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## 6 COURT ADMINISTRATION

### 6.1 Introduction

Court administration agencies throughout Australia provide a range of services integral to the effective performance of the judicial system. Coverage in this Report has been expanded to include the state and territory Coroner's Courts and probate registries.

Environmental and resource development courts, administrative appeals and other tribunals, and industrial relations courts are not covered. Some significant aspects of court related government expenditure on the criminal justice system also continue to be excluded from this Report, in particular the Director of Public Prosecutions and Legal Aid Commissions.

The focus here is on the administration of the courts, not the outcomes of the legal process. Court administration agencies work with the judiciary and the community to provide a court system that allows for the prompt resolution of disputes and appropriate access to justice for the community. Indicators for legal outcomes of the court system are beyond the scope of this Report, but indicators of the quality of court processes are being considered (for example, the effectiveness of court based dispute resolution practices).

A significant improvement in data reliability has again been achieved in this Report. Full year data has been collected for 1996–97 on a comparable basis with data reported for 1994–95 and 1995–96. Auditing continues to be a feature of the court administration data collection and this year it has been extended beyond the financial data to include the primary court activity data sets of lodgements and hearings.

This Report includes commentary on timeliness and case flow management and provides the time standards for matters before Australian courts. The ABS also recently published its first report on lodgement, finalisation and the timeliness of finalisations for criminal matters before Australia's superior courts in 1995 (ABS 1997a).

## **6.2 Profile of court administration services**

### **6.2.1 Definition of the sector**

Usually, the primary functions of court administration agencies are to:

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

Some aspects of the allocation of responsibility between court administration and other elements of the system (including the judiciary) vary across the state, territory and commonwealth legal systems. The performance indicators presented here need to be interpreted in this context.

Total recurrent expenditure by state, territory and commonwealth court authorities was \$714 million in 1996–97 — an increase of 4 per cent in real terms since 1994–95. Approximately 2.5 million matters were lodged with courts in 1996–97 — an increase of 10 per cent since 1994–95 (Tables 6A.1 and 6A.4). New areas reported on for 1996–97 include the Coroner's Courts with national expenditure of \$15 million for 32 380 reported deaths and fires and probate registries of state and territory Supreme Courts with national expenditure of \$1.7 million to process 49 460 applications.

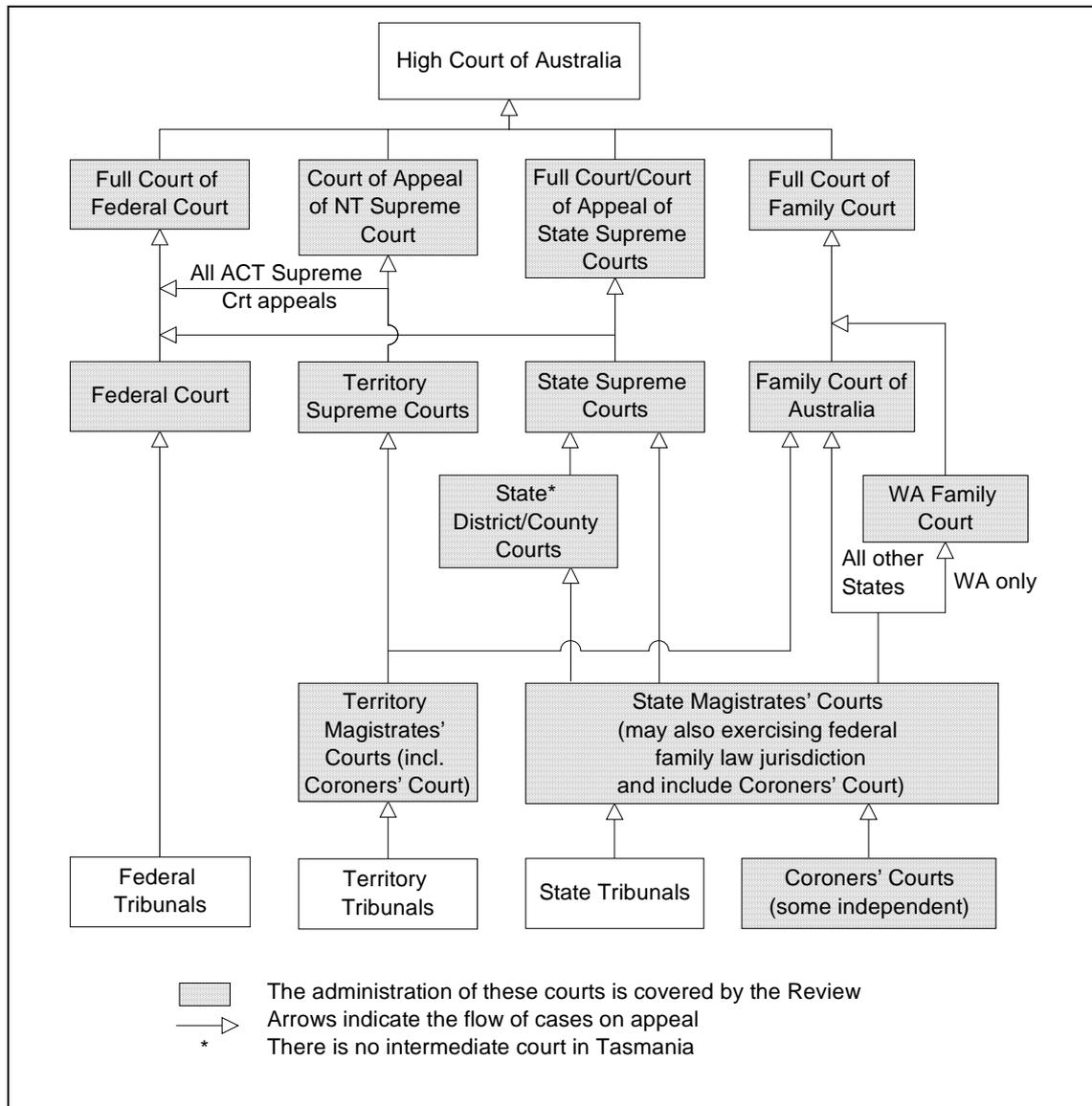
### **6.2.2 Structure of courts**

There is a hierarchy of courts at both the state and territory and the commonwealth level. All state, territory and commonwealth courts handle a number of matters that appear in the court system for the first time. Higher courts hear disputes of greater seriousness than those in the lower courts and also operate as courts of judicial review or appeal (Figure 6.1).

Most courts operate in both the civil and criminal jurisdictions. The essential difference between these jurisdictions is the source of the lodgement and the parties in dispute. Criminal matters are brought to the court by a government prosecuting agency, generally the Director of Public Prosecutions but also the Attorney General, the police, local councils and traffic camera branches. Civil matters are lodged by individuals or organisations (the plaintiff) against another party (the defendant), who responds to the file. In addition, Coroner's Courts,

which generally operate under the auspices of state and territory Magistrates' Courts, inquire into the cause of sudden and unexpected deaths and into suspicious fires. Their findings can be the source of criminal prosecutions.

Figure 6.1: Major relationships between courts in Australia



### Administrative structures

Most courts operate in both the criminal and civil jurisdictions and use the same court infrastructure for both case types. However, because separate information systems and case flow management practices have been established for each of the civil and criminal jurisdictions, the Steering Committee has sought to distinguish between them where possible.

### *Case flows*

Court practice guidelines set out the specific case flow arrangements for each type of lodgement in each court jurisdiction. However, there are some generally common elements:

- lodgement (the initiation of the matter with the court);
- pre-trial discussion and mediation between the parties;
- trial; and
- court decision (judgement or verdict followed by sentencing).

There are generally more lodgements and pre-trial dealings than trials for civil cases. This reflects the desirability of diverting civil cases from proceeding to trial. In the criminal jurisdiction attempts are also made to maximise the number of guilty pleas that progress the case directly to sentencing.

### *Lodgements*

The largest numbers of lodgements are processed by Magistrates' Courts in their criminal jurisdictions — for example over 1.5 million cases were initiated in these courts in 1996–97. District/County Courts accounted for only 26 500 lodgements and the Supreme Courts processed a further 4700. The majority of matters initiated in the lower courts were criminal in nature, but civil cases outnumbered criminal prosecutions in the superior courts.

In the civil jurisdiction there were a total of 935 400 lodgements in 1996–97. The largest civil court in Australia is the NSW Magistrates' Court receiving over 279 200 lodgements, followed by the Magistrate's Courts in Victoria and Queensland.

Probate lodgements encompass different types of applications in relation to the appointment of an executor or administrator to the estate of a deceased person. The two most common applications are where the executor nominated by a will applies to have the will proved and where the deceased died intestate (or without a will) and a person entitled to administrate the estate applies for letters of administration. There were approximately 50 000 probate applications in 1996–97 (Table 6.1).

Table 6.1: Court lodgements, 1996–97 ('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>Cwlth</i>	<i>Total</i>
<i>Criminal</i>										
Magistrates' Court	435.0	491.9	245.6	121.6	151.0	37.3	10.6	19.5	—	1512.4
District/County Court	10.1	4.0	8.3	2.4	1.8	—	—	—	—	26.5
Supreme Court	0.9	0.6	1.4	0.5	0.6	na	0.2	0.3	—	4.7
All Courts	445.9	496.5	255.3	124.5	153.4	37.3	10.8	19.8	—	1543.6
<i>Civil</i>										
Magistrates' Court	279.2	208.1	114.3	58.7	43.8	na	9.7	7.4	—	721.2
District/County Court	10.9	9.2	6.7	5.8	2.8	—	—	—	—	35.4
Supreme/Federal Court	10.4	4.5	4.2	2.9	1.6	na	1.4	0.4	17.3	42.7
All Courts	300.5	221.8	125.3	67.4	48.2	na	11.1	7.8	17.3	799.4
Family Court	—	—	—	14.3	—	—	—	—	120.0	134.2
<i>Coronial</i>										
Magistrates' Court	15.0	3.9	4.0	2.2	6.3	na	0.7	0.3	—	32.4
<i>Probate</i>										
Supreme Court	21.1	15.2	3.3	4.7	4.6	na	0.4	0.1	—	49.5

na not available

— These courts did not exist or did not operate in this jurisdiction.

Source: Table 6A.1

The mix of cases between the Magistrates', District/County and Supreme Courts varied significantly across the states and territories in 1996–97. The highest proportion of criminal matters lodged with the Supreme Court was in those jurisdictions without intermediate courts (the NT and the ACT). Queensland, of the states and territories with intermediate court levels, had the highest proportion of criminal matters lodged in the Supreme Court and the lowest proportion of matters lodged in the Magistrates' Court. This reflected the court's jurisdiction over drug matters which were heard in lower courts of the other states and territories. The Victorian Magistrates' Court processed the highest proportion of criminal matters.

Proportionally more civil matters relative to criminal matters are lodged with superior courts. Again, Supreme Courts process a greater proportion of matters in those jurisdictions without intermediate courts. WA and Victoria, of the states and territories with intermediate courts, had the lowest and highest proportions respectively of matters lodged with the Magistrates' Court (Table 6.2).

Table 6.2: Proportion of lodgements by court level, 1996–97 (per cent)<sup>a</sup>

	NSW	Vic	Qld	WA	SA	Tas	ACT	NT	Cwlth	Total
<i>Criminal</i>										
Magistrates' Court	97.5	99.1	96.2	97.7	98.4	100.0	98.0	98.5	—	98.0
District/County Court	2.3	0.8	3.2	1.9	1.2	—	—	—	—	1.7
Supreme Court	0.2	0.1	0.6	0.4	0.4	0.0	2.0	1.5	—	0.3
All Courts	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	—	100.0
<i>Civil</i>										
Magistrates' Court	92.9	93.8	91.2	87.1	90.8	na	87.8	94.9	—	90.2
District/County Court	3.6	4.1	5.4	8.6	5.8	—	—	—	—	4.4
Supreme/Federal Court	3.5	2.0	3.4	4.3	3.4	na	12.2	5.1	—	5.3
All Courts	100.0	100.0	100.0	100.0	100.0	na	100.0	100.0	—	100.0

na not available

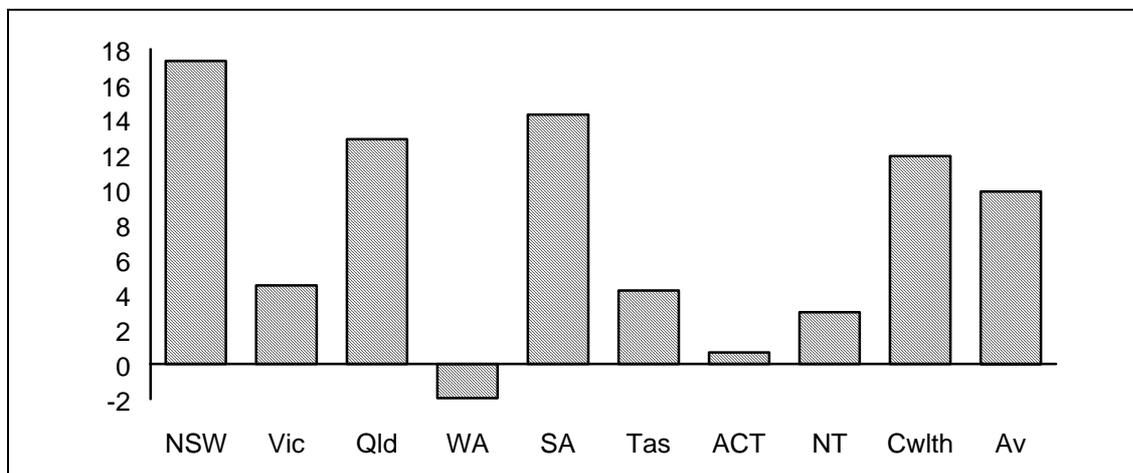
— These courts did not exist or did not operate in this jurisdiction.

a Included minor lodgements.

Source: Table 6A.1

There has been an increase of 10 per cent in the number of lodgements received by courts throughout Australia since 1994–95. The largest increase occurred in NSW where lodgements increased by 17 per cent between 1994–95 and 1996–97, while lodgements in WA decreased (Figure 6.2).

Figure 6.2: Change in the total number of court lodgements, 1994–95 to 1996–97 (per cent)<sup>a</sup>



a Excluded probate.

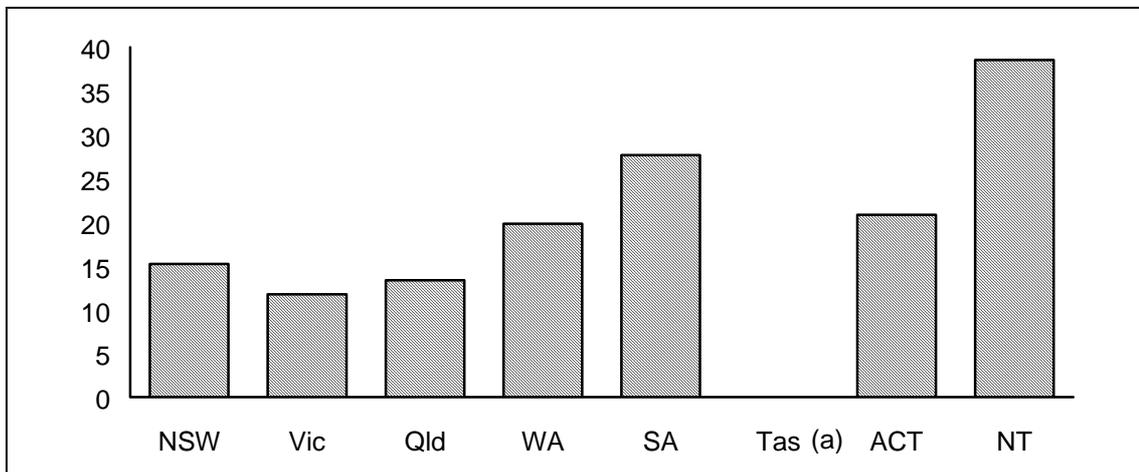
Source: Table 6A.1

Coroners' Courts investigate the cause and circumstances of reportable deaths. The definition of a reportable death differs across states and territories but

generally includes deaths for which the cause is violent, suspicious or unknown. The Coroner, in some states and territories, has the power to commit for trial, while in others, is prohibited from making any finding of criminal or civil liability.

The highest number of reported deaths was in the NSW (6 871), followed by Victoria (3 847) with total reported deaths across Australia of 19 654 in 1996–97. Reporting rates varied due to different reporting requirements — for example, deaths in institutions such as nursing homes of persons suffering intellectual impairment of any kind must be reported in SA. The number of deaths reported to the Coroner as a proportion of total deaths varied from 10 per cent in Victoria to 40 per cent in the NT (Figure 6.3).

Figure 6.3: Deaths reported to coroner as a proportion of total deaths, 1996–97 (per cent)



a not available

Source: Table 6A.1

Reporting requirements also varied for fires. For example all fires were reported to the Coroner in SA (3 114 fires) and NSW (8 083 fires) and they may be reported and investigated in Victoria at the Coroner's discretion, but they were excluded from the Coroner's jurisdiction in the NT (Table 6A.1).

A significant proportion of court cases are largely routine or minor in nature. These matters are generally less costly to finalise because they do not require full court hearings. These include:

- civil lodgements which are finalised by judicial and non-judicial registrars — for example probate applications, winding up applications, domestic violence intervention orders and joint applications for divorce;
- civil lodgements settled as undefended; and

- criminal lodgements processed by electronic courts.

Minor civil lodgements were particularly common in the Magistrates' Court, ranging from 81 per cent in the ACT to 92 per cent in Victoria, in 1996–97. There was greater variation in the criminal jurisdiction where 81 per cent of Magistrates' Court lodgements in Victoria were minor traffic matters compared with only 33 per cent of such lodgements in Queensland.

The variation in the proportion of minor lodgements was quite significant amongst the superior courts. In the District/County Court 28 per cent of matters were minor in Queensland, but there were no minor lodgements in NSW where they were not provided for by the case flow management system. Minor matters accounted for a significant proportion of lodgements among Supreme/Federal Courts, ranging from 17 per cent in NT to 75 per cent in SA. Four per cent of lodgements with the Federal Court were minor (Table 6.3).

Table 6.3: Proportion of lodgements which were minor for criminal and civil courts, 1996–97 (per cent)<sup>a</sup>

	<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>Cwlth</i>	<i>Total</i>
<i>Criminal</i>										
Magistrates' Court	58	81	33	47	57	63	0 <sup>b</sup>	48	—	60
<i>Civil</i>										
Magistrates' Court	89	92	83	84	87	na	81	92	—	88
District/County Court	0	6	28	9	60	—	—	—	—	13
Supreme <sup>c</sup> /Federal Court	26	58	30	20	75	na	47	17	4	23
Family Court	—	—	—	38	—	—	—	—	40	40

na not available

— These courts did not exist or did not operate in this jurisdiction.

a Minor lodgements included minor traffic lodgments and other infringement notices enforced through electronic courts and like processes in criminal, undefended general civil lodgements and applications of an administrative nature such as winding up applications, Criminal Injury Compensation Applications, Australian Registered Judgements, intervention orders (excluding the prosecution of a breach of an order), residential tenancy disputes, joint applications for divorce and applications for debt recovery.

b In the ACT the motor vehicle registry rather than the Magistrates' Court enforced unpaid infringement notices. Infringements did not become court lodgements until the defendant elected to have the matter heard by a Magistrate.

c Excluded probate.

Source: Table 6A.3

## Hearings

Hearings, particularly full court hearings and trials, are the primary cost driver for court administrations. Hearings encompass court trials in the criminal and civil jurisdictions, as well as inquests and inquiries in the coronial jurisdiction.

Hearings do not include conferences, mediation and arbitration sessions or hearings to process secondary applications associated with the primary case. Each lodgement is subject to only one hearing, although it may be adjourned at various times.<sup>1</sup> Nationally, there were approximately 272 000 court hearings (215 000 criminal and 57 000 civil) in 1996–97. The majority of these occurred in the lower courts (Table 6A.3).

Most jurisdictions attempt to encourage pre-trial settlement of civil disputes through mediation and arbitration to minimise the cost to the court and parties and ensure that only cases which require judicial determination proceed to a full hearing. Similarly, a guilty plea by the defendant generally reduces hearing length and cost in the criminal jurisdiction.

### *Expenditure*

The largest proportion of court administration expenditure in the criminal jurisdiction occurred in the Magistrates' Courts. Supreme Courts generally accounted for a slightly higher proportion of expenditure in the civil jurisdiction than in the criminal jurisdiction (Table 6.4).

Table 6.4: Court administration expenditure, 1996–97 (\$ 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>Cwlth</i>	<i>Total</i>
All Criminal courts	108.8	61.3	66.5	39.6	30.4	8.1	4.5	7.6	—	326.7
Family Court	—	—	—	9.9	—	—	—	—	100.2	110.1
All Civil courts <sup>a</sup>	97.6	45.2	27.1	35.9	22.5	4.1	5.8	4.2	146.8	389.2
Coroners' Court <sup>b</sup>	4.1	3.4	3.1	1.5	1.4	0.2	0.6	1.0	—	15.4
Probate registries	0.5	0.5	0.1	0.1	0.4	0.1	0.0	0.1	—	1.7

na not available

— These courts did not exist or did not operate in this jurisdiction.

a Included the Family Court of WA and the Family Court of Australia.

b Excluded the cost of conducting autopsies.

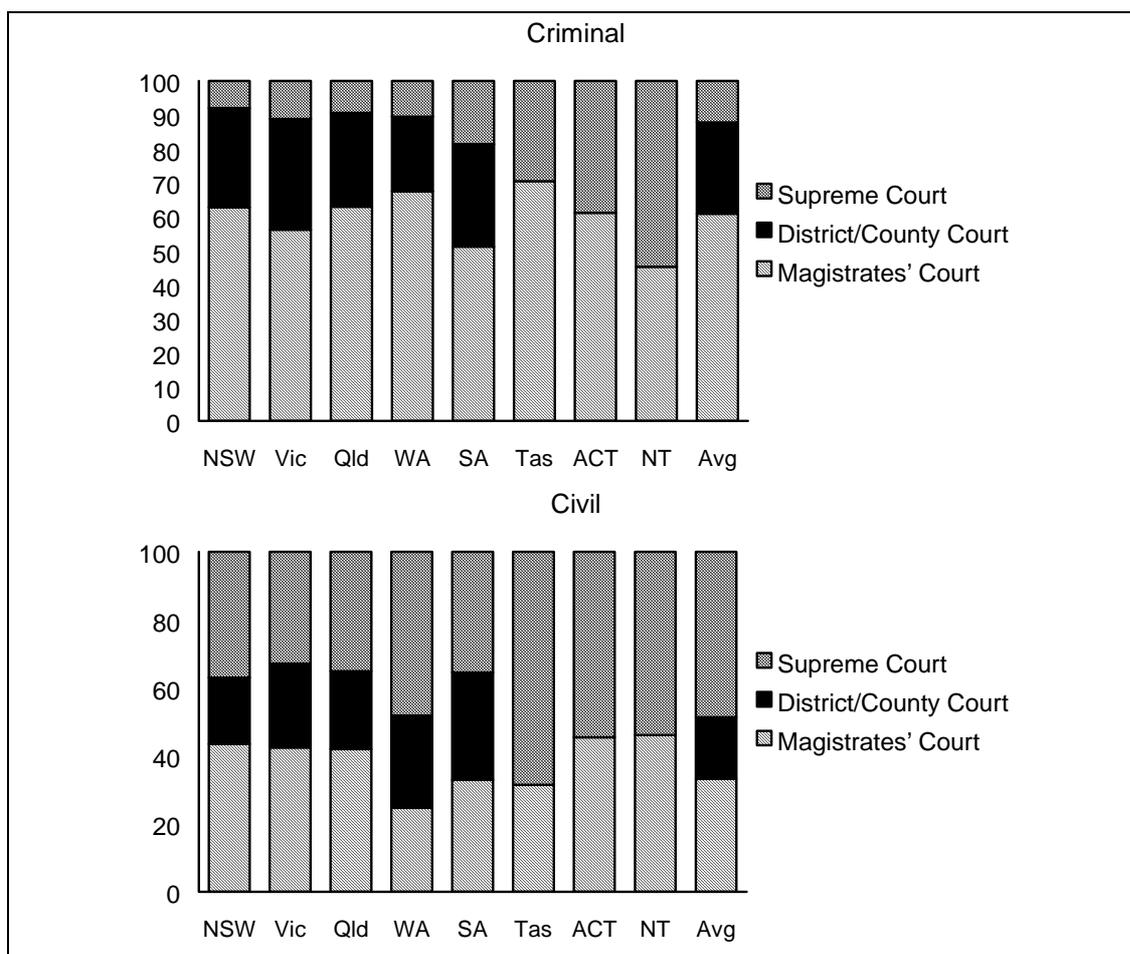
Source: Table 6A.4

The Magistrates' Court (in states and territories having all three court levels) represented 50 to 75 per cent of total criminal expenditure in 1996–97 followed by the District/County Court then the Supreme Court. On an individual court jurisdiction basis, WA had the highest Magistrates' Court share; SA and Victoria had the highest District Court share; and SA and Victoria had the highest Supreme Court share.

<sup>1</sup> Committals and appeals represent separate lodgements within the definitions of the collection.

Expenditure in the civil jurisdictions was more equally distributed among the court levels. The Magistrates' Courts generally still received the highest proportion of expenditure, followed by the Supreme Court and the District/County Court. Across jurisdictions, the share of the Supreme Court was relatively stable, with the major variation being between the Magistrates' and District/County Courts. NSW and Queensland had the smallest District Court proportion and WA had the smallest Magistrates' Court proportion (Figure 6.4).

Figure 6.4: Proportion of expenditure by court level, 1996–97 (per cent)



Source: Table 6A.4

Expenditure on court administration increased by 4 per cent (in real terms) between 1994–95 and 1996–97. The trend in expenditure varied across the states and territories. The NT exhibited a substantial real reduction in expenditure of 39 per cent largely as a result of changes in the valuation of court properties. Tasmania increased its expenditure by 26 per cent (the largest

increase occurring in the Supreme Court civil jurisdiction). There has been almost no real change to expenditure in Queensland (Figure 6.5).

Figure 6.5: Change in real court administration expenditure, 1994–95 to 1996–97 (per cent)<sup>a</sup>



a Excluded coronial and probate expenditure.

b Included the Family Court of Western Australia.

c Included the Family Court of Australia.

Source: Table 6A.4

### 6.3 Monitoring timeliness

Ensuring the timely resolution of disputes is a primary objective of courts. This is because unnecessary time in the delivery of court adjudication can have far reaching implications, such as:

- irrelevant and unsatisfactory judgements;
- increased rates of appeal and relitigation;
- increased administration costs to government; and
- increased party costs.

Most courts now employ some type of case flow management system to enforce and monitor the delivery of justice with an appropriate degree of timeliness.

Note that timely delivery does not always equate to the fastest possible adjudication. The Family Court of Australia, for example, has found that minimising elapsed time entirely is counterproductive — litigants are often more satisfied with judgements delivered after counselling or after some time has passed before adjudication.

### 6.3.1 Case flow management

The purpose of case flow management is to:

- encourage a spirit of cooperation among parties;
- achieve an early settlement of the case, or identify and reduce the issues which are in dispute early in the case process;
- divert the case to methods for resolution other than trial (if appropriate); and
- when settlement cannot be achieved, progress cases to trial as speedily and as cost effectively as is appropriate.

The broad types of case flow management systems are outlined in Box 6.1.

#### Box 6.1: Examples of case flow management

There are three broad types of case flow management systems:

- a small claims and personal injury type track;
- a fast-track for simple cases; and
- a multi-track covering cases that are complex, important and financially weighty.

The different tracks vary according to the type of cases to which they apply, the timetabled duration of the case, the level of flexibility where parties seek extensions and the level of evidence required to substantiate claims.

### 6.3.2 Monitoring case flow management systems

Time standards are a feature of most case flow management systems.<sup>2</sup> There was a wide variation in the scope and length of standards across Australian courts as at June 1997. The ACT Supreme Court, for example, aimed to conclude the hearing of 100 per cent of civil lodgements in two years (104 weeks) from the issue of a certificate of readiness, while the WA Magistrates' Court aimed to finalise 100 per cent of residential tenancy disputes within two weeks of filing.

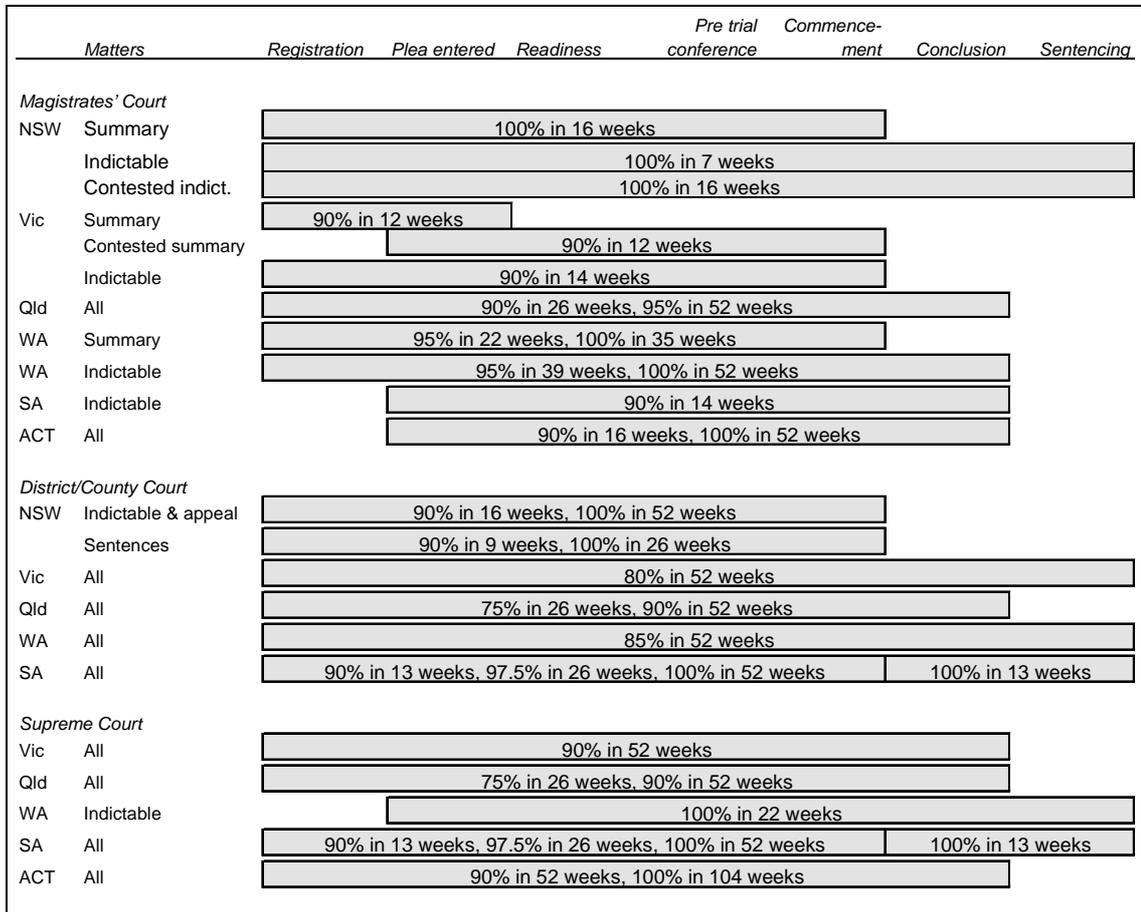
Some courts applied a single standard across their entire case load while others established time standards for particular components of their case load (Figures

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<sup>2</sup> A time standard refers to a court administration agency/registry commitment to process a specified proportion of its case load within a specified period of time.

6.6 and Figure 6.7). There were also differences across jurisdictions in the degree to which the time standards were publicised and enforced.

Figure 6.6: Targets for case completion, criminal jurisdiction, June 1997 (weeks)<sup>a</sup>



a There were no time standards in Tasmania or the NT.

Figure 6.7: Targets for case completion, civil jurisdiction, June 1997 (weeks)<sup>a</sup>

Matters	Filing	Defence	Readiness	Pre trial conference	Commencement	Conclusion	Judgement
<i>Magistrates' Court</i>							
Vic	All		90% in 12 weeks				
Qld	All		80% in 26 weeks, 90% in 52 weeks				
WA	Resid. tenancy		100% in 2 weeks				
WA	Divorce		100% in 10 weeks				
WA	Admin appeals		95% in 26 weeks, 100% in 39 weeks				
SA	Minor		90% in 13 weeks, 100% in 26 weeks				
SA	General		75% in 26 weeks, 100% in 78 weeks				
ACT	All		90% in 16 weeks, 100% in 52 weeks				
ACT	Small claims		90% in 20 weeks, 100% in 74 weeks				
<i>District/County Court</i>							
NSW	All		90% in 52 weeks, 100% in 74 weeks				
Vic	All		46% in 52 weeks				
Qld	All		60% in 26 weeks, 90% in 52 weeks				
WA	All		100% in 70 weeks				
SA	All		90% in 52 weeks, 97.5% in 78 weeks, 100% in 91 weeks				
SA	Defended		90% in 39 weeks, 97.5% in 65 weeks, 100% in 78 weeks				
<i>Supreme and Federal Court</i>							
NSW	Non-appeal		90% in 78 weeks				
Qld	All		40% in 26 weeks, 60% in 52 weeks				
WA	All		100% in 70 weeks				
SA	All		100% in 70 weeks				
ACT	Appeal		90% in 52 weeks, 100% in 104 weeks				
ACT	Non-appeal		90% in 52 weeks, 100% in 104 weeks				
Cwlth	All (Federal Cr)		98% in 78 weeks				
<i>Family Court</i>							
WA	Standard track		100% in 12 weeks				
WA	Direct track		100% in 26 weeks				
WA	Complex track		100% in 52 weeks				
Cwlth	Divorce		100% in 43 weeks				
Cwlth	Short matters		100% in 30 weeks				
Cwlth	Long matters		100% in 48 weeks				

a There were no time standards in Tasmania, the NT, or the Victorian Supreme Court.

## 6.4 Framework for performance indicators

### Box 6.2: Objectives of court administration

The objectives of courts have been reported as the following:

- to be open and accessible;
- to process matters in an expeditious and timely manner;
- to provide due process and equal protection before the law; and
- to be independent yet accountable publicly for performance.

*Source:* Commission on Trial Court Performance Standards 1989

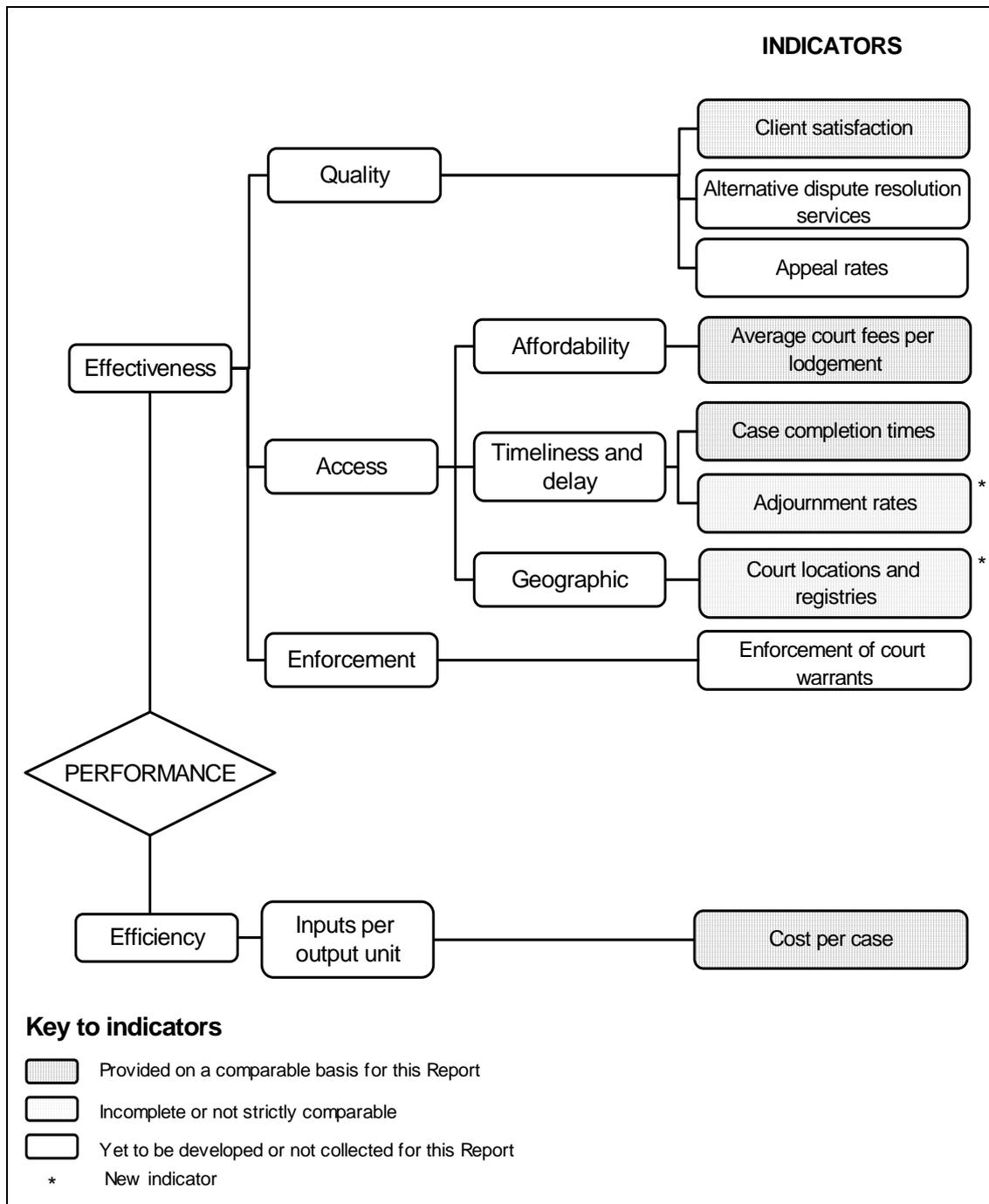
The framework of indicators for court administration has changed with the addition of new quality indicators for parts of the court system (Figure 6.8). A description of all indicators is provided in Attachment 6A.

The development of new indicators has also progressed in the area of timeliness. In addition consideration of the outcomes associated with particular components of the court system, such as the dispute resolution services, is currently under way.

## 6.5 Future directions

There are a number of opportunities for improving the current data collection. These include refining the counting rules and definitions for the data collection and increasing the range of courts, tribunals and indicators included within the collection.

Figure 6.8: Performance indicators for court administration



### **6.5.1 New and refined indicators**

Opportunities for the development of new and refined indicators in the courts include the following:

- the representation of Aboriginal and Torres Strait Islander people before the courts and the outcomes of their trials;<sup>3</sup>
- the availability of court services (such as interpreters and the provision of court forms in languages other than English) to people from diverse cultural and linguistic backgrounds;
- the success of the court's diversionary strategies for the settlement of disputes through mediation and conciliation; and
- the success of the Sheriffs' and Bailiffs' offices in enforcing court orders and warrants.

### **6.5.2 Collection scope**

Tribunals represent an important specialist component of the delivery of dispute resolution services by the justice system.<sup>4</sup> Specialist tribunals operate in most states and territories in the following areas (which may therefore be feasible to cover in the Report):

- industrial relations;
- administrative appeals;
- equal opportunity and discrimination;
- environment, resource and development; and
- building reviews.

## **6.6 Key performance results**

The different environments in which court administration agencies operate affect the cost structures of their operations. Certain limitations of the data (mentioned where relevant) also mean that some results should be interpreted with care.

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<sup>3</sup> Outcomes for Aboriginal and Torres Strait Islander people in the justice system will be reported in the context of the justice system preface.

<sup>4</sup> Tribunals already covered in the collection include small claims, credit and residential tenancies tribunals operate as part of Magistrates' Courts in some states and territories.

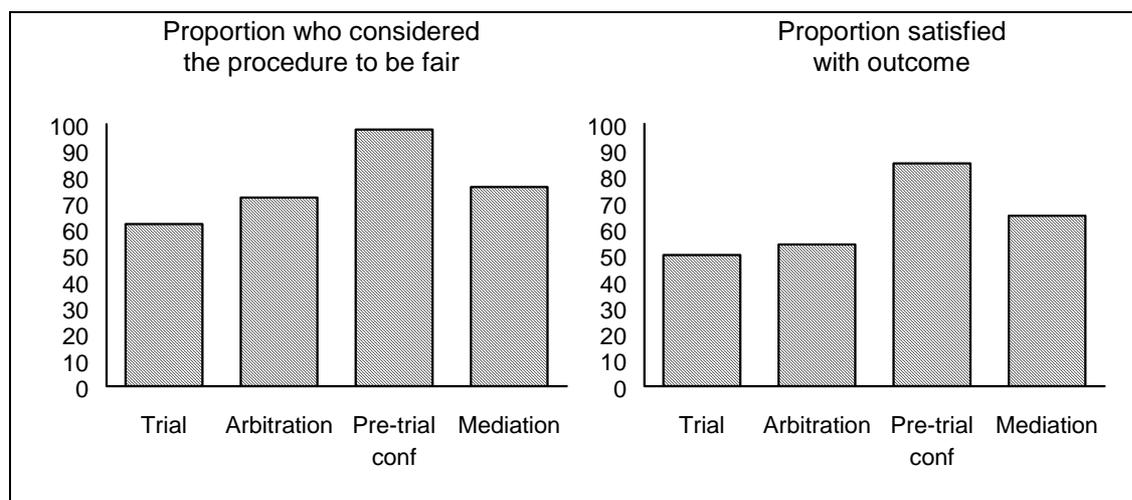
### 6.6.1 Effectiveness indicators

#### *Client satisfaction*

Data on the comparative satisfaction of litigants and defendants with the methods, costs, timeliness and outcomes of their dispute is being generated by a number of trial surveys by different courts in individual states and territories. The results are not comparable, but the surveys do provide an insight into client satisfaction with court processes and the mechanisms by which client satisfaction in an adversarial process can be measured.

One such recent survey — of 255 plaintiffs registered with the NSW District Court’s Sydney Registry — focused on the perceptions of fairness and the degree of satisfaction with the outcomes of plaintiffs in civil disputes. It found that the degree of satisfaction with the process and the outcome was less for those matters finalised by trial than for those matters finalised at mediation and pre-trial conferences (Delaney and Wright 1997) (Figure 6.9).

Figure 6.9: Plaintiff’s perceptions across dispute resolution procedures, NSW District Court Sydney Registry, 1996 (per cent)<sup>a</sup>



a Dispute resolution procedures were:

*Trial* — the hearing and authoritative adjudication of a claim by a judge or sometimes a jury.

*Arbitration* — an adversarial process relying on a third party, the arbitrator, to decide the outcome of a claim.

*Pre-trial conference* — a meeting held at the court before a trial or before an arbitration hearing which aims to settle the claim, or at least to define and narrow the issues in dispute with the assistance of a third party.

*Mediation* — a voluntary process in which a mediator independent of the disputants, facilitates the negotiation by disputants of their own solution to their dispute by assisting them to isolate the issues in the dispute, to develop options for their resolution, and to reach an agreement which accommodates the interests and needs of all disputants.

Source: Table 6A.18

### Affordability

Court filing fees relate largely to civil cases. They are only part of the costs faced by litigants — legal fees being more significant — but they can be considerable. Court fees per lodgement in the superior courts were generally higher than in the Magistrates' Court in 1996–97. Victoria had the highest level of fees in the Supreme Court. NSW had the highest fees amongst the District/County Courts and Magistrates' Courts. Probate fees were highest in the ACT (Table 6.5).

Table 6.5: Court fees per lodgement, 1996–97 (\$)

	NSW	Vic	Qld	WA	SA	Tas	ACT	NT	Cwlth	Total
<i>Civil</i>										
Magistrates' Court	126	63	85	82	59	na	68	36	—	93
District/County Court	804	515	265	363	176	—	—	—	—	504
Supreme/Federal Court	977	1 149	753	273	441	na	486	233	605	740
Family Court	—	—	—	112	—	—	—	—	123	121
All Courts	180	102	117	114	79	na	121	47	183	142
<i>Probate</i>										
Supreme Court	423	181	244	141	475	na	482	155	na	318

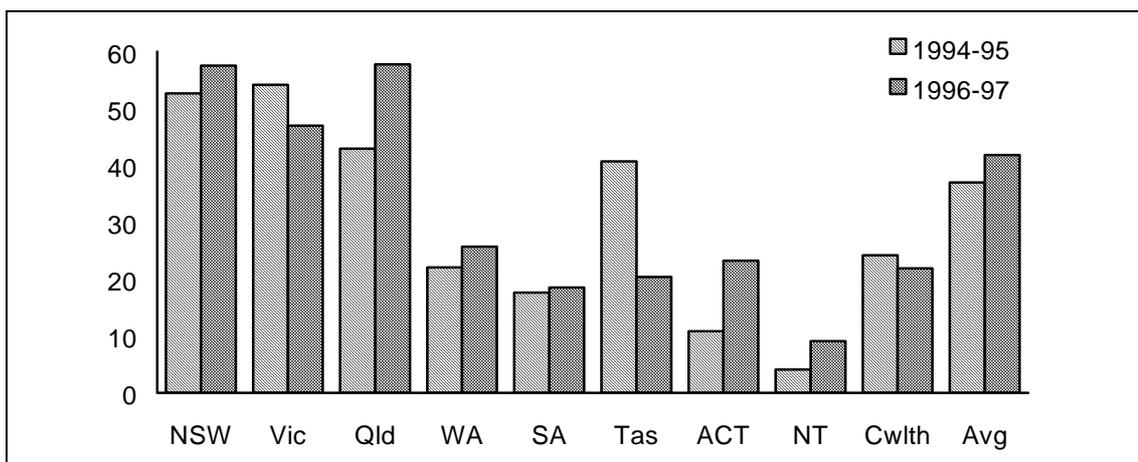
na not available

— These courts did not exist or did not operate in this jurisdiction.

Source: Table 6A.7

The level of cost recovery through court fees for the civil jurisdiction has increased on average from 37 per cent to 42 per cent from 1994–95 to 1996–97. It increased across all states and territories except Victoria, Tasmania and the Commonwealth (Figure 6.10).

Figure 6.10: Civil court fees as a proportion of total expenditure, 1994–95 and 1996–97 (per cent)<sup>a</sup>



a Included Family Courts.

Source: Table 6A.6

### *Timeliness*

Timeliness measures the duration between the lodgement of a matter with the court and its finalisation. Generally, lower courts complete a greater proportion of their workload in a shorter period of time, given the less complex nature of the disputes and prosecutions heard.

The criminal jurisdiction of the Magistrates' Courts in all states finalised at least 88 per cent of cases within six months in 1996–97. The ACT and the NT finalised only 69 per cent and 86 per cent respectively within six months. These lower proportions in the territories reflect the more complex matters often heard by these courts — in the states such matters are often heard by intermediate courts.

Case finalisation times were longer in the civil jurisdiction, reflecting the different case flow management practices and the priority given to criminal matters. NSW finalised 86 per cent of matters in less than six months, while Victoria reported finalisation of 88 per cent within this same period. The proportion of cases not finalised within 12 months ranged from 5 per cent in NSW to 1 per cent in Victoria.

Queensland had the largest proportion of coronial matters not finalised within six months (31 per cent). Both NSW and SA finalised all but 6 per cent of coronial matters within six months.

Queensland had the largest proportion of criminal matters in the District/County Courts finalised in less than six months (86 per cent), and a further 11 per cent were finalised in 6 to 12 months. Finalisation times were longest in NSW, with 43 per cent of District/County Court cases completed in six months. Finalisation times were generally longer in the civil jurisdiction, for which WA had the highest proportion of finalised cases within 18 months.

Queensland had the largest proportion of Supreme Court criminal cases finalised in less than six months, in part due to the high rate of guilty pleas amongst drug offences prosecuted in the Supreme Court jurisdiction. Completion rates in the civil jurisdiction were highest in the Victorian Supreme Court (Table 6.6).

Table 6.6: Non-appeal matters finalised, 1996–97 (per cent)

	<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>Cwlth</i>	<i>Avg</i>
<i>Criminal</i>										
Magistrates' Court										
<6 months	94	93	95	94	92	88	69	86	—	93
6–12 months	5	6	2	4	4	9	22	8	—	4
12–18 months	1	1	1	1	1	2	5	2	—	1
>18 months	0	0	3	0	3	1	4	4	—	2
District/County Court										
<6 months	43	60	86	67	66	—	—	—	—	70
6–12 months	28	23	11	18	26	—	—	—	—	18
12–18 months	15	7	3	11	5	—	—	—	—	7
>18 months	13	10	0	4	3	—	—	—	—	4
Supreme Court										
<6 months	7	42	83	58	50	na	66	53	—	62
6–12 months	21	34	13	30	31	na	10	31	—	23
12–18 months	25	12	4	8	9	na	19	11	—	9
>18 months	47	13	0	4	10	na	5	5	—	6
<i>Coronial</i>										
Magistrates' Court – <i>Coronial</i>										
<6 months	94	80	69	77	94	na	63	0	—	88
6–12 months	4	13	22	18	4	na	18	0	—	8
12–18 months	2	4	5	4	1	na	4	0	—	2
>18 months	1	4	4	1	1	na	15	100	—	2
<i>Civil</i>										
Magistrates' Court										
<6 months	86	88	77	77	67	na	79	66	—	81
6–12 months	9	11	13	15	13	na	10	21	—	11
12–18 months	3	1	4	5	19	na	6	3	—	5
>18 months	2	0	6	4	1	na	5	10	—	3
District/County Court										
<6 months	8	33	28	49	32	—	—	—	—	24
6–12 months	28	14	18	14	34	—	—	—	—	21
12–18 months	21	7	16	35	14	—	—	—	—	18
>18 months	43	46	38	3	20	—	—	—	—	37
Supreme/Federal Court										
<6 months	46	83	48	51	29	na	28	45	63	56
6–12 months	12	11	12	7	24	na	15	14	13	12
12–18 months	9	2	6	8	15	na	12	11	9	8
>18 months	34	4	34	33	32	na	45	30	14	25

na not available

— These courts did not exist or did not operate in this jurisdiction.

Source: Table 6A.8

Appeals from lower courts are predominantly heard by the Supreme Court and the Courts of Appeal of the states and territories. The full bench of the Federal Court also hears appeals from the single Federal Court Justices. Criminal appeals are generally of shorter duration than civil. On average 10 per cent of criminal and 34 per cent of civil appeals took longer than 12 months to finalise. In criminal the ACT Supreme Court finalised 100 per cent of appeals from its Magistrates' Court in less than six months. The Queensland Supreme Court and the SA Supreme Court had similar timeliness, with 95 per cent and 91 per cent, respectively, of appeals finalised in less than six months. In civil the NT finalised 78 per cent of appeals in six months and 100 per cent in 12 months. The NSW Supreme Court and the Federal Court each finalised 31 per cent in six months (Table 6.7).

Table 6.7: Appeal matters finalised, Supreme/Federal Court, 1996–97 (per cent)

	<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>Cwlth</i>	<i>Avg</i>
<i>Criminal</i>										
<6 months	35	56	95	58	91	na	100	64	—	64
6–12 months	46	35	4	31	9	na	0	18	—	27
12–18 months	13	7	0	9	1	na	0	14	—	7
>18 months	6	2	0	2	0	na	0	5	—	3
<i>Civil</i>										
<6 months	31	39	41	36	40	na	57	78	31	37
6–12 months	21	20	41	47	46	na	36	22	31	29
12–18 months	11	27	15	14	9	na	4	0	16	13
>18 months	37	15	4	3	4	na	4	0	21	21

na not available

— These courts did not exist or did not operate in this jurisdiction.

Source: Table 6A.11

Committals are the first stage of hearing indictable (serious) offences in the criminal court system. In a committal hearing a Magistrate assesses the sufficiency of evidence presented against the defendant and decides whether to commit the matter for trial in a superior court. Defendants are often held in police custody pending a committal hearing and in remand pending trial. The timely conduct of the committal hearing, upon receipt of the charge sheet by the court is therefore important for timely adjudication of the charges against the defendant.

On average, 58 per cent of committal hearings are finalised within 3 months of the receipt of charges by the court and a further 27 per cent in the subsequent 3 months. Performance varied considerably across the states and territories. For example while SA finalised 67 per of committals within 3 months, Tasmania

finalised only 7 per cent, although finalising a total of 61 per cent in 6 months. Victoria had the largest proportion of cases finalised in more than 12 months (17 per cent) (Table 6.8).

**Table 6.8: Committal matters finalised, Magistrates' Courts — criminal, 1996–97 (per cent)**

	<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>Cwlth</i>	<i>Avg</i>
<3 months	59	27	62	61	67	7	49	31	—	58
3–6 months	23	33	29	20	29	54	23	30	—	27
6–12 months	14	22	7	16	3	29	27	25	—	12
>12 months	4	17	2	3	1	11	1	13	—	4

na not available

— These courts did not exist or did not operate in this jurisdiction.

Source: Table 6A.12

Nationally the proportion of criminal matters finalised within six months remained steady at over 90 per cent between 1994–95 and 1996–96, while defended civil matters finalised within 12 months decreased from 76 per cent to 66 per cent between 1994–95 and 1996–97. However, the finalisation rates varied significantly across jurisdictions over this period. The Victorian Supreme Court increased its proportion of defended civil cases finalised within 12 months from 28 per cent in 1995–96 to 97 per cent in 1996–97. An improvement occurred in the WA District Court where civil cases finalised within 12 months increased from 11 per cent in 1995–96 to 90 per cent in 1996–97. A number of courts and jurisdictions recorded reductions in finalisation rates including the ACT Magistrates' Court where the proportion of defended civil matters finalised in six months decreased from 88 per cent in 1995–96 to 39 per cent in 1996–97 and the NT Supreme Court where the proportion of matters finalised within 12 months decreased from 100 per cent to 26 per cent (Table 6A.9, Table 6A.10).

### *Adjournments on the first day of hearing*

One reason for variation in the timeliness of courts is the number of adjournments. Adjournments at the request of the parties are generally considered to be outside the control of the court and may occur when the parties are not ready or a witness is not available. Adjournments may also occur at the request of the court because of such factors as overlisting.<sup>5</sup>

<sup>5</sup> Managing the number of adjournments is integral to case flow management. Court administrators expect a proportion of their case load on any particular day not to proceed and normally list some standby matters so as to maximise the use of court proceedings.

Court requested adjournments, as a proportion of total hearings initiated, was highest in the Queensland District Court criminal, which adjourned 30 per cent of hearings on their first day. The lowest rate of court requested adjournments occurred in the WA District Court civil (1 per cent) followed by the Victorian County Court criminal (3 per cent) (Figure 6.11).

Figure 6.11: Court requested adjournments on the first day of hearing as a proportion of total court hearings, District/County Court, 1996–97 (per cent)



a not available

b District/County courts did not exist or did not operate in Tasmania, ACT, NT or the Commonwealth jurisdictions.

Source: Table 6A.13

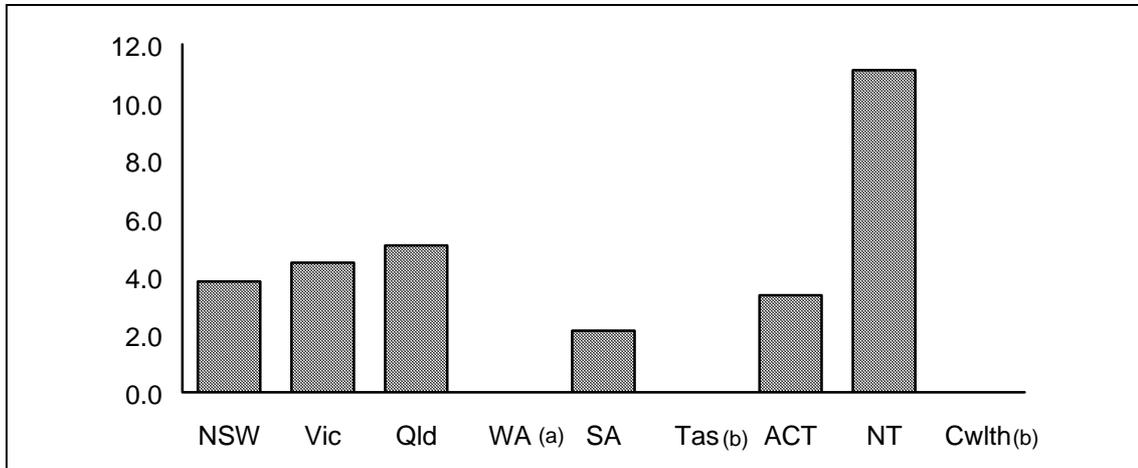
Adjournment rates in the Supreme/Federal Courts varied from 11 per cent in the NT to 2 per cent in SA (Figure 6.12).

### *Geographic accessibility*

Providing rural communities with access to judicial services can be a significant cost for court administration agencies. The services provided by court administration agencies to improve the accessibility of courts to rural and remote communities include:

- judicial circuits where Magistrates and Judges tour rural court houses to hear cases;
- the location of Magistrates' Courts in police stations and staffed by police officers and Justices of the Peace (when Magistrates are not available);
- occasional caravan courts by superior courts to sit in remote areas; and
- video conferencing facilities are used to link capital city court houses to witnesses in remote locations.

Figure 6.12: Court requested adjournments on the first day of hearing as a proportion of total court hearings, Supreme/Federal Court — civil, 1996–97 (per cent)



a Zero per cent in WA.

b not available.

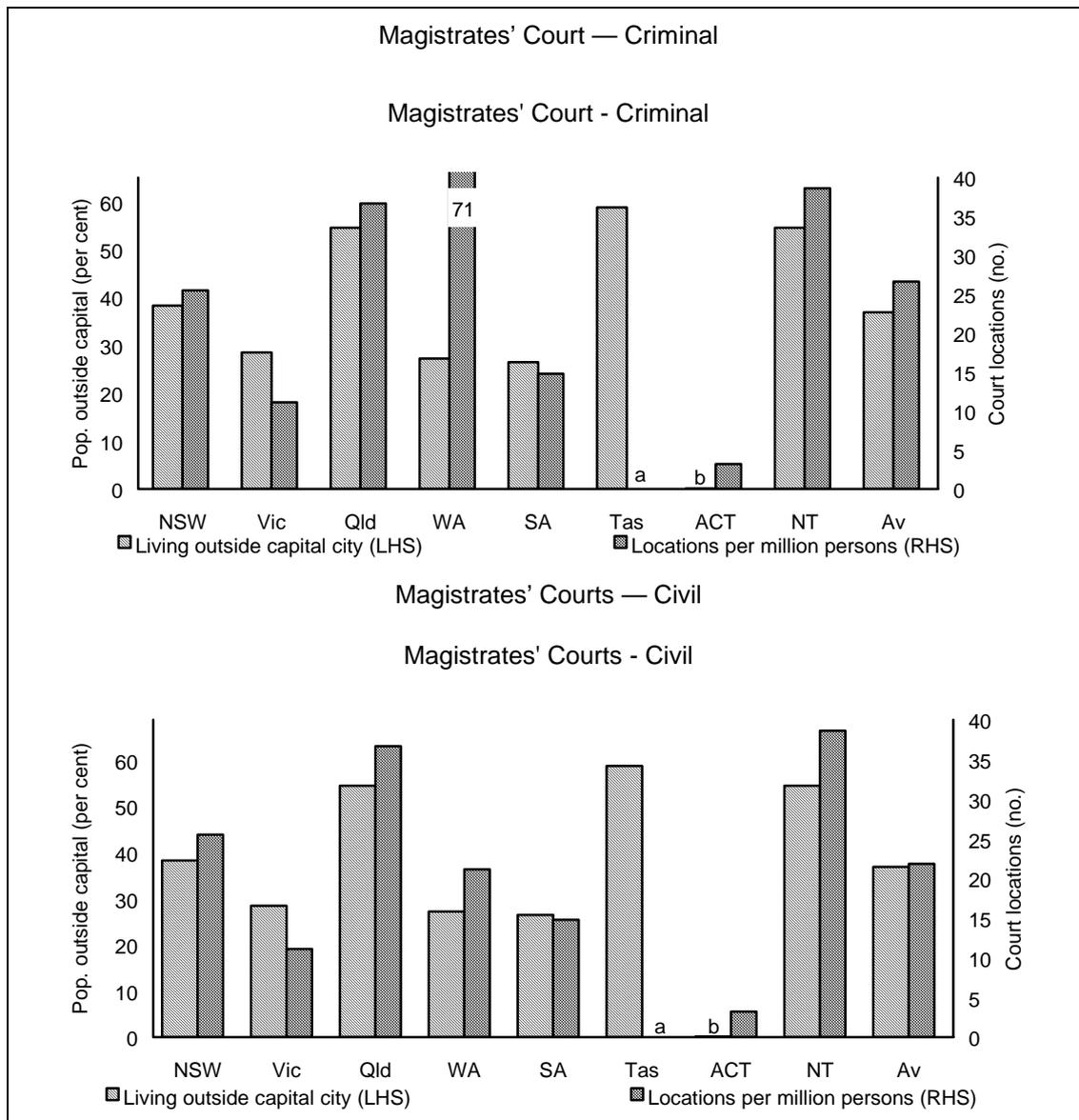
Source: Table 6A.13

One indicator of accessibility of people in rural and remote locations to court services is the relationship between the number of Magistrates' Court locations per million persons and the proportion of the population residing outside the capital city area of the state or territory.

In the civil jurisdiction there appears to be a strong correlation. Those states and territories with relatively low proportions of their population outside the capital city have relatively fewer court locations per million persons — the ACT (0.1 per cent outside Canberra and 3.2 locations per million), SA (26.5 per cent outside Adelaide and 14.8 locations per million), WA (27.2 per cent outside Perth and 21.1 locations per million). The NT has one of the highest proportion of populations outside its capital city (54.5 per cent) and also has a significantly higher proportion of court locations per million persons (38.6).

The correlation is similar in the criminal jurisdiction with a slightly higher number of locations. In WA, the provision of Magistrates' Courts (or Courts of Petty Sessions) in rural police stations is prevalent and is indicated by the relatively high number of locations in that state (71 locations per million persons) (Figure 6.13).

Figure 6.13: Court locations per million persons and the proportion of populations outside capital city, 1996–97



a Data were not available on the number of court locations for Tasmanian Magistrates' Courts.

b 0.1 per cent of the population of the ACT resides outside Canberra.

Source: Table 6A.14

### 6.6.2 Efficiency indicators

Some differences in indicator results for jurisdictions may reflect different counting and reporting rules for generating financial data. Differences may also reflect the treatment of various expenditure items (for example, superannuation).

Expenditure per lodgement (including accommodation costs) for each court jurisdiction varied considerably both among states and territories and over time. Major characteristics of unit cost data presented in this chapter are discussed in Box 6.2.

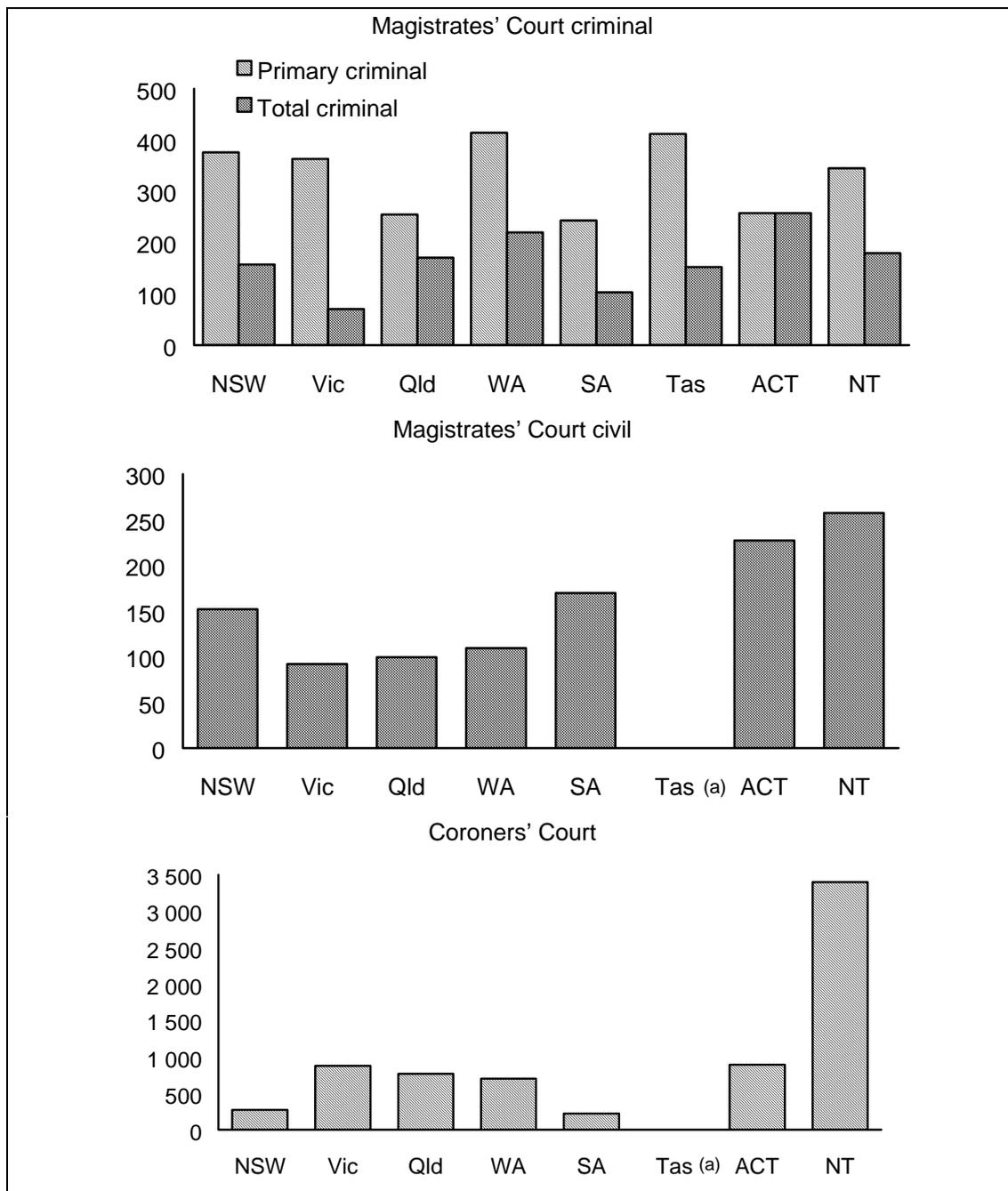
**Box 6.2: Factors affecting efficiency**

The reporting of expenditure by the court administration data collection accounts and reflects the following issues:

- some services provided by court administration agencies in one state or territory are provided by umbrella departments in others. The share of the umbrella department's costs, where relevant, has been included in total expenditure;
- some courts do not provide certain services in-house but contract external providers. The courts and the contracted providers may recoup some of the cost of delivering these services through user charges. The net cost to government has been reported for these cases; and
- the reporting of unit costs for the criminal and civil jurisdictions is dependent upon the ability of courts to apportion costs. The 1996–97 data set incorporated new nationally consistent cost drivers for court cost centres which in some states and territories varied significantly from past apportionment practices.

Expenditure per lodgement for Magistrates' Courts (criminal) was lowest in Victoria and SA in 1996–97. Unit costs in the civil jurisdiction were also lowest in Victoria. Expenditure per primary criminal lodgement (that is, excluding minor traffic matters), however, was lowest in SA (\$243) and highest in WA (\$414). The Coroner's Court cost per reported death and fire was lowest in SA (where the reporting rate is highest) followed by New South Wales and WA (Figure 6.14).

Figure 6.14: Expenditure per lodgement, lower courts, 1996–97 (\$)

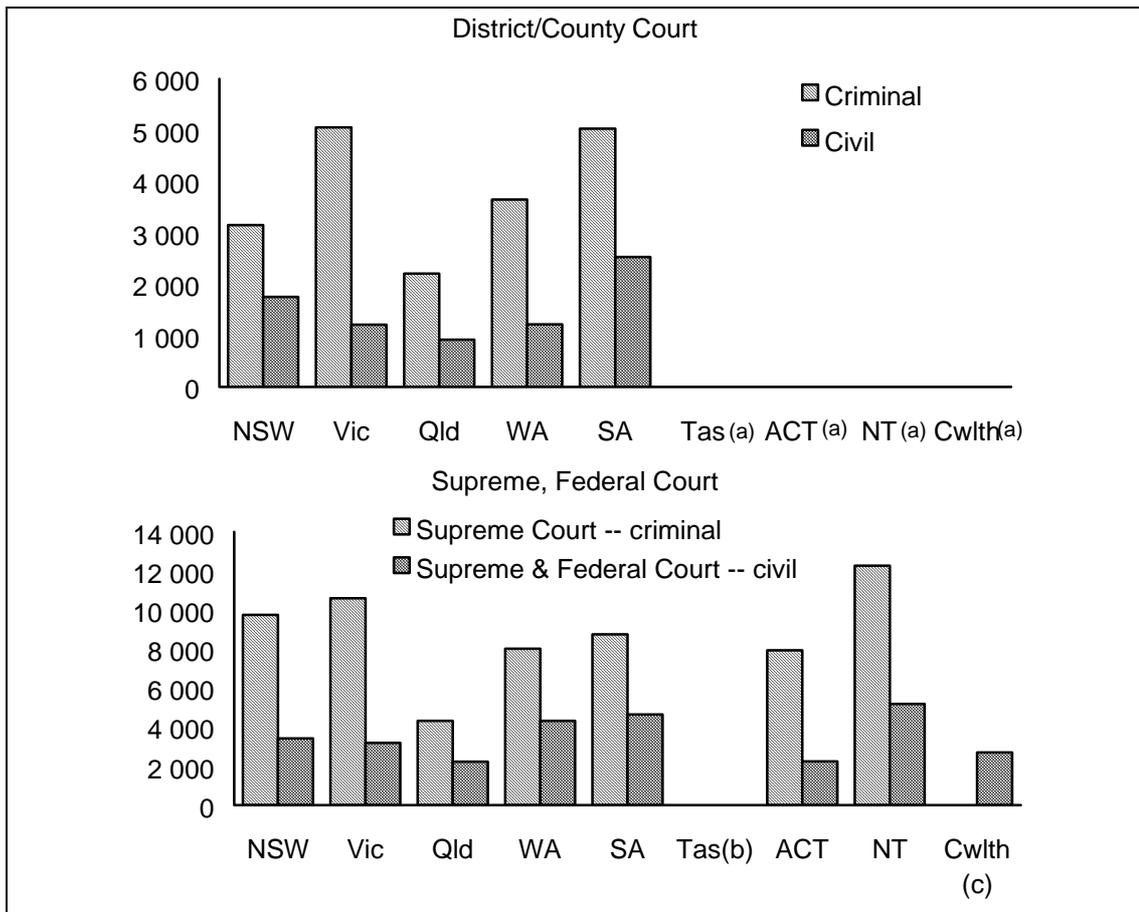


a not available

Source: Table 6A.15; Table 6A.16

District/County Court unit costs were lowest in Queensland for both the criminal and civil jurisdictions. Unit costs were also low in the Queensland Supreme Court criminal jurisdiction. In the Supreme/Federal Court civil jurisdiction the lowest unit costs were reported by the ACT and the Queensland Supreme Court (Figure 6.15).

Figure 6.15: Expenditure per lodgement, superior courts, 1996–97 (\$)



a District/County courts did not exist or did not operate in Tasmania, ACT, NT or the Commonwealth jurisdictions.

b Data not available for Tasmania.

c Supreme Court criminal did not operate in the Commonwealth jurisdiction.

Source: Table 6A.15

Expenditure per lodgement amongst family courts was \$694 for the Family Court of WA and \$835 for the Family Court of Australia. Expenditure per lodgement for the family courts compared favourably to that of the other superior courts (Table 6A.15).

Nationally, expenditure per lodgement in the criminal jurisdiction decreased by 14 per cent in real terms between 1994–95 and 1996–97 and unit costs in the civil jurisdiction increased by 5 per cent. In part these changes reflect the impact of the application of new cost apportionments which have resulted in a reassignment of expenditure from the criminal to the civil jurisdictions. In addition, NSW shifted resources to the civil jurisdiction of the District Court in order to reduce case backlogs which were resulting in increasing finalisation times.

There were other significant changes to the unit costs of individual courts. For example, reductions in expenditure per criminal case occurred in the WA District Court, ACT Supreme Court and Victorian Supreme Court while expenditure per civil case increased in the Federal Court and the Victoria and SA Supreme Courts (Table 6.9).

Table 6.9: Change in real expenditure per lodgement, 1994–95 to 1996–97 (per cent)

	<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>Cwlth</i>	<i>Avg</i>
<i>Criminal</i>										
Magistrates' Court	-38	-7	2	54	-7	-31	-9	-24	—	-14
District/County Court	-19	3	-9	-12	15	—	—	—	—	-10
Supreme Court	-7	-33	-10	11	-11	na	-19	-43	—	-7
All Courts	-35	-3	0	35	-8	-41	-6	-30	—	-14
<i>Civil</i>										
Magistrates' Court	46	39	-10	-52	0	na	17	-56	—	10
District/County Court	222	33	-43	2	-38	—	—	—	—	39
Supreme/Federal Court	4	49	-29	-16	70	na	-20	-61	29	23
All Courts	25	24	-32	-15	6	na	16	-54	29	5
Family Court	—	—	—	-13	—	—	—	—	-8	-9
<i>Criminal and civil</i>										
Magistrates' Court	-21	5	-3	10	-7	11	5	-39	—	-8
District/County Court	32	19	-21	-7	-17	—	—	—	—	8
Supreme Court	2	32	-24	-14	49	na	-18	-51	29	17

na not available

— These courts did not exist or did not operate in this jurisdiction.

Source: Table 6A.15