

2001 – 2002 District Court Report

Overview of court

The district courts of New Zealand sit in 57 locations. There are resident judges in 18 centres throughout New Zealand. The other courts are serviced by Judges travelling from larger centres. The work of the district court falls into five main parts.

The criminal summary work involves the least serious criminal prosecutions. Judges sitting in that jurisdiction have power to impose up to five years imprisonment or the maximum fine prescribed by law, but not exceeding \$10,000 if no amount is prescribed in the Act of Parliament which created the specific offence.

The more serious criminal offences are dealt with by district court judges sitting with juries. These offences include serious property offences such as burglary and fraudulent use of documents; and the more serious offences against the person, such as serious assaults and sexual violation, to name two examples. Only specialist judges who hold a warrant from the Governor-General are entitled to preside over jury trials. The third important branch of the district court is the family court. As its name suggests it deals with matters such as dissolutions of marriage, custody and matrimonial disputes as well as other types of family related litigation. Judges can only sit in the family court if they have a warrant entitling them to do so.

The fourth area of the district court's work is that of the youth court. Judges who are specifically skilled in dealing with young offenders sit in that jurisdiction. In that court the emphasis is on the rehabilitation of the young offender rather than on punishment. Again, judges in this jurisdiction have special authorisation to do this work.

The fifth area of work is that of civil cases. These are cases in which one citizen brings proceedings against another. They are different from criminal cases which are brought by the state against individuals. A typical civil case is one where one person sues another for breach of contract. District court judges have power to determine civil disputes where the amount at stake in the proceedings does not exceed \$200,000 (or more where the parties agree). All district court judges are authorised by statute to hear such civil cases.

Overall responsibility for the district courts rests with the Chief District Court Judge. He is responsible for the deployment of the judges under his supervision. He has the power to direct where they sit. He makes recommendations to the Minister of Justice concerning the minimum number of judges required to carry out the court's work. He deals with complaints brought against judges by members of the public.

The district court is organised into five different regions, Northern (which extends roughly from the Bombay Hills to the top of the North Island), Waikato/Bay of Plenty, Central (which is the rest of the North Island except Wellington), Wellington (which takes in the north of the South Island) and Southern (which extends from Christchurch to the bottom of the South Island). Each region is supervised by an executive judge.

As well as executive judges there are two principal judges with responsibility for overseeing the work of the special jurisdictions of the family court and the youth court. Mention must be made of the great contribution made by the principal judges and executive judges to the running of the courts.

Workload

The district court became busier over the two years 2001 and 2002. Because there are significant differences in the nature of the caseload within the different district court jurisdictions it is difficult to provide a simple analysis of the change in terms of case numbers. One indicator of the change is the increase in the estimation of time that is required to hear cases on hand. The forecasted estimated days required to hear all criminal, civil and family cases increased from 5,330 at the end of 2000 to 6,034 at the end of 2002. The cases that eventually do go to a defended hearing may require less time to dispose of than these forecasts would suggest. Most cases do not, in the end, require a judge's determination. That is because many criminal cases are resolved by guilty pleas, many civil cases settle and many applications to the family court are resolved by settling with orders made by consent of the parties. Nonetheless the estimated hearing days is a useful measurement of the workload on hand. Both the estimated hearing days required and the number of cases on hand increased over the period covered by this report.

The picture for each of the specific jurisdictions of criminal jury trials and criminal summary cases over the 2001 and 2002 years is highlighted below. Comment on the family, youth courts and civil jurisdictions is made elsewhere in this report.

Jury Trials

During the period covered by this report there was a substantial increase in new trials being commenced in the district court. At the beginning of the period the rate at which proceedings were being started was in the region of 2,300 new cases per year whereas at the end of 2002 that had risen to approximately 2,700 cases per year. The result was that after taking into account cases that were disposed of during that period the inventory of jury trial cases on hand rose from 1,000 cases to approximately 1,250, an increase of some 250. Measured in another way, the total estimated days that would be required to hear all the jury trials on hand during this period increased from 2,669 days to 3,222.

The change mainly occurred in 2002, with almost one-third of the increase happening in December 2002. The increase was primarily due to an increase in the rate at which cases were returned to the district court through the middle band and the substantial number of cases in the Waikato Region generated by special Police operations. During the same period when the case numbers increased, there was an accompanying fall of about 100 cases in the number disposed of.

The consequence of the increase in cases awaiting trial is a decrease in timeliness. The proportion of cases disposed of within twelve months reduced to 74 percent in 2001 and 72% in 2002 compared to 75 percent in 2000. The rate is still above the figures for some earlier years, for example, 67 percent in 1997. In practical terms the change has meant that cases that proceed to trial are in the courts for an extra 3-4 weeks on average.

Criminal Summary

The criminal summary caseload falls into two parts defended and undefended. Approximately 135,000 new criminal cases are started each year. The Department for Courts has done some modelling of the caseload that provides a useful overall picture of what happens with criminal summary cases. The overall analysis from the caseload modelling gives the approximate position for each of the two years reported on: About two thirds (almost 90,000 in each of the years under consideration) of the cases are undefended this means that the defendant pleads guilty (about 80,000) or the case is withdrawn (about 10,000);

About one third (about 45,000) of the cases are defended, that is the defendant pleads not guilty. Despite this the case will not necessarily be heard in front of a judge for the reasons that follow. About a quarter of the defended cases (about 11,000) are withdrawn. About 22,000 (or half) of the defended cases are resolved at a status hearing.

The remaining quarter of the cases split into two groups about 5,000 cases are resolved by the defendant changing his or her plea to guilty. That leaves about 7,000 cases that actually proceed to a hearing in front of a judge.

A substantial portion of the time that judges sit in criminal courts is spent moving cases towards their ultimate disposal in a defended hearing or sentencing. Just under one in 20 cases proceeds to a point where a hearing to determine guilt or innocence is required.

The number of new criminal summary cases has been very stable in recent years varying between 135,000 and 140,000 over the past five years. The figures for 2001 (138,500) and 2002 (137,000) fall in the middle of this range.

Overall timeliness (that is, how long it takes to bring a criminal case to conclusion) has also been fairly stable with almost 90 percent of charges resolved within six months.

It is concerning that during the period reported on, the number of defended cases waiting for a hearing in front of a judge increased. Information provided by the Court Registries shows that there were 3,216 cases ready for a defended hearing at the beginning of 2001, by the end of 2002 the number had grown to 3,827. Most of the increase occurred in 2002. It has come about because of reduced disposals.

Civil Litigation

Civil case volumes are difficult to analyse because there is no national database of civil matters. However, some general comments can be made. The civil caseload shares a similar characteristic with the criminal summary jurisdiction, in that a high proportion of the caseload is undefended and requires only minimal judicial input.

The number of civil proceedings commenced in the district court has been declining for some years and the decline continued through 2001 and 2002. In 2001 there were 33,077 proceedings commenced and 25,349 in 2002. These volumes compare to figures ranging between 40,000 to 50,000 for the mid-1990s. It is not certain what has caused the reduction but it seems likely that it relates to changes in the way credit is managed and debts collected.

The number of defended civil cases has not decreased to the same extent but it has reduced. The number of defended civil cases ready for hearing has reduced from 928 at the beginning of 2001 to 657 at the end of 2002. The timeliness of disposal of civil cases has improved over the last two years with 68 percent and 70 percent of cases disposed within one year for 2001 and 2002 respectively. These levels compare favourably with 63% for 2000. These results will have been assisted by a reduction in volume, and also by the introduction in 2001 of the civil case management practice note. One of the express objectives of the practice note is the promotion of the prompt and economic disposal of cases.

Proceedings commenced in the district court continue to decrease in numbers. At the beginning of the period covered by this report the rate at which proceedings were being commenced was something in excess of 36,000 per year. By the close of the period the rate had reduced to 25,000 per year. This decrease continues a trend from the previous year.

During 2001 substantially revised district court civil rules came into effect following the review by a special sub-committee of the rules in 2000. Substantial changes were made to bring the rules up to date and bring them into line with the High Court rules.

Also, the civil case management practice note came into force on the 1st March 2001. The objectives of the Practice Note were to better facilitate case management of civil cases in the District Court, leading to an early identification of the issues in dispute, to prescribe the course of the proceedings, to reduce the number of interlocutory applications that were necessary and, through a table of orders, to ensure the orderly progress of the proceeding to an early hearing date.

Complaints

Thirty two complaints were received in the year to December 2001 and 39 in the year ended 31 December 2002. All of the complaints have now been actioned. None were upheld. The complaints reflect a pattern evident in earlier years, in that many of them were made under the misapprehension that the substance of the judge's decision could be revisited or changed by means of the complaints procedure, when in fact the only way in which a judicial decision can be overturned is by bringing a properly constituted appeal. Those complaints which were concerned with matters that were appropriately

the subject of complaints, for example complaints about discourtesy towards a defendant, were all considered but in every case were found not to be substantiated. None of the complaints were taken further.

North Shore Court

The North Shore court at Albany opened on 17 September 2001. The new building was a well overdue replacement for the old court in Takapuna. Tribute must be paid to the late Judge Bruce Buckton for his efforts which, in conjunction with those of the courthouse design committee and department staff, produced a very good quality courthouse.

Appointments, Retirements

On 1 June 2001 the Chief District Court Judge, Judge RL Young retired from that position and Judge DJ Carruthers was appointed Chief Judge. On the same date Judge A. Becroft was appointed Principal Youth Court Judge.

The maximum number of district court judges that are able to be appointed at any one time is governed by the District Courts Act 1947. During the period 2001/2002 the statutory number of judges rose from 120 to 123. The increase in the base-line of judge numbers was a response to an anticipated increased workload resulting from two separate quarters.

The first was the enactment of the Sentencing Act which came into force in June 2002. The restructuring of the parole boards, the substantially increased workload that was expected to be imposed on them, and the much-increased involvement of district court judges in the parole process were all factors requiring an increase in judge numbers. The second generator of additional work was the extension of jurisdiction to unmarried persons under the Property (Relationships) Act 1976 (previously the Matrimonial Property Act 1976).

During 2001 six new judges were appointed to the district court and there were no retirements. In 2002 there were seven new appointments and four retirements Sadly, Judge Ramon Pethig, a highly regarded family court judge, passed away during 2002.

Pacific Island Deployment of Judges

During the period under report two initiatives were taken which involved the secondment of New Zealand judges to the South Pacific.

Judge Boshier was seconded to assist in the Pacific Island Education Programme. His secondment is for 12 months and during that time he is based at the University of the South Pacific, Suva. The objective of the secondment is to lend assistance to the training of judicial officers and strengthen court processes throughout the Pacific Island states.

During the same period two New Zealand district court judges were seconded to the Supreme Court at Samoa. Judge PW Cooper and Judge MHW Lance QC sat on the Samoan Supreme Court for a combined period of successive periods of three months in Apia. The secondment of the judges was requested by the Samoan government to supplement scarce judicial resources at Supreme Court level.

Important Statutory Changes

During the years 2001/2002 a number of important pieces of legislation were passed which affect the district court. In the criminal area, the principal statutes were the Bail Act 2000, Sentencing Act 2002, Parole Act 2002 and Victims Rights Act 2002.

The Bail Act made substantial changes to the bail laws. One of the beneficial aspects of the legislation is that it clarified the approach that should be taken by judges in dealing with difficult bail issues. At the same time, though, the Act has introduced additional complexity into the work of district court judges sitting in criminal courts.

The Parole Act 2002 made radical changes to the substantial rules governing parole and also to the structural arrangements for dealing with parole applications. In essence, nearly all parole decisions are now made by the parole board chaired by a district court judge. This change on its own has required the redeployment of very substantial judicial resources. The second aspect of the change is that the procedures that parole boards now follow are more complex and the paper work associated with parole applications (reports and the like) has increased greatly in volume. Not only are Judges spending more time chairing parole board hearings but there has been also a very large increase in the amount of time required for them to prepare for the hearing and to master the files that are sent to them in advance of parole board hearings. The additional burden that this places on judges and rostering staff may not have been fully appreciated when the legislation was first passed.

The other statutory change which impacted heavily on the district court was the passage of the Property (Relationships) Amendment Act 2001 which came into force 1 February 2002. In essence the Act amended the Matrimonial Property Act 1976 (now named the Property (Relationships) Act 1976) by extending the laws relating to property sharing on termination of relationships to unmarried people where they had previously applied only to married couples. The expansion of this jurisdiction has impacted heavily on the workload of the family court.