

## CHAPTER 4

# PORT ELIZABETH IJS COURT CENTRE: APPRAISAL AND EVALUATION

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### **Background and objectives**

According to the Department of Justice's 2000/01 annual report, the Integrated Justice System Court Centre Project initiative seeks to provide a single nodal point within a magistrates' court from where the entire court process is managed. The overall objective is to reduce the average case cycle time.<sup>66</sup>

The implementation of the initiative is managed on a multi-sectoral basis. The IJS Programme Office (supported by BAC) assists with the national and provincial co-ordination of the project, and conducts presentations to provincial management structures and to stakeholders at each court site. The justice department provides the computer hardware and makes data captureurs available who capture base line data and all information relating to outstanding cases on the court roll at each site. The National Prosecuting Authority installs the computer hardware and software at each project site. Following data capture, training is given to the Court Centre officials and the project is handed over to the local agents of the criminal justice system.<sup>67</sup>

The vision of the Integrated Justice System Court Centre at the Port Elizabeth New Law Courts is "to drastically improve service delivery".<sup>68</sup> The objective of the Court Centre is to (Table 3):

- reduce the court case cycle time;
- reduce the awaiting trial prisoner cycle time;
- utilise court hours more productively; and
- improve the conviction rate.

### **Performance of the Court Centre**

At the time of writing the Court Centre is fairly new. The Centre was officially opened in August 2001, but has been operating since March 2000. Some components of the centre – such as the Pre-Trial Services Centre – have been operating since early 1999.

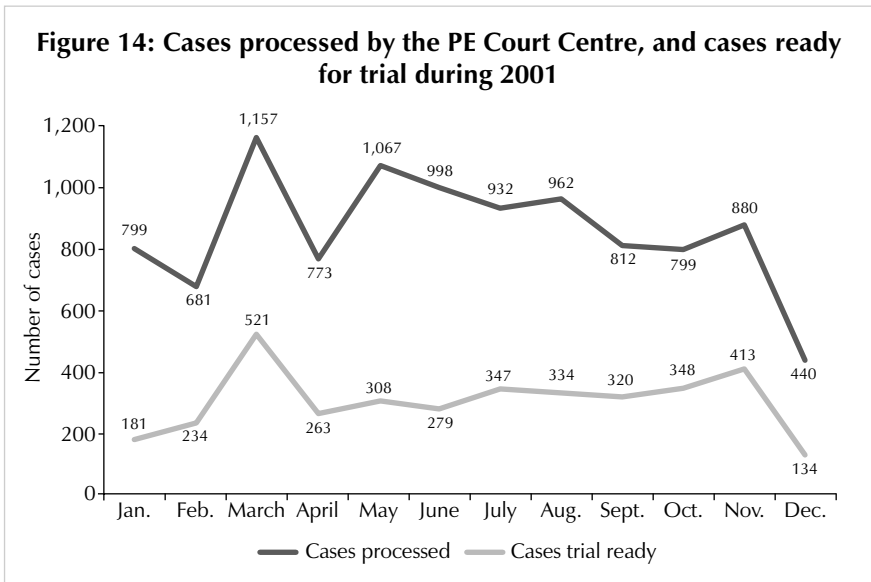
**Table 3: Port Elizabeth Court Centre services and objectives<sup>69</sup>**

<b>Project services</b>	<b>Objectives of Court Centre Project</b>
<b>Reception/ channelisation court</b>	<ul style="list-style-type: none"> <li>• Process dockets that are not trial ready, to avoid clogging all courts with remands.</li> <li>• Ensure that an informed background on the accused is given at the first bail hearing.</li> <li>• Give the accused an opportunity to apply for legal aid assistance on the first appearance.</li> </ul>
<b>Pre-trial services</b>	<ul style="list-style-type: none"> <li>• Better prepared dockets.</li> <li>• Dockets ready for trial.</li> <li>• Identify suspects wanted on other charges.</li> </ul>
<b>Bail applications</b>	<ul style="list-style-type: none"> <li>• Bail applications are heard in bail courts, thereby freeing up other courts to conduct trials.</li> <li>• Court Centre ensures that bail decisions are well informed, taking into account the amount of bail individual accused can afford.</li> </ul>
<b>Case fast-tracking</b>	<ul style="list-style-type: none"> <li>• Identify cases where the incarcerated accused wants to plead guilty.</li> <li>• Identify cases that have been on the case roll for long periods. Bring cases forward for trial at request of investigating officers and legal representatives.</li> </ul>
<b>Reducing prison overcrowding</b>	<ul style="list-style-type: none"> <li>• The Court Centre software monitors the number of prisoners awaiting trial, and determines the cycle time of each case. It also alerts Centre staff of accused who are detained awaiting trial for longer than a certain period of time.</li> </ul>
<b>Improving service delivery</b>	<ul style="list-style-type: none"> <li>• Management of the court roll leads to increased court hours. The proper preparation of case dockets for trial boosts the conviction rate.</li> </ul>
<b>Managing juvenile accused</b>	<ul style="list-style-type: none"> <li>• Probation officers involved in the project deal directly with all juvenile accused. The aim is to keep juvenile accused out of prison.</li> </ul>

For the purposes of this publication a decision was made to provide Court Centre performance indicators until the end of 2001, as these are all available at the time of writing. Furthermore, it was decided to provide Court Centre performance indicators from the time that they have been reliably collected. In most instances this means that statistics for the 2001 calendar year are used, in some cases performance data for 2000 is used as well. Readers should be aware that in some cases a year, or even two years, is too short a period to enable a reliable identification of performance trends. Most new systems – especially one such as the Court Centre which involve a number of government departments and a multitude of role players – experience teething problems before they operate at an optimal level. This should be borne in mind in the interpretation of the Court Centre’s performance indicators, which are discussed below. While some performance indicators are extremely positive, others reveal relatively little improvement in performance. It is probable, however, that the latter indicators will improve as the Court Centre and its staff matures and processes are fine-tuned.

During 2001 the Court Centre processed 10,300 cases, or an average of 858 per month. Of these cases 3,682 were processed up to the point where they were ready for trial – an average of 209 per month (Figure 14). This is an impressive figure given that the cases the Centre processes include serious

**Figure 14: Cases processed by the PE Court Centre, and cases ready for trial during 2001**

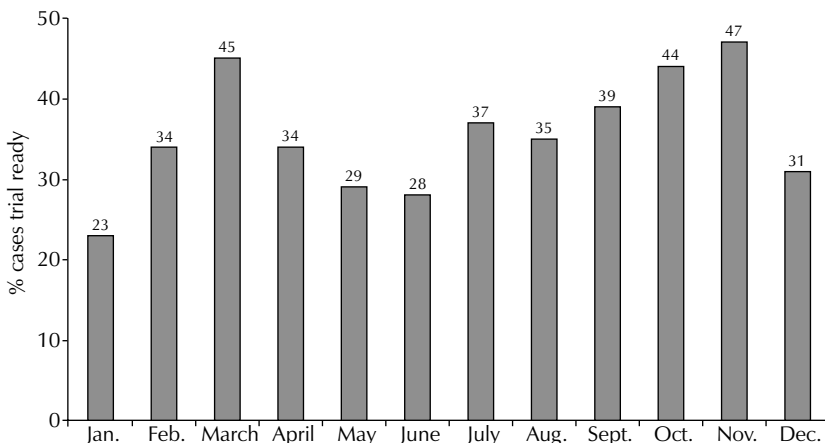


crimes such as murder, rape, aggravated robbery, and fraud. As many murder and aggravated robbery trials can, for example, take a number of days to finalise, it is clear that the Centre is processing enough cases up to the point that they are ready for trial, so as to keep a number of trial courts busy.

The decline in the cases processed and ready for trial between November and December 2001 is a result of the fact that many detectives, prosecutors and other court staff are on leave during this period, or take time off work to study for end of year examinations. Traditionally December and January are months when the country's courts experience a reduction in output.

During an average month in 2001 just over one-third (36%) of cases processed by the Court Centre were made ready for trial. Over the 12-month period January to December 2001, the Court Centre was able to significantly improve the proportion of cases that were made ready for trial. During the first half of 2001 a monthly performance above the annual average was achieved during one month (March) only. During the second half of 2001, a greater proportion of cases was readied for trial in four out of six months (July, September, October and November), than the annual average. Moreover, during August the monthly proportion of cases readied for trial missed the annual average mark by only one percentage point (Figure 15).

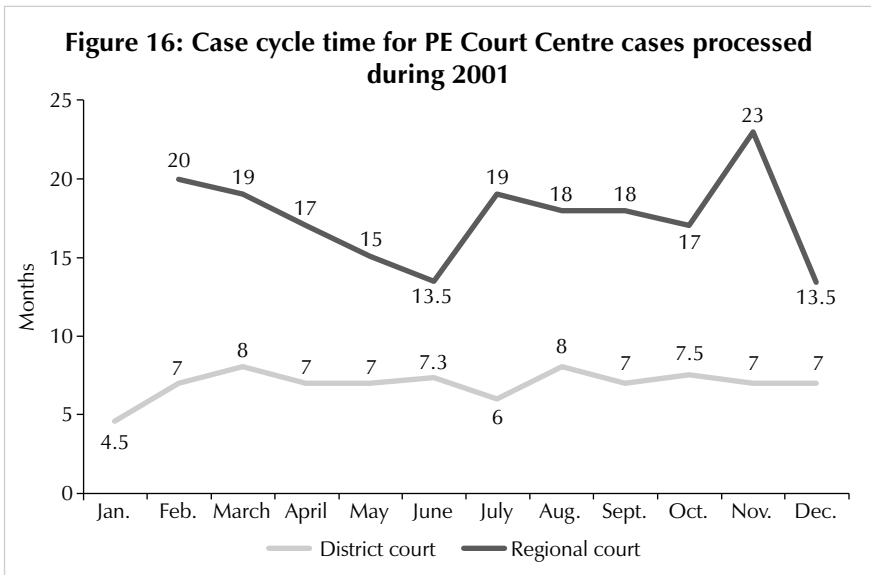
**Figure 15: Cases trial ready as a proportion of cases processed by the PE Court Centre during 2001**



The case cycle time is measured from the time when a case is placed on a court’s roll (usually on the day the accused appears in court for the first time), to the point when it is finalised. (The case is either withdrawn, the court acquits the accused, or, in the case of a conviction, a sentence is imposed on the accused).

During 2001 the average case cycle time for cases processed by the Court Centre was sixteen months for regional court cases and seven months for district court cases. During that year the monthly case cycle time for district court cases did not change much. The monthly case cycle time for regional court cases did, however, experience noteworthy changes over this period: initially decreasing from an average of 20 months in February to 13.5 months in June, and increasing thereafter (Figure 16).

It is understandable that regional courts take longer to process the cases that come their way. Regional courts deal with serious crimes such as murder and rape. Trials in the regional courts typically involve a number of state witnesses and the presentation of non-oral evidence such as blood samples and district surgeons’ reports. Regional court prosecutors also need more time to prepare and consult with their witnesses than do their district court counterparts.



The case cycle time figures do not show any improvement in 2001. However, the Court Centre and its staff do not have exclusive control over the speed with which cases are finalised or removed from the courts' rolls. For example, the investigations in a particular case may be finalised quickly and the matter set down for trial. On the trial date the accused requests the services of a new defence attorney. Such a request is usually granted. On the next trial date the

### **Under-utilisation of available court hours**

During May 2000 the Court Management Unit in the office of the National Director of Public Prosecutions investigated why so many court hours are not utilised.<sup>70</sup> The investigation sheds some light, not only on why many court hours are lost, but also on why trials can take a long time to be finalised.

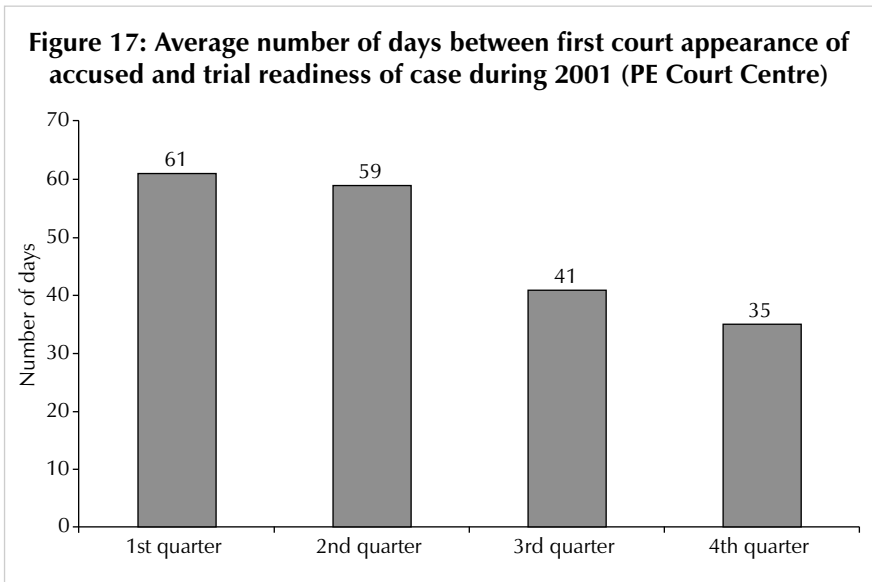
The investigation found that in the district courts the most common reason why court time was not fully utilised, was that the courts' rolls were finalised. That is, during May 2000 some 6,300 hours of potential national court time were lost because courts had completed their work for the day before closing time. There are a number of possible reasons for this. For example: prosecutors, who are responsible for managing the rolls of the courts they work in, do so badly; witnesses who should have come to court fail to do so, with the result that trials planned for the day cannot proceed; or the accused ask for a postponement of their trials because they want to obtain a new attorney or because they are feeling ill. Other common reasons for lost court hours in the district courts were that magistrates were not available at the time the prosecution and defence were ready to proceed (2,990 hours lost), because the accused or his legal representative was not ready to proceed at the allotted time (1,519 hours lost); or because the prosecution had to consult with their witnesses during court time (1,445 hours lost).<sup>71</sup>

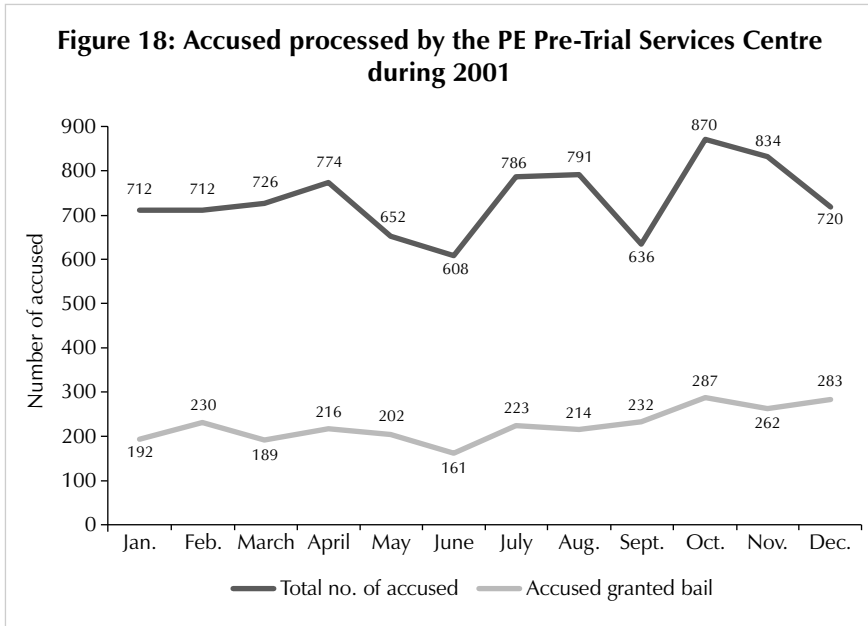
In the regional courts the most common reason why court time was not utilised fully was that the accused or his legal representative was not ready to proceed at the allotted time or was late arriving at court. During May 2000 some 1,271 hours were lost nationally because of this. This was followed by the courts' rolls being finalised (1,066 hours), the prosecution consulting with state witnesses during court time (681 hours), witnesses arriving late at court or not at all (523 hours), and magistrates not being ready to proceed when asked to do so by the prosecution (169 hours).

case starts but is not finalised in the allotted time. The trial is then postponed to the next available date. On that date the magistrate may be ill, in which instance the case would have to be postponed again, and so forth. In none of these examples the delay is as a result of the prosecution, police or any of the other departments represented in the Court Centre.

Court Centre staff, courtroom prosecutors and police investigators have substantially more control over cases up to the point when the trial begins. Delays between an accused person’s first appearance in court and the beginning of the trial are usually a result of incomplete police investigations. Incomplete investigations, in turn, could, among other factors, be the result of inefficiencies in the police detective service, or because the prosecutor dealing with the case does not give coherent and informed instructions to the case’s investigating officer.

The number of days that passed between the average accused person’s first appearance in court up to the point that the case was ready for trial, declined over the course of 2001 for cases processed by the Court Centre. Thus, during the first quarter of 2001 the average number of days between an accused person’s first appearance in court and the Court Centre processed case being ready for trial was 61 days. This declined by over 40% by the fourth quarter of 2001, to 35 days (Figure 17).

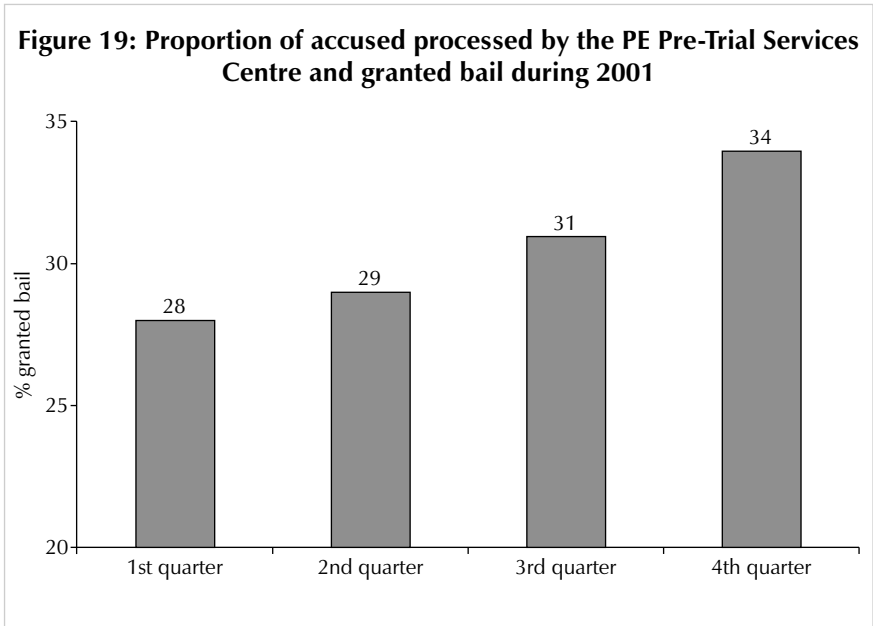




The Court Centre's Pre-Trial Services Centre processed 8,821 accused during 2001, or an average of 735 a month. Over the same period, 2,691 accused who had passed through the Pre-Trial Services Centre were granted bail – an average of 224 a month. During the first quarter of 2001, 611 accused processed by the Pre-Trial Services centre were granted bail. During the fourth quarter of that year 831 accused were granted bail (Figure 18).

Calculated in a different way, the Pre-Trial Services Centre's impact becomes clearer. During the first quarter of 2001, just over a quarter (28%) of accused who were processed by the Pre-Trial Services Centre were granted bail (Figure 19). During subsequent quarters of 2001 this percentage increased to 29% (2<sup>nd</sup> quarter), 31% (3<sup>rd</sup> quarter) and 34% (4<sup>th</sup> quarter). Between the first and fourth quarters of 2001, the proportion of accused processed by the Pre-Trial Services Centre, and granted bail, increased by 21%.

In addition to the work of the Pre-Trial Services Centre, the Port Elizabeth Court Centre used other methods of reducing the number of awaiting trial prisoners. The Court Centre seeks out incarcerated awaiting trial accused who might plead guilty to the charge(s) against them. This is especially the case in respect of persons charged with relatively minor offences who would be



unlikely to receive a lengthy prison sentence, or would receive an alternative to a prison sentence, upon their conviction. Some accused spend unnecessary time in prison awaiting trial when, in fact, they intend pleading guilty to the charge(s) against them. Because of a misunderstanding of court procedure, or because they are waiting for the services of a state-provided defence lawyer, such accused can end up spending more time in prison than if they had been given the opportunity to plead guilty at the time of their first court appearance.

Officials from the Department of Correctional Services are given the task to identify awaiting trial accused who wish to plead guilty. Such officials are carefully selected. They need to have a certain level of seniority and experience, and be persons of integrity to minimise the possibility that unscrupulous officials place undue pressure on awaiting trial accused to plead guilty against their will.<sup>72</sup> There is also the added safeguard that judicial officers are obliged to enquire from accused persons who wish to plead guilty, whether they are doing so of their own free will.

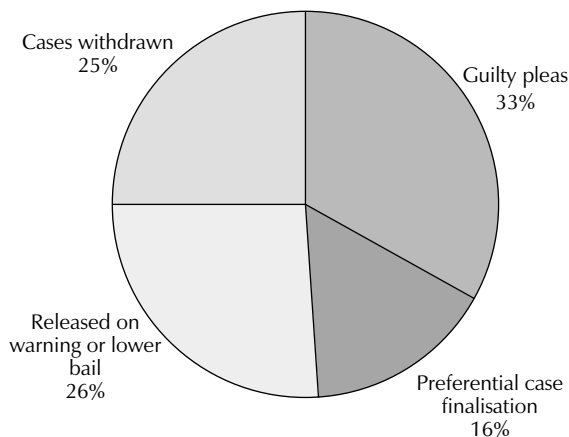
The Court Centre further prioritises cases involving incarcerated accused awaiting trial. Given preference in this way, the status of imprisoned awaiting

trial accused is expedited. If they are acquitted they are released, and leave the system. If they are convicted, they remain in prison but obtain the status of sentenced prisoners. Sentenced prisoners are more manageable for the Department of Correctional Services.<sup>73</sup> Unlike their awaiting trial counterparts, sentenced prisoners may partake in work and vocational programmes in prison. Sentenced prisoners can also be released on parole before the expiry of their sentence, while awaiting trial prisoners who are denied bail have to remain in prison at least until the finalisation of their trials.<sup>74</sup>

The Court Centre also identifies incarcerated awaiting trial accused who have been granted bail, but who do not have the means to pay it. In appropriate cases such accused are requisitioned from prison and brought before a court where the prosecution requests that the bail amount be reduced or that the accused be released with a warning.

The Court Centre peruses all dockets involving incarcerated awaiting trial prisoners with the view of withdrawing charges in frivolous cases, or in cases where the evidence against the accused is insufficient for a reasonable prospect of securing a conviction.<sup>75</sup> Nothing prevents the state recharging

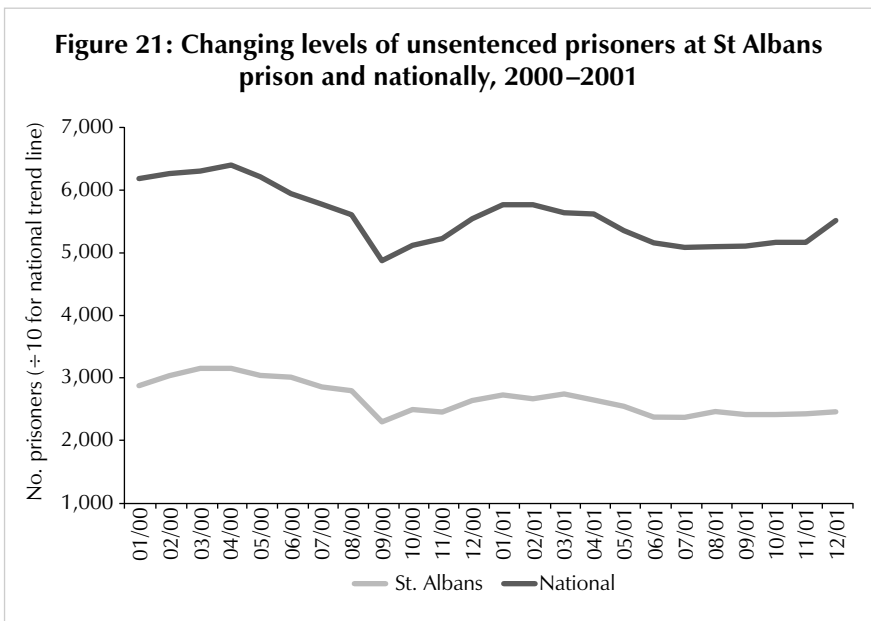
**Figure 20: Reasons for the early finalisation of cases involving incarcerated awaiting trial accused, PE Court Centre, April 1999–March 2002**



such accused again at a later stage, should new incriminating evidence come to light.

Over a three-year period (between 1 April 1999 and 31 March 2002), the Port Elizabeth Court Centre facilitated the release of some 1,700 awaiting trial accused from prison through the various methods described above.<sup>76</sup> Of these, 33% were released because they were identified as wanting to plead guilty, 16% because their cases received preference and could be finalised more rapidly in this way, and about 25% each were released with a warning or because a lower affordable bail amount was set, or because the charges against them were withdrawn (Figure 20).

According to the calculations of the Court Centre, these initiatives saved the various accused more than 58,000 incarceration days. A prisoner – irrespective whether in prison awaiting trial or as a sentenced prisoner – costs the Department of Correctional Services more than R80 a day. Multiplied over the saved incarceration days, the Court Centre managed to avoid costs of R4.9m for the corrections department over the three year period (or about R135,000 per month).<sup>77</sup> This is a substantial amount of money for the

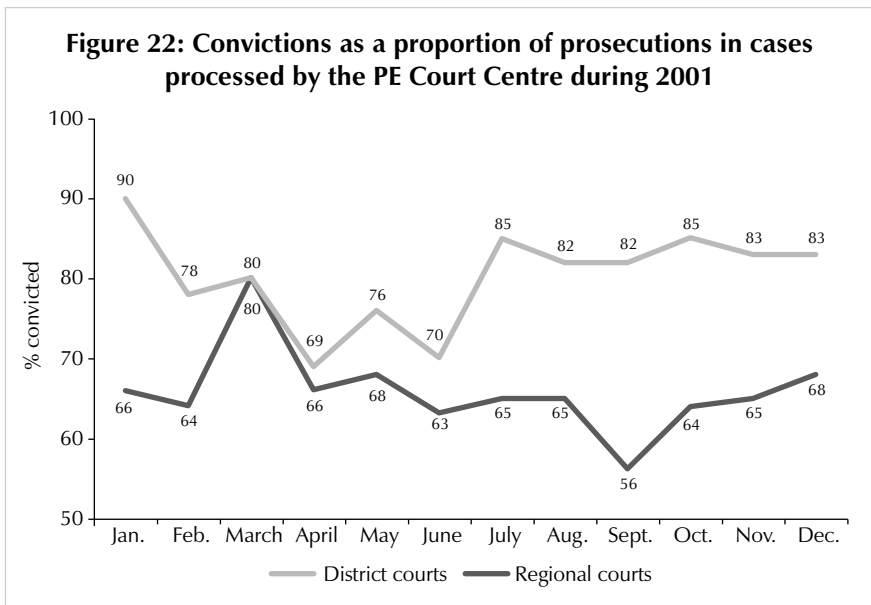


criminal justice system, given that many prosecutors earn less than R135,000 a year.

A consequence of the Court Centre's focus on reducing the number of awaiting trial prisoners, is the decrease in the number of unsentenced prisoners held in St Albans prison (the main feeder prison for the Port Elizabeth magistrate's court). Between January 2000 and December 2001, the number of unsentenced prisoners held at St Albans prison declined from 2,882 to 2,457 prisoners – a decrease of 15%. Over the same period the number of unsentenced prisoners held in all the country's prisons declined from 61,563 to 55,285 prisoners – a decline of 10%.

For the purposes of Figure 21, the number of unsentenced prisoners incarcerated in the country as a whole during 2000 and 2001 is divided by ten. This has been done so that both trend lines fit on to the same graph and are of a similar magnitude to be visually compared with one another (Figure 21).

Cases processed by the Court Centre have a respectably high conviction rate. During 2001, four-fifths (80%) of district court trials and almost two-thirds (66%) of regional court trials resulted in a conviction (Figure 22). The discrepancy in the



conviction rate between courts closely reflects the national picture, where conviction rates in the district courts are higher than in the regional courts.

A valuable spin-off of the Pre-Trial Services Centre is its ability to identify wanted fugitives among the newly arrested persons who pass through its doors. The benefits this brings to the criminal justice system and the country as a whole are difficult to measure but are likely to be substantial.

Research has shown that the majority of serious crime in a society is committed by a relatively small proportion of criminals. It is estimated that approximately 10% to 20% of criminals are responsible for 80% of all serious crimes committed.<sup>78</sup> These are professional criminals, criminals involved in the organised crime milieu and criminal gangs, and people who start off their criminal careers committing petty offences and then progress to more serious offences at shorter intervals as they realise that they can get away with their actions. Consequently, it is possible that a number of potentially serious crimes are prevented for every fugitive or wanted person identified by the Pre-Trial Services Centre.

During 2000 and 2001 the Court Centre identified 1,197 (or an average of almost 50 per month) fugitives in this way – primarily people who had a warrant of arrest outstanding against them, and suspects in crimes committed in other parts of the country. The Pre-Trial Services Centre takes photographs of all the accused that it processes. This enables the centre to proactively distribute the photos of accused it suspects of having committed crimes elsewhere to relevant police precincts. This permits detectives in other parts of the country to recognise such accused.

In 2001 the Institute for Security Studies was commissioned by the National Prosecuting Authority to conduct a public and court user opinion survey regarding attitudes to service delivery in the magistrates' courts. One component of the survey was an exit poll whereby 100 persons (50 state witnesses and 50 crime victims) were interviewed at 18 magistrate's court sites in the country. The survey was conducted in October and November 2001 and included the Port Elizabeth magistrates' court.

One of the questions respondents were asked as they were leaving the court building was whether the case in which they had to testify as witnesses for the prosecution was postponed on that day. On average a quarter (25%) of the respondents throughout the country stated that their case had not been postponed. The best performing court covered by the survey in respect of

this question was George, where almost two-thirds of respondents said that their case had not been postponed. The Port Elizabeth magistrates' court had the third best ranking out of 18 in respect of the question with just over one-third (36%) of respondents stating that their case had not been postponed (Figure 23).

**Figure 23: Courts where respondents said their cases had not been postponed, 2001**

