

CHILDREN'S COURT OF VICTORIA



ANNUAL REPORT
2009 - 2010



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Judge Paul Grant
 President
 Children's Court of Victoria

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4 November 2010

Professor David de Kretser AC
 Governor of Victoria
 Government House
 MELBOURNE VIC 3004

Dear Governor

CHILDREN'S COURT OF VICTORIA - ANNUAL REPORT 2009-2010

In accordance with section 514 of the *Children, Youth and Families Act 2005* I have much pleasure in submitting the Children's Court of Victoria Annual Report for the year 2009-2010.

The report covers the court's operation and performance, and provides information on our activities and achievements during the reporting period.

Yours sincerely

Judge Paul Grant
 President
 Children's Court of Victoria

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OVERVIEW

The *Children, Youth and Families Act 2005* provides for the operation of the Children's Court of Victoria. The following statements form part of the court's strategic plan.

OBJECTIVES

- Provide court facilities which are modern, non-threatening, responsive, accessible and secure.
- Develop effective, efficient and consistent practices in the management, operation and administration of the court at all venues throughout the state.
- Recognise and meet the needs of the community in a just and equitable manner, with emphasis on the special needs of children, young persons and their families.

VISION

To provide a modern, professional, accessible and responsive specialist court system focused on the needs of children, young persons and their families.

PURPOSE

To hear and determine cases involving children and young persons in a timely, just and equitable manner which is easily understood by court users and the public generally.

VALUES

- Independence of the judiciary.
- Openness, accessibility and respect whilst protecting the anonymity of children and young persons before the court.
- Timely, just and equitable resolution of cases.
- Innovative use of systems and technology.
- Community awareness of and confidence in the court process.
- Staff development and rewarding initiative.



PRESIDENT'S REPORT

Family Division

Background

The child protection system in Victoria has been under pressure in recent years. This has resulted in a significant increase in the workload of the Children's Court. The impact at Melbourne has been obvious with the court building unable to accommodate the volume of cases from the metropolitan area. In June 2009, the court established two additional Family Division courts at the Moorabbin Justice Centre. The court anticipates that in 2011 it will commence using courtrooms in the new William Cooper Justice Centre to hear cases from the eastern region of metropolitan Melbourne.



Judge Paul Grant
President - Children's Court of Victoria

The period between November 2009 and May 2010 was a particularly busy time for the court. Over these seven months, the court -

- responded to the Ombudsman's Report of an Investigation into the Department of Human Services Child Protection Program;
- participated in the Premier's Child Protection Proceedings Taskforce;
- began implementing some of the recommendations of the Taskforce; and
- completed its submission in response to the Victorian Law Reform Commission's Review of Victoria's Child Protection Legislative Arrangements.

The Ombudsman

In early 2009, the Ombudsman announced he would review the operation of the Child Protection Division of the Department of Human Services. This was in response to numerous complaints made to his office about the division's operations.

In November 2009, the Ombudsman delivered his report containing a number of recommendations for improving the operation of the child protection system. The government responded by announcing various measures to support the child protection service.

In his report, the Ombudsman expresses a view that the current court model is unaffordable in the long term. The court disagrees with the Ombudsman's analysis in this respect. Those interested in the court's response to the Ombudsman's report should read pages 25 to 27 of the court's submission to the Victorian Law Reform Commission.¹

The Ombudsman recommended the Victorian Law Reform Commission undertake a thorough investigation of the current court model and compare it with other models in Australia and overseas.

The Taskforce

Upon release of the Ombudsman's report, the Premier established a "Child Protection Proceedings Taskforce".

The taskforce had the following terms of reference -

- To recommend measures designed to reduce the adversarial nature of Children's Court processes including options for alternative dispute resolution.²
- To recommend measures that could reduce the time that parties spend in the Children's Court.
- To recommend measures for DHS to further support child protection workers in their preparation for, interactions with and involvement in Children's Court processes.

The taskforce reported to the Premier on 26 February 2010.³ The court is proceeding to implement the recommendations of the taskforce. Importantly, the court at Melbourne has been funded to pilot a new model of dispute resolution conferences in child protection cases. Features of the new model include -

- conferences to be conducted at a venue away from the court;
- better preparation by all participants;
- more time for discussion in a less stressful environment;
- DHS decision-makers to be present at the conference; and
- appropriate behaviour by all participants.

¹ The submission to the VLRC is available on the court's website (www.childrenscourt.vic.gov.au).

² On this point the court notes - [1] less than three per cent of matters in the Children's Court proceed to a final contest; [2] the court was a strong advocate for a less adversarial system in the legislative review that took place in 2003 and 2004. The court's position was not reflected in the Children, Youth and Families Act 2005; and [3] in late 2008, the court established a working group to develop a stronger system of ADR in the Children's Court. The working group reported to the President of the Children's Court in November 2009. Many of the recommendations of that working group were subsequently adopted by the taskforce.

³ The taskforce report is available on the Children's Court website (www.childrenscourt.vic.gov.au).

The guidelines for the new model conferences are available on the court's website. From July to December 2010, the court will pilot the new conferences with cases from the Footscray office of DHS.

Reference to the Victorian Law Reform Commission

On the day of the release of the Ombudsman's report, the Premier announced, in addition to the establishment of the taskforce, that the Attorney-General would ask the Law Reform Commission to provide the government with a range of options for reform of Children's Court Family Division processes to minimise disputation and maintain a focus on the best interests of children. The commission was required to report very quickly and without the preparation of a discussion paper. This made the whole process particularly challenging.

The Children's Court made a detailed submission to the commission. A copy of the submission is available on the court's website. The Executive Summary of the submission is attached to the end of this report as Appendix A.

The report was provided to the Attorney-General on 30 June 2010.

A Koori friendly Family Division

The court is participating in a project to develop improved outcomes for Koori families in the Family Division. A working group has been established that includes representatives from the court, the Department of Justice, Koori community, Koori agencies and the Department of Human Services.

Criminal Division

State-wide bail support

In last year's report, the court noted the urgent and pressing need for the establishment of a state-wide intensive bail support program in the Children's Court. The VLRC recommended such a program in its 2007 "Report on the Bail Act." In June 2010, the Youth Justice Division of DHS and the court agreed to pilot such a program for offenders from the north west region of metropolitan Melbourne who

have cases listed for hearing at the Melbourne court. It is hoped that funding will be provided to Youth Justice to expand the program throughout the state.

State-wide diversion program

Last year, the court reported on the need to develop a state-wide diversion program for the Children's Court of Victoria. I am pleased to report that the Department of Justice has established a working group to develop a comprehensive, state-wide program for the Children's Court.

Children's Koori Court

There are currently two venues of the Children's Koori Court sitting in Victoria – Melbourne and Mildura. The Aboriginal Justice Forum has recommended the expansion of Children's Koori Courts to all regions with an existing adult Koori Court. The Children's Court supports this recommendation.

Professor Allan Borowski published his evaluation of the Children's Koori Court in October 2009. The report provides a comprehensive and positive assessment of the value of the court and makes a number of recommendations aimed at strengthening its operation.

Judgments

In the latter part of 2009, the Children's Court commenced publishing de-identified decisions from both divisions on its website. It is the first time that decisions of the court have been made publicly available. The court considers this to be an important step in assisting the community to gain a greater understanding of decision-making in the Children's Court.

Children's Artwork Exhibition

More than eight years ago, the Children's Court and the University of Melbourne's Early Learning Centre (ELC) agreed on the importance of having artworks by children on display at the Melbourne Children's Court. It was determined that the court should provide a permanent home for artworks by children – effectively, a permanent exhibition space. The first exhibition was launched in 2002. It was the start of an inspired collaboration and I wish to

thank the Children's Court Liaison Officer, Janet Matthew, for her outstanding work in maintaining the exhibition.

Every now and then, the exhibited works are changed. Consequently, on 12 November 2009 the court launched a fresh and expanded exhibition. Significantly, the new exhibition included a number of artworks by Aboriginal children – children from the Yappera Children's Co-operative in Thornbury, the Batja Children's Centre, Shepparton and the Aboriginal Outreach Program, Mareeba, Queensland.

In addition to the smaller works that are the traditional fare of our exhibition, the court agreed to display some larger artworks by children from the ELC. These children, aged 4 and 5 years old, have produced paintings that reflect their understanding of nature in a time of drought. They were inspired by images of Aboriginal art, patterns in the Australian landscape and Aboriginal themes. These paintings have previously been exhibited at the 47th International Children's Festival, Sibenik, Croatia (2007) and the 33rd International Exhibition of Children's Paintings, Kyoto, Japan (2008). They now have a permanent place at the Melbourne Children's Court.

Restructuring of Administrative Arrangements

Late in the reporting period, the CEO of the Children's Court, Charlotte Stockwell, announced that former court registrar Leah Hickey would take up the new position of "State Manager (Transition)" for the Children's Court of Victoria. The new role will have responsibility for assisting the Children's Court with the development of its administrative structure. Leah will take up her new position in July 2010.

Retirement of Magistrate Jacinta Heffey

Magistrate Jacinta Heffey retired on 7 May 2010. Jacinta was appointed a magistrate on 1 July 1986. Her first assignment as a magistrate was to the old Children's Court in Batman Avenue.

After leaving the Children's Court the first time, Jacinta worked variously at the Broadmeadows, Melbourne and Prahran Magistrates' Courts and the Coroners Court. In 2003, Jacinta moved back to the Children's Court where, in a nice piece of symmetry, she finished her career in the jurisdiction where it all started. Jacinta is greatly missed by her colleagues at the court.

Appointment of new Magistrates

In the 2010 State Budget the court received funding for an additional magistrate. This explains why, after Magistrate Heffey's retirement, two new magistrates were appointed to the court. Peter Dotchin and Ros Porter were appointed magistrates on 23 June 2010 and both commenced at the Children's Court shortly thereafter. The court welcomes their appointments.

Education

The court continues its program of community education by providing information to the public through the office of the Court Liaison Officer, its website, its publications and the on-going program of community visits to the court.

Groups that have visited the court include foster carers, law students, and students of social work, youth work, community welfare, and maternal and child health, among

others. The magistrates at Melbourne continue to give their time before court commences to address these groups and answer questions about the jurisdiction and operation of the Children's Court.

In addition, the practice of the court in providing addresses and presentations through its President and magistrates to a wide range of forums has continued this year. Magistrate Peter Power continues to maintain a comprehensive set of "Research Materials" on the court's website. The materials are freely available to all who wish to gain an understanding of the court's work.

Participation on Boards, Councils and Committees

To ensure that the Children's Court and the issues important to it are appropriately represented, it is necessary to participate in a significant number of boards, councils, committees, reference groups and advisory bodies. This year they included:

- Courts Consultative Council
- Appropriate Dispute Resolution Working Group
- Magistrates' Court Management Committee
- County Koori Court Reference Group
- Aboriginal Justice Forum
- Mental Health Reform Council
- Children's Court Users' Group
- Children's Koori Court Reference Group
- Youth Justice Ministerial Round Table
- Group Conferencing Advisory Committee
- Sexual Assault Advisory Committee

Conclusion

As in previous years, I acknowledge and thank the staff and members of the following organisations who have worked co-operatively and diligently with the court at Melbourne and throughout the state during the reporting period:

- Children's Court Clinic
- Victoria Legal Aid
- Department of Human Services
 - Court Advocacy Unit
 - Youth Justice Court Advice Unit
 - Secure Welfare
- Victoria Police
 - Prosecutions Division
 - Melbourne Children's Court custodial facility
 - Protective Services
- ADR convenors
- Salvation Army
- Court Network
- G4S Security

I would like to thank my colleagues at the Children's Court for their support and for the way they have committed themselves to the work of the court. I would also like to thank the staff of the court for their outstanding contribution to the work and spirit of the court.

Finally, the Children's Court is a state-wide court and its effective operation would not be possible without the contribution made by all magistrates. I thank them for their hard work and dedication to the court. I also thank the Chief Magistrate and the State Co-ordinating Magistrate for their assistance and co-operation throughout the reporting period.



Children's paintings in the Family Division, Melbourne Children's Court

JURISDICTION

The Children's Court of Victoria has jurisdiction under the *Children, Youth and Families Act 2005* to hear cases involving children and young people up to the age of 18 years, and in some cases up to 19 years.

The Family Division of the court has the power to hear a range of applications and to make a variety of orders upon finding that a child is in need of protection, or that there are irreconcilable differences between a child and his or her parents.

In the Family Division, the court also has jurisdiction to hear applications relating to intervention orders pursuant to the *Family Violence Protection Act 2008* and the *Stalking Intervention Orders Act 2008* where the "affected family member" (family violence cases) or "affected person" (stalking cases), or the respondent is a child.

The Criminal Division of the court has jurisdiction to hear and determine summarily all offences (other than murder, attempted murder, manslaughter, child homicide, defensive homicide, culpable driving causing death and arson causing death) where the alleged offender was under the age of 18 but of or above the age of 10 years at the time the offence was committed and under the age of 19 when proceedings were commenced in the court.



Map indicates Children's Court locations throughout Victoria

STRUCTURE AND ORGANISATION OF THE CHILDREN'S COURT OF VICTORIA

Aside from judicial officers, the court is staffed by registrars, deputy registrars, trainee registrars and administrative staff at each location. In addition, a number of staff, based at the Children's Court at Melbourne, have state-wide responsibilities and/or perform duties on a state-wide basis.

President, Magistrates and Staff of the Children's Court at Melbourne

President

Judge Paul Grant

Magistrates

Ms Susan Blashki
 Ms Jennifer Bowles
 Mr Peter Dotchin (23 June 2010)
 Ms Jane Gibson
 Ms Jacinta Heffey (retired 7 May 2010)
 Mr Gregory Levine

Ms Kay Macpherson
 Ms Roslyn Porter (23 June 2010)
 Mr Peter Power
 Ms Sharon Smith
 Ms Belinda Wallington

Acting Magistrates

Ms Michelle Ehrlich

Mr Francis Zemljak

Principal Registrar

Leanne de Morton

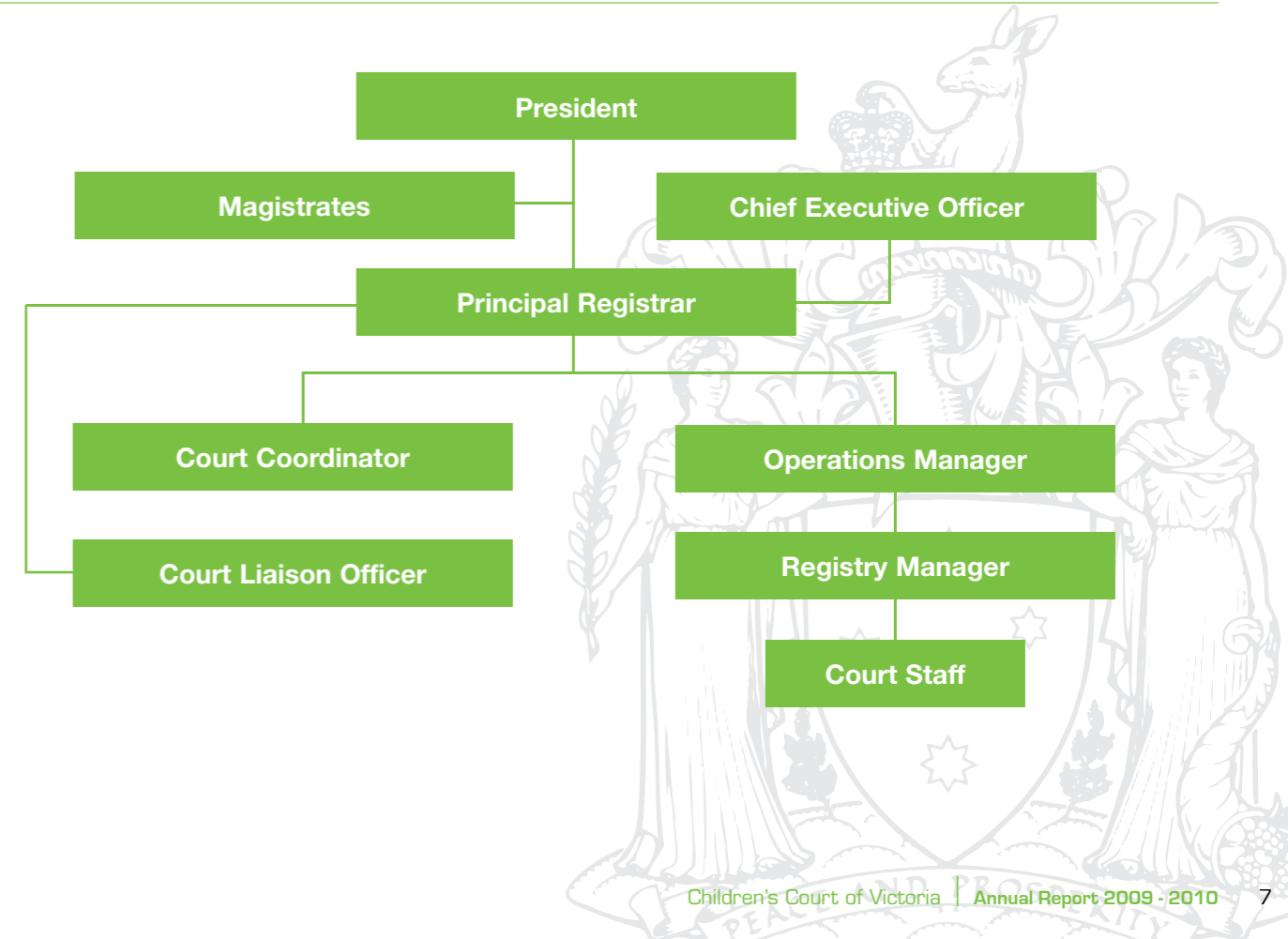
Senior Deputy Registrars

Angela Carney (Court Co-ordinator)
 Russell Hastings (Operations Manager)
 Melissa Bailey (Registry Manager)

Court Liaison Officer

Janet Matthew

Organisational Structure of the Children's Court at Melbourne



COURT LOCATIONS AND SITTING DAYS

With the exception of Melbourne, the Children's Court of Victoria sits at locations at which the Magistrates' Court is held pursuant to section 5(1) of the *Magistrates' Court Act 1989*. In accordance with section 505(3) of the *Children, Youth and Families Act 2005* the Children's Court "must not be held at any time in the same building as that in which the Magistrates' Court is at the time sitting unless the Governor in Council, by Order published in the Government Gazette, otherwise directs with respect to any particular building."

Consequently, the Children's Court of Victoria sits at gazetted times and locations of the Magistrates' Court as published by the Department of Justice in the Law Calendar.

1. Melbourne region:
Melbourne (headquarters court), Moorabbin.
2. Grampians region:
Ballarat (headquarters court), Ararat, Edenhope, Hopetoun, Horsham, Nhill, St. Arnaud, Stawell.
3. Loddon Mallee region:
Bendigo (headquarters court), Castlemaine, Echuca, Kerang, Kyneton, Maryborough, Mildura, Ouyen, Robinvale, Swan Hill.
Note: From 1 July 2009 Castlemaine and Kyneton were re-assigned to form part of the Loddon Mallee region. Prior to this date they formed part of the Broadmeadows region.
4. Broadmeadows.
5. Dandenong.
6. Frankston.
7. Barwon South West region:
Geelong (headquarters court), Colac, Hamilton, Portland, Warrnambool.
8. Heidelberg.
9. Gippsland region:
Latrobe Valley (headquarters court), Bairnsdale, Korumburra, Moe, Omeo, Orbost, Sale, Wonthaggi.
10. Ringwood.
11. Hume region:
Shepparton (headquarters court), Benalla, Cobram, Corryong, Mansfield, Myrtleford, Seymour, Wangaratta, Wodonga.
12. Sunshine region:
Sunshine (headquarters court), Werribee.

The Neighbourhood Justice Centre (NJC), located in inner suburban Collingwood, commenced operation as a three year pilot project in March 2007. The Neighbourhood Justice Division of the Children's Court hears Children's Court criminal matters where the defendant either lives in the City of Yarra or the alleged offence was committed in the City of Yarra. The NJC also has jurisdiction to hear intervention order applications.

The Children's Court of Victoria at Melbourne is the only venue of the court which sits daily in both divisions. The Children's Court at Melbourne currently has 12 magistrates sitting full-time together with the President. This number includes two acting magistrates assigned to the Children's Court. On 1 June 2009, the hearing of child protection cases emanating from the Department of Human Services southern region commenced at Moorabbin Children's Court. Two Children's Court magistrates from Melbourne sit at Moorabbin on a two month rotational basis. Magistrates in other metropolitan courts also sit as Children's Court magistrates in those regions on gazetted days, but only in the Criminal Division. Magistrates in country areas sit as Children's Court magistrates in both divisions on gazetted days.

2

ACHIEVEMENTS AND HIGHLIGHTS

RETIREMENT OF MAGISTRATE JACINTA HEFFEY

On 7 May 2010 a bench farewell was held for Magistrate Jacinta Heffey on her retirement from the magistracy. Jacinta was appointed on 1 July 1986 and spent her first years assigned to Melbourne Children's Court, at that time located in Batman Avenue. She then spent time at a number of metropolitan venues of the Magistrates' Court before commencing a long-term assignment at the Coroners Court. In 2003 Jacinta returned to Melbourne Children's Court where she has spent the last seven years.

Jacinta was especially pleased to be joined at the bench farewell by Mr John Barns who was the Senior Magistrate of the Children's Court in 1986 when she commenced.

APPOINTMENT OF EXTRA MAGISTRATES AND STAFF

On 23 June 2010 three new magistrates were appointed, two of whom were assigned to Melbourne Children's Court. The court has been pleased to welcome Magistrate Peter Dotchin and Magistrate Ros Porter. One fills the vacancy left on the retirement of Magistrate Jacinta Heffey in May and one fills the new position created in the 2010 State Budget.

CHILDREN'S KOORI COURT

The Children's Koori Court was originally established in September 2005 as a two year pilot program. This followed the successful evaluation of Koori Courts operating in the Magistrates' Court jurisdiction. The Magistrates' Koori Court sits at a number of metropolitan and country locations including Broadmeadows, Shepparton, Warrnambool, Mildura, Bairnsdale, Swan Hill and Latrobe Valley.

The Children's Koori Court commenced sitting at Melbourne in October 2005. The court currently sits one day per fortnight. During 2009/10 the court sat on 22 occasions and finalised 98 matters.

In September 2007 a second venue of the Children's Koori Court was launched at Mildura. During 2009/10 the Mildura court sat on 17 occasions and finalised 34 matters.

Professor Allan Borowski of La Trobe University published his evaluation of the Children's Koori Court in October 2009. The report provides a positive assessment of the value of the court and makes a number of recommendations aimed at strengthening its operation.



Jacinta Heffey's bench farewell 7 May 2010

CHILDREN AND YOUNG PERSONS INFRINGEMENT NOTICE SYSTEM (“CAYPINS”)

CAYPINS is an alternative system to the traditional open court summons process for dealing with children and young people who fail, in the first instance, to pay on-the-spot and other penalties issued to them by prosecuting bodies such as Victoria Police and the Department of Transport.

CAYPINS provides for an administrative and quasi-judicial decision-making role to be performed by Children’s Court registrars throughout the state. The process has substantially reduced the occasions on which children and young people are summoned to appear before a magistrate in open court for these types of infringements.

A dedicated CAYPINS team operates from Melbourne Children’s Court. Registrars at country courts conduct CAYPINS hearings while the Melbourne CAYPINS team has responsibility for hearings at metropolitan courts and for the preparation of all matters state-wide.

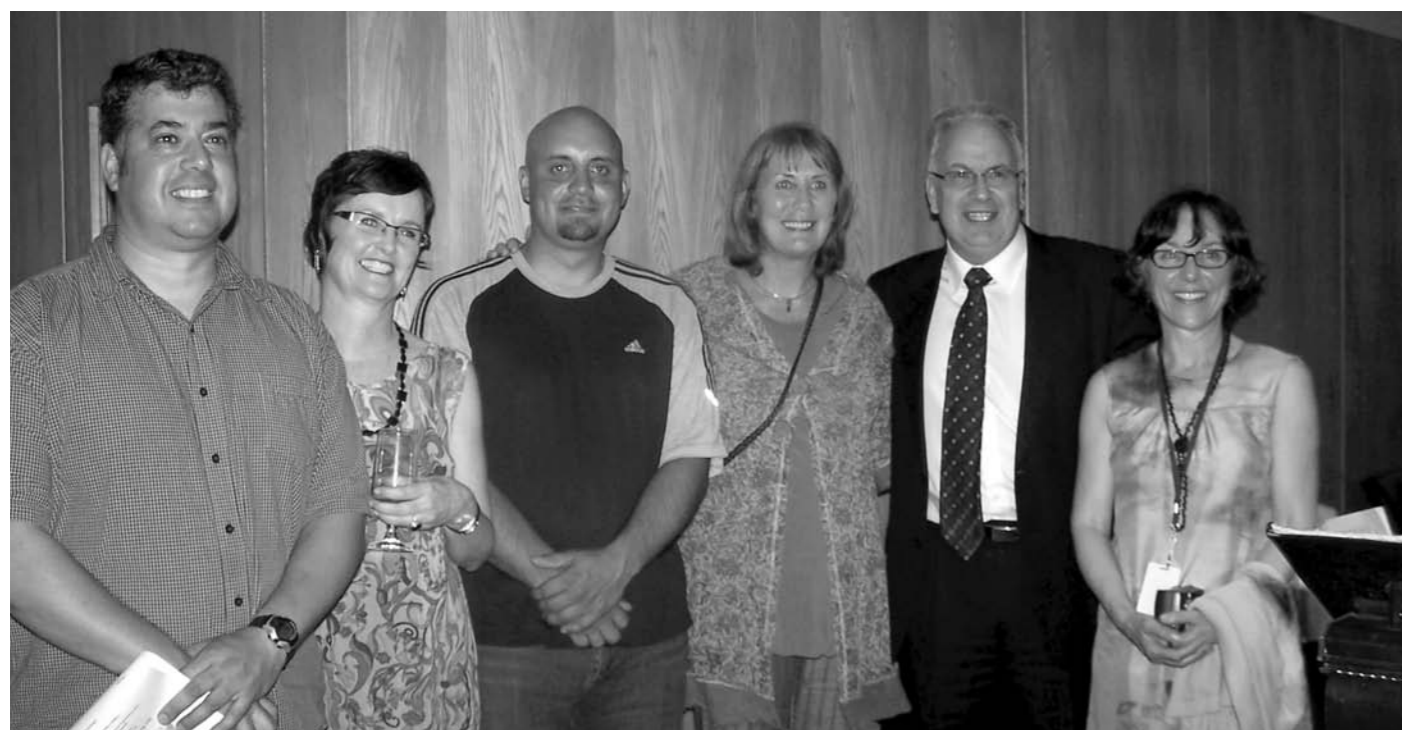
On 1 February 2010 the *Transport (Infringements) Regulations 2010* came into operation. The regulations introduced a new maximum fine that can be imposed in relation to children and young persons for public transport related infringements. A child can now receive a maximum fine of 0.5 penalty units (approximately \$58.00). This is the first time that there has been a distinction between infringement penalty amounts for adults and children. It is anticipated that this will lead to fewer prosecutions against children and young people for unpaid infringements.

CHILDREN’S ARTWORK EXHIBITION

In 2002 the Children’s Court entered into an arrangement with the University of Melbourne’s Early Learning Centre in relation to mounting a permanent display of young children’s artworks in the Melbourne Children’s Court complex. As part of its activities the Early Learning Centre manages *Boorai: The Children’s Art Gallery*. In October 2002 the first exhibition of 55 artworks was launched at the Children’s Court. Since that time, works in the exhibition have been changed three times with 15 pictures being added in 2008 and another 21 pictures joining the exhibition during 2009. The most recent additions include a number of artworks by Aboriginal children and a series of paintings on canvas produced by children attending the Early Learning Centre. The paintings on canvass were inspired by images of Aboriginal art, patterns in the Australian landscape and Australian native animals.

On 12 November 2009 the court celebrated the expanded exhibition by holding a launch in which particular attention was focused on the artworks by Aboriginal children and those inspired by Aboriginal themes. The court welcomes these works as important additions to the collection on display.

The court wishes to acknowledge the assistance of Jan Deans, Director of the Early Learning Centre and to make particular mention of the contribution of Louise Saxton of the Early Learning Centre in mounting this wonderful exhibition.



Artwork launch 12 Nov 2009

CHILDREN’S COURT WEBSITE

The Children’s Court website continues to be a valuable resource for court users and the wider community. During the reporting period the court commenced online publication of some of its judgments and decisions from both divisions. This is the first time the Children’s Court has been in a position to make these decisions available to the general public. The decisions are de-identified to bring them within the reporting restrictions imposed by s.534 of the *Children, Youth and Families Act 2005*. Having access to these decisions will assist those with an interest gain a greater understanding of judicial decision-making in the Children’s Court.

During 2009/10 the court commenced work on the development of two videos to be available on the website. The videos will demonstrate a Children’s Court criminal case and a contested intervention order case. The court has received a grant of funding from Victoria Law Foundation to assist in the development of the project. Translations into a number of community languages will be available including an Auslan version for the hearing impaired. The project includes virtual courtroom tours and printed information to assist those attending court. The court anticipates the videos will be available online early in 2011.

The *Research Materials* section of the website contains information developed by Magistrate Peter Power specifically for legal professionals, social workers and other professionals working in disciplines associated with the work of the court and students studying in these areas. Printing the 12 chapters of *Research Materials* from the PDF files published to the site currently results in approximately 594 pages of information on the jurisdiction and operation of the Children’s Court of Victoria. Mr Power has continued his regular updates throughout the reporting period.

Re-development of the Children’s Court website is anticipated to commence during 2011.

LAW WEEK 2010

On Saturday, 22 May 2010 Courts Open Day was held as part of Law Week. Law Week is a national event occurring in May each year which in this state is managed jointly by the Law Institute of Victoria and Victoria Law Foundation. Once again, members of the public took advantage of the opportunity to visit courts including Melbourne Children’s Court.

Visitors were welcomed to the Children’s Court by the President, Judge Paul Grant. Judge Grant conducted a “You be the Judge” session in which those in attendance were given the opportunity to participate in some sentencing exercises and discussion. Tours of the court complex were conducted by Court Liaison Officer, Janet Matthew and Deputy Registrar, Sarah Smith. Also in attendance were two volunteers from Court Network who assisted by providing directions and information to visitors.

While Courts Open Day allows members of the community to see how courts work and to discuss court related issues with members of the judiciary, it also provides a valuable opportunity for courts to engage directly with the community.



Courts Open Day 22 May 2010 006

COURT NETWORK AT THE CHILDREN'S COURT

Court Network operates a state-wide support service to assist people attending Victoria's courts. In May 2001, Court Network commenced a three year pilot program in the Family Division at Melbourne Children's Court after receiving funding from the William Buckland Foundation. Following an independent evaluation of the pilot program conducted at the end of 2003, Court Network obtained further funding to continue its operations at the court. With the increase in age jurisdiction from 1 July 2005 bringing cases involving 17 year olds into the court, Court Network extended its service into the Criminal Division at Melbourne Children's Court.

A team of 17 trained volunteers, supervised by a professional Program Manager, are rostered to provide two "Networkers" each day at the court. Networkers provide information about court procedures and community supports, assist people to make contact with Legal Aid duty solicitors, provide practical and emotional support, refer people to appropriate community support agencies and generally work collaboratively with all other parties to facilitate the court process.

The court acknowledges the commitment of Court Network staff and the volunteer Networkers who have worked so successfully at Melbourne Children's Court during the reporting period.

SALVATION ARMY AT THE CHILDREN'S COURT

For many years the Salvation Army has maintained a daily presence in the Children's Court at Melbourne. There are currently two full-time officers based at the court working in both the Criminal and Family Divisions. As well as providing information and support to adults, children and young people appearing before the court, the Salvation Army also provides the following services:

- alcohol and drug treatment facilities
- family contact through home visits
- family counselling
- client counselling
- provision of material aid
- crisis care
- accommodation
- practical support

During the reporting year the Salvation Army continued a child supervision service in the playroom at Melbourne Children's Court. This additional service has been of assistance to children, parents and carers, and court users generally.

The court gratefully acknowledges the ongoing dedication and commitment of officers of the Salvation Army working with families in the Children's Court.

3

OPERATIONAL & STATISTICAL REPORT

COURT STATISTICS

Displayed on the following pages are the statistical reports for each division of the court for the 2009/10 year collated by the Courts and Tribunals Unit of the Department of Justice and by the court. State-wide statistics are provided unless otherwise stated.

The following factors should be kept in mind when analysing the statistics that follow:

- While much of the statistical information presented in this report deals with primary applications, this accounts for only a portion of the Family Division workload. Much of this division's workload stems from secondary applications e.g. applications seeking to extend, vary, revoke or breach previously made court orders. Table 6 shows the total of all orders made (by order type) in the reporting year regardless of the application type, compared with the two previous years. It can be seen that the total number of orders made by the Family Division of the court has increased in each consecutive year. 2,450 more orders were made by the court in its Family Division in 2009/10 than in 2008/09.
- In previous reports, Criminal Division tables and charts included statistics relating to "on-the-spot" and other penalties issued to young people and enforced through the open court system. However, towards the end of 2007 the Children and Young Persons Infringement Notice System ("CAYPINS") became operational. The 2009/10 reporting period represents the second full year of operation of CAYPINS (see table 2). For more information on CAYPINS see page 12 of this report.

- While country venues of the court hear cases in both divisions, in the metropolitan area all Family Division cases are heard either at Melbourne or Moorabbin Children's Courts. Hearing of some child protection matters originating in the southern region of the Department of Human Services commenced at Moorabbin on 1 June 2009. This does not include cases involving parents in custody, children in Secure Welfare or final contests. These matters continue to be heard at Melbourne. Other suburban venues of the court hear criminal matters and applications for intervention orders only. In the Family Division tables and charts that follow, statistics for Broadmeadows reflect matters heard at Castlemaine and Kyneton courts which formed part of the Broadmeadows region up until the end of the 2008/09 year. From 1 July 2009 Castlemaine and Kyneton courts were re-assigned to the Loddon Mallee region.
- While the reports show intervention orders issued by Children's Court venues throughout the state it should be noted that the Magistrates' Court and the Children's Court have a dual jurisdiction with regard to intervention order proceedings involving children. This means that while the figures accurately reflect the number of these types of proceedings dealt with in the Children's Court jurisdiction it may not necessarily accurately reflect the number of these types of proceedings dealt with state-wide that involve children i.e. some proceedings may have been dealt with in the Magistrates' Court jurisdiction.

Criminal Division

Table 1: Number of matters⁴ initiated, finalised and pending, 2008/09 – 2009/10

Court Regions ⁵	2008/09			2009/10		
	Initiated	Finalised	Pending	Initiated	Finalised	Pending
Melbourne	2,286	2,899	747	2,480	3,173	747
Grampians	772	766	130	801	824	143
Loddon Mallee	939	950	188	1,032	1,092	249
Broadmeadows	961	974	218	761	651	202
Dandenong	1,330	1,307	524	1,223	1,446	308
Frankston	845	832	138	974	886	201
Barwon South West	987	955	165	943	963	166
Heidelberg	955	976	305	990	949	322
Gippsland	971	1,005	207	997	1,117	177
Ringwood	1,083	999	240	1,027	908	212
Hume	826	871	169	917	982	163
Sunshine	1,184	1,411	399	1,023	1,195	346
NJC – Collingwood ⁶	54	23	15	29	50	9
Total	13,193	13,968	3,445	13,197	14,236	3,245

Chart 1: Number of matters initiated and finalised, 2009/10

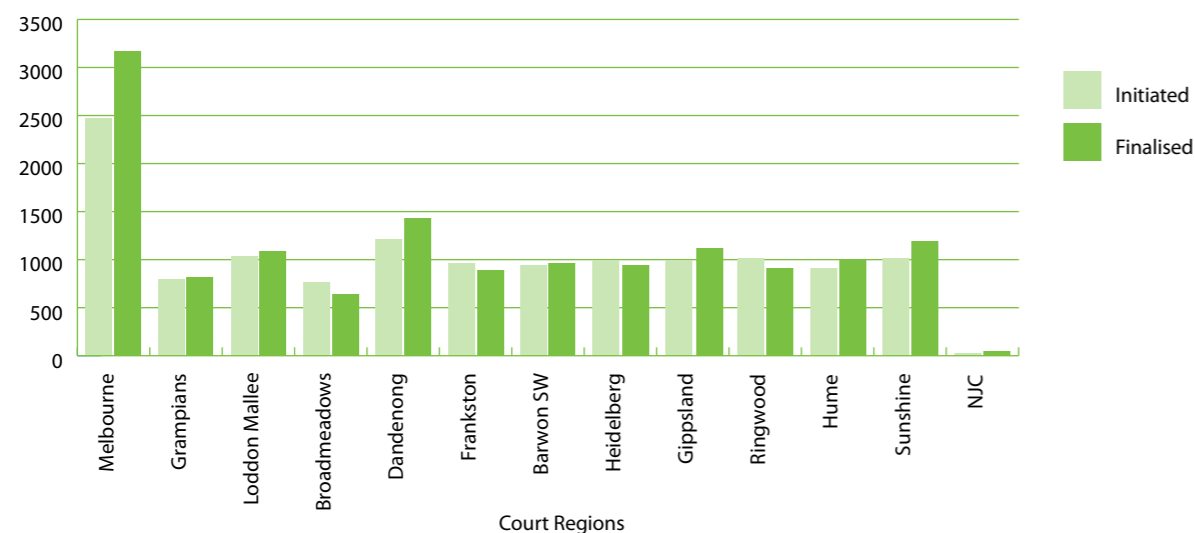
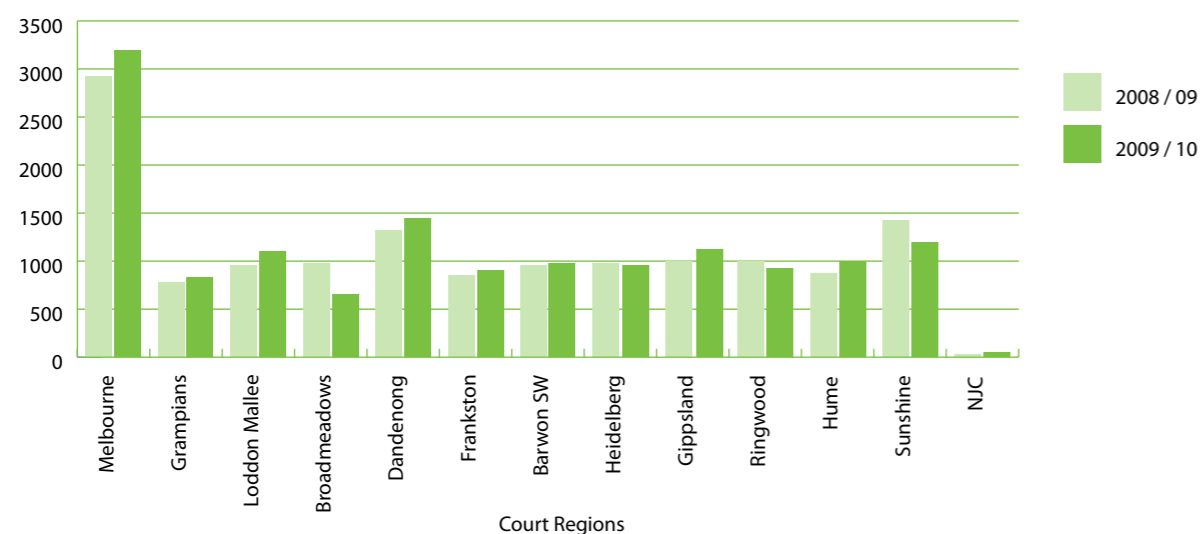


Chart 2: Regional caseload distribution for finalised matters, 2008/09 - 2009/10



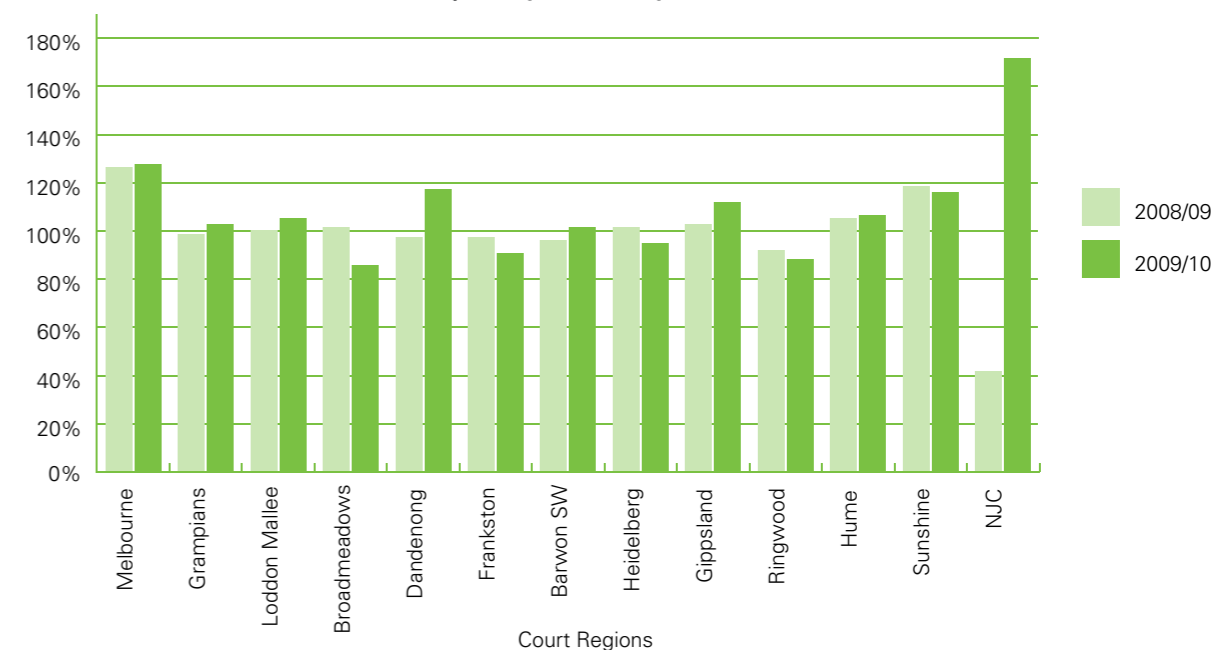
⁴ A criminal "matter" refers to a charge or set of charges laid by an informant against an accused.

⁵ A detailed list of court regions can be found on page 10 of this report.

⁶ The Neighbourhood Justice Centre was launched on 8 March 2007 and has jurisdiction to hear Children's Court criminal matters where the accused either lives in the municipality of the City of Yarra or the alleged offence was committed in the City of Yarra.

Criminal Division

Chart 3: Clearance rates for criminal matters, 2008/09 – 2009/10



Children and Young Persons Infringement Notice System ("CAYPINS")

CAYPINS is an alternative system to the traditional open court summons process for dealing with children and young people who fail, in the first instance, to pay on-the-spot and other penalties issued to them by prosecuting bodies such as Victoria Police and the Department of Transport.

Lodgment of CAYPINS matters was commenced by these agencies in November 2007 with the first hearings being conducted by registrars at Melbourne Children's Court in December 2007. The statistics shown in table 2 for 2009/10 represent the second full year of operation. For more information on CAYPINS see page 12 of this report.

Table 2: Number of CAYPINS matters initiated, finalised and pending, 2008/09 – 2009/10

Court Regions	2008/09			2009/10		
	Initiated	Finalised	Pending	Initiated	Finalised	Pending
Melbourne	2,128	2,073	253	1,473	1,645	111
Grampians	186	200	16	224	228	12
Loddon Mallee	329	417	39	366	367	36
Broadmeadows	1,223	1,274	99	982	978	107
Dandenong	1,326	1,329	143	781	855	62
Frankston	756	785	31	617	602	43
Barwon South West	228	257	18	265	238	46
Heidelberg	2,048	2,076	176	1,474	1,555	99
Gippsland	235	315	32	314	306	38
Ringwood	1,475	1,617	103	1,082	1,067	110
Hume	307	387	29	446	407	70
Sunshine	1,801	1,971	136	1,503	1,527	108
NJC – Collingwood	195	209	11	108	104	15
Total	12,237	12,910	1,086	9,635	9,879	857

Criminal Division

Table 3: Offenders found guilty, by outcome⁷, 2007/08 - 2009/10

Order	2007/08	2008/09	2009/10
	Number		
Discharged	24	7	15
Unaccountable Undertaking	60	48	33
Accountable Undertaking	616	626	640
Good Behaviour Bond	1,914	1,963	1,947
Fine	5,030	2,349	1,672
Probation	939	984	1,113
Youth Supervision Order	340	368	407
Youth Attendance Order	55	79	101
Youth Residential Centre	20	7	14
Youth Justice Centre	179	202	232
Total	9,177	6,633	6,174

Order	Percent		
	2007/08	2008/09	2009/10
Discharged	0.3%	0.1%	0.3%
Unaccountable Undertaking	0.7%	0.7%	0.5%
Accountable Undertaking	6.7%	9.4%	10.4%
Good Behaviour Bond	20.9%	29.6%	31.5%
Fine	54.8%	35.4%	27.1%
Probation	10.2%	14.8%	18.0%
Youth Supervision Order	3.7%	5.6%	6.6%
Youth Attendance Order	0.6%	1.2%	1.6%
Youth Residential Centre	0.2%	0.1%	0.2%
Youth Justice Centre	1.9%	3.1%	3.8%
Total	100.0%	100.0%	100.0%

⁷ "Outcome" relates to the penalty attached to the principal proven offence. The principal proven offence is the one charge in a case that attracted the most severe penalty.

The count of "Offenders found guilty, by outcome" in Table 3 and Chart 4 includes 'super cases'. One individual accused may have three different "matters" (see footnote 4) before the court. For administrative purposes, these separate matters may be consolidated into a 'super case' if the accused wishes to plead guilty in relation to each matter. As a result of this consolidation, the three separate matters in relation to one accused would be counted as one 'super case', which will have one outcome based on the principal proven offence.

A charge may attract more than one type of outcome (for example, probation and a fine). One outcome (the principal outcome) has been recorded in relation to each charge that was finalised. Where a charge attracts more than one outcome, the principal outcome will be that which is highest in the sentencing hierarchy. For example, if a charge resulted in probation and a fine, the probation order would be recorded as the principal outcome.

Criminal Division

Chart 4: Offenders found guilty, by outcome, 2007/08 - 2009/10

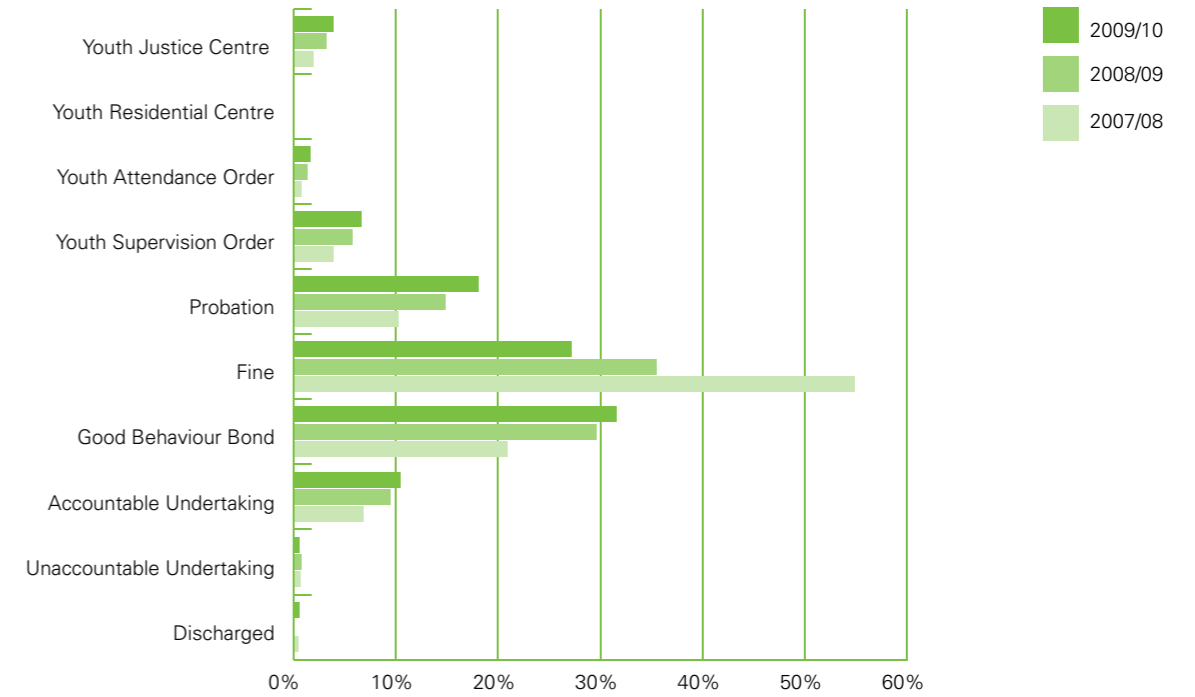
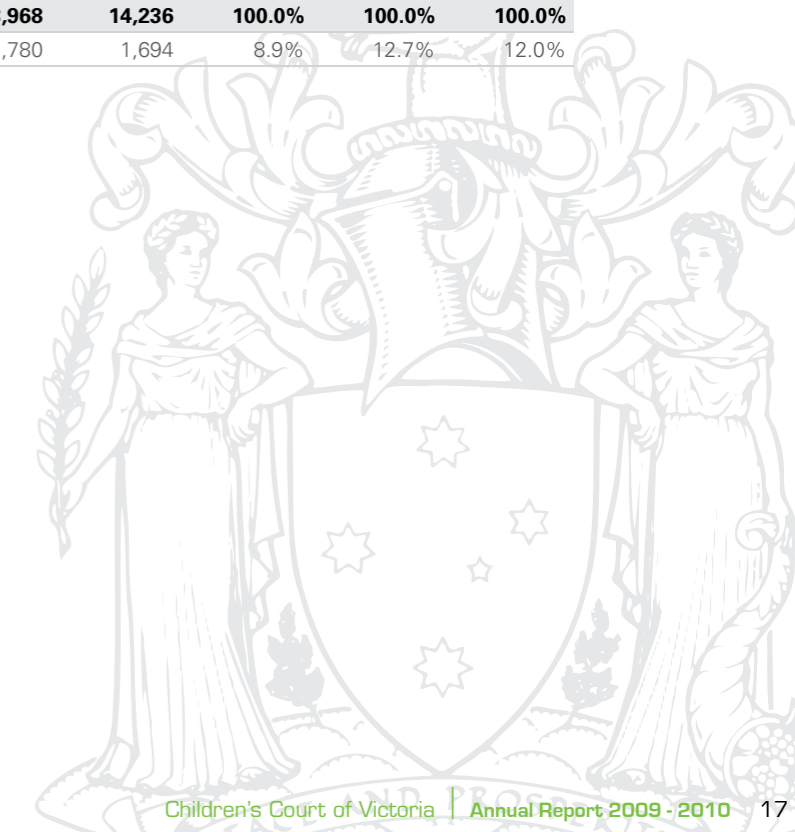


Table 4: Number of matters finalised, by elapsed time between date of first hearing and finalisation, 2007/08 - 2009/10

Elapsed Time	2007/08	2008/09	2009/10	2007/08	2008/09	2009/10
	Number			Percent		
0 < 3 months	13,033	9,556	9,828	74.7%	68.4%	69.0%
3 < 6 months	2,862	2,632	2,714	16.4%	18.9%	19.0%
6 < 9 months	886	926	911	5.1%	6.6%	6.4%
9 < 12 months	326	399	336	1.9%	2.9%	2.4%
12 < 24 months	262	367	350	1.5%	2.6%	2.5%
24 months +	79	88	97	0.4%	0.6%	0.7%
Total	17,448	13,968	14,236	100.0%	100.0%	100.0%
6 months +	1,553	1,780	1,694	8.9%	12.7%	12.0%



Criminal Division

Chart 5: Distribution of criminal matter processing times, by elapsed time between date of first hearing and finalisation, 2007/08 - 2009/10

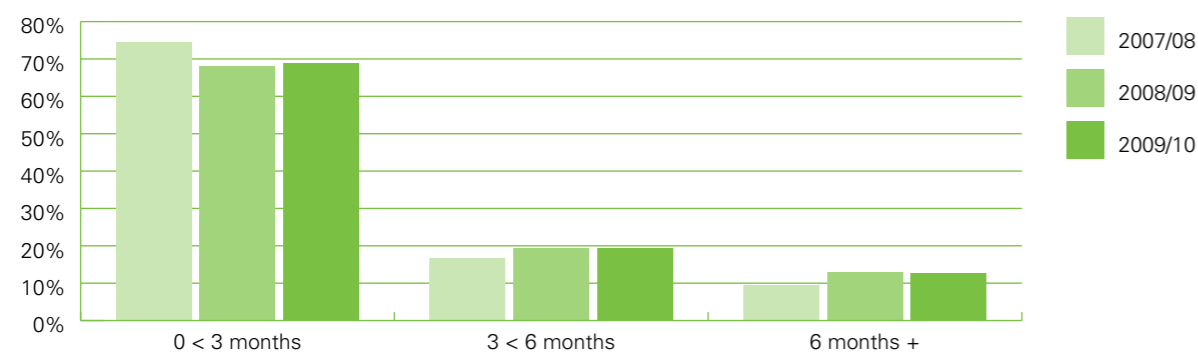
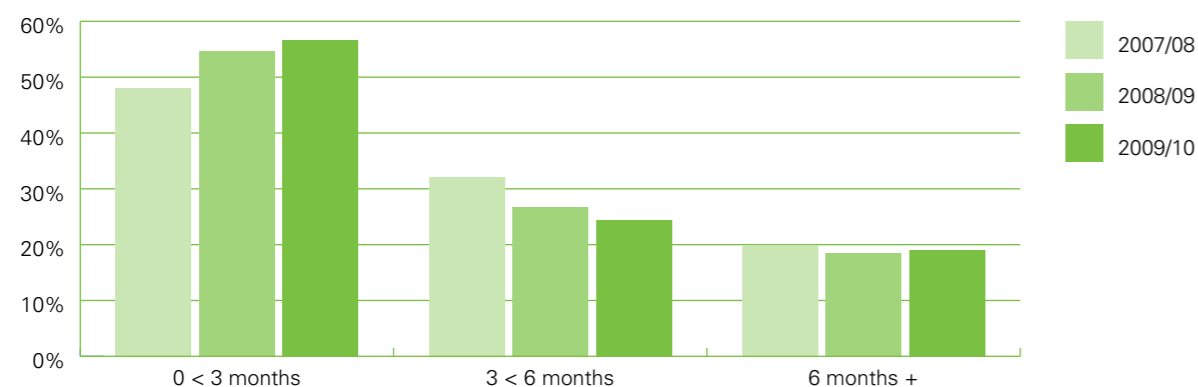


Table 5: Number of matters pending on 30 June, by elapsed time since date of initiation, 2007/08 - 2009/10

	2007/08	2008/09	2009/10	2007/08	2008/09	2009/10
	Number			Percent		
0 < 3 months	1,854	1,882	1,833	48.1%	54.6%	56.5%
3 < 6 months	1,234	923	795	32.0%	26.8%	24.5%
6 < 9 months	396	351	354	10.3%	10.2%	10.9%
9 < 12 months	209	135	135	5.4%	3.9%	4.2%
12 < 24 months	145	138	109	3.7%	4.0%	3.3%
24 months +	19	16	19	0.5%	0.5%	0.6%
Total	3,857	3,445	3,245	100.0%	100.0%	100.0%
6 months +	769	640	617	19.9%	18.6%	19.0%

Chart 6: Age of pending matters on 30 June, by elapsed time since date of initiation, 2007/08 - 2009/10



Family Division

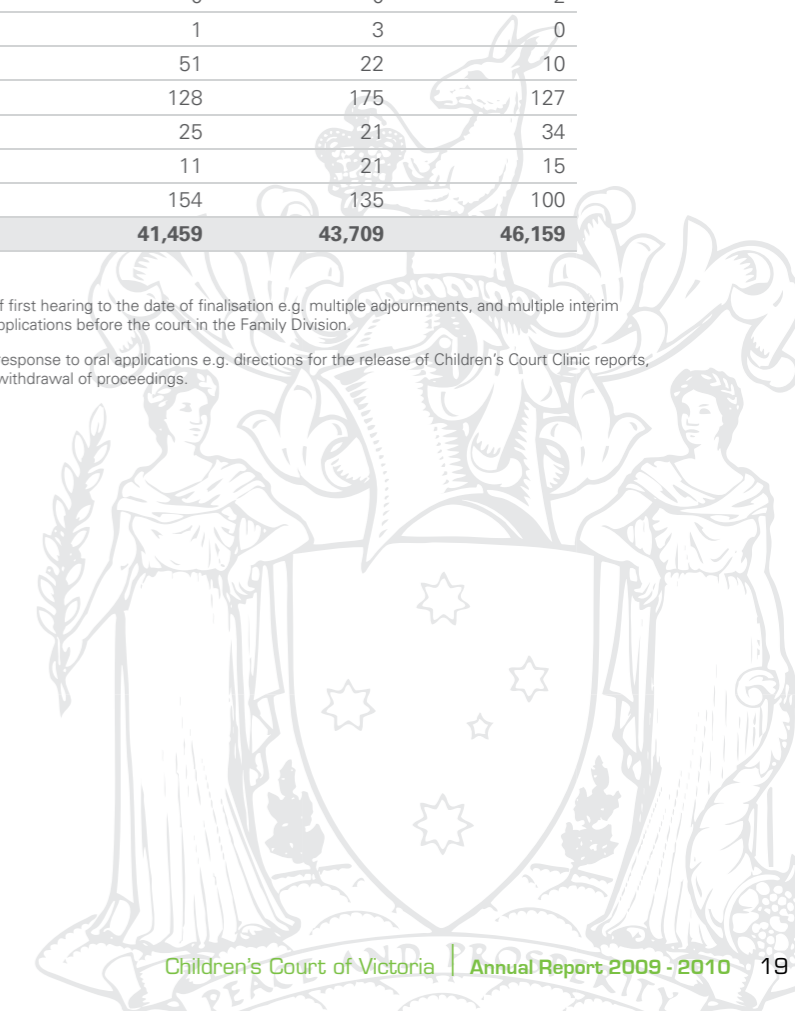
Many of the following Family Division tables and charts report on primary applications. Primary applications are those applications which commence a proceeding in the court in the first instance. Primary applications consist of protection applications instigated by apprehension and by notice, irreconcilable difference applications, and permanent care applications that do not flow directly from previous protection order proceedings.

Table 6: Number of orders made⁸, 2007/08 - 2009/10

Order	2007/08	2008/09	2009/10
Adjournment	6,966	7,670	7,932
Custody to Secretary order	1,272	1,288	1,353
Custody to third party order	8	12	4
Dismissed	27	27	36
Extension of custody to Secretary order	1,212	1,201	1,326
Extension of interim accommodation order	14,039	13,820	14,371
Extension of guardianship to Secretary order	464	423	374
Extension of supervised custody order	6	52	72
Extension of supervision order	211	286	303
Extension of therapeutic treatment order	0	2	5
Free text order ⁹	4,887	6,165	7,934
Guardianship to Secretary order	258	260	225
Interim accommodation order	5,820	5,691	5,494
Interim protection order	891	893	795
Long-term guardianship to Secretary order	61	43	49
Permanent care order	277	233	223
Refusal to make protection order (s.291(6) CYFA)	77	98	59
Search warrant	2,053	2,634	2,784
Struck out	502	461	536
Supervised custody order	151	202	233
Supervision order	1,895	1,859	1,747
Temporary assessment order	9	0	2
Therapeutic treatment order	3	12	14
Therapeutic treatment (placement) order	0	0	2
Undertaking to appear produce child on adj date	1	3	0
Undertaking – common law	51	22	10
Undertaking - application proved	128	175	127
Undertaking - dismissed	25	21	34
Undertaking - refusal to make protection order	11	21	15
Undertaking - struck out	154	135	100
Total	41,459	43,709	46,159

⁸ Most Family Division applications result in a number of orders being made from the date of first hearing to the date of finalisation e.g. multiple adjournments, and multiple interim accommodation orders. Table 6 shows the total number of orders made in relation to all applications before the court in the Family Division.

⁹ Free text orders most commonly record directions made by the court and orders made in response to oral applications e.g. directions for the release of Children's Court Clinic reports, and orders joining additional parties to proceedings. Free text orders may also record the withdrawal of proceedings.

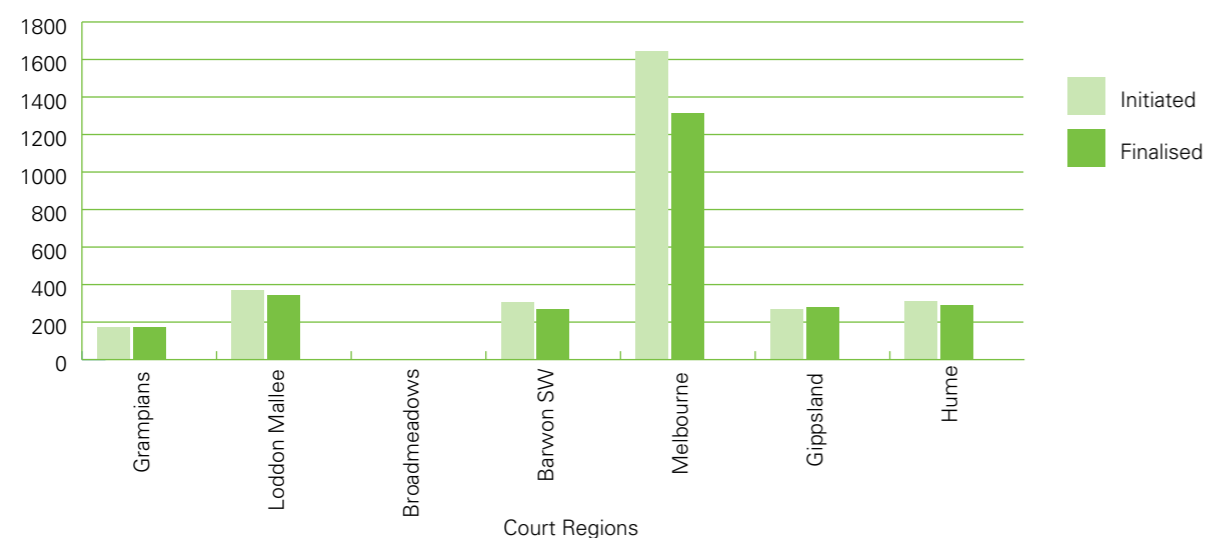


Family Division

Table 7: Number of primary applications initiated¹⁰, finalised and pending, 2008/09 – 2009/10

Court Regions	2008/09			2009/10		
	Initiated	Finalised	Pending	Initiated	Finalised	Pending
Grampians	297	274	72	167	170	42
Loddon Mallee	253	248	51	364	337	71
Broadmeadows ¹¹	4	4	0	0	0	0
Barwon South West	165	167	38	301	265	95
Melbourne	1,666	1,551	701	1,644	1,308	843
Gippsland	362	353	74	266	273	56
Hume	301	252	75	304	284	81
Total	3,048	2,849	1,011	3,046	2,637	1,188

Chart 7: Number of primary applications initiated and finalised, 2009/10



¹⁰ The total number of primary applications initiated, as shown in Table 7, differs from the total number of protection applications initiated, as shown in Table 8. This difference is made up of a combination of irreconcilable difference applications initiated and the number of permanent care applications initiated as primary applications. The majority of permanent care applications are secondary applications and are not included in these tables. However, the total number of permanent care orders made is reflected in Table 6.

¹¹ The courts at Castlemaine and Kyneton which had formed part of the Broadmeadows region were reassigned to form part of the Loddon Mallee region from 1 July 2009. This change has resulted in no child protection cases being heard in the Broadmeadows region during 2009/10.

Family Division

Chart 8: Regional caseload distribution for finalised primary applications, 2008/09 – 2009/10

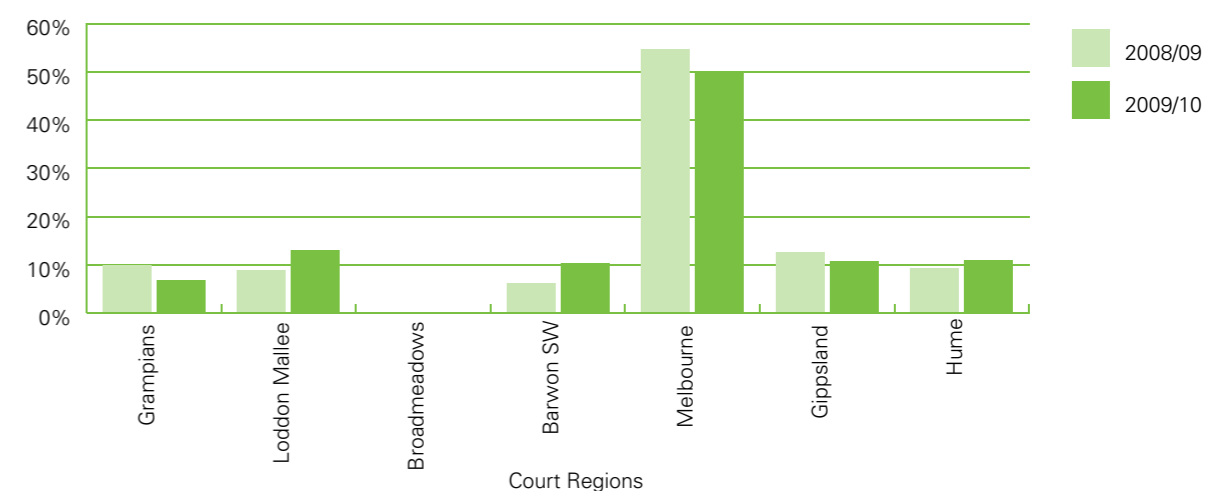


Chart 9: Clearance rates for primary applications, 2008/09 – 2009/10



Table 8: Number of protection applications initiated by apprehension/by notice, by court region, 2008/09 – 2009/10

Court Regions	2008/09				2009/10			
	By A'hension	By Notice	Total	% by A'hension	By A'hension	By Notice	Total	% by A'hension
Grampians	153	144	297	51.52%	89	78	167	53.3%
Loddon Mallee	110	143	253	43.48%	143	217	360	39.7%
Broadmeadows	0	4	4	0.00%	0	0	0	0.0%
Barwon SW	86	79	165	52.12%	157	138	295	53.2%
Melbourne	1,290	364	1,654	77.99%	1,292	324	1,616	80.0%
Gippsland	169	191	360	46.94%	153	110	263	58.2%
Hume	142	159	301	47.18%	171	132	303	56.4%
Total	1,950	1,084	3,034	64.27%	2,005	999	3,004	66.7%

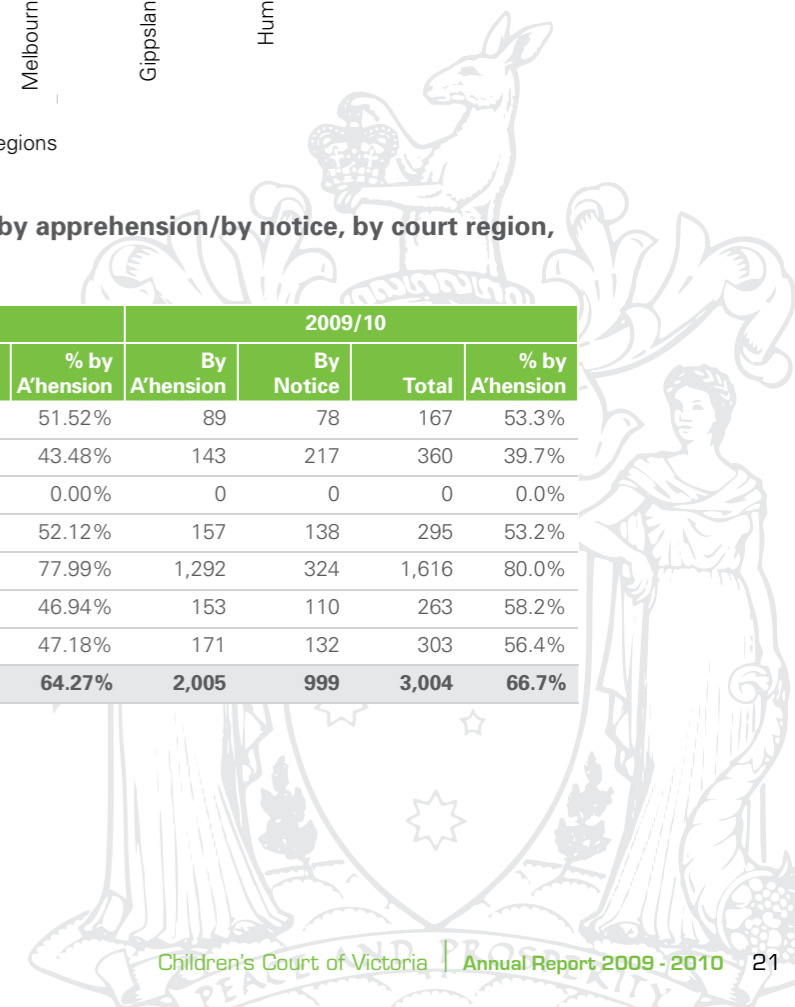


Chart 10: Percentage of protection applications initiated by apprehension, 2008/09 – 2009/10



Table 9: Finalised primary applications by outcome, 2007/08 – 2009/10

Order	2007/08	2008/09	2009/10
Dismissed	9	15	16
Struck Out	344	284	300
Refusal to make Protection Order	77	87	53
Undertaking - Application Proved	89	121	86
Undertaking - Dismissed	17	15	24
Undertaking - Refusal to make Protection Order	11	21	11
Undertaking - Struck Out	142	113	83
Free Text Order	152	155	84
Supervision Order	1,311	1,160	1,077
Custody to Third Party Order	7	8	3
Supervised Custody Order	96	107	109
Custody to Secretary Order	740	684	690
Guardianship to Secretary Order	100	74	77
Permanent Care Order	8	5	2
Total:	3,103	2,849	2,637

Chart 11: Distribution of finalised primary applications, by outcome, 2007/08 – 2009/10

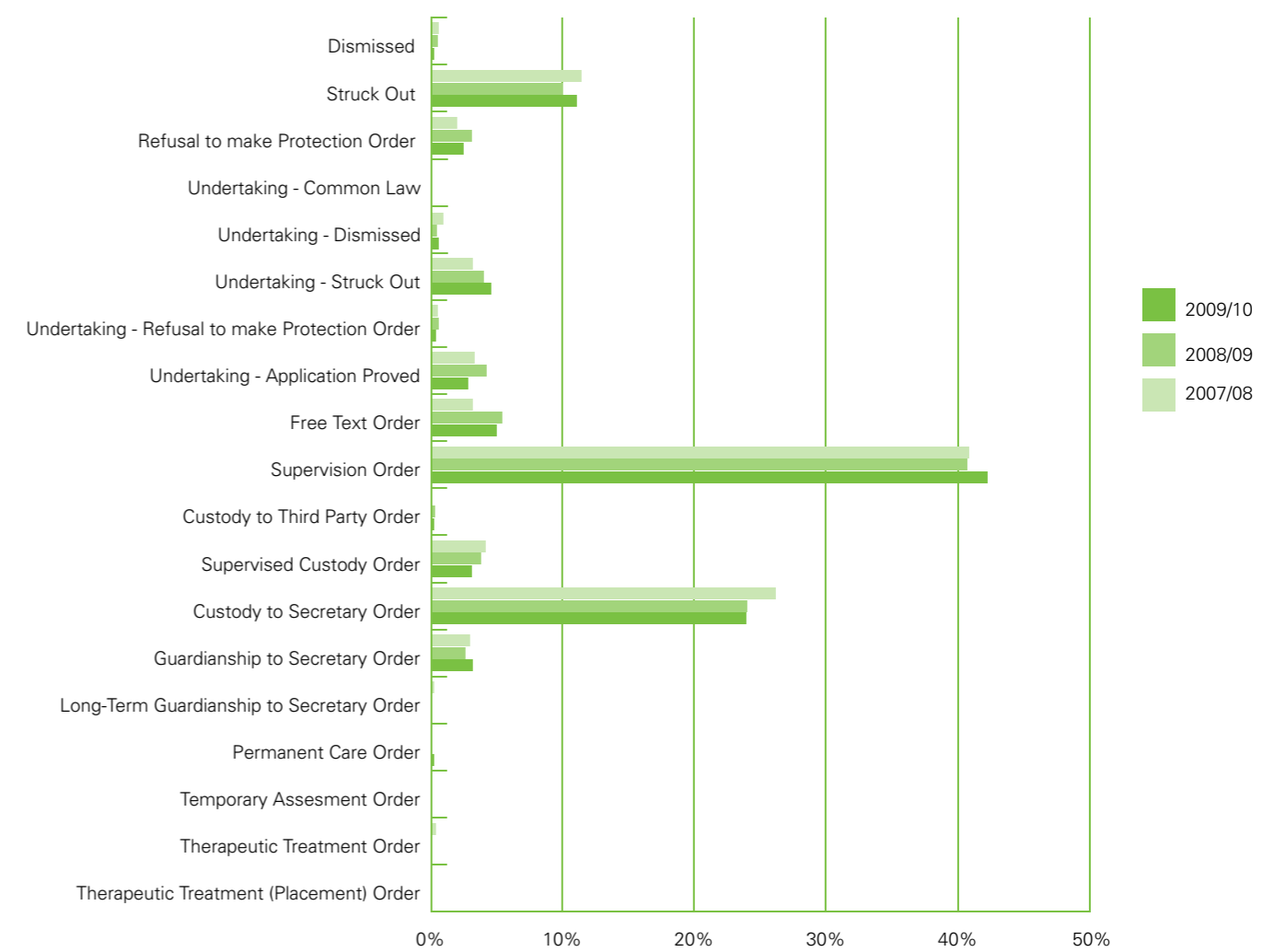
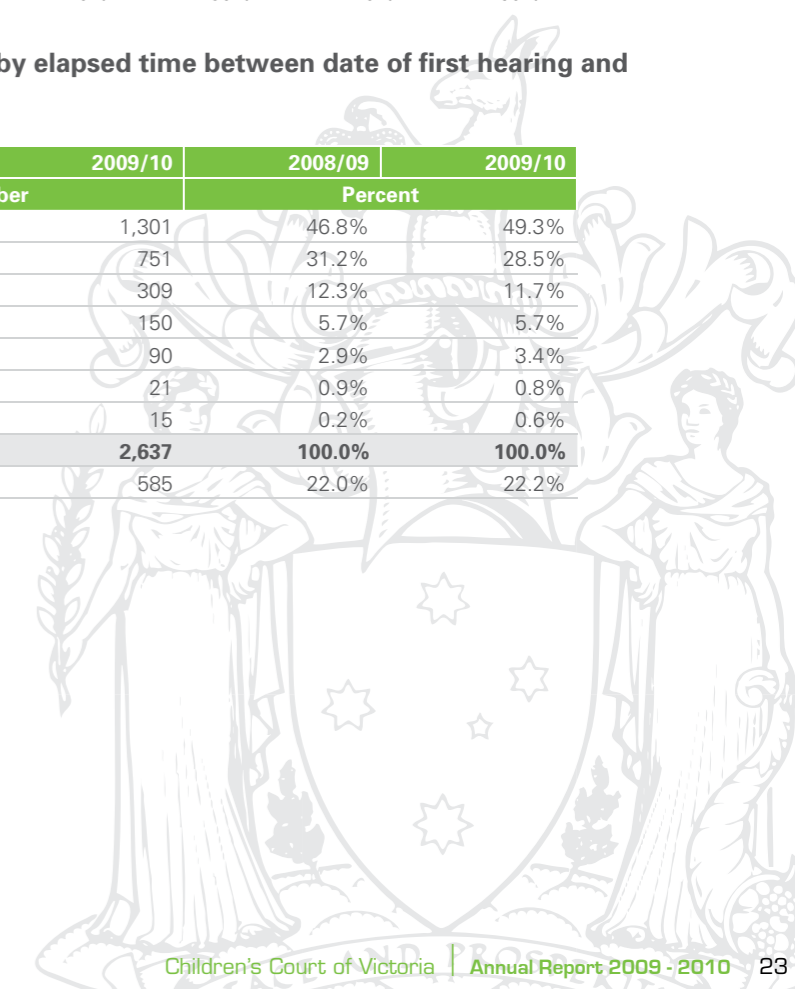


Table 10: Number of primary applications finalised, by elapsed time between date of first hearing and finalisation, 2008/09 – 2009/10

	2008/09	2009/10	2008/09	2009/10
	Number	Number	Percent	Percent
0 < 3 months	1,332	1,301	46.8%	49.3%
3 < 6 months	890	751	31.2%	28.5%
6 < 9 months	349	309	12.3%	11.7%
9 < 12 months	163	150	5.7%	5.7%
12 < 18 months	82	90	2.9%	3.4%
18 < 24 months	27	21	0.9%	0.8%
24 months +	6	15	0.2%	0.6%
Total	2,849	2,637	100.0%	100.0%
6 months +	627	585	22.0%	22.2%



Family Division

Chart 12: Distribution of primary application processing times, by elapsed time between date of first hearing and finalisation, 2008/09 – 2009/10

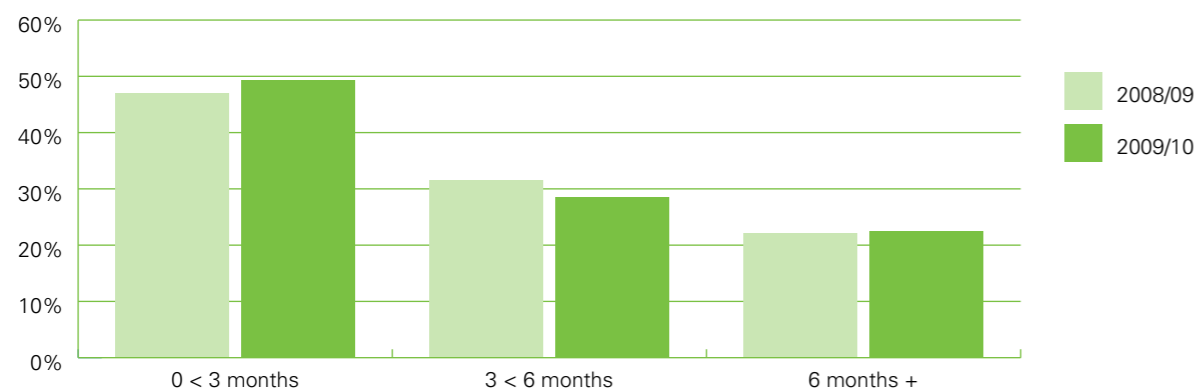
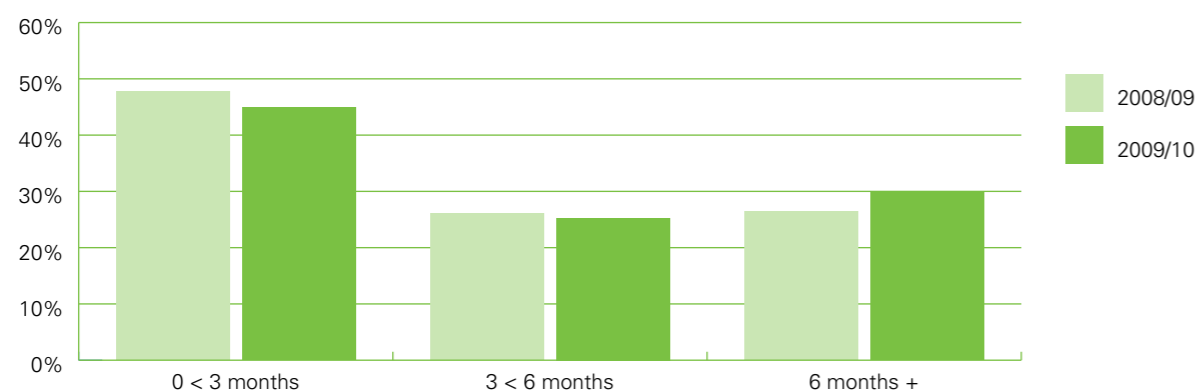


Table 11: Number of primary applications pending on 30 June, by elapsed time since date of initiation, 2008/09 – 2009/10

	2008/09	2009/10	2008/09	2009/10
	Number	Number	Percent	Percent
0 < 3 months	483	534	47.8%	44.9%
3 < 6 months	262	299	25.9%	25.2%
6 < 9 months	112	133	11.1%	11.2%
9 < 12 months	49	85	4.8%	7.2%
12 < 18 months	51	49	5.0%	4.1%
18 < 24 months	23	23	2.3%	1.9%
24 months +	31	65	3.1%	5.5%
Total	1,011	1,188	100.0%	100.0%
6 months +	266	355	26.3%	29.9%

Chart 13: Age of pending primary applications on 30 June, by elapsed time since date of initiation, 2008/09 – 2009/10



Family Division

Dispute resolution conferences

The following points should be borne in mind when reading the dispute resolution conference (DRC) figures contained in Table 12:

- One DRC can relate to multiple applications i.e. applications in respect of multiple siblings.
- Figures in respect of "settlements", "contests" and "adjournments" have been rounded to the nearest whole number.
- "Settlements" include interim settlements as well as final settlements.
- "Contests" include interim accommodation order contests as well as final contests.
- "Adjournments" include adjournments for further DRC, further mention and part-heard matters.
- Figures for Melbourne region include DRCs conducted at Moorabbin.

Table 12: Dispute resolution conferences conducted, 2008/09 – 2009/10

2008/09	Total DRCs listed	DRCs resulting in settlements	DRCs resulting in contested hearings	DRCs resulting in adjournments
Melbourne	1,127	330	273	524
Country	559	227	92	240
Total	1,686	557	365	764

2009/10	Total DRCs listed	DRCs resulting in settlements	DRCs resulting in contested hearings	DRCs resulting in adjournments
Melbourne	1,082	304	252	526
Country	651	241	101	309
Total	1,733	545	353	835



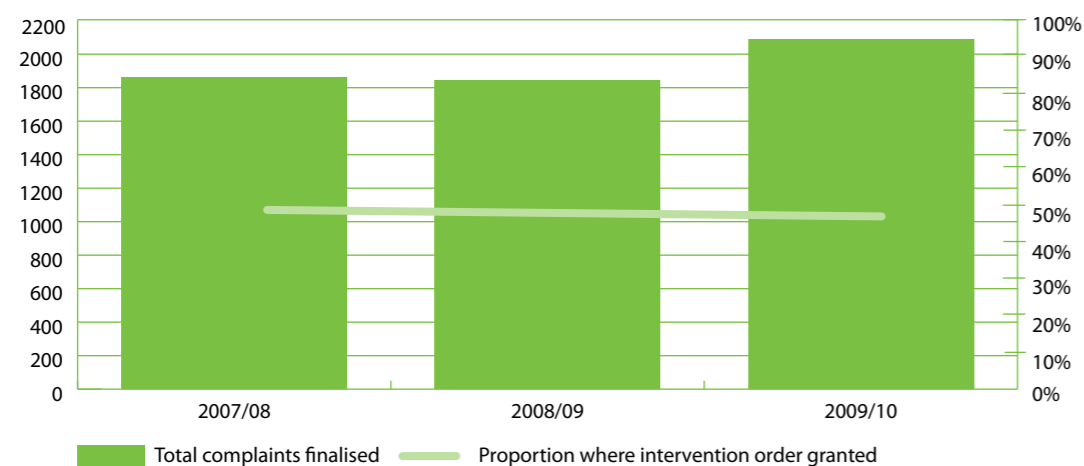
Family Violence & Stalking Jurisdiction

Table 13: Complaints for an intervention order finalised, by outcome, 2007/08 - 2009/10

	2007/08	2008/09	2009/10
	Number		
Intervention order made	885	855	962
Refused	32	28	32
Complaint struck out	415	443	525
Complaint withdrawn	512	509	555
Complaint revoked	0	1	0
Total	1,844	1,836	2,074

	2007/08	2008/09	2009/10
	Percent		
Intervention order made	48.0%	46.6%	46.4%
Refused	1.7%	1.5%	1.5%
Complaint struck out	22.5%	24.1%	25.3%
Complaint withdrawn	27.8%	27.7%	26.8%
Complaint revoked	0.0%	0.1%	0.0%
Total	100.0%	100.0%	100.0%

Chart 14: Number of complaints for an intervention order finalised, and proportion where intervention order made, 2007/08 - 2009/10



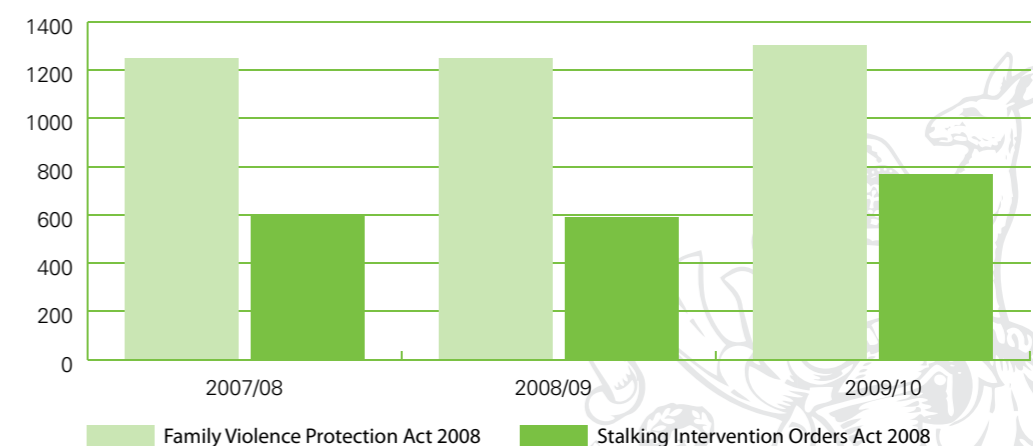
Family Violence & Stalking Jurisdiction

Table 14: Complaints for an intervention order finalised by Act¹² under which complaint made, 2007/08 - 2009/10

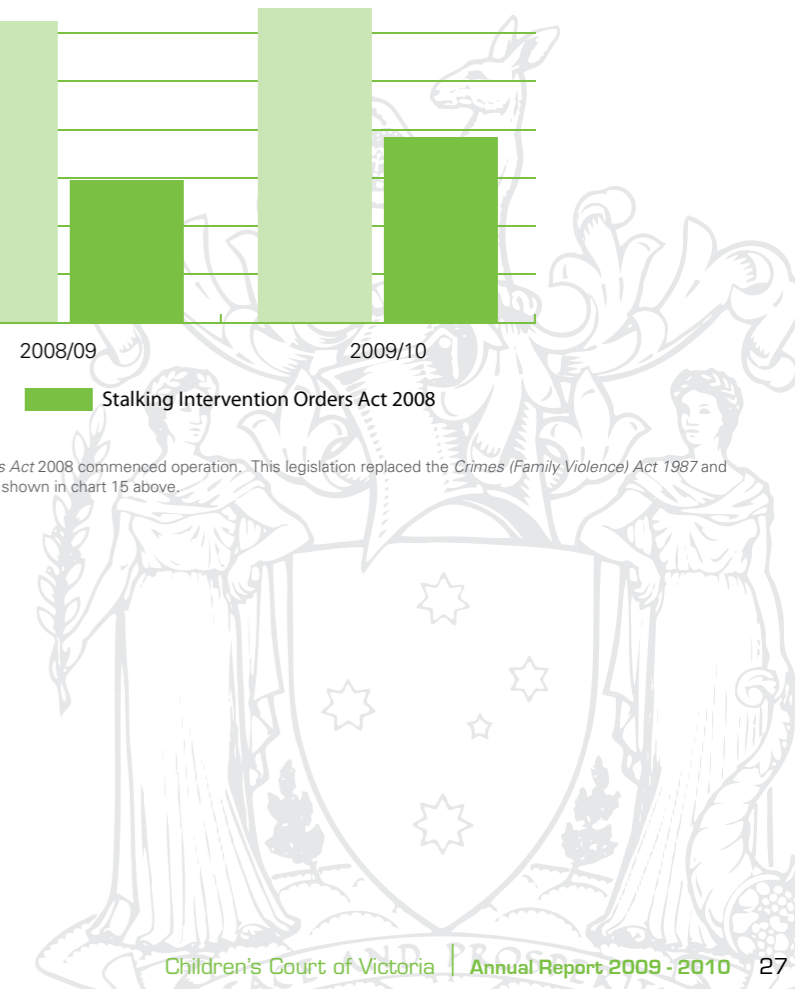
	2007/08	2008/09	2009/10
	Number		
Crimes (Family Violence) Act 1987 1/07/2008 - 7/12/2008	1,244	1,244	1,308
Family Violence Protection Act 2008 8/12/2008 - 30/06/2010			
Crimes Act 1958 (Section 21A) 1/07/2008 - 7/12/2008	600	592	766
Stalking Intervention Orders Act 2008 8/12/2008 - 30/06/2010			
Total	1,844	1,836	2,074

	2007/08	2008/09	2009/10
	Percent		
Crimes (Family Violence) Act 1987 1/07/2008 - 7/12/2008	67.5%	67.8%	63.1%
Family Violence Protection Act 2008 8/12/2008 - 30/06/2010			
Crimes Act 1958 (Section 21A) 1/07/2008 - 7/12/2008	32.5%	32.2%	36.9%
Stalking Intervention Orders Act 2008 8/12/2008 - 30/06/2010			
Total	100.0%	100.0%	100.0%

Chart 15: Number of complaints for an intervention order finalised by Act under which complaint made, 2007/08 - 2009/10



¹² On 8/12/2008 the *Family Violence Protection Act 2008* and the *Stalking Intervention Orders Act 2008* commenced operation. This legislation replaced the *Crimes (Family Violence) Act 1987* and stalking provisions of the *Crimes Act 1958*. For ease of reading the new legislation only is shown in chart 15 above.



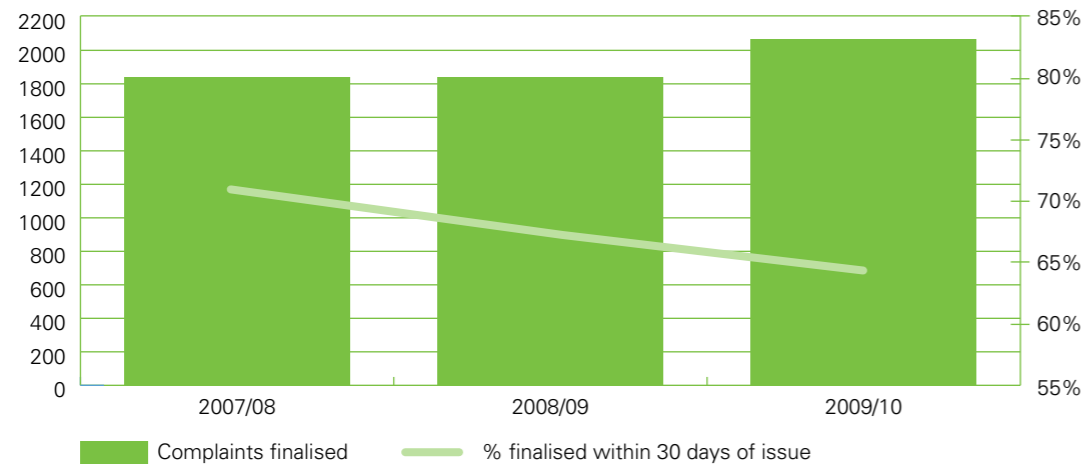
Family Violence & Stalking Jurisdiction

Table 15: Complaints for an intervention order finalised, by elapsed time between date of issue and finalisation, 2007/08 - 2009/10

	2007/08	2008/09	2009/10
	Number		
0 < 1 month	1,308	1,235	1,334
1 < 2 months	260	259	328
2 < 3 months	133	145	149
3 < 6 months	112	154	203
6 < 9 months	17	31	47
9 < 12 months	8	5	8
12 months +	6	7	5
Total	1,844	1,836	2,074

	2007/08	2008/09	2009/10
	Percent		
0 < 1 month	71.0%	67.2%	64.3%
1 < 2 months	14.1%	14.1%	15.8%
2 < 3 months	7.2%	7.9%	7.2%
3 < 6 months	6.1%	8.4%	9.8%
6 < 9 months	0.9%	1.7%	2.3%
9 < 12 months	0.4%	0.3%	0.4%
12 months +	0.3%	0.4%	0.2%
Total	100.0%	100.0%	100.0%
6 months +	1.6%	2.4%	2.9%

Chart 16: Number of complaints for an intervention order finalised, and proportion finalised within 30 days of issue, 2007/08 - 2009/10

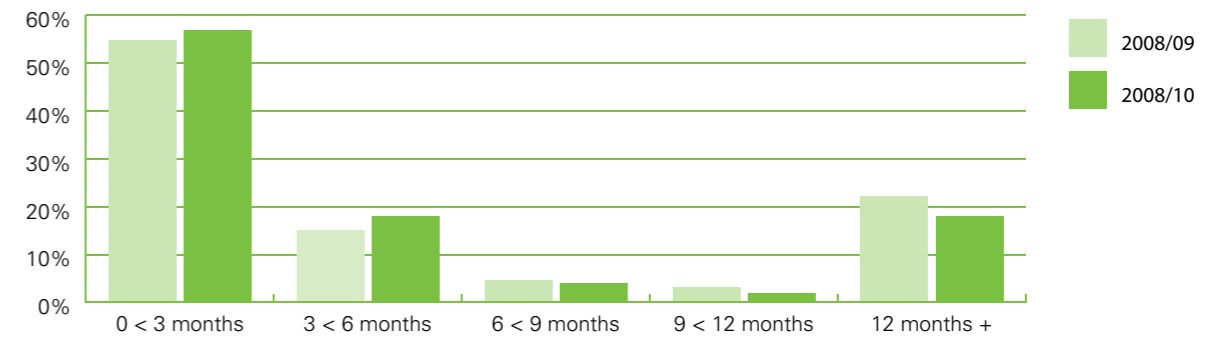


Family Violence & Stalking Jurisdiction

Table 16: Number of complaints for an intervention order pending on 30 June, by age since issue, 2008/09 - 2009/10

	2008/09	2009/10	2008/09	2009/10
	Number		Percent	
0 < 3 months	131	187	54.8%	57.2%
3 < 6 months	36	59	15.1%	18.0%
6 < 9 months	11	14	4.6%	4.3%
9 < 12 months	8	6	3.3%	1.8%
12 < 18 months	15	10	6.3%	3.1%
18 < 24 months	10	11	4.2%	3.4%
24 months +	28	40	11.7%	12.2%
Total	239	327	100.0%	100.0%
12 months +	53	61	22.2%	18.7%

Chart 17: Age distribution of pending complaints for an intervention order on 30 June, 2008/09 - 2009/10



Listing Statistics - Melbourne Region

Table 17: Number and type of listing, Melbourne, 2008/09 - 2009/10

Listing Type	No. Listed 2008/09	No. Listed 2009/10
Family Division		
Directions hearings	944	702
Interim Accommodation Order contests ¹³	738	522
Intervention Order contests	125	149
Final contests	954	778
Criminal Division		
Contest mentions	549	447
Contests	209	206

Table 18: Number and type of listing, Moorabbin, 2009/10

Listing Type	No. Listed 2008/09	No. Listed 2009/10
Family Division		
Directions hearings	-	147
Interim Accommodation Order contests	-	161
Intervention Order contests	-	21

Table 19: Number of country and metropolitan cases listed to be heard at Melbourne, or by Melbourne Children's Court magistrates sitting in regional courts

	2007/08	2008/09	2009/10
Country (Family Division contests)	0	17	30
Metropolitan (Criminal Division contests)	54	84	89

¹³ The number of Interim Accommodation Order contests that appeared in last year's annual report for the 2008/09 year was incorrect. The number has been adjusted from 746 to 738.

Listing Statistics - Melbourne Region

Table 20: Melbourne Children's Court, Family Division listing delays, 2007/08 - 2009/10

Listing Delay from Dispute Resolution Conference to Final Contest			
	2007/08	2008/09	2009/10
July	18 weeks	15 weeks	17 weeks
August	18 weeks	16 weeks	20 weeks
September	19 weeks	16 weeks	19 weeks
October	19 weeks	16 weeks	19 weeks
November	20 weeks	15 weeks	18 weeks
December	20 weeks	15 weeks	18 weeks
January	19 weeks	14 weeks	18 weeks
February	18 weeks	13 weeks	18 weeks
March	16 weeks	13 weeks	19 weeks
April	16 weeks	14 weeks	19 weeks
May	16 weeks	14 weeks	19 weeks
June	15 weeks	16 weeks	18 weeks
Average Delay	17.8 weeks	14.8 weeks	18.5 weeks

Table 21: Melbourne Children's Court, Criminal Division listing delays, 2007/08 - 2009/10

Listing Delay From Contest Mention to Final Contest			
	2007/08	2008/09	2009/10
July	9 weeks	9 weeks	15 weeks
August	10 weeks	10 weeks	16 weeks
September	9 weeks	11 weeks	16 weeks
October	8 weeks	14 weeks	15 weeks
November	8 weeks	16 weeks	15 weeks
December	8 weeks	15 weeks	14 weeks
January	8 weeks	15 weeks	15 weeks
February	10 weeks	14 weeks	15 weeks
March	10 weeks	13 weeks	15 weeks
April	9 weeks	14 weeks	15 weeks
May	9 weeks	15 weeks	15 weeks
June	8 weeks	16 weeks	16 weeks
Average Delay	8.8 weeks	13.5 weeks	15.1 weeks



CHILDREN'S COURT CLINIC

The Children's Court Clinic, under the directorship of Dr Patricia Brown, is an independent body which conducts assessments and provides reports on children and their families at the request of Children's Court magistrates throughout Victoria. The clinic also has a small treatment function in selected cases still before the court and is a teaching facility.

The clinicians employed are highly skilled psychologists and psychiatrists who have specialist knowledge in the areas of child protection and youth offending. Clinicians may be asked to provide advice about a child's situation in his or her family, the course of the child's development over the years, any special needs within the family, and if it is required, where treatment might be obtained. The clinic also makes recommendations to the court about what should happen in the child's best interests.

There were 1,090 referrals of children, young persons and their families during 2009/10, representing a small increase on the referrals of the previous financial year. The number of referrals in 2009/10, while not a significant increase on the previous year, did maintain the 21% increase in referrals recorded since 2005/06. The greater proportion of the assessments were carried out by sessional clinical psychologists but psychiatrists, neuropsychologists and forensic psychologists also contributed to the service.

Of the 1,090 referrals for assessment during 2009/10, 337 were criminal cases, 725 were child protection cases and 28 were family violence/stalking matters. Of the total, 683 referrals emanated from the metropolitan area and 407 were from country regions of the state.

Included in the total were 55 referrals to the Children's Court Clinic Drug Program for assessment of drug and alcohol problems in Criminal Division cases.

Since an initiative within the clinic has been to expand the drug service into child protection cases (i.e. no longer exclusively to offer drug assessment and treatment in criminal matters) when needed, clinicians cross-refer to the drug clinicians for an opinion on drug and alcohol issues that came to light during their assessments in protection matters.

Also, to facilitate the growth of expertise in assessing very complex protection and criminal issues outright and not just the drug components of these, general court referrals (not denoted drug and alcohol) have also been allocated to the drug clinicians. This occurred in 77 instances (13 criminal, 63 child protection and one family violence/stalking) during the reporting period.

In addition to assessments, the Children's Court Clinic also has a short-term treatment function in respect of cases where treatment at the clinic is made a condition of an interim order by a magistrate. During 2009/10 the clinic provided 295 such sessions representing a small increase on the previous year.



Dr Patricia Brown
Director - Children's Court Clinic

4 GENERAL

AUDIO/VIDEO LINKING

The Children's Court at Melbourne has four courtrooms equipped with video conferencing facilities. These facilities are used extensively for the taking and giving of evidence in both the criminal and family jurisdictions to link courts and court users in metropolitan and country areas. Wherever possible and appropriate, the system allows for the giving of evidence or production of documents without the need for attendance at the hearing court. This results in improved access to justice and significant cost savings.

The court is also equipped with two remote witness rooms. These facilities allow for the giving of evidence in appropriate circumstances in a room at the court other than the hearing room.

There has been a steady increase in the number of video conferencing links to rural regions for the purpose of conducting pre-trial directions hearings in contested family matters. In all of those matters where a specialist judicial member from Melbourne is sitting in a contested matter in a rural region, a directions hearing will be conducted from Melbourne by video link.

EDUCATION

Work Experience Program

For many years a work experience program has been operating at Melbourne Children's Court. The court is a popular placement for secondary and tertiary level students and hosts one, sometimes two students, during most weeks throughout the year. During the 2009/10 year the court hosted 82 students. Of those, 51 were secondary students completing one or two weeks work experience, 30 were tertiary level students undertaking a one or two week placement and one tertiary level student who completed a placement of four weeks duration.

During the placement students are encouraged to view a variety of cases in both the family and criminal jurisdictions. Students are shown court proceedings from the perspective of a bench clerk, which includes viewing the court's computerised case management systems in operation. Students are also shown a number of general office duties performed by deputy registrars and are encouraged to perform administrative tasks appropriate to their age and experience.

The students are each given a work experience manual which provides details of the history of the court, the jurisdiction, orders made, court services provided and information on becoming a court registrar.

All students are given a written report and participate in a discussion with the Work Experience Co-ordinator at the conclusion of their placement. Generally, the feedback from students indicates they have enjoyed an educational week at the Children's Court.

Tours and Information Sessions

The President, magistrates and staff of the Melbourne Children's Court regularly participate in the provision of court tours and information sessions.

During the reporting period approximately 77 visits to Melbourne Children's Court complex and presentations on the jurisdiction and operation of the Children's Court were conducted. Visiting groups have included school students, tertiary students of youth work, social work and law, youth justice and child protection workers, foster carers, and maternal and child health nurses.

The court also regularly receives official visitors from overseas, some of whom are members of the judiciary as well as members of the judiciary and administration from other courts within Australia.

Professional Training Sessions

The Children's Court regularly receives requests for either the President or a magistrate to give a presentation on the work of the Children's Court as part of professional training.

During the reporting period the court participated in the following:

- Department of Human Services induction program for new child protection workers
- Presentations for Monash University law students

- Koori Court training sessions for police prosecutors
- Professional development sessions for Koori Court elders and respected persons
- Professional development sessions for trainee child and adolescent psychiatrists
- Victoria Police youth resource officer training program

Judicial Education

Ongoing judicial education is valued as an essential part of the specialist work involved in sitting in the Children's Court. The judicial members of the court engage in regular discussions, both formal and informal with respect to a range of aspects of the court's work which includes principles of law, policy and psychological and social issues.

Magistrates continue to attend conferences and seminars including those provided by the Judicial College of Victoria where finances and court commitments allow. Judicial members of the court also receive copies of relevant decisions and journal articles which are regularly distributed to assist in maintaining their expertise. Further, magistrates across Victoria sitting in the Children's Court have access to Mr Peter Power's "Research Materials" available on the Children's Court website.



Magistrate Jennifer Bowles addressing a visiting group of youth work students

5 FINANCIAL STATEMENT

Financial Statement for the Year Ending 30 June 2010

		Actual 2009-2010	Actual 2008-2009
SPECIAL APPROPRIATIONS			
Magistrates' salaries and allowances		2,882,327	2,862,608
Total Special Appropriations		2,882,327	2,862,608
RECURRENT APPROPRIATIONS			
Salaries, overtime and annual leave		2,075,224	1,951,851
Superannuation		190,588	177,713
Provision for long service leave		57,688	46,901
Fringe benefits tax		111	107
WorkCover levy		13,223	10,816
Payroll tax		114,510	107,108
Total Salaries Expenditure		2,451,344	2,294,496
OPERATING EXPENDITURE			
Travel and personal expenses		18,556	25,001
Printing, stationery and subscriptions		109,516	132,504
Postage and communication		92,227	80,703
Contractors and professional services		461,214	445,717
Training and development		15,861	49,160
Motor vehicle expenses		345	11,726
Operating expenses		200,638	172,946
Witness payments		10,427	17,705
Information technology costs		40,994	67,944
Urgent and essentials		27,412	34,494
Rent and property services		342,324	335,640
Property utilities		83,169	57,034
Repairs and maintenance		143,448	150,936
Total Operating Expenditure		1,546,131	1,581,510
COURT SUPPORT PROGRAMS			
Children's Koori Court	Note 3	122,093	140,035
Children's Court Clinic Drug Program	Note 3	305,740	244,382
Total Parallel Programs Expenditure		427,833	384,417
Total Recurrent Expenditure	Note 3	4,425,308	4,260,423
DEPARTMENTAL CONTROLLED EXPENDITURE			
Depreciation - Buildings	Note 1, 2	671,130	657,908
Depreciation - Plant and equipment	Note 1, 2	1,070	-
Amortisation - Motor vehicles	Note 1, 2	35,161	38,378
Total Departmental Controlled Expenditure		707,361	696,286
TOTAL CHILDREN'S COURT EXPENDITURE		8,014,996	7,819,317

APPENDIX A

EXECUTIVE SUMMARY

Notes to and forming part of the Financial Statement

Note 1

Items identified as Departmental controlled expenditure are fully funded for the year. Any surplus or deficit outcome for the year has no impact on the Children's Court recurrent budget. Any budget savings achieved in these expenditure items cannot be redeployed to meet other general expenses.

Note 2

Depreciation is the process of allocating the value of all non-current physical assets controlled by the court over their useful life having regard to any residual value remaining at the end of the asset's economic life. Central Finance makes this charge on a monthly basis as part of the end of month process. Depreciation charges are calculated on the value of each individual asset, the method of depreciation used for each asset, the specified rate of depreciation and the estimated useful life of the asset.

Note 3

The Children's Court budget incorporates the Children's Court Clinic, the Children's Court Clinic Drug Program and the Children's Koori Court program. The Children's Court Clinic Drug Program and the Children's Koori Court are funded separately, however this funding forms part of the total annual recurrent funding of the court.

CHILDREN'S COURT OF VICTORIA SUBMISSION TO THE VICTORIAN LAW REFORM COMMISSION REVIEW OF VICTORIA'S CHILD PROTECTION LEGISLATIVE ARRANGEMENTS

Child protection is linked to social disadvantage. Many of the families who come into the Court have one or more of the following common characteristics - poverty, lack of education, inadequate housing, social isolation, intellectual disability or mental illness, family violence or drug and alcohol abuse. Child protection is not just a problem for a government department or the Court: it is an issue for the whole community to address and it requires a whole of government response.

As one writer has expressed it:

*"This endeavour requires integrity of government, planning and appropriately generous investment, to ensure required levels of personnel can meet needs not just for case assessment, investigation and service delivery, but, just as importantly, to enhance primary and secondary prevention. The endeavour should be a principled exercise informed by good evidence, consistently adopted by all governments. It should not be reduced to a political task, motivated inappropriately by short sighted personal, economic or electoral interests."*¹

The Court has summarised its response in relation to each option proposed by the Victorian Law Reform Commission (VLRC) below.

Option 1 (New processes that may assist the resolution of child protection matters by agreement rather than by adjudication)

Recent research by the Boston Consulting Group (BCG) shows that less than 3% of cases before the Children's Court of Victoria proceed to a final contested hearing. The great majority of cases are resolved by negotiation between the parties, assisted by their lawyers and facilitated by the Court. The Court reviews every order to ensure that they are in the best interests of the child.

It appears to the Court that concerns about the current court based model are not focused on the quality of its decision-making or its ability to resolve disputes. Rather it is focused on some aspects of the Court process including its operating environment which is considered "too adversarial" by some. The focus of much of this criticism appears to relate to proceedings at the Melbourne Court.

The Court outlines in Option 1, its long-standing commitment to and appreciation of Alternative Dispute Resolution (ADR) processes and its determination to ensure a best practice model is achieved to further reduce adversarial practices at the Court. The Court's commitment to the work of the Premier's Child Protection Taskforce² (the Taskforce), established in response to the *Own Motion Investigation Into the Department of Human Services Child Protection Program* (Ombudsman's Report), and its determination to implement recommendations of the Taskforce in relation to -

- stronger ADR;
- less cases at Melbourne;
- structural changes to the Melbourne building;
- supporting the development of a "code of conduct" for practitioners;
- improved training for convenors; and
- developing less adversarial trial processes and improved listings

should allow these process concerns to be addressed.³

The Court notes that the Taskforce work followed the successful establishment of the Family Division of the Children's Court at the Moorabbin Justice Centre. The trial of a new model of ADR at that Court has proved successful.

The Court confirms its commitment to an integrated ADR response that includes the effective use of Judicial Resolution Conferences (JRCs).

¹ See Ben Matthews - "Protecting Children from Abuse and Neglect" in "Children and the Law in Australia" 2008 LexisNexis Butterworths.

² The Taskforce Report was provided to the Premier on 26 February 2010. Its full title is "Report of the Child Protection Proceedings Taskforce."

³ Assuming the Government agrees to adopt and fund the Taskforce recommendations.

The Court strongly supports the development and strengthening of pre-court (or “front-end”) interventions, and urges the Commission to examine existing models, such as the WA *Signs of Safety Pilot*. It is the Court’s view that legal representation of parties is critical to the conduct of good practice ADR at all stages of the intervention process.

Prior to the reference to the VLRC, the Court was already exploring alternate “problem solving” approaches in its child protection division. For example, the Court is developing Family Division processes that would be appropriate for Koori children, Koori families and Koori communities. The Court would also like to build upon the learnings from the Sex Offenders List in its Criminal Division by creating a specialist list for protection applications where sexual abuse is alleged.

The Court urges the Commission to examine other Court models such as Family and Drug treatment models⁴ and a 0-3 Years Family Division List⁵. The Court supports these innovative approaches but requires resources to develop and implement them.

Option 2 (New grounds for state intervention and specific court processes)

In Option 2 the Court submits that, given the extremely high proof rate of protection applications and the lack of applications for temporary assessment orders, children are adequately protected by the existing grounds in section 162 of the *Children, Youth and Families Act 2005* (CYFA). In the Court’s view, save for the addition of a “no fault” ground, no expansion of the grounds is either necessary or desirable.

The Court supports the extension of the power in section 272 of the CYFA to pre-court proceedings in circumstances where the undertaking is subsequently presented to the Court for “approval”. However, support for this proposal is provided on the basis that the person giving the undertaking does so voluntarily and is able to access legal representation, if he or she wishes, prior to entering the undertaking.

The Court further recommends that, in terms of sanctions for breaches of undertakings, it should have the power to confirm the undertaking or contract, vary the undertaking or contract, or revoke the undertaking or contract and replace it with a protection order, provided that the Court is satisfied that the child is still in need of protection.

The Court would not oppose provisions which allow it to “approve” a “parental responsibility undertaking” or a “child welfare contract” at any stage of proceedings if it is satisfied that such undertaking or contract is in the best interests of the child.

The Court does not support any change to the present requirement that a child taken into safe custody must be brought before the Court within 24 hours. In the Court’s view, a change to 72 hours is not in the best interests of the child.

⁴ Based on successful US model discussed at p74.

⁵ Discussed at p74.

The Court recognises the justifiable concerns about children attending court; particularly the over crowded Melbourne Court. However, children who are mature enough to give instructions will need to attend court on a safe custody application to provide instructions to their lawyer.

The Court notes that there is an urgent need for childcare facilities at the Melbourne Court and has long argued this position. On any given day there are many children and families in the waiting areas of the Family Division. These areas are not child or family friendly.

The Court outlines six models of child representation but does not have a unanimous view on the best model to adopt; it does however, unanimously support better funding for those charged with representing children.

The Children’s Court does not have the capacity to docket cases and is unaware of any summary, high volume, State Courts that are able to do so. However, the Court is active in managing its cases and constantly reviews listing practices to improve case management and flow through the system. The Court has agreed to changes to listing practices recommended by the Taskforce.

The Court notes the positive responses to moving Southern Region cases to the Moorabbin Justice Centre. The Court seeks Government support to continue moving cases away from the Melbourne Court. It supports the Taskforce recommendation that two courtrooms in the old County Court building be allocated to the Children’s Court for Eastern Region cases. If this recommendation is adopted by Government, the pressure at Melbourne would be reduced with that Court effectively becoming the Court for the North West Region.

The Court supports the adoption, with appropriate variations, of the “Less Adversarial Trial” provisions of Division 12A of Part VII of the Family Law Act 1975 (Cth), in the Children’s Court. The Court has provided a detailed proposal for legislative amendment and notes that it has been agitating for such a change for some time.

Option 3 (An independent statutory commissioner)

The Court strongly supports the creation of an independent statutory commissioner largely analogous to the Office of Public Prosecutions with responsibility for the carriage of proceedings before the Children’s Court. However, the Court does not support the Commissioner’s involvement in pre-court deliberations, or in having a ‘first instance’ capacity to authorise State intervention in ‘safe custody’ cases, or a capability of being appointed as a guardian or custodian. The Court submits that these additional responsibilities compromise independence and, for that reason, are regarded as inappropriate functions for the Commissioner.

Option 4 (The nature of the body which decides whether there should be State intervention in the care of a child)

The Court does not support the proposed option to utilise lay panels or boards as decision-makers in child protection cases. The Court opposes the adoption of a model that is based on the Scottish Children’s Hearing System.⁶

Nor does the Court support the proposed option to replace the court based model with a tribunal, whether it is comprised of non-judicial members or both judicial members and non-judicial members.

The Court notes that the reference to the Commission derives from the Ombudsman’s Report. The Court submits that conclusions about the need for a departure from a court-based model are not based on thorough research or a balanced assessment of evidence.

It is important to note in relation to the Court’s decision-making that the relevant legislation provides for a comprehensive system of appeals and reviews of Children’s Court decisions. This comprehensive appeal process is available to any party aggrieved by a decision of the Court.⁷

In the financial year 2007-2008, the Family Division of the Court made 13,499 orders⁸. The Court understands that no more than 12 cases were subject to appeal or review. Two cases involved the complete over-turning of the Court’s orders and a third case involved a partial over-turning. This represents three cases out of 13,499 where the Court’s decision-making was over turned by a superior court.

Any decision by the State, through its child protection agency, to interfere in the life of a family, and especially to seek removal of a child, is such a significant decision that it must be subject to the independent scrutiny that comes from a Court conducting a public hearing with all of the safeguards that provides. This is consistent with the approach of all Australian States and Territories. It is also consistent with the Victorian Charter of Human Rights and the United Nations Convention on the Rights of the Child.

⁶ The Court’s examination of the Scottish Children’s Hearings System is at p106. There is no suggestion that the criminal jurisdiction of the Children’s Court be transferred away from the Court notwithstanding that it was central to the reasoning of the Kilbrandon report (which provided the foundation for the current Scottish system) that child offenders and children in need of protection be dealt with in the same way by exactly the same system.

⁷ There are four different avenues of appeal/review:

- (1) A right of appeal to the Supreme Court from a final order of the Family Division in cases where the appellant alleges that the judge/magistrate has made an error of law. This is granted and regulated by sections 329 & 330 of the CYFA.
- (2) A right of appeal to the Supreme Court on the Court’s decision to make or refuse to make an interim accommodation order. See section 271 of the CYFA.
- (3) A right of judicial review by the Supreme Court in cases where the appellant alleges that the judge/magistrate has made an error of law. See Order 56.01 of the Supreme Court Rules.
- (4) A right of appeal to the County Court from an order of a Children’s Court magistrate and to the Supreme Court from an order of the President. The appellant does not have to show any error by the Court. The appeal is a re-hearing, not a determination of whether the orders made by the Children’s Court should or should not have been made. This is granted and regulated by sections 328 & 330 of the CYFA.

⁸ This figure excludes orders extending interim accommodation orders and orders under family violence or stalking legislation.

⁹ Discussed at p98.

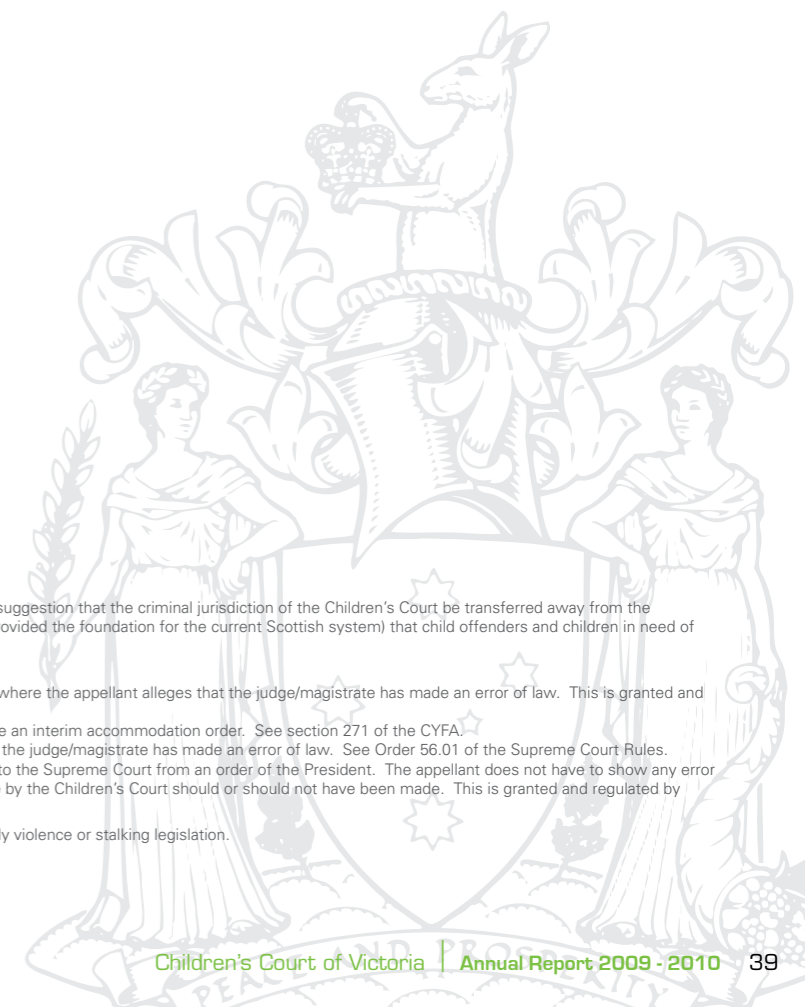
¹⁰ Discussed at p97.

The Victorian Law Reform Commission Process and Reference

In the absence of any sound rationale for the departure from a court-based model, the Court has largely developed this submission in a policy vacuum. The extremely tight period for the preparation of a response, together with the lack of a discussion paper makes the process highly unsatisfactory.

The Court has endeavoured to anticipate matters that may be of interest to the VLRC as well as issues that the VLRC may regard as important to its decision-making. In particular, the Court has included a brief commentary on two topics. Those two topics are *cumulative harm*⁹ and *frequency of access between a child and a non-custodial parent*.¹⁰

Given the absence of any discussion paper from the VLRC, the Court reserves the right to make supplementary submissions responding to particular issues raised in other submissions.



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