

Local Court of New South Wales  
Annual Review 2005



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# Chief Magistrate's Introduction

The strong performance in recent years in the Court's productivity was maintained during 2005. The Court's own statistics and the Australian Productivity Commission's 2004-2005 Report demonstrate the efficiency with which the work of the Court was finalised. The Court was ranked first for a third year in a row for the timeliness within which criminal matters are completed and the Children's Court ranked second in the Australian Productivity Commission's latest report. These results were achieved notwithstanding the continued development of Court Diversion Programs which require significantly more time in the sentencing process.

A particular challenge confronting the Children's Court was the substantial increase (39%) in the number of care cases commenced in the Court. I am pleased to report that the Court met this challenge by finalising more care cases than were commenced. Finalisations of such cases increased by 70.5% compared to the previous year.

Whilst the judicial officers of the Court are justifiably proud of their achievements in case management and timely disposals, they realise that the most important measure of judicial performance is the quality of the justice provided to litigants. The Court works closely with the Judicial Commission of New South Wales in providing continuing professional development for its judicial officers. The Court aims to provide five days out of court judicial education for Magistrates each year with Children's Magistrates attending two further days devoted to Children's Court issues. Pre-Bench training sessions were provided for new Magistrates and a five day residential program was held for recently appointed Magistrates.

There is however an increasing tension between the demands on the Court for increased productivity and the timely finalisation of its case load within existing resources on the one hand and on the other the provision of professional development resulting in the unavailability of Magistrates to sit in Court.

In last year's Annual Review reference was made to delays arising as a result of the completion of autopsies which were beyond the control of the Coroner's Court. I am pleased to advise that at 31 December 2005 the number of outstanding autopsy reports had decreased by 55%.

The Licensing Court and the Industrial Magistrate's Court introduced new Practice Directions and Time Standards during the year. The Coroner's Court also introduced Time Standards. All Courts in which Magistrates preside now have published Time Standards for case completion.

The Court's commitment to the development of new Court models and diversionary programs continues unabated. The Domestic Violence Intervention Court Model (DVICM) commenced in Wagga Wagga and Campbelltown Local Courts in the latter half of the year and Community Conferencing for Young Adults Pilot (CCYAP) Program commenced in October at Liverpool and Tweed Heads Local Courts. The Circle Sentencing Program at Nowra was presented with a Certificate of Merit at the 2005 National Crime and Violence Prevention Awards.

The *Civil Procedure Act 2005* and the *Uniform Civil Procedure Rules 2005* commenced in August. The Local Court now participates in the making of uniform civil rules with the District Court and the Supreme Court. Practice Notes applying to the case management of proceedings in the General and Small Claims Divisions of the Court were published to give effect to the overriding purpose of the Act and the finalisation of all civil proceedings within the Court's Time Standards. Defects in the civil claims statistical data base to which I referred last year remain and the Court's performance in its civil jurisdiction against Time Standards continues to be under reported. These defects will not be remedied until the introduction of Courtlink in 2007.

During the year section 19A *Local Courts Act 1982* which prohibited the wearing of judicial robes by Magistrates was repealed. Magistrates now wear robes in Court.

The judicial officers of the Court remain committed to the provision of independent and impartial justice in New South Wales.

I express my thanks to the Attorney General the Honourable R J Debus MP for his continued support for the Court. I also express my thanks to Mr Laurie Glanfield AM, Director General of the Attorney General's Department, to the members of the Strategic Planning Council (see page 38 for membership), to my colleagues the judicial officers of the Court and the staff of the Court.

**Judge D Price**  
**CHIEF MAGISTRATE**



Central Local Court

# The Local Court A Brief History

The authority to convene a criminal court in New South Wales was provided by the *First Charter of Justice* in 1787 to the Governor (then Governor Phillip), Lieutenant Governor and a Judge Advocate. A number of civil and military officers were appointed as justices of the peace or Magistrates who inherited similar powers to English justices of the peace to determine minor criminal matters. Civil matters were heard by the Judge Advocate with two Magistrates assisting.

Between 1787 and 1823 there were 26 Magistrates appointed. Whilst Magistrates were hearing matters from 1787, it was not until 1810 that a Magistrate was appointed in a paid position. Until this time, such roles were honorary and combined with other positions. Payment of Magistrates did not become common practice until 1830.

Courts of Petty Sessions were formally established on 24 August 1832 when the *Offender Punishment and Justices Summary Jurisdiction Act* was assented to. The first Courts of Petty Sessions were proclaimed in the Government Gazette of 3 October 1832.

The judicial and administrative functions of Magistrates continued to grow and in 1881 the *Metropolitan Magistrates Act* authorised the creation of “skilled and trained” stipendiary Magistrates for the Sydney District having exclusive jurisdiction to deal with summary criminal offences in Sydney. The *Justices Act* 1902 provided the legislative underpinning for the Court and from 1 July 1955 all newly appointed Magistrates were required to be legally qualified.

The *Local Courts Act* 1982 assented to on 1 January 1985 established the Local Court of New South Wales abolishing the Courts of Petty Sessions.

The judicial independence of Magistrates, however, was not achieved for another four years when, in recognition of the increased responsibility of the Local Court, Magistrates became independent judicial officers under the *Judicial Officers Act* 1986. In 2003 the retirement age of Magistrates was extended to the same age (72) as Judges of superior courts and in 2004 the form of address for Magistrates in court was changed from the traditional “Your Worship” to “Your Honour”. This change was intended to promote uniformity between jurisdictions in New South Wales, to remove confusion for members of the public and to recognise the judicial office of Magistrates.

The Local Court of New South Wales which traces its origin to the bench of Sydney Magistrates established by Governor Phillip is now the largest Court in Australia. The Local Court sits in 153 locations across New South Wales ensuring that the justice system is accessible not only to city dwellers, but also to people living in the most remote areas of the State.



Goulburn Local Court

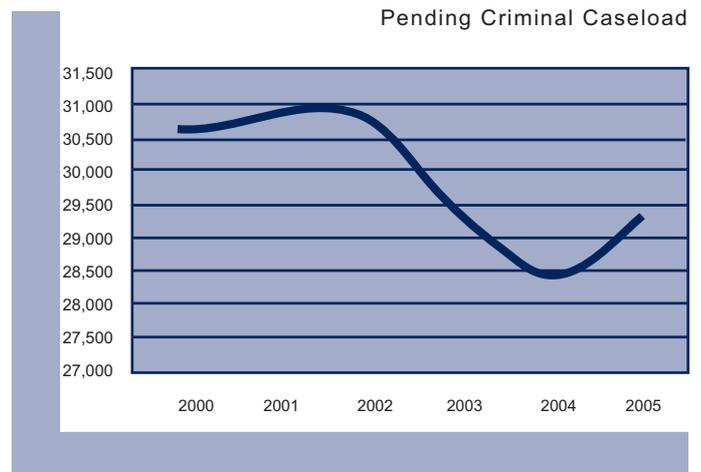
# Criminal Jurisdiction

## As at 31 December 2005:

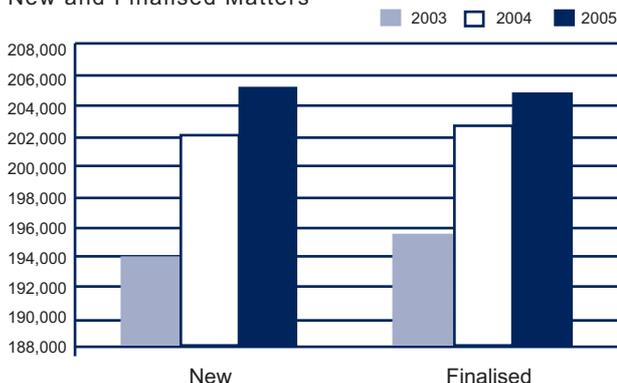
- **205,344 criminal matters commenced in the Local Court - an increase in new matters of 1.6% (3,278 matters). These figures, above and below, do not include personal and domestic violence orders which are referred to in the next chapter.**
- **204,735 criminal matters were finalised - an increase in finalisations of 1% (2,054 matters)**
- **21,010 defended summary trials were finalised by the Court**
- **the clearance ratio was 99.7%**
- **the pending caseload increased by 3% (919 matters)**
- **the percentage of matters completed within six months of commencement was 95.33%**
- **the percentage of matters completed within 12 months of commencement was 99.33%**

(the figures above are estimated from 83% of cases on the GLC case management system)

In accordance with published Time Standards, the Court aims to finalise 100% of summary criminal trials within 12 months of commencement. The majority of matters outside the Court's Time Standards are summary offences awaiting completion of trials for indictable offences in the District or Supreme Court.



New and Finalised Matters



## Committal Proceedings

The Court aims to finalise 90% of committal proceedings within 6 months of commencement and 100% within 12 months of commencement. The challenges in ensuring compliance with the Court's Time Standards identified in the 2003 and 2004 Local Court Annual Reviews remain. Delays in:

- DNA results
- Analysis of drugs and provision of certificates
- Transcription of telephone interception tapes, particularly where transcripts must be interpreted from a foreign language
- Post mortem reports
- Ballistic examinations

- Fingerprint evidence
- The transcription of electronic recordings of interviews between suspects and police

affect the ability of the Court to finalise committals in a timely fashion as does section 91(2) *Criminal Procedure Act* 1986 which imposes a mandatory obligation upon a Magistrate to direct that a witness attend at the committal hearing where the prosecution and the accused consent to the direction being given. This provision does not apply to an alleged victim of an offence involving violence.

As at 31 December 2005 76.33% of committal proceedings were completed within 6 months of commencement and 95.26% completed within 12 months of commencement.

Practice Note 5 of 2005 entitled "Procedure to be adopted for Committal hearings in the Local Court for proceedings commenced on or after 1 January 2006" commenced on 5 December 2005. The Practice Note aims to encourage early appropriate pleas of guilty, the resolution of any other matters relevant to sentence proceedings and to recognise the benefit of such early pleas to the community and the accused.

The Practice Note relates only to matters that are either strictly indictable, to indictable offences listed in Table 1 to Schedule 1 of the *Criminal Procedure Act* 1986 (CPA) where an election has been made to proceed on indictment and Table 2 to Schedule 1 of the CPA where an election has been made by the prosecution to proceed on indictment.

Proceedings must be in the conduct of the New South Wales Office of the Director of Public Prosecutions and are capable of proceeding to the District or Supreme Courts. Conferences are not compulsory and the accused must be legally represented.

**Practice Notes** (other than Practice Note 5) Practice Note 3 of 2005 entitled "Community Conferencing for Young Adults Pilot (CCYAP) Program" commenced on 17 October 2005. The purpose of the Practice Note is to outline the pilot program being implemented at Liverpool and Tweed Heads Local Courts, and provide the procedure for the program. The CCYAP is discussed in more detail under Local Court Diversion Programs.

Practice Note 4 of 2005 entitled "Media Access to Sexual Assault Proceedings Heard in Camera" commenced on 28 November 2005. The Practice Note sets out the procedure to be followed by the media where access to sexual assault proceedings being heard in camera is sought.

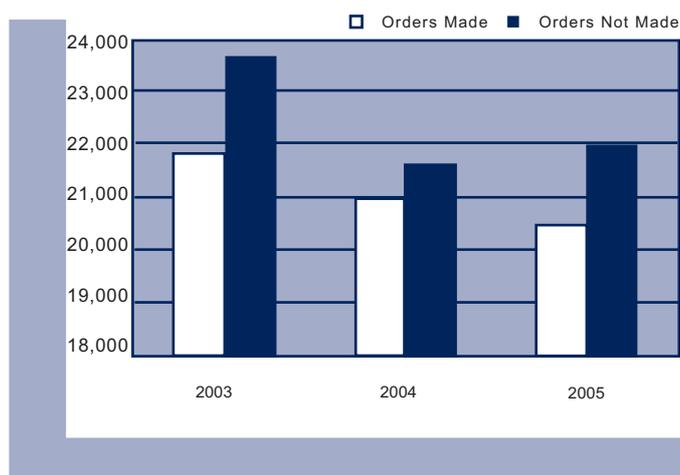
# Personal & Domestic Violence

The caseload of the Court in the area of domestic and personal violence remained constant in 2005. Final domestic violence orders made by the Court increased by 3.3% from 15,811 in 2004 to 16,339 in 2005. Final personal violence orders made by the Court reduced slightly from 5,815 in 2004 to 5,664 in 2005.

The Court acknowledges the important work of:

- The Women’s Domestic Violence Court Assistance Program that provides support and assistance for applicants in AVO proceedings. Designated rooms and other support services are provided at most courts.
- Police Domestic Violence Liaison Officers who provide assistance on list days.
- Community Justice Centres in providing personnel to facilitate mediation of complaints between private parties in personal violence order proceedings.

Personal and Domestic Violence Orders



## APPREHENDED VIOLENCE STATISTICS 2005

### PERSONAL VIOLENCE

Telephone Interim Orders	522
Interim Orders/Summons	1,185
Summons	8,689
Warrants	27
Application variation/revocation	260
<b>TOTAL PERSONAL VIOLENCE PROCESS</b>	<b>10,683</b>
Final Orders made by Court	5,664

### DOMESTIC VIOLENCE

Telephone Interim Orders	12,802
Interim Orders/Summons	2,274
Summons	15,332
Warrants	70
Application variation/revocation	1,340
<b>TOTAL DOMESTIC VIOLENCE PROCESS</b>	<b>31,818</b>
Final Orders made by Court	16,339

### Domestic Violence Intervention Court

The Domestic Violence Intervention Court Model (DVICM) commenced in two locations in New South Wales during 2005. The program began in September at Wagga Wagga Local Court and in November at Campbelltown Local Court. The DVICM focuses on increasing accountability for perpetrators of domestic violence whilst providing greater support and safety for victims. The DVICM is an interagency response, with the involvement of the New South Wales Attorney General’s Department, New South Wales Police, Department of Corrective Services, Legal Aid and Department of Community Services providing support for victims of domestic violence from the time of a report of domestic violence until finalisation of proceedings in court. The DVICM is being trialled for two years at both locations.

# Local Court Diversion Programs

The expansion and development of Court Diversion Programs continued in 2005.

### Magistrate's Early Referral Into Treatment Program

The Magistrate's Early Referral Into Treatment Program (MERIT) is a drug treatment and rehabilitation program that provides adult defendants an opportunity to break the drug-crime related cycle. MERIT is a Commonwealth and State initiative and funding is provided through the National Illicit Drug Strategy.

During 2005 MERIT commenced at Blacktown, Wilcannia, Cooma and Fairfield Local Courts. The program is now available in 55 Local Courts covering approximately 75% of the Local Court population.

2,612 defendants were referred to MERIT, of whom 1,560 were accepted with 770 successfully completing the program.

The MERIT Program is expected to expand to Newtown and Waverley Local Courts in 2006.

The Court works in partnership with the New South Wales Attorney General's Department, New South Wales Police Service, New South Wales Health and Probation and Parole in the expansion and development of MERIT.

### Rural Alcohol Diversion Program

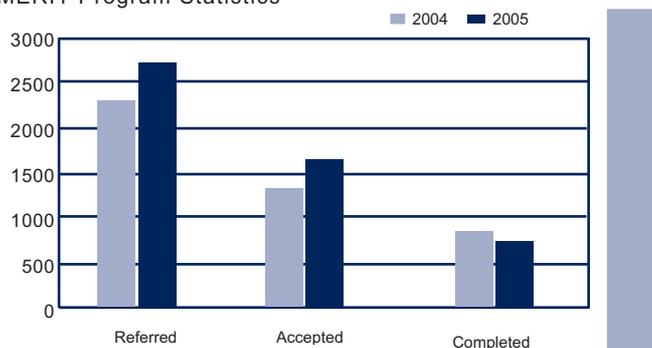
The Rural Alcohol Diversion Program is founded on the MERIT model but involves defendants with primary alcohol abuse or dependence problems. The aim of the program is to provide an opportunity for defendants to address their alcohol misuse and alcohol related crime. Eligible defendants are given a detailed evaluation and may be placed in specialist alcohol treatment under a three month judicially supervised program as a condition of bail. The Rural Alcohol Diversion Program currently operates at Orange and Bathurst Local Courts.

During 2005, 60 defendants were referred to the program, of whom 37 (62% of referrals) were accepted. As at 31 December 2005, 23 defendants had successfully completed the program and six had failed to meet the program's requirements.

### Circle Sentencing (Circle Courts)

Circle Courts based on traditional indigenous forms of dispute resolution and customary law, are designed for more serious repeat Aboriginal offenders and are aimed at achieving full community involvement in the sentencing process.

MERIT Program Statistics



The aims of the Circle Sentencing Program are set out in the *Criminal Procedure Amendment (Circle Sentencing Program) Regulations 2003* and include the provision of more appropriate sentencing options as well as greater participation, awareness and support for Aboriginal offenders.

During 2005 Circle Courts presided in Nowra, Dubbo and Brewarrina. A survey of victims who participated in Circle Sentencing at Nowra has found a high rate of satisfaction with the program. Reoffending rates have decreased and results indicate that the process is capable of impacting on a number of variables associated with criminal behaviour.

The anticipated sittings of Circle Courts in 2005 at Bourke, Lismore, Armidale, Kempsey and Walgett were delayed however are planned for 2006.

### **Young Adult Conferencing**

Community Conferencing for Young Adults Pilot (CCYAP) Program commenced in October 2005. The pilot will run for two years at Liverpool Local Court and the Tweed Heads Local Court Circuit. CCYAP is available for offenders between the age of 18 and 25 who have committed summary offences or some indictable offences that may be dealt with summarily.

Young Adult Conferencing brings an offender and victim together with a facilitator, the police officer and support people to discuss the harm caused by an offence and prepare an 'intervention plan' for an offender.

The intervention plan may include the making of an apology or reparation to the victim, participation in an appropriate program, such as drug and alcohol rehabilitation and other measures aimed to help young adult offenders address their offending behaviour and integrate into the community.

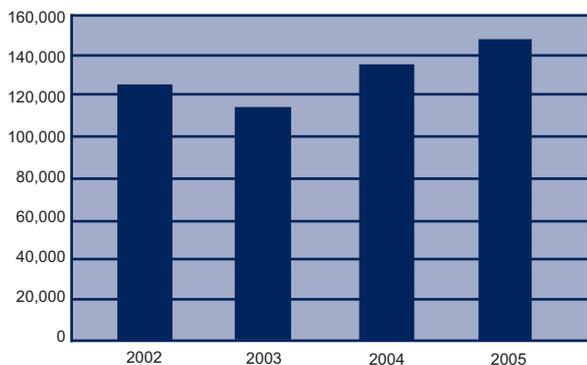
Whilst the program does not apply to serious crimes of violence, it essentially provides Magistrates with another sentencing option and targets offenders who are otherwise likely to be imprisoned.

# Civil Jurisdiction

In 2005, 144,881 civil actions were commenced in the Local Court with 134,120 finalised. This represents an increase in filings of 7.9% upon 2004. The Small Claims Division deals with claims up to the amount of \$10,000. The General Division deals with claims between \$10,000 to \$60,000.

11,090 matters were finalised by court hearings in the General and Small Claims Divisions. The majority of matters are finalised other than by hearing in Court.

Civil Actions Commenced



The court aims to finalise 100% of all civil proceedings within 12 months of finalisation. As at 31 December 2005, 89.9% of General Division Matters were completed within 12 months an increase of 4.5% upon 2004. Small Claims actions completed within 12 months remained steady at 95%.

A number of defects however in the civil claims statistical database which were identified in previous years continue to under report the caseload and finalisations of the Court.

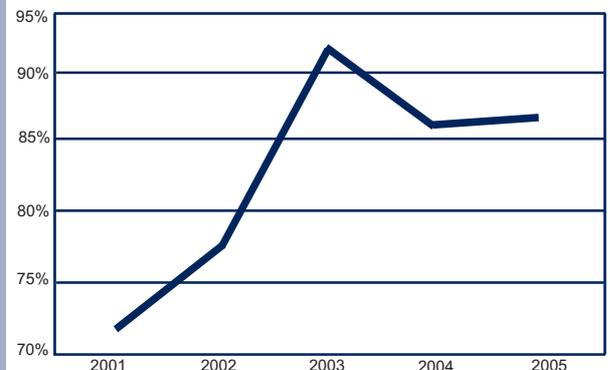
## Practice Notes

Following the introduction of the Civil Procedure Act 2005, the Court issued Practice Notes for the General and Small Claims Divisions of the Court. Practice Notes 1 and 2 of 2005 entitled “Case Management of Civil Proceedings (General Division)” and “Case Management of Proceedings in the Small Claims Division of the Local Court” commenced on 15 August 2006.

The overriding purpose of the Practice Notes is to ensure the just, quick and cheap resolution of civil proceedings and the finalisation of all civil proceedings within the Court’s Time Standards.

The Practice Note gives effect to the Uniform Rules which provide Magistrates with case management guidelines including the power to dismiss a claim on the Court’s own motion.

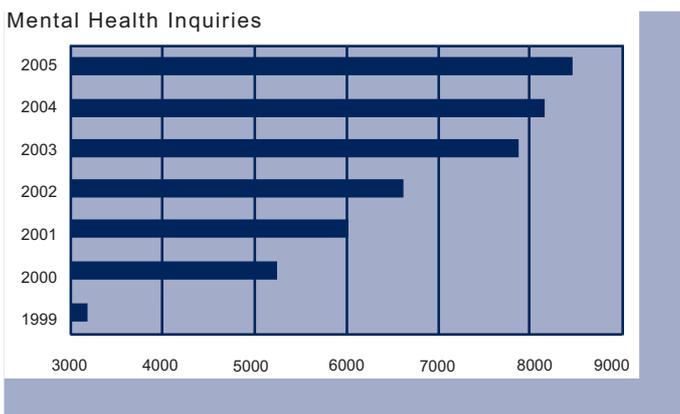
Clearance Ratio



## Mental Health Inquiries

Magistrates have responsibilities under the *Mental Health Act 1990* to review the need for continued detention of any person who has been involuntarily admitted to a hospital for psychiatric treatment and to approve the discharge of persons subject to a community treatment order.

In 2005, there were 8,406 Mental Health Inquiries conducted by Magistrates (up from 8,149 in 2004). As the graph below illustrates, the number of Inquiries has increased from 3,168 in 1999 to 8,406 in 2005\*.



## Mental Health Liaison Service

Throughout 2005, the Mental Health Liaison Service continued to assist the Local Court and Department of Corrective Services to appropriately manage people with psychiatric illnesses. This service provides full time mental health nurses at a number of Local Court locations to enable early diagnosis of defendants and facilitation of treatment in conjunction with their progress through the criminal justice system.

## MENTAL HEALTH INQUIRIES 2005

Adjourned	4,459
Completed (no other outcome recorded)	39
Community Counselling Order Made	4
Community Treatment Order Made	955
Community Treatment Order Not Made	1
Deferred Discharge	90
Discharge	55
Mental Health Advice Only	503
Other Mental Health Outcome	64
Protected Estate Order Made	116
Temporary Patient 0-4 weeks	1,337
Temporary Patient 4-8 weeks	595
Temporary Patient 8-12 weeks	188
<b>TOTAL</b>	<b>8,406*</b>

The service operated in 14 courts in 2005, with full time nurses appointed to Blacktown and Nowra in addition to those already appointed to Campbelltown, Coffs Harbour, Dubbo, Gosford, Lismore, Liverpool, Manly, Parramatta, Penrith, Sutherland, Tamworth and Wyong.

A Court Liaison Officer has been appointed to Wagga Wagga Local Court, with the service anticipated to commence in April 2006.

With the appointment of a Court Liaison Officer to the Griffith Local Court in late 2005 it is anticipated that a "telehealth" service will be available at that Court in 2006. The "telehealth" service will facilitate the presentation of persons in Griffith before a psychiatrist in Sydney through the use of Audio Visual Technology.

\* Figures are provided by the Mental Health Advocacy unit of the Legal Aid Commission of New South Wales

# The Children's Court A Brief History

The Children's Court was established on 26 September 1905 when the *Neglected Children and Juvenile Offenders Act 1905* received assent. Children's Courts were proclaimed on 29 September 1905 at Sydney, Newcastle, Parramatta, Burwood and Broken Hill. The Children's Court commenced sitting at Ormond House, Paddington in October 1905 and two "Special Magistrates" were appointed from the ranks of existing Magistrates.

In 1923 the *Children's Protection Act 1902* and the 1905 Act were repealed and replaced by the *Child Welfare Act 1923*. The *Child Welfare Act 1939* constituted the Sydney Children's Court as a Court of Review which enabled review of committal orders of children sentenced in country courts who had been transferred to Sydney and subjected to physical and psychological examinations.

The law remained relatively settled until the passing of the *Children's Court Act 1987*, the *Children (Criminal Proceedings) Act 1987*, the *Children (Community Service Orders) Act 1987* and the *Children (Detention Centres) Act 1987*. The *Children's Court Act 1987* constituted the Children's Court of New South Wales as a Court of Record. The Court was to be composed of such Children's Magistrates as were appointed by the Chief Magistrate. The position of Senior Children's Magistrate whose functions included the administration of the Court and sitting arrangements was established.

In December 1999, the *Children and Young Person (Care and Protection) Act 1998* came into effect and gave the Court new powers to make emergency protection orders, assessment orders, parental responsibility orders and compulsory assistance orders. A Children's Court Clinic was established in

2001 to provide independent, expert assessments of families and children involved in care cases. Children's Registrars were appointed to conduct preliminary conferences and to case manage care cases.

The Court today is a specialist Court with 12 Children's Magistrates and five Children's Registrars. In addition, all new Magistrates are appointed to the Children's Court for a period of at least three months before being assigned to a country circuit. This provides all Magistrates with expertise, especially in the care jurisdiction, before taking responsibility for a circuit. By providing new Magistrates with this important base of expertise, the Court is improving its service to children and families in those parts of the State in which specialist Children's Magistrates do not preside.

The NSW Children's Court celebrated its Centenary with a formal sitting at St James Court on 5th October 2005. The legal community was well represented at the event and attendees included the Honourable Bob Debus MP, Attorney General, Laurie Glanfield AM, Director General NSW Attorney General's Department, His Honour, Graeme Henson, Acting Chief Magistrate, and His Honour, Scott Mitchell, Senior Children's Magistrate.



The Children's Court Centenary Plaque

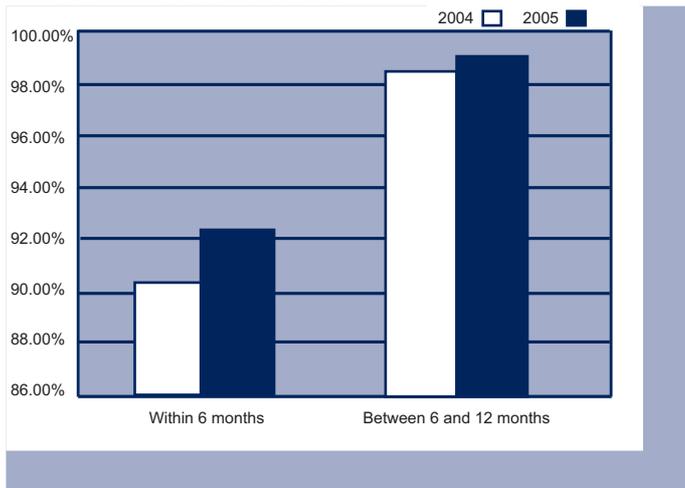
# Children's Court Criminal Jurisdiction

## As at 31 December 2005:

- 14,833 criminal matters commenced in the Children's Court
- 15,013 criminal matters were finalised, a clearance ratio of 101.2%.
- 99.08% of criminal matters were finalised within 12 months
- the number of matters pending outside 12 months reduced from 1.77% to 1.18%
- the number of defended summary trials decreased slightly from 4,085 in 2004 to 3,940

(the figures above are estimated from 83 per cent of cases on the GLC case management system)

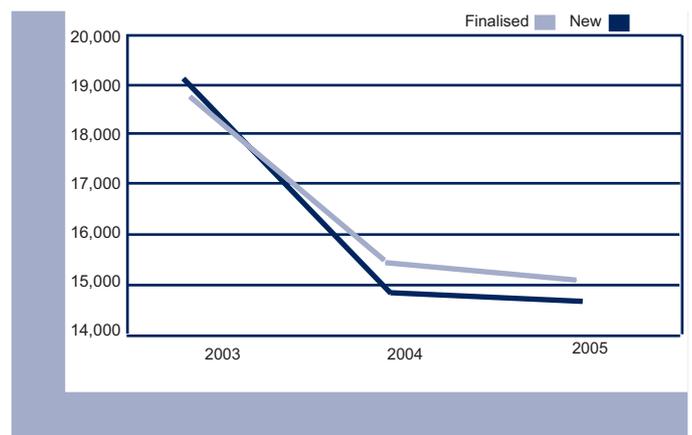
Time Standard of Finalisations



The vast majority of court cases concerning allegations of crime committed by children and young people aged between 10 and 18 years of age are finalised in the Children's Court, including very serious criminal allegations such as armed robbery and sexual assault.

When hearing these cases the Children's Court must balance its responsibility to pursue rehabilitation of the young offender with the objective seriousness of the offence.

New and Finalised Matters



The diversion of offenders under the *Young Offenders Act 1997* continues to reduce the number of less serious matters coming before the Court.

Technological advances in the investigation of crime continue to provide new cases for the Children's Court. Juvenile suspects are unable, by law, to consent to a forensic procedure such as the taking of a buccal swab for DNA comparison or a photograph for identification purposes. This has resulted in an increasing number of applications being made by police for interim and final forensic procedure orders under the *Crimes (Forensic Procedure) Act 2000*. It is also noted that an increasing number of criminal cases include DNA or fingerprint evidence, sometimes initially collected at the crime scene some years ago and only recently matched to the forensic sample obtained.

# Children's Court Criminal Jurisdiction cont.

## **Law Reform**

The Children's Court plays an active role in advising Government on matters of law reform relating to children and young persons. There are regular consultations with various government and non-government agencies concerned with the care and protection of children and with juvenile justice. During 2005 there were on-going discussions about reforms of the *Children and Young Persons (Care and Protection) Act*, the *Children (Criminal Proceedings) Act* and the *Young Offenders Act*. The Senior Children's Magistrate is the Chair and several other Children's Magistrates are members of the Children's Court Advisory Committee.

## **New Courthouses**

The new children's courthouse at Broadmeadow (Newcastle), replacing Woromi Children's Court will open in April 2006. A six court complex at Parramatta is expected to open in February 2007.

These new facilities will provide ample custodial facilities, interview rooms, conference rooms and audio visual facilities. The Parramatta Court, part of the Parramatta Justice Precinct, will house the Children's Court Clinic.

## **Parole Jurisdiction**

Most sentences of imprisonment or control imposed on juvenile offenders involve a defined period during which the offender cannot be released (a "non-parole" period), and a balance of the sentence during which the offender can be released under the supervision of either the Department of Juvenile Justice or the Probation and Parole Service. If the total sentence imposed exceeds three years, the Senior Children's Magistrate takes on the responsibilities of the Parole Board, and if so, on what conditions. Children's Magistrates also deal with breaches of parole by young persons, including those whose original sentences were imposed by the District or Supreme Court. So if, for example, a young parolee fails to accept post release supervision or commits further offences, the parolee is arrested for breach of parole and brought before the Children's Court for revocation proceedings.

## **Justice Health**

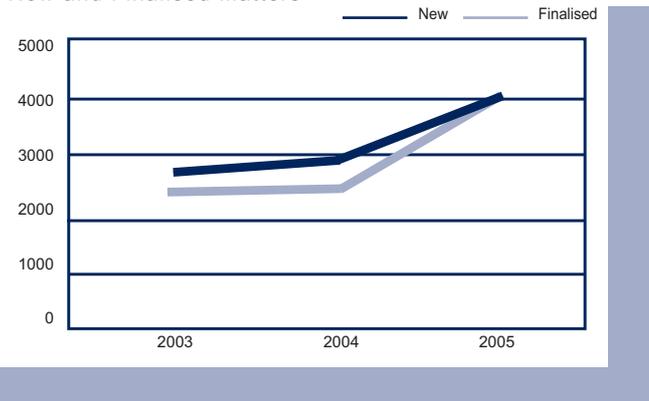
A Mental Health Court Liaison program has commenced as a pilot at Cobham with a view to being extended throughout the Children's Court. A Mental Health Nurse with access to a specialist psychiatrist and a psychologist attends the Court on list days three times per week, assessing and reporting to the Children's Magistrate on the mental health and needs of young people referred by the Court and suggesting strategies for their treatment.

# Children's Court Care Jurisdiction

## As at 31 December 2005:

- 3,985 care matters commenced in the Children's Court - an increase of 39%
- 4,059 care matters were finalised - an increase of 70.5%
- a clearance ratio of 101.86%

New and Finalised Matters



The Children's Court has the power to remove a child from the care of a parent and make emergency care and protection orders, assessment orders and orders for the supervision of the parents or carers. The breadth of the jurisdiction for the Children's Court under the care legislation means the Court may make decisions about individual children and young people from newborn to 18 years of age. Issues such as the allocation of parental responsibility and contact orders may need to be determined by the Court. It may be appropriate for the Court to maintain a monitoring role on the progress of the child under orders made, and the Court may order a written report to that effect.

Standard Directions designed to eliminate unacceptable delays and to ensure that all care cases are ready for hearing no more than five months after commencement were introduced in November 2004. Separate directions were introduced for interim care orders. The Court aims to significantly reduce delays in the finalisation of care cases.

## Children's Registrars

Children's Registrars assist the Children's Court by conducting preliminary conferences in care cases across the State and case manage care cases prior to a hearing being scheduled before a Children's Magistrate. Children's Registrars have demonstrated skills in assisting parties to reach agreement in care cases and in defining the issues which require the determination of a Children's Magistrate.

## The Children's Court Clinic

The Children's Court Clinic provides independent clinical assessment of children, young people and their families to assist the Court in the determination of care cases. An assessment order is made when information is required to assist the Court in making a decision about the care and protection needs of a child or young person and the type of care order or arrangements that should be made. Specialist psychologists, psychiatrists and paediatricians are engaged as independent experts on issues such as parenting capacity, or bonding and attachment between children and their parents. Following the assessment, the clinician will provide the Court with a report containing specific and detailed recommendations.

# St James Family Matters

**S**t James Court is the metropolitan centre for care cases arising from the *Children and Young Persons (Care and Protection) Act 1998*. The Court also hears cases under the *Family Law Act 1975*, the Child Support legislation and the *Property (Relationships) Act 1984*.

Under the terms of the *Family Law Act 1975*, parties may elect to transfer applications for final parenting orders or orders relating to property worth more than \$20,000 to the Family Court of Australia. The limit of jurisdiction under the *Property (Relationships) Act 1984* is \$60,000.

Alternatively, the Court has a wide jurisdiction to resolve parenting matters arising under the *Family Law Act 1975* by making interlocutory orders and, where consensus is given to the exercise of jurisdiction, by making final parenting orders.

Two Children's Magistrates sit daily at St James to hear and determine family law and allied matters as well as care matters and a Children's Magistrate presides when required at Campsie Court, which operates as an annex to St James.

The registry at St James is the main filing registry for care matters for the city, as well as the northern, eastern and inner western suburbs. Care matters commenced at Lidcombe Children's Court are also heard at St James.

In 2005, 8,152 family law cases were commenced at St James and other Local Courts of which 7,162 have been completed.

Two Children's Registrars are attached to St James to assist the Court in dealing with care applications. Under section 65 *Children and Young Persons (Care and Protection) Act 1998*, Children's Registrars perform a number of statutory functions including making directions, monitoring compliance with directions and conducting preliminary conferences.

# Children's Court Diversion Programs

## **Y**outh Drug Court

The Youth Drug and Alcohol Court trial program deals intensively with a small group of young offenders who would otherwise face a custodial sentence.

Within a framework of therapeutic jurisprudence, the program delivers a holistic range of health, welfare and criminogenic interventions under close judicial supervision. Program services are provided by New South Wales Health, Department of Juvenile Justice, Department of Community Services and the Department of Education and Training.

The program operates by deferring the sentencing of a young offender while he or she undertakes a personalised rehabilitation plan. The young offender returns before the Magistrate each fortnight for review.

Following a positive evaluation in 2004 the program was expanded to cover eastern and central Sydney. The program currently operates at Cobham, Campbelltown and Bidura Children's Courts.

In 2005, 77 young offenders were referred to the program with 42 being accepted and commencing the program. There were 19 graduates in 2005 and 27 young persons still participating.

## **Intensive Court Supervision Program**

The Intensive Court Supervision Program (ICS) has been developed to provide Magistrates with alternatives to incarceration for eligible children who would otherwise be facing custody through intense community supervision and support for serious young offenders in rural areas.

The program involves the collaboration of Community Justice Centres, Department of Juvenile Justice, community members and the Children's Court which aims to reduce recidivism by addressing health and social deficits and integrating young offenders into productive community life, including employment, sport, cultural activity and education. While diversion can be applied at several stages of the juvenile justice process, the intention of the ICS Program is that participants will be subject to a post-plea pre-sentence order consistent with section 33 (1) (c2) *Children (Criminal Proceedings) Act 1987*.

Following referral, young offenders are assessed by a dedicated juvenile justice officer who is responsible for the supervision, co-ordination of services and participation of the young person in the program. It involves working with young people and their families to identify issues relating to offending behaviour and the development of a plan relevant to the young person's needs. The juvenile justice officer is also responsible for monitoring the clients participation within the program and the provision of written comprehensive reports to the Court in relation to the young person's progress and compliance.

The Intensive Court Supervision Program commenced in Brewarrina in March 2005 and expanded to Bourke in December 2005. At 31 December 2005, eight young persons had been referred to the program and seven had entered the program. Four of these young people were still participating. Two participants have successfully completed the program's requirements.

# The Coroner's Court

## A Brief History

The office of the Coroner is one of the oldest known to the English legal system. The office dates at least back to the 12th Century and possibly earlier. Historically, the Coroner investigated all cases of sudden death on behalf of the Crown.

The office of the Coroner was established within New South Wales from the time of the First Fleet. In his commission of 2 April 1787, Governor Phillip was empowered to “constitute and appoint justices of the peace, Coroners, constables and other necessary officers...”

Originally Coroners were appointed to have jurisdiction to inquire into unnatural or sudden deaths within their particular police district. During the early 1800's Coroners were appointed to districts at Sydney, Parramatta, Liverpool, Camden, Bathurst and Patterson's Plains. In more remote areas where a Coroner was not situated, Magistrates could take depositions and inquire into the circumstances of a death. In the event of the destruction of any property, real or personal, by fire the Coroner had jurisdiction to inquire into the cause and origin of the fire.

The functions of the Coroner have changed substantially from its origin. The Coroner's fiscal responsibility diminished and the role of the Coroner became more concerned with determining the circumstances and the actual medical causes of sudden, violent and unnatural deaths for the benefit of the community as a whole.

The Coroner has an integral role within the legal system of New South Wales.

The Coroner is responsible for directing the course of investigations and seeking the production of evidence at inquests and inquiries. The Coroner is compelled to act proactively with investigatory agencies to obtain necessary information to meet the obligations imposed on the Coroner under the *Coroner's Act* 1980.

The task with which Coroners are charged is difficult and challenging. The Coroner provides a service to the community and in doing so the Coroner must act with diligence, care, independence and sensitivity.

The New South Wales State Coroner is responsible for overseeing the work of all Coroners and Assistant Coroners within the State. The State Coroner must ensure that all reported deaths, fires and explosions are properly investigated and that inquests and inquiries are conducted where it is considered appropriate to do so.

Under section 13 *Coroners Act*, Coroners may investigate and hold inquests in any of the following circumstances:

- the person died a violent or unnatural death
- the person died a sudden death the cause of which is unknown
- the person died under suspicious or unusual circumstances
- a medical practitioner has not given a certificate as to the cause of death
- the person was not attended by a medical practitioner within 3 months immediately preceding the death
- the person died while under or as a result of or within 24 hours after the administration of an anaesthetic
- the person died within a year and a day after the date of an accident to which the cause of death may be attributable
- the person died while in or temporarily absent from a hospital within the meaning of the *Mental Health Act 1990*

The State Coroner and the three Deputy State Coroners generally deal with inquests that are likely to exceed five hearing days and those involving particular complexity or sensitivity in rural areas. The State Coroner and the Deputy State Coroners investigate all deaths reported in the

Sydney Metropolitan Region. Presently at Newcastle, Wollongong and Gosford, Magistrate Coroners conduct all inquests.

### **Deaths in Custody and Deaths During or as a Result of Police Operations**

Deaths in custody and deaths during or as a result of police operations are of particular public interest. Section 13A *Coroners Act 1980* provides that in all such cases an inquest must be conducted and that it can only be conducted by the State Coroner or one of the three Deputy State Coroners. Further, under the legislation, the State Coroner is required to provide an Annual Report addressing section 13A deaths to the New South Wales Parliament.

### **Deaths in Custody/Aboriginal Deaths in Custody**

During 2005, 26 deaths were reported pursuant to section 13A, the lowest number of deaths in custody/police operations since 1993. Four of the deceased were Aboriginal.

As with all inquests the Coroner's Court strives to maintain a high standard of investigation and inquest in relation to section 13A deaths. Recommendations for progressive change pursuant to s22A *Coroner's Act 1980* are often made. The Department of Corrective Services, Justice Health and Police Service are most receptive to constructive criticism from the Coronial Bench and are often pro-active in effecting change, even prior to inquest. In other cases policy changes have been implemented in the wake of recommendations.

### **Children in Care or Disability Deaths**

Under s13AB *Coroner's Act 1980* the following deaths are examinable by the State Coroner or Deputy State

## Coroners:

- deaths of children in care
- deaths of children who have been at risk of harm in the past three years
- deaths of siblings of children who have been at risk of harm
- deaths of children whose deaths are or may be due to abuse or neglect or occurring in suspicious circumstances
- deaths of persons living in or temporarily absent from residential care provided by a service provider, authorised and funded under the *Disability Services Act 1993*, or a residential care centre for handicapped persons
- deaths of persons who are in a target group within the meaning of the *Disability Services Act 1993*, who receive assistance from a service provider to enable independent living in the community

A volunteer panel of expert medical practitioners, who provide invaluable assistance to Coroners in evaluating care and treatment issues, was formed during the year. The availability of such expert review has meant that only a small percentage of cases proceed to an inquest.

## Caseload

The time taken to finalise cases varies. Some cases are inherently complex. In all cases Coroners depend on other agencies to conduct their investigations in a timely manner. In addition to the Police Service, organisations such as WorkCover, the NSW Mines Investigation Unit, the Office of Transport Safety Investigation and the Australian Transport

Safety Bureau (ATSB) have input into the coronial investigation.

Another factor that has impacted on the finalising of cases, particularly at Glebe, has been the time taken by the Department of Forensic Medicine (DOFM) in finalising post mortem examination reports. Over the last three to four years, because of a shortage of forensic pathologists there has been increasing delay in the provision of these reports to the extent that in November 2004, some 900 reports over two months old were outstanding.

A full complement of forensic pathologists was achieved in November 2005 which has resulted in a reduction of 55% in the number of outstanding reports. It is anticipated that the number of outstanding reports will continue to fall and jurisdictional Time Standards will be met.

CORONERS COURT 2005 STATISTICS	
<b>Deaths Reported</b>	
Glebe	2022
Westmead	1433
Other State-wide	2510
<b>Total</b>	<b>5965</b>
<b>Inquests Dispensed With*</b>	
Glebe	1616
Westmead	1105
Other State-wide	1928
<b>Total</b>	<b>4649</b>
<b>Inquests Held</b>	
Glebe	77
Westmead	56
Other State-wide	54
<b>Total</b>	<b>187</b>

\*The term "Inquest Dispensed With" does not adequately explain the work of the Coroner. In each and every case, the decision to dispense with the holding of an inquest involves a reading and assessment of a sometimes lengthy and complex brief of evidence.

The Licensing Court has jurisdiction under the *Liquor Act 1982*, the *Registered Clubs Act 1976* and the *Gaming Machines Act 2001* to grant new licences and deal with incidental applications, prosecutions, complaints and disciplinary proceedings. The Court also deals with prosecutions under the *Casino Control Act 1992*. It has 67 Registries outside the Sydney metropolitan area, each serviced by Local Court Magistrates who deal with a limited number of matters under delegation from the Chairperson.

When there is no objection lodged to an application, one of the Licensing Magistrates or the Principal Registrar is able to deal with the matter in chambers. Over 7300 applications were dealt with in chambers, of which over 2000 were dealt with by the Principal Registrar.

## LICENSING COURT STATISTICS 2005

### Appeals

Full Bench	District Court	Supreme Court
3	30	4

### Applications

Lodged	Finalised
8,715	8,749

### Prosecutions

Lodged	Finalised
713	724

### Casino Prosecutions

Lodged	Finalised
55	52

### Temporary Closure Order (by Principal Registrar)

8

## Liquor Administration Board

The Board Members, who are the Licensing Magistrates, determine gaming machine technical standards (to 18.11.05), approve gaming machines, determine a range of miscellaneous applications, determine Social Impact Assessments of liquor and gaming applications, determine applications to vary poker machine shutdown hours, and carry out Community Development and Support Expenditure Assessment matters.

Statistics and details on these Board duties are set out in the Board's Annual Report. A number of Policy Determinations were published.

## Noise Complaints

Liquor Administration Board Members preside over conferences to hear complaints about noise and other nuisance that may arise from licensed premises. These informal hearings are designed to deal with disturbances caused to communities in the neighbourhood of a licensed premises. Sixty-nine conferences were held over forty-one sitting days.

## Legislative Changes

This year the *Liquor Act* was amended once and its Regulation amended five times. The *Registered Clubs Act* was not amended but one amendment was made to the *Registered Clubs Regulation*. The *Gaming Machines Act 2001* was amended once and its Regulation three times. No amendments of significance were made.

In November 2005 the Government released the *Liquor Bill 2005* and *Liquor and Gaming Court Bill 2005* for public consultation. The Bills provide for the abolition of the Licensing Court of NSW and Liquor Administration Board, changes to some provisions and the handling of applications, complaints and other functions by the Director of Liquor and Gaming.

The Court published Practice Direction 1/2005 on Foreign Interests, 2/2005 on Plans, 3/2005 on Caterers Licences, 4/2005 on Time Standards Procedures and 5/2005 on Seating in Restaurants. The new Practice Direction on Time Standards allows an applicant a maximum of twenty-two weeks to lodge all the evidence in non-contested applications.

A program of regular call-overs of pending matters has been recommenced to finalise matters where a pre Time Standard application has not progressed for some months.

### **Waiting Times**

Practice Direction 1/2002, New Procedures for Allocating Hearing Dates changed the procedure for fixing cases for hearing. The principal innovation was that Full Bench cases are not allocated a hearing date until the parties file and serve all of their evidence and complete interlocutory procedures.

For Full Bench cases the delay remains at 4 weeks, down from 27 weeks at December 2001. The Court sat for 44 days in Full Bench cases.

Continued use of infringement notices and a reduction in prosecutions and complaints have greatly reduced single Magistrate prosecution and complaint hearings. Dates are available without delay. The Court sat for 152 days on such matters.

The Industrial Court has both civil and criminal jurisdiction under a broad range of State and Commonwealth legislation. The Court deals with such matters as recovery of money owing under industrial instruments e.g. awards, enterprise agreements and statutory entitlements; prosecutions for breaches of industrial instruments; appeals from various administrative decisions (licences) and prosecutions for statutory breaches. The Acts giving jurisdiction include the *Workplace Relations Act 1996* (Cth), and NSW Acts including the *Annual Holidays Act 1944*, the *Building and Construction Industry Long Service Payments Act 1996*, the *Dangerous Goods Act 1978*, the *Employment Agents Act 1996*, the *Entertainment Industry Act 1989*, the *Essential Services Act 1986*, the *Industrial Relations (Ethical Clothing Trades) Act 2001*, the *Shops and Industries Act 1962*, the *Industrial Relations Act 1996*, the *Long Service Leave Act 1955*, the *Occupational Health and Safety Act 2000*, the *Workers Compensation Act 1987*, the *Workplace Injury Management & Workers Compensation Act 1998* and the *Apprenticeship and Traineeship Act 2001*.

## Caseload

In 2005 the total number of cases filed in the Court decreased from 1478 (2004) to 1301. These figures do not include Newcastle industrial matters as separate statistics are not kept for matters heard in the Newcastle Local Court by the Chief Industrial Magistrate. There was a noticeable increase in the number of civil claims, up from 482 (2004) to 584.

The overall decrease in matters filed flows from a decrease in prosecutions by the Office of Industrial Relations (OIR) from 387 (2004) to 246 and a decrease in WorkCover Authority lodgements from 689 (2004) down to 471. The downturn in OIR prosecutions

continues a trend experienced in recent years as a result of a change in the Department of Commerce enforcement policy.

The decrease in the prosecutions brought by the WorkCover Authority of New South Wales in the field of occupational health and safety may be an indication that the introduction of the new Act in 2000 with its stronger penalties has significantly improved the standard of occupational health and safety procedures throughout the State's industries.

Last year's increase in prosecutions by the WorkCover Authority under the *Workers Compensation Act 1987* and the *Workplace Injury Management and Workers Compensation Act 1998* continued in 2005. These prosecutions involve either the prosecution of an employer which has failed to insure its employees as required by the legislation or the prosecution of an employee who has obtained workers compensation weekly benefits whilst failing to disclose that they have engaged in paid employment whilst in receipt of such benefits.

## Procedural Matters

Practice Note Number 1 commenced on 1 July 2005. The Practice Note was developed to establish a much faster timeframe for the handling of prosecutions coming before the Court in circumstances where delays and professional costs had been increased by an unreasonable number of mentions and callovers whilst negotiations took place. The Practice Note requires practitioners in the jurisdiction to adhere to a more structured procedure to ensure that the litigants are spared unnecessary delay and professional costs. To date the new procedure has worked smoothly and effectively.

All Local Court Magistrates are commissioned as Mining Wardens, under the *Mining Act* 1992. The authority of the Chief Mining Warden is found in section 293(2) of the Act. Due to the specialised nature of the work, the practice is for the Chief Mining Warden to deal with all matters before the Warden's Court throughout New South Wales, including administrative functions. As mining disputes generally arise in rural and remote areas, most cases are heard in country courthouses for the convenience of all parties involved.

The work in this jurisdiction derives from the *Mining Act* 1992, the *Petroleum (Onshore) Act* 1991 and the *Petroleum (Submerged Lands) Act* 1982 and their respective Regulations. As a result, the work is quite wide ranging, but falls into several distinct categories:

#### ■ **Determination of actions between miners**

The Warden hears and determines disputes in matters such as boundaries, possession of mining land, trespass, specific performance, injunctions, partnerships and rights to minerals or to water.

#### ■ **Assessment of compensation**

The Court assesses compensation that may be payable to a landholder as a result of prospecting or mining activities. Such cases may be brought by the prospector, miner or affected landholder. The question of compensation also arises when a right of way is granted over private or public land. There is no monetary limit to compensation orders that can be made by the Court in these matters.

#### ■ **Public Inquiries**

The Minister for Mineral Resources may direct an Inquiry into any matter arising from the Acts, including objections to applications for prospecting and mining titles. This is an administrative process and often involves environmental considerations. The rules of natural justice apply. A report is prepared, with recommendations, which is submitted to the Minister and if necessary, to Cabinet.

#### ■ **Appeals**

The Warden's Court may review determinations made by Arbitrators on the question of access to land arrangements for prospecting operations. The reviews are in the nature of appeals, generally involving a hearing de novo. The decision of the Warden's Court is final. There is also a right of review of a determination of a Mining Registrar, where a mineral claim has been cancelled. The Warden's decision in the latter case may be subjected to a further appeal to the District Court.

#### ■ **Miscellaneous Applications**

In this category, a variety of applications may be considered such as approval of the use of large machinery on mineral claims. There are often objections to applications and they are dealt with by receiving evidence on oath from interested parties.

### ■ Costs

In all proceedings the Warden has a discretion to award costs. These are determined in accordance with any scales of costs in the District Court.

### Trend and Disposals Rates

Although the volume in this jurisdiction is not great compared to other jurisdictions, having regard to the nature of the disputes and the unlimited monetary jurisdiction of the Court, very few contested matters are finalised under two hearing days, with some matters occupying the Court's time for up to two or more weeks.

The majority of disputes before the Warden's Court continued to be at Lightning Ridge. The number of matters coming before the Court at Lightning Ridge is generally correlated to the number of mineral claims registered within the District. There was during the year a reduction in the number of claims registered and consequently a reduction in the disputes before the Warden's Court.

Although a new Opal Prospecting Area in the Lightning Ridge Mineral Claims District was opened during 2005, the area is still subject to exploration with no mineral claims registered as at the end of the year. There were no disputes concerning the new area before the Warden's Court during 2005.

2005 saw a decrease of 28% in the number of matters listed before the Court. 49% of those matters were finalised within 3 weeks of first being listed before the Court; 67% within 6 weeks; 70% within 12 weeks and 97% within 6 months.

The Court has developed a strong and valuable partnership with the Judicial Commission of New South Wales in providing continuing judicial education for Magistrates. The Court supports the strategic objectives of the Judicial Commission in the provision of judicial education namely to:

- Contribute to high standards of judicial performance
- Provide judicial officers with up to date information on law, justice and related areas
- Assist in the development of appropriate skills and values

The Local Court Education Committee in conjunction with the Judicial Commission has developed education programs which vary from programs aimed at assisting new appointees to specialist conferences for Children's Court Magistrates. The Committee is composed of judicial officers of the Court and the Education Director of the Judicial Commission Ms Ruth Windeler. The Chair of the Committee, Deputy Chief Magistrate Helen Syme, also sits as a member of the Judicial Commission's Standing Advisory Committee on Judicial Education [see page 38 for the composition of the Education Committee].

During 2005:

- Judicial officers of the Court attended more than 630 days of judicial education.
- Pre-Bench training sessions to familiarise new Magistrates with Local Court Practice and Procedure were conducted for nine new Magistrates. These sessions took place over two days prior to Magistrates being sworn in.
- A three day Annual Conference - the Conference theme being "Open and Accountable" was held in September 2005. The Keynote Address was delivered by the Honourable Justice Diana Bryant, Chief Justice of the Family Court. Papers delivered at the Conference included child sexual assault, restorative justice, recent developments in criminal law, identification evidence, child exploitation, evidentiary issues relating to child sexual assault and the transition from juvenile to adult criminal careers.
- Metropolitan and Regional Seminars: All Magistrates attended seminars conducted in small groups. Seminar topics included evidence, licensing, sentencing in the Children's Court, bail and the Uniform Civil Procedure Rules.
- Children's Court Conferences were held in February 2005 and June 2005. Topics included sex offenders, parole and shaken baby syndrome.
- 17 Magistrates including two from the Solomon islands, three from Queensland and two from the Northern Territory attended a five day residential orientation Program at Leura. The Program focuses on court craft and judicial skills for new Magistrates. J.Orchiston LCM and D.Heilpern LCM were the principal members of faculty and conducted most of the sessions.
- Magistrates attended twilight seminars on various topics including "What does s275A mean to you as a judicial officer" and "Options to full time custodial sentences".
- The Local Court Bench book was regularly updated [see page 39 for the list of updating authors]. Magistrates who presented or chaired sessions during the courts conferences are listed at page 38 under "Court Faculty".

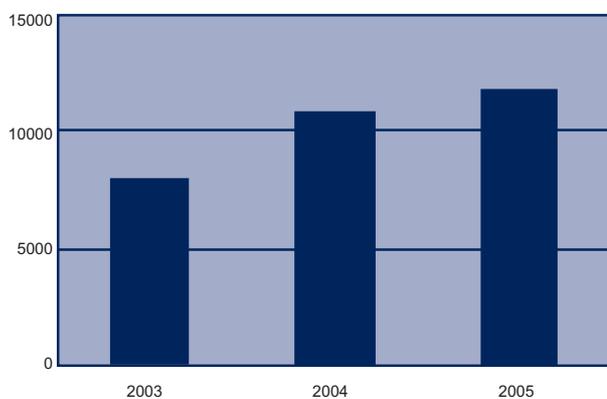
## Audio Visual Link Technology (AVL)

Video Conferencing involves the delivery of images and sounds to and from a remote location. The Court's audio visual link is two-way, which enables real time conversations to take place. The benefits provided include a reduction in the transportation of prisoners to and from Court especially in regional locations and increased security.

The number of appearances in the Local Court for bail hearings by videolink has increased by 47% since 2003. During 2005, 11,638 videolink bail hearings were conducted.

Audio Visual link technology was also used to take evidence from witnesses outside the jurisdiction. Evidence was given by witnesses in the United States of America and Singapore, in committal proceedings involving charges of terrorism, via AVL.

Audio Visual Links Conducted (Bail hearings)



## Court Lists Online

The Court has enhanced its accessibility to the public through the provision of online access to daily court lists for the Local Courts across New South Wales. Court users are able to access the online facility through the Local Court website in Lawlink.

## Electronic Lodgment

### Civil Claims

Electronic lodgement allows court users to lodge initiating process to file for default judgment. Electronic lodgment results in increased timeliness in Court practices and procedures.

The Court will continue to investigate work practices and procedures which can be undertaken electronically.

## Criminal Processes

New South Wales Police are able to interface and upload new cases from Police Charge Management System (COPS) to the Court's Criminal Case Management System.

Electronic lodgement facilities also provide an interface between the Court and NSW Police Service to enable the updating of an offender's criminal antecedents following a Court hearing.

The process continues to provide significant benefits to the Court and court users.

# The Court's Time Standards

The Court aims to finalise its caseload in accordance with the following Time Standards;

## Local Court Criminal Time Standards

- A. 95% of summary criminal trials - within 6 months.
- B. 100% of summary criminal trials - within 12 months
- C. 95% of criminal cases where the defendant enters a plea of guilty - within 3 months.
- D. 100% of criminal cases where the defendant enters a plea of guilty - within 6 months.
- E. 90% of indictable matters discharged or committed for trial or sentence to the Supreme or District Court - within 6 months.
- F. 100% of indictable matters discharged or committed for trial or sentence to the Supreme or District Court - within 12 months.
- G. 95% of complaint summonses - within 3 months.
- H. 100% of complaint summonses - within 6 months.

## Local Court Civil Time Standards

- A. 90% of civil cases - within 6 months of the initiation of the proceedings in the Court.
- B. 100% of cases - within 12 months of the initiation of proceedings in the Court.

## Children's Court Criminal Time Standards

- A. 80% of all summary criminal trials - within 6 months and 100% - within 12 months.
- B. 90% of all sentence matters following a plea of guilty - within 3 months of commencement and 100% - within 6 months.
- C. 90% of committals for trial - within 9 months and 100% - within 12 months.
- D. 95% of applications - within 6 months and 100% - within 9 months.

## Children's Court Care Time Standards

- A. 90% of care matters - within 9 months.
- B. 100% of care matters - within 12 months.

## Coroner's Time Standards

- A. 95% of deaths by natural causes, (no brief of evidence ordered), - within 3 months.
- B. 100% of deaths by natural causes, (no brief of evidence ordered), - within 6 months.
- C. 95% of deaths dispensed with (a brief of evidence ordered) - within 6 months.
- D. 100% of deaths dispensed with (a brief of evidence ordered) - within 9 months.
- E. 95% of deaths proceeding to inquest - within 12 months.
- F. 100% of deaths proceeding to inquest - within 18 months.

## Chief Industrial Magistrate's Time Standards

- A. 95% of prosecutions - within 6 months.
- B. 100% of prosecutions - within 12 months.

## Licensing Court Time Standards

- A. Undefended Applications:
  - (i) First return, review and probity report date – 6 weeks.
  - (ii) Time to answer requisitions – an additional 4 weeks.
  - (iii) If requisitions are not answered, the matter will be stood over generally and if requisitions are not answered within a further 12 weeks then the application will be refused.
  - (iv) Time from lodgement to final disposal is therefore a maximum of 22 weeks.
- B. Defended Applications
  - (i) If the Full Bench Practice Direction is applied, then the matter will be stood over for a maximum of 32 weeks for compliance by all parties. Total time from lodgement to final disposal is 52 weeks.
  - (ii) If a single Magistrate matter then the time from lodgement to final disposal is 26 weeks.
  - (iii) For appeals and other Full Bench matters then time from lodgement to final disposal is 52 weeks.
- C. Complaints and CANS
  - (i) 80% of matters - within 26 weeks.
  - (ii) 100% of matters - within 52 weeks.

# The Magistracy of New South Wales

The following were Judicial Officers of the Court as at 31 December 2005

## CHIEF MAGISTRATE OF NEW SOUTH WALES

His Honour Judge Derek Price

## DEPUTY CHIEF MAGISTRATES OF NEW SOUTH WALES

His Honour Magistrate Graeme Leslie Henson

Her Honour Magistrate Helen Syme

## SENIOR CHILDREN'S MAGISTRATE

His Honour Magistrate John Roger Dive until 27 July 2005

His Honour Magistrate Scott Mitchell was appointed Senior Children's Magistrate on 1 August 2005

## CHAIRPERSON LICENSING COURT OF NEW SOUTH WALES

His Honour Magistrate David Bruce Armati

## STATE CORONER OF NEW SOUTH WALES

His Honour Magistrate John Birley Abernethy

## CHIEF INDUSTRIAL MAGISTRATE

His Honour Magistrate George Miller until 13 May 2005

His Honour Magistrate Gregory James Tulk Hart was appointed Chief Industrial Magistrate on 1 June 2005

## CHIEF MINING WARDEN OF NEW SOUTH WALES

His Honour Magistrate John Anthony Bailey

## MAGISTRATES

His Honour Magistrate Michael Kevin Price

His Honour Magistrate Dennis Arthur Collins

His Honour Magistrate Richard Peter Miszalski

His Honour Magistrate Darryl John Pearce

His Honour Magistrate John Ormonde Crawford

His Honour Magistrate Christopher James Bone

His Honour Magistrate Paul Alexander Lyon

His Honour Magistrate David Patrick O'Connor

His Honour Magistrate Robert Joesph Abood

His Honour Magistrate Peter Frederick Ashton

His Honour Magistrate William Grenville Pierce

His Honour Magistrate Alan Thomas Cullen

His Honour Magistrate Laurence Lawson

Her Honour Magistrate Dr Patricia O'Shane AM

His Honour Magistrate Graham Johnson

His Honour Magistrate Paul Stanislaus Cloran

# The Magistracy of New South Wales cont.

His Honour Magistrate Michael Francis Morahan  
His Honour Magistrate Ian Duncan McRae  
His Honour Magistrate Paul Anthony Sloane  
His Honour Magistrate Wayne Henry Evans  
His Honour Magistrate Colin Alan Elliot  
His Honour Magistrate Jeffrey Alan Linden  
His Honour Magistrate Bernard Joseph Kennedy  
His Honour Magistrate Paul Patrick Falzon  
His Honour Magistrate Allan Darroll Moore  
His Honour Magistrate Thomas Hugh Hodgson  
His Honour Magistrate Dragan Carl Milovanovich, Deputy State Coroner  
His Honour Magistrate Gary John Cocks  
His Honour Magistrate Ian Phillip Barnett  
His Honour Magistrate Ross Clugston  
Her Honour Magistrate Janet Christina Ruth Stevenson  
His Honour Magistrate Leslie John Brennan  
His Honour Magistrate Nicholas Gustav Ernest Reimer  
His Honour Magistrate Anthony Alfred Spence  
His Honour Magistrate Mark Robert Shepherd  
His Honour Magistrate Malcolm Ian MacPherson  
His Honour Magistrate Christopher Wayne McRobert  
Her Honour Magistrate Daphne Anne Kok  
His Honour Magistrate Paul Victor Johnson  
His Honour Magistrate Geoffrey Edward Bradd  
His Honour Magistrate Dennis Harvey Burdett  
His Honour Magistrate Andrew John Benson George  
His Honour Magistrate James Edward Garbett  
His Honour Magistrate Brian Anthony Lulham  
His Honour Magistrate Richard Wallace Wakely  
His Honour Magistrate Michael Anthony Dowd  
Her Honour Magistrate Carolyn Jane Barkell  
His Honour Magistrate Allan Wilson Railton  
Her Honour Magistrate Jillian Mary Orchiston  
His Honour Magistrate Dr Roger Alasdair Brown  
His Honour Magistrate Ross Kim Pogson  
Her Honour Magistrate Jennifer Ethel Betts  
His Honour Magistrate Stephen Vaughan Jackson  
His Honour Magistrate Douglas Raymond Dick  
Her Honour Magistrate Judith Mary Fleming  
His Honour Magistrate Shaughan McCosker  
Her Honour Magistrate Sharron Maree Crews  
Her Honour Magistrate Deborah Anne Sweeney  
His Honour Magistrate Hugh Christopher Bryant Dillon  
Her Honour Magistrate Julie Anne Huber

His Honour Magistrate Michael Stoddart  
His Honour Magistrate Brian Vincent Maloney  
Her Honour Magistrate Jacqueline Mary Milledge, Senior Deputy State Coroner  
Her Honour Magistrate Lee Anne Gilmour  
His Honour Magistrate Phillip Alan Moon  
Her Honour Magistrate Janet Wahlquist  
Her Honour Magistrate Jennifer Anne Giles  
His Honour Magistrate Christopher Longley  
Her Honour Magistrate Elaine Gweneth Schnelle  
Her Honour Magistrate Gail Frances Madgwick  
His Honour Magistrate Anthony Kevin Murray  
His Honour Magistrate Garry James Still  
His Honour Magistrate William John Brydon  
Her Honour Magistrate Christine Mary Haskett  
Her Honour Magistrate Jayeann Carney  
His Honour Magistrate Robert Scott Rabbidge  
His Honour Magistrate John McIntosh  
His Honour Magistrate Byran Robert Wilson  
Her Honour Magistrate Beverley Anne Schurr  
His Honour Magistrate David Michael Heilpern  
His Honour Magistrate Roger David Prowse  
His Honour Magistrate Sean Anthony Flood  
Her Honour Magistrate Suzanne Gaye Seagrave  
Her Honour Magistrate Eve Wynhausen  
His Honour Magistrate Ian James Guy  
His Honour Magistrate Maxwell Francis Taylor  
Her Honour Magistrate Hilary Rae Hannam  
His Honour Magistrate Daniel Reiss  
Her Honour Magistrate Joanne Keogh  
Her Honour Magistrate Jane Ellen Mottley  
His Honour Magistrate Paul Raymond Mulroney  
His Honour Magistrate George Zdenkowski  
His Honour Magistrate Terence Timothy Lucas  
Her Honour Magistrate Elizabeth Corbett  
His Honour Magistrate Terence Murphy  
Her Honour Magistrate Elaine Truscott  
Her Honour Magistrate Paula Mary Russell  
Her Honour Magistrate Helen Gay Barry  
Her Honour Magistrate Georgia Knight  
Her Honour Magistrate Carmel Ann Forbes  
Her Honour Magistrate Lisa Veronica Stapleton  
His Honour Magistrate Robert Allen Walker  
Her Honour Magistrate Margaret Quinn  
His Honour Magistrate John Andrews

# The Magistracy of New South Wales cont.

His Honour Magistrate Howard Charles Hamilton  
His Honour Magistrate Anthony Joseph Marsden  
His Honour Magistrate James Coombs  
Her Honour Magistrate Fiona Toose  
His Honour Magistrate Graeme Curran  
Her Honour Magistrate Joan Margaret Baptie  
Her Honour Magistrate Elizabeth Anne Ellis  
Her Honour Magistrate Clare Farnan  
Her Honour Magistrate Nancy Louise Hennessy, Deputy President of the Administrative Decisions Tribunal  
Her Honour Magistrate Dorelle Pinch, Deputy State Coroner  
His Honour Magistrate Paul Anthony MacMahon  
His Honour Magistrate Jeffrey Raymond Hogg  
His Honour Magistrate Ronald John Maiden  
Her Honour Magistrate Jane Ariane Culver  
His Honour Magistrate Michael North Holmes  
His Honour Magistrate Gordon Bruce Lerve  
Her Honour Magistrate Vivian Margaret Swain  
His Honour Magistrate Graham Thomas Blewitt AM  
His Honour Magistrate Timothy Bernard Keady  
His Honour Magistrate Peter Sampson Dare SC  
Her Honour Magistrate Annette Christine Sinclair

## SMALL CLAIMS ASSESSORS

Mr Graham Roberts  
Ms Danae Harvey  
Ms Janice Connelly

## JUDICIAL APPOINTMENTS DURING 2005

His Honour Magistrate Michael North Holmes (17 January 2005)  
His Honour Magistrate Gordon Bruce Lerve (16 February 2005)  
Her Honour Magistrate Vivian Margaret Swain (16 February 2005)  
His Honour Magistrate Graham Thomas Blewitt AM (4 April 2005)  
His Honour Magistrate Gregory James Tulk Hart as Chief Industrial Magistrate (1 June 2005)  
His Honour Magistrate Timothy Bernard Keady (27 July 2005)  
His Honour Magistrate Peter Sampson Dare SC (27 July 2005)  
Her Honour Magistrate Annette Christine Sinclair (7 December 2005)

## JUDICIAL RETIREMENTS DURING 2005

Magistrate Lilian Horler (28 February 2005)  
 Magistrate Michael Joseph Mahony (31 March 2005)  
 Magistrate Geroge Ashley Miller (13 May 2005)  
 Magistrate Warwick James Hunt (15 July 2005)  
 Magistrate John Roger Dive (26 July 2005)  
 Magistrate Barry Christopher Hodgson (3 October 2005)  
 Magistrate Kevin Charles Flack (17 November 2005)  
 Magistrate Peter Damien Gould (25 November 2005)

## MAGISTRATES APPOINTED AS JUDGES OF THE DRUG COURT AND ACTING JUDGES OF THE DISTRICT COURT

Senior Children's Magistrate John Roger Dive was appointed as a Judge of the District Court of New South Wales and Senior Judge of the Drug Court of New South Wales on 27 July 2005  
 Magistrate Ian Phillip Barnett  
 Magistrate Jillian Mary Orchiston

## MAGISTRATES APPOINTED AS MEMBERS OF THE VICTIMS COMPENSATION TRIBUNAL

Cecil Roy Brahe and as Chairperson of the Victims Compensation Tribunal  
 Charles Augustine Gilmore  
 Thomas Geoffrey Cleary

## ACTING MAGISTRATES DURING 2005

Mr Malcolm Cooper Beveridge	Ms Lilian Horler (from 1 July 2005)
Mr Cecil Roy Brahe	Mr Stanley David Kitchener Hyde
Mr Barry John Bright	Ms Mary Stella Jerram
Mr Alan John Clarke	Mr Vincent Dereck Kearney
Mr Thomas Geoffrey Cleary	Mr Gregory John McCarry
Mr Errol John Considine, OAM	Mr Leonard Ross McDermid
Mr Warren Francis Cook, OAM, RFD (to 30 June 2005)	Mr Michael Joseph Mahony (from 1 April 2005)
His Honour Acting Judge Cooper (to 7 January 2005)	Mr Kevin Ronald Maughan
Dr Elwyn Edgar Ernest Elms (to 30 June 2005)	Mr George Ashley Miller (from 16 May 2005)
Mr Kevin Charles Flack (from 18 November 2005)	Mr Peter Montague Norton
Mr Terrance Gordon Forbes	Mr Gary Patrick O'Keeffe (to 30 June 2005)
Mr Charles Augustine Gilmore	Mr Harley Richard Rustin
Mr Langdon William Gould	Ms Susanne Elizabeth Schreiner
Mr Peter Damien Gould (from 1 December 2005)	Mr Ross Arthur Sterland
Ms Yvonne Grant (to 30 June 2005)	Mr James Lawrence Swanson
	Mr Craig Lowery Thompson

# Chief Magistrate's Committees

## **STRATEGIC PLANNING COUNCIL**

Judge Price, Chief Magistrate (Chair)  
Deputy Chief Magistrate Graeme Henson  
Deputy Chief Magistrate Helen Syme  
Chairperson Licensing Court Magistrate David Armati  
State Coroner Magistrate John Abernethy  
Senior Children's Magistrate Scott Mitchell  
Chief Industrial Magistrate Gregory Hart  
Mr Tim McGrath, Assistant Director-General, Courts and  
Tribunals  
Mr Gary Byles, Sheriff of New South Wales  
Mr Les Mabbutt, Executive Officer to the Chief Magistrate

## **LOCAL COURTS EDUCATION COMMITTEE**

Deputy Chief Magistrate Helen Syme (Chair)  
Magistrate Warwick Hunt (to 15.7.05)  
Magistrate Roger Prowse  
Senior Children's Magistrate Scott Mitchell  
Magistrate Malcolm MacPherson  
Magistrate David Heilpern  
Magistrate George Zdenkowski  
Ms Ruth Windeler, Education Director Judicial Commis-  
sion of New South Wales

## **LOCAL COURT BENCH BOOK COMMITTEE**

Magistrate Ian Barnett (Chair)  
Deputy Chief Magistrate Helen Syme  
Roslyn Cook, Judicial Commission of New South Wales

## **LOCAL COURT BENCH BOOK UPDATE AUTHORS**

Senior Children's Magistrate Scott Mitchell  
Magistrate John Crawford  
Magistrate Paul Falzon  
Magistrate Ian Guy  
Magistrate Brian Lulham  
Magistrate David Heilpern  
Magistrate David Armati  
Magistrate Helen Syme  
Magistrate Ian Barnett  
Acting Magistrate Jim Swanson  
Roslyn Cook, Judicial Commission of New South Wales

## **COURT FACULTY**

Deputy Chief Magistrate Helen Syme  
Senior Children's Magistrate Scott Mitchell  
Magistrate Paul Cloran  
Magistrate Robert Abood  
Magistrate Jillian Orchiston  
Magistrate Beverley Schurr  
Magistrate Warwick Hunt (to 15.7.05)  
Magistrate David Heilpern  
Magistrate Hugh Dillon  
Magistrate Jeffrey Linden  
Magistrate Geroge Zdenkowski  
Magistrate Malcolm MacPherson  
Chairperson Licensing Court Magistrate David Armati

## **ETHICS COMMITTEE**

Deputy Chief Magistrate Graeme Henson (Chair)  
State Coroner Magistrate John Abernethy

## **LOCAL COURT RULE COMMITTEE**

Deputy Chief Magistrate Graeme Henson (Chair)  
Magistrate Andrew George  
Ms Pam Wilde, Registrar Victims Compensation Tribunal  
Mr Geoff Hiatt, Deputy Director of Local Courts  
Ms Robyn Gray, Office of the Director of Public  
Prosecutions  
Ms Fiona Cameron, Legislation & Policy Attorney General's  
Dept  
Ms Kate Trail, Bar Association of New South Wales (to  
20.4.05)  
Mr Stephen Olschlager, Policy Officer, Local Courts  
Ms Elizabeth Beilby, Bar Association of New South  
Wales (from 21.4.05)

**LOCAL COURTS (CIVIL CLAIMS) RULE COMMITTEE**

Judge Price, Chief Magistrate (Chair)  
Magistrate Paul Cloran  
Magistrate Michael Price  
Mr Graeme Roberts, Civil Claims Division  
Ms Fiona Cameron, Legislation & Policy Attorney General's Dept  
Mr John McIntyre, Law Society of New South Wales  
Mr Andrew Kostopolous, New South Wales Bar Association  
Mr Stephen Olischlager, Policy Officer Local Courts

**STATUTE LAW REVISION AND PROCEDURES COMMITTEE**

Deputy Chief Magistrate Helen Syme (Chair)  
Magistrate Andrew George  
Magistrate Paul Falzon  
Magistrate Beverley Schurr

**TERMS AND CONDITIONS OF SERVICE COMMITTEE**

Judge Price, Chief Magistrate (Chair)  
Deputy Chief Magistrate Graeme Henson  
Deputy Chief Magistrate Helen Syme  
Magistrate Wayne Evans  
Magistrate Andrew George  
Senior Children's Magistrate Scott Mitchell

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