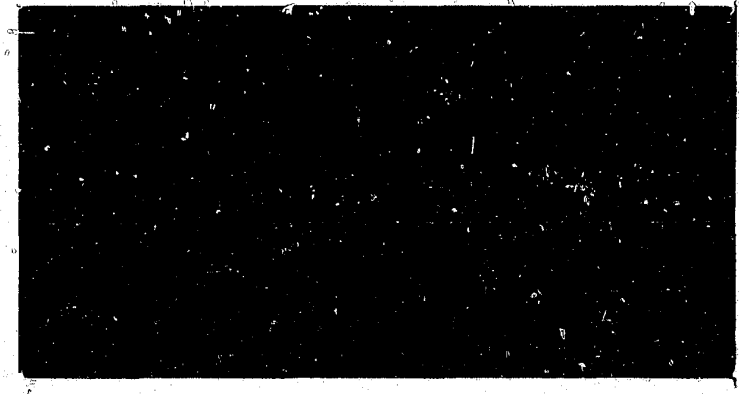

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STUDY OF PRELIMINARY HEARING PROCEDURE BEFORE COMMITTAL FOR TRIAL

Study Series No. 2

Planning and Development Division
Department of Justice
Wellington
New Zealand

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This report is the second in a new series of studies published by the Planning and Development Division. Publications in this series will present the results of investigations into various aspects of the administration of the judicial system and other areas of departmental activity.

As its primary purpose this study examines the operation of a new procedure, embodied in section 173A of the Summary Proceedings Act 1954, which provides an alternative for the committal process and preliminary hearings in Magistrates' Courts prior to jury trial in the Supreme Court. The study also encompasses persons who were committed for sentence to the Supreme Court under the various committal provisions.

The efficient administration of the court system is fundamental to the orderly functioning of society. In today's environment efficiency must, perforce, be linked with economy. The development of procedures that, consistent with the requirement to ensure that justice is done, contribute to both the efficient and economic operation of the court system is of high priority.

This study examines a procedure which was introduced in New Zealand based on an English model and experience. The procedure has a three-fold objective. First, to minimise inconvenience to the public (witnesses) and to the prosecution and defence; second to provide a more efficient and economic alternative at the preliminary hearing stage thereby saving valuable judicial and administrative time and third to reduce the time between arrest and committal for trial. This last objective is particularly relevant where an accused is held in custody pending trial. The beneficial features at this point may be seen as -

(i) social, in avoiding unconvicted persons having to wait an unreasonable period for their fate to be settled, and

(ii) economic, in reducing the cost of keeping a person in a custodial institution awaiting trial.

As revealed in this study it seems an unfortunate fact that the procedure has not been used widely enough to permit these objectives to be met. Action is now required to ensure that those who are concerned in the practical working environment are aware of the procedure, its objectives and its virtues. From the limited experience with it there has been no indication to the Department that the procedure is deficient in either concept or practice.

The experience with this provision does suggest that where new or alternative procedures are introduced action is required beyond the point of legislative provision. Any new procedure must be actively sponsored and its operation monitored at a working level between all groups concerned in the operation of the system.

This research was undertaken by Ms P.C. Oxley, Senior Research Officer, and Mrs J.A. Nanson, Assistant Research Officer, of the Planning and Development Division. Our thanks to the Registrars of the Supreme Court and to the various Registrars of Magistrate's Courts who provided the necessary files and other information.

M.P. SMITH
Director (Planning and Development Division)

COMMITTALS TO THE SUPREME COURT FOR TRIAL OR SENTENCE

General Introduction

These two reports were initiated by queries pertaining to committal procedures to the Supreme Court namely -

1. The use being made of "written" submissions at preliminary hearings pursuant to section 173A, Summary Proceedings Amendment Act 1976.

2. The effect of bail or custody remands in relation to the time taken to complete Court proceedings.

Method

The data is restricted to completed Supreme Court trials and sentences committed during the period from the beginning of 1978 to 30 April 1978. Convenience dictated that the sample be selected from Supreme Court files, consequently preliminary hearings not resulting in committal for trial or sentence are excluded from the survey. Cases still pending and expected appeals are also not included.

It must be noted that the actual number of preliminary hearings over the period in question numbered 164, although 225 defendants were represented. For sentences there were 45 defendants, 17 committed under section 168 of the Summary Proceedings Act, represented by 13 hearings, plus 10 committed under section 153A and 18 under section 44 of the Summary Proceedings Act. Some of the analysis uses "total hearings" while other parts use "total defendants", but this is clearly stated. Because of the lack of numbers, some tables combine sentences and trials but again this is stated.

REPORT CONCERNING S.173A OF THE SUMMARY PROCEEDINGS ACT 1954

Introduction and Summary

The amendment making provision for this procedure came into force on 1 May 1977. It was introduced in response to a need to preserve the benefits of the prevailing system; namely the protection of a citizen against accusation which is insufficiently supported to justify a trial and the provision for the accused of full information of the case against him, but with a perceived saving in time and effort of the public, Courts, legal profession and the police. The amendment was also envisaged as saving both time and money of witnesses, in that members of the public can be spared the necessity of leaving business or employment to come to the Court to give formal evidence which, in many cases, is not contested. This, coupled with the presumed saving in administration, would appear to present a worthwhile alternative.

The amendment allows -

(i) that at any preliminary hearing, written statements by any persons be admissible as evidence to the same extent as oral evidence, subject to the consent of all parties to the hearing;

(ii) Witnesses need not attend a preliminary hearing unless especially called upon by the Court;

(iii) The Court may make a formal order of committal without consideration of the material contained in the written statements;

(iv) Representation by the solicitor of the defendant ensures proper protection for every accused.

The amendment was introduced following a Report of the Criminal Law Reform Committee presented to the Minister of Justice in September 1972. The principles, and indeed the general framework of the proposed procedure, were similar to provisions introduced in England by their Criminal Justice Act of 1967.

Information then available to the Criminal Law Reform Committee indicated that the new provision was being widely used in England and Wales. Although no precise statistics were available figures suggested that in some areas over 90% of all committals for trial were made on the papers alone.

Following the provision in legislation here of a similar procedure it was expected that ready acceptance and usage of the new system by both prosecution and defence, would reduce considerably the time spent on deposition taking in Courts. However, in spite of the likely advantages it seemed that in most Courts the new procedure was being used very sparingly. It was then decided to monitor the new procedure in an objective way over a limited period.

This research was designed to -

(a) ascertain the use of the new amendment;

(b) investigate the effects of its use on the total length of time spent in the Courts.

The analysis is subdivided into "WRITTEN", "ORAL" or "BOTH". "Written" is here used to refer to a preliminary hearing in which only written statements of witnesses are presented as evidence and with the absence of any cross examination.

"Oral" is here used to refer to a preliminary hearing in which only oral evidence (other than exhibits) is submitted by witnesses and can be seen as constituting the old procedure in which evidence is presented and cross examination may ensue.

"Both" refers to those cases in which both written and oral statements are submitted. Written statements usually being presented by seemingly less important witnesses, expert witnesses, or in cases where attendance at Court is impossible.

Registrars were asked for comments and some of these comments have been incorporated later in this account.

As is apparent from the following data and commentary the new procedure is being used only sparingly. More than 80% of all committals for trial are preceded by a full preliminary hearing. No doubt a somewhat cautious approach to such a new procedure could be expected but one would have expected that after it had been in force for more than 6 months any inherent resistance to change would have dissipated.

There has then been no significant or substantial benefit accruing from the introduction of this provision as was envisaged by the Criminal Law Reform Committee. It is not the purpose of this study to investigate the reasons why the procedure is not used more often although the commentary does make some observations.

Clearly the decision as to what procedure is to be used must rest with the prosecuting agency (usually the police) and the solicitor acting for the accused. Both will wish to adopt the procedure consistent with their respective interests. Nevertheless, based on the English experience, there does not seem to be any obvious reason why the new procedure should not be utilised in a much higher proportion of cases. In the interests of the efficient and economic administration of the court system positive action should now be taken to encourage this.

Putting aside the issue of convenience and efficiency it is disturbing to see from the facts obtained in this study that, where the new procedure is used, the mean time between arrest and committal for trial or sentence is substantially longer than where the full preliminary hearing procedure is adopted. If wider use is to be made of the new provision this situation must be avoided.

Results

The figures for the period, although small show clearly the limited use being made of the new procedure. Of the 164 hearings only 5.5% used written evidence only. Allowing for the inclusion of both, as a truer representation of the use of the new amendment, only 17.7% of all cases utilized the amendment provision.

Table I Type of Procedure per Hearing

Procedure	Number	Percentage
Written	9	5.5
Oral	135	82.3
Both	20	12.2
Total	164	100.0

Perhaps surprisingly it was found that people represented by legal aid were more likely to have a preliminary hearing using written statements than defendants with a privately retained solicitor. Although the numbers are too small to make any firm statement, the tendency is clearly represented and further research in this area could be of interest. Certainly it would be necessary to form firm conclusions.

Table IIA Legal Aid/Non-Legal Aid X Type of Procedure : Per Defendant

	Legal Aid		Non-Legal Aid		Not Represented		Not Known		Totals	
	No.	%	No.	%	No.	%	No.	%	No.	%
Written	6	6.5	6	4.8	-	-	-	-	12	5.3
Oral	62	66.7	100	79.4	2	50.0	1	50.0	165	73.3
Both	25	26.9	20	15.9	2	50.0	1	50.0	48	21.3
Totals	93	100.0	126	100.0	4	100.0	2	100.0	225	100.0

While fewer persons overall received legal aid, 41.3% compared with 56% non-legal aid, 50% of all written statements were submitted for persons represented by legal aid. Further, 52% of all proceedings using both written and oral statements were represented by legal aid counsel.

Table IIB — Type of Procedure X Legal Aid/Non-Legal Aid : Per Defendant

	Written		Oral		Both		Totals	
	No.	%	No.	%	No.	%	No.	%
Legal Aid	6	50.0	62	37.6	25	52.1	93	41.3
Non-Legal Aid	6	50.0	100	60.6	20	41.7	126	56.0
Not Represented	-	-	2	1.2	2	4.2	4	1.8
Not Known	-	-	1	.6	1	2.1	2	.9
Totals	12	100.0	165	100.0	48	100.0	225	100.0

(N = 225)

Data in respect of committals for sentence show a somewhat reverse trend with a greater number of defendants on legal aid, 58.8% compared with 41.2% who were non-legal aid. Percentages have not been included in table III due to lack of sufficient numbers to present a meaningful representation. It can be seen that all non-legal aid counsel depositions were written and with the exception of one, all legal aid counsel used oral depositions.

Table III — Legal Aid/Non-Legal Aid X Type of Procedure Per Defendant (Sentences Only)

	Legal Aid	Non-Legal Aid	Totals
Written	1	7	8
Oral	9	-	9
Both	-	-	-
Totals	10	7	17

(N = 17)

In order to ascertain whether there were any marked geographical differences in the use of the new amendment, figures were collected to represent the type of procedure for each Magistrate's Court.

Table IV includes both persons for trial, and those committed for sentence under section 168 of the Summary Proceedings Act. In all cases those committed under section 153A of the Summary Proceedings Act did not have preliminary hearings and are not included.

Table IV Type of Procedure X Magistrate's Court - Trial and Sentence, N = 177

Court	Written	Oral	Both
Whangarei	-	1	-
Auckland	5	33	7
Otahuhu	-	6	1
Papakura	-	5	-
North Shore	-	3	-
Henderson	-	3	-
Takapuna	-	1	-
Hamilton	-	9	3
Huntly	-	1	-
Te Awamutu	3	1	-
Morrinsville	-	1	-
Tauranga	-	2	-
Whakatane	-	1	-
Paeroa	-	1	-
Gisborne	-	4	-
Opotiki	-	1	-
Hastings	-	3	-
Napier	1	4	-
New Plymouth	-	2	-
Stratford	-	1	-
Rotorua	2	2	-
Wanganui	1	-	-
Palmerston North	1	5	-
Masterton	-	1	-
Lower Hutt	-	2	2
Wellington	3	3	1
Nelson	-	4	-
Christchurch	-	30	1
Ashburton	-	2	-
Dunedin	-	9	1
Invercargill	-	-	4
Totals	16	141	20

It is difficult from the numbers represented to conclude any geographical variation although the figure for Christchurch does highlight the variations in practice that appear to exist. Overall these figures do show clearly the general lack of use of the amendment by all Courts.

It has been suggested by some Registrars that the amendment tended to be used by more senior counsel, junior counsel in some cases using preliminary hearings as a "dress rehearsal" for Supreme Court trials. Other Courts suggested that the preliminary hearing allowed the opportunity for counsel to evaluate the witness even if the evidence may be strictly technical.

To ascertain whether the amendment tended to be used by "senior" or "junior" counsel in the main, all Court Registrars were asked to give a confidential assessment of their placing of counsel on a three point scale ranging from junior to senior counsel according to their assessed experience. This form of rating inevitably contains both subjective elements and semantic problems but the ratings in cases where one counsel appeared in more than one Court appear to be consistent. Where more than one counsel did receive more than one rating the highest is included for the analysis.

It was established that, when taken together for both trials and sentences, junior counsel made greater use than senior counsel, but not middle counsel, of the amendment. Junior counsel used the new amendment more frequently for trials while middle counsel used it more frequently for sentences.

Table VA Type of Procedure X Type of Counsel

	Trials						Sentences		
	Junior		Middle		Senior		Junior	Middle	Senior
	No.	%	No.	%	No.	%	No.	No.	No.
Written	6	6.7	4	5.8	2	3.4	2	5	-
Oral	62	68.9	55	79.7	43	74.2	1	6	3
Both	22	24.4	10	14.5	13	22.4	-	-	-
Totals	90	100.0	69	100.0	58	100.0	3	11	3

(N = 217.4 don't know and 1 not applicable and 3 not represented.) (N = 17)

Table VB Type of Procedure X Type of Counsel for Trials and Sentences as Percentages

	Junior	Middle	Senior
Written	8.6	11.3	3.3
Oral	67.7	76.3	75.4
Both	23.7	12.5	21.3
Totals	100.0	100.0	100.0

(N = 234)

It is also of interest to note the distribution of counsel. 41.5% of all defendants were represented by junior counsel, 31.8% by middle and 26.8% by senior counsel.

For sentences, junior counsel represented 17.7%, middle 64.7% and senior 17.7%.

Perhaps the biggest advantage envisaged by the use of Section 173A was the saving in time and administration afforded by the use of written statements. Comparing procedures in terms of time spent in the Magistrate's Court from first appearance to committal the reverse was found to hold. Although Table VIA and VIB relate to the time taken between first appearance in the Magistrate's Court and committal for trial or sentence there are other advantages in time saving such as that of Magistrate, court administration officers, counsel and witnesses which is not recorded here. These tables refer only to length of Court proceedings and could well be a reflection of the cases themselves. More research is required before conclusions can be drawn with any confidence. The figures, represented as measures of central tendency can be badly distorted with the imbalance of numbers, particularly in the case of the small numbers of written depositions.

Table VIA Procedure X Time (in days) from First Appearance in Magistrate's Court to Committal Per Defendant

Trials

Type of Procedure	Shortest	Longest	Median	Mean	Total Trials
Written	same day	106	73	71	12
Oral	same day	214	48	48	163
Both	11	117	37	55	48

(N = 223)
(2 oral don't know excluded)

Table VIB Procedure X Time (in days) from First Appearance in Magistrate's Court to Committal Per Defendant

Sentences

Type of Procedure	Shortest	Longest	Median	Mean	Total Sentences
Written	29	72	65	58	8
Oral	6	51	17	24	9
Both	-	-	-	-	-

(N = 17)

The use of the median shows the point at which 50% of all times fall below and 50% fall above and as such is a useful measure of central tendency; the mean represents the arithmetical average of all scores. A comparison of the mean and median allows for an assessment of not only the skewness of the population but also its direction. In Table VIA above the mean and median for "written" and "oral" are a good indication of the average time spent in the Magistrate's Court preceding committal. There is some difference between the two measures for hearings which used both types of evidence indicating that the mean length of time spent in the Magistrate's Court is weighted

by the longer durations. The results show that written hearings are longer, not shorter, than oral ones. However, because of the small number of written hearings the results must be treated with caution. It is worth noting that the longest "written" and "both" hearings were considerably shorter than the "oral" one.

The average times shown in Table VIB must also be treated with caution because of the small number of cases involved.

Discussion

All Courts expressed an interest in research in this area. Most felt that more use could be made of the procedure and that un- familiarity with the legislation was a major cause of its lack of use.

Some felt that the procedure was especially useful primarily for minor or expert witnesses and therefore considerable time savings would not be great.

There was a general feeling that conservatism was no small reason for lack of use, this coupled with lack of knowledge relating to the new procedure.

For all practical purposes the usage of the section rests substantially on the initiative of the police, it being their approach to counsel and their request for consent to use statements that triggers the use of the procedure.

Some Courts expressed concern that preparation of written statements lacked the care needed if they are to be a substitute for depositions. An interesting corollary of this would be an investigation into applications under section 347 of the Crimes Act, 1961 when the alternative procedure is being used.

It would appear that, contrary to suppositions, junior counsel tend to make use of the new procedure more readily, but that the desired saving in time is not manifest; in fact from this sample the reverse would appear to be the case. However, in the cases where it was used, there would doubtless be other savings to the court administration. As the use of the section can largely be seen to be initiated by the police perhaps if the police made an approach to counsel in every deposition case the usage rate may markedly increase.

References:

Report of the Criminal Law Reform Committee, "Preliminary Hearings of Indictable Offences" 1972.
Summary Proceedings Amendment Act 1976.

REPORT ON THE EFFECT OF BAIL OR CUSTODY REMANDS

Introduction

The Planning and Development Division of the Department of Justice has for some time been interested in the time taken to process cases through Court and is constantly monitoring procedures to reduce this period. Of particular interest is the waiting time from committal to trial and whether the condition of bail or custody has any discernible influence on these times.

While we had the opportunity, the comparison of persons remanded in custody and bail during different stages of the Court proceedings was extended to other related factors: plea, outcome and whether Justices of the Peace or a Magistrate conducted the preliminary hearing.

Numbers include:

(a) 225 defendants represented at 164 hearings culminating in a Supreme Court trial;

(b) Persons sent up to the Supreme Court for sentence, a total of 45 persons, 17 committed under section 168 represented at 13 hearings. The balance of persons being committed under sections 153A and 44, Summary Proceedings Act and incorporated in the analysis where appropriate. Those committed under section 153A totalled 10, the remaining 18 constituting committals for sentence under section 44 of the Act.

Results

Of a total of 225 persons committed for trial 189 (84%) were remanded on bail and 36 (16%) were held in custody.

Of the 45 persons committed for sentence only 11 (24.4%) were on bail and 34 (75.6%) were held in custody.

Table VII Length of Committal Time from the Magistrate's Court to Trial Or Sentence X Bail/Custody (per defendant) (days)

VIIA Trials

Remand	Shortest	Longest	Median	Mean	Total Trials
Bail	10	209	70.5	72	188
Custody	6	124	47.5	48	36

N = 224
(1 excluded don't know)

VIIB Sentences

Remand	Shortest	Longest	Median	Mean	Total Sentences
Bail	same day	138	27	44	11
Custody	same day	101	23	28	34

The figures show a reasonably symmetrical distribution with the exception of sentence/bail. The small number involved could account for this discrepancy between the mean and median. For both sentences and trials the waiting time from committal to Supreme Court proceedings is appreciably shorter for persons held in custody than those bailed.

For trials both the "shortest" and "longest" time period favours those in custody. This is maintained by a comparison of both the mean and median. Sentences show a similar trend.

These results are particularly pleasing in view of the fact that prior to 1973 conditions favoured persons held in custody while in 1976 the figures show little difference between the two conditions of remand. It is thought desirable that a person in custody has a shorter waiting period from committal to trial particularly because such persons have not yet been convicted and are suffering a loss of liberty. However for those bailed the waiting time appears to have increased considerably since 1976 although some of the times may be inflated for those persons affected by the vacation period, most Courts not being in operation until mid-January.

Table VIII Weeks from Committal to Trial (Average)*

	Bail	Custody
1968	9.3	7.9
1972	6.7	5.3
1973	7.1	6.3
1974	7.8	7.5
1975	7.9	7.8
1976	8.4	8.5

*Taken from Submissions of the Department of Justice to the Royal Commission on the Courts, Appendix to Part I, Table 14(b).

It was reported that, "up until 1973 the programming of criminal trials seems to have taken account of whether the defendant was on trial or in custody. However in the last three years - and these are years where overall waiting time has become larger - this difference does not appear."[1]

The Streatfield Committee[2] (Cmnd 1289) stated that, although a much shorter waiting period is desirable, the maximum waiting period between committal and trial should be 8 weeks.

Taking eight weeks (56 days) as a cut off point we find in our 1978 sample that 33% of cases remanded on bail and 72.2% of cases remanded in custody were heard within this period.

It is noted that in England and Wales in 1977 the average waiting time following committal for trial was 12 weeks.[3]

An analysis of the outcome of the Supreme Court trial according to the bail/custody dichotomy shows that more people held in custody are convicted, with fewer being acquitted and discharged than those on bail.

Table IX Bail/Custody X Outcome

Outcome	Bail		Custody	
	No.	%	No.	%
Convicted	134	72.4	33	91.7
Acquitted	23	12.4	2	5.6
Discharged	28	15.2	1	2.7
Totals	185	100.0	36	100.0

(Table does not include 4 cases pending)

An analysis of pleas confirmed earlier results [4], showing a high rate of change of plea from committal to arraignment. This earlier study found that 30% committed for trial in Auckland in 1977 changed their plea to guilty on arraignment, with Wellington in excess of 20%.

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1 Submissions of Department of Justice to Royal Commission on the Courts, Part I, 1977, p.54, para. 8.33.

2 Submissions of Department of Justice to Royal Commission on the Courts, Part I, 1977, p.55, para. 8.35.

3 Judicial Statistics: Annual Report 1977. Cmnd. 7254.

4 Justice Department, Survey of Pleas in Supreme Court Trials, 1978.

Table X Bail or Custody X Plea

Plea	Bail		Custody	
	No.	%	No.	%
Guilty	52	27.8	20	55.6
Not Guilty	115	61.5	15	41.7
No Plea	20	10.7	1	2.7
Totals	187	100.0	36	100.0

(2 pending not included)
Chi square = 7.436, showing significant at .01 level.

Table X shows not only a similar trend for all Courts but also a greater likelihood of this among persons held in custody. This result was found to be highly significant using chi square statistics. This represents an area of interest from two perspectives. First, why are so many pleading guilty on arraignment in the Supreme Court, and second, why should people in custody change their plea more often? As to the first question, tentative reasons were advanced in Study Series I, 'Survey of Pleas in Supreme Court Trials' (1978). As to the second issue, is it that the accused may be more accessible to counsel who seeks this option, could the demoralising effects of custody be in part responsible, or does their inherent guilt predetermine the remand in custody?

It was found that while more people received bail while awaiting trial, an increased proportion received custody while waiting for sentence. Nearly one-third of all persons who were released on bail between committal and trial and who were found guilty were remanded in custody for sentence. As would be expected, most persons remanded in custody for trial were also remanded in custody for sentence.

One feature that requires comment relates to acquittal where the accused had been held in custody between committal and trial at least. Although the number in this sample is small, it amounts to 8.3% of all persons held in custody. Reverting back to the information in Table VIIA this means that a not insignificant percentage of persons may be detained in custody for an average period of 7 weeks and then acquitted.

Table XI Bail or Custody on Committal X Bail or Custody for Sentence

	On Committal					
	Bail		Custody		Totals	
For Sentence	No.	%	No.	%	No.	%
Bail	66	34.9	1	2.8	67	29.8
Custody	56	29.6	28	77.8	84	37.3
Sentenced of same day	15	7.9	4	11.1	19	8.4
Not Applicable	52	27.5	3	8.3	55	24.4
Totals	189	100.0	36	100.0	225	100.0

Earlier figures show that the length of time from committal to the Supreme Court for trial or sentence was markedly shorter for persons held in custody but this was not found to be the case where a person had been found guilty in the Supreme Court and was awaiting sentence. The average time for these persons, was slightly higher for those in custody than those on bail.

Table XII Bail/Custody for Sentence X Time Awaiting Sentence (Days)

	Shortest	Longest	Median	Mean	Totals
Bail	3	61	9	12	67
Custody	1	50	10	15	84

(N = 151)
(excludes 74 persons acquitted or sentenced on the same day)

However, in view of the fact that both the "longest" and "shortest" period both favour the custodial remand and of the small difference in the median for the two remand conditions this result cannot claim great significance. The length of time from the first hearing to committal is probably of more importance as a comparison.

Table XIII shows the number of persons held on bail or in custody from the various Magistrates' Courts for trial or sentence.

Table XIII Bail/Custody X Magistrate's Court (Trials and Sentences)

	Trial		Sentence	
Court	Bail	Custody	Bail	Custody
Whangarei	2	-	-	-
Auckland	38	11	4	3
Otahuhu	7	1	-	2
Papakura	3	2	-	-
North Shore	10	-	-	-
Henderson	3	-	-	-
Takapuna	1	-	-	-
Hamilton	17	5	-	5
Huntly	1	-	-	-
Morrinsville	1	-	-	-
Te Awamutu	1	-	-	3
Tauranga	3	-	-	-
Whakatane	2	-	-	-
Paeroa	1	-	-	-
Gisborne	3	1	-	1
Opotiki	1	-	-	-
Hastings	6	-	1	-
Napier	5	1	-	1
New Plymouth	2	-	-	-
Stratford	1	-	-	-
Rotorua	7	-	-	-
Wanganui	-	-	-	1
Palmerston Nth	5	2	-	1
Masterton	-	-	-	1
Upper Hutt	-	-	-	2
Lower Hutt	22	-	-	-
Wellington	6	-	5	2
Nelson	4	-	-	-
Christchurch	21	11	1	11
Ashburton	2	-	-	-
Dunedin	9	1	-	1
Invercargill	5	1	-	-
Totals	189	36	11	34

(N = 225 + 45 sentences)

Relatively more people are held in custody for sentence from the Magistrate's Court compared to those awaiting trial. This would be expected in view of the fact that they have already been convicted. Of those awaiting trial 84% are on bail with 16% in custody. For persons awaiting sentence 24.4% are on bail with 75.6% in custody.

It is difficult to draw positive conclusions from the above table although it does suggest that in Christchurch a higher percentage of people are remanded in custody than is the case in other courts.

It appeared to make no difference to the conditions of remand whether Justices of the Peace or a Magistrate presided over the preliminary hearing. Magistrates appeared to preside over seemingly more serious cases and preside over a little under 20% of all preliminary hearings for trials (Table XIVA). Sentencing under sections 168 and 153A presents a somewhat different picture with a markedly greater proportion of hearings presided over by Justices of the Peace resulting in a custodial remand (Table XIVB). The small number involved must however be borne in mind.

Table XIVA Bail X JPs or SM for Trials

	JPs		SM		Totals	
	No.	%	No.	%	No.	%
Bail	178	84.0	11	84.6	189	84.0
Custody	34	16.0	2	15.4	36	16.0
Totals	212	100.0	13	100.0	225	100.0

Table XIVB Bail X JPs or SM for Sentencing (s.168 and 153A)

	JPs		SM		Totals	
	No.	%	No.	%	No.	%
Bail	3	15.8	4	66.7	7	28.0
Custody	16	84.2	2	33.3	18	72.0
Totals	19	100.0	6	100.0	25	100.0

Conclusion

In spite of the small numbers involved, this analysis and the data provided form a useful summary of committal proceedings in New Zealand over the first part of this year. The figures relating to pleas add credence to earlier work in the area. The section dealing with length of proceedings as a function of remand conditions, although not a cause for complacency, does show a trend in the right direction.

END