains in contact with him and is astounded by the lasting and significant change brought about by the participation in Koori Court and Wulgunggo Ngalu.

Kevin is now contributing to supporting his family and his health has markedly improved.

## Training and Professional Development

A number of professional development activities have occurred during 2010-11, including the annual Koori Court Conference which was held during May in Melbourne, and which was well attended by Koori Court elders and respected persons, Koori Court magistrates and judges, and a range of partner agencies and service providers. A number of Koori Courts conducted visits to other courts and justicerelated facilities around the state, such as Wulgunggo Nalu Learning Place in Yarram and Baroona Healing Centre in Echuca. As part of their ongoing professional development, Koori Court elders and respected persons undertook a comprehensive refresher training program designed to augment training initially provided at the launch of the respective Koori Courts. In addition, Koori Court officers and elders participated in a range of other professional development activities, such as Alcohol and Other Drugs Awareness, Suicide Mental Health Training, defensive driving and St John's Level 1 First Aid Training.

A number of courts completed site visits to other Koori Court locations, as well as other department related facilities, such as Wulgunngo Ngalu Learning Place in Yarram.

16. "Kevin" is a pseudonym and not the real name of the person subject of this case study.

# Drug Court

The Drug Court has been located at the Dandenong Magistrates' Court for eight years. It combines the powers of the criminal justice system with a therapeutic focus on treating drug and alcohol dependency and other complex needs.

The Drug Court is a division of the Magistrates' Court and is responsible for the sentencing and supervision of offenders who have committed offences to which drug and/or alcohol dependency have contributed.

Offenders accepted onto the Drug Court program are placed on a Drug Treatment Order (DTO). Under the order, the magistrate sentences an offender to a term of imprisonment not exceeding two years. This sentence is not activated provided an offender complies with the two-year supervision and treatment component of the DTO.

## Supervision and Treatment

The particular purposes of the supervision and treatment component of the DTO include the following:

- to facilitate the rehabilitation of the offender by providing a judicially-supervised and therapeuticallyorientated drug and/or alcohol treatment and supervision program
- to take account of an offender's drug and/or alcohol dependency
- to reduce the level of criminal activity contributed to by a drug and/or alcohol dependency
- to reduce the offender's overall health risks.

The supervision and treatment component of the DTO contains strict conditions. The offender is required to undergo drug and/or alcohol testing and treatment, to attend supervision, and to appear back before the Drug Court on a regular basis. The Drug Court magistrate can activate various periods of imprisonment if the offender does not comply with the conditions of the order or commits further offences. The Drug Court Magistrate may also cancel the treatment and supervision component of the DTO and commit the offender to serve their imprisonment term.

To maximise effectiveness, treatment and planning takes a holistic approach including mental health and other psycho-social needs with a view to promoting sustainable stability in their future and assist them towards a good life.

# **Criteria for Drug Court**

Under section 18Z of the *Sentencing Act 1991*, offenders are eligible for referral to the Drug Court if they:

- plead guilty
- reside within the postcode areas specified in the government gazette
- are willing to consent in writing to such an order
- are likely to have a sentence of immediate imprisonment.

Referrals can be made by any Magistrates' Court if the offender appears to meet the above criteria. Referrals can also be made by the County Court on appeal from the Magistrates' Court.

If a matter is accepted on referral an initial screening by a Drug Court case manager takes place. If found eligible, the matter is then adjourned for three weeks to allow for a suitability assessment to be conducted by a Drug Court clinical advisor and the Drug Court senior case manager.

On the balance of probabilities, the Drug Court must be satisfied that:

- the offender is dependent on drugs and/or alcohol
- the offender's dependency contributed to offending
- the offending must be within the sentencing jurisdiction of the Drug Court and be punishable by imprisonment
- the offending must not be a sexual offence orinvolve the infliction of actual bodily harm other than of a minor nature
- the offender must not be subject to a parole order, Combined Custody and Treatment Order (CCTO), Intensive Corrections Order (ICO), or Supreme Court or County Court sentencing order
- the Drug Court considers that a sentence of imprisonment is appropriate
- the Drug Court considers that it would not have ordered that the sentence be served by way of an ICO in the community or as a suspended sentence.



# **Drug Court Team**

The Drug Court is presided over by the Drug Court Magistrate Margaret Harding. She heads a professional multi-disciplinary team made up of a program manager, deputy registrar, case managers, clinical advisors, Legal Aid solicitor, police prosecutors and liaison officer and the Drug Court Homelessness Assistance Program (DCHAP) housing support workers and other service providers.

The DTO is administered in a manner consistent with therapeutic principles, and the Drug Court magistrate engages with the participant and structures the court process to maximise therapeutic potential.

Whilst the magistrate has ultimate responsibility for decision-making, she adopts a team approach in managing participants, taking into account mental health, clinical correctional and other life perspectives. This therapeutic jurisprudential approach is a fundamental shift from the mainstream management of offenders.

# **Rewards and Sanctions**

The Drug Court uses rewards and sanctions to assist in enabling behavioural change.

The Drug Court magistrate uses rewards and incentives to acknowledge a participant's positive progress.

Rewards include:

- positive praise
- applauding achievements
- advancement to the next phase
- decreased supervision and court appearances
- reduced drug testing
- removal of imprisonment sanctions
- removal of additional conditions added to the DTO
- removal of imposed community work
- certificates
- food vouchers
- early completion
- graduation.

Sanctions are used as a motivator for participants to comply with the conditions of the order to achieve the therapeutic goals of the DTO.

Sanctions include:

- verbal warnings
- new conditions by way of variations
- demotion to earlier phase
- increased supervision
- increased drug testing
- community work
- increased court supervision
- imprisonment days
- cancellation of the treatment and supervision component and activation of imprisonment sentence, or re-sentencing.

#### **Benefits**

For those who successfully complete the Drug Court program, rehabilitation means a new freedom from drug use and drug related offending, and the opportunity to become positive members of the community and to live a good life.

Other benefits to participants include:

- helping to eliminate criminal offending and time spent in custody
- harm minimisation and improved health including mental health
- improved employment prospects and training
- better social and family relations
- support in learning and maintaining positive parenting skills
- less homelessness and associated risks
- greater self esteem.

Benefits to the community include:

- greater sense of personal and community safety
- fewer victims of crime
- reduced justice costs due to lower re-offending rates
- improved community health and well being
- lower drug and alcohol related health costs
- less welfare dependency and associated costs.

# Neighbourhood Justice Centre: Lasting Local Solutions

The Neighbourhood Justice Centre (NJC) in Collingwood in inner Melbourne opened its doors in January 2007 and was, from the outset, designed to be an action-learning incubator informing new practices for the traditional justice system.

Australia's first and only Community Justice Project, the NJC works closely with local police and the Yarra council to run crime prevention programs and to support local organisations that tackle social disadvantage.

It also runs community justice education; educating the local community about the law and legal rights and responsibilities, and practical skills like conflict resolution.

In April 2011, Attorney-General Robert Clark visited the NJC and spoke about his desire to see many elements of the centre's practice transferred to other courts. The centre is now working on a program to transfer many aspects of its practice including work with victims and engaging the local community, to other courts in Victoria.

#### For the twelve months from 1 July 2010 to 30 June 2011, the Neighbourhood Justice Centre Court and Tribunal finalised 2,961 cases.

The centre tries to reflect broad theoretical principles consistently in practice. Shared process, relationship and outcome principles drive the ways staff members work.

These include: integrating services and activities; adapting to new information; focusing action on the local area; two-way learning from others and from action; respecting different people and knowledge; simplifying processes for clients and serving justice for offenders, victims and the community.

#### The integrated action-learning practice of the centre has resulted in many factors that distinguish the operations of the NJC Court from the traditional judicial process:

 The court justice system is supplemented by robust alternative disputes resolution processes, including mediation and other problem solving services (see right).

- Magistrate David Fanning, the NJC's sole magistrate, hears a full range of matters that affect the local community and has an in-depth understanding of local justice issues.
- Community justice seeks to address the underlying causes of the offending. Magistrate Fanning applies a comprehensive approach in hearing cases where there are problems of mental health, substance abuse, unemployment, family violence and other factors which impact offending behaviour.
- The NJC combines a court with an integrated justice response of treatment and support services such as mediation, legal advice, employment and housing support, counselling and mental health services. In appropriate cases, offenders may be referred to alcohol or other drug counselling and their progress is reviewed by the court before a final sentencing decision is made.
- Judicial Monitoring: Unlike most courts, the centre's court has a continued relationship with many people after sentencing. The magistrate regularly sees every person sentenced to complete an order in the community, to review their progress. This regular contact with offenders has successfully increased completion of communitybased orders and helped reduce re-offending.
- The NJC has a multi-jurisdictional court that includes the primary Magistrates Court, a Children's Court (Criminal Division), Victims of Crime Assistance Tribunal (VOCAT) and the following Victorian Civil and Administrative Tribunal (VCAT) matters – Guardianship and Administration, Residential Tenancy and Small Claims.
- The centre's court only hears cases of people who live within the specific area of the City of Yarra. It also hears cases involving Aboriginal people who have a strong connection to the area. Homeless people can also have their case heard at the centre's court.



#### The Problem Solving Process: A court process unique to the centre, it helps people to address the difficulties relevant to their current matters before the court.

The process involves a voluntary out-of-court meeting, organised by the neighbourhood justice officer. The offender or accused, their legal representatives, and support people come together to discuss the matters at court, develop options and to tackle any underlying problems. Social workers, corrections workers or a member of Victoria Police may also attend.

Problem solving uses the combined efforts of a group to find ways of addressing obstacles to a person's progress through the justice system.

Any person with a matter listed in the centre's court can access problem solving: an accused person in a criminal case; an offender who has been found guilty and sentenced to a community-based disposition; or parties to some family violence matters.

The problem-solving meeting can happen around the time of bail hearings, during an adjourned period or before sentencing. It can also be held after sentencing, when a person is completing a community-based court order.

The outcomes of the problem-solving meeting help inform the magistrate of issues that are relevant to his sentencing decision.

# Problem Solving Case Study: Pre-Sentencing

Peter lived with his mother in Richmond, and had been charged with low-level drug trafficking to support his addiction to heroin. He had no prior offences. He had an intellectual disability and schizophrenia and was vulnerable to influence. Peter's mother did not speak English, and while she wanted her son to move away from the area for his safety, she felt she needed to stay close to her community.

Peter's lawyer referred him to Problem Solving at the Neighbourhood Justice Centre. Peter attended the meeting along with a range of support people from mental health, legal, disability and drug and alcohol services. Peter's mother, an interpreter, and the centre's police prosecutor also participated in the discussion.

In order to reduce his future risk, the meeting outcomes proposed increased efforts to support Peter in the community. The mental health worker committed to continuing regular outreach support. The disability worker found appropriate assertiveness skills training for Peter, and connected him with another program that provided a mentor to accompany him to the gym each week. Peter decided he would quit smoking cigarettes in order to commence his gym training. Peter's mother began arranging for him to spend regular time with relatives in another part of Melbourne. The whole group committed to re-convening at Peter's sentencing hearing to review his progress.

Peter was placed on a twelve-month Community Based Order and successfully completed it. He did not re-offend.

# Court Support and Diversion Services

# Assessment and Referral Court (ARC) List

The Assessment and Referral Court (ARC) List is a specialist problem solving court that is being piloted by the Magistrates' Court of Victoria in partnership with the Department of Justice. It seeks to assist accused persons who have a mental illness and/or a cognitive impairment. By addressing issues that underlie offending behaviours, the ARC List seeks to reduce the likelihood that offenders who have mental health issues will re-offend and continue to return to the attention of the criminal justice system.

The ARC List sits at Melbourne Magistrates' Court. The first hearing of the ARC List was held on 21 April 2010, and in March 2011 the ARC List moved from sitting one day per week to sitting two days per week.

During their involvement in the ARC List, which is for up to 12 months, participants are asked to attend regular, usually monthly, hearings. Following therapeutic jurisprudence principles, hearings are conducted in an interactive manner that takes into account the impact of each participant's mental health issues or cognitive impairment. During the hearings, the issues affecting the participant are discussed as is their progress in addressing them.

During 2010-11, Magistrates John Lesser, Ann Collins, Anne Goldsbrough, John Hardy and Susan Wakeling regularly sat in the ARC List, as did Deputy Chief Magistrate Jelena Popovic. The problem-solving court process is supported by the ARC List team (which comprises a program manager, three psychologists and a social worker) and the Court Integrated Services Program (CISP) team at Melbourne Magistrates' Court. The ARC List team undertakes a clinical assessment with each participant and provides support to them throughout their involvement with the list, while the CISP program provides short term case management for many participants. Both programs rely heavily on referrals to, and co-operation from, health services and community organisations.

From July 2010 to June 2011 the ARC List held 782 hearings. The list received 178 referrals and 63 participants were accepted onto the program. During this period, 17 participants completed the program, with six leaving the program prior to completion. As of 30 June 2011 there were 53 active participants.

To be eligible to access the ARC List, participants need to have a diagnosis of a mental illness or a cognitive impairment. The table below details the primary diagnostic categories of ARC List participants during 2010-11.

Of note is that most ARC List participants meet the criteria for more than one diagnostic category. For instance, many participants meet the diagnostic criteria for more than one mental illness type or have both a mental illness and an acquired brain injury.

ARC LIST DIAGNOSIS – 1 JULY 2010 – 30 JUNE 2011	PRIMARY DIAGNOSIS
Mental Illness	55%
Acquired Brain Injury	29%
Intellectual Disability	16%

Table 1: Primary and secondary diagnosis for participants accepted onto the ARC List program from 1 July 2010 – 30 June 2011.



#### **Community Engagement**

Since its commencement, the ARC List team has actively promoted the program and developed links with a wide range of service providers and organisations. An integral part of this is the Stakeholders' Advisory Group, which includes representation across government and from the university, legal, mental health, acquired brain injury and disability sectors.

Presentations on the ARC List have been made to the following:

- Department of Human Services, Disability Client Services, North West and Southern regions
- Department of Justice, Disability Policy Network
- Hanover Welfare Services
- Jobco Brunswick, Personal Helpers and Mentors Program
- NorthWestern Mental Health Service, Melbourne Health
- NSW Law Reform Commission Symposium
- Office of the Public Advocate Independent Third Person Conference
- ORYGEN Youth Health Services
- VICSERV
- Victim Support Agency
- Victoria Police
- Victorian Bar
- Law Institute Victoria Criminal Law Conference
- Tasmania Institute of Law Enforcement Studies
- International Association of Forensic Mental Health Services (IAFMHS).

One successful community engagement strategy adopted by the ARC List has been for magistrates, ARC List staff, CISP staff, VLA staff and police prosecutors to visit community organisations relevant to the work of the list. During 2010-11 visits were made to Department of Human Services Disability Services and to the Victorian Foundation for Survivors of Torture Foundation House. The assistance of these agencies is appreciated.

Links have also been developed with a wide range of mental health providers and welfare organisations, and a range of peak bodies.

#### Conferences

The following conferences were attended by representatives of the ARC List:

- Australian and New Zealand Association of Psychiatry, Psychology and Law – R G Myers Memorial Lecture 2010
- Tasmanian Institute of Law Enforcement Studies

   Mental Health Diversion List Integration and Collaboration: Building Capacity and Engagement for the Provision of Criminal Justice Services to Tasmania's Mentally III
- IAFMHS 11th Annual Conference: Towards Integrated Prevention, Barcelona, Spain.

#### **Program Enhancement**

The ARC List Management Committee agreed to undertake an appraisal of the ARC List model after six months of operation. The aim of the appraisal was to identify what was working well with the list and what needed to be reviewed or modified.

The Department of Justice Courts and Tribunals Unit and the Magistrates' Court conducted the appraisal and interviewed ARC List magistrates, ARC List and CISP team members, Victoria Legal Aid lawyers and Victoria Police prosecutors. As a result of the appraisal a number of recommendations were made to enhance the operations of the ARC List.

A further appraisal process is being planned for late 2011.

# **ARC List Case Study**

A magistrate referred a 37-year old male client to the ARC List with concerns regarding an untreated mental illness, substance misuse, accommodation difficulties and limited social supports.

A Court Integrated Support Program (CISP) case manager completed an initial assessment with the client and an ARC List clinical advisor undertook a clinical assessment with them. Working in conjunction with the ARC List clinical advisor, the CISP case manager worked with the client for four months (the usual length of time for a CISP episode) and during this time linked the client to drug and alcohol counselling, accommodation and employment options. The client continued with the ARC List after being discharged from the CISP program.

The ARC List assessment identified that the client had Bipolar Disorder and co-occurring Post Traumatic Stress Disorder (PTSD) and Poly-Substance Dependence. The client possessed a limited understanding of the factors associated with his long history of shop-theft and his history of failing to comply with court sanctions.

The ARC List clinical advisor liaised with the client's general practitioner regarding his non-compliance with medication and abuse of benzodiazepines. As a result of this a referral to a psychologist was initiated to treat the symptoms associated with PTSD. As part of a 'Staying Well Plan', the clinical advisor provided the client with psycho-education regarding the management of his mood disorder to improve his compliance with medication and to enhance his psychosocial functioning. As part of this plan the client engaged in volunteer work, regular physical activity and practised strategies to improve his family relationships. As the client's mood stabilised (and medication compliance improved), the temptation to abuse benzodiazepines lessened.

The client reported an increase in his self-confidence and sense of managing his mental health. The client's gains were acknowledged in his progress hearings by those who work with the ARC List, including by the magistrate, Victoria Legal Aid legal representative, police prosecutor and the clinical advisor. This further buoyed the client's confidence and motivation.

After developing an understanding of the links between his substance use, anti-social peers and offending behaviour, the client made a decision to engage with more pro-social supports. This led to him joining a bushwalking club, applying for tertiary study and increasing contact with his siblings.

Throughout his involvement in the ARC List, the client did experience some difficulties, including a brief reoccurrence of a hypomanic episode, difficulties associated with his accommodation and exposure to a traumatic event that temporarily increased the severity of his trauma symptomatology. To his credit, the client was able to navigate these difficulties with prompt intervention from his community supports and ARC List staff.

At sentencing, the client's participation and progress in addressing his circumstances will be considered. The client will be visiting his mother for the first time in a number of years and is scheduled to complete an overnight bushwalking trek in New South Wales.


### Court Integrated Services Program (CISP)

The CISP is a multi-disciplinary program for accused on bail or summons, or any party to a court proceeding, including applicants, respondents and accused from all jurisdictions of the Magistrates' Court.

The program was established by the Department of Justice and Magistrates' Court of Victoria to ensure that accused persons receive access to treatment and support services with the aim of promoting safer communities through reduced rates of re-offending.

This is achieved by:

- providing accused persons with short term assistance with health and social needs
- working on the causes of offending through individualised case management support
- assisting clients to access treatment and community support services.

Clients are provided with a range of services, including:

- support based on the assessed needs of the client. This may include case management for up to four months
- an assessment of needs and, if appropriate, the development of a case management plan
- referrals and linkages to treatment and support services, including drug and alcohol treatment, acquired brain injury services, accommodation, disability and mental health services, as well as Koori Liaison Officers.



### **CISP Case Study**

A 57-year-old male, charged with breach of an intervention order, was assessed by CISP as suitable for intensive case management. The client presented with issues relating to an alcohol related acquired brain injury, as well as family, housing and alcohol and other drug issues.

The client had a long history of contact with the criminal justice system. This included a lengthy history of charges relating to being intoxicated. While he had often been placed in custody as a result of these offences, upon release he would quickly return to drinking and re-offend.

The client's cognitive assessment indicated that he had limited ability to learn new skills. His case management plan therefore sought to bring about behaviour change through involvement in structured activities.

An independent guardian and administrator had recently been appointed by the Victorian Civil and Administrative Tribunal (VCAT) to manage his affairs.

The following interventions were facilitated by CISP for the client:

- CISP facilitated regular meetings with the client and his guardian to develop strategies to assist the client to minimize his risk of re-offending
- CISP case manager and the client's administrator developed strategies to assist the client to access his money while limiting the risk of alcohol abuse and related vulnerability
- A referral was made to Disability Employment Services to explore the possibility of the client commencing voluntary work
- Assistance was provided to access Supported Residential Services (SRS) to address the client's accommodation needs
- Referral to brain injury specific community activities to provide the client with activities which would reduce his risk of drinking and re-offending
- Linked the client with Community Brain Disorder Assessment and Treatment Service for multidisciplinary treatment
- Linked the client with the Acquired Brain Injury (ABI) Behaviour Consultancy Service for behaviour interventions.

### **Conclusion to Case Management**

Throughout the client's episode on the CISP there appeared to be a significant reduction in his substance use and offending behaviour, and an overall improvement in his quality of life.

The client was sentenced to a community-based order with a view to him continuing to access treatment. The magistrate hearing the matter remarked that as a direct result of CISP involvement the client was able to avoid a custodial sentence.



### Program Enhancement

### SMS Reminders Project

The SMS Reminders Project uses an automated SMS system to send mobile phone text reminder messages to clients on the CISP and the CREDIT/Bail Support Program (CBSP).

The pilot commenced on 10 May 2010 at Melbourne Magistrates' Court CISP and was expanded to CISP at the Latrobe Valley and Sunshine Magistrates' Courts in November and December 2010.

Between May 2010 and March 2011, over 1200 messages were sent. In October 2010, an interim evaluation was conducted on the CISP for court hearings, case manager and ABI appointments. The evaluation identified that client attendance for court hearings increased by 20% and there was a 23% reduction in non-attendance across all appointment types.

These findings showed that clients who received SMS reminder messages demonstrated an increase in attendance for case manager meetings and court hearings compared with clients not receiving the reminders. The data also indicated that clients who receive the messages have an increased level of maintaining contact with the court compared to clients not receiving text messages.

In March 2011, the pilot was expanded to include CISP ABI screening assessment appointments, drug and alcohol assessment and housing appointments.

### Victoria Police – SupportLink

The CISP has signed a memorandum of understanding with SupportLink IT for the SupportLink Early Intervention and Diversion Program. This initiative provides a single referral gateway for Victoria Police, diverting non-police matters to specialist agencies. It will allow operational police to refer accused to CISP as soon as charges have been laid. The early intervention pathway mitigates multiple re-engagements by police and creates systemic partnership between police and the social services sector.

### Victorian Auditor General's Report

In 2010-11, the CISP was subject to an audit by the Victorian Auditor's General Office. The audit examined the implementation, operation and evaluation of the Courts Integrated Services Program (CISP).

On 6 April 2011, the Victorian Auditor-General tabled a report on *"Problem-Solving Approaches to Justice"* in the Parliament.

The report made eight recommendations, five of which relate to the court's management of CISP. These recommendations are currently being implemented by the court.

### **Program Expansion**

Currently the CISP operates at Melbourne, Sunshine and Latrobe Valley Magistrates' Courts. Given the successful evaluation of the CISP, which demonstrated that the program is cost effective, reduces recidivism and provides meaningful assistance to court users, the court is seeking government support to expand the program to further court sites.

### **Community Engagement**

### Working Groups

The CISP has representation on and input into a number of working groups including:

- Remand Prisoner Working Group
- Custody Management Issues Working Group
- Corrections Victoria Community Correctional Services/CISP Bail Information Group
- Jesuit Social Services Remand Reform for Young
  People Project
- Corrections Victoria, Early Childhood and the Office for Children convened a whole-ofgovernment forum to explore opportunities to strengthen support and enhance the early childhood development of children whose mothers are in the criminal justice system.

### Presentations

The CISP was presented to a number of international visitors, and forums including:

- delegates from Vietnam visiting the Melbourne Magistrates' Court
- Judges Aitken, Fitzgerald and Tremewan, from New Zealand. Senior Sergeant Tracey Gallagher and Tipene Pickett, Maori Alcohol and Other Drug Counsellor
- International welfare students from Sri Lanka, Chile and Brazil
- Special Circumstances Court Coordinator employed by the New Zealand Police and the Auckland District Court to implement the Special Circumstances Court
- Onside Victoria 'Connecting Youth Services Forum'
- Court Network Conference.

### Services and Supports

### Housing

CISP has access to 20 transitional housing management properties, located throughout Melbourne, with housing support provided to each client in transitional housing management (THM) by HomeGround Services. This accommodation and support provides clients with stability and assists them to meet their bail conditions.

The aim of housing support is to assist program participants to address the issues underlying their homelessness. The housing support worker provides assistance with tenancy sign up, long-term housing, exit plans and is a point of contact for the transitional housing managers who manage the properties.

In 2010-11 CISP made 313 referrals to HomeGround Services Initial Assessment and Planning service for client assistance with services such as crisis accommodation, information and referral for housing options and public housing applications (segment 1).

### Acquired Brain Injury (ABI) Services

A 12-month pilot for court-employed staff to deliver ABI case management services to CISP clients finished on 30 June 2011. The pilot was reviewed and approval has been granted for CISP to employ three ongoing ABI case managers.

### Statistical data

#### Referrals and engagements

In 2010-11, CISP received 2137 referrals. Of these 1113 (52%) were engaged in case management.

### Treatment and Support

The following are the top five treatment and supports to which CISP referred clients in 2010-11:

- 3916 material aid, including food vouchers, travel cards and key passes
- **1756 drug and alcohol services**, including Community Offenders Advice and Treatment Service (COATS)
- 735 mental health services
- 414 pharmacotherapy, including Methadone, Naltrexone, Buprenorphine, Suboxone
- 315 medical, including assessment of medical needs, pain management, medication review and specialist services.



### Koori Liaison Officer (KLO) Program

The Koori Liaison Officer (KLO) program became operational in 2002. The creation of this program was a direct result of the Victorian Aboriginal Justice Agreement, a partnership between the Victorian government and Victorian Indigenous Communities. This agreement was brought about by recommendations from the '*Royal Commission into Koori Deaths in Custody'*.

The program aims to address the over-representation of Koori people in the Victorian justice system by working with Koori accused when they enter the court system. In addition, the service helps Koori people to maximise their chances of rehabilitation through culturally appropriate and sensitive intervention.

The KLO program has a coordinator and liaison officer. It operates as part of the Court Integrated Services Program (CISP) and offers the range of services provided by the CISP.

The objectives of the KLO program include:

- to provide advice to Koori accused who come into contact with the court, and their families
- provide access to services for Koori accused who come into contact with the court
- to raise awareness within the criminal justice system of cross-cultural issues
- to provide advice and report to magistrates and relevant court staff in relation to appropriate courses of action for Koori accused
- to liaise with local Koori communities to inform them of the court process
- to consult, negotiate and liaise with government and non-government organisations to coordinate service delivery and promote knowledge of issues relating to Koori persons.

Any party to a court proceeding can access the KLO program, including applicants, respondents and the accused from all jurisdictions of the Magistrates' Court, such as the Family Violence Court Division.

The KLO Program is located at the Melbourne Magistrates' Court, but is a statewide service.

### Community engagement

Koori Liaison Officers meet regularly with Koori specific services to provide support to and coordinate service provision for KLO clients within the CISP, including:

- Western Gathering Place Indigenous Justice Community Worker
- Bundji Bundji Program Whitelion Youth Support and Court Advocacy
- Moreland Hall Aboriginal Liaison Officer
- Ngwala Willumbong Cooperative.

### Custody Management Working Group

The KLO program coordinator participates on the Custody Management Working Group. The group comprises representatives from Corrections Victoria Community Correctional Services, Victoria Police, the Magistrates' Court of Victoria, Centrelink and the Salvation Army. Group discussion includes custodial issues prior to release, access to treatment, improving released prisoners' access to community agencies and improved relationships between stakeholders.

### Aboriginal Liaison Officers' Forum

The KLO program coordinator attended the national Aboriginal Liaison Officers' Forum in June 2011, and presented on the KLO's role within the CISP to other service providers from Australia. This event offered a practical toolkit of strategies, solutions and approaches through case studies presented by industry professionals.

Common issues faced within the role were discussed and solutions that could benefit the community as a whole and enable practical ways of moving the profession forward. Participants from diverse organisations exchanged views and strategies to develop community engagement and cultural intelligence among their stakeholders.

### Statistical Data

In the 2010-11 period, 174 clients referred to the CISP identified as Aboriginal only or Aboriginal/Torres Strait Islander. This is 8% of total CISP referrals for the 2010-11 period.



### **CREDIT/Bail Support Program**

### Aims

The CREDIT/ Bail Support (CBS) program aims to achieve the following outcomes:

- the successful completion of bail by an accused person who would otherwise be remanded in custody
- a reduction in the number of accused remanded due to lack of accommodation, treatment and/or support in the community
- the successful placement of the accused in drug treatment and/or rehabilitation programs, mental health and disability services
- the long-term reduction in involvement of accused persons in the criminal justice system.

### Services Provided

Clients are provided with a range of services while on bail and participating in the program, including:

- an assessment and the development of a case management plan for treatment and support
- case management for up to four months, including support and monitoring
- referrals and linkages to community support and treatment services.

### Locations

The CREDIT/Bail Support program is located at Ballarat, Broadmeadows, Dandenong, Frankston, Geelong, Heidelberg, Moorabbin and Ringwood.

### Housing

The CREDIT/Bail Support program has access to 20 transitional housing management (THM) properties, with an additional 10 properties allocated for the Corrections Victoria Better Pathways Strategy, designated as priority for women. HomeGround Services provides all clients living in these houses with housing support. This accommodation and support provides clients with stability and assists them to meet their bail conditions.

The aim of housing support is to assist program participants to address the issues underlying their homelessness. The housing support worker provides assistance with tenancy sign up, long-term housing, exit plans and is a point of contact for the transitional housing managers who manage the properties.

### **Community Engagement**

CREDIT/Bail Program staff liaise with treatment and support providers in their local area to ensure they have up to date knowledge of services available for their clients.

During 2010-11 community engagement has included strategies implemented to assist women on remand prior to the bail application. Following the remand and parole investigation conducted by Corrections Victoria (CV) earlier this year, the CV Community Correctional Services (CCS) Women's Policy Unit and CISP/Credit Bail Support Program met to discuss strategies to assist women at Dame Phyllis Frost Centre (DPFC) in accessing the correct information regarding the bail process, including:

- bail information leaflets and posters at DPFC and police stations
- 'Your Right to Bail' information sessions at DPFC (these are held every six weeks at DPFC and provide women on remand with information including assistance in completing a CREDIT/Bail Support Program or CISP referral, prior to the bail application)
- strengthening CREDIT/Bail Support Program and CISP information to women in prison
- further diversionary support options for women
- strengthening CREDIT/Bail Support program and CISP referrals from police stations.



Community engagement has also included:

- The Program Manager, CISP & CREDIT/Bail Support program has attended regular meetings with peer educators at the Metropolitan Remand Centre (MRC). These sessions are proving to be extremely worthwhile in providing both staff and prisoners with information about the CREDIT/Bail Support program and CISP referral process. There is a minimum of 20 remand prisoners at each session, many of whom are seeking access to support.
- A number of prisoners have written letters to the CREDIT/Bail Support program and the CISP, requesting assistance in accessing community treatment.
- Several Court Support and Diversion Services staff, including CREDIT/Bail Support Program staff were involved in the Forensic Alcohol and Other Drug (AOD) Sector Review in 2011. The objective of the review is to develop a comprehensive model for a future forensic AOD treatment system in Victoria.

The Department of Health commissioned this project, which sought input from agencies that referred clients to drug treatment particularly with respect to preferred models of treatment and how a new system might operate.

 The Program Manager, CISP and CREDIT/Bail Support program participated in a whole-ofgovernment forum convened by Corrections Victoria, Early Childhood and the Office for Children. The aim of the forum was to explore opportunities to strengthen support and enhance the early childhood development of children whose mothers are in the criminal justice system. This forum informed the development of a wholeof-government action plan that will be part of a broader model of support for children of women in prison custody or under the supervision of Community Correctional Services.

Research indicates that many children of women in the criminal justice system are likely to be vulnerable and in need of support and that the incarceration of women leads to an increased risk of inter-generational offending. This has implications for service delivery systems designed to assist children, families and caregivers.

Development of a model of support for children of women in prison custody is an initiative within *Better Pathways: an integrated response to women's offending and re-offending.* 

### CREDIT/Bail Support Case Study

After negotiations with his parents to reside at the family home, a client who had been in custody for some months after the original bail application was denied, was granted bail with CREDIT/Bail Support program conditions. The client's mother had been initially reluctant to have her son return home due to his outbursts of anger.

The client had very serious charges and an intervention order and was unable to see his young children.

During his involvement on the program, the client's mother reported he had become a "changed man". He had implemented strategies to deal with his anger, maintained abstinence from cannabis and re-engaged with his brothers. His former partner also supported him to have regular access visits with his children.

The outcome was that the client received a community-based order to enable him to continue with the rehabilitative work he commenced whilst on the program.

### Statistical data

### Referrals

In 2010-11, 1676 referrals were made to the CREDIT component of the program and 1280 to the Bail Support program component.

Fifty-six clients referred to the CREDIT/Bail Support program identified as Aboriginal only, Torres Strait Islander only, or Aboriginal/Torres Strait Islander.

### Referrals by Referral Reason

The top six reasons for referral to the CREDIT/Bail Support program were:

- illicit substance abuse
- lack of appropriate support
- alcohol abuse
- mental health, including unclear mental health status
- grief and loss
- anger management
- housing.

### **Treatment and Support Services**

In 2010-11 referrals made by the CREDIT/Bail Support Program to treatment and support services included:

- 1,215 drug and alcohol services, including Community Offenders Advice and Treatment Service (COATS)
- **186 pharmacotherapy**, includes Buprenorphine, Methadone, Suboxone and Naltrexone
- 1,941 material aid, includes food vouchers, key passes and travel cards
- 285 mental health services, including psychologist
- 83 acquired brain injury services
- 169 medical
- **172 housing services**, including crisis and medium term housing.

### **Criminal Justice Diversion Program**

The Criminal Justice Diversion Program (CJDP) provides mainly first time offenders with the opportunity to avoid a criminal record by undertaking conditions that benefit the offender, victim and community as a whole.

The program provides the following benefits:

- reduces the likelihood of re-offending by tailoring an order according to the needs of the accused
- assists offenders to avoid an accessible criminal record
- assists in the provision of rehabilitation services to the accused
- increases the use of community resources to provide counselling and treatment services
- ensures that restitution is made to the victim of the offence if appropriate
- ensures the victim receives an apology if appropriate
- assists local community projects with voluntary work and donations
- provides more flexibility for orders
- a diversion coordinator monitors cases and conditions, ensuring accountability of the accused.

### **Governing Legislation**

The Criminal Justice Diversion Program is governed by section 59 of the *Criminal Procedure Act 2009.* 



### Victim Involvement

Where a charge involves a victim, the court seeks the victim's view of the matter. This may include:

- whether the victim agrees with the course of action
- the amount of compensation sought for damage to property
- how the crime has affected the victim.

Victims are not obliged to respond to the court's contact. However, the victim is entitled to express his or her view by way of letter or in person on the day of the hearing. The court will notify victims of the hearing outcome, if requested to do so.

### Trial Expansion of Infringements System

A three-year trial commenced on 1 July 2008 that allows police to issue an infringement notice for certain offences instead of charging an accused to appear at court on summons or bail. It was recognised that this trial might impact on the number of referrals of such offences to the CJDP.

### These offences include:

- careless driving
- indecent language
- offensive behaviour
- consuming or supplying liquor on unlicensed premises
- failure to leave licensed premises when requested
- shop theft of goods worth up to \$600
- wilful damage to property of up to \$500.

A comparison of the offence types for infringement offences for the 2010-11 period measured against referrals for the same offences in 2007-08 highlights the impact on referrals of these offences to the CJDP.

In 2010-11, charges referred to the CJDP as part of the infringement notices introduction have decreased by 32% compared to 2007-08. This is demonstrated in the below table.

	2010/11		2007/08 (YTD)	
CHARGE REFERRED	JUNE	TOTAL	JUNE	TOTAL
Careless driving	73	787	85	1085
Indecent language	3	30	17	103
Offensive behaviour	1	67	35	32 <b>0</b>
Consuming orsupplying liquor on unlicensed premises	0	0	0	5
Failure to leave licensed premises when requested	1	2	2	7
Shop theft of goods worth up to \$600	51	626	39	728
Wilful damage to property of up to \$500	32	200	23	256
TOTAL	161	1712	201	2504

The trial will sunset on 30 June 2011. From 1 July 2011, careless driving, indecent language, offensive behaviour, consuming or supplying liquor on unlicensed premises and failure to leave licensed premised when requested will all be 'infringeable' offences. Shop theft of goods up to the value of \$600 and wilful damage to property to the value of \$500 will continue to be trialled for a further 12 months.

### Statistical Data

The CJDP received 6,260 referrals from various prosecuting agencies during 2010-11, representing a 10% decrease compared with 6,963 referrals received in 2009-10.

The highest number of referrals were male, representing 70% of referrals received. The most commonly represented age category was the 17-25 age group. Of these accused, 2,225 were placed on a diversion plan (accepted into the program), compared with 2,589 accused in 2009-10.

During 2010-11, accused undertook 11,897 conditions, compared with 11,957 in 2009-10.

In 2010-11, 1,134 matters were found not suitable/ refused by magistrates and judicial registrars state wide, representing 18% of referrals that were refused.

During 2010-11, a total of 4,421 accused successfully undertook conditions and completed their diversion plan, representing 90% of accused who were placed on the CJDP, compared with 4,548 (91%) in 2009-10.

During 2010-11, 24 accused identified as Aboriginal and/or Torres Strait Islander during the diversion interview process.

### **Community Involvement**

### Voluntary Work

Accused perform voluntary work where possible within their local community or the area where they committed the offence. During 2010-11, 64 accused were ordered to undertake a total of 1,136 hours of voluntary work with various non-profit organisations including:

- the Salvation Army
- St Vincent De Paul

Voluntary work referrals for 2010-11 decreased significantly compared to previous years due to the statewide agreement with Keep Australia Beautiful Victoria ceasing in June 2009.

### Donations

Each year accused in the CJDP direct donations to local charities or not-for-profit organisations. During 2010-11, 3,402 accused undertook to pay a total of \$886,259 in donations to charities and local community projects. Approximately \$120,000 of the donations ordered were directed to be paid to the Court Fund.

The Court Fund distributes monies to local community services. In addition, over \$70,000 in donations was allocated to child and youth support services statewide. These include Whitelion, Berry Street, Kids Undercover, 20<sup>th</sup> Man Fund and Handbrake Turn.

A further \$145,000 in donations was directed to community run safety initiatives such as lifesaving clubs, rescue squads and road safety initiatives.

Over \$104,000 was allocated to hospitals statewide and more than \$270,000 to community health and family support centres.

### Restitution

A further \$732,920.26 in restitution was undertaken to be paid to victims during 2010-11.



### **Enforcement Review Program**

The Enforcement Review Program (ERP) assists members of the community who have "special circumstances" and outstanding fines registered at the Infringements Court. The ERP enables the Magistrates' Court to impose outcomes that reflect the circumstances of the offending.

The Infringements Court and the Magistrates' Court jointly manage the ERP. The Special Circumstances List operates at the Melbourne Magistrates' Court and is part of the Court Support and Diversion Services.

### Eligibility

Special circumstances matters are identified by section 65 of the *Infringements Act 2006*. A person must demonstrate that they are unable to understand that their conduct constitutes an offence or control their conduct that constitutes an offence.

An application for revocation of fines in relation to special circumstances together with supporting medical evidence is made to the Infringements Court. This may include:

- an intellectual disability
- a diagnosed mental illness
- an acquired brain injury
- a serious addiction to drugs, alcohol or a volatile substance
- homelessness.

If the Infringements Court registrar grants the application, the relevant prosecuting agencies may withdraw proceedings. Where this does not occur, the matter is listed in open court before a magistrate or judicial registrar for determination in the Special Circumstances List.

### **Court Process**

The magistrate or judicial registrar will consider the special circumstances outlined in the application and has full discretion as to what type of order to impose. This could include a dismissal pursuant to section 76 of the *Sentencing Act 1991*, an undertaking to be of good behaviour or reimposition of the fine.

All applicants must attend court unless they suffer exceptional circumstances, such as being institutionalised and must be prepared to plead guilty to the offence.

The prosecutor may request VicRoads to perform a licence review for driving related offences. Upon a finding of guilt, demerit points are still recorded with VicRoads for the relevant regulated offences.

### Statistical data

The ERP received 29,377 individual infringements for listing in the Special Circumstances List, relating to 1,641 accused, from the Infringements Court in 2010-11.

A total of 3,100 matters have been listed in the Special Circumstances List in 2010-11. Of these matters, 1,762 have been finalised by a magistrate or judicial registrar, representing an overall clearance rate of 57% of the matters listed for the financial year.

The 1,762 matters finalised in 2010-11 is an increase of 25% compared to matters finalised in 2009-10. This increase is due to a higher number of sitting days in 2010-11, which was a strategy to clear a backlog of cases.

Of the 1,762 matters that were finalised within the Special Circumstances List, 64% of accused appeared in open court and 36% were heard ex parte.



### Youth Justice - Court Advice Service Melbourne Central Courts Unit

The Youth Justice Court Advice Service (YJ CAS) situated at the Melbourne Magistrates' Court, is a youth specific service provided by the Department of Human Services (Youth Justice) for young people aged 18-20, who are appearing in the criminal courts.

YJ CAS was established in 1998, and forms part of the Victorian Youth Justice statutory services system. An emphasis of the program is the rehabilitation and suitable diversion of young people from the criminal justice system through the provision of specialist youth focused court advice.

The service is provided to the Melbourne Magistrates', County, Supreme Courts and the Court of Appeal. YJ CAS is also available at all adult courts in the state of Victoria.

### Referrals

Referrals to the program are predominately initiated by the magistrate or judge considering sentencing of a young person or the young person's legal representative. Referrals can also be made by:

- youth justice case managers
- Court Integrated Services Program (CISP) and CREDIT/Bail Support Program
- the young person, their family and supporting community agencies.

### Service Provision

YJ CAS provides advice and information to courts, client advocacy and interventions that optimise diversionary and rehabilitation opportunities.

The program also provides:

- bail assessment for young people in custody
- case management of young people who are subject to a supervised bail or a deferral of sentence order.
- assessment of a young person's suitability for a Youth Justice Centre order
- progress reports, assessments and recommendations to the court
- advice and referrals to community service organisations, government agencies and treatment programs
- liaison with magistrates/judges, legal representatives, judicial staff, court support services and other allied personnel.
- consult with key stakeholders regarding young people who are undergoing a youth justice statutory disposition
- general information and guidance in regards to court advice and Youth Justice services.

### YJ CAS Partnerships

YJ CAS works together with support networks and service providers to assist young people. These organisations include:

- alcohol and drug agencies
- mental health services
- accommodation programs
- health practitioners
- community support agencies.



### Community Correctional Services – Court Services Unit

Community Correctional Services (CCS) is a business unit of Corrections Victoria. CCS provides presentence court advice to the Magistrates', County and Supreme Courts through the assessment of offenders in relation to their suitability for community-based orders, intensive correction orders and combined custody and treatment orders.

These assessments occur at the request of the court and are generally completed 'on the spot'. CCS also provides a more comprehensive pre-sentence report in the event that the court requests a more detailed assessment of the accused prior to sentencing. As well as providing assessments and reports to the court, CCS also prosecutes offenders who appear at the Magistrates' Court having been charged with breaching any of the above orders or on application to cancel or vary any such order.

Due to the volume of activity at Melbourne Magistrates' and County Courts, a dedicated team of CCS court advice staff comprise the Court Services Unit (CSU). The CSU is housed within court support services at the Melbourne Magistrates' Court.

### Mental Health Court Liaison Service

The Mental Health Court Liaison Service (MHCLS) is a court-based assessment and advice service provided by Forensicare, the Victorian Institute of Forensic Mental Health.

The service, funded by the Department of Human Services, was first established at the Melbourne Magistrates' Court in November 1994. Since that time the service has been extended, on a half-time basis, to the following metropolitan Magistrates' Courts: Broadmeadows, Dandenong, Frankston, Heidelberg and Ringwood. In 2007, the Department of Justice allocated funding for a full-time court liaison position at the Sunshine Magistrates' Court as part of the Court Integrated Services Program (CISP).

Apart from the services provided by Forensicare, there are five half-time rural-based Mental Health Court Liaison positions provided by the local area mental health services that cover the Geelong, Shepparton, Bendigo, Ballarat and Latrobe Valley Magistrates' Courts.

In the metropolitan courts, senior mental health clinicians provide on-site services. An on-call consultant forensic psychiatrist is available to discuss issues with these clinicians when required. The MHCLS is able to provide assessment and triage. If required treatment and case management are provided by area mental health services.

The MHCLS provides the court with accurate and upto-date information about a person's mental health to ensure the person receives appropriate care. The service provides:

- mental state assessment and advice regarding the management and needs of persons referred
- verbal and written reports to the court, as required
- assistance with transfer of acutely mentally unwell people to area mental health services
- training and education for judicial, other legal and support service staff regarding the role of the MHCLS
- close collaboration with CISP in the management of people referred
- advice for custodial staff on the management of people in custody, such as medication management
- advice regarding risk issues related to mental illness
- referral and linkage to support services
- consultation and advice to support agencies, professional representatives and family members involved in a client's care.

The MHCLS, together with Forensicare's Community Integration Program (CIP – Forensicare, a service providing time-limited clinical input for people with serious mental health problems in the community) play an important role in referring persons to community based organisations such as area mental health services, psychologists and general practitioners at the time of bail or release from custody.

The service accepts referrals from anyone who has a concern about the mental health of individuals who will be appearing before the court on criminal charges. The service works closely with CISP, both referring clients to this program, and receiving referrals from them. At Melbourne Magistrates' Court, the MHCLS has formed a close working relationship with the Assessment and Referral Court (ARC) List since it commenced in March 2010.

# Professional Development



# **Professional Development**

Magistrates routinely engage in professional development opportunities, including those set by the court's Professional Development Committee (PDC), and also those set by the Judicial College of Victoria (JCV). Many magistrates undertake their own professional activities beyond those set more formally.

This section provides a snapshot of some of the key professional development events during the reporting period.

### **Professional Development Conferences**

The Professional Development Committee (PDC) has endeavoured to continue to provide a diverse program of subjects of relevance and interest to all magistrates.

During the reporting period, five days were allocated for professional development conferences:

- 28 July 2010 "Civilisation" at the RACV Club
- 29 July 2010 "Crime and Punishment" at the RACV Club
- 15 October 2010 "Civil Procedure" at Oaks on Market Street
- 25 March 2011 "Focus on Koori Issues" at Treetops, Melbourne Museum
- 1 April 2011 *"Evidence Refresher"* at Medina Grand.

As part of the collaborative approach adopted between the PDC and Judicial College of Victoria (JCV), the JCV organised the workshops conducted on 15 October 2010 and 1 April 2011.

In addition to these conferences, a presentation in relation to victim impact statements was made after the Council of Magistrates meeting on 26 November 2010.

Evaluation forms are provided to magistrates at all conferences. The responses have consistently indicated positive feedback and constructive comments regarding the content of the conferences. The evaluations include an opportunity for magistrates to indicate areas of interest for future conferences and the PDC endeavours to ensure that those requests are facilitated.

The following is an overview of each of the professional development conferences during the reporting period.

### "Civilisation" - 28 July 2010

Presentations were given on the following topics on 28 July 2010 at the conference held at the RACV Club:

- 'Morality, Moralism and the Law' presented by Mr Raymond Gaita
- 'Reasons for Decision' and 'Adequate Reasons Scenario Based Workshop' presented by Mr Tom Wodak



Civil Workshops conducted at the conference included the following topics:

- 'Civil Made Easy' presented by Magistrate Greg McNamara
- 'WorkCover' presented by Magistrate Brian Wright
- 'Industrial Law Overview' presented by Magistrate Kate Hawkins.

### "Crime and Punishment"- 29 July 2010

On 29 July 2010, the second day of the July conference was conducted.

Presentations were made regarding the following topics:

- 'Child Pornography' presented by Dr Danny Sullivan of Forensicare
- 'Demonstration of On Line Sentencing Tool' presented by Mr Stephen Farrow

Workshops included:

- 'Bail' conducted by Magistrate Sarah Dawes
- *'Criminal Procedure Act'* conducted by Chief Magistrate Ian Gray
- 'Solution Focused in Mainstream Courts' conducted by Magistrate Pauline Spencer and Magistrate Greg Connellan
- 'Strength and Wellbeing How to Build and Preserve Positive Energy in a Busy Role' conducted by Ms Maryanne Mooney, Director, Full Circle Feedback.

### "Civil Procedure Workshop" – 15 October 2010

On 15 October 2010, 59 magistrates attended the JCV's Civil Procedure Workshop for magistrates, held at Oaks on Market Street. The development of this program was guided by Deputy Chief Magistrate Peter Lauritsen and Magistrate Jo Metcalf, as a subcommittee of the college's Civil Procedure Steering Committee, chaired by the Chief Justice Marilyn Warren AC. The objective of this workshop was to enable magistrates to identify key changes in the conduct of civil proceedings under the *Civil Procedure Act 2010*, and learn how to apply the provisions to manage cases more efficiently and effectively. Presenters included Professor Peter Cashman, the Hon David Byrne QC, Judge Sandra Davis, Judge Maree Kennedy and Magistrate Barry Braun.

Magistrates attending the workshop said it provided a practical and useful overview of the reforms.

### "Focus on Koori Issues" - 25 March 2011

The conference was conducted at Treetops, Melbourne Museum, a wonderful venue. The welcome to country was performed by Caroline Martin, the manager of Bunjilaka Aboriginal Cultural Centre and traditional owner of Boon Wurrung Country. The keynote speaker was Justice Stephen Kaye and his presentation and paper 'Aboriginal Justice Issues' was both inspiring and thought-provoking.

There was a panel discussion in which a number of Aboriginal elders and respected persons assisted in our understanding of Aboriginal culture. The Panel members included Aunty Joan Vickery, Uncle Reg Blow and Angela Clarke, together with Deputy Chief Magistrate Jelena Popovic and Magistrate Ann Collins.

Antoinette Braybrook and Jacqui Katona presented on the Aboriginal Family Violence Prevention Legal Service and images were shown of participants at the 'Sisters Day Out'.

In the afternoon, representatives from a number of Aboriginal agencies that assist Aboriginal people pre and post court, described the services they provide. Presenters included Shaun Braybrook (Wullgungo Ngalu), George Calleja (Baroona), Colleen Marion (Gathering Place), Andrew Gardiner (Bunurong Dandenong Co-Operative) and Rod Jackson (Victorian Aboriginal Health Service).

The committee recorded its appreciation to Deputy Chief Magistrate Jelena Popovic and Magistrate Ann Collins, who had both greatly assisted in ensuring the success of the day. The evaluations indicated that 96.8% considered the program was of both personal interest and relevant to our work.

### "Evidence Refresher" - 1 April 2011

On 1 April 2011, 75 magistrates attended the Judicial College of Victoria's Evidence Refresher Workshop, held at the Medina Grand. The development of this program was guided by the College's Evidence Steering Committee, comprising the Hon. Tim Smith QC (chair), Justice Mark Weinberg, Judge Felicity Hampel, Deputy Chief Magistrate Peter Lauritsen and Magistrate Duncan Reynolds.

Through analysis of recent Victorian cases, the objective of this workshop was to identify key principles and emerging areas of uncertainty, to further enhance judicial officers' ability to deal with applications under the *Evidence Act 2008*. Magistrates were joined by judges who had presided over key decisions, to explore the interpretation and application of the uniform evidence law in Victoria.

Presenters included Justice Geoffrey Nettle, Justice Marcia Neave AO, Justice Elizabeth Curtain, Justice Lex Lasry, Judge Jeanette Morrish and Magistrate Peter Reardon.

Participants attending the workshop found it practical, relevant and of great assistance in highlighting important principles.

### Judicial College Victoria

Throughout the year, magistrates have participated in a range of interesting and highly relevant professional conferences, seminars and activities facilitated by the Judicial College of Victoria.

Some of the key events included:

• Cyberspace and the Law of Evidence 23 July 2010

Eight magistrates attended.

Mental Health Twilight series
 7, 14 September and 12 and 19 October 2010

Eight magistrates attended.

Child and Cognitively Impaired Witnesses
 12 November 2010

Nine magistrates attended.

 Suppression and Non-publication Orders 5 April 2011

23 magistrates attended.

Oral Decisions
 5, 6 May 2011

12 Magistrates attended.

- Sentencing 26, 27 May 2011
   25 magistrates attended.
- Trends in Victorian Society 10 June 2011

Nine magistrates attended.

# Innovations and Initiatives



## Innovations and Initiatives

This section provides a snapshot of the following key innovations and initiatives for the court during the reporting period:

- an overview of Statewide Listing Reforms
- introducing the P.A.R.T.Y. Program from the Sunshine Magistrates' Court
- the new Electronic Filing Appearance System (EFAS)
- an overview of the Personal Safety Intervention Order (PSIO) Project
- the new Automated Ticketing System at Frankston Magistrates' Court
- an overview of the current work and projects of the Organisation and Development Unit
- an update on the work of the **New Directions** program.

### **Listing Reforms**

Over the past 12 months the Magistrates' Court has embarked on a wide-ranging review of court listings including:

- the increasing caseload of the court
- the introduction of judicial registrars
- the usage of courtrooms (particularly in the afternoons)
- listing practices in relation to contested hearings.

As a result, the court introduced a sessional listings structure across the state, which means all headquarter courts and larger courts (where practicable) will list according to listing sessions. Smaller satellite courts (regional courts) will not list in a listings sessions structure. These courts continue to commence sittings at 10.00am and will utilise "not before times" and time certainty where appropriate.

The listing session structure will comprise of two sessions per day.

- a morning session from 9.30am 1pm
- an afternoon session from 2.00pm 4.00pm.

The listing reforms are designed to achieve the following objectives:

- increased efficiency by reducing downtime in court and listing to ensure better use of courtrooms particularly in the afternoons
- better control and knowledge over the structure and content of court lists, achieved by obtaining relevant case information with respect to matters listed and ensure that they are adjourned and allocated to appropriate lists
- appropriately identified and structured lists, allowing more efficient listing of matters, such as complex or lengthy proceedings and consolidations in a separate list to that of the mention court
- provide a more even and consistent spread of caseload throughout the day, reducing the heavy number of people in courts, particularly in the mornings
- provide for and promote the increased use of time certainty through the implementation of the Electronic Filing Appearance System (EFAS)



- maximise the use of judicial registrars, achieved through specially structured and resourced lists and targeted adjournments of appropriate matters from other lists into the judicial registrar lists
- provide for structured chamber time for magistrates to attend to decision writing, VoCAT and coroner's work, and reading and research
- maximise the benefits of the '*Case Management Model*' approach, which is currently being implemented by Victoria Police.

There has been a large amount of work performed by coordinators, senior registrars and regional coordinating magistrates to ensure that the court is adequately prepared for the introduction of the listing reforms.

This work has included:

- a review of the mention book used by Victoria Police to list matters for their first court date, which included an analysis of the top 20 offences initiated in the court, identification of matters that were appropriate for listing in a morning and afternoon session and the redesign of the mention book to reflect the listing requirements of the court
- the implementation of new listing structures and practices in line with sessional listings
- the introduction of a number of initiatives to support the earlier gathering of case information, such as changes to the cover sheet ( to be shortly implemented) and case information sheets to include relevant information to be gathered prior to listing matters for pleas of guilty or consolidation
- the introduction of EFAS on 21st February 2011, which is another initiative designed to give practitioners a more practical means by which to communicate with the court and provide case management information and or adjournment requests earlier and more efficiently
- the development of an electronic diary to offer greater functionality to coordinators than the current manual diary provides.

Victoria Police is introducing the *'Case Management Model'*. Currently, all metropolitan courts have introduced the model. Planning is underway for its introduction to regional courts. The model aims to:

- to deliver a comprehensive, efficient and effective system of managing cases from pre-mention through to finalisation
- to reduce the delays associated with processing court cases by providing all stakeholders with a single contact point providing timely and accurate information
- to create certainty in the court list, that cases will progress as listed (particularly contested hearings) and to provide the court with as much notice as possible if this is not the case
- to create additional space in the court list in support of Magistrates' Court initiatives.

There are a several courts which have already commenced sessional listings. The majority of courts commenced sessional listings on 4 April 2011, with Melbourne Magistrates' Court to commence sessional listings in August 2011. Overall, the court is starting to see some very positive signs resulting from the sessional listings reform, and more consistently structured lists through greater certainty and management of lists by coordinators.



### P.A.R.T.Y. Program

The Prevention of Alcohol and Risk-related Trauma in Youth (PARTY) program is a trauma prevention initiative aimed at young offenders aged between the ages of 18 and 25 years old, who are appearing in court for offences involving risk-taking behaviour.

The PARTY program commenced as a pilot in April 2010 and, due to its success, is still ongoing. The program is exclusive to Sunshine and Werribee Courts and is run in conjunction with Victoria Police, the VISY Cares Hub-Youth Junction Inc and the Alfred and Royal Melbourne Hospitals.

The program seeks to give participants a snapshot of the possible traumatic and often preventable consequences of risk related behaviour. P.A.R.T.Y participants spend time at either the Alfred Hospital or the Royal Melbourne Hospital with staff in the Emergency/Trauma Centre, the Intensive Care Unit, Trauma Wards and Rehabilitation Units of the hospital, getting an up-front, true-to-life experience of the impact of trauma on young lives.

Through DVD and powerpoint presentations, interviews with patients and real-life clinical scenarios, the participant is exposed to the painful journey of a trauma patient. They learn about trauma injuries and have hands-on experience with some of the equipment used in trauma care and rehabilitation.

Participants are referred by magistrates as a presentence option to attend the program, which is made up of three sessions:

- an induction session at the VISY Hub for one hour on the Monday evening leading up to the program
- the one day program at the hospital, and
- a one hour de-brief session at the VISY Hub.

A report, written by the accused at the de-brief session, as well as a summary of the program, are then provided to the magistrate to assist in sentencing.

Each participant that is referred to attend the P.A.R.T.Y program, undergoes a psycho-social assessment performed by The Youth Junction Inc, as part of their *'Crime, Choices and Consequence'* program. This assessment enables staff to identify other aspects in the lives of these young adult offenders, which could be addressed through appropriate intervention (ie housing, employment, financial, mental health and others). When participants of the program complete their P.A.R.T.Y debrief forms, a copy is sent to the magistrate with their assessment details at the bottom and any areas where further intervention could be appropriate are identified for the magistrate.

Each participant of the program agrees to be part of a 12 month research evaluation, which consists of four follow-up surveys conducted by The Youth Junction Inc at three month intervals. These surveys are aimed at seeking information around any further criminal activity, which ensures that the program is working towards reducing recidivism in young adults.



### Electronic Filing Appearance System (EFAS)

Electronic Filing Appearance System (EFAS) utilises the Magistrates' Court website daily court lists to allow practitioners to enter appearances and request adjournments. The appearance system has been developed to enhance the court's ability to manage increasing demands on its judicial resources. The system creates enormous efficiencies for court users as well as the court, including:

- providing a greater service to the legal profession by offering a more efficient and secure means of communicating information to the court
- more efficient and timely access by the Magistrates' Court to relevant case information to assist in better case management
- greater information for the court
- time saving for legal practitioners, as they do not need to queue to give their appearance and can proceed directly to the courtroom
- access to time certainty and staggered listings
- enhanced communication with the generation of confirmation emails to the legal practitioner and interested agencies including prosecuting agencies.

EFAS was piloted at Melbourne Magistrates' Court for three months from July 2010. The pilot was limited to criminal matters in the summary, committal and sex offence lists and four law firms agreed to take part. Based on positive feedback from the pilot by both the legal practitioners and court coordinators, EFAS was made available statewide from 21 February 2011.

To date over 270 legal practitioners including solicitors, barristers and prosecuting agencies have registered to use EFAS.

### Personal Safety Intervention Orders Project

The Personal Safety Intervention Orders project team was developed to assist in the implementation of the *Personal Safety Intervention Orders Act 2010*, which will come into force in September 2011. The project team is made up of Project Manager, Robert Challis and Project Officers, Lisa Eldridge and Ross Porter.

The new Act is the result of the 2006 review of family violence laws conducted by the Victorian Law Reform Commission conducted. As part of this review, it was recommended that there be a complete split between family violence and non-family violence intervention orders, which were previously administered under the *Crimes (Family Violence) Act 1987.* The *Family Violence Protection Act 2008* was implemented; and the *Stalking Intervention Order Act 2008* was introduced as a temporary measure, while the Department of Justice conducted a review of this system.

The Act will introduce a number of significant changes to the current stalking intervention order system. These include:

- A major focus on mediation, where magistrates will have the power to make a "mediation assessment direction". If, at the assessment, the matter is found suitable for mediation, the magistrate can make a mediation direction for both parties to participate. The registrar will also be encouraged to provide information to an applicant about mediation.
- Stalking (predatory type) is now individually defined and there are new separate definitions for prohibited behaviours. These behaviours are assault, sexual assault, property damage/ interference, serious threats and harassment.
- Stalking, harassment and property damage require a course of conduct or repeated behaviour; however, the other prohibited behaviours do not.
- There are also some significant improvements in relation to child respondents. These include that an order cannot be made against a child under 10 years old, and the ability to order reports in relation to a child's ability to attend school or alternative education options in the area.

 In many ways, the administration of the Act will come into line with the processes for family violence intervention orders. This includes, that a respondent will now need to seek leave to apply to vary or revoke a personal safety intervention order, and that explanations of interim and final orders must be given to the parties.

The project team are working with the judiciary, staff at the Magistrates' and Children's Court and Courtlink to ensure that all required administrative and procedural changes are in place prior to the commencement of the Act. This will include developing and conducting training sessions for court staff across the state, and the development of the Personal Safety Resource Officer Network.

The project team will be working closely with other agencies including the Dispute Settlement Centre of Victoria (DSCV), Victoria Police, Victoria Legal Aid and Department of Education to ensure that there is a consistent and collaborative approach to the new reforms.

### Automated Ticketing System – Frankston Magistrates' Court

An automated ticketing machine system was launched at the Frankston Magistrates' Court on 18 May 2011. The system has been developed by court staff to improve safety, privacy and efficiency for all court users.

The theory behind the ticketing machine is to make long queues a thing of the past by allowing court users to wait in the seating provided rather than lining up and standing in queues. Registrars have touch screen tablets that are linked to each counter giving them the ability to call up one enquiry at a time and complete that enquiry before calling up the next enquiry.

The ticketing system is similar to those currently used in Medicare and VicRoads offices. Clients select their enquiry type from the system, and are then provided with either a ticket number, which will be called when it is their turn, or relevant directions if their enquiry type does not require a ticket.

The system is equipped with two LCD screens and an automated voice call-over to direct court users to the correct counters once their ticket is called. The counter names have been replaced with numbers and are now colour coded to improve visibility and ease of locating.

Feedback from various court user groups has been very positive since its implementation, particularly that it has significantly improved privacy. This is especially important for parties at court for intervention order hearings. The system has also reduced staff stress due to no longer needing to manage long queues. Prior to the introduction, court users could be waiting for up to 10 minutes, particularly in the intervention orders area, which shares the counter with the general enquiries area. Although interviews with intervention orders clients are held in separate offices, initial discussions can be at counters and can often be very sensitive in nature. Applicants are often upset, stressed and unfamiliar with the processes and the experience of standing at a counter with limited privacy discussing sensitive issues can be quite distressing.



The introduction of a queuing system and associated partitioning and new signage has improved services to clients by improving confidentiality and service standards. Initial discussions can be had with a higher degree of privacy and shorter enquiries can be fast tracked. It has provided a more professional service, removed the need for long lines, improved security of information, and reduced frustration. Clients are more relaxed, not having to wait in lines and court staff have embraced the system as it has created a more controlled environment, more privacy, better security, less pressure and the ability to manage the waiting list by fast tracking short enquiries.

The system comes with a comprehensive reporting package, which in the future may assist with resourcing and staff training.

### Organisational Change and Development Unit

The objective of organisational change and development or OC&D, is to improve an organisation's capacity to handle its internal and external functioning and relationships, through targeted interventions and learning experiences.

The Magistrates' Court OC&D team integrates the functions and activities of human resources, learning and development and organisational change, providing a range of services to support the court's strategic objectives, in particular, *"getting the right people in the right place"*.

### Human Resources

In keeping with the court's goal of continuously improving service delivery, the human resources (HR) unit is relaunching, refreshing and re-examining the court's people management processes. HR will support the activities of the court by keeping accurate, reliable and up-to-date employee information, and providing a responsive service to management.

As part of creating efficiencies in the way services delivered to the court, HR is participating in various projects relating to continuous improvement and workforce planning initiatives, providing extra value to the business.

Current HR projects include:

- 'Service Quality Loop' questionnaire to all court staff and judiciary seeking feedback on HR's service delivery
- data gathering to identify trends and patterns regarding injuries, attrition and attendance
- a manager's toolkit
- issuing of FAQs
- issuing exit surveys to employees leaving the court.



### Recruitment

HR is responsible for the coordination of the recruitment and selection of staff processes for the entire Magistrates' Court of Victoria, which also includes the Children's Court and Specialist Courts and Court Support Services. As part of its service, HR provides support to hiring managers in the areas of updating of position descriptions, advertising, candidate management, interview panel member, reference checking and employment offer management.

### Payroll

HR is responsible for the processing of payroll on a fortnightly basis for over 600 employees, including court staff, magistrates and Koori Court elders. HR complete a wide variety of processing from changing bank details, higher duties, leave requests and overtime claims within prescribed deadlines.

### WorkCover

HR provides assistance in all areas of WorkCover to our staff including:

- providing information when making standard and minor claims
- dispute resolution
- accident compensation
- conciliation services.

HR also provides support and guidance from qualified Return to Work Coordinators, who bring extensive experience to the role and can assist when staff and managers are navigating a claim.

The department's intranet site, J-Net, can also be used as a tool to gain information and links to all WorkCover Claim documents required, and HR staff can assist with navigating the internal systems.

### Learning and Development

### Our offerings

Learning and Development (L&D) manages the development and delivery of learning pathways and accreditation of learning for court staff at all levels. The following is currently offered:

### Magistrates' Court Induction Program

All new court staff attend the Magistrates' Court of Victoria Induction Program. It is for one day and includes all corporate support staff, specialist staff and trainee registrars.

The objectives of the program are that-

- participants gain a thorough overview of the Magistrates' Court jurisdiction, courts and programs
- participants learn how they fit in the organisation
- learnings will assist transition into their new workplace.

### **Bench Clerk Induction**

A five-day training program is conducted to provide trainee registrars with the basic in court skills and abilities, and the opportunity to use their learning in a simulated courtroom environment.



### Certificate IV in Government (Court Services)

The Certificate IV is aimed at providing transportable, robust skills for junior staff in all jurisdictions of the Victorian courts and tribunals sector. Trainee registrars must successfully complete this two year study of court services to qualify as a registrar and be eligible for appointment as a deputy registrar of the Magistrates' Court of Victoria.

### Handle With Care

Aimed at all court staff and judiciary, this course equips staff with the skill and ability to manage potentially violent clients and provide strategies in situations where they feel under threat.

### Court Skills

A program designed for specialist staff to gain an understanding of the court environment with a focus on building knowledge and skills for providing evidence as a witness, coping with cross examination, and preparing case notes and reports.

### Tailored Team Development Programs

The nature of our roles in the court and the department means staff often work in different teams and work groups. Working with senior court personnel, the L&D Unit can deliver tailored learning programs covering a range of team-related issues including group problem solving, decision-making, conflict management, communication and boundary management.

### Trainee Registrar Recruitment & Assessment Centre (ACP)

The L&D team undertakes the recruitment, selection and placement of trainee court registrars, and assists with their development through the period of their traineeship, including probation and the study of Certificate IV in Government (Court Services).

This year an exciting new recruitment strategy has been trialled. Candidates are shortlisted from their on-line application and a telephone-screening process, and the selected candidates then attend an Assessment Centre or ACP. In the ACP, candidates skills and abilities are observed and assessed by senior court personnel and L&D staff, based on their performances in:

- an interview
- a client service simulation
- a group problem solving activity
- a business correspondence task
- a structured discussion with a member of L&D staff.

At the completion of these activities, a collaboration session is held to assess the results and select candidates to proceed to referee check. Candidates assessed as suitable at the completion of this process are successful and will be offered a position as a trainee court registrar. The ACP will now undergo an evaluation and further modification process. This will endeavour to streamline, improve and structure the ACP into the most relevant and worthwhile format. The ACP needs to deliver the strongest, best-credentialed and motivated candidates, while meeting the geographic and time constraints of the court.

### **Court Specific Capabilities Project**

L&D has devised a complete program of court specific capabilities and associated levels, performance indicators, measurement tools, learning pathways and manager's tool kits. The program will:

- define six court specific capabilities to further the development of court registrars and other groups of court employees:
  - ADR competency qualities
  - apply and interpret legislation and policy and procedures
  - respond to needs of citizens impacted by mental health, violence and substance abuse
  - effectively diagnose issues to deliver appropriate recommendations for the citizen
  - run court operations effectively
  - manage staff to deliver required outcomes
  - address the International Framework for Court Excellence.
- comprise processes undertaken by line managers and individuals to assess, develop and evidence court capabilities and PIs
- embed a culture of regular feedback about staff capabilities
- connect with current Certificate IV in Government (Court Services) accreditation and look to renew our provision of the diploma level and beyond in relevant court specific capabilities
- equip the court for future directions including capabilities that address non-traditional court capabilities, such as case management, community involvement, intake and assessment, ADR and provide pathways for staff to grow skills in these areas.

### Enable

*'Enable'* is a change program with embedded learning about leadership and management, and personal growth. Aimed at employees Grade 3 to 6, the program will enable the court to emulate leadership and management practice as per the International Framework of Court Excellence.

Participants in *Enable* will:

- build their own sustainable leadership and management practice
- achieve quality service and client engagement
- support their own career goals.

### Health and Wellbeing Program

A healthy work force is a great asset to any organisation. OC&D is developing a health and well being campaign for the court to:

- build the resilience of staff
- provide tools and processes for managers to support staff who experience critical incidents
- 'You Taking Care of You' promoting healthy habits and preventative practices, policy, process and learning to manage citizens with potentially violent or suicidal presentation
- diversity training and support
- support through the journey of the employee life-cycle.

### Client Service Delivery

OC&D is facilitating service excellence and client focus in the court by delivering programs around:

- assessing service in the workplace
- facilitating Service Reference Groups.

### **New Directions**

The project management team has worked alongside the senior management of the court and with key stakeholders in the department, to deliver projects under the New Directions auspices.

Service delivery and accessible technology have been the main strategic goals for the project team, and the key projects reflect this theme. The purpose of these key projects includes:

- creating an understanding of the needs and requirements of court users and clients, specifically in the fields of Cultural and ALD, alcohol and drug dependency, mental illness and homelessness
- developing skills in the Service Representatives Network to provide quality service and expand this understanding in the workplace
- ensuring court staff have access to information and programs to conduct their duties in an efficient and consistent manner
- utilising technology to increase access to justice and efficiency in the court.

The New Directions project team have benefited from consultations, cooperation and contributions from staff at all levels of the court, and would like to take this opportunity to thank all those who have participated or assisted in projects over the last two years. The key project developments in the 2010-11 period include:

- The 'Client Service' program, which is a series of projects aimed at highlighting client service delivery issues and standards in the court, and building upon existing service initiatives to establish a court wide approach to client service. All of these projects have involved considerable staff and stakeholder consultation and participation. The project team has also developed court specific training program in client service delivery and facilitation with Swinburne University. The key aspect of this program will be rolled into the ongoing initiatives in the Organisational Change and Development area of the court.
- The 'SMS Reminder' project is designed to assist court clients with fulfilling their obligations in regards to court hearings and other appointments in the Court Integrated Services Program (CISP). The project uses the existing case management system in conjunction with a third party service provider to send SMS reminders prior to appointments, and has gone from strength to strength during 2010-11. The pilot was trialled with CISP at Melbourne Magistrates' Court and has since been expanded to all CISP locations. Since the start of the project, over 1,500 messages have been sent. Recent analysis of the expansion of SMS reminders in the CISP program has indicated a 10% increase in attendance to court hearings and appointments.

The 'E-learning' project is an innovative project that has been established in conjunction with the Court Technology Group. The project will create online learning modules that are available to all court staff, with each module consisting of an online learning component, a quiz and an information sheet outlining the subject. The modules are hosted on the CLOUD (Courts' Learning Opportunity and User Development) site that allows court staff to collate and review modules completed. It is based on the need for accessible, current and consistent information in relation to court processes and procedure. While initially aimed at the powers and duties of a registrar, the scope has increased to include other jurisdictions and specialist services associated with the court. The learning modules developed by the project team are published on the CLOUD, a learning environment available to all staff in the courts portfolio.

The focus of New Directions for the period 2010-11 has been to implement and deliver these projects. The project has renewed perspective and drive in areas such as the E-learning project. Likewise, the focus on service by the revised client service charter and the work within the court to reinforce the charter has provided opportunities for staff at grass roots levels to celebrate positive initiatives and participate in client service training.

As the project the enters the final stages the focus of activity has turned integrating projects into the mainstream business of the court, and providing further support to business planning and analysis functions.

# Community Engagement



# Community Engagement

The court is always very proud of the range of ways it engages with the community each year and the 2010-11 year was no different in this regard. Each year the court participates in many recurrent activities such as:

- 'Law Week' and the related 'Courts Open Day', coordinated by the Victoria Law Foundation
- 'Court User Forums',
- the La Trobe University 'Judicial Mentoring Program'
- the 'School Talks' programs, which provide a platform for magistrates and registrars to answer questions and talk about the court and the legal system to thousands of visiting students every year.

In addition to these regular activities, this report also highlights some significant local activities the court has initiated or been involved in during the reporting period.

### Improving Crisis Response and Support for Indian Women – Sunshine Magistrates' Court

During the reporting period the Applicant Support Worker, Abbey and Family Violence Registrar, Karen, at the Sunshine Magistrates' Court identified emerging issues with Indian clients, who were accessing the Specialist Family Violence Service (SFVS) at that court. Some of the issues included:

- increasing number of intervention order applications
- severity of family violence incidents
- presence of children during incidents
- language barrier
- isolation
- lack of understanding of the legal system
- limited exposure to police, courts and legal proceedings
- pressure to withdraw the intervention order application by the respondent, other family members and their community
- threats to visas
- overall lack of Indian specific support networks.



In the midst of the noticeable rise in applications from Indian clients, three applications stood out for the seriousness of the allegations and complex nature of the issues, which included:

- children being withheld by their father
- one baby being allegedly "sold" back to India
- threats in revoke visas
- extreme physical abuse and controlling behaviours.

When at least one client was referred to a service for case management, the gaps in being able to quickly access legal advice and support became apparent. While the Sunshine Court is well-supported by a worker from the Immigrant Women's Family Violence Service, it was considered that more specific legal and non-legal support was needed for this group of women. Abbey and Karen ultimately raised their concerns about the emerging issues and needs with the Immigrant Women's Family Violence Service in July 2010. Resulting from this they organised a forum and invited a host of relevant agencies, such as:

- Indian Associations
- Victoria Police
- Department of Human Services
- Immigrant Women's Family Violence Service
- Sunshine Regional Coordinating Magistrate Noreen Toohey
- court staff
- Immigration specialists
- Victoria Legal Aid
- Community Legal Centre, outreach services.

The forum was held on 24th September at the Queen Victoria building in Bourke St, Melbourne and was a great success.

The forum was attended by approximately 60 people and included a number of presentations. Information sessions were conducted on the Indian culture and visas, and also an exercise where case studies were presented to the group to work on and provide recommendations.

As a result of their work, Abbey and Karen have been invited to a meeting of the AISV (Australia India Society of Victoria) FV Taskforce chaired by Dr Manjula O'Connor. They are now current members of the taskforce. Since the forum, they have also been involved in jointly arranging an event at the Indian Consulate in celebration of International Women's Day.

The work of Abbey and Karen has been acknowledged by Magistrate Noreen Toohey, who has also provided support to the events as a guest speaker.



### U-Turn Program – Latrobe Valley Magistrates' Court

A pilot of a diversion program aimed at young drivers was conducted on 28 November 2010, at the Latrobe Valley Magistrates' Court in Morwell. The U-Turn program participants were seven young offenders mainly facing charges described as 'hooning' and each had pleaded guilty. Most of the young men brought a parent with them to the program.

The session included:

- a confronting three minute DVD of actual footage of car crash scenes
- a talk by Leading Senior Constable Andrew Milbourne of Morwell Traffic Management Unit, who spoke to participants about:
  - the realities of car crash scenes
  - delivering death messages and
  - the flow-on effects of long-term physical injuries.
- a talk by Senior Registrar, Darren Stebbings, about his experience as registrar at the Coroners Court and his observations of the effects of road trauma on families
- a talk by Regional Coordinating Magistrate Clive Alsop who spoke with participants regarding his dual role as a magistrate and coroner.

The program concluded with "John", a member of the broader community who attended the program and spoke about his personal experiences. John, aged 28, received a five year sentence for culpable driving having, in his words, "killed my best mate" in an alcohol fuelled car crash. He spoke of his time in jail, the impact of his guilt and the effect on his family. He moved most people in attendance to the verge of tears.

The program was a huge success and has continued to be conducted as part of Latrobe Valley Court's diversion program.

### **Judicial Community Engagement**

While the primary role of a magistrate is to preside over and make decisions on a range of cases, the breadth and nature of the work of a magistrate goes well beyond this. Magistrates participate in an extensive range of other duties beyond their work on the bench, with many regularly involved in various projects and initiatives, as well as community engagement activities on behalf of the court. Many magistrates regularly participate in conducting talks to visiting school groups.

A snapshot of community engagement activities by magistrates during the reporting period, is provided by Magistrates Anne Goldsbrough and Brian Wright.

During the reporting period **Magistrate Anne Goldsbrough** presented at:

- Department of Justice Diversity Issues Unit Newly Arrived Community Leaders Education and Information program on the Australian and Victorian justice systems, with particular emphasis on family law, family violence and related laws on 17 July 2010
- Law Institute of Victoria's elder law conference 'Preventing and Responding to Elder Abuse'
- Australian Multicultural Commission's, Australian Imam education and training day 'Family Law, Marriage Law and our Multicultural / Multi-faith Communities in Australia' with Maria Dimopoulos in June 2011.

Magistrate Brian Wright is the convenor of the Publications Committee of Fitzroy Legal Service, which publishes the 'Law Handbook'.

He also gave a professional development seminar on the Victims of Crime Assistance Tribunal and also on WorkCover at the Victorian Bar and the Law Institute of Victoria during the reporting period.



### Law Week 2011

As it has for many years now, the court again participated in the annual Law Week event, coordinated by the Victorian Law Foundation. This year Law Week was scheduled from 16 to 22 May 2011 and, for the first time ever, was held in conjunction with all other states and territories, now marking it as a significant national event on the legal calendar.

Law Week events were scheduled throughout the week at many of the court's 54 venues and consisted of court tours, presentations, information sessions and stakeholder information stalls. The week culminated for the court with the annual Courts Open Day event on Saturday 21 May 2011 in the legal precinct of the Melbourne CBD.

Over 300 visitors attended the Melbourne Magistrates' Court to participate in a range of exciting activities as part of Courts Open Day 2011, including:

- Victoria Law Foundation School Poster Competition, presented by Deputy Chief Magistrate Jelena Popovic
- 'A Walk in her Shoes' guided tours of the process of applying for a family violence intervention order, facilitated by Bez Robertson and Jason Morks
- guided tours of the Melbourne Magistrates' Court by registry staff, including a Q & A session with a magistrate

- Road Safety Forums consisting of a presentation and discussion regarding the effects and consequences of offending on our roads, which featured Magistrate Clive Alsop, members of Victoria Police, Road Trauma Support Services Victoria and young offender who spoke candidly about his past and how he had changed
- 'Career as a Court Registrar' information sessions presented by experienced court registrars and the court's Learning and Development Unit, outlining the positions and experiences they have had during their time with the court and how to apply to become a trainee court registrar
- mock hearings which gave the public the opportunity to observe a criminal hearing featuring a magistrate, police prosecutor and defence lawyer, with the accused being chosen from the audience
- Court Integrated Services Program (CISP) Information Session – presentation by Jo Beckett and a former CISP participant who detailed his experiences with the program and how the program changed his life.

In addition to these events, the court hosted a stakeholder information expo, with almost 30 of the court's stakeholders presenting information, hosting activities and responding to questions.

### **Educational Programs**

### Judicial Mentoring Program

The Magistrates' Court of Victoria and La Trobe University have continued to sustain an educational partnership throughout 2010-11. The La Trobe University Mentoring Program is a clinical legal education program organised jointly by the School of Law and Legal Studies at La Trobe University and the Magistrates' Court. It forms part of a law subject called 'Criminal Procedure and Evidence'.

During the reporting period, magistrates from Melbourne, Broadmeadows, Dandenong, Geelong, Heidelberg, Ringwood Courts participated in the scheme. The program provides magistrates with an opportunity to engage in practical legal education, and law students with a constructive opportunity to experience and participate in the operation of the law in practice.

### Schools

Magistrates' Courts also participate in work experience programs at a statewide level. Work experience programs provide students from high schools, TAFE colleges and universities with the opportunity to experience the daily operations of a court. In addition to providing students with work experience opportunities, throughout the year the court also hosted thousands of students from visiting school groups across the state. These court visits provide students with a 'day in the life' view of the Magistrates' Court of Victoria and assists in enhancing their understanding of the Victorian justice system.

During the year, roughly half of these students attended the Melbourne Magistrates' Court as part of that court's 'School Talks' program. The program operates on a roster basis with a pool of registrars and magistrates volunteering their time to provide a short information session on the operation of the court and an opportunity for students to ask questions. Courts around the state also provide similar programs to the local school communities.
# Statistical and Financial Information



# Criminal Law Statistics

#### Top 20 Most Common Charges 2010-11

RANK	OFFENCE	ACT/REGULATION	NO. OF CHARGES
1	Theft	Crimes Act 1958-s74	28,604
2	Drive vehicle unregistered in toll zone	Melbourne City Link Act 1995-s73(1)	24,447
3	Drive whilst disqualified/authorisation suspended/cancelled	Road Safety Act 1986-s30(1)	16,123
4	Have exceeded prescribed concentration of alcohol within 3 hours of driving	Road Safety Act 1986-s49	15,831
5	Exceed speed limit	Road Safety Road Rules 2009-r20	12,907
6	Unlawful assault	Summary Offences Act 1966-s23	11,875
7	Obtain property by deception	Crimes Act 1958-s81	10,745
8	Intentionally/recklessly cause injury	Crimes Act 1958-s18	9,214
9	Possess a drug of dependence	Drugs Poisons and Controlled Substances Act 1981-s73	7,945
10	Fail to answer bail	Bail Act 1977-s30	7,128
11	Contravene family violence intervention order	Family Violence Protection Act 2008-s30	7,090
12	Criminal damage	Crimes Act 1958-s197	6,922
13	Use unregistered motor vehicle/trailer on highway	Road Safety Act 1986-s7	6,267
14	Burglary	Crimes Act 1958-s76	5,746
15	Careless driving	Road Safety Act 1986-s65	5,641
16	Assault/resist/hinder/obstruct/delay police	Summary Offences Act 1966-s52	5,047
17	Unlicensed driving	Road Safety Act 1986-s88	4,748
18	Deal property suspected proceed of crime	Crimes Act 1958-s195	4,504
19	Handle/receive/dispose of stolen goods	Crimes Act 1958-s88	3,513
20	Assault	Summary Offences Act 1966-s24	3,313



#### **Criminal Case Activity**



#### Criminal Pending (snapshot June 30)





#### **Committal Proceedings Finalised**

#### Percentage Pending More Than 12 Months (Snapshot as at 30 June)





#### **Civil Case Activity**



#### Defended Claims Pending (Snapshot June 30)



#### **Civil Defence Notices Filed**



#### **Civil Defended Claims Finalised**





#### Family Violence Intervention Orders Finalised



#### Family Violence Intervention Orders Where at Least One Interim Order was Made



#### Family Violence Safety Notices<sup>17</sup>



#### Applications for Intervention Orders Received by After Hours Service



#### Stalking Intervention Orders Finalised



17. Family Violence Safety Notices were introduced under the Family Violence Protection Act 2008 which commenced on 8 December 2008.

## Court Support and Diversion Services Statistics

#### Total Conditions Ordered 2010-11<sup>18</sup>

CRIMINAL JUSTICE DIVERSION PROGRAM	
Conditions	Total
Apology to victim	1,898
Voluntary Work	64
Compensate victim	893
Counselling/Treatment – alcohol	169
Counselling/Treatment – drug	198
Counselling/Treatment – gambling	12
Counselling/Treatment – other	386
Defensive driving course	296
Donation	3,403
Fare Enough Education Program	14
Good behaviour	1,885
Letter of gratitude to informant	2,230
Other	291
Road trauma awareness seminar	158
Total	11,897

18. Accused may undertake more than one condition as part of their Diversion Plan.

#### ENFORCEMENT REVIEW PROGRAM

Matters finalised by Reason of Application Type

REASON <sup>19</sup>	TOTAL FINALISED
Mental Illness	1,456
Physical Health	0
Acquired Brain Injury and/or Intellectual Disability	0
Drug Dependence and/or Alcohol Dependence	179
Homelessness	126
Total	1,762

#### ORDERS MADE IN OPEN COURT

Matters finalised by Reason of Application Type

ORDERS <sup>20</sup>	NUMBER OF ORDERS
Adjourned Undertaking Without Conviction	550
Adjourned Undertaking With Conviction	5
Dismissed pursuant to section 76 of the Sentencing Act 1991	830
Reduction of Fine	169
Struck Out – Withdrawn	208
Other	0
Total	1,762

<sup>19.</sup> These statistics are based on the primary reason for the application as accused may fit multiple criteria.

<sup>20.</sup> These statistics are based on the primary order made on the case, as most matters have multiple orders.

# Financial Statements for the year ended 30 June 2011

	NOTE	ACTUAL 2010-11	ACTUAL 2009-10
SPECIAL APPROPRIATIONS			
Magistrates' Salaries and Allowances		34,434,272	31,758,212
Total Special Appropriations		34,434,272	31,758,212
ANNUAL APPROPRIATIONS			
Salaries, Overtime and Annual Leave		23,274,529	19,643,522
Superannuation		2,144,911	1,850,461
Payroll Taxation		1,269,868	1,127,773
Fringe Benefits Taxation		20,535	8,150
Provision for Long Service Leave		708,929	629,044
Work Cover Levy		170,158	125,548
Work Cover		0	1,561
Total Salaries and Associated Expenditure		27,588,930	23,386,059
OPERATING EXPENDITURE			
Travel and Personal Expenses		591,416	831,168
Printing, Stationery and Subscriptions		1,410,819	1,242,801
Postage and Communication		926,636	761,008
Contractors and Professional Services		726,865	161,983
Training and Development		298,075	118,803
Motor Vehicle Expenses		34,036	38,919
Operating Expenses	6	-1,630,117	308,078
Jury, Witness and Award Payments		63,680	65,237
Information Technology Costs		493,108	280,518
Urgent and Essentials		418,337	168,045
Rent and Property Services		1,263,534	545,032

	NOTE	ACTUAL 2010-11	ACTUAL 2009-10
Property Utilities		954,240	865,725
Repairs and Maintenance		983,026	686,162
Finance Lease Interest( including Bank Charges )		63,142	64,596
Court Security Project		3,281,413	2,997,265
Losses on Sale of Motor Vehicles		5,174	7,243
Total Operating Expenditure		9,883,384	9,142,583
Total Salaries and Operating Expenditure		37,472,314	32,528,642
COURT FEE INITIATIVES			
Shortfall in Operating Expenses	3	444,980	445,233
New Directions Project	3	471,099	452,684
Court Signage Project	3	140,185	0
Building Condition Audit	3	0	224,219
Addressing Diversity – Multi Cultural Support	3	0	210,500
Information Security	3	0	242,098
Criminal Listing Coordinators	3	457,546	76,085
Total Court Fee Expenditure		1,513,810	1,650,819

	NOTE	ACTUAL 2010-11	ACTUAL 2009-10
COURT SUPPORT PROGRAMS			
Court Diversion Project	4	1,306,441	1,355,533
Bail Support Program	4	827,436	818,851
CREDIT	4	1,282,946	1,335,299
Drug Court	4	1,434,900	1,254,907
Koori Court	4	2,085,007	2,199,276
Family Violence Program	4	1,537,684	1,059,712
Specialist Family Violence Project	4	843,741	706,477
Court Integrated Services Program	4	2,166,040	2,255,924
Total Court Support Programs Expenditur	11,484,195	10,985,979	
Total Annual Appropriations Expenditure		50,470,319	45,165,440
DEPARTMENTAL CONTROLLED EXPENDIT	<b>FURE</b>		
Essential Services Maintenance	5	1,005,253	1,008,560
Rental Accommodation	1	3,078,886	2,436,671
Depreciation— Land and Buildings	2	7,497,353	7,674,684

2

2

2

Amortisation— Land and Buildings

Depreciation— Plant and Equipment

Purchases of Plant and Equipment

**Total Department Controlled Expenditure** 

Amortisation— Motor Vehicles

**CAPITAL EXPENDITURE** 

**Total Capital Expenditure** 

42,234

33,993

1,246,577

12,904,296

520,573

520,573

21,774

23,233

1,147,770

12,312,692

103,405

103,405

#### Notes to and forming part of the Financial Statements

#### Note 1

Items identified as departmental controlled expenditure are fully funded for the financial year by the Department of Justice. Any surplus or deficit outcome for the financial year has no impact on the court's recurrent budget. Any budget savings achieved in these expenditure items cannot be redeployed to meet other general expenses.

#### Note 2

Depreciation is the process of allocating the value of all non-current physical assets controlled by the court over their useful life, having regard to any residual value remaining at the end of the assets' economic life. The Department of Justice allocates this charge on a monthly basis as part of the end-of-month process.

Depreciation charges are based on the value of each individual asset, the method of depreciation used for each asset, the specified rate of depreciation and the physical location of the asset which are fully funded and remain as non discretionary expenditure for the court.

#### Note 3

Included in the total annual appropriations expenditure are court fee funded initiatives (revenue retention), which were approved and completed during the 2010-11 financial year.

#### Note 4

Court support programs have been established and incorporated into the operations of the Magistrates' Court. Although these programs are funded individually by government, the overall annual expenditure forms part of the total annual appropriations expenditure of the court.

#### Note 5

Within the Department of Justice, assets, accommodation planning, capital projects and environmental issues are managed by Built Environment and Business Sustainability (BEBS). Services relating to the court infrastructure include the essential safety measures program, which is fully funded by the Magistrates' Court of Victoria.

#### Note 6

In 2010-11 cost recovery from specialist court and support programs was received concerning central overhead operating expenses which were recorded as an Operating Expense Recoup rather than as a direct reduction to expenditure across various individual operating expense line items. This approach was also applied to the reimbursement of costs incurred on behalf of other departmental, state and commonwealth agencies.

July 2011

# Directories, Contacts and Locations



## Directories, Contacts and Locations

### Directory of Magistrates and Judicial Registrars

#### Magistrates

Mr Henry Clive Alsop Ms Susan Jane Armour Ms Donna Bakos Mr Thomas Arthur Dent Barrett Mr Edwin Charles Batt Ms Luisa Rita Bazzani Mr John Stephen Bentley Mr Ross Frederick Betts Ms Susan Adele Blashki (retired 8 April 2011) Ms Angela Joy Bolger Ms Jennifer Carolyn Anne Bowles Mr Barry Bernard Braun Mr Leonard Harold Brear Ms Felicity Anne Broughton Mr Gerard Robert Bryant Mr Darrin Cain (appointed 19 July 2011) Ms Suzanne Lara Cameron Mr Andrew Thomas Capell Ms Rosemary Carlin Mr James Maxwell Brooke Cashmore Ms Amanda Chambers Mr Michael Patrick Coghlan Ms Ann Elizabeth Collins Mr Gregory Connellan Mr David Bruce Sidney Cottrill Mr Peter Couzens Mr Rodney Leslie Crisp Ms Jillian Mary Crowe Ms Sharon Elizabeth Cure Ms Sarah Kingsley Dawes Mr John William Doherty Mr Peter Gordon Dotchin Ms Caitlin Creed English Mr David Kevin Fanning Mr Bernard Robert FitzGerald Mr Julian Francis Fitz-Gerald

Ms Lesley Ann Fleming Mr Roger Wilson Franich (retired 3 December 2010) Mr Simon Gerard Garnett Mr William Paterson Gibb Ms Jane Catherine Gibson Mr Phillip Goldberg Ms Jennifer Anne Benn Goldsbrough Mr Ian Leslie Gray Mr Martin Grinberg Ms Jennifer Margaret Grubissa Mr Maurice Gurvich (retired 12 November 2010) Ms Margaret Gill Harding Mr John William Hardy Ms Annabel Mary Hawkins Ms Kate Isabella Hawkins Ms Fiona Ann Hayes Mr Louis Joseph Hill Mr Francis Ross Hodgens Ms Michelle Therese Hodgson Mr Franz Johann Holzer Ms Audrey Graham Jamieson Mr Graeme Douglas Johnstone Mr Frank William Dudley Jones (retired 1 July 2011) Mr Graham Douglas Keil Mr Jonathan George Klestadt Mr Robert Krishnan Ashok Kumar Mr Nunzio La Rosa Ms Elizabeth Anne Lambden Ms Catherine Frances Lamble Mr Peter Henry Lauritsen Mr John Leon Lesser Mr Gerard Michael Lethbridge Mr Gregory John Zalman Levine Ms Jan Maree Maclean (appointed 28 June 2011) Ms Kay Helen Macpherson Mr Lance Ivan Martin Ms Ann Judith McGarvie (appointed 28 September 2010) Mr Andrew Richard McKenna (appointed 17 May 2011) Mr Gregory Laurence McNamara



Mr Peter Harry Mealy Mr Peter Mellas Ms Johanna Margaret Metcalf Mr Daniel John Muling Mr John Martin Murphy Mr Stephen Paul Myall Mr John Lawrence O'Callaghan Mr William John George O'Day Ms Julie Ann O'Donnell Ms Denise Mary O'Reilly Ms Kim Michelle Willmott Parkinson Mr Anthony William Parsons Mr Richard John Pithouse Ms Jelena Popovic Ms Roslyn Jane Porter Mr Peter Thomas Power (retired 3 February 2011)<sup>21</sup> Mr Peter Anthony Reardon Mr Duncan Keith Reynolds Ms Mary Kay Robertson Mr Charlie Rozencwajg Mr Ronald Norman Saines Mr Marc Anthony Sargent Mr Michael Leslie Smith Mr Paul Anthony Smith Ms Sharon Elizabeth Smith Mr Patrick Southey (appointed 3 August 2011) Ms Paresa Antoniadis Spanos Ms Pauline Therese Spencer Ms Heather Margaret Spooner Ms Fiona Margaret Stewart Ms Stella Maria Dolores Stuthridge (appointed 28 September 2010) Ms Noreen Mary Toohey Ms Jennifer Beatrix Tregent Mr Jack Vandersteen Mr Ian Maxwell Von Einem

Ms Susan Melissa Wakeling Ms Belinda Jane Wallington Mr Ian John Watkins (appointed 2 February 2011) Mr Iain Treloar West (Deputy State Coroner) Mr Michael Gerard Wighton Mr Brian Robert Wright Mr Richard Thomas Wright

#### **Acting Magistrates**

Mr Brian Stirtevant Barrow Mr John Douglas Bolster Mr Brian Joseph Clifford Ms Michelle Pauline Elizabeth Ehrlich Mr Thomas Kevin Hassard (appointed 19 July 2011) Ms Gail Anne Hubble (appointed 28 September 2010) Mr Timothy John McDonald Mr Ian Thomas McGrane Mr Peter Thomas Power (appointed 4 February 2011) Mr Steven Raleigh Ms Stella Maria Dolores Stuthridge (to 27 September 2010)<sup>22</sup> Mr William Peter White (appointed 19 July 2011) Mr Terry John Wilson Mr Lionel Cedric Winton-Smith (retired 7 January 2011) Mr Francis Patrick Zemljak

#### **Judicial Registrars**

Ms Ruth Andrew (appointed 1 February 2011) Mr Graeme John Horsburgh Mr Barry Raymond Johnstone Mr Peter Mithen Mr Richard O'Keefe Ms Angela Assunta Soldani

21. Magistrate Power was appointed as an Acting Magistrate on 4 February 2011 following his retirement.

22. Acting Magistrate Stuthridge was appointed as a full time magistrate on 28 September 2010.

## Map of Locations





#### **Court Venue Contact Details**

#### ARARAT

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