
12 COURT ADMINISTRATION

12.1 Introduction

Court administration agencies throughout Australia provide a range of services integral to the effective performance of the judicial system. The coverage in this Report has been expanded from that in the 1995 Report — the State and Territory Supreme, District/County and Magistrates' Courts — to include the Federal Court of Australia, the Family Court of Australia and the Family Court of Western Australia. Probate registries, coroners' courts, environmental and resource development courts and the administrative appeals tribunals continue to be excluded.

The focus in this Report is on the administration of the courts, not the outcomes of the legal process. Court administration agencies work with the judiciary to provide a court system which allows for the prompt resolution of disputes and appropriate access to justice for the community. The allocation of responsibility between court administration and other elements of the legal system, including the judiciary, varies across the State, Territory and Commonwealth legal systems. The performance indicators presented in this chapter need to be interpreted in this context.

A significant improvement in data reliability has been achieved in this Report. Full year data were available for most courts for both 1994–95 and 1995–96, whereas a one month sample was used for effectiveness measures in the 1995 Report.

The court administration agencies checked each other's data during Report preparation to improve its accuracy and consistency. This included a reconciliation between the published financial reports of the court administration agencies to take account of different accounting practices. The checking also highlighted the differing treatments of judicial superannuation, court libraries, court reporting and accommodation and allowed interim agreement to be reached pending full resolution prior to the next data collection.

12.2 Profile of the sector

12.2.1 Definition of the sector

The main functions of court administrations are:

- to manage court facilities and staff, including buildings, court security and ancillary services such as registry, libraries and transcription services;
- to provide case management services, including client advice, scheduling and case flow management; and
- to enforce court orders through the Sheriff's Department or a similar mechanism.

Total current expenditure by State, Territory and Commonwealth Government court authorities was \$675 million in 1995–96 — an increase of 2.0 per cent from the 1994–95 total (Table 12A.3). Around 2 million matters were handled in the State and Territory courts and a further 24 000 and 125 300 matters by the Federal and Family Courts respectively (Table 12A.1).

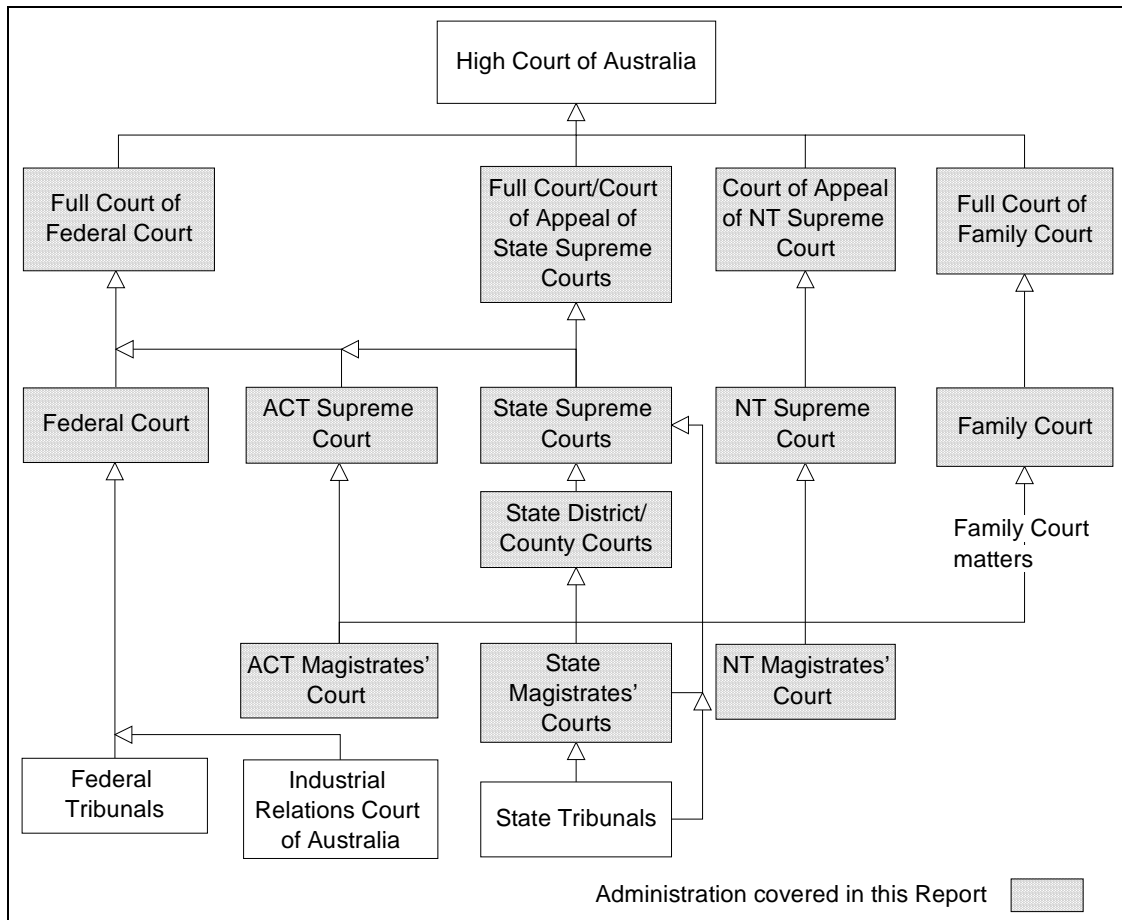
12.2.2 Structure of courts

There is a hierarchy of courts in each state and territory and at the Commonwealth level (Figure 12.1). Prosecutions and litigations do not necessarily enter the court system at its lowest tier. Instead, each State, Territory and Commonwealth court has an originating jurisdiction in which disputes of particular seriousness are heard. Higher courts also operate as courts of judicial review (or appeal). The States, Territories and the Commonwealth have also established specialist courts and tribunals to determine rights under specific legislation.

Administrative structures

Most courts operate in both the criminal and civil jurisdictions. Generally, the same court infrastructure facilitates both civil and criminal cases. However, court administration agencies generally have separate information systems and case flow management practices for the two types of cases. The Steering Committee has sought to distinguish, where possible, between the criminal and civil justice systems to reflect the different management practices. The Commonwealth Federal and Family Courts have been compared with the State Supreme Courts operating in the civil jurisdiction, although the types of cases handled vary considerably.

Figure 12.1: Major relationships between courts in Australia



Court administration agencies generally operate as:

- divisions of Departments of the Attorney General or Justice;
- independent statutory authorities (in SA for example);
- separate government departments (in the NT for example); or
- self administering courts (for example the Federal Court).

Where courts operate as part of a Department of the Attorney General or Justice, there is some difference in the division of responsibility between the courts and the umbrella agency. Generally the Registrar's Office of the court is responsible for case scheduling, facilities management and day-to-day purchasing, while the umbrella department undertakes broader corporate service functions such as payroll and training.

The application of different models of court administration is not static. During the reporting period, for example, NSW returned to the established model after a short period of having a specialist agency undertake the provision of all court related services.

Cases

The variation in court case loads is indicated by the total number of cases handled. The Victorian Magistrates' Court handled more criminal matters than any other Australian court (488 000 cases in 1995–96) but nearly 80 per cent of these cases were minor traffic matters which were handled by the Victorian PERIN (Penalty Enforcement by Registration of Infringement Notice) Court. The smaller courts in Tasmania, the ACT and the NT handled between 12 000 and 19 000 cases in 1995–96 (Table 12.1).

Table 12.1: Court cases, 1995–96 ('000)

	<i>NSW</i>	<i>Vic</i>	<i>Qld</i>	<i>WA</i>	<i>SA</i>	<i>Tas</i>	<i>ACT</i>	<i>NT</i>	<i>Fed.</i>	<i>Fam.</i>	<i>Total</i>
<i>Criminal cases</i>											
Supreme Court	0.9	0.4	1.4	0.5	0.6	0.4	0.2	0.4	—	—	4.6
District/County Court	10.6	3.8	7.1	2.2	1.8	—	—	—	—	—	25.6
Magistrates' Court	393	488	248	147	119	19	13	19	—	—	1 445
Minor traffic	226	387	78	55	54	0	0	7	—	—	807
Primary	167	101	170	92	65	19	13	12	—	—	637
<i>Civil cases</i>											
Supreme Court	10.0	5.0	4.2	2.1	2.9	3.5	1.1	0.3	23.8	125.3	178.1
District/County Court	14.2	11.8	6.6	4.4	1.6	—	—	—	—	—	38.6
Magistrates' Court	243	187	92	55	49	12	12	8	—	—	659

— These courts do not exist or do not operate in this court jurisdiction.

Sources: Tables 12A.1 and 12A.2

Expenditure

The largest area of court administration expenditure in the criminal jurisdiction occurred in the Magistrates' Courts. NSW and Queensland courts had the largest such expenditures. In the civil jurisdiction Supreme Courts generally accounted for relatively similar proportions of expenditure to Magistrates' Courts in most states and territories (Table 12.2).

Table 12.2: Court administration expenditure, 1995–96 (\$ million)

	<i>NSW</i>	<i>Vic</i>	<i>Qld</i>	<i>WA</i>	<i>SA</i>	<i>Tas</i>	<i>ACT</i>	<i>NT</i>	<i>Fed.</i>	<i>Fam.</i>	<i>Total</i>
<i>Criminal expenditure</i>											
Supreme Court	7.4	7.1	5.9	4.9	5.8	2.6	1.8	6.3	—	—	41.7
District/County Court	39.0	18.9	15.9	8.2	9.0	—	—	—	—	—	91.0
Magistrates' Court	89.3	35.8	40.4	18.7	14.2	3.7	2.5	4.6	—	—	209.1
<i>Civil expenditure</i>											
Supreme Court	31.5	12.5	9.3	10.7	7.3	1.6	3.0	3.8	42.6	100.2	222.5
District/County Court	9.6	9.4	7.7	5.6	6.3	—	—	—	—	—	38.6
Magistrates' Court	22.1	12.4	9.9	11.9	8.0	1.6	2.4	4.2	—	—	72.3

— These courts do not exist or do not operate in this court jurisdiction.

Sources: Tables 12A.3 and 12A.4

Cases by type

The types of cases handled varied across courts and states and territories.

The largest category of case type in the criminal Supreme Courts were appeals from the lower courts. This was not replicated in the civil jurisdiction where appeals were less frequent and considerable numbers of commercial cases begin in the Supreme Court. In Queensland, serious drug matters are heard in the criminal jurisdiction of the Supreme Court. They are heard in the District/County Court in other states and territories.

Divorce was the most common single case type in the Family Court, whereas the most common case types coming before the Federal Court were bankruptcy, corporations law and trade practices matters.

Criminal District/County Court activity in NSW and Victoria is dominated by appeals from the Magistrates' Court. However, cases in the other states are primarily offences against property and people. In the civil jurisdiction, personal injuries are the single largest case type in all states and territories.

The majority of cases at the Magistrates' Court in most states and territories are minor traffic matters which are normally processed in electronic courts. The share of this type of case is particularly high in Victoria where the PERIN Court administers fines and penalty notices. In the ACT, where there is no District/County Court, the Magistrates' Court handles a significantly larger proportion of offences against property and people (Table 12.3).

Table 12.3: Proportion of court cases by type, 1995–96 (per cent)¹

	<i>NSW</i>	<i>Vic</i>	<i>Qld</i>	<i>WA</i>	<i>SA</i>	<i>Tas</i>	<i>ACT</i>	<i>NT</i>	<i>Fed.</i>	<i>Fam.</i>	<i>Av.</i>
<i>Supreme Court (criminal)</i>											
Appeals	86.7	74.1	42.2	16.0	35.9	35.2	17.8	16.9	—	—	46.6
Offences against person	2.5	14.7	0.0	na	24.6	39.4	32.5	26.7	—	—	11.4
Offences against property	0.1	0.3	0.0	na	4.1	20.6	34.4	30.9	—	—	5.9
Drug matters	0.6	na	50.4	na	5.3	4.0	5.7	11.2	—	—	17.0
Murder	9.9	9.6	7.4	na	4.0	0.3	na	10.7	—	—	6.2
Other	0.2	1.3	0.0	84.0	26.1	0.5	9.6	3.7	—	—	13.0
<i>Supreme Court (civil)</i>											
Appeals	7.9	5.2	7.0	21.2	18.6	2.4	6.7	14.4	2.3	1.5	2.8
Personal injury	9.6	5.3	44.7	0.8	1.5	20.9	51.0	11.1	na	na	2.5
Divorce	na	na	na	na	na	na	na	na	na	41.9	29.5
Other	82.5	89.5	48.4	78.0	79.9	76.7	42.3	74.4	97.7	56.6	65.2
<i>District/County Court (criminal)</i>											
Appeals	57.6	66.1	3.0	na	na	—	—	—	—	—	34.6
Offences against person	18.8	19.2	34.2	na	36.9	—	—	—	—	—	22.8
Offences against property	10.5	8.4	44.0	na	8.5	—	—	—	—	—	18.5
Drug matters	7.1	3.3	0.2	na	21.2	—	—	—	—	—	5.0
Other	6.0	3.1	18.6	100.0	33.4	—	—	—	—	—	19.0
<i>District/County Court (civil)</i>											
Appeals	na	na	2.3	4.1	8.2	—	—	—	—	—	1.2
Personal injury	na	36.8	70.3	64.3	46.7	—	—	—	—	—	32.5
Other	100.0	63.2	27.4	31.7	45.1	—	—	—	—	—	66.3
<i>Magistrates' Court (criminal)</i>											
Offences against person	8.2	1.6	5.4	na	5.5	na	13.4	na	—	—	4.3
Offences against property	12.6	6.5	7.6	na	3.2	na	43.5	na	—	—	7.6
Drug matters	4.6	2.0	9.2	na	6.7	na	15.9	na	—	—	4.2
Minor traffic matters & PERIN	57.6	79.3	31.3	37.6	45.6	na	na	38.0	—	—	55.9
Committals	1.0	0.3	2.8	na	1.0	0.4	1.0	1.1	—	—	1.0
Other	15.9	10.3	43.7	62.4	37.9	99.6	26.3	60.9	—	—	27.1
<i>Magistrates' Court (civil)</i>											
Appeals	na	na	na	na	7.0	na	na	na	—	—	0.5
Custody/Access	2.9	2.7	4.4	na	na	0.1	0.2	0.5	—	—	2.4
Alimony/Child Maintenance	0.8	0.5	0.1	na	na	0.1	0.9	0.5	—	—	0.5
Other	96.3	96.8	95.5	100.0	93.0	99.7	98.8	99.0	—	—	96.5

— These courts do not exist or do not operate in this court jurisdiction.

na not available

1 In calculating lodgements (cases) multiple offences by an offender on the one occasion were counted as a single lodgement. Lodgements were divided between case types according to the primary offence at lodgement. The counting of primary lodgements was complicated by different court systems, some of which were only capable of providing the first listed offence, which may not necessarily be the most severe offence.

Source: States and Territories unpublished

12.3 Recent developments

Important developments in court administration include:

- case flow management practices;
- greater use of technology;
- greater use of alternative dispute resolution mechanisms; and
- client service initiatives.

There has been a recent widespread introduction of case flow management arrangements. These allow the progress of any case to be tracked through the system, and performance to be reported against the standards established for different types of cases within each court jurisdiction.

To improve output, timeliness and client services and reduce the cost of court operations, court administration agencies have been investing in electronic and computerised court information systems. Key innovations have included:

- the introduction of electronic courts where computers automatically process fines, penalties and correspondence;
- video and telephone conferencing facilities;
- remote video recording of court proceedings; and
- the implementation of electronic document lodgement.

Alternative dispute resolution (ADR) processes provide the means to resolve disputes other than through traditional forms of litigation offered by the courts. The main forms of ADR include mediation, arbitration, conciliation, and expert determination. They can take place independently or as part of the court process.

The use of ADR processes and the range of ADR service providers have increased significantly over recent years, easing court caseloads and thereby reducing case backlogs and delays.

Court administrations have also been looking to client surveys and charters for courts and registries to enhance the level of client service and focus. Many aspects of court services are being surveyed and different courts are assessing client satisfaction in these areas.

12.4 Framework for performance indicators

The framework of indicators for court administration has not changed significantly from the 1995 Report (Figure 12.2). A description of all indicators is provided in Attachment 12A.

The development of new indicators has progressed in the areas of court delays (adjournments) and enforcements, but counting rules need to be further refined before the next data collection. Data was published in 1995 on the number of Magistrates' Court locations with permanent registry services. This descriptor has been discontinued because the focus on numbers rather than location could be misleading. The geographic spread of courts is considered to be a potential indicator of accessibility and appropriate definitions and counting rules are being developed.

12.5 Future directions

There are a number of opportunities for improving the current data collection. These include refining the counting rules and definitions adopted for the data collection and increasing in the range of courts, tribunals and indicators included within the collection. The counting rules and definitions used will continue to be aligned with those used in data collections conducted by the National Criminal Courts Statistics Unit (NCCSU) and the Commonwealth Grants Commission.

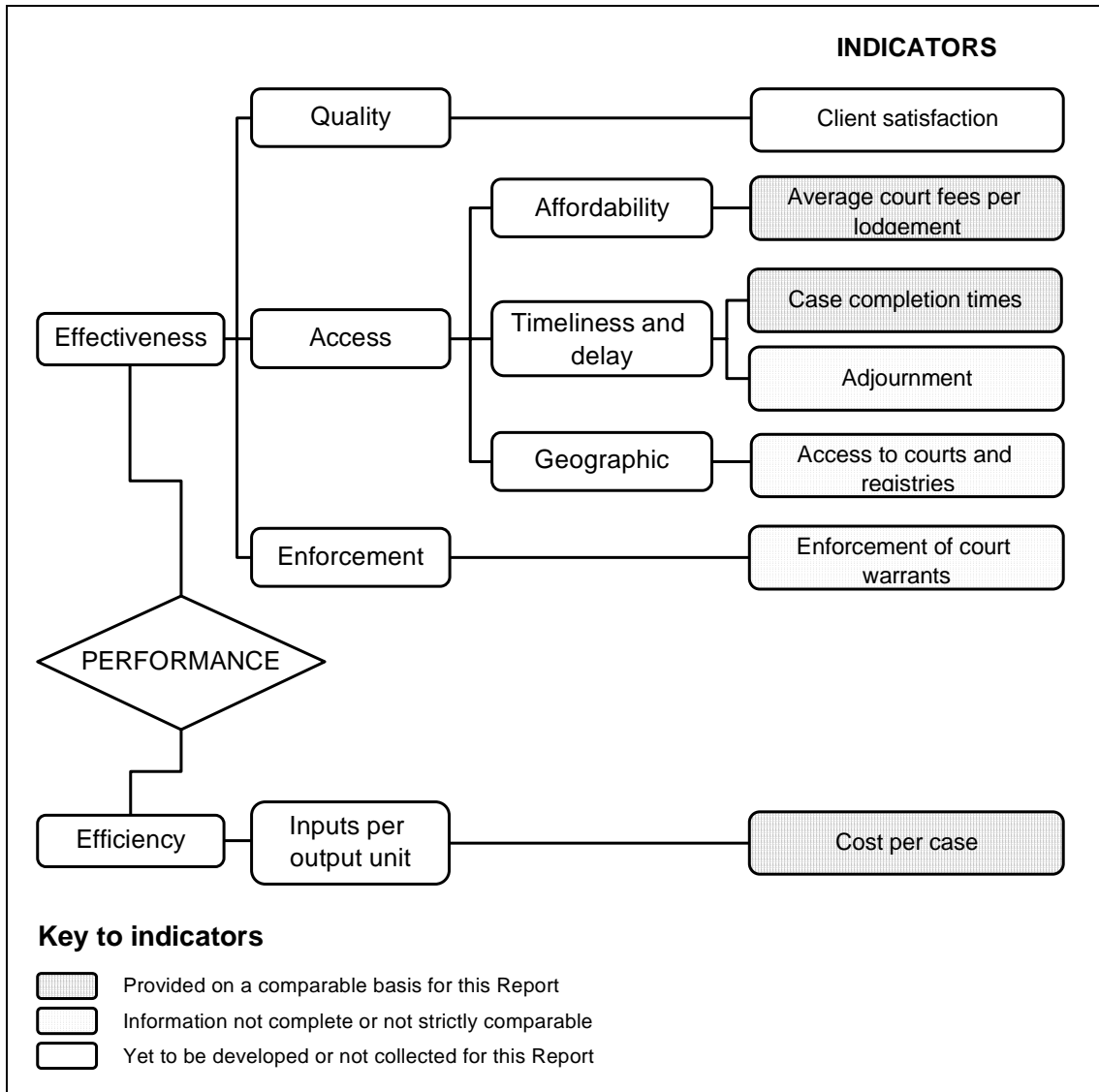
12.5.1 Improved data quality

The definitions adopted need to be continually refined. The data collection conducted for this Report highlighted a number of deficiencies in the definitions and counting rules. Steps being taken to address these prior to the next collection include:

- the introduction of a consistent treatment of labour on-costs such as superannuation, particularly for judicial officers whose superannuation and pensions are largely unfunded;
- the further development of indicators and data sources for assessing court delays and enforcements;
- the adoption of the revised Australian National Classification of Offences for presenting offence categories; and

- the adoption of the Australian Criminal Courts Statistics which are being developed by the NCCSU.

Figure 12.2: Framework of performance indicators for court administration



12.5.2 New and refined indicators

It will be necessary in the long term to develop a better measure of court administration workload. Cases, the current measure, is based on court lodgements which are only a measure of the number of items initiated. They are a useful indicator of demand, but do not adequately indicate actual work flows and cases processed.

The current approach adopted for the assessment of timeliness — the proportion of criminal cases finalised within six months and the proportion of civil cases finalised within twelve months — may also need to be refined. The implementation of case flow management has resulted in the introduction of time standards tailored to particular courts and case types. Comparison of standards and compliance with those standards could provide useful indicators of performance across Australia.

Finally, the Steering Committee is close to finalising its assessment of a more sophisticated measure of efficiency than simple unit cost — Data Envelopment Analysis (DEA). DEA is currently being trialed in relation to the NSW Magistrates' Court.

12.5.3 Collection scope

In the future the scope of the data collected for the Report may be increased to include a broader range of Commonwealth, State and Territory courts and tribunals.

Tribunals already covered in the collection include small claims, credit and residential tenancies tribunals which largely operate as part of Magistrates' Courts. Other tribunals and courts which may be included are the coroner's court, industrial relations courts and tribunals, administrative appeals tribunals, environmental and resource and development courts and probate registries.

12.6 Key results

The different environments in which each court administration agency operates affect the cost structures of their operations. Four important influences are:

- the overall size of the court system (Table 12.2);
- the activities of police (Chapter 11) and legal practitioners in the state or territory;
- the mix of cases handled (Table 12.3); and
- the geographic dispersion of the population.

Certain limitations of the data (which are mentioned where relevant) also mean that the results should be interpreted with care.

12.6.1 Effectiveness indicators

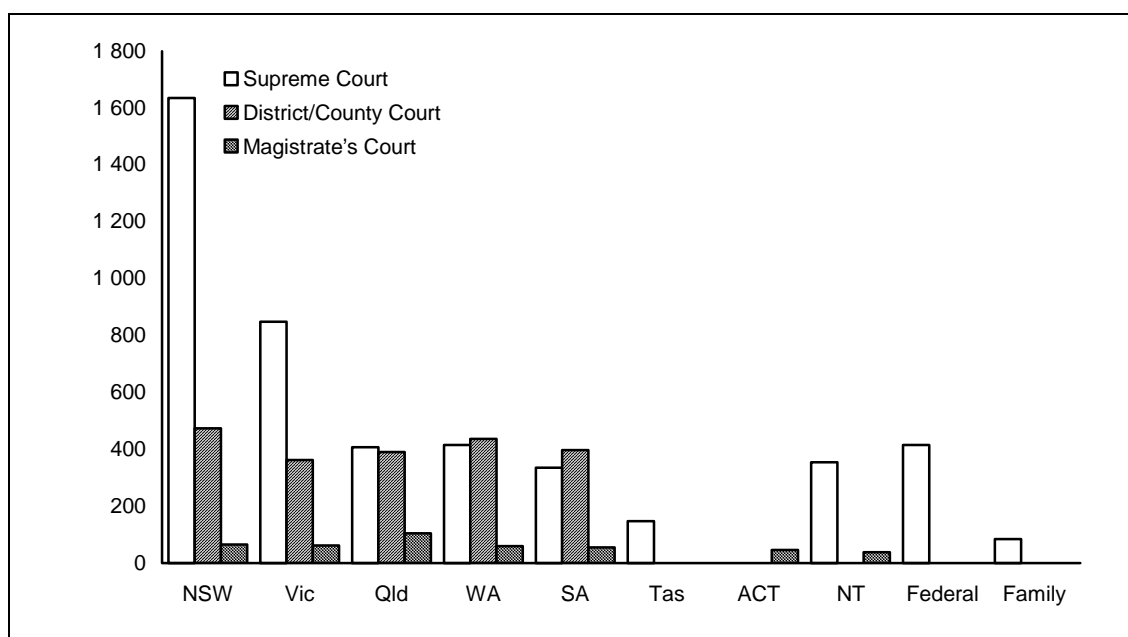
Affordability

Court fees are only part of the overall costs faced by litigants — legal fees being the most significant component. Nonetheless, court fees can in themselves be significant.

Across the State, Territory and Commonwealth Courts, fees for services vary considerably. In the criminal jurisdiction, most courts have a policy of not charging court fees. Fees may be charged for transcripts of criminal proceedings but only to third parties. Criminal court fees have therefore not been reported.

For civil cases, fees are fairly similar across the states and territories, particularly among the District/County Courts and Magistrates' Courts. Fees were highest in the NSW and Victorian Supreme Courts, with averages of \$1636 and \$849 per case respectively (Figure 12.3).

Figure 12.3: Average total civil court fees per case, 1995–96 (\$)



Source: Table 12A.7

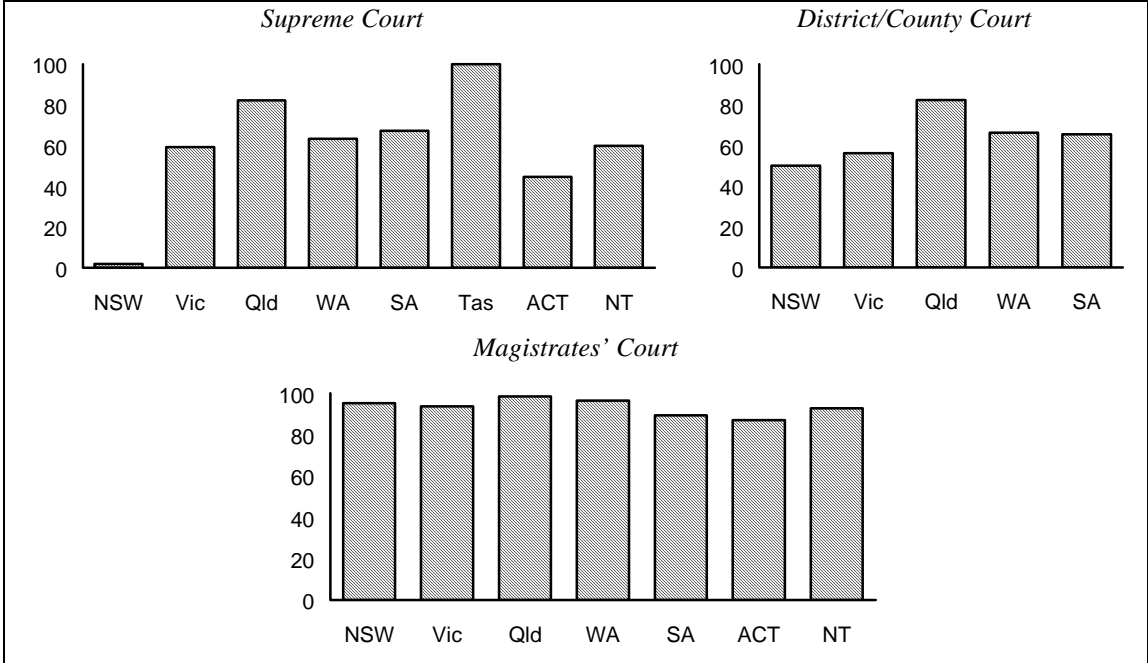
Timeliness

Timeliness was measured by the time taken for courts to finalise the cases which are lodged with them. However, the method of finalisation had an impact upon the quality of the data presented. A large proportion of civil cases lodged were resolved without ever going to trial. Only 10 per cent of civil matters

lodged in the Magistrates' Court in NSW, for example, were settled by hearing, with the remainder settled out of court through ADR or because the plaintiff took no further action. Courts often require civil disputes to be heard in ADR forums, and then mandate a minimum period between the pre-trial conference and the trial. However, the total time between lodgement, readiness and the trial is largely out of the control of court administrators. For these reasons, timeliness data, which showed variation in case completion times across court levels, must be interpreted with caution.

For criminal cases, among different types of courts, the highest proportion of cases completed within six months was recorded for the Magistrates' Court where across Australia more than 90 per cent of cases were finalised within six months. The higher proportion of cases spanning greater than six months in the superior courts reflected the greater complexity of cases handled. Among states and territories the highest overall level of timeliness in both the Magistrates' and District/Country Court levels was in the Queensland. Amongst the Supreme Courts Tasmania had the highest proportion of cases finalised within six months (Figure 12.4).

Figure 12.4: Criminal cases finalised within six months, 1995–96 (per cent)^{1,2}

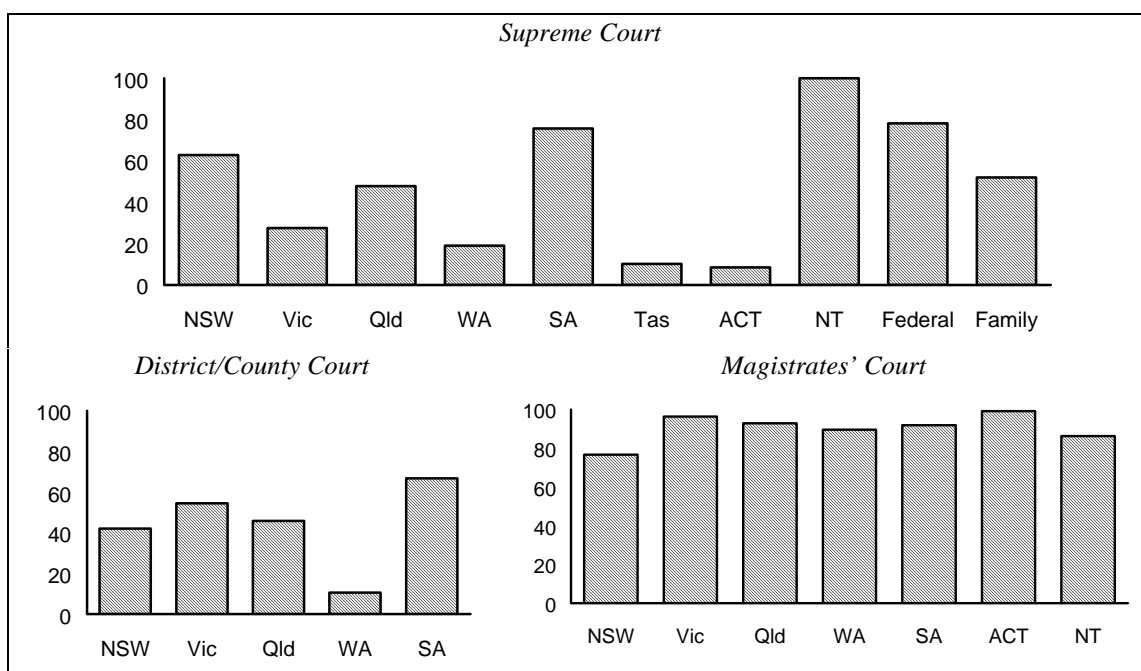


1 Excludes appeal cases.
 2 Data not available for the Tasmanian Magistrates' Court.

Source: Table 12A.5

For civil cases at the Magistrates' Court level the ACT, Victoria, Queensland, WA and SA all had more than 90 per cent of cases finalised within 12 months. At the District/County Court level timeliness also showed significant variation across states with SA finalising 67 per cent of cases within 12 months, compared with only 11 per cent in WA. At the Supreme Court level the NT and the Federal Court had the highest rates of completion (100 per cent and 78 per cent respectively) (Figure 12.5).

Figure 12.5: Civil cases finalised within twelve months, 1995–96 (per cent)^{1,2}



1 Excludes appeal cases.

2 Data not available for the Tasmanian Magistrates' Court.

Source: Table 12A.6

12.6.2 Efficiency

Court administration agencies throughout Australia differ in the scope of their services. Differing administrative structures also mean that some services provided or costs incurred by court administration agencies in one state or territory may be provided by umbrella departments in others. The relevant share of the umbrella department's costs in these cases has been included within the definition of expenditure presented here.

Some courts do not provide certain services — they are instead delivered on a contractual basis by private providers, for example court libraries and court

reporting or transcripts in civil cases. To facilitate a consistent comparison of costs across State, Territory and Commonwealth Courts, only the net costs to government have been included. For contracted services, only the financial assistance provided to these enterprises by the court administration agencies has been included.

Accommodation costs also have a significant effect upon the total current expenditure for court administration agencies, but the unique and historical nature of court buildings meant that calculating accurate usage charges for some of these buildings was difficult. A number of states and territories have recently adopted accrual accounting which has necessitated an accurate assessment of the capital value and, therefore, current usage or depreciation charges for these buildings. These data have been used where available. However imputed rent based upon the useable square area was the best available basis of valuation for a number of court buildings.

Expenditures reported below reflect these counting rules.

Expenditure per case — civil and criminal cases combined

Expenditure per case (including accommodation costs) for each court jurisdiction varies considerably both among states and territories and over time.

The lowest expenditure at the Supreme Court level was recorded in Tasmania. Among the District/County Courts, Queensland was the lowest cost court in 1995–96. At the Magistrates' Court level, the lowest cost were Victoria and Tasmania.

Table 12.4: Expenditure per case, criminal and civil matters combined, 1995–96 (\$) ¹

	<i>NSW</i>	<i>Vic</i>	<i>Qld</i>	<i>WA</i>	<i>SA</i>	<i>Tas</i>	<i>ACT</i>	<i>NT</i>	<i>Av.</i>
All courts	446	311	316	384	418	268	363	945	382
Supreme Court	3 571	3 649	2 707	5 996	3 777	1 075	3 894	15 244	3 603
District/County Court	1 959	1 806	1 715	2 102	4 472	—	—	—	2 018
Magistrates' Court ²	272	167	192	208	195	168	192	454	217

— These courts do not exist or do not operate in this court jurisdiction.

1 The indicators, excluding real and imputed expenditure on accommodation, are presented in Table 12A.15.

2 Magistrates' Court cases excludes minor traffic lodgements.

Source: Table 12A.14

Expenditure per criminal case

In the criminal jurisdiction of the Magistrates' Court, the average expenditure per case in 1995–96 was lowest in Victoria. However, the inclusion of minor

traffic matters in this data had a significant impact on unit expenditures. In terms of primary Magistrates' Court cases (that is, excluding minor traffic matters) the lowest cost was the ACT.

There are differences in the mix of case types and their distribution between the District/County and Supreme Courts of NSW, Victoria, Queensland, WA and SA. This contributed to the variations in unit expenditure. For example among the Supreme Courts unit expenditures were lowest in Queensland where 50 per cent of cases were drug related. These were handled in the District/County Courts in other states and territories. However in 1995–96, the Queensland District and Supreme Courts had the lowest unit costs among the states and territories (Table 12.5).

Table 12.5: Expenditure per criminal case, 1995–96 (\$)¹

	<i>NSW</i>	<i>Vic</i>	<i>Qld</i>	<i>WA</i>	<i>SA</i>	<i>Tas</i>	<i>ACT</i>	<i>NT</i>	<i>Av.</i>
All courts	762	587	348	337	433	330	326	909	512
Supreme Court	8 216	17 997	4 331	10 118	9 972	6 553	11 197	17 702	9 021
District/County Court	3 677	4 932	2 222	3 762	4 911	—	—	—	3 554
Magistrates' Court	227	73	163	127	120	198	193	245	145
primary	536	354	237	204	220	198	193	394	328

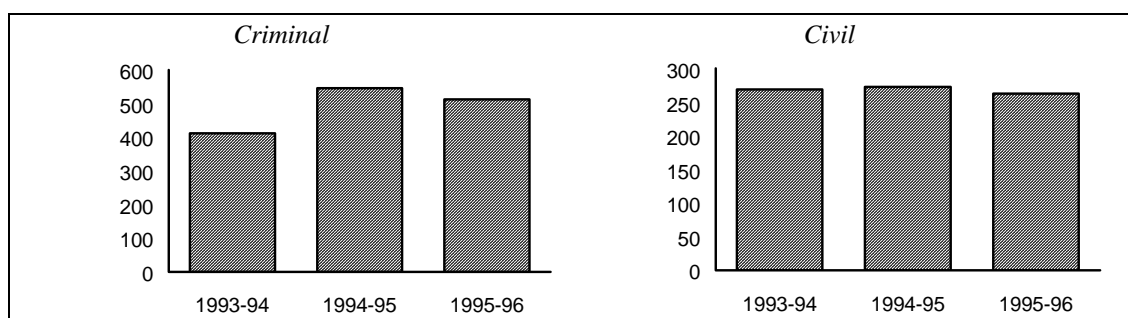
— These courts do not exist or do not operate in this court jurisdiction.

¹ The indicators, excluding real and imputed expenditure on accommodation, are presented in Table 12A.11

Source: Table 12A.10

Government expenditure per criminal case in real terms across all State and Territory Courts increased from \$411 in 1993–94 to \$545 in 1994–95 before falling to \$512 in 1995–96 (Figure 12.6).

Figure 12.6: Unit court administration expenditure in all State and Territory courts combined at 1995–96 dollars, 1993–94 to 1995–96 (\$ per case)



Sources: Table 12A.10 and 12A.12

Expenditure per case—civil

In the civil jurisdiction unit expenditures were generally higher in the superior courts. At the Supreme Court level, the lowest cost courts were the Federal and Family Courts of Australia. NSW had the lowest cost court at the District/County Court level, while Victoria had the lowest at the Magistrates' Court (Table 12.6).

Table 12.6: Expenditure per civil case, 1995–96 (\$)¹

	<i>NSW</i>	<i>Vic</i>	<i>Qld</i>	<i>WA</i>	<i>SA</i>	<i>Tas</i>	<i>ACT</i>	<i>NT</i>	<i>Fed. Fam.</i>	<i>Av.</i>
All courts	236	169	262	456	401	195	399	998	—	262
Supreme Court	3 154	2 514	2 187	5 049	2 533	447	2 819	12 374	1 787	800
District/County Court	676	796	1 168	1 274	3 967	—	—	—	—	1 000
Magistrates' Court	91	66	108	215	161	124	191	544	—	110

— These courts do not exist or do not operate in this court jurisdiction.

¹ The indicators, excluding real and imputed expenditure on accommodation, are presented in Table 12A.13

Source: Table 12A.12

Government expenditure per civil case in real terms across all State and Territory Courts increased slightly between 1993–94 and 1995–96 (from \$269 to \$273 before falling to \$262 in 1995–96). Expenditure per case in the Federal and Family Courts also declined between 1994–95 and 1995–96. The Federal Court expenditure decreased from \$2048 to \$1787, while for the Family Court decreased from \$880 to \$800 (Figure 12.6).