

**REPORT OF THE JUDGES OF THE  
SUPREME COURT OF SOUTH AUSTRALIA  
TO THE ATTORNEY-GENERAL  
PURSUANT TO  
SECTION 16 OF THE *SUPREME COURT ACT 1935 (SA)***

**FOR THE YEAR ENDED 31 DECEMBER 2010**

The Judges of the Supreme Court have assembled, as directed by s 16 of the *Supreme Court Act 1935 (SA)*, and considered the matters referred to in that section. In consequence, they furnish this Report for the year ending 31 December 2010.

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## Constitution of the Court

On 31 December 2010 the Court was constituted of the following Judges, Masters and Principal Administrative Officers:

### Judicial Officers

Chief Justice: The Honourable John Jeremy Doyle AC

Justices: The Honourable Kevin Patrick Duggan AM RFD  
The Honourable Margaret Jean Nyland AM  
The Honourable David John Bleby  
The Honourable Thomas Andrew Gray  
The Honourable John Robert Sulan  
The Honourable Ann Marie Vanstone  
The Honourable Timothy Russell Anderson  
The Honourable Richard Conway White  
The Honourable Michael David  
The Honourable Patricia Kelly  
The Honourable Christopher John Kourakis  
The Honourable David Harvey Peek

Masters: His Honour Judge Robert Martin Lunn  
His Honour Judge Brian Withers

### Principal Administrative Officers

Registrar of the Supreme Court, Registrar of Probates and Registrar in Admiralty:  
Mr Steve Roder LLB (Hons)

Deputy Registrar of Probates:  
Mr Antony Reid Smith LLB

Senior Deputy Registrar, Supreme Court:  
Mr Errol Surman

Deputy Registrar, Combined Criminal Registry:  
Mr Paul Ryan

Manager, Probate Services:  
Mr Kent Wilson AETI, PNA

Manager, CAA Library Service:  
Ms Susan Carter BA

The Supreme Court, as a participating Court of the Courts Administration Authority ("CAA"), has contributed to the CAA's *Annual Report* for 2009-2010.

The information contained in that report is not repeated here.

## **General**

### **Staffing**

As a result of the reduction imposed by the Government in the CAA's annual appropriation for the financial years 2009/2010 and 2010/2011 the Court has reduced the number of judicial support staff by eight and registry staff by two.

The relocation of the civil registry to the Sir Samuel Way Building (co-located with the civil registry of the District Court and the registry of the Environment Resources and Development Court) has gone some way to reducing the impact of the staff reductions on services to the public, but the Court's resources remain severely stretched. The Registry opening hours have had to be reduced. The reduction in Judges' support staff has affected the efficient administration of justice.

### **Supreme Court Buildings**

The accommodation of the Court continues to be inadequate. Nothing has changed in that respect since the 2008 report. As the Judges said in that Report – and repeated in 2009:

“The Supreme Court buildings continue to provide facilities of an unsatisfactory standard in which staff, the legal profession and the judges must work.

This impacts on the Court's ability to provide a safe, healthy and efficient work environment for its staff, for users of the Court, and for the judges. The layout of the buildings makes it difficult to use staff in an efficient manner.

Staff are accommodated in cramped conditions. Public amenities are well below contemporary standards in every respect. Courtroom No 1 and Courtroom No 2 have no suitable waiting areas. The nearest public toilets can be reached only by leaving the building and walking about 100 metres to public toilets at the back of the building, access being by yet another building. There is a lack of appropriate spaces for witnesses and others waiting at court. Hot water is not available to all of the toilets. Buildings do not meet disability access standards. There is disability access to only four of the 12 courtrooms. Only one of those four provides disability access to the witness box. ... The air conditioning in some courtrooms is inadequate.”

During 2010 the only lift access to the first floor of the Supreme Court building was out of order for six months.

Even minimal maintenance of the buildings is very expensive. Upgrading to contemporary standards is not practical.

There is no other State Supreme Court with such inadequate accommodation. The Judges again ask the Government to agree to the expenditure required to provide, for the State and its people, premises of an adequate standard for the Court.

### **Technology**

Potential efficiencies for parties to civil proceedings and for the Court cannot be realised because of the lack of technology infrastructure. The Court still does not have appropriate facilities of its own to support electronic trials (e-trials). The Court is not in a position to consider provision of electronic filing (e-filing) of documents.

### **Audio-visual links in criminal proceedings**

From February 2011 the Court will hear certain criminal applications (not trials) involving persons in custody by audio-visual link, using a mobile video unit situated in Court No 4. One effect will be to ease pressure on the criminal courtrooms in the Sir Samuel Way Building. Improved efficiency for Sheriff's officers and the Department of Correctional Services are likely because of the reduction in prisoner movements.

## **Committees**

### **Indigenous Justice – SA Committee**

This committee is supported by the National Judicial College of Australia. It is chaired by Justice Sulan. Although the Honourable R Layton QC resigned as a Justice of the Court during 2010, she has remained as a member of the Committee.

Justice Sulan continues to be the South Australian representative on the National Judicial College of Australia's National Indigenous Justice Committee. This Committee meets by teleconference as and when required.

The South Australian Government has supported the work of the Committee. The Minister of Aboriginal Affairs, Ms Grace Portolesi, has expressed an interest in the workings of the Committee and supports initiatives of the Committee and its activities.

***Iga Warta Judicial Cultural Awareness Field Trip – 31 May – 2 June 2010***

This successful event was attended by 19 judicial officers and two CAA staff. The total cost of the trip was funded by the National Judicial College of Australia through its Indigenous Justice Committee.

The objective of the trip was to provide an opportunity for judicial officers to better understand Adnyamathanha social history, language, spirituality, contemporary life and future aspirations, through the direct experience of learning on Adnyamathanha country in the northern Flinders Ranges. This was achieved by events, including visits to traditional cave painting, ochre pit, mission settlement and Nepabunna, and presentations about Adnyamathanha kinship, language, flora, fauna and social history. Participants also learnt about Iga Warta's key role in the retrieval and revival of the language, including the development of an Adnymathanha dictionary.

***SA Judicial Development Workshop – “Approaches to Sentencing of Aboriginal Offenders”***

A successful one-day workshop was held on 29 July. The aim was to improve understanding of the practice and benefits of Aboriginal Sentencing Courts, with a particular focus on Aboriginal Sentencing Conferences under s9C of the Criminal Law (Sentencing) Act.

***Future Events***

The Committee is at present formulating a program for a field trip in 2011. It is anticipated that a current schools educational program “Uluru Desert Tracks” (held on the Anangu Pitjantjatjara Homelands about 100 kilometres south of Uluru NT) will be tailored for judicial cultural awareness. A funding proposal will be submitted to the NJCA to cover the cost of the trip.

***Australasian Institute of Judicial Administration (AIJA) Indigenous Justice Committee***

Justice Sulan continues to be the South Australian representative on this Committee, chaired by a Judge of the District Court of Western Australia. The Committee meets by teleconference.

***Joint Rules Advisory Committee***

Justice White chairs the Joint Rules Advisory Committee (“JRAC”). Justice Kelly, Judge Lunn and the Registrar were also members during the year. The other members are two Judges, two Masters the Registrar of the District Court, a Magistrate, the President of the Law Society and three legal practitioners.

The role of JRAC is to prepare, review and revise Rules of Court made pursuant to the *Supreme Court Act 1935* and the *District Court Act 1991*. The Rules regulate the

procedures and practice in the Supreme and District Courts. JRAC also prepares and reviews the Practice Directions of both the Supreme and District Courts. It is JRAC's responsibility to ensure that the Rules of Court and Practice Directions are adequate to deal with the requirements of contemporary litigation, and to assist in the efficient running of the Courts.

In order to ensure that the legal profession is informed of amendments made to the Rules and Practice Directions, and to ensure that amendments reflect practical needs, JRAC liaises directly with the profession through its practitioner members and by consulting with professional organisations such as the Law Society and the Bar Association. JRAC meets monthly.

During the year, JRAC recommended changes to the Supreme Court's Civil Rules, Corporations Rules and Criminal Rules and to the District Court's Civil Rules and Criminal and Miscellaneous Rules. These amendments were made by the Judges of the respective Courts. JRAC also recommended the introduction of Rules for the better implementation of the *Witness Protection Act 1996*.

A number of amendments were necessary because of legislative changes, for example, the *Crimes Legislation Amendment (Serious and Organised Crime) Act (No 2) 2010* (Cth), the *Statutes Amendment (Victims of Crime) Act 2009* (SA) and the *Serious and Organised Crime (Unexplained Wealth) Act 2009* (SA). In addition, amendments were necessary to take account of Australia's accession to the Convention on the Service Abroad of Judicial and Extra-Judicial Documents in Civil and Commercial Matters done at the Hague on 15 November 1965.

In addition, JRAC recommended various changes to the Supreme and District Court Practice Directions, including a major revision of the Practice Directions concerning appeals in the Supreme Court.

JRAC monitors the civil e-filing pilot program. This program has not been a success. No e-filings occurred in 2010. Quite substantial use of e-filing has occurred in interstate courts and in the Adelaide registries of the Commonwealth courts. JRAC continues an investigation of the means by which e-filing may be introduced into the Courts and during the year established a sub-committee to examine the issue more closely.

Justice Kelly is a member of the national committees, chaired by The Honourable Kevin Lindgren, formerly Justice Lindgren of the Federal Court, which are harmonising rules of civil procedure on topics considered suitable for harmonisation. During the year, amendments to

the Supreme and District Court Civil Rules were made in accordance with proposals by the national committees.

### **Community Relations Committee**

The Community Relations Committee is a standing committee of the Council of the CAA. Justice Kelly is a member of the committee. The committee manages a Community Involvement Plan (CIP), which is incorporated into the CAA Strategic Plan.

The Committee sponsors a Community Reference Group (CRG), comprising representatives from 14 community-based organisations and associations. The group meets twice a year and provides comment on CAA community-oriented activities.

In addition, the CAA has a Courts Education Manager, a seconded teacher, whose position is largely funded by the Department of Education and Children's Services. Principally, the Education Manager runs educational activities for students as well as professional development activities for civics education teachers and students in the metropolitan area and in regional South Australia. By negotiation, individual Supreme Court judges participate in some of these educational activities.

The CRG initiated the proposal for a Justice Thinker in Residence for 2010. The CAA supported the residency as a partner and by seconding staff to assist the Justice Thinker, and coordinating meetings between the Justice Thinker and the CRG.

The CAA held its annual Courts Open Day in May, which was attended by around 1500 visitors who provided overwhelmingly positive written feedback. Activities included a public mock sentencing demonstration, presented by District Court judges, mock trials and mock guilty pleas before a Magistrate.

The CRC held an MPs and Electorate Staff information session in July, 2010, which was attended by two MPs and 32 electorate staff. The Chief Justice welcomed participants.

The Chief Justice and Justices Bleby and Kourakis are rostered to answer questions from "Ask the Judge", an educative facility on the CAA website. Viewers comb pages of answers before posing a question if an answer is not evident. In the calendar year under review, 41 questions (including several multiple questions within a question) were answered through "Ask the Judge", including several by Supreme Court judges.

The CAA continues to host visits and tours through the courts and at venues off-site. From 1 January 2010 to 31 December 2010, CAA staff hosted 31 community and professional groups involving 935 visitors.

The CAA continued its Judicial Guest Speaker program. Justices Bleby, Gray, Sulan, Anderson and White and several District Court judges and Magistrates are on the roster. From 1 January 2010 to 31 December 2010, judicial officers (including Supreme Court judges) gave talks to three community groups and three high school groups comprising 270 individuals. In addition, judicial officers spoke to 24 professional groups, such as the Law Society of SA, SAPOL, Families SA, and Special Justices of the Peace, with audiences totalling approximately 1220 individuals.

In addition, between 1 January to 31 December 2010, the Department of Education and Children's Services Education Manager, Law Courts, had direct contact with around 9 540 school children and ran professional development and familiarisation programs for more than 220 teachers.

The Courts Education Manager program included twilight professional learning activities, a student leadership forum, student and community activities at Court Open Day and the use of video links to enable schools in Adelaide, the USA and Taiwan to compete in mock trials presided over by a Justice Sulan.

#### **Civil Change and Reform Group**

In 2009 the Chief Justice established a group to consider changes to civil procedure and practice that might be able to be implemented without legislative amendment.

The Group is chaired by Justice White and includes a District Court Judge, the Registrar of the Supreme Court and three practitioners.

The Group met on nine occasions in 2010.

#### **Criminal Law Change and Reform Group**

In 2009 the Chief Justice established a group to consider changes in the exercise of the Court's criminal jurisdiction that might be possible to implement without legislation. The Group is chaired by Justice Sulan and includes a District Court Judge, the District Court Registrar and two practitioners.

#### **Other Committees and Programs**

The Judges of the Court participate in the work of various organisations, committees and programs, which support the work of the Court and the work of the judiciary, and which in a general way promote the administration of justice. Some of these activities are intended to improve the operations of the Court and its administration. Others are concerned with professional development for the judiciary of the courts of the State. As well, Judges are

involved in the legal profession's program of education and professional development. Judges are also actively involved in the CAA's Community Relations Program. Through this program judges help the public better understand the administration of justice in the State.

It is not practical to record all of these contributions to the administration of justice and to the work of the judiciary. However, a summary of this aspect of the work of the judges follows.

The Australasian Institute of Judicial Administration (AIJA) conducts professional skills courses and seminars for judicial officers and others involved in the administration of justice. Justices Bleby, Sulan and Layton (until her resignation) were members of committees of the AIJA.

The Judicial Conference of Australia (JCA) draws its membership from judges and magistrates from all of the Australian courts. Its activities include informing the community about the role of the judiciary, and promoting improvements in the administration of justice. Justice White is a member of the Council of the JCA. Judge Withers is the Treasurer.

The Criminal Legislation Committee, at the request of the Chief Justice from time to time prepares comments on drafting and practical aspects of proposed criminal legislation. Justices Duggan and Sulan are members of that committee.

The National Judicial College of Australia (NJCA) is funded by the Commonwealth and most State and Territory Governments. It provides professional development programs to judicial officers throughout Australia. The Chief Justice and Justice Sulan are members of committees of the NJCA.

The Judicial Development Committee was established by the Chief Justice to provide professional development programs for the judges and magistrates of the Courts of the State. The Committee was chaired by Judge Trenorden of the District Court until July 2010. It is now chaired by Judge Chivell of the District Court. It presents a number of professional development programs for judges and magistrates during the course of the year.

The Law Admissions Consultative Committee (LACC) comprises representatives of the authorities in each State and Territory that are responsible for the admission to practice of legal practitioners. LACC works closely with the Legal Practitioners Education and Admission Council, the work of which is dealt with later in this Report. Justice Bleby is a member of LACC.

A number of the judges of the Court support the professional development programs of the Law Society of South Australia by serving on committees that present those programs, and by their involvement in the presentation of particular professional development programs. Judges of the Court chair the Professional Development Advisory Group and the Advocacy Committee, and other judges are regularly involved in the work of these two bodies.

Justice Gray chairs the Advocacy Committee. Other Judges are regularly involved in the work of that committee and of the Professional Development Advisory Group.

From time to time judges of the Court are asked to provide lectures or presentations to students studying law at one of the State's three universities offering a degree in law, and to students undertaking the Graduate Diploma of Legal Practice. Justice Gray chairs the Advisory Board of the Law School at the University of Adelaide. Judges of the Court regularly preside over moots argued by law students.

The Law Foundation makes grants to promote legal research, education and community projects related to the law. Justice Nyland is the chair of the Foundation.

In addition to the above, judges of the Court from time to time undertake speaking engagements to a wide range of community groups, using these engagements as an opportunity to inform members of the public about the administration of justice in the State.

### **Changes in the Law**

As in previous years, the Chief Justice commented on a number of Bills and legislative proposals at the invitation of the Attorney-General. A committee of judges considered some of these. In accordance with practice, comment was restricted to the practical application of the proposals, as distinct from policy issues.

### **Key Performance Indicators**

Key Performance Indicators (KPIs) are used to indicate trends in the Court's work. Other statistical reports record lodgements, disposals and time taken at various stages. The KPIs indicate whether the Court is coping and is expected to cope with its workload. KPI reports are prepared for the civil, probate and criminal jurisdictions. Each of these is referred to below with an explanation of how they are derived and the result for the year ending 31 December 2010.

### **Criminal Jurisdiction Lodgements**

Two timeliness standards are applied. The first of these is that “no more than 10% of lodgements pending completion are to be more than 12 months old”. The second is that “no lodgments pending completion are to be more than 24 months old”.

The lodgement figures reported for the criminal jurisdiction include matters committed for trial, matters committed for sentence, breach of bond matters, matters transferred from a summary court, ex-officio Informations and various minor applications.

Various factors (not all of them under the Court’s control) influence the Court’s ability to meet the standards. Tables 2, 3, 5 and 6 indicate that the Supreme Court is disposing of its work at slightly less than the rate of previous years. At this stage the change is not enough to cause concern.

**Table 1 – Combined (Supreme Court and District Court) Criminal Lodgements**

	<b>2008</b>	<b>2009</b>	<b>2010</b>
Number of lodgements pending as at year’s end	<b>1374</b>	<b>1724</b>	<b>1626</b>
Number of lodgements more than 12 months old (but less than 24 months old)	<b>204</b> <b>(15%)</b>	<b>295</b> <b>(17%)</b>	<b>335</b> <b>(21.2%)</b>
Lodgements more than 24 months old	<b>70</b> <b>(5%)</b>	<b>85</b> <b>(5%)</b>	<b>109</b> <b>6.9%)</b>

**Table 2 – Supreme Court Criminal Lodgements – Non-Appeal**

	<b>2008</b>	<b>2009</b>	<b>2010</b>
Number of lodgements pending as at year’s end	<b>43</b>	<b>57</b>	<b>60</b>
Number of lodgements more than 12 months old (but less than 24 months old)	<b>1</b> <b>(2%)</b>	<b>4</b> <b>(7%)</b>	<b>11</b> <b>(18.3%)</b>
Lodgements more than 24 months old	<b>3</b> <b>(7%)</b>	<b>1</b> <b>(2%)</b>	<b>1</b> <b>(1.7%)</b>

**Table 3 – Court of Criminal Appeal Lodgements**

	<b>2008</b>	<b>2009</b>	<b>2010</b>
Number of lodgements pending as at year's end	<b>45</b>	<b>37</b>	<b>40</b>
Number of lodgements more than 12 months old (but less than 24 months old)	<b>1</b> <b>(2.2%)</b>	<b>1</b> <b>(2.7%)</b>	<b>1</b> <b>(2.5%)</b>
Lodgements more than 24 months old	<b>0</b> <b>(0%)</b>	<b>1</b> <b>(2.7%)</b>	<b>0</b> <b>(0%)</b>

**Criminal Jurisdiction Clearance Ratio**

The clearance ratio is the ratio of finalisations to lodgements over a reporting period. The standard is 100%, which indicates that the Court is disposing of matters at the same rate as lodgements occur. A figure above 100% indicates that more cases are disposed of than are received. 2010 shows a clearance rate of greater than 100%, which has contributed to a reduced number of pending matters (refer Table 1)

**Table 4 – Combined (Supreme Court and District Court) Criminal Clearance Ratio (non-appeal)**

	<b>2008</b>	<b>2009</b>	<b>2010</b>
Number of lodgements	<b>2360</b>	<b>2749</b>	<b>2655</b>
Number of finalisations	<b>2305</b>	<b>2402</b>	<b>2998</b>
Clearance ratio (%)	<b>98%</b>	<b>88%</b>	<b>113%</b>

**Table 5 – Supreme Court Criminal Clearance Ratio – Non-Appeal**

	<b>2008</b>	<b>2009</b>	<b>2010</b>
Number of lodgements	<b>258</b>	<b>272</b>	<b>212</b>
Number of finalisations	<b>268</b>	<b>260</b>	<b>216</b>
Clearance ratio (%)	<b>104%</b>	<b>96%</b>	<b>102%</b>

**Table 6 – Court of Criminal Appeal Clearance Ratio**

	<b>2008</b>	<b>2009</b>	<b>2010</b>
Number of lodgements	<b>129</b>	<b>111</b>	<b>135</b>
Number of finalisations	<b>117</b>	<b>119</b>	<b>132</b>
Clearance ratio (%)	<b>91%</b>	<b>107%</b>	<b>98%</b>

### Civil Jurisdiction Lodgements

The Court's civil workload is measured using the same two standards applied to the criminal workload.

The figures reported for the civil jurisdiction non-appeal backlog (Table 7) exclude Probate and Admission applications. Most of the matters pending are at the pre-trial stage before the Masters.

**Table 7 – Supreme Court Civil Lodgements – Non-Appeal**

	<b>2008</b>	<b>2009</b>	<b>2010</b>
Number of lodgements pending as at year's end	<b>801</b>	<b>717</b>	<b>825</b>
Number of lodgements more than 12 months old (but less than 24 months old)	<b>105</b> <b>(13%)</b>	<b>101</b> <b>(14%)</b>	<b>136</b> <b>(16%)</b>
Lodgements more than 24 months old	<b>133</b> <b>(17%)</b>	<b>95</b> <b>(13%)</b>	<b>133</b> <b>(16%)</b>

In Table 8 the figures for the appeals backlog include Full Court appeals, all Magistrates Court appeals and other miscellaneous appeals.

**Table 8 – Supreme Court Civil Lodgements - Appeals (Includes Magistrates' Civil and Criminal Appeals)**

	<b>2008</b>	<b>2009</b>	<b>2010</b>
Number of lodgements pending as at year's end	<b>86*</b>	<b>57</b>	<b>54</b>
Number of lodgements more than 12 months old (but less than 24 months old)	<b>9</b> <b>(10%)</b>	<b>6</b> <b>(10%)</b>	<b>5</b> <b>(9%)</b>
Lodgements more than 24 months old	<b>2</b> <b>(2%)</b>	<b>2</b> <b>(3%)</b>	<b>2</b> <b>(4%)</b>

\* includes appeals not set down by the parties

Table 9 shows that lodgements decreased in 2010 by 11%, after an increase in the previous year of 7% however, there has been a decrease in the clearance ratio.

**Table 9 – Supreme Court Civil Clearance Ratio – Non-Appeal**

	<b>2008</b>	<b>2009</b>	<b>2010</b>
Number of lodgements	<b>1302</b>	<b>1393</b>	<b>1232</b>
Number of finalisations	<b>1061</b>	<b>1428</b>	<b>1135</b>
Clearance ratio (%)	<b>81.5%</b>	<b>102.5%</b>	<b>92.1%</b>

## General Statistics

This section of the *Report* sets out a number of tables containing statistics relating to the work of the Court.

It is important to note that there are other aspects of the Court's work, and of the work of the three Registries (Civil, Probate and Combined Criminal), that are not reflected in these tables.

## Full Court and Court of Criminal Appeal

Three judges usually constitute the Full Court (for civil appeals) and the Court of Criminal Appeal (CCA). Data relating to appeals and applications for permission to appeal is displayed in Tables 10 and 11 below.

**Table 10 – Permission to Appeal Applications to the Court of Criminal Appeal**

	<b>2008</b>	<b>2009</b>	<b>2010</b>
Applications for permission to appeal (dealt with by single Judge)	<b>112</b>	<b>109</b>	<b>111</b>

**Table 11 – Appeals and Applications to the Full Court and Court of Criminal Appeal**

	<b>2008</b>	<b>2009</b>	<b>2010</b>
<b>Full Court (appeals and applications)</b>	78	58	66
<b>Court of Criminal Appeal (appeals and applications)</b>	129	111	136
<b>Total</b>	207	169	202

Table 12 includes applications for permission to appeal that were considered by the Full Court or the CCA. It also includes appeals that have been instituted but have not been set

down by the parties at the end of the reporting period. Table 13 records appeals that were heard by the Full Court and CCA. The difference between these tables reflects cases in which leave to appeal was refused, leave applications or appeals were abandoned, appeals were not set down by the parties, or remained unheard at the end of the year.

**Table 12 – Disposals by Hearing**

	<b>2007</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>
<b>Full Court</b>	58	45	53	41
<b>Court of Criminal Appeal</b>	93	78	96	97
<b>Total</b>	151	123	149	138

**Table 13 – Full Court – Average Hearing Lengths**

	<b>2007</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>
<b>Full Court – average actual length (hours)</b>	3.13	3.73	3.98	3.07

Table 14 shows that the time taken from setting down to hearing has increased, even though the Court is usually able to offer an earlier listing if required.

In relation to criminal appeals, there has been an increase in the time between leave being granted and the appeal hearing. The time taken to deliver judgment in this jurisdiction has also significantly decreased.

**Table 14 – Full Court and Court of Criminal Appeal Time Intervals**

<b>Full Court</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>
<i>Average time taken (days)</i>			
Institution to setting down (not under the Court's control)	109	91	120
Setting down to hearing	29	54	48
Hearing to judgment delivery	90	62	62
<b>Court of Criminal Appeal</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>
<i>Average time taken (days)</i>			
Application to leave being granted	41	57	43
Leave granted to hearing	36	39	38
Hearing to judgment delivery	52	42	57

## Single Judge Appeals

Each month, one judge is allocated to work in this jurisdiction, with some assistance in most months from another judge or judges. The criminal appeals are from decisions of Magistrates in the criminal jurisdiction of the Magistrates Court. The civil appeals are from Masters of this Court, from interlocutory (preliminary) orders in the District Court, from decisions of Magistrates in the civil jurisdiction, and from various Tribunals and Boards. Table 15 below shows the number of appeals that were disposed of by way of judgment.

**Table 15 – Disposals by Judgment – Single Judge Appeals**

	2008	2009	2010
<b>Criminal appeals</b>	149	117	147
<b>Civil appeals</b>	43	63	37
<b>Total disposed</b>	192	180	184

## The Civil Jurisdiction

### Lodgements

Table 16 shows civil lodgements other than appeals and admission applications.

**Table 16 – Civil Jurisdiction – Matters Instituted**

	2005	2006	2007	2008	2009	2010
<b>Summonses</b>	1158	1167	1197	1302	1133	1062
<b>Companies application – companies liquidation</b>	154	149	215	180	186	137
<b>Other company matters</b>	81	104	61	49	75	33
<b>Total</b>	1393	1420	1473	1531	1393	1232

Table 16 indicates that the overall workload in the civil jurisdiction has not varied greatly over the last six years. However, although the Court does not have reliable statistics, it appears that the number of unrepresented litigants in civil cases and magistrates appeals may be increasing. The impact of this is to increase the workload of our Registry staff (because of the time spent giving assistance to unrepresented litigants) and there is also a tendency for the length of hearings to be increased. This is a matter which the Court will have to watch in the future.

## **Land and Valuation Court**

The Land and Valuation Division (LVD) is a specialist division of the Court under Part 3A of the *Supreme Court Act 1935*. Justices Bleby and Kourakis constituted the division during the 2010 calendar year.

The Division hears a variety of actions relating to land issues. The specialist nature of this Division enables speedy determination of actions. All cases are judge-managed to completion. Hearings include judicial review of planning decisions, compensation for compulsory acquisition of land and planning appeals from the Environment, Resources and Development Court together with contested interlocutory applications. They do not include matters heard by the Full Court.

During the 2010 year 60 actions were disposed of, leaving 30 active matters unresolved. A third of the actions commenced this year involved Government agencies such as the Commissioner of Highways and the Valuer-General, a further third involved various Councils and the final third involved disputes between individuals or corporations. There is an overlap in the first two categories, as one matter involved a Government agency and a Council.

Five contested hearings and six contested interlocutory applications in the Division were heard throughout the year. The matters which were the subject of contested hearings included planning appeals, judicial review matters, a dispute with respect to a valuation in a partition and sale and an appeal against a decision of the ERD Court not to record a conviction with respect to a regulatory offence. Contested hearings varied in length from as little as a couple of hours to two days, with the average time spent in argument approximately 6 hours. The average length of time spent in hearing contested interlocutory applications was a little over 2 hours.

As at 31 December 2010, there are 4 outstanding judgments in the Division.

The following is an analysis of the Division's active matters from 2008 to 2010 as at year end.

**Table 17 - Land and Valuation Division**

Type of Action	Percentage		
	2008	2009	2010
Encroachment	23%	11%	14%
Planning Appeals	14%	21%	13%
Judicial Review	18%	15%	12%
Partition and Sale	14%	5%	6%
Compulsory Acquisition	18%	42%	46%
Valuation Appeal	14%	5%	3%
Other	-	2%	6%
<b>Total</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>

The number of actions commenced in this Division in the 2010 year was 23. However, it should be noted that a significant number of matters finalised in the 2010 year were compulsory acquisition matters (almost half), all of which formally commenced at the time of acquisition in previous years, some dating back to 2002. Because these matters do not come to the attention of the Division until an application for payment out is made, the accurate number of matters commenced each year is not known. For example, in the 2009 report, a total of 50 actions were found to be commenced in the 2009 year. However, further applications made have increased that number to 62. The difference in 2008 is substantial, which saw a rise from 33 to 74. The average number per annum for the last six years is 39.

**Table 18 - LVD actions commenced**

	2006	2007	2008	2009	2010
Summons Issued	17	26	33	50	23

The Land and Valuation Rules, although amended from time to time, have not been comprehensively reviewed since they were first enacted in 1970. This is despite comprehensive reviews of the Supreme Court Rules in 1986 and 2006. The present rules are outdated and contain inconsistencies and obsolete references, contributing to a degree of confusion in the profession. They are in urgent need of revision. However, the necessary

comprehensive review is beyond the resources of fully occupied sitting judges and requires external assistance. An appropriate budget allocation is essential.

## Civil Trials

Table 19 contains data relating to civil trials (other than long and complex cases).

**Table 19 – Civil Trials**

<b>CIVIL TRIALS</b>	<b>2005</b>	<b>2006</b>	<b>2007</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>
<b>Orders to proceed to trial</b>	44	36	36	34	43	33
<b>Cases fixed for trial</b>	43	39	37	31	40	30
<b>Disposals after fixing of trial date</b>	31	24	31	31	33	37
<b>Cases disposed of by trial*</b>	24	17	16	15	11	26
<b>Cases awaiting trial at end of year</b>	21	17	15	15	23	16

\*This figure is included in "Disposals after fixing of trial date".

During 2010 the Court was listing trials up to nine months after the Listing Conference. The Court continues to be able to offer earlier trial dates, but parties continue to ask for later dates.

Table 20 shows that the average trial length (for cases tried to judgment) has not varied from last year.

**Table 20 – Civil Trial Details**

	<b>2005</b>	<b>2006</b>	<b>2007</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>
<b>Average trial length (days)</b>	4.38	2.7	2.9	4	4.8	4.8
<b>Number of trials exceeding five days in length</b>	4	5	4	3	3	8

## **Specially Assigned Civil Cases (previously referred to as Long and Complex Civil Cases)**

A panel of judges (Justices Bleby, Anderson and White) managed the list of specially assigned cases with the assistance of the Masters. Specially assigned cases are cases expected to take more than 15 hearing days or involving complex issues of law and/or fact.

The management of these cases requires the judges to conduct pre-trial proceedings and, where appropriate, examine the possibility of alternative dispute resolution. The judges endeavour to define and reduce the issues with a view to reducing the length of the trial. On occasions parties appeal against decisions made by a judge in these pre-trial proceedings, causing delay in the listing of the action for trial.

Most of the management conferences were of short duration. However, some pre-trial applications took a considerable hearing time and required reasons for judgment. The management of these cases is a task over and above the ordinary workload of the panel judges.

At the beginning of the year 19 matters remained in the list. An additional 12 were referred to the panel. A total of 6 matters had a trial date fixed or tentatively fixed for hearing in 2010 with one matter continuing into 2011. Nine matters had a trial fixed for 2011. One new trial commenced during the year, two continued from 2009. Only two were finalized by judgment while one that commenced in 2009 (with a weeks hearing), was then heard in 2010 and will continue into 2011. That case occupied 61 hearing days in 2010 and is expected to take another 6 months to complete.

Nine actions resolved by consent orders or by being discontinued and one matter was remitted to the District Court for hearing. Once again the number of new matters therefore equalled matters disposed of. Of the 31 current matters 5 were referred to mediation, about half the number from 2009 and only 2 of those matters resulted in a settlement. The court had been advised towards the end of the year that 3 matters (of the 19 outstanding) were likely to be discontinued early in 2011.

**Table 21 - Long and Complex Cases**

	2006	2007	2008	2009	2010
<b>No. of cases in the Long and Complex list at years end</b>	16	15	19	19	19
<b>No. of Cases with estimates of six weeks or greater</b>	3	4	9	9	13
<b>Range of Estimated length (in weeks)</b>	3-52	3-52	1-12	1-52	1-52
<b>Total No. of trial days sat on Long and Complex matters</b>	101	46	47	58	72

## **Masters' Jurisdiction**

The primary responsibility for the case flow management system rests with the Masters of the Court. They oversee all cases in the general civil list and ensure that solicitors appearing for parties, as far as possible, meet the prescribed time standards.

There has been a decrease in the volume of applications and hearings conducted by the two Masters from last year's spike. This could be attributable in part to improved economic conditions since the global financial crisis.

**Table 22 – Applications Dealt with by Masters**

	2005	2006	2007	2008	2009	2010
<b>Hearings in court</b>	509	592	654	689	757	708
<b>Hearings in chambers (eg: possession and interlocutory applications)</b>	1940	2089	2206	2055	2548	2153
<b>Hearings in chambers (urgent applications)</b>	116	116	107	90	113	106
<b>Total</b>	2565	2797	2967	2834	3418	2957

### Case Flow Management

The status hearing (the first hearing) is used to get the parties ready for a settlement conference as soon as possible. If the parties are unable to resolve the matter at the settlement conference the matter is adjourned to a final directions hearing, which is used to get the matter ready for trial.

**Table 23 – Number of Conferences**

	2005	2006	2007	2008	2009	2010
<b>Status hearing (SH)</b>						
- No. of SHs held	355	500	372	404	436	564
- No. at first hearing*	138	168	147	167	188	177
<b>Settlement Conferences (SC)</b>						
- No. of SCs held	184	160	138	194	246	159
- No. at first hearing*	98	95	80	102	127	102
<b>Directions Hearing (DH)</b>						
- No. of DHs held	512	392	517	494	515	600
- No. at first hearing*	93	70	92	87	131	113

\* A 'first hearing' records the number of cases involving a first hearing of the relevant conference type (i.e. each case is counted only once for this figure).

## The Criminal Registry

### Lodgements

Table 24 below shows another significant increase in lodgements in the combined criminal jurisdiction in 2010. Table 24a shows a decrease in lodgements for the Supreme Court, down by 27% from 2009.

**Table 24 – Combined Criminal – Lodgements**

	2005	2006	2007	2008	2009	2010
<b>Lodgements</b>	1964	1921	1974	2360	2513	2655

**Table 24a – Supreme Court Criminal – Lodgements**

	2008	2009	2010
<b>Lodgements</b>	263	274	212

Table 25 shows a significant increase in the number of matters that have been disposed of after being listed for trial. For these purposes, disposals include matters with a trial date set and then a guilty plea entered before or on the day of trial; a nolle prosequi entered before or on the day of trial; trials with verdicts, including mental impairment trials; and disputed facts hearings that were listed and disposed of.

At the end of 2010 451 trials were listed but not yet heard. This is a significant decrease compared with the number of trials listed and awaiting hearing at the end of December 2009. It reflects the increase in the clearance ratio (see Table 4).

**Table 25 – Combined Criminal – Trial List Disposals**

	2005	2006	2007	2008	2009	2010
<b>Disposals after entry into trial list (includes non-verdict disposals)</b>	388	516	533	540	523	680 <sup>+</sup>
<b>Average length of trial (in days) – commencement of trial to verdict</b>	6.6	6.5	5.7	6.3	6.5	6.7 <sup>+</sup>
<b>Listed trials outstanding (at end of year)</b>	299	466	430	519	581	451 <sup>+</sup>

+ In 2010 the Supreme Court circuit trials were included

**Table 25a – Supreme Court Criminal – Trial List Disposals**

	2008	2009	2010
<b>Disposals after entry into trial list (includes non-verdict disposals)</b>	44	37	38 <sup>+</sup>
<b>Average length of trial (in days) – commencement of trial to verdict</b>	8.4	6.5	11 <sup>+</sup>
<b>Listed trials outstanding (at end of year)</b>	n/a	n/a	7 <sup>+</sup>

+ In 2010 the Supreme Court circuit trials were included

Table 26 shows a slight increase in the number of trials that proceeded to verdict in 2010, when compared with 2009. Of those trials that proceeded to verdict, there has been an increase in the number of 3-4 day trials and a reduction in the number of 5-10 day trials. A number of trials greater than 10 days in length has slightly increased the average trial length,

as shown in Table 25. Circuit trials have been included in the Supreme Court figures which has contributed to the increase in Trials to Verdict, as shown in table 26a.

**Table 26 – Combined Criminal – Length of Trials Proceeding to Verdict**

	2005	2006	2007	2008	2009	2010
<b>Trials to verdict</b>	154	176	166	159	174	181 <sup>+</sup>
<b>1-2 days</b>	7%	8%	5%	8%	9%	4% <sup>+</sup>
<b>3-4 days</b>	34%	32%	39%	38%	36%	48% <sup>+</sup>
<b>5-10 days</b>	45%	48%	45%	41%	44%	39% <sup>+</sup>
<b>Over 10 days</b>	14%	11%	11%	13%	8%	9% <sup>+</sup>

+ In 2010 the Supreme Court circuit trials were included

**Table 6a – Supreme Court Criminal – Length of Trials Proceeding to Verdict**

	2008	2009	2010
<b>Trials to verdict</b>	16	20	30 <sup>+</sup>
<b>1-2 days</b>	25%	5%	16% <sup>+</sup>
<b>3-4 days</b>	19%	15%	27% <sup>+</sup>
<b>5-10 days</b>	37%	45%	27% <sup>+</sup>
<b>Over 10 days</b>	19%	35%	30% <sup>+</sup>

+ In 2010 the Supreme Court circuit trials were included

## **Legal Practitioner’s Education Admission Council (LPEAC)**

LPEAC met on seven occasions in 2010. The Chief Justice chairs LPEAC. Justices Bleby and Kelly were members. Judge Withers attends meetings as an observer. The Registrar provides executive support.

During the year LPEAC noted and approved of changes to the structure of the degree in law offered at Flinders University.

LPEAC also completed its review of the degree offered by the University of South Australia (“USA”) and resolved that that degree met the prescribed requirements. LPEAC was informed that the USA Law School is taking on all of the USA Business Law subjects. LPEAC will continue to monitor whether that has an adverse effect on the Law School.

The review was a substantial exercise, involving the preparation and consideration of a great deal of written material. That exercise was greatly assisted by the use of a template

developed by a working group chaired by Justice Besanko. LPEAC proposes to use the template in future course reviews.

LPEAC has now completed the review of the degrees and offered by each of the South Australian universities and the Graduate Diploma in Legal Practice offered by the Law Society. LPEAC intends to undertake another such review in about three years' time.

Following submissions by the Law Society of South Australia and the South Australian Bar Association LPEAC considered and approved a proposal to introduce a mandatory continuing professional development scheme for South Australian legal practitioners. This also was a substantial exercise, again involving the consideration of a substantial amount of material.

LPEAC has amended the LPEAC Rules to accommodate the scheme. The amendments come into effect in the first half of 2011.

During the year LPEAC considered whether LPEAC should fix a minimum length of time for a student to complete a degree in law. One commonly held opinion is that a degree in law should not be completed in less than three years, absent special circumstances. Another commonly held opinion is that admitting authorities should not impose a minimum time for completion of a law degree. The consideration was prompted by an application made by one particular student. The matter arose also as an aspect of the USA's course, which can be completed by a student, without obtaining any dispensation, in less than three years. LPEAC has raised the matter with the Law Admissions Consultative Committee (LACC) because it is a national issue.

LPEAC has not made a submission to the Task Force conducting the National Legal Profession Reform process. It has kept itself informed on the progress of that process.

LPEAC will have to consider substantial amendments to the LPEAC Rules if the Parliament enacts the proposed new Legal Profession Act.

As in recent years, LPEAC has made comments to LACC on a number of matters that LACC raised in the course of its work to bring about a uniform national approach to aspects of admission to practice. To some extent the work of LACC has been overshadowed by the National Legal Profession Reform process.

LPEAC consults regularly with the Board of Examiners on matters relating to admission to practice. To facilitate communications between the two bodies Judge Withers (the Presiding Master) attends meetings of LPEAC as an observer.

### **The Board of Examiners**

The Chief Justice appoints the members of the Board of Examiners. The Board comprises a Master of the Court - Judge Withers (who is the presiding member) – two persons nominated by the Attorney-General and 12 legal practitioners.

As part of its general work the Board each month considers applications for:

- local admission;
- re-admissions;
- registrations pursuant to the *Mutual Recognition Act* and the *Trans-Tasman Mutual Recognition Act*;
- accreditation of academic and practical qualifications of overseas applicants;
- accreditation of interstate degrees to confirm the academic requirements required to be satisfied under the *Admission Rules*;
- intimations as to suitability for admission;
- approvals to variations in the supervision requirements for post-admission supervised employment;
- variation or removal of conditions on practising certificates; and
- determining conditions to be placed on a right of practice by a practitioner returning to practice after three or more years.

Some of that work can involve considerable investigation by the Board. Once the Board is satisfied as to eligibility and suitability a brief report is issued to the Court recommending admission, which forms the basis upon which an applicant is admitted as a practitioner of the Court.

Applications for accreditation of academic and practical qualifications are now referred by the Board to the Victorian Council of Legal Education in conformity with a nationally uniform approach to the assessing of such applications recommended by the Law Admissions Consultative Committee and adopted by the Legal Practitioner's Education and Advisory Council.

The board met on 11 occasions in 2010. During the year there were 283 applications for admission, compared to 297 in 2009.

**Table 27 – Applications for Admission  
(other than Mutual Recognition applications)**

	2006	2007	2008	2009	2010
<b>Applications for admission</b>	244	251	249	297	283

**Table 28 – Mutual Recognition Applications**

	2006	2007	2008	2009	2010
<b>Mutual recognition applicants</b>	62	49	58	51	53
	2006	2007	2008	2009	2010
<b>Degrees assessed</b>	26	24	49	20	10

**Table 29 – Overseas Degrees Assessed**

	2006	2007	2008	2009	2010
<b>Degrees assessed</b>	26	24	49	20	21

**Table 30 – Mutual Recognition – Applications by State**

	2006	2007	2008	2009	2010
<b>New South Wales</b>	39	26	23	20	27
<b>Victoria</b>	5	7	11	13	16
<b>Queensland</b>	8	2	6	7	4
<b>ACT</b>	3	4	3	3	3
<b>Western Australia</b>	1	2	4	2	1
<b>Northern Territory</b>	3	5	9	2	2
<b>Tasmania</b>	0	1	2	2	0
<b>Trans-Tasman</b>	3	2	0	2	3

## **Probate Registry**

The bulk of the work of the Probate Registry is the issue (in non-contentious cases) of grants of probate or administration in respect of the estates of deceased persons. In issuing such grants the Registrar of Probates and the Deputy Registrar of Probates exercise the powers of the Court in the manner prescribed by law.

The Registry was again very busy in 2010 (Table 31). For the first time in many years there was a change in the composition of the clerical staff of the Registry, requiring a substantial training exercise. That, together with the higher number of applications (Table 32) resulted

in a lower clearance rate and a higher backlog of cases at the end of the year than was the case in 2009. It is anticipated that that backlog will be substantially reduced in 2011.

**Table 31 – Probate Registry – Grants and Orders**

	<b>2008</b>	<b>2009</b>	<b>2010</b>
<b>Grants issued</b>	4968	5618	5148
<b>Grants resealed in South Australia</b>	31	46	24
<b>Orders made in chambers</b>	509	1242*	1507
<b>Inquiries and searches</b>	1015	1016	928
<b>Personal applicants</b>	301	276	265
<b>Applications pending at 31 December</b>	1143	807	1027
<b>Clearance rate for year</b>	92%	106%	96%

\* Since April 2009, a new system has been in place, recording ***all*** orders made in chambers by the Registrar and by the Deputy Registrar of Probates

**Table 32 – Probate Registry – Total applications**

<b>2008</b>	<b>2009</b>	<b>2010</b>
5517	5399	5414

\* A new system has been in place, recording ***all*** orders made in chambers by the Registrar and by the Deputy Registrar of Probates

**Table 32 – Probate Registry – Total applications**

<b>2008</b>	<b>2009</b>	<b>2010</b>
5517	5399	5414

## CAA Library Service

### Overview of the collection

The CAA Library Service is made up of several collections. The main collection is located in the Supreme Court (which is open to the public) and the Sir Samuel Way Library. Other smaller, specifically-targeted collections are maintained at the Adelaide Magistrates Court, suburban and regional courts, specialist courts and in judges' chambers. The major jurisdictions represented in the library collections are the Australian Commonwealth, States and Territories and the United Kingdom. Print and digital formats are available with the use of digital resources continuing to increase throughout the year.

**Table 1: Volumes held by CAA Library Service**

	2007–08	2008–09	2009–10
Total volumes	183 702	185 852	187 397

### Relocation of part of the Library Historical Collection.

The cessation of the lease of the Public Trustee Building in Franklin Street in April 2010 necessitated the relocation of part of the Library's Historical Collection that had been located in the basement of that building. A collection of more than 5000 judges' note books and bench books was transferred to State Records, where it will continue to be secure and available for public access.

### Replacement Library operating software.

During the year approval was obtained to purchase a new library software management system. Following the appropriate selection process the Authority contracted SirsiDynix Pty Ltd to supply their library software product 'Symphony'. The installation was completed by November 2010. It replaces the existing Library software that had become very dated and will be able to offer library staff and users both increased functionality and a contemporary windows interface.

### Improvements to the Supreme Court Library

During 2010 the amenity of the Supreme Court Library has been improved. The interior of the library was repainted and a public photocopying room was refurbished. An additional staff work room was established to accommodate staff who were previously located in the Sir Samuel Way building and following complaints from users, a new air conditioning system was installed in the Supreme Court Library.

**Strategic Direction.**

2010 has been an exciting time in the Library, particularly because of emerging technologies, the new library software and the recent appointment of a staff member with expertise in developing digital resources for legal practitioners. Late in the year a strategy to assist the transition of judicial officers away from the traditional print format towards an increased reliance on digital resources was developed and will provide the platform for the future strategic direction of the Library Service.

DATED this 4 day of March 2011

A handwritten signature in cursive script, appearing to read 'J. Doyle'.

**CHIEF JUSTICE**

On behalf of the Judges of the Supreme Court