

The Treasury

Budget 2017 Information Release

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[40]	Not in scope	

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Treasury Report: Budget 2017 Bilateral Meeting with Minister Adams

Date:	21 March 2017	Report No:	T2017/580
		File Number:	DH-0-3

Action Sought

	Action Sought	Deadline
Minister of Finance (Hon Steven Joyce)	Read prior to meeting with Hon Adams on 22 March	Wednesday 22 March 2017

Contact for Telephone Discussion (if required)

Name	Position	Telephone		1st Contact
[23]	Graduate Analyst, Justice, Security and Government Services	[39]	[23]	✓
Colin Hall	Manager, Justice, Security and Government Services	[39]	[23]	

Actions for the Minister's Office Staff (if required)

Return the signed report to Treasury.

Note any feedback on the quality of the report

Enclosure: Yes [Social Sector B17 package 9 March - Justice \(Treasury:3684862\)](#)

Treasury Report: Budget 2017 Bilateral Meeting with Minister Adams

Executive Summary

You are meeting with Hon Adams on Wednesday 22 March to discuss budget initiatives in Votes Justice and Courts.

The Ministry of Justice submitted 10 initiatives in total.

- The Ministry's two Track 1 initiatives were both assessed by Treasury as having met the threshold for Track 1, and are currently included in the draft Track 1 package.
- Of the Track 2 and capital initiatives, two are currently included in the draft package in full, one is included with a scaled amount, and five are not currently included in the draft package.

We expect that the Minister of Justice may be most interested in discussing the following initiatives:

- *Ministry of Justice – Maintaining Capacity in the Justice system* (included in the draft package, scaled)
- *Integrated Safety Response to Family Violence – Extending the Pilot* (not included)
- [33]
- *Health, Safety, Security and Emergency Management* (not included).

If you were to provide additional funding from the Budget 2017 allowances for these votes, we suggest that the highest priority area would be fully funding Ministry of Justice – Maintaining Capacity in the Justice system. Not funding this cost pressure could result in longer processing times in the court system and contribute to a higher remand population in the prison system.

Beyond this, we suggest that cost pressure initiatives in Vote Corrections currently excluded from the draft package are a higher priority for additional funding within the justice sector than the remaining initiatives in Votes Justice and Courts.

There have been a number of significant cost pressure initiatives from the justice sector in the last two years, driven mostly by policy changes and the rising prison population. A number of these pressures have been dealt with as pre-commitments, so are not the subject of decisions now. However, these pressures are significant. To manage the risk of further significant cost increases for the justice sector in future, we suggest:

- applying a high threshold for further policy change that might create pressure on the prison population
- requiring an agreed cross-sector estimate of the pipeline impact of any policy changes to be included in advice ahead of decisions
- indicating strong Ministerial backing for the development of the Investment Approach to Justice, and

- considering options for reducing the prison population and/or opening up a wider public discussion about our approach to crime.

Recommended Action

We recommend that you:

- a **note** that the Minister of Justice has received the draft package and Treasury's Track 1 recommendations for the justice sector
- b **note** that the Minister of Justice may be most interested in discussing the following initiatives:
 - *Ministry of Justice- Maintaining Capacity in the Justice system*
 - *Integrated Safety Response to Family Violence – Extending the Pilot*
 - [33]
 - *Health, Safety, Security and Emergency Management, and*
- c **note** that we consider fully funding *Ministry of Justice – Maintaining Capacity in the Justice system* to be the next highest priority in Votes Justice and Courts.

Colin Hall
Manager, Justice Security and Government Services

Steven Joyce
Minister of Finance

Treasury Report: Budget 2017 Bilateral Meeting with Minister Adams

Purpose of Report

1. You are meeting with Hon Adams on Wednesday 22 March at 3.15pm to discuss budget initiatives in Votes Justice and Courts. This briefing outlines our advice on budget initiatives in these votes to support this meeting.

Initiative Assessment

2. Under the draft package, initiatives led by the Ministry of Justice would receive a total of:
 - \$43.465 million per annum on average (4.5%), from a total social sector package of \$972.9 million per annum
 - \$2.09 million (1%) of the total capital package of \$202.09 million, and
 - \$11.72 million per annum on average (21%) of proposed Track 1 funding.
3. By comparison, in Budget 2016, Votes Justice and Courts received \$63.288 million per annum on average in operating funding and \$22 million in capital funding.
4. A package of family violence legislative reforms was also pre-committed against the Budget 2017 operating allowance in August 2016 (totalling approximately \$132 million across the 2017/18 to 2020/21 period).

Track 2 and capital initiatives

5. Initiatives received for Votes Justice and Courts totalled [33] in operating funding over the five years to 2020/21 (an average of [33] and \$2.09 million in capital funding. Appendix One outlines the initiatives received and their current status in the draft package and Appendix Two provides fuller information on the justice components of the draft package.
6. The following Track 2 and capital initiatives are currently included in the draft package and funded in full.

Māori Electoral Option and the Representation Commission

7. This initiative seeks funding for the Electoral Commission to carry out the Māori Option and the work of the Representation Commission, both of which are legislatively mandated. Costs sought are not included in the Electoral Commission's baseline and are in line with previous Māori Option and Representation Commission initiatives.

Anti-Money Laundering and Countering the Financing of Terrorism – Implementation of Phase II

8. This initiative seeks funding for DIA to supervise the new sectors covered by Phase II of the Anti-Money Laundering/Countering the Financing of Terrorism regime. As Cabinet has agreed to pass legislation by July 2017, the initiative needs to be funded through Budget 2017. Currently, the package includes the initiative funded in full. Following Cabinet's decision at EGI on 8 March, Treasury is working with DIA to review and refine DIA's overhead costings with a view of coming to a scaled version. We have

not yet received revised estimates but will provide these to Budget Ministers when available.

9. The following Track 2 and capital initiatives have a scaled amount included in the current draft package.

Ministry of Justice – Maintaining Capacity in the Justice System

10. This initiative seeks funding to meet demand-driven cost pressures in the court system following an increase in expected ‘Category 3’ (serious) offences entering the justice system. A breakdown of the initiative is as follows. We have scaled the amount included in the draft package to exclude funding for the District Court Operating component (which seeks an additional 100-130 FTEs in the District Courts, as well as a portion for juror and interpreter fees), as this is the most discretionary portion of the initiative:

	16/17	17/18	18/19	19/20	20/21 & beyond	Total	Degree of Discretion
Legal aid	[33]	21.000	16.000	15.000	15.000	[33]	Under the Legal Services Act 2011, the Legal Services Commissioner is obliged to fund those people who meet the eligibility criteria for legal aid.
District Court Operating	-	10.200	11.900	12.400	13.100	47.600	Discretionary. Additional FTEs, juror services and interpreter fees.
Court Ordered Services	3.500	4.900	6.100	6.600	7.00	28.100	Demand-driven. This portion seeks funding for reports ordered by the Judiciary and services offenders are ordered to partake in at sentencing.
Coronial Services	[38]						Price increase. The price of coronial services has increased, and forecast costs are expected to exceed appropriation.
Total Bid	[33]						
Scaling	-						District Court Operating
Total in draft package	[33]						

11. The following initiatives have not been included in the draft package.

[33]

12. [33]

Integrated Safety Response to Family Violence – Extending the Pilot

13. This initiative seeks to invest in a two-year extension of the Integrated Safety Response to Family Violence (ISR) pilot. The pilot has been in place since mid-2016 and has been developed in response to a range of issues identified with the current inter-agency response to family violence. Data and findings of the pilot would be used to inform a decision on future national roll-out of the ISR programme. The pilot has not been included in the draft social sector package because it is discretionary activity, and was therefore a lower priority than non-discretionary cost pressures.

[33]

14. [33]

Health, Safety, Security, and Emergency Management: Increasing capacity and capability in the Courts

15. This initiative seeks to invest in an additional 92 court security officers across the court system, and a new health and safety risk management system and team. The initiative was not included in the draft package because similar initiatives have previously been treated as business as usual activity to be met from baselines. Options exist to provide a scaled amount of funding.

[33]

16. [33]

- 17.

Risks and trade-offs associated with the draft package

18. The draft package includes only non-discretionary initiatives, and consequently there are a number of risks associated with not funding or scaling several of the initiatives.
19. The key risk stems from the scaling of the Ministry's cost pressure initiative. The draft package excludes funding for an additional 100-130 District Court FTEs, juror and interpreter fees sought given increasing volumes. Not funding the initiative in full risks an increase in court processing time with a corresponding impact on time spent on remand and delayed access to justice. While there are potential efficiency gains to be extracted across the District Court, these are unlikely to be able to be realised in the short term.

20. The Integrated Safety Response to Family Violence pilot (ISR) two-year extension is also excluded from the draft package. The total cost of the initiative is \$34.85 million, with \$12.45 million being met from baselines. We understand that this programme is a high priority for the Minister of Justice. Without new funding the pilot will end in July 2017. In addition to being a priority area for the Minister of Justice, the ISR pilot is central to the Ministerial Group for Family Violence and Sexual Violence's work programme and seeks to inform future decision making on national rollout of the ISR programme.
21. While early results of the pilot appear promising, the pilot has uncovered a number of issues with current delivery. Not funding the pilot extension could mean that Ministers need to make a less informed decision on a national rollout of the ISR programme, and agencies would have had less opportunity to work through and refine operational issues ahead of a decision. Similarly, not funding the extension means less certainty and robustness of data generated by the pilot around what is effective in treating family violence.
22. Should Ministers wish to fund the ISR pilot while conserving allowances, it could be considered for funding through the Justice Sector Fund (JSF). Based on the Ministry of Justice's funding recommendations for the current round, funding the ISR pilot in full as well as the other JSF initiatives recommended for funding would leave approximately \$10 million in the JSF. The initiative could be considered through the current round, or Ministers could agree to fund the pilot from the JSF separately.
23. [34]
24. [33]
25. In Treasury's social sector package advice dated 2 March, we included areas that you may wish to consider funding if an additional \$100 million was available. Justice sector cost pressures were one of the areas highlighted. If you were to provide additional funding from the Budget 2017 allowances for these votes, we suggest that the highest priority area would be fully funding *Ministry of Justice – Maintaining Capacity in the Justice system*. Beyond this, we suggest that cost pressure initiatives in Vote Corrections are a higher priority for additional funding within the justice sector than the remaining initiatives in Votes Justice and Courts.

Track 1 initiatives

26. The Ministry of Justice submitted two Track 1 initiatives in addition to the social sector package. Both initiatives were assessed by Treasury as meeting the investment threshold and were included in draft Track 1 package.
27. The proposals have clear alignment with social investment principles and are supported by strong evidence and clear intervention logic. The initiatives were also well received by the Social Investment Panel, which noted that the two initiatives were amongst the best examples of a social investment approach. The Panel was pleased that the initiatives include proposed investment outside the justice sector in order to achieve a justice outcome. The Panel also noted that the initiatives have a clear focus on the outcomes they hope to achieve for specific target populations.

Youth Offending – Services to Reduce Offending

28. The Ministry's actuarial modelling shows that the target cohort, 14-16 year old serious offenders, is expected to offend 17,700 times, or an average of 10 offences per person over the next 30 years. This intervention seeks to reduce the future rate of reoffending and improve the life outcomes of this cohort by investing in three evidenced-based services. This initiative is \$3.484 million per annum on average.

Burglary Prevention and Reduction Services

29. The Ministry's actuarial modelling shows that the target cohort, 20-24 year old property offenders, are expected to commit 15,300 more burglaries and other offences over the next 30 years. This intervention seeks to reduce the future rate of reoffending and improve the life outcomes of this cohort by investing in evidenced-based programmes that address the factors contributing to offending. The initiative also includes a 'targeted hardening' component based on evidence on what is effective in preventing re-victimisation. This initiative seeks \$8.236 million per annum on average.

Potential for productivity gains in Votes Justice and Courts

30. A significant portion of the Ministry of Justice's activity is demand-driven or determined by legislative settings, and this places constraints on the Ministry's ability to meet cost pressures and extract productivity gains. However, the Ministry does exercise varying degrees of discretion over its departmental efficiency, ICT and court system efficiency and has taken steps to achieve savings and productivity gains in some of these areas in recent years. We consider that further efficiency gains are possible.

31. [26]

- 32.

Managing justice sector cost pressures in future

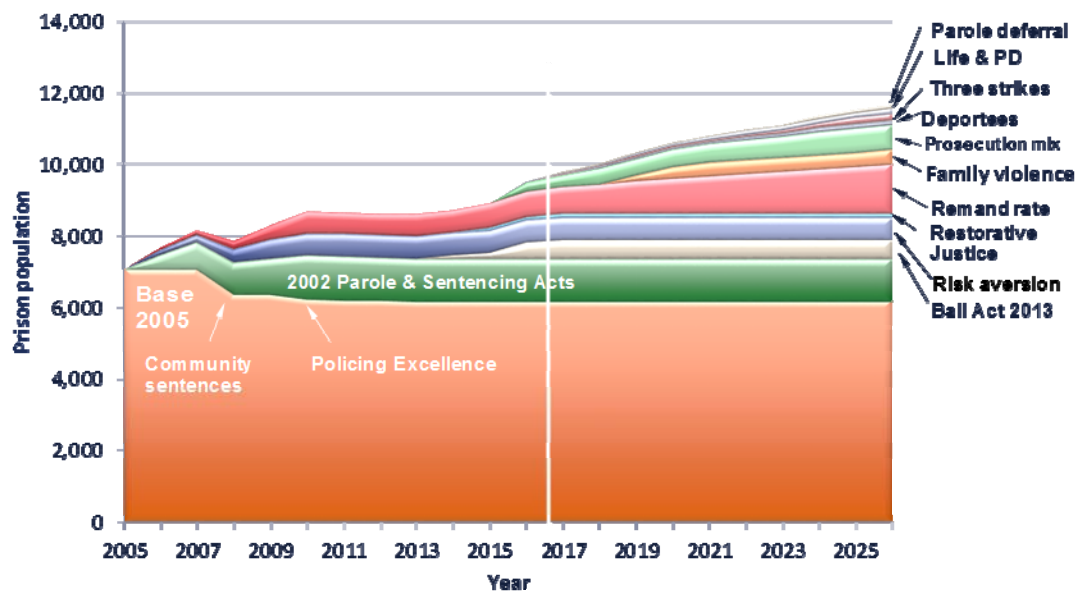
33. There have been a number of significant cost pressure initiatives from the justice sector in the last two years, driven mostly by policy changes (family violence legislative change, Police numbers) and the rising prison population (prison capacity). A number of these pressures have been dealt with as pre-commitments, so are not the subject of decisions now. However, cumulatively they represent a sharp increase in justice sector spending.

34. There have been some positive trends in relation to results in recent years. However, most of these were achieved before the significant rise in costs associated with the rising prison population, which began in 2015. To some extent the rising prison population may reflect an increased focus on uncovering and prosecuting serious crime, which would be positive for outcomes. However, overall it is questionable whether rising costs are likely to be accompanied by a commensurate improvement in public safety.

Why are costs increasing?

35. In general, crime levels and justice sector costs are only weakly related. The main driver of costs is not volumes, but the policy settings and operational practices throughout the pipeline that determine how the justice system responds to a crime.

Factors contributing to the rising prison population (estimated as at December 2016)



36. Because policy settings are such a significant driver of costs and value for money, the quality of decision-making around policy changes is particularly important in this sector in order to manage fiscal risk. However, there are a number of challenges to achieving this.
- Changes that originate from one agency or portfolio (e.g. Justice, Police or Transport) often result in cost impacts in another (e.g. Corrections).
 - There is often a long lag time between policy changes and cost impacts.
 - The nature of the justice sector pipeline is that there are numerous individual settings that can and are adjusted regularly over time, creating a ratcheting effect.
 - Accurately estimating the downstream impact of changes is fraught, and estimating the cumulative impact of changes that may interact is even more so. Changes to these settings can trigger behavioural responses from actors in the system, many of whom have statutory independence over their decisions within the overall legislative framework.
 - Sentinel events where services are perceived to have failed tend to generate high levels of public interest and knee-jerk responses to be increasingly more risk averse.

37. In combination, these factors mean there is not a strong incentive when policy changes are made for the proposing agency to accurately estimate their impacts, or consider the relative value of the investment required compared to alternatives or existing investments. Once policy changes are made, independent actors in the system have a significant influence over implementation. Ultimately, when costs arise at the end of the Justice pipeline in the form of a higher prison population, volumes are already in the system and the Government has little choice but to fund increased capacity.
38. The trend of rising costs may well continue over the medium term, unless an investment approach can be applied to decision making. While there may be a natural point at which the trend towards higher rates of incarceration levels off, we do not know how far off this point may be. [33]

- [33]

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39. [33]

What value can the Investment Approach to Justice add?

40. The aim of the Investment Approach to Justice is to reduce overall harm from crime through improving the effectiveness of the government's investments. The Ministry of Justice envisages producing the following kinds of analyses in future in order to achieve this.

Level	Description	Examples of products	What it would tell us
1	System-level measurement of performance	Development of a high level measure of harm from crime (<i>in development</i>)	Whether harm from crime overall is being reduced
2	Segmentation to understand concentration of risk	Segmentation report: which population groups have the highest future risk of being a victim or offender (<i>initial model built, first reporting produced in 2016</i>)	Who to focus on/where to focus to achieve a desired outcome
3	Investment in effective services with a good return on investment	Evidence briefs on 'what works' to reduce crime (<i>progressively being published</i>) Impact evaluations to establish effectiveness of current interventions (filling gaps in current evidence base) Report on the return on investment of the current crime prevention portfolio (approx. \$500 million a year) Development of fiscal and social cost models to estimate costs of crime (including detailed unit cost model for business as usual activity in the Justice Sector) (<i>not yet developed</i>)	What is most likely to work in reducing harm from crime What is likely to be most cost-effective

41. Last year, the Ministry of Justice developed the "Year 0" version of its segmentation model, produced an initial population segmentation report using the model, and produced a number of evidence briefs on what works to reduce crime. The Ministry used this analysis to develop the investment proposals for reducing youth offending and burglary which are being considered as part of Track 1.
42. We consider the work undertaken to date to be of high quality, and see considerable potential for the Investment Approach to improve the quality of decision-making on investments in the sector in future. However, to achieve its purpose, the Ministry still needs to develop models for the fiscal and social costs of crime, use these to estimate the return on investment of different interventions, and then draw on these tools systematically in providing advice on future policy decisions and investments. [34]

Consequently, the Ministry of Justice has not yet made firm commitments on when a cost model will be produced.

43. [34]

44. [33]

Appendix One: Summary points on initiatives

Track 2 and Capital Initiatives

- **9499 Ministry of Justice – Maintaining Capacity in the Justice System.**
 - Scaled in the draft package.
 - The Minister of Justice may want to discuss additional funding.
 - We suggest this initiative is the highest priority for any additional funding in these votes.
- **9500 Health, Safety, Security and Emergency Management.**
 - Not included in the draft package as is business as usual activity.
 - Scaling is an option if you are concerned about health and safety risks.
- **9503 Māori Electoral Option and the Representation Commission.**
 - Legislatively mandated, funded in full in the draft package.
- [33]

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- **9610 Integrated Safety Response to Family Violence.**
 - Not in the current draft package. The Minister of Justice may wish to discuss options for funding.
 - The Justice Sector Fund is a possible alternative funding source.
- **9844 Anti-money Laundering and Countering the Financing of Terrorism.**
 - Currently funded in full in the draft package, with the majority of the funding sought going to Vote Internal Affairs.
 - Treasury and DIA are looking at scaling options.
- [33]

Track 1 Initiatives

- **9793 Youth Offending – Services to Reduce Offending and 9794 Burglary Prevention and Reduction Services.**
 - These initiatives were assessed by Treasury as meeting the investment threshold and are in the recommended Track 1 package.

[33]