

Eastern Caribbean Supreme Court

ANNUAL REPORT 2008-2009



Anguilla | Antigua and Barbuda | The Commonwealth of Dominica | Grenada | Montserrat
St. Kitts and Nevis | Saint Lucia | St. Vincent and the Grenadines | Territory of the Virgin Islands

MISSION STATEMENT

To serve its Member States by providing access to a system of justice that is accountable and independent, and administered by officers in a prompt, fair, efficient and effective manner.



VISION STATEMENT

The achievement of professionalism and excellence in the timely, effective and efficient access to, and administration of a cohesive, independent and accountable system of justice for the benefit of its Member States.

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Message from the Chief Justice



*The Honourable Chief Justice
Hugh Anthony Rawlins*

It is with pleasure that this message is delivered to present the annual report of the Eastern Caribbean Supreme Court for the Law Year 2008/2009, which was a very eventful year for the Court.

During this Law Year we bade farewell to Justice of Appeal Denys Barrow, SC. We also said goodbye to High Court Judge Sandra Mason, QC, who served in Saint Lucia from 2005. Their contribution to the Court over the period of their tenure was invaluable. The opportunity is taken to express thanks to them both for their service to the Court and wish them well in their future endeavours.

As we bade farewell to our colleagues, we welcomed a historic moment when High Court Judges Ola Mae Edwards and Janice George-Creque were elevated to the Court of Appeal of the Eastern Caribbean Supreme Court in January 2009. This was the first occasion on which any female judge was appointed to the Court of Appeal in a permanent capacity. They

have contributed to the Court immeasurably over the years and have continued to do so in their elevated capacity.

The Court is in fact in a period of transition and rebuilding. It is greatly appreciated that during this period a number of retired judges have willingly assisted us by serving as judges in acting capacities in various Member States. Their service has facilitated the dual purpose of assisting the Court in keeping hearing schedules and the mentoring of new Judges and Masters. In this regard, grateful thanks are expressed to Justices Albert Redhead, Albert Matthew, Odel Adams, Lyle St. Paul, Monica Joseph and Ephraim Georges. We also express grateful appreciation to the following legal practitioners who at great personal sacrifices did acting stints for various periods as High Court Judges: Ms. E. Ann Henry, Mrs. Margaret Price-Findlay, Mrs. Tana'ania Small-Davis, Ms. Jennifer Remy, Mr. Peter Foster and Mr. Mario Michel.

As in past years, the Court focused much attention on our reform initiatives. The Criminal Procedure Rules and the Supreme Court (Saint Lucia) (Criminal Division) Rules were promulgated in Saint Lucia in December 2008. The introduction of these rules ushered in an era which evidences a discernible improvement in the time within which criminal cases are brought to hearing. The new rules have formally introduced case management procedures in the criminal justice system. The Sufficiency Hearing, which replaced the Preliminary Inquiry is particularly facilitating as it now permits a case to go to trial on an assessment of statements and exhibits rather than on a time consuming and often financially demanding preliminary hearing in the Magistrates Court. In short, the new rules and practice allow for the fast tracking of indictable matters through the system. The opportunity is here taken to commend, in particular, the Honourable Justice Kenneth Benjamin, the Presiding Judge, who heads the Criminal Division, and the Members of the Criminal Division Implementation Committee including Ms. Esther Brathwaite, Permanent Secretary in the Ministry of Justice, Saint Lucia, Ms. Kit-Juelle Frank-Amoroso, the Regional Project Co-ordinator, and Ms. Cynthia David, for their contribution to the realization of the fruition of the Pilot Project.

The Commercial Division was established in May 2009. Justice Edward Bannister, QC, an English legal practitioner of many years standing, was appointed as the first Judge of the Commercial Division of the Eastern Caribbean Supreme Court, which was established in the Virgin Islands. He brings a wealth of experience in the area of commercial law practice to the bench. Indications are that commercial litigation will increase with the establishment of the Division. Justice Banister has assisted the Court greatly in the preparation of a draft Practice Direction and Practice Guide to support the rules. These are in the final stages of completion. He is also in the process of training members of staff to better equip them for their roles in the administration of the Division. The opportunity is here taken to thank, most sincerely, the judges who over the years carried the weight of the commercial work particularly in the Virgin Islands. Permit me to mention, in particular, the endeavours of Hon. Justices Eric Bishop, Albert Matthew, Kenneth Benjamin, Suzie d'Auvergne, Indra Hariprashad-Charles and Rita Joseph-Olivetti during their various assignments to the Virgin Islands.

The integration of the magistracy continues to be a work in progress. The agreement between the governments of the Member States of the OECS is being revised for submission to the Authority following meetings of the Attorneys General, Human Resource Managers and Permanent Secretaries of the Ministries of Establishment and Justice of the OECS. An implementation plan which addresses the human resource issues relating to the integration of the magistracy has been developed with assistance from the Caribbean Centre for Development Administration (CARICAD) and will assist greatly in the process. We thank CARICAD and Ms. Jennifer Astaphan, the Executive Director, for their willing assistance and financial support. We also thank Professors Ralph Carnegie and Winston Anderson of the Caribbean Law Institute Centre of the University of the West Indies for their constructive and scholarly appraisal, and critical comments and suggestions of and in relation to the agreement. I remain hopeful that all of the collaborative efforts will lead to the successful implementation of the plan for the integration of the magistracy.

The Halls of Justice Project, mainly as a result of the instrumentality of the efforts of Mr. Francis Letang, Deputy Court Administrator, has made significant progress over the past months. The Caribbean

Development Bank has approved a technical assistance grant of US\$900,000.00 for the feasibility study for the preliminary design phase of the project. This will provide for the architectural design along with the physical, environmental and social impact assessment for the project. We greatly appreciate the support which the Caribbean Development Bank and the Canadian International Development Agency (CIDA) have afforded us thus far and anticipate continued good relationships with them to the realization of this project.

I take this opportunity to express sincere gratitude to the Hon. Justices of Appeal, High Court Judges and Masters, who continue to serve the Courts in the region with honour and dignity in fulfilling our mandate in a manner that is highly commendable. The Magistrates, Registrars, Deputy Registrars and support staff of the Court also continue to serve with commendable commitment and dedication.

Life is filled with its joyous moments as well as its painful and sorrowful ones. During the past year we mourned the passing of the Hon. Justice Sylvia Judith Bertrand, retired High Court Judge, who died in her 79th year. She served as a High Court Judge in St. Vincent and the Grenadines, the Virgin Islands and Antigua from 1985 to 1992.

At the Headquarters of the Court we recently sustained a very sad loss when on July 8, 2009 our very own, Mrs. Monica Chandler passed away as a result of a tragic road accident. At the time of her passing Mrs. Chandler was the Court's Human Resource Officer. She held that office from March 2006. We benefited from her humour, warm and friendly personality, as well as her passion and exuberance for life. She was an efficient employee and a cherished friend. We are still in the process of coming to terms with her unexpected passing and life at our office will never be the same. Although death has physically separated us we shall cherish the fond memories that she has left us. On behalf of the Court I extend sincere condolences to her husband Franklin and eldest child, Stacey, who were also injured in the accident; to her younger children Franya and Joel, as well as to all of her family members. We shall remember her life in the assurance that she is at rest and at peace with God.

May God grant us the necessary fortitude as He guides us through the coming year.

Office of the Chief Registrar

The Registry of the Court of Appeal, located at the Headquarters of the Eastern Caribbean Supreme Court in Castries, Saint Lucia, continues its role as the engine of the appellate process for the six independent islands (Antigua, St. Kitts and Nevis, the Commonwealth of Dominica, Grenada, Saint Lucia and St. Vincent and the Grenadines) and three dependent territories (The Territory of the Virgin Islands, Anguilla and Montserrat) which make up the Court.

Administrative Personnel

The administrative team of the Court of Appeal Registry during the last law year comprised eight (8) persons, the Chief Registrar, Mrs. Kimberly Cenac-Phulgence; Deputy Chief Registrar, Ms. Agnes Actie; the Registry Clerk, Mr. Craig Gabriel who joined the staff in September 2008; three Case Managers, Ms. Stephine Narcisse, Ms. Sharon Baptiste and Mrs. Choyce Walcott-Mathurin and two (2) judicial clerks, Ms. Samantha George and Ms. Sardia Cenac.

Responsibilities of the Court of Appeal Registry

The Court of Appeal Registry continues to be responsible for processing and managing all documents relating to appeal matters which are filed at the Court Offices in the nine (9) Member States and Territories. These documents are then transmitted by the Registrar of the High Court, who is the Deputy Registrar of the Court of Appeal to the Headquarters in Saint Lucia. Matters from a particular jurisdiction are filed in the Court Office in that jurisdiction. Documents are not filed at the Headquarters in Saint Lucia. The Registry plays a vital role in ensuring the smooth and prompt progress and management of cases filed. The Registry provides support to the Court of Appeal Judges and responds to inquiries

from legal practitioners, Court Office staff and litigants in relation to appeals. The Registry has responsibility for the initial vetting of judgments and preparation for delivery in conjunction with the Secretarial Pool.

Full Court Sitings

The Chief Registrar is responsible for preparing a schedule of Full Court and Chamber Sitings for the ensuing year in or about November of the preceding year. The number of sitings which are assigned to a Member State or Territory depends largely on the number of matters usually listed for hearing. An analysis of the trends over the years assists in determining where additional sitings may be useful and when a reduction in the number of sitings for a particular island is required.

In 2008, twenty three (23) Full Court Sitings were scheduled to take place as follows: 2 each in St. Kitts and Nevis, Anguilla, Montserrat and the Commonwealth of Dominica; 3 each in the Territory of the Virgin Islands, St. Vincent and the Grenadines, Saint Lucia, Grenada, and Antigua and Barbuda.

The sitting in Montserrat which was scheduled for April 2008 was cancelled due to the fact that there were only three matters scheduled for hearing, and adjournments had been requested in two of these three matters. There was also a change in the dates of the sitings in Antigua and Barbuda and Grenada. The Montserrat sitting cancelled in April was to be tagged on to the Antigua sitting in July but this again proved to be unnecessary because there were no appeals ready for hearing. The Anguilla sitting scheduled for the week of March 23 - 27, 2009 was rescheduled for Saint Lucia during that same week. There were no appeals ready to be heard by the Court, so the Montserrat sitting scheduled for July 20, 2009 was cancelled; as a result the sitting of the Court in Antigua scheduled to commence on Wednesday July 22, 2009 was advanced to Monday July 20.

Chamber Sittings

In addition to the schedule of Full Court sittings, a schedule of Chamber sittings for the year 2008 was issued by the Chief Registrar. Chamber hearings are done by a single Judge of the Court of Appeal and are mostly done on paper except where the Judge may decide that it is necessary to hear oral arguments from the parties. Chamber hearings usually deal with interlocutory applications.

For the year in review, there were twelve (12) Chambersittingscheduled. Howeveranadditional two (2) Chamber sittings were scheduled during 2008 to deal with applications on the direction of the Judges. In order to facilitate greater access to justice, the Judge may on occasion decide to hear a matter by way of teleconference instead of having parties fly into Saint Lucia or wait for the Chamber day. Two (2) applications were heard via teleconference in January 2008 and February 2009 respectively. This assists in furthering the overriding objective of the Civil Procedure Rules 2000 which is to deal with cases justly, part of which includes saving costs wherever possible.

Judgments

A total of seventy two (72) judgments were delivered by the Court of Appeal during 2008. The breakdown by country is as follows: three (3)-Anguilla, twelve (12)-Antigua and Barbuda, ten (10)-Territory of the Virgin Islands, seven (7)-Commonwealth of Dominica, nine (9)-Grenada, three (3)-Montserrat, eleven (11)-St. Kitts and Nevis, ten (10)-Saint Lucia and seven (7)-St. Vincent and the Grenadines. The figures above comprise both judgments of the Full Court and single judge decisions. Of the seventy-two (72) judgments delivered, twenty seven (27) were single judge decisions. The judgments of the Court once delivered are published on the Court's website so that the general public can have easy access to them.

Case Load

A total of three hundred and sixty-six (366) appeals were filed for the year 2008, as follows: ninety-nine (99) High Court Criminal Appeals, one hundred and eighty-seven (187) High Court Civil Appeals, seventeen (17) Magisterial Civil Appeals, and sixty-three (63) Magisterial Criminal Appeals. Saint Lucia recorded the highest number of High Court Civil Appeals (forty-seven [47]) filed for 2008 while St. Kitts and Nevis recorded the highest number of High Court Criminal Appeals (thirty-four [34]) filed. The Territory of the Virgin Islands recorded the highest number of Magisterial Civil Appeals (five [5]) while St. Vincent and the Grenadines recorded the highest number of Magisterial Criminal Appeals (thirty-three [33]) filed.

The number of Magisterial Civil Appeals filed continues to be significantly lower than the number of Magisterial Criminal Appeals. In 2008, the number of Magisterial Criminal Appeals recorded as filed in St. Kitts and Nevis increased, putting them ahead of the normal contender for the highest number of appeals filed in this category, i.e. St. Vincent and the Grenadines. Last year showed an overall decline in the number of appeals filed in every category or type of appeal.

Case Management

Case Management Conferences continue to form an integral part of the Court's work in relation to appeal matters filed. Case management is not conducted in every appeal filed or listed for hearing but can be scheduled at the request of one or both of the parties, or where it is deemed necessary to manage and apportion judicial time in cases where the trials may be lengthy or where there are lengthy lists of appeals to be dealt with at a sitting. This is one of the methods employed towards achieving effective and efficient use of judicial time.

Tackling Outstanding Appeals

During the months of October to December 2008, the staff of the Court of Appeal Registry undertook an exercise to identify outstanding appeals in all the nine (9) Member States. The lists of outstanding appeals were sent to the respective Registrars for cross referencing and to give feedback on the outstanding matters. Upon receipt of the information from the respective Registrars, the matters were listed for Status Hearings during the sitting of the Court of Appeal in the respective Member States.

Notices of the Status Hearings were sent to the Registrars for publication in the Official Gazettes, Newspapers and other public places commonly used for publication of the Elections List. Status Hearing notices were also sent to the parties inviting them to indicate whether they intended to pursue, discontinue or strike out the appeals.

The first Status Hearings were held in St. Vincent and the Grenadines at the Court of Appeal sitting during the week of June 22 – 26, 2009. A total of eighteen (18) matters consisting of: High Court Criminal Appeals – 2; High Court Civil Appeals – 8; Magisterial Criminal Appeals – 7; and Magisterial Civil Appeals – 1, were listed for Status Hearings.

Of the eighteen matters (18) listed and dealt with at the first Status Hearings, all but three (3) were dismissed. Case management directions were given in relation to these three (3) matters and they were adjourned to the next sitting of the Court in St. Vincent and the Grenadines in October 2009. The majority of the Civil Appeals were dismissed for want of prosecution, filing of discontinuances by the appellant or the withdrawal of the matter by the appellant and in one or two matters, the notice of appeal was struck out as being a nullity as it had been filed without leave being first obtained from the Court. The majority of Criminal Appeals were dismissed because the appellants had already served their sentences and had already been released from prison, and in one case an extension of time to appeal had been granted by the Court but no notice of appeal was ever filed.

Status Hearings were conducted in Antigua and Barbuda during the Court of Appeal sitting during the week of July 20 to 24 2009. A total number of twenty-eight (28) matters comprising of eight (8) High Court Criminal Appeals and twenty (20) High Court Civil Appeals were listed. Five (5) of the Civil Appeals were settled, four (4) were discontinued and Case Management Directions were given for the other matters to proceed. The Registrar was directed to take the necessary steps to obtain the transcript of proceedings for all the Criminal Appeals and a few of the Civil Appeals. Status Hearings in the other jurisdictions will be held during the new law year.

Outstanding appeals are a cause for concern. High Court Civil Appeals continue to form the bulk of the outstanding appeals. It is suggested that one of the main contributing factors to this backlog is the lack of adequate Court Reporting facilities and personnel in some of the islands. It is hoped that with the commencement of the Status Hearings, some of the other factors which may be contributing to delays in bringing the appeals forward for hearing will be identified. This exercise is also expected to assist the Court in determining the actual number of active appeals in the system.

The common adage that justice delayed is justice denied rings clear when one assesses the number of outstanding appeals. The consequences of backlogs are many and certainly do not assist in maintaining confidence in the justice system. The staff of the Court of Appeal Registry sees this as a major achievement for this law year.

Setbacks

The law year 2008-2009 was a relatively good year for the Court of Appeal Registry. There was improvement in the receipt of records and documents from the various court offices although there were some challenges especially as it relates to documents for Sittings and Chamber Hearings not arriving in time for the Hearings and failure of parties to comply with Practice Directions dealing with filing, service and transmitting of documents to the Court of Appeal Registry.

Legal Internship

Two legal interns in the persons of Ms. Lucrezia Muller and Ms. Antonia Auguste joined the Court's Headquarters for a ten-week period of internship from June 15 to August 21, 2009. Ms. Muller, a Trinidadian national and Ms. Auguste, a Saint Lucian national are second year Hugh Wooding Law School students. The Court is pleased to be able to offer such placements to legal interns every year. The legal interns are engaged in various activities including headnoting of Court of Appeal judgments, conducting legal research, and vetting of judgments.

Every year the Court makes provision for the temporary appointment of two legal interns. Advertisements for suitable applicants for this attachment are sent to the various law schools in the Caribbean and interviews are conducted with applicants by one of the Court of Appeal Judges from which the selections are made.



Legal interns at work in the Court's library. Left – Right: Ms. Antonia Auguste, Ms. Lucrezia Muller.

Practice Directions

During 2008, the Chief Justice issued 4 practice directions which were reported on in last year's annual report. Compliance with Practice Direction 3 - No. 1 of 2008-Court Documents and Practice Direction 4 - No. 2 of 2008-Appeals-Interlocutory Applications-Service and Conduct continues to be a challenge. Attorneys still file documents

which are not in compliance with the Practice Directions. Practice Direction No. 2 of 2008 was aimed at ensuring that when interlocutory appeals came up for consideration at Chamber sittings, they would have already complied with basic requirements such as the filing of evidence of service of the application and evidence of intention to oppose the application or not, however this has not been the experience. Once the requirements of Practice Direction No. 2 of 2008 are complied with, it means that a Judge can proceed either to consider the matter fully or give additional directions with a view to determining the matter in a more timely manner. The non-compliance by attorneys means that the Judge has to give directions for compliance with the Practice Directions which simply causes delay in the full determination of the matters.

Court Administration

Introduction

The Administration Department of the Headquarters has continued as the hub of the reform activities of the Court and the focal point for the administration of justice in the nine Member States comprising the Eastern Caribbean Supreme Court.

This has proved to be quite challenging in the face of very difficult financial times and severe cashflow uncertainties. Many of the activities planned in the areas of Judicial Education, introduction of technology, the court structures replication to Member States, and procedural rules development had either to be put off to a later date or severely curtailed. This followed from the global economic crisis and the impact which it has had on all of the Member States of the Eastern Caribbean Supreme Court. Contributions which have been received by the Court were channeled to use for the continued operations of the Courts' Headquarters and essential activities including the sittings of the Court of Appeal and Masters in the various Member States. The Court has put in place a number of austerity measures as a result of the difficulties being faced by Member States to make regular and timely contributions, and it is expected that this will continue to be necessary well into the next law year.

Additionally, one of the areas of external funding which the Court has benefited from over the last few years came to an end in December 2008. The Canadian International Development Agency (CIDA) Judicial and Legal Reform (JLR) Project concluded, having contributed in excess of CAD \$850,000 towards the Court Reform activities, Judicial Education activities, and institutional strengthening. The Court is indeed grateful to CIDA for all of their assistance over the past years and looks forward to continue working with the agency on the current and new reform initiatives over the next few years.

Notwithstanding the foregoing challenges, the Court has made substantial progress over the year. As will be detailed shortly, work on the Court

Structures activity is particularly noteworthy as we witnessed the promulgation of Criminal Procedure Delay Reduction Rules in Saint Lucia and the Commercial Procedure Rules in the Territory of the Virgin Islands.

Access to Justice Programme

The advent of the Halls of Justice Project has caused a re-think of the Court's strategy and approach to justice reform, to include the more wholesome concept of "Access to Justice"; a concept which arguably captures the whole gamut of legal and institutional reform required to modernise the Court and ensure a more timely dispensation of justice to the citizens of the OECS region. This new approach seems in keeping with international trends, and ostensibly has greater appeal to international donor institutions including the World Bank whose preference is to look at the bigger picture rather than what appears to them to be the apparent fragmentation of the work of the Court with several discrete areas of legal reform. "Access to Justice" for the ECSC which is essentially articulated in the Courts' Strategic Plan embodies: (a) the improvement to court infrastructure to optimise the use of technology, (b) review and restructuring the court procedures and introduction of procedural rules to address specifically the areas of court efficiency and effectiveness, (c) integration of the higher and lower judiciary (d) court modernisation and use of technology, (e) institutional strengthening, and (f) judicial and public legal education.

In the following sections some of the areas where there were more significant achievements during the last year will be highlighted.

(a) Improvement to Court Infrastructure

Work on the Halls of Justice Project entered a new and interesting phase in the year under review. Following the 47th Meeting of the Authority of the OECS where the justification report and funding options were discussed in some detail, the Court on the instructions of The Authority,

embarked on a series of national consultations in each Member State to discuss with key stakeholder groups the plan for constructing a court complex in their territory. The groups consulted included, among others: Ministries of Legal Affairs, Justice, Finance, Economic Development, Communication and Works, Trade and Commerce and Security, the Chamber of Commerce, Bar Associations and a select group of individuals representing Civil Society. They considered issues such as: site location, Environmental Impact Assessment (EIA), Social Impact Assessment (SIA), cost, and whether the current fiscal position of the government could permit construction in the absence of total grant funding for the project.

Discussions were also held with financial institutions and donors including the Eastern Caribbean Central Bank (ECCB), Canadian International Development Agency (CIDA), Caribbean Development Bank (CDB), the World Bank, the Inter-American Development Bank (IDB) and the Organisation of American States (OAS). From these discussions two selling points emerged: first, the regional and international institutions were attracted to the project because of its regional nature as it was accepted that massive cost savings and economies of scale and scope could be realised through this approach; and the other very important selling point was the need to replace the dilapidated 18th century court buildings with modern structures which could optimise technology and employ practices consistent with the kind of efficiency and effectiveness that the 21st century concept of 'access to justice' dictates. Following from those discussions, the CDB has committed US\$900,000 grant funds to begin a feasibility study of the project which will include developing preliminary designs. Movement from other donors is contingent on the outcome of that feasibility study. The ECSC is now establishing a fully staffed Project Implementation Unit (PIU) to begin this feasibility study by September 2009. The feasibility phase is expected to last for twelve (12) months.

(b) Court Structures Project

Significant developments were recorded in the work on improvement to court efficiency and effectiveness. The Criminal Division which had been under pilot in Saint Lucia since 2004 entered its final stages with the passage of the rules, enabling and supporting legislation, and subsequent training of staff, public sensitisation and processing of criminal matters using these new procedures.

The new Criminal Procedure Rules have effectively rid the criminal justice system of the Preliminary Inquiry and replaced it with a Sufficiency Hearing which is now heard before a Judge of the High Court. These rules came into effect in December 2008 and matters which were processed under these new rules, earlier in 2009, have now reached the trial stage within a few months, as compared with the average length of time that Preliminary Inquiries would take to be completed under the old system (i.e. roughly two years).

The new rules have also streamlined a number of procedures in the handling of criminal matters in the Division through the introduction of case management systems in all summary and indictable criminal matters.

To complement the work of establishing that Division a complete human resource audit of the Magistrates and High Courts in Saint Lucia were completed, the process serving system was re-evaluated, status of bail for prisoners on remand was ascertained and placed on a proper tracking system, and the procedures for handling magisterial appeals reviewed.

A critical component of the effective functioning of the Division was automation of the supporting offices, Director of Public Prosecutions Office, the Police Charge Office and the First and Second District Courts all needed to be equipped with computer technology to facilitate online access and timely provision of data and other information to the Court. Although not fully accomplished, work has progressed satisfactorily in these areas.

The other major accomplishment was the

establishment of the Commercial Division in the Territory of the Virgin Islands. This Division which was the subject of several studies by various consultants, including the renowned "University of Essex Report" is now established and fully functional with a reputable Queens Counsel, Queens Bench Division of the United Kingdom presiding as the Commercial Division Judge. The Court functions with its own staff in a separate building from the Civil High Court.

The Division was officially opened in May 2009 under the new rule styled the "Eastern Caribbean Supreme Court Commercial Division Procedure Rules (Application to the Virgin Islands) (Amendment) Order, 2008".

For the time being these rules will only have effect in the Territory of the Virgin Islands in respect of commercial matters heard in that jurisdiction.

Work also actively recommenced on establishing the Family Division of the Court. During the law year the Honourable Chief Justice established a committee under the Chairmanship of Justice of Appeal Ola Mae Edwards. It is expected that a report from this committee will be submitted to the Honourable Chief Justice shortly, paving the way for significant developments in the next law term.

(c) Integration of the Magistracy

The ratification and subsequent full implementation of the Integration of the Magistracy Agreement was not realised by November 2008 as planned owing to:

(1) Amendments to the Agreement

The 47th Meeting of the OECS Authority held in Saint Lucia in May 2008 had mandated the Court to re-examine certain clauses within that Agreement. This was done at a meeting of all Attorneys General, Chief Personnel Officers and Permanent Secretaries of the Ministry of Justice and Attorney General's Office in Antigua in November 2008.

That meeting which was dubbed a 'Policy Retreat' because of its intended focus on the Human Resource issues relating to the integration of the Magistracy saw several proposed amendments to the Agreement resulting in a complete re-draft by the Attorney General's Chambers in Grenada. That new draft was subject to further comments from the University of the West Indies (UWI) Caribbean Law Institute Centre in Barbados, OECS Legal Drafting Unit and Attorney General's Office in Saint Lucia. These comments will now be put to the Attorneys General again for further review and finalisation. The human resource issues were specifically addressed at another follow-up meeting which was held in the Commonwealth of Dominica in February 2009.

(2) Implementation Plan

The Commonwealth of Dominica Meeting was held under the guidance of the Caribbean Centre for Development Administration (CARICAD) who by then had become a useful partner with the Court in exploring the issues relating to that integration process. With the resourceful input from the Permanent Secretaries and Chief Personnel Officers from all nine Member States present at that meeting, the team was able to draft an implementation plan with clear deliverables and time frames for achievement of the integration milestones.

This plan is now the subject of discussions, with the World Bank and other donors for assistance with funding and full implementation.

The Court is extremely grateful to CARICAD for their assistance in this area.



Representatives of the Eastern Caribbean Supreme Court and the Government of the Territory of the Virgin Islands at the Signing of the Memorandum of Understanding for the administration of the Commercial Division of the Court. Left – Right: the Hon. Attorney General Kathleen Quartey; the Hon. Ralph T. O’Neal, Premier; Ms. Arlene Smith, Deputy Permanent Secretary, Deputy Governor’s Office (standing); The Hon. Chief Justice Hugh Anthony Rawlins; and His Excellency David Peary, Governor

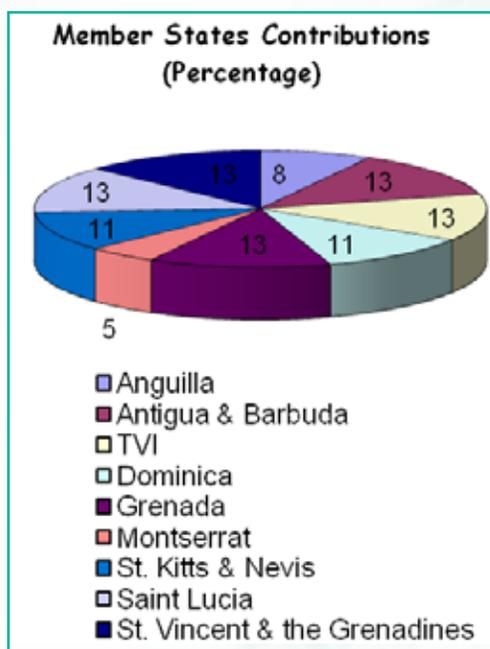


Special sitting of the Court to officially open the new Commercial Division and welcome its first judge, the Hon. Justice Edward Bannister (far right)

Court Administration...

Finance

The Eastern Caribbean Supreme Court is financed by contributions from the nine Member States of the Eastern Caribbean, in accordance with an agreed percentage. This percentage of the approved annual budget is set by the Judicial and Legal Services Commission in concurrence with the OECS Heads of Government (or the Authority). Factors influencing the percentage contribution are the number of resident judges and number of Court sittings in each member territory. The contributions are presently agreed as follows:



The approved budget for the financial year under review and the prior financial year are as follows:

Cost Centre	Approved Budget 2008/09	Approved Budget 2007/08	Percentage Increase/Decrease
Personal Emoluments	9,292,874	7,115,880	30.60
Administrative Expenses	2,640,378	2,115,957	24.79
Capital Expenditure	410,237	252,971	62.17
Judicial Education	1,004,336	335,587	199.28
Rules Revision Reform	0	153,000	na
Judicial and Legal Services Commission	449,217	168,115	167.21
Judicial Council	0	49,396	na
Total	13,797,042	10,190,906	35.39

na - not applicable

The Court's budget increased by 35.39% from the period 2007/08 to 2008/09, primarily as a result of the provision for retroactive pay to Judges and Masters, the salary realignment for staff based on the provisions of the Trevor Hamilton consultancy, provision for the replacement of capital equipment and an increased provision for judicial education for the year. Funding from the Canadian International Development Agency (CIDA), in the form of grants, came to a close in December 2008.

During the year 2008/2009 the Human Resource Department continued its efforts towards institutional strengthening by the recruitment and placement of suitable staff, staff motivation and human resource development.

The Department has procured a Human Resource Information System [HRIS]. It is anticipated that this new technology will help to streamline the business processes of the Court, facilitating greater efficiency and effectiveness.

Appointments

The following persons joined the administrative and support staff at the Court's Headquarters in Castries, Saint Lucia. Mr. Craig Gabriel, Registry Clerk, September 1, 2008; Ms Benedicta St John, Junior Accounts Clerk, November 1, 2008; Ms Myrtene Cenac, Statistician, November 24, 2008; Ms Lindel Joseph, Secretary, December 15, 2008; Mr. Anderson Henry, Systems Administrator, January 15, 2009.

Activities Undertaken

Training

- Effective Communication – All members of staff were exposed to a one-day workshop in effective oral/written communication
- Effective Business Communication – This targeted the Secretarial staff. The objective was to improve their skills in reporting and responding to business letters
- Data Presentation – This lecture was presented by the staff of the Information Services Department, and was geared towards sensitizing staff on the importance of data collection and presentation.
- Effective Speaking – This session was presented by the Court's Regional Project Coordinator. Its objective was to present techniques to enhance public speaking skills.

Staff Welfare

In an effort to increase staff awareness to some of the silent, but deadly, diseases which affect persons, all members of staff were screened for Hypertension, Cholesterol and Diabetes. This was followed by a lecture on the prevention of those diseases by a team from the Ministry of Health which was led by Dr. Ayo Adesanya.

Work in Progress

Procedures Manual – Work on putting together a Procedures Manual for the Court is ongoing. This is a major undertaking which once completed will greatly assist the organization.

Court Administration...

Information and Communication Technology

JEMS and other Court-Related Technology

The responsibility of providing support in the effective use, and maintaining the latest version, of the JEMS application package to Court offices in the various Member States, continue to feature prominently in the activities of the Information Technology Department. Currently, the focus is on upgrading to JEMS 5.0 (May 2009 Release). The Internet version of the software is scheduled for release during the latter part of 2009; this will lead to greater accessibility by users and consequently even more efficient use of the software by stakeholders in the court system.

During this year, one out-district Court office in Portsmouth, Commonwealth of Dominica was given access to JEMS and all indications are that, since then, management of cases at that office has been brought to a “whole new level”. The Family Court in Saint Lucia has also started making use of the JEMS package. However, although configuration and training for use of JEMS in Maintenance type cases has been provided, the frequent movement of staff in and out of that Court office has limited the office from realizing the full benefit of JEMS.

Efforts at getting other court-related technologies ‘off the ground’ continue unabated by the IT Department.

Court Office Connectivity Project

The establishment of a Virtual Private Network (VPN) of Court offices in the sub-region is almost complete. With the support of CIDA, Nortel VPN “boxes” have been installed in the following Member States: (1) Saint Lucia – four sites, (2) Commonwealth of Dominica – two sites, (3) St. Vincent and the Grenadines – three sites, (4) St. Kitts – one site, and (5) Antigua – one site. Other connectivity solutions have been utilized in the Territory of the Virgin Islands and Anguilla. The Court’s IT Department is seeking to establish

connectivity to the servers located in Grenada, Nevis and Montserrat. Work on ensuring that the linkage is completed will continue. The ECSC can now perform several management functions of servers with greater ease and provide prompt and more efficient support services to its Member States.

Staffing

In November 2008, Mr. Derrick Agdomar resigned as Systems Administrator, leaving a great void in the administration of JEMS and other Application software used by the Court. During the period that the Court was identifying a replacement, Mr. Benjamin Forde was engaged to provide prompt on-the-ground support to end-users. His stint turned out to be highly productive. In January 2009, Mr. Anderson Henry was recruited as the new Systems Administrator, and although he has not fully taken the mantle as the key JEMS support specialist, he has successfully revolutionized the IT operations at the Court’s Headquarters.

Technology Implementation at the Court’s Headquarters

The recruitment of a new Systems Administrator has coincided with the introduction of two new “pieces” of application software at the ECSC Headquarters. The IT Department has been instrumental in the selection and implementation of (1) a Records Management System Software – Versatile Professional™ and, (2) a Human Resource Information System Software – Personnel Manager™. The Department has also expended much time and effort with upgrading and implementation of tasks leading to the smooth operation of the Library Management system – InMagic™, which is used internally by primarily Judicial Officers, but with the hope of making it accessible online in the near future.

Website Redesign

The Court launched its redesigned website on February 12, 2009. The new look boasts a more user-friendly and uniform interface. One of the key features associated with the new website is a more powerful Judgments Search facility, which has been receiving many daily hits. Statistics reveal that on average there are over 4,000 monthly visits to the Court's website and out of these over 1,000 are unique visitors. The site continues to be one of the principal avenues for dissemination of information to stakeholders and other interested parties. Work is continuing on several fronts to further upgrade the website and a new feature to relay court-related videos will soon be introduced.



Website Statistics

During the period February 12, to June 30, 2009 there was a total of 30,214 visits. 20.06% of these were new visits. Of the total 30,214 visits: 14,997 were direct visits to the site, 10,670 were visits through search engines and the remaining 4,547 were visits through referring sites. The respective percentage shares are depicted in Figure 1.

Figure 1

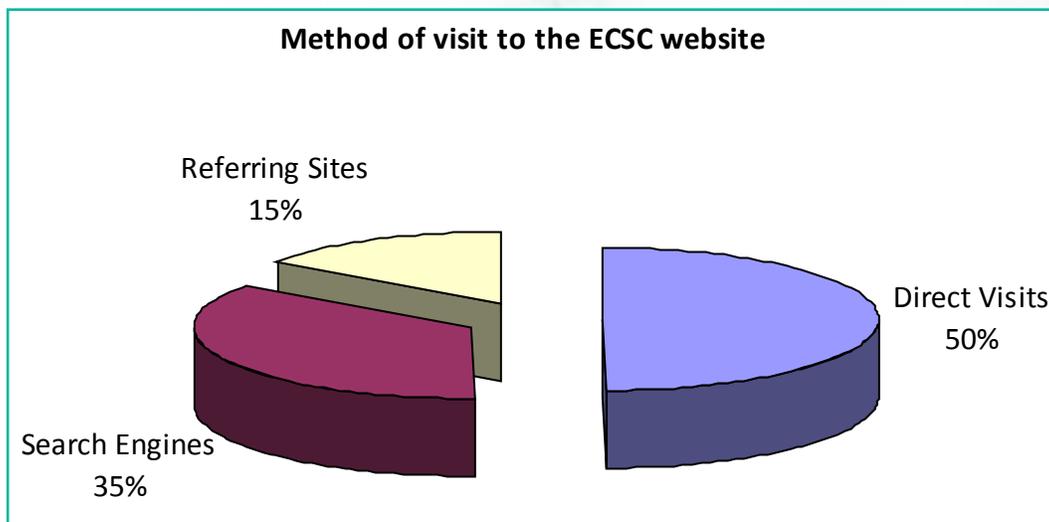


Table 1 shows the ten countries from which the highest numbers of visits were made to the Site for the aforesaid period. Out of a total of 30,214, the majority of visits (10,154) were from Saint Lucia, followed not too closely by Antigua and Barbuda (3,213). The countries from which visits originated were many and varied, so the first ten were selected.

Table 1: The Top Ten Countries Visiting the ECSC Website, February 12 to June 30, 2009

Country	No. of Visits	Percentage of Total Visits (%)
Saint Lucia	10,154	33.61
Antigua and Barbuda	3,213	10.63
Territory of the Virgin Islands	2,084	6.90
United States of America	1,787	5.91
Grenada	1,767	5.85
St. Vincent and the Grenadines	1,553	5.14
St. Kitts and Nevis	1,428	4.73
United Kingdom	1,297	4.29
Anguilla	1,226	4.06
Canada	964	3.19

Table 2 lists the areas of the website with the highest numbers of page views. The majority of visits were made to the ECSC Home page followed by the section on Judgments. These both had over 20,000 hits. It must be reiterated that only the most viewed, and not all sections visited on the website have been listed. It was noted that the average time spent on the site is 7 minutes 15 seconds (See Table 3 and Figure 2 below).

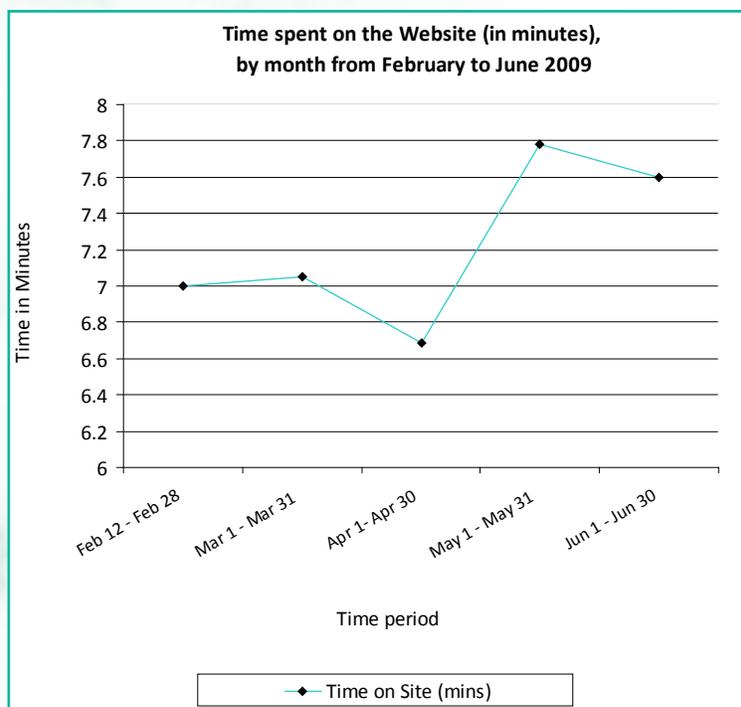
Table 2: Sections on the ECSC website with the Highest Number of Page Views for the Period February 12 to June 30 2009.

Section of Website	No. of page views
Home Page	26,890
Judgments	20,443
Sittings	9,185
Practice Directions	2,101
Job Opportunities	1,988
Publications	1,949
Public Information	1,886
ECSC Headquarters	1,484

Table 3: Time Spent on the Website by Month, February to June 2009

Period during February to June 2009	Time on Site
Feb 12 - Feb 28	7 min
Mar 1 - Mar 31	7 min 3 sec
Apr 1- Apr 30	6 min 41 sec
May 1 - May 31	7 min 47 sec
Jun 1 - Jun 30	7 min 36 sec

Figure 2



Court Administration...

Information Services

“Information is a source of learning. But unless it is organized, processed, and available to the right people in a format for decision making, it is a burden, not a benefit.” William Pollard. The Information Services Department through its three Units – the Library, Statistics Unit and Records Management Unit – is mandated to ensure that the information generated and received by the Court is managed in a manner that will show significant benefits to the organization. To improve the quality of service offered, training is an integral component of professional development. To serve users better, the Records and Archives Clerk successfully completed a Certificate in Records Management with the University of North Carolina, USA, and the Library Assistant received a Certificate in Legal Research on the Internet from the Professional Learning Centre, University of Toronto, Canada.

Below is an overview of the activities for the year under review:

Library

The Library as it seeks to contribute to the delivery of justice in the region, continued to facilitate the delivery of timely and relevant information through: assembling and maintaining up-to-date collections of relevant titles; providing a reference and research service of a high standard to the Justices of the Court and other users of the Library; keeping itself informed and maintaining contact with other libraries and information sources which can supplement the reference and research material in the Library’s own collection; and devising and implementing retrieval systems which will improve the reference and research service.

To be most useful, information must be readily available to its users. To this end a project was begun to scan the Court’s unreported judgments, primarily the decisions delivered pre-2000, for inclusion in the in-house searchable database which is powered by InMagic Genie, and for posting on the Court’s website. To date the Court

of Appeal Judgments (1967 – 1986 and 1991 – 1995) have been scanned. The project continues.

As an extension of the above project, the binding of unreported Judgments has also begun. This involves the collation of judgments into bound volumes by delivery year. This is being carried out to prevent loss of material and to facilitate easy retrieval. This also is an ongoing project.

The Library continues to experience problems in getting legislation from some Member States. Every effort is being made to get electronic copies from the various Member States. Where this has not been forthcoming the physical copies are scanned and stored electronically upon receipt by the Library.

Statistics Unit

On November 24 2008, Ms. Myrtene Cenac assumed the position of the Court’s Statistician, following the departure of Ms Geraldine St. Croix, and Ms Ethel Jn Baptiste who served in a temporary capacity. Ms Myrtene Cenac came to the ECSC from the Corporate Planning Unit in the Ministry of Education, Saint Lucia, where she served as the Head of the Data Management Section.

Data collection and compilation for the 2008-2009 Annual Report was an ongoing component of the Unit’s activities. Challenges were met in this regard where some of the data were inaccurate, incomplete or not forthcoming, but with persistent follow-up by the Statistician inroads were made.

With the assistance of the Unit, statistical analysis of one section of the Judicial/Legal system has become a feature of the Quarterly Newsletter. This also provides general information on the featured entity. To date, three reports have been produced for the Newsletter namely: the St. Vincent Family Court in the September to December 2008 Newsletter, Saint Lucia Family

Court in the January to March 2009 Newsletter and the Probation and Parole Department in Saint Lucia for the upcoming issue. The Statistics Unit looks forward to continuing this initiative during the upcoming years.

A training session on the importance of data collection and analysis was facilitated by the Unit in the early part of the year 2009.

Other projects that the Unit collaborated on includes: working with the Criminal Division to monitor progress made since the implementation of the new Criminal Rules; assisting the Managing Judge with the JEMS database clean-up exercise and follow-up monitoring to maintain data consistency of the JEMS databases to ensure that standardized status codes are inputted and updated throughout all Member States. Though this activity began some time ago, Anguilla was identified as the focal point in May 2009 and steps have been taken to complete the exercise by August 2009. Once successfully completed, the model employed will be replicated in the other Member States to complete the exercise during the next law year.

Records Management Unit

The implementation of a comprehensive records management programme accelerated with the procurement of Versatile Professional records management software from Zasio Enterprises. This software will improve the capabilities of the Unit and will simplify the process of collecting and maintaining the Court's records. Versatile is currently being implemented with the assistance of the Systems Administrator.

Work at the Records Centre progressed rapidly during the year under review, as a result of the employment of one person to assist on a full time basis for 8 months, which has resulted in the Centre being approximately eighty-five percent operational. All accounts, administrative, human resource and JLSC records have been inventoried, boxed and shelved and timely retrieval and dissemination of information can now be adequately accommodated. The processing of

the Court of Appeal records is over fifty percent complete. It is anticipated that this will be completed and the Centre will be fully operational within the next three months.



Records organized and stored for easy retrieval and dissemination at the Court's Records Centre

Judicial Education

Trained Officers Means Improved Access to Justice

The Judicial Education Institute (JEI) has experienced its slowest period since establishment in October 2001. This was a direct result of the economic crisis being faced by the Member States. During the second half of the year the JEI was forced to postpone most of its programmes due to the unavailability of funding. Despite this set back the Institute was able to facilitate the following programmes:

1. **Orientation Programme for Bailiffs of Anguilla, Montserrat, St. Kitts and Nevis, and the Territory of the Virgin Islands, October 30 – 31, 2008 at the St. Kitts Marriott Resort and Royal Beach Casino.**

Training was concentrated in the following areas: *A Historical Overview of the Office of Bailiff, The Bailiff – An Officer of the Eastern Caribbean Supreme Court, Challenges of Effecting Personal Service, Levying and Writs of Execution, Seizure and Sale of Property, Record Keeping and*

Financials, Code of Ethics for Bailiffs and Service of Documents.

The facilitators of the conference included: Hon. Chief Justice Hugh A. Rawlins of the ECSC; Hon. Justice Francis Belle, High Court Judge assigned to St. Kitts; Mr. Terrence Byron, Mr. Emile Ferdinand, Mr. Jeffrey Nisbett, Sir Probyn Innes and Mr. Nasibou Butler all Barristers and Solicitors from St. Kitts and Nevis. Other presenters were Mr. Renold Benjamin, Crown Counsel in the Office of the Director of Public Prosecutions in St. Kitts; Mr. Colin Dore, Treasurer of the Nevis Island Administration; Mr. Samuel Leader, retired bailiff of St. Kitts and Nevis; Mr. Francis Letang, Deputy Court Administrator of the ECSC; Registrars Patricia Harding and Amelia Daley and Magistrates Bernie Stephenson-Brooks and Josephine Mallalieu-Webbe.



Participants of the Workshop for Bailiffs



Mr. Renold Benjamin, Crown Counsel, Office of the DPP, making his presentation on the Challenges of Effecting Personal Service



Left – Right: Hon. Dennis Merchant, Attorney General, St Kitts and Nevis; Hon. Chief Justice Hugh Anthony Rawlins; Mr. Terrence Byron, Attorney-at-Law; Magistrate Josephine Mallalieu-Webb; Ms. Patricia Harding, Registrar

2. Customer Service Training For Judicial Support Staff of the High Court and Magistrates Courts of Anguilla, November 10 – 11, 2009.

The facilitator Denise Collymore covered such areas as *Customer Relations, Interpersonal Relations, Stress and Time Management, Change Management, Team Building*, among other issues.

The training was geared to enhance the interpersonal skills and relationships among staff of the High Court and Magistrates Courts, and to facilitate the able management of the changes which are unfolding as a result of the wide-ranging reforms being implemented by the ECSC.

3. Training on the Implementation of the new Criminal Procedure Rules for Judicial Officers and Non-judicial Support Staff of the High and Magistrates Courts of Saint Lucia - October 8 – 24, 2008.

Training was conducted at various times and locations over the period.

The establishment of the Criminal Division of the High Court has been one of the major reform initiatives of the Eastern Caribbean Supreme Court. Saint Lucia was chosen as the location for the pilot for this venture, which aims to embody the court proceedings of both Summary and Indictable matters under one umbrella. This is in keeping with the projected greater integration of the Magistracy within the judiciary.

In September 2008 the legislation was enacted and the new Criminal Procedure Rules was promulgated in December 2008.

This training sought to acquaint personnel with the new procedures for dealing with criminal matters from initiation to disposition.

4. Video Link and Evidence Awareness Workshop, held on Friday October 24, 2008, Rex St. Lucian Hotel.

The workshop was funded by the British High Commission, and facilitated by Justice of Appeal Ola Mae Edwards. Geared to formally introduce the video link technology to stakeholders, the workshop participants included Social Workers, Probation Officers, Crown Prosecutors, Lawyers, Policemen and Policewomen, Court Clerks, Family Court Social Workers, members from the British High Commission, Solicitor General, Director of Legislative Drafting, and members from the Boredelais Correctional Facility.

The introduction of this new technology in the region removes the need for victims and witnesses to be in the courtroom with the accused, and allows them to give evidence remotely, thus reducing some of the needless trauma. It also improves the quality of evidence given to the Court.

By creating a video link to the Court the Judicial System demonstrates:

- A more focused approach to victim and witness care.
- A first step within the OECS in recognizing the special needs of children.
- A positive step forward for Saint Lucia with a joint agency approach to public reassurance and confidence within the criminal justice system.
- A positive approach to creating an opportunity for better evidence to be adduced to the Court with reduced trauma on victims and witnesses.
- Positively adopting the United Nations

‘Convention on the Rights of the Child’ approach stating that children should be treated as a vulnerable group and that their health, education, equality and protection should be of paramount importance.

5. JEMS User Training Workshop for Support staff of the High Courts and Magistrates Court of the OECS, Monday, November 17 - Friday, November 22, 2008 at Bay Gardens Inn, Saint Lucia.

The objectives of the workshop were to teach the participants to: fully utilize the new Case Status Codes (for Criminal Cases) recently adopted by the Court; undertake appropriate and timely entries in JEMS so as to meet the various reporting requirements of the Court; utilize and appreciate the various reports in JEMS; effectively utilize JEMS Payments, Fines, Cost, and Disbursement functionalities to manage the financial aspects of the Court office operations.

The workshop covered several pertinent areas including: *Criminal/Traffic and Civil Case Management, JEMS Financials Docket Scheduling, Imaging/Scanning*, and for the first time was facilitated entirely by proficient JEMS users from the various Member States, primarily from the Court Offices in the Commonwealth of Dominica, Saint Lucia and, Mr. Mark Ernest, the Court’s IT Manager.

A concern of the Court, however, continues to be the high transfer rate of staff from the various Court offices to other departments in government, especially after providing them with extensive training at great cost and effort. The ECSC solicits the support of Registrars and Senior Magistrates to ensure that measures are put in place for participants of training sessions to impart the relevant knowledge and skills to their colleagues upon return to their offices.



JEMS Workshop 2008- Justice Anthony Ross responding to a question on Codes Standardization

6. Case Management Training for Judicial Officers of the ECSC, February 23 - March 6, 2009.

One of the JEI's major programmes for the law year 2008-2009 was the facilitation of training for judicial officers of the ECSC in case management in Canada. The training was held over a two-week period in Ottawa and Toronto, Canada. Participants were Justice Louise Blenman, Master Cheryl Mathurin, Master Pearletta Lanns and Mrs. Kimberly Cenac-Phulgence, Chief Registrar of the ECSC.

This session exposed the officers to Canadian case management procedures, and proceedings on motions, pre-trial reviews and status hearings.

The feedback from this programme has been extremely positive and the Court is extremely grateful for the assistance of Master Robert Beaudoin and Mr. Frank Walwyn of Weirfoulds LLP for putting together this programme, and to all the Canadian judicial and legal personnel for taking time from their busy schedules to facilitate the training of the officers from the ECSC.

Conclusion

Although the Registrars' Conference was not hosted, the JEI has prepared a Registrars' Handbook, which will be distributed in August 2009. The JEI looks forward to the new law year where its major activities will be the Judges' Conference, an Orientation Programme for newly appointed Judges in December 2009, and the Magistrates' Conference in early 2010.

Mediation

Enhancing Access to Justice – Resolving Disputes out of Court

Mediation continues to play a significant role in providing equity of access to justice in the region. Progress in Member States and Territories varies, but one can safely say that mediation is a permanent component of the jurisprudence of the OECS.

Saint Lucia

In 2008, a total of 109 matters were referred for mediation. Of these, 70 matters were concluded, with 48 settled and 22 not settled; 25 were referred back to case management, and 14 pending at year-end. During January to June 2009, 66 matters were referred. Of these, 52 were concluded with 44 settled and 8 not settled; 10 were referred back to case management, and 4 remain pending.

For the period under review, the settlement rate has been very good, 69% for 2008, and 86% up to June 2009.

There have been new developments in mediation in Saint Lucia. The new Criminal Division Delay Reduction Rules supports the use of mediation. Work has begun on developing Practice Directions to ensure that the mediation process in criminal proceedings is properly conducted, and on the training of persons for the establishment of a roster of mediators.

To this end, three mediation workshops were organized and arranged by the Ministry of Home Affairs and Internal Security in collaboration with the Institute of Dispute Resolution Consultant, Mrs. Deborah Mendez-Bowen, in Saint Lucia during March to May, 2009. Approximately one hundred persons involved with law enforcement, probation, prisons etc. were exposed to training in conflict resolution and mediation. Twenty-one persons from that group were selected for three additional days of mediation training, in order to

achieve the same level of certification from the Judicial Education Institute, as those who mediate in the Court-connected Mediation Programme for Civil matters.

Anguilla

There were 3 referrals for Anguilla in 2009. The Regional Mediation Coordinator conducted a Refresher Workshop for all previously trained mediators in November 2008, and meetings were held with the Registrar and members of the Bar Association.

Antigua and Barbuda

During 2008, a total of 112 matters were sent to mediation. Of these, 48 were returned to case management. Of the remaining matters scheduled for mediation, 36 were settled at mediation, 9 were not settled and 19 remain pending.

For the period January – June, 2009, 48 cases were referred with 11 settlements, and 1 matter settled prior to mediation; 22 were referred back to case management, 2 were not settled and 12 are in progress.

Commonwealth of Dominica

A total of 37 mediations were scheduled for the period July 2008 – June 2009. Of these, 12 were settled and 11 not settled. Of the remaining matters, 8 were not held, 3 were rescheduled and 3 are in progress.

The lack of a dedicated space to hold mediations continues to seriously hinder the progress of the programme in this Member State.

Grenada

97 matters were referred to mediation during July 2008 – 2009. 88 mediations were conducted,

with 37 settled and 23 not settled. 28 cases are scheduled for further mediation. In addition to court referrals there were 9 requests for pre-action and private mediations.

In December 2008 twenty persons participated in a week-long workshop, conducted by Mediation Consultant, Mrs. Deborah Mendez-Bowen and assisted by the Regional Mediation Coordinator, Mr. Francis Compton.

The unavailability of attorneys for mediation, particularly during the criminal assizes continues to be a challenge.

Montserrat

Of the 6 matters referred to mediation in Montserrat, 1 was settled, 2 were partially settled, 1 was not settled, and 2 are pending.

Territory of the Virgin Islands

During the month of November 2008, the Regional Mediation Coordinator visited Tortola, Territory of the Virgin Islands for one day, during which he held substantial talks with the Registrar and Deputy Registrar concerning their mediation programmes.

A one-week Mediation Workshop for twenty new mediators was conducted by Mrs. Mendez-Bowen assisted by the Regional Mediation Coordinator in November 2008.

St. Kitts and Nevis

The Regional Mediation Coordinator visited the new Mediation Centre in Nevis, and met with the recently appointed Mediation Coordinator. St. Kitts continues to utilize space in the Law Library to hold mediation sessions.

St. Vincent and the Grenadines

During 2008, 28 matters were referred to mediation; 10 were settled, 14 returned for case management and 4 remain pending. From January to July, 2009 13 matters were referred, 3 were settled and 3 returned for case management, with 7 still pending.

Programme Evaluation

The saying *“Justice should not only be done, but should manifestly and undoubtedly be seen to be done”* holds true in mediation as in all areas of justice. Mediation is successful if all parties feel that justice is done and they are satisfied with the outcome. Below is a sampling of feedback from persons who have experienced mediation. The responses reflect the opinions of litigants and attorneys, from Saint Lucia and the Territory of the Virgin Islands, on mediations during the year 2008. There were no responses from the other Member States.

Section 1: Litigant Responses

79 forms were received: 11 from the Territory of the Virgin Islands and 68 from Saint Lucia. 37 of the litigants were claimants, 37 were defendants and 5 persons did not specify their role. 77 persons were represented by an attorney. Litigants generally gave their mediations very high ratings. Some of the areas evaluated are discussed in the following sections.

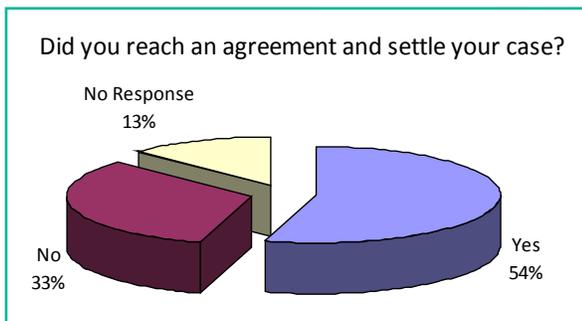
Success of the Mediation

Respondents selected from two options in this section: Yes or No. Most litigants indicated that the mediation was successful. The main aim of mediation is that cases be settled. 43 out of 79 cases or approximately 54% were settled. 26 indicated that their cases were not settled and 10 individuals did not respond to this question. See Table 1 (a) and Figure 1.

Table 1(a): Did you reach an agreement and settle your case?

Response	Frequency	Percent
Yes	43	54.43
No	26	32.91
No Response	10	12.66
Total	79	100

Figure 1



With reference to the 43 litigants whose cases were settled: the majority (over 90%) of respondents were satisfied with the terms of their agreement and felt that the agreement would settle the dispute. 39 also thought that the parties would live up to the agreement.

Effectiveness of Mediator

Mediators play a central role in the success of the mediation process. The mediators received very good ratings in the various categories which were evaluated. Responses selected were from three choices: *Disagree, Not sure and Agree.*

For each of the areas specified below at least 71 out of 79 litigants (approximately 90%) selected the highest rating or agreed with the statements made in the evaluation. These statements were that the: *Mediator explained the process clearly so the litigant knew what to expect; Mediator*

allowed the individual or their attorney to fully represent their case; Mediator listened to their side of the case; Mediator asked appropriate questions to determine the facts of the case; Mediator helped generate options for settling the dispute and Mediator treated parties equally. For each category, a few individuals were unsure or gave no response. Only one or two litigants selected *Disagree* as their option for the various categories.

Although litigants rated the mediator very high, when asked whether they were satisfied with the way the mediator handled the session, fewer individuals (69 persons or 87% of respondents) gave this area the highest possible rating. The breakdown of responses is given in Table 1 (b).

Table 1(b): Overall, I was satisfied with the way the Mediator handled the session

Response	Frequency	Percent
Agree	69	87.34
Disagree	2	2.53
Not Sure	5	6.33
No response	3	3.80
Total	79	100

Additional Areas

Most individuals felt that the Mediator fee was reasonable (71 out of 79 or 90% of total respondents). Another significant aspect of the evaluation was the responses of litigants as to whether they would try mediation again. 67 of them agreed that they would (approximately 85%) while only 2 disagreed. The remaining persons were either not sure, or gave no response. See Table 1 (c).

Table 1 (c): If you become a Litigant in the future will you try mediation again?

Response	Frequency	Percent
Agree	67	84.81
Disagree	2	2.53
Not Sure	7	8.86
No response	3	3.80
Total	79	100

Section 2: Attorney Responses

78 forms were received, 8 from the Territory of the Virgin Islands and 70 from Saint Lucia. Almost equal numbers of respondents were *Claimant Attorneys* and *Defendant Attorneys* (34 and 33 respectively). One respondent fell under the category *Other Attorney* and 10 persons did not specify their role in the mediation. The categories of the cases which were handled are shown in Table 2(a). The majority of cases scheduled for mediation were Contract cases.

Table 2(a): Type of Case to be Mediated

Case Type	Frequency	Percent
Contract	31	39.74
Other	14	17.95
Tort	10	12.82
Land	6	7.69
Property	6	7.69
Debt	3	3.85
Trust	3	3.85
Damages	2	2.56
Employment	1	1.28
Partition	1	1.28
Combination of case types	1	1.28
Total	78	100

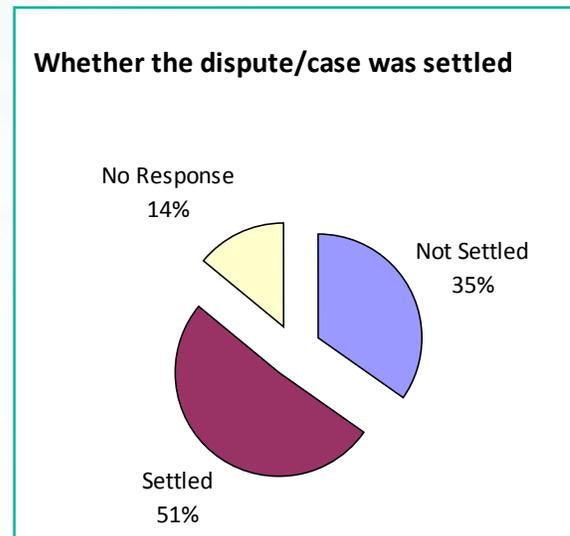
Success of the Mediation

Of the cases referred to mediation, 40 out of the 78 (approximately 51%) were settled. There still however remains room for improvement since there were 27 cases which were not settled. 11 attorneys did not respond to this part of the evaluation. See Table 2 (b) below.

Table 2(b): Outcome of Mediation

Response	Frequency	Percent
Settled	40	51.28
Not Settled	27	34.62
No Response	11	14.10
Total	78	100

Figure 2



Effectiveness of Mediator

Overall, mediators received good ratings from the attorneys although there were some areas which can be enhanced. All 78 attorneys indicated that they were very satisfied with the way their mediator worked the case and 72 felt very satisfied with the mediator who managed their case.

Other areas on the evaluation form which received very high ratings (90% or more respondents agreed) include: *How well the mediator asked appropriate questions to determine the facts of the case; the mediator clarified key issues and interests of each party; and the mediator was impartial and treated both sides equally.*

62 of the 78 attorneys felt that their mediator’s level of participation was high and 69 thought that the mediator explained the process to all parties. 66 were of the opinion that the mediator helped generate realistic options to settle the impasse. Thus 80% to 89% of respondents gave highest possible ratings for the areas previously stated.

Responses however indicate that there is a need for some strengthening of the ability of mediators to facilitate the impasse between parties. 77% of attorneys felt that this was optimal. Although this was not necessarily a low rating it appeared so in comparison to the other aforementioned categories.

Additional Areas

74 attorneys (95%) felt that mediation was appropriate for their respective cases. One significant aspect of the evaluation is the level of satisfaction of the attorneys with the mediation process. The percentage shares of responses to this aspect are given in Table 2 (c) which indicates that the majority of persons were very satisfied with the process.

Table 2(c): Overall, how satisfied were you with the PROCESS of the mediation?

Response	Frequency	Percent
Very Satisfied/ Very Good	66	84.62
Satisfied	11	14.10
No Response	1	1.28
Total	78	100

Conclusion

Mediation is seen as a positive force within the judicial system, as evidenced by feedback from users of the system. More persons are opting for the less adversarial approach to solving matters. For the system to successfully meet the needs of persons seeking resolutions, the following issues must be addressed:

- A forum where mediation co-ordinators could exchange information on the operations of the programmes in the various Member States, for more efficient delivery.
- Dedicated space to conduct mediations should be identified for those Member States where this has not yet been done.
- Continued refresher courses to boost confidence of mediators.
- Review of mediation fees in Member States.
- Reformation of mediation committees for greater effectiveness.
- Establishment of a Regional Mediation Committee.

The fact that a few mediators in Saint Lucia have attained a high level of maturity in the conduct of mediation is evidenced by the extremely high rate of settlement shown for the period. Constant practice, total dedication and commitment to the programme, along with a high level of support from the government and legal practitioners have combined to make the Saint Lucia programme a very successful one.

With adequate education of the public, the appropriate attention, and support by both the governments and the legal practitioners, the mediation programmes throughout the region can continue to grow. This will aid the over-burdened legal-judicial system as it seeks to ensure that justice is “... manifestly and undoubtedly seen to be done”.

Court Performance

Overview

This review of the Court's performance comprises a statistical analysis of data for the calendar year 2008 as well as trend analysis, where possible, for the calendar years 2008, 2007 and 2006; and is presented in four sections: Section 1 – Court of Appeal, Section 2 – High Courts, Section 3 – Magistrates Courts, and Section 4 – Family Courts.

A total of 366 appeals were filed in the Court of Appeal Registry for the calendar year 2008. This represented a decrease of 20.43% from total appeals filed in 2007 and was the lowest in the three-year period 2006 to 2008. Civil appeals continued to be in the majority, accounting for approximately 56% of total appeals filed in 2008. Also in 2008, 286 of the total appeals filed were High Court matters while 80 were from the Magistrates Courts. The overall reduction in the number of appeals appears to be as a result of the reduced number of Magisterial Appeals which over the three years were lowest in 2008.

There were 7,438 cases filed in the High Courts for the year 2008, an increase of 14.73% from 2007. 3,151 disposed cases were reported for High Courts in 2008. This figure which is low in comparison to filed cases may be attributed to the fact that three Member States provided incomplete data on disposed cases. Saint Lucia recorded the highest number of both filed and disposed cases in 2008. Civil cases dominated the number of filed and disposed cases for the aforementioned year, in particular the filed cases. This has been the observed trend from previous years.

Data on the Magistrates Courts is provided for the year 2008. In 2008, the magistracy recorded a very good performance as indicated by an overall disposition rate of 98%. There were 35,613 cases filed, and 34,833 cases disposed in total for the stated year.

Two Family Courts currently exist within the judiciary of the OECS, based in St. Vincent

and the Grenadines and Saint Lucia. In other Member States Family matters are dealt with in the Magistrates Courts. The St. Vincent and the Grenadines Family Court performed well during the year 2008, recording an overall disposition rate of approximately 94%. A total of 2,558 cases were filed in 2008, representing an increase of 17.23% from 2007 to 2008. Total disposed cases increased from 2,239 cases in 2007 to 2,405 in 2008. The Saint Lucia Family Court reported data for 2008 on the First District Court (Castries). 1,729 cases were filed and 1,580 disposed representing a high disposal rate of 91%. The majority of newly filed cases dealt with Maintenance Warrants followed by Domestic Violence cases, which occupied the top position in disposed cases.

While the recorded disposition rates are good, it is clear that in all cases the backlog continues to increase each year. Efforts will continue to be made to achieve a disposition rate in excess of 100% in each area so that this will in effect reduce the continuously growing backlog.

Court Performance...

Court of Appeal

Section 1

This section highlights data on the Court of Appeal for the period 2006 to 2008. The table below shows trends in Total Appeal Cases Filed for the three-year period.

Table 1(a) Total Appeal Cases Filed 2008, 2007, and 2006.

Type of Appeal	2008			2007			2006		
	High Court	Magistrates Court	Total	High Court	Magistrates Court	Total	High Court	Magistrates Court	Total
Civil Appeals	187	17	204	214	24	238	196	27	223
Criminal Appeals	99	63	162	92	130	222	75	97	172
Total	286	80	366	306	154	460	271	124	395

Overall there was a significant decrease in the number of appeals filed from 2007 to 2008. A total of 366 appeals were filed in 2008, representing a 20.43 % decrease from the 460 appeals filed in 2007. Total appeal cases filed fluctuated throughout the three years under review. Total appeals filed in the Magistrates Courts were considerably lower at 80 cases in 2008 when compared to 154 in 2007 and 124 in 2006. There was a sharp decline of 74 cases in 2008 when compared to 2007.

High Court Appeals dominated and accounted for approximately 78% of the total appeals filed in 2008 as compared to 67% in 2007 and 69% in 2006. Appeals filed in the High Courts were in the majority for all the observed years, but most markedly in 2008 where 286 High Court Appeals were recorded compared to only 80 in the Magistrates Courts. High Court Appeals fluctuated over the three-year period; there was a slight decrease of 6.53% from 2007 to 2008.

Civil Appeals accounted for approximately 56% of total appeals filed in 2008 compared to a percentage share of about 44% for Criminal Appeals. The number of Civil Appeals remained in the vicinity of 200 over the three years. Criminal Appeals filed fluctuated between 2006 and 2008 and recorded a decrease of 60 cases from 2007 to 2008. The drop in the Criminal Appeals between 2007 and 2008 can be directly attributed to a reduced number of Magisterial Criminal Appeals which declined by 67 cases from 130 in 2007 to 63 in 2008. Figures 1 and 2 depict the data given in Table 1 (a).

Figure 1

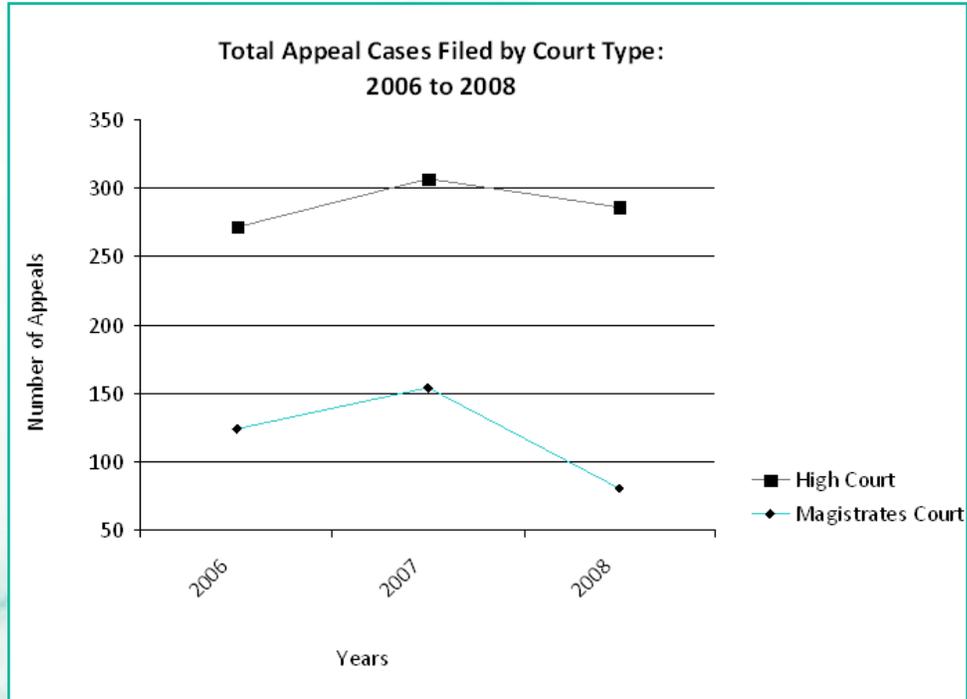


Figure 2

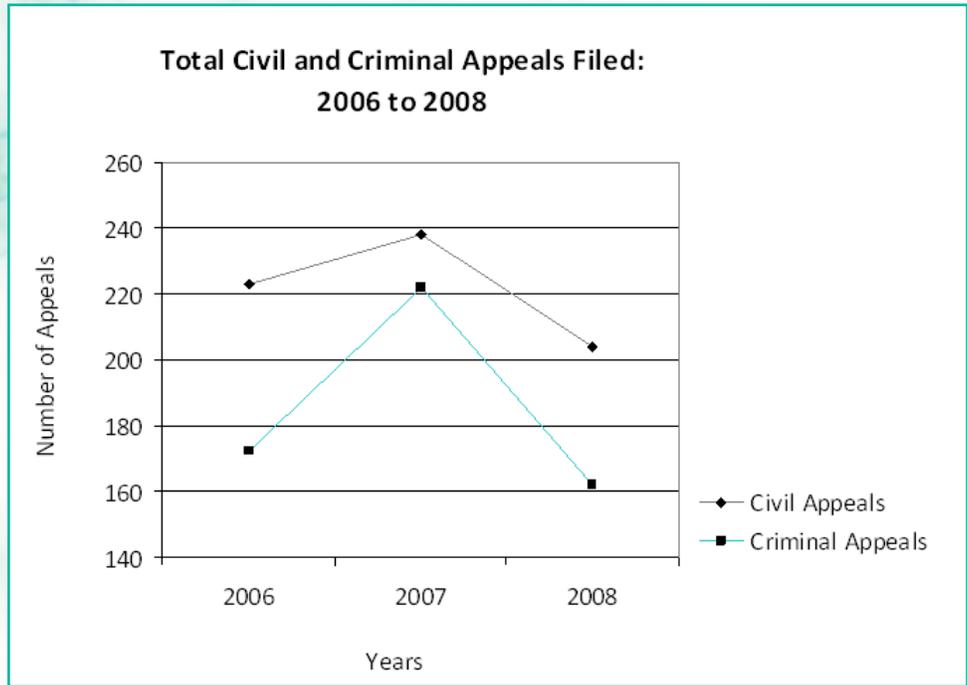


Table 1 (b) summarizes data on High Court Appeal cases filed by the various Member States from 2006 to 2008. In 2008 the majority of Civil Appeals were from Saint Lucia (25%) which also recorded the highest number of filed Civil cases in 2007. For the three-year period, Civil Appeals filed were also high in Antigua and Barbuda, the Territory of the Virgin Islands and St. Vincent and the Grenadines relative to other Member States. Grenada also recorded high numbers of filed Civil Appeals in 2007 and 2006 but these numbers decreased in 2008.

Approximately 34% of total Criminal Appeals in High Courts for the year 2008 were filed in St. Kitts and Nevis, followed by 24% in Antigua and Barbuda. The Criminal Appeals filed in these two countries amounted to almost 60% of the total filed Criminal Appeals for the said year. Criminal Appeals filed increased notably by 21 cases for Antigua and Barbuda as well as St. Kitts and Nevis between the years 2007 and 2008.

Table 1(b) High Court Appeals Filed by Member States: 2008, 2007, 2006

Member States	2008		2007		2006	
	Civil	Criminal	Civil	Criminal	Civil	Criminal
Anguilla	7	2	5	2	9	1
Antigua and Barbuda	33	24	36	3	28	8
Commonwealth of Dominica	15	5	12	5	23	6
Grenada	11	5	27	11	34	11
Montserrat	9	1	3	11	1	0
St. Kitts and Nevis	13	34	27	13	16	28
Saint Lucia	47	8	46	6	34	10
St. Vincent and the Grenadines	26	15	28	34	16	6
Territory of the Virgin Islands (TVI)	26	5	30	7	35	5
TOTAL	187	99	214	92	196	75

Figure 3

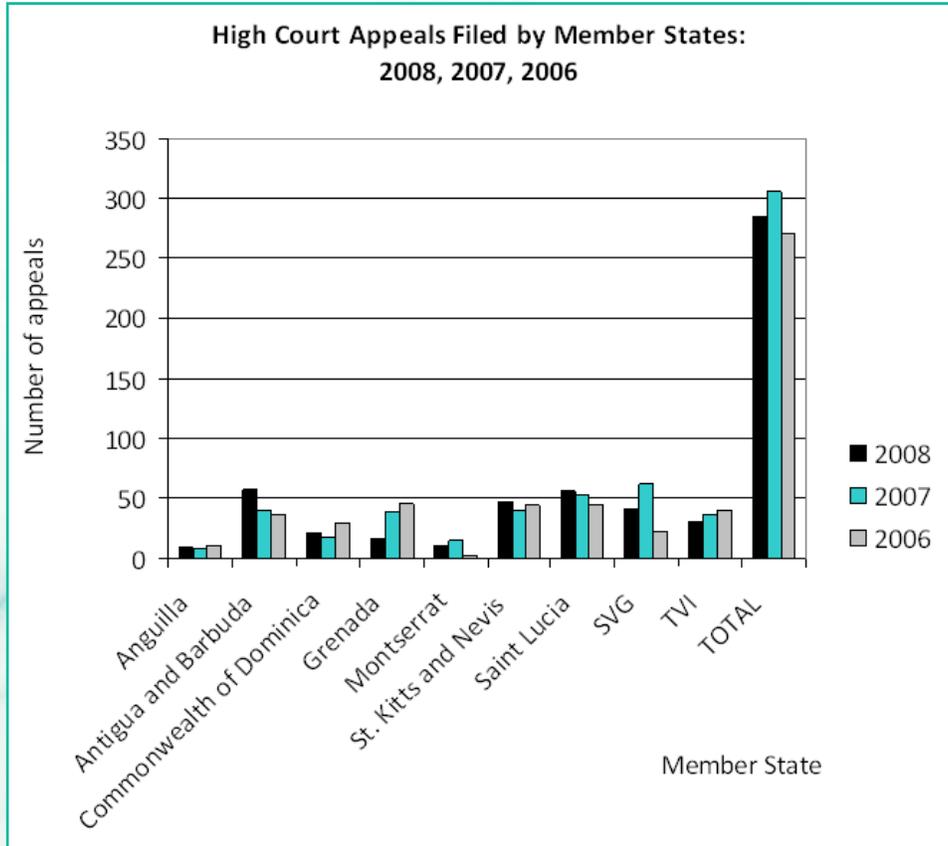


Table 1(c) portrays Magisterial Appeals filed by Member States over the years 2006 to 2008. Appeals filed in the Magistrates Courts were considerably lower than those filed in the High Courts. Criminal Appeals were in the majority for the Magistrates Courts from 2006 to 2008 while Civil Appeals were in the majority for High Courts as seen in table 1(b).

Appeals in the Magistrates Courts, both Civil and Criminal, remained low for all Member States in 2008. One notable exception was the high number of Criminal Appeals filed in St. Vincent and the Grenadines (33 out of a total of 63) which amounted to more than 50% of the total Magisterial Criminal Appeals in 2008. It should also be noted that the reduction in Magisterial Criminal Appeals was significant in St. Vincent and the Grenadines which recorded a reduction of 55 cases from 88 in 2007 to 33 in 2008. Otherwise the Magisterial Appeals generally fluctuated over the three years. Figure 4 depicts the data given in Table 1 (c).

Table 1(c) Magisterial Court Appeals Filed by Member States: 2008, 2007, 2006

Member States	2008		2007		2006	
	Civil	Criminal	Civil	Criminal	Civil	Criminal
Anguilla	0	2	0	0	2	1
Antigua and Barbuda	1	5	1	7	1	6
Commonwealth of Dominica	2	7	2	6	3	4
Grenada	3	6	3	13	3	18
Montserrat	0	1	2	0	0	0
St. Kitts and Nevis	3	6	4	4	8	5
Saint Lucia	0	0	0	2	0	1
St. Vincent and the Grenadines	3	33	12	88	8	60
Territory of the Virgin Islands	5	3	0	10	2	2
TOTAL	17	63	24	130	27	97

Figure 4

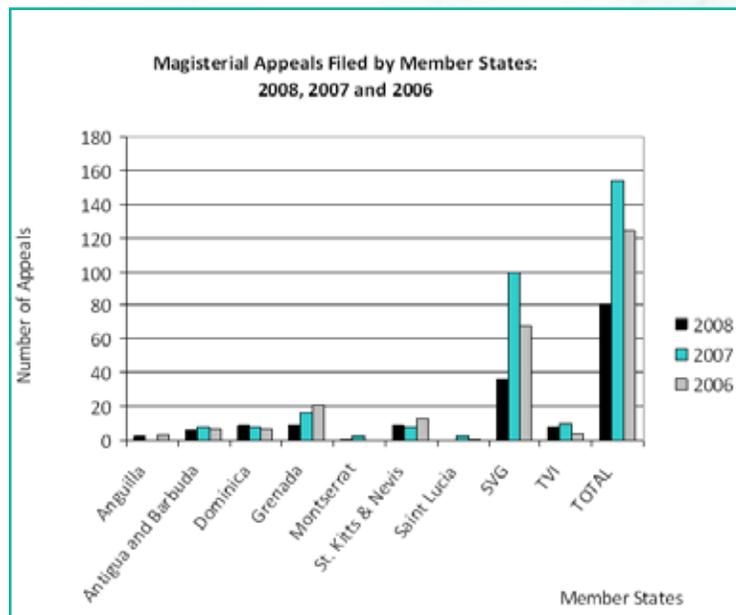


Table 1(d) provides information on judgments delivered during 2008, 2007 and 2006. For 2008, the highest percentage shares of total judgments were delivered in Antigua and Barbuda (16.67%). The judgments from St. Kitts and Nevis, the Territory of the Virgin Islands, Saint Lucia and Grenada also each accounted for over 10% of the total. The least number of judgments were delivered in Montserrat (approximately 4% of total judgments). During the three years, judgments fluctuated in all the Member States, excepting the Territory of the Virgin Islands which decreased steadily. There were no judgments delivered in Montserrat for the years 2007 and 2008. Although for the three year period, the lowest number of judgments were delivered in 2008, the numbers have been fairly consistent, with 77 in 2006, 82 in 2007, and 72 in 2008.

Table 1(d) Judgments Delivered by the Court of Appeal: 2008, 2007, 2006

Member States	2008	%	2007	%	2006	%
Anguilla	3	4.17	5	6.10	2	2.60
Antigua and Barbuda	12	16.67	15	18.29	9	11.69
Commonwealth of Dominica	7	9.72	8	9.76	4	5.19
Grenada	9	12.50	9	10.98	18	23.38
Montserrat	3	4.17	0	0	0	0
St. Kitts and Nevis	11	15.28	7	8.54	9	11.69
Saint Lucia	10	13.89	20	24.39	12	15.58
St. Vincent and the Grenadines	7	9.72	5	6.10	9	11.69
Territory of the Virgin Islands	10	13.89	13	15.85	14	18.18
Total	72	100.00	82	100	77	100

Table 1(e) Activities of the Court of Appeal: 2008

Activities	2008	2008 (%)
Full Court Sittings	23	58.97
Chamber Hearings	14	35.90
Teleconferences	2	5.13
Total Activities	39	100.00

As indicated in Table 1(e), activities were primarily Full Court Sittings which amounted to approximately 59% of total activities. The remaining events were Chamber Hearings and Teleconferences. Chamber Hearings now encompass Hearing of Applications and Case Management Conferences.

Court Performance...

High Court

Section 2

Table 2(a) portrays the number of cases filed and disposed by High Courts during the period 2006 to 2008. Total cases filed in 2008 amounted to 7,438 and total reported cases disposed were 3,151.

The number of cases filed fluctuated over the three-year period. The highest numbers were reported in Saint Lucia, which accounted for approximately 26% of the total. This was followed by Grenada and Antigua and Barbuda which each recorded over one thousand filed cases. Saint Lucia also had the highest number of filed cases in 2006 and was second to Antigua and Barbuda in 2007. Montserrat had the least filed cases for the period 2006 to 2008 and recorded fewer than 100 filed cases for each year.

Although all the High Courts submitted data, relevant data on disposed cases was incomplete for Commonwealth of Dominica, Antigua and Barbuda and St. Kitts and Nevis. Similar to filed cases, the number of disposed cases fluctuated between 2006 and 2008. Total disposed cases declined by 32.54% from 2006 to 2007, followed by a significant increase of 88.34% from 2007 to 2008. In 2008, Saint Lucia recorded the highest number of disposed cases, followed by Grenada. These two countries accounted for approximately 42% and 30% of total disposed cases respectively. Saint Lucia dominated the total disposed cases for the years 2007 and 2006 relative to the other countries for which data was provided.

Figure 5 shows the cases filed and disposed in the High Courts from 2006 to 2008.

Table 2(a) Number of Cases Filed and Disposed by Member States in High Courts for the period 2006 to 2008.

Member States	2008		2007		2006	
	Total Cases Filed	Total Cases Disposed	Total Cases Filed	Total Cases Disposed	Total Cases Filed	Total Cases Disposed
Anguilla	164	103	78	17	134	21
Antigua and Barbuda	1309	*136	2019	18	1261	58
Commonwealth of Dominica	653	*55	609	48	583	47
Grenada	1596	941	787	198	732	51
Montserrat	77	72	45	–	96	62
St. Kitts and Nevis	393	*60	307	–	530	290
Saint Lucia	1965	1311	1786	1242	1813	1664
St Vincent and the Grenadines	691	291	669	150	954	147
Territory of the Virgin Islands	590	182	183	–	462	140
TOTAL	7438	3151	6483	1673	6565	2480

* incomplete data

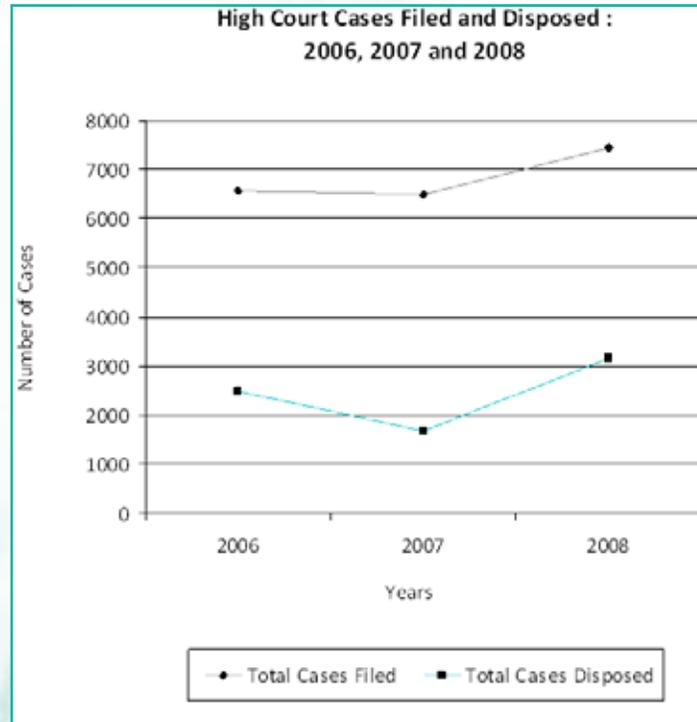
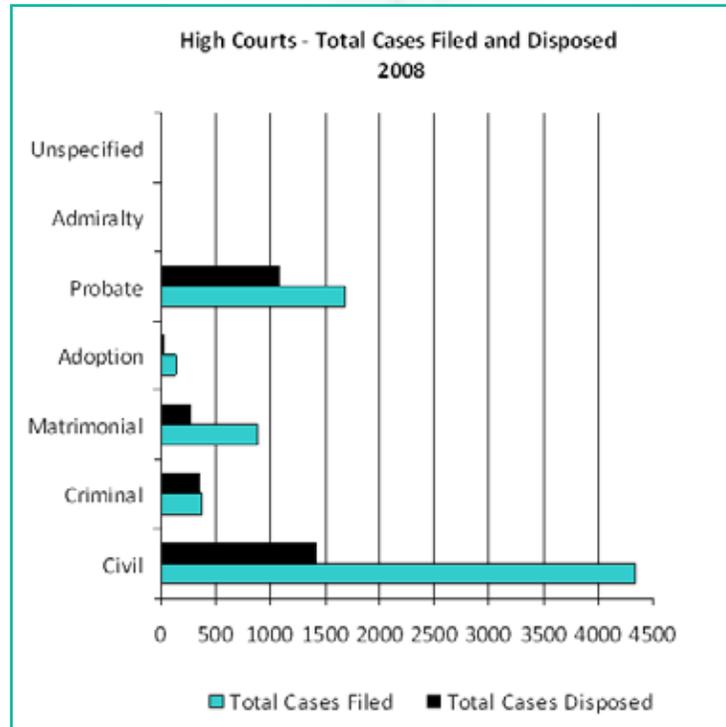
Figure 5

Table 2(b) Cases Filed and Disposed by Case Type in the High Courts: 2008, 2007 and 2006.

Case Type	2008		2007		2006	
	Total Cases Filed	Total Cases Disposed	Total Cases Filed	Total Cases Disposed	Total Cases Filed	Total Cases Disposed
Civil	4335	1410	3920	1160	4012	1635
Criminal	380	355	176	49	256	134
Matrimonial	892	271	1051	209	931	304
Adoption	131	32	136	5	110	34
Probate	1680	1077	1187	202	1238	370
Admiralty	19	6	13	–	18	3
Unspecified	1	–	–	48	–	–
TOTAL	7438	3151	6483	1673	6565	2480

As outlined in Table 2(b), Civil cases were in the majority for both the filed and disposed cases during the three-year time frame. The number of Civil cases filed amounted to approximately 58% of total filed cases in 2008, and about 60% of each of the totals in 2007 and 2006. This gives an indication of the volume of Civil cases which the High Courts process, relative to the remaining case types. Probate cases also accounted for a fair share of the filed and disposed cases during the period under review. The figure for disposed Probate cases in 2007 appeared low relative to the other data recorded for Probate cases during the three-year period. This could be the result of under reporting of these cases in 2007. Admiralty cases had the lowest percentage share of both filed and disposed cases throughout the years 2006 to 2008. Figure 6 illustrates the data on cases that were filed and disposed for the year 2008 which was included in Table 2 (b).

Figure 6



Tables 2 (c) and 2(d) show in greater detail, cases disposed by case type in the various Member States as summarized in Tables 2(a) and 2(b). Thus the same observations made previously apply, but additionally, Tables 2(c) and 2(d) specify the percentage share for the Member States, and the types of cases that were filed.

Table 2(c) Number of Cases Filed in the High Courts by Major Type and by Member State: 2008

Member States	2008								Country Total as a % of Total
	Civil	Criminal	Matrimonial	Adoption	Probate	Admiralty	Other	Total	
Anguilla	97	7	46	9	5	-	-	164	2.20
Antigua and Barbuda	751	68	175	25	287	3	-	1309	17.60
Commonwealth of Dominica	496	50	91	16	-	-	-	653	8.78
Grenada	630	128	143	26	667	2	-	1596	21.46
Montserrat	29	10	3	-	35	-	-	77	1.04
St. Kitts and Nevis	280	7	46	1	59	-	-	393	5.28
Saint Lucia	1264	82	190	22	403	3	1	1965	26.42
St. Vincent and the Grenadines	379	28	131	21	125	7	-	691	9.29
Territory of the Virgin Islands	409	-	67	11	99	4	-	590	7.93
TOTAL	4335	380	892	131	1680	19	1	7438	100.00
Case Type as a % of Total	58.28	5.11	11.99	1.76	22.59	0.26	0.01	100.00	

- No reported cases

Table 2(d) Number of Cases Disposed in the High Courts by Major Type and by Member State: 2008

Member States	2008										Country Total as a % of Total
	Civil	Criminal	Matrimonial	Adoption	Probate	Admiralty	Other	Total			
Anguilla	58	1	36	8	-	-	-	103	3.27		
Antigua and Barbuda	81	16	5	-	33	1	-	136	4.32		
Commonwealth of Dominica	-	55	-	-	-	-	-	55	1.75		
Grenada	210	148	-	1	582	-	-	941	29.86		
Montserrat	22	13	4	-	33	-	-	72	2.28		
St. Kitts and Nevis	6	4	-	-	50	-	-	60	1.90		
Saint Lucia	812	40	134	10	315	-	-	1311	41.61		
St. Vincent and the Grenadines	86	78	57	13	54	3	-	291	9.24		
Territory of the Virgin Islands	135	-	35	-	10	2	-	182	5.78		
TOTAL	1410	355	271	32	1077	6	0	3151	100.00		
Case Type as a % of Total	44.75	11.27	8.60	1.02	34.18	0.19	0.00	100.00			

- No reported cases

Table 2(e) Events Count in High Courts: 2008

Type of Event	Total for Event	Event as a % of Total Events
Status Hearing	310	3.20
Chamber Hearing	4244	43.77
First Hearing	644	6.64
Case Management Conference	1607	16.57
Criminal Trial	622	6.42
Uncontested Divorce	260	2.68
Pre -Trial Review	233	2.40
Trial	306	3.16
Mediation	219	2.26
Other (Contested Divorce, Judgment Delivered, Application for Committal Orders, Application Without Hearing, etc)	1251	12.90
Total	9696	100

Total reported events amounted to 9,696 in 2008, with Chamber Hearings accounting for approximately 44% of this total. This was followed by Case Management Conferences which represented about 17% of total events. Events under the “other” category also added up to a good portion of the total. Total events in 2008 slightly decreased from the 10,254 events which occurred in 2007.

Section 3

This section of the report showcases data on the Magistrates Courts for the year 2008. This information was not compared to that of 2007 or 2006 due to missing data from about half the Member States for these years, which would result in statistically incorrect inferences.

Table 3 (a) shows the Cases Filed and Cases Disposed by Member State in the various Magistrates Courts of the OECS countries for the year 2008. There were 35,613 cases filed and 34,833 cases disposed in total in 2008. Thus the overall average disposition rate of cases was high, at approximately 98% which commends itself. The majority of cases were filed in Grenada, followed by Commonwealth of Dominica and Saint Lucia, while most cases were disposed in Grenada, Saint Lucia and St. Kitts and Nevis.

Since the data on the magistracy are mostly complete (the exception was that some data was not reported on disposed cases for one Member State) the disposition rates have been calculated. These are good indicators of the efficiency of the magistracy, and focus on the number of disposed cases relative to the filed cases for each Member State. Where there is case backlog, and cases previously filed are disposed in addition to new cases, then the disposition rate can be greater than 100%. Disposition rates were over 100% for St. Kitts and Nevis, Saint Lucia, Grenada and Montserrat. The low disposition rate recorded by the Antigua and Barbuda magistracy resulted because one or two courts did not submit their data on disposed cases in a timely manner.

Table 3(a) Cases Filed and Disposed by Member States in the Magistrates Courts: 2008

Member States	2008		
	Total Cases Filed	Total Cases Disposed	Disposition Rates (%)
Anguilla	1204	707	58.72
Antigua and Barbuda	2854	1191	41.73
Commonwealth of Dominica	6552	5667	86.49
Grenada	6807	7624	112.00
Montserrat	346	364	105.20
St. Kitts and Nevis	5572	6458	115.90
Saint Lucia	6437	7219	112.15
St Vincent and the Grenadines	3939	3849	97.72
Territory of the Virgin Islands	1902	1754	92.22
TOTAL	35613	34833	97.81

Figure 7

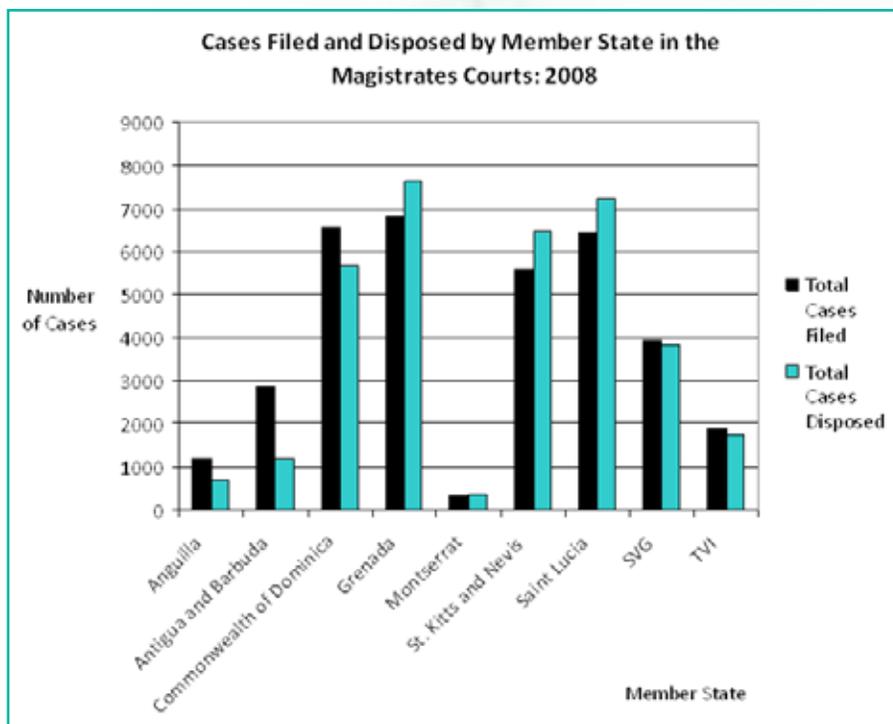


Table 3(b) Cases Filed and Disposed by Case Type in the Magistrates Courts: 2008

Case Type	2008		
	Total Cases Filed	Total Cases Disposed	Disposition rates
Criminal	18088	17395	96.17
Civil	4393	3784	86.14
Traffic	7876	8256	104.82
Domestic/family	260	264	101.54
Juvenile	764	723	94.63
Maintenance/Affiliation	2631	2904	110.38
Inquests	97	78	80.41
Pre. Inquiries	862	784	90.95
Other	642	645	100.47
Total	35613	34833	97.81

Table 3(b) portrays cases filed and disposed by case type for the year 2008 in the Magistrates Courts. As shown in table 3(a) there were 35,613 cases filed and 34,833 cases disposed during the aforesaid year. The majority of both filed and disposed cases in 2008 were criminal cases. The percentage breakdown of filed and disposed cases by case type will be discussed in detail in Tables 3(c) and 3(d). Disposition rates were highest for Maintenance/ Affiliation cases at 110.38% followed by Traffic cases which had an overall disposition rate of 104.82%. Domestic/ Family cases also recorded an overall disposition rate slightly over 100%.

Table 3 (d) Number of Cases Disposed in the Magistrates Courts by Major Type and by Member State, 2008

Member States	2008										Country Total as a % of Total
	Crim.	Civ.	Traffic	Domestic/ Family	Juv.	Maintenance/ Affiliation	Inquests	Pre- Inquiries	Other	Total	
Anguilla	332	48	227	0	42	40	0	18	0	707	2.03
Antigua and Barbuda	772	1	203	24	6	104	0	81	0	1191	3.42
Commonwealth of Dominica	2504	892	1070	69	269	421	73	234	135	5667	16.27
Grenada	4209	534	2300	44	106	392	1	38	0	7624	21.89
Montserrat	0	24	111	3	11	15	0	38	162	364	1.04
St. Kitts and Nevis	1982	1389	734	0	141	1740	0	157	315	6458	18.54
Saint Lucia	3980	305	2569	98	27	89	0	128	23	7219	20.72
St Vincent and the Grenadines	2661	426	694	0	0	0	2	66	0	3849	11.05
Territory of the Virgin Islands	955	165	348	26	121	103	2	24	10	1754	5.04
TOTAL	17395	3784	8256	264	723	2904	78	784	645	34833	100.00
Case Type as a % of Total	49.94	10.86	23.70	0.76	2.08	8.34	0.22	2.25	1.85	100.00	

Table 3(d) highlights disposed cases by case type and Member State for the year 2008. 21.89% of total disposed cases were recorded by Grenada followed by 20.72% from Saint Lucia. These were the only Member States where disposed cases amounted to at least 20% of the total cases disposed. As observed for filed cases, the Member State with the lowest percentage share of the total disposed cases was Montserrat. Criminal cases amounted to a little under half of total disposed cases. This is in keeping with the high number of filed Criminal cases previously observed in table 3(c). The predominance of Criminal cases is observed also for all Member States with the exception of Montserrat. Traffic cases amounted to just fewer than 24% of total disposed cases. All other specified case types each made up less than 20% of the total disposed cases.

Court Performance...

Family Court

Section 4

St. Vincent Family Court

Table 4(a) highlights trends in St. Vincent and the Grenadines Family Court Statistics for the years 2008, 2007 and 2006.

Table 4(a) Cases Filed in the St. Vincent Family Court: 2008, 2007 and 2006

Case Type	2008		2007		2006	
	No. of cases	% of total	No. of cases	% of total	No. of cases	% of total
Maintenance	696	27.21	551	25.25	560	36.91
Custody/Access	167	6.53	158	7.24	129	8.50
Protection Order	245	9.58	179	8.20	128	8.44
Arrears	1042	40.73	916	41.98	406	26.76
Occupation Order	92	3.60	66	3.02	43	2.83
Unlawful Sexual Intercourse	97	3.79	52	2.38	40	2.64
Indecent Assault	45	1.76	29	1.33	32	2.11
Rape	0	0.00	3	0.14	0	0.00
Other Offences	174	6.80	228	10.45	179	11.80
Total	2558	100.00	2182	100.00	1517	100.00

Table 4(a) shows the number of cases filed during the years 2008, 2007 and 2006. There has been a sharp increase in the number of cases filed from 2006 to 2008. Cases filed increased by 43.84% from 2006 to 2007, and by 17.23% from 2007 to 2008. Overall, filed cases increased by a total of 1,041 cases from 2006 to 2008 which represents a significant increase of 68.6%.

For the three years being compared, the data shows that the majority of cases filed were in the areas of Arrears and Maintenance, and the least cases filed were Rape cases. Also worthy of note is the increase in the Arrears cases which totaled 406 in 2006 and was significantly higher at 1,042 in 2008. This increase was especially sharp between 2006 and 2007 where the cases filed more than doubled in numbers. Such a difference could be factual or could be as a result of under-reporting or over-reporting of cases.

Table 4(b) provides information on cases disposed for the stated period. Total cases disposed increased overall by 468 cases between 2006 and 2008. Maintenance and Arrears cases combined represented the majority of total disposed cases from 2006 to 2008: 69.03% of total disposed cases in 2008, 68.07% in 2007 and 70.68% in 2006.

Table 4 (b) Cases Disposed in the St. Vincent Family Court: 2008, 2007 and 2006

Case Type	2008		2007		2006	
	No.	% of total	No.	% of total	No.	% of total
Maintenance	656	27.28	576	25.73	780	40.27
Custody/Access	167	6.94	155	6.92	121	6.25
Protection Order	228	9.48	194	8.66	162	8.36
Arrears	1004	41.75	948	42.34	589	30.41
Occupation Order	78	3.24	71	3.17	56	2.89
Unlawful Sexual Intercourse	66	2.74	34	1.52	25	1.29
Indecent Assault	42	1.75	34	1.52	28	1.45
Rape	0	0.00	3	0.13	0	0.00
Other Offences	164	6.82	224	10.00	176	9.09
Total	2405	100.00	2239	100.00	1937	100.00

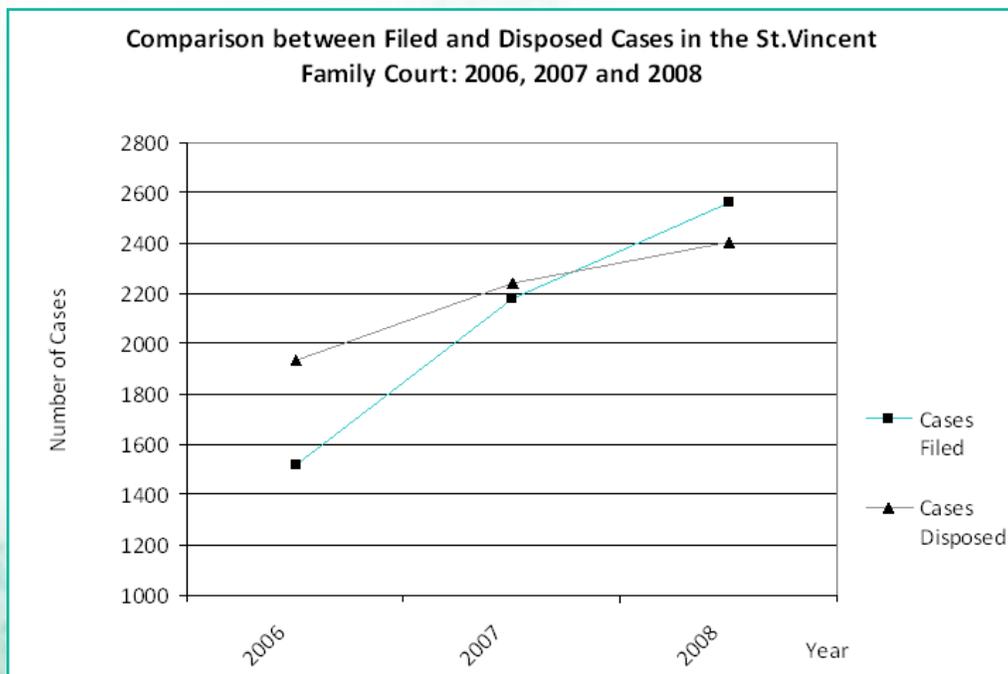
Table 4(c) compares the case disposition rates for the period 2006 to 2008. Disposition rates were high throughout the period under review, except for the cases pertaining to Unlawful Sexual Intercourse which consistently recorded the lowest disposition rates, between 60% and 70% for all three years. Figure 8 compares the filed and disposed cases from 2006 to 2008.

Table 4(c) Case Disposition Rates in the St. Vincent Family Court: 2006 – 2008

Case Type	2008			2007			2006		
	Cases Filed	Cases Disposed	Disposition Rate	Cases Filed	Cases Disposed	Disposition Rate	Cases Filed	Cases Disposed	Disposition Rate
Maintenance	696	656	94.25	551	576	104.54	560	780	139.29
Custody/Access	167	167	100.00	158	155	98.10	129	121	93.80
Protection Order	245	228	93.06	179	194	108.38	128	162	126.56
Arrears	1042	1004	96.35	916	948	103.49	406	589	145.07
Occupat	92	78	84.78	66	71	107.58	43	56	130.23
Unlawful Sexual Intercourse	97	66	68.04	52	34	65.38	40	25	62.50
Indecent Assault	45	42	93.33	29	34	117.24	32	28	87.50
Rape	0	0	-	3	3	100.00	0	0	-
Other Offences	174	164	94.25	228	224	98.25	179	176	98.32
Total	2558	2405	94.02	2182	2239	102.61	1517	1937	127.69

The reduction of the disposition rate to less than 100% needs to be carefully monitored since failure to do so will result in an increase in the backlog of cases in the Family Court of St. Vincent and the Grenadines.

Figure 8



Saint Lucia Family Court

Data submitted by the Saint Lucia Family Court emanated from the First District Court (Castries) but not the Second District Court (Soufriere and Vieux Fort), so to avoid statistical inaccuracies no comparisons were made with previous years.

Table 4(d) Case Information on the Saint Lucia Family Court: 2008

Category	Juvenile		Adult Criminal	Affiliation, Separation and Maintenance	Maintenance Warrants	Custody	Domestic Violence	TOTAL
	Criminal	Care and Protection						
New Cases Lodged	82	57	27	477	551	39	496	1729
Cases Heard and Final Orders Given	50	45	19	450	368	23	308	1263
Cases Discharged	14	7	4	36	40	11	117	229
Cases Withdrawn by applicant	3	2	2	40	7	5	29	88
Cases Transferred to another Court	0	0	3	0	1	0	4	8

Case information on the Saint Lucia Family Court for the year 2008 is highlighted in Table 4(d). A total of 1,729 cases were filed, compared to 1,580 disposed. This gives a high disposition rate of approximately 91%. Total disposed cases were obtained by adding data for the categories *Cases Heard and Final Orders Given, Cases Discharged* and *Cases Withdrawn by Applicant*. 88 cases were withdrawn by applicants and 8 transferred to other courts for that same year.

The majority of newly filed cases were Maintenance Warrants followed by Domestic Violence and then Affiliation, Separation and Maintenance cases. Juvenile cases accounted for about 8% of newly filed cases. The majority of Juvenile cases were criminal in nature. Domestic Violence cases accounted for the majority of total disposed cases, amounting to just over half of the total.

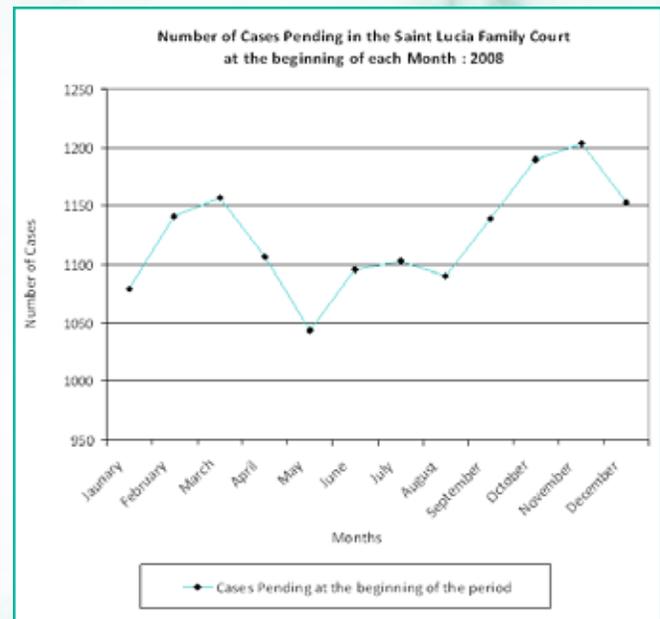
Four Social Workers, assigned to the Family Court, dealt with approximately 2,767 new cases during the year 2008. Their activities included organizing and facilitating Parenting groups, Domestic Violence Victims groups and Batterer Intervention groups for men who batter. Other areas encompassed under the Court Social Worker’s programme were: Custody Assessment, Social Inquiries, Couple’s counseling, Individual counseling of clients, Mediation, and Counseling of children with troubled behaviors arising from witnessing domestic abuse.

Table 4(e) and Figure 9 show data on cases pending in the Saint Lucia Family Court for the year 2008. 1,079 cases from 2007 carried over to January 2008 because there was no service on the respondent. 903 of these 1,079 cases were on Maintenance Warrants which were unexecuted by the Police. The general trend is that cases pending fluctuated during the year. The number of cases pending was highest at the beginning of November.

Table 4(e) Number of Cases Pending at the Beginning of Each Month for the year 2008

Months	Cases Pending at the beginning of the period
January	1079
February	1141
March	1157
April	1106
May	1043
June	1095
July	1103
August	1090
September	1139
October	1190
November	1203
December	1153

Figure 9



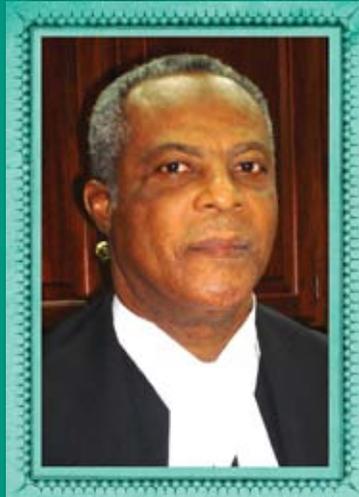
JUDICIAL OFFICERS

The Judges

Court of Appeal

During this law year, the Court of Appeal comprised Chief Justice, Hugh A. Rawlins, Justice of Appeal, Hon. Denys Barrow, SC (resigned effective December 31 2008) and Acting Justices of Appeal, Hon. Ola Mae Edwards, Hon. Janice George-Creque, Hon. Michael Gordon QC, Hon. Indra Hariprashad-Charles, Hon. Rita Joseph Olivetti and Hon. Davidson Baptiste. Justice of Appeal Hariprashad-Charles [Ag.] was appointed to serve for the first term of the law year, from September to December 2008. Justice of Appeal Joseph-Olivetti [Ag.] served from January-April 2009 and Justice of Appeal Baptiste [Ag.] served during the last term of the law year.

Hon. Justices Ola Mae Edwards and Janice George-Creque were appointed as Justices of Appeal, effective January 2009, making them the first ever permanent female appointees to the Court of Appeal bench.



Hon. Justice Hugh Anthony Rawlins, Chief Justice



(Left-Right): Hon. Justice Denys Barrow, SC, Hon. Justice Ola Mae Edwards, Hon. Justice Janice George-Creque, Hon. Justice Michael Gordon, QC.

JUDICIAL OFFICERS

High Court

1 - Hon Justice Kenneth Benjamin, Saint Lucia; | 2 - Justice Indra Hariprashad-Charles, Territory of the Virgin Islands; | 3 - Hon. Justice Frederick Bruce-Lyle, St Vincent and The Grenadines; | 4 - Hon. Justice Davidson Baptiste, Commonwealth of Dominica; | 5 - Hon. Justice Rita Joseph-Olivetti, Territory of the Virgin Islands; | 6 - Hon. Justice Louise Blenman, Antigua and Barbuda; | 7 - Hon. Justice Clare Henry, Grenada; | 8 - Hon. Justice Francis Belle, St Christopher and Nevis; | 9 - Hon. Justice Gertel Thom, St Vincent and the Grenadines; | 10 - Hon. Justice Ianthea Leigertwood-Octave, St Kitts and Nevis/ Commonwealth of Dominica/Montserrat; | 11 - Hon Justice Brian Cottle, Saint Lucia; | 12 - Hon Justice Courtenay Harris, Antigua and Barbuda; | 13 - Hon Justice Francis Cumberbatch, Grenada; | 14 - Hon Justice Anthony Ross, QC [Ag], Saint Lucia; | 15 - Justice Edward Bannister, Territory of the Virgin Islands | 16 - Master Cheryl Mathurin, Antigua and Barbuda; | 17 - Master Pearletta Lanns, St Kitts and Nevis.



1 2 3 4 5



6 7 8 9 10



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16 17

The following justices were appointed to serve in an acting capacity –

Hon Justice Ephraim Georges, January 1, 2009 – October 31, 2009; Hon. Justice Errol Thomas, August 1 – 31, 2009; Hon. Justice Peter Foster, January 6, 2009 – April 30, 2009; Hon. Justice Monica Joseph, January 1, 2009 – August 31, 2009; Hon. Justice Lyle St Paul, OBE, CBE, January 1, 2009 – August 31, 2009; Hon. Justice Albert Matthew, January 1, 2009 – August 31, 2009; Hon. Justice Margaret Price-Findlay, February 18, 2009 – May 15, 2009; Hon. Justice Mario Michel, February 1, 2009 – August 31, 2009; Hon. Justice Tana’ania Davies Small, April 15, 2009 – August 31, 2009.

Administrative and Support Staff

Eastern Caribbean Supreme Court Headquarters



1 - Ms Myrtene Cenac, Statistician; | 2 - Mrs Choyce Walcott-Mathurin, Case Manager; | 3 - Mrs Sandra Augier, Archives and Records Clerk; | 4 - Ms Zannia Plummer, Receptionist; | 5 - Ms Lindel Joseph, Secretary; | 6 - Ms Claudette M Valentine, Librarian/Information Services Manager; | 7 - Ms Sardia Cenac, Judicial Clerk; | 8 - Mrs Francisca Polius, Archives and Records Officer; | 9 - Mr Garvin Lawrence, Website Administrator; | 10 - Mr Gregory Girard, Court Administrator; | 11 - Ms Samantha George, Judicial Clerk; | 12 - Mr Augustus Marcellin, Network Administrator; | 13 - Ms Joan Joseph, Administrative Secretary; | 14 - Ms Alana Simmons, JEI Project Coordinator; | 15 - Ms Agnes Actie, Deputy Chief Registrar; | 16 - Mr Francis Compton, Regional Mediation Coordinator; | 17 - Mr Mark Ernest, Information Technology Manager; | 18 - Mrs Monica Chandler, Human Resource Officer (deceased); | 19 - Ms Genevieve Francis, Secretary; | 20 - Ms Natacha James, Administrative Assistant to the Chief Justice; | 21 - Ms Anna Joseph, Secretary

Administrative and Support Staff

Eastern Caribbean Supreme Court Headquarters



1 - Mrs Kimberly Cenac-Phulgence, Chief Registrar; | 2 - Ms Aloysia Gabriel, Human Resource Manager; | 3 - Mr Craig Gabriel, Registry Clerk; | 4 - Mrs Reine James, Archives and Records Manager; | 5 - Ms Kit Juelle Frank Amoroso, Regional Mediation Coordinator; | 6 - Mrs Dorcia James- Callendar, Administrative Assistant; | 7 - Mrs Avis Burch-Smith, Mediation Assistant; | 8 - Ms Cynthia David, Project Coordinator; | 9 - Ms Patricia Chastanet, Library Assistant; | 10 - Ms Benedicta St John, Junior Accounts Clerk; | 11 - Ms Sheron Baptiste, Case Manager; | 12 - Mr Irvin Ferdinand, Accountant; | 13 - Mrs Michelle John-Theobalds, Executive Assistant to the Chief Justice; | 14 - Ms Lenore St Croix, Office Manager; | 15 - Mr Guy Stava, Office Assistant/Driver; | 16 - Mr Francis Letang, Deputy Court Administrator; | 17 - Ms Stephine Alphonse, Case Manager; | 18 - Mr Stephen Rameau, Accounts Assistant; | 19 - Ms Linda Cyril, Office Assistant; | 20 - Mr Anderson Henry, Systems Administrator

Administrative and Support Staff

Eastern Caribbean Supreme Court Headquarters



Judges' Orderlies at the Court's Headquarters (Left - Right): Constable Haslyn Smith, Special Police Constable Martin Jn Louis, Senior Constable Nerius Lambert, Special Police Constable Julian Monerville, Senior Constable Hazel Augustin

Remembrance

Mrs. Monica Chandler



Monica Chandler, affectionately called Monicks, Ms. Chandler, Ms Monica, joined the Eastern Caribbean Supreme Court family in March 2006, and quite soon endeared herself to everyone. Monica was the effervescence of the office, always smiling, always bubbly.

Paul Simon sings “She’s a rich girl she don’t try to hide it ... she got diamonds on the soles of her shoes.” Yes she was rich ... rich in warmth, rich in joy, rich in positivity, rich in love – love for God, love for her family and love for her friends and colleagues ... and she did not try to hide it. She often spoke of ‘Franco’ and we would be amused at her blushing face on each occasion ... but alas she had no diamonds ... at least none on the soles of her shoes. Other persons from the musical fraternity did however seem to capture the essence of Monica’s being, because King Crimson sings “Cause you don’t have a care; you’re walking on air” and Katrina and the Waves sing... “Walking on sunshine”. Monica had no care, because she gave them to her Lord who commanded His children to cast all their cares on Him because He cares for them. Yes she walked on “air” and on “sunshine” because she walked with the SON.

Monica was the quintessence of humor. Her frequent visits to the Court’s lunch room to take two panadol for her bad headache are fondly remembered, because the panadol were none other than juicy ripe mangoes. She often said that she just wanted to know that heaven had mangoes. For Monica ... it did not matter the occasion, she always found the opportunity to interject a light moment. Quite recently she ensured that we all ended the week with a smile, through her “weekend laughter” circulated via the Office intranet. She surely knew the truth in the scripture verse in Proverbs 15:13 “A merry heart makes a cheerful countenance.”

Monica was resolute about what she believed in and always stood for what was right and just. She cared about people, and made everyone feel that they were the most important person to her. Staff members can recall the many ways in which she helped them, as they received genuine individual care and concern.

Our memories of Monica are many. We recall our last social outing to Grande Anse Beach for a turtle watch expedition. Monica was in the fore front. That night Monica was busy making bouillon and the next morning everyone awoke to the smell of her bakes and bois den tea. Some persons were looking forward to another turtle watch with the only request being -make sure Ms. Chandler is there.

Monica will be missed, and her death has left a void which no one can fill. We remember her and the great contributions she made to the ECSC. Monica’s life touched persons not just in Saint Lucia but throughout the OECS and this is evident from the outpouring of condolence messages.

Monica was an example not just at work but in her personal life, which was a continuous reflection of the God that she believed in. Monica was an angel whose mission on earth was done and we are left with memories of her that will live on in our hearts and lives for a long time.

Mrs. Chandler leaves to mourn: Husband - Franklin, Children - Stacey, Franya, and Joel; parents, siblings and many relatives and friends.

Remembrance

Justice Sylvia Bertrand



The Hon. Justice Sylvia Bertrand served the Eastern Caribbean Supreme Court with great distinction from 1985 to 1992 (the year she retired) presiding in St. Vincent and the Grenadines, Territory of the Virgin Islands and Antigua and Barbuda. Upon her retirement, she returned to Dominica, where she served on several statutory boards including Chairperson of the Social Security Board between 1994 and 1996.

Throughout her life she epitomised the finest qualities of a human being, as a jurist, daughter, sister, aunt, relative, friend and citizen. She will be terribly missed by her mother, Mrs Tyrill Bertrand (at 105 years old), brothers, sisters, nieces, nephews, relatives and judicial and legal colleagues.

“Life is the sum of your choices”, (Albert Camus, Nobel Prize-winning novelist). It is said that there are a thousand little choices in a day and all of them count. In fact, each of us makes tens of thousands of choices in our lifetime. How we handle these will play an unbelievably important role in how well we get through each day. They will determine our success or failure in life. So, as we celebrate the lives of Justice Sylvia Bertrand and Mrs. Monica Chandler, let us remember that we have far greater control over our destinies than we may have ever imagined. As we make conscious, active choices whenever the opportunity comes, we can be sure that those choices will create an important part of what happens next in our lives.

Let us also remember that “There is no life as complete as the life that is lived by choice, surrendered to the will of God.”

The judicial officers and administrative and support staff of the Eastern Caribbean Supreme Court offer sincere condolences to the families, friends and colleagues of Justice Sylvia Bertrand and Mrs. Monica Chandler.

May their souls rest in perpetual peace!

NOTE:





