



# Victims of Crime Assistance Tribunal 2008–09 Annual Report





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# Letter to Minister

24 September 2009

The Honourable Rob Hulls  
Attorney-General  
121 Exhibition Street

Dear Attorney-General,

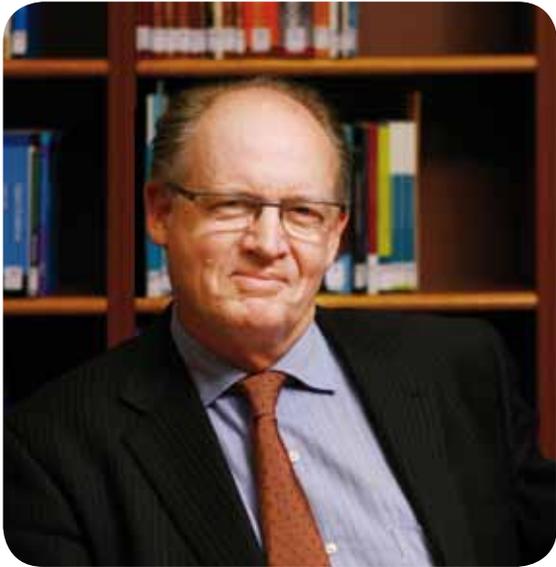
In accordance with the requirements of section 68 of the *Victims of Crime Assistance Act 1996*, I am pleased to present the annual report of the Victims of Crime Assistance Tribunal for the year ending 30 June 2009. The report sets out the Tribunal's functions, powers, duties, and the performance and operations of the Tribunal during the year under review.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'I. Gray', written in a cursive style.

Ian L Gray  
Chief Magistrate

# Chief Magistrate's Message



Chief Magistrate Ian Gray

The Victims of Crime Assistance Tribunal was established twelve years ago to acknowledge victims of crime in the Victorian community by providing financial assistance to assist them in recovery, and to acknowledge the trauma and distress suffered by many victims of crime.

Since its commencement, the Tribunal has received 44,070 applications for financial assistance, and awarded \$350 million to victims of crime by way of 36,532 awards of financial assistance, and thousands of urgent awards of interim financial assistance and variations to awards. This assistance ranged from meeting expenses incurred by victims as a result of the criminal act to meeting expenses into the future, particularly counselling expenses, aimed at assisting in their recovery.

The Tribunal seeks to determine all applications in a manner that treats victims with dignity and respect, is sympathetic and compassionate, timely, cost-effective and accessible.

## Increasing demand

In the year ending 30 June 2009, the Tribunal received and determined the highest number of applications, and awarded the highest amount of financial assistance under the *Victims of Crime Assistance Act 1996* in a single year since commencement of the Tribunal on 1 July 1997.

The number of applications for financial assistance made to the Tribunal has increased each year over the last five years, with an increase of 18 per cent in the year under review. Consistent with previous years, over half of the applications for assistance received in this reporting period related to allegations of assault. The Tribunal also observed that applications arising from assault, robbery and sexual offences (excluding rape) drove the increase in the number of applications for assistance made to the Tribunal in the reporting period.



The Tribunal continued to respond to the increasing demand for assistance by victims of crime by finalising more applications in the reporting period than in any previous year, and maintaining previous response times. While this result suggests that the Tribunal is assisting more victims of crime in their recovery from an act of violence, it presents real challenges for the Tribunal in managing the increase in applications, and continuing to provide a timely response to victims of crime.

### Tribunal initiatives to increase access and efficiency

In recognising and responding to the challenges associated with increasing demand, the Tribunal focused on improving victim access to interim financial assistance for urgent expenses pending the final determination of their applications for assistance.

In the Tribunal's last annual report, I advised that a key area of focus had been on victims' access to assistance for counselling expenses, recognising that many victims required urgent counselling before all the relevant material could be filed in support of their applications. Since then, the power of registrars to make interim awards of financial assistance increased, effective November 2008, enabling registrars to determine more applications for interim financial assistance than previously, and reducing the number of applications for interim financial assistance required to be referred to tribunal members for consideration. This initiative was intended to improve victim access to financial assistance for urgent expenses, such as requests for counselling, and to improve the efficiency of the Tribunal.

### Koori VOCAT List

The Koori VOCAT list commenced as a two-year pilot on 1 July 2006 to better achieve the purposes and objectives of the *Victims of Crime Assistance Act 1996* in relation to Indigenous applicants. The List was piloted in response to a growing body of evidence that suggested the Aboriginal community was disproportionately represented as victims of violent crime, but were not accessing the assistance available through the Tribunal at a corresponding level.

I am pleased to advise that from 1 July 2009, the Koori VOCAT List has operated as an ongoing part of the Tribunal's operations.

Since commencement of the List, the number of applications for assistance by Koori victims of crime has increased, the time taken to finalise those applications has decreased, and the Tribunal has been able to develop relationships with agencies to better assist Koori victims of crime.

*Continued on next page*

## Community engagement

The Tribunal continued to engage in a range of activities and initiatives aimed at increasing awareness of the entitlement of victims of crime to financial assistance through the Tribunal. These activities included undertaking or contributing to a large number of information sessions, forums and consultations in rural, metropolitan and Indigenous communities, and to service providers and legal practitioners.

The Tribunal demonstrated a proactive approach to applications arising from major incidents, including the Victorian bushfires that occurred in February 2009, with information sheets published by the Tribunal in March and June 2009 to assist people affected by the bushfires to better understand the role of the Tribunal and the assistance that may be available to them through the Tribunal.

## Acknowledgements

I wish to acknowledge the dedication and commitment of all registrars in continuing to perform their roles with efficiency and empathy in the administration of the Tribunal. I particularly wish to acknowledge the enormous impact that registrars have had on the work of the Tribunal through their increased authority to make interim awards of financial assistance to victims of crime. In doing this important work, the registrars have been supported through training and the provision of clear guidelines.

The Tribunal's Coordinating Committee, which comprises magistrates and registrars, oversees the work of the Tribunal. The Committee works diligently throughout the year, meeting regularly to consider issues relating to the operation of the Tribunal. I thank those magistrates and registrars of the Committee for their leadership and commitment.

Magistrate Heather Spooner was Supervising Magistrate of the Tribunal from January 2008 to April 2009. I wish to thank her for the work undertaken in this role, and in particular, to acknowledge her active engagement with the community through the regional victim service forums. I also wish to thank Magistrates Susan Wakeling and Amanda Chambers for jointly undertaking the role of Supervising Magistrate from April 2009, and acknowledge their ongoing liaison with relevant victim support services and agencies, including the Victims Support Agency within the Department of Justice.

Finally, I thank the magistrates of the Magistrates' Court of Victoria. Each magistrate performs the role of a tribunal member. As the number of applications for assistance continues to increase, it is a credit to the work and commitment of the Tribunal that it continues to respond both efficiently and with sympathy to the needs of victims of crime in Victoria.

## Structure of report

This report is structured to provide readers with an explanation of the Tribunal's functions, powers, and duties, followed by a report on the performance and operation of the jurisdiction in the year under review (including the number of applications received and determined, the outcome of applications, and the amount of financial assistance awarded).

Statistical information for the last three years is provided in tables at the end of the report. While some additional tables have been included, the format of the report and the statistical information presented is consistent with that of previous years to support longer term trend analysis.

The Tribunal's previous annual reports are published on its website at [www.vocat.vic.gov.au](http://www.vocat.vic.gov.au).

# Tribunal Role and Procedure

The Victims of Crime Assistance Tribunal (the Tribunal) was established by the *Victims of Crime Assistance Act 1996* (the Act) to acknowledge and provide assistance to victims of violent crime committed in Victoria, when financial assistance cannot be obtained from any other source. The Tribunal is intended to be a sympathetic and compassionate forum for applicants to relate their experience as victims of crime.

In this section of the report, the Tribunal presents information regarding the process for making and determining an application for financial assistance.

## When the Tribunal may award financial assistance

The Tribunal may award financial assistance to an applicant if it is satisfied, on the balance of probabilities, that:

- an act of violence has occurred;
- the applicant is a primary, secondary or related victim of that act of violence, or a person who has incurred funeral expenses as a direct result of the death of a primary victim;
- the applicant is eligible to receive the assistance; and
- the applicant is not eligible to receive financial assistance from another source for the loss or expense sought from the Tribunal.

Each of these elements is explained in this section of the report.

The Tribunal may award financial assistance even though no person has been charged with, found guilty of, or convicted of an offence arising from the act of violence committed.

## Definition of *act of violence*

In summary, an *act of violence* is a criminal offence punishable by imprisonment which causes an injury to a person, and which was committed in Victoria. The full definition is provided within section 3 of the *Victims of Crime Assistance Act 1996*.

## Definition of *primary victim*

The Act defines a *primary victim* of an act of violence to be:

- a person who is injured or dies as a *direct result* of an act of violence *committed against him or her*; or
- a person who was injured or dies as a result of rendering assistance to a person believed to be the victim of an act of violence, or trying to prevent a crime, or trying to arrest a person believed to have committed a crime.

## Definition of *secondary victim*

The Act defines a *secondary victim* of an act of violence to be:

- a person who is present at the scene of an act of violence and who is injured as a *direct result of witnessing* that act; or
- a person who is injured as a *direct result of* becoming aware of an act of violence committed against a primary victim, and they are the parent or guardian of the primary victim, and the primary victim was under the age of 18 years at the time of the commission of that act.

## Definition of *related victim*

The Act defines a *related victim* of an act of violence to be a person who, at the time of the occurrence of the act of violence, was:

- a close family member of a primary victim who died as a *direct result* of the act of violence;
- a dependent of a primary victim who died as a *direct result* of the act of violence; or
- a person who had an intimate personal relationship with a primary victim who died as a *direct result* of the act of violence.

## Definition of *injury*

*Injury* is defined by the Act to mean any of, or a combination of: actual physical bodily harm; mental illness or disorder, or an exacerbation of a mental illness or disorder; or pregnancy. This definition does not include injury arising from loss of or damage to property.

## Financial assistance that may be awarded

The awards of financial assistance that the Tribunal may make are for:

- expenses that were actually incurred, or are reasonably likely to be incurred, by the applicant for reasonable counselling and medical expenses that will assist in their recovery from the act of violence;
- expenses incurred by the applicant for loss or damage to clothing worn at the time of the commission of the act of violence (primary victims only);
- loss of earnings suffered, or reasonably likely to be suffered, by the applicant as a direct result of the act of violence (primary and secondary victims only);
- funeral expenses actually and reasonably incurred, or reasonably likely to be incurred, by the applicant as a direct result of the death of a primary victim (does not have to be a related victim); and
- in exceptional circumstances, other reasonable expenses that will assist an applicant in their recovery from an act of violence.

The Tribunal cannot award financial assistance for expenses incurred through the loss of, or damage to, property as a result of an act of violence, except clothing worn at the time of the act of violence.

## Eligibility to receive assistance

In determining whether or not to make an award of financial assistance, or the amount of financial assistance to award, the Tribunal must have regard to the following:

- whether the criminal act was reported to police within a reasonable time;
- the assistance provided by the applicant to police to investigate or prosecute the alleged act of violence;
- the conduct and attitude of the applicant prior to, during and after the act of violence;
- the character of the applicant, including past criminal activity;
- whether the offender will benefit from an award of financial assistance made to the applicant;
- any damages that the applicant has recovered from the offender; and
- any compensation, assistance or payment that the applicant has received, or is entitled to receive, from agencies such as WorkCover, the Transport Accident Commission and insurance schemes.

In all applications, the amount of financial assistance awarded to an applicant to assist in their recovery from an act of violence must be reasonable, and directly arise from the act of violence.

## Entitlement to financial assistance from other sources

The Tribunal is intended to provide financial assistance to assist a victim of crime with expenses when assistance is not available from other sources.

If the Tribunal determines that an award of financial assistance should be made to an applicant, and the applicant has received, or is entitled to receive, any compensation, assistance or payments of any other kind in relation to the loss, expense or any other matter for which assistance is sought from the Tribunal, the Tribunal may reduce the amount of assistance that may otherwise be available to the applicant from the Tribunal.

## Making an application for financial assistance

An application to the Tribunal for financial assistance must be made in writing by completing and lodging an *Application for Assistance* form. Application forms may be downloaded from the Tribunal's website at [www.vocat.vic.gov.au](http://www.vocat.vic.gov.au), or obtained from any venue of the Magistrates' Court of Victoria. There is no fee associated with lodging an application for financial assistance with the Tribunal.

An application to the Tribunal must include information about the act of violence; the injury or death arising from that act; whether the act was reported to police; the amount and type of assistance sought; whether the applicant has applied for damages, compensation, assistance or payments of any kind under any other schemes (such as the Transport Accident Commission or WorkCover); and details of any relevant insurance cover.

## Where applications are to be lodged

In most situations, an application for assistance may be lodged at a venue of the Tribunal that is closest to an applicant's place of residence. Circumstances in which applications are required to be lodged at Melbourne include applications that relate to the death of a person, or where the applicant resides outside of Victoria. All venues of the Magistrates' Court of Victoria are venues of the Tribunal. The location and contact details of all Tribunal venues are provided at the end of this report.

## Tribunal procedure upon the lodgement of an application for financial assistance

### Information about the act of violence

The Tribunal relies primarily upon information from Victoria Police in determining whether the alleged act of violence that is the subject of an application for assistance occurred, and whether the applicant is a victim of that act of violence.

In all applications for assistance, the Tribunal will request information from Victoria Police regarding the act of violence the subject of the application for assistance, and information regarding the criminal history (if any) of the applicant.

The Tribunal will write to Victoria Police to request this information shortly after an application for financial assistance is received, and a response is usually provided to the Tribunal within four to eight weeks of the request being made. On occasion, police may still be investigating a reported crime when they receive a request from the Tribunal for information. In this situation, police are required to advise the Tribunal of the status of the investigation, and provide further information as it becomes available. The Tribunal will usually wait until all of the relevant information has been provided by police before determining an application for assistance.

### Information about the injury

After an application for assistance has been lodged with the Tribunal, the applicant will be requested to provide all documentation upon which they intend to rely in support of their application.

If a person is applying for financial assistance to assist them in their recovery from a *physical injury*, they are required to provide a report to the Tribunal from the health professional who treated them, demonstrating that the injury they sustained is a direct result of the alleged criminal act that is the subject of their application for assistance.

If a person is applying for financial assistance to assist them in their recovery from a *psychological injury*, they are required to provide a report to the Tribunal from a psychologist, psychiatrist or other medical practitioner regarding that injury. The Tribunal's requirements regarding such reports are detailed in the Chief Magistrate's Practice Directions 1/2008 and 2/2008, which may be downloaded from the Tribunal's website at [www.vocat.vic.gov.au](http://www.vocat.vic.gov.au). A person making an application for assistance as a related victim is not required to prove that they sustained an injury in order to be eligible for an award for the distress experienced by them as a result of the loss of a loved one.



An example of a tribunal hearing in progress before Tribunal Member Muling

### Applications by persons seeking assistance as a related victim

When a person makes an application for assistance as a related victim of a deceased primary victim, they are required to identify every other person (name, address and relationship to the deceased) who they believe may be a related victim of the deceased. Upon receiving an application from a person claiming assistance as a related victim, the Tribunal will write to all persons identified in the application as potential related victims to advise them of their possible right to apply to the Tribunal for financial assistance, and to explain the process for making an application.

The Tribunal will not usually determine applications for assistance made by related victims until it is satisfied that all potential related victims have been identified, and they have been provided an opportunity to make an application for financial assistance. This is because the Tribunal may only award a maximum amount of \$100,000 to all related victims of any one deceased primary victim.

### Hearings

The Tribunal will determine whether a hearing is required in each application for assistance.

An applicant may elect to attend a hearing. The Tribunal recognises that a hearing often provides an avenue for an applicant to relate their experience, and to receive open acknowledgement and validation that they have been a victim of crime. An applicant will indicate whether they wish to attend a hearing on their application for assistance.

Despite a request that an application be determined without a hearing, the Tribunal may decide to conduct a hearing. In these circumstances, the Tribunal may hear evidence and consider legal submissions.

A hearing conducted by the Tribunal is open to the public unless the Tribunal closes or restricts access to the hearing. The Tribunal may close a hearing to protect an applicant from embarrassment, damage to reputation, stress or distress, and must close the hearing where the primary victim is a child or a person who suffers a cognitive impairment.

The rules of evidence and procedure are relaxed at a hearing to facilitate an informal and accessible process for the benefit of applicants. The Tribunal will usually use a courtroom at a venue of the Magistrates' Court to conduct a hearing. In appropriate circumstances, the applicant or a witness can participate in a hearing from another location through the use of video conference technology.

In some situations, including instances where criminal charges did not proceed or the defendant was acquitted, the Tribunal will consider it appropriate to notify the alleged offender of the application. This is done to afford the alleged offender an opportunity to participate in the proceedings as a matter of fairness.

If the Tribunal is considering notifying the alleged offender, the applicant will be informed of this and be provided an opportunity to advise the Tribunal of the impact that this may have on them. The Tribunal will have regard to the applicant's view in determining whether the alleged offender will be notified of the application. If the Tribunal determines that the alleged offender is to be notified of the application, alternative arrangements can be made by the Tribunal for the hearing, such as having the applicant give evidence from a remote facility.

### **Amount of financial assistance that may be awarded**

The amount of financial assistance that the Tribunal may award is limited to specific categories of expense that a victim of crime has incurred, or is reasonably likely to incur in the future, to assist them in their recovery from the act of violence. The amount of financial assistance that may be awarded varies between primary, secondary and related victims.



Tribunal Member Broughton in chambers

### **Financial assistance available to primary victims**

The Tribunal may award a primary victim financial assistance of up to \$60,000 for reasonable counselling expenses, medical expenses, loss of earnings (maximum of \$20,000), and loss of or damage to clothing worn at the time of the commission of the act of violence. In exceptional circumstances, an award of financial assistance may be made (within the \$60,000 limit) for other reasonable expenses that will assist in a primary victim's recovery. For example, the Tribunal may be satisfied that an applicant who was assaulted in their home will be assisted in their recovery through an award of financial assistance for the installation of a security system at their home. The Tribunal may also award special financial assistance of up to \$10,000 in some circumstances, which is over and above the maximum amount of \$60,000 that may be awarded for expenses and loss of earnings.

## Financial assistance available to secondary victims

The Tribunal may award a secondary victim financial assistance of up to \$50,000 for reasonable counselling and medical expenses incurred as a direct result of an act of violence. In exceptional circumstances, an award may be made (within the \$50,000 limit) for loss of earnings (maximum of \$20,000), and some secondary victims may be entitled to other reasonable expenses that will assist in their recovery from the act of violence.

## Financial assistance available to related victims

Any one related victim may be awarded financial assistance of up to \$50,000 for expenses directly resulting from an act of violence, including counselling, medical and funeral expenses. Where there is more than one related victim of a deceased primary victim, the maximum cumulative amount that may be awarded to all the related victims is \$100,000. A related victim is eligible for an award for distress experienced as a result of the death of a primary victim, and, in exceptional circumstances, for other reasonable expenses that will assist in a related victim's recovery. A dependant of a deceased primary victim may receive an award representative of their loss of the deceased person's financial support.

## Financial assistance for funeral expenses

A person who has incurred funeral expenses as a direct result of the death of a primary victim of an act of violence, and who is not a related victim of the deceased primary victim, may be awarded financial assistance for reasonable funeral expenses.

## Special financial assistance

An award of special financial assistance to a primary victim is a payment to the victim on behalf of the community in recognition of the victim having suffered harm as a direct result of an act of violence.

A primary victim does not have to have suffered a physical or psychological injury to be eligible for an award of special financial assistance. Where a primary victim has suffered a *significant adverse effect* as a result of the crime being committed against them, the Tribunal may award special financial assistance, which is over and above the limit of \$60,000 that may be awarded by the Tribunal for counselling and medical expenses, loss of income and other expenses incurred by the primary victim as a direct result of the crime. *Significant adverse effect* is defined by the *Victims of Crime Assistance Act 1996* to mean any grief, distress, trauma or injury experienced or suffered by the victim as a direct result of the act of violence.

The amount of special financial assistance that may be awarded by the Tribunal is determined by the categorisation of the act of violence (categories A to D), and the particular circumstances of the victim or the injury suffered. Category A acts of violence include serious sexual offences, attempted murder and acts that cause very serious physical injury; category B acts of violence include indecent assault and armed robbery; category C acts of violence include offences involving threats of death and conduct endangering life and other serious offences committed against the elderly, the very young or the impaired; and category D acts of violence include offences involving a threat of injury, assault and attempted assault.

The minimum and maximum amounts of special financial assistance that may be awarded in relation to each category are set out in section 8A(5) of the *Victims of Crime Assistance Act 1996*, and varies based upon when the act of violence occurred. Until 2007, the maximum amount of special financial assistance that could be awarded to a primary victim was \$7,500. Following amendments to the Act, the maximum amount of special financial assistance that may be awarded increased to \$10,000, for acts of violence committed on or after 1 July 2007.

Primary victims of an act of violence are eligible for a *minimum award* of special financial assistance where the Tribunal is satisfied that the victim experienced a *significant adverse effect* as a result of the act of violence. An additional amount may be awarded, up to the *maximum level* of the relevant category, where the Tribunal is satisfied that the victim has suffered an *injury* as a *direct result* of the act of violence. An award of special financial assistance may be reduced or refused by the Tribunal having regard to an applicant's conduct or character, or entitlement to compensation or assistance from alternative sources.

Where the impact of an offence has been particularly serious, or where a victim of crime is vulnerable due to their age or disability, there is capacity for the Tribunal to increase the amount of special financial assistance awarded to an applicant (not exceeding \$10,000). The circumstances in which the Tribunal may increase the maximum amount of special financial assistance that may be awarded to a particular applicant are detailed in sections 6, 7 and 8 of the *Victims of Crime (Special Financial Assistance) Regulations 2000*.

Generally, special financial assistance is only available to primary victims who suffered a significant adverse effect or injury as a result of an act of violence committed on or after 1 July 2000. The exception to this is certain victims of childhood sexual offences, who may be entitled to an award of special financial assistance for sexual offences committed prior to 1 July 2000. Not all victims of childhood sexual abuse that occurred prior to 1 July 2000 will be eligible for special financial assistance.

## Distress

The amount of financial assistance awarded to a related victim may include payment to acknowledge distress caused by the death of the primary victim, or in the case of a child who is too young to appreciate the loss, the distress that is likely to occur in the future.

## Medical expenses

The *Victims of Crime Assistance Act 1996* defines the term *medical expense* to include dental, optometry, physiotherapy, psychology treatment, hospital and ambulance expenses.

## Loss of earnings

Financial assistance for loss of earnings awarded by the Tribunal is for earnings lost by a primary or secondary victim as a direct result of their total or partial incapacity for work during a period of up to two years after the occurrence of the act of violence. An award of assistance for loss of earnings is only available after all other entitlements have been exhausted, including those available from Centrelink, WorkCover and the Transport Accident Commission.

## Other expenses to assist recovery

In exceptional circumstances, the Tribunal may also include in the amount of assistance awarded to a primary, secondary or related victim an amount for other non-medical and non-counselling expenses actually and reasonably incurred, or reasonably likely to be incurred in the future, by the victim to assist in their recovery from an act of violence. The Tribunal has awarded financial assistance for a range of expenses to assist recovery, including educational expenses, relocation expenses and expenses associated with securing a home.

The Tribunal must be satisfied that *exceptional circumstances* exist to justify the expense, and each application must be considered on its merits in light of all the circumstances. On considering the merits and circumstances, consideration should be given to whether the circumstances are unusual, special or out of the ordinary; whether the expense is reasonable; whether the expense is likely to assist the victim in their recovery from an act of violence; and whether the expense goes to the heart of assisting the applicant in their recovery.

## Legal and associated expenses

A lawyer cannot charge an applicant costs in respect of an application to the Tribunal, unless the Tribunal approves those costs. Where an application for financial assistance is successful, the reasonable legal costs associated with making the application will usually be paid by the Tribunal, directly to the lawyer.

The Chief Magistrate has published Guidelines to aid tribunal members in determining the amount of legal costs to be ordered by the Tribunal in relation to legal practitioner preparation and appearance fees (refer to Guideline 1/2007, available from the Tribunal's website at [www.vocat.vic.gov.au](http://www.vocat.vic.gov.au)).

An application may be made to the Tribunal for the reasonable costs associated with obtaining necessary reports from doctors and/or psychologists.

## Awards of financial assistance for expenses not yet incurred

The Tribunal may award financial assistance for expenses that have not yet been incurred, but which are reasonably likely to be incurred in the future. Amounts of financial assistance awarded for expenses not yet incurred can only be paid by the Tribunal on the submission of an invoice or receipt relating to the expense, once that expense has been incurred. Examples of such expenses include future counselling sessions or surgery, or the installation of a home security system to assist a victim in their recovery from the act of violence.

As an awarded expense may not be incurred for some time, and is only paid by the Tribunal upon an invoice or receipt being filed, the expense may not be paid in the reporting period in which it was awarded. In some circumstances, a victim may not fully avail themselves of the service or expense that has been awarded. For example, while financial assistance for ten future counselling sessions may have been awarded by the Tribunal, a victim may find that five sessions are adequate. In this situation, the Tribunal would only pay for five counselling sessions, upon the submission of an invoice or receipt relating to that expense.

Any financial assistance awarded but not paid to, or for the benefit of, a person within six years after the assistance was awarded ceases to be payable, unless it is held on trust for that person. For example, if the Tribunal awarded financial assistance of up to \$1,300 for ten future counselling sessions, and the applicant has not utilised those counselling sessions within six

years of the award being made, the applicant would not be entitled to claim expense from the Tribunal for those counselling sessions if they accessed the counselling more than six years after the assistance was awarded.

## Awards held on trust

Awards of financial assistance made for persons under a disability are paid to the Senior Master of the Supreme Court of Victoria (Funds in Court), to be held on trust on behalf of those persons. A *person under disability* is defined by the *Victims of Crime Assistance Act 1996* to mean a minor, or a person who is incapable due to injury, disease, senility, illness or physical or mental infirmity of managing his or her affairs in relation to the proceeding.

## Interim awards of financial assistance

Pending the final determination of an application for financial assistance, the Tribunal may award interim financial assistance for expenses directly arising from the alleged act of violence that will assist a victim in their recovery. Interim awards of financial assistance are usually of an urgent nature, and most often made for counselling and funeral expenses. Interim awards of assistance may be made for other expenses, such as urgent relocation, security and accommodation, in appropriate circumstances.

Tribunal members may award interim financial assistance for an amount not exceeding the limits that may be awarded to primary, secondary or related victims. Until April 2008, registrars could determine applications for interim awards of assistance for expenses not exceeding a cumulative maximum of \$1,000. As a result of an amendment to the *Victims of Crime Assistance (Delegation) Regulations 2003*, the amount of interim financial assistance that may be awarded by registrars increased to a cumulative maximum of \$5,000. Registrars commenced determining applications for interim financial assistance of up to \$5,000 from November 2008.<sup>1</sup>

<sup>1</sup> Refer to the *Administration of the Tribunal* section of this report for further information regarding interim awards of financial assistance determined by registrars.

## Variation of awards

The Tribunal may vary an award of financial assistance if an application for variation is made within six years of the award being made, or up to the applicant attaining the age of 24 years if they were under the age of 18 years at the time the award was made.<sup>2</sup>

Awards of financial assistance are varied in circumstances where a victim requires further financial assistance to assist them in their recovery from an act of violence. For example, a victim may have been awarded financial assistance for ten counselling sessions upon the determination of an application for financial assistance, but it is identified at the conclusion of those counselling sessions that further sessions are required to assist the victim to recover from the act of violence. The Tribunal may award further financial assistance to an applicant in these circumstances as a variation to the original award, if satisfied that the proposed expense is reasonable in the circumstances, and likely to assist the victim in their recovery.

The amount of financial assistance awarded on variation cannot exceed the maximum amount of financial assistance that may be awarded to a primary, secondary or related victim.

## Time taken to determine an application for assistance

The time taken to finalise an application for financial assistance will vary between applications. The Tribunal will usually await the outcome of the police investigation into an alleged act of violence before finalising an application, and in some cases, may decide to await the outcome of criminal charges arising from an alleged act of violence. Where an application for assistance is made in relation to a deceased primary victim, the Tribunal may decide to await the outcome of a coronial investigation before determining the application for assistance. On occasion, the Tribunal may require that further investigations be undertaken in relation to an application, or determine that it is appropriate that the alleged offender be notified of the application. The Tribunal may also decide to wait for an applicant's injury to stabilise before determining an application so that an accurate prognosis can be made regarding that injury.

The trauma experienced by victims of crime as a result of an act of violence can impact on their ability to respond to the requirements of the Tribunal in a timely way. It is not always in the best interests of the applicant, or in the interests of justice, to proceed quickly. The Tribunal has capacity, in appropriate circumstances, to finalise applications when the applicant confirms their readiness. The Tribunal is able to respond to an applicant's urgent needs by way of interim awards of financial assistance pending the final determination of an application.

## Applications for review

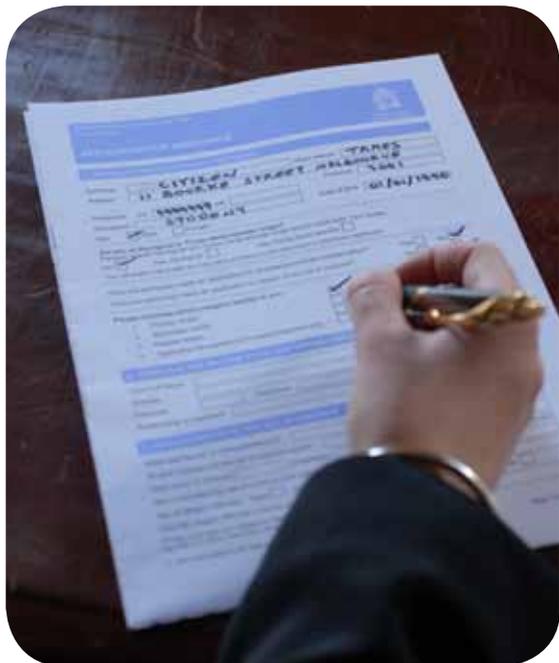
Applicants who are dissatisfied with a decision of the Victims of Crime Assistance Tribunal (VOCAT) may request that the decision be reviewed by the Victorian Civil and Administrative Tribunal (VCAT). Upon review, VCAT may confirm or vary the original order, set aside the original order and make a new order, or set aside the original order and return the application to the original decision-maker to be reconsidered.

VOCAT, as primary decision-maker, will actively participate in the review of its decisions, and will usually engage the Victorian Government Solicitor's Office to represent it at VCAT.

On review, VCAT has all of the functions of VOCAT. VCAT's functions in reviewing a decision of VOCAT are not appellate. A review hearing at VCAT is a new hearing of the application for financial assistance, and VCAT must determine the application for assistance on the evidence before it. Parties may put evidence to VCAT that was not presented to VOCAT.

<sup>2</sup> This limit applies to awards of assistance made under the *Victims of Crime Assistance Act 1996*.

# Commentary on Applications Lodged, Determined and Financial Assistance Awarded



In this section of the report, the Tribunal presents information regarding the number of applications for assistance made and finalised, the number of awards of assistance made, the amount of financial assistance awarded, applications to review Tribunal decisions, and case processing times. Reference can be made to the previous chapter for information about when the Tribunal may award financial assistance, and the amount of assistance that may be awarded.

## Summary

In the 12 months ending 30 June 2009, the Tribunal awarded \$38,763,690 in financial assistance to victims of crime, compared to \$35,824,920 in the previous year (increase of eight per cent). This amount comprised \$30,619,752 for expenses incurred and payments for special financial assistance, distress, loss of earnings and legal costs, compared to \$28,737,790 in the previous year (increase of seven per cent), and financial assistance of \$8,143,939 for expenses not yet incurred, compared to \$7,087,130 in the previous year (increase of 15 per cent).

## Applications for assistance lodged

In the year ending 30 June 2009:

- 5,702 applications for financial assistance were lodged with the Tribunal, compared to 4,820 in the previous year (increase of 18 per cent). This is the highest number of applications lodged in a single year since the Tribunal commenced on 1 July 1997<sup>3</sup>.
- 2,905 applications were made by male applicants, compared to 2,396 in the previous year (increase of 21 per cent).
- 2,797 applications were made by female applicants, compared to 2,424 in the previous year (increase of 15 per cent).
- 49 per cent of applications for assistance were made by female applicants, compared to 50 per cent in the previous year.

<sup>3</sup> An application for assistance may not be made until months, or in some cases years, after an act of violence occurs. The increase in applications for assistance lodged in the reporting period may not be driven by acts of violence committed over the same period.

- The increase in the number of applications was largely driven by an increase in applicants seeking assistance as victims of assault offences<sup>4</sup>, sex (non-rape) offences<sup>5</sup> and robbery offences. Applications arising from allegations of assault comprised 56 per cent of all applications for assistance lodged, compared to 54 per cent in the previous year<sup>6</sup>.
- The Tribunal received 3,194 applications where the act of violence was identified as an *assault* offence, compared to 2,623 in the previous year (increase of 22 per cent). Applications by male applicants within this category increased by 22 per cent (1,980 applications, compared to 1,619 in the previous year), while applications by female applicants within this category increased by 21 per cent (1,214 applications, compared to 1,004 in the previous year).
- The Tribunal received 798 applications where the act of violence was identified as a *sex (non-rape)* offence, compared to 653 in the previous year (increase of 22 per cent). Applications by male applicants within this category increased by 53 per cent (188 applications, compared to 123 in the previous year), while applications by female applicants within this category increased by 15 per cent (610 applications, compared to 530 in the previous year).
- The Tribunal received 286 applications where the act of violence was identified as a *robbery* offence, compared to 221 in the previous year (increase of 29 per cent). Applications by male applicants within this category increased by 31 per cent (181 applications, compared to 138 in the previous year), while applications by female applicants within this category increased by 27 per cent (105 applications, compared to 83 in the previous year).

## Outcome of finalised applications for financial assistance

### Outcome of applications

Of the applications for financial assistance finalised in the year ending 30 June 2009:

- 5,002 orders were made finalising claims, compared to 4,743 in the previous year (increase of five per cent). Of the orders made, 71 per cent were awards of financial assistance, which is consistent with the previous year (70 per cent)<sup>7</sup>.
- 3,547 awards of financial assistance were made, compared to 3,343 in the previous year (increase of six per cent).
- 125 applications were refused, compared to 113 in the previous year (increase of 11 per cent). The number of applications that were refused comprised 2.5 per cent of all orders made in the reporting period, which is consistent with the previous year (2.4 per cent).
- 1,324 applications were withdrawn by the applicant or struck out by the Tribunal, compared to 1,283 in the previous year (increase of three per cent).
- 2,999 awards of financial assistance were made to primary victims, compared to 2,768 in the previous year (increase of eight per cent). As in previous years, the majority of awards were made to primary victims (85 per cent).
- 263 awards of financial assistance were made to secondary victims, compared to 248 in the previous year (increase of six per cent). Secondary victims represented seven per cent of all awarded applicants, which is consistent with the previous year.

<sup>4</sup> The *Assault* category includes offences such as intentionally/recklessly causing serious injury, reckless conduct endangering life, unlawful assault, and assault with a weapon.

<sup>5</sup> The *Sex (non-rape)* category includes offences such as indecent assault, incest, and sexual penetration of a child.

<sup>6</sup> The acts of violence for awarded applicants have been grouped according to the broad offence categories used by Victoria Police in reporting crime statistics.

<sup>7</sup> An application for financial assistance is finalised by the application being granted (that is, an award of financial assistance is made), refused, struck out or withdrawn. Where an application is not granted, it is more often withdrawn by the applicant or struck out by the Tribunal for failure to provide supporting material or respond to correspondence, rather than refused by the Tribunal. Only a small proportion of applications for financial assistance are refused.

- 270 awards of financial assistance were made to related victims, compared to 298 in the previous year (decrease of nine per cent). Related victims represented eight per cent of all awarded applicants, which is consistent with the previous year.
- 412 awards of financial assistance were ordered by the Tribunal to be held on trust, compared to 457 in the previous year (decrease of ten per cent). Awards ordered to be held on trust represented 12 per cent of all awards made in the reporting period.
- 49 per cent of awarded applicants were female, compared to 50 per cent in the previous year.
- The act of violence in 57 per cent of applications where an award was made was an assault offence (compared to 55 per cent in the previous year), followed by non-rape sex offences (14 per cent, compared to 16 per cent in the previous year), and homicide offences (ten per cent, compared to 11 per cent in the previous year).

#### **Amount of financial assistance awarded on final determination of applications**

In the year ending 30 June 2009:

- \$31,788,999 in financial assistance (including legal costs) was awarded to victims of crime on the determination of applications for financial assistance, compared to \$29,998,100 in the previous year (increase of six per cent).
- Of the total amount of financial assistance awarded upon the determination of applications for assistance, 84 per cent was awarded as a payment to applicants or service providers for expenses *already incurred* by applicants at the time that the award was made, special financial assistance, distress, loss of earnings and legal costs (compared to 85 per cent in the previous year), while 16 per cent was awarded for expenses *not yet incurred* by applicants (compared to 15 per cent in the previous year).

- The average amount of financial assistance awarded on determination of an application for assistance was \$7,960 (excluding legal costs), compared to \$8,012 in the previous year (decrease of one per cent).

#### **Financial assistance awarded for expenses *already incurred***

In the year ending 30 June 2009:

- \$23,194,837 in financial assistance (excluding legal costs) was awarded to applicants for expenses already incurred, and payments for special financial assistance, distress and loss of earnings compared to \$22,296,443 in the previous year (increase of four per cent).
- The average amount of financial assistance awarded for expenses already incurred, costs and payments for special financial assistance, distress and loss of earnings was \$6,539, compared to \$6,670 in the previous year (decrease of two per cent).

#### **Awards of financial assistance for expenses *not yet incurred***

In the year ending 30 June 2009:

- Of the awards of financial assistance made, 1,638 awards included financial assistance for expenses not yet incurred, compared to 1,511 in the previous year (increase of eight per cent).
- \$5,039,637 in financial assistance was awarded for expenses not yet incurred, compared to \$4,489,210 in the previous year (increase of 12 per cent).
- The average amount of financial assistance awarded for expenses not yet incurred was \$3,077, compared to \$2,971 in the previous year (increase of four per cent).

## Special financial assistance

In the year ending 30 June 2009:

- \$8,414,420 in special financial assistance was awarded to primary victims on the determination of applications for financial assistance, compared to \$7,716,252 in the previous year (increase of nine per cent).
- The average amount of special financial assistance awarded to primary victims was \$2,806, compared to \$2,788 in the previous year (increase of one per cent).
- Special financial assistance comprised 30 per cent of the total amount of financial assistance awarded on the determination of applications for assistance (excluding legal costs), which is slightly higher than the previous year (29 per cent).
- The Tribunal awarded the highest annual amount of special financial assistance since its introduction on 1 July 2000. This is attributed to the increase in the number of applications for assistance made to the Tribunal by primary victims, and the increase in the amount of special financial assistance that could be awarded from 1 July 2007 (for acts of violence committed on or after that date).

## Distress

In the year ending 30 June 2009:

- \$4,667,090 was awarded to related victims for distress on the determination of applications for financial assistance, compared to \$5,613,320 in the previous year (decrease of 17 per cent). The decrease in the amount awarded for distress is attributed to a lower number of related victim awards being determined in the reporting period in comparison to the previous year.
- The average amount of financial assistance awarded to related victims for distress was \$17,286, compared to \$18,837 in the previous year (decrease of eight per cent).

## Loss of earnings

In the year ending 30 June 2009, \$3,147,965 in financial assistance was awarded for loss of earnings on the determination of applications for assistance, compared to \$2,747,839 in the previous year (increase of 15 per cent).



## Medical expenses

In the year ending 30 June 2009, \$2,362,651 in financial assistance was awarded for medical expenses on the determination of applications for assistance, compared to \$2,005,452 in the previous year (increase of 18 per cent). This amount comprises:

- \$1,532,381 in financial assistance for medical expenses *already incurred* by the applicant, compared to \$1,270,703 in the previous year (increase of 21 per cent).
- \$830,270 in financial assistance for medical expenses *not yet incurred*, compared to \$734,749 in the previous year (increase of 13 per cent).

## Other expenses to assist recovery

In the year ending 30 June 2009, \$6,614,975 in financial assistance was awarded for non-medical and non-counselling expenses on the determination of applications for assistance, compared to \$5,630,186 in the previous year (increase of 17 per cent). This amount comprises:

- \$3,888,773 in financial assistance awarded for non-medical and non-counselling expenses *already incurred*, compared to \$3,347,904 in the previous year (increase of 16 per cent).
- \$2,726,202 in financial assistance awarded for non-medical and non-counselling expenses *not yet incurred*, compared to \$2,282,282 in the previous year (increase of 19 per cent).

## Counselling expenses

A large proportion of the financial assistance awarded for counselling services is awarded as interim financial assistance and upon the variation of awards. As such, detailed information regarding the overall amount of financial assistance awarded for counselling services is set out in the *Financial Assistance for Counselling* section of this report on page 24, and the *Statistical Report* chapter of this report on page 48.

## Legal costs

Legal costs are usually ordered by the Tribunal to be paid upon the determination of successful applications. In the year ending 30 June 2009:

- \$3,554,526 in legal costs (including disbursements) were ordered to be paid, compared to \$3,212,447 in the previous year (increase of 11 per cent).
- the average amount of legal costs ordered to be paid was \$1,002, compared to \$961 in the previous year (increase of four per cent).<sup>9</sup>

The increase in the amount of legal costs ordered to be paid by the Tribunal in comparison to previous years is attributed to the increase in the number of applications for assistance lodged and determined.

## Interim awards of financial assistance

In the year ending 30 June 2009:

- \$4,115,176 in interim financial assistance was awarded, compared to \$2,970,122 in the previous year (increase of 39 per cent). Of the interim financial assistance awarded:
  - \$2,880,270 was awarded by tribunal members, compared to \$2,754,463 in the previous year (increase of five per cent).
  - \$1,234,906 was awarded by registrars, compared to \$215,658 in the previous year (increase of 473 per cent).<sup>10</sup>
- Of the total amount of interim financial assistance awarded, 48 per cent was awarded for expenses *already incurred* by applicants at the time the application was determined, while 52 per cent was awarded for expenses *not yet incurred*, which is consistent with previous years.
- 61 per cent of the interim financial assistance awarded was for counselling expenses (reports and sessions), compared to 55 per cent in the previous year.

<sup>9</sup> *Average legal costs* ordered has been calculated by dividing the total amount ordered to be paid for legal costs by the number of awards of financial assistance made. Note that legal costs may be ordered even where an application for financial assistance is refused, or on the variation of an award.

<sup>10</sup> Refer to the *Administration of the Tribunal* section of this report for information on the action taken by the Tribunal to increase the number of interim awards of financial assistance made by registrars.



### Awards of interim financial assistance for expenses *already incurred*

In the year ending 30 June 2009:

- 2,351 applications for interim financial assistance for expenses already incurred by applicants were finalised, compared to 1,784 in the previous year (increase of 32 per cent).
- 94 per cent applications for interim financial assistance for expenses already incurred were granted, which is consistent with the previous year.
- 2,200 interim awards of financial assistance were made for expenses already incurred, compared to 1,671 in the previous year (increase of 32 per cent). The number of interim awards of assistance made by decision-maker was as follows:
  - 1,368 interim awards of financial assistance were made by tribunal members, compared to 1,364 in the previous year; and
  - 832 interim awards of financial assistance were made by registrars, compared to 307 in the previous year (increase of 171 per cent).

- Of the interim awards of financial assistance made for expenses already incurred, 38 per cent were made by registrars, compared to 18 per cent in the previous year.
- \$1,976,073 in interim financial assistance was awarded for expenses already incurred, compared to \$1,426,018 in the previous year (increase of 39 per cent). The amount of assistance awarded by decision-maker was as follows:
  - \$1,445,298 was awarded by tribunal members, compared to \$1,305,647 in the previous year (increase of 11 per cent); and
  - \$530,774 was awarded by registrars, compared to \$120,371 in the previous year (increase of 341 per cent).
- The average amount of interim financial assistance awarded for expenses already incurred was \$898, compared to \$853 in the previous year (increase of five per cent).
- The majority of interim financial assistance awarded for expenses already incurred related to counselling expenses and funeral expenses, (66 per cent), which is consistent with the previous year (68 per cent).

### Awards of interim financial assistance for expenses *not yet incurred*

In the year ending 30 June 2009:

- 1,560 interim awards of financial assistance were made for expenses not yet incurred, compared to 1,235 in the previous year (increase of 26 per cent). The number of interim awards of assistance made by decision-maker was as follows:
  - 977 interim awards of assistance were made by tribunal members, compared to 1,121 in the previous year (decrease of 13 per cent); and
  - 583 interim awards of assistance were made by registrars, compared to 114 in the previous year (increase of 411 per cent).
- Of the interim awards of financial assistance made for expenses not yet incurred, 37 per cent were made by registrars, compared to nine per cent in the previous year.

- \$2,139,103 in interim financial assistance was awarded for expenses not yet incurred, compared to \$1,544,104 in the previous year (increase of 39 per cent). The amount of assistance awarded by decision-maker was as follows:
  - \$1,434,972 was awarded by tribunal members, compared to \$1,448,817 in the previous year (decrease of one per cent); and
  - \$704,131 was awarded by registrars, compared to \$95,287 in the previous year (increase of 639 per cent)
- The average amount of interim financial assistance awarded for expenses not yet incurred was \$1,371, compared to \$1,250 in the previous year (increase of ten per cent).
- The majority (74 per cent) of interim financial assistance awarded for expenses not yet incurred was for future counselling sessions, which is consistent with the previous year (72 per cent).

## Variation of awards

In the year ending 30 June 2009:

- \$2,848,015 in financial assistance was awarded on the variation of awards previously made, compared to \$2,807,380 in the previous year (increase of one per cent).
- Of the total amount of financial assistance awarded on variation, 66 per cent was awarded for expenses *already incurred* (compared to 63 per cent in the previous year), while 34 per cent was awarded for expenses *not yet incurred* (compared to 37 per cent in the previous year).
- The average amount of financial assistance awarded on variation was \$2,511, compared to \$2,148 in the previous year (increase of 17 per cent).

## Awards of financial assistance for expenses *already incurred*

In the year ending 30 June 2009:

- 1,194 applications to vary awards of assistance for expenses already incurred were finalised, compared to 1,360 in the previous year (decrease of 12 per cent).

- 95 per cent of applications to vary an award were granted, which is consistent with the previous year (96 per cent).
- 1,134 awards were varied, compared to 1,307 in the previous year (decrease of 13 per cent).
- \$1,882,817 in financial assistance was awarded on variation for expenses already incurred, compared to \$1,756,952 in the previous year (increase of seven per cent).
- The average amount of financial assistance awarded on variation for expenses already incurred was \$1,660, compared to \$1,344 in the previous year (increase of 24 per cent).

## Awards of financial assistance for expenses *not yet incurred*

In the year ending 30 June 2009:

- 401 awards of financial assistance were varied to award financial assistance for expenses not yet incurred, compared to 412 in the previous year (decrease of three per cent).
- \$965,198 in financial assistance for expenses not yet incurred was awarded on variation, compared to \$1,050,429 in the previous year (decrease of eight per cent).
- The average amount of assistance awarded on variation for expenses not yet incurred was \$2,407, compared to \$2,550 in the previous year (decrease of six per cent).

## Applications for review

In the year ending 30 June 2009:

- 27 applications seeking a review of decisions of the Victims of Crime Assistance Tribunal (VOCAT) were lodged with Victorian Civil and Administrative Tribunal (VCAT).
- 11 applications for review were finalised by VCAT.



- In two of the finalised applications for review, the application did not proceed and was either dismissed, withdrawn, struck out or abandoned by the applicant.
- In seven of the finalised applications for review, the order of VOCAT was affirmed by VCAT.
- In two of the finalised applications for review, VCAT either varied the award made by VOCAT or set it aside and made an award of financial assistance.
- VCAT awarded \$11,500 in financial assistance upon review. The amount awarded on review was for special financial assistance in relation to two applicants, and legal costs in relation to one applicant.<sup>11</sup>

### Case processing times

*Case processing time* is measured as the time between an application being lodged and finalised.<sup>12</sup> Of the applications for financial assistance finalised in the year ending 30 June 2009:

- 51 per cent of applications were finalised within 9 months of lodgement, which is slightly higher than the previous year (50 per cent).
- 67 per cent of applications were finalised within 12 months of lodgement, which is consistent with the previous year (67 per cent).

### Pending caseload

*Pending caseload* refers to the number of applications for assistance waiting to be finalised at a given point in time. For the purposes of this report, the duration for which an application has been pending is measured as the time between the date that an application was lodged and 30 June.

On 30 June 2009:

- 6,162 applications for assistance were pending, compared to 5,084 on 30 June in the previous year (increase of 21 per cent). The increase in the number of applications pending is attributed to the increased number of applications for assistance lodged in the reporting period.

<sup>11</sup> This amount excludes legal costs ordered to be paid by VCAT where the amount was to be as agreed between the parties.

<sup>12</sup> Where a finalised application has been reinstated after previously being struck out and a further order is made finalising the claim, the case processing time on that application will be measured from the date that the application for financial assistance was originally lodged to the date of the second order made that finalised the claim.



- 40 per cent of pending applications had been pending for more than 9 months, which is consistent with the previous year (40 per cent).
- 30 per cent of pending applications had been pending for more than 12 months, which is slightly higher than the previous year (28 per cent).

### Financial assistance for counselling services

In recognising that many applicants require financial assistance for counselling expenses pending the determination of their applications, the Tribunal has, over the last two years, focused on improving access to interim financial assistance, particularly for counselling expenses. The increase in the number of interim awards of financial assistance made, and the amount of interim financial assistance awarded suggests that the Tribunal's efforts have increased applicants' access to financial assistance for urgent expenses, particularly for counselling. Refer to the *Administration of the Tribunal* section of this report for information on the action taken by the Tribunal to improve access to interim financial assistance.

### Financial assistance awarded for counselling expenses

In the year ending 30 June 2009:

- A total amount of \$5,801,759 in financial assistance was awarded for counselling services (reports and sessions) by way of interim awards, final awards and variations to awards, compared to \$4,986,347 in the previous year (increase of 16 per cent).
- 24 per cent of the total amount of financial assistance awarded for counselling services was for report fees, while 76 per cent was awarded for counselling sessions, which is consistent with the previous year.

### Financial assistance awarded for reports

In the year ending 30 June 2009, a total amount \$1,378,110 was awarded for counselling, psychological and psychiatric reports, compared to \$1,176,385 in the previous year (increase of 17 per cent). The increase in the amount awarded for reports is attributed to the increased number of applications for financial assistance for counselling expense determined by the Tribunal.

## Financial assistance awarded for counselling sessions

In the year ending 30 June 2009:

- \$4,423,649 in financial assistance was awarded for counselling sessions, compared to \$3,809,963 in the previous year (increase of 16 per cent). Of the total amount of financial assistance awarded for counselling sessions:
  - \$1,129,662 was awarded for counselling sessions that had *already been provided* to applicants at the time that the award was made, compared to \$985,425 in the previous year (increase of 15 per cent); and
  - \$3,293,987 was awarded for counselling sessions that had *not yet been provided* to applicants at the time that the award was made, compared to \$2,824,538 in the previous year (increase of 17 per cent).
- In 17 per cent of all applications for financial assistance lodged, an interim award of financial assistance was made for counselling sessions *already provided* to applicants (952 interim awards), compared to nine per cent in the previous year (457 interim awards).<sup>13</sup>
- In 25 per cent all applications for financial assistance lodged, an interim award of financial assistance was made for *future* counselling sessions (1,399 interim awards), compared to 22 per cent in the previous year (1,051 interim awards).
- Of the total number of interim awards of financial assistance made:
  - 43 per cent of interim awards made for expenses *already incurred* included financial assistance for counselling sessions (952 interim awards), compared to 27 per cent (457 interim awards) in the previous year.
  - 90 per cent of interim awards made for expenses *not yet incurred* included financial assistance for future counselling sessions (1,399 interim awards), compared to 85 per cent (1,051 interim awards) in the previous year.
- Of the awards of financial assistance made upon the final determination of applications for assistance, 31 per cent included financial assistance for future counselling sessions (1,101 awards), compared to 33 per cent (1,111 awards) in the previous year.<sup>14</sup>

## Financial assistance paid by Tribunal

In the year ending 30 June 2009, \$31,050,578 in financial assistance was paid by the Tribunal to victims of crime and service providers, compared to \$29,794,883 in the previous year (increase of four per cent). This amount represents actual payments made in the reporting period, and does not include awards made in this or previous reporting periods that had not been paid as at 30 June 2009.



<sup>13</sup> This has been calculated by dividing the number of interim awards of financial assistance made for counselling expenses by the number of applications for assistance lodged in the reporting period, and assumes that there was one interim award of assistance made per application for assistance lodged. An application for interim financial assistance for counselling may be made in a different reporting period than that in which an application for assistance was lodged, or there may be multiple awards of interim assistance made for counselling expense in relation to one application for assistance.

<sup>14</sup> Although financial assistance was awarded upon the final determination of applications for assistance for expenses already incurred by applicants, and upon the variation of awards of assistance previously made, the specific number of awards that included this expense was not available for inclusion in this report.

# Administration of the Tribunal



Samantha Adrichem (Principal Registrar), Mereana White (Standards and Compliance Officer) and Gerard Hageman (Acting Registry Manager, Melbourne)

In this section of the report, the Tribunal presents information regarding its composition, staffing, the role of the Supervising Magistrate and the Tribunal's Coordinating Committee, issues considered by the Coordinating Committee over the reporting period, professional development activities, community and professional engagement activities, administrative issues, and the Tribunal's operating budget and financial statement.

## Composition of Tribunal

The Tribunal consists of the Chief Magistrate of the Magistrates' Court of Victoria and all other persons who hold the office of magistrate under section 7 of the *Magistrates' Court Act 1989*, or acting magistrate under section 9 of that Act.

The Chief Magistrate is responsible for the arrangement of the business of the Tribunal and may give directions in respect of the operating procedures and practices of the Tribunal.

## Tribunal staff

The Tribunal employs a Principal Registrar, registrars and administrative staff to support its operation.

The Principal Registrar, Standards and Compliance Officer, Registry Manager, nine registrars (8.4 full-time employees, Victorian Public Service Grade 3 classification), two trainee registrars and one finance officer staff the principal registry in Melbourne.

The Tribunal funds a full-time registrar position (Grade 3) at the following metropolitan and regional venues of the Magistrates' Court: Ballarat, Bendigo, Broadmeadows, Dandenong, Frankston, Geelong, Heidelberg, Latrobe Valley, Moorabbin, Ringwood, Shepparton, and Sunshine. At all other venues of the Magistrates' Court of Victoria, the administration of the Tribunal is supported by registrars of the Magistrates' Court and finance officers employed by the Magistrates' Court.

All staff supporting the operation of the Tribunal are accountable through their respective managers to the Chief Executive Officer of the Magistrates' Court of Victoria.

## Supervising Magistrate

A Supervising Magistrate for the Tribunal is appointed by the Chief Magistrate. Magistrate Heather Spooner was appointed to this role between January 2008 and April 2009. Magistrates Chambers and Wakeling were jointly appointed to the role in April 2009.

The role of the Supervising Magistrate includes liaison between the registry and tribunal members, encouraging consistent practices across venues, disseminating information about legislative and procedural changes within the Tribunal, chairing the Tribunal's Coordinating Committee meetings, consulting with tribunal members, advising the Chief Magistrate on rules, practice directions and other issues relating to the Tribunal, liaising with the Victim Support Agency and victim support services, and participating in community education programs.

## Coordinating Committee

The Tribunal's Coordinating Committee is chaired by the Tribunal's Supervising Magistrate, and comprises magistrates, the Principal Registrar, Standards and Compliance Officer, and manager of the Tribunal's principal registry at Melbourne.

In the year under review, members of the committee were Supervising Magistrates Heather Spooner (to April 2009), and Magistrates Amanda Chambers and Susan Wakeling (from May 2009), Deputy Chief Magistrates Felicity Broughton and Dan Muling, and Magistrates David Fanning, Cathy Lamble, and Duncan Reynolds. Registry staff were represented by Samantha Adrichem (Principal Registrar), Mereana White (Standards and Compliance Officer), and Michael Conway, Razhumikin Chiew and Gerard Hageman (Registry Managers).



From left: Supervising Magistrates Amanda Chambers and Susan Wakeling

The committee met regularly over the reporting period to consider and discuss issues, including:

- Consulting with the Department of Justice on legislative issues, including proposals that the Attorney-General consider amendments to the *Victims of Crime Assistance Act 1996* to:
  - enable the Chief Magistrate to delegate certain powers and functions under the Act to Judicial Registrars; and
  - enable the Tribunal to award financial assistance to primary victims for safety and security expenses, which can currently only be awarded where the Tribunal is satisfied that there are exceptional circumstances. The Committee was of the view that such an amendment would increase access to urgent interim financial assistance pending the final determination of an application for assistance, particularly for women and children experiencing family violence.

- The *Crimes Amendment (Identity Crime) Bill 2008* and in particular, a proposal that the Tribunal determine eligibility for pre-conviction Victim Certificates which would provide a victim of identity crime with documentation showing that certain transactions were in fact carried out by another person and that they had been the victim of identity crime.
- The Tribunal's contribution to the *Victims Compensation Review* being undertaken by the Department of Justice at the request of the Attorney-General, and the Tribunal's representation on the review Steering Committee.
- The operation of the Koori VOCAT List, including the Engagement Forum in March 2009, and a successful recommendation to the Department of Justice to approve ongoing funding for the position of Koori VOCAT List Registrar, which has enabled the Tribunal to continue the List on an ongoing basis.
- The outcome of applications to the Victorian Civil and Administrative Tribunal (VCAT) for review of decisions.
- The Tribunal's participation in the review of its decisions at VCAT, and the engagement of counsel to represent the Tribunal in those applications.
- Reviewing the Tribunal's panel of psychologists and psychiatrists who provide independent psychological and psychiatric assessment reports at the request of the Tribunal.
- Guidelines developed for registrars to assist them exercising their delegated power to make interim awards of financial assistance.
- Reviewing practice directions previously issued by the Chief Magistrate pursuant to section 58 of the *Victims of Crime Assistance Act 1996*, and identifying where updates were required (resulting in the issue of eleven new practice directions, and revocation of eleven previously issued practice directions).
- Considering processes for the recovery of awards pursuant to section 62 of the *Victims of Crime Assistance Act 1996*.
- Participating in research undertaken by the Victims Support Agency (Department of Justice) regarding applicants' participation in counselling where financial assistance for counselling expense has been awarded by the Tribunal, which builds upon earlier research which contributed to changes to Tribunal procedure regarding applications for assistance for counselling.
- Considering the effective operation of the Tribunal given the increasing number of applications for assistance filed with the Tribunal, and increasing caseload within the Magistrates' Court of Victoria.
- Monitoring statistical information across venues regarding the volume of applications lodged and determined, awards made, and the amount of financial assistance awarded.

### Interim awards of financial assistance

The ability to make interim awards of financial assistance pending the final determination of an application for financial assistance is an important power of the Tribunal. It enables the Tribunal to respond quickly to assist victims of crime in their recovery from an act of violence pending the final determination of their application, particularly those victims who present with urgent needs.

Since 2004, registrars of the Tribunal (of Victorian Public Service Grade 3 classification and above) have had delegated authority to make interim awards of financial assistance. The maximum cumulative amount of interim financial assistance that registrars could award was set at \$1,000, however, from 21 April 2008 this increased to a maximum cumulative amount of \$5,000 for any one applicant.<sup>15</sup> This increase followed a recommendation from the Chief Magistrate to the Attorney-General for the increase, upon identifying that most applications for interim assistance were above the amount of \$1,000, and could therefore not be determined by registrars. The increase gives registrars greater scope to award interim financial assistance and allows them to take a lead role in improving the Tribunal's response times to applications for interim assistance, increasing the efficiency of the Tribunal, and assisting applicants in their recovery from an act of violence.

<sup>15</sup> See Regulation 4 of the *Victims of Crime Assistance (Delegation) Regulations 2003* (incorporating amendments as at 21 April 2008).

In September 2008, the Chief Magistrate issued a new instrument of delegation enabling registrars of the Tribunal to hear an application for assistance to the extent necessary to enable the making of a decision to make, or not to make an interim award of assistance for reasonable counselling and medical expenses, and in exceptional circumstances, other expenses to assist recovery.

In October 2008, the Principal Registrar issued guidelines to registrars to assist them in determining applications for financial assistance. The Guidelines were developed by the Tribunal's Standards and Compliance Officer and reviewed by the Tribunal's Coordinating Committee, and are structured to provide registrars with an understanding of the rationale for interim awards of financial assistance, the scope and limits of registrars' delegated power to make interim awards of financial assistance, and the process and considerations relevant to determining applications for interim financial assistance. In particular, the guidelines were intended to assist registrars to become more confident when making interim awards of assistance, determine more applications for interim assistance, and determine applications in a way that is timely, appropriate and consistent across all Tribunal venues.

Training in relation to the determination of these applications was provided to registrars at the annual registry conference in November 2008, and will continue to be a focus of training activities.

In determining an application for interim assistance, registrars are required to consider the same issues as a tribunal member – that is, whether they are satisfied, on the balance of probabilities, that an act of violence occurred; whether the applicant is a primary, secondary or related victim of that act; whether the applicant is entitled to receive the assistance; and whether the assistance sought is reasonable in the circumstances. Although registrars may award interim financial assistance up to a cumulative maximum of \$5,000, registrars may refer an application for interim assistance to a Tribunal Member for determination.

Since issuing the guidelines to registrars, there has been a significant increase in the number of interim awards of financial assistance made by registrars, particularly for counselling expenses. Refer to page 20 of this report for information regarding the number of interim awards of assistance made, and the amount of interim financial assistance awarded.

### Financial assistance for counselling expenses

The Tribunal recognises that early access to counselling may assist a victim in their recovery from an act of violence, and in light of this, directed focus over the last two years to the content and format of reports prepared by counsellors, improving procedures regarding applications for financial assistance for counselling expenses, and reducing the time taken by the Tribunal to determine such applications. This focus has contributed to an increase in the number of applicants who were awarded financial assistance for counselling expense on an interim basis, has reduced the time taken by the Tribunal in determining these applications, and improved the Tribunal's efficiency through an increased number of applications being determined by registrars rather than tribunal members.

The most significant initiative introduced to improve victim access to financial assistance for counselling was the increase in the amount of interim financial assistance that could be awarded by a registrar (from \$1,000 to \$5,000), which has enabled registrars to determine applications that were previously referred to tribunal members for determination. Registrars were also provided with increased support in determining such applications, and were instructed to treat all applications for assistance for counselling expense as applications for interim financial assistance, so that applications for counselling expense are determined prior to the final determination of the application for assistance where appropriate.



In May 2008, the Chief Magistrate issued Practice Directions (effective 1 July 2008) that set out new procedures regarding applications for financial assistance for counselling expenses, and the content and format of reports to be filed with the Tribunal in support of such applications.<sup>16</sup> It was expected that compliance with the Practice Directions would assist the Tribunal in determining applications for assistance for counselling expense by eliciting information relevant to the Tribunal's determination.

Refer to page 24 of this report for information regarding the amount of financial assistance awarded for counselling expenses.

### Prosecution for fraud committed against the Tribunal

In September 2007, the Principal Registrar referred invoices for counselling services that had been filed by a psychologist to Victoria Police due to concerns that the invoices were false in that the psychologist had not provided counselling to victims of crime as claimed, and that the signatures of victims of crime on the invoices filed with the Tribunal had been forged.

In September 2008, the psychologist was charged by Victoria Police with offences of obtaining and attempting to obtain financial advantage by deception, and making false documents to the prejudice of the Tribunal. In May 2009 the offender pleaded guilty to the offences, and was convicted and sentenced in the Magistrates' Court of Victoria to a nine month term of imprisonment, to be served in the community by way of an Intensive Corrections Order, and was ordered to reimburse \$51,675.90 to the Tribunal.

The Director of Public Prosecutions subsequently instituted an appeal against the sentence. The lodgement of the appeal stayed the order of the Magistrates' Court. The appeal had not been determined at the date of reporting.

<sup>16</sup> Refer to the Chief Magistrate's Practice Directions 1/2008 and 2/2008, and the Tribunal's annual report for the year ending 30 June 2008, for further information regarding procedures relevant to applications for financial assistance for counselling expense and the content of reports in support of such applications.

## Applications for assistance arising from major incidents

The Tribunal continued to manage applications for financial assistance arising from major incidents from its principal registry in Melbourne to ensure a consistent and coordinated approach to all applications arising from a major incident. Applications for assistance managed in this manner over the reporting period were those that arose from the Burnley Tunnel incident in March 2007, the Kerang rail and the William Street shooting incidents in June 2007, the Victorian bushfires in February 2009, and applications arising from sexual offences alleged to have been committed against multiple applicants by the same offender.

## 2009 Victorian bushfires

At 30 June 2009, the Tribunal had registered 78 applications for assistance arising from bushfires that occurred in Victoria in February 2009.

To ensure consistency in the management of applications for assistance, all applications for assistance arising from the bushfires are required to be lodged with the Tribunal at Melbourne, where they will be managed by a single registrar, with advice regarding the preparation of applications being provided by one tribunal member. A central point of contact within Victoria Police was established for the provision of reliable and current information about police investigations into the bushfires that will assist the Tribunal in determining applications for financial assistance.

Although applications are required to be lodged at Melbourne, the Tribunal will consider conducting hearings in relation to these applications at metropolitan and regional venues preferred by applicants.

The Tribunal is likely to await the outcome of any criminal proceedings arising from the bushfires and the final report of the *Victorian Bushfires Royal Commission* (due to be delivered by 31 July 2010) before finally determining applications for assistance arising from the bushfires. The Tribunal may also await the outcome of coronial investigations before finally determining these applications.

In March and June 2009, the Tribunal published information sheets for people affected by the bushfires and those supporting them, to assist them in understanding the role of the Tribunal, the circumstances in which financial assistance may be available from the Tribunal, and provide an indication of the time that would be required to finalise the applications. The information sheets are published on the Tribunal's website at [www.vocat.vic.gov.au](http://www.vocat.vic.gov.au).

## Review of Tribunal decisions

When a decision of the Victims of Crime Assistance Tribunal (VOCAT) is subject to review by the Victorian Civil and Administrative Tribunal (VCAT), VOCAT, as primary decision maker, will participate in the VCAT review of its decision. This approach is consistent with the Court of Appeal's decision in *Macedon Ranges Shire Council v Romsey Hotel Pty Ltd & Anor* [2008] VSCA 45. VOCAT will engage legal representation to represent it in the application for review of its decisions to VCAT, in accordance with the Model Litigant Guidelines. The Victorian Government Solicitor's Office will usually be engaged to represent the Tribunal.

All decisions of VCAT that are made on review are considered by a member of the VOCAT Coordinating Committee, and those of interest are circulated to all tribunal members.

## Practice Directions

The Chief Magistrate may issue practice directions relating to Tribunal procedures. In the year under review, the Tribunal reviewed all of its practice directions, identifying where updates were required. This exercise resulted in the issue of eleven new practice directions, and revocation of eleven previously issued practice directions, as follows:

- Practice Direction 3/2008 – Koori VOCAT List
- Practice Direction 4/2008 – Notification of Alleged Offenders and Third Parties (revoked Practice Directions 5/2003 and 8/2003)
- Practice Direction 5/2008 – Claims for Loss of Earnings (revoked Practice Direction 6/2003)

- Practice Direction 6/2008 – Extension of Time for Lodgement of Application (revoked Practice Direction 3/2003)
- Practice Direction 7/2008 – Directions Hearings (revoked Practice Direction 4/2003)
- Practice Direction 8/2008 – Dependency Claims (revoked Practice Direction 7/2003)
- Practice Direction 9/2008 – Access to Files (revoked Practice Direction 2/2003)
- Practice Direction 10/2008 – Koori VOCAT List (revoked Practice Direction 3/2008)
- Practice Direction 11/2008 – Engagement of Counsel to Assist the Tribunal (revoked Practice Direction 1/1998)
- Practice Direction 1/2009 – Response to applications for review of decisions (revoked Practice Direction 2/2006)
- Practice Direction 2/2009 – Koori VOCAT List (revoked Practice Direction 2/2007)

The Practice Directions may be accessed from the Tribunal's website at [www.vocat.vic.gov.au](http://www.vocat.vic.gov.au).

## Access to files

Parties, non-parties (including media representatives), people with a substantial interest in an application and alleged offenders may request access to information and/or documents on a Tribunal file, however, the Tribunal may restrict access to that information, pursuant to section 42A of the *Victims of Crime Assistance Act 1996*, if satisfied that it is in the public interest to do so.

The format of an application to access information or documents contained on a Tribunal file, and the procedure to be followed when a request is made, are set out in the Chief Magistrate's Practice Direction 9/2008.

While a person may be given access to information about an application for assistance, section 43 of the *Victims of Crime Assistance Act 1996* prohibits the publication of information about an application. On the application of a party, or by its own initiative, the Tribunal may make an order allowing publication only if it is satisfied that it is in the public interest to do so.

## Counsel assisting the Tribunal

The Tribunal may engage a legal practitioner to assist it with respect to an application for assistance.

In the year under review counsel was engaged to assist the Tribunal in relation to five applications for assistance.

## Professional development and training

Supervising Magistrate Susan Wakeling delivered an information session on the *Victims of Crime Assistance Act 1996* to newly appointed magistrates in May 2009. This session will be repeated as further appointments are made.

Members of the Coordinating Committee continued to revise the Tribunal's Handbook, an internal resource for tribunal members.

Registry staff supporting the administration of the Tribunal across Victoria attended a staff conference in November 2008. Issues covered at the conference included:

- supporting registrars in determining applications for interim financial assistance by working through written guidelines and case studies, and engaging in discussion regarding the obligations of registrars as decision makers under the *Victims of Crime Assistance Act 1996*;
- the *Australian Guidelines for the Treatment of Post Traumatic Stress Disorder and Acute Stress Disorder* through a presentation and discussion with Associate Professor David Forbes of the *Australian Centre for Posttraumatic Mental Health* of the University of Melbourne;
- the appropriate content of reports filed with the Tribunal in support of applications for financial assistance for counselling expenses;
- managing victim emotions and vicarious trauma;
- access to information on Tribunal files; and
- issues relating to the payment of financial assistance.



Participants at the Regional Victim Service Forum at Swan Hill, including Supervising Magistrate Heather Spooner (far left).

Significant effort was directed over the reporting period to reviewing and re-developing procedure documents for registrars to support them in performing their duties within the Tribunal, and to support consistent registry standards and administrative practices across all Tribunal venues. Revised procedural documents are expected to be finalised in late 2009.

## Legal and community education and engagement activities

### Regional Victim Service Forums

Supervising Magistrate Heather Spooner, the Principal Registrar and registrars from metropolitan and regional Victoria participated in Regional Victim Service Forums in Swan Hill and Mildura (August 2008) and Footscray (October 2008), which were attended by approximately 80 participants, including victims support workers, psychologists and legal practitioners. The forums, organised by the Victims Support Agency (Department of Justice), aimed to promote the Victims Charter; facilitate information sharing among criminal justice agencies and support services on a regional basis; foster further partnership building and relationship strengthening across agencies; and promote initiatives that are designed to help victims of crime. Further forums are intended to be held across metropolitan and regional Victoria throughout the next year.

In June 2009, Supervising Magistrate Amanda Chambers participated in the Windermere Child and Family Services *Pathways through the criminal justice system* forum, and discussed the role of the Tribunal and its procedures.

### Legal education

Magistrates delivered lectures to lawyers on a number of occasions regarding Tribunal procedures, relevant legislation, and services available to victims of crime as follows:

- Magistrate Brian Wright presented a lecture on the *Victims of Crime Assistance Act 1996* and Tribunal procedures to the Continuing Professional Development program at the Victorian Bar in September 2008; and
- Supervising Magistrate Heather Spooner presented a lecture on the Tribunal to lawyers from community legal centres in a forum organised by the Victims Support Agency (Department of Justice) and Federation of Community Legal Centres in January 2009, and to members of the Western Suburbs Law Association in February 2009.

## Victim Support Agency

The Supervising Magistrates, Principal Registrar and registry staff continued to meet regularly throughout the reporting period with representatives of the Victims Support Agency (Department of Justice) to discuss issues relating to support for victims of crime, including the Victims Assistance and Counselling Program, new initiatives, participation in community engagement forums, and research to inform the further development of Tribunal practices and procedures regarding applications for financial assistance for counselling expenses.

At the request of the Victims Support Agency, the manager of the Tribunal's Principal Registry at Melbourne continued to provide information sessions to staff of the Victims Assistance and Counselling Program regarding Tribunal processes and procedures at professional development events for victim support workers.

## Interstate and international visitors

Representatives of the Department of Justice in Queensland met with Tribunal representatives in February 2009 to discuss the administration of the Tribunal, which was intended to inform the development and implementation of the *Victims Financial Assistance and Services Scheme* in Queensland.

Deputy Chief Magistrates Broughton, Muling and Popovic met with Mr Atsushi Shiraishi, an Assistant Judge of the Tokyo District Court of Japan and visiting research scholar at the Asian Law Centre at the University of Melbourne, to discuss the *Victims of Crime Assistance Act 1996*, and the operation of the Tribunal.

## Website

The Tribunal's website is published at [www.vocat.vic.gov.au](http://www.vocat.vic.gov.au).

In the year under review, the Tribunal's website was visited by 26,878 unique browsers.<sup>17</sup> Where referred to the Tribunal's website from another website, browsers were most commonly referred from Google, followed by the Department of Justice and Magistrates' Court of Victoria websites.

The publications and forms most commonly downloaded from the Tribunal's website were the Application for Assistance form (3,566 downloads), Statement of Claim form for primary victims (1,204 downloads), the Chief Magistrate's Practice Direction 1/2008 (Awards for counselling expenses) (1,303 downloads) and the Tribunal's general information brochure (1,183 downloads).

The most common searches within the website were for information regarding special financial assistance and counselling expenses.

Significant effort was directed over the reporting period to reviewing and re-developing content for the Tribunal's website, to improve communication to a wide range of stakeholders. Updated content is expected to be published by late 2009.

To assist the Tribunal in planning content for the website, an online survey was published in May 2009 for the purpose of obtaining feedback from visitors regarding the purpose of their visit to the website, the information that they were seeking and whether they found that information, and content improvement opportunities.

<sup>17</sup> Each user visiting the Tribunal's website has a unique cookie id assigned to their browser to help determine browser uniqueness. The 'number of unique browsers' reported reflects the number of unique browsers who visited the Tribunal's website within the reporting period.



### Case management system

The Integrated Courts Management System (ICMS) program comprises a number of projects designed to modernise Victorian courts and tribunals by introducing new technology, including the introduction of a new case management system and the provision of eServices across all jurisdictions. The new case management system will replace the Tribunal's current case management system, and is expected to assist in improving registry procedures and to support advanced statistical analysis.

The Principal Registrar, tribunal members and registry staff contributed to the development of the new case management system over the reporting period by participating in numerous committee meetings, workshops and user acceptance testing activities.

### Video conferencing

The Tribunal utilised video conference technology throughout the reporting period for the purposes of arranging the attendance of applicants, witnesses and legal practitioners at directions hearings and hearings.

### Costs of administering the Tribunal

The costs of administering the Tribunal in the year ending 30 June 2009 totalled \$2,073,601 compared to \$2,021,902 in the previous year (increase of three per cent). Refer to the financial statement on page 51 for further information.

Although not a jurisdiction of the Magistrates' Court of Victoria, the Tribunal is constituted by tribunal members who are magistrates of the Magistrates' Court, operates within Magistrates' Court buildings, and is administered by employees of the Magistrates' Court. Refer to the annual report of the Magistrates' Court for information on the costs of administering the Magistrates' Court.

# Koori VOCAT List



Supervising Magistrate Susan Wakeling

The Koori VOCAT List (the List) commenced as a pilot on 1 July 2006, and will operate as an ongoing part of the Tribunal's operations from 1 July 2009. The Tribunal established the List with the objective of improving access to entitlements pursuant to the *Victims of Crime Assistance Act 1996* for Koori victims of crime.

During the pilot period of the List, the Tribunal endeavoured to gain an understanding of the difficulties that Koori applicants experience in seeking to access an award of financial assistance from the Tribunal, to identify alternative procedures which support a Koori applicant to gain access to awards of assistance and which make the process meaningful for them, and to develop relationships with agencies dealing with Koori victims of crime.

## Applications by Koori victims of crime

Over the course of the List's operation, the Tribunal observed that particular issues and trends are more prevalent in applications for assistance by Koori victims of crime than non-Koori victims of crime. For instance, the Tribunal has noted a greater number of related victim applications arising from the death of a primary victim by Koori applicants than non-Koori applicants.

The Tribunal has also witnessed a high number of applications by Koori victims of crime where the alleged offender is a family member of the applicant. This reflects the Tribunal's experience of dealing with a significant number of sexual assault and family violence matters within the List. Victims of sexual assault offences, particularly childhood sexual offences, are often reluctant to report the offending to the police and/or delay making an application for assistance to the Tribunal.

If an offence is not reported to police, or police do not prosecute the alleged offender for the offence, the Tribunal will undertake an investigation in order to determine whether it is satisfied that the offence took place. This almost always requires a hearing, and may involve advising the alleged offender of the application.



Koori VOCAT List Engagement Forum

## Operation of the Koori VOCAT List

From 1 July 2006, all applications for financial assistance by an Aboriginal and/or Torres Strait Islander were transferred to the Tribunal's Principal Registry at Melbourne for file management by a single registrar and a small number of tribunal members. An application may be lodged at any Tribunal venue in Victoria, but will be administered by the Tribunal at Melbourne.

In establishing the List, the Tribunal relied on the flexibility and informality afforded to it under the *Victims of Crime Assistance Act 1996*. The Chief Magistrate's Practice Direction regarding the List directs the Tribunal to promote flexible practices in relation to applications within the List which require a hearing. The applicant is to be asked to indicate their preference for the venue of the hearing, and whether any alternative arrangements are sought. The Tribunal has frequently travelled to regional venues to conduct hearings.

The Tribunal will also seek advice from the applicant as to whether they will be accompanied at a hearing by an Elder or Respected Person from their community to provide support to the applicant, and information to the Tribunal. Although there is no formal role for respected Elders (as there is in the Koori Court of the Magistrates' Court of Victoria), the Tribunal can be informed by respected members of the community of matters that may assist the Tribunal to understand the applicant's circumstances and fairly decide issues.

The Tribunal does not apply any different legal considerations when determining an application for assistance by a Koori applicant, however, the relatively small number of List applications means that the Tribunal Member(s) and registrar responsible for these applications can tailor their approach in dealing with them.

## Koori VOCAT List Registrar

The Tribunal commenced operation of the List on its own initiative and in the absence of funding to support its operation. Work arising from the establishment of the List was absorbed by the Tribunal's registry at Melbourne without additional resources. In July 2008, the Tribunal was provided with approval to employ an additional registrar to perform the role of Koori VOCAT List Registrar to 30 June 2009. Mr Fergus Dunipace, an experienced Tribunal registrar, commenced in this role in November 2008.

In May 2009, a recommendation was made to the Department of Justice to support the continued operation of the Koori VOCAT List by approving funding for the employment of a registrar in the ongoing position of Koori VOCAT List Registrar. Following the approval of ongoing funding, Fergus Dunipace was appointed to the role on an ongoing basis in June 2009. Since commencing in the role, the registrar has focussed on progressing applications in the List to finalisation, and establishing relationships with applicants and service providers.

## Koori VOCAT List Statistics

Since commencement of the List there has been a gradual but steady increase in the number of applications for financial assistance by Koori victims of crime. There has also been a steady increase in the number of List applications finalised, particularly since the appointment of the Koori VOCAT List Registrar in November 2008.

At 30 June 2009, there were 442 applications for assistance within the List, of which 228 had been finalised. The number of applications within the List at 30 June 2009 constituted three per cent of all applications for assistance lodged with the Tribunal since the List's commencement on 1 July 2006.

Of the applications finalised since commencement of the List, an award of financial assistance was made in 75 per cent of applications, which is higher than the outcome for non-Koori VOCAT List applications finalised over the same period (70 per cent). The proportion of applications that were refused was consistent between applicant groups (two per cent). The balance of applications within each applicant group were either withdrawn by the applicant or struck out by the Tribunal.

Case processing times (that is, the elapsed time between lodgement and finalisation of an application) were longer for Koori victims of crime than other applicants (37 per cent of applications by Koori applicants were finalised within 12 months of lodgement, compared to 67 per cent for non-Koori applicants), however, the processing time for applications lodged since commencement of the List was significantly lower than for those lodged prior to the commencement of the List (on average, 13.5 months, compared to 27 months).

## Engagement Forum

On 30 March 2009, the Tribunal held a Koori VOCAT List Engagement Forum to seek feedback on the List's operation, to review initiatives introduced since its introduction, and to provide an opportunity for participants to make recommendations to the Tribunal regarding the List's future operation. The Forum was facilitated by Mr Andrew Jackomos (Director, Indigenous Issues Unit, Department of Justice) and Ms Antoinette Braybrook (Chief Executive Officer, Aboriginal Family Violence and Prevention Legal Service), and was attended by 32 stakeholders from across metropolitan and regional Victoria.

Participants commended the efforts of the Tribunal and the Koori VOCAT List Registrar in developing a relationship between the Tribunal and the Koori community, and recommended (among other things) that the List be an ongoing part of the Tribunal's operations. The overwhelming response from participants was that the Koori VOCAT List Registrar had made a significant difference to the way in which the Tribunal responds to and manages applications for financial assistance by Koori victims of crime, and was integral to the continued operation and success of the List.



Koori VOCAT List Engagement Forum, clockwise from top left: Andrew Jackomos (Director, Indigenous Issues Unit, Department of Justice), Fergus Dunipace (Koori VOCAT List Registrar), Antoinette Braybrook (Chief Executive Officer, Aboriginal Family Violence and Prevention Legal Service), Simon McDonald (Acting Manager, Specialist Courts and Court Support Services, Magistrates' Court of Victoria), Mason Atkinson (Manager, Koori Courts, Magistrates' Court of Victoria), and Rudolph Kirby (Deputy Director, Koori Justice Unit, Department of Justice)

# Statistical Report

**Note:** Individual figures reported in tables for amounts of financial assistance awarded have been rounded to the nearest dollar. Individual percentages in tables may not add to 100 per cent due to rounding.

**Table 1: Summary – applications for assistance lodged, finalised and pending, 2006/07-2008/09**

	2006/07	2007/08	2008/09
<b>CASELOAD</b>			
Number applications lodged	4,508	4,820	5,702
Number of orders made finalising claims	4,562	4,743	5,002
Number applications pending on 30 June	4,585	5,084	6,162
<b>CASE PROCESSING TIMES</b>			
Proportion of applications finalised within 9 months of lodgement	53.0%	50.0%	50.8%
Proportion of applications finalised within 12 months of lodgement	67.8%	66.9%	67.0%
<b>AGE OF PENDING CASELOAD</b>			
Proportion of applications pending for 9 months or more on 30 June	37.8%	39.7%	40.1%
Proportion of applications pending for 12 months or more on 30 June	26.0%	27.8%	29.9%

**Table 2: Number of applications for financial assistance lodged by gender of applicant, 2006/07-2008/09**

APPLICANT GENDER	2006/07		2007/08		2008/09	
Male	2,180	48.4%	2,396	49.7%	2,905	50.9%
Female	2,328	51.6%	2,424	50.3%	2,797	49.1%
Total	4,508	100%	4,820	100%	5,702	100%

**Table 3: Number of applications for financial assistance lodged by category of act of violence, and gender of applicant, 2008/09**

OFFENCE CATEGORY	NUMBER OF APPLICATIONS			DISTRIBUTION		
	Male Applicant	Female Applicant	Total	Male Applicant	Female Applicant	Total
Homicide <sup>20</sup>	236	279	515	8.1%	10.0%	9.0%
Rape	32	232	264	1.1%	8.3%	4.6%
Sex (non-Rape) <sup>21</sup>	188	610	798	6.5%	21.8%	14.0%
Robbery	181	105	286	6.2%	3.8%	5.0%
Assault <sup>22</sup>	1,980	1,214	3,194	68.2%	43.4%	56.0%
Abduction/Kidnap	2	8	10	0.1%	0.3%	0.2%
Criminal damage by fire	61	46	107	2.1%	1.6%	1.9%
Burglary	153	153	306	5.3%	5.5%	5.4%
Harassment	22	84	106	0.8%	3.0%	1.9%
Other	50	66	116	1.7%	2.4%	2.0%
<b>Total</b>	<b>2,905</b>	<b>2,797</b>	<b>5,702</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>

**Table 4: Number of orders made upon final determination of applications for financial assistance by order type, 2006/07-2008/09**

ORDER	2006/07		2007/08		2008/09	
Application granted/award made	3,134	68.7%	3,343	70.5%	3,547	70.9%
Application refused	68	1.5%	113	2.4%	125	2.5%
Application struck out/withdrawn	1,139	25.0%	1,283	27.1%	1,324	26.5%
Other disposal	221	4.8%	4	0.1%	6	0.1%
<b>Total</b>	<b>4,562</b>	<b>100%</b>	<b>4,743</b>	<b>100%</b>	<b>5,002</b>	<b>100%</b>

<sup>18</sup> The *Homicide* category includes offences such as murder, manslaughter and culpable driving.

<sup>19</sup> The *Sex (non-rape)* category includes offences such as indecent assault, incest, and sexual penetration of a child.

<sup>20</sup> The *Assault* category includes offences such as intentionally/recklessly causing serious injury, reckless conduct endangering life, unlawful assault, assault with weapon.

Table 5: Number of awards of financial assistance made by award category, 2006/07-2008/09

AWARD CATEGORY	2006/07		2007/08		2008/09	
Primary victim award	2,451	78.2%	2,768	82.8%	2,999	84.6%
Secondary victim award	261	8.3%	248	7.4%	263	7.4%
Related victim award	378	12.1%	298	8.9%	270	7.6%
Award for funeral expenses	4	0.1%	2	0.1%	-	-
Award made under <i>Criminal Injuries Compensation Act 1983</i>	9	0.3%	6	0.1%	3	0.1%
Other	31	1.0%	21	0.6%	12	0.3%
<b>Total</b>	<b>3,134</b>	<b>100%</b>	<b>3,343</b>	<b>100%</b>	<b>3,547</b>	<b>100%</b>

Table 6: Total amount of financial assistance awarded, 2006/07-2008/09

	2006/07		2007/08		2008/09	
Expenses already incurred/ lump sum payments/legal costs	\$27,062,594	83.1%	\$28,737,790	80.2%	\$30,619,752	79.0%
Expenses not yet incurred	\$5,506,598	16.9%	\$7,087,130	19.8%	\$8,143,938	21.0%
<b>Total</b>	<b>\$32,569,192</b>	<b>100%</b>	<b>\$35,824,920</b>	<b>100%</b>	<b>\$38,763,690</b>	<b>100%</b>

**Table 7: Amount of financial assistance awarded (including legal costs) as a lump sum payment and for expenses already incurred, by assistance type, 2008/09**

ASSISTANCE TYPE	INTERIM AWARD	FINAL AWARD	AWARDED ON VARIATION	AWARDED ON REVIEW	TOTAL	
Special financial assistance	\$47,650	\$8,414,420	\$38,550	\$9,500	\$8,510,120	27.8%
Pain and suffering	-	\$31,000	-	-	\$31,000	0.1%
Distress	-	\$4,667,090	\$5,000	-	\$4,672,090	15.3%
Funeral expenses	\$385,686	\$62,396	\$4,690	-	\$452,772	1.5%
Loss of earnings	\$81,626	\$3,147,965	\$181,078	-	\$3,410,669	11.1%
Dependency	-	-	-	-	-	-
Loss/damage to clothing	\$2,225	\$172,415	\$803	-	\$175,443	0.6%
Counselling/psychological/psychiatric reports	\$621,520	\$683,578	\$73,013	-	\$1,378,110	4.5%
Counselling sessions	\$291,422	\$594,820	\$243,420	-	\$1,129,662	3.7%
Medical expenses	\$311,583	\$1,532,381	\$549,825	-	\$2,393,789	7.8%
Other expenses to assist recovery	\$234,362	\$3,888,773	\$722,755	-	\$4,845,890	15.8%
Legal costs (inc. disbursements)	-	\$3,554,526	-	-	\$3,554,526	11.6%
Costs	-	-	\$63,683	\$2,000	\$65,683	0.2%
<b>Total</b>	<b>\$1,976,073</b>	<b>\$26,749,362</b>	<b>\$1,882,817</b>	<b>\$11,500</b>	<b>\$30,619,752</b>	<b>100%</b>

**Table 8: Amount of financial assistance awarded for expenses not yet incurred, by assistance type, 2008/09**

ASSISTANCE TYPE	INTERIM AWARD	FINAL AWARD	AWARDED ON VARIATION	AWARDED ON REVIEW	TOTAL	
Counselling sessions	\$1,593,138	\$1,469,891	\$230,958	-	\$3,293,987	40.4%
Medical expenses	\$212,948	\$830,270	\$382,538	-	\$1,425,756	17.5%
Loss/damage to clothing	\$757	\$13,274	-	-	\$14,031	0.2%
Funeral expenses	\$315,814	-	-	-	\$315,814	3.9%
Other expenses	\$16,446	\$2,726,202	\$351,703	-	\$3,094,350	38.0%
<b>Total</b>	<b>\$2,139,103</b>	<b>\$5,039,637</b>	<b>\$965,198</b>	<b>-</b>	<b>\$8,143,938</b>	<b>100%</b>

**Table 9: Number of interim awards of financial assistance made for *expenses already incurred* by decision-maker, and amount of interim assistance awarded 2006/07-2008/09**

	2006/07	2007/08	2008/09
Number of interim awards of assistance made by tribunal members	1,279	1,364	1,368
Number of interim awards of assistance made by registrars	301	307	832
<b>Total number of interim awards of assistance made for expenses already incurred</b>	<b>1,580</b>	<b>1,671</b>	<b>2,200</b>
Amount of interim financial assistance awarded for expenses already incurred	\$1,152,661	\$1,426,018	\$1,976,073
Average amount of interim financial assistance awarded for expenses already incurred	\$730	\$853	\$898

**Table 10: Number of interim awards of financial assistance made for *expenses not yet incurred* by decision-maker, and amount of interim assistance awarded, 2006/07-2008/09**

	2006/07	2007/08	2008/09
Number of interim awards of assistance made by tribunal members	987	1,121	977
Number of interim awards of assistance made by registrars	172	114	583
<b>Total number of interim awards of assistance made for expenses not yet incurred</b>	<b>1,159</b>	<b>1,235</b>	<b>1,560</b>
Amount of interim financial assistance awarded for expenses not yet incurred	\$1,316,910	\$1,544,104	\$2,139,103
Average amount of interim financial assistance awarded for expenses not yet incurred	\$1,136	\$1,250	\$1,371

**Table 11: Number of final awards of financial assistance made, and average amount of financial assistance awarded, 2006/07-2008/09**

	2006/07	2007/08	2008/09
Number of final awards of financial assistance made	3,134	3,343	3,547
Total amount of financial assistance awarded (for expenses already incurred and lump sum payments, and expenses not yet incurred, excludes legal costs)	\$23,874,780	\$26,785,653	\$28,234,473
Average amount of financial assistance awarded	\$7,618	\$8,012	\$7,960

**Table 12: Number of final awards of financial assistance made for *expenses already incurred* and lump sum payments, and average amount of financial assistance awarded, 2006/07-2008/09**

	2006/07	2007/08	2008/09
Number of final awards of financial assistance made	3,134	3,343	3,547
Amount of financial assistance awarded for expenses already incurred and lump sum payments (excluding legal costs)	\$20,603,376	\$22,296,443	\$23,194,837
Average amount of financial assistance awarded for expenses already incurred and lump sum payments	\$6,574	\$6,670	\$6,539

**Table 13: Number of final awards of financial assistance made for *expenses not yet incurred*, and average amount of financial assistance awarded, 2006/07-2008/09**

	2006/07	2007/08	2008/09
Number of awards of financial assistance made for expenses not yet incurred	1,342	1,511	1,638
Amount of financial assistance awarded for expenses not yet incurred	\$3,271,404	\$4,489,210	\$5,039,637
Average amount of financial assistance awarded for expenses not yet incurred	\$2,438	\$2,971	\$3,077

**Table 14: Number of primary victim awards made, and average amount of special financial assistance awarded to primary victims, 2006/07-2008/09**

	2006/07	2007/08	2008/09
Number of awards of financial assistance made to primary victims	2,451	2,768	2,999
Amount of special financial assistance awarded to primary victims on determination of application	\$6,785,505	\$7,716,252	\$8,414,420
Average amount of special financial assistance awarded to primary victims	\$2,768	\$2,788	\$2,806

**Table 15: Number of related victim awards made, and average amount of financial assistance awarded to related victims for distress, 2006/07-2008/09**

	2006/07	2007/08	2008/09
Number of awards of financial assistance made to related victims	378	298	270
Amount of financial assistance awarded to related victims for distress on determination of application	\$5,927,844	\$5,613,320	\$4,667,090
Average amount of financial assistance awarded to related victims for distress	\$15,682	\$18,837	\$17,286

**Table 16: Amount of legal costs ordered to be paid on determination of applications for financial assistance, and average legal costs ordered, 2006/07-2008/09**

	2006/07	2007/08	2008/09
Number of final awards of assistance made	3,134	3,343	3,547
Amount ordered to be paid for legal costs on determination of applications	\$2,834,519	\$3,212,447	\$3,554,526
Average amount of legal costs ordered to be paid per awarded applicant	\$904	\$961	\$1,002

**Table 17: Number of awards of financial assistance varied to award assistance for *expenses already incurred*, and average amount of financial assistance awarded on variation, 2006/07-2008/09**

	2006/07	2007/08	2008/09
Number of awards varied to award financial assistance for expenses already incurred	1,665	1,307	1,134
Amount of financial assistance awarded on variation for expenses already incurred	\$2,366,377	\$1,756,952	\$1,882,817
Average amount of financial assistance awarded on variation for expenses already incurred	\$1,421	\$1,344	\$1,660

**Table 18: Number of awards of financial assistance varied to award financial assistance for *expenses not yet incurred*, and average amount of financial assistance awarded, 2006/07-2008/09**

	2006/07	2007/08	2008/09
Number of awards varied to award financial assistance for expenses not yet incurred	448	412	401
Amount of financial assistance awarded on variation for expenses not yet incurred	\$912,974	\$1,050,429	\$965,198
Average amount of financial assistance awarded on variation for expenses not yet incurred	\$2,038	\$2,550	\$2,407

**Table 19: Number of applications for review finalised by the Victorian Civil and Administrative Tribunal, by outcome, 2006/07-2008/09**

OUTCOME	2006/07		2007/08		2008/09	
Original order/award set aside and new award made on review	4	13.8%	3	10.7%	2	18.2%
Award/order varied on review	5	17.2%	2	7.1%	-	-
Award affirmed on review	2	6.9%	7	25.0%	7	63.6%
Application for assistance remitted to original decision-maker for determination	2	6.9%	3	10.7%	-	-
Application for review dismissed	2	6.9%	3	10.7%	-	-
Application for review struck out/withdrawn/abandoned	14	48.3%	10	35.7%	2	18.2%
<b>Total</b>	<b>29</b>	<b>100%</b>	<b>28</b>	<b>100%</b>	<b>11</b>	<b>100%</b>

**Table 20: Number of awards of financial assistance made or varied by the Victorian Civil and Administrative Tribunal on review, and average amount of financial assistance awarded on review, 2006/07-2008/09**

	2006/07	2007/08	2008/09
Number awards of assistance made or varied on review	9	5	2
Amount of financial assistance awarded on review	\$110,971	\$49,318	\$11,500
Average amount of financial assistance awarded on review	\$12,330	\$9,864	\$5,750

Table 21: Amount of financial assistance awarded to applicants for psychological/psychiatric reports, 2006/07-2008/09

	2006/07	2007/08	2008/09
Interim award	\$311,889	\$397,104	\$621,520
Final award	\$658,086	\$710,030	\$683,578
Awarded on variation	\$99,516	\$68,766	\$73,013
Awarded on review	\$484	\$484	-
<b>Total</b>	<b>\$1,069,975</b>	<b>\$1,176,385</b>	<b>\$1,378,110</b>

Table 22: Amount of financial assistance awarded to applicants for counselling sessions, 2006/07-2008/09

	2006/07	2007/08	2008/09
<b>FINANCIAL ASSISTANCE AWARDED FOR COUNSELLING SESSIONS ALREADY PROVIDED</b>			
Interim award	\$136,150	\$123,918	\$291,422
Final award	\$539,022	\$586,623	\$594,820
Awarded on variation	\$424,370	\$274,884	\$243,420
Awarded on review	-	-	-
<b>Sub-total</b>	<b>\$1,099,542</b>	<b>\$985,425</b>	<b>\$1,129,662</b>
<b>FINANCIAL ASSISTANCE AWARDED FOR FUTURE COUNSELLING SESSIONS</b>			
Interim award	\$1,014,442	\$1,105,070	\$1,593,138
Final award	\$1,354,102	\$1,458,079	\$1,469,891
Awarded on variation	\$356,478	\$258,001	\$230,958
Awarded on review	-	\$3,388	-
<b>Sub-total</b>	<b>\$2,725,022</b>	<b>\$2,824,538</b>	<b>\$3,293,987</b>
<b>TOTAL AMOUNT OF FINANCIAL ASSISTANCE AWARDED FOR COUNSELLING SESSIONS</b>			
Interim award	\$1,150,592	\$1,228,988	\$1,884,560
Final award	\$1,893,124	\$2,044,702	\$2,064,711
Awarded on variation	\$780,847	\$532,885	\$474,378
Awarded on review	-	\$3,388	-
<b>Total</b>	<b>\$3,824,564</b>	<b>\$3,809,963</b>	<b>\$4,423,649</b>

Table 23: Number of applications for assistance lodged, final orders, and awards made by Tribunal region, 2008/09

REGION	TRIBUNAL VENUES WITHIN REGION (at 30 June 2009)	APPLICATIONS LODGED		FINAL ORDERS MADE		AWARDS MADE	
		Number	As % of Statewide total	Number	As % of Statewide total	Number	As % of Statewide total
Barwon South West	Colac, Geelong, Hamilton, Portland, Warrnambool	287	5.0%	225	4.5%	157	4.4%
Broadmeadows	Broadmeadows	595	10.4%	460	9.2%	335	9.4%
Dandenong	Dandenong	456	8.0%	435	8.7%	336	9.5%
Heidelberg	Heidelberg, Moonee Ponds, Preston	411	7.2%	384	7.7%	286	8.1%
Frankston	Dromana, Frankston	368	6.5%	372	7.4%	286	8.1%
Gippsland	Bairnsdale, Korumburra, Latrobe Valley, Moe, Omeo, Orbost, Sale, Wonthaggi	276	4.8%	247	4.9%	188	5.3%
Grampians	Ararat, Bacchus Marsh, Ballarat, Edenhope, Hopetoun, Horsham, Nhill, St Arnaud, Stawell	205	3.6%	232	4.6%	143	4.0%
Hume	Benalla, Cobram, Corryong, Mansfield, Myrtleford, Seymour, Shepparton, Wangaratta, Wodonga	225	3.9%	190	3.8%	145	4.1%
Lodden Mallee	Bendigo, Castlemaine, Echuca, Kerang, Kyneton, Maryborough, Mildura, Ouyen, Robinvale, Swan Hill	337	5.9%	265	5.3%	188	5.3%
Melbourne	Melbourne, Moorabbin	1,360	23.9%	1,017	20.3%	734	20.7%
Neighbourhood Justice Centre	Collingwood	82	1.4%	56	1.1%	38	1.1%
Ringwood	Ringwood	533	9.3%	528	10.6%	350	9.9%
Sunshine	Bacchus Marsh, Sunshine, Werribee	567	9.9%	591	11.8%	361	10.2%
<b>Total</b>		<b>5,702</b>	<b>100%</b>	<b>5,002</b>	<b>100%</b>	<b>3,547</b>	<b>100%</b>

Table 24: Number of awards of financial assistance made, by age and gender of awarded applicants, 2008/09

AGE	NUMBER OF AWARDS			DISTRIBUTION		
	Male Applicant	Female Applicant	Total	Male Applicant	Female Applicant	Total
0 – 18 years	357	529	886	19.8%	30.3%	25.0%
19 – 25 years	418	200	618	23.2%	11.5%	17.4%
26 – 35 years	397	354	751	22.0%	20.3%	21.2%
36 – 60 years	555	589	1,144	30.8%	33.8%	32.3%
61 years +	72	69	141	4.0%	4.0%	4.0%
Unknown	4	3	7	0.2%	0.2%	0.2%
<b>Total</b>	<b>1,803</b>	<b>1,744</b>	<b>3,547</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>

Table 25: Number of awards of assistance made, by category of act of violence and gender of awarded applicants, 2008/09

OFFENCE CATEGORY	NUMBER OF AWARDS			DISTRIBUTION		
	Male Applicant	Female Applicant	Total	Male Applicant	Female Applicant	Total
Homicide	165	179	344	9.2%	10.3%	9.7%
Rape	15	138	153	0.8%	7.9%	4.3%
Sex (non-Rape)	91	410	501	5.0%	23.5%	14.1%
Robbery	127	95	222	7.0%	5.4%	6.3%
Assault	1,274	740	2,014	70.7%	42.4%	56.8%
Abduction/Kidnap	6	7	13	0.3%	0.4%	0.4%
Criminal damage by fire	3	3	6	0.2%	0.2%	0.2%
Burglary	74	90	164	4.1%	5.2%	4.6%
Harassment	13	42	55	0.7%	2.4%	1.6%
Other	35	40	75	1.9%	2.3%	2.1%
<b>Total</b>	<b>1,803</b>	<b>1,744</b>	<b>3,547</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>

# Financial Statement

## Financial Statement for year ending 30 June 2009<sup>23</sup>

	NOTE	2007/08	2008/09
<b>SPECIAL APPROPRIATIONS</b>			
	1		
Salaries, Overtime and Annual Leave		\$1,180,493	\$1,289,821
Superannuation		\$98,528	\$114,359
Payroll Taxation		\$61,832	\$69,221
Provision for Long Service Leave		\$34,880	\$-13,548
Work Cover Levy		\$7,381	\$10,107
<b>Total Salaries and Associated Expenditure</b>		<b>\$1,383,114</b>	<b>\$1,469,960</b>
<b>OPERATING EXPENDITURE</b>			
Travel and Personal Expenses		\$4,868	\$11,413
Printing, Stationery and Subscriptions		\$77,092	\$91,236
Postage and Communication		\$53,143	\$45,787
Contractors and Professional Services		\$162,483	\$139,406
Training and Development		\$32,406	\$39,414
Motor Vehicle Expenses		\$39,093	\$4,920
Operating Expenses		\$23,206	\$31,069
Witness Payments		\$714	\$995
Information Technology Costs		\$42,985	\$60,408
Rent and Property Services		\$125,571	\$108,458
Property Utilities		\$43,965	\$40,219
Repairs and Maintenance		\$33,262	\$30,316
<b>Total Operating Expenditure</b>		<b>\$638,788</b>	<b>\$603,641</b>
<b>TOTAL SALARIES AND OPERATING EXPENDITURE</b>		<b>\$2,021,902</b>	<b>\$2,073,601</b>
<b>SPECIAL APPROPRIATIONS</b>			
Award payments (inc. legal costs)	2	\$29,794,883	\$31,050,578
<b>Total Special Appropriations</b>		<b>\$29,794,883</b>	<b>\$31,050,578</b>

See page 52 for notes to and forming part of the Financial Statement.

<sup>21</sup> This financial statement is based upon financial data available as at 22 July 2009.

## Notes to and forming part of the Financial Statement

### Note 1

The special appropriation for the salaries and on-costs of tribunal members (magistrates) over the reporting period is reported in the annual report of the Magistrates' Court of Victoria for the year ending 30 June 2009.

### Note 2

Award payments for the period are actual payments made for expenses and lump sum payments made in the reporting period, and does not include awards made and expenses authorised that had not been paid as at 30 June 2009.



# Tribunal Members

## Directory of tribunal members in the year ending 30 June 2009

### Chief Magistrate

Mr Ian Leslie Gray

### Deputy Chief Magistrates

Ms Felicity Anne Broughton

Mr Peter Henry Lauritsen

Mr Lance Ivan Martin (*from 26/8/08*)

Mr Daniel John Muling

Ms Jelena Popovic

Mr Paul Anthony Smith (*to Aug 08*)

### Magistrates

Mr Henry Clive Alsop

Ms Donna Bakos

Mr Raffaele Barberio

Mr Thomas Arthur Dent Barrett

Mr Edwin Charles Batt

Ms Luisa Rita Bazzani

Mr Isaac Joseph Beder

Mr John Stephen Bentley

Mr Ross Frederick Betts

Ms Susan Adele Blashki

Ms Angela Joy Bolger

Ms Jennifer Carolyn Anne Bowles

Mr Barry Bernard Braun

Mr Leonard Harold Brear

Mr Gerard Robert Bryant

Mr Andrew Thomas Capell

Ms Rosemary Carlin

Mr James Maxwell Brooke Cashmore

Ms Amanda Jane Chambers

Mr Brian Joseph Clifford (*to 7/11/08*)

Mr Michael Patrick Coghlan

Ms Ann Elizabeth Collins

Mr Gregory Connellan

Mr David Bruce Sidney Cottrill

Mr Peter Couzens

Mr Rodney Leslie Crisp

Ms Jillian Mary Crowe

Ms Sharon Elizabeth Cure

Ms Sarah Kingsley Dawes

Mr John William Doherty

Mr John Philip Dugdale

Ms Caitlin Creed English

Mr David Kevin Fanning

Mr Bernard Robert FitzGerald

Mr Julian Francis Fitz-Gerald

Ms Lesley Ann Fleming

Mr Roger Wilson Franich

Mr Simon Gerard Garnett

Mr William Paterson Gibb

Ms Jane Catherine Gibson

Mr Phillip Goldberg

Ms Jennifer Anne Benn Goldsbrough

Mr Martin Grinberg

Ms Jennifer Margaret Grubissa

Mr Maurice Gurvich

Mr Harley James Harber (*to 7/11/08*)

Ms Margaret Gill Harding

Mr John William Hardy

Mr Thomas Kevin Hassard

Ms Annabel Mary Hawkins

Ms Kate Isabella Hawkins

Ms Fiona Ann Hayes

Ms Jacinta Mary Heffey

Mr Louis Joseph Hill

Mr Francis Ross Hodgens

Ms Michelle Therese Hodgson

Mr Franz Johann Holzer

Ms Audrey Graham Jamieson

Mr Graeme Douglas Johnstone

Mr Frank William Dudley Jones

Mr Graeme Douglas Keil

Mr Jonathan George Klestadt

Mr Robert Krishnan Ashok Kumar

Ms Elizabeth Anne Lambden  
Ms Catherine Frances Lamble  
Mr Nunzio LaRosa  
Mr Gerard Michael Lethbridge  
Mr Gregory John Zalman Levine  
Ms Kay Helen Macpherson  
Mr Reg Marron  
Mr Ian Thomas McGrane *(to 5/12/08)*  
Mr Rowan George McIndoe  
Mr Gregory Laurence McNamara  
Mr Peter Harry Mealy  
Mr Peter Mellas  
Mr John Martin Murphy  
Mr Stephen Paul Myall  
Mr William John George O'Day  
Mr Thomas Michael O'Dwyer *(to 14/4/09)*  
Ms Denise Mary O'Reilly  
Ms Kim Michelle Willmott Parkinson  
Mr Anthony William Parsons  
Mr Richard John Pithouse  
Mr Peter Thomas Power  
Mr Steven Raleigh *(to 8/8/08)*  
Ms Carmen Maria-Francesca Randazzo *(to 26/6/09)*  
Mr Peter Anthony Reardon  
Mr Duncan Keith Reynolds  
Ms Mary Kay Robertson  
Mr Charles Schol Rozencajg  
Mr Ronald Norman Saines  
Mr Marc Anthony Sargent  
Mr Michael Leslie Smith  
Mr Paul Anthony Smith  
Ms Sharon Elizabeth Smith  
Ms Paresa Antoniadis Spanos  
Ms Pauline Therese Spencer  
Mr Alan John Spillane *(to 15/9/08)*  
Ms Heather Margaret Spooner  
Ms Fiona Margaret Stewart  
Mr Michael Henry Lewis Stone  
Ms Noreen Mary Toohey

Ms Jennifer Beatrix Tregent  
Mr Ian Maxwell Von Einem  
Ms Susan Melissa Wakeling  
Ms Belinda Jane Wallington  
Mr Ian Treloar West  
Mr William Peter White  
Mr Brian Robert Wright  
Mr Richard Thomas Wright  
Mr Brian Philip Wynn-Mackenzie *(to 22/8/08)*

#### **Acting Magistrates**

Mr Brian Stirtevant Barrow  
Mr John Douglas Bolster  
Mr Brian Joseph Clifford  
Mr Barry Francis Docking *(to 19/6/09)*  
Ms Michelle Pauline Elizabeth Ehrlich  
Mr Timothy John McDonald  
Mr James Stanislaus Mornane  
Ms Stella Maria Dolores Stuthbridge  
Mr Terry John Wilson  
Mr Lionel Cedric Winton-Smith  
Mr Francis Patrick Zemljak

# Tribunal Venues

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## **BENDIGO**

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## **COLLINGWOOD**

(Neighbourhood Justice Centre)  
241 Wellington Street  
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## **CORRYONG**

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Corryong 3707  
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**OMEO**

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(C/- Box 367 Bairnsdale 3875)  
(DX 214191)  
Omeo 3898

**ORBOST**

Wolsley Street  
(C/- Box 367 Bairnsdale 3875)  
Orbost 3888  
(DX 214191)  
Ph: 03 5154 1328

**OUYEN**

Shire Offices  
Oke Street  
Ouyen 3490  
(C/- PO Box 5014, Mildura 3500)  
Ph: 03 5023 0519

**PORTLAND**

67 Cliff Street  
PO Box 374  
Portland 3305  
Ph: 03 5523 1321  
Fax: 03 5523 6143

**PRESTON**

Cnr Roseberry Avenue  
& Kelvin Grove  
PO Box 268  
Preston 3072 (DX 212407)  
Ph: 03 9470 2768  
Fax: 03 9478 4957

**RINGWOOD**

Ringwood Street  
PO Box 333  
Ringwood 3134 (DX 212456)  
Ph: 03 9871 4444  
Fax: 03 9871 4463

**ROBINVALE**

George Street  
(C/- Box 5014 Mildura 3500)  
Robinvale 3549  
Ph: 03 5026 4567

**ST ARNAUD**

Napier Street  
PO Box 17  
St Arnaud 3478  
Ph: 03 5495 1092

**SALE**

Foster Street (Princes Highway)  
PO Box 351  
Sale 3850 (DX 218574)  
Ph: 03 5144 2888  
Fax: 03 5144 7954

**SEYMOUR**

Tallarook Street  
PO Box 235  
Seymour 3660 (DX 218685)  
Ph: 03 5735 0100  
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**SHEPPARTON**

High Street  
PO Box 607  
Shepparton 3630 (DX 218731)  
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Fax: 03 5821 2374

**STAWELL**

Patrick Street  
PO Box 179  
Stawell 3380  
Ph: 03 5358 1087

**SUNSHINE**

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PO Box 435  
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Fax: 03 9300 6269

**SWAN HILL**

Curlewis Street  
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Swan Hill 3585 (DX 218991)  
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Fax: 03 5033 1955

**WANGARATTA**

Faithful Street  
PO Box 504  
Wangaratta 3677 (DX 219436)  
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Fax: 03 5721 5483

**WARRNAMBOOL**

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PO Box 244  
Warrnambool 3280 (DX 219592)  
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**WERRIBEE**

Cnr Duncans Road  
& Salisbury Street  
PO Box 196  
Werribee 3030 (DX 212868)  
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Fax 03 9974 9301

**WODONGA**

5 Elgin Boulevard  
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Wodonga 3690 (219762)  
Ph: 02 6043 7000  
Fax: 02 6043 7004

**WONTHAGGI**

Watt Street  
PO Box 104  
Wonthaggi 3995  
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