

# 2022 ANNUAL REVIEW



# Acknowledgement of Country

The Children's Court of NSW acknowledges the Aboriginal and Torres Strait Islander people as the Traditional Custodians of the land and their continuing connection to land, sea and community. The Children's Court also pays respect to Elders past and present.



The artwork featured in this Annual Review was designed by Lauren Henry and Brittany Cochrane from Yirra Miya, a First Nations Creative Agency, in consultation with Youth Koori Court Aboriginal Elders and the Children's Court of NSW. Lauren Henry is a proud Wodi Wodi and Walbunja Person from the Yuin Nation and Brittany Cochrane is a proud Biripi Woman.

#### **Element Meanings**



**Family** - the yarning circle represents kinship and the family connection between those that come in the doors of the court alongside the family they leave with. It also acknowledges the family atmosphere of the Children's Court and the importance of making families feel welcome and safe.



**Meeting place** - a representation that the Children's Court is a safe meeting place for those who walk through the court's doors. The three connected elements reflect the different lands on which the Children's Court are held and the journey children and young people take. They also represent connection to water (teal), country (orange) and the city (pink).



**Healing** - water holds a healing property. To heal ourselves is to also heal our connections with others. The connected watering holes show that healing is not a linear process. The flow represents the fluidity of change, learning and growing that children, young people and their families go through as part of the healing process.



**Culture**-represents the importance of cultivating an environment where children and young people can culturally connect and learn to keep stories alive. It also represents the importance of meaningfully exploring cultural considerations within the court process.



**Respect** - providing a safe space for children and young people to learn to respect those around them as well as themselves. The child or young person accessing the court is represented in the centre while the outer layer represents their supports, family and community.

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#### Foreword by the

### President of the Children's Court

It is a pleasure to introduce the first Annual Review for the Children's Court of NSW.

His Honour Judge Mark Marien was appointed as the first President of the Children's Court in 2009. His Honour Judge Peter Johnstone was appointed as the second President in 2012. Both Presidents made a significant contribution to developing the specialist jurisdiction and increasing the coverage of the Children's Court across metropolitan and regional NSW.

I was appointed as a Local Court Magistrate in 2009 and became a specialist Children's Magistrate in 2017. On 22 November 2021 I was appointed as a District Court Judge and the third President of the Children's Court. It is such a privilege to be in this role.

The Children's Court makes decisions that impact the lives of children, families and communities. Children's Magistrates are required to have sound knowledge, qualifications, skills and experience in the law and the social or behavioural sciences in dealing with children, young people and their families. In the care and protection jurisdiction, Children's Registrars support Magistrates to make decisions that achieve the safety, welfare and well-being of children and young people. A decision about a child cannot be made without reference to the people who are important to that child.

The Children's Court workload reveals the impact of poverty, disability and trauma on parenting capacity and on youth offending. The Children's Court seeks to engage with children, parents, carers, community members and stakeholders to understand the causes of offending and the factors that increase risk of harm to children with the aim of using the court process to reduce offending and mitigate risks to children. Children's Magistrates and Registrars receive training on culture, the development of children and adolescents, attachment to carers, trends in offending, communication and trauma. We actively review court processes to ensure that the people who are impacted by proceedings are able to participate in proceedings.



Her Honour Judge Ellen Skinner

"The Children's Court seeks to engage with children, parents, carers, community members and stakeholders to understand the causes of offending and the factors that increase risk of harm to children with the aim of using the court process to reduce offending and mitigate risks to children."

The judiciary is not as powerful as people think. Children's Magistrates have the power to make a limited number of legal orders based around the allocation of parental responsibility or the management of an offender in the community or in custody. Sustainable change in a person's life will only come when a person is ready to make a change and has the opportunity to make the change. Legal orders can be used to incentivise or disincentivise change but they do not provide sustainable services to support change.

For many young offenders the opportunity to change will present through early intervention and diversion. Adolescence is a challenging time in life where many young people will take risks, fall, take responsibility and change. The Court is no place for those young people who will receive more assistance through engaging with education, employment or community programs to develop their prosocial skills and connections.

Early intervention and diversion are equally necessary for parents who find it difficult to meet the needs of their children. Support services can provide parents and their network with the skills and knowledge to address issues that present as risks to children. As a society we need children to be safe but we also want to reduce the number of children entering care and ensure that children who enter care can quickly transition out of care. Children are safest when their needs are met by their family members, within their community and culture.

The Children's Court is able to identify good practice for care families and young offenders and share that knowledge to strengthen families and communities in supporting care families and young offenders.

There have been a number of initiatives in the Children's Court over the years, some of which include:

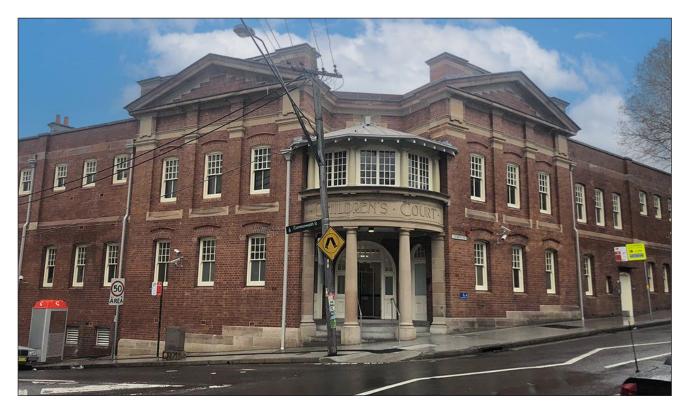
- a Youth Koori Court process at Parramatta and Surry Hills Children's Courts,
- the embedding of dispute resolution conferences as a form of alternative dispute resolution in care matters,
- new circuits conducted by specialist Children's Magistrates to ensure consistency of approach throughout NSW, including remote and regional areas,
- an ongoing arrangement for Children's Registrars to convene Compulsory Schooling Order conferences,
- the introduction of five Education Court Liaison Officers,
- a Memorandum of Understanding between the Court, the Office of the Children's Guardian and the Department of Communities and Justice to expedite Working with Children Checks in care matters,
- plain language standardised care orders in addition to the introduction of a new Practice Note and an electronic care orders template to assist legal practitioners draft orders,
- an electronic case management system known as JusticeLink in both the Court's care and crime jurisdictions, and
- the establishment of a new Children's Court at Surry Hills.

The Children's Court is staffed by a dedicated, decent and capable team of Children's Magistrates, Children's Registrars, Executive, Court Officers and stakeholders who display excellent teamwork in delivering justice to children, young persons, families, carers and communities across NSW. Staff genuinely care about the people who appear before the Court and the impact of the decisions made by the Court.

The COVID-19 pandemic caused the Court to review operations with changes to listings and increased appearances through telephone and video-link. The staff showed resilience, commitment and flexibility in maintaining the capacity to make decisions through lockdowns and court closures. The Court emerged from COVID-19 without great delays, due to the hard work of Children's Magistrates, Children's Registrars, and particularly the Court's Executive Officer, Rosemary Davidson, and Senior Registrar, James Hogan.

I am proud to lead the Children's Court team in the delivery of justice across NSW.

Her Honour Judge Nell Skinner President, Children's Court of New South Wales



Surry Hills Children's Court, 66-78 Albion Street, Surry Hills



Foyer of the new Children's Court at Surry Hills, 66-78 Albion Street, Surry Hills

# Part 1 Overview of the Children's Court

# History

In the early years of European settlement, there was little difference in the way the law dealt with adults and children who committed crimes. There was also limited government involvement with children who were abandoned or not properly cared for by their families.

The establishment of the Children's Court of NSW under the *Neglected Children and Juvenile Offenders Act 1905* represented a significant development in the law relating to children. The Act was assented to on 26 September 1905 and the first NSW Children's Courts were proclaimed on 29 September 1905 at Sydney, Newcastle, Parramatta, Burwood and Broken Hill. The Act came into operation on 1 October 1905, with the first sitting commencing at Ormond House, Paddington the same month.

The International Year of the Child in 1979 increased public interest in issues affecting children and significant legislative reform occurred over the following decades, including enactment of the Children's Court Act 1987, the Children (Criminal Proceedings) Act 1987, the Children (Detention Centres) Act 1987, the Young Offenders Act 1997 and the Children and Young Persons (Care and Protection) Act 1998.

In 2010, amendments were introduced to the *Education Act 1990* to provide for an application to be made to the Children's Court for a compulsory schooling order and, in appropriate circumstances, referral to a conference to attempt to resolve issues relating to a child's non-attendance at school.

Over time the legislation that governs the way in which the Children's Court deals with cases has become more complex. However, the fundamental principles upon which the Court was established remain unchanged, that is, to attempt to rehabilitate young offenders and to make decisions that are in the best interests of the child.

# Jurisdiction

The Children's Court of NSW is a specialist court established under the *Children's Court Act 1987*. The Court deals specifically with cases involving children and young people regarding:

- Care and protection,
- Criminal cases,
- Apprehended Violence Orders, and
- · Compulsory Schooling Orders.

# **Judicial Officers**

#### **President of the Children's Court**

The President of the Children's Court is appointed under section 6A of the *Children's Court Act 1987* and must hold office as a Judge of the District Court. The current President of the Children's Court is Her Honour Judge Nell Skinner.

In addition to dealing with cases in the Children's Court the President has responsibility for the administration of the Court including arranging the sittings of the Court, developing recommendations for rules in relation to the practice and procedure of the Court, issuing Practice Notes, overseeing the training of Children's Magistrates and consulting with community groups and agencies on matters involving children and the Court.

#### **Children's Magistrates**

Specialist Children's Magistrates are appointed under section 7 of the *Children's Court Act 1987* for periods of up to five years. They are selected from a general pool of Magistrates appointed under the *Local Court Act 2007* having regard to their qualifications, expertise, skills and experience in dealing with children, young people and their families.

In 2022, 16 full time equivalent Magistrates served as specialist Children's Magistrates:

His Honour Magistrate M Crompton	Her Honour Magistrate D Maher			
Her Honour Magistrate S Duncombe	Her Honour Magistrate F McCarron			
His Honour Magistrate A Eckhold	Her Honour Magistrate L McManus			
Her Honour Magistrate N Ford	Her Honour Magistrate R Richardson			
Her Honour Magistrate C Haskett	His Honour Magistrate A Sbrizzi			
(until 10 July 2022)	Her Honour Magistrate T Sheedy			
His Honour Magistrate P Hayes	Her Honour Magistrate M Stubbs			
His Honour Magistrate M Love	(retired 19 July 2022)			
His Honour Magistrate P MacMahon (retired 7 October 2022)	His Honour Magistrate D Williams			

#### Magistrates

Children's Court cases are also dealt with by Local Court Magistrates in locations where a specialist Children's Magistrate is not available.

In 2022, approximately 10% of care and protection proceedings and 29% of children's criminal proceedings in NSW were dealt with by Local Court Magistrates exercising Children's Court jurisdiction in regional areas.

# **Court Locations**

There are four courthouses specifically designated as Children's Courts. These courthouses are located at Parramatta, Surry Hills, Woy Woy and Broadmeadow.

Specialist Children's Magistrates also deal with Children's Court cases at shared court facilities at Campbelltown, Sutherland, Wyong and in the Illawarra, Southern Highlands and Tablelands, Hunter, Mid-North Coast, Northern Rivers, Western and Riverina regions.

In rural and regional areas outside these locations, the sittings of the Children's Court coincide with the sittings of the Local Court and are conducted by Local Court Magistrates.



Woy Woy Court House, 78-80 Blackwall Rd, Woy Woy

# **Court Registries**

A court registry is the office attached to a particular court. There is a Children's Court registry at each location where the Children's Court sits. In some locations the Children's Court registry is separate from the Local Court registry but in most locations, enquiries can be made within the one office.

#### **Registrar of the Children's Court**

A Registrar of the Children's Court is designated for each Children's Court registry. The Registrar of the Children's Court is responsible for the daily management and administration of the Court including maintaining the records of the Court, issuing court documents, managing court staff and the premises. The Registrar of the Children's Court also carries out some functions that are allowed under legislation. In some locations the Registrar may assist the Court by calling through the cases listed on a particular day to ensure that they are ready to proceed. This is called a call-over.

#### **Children's Registrars**

Children's Registrars are appointed under section 10A of the *Children's Court Act 1987*. The main role of a Children's Registrar is to conduct dispute resolution conferences in care and protection cases under section 65 of the *Children and Young Persons (Care and Protection) Act 1998*. The purpose of a dispute resolution conference is to provide the parties in the case an opportunity to agree on action that should be taken in the best interests of the child or young person. Children's Registrars may also perform functions as specified by the *Children's Court Rules 2000* or under other legislation.

In 2022, there were 11.4 full time equivalent Children's Registrars:

Nada Alamali	Joanne Lynch
Mariaelena Albu	Hana Marjanac
Brooke Bowman	Juliette Northcote
Kate Bromley	Caroline Stirling
Anne Davis	Sonia Strounis
Mary Gleeson	Niki Valentine
Edwina Hunter	

# Part 2 Children's Court Operations



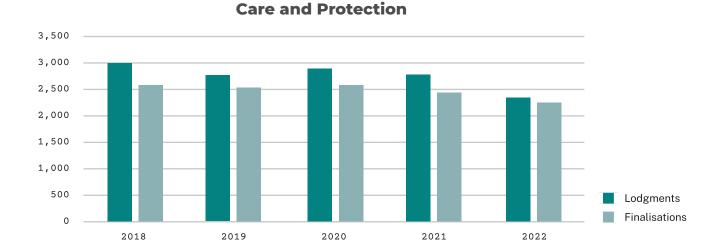
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### Care and Protection

When concerns have been raised about the care and protection of a child or young person under the age of 18 years, the Children's Court has jurisdiction to make court orders to ensure their safety, welfare and wellbeing.

Caseworkers within the Department of Communities and Justice are responsible for taking actions to keep children safe under the *Children and Young Persons (Care and Protection) Act 1998.* Caseworkers often work with families without taking court action. However, if it is assessed that it is no longer safe for a child or young person to remain living with one or both of their parents or their current carer, an application must be made to the Children's Court.

Judicial officers in the Children's Court will independently assess all the facts and circumstances of each case and apply the law before any final decision is made. The Court must make sure that decisions are made with the best interests of the child or young person as the main consideration.



#### 2018 - 2022 Workload Trends

#### 2018 - 2022 Workload Trends (continued)

Care and Protection	2018	2019	2020	2021	2022
Lodgments					
Form 1-Application Initiating Care Proceedings	1,821	1,750	1,776	1,726	1,527
Form 3 - Application for Rescission/Variation of Care Order	1,176	978	1,095	1,063	805
Form 5 - Application for Parent Capacity Order	5	5	13	18	1
TOTAL	2,727	2,471	2,636	2,633	2,198
Finalisations					
Form 1-Application Initiating Care Proceedings	1,632	1,565	1,590	1,481	1,478
Form 3 - Application for Rescission/Variation of Care Order	974	973	998	956	782
Form 5 - Application for Parent Capacity Order	0	0	8	3	6
TOTAL	1,104	2,120	2,338	2,230	2,126

**Note:** Count is by child/young person.

Care and Protection		2018	2019	2020	2021	2022
Time to finalisation						
Form 1-	< 6 months	422	305	318	214	158
Application Initiating	6–12 months	798	712	698	667	509
Care Proceedings >1	>12 months	412	548	574	600	811
Form 3-	< 6 months	647	585	598	564	429
Application for Rescission/	6–12 months	229	277	249	254	216
Variation of Care Order	>12 months	98	111	151	138	137
Form 5 -	< 6 months	0	0	3	3	0
Application for Parent	6–12 months	0	0	5	0	6
Capacity Order	>12 months	0	0	0	0	0

Note: Count is by child/young person.

#### 2022 Care and Protection - all document types

Care and Protection	Lodgments	Finalisations
Application for Assessment Order	188	131
Care Plan (s38(1))	0	0
Care Plan (s38(2) or (3))	5	5
Care Plan (s78)	751	751
Form 1-Application Initiating Care Proceedings	1,527	1,478
Form 2 - Application (other than form 1) - Costs	0	0
Form 2 - Application (other than form 1) - Extension of Supervision	2	2
Form 2 - Application (other than form 1) - Guardian Ad Litem	3	3
Form 2 - Application (other than form 1) - Joinder	53	49
Form 2-Application (other than form 1)-Order for Alternative Parenting Plan	0	0
Form 2 - Application (other than form 1) - Other	266	162
Form 3-Application for Rescission/Variation of Care Order	805	782
Form 4-Application for Contact Orders	15	4
Form 5 - Application for Parent Capacity Order	1	6
Form 6-Application for Variation or Revocation of Parent Capacity Orders	1	2
Form 7-Application for Assessment Order	5	1
Form 8 - Application to Transfer Child Protection Order from NSW to another Jurisdiction	8	8
Form 9-Application to Transfer Child Protection Proceeding from NSW to another Jurisdiction	8	1
Form 10 - Application for Registration of an Interstate Child Protection Order in NSW	15	15
Form 11 - Application for Registration of an Interstate Child Protection Proceeding in NSW	8	6
Form 18 - Notice of removal or assumption of a child or young person where no court order is required	27	27
Form 19 - Notification of Breach of Undertakings	4	7
Form 41-Breach of Contract	19	19
Form 42 - Notification of Breach of Prohibition Order	0	0
Form 44-Contact Variation Agreement	3	3
Parent Responsibility Contract	5	5
Receive Section 76 Report	412	333
Receive Section 82 Report	2,183	1,747
TOTAL	6,314	5,547

Note: Count is by child/young person.

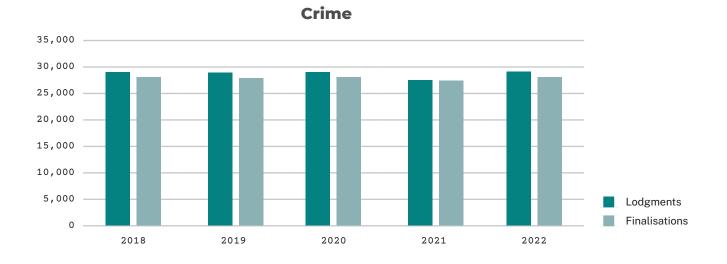
# Crime

The Children's Court determines criminal charges against children and young people who are over 10 and under 18 years of age at the time the offence was allegedly committed. The Children's Court criminal jurisdiction also deals with traffic cases where a defendant is not old enough to hold a licence or where the Court is dealing with related charges and applications relating to criminal cases, such as applications for forensic procedures and parole cases.

If the judicial officer determines that the child or young person is not guilty of the offence, the case will be dismissed. However, if the judicial officer determines that the child or young person is guilty, there are different types of penalties that can be imposed depending on the seriousness of the offence and the circumstances of the young person, including any previous criminal record.

While the court process for dealing with cases is very similar to the process for adult defendants there are some differences:

- The court is closed to the general public and the judicial officer can exclude people from the courtroom if they are not directly involved in the case.
- The proceedings are conducted with less formality. Prosecutors and lawyers remain seated when they speak, and police witnesses do not wear uniforms when attending court.
- Information that is likely to identify a child or young person involved in the proceedings cannot be published or broadcast.



#### 2018 - 2022 Workload Trends

#### 2018 - 2022 Workload Trends - continued

Crime	2018	2019	2020	2021	2022
Lodgments					
New Offences	24,078	24,310	24,787	23,632	25,392
Reactivated Proceedings*	5,126	4,772	4,453	3,917	3,871
TOTAL	29,204	29,082	29,240	27,549	29,263
Finalisations					
New Offences	23,924	23,758	24,527	23,905	25,172
Reactivated Proceedings*	4,524	4,296	3,723	3,499	3,210
TOTAL	28,448	28,054	28,250	27,404	28,382

\*Reactivated Proceedings include arrest warrants executed or revoked, relisted after mental health orders made, breach of community based orders, annulment applications, sentencing corrections, and other miscellaneous orders and applications.

Note: Count is by number of offences (proceedings).

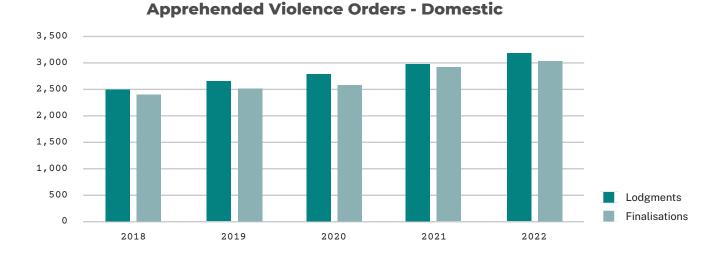
Crime		2018	2019	2020	2021	2022
Time to finalisation						
	< 6 months	18,367	18,271	17,689	17,177	17,819
New Offences	6–12 months	4,809	4,632	5,569	5,495	5,838
	>12 months	748	855	1,269	1,233	1,515

Note: Count is by number of offences (proceedings).

### Apprehended Violence Orders

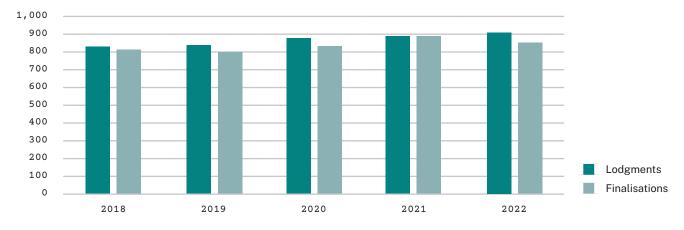
Apprehended Violence Orders (AVOs) are orders that a court makes to protect people. The Children's Court deals with AVOs where the defendant is under 18 years at the time the application is made.

AVOs impose a condition on the defendant not to assault, threaten, harass, intimidate, stalk, or destroy or damage property of the protected person for a specific period of time. AVOs can also have additional orders such as prohibiting the defendant from contacting the protected person or going within a certain distance of the protected person's home or work.



#### 2018 - 2022 Workload Trends





#### 2018 - 2022 Workload Trends - continued

Apprehended	Violence Orders	2018	2019	2020	2021	2022
Lodgments		-				
	Application for Domestic Violence Order	2,484	2,630	2,783	2,973	3,185
DOMESTIC	Application to Vary/Revoke Domestic Violence	31	31	28	24	21
	TOTAL	2,515	2,661	2,811	2,997	3,206
	Application for Personal Violence Order	822	836	880	891	904
PERSONAL	Application to Vary/Revoke Personal Violence	3	6	2	2	2
	TOTAL	3,340	3,503	3,693	3,890	4,112
Finalisations						
	Application for Domestic Violence Order	2,406	2,525	2,595	2,928	3,041
DOMESTIC	Application to Vary/Revoke Domestic Violence	4	1	5	3	3
DOMESTIC	Judicial Officer Initiated Orders (Domestic)	8	6	7	5	11
	TOTAL	2,418	2,532	2,607	2,936	3,055
	Application for Personal Violence Order	798	794	831	883	848
DEDOONIAL	Application to Vary/Revoke Personal Violence	1	0	3	0	0
PERSONAL	Judicial Officer Initiated Orders (Personal)	5	6	5	4	8
	TOTAL	3,222	3,332	3,446	3,823	3,911

Note: Count is by case number.

Apprehended Violence Orde	ers	2018	2019	2020	2021	2022
Time to finalisation						
DOMESTIC	< 6 months	1,016	1,147	1,113	1,303	1,342
(Application for Domestic Violence Order)	6–12 months	1,189	1,184	1,258	1,376	1,446
	>12 months	201	194	224	249	253
PERSONAL	< 6 months	286	311	299	315	249
(Application for Personal Violence Order) 6–12 mont	6–12 months	411	379	427	455	435
	>12 months	101	104	105	113	164

Note: Count is by case number.

# **Compulsory Schooling Orders**

In NSW, all children between the ages of 6 and 17 must receive schooling. Where a child's school attendance is not satisfactory the Secretary of the Department of Education may apply to the Children's Court for an order that:

- · requires a parent of a child to ensure that the child receives compulsory schooling, or
- requires a child to engage in compulsory schooling where the child is of or above the age of 12 years, and the Children's Court is satisfied that the child is living independently of his or her parents or that (because of the child's disobedience) the parents are not able to cause the child to receive compulsory schooling.

The Children's Court may require a parent and/or a child to attend a conference with other relevant persons to:

- · identify and resolve issues leading to non-attendance,
- · locate services that could assist the young person to attend school, and/or
- · propose undertakings and orders for consideration of the Children's Court.

The conference may be conducted by a Children's Registrar or by a person arranged by the Department of Education.



#### 2018 - 2022 Workload Trends

#### 2018 - 2022 Workload Trends - continued

Compulsory Schooling Orders	2018	2019	2020	2021	2022
Lodgments					
Application for Final Compulsory Schooling Order	271	305	185	157	191
Application for Interim Compulsory Schooling Order	3	9	26	20	3
TOTAL	274	314	211	177	194
Finalisations					
Application for Final Compulsory Schooling Order	202	290	220	198	163
Application for Interim Compulsory Schooling Order	18	2	13	27	15
TOTAL	220	292	233	225	178

Note: Count is by case number. Excludes reactivations.

Compulsory Schooling Orders		2018	2019	2020	2021	2022
Time to finalisation						
Application for Final Compulsory Schooling Order	< 6 months	114	147	74	96	66
	6–12 months	73	118	102	68	60
	>12 months	15	25	44	34	37

Note: Count is by case number. Excludes reactivations.

# Part 3 Specialist Court Processes and Services

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### Care and Protection

#### **Dispute Resolution Conferences**

Dispute Resolution Conferences (DRCs) were introduced by the Children's Court in 2011 as a form of alternative dispute resolution for matters in the Court's care and protection jurisdiction.

DRCs are convened by a Children's Registrar pursuant to section 65 of the *Children and Young Persons (Care and Protection) Act 1998.* Children's Registrars are both legally qualified and trained mediators. The conferences are based on a conciliation model which means the Children's Registrars have both an advisory and a facilitative role.

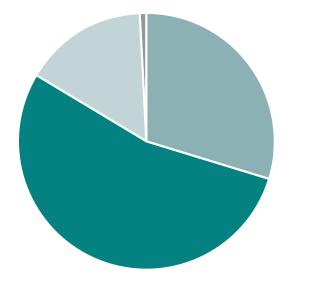
DRCs take place in an informal, non-adversarial and confidential environment where parties are encouraged to have an honest discussion about action that should be taken in the best interests of the child or young person. With the assistance of the Children's Registrar, the parties are encouraged to narrow the issues in dispute, consider options and try to reach an agreement which is in the best interests of the child or young person.

Matters may be referred to a DRC by a judicial officer or a Children's Registrar, at the request of a party or on the Court's own motion.

Children's Registrars routinely travel across the state to convene DRCs where a Children's Registrar is not available at that location.

In 2022, 947 DRCs were conducted.

#### **Outcome of Dispute Resolution Conferences in 2022**



All the issues in the dispute were resolved (508)
 Some of the issues in the dispute were resolved (284)
 None of the issues in the dispute were resolved (149)
 No outcome was recorded (6)

#### **Children's Court Clinic**

The Children's Court Clinic (the Clinic) was established under section 15B of the *Children's Court Act 1987* to provide the Children's Court with independent specialist advice in care and protection matters. The Clinic is currently located at Parramatta Children's Court and forms part of the Sydney Children's Hospitals Network. It is independent of the Court, the Department of Communities and Justice and the legal profession.

The Clinic engages professionals known as Authorised Clinicians with specific expertise in psychiatry, psychology and social work to conduct assessments and prepare clinical reports in regard to:

- children and young persons, and/or
- the capacity of parents and others to carry out parental responsibility.

Assessments are conducted after meeting and listening to children, their parents and other family members, in addition to reading material filed in the case. Reports are given to the Court ordering the assessment and it is up to the judicial officer to decide whether the report should be released to all the parties.

In 2022, 131 assessment orders were made.



Parramatta Children's Court, 2 George Street, Parramatta

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# Crime

#### Youth Koori Court

The Youth Koori Court was established in response to the significant over-representation of Aboriginal young people in the criminal justice system.

A pilot Youth Koori Court process commenced at Parramatta Children's Court on 6 February 2015. Following success of the Youth Koori Court at Parramatta, the process was expanded to Surry Hills Children's Court on 6 February 2019.

The Youth Koori Court is a modified procedure within the usual Children's Court process. It has the same powers as the Children's Court but uses a deferred sentence model to better involve Aboriginal and Torres Strait Islander young people, their families, and the broader Aboriginal and Torres Strait Islander community in the court process.

With the assistance of Elders and other respected people from Aboriginal or Torres Strait Islander communities, the Youth Koori Court seeks to identify risk factors, such as homelessness, disengagement from education, drug and alcohol issues or other health issues, that may be impacting on the young person's involvement with the criminal justice system.

An Action and Support Plan is developed to help the young person further develop their relationship with their culture and community and address any risk factors that may impact their continued involvement in the criminal justice system. The implementation of the Action and Support Plan is monitored by the Youth Koori Court over a period of months and the young person is required to come back to court several times.

At the end of the process the judicial officer sentences the young person taking into consideration the steps the young person has taken to follow their Action and Support Plan.

#### During 2022:

- 28 young people were referred to the Youth Koori Court.
- 27 young people were admitted to the Youth Koori Court.
- 10 young people graduated from the Youth Koori Court.

#### **Youth Justice Conferences**

The Court has the option of referring a young person to a Youth Justice Conference pursuant to the *Young Offenders Act 1997*. A young person may be referred to a Youth Justice Conference if the offence they are charged with is too serious to be dealt with by way of a warning or caution or where the young person has exceeded the number of cautions available to them.

At a Youth Justice Conference, the child or young person, with the support of their family, is brought face to face with the victim and the victim's support person to hear about the harm caused by their offending. The young person must take accountability for their actions. The police and the young person's lawyer may also participate in the conference. During the conference, the participants agree on a suitable outcome plan. The outcome may include an apology to the victim and steps to reintegrate the young person into the community through participation in counselling or an education program.

The outcome plan is referred back to the Court where it is either accepted, rejected or returned with some amendments. Once the plan is accepted by the Court and the young person completes all the requirements of the plan, no further action is taken against the young person. If the participants are unable to agree on an outcome plan or the young person fails to complete all the requirements of the plan, the matter is referred back to the Court and proceedings continue.

#### A Place to Go

A Place to Go draws on services across NSW Government and non-government service providers to deliver a coordinated service solution to support and deliver a better service response for young people in contact with the criminal justice system.

The Children's Court provides support through a court-based multidisciplinary team which works with existing services to provide a coordinated response to young people in court proceedings.

A Place to Go has been operating in the Nepean Area Police Command and the Parramatta Children's Court since November 2018.

#### **Justice Health and Forensic Mental Health Network**

The Justice Health and Forensic Mental Health Network (JH&FMHN) provides health care for young people in the criminal justice system.

The JH&FMHN's Adolescent Court and Community Team conduct mental health assessments for young people appearing before the Court and provide the judicial officer with a mental health report to help determine a young person's eligibility for any appropriate diversionary programs. The JH&FMHN also plays a significant role in assisting young people when they are released from custody by making appropriate referrals to a range of health services to help improve overall health outcomes and reduce the risk of reoffending.

#### **Broadmeadow Pilot**

The Broadmeadow Children's Court Pilot Project commenced on 1 July 2019. The Project brings together a team of government agencies and non-government organisations to provide wraparound supports to young people presenting to the court. The Project is designed to remove barriers between partner agencies and improve access to information to support decision making, assessments, and interventions that address the factors that have led to the young person's offending.



Broadmeadow Children's Court, 19-23 Lambton Rd, Broadmeadow

#### **Children's Court Assistance Scheme**

The Children's Court Assistance Scheme is a free, confidential support service funded by Legal Aid NSW for young people appearing before the Children's Court in criminal matters.

Trained support workers assist young people and their families before, during and after their court appearance by explaining court processes, helping them find their lawyer and linking them up with support services such as drug and alcohol programs, counselling and accommodation.

The Children's Court Assistance Scheme is currently available at Wyong, Woy Woy, Broadmeadow, Port Kembla, Campbelltown, Surry Hills, and Parramatta.

#### **Youth Justice Officers**

Youth Justice Intake Officers are employed by Youth Justice NSW. They provide the Court with information to assist the Court make an appropriate determination in relation to bail including the presentation of a bail plan aimed at mitigating any bail concerns. Youth Justice Intake Officers also coordinate the provision of background reports to assist the Court determine sentences.

Youth Justice Community Officers play a significant role in both the supervision and provision of community-based programs to help young people address the underlying causes of their offending behaviour. They supervise young people on probation or a good behaviour bond and encourage them to participate in educational, therapeutic, vocational and recreational programs tailored to suit their individual needs. Youth Justice Community Officers can also help prepare background reports for the Court to assist the judicial officer with the sentencing of a young person.

Officers from Youth Justice also supervise young people in custody and transport young people to court where required.

#### **Education Court Liaison Officers**

The Education Court Liaison Officer (ECLO) program was established in 2018. ECLOs identify young people appearing before the Children's Court who are not attending school and take steps to re-engage them in an educational option which matches their needs and abilities. They do this by talking to the child or young person, their family and/or their support person to determine the reasons why the child or young person is not going to school and then liaise with the Department of Education to find appropriate educational options for them. ECLOs may also link them to support services to address other risk factors that may be contributing to their involvement in the criminal justice system.

ECLOs work at a number of Children's Court locations including:

- · Campbelltown Children's Court,
- · Parramatta Children's Court,
- Surry Hills Children's Court,
- · Broadmeadow/Singleton/Raymond Terrace Children's Court Circuit, and
- · Port Kembla/Nowra Children's Court Circuit.

# Part 4 Improving Services to Aboriginal Communities

# **Care and Protection**

#### **Family is Culture**

The *Family is Culture Review Report*, an Independent Review of Aboriginal Children and Young People in Out of Home Care, was released in November 2019. The Review Report made 125 recommendations about the way services are delivered to Aboriginal children and young people in Out of Home Care.

#### Aboriginal and Torres Strait Islander Care List

In response to recommendation 125 of the Review Report, the Children's Court has commenced consultations to establish a dedicated court list for Aboriginal and Torres Strait Islander children and their families involved in the Children's Court care and protection jurisdiction. The Court aims to provide a more culturally safe environment for Aboriginal families that will facilitate greater engagement and confidence in the court process.

The Children's Court held a series of consultations with the Dubbo Aboriginal community in February and March 2022 to design the new model. The new model will focus on ensuring the voice of Aboriginal families is prominent in the court process, the courtroom setting will be less formal, more Aboriginal people will be available to assist families through the court process, and the court process will allow for more time to listen and talk about the best interests of the children.

A specialist Children's Magistrate will oversee a pilot in Dubbo Children's Court in 2023.



#### **Practice Note 15**

In response to recommendation 115 of the Review Report, the President of the Children's Court issued *Practice Note 15–Request for the provision of services to facilitate restoration in care proceedings*.

The purpose of Practice Note 15 is to guide the process relating to requests by the Children's Court for the provision of restoration services to a child or young person or their family consistent with section 85 of the *Children and Young Persons (Care and Protection) Act 1987.* Practice Note 15 commenced on 2 May 2022.

#### Annual Review and Care and Protection Statistics

The publication of this Annual Review, which includes statistics regarding operations in the care and protection jurisdiction, addresses recommendations 13 and 14 of the Review Report.

# Crime

#### Youth Koori Court evaluations

NSW Bureau of Crime Statistics and Research (BOCSAR) – The impact of the NSW Youth Koori Court on sentencing and re-offending outcomes

In an evaluation published in April 2022, BOCSAR compared sentencing and reoffending outcomes for 151 Aboriginal young people who participated in the Youth Koori Court with 2,883 comparable Aboriginal young people who proceeded through the usual Children's Court process.

The evaluation found that Youth Koori Court participants were 40% less likely to receive a custodial sentence at their court finalisation relative to Aboriginal young people who were sentenced through the regular pathway.

There was no adverse impact on re-offending rates and Youth Koori Court participants who did reoffend were 84% less likely to receive a custodial penalty at re-conviction.

#### Inside Policy – An Evaluation of the Youth Koori Court Process

The NSW Department of Communities and Justice engaged Inside Policy to design and implement an evaluation of the Youth Koori Court process. The evaluation was made publicly available on 6 June 2022.

The evaluation found there to be overwhelming support for the Youth Koori Court process from staff, stakeholders, participants, and participant families. The evaluators found the Youth Koori Court to be operating as it was intended and being implemented in accordance with its documented procedures. They also found the Youth Koori Court to be successful in identifying participant needs and risk factors to reduce offending in the areas of empowerment, housing, health, employment, education and skills, safety and social/cultural outcomes.

The evaluation found that the Youth Koori Court, as it currently operates, returns \$2 for every \$1 invested. Expanding the Youth Koori Court to one additional site would maintain this benefit-cost ratio of 2:1 providing participant numbers are consistent with Surry Hills and Parramatta referrals. Expanding the Youth Koori Court to a new site would also deliver direct and indirect economic impacts to the NSW economy, including an estimated direct economic impact of \$2.1 million and an estimated indirect economic impact of \$1.6 million.

#### Youth Koori Court Community Panel Members

Community Panel Members are integral to the Youth Koori Court. They are respected Aboriginal and Torres Strait Islander community members who provide the social and cultural support necessary to assist young people reconnect with their culture and form stronger bonds with their communities. They also provide cultural advice to the Youth Koori Court Magistrates and the Children's Court.

In 2022, there were 15 Community Panel Members engaged with the Children's Court across Parramatta and Surry Hills Children's Courts.

#### Youth Koori Court Dubbo

On 18 July 2022, the NSW Government announced a funding package to expand the Youth Koori Court to the Children's Court at Dubbo. The Children's Court has commenced consultations with the Aboriginal community in Dubbo including the recruitment of a number of Elders and respected Aboriginal community members to sit on the Youth Koori Court in Dubbo from March 2023.



Children's Magistrate Duncombe meeting with an Aboriginal Elders group in Dubbo in November 2022

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# Part 5 Legal Education and Engagement with the Community

### Judicial Officer Meetings and Conferences

Children's Court judicial officers update their legal knowledge and skills by attending conferences and workshops. The following educational programs were undertaken by judicial officers in 2022.

#### **Section 16 Meetings**

The President of the Children's Court convened two meetings in 2022 in accordance with section 16(1)(c) of the *Children's Court Act 1987*.

The first section 16 meeting was held on 27 May 2022 at the International Convention Centre and the second section 16 meeting was held on 4 November 2022 at the Judicial Commission.

#### **Other Judicial Conferences**

Judicial officers attended a number of other conferences in 2022 including:

- Local Court Metropolitan Education Session 1, 14-18 February 2022.
- Southern Regional Conference, 9-11 March 2022.
- Northern Regional Conference, 30 March 1 April 2022.
- Legal Aid NSW Child Protection Legal Conference, 26-27 May 2022.
- Local Court Annual Conference, 1-3 June 2022.
- Local Court Metropolitan Education Session 2, 14-18 November 2022.

# Judicial Officer Wellbeing

On 3 August 2022, the Children's Court commenced a judicial and registrar wellbeing program involving Reflective Practice Groups sessions for Children's Magistrates and Children's Registrars.

Two Reflective Practice Group sessions were held each month, one session with Children's

Magistrates and one session with Children's Registrars. The sessions were conducted remotely and ran for approximately 75 minutes. Each session was facilitated by Dr Kevin O'Sullivan, a Conjoint Senior Lecturer at the UNSW School of Psychology.

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# **Resources for Judicial Officers**

## **Children's Court Resource Handbook**

First published in June 2013, the Children's Court Resource Handbook is a valuable online tool designed to provide guidance to judicial officers in relation to matters within the Court's jurisdiction.

The Children's Court Resource Handbook provides information about practices, procedures and policies that impact the children, young people, families and carers who appear before the court. It also provides articles, checklists, summaries and references to relevant case law and legislation.

The Children's Court continues to work in collaboration with the Judicial Commission of NSW to ensure that the Children's Court Resource Handbook is regularly updated to reflect legislative changes and developments.

# Judicial Information Research System (JIRS) Database

Judicial officers have a number of resources available to them via the JIRS database which is updated on a regular basis. These resources include topic-based videos and recordings of education sessions, podcasts, bench books and other research tools.

# Children's Law News (CLN)

Published on the Children's Court website, the CLN is a regular online publication which alerts legal practitioners and other interested persons of important cases and papers considered to be relevant to the Children's Court.

#### Her Honour Judge Nell Skinner,

# President of the Children's Court

#### **Membership of Organisations**

- Member, NSW Police Aboriginal Strategic Advisory Council
- Member, Short-Term Remand Project
- Member, Close the Gap Target 11 Workshop

### **Speaking Engagements**

#### March

 Presentation: Southern Region Conference, 'The Children's Court of NSW: Recent and Upcoming Developments'

#### May

- Presentation: Allambi Care, Newcastle
- Panel: Legal Aid NSW Child Protection Legal Conference, 'Meaningful Change for First Nations Families: A look ahead'
- Presentation: Aboriginal Legal Service Conference

#### June

• Presentation: Goulburn Police Academy, 'Presentation to Police Academy Graduates'

#### August

- Presentation: University of Newcastle, 'NSW Children's Court Practice and Procedure'
- Presentation: Goulburn Police Academy, 'Presentation to Police Academy Graduates'
- Presentation: Specialist Accreditation Conference 2022, Criminal Law Stream, Law Society of NSW
- Panel Discussion: Legal Aid NSW Family Law and Care & Protection Conference, 'Families and domestic abuse: insights from the front line on the impacts of family violence, where we've gone wrong and where to from here'

#### September

Presentation: Western Region Youth Forum

#### October

- Presentation: Chatham High School, Taree NSW
- Panel Discussion: Opportunities for Child Participation in Care Proceedings Webinar, 'Importance of the inclusion of children's views in decision-making; perspectives from the bench'

#### November

- Presentation: Youth Crime and Youth Justice Forum, Sydney University
- Presentation: New South Wales Police Force
  Youth Forum

#### December

- Presentation: Department of Communities and Justice Lawyers Team Meeting, 'The Children's Court and the Care Jurisdiction'
- Presentation: Goulburn Police Academy, 'Presentation to Police Academy Graduates'
- Presentation: Fifth National Child Protection Forum 2022, 'Facilitating positive change in the life cycle of a child in contact with the child protection system'
- Presentation: Local Court Orientation, 'The Children's Court

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# Appendices

Children's Court of New South Wales • Annual Review 2022

# 2022 Lodgments and Finalisation by Location

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Batemans Bay			0	200
	7			3
Bathurst		166	12	54
	96	223	83	252
Bega	20	23	19	26
Belmont	0	1	0	2
Blacktown	0	8	0	1
Blayney	0	0	0	4
Boggabilla	0	60	0	37
Bourke	18	392	14	220
Brewarrina	0	36	0	55
Broadmeadow	431	1,538	380	1,560
Broken Hill	30	164	24	252
Burwood	0	2	0	1
Byron Bay	0	52	0	87
Campbelltown	380	1,529	357	1,476
Casino	0	142	0	51
Central	0	0	0	11
Cessnock	111	181	95	163
Cobar	0	118	0	0
Coffs Harbour	93	494	59	551
Condobolin	0	42	0	26
Cooma	3	22	3	23
Coonabarabran	0	21	0	12
Coonamble	14	81	9	152
Cootamundra	36	53	33	24
Corowa	0	1	0	1

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Junee0100Katoomba933465Kempsey5615069122Kiama0001Kurri Kurri0001Kurri Kurri0003Kyogle01404Lake Cargelligo02003Leeton064026Lightning Ridge045023Lismore155580126590Lithgow20661888Liverpool0304Macksville072047	Hornsby	0	1	0	2
Katoomba933465Kempsey5615069122Kiama0001Kurri Kurri0003Kyogle01404Lake Cargelligo02003Leeton064026Lightning Ridge045023Lismore155580126590Lithgow20661888Liverpool0304Macksville072047	Inverell	34	343	33	187
Kempsey         56         150         69         122           Kiama         0         0         0         1           Kurri Kurri         0         0         0         3           Kyogle         0         14         0         4           Lake Cargelligo         0         20         0         3           Leeton         0         64         0         26           Lightning Ridge         0         45         0         23           Lismore         155         580         126         590           Lithgow         20         66         18         88           Liverpool         0         3         0         4	Junee	0	1	0	0
Kiama0001Kurri Kurri0003Kyogle01404Lake Cargelligo02003Leeton064026Lightning Ridge045023Lismore155580126590Lithgow20661888Liverpool0304Macksville072047	Katoomba	9	33	4	65
Kurri Kurri0003Kyogle01404Lake Cargelligo02003Leeton064026Lightning Ridge045023Lismore155580126590Lithgow20661888Liverpool0304	Kempsey	56	150	69	122
Kyogle01404Lake Cargelligo02003Leeton064026Lightning Ridge045023Lismore155580126590Lithgow20661888Liverpool0304Macksville072047	Kiama	0	0	0	1
Lake Cargelligo02003Leeton064026Lightning Ridge045023Lismore155580126590Lithgow20661888Liverpool03047Macksville072047	Kurri Kurri	0	0	0	3
Leeton064026Lightning Ridge045023Lismore155580126590Lithgow20661888Liverpool0304Macksville072047	Kyogle	0	14	0	4
Lightning Ridge045023Lismore155580126590Lithgow20661888Liverpool0304Macksville072047	Lake Cargelligo	0	20	0	3
Lismore155580126590Lithgow20661888Liverpool0304Macksville072047	Leeton	0	64	0	26
Lithgow20661888Liverpool0304Macksville072047	Lightning Ridge	0	45	0	23
Liverpool0304Macksville072047	Lismore	155	580	126	590
Macksville 0 72 0 47	Lithgow	20	66	18	88
	Liverpool	0	3	0	4
Maclean 0 48 0 5	Macksville	0	72	0	47
	Maclean	0	48	0	5

	Lodgments		Finalisations	
Location	Care*	Crime**	Care*	Crime**
Maitland	0	4	0	10
Manly	0	3	0	2
Milton	0	19	0	34
Moree	14	563	8	241
Moruya	0	27	0	12
Moss Vale	10	62	10	16
Mt Druitt	0	25	0	22
Mudgee	24	94	22	47
Mullumbimby	0	8	0	1
Mungindi	0	0	0	2
Murwillumbah	0	11	0	13
Muswellbrook	18	143	7	132
Narooma	0	21	0	12
Narrabri	28	54	24	25
Narrandera	0	23	0	29
Narromine	0	27	0	8
Newcastle	0	11	0	10
Newtown	0	6	0	1
Nowra	138	307	94	262
Nyngan	0	6	0	2
Oberon	0	1	0	1
Orange	81	564	72	396
Parkes	29	114	36	210
Parramatta	1,640	6,535	1,489	8,036
Penrith	0	3	0	6
Port Kembla	353	791	302	727
Port Macquarie	41	267	52	184
Queanbeyan	18	144	17	119
Quirindi	0	31	0	1
Raymond Terrace	0	238	0	128
Rylstone	0	0	0	4
Scone	0	4	0	7
Singleton	0	144	0	44
Surry Hills	651	2,861	512	3,732
Sutherland	0	610	0	901
Sydney Downing Centre	0	7	0	5
Tamworth	79	929	61	444

	Lodgments		Finalisations	
Location	Care*	Crime**	Care*	Crime**
Taree	106	355	86	244
Temora	0	7	0	2
Tenterfield	0	15	0	10
Toronto	0	3	0	1
Tumbarumba	0	2	0	0
Tumut	4	31	4	56
Tweed Heads	88	297	75	292
Wagga Wagga	134	618	147	475
Walcha	1	1	1	3
Walgett	2	157	5	121
Warren	0	19	0	6
Wauchope	0	0	0	8
Waverley	0	3	0	4
Wee Waa	0	17	0	2
Wellington	0	28	0	91
Wentworth	6	56	10	105
West Wyalong	0	9	0	1
Wilcannia	0	27	0	24
Windsor	0	117	0	73
Wollongong	385	13	377	23
Woy Woy	0	718	0	926
Wyong	0	404	0	265
Yass	0	2	0	5
Young	14	163	7	128
Total	6,314	27,823	5,547	27,861

\* Data includes all document types including those that are case activating events and those that are processes within a case.

Count is by child/young person.

\*\* Data includes all offence data (including regulatory and infringement notice offences listed before the court) and applications proceedings (excluding Applications pursuant to the Children and Young Persons (Care and Protection) Act 1998).

Count is by case. A case is counted more than once when transferred/adjourned from one Local Court location to another.

Children and young people with criminal offences and related application proceedings are counted separately in this data set.

Data may include some cases for young people dealt with by the Local Court for traffic offences pursuant to section 210 of the Criminal Procedure Act 1986.

# Children's Court Committees

## **Children's Court Advisory Committee**

Her Honour Judge Nell Skinner, President of the Children's Court NSW

His Honour Magistrate Albert Sbrizzi, Children's Magistrate, Children's Court NSW

Ms Sue Foley, Director of the Children's Court Clinic

Mr Ron Frankham, Legal Aid NSW

Ms Keisha Hopgood, Aboriginal Legal Service NSW

Ms Gemma Slack-Smith, Aboriginal Legal Service NSW

Superintendent Kirsty Heyward, NSW Police

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Ms Rachael Ward, NSW Department of Communities and Justice

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Mr Michael Waterhouse, Department of Education NSW

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Mr Bryce Groves, Young Person Representative

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Ms Sarah Collins, Judicial Commission of NSW

Ms Jessica Ahearn, Judicial Commission of NSW

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### **Children's Court Care Working Party**

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Ms Mary Gleeson, Acting Children's Registrar, Children's Court NSW

Ms Jaspreet Singh-Bains, Project Officer, Children's Court NSW

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Ms Katie Kelso, Legal Aid NSW

Ms Zoe De Re, Aboriginal Legal Service NSW

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Ms Rachael Ward, NSW Department of Communities and Justice

Ms Jennifer Wong, NSW Department of Communities and Justice

Mr Nick Mitrevski, Crown Solicitor's Office

Ms Joanna Mooney, Crown Solicitor's Office

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Mr James Clifford, Aboriginal Legal Service

Superintendent Kirsty Heyward, NSW Police

Superintendent Duane Carey, NSW Police

Chief Inspector Rebecca Becroft, NSW Police

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Mr Mike Wheaton, Youth Justice

Mr Michael Vita, Youth Justice

Mr John Kasinathan, Justice Health

Ms Trisha Lloyd, Justice Health

Mr Stan Small, Children's Court Assistance Scheme

Mr Lauren Sutton, Children's Court Assistance Scheme

Ms Michelle Blake, Education Court Liaison Officer

Ms Debborah Beckwith, Education Court Liaison Officer

Mr Gaston Bonnet, A Place to Go

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