

# SUPREME COURT OF TASMANIA

ANNUAL REPORT 2015 - 2016





# THE CHIEF JUSTICE'S ANNUAL REPORT

FOR

THE SUPREME COURT OF TASMANIA  
2015-2016

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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.

- ISSN 1449-146X -

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## THE YEAR AT A GLANCE

### CRIMINAL JURISDICTION

Originating Matters	449
Appeals	32
Total matters lodged	<b>481</b>

Finalised First Instance	436
Finalised Appeals	34
Total matters finalised	<b>470</b>

### PROBATE

Grants of Probate	2219
Grants of Letters of Administration	172
Elections to Administer	32
Reseals	36
Total Probate matters	<b>2427</b>

### CIVIL JURISDICTION

Originating Matters	740
Appeals	82
Bail applications/appeals	244
Total matters lodged	<b>1066</b>

Finalised First Instance	902
Finalised Appeals	74
Total matters finalised	<b>976</b>

### MEDIATION

Personal Injuries – Motor Vehicle	27
Declaration	6
Personal Injuries – Other	4
Breach of Contract	22
Testators Family Maintenance	19
Professional Negligence	22
Monies Due	14
Other	29
Total Conducted	<b>143</b>
Total settled at mediation	<b>92</b>

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## **THE JUDICIAL YEAR IN REVIEW**



**Chief Justice Alan Blow OAM**

## **The Supreme Court of Tasmania in 2015-2016: some observations**

In the Court's previous two annual reports, comments were made about increases in the number of pending criminal cases from year to year, particularly in relation to the impact of one particularly long trial. A backlog built up. The resources of the Court have proved insufficient for that backlog to be reduced.

Delays of around two years between the commission of a crime and the trial of the alleged offender are now far more common than they should be. Such delays result in the deterioration of the memories of witnesses, and substantial unfairness to both victims and accused persons.

The Court has seven judicial officers – six judges and one associate judge. The Court had seven judges from August 1984 until September 1995, when the Hon Sir Guy Green KBE AC resigned as Chief Justice of Tasmania to become Governor of Tasmania. A seventh judge was not appointed following his Honour's resignation. All subsequent vacancies have been filled, but the Court has had only six judges since that time.

Criminal trials have increased in length and complexity. There has been an enormous increase in the number of appeals from magistrates' orders refusing bail. The Court has experienced a gradual increase in its workload that has resulted not only in delays in the criminal jurisdiction, but also in some substantial delays in the delivery of reserved judgments in the civil jurisdiction.

The Government has responded by enacting legislation to permit the appointment of part-time acting judges. The *Supreme Court Amendment (Judges) Act 2016* received the Royal Assent on 10 June 2016. It is to be hoped that the appointment of some acting judges will facilitate the reduction of the backlog in the criminal jurisdiction, but much will depend on the resourcing of both the Office of the Director of Public Prosecutions and the Legal Aid Commission of Tasmania.

During the reporting year, the judges decided to make increased use of s 308 of the *Criminal Code*, under which orders may be made remitting matters to the Magistrates Court when a judge is satisfied that imprisonment for a term not exceeding one year will be adequate punishment for the circumstances of the particular case. A Practice Direction was published for that purpose on 27 October 2015. This should be seen as an extremely small step in the right direction. More cases are being sent back to the Magistrates Court than was previously the case, but the

impact on the Court's workload has been practically unnoticeable. One difficulty is that orders under s 308 may not be made without the concurrence of the accused.

Proposals for a redistribution of criminal work between the Supreme Court and the Magistrates Court have been under discussion for a long time. The Court's workload problem would no doubt be alleviated if, in future, magistrates could hear and determine some categories of criminal cases that are presently dealt with only in the Supreme Court. However any such arrangement involves the erosion of the right to trial by jury, and could give rise to a perception that some crimes are not being treated with appropriate seriousness. Any such redistribution of work would require legislation.

The Report on Government Services 2016, published by the Productivity Commission, contained some interesting statistics in relation to courts in the Australian States and Territories:

- Tasmania has 1.4 judges per 100,000 people, as compared with 2.2 in Western Australia, 2.1 in Victoria, 1.9 in South Australia, 1.6 in New South Wales, and 1.3 in Queensland. Those figures include the judges of the District and County Courts in the mainland States. The work of such courts is done by the Supreme Court in this State.
- Figures for the number of Supreme Court judicial officers per 100 finalised cases showed that Tasmania's figure was 0.50, which was the same as Queensland's figure, and the lowest in the country. The national average was 0.75. The equivalent figure for the Supreme Court of the Australian Capital Territory, which is the only Supreme Court truly comparable with ours, was 0.60. After the year to which those figures related, the ACT Government decided that it was necessary to appoint an additional judge of that court in order to cope with its workload.
- The percentages of pending criminal cases more than 12 months old and more than 24 months old were worse in Tasmania than in any other jurisdiction. That is due in part to the fact that, in Tasmania alone, accused persons are committed for trial to the Supreme Court before any witnesses are examined in preliminary proceedings before magistrates.
- The average number of attendances per finalisation in the Court's criminal jurisdiction was the worst it has ever been, and the worst in the country.

## Personalia

The Hon Justice David Porter retired as a judge of this Court on 20 May 2016 after eight years in office. His Honour was a former President of the Australian Bar Association, the Law Society of Tasmania, and the Tasmanian Bar Association, as well as the inaugural convenor of the Tasmanian Independent Bar. He took silk in 1995. He is a past Director of the Tasmanian Legal Practice Course and a past Editor of the Tasmanian Reports. As a judge he was Chairman of the Board of Legal Education and the Council of Law Reporting for Tasmania, and Tasmania's representative on the Law Admissions Consultative Committee. He made an enormous contribution to the work of the Court.

On 27 June 2016 the Hon Justice Michael Brett was appointed to be a judge of the Supreme Court with effect from 11 July 2016. His Honour was the Chief Magistrate when his appointment was announced.

The Hon Peter Heerey AM QC held office as an acting judge of the Court from 10 March 2016 until 22 March 2016. His Honour was appointed to hear and determine one case: *Wood v Retirement Benefits Fund Board* [2016] TASSC 15.

One appointment of Senior Counsel was made during the reporting year. Christopher James Gunson SC was appointed on 20 June 2016.

Sharon Barnett retired from the Court staff during the year, after more than 30 years' service. She was the Probate supervisor, and had previously worked as a secretary for the judges and the Registrar.

Dorothy Shea retired during the year after 28 years' invaluable service as the judges' Librarian. During her years at the Court she worked with some 17 judges, as well as two Masters and the present Associate Judge. She provided impeccable service quietly and efficiently, and always kept up with technological changes and consequential changes in the role of a law librarian.



## Criminal Cases

The number of new criminal case lodgments decreased by 4% during the reporting year, from 469 to 449. Finalisations of criminal cases increased from 422 to 436, resulting in a clearance rate of 97% which is a substantial improvement on the last reporting year (90%). This resulted in a slight decrease in the number of pending criminal cases as at 30 June from 388 to 381.

The profile of the pending criminal caseload indicates that cases older than 24 months have decreased (from 34 to 28), whilst cases aged older than 12 months have remained at approximately the same level as the previous year. The Court continues to focus on finalising older cases in those age groups. The backlog of criminal cases appears to be the result of many factors including the complexity and length of trials as a result of:

- greater use of complex scientific evidence such as DNA evidence;
- more applications made during the course of trials, e.g. applications by prosecutors for leave to cross-examine unfavourable witnesses under s.38 of the *Evidence Act 2001*;
- the introduction of special hearings to pre-record evidence of "special witnesses" under the *Evidence (Children and Special Witnesses) Act 2001*;
- more disputes as to the cross-admissibility of tendency and coincidence evidence in cases involving multiple charges; and
- long drug cases involving evidence of financial records and surveillance device evidence.

In order to deal with the criminal case load, there have been a number of occasions when criminal trials have proceeded simultaneously in both of the Court's courtrooms in Launceston. In addition, on a number of occasions Commonwealth criminal trials have been heard in Court 1 in Hobart, while State criminal matters have proceeded in Courts 7 and 8. The use of Court 1 is not ideal as it involves allocating a Judge who would otherwise be sitting in civil matters or writing judgments, and because the jury room in Court 1 is designed only for a seven-member civil jury.

The Court is reviewing aspects of its criminal case management practices. Consideration is being given to the reform of the remand day system, where a large number of accused people attend court on the same day for a brief review of their cases.

## **Civil Cases**

Civil lodgements increased by 18% during the reporting year, from 833 to 984. These figures include bail appeals and bail applications. Prisoners refused bail by a magistrate may appeal to a judge of the Supreme Court under s 125C of the *Justices Act* 1959. A bail application relating to proceedings under the *Criminal Code* may be made to a judge, even when the case is pending in the Magistrates Court: *Criminal Code*, s 304. The number of bail matters has increased during the reporting year from 110 to 244. Bail matters are invariably dealt with urgently. They place a great burden on the Office of the Director of Public Prosecutions, especially when the appellant or applicant is facing multiple charges in the Magistrates Court, since it is necessary to acquaint the judge with details of the charges, the strength of the evidence relating to the charges, the prisoner's prior convictions, and the matters leading up to a refusal of bail.

The clearance rate in civil cases remained constant at 103.6%, meaning that more cases were finalised than were commenced. Access to justice in the civil jurisdiction of the Court has continued to be efficient and timely. The Court engages in active case management processes which focus on ensuring that cases are ready for trial, following mediation if appropriate. Once cases are ready for trial there is usually little delay in listing them before a judge. The delay between listing and trial is usually less than three months, but much depends on the availability of counsel, the parties, and their witnesses.

This reporting year there has been a decrease in the number of pending civil cases, from 806 to 796 and a reduction in the age of the pending civil caseload, reflected in the high clearance rate.

Mediation by Court staff and external mediators continues to be an effective method of dispute resolution in civil cases. It is now fully accepted by the legal profession as an essential step in proceedings. This year's settlement rate at mediation of 64% is a slight drop from last year's rate of 66%. However, many matters are settled in the period after mediation as a result of the information discussed at mediation.

## **Appeals**

In its appellate jurisdictions, both criminal and civil, the Court is generally keeping pace with its work. 92% of criminal appeals and 78% of civil appeals have been pending for less than 12 months.

There has been a decrease in civil appeal lodgements from 94 to 82. Criminal appeal lodgements have decreased from 35 to 32 this year. Criminal appeal finalisations are up from 26 to 34, but civil appeal finalisations are down from 80 to 74.

## **Conferences and Events**

Judges of the Supreme Court attended the following events during the reporting year:

- Litigation Conference of the Law Society of Tasmania – Tarraleah.
- Supreme and Federal Courts Judges Conference – Brisbane.
- Law Society of Tasmania Criminal Law Seminar – Hobart.
- Council of Australian Tribunals Annual Conference – Hobart.
- Judicial Conference of Australia Annual Colloquium – Adelaide.
- Judicial Council on Cultural Diversity – Sydney.

## **High Court of Australia**

The Supreme Court of Tasmania was honoured to host a circuit sitting of the High Court in Hobart between Tuesday, 1 March and Wednesday, 3 March 2016. It had been 10 years since the previous High Court circuit sittings in Hobart in 2006.

Six of the seven Justices of the High Court sat in Hobart. Chief Justice Robert French AC was accompanied by Justice Susan Keifel AC, Justice Stephen Gageler, Justice Patrick Keane AC, Justice Geoffrey Nettle, and Justice Michelle Gordon.



*L to R : Justice Gordon, Justice Keane, Justice Keifel, Chief Justice French, Justice Gageler, Justice Nettle sitting in Court 1, Hobart*

The sittings involved legal argument on appeals in three cases: two originating in Tasmania, and a third from New South Wales.

The first Tasmanian case involved the legality of including submerged land beneath marine farming leases in Macquarie Harbour on the valuation roll for the purpose of charging municipal rates by local government: *Coverdale v West Coast Council* [2016] HCA 15, 90 ALJR 562.

The second Tasmanian case concerned the extent of the duty of care that a solicitor, when preparing a will for a testator, owes to a potential beneficiary in relation to potential claims against the estate under the *Testator's Family Maintenance Act* 1912, and to provide advice on ways to minimise that risk: *Badenach v Calvert* [2016] HCA 18, 90 ALJR 610.

The High Court sittings necessarily involve some disruption to the Supreme Court, including relocation of judges and support staff; as well as accommodating the High Court Justices, their associates and secretarial staff, their Deputy Registrar, IT staff and contract transcribers. A CCTV link was installed from Court 1 into Court 2 to enable large school groups to watch the proceedings.

The Chief Justice of Australia, the Hon Robert French AC, returned to Hobart for a meeting of the Council of Chief Justices of Australia and New Zealand on 28 April 2016. On the night of 29 April, his Honour delivered a speech on "The State of the Australian Judicature" at a dinner hosted by the Law Council of Australia and the Australian Bar Association.

## **Education and Research**

During the year, the Court continued to engage with educational and research institutions in various ways, including the following:

- The Court participated in the National Jury Sentencing Research Project, organised by academics from the University of Tasmania. In cases where offenders were found guilty of sexual crimes and certain crimes of violence, jurors were invited to take part in surveys regarding their attitudes to sentencing. This project builds on the Tasmania Jury Sentencing Project, which was conducted from 2007 to 2009.
- In November 2015 the Court participated in Open House Hobart, an event organised by the Institute of Architects to provide the public with access to architecturally significant buildings in and around Hobart. Two judges led tours, together with the architect of the Court buildings, Peter Partridge.
- The Court has continued to enhance its information and communication resources. Apart from the information video for jurors, projects initiated have included website development for the benefit of self-represented probate applicants, and the establishment of the Court's twitter account.
- The Court provides courtrooms for the University of Tasmania Law School's moots.
- The Court continued to facilitate the Sentencing Advisory Council's research projects concerning suspended sentences and self-defence by providing access to files and data.

- Judges routinely preside over litigation and advocacy exercises for trainees undertaking the Tasmanian Legal Practice Course.
- The Court continues to accept a regular intake of work-experience students from local schools and colleges, providing a training opportunity for students with an interest in business administration and those who are considering a career in the law.

## **Disability Access**

Considerable effort is being applied to improve the level of access to Court facilities for people with accessibility issues. Work undertaken to date includes improvements to paths accessing the Hobart building podium to provide for better wheelchair access. Funding has been provided in financial year 2017 for the purchase of a wheelchair lifter and witness dock modifications, and the provision of a ramp between the Hobart building podium and the civil building.

Planning work has commenced on improving lift access to the Hobart buildings.

## **Technology**

During the reporting year, the Court undertook further refinement of its in-Court audio visual systems. An independent review of Launceston Court 1 was undertaken in November 2015 and some of the recommendations arising from the review were implemented in May and June 2016. The final and major upgrade to both Court 1 and Court 2 in Launceston are programmed to occur in Financial Year 2017.

The enhancement of the Court's Criminal Case Management System is ongoing with a planned practical completion in mid 2017.

The Court has commenced a further business improvement project entitled **e-Court**. The focus of e-Court is to further extend the e-Filing project to enable practitioners and the public to file and manage proceedings on-line, thus creating an e-File. Ultimately this will reduce the amount of paperwork both in the registries and at hearings. The potential for an e-Forum is also being explored. This would enable multiple practitioners to participate in specified hearings from their offices or chambers.

## **Archiving of Statutes**

The Supreme Court has been the repository for the originals of all Tasmanian statutes since the Executive Council began to enact them in 1833. The oldest statutes were written on vellum. The storage conditions have been far from ideal. Following an amendment in 2013 to the *Legislation Publication Act* 1996, custody of these very important documents is being transferred to the State Archivist. A project is underway to conserve and catalogue these historic documents. The fragile nature of some of these documents, and the requirement for special storage folders and boxes, has led to a revision of the expected completion date for the project. It is now expected that the first half of the project, covering the years 1833 to 1900, will be completed in the year commencing 1 July 2016. It is estimated the transfer of the remaining documents should be achieved by the end of 2017.

## **Probate**

The *Probate Rules* 1936 remain in force. They need to be replaced by more modern rules. Consultation on the new draft Probate Rules was completed during the previous reporting year. An Issues Paper was distributed to key stakeholders. Stakeholder comments have been considered, and where appropriate, incorporated into the draft rules. The revised Probate Rules were approved by the Rule Committee in November 2015 and forwarded to the Office of Parliamentary Counsel for drafting. As at 30 June 2016, the first draft of the Rules was awaited.

## **Legislative Amendments**

The *Criminal Code Amendment (Second or Subsequent) Appeal for Fresh and Compelling Evidence* Act 2015 received the Royal Assent on 2 November 2015. Before the commencement of that Act, a person found guilty by a jury was entitled to appeal to the Court of Criminal Appeal only once. The Act has amended the *Criminal Code* so that a convicted person may apply to a single judge for leave to lodge a second or subsequent appeal against his or her conviction on the ground that there is "fresh and compelling evidence". If leave is granted, the Court of Criminal Appeal may uphold a second or subsequent appeal if it is satisfied that there is fresh and compelling evidence, and that there has been a substantial miscarriage of justice. The impact of the amendment on the Court's workload remains to be seen.

During work on the revision of the *Probate Rules* 1936, certain reforms to the *Administration and Probate Act* 1935 were recommended. That Act was amended with effect from 15 October 2015 to give effect to those recommendations. Before the amendments, a provision in the Charter of Justice 1831 permitted letters of

administration to be granted only to residents of Tasmania, and only to individuals who had attained the age of 21 years. The wording of the *Age of Majority Act 1973* had resulted in that provision remaining unchanged when the age of majority was reduced to 18. As a result of the 2015 amendments, letters of administration may be granted to individuals who do not reside in Tasmania, and to anyone who has attained the age of 18 years. Also, s 25 of the 1935 Act was repealed. That section required an administration bond to be provided before every grant of letters of administration. The intended result is that the Registrar will have the power to require the provision of an administration bond whenever he thinks fit.

As discussed above, the *Supreme Court Act 1887* was amended by the *Supreme Court Amendment (Judges) Act 2016* to permit the appointment of part-time acting judges.

As at 30 June 2016, the *Crimes (Miscellaneous Amendments) Bill 2016* was awaiting the Royal Assent. That Bill provided for a number of minor reforms to the *Criminal Code* and the *Criminal Justice (Mental Impairment) Act 1999*.



## The Judiciary of the Supreme Court of Tasmania as at May 2016



*Justice Robert Pearce, Justice Helen Wood, Justice Shan Tennent, Chief Justice Alan Blow OAM, Justice David Porter, Justice Stephen Estcourt, Associate Justice Stephen Holt, Registrar Jim Connolly*

## THE SUPREME COURT OF TASMANIA IN PROFILE

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 approximately 50 administrative staff support them.

### Structure of the Court

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

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

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

The Court's work is divided into three broad areas, 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 a jury of twelve people.

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.

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

## **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.

## **Mediation**

Only a very small percentage of civil cases require resolution by a hearing in the court. Far more civil 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.

## **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 (Tasmanian and Commonwealth), 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 and statutory tribunals.

## **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 district registries in Launceston and Burnie to deal with civil and criminal matters.

## 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), from the ranks of barristers and solicitors who have at least ten years' standing in their profession.

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".

The *Supreme Court Act* 1887, section 2, 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 Alan Michael Blow OAM

The puisne Judges:

The Honourable Shan Eve Tennent

The Honourable David James Porter (resigned 20 May 2016)

The Honourable Helen Marie Wood

The Honourable Stephen Peter Estcourt

The Honourable Robert William Pearce

## **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 Court with the management of its caseload.

The Associate Judge is:

The Honourable Stephen James Holt.

## **THE WORK OF THE SUPREME COURT OF TASMANIA**

The jurisdictions exercised by the Court, and the administrative support of the judicial functions of the Court, are numerous and varied. Most people are generally aware of the Court's jurisdictions in criminal and civil cases. However, there are many other aspects of the Court's work.

### **Office of the Sheriff**

The office of the Sheriff can be traced back to medieval England. The office of Sheriff in Tasmania was created by the Charter of Justice published by Letters Patent in 1823 (which also established the Supreme Court). The Sheriff is a statutory officer appointed pursuant to the *Sheriff Act* 1873. The Sheriff also currently holds office as Registrar of the Supreme Court. The Charter of Justice enables the Sheriff to appoint deputies, and the Sheriff is represented at the Principal and District Registries by his deputies.

The functions of the Sheriff are prescribed by statute and include the following:

- administration of the *Juries Act* 2003
- service and execution (enforcement) of court orders and judgments
- court security.

### **Administration of Juries**

Juries are an integral part of the judicial system and by providing "trial by one's peers" they form the link between the community and the criminal justice system.

Jury service is a vital component of civic participation in our democracy and the criminal justice system. For many people it is the most direct contact they will have with this important community responsibility. In Tasmania, juries are used almost exclusively in criminal trials of serious indictable offences. Juries are rarely empanelled in civil trials in Tasmania.

The Sheriff is responsible for administration of juries in accordance with the *Juries Act* 2003. This involves maintenance of the roll of potential jurors; determining each registry's jury districts from which jurors are drawn;

issuing juror summonses; determining applications for exemption or deferral; instructing jurors on their role within the justice system; administering juror expense claims; and handling general enquiries.

The Court's jury list is sourced from the electoral Roll maintained by the Tasmanian Electoral Commission, with jurors being selected at random by computer. Juror summonses are issued which require jurors to attend Court unless they are exempted or have their jury service deferred.

<b>Registry</b>	<b>No. Jurors Summoned</b>	<b>No. Attended</b>	<b>No. Empanelled</b>	<b>No. of Trials</b>
Hobart	4,464	1,270	516	43
Launceston	4,807	1,001	348	29
Burnie	4,029	862	360	30
<b>TOTAL</b>	13,300	3,133	1,224	102

There were no civil jury trials conducted in the reporting year.

Payment to jurors for loss of income, attendance and expenses in 2015-2016 totalled approximately \$498,279.

### **Enforcement of Court Orders**

Writs to enforce judgments and orders of the Court are received by the Sheriff for immediate execution.

Execution of court orders outside the immediate precincts of the Hobart, Launceston and Burnie registries is usually entrusted to bailiffs – who are often officers of Tasmania Police – by virtue of rule 903 of the Supreme Court Rules 2000. If circumstances require, the Sheriff or any of his officers may execute any Writ within the State.

The number of writs of execution filed with the Court has again dropped slightly this year. In 2015-2016, Sheriff's officers executed 52 writs of execution, of which 36 were writs of possession and 15 were writs of *feri facias* or writs of delivery. There was one writ of Venditioni Exponas.

Applications for orders for possession of premises pursuant to section 146 of the *Land Titles Act* 1980 decreased to 177 in comparison with 200 in the previous reporting period.



## **Court Security**

Court security officers continue to provide support to the Court to ensure the safety and security of all those who attend court. Security monitoring devices include walk-through metal detectors, hand-held metal detectors and CCTV surveillance equipment. Security personnel are appointed as authorised officers pursuant to section 1B of the *Admissions to Court Act 1916*. Authorised officers have powers which include the following:

- power to require persons entering the court to be identified; and
- power to require persons entering the court to deposit with an authorised officer any placard, instrument, device or thing that is liable to engender violence or create a breach of the peace; and
- power to require a person to leave, or not enter, a court or remove a person from the court.

The Court is undertaking a comprehensive security upgrade of all Court buildings with the final works to be completed in Financial Year 2017.

## **Probate**

The Probate Registry issues grants appointing legal personal representatives (executors or administrators) to administer the estates of deceased persons. The Probate Registry is located at the Hobart Registry of the Court.

The most common grants are for:

- probate (where an executor applies to prove a will);
- letters of administration with the will annexed (where there is no executor to prove the will and a person with a financial interest in the estate under the terms of the will applies); and
- letters of administration (where there is no will and a person entitled to benefit under intestate succession law applies).

This reporting year the Probate Registry issued 2427 grants of which 2219 were grants of probate, 172 were grants of letters of administration, 32 were elections to administer low value estates, there were also 42 caveats and other miscellaneous applications, and 36 reseals of grants from other jurisdictions.

These grants are made in response to non-contentious applications. Once filed these applications are reviewed by Probate staff to ensure all necessary documentary evidence (providing details about the deceased, the will if any, the assets and liabilities of the estate, the executors or administrators, and beneficiaries) has been submitted to ensure that the authority to administer the deceased person's estate is granted to the person legally entitled to the grant.

The number of applications in person to the Probate Registry has continued to increase. Additional resources have been allocated to reduce delay in issuing grants. Of concern is the likelihood that at least some applicants in person do not fully comprehend the task of administering estates. The Court has now improved the information resources available to applicants-in-person, as part of its project to modernise the Probate Rules applicable to this jurisdiction.

### **Information Technology**

The Court relies increasingly on information technology to perform its functions. During 2015–16 the Court engaged an expert consultant (Redfish Technology Pty Ltd) to undertake a review of courtroom technology, including the audio-visual and evidentiary recording at the Launceston Supreme Court. Significant improvements to both court rooms have been made with further upgrades scheduled for Financial Year 2017.

A project has commenced to improve the criminal case management system (CCMS) used by the Court. CCMS was designed approximately 20 years ago, and provides limited case management and statistical functionality. A new system will enhance interfaces with other criminal justice agencies to improve efficiencies in import and export of data for operational and management purposes. It is anticipated that this work will be completed in financial year 2017.

### **Judges' Library**

The judges' library is essential to the efficient performance of the judicial function and the writing of judgments. The main library collection is located in Judges' Chambers in Hobart, and comprises law reports from most common law jurisdictions, textbooks, periodicals, serials, journals, and legislation. The judges' library also subscribes to a variety of on-line legal resources, law reports, and texts from the various legal publishers.

The library also contains copies of earlier unreported judgments of previous judges of the Supreme Court. Publication of the Court's judgments on the internet, plus management of the Court's external and internal websites is undertaken by library and chambers staff.

The library also provides library services to judges when sitting in Launceston and Burnie, which have limited hard copy collections. The Supreme Court librarian manages the availability of on-line and hard copy legal resources, and provides training in legal information research skills.

As part of the departmental changes to library services a new resourcing structure has been implemented within the judges library. A librarian is present during mornings, and available to attend from the Andrew Inglis Clark Law library located in the same building during afternoons.

### **Transcribing Services**

The Supreme Court has an experienced transcribing service to produce transcripts of selected court proceedings for judges, counsel and parties to litigation. Transcripts are prepared without charge to the parties in most criminal trials, and at cost in those civil proceedings where the parties have requested a transcript.

Digital audio-recording technology now enables high-quality audio-visual recording of the proceedings in the courtroom to be transmitted in real time to transcribing typists based at the local Court location, or if assistance is required, to any of the other transcribing typists based in the other Court locations in the State. The Court employs a pool of approximately 16 transcription typists on either a full-time or part-time basis. Transcript can be provided as a daily transcript if required during a trial, or at a later stage if required for appeals or other purposes.

## **COURT ADMINISTRATION – PERFORMANCE**

The work of the 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 it to hear any matter falling within the jurisdiction of the Court that is brought before it. As the jurisdiction of the Court expands and contracts with statutory changes and social conditions, so does its workload.

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 to Parliament for performance.

A national framework of performance indicators adopted by the Court supports the objectives of the Court. The two principal indicators are summarised below.

## Backlog Indicator

The backlog indicator is a measure of timeliness and delay. This indicator specifically measures the Court's pending caseload against national timeliness standards. The national time standards targets are that no more than 10% of lodgments pending completion should be more than 12 months old; and no lodgments pending completion should be more than 24 months old. The Tables below record the age of the caseload in cumulative periods.

### *Backlog Indicator - Supreme Court (Criminal) - First Instance*

	<b>2013-14</b>	<b>%</b>	<b>2014-15</b>	<b>%</b>	<b>2015-16</b>	<b>%</b>
Total Pending Caseload	348	100	388	100	381	100
Pending >12mths	92	26	107	28	110	29
Pending >24mths	21	6	34	9	28	7

### *Backlog Indicator - Supreme Court (Criminal) - Appeal*

	<b>2013-14</b>	<b>%</b>	<b>2014-15</b>	<b>%</b>	<b>2015-16</b>	<b>%</b>
Total Pending Caseload	17	100	26	100	25	100
Pending >12mths	1	6	2	8	2	8
Pending >24mths	0	0	1	4	1	4

*Backlog Indicator - Supreme Court (Civil) - First Instance*

	<b>2013-14</b>	<b>%</b>	<b>2014-15</b>	<b>%</b>	<b>2015-16</b>	<b>%</b>
Total Pending Caseload	809	100	806	100	796	100
Pending >12mths	256	32	281	35	271	25
Pending >24mths	73	9	89	11	73	9

*Backlog Indicator - Supreme Court (Civil) - Appeal*

	<b>2013-14</b>	<b>%</b>	<b>2014-15</b>	<b>%</b>	<b>2015-16</b>	<b>%</b>
Total Pending Caseload	50	100	62	100	61	100
Pending >12mths	9	18	7	11	12	20
Pending >24mths	3	6	1	2	1	2

## Clearance Rate

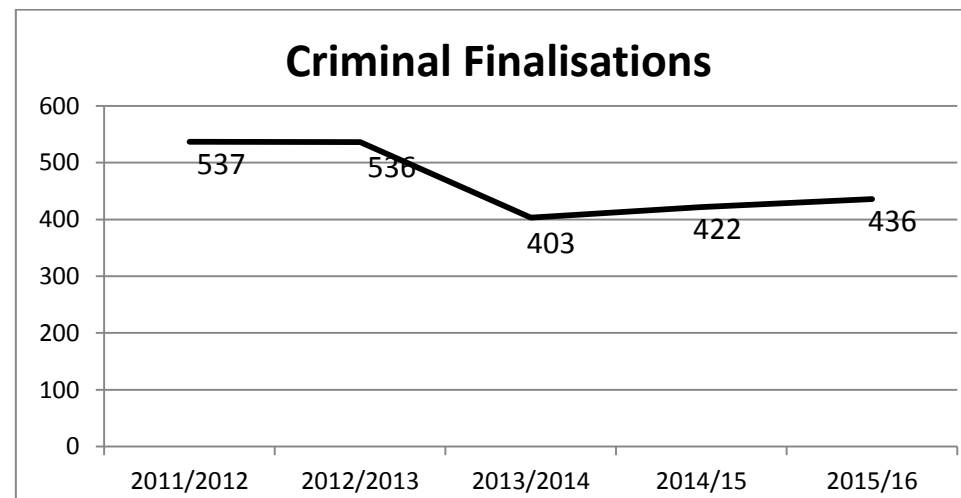
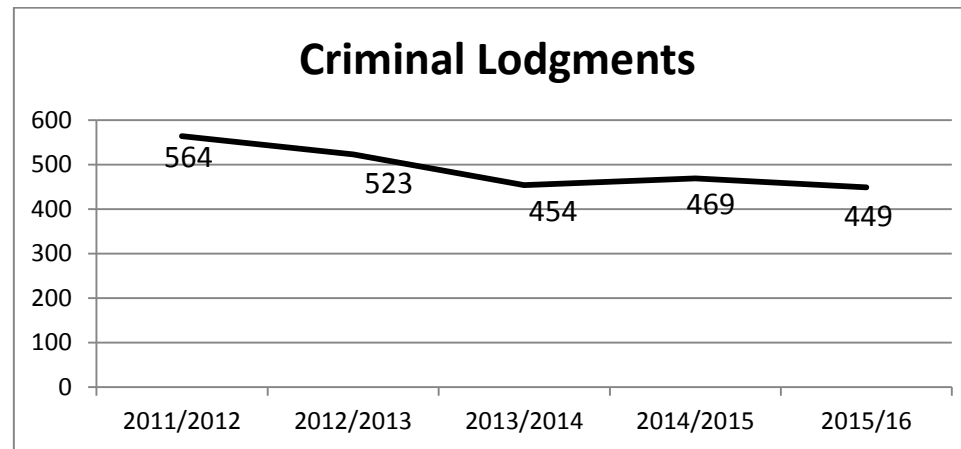
The Clearance Rate indicator is a measure that shows whether the Court is keeping up with its workload. The indicator denotes the number of finalisations in the reporting period expressed as a percentage of the number of lodgments for the same period. A result of 100% indicates the Court is finalising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

### *Supreme Court clearance rate (First instance)*

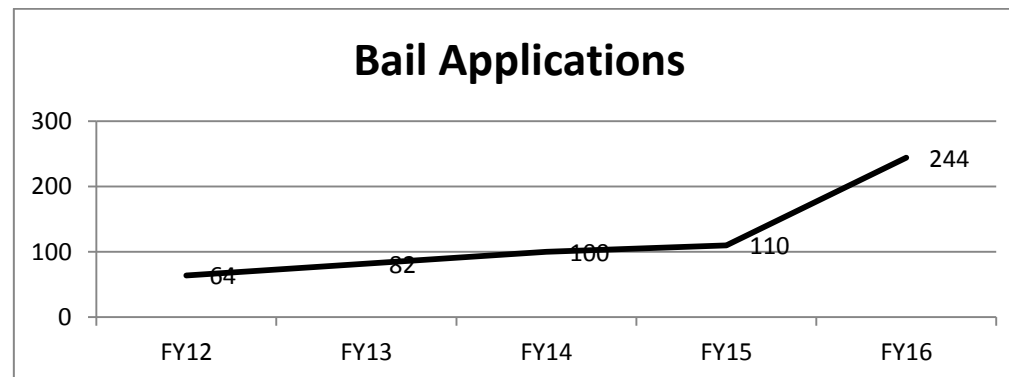
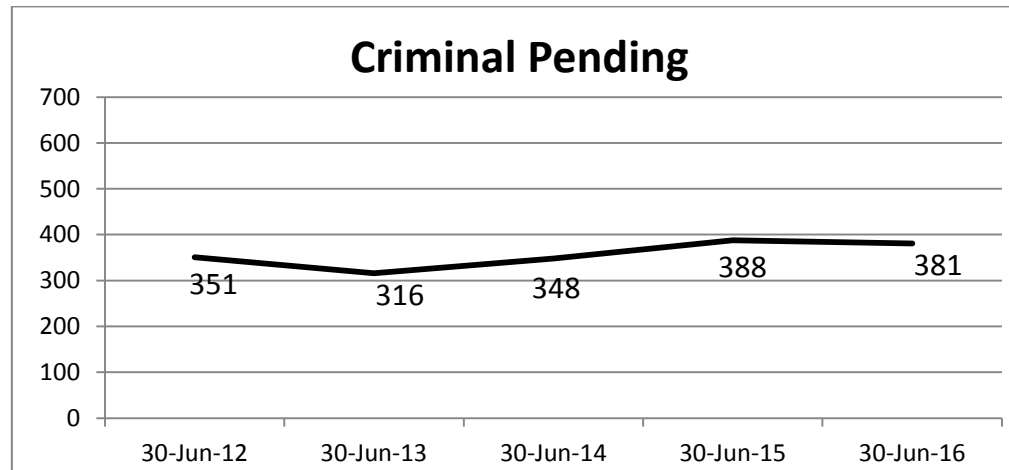
	<b>2013-14</b>	<b>2014-15</b>	<b>2015-16</b>
Criminal Jurisdiction	88.8%	90.0%	97.1%
Civil Jurisdiction	116.5%	103.7%	103.6%

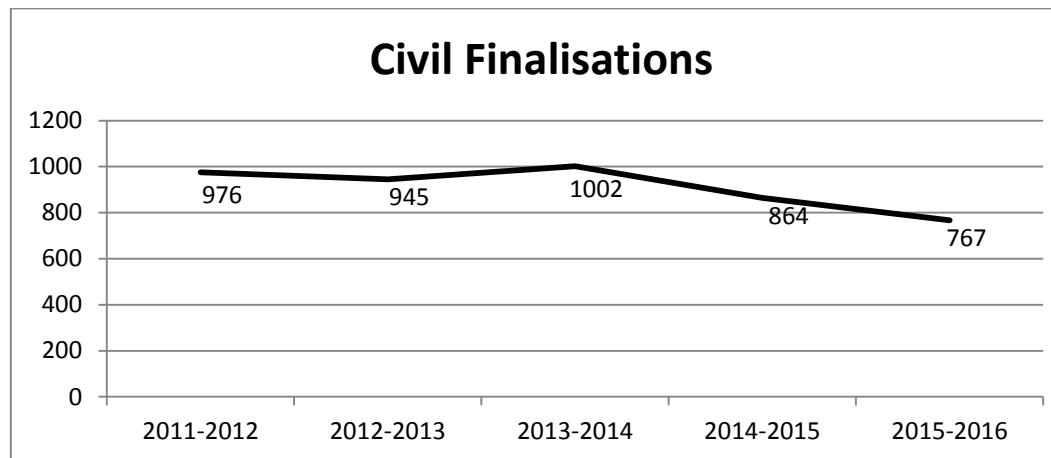
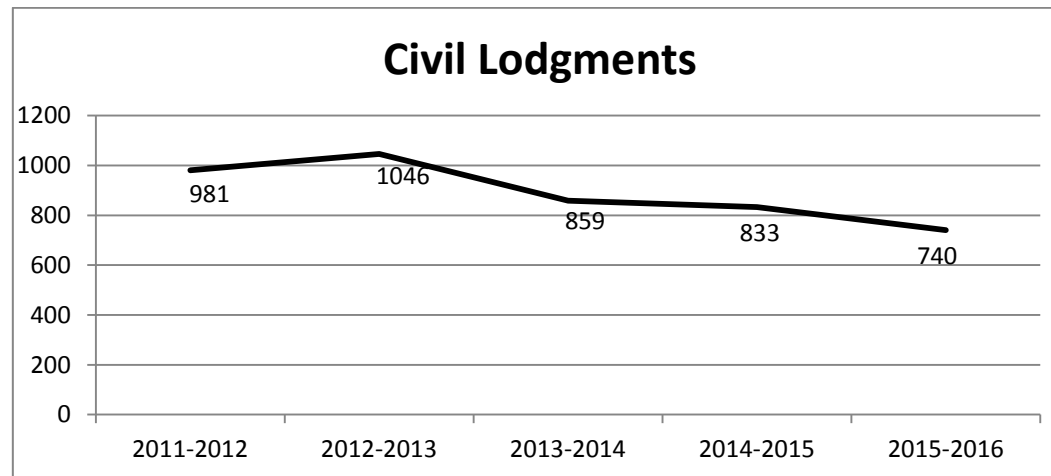
# Statistical Information

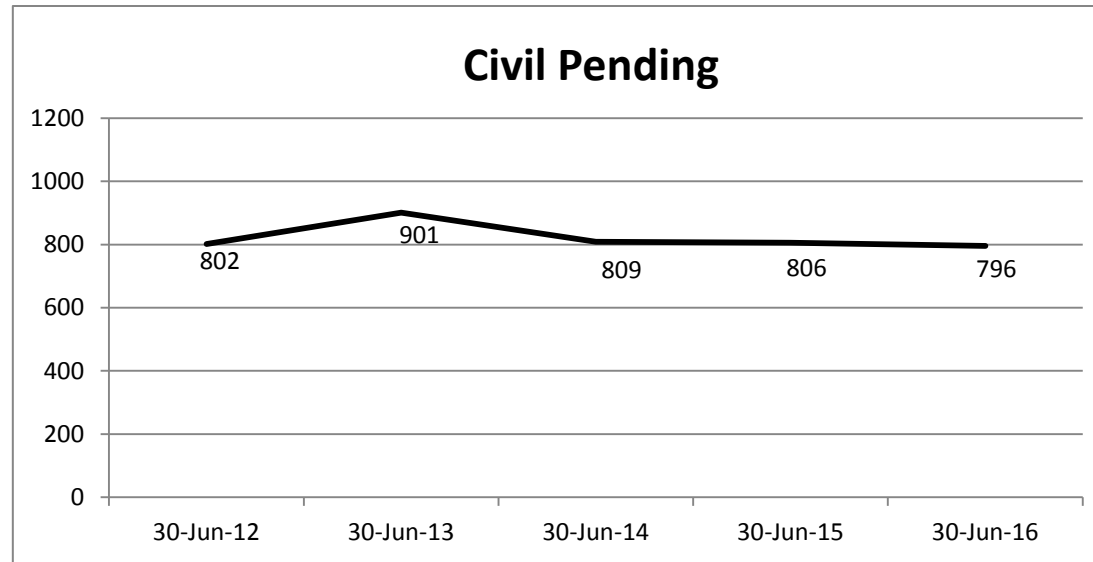
## Original Jurisdiction



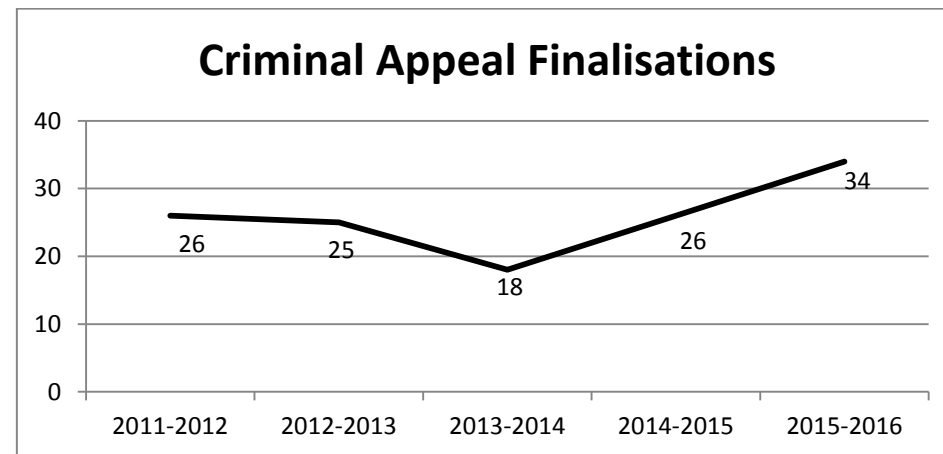
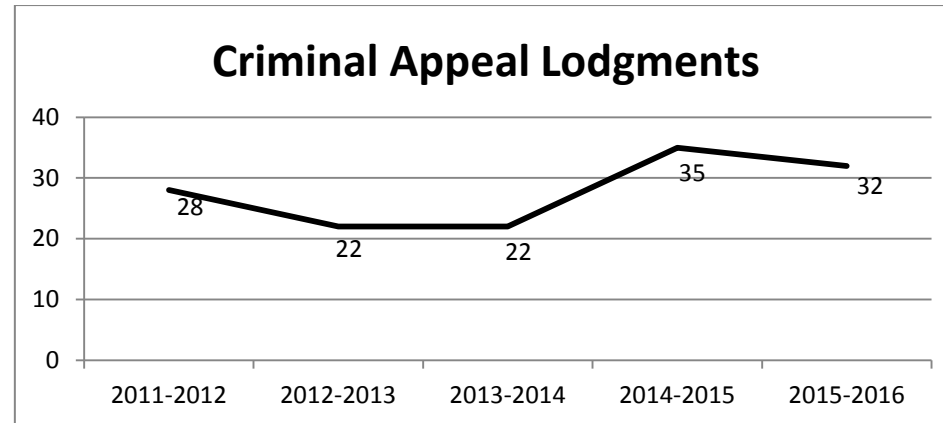


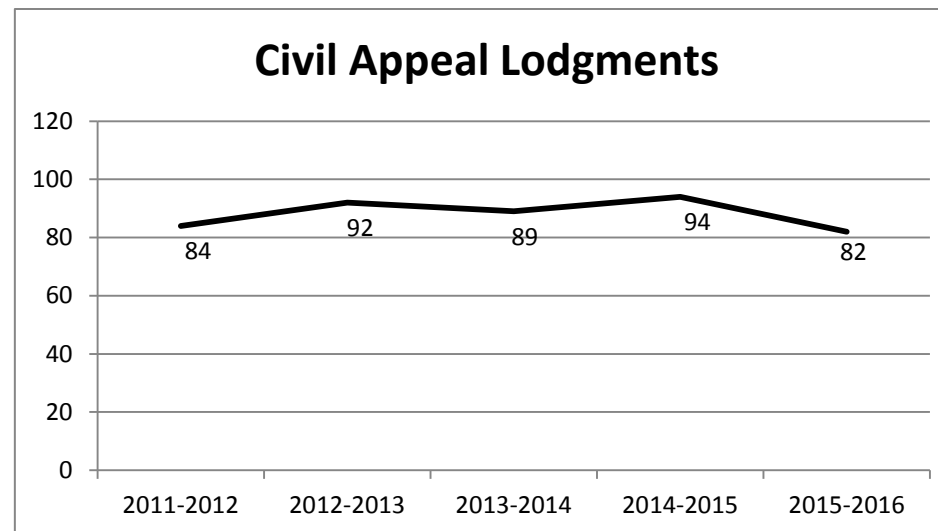
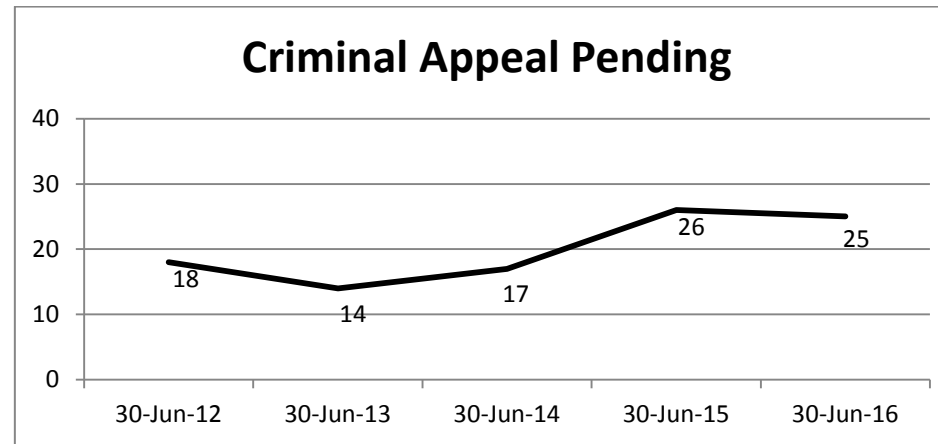


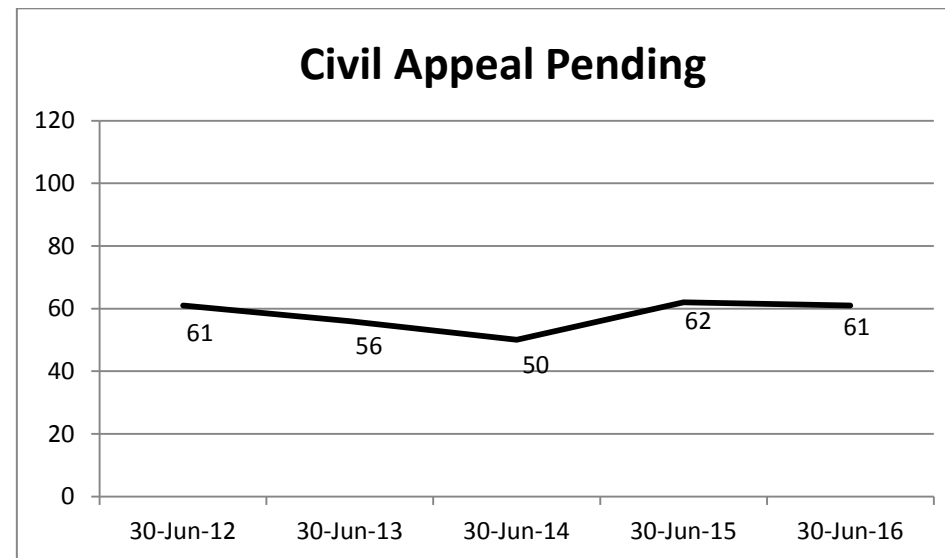
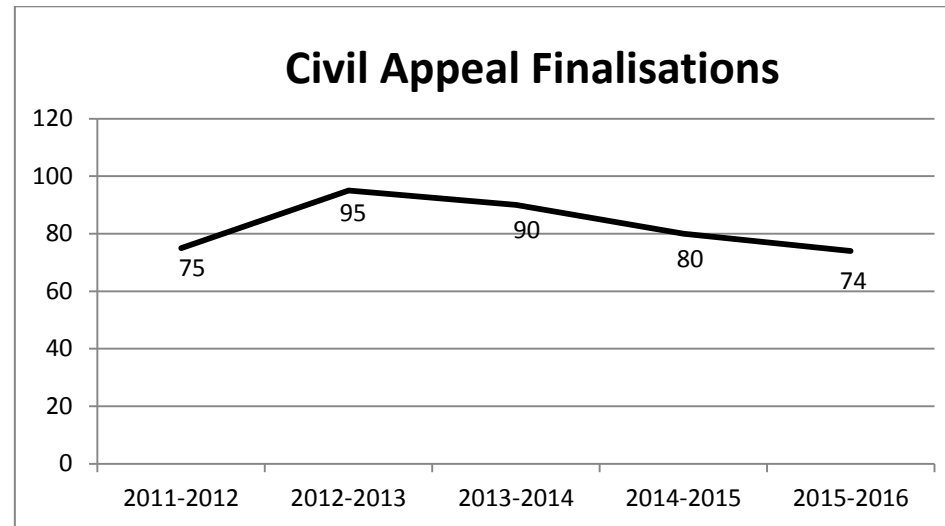




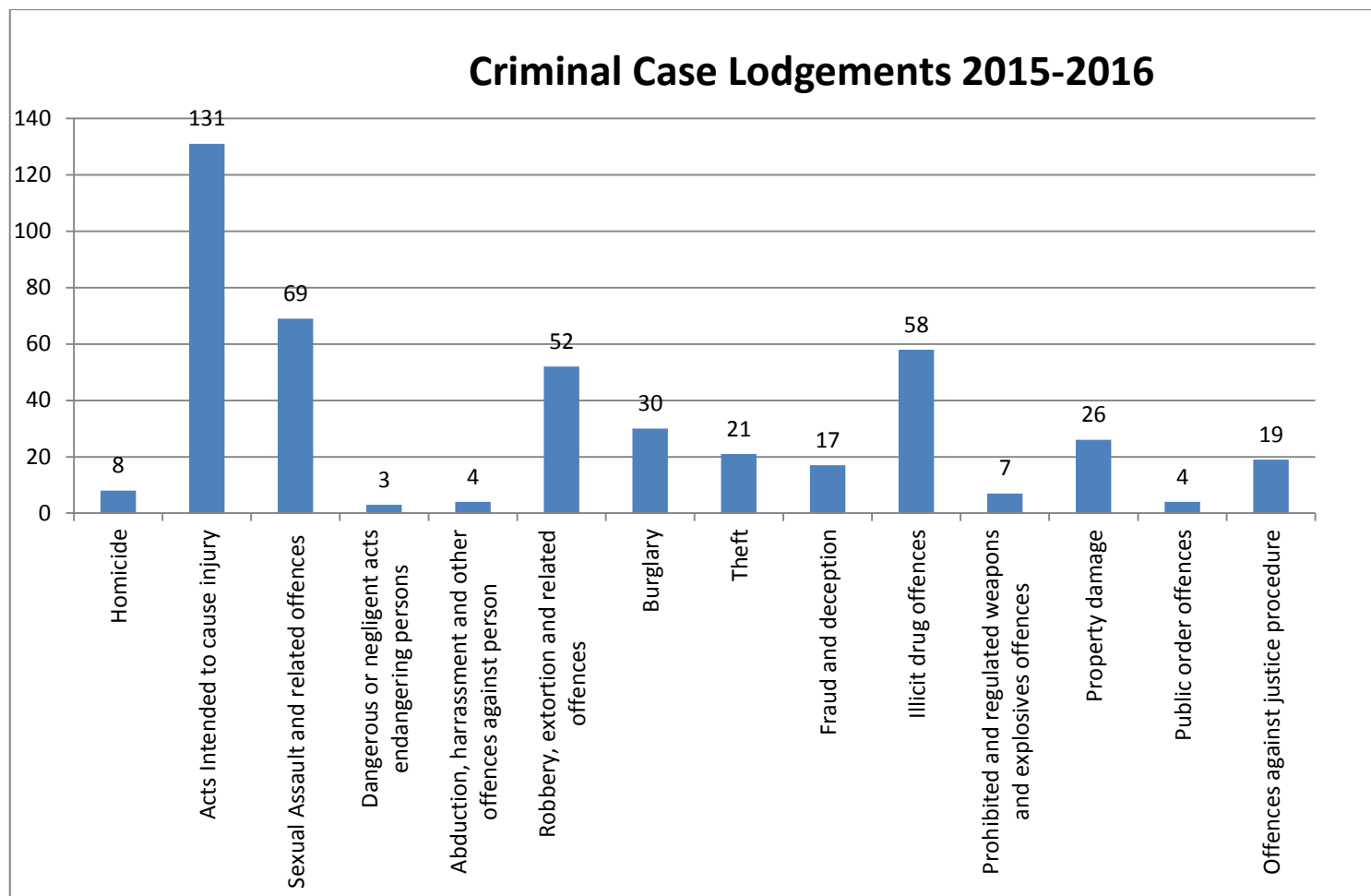
# Appellate Jurisdiction



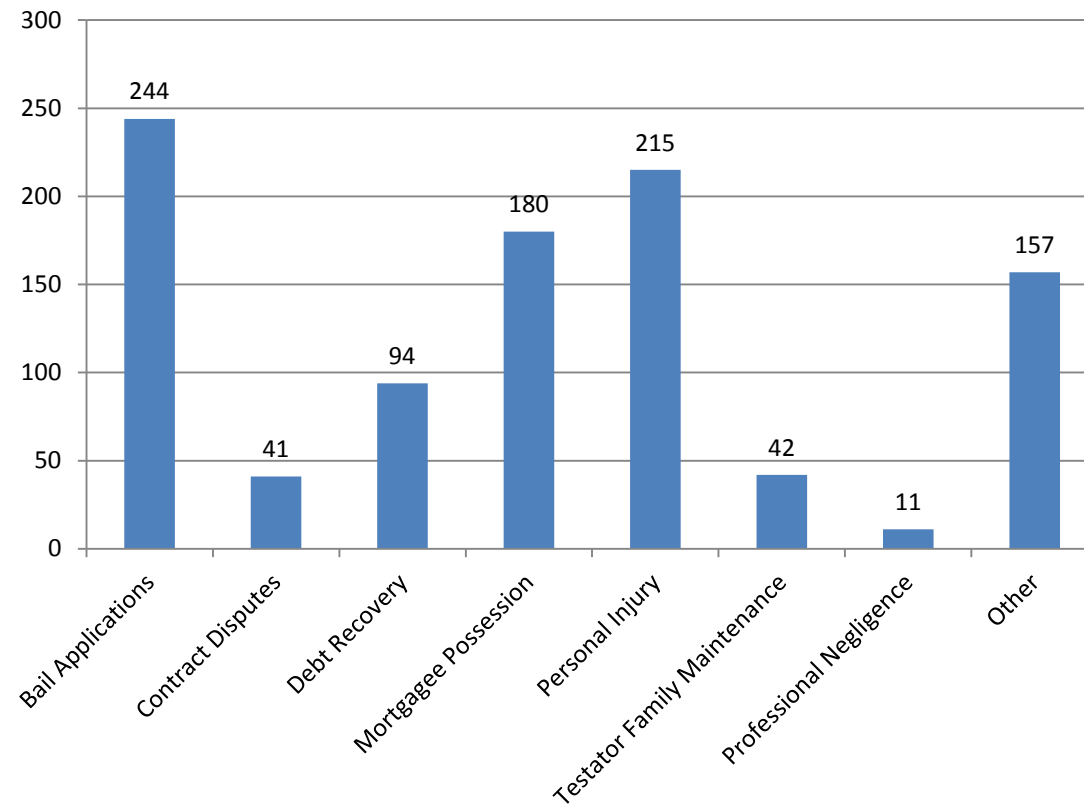




## Miscellaneous

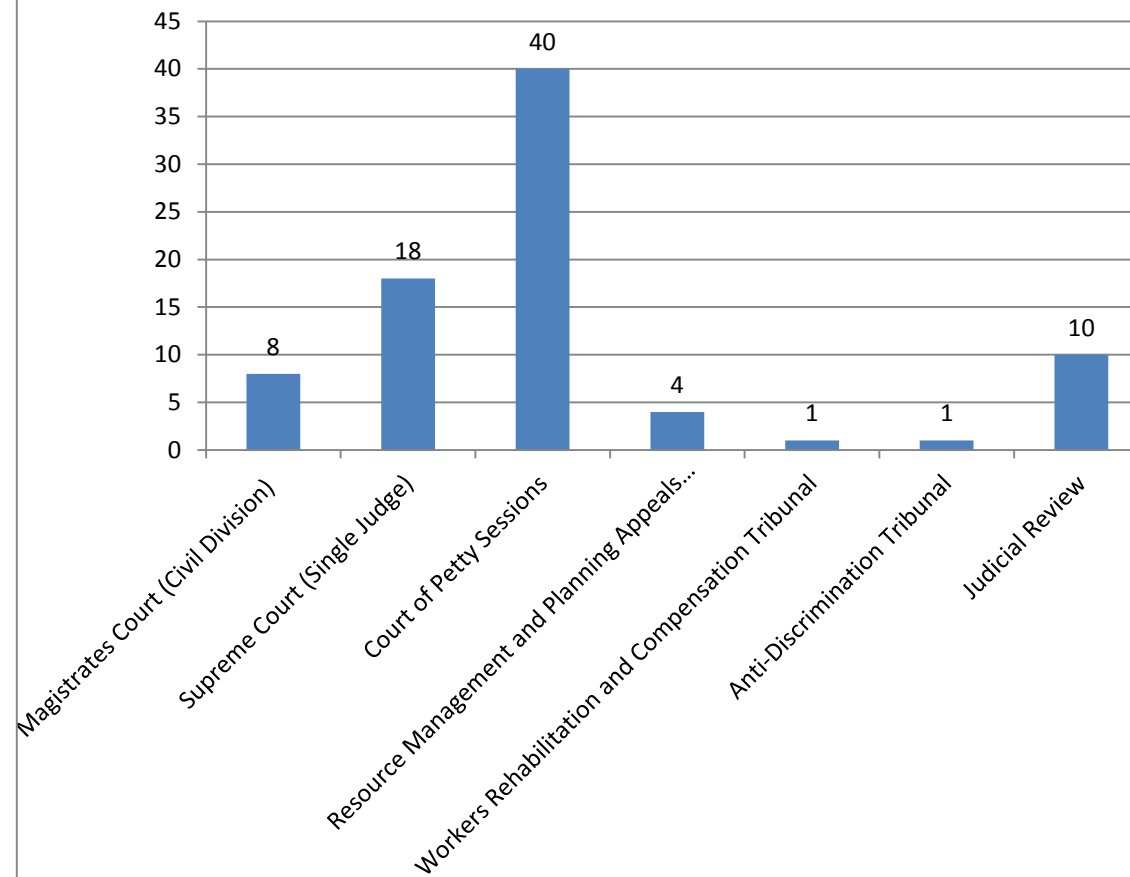


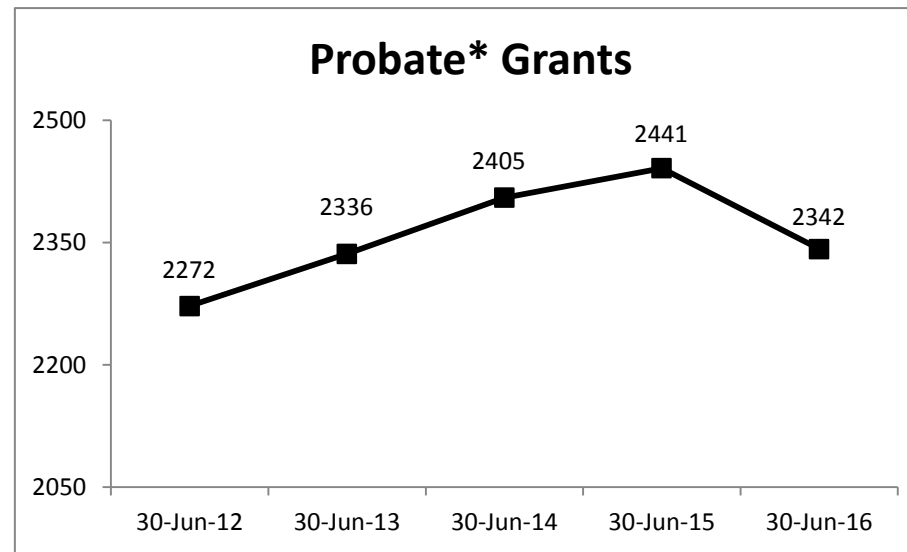
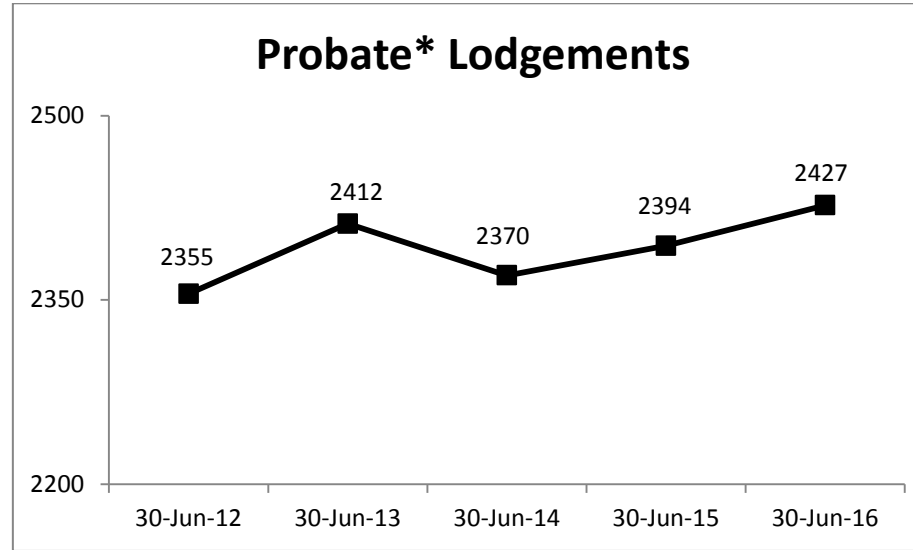
## Civil Case Lodgements 2015 - 2016



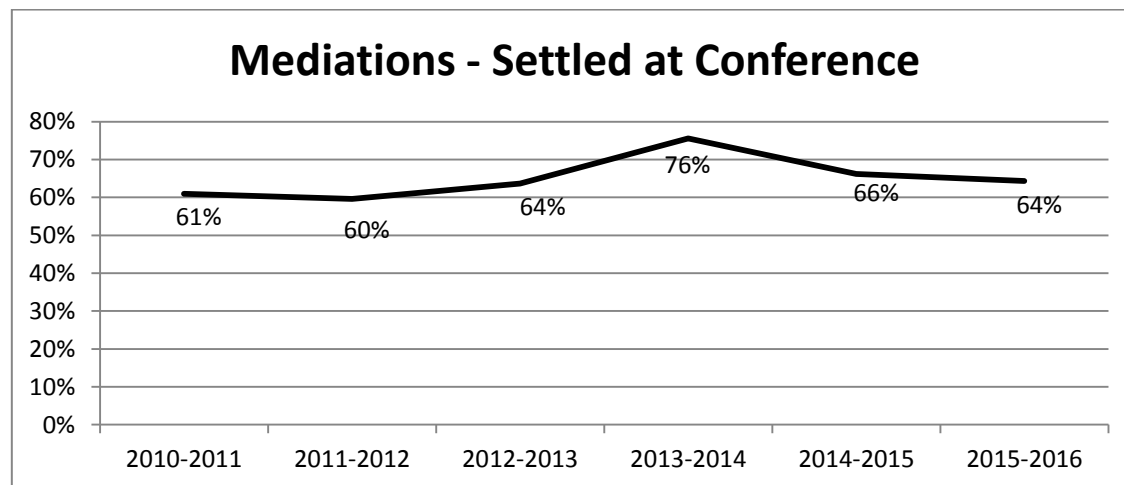


### Civil Appeal Lodgements by Origin 2015 - 2016





\*includes Letters of Administration



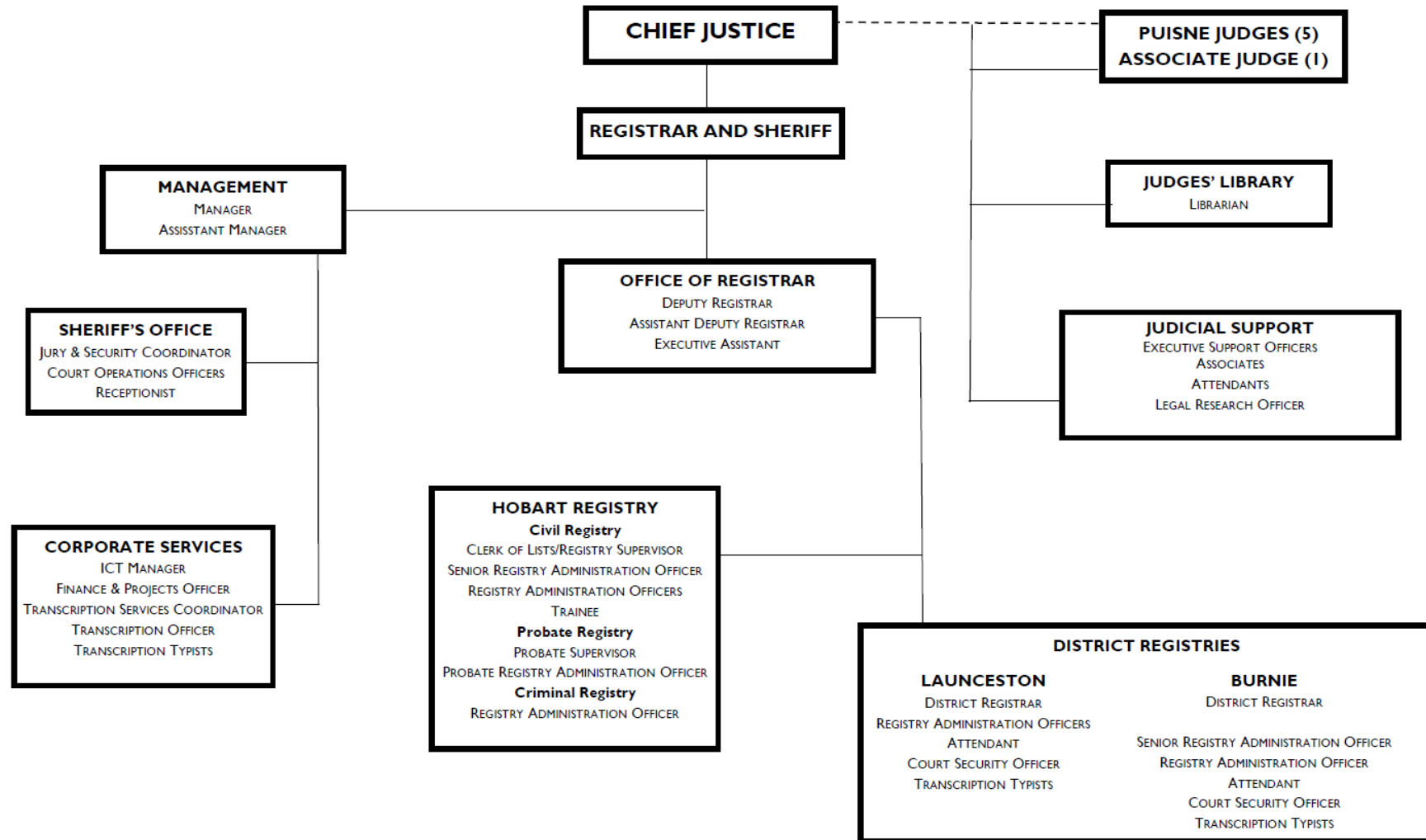
\*or within 30 days of mediation conference

## Staffing Information

### Numbers of Judges and Staff (FTEs)

	2013-2014	2014-15	2015-16
Judges and Associate Judge	7.0	7.0	7.0
Judicial Support	13.8	13.8	13.7
Civil Registry	8.0	8.2	7.4
Criminal Registry	6.4	4.6	4.5
Probate	2.0	3.1	3.1
Court Security and Sheriffs	3.8	4.9	4.7
Court Reporting	7.7	8.5	8.3
Library	0.9	1.0	0.8
Information Technology	1.0	1.0	1.0
Mediators	0.0	0.5	0.5
First Line Support Staff	3.0	3.0	3.0
<b>Total</b>	<b>53.6</b>	<b>55.6</b>	<b>54.2</b>

## SUPREME COURT OF TASMANIA



# Financial Statements

## Operating Account

Year ended 30 June 2016

### Supreme Court Annual Report

	<b>FY 14-15</b>	<b>FY 15-16</b>
<b>RECEIPTS</b>		
Recurrent appropriation	4,970,985	4,670,935
Registry fees	573,422	552,063
Provision of transcript	69,708	46,397
Probate fees & charges	1,318,157	1,457,993
Mediation fees	65,928	53,305
Sheriff's fees	12,153	13,745
Court reporting	38,660	15,081
Video conferencing	2,900	1,000
Other receipts	424,309	126,936
<b>TOTAL RECEIPTS</b>	<b>7,476,222</b>	<b>6,937,455</b>
<b>EMPLOYEE-RELATED EXPENDITURE</b>		
Salaries & wages	3,166,285	3,343,715
Fringe Benefits Tax	52,716	50,539
Payroll tax	0	0
Superannuation	381,753	418,503
Workers compensation insurance	71,000	83,956
Training	4,384	4,215
Other employee related expenses	55,527	39,002
<b>TOTAL EMPLOYEE-RELATED EXPENDITURE</b>	<b>3,731,663</b>	<b>3,939,929</b>

**ADMINISTRATIVE & OTHER EXPENDITURE**

Fuel, light & power	204,856	196,370
Advertising & recruitment	219	837
Rental	14,654	3,568
Communications	72,221	59,959
Travel	97,206	82,992
Consultancies	36,890	58,620
Printing & stationery	61,873	57,767
Rates	148,797	134,641
Repairs & maintenance	193,033	154,056
Minor equipment	22,592	8,551
Library materials	97,660	94,504
Computers & IT	275,360	331,821
Expenses of witnesses	78,540	68,618
Expenses of Jurors	589,823	471,077
Other administrative expenses	1,247,402	523,845
<b>TOTAL ADMINISTRATIVE &amp; OTHER EXPENDITURE</b>	<b>3,141,126</b>	<b>2,247,225</b>

**RESERVED BY LAW**

Salaries & other entitlements of Judges	3,258,195	3,352,988
Salaries & other entitlements of the Associate Judge	436,909	446,642
<b>TOTAL RESERVED BY LAW EXPENDITURE</b>	<b>3,695,104</b>	<b>3,799,630</b>

**OVERHEAD CONTRIBUTION TO THE  
DEPARTMENT OF JUSTICE**

1,609,013	1,720,007
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