

NSW Courts Are Overflowing, Overworked and Delayed

By Paul Gregoire and Ugur Nedim

Over the last four years, the NSW criminal courts have seen a marked increase in delays and workloads, according to the latest NSW Bureau of Crime Statistics and Research (BOCSAR) [figures](#).

These increases have been spurred on by the rapid growth in arrests that police have been carrying out over this same period.

NSW police are making more arrests despite the fact that [crime rates](#) in this state have dropped to a forty year low. Crime across NSW has either declined or remained stable in most major categories over the two year period ending December 2016.

“Last year NSW police put more than 244,000 people before the NSW courts, an increase of 14 percent on the corresponding figure for 2012,” [Dr Don Weatherburn](#), director of BOCSAR [wrote in a statement](#). “That’s close to the record set just after the heroin epidemic peaked in 2001.”

As Dr Weatherburn [has pointed out](#), crime rates in NSW have actually been declining since 2001, after the heroin drought began. The doctor believes the shortage of this drug was a major contributing factors that led to the drop in crime.

NSW District Court

When a person is charged with a [strictly indictable offence](#), they will ultimately appear at a committal hearing in the Local Court.

This hearing is to decide whether the prosecution has enough

evidence for the case to be sent to the District or Supreme Court to be heard by a judge and jury. This is referred to as being committed for trial.

The latest BOCSAR figures found that the median delay in the NSW District Court between being committed for trial and the finalisation of the trial rose by 56 percent between 2012 and 2016. This was an increase from 243 days to 378 days.

The time between arrest and finalisation of a trial rose to 714 days, which was up from 512 in 2012.

Overworked courts

There's also been a substantial increase in the workload of the NSW District Court over this same period.

The number of matters committed for trial rose by 35.4 percent, while those committed for sentence increasing by 37.6 percent.

Being 'committed for sentence' is when a person enters a plea of guilty in the Local Court, and they're subsequently sent to a higher court to be sentenced.

Between 2012 and 2016, the number matters that were finalised by a trial increased by 39.7 percent, while the number finalised by a sentence rose by 36.1 percent.

The increase in workload for the NSW District Court has primarily come from cases involving [illicit drug offences](#), [sexual assault](#) and related offences, and theft and related offences.

There were an additional 577 defendants on drug offence charges whose cases were finalised before the court. There were an extra 283 defendants on sexual assault charges that had finalised court appearances. And there were 225 more defendants on theft offences.

NSW Local Court

There's also been a substantial increase in the workload of the NSW Local Court in recent years.

There were 18,445 more cases finalised by the local courts last year, than in 2012 – a 17 percent increase.

The increase in the NSW Local Court workload is primarily attributed to three types of offences.

The first is an increase in traffic and vehicle regulatory offences – these include people accused of driving while their licences are disqualified or suspended. There were an additional 8,976 defendants on these types of charges.

Justice procedure offences, or bond breaches, were the second highest contributor. There were an additional 6,177 defendants on these sorts of charges.

Acts intended to cause injury or assault were the third highest. These accounted for an extra 2,747 cases that were finalised before the local courts.

Increasing numbers on remand

Over the period 2012 to 2016, there was a substantial increase in the proportion of defendants being refused bail – a 19.8 percent increase. In 2012, 5.9 percent of defendants were refused bail, while in 2016, the figure rose to 7 percent.

BOCSAR custody statistics [released earlier this month](#) outline that at the end of March this year, the adult prison population in this state was 12,955 people – an all-time high.

A whopping 58 percent of this increase is attributed to a rise in the numbers of inmates on remand – those who've been refused bail and are waiting on their cases to be finalised. Many of these people will eventually be released after their charges are withdrawn or thrown out of court.

In 2016, 2,638 defendants had their bail refused in all levels of the courts: Supreme, District, Local and Childrens.

Of these remand inmates, 173 were eventually found not guilty on all charges. This means these people were kept in detention with long waits for court appearances, even though, in the end, they were found to have done nothing wrong.

Recidivism rates in NSW are getting [close to 50 percent](#), meaning that almost half the people behind bars, return to prison within two years. So detaining innocent people inside prison for prolonged periods means they're more likely to return to prison after they've been released.

In effect, the NSW prison system is potentially producing its own revolving door prisoners.

Increasing incarceration

There's also a rise in the number of people being sentenced to prison. The proportion of convicted offenders who were given prison sentences increased by 22 percent. It was up from 8.4 percent in 2012 to 10.2 percent in 2016.

As NSW police arrest more people, and the courts send more behind bars, the NSW government is making sure there will be enough room for them. Last year, the government announced that it is investing \$3.8 billion to fund [an extra 7,000 prison beds](#) in this state.

This is an almost 50 percent increase in the capacity of NSW adult correctional facilities. So it seems the government is set to continue on with its tough on crime stance and fill up these new prison beds, despite the fact that crime is actually falling.