

LAW COMMISSION
TE AKA MATUA O TE TURE

**Indicators of Performance and Costs in the
Courts System**

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1. Introduction

Over the past twenty years there have been strong trends towards greater accountability of public institutions, including courts, in most democracies. As part of this trend, public institutions have been required to produce more and better information on how they are performing, the costs of their activities and how the outputs they produce relate to the desired outcomes.

Obtaining accurate measurements of the quantity and quality of the outputs that are produced is inherently difficult for many core government services, including the courts, defence, foreign affairs and police. Fortunately, better information is now available on how most of these agencies are performing. In the case of the courts system in New Zealand, information is now available on key indicators like throughput, timeliness and the costs of the services. The available information is by no means perfect or complete. Nevertheless, despite the inevitable limitations of the available measures, these quantitative indicators provide information on how things are going, including whether things are getting better or worse in respect of the particular indicators.

The aim of this paper is to review the available empirical evidence on the performance and costs of the courts system in New Zealand in recent years. The paper provides a high level overview of trends in these aspects of the court system. Given the inherent difficulties in assessing performance and costs in the courts system, this paper does not and does not purport to assess the overall performance or efficiency of the courts system. Rather this paper is intended to help focus attention on some important trends in the system. It is hoped that the information presented in this paper will be of assistance to public sector managers and judges as they seek to improve the efficiency and effectiveness of the courts system. It is emphasised that the paper seeks only to describe the trends. It is beyond the scope of this paper to explore the factors that may explain the trends that are identified.

2. Indicators of performance for the courts system

2.1 Background

Some measures of the performance of the court system are inherently qualitative in nature. For example, it has been suggested that the best overall measure of the performance of the court system may be “whether the person who loses still thinks they have had a fair go”. Others have suggested that the key measure is the predictability and certainty of the decisions that the courts make. It is naturally very hard to measure such intangible elements.

The Ministry of Justice records and produces information on various aspects of the courts system. The available information permits analysis of three key “performance” indicators for the courts system. These indicators are:

- *throughput*, defined as the numbers of cases disposed of by the courts each year;

- *timeliness*, defined as the average time between when a case is lodged and when the case is decided;ⁱ and
- the *court time spent* (in terms of sitting hours or hearings) per case.

In addition trends in *demand*, defined as the numbers of cases filed in the courts each year, are presented to provide a context for the analysis.

The above four indicators (the three performance indicators plus trends in demand) are able to be calculated for the main jurisdictions of the courts system over the period 1999 to 2003.

A number of important caveats must be emphasised in regard to the data:

- the indicators are inevitably partial, in the sense that they do not cover all dimensions of performance and the data is not available for all the jurisdictions in the courts system (for example, indicators for the numerous tribunals have not been analysed);
- the indicators are necessarily derived from summary statistics. It would be preferable to be able to assemble the analysis by extracting information from data on individual cases rather than having to rely on aggregate estimates, but until the Ministry's new Case Management System has been operational for some time, systematic tracking of individual cases will not be possible;ⁱⁱ
- the measures provide only limited information (in regard to timeliness) on the quality of justice that is being delivered and are at best only indirect indicators of the confidence citizens are likely to have in the institutions of the court;ⁱⁱⁱ
- inevitably, the indicators used by the Ministry of Justice tend to focus on that which is readily measurable. Ideally, measures of outcome would be available that measure the performance of the system for the users; and
- finally, it should be noted that the numbers provided below are broad national averages. Trends at the regional level and the experience of individual cases will in some cases be considerably better and in some cases considerably worse than these national averages.

Given the limitations in the data, we caution against inferring too much from trends in the indicators provided in this report. In particular, care should be taken in drawing inferences from trends in these indicators about the efficiency of the courts. Many of the factors influencing these indicators are beyond the direct control of the judiciary and the Ministry of Justice. For example, the volume of cases registered in any year is to a large extent driven by the "demand" of citizens for judicial services. (Nevertheless, if the waiting times and/or other costs of the courts system are too high, people will tend to seek alternative ways of accessing justice, e.g., through alternative dispute resolution mechanisms). In addition, the length of time a case takes to progress through the system depends on decisions taken by the plaintiff, the defendant and/or their respective counsels and will depend more on the incentives these parties face rather than the direct actions of the judiciary.

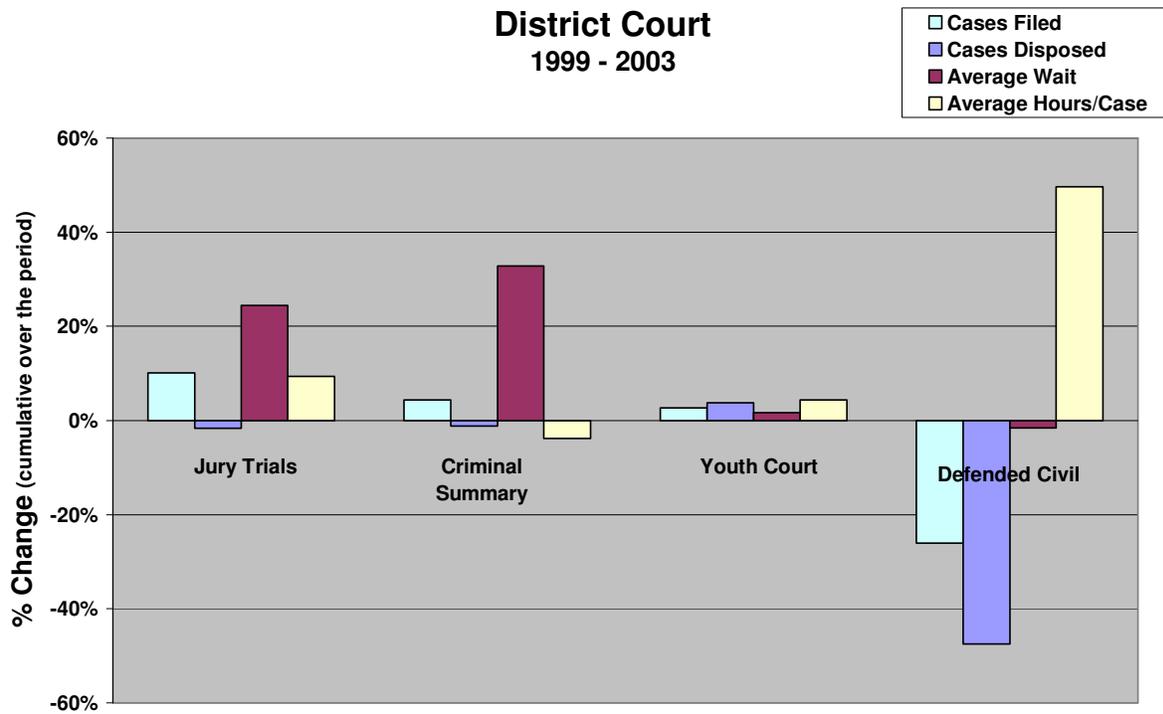
2.2 Analysis by jurisdictional level

This section examines the trends in the four key indicators noted above – demand, throughput, timeliness and time spent per case – on a jurisdictional basis for those major jurisdictions for which data is available. Data on these three indicators is available from 1999 for most jurisdictions of the District Courts (but not the Family Courts or Environment Courts) and for the High Courts. Data is available for the Court of Appeal from 2000. We focus below on the trends in the four indicators over the period for which data is available. More detail on the indicators, including data on the absolute levels of the indicators, is provided in Annex 1.

2.2.1 District Court

Indicators for the District Courts are available separately for Jury Trials, Criminal Summary, Youth Court and Defended Civil hearings. The cumulative changes since 1999 in the key performance indicators for these four activities are provided in figure 1 below.^{iv}

Figure 1: District Court Performance Indicators



The graph indicates that at the District Court level:

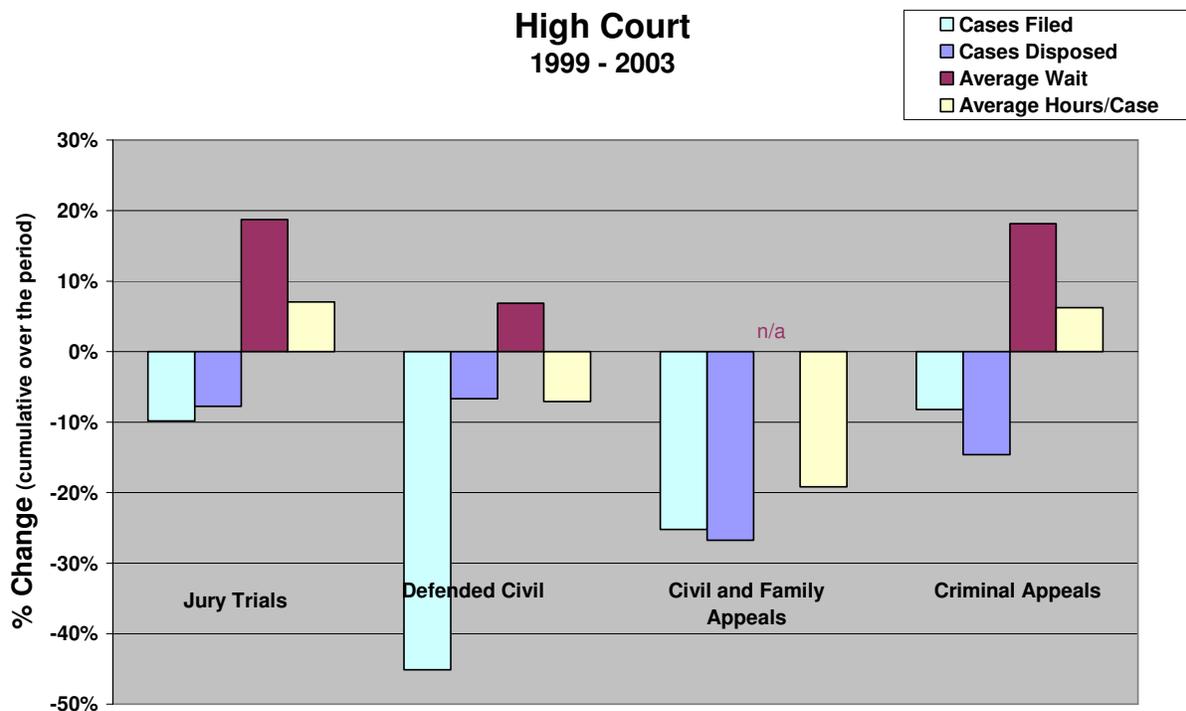
- the number of cases filed has risen for Jury, Criminal Summary and, to a small extent, Youth Court trials over the period 1999-2003. The number of Defended Civil cases filed, however, has fallen by more than 20% over the four years;

- the number of cases disposed of over the period 1999-2003 has risen for the Youth Courts but fallen in the other three District Court categories. The number of Defended Civil cases processed by the Court has fallen by nearly 50% over the four years^v;
- average waiting times have fallen slightly (by 2%) for Defended Civil cases but increased in the other three categories, with waiting times increasing by 25% for Jury Trials and 33% for the high volume Criminal Summary proceedings. Despite the large decline in numbers of Defended Civil cases filed, average waiting times for these cases remain high at around 10 months; and
- the average number of sitting hours taken for each case has declined (by 4%) for Criminal Summary Proceedings but increased in the other three categories. The number of sitting hours taken per case has increased by 50% for Defended Civil cases over the last four years, at the same time as the number of cases processed has fallen by a similar amount.

2.2.2 High Court

Performance indicators for the High Courts are available for Jury Trials, Defended Civil hearings, Civil and Family appeals and Criminal appeals. The changes since 1999 in the key performance indicators for these four activities are provided in figure 2 below.

Figure 2: High Court Performance Indicators



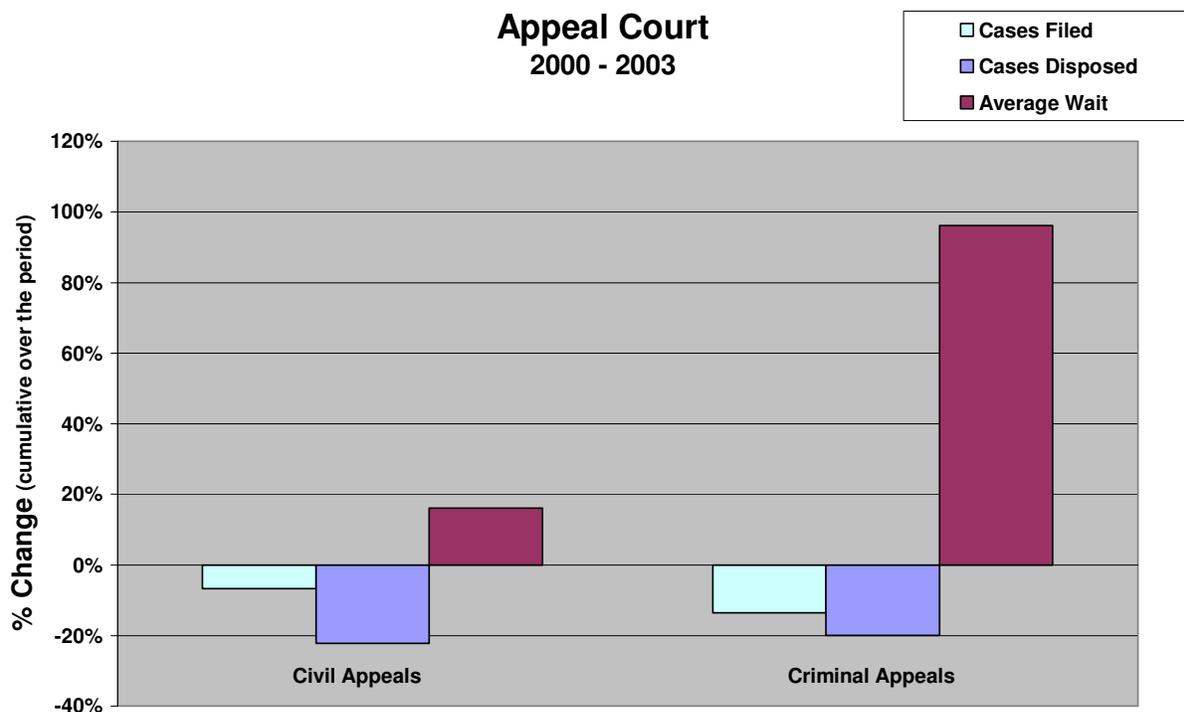
The graph indicates that at the High Court level:

- the number of cases filed has fallen in all four categories. The number of Defended Civil cases filed has fallen most sharply, declining by more than 40% over the four years;
- the number of cases disposed of over the period 1999-2003 has also fallen in all four categories. The number of Civil and Family appeals processed fell most sharply (by 27% over the period), while the number of cases processed for the more resource-intensive Jury Trials and Defended Civil cases fell by 7 to 8%;
- average waiting times have increased in all three categories for which data is available, despite the decline in number of cases filed noted above. In the case of Civil and Family appeals, no estimate is provided as the underlying data is not considered by the Ministry of Justice to be sufficiently reliable; and
- the average number of sitting hours taken for each case has declined for Defended Civil and Civil and Family appeals and increased for Jury Trials and Criminal appeals.

2.2.3 Court of Appeal

Indicators since 2000 at the Court of Appeal are available separately for Civil appeals and Criminal appeals. The changes since 2000 in the performance indicators for these two activities are provided in figure 3 below.

Figure 3: Appeal Court Performance Indicators



The graph indicates that at the Appeal Court:

- the number of cases filed has fallen for both Civil and Criminal appeals, although by less than 10% for the former;
- the number of cases disposed of over the period 2000-2003 has fallen by more than the decline in demand for both categories; and
- at the same time, average waiting times have increased in both categories, with average waiting times for criminal appeals almost doubling over the period.

Data on sitting hours is not available for the Court of Appeal.

2.3 Summing up

The available information indicates that for the jurisdictions considered there have in most cases, over the last three or four years, been:

- falling levels of demand and throughput, with the Youth Court being the only jurisdiction where data is available where the volume of cases disposed of has increased. For half the categories considered, the numbers of cases processed has declined by more than 10%;
- increased waiting times, with District Court Defended Civil cases being the only instance where waiting times have declined (and even here the decline is minimal and is in the context of a large decline in the number of cases filed); and
- increased time taken per case, with the numbers of sitting hours (or hearings) taken per case increasing in five of the eight categories for which data is available.

We emphasise that the numbers do not indicate the reasons for the trends noted above. The reasons are likely to be complex and multidimensional. The increasing time spent on cases may well be warranted for cases where the issues at hand are significant and complex. Further, as noted above, the trends may, in part or in whole, reflect factors beyond the ability of the courts system itself to directly control. Throughput in the Courts system is to some extent demand driven. Thus, for example, the marked decline in the number of civil cases is consistent with the trend towards increased reliance on mediation and arbitration evident in many countries in recent years. On the other hand, it may be that the increased waiting times for civil cases is one factor behind the move to private mediation and arbitration services.

The following section considers the trends in expenditure in the court system in recent years. Developments in expenditure are a significant factor that need to be taken into account when considering the trends in the performance indicators of the court system noted above.

3. Expenditure on the courts system

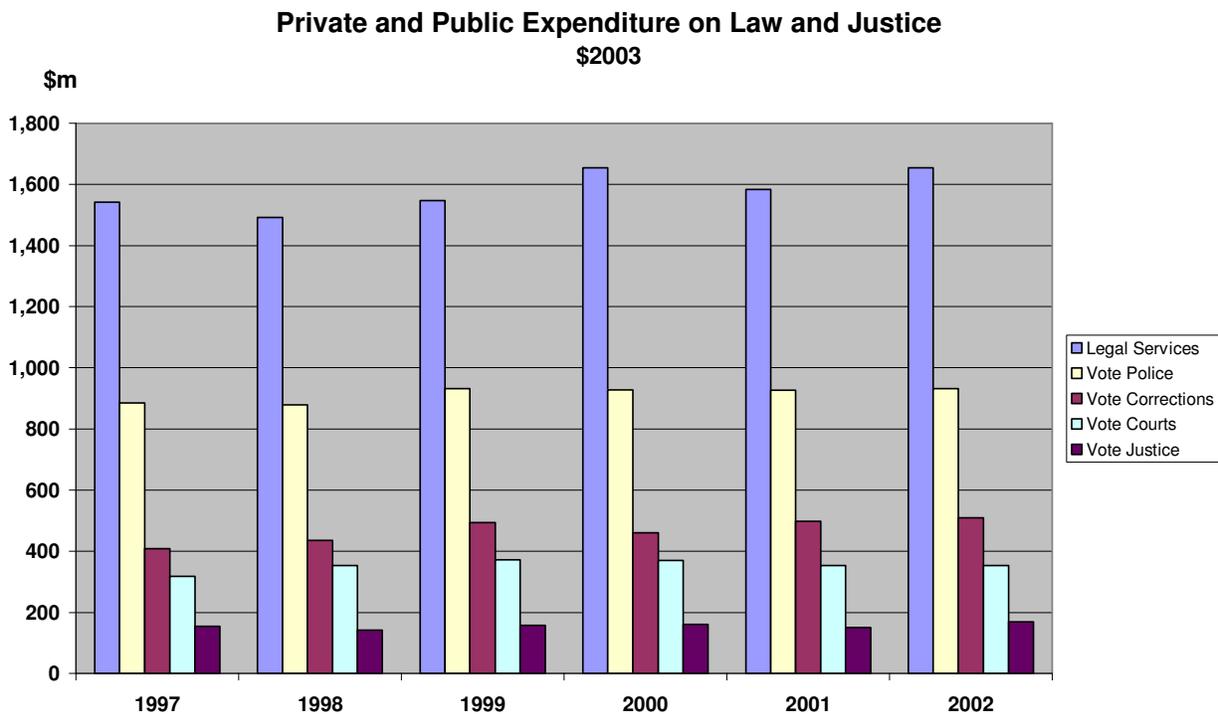
3.1 Economy-wide expenditure on the justice system

The costs of the courts and justice system include:

- i. legal services costs (e.g., lawyers' fees);
- ii. the costs of the services provided by the Crown (e.g., the courtrooms and the services of the judges and the Court support staff); and
- iii. the opportunity costs incurred by people when they use the courts system (e.g., the time spent by the different parties in waiting, preparing for and attending court cases).

Little if any aggregate data on the third item (the opportunity costs) is available. However, information relating to the levels of expenditure on the other two items (the nation-wide costs of legal services and the costs to the taxpayer of the court system) is available and is presented in figure 4 below.

Figure 4



Sources: Legal Services data: Statistics NZ's Annual Business Survey^{vi}
Other data: The Treasury

Figure 4 above provides the levels of economy-wide expenditure on “legal services” (which is primarily private expenditure on legal services) and public expenditure on justice-related activities (Votes Police, Corrections, Courts and Justice) over the period 1997 to 2002. The category “legal services” refers to total expenditure in the economy on legal services, including services provided by barristers, solicitors, and related legal service providers (refer endnote vi).

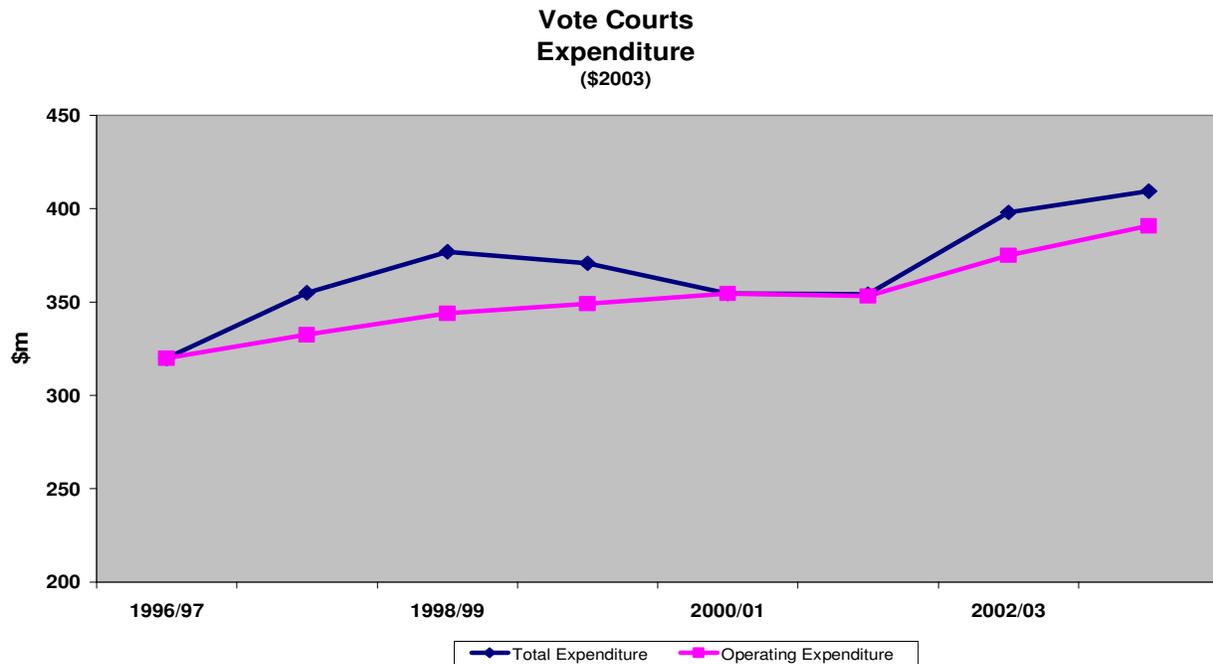
Figure 4 indicates that total expenditure on legal services was the most significant cost of the wider justice system (leaving aside opportunity costs), with total expenditure on legal services around \$1.6b in 2002.^{vii} Total public expenditure (i.e., the total of Votes Police, Corrections, Courts and Justice) on the justice system was around \$2b. Public expenditure on Vote Courts (\$349m in 2002) equated to around 20% of the total costs of the wider justice system.

The legal services sector accounted for around 1.3% of GDP in NZ in 2002 and remained relatively stable as a percent of GDP over the six years for which data is available. Compared to the litigious US society, where total tort costs alone exceed \$US200b annually or 2% of GDP,^{viii} expenditure on legal services in New Zealand is relatively low.

3.2 Public expenditure on the courts system

Figure 5 below presents the trends in Government expenditure on court activities (Vote Courts) over the period 1996/97 to 2003/04. The figures are presented in 2003 dollars (i.e., on an inflation adjusted basis). Total public expenditure on Vote Courts is budgeted to be \$408m in 2003/04. Total expenditure has risen (after allowing for inflation) by 28% over the last 7 years (or by 3.6% per annum). Operating expenditure (i.e. total expenditure excluding capital spending) for Vote Courts has risen steadily on an inflation adjusted basis, from \$320m in 1996/97 to \$391m in 2003/04. The growth in public expenditure on Vote Courts has exceeded the growth in the overall economy by around 1 percentage point per annum over the period: as a result, operating expenditure on Vote Courts has risen marginally as a percent of the nation’s Gross Domestic Product (GDP), from 0.29% of GDP to 0.30% of GDP.

Figure 5



Source of data: The Treasury

More detailed analysis of public expenditure on Vote Courts (refer Annex 2) indicates:

- expenditure on departmental outputs has increased (in 2003 \$) by 2.4% p.a. on average;
- expenditure on judicial salaries and allowances has increased (in 2003 \$) by 4.8% p.a.;
- expenditure on non-departmental outputs (e.g., Family Court counseling services) has increased (in 2003 \$) by around 4.4% p.a.;
- expenditure on departmental servicing of the District Courts account for around 24% of total Vote Courts. Expenditure on departmental servicing of the District Courts has grown by 1% p.a. in inflation-adjusted terms over the period 2001- 04;
- the next most significant areas of institutional expenditure are departmental servicing of the Family Courts (8% of total) and the High Courts (7% of total), with expenditure on departmental servicing of the Family Courts growing by 1.3% p.a. (in 2003 \$) over the period, while expenditure on servicing the High Courts has declined by 2.4% p.a. (in 2003 \$) over the period;
- expenditure on departmental servicing of the Environment Court (2% of the total) has grown strongly (by 12.5% p.a. in 2003 \$), as to a lesser extent has servicing of the

Waitangi tribunal (3.7% p.a. in 2003 \$), while expenditure on departmental servicing of the Court of Appeal (1% of the total) has declined by 5.9% p.a. over the period (in 2003 \$); and

- expenditure on the “other” category (primarily debt collection and enforcement) has grown strongly (by 7.2% p.a. in 2003 \$). The growth in expenditure in this category accounts for 37% of the total growth in expenditure on Vote Courts over the period (refer Table 5 in Annex 2).

As noted in section 1 above, this paper is not intended to address the reasons for the observed trends in expenditure. Some of the changes noted above will be due to policy changes such as the decision to have security guards, the decision to expand the victims’ advisors service and the appointment of additional judges to address the consequences of the sentencing and parole reforms. Similarly, there will have been increased costs associated with the new court buildings at North Shore and Manukau. Costs associated with the provision for and write off of bad debts arising out of the Department's share of fines revenue will have increased due to the increase in infringement fines lodged with the Courts for collection. Further, during the period under review there have been a myriad of broader changes in the justice system, including changes to case law, changes to court procedures (driven by statute and judge-driven decisions - particularly affecting family and criminal jurisdictions), changes in Police practices and the application of the criminal law, changes in civil court fees, etc. These changes will have significant but differing implications for the different court jurisdictions and the justice system as a whole.

4. Conclusions

This report has examined the available empirical information on trends in the performance and costs of the courts system in recent years. The available information indicates generally declining levels of throughput, increasing average waiting times and often increasing time spent in processing cases in the District Courts, High Courts and Court of Appeal over recent years. The declining levels of throughput have only partially been accompanied by falling levels of demand. The analysis of expenditure in the courts and wider justice system indicates that the most significant item of expenditure in the wider justice system is the (largely private) expenditure on legal services, which amounted to around \$1.6b in 2002. Public expenditure on Vote Courts, while a relatively small item of total expenditure on the wider justice system, has grown by 3.6% per annum (after allowing for inflation) over the last seven years. Within this overall growth in public expenditure on Vote Courts, however, there have been some significant reprioritisations of expenditure over the last four years, with areas of relatively strong growth being expenditure on fine collection and enforcement services, non-departmental outputs, judicial remuneration and departmental servicing of the Environment Court.

Performance Indicators for the Courts System

Annex 1

This annex provides background information on and further analysis of the performance indicators available for the courts system. In addition, trends in demand are provided by way of contextual information.

1. Demand

The Ministry of Justice has provided information on demand for the services of the courts system over recent years.^{ix} Table 1 below presents the available information on numbers of cases filed in the different courts in recent years (this data underlies the information provided on demand in the main report).

Table 1

Cases filed in the courts

	Number filed 2002/03	Change since 1998/99 ⁽¹⁾	% change since 1998/99 ⁽¹⁾
Jury Trials (D.C.)	2,761	253	10%
Criminal Summary (D.C.)	141,658	5,926	4%
Youth Court (D.C.)	4,372	115	3%
Defended Civil (D.C.)	2,136	-752	-26%
Jury Trials (H.C.)	376	-41	-10%
Defended Civil (H.C.)	757	-622	-45%
Civil & Family Appeals (H.C.)	255	-86	-25%
Criminal Appeals (H.C.)	887	-79	-8%
Civil Appeals (App Ct)	264	-19	-7%
Criminal Appeals (App Ct)	481	-75	-13%

Source: Ministry of Justice

1. Appeal Court Data is since 1999/2000.

The table indicates that, as would be expected, the District Courts received by far the largest number of cases, with criminal summary proceedings dominating the figures. As is discussed in the main report, the trend over the last four years has been one of declining demand for most of the court services. The number of cases filed has declined in seven of the ten categories presented above. The number of Civil cases filed has fallen particularly strongly, with numbers of Defended Civil cases filed at the District Courts falling by 26% over the last four years and at the High Courts by 45%. It is only for Jury Trials at the District Court that the number of cases filed has increased significantly in percentage terms over the period.

2. Throughput

Information on activity levels in the courts system over recent years has been provided by the Ministry of Justice. Table 2 below presents the available information on throughput volumes for the court system. The information presented is the number of cases “disposed of” by the different courts in recent years (this data underlies the information provided on throughput in the main report).

Table 2

Cases "disposed of" by the courts

	Number disposed in 2002/03	Change since 1998/99 ⁽¹⁾	% change since 1998/99 ⁽¹⁾
Jury Trials (D.C.)	2,633	-44	-2%
Criminal Summary (D.C.)	138,565	-1,546	-1%
Youth Court (D.C.)	4,171	150	4%
Defended Civil (D.C.)	2,306	-2,085	-47%
Jury Trials (H.C.)	382	-32	-8%
Defended Civil (H.C.)	836	-60	-7%
Civil & Family Appeals (H.C.)	282	-103	-27%
Criminal Appeals (H.C.)	920	-157	-15%
Civil Appeals (App Ct)	244	-70	-22%
Criminal Appeals (App Ct)	451	-112	-20%

Source: Ministry of Justice

1. Appeal Court Data is since 1999/2000.

As is discussed in the main report, the number of cases processed has declined in recent years in nine of the ten categories presented above. The number of Civil cases processed has fallen particularly strongly, with numbers of Defended Civil cases processed at the District Courts falling by 47% over the last four years and at the High Courts by 7%. It is only in the Youth Courts (4% increase since 1999) that some increase in volumes is evident.

3. Timeliness

In regard to timeliness, our analysis of the data from the Ministry of Justice is presented in table 3 below (this data underlies the information provided on timeliness in the main report).

Table 3

Average Waiting Times (months)

	Ave. waiting time in 2002/03 (months)	Change from 1998/99⁽¹⁾ to 2002/03 (months)
Jury Trials (D.C.)	5.4	1.1
Criminal Summary (D.C.)	2.6	0.6
Youth Court (D.C.)	3.7	0.1
Defended Civil (D.C.)	10.3	-0.2
Jury Trials (H.C.)	4.1	0.7
Defended Civil (H.C.)	4.9	0.3
Criminal Appeals (H.C.)	1.4	0.2
Civil Appeals (App Ct)	7.0	1.0
Criminal Appeals (App Ct)	4.6	2.2

Source of raw data: Ministry of Justice 1. Appeal Court Data is since 1999/2000.

The table indicates that in 2002/03, average waiting times varied from around 1.4 months for criminal appeals at the High Court level to 10.3 months for civil cases at the District Court level. Average waiting times have increased in eight of the nine categories in recent years, despite a decline in the number of cases filed in most cases (refer table 1 above). For example, average waiting times for Criminal appeals at the Appeal Court level have increased by around 2.2 months since 1999/2000, despite a 13% decline in the number of cases filed. For Jury Trials at the High Courts, average waiting times have increased by close to three weeks, despite a 10% decline in the number of cases filed. On the other hand, the 26% reduction in the number of Civil cases filed at the District Court level has been associated with a small decline (of 0.2 months or 2%) in average waiting times.

It should be recognised that courts may have only limited control over how long a case takes or over any delays sought by prosecutors or defence counsel. Nevertheless, the reasons for the increase in average waiting times over the last three to four years in all but one of the ten categories considered above is likely to be worthy of further investigation.

4. Sitting hours spent per case

Sitting hours spent per case is a measure of how long it takes, in terms of court sitting hours, for a case to be processed. Table 4 below shows trends in sitting hours per case by jurisdiction over recent years (this data underlies the information provided on hours per case in the figures in the main report).

Table 4

	Hours per case in 2002/03 ⁽¹⁾	% change from 1998/99 ⁽²⁾ to 2002/03
Jury Trials (D.C.)	6.5	9%
Criminal Summary (D.C.)	0.2	-4%
Youth Court (D.C.)	0.7	4%
Defended Civil (D.C.)	2.1	50%
Jury Trials (H.C.)	18.7	7%
Defended Civil (H.C.)	5.6	-7%
Civil & Family Appeals (H.C.)	2.6	-19%
Criminal Appeals (H.C.)	0.9	6%

Source of raw data: Ministry of Justice

The table indicates that the average court time to handle a case has increased in five of the eight categories for which data is available. Most notable is the 50% increase in the average court time taken to handle Defended Civil cases in the District Courts. In contrast, the average court time to handle Civil and Family appeals at the High Courts has fallen by 19% over the period.

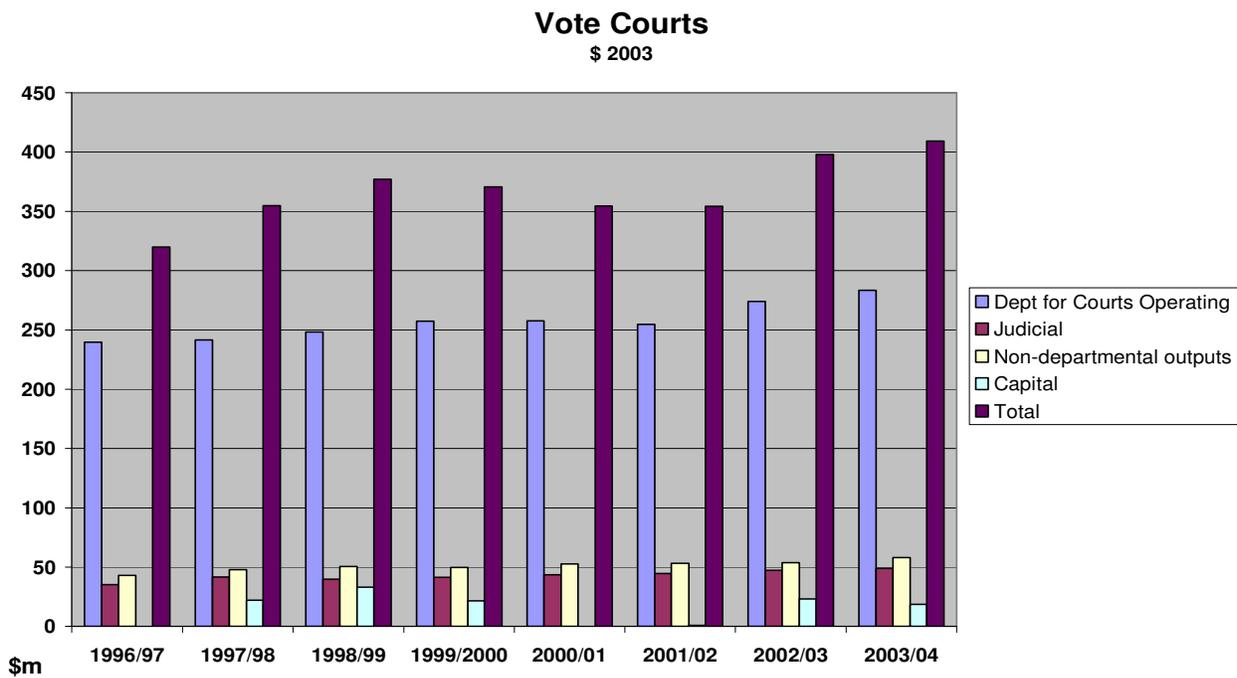
It should be noted that the hours recorded are sitting hours only: i.e., the numbers do not include time spent considering or processing cases outside the hearing. Information on sitting hours is not available at the Court of Appeal.

This annex provides background information on the analysis of expenditure on Vote Courts.

Expenditure by category of expenditure

Figure 6 below disaggregates the public expenditure on Vote Courts (on an inflation adjusted basis) into the major categories of expenditure.

Figure 6



Source of raw data: The Treasury. Prior to 1999/00, non-departmental outputs were classified as part of Department for Courts expenditure. For the purposes of the above analysis it has been assumed that non-departmental outputs prior to 1999/00 were the same percent of total expenditure as they were in 1999/00.

The figure indicates:

- expenditure on departmental outputs has increased (in 2003 \$) from around \$240m in 1996/97 to \$288m in 2003/04: a real increase of 2% p.a. on average;
- expenditure on judicial salaries and allowances has increased (in 2003 \$) from \$35m to \$49m; an average real increase of 4% p.a.; and
- expenditure on non-departmental outputs (e.g., Family Court counseling services) has increased in total from around \$43m to \$58m (in 2003 \$): an average real increase of 4% p.a.

Detailed Analysis of Public Expenditure

A more detailed analysis of expenditure over the period 2001- 04 (refer Table 5 below) indicates:

- 24% of total Vote Courts is accounted for by departmental servicing of the District Courts. Expenditure on departmental servicing of the District Courts has grown by 1% p.a. (in inflation-adjusted terms) over the period, with expenditure on criminal jury trials accounting for most of the growth at the District Court level;
- the next most significant areas are departmental servicing of the Family Courts (8% of total) and of the High Courts (7% of total), with expenditure on servicing the Family Courts growing by 1.3% p.a. (in 2003 \$) over the period, while expenditure on servicing the High Courts has declined by 2.4% p.a. (in 2003 \$) over the period. We understand the decline in expenditure on servicing the High Court largely reflects reductions in the capital charge. The decline in High Court expenditure has occurred in civil case management, with expenditure on criminal case management increasing;
- expenditure on departmental servicing of the Environment Court (2% of the total) has grown strongly (by 12.5% p.a. in 2003 \$), while expenditure on servicing the Court of Appeal (1% of the total) has declined by 5.9% p.a. (in 2003 \$). We understand the decline in estimated expenditure on servicing the Court of Appeal largely reflects reductions in the capital charge and a reallocation of overheads; and
- expenditure on the “other” category (primarily debt collection and enforcement) has grown strongly (by 7.2% p.a. in 2003 \$). The growth in expenditure in this category accounts for 37% of the total growth in expenditure on Vote Courts over the period.

Table 5: Vote Courts Expenditure Analysis

	2000/01	2001/02	2002/03	2003/04	% of total 2004	Growth 2001- 04 \$m 2003	Contribution to Total Growth	Growth 2001-04 %	Growth rate 2001 - 04 % p.a.
	\$m 2003								
Departmental Op Ex									
District Court	93	93	95	97	24%	4	7%	4%	1.0%
Family Court	29	29	30	31	8%	2	3%	5%	1.3%
High Court	32	31	30	29	7%	-3	-6%	-9%	-2.4%
Other Tribs and Auth	12	11	12	11	3%	-1	-2%	-7%	-1.7%
Disputes Tribunal	9	9	8	8	2%	-1	-1%	-9%	-2.2%
Maori App Ct and Land Ct	7	8	8	8	2%	1	1%	10%	2.5%
Waitangi Tribunal	6	6	8	7	2%	1	2%	16%	3.7%
Environment Court	4	5	6	7	2%	3	5%	60%	12.5%
Court of Appeal	4	4	3	3	1%	-1	-2%	-22%	-5.9%
Other (1)	61	59	73	81	20%	20	37%	32%	7.2%
Total Departmental Op Ex	259	255	273	282	69%	24	45%	9%	2.2%
Judges Salaries and Allowances	43	45	48	49	12%	6	11%	13%	3.1%
Non-Departmental Outputs	53	53	54	58	14%	5	10%	10%	2.4%
Total Operating Expenditure	355	353	375	389	95%	35	65%	10%	2.4%
Capital Expenditure	0	1	23	19	5%	19	35%		0.0%
Total Expenditure	355	354	398	408	100%	53	100%	15%	3.6%

Source: Department for Courts and the Treasury. The figures consider only direct expenditure by the Department for Courts at the different institutions.

Endnotes

ⁱ Average waiting time is defined as the average time between when a case is filed and when the case is heard, settled or withdrawn (generally when a case is heard it is decided, but in some cases a decision is reserved). In the case of jury trials, the starting point is taken as when the case is committed for trial.

Technically, average waiting time (AWT) is calculated in this paper as a stock-turnover ratio where the stock is the number of cases on hand (COH) and the turnover is the number of cases disposed of per annum (CDO_{annual}):

$$AWT_{\text{months}} = (\text{COH}_{\text{beg}} + \text{COH}_{\text{end}}) / 2 / \text{CDO}_{\text{annual}} * 12$$

It should be noted that the estimated waiting times may be affected by the relatively small numbers in some categories (the Appeal Court cases and High Court Jury Trials and Civil and Family Appeals) and by fluctuations in the timing of new cases being lodged or cases being disposed of.

ⁱⁱ The Ministry of Justice's new Case Management System will enable analysis of individual cases to occur but it has not been in place long enough to enable trends to be determined.

ⁱⁱⁱ Indicators such as the number of appeals to a higher jurisdiction or the number of cases stayed in the criminal jurisdiction could usefully be developed if the information is available and resources permit. These indicators would be likely to provide insights into the quality of the processes and information presented in the primary courts.

^{iv} It should be noted that the numbers provided are the cumulative changes over the four years 1999 to 2003 (i.e. not annual average changes). They are summary averages and as such do not reflect volatility in the series during the period. The estimates will inevitably be influenced by the levels of the indicators at the start and end of the periods.

^v The decline in the number of civil cases is likely to reflect in part a switching of civil cases to private dispute resolution, with or without lawyers. The court system is only one aspect of people's access to justice.

^{vi} The legal services data has been obtained from Statistics NZ's Annual Business Survey, Australian and New Zealand Standard Industrial Classification (ANZSIC) sub-class L784100: Legal Services. This sub-class is defined as units mainly engaged in providing legal services and includes advocates, barristers, conveyancing services, notary (own account), solicitors, legal aid services and patent attorneys. The L784100 industry data is at a lower level than designed industry groupings. Statistics NZ caution that because sample sizes and weights are designed at a higher level, sample error at lower levels is not controlled for and year on year data movements should be interpreted in the context of possible changing sample sizes.

^{vii} The different parts of the justice system are closely interrelated and behaviour in one part of the system is likely to influence costs and behaviour in another. Thus, for example, the use of the courts is likely to be very significantly influenced by behaviour and costs of the legal system. On the one hand, effective use of the legal system may reduce the demand for the courts (e.g. by resolving disputes). On the other hand, demand for the court system might also be reduced if the costs of the legal system are too high relative to the expected benefits to the client.

^{viii} <http://www.triallawyersinc.com/html/part01.html>

^{ix} The data includes information on the number of cases outstanding at the beginning of each year, the number of cases filed and the number of case disposed of at the national level for 10 different categories. Annual data is available for all categories since 1998/99, except for the Appeal Court where data is available since 1999/2000.