

# Testing resolve in testing times

BY CHIEF DISTRICT COURT JUDGE JAN-MARIE DOOGUE

In the February 2018 issue of LawTalk, Chief District Court Judge Jan-Marie Doogue discusses challenges facing the District Court in the year ahead.

The New Year is often a time for making and, shortly thereafter, breaking resolutions.

Although resolutions may be easy to make and hard to keep, it requires more than glib good intentions to run a court as large and busy as the District Court. District Court judges are realists, and for the year ahead we cannot promise to deliver what we can only aspire to, such as vast improvements in court hearing timeframes, particularly for resource hungry jury trials and judge-alone trials.

However, to avert any erosion in access to justice, we have not weakened our resolve to keep searching and testing innovative ways to tackle the burgeoning and unpredictable workload.

We continue to target aged cases, and try to spread judicial resource around the country more evenly so there are more equitable timeframes for all those awaiting their "day in court".



## Combination of forces

Unfortunately, a combination of forces can overtake even these good intentions, not least the rate at which new business comes through the court's doors.

The District Court bench currently numbers 171 permanent judges spread around 58 courts. And as many litigators and law enforcement agencies can attest, the demand for court services did not stop over the summer holiday season.

It is a time of the year notoriously linked to increased family violence, alcohol abuse, road deaths and public disorder offences. Judges remained on hand to deal with urgent court work generated through the period, and JPs and Community Magistrates already sit on Saturdays to process any Friday-night arrests.

As lawyers who regularly appear in the District Court will know, all year round it is not uncommon during weekdays for the busy list courts in urban centres to have to deal with scores of overnight arrests before they can get on with any scheduled work.

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## Rise in more serious and complex cases

Trends in the latter part of 2017 indicate that a rise experienced in the previous few years in the more serious and complex cases which occupy so much court time and resources shows little sign of letting up.

Changes to rostering practices developed by my office have helped judges respond more nimbly to unpredictable demand for trials. This has better enabled judges to mobilise effectively to help out in areas outside their home courts.

We continue to refine that process, and are starting to reap some benefits in the area of jury trials where, by November last year, the numbers of active cases had declined from a peak of 2,003 cases in April 2017 to 1,867.

Despite this, overall the number of active cases was still 9% more than in November 2015. This is a legacy of a surge in new trial cases from October 2015 onwards. Only in the last seven months have those numbers levelled out.

Unfortunately, the lasting effect of a wave of this size moving through a system with limited capacity has been a stagnation in the age of active cases.

There is some good news on dispositions however, and for the month of November 2017 they had increased by two-thirds, from 215 cases two years before, to 345 cases.

This is at a time when the number of permanent District Court judges is falling; the effect of a new "hard" cap on judicial numbers. It has effectively introduced a sinking lid on numbers and removed much of the previous flexibility in the appointments regime which we could call on to fill gaps with new blood from the profession.

## Unrelenting pressure

The unrelenting pressure that the District Court feels in terms of volume takes its toll on everyone working in the criminal justice system.

The impact is compounded when the work regularly exposes people to increasingly graphic details of brutal violence and sexual abuse, or to disturbing Family Court cases concerning the care and protection of children.

And then there is risk from people with a grudge, perceived or otherwise. Recently, there has been publicity about the number and range of potential weapons court security had detected on people trying to enter Auckland courtrooms – from a taser and ceremonial dagger to a spring-loaded knife.

And I do not minimise the impact of those who use social media as their weapon of choice to make vicious personal attacks on judges.

For all these reasons, as Chief Judge I place considerable store in District Court judges coming to their work well prepared, mentally and physically as well as professionally. This holistic approach supports sound decision-making and complements the robust knowledge judges are expected to have of the laws they are interpreting and applying.

Judges make life-changing decisions about those who come before them, with ripple effects throughout communities and other agencies including prisons, the probation service and Oranga Tamariki. Therefore, it is vital the judicial roster provides judges with the requisite breathing space to consider difficult and complex decisions and the respite required to tackle their tasks in the best possible frame of mind. I also work closely with the Ministry of Justice to ensure judges, and the public they serve, feel safe as they go about their business in a courtroom.

## 2018 Resolution

If there is one resolution I am prepared to make this year, it is to do my very best as Chief Judge to field a District Court bench equipped to cope with the unpredictable demands of judicial workload, the uncertainty of the court environment and the confronting material that judges must see and hear.

Building that resilience will be through sensible, pragmatic and sympathetic allocation of judicial resource, and rejection of the “work harder not smarter” approach.

There is little to be gained in working longer and faster if the quality of decision-making is the poorer as a result.

In this regard, we all share an obligation to remain vigilant to pressures that threaten the impartial and fair delivery of justice, including undue stress and burnout.