

REPORT OF THE  
**CROWN LAW OFFICE**

for the YEAR ENDING  
30 JUNE 2006

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*Presented to the House of Representatives  
Pursuant to the Public Finance Act 1989*



ANNUAL REPORT

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## CROWN LAW

Crown Law provides legal advice and representation services to the Government in matters affecting the Executive Government, particularly in the areas of criminal, public and administrative law. It also supports the Attorney-General and Solicitor-General in the performance of their statutory and other functions as Law Officers. The services provided relate to such matters as judicial review of government actions, constitutional questions including Treaty of Waitangi issues, the enforcement of criminal law, human rights challenges to government policies and procedures, and protection of the revenue.

### CROWN LAW'S VALUES

Consistent with Crown Law's overall obligation to support New Zealand's system of democratic government under law:

- we will support the Law Officers in their work in a way that enables them to meet their obligations to make decisions independently and objectively in the public interest;
- we will demonstrate a proper understanding of the roles of each of the branches of Government;
- we will take a "whole of government" perspective in carrying out our primary functions;
- we will be responsive to client needs and concerns and will provide legal advice and representation which:

- shows an understanding of the particular contexts in which legal problems arise
- is relevant and focused
- is well researched and well reasoned
- is balanced but decisive
- is expressed and organised in a simple, direct and concise way

- we will conduct ourselves consistently with the expectation of the Crown as a model litigant; and
- we aim to create a work environment which stimulates and challenges all who work in the office to meet the highest standards of public service, while recognising the need for a balanced and well-rounded personal life.

Crown Law has two primary objectives in providing its services:

- to ensure that the operations of the Executive Government are conducted according to law; and
- to ensure that the Government is not prevented, through legal process, from lawfully implementing its chosen policies and discharging its governmental responsibilities.

These two primary objectives are related to wider Government priorities and Justice sector initiatives.

# GOVERNMENT PRIORITIES

The Government's vision is for an inclusive New Zealand where all people enjoy the opportunity to fulfil their potential, prosper and participate in the social, economic, political and cultural life of their communities and nation.

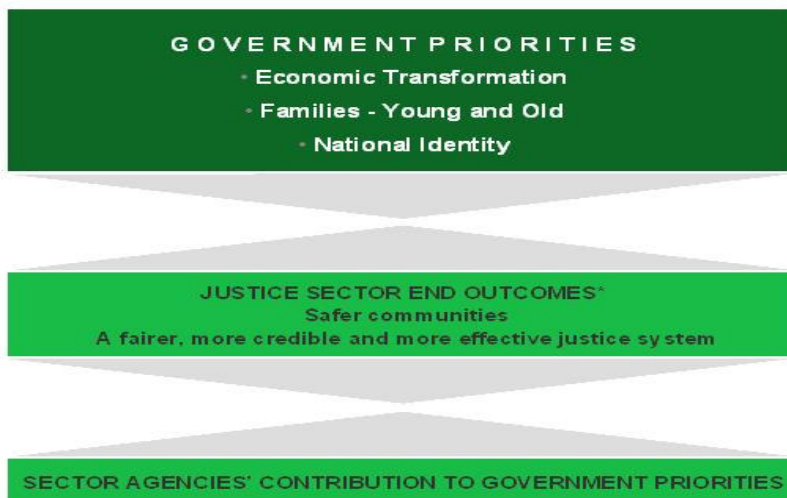
The Government's priorities for the next decade are:

- Economic transformation  
Working to progress our economic transformation to a high-income, knowledge-based market economy, which is both innovative and creative and provides a unique quality of life to all New Zealanders.

- Families – young and old  
All families, young and old, have the support and choices they need to be secure and be able to reach their full potential within our knowledge-based economy.

- National identity  
All New Zealanders should be able to take pride in who and what we are, through our arts, culture, film, sports and music, our appreciation of our natural environment, our understanding of our history and our stance on international issues.

## SUMMARY OF LINKAGES BETWEEN GOVERNMENT PRIORITIES AND SECTOR OUTCOMES



\*Outcomes framework currently being reviewed by sector

# OVERVIEW OF THE JUSTICE SECTOR

This section describes the Justice sector, how it works together and the major initiatives collaborated on during this financial year that have contributed to the Government's priorities.

## SECTOR AGENCIES

New Zealand has a robust justice system and a co-ordinated Justice sector comprising the Ministry of Justice, Department of Corrections, New Zealand Police, Crown Law Office and Serious Fraud Office. Child, Youth and Family Services (CYFS) is

considered part of the core sector for the purposes of addressing youth offending and early intervention issues. From 1 July 2006, CYFS is operating from within the Ministry of Social Development.

The broader sector includes a number of Crown entities and other agencies.

The sector agencies work together through a range of mechanisms including the Justice Sector Chief Executives Forum, the Justice Sector Information Committee and the Budget Input Steering Committee.

## JUSTICE SECTOR AGENCIES AND LINKAGES



# CONTRIBUTION TO GOVERNMENT PRIORITIES

The sector's current end outcomes are:

- safer communities being communities in which there is reduced crime and in which safety and well-being is enhanced through partnerships; and
- a fairer, more credible and more effective justice system, being a system in which people's interactions are underpinned by the rule of law and justice services are more equitable, credible and accessible.

## ONGOING DEVELOPMENT OF JUSTICE SECTOR OUTCOMES

The sector is reviewing its outcomes framework to ensure it has in placed outcomes that are relevant, consistently interpreted and demonstrate how the sector contributes towards the priorities of Government.

## COLLABORATIVE ACTIVITIES

In the 2005/06 year, the core sector agencies worked closely together to address significant issues in the justice system and improve the sector's ability to support Government's priorities. Key areas of focus during the year are outlined in this section.

## *EFFECTIVE INTERVENTIONS*

In light of concerns about capacity to manage both the current and forecast prison population, the Government established a multi-agency Effective Interventions project led by the Ministry of Justice. The Effective Interventions project aims to reduce and prevent crime, address New Zealand's growing prison population, and to build safer communities. This has been an area of particularly high priority for the sector over the past year.

To carry out this project, a working group was established with representatives from across the sector that comprised Justice (lead agency), Corrections, Police and Ministry for Social Development (key agencies), State Services Commission, Treasury (central agencies) and Department of Prime Minister and Cabinet. Once the project had begun, Te Puni Kōkiri, and the Ministries of Pacific Island Affairs, Health and Education also became involved in the project.

The Effective Interventions project team reported back to Government in July 2006 with its recommendations. The Government has recently announced its decisions. These include:

- preparing a package of initiatives to reduce youth offending
- amending the Bail Act 2000 to promote greater consistency in decision-making
- expanding the availability of restorative justice processes

- introducing a new tier of community sentences to increase the number of sentencing options available to judges
- introducing home detention as a sentence in its own right for lower-risk offenders
- setting up two new drug and alcohol treatment units in prisons and two further general purpose special treatment units to provide intensive rehabilitative programmes in prisons.

Following recommendations from the Law Commission, the Government has also decided to:

- establish a Sentencing Council to produce sentencing guidelines
- reform parole to better align sentences imposed with sentences served.

Further information can be found on the Ministry of Justice's website:  
[www.justice.govt.nz/effective\\_interventions/](http://www.justice.govt.nz/effective_interventions/)

Also contained within the Effective Interventions report are measures that seek to:

- reduce the underlying causes of crime in the long term
- reduce opportunities for offending, reoffending and enhance victims' satisfaction in the criminal justice system in the medium term
- alleviate immediate pressures on prison capacity in the short term.

These were considered and agreed by Cabinet in July 2006.

#### *JUSTICE SECTOR PIPELINE MODEL*

Early work has been completed on the Justice Sector Pipeline model, a tool to assist sector planning. This model is aimed at improving sector understanding of the flow-through effects of changes to the system such as new policy or operational strategy.

Development of the Pipeline model is a long-term initiative intended to reduce the risks of unanticipated demands on the justice system, and support shared sector outcomes by providing better information on the effects of policy and operational decisions.

Key outputs from the establishment phase include prototype and core systems and processes for managing ongoing work including a module development plan.

Sector agencies and central agencies all strongly supported the successful bid by the Ministry of Justice in 2005 to gain funding support for this initiative through the Cross-Departmental Research Pool.

#### *JUSTICE SECTOR INFORMATION STRATEGY*

The Justice Sector Information Strategy for the period 2006-2011 was developed during the 2005/06 financial year. This is the third strategy that has been developed through sector collaboration, with key agencies such as Justice, Police, Corrections, Social Development (CYFS), Land Transport and Legal Services Agency all involved.

The latest strategy provides the framework to expand and improve the existing sector information sharing network over the next five years.



Key themes of the strategy include:

- improve the quality and integrity of justice sector operational data sets
- effectively manage shared justice sector data and information
- supporting strategic decision making in the justice sector
- actively leverage the resource base across the justice sector
- improve information and service provision to our communities.

*OTHER SECTOR INITIATIVES*

Sector agencies have also collaborated on the following activities.

- Implementation of the Courts and Criminal Matters legislation that also involved a number of agencies outside the justice sector.
- Completion of the fieldwork for the New Zealand Crime and Safety Survey in June 2006 with 5,433 households participating.
- Cross-government planning efforts for pandemic preparedness.
- Assessment of detailed proposals for improvement of the criminal summary jurisdiction through an Interagency Group comprising sector agencies, the New Zealand Law Society and members of the District Courts judiciary.

- Identification of priorities for the justice sector and presenting a package of options to Ministers as part of the Government's 2006 Budget process. A priority for the Government in 2006 was the provision of additional Police resources as agreed in the confidence and supply agreements. Through the Budget process, the sector assessed the flow-on impacts of these additional resources on other justice sector agencies.

CONTRIBUTION TO STATE SECTOR GOALS

The Justice sector contributes to the set of goals designed by the State Services Commission to achieve well-performing state services. The goals are as follows:

- employer of choice
- excellent state servants
- networked state services
- coordinated state agencies
- accessible state services
- trusted state services.

## CONTRIBUTION BY CROWN LAW TO THE JUSTICE SECTOR OUTCOMES

Crown Law contributes to the Justice sector outcomes by seeking to ensure that the Government acts consistently with the rule of law and is not improperly prevented by court or similar processes from pursuing its lawful policies. In the criminal area, Crown Law seeks to enhance public confidence in the criminal process through its oversight of the prosecution of serious crimes and the conduct of criminal appeals, again with a view to maintaining the rule of law.

The provision of Crown prosecution and appeal services by Crown Law is part of the Justice sector's overall delivery and management of the criminal justice system. Crown Law will continue to focus on the following objectives as its contribution to the Sector Intermediate Outcomes:

- protecting the Crown's legal interests
- supporting the responsibilities of the Crown and its agencies in meeting their responsibilities under law
- achieving timely processes and fair results
- assisting in the maintenance of law and order
- securing robust due process
- maintaining public interest factors in the application of the law
- ensuring quality of service delivery through the expertise and integrity of staff.

## THE WORK OF CROWN LAW

The work of Crown Law comprises legal advice to, and legal representation of, its public sector clients. Crown Law also supports the Law Officers.

Legal services are provided to Government and its agencies by: in-house legal advisors, private sector legal advisors and Crown Law. Crown legal work is governed by the “Cabinet Directions on the Conduct of Crown Legal Business 1993.” Crown Law is typically instructed by in-house legal advisors. The engagement of external legal advisors, e.g. barristers, is undertaken where particular specialist knowledge is required, where work pressures within Crown Law create capacity problems, or to preserve independence.

Crown Law operates much like a private sector legal practice and charges for services to public sector clients. Crown Law seeks to service its clients efficiently and effectively. Key to this is the quality of the working relationship established with the client’s internal legal advisors, and the strength of the organisational links with the client’s policy and operational functions.

### LEGAL ADVICE & REPRESENTATION

The Cabinet Directions guide departments in the use of Crown Law’s legal services. The Cabinet Directions provide for two categories of legal work:

- Category 1, which must be referred to the Solicitor-General on behalf of Crown Law includes:
  - cases concerning actual or imminent litigation where the Government or a government agency is a party
  - situations involving the lawfulness of the exercise of Government powers
  - constitutional questions (including Treaty of Waitangi issues)
  - issues relating to the enforcement of the criminal law and the protection of the revenue.
- Category 2 is essentially all other work, for example, employment matters, and is contestable. Departments may choose other legal advisors to assist them to resolve category 2 matters.

Crown Law has no specific responsibility for policy formation or for the development of legislation. However when requested, Crown Law provides legal input on policy issues.

Our core work of providing legal advice and representation does not lend itself to direct cost-effectiveness interpretation (cost per unit of benefit obtained).

## SUPPORTING THE LAW OFFICERS

Crown Law is responsible for supporting the two Law Officers of the Crown, the Attorney-General and the Solicitor-General. This support is provided through:

- the provision of legal advice and legal representation services to Ministers of the Crown, government departments, and agencies forming part of the Government
- assisting the Attorney-General and Solicitor-General in the performance of their statutory and other Law Officer functions
- assisting the Solicitor-General in the supervision of regional Crown Solicitors in their prosecution functions, including administration of the Crown Solicitors Regulations 1994
- assisting the Solicitor-General with the conduct of criminal appeals.

The services provided by Crown Law to the Solicitor-General and the Attorney-General are similar to the ministerial support functions provided by all departments in support of Ministers. The majority of that support addresses the specific functions for which the Law Officers are responsible, i.e:

- monitoring the enforcement and application of the law, particularly the criminal law
- supervision of charities
- representation of the public interest
- vexatious litigant proceedings
- extraditions
- participation in Pacific Island Law Officers Meeting (PILOM)
- the exercise of a variety of powers, duties and authorities arising from statutory powers and constitutional conventions.

# CROWN LAW OUTPUTS

The relationship of Crown Law services to key Government goals

Output expense	Contribution to the justice and wider public sector outcomes
<p><b>Conduct of criminal appeals</b> Conduct of appeals arising from criminal trials on indictment</p>	<ul style="list-style-type: none"> <li>• a credible and effective justice system</li> <li>• timely processes</li> <li>• fair results</li> <li>• maintenance of law and order</li> </ul>
<p><b>Legal advice and representation</b> Legal advice and representation services to central government departments and Crown agencies</p>	<ul style="list-style-type: none"> <li>• maintaining the rule of law</li> <li>• protecting the Crown’s legal interests</li> <li>• supporting the responsibilities of the Crown and its agencies</li> <li>• maintenance of public interest factors in the application of the law</li> <li>• timely processes and fair results</li> </ul>
<p><b>Supervision and conduct of Crown prosecutions</b> A national Crown prosecution service which undertakes criminal trials on indictment and appeals arising out of summary prosecutions</p>	<ul style="list-style-type: none"> <li>• a credible and effective justice system</li> <li>• robust due process</li> <li>• maintenance of law and order</li> </ul>
<p><b>Exercise of Principal Law Officer functions</b> Legal and administrative services for the Attorney-General and Solicitor-General in the exercise of Principal Law Officer functions.</p>	<ul style="list-style-type: none"> <li>• maintaining the rule of law</li> <li>• protecting the Crown’s legal interests</li> <li>• maintenance of law and order</li> <li>• maintenance of public interest factors in the application of the law</li> <li>• a credible and effective justice system.</li> </ul>

The Output Expenses referred to above comprise the key result areas for Crown Law. Progress in these areas is described in more detail in the Financial Statement section of this report under Statement of Objectives and Service Performance.

## CHIEF EXECUTIVE'S OVERVIEW

New Zealand has a tradition of democratic government under law. Crown Law contributes to this on-going tradition through its commitment to the maintenance of the rule of law in Government, and by seeking to ensure that the Government has the benefit of its adherence to the rule of law. Crown Law has continued to perform its role of providing support to the Attorney-General and Solicitor-General in the discharge of their responsibilities as the Law Officers of the Crown, by providing legal advice to Ministers, government departments and agencies, often on complex and urgent matters, and conducting litigation on behalf of the Crown generally, in the name of the Attorney-General.

Crown Law was involved in matters during the year which covered a wide range of issues and areas of the law. Some of these matters, which demonstrate the nature of work undertaken by Crown Law, are summarised below:

### LEGAL ADVICE & REPRESENTATION

#### *Ahmed Zaoui*

On 20 March 2003 the Director of Security issued a security risk certificate under Part IVA of the Immigration Act 1987. Exercising his statutory right to do so, Mr Zaoui applied to the Inspector-General for a review of the security risk certificate. The Inspector-General at the time was retired High Court Judge L Greig who made some progress with the review before he was successfully challenged

in the High Court for bias. He resigned in March 2004.

Since July 2004, Crown Law has represented the Director of Security, the Minister of Immigration, the Superintendent of Auckland Central Remand Prison, the Chief Executive of Corrections and the Attorney-General (in respect of wider Crown interests including claims for damages under the Bill of Rights Act 1990). The Inspector-General of Intelligence and Security has been separately represented.

In respect of the security risk certificate, the Supreme Court delivered its judgment in June 2005 upholding the Crown's position that, in carrying out his review, the Inspector-General is concerned only to determine whether relevant security criteria are satisfied and he is not concerned with human rights issues. The newly-appointed Inspector-General, Hon DP Neazor, was able to progress the review of the certificate. This process is ongoing. In addition to Mr Zaoui's legal team led by Dr RE Harrison QC, the Inspector-General appointed Special Counsel to represent Mr Zaoui who would be security-cleared and have access to all of the information, classified and unclassified.

More recently the Inspector-General appointed Mr Ross Crotty, a Wellington barrister, to assist him.

The review process is complex and will involve a hearing of many witnesses who are to be "called" on Mr Zaoui's behalf. It is likely those witnesses will be heard over two

separate hearings. Whereas the first of the hearings was scheduled to be heard over two weeks in August 2006, the Inspector-General recently adjourned that hearing and there will be no hearing before February/March 2007.

The Director is represented in the review process by the Deputy Solicitor-General, Public Law.

#### PSYCHIATRIC HOSPITAL CLAIMS

The 2005 Annual Report noted that claims have been filed by former psychiatric hospital patients.

The number of claims has now reached approximately 180, with plaintiffs alleging negligence, breach of statutory duty, assault and battery concerning treatment and alleged abuse suffered inside psychiatric hospitals. Every psychiatric hospital is the subject of at least one claim and the claims span several decades. The earliest date from the late 1940s and the latest, the 1990s.

Without exception these claim that the hospital had duties of care to the plaintiff to operate a system of hospital care that kept the plaintiff safe from harm and that, in breach of those general duties the defendants:

- gave Electro Cardio Treatment (ECT), administered drugs or locked the plaintiff in isolation, as punishment
- permitted its agents, or other patients, to sexually and or physically abuse the plaintiff.

The Government established a forum (the Confidential Forum for Former In-Patients of Psychiatric Hospitals). The Forum provides a panel of independent people (including mental health experts and former Chief District Court Judge Patrick Mahoney is chairperson) to listen to former patients about their complaints and accounts of their time in psychiatric hospitals, and to make referrals to other social support agencies, Accident Compensation Corporation etc as appropriate. The Forum is to report to the Government on the numbers of people it

heard from and the types of referrals it was able to make.

In 2005, the defendant brought a strike-out application based on the bar against claims being brought without leave in the Mental Health Act 1969 and on Limitation Act 1950 grounds. Judgments have now been given. The Limitation Act arguments were disposed of against the defendant, and the Mental Health Act leave arguments mostly in the defendant's favour. Both are now the subject of a review application, heard by a High Court judge in late August 2006. If the defendant is successful, large parts of most claims will be struck out (for not having or being unable to get leave under the Mental Health Act) and/or several claims will be struck out in their entirety on limitation grounds. If the court finds for the plaintiffs, claims will go to trial, commencing in 2007, unless settled.

#### HISTORIC CHILD WELFARE CLAIMS

About 60 claims alleging abuses in state-run children's homes have now been filed. Some of the plaintiffs have also brought claims alleging abuses in psychiatric hospitals.

Most relate to children's institutions, primarily from the 1960s and 1970s but some also from the 1980s and 1990s. The former residents complain that they were physically and sexually abused by staff and other children in the institutions. Further, they allege they were living in a culture that incited violent behaviour and that they developed violent habits. The first case has been set down for a nine-week trial in June 2007. Many of these cases raise Limitation Act 1950 issues.

#### "LEAKY BUILDINGS" LITIGATION

A number of owners of dwellings, mainly in large multi-unit developments, have sued the Building Industry Authority (BIA) (now Department of Building and Housing), amongst others, claiming that the BIA was negligent in the performance of its statutory functions under the Building Act 1991 and that that negligence has caused or contributed to water damage to these dwellings. Claims

have been brought in the High Court and Weathertight Homes Resolution Service. Crown Law has been managing the claims in conjunction with external counsel.

The Court of Appeal struck out all the claims against the BIA in *Sacramento* late last year, and an application for leave to appeal to the Supreme Court by one of the parties, Ellerslie Park Holdings, who did not take an active part in the argument before the Court of Appeal, has been dismissed. Two further plaintiffs, *Siena* and *Struthers*, have now embarked on a course of action that has the object of challenging the judgment of the Court of Appeal.

*Unitec Institute of Technology v Attorney-General and NZQA*

In August 1999, Unitec Institute of Technology applied for university status. Following the November 1999 general election, the Government imposed a moratorium on the establishment of any new universities in New Zealand, pending a review of the tertiary education sector. A comprehensive review was completed in December 2002 and on 1 January 2003 the Education (Tertiary Reform) Amendment Act 2002 (“Amendment Act”) came into force.

In May 2004, after Unitec formally requested that consideration of its application be resumed, after which the consideration process took place. Meanwhile Unitec issued proceedings claiming \$3 million Bill Of Rights Act 1990 (BORA) compensation for the pecuniary loss it suffered as a result of what it said was an unlawful suspension of its application. The High Court has found that the Crown is subject to s 27 BORA and that Unitec’s right to natural justice has been breached.

The Crown’s appeal against this decision will be heard in October 2006. The case is significant because it raises issues concerning the scope of freedom the Government has to engage in executive action.

*Securities Commission: insider trading proceedings Tranzrail*

Crown Law acts as solicitors for the Securities Commission in its insider trading proceeding against former investors in and directors of Tranz Rail. The Commission’s claim alleges the defendants had inside information about the company’s financial position and future prospects when they sold their shares and/or tipped other defendants to sell their shares. The Commission seeks judgment for up to 40% of the share sale price, plus pecuniary penalties. Two of the defendants have applied to strike out the Commission’s claim for pecuniary penalties because the Commission filed its proceeding more than two years after the share trading occurred. The High Court has determined that “reasonable discoverability” does not apply to extend the two-year limitation period for seeking pecuniary penalties. The High Court has also recently confirmed that it has jurisdiction to hear the proceeding against the two United States defendants. The decisions are under appeal.

*Coroners Court v Newton*

The High Court awarded costs to a witness at a Coroners’ Court hearing. The witness, a medical practitioner, sought costs against the Coroner after she had successfully judicially reviewed the Coroner’s decision to lift an interim suppression order applying to her evidence at the inquest.

Crown Law appealed the High Court’s finding that there were “exceptional circumstances” which warranted an award of costs against a judicial officer. The appeal did not challenge the High Court’s orders regarding suppression from publication of questions asked by the Coroner and answers given by the witness. Those orders were made in a judicial review application where the Coroners’ Court had indicated that it would abide the decision of the Court in respect of the plaintiff’s application for review.

The issue before the Court in the appeal had significance well beyond the appeal itself or



the particular inquest. There are well-established principles and consistent case law as to the liability of judicial officers for costs awards in judicial review proceedings. These recognise the importance of judicial independence of a tribunal or judicial officer, which abides the decision of the reviewing court.

The Court of Appeal held that the Coroner's actions did not meet the exceptional test required for imposition of costs; holding that the procedural errors by the Coroner had been bona fide. The Court therefore allowed the Coroner's appeal.

*Akatere & others v Attorney-General*

The plaintiffs in this case, three teenage girls, had been offered *ex gratia* payment as compensation for wrongful conviction and imprisonment. The plaintiffs were convicted of aggravated robbery and served seven months of their sentence of imprisonment before the Court of Appeal quashed their convictions without an order for retrial. They then applied to the Minister of Justice for an *ex gratia* payment and their applications were dealt with pursuant to the Government's principles and procedures for assessing eligibility for and quantum of compensation, Cabinet accepting a recommendation from a Queen's Counsel.

The plaintiffs rejected the sums offered by way of compensation and asked the High Court to review the basis upon which the compensation offered was assessed. The High Court found for the Attorney-General on all aspects of the claim. In a ruling with significance beyond this case, the court held that Cabinet's decision, in the circumstances of the case, was not susceptible to judicial review. In any event, the guidelines applied by Cabinet were not unworkable, arbitrary or unfair.

*Berryman*

In 2005 the Solicitor-General refused an application on behalf of Mr and Mrs Berryman made under the Coroners Act 1998,

for a further inquest into the death of Kenneth Richards, the beekeeper who was killed when a bridge collapsed on property owned by the Berrymans. That decision was the subject of a challenge to the High Court. In May 2006 the Solicitor-General applied to strike out the plaintiffs' application for judicial review, on the grounds that it pleaded no reasonable cause of action and was an abuse of the process of the Court. The New Zealand Defence Force applied to strike out the claim against it on similar grounds.

Both applications to strike out were declined by MacKenzie J on 17 May 2006. The substantive proceeding is likely to be heard by the High Court in early 2007.

*Greenlane Hospital litigation*

Last year's report noted that approximately 100 plaintiffs had brought cases against the Crown alleging that they suffered physical, psychiatric and or economic harm after learning that the organs of their dead child had been retained in the Greenlane Heart Library. The events complained of occurred between 1961 and 1993. The factual background of each plaintiff's claim varies; some plaintiffs consented to a post-mortem or to the examination of an organ, others expressly refused consent, were not asked to consent or specifically requested the return of organs.

About 40 cases have now been withdrawn, and the need to resolve questions about the availability of legal aid mean that remaining cases will not be tried before 2007.

THE LITIGATION OF TAXATION DISPUTES

There has been a steady stream of litigation in the High Court involving what are alleged by the Commissioner of Inland Revenue to be sophisticated large-scale tax avoidance arrangements.

The most significant in terms of both resources and the amounts at stake is the so-called "structured finance" litigation involving allegations of tax avoidance against the five

major trading banks. Approximately \$1.9 billion in tax is at issue. The litigation currently encompasses thirty eight separate High Court challenge proceedings and three applications for judicial review. There have been numerous interlocutory skirmishes involving BNZ, ANZ, National and Westpac over the last year. The present expectation is that the first to go to trial will be BNZ, in late 2007.

Other ongoing tax avoidance cases of importance are those involving the multiple investors in “films and shows”. Each “case” consists of multiple consolidated proceedings (approximately five proceedings per case) and involves approximately 100 plaintiffs. Of these large consolidated cases, three presently have hearing dates (2007) and one is on the verge of settling. Two are stood down pending the outcome of others and a further five arrangements are expected to be assessed in the next year and will result in further challenges.

An appeal by the taxpayers from the judgment of Venning J in relation to the mass marketed Trinity scheme is due for hearing in the Court of Appeal in September 2006. The amount of tax at stake is in excess of \$600 million.

Over the past year there has been a noticeable increase in the number of judicial review proceedings filed in relation to the Commissioner’s statutory discretion to remit debt and to enter into instalment arrangements with taxpayers. Judicial review applications of this sort often appear to constitute an attempt by taxpayers to stave off imminent bankruptcy / liquidation proceedings.

There is also a notable increase in complex debt recovery litigation. This is expected to continue as it reflects the additional resources the IRD is putting into the recovery of outstanding debt generally.

## TREATY OF WAITANGI ISSUES

Crown Law has continued to be involved in several areas of work related to the Foreshore and Seabed Act 2004.

In particular the Ministry of Justice is instructing Crown Law in relation to two areas of activity:

- A number of applications for customary rights orders (use rights orders) have been filed with the Maōri Land Court by iwi/hapu. These remain at a preliminary stage, with the need for applicant groups to further particularise the applications.
- Three negotiations are on foot between the Crown and iwi aimed at reaching agreements recognising territorial customary rights. The legislation requires that any such agreements be confirmed by the High Court.

The Office of Treaty Settlements has been engaged in a high level of activity associated with the negotiation of settlement of historical Treaty of Waitangi claims. The pace of this work reflects Government’s aim to achieve the comprehensive settlement of claims by 2020. Crown Law supports the Office of Treaty Settlements with advice on the negotiation of settlements, through to implementation of the settlements by legislation.

Crown Law representation and advice in relation to large regional inquiries conducted by the Waitangi Tribunal has continued. The past year has involved significant work on claims in the Whanganui, Central North Island and National Park inquiry districts as well as Tauranga.

In addition to the regional inquiries, there have been a range of contemporary issues brought by Maōri to the Waitangi Tribunal. These claims range across many areas of Government policy, for example the claim concerning Te Wananga o Aotearoa which was inquired into and reported on through the Tribunal’s urgent inquiry process, and the Wai 262 (Flora and fauna) claim. In the latter,

claim issues have been settled by the Tribunal and a hearing process for the 2006/2007 year fixed. The claim addresses a broad range of issues including the capacity of current intellectual property legislation issues to accommodate asserted rights of Maōri under the Treaty of Waitangi.

#### LAND

Protection of the Crown's interests as landowner were illustrated in cases such as *Edmonds v Attorney-General* concerning when and at what value land (Hotel Cecil site) taken for a public work should be offered back under s 40 of the Public Works Act 1981; *Attorney-General v K Brown and Others* concerning the removal of trespassers from Orauta School; *Waitakere City Council v Minister of Defence* concerning the ability to transfer a chapel from Hobsonville airforce base (designated land) to Papakura; *Rangitoto Island Bach Community Assn Inc and Another v Director-General of Conservation and Another* concerning the potential eviction of bach owners and the effect of the Hauraki Gulf Marine Park Act 2000 protecting the bach occupiers as "a community"; and *J C Waugh v Attorney-General* concerning the compensation to be paid for the trespass of the Devonport naval base tunnel under privately owned land.

Related land issues included *NZPS Investments Ltd v Registrar-General of Land* concerning the meaning of the Unit Titles Act 1972; *Minister of Social Services and Employment v Manukau City Council* concerning the wording of a plan variation so as not to require resource consents for family homes; *Greymouth Petroleum Acquisition Co v Attorney-General* concerning appropriate royalties; *Dempster v Registrar-General of Land* concerning revocation of a landbroker's licence; *Tairua Marina Ltd. and Another v Waikato Regional Council and Others* concerning the extent that zoning can impact on the granting of a resource consent application; and *Art Deco Society (Auckland) Inc v Auckland City Council and Another* concerning the effect of extending statutory lapsing provisions of the Resource Management Act.

#### NATURAL RESOURCES

Wildlife has formed the basis of a number of cases including *Powelliphanta Augustus* (giant indigenous land snails) in *Royal Forest and Bird Protection Society of New Zealand Inc v Minister of Conservation and Others* concerning the meaning of s 71 of the Wildlife Act 1953; *New Zealand Waterways Restoration Limited v Director-General of Conservation* concerning the authorisations required to catch, transport, hold and export the unwanted organism koi carp; *Bradshaw v CEO of the Ministry of Agriculture and Forestry* concerning the adequacy of testing domestic birds for an exotic virus before the birds were destroyed; *Marlborough Aquaculture v CE of the Ministry of Fisheries* concerning the relationship between the marine farming provisions of the Fisheries Act 1983 and the Resource Management Act 1991; and rulings in *Goodship v Minister of Fisheries*, *United Fisheries v Attorney-General* as to the status for discovery and admissibility into evidence of reports concerning fisheries management (ie scampi permitting) and transcripts of the evidence heard in the course of those inquiries.

#### BILL OF RIGHTS COMPENSATION CLAIMS

*Attorney-General v Taunua & Ors* [2006] 2 NZLR 457 / [2006] NZSC 30

The Court of Appeal gave judgment in this combined appeal and cross-appeal in December 2005. The proceeding sought damages in respect of the treatment of the plaintiffs, five of whom were prisoners placed on the Behaviour Management Regime (BMR) conducted at Auckland Prison between 1998 and 2004, which was said to have been contrary to ss 9 or 23(5) of the Bill of Rights Act 1990. The Court upheld the finding of the High Court that the five were treated inhumanely, contrary to s 23(5) and held that the treatment of one of the five, who was particularly vulnerable for health reasons, reached the higher standard of disproportionate severity under s 9. The Court also upheld awards of compensation to the five and increased the amount of one award. The plaintiffs have obtained leave to appeal to the Supreme Court against the

absence of a general finding of breach of s 9 and the Crown has obtained leave to appeal on the award and amount of compensation.

*Chief Executive, Department of Labour v Taito* [2006] NZAR 420

The Court of Appeal upheld a Crown appeal in February 2006. The High Court had held that the removal of unlawful residents from New Zealand was contrary to the right against cruel, degrading, or disproportionately severe treatment under s 9 of the Bill of Rights Act 1990 where the residents in question were family caregivers of a New Zealand citizen. The Court of Appeal reversed that decision, holding that the s 9 standard was not engaged and that the approach of the High Court was unsupported and contrary to the scheme of the Immigration Act 1987.

*Sugrue v Attorney-General* [2005] UKPC 44

The Privy Council gave judgment in this appeal in November 2005. The proceeding sought damages for the seizure of the appellant's helicopter by the Department of Conservation in 1990, which was said to have been an unreasonable seizure contrary to s 22 of the New Zealand Bill of Rights Act 1990. The High Court upheld the claim and awarded damages of \$360,000, but a Crown appeal to the Court of Appeal in 2003 was successful in reversing that award. The Privy Council upheld the reasoning of the Court of Appeal and rejected other arguments advanced by the appellants.

*Hansen v R*

This appeal was heard in the Supreme Court earlier this year and is awaiting judgment.

The case involved a challenge to the presumption of supply contained in the Misuse of Drugs Act 1975, on the basis of a breach of the right to be presumed innocent. A previous Court of Appeal decision (*Phillips v R*) had held that the provision could not be given any meaning other than the imposition of a reverse onus. However, a more recent

judgment of the House of Lords (*Lambert*) had given a similar provision a different meaning.

The case has important ramifications for Police and the prosecution of drug offences. The case also raised BORA issues of general importance including:

- how and when the Crown should seek to adduce evidence to justify a limitation under s 5 of BORA
- the relationship between ss 4, 5 and 6 of BORA.
- the extent to which the Courts can apply s 6 of BORA to give legislation a meaning that was clearly not intended by Parliament. In this regard it is noted that the United Kingdom courts have gone much further than New Zealand courts.

*Brooker v R*

This appeal was heard in the Supreme Court earlier this year and is awaiting judgment.

The case involved an appeal against conviction for disorderly conduct. The appellant had been 'protesting' the conduct of a police officer, by playing his guitar, singing and holding a placard immediately outside the home of the female officer concerned. The appellant knew the officer had just come off night shift.

The case raises interesting issues about the extent to which the right to protest and freedom of expression can be limited, particularly having regard to the competing right to privacy of the female officer.

#### EXTENDED SUPERVISION ORDERS

*Belcher v Chief Executive of Department of Corrections CA184/05*

This was an appeal against the imposition of an Extended Supervision Order (ESO) of 10 years, which was considered by a five member bench of the Court of Appeal in March 2006. The Court's decision has not yet been delivered. It was submitted on behalf of Mr Belcher that the ESO regime was in

breach of various provisions of the New Zealand Bill of Rights Act 1990 and the International Convention on Civil and Political Rights, with the principal argument focusing on issues of retroactive penalties and double jeopardy, in respect of which a declaration of inconsistency was sought. There was also an evidential challenge to the validity of the Department of Corrections' expert risk assessment (which was based in part on actuarial risk prediction models, including the Static AS).

#### EMPLOYMENT LAW

##### *Chief Executive of the Department of Inland Revenue v Buchanan & Symes*

Crown Law represented the Department of Inland Revenue (IRD) on this appeal to the Court of Appeal. The case related to the dismissal of two employees for inappropriately accessing tax accounts of family members. The respondents' employment agreement required compliance with the Department's Code of Conduct and relevant statutory requirements. The Code of Conduct prohibited employee access to tax information of family, friends and acquaintances. The Tax Administration Act 1994 places a responsibility on officials to protect the integrity of the tax system. The respondent employees had received training on the Code and had signed forms acknowledging receipt of it. They claimed that they were not aware of their obligations. The case raised two issues:

- whether there was a presumption against a finding of serious misconduct where an employee is ignorant of his/her obligations
- whether the Employment Relations Authority and the Employment Court had applied the correct test for disparity of treatment.

On the first point the IRD argued that ignorance did not give rise to a presumption against a finding of serious misconduct justifying dismissal, and that the Employment Court's approach failed to recognise

sufficiently the reciprocal nature of the employment relationship; created perverse incentives; and undermined the obligations imposed by the Departmental and Public Service Codes of Conduct and the Tax Administration Act 1994. With respect to the disparity point, IRD argued that even where there was no adequate explanation for a finding of disparity of treatment between employees, a decision to dismiss might nevertheless be justified, having regard to all of the circumstances. IRD also argued that the Court erred in having regard to subsequent disciplinary actions, which had occurred after the two employees' dismissals.

The Court of Appeal upheld the appeal, finding that the Employment Court had misstated and misapplied the tests for serious misconduct and disparity of treatment. The employees filed an application for leave to appeal to the Supreme Court, but were refused leave.

##### *New Zealand Police Association v Commissioner of Police*

In this case a full Court of the Employment Court found against the Commissioner of Police on the main issue, being whether the Police could rely on section 51 in the Holidays Act 2003, which allows composite pay arrangements to continue for a transitional period until the current collective agreement is re-negotiated.

Police have traditionally operated a composite approach to remuneration with penal rates for shift work (including work on public holidays) and overtime being included in an overall remuneration "package".

The Court found that the current collective employment agreement did not satisfy the requirements of section 51 and that all members should now be paid time-and-a-half for time worked on public holidays since 1 April 2004.

Other issues decided in the case included whether members on standby (being on call and having to respond immediately) are

entitled to a standby allowance or an alternative day off under the employment agreement, in addition to their statutory entitlement to an alternative day off. The Court rejected the plaintiff's argument that the benefits were cumulative and a member should get the benefit of both the statute and the agreement and potentially receive two alternative days off and said that obligations under a statute and a contract could overlap to provide a single benefit.

Another issue was if the Commissioner's superannuation contribution should be taken into account in calculating a member's "relevant daily pay" for the purpose of calculating payment for public holidays, alternative holidays, sick leave and bereavement leave. The Court accepted the Commissioner's argument that an employer superannuation contribution is not "received" by the employee and so is not included in the calculation of "relevant daily pay".

Both parties sought leave to appeal those parts of the decision unfavourable to them, but, in the interim, the parties resolved the matter by agreement, and the applications for leave were withdrawn.

CRIMINAL MATTERS

<b>SUPREME COURT (CRIMINAL APPEALS)</b>	<b>Numbers</b>
Application for leave to appeal granted, substantive hearing held, appeal dismissed	2
Application for leave to appeal granted, substantive hearing held, awaiting decision on appeal	2
Application for leave to appeal granted, substantive hearing held, appeal allowed	3*
Number of applications for leave to appeal filed	37
Application for leave to appeal considered and refused	27
Awaiting determination of leave application	1

\* one of these allowed in part only

<b>COURT OF APPEAL</b>	<b>Numbers</b>
Solicitor-General appeals filed	49
Pre-trial	28
Sentence	18
Other	3
Solicitor-General appeals heard	40
Allowed	27
Dismissed	0
Reserved	12
Solicitor-General appeals abandoned	1
Criminal appeals filed *(includes Solicitor-General appeals)	526 <sup>1</sup>
Heard orally	381 <sup>2</sup>
Heard on the papers	11
Abandoned	78

*R v Sipa and Edwards* CA 390/05, CA 391/05 and SC 4/206, SC 5/206.

Sipa and Edwards each pleaded guilty to one count of injuring with intent to cause grievous bodily harm following a sentencing indication given to Ms Edwards by a District Court judge. The charges related to a vicious attack on a man who had reprimanded Sipa for punching his partner Edwards. The victim was left with permanent disfigurement to his face and required reconstructive operations. Sipa and Edwards were sentenced to 2½ years and 21 months imprisonment respectively. The Solicitor-General appealed on the basis that the sentences were manifestly inadequate and wrong in principle. The Court of Appeal agreed that the sentences could not be supported and that sentences of at least 3½ years were justified. As this sentence exceeded the sentence indication given to Ms Edwards, an issue arose as to the appropriate means of disposal of the appeals.

The Court determined that, since neither respondent had placed evidence before the Court of any reliance on the sentence indication, the appropriate course was to

<sup>1</sup> 208 of these appeals were not heard in 05/06 year.

<sup>2</sup> 140 of these appeals were filed outside the 05/06 financial year

allow the appeals and substitute sentences of 3½ years imprisonment on each respondent.

Sipa and Edwards sought and were granted leave to appeal to the Supreme Court on the question of the appropriate disposal of the case. However, at the hearing of the appeal the Supreme Court determined that in the absence of evidence that if successful on a conviction appeal in the Court of Appeal, Sipa and Edwards would enter pleas of not guilty, the Court was not prepared to deal with the matter as it may be moot. The appellants subsequently filed affidavits indicating that, they did not wish to proceed with the appeal. The appeal was dismissed.

The Supreme Court took the opportunity, however, to stipulate that in future, a Court hearing a Solicitor-General appeal against a sentence imposed after a sentence indication should be provided with an affidavit from the respondent (a) attesting to his or her reliance on the sentence indication in electing to enter a plea of guilty and (b) confirming that, if the Court considers the sentence should be increased, he or she would seek to have the conviction quashed and the sentence remitted to the sentencing Court for the guilty plea to be vacated and a plea of guilty not entered.

*Brown v Attorney General* [2006] DCR 586

When Barry Brown, a convicted sex offender, was released on parole, accommodation for him was found in a flat in Strathmore. The police at Kilbirnie became aware that he had moved there and were concerned at his proximity to schools, pre-schools and a playground in the immediate vicinity. Having unsuccessfully sought information from the Probation Service, Senior Sergeant Peter Cowan arranged for the distribution of a leaflet in the immediate area notifying residents of Mr Brown's presence and his past offending. Mr Brown claimed damages against the Police for, among other things breach of privacy, the tort recognised by the Court of Appeal in *Hosking v Runting*. The District Court upheld his claim for breach of privacy and awarded him \$25,000.

*Du v District Court at Auckland* [2006] NZAR 341

In this judicial review proceeding the High Court was asked to consider what the appropriate remedy should be where there has been a delay in the hearing of a criminal case in breach of the right to a speedy trial under s 25(b) of the New Zealand Bill of Rights Act 1990. Historically the remedy most readily applied has been to discharge the accused. The High Court agreed with the Crown's submission that the response to such a delay should be more flexible and proportionate, with a stay reserved for those cases where there was serious misconduct by the prosecuting agency or where the fairness of the trial had been irreparably compromised.

*Attorney-General v the Youth Court at Manukau*  
CIV 2006-404-2202

In this judicial review proceeding, the Crown sought a review of a decision by a Youth Court Judge to dismiss charges against three young persons on the grounds of delay. The Children, Young Persons and their Families Act 1989 places much greater emphasis on a prompt resolution of any proceedings involving children or young persons, but in this case it was a gang-related incident involving a large number of adults and young persons, with limited information available to the Police. The Youth Court's decision was challenged on the basis that regard had not been had to the inherent difficulties in prosecuting such offences, and the need to ensure that young persons were held accountable for their crimes. The High Court has reserved its decision.

SOLICITOR-GENERAL APPEALS IN THE COURT OF APPEAL

*Allen v R* CA 15/06

The defendant in a breath-alcohol prosecution sought to raise an argument that the evidential breath test device may have malfunctioned. The Court of Appeal confirmed that since the amendment to ss 64 and 75A of the Land Transport Act 1998 such challenges could no

longer be made and the motorist's only option where they disputed the evidential breath test result was to seek a blood test.

*R v Gillan* CA103/05

This case concerned a question reserved for the Court of Appeal, namely whether growing cannabis plants could be the subject of a charge of possession of cannabis for the purpose of sale. On this question, the District Courts had differed in their response. The Court of Appeal held that a growing cannabis plant could not be the subject of a charge of possession of cannabis for the purpose of sale, relying heavily upon the proposition that a live plant contained much unusable material and would be inconsistent with the presumption in the Misuse of Drugs Act 1975 to be employed in that way.

*R v Farquhar* CA4/06

The Court of Appeal was asked to determine whether a trial judge is obliged as a matter of law to direct a jury that a complainant's previous convictions are relevant not only to credibility but also to the likelihood that he or she acted or did not act in a particular way. The complainant in the case had a number of convictions for violence. The appellant's charge to an offence of injuring with intent to injure was self-defence. Although the appellant elicited the previous convictions of the complainant at trial, the trial judge directed the jury that they were relevant only to the complainant's credibility. The Court of Appeal held that previous convictions that are relevant to propensity should be the subject of a corresponding jury direction. However, the appeal was dismissed on the basis that no substantial miscarriage of justice had occurred on the facts of the case.

*R v Konnerth*, CA149/06

Section 366 of the Crimes Act 1961 precludes the prosecutor from making adverse comment about the fact that the accused did not give evidence at trial. Given the statutory prohibition, the courts had generally taken the view that such comment vitiated a conviction.

In *Konnerth*, the Court of Appeal held that this is not necessarily so, and that all of the circumstances of the case must be considered in assessing whether there has been a substantial miscarriage of justice. It follows that a breach by a prosecutor of this section is not necessarily a reversible error.

*R v Thomas* CA173/05

This case concerned s 21 of the New Zealand Bill of Rights Act 1990 i.e. the right to be free from unreasonable search and seizure. The appellant was in possession of stolen property. The police lawfully executed a search warrant at his address looking for evidence in relation to unconnected criminal offending. The appellant claimed that the police should not have been able to search and remove motor vehicles as these were beyond the scope of the search warrant. The Court of Appeal disagreed, holding that as the appellant did not have a reasonable expectation of privacy in the motor vehicles, he having no legitimate claim to them, the search was not unreasonable. The case is noteworthy for reference to the decision of the Supreme Court of United States in *Horton v California* 494 US 128, in which that Court held that the fact that an officer apprehends he or she might find an article outside the scope of the search warrant, does not necessarily impugn the legality and reasonableness of the search.

*Couch v A-G* CA 238/05

Susan Couch is the sole survivor of the RSA murders (*R v Bell*). She was severely injured by the accused. She has commenced civil proceedings against the Department of Corrections alleging negligence or serious wilful misconduct (misfeasance in public office) on the part of those probation officers having oversight of Mr Bell when he was on parole from an earlier robbery. The Crown argued that probation officers in the circumstances, owed no duty of care to the victims of Bell's lethal rampage in the RSA, despite shortcomings in his supervision. The High Court agreed and struck out the action. This was upheld in the Court of Appeal which



also struck out the misfeasance cause of action. On the basis that the case raises difficult and important public issues, rather than the application of settled law to agreed facts, the plaintiff is now seeking leave to appeal to the Supreme Court.

*R v Findlay* CA410/05

This case concerned a challenge to evidence obtained as a result of entry onto property in circumstances where there was a concern over a risk to the occupier of the property. The Court of Appeal held that public policy favoured the police officer's entry not to amount to trespass. Therefore the search was not unlawful. The Court applied and extended the powers of entry under the doctrines of implied licence and/or necessity as more recently discussed in *R v Fraser* [2005] 2 NZLR 109.

*R v Chilton & Archbold* [2006] 2 NZLR 341

This case is of interest for its full discussion of the principles of stare decisis in light of the advent of the Supreme Court. The Court of Appeal acknowledged that, even though it is now more obviously an intermediate Court of Appeal, there was no reason to adopt the restrictive approach of the English Court of Appeal to over-riding its earlier decisions in civil cases. Further, there may be a mandate for a more liberal approach to re-visiting prior decisions in criminal cases. This case confirmed that there will not be any significant change to the Court of Appeal's general approach to re-visiting its own decisions with the advent of the Supreme Court.

*SUPREME COURT/PRIVY COUNCIL*

*Howse v R – PC* [2006] 1 NZLR 433

The appellant murdered two young girls who, as daughters of his then partner, were under his care. His defence, ultimately, was to allege that the girls' mother was the murderer. To counter this the prosecution led a body of evidence to the effect that Howse had sexually abused the girls and had killed them to escape

detection. The conviction on the murder counts was appealed to the Court of Appeal. That Court was critical of much of the evidence about sexual abuse ruling that it was unreliable hearsay and should not have been admitted. But the Court dismissed the appeal on the basis that Howse would inevitably have been convicted without the hearsay evidence. Howse sought leave to appeal to the Privy Council and this was granted by the Privy Council. He argued that the Court of Appeal could not have relied on the certainty of conviction because his trial was inherently unfair. The Privy Council upheld the decision appealed from by a majority.


*R v Sungsuwan* SC [2006] 1 NZLR 730

This case involved a review of the principles applicable to miscarriages of justice occasioned by trial counsel's conduct of the trial. The court confirmed that the over-riding test was whether a miscarriage of justice had occurred but that ordinarily a court will not interfere with trial decisions/tactics that were reasonably available at the time of trial. The case involved a review of the approach to "trial counsel error" in Australia, Canada, the United States and United Kingdom.

*R v Mist* SC12/2005

This case concerned the jurisdiction to impose a sentence of preventive detention on an appellant who was aged 19 at the date of the commission of the offence but 21 as at the date of conviction. The Court of Appeal held that the date for eligibility for preventive detention in s 75 of the Criminal Justice Act (age of eligibility 21) was to be taken as at the age when convicted. The Supreme Court overturned the Court of Appeal's decision holding that s 4 of the Criminal Justice Act 1985, which provided that no-one could be sentenced to a harsher penalty than one available at the age of offending, over-rode s 75 and meant the correct interpretation of s 75 was that the age must be taken as at the date of offending. The case was of interest for the comments of the Chief Justice and Keith J that an interpretation of s 75 requiring the age to be as at the date of conviction

would also be inconsistent with s 25(g) of the Bill of Rights Act 1990 (that interpretation would have meant that s 75 retrospectively applied a harsher penalty than that which existed as at the time of the commission of the offence). The minority's comments are in apparent contradiction to the Supreme Court's previous decision in *Morgan v Superintendent of Rimutaka Prison*.



**Dr David Collins QC**  
Solicitor-General and Chief Executive

*R v Lilo* SC49/2005

The Supreme Court upheld the Court of Appeal's determination that attempted sexual violation does not require proof of an intent to have non-consensual sexual intercourse.

The attempt is to perform the actus reus, which is sexual intercourse, accompanied by circumstances that, if the act had been completed, would have amounted to sexual violation. For attempted sexual violation it was sufficient to prove that the appellant intended to have sexual intercourse and there were no reasonable grounds for a belief that the complainant was consenting.

## ORGANISATION INFORMATION

Crown Law is organised into three practice groups, which are focused on the delivery of specialist legal services to government covering the following core areas of business:

- Public Law issues which, for example, arise out of the exercise and control of governmental power and public sector governance
- The conduct of Crown prosecutions and criminal appeals
- Constitutional advice and litigation including Treaty of Waitangi work, advice on international human rights obligations, bill of rights, and constitutional conventions

The practice group structure is designed to enable better co-ordination of work, to enable improved sharing of resources across teams, and to improve the capacity to serve Ministers and clients. A Deputy Solicitor-General is responsible for the professional leadership and management of each practice group. Within each practice group, there are a number of specialist client service teams. A Crown Counsel, in the role of Team Leader, has responsibility for the development and

management of staff in each team and is also the principal contact point for clients of the team. Each team is staffed with further Crown Counsel, Associate Crown Counsel, Assistant Crown Counsel, and Litigation and Secretarial Support staff. The current Group/Team structure comprises:

<b>Practice group</b>	<b>Legal teams</b>
Public Law Group	<ul style="list-style-type: none"> <li>• Governmental Business Team</li> <li>• Natural Resources Team</li> <li>• Taxation and Public Revenue Team</li> </ul>
Criminal Process Group	<ul style="list-style-type: none"> <li>• Criminal and Crown Solicitors Team</li> </ul>
Constitutional Group	<ul style="list-style-type: none"> <li>• Employment Team</li> <li>• Human Rights Team</li> <li>• Law Officer Team</li> <li>• Treaty Issues and International Law Team</li> </ul>

## MANAGEMENT STRUCTURE

### SENIOR MANAGEMENT GROUP:

Terence Arnold QC	Solicitor-General to 18 May 2006
Cheryl Gwyn	Acting Solicitor-General from 19 May 2006, Deputy Solicitor-General (Constitutional) and Team Leader of Law Officer Team
Karen Clark	Deputy Solicitor-General (Public Law)
John Pike	Deputy Solicitor-General (Criminal Law)
Diana Pryde	Practice Manager
Dr David Collins QC	Appointed as Solicitor-General from 1 September 2006

### LEGAL TEAM LEADERS:

Bronwyn Arthur	Crown Counsel, Natural Resources
Rebecca Ellis*	Crown Counsel, Taxation and Public Revenue
Peter Gunn	Crown Counsel, Employment
Fiona Guy Kidd**	Crown Counsel, Criminal
Virginia Hardy	Crown Counsel, Treaty Issues and International Law
Grant Liddell	Crown Counsel, Governmental Business
Val Sim	Crown Counsel, Human Rights

\* Replaced James Coleman in March 2006

\*\* Replaced by Brendan Horsley in August 2006

## HUMAN RESOURCE MANAGEMENT

During 2005/06 the overall permanent staffing of Crown Law increased to reflect the increased demand for services. The number of employees permanently employed at year-end was as follows:

	<b>30 June 2006</b>	<b>30 June 2005</b>
Solicitor-General, Deputy Solicitors-General and Practice Manager	4	5
Counsel	79	74
Legal Support	13	19*
Secretarial and Word Processing	32	34
Corporate Services Group	30*	22
Total Number of Employees	158	156

(Part time and job share arrangements are included in these numbers)

\* Litigation Support staff were transferred to Corporate Services during this period.

In common with other professional services organisations, Crown Law's human resource management policies, procedures and systems are aimed at attracting and retaining skilled and experienced staff who have a focus on client service.

## OUR PEOPLE CAPABILITY

Our ability to retain good people and improve our people capability is based on our success in providing clear expectations, successfully challenging people to perform to the highest standard, developing and supporting individual performance potential and being flexible about how that performance is delivered.

Our initiatives to improve our people capability are based on an understanding of the need to develop a safe and healthy work environment and to recognise and support the diverse contributions of all staff.

In the second half 2004/2005 Crown Law began a process to consolidate and codify its people-related processes into a suite of human resource policies and procedures. This was undertaken to increase transparency and improve consistency and fairness in decision-making.

This work also assured Crown Law's compliance with the State Sector Act 1988 and was designed to support equal access to opportunities that may be available through employment with Crown Law, including professional development. This process was completed in 2005/2006 except for work on the recruitment policy and procedures, which will incorporate the recent review by the State Service Commission of non-appointment procedures. This project will also ensure that recruitment panels are provided with the necessary information and support to ensure the best suited people are employed by Crown Law.

During the year Crown Law reviewed its terms and conditions of employment and entered into new agreements with staff (both on a collective and individual basis). This process was completed for most people in December 2006. A review of Team Leader responsibilities was completed in 2005/2006. This will form the basis for developing a Team Leader development programme in 2006/2007. This programme will focus on developing an environment that encourages and supports the maximum contribution of all people, in particular legal staff. Crown Law also undertook further work in 2005/2006 to consolidate changes in developing and sustaining support staff performance.

Crown Law continues to make steady progress in developing an environment that is clear about expectations for service to our clients, provides people with the leadership and development to meet these expectations and which enables all people to develop to their potential.

## CROWN SOLICITOR NETWORK

There are sixteen private law practitioners holding warrants as Crown Solicitors. Together with their partners and staff solicitors from the practice and the local prosecution panels, Crown Solicitors prosecute indictable offences in those centres where District Court and High Court jury trials are conducted.

During the year a review of the Hamilton Crown Solicitor was commenced. Warrants were issued to new Crown Solicitors in Rotorua, Gisborne and Invercargill filling the vacancies created in the previous year.

## LEGISLATIVE RESPONSIBILITIES

Crown Law administers the Crown Solicitors Regulations 1994 which set out the basis upon which the scale of fees is calculated and the process by which fees are claimed and paid to Crown Solicitors for undertaking Crown prosecution work.

The Cabinet Directions for the Conduct of Crown Legal Business 1993 govern the conduct of legal business between the Law Officers of the Crown, Crown Law and government departments and agencies.

## INFORMATION SYSTEMS MANAGEMENT

Effective use is made of information technology and systems to support the legal advice and representation functions of Crown Law. Much of the focus of this investment is directed towards the production and management of documents, the conduct of legal research, communication with clients

and the management of matters on behalf of those clients. Strategies are in place to ensure that technology and systems are reviewed on a regular basis and updated or replaced where justified.

Crown Law tendered for and purchased an electronic litigation system, known as Signature Cannae. This is being progressively rolled out to counsel and litigation staff.

## OFFICE ACCOMMODATION

Crown Law is located in Unisys House, The Terrace and occupies four floors of office accommodation. The premises are under lease until 31 March 2013, with a further renewal available until 31 March 2019.

## NEW ZEALAND INTERNATIONAL FINANCIAL REPORTING STANDARDS

In December 2002 the New Zealand Accounting Standards Review Board announced that the New Zealand equivalents to International Financial Reporting Standards ("NZIFRS") will apply to all New Zealand entities for the periods commencing on or after 1 January 2007 with the earlier adoption optional.

The Minister of Finance announced in 2003 that the Crown will first adopt NZIFRS for the financial year beginning 1 July 2007.

Crown Law has continued a project to identify the differences involved in the adoption of NZIFRS. The key areas of change are likely to be in the accounting treatment of fixed assets and financial disclosures.

STAFF PUBLICATIONS &  
PRESENTATIONS DURING THE YEAR

**REBECCA ELLIS – CROWN COUNSEL**

Co-presented with Paul Radich the “Introduction to civil litigation skills”, New Zealand Law Society seminar, Wellington, July 2006.

**DR MARK HICKFORD – CROWN COUNSEL**

“To “confound in one abstract description of Aborigines”: seeing an empire of variations in imperial policy on “native” property rights in Australasia (1830s-1850s)”, paper presented to the Sixth Conference of the European Society for Oceanists, Marseille, France, 6-8th July 2005

“Decidedly the most interesting savages on the globe: an approach to the intellectual history of Māori property rights, 1837-1853” (2006) 27(1) *History of Political Thought* 121-167

‘The law of foreshore and seabed’ in *Te Ara - The Encyclopedia of New Zealand*, Ministry for Culture and Heritage, 2006.

<<http://www.TeAra.govt.nz/EarthSeaAndSky/OceanStudyAndConservation/LawOfTheForeshoreAndSeabed/en>>

Review of Richard Hill *State authority, indigenous autonomy: Crown-Maōri relations in New Zealand/Aotearoa, 1900-1950* (Victoria University Press, Wellington, 2004) in “Shorter Notice” (2006) 121 *English Historical Review* 639-641

Chaired session at “The Salmond Symposium” Victoria University of Wellington, August 2006.

**CHRISTINA INGLIS – CROWN COUNSEL**

“Recent case comment: *Chief Executive of the Department of Inland Revenue v Buchanan and Symes*” [2006] *Employment Law Bulletin* 20-22.

**CRAIG LINKHORN – CROWN COUNSEL**

“Stepping around barriers to financing commercial development involving communal land - some New Zealand examples” Australian Federal Department of Immigration, Multicultural and Indigenous Affairs seminar, Canberra, August 2005. Also presented as a public seminar at the Centre for Aboriginal Economic Policy Research Australian National University, Canberra

J.C. Altman, C. Linkhorn and J. Clarke *Land rights and development reform in remote Australia* (Centre for Aboriginal Economic Policy Research, Discussion Paper no. 276/2005).

**DR DAMEN WARD – ASSISTANT CROWN COUNSEL**

“Constructing indigenous legal status and British authority: Australasian colonies in the mid-nineteenth century”, paper presented to the Sixth Conference of the European Society for Oceanists, Marseille, France, 6-8th July 2005

“Colonial communication, forums for creating public opinion in Crown Colony South Australia and New Zealand”, in Simon J. Potter (ed.) *Imperial Communication. Australia, Britain and the British Empire, c. 1830-50*, (London, 2005).

# STATEMENT OF RESPONSIBILITY

FOR THE YEAR ENDED 30 JUNE 2006

In terms of the Public Finance Act 1989 I am responsible, as Chief Executive of Crown Law, for the preparation of the financial statements and the judgments made in the process of preparing those statements.

I have the responsibility of establishing and maintaining, and I have established and maintained, a system of internal control procedures that provide reasonable assurance

as to the integrity and reliability of the financial reporting.

In my opinion, these financial statements fairly reflect the financial position and operations of Crown Law for the year ended 30 June 2006.



**Dr David Collins QC**  
Solicitor-General and Chief Executive

28 September 2006

Countersigned by:



**Chris Walker**  
Chief Financial Officer

28 September 2006



**Diana Pryde**  
Practice Manager

28 September 2006



## AUDIT REPORT

### TO THE READERS OF THE CROWN LAW OFFICE'S FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 2006

The Auditor-General is the auditor of the Crown Law Office. The Auditor-General has appointed me, John O'Connell, using the staff and resources of Audit New Zealand, to carry out the audit of the financial statements of the Crown Law Office, on his behalf, for the year ended 30 June 2006.

#### **Unqualified opinion**

In our opinion the financial statements of the Crown Law Office on pages 36 to 65:

- σ comply with generally accepted accounting practice in New Zealand; and
- σ fairly reflect:
  - the Crown Law Office's financial position as at 30 June 2006;
  - the results of its operations and cash flows for the year ended on that date; and
  - its standards of delivery performance achieved, as compared with the forecast standards outlined in the statement of forecast service performance adopted at the start of the financial year and its actual revenue earned and output expenses incurred, as compared with the forecast revenues and output expenses outlined in the statement of forecast service performance adopted at the start of the financial year.

The audit was completed on 28 September 2006, and is the date at which our opinion is expressed.

The basis of our opinion is explained below. In addition, we outline the responsibilities of the Solicitor-General and the Auditor, and explain our independence.

#### **Basis of opinion**

We carried out the audit in accordance with the Auditor-General's Auditing Standards, which incorporate the New Zealand Auditing Standards.

We planned and performed the audit to obtain all the information and explanations we considered necessary in order to obtain reasonable assurance that the financial statements did not have material misstatements, whether caused by fraud or error.

Material misstatements are differences or omissions of amounts and disclosures that would affect a reader's overall understanding of the financial statements. If we had found material misstatements that were not corrected, we would have referred to them in our opinion.

The audit involved performing procedures to test the information presented in the financial statements. We assessed the results of those procedures in forming our opinion.

Audit procedures generally include:

- σ determining whether significant financial and management controls are working and can be relied on to produce complete and accurate data;
- σ verifying samples of transactions and account balances;
- σ performing analyses to identify anomalies in the reported data;
- σ reviewing significant estimates and judgements made by the Solicitor-General;
- σ confirming year-end balances;
- σ determining whether accounting policies are appropriate and consistently applied; and
- σ determining whether all financial statement disclosures are adequate.

We did not examine every transaction, nor do we guarantee complete accuracy of the financial statements or statement of service performance.

We evaluated the overall adequacy of the presentation of information in the financial statements. We obtained all the information and explanations we required to support our opinion above.

### **Responsibilities of the Solicitor-General and the Auditor**

The Solicitor-General is responsible for preparing financial statements in accordance with generally accepted accounting practice in New Zealand. The financial statements must fairly reflect the financial position of the Crown Law Office as at 30 June 2006 and the results of its operations and cash flows for the year ended on that date. The statement of service performance must fairly reflect, for each class of outputs, the Crown Law Office's standards of delivery performance achieved and revenue earned and expenses incurred, as compared with the forecast standards, revenue and expenses adopted at the start of the financial year. The Solicitor-General's responsibilities arise from sections 45A, 45B and 45(1)(f) of the Public Finance Act 1989.

We are responsible for expressing an independent opinion on the financial statements and reporting that opinion to you. This responsibility arises from section 15 of the Public Audit Act 2001 and section 45D(2) of the Public Finance Act 1989.

## Independence

When carrying out the audit we followed the independence requirements of the Auditor-General, which incorporate the independence requirements of the Institute of Chartered Accountants of New Zealand.

Other than the audit, we have no relationship with or interests in the Crown Law Office.



John O'Connell  
Audit New Zealand  
On behalf of the Auditor-General  
Wellington, New Zealand

### Matters relating to the electronic presentation of the audited financial statements

This audit report relates to the financial statements of the Crown Law Office for the year ended 30 June 2006 included on the Crown Law Office's web site. The Solicitor-General is responsible for the maintenance and integrity of the Crown Law Office's web site. We have not been engaged to report on the integrity of the Crown Law Office's web site. We accept no responsibility for any changes that may have occurred to the financial statements since they were initially presented on the web site.

The audit report refers only to the financial statements named above. It does not provide an opinion on any other information which may have been hyperlinked to/from these financial statements. If readers of this report are concerned with the inherent risks arising from electronic data communication they should refer to the published hard copy of the audited financial statements and related audit report dated 28 September 2006 to confirm the information included in the audited financial statements presented on this web site.

Legislation in New Zealand governing the preparation and dissemination of financial statements may differ from legislation in other jurisdictions.

## STATEMENT OF OBJECTIVES AND SERVICE PERFORMANCE

FOR THE YEAR ENDED 30 JUNE 2006

### OUTPUT EXPENSE: LEGAL ADVICE AND REPRESENTATION

#### OBJECTIVE

To provide legal advice and representation services to central government departments and agencies with special emphasis on constitutional and other matters of public and administrative law, including Treaty of Waitangi and revenue issues.

#### OUTCOME

Contributes to promoting a strong and effective public service by protecting the legal interests and the responsibilities of the Crown and Crown agencies.

#### FINANCIAL PERFORMANCE

(Figures are GST exclusive)

2005 Actual \$000		2006 Actual \$000	2006 Main Estimates \$000	2006 Supp. Estimates \$000
16,222	Revenue – Department	17,131	17,142	17,900
17,174	Expenditure	17,146	17,142	17,900
(952)	Net surplus / (deficit)	(15)	-	-

#### EXPLANATION OF MAJOR VARIATIONS:

The appropriation was increased in the supplementary estimates process to meet an expected increase in the demand for services.

OUTPUT EXPENSE: LEGAL ADVICE AND REPRESENTATION - CONTINUED

SERVICE PERFORMANCE

*QUANTITY*

<b>2005 Actual</b>	<b>Measures</b>	<b>2006 Actual</b>	<b>2006 Forecast</b>
514	Number of new instructions for legal advice	471	550 – 600
907	Average number of requests for legal advice in progress during the year	951	800 – 900
652	Number of new instructions in respect of litigation matters.	625	600 – 650
2,405	Average number of litigation matters in hand	2,290	2,200 – 2,300

EXPLANATION OF MAJOR VARIATIONS:

The number of new instructions for legal advice and litigation is difficult to estimate given the demand based nature of this activity. There was a small decrease in the number of new instructions received. However, the average number of matters on hand increased because of the complexities of the issues.

*QUALITY AND TIMELINESS*

<b>Measures</b>	<b>Performance</b>
Legal advice, including opinions and representation services to be provided in accordance with Crown Law's Professional Standards: Crown Law Advice and Conduct of Litigation, respectively	Quality assurance review processes have been implemented to ensure compliance with the standards established for legal advice and representation services

*Client Satisfaction Survey Methodology:*

In November/December 2005 the Practice Manager met with 20 significant clients. A client relationship management plan is being developed with the results of these very positive and useful meetings.

OUTPUT EXPENSE: LEGAL ADVICE AND REPRESENTATION - CONTINUED

*QUALITY AND TIMELINESS - CONTINUED*

*Client Satisfaction Survey Results:*

<b>2005 Actual</b>		<b>2006 Actual</b>
33	Questionnaires issued	N/A
19	Questionnaires returned	N/A
72%	Overall satisfaction rating based on response.	N/A

In August 2005 a small number of clients were surveyed. The results were reported in the 2005 Annual Report. The methodology for undertaking client satisfaction surveys is currently being reviewed as part of the overall client relationship management planning.

## OUTPUT EXPENSE: SUPERVISION AND CONDUCT OF CROWN PROSECUTIONS

### OBJECTIVE

To provide a national Crown prosecution service to undertake criminal trials on indictment, and appeals against convictions and sentences arising out of summary prosecutions.

This output class is comprised of three outputs:

- *Crown Prosecution Services* – The provision of a national Crown prosecution service to undertake criminal trials on indictment and related appeals.
- *Supervision of the Crown Solicitor Network* – The supervision of Crown Solicitors responsible for delivering prosecution services in centres throughout New Zealand where District Court and High Court jury trials are conducted.
- *Criminal Law Advice and Services* - The provision of advice on criminal law matters to other government agencies and Crown Solicitors. This includes work in the following areas: proceeds of crime, mutual assistance, blood sampling for DNA, request for Crown appeals arising out of summary prosecutions, consent to prosecute, applications for stays and immunity from prosecution.

### OUTCOME

Contributes to building safer communities by assisting in the maintenance of law and order.

Financial performance  
(Figures are GST exclusive)

<b>2005</b>		<b>2006</b>	<b>2006</b>	<b>2006</b>
<b>Actual</b>		<b>Actual</b>	<b>Main</b>	<b>Supp.</b>
<b>\$000</b>		<b>\$000</b>	<b>Estimates</b>	<b>Estimates</b>
<b>\$000</b>		<b>\$000</b>	<b>\$000</b>	<b>\$000</b>
26,943	Revenue – Crown	30,386	27,686	30,386
26,652	Expenditure	29,407	27,686	30,386
291	Net surplus / (deficit)	979	-	-

### EXPLANATION OF MAJOR VARIATIONS:

The appropriation for this output class was increased by an amount of \$2,700,000 in the Supplementary Estimates. This increase was required to meet the forecast increase in court time being made available to address the backlog of criminal jury trials.

**OUTPUT EXPENSE: SUPERVISION AND CONDUCT OF CROWN PROSECUTIONS - CONTINUED**

SERVICE PERFORMANCE – OUTPUT: CROWN PROSECUTION SERVICES

*QUANTITY*

2005 Actual	Measures	2006 Actual	2006 Forecast
	Number of trials for indictable crime:		
1,443	• District Court	1,572	1,300 to 1,400
176	• High Court	209	140 to 180
	Number of trials for indictable crime (Cost greater than \$10,000 per trial):		
155	• District Court	110	140 to 180
88	• High Court	75	100 to 120
	Number of other criminal matters dealt with by the Crown Solicitors:		
982	• Bail Applications and Appeals	1,194	1,400 to 1,500
2,782	• Guilty Pleas / Lower Band and Middle Band Sentencing	2,558	2,600 to 2,800
660	• Appeals relating to Summary Prosecutions	603	700 to 800

EXPLANATION OF MAJOR VARIATIONS:

The demand based nature of this activity makes it is difficult to estimate the number of criminal matters before the Courts. There has been an increase in the number of criminal trials, with a reduction in the number of trials costing in excess of \$10,000.

*QUALITY AND TIMELINESS*

Measures	Performance
Prosecution services to be provided in accordance with prosecution guidelines and case management practices developed by the Solicitor-General and judiciary, respectively	A description of the review methodology, targets and results of the reviews conducted in the year ended 30 June 2006 is set out on page 42  Service Performance - Supervision of Crown Solicitor Network



OUTPUT EXPENSE: SUPERVISION AND CONDUCT OF CROWN PROSECUTIONS - CONTINUED

SERVICE PERFORMANCE – OUTPUT: SUPERVISION OF CROWN SOLICITOR NETWORK

*QUANTITY*

<b>2005 Actual</b>		<b>2006 Actual</b>	<b>2006 Forecast</b>
0	Number of Crown Solicitors practices to be reviewed	1*	1 - 2
317	Number of applications from Crown Solicitors for special fees, classification of counsel and approval of additional counsel	297	300 to 350

EXPLANATION OF SIGNIFICANT VARIANCES:

\*The Hamilton Crown Solicitor Review was incomplete as at 30 June 2006

*THE REVIEW OF THE AUCKLAND CROWN SOLICITOR PRACTICE:*

The cycle of Crown Solicitor reviews was completed in 2004. In 2005 it was determined that the review process should be re-evaluated prior to the commencement of the next cycle. That review is still to occur.

*QUALITY AND TIMELINESS*

<b>Measures</b>	<b>Performance</b>
Applications by Crown Solicitors for special fees, reclassification of counsel and approval of additional counsel to be considered in accordance with the Crown Solicitors Regulations 1994 and Crown Law’s protocols which support the application of the regulations. The protocols describe the processes to be followed, the quality standards relating to the process, content, justification for requests	All applications made by Crown Solicitors were approved in accordance with the Crown Solicitors Regulations 1994, and Crown Law’s protocols, which support the application of the regulations. Notification of approval and feedback on the application was formally advised to the Crown Solicitor within the agreed timeframe

OUTPUT EXPENSE: SUPERVISION AND CONDUCT OF CROWN PROSECUTIONS - CONTINUED

SERVICE PERFORMANCE – OUTPUT: SUPERVISION OF CROWN SOLICITOR NETWORK

*QUALITY AND TIMELINESS - CONTINUED*

Measures	Performance
<p>The provision of prosecution services by Crown Solicitors is to be reviewed by an independent review panel with reference to a range of quality standards which include:</p> <ul style="list-style-type: none"> <li>• compliance with professional standards of conduct</li> <li>• application of the Solicitor-General’s prosecution guidelines</li> <li>• compliance with court procedures and the requirements of the judiciary and clients in the management of cases</li> <li>• compliance with the Crown Solicitors Regulations 1994 and, in particular, the charging for services rendered</li> <li>• compliance with protocols and financial guidelines developed by Crown Law to support the application of the above Regulations</li> </ul>	<p>The Review Panel, which comprised a senior representative of Crown Law and an independent adviser, performed a review of one Crown Solicitor practice in this period. The review addressed compliance with the performance measures covering:</p> <ul style="list-style-type: none"> <li>• case processing efficiency and effectiveness</li> <li>• practice management case allocation, good employer responsibilities, financial reporting on cases and compliance with the Regulations and the supporting protocols</li> </ul>

*Crown Solicitor Practice Review Process:*

The Crown Solicitor Practice Review process has been established to ensure that Crown Solicitors meet certain quality standards in undertaking Crown prosecutions. These standards are described in the above table. It is aimed to review all Crown Solicitor practices at least once in each four to five year period. The number of reviews undertaken in any year will depend upon the size of the practice to be reviewed, the resources available to undertake the reviews and the operational efficiencies derived from reviewing practices in close geographic proximity. A review of the Hamilton Crown Solicitor was commenced in 2006.

*Crown Solicitor Appointment Process:*

The Solicitor-General is responsible for the process of appointment of Crown Solicitors. The process, which includes extensive consultation and inquiry to determine the suitability of candidates to undertake the role of Crown Solicitor, results in a recommendation to the Attorney-General and, in turn, to the Governor-General for the issuing of the Crown Solicitor warrant. Three new Crown Solicitor appointments were made in the financial year under review (Rotorua, Gisborne and Invercargill) (2005: Nil).

**OUTPUT EXPENSE: SUPERVISION AND CONDUCT OF CROWN PROSECUTIONS - CONTINUED**

SERVICE PERFORMANCE – OUTPUT: CRIMINAL LAW ADVICE AND SERVICES

*QUANTITY*

<b>2005 Actual</b>	<b>Measures</b>	<b>2006 Actual</b>	<b>2006 Forecast</b>
384	Number of new requests for legal advice or determination of applications received in relation to criminal law issues	344	380 to 420
520	Average number of requests for legal advice or determination of applications in relation to criminal law in process during the year	471	400 to 440
49	Number of new ministerials and parliamentary questions received.	32	35 to 50

EXPLANATION OF MAJOR VARIATIONS:

The number of new requests for legal advice has unexpectedly decreased slightly from the forecast, and reflects the difficulty of accurately estimating this demand based activity.

*QUALITY AND TIMELINESS*

<b>Measures</b>	<b>Performance</b>
Legal advice, including opinions, and representation services to be provided in accordance with Crown Law's Professional Standards: Crown Law Advice and Conduct of Litigation, respectively	Quality assurance review processes have been implemented to ensure compliance with the standards established for legal advice and representation services
Ministerial correspondence and parliamentary questions to be responded to within the following time frames: <ul style="list-style-type: none"> <li>• Replies to ministerial correspondence will be completed within 20 working days of receipt in 90% of cases</li> <li>• All responses to parliamentary questions will be provided within the required deadlines</li> </ul>	<ul style="list-style-type: none"> <li>• Replies to ministerial correspondence were provided within the required timeframe in 85% of cases (2005: 78%)</li> <li>• Responses provided to 13 parliamentary questions received (2005: No parliamentary questions were received)</li> </ul>

## OUTPUT EXPENSE: CONDUCT OF CRIMINAL APPEALS

### OBJECTIVE

To determine whether Crown appeals against sentence are lodged and to appear or arrange representation at the hearing of appeals whether brought by the Crown or by offenders following trials on indictment.

### OUTCOME

Contributes to building safer communities by assisting in the maintenance of law and order.

### FINANCIAL PERFORMANCE

(Figures are GST exclusive)

<b>2005 Actual \$000</b>		<b>2006 Actual \$000</b>	<b>2006 Main Estimates \$000</b>	<b>2006 Supp. Estimates \$000</b>
1,963	Revenue – Crown	1,933	1,933	1,933
2,059	Expenditure	2,564	1,933	1,933
(96)	Net surplus / (deficit)	(631)	-	-

### EXPLANATION OF MAJOR VARIATIONS:

The unappropriated expenditure arose due to briefing appeal work to the Crown Solicitors, and other solicitors in response to an increase in the number of appeals brought by offenders. Costs were incurred in appealing pre-trial rulings involving historic abuse claims. The costs include an accrual for the cost awarded in the *Bain* appeal to the Privy Counsel.

### QUANTITY

<b>2005 Actual</b>	<b>Measures</b>	<b>2006 Actual</b>	<b>2006 Forecast</b>
	Number of appeals heard in the Court of Appeal arising out of criminal trials on indictment, brought by:		
34	• the Crown	49	20 to 30
450	• offenders	477	500 to 550
	Decisions made on requests for the Solicitor-General to take Crown appeals in relation to:		
28	• sentence	18	40 to 50
6	• case stated or other appeals.	31	25 to 30

OUTPUT EXPENSE: CONDUCT OF CRIMINAL APPEALS - CONTINUED

SERVICE PERFORMANCE

*QUALITY AND TIMELINESS*

<b>Measures</b>	<b>Performance</b>
Success rate for appeals brought by the Solicitor-General to be not less than 60%	To date 27 of the 40 appeals brought by the Solicitor-General have been decided. All 27 cases have been decided in favour of the Solicitor-General
Compliance with court procedures and requirements of the judiciary, as specified in the <i>Court of Appeal Practice Note – Criminal Appeals</i> , to ensure no complaints are received for non-compliance	No complaints have been received by Crown Law for non-compliance with court procedures and practice notes
The hearing of appeals to be undertaken in accordance with the schedule of sitting days which is agreed by the court one month in advance, and resulting in no requests for adjournment being sought by the Crown	The hearing of appeals was undertaken in accordance with the timetable set by the court
Written submissions to be filed within the time frame stipulated in the <i>Court of Appeal Practice Note – Criminal Appeals</i> (which states that submissions are to be filed by the Crown by the required date, or within three days of receipt of the appellant’s submissions, or if that time frame is not available then prior to the appeal hearing)	The Crown filed written submissions within the timeframe stipulated in the <i>Court of Appeal practice note – Criminal Appeals</i>

**OUTPUT EXPENSE: THE EXERCISE OF PRINCIPAL LAW OFFICER FUNCTIONS**

**OBJECTIVE**

To provide legal and administrative services to the Attorney-General and the Solicitor-General to assist them in the exercise of the principal Law Officer functions. The functions include monitoring the enforcement and application of the law, supervision of charities, representation of the public interest, relator proceedings, and the exercise of a variety of powers, duties and authorities arising from various statutory requirements and constitutional conventions.

**OUTCOME**

Contributes to building safer communities by assisting in the maintenance of law and order and contributing to the maintenance of public interest factors in the application of the law.

**FINANCIAL PERFORMANCE**

(Figures are GST exclusive)

<b>2005 Actual</b>		<b>2006 Actual</b>	<b>2006 Main Estimates</b>	<b>2006 Supp. Estimates</b>
<b>\$000</b>		<b>\$000</b>	<b>\$000</b>	<b>\$000</b>
1,311	Revenue - Crown	1,278	1,278	1,278
3	- Other	4	-	-
<u>1,314</u>		<u>1,282</u>	<u>1,278</u>	<u>1,278</u>
1,196	Expenditure	1,342	1,278	1,278
<u>118</u>	Net surplus/(deficit)	<u>(60)</u>	<u>-</u>	<u>-</u>

**OUTPUT EXPENSE: THE EXERCISE OF PRINCIPAL LAW OFFICER FUNCTIONS**

SERVICE PERFORMANCE

*QUANTITY*

<b>2005 Actual</b>	<b>Measures</b>	<b>2006 Actual</b>	<b>2006 Forecast</b>
101	Number of new applications or requests for legal advice	124	120 to 140
289	Average number of applications or requests for legal advice in process during the year	342	300 to 320
270	Number of new ministerials and parliamentary questions received.	242	240 to 260

*QUALITY AND TIMELINESS*

<b>Measures</b>	<b>Performance</b>
Legal advice, including opinions, and legal representation services will be provided in accordance with Crown Law's Professional Standards: Crown Law Advice and Conduct of Litigation, respectively	Quality assurance review processes have been implemented to ensure compliance with the standards established for legal advice and legal representation services
Ministerial correspondence and parliamentary questions to be responded to within the following time frames: <ul style="list-style-type: none"> <li>• Replies to ministerial correspondence will be completed within 20 working days of receipt in 90% of cases</li> <li>• All responses to parliamentary questions will be provided within the required deadlines</li> </ul>	<ul style="list-style-type: none"> <li>• Replies to ministerial correspondence were provided within the required timeframe in 85% of cases (2005: 74%)</li> <li>• Replies to parliamentary questions were provided within the required timeframe in 100% of cases (2005: 100%)</li> </ul>

OUTPUT EXPENSE: THE EXERCISE OF PRINCIPAL LAW OFFICER  
FUNCTIONS - CONTINUED

SERVICE PERFORMANCE

*QUALITY AND TIMELINESS - CONTINUED*

<b>Measures</b>	<b>Performance</b>
Brief the Attorney-General in a timely and relevant way on significant legal matters affecting the Crown	A weekly report is provided to the Attorney-General advising on significant legal matters involving the Crown



## STATEMENT OF ACCOUNTING POLICIES

### FOR THE YEAR ENDED 30 JUNE 2006

#### REPORTING ENTITY

Crown Law is a government department as defined by the Public Finance Act 1989. These are the financial statements of Crown Law prepared pursuant to the Public Finance Act 1989. In addition, Crown Law has reported on the trust monies which it administers.

#### MEASUREMENT SYSTEM

The financial statements have been prepared on an historical cost basis modified by the revaluation of the Library asset.

#### ACCOUNTING POLICIES

The following particular accounting policies which materially affect the measurement of financial results and financial position have been applied.

#### BUDGET FIGURES

The Budget figures are those presented in the Budget Estimates (Main Estimates) and those amended by the Supplementary Estimates (Supplementary Estimates) and any transfer made by Order in Council under the Public Finance Act 1989.

#### REVENUE

Crown Law derives revenue through the provision of outputs to the Crown and for services to third parties. Such revenue is recognised when earned and is reported in the financial period to which it relates.

#### COST ALLOCATION

Crown Law has determined the cost of outputs using a cost allocation system that is outlined below.

##### *COST ALLOCATION POLICY*

Direct costs are charged directly to significant activities. Indirect costs are charged to significant activities based on cost drivers and related activity/usage information.

##### *DIRECT AND INDIRECT COST ASSIGNMENT TO OUTPUTS*

Direct costs are charged directly to outputs. Personnel costs are charged to outputs on the basis of actual time incurred. For the year ended 30 June 2006, direct costs accounted for 87% of Crown Law's costs (2005: 86%).

Indirect costs are the costs of corporate management and support services, including depreciation and the capital charge, and are assigned to outputs based on the proportion of direct staff costs for each output. For the year ended 30 June 2006, indirect costs accounted for 13% of Crown Law's costs (2005: 14%).

#### WORK-IN-PROGRESS

Work-in-progress is determined as unbilled time plus disbursements that can be recovered from clients, and has been valued at the lower of cost or expected realisable value.

## ACCOUNTING POLICIES - CONTINUED

### DEBTORS AND RECEIVABLES

Receivables are recorded at estimated realisable value, after providing for doubtful and uncollectable debts.

an actual entitlement basis at current rates of pay.

- Future entitlements to long service leave and retirement leave have been calculated on an actuarial basis based on the present value of expected future entitlements.

### OPERATING LEASES

Operating lease payments, where the lessors effectively retain substantially all the risks and benefits of ownership of the leased item, are charged as expenses in the periods in which they are incurred.

### FOREIGN CURRENCY

Foreign currency transactions are converted at the New Zealand dollar exchange rate at the date of the transaction. No forward exchange contracts are entered into.

### FIXED ASSETS

All fixed assets, costing more than \$1,000 are capitalised and recorded at historical cost.

### DEPRECIATION

Depreciation of fixed assets is provided on a straight line basis at rates that will write off the cost of the assets, less their estimated residual values, over their estimated useful lives. The useful lives of the major classes of assets have been estimated as follows:

### EMPLOYEE ENTITLEMENTS

The liability for entitlements by staff to annual leave, long service leave and retirement leave have been provided for as follows:

- Existing entitlements to annual leave and long service leave have been calculated on

The cost of leasehold improvements is capitalised and amortised over the unexpired period of the lease or the estimated remaining useful lives of the improvements, whichever is shorter.

### DEPRECIATION TABLE

ASSET CLASS	ASSET LIFE	DEPRECIATION RATE
Computer equipment	3 years	(33.3%)
Office equipment	5 years	(20%)
Furniture and fittings	5 years	(20%)
Leasehold improvements	9 years	(11.1%)
Library	10 years	(10%)

## ACCOUNTING POLICIES - CONTINUED

### FINANCIAL INSTRUMENTS

Crown Law is party to financial transactions as part of its normal operations. These financial instruments, which include bank accounts, debtors and creditors, are recognised in the Statement of Financial Position and all revenues and expenses in relation to financial instruments are recognised in the Statement of Financial Performance. Except for those items covered by a separate accounting policy, all financial instruments are shown at their estimated fair value.

### GOODS AND SERVICES TAX (GST)

The Statement of Unappropriated Expenditure and the Statements of Departmental and Non-Departmental expenditure and Appropriations are exclusive of GST.

The Statement of Financial Position is exclusive of GST, except for Trade Debtors and Receivables and Creditors and Payables, which are GST inclusive. All other statements are GST exclusive.

The amount of GST owing to the Inland Revenue Department at balance date, being the difference between Output GST and Input GST, is included in Creditors and Payables.

### TAXATION

Government departments are exempt from the payment of income tax in terms of the Income Tax Act 2004. Accordingly, no charge for income tax has been provided for.

### COMMITMENTS

Future expenses and liabilities to be incurred on contracts that have been entered into at balance date are disclosed as commitments to the extent that there are equally unperformed obligations.

### CONTINGENT LIABILITIES

Contingent liabilities are disclosed at the point at which the contingency is evident.

### TAXPAYERS' FUNDS

This is the Crown's net investment in Crown Law.

### CHANGES IN ACCOUNTING POLICIES

All policies have been applied on a basis consistent with the previous year. There have been no changes in accounting policies, including cost allocation, since the date of the last audit.

**STATEMENT OF FINANCIAL PERFORMANCE**  
FOR THE YEAR ENDED 30 JUNE 2006

2005 Actual			2006 Actual	2006 Main Estimates	2006 Supp. Estimates
\$000		Note	\$000	\$000	\$000
<b>REVENUE</b>					
30,217	Crown		33,597	30,897	33,597
16,225	Other	2	17,135	17,142	17,900
46,442	<b>Total Operating Revenue</b>		50,732	48,039	51,497
<b>EXPENSES</b>					
13,808	Personnel Costs	3	14,948	14,313	14,885
32,294	Operating Costs	4	34,568	32,610	35,519
857	Depreciation	5	834	921	993
122	Capital Charge	6	109	195	100
47,081	<b>Total Expenses</b>		50,459	48,039	51,497
(639)	<b>Net surplus / (deficit)</b>		273	-	-

The accompanying accounting policies and notes form part of these financial statements.  
For information on major variances refer to Note 1

## STATEMENT OF MOVEMENTS IN TAXPAYERS' FUNDS

### FOR THE YEAR ENDED 30 JUNE 2006

2005 Actual		2006 Actual	2006 Main Estimates	2006 Supp. Estimates
\$000	Note	\$000	\$000	\$000
1,936	Taxpayers' funds as at 1 July	1,797	2,436	1,797
(639)	Net surplus / (deficit)	273	-	-
(639)	<b><i>Total recognised revenues and expenses for the year</i></b>	273	-	-
500	Capital contribution received from the Crown	-	-	-
-	Repayment of capital contribution to the Crown	(500)	(500)	(500)
-	Provision for repayment of surplus to the Crown	(273)	-	-
1,797	<b><i>Taxpayers' funds as at 30 June</i></b>	1,297	1,936	1,297

The accompanying accounting policies and notes form part of these financial statements.

## STATEMENT OF FINANCIAL POSITION

### AS AT 30 JUNE 2006

2005 Actual		2006 Actual	2006 Main Estimates	2006 Supp. Estimates
\$000	Note	\$000	\$000	\$000
<b>ASSETS</b>				
<b>Current Assets</b>				
545	Cash	2,599	2,109	1,498
3,485	Debtors and receivables	8	3,350	2,643
4,030	<b>Total current assets</b>	5,949	4,752	4,738
<b>Non-current assets</b>				
4,070	Fixed assets	9	3,476	3,519
8,100	<b>Total assets</b>	9,425	8,271	8,525
<b>LIABILITIES</b>				
<b>Current liabilities</b>				
5,331	Creditors and payables	10	6,781	5,335
-	Provision for repayment of surplus	11	273	-
728	Provision for employee entitlements	12	786	745
6,059	<b>Total current liabilities</b>	7,840	6,080	6,973
<b>Non-current liabilities</b>				
244	Provision for employee entitlements	12	288	255
6,303	<b>Total liabilities</b>	8,128	6,335	7,228
<b>TAXPAYERS' FUNDS</b>				
1,501	General Funds	1,001	1,640	1,001
296	Revaluation reserve	7	296	296
1,797	<b>Total taxpayers' funds</b>	1,297	1,936	1,297
8,100	<b>Total liabilities and taxpayers' funds</b>	9,425	8,271	8,525

The accompanying accounting policies and notes form part of these financial statements.  
For information on major variances against budget refer to Note 1

## STATEMENT OF CASH FLOWS

### FOR THE YEAR ENDED 30 JUNE 2006

2005 Actual  \$000		2006 Actual  \$000	2006 Main Estimates \$000	2006 Supp. Estimates \$000
<b>CASH FLOWS – OPERATING ACTIVITIES</b>				
<i>Cash was provided from: Supply of outputs to</i>				
30,217	Crown	33,597	30,897	33,597
15,782	Government departments and related agencies	16,868	17,142	17,900
45,999		50,465	48,039	51,497
<i>Cash was applied to: Produce outputs</i>				
31,616	Operating	31,151	31,140	33,073
13,272	Personnel	14,381	14,161	14,161
1,616	Net GST paid	2,030	1,700	2,000
122	Capital charge	109	195	100
46,626		47,671	47,196	49,334
(627)	<b>Net cash flows from operating activities</b>	2,794	842	2,163
<b>CASH FLOWS – INVESTING ACTIVITIES</b>				
<i>Cash was provided from:</i>				
-	Sale of fixed assets	-	-	-
<i>Cash disbursed for:</i>				
1,355	Purchase of fixed assets	240	300	710
(1,355)	<b>Net cash flows from investing activities</b>	(240)	(300)	(710)
<b>CASH FLOWS – FINANCING ACTIVITIES</b>				
<i>Cash was provided from:</i>				
500	Capital contribution from the Crown	-	-	-
<i>Cash disbursed for:</i>				
1,376	Repayment of net surplus to Crown	-	-	-
-	Repayment of capital contribution received from the Crown	500	500	500
(876)	<b>Net cash flows from financing activities</b>	(500)	(500)	(500)
(2,858)	Net Increase/(Decrease) in cash held	2,054	42	953
3,403	Add opening cash	545	2,067	545
545	<b>Closing cash</b>	2,599	2,109	1,498

The accompanying accounting policies and notes form part of the financial statements.  
For information on major variances against budget refer to Note 1

**RECONCILIATION OF NET SURPLUS TO NET CASH  
FLOW FROM OPERATING ACTIVITIES**  
FOR THE YEAR ENDED 30 JUNE 2006

2005 Actual		2006 Actual	2006 Main Estimates	2006 Supp. Estimates
\$000		\$000	\$000	\$000
(639)	<b>Net (deficit)/surplus</b>	273	-	-
	Adjustment for items which do not impact cash flow:			
857	Depreciation	834	921	993
14	Increase/(decrease) in non current employee entitlements	44	11	11
871	<b>Total non-cash items</b>	878	932	1,004
	Adjustment for movements in working capital items:			
(802)	(Increase)/decrease in debtors and receivables	135	-	245
(80)	Increase/(decrease) in creditors and payables	1,450	(106)	897
23	Increase/(decrease) in current employee entitlements	58	16	17
(859)	<b>Working capital movements – net</b>	1,643	(90)	1,159
	Add/(less) investing activity items:			
-	Net loss/(gain) on sale of fixed assets	-	-	-
-	<b>Total investing activity items</b>	-	-	-
(627)	<b>Net cash inflow from operating activities</b>	2,794	842	2,163

The accompanying accounting policies and notes form part of the financial statements.



## STATEMENT OF COMMITMENTS

AS AT 30 JUNE 2006

Crown Law leased new premises in Wellington as from 1 April 2004. The term of the lease is for an initial period of 9 years expiring on 31 March 2013. The amounts disclosed below as future commitments are based on the current lease rental rates.

Operating leases include lease payments for premises, car parks and photocopiers.

2005 Actual \$000		2006 Actual \$000
<i>Operating lease commitments</i>		
1,374	less than one year	1,395
1,389	one to two years	1,343
3,981	two to five years	3,968
3,746	over five years	2,314
10,490	Total operating lease commitments	9,020
10,490	<b>Total Commitments</b>	9,020

No significant commitments were outstanding for the purchase of goods and services as at 30 June 2006.

## STATEMENT OF CONTINGENT LIABILITIES

AS AT 30 JUNE 2006

There were no contingent liabilities as at 30 June 2006 (2005: Nil)

## STATEMENT OF UNAPPROPRIATED EXPENDITURE

FOR THE YEAR ENDED 30 JUNE 2006

2005 Unappropriated Expenditure \$000	(Figures are GST inclusive where applicable)	2006 Actual \$000	2006 Appropriation \$000	2006 Unappropriated Expenditure \$000
<b>Vote: Attorney-General</b>				
107	Output Expense- Conduct of Criminal Appeals	2,564	1,933	631
-	Output Expense- The Exercise of the Principal Law Officer Functions	1,342	1,278	64

The accompanying accounting policies and notes form part of these financial statements.

**STATEMENT OF UNAPPROPRIATED EXPENDITURE**  
FOR THE YEAR ENDED 30 JUNE 2006 (CONTINUED)

	Authority \$000	Amount without Appropriation \$000
<b>Expenditure incurred prior to authorisation:</b>		
<b>Vote: Attorney-General</b>		
Output Expense- Conduct of Criminal Appeals	1,933	201
<b>Unappropriated expenditure for validation under section 26c of the Public Finance Act 1989 – expenditure in excess of appropriation:</b>		
<b>Vote: Attorney-General</b>		
Output Expense- Conduct of Criminal Appeals	1,933	531
<b>Expenditure outside of or without appropriation:</b>		
Output Expense- Conduct of Criminal Appeals	1,933	100 * <sup>1</sup>

\*<sup>1</sup> The expenditure outside appropriation arose when the Privy Council awarded cost to the petitioner (David Bain) in relation to his appeal heard on 6 June 2006. The petitioner is claiming \$100,000 in legal costs. The decision of the Privy Council was released after 30 June, and at this time it is uncertain as to which Government agency is liable for the legal costs of the petitioner.

## STATEMENT OF DEPARTMENTAL EXPENDITURE AND APPROPRIATIONS

FOR THE YEAR ENDED 30 JUNE 2006

(Figures are GST exclusive where applicable)	2006 Actual Expenditure \$000	2006 Appropriation Voted* <sup>1</sup> \$000
<b>Vote: Attorney General</b>		
<i>Appropriations for classes of outputs</i>		
Legal Advice and Representation* <sup>2</sup>	17,146	17,900
Supervision and Conduct of Crown Prosecutions	29,407	30,386
Conduct of Criminal Appeals	2,564	1,933
The Exercise of Principal Law Officer Functions	1,342	1,278
<b>Total appropriations</b>	50,459	51,497

\*<sup>1</sup>The Appropriation Voted includes adjustments made in the Supplementary Estimates.

\*<sup>2</sup>Legal Advice and Representation is funded by Revenue Department.

## STATEMENT OF TRUST MONIES

FOR THE YEAR ENDED 30 JUNE 2006

Account	As at 1 July 2005 \$000	Contributions \$000	Distributions \$000	Revenue \$000	Expenses \$000	As at 30 June 2006 \$000
Crown Law Office Legal Claims Trust Account	85	1,436	(1,476)	4	-	49

This interest bearing bank account is operated to receive and pay legal claims and settlements on behalf of clients of Crown Law. In accordance with the Public Finance Act 1989 the interest income is payable to the Crown.

The accompanying accounting policies and notes form part of these financial statements.

## NOTES TO THE FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 2006

### NOTE 1: MAJOR BUDGET VARIATIONS

#### STATEMENT OF FINANCIAL PERFORMANCE (GST EXCLUSIVE)

1. *Output Expense: Legal Advice and Representation Services*

This output class recorded a deficit of \$15,000 for the year.

The deficit arose from a small reduction in time chargeable to clients as some staff took annual leave. Offsetting this reduction in billable revenue is a reduction in the provision for doubtful debts and work in progress.

2. *Output Expense: Supervision and Conduct of Crown Prosecutions*

This output recorded a surplus of \$979,000 for the year.

The appropriation for this output class had been increased by a net amount of \$2,700,000 in the Supplementary Estimates in anticipation in the increased demand for jury trials and associated costs during the remainder of the financial year.

3. *Output Expense: Conduct of Criminal Appeals*

This output recorded a deficit of \$631,000 for the year.

The demand for Criminal Appeals has continued to increase. To meet this demand it was necessary to brief the work to Crown Solicitors and Barristers. This resulted in an unexpected increase in both direct and indirect cost. The deficit is also due to the Privy Council's decision to award legal cost to the petitioner (David Bain). The petitioner is claiming legal costs of \$100,000. It is uncertain as to which Government agency will be responsible for these costs.

4. *Output Expense: The Exercise of Principal Law Officer Functions*

This output class recorded a net deficit of \$60,000 for the year.

The deficit arose from the accrual of State Services Commission costs related to the recruitment, which were not budgeted to be incurred in the financial year ended 30 June 2006.

Further information on the changes in output classes is set out in the Statement of Objectives and Service Performance.

NOTE 2: OTHER REVENUE

2005 Actual \$000		2006 Actual \$000	2006 Main Estimates \$000	2006 Supp. Estimates \$000
	Legal fees and disbursements received from:			
16,222	- Government departments/ other government entities	17,131	17,142	17,900
3	- Other clients	4	-	-
-	Profit on sale of fixed assets	-	-	-
<u>16,225</u>	<b>Total other revenue</b>	<u>17,135</u>	<u>17,142</u>	<u>17,900</u>

NOTE 3: PERSONNEL COSTS

2005 Actual \$000		2006 Actual \$000
13,794	Salaries and Wages	14,846
14	Movement in Retirement and Long Service Leave	102
<u>13,808</u>	<b>Total personnel costs</b>	<u>14,948</u>

NOTE 4: OPERATING COSTS

2005 Actual \$000		2006 Actual \$000	2006 Main Estimates \$000	2006 Supp. Estimates \$000
37	Audit fees for audit of the financial statements	40	37	45
-	Bad debts written off	44	-	-
30	Increase (decrease) provision for doubtful debts	(48)	(30)	(30)
(80)	Increase (decrease) provision for doubtful Work in progress	(16)	51	51
302	Consultancy costs	214	238	238
25,365	Crown Solicitors fees	28,510	25,484	28,184
1,430	Operating lease costs	1,409	1,400	1,400
5,210	Other operating costs	4,415	5,430	5,631
<u>32,294</u>	<b>Total operating costs</b>	<u>34,568</u>	<u>32,610</u>	<u>35,519</u>

NOTE 5: DEPRECIATION CHARGE

<b>2005</b>		<b>2006</b>	<b>2006</b>	<b>2006</b>
<b>Actual</b>		<b>Actual</b>	<b>Main</b>	<b>Supp.</b>
<b>\$000</b>		<b>\$000</b>	<b>Estimates</b>	<b>Estimates</b>
			<b>\$000</b>	<b>\$000</b>
52	Office Equipment	53	33	47
183	Computer Equipment	149	250	259
75	Computer Software	79	100	108
277	Leasehold Improvements	280	302	302
194	Furniture & Fittings	197	159	200
76	Library	76	77	77
<b>857</b>	<b>Total depreciation charge</b>	<b>834</b>	<b>921</b>	<b>993</b>

NOTE 6: CAPITAL CHARGE

Crown Law pays a capital charge to the Crown on its taxpayers' funds as at 30 June and 31 December each year. The capital charge rate for the year ended 30 June 2006 was 8.0% (2005: 8.0%).

NOTE 7: REVALUATION RESERVE - LIBRARY

The library asset was independently valued at net current value as at 30 June 2001 by Stephanie Lambert NZCL of Lambert Library Services. Since that date, Crown Law has changed its valuation method for the library collection from fair value to historical cost. This decision, which is consistent with FRS-3: Accounting for Property, Plant and Equipment, has been made as the cost of the valuation exceeds the benefits of an updated valuation.

NOTE 8: DEBTORS AND RECEIVABLES

<b>2005</b>		<b>2006</b>
<b>Actual</b>		<b>Actual</b>
<b>\$000</b>		<b>\$000</b>
1,651	Trade debtors	1,475
(80)	<i>Less</i> provision for doubtful debts	(32)
1,866	Work in progress	1,786
(49)	<i>Less</i> provision for doubtful work in progress	(33)
97	Prepayments	154
<b>3,485</b>	<b>Total debtors and receivables</b>	<b>3,350</b>

## NOTE 9: FIXED ASSETS

<b>2005</b>		<b>2006</b>
<b>Actual</b>		<b>Actual</b>
<b>\$000</b>		<b>\$000</b>
	<b>Office Equipment</b>	
507	At cost	513
(294)	Accumulated depreciation	(347)
213	<b>Office Equipment – net book value</b>	166
	<b>Computer Equipment</b>	
969	At cost	1,052
(719)	Accumulated depreciation	(869)
250	<b>Computer Equipment – net book value</b>	183
	<b>Computer Software</b>	
571	At cost	644
(453)	Accumulated depreciation	(532)
118	<b>Computer software – net book value</b>	112
	<b>Leasehold Improvements</b>	
2,495	At cost	2,544
(277)	Accumulated depreciation	(557)
2,218	<b>Leasehold Improvements – net book value</b>	1,987
	<b>Furniture and Fittings</b>	
1,025	At cost	1,040
(248)	Accumulated depreciation	(444)
777	<b>Furniture and Fittings – net book value</b>	596
	<b>Library</b>	
697	Base collection at valuation – 30 June 2001	697
89	Additions at cost	103
(292)	Accumulated depreciation	(368)
494	<b>Library – net current value</b>	432
	<b>TOTAL FIXED ASSETS</b>	
6,353	At cost and valuation	6,593
(2,283)	Accumulated depreciation	(3,117)
4,070	<b>TOTAL CARRYING AMOUNT OF FIXED ASSETS</b>	3,476

NOTE 10: CREDITORS AND PAYABLES

2005 Actual \$000		2006 Actual \$000
2,977	Trade creditors	3,684
2,055	Accrued work in progress – Crown Solicitors Fees	2,763
150	Other accrued expenses	146
149	GST payable	188
<b>5,331</b>	<b>Total creditors and payables</b>	<b>6,781</b>

NOTE 11: PROVISION FOR REPAYMENT OF SURPLUS TO THE CROWN

The provision for repayment of surplus to the Crown is equivalent to the net operating surplus as recorded in the Statement of Financial Performance.

NOTE 12: PROVISION FOR EMPLOYEE ENTITLEMENTS

2005 Actual \$000		2006 Actual \$000
<b>Current liabilities</b>		
644	Annual leave	701
84	Long service leave	85
<b>728</b>	<b>Total current portion</b>	<b>786</b>
<b>Non-current liabilities</b>		
99	Long service leave	121
145	Retirement leave	167
<b>244</b>	<b>Total long term portion</b>	<b>288</b>
<b>972</b>	<b>Total provision for employee entitlements</b>	<b>1,074</b>



### NOTE 13: FINANCIAL INSTRUMENTS

Crown Law is party to financial instrument arrangements as part of its everyday operations. These include instruments such as bank balances, investments, accounts receivable and trade creditors.

#### *Credit Risk*

Credit risk is the risk that a third party will default on its obligations to Crown Law, causing Crown Law to incur a loss. In the normal course of its business, Crown Law incurs credit risk from trade debtors and transactions with financial institutions. Crown Law does not require any collateral or security to support financial instruments with financial institutions that Crown Law deals with, as these entities have high credit ratings. For its other financial instruments, Crown Law has in excess of 97% of the outstanding revenue represented by debtors and work in progress due from government departments and ministries.

#### *Fair Value*

The fair value of all financial instruments is equivalent to the carrying amount disclosed in the Statement of Financial Position.

#### *Currency and Interest Rate Risk*

There are no financial instruments that potentially subject Crown Law to material foreign exchange or interest rate risks.

### NOTE 14: CONTINGENCIES

Crown Law does not have any contingent assets as at 30 June 2006 (30 June 2005: Nil). There were no contingent liabilities as noted in the Statement of Contingent Liabilities.

### NOTE 15: RELATED PARTY INFORMATION

Crown Law is a wholly owned entity of the Crown. Crown Law enters into trading activities with the Crown, other departments and ministries, and Crown Entities. These activities are conducted on an arms length basis and are not considered to be related party transactions. Apart from those transactions described above, Crown Law has not entered into any related party transactions.

### NOTE 16: EVENTS AFTER BALANCE DATE

No other significant events, which may impact on the actual results, have occurred between the year end and the signing of the financial statements.

# DIRECTORY

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hr@crownlaw.govt.nz (for information about employment opportunities)

Website: <http://www.crownlaw.govt.nz>

## AUDITOR

Audit New Zealand (on behalf of the Controller and Auditor-General)  
Wellington

## BANKERS

Westpac Banking Corporation  
Government Branch  
Wellington

ANNUAL REPORT

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FURTHER INFORMATION about CROWN LAW can be found  
by visiting our website at [www.crownlaw.govt.nz](http://www.crownlaw.govt.nz) or by CONTACTING our  
Human Resources Team by e-mail at [hr@crownlaw.govt.nz](mailto:hr@crownlaw.govt.nz)

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