



2020

**ANNUAL
REVIEW**

DISTRICT COURT OF WESTERN AUSTRALIA

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FROM THE CHIEF JUDGE



The District Court of Western Australia celebrated its 50th year on 1 April 2020.

Criminal Jurisdiction

By that date it was clear that 2020 would be a year like no other. The COVID-19 pandemic and restrictions led the Court to adopt new and flexible work practices in order to ensure that matters proceeded safely and according to the law.

In the 2019 Annual Review, Chief Judge Sleight noted that the Court was facing a “workload crisis” and was in need of significant judicial and administrative resources to deal with the significant increase in matters listed and the resultant delay in trial listing. COVID-19 measures added to this burden.

By mid-March 2020 all jury trials had been temporarily halted for the first time in the Court’s history requiring the Court to vacate approximately 270 jury trials. By June 2020 the criminal trial delay in Perth had increased from 11 months in January 2020 to 18 months. The Court adopted measures to curb the blowout of trial dates acknowledging that justice delayed is often justice denied. These measures were implemented quickly under the leadership of Chief Judge Sleight assisted by the Court’s governance body, the Management Council. The State Director of Public Prosecutions, the Commonwealth Director of Public Prosecutions, defence counsel represented by the Criminal Lawyers’ Association, the Law Society of Western Australia, the Western Australian Bar Association, Legal Aid Western Australia and Aboriginal Legal Service Western Australia constructively and pragmatically worked together with the Court to protect the vulnerable persons who appear in our jurisdiction and to ensure that justice proceeded fairly, safely and as swiftly as possible. The Court benefited from the wisdom and support of the Chief Justice, the other Heads of Jurisdiction and the Department of Justice that facilitated access to expert advice, particularly in relation to public health issues.

Compulsory Case Conferences convened by judges were introduced to case manage jury trials that could not be dealt with due to lockdown measures. I thank the Director of Public Prosecutions both State and Commonwealth and defence counsel for committing to the process and pragmatically resolving many issues.

In 2019/2020, 7.53% of trials proceeded as trials heard by judge alone. Only 1.28% of trials proceeded by judge alone in 2018/2019. Nearly twice as many sentencing matters were dealt with in 2020 as had been finalised in 2019. This included sentencing by video link from regional areas. The prerecording of evidence of children and vulnerable witnesses was expedited. The number of section 98 *Criminal Procedure Act 2004* (WA) directions hearings increased significantly.

Civil matters were carefully managed and dealt with by audio link or on the papers where possible.

Thankfully the Court was able to recommence jury trials in both Perth and in regional areas with social distancing, remote jury empanelment, staggered court times and other measures in place from 20 July 2020.

I thank the judges and the staff of the District Court for adopting the COVID-19 measures and for their commitment and dedication to the Court during this difficult period.

Criminal Jurisdiction

A number of factors contributed to an increase in the workload of the criminal jurisdiction in 2020. One of the pressures on the Court arose from the jurisdictional shift that occurred as a result of the *Court Jurisdiction Amendment Act 2018* (WA) that came into effect on 1 January 2019 and resulted in the District Court having increased jurisdiction to include non-homicide criminal matters that attract a maximum penalty of life imprisonment. In 2020, 340 life imprisonment matters were committed to the Court to be dealt with. These matters generally required more court time and judicial management than indictable matters that do not attract a maximum penalty of life imprisonment.

It had been anticipated that amendments to change the appropriate jurisdiction for less serious criminal matters would shift criminal matters from the District Court to the Magistrates Court's jurisdiction, however the jurisdictional change did not result for some matters and other charges became the subject of "either way" election. The type of offences that fell within the "either way" category were of such a nature that a significant number were still committed to the District Court for trial and/or sentence because they were related to other serious indictable charges. The "either way" election has meant that legislative changes in respect of burglary and violent offences have not reduced the workload of the District Court as predicted. Prior to the 2019 amendments, 3,119 "either way" charges were committed to the District Court. In 2020, 2,280 "either way" offences are still being committed to the District Court.

Generally, the number and nature of matters committed to the District Court in 2020 required more pretrial hearings to determine more complex matters of law and longer listing periods for each trial. The reasons for greater complexity and length include that more trials proceeded with co-accused or by way of joinder on indictment and a greater number of applications to lead evidence pursuant to section 31A of the Evidence Act 1906 (WA) were filed by the State. The combination of more serious matters, trials requiring a longer listing time, and matters requiring a pretrial directions hearing has meant that the number of cases on hand (that is, matters waiting to be dealt with) has increased by 19.5% from 2019 to 2,302 matters. The median time to trial (that is, the time from the date the matter is committed from the Magistrates Court to the first day of any listed trial) has increased from 43 to 50 weeks representing an increase in delay of 16.3% over 2020.

Civil Jurisdiction

The civil workload of the Court has increased as a result of amendments to the Limitation Act 2005 (WA) that came into effect on 1 July 2018 removing time limitations for claims for damages for child sexual abuse causes of action. The amendments also provide a mechanism for claimants to apply to set aside out-of-court settlement agreements made prior to the amendment which would have otherwise prevented such claims being made. In 2020 there were 73 writs filed claiming damages for child sexual abuse causes of action and 111 applications made by claimants seeking orders to set aside previous settlement agreements and seeking leave to commence proceedings for damages for child sexual abuse. Many of the claimants are elderly, alleging historic sexual abuse while they were children kept in institutions run by religious orders. Given the age of the claimants there is a need to

deal with these matters expeditiously and this has created a significant challenge for the Court.

In 2019, the District Court conducted 53 civil trials being 15% more trials than proceeded in 2018. Despite pandemic restrictions, the Court managed to conduct 31 civil trials in 2020. The challenge for the Court is to provide judges with sufficient research and judgment writing time while ensuring that the backlog does not blow out further.

The Principal Registrar, two (2) Registrars and two (2) Deputy Registrars conducted the majority of registrars' hearings by audio link during the COVID-19 lockdown period. Although the number of mediations has increased, the number of writs filed, pretrial conferences and other listings has remained steady from 2019 through to 2020.

Judicial Workload

In order to cope with the significant workload and backlog, the Court has continued its practice of overlisting criminal trials by 40% and civil trials by 100% each week. The practice of overlisting means that when trials or hearings do not proceed other matters are immediately available to be heard and determined by the listed judge. The practice enables the Court to maximise limited judicial resources, however, the resultant workload on judges and their staff is relentless.

Judicial Appointments

Eight (8) new judges were appointed to the Court in 2020, four (4) of whom were women. This is the largest number of judges appointed in any year since the Court's inception.

Two (2) additional judges were appointed in August 2020 in response to Chief Judge Sleight's submissions on the demands of the Court. I thank the Honourable Attorney General Mr John Quigley MLA, the Solicitor General Mr Joshua Thomson SC and Ms Joanne Stampalia Executive Director Court and Tribunal Services for facilitating the additional appointments.

At the end of 2020 the Court had 33 judges, one of whom is the President of the Children's Court and two (2) judges who sit as Deputy Presidents of the State Administrative Tribunal.

Retirement of Chief Judge Kevin Sleight

Chief Judge Kevin Sleight retired on 1 May 2020 after 15 years, having been appointed on 10 January 2005. Over that period his Honour also served as a Commissioner of the Supreme Court on two (2) occasions. His Honour was appointed Chief Judge and served in this capacity for 5 years after 10 years' service as a judge of this court.

His Honour has made a lasting contribution to the Court and to the administration of justice in Western Australia in many ways including by:

- The implementation of eFiling in the civil jurisdiction.
- Becoming a national leader in the introduction of prerecording of evidence of children and vulnerable witnesses and committed to improving the experience for children and vulnerable witnesses appearing in the District Court.
- Managing a criminal workload that increased by 1/3 over a 5-year period.
- Providing leadership in judicial education, judicial wellness and staff wellbeing.
- Leading the Inaugural Kimberley Visit that increased judges understanding of Aboriginal people and indigenous issues through cultural immersion and saw judges of the District Court being invited on country for the first time.

I wish his Honour and Helen Sleight every happiness in their well-earned retirement.

Other Judicial Retirements

In addition to the former Chief Judge's retirement, Judges' Goetze, Davis, O'Neal and Stone retired from the Court.

I thank each of them for their contributions to the Court and to the administration of justice.

The Court was pleased to welcome Judge Goetze back in an Auxiliary capacity.

Vale His Honour Peter Williams

The Court was saddened by the death of his Honour Peter Williams who was a judge of this Court from 17 May 1988 to 16 February 2007. Our condolences go to his wife, Judyth, sons Andrew, Simon and Paul and their families.

Retirement of Executive Manager

Ms Su Owen, the former Executive Manager retired in 2020. I thank Ms Owen for her commitment and contribution to the running of the Court over the past seven (7) years. I welcome Ms Laura Sutton, Acting Executive Manager. I thank

Ms Sutton for taking on the role at such a difficult time and I congratulate her on making positive and lasting changes that have improved the administration of the Court in a year of great uncertainty.

Finally, I thank all of the judges, registrars, managers and staff for their dedication and hard work during a year that provided many challenges in addition to the ever-increasing workload.

Julie Wager

Chief Judge
District Court of Western Australia

THE DISTRICT COURT AT A GLANCE

- His Honour Chief Judge Kevin Sleight retired.
- Her Honour Judge Julie Wager was appointed Chief Judge following the retirement of his Honour Chief Judge Sleight.
- Eight new judges were appointed to the Court, this number includes two additional judges following the creation of two new judicial positions, increasing the number of judges from 30 to 32 (with 3 serving in other jurisdictions).
- An auxiliary judge was appointed for a period of six months.
- The Court saw a total of five judicial retirements.
- The Court celebrated its 50th anniversary on 1 April 2020.
- The COVID-19 pandemic saw jury trials suspended for four months between 17 March 2020 and 20 July 2020.
- The Court continued to accept electronic lodgement of 90% of all documents in the civil jurisdiction.

Our jurisdiction	Criminal: All matters that must be tried before a jury or judge alone including those for which the maximum term of imprisonment that can be imposed is a life sentence, except homicide and related offences.			
	Civil: General claims for liquidated sums, debt or damages up to \$750,000 and unlimited jurisdiction for all personal injury claims.			
	Appellate: Appeals from: <ul style="list-style-type: none"> • Magistrates exercising civil jurisdiction; • Criminal Injuries Compensation Assessors; and • Arbitrators under Part XI of the <i>Workers' Compensation and Injury Management Act 1981 (WA)</i>. 			
Our areas of operation	Perth		Esperance	592 km from Perth
	Albany	389 km from Perth	Geraldton	370 km
	Broome	1664 km	Kalgoorlie	544 km
	Bunbury	155 km	Karratha	1275 km
	Busselton	193 km	Kununurra	2214 km
	Carnarvon	814 km	South Hedland	1304 km
	Derby	1770 km		
Our workload in 2020	<ul style="list-style-type: none"> • 374 criminal trials including 106 circuit trials in regional areas. • 1,359 people committed for trial from Magistrates Court. • 1,441 people committed for sentence from Magistrates Court. • 31 civil trials. • 4,811 new actions commenced by writ. • 93 appeals determined. • 665 civil mediations and pre-trial conferences. 			
Our people in 2020	<ul style="list-style-type: none"> • 32 judges (3 serving in other jurisdictions) and one auxiliary judge. • 5 registrars. • 37.7 court administration staff. • 66 personal staff to judges. 			

OUR JUDGES

The following were the Judges of the Court as at 31 December 2020:

Chief Judge

Her Honour Judge Julie Anne Wager

Judges

His Honour Judge Andrew Steven Stavrianou
Her Honour Judge Troy Denise Sweeney SC
His Honour Judge Michael John Bowden
His Honour Judge Christopher Peter Stevenson
His Honour Judge John Gerard Staude
His Honour Judge Ronald Edward Birmingham QC
His Honour Judge Timothy Sharp
Her Honour Judge Audrey Gillian Braddock SC
His Honour Judge David Ronald Parry
His Honour Judge Mark Edward Herron
Her Honour Judge Vicki Laura Stewart
His Honour Judge Laurence Mark Levy SC
Her Honour Judge Linda Petrusa SC
His Honour Judge Michael John Gething
His Honour Judge Alan Laurence Troy
Her Honour Judge Belinda Jane Lonsdale
Her Honour Judge Fiona Vernon
His Honour Judge Hylton Colin Quail
Her Honour Judge Kathleen Helen Glancy
Her Honour Judge Wendy Gillan
His Honour Judge John Brian Prior
Her Honour Judge Amanda Jayne Burrows SC
His Honour Judge Stephen John Lemonis
His Honour Judge David William MacLean
Her Honour Judge Charlotte Jayne Wallace
Her Honour Judge Mara Rita Barone SC
His Honour Judge Martin Michael Flynn
His Honour Judge Gary William Massey
Her Honour Judge Karen Ann Shepherd
Her Honour Judge Sarah Russell
His Honour Judge Simon Dieter Freitag SC
His Honour Auxiliary Judge Bruce James Hamilton Goetze

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

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

His Honour Judge Hylton Colin Quail
President, Children's Court of WA

His Honour Judge D R Parry
Deputy President, State Administrative Tribunal

Her Honour Judge Kathleen Helen Glancy
Deputy President, State Administrative Tribunal

Judicial retirements in 2020

- His Honour Chief Judge Kevin Sleight retired on 1 May 2020.
- His Honour Judge Bruce James Hamilton Goetze retired on 29 October 2020.
- Her Honour Judge Felicity Clare Earls Davis retired on 18 September 2020.
- His Honour Judge Patrick Brian O'Neal retired on 31 January 2020.
- His Honour Judge Simon Elliot Stone retired on 27 November 2020.

The Court would like to take this opportunity to publicly acknowledge the services of former Chief Judge Kevin Sleight and Judges Goetze, Davis, O'Neal and Stone to the District Court over a long period.

Retirement of Chief Judge Kevin Sleight

Chief Judge Kevin Sleight retired on 1 May 2020. The Court would particularly like to recognise the lengthy and significant service of retiring Chief Judge Kevin Sleight, who has made a lasting contribution to the administration of justice in Western Australia.

His Honour served on the bench of the Court for 15 years; 10 as a judge and 5 as the Chief Judge. His Honour was appointed as a Judge of the District Court on 10 January 2005 and appointed Chief Judge in 2015.

In the midst of COVID-19 pandemic restrictions, the farewell sitting that is customary for outgoing judicial officers was held as a virtual sitting of the Court, fittingly, making the Chief Judge tasked with converting Western Australia's District Court to an e-system the first to be farewelled in the State's first ever virtual farewell ceremony.

Chief Judge Sleight was instrumental in the Court's response to the virus, including giving priority to criminal proceedings over civil matters as well as the use of telephone or video conferencing to enhance protective measures, and the push back on trial dates, where needed.

But rather than a digital legacy, Chief Judge Sleight's biggest passion was in acknowledging Indigenous history and culture, which included the implementation of an Aboriginal Cultural Awareness Program where judges were invited on country in the Kimberley to discuss the impacts and protections European law had in the communities, and a formal nod in court to the original custodians of the land, the Whadjuk people of the wider Noongar clan.

The Court thanks Chief Judge Sleight and congratulates his Honour on a successful legal and judicial career:

“*The duty of a judge is simply stated in the judicial oath, which is on the front of the District Court building and which I have often quoted: To do right to all manner of people, according to the law, without fear or favour, affection or ill will.*

Chief Judge Kevin Sleight

Judicial appointments in 2020

- Her Honour Judge Julie Anne Wager appointed Chief Judge of the District Court of Western Australia on 2 May 2022
- His Honour Judge Hylton Colin Quail appointed President of the Children’s Court of Western Australia on 2 May 2021.
- His Honour Judge David William Maclean, appointed on 14 January 2020.
- Her Honour Judge Charlotte Jayne Wallace, appointed on 14 January 2020.
- Her Honour Judge Mara Rita Barone SC, appointed on 6 May 2020.
- His Honour Judge Martin Michael Flynn, appointed on 3 August 2020.
- His Honour Judge Gary William Massey, appointed on 3 August 2020.
- Her Honour Judge Karen Shepherd, appointed on 3 August 2020.
- Her Honour Judge Sarah Elizabeth Russell, appointed on 1 December 2020.
- His Honour Simon Dieter Freitag SC, appointed on 15 December 2020.
- His Honour Auxiliary Judge Bruce James Hamilton Goetze, appointed on 4 November 2020.

A total of eight new judges were appointed to the Court during 2020. This is more than in any other year since the inception of the Court.

Two of those eight appointments were made possible thanks to the creation of two additional judicial positions at the Court. Two additional judges were appointed in August 2020 in response to former Chief Judge Sleight’s submissions on the demands of the District Court, including a 30% increase in the workload of the Court following legislative changes introduced in 2019.

The appointments were made possible thanks former Chief Judge Sleight, the Honourable Attorney General Mr John Quigley LLB JP LMA, Solicitor General, Mr Joshua Thomson, Director General Department of Justice, Dr Adam Tomison, and Executive Director of Court and Tribunal Services, Ms Joanne Stampalia.

In addition, Judge Shepherd was able to be appointed well before the retirement of Judge Davis to ensure that the impact on the workload of the court was kept to a minimum. The Court is most grateful for these arrangements.

His Honour Auxillary Judge Bruce James Hamilton Goetze was appointed as an auxiliary judge on 4 November 2020, soon after his Honour’s retirement. The auxillary appointment was made so that the District Court could provide an additional judicial resource to assist the Children’s Court to get back on track with the relisting of COVID-19 vacated trials so that young people have the opportunity to have their trials heard as soon as possible. Auxillary Judge Goetze’s appointment runs through to November 2021.

Appointment of Chief Judge Julie Wager

Chief Judge Wager was appointed Chief Judge on 2 May 2020, following the retirement of former Chief Judge Kevin Sleight.

Chief Judge Wager was a criminal lawyer for 14 years before being appointed as the inaugural Magistrate of the Drug Court of Western Australia in 2000. Her Honour was appointed as a judge of the District Court in 2005 and was President of the Children's Court of Western Australia from March 2018 until her appointment as Chief Judge in 2020.

Her Honour is the second woman to be appointed Chief Judge of the District Court and, at the time of her Honour's appointment, was one of 12 women District Court judges in the State.

Her Honour has extensive experience as a judicial officer, having been an outstanding Judge, President of the Children's Court and formerly a Magistrate. Her Honour is renowned as a formidable advocate at law and for her Honour's compassion and empathy.

Judicial movements in 2020

His Honour Judge Timothy Sharp commenced sitting exclusively in the District Court on 21 October 2020, returning to the Court after serving as Deputy President of the State Administrative Tribunal. Judge Sharp sat exclusively in the civil jurisdiction of the Court from his return to the end of 2020. His Honour's return to the Court assisted greatly to clear the backlog of COVID-19 vacated civil matters.

His Honour Judge Hylton Colin Quail was appointed as President of the Children's Court of Western Australia on 2 May 2020 and relocated to serve in that jurisdiction. Judge Quail was appointed to the District Court on 9 January 2018. Prior to being appointed, his Honour was a barrister at Francis Burt Chambers, practising primarily in criminal law. His Honour is a former President and current life member of the Law Society of Western Australia and has presided over the Children's Court in the past, giving his Honour knowledge of the Court's jurisdiction, practices and procedures. His Honour takes up his new position for a term of two years.

Her Honour Judge Kathleen (Kate) Helen Glancy was appointed as Deputy President of the State Administrative Tribunal for a five-year term commencing on 21 October 2020. Her Honour was appointed to the District Court on 9 January 2018. Prior to her appointment, Judge Glancy held the position of Deputy State Solicitor at the State Solicitor's Office.

Registrars as at 31 December 2020

Principal Registrar	Shane Melville
Registrar	George Augustus Kingsley
Registrar	Jacque Kubacz
Deputy Registrar	Simon Peter Harman
Deputy Registrar	Richard John Hewitt

IMPACT OF THE COVID-19 PANDEMIC

2020 was a year of firsts for the District Court, as it was for many of us. The impact of the COVID-19 pandemic and associated lockdowns and public health restrictions saw trials temporarily halted for the first time in the Court's history.

During lockdowns arising from the COVID-19 pandemic, it was necessary for the Court to vacate nearly 1,500 trial days around the State. Fortunately, the Court was back on course by the end of 2020, having implemented COVID-19 protocols, including social distancing where possible, to keep all people who are using the Court or work in the Court as safe as possible.

Trials

- From 16 March 2020 to 3 July 2020, jury trials were suspended.
- Approximately 270 jury trials (equating to nearly 1,500 trial days) were vacated or adjourned during this time.
- By June 2020 the criminal trial delay in Perth had increased from 11 months in January 2020 to 18 months.
- To reduce delays, the Court introduced Compulsory Case Conferences for all trials vacated due to COVID-19. The Court thanks the Office of the Director of Public Prosecutions and defence counsel for embracing judicial mediation/case management during this time.
- At the end of 2020, only 6 of the 270 trials vacated were waiting to be relisted.

Other work

Between March and July, whilst jury trials were not able to proceed, the Court held a number of other hearings, with the assistance of technology, to assist to mitigate the inevitable backlog of cases.

Between 16 March to 3 July 2020:

- 32 trials proceeded by judge alone.
- The Court held 599 consent order hearings; 210 administrative outcomes were issued; 145 applications for bail were heard and determined; 41 applications to vary bail, 123 directions hearings, 82 mention hearings for COVID-19 vacated matters, 272 general mention hearings, 862 sentence mention hearings, 256 trial call over hearings, 783 trial listing hearings and more.
- During this time the Court held 200 Compulsory Case Conferences for criminal trials vacated due to the pandemic.
- The Court also held 909 sentencing hearings.

- A total of 5,070 criminal hearings proceeded.
- During this time in the civil jurisdiction, the court held 118 directions hearings, 54 directions hearings in the commercial list, 55 mentions for appeal matters, 52 hearings for leave, 117 listing conference hearings, 59 mediation conferences, 606 pre-trial conferences, 43 reserved decisions and 20 special directions hearings.
- A total of 1,546 civil hearings proceeded.
- Compared with 2019, in 2020 the Court increased the number of administrative hearings by 2,195%. The number of consent orders increased by 48%.
- Despite the decrease in jury trials, the Court actually increased the number of hearings in 2020 (when compared with 2019) for: applications for change of plea (28% increase from 2019), applications to vacate hearings (40% increase), applications to withdraw surety (20% increase), applications for bail (40% increase), applications to vary bail (70% increase), breach of bail (20% increase), mention hearings (10%), reserved decisions (95% increase), sentence mention list hearings (32% increase), sentencing (14% increase), trial call over (61% increase), trail of issues (46% increase).
- Overall, the number of hearings held for criminal matters in 2020 actually increased 23% from 2019 (13,699 hearings in 2019 as compared with 16,893 in 2020).
- 32 judge alone trials proceeded in 2020, as opposed to 2 in 2019 (a 1,500% increase).
- The number of times matters are listed before the Court before finalisation also increased. For example, the number of matters appearing for a second time in the Sentence Mention lists increased 49%, the number appearing for a third time increased 34% and fourth appearances in this list increased by 27.5%. The number of matters appearing for a second time in the Trial Listing hearings increased by 33%, third appearances in this list increased by 41% and fourth appearances were up 33%.
- There has also been an increase in duty judge matters brought about by the need to case manage matters and also to hear an increasing number of bail applications due to the long delays that exist

Impact on registry/staff

- The number of consent orders lodged increased from 1,721 in 2019 to 2,111 in 2020, an increase of 22.7%.
- Offices and the Court registry were reconfigured and seating arrangements were changed to ensure court staff could continue to come to work safely.

- Court staff were deemed essential services by the West Australian State Government and were required to come to work, even in the event of a lockdown.
- Documents, including criminal documents, were scanned into the Integrated Courts Management System so that more electronic documents were available for judges in the event they needed to be accessed remotely.
- The District Court Registry remained open at all times.

Impact on Technology

- The Court increased the use of audio/video equipment for both civil and criminal matters and held hearings by telephone and by video link, where appropriate.
- The number of criminal matters where audio or video was used increased from 1000 in 2019 to 1661 in 2020 (a 64% increase). The number of civil matters where audio or video was used increased from 145 hearings in 2019 to 237 in 2020 (a 63% increase).
- COVID-19 restrictions also meant that, for the many Welcome Ceremonies held for new judges in 2020, not everyone who was invited to attend the sitting, or would have liked to have attend these sittings, were able to be present. Social distancing meant that not all judges able to be present on the bench for these ceremonial sittings, as is customary. For these occasions, the judges were represented from the body of the Court and the ceremony was filmed and available for viewing on the Court's website within 24 hours.

Roadmap back to the "new normal"

- The decision to recommence jury trials was not taken lightly, with a detailed examination of courtrooms, jury rooms and jury facilities.
- Alternate empanelment procedures, including remote empanelling of jurors to reduce the number of persons in the courtroom were conducted and health advice sought.
- The Department's Jury Services Team quickly and efficiently prepared for the resumption with a number of measures implemented to minimise the risks presented to potential jurors, staff and the community as a whole.
- Jury boxes were modified in the District Court Building by removing chairs and installing Perspex screens between chairs was one of the many social distancing measures introduced. This has had its own challenges, including smaller juries.
- Capacity limits were introduced in courtrooms to comply with the 2 square and 4 square metre social distancing rule.
- Judges adopted remote empanelling of jurors by use of internal video link to civil courtrooms to allow for social distancing and capacity limits in courtrooms.

- Remote viewing galleries were created through internal video links and streaming to secondary courtrooms to allow for social distancing and capacity limits.
- Masks were worn where restrictions mandating their use were in place.
- The Court adopted a QR code which is displayed at all public entrances for those attending the building to check-in using the SafeWA application.
- The Court extended circuits in regional circuit locations to assist with the backlog of matters.

The Court sought health advice on a number of occasions and continues to modify practices in line with health advice to ensure staff and all persons entering the District Court Building can do so safely.

Notwithstanding the unprecedented impacts of the COVID-19 pandemic, the District Court was able to ensure the delivery of services to the people of Western Australia thanks to the extraordinary commitment and of the judges and staff of the Court.

IMPACT OF LAW REFORM ON WORKLOAD

Court Jurisdiction Legislation Amendment Act 2018 (WA)

The workload of the Court has increased following the enactment of the *Court Jurisdiction Legislation Amendment Act 2018 (WA)* (“jurisdictional shift”) which came into effect on 1 January 2019. As a result of this legislation, the District Court has been given an increased jurisdiction in non-homicide criminal matters which attract a maximum penalty of life imprisonment. This has meant that the District Court now deals with a significant number of cases (such as arson and armed robbery) which were previously dealt with by the Supreme Court of Western Australia.

It had been anticipated that amendments to change the appropriate jurisdiction for less serious criminal matters would shift criminal matters from the District Court to the Magistrates Court’s jurisdiction, however the jurisdictional change did not result for some matters and other charges became the subject of “either way” election. The type of offences that fell within the “either way” category were of such a nature that a significant number are still committed to the District Court for trial and/or sentence because they were related to other serious indictable charges. The “either way” election has meant that legislative changes in relation to burglary and violent offences that can now be dealt with in the Magistrates Court have had minimal impact on reducing the workload of the District Court because these charges continue to be committed to the District Court.

For example, prior to the amendments, 3119 offences that now could go to the Magistrates Court were committed here. In 2020, the number didn’t 2280 were still committed. Plus 340 offences committed that carry life imprisonment that have also come to court which, prior to 2019, would have been committed to the Supreme Court of Western Australia.

The Court will continue to monitor and report on the impact of the jurisdictional shift in the coming years.

Amendments to the Limitation Act 2005 (WA)

As outlined by Chief Judge Wager’s opening message to this review, the civil workload of the Court has increased as a result of amendments that came into effect on 1 July 2018 removing time limitations for claims for damages for child sexual abuse causes of action. The amendments also provide a mechanism for claimants to apply to set aside out-of-court settlement agreements made prior to the amendment which would have otherwise prevented such claims being made. Many of the claimants in these matters are elderly and there is a need to deal with these matters expeditiously. This continues to present a significant challenge for the Court.

The Court will continue to closely monitor these matters to ensure they are handled as judiciously as possible.

CRIMINAL JURISDICTION

The Court deals with all serious criminal offences that must be tried before a judge and jury, or a judge sitting alone. This includes offences for which the maximum term of imprisonment that can be imposed is life imprisonment, except homicide and related offences.

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

Prior to the 2019 amendments, 3,119 “either way” charges which can now be dealt with in the Magistrates Court were committed to the District Court. In 2020, 2,280 of these “either way” offences are still being committed to the District Court. In addition to these charges the Court had an additional 465 charges lodged which carry a maximum term of life imprisonment. In terms of cases, 492 cases which could now be dealt with by the Magistrates Court were lodged with the District Court in 2018. In 2020, 360 of those types of cases were still lodged with the Court – only a 132 case reduction since the jurisdiction shift in 2018. This is coupled with 335 lodgments of cases which carry a maximum term of life imprisonment. Essentially, the Court has seen a reduction of 132 “either way” cases since 2018, but now has 335 lodgments for life imprisonment matters.

There were 2,801 criminal cases committed to the District Court in 2020, 1,357 of those for trial and 1,443 for sentence. 2,076 cases were committed from the Perth Metropolitan area and 725 were from regional areas. The location where the most cases were committed from was Bunbury (168 cases), followed by Geraldton (109 cases) and Kalgoorlie (100 cases).

The highest number of case lodgments were for illicit drug offences, comprising 26.6% of all criminal case lodgments. Sexual assault and related offences accounted for the second-most lodgments, comprising 20.5% of lodgments, followed by robbery, extortion and related offences (14.4%) and burglary (11.5%).

448 persons were committed to the Court re-sentencing after breaching orders made by judges of the District Court (325 of these were committed from the metropolitan area and 123 from regional areas). An additional 278 “simple offence” charges pending against persons appearing before the District Court were committed to the Court under section 32 of the Sentencing Act 1995 (WA) for sentencing in conjunction with persons indicatable matter/s before the Court (207 from the metropolitan area and 71 from regional areas).

The number of criminal cases on hand at the District Court as at December 2020 is 2,386 matters – a 10% increase in cases on hand at the end of 2019.

The median time from committal to trial increased in the metropolitan region from 44 weeks in 2019, to 53 weeks in 2020. In the regions the time to trial reduced from 38 to 37 weeks. This is in part due to increased lists in circuit regions. The target for all areas, metropolitan and regional, is 32 weeks. The increase is due to a combination of complex factors, including increasing pressure on the Court’s resources following COVID-19 pandemic restrictions and increased complexity of matters following the jurisdictional shift.

The Court had more trials listed in 2020 than it had listed in 2019. Overall, the Court had listed 981 criminal trials in 2020, 816 of which were listed in Perth and 165 in regional circuit locations. Of the 816 trials listed, 374 proceeded (268 in Perth and 106 in regional circuit locations). Overall, there was a 23.8% reduction in criminal trials which proceeded in 2020.

Of the trials that did proceed in 2020, 11% (43 trials) took 6 days or more, 29% (109 trials) took 4 -5 days and 60% (222 trials) took 1 – 3 days. Three trials took 16 days or more.

Of the 445 trials which were listed but did not proceed in 2020, 189 were vacated due to the COVID-19 pandemic and associated restrictions, 105 were vacated due to a plea of guilty and 32 were discontinued.

Sexual assault and related offences accounted for 40.5% of the trials which proceeded in 2020, followed by illicit drug offences which accounted for 19.3% of trials, acts intended to cause injury (14.2%) and robbery, extortion and related offences (8.8%). Despite the reduction in trial days available in 2020 due to the pandemic, the number of robbery offences which proceeded to trial increased 43.5% from 2019. Trials for all other offence types reduced, as expected due to the pandemic.

The median time to sentence increased 10% in 2020 from 2 weeks in 2019 to 22 weeks as at the end of December 2020. Finalisations of criminal matters which were more than a year old increased in 2020 by 35% from 2019 to 624 cases. The number of robbery, extortion and related offences finalised in 2020 increased by 51% in 2020 to 292 matters, this includes matters finalised following trial and matters finalised following a plea of guilty. Of the matters finalised, 174 were finalised by a guilty finding following trial, 1,922 were finalised following a guilty plea, 135 were acquittals and two were finalised following a finding of not guilty by reason of mental illness or condition.

In 2020 2,070 sentences were imposed, only 4 less than in 2019 (2074). Of the 2,070 sentences imposed in 2020, there was a 22% increase in conditional suspended imprisonment orders, (307 imposed in 2020 as opposed to 251 in 2019) and a 34.5% increase in partially suspended imprisonment orders (39 imposed in 2020 compared to 29 in 2019). Immediate imprisonment was the most common sentence, imposed 1,546 times, followed by conditional suspended imprisonment (307 times) and suspended imprisonment (76 times).

The Court saw an increase in applications in the General Duties List, specifically applications for change of plea (34% increase from 2019), applications for counsel to cease to act (100% increase), applications for prerecording of evidence (333% increase), applications for withdrawal of surety (233% increase), applications to vacate hearings (51% increase) and mention hearings (11% increase).

The Court granted 15,947 bail undertakings, a 4% increase from 2019 and issues on 85 arrest warrants for non-appearances by persons on bail (down from 131 arrest warrants issued in 2019).

The median time to trial (that is the time from the date the matter is committed from the Magistrates Court to the first day of any listed trial) has increased from 43 to 50 weeks representing an increase in delay of 16.3% over 2020.

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

CIVIL JURISDICTION

The District Court’s civil jurisdiction is to hear and determine claims for liquidated sums up to \$750,000. The Court has unlimited jurisdiction in claims for damages for personal injury. In practice it hears all damages claims for injuries sustained in motor vehicle accidents as the Magistrates Court does not have jurisdiction to deal with those claims.

The Court saw a slight decrease in lodgments of writs in 2020 from the previous year. A total of 5,157 writs were filed in 2020. Writs for civil debt recovery were down nearly 55%, although writs for damages for personal injury were up 10%. The number of active civil cases decreased slightly to 4,239 from 4,289 at the end of 2019. The number of active civil cases which were lodged more than a year ago increased by 25% in 2020. This is largely due to increasing pressure on the Court’s resources following COVID-19 pandemic restrictions and increased complexity of matters.

Despite restrictions, 4,849 civil matters were finalised in 2020, only 112 less than in 2019 (a 2% decrease). Eighty-four matters claiming damages for historical sex were finalised in 2020, a 133% increase from the 36 matters of this nature which were finalised in 2019. The Court also finalised 27% more matters where damages for medical negligence was claimed than in 2019.

135 civil trials were listed in 2020, 31 of those proceeded to trial. Of the 104 trials which were listed but did not proceed, 23 were vacated due to the COVID-19 pandemic and associated restrictions, 38 were vacated by the parties by consent, 11 were administratively rescheduled, 27 were settled prior to trial and a further 31 were vacated by a registrar.

The average length of civil trials increased to 6 days in 2020, up from 4 days in 2019; an increase of 2 days but of over 45%. The median time to trial increased from 22 weeks in 2019 to 30 weeks in December 2020 – a 36% increase. Again, this is due to a combination of factors, including the increasing pressure on the Court’s resources following COVID-19 pandemic restrictions and increased complexity of matters.

Appeals from the civil jurisdiction of the Magistrates Court remained the same as 2019, at 43, as did the number of cases on hand at the end of the year – remaining at 55 – the same as at December 2019.

The number of applications to reduce fees remained similar to 2019, at 223 in total over 2020, a 3.5% decrease from 2019.

The Court finalised 19 Criminal Property Confiscation Act applications, 43 Freezing Notice applications, 9 Proceeds of Crimes matters, 93 appeal files, 364 Originating Summons matters and 4,961 writs. Despite this mammoth effort, the number of Criminal Property Confiscation Act matters still before the Court and yet to be finalised increased by 160% from December 2019, from 15 at the end of 2019 to 39 at the end of 2020 and Freezing Notice applications on hand increased 62% from 2019, with 78 cases on hand at the end of 2020, as opposed to 48 at the end of 2019.

A total of 63,101 civil documents were filed with the District Court in 2020. 5,772 documents commencing civil matters were lodged. Of those, 5,240 (90.7%) were filed electronically with only 532 (9.3%) filed manually. In total, 56,767 (90%) of the documents were filed electronically and 10% were filed manually.

There were 319 restraining order lodgments.

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

DISTRICT COURT 50TH ANNIVERSARY

The District Court of Western Australia celebrated its 50th anniversary on 1 April 2020. A gala dinner, hosted by the Law Society of Western Australia, to mark the milestone was postponed to 27 February 2021 due to the COVID-19 pandemic.

A video, “Doing Right to All – 50 years of justice at the District Court of Western Australia” was produced by the Department of Justice and published to mark the occasion. The video is available on the Court’s website for viewing.

The 1960s saw rapid population growth in Perth and Western Australia. As the number of people settling in the State swelled, so too did the pressure on the courts. There was concern that the Supreme Court would face a growing backlog of cases. A decision was taken to establish a new superior court.

The District Court of Western Australia was established on 1 April 1970. When it was initially formed, the Court consisted of four judges. While the prevailing judicial system of the Supreme Court, the Local Courts and Courts of Petty Sessions had been adequate, the rapid expansion of Western Australia’s population required the establishment of an intermediate system of courts. Another Court was also needed to relieve pressure and avoid a backlog of cases in the other courts, especially the Supreme Court.

The District Court was therefore established with both criminal and civil jurisdiction, to provide a flexible framework to accommodate the needs of Western Australia in the administration of justice.

A small snapshot of some of the milestones for the Court include:

First Chief Judge

A 45-year-old solicitor from the bush, Kevin Hammond was considered a left-field appointment – even by himself – when he was invited to sit on the bench.

“*There was some suggestion that he’s too young to be a judge, who is this bloke from the country anyhow, nobody knows anything about him. The other five were very much older than me. Very much set in their ways, being people of a different generation.*

His Honour Kevin Hammond

Judge Hammond went on to become Chief Judge for nine years from 1995. His eventual successor, Antoinette Kennedy, made history when she joined the Court in 1985.

Frist Woman Judge

Her Honour Antoinette Kennedy was the first female judge in Western Australia.

“*I was the first woman judge in Western Australia, and it was seven years before another woman was appointed, and then more women were appointed, and it simply changes the atmosphere. I’m not for one minute suggesting that women are better than men, but it provides a balance.*

Her Honour Antoinette Kennedy

First Indigenous Judge

In 2020 more history was made when His Honour David MacLean was appointed to the District Court; Western Australia’s first Indigenous judge. Judge MacLean is an Aboriginal man whose links are in the Pilbara region of Western Australia, and Mulga Downs Station in particular. Judge MacLean was admitted to practice in Western Australia in 1991. His Honour has considerable experience in civil and criminal litigation as well as working for the Aboriginal Legal Service.

The District Court Building

Initially, the District Court was run from the Supreme Court. In 1971 civil trials were temporarily held in the Public Trust building, while criminal trials continued to be heard in the Supreme Court. A design for a purpose-built District Court was prepared in 1975. The resulting building became the Central Law Courts and from April 1982 the District Court was relocated there, allowing both criminal and civil cases to be heard in the one building.

In 1999, due to continued growth in the Court’s caseload, the District Court took possession of four additional criminal courtrooms created in the May Holman Centre adjacent to the Central Law Courts. Following the turn of the century, planning got underway for the new District Court building. But not without a fight.

The District Court was based in Central Law Courts and the May Holman Centre until June 2008 when it relocated to its current, purpose-built courthouse at 500 Hay Street, Perth. The District Court Building has 24 courtrooms that are shared with the Supreme Court.

Technology

The District Court was the first court in the State to implement electronic eFiles in the civil jurisdiction in 2016. On a regular basis, evidence is taken by video link from witnesses in remote locations, including witnesses from overseas. For the twelve months of 2019 courtroom video and audio technology in the District Court building was upgraded to deliver court recording and audio visual systems and services designed to cater for current and future needs of the jurisdictions sitting in the building. The most significant change was the move from analogue to digital equipment. This enables real time monitoring of faults so they can be readily detected through the software programs used. It will also enable the majority of issues to be fixed remotely and remedied quickly. The upgrade of two courtrooms per month required teams within the Higher Courts, Magistrates Courts and various contract providers to work together to ensure the ongoing availability and effective use of resources across various facilities during this time. Their teamwork is acknowledged and their assistance greatly appreciated.

Professional Development and Wellness for Members of the Judiciary

The Court continues to support the professional development and wellbeing of judges. In 2020, judges attended the annual District Court Judges' conference on 4 and 5 September 2020 which focused on advancing efficiency and wellness in light of the COVID-19 pandemic. The conference was held at the Sebel Hotel in Mandurah and was opened by the Attorney General. It encompassed a wide variety of subjects relevant to the efficient resolution of criminal matters and included a judicial wellness program.

Internally, the Court continued to hold regular judicial education seminars.

The Court thanks the Attorney General and the Department of Justice for their continued support of judges' professional development and wellbeing.

DISTRICT COURT COMMITTEES

as at 31 December 2020

Management Council Committee

Chief Judge Sleight (Chair January – May)
Chief Judge Wager (Chair: May – December)
Judge Goetze
Judge Staude
Judge Herron
Judge Gething
Principal Registrar Melville
Laura Sutton – Acting Executive Manager

Civil Administration Committee

Chief Judge Sleight (Chair: January – May)
Chief Judge Wager (Chair: May – December)
Judge Birmingham
Judge Herron
Judge Vernon
Judge Glancy
Principal Registrar Melville
Registrar Kubacz
Laura Sutton – Acting Executive Manager
J Petrovski – Manager Civil
J Howard – Manager of Associates and Ushers
C Jina – Manager Performance

Criminal Administration Committee

Chief Judge Sleight (Chair: January - May)
Chief Judge Wager (Chair: May – December)
Judge Scott
Judge Levy
Judge Petrusa
Judge Troy
Judge Quail
Principal Registrar Melville
Laura Sutton – Acting Executive Manager
J Howard – Manager of Associates and Ushers
S Cooke – Manager Criminal
C Jina – Manager Performance

Library Committee

Chief Judge Sleight (Chair: January - May)
Chief Judge Wager (Chair: May – December)
L Lyon – Manager Library & Information Services (DoJ)
W Lei – Librarian
Laura Sutton – Acting Executive Manager

District Court Building Committee

Judge Stevenson (Chair)
Judge Goetze
Principal Registrar Melville
Laura Sutton – Acting Executive Manager
W Hawley – Manager Customer Support
A Stevenson – Executive Manager Business Services
P Smith – Manager AV Transcription Systems & Services
R Randall – Director, Court Risk and Assessment
M Shaw – Operations Manager Western Liberty Group
B Konrath – Account Manager, BGIS
R Smart – Contract Manager G4S

Technology Committee

Judge Gething (Chair)
Judge Braddock
Principal Registrar Melville
Laura Sutton – Acting Executive Manager
A Stevenson – Executive Manager Business Services
P Smith – Manager AV Transcription Systems & Services
J Howard – Manager of Associates and Ushers
W Hawley – Manager Court Services
D McLean – Executive Manager Technology Planning and Development (DoJ)
J Kettle – Manager Infrastructure Services (DoJ)
M Shaw – Operations Manager Western Liberty Group
B Konrath – Account Manager, BGIS

Judges' Benchbook Committee

Judge Davis (Convener)
Judge Troy
Judge Lonsdale
Judge Lemonis
Cham Madondo, Legal Research Officer

2020 District Court Judges' Conference Committee

Judge Staude (Chair)
Judge Braddock
Judge Quail
Judge Lonsdale
Judge Prior

District Court 50th Anniversary Committee

Chief Judge Wager (Chair)
Judge Birmingham
Judge Troy
Judge Stewart
Judge Glancy
Judge Gillan
Ms Joanne Stampalia Executive Director CTS (DoJ)
Ms Tania Sloan

EXTERNAL COMMITTEES

His Honour Chief Judge Sleight

Member, Heads of Jurisdiction Committee
Member, Chief Justice's Senior Counsel Committee
Chair, Inter-Jurisdictional Education Committee
Chair, Witness Intermediary Project Steering Committee
Member, Judicial Council on Cultural Diversity
Advocate, Cultural Diversity Justice Network

Her Honour Chief Judge Wager

President, Children's Court of Western Australia
Member, Inter-Jurisdictional Education Committee
Member, National Judicial College of Australia Council
President of Totius

His Honour Judge Stavrianou

Member, Judicial Council of Australia Governing Council

His Honour Judge Stevenson

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

His Honour Judge Staude

Member, Law School Advisory board,
University of Notre Dame
Member, National Judicial College of Australia National
Judicial Orientation Program Steering Committee

Her Honour Judge Stewart

District Court Representative, Judicial Systems Replacement Working Group
Member Australian Association of Women Judges

His Honour Judge Levy

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

His Honour Judge Quail

Member, Law School Advisory Board,
University of Notre Dame

Registrar Kingsley

Member, Law Society Courts Committee
Member, Law Society Family Court Delay Working Group
Member, Law Society Self Represented Litigants Sub-Committee

All Registrars

Member, Resolution Institute



**DISTRICT COURT OF
WESTERN AUSTRALIA**

500 Hay Street, Perth WA 6000

Telephone: (08) 9425 2128

Facsimile: (08) 9425 2268

districtcourt.wa.gov.au