

## Questions taken on notice

Portfolio:	Secretary
Witness:	Ms Rebecca Falkingham
Committee member:	Mr Richard Riordan
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**Mr RIORDAN:** Okay, moving on. Secretary, I refer to your Court Services Victoria questionnaire concerning CSV's response to COVID-19. Can you advise what impact COVID-19 had on case throughput, pending case backlogs and case finalisations by the various jurisdictions as at the end of the period?

...

**Mr RIORDAN:** Okay. So I am getting the picture. We heard similar advice yesterday, but what I am really interested to know is you have got the backlog. You have given us the numbers. Can you identify that increase? Is it a 10 per cent, 20 per cent, 30 per cent increase in the backlog? And those funds you have talked about, what percentage of that backlog is it going to catch up on?

**Ms FALKINGHAM:** We absolutely can take that on notice, but obviously we are not comparing periods there because, as I said, the data I just gave you was covering for the period of the pandemic. I am happy to get you a year-on-year comparison.

### Response:

Court Services Victoria (CSV) has provided the table below which outlines the pending case numbers for each of the jurisdictions as at 30 June 2019 and 30 June 2020.

Jurisdiction	as at June 2019	as at June 2020	Variance
SCV - Court of Appeal (Crime)	208	188	-9.6%
SCV - Trial Division (Crime)	104	86	-17.3%
CCV (Crime - Jury Trials)	1401	1360	-2.9%
MCV (Crime)*	73373	93536	27.5%
ChCV (Crime)	2607	5358	105.5%
SCV - Court of Appeal (Civil)	108	89	-17.6%
SCV - Trial Division (Civil)	4645	4599	-1.0%%
CCV (Civil)	6811	7098	4.2%
MCV (FVIO)	13719	17592	28.2%
ChCV (Family)	6934	8509	22.7%
Coroners Court	4215	4595	9.0%

\* The Magistrates' Court reports its pending criminal and family violence caseloads began to stabilise in the 4<sup>th</sup> quarter of 2020, with 121,469 pending criminal matters and 20,459 pending Family Violence matters as at December 2020.

In addition, please find below data on *throughput* (also referred to as case clearance being the number of matters finalised compared to the number of matters lodged/initiated within a financial year) and *finalisation* numbers as reported by CSV in its 2018-19 and 2019-20 annual reports.

Jurisdiction	2018-19 case clearance %	2019-20 case clearance %	Variance %	2018-19 finalisations	2019-20 finalisations	Variance %
Civil matters - Supreme Court	100.0	100.9	0.9%	26,830	28,608	6.6%
Criminal matters - Supreme Court*	93.2	104.4	12.0%	559	588	5.2%
Civil matters - County Court	95.4	89.1	-6.6%	5,761	5,770	0.2%
Criminal matters - County Court^	99.4	108.2	8.9%	5,362	4,351	-18.9%
Civil matters - Magistrates' Court	93.0	80.2	-13.8%	96,749	88,890	-8.1%
Criminal matters - Magistrates' Court	97.0	81.6	-15.9%	145,845	117,704	-19.3%
Family Division matters - Children's Court	87.0	87.7	0.8%	19,214	19,754	2.8%
Criminal matters - Children's Court	100.0	79.0	-21.0%	12,210	10,097	-17.3%
Coronial matters - Coroners Court	89.0	93.0	4.5%	6,010	6,841	13.8%

\* The increase in the clearance rate for Supreme Court criminal matters is attributable to the Court being able to redirect judicial resources (while jury trials were suspended during the COVID-19 pandemic) to finalise other non-trial criminal cases.

^ The increase in the clearance rate for County Court criminal matters is attributable to the Court being able to redirect judicial resources (while jury trials were suspended during the COVID-19 pandemic) to finalise other non-trial criminal cases. Please also note that while criminal trials comprise a relatively small percentage of the overall backlog number (recent estimates are approximately 15 per cent), these trials involve a significantly higher amount of resources and time to finalise.

The government invested \$12.4 million in 2019-20 to improve audio-visual links (AVL) in 28 Magistrates' Court courtrooms and at 26 police stations. Following this investment, between June 2020 and November 2020, AVL use increased by 152 per cent overall for all court jurisdictions (excluding the Supreme Court).

The government also invested \$5.2 million in upgrades at the Victorian Civil and Administrative Tribunal in 2019-20, to broaden the types of matters that it can hear online, including in its Planning and Environment jurisdiction, a critical element in keeping Victoria's building and development industry moving.

The government continued to support the courts' recovery from the pandemic in 2020-21. On 15 December 2020, the former Attorney-General announced an investment of \$80.978 million for justice system recovery in 2020-21. This included \$57.848 million in 2020-21 State Budget funding, as well as an additional \$23.13 million in initiatives to support justice recovery. This funding supported initiatives including:

- upgrading AVL and other technology in courtrooms to increase remote hearing capacity;
- upgrading court infrastructure to accommodate social distancing requirements;
- supporting the digital transformation of court and tribunal case-list filing and management;
- providing additional community-based access points and remote witness rooms to enable safe participation in remote hearings;
- increasing the AVL capacity for prosecutors to connect directly to courts and from custody centres;
- ensuring all virtual hearings are supported appropriately across the Magistrates' Court, Children's Court and VCAT via technical support;
- expanding the Online Magistrates' Court, and
- providing more judicial registrars in the Magistrates' and Children's Courts Online Court systems.

In light of the impact of court backlogs on Victorians, and the need to assist the courts to address these backlogs as quickly as possible, the above initiatives are being implemented simultaneously. No one initiative can be separated and identified as directly addressing a particular number of cases or proportion of the case backlog. Government continues to monitor the courts' pending caseload and work with Court Services Victoria to identify the areas of greatest need for further intervention.

Portfolio:	Secretary
Witness:	Ms Rebecca Falkingham
Committee member:	Mr Richard Riordan
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**Mr RIORDAN:** Okay, so can you give us what the backlog was at 30 June—the VCAT backlog—on notice?

**Ms FALKINGHAM:** We can, absolutely.

**Mr RIORDAN:** Supply on notice?

**Ms FALKINGHAM:** Yes.

### Response:

The total number of pending cases as at 30 June 2020, was 14,656 across all VCAT lists. This represents an increase of 52 per cent between 30 June 2019 and 30 June 2020. Further information is outlined in the table below:

VCAT	2018-19	2019-20
Cases initiated	85,850	80,423
Cases finalised	83,414	76,245
Cases pending at EOFY (30 June)	9,653	14,656
Clearance rate	97 per cent	95 per cent

The government has invested more than \$25 million to tackle VCAT's pending caseload – boosting its capacity and upgrading its digital capability so it can hear more matters faster. This has included:

- \$20 million in 2020-21 Budget for a Digital Service Transformation project, increases in remote hearing capacity, and improvements to case management
- \$5.2 million in 2019-20 in upgrades to broaden the types of matters VCAT can hear online. This is critical element in keeping Victoria's building and development industry moving.
- \$1.75 million as part of the Justice Recovery Plan for virtual hearing support and Guardianship list investment.

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**Mr RIORDAN:** So speaking of that issue, we note that VCAT secures its funding from a variety of agencies and departments. We need to modernise VCAT's operations, but what about modernising its funding so that it is standalone, accountable funding? Where is that discussion at?

**Ms FALKINGHAM:** Yes, so that is a discussion obviously through Court Services Victoria, which has responsibility for VCAT, but we as a department, obviously in my own department we have a number of trust funds that are used to support and fund VCAT, particularly through the work in our regulation division, whether it be through residential tenancies and other like funds, but that conversation is ongoing. I know it is a question that is very important to the president of VCAT to ensure that they are sustainable for the future but obviously within the limitations of that capacity.

**Mr RIORDAN:** Are you able to supply us with where those sources of funding for VCAT came from?

### Response:

In 2019-20 VCAT received appropriation revenue of \$42.95 million. Appropriation revenue includes:

- tribunal fees retained under s29 of the *Financial Management Act 1994* of \$8.34 million
- special appropriations under the *Victorian Civil and Administrative Tribunal Act 1998* for member salaries and associated costs of \$21.48 million, and
- appropriations to meet lease and specific program costs.

In addition to appropriation revenue, in 2019-20 VCAT received the following revenue:

- \$20.7 million for the operation of specific lists from statutory trust funds administered by Consumer Affairs Victoria (being the Residential Tenancies Trust Fund, Domestic Building Fund and Victorian Property Fund)
- \$1.7 million from administrator fees paid into the Guardianship and Administration Fund established under the *Guardianship and Administration Act 2019*
- \$1.0 million from the Australian Health Practitioner Regulation Agency to support operations in the Review and Regulation List, and
- \$0.96 million for the operation of the Legal Practice List from the Public Purpose Fund administered by the Legal Services Commissioner

VCAT also received revenue pursuant to Memoranda of Understanding with various Victorian government agencies and departments to support the operation of specific jurisdictions for which statutory trust funding is unavailable.

Portfolio:	Secretary
Witness:	Chief Commissioner Patton
Committee member:	Sam Hibbins
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**Mr HIBBINS:** Great. Thank you. I would now just like to ask in terms of the publication now of specific drug alerts, which is now occurring on, I think it is, the Department of Health website and just in terms of from a police perspective how that arrangement is actually working and how the police are cooperating with the Department of Health to allow those alerts to take place.

**Chief Comm. PATTON:** Sorry, Mr Hibbins. You will have to give me more detail in respect to that. What are you particularly referring to in 2019–20?

**Mr HIBBINS:** Yes. So as of March 2020 on the health.vic website, the health department is now alerting people to specifically dangerous pills and bad batches or dangerous batches of drugs. Is that occurring—I am asking now from a police side of things—with police assistance or police cooperation?

**Chief Comm. PATTON:** Look, I will have to take that on notice and come back to you. I do know that at one stage we were having, if you like, I will call it a bad batch or whatever that was in nightclubs, and we had been very cognisant and very mindful to get out there very early and say, ‘This is happening’, so that people are aware of it. I know we did have informal discussions with the Department of Health and other agencies so that everyone was working together, but in respect of whether there are any formal protocols or not and if we are involved in that, I will have to come back to you. I know that certainly our drug intelligence capability at our forensic science laboratory is actively looking at all of those things and the analysis in terms of matching batches of drugs from one area and seizures and the like. So we do have significant intelligence that is informing us of that. Now, whether what is being published by the Department of Health is informed by us, I would make the presumption it is, but for completeness I will come back to you with those details.

### Response:

A check of the Department of Health website reveals two Drug Alerts have been issued. One in March 2020 and one in December 2020. Both relate to the presence and danger of N-ethylpentylone in other illicit drugs and the dangers associated with use. These are based on health advice and rightly rest with the Department of Health (DH).

The Victoria Police drug portfolio holder has regular and structured engagement at Director level with the Alcohol and Other Drug (AOD) section of DH, however, we do not provide any specific drug alerts to the DH.

The recently released Victoria Police's Drug Strategy 2020-2025 has a real focus on working closely with our partners (internally and externally) and we do this on a continued basis.

Portfolio:	Secretary
Witness:	Chief Commissioner Patton
Committee member:	Danny O'Brien
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**Mr D O'BRIEN:** Are you able to provide me with a list of how many stations had closed or reduced operating hours through the period?

**Chief Comm. PATTON:** Well, it has fluctuated at a range of different times. If you just give me a moment, I will be able to look and tell you where we are at the moment, but it is something like 25, if you like— something like that.

**Mr D O'BRIEN:** 25 stations?

**Chief Comm. PATTON:** Yes.

**Mr D O'BRIEN:** And they actually just have their front door closed?

**Chief Comm. PATTON:** Yes. The reception counter access was not available, and that is out of the 331 across the state. Some of those of course will be one-officer stations that on occasion still have their doors closed anyway, and a range of different things, so it is just a pragmatic approach we took.

**Mr D O'BRIEN:** Were the 25 spread across the state, metro and rural as well?

**Chief Comm. PATTON:** Yes, they are a mix. There is certainly a mix.

**Mr D O'BRIEN:** If you are able to provide on notice, if you have got a list, where they were and when they were closed, that would be useful—if you are able to take that on notice, Chief Commissioner.

**Chief Comm. PATTON:** Yes, I will take that on notice, and certainly I will come back to you with that, but it depends what period of time you are talking about. Obviously, we have slipped into a discussion about the present time, but in 2019–20, the number of stations, the customer reception counters that we had closed back then, would have been very much smaller—it would have been one, two or a few of those. I am not sure how much benefit there is in going back and reviewing to see how many—few—stations we did not have reception counters at that time versus now me telling you, 'Well, we've got around 20, 25 that we fluctuate across the state'.

**Mr D O'BRIEN:** Is that now—20–25?

**Chief Comm. PATTON:** Yes. So are you comfortable with that response, or do you want us to go back and look at 2019–20?

**Mr D O'BRIEN:** If you have got it. I do not want to unnecessarily burden you with—

## Response:

Police Station watch house counter suspension by Location.

**As at 22 February 2021:**

North West Metro	Eastern Region	Southern Metro	Western Region
1	14	8	1
Avondale Heights	Ashburton Belgrave Clayton Forest Hill Healesville Monbulk Mooroolbark Mt Evelyn Mt Waverley Olinda Warburton Warrandyte Yarra Glenn Yarra Junction	Bunyip Cheltenham Dromana Hastings Koo Wee Rup Malvern Rye Sorrento	Lake Boga

Portfolio:	Secretary
Witness:	Chief Commissioner Patton
Committee member:	David Limbrick
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**Mr LIMBRICK:** Thank you. And on a related issue to drug-driving tests, it is my understanding that you can do the lick test but in certain circumstances there can also be an impairment test. Do we know, during 2019–20, what proportion of those drug tests actually involved an impairment test as well as a saliva test?

**Chief Comm. PATTON:** No, I do not have those figures with me. We could provide those if you require them. The reality is the preliminary oral fluid test and then followed up if they test positive with an oral fluid test after that is what we are generally doing. But as you quite rightly point out, there is an impairment test that can be done. It takes a longer period of time. But we can provide those details. I do not have them with me.

### Response:

Across the 2019/20 financial year there were:

- 109 Drug Impairment Assessments (DIA) undertaken across Victoria
- 132,580 Preliminary Oral Fluid Tests (POFT) were undertaken
- 11,590 Oral Fluid Tests (OFT)\* were undertaken which revealed a positive result to one or more of the three proscribed drugs (cannabis, methamphetamine, MDMA).

*\*This does not include those that produced a negative result.*

In relation to instances where both an impairment *and* saliva test was conducted, Victoria Police does not break down the data to distinguish those instances as each circumstance is different.

Portfolio:	Secretary
Witness:	Chief Commissioner Patton
Committee member:	Brigid Vallence
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**Ms VALLENCE:** Right. In the financial report it has got an extra \$64 million required from the Treasurer's advance for this royal commission. What was that money used for?

**Chief Comm. PATTON:** It would have been used for all that range of things. It would incorporate legal costs, it would incorporate—

**Ms VALLENCE:** Can we get a breakdown of that?

**Chief Comm. PATTON:** Yes. I do not have an issue with that all.

### Response:

Victoria Police total expenditure in relation to the Royal Commission into the Management of Police Informants (RCMPI) for 2019-20 totalled \$38.39million. The following breakdown has been provided:

	<b>2019-20 Actuals \$</b>
<b>RCMPI - TOTAL EXPENDITURE</b>	
Legal costs	35.32
Supplies & Services	1.31
Employee Related Costs	1.06
Computer/ Communication costs	0.39
Building & Property Costs	0.30
<b>Total Expenditure</b>	<b>38.39</b>

Note: the above figures may not add due to rounding.

Treasurer's Advance funding in relation to the Royal Commission into the Management of Police Informants as identified in the DJCS Endorsed Financial and Performance Outcomes Questionnaire (page 25) totalling \$38.393 million.

DJCS also utilised Treasurer's Advance funding of \$28.925 million for RCMPPI (page 31), but this is not for Victoria Police costs. The above total expenditure table is directly representative of Victoria Police costs in relation to the RCMPPI.

Victoria Police cannot reconcile the \$64million funding as quoted by Ms Vallence as the funding was not exclusively to Victoria Police.

Portfolio:	Secretary
Witness:	Commissioner Crisp
Committee member:	Brigid Vallence
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**Ms VALLENCE:** Yes, that is right. He has always been here and his absence is rather notable today. Budget paper 3, page 286, Chief Commissioner Crisp, in relation to emergency management capability, has a total output cost of \$1.2 billion. In the 2019–20 year there was a substantial supplementary uplift of expenditure required by DJCS for both CFA and MFB, resulting in a \$375 million increase—or over a 30 per cent increase—over what was budgeted. How much of this additional incremental funding went towards increased employee expenses for MFB and CFA?

**Mr CRISP:** That was definitely one of the areas in relation to employee costs. I am not sure if Executive Director Jenni Rigby has got that data or I will just take that one on notice. I will take it on notice.

**Ms VALLENCE:** Are you taking it on notice? Okay, I will move on.

**Mr CRISP:** Jenni, have you got it?

**Ms RIGBY:** So you are just asking about what percentage or component of the increase was due to employee costs?

**Ms VALLENCE:** That is right, so the total output was \$1.2 billion. DJCS had to increase that by a large figure—\$375 million. How much of that went to employee expenses for MFB and CFA?

**Ms RIGBY:** In terms of the exact amount of that increase, I might need to take that on notice but I do know that there was a back payment made to the CFA dating back from 2016–17 for cumulative employee costs, so that would be a component of that increase for that period. In terms of MFB—

**Ms VALLENCE:** On notice is fine. In the 2019–20 financial report, \$29 million was allocated from the Treasurer’s advance for resource funding for MFB and CFA, again exclusive of COVID activities. What is the breakdown allocated to MFB and to CFA and what did this supplementation fund?

**Ms RIGBY:** From the \$29 million Treasurer’s advance?

**Ms VALLENCE:** Yes, the Treasurer’s advance.

**Ms RIGBY:** In order to give you the breakdown I would need to take that on notice.

### Response:

\$191 million of the \$375 million increase related to increased employee expenses for MFB (\$51 million) and CFA (\$140 million). The increase for CFA included a back payment for cumulative employment costs since 2016.

The \$29 million Treasurer’s advance identified in the 2019–20 financial report, for resource funding for MFB and CFA, includes a \$9 million CFA capital investment at several training facilities to provide potable water for training as required under clause 85 of the 2016 CFA Enterprise Agreement. The remaining \$20 million relates to the 2016 MFB operational firefighters Enterprise Agreement and is incorporated within the \$51 million increased employee expenses for MFB noted above.

Portfolio:	Secretary
Witness:	Ms Anna Faithfull
Committee member:	Nina Taylor
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**Ms TAYLOR:** Thank you. You mentioned racism, and I do not think anyone will be surprised here to know that there was a rise in racism towards Asian Australians. So when you were talking about education, is that what you were referring to in terms of how that has been addressed by the VEOHRC? I am just interested to know how they tackled that.

**Ms FAITHFULL:** Yes. They have certainly seen an increase in inquiries to their advice line around experiences of racism as a result of COVID-19. In terms of the public information and education functions, they have provided information and advice on 6650 occasions and a dedicated information hub on the website as a result of emerging issues from the pandemic, including experiences of racism and rights in the workplace but also charter obligations. They experienced a large range of inquiries, particularly around, for instance, the wearing of masks and so on. What I can do, though, is take on notice and get you a breakdown of exactly the nature of the subject matter of each of those inquiries and the level of response too, particularly around the experience of racism.

## Response:

### Race-related enquiries and complaints received by VEOHRC

Enquiries and complaints to VEOHRC pertaining to both racial and religious vilification increased significantly during the 2019-2020 financial year, as outlined in the table below:

Issue	2015-2016	2016-2017	2017-2018	2018-2019	2019-2020	2020-2021 (Jul-Dec)
<b>Enquiries</b>						
Racial vilification	66	54	50	47	144	58
Religious vilification	28	27	27	24	15	19
<b>Complaints</b>						
Racial vilification	9	3	4	4	12	9
Religious vilification	4	5	15	15	6	15

Between February 2020 and December 2020, when the impact of COVID-19 in Victoria was most prominent, VEOHRC received 153 enquiries about racial vilification and 193 complaints pertaining to race, 18 of which were complaints of racial vilification. By comparison, for the same period in 2019, VEOHRC received 66 enquiries and 156 complaints pertaining to race, 4 of which were complaints about racial vilification. These figures reflect incidents when people have experienced harmful, racially motivated hate speech and behaviour by members of the public in the course of their daily lives.

The low number of complaints compared to enquiries reflects:

- the high threshold for meeting the vilification test, which requires a victim of vilification to prove that the perpetrator's behaviours would cause further hateful conduct by a third person; and

- the requirement for the victim to provide contact details for a perpetrator in order for the Commission to receive a complaint, which is difficult where the majority of vilification incidents occur in public areas by individuals who are unknown to the victim – for example, while travelling on public transport.

### **VEOHRC's response to COVID-19 related racism**

VEOHRC delivered 23 information sessions to diverse communities experiencing racism between May and December 2020. During this time, the Commission also attended 16 dedicated community engagement and roundtable discussions involving multicultural communities who had been targeted with racism and key stakeholders. These sessions aimed to promote people's rights under the *Equal Opportunity Act 2010* and the *Racial and Religious Tolerance Act 2001* and provide information on how to report incidences of racism. This engagement is in addition to regular meetings with key stakeholders within government and the community sectors to address racism.

To improve accessibility of VEOHRC's services to people experiencing racism during COVID-19, the Commission translated current information about rights and protections, the role of the Commission, and how to seek further information, support or access to our services into ten priority languages - Arabic, Chinese (Traditional), Chinese (Simplified), Hindi, Korean, Persian, Punjabi, Somali, Urdu, Vietnamese.

A total of 6,899 people accessed this information during the period 1 February – 31 December 2020, with a significant number of these visits driven by a four-week awareness campaign run on Facebook in July 2020. The campaign – which targeted Arabic, Vietnamese, Persian, Cantonese, and Korean members of the community – was seen by over 397, 000 people and drove more than 4,700 people to the translated materials.

Recognising the particular difficulties being faced during the COVID pandemic by individuals of Asian appearance, the Commission also commissioned the placement of articles in Mandarin on the WeChat social media platform. These long form articles were seen by over 13,964 people, whilst the Commission's advertising on the platform reached a potential Victorian audience of 225,000+ people.

In addition to these activities directly targeting community members, the Commission also produced and promoted 'No place for racism' stakeholder kits for organisations, consisting of anti-racism social media content and promotional material for the Community Reporting Tool (which is designed for people who want to make a report of racism, sexual harassment or discrimination of any kind, but may not wish to proceed with a formal complaint). Information regarding these kits was viewed by 586 individuals during the period 1 February – 31 December 2020, and the kit was downloaded 128 times.