

Justice Sector Projections

2021-2031



MINISTRY OF
JUSTICE
Tabu o te Ture

New Zealand Government

Contents

- Executive summary..... 2**
- The Justice Sector Projection Overview..... 4**
- Projecting long-term trends across the justice system..... 6**
 - Court Inflow: fewer are expected to come into the courts 6
 - Remand rate: a lower remand rate is expected to continue in the short term but increase in the long-term 7
 - Average time on remand: court delays are expected to increase time on remand 8
 - Conviction rate: the likelihood of being convicted is expected to remain stable10
 - Imprisonment rate: the historically low imprisonment rate is expected to continue.....10
 - Imposed sentence length: prison sentence lengths imposed are expected to remain stable11
 - Proportion of imposed sentence served: prison sentence lengths served are expected to remain stable.....12
- The prison population is projected to slightly increase over the next ten years.....14**
 - The prison population is the lowest it has been since 200815
- The Justice Sector has the potential to create a very different future.....16**
 - Operational changes and reform initiatives have the potential to create a very different future.....16

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.

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 2021 Justice Sector Projections provide insight for future court resource and prison capacity planning. It also acts as a catalyst for change and provides 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.

The justice system has seen big changes over the last few years

Many trends in the justice system have changed over the last few years. Which has led to fewer people and cases coming into the courts and a lower rate of people who are remanded in custody or sentenced to imprisonment. This has meant there are significantly fewer people in prison. For example, as at the end of November 2021, the prison population was 7,850, 950 lower than the previous year and over 2,800 lower than the 10,800 peak in April 2018.

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

Long-term upward pressure remains

However, court timeliness continues to be an issue. Since 2014, defendants have been pleading guilty later in the criminal court process which has meant criminal cases now require more court hearings and more resources to be resolved. This has been a driver of increasing court delays. Court pressures have been exacerbated by the COVID-19 restrictions particularly in the Auckland courts and particularly on jury trials, both of which have a large impact on the overall system.

The prison population is projected to decrease to 7,200 in 2024. This is mainly driven by decreases to the sentenced population from 4,900 in November 2021 to 4,000 in 2024 and then stabilises at this level until 2031.

However, this fall is expected to be countered by long-term 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 start increasing again in line with the historic trend over the last 20 years.

Without changes, the remand prison population is projected to increase from 2,900 in November 2021 to just over 4,000 by June 2031.

The total prison population is projected to be 8,000 in June 2031. This is substantially lower than the 10-year prison population projection of 14,400 made in 2017. The prison population as at November 2021 is the lowest it's been since 2008 due to a large and steady decrease in the sentenced population since 2017 and a drop in the remand population since 2020.

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 underway 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
- Criminal Process and Improvement Programme – improving systems and processes to reduce unnecessary events.
- Increased judicial capacity in the District Court.

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 have been signalled for the next few years and are underway:

- 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's 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.

Justice Sector Chief Executives have approved this report for public release¹.

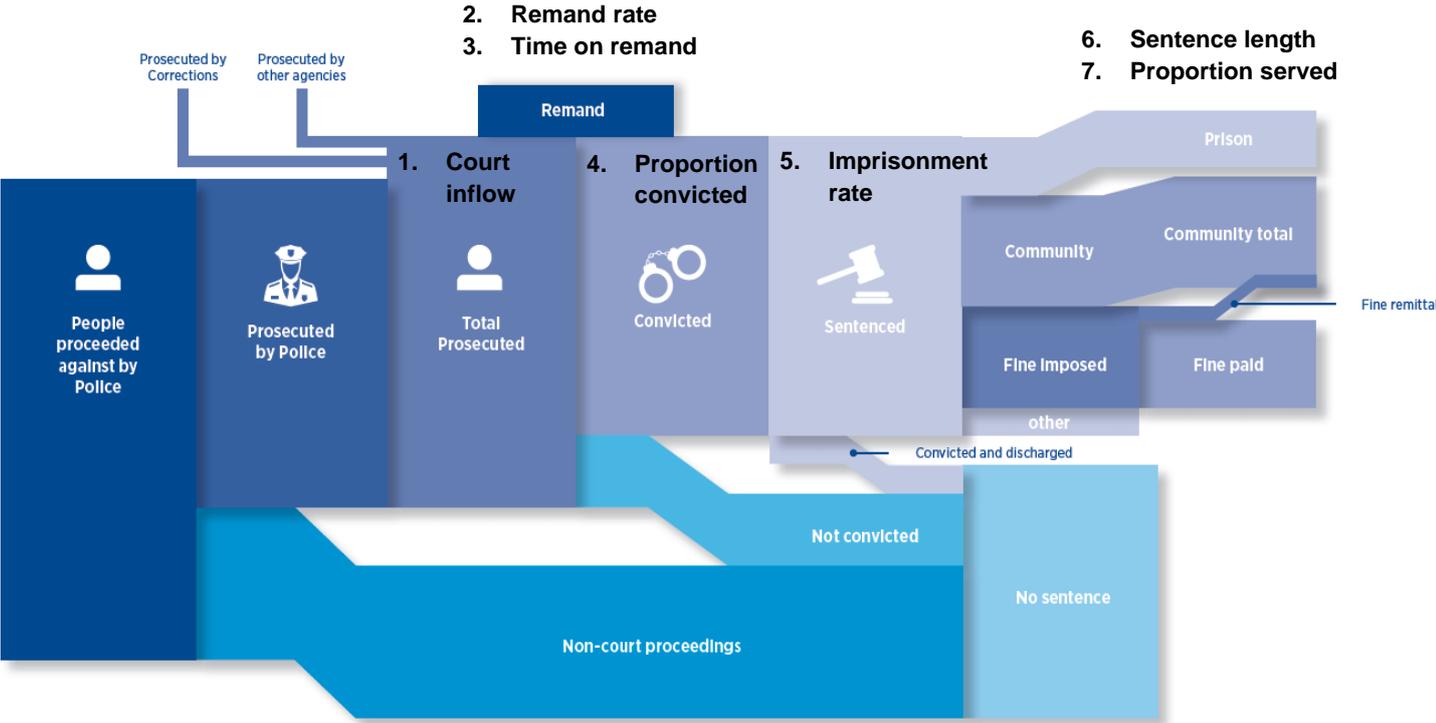
¹ The justice sector includes: Ministry of Justice, New Zealand Police, Ara Poutama Aotearoa: Department of Corrections, Oranga Tamariki – Ministry for Children, Crown Law, and the Serious Fraud Office.

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 the prison population.



The development of the 2021 projection commenced at a justice sector projection workshop which was held in October 2021. The workshop was attended by nominated subject matter experts from the Ministry of Justice, New Zealand Police, Ara Poutama Aotearoa: Department of Corrections, Crown Law, the Chief District Court Judge's Chambers, and the Serious Fraud Office.

At the workshop recent and long-term trends across the justice sector were discussed along with expected changes and their possible impacts. During the workshop, there was broad agreement on the future trends. Following the workshop, the projection was further refined with updated data. The justice sector projection was approved by Justice Sector Leadership Board in February 2022.

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: fewer are expected to come into the courts

Court inflow is the number of people who are prosecuted in court. Over the past ten years the number of prosecutions in court has decreased. Most of this decrease was in the less serious case types (Category 1 and 2 cases)². There was also large a decrease in prosecutions entering the court during the initial COVID-19 restrictions in 2020 and 2021.

The number of prosecutions entering court is expected to continue to decrease as:

- a) Police increase their focus on supported resolutions for lower serious offences,
- b) 17-year olds continue to be dealt with by the youth justice system, and
- c) Fewer people aged under 30 entering court which has been occurring for the past ten years.

These downward pressures are more pronounced in Category 1 and 2 offences but also impact some Category 3 offences.

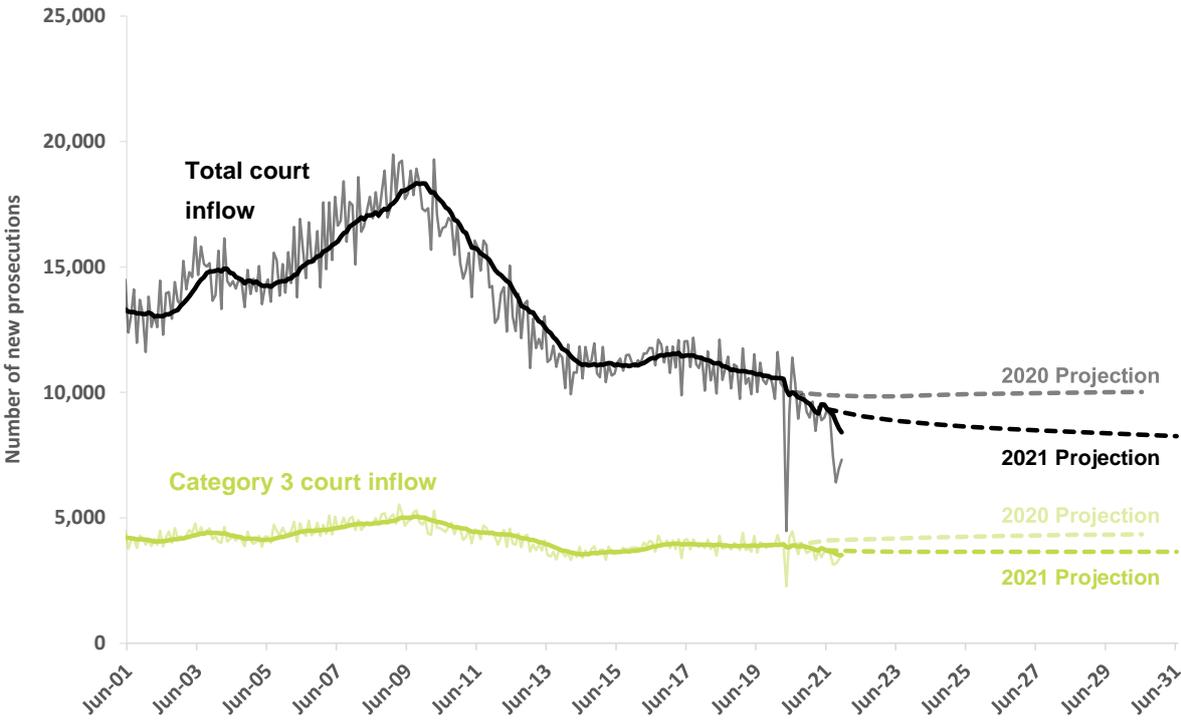
There is upward pressure on the inflow of the Category 3 offences due to a focus within the Justice Sector on family violence and sexual offences as well as a continued focus on drugs and organised crime.

Overall, the numbers of Category 3 cases entering the courts are projected to be relatively stable over the next ten years due to an offsetting of the upward and downward pressures. Category 1 and 2 cases entering the courts are projected to decrease.

In 2031, around 8,300 prosecutions are projected to enter court each month compared to around 9,300 in November 2021. Category 3 offences entering the courts are projected to remain at around 3,700.

² 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.

Figure 2: Court inflow, actual and projected



Remand rate: a lower remand rate is expected to continue in the short term but increase in the long-term

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 and a similar number of previous charges).

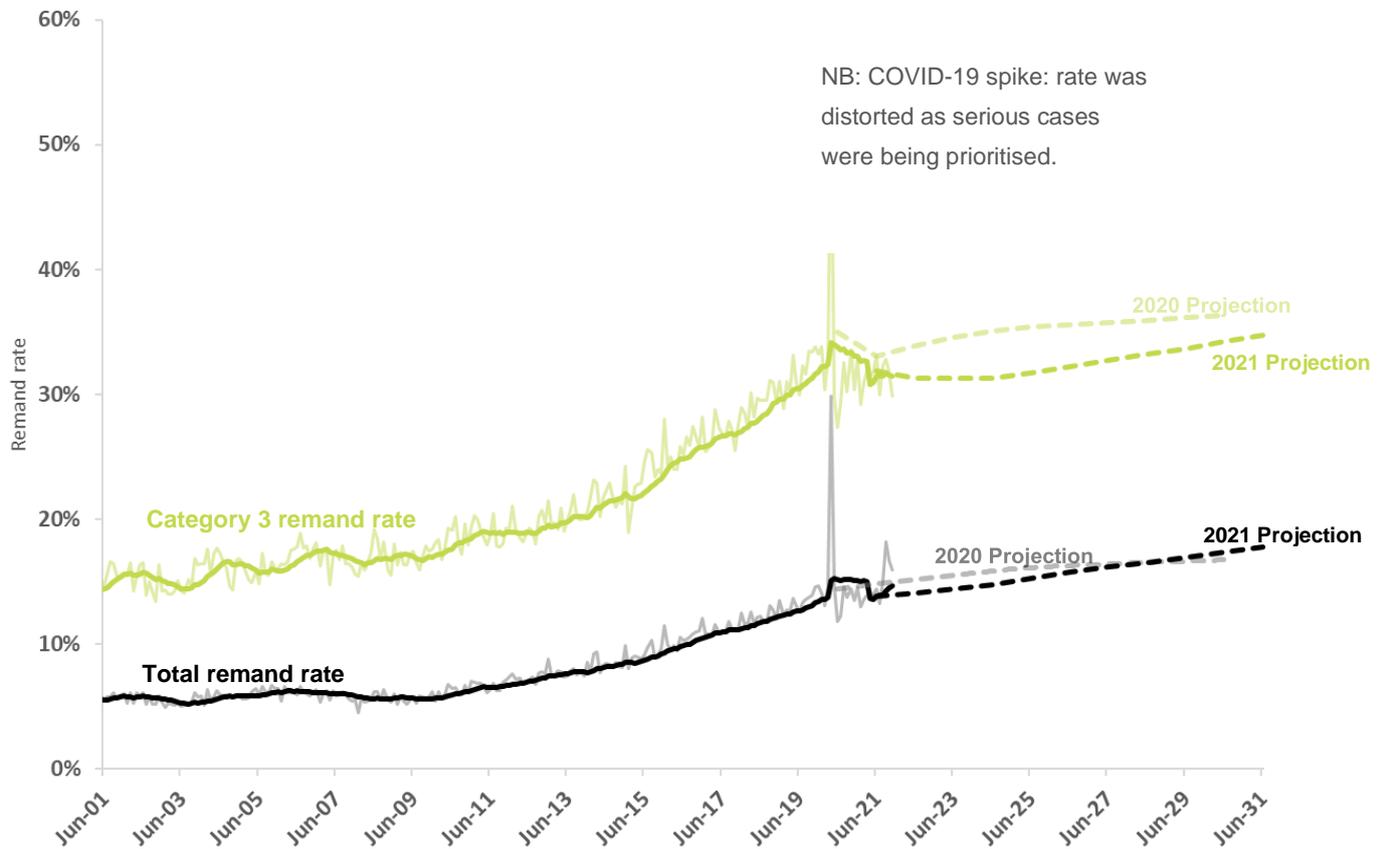
Over the past ten years, the remand rate has increased significantly and is projected to continue to steadily increase over the next ten years. This is primarily due to changes in the composition of court inflow with fewer lower seriousness cases entering court resulting in a higher remand rate.

To account for some of the compositional changes that affect the overall remand rate, it's useful to look at the remand rate limited to Category 3 cases. The Category 3 remand rate has also increased over the last ten years but decreased in 2020, following New Zealand's response to COVID-19. Since 2020, it has remained at this lower level. This sustained lower level of the Category 3 remand rate has occurred in the context of a highly cooperative justice sector and a greater focus on more therapeutic approaches.

The Category 3 remand rate is projected to remain at this lower level in the short to medium term. However, the historic upward trend in the Category 3 remand rate is expected to continue in the longer-term.

By 2031, the overall remand rate is projected to be 17% compared to 14% in November 2021. For people prosecuted with Category 3 offences, it is projected to be 34% compared to 32% in November 2021.

Figure: 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 rate of court events that are adjourned,
- An increase in the rate of people electing jury trials, which require more time and resource to resolve compared to judge-alone trials.

The COVID-19 alert level and traffic light restrictions have put further pressure on the court system. Jury trials were suspended during Alert Level 3 and 4 in both 2020 and 2021. This has resulted in cases with jury trials making up a higher proportion of the active criminal

cases in the District Court. It has also meant an increase in complexity of cases within the court system which will require more time and resources to resolve. Although not specifically modelled, further changes in court management due to ongoing and potential future COVID restrictions are likely to increase time on remand.

Since 2018 there have been initiatives put in place to slow down the increase in remand time. This includes:

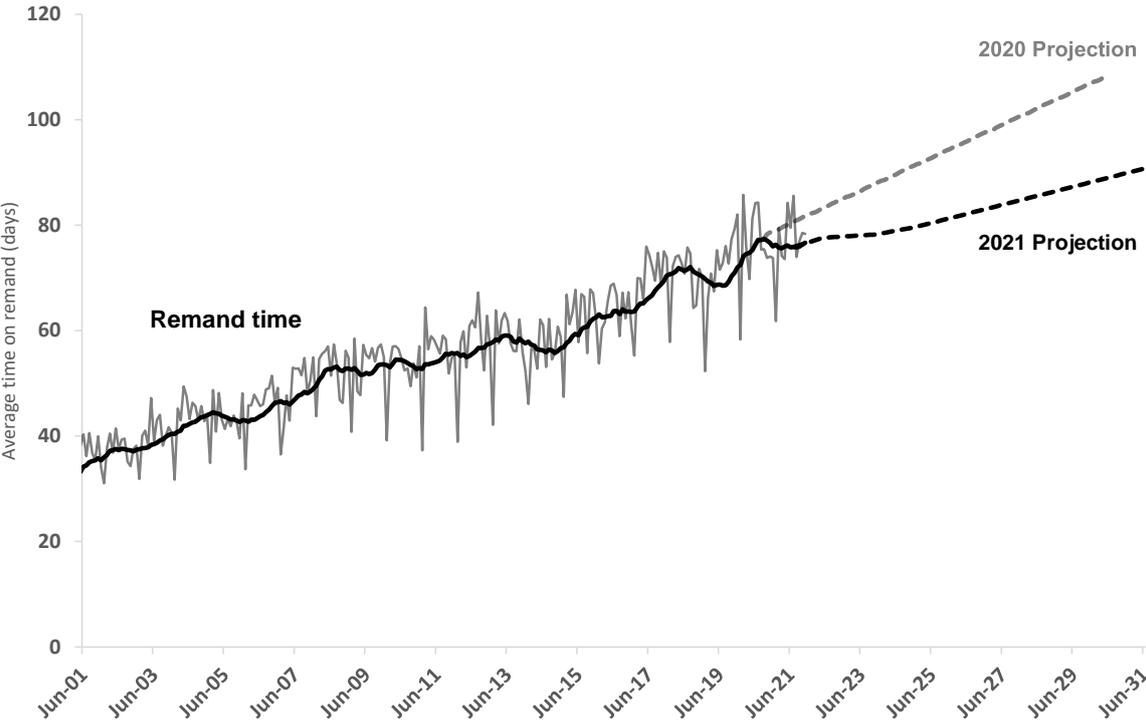
- increased judicial capacity to help with the increased workload in the High Court and District Court
- The High Impact Innovation Programme’s *Bail Support Services* which promotes making timely proposals for people to achieve bail. It was initially trialled in a few large courts between 2018 and 2020. The national rollout began in mid-2020 and is still underway.

These initiatives have and will continue to slow the growth in the average time on remand relative to what it would have otherwise been. While not included in these projections, further operational initiatives currently underway have the potential to reduce remand time such as the cross-sector Criminal Process Improvement Programme (CPIP).

However, the average remand time is still projected to increase in the long-term in line with the historic trend. Upward pressures remain with the increase in more complex cases entering court, more people electing jury trials, more people pleading guilty later in the court process, and the further pressure from COVID-19 restrictions and limited court capacity.

By 2031, it is projected that the average time people will spend on remand is 91 days compared to 76 days in November 2021.

Figure 3: Time on remand, actual and projected (days)



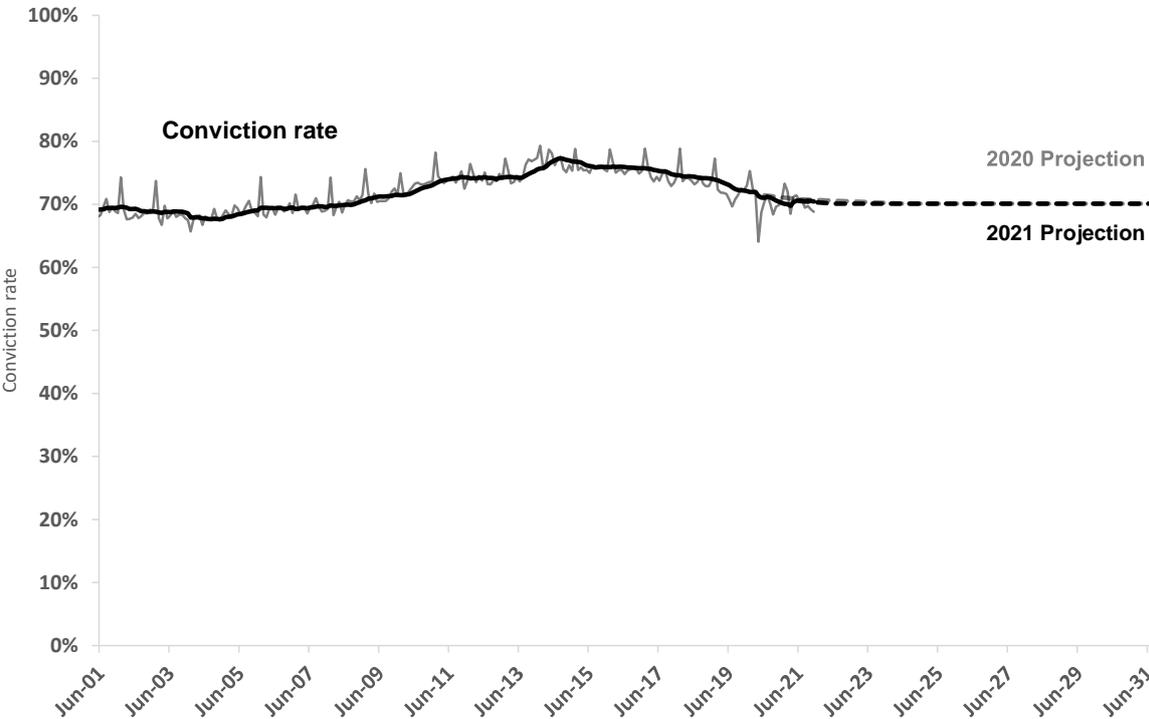
Conviction rate: the likelihood of being convicted is expected to remain stable

Over the last 20 years, the conviction rate has been fluctuating around 70%. Between 2008 and 2014 the conviction rate increased to its highest at 77%. Since then, it decreased back to the long term average of 71%.

As with the remand rate, conviction rate is influenced by the composition of cases coming into court. It is also influenced by the use of alternative resolutions such as diversion and discharge without conviction.

It is projected that the conviction rate will remain stable at around 70% over the next ten years.

Figure 4: Conviction rate, actual and projected



Imprisonment rate: the historically low imprisonment rate is expected to continue

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.

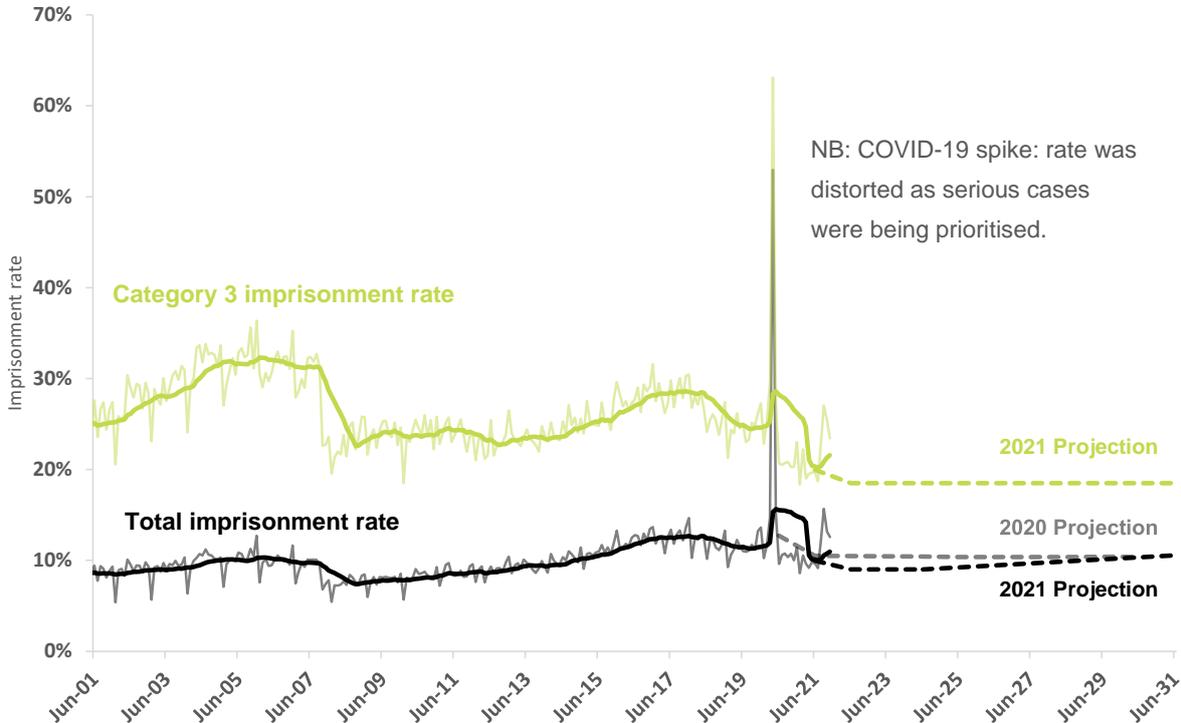
As with the remand rate, it's useful to look at the imprisonment rate for Category 3 cases as they account for almost 90% of incoming prison sentences. The Category 3 imprisonment

rate decreased from 28% in late 2017 to 20% in November 2021. This was mainly driven by an increased use of non-custodial sentences such as intensive supervision by the sentencing judges.

The Category 3 imprisonment rate continued to decrease after the initial COVID-19 Alert Level 4 in March 2020. This is consistent with the drop in the Category 3 remand rate which happened during a time of increased cooperation across the justice sector.

Looking forward, the Category 3 imprisonment rate is projected to remain at the lower level until 2031. However, the overall imprisonment rate is projected to increase due to the compositional effect of a greater proportion of cases coming into court being Category 3.

Figure 5: Imprisonment rate, actual and projected



Imposed sentence length: prison sentence lengths imposed are 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.

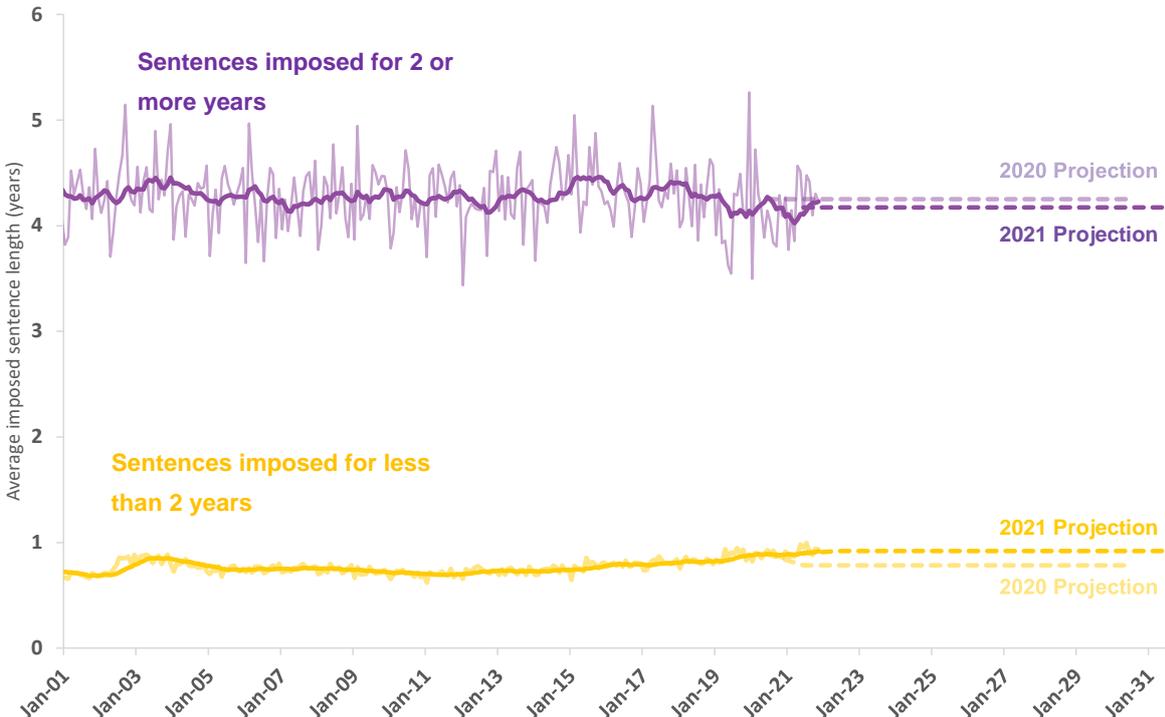
We project two separate trends for imposed sentences: short sentences (those imposed for less than two years) and long sentences (those imposed for two years or more). This is because sentences imposed for 2 years or more are eligible to be considered by the Parole Board which impacts proportion served (as covered in the next section on the average proportion served).

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.

Figure 6: 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 years³) 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

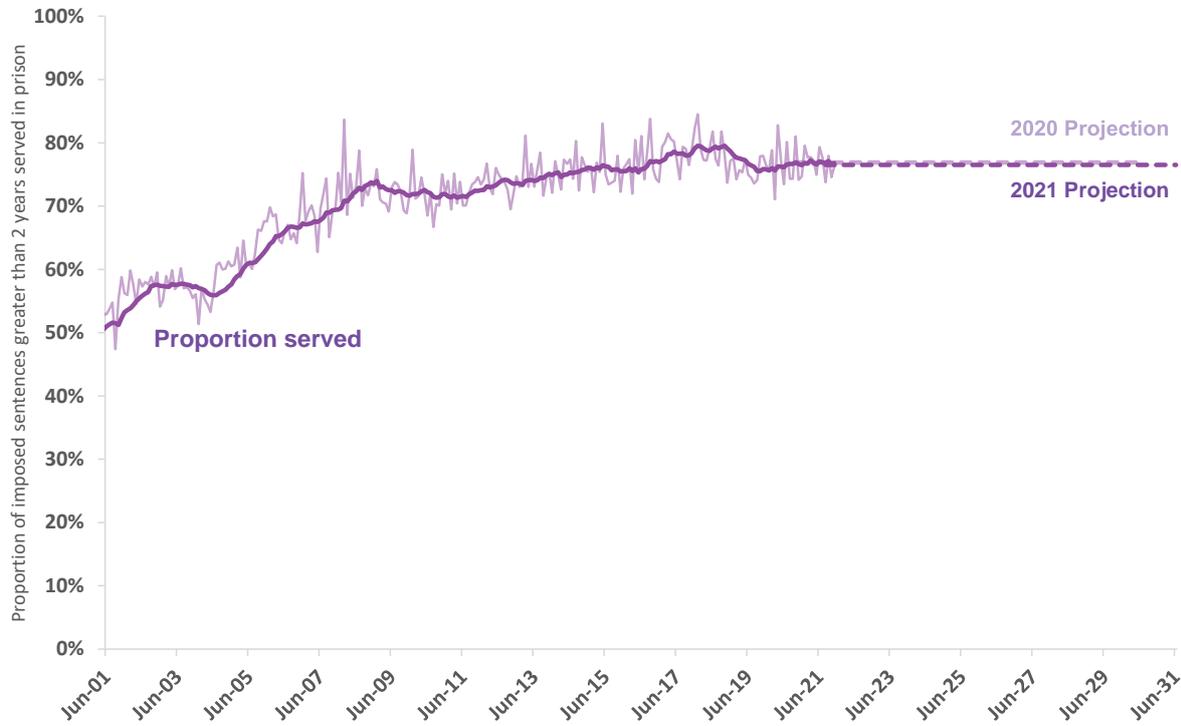
³ People serving sentences of less than two years are released after serving half of their sentence. They are not seen by the Parole Board. For people sentenced to two years or more in prison, they become eligible for parole after serving one-third of their sentence (unless a longer minimum non-parole period has been set). For more details see: https://www.corrections.govt.nz/working_with_offenders/prison_sentences/release/parole

Board alongside the work of the High Impact Innovation Programme’s ‘Parole Ready’ initiative⁴.

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 in the care of Ara Poutama Aotearoa: Department of Corrections spend more of their sentence reintegrating into the community under the supervision of a probation officer. It is expected that the benefits from this initiative will be sustained over the next 10 years.

The average proportion of a sentenced served is projected to be stable over the next ten years.

Figure 7: Proportion of imposed sentence served, projected and actual (for sentences greater than 2 years)

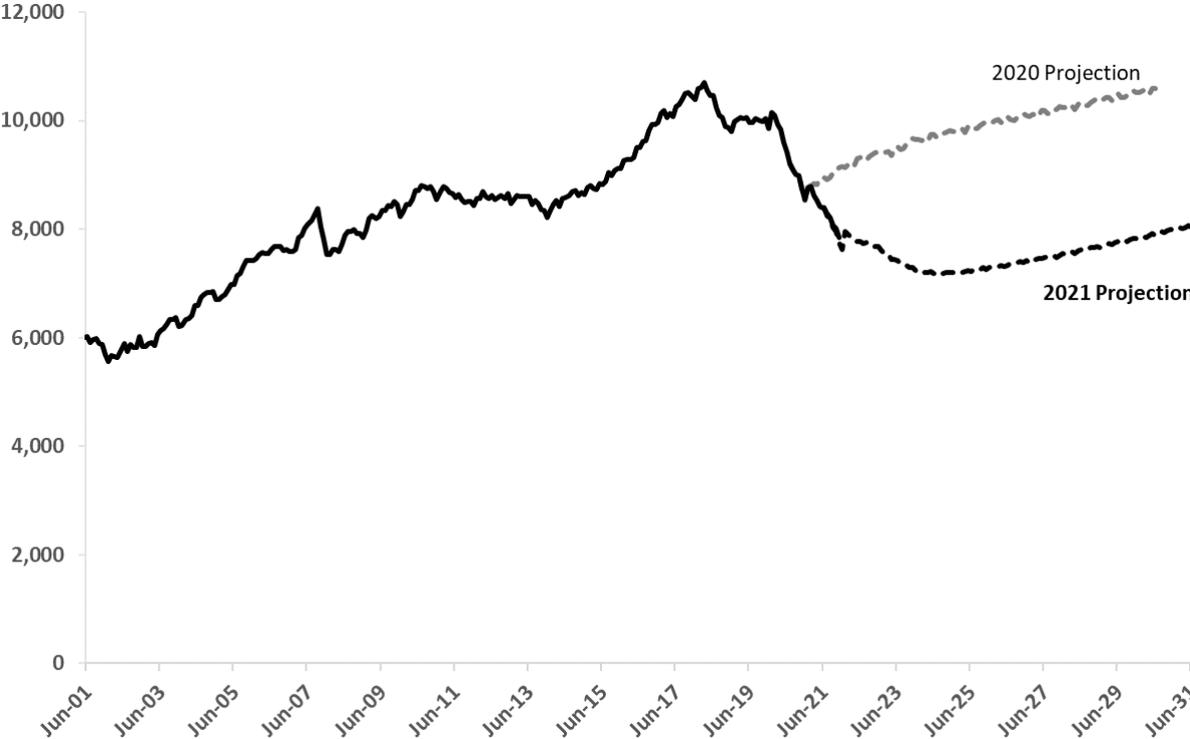


⁴ https://www.corrections.govt.nz/resources/strategic_reports/statements-of-intent/statement_of_intent_2018-2022/our_operating_environment

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

The total prison population is projected to increase from 7,850 in November 2021 to 8,000 in June 2031.

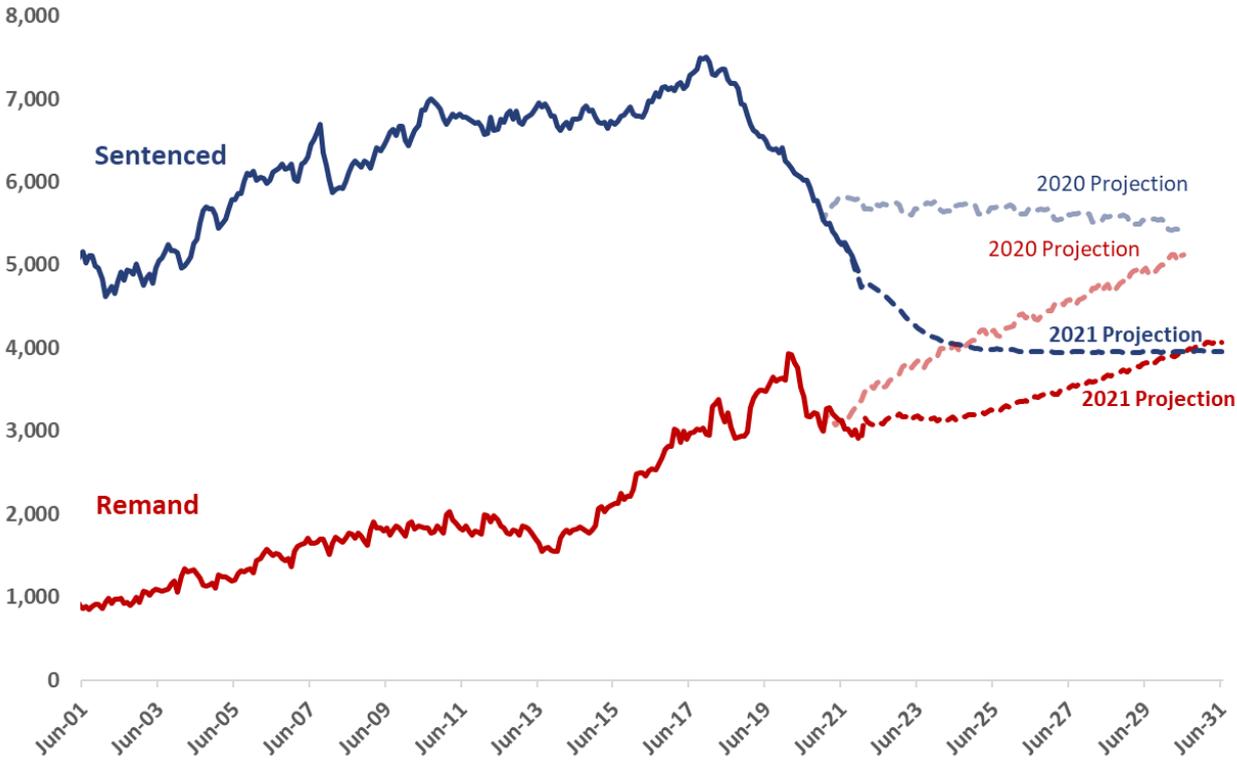
Figure 8: Total prison population, actual and projected



In the short to medium term, the prison population is projected to decrease to 7,200 in 2024. This is driven by the decrease in the sentenced population. However, this decrease is expected to be countered in the long-term by upward pressure on the remand population.

The sentenced population is projected to decrease from 4,900 in November 2021 to 4,000 in 2031. The remand population is projected to increase from 2,900 in November 2021 to just over 4,000 by June 2031.

Figure 9: Prison population broken down into sentenced and remand populations, actual and projected



The prison population is the lowest it has been since 2008

This year’s projection expects the prison population to slightly increase to 8,000 by 2031. This is substantially lower than the 10-year prison population projection of 14,400 made in 2017⁵.

The prison population as at November 2021 was 7,850. This was the lowest level it has been since 2008. The sentenced population at 4,900 was its lowest level since 2003. And the remand population at 2,900 was its lowest level since 2016.

While there been large decreases in the total prison population over recent years there has not been a shift in the disproportionate impact of the adult justice system on Māori. For example, while 16% of the general population identify as Māori, more than half the people in New Zealand’s prisons are Māori. Wāhine Māori make up an even higher proportion (65%) of the female prisoner population.

⁵ <https://www.justice.govt.nz/assets/Documents/Publications/Justice-Sector-Prison-Projection-Report-November-2018.pdf>

The Justice Sector has the potential to 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 2021 Justice Sector Projections provide insight for future court resource and prison capacity planning. It also acts as a catalyst for change and provides 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.

Operational changes and reform initiatives have the potential to create a very different future

There are many operational changes currently underway that are not 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
- Criminal Process and Improvement Programme – improving systems and processes to reduce unnecessary 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 have been signalled for the next few years and are underway:

- 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's 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.

Nevertheless, the initiatives described above, and others anticipated to emerge from policy makers over the coming years, can be expected to affect the trends across the justice sector over the next ten years. Justice sector agencies will collectively monitor the projection to ensure future impacts are understood and where appropriate incorporated into future justice sector projections. Successful delivery of these transformative change strategies will significantly impact these projections.

Ministry of Justice
Tāhū o te Ture

justice.govt.nz

info@justice.govt.nz

0800 COURTS
0800 268 787

National Office
Justice Centre | 19 Aitken St
DX SX10088 | Wellington | New Zealand

