

COUNTY
COURT OF
VICTORIA

ANNUAL REPORT 2019–20



ABOUT THE COUNTY COURT

The County Court is Victoria's principal trial court.

Led by Chief Judge Peter Kidd, County Court judges hear more than 10,000 cases a year across three divisions – Criminal, Commercial and Common Law.

County Court judges sit as the heads of jurisdiction at the Magistrates' Court, Coroners Court and Children's Court. They also sit at the Victorian Civil and Administrative Tribunal as vice-presidents.

The Court has original jurisdiction in all civil cases and criminal cases, except a small number of charges such as treason and murder. The Court also hears appeals from the criminal jurisdiction of the Magistrates' Court and the criminal and family divisions of the Children's Court.

Proceedings are open to the public, except when a judge closes a courtroom in the interests of justice.

The Court operates at Melbourne and 11 regional locations across Victoria. The County Koori Court operates in five locations across Victoria and ensures greater participation of the Aboriginal community in the sentencing processes.

The Court is supported in its delivery of justice by its Administration – a group of mostly corporate functions – and its Registry, which is public-facing and deals with documents, filing and fees. The Chief Judge and the County Court's 69 other judges are supported by approximately 300 staff.



The County Court acknowledges Aboriginal and Torres Strait Islander peoples as the traditional custodians of the land and acknowledges and pays respect to their Elders, past and present.

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REPORT OF THE CHIEF JUDGE



Chief Judge Peter Kidd
County Court of Victoria

Before turning to the Court's response to COVID-19 – a response that is ongoing at the time of writing – I would like to highlight several of the Court's achievements prior to March 2020.

The Court has continued its work on a number of projects, guided by *Court Directions 2017–22*.

The Court strengthened its focus on the experience of court users by extending and refining its partnership with Justice Connect (a community legal service network) and the Supreme Court of Victoria, to assist self-represented litigants in the Commercial Division. Results have been favourable, with a steady growth in enquiries, and positive feedback received from participants.

The Court continues to conduct regular surveys to gauge the experience of our Court users. The results of the eighth Court User Survey, completed in November 2019, help us improve how users experience the Court, and showed a high rate of satisfaction.

In addition to those who have direct contact with the Court, our efforts to engage with the wider community included the Court's second community engagement day in September 2019. During the day, community leaders from across a wide range of organisations and fields observed Court hearings, worked in groups on mock sentences, and engaged in direct one-on-one discussion with judges.

Over this period, the Court also added to the wealth of information and educational material on our website, including new resources and accessible data on the sentencing outcomes for particular high-volume offences.

The Court has strengthened its specialist courts and services. In October 2019, in partnership with the local Koori community, we launched Victoria's newest County Koori Court in Warrnambool. The Court also began implementation of the Court Integrated Services Program (CISP) which establishes a coordinated approach to the assessment and treatment of accused persons at the pre-trial or bail stage, linking them with support services.

I commend my judicial colleagues, and all of the Court's staff, for their tenacity and their willingness to adopt these new remote practices to continue the important work of the Court in a COVID-safe manner.

In March, the Government announced its intent to introduce legislation establishing a County Court Drug and Alcohol Treatment Court. This Court will build upon the successful Magistrates' Court Drug Court model, which provides appropriate offenders with an opportunity to address the underlying causes of their offending.

On the technology front, in early 2020 the Court completed major parts of its information technology upgrade program, including a full refresh of the Court's desktop and laptop computers; this allowed for the implementation of the latest standard operating desktop environment.

These timely investments have assisted the Court's wider program of digital transformation, reducing the reliance on paper documents and improving the security of information held by the Court.

This program also meant that the Court was fortunately well-placed to adapt to the challenges brought about by the coronavirus (COVID-19), including the Court's swift transition to working from home for most judges and staff during COVID-19 restrictions.

As can be seen from the reports in this document, across all the Court's Divisions there has been a substantial volume of work that has continued, despite the COVID-19 restrictions. The administration of justice across the Victorian courts and VCAT has continued, and will continue, albeit in a different way.

I commend my judicial colleagues, and all of the Court's staff, for their tenacity and their willingness to adopt these new remote practices to continue the important work of the Court in a COVID-safe manner. While there have been inevitable technological issues from time to time, the Court has worked closely with the profession, and institutional stakeholders, to coordinate this response.

Despite our best endeavours, the consequences of COVID-19 will be long felt. In particular, there will be substantial work required to address the backlog of criminal jury trials. To that end, the Court is presently pursuing several options to expand the capacity of the Court to conduct jury trials in a COVID-safe way.

Throughout this period, I have been particularly grateful to our new CEO, Daniel Caporale, whose start at the Court coincided with the onset of COVID-19. Without the benefit of time to adjust to his new role prior to the crisis, Daniel has demonstrated strong leadership of the Court's administration, and has provided invaluable assistance to me.

I would also like to acknowledge the contribution made by the Court's former CEO Fiona Chamberlain, who departed in December 2019 after many years of service to the Court. Fiona was instrumental in building the administrative and executive capability of the Court and establishing the systems of governance that have served the Court so well, particularly in these demanding times.

Chief Judge Peter Kidd
County Court of Victoria

REPORT OF THE CHIEF EXECUTIVE OFFICER



Daniel Caporale
CEO, County Court of Victoria

I commenced serving as CEO of the County Court in March 2020. I was soon to learn that the Court's reputation for delivering the highest standards of justice was not by chance. In a year that has tested the resolve of all Victorians, I am proud to say the Court's talented and dedicated workforce has risen to the challenge with a continued commitment to excellence.

We have achieved a great deal this past year and continued to deliver against the key objectives outlined in *Court Directions 2017–22*, our roadmap for reform. This year has been one of unprecedented change, with the coronavirus (COVID-19) pandemic necessarily transforming the way the Court delivers justice to Victorians.

There is an old saying that one should never allow a crisis go to waste. This expression reflects the idea that a crisis can be an opportunity to do new things, or to do things previously thought impossible. The Court's move to conducting remote hearings in response to COVID-19 is a case in point. The move ensured the wheels of justice continued to turn throughout the COVID-19 restrictions and will have a continuing legacy supporting improved access to justice for Victorians.

Harnessing new technology is a key objective of *Court Directions* and the shift to remote operations was made possible by the Court's continued investment in its digital transformation. This year there has been a significant technical and operational investment in commercial-grade videoconferencing products to support the conduct of remote hearings. Additionally, a shift to the Victorian government network (GSP) delivered enhanced mobility and remote network access to support the work of judges and staff.

Digital solutions have also been successfully deployed to improve the court user experience. The Court developed a new eCase online tool for civil subpoena submissions, objections and inspections. The tool allows parties to inspect subpoenaed material online, reducing the need for in-person inspection appointments at the Court's Registry. The Registry also underwent a major refurbishment, enhancing the ability of Registry staff to deliver services that improve the court user experience.

In a year that has tested the resolve of all Victorians, I am proud to say the Court's talented and dedicated workforce has risen to the challenge with a continued commitment to excellence.

It has been a significant year for the continued expansion of the specialist courts, with the Court recognising the critical role of therapeutic jurisprudence initiatives in improving community safety, increasing cultural safety and diverting people out of the justice system. This year we progressed implementation of the Court Integrated Services Program (CISP), which aims to address factors that contribute to offending behaviour and reduce the likelihood of reoffending. We have also progressed expansion of the Mental Health Advice and Response Service (MHARS) which, in partnership with Forensicare, provides onsite clinical mental health advice to the Court and aims to improve mental health outcomes for court users.

In October 2019, the newest County Koori Court was launched in Warrnambool, with Aboriginal Elders set to play a major role in the region's justice system. In response to COVID-19, the County Koori Court successfully utilised in-court technology to implement an amended operational model. The new model preserved the sentencing conversation that underlies the culturally safe process provided by the Koori Court, while prioritising the health and wellbeing of all parties, particularly Aboriginal Elders.

In accordance with the *Court Directions* objective to engage with the community, the Court again conducted the biannual Court User Survey in continued alignment with the International Framework for Court Excellence. This initiative, designed to measure and subsequently improve the experience of the court user, attracted a large number of participants and the results continue to demonstrate a high rate of satisfaction among court users. Results for the November 2019 survey included an overall court user satisfaction rate of 87 per cent. The second survey planned for June 2020 was postponed due to COVID-19 restrictions but will be conducted in early 2021.

Additionally, County Court judges joined community leaders in September 2019 for the Court's second Community Engagement Day, a forum for community leaders to learn about the Court and its processes and develop their thinking about the legal system, including the role of judges in sentencing.

The Court has continued its efforts to build and maintain a positive workplace culture through the delivery of programs promoting respectful relationships, occupational health and safety, mental health and wellness. These programs have been particularly important this year, to ensure our people receive the support they need when transitioning to a new way of working.

I wish to thank all judges and staff for their dedication, resilience and resourcefulness over the past year which enabled the Court to continue to serve the Victorian community with distinction.

Finally, I wish to acknowledge and thank the sound leadership and direction provided by my predecessor Fiona Chamberlain, the Court's CEO from 2014 to 2019, and Bradley Medcroft, who was Acting CEO until my arrival in March. They are both hard acts to follow. Like them, I will work closely with the Chief Judge, together with the other judges, judicial registrars and staff of the Court, to ensure the Court embraces change, keeps pace with a changing world and continues to serve the Victorian community.

Daniel Caporale

CEO, County Court of Victoria

COURT STRUCTURE

The County Court’s 70 judges and its operations are supported by approximately 300 staff. The Court deals with matters through its three divisions: Criminal, Common Law and Commercial. Judges also hear cases at the Court’s 11 circuit locations.

CRIMINAL DIVISION

Head of the Criminal Division	Judge Gamble
Judge in Charge of the General Crime List	Judge Gamble
Judge in Charge of the Sexual Offences List	Judge Higham
Judge in Charge of the County Koori Court	Judge Lawson

COMMON LAW DIVISION

Head of the Common Law Division	Judge Misso
Judge in Charge of the General, Applications and Serious Injury Lists	Judge Tsalamandris
Judges in Charge of the Medical List	Judge Tsalamandris and Judge Pillay
Judge in Charge of the Defamation List	Judge Smith
Judge in Charge of the Family Property List	Judge Kings
Judge in Charge of the Appeals and Post Sentence Applications List	Judge O’Neill
Judge in Charge of the Confiscation List	Judge Dyer
Judge in Charge of the Adoptions, Surrogacy and Name Changes List	Judge Davis
Judge in Charge of the WorkCover List	Judge Wischusen
Judge in Charge of Self-Represented Litigants	Judge Ginnane
Judge with responsibility for s 134AB costs applications	Judge Tsalamandris
Judge with responsibility for the approval of infant and other compromises	Judge K Bourke

COMMERCIAL DIVISION

Head of the Commercial Division	Judge Woodward
Judge in Charge of the General, Expedited Cases and Building Lists	Judge Woodward
Judge in Charge of the Banking and Finance List	Judge Cosgrave

CIRCUITS

Head of Circuits	Judge Mullaly
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YEAR AT A GLANCE

TOTAL COUNTY COURT CASES

	2018–19	2019–20	% change
Commenced	11,441	10,496	-8.3%
Finalised	11,123	10,121	-9.0%
Pending	9,812	9,497	-3.2%
Overall County Court clearance ratio (%)	97%	96%	
% disposed within 12 months	71%	72%	

COMMENCED

Number of cases committed or direct indicted during the reporting period (including supervision order cases).

FINALISED

Number of cases completed during the reporting period. Cases no longer active.

PENDING

Number of active/open cases as at the end of the reporting period.

CLEARANCE RATE

The number of finalised cases as a proportion of the number of initiations expressed as a percentage.

TOTAL COMMERCIAL DIVISION

Commenced	2,152	1,957	-9.1%
Finalised	2,141	1,989	-7.1%
Pending	2,123	1,657	-22.0%
Clearance ratio (%)	99%	102%	
% disposed within 12 months	54%	61%	

TOTAL COMMON LAW DIVISION

Commenced	3,832	4,434	15.7%
Finalised	3,558	3,695	3.9%
Pending	4,688	5,441	16.1%
Clearance ratio (%)	93%	83%	
% disposed within 12 months	53%	51%	

TOTAL CRIMINAL CASES (INCLUDING APPEALS)

Commenced	5,393	4,020	-25.5%
Finalised	5,364	4,351	-18.9%
Pending	3,001	2,399	-20.1%
Overall Criminal clearance ratio (%)	99%	108%	
% disposed within 12 months	85%	82%	

CRIMINAL TRIALS AND PLEAS

Commenced	2,468	1,950	-21.0%
Finalised	2,273	2,060	-9.4%
Pending	2,228	1,940	-12.9%
Trials and pleas clearance ratio (%)	92%	106%	
% disposed within 12 months	71%	67%	

CRIMINAL APPEALS

Commenced	2,925	2,070	-29.2%
Finalised	3,091	2,291	-25.9%
Pending	773	459	-40.6%
Appeals clearance ratio (%)	106%	111%	
% disposed within 12 months	96%	96%	

TOTAL ADOPTION LIST CASES

Applications considered	64	85	32.8%
Adoption orders made	60	86	43.3%

These figures apply statewide.

COURT DIRECTIONS 2017–22 AND OUR ACHIEVEMENTS

In mid-2017 the Court announced Court Directions 2017–22 as its strategic roadmap for the next five years.

Court Directions identifies seven objectives for this period.

-  improve the court user experience
-  harness new technology
-  engage with the community
-  expand and explore specialisation
-  support judges and staff
-  bring about reform, based on evidence
-  collaborate within the justice system.

Court Directions 2017–22 is a public expression of the Court's commitment to improvement and the pursuit of excellence. It enshrines the Court's purpose to hear and determine matters in a fair, timely and accessible way, and identifies its:

- commitment to the highest standards of justice
- adherence to the principles of accessibility and transparency
- professional, resilient, and highly motivated people
- ambitious and future-focused organisational culture.

The aspirations of *Court Directions 2017–22* are bold but necessary, given the complex and challenging environment in which the Court operates, changing civic expectations, and the evolving role of justice in a modern society. The impact of coronavirus (COVID-19) has amplified these challenges.

The extraordinary demand of changing operations in response to COVID-19 has emphasised the deep connection between elements of the justice system, as well as with other branches of government and the legal profession. There has been an unprecedented need for collaboration and consultation as new processes, practices, and protocols have been rapidly designed and implemented by the Court. Once COVID-19 restrictions have passed, some measures that have been introduced will be lifted, but others are likely to be kept as part of improved practices of the Court, assisting the Court's progress in meeting the objectives of *Court Directions*.

The Court's key achievements in meeting these objectives in 2019–20 are summarised in the following pages.

Objective	Description	Key achievements during 2019–20
<p>IMPROVE THE COURT USER EXPERIENCE</p>	<p>Enhance services and programs to meet the needs of court users and improve justice outcomes.</p>	<p>COURT USER SURVEY</p> <p>Applying methodology from the <i>International Framework for Court Excellence</i>, the Court continued the successful application of the biannual Court User Survey in November 2019. This initiative, designed to measure and subsequently improve the experience of the court user, attracted a large number of participants and the results continue to demonstrate a high rate of satisfaction among court users. Results for the November 2019 survey included an overall court user satisfaction rate of 87 per cent.</p> <p>Due to COVID-19 restrictions and the related changes to operations, the Court User Survey scheduled for June 2020 was unable to be held.</p> <p>AN EFFECTIVE RESPONSE TO COVID-19</p> <p>COVID-19 had a profound impact on the Court’s operations. In response, the Court restricted face-to-face services; limited subpoena appointments and implemented a temporary web-based solution for lodging evidence; increased the prioritisation of hearings based on urgency; almost eliminated courtroom appearances by shifting appropriate matters to virtual hearings; modified security screening practices and courtroom layouts; and introduced social distancing protocols. These measures ensured that, while prioritising safety and adherence to restrictions, the needs of court users continued to be substantially met.</p> <p>INTRODUCTION OF THE APPEALS AND POST SENTENCE APPLICATIONS LIST</p> <p>Selected quasi-criminal matters, such as post-sentencing supervision matters, protection order appeals, and some compensation order matters, were transferred from the Criminal Division to a new Appeals and Post Sentence Applications List in the Common Law Division. This pragmatic innovation has reduced the number of hearing adjournments, and increased the capacity of the Criminal Division to hear other matters.</p> <p>ENHANCED SUPPORT FOR SELF-REPRESENTED LITIGANTS (SRLS)</p> <p>The Court continued to improve the support available to SRLs. The Court’s pilot of a self-representation service, provided through Justice Connect and in conjunction with the Supreme Court of Victoria, was extended and refined. The pilot runs in the Commercial Division, which handles around 70 per cent of the Court’s matters involving SRLs. Results are positive, with a steady growth in the number of enquiries to Justice Connect, most of which are in scope for the service. Positive feedback has been received from participants.</p> <p>IMPROVED REGISTRY FACILITIES</p> <p>A refurbished and upgraded Registry was opened early in 2020. The new design is intended to improve both the experience of court users and the working environment for court staff. Notably, a more open and contemporary layout provides easier access to counter services, more private spaces for confidential discussions, better access to technology, and dedicated facilities for supporting SRLs.</p>



COURT DIRECTIONS 2017–22 AND OUR ACHIEVEMENTS

Objective	Description	Key achievements during 2019–20
<p>HARNESS NEW TECHNOLOGY</p>	<p>Embrace new technology and rethink systems to enhance transparency, improve service and increase productivity.</p>	<p>MAJOR ADVANCES IN DIGITAL TRANSFORMATION</p> <p>The Court’s ongoing Digital Transformation Program reached significant milestones during 2019–20: almost all court documents are now lodged and managed electronically; all case files are created and managed digitally; and nearly all administrative court records originate in digital form. In addition, the Court successfully piloted and expanded the use of electronic court books in the civil divisions and piloted eHearings in the Common Law Division. These, and other, initiatives are key to the development and delivery of electronic evidence management, case filing and document lodgement. Detailed planning for these electronic improvements started this financial year.</p> <p>UPGRADED HARDWARE AND SOFTWARE</p> <p>The Court completed major parts of its information technology upgrade program including a full refresh of the Court’s desktop and laptop computers and implementation of the latest standard operating desktop environment.</p> <p>These investments not only underpin the Digital Transformation Program, they also reduce the reliance on paper documents and improve the security of information held by the Court. This program has helped to facilitate the Court’s transition to working from home for most of judges and staff during COVID-19 restrictions.</p> <p>EXPANDED IN-COURT TECHNOLOGY CAPABILITY</p> <p>The Court has now fully upgraded in-court technology in over half of its civil and criminal courtrooms, and in all remote witness rooms and jury rooms. Key improvements include modern recording, playback and video conferencing facilities, enhanced writing tools and speech-to-text technology. This supports the work of the judiciary, provides a streamlined court user experience, and reduces the need for in-person appearances. This capability proved critical to the delivery of virtual hearings during COVID-19 restrictions.</p>



Objective	Description	Key achievements during 2019–20
<p>ENGAGE WITH THE COMMUNITY</p>	<p>Improve transparency and the accessibility of information to build understanding of the Court and its processes.</p>	<p>MORE TRANSPARENT SENTENCING INFORMATION</p> <p>The Court established the Immediate Publication Protocol to expedite the publication of sentencing remarks on the Court’s website. This provides the community with quicker access to the reasons behind sentencing decisions. This protocol been applied in over 25 cases of widespread media and/or community interest in the last financial year.</p> <p>The Court also started regular production of summaries of noteworthy cases, along with sentencing data on different criminal offences, commencing with culpable driving, rape, and child sex offences. These case summaries and accessible statistics demonstrate aspects of the justice system and can be used as an educational resource for VCE students and the wider community.</p> <p>SECOND COMMUNITY ENGAGEMENT DAY</p> <p>County Court judges came together with community leaders in September 2019 for the Court’s second Community Engagement Day, a forum for community leaders to learn about the Court and its processes and challenge their thinking about the legal system, including the role of judges in sentencing. During the day, participants observed real court hearings, worked in groups on mock sentences, and engaged in one-on-one discussion with judges. More than 20 community participants and 13 judges were involved in this program.</p> <p>NEW RESEARCH ON COMMUNITY ATTITUDES</p> <p>The County Court and Supreme Court commissioned social research to establish a baseline understanding of community attitudes to Victoria’s courts. This important work confirmed that community engagement initiatives can build trust in the courts, and the overall findings will help the Court target its future communication activities.</p> <p>DEEPER ENGAGEMENT WITH REGIONAL STAKEHOLDERS</p> <p>The Court commenced an engagement program to focus on its stakeholders in and around the circuit courts. Although affected by COVID-19 restrictions, the Court was able to hold training sessions with regional journalists at 10 of the 12 circuit court locations. These provided more than 20 regional news outlets with current information about court resources and processes. Training was conducted in regional locations for court staff and legal practitioners in using electronic court books. Conversion of other elements of the regional engagement program to digital channels, where practical, has also advanced.</p>



COURT DIRECTIONS 2017–22 AND OUR ACHIEVEMENTS

Objective	Description	Key achievements during 2019–20
<p>EXPAND AND EXPLORE SPECIALISATION</p>	<p>Specialise to better meet the needs of specific court user groups.</p>	<p>LAUNCH OF THE WARRNAMBOOL COUNTY KOORI COURT</p> <p>In October 2019, Victoria’s newest County Koori Court was launched in Warrnambool, and began to hear matters starting from 25 November 2019.</p> <p>A VIRTUAL KOORI COURT</p> <p>In response to COVID-19 restrictions, the Court introduced an alternative to in-person hearings to ensure the ongoing operation of the Koori Court and the engagement of Aboriginal Elders and Respected Persons in sentencing processes. Following extensive consultation with community stakeholders and medical experts, a pilot model for virtual hearings was developed using in-court technology.</p> <p>The results of the pilot evaluation were extremely positive with all respondents seeing value in the model.</p> <p>COURT INTEGRATED SERVICES PROGRAM VIRTUAL PILOT</p> <p>In response to the growing pressure on the Victorian prison system, community safety issues and an increase of recidivist offenders with complex support needs, a pilot expansion of the Court Integrated Services Program (CISP) has been introduced. CISP offers a coordinated approach to the assessment and treatment of accused persons at the pre-trial or bail stage and links accused persons to support services.</p> <p>The expansion of CISP will provide the Court with additional tools to address risk and reduce potential harm to the community, while ensuring individuals are supported to engage in rehabilitation and diverted from the justice system.</p> <p>The program’s implementation has been delayed in response to changes to operations due to COVID-19. However, it is planned for launch in a virtual capacity in December 2020.</p>



Objective	Description	Key achievements during 2019–20
<p>SUPPORT JUDGES AND STAFF</p>	<p>Strengthen capability and support the wellbeing of judges and staff.</p>	<p>NEW JUDICIAL SUPPORT SERVICES</p> <p>After a comprehensive review and consultation process, a new judicial support services structure was implemented. This has been designed to improve the quality and consistency of the support judges and staff receive; develop the capabilities of support staff; and improve overall work satisfaction. These timely changes proved critical to the successful transition to working from home during COVID-19 restrictions.</p> <p>A HEIGHTENED FOCUS ON INDIVIDUAL WELLBEING</p> <p>The judiciary and staff of the Court responded to the challenges of COVID-19 with exceptional dedication and commitment, and a willingness to adapt quickly to new ways of working. The Court has been alert to the stresses and strains presented to all court users by these rapid changes. Existing resources for wellbeing and employee assistance were updated with new programs offering informal peer support; guidance for managing remote teams; advice for parents working at home with children; tips on ergonomic workspaces; strategies for mental and physical health; guided mindfulness and mediation practices; and even a virtual walk challenge.</p>



COURT DIRECTIONS 2017–22 AND OUR ACHIEVEMENTS

Objective	Description	Key achievements during 2019–20
<p>REFORM BASED ON EVIDENCE</p> 	<p>Implement improvement initiatives based on best practice and strong evidence.</p>	<p>EXPANSION OF ACTIVE CASE MANAGEMENT</p> <p>Building on earlier work, the Court began a full pilot of active case management in the Criminal Division early in the financial year. The intended outcomes of active case management are to improve the productivity of cases through the early assessment of each case’s needs; provide targeted interventions to keep cases from stalling, and reduce delay; and allow for more delegation of administrative or less complex pre-trial determinations, thereby preserving judicial resources for more substantive functions.</p> <p>The emergence of COVID-19 forced the Court to suspend the Active Case Management pilot. However, the Court quickly adapted key aspects of the ACMS model into an <i>Emergency Case Management Model</i> (‘ECMM’) in order to progress matters that would have proceeded as jury trials. The interim evaluation on the ECMM indicates that active case management has been helpful, relevant and useful and that the legal profession would support the continuation of active case management in a business as usual context.</p> <p>NEW CAPABILITY IN BUSINESS INTELLIGENCE</p> <p>The Court launched a new data warehouse for its key data sources; implemented contemporary business intelligence software; and engaged new staff with relevant skills. The Court is now well placed to design and evaluate its productivity and business improvement initiatives and contribute to a better understanding of the justice system overall. The value of this investment was demonstrated during COVID-19 restrictions when the Court was able to rely extensively on organisational data to inform operational decisions.</p>

Objective	Description	Key achievements during 2019–20
<p>COLLABORATE WITHIN THE JUSTICE SYSTEM</p>	<p>Contribute to the overall performance and effectiveness of the justice system.</p>	<p>A JOINT APPROACH TO ACCOMMODATION PLANNING</p> <p>In conjunction with Court Services Victoria and the Departments of Premier and Cabinet, Treasury and Finance, Justice and Community Safety, the Court commenced negotiations to ensure it had suitable ongoing central legal precinct accommodation and services after the current Public Private Partnership arrangement expires in 2022.</p> <p>Under the leadership of the Chief Judge, the Court has also continued to make a critical contribution to the development of a long-term strategic asset plan for Victoria’s courts and tribunals, taking into account projections of future demand, service need, and changing user expectations.</p> <p>EXTENSIVE CONTRIBUTIONS TO THE WORK OF GOVERNMENT</p> <p>The Court responded to a wide range of consultation papers from external agencies and the Victorian Government. It assessed and provided submissions on the impact that major law reform would have on the Court in areas such as de novo appeals, bail, sexual offences, and family violence, as well as legislation related to the State’s response to COVID-19. In addition, submissions were made to several independent enquiries, including the Royal Commissions into mental health and disability.</p>



WORK OF THE COURT

The *County Court Act 1958* establishes that the judges of the Court are to report to the Governor on the Court's operations annually. The following reports, prepared by the judges and judicial registrars, detail the Court's work over the 2019–20 reporting period.

REPORT FROM THE HEAD OF THE CRIMINAL DIVISION JUDGE GAMBLE

CRIMINAL DIVISION

The Criminal Division ('the Division') has faced a number of changes and challenges in the 2019–20 financial year. A change, of note, is the new procedure the Division implemented in July 2019 for all special hearing matters (under the *Criminal Procedure Act 2009*) committed to the County Court. This new procedure was introduced following legislative reforms which abolished committals in the Magistrates' Court for all sexual offence matters involving a complainant who is a child or person with a cognitive impairment at the time proceedings commenced.

Of significance, coronavirus (COVID-19) has presented many unprecedented and significant challenges to the Division and its stakeholders. These challenges are outlined in the proceeding sections 'Division challenges' and 'Division major projects'.

This year, I have been supported in my role as Head of the Criminal Division by the Criminal Division Executive Committee which includes the Judge in Charge of the Sexual Offences List (Judge Higham), the Judge in Charge of the County Koori Court (Judge Lawson), and the Head of Circuits (Judge Mullaly). I have also been supported by Judge M Sexton who, at the start of COVID-19 restrictions, took on the role of Judge in Charge of Non-Trial Work, and Judge O'Connell who took on the role of Judge in Charge of the Long Trials List (formerly headed by Judge Mullaly). The Division thanks Judge Mullaly for his hard work and leadership heading the Long Trials List since its initiation, and we welcome Judges O'Connell and M Sexton to their respective new roles.



Judge Gamble

APPOINTMENTS AND RETIREMENTS

In the past year, the Division again farewelled a number of judges. The Division farewelled her Honour Judge Condon in July 2019. Her Honour Judge Hannan was appointed Chief Magistrate of the Magistrates' Court of Victoria and took on that new role in November 2019. Her Honour Judge Harbison retired in December 2019. His Honour Judge Saccardo, his Honour Judge Taft and her Honour Judge Wilmoth retired in March, April and May 2020 respectively. The departure of so many highly experienced and hardworking judges is a loss to the Division and the Division thanks each of those judges for their commitment and service to the Court.

This year, the Criminal Division welcomed seven new judges, all of whom bring distinguished experience in criminal law and fresh legal expertise to the Court. Her Honour Judge Carlin was appointed in September 2019; her Honour Judge Hassan, his Honour Judge Doyle and his Honour Judge Cain (also appointed as State Coroner) were appointed in October 2019; her Honour Judge Dalziel was appointed in February 2020; and her Honour Judge Leighfield and her Honour Judge Todd were both appointed in June 2020. The Division congratulates each judge on their appointment and we warmly welcome them to the Court.

The Court also welcomed two judicial registrars to the Criminal Division. Judicial Registrars Phillips and Wilson were both appointed in February 2020 and are the first to commence as judicial registrars in the Division. Each of them brings extensive criminal law experience to the Court and we congratulate them on their appointment.

DIVISION ACTIVITY

Initiations and finalisations

Over the past financial year, the Division has seen the largest decrease in the number of cases commenced and finalised of all the divisions in the Court, likely attributable to the impacts of COVID-19. The number of cases commenced decreased from 5,393 in 2018–19 to 4,020 in 2019–20 – a decrease of approximately 25 per cent. The number of cases finalised decreased from 5,364 in 2018–19 to 4,351 in 2019–20 – a decrease of approximately 19 per cent.

COLLABORATION WITHIN THE JUSTICE SYSTEM

Stakeholder engagement

Judges of the Division continued to meet regularly with stakeholders via various user group meetings including the Criminal User Group, which includes judges and representatives from the Court, Victoria Legal Aid, the Criminal Bar Association, the Law Institute of Victoria, the Office of the Commonwealth Director of Public Prosecutions and the Office of Public Prosecutions; the Bench Bar Working Group, which includes judges of the Division, representatives from the Criminal Bar Association and barristers from leading criminal bar chambers; and Corrections Victoria.

Due to COVID-19, the various user group meetings have moved to an online platform which has enabled the Division and its stakeholders to continue discussing – whether arising from COVID-19 or otherwise – challenges to the Division, changes to court practice and procedure, changes within organisations, and the impacts of any legislative reforms. The meetings have also provided a forum to update stakeholders on the work of the Division during COVID-19 restrictions, which has assisted stakeholders to understand the issues faced by the Division and any changes implemented to address those issues.

DIVISION CHALLENGES

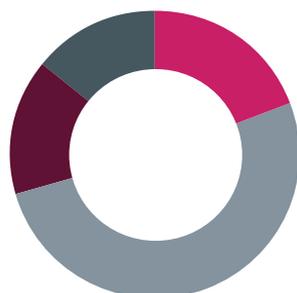
Case complexity and listing

For the 2019–20 financial year:

- 19 per cent of trials had a trial length of 1–5 days
- 51 per cent of trials had a trial length of 6–10 days
- 15 per cent of trials had a trial length of 11–15 days
- 14 per cent of trials had a trial length of greater than 15 days.

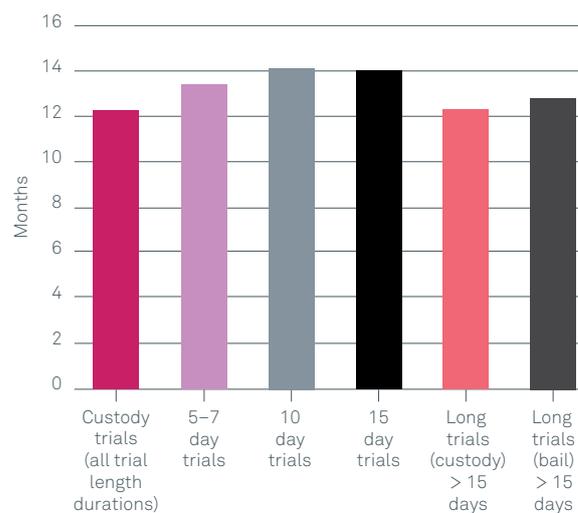
STATEWIDE AVERAGE TRIAL LENGTH 2019–20

- 1–5 days (19%)
- 6–10 days (51%)
- 11–15 days (15%)
- > 15 days (14%)

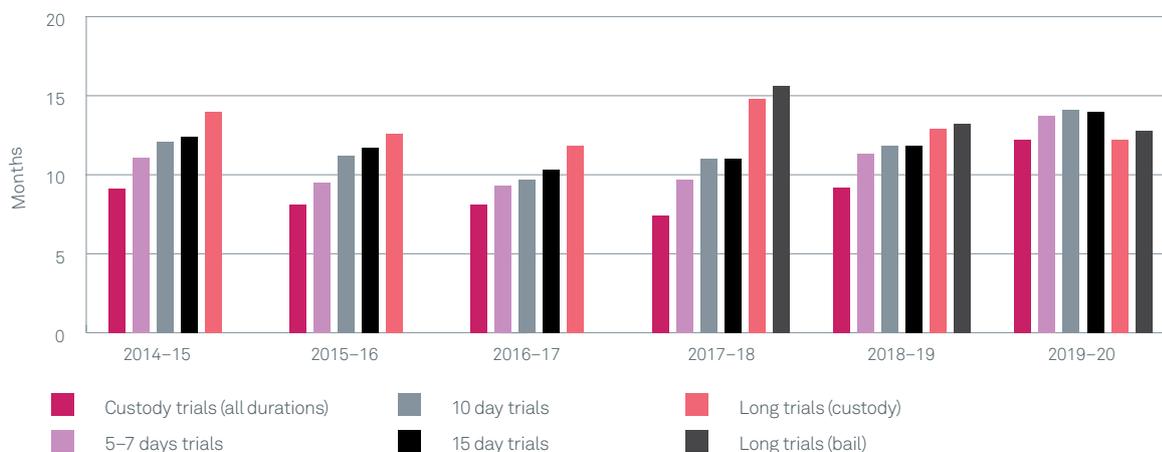


TIME TO TRIAL

Prior to COVID-19 restrictions, the average time to trial per trial type¹ was:



AVERAGE TIME TO TRIAL (MONTHS) BY TRIAL TYPE AND BY FINANCIAL YEAR²



¹ Averages calculated using figures from 1 July 2019 to 1 March 2020.

² Time to trial data for Long Trials (Bail) is only available from October 2017.

2019–20 average time to trial is calculated using figures from 1 July 2019 to 1 March 2020 only. No time to trial data is available after March 2020.

DIVISION CHALLENGES

The challenges with increased case complexity and duration, combined with capacity and resourcing constraints, continued to place increasing demands and pressures on the Division and affected the number of cases 'not reached' and delays in the time taken to reach trial. Before COVID-19 restrictions came into place, the Division was working to reduce the number of cases 'not reached' and time taken to reach trial by considering innovative and new ways regarding how we work and list matters; in part, this included the expansion of the Active Case Management System Reform pilot and the Long Trials Case Management List pilot.

On 16 March 2020, all new jury trials were suspended until further notice in response to COVID-19. Some trials that were running when the state of emergency was declared were adjourned without verdict. Due to the uncertain environment presented by COVID-19, including the changing levels of community transmissions and restrictions – which changes not only daily but by the hour – the Court had not been in a position to indicate, with certainty, when jury trials would resume. In the meantime, the Court continued working tirelessly to develop a model where jury trials could resume, in a manner which is safe and consistent with government directives and expert health and safety advice, as soon as it is safe and practicable to do so.

With challenges to case complexity, listings and time to trial delay prior to COVID-19 now compounded by further time to trial delays caused by COVID-19, the Division will no doubt face significant challenges with listings and trial delays next year and beyond. The Court will continue to consider initiatives to reduce time to trial delays exacerbated, and the backlog created, by COVID-19.

COVID-19

The Division's operations and ability to list and hear matters has been significantly impacted by COVID-19. Notably, the matters that have impacted the Division's operations include the suspension of all new jury trials; the manner of appearances for non-trial criminal proceedings; the ability to hear contested hearings, such as conviction appeals and other types of hearings where witnesses are required; technological limitations, including access and capability for parties and court users to appear remotely; and video link capacity issues.

The Division has worked together with stakeholders to address these challenges, in so far as possible, to ensure the administration of justice continues while keeping the health and safety of all those who attend court a top priority.

The Division has regularly adapted its processes in response to changing government health and safety directives and advice and legislative reform enacted in response to COVID-19. During the COVID-19 period, many of the Division's non-trial matters have been conducted remotely through Webex or video links, which is but one of the many changes to the Division's practices and procedures. Several emergency protocols have been published in order to communicate and provide guidance to stakeholders and court users about such changes. These protocols include:

- *Emergency protocol COVID-19: daily non-trial cases and subpoena/s32C work;*
- *Criminal Division hearings Webex information guide*
- *Emergency case management model protocol 1–4*
- *Emergency protocol COVID-19: trial by judge alone*
- *Emergency protocol COVID-19: judge-alone crimes (mental impairment and unfitness to be tried) matters*
- *Emergency protocol COVID-19: administrative case management*
- *Application for an indemnity certificate*
- *Emergency protocol COVID-19: robing for hearings*
- *County Court Circuits appearances at regional County Court locations.*

The *COVID-19 Omnibus (Emergency Measures) Act 2020* came into effect on 25 April 2020 and, among other things, amended the *Criminal Procedure Act 2009* (CPA) to provide for determination of any issue in a criminal proceeding without a hearing, having regard to those limitations and matters specified in s420ZL CPA, as amended.

To that end, certain matters which would have otherwise had an in-court event prior to COVID-19 have been determined based on written submissions alone. Further to this, in order to limit person-to-person interaction where parties have attended court in-person where necessary, the Court has required parties to provide full written submissions for criminal proceedings. This helps to ensure hearings are heard as efficiently as possible.

Judicial and staff wellbeing

Like much of the Victorian community, the judges and staff of the Division have transitioned to working from home, for the most part, particularly during the Stage 3 and 4 restriction periods. Judicial officers and staff have utilised technology both in and out of the courtroom to ensure justice is delivered.

The Division acknowledges the challenges that working from home presents to judicial officers and court staff who work in different home environments while still being exposed to confronting and traumatic cases, and the mental health impacts that the uncertainty of the COVID-19 situation presents. The Court continues to support judges and staff with these challenges through the delivery of various programs and initiatives designed to increase wellbeing and connectedness during these unprecedented times.

DIVISION MAJOR PROJECTS

Criminal Division Active Case Management System Reform pilot

The Division laid the foundation for the pilot of an active case management system in late 2019 under the Active Case Management System Reform pilot ('ACMS pilot'). In addition to the appointment of two Criminal Division judicial registrars, four Division lawyers were brought into the Court to support the ACMS pilot. The following professional stakeholders also agreed to participate in the pilot: the Office of Public Prosecutions, Victoria Legal Aid, the Criminal Bar Association and a number of Legal Aid panel firms. The first matter entered the pilot in March 2020; however, due to the COVID-19 pandemic, the ACMS pilot was suspended.

Since that time, the Division has utilised and built upon the concepts of the ACMS pilot to develop the *Emergency Case Management Model* (outlined below) and the active case management process for new initiations where there is a plea of 'not guilty', which are initiatives that were implemented in response to COVID-19.

Emergency case management model

The scheduling and listing of a significant number of County Court criminal trials across Victoria has been, or will be, affected because of COVID-19 and there is an impending backlog of jury trials vacated or delayed as a result. One of the ways the Division seeks to address the backlog created by COVID-19 is through the implementation of the *Emergency Case Management Model* (ECMM).

The ECMM was implemented, and the *Emergency case management model protocol one* was published, on 9 April 2020. The objectives of the ECMM are to:

- triage and target vacated trials which would otherwise settle or resolve, with a view to bringing forward that resolution or settlement
- triage and target pre-trial rulings of major importance to narrow the issues in dispute, where appropriate, and thereby reduce the length of any trial
- address urgent pre-recording of evidence.

The ECMM initially commenced in a limited and staged approach to enable the Court and its stakeholders to monitor and assess the progress. Phase one included 100 trials – including 65 Melbourne trials previously listed to commence between 16 March and 4 May 2020, and 35 circuit trials – which were vacated because of COVID-19. Parties in those trials were automatically eligible to apply for emergency case management provided they satisfied one or more of the relevant criteria in the *Emergency case management model protocol one*.

The ECMM has since expanded to:

- Phase 2, which includes approximately 236 trials – consisting of 156 Melbourne trials previously listed to commence between 4 May 2020 and 27 July 2020, and 80 circuit trials; and
- Phase 3, which includes approximately 252 trials – consisting of 193 Melbourne trials previously listed to commence between 3 August 2020 and 30 October 2020, and 59 circuit trials which have been, or will be, vacated because of COVID-19.

Parties in those trials were automatically eligible to apply for emergency case management under the *Emergency case management model protocol two* (published 18 May 2020) and *Emergency case management model protocol three* (published 26 June 2020) respectively.

In the 2020–21 financial year, the Court expanded the ECMM to phase four to include those Melbourne trials listed to commence between 2 November 2020 and 14 December 2020, and by exception any other trial listed in 2021 where there are special reasons why case management should, in accordance with the requirements in the Emergency case management model protocol four (published 12 August 2020), be undertaken expeditiously or urgently.

The Court originally engaged an independent consultant to conduct an evaluation of the ACMS pilot. However, since the suspension of the ACMS pilot and following the implementation of the ECMM in response to COVID-19, the evaluation has been expanded. The expansion includes new case management processes as a whole, and as designed by the original ACMS pilot, to ensure any improvement initiatives are based on best practice and strong evidence in line with the Court's strategic direction to provide reform based on evidence.

Long Trials List

The Long Trial Case Management List pilot ('the LTL pilot') commenced in February 2018 to manage criminal trials with an estimated trial duration of 25 days or more. Now in its third year, the LTL pilot has included 99 matters involving 234 accused and has successfully implemented an intensive pre-trial case management process. In March 2020, his Honour Judge O'Connell took over from his Honour Judge Mullaly as the Judge in Charge of the Long Trials List.

A two-year evaluation of the LTL pilot was completed in March 2020 which revealed that it has:

- saved approximately 245 weeks of court time through early resolution of appropriate cases; on average, these cases have resolved 4.4 weeks prior to the trial date
- decreased the trial duration of cases which proceeded to trial, resulting in a further 19 weeks of court time saved
- provided trial date and trial judge certainty
- contributed to the efficient allocation of judicial resources
- improved the trial readiness of matters that are allocated to judicial resources
- managed interlocutory applications and pre-trial issues for long trials.

This year, the operational policies and procedures of the LTL pilot have been adapted to join the Court's response to COVID-19. In particular, the LTL pilot has continued case management through remote hearings or administrative processes where necessary. Hearings requiring the physical attendance of practitioners have been limited.

The LTL pilot has also worked closely with the judicial registrars in the Division to implement the emergency protocols where they have been relevant to the management of long trials. In particular, the LTL pilot has assisted in identifying suitable long trial cases for inclusion under the emergency case management protocols to facilitate the hearing of substantive matters.

The LTL pilot continues to operate during the emergency period.

Electronic hearings

To reduce the number of people physically attending the Court and mitigate health and safety risks presented by COVID-19, the Division rapidly moved from conventional in-person court hearings to court hearings which are conducted remotely using the secure, virtual platform, Cisco Webex Meetings (Webex), in conjunction with traditional video link technology and physical attendance at court, where required. This significant change was embraced by judicial officers, court staff and court users who adapted to new technology and a new way of working in challenging and unprecedented times.

The Division thanks the Court's Technology team and Court Services Victoria's Information Technology Services team for their tireless work in swiftly operationalising the technology systems and requirements that have enabled the Division to continue its important work, in so far as possible, during COVID-19.

The Division will continue to look at ways to harness new technology and rethink systems to enhance transparency, improve service and promote productivity during COVID-19 restrictions and beyond, in line with the Court's strategic directions.

Grouping of sentence-only appeals pilot

The Court has seen some tangible benefits to the grouping of the sentence-only appeals pilot which was introduced in February 2019. Since its commencement, the pilot has placed appropriate appeals into groups of two or three, one week out from the appeal hearing date. This has enabled the prosecution to organise earlier briefing of counsel, which has in turn provided a greater level of assistance to the Court. As a result, the Division, in consultation with the Office of Public Prosecutions, has extended the pilot for a further 12 months.

Law reform

The Court has commented on various pieces of legislative and regulatory reform, all of which directly impact on the resources and work of the Court and some of which are in place for a temporary period in response to COVID-19. A list of those reforms which commenced this financial year is presented below:

- the *Justice Legislation Amendment (Family Violence Protection and Other Matters) Act 2018* provided judges with the power to make intervention orders on their own motion
- the *Open Courts and Other Acts Amendment Act 2019* made amendments to the restriction of publication of certain information, including making suppression orders under the *Open Courts Act 2013* and amending restrictions against publication under the *Children, Youth and Families Act 2005* and the *Judicial Proceedings Reports Act 1958*
- the *Children Legislation Amendment Act 2019* removed the exemption for religious confessions and introduced mandatory reporting of child sexual abuse
- the *Justice Legislation Amendment (Serious Offenders and Other Matters) Act 2019* made amendments to serious sexual offences under the *Serious Offenders Act 2018*.
- the *Crimes Legislation Amendment (Sexual Crimes Against Children and Community Protection Measures) Act 2020* (Cth) made amendments to bail considerations for various Commonwealth sexual offences
- the *COVID-19 Omnibus (Emergency Measures) Act 2020* made various criminal justice amendments in response to COVID-19, including the introduction of trials by judge alone under the *Criminal Procedure Act 2009*, and special hearings by judge alone under the *Crimes (Mental Impairment and Unfitness to be Tried) Act 1997*. This Act also created flexibility to allow courts to conduct hearings remotely or on the papers, as well as providing government with the ability to amend certain Justice Acts by making regulations.
- the *COVID-19 Omnibus (Emergency Measures) (Criminal Proceedings and Other Matters) Regulations 2020* which made various criminal justice amendments in response to COVID-19, including amendments to facilitate the granting of bail remotely, increasing extensions of time for sexual offence matters, allowing certain materials to be filed remotely, and making modifications to provide flexibility for summoning and empanelling of jurors.

- the *Justice Legislation Amendment (Criminal Appeals) Act 2019* which created second or subsequent appeals to the Court of Appeal, as well as reference determinations by the trial court.

The *County Court Criminal Procedure Rules 2019* (Vic) ('the Rules') replaced the *County Court Criminal Procedure Rules 2009* (Vic) ('2009 Rules') which were automatically repealed on 17 December 2019. The new Rules remain largely the same with few changes.

Trial by judge alone and CMIA special hearings by judge alone

New provisions added to the *Criminal Procedure Act 2009* (CPA) in response to COVID-19 for a temporary six-month period,³ and for the first time in Victoria, allow the Court to make an order for a trial to be heard and determined by a judge alone without a jury. An application for a trial by judge alone can be made by the accused, prosecution or on the Court's own motion, provided the criteria specified in s420D CPA are satisfied.

New temporary provisions were also added to the *Crimes (Mental Impairment and Unfitness to be Tried) Act 1997* (CMIA) which enable the Court to make an order for a special hearing (under the CMIA) to be heard and determined by a judge without a jury, where an accused has been found unfit to stand trial.

The Court's *Emergency protocol: trial by judge alone and Emergency protocol COVID-19: judge-alone Crimes (Mental Impairment and Unfitness to be Tried) matters* outline the procedure for making these applications to the Court.

From the commencement of the emergency legislation which introduced the new provisions on 25 April 2020 to 30 June 2020, the Court has heard and determined two applications for trial by judge alone, both of which were granted. The first application resolved before trial. The second proceeded as a trial by judge alone in the 2020–21 financial year. The Court has also heard and determined two applications for special hearing (under the CMIA) by judge alone, both of which were granted.

The Court will continue to hear and determine these applications, and the trial proper or special hearing, where granted, for the period the emergency legislation is in force.

³ *Criminal Procedure Act 2009* (Vic) s 420ZN.

REPORT FROM THE JUDGE IN CHARGE OF THE GENERAL CRIME LIST JUDGE GAMBLE

LIST JUDGES

This year in the General Crime List¹, I have been supported by Judges Taft, Marich, Gwynn, Dawes, Gaynor, Wraight, Lacava, Dean, Doyle and M Sexton. I have also been supported by Judicial Registrars Phillips and Wilson who have presided over the 9am General Crime List which hears uncontested matters, including initial directions hearings, final directions hearings, mentions, arraignments, conviction appeal first listings and announcements of discontinuances. Judges of the Division have presided over the 10.30am List, which hears various matters and applications including applications for bail and return of executed warrants.

From 16 March 2020, the Court considerably reduced the number of in-court events for matters in the General Crime List in response to COVID-19. Most of the hearings in the General Crime List during the initial emergency period were vacated and adjourned to their final directions hearing listing or original trial listing.

The General Crime List resumed the 9am and 10.30am List on 15 June 2020, hearing those initial and final directions hearings which were administratively adjourned during the initial emergency period, as well as other matters generally heard in the List. Since COVID-19 restrictions were set in place, applications and matters in the General Crime List have been determined administratively, on the papers, or, where necessary, through a hearing.

GENERAL CRIME LIST CASES

From 1 July 2019 to 13 March 2020, the number of cases that commenced in the General Crime List included:

- 406 that commenced as a plea of 'guilty'
- 412 that commenced as a plea of 'not guilty'.²

For the period of COVID-19 restrictions 16 March 2020 to 30 June 2020, and where contested committals in the Magistrates' Court were suspended, the number of cases that commenced in the General Crime List is as follows:

- 132 that commenced as a plea of 'guilty'
- 47 that commenced as a plea of 'not guilty'.

'NOT GUILTY' INITIATIONS IN THE GENERAL CRIME LIST V SEXUAL OFFENCES LIST

For the period 1 July 2019 to 13 March 2020, the percentage of cases that commenced in the General Crime List compared to the percentage of cases that commenced in the Sexual Offences List, as a plea of not guilty, is as follows:

- 73 per cent in the General Crime List
- 27 per cent in the Sexual Offences List.

For the period 16 March 2020 to 30 June 2020 (and where contested committals in the Magistrates' Court were suspended), the percentage of cases that commenced in the General Crime List compared to the percentage of cases that commenced in the Sexual Offences List, as a plea of not guilty is as follows:

- 65 per cent in the General Crime List
- 34 per cent in the Sexual Offences List.

FEDERAL V STATE PROSECUTIONS

For the period 1 July 2019 to 30 June 2020, of the total number of cases commenced in the General Crime List as a plea of 'not guilty':

- 8 per cent of cases were prosecuted by the Commonwealth Director of Public Prosecutions
- 92 per cent were prosecuted by the State Director of Public Prosecutions.

1 The General Crime List includes Melbourne matters only and excludes sexual offence cases, which are listed in the Sexual Offences List.

2 The data for the number of cases that commenced as a plea of 'guilty' or 'not guilty' excludes cases commenced through direct indictment, severed indictment, re-trial, application for restricted evidence, supervision order cases and *Crimes (Mental Impairment and Unfitness to be Tried) Act 1997* cases.

OUTCOME OF MATTERS THAT COMMENCED IN THE GENERAL LIST

For the period 1 July 2019 to 30 June 2020, of all the cases that commenced in the General Crime List as a plea of 'not guilty', regardless of what year they commenced:

- 65.9 per cent resolved and the accused pleaded 'guilty'
- 12.1 per cent proceeded to trial and returned a 'guilty' verdict
- 6.2 per cent proceeded to trial and returned a 'not guilty' verdict
- 8 per cent were discontinued
- 5.5 per cent were remitted to the Magistrates' Court
- 2.3 per cent were dealt with under the *Crimes (Mental Impairment and Unfitness to be Tried) Act 1997*.

Of the 65.9 per cent of cases that resolved where a plea of 'guilty' was entered, the stage at which those cases resolved are:

- 2.7 per cent at the initial directions hearing (IDH)
- 31.7 per cent after the IDH
- 27.8 per cent at or after the final directions hearing ('FDH')
- 1.5 per cent after a case conference
- 3.5 per cent at or after a pre-trial hearing
- 25.1 per cent on the first day of trial
- 7.7 per cent during the course of the trial.³

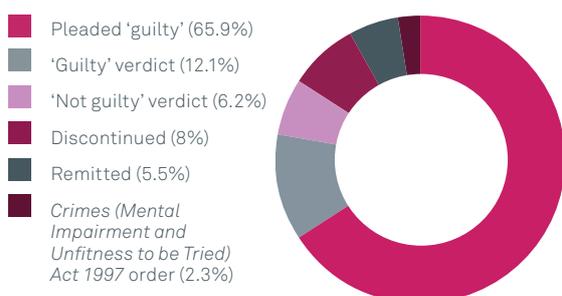
The new active case management processes (used prior to COVID-19 in the initial ACMS pilot, Long Trials List and some circuit matters; and used during COVID-19 restrictions in the ECMM and for all new initiations) allow for some matters to be eligible for a case conference hearing. A case conference may be heard when:

- the parties have indicated that resolution discussions are ongoing but there is a barrier to resolution
- the prosecution case requires clarification
- the issue(s) in dispute can be refined
- there are substantial pre-trial legal issues
- there are multiple co-accused
- the estimated trial length warrants intensive case management.

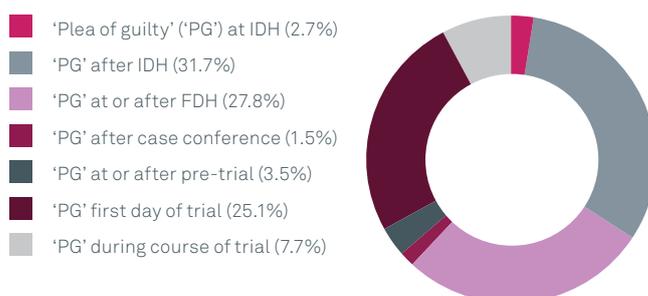
While jury trials have been suspended since 16 March 2020, the data for the 2019–20 financial year indicates (as with the previous financial years) that over a quarter of the trials that ultimately resolve, resolve on either the first day of trial (25.1 per cent in 2019–20, 31 per cent in 2018–19 and 37.2 per cent in 2017–18) or during the course of the trial (7.7 per cent in 2019–20, 9 per cent in 2018–19 and 3.8 per cent in 2017–18).

One of the aims and benefits of case conference hearings is that it enables trials to resolve at the earliest opportunity. It does this through close analysis of the case's issues and through objective guidance from the judge presiding over the case conference.

OUTCOME OF MATTERS IN THE GENERAL CRIME LIST 2019–20



GENERAL CRIME LIST STAGES OF RESOLUTION 2019–20



³ Percentage values have been rounded up.

REPORT FROM THE JUDGE IN CHARGE OF THE SEXUAL OFFENCES LIST JUDGE HIGHAM

LIST JUDGES

His Honour Judge Higham headed the Sexual Offences List again this year, supported by Judges M Sexton, Pullen, Quin, Marich, O'Connell, Johns, Gwynn, Hampel and Hassan.

SEXUAL OFFENCES LIST ACTIVITY

The Sexual Offences List conducts administrative case management of cases that proceed to the Court as a plea of 'not guilty', including special hearings matters under the *Criminal Procedure Act 2009* (CPA) which involve a child or person with a cognitive impairment. The Sexual Offences List sitting at 9am hears initial directions hearings, final directions hearings, mentions, arraignments and announcement of discontinuances. The Sexual Offences List sitting at 10.30am hears applications under s 32C of the *Evidence (Miscellaneous Provision) Act 2008* (EMPA), applications for release of s 32C subpoenaed material, s 198A CPA applications for pre-trial cross-examination and various other types of contested or more substantive hearings relating to matters involving a sexual offence. During COVID-19 restrictions, the judges sitting in the 10.30am Sexual Offences List have also conducted special hearings and presided over hearings where evidence has been pre-recorded.

During the early stages of COVID-19 restrictions, the Sexual Offences List conducted administrative case management of matters as needed. Many matters listed at 9am were administratively adjourned by a month, and continued to be adjourned each month as necessary. Matters listed in the 10.30am List have proceeded in court, by Webex, in court with some participants appearing by Webex, or have been adjourned to a later date. This includes Melbourne-based matters and some circuit matters that have been referred into the Sexual Offences List. During Stage 4 restrictions, the Sexual Offences List has been operating remotely.

For the period 1 July 2019 to 13 March 2020, 247 cases commenced in the Sexual Offences List.¹ Of those 247 cases:

- 153 were committed as a plea of 'not guilty'
- 71 were committed as a plea of 'guilty'
- 23 involved other matters, including direct indictments, severed indictments, retrials and supervision orders.



Judge Higham

For the period 16 March 2020 to 30 June 2020 where COVID-19 restrictions were set in place and contested committals in the Magistrates' Court were suspended, 48 cases commenced in the Sexual Offences List. Of those 48 cases:

- 24 were committed as a plea of 'not guilty'
- 18 were committed as a plea of 'guilty'
- 6 involved other matters, including direct indictments, severed indictments, retrials and supervision orders.

While the impacts of COVID-19 have reduced the number of matters committed to the Court, sexual offences still contributed to more than a quarter of all matters heard in the Criminal Division in Melbourne for both the periods 1 July 2019 to 13 March 2020 and 16 March 2020 to 30 June 2020.

¹ All data for the report from the Judge in Charge of the Sexual Offences List includes Melbourne matters committed to the Sexual Offences List only, unless otherwise specified.

OUTCOME OF CASES COMMENCED IN THE SEXUAL OFFENCES LIST

For the period 1 July 2019 to 30 June 2020, 168 matters that originally commenced with a plea of 'not guilty' in the Sexual Offences List, regardless of what year they commenced, were finalised. Of those 168 cases:

- 46 (27.4 per cent) proceeded to trial and returned a 'guilty' verdict
- 29 (17.3 per cent) proceeded to trial and returned a 'not guilty' verdict
- 52 (31 per cent) resolved to a plea of 'guilty'
- 41 (24.4 per cent) proceeded in a different manner, including matters dealt with under the *Crimes (Mental Impairment and Unfitness to be Tried) Act 1997*, transfers to the Supreme or Magistrates' Court, discontinuance or a stay of proceedings.²



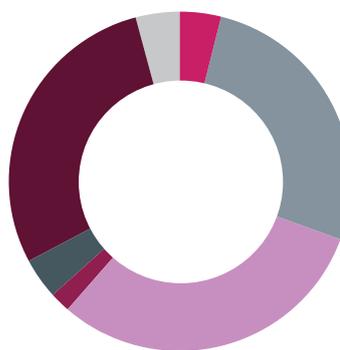
OUTCOME OF CASES COMMENCED WITH A PLEA OF 'NOT GUILTY' IN THE SEXUAL OFFENCES LIST

- 'Guilty' verdict (27.4%)
- 'Not guilty' verdict (17.3%)
- Resolved to 'Plea of guilty' (31%)
- Other outcome (24.4%)

STAGES OF RESOLUTION

Of the 52 cases that resolved to a plea of 'guilty':

- 2 (3.85 per cent) resolved at the initial directions hearing
- 14 (26.9 per cent) resolved after the initial directions hearing
- 16 (30.8 per cent) resolved at or after the final directions hearing
- 1 (1.9 per cent) resolved after a case conference
- 2 (3.85 per cent) resolved at or after pre-trial
- 15 (28.8 per cent) resolved on the first day of trial
- 2 (3.85 per cent) resolved during the course of the trial.²



STAGES OF RESOLUTION (%)

- 'Plea of guilty' ('PG') at IDH (3.85%)
- 'PG' after IDH (26.9%)
- 'PG' at or after FDH (30.8%)
- 'PG' after case conference (1.9%)
- 'PG' at or after pre-trial (3.85%)
- 'PG' first day of trial (28.8%)
- 'PG' during course of trial (3.85%)

² Percentage values have been rounded up.

CHILD AND COGNITIVELY IMPAIRED WITNESS CASES

For the period 1 July 2019 to 30 June 2020, 176 sexual offence cases involving a child or person with a cognitive impairment commenced in the Court state-wide. Of those 176 cases:

- 29 (16.5 per cent) commenced as a plea of 'guilty'
- 142 (80.7 per cent) commenced as a plea of 'not guilty'
- 5 (2.8 per cent)³ involved other matters including severed indictments and matters dealt with under the *Crimes (Mental Impairment and Unfitness to be Tried) Act 1997*.

Sixty-four per cent of these cases were Melbourne matters, while the remaining 36 per cent were circuit matters.

For the 2019–20 financial year, the Court heard:

- 59 applications for pre-trial cross-examination under s 198A of the CPA (s 198A applications)
- 33 pre-trial cross-examination hearings where those s 198A applications were granted.

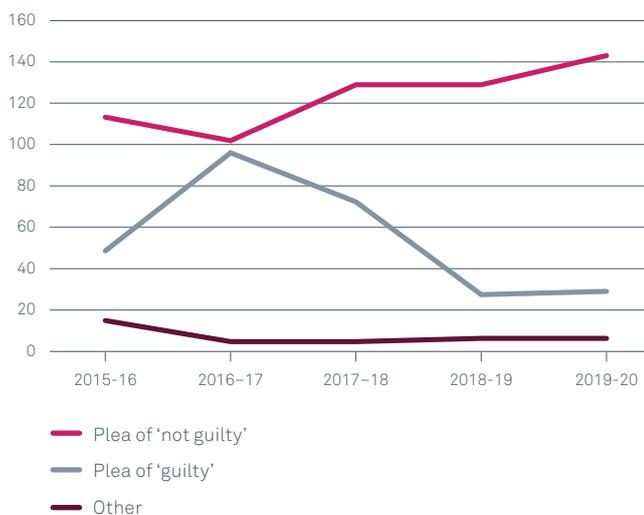
The average length of a s 198A pre-trial cross-examination hearing was two hours, with an average of two witnesses cross-examined.

SPECIAL HEARING MATTERS

From 12 July 2019, all new initiations to the Court involving a sexual offence and a child, or person with a cognitive impairment, have proceeded through the Court's new procedure for special hearing matters (under the CPA) in light of the legislative reforms which removed contested committal hearings, in the Magistrates' Court, for such matters.

Special hearing matters committed to the Court with a plea of 'not guilty' have now been heard in a special hearing initial directions hearing list which sits every second week. The Court's new special hearing procedure was implemented in consultation with stakeholders including the Magistrates' Court, Victoria Legal Aid, the Office of the Commonwealth Director of Public Prosecutions, the Office of Public Prosecutions, the Criminal Bar Association, the Law Institute of Victoria and Victoria Police. Since its initiation, the Court has monitored the new procedure and will continue to do so, making amendments where appropriate and necessary. This will ensure the procedure best accords with the objectives and intention of the legislative reforms.

STATEWIDE SEXUAL OFFENCES CASES INVOLVING A CHILD OR PERSON WITH A COGNITIVE IMPAIRMENT BY INITIATION TYPE



3 Percentage values have been rounded up.

COVID-19 IMPACTS

During COVID-19 restrictions, the Sexual Offences List has been triaging special hearing matters and working closely with health and safety experts, the Department of Justice and Community Safety, the Office of Public Prosecutions and the Child Witness Service to ensure special hearings are pre-recorded while ensuring the health and safety of judges, court staff and court users at the same time.

Part of this work has included working with the Court's Information and Technology team to implement and use a digital platform to pre-record evidence. As a result, the Sexual Offences List has been able to successfully pre-record special hearings virtually in a manner that replicates the courtroom setting as much as possible. Importantly, the digital platform has enabled the Court to adjust and set a complainant's screen view to a setting where the complainant does not have a view of the accused, but the accused is able to view the complainant's evidence. The pre-recording of special hearings assists in meeting one of the legislative intentions of the special hearing reforms to reduce the time between a complainant making their video and audio recording of evidence (VARE) and giving their evidence at a special hearing.

The Sexual Offences List thanks the Court's in-house Information and Technology team for their tireless work in facilitating and implementing the technology that has allowed special hearings to be pre-recorded during COVID-19 restrictions. The Sexual Offences List is hearing as many matters as possible during this period to free up resources for addressing the additional backlogs created by COVID-19 restrictions. This includes taking into account the health and safety of all judges, court staff and court users, which is of the utmost importance.

During Stage 4 restrictions, and due to the increasing community transmission and health and safety concerns, pre-recordings of special hearings has been suspended. The Court will continue to work with stakeholders to ensure pre-recordings of special hearings can resume, with appropriate health and safety measures put in place, as soon as it is safe to do so.

While COVID-19 is, among other things, causing substantial delays to hearing trials, the Sexual Offences List is working tirelessly to ensure all sexual offence trials are ready for trial. This includes referring sexual offence cases into the *Emergency case management model* (ECMM) – implemented in response to COVID-19 – for substantive case management where appropriate.

As the data indicates, and as with previous years, sexual offence cases contribute to at least one quarter of all trials heard in the Criminal Division. Further, in the past three financial years, a high proportion of sexual offence trials that ultimately resolved to a plea of 'guilty' resolved at late stages of the proceeding, as indicated by the following data:

- in 2017–18, 50 per cent resolved on the first day of trial, and 7.4 per cent resolved during the course of the trial;
- in 2018–19, 38 per cent resolved on the first day of trial, and 18 per cent resolved during the course of the trial;
- in 2019–20, 28.8 per cent resolved on the first day of trial, and 3.85 per cent resolved during the course of the trial.⁴

It is important for all sexual offence cases to be ready for trial to help reduce the backlog of trials created by COVID-19 restrictions. This includes cases that are expected to resolve outside of a trial decision, as it helps to resolve those cases sooner and narrows the issues in dispute for those cases that do proceed to trial.

⁴ The data for the 2019–20 financial year includes the COVID-19 state of emergency period where all new jury empanelments were suspended from 16 March 2020, and where contested committals in the Magistrates' Court were suspended.

INTERMEDIARIES

One of the purposes of the Intermediaries Pilot Program (IPP) has been to facilitate the participation of the most vulnerable witnesses (those under the age of 18 years and those with a cognitive impairment) to give their best evidence. A number of ground rules hearings (a pre-hearing designed to establish how a vulnerable witness can give their best evidence, by the Court setting ground rules for the questioning of witnesses) have been conducted by the Court.

In the 2019–20 financial year, two venues were gazetted in addition to the already gazetted Melbourne venue (Bendigo from July 2019, and Warrnambool from October 2019).

The operational period of the IPP was 1 July 2018 to 30 June 2020, but the IPP has now been funded and extended until the end of 2020. The Court will continue to conduct ground rules hearings and facilitate the IPP in line with the legislative requirements and Multi-Jurisdictional Court Guide for the IPP. The Court will also participate in IPP Advisory Committee meetings (chaired by the Department of Justice and Community Safety and comprising representatives from the Supreme, County, Children’s and Magistrates’ Courts; the Office of Public Prosecutions; Victoria Legal Aid; Law Institute of Victoria; Victorian Bar; and Victoria Police) in order to work together with stakeholders to address any issues and provide feedback on the effectiveness of the IPP.

SEXUAL OFFENCES LIST USER GROUP

The Sexual Offences List User Group continued to meet throughout the financial year to discuss issues and matters particular to sexual offence cases. The group comprised representatives from the County Court, including judges, associates and registry staff; the Office of the Commonwealth Director of Public Prosecutions; the Office of Public Prosecutions; Victoria Legal Aid; the Law Institute of Victoria; the Criminal Bar Association; the Victorian Government Solicitor’s Office; the Child Witness Service; private firms engaged in serious sex offender applications; and representatives from the IPP. The group’s expertise assisted in informing and monitoring positive reforms to practice and procedure for sexual offence matters, including the IPP and special hearing reforms.

REPORT FROM THE HEAD OF THE COUNTY KOORI COURT JUDGE LAWSON



Judge Lawson

The County Koori Court represents an important relationship between the County Court and the Victorian Aboriginal community through the involvement of Elders and Respected Persons and participation of the County Koori Court officers. This partnership has been one of mutual support and respect.

The very serious challenge posed to the County Koori Court by coronavirus (COVID-19) has highlighted the importance of this relationship, and following the suspension of the Koori Court in March 2020, an innovative approach has been embraced to ensure the Koori Court Sentencing Conversation has been preserved. The Court expresses its sincere gratitude to all Elders and Respected Persons across the many regions of Victoria in which the County Koori Court operates, as well as to the County Koori Court team, comprising Terrie Stewart (Coordinator), Shirley Annesley (Senior Koori Court Officer) and Kylie Spencer (Koori Court Officer), for facilitating the Pilot Resumption Project. The project was successful and means that the Koori Court model has been able to continue, using technology. The County Koori Court also thanks Kristy Rowe, Director of Specialist Courts, for her support.

In consultations to develop a model that can provide a safe way of resuming the Koori Court, all participants emphasised the importance of maintaining the Sentencing Conversation as a way of preserving the cultural authority of the Elders and Respected Persons of the Court; underlining the importance of the role of self-determination; tackling the over-representation of Aboriginal and Torres Strait Islanders in prison; and providing a fair process to all participants. I thank all participants for their agility, willingness to learn and commitment and look forward to continuing the respectful relationships that we have with the Victorian Aboriginal community.

Sadly, the restrictions put in place in response to COVID-19 mean that we have had to pause the launch of the Geelong Koori Court, but we will endeavour to resume work on this expansion project as soon as it is safe to do so.

Despite changes to operations in response to COVID-19, this has been a very productive time, and we have strengthened relationships between the Court and the Victorian Aboriginal community through community engagement.

COMMUNITY ENGAGEMENT AND EDUCATION

Fortunately, a number of opportunities for Koori Court-led community engagement and education were seized both prior to and during the pandemic.

County Koori Court educational and training Video

A 15-minute Koori Court training and educational video was shot at the County Court in February this year, produced by the Aboriginal-owned production company Little Rocket. The video features Elders and Respected Persons from Mildura, Latrobe Valley, Shepparton and Melbourne.

The video seeks to highlight the effectiveness of the division in providing more culturally safe and accessible justice to Aboriginal and Torres Strait Islander offenders to enhance the rehabilitation prospects of participants through better engagement and encouragement from the Elders and Respected Persons.

Ngaga-Dji: presentation to judges by the Koori Youth Council

On Monday 24 February 2020, Indi Clarke and Douglas Briggs from the Koori Youth Council presented to a group of judges and their associates on the Ngaga-Dji (Hear Me) project.

This project, which culminated in an illustrated report distributed to all attendees, captures the voices and experiences of Indigenous children in the youth justice system, and makes recommendations to implement culturally based community services to change children's pathways.

Indi and Douglas's presentation provided a valuable opportunity for judges to gain further insight into the experiences of this particularly marginalised group, and to learn more about the inspiring work of the Koori Youth Council.

'Voices from the Inside: the experience of Aboriginal women and children' Koori twilights webinar

On 25 June 2020, her Honour Judge Lawson chaired a live webinar discussion between Darlene Thomas, a Southern Barkindji woman and Program Coordinator at Mallee District Aboriginal Services, and Jill Prior, Principal Solicitor at the Law and Advocacy Centre for Women, about the causes and possible means of addressing rising rates of incarceration among Aboriginal women.

The webinar was produced at the County Court in collaboration with the Judicial College of Victoria and the Judicial Officers' Aboriginal Cultural Awareness Committee.

The discussion was deeply illuminating, informed by the many decades of lived experience of both Darlene and Jill. The Court received very positive feedback on the webinar.

CULTURAL AWARENESS TRAINING FOR JUDICIAL OFFICERS AND STAFF

Recommendation 96 of the *Royal Commission into Aboriginal Deaths in Custody 1991* report concerns the provision of cultural awareness training to all 'judicial officers and persons who work in the court services ... and whose duties bring them into contact with Aboriginal people'.

The County Koori Court understands the provision of cultural and historical education to be vital and has continued to provide this training to all new judicial appointments throughout the latter part of 2019 and 2020.

On 18 September 2020, virtual cultural awareness training for judicial officers was provided by Tarina Fanning of Aboriginal Consultancy Training Services. An Elder or Respected Person from each County Koori Court location participated in the training sessions to ensure local Aboriginal cultural values and perspectives were included. This training reflects the willingness of the Elders and Respected Persons to embrace new technology to ensure this important program can be offered to the new judges.

COUNTY KOORI COURT IN THE TIME OF COVID-19: ESTABLISHMENT AND IMPLEMENTATION OF A REMOTE KOORI COURT MODEL

COVID-19 presents a unique challenge to the Koori Court. The Elders and Respected Persons of the Court are among the most vulnerable cohort in the community to the virus, and it was determined early in the pandemic period that they should not appear in-person at hearings until their health and safety could be substantially guaranteed. It is also acknowledged that the preservation of the Sentencing Conversation between the Elders and Respected Persons and the Aboriginal accused person is paramount, as it lies at the heart of the culturally safe and relevant process provided by the Koori Court.

The pilot resumption model was developed by the County Koori Court with support from the Koori Programs and Initiatives team (Court Services Victoria), the Aboriginal Justice Caucus and in consultation with the judicial officers responsible for the Koori Court Magistrates’ Court and Koori Children’s Court, together with all specialist Koori Support Staff. The Office of Public Prosecutions supported the pilot in principle, and the Law Institute of Victoria with the Criminal Bar Association were included in ongoing updates to the status of the remote model.

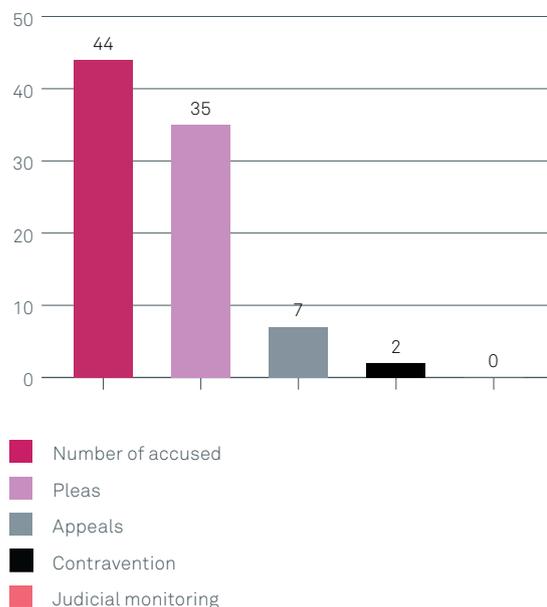
The remote model features Webex appearances by Elders and Respected Persons, prosecutors and some other Koori Court participants. The accused person, together with their counsel and the Koori Court Officer, appear in person at court. The pilot was deemed a success and the process has been implemented to continue the important work of the division. All participants look forward to the resumption of in-person hearings when that is safe and appropriate.

County Koori Court pleas, appeals and contravention matters still take place in the designated Koori Court courtroom, which has been smoked according to traditional Aboriginal custom. In-court participants sit around the specifically designed round bar table to participate in the Sentencing Conversation.

The courtroom has been upgraded to feature the best attainable in-court technology and bespoke pre-programmed camera angles to capture the participants sitting at the bar table. Webex participants, including Elders and Respected Persons, appear over large high-definition video screens, and in-court participants are captured and broadcast using a camera above the witness box.

Following consultation, training, pre-briefing and debriefing in relation to this pilot, Elders and Respected Persons and practitioners were invited to provide evaluation feedback via a confidential online survey. The survey results were overwhelmingly in support of the remote model, and continuous feedback and opportunities for improvement will be sought from all participants.

COUNTY KOORI COURT STATEWIDE ACTIVITY 2019-20



1 Royal Commission into Aboriginal Deaths in Custody 1991, National Report Volume 5, 'Recommendations', Recommendation 96.



Terrie Stewart

SPOTLIGHT ON THE COUNTY KOORI COURT TEAM

*Terrie Stewart, Koori Court Coordinator
Taungurung woman*

Terrie has been working at the County Koori Court for nine years, stepping into the Coordinator role after being a Koori Court Officer at the Broadmeadows Magistrates' Koori Court for 10 years.

In her role, Terrie oversees the state-wide operation of the County Koori Court and the expansion strategy. She also coordinates the recruitment, induction training and professional development of Koori Court Elders and Respected Persons, and acts as a liaison between community, peak Aboriginal bodies and the Court.

“What is really rewarding is being able to work alongside judges and Elders in a court process that respects and values Aboriginal culture. Over the years it has been wonderful to see judicial officers wanting to learn more about Aboriginal people and culture so that they can make a more informed decision on a cultural basis.”

Terrie's key achievement for 2019–20 was her work on the launch of the Warrnambool County Koori Court in October 2019, and the procuring of Aboriginal artwork including commissioned pieces and a selection of artwork from The Torch Project. These artworks will be displayed throughout the County Court building.

She also played a large role in working with all the other Koori Court jurisdictions, Court Services Victoria and the Victorian Aboriginal Community Control Health Organisation to develop an online pilot model of the County Koori Court that allows Koori Court matters to be heard in a COVID-safe way. This involved training Elders and Respected Persons and other participants to use the technology needed to participate in online hearings and supporting them through the process so that they feel comfortable. The model was endorsed by the Elders and Respected Persons and the pilot was a success.



Shirley Annesley

*Shirley Annesley, Senior Koori Support Officer
Wiradjuri woman*

Shirley began working at the County Court in August 2019. In her role, Shirley provides high level administrative support to the operation of the County Koori Court through developing and maintaining materials and data relevant to the work of the Court as well as coordinating activities and events, assisting with the expansion of County Koori Court, and supporting Elders, Respected Persons and other stakeholders. This year Shirley also assisted with the Webex online pilot model, in response to COVID-19 restrictions.

“What really attracted me to the role is that I could see what the Koori Court was trying to do... I’d read a little bit about it, and about the Elders, and I thought it was really important that particular concept in the court space was there, and it was very powerful. The first time I sat in a Koori Court, I was seeing somebody for the first time having an opportunity to speak to a magistrate or judge about their life. It was giving someone that didn’t really have a voice, a voice – that’s something I have always been drawn to, to tell people’s story when it mattered the most.”

Shirley’s role is important in building and maintaining positive relationships between the Court, the Victorian Aboriginal community and other key stakeholders. She sees her role as acting as a conduit between the Aboriginal community, the court, as well as all the other organisations and stakeholders involved in the criminal justice system.



Kylie Spencer

*Kylie Spencer, Koori Court Officer
Wurundjeri woman*

Kylie joined the County Koori Court in February 2020. As the Koori Court Officer, she is responsible for the relationship building and liaison with the Koori Community on behalf of the Court. In her role, Kylie promotes, advocates for, and facilitates positive changes in the lives of Koori accused persons, their families and their communities.

“I was interested in this role because I wanted to help my community and make them feel more supported. Some people don’t realise that the County Koori Court is available to them, so I have been getting the message out in the community and telling them what it’s all about.”

Kylie has taken part in directions hearings, arraignments and the Webex online pilot model. Kylie’s key responsibility is coordinating the preparation of all County Koori Court sittings in Melbourne and regional Victoria including contact with Elders and Respected Persons and relevant support people and/or agencies, and ensuring all relevant files are available to Elders.

Kylie’s key achievement this year was interviewing 30 Elders and Respected Persons, based throughout Victoria, then writing biographies for them. These profiles provide judges with an overview of all the Elders and Respected Persons: who they are and the work they have done, information about their mob and family, their involvement with community and any awards they have achieved. This is particularly valuable information for judges who are new to the Koori Court or who have not sat with a certain Elder or Respected Person before; it allows the judges and their associates to understand the Elder or Respected Person’s story and background prior to entering a courtroom together.

REPORT FROM THE HEAD OF THE COMMON LAW DIVISION JUDGE MISSO



Judge Misso

The Common Law Division (the Division) has a very broad jurisdiction. The majority of proceedings brought to the Division are personal injury proceedings arising out of industrial accidents, transport accidents, medical misadventure, public liability and miscellaneous personal injury claims.

Most personal injury proceedings are serious injury applications, which are threshold applications requiring injured parties to establish a particular range of injury in order to be allowed to undertake a common law proceeding.

The Division also has jurisdiction over WorkCover 'no-fault' proceedings; defamation proceedings; testator family maintenance proceedings; and confiscation proceedings which involve applications to confiscate assets essentially tainted by criminal conduct.

It has also recently been extended to include adoption applications; surrogacy applications; name change applications; quasi-criminal proceedings; appeals in intervention-related proceedings; supervision applications related to serious sex and serious offender orders; and applications for compensation for victims of crime.

The Division has unlimited monetary jurisdiction for these proceedings.

HEAD OF THE DIVISION

In June 2020, I stood down as the Head of the Common Law Division and Judge Tsalamandris became the Head of the Common Law Division.

DEPARTURES

Judge Saccardo retired in March 2020 after more than ten years of service as a judge of the Court. Judge Saccardo's achievements are remarkable for the breadth of his involvement in major areas of work within the Division.

Judge Saccardo was the Judge in Charge of the Medical List, which he reorganised and managed very efficiently.

One of the most difficult types of litigation heard within the Division are those in which a litigant is self-represented. Judge Saccardo managed all litigation in which a litigant was self-represented, making very appropriate orders which enable the trial to proceed as seamlessly as possible, given the difficulties associated with a trial involving a litigant who is less experienced with practice, procedure and legal principles.

One of the most gratifying areas in which Judge Saccardo succeeded for the overall benefit of the Court and its reputation is managing the Court's Schools Program, which welcomed visits from Victorian secondary students. The visits are in high demand because of the reputation the program has earned among teachers of Legal Studies as a must-do excursion. More than 170 school groups attended the Court through the program in 2019–20 before it was temporarily suspended in response to coronavirus (COVID-19).

I extend my most sincere thanks to Judge Saccardo for the tireless work he undertook in developing systems which enabled each of the areas of his interest to work efficiently and seamlessly. I wish him the best in his retirement.

APPOINTMENTS

The Court welcomed the appointment of Judge Pillay to the Division.

Judge Pillay brings considerable expertise and experience through his years as a solicitor practising in common law, and then his practice at the Victorian Bar, also in common law and in associated jurisdictions.

NEW JUDGES IN CHARGE

Judge Dyer was appointed the Judge in Charge of the Confiscation List in January 2020, replacing Judge Murphy, who was the Judge in Charge of the Confiscation List for a significant number of years. I extend my most sincere thanks to Judge Murphy for his tireless work in managing the List.

Judge Tsalamandris was appointed the Judge in Charge of the Medical List upon Judge's Saccardo's retirement. Judge Pillay was appointed the Deputy Judge in Charge of the Medical List to assist Judge Tsalamandris.

Judge Ginnane was appointed the Judge in Charge of Self-Represented Litigants upon Judge Saccardo's retirement.

NEW LISTS

Adoptions, Surrogacy and Name Changes List

As of 1 May 2019, applications relevant to adoption, surrogacy and name changes were amalgamated into a new list known as the Adoptions, Surrogacy and Name Changes List and brought within the jurisdiction of the Division. Applications are made under the *Adoption Act 1984*, the *Births, Deaths and Marriages Registration Act 1996* and part 4 of the *Status of Children Act 1974*.

Judge Davis was appointed the Judge in Charge of the Adoptions, Surrogacy and Name Changes List. I thank Judge Davis for drawing each of these forms of application into the List and coordinating the way they are undertaken.

Appeals and Post Sentence Applications List

In August 2019, several proceedings which were formerly within the jurisdiction of the Criminal Division were transferred to the Common Law Division. They constitute what can broadly be described as quasi-criminal proceedings.

These proceedings include post-sentence supervision orders, protection order appeals, Department of Health and Human Services child protection order appeals, family violence intervention order appeals, personal safety intervention order appeals and compensation orders for victims of crime.

Judge O'Neill was appointed the Judge in Charge of the Appeals and Post Sentence Applications List. I thank Judge O'Neill for drawing each of these forms of application into the List and coordinating the way they are undertaken.

DIVISION STRUCTURE

The management of the Common Law Division includes the following judges in charge and judges with specific responsibilities:

Judge Kings	Family Property List
Judge Dyer	Confiscation List
Judge Tsalamandris	General, Applications and Serious Injury Lists
Judge Tsalamandris and Judge Pillay	Medical List
Judge O’Neill	Appeals and Post Sentence Applications List
Judge Davis	Adoptions, Surrogacy and Name Changes List
Judge Smith	Defamation List
Judge Wischusen	WorkCover List
Judge Ginnane	Self-represented litigants
Judge Tsalamandris	s 134AB costs applications
Judge K Bourke	Responsibility for the approval of infant and other compromises

DIVISION ACTIVITY

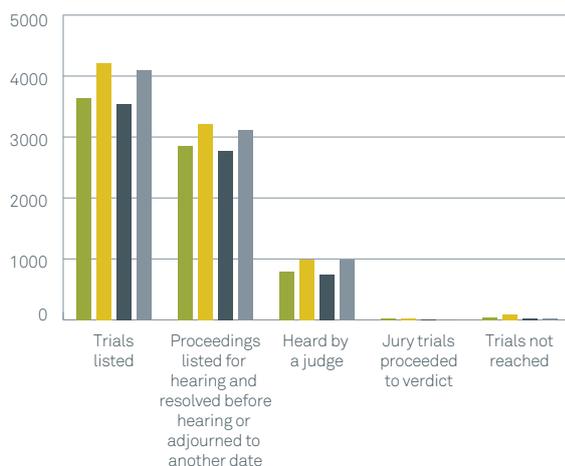
Over the last 12 months, 43 per cent of all cases in the Melbourne County Court location commenced in the Division. The number of matters commenced have increased from 3,358 in 2018–19 to 3,719 in 2019–20 – an increase of 10.75 per cent. Finalisations have decreased from 3,118 in 2018–19 to 3,098 in 2019–20 – a decrease of 0.64 per cent.

In this period, 66 per cent of all civil cases in Melbourne commenced in the Division, compared to 56 per cent in 2018–19.

Trial listings

The combined efficiency of Registry staff, the Registry redesign, and the listing and hearing of all proceedings within the Division has enabled the Division to achieve a high benchmark not seen in my time at the Court. Parties are now offered trial dates anywhere between three to ten months from the date on which the parties make a request for trial. Due to the urgent needs of practice, parties invariably request a trial date somewhere between six to 12 months from the date on which they make a request for trial.

TRIALS



Summary of trial listings statistics 2019–20

Number of trials listed	4104
Number of trials resolved or adjourned to another date before commencement	3118
Trials commenced before a judge	986
Trials not reached	12

Reserve List matters

The rate of settlement of proceedings within the Division has risen significantly, particularly with jury trials, causes and serious injury applications. Additionally, 76 per cent of trials which were listed for trial had applications to vacate the trial date made. This occurred through settlement or the parties' desire to adjourn for reasons particular to the proceeding.

The Division has developed a process that considers settlement and adjournments to ensure a sufficient number of trials are listed each day. The Division selects trials that are more likely to proceed for listing, which results in almost all the judges in the Division having a trial listed before them throughout the year.

Judgments delivered

More than 133 judgments and rulings were delivered. 80 per cent of judgments were delivered within 90 days.

Jury trials

Ten jury trials proceeded to verdict, with these trials running for an average of 10.2 days.

Interlocutory hearings

More than 1,565 interlocutory applications were listed in the Division. The parties are encouraged to resolve as many of the issues within the interlocutory application as possible. When that is achieved, they are encouraged to file orders 'on the papers' which reduce the need for attendance at court.

Judicial Registrar James Gurry is principally involved in coordinating and hearing interlocutory applications. JR Gurry heard 454 interlocutory applications. Others were referred to judges to ensure that all interlocutory applications were heard expeditiously.

Communication

Regular channels of communication are maintained by regular stakeholder meetings with the Law Institute Litigation User Group, WorkSafe User Group, TAC User Group and the Common Law Bar User Group. Topics discussed at these meetings included trial listings, electronic submission of material and court books, use of technology in the Court to facilitate ease of appearance and other issues of concern to stakeholders.

Court Craft Practitioner sessions with the Supreme Court

The County Court and the Supreme Court jointly presented two seminars to assist practitioners.

The first seminar, held in November 2019, was titled, 'How to make an effective interlocutory application'. The speakers at this seminar were Judge Tsalamandris, Judge in Charge of the Medical List, County Court; Judicial Registrar Clayton, Supreme Court; Judicial Registrar Gurry, County Court; and Deputy Registrar Clark, Supreme Court.

In June 2020, the courts hosted a free online webinar, 'The dos and don'ts of virtual hearings'. The panellists presenting were Justice Keogh, Supreme Court; Judge Pillay, County Court; Judicial Registrar Clayton, Supreme Court; and Richard Attiwill, QC.

These free continuing professional development sessions were very well attended and booked out well prior to the event. The seminars were also recorded and published on the Supreme Court and County Court websites afterwards.

REPORT FROM THE HEAD OF THE COMMON LAW DIVISION JUDGE MISSO

COVID-19 impacts

COVID-19 created dramatic and unprecedented intrusion into the practices of the Division to the point that all proceedings, whether trials or interlocutory applications, could not be heard because judges, judicial staff, practitioners, parties and juries were prohibited from physically attending the Court.

The Division quickly embraced the available technology to commence hearing short trials of no more than two days remotely using video link technology. After some teething problems and acclimatising the profession to new technology and processes in the Court, these adapted trials and hearings have been very successful. The exception to this is the issue that no jury trials can be heard until COVID-19 restrictions are lifted.

The capacity of judges, judicial staff and Registry to accommodate this new way of cases being heard complements the Court's move towards electronic document filing and electronic court books. Overall, the steps taken so far have been very successful as evidenced in the way the Court is handling documents, including subpoenaed documents, and the process of trial.

I thank Judge Tsalamandris, who has been a leader within the Division in bringing the judges and judicial staff to a point where they are able to efficiently conduct trials despite COVID-19 restrictions.

I also thank our support staff, who have efficiently provided judges with the electronic equipment and training to provide sophisticated understanding of how to conduct trials with the use of new technology and processes, and the judges for embracing this so quickly.

Jury trials

COVID-19 restrictions do not permit any jury trials to be heard. Parties have been encouraged to reconsider whether trials by jury should be substituted by the proceeding being heard as a cause. It is encouraging that many parties have made that decision positively to move proceedings along. Any objection to the substitution of mode of trial is now considered on a case-by-case basis.

Communications

I thank Judge Tsalamandris for liaising with practitioners about the Court's procedures for hearing trials remotely using video link and video-conferencing technology, and for publishing guidelines on how to do this for the profession.

I thank Judge Pillay for providing a number of online sessions with the profession to assist them with conducting proceedings using video link and video-conferencing technology.

Court hearings held remotely

Between late March and 30 June, the following proceedings were undertaken from locations outside of the Court using video link and video-conferencing technology: 46 judicial mediations and settlement conferences, 631 interlocutory hearings and 349 total days that Common Law judges sat in trial.

I thank the judges, judicial staff, Registry and the legal profession for embracing all that I have described above, and being cooperative and flexible in their thinking and approach to allow the Division to undertake nearly as much work as it did prior to COVID-19 restrictions.

DIVISION PROJECTS

Subpoena Records Group workload

The Registry has a staff group dedicated to dealing with subpoenaed documents. It processes a high volume of documents and organises appointments for practitioners to inspect and copy subpoenaed documents.

More than 10,500 subpoenas were issued statewide in both the Common Law and Commercial Divisions. 2,680 appointments were made for practitioners to inspect and copy subpoenaed documents.

The volume of subpoenaed documents created an almost unmanageable storage problem for the Court. An interim solution was devised in April by the Registry to permit recipients of subpoenas to lodge documents, and for practitioners to access documents, through One Drive, a secure, cloud-based storage platform.

Additional Registry staff have been engaged to scan documents onto iManage, which is a computer application judges and judicial registrars working and hearing cases remotely can access. Registry staff are also continuing work to create an online tool for subpoenas, which will reduce the need for practitioners to make appointments to inspect and copy subpoenaed documents. They will be able to access the subpoenaed documents remotely, which will eradicate the storage problem and create greater efficiency in managing subpoenaed documents. Stage one of this development applies to civil subpoenas and was released at the end of August 2020.

REPORT FROM THE JUDGE IN CHARGE OF THE GENERAL LIST JUDGE MISSO

REPORT FROM THE JUDGE IN CHARGE OF THE SERIOUS INJURY LIST JUDGE MISSO

The General List made up 45 per cent of the cases commenced in the Common Law Division. It primarily consists of damages actions heard by a judge and jury of six, or a judge alone.

GENERAL LIST ACTIVITY

The number of cases commenced has increased by 9.1 per cent. The graph demonstrates a gradual increase over the last five years.

The number of finalisations increased by 3.9 per cent, which included 26 proceedings that had a verdict by a jury or publication of reasons in a cause.

The timetabling orders in proceedings where a monetary sum was claimed include an obligation for the parties to engage in alternative dispute resolution. These proceedings are not permitted to proceed to trial unless the Court is satisfied that this step has been undertaken. Approximately 2,000 proceedings resolved before trial through court judicial mediation or settlement conferences, and by practitioners engaging in organised alternative dispute resolution.

Applications for leave to bring a common law proceeding under the *Accident Compensation Act 1985*, the *Workplace Injury Rehabilitation and Compensation Act 2013* and the *Transport Accident Act 1986* are filed in the Serious Injury List.

The List contributes to 34 per cent of the proceedings filed within the Common Law Division.

SERIOUS INJURY LIST ACTIVITY

The number of initiations increased by nearly 14 per cent from the previous financial year, resulting in 1,254 applications made in 2019–20.

The number of finalisations decreased by 0.3 per cent. 170 judgments were handed down.

GENERAL LIST INITIATIONS AND FINALISATIONS



SERIOUS INJURY LIST INITIATIONS AND FINALISATIONS



REPORT FROM THE JUDGES IN CHARGE OF THE MEDICAL LIST JUDGE TSALAMANDRIS AND JUDGE PILLAY



Judge Tsalamandris

The Medical List includes matters involving allegations of medical negligence. These types of matters are often complex proceedings involving overseas and interstate expert witnesses.

MEDICAL LIST ACTIVITY

This year has seen a 14.7 per cent increase in the number of matters issued in the Medical List, ranking as the third largest list in the Common Law Division. A total of 223 proceedings finalised – a 12.1 per cent increase from 2018–19.

During the year, his Honour Judge Saccardo before his retirement, her Honour Judge Tsalamandris and his Honour Judge Pillay have closely monitored the pre-trial steps in every proceeding in the List to ensure there are no avoidable delays.

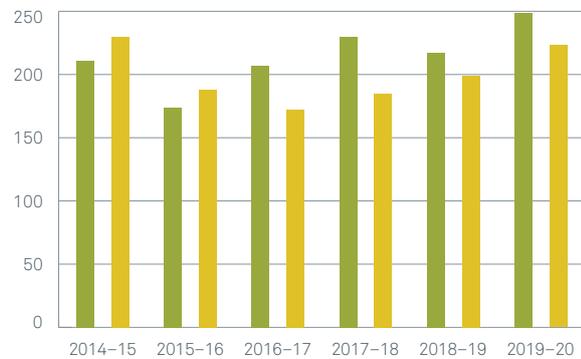
This judicial management of the proceedings together with the skill and diligence of the practitioners in these matters resulted in only one matter proceeding to judgment in 2019–20. All other matters in the List were finalised without the need for a trial – more often than not through a formal mediation process.



Judge Pillay

MEDICAL LIST INITIATIONS AND FINALISATIONS

■ Initiations
■ Finalisations



REPORT FROM THE JUDGE IN CHARGE OF THE DEFAMATION LIST JUDGE SMITH

The Defamation List consists of any proceeding commenced by writ that includes a claim for defamation.

DEFAMATION LIST ACTIVITY

The Defamation List continues to represent a small proportion of matters issued in the Common Law Division (the Division). This year saw a 10 per cent decrease in the number of matters initiated in the List, down to 25.

Finalisation of defamation proceedings increased by 5 per cent, with 20 matters completed.

The List features a relatively large number of self-represented litigants and a large number of pleading summonses, disputed interlocutory matters and applications for summary judgment. A number of scheduled trials in this calendar year were adjourned due to COVID-19 restrictions.

As with other Division lists, each standard timetabling order in the Defamation List contains a direction that the parties must mediate the dispute. Mediation and other forms of dispute resolution contribute to the very high rate of resolution of matters in the List.



Judge Smith

DEFAMATION LIST INITIATIONS AND FINALISATIONS



REPORT FROM THE JUDGE IN CHARGE OF THE FAMILY PROPERTY LIST JUDGE KINGS



Judge Kings

The Family Property List hears testators’ family maintenance claims brought under part 4 of the Administration and Probate Act 1958, and domestic partnership proceedings under the Relationships Act 2008.

FAMILY PROPERTY LIST ACTIVITY

The List contributes to a relatively small portion of the work of the Common Law Division. This decreased by 6.7 per cent to 196 proceedings initiated.

Of the 178 proceedings finalised, 159 or 89 per cent resolved before trial.

In the interests of keeping legal costs to a minimum, the proceedings are managed ‘on the papers’. Dispute resolution procedures are available with an option to attend a judicial settlement conference (JSC) or private mediation. In the last year, 79 JSCs were listed. Most of these cases settle at or before the dispute resolution stage. The pre-trial management and conduct of JSCs is managed by Judge Kings with the assistance of the Judicial Registrar of the Common Law Division.

Where parties settle a part 4 proceeding prior to trial, the Court must be satisfied that the further provision made is appropriate. As such, where the order does not reflect the settlement, the Court is required to consider the terms of settlement and ensure that the legal costs incurred by the parties are proportionate.

FAMILY PROPERTY LIST INITIATIONS AND FINALISATIONS



REPORT FROM THE JUDGE IN CHARGE OF THE CONFISCATION LIST JUDGE DYER

The Confiscation List is a specialist list, dealing with certain applications by prosecuting agencies, the Commissioner of the Australian Federal Police and the Victorian Office of Public Prosecutions. These applications are made to restrain assets connected with criminal activity, to secure assets of offenders for future compensation orders, and to determine claims that those restrained assets were lawfully obtained.

CONFISCATION LIST ACTIVITY

The last year saw an increase in the number of initiations, resulting in 154 proceedings commenced.

Confiscation List proceedings frequently involve multiple applications and hearings seeking to exclude assets from restraining orders or forfeiture orders.

In 2019–20, the number of finalisations decreased, resulting in 121 proceedings finalised. As in previous years, there were only a limited number of final hearings.



Judge Dyer

CONFISCATION LIST INITIATIONS AND FINALISATIONS



REPORT FROM THE JUDGE IN CHARGE OF THE APPEALS AND POST SENTENCE APPLICATIONS LIST (APSA LIST) JUDGE O'NEILL



Judge O'Neill

This List includes post-sentence supervision order matters, protection order appeals (including Department of Health and Human Services (DHHS) child protection order appeals, family violence intervention order appeals, and personal safety intervention order appeals) and compensation order (s 85B and s 86) matters.

366 existing matters were transferred from the Criminal Division into the List in the Common Law Division (the Division).

APSA LIST ACTIVITY

In August 2019, the APSA List was created within the Division to handle a range of quasi-criminal work previously undertaken in the Criminal Division to ease the workload of criminal judges.

The APSA List includes appeals and applications, including circuit matters, in the following areas:

- serious violent and sexual offender supervision order applications under the *Serious Offenders Act 2018*
- compensation applications under s 85B of the *Sentencing Act 1991*
- DHHS appeals from the Children's Court
- intervention order (IVO) appeals in family violence and personal safety intervention orders from the Magistrates' Court

With the assistance of the Common Law Registry and the profession, a structure was established for hearing these matters using practice notes, template orders and directions hearings.

The appeals and applications are carefully managed through early directions hearings held every Friday morning through to the substantive hearings. Jurisdiction, time limitations and other legal arguments are heard prior to the substantive hearing. The matters are prepared for trial with the use of timetabling orders. The profession has adopted these new procedures and practices.

Since the List was implemented, 293 directions hearings have been conducted. This includes 166 IVO appeal directions hearings, 52 DHHS appeal directions hearings, 48 supervision order directions hearings, and 27 s 85B compensation order application directions hearings.

In addition, 177 substantive APSA hearings have been heard. This includes 67 supervision order hearings, 88 IVO appeals, 13 DHHS appeals, and 9 s 85B compensation order applications.

Approximately 156 cases have been finalised. This excludes s 85B compensation order applications, review and renewal of supervision orders and interim supervision order applications. Of these, 119 IVO appeal cases were finalised: 7 prior to the directions hearing; 33 at the directions hearing; 8 between the directions hearing and substantive hearing; and 71 at the substantive hearing.

The COVID-19 restrictions proved a challenge for the APSA List as many litigants appear in person in IVO and DHHS appeals. Directions hearings and substantive hearings in supervision order applications and s 85B compensation applications proceeded as normal, albeit remotely. IVO and DHHS appeals and directions hearings continued to proceed, provided the self-represented parties can utilise Zoom or Webex video conferencing software. In some cases, matters were adjourned.

I extend my thanks to all those judges from the Division who were prepared to take these cases. Also, many criminal judges have assisted in recent times.

I extend particular thanks to Laura Martin from the Registry who expertly and efficiently managed the List. She has been ably assisted recently by Nicki Farnell. My associates, Sarah Ward and Lucinda Buckley, have been instrumental in establishing the List and dealing with a large number of day-to-day issues.

Judge Hinchey will take over the management of the List in the near future.

REPORT FROM THE JUDGE IN CHARGE OF THE ADOPTIONS, SURROGACY AND NAME CHANGES LIST JUDGE DAVIS



Judge Davis

The Adoptions, Surrogacy and Name Changes List (formerly the Adoption and Substitute Parentage List) hears applications under the *Adoptions Act 1984*, the *Status of Children Act 1974*, and the *Births, Deaths and Marriages Registration Act 1996*.

The List determines a variety of applications, including applications for the adoption of children and adults, discharge of adoptions, substituted parentage where a child was conceived through a surrogacy arrangement, and changing a child's name.

The Court extends its warmest appreciation and thanks to Judge Hampel and Judge Pullen for their contributions as Judges in Charge of the List in preceding years.

The List continues to be supported by the Adoptions team within the Common Law Registry. This year, 27 judges volunteered to hear applications submitted to the List.

APPLICATIONS

The List received a total of 85 applications from across the state, including:

- 44 applications for adoption orders
- 4 applications to discharge adoption
- 3 applications for information regarding an adoption
- 1 application for inclusion or correction of a birth record
- 10 applications to change the name of a child
- 23 applications for substituted parentage orders.

This was an increase on the previous financial year, where the List received a total of 64 applications.

A total of 86 matters from across the state were finalised by the List in 2019–20, representing an increase of 26 matters from 2018–19.

COVID-19 IMPACTS

Ordinarily, granting an adoption order or a substituted parentage order is an opportunity for family and friends to gather in the courtroom, celebrate and take photographs. Due to COVID-19 restrictions, the Court has made a number of these orders in chambers. While it is necessary to keep our staff and community safe, the Court regrets that these families have not received the opportunity to celebrate together with the judge in the usual way.

PRACTICE NOTE

The Court is consulting with stakeholders and working towards publishing a practice note to assist applicants and their representatives with processes required in the List.

LIONS AUSTRALIA

The List expresses its thanks to Lions Australia which continues to generously provide teddy bears to young children for whom adoption and substituted parentage orders are made.

REPORT FROM THE JUDGE IN CHARGE OF THE WORKCOVER LIST JUDGE WISCHUSEN

The WorkCover List includes claims relating to statutory benefits under the *Accident Compensation Act 1985*, the *Workers Compensation Act 1958* and the *Workplace Injury Rehabilitation and Compensation Act 2013*.

WORKCOVER LIST ACTIVITY

This year saw an increase in the number of WorkCover List matters issued in the Court, with 50 proceedings commenced. Of these, a significant proportion were dependency claims which had a potential value well in excess of \$555,000.

The number of finalisations was the same as the previous year and most cases were settled before trial.

WORKCOVER LIST INITIATIONS AND FINALISATIONS



MEDICAL PANEL REFERRALS IN SERIOUS INJURY PROCEEDINGS

The List also manages applications to refer medical questions to a medical panel under s 274 of the *Workplace Injury Rehabilitation and Compensation Act 2013* in serious injury proceedings. Where a party seeks to refer questions to a medical panel, the matter is listed for a directions hearing in the List.

Medical questions were referred to a medical panel in 102 matters, nearly all of which were serious injury proceedings. In the same period, 57 certificates of opinion were received. The gap seems to be due to a pause in examinations during the first implementation of COVID-19 Stage 3 restrictions. More recently, the medical panel has advised that its practice has returned to more normal timeframes with virtual and in-person examinations being conducted within the current guidelines.

In most matters where the opinion of the medical panel has been received, the parties resolved the proceeding and filed consent orders. 63 matters were resolved in this manner.

REPORT FROM THE JUDGE IN CHARGE OF SELF-REPRESENTED LITIGANTS JUDGE GINNANE

There were approximately 78 proceedings at any one time in the Common Law Division involving a self-represented litigant in 2019–20.

SELF-REPRESENTED LITIGATION

Judge Saccardo, in 2019, and Judge Ginnane (or his delegate), in 2020, have held a total of 34 dedicated Directions List days in 2019–20, with an average of four to five matters heard each day.

The self-represented litigant case managers worked with approximately 51 self-represented litigants each month.

Five matters have proceeded to trial in this period. A considerable number of matters have been successfully mediated by Judicial Registrar Gurry, reducing costs to parties and time in court by judges.

Only one trial involving a self-represented litigant was adjourned on the day of trial in this period. That proceeding was on the Reserve List and given a special fixture within two months of the adjourned trial date.

As a result of the intensive case management and associated procedures implemented by Judge Saccardo and Judge Ginnane, together with the self-represented litigant case managers, proceedings involving a self-represented litigant are being thoroughly prepared and finalised in a timely manner.

Judge Ginnane succeeded Judge Saccardo upon his Honour's retirement during 2019–20. Judge Saccardo was instrumental in the development and refinement of the procedures in the List. His Honour's tireless efforts in the management of matters involving self-represented litigants, including in the Medical List, cannot be over-emphasised. The work undertaken by his Honour significantly advanced access to justice.

REPORT FROM THE HEAD OF THE COMMERCIAL DIVISION JUDGE WOODWARD



Judge Woodward

Despite the challenges of COVID-19 restrictions, the Commercial Division (the Division) has continued to meet its goal of providing parties with fast and fair resolution of commercial disputes by specialist commercial judges.

When COVID restrictions came into place in March 2020, the Division instituted rapid procedural reforms which enabled it to conduct almost all its work remotely, including hearings and mediations. It was able to do so thanks to previous years’ work in restructuring and reforming registry procedures and creating a dedicated Commercial Registry; technological improvements (such as electronic case files and electronic workflows); and, most importantly, the dedication, hard work and flexibility of the Commercial Division judges, judicial registrars, associates and Commercial Registry staff.

The Division is immensely proud to be continuing to provide access to fair, efficient and timely justice in these difficult times.

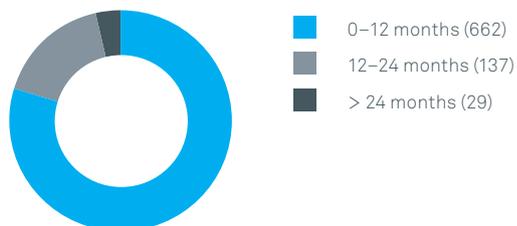
DIVISION WORK

The biggest challenge of the year has been responding to COVID-19 restrictions. On 13 March 2020, it was announced that gatherings of more than 500 people would be banned from 16 March 2020. On 18 March 2020, the Commercial Division conducted its first Judicial Resolution Conference¹ (JRC) via the Zoom video-conferencing software. On 23 March 2020, the Division conducted its first Zoom hearing. Zoom, JRC and non-binding neutral evaluation² (NNE) information sheets were published on the County Court’s website the same day. Within days, a consultation group was established to obtain feedback from the Victorian Bar about the procedural changes required to adapt to COVID-19 restrictions. New procedures were implemented to permit more determinations to be made on the papers. Parties with listed trial dates were offered an eTrial, JRC, or an NNE by a judge. These were conducted remotely via Zoom.

Throughout, the Commercial Division has been understanding of the difficulties the COVID-19 restrictions imposed on parties and practitioners, but still focussed on facilitating the resolution of disputes on or about their listed trial date.

As a result, the number of cases pending for 24 months or greater has reduced from 209 in 2018–19 to only 29 in 2019–20 – a very significant reduction. The number of cases pending for 12 to 24 months (137) and for 0 to 12 months (662) has remained steady.

AGE OF PENDING CASES 2019–20



1 A mediation conducted by a judicial officer, usually a judicial registrar.
2 A new procedure implemented due to COVID-19 restrictions where a judge gives a non-binding evaluation of the case to the parties following an abridged hearing.

In 2019–20, 466 proceedings resolved by consent between the parties, 281 proceedings resolved by judgment prior to trial and 40 proceedings resolved by judgment at trial.³ These figures were all slightly higher than the previous financial year. Total finalisations were slightly down from the previous financial year (1,969 in 2019–20 compared to 2,177 in 2018–19). This decrease was due to the high number of cases struck out for inaction in previous years, following a successful project to review and finalise inactive cases. Commercial Division finalisations accounted for 37 per cent of civil finalisations in 2019–20 and 23 per cent of total finalisations.

There were 1,926 cases initiated in the Commercial Division in 2019–20. This was 9.4 per cent less than in 2018–19. This can be attributed to a reduction in enforcements by the Australian Taxation Office after the bushfires in early 2020 and the imposition of COVID-19 restrictions from March 2020. When taxation proceedings are excluded from the initiation figures, the number of initiations increased from 1,644 in 2018–19, to 1,683 in 2019–20 (an increase of 2.4 per cent).

On 1 June 2020, Judge Woodward became the Head of the Commercial Division, replacing Judge Cosgrave who had been in the role since 2016. The five full-time members of the Division are Head of the Commercial Division, Judge Woodward; Judge Macnamara; Judge Cosgrave; Judge Marks; and Judge A Ryan. In addition, a judge with experience in commercial law rotates into the Division approximately each six months. In 2019–20, these judges were Judges Lewitan, Smith and Murphy.

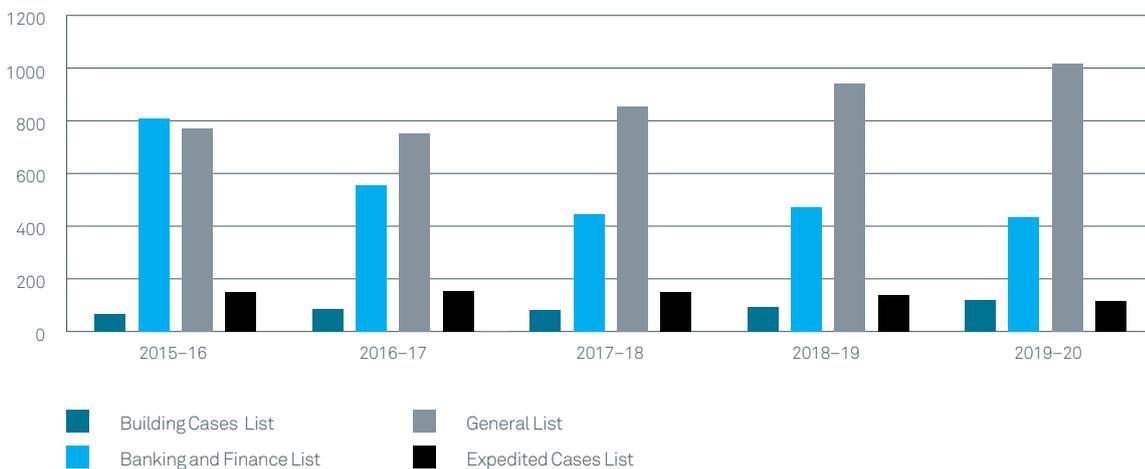
The Commercial Division is also supported by Judicial Registrars Burchell and Tran. On 10 June 2020, it was announced that Judicial Registrar Tran would be appointed as a judge of the County Court from 9 October 2020. Work has commenced on locating a suitable replacement for her as a judicial registrar.

A central feature of the Division is the provision of trial-date certainty. It is now more than three years since a case has been marked 'not reached' because a judge was not available to hear the trial on the day. The judges of the Division also worked hard to ensure that trial judgments are delivered as quickly as possible, consistent with the interests of justice.

In 2019–20, 323 cases in the Division had trials listed at some stage during the year. A total of 34 trials ran to conclusion, plus 12 trial assessments.

The number of interlocutory hearings conducted was significantly lower than in previous years due to increased active case management and changes to operations in response to COVID-19. The judges and judicial registrars heard 631 interlocutory applications, directions hearings and objections hearings in 2019–20, which is a 32 per cent reduction from 2018–19. Of these hearings, 398 were heard by a duty judge and 233 were heard by a judicial registrar. However, in the same time period, the Court made 4,200 interlocutory orders, which is an increase of more than 20 per cent from 2018–19.

TOTAL INITIATIONS EXCLUDING TAXATION MATTERS



3 All data for the Commercial Division report refers to Melbourne proceedings only, unless otherwise specified statewide.

REPORT FROM THE HEAD OF THE COMMERCIAL DIVISION JUDGE WOODWARD

ONGOING CHALLENGES

The Division is planning for the possibility that initiations will significantly increase as COVID-19 restrictions are lifted and creditors, such as the Australian Taxation Office, and financial institutions increase enforcement activity. There is also a high level of demand for trials in the first half of next year, due to parties seeking to defer their trial until COVID-19 restrictions are lifted. These two factors are likely to place significant pressures on the resources of the Division in the future.

Proceedings involving self-represented litigants (SRLs) continue to present challenges for the Division. In 2019–20, there was an average of 135 active proceedings in the Division involving an SRL. This was 63 per cent of all active civil proceedings involving an SRL. In 2019–20, 200 commercial proceedings involving an SRL were resolved. This was 74 per cent of all civil proceedings involving an SRL that were finalised.

The Division has implemented a number of SRL initiatives over the last four years, including the use of JRCs, SRL case managers, the Victorian Bar pro bono protocol, the Justice Connect pro bono assistance pilot and the SRL program.

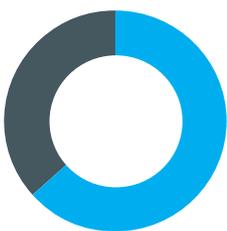
The Court’s pilot protocol for referrals for pro bono assistance between the Court’s Commercial and Common Law Divisions and the Victorian Bar has been particularly successful in improving outcomes in proceedings involving SRLs. Thanks to the support of the Victorian Bar, and the individual barristers who have volunteered their time, many tens of thousands of dollars’ worth of free legal assistance has been provided to SRLs through this protocol. This not only helps the individual SRLs to access justice, but also assists the Court with the administration of justice and helps ensure a cost-effective and fair resolution for all parties.

IMPROVED USE OF TECHNOLOGY

The Court’s investment in technology such as electronic court files, workflows and remote access over the last few years has proven invaluable in enabling the Division to adjust the COVID-19 restrictions. The Division was also able to transition very rapidly to hearing matters from remote locations with the use of Zoom. User feedback received through an online survey has been very positive, with Zoom receiving an average rating of 4.5 out of 5 on ease of use, although there was also a strong preference to return to in-person hearings when possible. The Division will continue to offer hearings using Zoom once COVID-19 restrictions are lifted, where requested by the parties or it is in the interests of justice to do so.

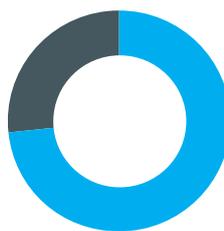
A number of additional projects have been identified which will enable the Division to capitalise on the previous investments and ensure that technological advances are implemented that increase efficiency, reduce cost and improve access to justice for all. In particular, the Court is working towards extending the electronic workflow which is currently available between Registry and judges’ chambers to judicial staff. This enables electronic filing of subpoenaed material and eCourtbooks and permits parties and members of the public to inspect court files remotely.

ACTIVE CIVIL CASES INVOLVING A SELF-REPRESENTED LITIGANT 2019–20



Commercial Division (135 / 63%)
Common Law Division (78 / 37%)

FINALISED CIVIL CASES INVOLVING A SELF-REPRESENTED LITIGANT 2019–20



Commercial Division (200 / 74%)
Common Law Division (72 / 26%)

REPORT OF THE JUDGE IN CHARGE OF THE GENERAL LIST JUDGE WOODWARD

The General List handles the bulk of the work of the Commercial Division. The Court has unlimited monetary jurisdiction in civil matters. Cases in the General List frequently raise complicated legal and factual issues. Targeted case management is used by the duty judge and judicial registrars to reduce the need for interlocutory appearances, avoid overly long interlocutory disputes and prepare cases for trial in an expeditious manner.

GENERAL LIST ACTIVITY

There were 1,259 initiations in the General List in 2019–20. This was a decrease of 12 per cent on the number of initiations in 2018–19; however, when taxation matters are excluded, there was actually an 8 per cent increase in the number of initiations in the General List. There were also 1,295 cases finalised in 2019–20. Cases ranged from monetary claims for less than \$100,000 (typically where other relief is also sought) to one claim for more than \$5 million. Of the cases in which a notice of appearance was filed, more than 70 per cent of cases were resolved in less than 12 months and more than 90 per cent were resolved in less than two years.

Time to finalisation in the General List was affected by the *Deputy Commissioner of Taxation v Buzadzic* [2019] VSC 141 decision, with many tax-related proceedings delayed pending the determination of an appeal by the Deputy Commissioner of Taxation to the Court of Appeal on the question of whether the conclusive evidence provision under the *Income Tax Assessment Act 1936* (Cth) wrongly interferes with the exercise of federal judicial power. The Court of Appeal allowed the appeal on 11 October 2019 and special leave to appeal to the High Court was refused on 11 March 2020. Those cases were then able to proceed to finalisation.

REPORT OF THE JUDGE IN CHARGE OF THE EXPEDITED CASES LIST JUDGE WOODWARD

The Expedited Cases List performs two functions. Firstly, parties may request entry of a proceeding into the Expedited Cases List where an expedited hearing is sought or the case requires more intensive case management. Secondly, the Commercial Division uses the Expedited Cases List as a case management tool. Judges or judicial registrars can transfer a proceeding into the Expedited Cases List where intensive case management of the proceeding or an earlier trial date is required.

EXPEDITED CASES LIST ACTIVITY

There were 114 initiations in the Expedited Cases List in 2019–20, which is 17 fewer cases than in 2018–19. There were also 133 finalisations in 2019–20, which was steady when compared to 2018–19. Trial dates were typically available within four to five months of the entry of an appearance, sometimes earlier if required. Claims made ranged from less than \$100,000 to more than \$5 million. Of the cases in which a notice of appearance was filed, more than 80 per cent were resolved within 18 months.

REPORT OF THE JUDGE IN CHARGE OF THE BANKING & FINANCE LIST JUDGE COSGRAVE

The Banking and Finance List provides a specialist list for cases relating to transactions involving the provision of financial accommodation, including proceedings involving claims for the possession of land.

BANKING AND FINANCE LIST ACTIVITY

There were 432 initiations in the Banking and Finance List in 2019–20. This is 8.5 per cent less than in 2018–19. This reduction reflects reduced enforcement activity by financial institutions following the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry; the bushfires in early 2020; and COVID-19 restrictions. There were 448 finalisations.

REPORT OF THE JUDGE IN CHARGE OF THE BUILDING CASES LIST JUDGE WOODWARD

Judge Woodward took over as the Judge in Charge of the Building Cases List in August 2019. Building disputes are inherently complex, involving technical issues requiring complicated expert evidence and often numerous parties and multiple claims and counterclaims.

Following consultation with the Building Cases List Users Group, a new practice note was issued in September 2019. The practice note emphasises that cases in the Building Cases List will be tightly case managed and encourages the use of joint expert witnesses and expert witness conclaves. It also introduces a new form of alternative dispute resolution, Early Neutral Evaluation. This provides parties the opportunity to have an early confidential and non-binding evaluation of the case by a judge or judicial registrar which can be used to encourage resolution of the dispute.

BUILDING CASES LIST ACTIVITY

In 2019–20, 121 cases were issued in the list, which is 31.5 per cent more than 2018–19 and 46 per cent more than 2017-18. Ninety-three cases were finalised, an increase of 4.5 per cent since the last financial year. The majority of cases were for less than \$500,000, with 13 claims between \$500,000 and \$5 million, and 46 claims in which the amount sought was not specified. Of the proceedings in which a notice of appearance was filed, 80 per cent of proceedings were finalised in less than 18 months.

REPORT OF THE JUDICIAL REGISTRARS BURCHELL AND TRAN



Sharon Burchell
Judicial Registrar



My Anh Tran
Judicial Registrar

The judicial registrars reduce the burden on the judges of the Commercial Division (the Division) by case managing the active proceedings; determining interlocutory disputes; making orders on the papers; hearing enforcement applications and objections to subpoenas; conducting Judicial Resolution Conferences (JRCs); and assisting with the administration of the Division.

JUDICIAL REGISTRAR ACTIVITY

In 2019–20, the judicial registrars heard 233 interlocutory applications, directions hearings and objections hearings. They also conducted 106 JRCs, which was 24 per cent more than in 2018–19. Of the 106 JRCs conducted in 2019–20, 72 settled, 1 settled in part, 31 did not settle and 2 are currently adjourned. Settlements were obtained in 24 proceedings involving self-represented litigants.

The judicial registrars have continued to conduct JRCs and hearings throughout the COVID-19 restrictions via Zoom video-conferencing software. In addition, the judicial registrars have significantly increased the resolution of disputes on the papers, relieving practitioners and parties from the difficulties of making court appearances during COVID-19. A total of 4,200 interlocutory orders were made by the Commercial Division in 2019–20, most of which were made by the judicial registrars.

REPORT OF THE HEAD OF CIRCUITS JUDGE MULLALY



Judge Mullaly

During 2019–20, County Court judges and staff undertook 52 criminal circuits and 20 civil circuits across the Court’s 11 circuit locations: Bairnsdale, Ballarat, Bendigo, Geelong, Horsham, Latrobe Valley (Morwell), Mildura, Shepparton, Wangaratta, Warrnambool and Wodonga.

Criminal trials, pleas and appeals from the Magistrates’ and Children’s Courts proceeded in the criminal circuits, while civil trials, causes (judge-alone trials) and serious injury applications proceeded in the civil circuits.

These circuit sittings, which take place in multi-jurisdictional court buildings shared by the Magistrates’, Children’s, County and Supreme Courts, as well as the Victorian Civil and Administrative Tribunal (VCAT) and the Federal Circuit Court, provide access to justice for those who reside in regional Victoria.

588 circuit criminal matters, 662 circuit appeals and 456 circuit civil matters were finalised. Consistent with trends observed in previous years, the majority of the Court’s circuit work was heard at the Victorian regional centres of Ballarat, Bendigo, Geelong and Latrobe Valley.



CORONAVIRUS (COVID-19) IMPACTS

COVID-19 had a significant impact on the Court's in-person circuit sittings. In early March 2020, all criminal trials were suspended to help minimise the movement of all Victorians and keep appearances at the Court's circuit locations to a minimum. This suspension resulted in the cancellation of a further 25 criminal circuits that were to take place between early March 2020 and 26 June 2020, representing approximately one quarter of the listing year.

Criminal jury trials were unable to proceed following the suspension of circuit sittings due to the requirement for jurors and other parties to appear at court venues in person for these hearings. All criminal trials that were listed for a 'circuit commencement' date between 9 March 2020 and 25 May 2020 were adjourned to a date to be fixed and will likely be re-fixed for trial in 2021. The only exception to this will be criminal trials that proceed by way of a judge alone. Due to the suspension of criminal trials, circuit directions hearings were suspended between mid-March and June 2020.

All outstanding appeals against convictions imposed at the Magistrates' and Children's Courts were likewise unable to proceed due to the difficulties associated with conducting these hearings virtually. The Court is intending to list these matters for hearing in the last quarter of 2020 and in the first half of 2021.

In May 2020, the Court commenced listing circuit pleas and sentence-only appeals for fixed hearing dates. Video-conferencing technology enabled parties across regional Victoria to appear at these hearings from their homes or offices, rather than attending a court venue in person. While attendances at circuit courts for certain hearing types were necessary for a small number of matters, the use of this technology provided a safe and efficient way of conducting most of these matters remotely.

Following the suspension of in-person civil circuits, the Common Law Division swiftly transitioned to conducting these circuits virtually, allowing continued access to justice for parties in civil circuit matters. During this time, parties to causes and serious injury applications appeared at hearings via video-conferencing technology. Civil jury trials, however, were unable to proceed.

CRIME AND APPEALS

Nature of the work on circuit

Despite the great disruption to circuit listings caused by COVID-19 restrictions, a significant volume of work was still committed to the Court's circuit locations. 589 criminal matters were committed to a circuit location, with 490 of these matters committed prior to 13 March 2020. This represents a 17 per cent decrease in initiations compared with 2018–19. 605 appeals against decisions of the Magistrates' and Children's Courts were lodged at County Court circuit locations, compared with 796 in 2018–19. These decreases are likely attributable to the adjustment in listing practices at regional Magistrates' Court venues as a result of COVID-19 restrictions.

Consistent with previous years, 20 per cent (116) of these matters were committed to the Latrobe Valley County Court. Slight increases in criminal initiations at Geelong (104 initiations, compared with 103 initiations in 2018–19) and Bendigo (90 initiations, compared with 86 in 2018–19) were observed, while there was a significant drop in criminal initiations at Ballarat (87, compared with 117 in 2018–19) and Wodonga (20, compared with 36 in 2018–19).

Despite the decrease in criminal and appeal initiations in 2019–20, matters committed or appealed to circuit locations continue to represent a significant proportion of the Court's total criminal and appeal workload. In 2018–19, circuit criminal initiations represented 28 per cent of its criminal workload and 27 per cent of its appeal workload. In 2019–20, circuit criminal initiations represented 30 per cent of the Court's total criminal initiations, and 29 per cent of its appeal initiations. While the Court continues to work with stakeholders to refine its practices and procedures for managing matters at circuit locations, the volume and increasing complexity of these matters is putting an even greater strain on the limited courtrooms available to the higher jurisdictions in regional Victoria.

Trials

Of the 589 criminal matters committed to a County Court circuit location, 303 matters were committed with the accused having pleaded 'not guilty' at committal (trial matters).

There was a 30 per cent decrease in the number of trial matters finalised. This was largely due to the suspension of criminal circuits for approximately one quarter of the listing year as a result of COVID-19. 72 circuit trials were finalised, compared with 103 in 2018–19.

Consistent with previous years, the proportion of trial matters committed to a circuit location containing one or more sexual offences charges (SOL matters) was greater than the proportion committed to the County Court in Melbourne: 47 per cent of circuit trial matters were SOL trials, compared with 28 per cent of Melbourne trials. This disparity was particularly noticeable in the Latrobe Valley where 40 of the 68 trial matters committed to that location were SOL matters. 72 jury trials ran to verdict in regional Victoria, of which 63 per cent (45) were SOL matters. This contrasts with 45 per cent (81) of Melbourne trials that ran to verdict.

Time to initial trial listing from July 2019 to March 2020 varied across circuit locations due to a number of factors. The differing volume and type of matters committed to each location, the limited availability of higher jurisdiction court rooms in regional Victoria and the differing frequency of criminal circuits scheduled at each location all contributed to this variation.

Prior to the suspension of circuits due to COVID-19, time to initial trial listing in Geelong was approximately 4–5 months from the date of committal, while in the Latrobe Valley, Shepparton and Mildura, time to initial trial listing was approximately 10–12 months.

The Court is acutely aware of the need to list matters for trial as quickly as possible. Where appropriate, pre-trial arguments are listed for hearing ahead of the trial itself to either bring about a resolution to the matter, or to ensure that, once the trials are called on for hearing, they are ready to proceed.

Pleas

447 matters with a plea of 'guilty' were finalised, representing a 2.4 per cent decrease from 2018–19. This only minor decrease (when contrasted with the significant decrease in trial finalisations) is attributable to the change in plea listing practices implemented following the suspension of circuits in March 2020 in which plea of guilty matters were provided with a fixed listing date for hearing. Of these 447 matters, 287 were committed to the County Court with a 'guilty' plea having been entered at the Magistrates' Court upon committal. The remaining 160 matters were committed to the County Court as trial matters that resolved to a plea of 'guilty' during or prior to the trial.

Appeals

683 appeals were finalised, compared with 845 in 2018–19 (a 19 per cent decrease). 42 per cent (286) of the appeals that were finalised in 2019–20 were either abandoned before a judge or registrar, or struck out for no appearance. 58 per cent of appeals were heard and finalised before a County Court judge. Due to the manner in which appeals against conviction are heard in court, such hearings were largely unable to proceed following the suspension of circuits. Appeals against sentence, however, were able to proceed for the entire 2019–20 reporting period.

CIVIL MATTERS

Nature of the work on circuit

The larger Victorian regional centres of Ballarat, Bendigo, Geelong, Latrobe Valley (Morwell) and Warrnambool accounted for a significant proportion of the civil matters initiated and finalised at the Court’s circuit locations. Geelong accounted for 20 per cent of civil initiations and 22 per cent of finalisations across the Court’s circuit locations, while the Latrobe Valley accounted for 14 per cent of initiations and 15 per cent of finalisations. Common Law initiations and finalisations continued to account for the vast majority of the Court’s civil circuit work.

The Serious Injury List accounted for 57 per cent of common law finalisations across the Court’s circuit locations, with Common Law General List matters accounting for a further 35 per cent of finalisations.

Appeals and Post Sentence Applications List (APSA)

In August 2019, the Court’s Common Law Division commenced managing and hearing most appeals against orders of the Family Division of the Children’s Court (Department of Health and Human Services (DHHS) appeals), appeals in respect of intervention orders (IVO appeals), applications for compensation under s 85B of the *Sentencing Act 1991* and applications for supervision orders lodged at County Court circuit locations.

Fifty-one IVO and DHHS appeals were transferred into the APSA List, with 13 of these matters having been lodged at Geelong and 11 at the Latrobe Valley. Twenty-one circuit IVO and DHHS appeals were finalised.

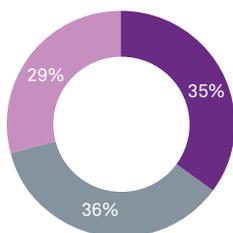
The benefits to court users of this change in approach are significant. IVO and DHHS appeals are now able to be heard in civil circuits which typically have greater capacity than criminal circuits to hear such matters.

Conclusion

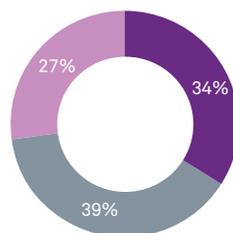
While COVID-19 significantly disrupted the work of the Court’s circuit locations, some changes, such as the increased use of technology and amended listing practices, will likely remain into the future. The increased use of video-conferencing software will be a great benefit to parties, facilitating a more flexible approach to the way hearings are conducted. The feasibility of increased listings with a fixed hearing date for certain types of circuit matters will also be closely examined over the next financial year.

I remain grateful to all judges and their staff who sat at our circuit locations from July 2019–March 2020, and all who then enabled circuit work to continue via virtual hearings. I thank those judges who sat in the Circuit Directions List. Particular thanks must go to her Honour Judge Gwynn for her assistance with the management of criminal circuits, and to Their Honours Judge Misso and Judge Tsalamandris for their contribution to the management of civil circuits. My thanks also to the circuit registrars who provided invaluable assistance to regional court users. Throughout the whole 2019–20 financial year, but particularly during the ongoing COVID-19 restrictions, my staff Garry McIntosh and Amanda McKellar, Manager of Circuit Operations Amelia Webster, and Circuit Administrators Libby Ayre and Emily Woods have worked tirelessly to ensure circuit cases were able to be heard or advanced with the use of technology. They are to be congratulated.

TOTAL INITIATIONS



TOTAL FINALISATIONS



JUDGES, RESERVE JUDGES AND JUDICIAL REGISTRARS

Judges	Date appointed
His Honour Chief Judge Peter Kidd	28 September 2015
Her Honour Judge Rachelle Lewitan AM	16 May 2001
His Honour Judge John Smallwood	20 August 2001
Her Honour Judge Susan Cohen	20 August 2001
Her Honour Judge Meryl Sexton	20 August 2001
Her Honour Judge Frances Hogan	2 October 2001
Her Honour Judge Irene Lawson	26 March 2002
His Honour Michael Bourke	10 September 2002
Her Honour Judge Liz Gaynor	10 September 2002
His Honour Judge Phillip Coish	10 September 2002
Her Honour Judge Frances Millane	2 December 2003
Her Honour Judge Sandra Davis	26 October 2004
Her Honour Judge Felicity Hampel	9 February 2005
Her Honour Judge Jeanette Morrish	9 August 2005
Her Honour Judge Susan Pullen	22 August 2006
Her Honour Judge Lisa Hannan	3 October 2006
His Honour Judge Damian Murphy	24 October 2006
His Honour Judge Chris O'Neill	24 July 2007
His Honour Judge Philip Misso	11 December 2007
Her Honour Judge Katherine Bourke	11 December 2007
His Honour Judge Peter Wischusen	15 April 2008
His Honour Judge Paul Lacava	27 May 2008
His Honour Judge Frank Gucciardo	27 May 2008
His Honour Judge Mark Gamble	3 February 2009
His Honour Judge Gerard Mullaly	7 April 2009
Her Honour Judge Kathryn Kings	17 November 2009
His Honour James Judge Parrish	17 November 2009
His Honour Judge Michael Tinney	16 March 2010
Her Honour Judge Gabriele Cannon	30 March 2010
His Honour Judge Mark Dean	28 September 2010
His Honour Judge John Carmody	7 June 2011
His Honour Judge Richard Smith	22 July 2011
His Honour Judge Michael Macnamara	7 February 2012
His Honour Judge William (Bill) Stuart	28 February 2012
His Honour Judge David Brookes	7 August 2012
His Honour Judge Chris Ryan	26 March 2013
His Honour Judge Paul Cosgrave	9 May 2013
His Honour Judge Gavan Meredith	28 May 2013
His Honour Judge Robert Dyer	6 November 2013
Her Honour Judge Claire Quin	25 February 2014
Her Honour Judge Sara Hinchey	26 May 2015
Her Honour Judge Amanda Chambers	9 June 2015
Her Honour Judge Andrea Tsalamandris	2 February 2016
Her Honour Judge Samantha Marks	3 October 2016
His Honour Judge Gregory Lyon	18 October 2016
His Honour Judge Ted Woodward	2 May 2017
Her Honour Judge Carolene Gwynn	9 May 2017
His Honour Judge Doug Trapnell	14 June 2017

Judges	Date appointed
His Honour Judge Michael O'Connell	25 July 2017
Her Honour Judge Aileen Ryan	15 August 2017
His Honour Judge Paul Higham	15 August 2017
His Honour Judge Trevor Wraight	31 October 2017
Her Honour Judge Patricia Riddell	8 November 2017
Her Honour Judge Amanda Fox	8 May 2018
His Honour Judge Michael Cahill	29 May 2018
Her Honour Judge Sarah Dawes	14 August 2018
His Honour Judge Scott Johns	14 August 2018
His Honour Judge David Sexton	14 August 2018
Her Honour Judge Martine Marich	14 August 2018
His Honour Judge Philip Ginnane	11 September 2018
Her Honour Judge Elizabeth Brimer	16 April 2019
His Honour Judge George Georgiou	18 April 2019
His Honour Judge Arushan Pillay	6 August 2019
Her Honour Judge Rosemary Carlin	10 September 2019
Her Honour Judge Anne Hassan	29 October 2019
His Honour Judge Kevin Doyle	29 October 2019
His Honour Judge John Cain	29 October 2019
Her Honour Judge Fran Dalziel	28 February 2020
Her Honour Judge Sarah Leighfield	10 June 2020
His Honour Judge David Purcell	10 June 2020

Reserve Judges	Date appointed
His Honour Judge Michael McInerney	21 June 1994
His Honour Judge Graham Anderson	17 March 1998
Her Honour Judge Pamela Jenkins	21 April 1999
His Honour Judge John Bowman	20 February 2001
His Honour Judge Roy Punshon	8 April 2003
Her Honour Judge Wendy Wilmoth	8 April 2003
His Honour Judge Duncan Allen	21 August 2007
His Honour Judge Howard Mason	3 February 2009
His Honour Judge John Jordan	1 February 2013
His Honour Judge Peter Lauritsen	24 May 2016

Retirements	Date retired
His Honour Judge John Jordan	10 July 2019
Her Honour Judge Julie Condon	12 July 2019
His Honour Judge Peter Lauritsen	16 November 2019
Her Honour Judge Marilyn Harbison	6 December 2019
His Honour Judge Frank Saccardo	26 March 2020
His Honour Judge Mark Taft	10 April 2020
Her Honour Judge Wendy Wilmoth	22 May 2020

Judicial Registrars	Date appointed
Sharon Burchell	5 May 2015
My Anh Tran	5 May 2015
James Gurry	27 September 2016
Matthew Phillips	11 February 2020
Alexandra Wilson	23 March 2020

EXECUTIVE LEADERSHIP TEAM

The Court is supported in its delivery of justice by its Administration team, which is integral to the Court hearing and determining matters in a timely, efficient and accessible way.

Guided by the Chief Executive Officer, functions of the Court Administration team include steering the governance and policy of the Court, managing IT, delivering strategic programs, managing the Court's finances and assets, providing support services to judiciary, managing media and community engagement and looking after the Court's most important resource – its people.

Registry – the public-facing part of the Court that deals with documents, filing and fees – is also managed by Court Administration.

The Court's Administration is led by the Court's Executive Leadership Team, which, with the Chief Judge and the Council of Judges, guides the strategic direction of the County Court of Victoria.

DANIEL CAPORALE

Chief Executive Officer

Leads the County Court's Administration and provides support to the Chief Judge as the head of jurisdiction. The CEO is a statutory appointment responsible for ensuring the required administration and support services are provided to the Chief Judge and the judges and judicial registrars of the Court and is accountable for the proper administration of the Court's operations, financial, business and corporate functions.

KATIE O'KEEFFE

Deputy Chief Executive Officer, Principal Registrar

Leads the operations of the Court, including the team that delivers necessary judicial support services to the Court's judges and judicial registrars, as well as leading the sustainable delivery of Registry services to the Court's judges and court users in Melbourne and regional Victoria.

DON RITCHIE

Principal Advisor to the Chief Judge

Supports the Chief Judge in relation to his Honour's roles as head of the County Court, chair of the Court's board of management and member of Courts Council. Manages the Chief Judge's chambers and provides advice on strategy, policy and governance issues.

KRISTY ROWE

Director, Specialist Courts

Leads the management, delivery and planning of Specialist Courts activities, setting the direction of existing services and leading the development and implementation of new services and therapeutic jurisprudence approaches. This includes County Koori Court, Drug and Alcohol Treatment Court pilot, the Mental Health Advice and Response Service, the Court Integrated Services Program pilot and review of best practice therapeutic responses to Family Violence.

JO RAINFORD

Director, Governance, Policy and Communications

Leads a diverse team that supports the Court to discharge a range of corporate governance obligations including risk and audit, compliance and integrity, and supports the activities of the Court's Audit and Risk Committee and its independent chair. Leads the team responsible for Communications (including media, digital (website) and community engagement) and supporting the judges in the areas of law reform and policy, research services, professional development and publication of decisions. Also manages the senior administrators in the Criminal and Common Law Divisions.

BRADLEY MEDCROFT

Director Strategy, Data and Program Delivery

Leads the Court's strategic, planning, performance reporting and project-management systems. This includes managing the Court improvement program – a group of system-improvement and change-management projects, which aim to improve the capacity of the Court to deliver excellent outcomes.

KEITH KIRKHAM

Director, Corporate Services

Leads the provision of a range of support services including facility and fleet management, security, procurement, contract management and information technology, and provides leadership in the finance function.

LIDIA MARKOSKA

Manager, People Systems and Learning

Leads a team that is responsible for supporting judges and staff regarding people management matters and activities across the Court. Provides strategic and operational support through development, implementation and advice on policy and procedures regarding performance management, occupational health and safety, learning and organisational development, workforce planning and recruitment in conjunction with Jurisdiction Services, Court Services Victoria.

JOSHUA MARTIN

Strategist

Works with leaders at the Court to realise the organisation's long-term objectives under *Court Directions 2017–22* and improve its service delivery and corporate activities.

REPORT OF THE DEPUTY CEO & REGISTRAR KATIE O'KEEFFE



Katie O'Keefe
Deputy CEO & Registrar, County Court of Victoria

Despite the past year being one of two distinctly different halves, we have continued to progress improvements in our Registry and judicial support functions.

Some of our new initiatives that started prior to coronavirus (COVID-19) aided our operational efforts during COVID-19 restrictions. While a disruptor, the pandemic brought opportunities to consider new ways of working. What could have taken years to achieve happened within weeks, days and, at times, hours.

Our initial response was to have all staff able to work from home and to reduce face-to-face service delivery where possible. In doing so, many of our processes required immediate change, such as the management of physical documents and entering accused people into bail. A temporary solution for both was produced by Registry staff together with the Digital Transformation team within weeks using technology that required no contact. We also implemented a phone management system that had been in the pipeline for some time to enhance services provided by the Registry.

Having delivered a proof of concept for active case management in 2018–19 and securing government funding for a 12-month pilot, the Criminal Redesign project recruited Criminal Division lawyers and collaborated with key stakeholders in preparation for a late 2019 commencement of the Active Case Management System Reform pilot. Following a few false starts, the pilot commenced at the beginning of March 2020 with judicial registrars and Criminal Division lawyers focused on the early management of cases, freeing up judges to hear priority matters.

With the onset of COVID-19 restrictions, the pilot ceased as quickly as it began. However, having introduced judicial registrars and lawyers in the Criminal Division as part of the pilot, the Court was able to apply principles of active case management to those cases that could not proceed as jury trials – a critical factor in the Court's response to COVID-19 restrictions.

In January 2020, we delivered a safe, secure and welcoming environment for court users through a refurbishment of the Registry public area and back of house space in our ongoing pursuit to improve the service experience for court users and provide support for the most vulnerable and disadvantaged groups. Court users now have access to private meeting rooms for confidential discussions with court staff and support services. Users also have increased access to public computers, giving them a dedicated resource hub from which to access online systems to review, complete, issue and file forms and documents. The new layout provides greater visibility and transparency of court operations, with service delivery officers available to assist court users at the counter. Staff have enjoyed a more modern working environment and the design has prepared us for the specialist services that will be introduced over the coming years.

A project to improve the subpoena process is well underway. It involves creating a secure website where addressees can lodge subpoenaed documents electronically and parties can view these documents without having to attend court. This work is expected to be completed in late 2020 and is critical as we adapt to the reduction of face-to-face services during COVID-19 restrictions.

The Civil Registry structure that commenced in mid-2018 is now well established. We continue to review and improve our processes with the court user as our primary consideration. Integrating work from the Criminal Registry with the introduction of the Appeals and Post Sentence Applications List has also been a key effort.

As we look forward, we will continue our partnership with the Supreme Court of Victoria and Justice Connect, which is providing services through the pro bono service pilot to assist self-represented parties in civil matters.

The Court is developing new sustainable systems for records management and destruction through a key project: the renewed Retention and Disposal Authority. In doing so, the Court can dispose of unrequired information after set periods, and eventually transfer permanent records to the Public Record Office Victoria.

We introduced a new structure to support the judiciary and judicial support staff. Its key features are judicial staff coordinators who are assigned to chambers floors of the Court to create a community of support for judges, as well as learning and development teams led by a senior learning and development associate and tipstaff. The structure is designed to create a better distribution of work across the system; improve the support provided to judges and staff; provide focused leadership for the training and development of new staff; and uplift capability and work satisfaction for the Judicial Support Services team. Implemented in May 2020, the new roles have been key in the Court's response to supporting staff wellbeing as they work from home and to undertake new ways of working to facilitate hearings from remote locations.

With the onset of COVID-19 restrictions, many roles changed immediately and significantly. Operational leaders worked closely with the judiciary to adapt the Court's work to remote operations, with a critical focus on scheduling cases and communicating with parties. While roles changed and staff sought clarity of purpose, overwhelmingly, everyone aspired to contribute to the delivery of justice in whatever way they could, reminding us of the great value and commitment our people bring to the work of our organisation. The dedication of judges and staff to the Court's work is a large part of what makes it an exemplar court for Victoria and a great place to work.

Looking ahead, we will review the administrative work systems supporting the Criminal Division, further establish the new judicial support services structure and undertake a post-implementation review of the Civil Registry – all of which are key priorities in our focus on improvement and on the needs of the court user.

FINANCIAL REPORT FOR THE YEAR ENDED 30 JUNE 2020

The County Court's financial position for the year ended 30 June 2020 is published as part of Court Service Victoria's (CSV) audited accounts in the Court Services Victoria Annual Report 2019–20.

To view the CSV's annual report, visit courts.vic.gov.au. Below is an abridged version of CSV's comprehensive operating statement highlighting court operations of the County Court of Victoria.

CSV was established on 1 July 2014 under the *Court Services Act 2014* (Act) as an independent statutory body to provide administrative services and facilities to support the Victorian courts and tribunals, the Judicial College of Victoria and the Judicial Commission of Victoria. CSV supports the performance of the judicial, quasi-judicial and administrative functions of the Supreme Court of Victoria, the County Court of Victoria, the Magistrates' Court of Victoria, the Children's Court of Victoria, the Coroners Court of Victoria, the Victorian Civil and Administrative Tribunal, the Judicial College and the Judicial Commission.

Consequently, the County Court is not able to publish a separate Balance Sheet, Cash Flow Statement or Statement in Changes of Equity.

Financial reports for the year ending 30 June 2020 presented include:

- Comprehensive Operating Statement;
- Comprehensive Operating Statement by Court functions; and
- Capital Program Statement.

The Comprehensive Operating Statement reports that the Victorian Government appropriated revenue of \$114.013 million (\$105.525 million 2018–19) which was received by CSV for the purposes of the County Court's functions plus \$17.424 million (\$13.601 million 2018–19) to fund the County Court's capital program. A breakdown in expenditure to fund County Court Operations and the capital program are provided in the following financial statements. The net result from transactions for County Court Operations at year end 30 June 2020 reports a deficit of \$0.566 million (\$7.440 million 2018–19).

CSV has identified one prior period error in relation to the depreciation of the County Court Public Private Partnership (PPP) lease. In accordance with AASB 108 (Accounting Policies, Changes in Accounting Estimates and Errors), CSV is required to correct material prior period errors retrospectively in the first set of financial statements authorised for issue after their discovery. The error occurred before the earliest prior period presented, hence the opening balances of assets, liabilities and equity for 2019 have been restated.

Prior to 1 July 2019, the PPP was accounted for as a finance lease under AASB 117, and the underlying asset was depreciated over the useful life of the asset, estimated to be 43 years. Under the requirements of AASB 117, the asset should have been depreciated over the shorter of the lease term (20 years) and the asset's useful life, as there was no reasonable certainty that CSV would obtain ownership of the leased asset at the end of the lease term.

This error had the effect of overstating the CSV opening balance sheet balances at the beginning of the preceding period for: property, plant and equipment by \$139.8m; accumulated surplus/(deficit) by \$36.3m; and physical asset revaluation reserve by \$103.4m. This error also had the effect of understating the comprehensive operating statement at the end of the preceding period for depreciation and amortisation by \$8.6m.

The accompanying notes form part of these financial statements. All amounts in the financial statements have been rounded to the nearest \$1,000 unless otherwise stated.

COMPREHENSIVE OPERATING STATEMENT FOR THE YEAR ENDED 30 JUNE 2020

CONTINUING OPERATIONS	Note	2020 \$'000	2019 \$'000
Income from transactions			
Output appropriations ¹	1a	76,784	68,356
Special appropriations	1b	37,228	37,169
Total income from transactions		114,013	105,525
Expenses from transactions			
Employee expenses and judicial officer remuneration	2	60,664	56,049
Depreciation and amortisation ¹	3	17,428	18,461
Interest expense	4	3,608	4,832
Grants and other transfers	5	142	1
Capital asset charge ¹	6	6,895	7,849
Supplies and services	7	25,843	25,773
Total expenses from transactions		114,579	112,965
Net result from transactions (net operating balance)		(566)	(7,440)

OTHER ECONOMIC FLOWS INCLUDED IN NET RESULT

Net gain/(loss) on non-financial assets	8	70	119
Other gains/(losses) from other economic flows	8	(384)	(1,576)
Total other economic flows included in net result		(314)	(1,457)
Net result		(880)	(8,897)

OTHER ECONOMIC FLOWS – OTHER COMPREHENSIVE INCOME

<i>Items that will not be reclassified to net result</i>			
Changes in physical asset revaluation reserve	9	13,383	16,040
Total other economic flows – other comprehensive income		13,383	16,040
Comprehensive result		12,503	7,143

CAPITAL PROGRAM STATEMENT FOR THE YEAR ENDED 30 JUNE 2020

	Note	2020 \$'000	2019 \$'000
Income from capital transactions			
Output appropriations		17,424	13,601
Total income from transactions	1a	17,424	13,601
Capital transactions			
Building leasehold improvements		2,441	62
Motor vehicle (leased)		51	7
Office equipment, plant and cultural assets		1,329	800
Public Private Partnership County Court facility		14,107	12,733
Total capital expenses from transactions	9	17,928	13,601
Net result from capital transactions		(504)	0

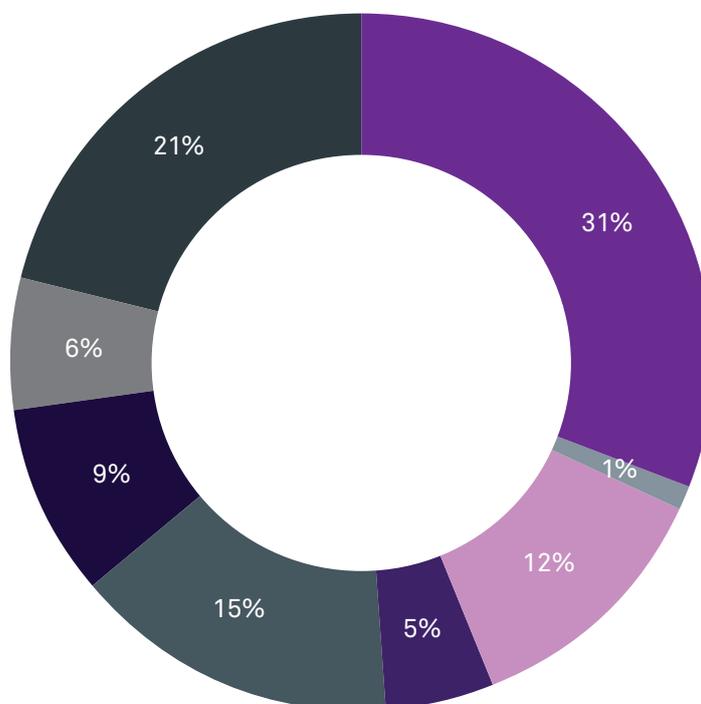
1 The 2019 Actuals in the Comprehensive Operating Statement have been amended in accordance with Accounting Standard 108 (Accounting Policies, Changes in Accounting Estimates and Errors) which has resulted in a material change to the useful life of the asset leased under the PPP which has subsequently caused an increase in the depreciation expense than previously reported.

**COMPREHENSIVE OPERATING STATEMENT BY FUNCTION
FOR THE YEAR ENDED 30 JUNE 2020**

CONTINUING OPERATIONS	Note	2020 \$'000	2019 \$'000
Expenses from transactions			
Court administration	i	10,491	6,624
Depreciation	ii	17,428	18,461
Judicial officers	iii	35,712	36,132
County Koori Court	iv	383	199
Public Private Partnership County Court facility	v	24,034	24,504
Circuits	vi	1,117	1,756
Capital asset charge	vii	6,895	7,849
Registry	viii	5,084	5,253
Tipstaves and associates	ix	13,436	12,187
Total expenses from transactions		114,579	112,965

PERCENTAGE OF EXPENSES BY FUNCTION

- Judicial officers – 31%
- Circuits – 1%
- Tipstaves and associates – 12%
- Registry – 5%
- Depreciation – 15%
- Court administration – 9%
- Capital asset charge – 6%
- Public Private Partnership County Court facility project – 21%



NOTES TO THE COMPREHENSIVE OPERATING STATEMENT AND CAPITAL PROGRAM STATEMENT

1. **Appropriations** – once annual Parliamentary appropriations are applied by the Treasurer, they become controlled by CSV and are recognised as income when applied to the purposes defined under the relevant Appropriations Act.
 - a. **Output appropriations** is defined as income for the purpose to deliver the outputs CSV and the County Court provides to the Government. Recognition of output appropriation occurs when those outputs have been delivered and the relevant minister has certified delivery of those outputs in accordance with specified performance criteria.

Output Appropriations in 2019–20 totalled \$76.784 million which was an increase of \$8.428 million in comparison to 2018–19. The County Court was successful in receiving additional funding for new initiatives and programs such as essential resources for Victorian courts – case management and reducing reoffending and improving community safety (CISP), community engagement, services reform in the Criminal Division and the capital program.
 - b. **Special appropriations** is defined as income recognised on a cash basis when the amount appropriated for that purpose is due and payable with exception of long service leave and annual leave which includes income for unpaid leave on an accrual basis.

Special Appropriations in 2019–20 totalled \$37.228 million which was an increase of \$59,000 in comparison to 2018–19 due an increase of annual indexation funding for the judiciary.
2. **Employee expenses and judicial officer remuneration** encompasses all costs related to the employment, including wages and salaries, fringe benefits tax, leave entitlements, superannuation, termination payments and WorkCover premiums.

Employee expenses in 2019–20 totalled \$60.664 million which was an increase of \$4.615 million comparison to 2018–19. This was influenced by staffing resources of new initiatives/programs and government funded salary increases.
3. **Depreciation and amortisation** is generally calculated on a straight-line basis, at rates that allocate the asset's value, less any residual value, over its estimated useful life.
4. **Interest expense** represents \$3.608 million in costs incurred in 2019–20 which is directly associated with the Public Private Partnership (PPP) County Court facility finance lease servicing payments. An interest expense is a component of finance lease repayments, and amortisation of discounts or premiums in relation to borrowings. Interest payments will continue to reduce every year until May 2022 which is when the PPP finance lease component will be fully paid.
5. **Grants and other transfer** – a grant payment of \$0.142 million for brokerage services to the CISP program.
6. **Capital asset charge (CAC)** is a charge levied on the written down value of controlled non-current physical assets. CAC aims to attribute a cost of capital used by the County Court in service delivery. Imposing this charge provides incentives for the County Court to identify and dispose of underutilised or surplus non-current physical assets.
7. **Supplies and services** incorporate a provision of services payments totalling \$25.843 million in 2019–20 which involves: accommodation; technology; security; building management and maintenance; office supplies and equipment; resourcing court improvements, new initiatives and circuit court expenses.
8. **Other economic flows included in net result** represents net gain/(losses) on non-financial assets are changes in volume or value of an asset or liability that do not result from transactions. Other gains/(losses) from other economic flows include the gains or losses from the revaluation of the present value of the long service leave liability due to changes in bond interest rates.
9. **Property, plant and equipment assets** are measured initially at cost and subsequently revalued at fair value less accumulated depreciation and impairment. The majority of non-financial physical assets value relates to the County Court facility.
10. **Capital transactions** represents capital costs of \$17.928 million in 2019–20 of which \$14.107 million is associated with the PPP finance lease payments for the County Court facility and the remaining capital expenditure of \$3.821 million is spent on equipment, vehicles, plant and building improvements. The PPP finance lease repayments (a set repayment schedule), and amortisation of discounts or premiums in relation to borrowings. The PPP finance lease payment will continue until May 2022 when the debt will be discharged.

COUNTY COURT FUNCTIONS

The Court's Special and Output Appropriation is spent on the following functions to deliver its output services:

- i. Court administration – 9.1% (5.9% 2018–19)**
Court administration provides a range of functions including: management; corporate governance; finance, procurement and contract management; court support services; human resources; Occupational Health and Safety and risk compliance; legal research and policy interpretation; facility and court event support; media and communication services; infrastructure technology operations and development; and court improvement programs and new projects.
- ii. Depreciation – 15.2% (16.3% 2018–19)**
Depreciation is an expense that arises from the consumption through use or time of a produced physical or intangible asset. A significant proportion of depreciation expense is related to the County Court building facility.
- iii. Judicial officers – 31.1% (32.0% 2018–19)**
Judicial officers' expenses are funded independently by Government through a Special Appropriation fund.
- iv. County Koori Court – < 1% (<1% 2018–19)**
The County Koori Court expenses includes management of the Koori Court program, payments to the Elders and other operational costs.
- v. Public Private Partnership County Court Facility – 21.0% (21.7% 2018–19)**
The State of Victoria and the Liberty Group Consortium (Contractor) entered into a Court Services Agreement (CSA) in June 2000 under a Public Private Partnership Contracted project. The 20-year contract commenced in June 2002 and will conclude in May 2022.
Under the CSA the Contractor was to:
 - develop and construct the facility;
 - provide the County Court and court users with Accommodation Services at the facility; and
 - provide Court Services to the County Court and court users in connection with the management and operation of the facility.

The lease payment for the 20-year life of the contract totals \$343 million. As at 30 June 2020, \$30.7 million remains owing. As the contract expiry term approaches, the Principal payments increase while the interest payments decrease. In terms of accounting for the principal and interest, the principal component is funded as a capital item whereas interest is funded as an operating expense.

- vi. Regional Circuit Court – 1.0% (1.5% 2018–19)**
The County Court sits at 11 major regional centres across Victoria. Judges are supported on circuit by their associate, tipstaff and the registry staff at each regional court. Court staff attend circuits on a roster basis. It usually costs approximately \$1.75 million annually to resource circuits; however, circuit courts were postponed during March 2020 due to coronavirus (COVID-19). These costs exclude employee expenses, judicial officer remuneration payments or County Koori Court expenses.
- vii. Capital asset charge – 6% (7% 2018–19)**
As described under Note 5, a capital asset charge has been recognised as an expense in the County Court's financial report.
- viii. Registry – 4.4% (4.6% 2018–19)**
Registry provides a range of services to the community and judicial officers including: receiving and processing court lodgements; preparing and publishing daily court listings; organising video links between the County Court and other locations; providing assistance to self-represented litigants; managing fee waiver applications; coordinating County Court circuits in conjunction with regional registrars; and providing excellent customer service to court users.
- ix. Tipstaves and associates – 11.7% (10.8% 2018–19)**
Tipstaves and associates support judicial officers in the conduct of courtroom operations, judicial services and interaction with parties. Tipstaves and associates' expenses include employee costs and supplies but excludes costs incurred when staff attend regional circuit court.

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