

Justice Sector Projections

2022-2032



MINISTRY OF
JUSTICE
Tabu o te Ture

New Zealand Government

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Executive summary

Each year the Ministry of Justice looks at long-term trends to project what may occur across the criminal justice system over the next ten years.

These projections cover several measures including the number of people coming into court, the number of people in prison, and how long people spend in prison.

The projections are based on the latest data and system settings. They only include the impact of changes to legislation, policy and practice that have been formally approved, funded and have a clear implementation plan. Therefore, the projections represent only one possible future – not *the* future.

The projections provide insight for future court resource and prison capacity planning. They also act as a catalyst for change and provide a baseline that can be used to assess the collective impacts of future policy, legislative and operational changes. Many sector initiatives currently being planned or tested by sector organisations have the potential to create a different future than the one projected here.

COVID-19 impacted the justice system but there are signs of returning to pre-existing levels

While there has been reduced court inflow over the last few years. There has also been further pressure on court timeliness and time spent in custodial remand particularly for those awaiting jury trials which were suspended during higher COVID-19 Alert Levels. A higher proportion of cases in the system are now awaiting jury trials, which are generally more resource and time intensive than other cases.

In the second half of 2022, the number of Category 3 cases¹ (i.e., cases that are more serious) entering court has increased to pre-COVID-19 levels. It is projected to remain at this level over the next ten years as the impact of COVID-19 reduces. The justice sector is expected to continue to focus on family violence and sexual offences, supply of drugs and organised crime. In contrast, court inflow for Category 2 cases is projected to continue at reduced levels due to an ongoing focus on alternative resolution by Police.

Long-term upward pressure remains

Court timeliness remains an issue in the long-term. There have been three main drivers to increased court delays: people pleading guilty later in the criminal court process, more adjournments as parties are not prepared to proceed at their court event, and more people electing jury trials which generally take longer to resolve. Court pressures have been exacerbated by the COVID-19 restrictions, particularly in the Auckland courts and on jury trials - both of which have a large impact on overall system resourcing.

¹ Category 2 cases have a maximum prison sentence of under 2 years. Category 3 have a maximum of 2 years or more. Category 1 cases are not imprisonable.

Work to address these long-term pressures is underway with work such as the Criminal Process and Improvement Programme (CPIP) which is designed to improve systems and processes to reduce unnecessary court events. It is expected that CPIP will reduce the average time to resolve a case (and the average time spent in custodial remand) than it otherwise would have been. We note that, not all potential benefits from the programme have been incorporated in this year’s projection but will be incorporated in future projections when later tranches of CPIP are rolled out.

The prison population is projected to increase

The prison population is projected to increase in the long term driven by an increase in the remand population. There is upward pressure on the remand population due to court delays which increase the average time people spend in custodial remand. In addition, the rate at which people are remanded into custody is projected to increase over the long term in line with the historic trend over the last 20 years.

Without changes, the prison population is projected to be:

	Pre-projection (November 2022)	10-year projection (June 2032)
Remand	3,500	4,700
Sentenced	4,700	4,700
Total Prison	8,200	9,400

While the overall prison population is projected to increase, it is much lower than what was projected five years ago. In 2018, the prison population was 10,800 and was projected to be 14,400 by 2027.

The large reduction in the projected prison population between 2018 and 2022 has been due to a steady decrease in the sentenced population. This was due to a higher use of non-custodial sentences. Lower levels of Category 3 court inflow since COVID-19 began to impact the justice system in 2020 and also contributed to a decrease in the sentenced and remand population. However, Category 3 court inflow returned to pre-COVID levels in the second half of 2022.

While the impact of COVID-19 played a significant role, these changes happened within a context of a greater focus on therapeutic approaches and finding alternatives to custodial detention. This can be seen through initiatives such as the Bail Support Services led by the High Impact Innovation Programme, Te Pae Oranga, and the extension of the youth justice system to include 17-year-olds.

The justice system has the potential to create a very different future

As the projection only includes the impact of changes to legislation, policy and practice that have been formally approved, funded and have a clear implementation plan, it provides a starting point against which the impacts of any future changes can be evaluated.

There are many operational changes currently under development or in the initial stages of delivery that are not yet fully incorporated in the projections that will impact the medium-term justice sector trends and will work to create a different future. These include:

- NZ Police’s ReFrame Te Tarai Hou – improving front line practice for better resolution outcomes

- The full benefits of the Criminal Process and Improvement Programme – improving systems and processes to reduce unnecessary court events.

Further, several reform initiatives and strategies focused on improving people's wellbeing before they enter the justice system, addressing the disproportionate impact of the justice system on Māori, and improving outcomes within the justice system will have an impact over the long-term:

- NZ Police's Te Huringa o Te Tai Strategy – to improve service delivery to Māori by supporting their aspirations for their people and their communities, and reducing offending and victimisation
- Te Ao Mārama – a judicially led kaupapa that will improve the experience for all people who participate in the court system, including victims and whanau.
- Ara Poutama Aotearoa - Department of Corrections' Hōkai Rangi Strategy – designed to address Māori overrepresentation in the system, including key work to develop a kaupapa Māori based pathway through the prison system and post release
- Broader social sector initiatives such as the Child and Youth Wellbeing Strategy – to improve outcomes for young people, including work to address family violence.

These operational changes and reform initiatives have the potential to create a very different future over the long-term and will be factored into future projections.

Justice Sector Chief Executives² have approved this report for public release.

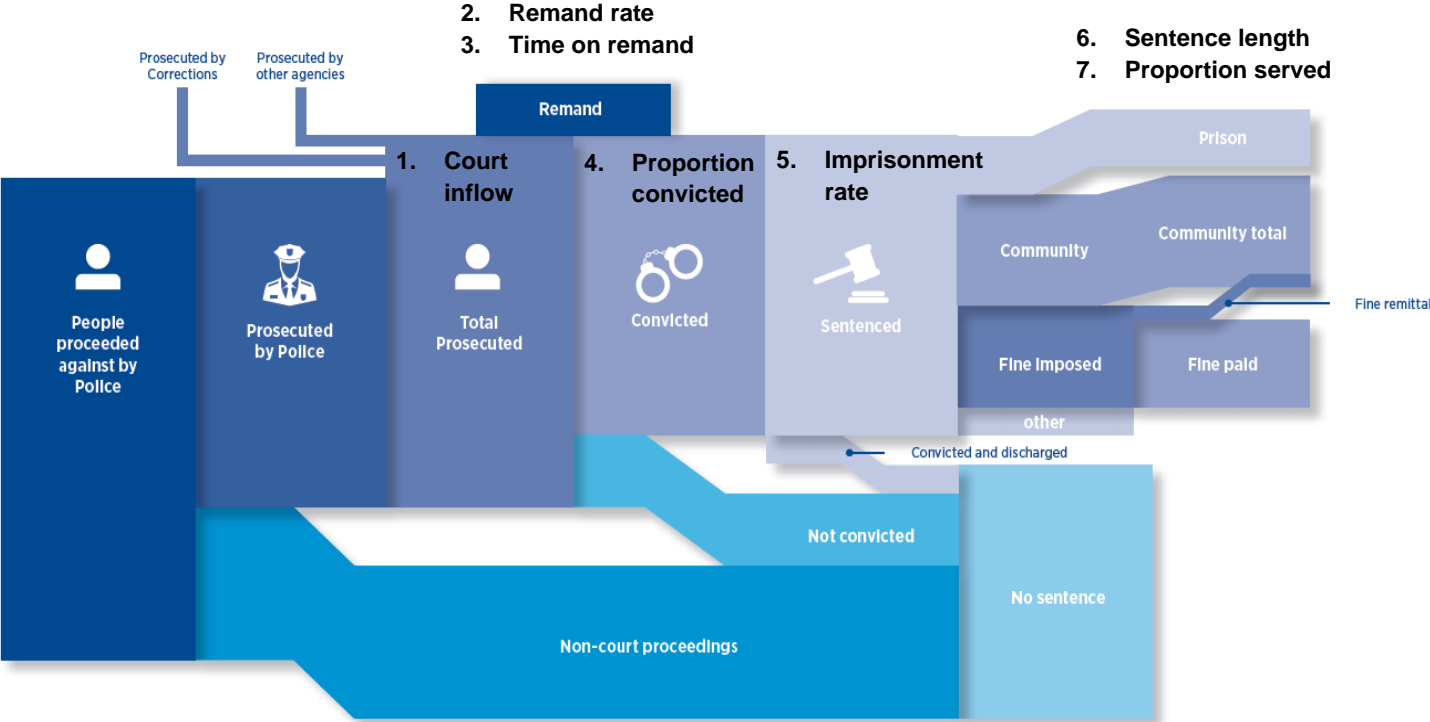
² The justice sector includes: Ministry of Justice, New Zealand Police, Ara Poutama Aotearoa - Department of Corrections, Oranga Tamariki – Ministry for Children, Crown Law, and the Serious Fraud Office.

The Justice Sector Projection Overview

Each year, the Ministry of Justice looks at the long-term trends across the justice sector to estimate what will occur in seven key points across the justice system over the next ten years. These points are:


- 1. Court inflow,
- 2. Remand rate,
- 3. Average Time on remand,
- 4. Proportion convicted
- 5. Imprisonment rate,
- 6. Imposed sentence length, and
- 7. Proportion of the imposed sentence served in prison before release.

Figure 1: The seven key points modelled, reflect the movement of cases and people through the justice system



As indicated in *Figure 1*, these seven points provide a simplified view of how people move through the justice system and how long they spend there, which ultimately impacts resourcing across the justice sector.

This report details how each point is projected to change over the next ten years based on the latest data and system settings and how these impact the prison population.



The development of the 2022 projection began in September 2022. The Ministry of Justice worked together with nominated subject matter experts from the Ministry of Justice, New Zealand Police, Ara Poutama Aotearoa - Department of Corrections, Crown Law, and the Serious Fraud Office.

Recent and long-term trends across the justice sector were discussed along with expected changes and their possible impacts. There was broad agreement on the future trends. The projection was further refined with updated data as at November 2022. The justice sector projection was approved by Justice Sector Leadership Board in February 2023.

Projecting long-term trends across the justice system

This section discusses in detail each of the seven key points across the justice system including recent changes, projected changes over the next ten years, drivers of these changes, and how these changes impact the prison population.

Court Inflow: overall fewer cases are expected to come into courts but these cases will be more serious

Court inflow is the number of people who are prosecuted in court. Over the past ten years court inflow has decreased. Most of this was in the less serious case types (Category 1 and 2 cases)³.

In early 2020, when COVID-19 first began to impact the justice system, court inflow decreased and remained at lower levels for the next few years.

The lower levels of Category 3 court inflow during 2020 and 2021 is understood to have been temporary due to COVID impacts such as lockdowns, reduction in reported victimisations, and police redeployment.

In 2022, court inflow for Category 3 cases (i.e., cases that are more serious and make up most of the prison population) increased. It reached pre-COVID-19 levels in August 2022 and has remained there throughout the rest of 2022. This has driven an increase in the remand population and has halted reductions in the sentenced population. Category 2 court inflow also increased but is still below pre-COVID levels.

Category 3 court inflow is projected to remain stable at this higher, pre-COVID-19 level, over the next ten years. On the other hand, court inflow for Category 2 cases is projected to continue at reduced levels due to an on-going focus on supported resolutions by Police.

Given the sharp rises we saw late in 2022, it is possible that we continue to see increases in the number of serious cases coming into courts. Police are responding to an increased level of reported victimisation and that has resulted in increased prosecutions. Should serious victimisations reported to Police continue to increase, as we have seen over the past 12 months, we may see Police proceeding more, and more cases coming into court than we did before the pandemic. A return to pre-pandemic levels has been assumed in this projection based on current information, but it is important to acknowledge the uncertainty at this time.

³ Category 1 cases are not imprisonable; Category 2 are imprisonable for a maximum of up to 2 years; Category 3 are imprisonable for a maximum of greater than 2 years. Category 3 cases generally require more time and resources to resolve, have a higher likelihood of the defendant being remanded in custody, and are more likely to result in the defendant being sentenced to imprisonment if found guilty.

Should category 3 court inflow increase by a further 5% it is expected the total prison population would increase by approximately 370.

By 2032, around 8,000 cases are projected to enter court each month compared to around 8,300 in November 2022. Category 3 offences entering the courts are projected to be around 3,700 per month remaining stable compared to 3,700 per month in November 2022.

Figure 2: Court inflow, actual and projected

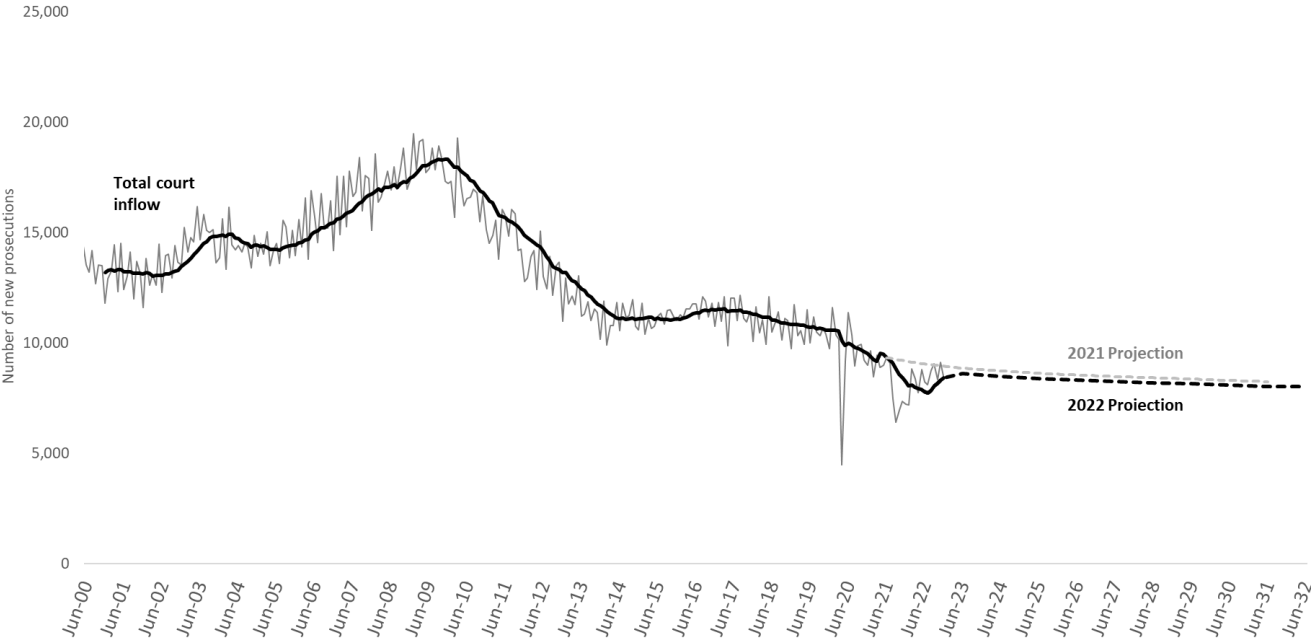


Figure 3: Court inflow, actual and projected by category.

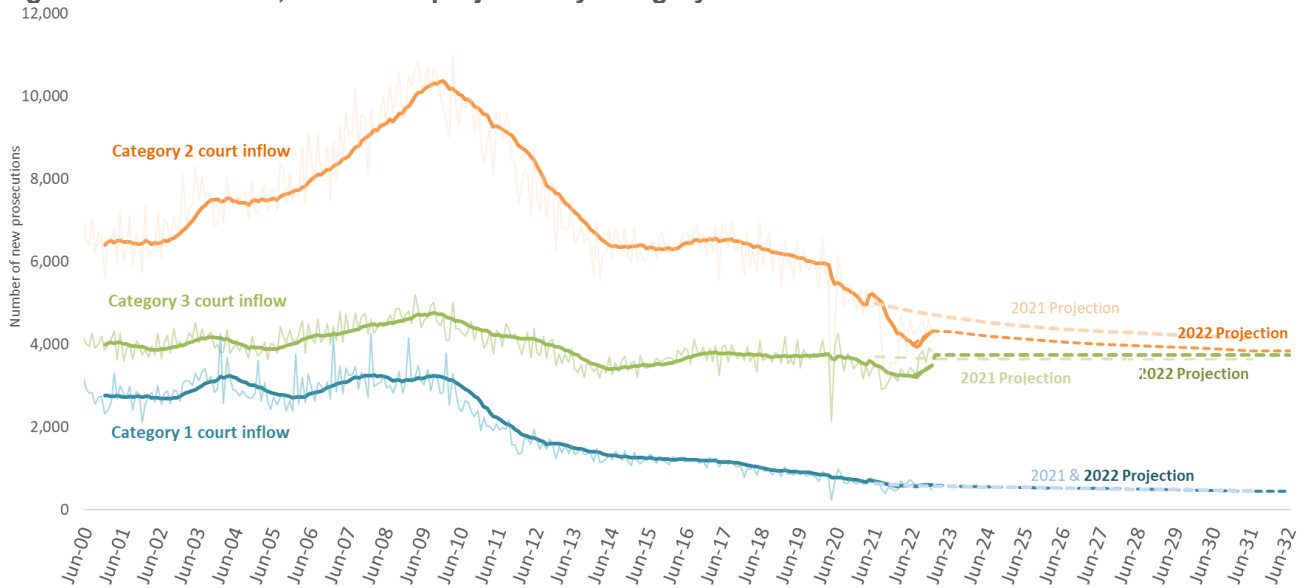
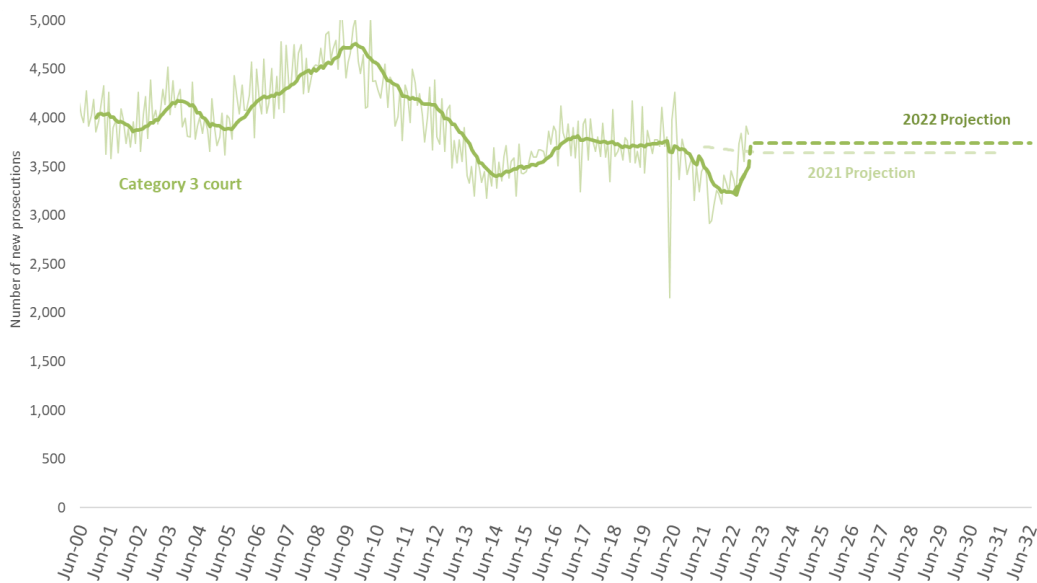


Figure 4: Category 3 Court inflow, actual and projected



Remand rate: long term upward pressure

The remand rate is the ratio between the number of people remanded in custody and the number of people prosecuted in court for a given period. It is influenced by two factors: the composition of cases coming into court and the likelihood of people being remanded into custody despite having similar circumstances (for example, having similar types of charges, similar number of previous charges, and similarly suitable accommodation).

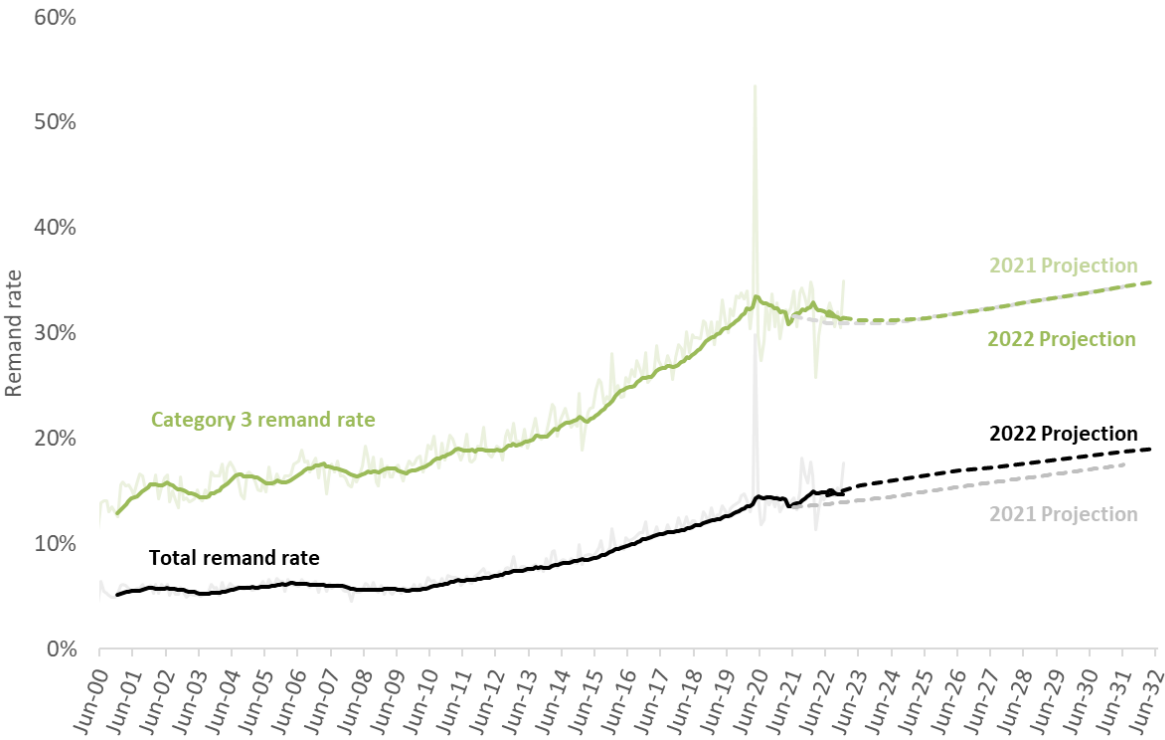
Over the past ten years, the remand rate has increased significantly and is projected to continue to steadily increase over the next ten years. This is primarily due to changes in the composition of court inflow with fewer lower seriousness cases entering court resulting in a higher remand rate.

However, the remand rate limited to Category 3 cases has also increased over the last ten years. This has been partly due to a change in composition within Category 3 cases and more information that is relevant to the remand decision becoming available due to improved technology. The Category 3 remand rate stopped increasing in 2020, following COVID-19’s impacts on the justice system. Since 2020, it has been relatively stable. This sustained level of the Category 3 remand rate occurred in the context of an increasingly cooperative justice sector.

However, the Category 3 remand rate is projected to increase in the long term as the historic upward trend is expected to continue.

By 2032, the overall remand rate is projected to be 19% compared to 15% in November 2022. For people prosecuted with Category 3 offences, it is projected to be 35% compared to 31% in November 2021.

Figure 5: Remand rate, actual and projected



Average time on remand: court delays are expected to increase time on remand

Historically, the average time people spend in custodial remand has increased steadily. This has primarily been due to court cases taking longer to resolve because of a complex set of factors including:

- People pleading guilty later in the criminal court process which has led to more court hearings and more court resources being required,
- An increase in the number of days between each court hearing for a case due to the lack of court resources to administer the criminal court workload required
- An increase in the number of court events that are adjourned due to parties not being ready for the event to proceed,
- An increase in the rate of people electing jury trials, which require more time and resource to resolve compared to judge-alone trials.

COVID-19 restrictions placed additional strain on the court system, particularly in Auckland and particularly jury trials, which has had a significant impact on overall court resources.

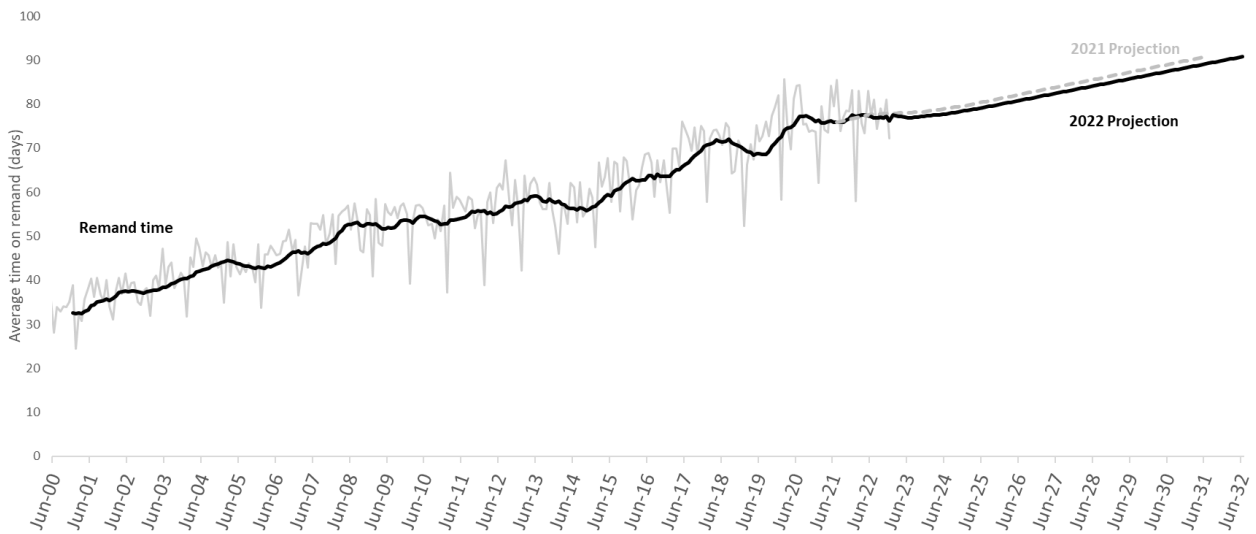
To address these ongoing challenges, efforts are being made through the Criminal Process and Improvement Programme (CPIP). This initiative aims to improve processes and systems to reduce the number of unnecessary court events. It is expected that the CPIP will decrease the amount of time needed to resolve a case and the amount of time an individual spends in custody while awaiting trial. However, not all the potential benefits of the program have been included in the current projection but will be in future projections. Incorporating part of the benefits from CPIP sees the 2022 projection lower than last year's projection.

Additional efforts have been made since 2018 to address the rising trend in the average time spent in custody while awaiting trial. These initiatives include adding additional judicial resources to handle the increased workload in the High Court and District Court, as well as the High Impact Innovation Programme's Bail Support Services. This service aims to strengthen and ensure the timely submission of bail applications, and support people with any unmet needs such as accommodation, in order to help people safely obtain bail. People who engage with the service are more likely to achieve bail, and less likely to breach their conditions or reoffend.

Despite efforts to improve the court system, it is still anticipated that the average time spent in custody while awaiting trial will continue to rise in the long term in line with the historic trends. This is due to the complex set of factors that have driven the historic increase in the time on remand.

By 2032, it is projected that the average time people will spend on remand is 90 days compared to 76 days in November 2022.

Figure 6: Time on remand, actual and projected (days)



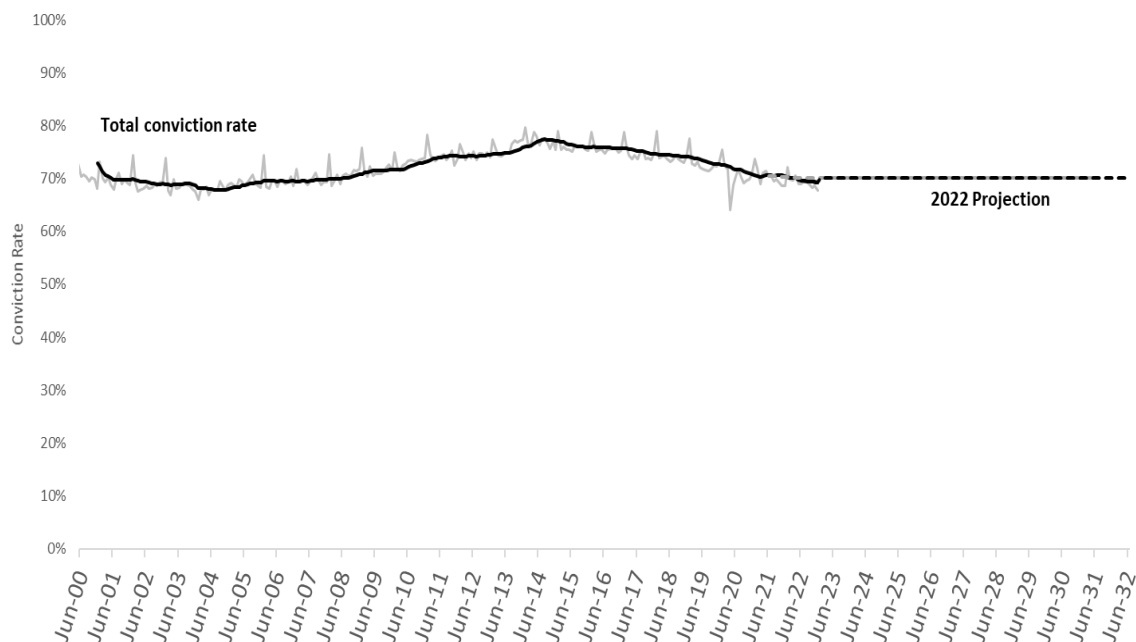
Conviction rate: expected to remain stable

Over the past two decades, the conviction rate has generally been around 70%. However, it rose to its highest point of 77% between 2008 and 2014, before returning to the long-term average of 71%.

The conviction rate can be influenced by the type of cases being brought to court, as well as the use of alternative resolutions like diversion and discharging an individual without a conviction.

It is expected that the conviction rate will remain stable at around 70% in the next decade.

Figure 7: Conviction rate, actual and projected



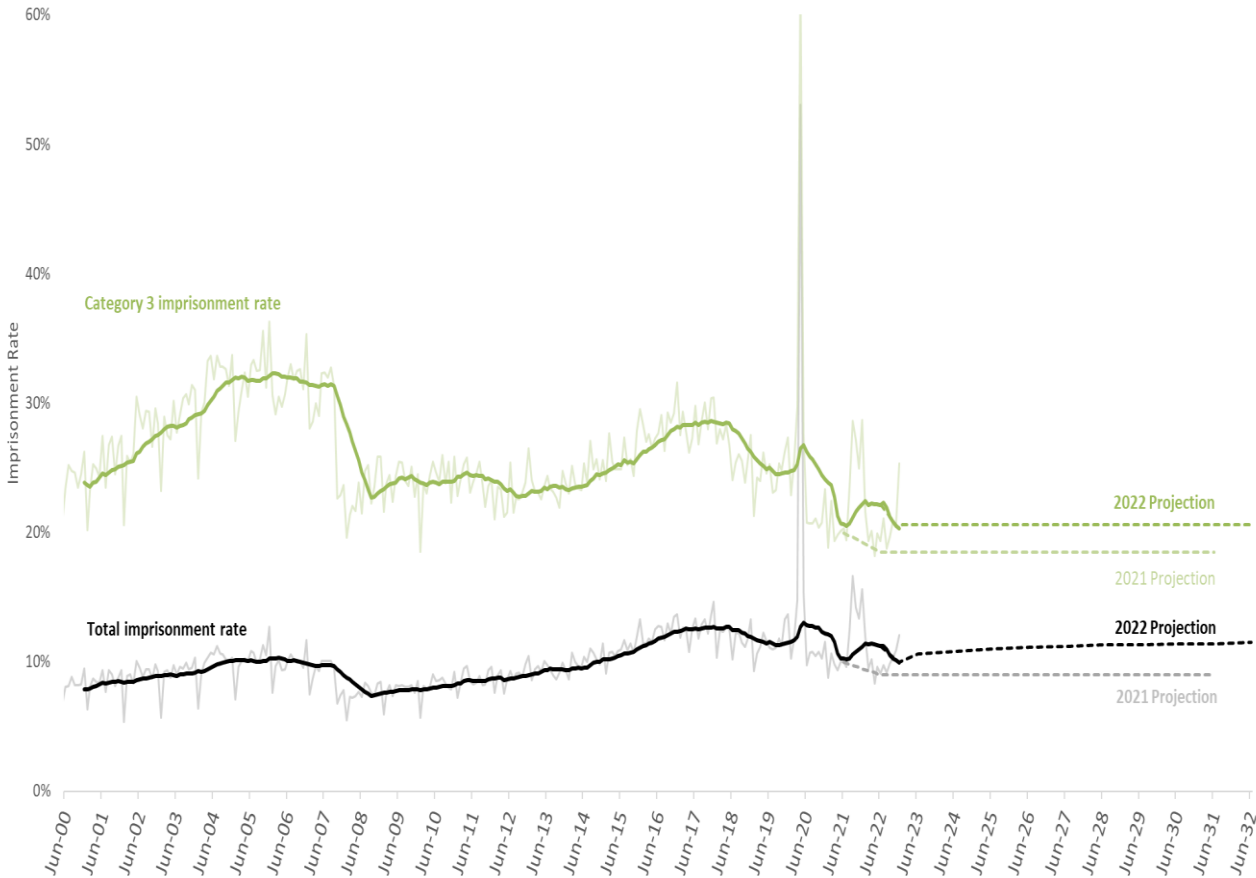
Imprisonment rate: Category 3 expected to remain stable

The imprisonment rate is the ratio of the number of people sentenced to imprisonment over the number of people convicted for a given period. It is influenced by the composition of the cases coming to court (serious cases are more likely to be sentenced to prison) as well as the likelihood of people being imprisoned despite similar circumstances.

As with the remand rate, it's useful to look at the imprisonment rate for Category 3 cases as they account for almost 90% of incoming prison sentences. The Category 3 imprisonment rate decreased from 28% in late 2017 to 20% in November 2022. This was mainly driven by an increased use of non-custodial sentences such as intensive supervision by the sentencing judges. This is why the sentenced population is projected to remain at a lower level than pre-COVID despite a similar level of Category 3 court inflow.

The overall imprisonment rate is projected to increase to 12%. This is due to a greater proportion of people projected to be convicted of Category 3 offences. The Category 3 imprisonment rate is projected to remain stable at 21%.

Figure 8: Imprisonment rate, actual and projected



Imposed sentence length: expected to remain stable

The average time a person spends in prison is broken down into two components: (1) the average length of the *imposed* sentence, and (2) the average proportion of the imposed sentence that the person actually serves.

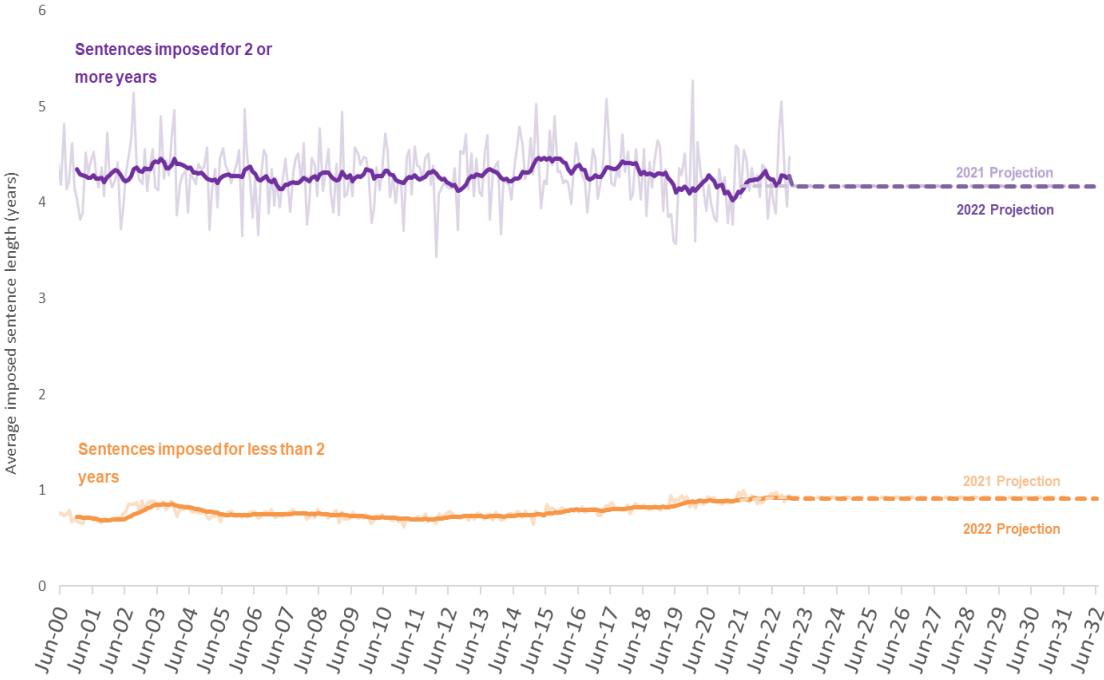
We project two separate trends for imposed sentences: short sentences (those imposed for less than two years) and long sentences (those imposed for two years or more). This is because long sentences are eligible to be considered by the Parole Board which impacts proportion served (as covered in the next section on the average proportion served). People serving sentences of less than two years are automatically released after serving half of their sentence. They are not seen by the Parole Board

The average length of the imposed sentence has remained relatively stable for the last 20 years despite monthly variation. For imposed sentences greater than two years, the average imposed length has been slightly over 4 years since projections have been developed.

For imposed sentences less than two years, the average imposed length increased from around 260 days in 2010 to around 300 days in 2021. This was largely due to a higher number of shorter sentences instead receiving community-based sentences.

It is projected that the average imposed sentence length will remain stable for the next ten years. By 2032, the average imposed length for long sentences is projected to be 4.2 years and for short sentences it's projected to be around 1 year.

Figure 9: Average imposed sentence length, actual and projected (years)



Proportion of imposed sentence served: prison sentence lengths served are expected to remain stable

The average proportion of sentences served (for imprisonment sentences greater than two years⁴) decreased from 80% in June 2018 to 75% in October 2019. Since then, it has been relatively stable. This decrease was attributed to changes within the New Zealand Parole Board alongside the work of the High Impact Innovation Programme’s ‘Parole Ready’ initiative⁵ to remove inefficiencies in the process of accessing and granting parole.

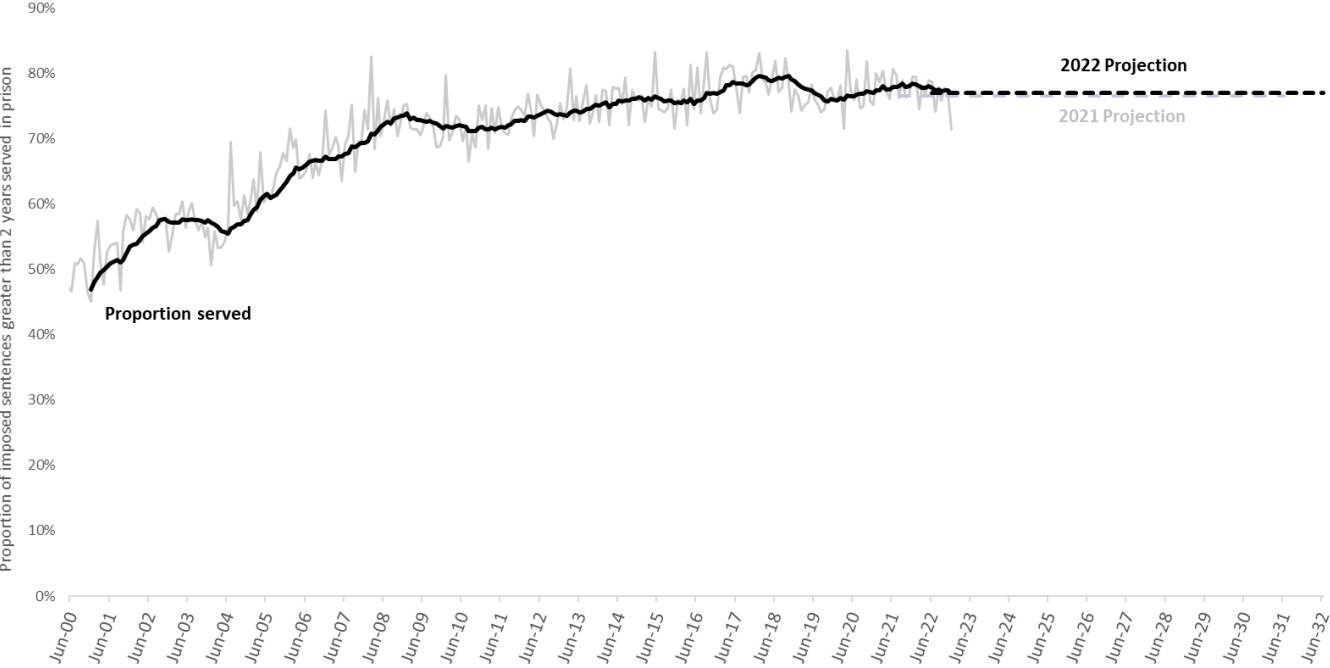
The Parole Ready initiative enabled people to be ready to return to the community sooner by ensuring timely access to the necessary treatment, support and opportunities for rehabilitation and reintegration. As a result, people managed by Ara Poutama Aotearoa - Department of Corrections spend more of their sentence reintegrating into the community under the supervision of a probation officer.

It is projected that the average proportion of a sentenced served will remain stable for the next ten years. By 2032, the average proportion of a sentenced served is projected to be 77%.

⁴ People serving sentences of less than two years are released after serving half of their sentence. They are not seen by the Parole Board. For people sentenced to two years or more in prison, they become eligible for parole after serving one-third of their sentence (unless a longer minimum non-parole period has been set). For more details see: https://www.corrections.govt.nz/working_with_offenders/prison_sentences/release/parole

⁵ https://www.corrections.govt.nz/resources/strategic_reports/statements-of-intent/statement_of_intent_2018-2022/our_operating_environment

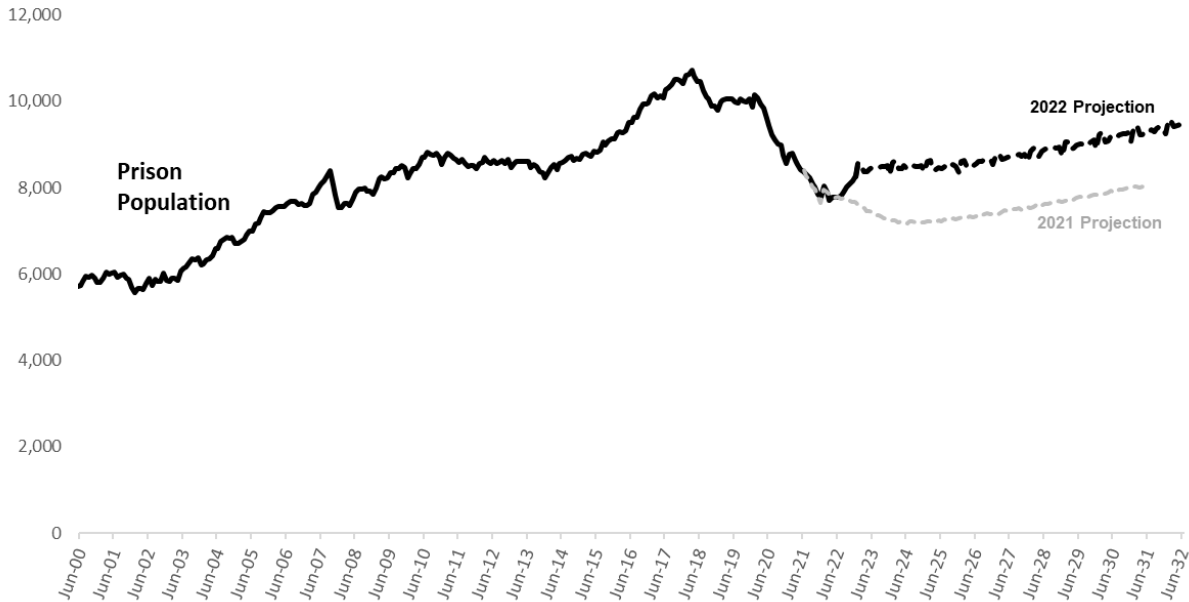
Figure 10: Proportion of imposed sentence served, projected and actual (for sentences greater than 2 years)



The prison population is projected to increase over the next ten years

The prison population is projected to increase from 8,200 in November 2022 to 9,400 in June 2032.

Figure 11: Total prison population, actual and projected

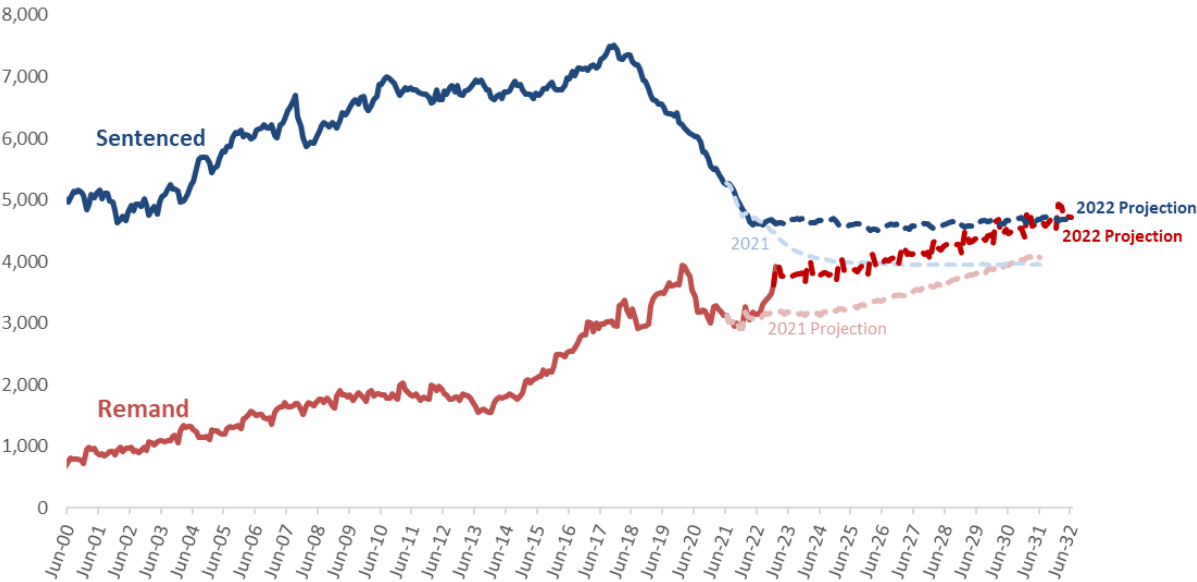


The increasing trend in the prison population is comprised of two disparate underlying trends in the sentenced and remand population.

The sentenced population is projected to remain relatively stable around 4,700 over the next ten years. This is a much lower level than it has been in recent years. The reason for this is the sentenced population has decreased since 2017 with a higher use of non-custodial sentences.

In contrast, the remand population is projected to increase from 3,500 in November 2022 to 4,700 in June 2032. This increase has three main drivers. The first is an increase of Category 3 court inflow back pre-COVID-19 levels (which also contributes some upward pressure on the sentenced population). The second is a long-term upward pressure on the remand population due to court delays which increase the average time people spend in custodial remand. The final driver is the rate at which people are remanded into custody is projected to increase over the long term in line with the historic trend over the last 20 years.

Figure 12: Prison population broken down into sentenced and remand populations, actual and projected



The Justice Sector can create a very different future

The future trends for the justice sector are projected based on the latest data and system settings. The projection only includes the impact of changes to legislation, policy and practice that have been formally approved, funded and have a clear implementation plan. Therefore, the projection represents only one possible future – not *the* future.

The projections give an idea of what will be needed for courts and prisons in the future, and it is a starting point for making changes. This projection can also be used to measure the effects of future policy and decision changes. Additionally, programs that are being tested or considered by different organizations in the sector may change the projection that was made.

As discussed above, Category 3 court inflow significantly increased in the second half of 2022 which drove a large increase in the remand population. We project Category 3 court inflow to remain at this level over the next ten years.


However, should Category 3 court inflow increase to a higher point than the roughly stable levels it was at pre-COVID (rather than just return to these levels) this would increase the prison population further. All else remaining equal, an increase in court inflow of by an additional 5% would translate to approximately 200 beds in remand and 200 beds in the sentenced population in ten years' time.

Further, there are many operational changes currently under development or in the initial stages of delivery that are not yet fully incorporated in the projections that will impact the medium-term justice sector trends and will work to create a different future. These include:

- NZ Police's ReFrame Te Tarai Hou – improving front line practice for better resolution outcomes
- The full benefits of the Criminal Process and Improvement Programme – improving systems and processes to reduce unnecessary court events.

In addition, several reform initiatives and strategies focused on improving people's wellbeing before they enter the justice system, addressing the disproportionate impact of the justice system on Māori, and improving outcomes within the justice system will have an impact:

- NZ Police's Te Huringa o Te Tai Strategy – to improve service delivery to Māori by supporting their aspirations for their people and their communities, and reducing offending and victimisation
- Te Ao Mārama – the judiciary's model to change the way the District Court operates by directly responding to the root causes of crime i.e. the cultural, social and economic needs of people in the system
- Ara Poutama Aotearoa - Department of Corrections' Hōkai Rangī Strategy – designed to address Māori overrepresentation in the system, including key work to develop a kaupapa Māori based pathway through the prison system and post release
- Broader social sector initiatives such as the Child and Youth Wellbeing Strategy – to improve outcomes for young people, including work to address family violence



These operational changes and reform initiatives have the potential to create a very different future over the long-term and will be factored into future projections.

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⁶ The justice sector includes: Ministry of Justice, New Zealand Police, Ara Poutama Aotearoa - Department of Corrections, Oranga Tamariki – Ministry for Children, Crown Law, and the Serious Fraud Office.

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