

20 FEB 2017

Ti Lamusse
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Dear Ti

Official Information Act 1982 request

Thank you for your Official Information Act 1982 request of 20 January 2017, regarding information on remand and sentencing since the year 2000.

Before responding to your specific questions, I would like to provide some background information on bail decisions and sentencing.

A key point to note is that decisions made by courts on the status of bail and sentences of imprisonment are made independently of each other. They have different criteria, purposes, and as they are not made at the same time, may have different information for the court to consider.

Bail decisions

The bail system involves balancing a defendant's right to be presumed innocent until proved guilty and to not be arbitrarily detained, against any risk the defendant poses to public safety.

The starting point under the Bail Act 2000 is that a defendant should be released on bail unless there is a good reason to detain the defendant in custody. The main factors that the court considers when deciding whether there is good reason to detain the defendant include the risk that they may fail to appear in court, interfere with witnesses or evidence, or offend on bail.

The Government amended the Bail Act 2000 in 2013 for defendants charged with serious offences seeking bail. The amendments include increasing the situations where a defendant is subject to a reverse burden of proof. A reverse burden of proof means the defendant must prove that he or she should be granted bail, rather than the prosecutor proving that the defendant should not be granted bail. One effect of the changes is that, for example, defendants charged with murder must satisfy the Judge that they will not commit any offence involving violence against, or danger to the safety of, another person while on bail.

Sentencing

When sentencing an offender, the Judge must decide on an appropriate sentence within the maximum penalties set down in law for the particular charges. The Judge decides on a sentence after considering the characteristics of the offence and the offender, as well as the principles and purposes of sentencing set out in the Sentencing Act 2002.

The court sentences a person on conviction for an offence for purposes that include holding the offender accountable for the harm caused by their offending, providing for the interests of the victim, denouncing the conduct, deterrence and assisting in the rehabilitation of the offender.

When considering the imposition of a sentence of imprisonment, the Sentencing Act 2002 requires the court to have regard to the desirability of keeping offenders in the community and imposing the least restrictive outcome that is appropriate in the circumstances. The Judge should only impose a sentence of imprisonment if they are satisfied no other sentence would protect the safety of the community and satisfy the purposes and principles set out in sections 7 and 8.

Response to your request

Your requests and my responses are set out below.

1. *The total number of people who were sentenced to imprisonment.*
Please refer to table 1 attached.
2. *The total number of people who were sentenced to imprisonment who had previously been held on remand without conviction during the proceedings for the offending for which they were imprisoned.*
Please refer to table 2 attached. I have interpreted your request as the number of people remanded in custody that were subsequently convicted and sentenced to imprisonment.
3. *The total number of people who were found not guilty of an offence for which they had been held on remand without conviction.*
Please refer to table 3 attached. I have provided the number of people remanded in custody, by charge outcome. The charge outcome 'not proved' is provided as a proxy for 'not guilty'.
4. *The total number of people who were found guilty of an offence for which they had been held on remand without conviction.*
Please refer to table 3 attached. The charge outcome 'proved' is provided as a proxy for 'guilty'.
5. *The total number of people who were held on remand without conviction and who were not sentenced to imprisonment following that period of remand.*
Please refer to table 4 attached.

The data includes applications captured in the Court's Case Management System which has been in use in all District Courts since October 2003. Accordingly, the data you have requested from 2000-2003 is unavailable. Therefore, this part of your request is refused pursuant to section 18(g) of the Official Information Act 1982 on the grounds that this information is not held by the Ministry and there are no grounds for believing it is held by another department, Minister of the Crown, organisation or local authority.

Please note that the data provided does not indicate how long or at what stage of proceedings a person has been held on remand. A person remanded in custody may be held in police cells, court cells, psychiatric facilities, or prison.

If you require any clarification of the information contained in this response please contact Antony Paltridge, Team Leader, Media and External Relations, at media@justice.govt.nz or call (04) 918 8980.

If you are not satisfied with my response to your request, you have the right to make a complaint to the Ombudsman under section 28(3) of the Official Information Act 1982. The Ombudsman may be contacted by writing to PO Box 10-152, Wellington.

Yours sincerely



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Jacquelyn Shannon
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Ref: 60581

Table 1: Number of people convicted and sentenced to imprisonment, 2004/2005-2015/2016

	2004/2005	2005/2006	2006/2007	2007/2008	2008/2009	2009/2010	2010/2011	2011/2012	2012/2013	2013/2014	2014/2015	2015/2016
Number of people	8,991	9,170	9,374	8,226	8,715	9,163	8,766	8,058	7,921	7,283	7,452	7,835

Please note: Year is the financial year of the charge outcome. This data counts a person once per year for their most serious charge.

Table 2: Number of people remanded in custody who were convicted and sentenced to imprisonment, 2004/2005-2015/2016

	2004/2005	2005/2006	2006/2007	2007/2008	2008/2009	2009/2010	2010/2011	2011/2012	2012/2013	2013/2014	2014/2015	2015/2016
Number of people	5,354	5,875	6,032	5,667	6,162	6,506	6,316	6,030	5,944	5,539	5,823	6,438

Please note: Year is the financial year of the charge outcome. This data counts a person once per year.

Table 3: Number of people remanded in custody, by charge outcome, 2004/2005-2015/2016

Outcome	2004/2005	2005/2006	2006/2007	2007/2008	2008/2009	2009/2010	2010/2011	2011/2012	2012/2013	2013/2014	2014/2015	2015/2016
Proved	8,297	8,937	9,316	9,502	10,313	10,659	10,212	9,718	9,591	8,906	9,302	10,320
Not proved	1,317	1,354	1,513	1,551	1,581	1,481	1,425	1,521	1,303	1,054	1,151	1,267
Other	23	39	34	50	52	42	50	66	68	67	86	55
Total	9,637	10,330	10,863	11,103	11,946	12,182	11,687	11,305	10,962	10,027	10,539	11,642

Please note: Year is the financial year of the charge outcome. This data counts a person once per year. 'Proved' outcomes include: convicted, Youth Court proved, discharge without conviction, and adult diversion/Youth Court discharge. 'Not proved' outcomes include those where the defendant is found not guilty such as: acquitted (not guilty), or where the charge is withdrawn, dismissed or not proceeded with. 'Other' outcomes include stays of proceedings and mental health outcomes such as the defendant being acquitted insane or being found unfit to stand trial.

Table 4: Number of people remanded in custody who were not sentenced to imprisonment, 2004/2005-2015/2016

Outcome	2004/2005	2005/2006	2006/2007	2007/2008	2008/2009	2009/2010	2010/2011	2011/2012	2012/2013	2013/2014	2014/2015	2015/2016
Convicted	2,256	2,345	2,567	3,111	3,460	3,522	3,284	3,059	3,123	2,838	2,979	3,367
Other proved	687	717	717	724	691	631	612	629	524	529	500	515
Not proved	1,317	1,354	1,513	1,551	1,581	1,481	1,425	1,521	1,303	1,054	1,151	1,267
Other	23	39	34	50	52	42	50	66	68	67	86	55
Total	4,283	4,455	4,831	5,436	5,784	5,676	5,371	5,275	5,018	4,488	4,716	5,204

Please note: Year is the financial year of the charge outcome. This data counts a person once per year. 'Convicted' refers to people who were convicted but received a sentence other than imprisonment. 'Other proved' includes Youth Court proved, discharge without conviction and adult diversion/Youth Court discharge. 'Not proved' outcomes include those where the defendant is found not guilty, such as acquitted (not guilty), or where the charge is withdrawn, dismissed or not proceeded with. 'Other' outcomes include stays of proceedings and mental health outcomes such as the defendant being acquitted insane or being found unfit to stand trial.