



MAGISTRATES COURT

OF THE AUSTRALIAN CAPITAL TERRITORY



ANNUAL REVIEW
2019–20

YEAR AT A GLANCE

ACT MAGISTRATES
COURT 2019–20

CRIMINAL
MATTERS FINALISED



6680

INDUSTRIAL COURT
MATTERS FINALISED



434

CIVIL
CLAIMS FINALISED



1528



PROTECTION
APPLICATIONS

2023

INTERIM ORDER
APPLICATIONS

1956

CHILDRENS COURT

CARE MATTERS
FINALISED

151



CRIMINAL
MATTERS FINALISED

450

MATTERS
SENTENCED IN
GALAMBANY COURT

58



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FOREWORD

by Chief Magistrate of the ACT



Hello and a hearty goodbye to the fateful year that was 2019–2020, the year of the unexpected. Sadly, the emergence of the Covid-19 pandemic shadows all else. I will revert to that below.

July 2019 saw a steady as she goes position in the Magistrates Court, a time of bedding down for the newly configured bench.

In August, I was appointed to the exciting challenge of establishing the new Drug and Alcohol Sentencing List as an Acting Justice of the Supreme Court. A new captain took the helm of the Magistrates Court ship in the form of Acting Chief Magistrate Glenn Theakston.

His Honour was selected for appointment by the Attorney-General and graciously took the role at very short notice, with no clear indication as to how long he would hold it.

The eBench system did not meet judicial expectations and has been withdrawn from operation pending a proper scoping of requirements and the system's ability to meet them.

In October 2019, the long-awaited Warrumbul Court commenced. This is an indigenous specific court for children and young people with a therapeutic focus. The court aims to divert participants away from criminal behaviour and support their engagement with culture and community with the assistance of family and public or community-based organisations. It reflects the court's effort to affect an appropriate reduction in the over-representation of indigenous children and young people in the criminal justice system, and particularly in youth detention.

Toward the end of 2019, as bushfires began their incremental spread around the ACT's backyard holiday spots on the nearby south coast of New South Wales, smoke began to fill the air and dampen people's summer spirit. The loss of life and property weighed heavily on the hearts of those in the ACT, including personnel of the Magistrates Court.

Throughout 2019, His Honour continued a review of existing practice directions, and implemented a series of fresh approaches, including a comprehensive new practice direction in the criminal jurisdiction with effect from 1 January 2020.

However, in January 2020, as the smoke began to clear, Covid-19 rose to fill its ghastly void.

A public health emergency was declared, and as the Government and other organisations took measures to protect their staff and others to suppress the spread of the virus, the Court also took steps. The Principal Registrar split the Registry, which is shared with the Supreme Court, into two teams alternating physical attendance in the workplace, with the view to ensuring continuity of service in the event of an outbreak of the virus within the Registry itself. The same approach was adopted for the judiciary.

Practice changes were communicated in a series of directions and included: initially encouraging appearances by audio-visual link or telephone; then pausing non-essential hearings for two weeks; and finally vacating non-essential matters up until 1 July 2020. Furthermore, a range of novel practices were introduced to facilitate court business as much as possible while supporting the community response to the virus.

The Court demonstrated that it was able to adapt technologically resulting in a significant increase in remote appearances by parties, witnesses and legal representatives.

In light of the limit placed on expansion of the Drug and Alcohol Sentencing List by the effects of Covid-19 on support services, I resumed the role of Chief Magistrate in late April 2020.

Following a significant reduction of the risk in the ACT, by 20 May 2020, a sixth Covid-19 practice direction was issued. This provided for a resumption of the usual business of the court, insofar as possible consistent with arrangements for social distancing. Special measures were put in place to address the backlog of matters which had accumulated as a result of the Covid-19 reductions. First criminal hearings for those in custody were pulled forward to the months of July and August. Family violence hearings were prioritised next.

Additional lists were allocated for the remaining deferred hearings with block listing of general criminal, protection order and other civil matters being undertaken. The government committed to an extra 0.5-person judicial resource to meet the backlog, available to at least 31 December 2020.

During the public health emergency period, which continues as I write, registry staff adapted to the rapidly changing environment effectively. Special mention should be made of the Sherriff's office, the Court Support Unit (listing) and the Protection Unit, all of whom who were required to put in long hours and be particularly responsive in order to implement changes and safety measures, often at very short notice. The Court's Criminal and Coronial teams continued to provide excellent service throughout. Staff of the Forensic Medicine Centre, along with the Coronial Unit Legal Manager, participated effectively with the broader ACT health response, in preparing for any mass fatality situation that may arise as a result of the pandemic.

The Registrar ably lead the Registry throughout this difficult time and provided great support to both ACM Theakston and I.

Whilst the effects of the pandemic will be felt for some time in this Court, the ACT has been extremely fortunate to have had few cases and little loss of life to date with a consequent early return to what is largely “business as usual”.

That said, there are some lessons learned from the pandemic experience which will be carried into the future; in particular the court has become more flexible and responsive to community and practitioner needs. Some of the measures adopted during the public health emergency would be sensibly maintained. Where legislation is required to achieve this, for example in the expanded use of the electronic signature and efilings, the Court welcomes the opportunity to work with government and the profession to identify where further action is required.

The Court is also acutely aware that any change in the status of the virus in the ACT may create the need for a quick return to earlier measures.

Another benefit of the enforced reduced activity period was an opportunity for me to work with the Registrar, her team and external stakeholders to progress some long-standing “wish list” items, including further work towards establishing a therapeutic court in the care and protection jurisdiction, work with the police to revitalise the moribund “court attendance notice” option as an initiating process in criminal matters and consideration of expansion of judicial registrar’s powers in low-level criminal matters. Each of these projects has progressed in the last quarter of 2020.

Whilst I fear for the most marginalised in our community as the world-wide pandemic and its awful social, emotional and economic drain continues, I am reassured that at least in terms of continued access to justice, the ACT Magistrates Court is well-placed to play its part, and remains committed to doing so.

FOREWORD

Principal Registrar

The Principal Registrar of the ACT Courts and Tribunal Phillip Kellow announced his intended retirement in February 2021. Below is an extract of his fare well communication to court staff, which encapsulates the many achievements and goals Phillip has achieved in his time as Principal Registrar. Phillip leaves this role having steered the courts on the path to modernisation, laying the foundations for an innovative, flexible and responsive court system that supports the growing diverse and complex justice needs of the A.C.T community.

The ACTCT has achieved a great deal for the courts and ACAT over the last 5 years and each of you should be proud of the contributions you have made to those successes.

These achievements, in no particular order, include:

- the procurement, design, construction and commissioning of the new ACT Law Courts Building
- the rollout of the case management functionality of the ICMS and implementation of the first tranche of online services that the ICMS supports
- planning (and securing funding) for ACAT's future accommodation that is expected to be commissioned in 2021
- securing ongoing funding for a fifth Supreme Court judge and an eighth magistrate
- supporting the increase in the number of full-time presidential and senior members at ACAT
- securing funds for additional forensic pathology services
- implementing a range of jurisdictional changes including a new legislative framework for family violence protection orders and ACAT's expanded jurisdiction in relation to MAI Act and civil matters
- supporting the implementation of the Warrumbul Circle Sentencing Court, and the Supreme Court's Drug and Alcohol Sentencing List and criminal case conferencing
- procuring a new jury management system and a new library information management system
- strengthening the ACT Sheriff's Office including the creation of a security coordination unit and the publication of a new jurors' handbook and new juror videos
- improving the governance of the Russell Fox Library
- supporting the efficient conduct of the Eastman trial
- building the capacity of the ACTCT to better manage its operations, including the creation of the governance unit and business manager role, and to reduce its reliance on the JACS corporate areas

- improving the financial management (and budgetary position) of the ACTCT and reforming the performance indicators against which the courts and ACAT account for the public funding they receive
- producing the annual reviews for each court and ACAT
- introducing the canine support programme and other initiatives to support those for whom participation in the justice system is a stressful experience
- improving our engagement with the Aboriginal and Torres Strait Islander, CALD and disability communities
- producing a range of videos and other information products to assist court and ACAT users to understand relevant practices and procedures
- introducing an ACTCT corporate plan based on the strategic priorities published by each court and ACAT and entering service agreements with each jurisdiction that set out the services the ACTCT is to provide
- ensuring policies for emergency management, business continuity, disaster recovery and risk management are constantly reviewed and refined
- improving external and internal communications including the use of social media and updating the website of each court and ACAT
- successfully negotiating changes to the legal officer enterprise agreement to include a new classification for associates and a new Legal 3 classification
- implementing the ACTCT team charter and other initiatives to help make the ACTCT a respectful, professional and safe workplace.

Throughout this period, and notwithstanding the disruptions caused by building works and the rollout of new ICT systems, all of you continued to deliver quality services to the courts, ACAT and those who use them.

More recently, I have been particularly proud of how the joint courts registry, ACAT registry, Sheriff's Office, Forensic Medicine Centre, Conferencing Unit, Governance and Corporate and Strategic Services have responded to the challenges presented by the 2020 bushfires and the Covid-19 pandemic.

One of my personal goals was to create a positive, well-resourced, outcomes-focussed administration whose various elements share a common purpose and work together to deliver services and initiatives for the courts and ACAT and those who engage with them as parties, witnesses, legal representatives and jurors.

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MAGISTRATES COURT: OUR PEOPLE

The Magistrates

The full-time judicial officers of the Magistrates Court are appointed by the Executive pursuant to s.7 of the *Magistrates Court Act 1930*. Each magistrate is also a coroner pursuant to s.5 of the *Coroner's Act 1997*.

Special Magistrates are appointed by the Executive pursuant to s.8 of the *Magistrates Court Act*. In the ACT, Special Magistrates hear the same kinds of matters as the full-time magistrates.

Chief Magistrate



WALKER, Lorraine Anne

Magistrate

19 July 2010 – 12 October 2011

Chief Magistrate

13 October 2011

Magistrates



CAMPBELL, Lisbeth Ellen

Appointed 5 August 1998



MORRISON, Peter John

Appointed 14 February 2012



BOSS, Bernadette Carmel, CSC
Appointed 8 May 2012



COOK, Robert Matthew
Appointed 11 September 2013



Theakston, Glenn Sacha
Appointed 30 May 2016



TAYLOR, Louise Mary
Appointed 10 August 2018



LAWTON, James
Appointed 6 May 2019



STEWART, James
Appointed 6 May 2019

Special Magistrates



HUNTER, Margaret Ann OAM
Appointed 21 May 2014 and
Reappointed 7 May 2017,
7 May 2018 and 1 January 2019

The Registrar



The Registrar of the Magistrates Court is appointed by the Minister pursuant to s.9 of the *Magistrates Court Act*. The jurisdiction of the Magistrates Court, exercisable by the Registrar, is set out in part 6.5 of the *Court Procedures Rules 2006*. Ms Jayne Reece is the Registrar of the Magistrates Court appointed permanently 27 November 2019. She has also been appointed as Deputy Coroner of the Coroners Court. The Registrar is supported by the Legal Manager, two legal officers, Counsel Assisting Coroners, ADR Manager, a conferencing team and registry staff.

The Registrar may appoint deputy registrars of the court, bailiffs and other officers that are required for the operation of the court. Subject to the *Magistrates Court Act* and to any directions of the Registrar, a deputy registrar may exercise the functions of the Registrar.

The work of the Registrar involves a range of civil matters and in-chambers work to support the court, including issuing search warrants, issuing summons for breach of good behaviour orders, determining various civil applications and motions, enforcement hearings, and determining applications for interim family violence, personal protection, and workplace protection orders.

Court Staff

Staff members of the Court Registry provide administrative support to allow for the efficient operation of the court. Responsibilities of staff members include processing, filing and preparing court documents, settling court orders and maintaining accurate court records. Registry staff members possess sound operational knowledge of the Magistrates Court jurisdiction, practices and procedures, and support court users by providing procedural advice and assistance.

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OVERVIEW

History

The Magistrates Court commenced as the Court of Petty Sessions and was established on 25 November 1930 as the Territory's first court. Prior to its establishment, Territorians were required to travel interstate to Queanbeyan, Goulburn or Cooma to have their legal matters heard. Appeals from the court were heard in the High Court until the Supreme Court commenced on 1 January 1934.

In 1929 Attorney-General Latham accepted Acton House as a suitable building for court proceedings. Later that year the building was refurbished and converted for court use.

Visiting magistrates presided over the court until 1949 when Francis Keane was appointed as the first resident magistrate. However, it was not until 1974 that Charles Kilduff became the inaugural Chief Magistrate, holding office until 1980. In 1977, under the *Court of Petty Sessions Amendment Act*, magistrates became independent judicial officers rather than public servants.

On 8 May 1963 the Court of Petty Sessions was relocated to the Law Courts building in Knowles Place which was opened by Sir Robert Menzies. By the 1980s the workload of both the Court of Petty Sessions and the Supreme Court had significantly increased. As such, additional facilities were organised in order to accommodate the growing workload of the courts. On 1 February 1986 the Court of Petty Sessions was renamed as the Magistrates Court. The current Magistrates Court building was completed in 1996. The courts precinct has recently been renovated with completion of the heritage building in 2019. Minor renovations continue into the 2020–2021 financial year.

Functions

The Magistrates Court operates under the *Magistrates Court Act*. It has jurisdiction to hear a wide range of matters across both the civil and criminal jurisdictions. The *Magistrates Court Act* also established the Childrens Court, the Family Violence Court, the Galambany Court, The Industrial Court and most recently Warrumbul Children's Court. The Coroners Court operates in the same building. Each magistrate is also a Coroner and the Registrar is appointed as a Deputy Coroner.

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THE WORK OF THE COURT

Effects of Covid-19

COVID-19

On 16 March 2020 the ACT Minister for Health released a Public Health Emergency Declaration under the Public Health Act 1997, s. 119 (Emergency declarations), in response to the public health risk to the ACT community posed by coronavirus disease 2019 (Covid-19), caused by the novel coronavirus SARS-CoV-2.

The Covid-19 pandemic and declared public health emergency presented a range of challenges to the Justice system across all jurisdictions, not the least was ensuring access to justice in circumstances where rapidly changing public health advice was increasingly restrictive on any public gatherings, required strict social distancing measures and increased cleaning and hygiene measures.

As Covid-19 started emerging as a possible threat in the ACT community, planning for the possibility of infections in the ACT community began, with a focus within the court on ensuring the continuity and access to justice was maintained. Risk assessments and possible courses of action were in place prior to the public health declaration in March 2020.



In response to the emerging infection threat the court released a series of practice directions varying the usual business operations of the court to expedite the implementation of electronic filing and reduce in person contact. Practice directions were circulated to key stakeholders and via the law society and bar association as well as being published on the ACT Magistrates court's website.

On 27 March a detailed Practice Direction (*Covid-19 Measures No 4*) was released and directions were made in line with the Federal and Territory directions to impose social distancing measures and shutdowns of non-essential services. The court complied with public health orders to reduce court operations to essential operations only, and to limit the number of onsite staff. On 30 March 2020 the ACT Magistrates Court transitioned to a reduced activity arrangement.

STAFFING

Some staff were able to immediately commence work from home arrangements, but a lack of readily available ICT resources limited some capabilities for a short period whilst extra equipment – such as additional laptops – was sourced. Once these were sourced, the work from home capability increased and whole business units were able to commence normal operations whilst working remotely. In order to maintain access to justice and minimise impacts on the community – and particularly those individuals being held in custody (without sentence) a number of staff were required to continue essential services, continuing to work within the court precinct. This included Judicial officers, Registrars, associates, registry staff, security, transcripts, and on-site ICT support. In order to ensure on-going capability when it was unknown how long the arrangements would need to be sustained, the remaining staff were split into teams and rostered in a week on/ week off roster to minimise contact between teams and provide further physical spacing between staff. As the courts were still largely operational there was no reduction of work levels.

ICT RESPONSES TO COVID-19

The scheduled release for the e-filing and e-distribution functionality of ICMS to allow court users to file documents in the civil practice was fast tracked and moved up from its scheduled release date in May. The functionality became live on 20 March 2020, and within the first week over 100 legal practitioners had registered to use the online filing portal. The ICMS portal also allowed for the payment of filing fees on some applications and filing types. Arrangements were put in place to allow fee and fine payments electronically, for matters not yet accepted by ICMS.

Systems were put in place using existing software solutions to allow for remote appearances via audio visual links and telephone across the courts. These arrangements assisted limiting the movements of people in custody by facilitating remote appearances from remand facilities. These arrangements were mirrored in the Children's Court.

CIVIL LISTINGS

With effect of 30 March 2020 Civil hearings listed before 1 July 2020 were vacated with new dates to be advised. Enforcement hearings, costs assessments, conciliations and conferences and registrars' listing hearing list were temporarily vacated. Non-compliance list, Directions lists, commercial lease case management meeting and urgent civil applications list remained listed and were conducted via remote means. As of 9 April 2020, the Registrar's listing hearings List was reinstated. An updated practice direction (Covid-19 measures No 5) also included directions that court ordered mediations would be listed and continued to be conducted via remote appearances.

Family Violence and Personal Protection interim application matters continued uninterrupted with applications being heard via telephone

CRIMINAL LISTINGS

The Practice Direction of 27 March 2020 administratively vacated all "summons" matters with exceptions where the defendant was in custody, on bail or listed for sentence. Future dates in all matters were to be advised as the impacts of Covid-19 became clearer. General mention lists, bail applications and variation, sentencing lists and Family Violence mention lists continued daily, using remote appearances where possible. Part heard matters continued to be heard, however some dates were changed to accommodate the shifting of work priorities. Final hearings listed prior to 1 July 2020 were vacated until further notice.

CHILDREN'S COURT

The arrangements made in adult criminal matters were mirrored in the arrangements for criminal matters in the children's court. The general mention list was continued, with provisions for remote appearances. Where matters were considered urgent, provision was made for them to proceed as listed.

Care matters were continued with appearances of parties via telephone, however listing hearings and final hearings listed prior to 1 July 2020 were delayed and adjourned for later listing dates.

The implementation of the planned Therapeutic Care Court was interrupted as Covid-19 necessitated resources to be diverted to assisting in the Court's response. In late June, the work on the Therapeutic Care Court recommenced. It is anticipated that the Therapeutic court will be operational in the 2020-2021 financial year.

RESUMPTION OF COURT SERVICES

By mid-May, the crisis within the ACT region had abated and restrictions on services and community movement were lifted in stages. In April, civil hearing matters which had been administratively vacated were listed in a call over and re-listed with hearing dates later in the year. Call overs were held for Family Violence and Personal Protection order final hearings with hearing dates now assigned for the second half of 2020. Where possible when time allowed, original conference and hearing dates were reinstated.

Criminal Matters have also been relisted with new hearing dates and as at 30 June 2020 the vast majority of summary matters administratively vacated have now been assigned new appearance dates for the second half of 2020. It is expected that any outstanding listings will be relisted in the first weeks of July 2020.

On 20 May 2020, the Court released a further practice direction in anticipation of some public health restrictions being lifted on 1 June 2020, Practice direction no 5 Covid-19 response began operation on 2 June 2020 and remained extant as at 30 June 2020. Court operations returned largely to “in person appearances” with court appearances being resumed in person for all local court users, with the ability for interstate appearances via AVL and telephone. The court has implemented internal measures to continue to operate safely within social distancing directives. These measures have included the electronic filing and service, varying court sitting times to reduce congestion in foyer areas, reducing the number of people in court rooms to only those with a direct interest in the matter, and calling matters individually. Security staff and sheriff’s officers are maintaining a daily court user count and enforcing the personal distance spacing requirements within the court precinct. As at 30 June 2020 Family Violence and Personal Protection Order interim applications and return of subpoena list maintain appearances via remote means to assist in reducing the number of people in the court precinct.

Predictably, the measures taken to reduce the risk of Covid-19 transmission in the courts has affected the completion rates of all areas of the court. Despite these challenges, the court has continued to deliver a high level of efficiency in justice to the ACT community with 94% of civil matters completed within 12 months, and 93% of criminal matters completed within 12 months.

The court will continue to monitor the situation and respond accordingly to the public health threat presented by Covid-19, as it evolves. The court will undertake a review of the actions taken during the response to Covid-19 and remains ready to re-implement measures should the situation evolve.

Criminal Jurisdiction

The majority of the Magistrates Court's work is in the criminal jurisdiction. The Magistrates Court has jurisdiction to hear all summary offence matters. Summary offences are ACT offences that carry a maximum sentence of two years imprisonment or less, and Commonwealth offences with a maximum penalty of one-year imprisonment.

The Magistrates Court's jurisdiction is expanded in certain circumstances to hear more serious offences (indictable offences) where either the prosecution elects to have the offence heard summarily, or the defendant consents to the jurisdiction of the Magistrates Court. Where the prosecution elects, the maximum penalty that can be imposed for that offence is a fine of \$5 000 and/or two years imprisonment. Where there is consent of the defendant, the maximum penalty that can be imposed for that offence is a \$15 000 fine and/or five years imprisonment for each offence. With this expanded jurisdiction, the court hears many serious matters including aggravated robbery and aggravated burglary and serious offences of a violent or sexual nature.

In the reporting year, 7545 new criminal matters were lodged – an increase of 8% on the previous year. 6680 Matters were finalised. Whilst there was a slight increase in the number of matters finalised, there was an overall reduction in the percentage of matters finalised within the 12-month time period.

This reduction is due to the combination of an increase in the lodgement of matters and the reduced court operations due to Covid-19 in the period between March 2020 and June 2020. The stay of non-custodial final hearings between March and 1 July 2020 and the bulk adjournment of mention matters has affected the completion rates of matters and affected approximately 300. The necessity of conducting matters by remote means increased the time needed to conduct each matter and increased the daily sitting time in court, despite the reduced number of matters listed. This has had a flow on effect and will likely impact on the completion rate going in to the 2021 reporting year.

There are a number of diversionary and specialist aspects to the court's criminal jurisdiction, some of which are detailed below, including restorative justice, the Galambany and Warrumbul Courts.

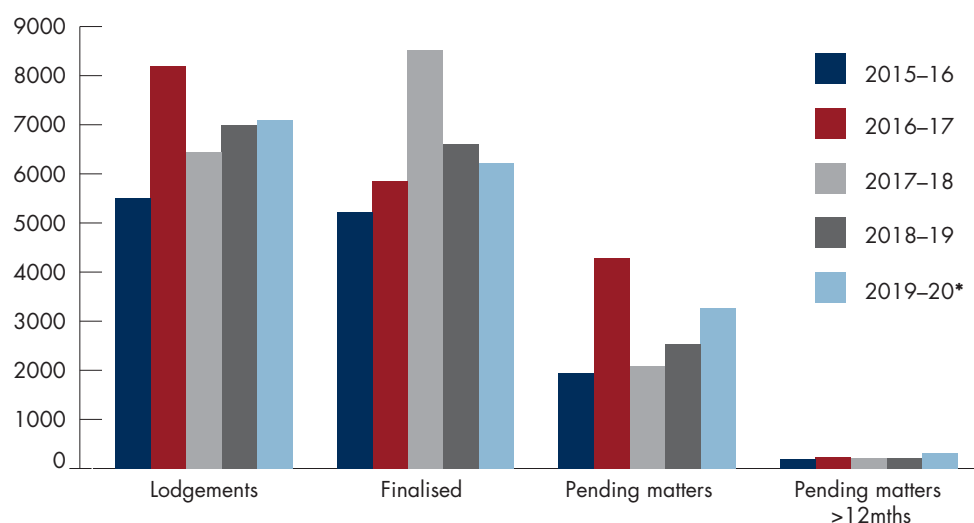
Additionally, the court has an important diversionary role in identifying where there are mental health illnesses that impact on a defendant's level of moral culpability, or the need for a response that is directed towards their health needs rather than a criminal justice response.

The court determined pursuant to s.335 of the *Crimes Act 1900*, that there were 61 defendants who were unfit to enter a plea. Twenty-nine defendants were referred to the ACT Civil and Administrative Tribunal for assessment as to whether a treatment order was required under the *Mental Health (Treatment and Care) Act 1994*.

Between 1 July 2019 and 30 June 2020

Criminal Matters	2015-16	2016-17	2017-18	2018-19	2019-20	% variance
Lodgements	5504	8202	6441	6989	7,095*	2%
Finalised	5227	5861	8523	6598	6,248*	-5%
Pending matters	1936	4278	2096	2533	3,328*	31%
Pending matters >12mths	197	227	207	224	383*	71%

Criminal Matters



Count of Matters Final Outcome – Mental Health Referrals

3	Mental Health Dismissed under section 20BQ subsection (1)(c)(i) into care of responsible person, unconditionally or subject to conditions
3	Mental Health Dismissed under section 20BQ subsection (1)(c)(ii) to submit for assessment
2	Mental Health Dismissed under section 20BQ subsection (1)(c)(iii) unconditionally
29	Mental Health Dismissed under section 334 subsection 2(a) to submit to jurisdiction of ACAT
22	Mental Health Dismissed under section 334 subsection 2(b) unconditionally
1	Mental Health for immediate review under section 180
1	Mental Health Transfer under section 335 subsection 4(d) to submit to jurisdiction of ACAT
61	Total

* Originally, this figure included Childrens Court, this has now been removed to reflect figures in the Magistrates Court Adult Jurisdiction only.

Civil jurisdiction

The court has a broad jurisdiction to hear and determine applications in its civil jurisdiction. These include claims for damages, such as personal injury, breach of contract, and debt and applications under the *Family Violence Act 2016* and the *Personal Violence Act 2016*.

On 15 November 2016, section 266A of the *Magistrates Court Act 1930* was amended to prohibit the filing of claims for civil disputes if an amount of not more than \$25 000 is claimed or sought to be declared as a debt. This results in the jurisdiction of the Magistrates Court now being between \$25 000 and \$250 000, those matters up to \$25 000 are now lodged in the ACT Civil and Administrative Tribunal.

Other matters that are determined by the court are matters under the *Leases (Commercial and Retail) Act 2001* in which there is no financial limit, claims for criminal injuries compensation under the *Victims of Crime (Financial Assistance) Act 1983 (the 1983 Act)*, and workers compensation claims under the *Workers Compensation Act 1951*. Workers compensation matters are now heard by a specialist Industrial Court Magistrate. Further details are provided later in this report. On 1 July 2016, the *Victims of Crime (Financial Assistance) Act 2016 commenced* and the 1983 Act was repealed. Applications for financial assistance are no longer lodged with the ACT Magistrates Court and are now administered through the Victims of Crime Commissioner. Transitional provisions provided for lodgements in the Magistrates Court for incidents that occurred up to 30 June 2016 to be lodged with the Court until 30 June 2017. Any matters that occurred from 1 July 2016 are to be lodged with the Commissioner.

On 1 July 2019 Practice Direction Civil 2/2019 was released to support the conduct of commercial lease matters under the *Leases (Commercial and Retail) Act 2001 (ACT)*. This Practice Direction modified litigation pathway of commercial and retail lease matters and provided for a simplified process within the court.



Between 1 July 2019 and 30 June 2020¹

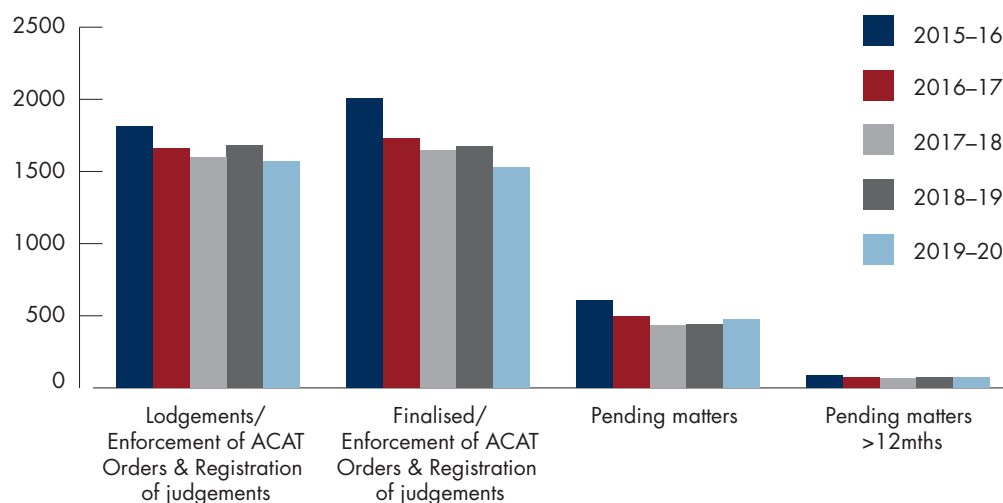
Civil Matters	2015-16	2016-17	2017-18	2018-19	2019-20	% variance
Lodgements**	1811	1177	933	906	947	5%
Enforcement of ACAT Orders & Registration of judgements		482	661	772	624	-19%
Total	1811	1659	1594	1678	1571	-6%
Finalised**	2006	1250	985	900	905	1%
Enforcement of ACAT Orders & Registration of judgements		482	661	771	623	-19%
Total	2006	1732	1646	1671	1528	-9%
Pending matters	603	495	433	438	475	8%
Pending matters >12mths	89	76	68	71	71	0%

* inclusive of ACAT enforcement matters and registration of interstate judgments

** exclusive of ACAT enforcement matters and registration of interstate judgments

1 These figures exclude lodgements, pending and finalisations for domestic violence, family violence and personal violence orders

Civil Matters



There continues to be a fall in lodgements for the Magistrates Court. Increases in the jurisdiction of the ACAT and the resolution of matters prior to court proceedings may be causes for this reduction. This has enabled resources to combat the pending pools which had led to a decrease in the number of matters waiting for available court time. The reduction of court operations because of Covid-19 has similarly affected the completion rates of Civil matters, causing a slight increase in the number of pending matters. Matters pending over 12 months remain steady, despite interruptions to listings as result of Covid-19.

Domestic Violence Family violence and protection orders

Just over half of the matters lodged in the court's civil jurisdiction are focused on the important social issue of family and personal violence. This requires a unique approach within the legal system.

The court lists applications for interim family violence and protection orders daily.

The *Family Violence Act 2016* and the *Personal Violence Act 2016* commenced on 1 May 2017 and the *Domestic Violence and Personal Orders Act 2008* was repealed. Legislation previously provided for the making of domestic violence orders; the newly commenced legislation provides for the making of family violence orders. The definition of family violence was broadened and strengthens the focus on a range of behaviours that constitute family violence.

The court can issue orders prohibiting a person from engaging in family violence. Family violence includes:

- (a) any of the following behaviour by a person in relation to a family member of the person:
 - (i) physical violence or abuse;
 - (ii) sexual violence or abuse;
 - (iii) emotional or psychological abuse;
 - (iv) economic abuse;
 - (v) threatening behaviour;
 - (vi) coercion or any other behaviour that—
 - (A) controls or dominates the family member; and
 - (B) causes the family member to feel fear for the safety or wellbeing of the family member or another person; or
- (b) behaviour that causes a child to hear, witness or otherwise be exposed to behaviour mentioned in paragraph (a), or the effects of the behaviour.

Personal violence orders prohibit personal violence which includes conduct such as physical violence or abuse, sexual violence or abuse, threatening behaviour, stalking, harassing, intimidating or offensive behaviour, and/or property damage. Orders may also prohibit a respondent from having contact with the applicant and other named persons or from being within a certain distance of the applicant and other named persons.

The court is supported in this area of work by the Protection Unit. The team is engaged in processing applications for interim and final orders. Upon the making of an order, the Protection Unit processes the order on the same day and provides it to ACT Policing for service of documents upon the respondent. The team also assists in directing parties to support services within the court precinct, such as Legal Aid and the Domestic Violence Crisis Service.

All applications for family violence and personal violence orders are set down for a conference before a deputy registrar to explore an agreed outcome between the parties. Matters are usually scheduled for conference within four weeks of an interim order being made and within 10 days where there is no application for an interim order or where an interim order has been refused.

In order to ensure the optimum service to members of the public seeking protection from family violence and personal violence, the jurisdiction of the Registrar has been expanded to ensure parties are heard quickly. The Registrar hears applications for interim orders and applications for final orders when a respondent has been served with relevant documents but has not attended at Court.

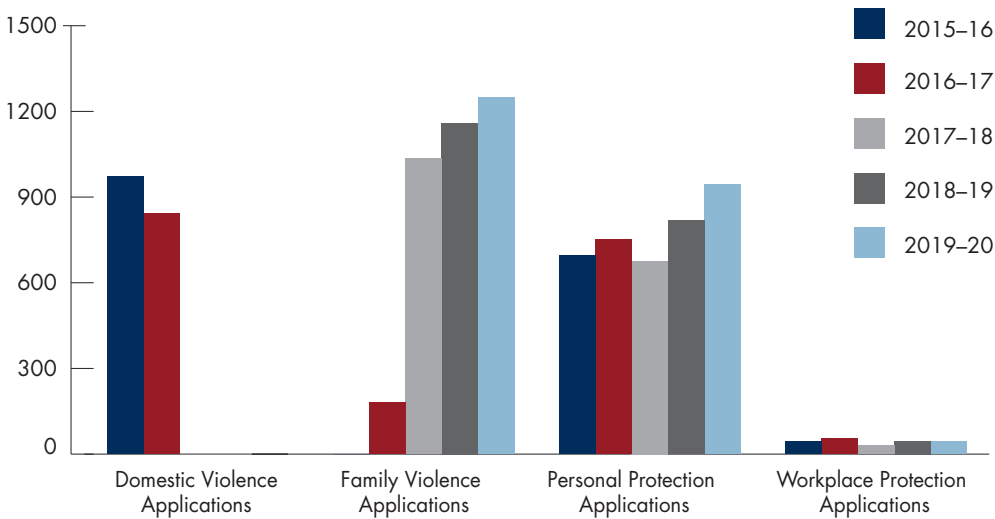
Where a matter is unable to be resolved at conference, it will proceed to a hearing before a magistrate. Hearings are listed on a weekly basis and are generally heard within 10–12 weeks of the conference. The 2019–2020 reporting year saw an increase in the application for both final and interim family violence orders, in line with the overall increase in lodgements. Personal protection orders increased significantly in the March to June quarter.

Between 1 July 2019 and 30 June 2020

Protection Unit Statistics	2015–16	2016–17	2017–18	2018–19	2019–20	% variance
Applications for final orders						
Domestic Violence Applications	972	843	0	0	0	0%
Family Violence Applications		181	1035	1159	1249	8%
Total	972	1024	1035	1159	1249	8%
Personal Protection Applications	695	752	676	818	945	16%
Workplace Protection Applications	45	54	31	46	43	-7%
Applications that included an application for Interim orders						
Interim Domestic Violence Applications	711	777	6	1	1	
Interim Family Violence Applications		163	1092	1106	1152	
Total	711	940	1098	1107	1153	4%
Interim Personal Protection Applications	415	664	676	801	884	10%
Interim Workplace Protection Applications	36	42	42	48	44	-8%

The commencement of the FVD legislation in 2016 is reflected in this table. Domestic Violence applications in the years 2015 and 2016 are shown for comparison purposes.

Protection Unit Statistics – For Full Orders



Duty Magistrate

Where a person is taken into custody and charged with an offence and the person is not released on bail by the police, they must be brought before a court as soon as practicable and within 48 hours at the latest. As a result of this statutory requirement, a Duty Magistrate sits in court on Saturdays and public holidays.

The Duty Magistrate is also responsible for issuing various forms of warrants, receiving notification of deaths referred under the *Coroners Act 1997*, and dealing with urgent family violence and personal protection matters. All full-time magistrates, including the Chief Magistrate, share this roster 365 days per year.

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THE SPECIALIST COURTS

Children and Young Persons Court

The Magistrates Court sits as the Childrens Court when exercising jurisdiction under Chapter 4A of the *Magistrates Court Act*. Magistrate Robert Cook sat as Children's Court Magistrate in the reporting year.

The Childrens Court has jurisdiction to hear criminal cases where the alleged offender is a child (under 12 years of age) or young person (between the ages of 12 and 18 years). Pursuant to the *Criminal Code 2002 (ACT)* the current age of criminal responsibility is 10. There is a rebuttable presumption that a child is unable to know the wrongfulness of her or his conduct between 10 and 14 years of age.

The Childrens Court also has jurisdiction for care and protection orders under the *Children and Young People Act 2008*. The court is tasked with determining whether a child or young person is at risk of abuse or neglect and in need of care and protection, and whether there is a person with parental responsibility willing or able to provide that protection.

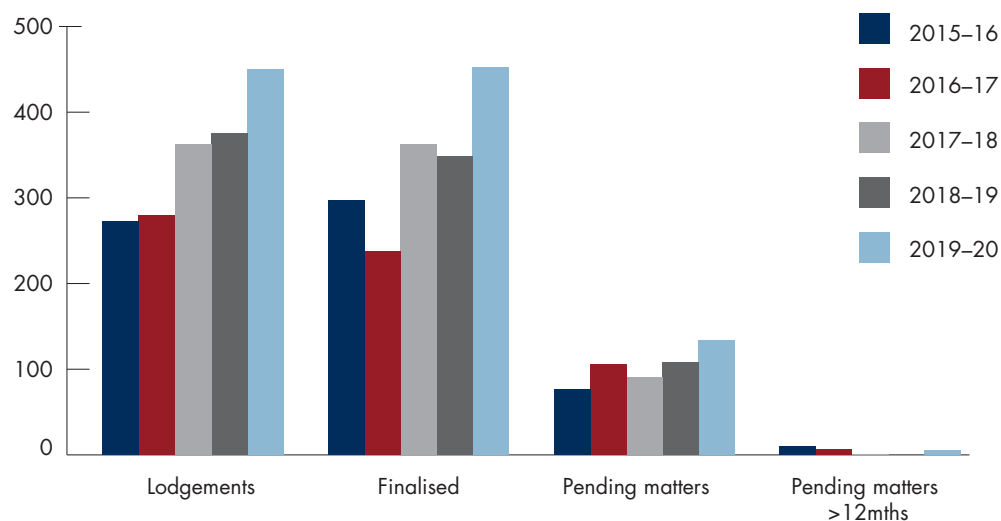
Childrens Court proceedings are not open to the public. The court must consider on each occasion whether people who wish to be present have a legitimate interest warranting their attendance.

The court has a unique task in both its care and criminal jurisdiction. In the care jurisdiction, when making a decision regarding a child or young person the court must consider the best interests of the child or young person. In the court's criminal jurisdiction, upon a young person being convicted or found guilty of an offence, the court in sentencing of the young offender must consider their rehabilitation and may give more weight to that purpose than to any other sentencing purpose.

Children criminal matter statistics

Children's Criminal Court	2015-16	2016-17	2017-18	2018-19	2019-20	% variance
Lodgements	273	280	362	375	450	20%
Matters finalised	297	238	362	348	452	24%
Pending matters	77	106	90	108	134	24%
Pending matters >12 months	10	7	1	0	5	-500%

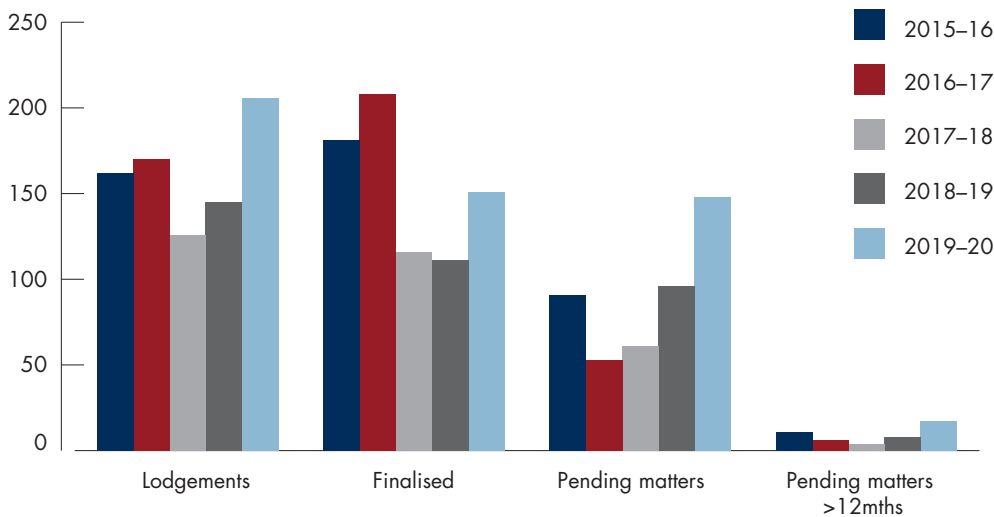
Childrens Criminal Court



Care and protection matter statistics

Care and Protection	2015-16	2016-17	2017-18	2018-19	2019-20*	% variance
Lodgements	162	170	126	145	206	42%
Matters finalised	181	208	116	111	151	36%
Pending matters	91	53	61	96	148	54%
Pending matters >12 months	11	6	4	8	17	113%

Care and protection statistics



* Prior to the implementation of the new case management system, a unit was only 'counted' once when the child's matter was first registered with the court and then when it was considered finalised by a registry official. Now a 'case' is defined by the lodgement of an originating process automatically. This unit is used to define the case and is counted at lodgements and when a finalising outcome is applied to the originating process. This in affect has increased the number of counting units relative to the old process.

The Court implemented a new Practice Direction in the Care jurisdiction which commenced on 14 June 2016. The principles of the practice direction however commenced operation in February 2016 with a closer focus on case management in this jurisdiction. The Practice Direction has now been in place for nearly 4 years with considerably positive results. Despite the Covid-19 delays across the court, and an 42% increase in the number of matters being lodged, the rate of completion of matters within 12 months was increased by 36%.

Plans for the implementation of the proposed Therapeutic Care Court are well advanced and it is anticipated that this court will begin operations in the 2020-2021 reporting year.

Galambany Court

The Galambany Court is a specialised court with the purpose of assessing and sentencing Aboriginal and Torres Strait Islander people. Aboriginal and Torres Strait Islander offenders may be referred to the Galambany Court for sentencing following a plea of guilty.

Magistrate Bernadette Boss is currently the Galambany Court Magistrate.

The Galambany Court has the same sentencing powers as the Magistrates Court.

There are three distinct stages in the Galambany Court sentencing process. These are: referral by a magistrate on the defendant's application following a plea of guilty; assessment for suitability undertaken by the Galambany co-ordinator within the Justice and Community Safety Directorate; and the sentence hearing and sentencing.

A panel of Elders and community members preside over the court and recommends culturally appropriate sentences to effectively address the underlying cause of offending behaviour. Panel members contribute to the process in a variety of ways and have a role in explaining culturally relevant details to the court, while also expressing to the defendant that criminal behaviour will not be accepted or tolerated in the Aboriginal and Torres Strait Islander communities. The Elders and community members also have an opportunity to explore with the defendant how he or she may avoid further criminal behaviour. Recommendations of the panel are considered by the Galambany Court Magistrate when imposing sentences.

Relationships Australia and Community Corrections attend these proceedings to provide advice to the panel on their decision making and the practicalities of implementing recommended outcomes.

Culturally appropriate programs are provided to the court for referrals upon sentencing.

HISTORY

The predecessor to the Galambany Court was the Ngambra Circle Sentencing Court which was established through a practice direction of the Magistrates Court. The inaugural circle sentencing magistrate was Magistrate Shane Madden.

The change of name from 'Ngambra' to 'Galambany' was recommended by participants in the Circle Court and agreed to by the ACT Elected Body and Nggunawal Council of Elders in 2010. Galambany means 'we all, including you'. It is an inclusive word that recognises the various origins of people of Aboriginal and Torres Strait Islander descent living on Nggunawal country today.

In 2012 the Galambany Court Practice Direction came into effect. The *Courts Legislation Amendment Act 2011* gave formal recognition to the circle sentencing process, introducing chapter 4C into the *Magistrates Court Act* which provides that when the Magistrates Court is sitting for the purposes of circle sentencing it operates as the Galambany Court.

These statistics are comparable to previous years despite the Galambany Circle Sentencing Court not sitting during the 4th quarter due to COVID restrictions. It also reflects the continuing confidence from the Aboriginal and Torres Strait Islander community in the circle sentencing process.

Galambany Court statistics—adults

Galambany Sentence	2015–16	2016–17	2017–18	2018–19	2019–20
Matters referred	54	39	54	77	60
Matters assessed	51	41	55	64	58
Matters sentenced	48	45	43	66	58

Warrumbul Court

The reporting year has seen the circle approach extended to sentencing of children and young people. Legislation to facilitate this was passed by the Legislative Assembly on 20 February 2018 with the relevant provisions to commenced November 2019. The Warrumbul Court has not yet operated for a full reporting year, and complete reporting is not yet available. Warrumbul has started to receive referrals and completed one matter during its limited time in operation and has 4 on-going referrals to rehabilitative pathways. Covid-19 prevented new referrals to Warrumbul between March and June 2020.

Family Violence Court

In 2011 the *Magistrates Court Act* was amended to give statutory recognition to the family violence list. This created a specialised criminal court responsible for hearing family violence offences.

Giving the Family Violence Court a legislative basis provided a more integrated approach to dealing with domestic violence. Family violence takes place in the context of specified relationships between people and may result in considerable harm to the victim and all other individuals exposed to it. The purpose of establishing the specialised Family Violence Court was to recognise the complex nature of family violence and the need to protect victims and the community as a whole.

Chapter 4B of the *Magistrates Court Act* provides that the Magistrates Court can also operate as the Family Violence Court when exercising the following jurisdiction:

- any criminal proceeding against an adult in relation to a family violence offence;
- a proceeding in relation to bail for an adult charged with a family violence offence; and
- a proceeding in relation to a breach of a sentence imposed by the Magistrates Court or the Family Violence Court on a person for a family violence offence.

Family violence offences are characterised as such based on the nature of the relationship between the offender and the victim and the type of offence. 'Relevant' relationships include those between alleged offenders and victims who are or were married, are or were in a domestic partnership, are in an intimate relationship or are in a parent/child relationship.

Offences include murder, manslaughter, assault, acts endangering life, stalking, property damage, sexual assault, acts of indecency and reckless driving. The full range of relationships and offences are detailed in the *Family Violence Act 2016*.

Industrial Court

The Industrial Court commenced operation on 8 November 2013 following the recommendations of the 'Getting Home Safely' report. The court has jurisdiction to deal with industrial and work safety matters.

Section 291P of the *Magistrates Court Act* sets out the circumstances in which the Magistrates Court sits as the Industrial Court. Industrial Court matters must be heard by an appointed Industrial Court Magistrate. Magistrate Glenn Theakston is the current Industrial Court Magistrate.

The Industrial Court has jurisdiction to deal with proceedings under the:

- *Workers Compensation Act 1951*
- *Work Health and Safety Act 2011*
- *Scaffolding and Lifts Act 1912*
- *Dangerous Substances Act 2004*
- *Machinery Act 1949*.

In the previous reporting period, a jurisdictional issue arose in criminal charges under the Commonwealth's *Work Health and Safety Act 2011* before the Industrial Court. This issue has now been addressed *Magistrates Court Act 1930 Section 291Q (2)* which provides for the jurisdiction of the Industrial court to operate with the same jurisdiction as the Magistrate Court in relation criminal proceedings.

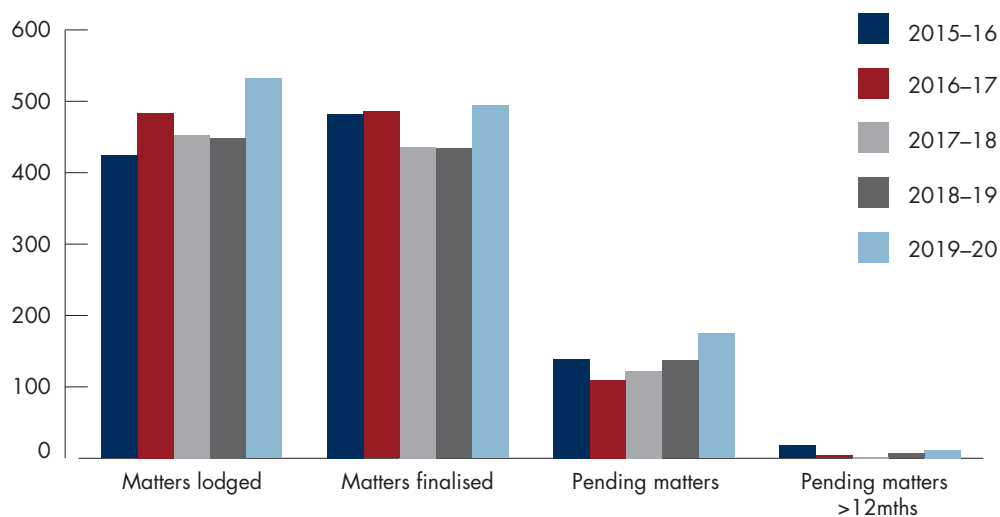
The bulk of matters in the Industrial Court are workers compensation arbitrations. The court also has jurisdiction to hear and determine personal injury matters arising from the same facts that form the basis for proceedings under any of the above Acts, up to a limit of \$250 000.

The Industrial Court exercises the Magistrates Court's jurisdiction in criminal prosecutions against adult offenders where they relate to industrial or work safety offences, bail proceedings and proceedings for breach of sentences imposed for those offences. In criminal prosecutions, the defendant is often a corporate legal person.

Industrial Court statistics

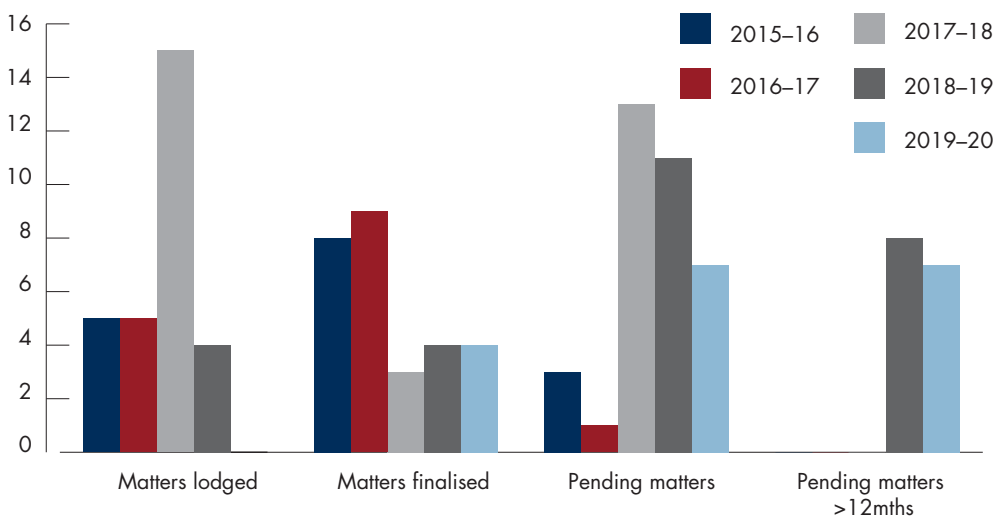
Industrial Court	2015-16	2016-17	2017-18	2018-19	2019-20	% variance
Civil Matters						
Matters lodged	424	484	453	449	532	18%
Matters finalised	482	486	436	434	494	14%
Total pending matters	139	110	122	137	175	28%
Pending matters >12 months	18	4	2	7	12	71%

Industrial Court Statistics (Civil)



Industrial Court	2015-16	2016-17	2017-18	2018-19	2019-20
Criminal Matters					
Matters lodged	5	5	15	4	0
Matters finalised	8	9	3	4	4
Total pending matters	3	1	13	11	7
Pending matters >12 months	0	0	0	8	7

Industrial Court Statistics (Criminal)



External territories

The Jervis Bay Territory and the Australian Antarctic Territory are territories of the Commonwealth of Australia.

With respect to the Jervis Bay Territory, the laws of the Australian Capital Territory apply in that territory in accordance with section 4A of the *Jervis Bay Acceptance Act 1915* (Cth). Subsection 4D of the *Jervis Bay Acceptance Act 1915* (Cth) also provides that each court of the Australian Capital Territory has jurisdiction in the Jervis Bay Territory. It follows that the ACT Magistrates Court has jurisdiction to hear and determine matters in the Jervis Bay Territory.

The ACT Magistrates Court provides judicial and administrative resourcing to the Jervis Bay Territory. The Magistrates of the ACT Court sit in the Magistrates Court of Jervis Bay every second month.

With respect to the Australian Antarctic Territory, the laws of the Australian Capital Territory apply in that territory in accordance with section 6 of the *Australian Antarctic Territory Act 1954* (Cth). Section 10 also provides that the courts of the Australian Capital Territory, including the ACT Magistrates Court, have jurisdiction to hear and determine matters in the Australian Antarctic Territory. These matters are attended to by the ACT Magistrates on an as needs basis.



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HIGHLIGHTS AND DEVELOPMENTS

ACT Law Court and Precinct Project

Construction has largely been completed on the ACT Courts project. The Magistrates Court has been working closely with the Attorney-General, the Justice and Community Safety Directorate and the Private Industry Partner (Juris Partnership) to finalise the design and manage the staged construction process.

The new building reflects and support a progressive and independent judiciary. Apart from providing technology upgrades to existing magistrates courtrooms, and a number of shared spaces in an integrated facility, the building will also provide the court with the opportunity to accommodate a number of assessment and support services, including the Domestic Violence Crisis Service, ACT Legal Aid, and ACT Health agencies including Court Alcohol and Drug Assessment Service (CADAS), the Forensic Mental Health Court Liaison Team and Child and Youth Protection Services.

Works commenced on the new building in 2016. Stage One was completed in October 2018. Stage One delivered six new courtrooms for the Supreme Court, new judicial chambers, new library accommodation, jury facilities, remote witness suites, new registry and new public entrance. The second stage (which included the refurbishment of the old Supreme Court building) was completed in late 2019 and delivered two additional courtrooms (including a Drug and Alcohol Court), mediation facilities, hearing rooms, new combined custodial facilities and accommodation for several justice support agencies.

When the project is finished the ACT will have a combined courts facility which supports operational efficiencies while respecting the jurisdictional separation between the Supreme Court and the Magistrates Court. The facilities will expand capacity for trials and alternative dispute resolution processes, improve jury and vulnerable witness facilities, enhance the custodial areas and support the use of courtroom technologies. Work is on-going in the final phase of construction in the Magistrates court on the refurbishment of court rooms and hearing rooms.

ICMS

The 2012–13 ACT Budget provided \$9.5 million over four years for the acquisition and development of a new electronic case management system to improve the operation of the ACT Courts and Tribunal. In the 2014–15 Budget an additional \$2.44 million in capital funding was provided over four years to further develop the new ICT courts case management system.

In November 2014, the ACT Government entered an agreement with the Western Australian Department of the Attorney-General for the acquisition and implementation of a new case management system known as the Integrated Courts Management System (ICMS). The ICMS system is a more efficient, next generation business system, which will improve service delivery to Court users and will provide a platform for e-Services after full implementation. It will save Court users' time and resources through better control of, and access to, case information and will facilitate better information flow between criminal justice agencies. Improved data collection will also strengthen the capability for evidence-based policy analysis in areas such as recidivism rates in the ACT.

The ICMS system has been rolled out in three stages – the first stage was successfully implemented in the ACT Civil and Administrative Tribunal (ACAT) in December 2015. Stage 2 was successfully implemented into the civil jurisdiction in September 2016. In addition, the project team interposed the implementation of the family violence reforms which commenced in May 2017. Stage 3, which deals with the criminal jurisdiction, online services such as a criminal portal and electronic lodgement facility, and interfaces with key justice and other agencies, was implemented in February 2019.

The fourth and final stage of the ICMS project will increase the number of court and ACAT forms that can be lodged electronically, allow documents to be submitted as attachments to on-line forms and provide an e-Distribution service whereby letters, notices and orders generated from the ICMS will be sent electronically to the relevant party or their representative. The fourth stage of the roll out has progressed during the reporting year and is on-going. E-bench roll out has been paused while a more user-friendly system can be developed.

Judicial resources

Court efficiency has been maintained, despite the reduced operating capacity as a result of Covid-19 restrictions, largely in part to the continued support of Special Magistrates and an increasing in funding to support the recovery of the backlogged matters as a result of Covid-19.

Special measures were put in place to address the backlog of matters which had accumulated as a result of the Covid-19 operational reductions. Magistrate Stewart, who was appointed as the Territory's first permanent part-time Magistrate in the last reporting period has increased his hours to full time to support this effort.

Warrumbul children's court

As indicated in the previous reporting period Warrumbul Childrens court, a court for Aboriginal and Torres Strait islander Children designed to be a rehabilitative and diversionary pathway for Aboriginal and Torres Strait Islander young people from entering and remaining in the criminal justice system. *Practice Direction Childrens Court 2* issued 1 October 2019. The court aims to divert young people from criminal behaviour and engage with their culture and community. A strong component of the court is the acknowledgement of wrong-doing and a willingness to engage in a reparative and rehabilitative processes of the court. The court engages a panel of community Elders to guide and assist the young person and their support network and inform the court of a young person's suitability for the rehabilitation pathway program. The panel of Elders may also make recommendations to the Children's court Magistrate prior to sentencing.

In the short time since Warrumbul court commenced sitting, one young person has successfully completed their rehabilitative pathway, and another four young people are currently undertaking their rehabilitation pathway.

Therapeutic Care Court

The 2019-20 ACT Budget includes funding to establish a Therapeutic Care Court for care and protection matters in the Childrens Court. In addition, the Budget includes funding to Legal Aid ACT to undertake a new duty solicitor service in the Children's Court, which would provide extended services to parents and grandparents who are involved in care and protection proceedings. The Therapeutic Care Court will provide for court-led interventions for parents whose children have been removed from their care or are at risk of being removed from their care to address parental substance abuse issues, parenting capacity issues, family violence and mental health issues. Covid-19 interrupted the planning and implementation of the Therapeutic Care Court; however this planning is now well advanced and the court is expected to be in operation in the next reporting period.

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COURT SUPPORT SERVICES

Sentencing Database

The ACT Sentencing Database (ACTSD) is hosted by and mirrors the NSW Judicial Information Retrieval System (JIRS). Like JIRS, the ACTSD is designed to facilitate consistency in sentencing and to enhance judicial, practitioner and public access to ACT Supreme Court and Magistrates Court sentencing data.

The ACTSD captures sentencing outcomes and includes general statistical information, as well as enabling users to 'drill down' for the purpose of obtaining more detailed information. The database also provides an access point to ACT and Commonwealth legislation. Full text searching of recent and historic ACT Supreme Court judgments and sentencing remarks, including Magistrates Court decisions, is also available.

The next few years will see database content gradually increase to a level where information regarding offences is statistically significant.

Justices of the Peace

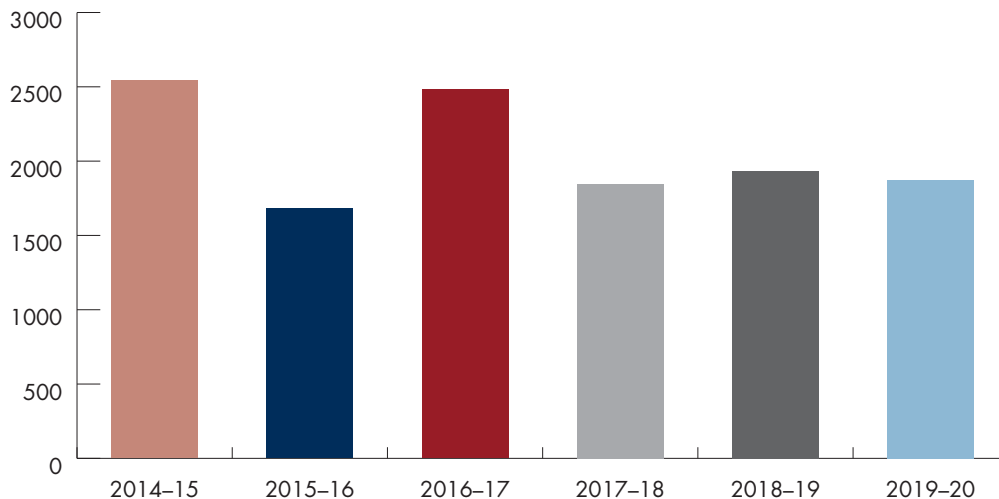
A Justice of the Peace is present in the Magistrates Court building each day. The Justices of the Peace provide a valuable volunteer service to the court and community and are available between 9:30am and 12:30pm to witness and certify documents such as statutory declarations. Justices of the Peace also administer oaths and affirmations relating to evidence in affidavit form. The ACT Justices of the Peace Association co-ordinates the roster to ensure that a Justice of the Peace (JP) is present in the Magistrates Court at these times.

In the reporting year there were 29 Justices of the Peace on the roster team. They provided services to 1847 people with a total of 8471 documents. The Justice of the peace service is staffed entirely by dedicated volunteers.

Unfortunately, the Justice of the Peace services in the court was severely affected by Covid-19 and remains shut down as at 30 June 2020. Noting that the Justice of the Peace services were unable to be offered in the period between March and June 2020 the demand for these services remains very strong and were in line with previous years and likely to have exceeded services provided in previous financial years – as is evident in the table of matters by calendar year.

This is a rare voluntary service and greatly assists day to day operations of the court. The court is very grateful for the support of the Association and its dedicated members.

Magistrates Court Customers per Financial Year



NB: Center closed between August and December 2015

Legal Aid ACT

CRIMINAL MATTERS

Legal Aid ACT offers court-based duty lawyer services in criminal matters for adults in the Magistrates Court and for children in the Childrens Court. Legal Aid lawyers provide preliminary legal advice to people who are in custody or who are otherwise appearing in court. The assistance of a duty lawyer is available throughout the day to complement court sitting hours.

When providing this type of duty assistance at court Legal Aid lawyers also identify matters that may be eligible for a grant of legal assistance to provide ongoing legal representation. Legal Aid lawyers identify people who may be eligible for a grant of aid for ongoing representation.

Legal Aid ACT supports the work of the court by providing on-site duty lawyers available to provide advice and representation to people who need assistance with any court appearance including on Saturday and public holiday Courts. In addition, Legal Aid ACT has administrative para-legal staff on-site in the Court precincts to support their lawyers. Para-legal staff assist people to apply for a grant of Legal Assistance for ongoing assistance and direct them to the Legal Aid ACT premises in Allsop Street, Canberra. Legal Aid continued to operate and provided duty assistance throughout the Covid-19 reduced operational period, with advice and appearances both over the phone and in-person appearances.

FAMILY VIOLENCE AND PROTECTION ORDERS UNIT

Legal Aid lawyers assist members of the community who are applying for, or responding to, family violence and personal protection orders. Increased demand means the unit is now staffed with three solicitors each day with drop-in appointments available throughout the day. Legal Aid is representing an increased number of primary victims when their family violence order matters return to court for a conference or hearing. Whilst the unit focuses specifically on family violence and personal protection orders, Legal Aid is also working to ensure that clients receive information, advice and referrals about related matters such as arrangements for children or property settlement following relationship breakdown which may include a direct referral for a client to Legal Aid Family Law service for advice and representation.

Court Alcohol and Drug Assessment

The Court Alcohol and Drug Assessment Service (CADAS) provides two services to the court.

Where a defendant is found guilty, or pleads guilty, to a drink driving offence and is an habitual offender (three drink driving offences within five years) or has committed a high range (level 4) offence, the court is required to obtain a report from CADAS. This report summarises CADAS' assessment on whether any form of therapeutic treatment or program might assist the person and, if so, CADAS makes recommendations about an appropriate treatment or program. In sentencing, the court must consider the report and may order the person to accept treatment or undergo a program recommended by the assessor.

CADAS may also be engaged to provide a report to the court for the purposes of a bail application or sentencing, for offenders who have been charged with an alcohol or drug related offence.

The report may recommend a treatment plan either during court proceedings or as part of a sentencing order.

The magistrates may take into account the information provided in the CADAS report and may require high risk offenders, in particular, to participate in appropriate therapeutic programs or treatments to address their substance abuse. CADAS clinicians will monitor attendance with any programs ordered by the court and report all outcomes to the court.

This is a very valuable service and the court thanks CADAS staff for their dedication and responsiveness.

Forensic mental health service

The Forensic Mental Health Service provides a Court Assessment and Liaison Service within the ACT court system. The service aims to provide a range of high quality and timely supports to individuals who appear before the courts and present with mental health issues.

The Court Liaison Service is available during business hours to provide assessment services to defendants who have been identified as having mental health concerns. These assessments generally occur prior to the defendant's court appearance. The assessing clinician provides advice to the court with regards to any identified mental health concerns and current treatments which may be relevant to either community or custody treatment options. The assessing clinician is also able to provide advice as to whether it is necessary for an order pursuant to s.309 of the *Crimes Act 1900* be made for an assessment of the defendant's requirement for immediate treatment or care for mental health reasons.

The Court Assessment Service is also able to provide expert forensic mental health reports at the direction of the court. These reports may include assessment of mental impairment and fitness to plead.

The court appreciates the difficult work undertaken by clinicians in this area, often with significant time constraints, and records its appreciation for the invaluable service provided.

Prisoners aid

The Court Assistance and Referral Service (CARS) is run by Prisoners Aid and operates out of the Magistrates Court each day between 9:00am and 12:30pm. Prisoners Aid suspended the physical attendance in the court precinct during the Covid-19 measures taken in March to June of 2020. This service was provided by remote means during this period.

It offers a support and referral service to people charged with offences in the ACT courts, their families and prisoners. The referral service provides pre-release and post-release assistance to detainees to help them reintegrate into the community.

Prisoners Aid volunteers visit detainees and assist families of ACT prisoners to visit their loved ones who are incarcerated interstate.

This is another volunteer service providing practical and low-level financial support to vulnerable people; their work is greatly appreciated.

Child and Youth Protection Services

In the ACT the Community Services Directorate is responsible for providing Child and Youth Protection Services (CYPS) within both the care and protection and youth justice arenas. These two areas often intersect, and the combined service is proving a valuable asset in assisting the court across its jurisdictions. CYPS focuses on reducing youth crime by addressing the underlying causes of crime through early intervention, prevention and diversion strategies.

The Court Liaison Officer is the Director-General's representative in the Childrens Court. The officer also supports the young person and his or her family through the court process. The Court Liaison Officer is responsible for advising the court of the young person's progress, compliance with orders and may also communicate concerns to the court.



Restorative Justice Unit

The ACT's Restorative Justice Scheme allows citizens to participate in voluntary conferencing processes and is guided by its own legislation, the *Crimes (Restorative Justice) Act 2004* (the Act).

The objects of the Act are detailed at s.6 and are as follows:

- (a) to enhance the rights of victims of offences by providing restorative justice as a way of empowering victims to make decisions about how to repair the harm done by offences;
- (b) to set up a system of restorative justice that brings together victims, offenders and their personal supporters in a carefully managed, safe environment;
- (c) to ensure that the interests of victims of offences are given high priority in the administration of restorative justice under this Act;
- (d) to enable access to restorative justice at every stage of the criminal justice process without substituting for the criminal justice system or changing the normal process of criminal justice;
- (e) to enable agencies that have a role in the criminal justice system to refer offences for restorative justice.

The ACT Restorative Justice Unit's (RJU) primary objective is to facilitate an opportunity for the people affected by an offence to:

- talk about how the offence has affected them and others close to them;
- hear the responsible person accept responsibility for their actions;
- discuss what needs to be done to repair the harm.

The final phase of the scheme commenced on 1 November 2018, providing for the inclusion of referrals for family violence and sexual offences. The amended legislation now allows for the referral of all ACT criminal offences, summary and indictable, in which a person or people have been harmed, to restorative justice.

Restorative Justice (RJ) participants and processes are carefully assessed by convenors in order to facilitate a restorative process which addresses the unique needs of all participants.

Referrals may be made at different points by the ACT Law Courts. The DPP can refer a less serious matter prior to the beginning of the second mention. The Court can refer a less serious offence prior to a plea being entered at s27. This requires a special Court Referral Order and the agreement of both defence and prosecution. The Court can also refer following a plea or finding of guilt before the end of proceedings, without requiring the agreement of defence and prosecution.

In 2019–20 there were 95 referrals made to the RJU, by the ACT Law Courts (17 by the Childrens Court, 55 by the Magistrates Court, 11 by the Galambany Court 10 by the Supreme Court and 2 by the Drug and Alcohol sentencing court).

Covid-19 affected referral to Restorative Justice proportionally to the decrease in matters heard by the Magistrates Court in the 4th quarter of the reporting year.

Attendance of RJU staff at court and their cooperation with the court process is appreciated.

Domestic violence crisis service – court advocacy

The Domestic Violence Crisis Service (DVCS) has two full-time court advocates based at the Court Monday to Friday between 9:00am and 4:00pm.

Court advocates provide procedural advice and information, advocacy, support and safety planning to people experiencing domestic violence. This support may include linking clients to other supports such as legal advice or representation, public advocacy and emergency childcare.

The bulk of court advocacy takes place in the civil section, with advocates assisting people through the protection order process. In addition to this, advocates support DVCS clients giving evidence during criminal hearings. The program works in cooperation with the Legal Aid ACT Domestic Violence and Protection Orders unit, ACT Policing Order Liaison Officers, Office of the Director of Public Prosecutions and Magistrates Court registry staff in order to support those experiencing domestic violence.

The court appreciates the assistance provided to those involved in court processes by the DVCS. That assistance goes some way to empowering the vulnerable and supports more effective proceedings in court.

DVCS may be accessed at the Court or via the DVCS Crisis Line on 6280 0900.

DVCS continued to provide this service via remote means during the Covid-19 crisis.



Judicial Education and Community and Professional Engagement



JUDICIAL EDUCATION AND COMMUNITY AND PROFESSIONAL ENGAGEMENT

Chief Magistrate Walker

August 2019 – April 2020	Acting Judge Supreme Court – Drug and Alcohol Sentence list (DASL)
	Member of Chief Magistrates Council
	Member of State and Territory Chief Coroners Council
	Member of National Judicial College of Australia Board
	Member – Asia Pacific Coroner Society
	Member – Court Procedure rules Committee
	Member – Judicial Council Committee
	Member – ACT Bar Association
	Member – Australian Association of Women's Judges
	Member – Rule Making Committee
	Convenor – Court Users Forum
	Court Governance member
	Cultural Diversity Committee
	Justice of the Peace engagements
	Presentation – ANU Youth Law forum

Magistrate Campbell

ACT Bar Association member

ACT Law Society member

Magistrate Morrison

Judicial Council of Australia Governing Council member

Magistrate Boss

Member of Australian Association of Women's Judges

ACT Bar Association member

Commonwealth Magistrates and Judges Association member

Judicial Council of Australia member

Magistrate Theakston

August 2019 – April 2020	Acting Chief Magistrate
	Leadership and Coaching Program for Incoming Heads of Jurisdiction
	Commonwealth Magistrates and Judges Association member
	National Judicial College of Australia member
	Rules Advisory Committee member
	Court Users' Forum (Criminal)
	National Coronial Information System Committee
	Forum on Restorative Coronial Reform
	ACT Bar Association member
	Western Australian Parliamentary visit
	Judge Advocate General Workshop
	RAAF Legal Workshop
	Section 154 <i>Defence Force Discipline Act 1982</i> reporting officer
3 June 2020	Presentation ACT Bar Conference – Canberra

Magistrate Taylor

	Judicial Council
	Law Council of Australia – Indigenous Legal issues
	Associate of the Indigenous Law Centre at UNSW
2–6 September 2019	National Magistrates Orientation Program – QLD
9 July 2019	Presentation – Women Lawyer's Association NAIDOC luncheon – Canberra
31 August 2019	Presentation – Women in Law Enforcement Event – Canberra

Magistrate Lawton

	ACT Bar Association member
	National Judicial College of Australia member
	Australian Institute of Judicial Administration member
	Joint Rules Advisory Committee, Library Committee
2–6 September 2019	National Magistrates Orientation Program – QLD

Magistrate Stewart

	ACT Bar Association member
	National Judicial College of Australia member
	Australian Institute of Judicial Administration member
2-6 September 2019	National Magistrates Orientation Program – QLD
	Presentation – ACT Bar Vicarious Trauma (podcast).

Magistrate Hunter

	ACT Bar Association member
	Asia Pacific Coroners Society member
	Member of Australian Association of Women Judges
	National Judicial College of Australia member
	ACT Women Lawyer's member
	Australian Institute of Judicial Administration member





MAGISTRATES COURT

OF THE AUSTRALIAN CAPITAL TERRITORY

www.courts.act.gov.au/magistrates