



SUPREME COURT OF TASMANIA

ANNUAL REPORT

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SUPREME COURT OF TASMANIA

SUPREME COURT HOBART



~ THE CHIEF JUSTICE'S ANNUAL REPORT ~
FOR
THE SUPREME COURT OF TASMANIA
2007 - 2008

This report is submitted in accordance with s194H of the *Supreme Court Civil Procedure Act 1932*, pursuant to which the Chief Justice is to provide a report to Parliament.
This report is to include details as to the administration of justice in the Court during the current year and any other matters that the Chief Justice considers appropriate.

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THE YEAR AT A GLANCE

- **SUPREME COURT FAREWELLS THE HONOURABLE CHIEF JUSTICE PETER GEORGE UNDERWOOD, AO**

After three years serving as Chief Justice and twenty years as a puisne judge, Chief Justice Underwood is appointed Governor of Tasmania.

- **A NEW CHIEF JUSTICE OF THE SUPREME COURT IS APPOINTED**

The Honourable Ewan Charles Crawford is appointed Chief Justice of the Supreme Court on 24 April 2008.

- **NEW CRIMINAL PROCEDURES COMMENCE**

The *Justices Amendment Act 2007* commences on 1 February 2008 and aims to reduce court delays and speed up the criminal justice process.

- **THE CIVIL CASE MANAGEMENT SYSTEM IS IMPLEMENTED IN THE SUPREME COURT**

Tasmania's Supreme Court implements new technology for civil case management.

- **SUPREME COURT WELCOMES JUSTICE DAVID PORTER**

Tasmania's Supreme Court welcomes a new Judge to the Bench.

- **MASTER BECOMES AN ASSOCIATE JUDGE**

The office of Master was replaced by the office of Associate Judge

- **SUPREME COURT STRENGTHENS BONDS WITH SAMOA'S SUPREME COURT**

Tasmania's Supreme Court donates court recording equipment to Samoa's Supreme Court.

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THE YEAR AT A GLANCE

CRIMINAL JURISDICTION

Originating matters	693
Appeals	25
Total matters lodged	718

Finalised First Instance	551
Finalised Appeals	20
Total matters finalised	571

CIVIL JURISDICTION

Personal Injury	299
Debt Recovery	91
Corporations Law	7
Other Actions	521
Winding up Applications	5
Registered Judgments	3
Total Lodgments	926

Total Appeal Lodgments	118
Total Finalised First Instance	955
Total Finalised Appeals	114

PROBATE

Grants of Probate	1903
Grants of L of A	150
Reseal	42

MEDIATION

Personal Injuries Motor Vehicle	34
Personal Injuries Industrial	13
Contract	14
Testator Family Maintenance	21
Relationship Act	56
Building	12
Other	79
Total conducted	229
Total settled at mediations	146



FORMER CHIEF JUSTICE
PETER GEORGE UNDERWOOD AT HIS
FAREWELL CEREMONIAL SITTINGS





THE JUDICIAL YEAR IN REVIEW

2007-2008 has been a year of considerable change for the Court. There have been significant changes to the Supreme Court Bench with the retirement of Chief Justice Peter Underwood to take up his appointment as Governor of Tasmania, the appointment to the Court of Justice David Porter and my elevation as the Chief Justice. The year has also brought changes to the Tasmanian system of criminal justice with the introduction of new procedures designed to improve efficiency in the disposition of indictable matters.

Friday 28 March 2008 marked the retirement of the former Chief Justice. He was the 12th Chief Justice and had held that office since 2nd December 2004. He was appointed a Judge of the Court in September 1984. He received the Order of Australia in 2005. His retirement marked a period of service to the Court and the State as a judicial officer that extended for over 23 years.

Whilst presiding as a judge of the Court he was dedicated to preserving the independence of the judiciary as a separate arm of government, maintaining high standards of judicial administration and enhancing public confidence in the courts and the judiciary. As he stated when sworn in as Chief Justice:

'Public confidence in the Court is a fundamental proposition. Without that the Court cannot discharge its essential responsibilities. After all, the court – the six judges – has no power at all. Its strength depends entirely on the degree of support that it has earned from the community it serves.'

During his distinguished career he was known for his innovation and enthusiasm. In the court environment he had a significant role in the introduction and development of

procedural reforms such as case management (both civil and criminal), mediation and alternative dispute resolution, and flexible allocation of court sitting times, and he championed the use of information technology in the court rooms.

As a result of his work, Tasmania is an extremely efficient court able to boast excellent clearance rates.

Nationally he was well known through his service to legal institutions. He was President of the Australian Institute of Judicial Administration and Chair of the National Judicial College of Australia. He played an enormous role in the delivery of training and education to students in this State and overseas and in the overseeing of training and professional development of judicial officers in this country.

On behalf of all Tasmanians I thank him for his dedicated and distinguished service to the law. On a personal note and on behalf of present and former judges and court staff, I thank him for his friendship and support. I wish him well in his new role of Governor.



THE JUDICIAL YEAR IN REVIEW

On 24 April 2008 I was honoured to be appointed as the new Chief Justice. Having served as a puisne judge since 1988, this latest opportunity has further cemented my commitment to serve the Tasmanian community with dedication and conviction. The office of Chief Justice comes with considerable public responsibilities, the fulfilment of which I am determined to achieve.

One of the current challenges the Court faces is that of reducing the number of criminal matters awaiting trial. Although Tasmania is an efficient court, the Court's criminal list is expanding. It is ironic that much of the increase this year has been brought about by the introduction of new criminal procedures, which are designed to improve efficiency and, ultimately, to reduce waiting times and the overall number in the Court's lists. A greater number of days available in which to hear criminal cases is a

commitment made by the Court to assist the achievement of that goal. However, the new procedures have removed cases from the Magistrates Court into the Supreme Court at a much earlier stage than before, with the result that there has been a significant increase in the overall number of pending cases before the Court.

In June 2008, the Judges determined that they would abandon the wearing of the traditional red robes in criminal trials and appeals and that bell bottom wigs would no longer be worn on ceremonial occasions. It was felt that the red robes and long wigs represented an out-of-date look for the Court, did not add to its dignity and were uncomfortable to wear. The short wig along with black robes will continue to be worn by Judges for criminal cases.

THE WORK OF THE COURT

The nature of the work of the Court has progressively changed over the decades. In recent years the volume of civil work has diminished substantially. Indeed the civil trial is becoming a rarity. Fifteen years ago civil trials in Tasmania were a regular feature of judicial work, but that is no longer the case. The decrease in civil work is reflected throughout the nation in similar jurisdictions. A portion of the decrease is due in part because of legislation, throughout the country, that imposed a severe brake on claims for damages for personal injuries. Other reasons include the success of the assisted dispute resolution program established within the Court and the transfer by legislation of certain types of cases to specialist courts or tribunals.

These changes to the nature of the Court's work have resulted in the Court abandoning dedicated civil sitting times in the North and North West in recent years. Instead the Court has adopted a flexible approach, with Judges sitting in the regions when cases are ready for hearing. As a general rule, civil cases are heard by the Court as soon as they are ready.



CIVIL COURT 1
HOBART SUPREME COURT



THE JUDICIAL YEAR IN REVIEW

As the volume of civil work decreases, the same cannot be said of the criminal lists. When I first became a judge, the lists were small and matters were being concluded within six or seven months of the alleged crime. In recent years the lists have substantially increased and the time during which accused persons await trial has become longer. The reasons for this shift are complex and varied. In part the nature of the crimes has changed. More complex trials, involving white collar crime and serious drug offences for example, take longer to prepare and bring to conclusion. More complex matters place greater demands on police resources to complete complex investigations and prepare files for the Director of Public Prosecutions, who in turn must expend additional resources in preparing for more complex trials.

As I mentioned earlier, in an effort to reduce the criminal lists and hence delays, the Court will make available a greater number of sitting days for the criminal jurisdiction. The Judges are committed to ensuring that the new criminal procedures achieve the aim of reducing delay within the court system. Cooperation between police, lawyers, the Director of Public Prosecutions and the Court is necessary for any improvement to be lasting and I am confident that this cooperation will be forthcoming.

THE NEW CRIMINAL PROCEDURES

The new criminal procedures formally commenced on 1 February 2008 upon the enactment of the *Justices Amendment Act 2007*. The Act was developed in order to “*limit delays in the court and confer case management powers upon the Supreme Court for indictable offences*

by: limiting the delays that occur between first appearance in the Court of Petty Sessions and having the matter transferred to and tried in the Supreme Court; setting and controlling the timetable for disclosure of prosecution witnesses at committal proceedings; and involving the Office of the Director of Public Prosecutions at the earliest practical point in the process.” (Attorney-General, “2nd Reading Speech”, Hansard Wed 4th July 2007).

The structural changes presented by the Act join recent administrative changes in case handling within Tasmania Police, allowing earlier engagement of the Director of Public Prosecution’s office in the review of indictable files, and previous alterations to the committal process in Tasmania, made in the year 2000.

The following is an extract from “A Guide to New Proceedings for the Disposition of Indictable Offences, November 2007”:

“Preliminary, or committal, hearings evolved in England in the 1800s as part of the system to determine whether or not a prosecution should be brought by the Grand Jury. If there was insufficient evidence to convict the case would be summarily dismissed. In 2000 the *Justices Act 1959 (Tasmania)* was amended providing that in every case where there has been a plea of not guilty there must be an order committing the accused for trial in the Supreme Court.

Thus the original “filtering function” of committal proceedings was brought to an end, although such hearings continue to fulfil other purposes, such as being a method of giving an accused notice of the evidence to support a charge and a chance to test some of the evidence to be brought against him or her.



CHIEF JUSTICE CRAWFORD



THE JUDICIAL YEAR IN REVIEW

It is worth noting that since the 1980s there has been commentary in Australia and the United Kingdom in favour of the limitation or even abolition of "ritualised" committal proceedings. Among other things, it has been argued that a considered decision into the merits of the prosecution case, taken at an early stage by an independent prosecuting authority, is preferable and more efficient than the committal process (see Bishop, J., *Criminal Procedure*, 2nd ed., Butterworths, 1998, Ch 6). For example, in 1981 a UK Royal Commission on Criminal Procedure advised abolishing committals in England. Also, the *Western Australian Law Reform Commission Report* of 1999 "Review of the Criminal and Civil Justice System in Western Australia" recommended that committal hearings be abolished on condition that processes for pre-trial disclosure by the prosecution and limited

scrutiny of the discretion to lay indictments were implemented.

These recommendations were incorporated in the *Criminal Procedure Act 2004 (WA)*. In Tasmania, the "committal hearing" will be retained but called a "preliminary proceeding". It will occur after committal to the Supreme Court and its conduct, before a justice of the peace or a magistrate, will be an aspect of case management in the Supreme Court."

Preliminary proceedings will only take place if, in the interests of justice, a judge so orders.

WELCOME TO THE HONOURABLE JUSTICE DAVID JAMES PORTER

On the 26 May 2008 the Honourable Justice David James Porter was sworn in as a Judge of the Court. Prior to his appointment, Justice Porter practised for many years in the North of the State and in 1992 joined the Tasmanian Independent Bar, practising from Malthouse Chambers in Hobart. He took silk on 16 October 1995. By the time of his appointment to the Court he was admired for his legal skills, work ethic and patience. His areas of expertise included all levels of appellate and trial work, predominantly in commercial, trade practices and equity, administrative law and judicial review. He also practiced in common law and criminal appellate work.

His Honour served as President of the Tasmanian Bar Association from 1987 to 1989 and President of the Law Society in 1992 and he is a former President and Treasurer of the Australian Bar Association. He was the Chair of the Medical Complaints Tribunal from 2000. For some years he was the Director of the Legal Practice Course presently conducted by the Centre for Legal Studies and since 1994 he has been the Editor of the *Tasmanian Reports*.

His appointment to the Bench is a natural progression in a prestigious career and is welcomed by the Judges of the Court. I hope his Honour finds the duties of his office as rewarding as I have done.



JUSTICE DAVID PORTER





THE JUDICIAL YEAR IN REVIEW

THE MASTER BECOMES AN ASSOCIATE JUDGE

Effective from 1 March 2008, the *Supreme Court Act 1959* was amended to rename the office of Master to that of Associate Judge. References to the Master, Mr Stephen Holt, have changed to the Honourable Associate Justice Holt and the form of address has changed from "Master" to "Your Honour".

It was felt that "Master" was an inappropriate appellation that carried with it gender implications and did not reflect the nature of the work done by the incumbent of the office. He or she can exercise virtually all of the civil jurisdiction exercisable by a Judge of the Court.

SENTENCING – THE JUDICIAL PROCESS

One of the recurring themes in the media concerns the sentencing of criminal offenders. Judges and magistrates are sometimes criticised in the press for sentences that are perceived not to be severe enough or indeed, not to reflect the serious nature of the crime or offence.

The determination of a sentence is a complex task and one of the most important a Judge must perform. The breadth of the judicial discretion involved is enormous and the law requires that the Judge take into consideration a plethora of circumstances. Often what is reported in the press of a particular case and the comments made by a Judge or Magistrate on passing sentence is a very superficial account of the overall circumstances. This may on occasion cause a negative reaction in the community regarding the severity of the sentence.

When a court considers what sentence to impose all the various facts, mitigating circumstances and surrounding issues concerning the victim and offender are taken into account. In the interests of achieving consistency in sentencing, the Judge must also take into account previous sentences imposed for similar crimes. The process is a measured one and the community should feel confident that overall, the sentencing of offenders in Tasmania is soundly based on legal principles and is consistent, fair and appropriate.

Of course, if one of the parties considers that a sentence is erroneous, an appeal process is available to rectify the position. That successful appeals are relatively infrequent when compared to the overall number of sentences, provides justification for thinking that the system is working well.

Currently, the Court is cooperating with members of the Law Faculty of the

University of Tasmania who are conducting research into the response of jurors to sentences imposed by judges in cases they have heard. Early signs are that differences between the views of jurors and sentencing judges are not great. I look forward to the outcome of the research later this year.

HELPING IN THE PACIFIC

The Tasmanian Supreme Court has had an ongoing relationship with the Supreme Court of Samoa. In late April 2006, the Honourable Justice Pierre Slicer volunteered to assist in Samoa under the umbrella of AusAid. Justice Slicer sat as part of an electoral court, as many of the Samoan judges had family or social connections with election candidates. More recently he sat as a member of the ultimate appeal court in Samoa in a variety of cases.



THE JUDICIAL YEAR IN REVIEW

In February 2008, we had an opportunity to assist the Samoan Supreme Court by donating some badly needed court recording equipment at a time when Justice Nelson from the Supreme Court of Samoa and Senior Judge Vaai from the District Court of Samoa were visiting Hobart for an international conference. Justice Slicer was instrumental in recognising that for many years Samoan courts had laboured without any means to effectively record court proceedings. As the Tasmanian Supreme Court had fully operational court recording equipment available that had been replaced recently by digital equipment, it was a logical and obvious step to offer the visiting judges the surplus equipment. It is my hope that the Tasmanian Supreme Court can continue to contribute to the success and stability of our neighbour in the Pacific.

SIGNIFICANT REMEDIAL WORKS

During the year the Court was able, with the assistance of the Department of Justice, to complete some significant maintenance and remedial works to the buildings. An air conditioning system was installed in the Launceston courtrooms and jury rooms which was greatly appreciated by all jurors, counsel and judges over both the colder and warmer months. Worthy of note also is the commitment the Department has made to the upgrading of the Launceston and Hobart cells areas in order to improve occupational health and safety. The refurbishment of the Launceston court cells has been completed and work is due to commence in the Hobart court cells in December 2008.

I would like to take this opportunity to record that the Court is appreciative of the work that the Department of Justice does each

year to secure funds to cover the maintenance costs and upgrading of facilities for the Court's buildings state-wide.

THE SUPREME COURT TEAM

In many ways the Judges would be severely impeded in the fulfilment of their duties if it was not for the support and dedication of the staff of the Court. They all play key roles in the delivery of justice in this State and each has carried out their tasks and functions during the year with professionalism and vitality that is a credit to them.

I record also my appreciation and respect for the ongoing work of the Judges and the Associate Judge. They all share our workload with willingness and a profound sense of duty.



SUPREME COURT HOBART
CRIMINAL COURT BUILDING



JURIES

Trial by jury underpins our criminal justice system and has done for hundreds of years. The role of the jury is to determine the facts of the case from the evidence it sees and hears in the courtroom. This key concept is often misunderstood. It is the jury who ultimately decides whether the guilt of an accused person has been proved, not the judge. As the jury is simply a group that is representative of the community, it is effectively the community that determines the outcome of all criminal trials before the Supreme Court. The performance of jury duty by a citizen is one of great responsibility.

The system of justice in Tasmania would be difficult to manage if it was not for work that jurors undertake. With this in mind, the Court, Government and the community have an inherent interest in ensuring the jury system is not only preserved, but nurtured and appropriately managed.

As part of the Court's ongoing commitment to the effective and efficient management of juries, several initiatives have been instigated over the reporting period. Additional improvements are planned for the coming year and below is a brief summary of the Court's work in this area.

THE JURY ROOMS AND FACILITIES

For the period of the jury service, the court is in effect the juror's workplace. Jurors are summoned randomly from the electoral roll and arrive on their allotted day in order to perform their civic duty. They have no say or control over their workplace and are usually not consulted about their surroundings.

The Tasmanian Supreme Court has, over the course of the year, attempted to improve the juror experience in court. The installation of

air conditioning in the Launceston courtrooms and jury rooms has significantly improved juror comfort. The use of modern technology in the jury rooms has been introduced with old tape players, monitors and stands giving way to sleek wall mounted LCD screen and laptops. This endeavour has significantly increased the space and comfort of the jury rooms state-wide.

Planning for the physical upgrading of the jury rooms has also commenced. It is envisaged that improved refreshment and kitchen facilities will be underway in the 2008-09 period, provided sufficient funds are available.

JUROR PAYMENTS

In previous years it was frequently claimed that juries cannot be truly representative of the community if there are barriers limiting a community member from performing jury service. The level of remuneration has been an issue previously identified by the Court as a cause of concern.

Thankfully the Government reviewed the level of juror remuneration over the year and decided that a significant increase was warranted. New regulations came into force on 7 July 2008, raising the level of juror payments from a maximum of \$80.00 per day to \$176.00 per day. This is a positive step and one welcomed by the Court.



JURIES

COMMUNICATIONS

Often jurors who present at the Supreme Court for service do so for the first time. It is important to ensure that they understand their role and the significance attached to it. The Court finalised new printed information material that covers topics such as a jury's role and function, what to expect in court, length of service and payments. A brochure, delivered with the summons, was produced in plain English and helps jurors to prepare thoroughly for their service.

Significant work has also been done in planning for an instructional DVD for jurors. This presentation will be shown to jurors on their first assembly day and will help to improve their understanding and expectations of jury service. The Supreme Court website will also be updated in the coming period.

RESEARCH

The Court has, in previous years, actively supported research into jury practices and procedures. As mentioned earlier, the Court is cooperating with members of the Law Faculty at the University of Tasmania with a jury research project and looks forward to the publication of its results in the year to follow. The Judges and Court management team attend national conferences on emerging trends and issues affecting jurors and jury management.



COURT ADMINISTRATION - PERFORMANCE

OVERVIEW

The work of the Supreme Court is divided into two major jurisdictional areas – crime and civil. Unlike many other Supreme Courts, the Court is not divided into divisions. All judges hear matters at first instance and on appeal, in both jurisdictions. In addition, the Court sits in three regions within the State; Hobart, Launceston and Burnie.

The workload of the Court is subject to fluctuations that are beyond the ability of the Court to control. The nature of the legal process requires that any matter falling within the jurisdiction of the Court may be brought before it. As the jurisdiction of the Court expands and contracts with statutory changes, so does its workload.

THE COURT'S PERFORMANCE

The overall objectives for Court Administration for the reporting year were:

- To be open and accessible
- To process matters in an expeditious and timely manner
- To provide due process and equal protection before the law
- To be independent yet accountable for performance

Each year each jurisdiction in Australia lodges statistical returns with the Productivity Commission, detailing the performance of all courts for the reporting period. Although comparisons between jurisdictions are difficult because of the variations in the nature of the work, the final report gives an indication of the Court's performance. An extract of the returns for

the Supreme Court of Tasmania during the reporting period are set out below.

A National framework of performance indicators adopted by the Court supports the objectives of the Court and the two principal indicators are summarised as follows:

Backlog Indicator

This is a measure of timeliness that relates the age of the Court's pending caseload to timeliness standards

Clearance Rate

A measure of whether the Court is keeping up with its workload

The Results

BACKLOG INDICATOR

The backlog indicator is a measure of timeliness and delay. This indicator specifically measures the Court's pending caseload against national time standards. The national time standards have been set as follows:

- No more than 10% of lodgments pending completion are to be more than 12 months old
- No lodgments pending completion are to be more than 24 months old



COURT ADMINISTRATION - PERFORMANCE

BACKLOG INDICATOR CRIMINAL JURISDICTION

For the period ending 30 June 2008, the pending caseload for criminal matters at first instance increased markedly to 307 (excluding bench warrants). This represented an increase of 127 matters or 70.5% from last year's pending result. The majority of this significant increase was due to the introduction of the new criminal procedures. From 1 February 2008, all indictable matters were committed to the Supreme Court from the Magistrates Court without undergoing an initial committal hearing. This new process, as outlined earlier in this report, has significantly reduced delays in the Magistrates Court for accused persons waiting to be committed to the Supreme Court.

It is important to note that the increase in the pending caseload less than 12 months old comprises 283 matters, or 92% of all matters. Of this 283, 243 or 85% are less than six months old. As can be seen from the corresponding tables, the matters that are greater than 12 months have remained unchanged at 24 matters for the period ending 30 June 2008, an identical result for the same period last year.

The effort made by the Court in previous years to maintain the pending caseload for Criminal Appeal matters within national time standards has continued in the 2007-08 period. As can be seen from the corresponding table, all of the pending caseload of 13 matters are less than twelve months old. The Court continues to meet the national timeliness standards for the pending caseload in appeal matters.

Supreme Court Criminal First Instance

	2005-06	%	2006-07	%	2007-08	%
Total Pending Caseload	185	100	180	100	307	100
Pending < 12mths	155	84	156	87	283	92
Pending > 12mths and < 24mths	22	12	20	11	13	4
Pending > 24mths	2	4	4	2	11	4

Supreme Court Criminal Appeal

	2005-06	%	2006-07	%	2007-08	%
Total Pending Caseload	27	100	11	100	13	100
Pending < 12mths	26	96	11	100	13	100
Pending > 12mths and < 24mths	1	4	0	0	0	0
Pending > 24mths	0	0	0	0	0	0



COURT ADMINISTRATION - PERFORMANCE

BACKLOG INDICATOR CIVIL JURISDICTION

The introduction of the new civil case management system into the Supreme Court was completed in May 2008. The new system provided an increased level of sophistication in its ability to extract and collate data. A review of the data extraction processes was undertaken as part of the development of the new system. The review revealed some discrepancies in the counting rules used to extract the data. These issues have been addressed to bring the counting rules into line with the counting rules used by the Productivity Commission. The Court has applied the revised counting rules to past performance figures so that the figures in this report have been generated under the revised methodology.

The pending caseload at first instance has decreased slightly each year. The Court has a limited ability to affect the pending caseload. Presently, the Court does not case manage personal injury cases until the parties signify that they are ready for trial or they seek court intervention by way of case management. In all other cases the Court manages the litigation as soon as the defence has been filed. The introduction of the new system, to which I have referred, will assist in the implementation of a more robust case management system and also in identifying those cases which have settled but the parties or their representatives have not communicated that to the Court.

Pending appeals decreased in 2006-07 but increased slightly this year, however, the number of appeals older than 12 months decreased indicating that the Court is dealing with matters expeditiously.

Supreme Court Civil First Instance

	2005-06	%	2006-07	%	2007-08	%
Total Pending Caseload	1153	100	1071	100	1042	100
Pending < 12mths	801	70	729	68	695	67
Pending > 12mths and < 24mths	208	18	226	21	248	24
Pending > 24mths	144	12	116	11	99	9

Supreme Court Civil Appeal

	2005-06	%	2006-07	%	2007-08	%
Total Pending Caseload	70	100	63	100	67	100
Pending < 12mths	57	82	45	71	54	81
Pending > 12mths and < 24mths	12	17	18	29	13	19
Pending > 24mths	1	1	0	0	0	0



COURT ADMINISTRATION - PERFORMANCE

Clearance Rate (finalisations/lodgments) All Matters

Supreme Court % clearances (excluding probate matters)

	2005-06	2006-07	2007-08
Criminal Jurisdiction	100.4%	110%	79.5%
Civil Jurisdiction	108.8%	107.9%	102.4%
Total Court	106.1%	108.6%	93.1%

CLEARANCE RATE

The Clearance Rate indicator is a measure that shows whether the Court is keeping up with its workload. The indicator denotes the number of finalisations in the reporting period expressed as a percentage of the number of lodgments for the same period. A result of 100% indicates the Court is finalising as many matters as it receives. A result greater than 100% indicates the Court is reducing its pending caseload.

The table highlights an overall result of 93.1% clearance rate for the Court. The result, at first pass, would indicate that the Court is not keeping up with its workload. However, the result reflects the large number of criminal matters that have been committed to the Supreme Court at an earlier point in time than before as a result of the introduction of the new criminal procedures. That has led to a reduction in the clearance rate for the criminal jurisdiction. This in turn affects the overall performance measurement for the Court. It is anticipated that the Court will deal with the increase in workload in the criminal jurisdiction over the course of next year.



THE SUPREME COURT OF TASMANIA IN PROFILE

ABOUT THE COURT

The Supreme Court of Tasmania (the Court), created by the Charter of Justice 1823, forms part of a multi-layered court system, which exercises both Federal and State jurisdictions. The Court is the superior court of the State and, is equal in status to, but independent of, the Legislature and the Executive.

Currently six judges constitute the Court. The Associate Judge, Registrar and fifty two administrative staff support them.

THE STRUCTURE OF THE COURT

Court systems throughout Australia are hierarchical with most States adopting three levels of courts;

- Magistrates (or local) Courts
- County or District Courts
- Supreme Courts

In Tasmania, there are only two levels in the court hierarchy, being the Magistrates Court and the Supreme Court.

The Court is divided into three broad areas of operation, namely criminal, civil and appeal matters.

Criminal matters are those in which an accused person is charged with an indictable offence. Upon entry of a plea of not guilty, an indictable offence is tried by a

judge and jury of twelve persons.

In civil matters, the Court determines disputes involving sums in excess of \$50,000. The trials are usually conducted by a judge sitting alone, although provision does exist for some cases to be tried with a jury of seven people.

Appeals from the decisions of a single judge, or a judge and jury, are heard by a Bench of three or more judges, called a Court of Criminal Appeal when sitting in criminal matters and the Full Court when sitting in civil matters. There is provision enabling an appeal to be heard by only two judges.

THE JURISDICTION OF THE COURT

The Court exercises both original and appellate jurisdictions. Original jurisdiction is when a matter comes before the Court for a decision for the first time. Appellate jurisdiction is when the Court determines appeals from single judges, from the Magistrates Court, or from various tribunals where there exists a right to appeal to the Supreme Court.



THE SUPREME COURT OF TASMANIA IN PROFILE

MEDIATION

Only a very small percentage of civil cases require resolution by a hearing in the court. Most of these cases settle at mediation. The mediators are the Registrar and other court officers as well as selected legal practitioners where necessary. The Court has the power to direct that a case be referred to mediation before it will be listed for trial. Court-annexed mediation is a very popular and successful means of resolving civil disputes. It provides expedition, saves costs and produces a just result. Without it, the Court would not be able to cope with its caseload.

THE REGISTRIES OF THE COURT

The Court operates civil, criminal, probate and district registries.

CIVIL REGISTRY

The Civil Registry receives and processes all documents lodged in the civil jurisdiction of the Court and is the first point of reference for enquiries from the public and the legal profession. This Registry also receives and processes appeals to the Full Court and single judge appeals. It has responsibility for the management of the Court's records and the listing and case management functions for the Court's civil and appellate jurisdictions.

CRIMINAL REGISTRY

The Criminal Registry receives and processes documents lodged by the Director of Public Prosecutions, which initiate criminal proceedings, and lists criminal trials and other hearings. It receives and processes appeals and applications for leave to appeal and prepares appeal documentation for use by the Court of Criminal Appeal. It also receives and processes applications to review decisions from the Magistrates Court.

PROBATE REGISTRY

The Probate Registry deals with applications for grants of probate, letters of administration and other related matters. It is responsible for determining, on application for a grant of representation, what document or documents constitute the last will of the deceased and/or who is entitled to be the legal personal representative of the deceased.

Most of these applications are decided without a court hearing. If there is a dispute, it is heard and determined by the Court in the same way as all other civil cases are heard and determined. When these determinations have been made, a grant is issued to the legal personal representative of the deceased.

DISTRICT REGISTRIES

The Court maintains registries in Launceston and Burnie, to deal with civil and criminal matters.



THE SUPREME COURT OF TASMANIA IN PROFILE

THE JUDGES AND THE ASSOCIATE JUDGE

JUDGES

Judges of the Supreme Court are appointed by the Governor on the advice of the Executive Council (a Council of State Ministers including the Premier). The *Supreme Court Act 1887* provides that the office of Judge may be held by a barrister of the Supreme Court of any State of the Commonwealth or New Zealand of not less than 10 years' standing.

The Bench of the Supreme Court currently consists of the Chief Justice and five other judges, known as puisne judges. This is an Anglo-French term meaning 'subordinate' and pronounced "puny".

ASSOCIATE JUDGE

The Governor appoints the Associate Judge of the Supreme Court in the same manner as a judge. The Associate Judge assists the Judges in conducting the civil jurisdiction of the Court. For instance, the Associate Judge deals with interlocutory, that is procedural, applications in civil matters, before they come on for trial.

The Associate Judge can also hear and determine many cases that formerly could only be heard by a judge. This legislative change has assisted the capacity of the Court to manage its caseload.

The *Supreme Court Act 1887*, s2, provides that the Court consists of a maximum of seven judges. Six judges presently constitute the Court. Those presently holding office are:

The Chief Justice

The Honourable Ewan Charles Crawford

The Judges

The Honourable Pierre William Slicer

The Honourable Peter Etherington Evans

The Honourable Alan Michael Blow OAM

The Honourable Shan Eve Tennent

The Honourable David James Porter

The Associate Judge

The Honourable Stephen Holt



OPERATING ACCOUNT - EFFECTIVE YEAR ENDING 30 JUNE 2008

RECEIPTS	NOTE	2006-07 ACTUAL	2007-08 ACTUAL
Recurrent Appropriation		3,840,568	4,001,171
Registry Fees & Collections		532,528	515,014
Provision of Transcript		29,431	24,606
Probate Fees & Charges		731,162	751,942
Mediation Fees		71,325	51,317
Sheriff's Fees		6,830	6,942
Court Reporting		56,716	61,630
Collections		0	0
Video Conferencing		18,628	15,028
Recoveries of Salary		0	0
TOTAL RECEIPTS		5,287,188	5,427,650

EXPENDITURE	NOTE	2006-07 ACTUAL	2007-08 ACTUAL
EMPLOYEE EXPENSES			
Salaries & Wages etc		2,328,381	2,371,909
Fringe Benefits Tax		14,670	20,096
Payroll Tax		156,694	159,086
Superannuation		227,793	236,476
Worker Compensation Insurance		4,002	22,686
Training		1,050	5,609
Other Employee Related		0	0
TOTAL EMPLOYEE RELATED		2,732,590	2,815,862



OPERATING ACCOUNT - EFFECTIVE YEAR ENDING 30 JUNE 2008

ADMINISTRATION & OTHER EXPENSES

NOTE	2006-07 ACTUAL	2007-08 ACTUAL
Fuel, Light & Power	154,973	167,528
Advertising & Recruitment	10,409	3,952
Rental	7,520	9,873
Communications	86,150	85,991
Travel	62,776	60,438
Consultancies	48,214	52,316
Printing & Stationery	55,211	34,234
Rates	142,077	143,483
Other Administration	130,526	139,408
Repairs & Maintenance	108,064	96,987
Minor Equipment	274,827	150,189
Library Materials	106,736	72,489
Computers & IT	231,677	337,531
Expenses of Witnesses	127,719	118,384
Expenses of Jurors	318,943	278,614

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Other Expenses	4,157	18,768
TOTAL ADMINISTRATIVE & OTHER EXPENSES	1,869,979	1,770,185
TOTAL EXPENDITURE	4,602,569	4,586,047

OVERHEAD CONTRIBUTION BY THE DEPARTMENT OF JUSTICE

NOTE	2006-07 ACTUAL	2007-08 ACTUAL
OVERHEAD CONTRIBUTION BY DOJIR	569,620	596,848



OPERATING ACCOUNT - EFFECTIVE YEAR ENDING 30 JUNE 2008

RESERVED BY LAW PAYMENTS RECEIVED (SALARIES OF JUDICIAL OFFICERS)

	NOTE	2006-07 ACTUAL	2007-08 ACTUAL
Salaries & Other Entitlements of Judges		2,116,427	2,210,537
Salary & Other Entitlements of the Associate Judge		301,128	310,276
TOTAL		2,417,555	2,520,813

STATUTORY MAINTENANCE PAYMENTS RECEIVED

	NOTE	2006-07 ACTUAL	2007-08 ACTUAL
Statutory Maintenance		35,029	0

NOTES TO FINANCIAL STATEMENTS

Note 1 Increase due to expenditure on new civil system

