

VANUATU
COURT OF APPEAL
SUPREME COURT
MAGISTRATES COURT
ISLAND COURT

2019 – A Reflection

Version 2a

THE YEAR IN REVIEW

- As in previous years, 2019 has proven to be a challenging year for the courts, with each jurisdiction having their own unique factors affecting both what occurred in 2019, and what is planned for 2020.
- Resources, be they human resources (judicial #s) or financial resources (to undertake circuits etc.), needed to provide the services we, and the community expect, is one of these key challenges.
- With the departure of Justice Fatiaki, and soon, Justice Felix, and the arrival of Justice Viran Trief, the Supreme Court will be effectively down one judicial officer for the early part of 2020, and given our workload, and pending #s, will put increased pressure on my Supreme Court judges.
- Our ability to reflect on the performance of the courts on a monthly, quarterly and yearly basis is a credit to the Chief Registrar and his team, and as I have mentioned in previous years, our ability to present to you, the Government and the Community, our 2019 performance analysis within the month of January is testament to the work of many.
- We now have at our disposal more court performance indicators which allow us to assess the operation, impact and efficiency of our case management protocols. A key international indicator that we are now using on a regular basis is called the Attendance Rate indicator, that is, the number of times a matter appears before the court before being finalized. This indicator provides an insight into the impact and cost to the parties e.g. more attendances - more cost/more impact to the parties.

CONTINUED

- The Court of Appeal continues to provide by world standards such as timeliness and clearance rates, an excellent service to this country. Despite more cases being filed, the CoA still managed to finalise all of the cases – within an average of 5 months from filing. There has seen a greater percentage of Supreme Court cases being appealed. This is now running at approximately 13% - or 1 in 8 cases from the Supreme Court are appealed to the CoA. This has major implications for not only the workload of the CoA in its scheduled sittings throughout the year, but the flow-on effect to the workload of the Supreme Court justices in their normal workload.
- The commitment that the Supreme Court shows to the criminal workload has ensured that the timeliness of cases to be finalized, the attendance rates, and the relatively low number of pending cases reflects a positive outcome for this work in 2019.
- However, as I outlined last year, additional judicial resources are needed immediately, and I will canvass options with the Government and donors in the 1st quarter of this year for assistance. Without such assistance, I have doubts as to whether we can address many of the issues I have raised in a timely manner.
- We still want to reduce our pending caseload down to approximately 900 cases, a reduction of 320 – and this will require significant effort and resources from all of us.
- With Civil cases, we are seeing higher than desired Attendance Rates which as I mentioned earlier, has direct impact and cost to the parties. Many of our Civil pending #s are also subject to no further/visible listings, which we need to address immediately - internally. If parties are unaware of their next court appearance, delay creeps in, along with uncertainty.

CONTINUED

- The Enforcement matters in the Supreme Court have even higher Attendance Rates than Civil and will be investigated in the first part of the year, along with the issue of many of our Enforcement matters not being finalized which affects our overall performance. I will personally discuss these issues with the Masters.
- While Reserved Judgments have greatly reduced over the years, I am well aware that several of the 22 judgments (down from 40 a year ago) have been outstanding for some time, and this needs to be rectified as soon as possible.
- From an Island Court perspective, this is now of considerable concern to me, to see such a reduction in filings in the court, especially around Maintenance matters. In addition, not only have we seen a reduction in filings, but we have been unable to finalize cases and the pending numbers have risen considerably – along with the age of these pending cases.
- As a Court typically seen as one for easy access, and quick resolution of matters, this is not the case with the Island Court today, and we must restore confidence and the usage of the Island Court in 2020.
- Resources needed to service this jurisdiction is much needed.

CONTINUED

- Finally, with respect to the Magistrates Court, as mentioned earlier the Clearance Rate of 90% was well below our target, and this has resulted in an increased pending caseload.
- The productivity of disposals per Magistrate continues to drop and I will raise this with the Acting Chief Magistrate to better understand and address the causes of this.
- There is now clear evidence in the shift/mix of filings (lodgments) between the two main court locations namely, Port Vila and Luganville. This has implications for the resourcing of the respective court locations and I will be discussing this with the Magistracy in the coming weeks.
- The previous drop in criminal filings over years 2016-2018 appears to have stopped, with Police/SPD/OPP filing more cases in 2019.
- Finally, as we reflect on the performance of cases dealt with across the four jurisdictions, we will continue to drill into more specifics such as who appears before us – their age, gender for example, as well the orders and outcomes associated with the cases. The 2019 detailed analysis will appear on the website within the week.
- As I have been reminded – being in a position to open the Legal Year – and reflect on the year just gone, reflects the hard work of so many around the court, and for that – we have greater transparency about the performance of the courts, and insights into case management.

SUPREME COURT

- Key Messages
 - SC filings declined from 766 cases to 733, a decrease of 4% - versus an increase of 8% in the previous year
 - SC disposals were similar - 709 to 710 cases
 - Clearance rate was again below the target 100% - 97% for the 2019 calendar year
 - Pending has steadily grown from approx. 800 at the end of 2013 to now 1223 cases – a concern
 - PDR has grown from approx. 1.2 to 1.7 – a worrying sign
 - Potential 365 cases in excess of ideal position – equating to 3.5 judicial resources and/or quick improvements in case management handling of our cases
 - Timeliness for completing Criminal cases declined from an average of 414 days to 261 days due to finalising a number of very old matters in 2018 – while Civil cases rose from 632 days to 767 days
- Overall
 - Still struggling to make in-roads into Pending, and Age of Pending naturally growing
 - Judicial output (productivity) – as calculated by disposals/full time Judicial Officer – has dropped – approximately 90 cases per year per judge, BUT there is wide variance between some judicial officers throughout the year
 - Overall number of cases without a future listing is high
 - Over 50% are under ‘case management’ without a future listing, and a further 15% with no identifiable stage recorded
 - Only 32% of all pending cases have a future date (international benchmark is 80%)
 - Reserved Judgments has reduced from 40 last year to 22, but over half of these are older than 3 months (international benchmark), with some outstanding for several years
 - Enforcement cases have an unacceptable high attendance rate (causing impact and cost to the community), and are not being finalised, thus have a very high Pending to Disposal Ratio

MAGISTRATES COURT

- Key Messages
 - MC filings increased slightly from 2091 cases to 2217 – a modest increase of 6%
 - MC disposals dropped sharply from 2150 to 2003 cases, a significant decrease of 7% - a concern
 - Clearance rate was an unacceptable 90%, thus causing pending cases to grow
 - Pending has grown to 1062 from 880 cases the previous year
 - PDR remains at .5 – an acceptable position
 - There are still approximately 20% of cases older than 2 years that should be assessed
 - Timeliness for completing Criminal cases – has further reduced from 266 to 166 days – a positive outcome
- Overall
 - Pending case numbers (open cases) have grown due to a Clearance Rate of only 90%
 - While the Pending to Disposal Ratio (PDR) is still at an acceptable level of .5, the reducing productivity/output of cases per Magistrate is of concern
 - Judicial output has reduced to an average of approximately 230 cases per year – a decrease of over 30% from 2017
 - Overall # of cases with a future listing is sitting has dropped to just over 30%, with another 10% of cases neither under case management or a future listing
 - Approximately 60% are under 'case management'
 - Only 2 cases have a Reserved Judgment, down from last year's 9
 - The decline in criminal registrations in previous years appears to have turned around with a small increase in filings this year, but still well down on previous years.

ISLAND COURT

- Key Messages
 - IC filings dropped again - from 410 cases to 286 – a decrease of 43% (29% in 2018)
 - IC disposals dropped from just on 370 cases to 245, a decrease of 52%
 - Pending has increased accordingly to almost 670 cases
 - PDR has increased accordingly and is now at 2.7 – a very worrying position
 - Almost 80% of pending cases are greater than a year
 - Clearance rate was lower than desired at 85% - the 5th year in a row less than 100%
- Overall
 - The overall decline in filings is of concern.
 - Years of not finalising as many cases as being filed has resulted in the Pending workload reaching unacceptable levels, and resulting in lengthy delays for the community who make use of the Island Court
 - Overall # of cases with a future listing is only 3% - a major concern
 - Almost 85% of all pending cases are deemed to be awaiting resources before a listing can be made – affecting the community at large
 - The delays experienced by the community in the Island Court are now worse than any other jurisdiction

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I. CASE WORKLOAD

SUPREME COURT TOTAL WORKLOAD

Cases being filed dropped slightly in 2019. Clearance rate again has not achieved 100%, cases finalized (disposed) have remained constant over the last 3 years.

The overall average for the last 7 years is 94% - slightly under the target, resulting in an increase # of pending cases.



SUPREME COURT CRIMINAL WORKLOAD

While Criminal cases being filed by the OPP have dropped in 2019, clearance rate for the year achieved above the target 100% - at 120%.

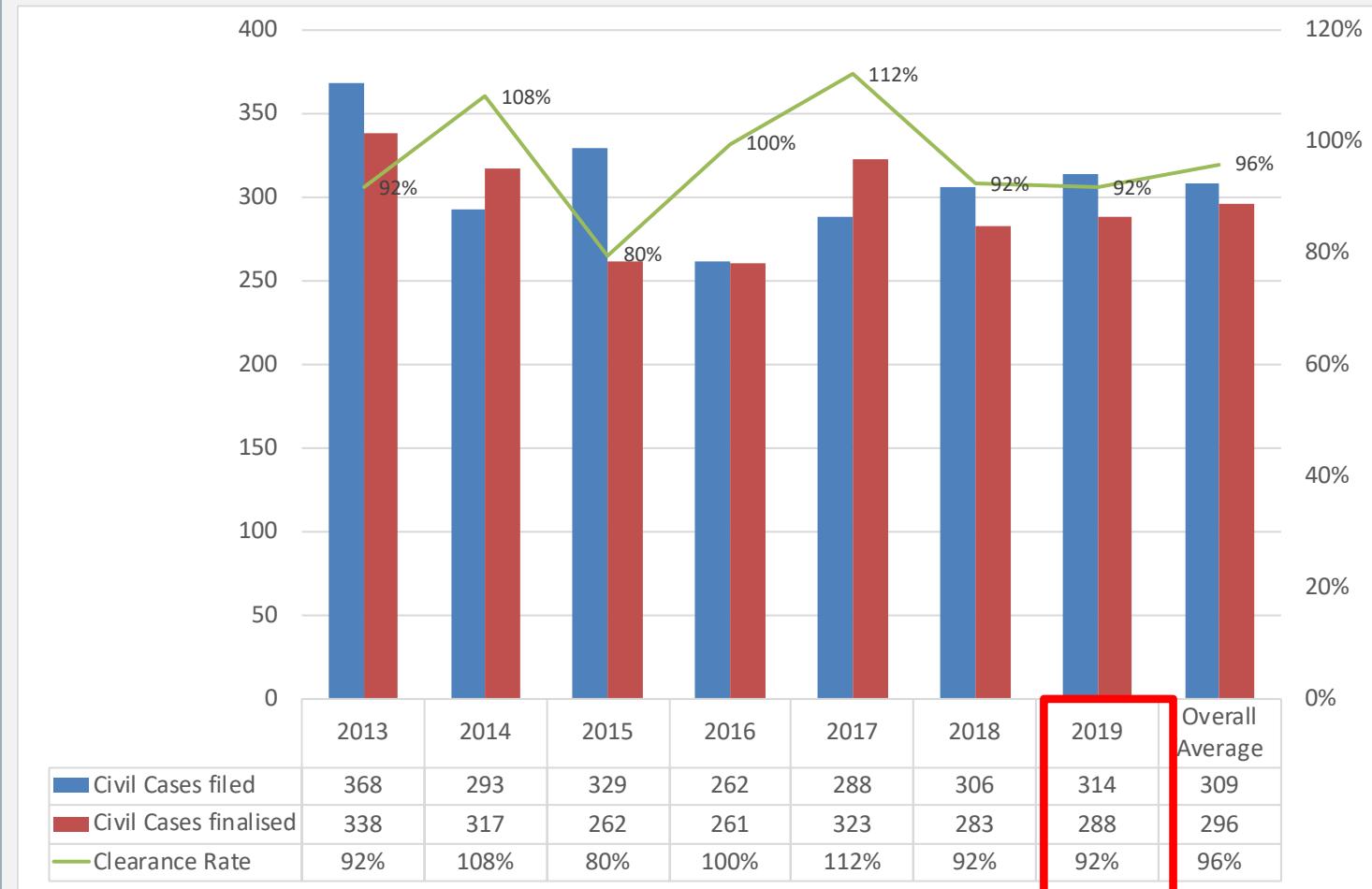
The overall average for the last 7 years is 101% - tracking well.



SUPREME COURT CIVIL WORKLOAD

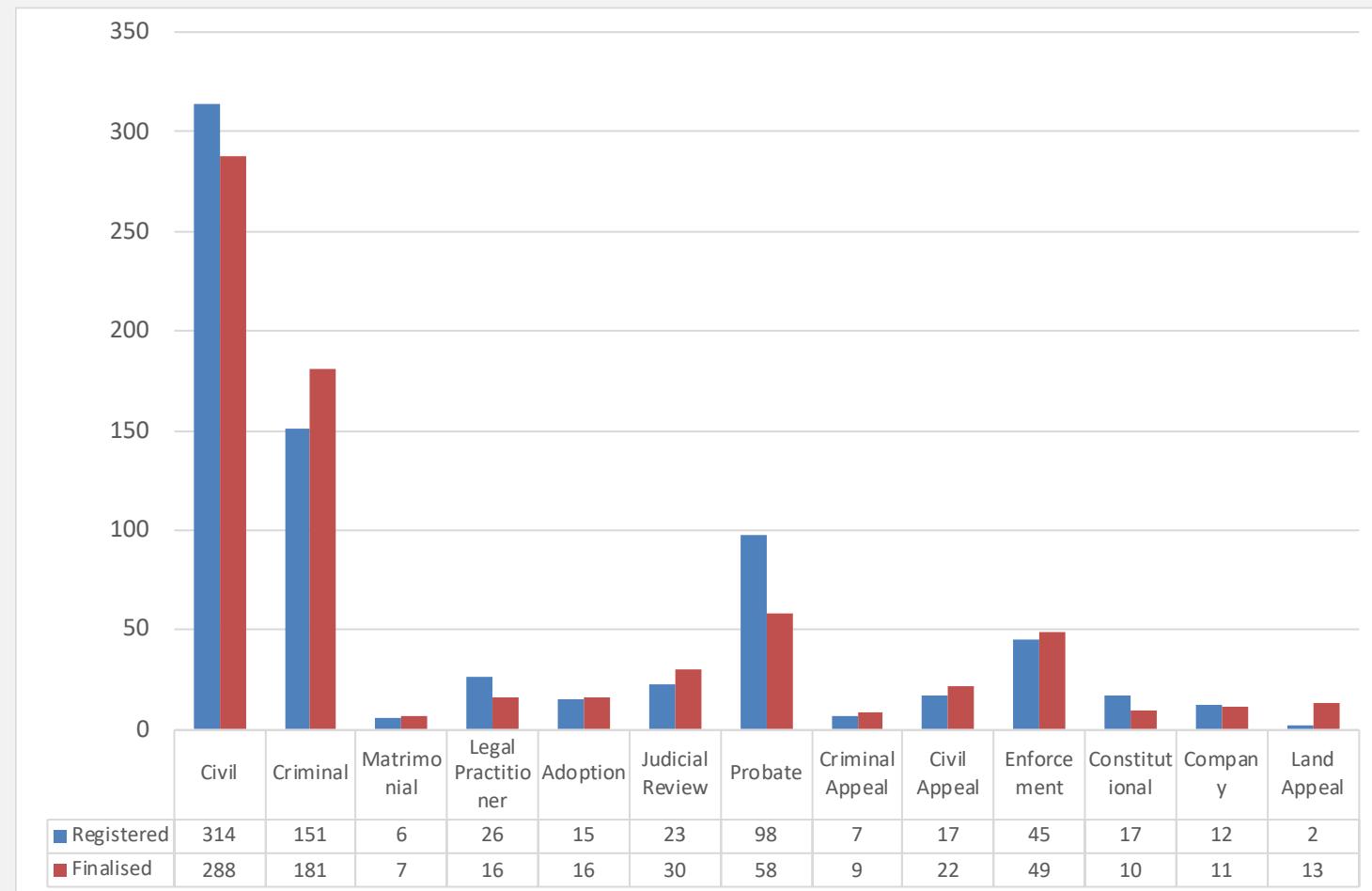
Civil cases being filed have slowly increased over the last 4 years, but clearance rates over the last 2 years has fallen below the target of 100% - at 92%.

The overall average for the last 7 years is 96% - slightly under the target, and thus pending has grown, and further delays incurred.



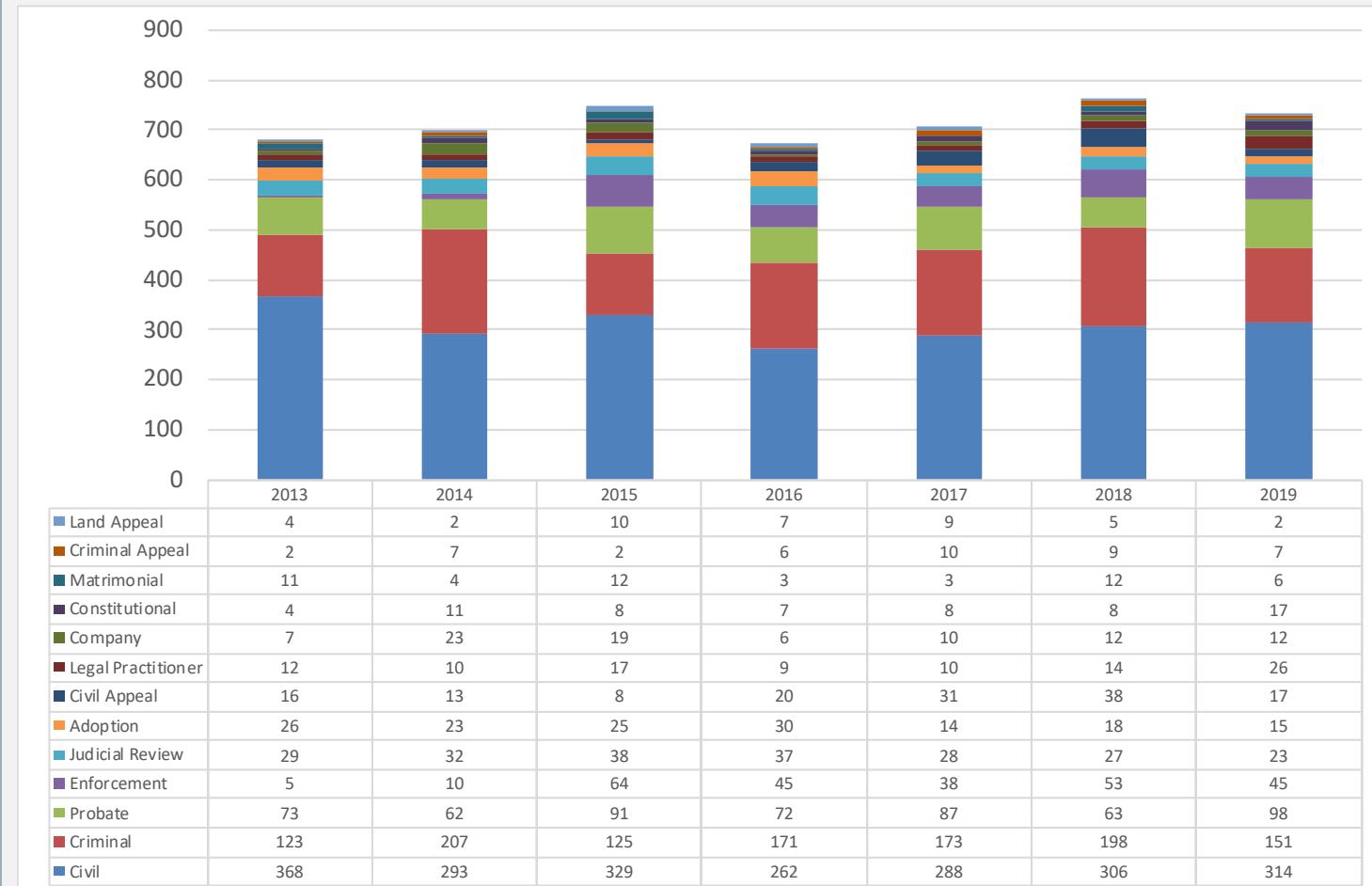
SUPREME COURT ALL CASE WORKLOAD 2019

Civil and criminal workload accounts for approximately 2/3rds of the Supreme Court filings.



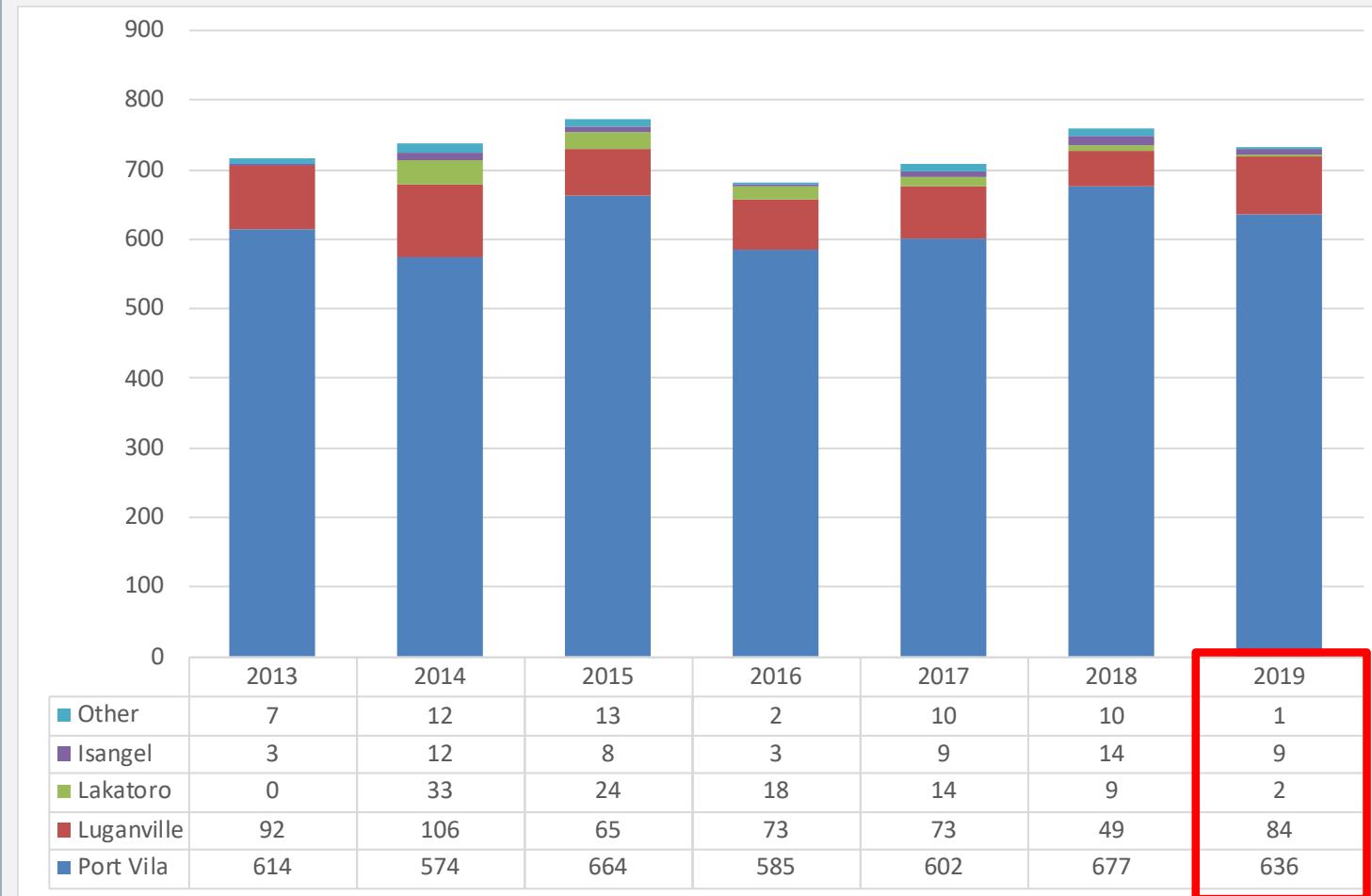
SUPREME COURT WORKLOAD TRENDS

Many of the smaller case types have been relatively consistent over the years



SUPREME COURT LOCATION WORKLOAD

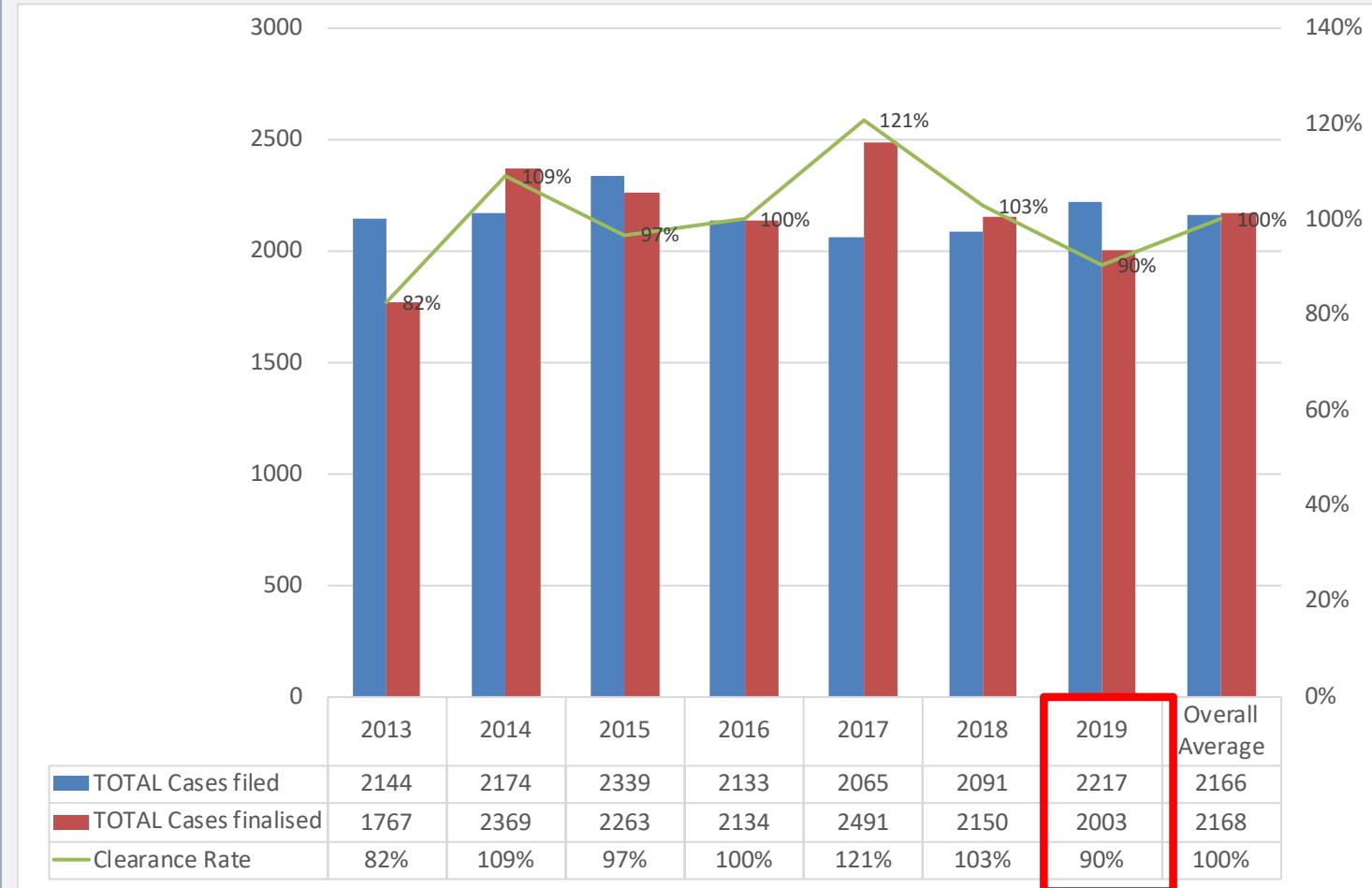
Case filings emanating from Lakatoro has decreased over the years – warrants investigation.



MAGISTRATES COURT TOTAL WORKLOAD

Cases filed were slightly up in 2019, however disposals dropped, resulting in a Clearance Rate of only 90% - a concern.

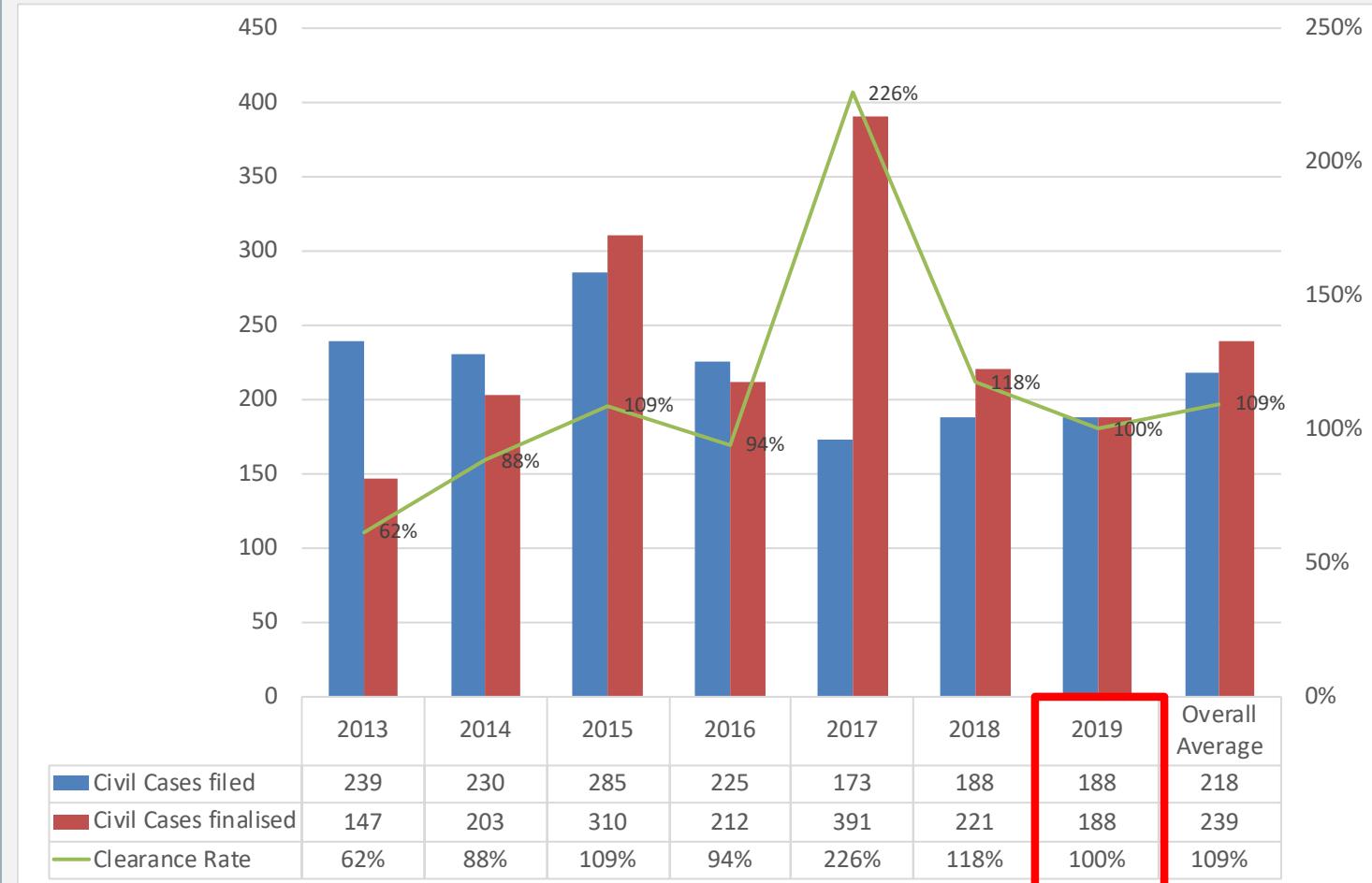
The overall average for the last 7 years is 100% - tracking well.



MAGISTRATES COURT CIVIL WORKLOAD

Civil workload has dropped since 2015, and disposals less than 2017 due to the case reduction activity undertaken in that year.

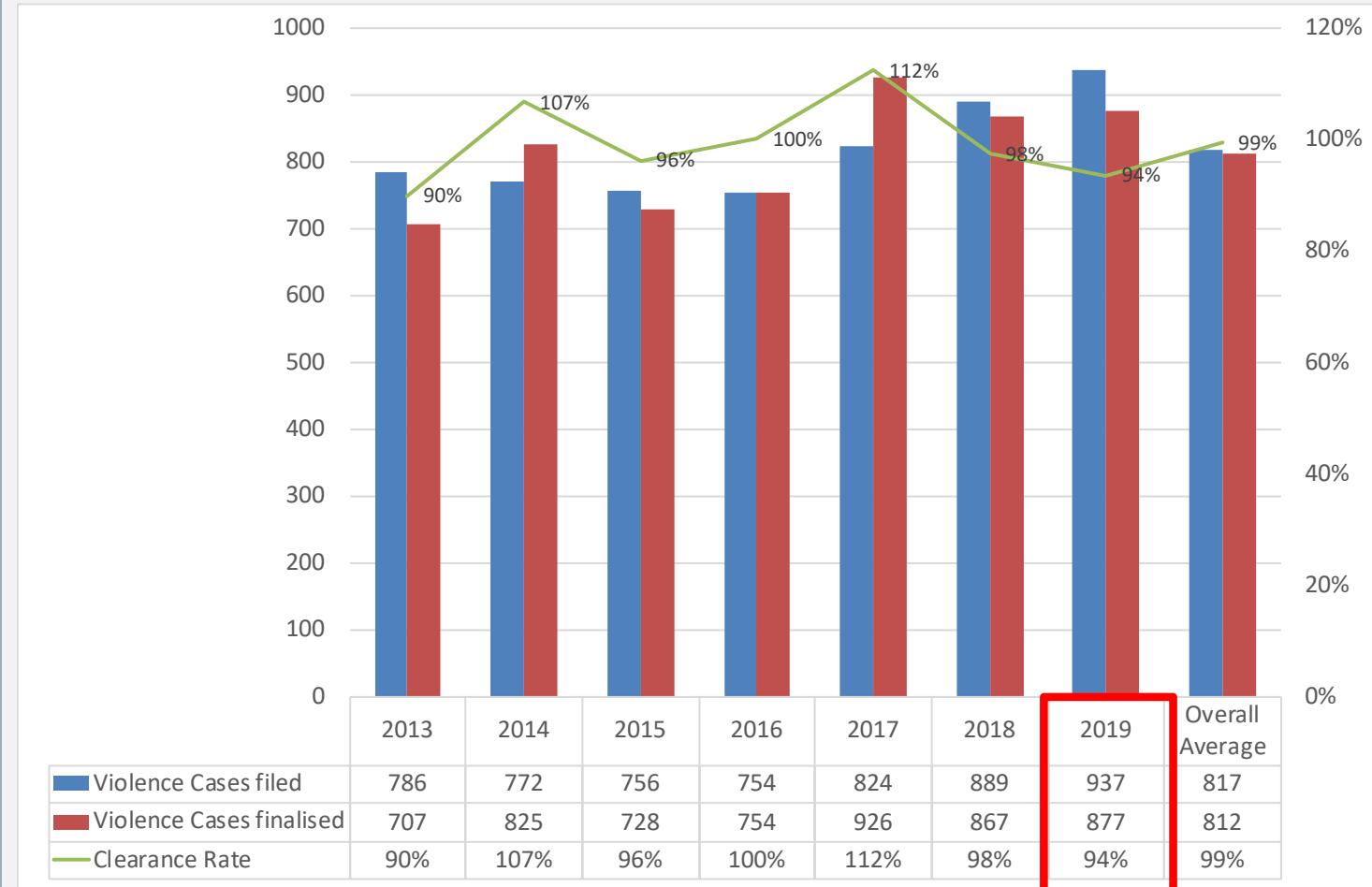
The overall average for the last 7 years is 109% - tracking well.



MAGISTRATES COURT DV WORKLOAD

Protection orders (non-criminal) are increasing quite markedly over the last 4 years, but disposals did not match the incoming work in 2019.

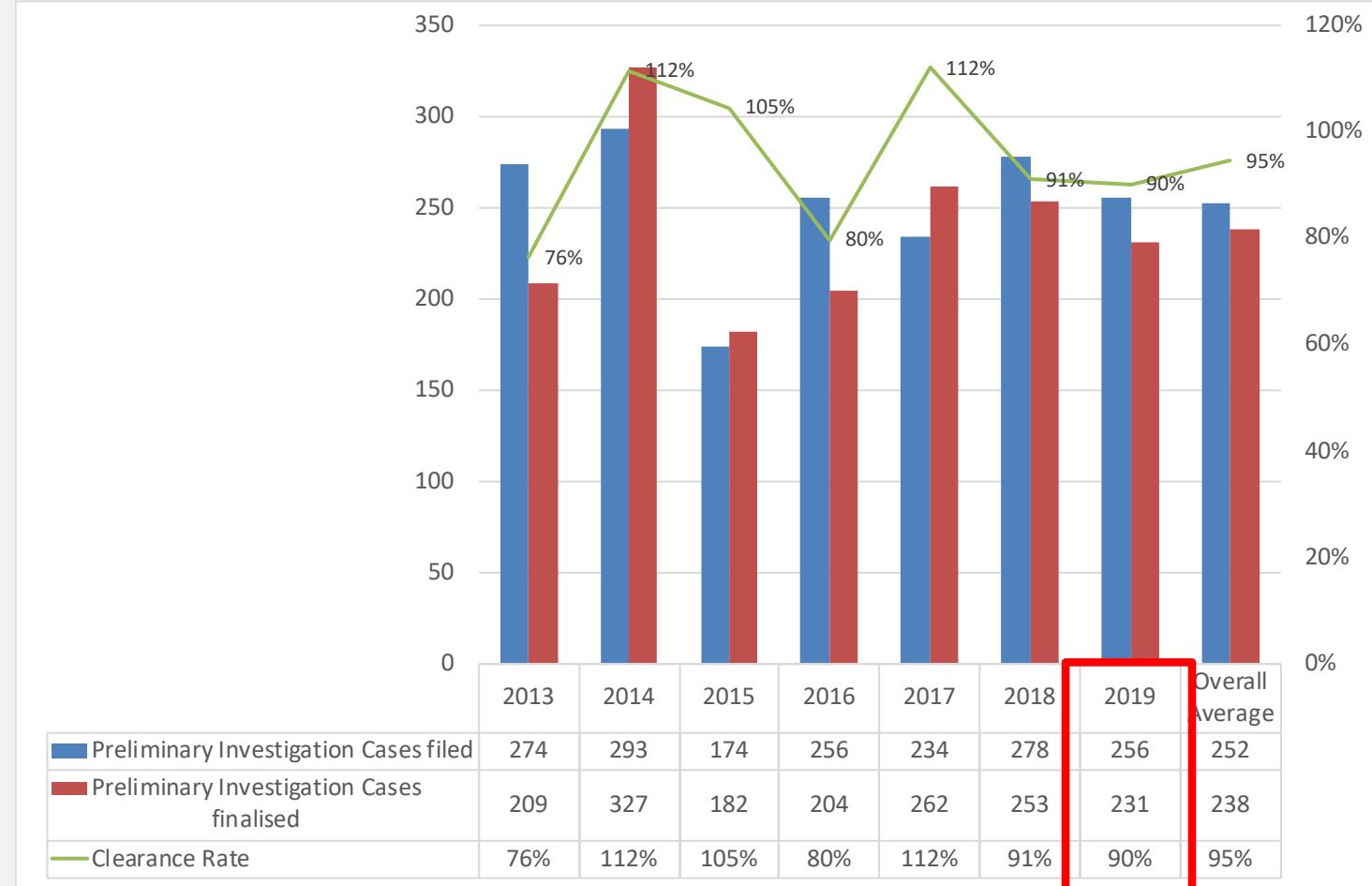
The overall average for the last 7 years is 99% - tracking OK.



MAGISTRATES COURT PI WORKLOAD

Since 2015, PI
matters filed by the
OPP have
increased.

Clearance rates
have not matched
total filings in the
last two years,
averaging 95% over
the last 7 years,
less than ideal.



MAGISTRATES COURT CRIMINAL WORKLOAD

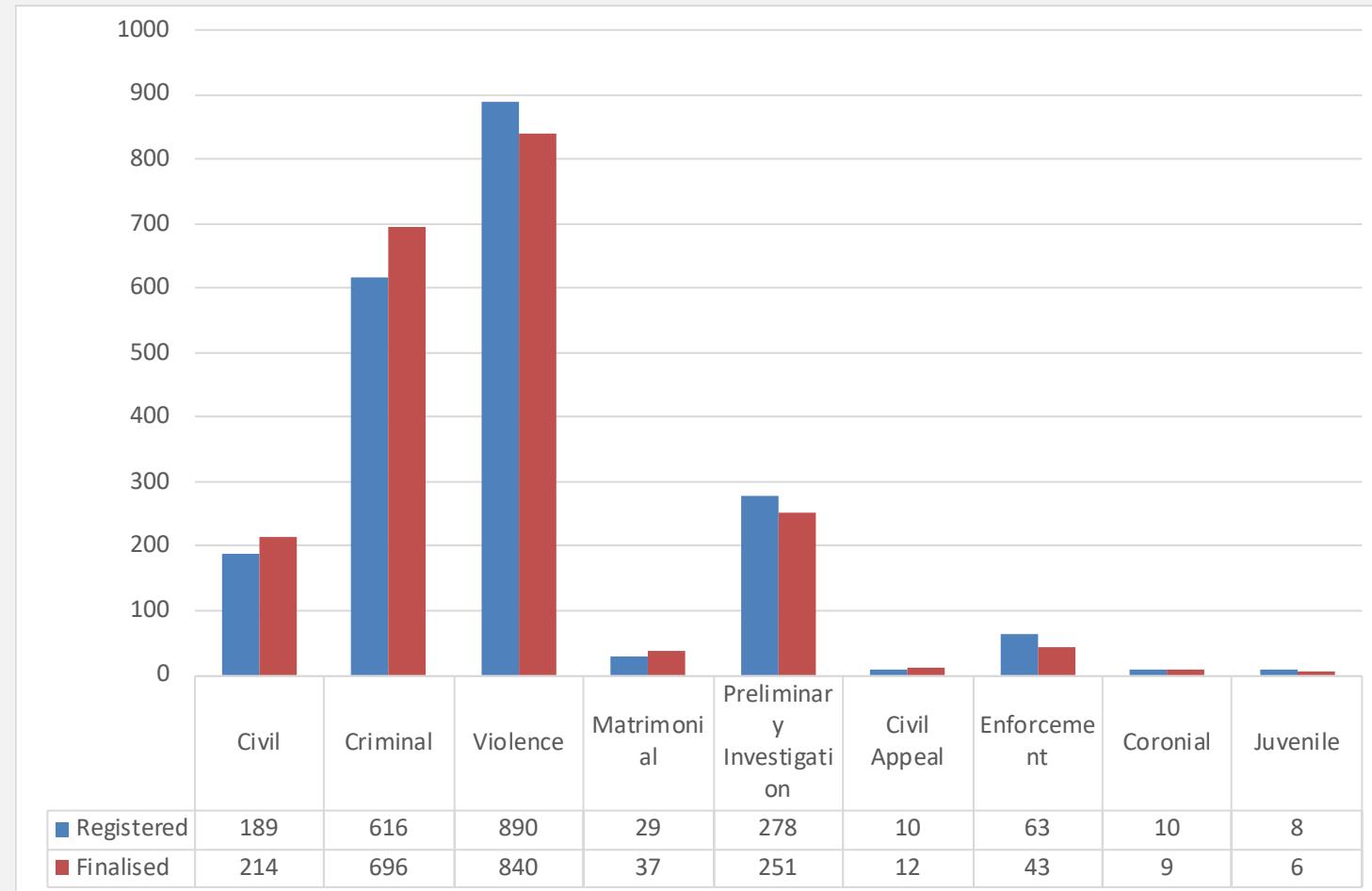
The filings emanating from VPF/SPD has increased in 2019, after dropping substantially over the last 3 previous years, however Clearance Rate was a very low 83%.

The overall average for the last 7 years is 101% - tracking well.



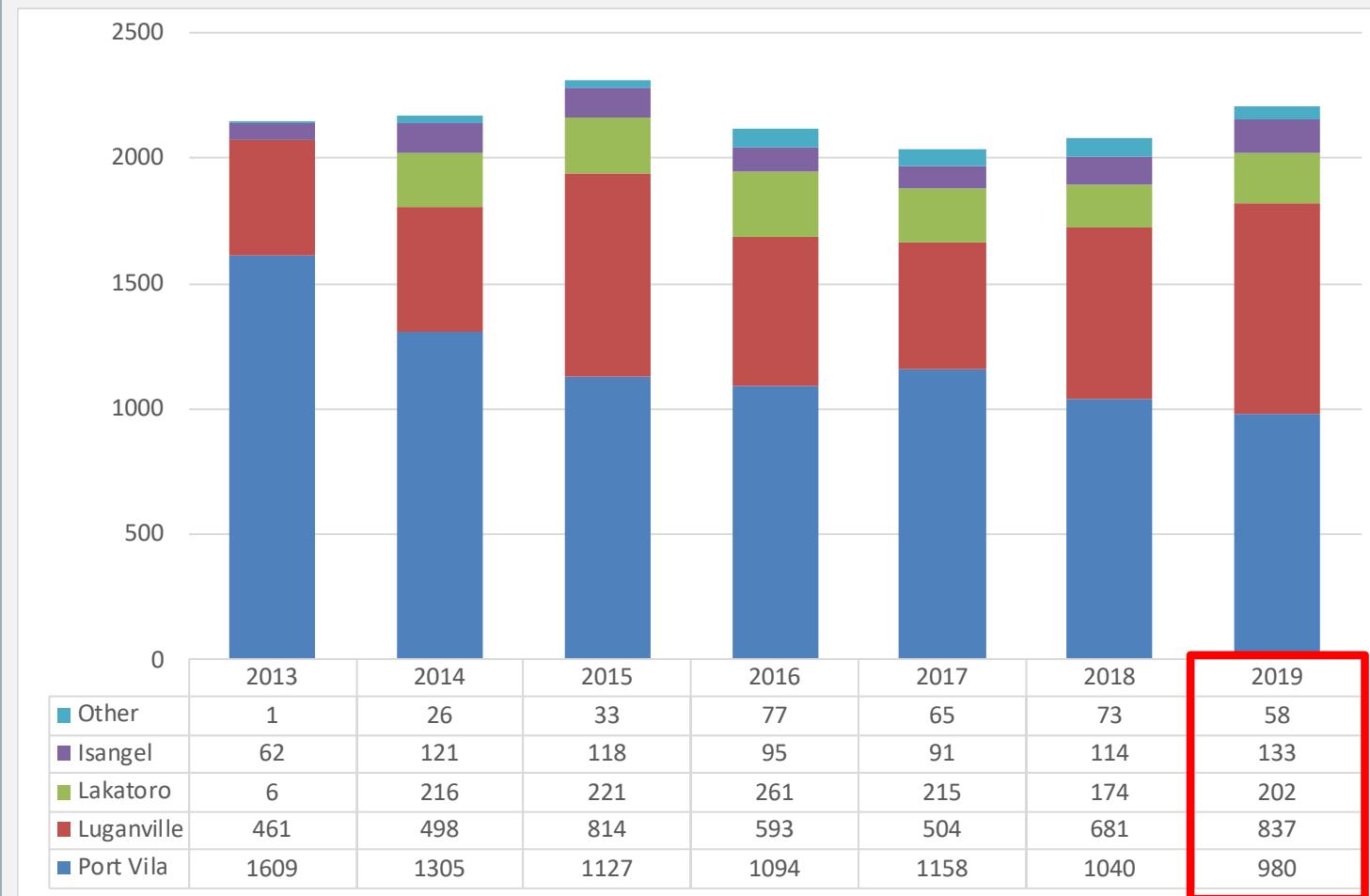
MAGISTRATES COURT ALL CASE WORKLOAD 2019

Violence (protection orders) continue to be the biggest case filing type in the MC.



MAGISTRATES COURT LOCATION WORKLOAD

Ratio of filings between Luganville and Port Vila has shifted dramatically over the years, with Port Vila now less than 50% of the total MC workload. This raises the question of resource allocations of magistrates between Santo and Efate.



ISLAND COURT TOTAL WORKLOAD

Cases filed has dropped significantly in the last 4 years. The decline warrants further investigation as to the role and service of the Island Court to the communities.



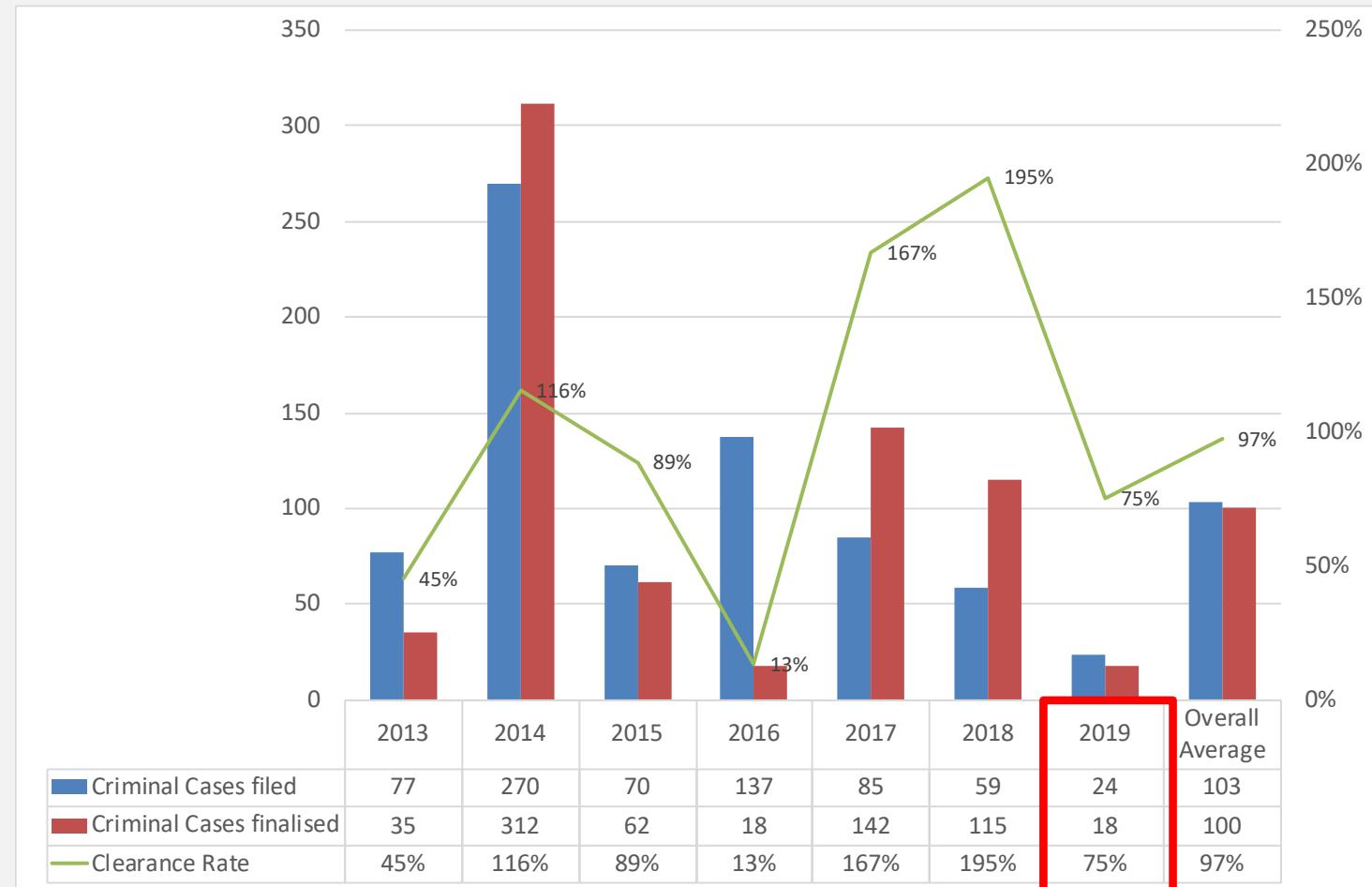
ISLAND COURT MAINTENANCE WORKLOAD

Maintenance matters have dropped considerably in the last 4 years – worthy of investigation, along with the overall filings in the Island Court. Clearance rates have only average 89% over the last 7 years, less than ideal.



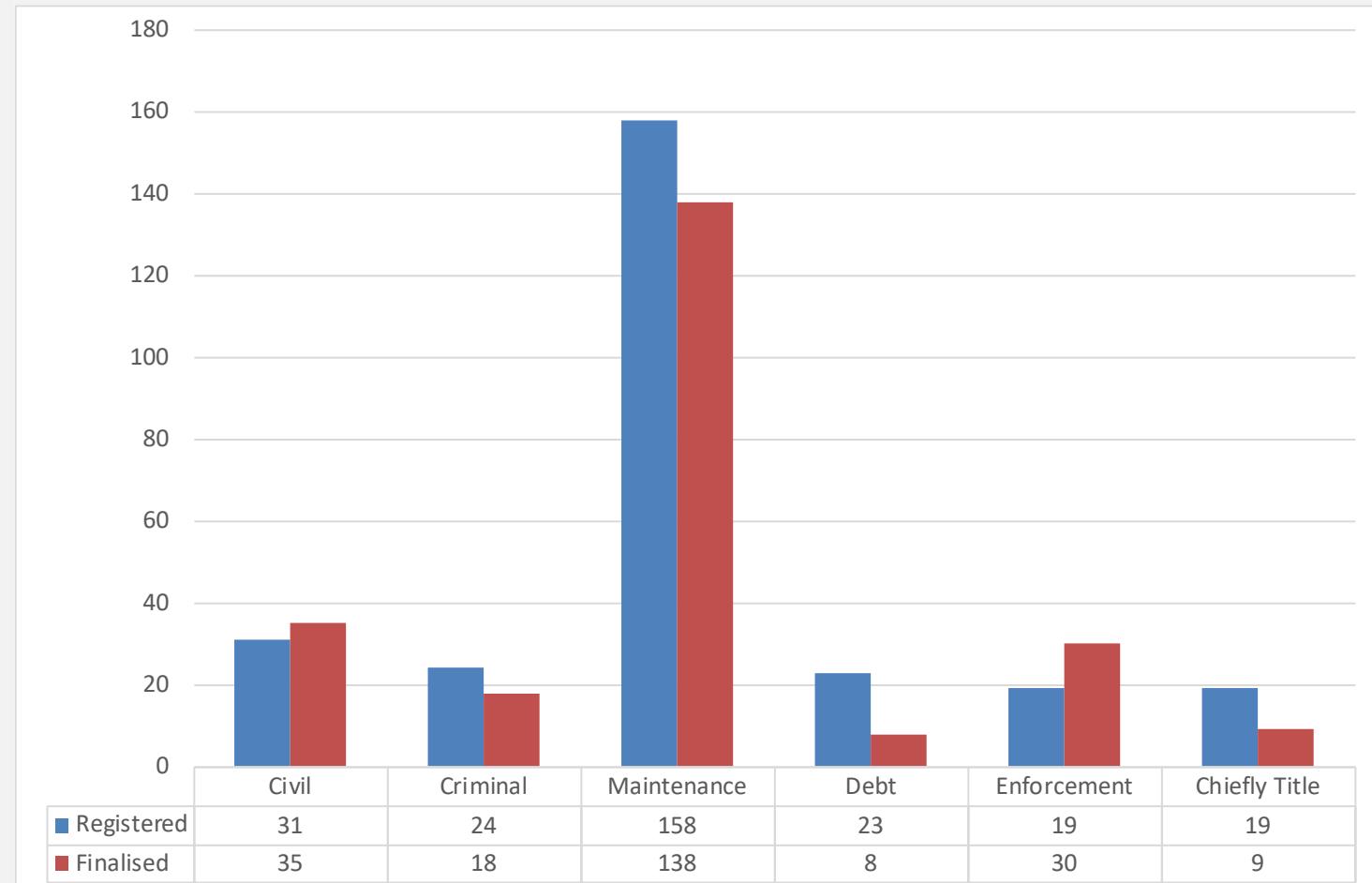
ISLAND COURT CRIMINAL WORKLOAD

Criminal cases filed has dropped significantly – and by over 50% in the last year. This warrants close investigation as to the reasons why.



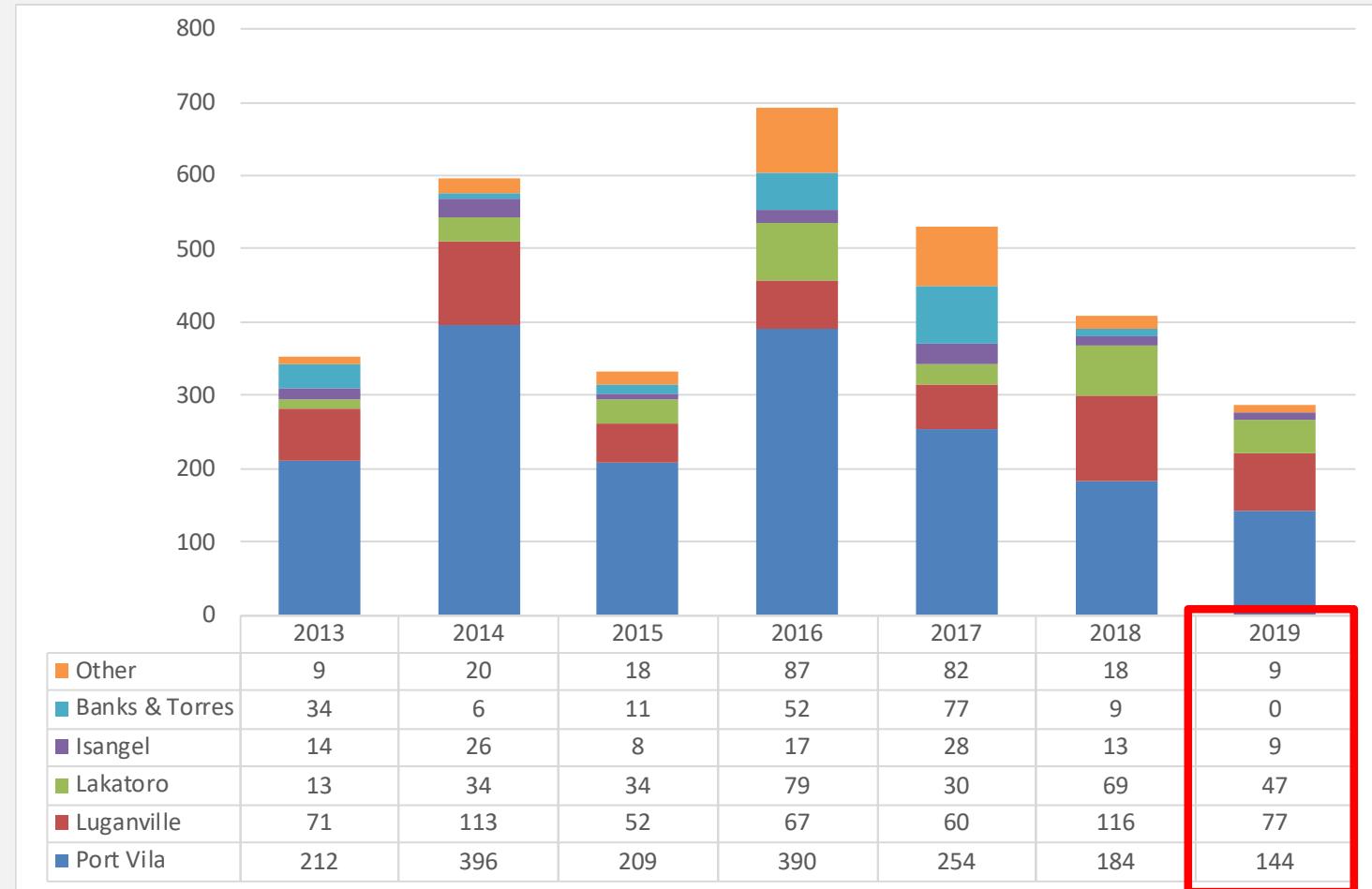
ISLAND COURT CASE WORKLOAD 2019

Maintenance matters is by far the biggest caseload on the Island Court



ISLAND COURT LOCATION WORKLOAD

In 2019, Port Vila has seen significant drop-off in cases being filed, along with all other locations.



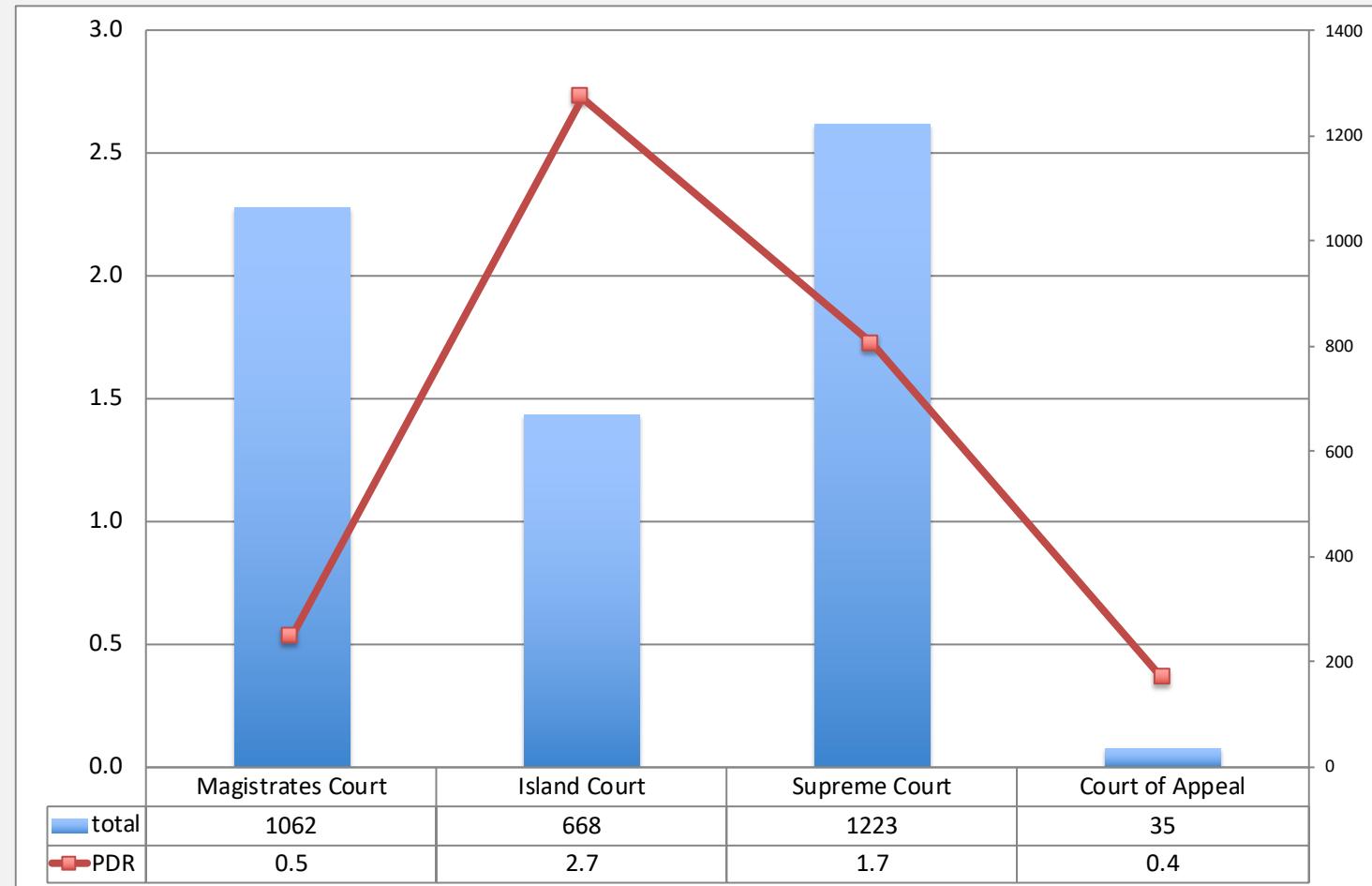
2. PENDING CASES

PENDING CASES BY COURT

Approximately 3,000 cases are now pending across the four jurisdictions, with just over 40% in the Supreme Court.

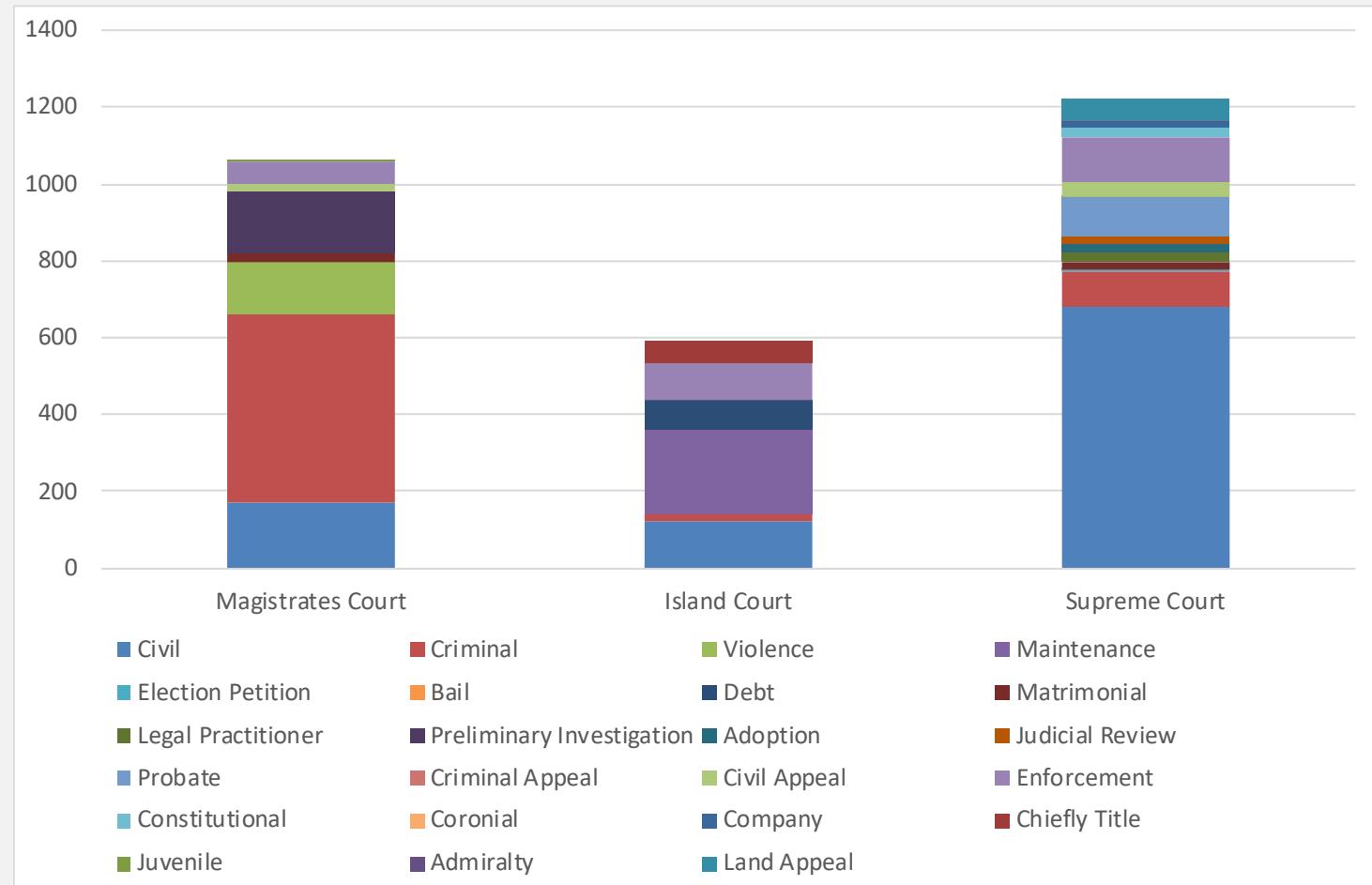
Of concern is the high Pending to Disposal Ratio (PDR) in both the Island and Supreme Courts.

The lower the PDR – the better, and ideally under 1.0



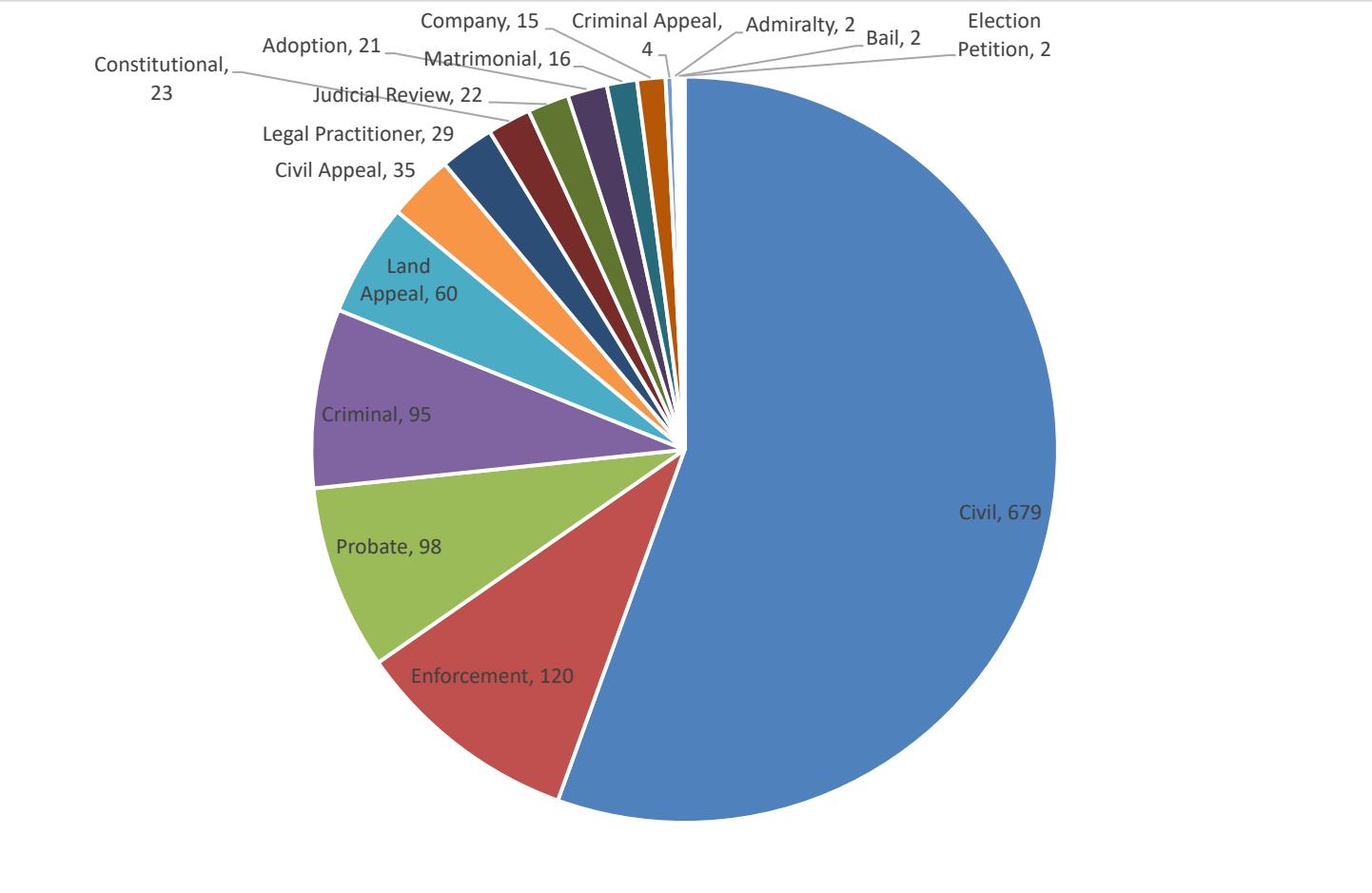
PENDING BY COURT BY CASE TYPE

Each court has its own mix of case type pending ratios as shown in detail in the following charts



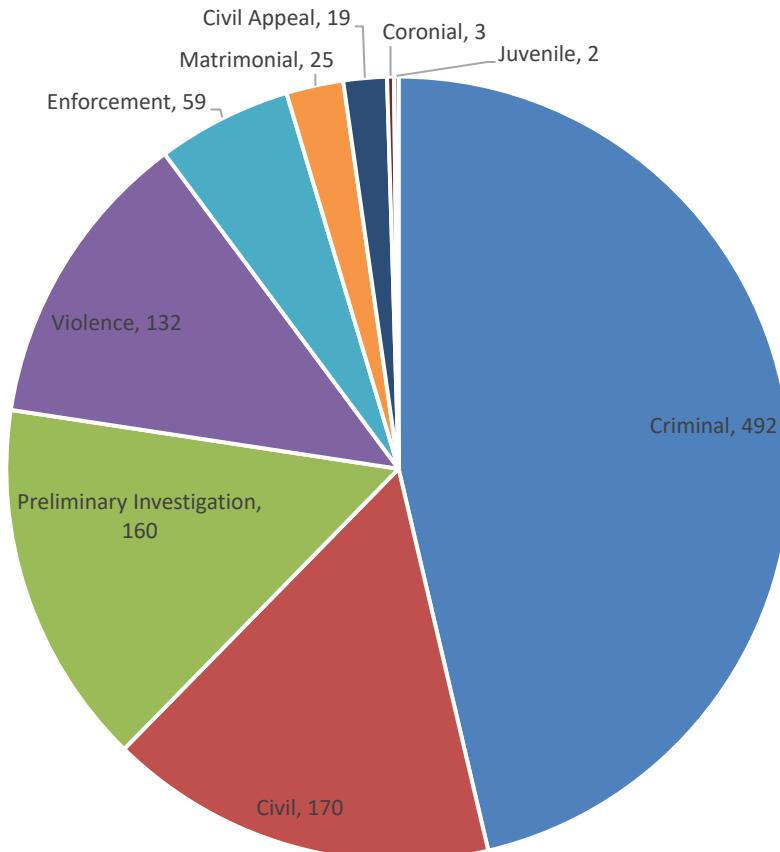
PENDING SUPREME COURT BY CASE TYPE

Clearly shows the significant % that Civil cases make-up of the Supreme Court workload. The Enforcement pending #s are high due to failure to close cases and will be investigated.



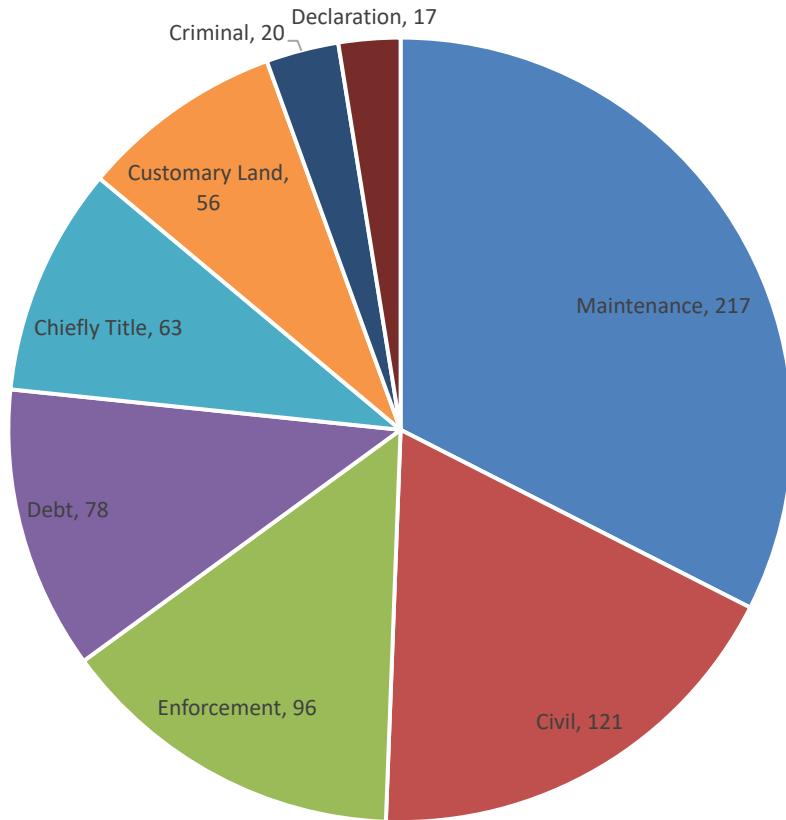
PENDING MAGISTRATES COURT BY CASE TYPE

Criminal cases make up the largest component of MC Pending workload. Violence (Domestic protection orders) are unusually high and will be investigated.



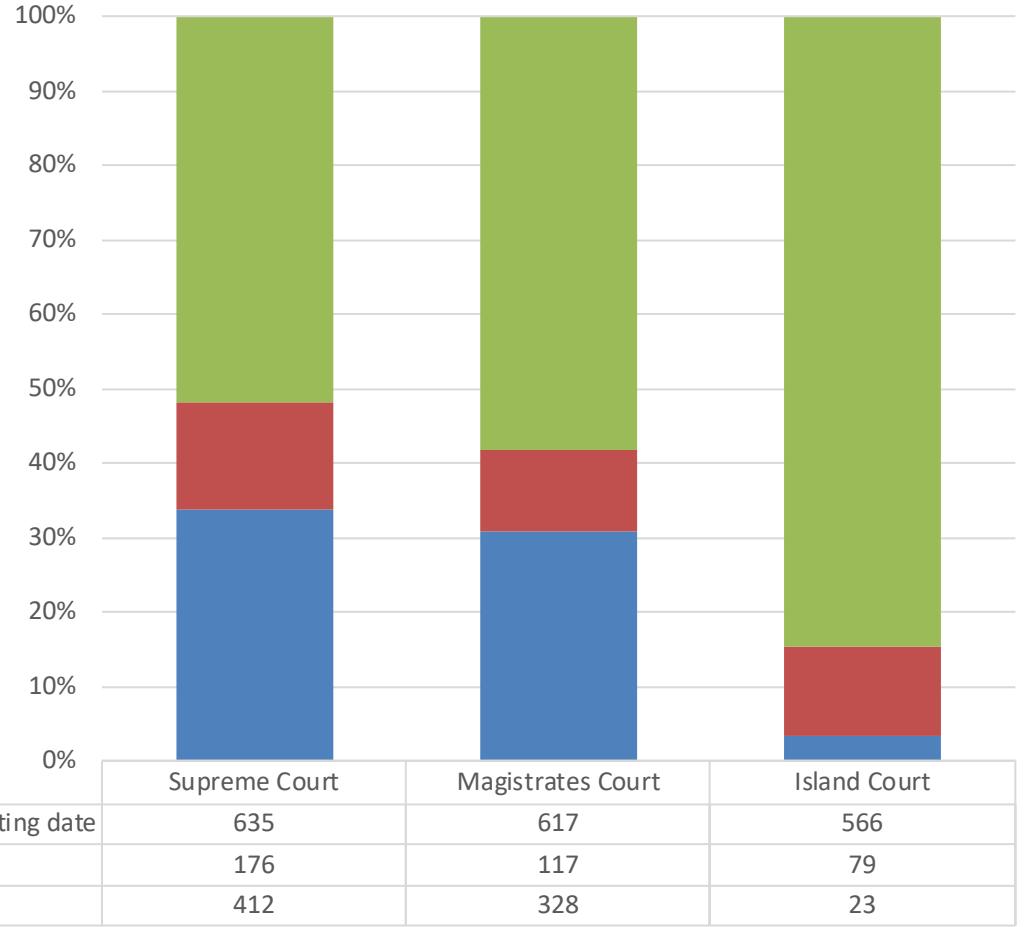
PENDING ISLAND COURT BY CASE TYPE

The overall # of pending cases in the Island Court, and evenly spread across the major case types of the Court.



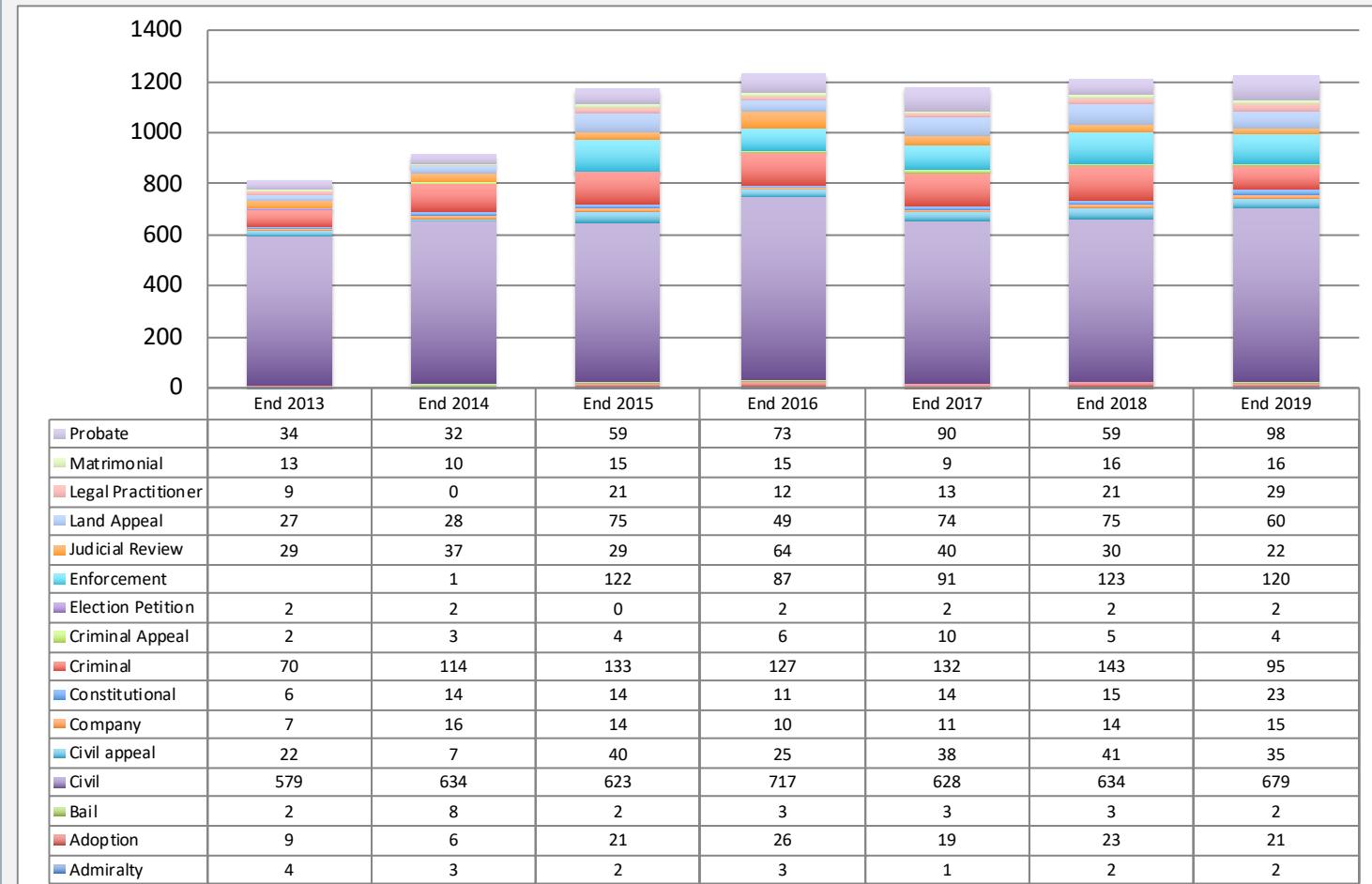
PENDING BY COURT BY LISTED OR NOT LISTED

Cases with a future listing (shaded blue) should typically be approximately 80% of the pending case load. Each court has a significant challenge to address this low % of cases without future listings. The impact on the parties cannot be underestimated by this low % of listed matters.



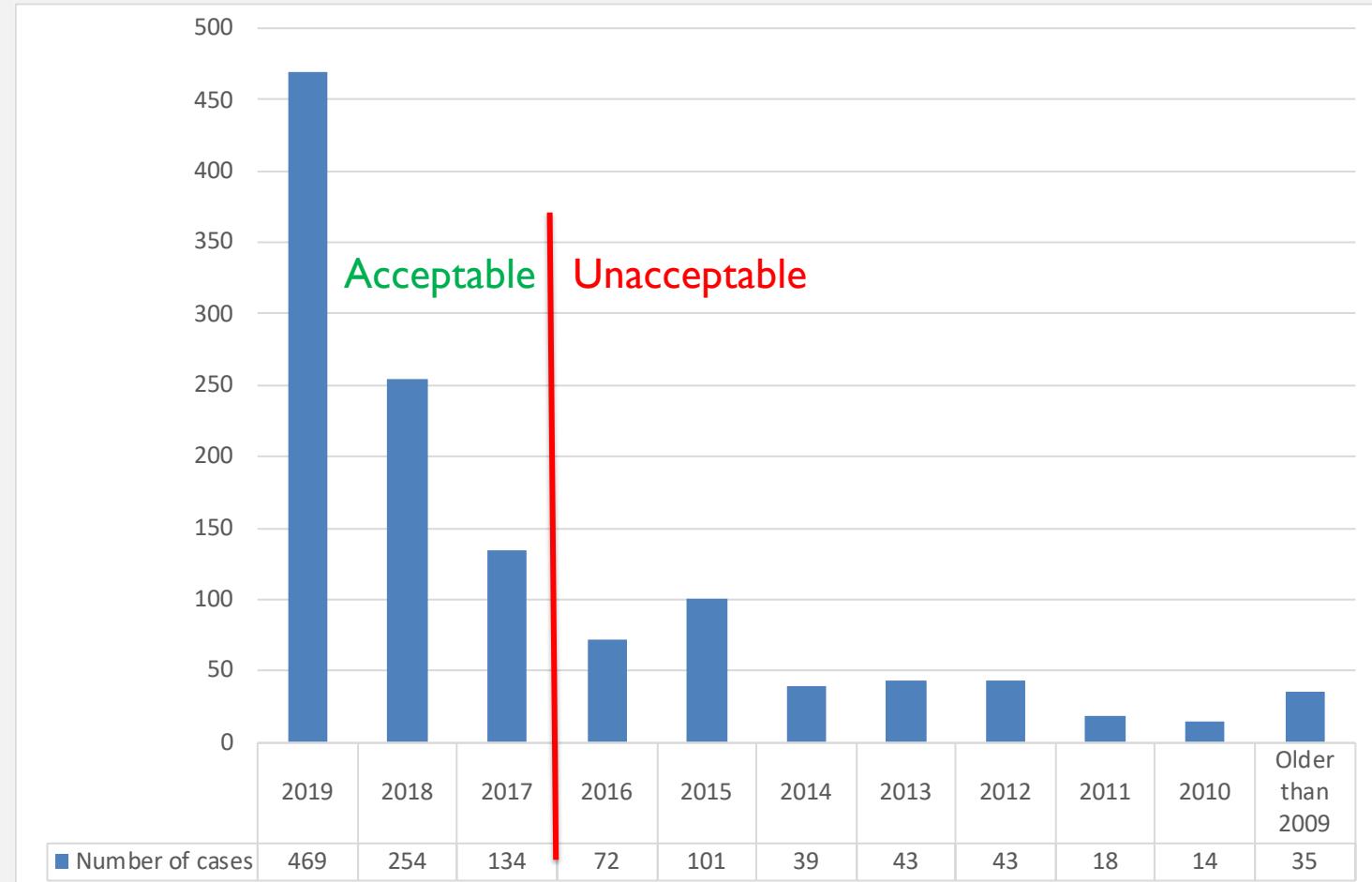
PENDING TREND SUPREME COURT

Clearly shows the jump in pending between 2014 and 2015 but has remained relatively stable since then – albeit at an unacceptable higher number than desired.



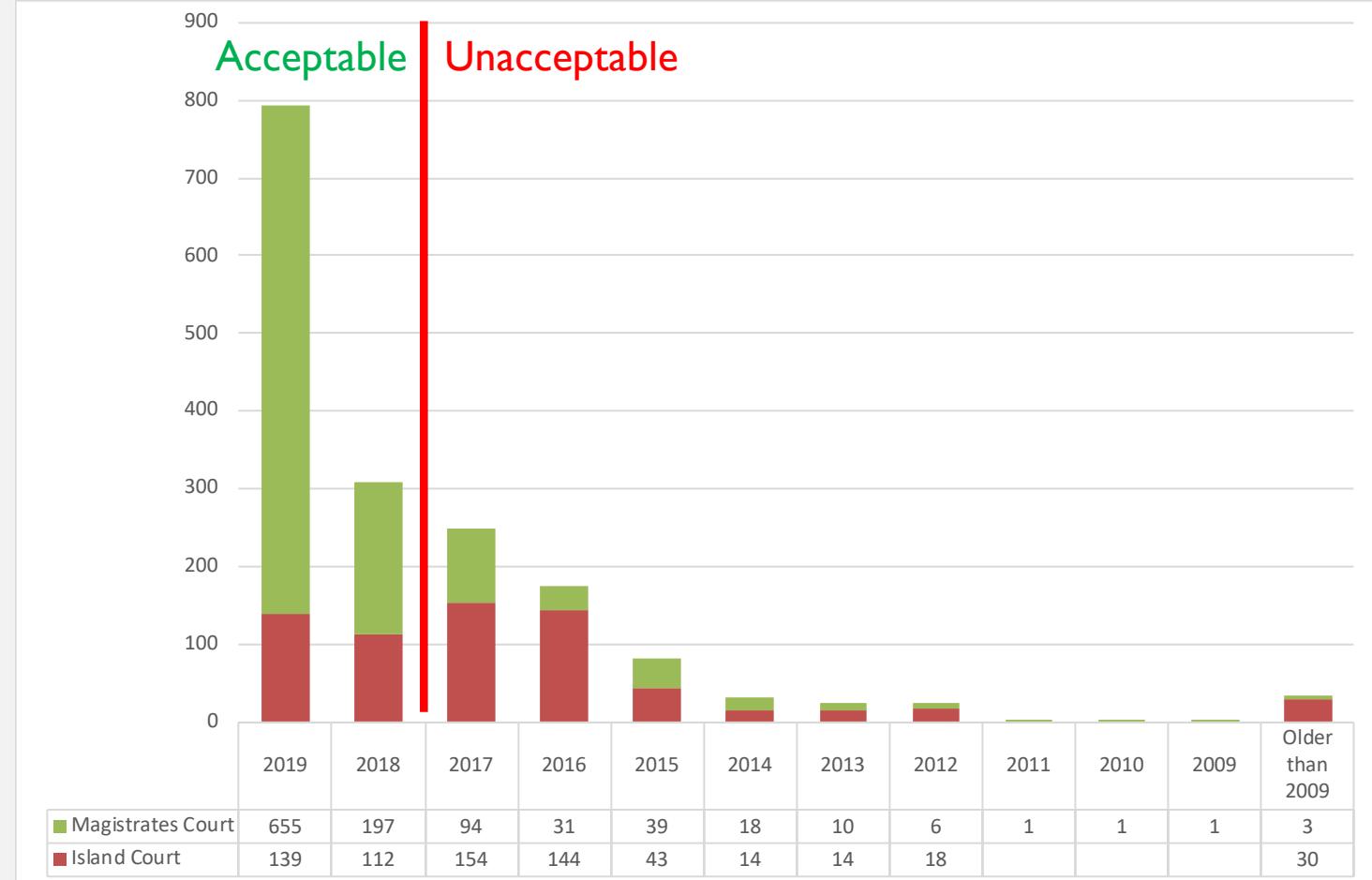
PENDING AGE SUPREME COURT

Approximately 30% of cases are older than 3 years (2016 and earlier), equating to 365 cases. Further work on addressing these specific old cases needs to be undertaken.



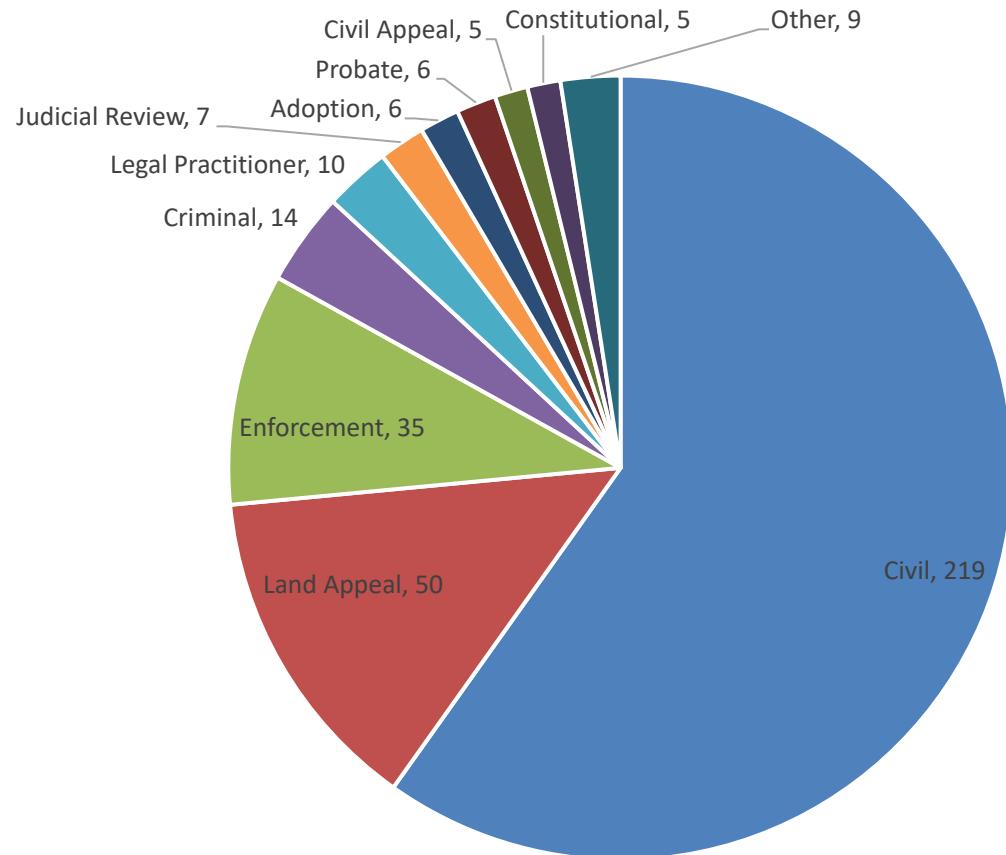
PENDING AGE MAGISTRATES & ISLAND COURTS

Approximately 1/3rd of cases are older than 2 years (2017 and earlier), equating to 365 cases. Further work on addressing these specific old cases needs to be undertaken.



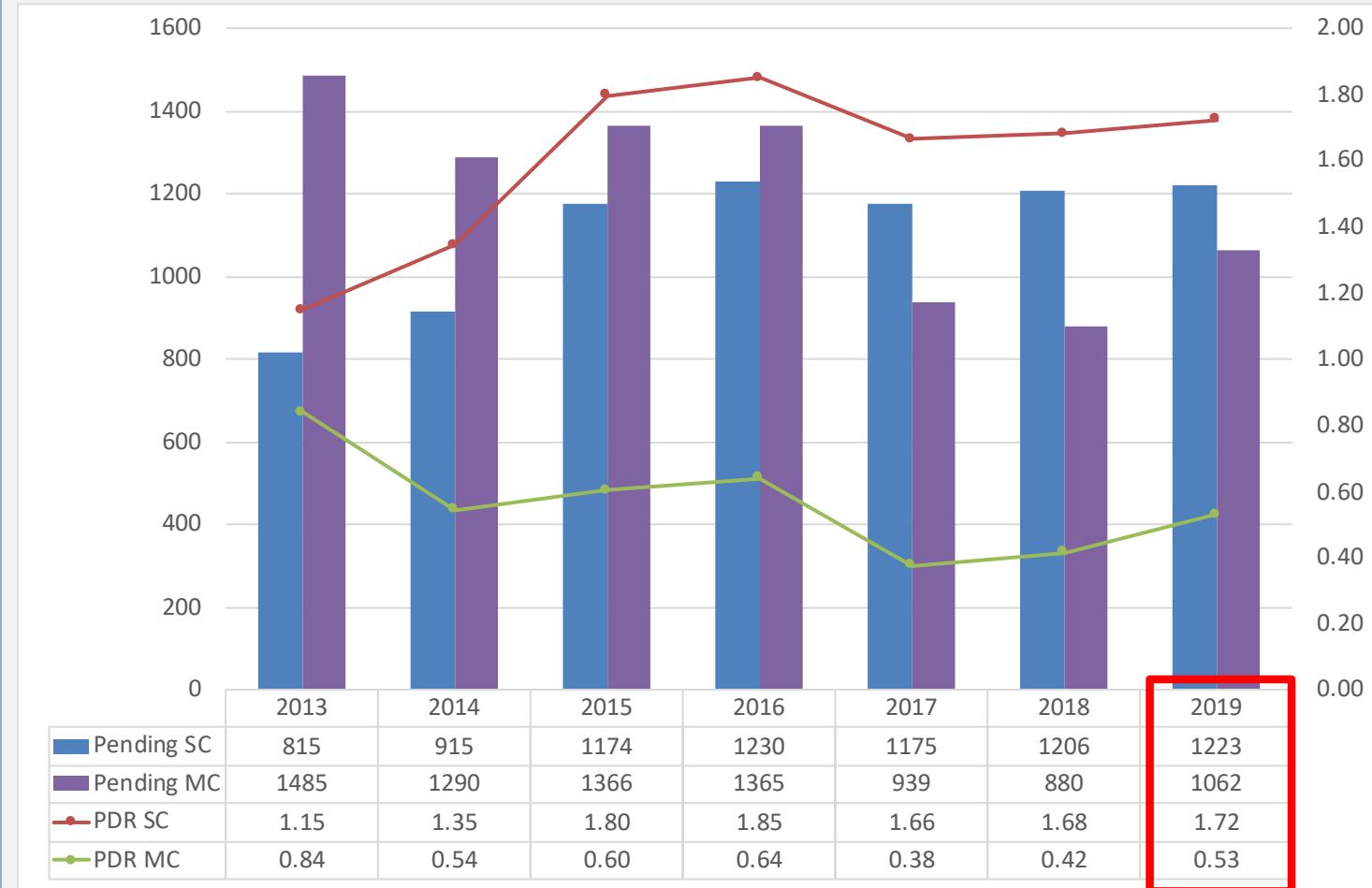
AGED PENDING CASES SUPREME COURT

This shows for
those cases older
than 2016, the
case type.



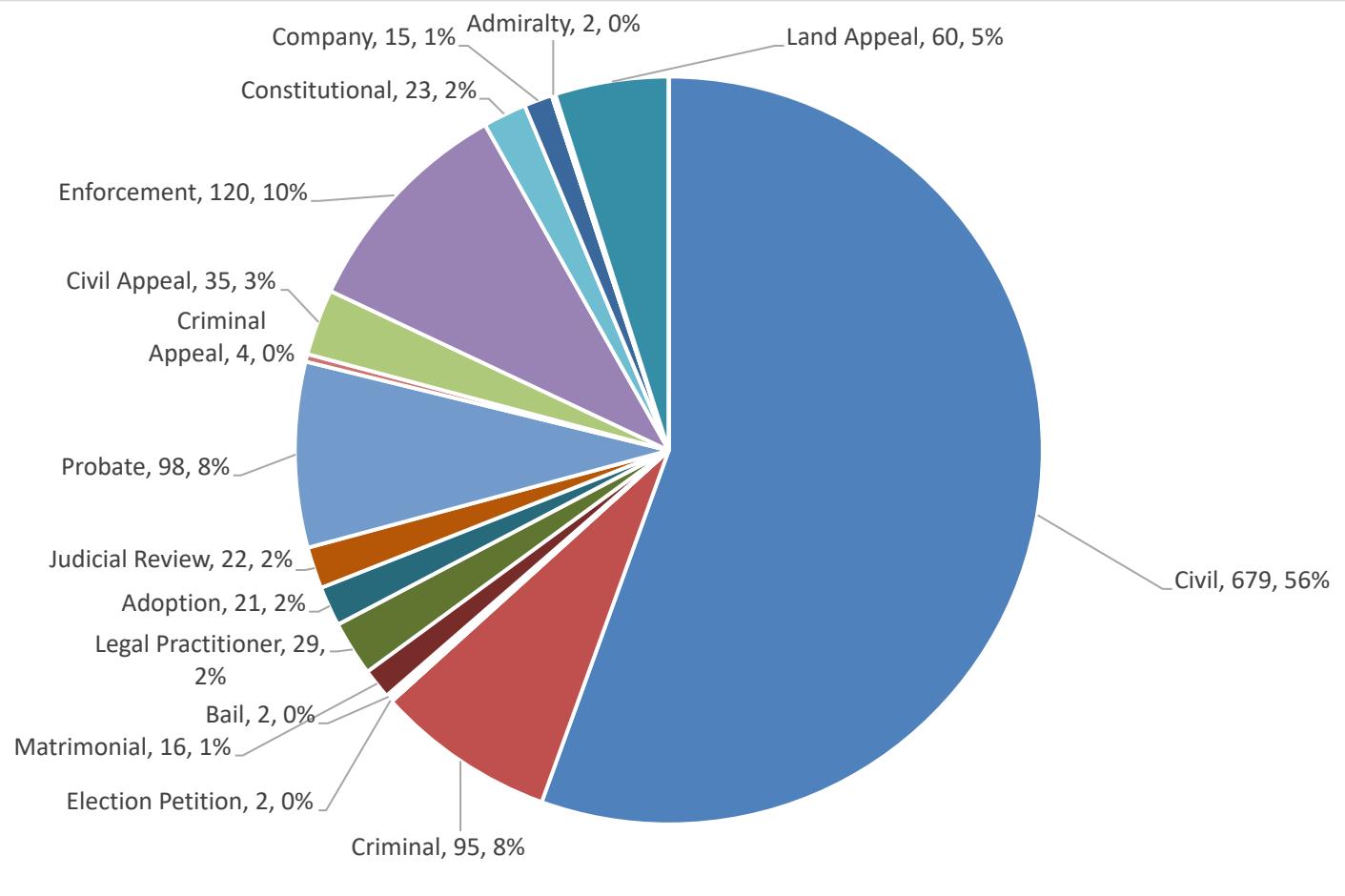
PENDING TRENDS AND PDR

The lower the PDR (Pending to Disposal Ratio) – the better. Supreme Court has seen a steady increase of its PDR to over 1.7 which equates to almost 2 years worth of outstanding cases



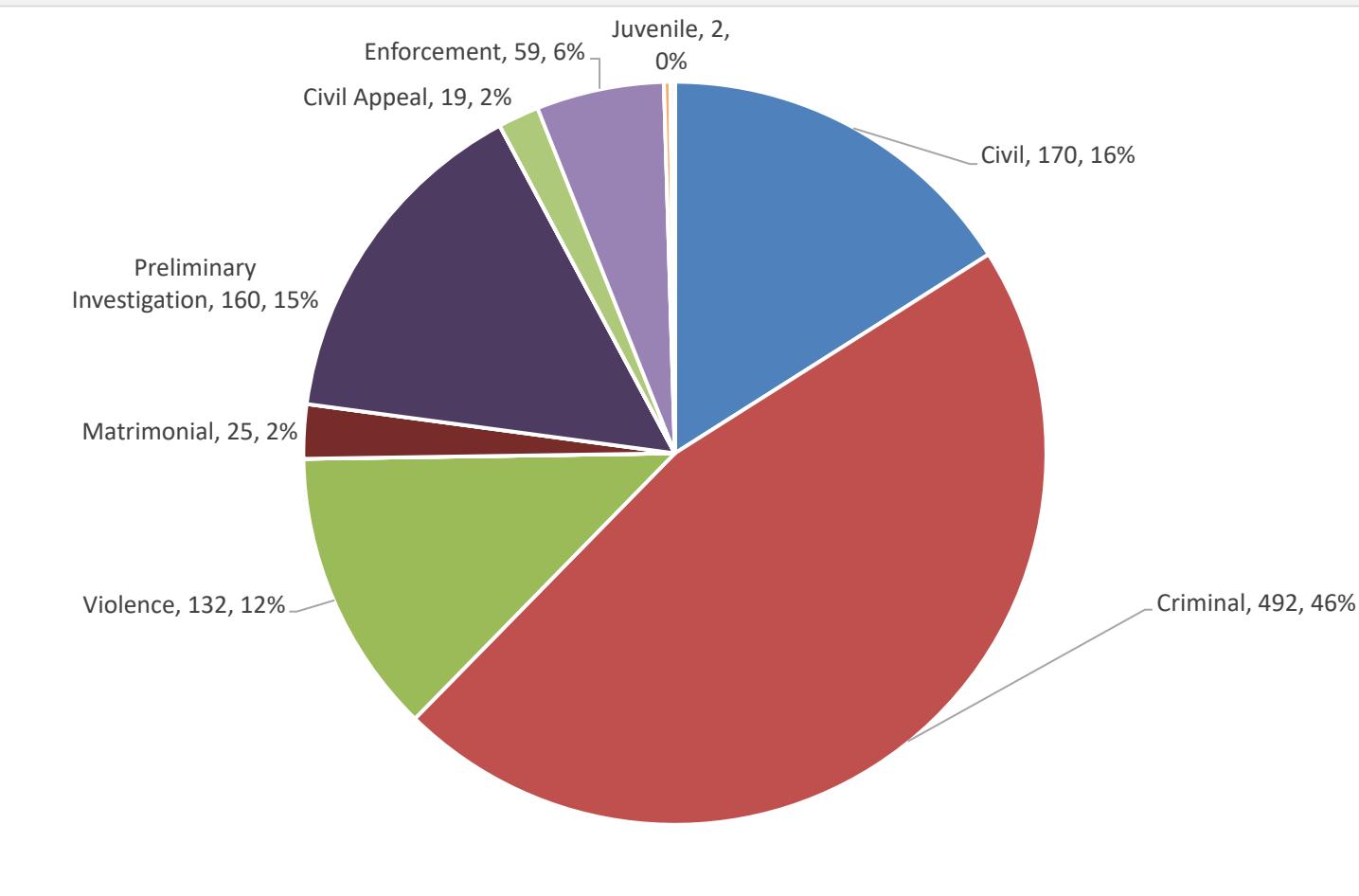
PENDING CASES SUPREME COURT

Civil, criminal and enforcement matters account for almost 75% of the total pending caseload



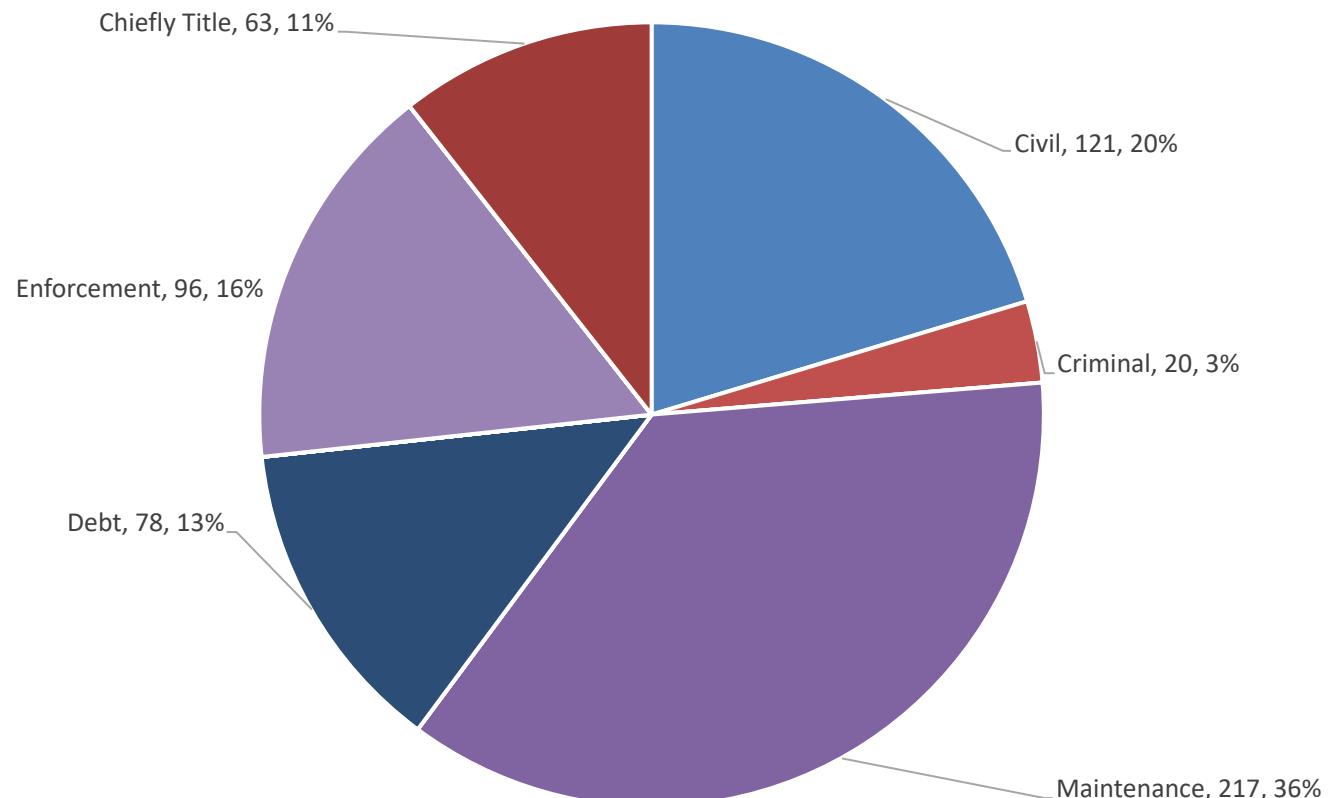
PENDING CASES MAGISTRATES COURT

Criminal matters
– including PI –
make up 60% of
the total pending
workload



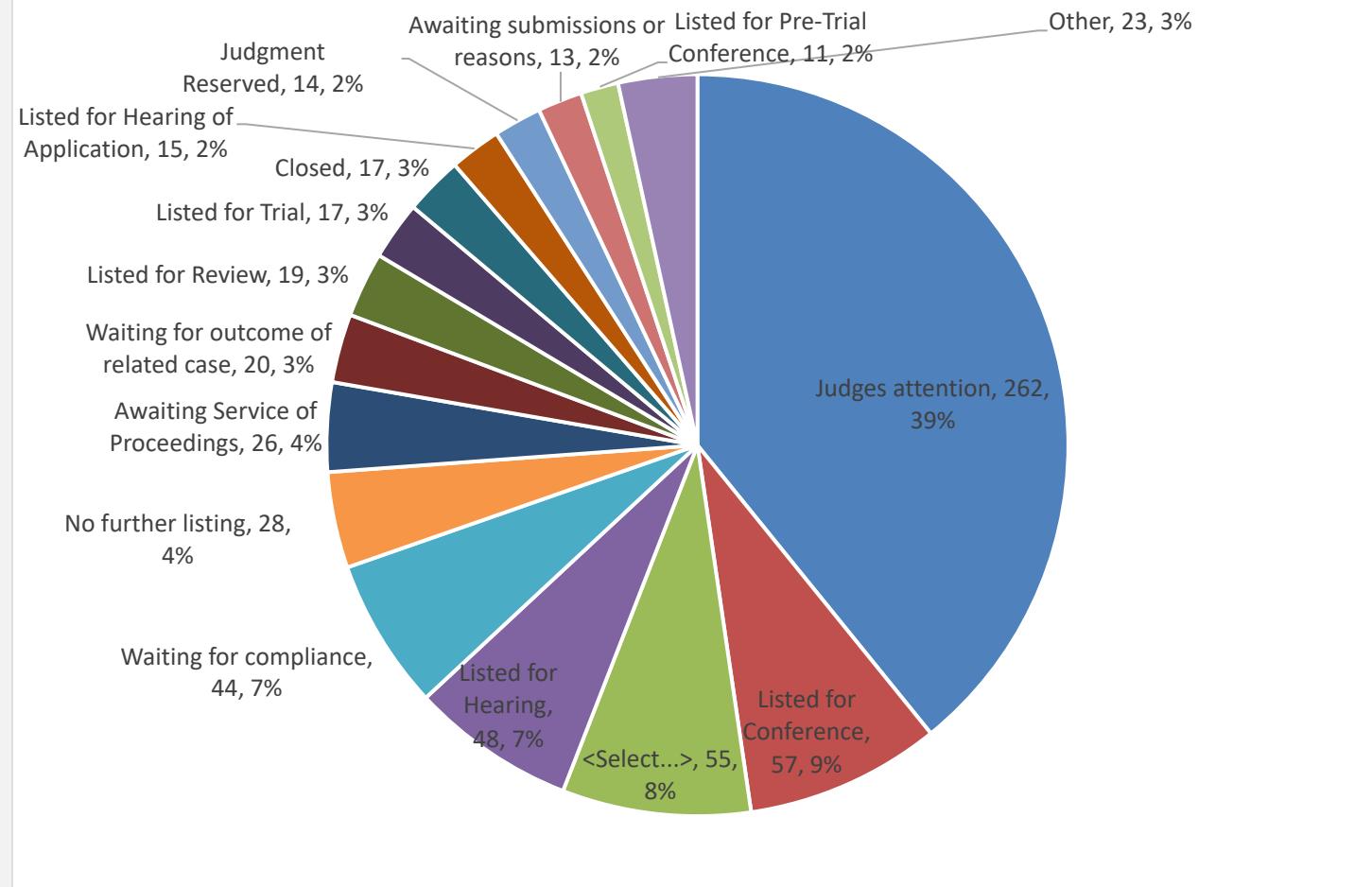
PENDING CASES ISLAND COURT

There is relatively
more even
distribution of
case types making
up the pending
workload of the
Island Court



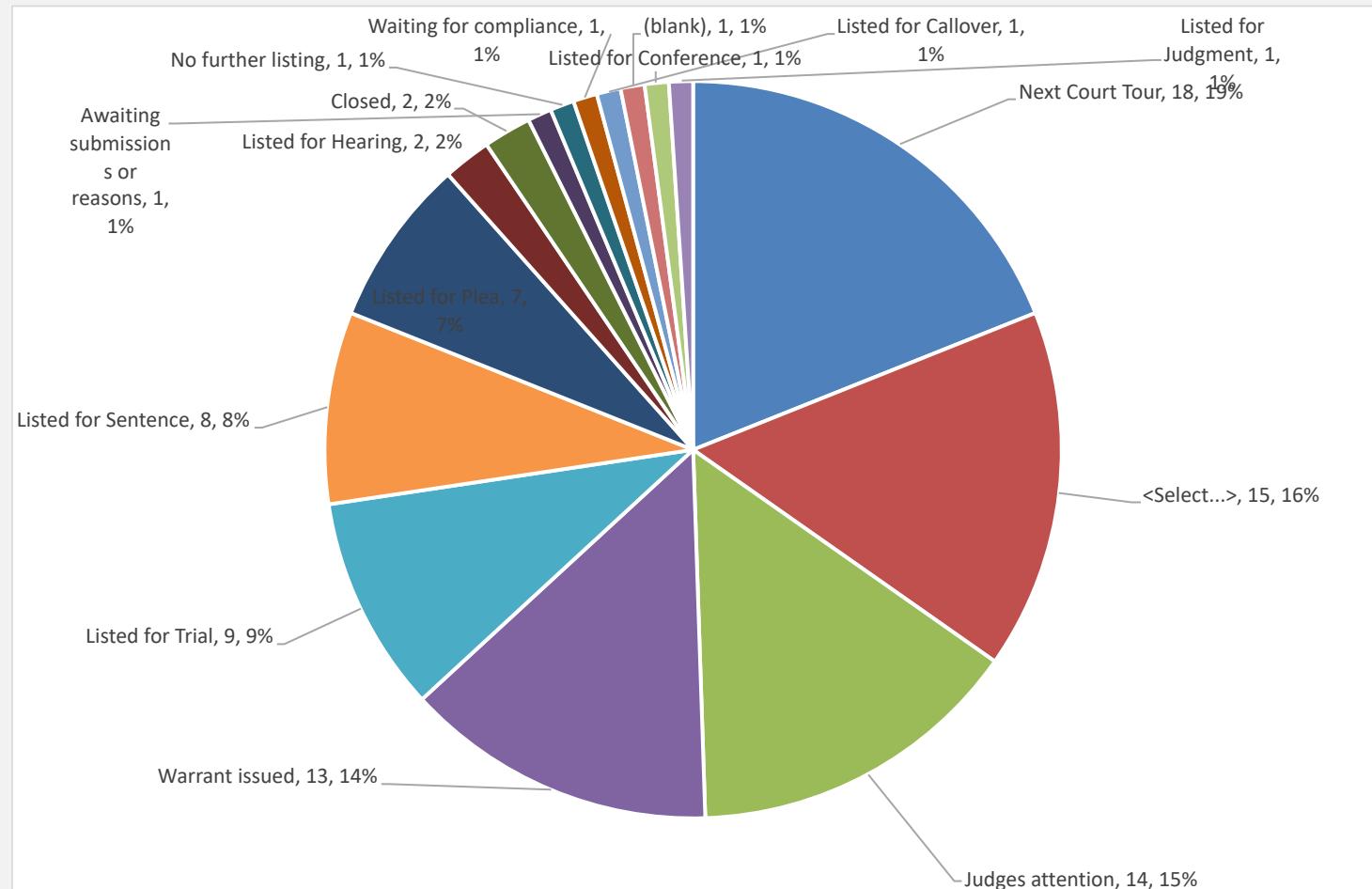
PENDING STAGE SUPREME COURT CIVIL

A very low % of the overall civil pending caseload is listed/ready for trial/hearing— at 5%. This is a figure that is normally much higher when cases can be prepared quickly for trial



PENDING STAGE SUPREME COURT CRIMINAL

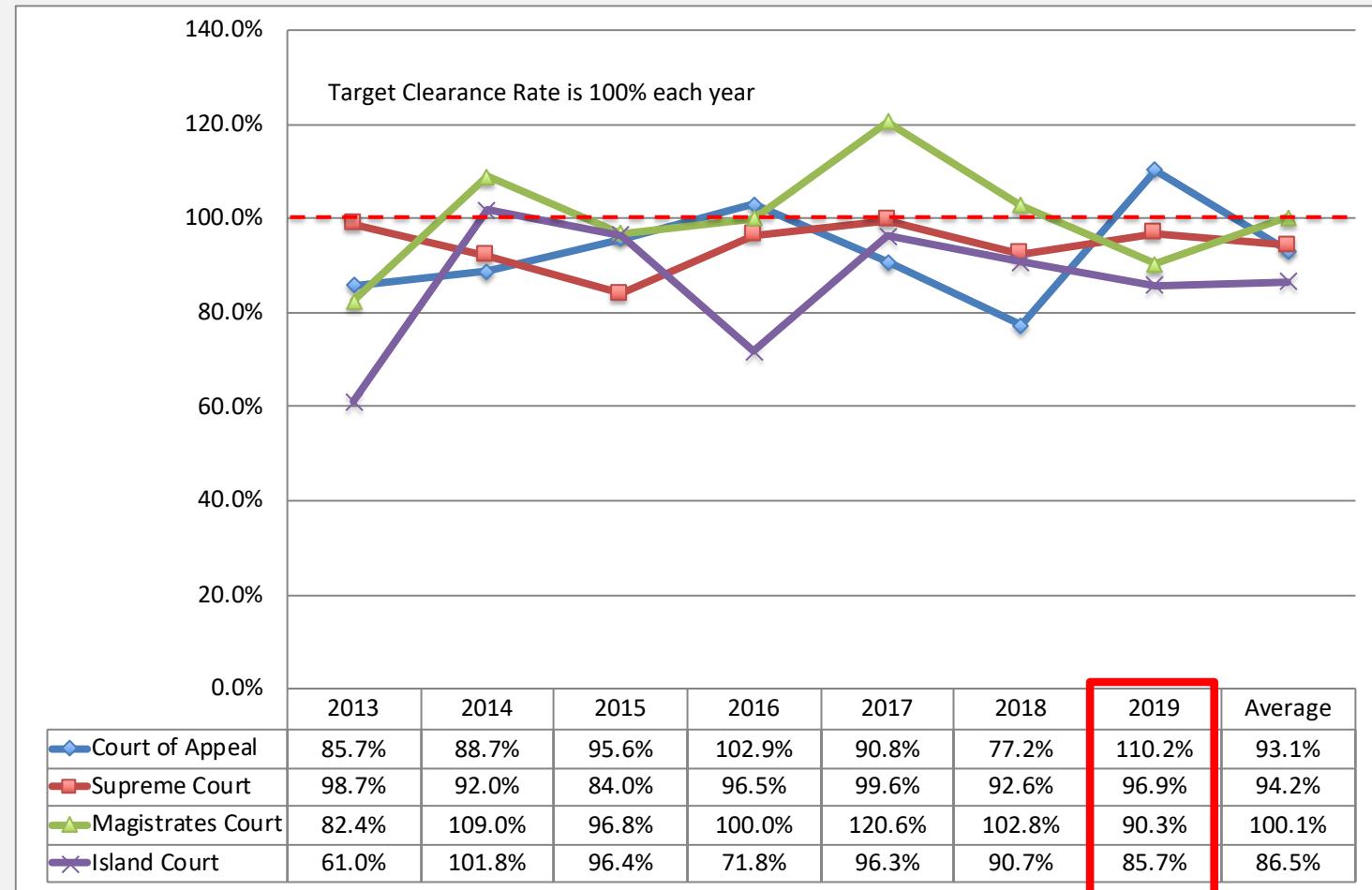
Just under 15% of the criminal pending matters have no valid stage (<Select...>). More cases are ready for trial/sentencing – at 15%



3. CLEARANCE RATES

CLEARANCE RATE TRENDS

Only the Magistrates Court have been able to achieve an average Clearance Rate of over 100% over the last 7 years. If less than 100% - a court's pending workload naturally increases



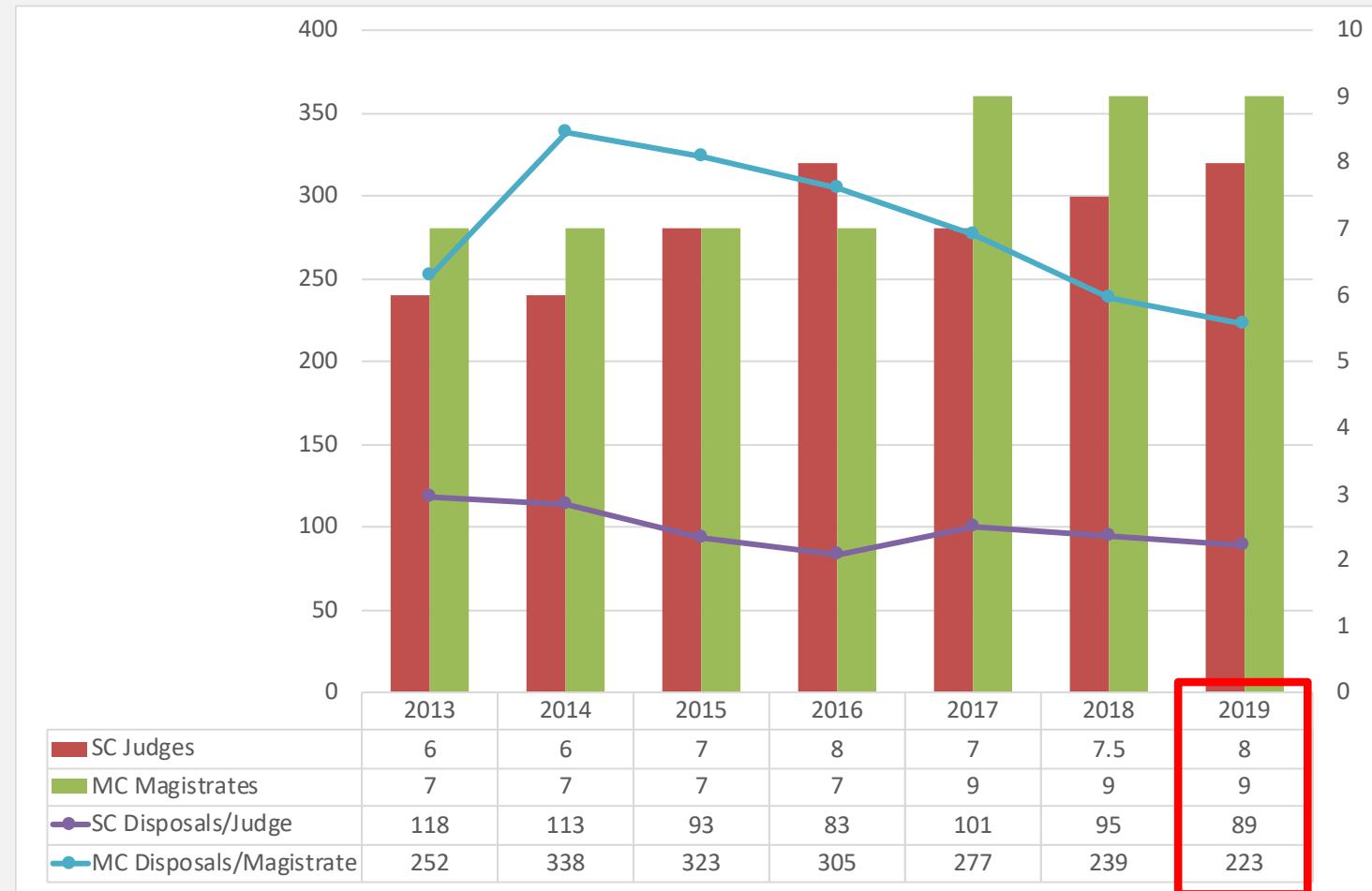
4. JUDICIAL PRODUCTIVITY

DISPOSAL RATES PER JUDGE & MAGISTRATE

Many factors affect judicial productivity (disposals per officer) including case complexity, case mix and attendance rates.

Tracking this indicator is vital.

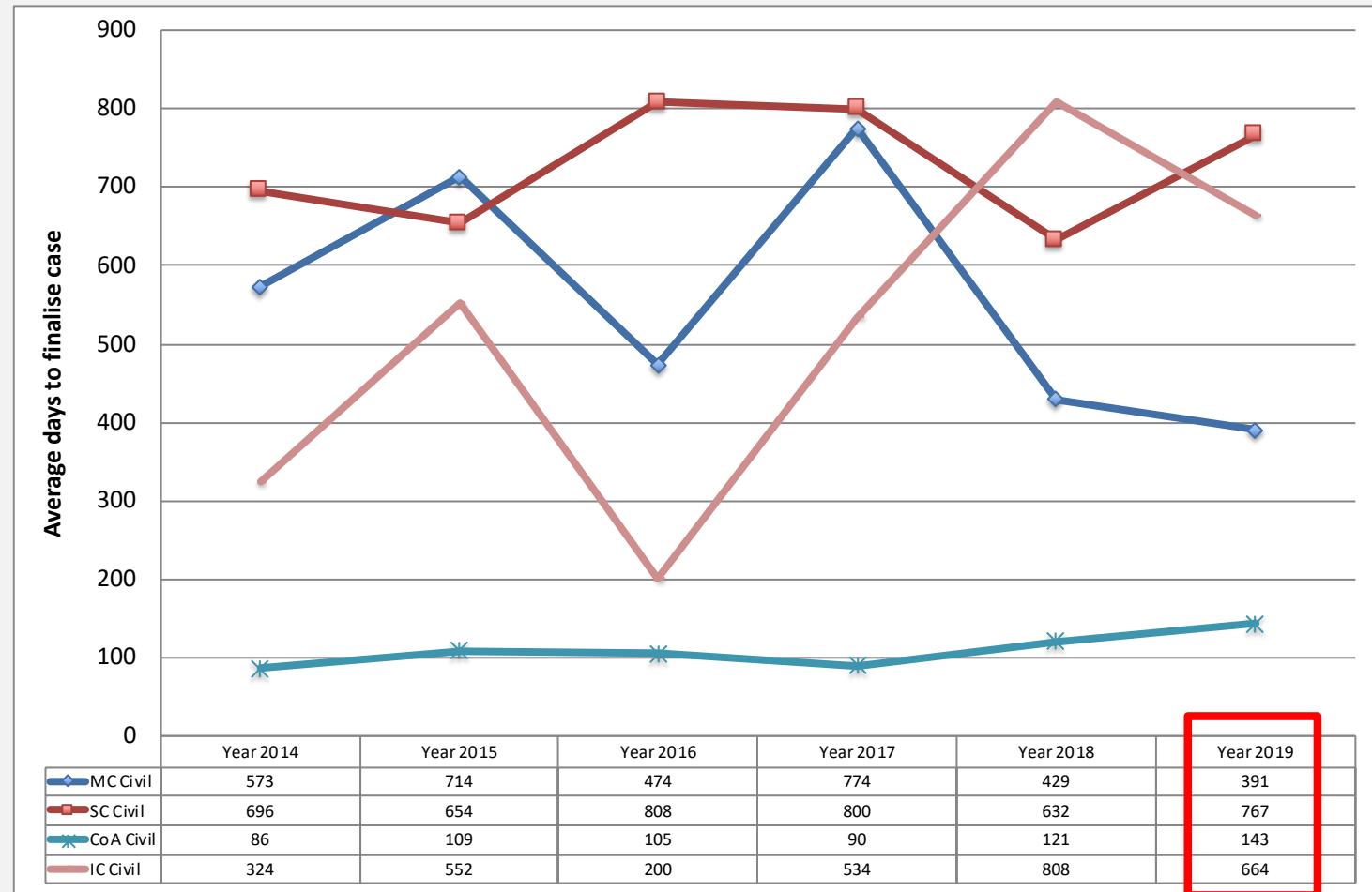
The reducing productivity of the Magistrates will be reviewed.



5. TIMELINESS

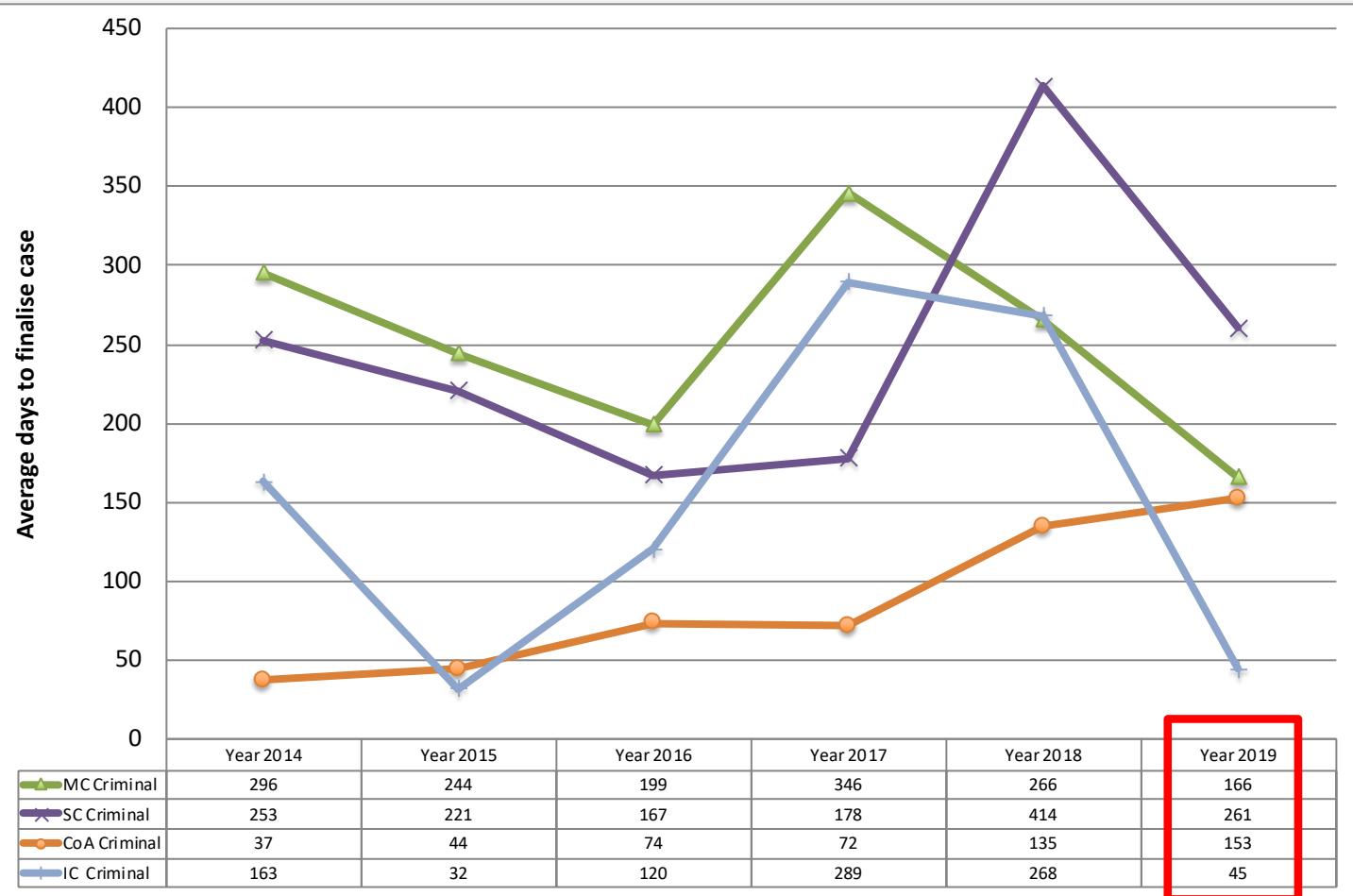
TIMELINESS DISPOSED CIVIL CASES

Civil cases in the Magistrates Court have reduced over the last 2 years, while Supreme Court matters invariably take on average 2 years to dispose.



TIMELINESS DISPOSED CRIMINAL CASES

Reductions in timeliness to dispose of cases improved in the Magistrates, Supreme and Island courts.

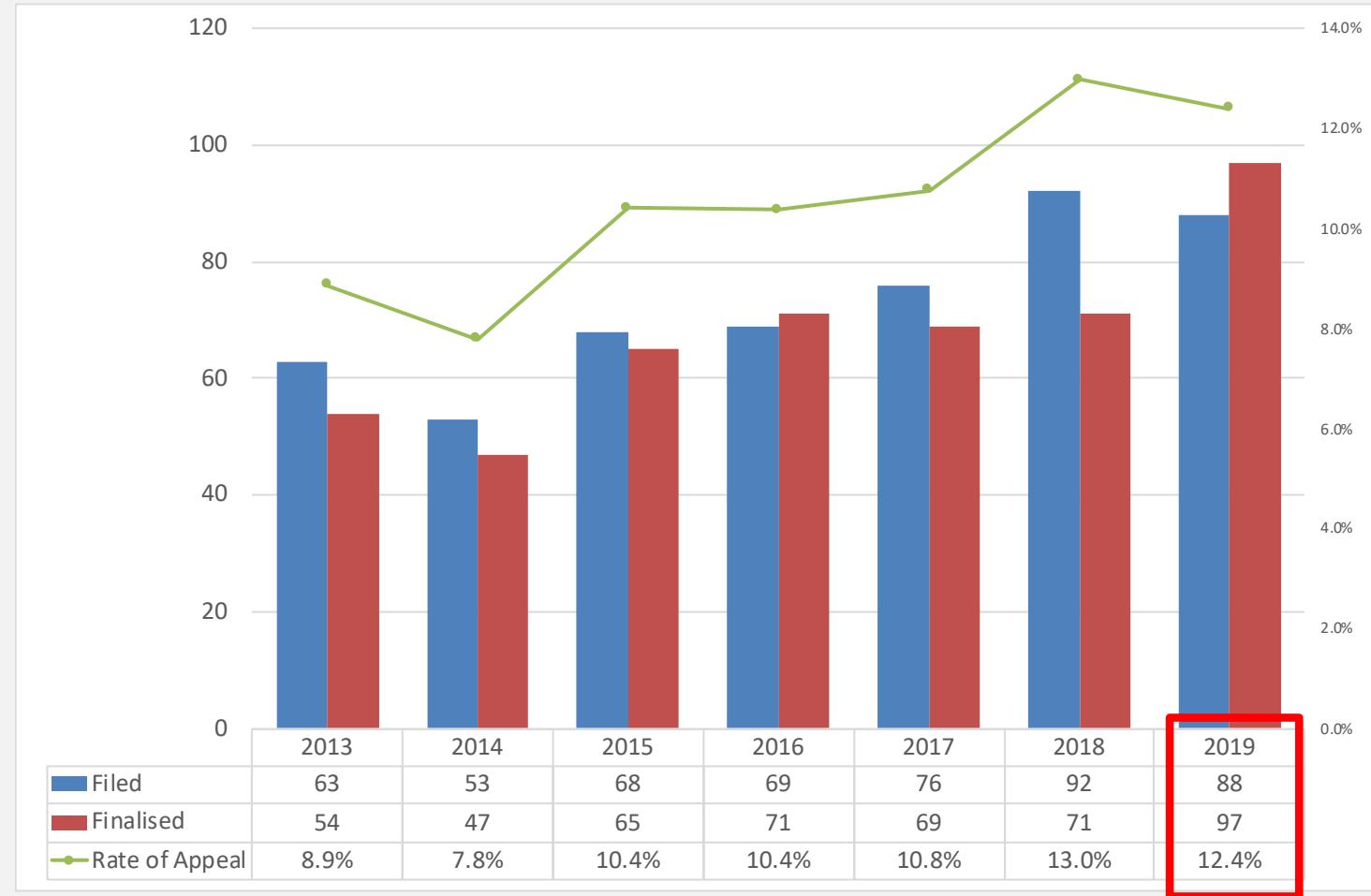


6. COURT OF APPEAL

COURT OF APPEAL WORKLOAD TRENDS

CoA workload in decreased slightly in 2019, while finalized cases increased significantly.

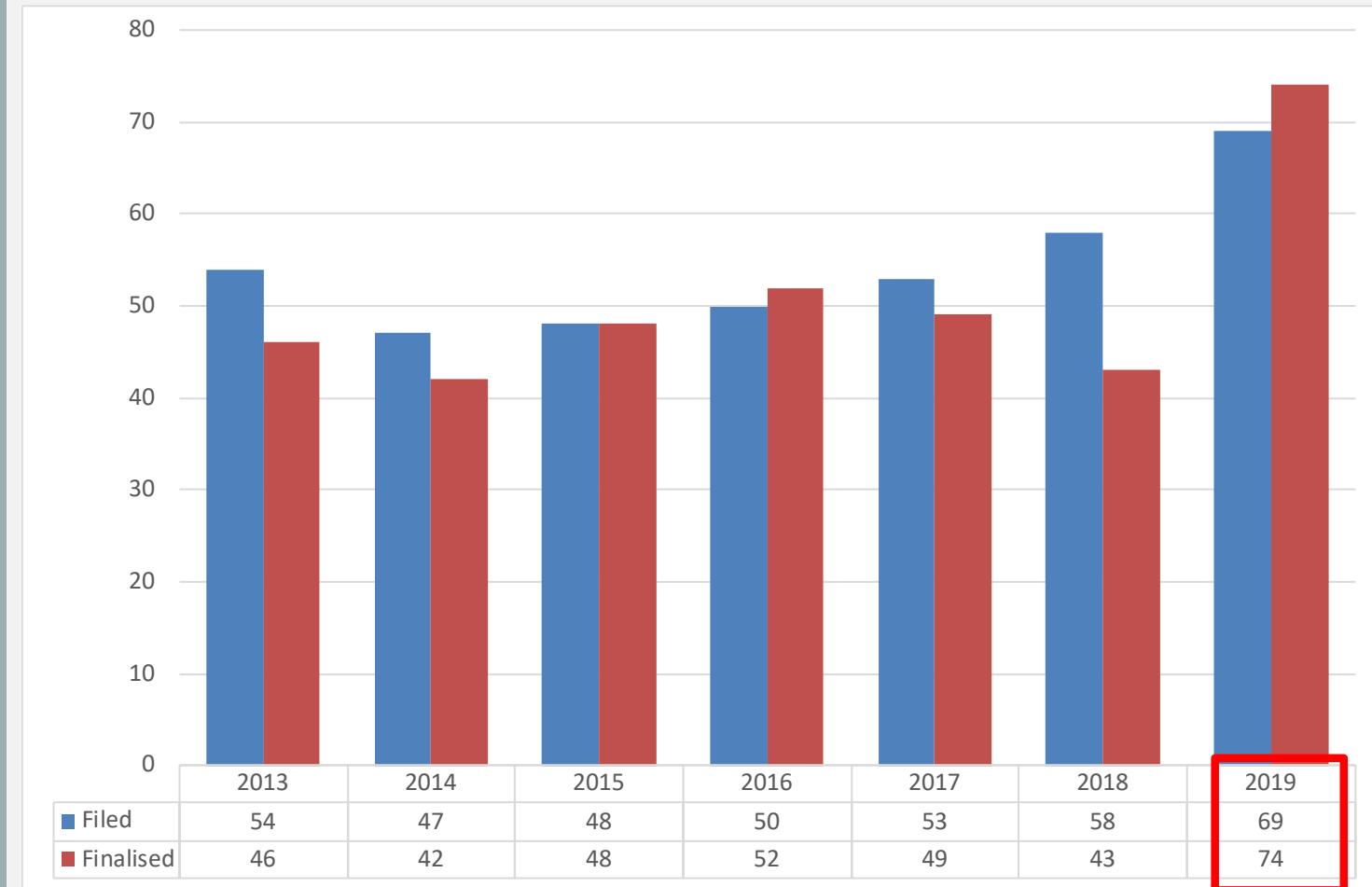
Of note is the increasing % of 1st instance matters finalized that are appealed, now running approximately 12-13% (or one in 8 cases are being appealed)



COURT OF APPEAL

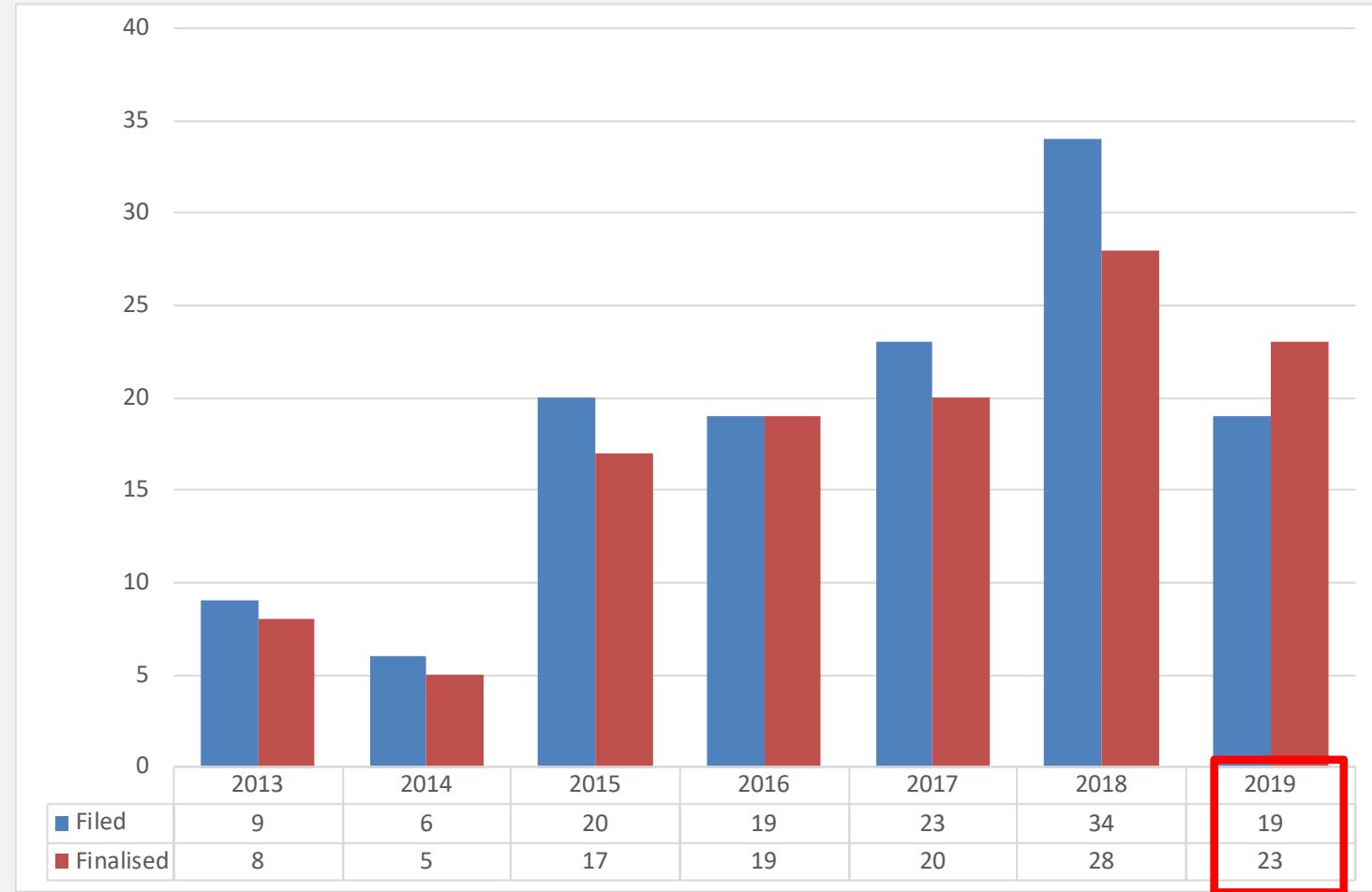
CIVIL

Civil Appeals workload in 2018 increased significantly, and approximately 20 matters were not finalized and will be carried forward into 2019



COURT OF APPEAL CRIMINAL

CoA workload in 2018 increased significantly, and approximately 20 matters were not finalized and will be carried forward into 2019



COURT OF APPEAL OUTCOMES

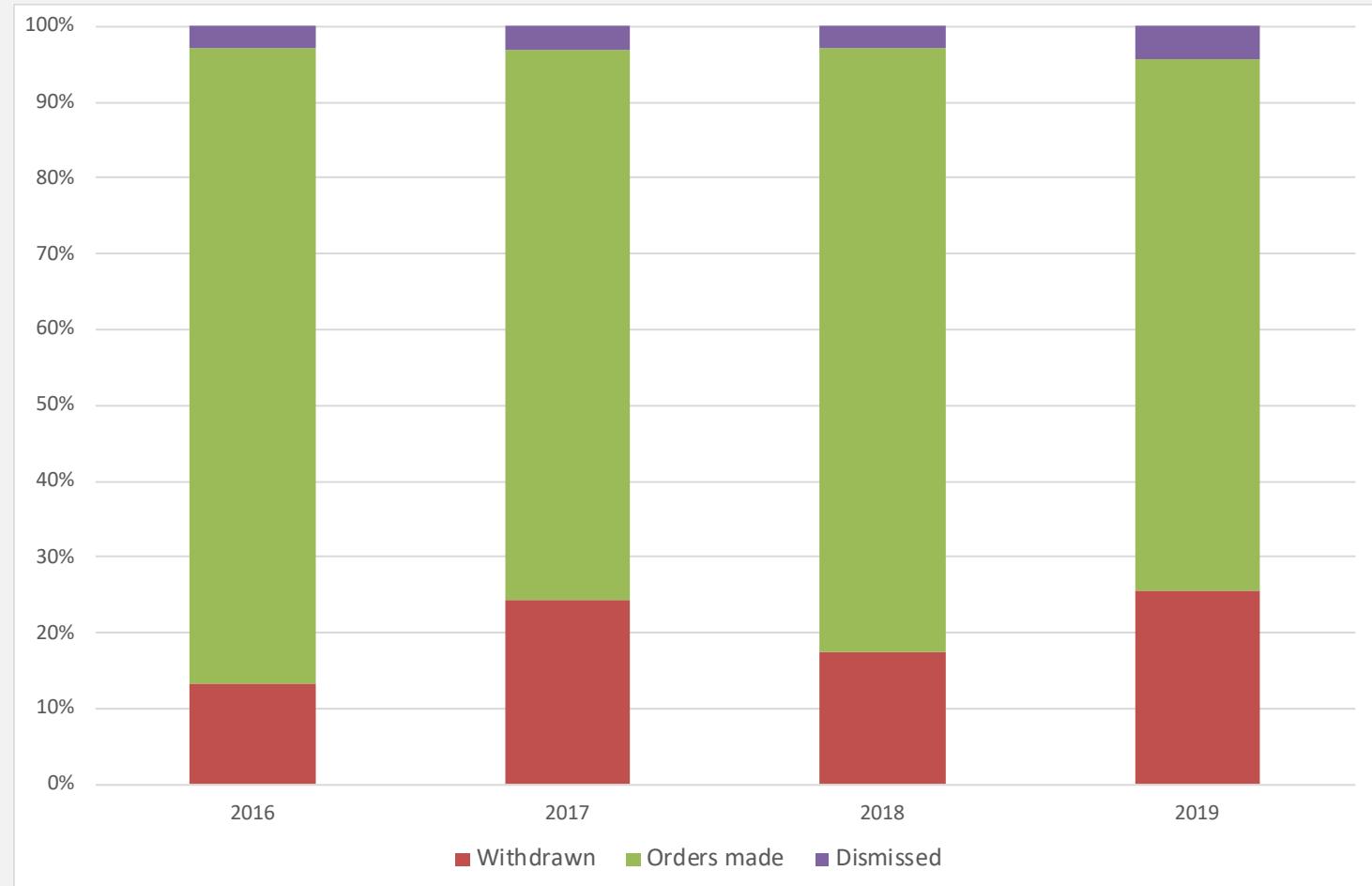
In Criminal Appeal matters, approximately 50/50 split between allowed and dismissed, whereas in Civil Appeals, only 30% of appeals are allowed



7. CRIMINAL CASE OUTCOMES

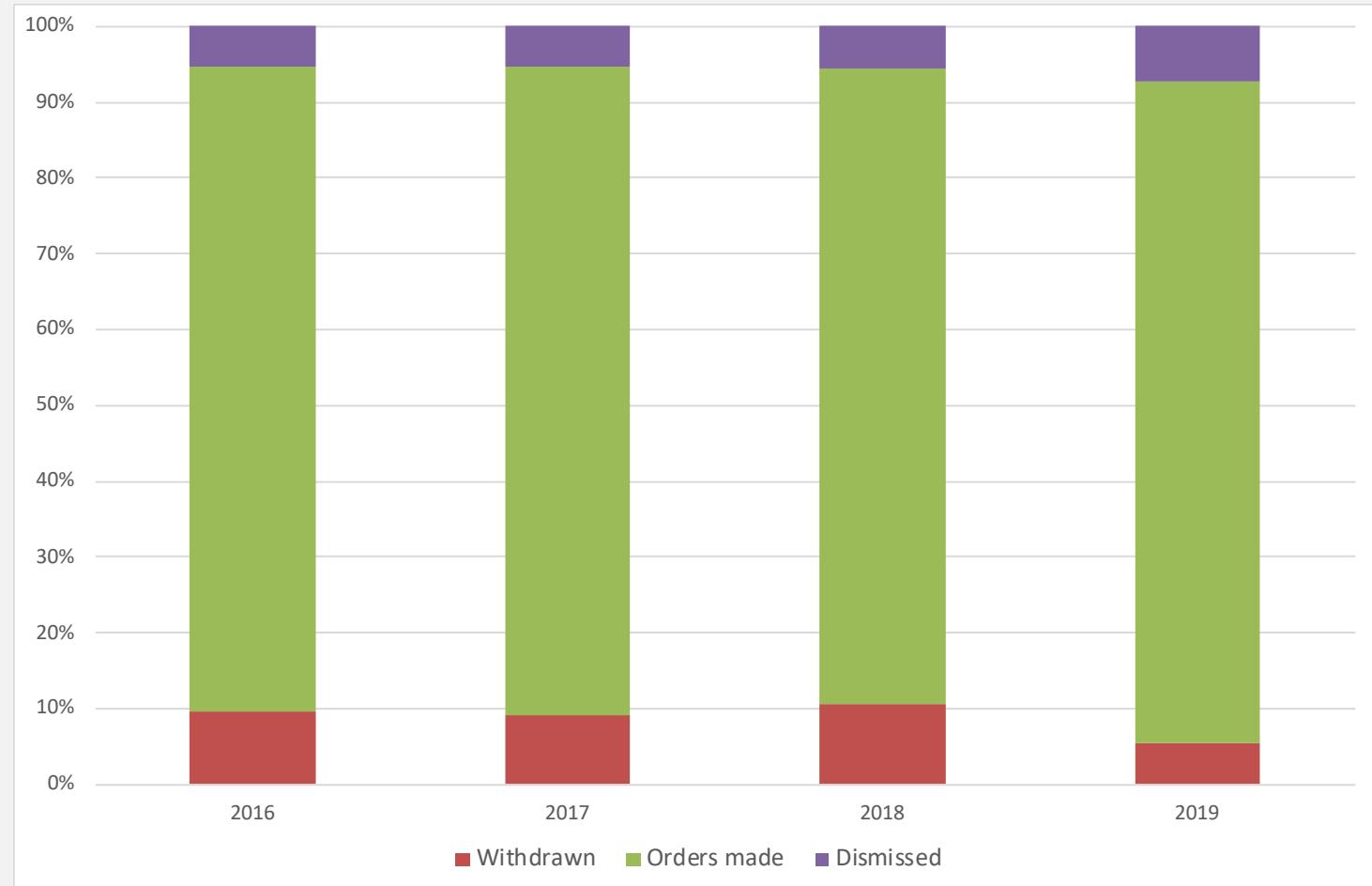
MAGISTRATES COURT PI CASE OUTCOMES

An ...



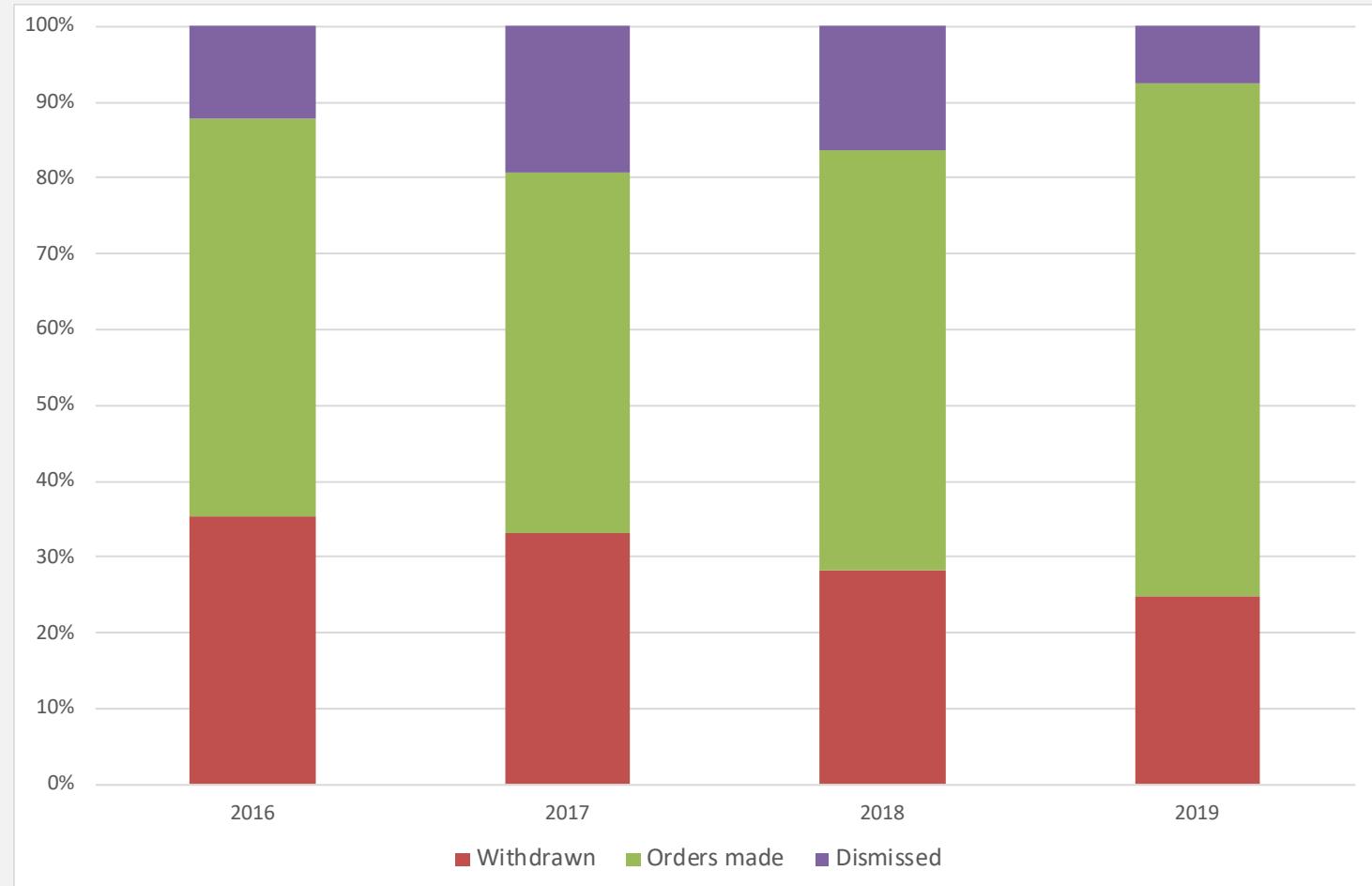
SUPREME COURT CRIMINAL CASE OUTCOMES

An ...



MAGISTRATES COURT CRIMINAL CASE OUTCOMES

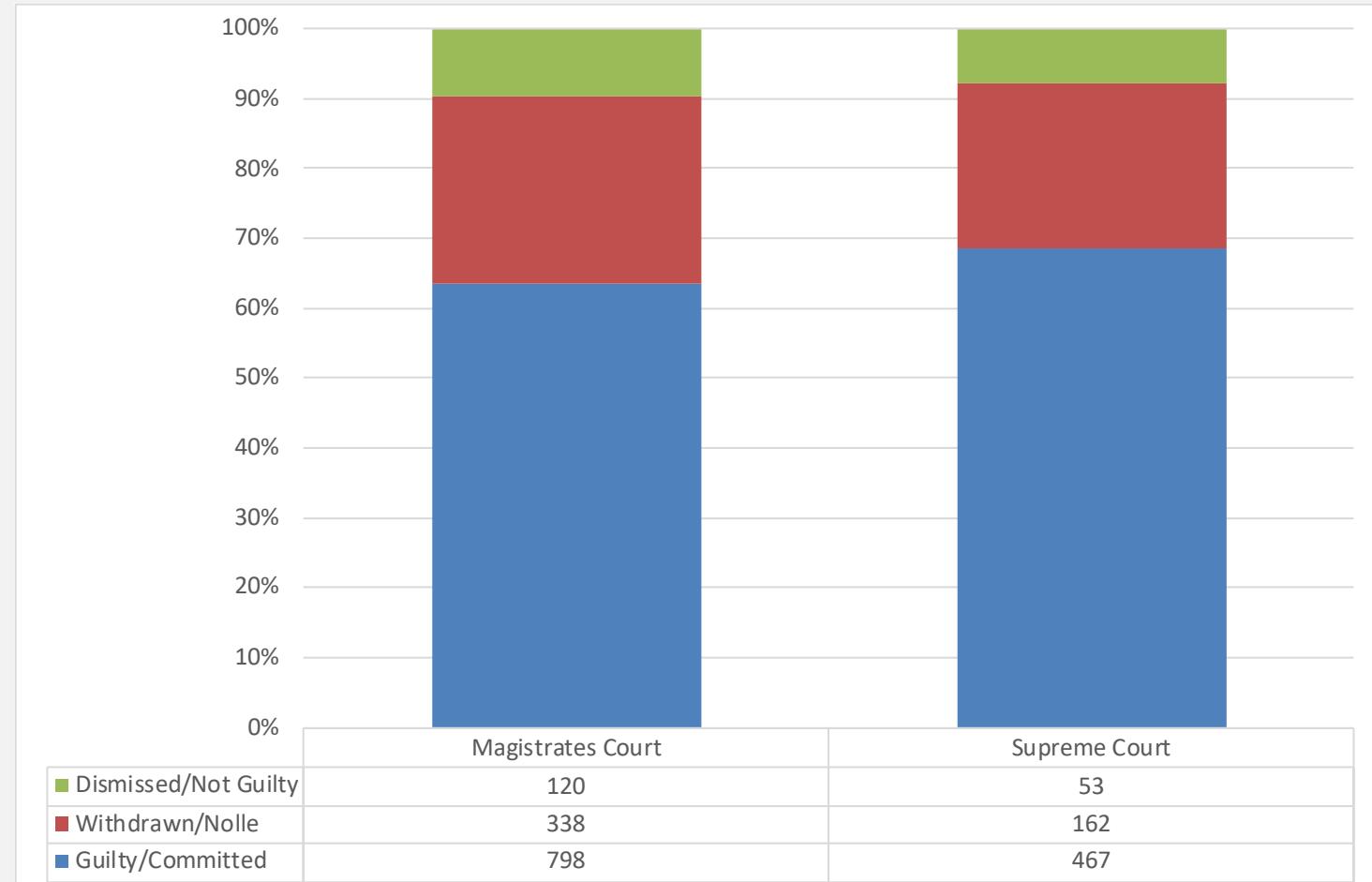
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8. CRIMINAL CHARGE OUTCOMES AND ORDERS

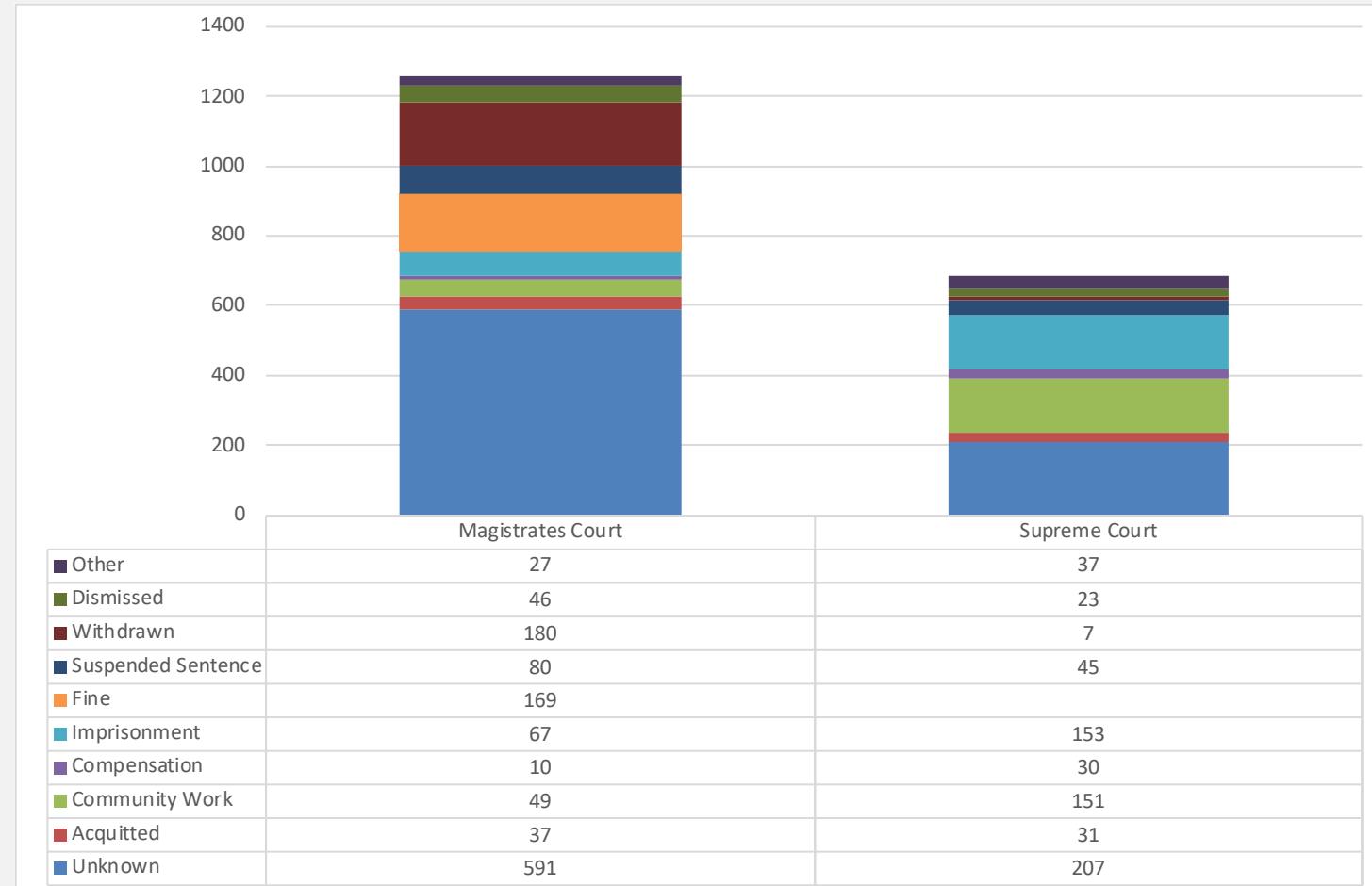
CHARGE OUTCOMES

Provides an insight into the results of individual charges as brought before the respective courts during 2019. More analysis on actual orders e.g. imprisonment to be undertaken during 2020.



CHARGE ORDERS

More and more entries are being made of the specific orders being made by the judiciary e.g. imprisonment or fine, but in 2019, many orders had no entries (unknown). This data entry practice be rectified in 2020.



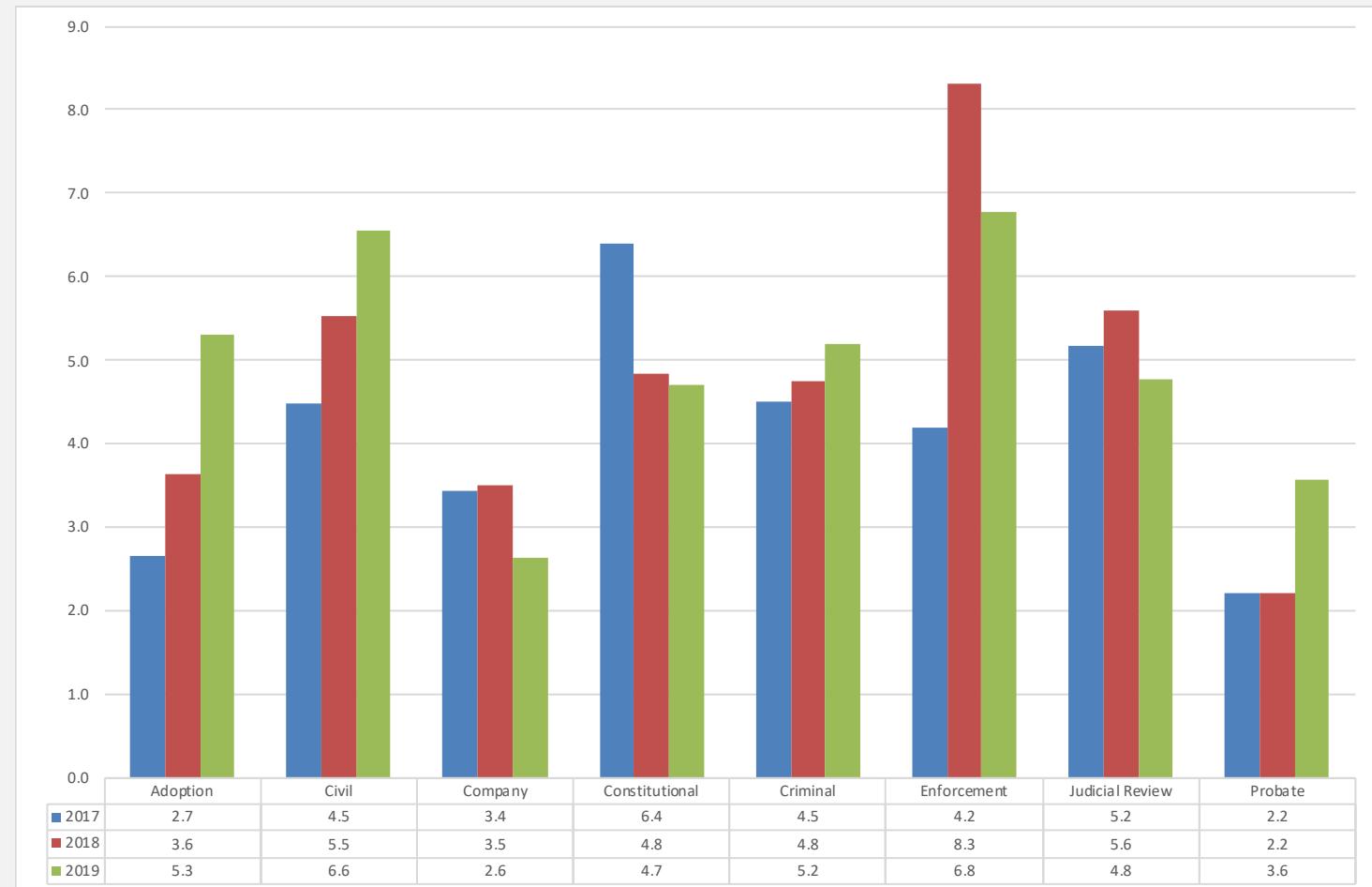
9. ATTENDANCE RATES

Attendance rates, as measured by the number of visits/appearances at court to dispose a matter is now being tracked.

SUPREME COURT COMPLETED ATTENDANCE RATES

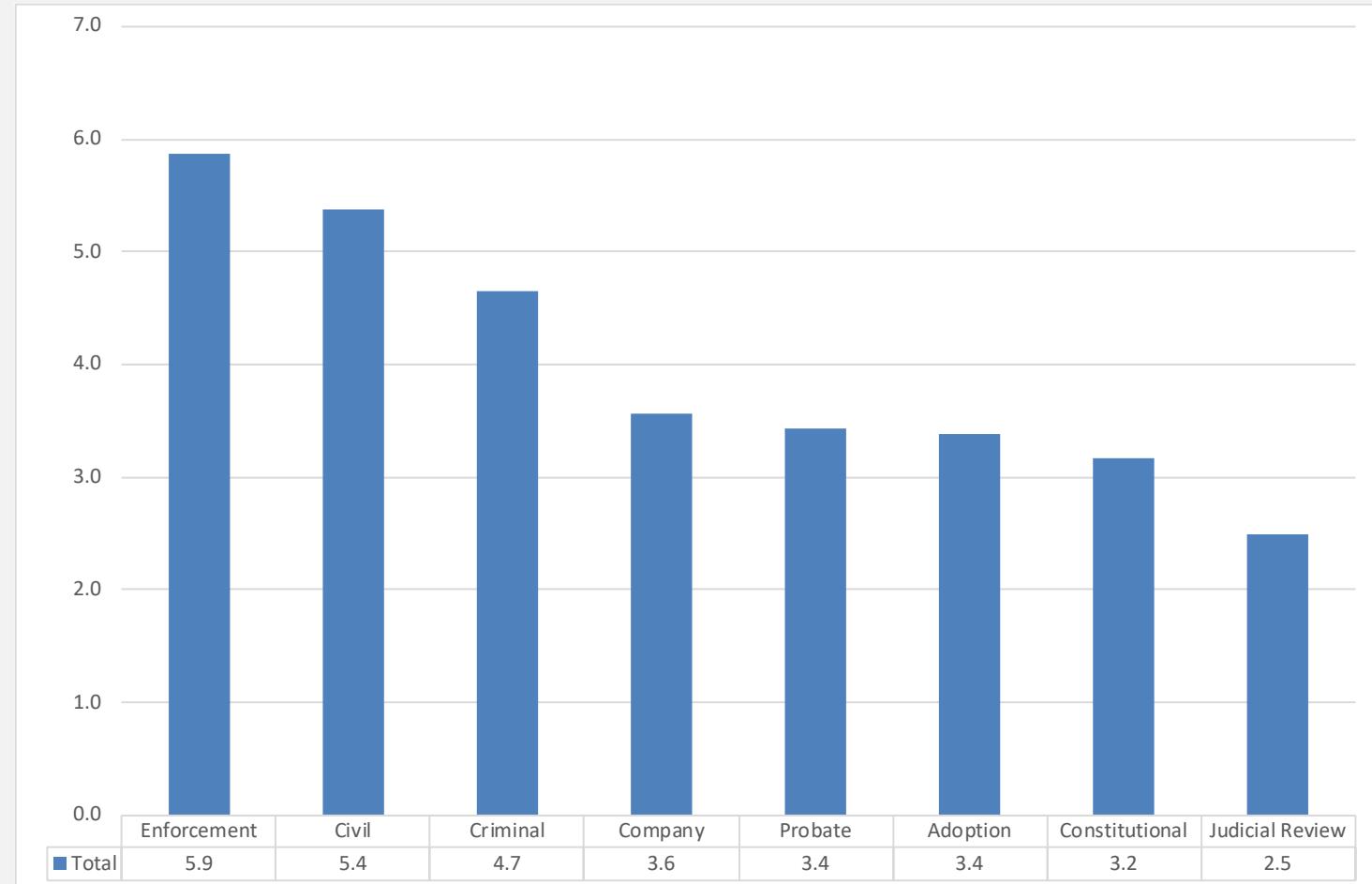
Of concern is the high number of attendances for Enforcement cases, which has direct impact on inconvenience and costs to parties.

This is to be reviewed.



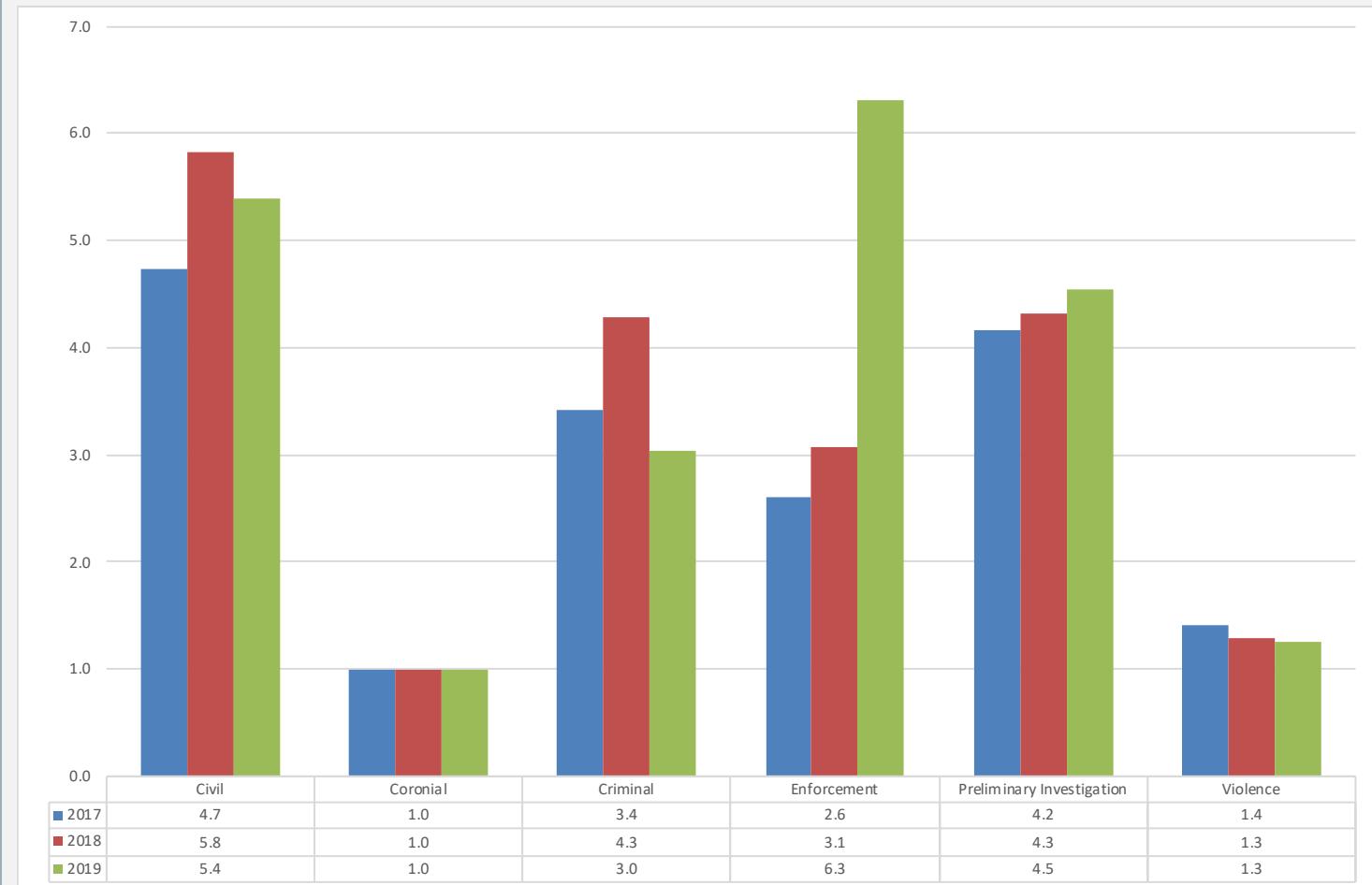
SUPREME COURT OPEN ATTENDANCE RATES

For the currently open/pending cases, again, the high attendances already had by enforcement matters will be investigated.



MAGISTRATES COURT COMPLETED ATTENDANCE RATES

For the main case types, criminal, PI and Violence (protection orders) – the attendance rates are generally in-line with good practice for Magistrates Courts



10. PARTY DETAILS

GENDER ANALYSIS

For criminal cases in Supreme and Magistrates Court, and Violence (protection matters) – filed in 2019, analysis by gender can now be undertaken for key roles such as the accused/defendant and applicant (violence matters).

