

POSTCODE JUSTICE: RURAL AND REGIONAL DISADVANTAGE IN THE ADMINISTRATION OF THE LAW

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The paper signposts a number of issues identified within the research project: Postcode Justice — Rural and Regional Disadvantage in the Administration of the Law. It highlights key areas in which regional Victorians experience disadvantage in access to justice system services in comparison to their metropolitan counterparts. Issues raised by interviewees and survey participants demonstrate inherent problems with the current delivery of justice system services, programs and processes in regional Victoria. Briefly explored within the paper is the relationship of ‘distance’ to the delivery of justice. The paper suggests that little consideration is given to the spatial disadvantage experienced by regional communities in the development of legislation or the implementation of justice system programs, practices and procedures. The paper also examines the Magistrates’ Court criminal court programs which embrace the principles of ‘problem solving courts’ and ‘therapeutic jurisprudence’. While they are important innovations, these programs have had limited roll-out to regional communities. In its conclusion the paper suggests that an independent and unified ‘voice’ is needed to ensure a genuine and informed response to the diverse areas in which inequity exists in the delivery of justice system services to regional communities.

I INTRODUCTION

This paper outlines findings to date of a research project, funded by the Victoria Law Foundation. This project sought to determine whether rural and regional Victorians are disadvantaged when participating in the justice system in comparison to their metropolitan counterparts. Further, where disadvantage is shown to exist, the project examines the extent and nature of that disadvantage. The research focuses on the administration of the justice

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system, assessing the services, programs and processes of courts and tribunals.

A Background

The research starts from the precept that all Australians have a right to a fair and equitable system of justice. This position is enshrined in a number of laws impacting on Victoria and Australia and is reflected in international covenants which Australia has ratified or by which it is influenced, and which guide our position on human rights and notions of justice.¹

Ensuring that principles of equity, fairness and accessibility are maintained within our court system requires constant scrutiny. Systems can be influenced by a myriad of competing interests and demands. Without adequate independent and ongoing review, biases can affect, in sometimes unpredictable ways, the policy and processes meant to aid the effective and equitable delivery of justice.

The concepts of ‘spatial disadvantage’ and the ‘great divide’ between metropolitan and rural/regional Australia have existed and been recognised for some time.² Often expressed in terms of a lack of resources and services and centralised decision making, the complexity of economic, social and political factors, which lead to this disparity, continue to influence decisions of government in its legislation, policy and resource allocation.³

Like other institutions, courts and related justice system services and programs are not immune to the political and ideological motivations of governments of the day. The balance between economic efficiencies and the

¹ *International Covenant on Civil and Political Rights*, opened for signature 19 December 1966, 999 UNTS 171 (entered into force 23 March 1976) arts 14 and 26; *European Convention for the Protection of Human Rights and Fundamental Freedoms*, opened for signature 4 November 1950, 213 UNTS 221 (entered into force 3 September 1953) art 6. For an Australian position on human rights see *Charter of Human Rights and Responsibilities Act 2006 (Vic)* pt II cl 8.

² Three excellent publications which discuss spatial disadvantage and social change in rural and regional Australia are: Bill McManus and Phil McManus (eds), *Land of Discontent – The Dynamic of Change in Rural and Regional Australia* (UNSW Press, 2000); Stewart Lockie and Lisa Bourke (eds), *Rurality Bites: The Social and Environmental Transformation of Rural Australia* (Pluto Press, 2001); and Chris Cocklin and Jacqui Dibden (eds), *Sustainability and Change in Rural Australia* (UNSW Press, 2005).

³ See Rolf Gerritsen, *The Management of Government and its Consequences for Service Delivery in Regional Australia*, in *Land of Discontent – The Dynamics of Change in Rural and Regional Australia* (UNSW Press, 2000) 51–69, for discussions on the influence of market forces and New Public Management on spatial inequality in rural communities.

notions of public good, fairness and equity, is in a constant state of flux. A rationale which emphasises and principally measures per capita efficiencies in the allocation of resources, disadvantages regional communities. This is evident from research undertaken across other regional services in the health, education and transport sectors. When the rationale which drives spatial disadvantage unduly influences the principles and processes within our justice system, significant challenges confront government, the justice system and the community as a whole. Fundamental issues are raised concerning the maintenance of a justice system which protects the rights of all citizens equally, whoever they may be and wherever they may live.

II METHODOLOGY

The research draws on the perspectives of key service providers and other stakeholders involved in the justice system. It examines respondents' views about the disadvantage experienced by rural and regional communities, as compared with metropolitan communities, in relation to court processes, practices and resources across the various jurisdictions.

The issues listed within this paper represent only a small number of those raised by interviewees and survey participants. The research project is exploratory in nature, taking a broad-sweep approach, documenting the areas of disadvantage raised and, within the limits of the resources available, substantiating the concerns through investigation. Further examination of the impact of these issues, both individually and combined, provides a wealth of opportunities for future research.

The project has had four main phases: a literature review, interviews, surveys and analysis.

A *Literature Review*

The literature review examined the range of research and literature published in this area over the past several decades, both in Australia and overseas, including Federal parliamentary reviews and more recent research.

B *Interviews*

Fifty interviews were undertaken with 62 individuals and included several small focus groups ranging from two to eight participants.

Interviews were conducted for the purpose of establishing whether and in what circumstances disadvantage was experienced by people participating in the justice system in rural and regional Victoria. The interviews also suggested questions to be included within the subsequent surveys.

Interviewees included lawyers drawn from regional private law firms, Legal Aid Offices and Community Legal Centres. Individuals from regional community/welfare organisations were also interviewed, including those from family, youth, mental health, indigenous, domestic violence, disability and consumer services. Interviews were also undertaken with individuals from relevant peak organisations.⁴

C Surveys

Based on the results of the consultations and preliminary literature findings, two mail surveys were designed and distributed state-wide.

Survey One was specifically designed for lawyers, barristers and legal advocacy services who were working with clients in rural/regional Victoria across various areas of practice.

A total of 250 surveys were distributed to practising lawyers in rural and regional Victoria and 65 completed surveys were received — a response rate of 26 per cent.

Survey Two was designed to target human service organisations whose work is likely to involve dealing with the judicial system and state departments with regulatory powers in rural and regional Victoria. The targeted services were broken down into the following areas: indigenous, youth, drug and alcohol, housing, disability, mental health, family, financial/consumer, children's, women's domestic violence, and general welfare/community services.

A total of 250 surveys were distributed to human service organisations in rural and regional Victoria and 53 completed surveys were received — a response rate of 21 per cent.

A total of 117 completed surveys were received — a response rate of 23.4 per cent across both surveys.

⁴ Peak organisations from which interviewees were drawn include the Magistrates' Court of Victoria, the Office of Public Prosecutions, Victoria, the Victorian Aboriginal Legal Service, the Victorian Farmers Federation, Victoria Legal Aid and the Youth Law Centre.

1 *Survey Limitations*

The surveys were used to test the attitudes of the groups to the issues of disadvantage raised by interviewees and to gain additional feedback on issues concerning disadvantage. There are a number of limitations to this approach, which are briefly mentioned here.

- The surveys did not present a neutral position but sought a response to issues pertaining to disadvantage experienced by the respondents or their clients;
- The surveys focus on shortcomings of justice system services in rural and regional communities, limiting the opportunity for participants to expand on potential advantages of justice system services in regional locations;
- Participants were asked to compare justice system services and processes between rural/regional Victoria, and metropolitan Melbourne. Participants would therefore have to draw on either their perception or their personal experience to make such comparisons.

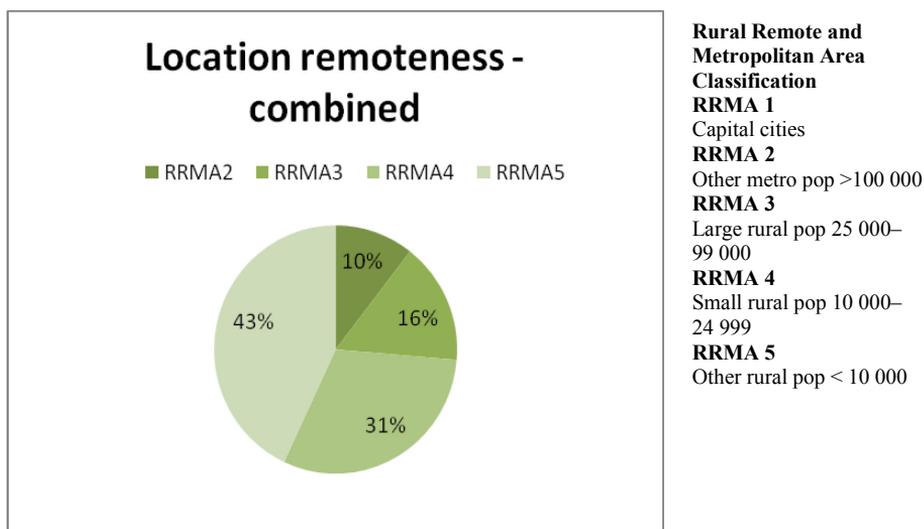
While limitations exist with this approach, it remains valuable in providing an overview of the degree to which the views of interviewees are shared by the wider sector.

2 *Who Participated in the Surveys*

Based on the Rural Remote Metropolitan area Classification (RRMA),⁵ Figure 1 indicates that 74 per cent (84) of those who completed the survey were based in small regional centres with populations of less than 25 000, while the remaining 26 per cent (30) were from larger regional centres, including 11 respondents (10 per cent), from the major regional centres of Geelong, Ballarat and Bendigo.

⁵ RRMA classification was developed in 1994 by the Department of Primary Industries and Energy, and the then titled Department of Human Services and Health. Seven categories are included in this classification - 2 metropolitan, 3 rural and 2 remote. The classification is based on Statistical Local Areas (SLA) and allocates each SLA in Australia to a category based primarily on population numbers and an index of remoteness. The Classification is currently under review.

Fig 1



Sixty per cent of participating regional lawyers surveyed represented clients at Melbourne courts in the last 5 years, 52 per cent represented clients 16 or more times and 26 per cent represented clients at least 51 times over that period.

Lawyer survey participants represented various areas of practice, across the areas, for example, of commercial law (32 per cent), family law (51 per cent), criminal law (29 per cent), property law (45 per cent) and wills/estate planning (53 per cent), reflecting a broad range of experience and differing jurisdictions. As the data indicates, many worked within 'generalist' practices across several area of law.

Of the 52 survey participants drawn from human service agencies (including youth services (15 per cent), mental health services (8 per cent), drug and alcohol services (9 per cent), advocacy and support services (10 per cent) and family/children's services (11 per cent)), 81 per cent were directly involved in justice-system-related client advocacy services.

D Findings and Analysis

On the completion of interviews and collation of the survey data, a number of issues were identified as disadvantaging rural and regional communities when participating in the justice system. Those discussed here include variations in court processes between city and country and the limited availability of court based programs and community based services in rural areas.

The final research report, which will be available in August 2011, focuses discussion and analysis on several issues additional to those included here — for example, the lower standard of court facilities in rural areas, variations in penalties and sentencing between city and country, practitioner issues and the unique challenges for those courts, legal practitioners and related services that are based at or near state borders.

At the conclusion of this article (and in more detail in the final research report), the need for a more effective and formalised process of engagement with regional stakeholders is raised. This should occur in order to ensure that laws, policies and processes better reflect, and are more responsive to the circumstances of, regional communities. The first of ten recommendations made within the final research report is directed to this issue.

The recommendations contained in the final report are summarised as follows:

Recommendation 1

That an independent authority be established whose role will be to review the impact of government policy, services and programs on the equitable provision of justice system services in rural and regional Victoria, and advise government on the outcomes of such reviews.

Recommendation 2

That the State Attorney-General commission an independent review of County Court practices and procedures where they impact on users of rural and regional circuit courts.

Recommendation 3

As per Recommendation One of the 2009 CISP Program review,⁶ that the State Attorney-General commit to 'Establishing a review of court support programs with the aim of developing a general court support service model that provides state-wide services to all Victorian

⁶ See Stuart Ross, 'Evaluation of the Court Integrated Services Program' (Final Report, Melbourne University, 2009).

Magistrates' Courts at all its venues and across all specialist lists and divisions'.

Recommendation 4

That the State Attorney-General commit to expanding the availability of specialist courts to all regional Magistrates' Court locations, with consideration given to greater use of information technology services including 'virtual courts' and video conferencing, where appropriate.

Recommendation 5

That independent research be undertaken to examine the impact and implications for regional communities of the 'therapeutic jurisprudence' model of justice system service delivery, including its impact on any variations in penalties and sentencing between city and rural courts.

Recommendation 6

That a commitment be given by the State Attorney-General to improve facilities and services provided at 'satellite' regional Magistrates' Courts, including security and the provision of safe, separated waiting areas, video conferencing facilities and soundproofed interview rooms.

Recommendation 7

That improved monitoring and data collection systems be established by the Department of Justice and the courts, such systems to collect comparative data relating to court and tribunal administration, the administration of court programs, civil matter outcomes, bail, remand, penalties and sentencing in rural and regional Victoria.

Recommendation 8

That independent research be undertaken which examines in detail gaps in the provision of legal practitioner services to regional communities, and the current and future impact of those gaps on the social, human, institutional and economic 'capital' of those communities.

Recommendation 9

That independent research be undertaken which examines and makes recommendations on the implications of 'conflict of interest' protocols for those using the services of regional private practitioners and Legal Aid Services, and for those services themselves.

Recommendation 10

That improved and extended cross border protocols be established in relation to the provision of justice system services, the application of court orders and, where appropriate, the fostering of parallel legislation between states.

III ACCESS TO THE COURTS

A Distance to Court and Justice Services

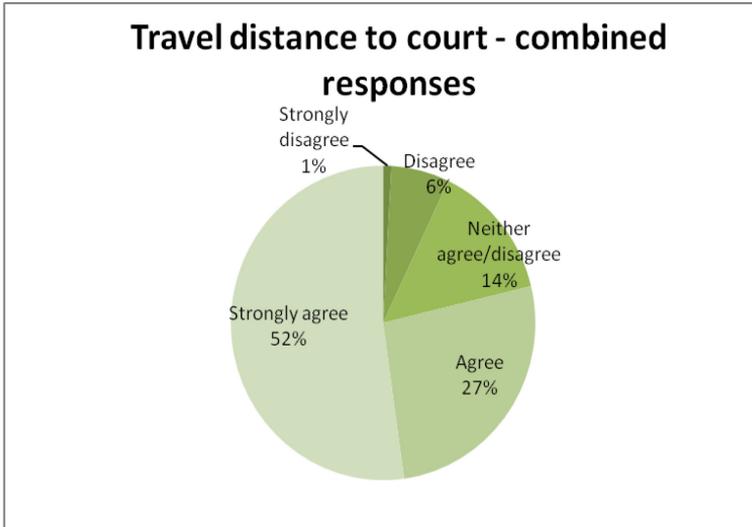
There are currently 54 Magistrates' Court locations in Victoria which deal with 97 per cent of Victoria's criminal matters and 93 per cent of civil matters.⁷ In 1880 there were 235 Magistrates' Court locations (then known as the Court of Petty Sessions).⁸ These numbers represent a ratio of one court location for every 100 000 people now and a much greater spread of courts in 1880, with a ratio then of one location for every 3700 Victorians. While this historic perspective gives a simplistic view of the accessibility of courts now and then, it nevertheless provides an interesting comparison when discussing progress in improving the accessibility of our justice system.

Distance was one of the impediments to accessing the justice system most frequently raised by survey participants and interviewees. As can be seen from Figure 2 below, almost 80 per cent of survey participants agreed or strongly agreed that rural and regional communities were disadvantaged in comparison to metropolitan residents because of the distance they are required to travel to attend some or all jurisdictions.

⁷ Productivity Commission, Parliament of Australia, *Report on Government Services 2010: Court Administration* (2010) 7.51.

⁸ Magistrates' Court of Victoria, *Court History* (2010) <<http://www.magistrates.court.vic.gov.au/wps/wcm/connect/justlib/Magistrates+Court/Home/About+the+Court/Court+History/>>.

Fig 2



Unsurprisingly there is a clear correlation between the fact of respondents being from smaller communities and their position on the statement that distance required to be travelled to some courts disadvantaged people living in rural and regional locations.

Figure 3 indicates that 64 per cent of those from RRA4 locations strongly agreed with the statement and 54 per cent of those from RRA5 locations strongly agreed.

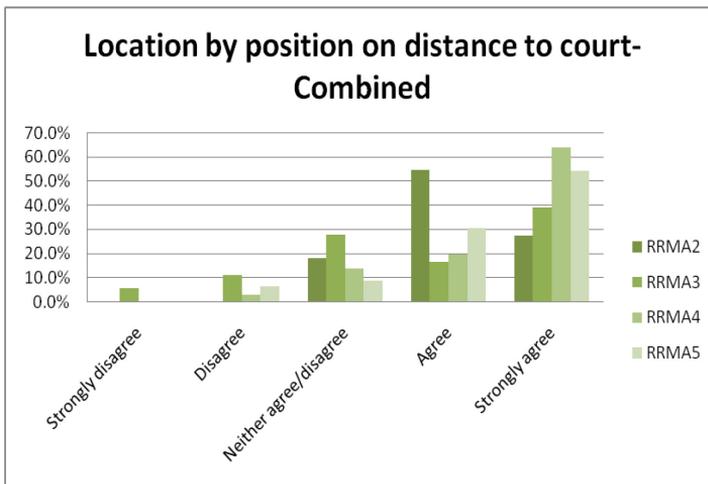


Fig 3

Rural Remote and Metropolitan Area Classification
RRMA 1 Capital cities
RRMA 2 Other metro pop >100 000
RRMA 3 Large rural pop 25 000–99 000
RRMA 4 Small rural pop 10 000–24 999
RRMA 5 Other rural pop < 10 000

As noted, there has been a significant decline in the number of Magistrates' Court locations in Victoria over the past 130 years. Both higher courts and VCAT circuits also sit much less frequently than the Magistrates' Court at regional centres. The problem of infrequent sittings has been further compounded by a growth in new tribunals such as the Federal Magistrates' Court and specialist court divisions such as the Industrial Division and Workcover Division of the Magistrates' Court. While these tribunals represent very positive initiatives, they have fewer sittings at regional circuits than in metropolitan Melbourne, or none at all. When they do sit at regional courts, they are predominantly based at the larger regional centres.⁹

As indicated by interviewees, court hearing delays, particularly in the County Court Civil jurisdiction, also drive litigants and their lawyers to apply for hearings at metropolitan courts.

B Lack of Public Transport

The lack of suitable public transport services in regional Australia is well documented and compounds court access issues for regional communities. A 2009 Senate Inquiry into public transport indicated that

Rural and regional people without cars, suffer particular transport disadvantage. Many submissions described the difficulties of life for people without cars or driver's licences — for example, difficulties that the elderly have in getting to doctor's appointments, or that youth have in gaining the independence they need. This particularly applies to transport from the

⁹ There are 54 Magistrates' Court locations in Victoria. The following are examples of Specialist courts and their sitting locations.

- *Drug Court* — available at Dandenong MC only;
- *Family Violence Division and Specialist Family Violence Service* — available at Heidelberg, Melbourne, Frankston, Sunshine, Werribee and Ballarat;
- *Neighbourhood Justice Centre* — available at Collingwood only;
- *Industrial Division* — available in Melbourne only, but can be held at regional courts by 'special' arrangement;
- *Workcover Division* — available for approximately 10 weeks at each regional principal court;
- *Children's Court* — while the Children's Court holds hearings at regional courts (and at metropolitan courts for criminal division matters only), the local Magistrate presides over these hearings. The Melbourne Children's Court, a specifically designed court with attached services and programs, is presided over by specialist Magistrates.

smaller towns to the regional centres. Providing even a little public transport can greatly increase these people's opportunities.¹⁰

The capacity to attend the 'local' Magistrates' Court was raised by several interviewees and survey participants. One participant working in the mental health field stated that:

People with mental health difficulties suffer great stress around court hearings. ... [T]hey have to catch a bus at 8 am (for an approximately two hour trip) from their town to the regional centre to arrive in time for court and if the hearing continues past 2:30 pm they are unable to return home as the last bus leaves at 2:30 pm.

We are regularly working with vulnerable people who have had to hitch home or sleep rough (after a court hearing).

The Victorian Department of Planning and Community Development also recognises disadvantages for regional Victorians in accessing adequate public transport, stating that

Transport is consistently rated by rural and regional communities as one of the most significant barriers to accessing services, employment and social networks.¹¹

This acknowledgment by federal and state departments of the issues associated with poor public transport services in rural and regional Victoria, does not appear to be accommodated within justice system processes, penalties and policies, which often result in much greater hardship for regional participants.

IV MAGISTRATES' COURT

The state government has expressed a strong commitment to a 'problem solving approach' to the justice system, stating that it

is committed to addressing the underlying links between disadvantage and offending. The Government will support strategies that can stop, or at least

¹⁰ Senate Rural and Regional Affairs and Transport Committee, Parliament of Australia, *Inquiry into the Investment of Commonwealth and State Funds in Public Passenger Transport Infrastructure and Services* (2009) [3.67].

¹¹ Victorian Department of Planning and Community Development, *Creating Local Transport Solutions* (9 August 2010) <<http://www.dpcd.vic.gov.au/transport>>.

slow, the revolving door that circulates people with chaotic lifestyles in and out of the criminal justice system.¹²

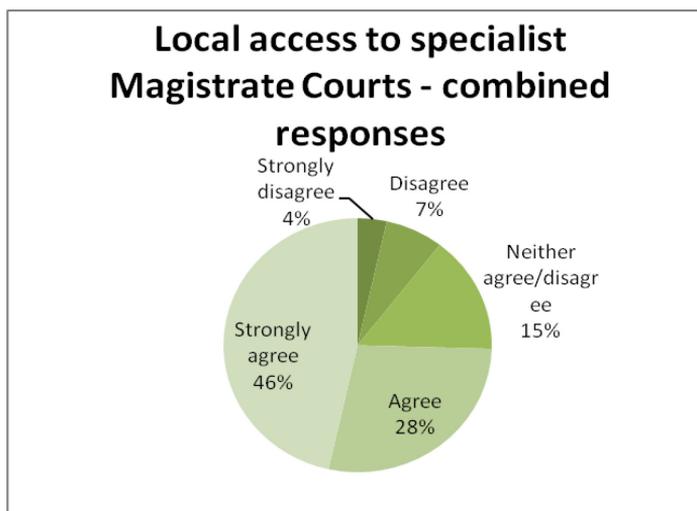
However, specialist Magistrates' Courts and court programs introduced by the state government over the past ten years or so, as part of this 'problem solving approach', have only limited availability for regional Victorians.

A Specialist Courts

Specialist Magistrates' Courts defined by the Magistrates' Court include the Drug Court, Family Violence Division, the Koori Court and the Neighbourhood Justice Centre. Other courts described as 'specialist courts' for the purposes of this research include the Workcover Division and the Industrial Division.

Seventy-four per cent of the 117 survey participants agreed that regional Victorians were disadvantaged by limited local access to specialist courts in comparison to their metropolitan counterparts — Figure 4.

Fig 4

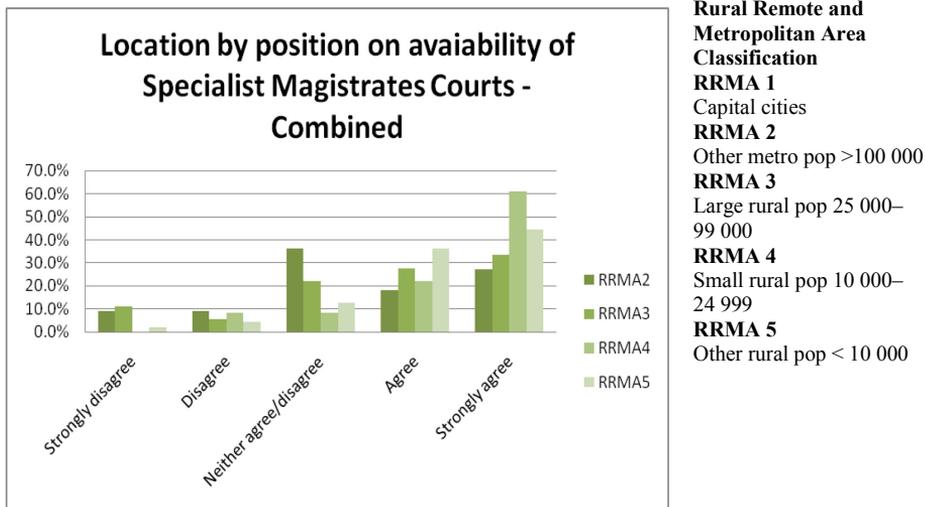


The location of survey respondents appears also to have a significant impact on responses. A clear correlation is evident in Figure 5 between the more

¹² Department of Justice (Vic), 'Attorney-General's Justice Statement 2: The Next Chapter' (Media Release, 2008) <http://www.justice.vic.gov.au/wps/wcm/connect/874bb280404a82698e88fff5f2791d4a/JusticeStatement2_Full.pdf?MOD=AJPERES>.

sparsely populated areas and the degree of agreement with the statement that there is limited or no local access to specialist courts for rural and regional communities. For example, 61 per cent of the RRMA4 cohort (populations of 10 000 to 24 999) strongly agree with the statement.

Fig 5



While the Department of Justice has established specialist Magistrates' Courts designed to improve outcomes for defendants and local communities, a systematic commitment to rolling out these programs and services to rural and regional Victoria has been lacking.

Where specialist courts and related services are made available outside metropolitan Melbourne they tend to be limited to a small number of the larger regional centres.¹³

B Magistrates' Court Programs

In its Justice Statement 2,¹⁴ the Victorian government embraces as a core element of its broad strategy the concept of 'problem solving courts'. Problem solving courts focus on addressing the behaviour underlying many criminal offences. To address the 'underlying cause' of the offending behaviour, the court delivers sentences that involve linking offenders to the various relevant services.

¹³ Magistrates' Court of Victoria, above n 8.

¹⁴ Department of Justice (Vic), above n 12, 31.

The concept of ‘problem solving courts’ draws on the Therapeutic Jurisprudence model for the delivery of justice system services, which holds that the courts should work ‘towards a common goal of a more comprehensive, humane, and psychologically optimal way of handling legal matters’.¹⁵

The Magistrates’ Courts of Victoria reflects this approach. The Victorian Department of Justice’s publication, *New Directions*, states that it proposes to ‘build on reforms already underway ..., including innovative approaches like problem-solving courts and therapeutic jurisprudence and other reforms that deliver on commitments in the *Justice Statement*’.¹⁶

To achieve this ‘problem solving’ approach, various innovative court programs have been introduced by the Victorian state government over the last 10 years. Examples of court programs based on this model, and their locations, include:

- CISP (Court Integrated Services Program (established 2006) — Melbourne, Sunshine and La Trobe;
- Credit Bail Program (established December 2004) — Broadmeadows, Dandenong, Frankston, Heidelberg, Moorabbin, Ringwood, Ballarat, Geelong;
- Mental Health Court Liaison Service (established November 1994) — Melbourne, Ringwood, Heidelberg, Dandenong, Frankston, Broadmeadows and Sunshine, with part time staff at Geelong, Shepparton, Bendigo, Ballarat and Latrobe Valley.¹⁷

¹⁵ Susan Daicoff, ‘The role of therapeutic jurisprudence within the comprehensive law movement’ in Dennis Stolle, David Wexler and Bruce Winick (eds), *Practicing Therapeutic Jurisprudence: Law as a helping profession* (Carolina Academic Press, 2000) 465–92.

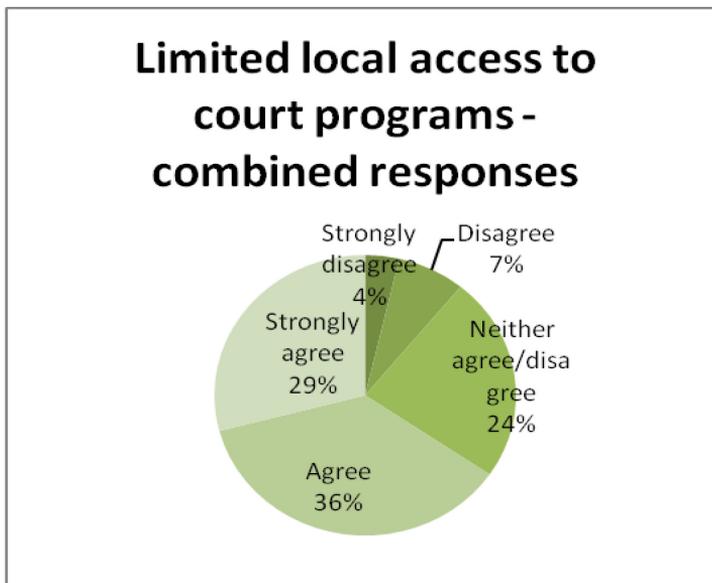
¹⁶ Department of Justice (Vic), ‘New Directions for the Magistrates Court of Victoria 2008–2011’ (Media Release, 1 June 2008) 2 <http://www.justice.vic.gov.au/wps/wcm/connect/1614dc00404a61a2bb1ffbf5f2791d4a/Magistrates_Court_New_Directions_July08.pdf?MOD=AJPERES>.

¹⁷ Magistrate’ Court of Victoria, *Court Support Services and Specialist Jurisdictions* <<http://www.magistratescourt.vic.gov.au>>.

The merits of these programs are clear, and independent evaluations confirm their effectiveness.¹⁸ However, there remain large areas of regional Victoria in which these court-based programs are unavailable. As a consequence, and as confirmed by an independent review of one of these programs — outlined below — these programs are unlikely to benefit those from regional communities.

When asked if their clients were disadvantaged by the lack of local access to these Magistrates' Court programs, 65 per cent of those surveyed agreed or strongly agreed. Only 11 per cent of those surveyed disagreed with the statement — Figure 6.

Fig 6



¹⁸ See Ross, above n 6, 15. See also M P Henderson and Associates, 'Bail Support Program Evaluation' (Final Report to Corrections Victoria, March 2008) 74–75 <http://www.justice.vic.gov.au/wps/wcm/connect/justlib/DOJ+Internet/resources/e/b/eb833580404a6b4896f6fff5f2791d4a/BSP_evaluation_final_report.pdf>. While no review of the Mental Health Court Liaison Service is available, an evaluation of a similar program provided in NSW indicates its valuable contribution. See Deborah Bradford and Nadine Smith, 'An Evaluation of the NSW Court Liaison Service' (NSW Bureau of Crime Statistics and Research, 2009) 60 <[http://www.lawlink.nsw.gov.au/lawlink/bocsar/ll_bocsar.nsf/vwFiles/r58_cls.pdf/\\$file/r58_cls.pdf](http://www.lawlink.nsw.gov.au/lawlink/bocsar/ll_bocsar.nsf/vwFiles/r58_cls.pdf/$file/r58_cls.pdf)>

C *The Court Integrated Services Program (CISP)*

The Court Integrated Services Program (CISP) was established ‘to assist in ensuring that the accused receive support and services to promote safer communities through reduced rates of re-offending’. The CISP represents a multi-disciplinary team approach which assesses and provides services and case management for offenders with drug, alcohol, mental health or disability needs or who are socially disadvantaged. Prior to sentencing an accused person who happens to be located within the jurisdiction of a local court which provides this service will (with his or her consent) be assessed for appropriate services and have them set in place. Once the CISP-based support regime is in place for the accused, this will demonstrate to the Magistrate a lower risk of re-offending and will potentially impact on the sentencing decision, encouraging a more therapeutic rather than punitive approach and one that is less likely to result in incarceration. The impact of this program can be significant. For those who have cases heard outside the three Victorian courts where this program is provided, the immediate and long term outcomes can be very different.

A 2009 independent review of the CISP Program by Melbourne University confirms its success. The resulting Report states that the program ‘has achieved (or exceeded) its primary output and outcome goals’.¹⁹ The Report goes on to express concerns regarding regional disadvantage, stating that:

Magistrates were asked how they would like to see CISP develop in the future. The most commonly nominated enhancement to the program was its extension to other court venues, including regional courts and other specialist courts. Several referred to the variations in practice that were apparent when they were working at court venues where CISP was not available, and the inherent unfairness of this to defendants — ‘postcode justice’. Magistrates whose work took them to regional courts commented on the limitations this placed on their capacity to respond effectively to defendants.²⁰

With over 2000 referrals made to the program over the 2008–2009 reporting period²¹ and with a decision being made to continue funding of the program,²² it is clear that the CISP is a success. Given its success within the locations that it is funded in, and the comparative disadvantage likely to be experienced by those within regions which do not have access to this program, the question

¹⁹ Ross, above n 6, 15.

²⁰ Ibid 108.

²¹ Magistrates’ Court of Victoria, ‘2008–2009 Annual Report’ (Annual Report, 2009) 97.

²² Ibid 17.

has to be asked: Why after four years is there no commitment to the wider rollout of the service?

D Credit Bail Support Program

The same question can be asked in relation to other programs of the Magistrates' Court, including for example the Credit Bail Support Program (Court Referral & Evaluation for Drug Intervention & Treatment Program). This program

seeks to increase the likelihood of a defendant being granted bail and successfully completing a bail period. The program provides clients with access to drug treatment, accommodation, material aid and support, as required, according to the assessed needs of the client.²³

The program focuses on drug related offences and was established to reduce the number of offenders in remand and reduce offending behaviour, through treatment and rehabilitation. Available in metropolitan courts and the Geelong and Ballarat Magistrates' Courts, the program is a substitute for the CISP Program in those areas.

While the effectiveness of the program is demonstrated and it has continued to expand over the seven years of its existence (with 1883 referrals over the 2008–2009 period)²⁴, large areas of regional Victoria are not covered by the program.

As one interviewee solicitor stated,

[T]he lack of services starts from the front end where for example Sunshine police have a specific Domestic Violence Police Unit, this doesn't exist in most rural areas. For Programs such as CISP and Credit Bail, where they don't exist, means [sic] that people are less likely to get bailed because participation in those programs demonstrate [sic] a reduced risk of re-offending and therefore those who can't access the programs will be more likely to get an onerous sentence such as gaol terms.

²³ Magistrates' Court of Victoria, *Credit Bail Support Program brochure* (2010) <<http://www.magistratescourt.vic.gov.au/wps/wcm/connect/e703dd80404a31e5bbc7fbf5f2791d4a/CBS+Brochure.pdf?MOD=AJPERES>>.

²⁴ Magistrates' Court of Victoria, above n 21, 97.

E Mental Health Court Liaison Service

A third program which has limited availability in regional Victoria is the Mental Health Court Liaison Service. The aim of the Mental Health Court Liaison Service 'is to provide court assessment and advice services to magistrates in relation to people who may have a mental illness appearing before the Magistrates' Courts.'²⁵ This service is not available at smaller regional courts and has only part-time staff at larger regional centres. In the view of one regional court registrar interviewed, this has been a particularly successful program; the registrar indicated that the Court's part-time Mental Health Liaison Officer 'has had the biggest impact of any programs here'.²⁶

A practitioner, who regularly acts as a Duty Lawyer at a small town Magistrates' Court, provided an example of the consequences of limited access to such a service. Often dealing with 20 to 30 duty lawyer cases in a day, he stated that:

Clients with a mental illness, particularly itinerant workers, may not be recognised by me or the courts as requiring specialist support, and without access to the Mental Health Court Liaison Service, they can be on a treadmill of conviction and sentencing, over and over without ever accessing appropriate interventions. For those attending Melbourne Magistrates' Court, outcomes for people with a suspected mental illness using the duty lawyer service can be very different.

The current lack of a co-ordinated and committed approach to establishing court-based programs regionally is best stated by Recommendation One of the Magistrates' Court of Victoria commissioned review of the Court Integrated Services Program (CISP), which states that the Magistrates' Court should

Establish a review of court support programs with the aim of developing a general court support service model that provides state-wide services to all the Victorian Magistrates' Courts at all its venues and across all specialist lists and divisions.²⁷

²⁵ Magistrates' Court of Victoria, Mental Health Court Liaison Service <<http://www.magistratescourt.vic.gov.au/wps/wcm/connect/Magistrates+Court/Home/Court+Support+Services/MAGISTRATES+-+Mental+Health+Court+Liaison+Service>>.

²⁶ Court Registrar interviewee from RRMA 2 location (other metro pop >100 000).

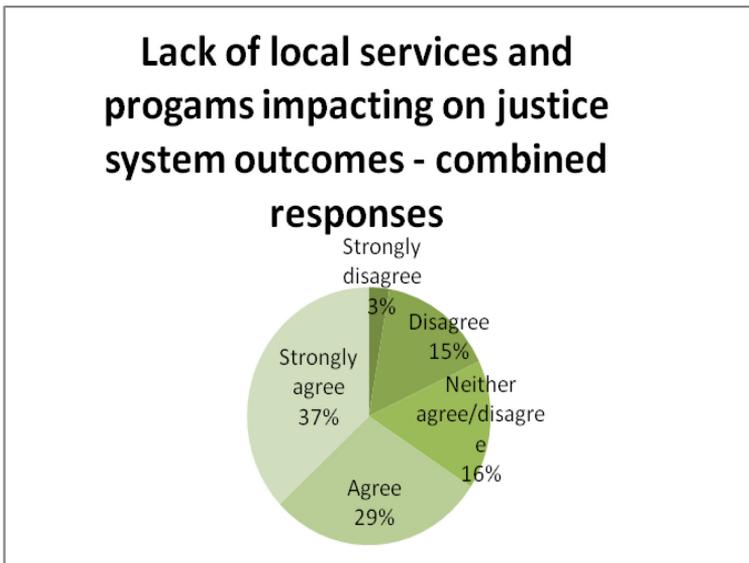
²⁷ Ross, above n 19, 15.

F Community Based Programs and Services

Community based programs for offenders and those at risk of offending have a real and attributable impact on the prevention of offending and re-offending. Programs include, for example, those in the areas of health, disability/psychiatric services, accommodation services, drug and alcohol programs, youth support services, mediation services, relationship counselling services, anger management or domestic violence counselling programs, victim/witness counselling services and interpreter services.

When survey participants were asked if they thought that there was a limited availability of local community services and programs in their area compared with metropolitan areas and that the lack of availability impacted on justice system outcomes for their rural and regional clients, 66 per cent (73) of all respondents agreed or strongly agreed, with only 18 per cent (20) disagreeing. See Figure 7. The position held by human service organisation survey respondents was the most adamant, with 77 per cent agreeing with the statement, 46 per cent of whom strongly agreed. Fifty-six per cent of lawyers agreed, 29 per cent of whom strongly agreed.

Fig 7



Not surprisingly, the location of respondents also affected their views, with those from smaller communities (which are less likely to have a range of local support services) more strongly agreeing that a lack of local support services adversely impacted on their clients' likelihood of offending or re-offending.

The Victorian Attorney-General's 'Justice Statements One' and 'Two' proposed numerous reforms to the Victorian Justice System. Strategies behind Justice Statements One and Two, and the programs generated on the basis of those strategic plans, pre-suppose the availability of a level of locally based services to the courts when they are considering orders and penalty options.

For example 'Justice Statement One' as part of its 'Vision' for improved outcomes imagines a

focused justice system capable of effectively delivering expected outcomes through improved cooperation within the court system, improved collaborative arrangements with external agencies, and the optimal use of supporting technology.²⁸

'Justice Statement Two', regards as key '[a] collaborative approach between the court, prosecution, support services and the defendant to identify the most effective response and intervention'.²⁹

To a large extent, however, these 'external agencies' and locally based 'support services' may not exist in rural and smaller regional locations. As a result there is a real danger of there being two levels of justice system, dependent on where you live and the location of the court you attend — one system for metropolitan and larger regional centres with the services available to support more progressive and innovative programs and another for smaller regional and rural communities without the support infrastructures available.

This applies to both court based programs and those based within the communities, each of which impact on the potential for offending and re-offending.

The lack of local services has a very real impact on justice system outcomes. Examples are outlined below.

1 *Psychiatric Services*

One of the areas of service more frequently raised as lacking in regional Victoria — an area which can have a direct impact on participation in the criminal justice system — is that of mental health. The comparative lack of mental health services generally in rural and regional communities has been a

²⁸ Department of Justice (Vic), 'Attorney-General's Justice Statement: New Directions for the Victorian Justice System 2004–2014' 5.

²⁹ Department of Justice (Vic), above n 12.

longstanding issue and the relationship between people with undiagnosed or poorly managed/supported mental illness, the criminal justice system and incarceration is well documented.

The Australian Institute of Criminology Trends and Issues Journal states that ‘prevalence rates of a wide variety of mental disorders are disproportionately high in the offender population within the criminal justice system’. ‘Rates of the major mental illnesses such as schizophrenia and depression are between three and five times higher in offender populations than those expected in the general community.’³⁰

The National Rural Health Alliance, in its Fact Sheet on Mental Health in Rural Australia, states that

The closure of many of the residential care facilities over the past two decades (a large number of which were based in regional Australia) has had the desirable effect of allowing many people with mental illness to live in the community. However, during that period there has not been any real increase in spending to ensure the availability of the range of support services, clinical and non-clinical, needed by people with a mental illness to live well in the community. This problem is accentuated if you live in a rural area which is likely to have fewer health professionals, a much smaller choice of health service providers and scarce community support services.³¹

The perception of a lack of services in regional Australia is supported by a Mental Health Council of Australia report which indicates that the rate of usage of specialist mental health services in regional areas was 40–90 per cent of that in major cities (depending on the type of service required); and in remote areas it was 10–30 per cent of the rate in major cities.³² Regional access to psychiatrists is also very poor, ‘with 91% of psychiatrists having their main practice in metropolitan areas’.³³

³⁰ James Ogloff, Michael Davis, George Rivers and Stuart Ross, The identification of mental disorders in the criminal justice system Australian Institute of Criminology, Trends and Issues in Crime and Criminal Justice No 334, 2007.

³¹ National Rural Health Alliance, *Fact Sheet 18 — Mental Health in Rural Australia Rural Perspective* (August, 2009) <<http://nrha.ruralhealth.org.au/cms/uploads/factsheets/fact-sheet-18-mental-health.pdf>>.

³² Mental Health Council of Australia, Report No 2 to Council of Australian Governments, *Mental Health and the New Medicare Services*, September 2008, 15. Rates are based on Medicare codes for psychologists and general Practitioner mental health services.

³³ National Rural Health Alliance, above n 31.

Given the inadequacy of mental health services in regional Australia and the relationship between mental illness and criminal offences — whether the mentally ill person be a victim or an offender — the limited regional rollout of the Victorian government's *Mental Health Court Liaison Service Program*, now established for the last 16 years, is disappointing. Much greater resources are required in regional areas to rectify this issue.

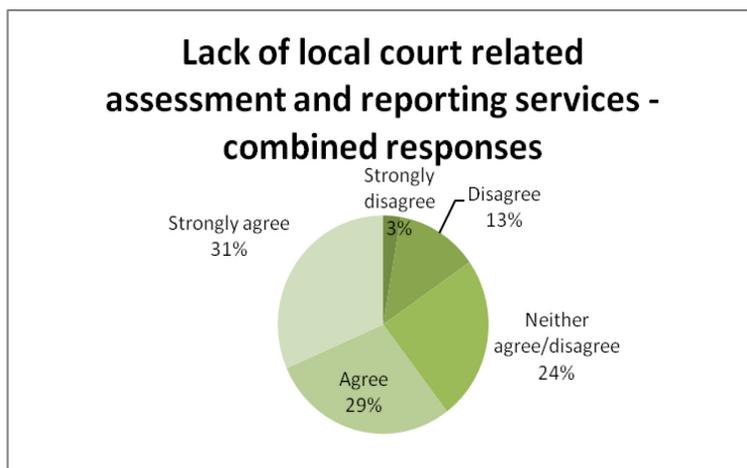
Perhaps even more 'off the radar' are services in the areas of Attention-Deficit Hyperactivity Disorder (ADHD) and acquired brain injury. Where court-related support programs do occur, they are less likely to be matched by local services, particularly in smaller regional centres. A senior psychologist with a Community Health Centre interviewed for the research identified ADHD as a major area of concern. 'ADHD is a condition not treated by psychologists, with specialists in this area only available in Melbourne and Geelong.' In her experience, a relatively high number of untreated adults with ADHD enter the criminal justice system with drug dependence and criminal records. 'If better screening were available it could dramatically save the justice system resources.'

2 *Medico-Legal Court Reports and Assessments*

A related issue frequently raised by interviewees was the lack of professional reporting and assessment services (medico-legal reports) in regional Victoria. This relates largely to independent assessment reports on clients with a suspected or confirmed mental illness and those with physical injuries, who are seeking compensation.

As the survey findings indicate in Figure 8, 60 per cent of all participants agreed with the statement that regional residents had greater difficulty in accessing these services (only 16 per cent disagreed). This included 30 per cent of all lawyers surveyed and 33 per cent of human service organisation participants, all of whom 'strongly' agreed with the statement.

Fig 8



Given the number of lawyers participating in the survey who were involved in criminal law (29 per cent) or in other jurisdictions where access to psychiatric/psychological and medical assessment and reporting services would be an issue, this level of response is significant. Further examination would be required to determine the consequences, in addition to the inconvenience and cost, of limited access to assessment services. However, for criminal matters, there are likely to be bail and sentencing implications in cases where assessment reports have been inadequate or not gained as part of a hearing.

An interviewee put the lack of services in context, stating that,

For our area (Warrnambool), the closest forensic psychologist is in Geelong. Legal Aid funding for such services are [sic] limited, making guilty pleas with mitigation difficult - people end up pleading-up as a direct result of the lack of these services. Remand is like warehousing of people with a mental health issues [sic].

G Shortfall in Regional Medical Services

There is a correlation between the problems of providing legal services in regional Victoria and the problems that other services face in attracting professionals. The difficulty in attracting General Medical Practitioners (GPs) to regional areas has been well documented for some years. In its 2007 Federal Election Position Statement, The Rural Doctors' Association of Australia reported that 'at least 1000 extra doctors are urgently needed in rural

and remote Australia to provide basic healthcare'.³⁴ The Association's report further stated that an acceptable ratio of doctors to patients is 1:900, while in some rural towns the ratio is 1:4000 patients.

The shortfall in GPs in regional areas also has a direct impact on the provision of legal services in several ways. According to the Australian Bureau of Statistics *National Survey of Mental Health and Wellbeing*, GPs are the most likely source of mental health support and treatment, with 80 per cent of Australians presenting to their GP when they have mental health issues.³⁵ Given this, and the lack of both GP services and specialist mental health services in many regional areas, accessing assessment and reporting services for court related matters can be much more challenging there than it is in metropolitan areas.

The difficulty of gaining psychological assessments and general and specialist medical reports is potentially further compounded by communication and cultural issues. In response to the growing shortfall in general practitioners in rural and regional Australia, the Federal Government has, over several years, introduced incentives to attract overseas qualified doctors to regional Australia.³⁶ The 2003 Australian Bureau of Statistics Australian Social Trends report indicated that 'the proportion of doctors who were born overseas was highest in Remote areas (56%) and Very Remote areas (51%)'.³⁷ More recent ABS statistics reveal that 'generalist medical practitioners who arrived in Australia in the last five years accounted for more than a quarter of the Generalist medical practitioners in Remote and Very Remote areas'.³⁸ No doubt within some regions the proportion of recently arrived medical practitioners would be even higher.

³⁴ The Rural Doctors' Association of Australia, 'Caring for the Country - Federal Election Position Statement' (Media Release, 26 July 2010) <http://www.rdaa.com.au/Uploads/Documents/Federal%20Election%20Position%20Statement%202010_20101014024915.pdf>.

³⁵ Australian Bureau of Statistics, 'National Survey of Mental Health and Wellbeing' (Summary of Results, 2008) 4326.0. Of the people who had a 12 month affective disorder, only 45 per cent used services for their mental health, with most of these (80 per cent) seeing a General Medical Practitioner (GP).

³⁶ See Department of Immigration and Citizenship, *General Skilled Migration Programme* <<http://www.immi.gov.au/skilled/medical-practitioners>>.

³⁷ Australian Bureau of Statistics, 'Health Services: Medical Practitioners' (Australian Social Trends, 2003) 4102.0.

³⁸ Australian Bureau of Statistics, 'Selected Health Occupations' (Australian Social Trends, 2008) 4819.0.

This issue was raised by one interviewee, who indicated that:

When clients use GP services in our region, they often find difficulties in understanding the Doctor's accent. While medical services can be great, the standard of (medico-legal) reports can be terrible.

Medical reports produced by overseas trained GPs can be difficult to interpret because of the language issues.

There are also cultural differences which impact on what is written in the report.

Ironically, attempts by small town GPs to address the shortfall in numbers have also been thwarted by legislation. Requests by regional medical services for exemptions from Trades Practices Act provisions have been denied, preventing co-operative medical rosters between medical practices being used in rural areas to ensure the provision of services.³⁹

V THE COUNTY COURT

Major issues were frequently raised by solicitors interviewed regarding the setting of hearing times at regional County Court circuit courts.

A Allocation of Hearing Dates at Regional Circuit Courts

Most lawyers and barristers who participated in interviews and had experience of representing clients at County Court regional circuit hearings raised concerns regarding the variations in County Court procedures between metropolitan and regional courts in the setting of hearing dates. These variations in procedures exist for both criminal and civil cases and are established under a number of County Court Practice Notes, including, for example, the County Court Civil Procedure Rules,⁴⁰ the County Court

³⁹ Matt Wade, 'Bush Doctors' Bid to Avoid Competition Law Rejected', *Sydney Morning Herald* (online), 11 November 2002 <<http://www.smh.com.au/articles/2002/11/10/1036308576003.html>>.

⁴⁰ *County Court Civil Procedure Rules 2008* (Vic), reg 48(1) and (2). Reg 48(1) provides that setting down for trial shall be taken to be for the day on which the proceeding comes on for trial. Reg 48(2) provides, 'setting down for trial elsewhere than in Melbourne shall be taken to be for the next sitting of the Court at the place for which it is set down for trial, unless the Court otherwise orders'.

Criminal Procedure Practice Notes⁴¹ and the County Court Criminal Jurisdiction Case List Management System (CLMS) Practice Notes.⁴²

The County Court Practice Notes establish procedures for regional circuit courts which place participants at circuit courts at a considerable disadvantage in a number of ways. Unlike the procedure at Melbourne County Court, where notification of a specific day for the commencement of a hearing is provided months prior to the hearing, at circuit courts notification is initially only given of the commencement date of a circuit sitting period (usually the month of the circuit sitting). Advice on the actual commencement day of a hearing is often provided only one to three days prior to the day of the hearing. The exception to this appears to be with Serious Sexual Offence matters where a specific hearing date is set.

For practitioners and their clients at County Court circuit courts, the inability to work to a specific hearing date until often only days prior to a hearing can mean a significant disadvantage. One Horsham solicitor indicated that:

because the County Court doesn't give a hearing date but rather the sitting date, our hearing may occur any time within that month, with as little as 24 hours notice, making it very difficult to engage suitably experienced counsel, organise character referees and reports.

One of the few Melbourne-based senior barristers with extensive circuit court experience who was interviewed for the research stated that 'Barristers tend not to take on country trials. For circuit courts less than 24 hours notice is not uncommon — in Melbourne, you may have 12 months to hold a brief and plan'.

Court administrators interviewed for this research, who oversee the management of regional County and Magistrates' Court sittings, presented a very different perspective, however. They suggested that the perception of lack of time to prepare, rather than being an example of disadvantage for regional circuit participants, reflected either a lack of familiarity with circuit court processes by some solicitors and barristers involved, or a lack of regard for the processes. One further stated that

⁴¹ County Court of Victoria, *Criminal Procedure Practice Note 2-2010* (4 January 2010), <[http://www.countycourt.vic.gov.au/CA2570A600220F82/Lookup/Practice_Notes/\\$file/PNC_R_2-2010_County%20Court%20Criminal%20Procedure.pdf](http://www.countycourt.vic.gov.au/CA2570A600220F82/Lookup/Practice_Notes/$file/PNC_R_2-2010_County%20Court%20Criminal%20Procedure.pdf)>. The Criminal Procedure Practice Note specifically comments that 'Practices vary for circuit court listings' but does not specify the nature of those variations. It does, however, indicate in relation to plea hearings that 'For Melbourne matters, a plea date will also be provided': at 8.

⁴² *Crimes (Criminal Trials) Act 1999* (Vic) s 3.

a number of court processes have been introduced such as mention hearings and directions hearings to try and get solicitors and barristers to plan for a hearing, but they continue to try and delay.

Any resolution to current problems associated with the allocation of hearing dates at regional circuit courts must deal with the courts' operational issues. As the court administrators who were interviewed observed, 'less than 5% of civil matters actually run at court with 95% of matters resulting in 'court door' settlements'. To deal with this uncertainty, the current system has been put in place to ensure the sitting judge has a flow of cases. While the flexible way in which hearings are listed at circuit courts may create the efficiency and 'productivity' that the County Court seeks,⁴³ and the certainty of the circuit judge being fully occupied, the implications for 'natural justice' and the inconvenience and hardship for regional participants need addressing.

Interviewees also raised an additional disadvantage arising at regional criminal courts. It relates to the selection of prosecuting counsel, a role of the Office of Public Prosecutions. There are currently eight Senior Crown Prosecutors and seventeen Crown Prosecutors under the Director of Public Prosecutions. According to interviewees, to a large extent prosecutors representing the Crown at regional circuit criminal matters are drawn from private barristers, with 'in-house' Crown Prosecutors primarily pursuing matters at the Melbourne County Court. The experience of private barristers acting as prosecutors will vary, with many having extensive experience in this role. However, those with limited experience as prosecutors have far less access to Senior Crown Prosecutors than their Melbourne counterparts and this has the potential to again significantly impact on the quality of representation and the outcome of cases. As stated by one interviewee,

Crown prosecutors have an expertise which rarely goes to the country...
Crown Prosecutors are accessible to metropolitan barristers being briefed but junior barristers on circuit don't have the same degree of access or expertise.

B Hearing Delays

Comparing delays at regional Victorian circuit courts with those in metropolitan Melbourne, County Court statistics from 2003/04 to 2008/09⁴⁴

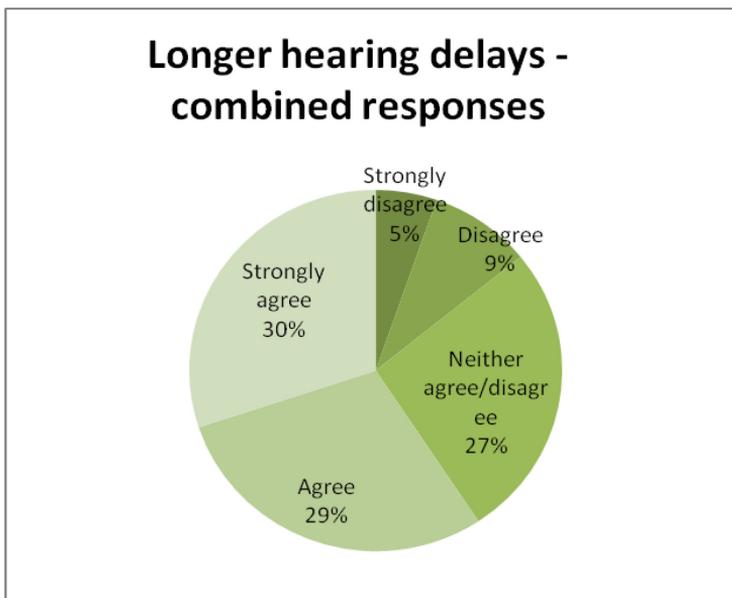
⁴³ Ibid item 3.11: 'It is the Court's objective to make circuits as productive as possible in the disposal of pending cases'.

⁴⁴ Department of Justice, County Court of Victoria, Court Statistics Service, *Inquiry — CLMS #77*. This relates to the percentage of cases disposed of in the year 2003/04 to 2008/09.

indicate a slower rate of disposal of matters coming before regional criminal court circuits over that period. Only 72.6 per cent of regional cases were disposed of within 12 months compared with 75.3 per cent of metropolitan cases. For County Court civil cases for the period 2003–2009, delays were longer than they were for criminal matters. This was the case at both metropolitan and regional hearings. For regional civil matters delays were longer than in metropolitan areas, with an average across all regional courts of 42 per cent of matters being disposed of within a 12 month period, compared with 47 per cent of metropolitan civil matters.⁴⁵

When survey participants were asked if they thought rural and regional clients were disadvantaged by longer hearing delays in some jurisdictions than at metropolitan courts, the combined response rate was 59 per cent agreeing with the statement – Figure 9. This combined rate, however, was strongly influenced by the responses of Human Service organisations, with 82 per cent agreeing, approximately half of which strongly agreed. This can be compared with 42 per cent of lawyer survey participants who agreed and 33 per cent who neither agreed nor disagreed.

Fig 9



⁴⁵ Ibid.

While the data above confirm a slightly slower disposal rate of matters at regional courts, the reason for the stark distinction between the two survey groups is unclear and requires further investigation.

Survey respondents cited almost all jurisdictions as examples in which there were delays. The County Court, however, was the jurisdiction most frequently cited by the research interviewees in relation to court delays.

County Court hearing delays have been a significant issue for some time. The introduction of legislation prioritising serious sexual offences and ‘special hearings’ involving children and persons with a cognitive impairment, which require the matter to be heard within 3 months from the defendant being committed for trial, has made further demands on the courts and extended the delays in hearing other serious criminal and civil cases, particularly at regional courts.⁴⁶

Judge Meryl Sexton, Judge in Charge – Sex Offences List, reported in a speech to the Criminal Bar Association that

... almost half of sexual offences cases involve a child or cognitively impaired complainant. For the last financial year, that means about 264 cases. Fortunately for the system, about half of these are pleas of guilty. Otherwise, the system would simply collapse under the load, without more resources to hear and dispose of the special hearing trials. The effect on the rest of the criminal caseload is that the number of ‘not reached’ cases is increasing. These include other sex offences trials.⁴⁷

Judge Sexton further stated that

[t]he most devastating effect has been on the circuit lists, particularly in those regions where there was already a backlog, or where there are only two or three circuits a year.⁴⁸

Judge Sexton’s statement that the system would ‘collapse’ if the number of guilty pleas were to decrease indicates the overall precarious state of the County Court and its ability to effectively manage cases within a reasonable

⁴⁶ *Justice Legislation Amendment (Sex Offences Procedure) Act 2008* (Vic) pt 2 and *Amendment of Crimes Act 1958* (Vic) s 3 which establishes time limits on certain prosecutions and *Criminal Procedure Act 2009* (Vic) s 212 which establishes time limits for commencing trials for sexual offences.

⁴⁷ Judge Meryl Sexton, *Criminal Bar Association Presentation: Sex Offences Trial Procedure and Evidence* (20 November 2010) 12.

⁴⁸ *Ibid* 12.

time, and the particular impact of inadequate resources on regional circuits. Since that statement the number of contested pleas and overall numbers of sexual offence cases has increased within the County Court.⁴⁹

The most recent County Court Annual Report confirms this and indicates a compounding of this issue. In his report Chief Judge Michael Rozens states that,

The impacts have been felt particularly at the regional courts where the hearing of sex offence cases has often been at the expense of the general list.....our resources have been stretched to the limit.⁵⁰

1 *Consequences of Hearing Delays*

The legal maxim that ‘Justice delayed is justice denied’ holds true not only on an individual basis but also on a societal basis. For an individual a delay in gaining legal redress can sustain or exacerbate the injustice already experienced, either as a result of a criminal offence or a civil injustice. For a community, in this case rural and regional Victorians, delays can lead to an overall lack of confidence in the justice system and its relevance and ability to respond to community needs. As stated by one interviewee, a lawyer from a regional community legal service, ‘there is a sense in rural and regional Victoria that you are forgotten ... a sense that you just have to put up with second rate services’.

In 2009 the County Court commissioned Boston Consulting Group to undertake a review of ‘Circuit Court procedures and protocols aimed at maximising the efficiency and effectiveness of circuit activity’⁵¹. The review recommended action in relation to the co-ordination of listing and sittings and standardisation of practices across regional courts to reduce backlogs. No details of the review findings could be found in the Annual Report. A request was made to the County Court to receive a copy of the Boston Consulting Review. At the time of writing, the Boston Consulting Review report has not been made available to the author.

⁴⁹ County Court of Victoria, ‘Annual Report, 2008–2009’, 19.

⁵⁰ Ibid 5.

⁵¹ County Court of Victoria, above n 49, 12.

VI CONCLUSIONS

This paper signposts a number of issues identified within the research project *Postcode Justice – Rural and Regional Disadvantage in the Administration of the Law* and indicates that regional Victorians (the term used to identify both regional and rural communities) experience disadvantage in the administration of justice system services in comparison to their metropolitan counterparts.

Issues raised by the 62 interviewees, 117 survey participants, and the documented comments of judges, magistrates and independent researchers, demonstrate inherent problems with the current delivery of justice system services, programs and processes in regional Victoria.

Briefly explored within the paper is the relationship of distance to the delivery of justice. The paper suggests that little consideration is given to the spatial disadvantage experienced by regional communities in the development of legislation or the implementation of justice system programs, practices and procedures.

The paper also examines the Magistrates' Court criminal court programs which embrace the principles of 'problem solving courts' and 'therapeutic jurisprudence'. While important innovations, these programs have had a very limited rollout to regional communities. This 'problem solving' approach also assumes that the courts will direct appropriate defendants to relevant local support services and programs. For many smaller communities these local services simply do not exist. The lack of local services in regional Victoria in, for example, the medical and mental health fields is also raised as seriously reducing the capacity for intervention with at-risk clients and the provision of medico-legal court reports.

Participants in the interviews and surveys indicate very real concern for regional communities, with the range of legal outcomes — including sentencing options and other interventions — being significantly limited. The effectiveness of legal representation at regional courts is also limited as a consequence of the lack of local access to both court-based and specialist services and resources.

Also impacting on the effectiveness of legal representation, and identified by a large number of research participants as of major concern, is the procedure for setting hearing dates at County Court circuit courts. Current arrangements, which give much less hearing date certainty than the arrangements for metropolitan courts, can result in restricted access to barristers, expert evidence and witnesses at circuit courts.

Actions/Strategies

The issues raised within this paper, and the range of additional issues identified by the Postcode Justice research project, indicate a diversity of areas in which regional Victorians are disadvantaged when participating in the justice system. Both a disparity in resource allocation and a lack of awareness or acknowledgment of the differing circumstances faced by regional communities compared to metropolitan communities, impact on policy and legislative decisions.

There is currently no unified, independent ‘voice’ within Victoria or Australia which represents the views of regional communities in the delivery of justice system services, or which reviews the impact of policies and legislation on those communities. It is the contention of this paper that, to ensure equity for regional communities in their contact with the justice system and to ensure that those communities are vibrant and engaged, such a ‘voice’ is essential.