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MEDIA RELEASE

Managing trial court delay: An analysis of trial case processing in the NSW District Criminal Court

Inefficiencies in trial case processing rather than a shortage of court capacity is the reason for the long delays encountered by trial cases in the NSW District Criminal Court, according to a new report by the NSW Bureau of Crime Statistics and Research.

In 1999 the average delay between committal and trial in the NSW District Criminal Court was more than a year. This is longer than any other comparable court in Australia. Currently, only 5 per cent of cases where the accused is on bail and 25 per cent of cases where the accused is in custody meet the District Court's own time standards for the disposition of criminal trials.

According to the report, the principal cause of inefficiency in the management of trial cases is the failure of matters to proceed to trial on the day they are first listed for hearing.

Less than 40 per cent of cases listed for trial actually proceed to trial on the date they are first listed for hearing. More than 30 per cent are listed for trial three or more times before actually proceeding to trial.

The most common causes of failure to proceed to trial are: a plea of guilty on the day of the trial (35 per cent), the granting of an adjournment (29%) and the failure of the Court to reach the matter on the day it was listed for trial (22%).

Late changes of plea, according to the Bureau report, stem from several factors. These include the absence of any actual or perceived sentence benefit from pleading guilty early, a failure on the part of Crown and Defence counsel to engage in meaningful and early negotiations on the scope for a guilty plea, and legal aid payment arrangements which provide little incentive for early pleas of guilty.

The high rate of adjournment is blamed at least partly on the Court's own practice of 'over-listing' (i.e. listing more cases for hearing than can actually go on). According to the Bureau, this practice means that many cases are not reached, which then means that many lawyers are less prepared for trial than they should be. As a result, many end up having to seek an adjournment on the day of the trial.

The report recommends a number of strategies to bring down the delay for trial cases in the NSW District Criminal Court. These include keeping the percentage of matters 'not reached' very low, greater sentencing discounts for early pleas of guilty and much earlier consultation between Crown and Defence on the scope for a guilty plea.

According to the report, if the proportion of guilty pleas entered at an early stage could be increased to one-half and if all matters proceeding to trial were finalised no later than their second hearing, the annual number of trial listings in the NSW District Criminal Court would drop by 33 per cent.

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