



THE BERMUDA JUDICIARY

ANNUAL REPORT 2018

The
Supreme Court
of
Bermuda

Magistrates'
Court
of
Bermuda



GOVERNMENT OF BERMUDA



The Bermuda Judiciary
Annual Report
2018

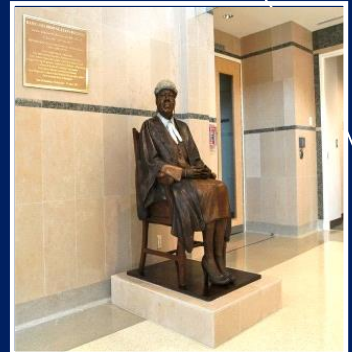


The Judiciary acknowledges with gratitude the contributions made to this report by the individuals and organizations who gave us the benefit of their views, expertise, and experience.

Bermuda Judiciary Annual Report: 2018

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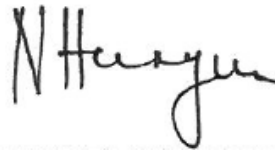
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Foreword

By The Hon. Chief
Justice of Bermuda
Narinder Hargun



Remarks made by Chief Justice Narinder Hargun at the Special Sitting of the Supreme Court to Celebrate the Opening of the 2019 Legal Year (8 February 2019 at 11:30 am, Sessions House, Hamilton, Bermuda)

Good morning everyone and welcome to the Special Sitting to commemorate the opening of the New Legal Year. Special welcome to His Excellency the Governor, the Deputy Governor, the US Consul General, the Honourable Attorney General, the Honourable Director of Public Prosecutions, Madam Ombudsman, Honourable Speaker, Members of Parliament, and other distinguished guests and members of our legal community.

Special thanks once again extended to the National Museum of Bermuda from bringing the Admiralty Oar or Mace which was made for the Bermuda Courts as long ago as 1697.

The efficient administration of justice depends upon the collaboration and assistance of a number of agencies which I would like to acknowledge. I extend my sincere thanks to the Bermuda Bar Council, the Bermuda Police Service, Court Services, Corrections, the DPP's office and Ministry of Legal Affairs.

I also want to acknowledge the important oversight role provided by his Excellency the Governor and the Judicial and Legal Services Committee ("the JLSC") in dealing with judicial appointments and judicial complaints. The assistance and guidance received from the Governor has always been supportive of the Judicial Department and is much appreciated.

The JLSC was, until his retirement in November, chaired by Sir Scott Baker, the former President of the Court of Appeal. It is now chaired by Sir Christopher Clarke, the new President of the Court of Appeal. Other ex officio members of the JLSC are the Chief Justice and President of the Bermuda Bar Association. Nominated members are Sir David Baragwanath, former judge of the New Zealand Court of Appeal, Mr David Jenkins, Chief Justice of Prince Edward Island,

Ms Arlene Brock and Ms Martha Dismont, ably assisted by its executive Secretary, Sara Smalley. I can speak from personal experience that the work of the JLSC require significant administration and time commitment on part of its members. I thank all the members for their entirely voluntary work in support for the Bermuda Judiciary and the Judicial Department.

Last year has been a year of transition for the Judicial Department. Chief Justice Kawaley retired from the Bermuda Judiciary after 15 years of dedicated service, the last six years as the Chief Justice. I have no doubt that historians will record Justice Kawaley as one of the great jurists of this country. He left an indelible mark in the area of public, constitutional and commercial law and in particular international commercial law. His presence on the Supreme Court greatly assisted this jurisdiction in becoming a top tier jurisdiction for international commercial litigation. We owe Justice Kawaley a great debt of gratitude.

Last year also saw the retirement of Sir Scott Baker as President of the Court of Appeal. Sir Scott was very much a hands-on President of the Court of Appeal. Even though the Court of Appeal only sits three times a year for a total of nine weeks, Sir Scott was fully engaged in relation to the appeals coming before the Court throughout the year. He was equally hands-on as the Chairman of the JLSC. We thank Sir Scott Baker for his dedicated service to the judicial system of this country.

We also saw the retirement of Justice Hellman from the Commercial Court. Justice Hellman was a very hard-working and dedicated judge who will be sorely missed. We wish him well in his new judicial position in England.

In the Magistrates Courts, Worshipful Archibald Warner retired after many years as the Senior Magistrate, Puisne Judge of the Supreme Court, followed again by service as a magistrate. He was instrumental in implementing the move from the old Magistrate Court Building to the DLBE. We express our gratitude to Worshipful Warner for his hard work during many years of service and wish him well in his future endeavours.

Finally, I should mention that Justice Carlisle Greaves has decided that he will be retiring from the Bermuda Supreme Court Bench in July of this year. There will be more suitable occasions to thank him for his service as a judge, but this time I would like to acknowledge Justice Greaves' long service of 21 years in the Bermuda courts. Justice Greaves is well known for his hard work and efficient management of criminal cases. In particular, Justice Greaves took on the challenge of a previous backlog of criminal cases and instituted procedures to offer a trial within three months of indictment. He cleared that backlog and in criminal cases it remains our goal that the trial should take place within three months of the indictment. Justice Greaves will be taking up a new appointment in Barbados and will wish him well.

With all these departures we welcome Sir Christopher Clarke as President of the Court of Appeal and Dame Elizabeth Gloster as a Justice of the Court of Appeal. As most of you will know both Sir Christopher and Dame Elizabeth had very successful commercial practices as leading counsel at the English Bar and distinguished judicial careers, both being elevated English Court of Appeal. Bermuda will, as a result, have an impressive Court of Appeal and in particular in civil and commercial matters.

We welcome Justice Subair-Williams as the new Puisne Judge in the Civil and Commercial Court. We also welcome Alexandra Wheatley, as our new Registrar for the Supreme Court and the Court of Appeal.

In the Magistrates Courts we are pleased to welcome Craig Attridge as a new magistrate.

For sake of completeness I should also mention that I joined the new arrivals last July of last year as the Chief Justice.

Our mission in the Judicial Department is the efficient administration of justice in accordance with the fundamental principles of the Bermuda constitution. Consistent with the development in most common law jurisdictions the judicial function in Bermuda has become more and more specialized. We now have two Supreme Court judges dedicated to dealing with criminal cases; one judge dedicated to dealing with family and divorce cases along with the Registrar; and the remaining two judges dealing with civil and commercial cases.

On the criminal side our goal is to offer a trial to all defendants within three months of the indictment. This ambitious target is only possible as long as we have two dedicated judges and the availability at all times of two courts where criminal trials with a jury can take place, an issue I will come back to momentarily.

On the family side our aim is to administer family disputes, including divorces and ancillary applications, as efficiently as possible with minimum costs to the parties in difficult circumstances. This goal regrettably is not always achieved. As you will know our court system is essentially adversarial: it allows the parties the complete freedom to decide how they wish to conduct their case and the judge is expected to be a disinterested umpire. An adversarial system may work well where the parties can be expected to take a measured and businessman like approach to litigation. However, it is highly questionable whether the adversarial approach is appropriate in a child custody dispute or the financial disputes which inevitably arise on the breakdown of a marriage. In this regard, I was pleased to note that in the November 2018 Throne Speech the Government is proposing to implement a Unified Family Court and Mediation Centre to better assist families in crisis. This was one of the proposals of the Law Reform Subcommittee

chaired by Justice Norma Wade which reported in 2009. Under this proposal families involved in the judicial system will benefit from streamlined case management which will minimise protracted disputes in family matters. The new court and mediation centre will take a restorative justice approach to assist children and families before the courts, using mediation as the preferred tool for the alternative dispute resolution. It is to be hoped that this initiative will become operational within the near future.

Turning to the Civil and Commercial cases, they are broadly divided into three categories. First, civil disputes; second, public and constitutional matters, for example disputes between the citizen and the government; and third, commercial disputes largely arising out of our international business. We recognise the role the Commercial Court plays in retention and development of international business in this jurisdiction. Papers published by the World Bank and the OECD, not surprisingly, show that in order to attract inward investment it is essential that the jurisdiction has the ability to enforce contracts and resolve disputes efficiently. We know from our experience that in the context of competing international financial centres, this is a significant factor in the attractiveness of the jurisdiction. There are of course many other reasons which affect the attraction of a particular jurisdiction but, for our part, we will continue to aim to deliver judgments within six weeks following the conclusion of a hearing. We see no difficulty in achieving this goal.

I invite you to read the 2018 Annual Report where you will find the main highlights of the last legal year. You will also find statistics and short commentaries on the various courts and their respective jurisdictions.

Last year Chief Justice Kawaley spoke about the shortages in staffing levels. I am pleased to say that over the last six months the Judicial Department has been able to fill most of the outstanding positions and we are close to full complement. You will have noted that all courts and the registries are open during normal hours and five days a week. We would like to thank the Minister of Legal Affairs, Ms Kathy Lightbourne-Simmons, Permanent Secretary, Ms Marva O'Brien, and the Department of Human Resources.

Last year Chief Justice Kawaley also advised that the accommodation issues appear to have been resolved with the opening of the court and registry at 113 Front Street. This meant that the Supreme Court will have available to it two courts for criminal trials (this Court at Sessions House and another in the DLBE) and the Front Street court would be available all the time for use as the Court of Appeal. However, we were advised last year that the newly renovated facility at 113 Front Street could not be used due to health reasons. This has resulted in considerable disruption to our work and has necessitated relocation of the staff to other buildings. With the

closure of the court at Front Street, we do not have a separate court for the visiting Court of Appeal. At present one of the two criminal courts is taken over by the Court of Appeal for a period of nine weeks per annum. In the event one of the remaining two criminal courts is no longer available to the Judicial Department, for example if this court in Sessions House is no longer available to us without a replacement, this will regrettably guarantee a backlog of criminal trials. We are hoping that such a scenario can be avoided.

I want to take this opportunity to thank everyone who works in the Judicial Department, Judges, Magistrates, Registrar, Managers and all staff for their dedicated service during the last year under at times trying circumstances.

I also want to thank the panel of Assistant Justices who voluntarily sit as Assistant Justices of the Commercial Court for nominal consideration. Their service is particularly useful in circumstances where the assigned judges of the Commercial Court are unable to act in a particular case for one reason or another. The Assistant Justices I wish to thank are Mr John Riihiluoma, Mr David Kessaram, Mr Jai Pachai, Mr Mark Diel, Mr Delroy Duncan, Mr Jeffrey Elkinson, Mr Rod Attride-Stirling and Ms Kiernan Bell.

Earlier I said that last year was a year of transition for the Judicial Department. Last year was also a year of transition for me. I left 30 years of private practice with one of the large firms on the Island to join the Government Service and take up the role of Chief Justice. I was naturally apprehensive as to how the transition might unfold. I am pleased to say that the transition has been very smooth indeed and that is entirely due to the warm welcome I have received from my fellow Judges, the Registrar and the staff. I am grateful to them. I am also grateful to the members of the Bar who have also been very encouraging and supportive.

And finally I would like to thank everyone who has attended this morning and conclude by formally declaring the 2019 Legal Year to be formally open.

Thank you.

And finally I would like to thank everyone who has attended and conclude by formally declaring the 2019 Legal Year to be formally open!

Report from the Registrar and Taxing Master



*The bad news, a lot can change in a year; the good news,
a lot can change in a year.*

OVERVIEW:

The whirlwind of change has continued to blow from 2017 into 2018 at an epic speed. It is without a doubt the Judicial Department has not experienced this level of transformation during the past two years in its entire history. Likewise these winds will carry through into 2019 and 2020.

In June 2018 we bid farewell to Justice Stephen Hellman who sat in the Civil and Commercial Courts. I congratulate his successor, the former Registrar, Shade Subair Williams, who was appointed as a Puisne Judge for the Civil and Commercial Courts after her ending her two year tenure as Registrar. She was appointed as a Puisne Judge on 6 July 2018. Justice Subair Williams is acknowledged for her immense accomplishments in modernizing the Courts during her tenure as Registrar. I am most grateful for her unwavering support and guidance over the last year.

A Special Sitting was held on 13 July 2018 to honour the retirement the former Honourable Chief Justice, Ian Kawaley. It was a memorable send off for Chief Justice Kawaley whose final words were most befitting to encourage all members of the Bermuda Bar to “*remain [U]nited*”.

Just days after, the new Honourable Chief Justice, Narinder Hargun, was appointed in his post on 16 July 2018. I congratulate Chief Justice Hargun in his appointment and have thoroughly enjoyed collaborating with him. His calm and astute demeanor is undeniably an asset to Bermuda in his role as Chief Justice.

On 20 October 2018, Magistrate Archibald Warner ended his tenure with the Department after almost 19 years of service as an Acting Justice, Senior Magistrate and Magistrate. His extensive knowledge in the criminal field as well as his candid sense of humor both in and out of the Courts will be greatly missed. I wish Mr Warner all the best in his new endeavors.

After acting as Registrar for close to one year, I was successful in obtaining the substantive post as Registrar and officially appointed on 1 November 2018. During this period and to date there has been no Assistant Registrar, but the recruitment process is in its final stages with the hope of a selection made within the next few months. It has been difficult, but the former Assistant Registrar, Peter Miller, has my utmost gratitude in the assistance he has provided as a temporary relief. Mr Miller is truly a dedicated public servant despite his official retirement and deserves considerable recognition for assistance during this transitional period.

Following Magistrate Warner's retirement, C. Craig Attridge was successful in being appointed as a new Magistrate on 2 January 2019. Mr Attridge's lengthy and extensive range in all legal areas making him a tremendous asset to the Judiciary and I warmly welcome him.

Regrettably, as the winds of change continue to whirl into 2019, we will have to say farewell to yet another esteemed member of the Judiciary. Justice Carlisle Greaves who initially served as a Magistrate from 16 August 1998 to 16 August 2004. Thereafter, he was appointed as an Assistant Justice from 16 August 2004 and was subsequently appointed as a Pusine Judge on 4 January 2005, will end his tenure as of 31 July 2019. Justice Greaves' tenacity, swiftness and sense of humour will be a considerable loss to the Judiciary. I wish him the best on his next journey, wherever that will take him. A new full-time Pusine Judge will have big shoes to fill, but I have little doubt the successful candidate will bring his or her own unique and valuable contributions to the Judiciary.

2018 ACHIEVEMENTS:

Increase in staffing and reinstatement of Court working hours

- (i) For several years through the beginning of 2018, the Judiciary had great difficulty in obtaining adequate staffing to effectively and efficiently provide services to Bermuda. This led to the shortening of all of the Courts opening hours in order for the administrative staff to attend to the backlog of filings. Having said this, since 31 May 2018, the staffing position has significantly improved which enabled us to reopen all the Courts (both Supreme Courts and the Magistrates' Courts) to its usual business hours.

- (ii) I extend my gratitude to the Premier, The Hon. David Burt, The Head of Public Service, Dr Derek Binns, the Attorney General and Minister of Legal Affairs, The Hon., Kathy Lightbourne-Simmons, the Permanent Secretary for the Ministry of Legal Affairs, Marva O'Brien, as well as the Department of Human Resources for prioritizing the needs of the Judiciary to increase our staffing numbers.

Court Files

- (i) We were required to contract a professional company to sort the files which had been cleaned due to the mould contamination at 113 Front Street due to staff shortages. Our administrative staff had oversight of this project and we were successfully able to archive over 500 boxes of files and move almost 200 boxes of files containing divorce files to DLBE. This project was burdensome and I am grateful to all members of staff who participated in this, particularly: Andrea Daniels; Dee Nelson-Stovell; Sharika Iris-Richardson, Erica Simmons; Deneise Lightbourn and Audley Quallo.

Court Resources

- (i) Despite the The Court of Appeal only just being relocated from its previous location in Court #2 at Sessions House to 113 Front Street in March 2018, the Judiciary was required to vacate 113 Front Street in May 2018. Not alternative accommodations were provided to us for The Court of Appeal which was due to sit in just a matter of weeks at that time, so we scrambled to recreate Court #1 to accommodate The Court of Appeal Session being held in June 2018.

Most regrettably, this resulted in the shutting down Court #1 as the second Supreme Court Criminal Court whilst The Court of Appeal was in session. This created a further backlog of criminal matters hence curtailing the public's access to justice. Moreover, the rearrangement to accommodate the Court of Appeal Judges was less than satisfactory and as such we forced to invest monies in remedying this position. I am most grateful to The Department of Estates and Planning in revamping an alternative space in Sessions House which is far more suitable for the Justices of the Court of Appeal. However, neither a short-term nor long-term viable solution has yet to be proposed to remedy this situation which is most reprehensible. This position resulted in the same circumstances for the November 2018 Court of Appeal Session and remains the case to date.

- (ii) Given the previous move of The Court of Appeal from Court #2 in Sessions House to 113 Front Street. Court #1 became the designated location for the Criminal Registry. A new jury suite was designed and completed for the improved comfort and deliberations of selected juries. The former library was also remodelled and updated. To my utmost

dismay, I was advised at the end of 2018, that renovations to Sessions House were forthcoming in 2019 between May and December 2019. During this time the dual purpose Supreme Criminal Court and Court of Appeal would have to vacate this space.

We have further been informed that Parliament does not wish the Judiciary to return to Sessions House in any capacity, despite it being used as a Court for time immemorial and being purpose built for the Courts. Whilst alternatives were proposed, this has yet to come to fruition. A suitable, alternative replacement for these Courts on a short-term or long-term basis also necessitates providing acceptable accommodation of all administrative support staff, one criminal judge, two Justices of the Court of Appeal as well as the President of the Court of Appeal. Should we have to vacate Sessions House, the Judiciary would have lost two of its Supreme Courts in the span of just one year and difficult decisions will have to be made as a consequence.

- (iii) All Court buildings are now wired with WiFi access which may be used by litigants and attorneys appearing in Court for listed matters.

Registrar's Judicial Powers

I continue to use the full remit of the statutory powers as Registrar under the Rules of the Supreme Court 1980 ("RSC") when I am able to do so given the absence of an Assistant Registrar. I have also expanded the use of the extensive powers given to the Registrar under Sections 77 and 78 Matrimonial Causes Rules 1974.

OBJECTIVES FOR 2019:

1. The Judiciary is continuing to strive towards taking steps for the modernization of the Courts. More importantly, I am dedicated to solidifying the foundation of the Judiciary that has been unsteady for some time. All divisions of the Judiciary are coming together to be a unified establishment not only to allow us to provide the most efficient service as possible to Counsel and members of the public, but also to ensure staff feel motivated and appreciated in each of their respective roles.
2. The appointment of an Assistant Registrar is imminent with interviews to be held in short order. The filling of this post is most welcome as it has not been filled substantively since the former Assistant Registrar, Peter Miller, retired in 2016.
3. There are still a few substantive post which are required to be filled and which are in differing stages of the recruitment process. These processes will take their regular course with the hope of reaching a full complement of staff by the end of 2019, if not before.

4. The relocation of the Court of Appeal, Supreme Court #1, the Civil/Commercial Courts to the Dame Lois Browne-Evans Buildings so that the entire Judiciary is located in one space rather than being fragmented between 3 or 4 different locations.
5. Depending on Cabinet's approval of the submitted Capital Expenditure, the Courts' audio recording system and audio visual links will be installed in some of the Courts which in order bring in effect the Evidence (Audio Visual Link) Act 2018. This will provide the much needed protection of vulnerable witnesses, reduce the cost of Prisons having to transport prisoners from Westgate on a weekly basis as well as give the ability of experts being able to give evidence from overseas (further reducing costs to the public purse, particularly in criminal trials where the vast majority of defendants are funded by Legal Aid).
6. Creating a Litigant in Person Guidebook specifically for Matrimonial and Family matters as well as providing litigants in person more useful templates for filing applications and affidavits with the Court.
7. Doing my utmost to advocate that all judicially appointed posts are given the same respect and regard as well as comparable remuneration packages.

Acknowledgment of Thanks

Since being appointed Registrar substantively, I truly appreciate the importance of creating and building relationships not only will all members of the Judiciary, but with other members of supporting Government Departments.

I have absolute certainty the staff of the Judiciary know I am truly indebted them as they have worked tirelessly through our most difficult times. The support I have received from not only senior management, but all members of the administration has been unwavering and there are truly no words to express my gratitude for this. Whilst my words of thanks may be brief, my promise of to lead by action remains.

“Words without action is like a heart with no beat....”

Abdul Kapasi

**REGISTRAR
ALEXANDRA WHEATLEY**

Senior Magistrate Commentary

By the Worship Senior Magistrate Juan Wolffe, JP



LAW WAS, IS NOW, AND WILL ALWAYS BE, AN HONOURABLE PROFESSION. That is my firm answer to a question posed in an early 2018 Edition of The Harvard Law Record. The question was: *“Is law still an honourable profession?”* However, at times, I do wonder. I wonder whether we have forgotten why many of us years ago, some of us many, many, years ago, chose to study law in the first place. I therefore ask you rhetorically: *“Why did you decide to enter into this profession?”* I am confident that most, if not all of you, will answer:

“TO DO JUSTICE”

But in the midst of navigating through the pressure of your practices, meeting billable hour targets, dealing with unreasonable clients and directors maybe at times we momentarily forget why we do what we do. Maybe we sometimes forget:

- That we are the guardians of justice
- That we are the defenders of our Constitution
- That we are the voice for the voiceless, and
- That we are the power for the powerless

While we sit here in our wigs and gowns there are people in our community who are suffering socially and financially. Some because of circumstances beyond their control, and some because of their own doing. It is our duty, it is our obligation, to continue to assist those who are not amongst us today. US Supreme Court Justice Sonia Sotomayor said:

“We educated, privileged lawyers have a professional and moral duty to represent the underrepresented in our society, to ensure that justice exists for all, both legal and economic justice.”

Every day in the Magistrates' Court Magistrates carry out their judicial duties without fear or favour, ill-will or bias, but also with a clear eyed understanding that sometimes people need a helping hand and that everyone that comes before the Courts is redeemable. The social ills of Bermuda are played out every day in the Magistrates' Court. It is with immense pride that I can say that The Worshipful Tyrone Chin, The Worshipful Khamisi Tokunbo, The Worshipful Maxanne Anderson, and even the newly minted The Worshipful Craig Attridge conduct themselves with aplomb and to a significant degree ameliorate those issues. Beyond the sensationalized pages and soundbites of the electronic and print media, on a daily basis Magistrates, respond to our social problems:

- By encouraging parties in civil actions to resolve their disputes without the need for a contentious and potentially expensive trial.
- By assisting those overwhelmed by crippling debt to satisfy their financial responsibilities in a manageable and dignified way over a reasonable period of time. It is simply not the case that the Westgate Correctional Facility is filled with persons who owe a civil debt.
- By encouraging delinquent parents to conduct themselves in a manner which is in the best interests of their children, both emotionally and financially.
- By providing guidance and intervention to the wayward teen who may have run fowl of the law.
- Through Drug Treatment Court, giving the drug or alcohol addict a real chance at stopping their debilitating cycle of drug or alcohol use, offending behavior and incarceration.
- By implementing diversionary measures to steer offenders away from Westgate and by finding alternatives to incarceration. It is simply not the case that Magistrates are disproportionately incarcerating young men. The reduced numbers of inmates at Westgate and the increased numbers of community based sentences being meted are proof positive that Magistrates are giving all offenders a real opportunity to right their wrongs and become productive members of society.
- Through Mental Health Court, removing the stigma associated with those struggling with mental health issues, and rather than criminalizing mental health, Magistrates give offenders the opportunity to address their challenges in humanistic ways.

- Through implementing a pilot Driving Under the Influence (DUI) Court offenders will be able to retain their license if they participate in a robust, structured programme that addresses their drinking and driving impulses. By doing so, they are able to continue to be employed and to take care of their families, or to continue to transport their loved ones to school or to the hospital.
- Along with the Director of Court Services Mrs. Gina Hurst Maybury I have embarked upon discussions for the implementation of a Probation Review and Re-Entry Court so that offenders who are in the community can take advantage of the rehabilitative services being offered, and, so that those who are released from Westgate are given a safety net from which they can transition smoothly back into society and thereby reduce their likelihood of reoffending.

It is said that we are entitled to our own opinions, but we are not entitled to our own facts. I invite every member of this community to step inside the Magistrates' Court on any given day and witness the phenomenal work that the Magistrates and the administrative staff are doing. Do not solely rely on the column inches in newspapers, anonymous posts on social media, hearsay or innuendo. See for yourselves.

But the work of the Magistrates' Court is not finished and we will continue to improve the delivery of justice. Our goal is ensure that the words "Justice Delayed, Justice Denied" need not be uttered in our Courts. Therefore, commencing on or about the 1st March 2019 I will be circulating and implementing Case Management Guidelines so that persons coming before the Magistrates can be rest assured that their matters will be resolved in a time and manner which is in keeping with the proper administration of justice.

But we cannot do this alone. We are all in this together. We need those of you who appear in the Magistrates' Court to continue to support us, and I respectfully urge the Honourable Members above to swiftly enact legislation and provide adequate funding to the justice system. Such as:

- "Special measures" legislation that would mandatorily allow vulnerable witnesses such as child victims of sexual abuse to give evidence in way which is not hampered by intimidation and which does not compound the trauma which they have already suffered.
- Specialized counselling programmes for victims of sexual assault and other victims of crime after the conclusion of the criminal trial so that they may be equipped to adequately deal with any trauma they may have suffered. Such counselling could be extended to the children and family members of those who may have been murdered.

- A web-based online payment system that would allow persons who have committed certain low level traffic offences (such as parking or speeding), or those who wish to pay child support into the Collection Office, or those who wish to satisfy Judgment Debts, to do so without the need to leave from work or from home (such as those who may have physical challenges).

- Functioning and cutting-edge video-link facilities that would allow children and apprehensive witnesses to give evidence away from the Courtroom setting and from the glaring eyes of those who may have victimized them.

- Increased funding for Legal Aid so as to ensure unobstructed access to justice and to ensure that those who are financially unable can still receive proper legal representation.

- Extend the Legal Aid programme to Civil and Family Matters so that those who are crippled with debt and those who are embroiled in contentious child support and child custody matters can know their rights. Indeed, like the Duty Counsel in Plea Court, there should be a Duty Counsel in the Civil and Family Courts.

- Implementation of a digital case management system which would streamline the administrative process of fixing dates for hearings and trials, and which would allow for pleadings and documentary evidence to be easily available to parties in matters.

- Amendment of the archaic 1968 Mental Health Act so that those who have a mental health disorder can receive immediate and comprehensive psychiatric intervention rather than they or their loved ones having to wait until their episodic issues escalate and the person finds themselves within the walls of the Courtroom.

I now wish to take the opportunity to thank those members of the Bar who are in the trenches every day to ensure that the rights of those charged with criminal offences, and those who are victimized, are upheld. It is often said that for our business sector to be respected and recognized internationally that we must have a very competent Commercial Court. This is true. But for the 90% of other persons who interface with the Magistrates' Courts it is imperative that they have confidence that there is a place where one is truly "innocent until proven guilty", that "we are all the same in the eyes of the law", and that victims of crime can receive some modicum of comfort that their legitimate complaint would be heard. The Magistrates' Court is such a place and there are persons in the Criminal Courts who are an integral part of this. I speak of the Prosecutor who is often unjustifiably ridiculed for bringing a criminal case; I speak of the Defence Counsel whose efforts are often unfairly reduced to "just getting his client off"; I speak of the Probation Officer and Case Manager whose overwhelming task is to steer offenders in the right direction; I

speaking of the Witness Care Officer who gently guides victims through the harrowing process of giving evidence in Court; and, I speak of the Police Officer who without thanks investigates all types of crimes. I also however speak of the one-time offender who has seen the error of his ways and through rehabilitation mandated by the Magistrates' Court leads a life which they, their loved ones, and the rest of society can be proud of and aspire towards.

Finally, I wish to end my address exactly as I do every year, primarily because despite my desperate pleas nothing has changed. The Magistrates' Court staff is still underpaid, still under-resourced, still understaffed and still underappreciated. Without equal they are the back-bone and glue of the Magistrates' Court, and without them the Justice System, and the Magistrates, would not operate as effectively as it does. My gratitude for them is endless.

Thank You.

The Worshipful Juan P. Wolffe
Senior Magistrate

Overview of the Judiciary

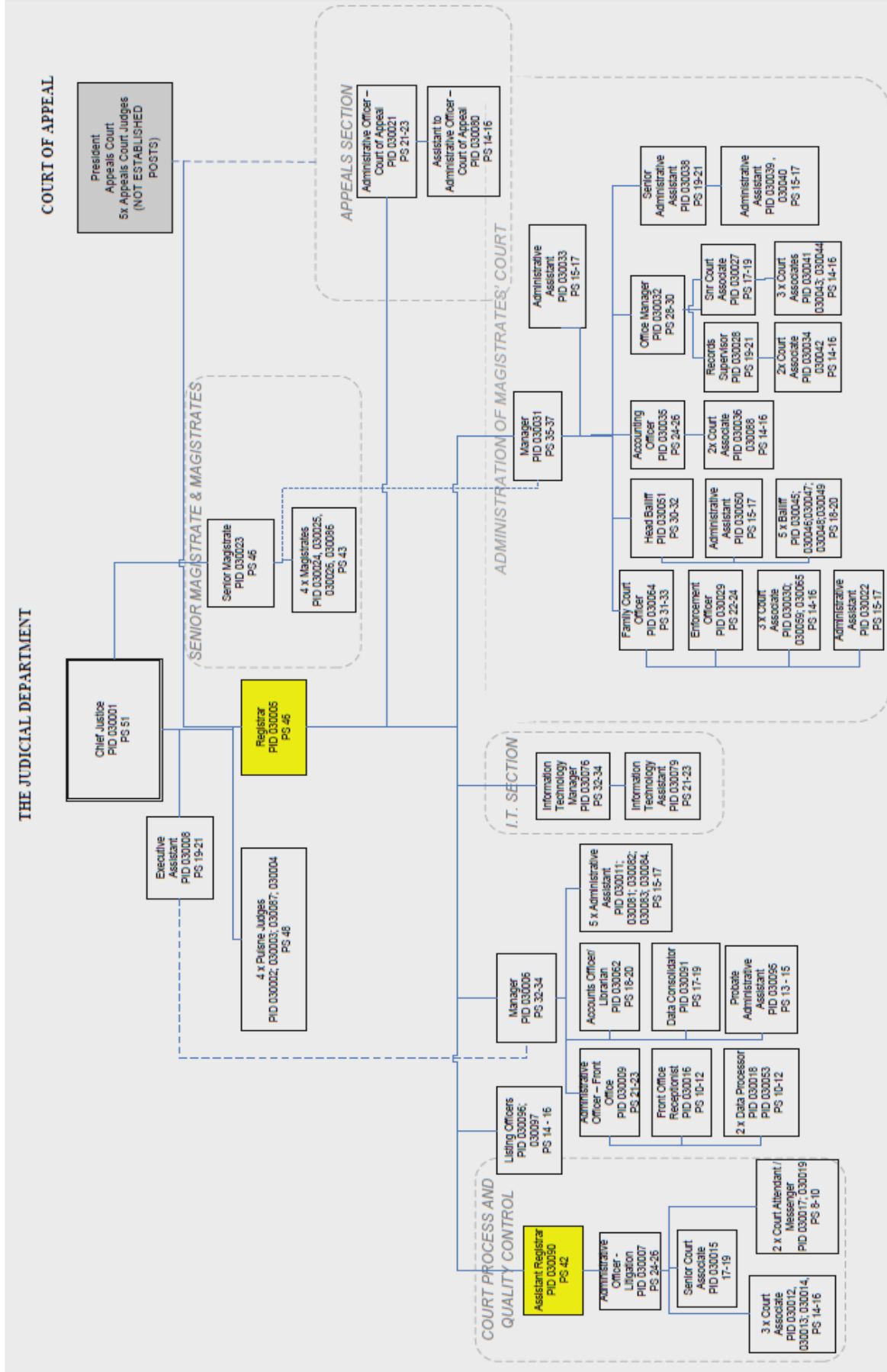


- ❖ **The Judiciary** is established by the Constitution as a separate and independent branch of government. Its task is to adjudicate charges of criminal conduct, resolve disputes, uphold the rights and freedoms of the individual and preserve the rule of law.
- ❖ **The Mandate of the Judiciary** is to carry out its task fairly, justly and expeditiously, and to abide by the requirement of the judicial oath “to do right by all manner of people, without fear or favour, affection or ill-will”.
- ❖ **The Judicial System of Bermuda** consists of the Magistrates’ Court, the Supreme Court, the Court of Appeal and the Judicial Committee of the Privy Council is the final appellate court in London.
- ❖ **The Supreme Court Registry** is responsible for the administration of the Court of Appeal and the Supreme Court. It is established by the Supreme Court Act 1905 and the Rules of Supreme Court 1985.
- ❖ **The Mandate of the Administration Section of the Judiciary** is to provide the services and support necessary to enable to Judiciary to achieve its mandate and to embody and

reflect the spirit of the judicial oath when interacting with members of the public who come into contact with the Courts.



Judicial Department Organisational Chart January 2019



Overview

Composition and Sitting Dates

- ❖ The Registrar is the administrative head of the Judiciary, and its accounting officer.
- ❖ The Court of Appeal is an intermediate Court of Appeal and its principle function is to adjudicate appeals from the Supreme Court of Bermuda in civil and criminal cases. It is established by the Constitution and the Court of Appeal Act 1964, and its procedure is governed by the Rules of the Court of Appeal for Bermuda. Appeals from the Court of Appeal lie to the Judicial Committee of the Privy Council.
- ❖ The Court of Appeal consists of the President of the Court, and a panel of four Justices of Appeal, who are all distinguished jurists from commonwealth jurisdictions.
- ❖ The composition and constitution of the Supreme Court is defined by the Bermuda Constitution and its jurisdiction governed by the Supreme Court Act 1905, and various other laws.
- ❖ The Supreme Court is divided into criminal, civil, commercial, divorce and family and probate jurisdictions.
- ❖ The Court is comprised of five Supreme Court Justices, who hear the following cases:
 - **Civil (general) matters**, where the amount in dispute exceeds \$25,000;
 - **Commercial matters**, such as matter related to disputes concerning the activities of local and international companies and applications related to the restructuring and winding up of companies;
 - **Trust and Probate matters**, concerning the administration of trust or estate assets;
 - **Mental Health applications** appointing receivers to administer the assets of persons suffering from mental disability;
 - **Criminal matters** involving serious matters or indictable offences including trials and various pre-trial applications;
 - **Appeals** from Magistrates' Court and other statutory tribunals;
 - **Judicial Review applications** related to administrative decisions of Ministers and other public bodies;

- **Divorce Petitions and ancillary applications** under the Matrimonial Causes Act as well as applications under the Minors Act and Children's Act; and
 - **Call to the Bar** applications.
- ❖ The Supreme Court is also responsible for:
- Granting **Probate and Letters of Administration** for deceased estates;
 - **Bankruptcy** applications;
 - **Criminal Injuries Compensation Board** applications;
 - **Proceeds of Crime Act** applications;
 - Granting **Notarial Certificates** and **Registered Associates** certificates;
 - Issuance of **Subpoenas** and **Writs of Possession**; and
 - Processing **Foreign Service** documents.
- ❖ As of January 2019, there are three locations for the Registries of the Supreme Court and the Court of Appeal: **Dame Lois Browne Evans Building, 3rd Floor, Government Administration Building, 2nd Floor and Sessions House.**



- ❖ In total, the Registry employs 5 Justices, one Registrar, one Assistant Registrar, 26 substantive and relief staff members with an additional 4 posts currently vacant.
- ❖ The Registry staff are responsible for:
 - ❖ Processing all court documents;
 - ❖ Receiving and processing applications for the grant of Probate or the Administration of intestate estates;
 - ❖ Providing support to the Justices of Appeal, Supreme Court Judges and the Registrar;
 - ❖ Maintaining the resources required for the effective functioning of the Courts;
 - ❖ Listing cases for hearing;
 - ❖ Recording all events which take place during the course of a case;
 - ❖ Maintaining the secure custody and safety of all court records;
 - ❖ Making relevant information available for court users; and
 - ❖ Collecting and accounting for all fees and fines received by the Courts.



Court of Appeal

Retirement of the President of the Court of Appeal

On 21 November 2018, a reception was held at Government House in the presence of His Excellency The Governor, Mr John Rankin CMG, to mark the retirement of Sir Scott Baker as the President of the Court of Appeal for Bermuda. Sir Baker's service to Bermuda began in February 2011 where he was appointed as a Justice of Appeal. Thereafter, he was elevated as the Court's President from 1 January 2015, succeeding Mr Justice Edward Zacca. He has adjudicated a host of matters spanning across the legal gamut; from complex commercial matters, serious and organised crime to constitutional matters and most notably the recent same sex marriage judgment in *Attorney-General v Roderick Ferguson et al [2018] CA (Bda) 32 Civ.*

Sir Baker is not only recognised for his stellar and unblemished record of service to the jurisprudence of Bermuda, but also to his leadership in fostering case management procedure with respect to matters on appeal from the Supreme Court. Undoubtedly, the recent case management processes have been found to assist with diminishing time wasted during court sessions as it allows for the Registrar of the Court to deal with ancillary issues prior to a case progressing to the full court for the substantive hearing.

Sir Baker is to be equally thanked for his unwavering contributions to Bermuda and ensuring that Bermuda's legal reputation has been maintained to the highest order. In line with these remarks of gratefulness, it must also be recognised the strong familial support that Lady Joy Baker has shown during Sir Baker's period of service to Bermuda. Not only has Lady Baker supported her husband from the "backburner", but she has also contributed to Bermuda by visiting schools around the island and participating in various educational programmes. The Judiciary wishes both Sir Baker and Lady Baker a restful as well as an enjoyable retirement.

New Appointment of The President of the Court of Appeal

Sir Scott Baker is succeeded by current serving Justice of Appeal, The Rt. Hon. Sir Christopher Clarke. Sir Clarke is congratulated on his appointment and we look forward to working together to maintain the Court of Appeal's stellar reputation in this jurisdiction.



The Rt. Hon. Sir Christopher Clarke

Sir Christopher Clarke read Classics and Law at Gonville & Caius College, Cambridge. He was called to the Bar in the Middle Temple in London in 1969 of which Inn he was a Harmsworth Memorial Exhibitioner and Scholar and the JJ Powell and Lloyd Stott Prizeman. In 1991 he became a Bencher and in 2016 was Treasurer of the Inn.

In 1975 he became an Attorney of the Supreme Court of the Turks & Caicos Islands. He was appointed as a Queen's Counsel in 1984. From 1988-2004 he was a Recorder (a part time criminal judge) and a Deputy High Court Judge from 1993-2004. From 1988 to 1991 he was a Councillor of the International Bar Association and from 1993-1994 he served as Chairman of the English Commercial Bar Association. He was Head of Brick Court Chambers from 1990 to 2004. He is an Honorary Fellow of Gonville & Caius College, Cambridge,

Sir Clarke was a Judge of the Courts of Appeal of Jersey and Guernsey from 1998 to 2004. For the same period, he was Counsel to the Bloody Sunday Inquiry. He is a member of the Court for Ecclesiastical Causes Reserved. He has appeared as counsel and sat as an arbitrator in many Marine and Commercial arbitrations; and has returned to Brick Court Chambers to practice as a full-time arbitrator.

From 2005 to 2013, he was a High Court Judge, sitting in the Commercial Court. He was appointed as a Lord Justice of Appeal in 2013 where he sat until March 2017. Sir Clarke was formally appointed to the Bermuda Court of Appeal as a Justice of Appeal on 6 March 2017.

Justices of the Court of Appeal



The Rt. Hon. Sir Maurice Kay, KBE

Sir Maurice Kay is a retired English Court of Appeal Judge, and has been a member of the Bermuda Court of Appeal since October 2014. In 1988, he became a Queen's Counsel and was appointed a Recorder. He was appointed to the High Court in 1995, receiving the customary knighthood. Assigned to the Queen's Bench Division, he served on the Employment Appeal Tribunal from June 1995. He was Presiding Judge of the Chester Circuit from 1996 to 1999, and was appointed Judge in Charge of the Administrative Court in 2002. In 2004, he became a Lord Justice of Appeal, and was appointed to the Privy Council the same year. He served as President of the Judicial Studies Board from July 2007 to July 2010, and was Vice-President of the Court of Appeal (Civil Division) for five years.



The Hon. Justice Geoffrey Bell, QC

Justice of Appeal Bell was appointed as a judge of the Supreme Court of Bermuda in 2005 and was designated a Commercial judge upon appointment. He began his career in Bermuda and was a partner and Head of Litigation at Appleby, Spurling & Kempe. He served as President of the Bermuda Bar Association between 1981 and 1984, and became Queen's Counsel in 1992.

After retiring in 2009, he continued to act as an Assistant Justice of the Bermuda Supreme Court and as an Acting Justice of the Court of Appeal for Bermuda. He also served as a Justice of Appeal of the Eastern Caribbean Supreme Court in the British Virgin Islands. In January 2015, he was formally appointed as a Justice of Appeal of the Bermuda Court of Appeal where he continues to serve.

New Appointments of Justices of the Court of Appeal

The Hon. Justice Anthony Smellie, QC was appointed at Justice of the Court of Appeal in June 2018. We commend Justice Smellie on his appointment and continue to look forward to him leaving his stamp on this jurisdiction.



The Hon. Justice Anthony Smellie, QC

Justice of Appeal Smellie is the current serving Chief Justice of the Cayman Islands. He was initially called to the Bar in Jamaica as an Attorney-at-Law before serving as Clerk of the Courts (Westmoreland, Jamaica) from 1976 to 1977; He served in various positions in the Government such as Assistant Director of Public Prosecution (Jamaica) from 1977 to 1983. He taught as an Associate Lecturer at the Norman Manley Law School in Jamaica from 1980 to 1983 before moving to the Cayman Islands.

Justice Smellie was appointed one of Her Majesty's Counsel in August 1991 and served as a team member of the Financial Action Task Force (mutual evaluation of United States Legal and Financial Anti-money Laundering Regimes) in 1996. He has also served on the Mutual Legal Assistance Authority (Cayman – United States MLAT) since 1993. He served as Acting Attorney-General of the Cayman Islands from January to November 1992 following which he was appointed as a Judge of the Grand Court where he served from January 1993 to June 1998 when he was then appointed Chief Justice and continues to serve in that office.

We also congratulate The Rt. Hon. Dame Elizabeth Gloster, DBE, PC, being appointed as the new Justice of the Court of Appeal and have no doubt her contributions to this jurisdiction will be first-class.



The Rt. Hon. Dame Elizabeth Gloster, DBE, PC

Dame Elizabeth Gloster joins the Bermuda Court of Appeal as its newest member. Dame Elizabeth Gloster practised as a commercial and Chancery QC at One Essex Court from 1991 until 2004, before accepting an appointment as a High Court judge. Dame Gloster was the first woman to be appointed a judge of the Commercial Court. She was appointed to the Court of Appeal in 2013 and became its Vice-President of the Civil Division of that Court in 2016. As a Lady Justice, she sat on numerous important commercial and Chancery cases, ranging from capital markets, arbitration, shipping, insurance, tax, and insolvency to LIBOR fixing.

Since retiring from the English Court of Appeal in 2018, Dame Gloster has returned to One Essex Court to practise as a full-time commercial arbitrator. She is also a Judge of the Abu Dhabi Global Market Courts. She was Treasurer of the Inner Temple for 2018 and an Honorary Fellow of Girton College, Cambridge and Harris Manchester, Oxford. She is Patron of the London Branch of the CI Arb.



Year in Review

The Court of Appeal, which is established by the Constitution and the Court of Appeal Act 1964, is an intermediate Court of Appeal and its principle function is to adjudicate appeals from the Supreme Court of Bermuda in both civil and criminal cases (sometimes these cases having commenced in the Magistrates Court). Whilst an appeal may lie to the Judicial Committee of the Privy Council (Bermuda's highest appellate court), in most cases, the final course of appeal ends at the Court of Appeal. As such, the assurance of access to justice to all is sits largely on the shoulders of the Court of Appeal.

The Court sits in three sessions a year; however, the administrative arm of the Court, which supports its judicial workings, is a day-to-day operation. The Court of Appeal typically sits for three weeks in each session. The number of appeals filed will determine the length of each session which may result in the possibility of the session being extended or reduce. While the dates for 2019 are subject to change, the projected dates for the ensuing year are:

- ❖ 4 March 2019 – 15 March 2019
- ❖ 3 June 2019 – 21 June 2019
- ❖ 4 November 2019 – 22 November 2019

Circular 12 of 2017 which was released as a Practice Direction by the former President of the Court broadened the powers of the Registrar in respect to criminal case management. The purpose of this Practice Direction being to ensure the appeal with is dealt with more efficiently and effectively so it can be listed in the next session. This allows the Court to maintain its overriding objecting in disposing of matters. Since the establishment of that practice direction, as of 2018, there have been 14 criminal case management hearings before the Registrar, where anywhere from five to seven cases were dealt with in a single hearing.

The Court of Appeal Registry has been temporarily relocated in the Dame Lois Browne-Evans Building (“DLBE”) since May 2018, due to the Department's requirement to vacate 113 Front Street. As a direct result of the loss of the use of 113 Front Street, the Court of Appeal is now required to sit in Supreme Court #1 which is located at Sessions House. Supreme Court #1 is the second criminal court of the Supreme Court and has been so since time immemorial. This has resulted in the suspension of the Supreme Court Criminal Court in order to accommodate the Court of Appeal sitting.

Since the move from the dedicated Court of Appeal building at 113 Front Street, the temporary accommodations for judges have been overall unsatisfactory. There are a total of three judges including the President of the Court in any session; two of the three judges are required to share a room, in contrast to each judge enjoying their own office and privacy when located on Front

Street. The Court of Appeal Registry staff are now required to operate out of a meeting room in DLBE.

During the 2018 legal year the Court presided over a total 33 cases of which 19 were criminal appeals and 14 were civil. The March session was conducted in the Court of Appeal building located at 113 Front Street. However, the June and November sessions were conducted in Sessions House No. 1 Court, following the shut-down of the Court of Appeal building in May 2018.

The total number of new filings in 2018 decreased approximately 20% over the previous year. This decrease is in respect to both civil and criminal filings during the legal year. There was a total 19 civil appeals filed, which is down by 7 from the previous legal year, and 16 criminal appeals were filed which is 2 less than that filed in 2017.

Table 1 : COURT OF APPEAL - TOTAL APPEALS FILED 2014 - 2018			
Year	Grand Total	Criminal	Civil
2014	42	21	21
2015	44	19	25
2016	31	10	21
2017	44	18	26
2018	35	19	16



CRIMINAL APPEALS

In 2018, there was a 46% increase in the number of cases that the Court disposed of. Whereas, in 2017 13 cases were heard and adjudicated, in 2018, 19 criminal matters were dealt with by the Court. With only 15 Notices of Appeal filed during the current legal year¹, outstanding matters from previous years were also dealt with in 2018.

year	Total Disposed	Number of appeals allowed	Number of appeals dismissed	Total appeals carried over from preceding legal year	Abandoned	Pending ²
2014	27	5.5	19.5	Not measured	2	16
2015	22	9	11	Not measured	2	10
2016	16	5	8	Not measured	3	5
2017	13	4	7	Not measured	2	-
2018	19	7	13 ³	11	2	6

Out of the 19 criminal matters that were heard in 2018, appeals lodged by the Director for Public Prosecutions represented 47% of those appeals. From the appeals carried over from the preceding 2017 legal year, 4 out of the 11 appeals were appeals lodged by the Crown. Out of the 19 appeals heard, the Crown were successful in 68% of the matters before the court, or 13 out of the 19 dispositions.

¹ This figure also includes application for leave to appeal.

² Appeals that were filed in 2018 but were not heard and will be carried over into the 2019 legal year.

³ In *The Queen v Leon Burchall* [2018] CA (Bda) 4 Crim, the Court reached a split decision, whereas the Appeal was dismissed in respect of counts 2 and 3, and allowed the appeal in respect of count 1. As a result the total number of cases disposed remains 19.

CIVIL APPEALS

The Court disposed of 16 substantive appeals in 2018. These consisted of various renewed leave applications from the Supreme Court as well as 2 leave applications to Her Majesty's Privy Council.⁴

Year	Total Disposed	Allowed	Dismissed	Withdrawn	Pending³
2014	14	6	4	4	15
2015	19	3	14	2	12
2016	15	5	6	4	12
2017	14	6	8	0	0
2018	16	7	9	2	2

2019 Goals

Given the current resource difficulties the Judiciary is having in finding suitable and appropriate court space, the focus this year is going to be on ensuring the Court of Appeal sessions are not hindered despite these circumstances.

Every effort will continue to be made to advocate for the resolution of the current untenable position of not having a dedicated Court of Appeal as well as the potential loss of another criminal court. Should this not be done in the very near future, the consequences will be devastating not only for the criminal courts and the Court of Appeal, but for the people of Bermuda whose access to justice will be crippled.

⁴ *Capital Partners Securities Co. Ltd. v Sturgeon Central Asia Balanced Fund Ltd.* [2018] CA (Bda) 5 Civ; *Raymond Davis v Attorney-General and Minister of Finance* [2018] CA (Bda) 26 Civ

Criminal Division

Justice Charles-Etta Simmons
Supervising Judge



PHYSICAL PLANT

The criminal division continues to operate out of 2 locations. Sessions House is the location for Court 1 with the attendant Jury Rooms which were refurbished just at the close of the last reporting year. We can now report that those refurbished rooms work efficiently for juries and provides a greater measure of security for them. They no longer have to pass through the public gallery to access their rooms. Further they no longer share lavatory facilities with members of the bar and the public.

The government proposes to totally renovate Sessions House as they did the Senate Building. They expect the criminal division to vacate the premises however they have offered the Judiciary no alternative space suitable to accommodate a trial court, jury rooms, registry staff and accompanying files. The criminal division of the judiciary would be severely affected by operating with only one trial court. The back log that we so valiantly and successfully fought to eliminate under former Chief Justice Richard Ground's guidance would not compare to the potential back log that would result from having only one trial court. The judiciary likely would fail to provide defendants with the Constitutional guarantee of a fair hearing within a reasonable time.

ESTABLISHMENT

His Excellency the Governor received and accepted the retirement letter of Justice Carlisle Greaves. He will effectively demit office on 31st July 2018. An advertisement has been published for his replacement.

DISPOSAL OF CASES

The timely disposal of cases has been affected by the fact that the Court of Appeal recommenced using Court 1 in Sessions House once it was determined that the Old Town Hall building that they occupied at 113 Front Street was no longer useable.

The Court of Appeal sits for approximately 3 weeks three times a year; that amounts to effectively losing 9 weeks of trial time. Three trials were rolled over into 2019 that could have been disposed of during the reporting year had Court 1 been available.

Bermuda has been accepted by many Commonwealth jurisdictions as a model criminal jurisdiction for the speed with which criminal cases are disposed of. We have as a target a timeframe of 3 months between first appearance of a defendant and the start of his/her trial. We fell very marginally short of that target in the reporting year. We will continue to strive to meet that target.

Just prior to this reporting year the President of the Court of Appeal Sir Scott Baker commented that the criminal division should shorten the interval between a conviction and the concomitant sentence. In 2017 the average time frame was 2.3 months. That time frame rose just marginally during the reporting year to 2.5 months. Recognising the delay in receiving presentence reports Sir Scott also recommended that the court only order presentence reports in the most deserving of cases. We accept that for the Supreme Court those cases would be ones involving issues of mental health and cases of young, first time offenders.

We have experienced longer and longer estimates of time required to receive presentence reports; this is especially the case with psychological and psychiatric reports. We have been apprised that one reason for the delay in receipt of reports is that the various agencies producing the reports are over burdened with requests the majority coming from the Magistrates Courts. In the reporting year the average timeframe between request for reports and sentence was 43.6 days.

We have now adopted as the target for the New Year in cases not requiring a report that sentence should follow immediately upon conviction. Where this may create a hardship the time frame will be expanded to no more than 14 days from conviction to sentence. The Registrar has undertaken to liaise with the Director of Court Services with a view to shortening the time required to produce presentence reports.

Acknowledgements

I extend my deepest gratitude to the Criminal Division staff for their hard work and dedication in the reporting year. Special thanks to Miss Erica Simmons the acting Litigation Manager for her

assistance in compiling the statistics in less than favourable circumstances. As always little would be accomplished without the unwavering hand of the Registrar Ms Wheatley who does her utmost for the Criminal Division outside of the court room context.



SUMMARY OF INDICTMENTS LISTED AND DISPOSED IN 2016-2018:

The below tables track Court listing periods as opposed to the periods when the offences (allegedly) occurred

MODE OF DISPOSITION			
	2016	2017	2018
TRIAL TOTAL FOR	9	22	18
TRIALS FOR 2 CO-ACCUSED PERSONS	4	4	1
MULTI- DEFENDANT TRIALS (3 OR MORE CO-ACCUSED)	0	4	1
DEFENDANTS ACQUITTIED BY JURY	4	6	11
DEFENDANTS CONVICTED BY JURY	6	21	8
DEFS DICHARGED ON FINDING OF NO CASE TO ANSWER	1	4	
HUNG JURY IN	0	1	0
MISTRIALS	2	0	1
GUILTY PLEAS	12	22	11
INDICTMENTS QUASHED	1	0	0
NOLLE PROSEQUIUS ENTERED IN	3	6	4
INDICTMENTS REMITTED TO MAGISTRATES' COURT	3	3	3

2016		2017	
MURDER RELATED OFFENCES LISTED	2	MURDER RELATED OFFENCES LISTED	9
MANSLAUGHTER OFFENCES LISTED	0	MANSLAUGHTER OFFENCES LISTED	3
DRUG RELATED OFFENCES LISTED	5	DRUG RELATED OFFENCES LISTED	15
MONEY LAUNDERING OFFENCES LISTED	2	MONEY LAUNDERING OFFENCES LISTED	7
FIREARM OFFENCES LISTED	8	FIREARM OFFENCES LISTED	10
SEXUAL OFFENCES LISTED	1	SEXUAL OFFENCES LISTED	4
2018			
MURDER RELATED OFFENCES LISTED	7		
MANSLAUGHTER OFFENCES LISTED	1		
DRUG RELATED OFFENCES LISTED	6	1	
MONEY LAUNDERING OFFENCES LISTED	1		
FIREARM OFFENCES LISTED	5		
SEXUAL OFFENCES LISTED	10		

CASE MANAGEMENT		
2016	2017	
AVERAGE TIMEFRAME BETWEEN FIRST APPEARANCE AND TRIAL	3.5 MIHS	AVERAGE TIMEFRAME BETWEEN FIRST APPEARANCE AND TRIAL 7.5 MIHS
AVERAGE TIMEFRAME BETWEEN CONVICTION AND SENTENCE	3.5 MIHS	AVERAGE TIMEFRAME BETWEEN CONVICTION AND SENTENCE 2.3 MIHS
AVERAGE TIMEFRAME BETWEEN REQUEST FOR SENTENCE REPORTS AND SENTENCE HEARING	48.6 DAYS	AVERAGE TIMEFRAME BETWEEN REQUEST FOR SENTENCE REPORTS AND SENTENCE HEARING 40.5 DAYS
2018		
AVERAGE TIMEFRAME BETWEEN FIRST APPEARANCE AND TRIAL	3.5 MIHS	
AVERAGE TIMEFRAME BETWEEN CONVICTION AND SENTENCE	2.5 MIHS	
AVERAGE TIMEFRAME BETWEEN REQUEST FOR SENTENCE REPORTS AND SENTENCE HEARING	43.6 DAYS	

Supreme Court:

Civil and Commercial Division and Appellate Division

Year in Review

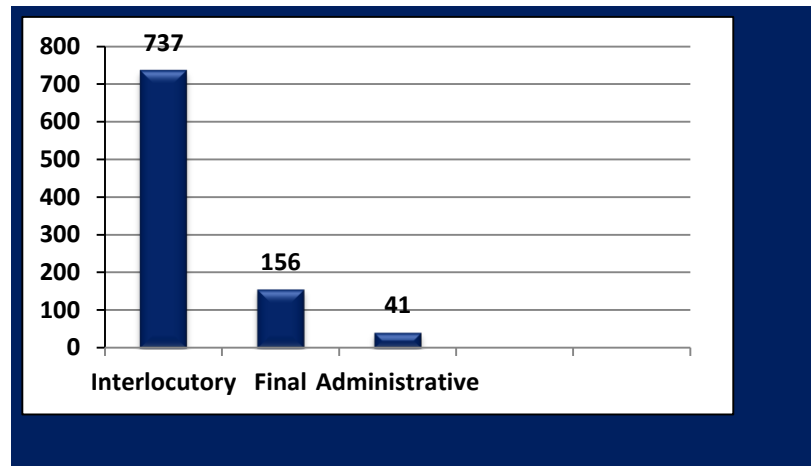
Outputs: The Numbers

The output of the Civil and Commercial jurisdiction of the Supreme Court can, in part, be measured by reference to the number of published reasoned judgments, which are significantly down from 2017. This is primarily due to the complete change over from the previous two commercial court Judges to the current occupants. We suspect it is due to the transitional phase.

2014				
	Civil-Gen	Commercial	Appeal	Total
Published/Considered Judgments	41	23	8	72
2015				
	Civil-Gen	Commercial	Appeal	Total
Published/Considered Judgments	49	12	11	72
2016				
	Civil-Gen	Commercial	Appeal	Total
Published/Considered Judgments	50	19	16	85
2017				
	Civil-Gen	Commercial	Appeal	Total
Published/Considered Judgments	57	16	14	87
2018				
	Civil-Gen	Commercial	Appeal	Total
Published/Considered Judgments	49	18	19	86

Another and more global measure of the judicial output of the Civil and Commercial Division is the number of orders made. This will include the minority of cases where reasoned judgments are given and the majority of cases where they are not.

Figure 1: ORDERS



In 2017 the figures reveal 633 interlocutory orders were made and 183 final orders were made (a total of 816) in civil and commercial matters. A further 81 orders were made in administrative matters (e.g. admissions to the Bar and appointment of notaries).

In 2018 there were 737 interlocutory orders, 156 final orders and 41 administrative orders. This measure shows that 2018 output was comparable to the 2017 output.

Table 5: Analysis of Commercial Court Output 2014-2017					
Year	Judgments	Hearing Days	Average # of Days to Decision	Appeals	Appeals Upheld
2006	20	57	11.65	2	2
2007	24	45	13.92	3	2
2008	13	36	11.23	3	3
2009	16	42	12.37	2	2
2010	17	47	23.00	5	4
2011	26	29	8.92	0	0
2012	22	30	12.12	0	0
2013	12	13	3.5	3	1
2014	26	58	13.77	3	2
2015	12	30	32.58	3	2
2016	24	54	22.96	4	2
2017	16	22	14.69	3	N/A
TOTALS	228	463	15.06	31	20

Table 5: Appeals upheld figures have not been included as it is too early know the outcome of pending appeals. Trust cases have not been counted as “commercial” for the purposes of these figures.

Table 5A: Analysis of Commercial Court Output 2018					
Year	Judgments	Hearing Days	Average # of Days to Decision	Appeals	Appeals Upheld
2006	13	15	6.84	4	3

Table 6A: This year the output of Commercial Court hearings also includes hearings held in Chambers.

Outputs: The Legal Areas

The Civil and Commercial Division has very wide brief. The civil area may be divided into two halves: (1) deciding cases which concern the relationship between the citizen and the State (public law cases), and (2) deciding cases involving private law rights, mainly disputes between private individuals but sometimes disputes between individuals and the State (general civil or private law). Public cases include cases concerning the Bermuda Constitution or the Human Rights Act, and challenges to the decisions of Ministers or Government Departments. Private law cases may involve employment disputes, landlord and tenant disputes, personal injuries claims and disputes relating to estates or other property cases. The Commercial Court deals with disputes between business entities, usually with an international business element to it.



Table 6: New Civil Matters Filed by Subtype 2010-2018

Year	Total	Commercial	Originating Summons	Call To Bar	Notary Public	Writ of Summons	Judicial Review	Partition	Mental Health	Bankruptcy
2010	427	91	63	62	6	182	20	0		3
2011	477	75	83	48	6	240	13	10		2
2012	430	88	74	41	4	190	14	10		9
2013	442	70	83	46	5	210	19	10		5
2014	448	70	57	16	3	105	3		10	1
2015	513	57	140	52	51	180	12	12	11	10
2016	495	67	139	34	52	170	17	6	9	1
2017	478	59	145	45	33	160	20	1	11	4
2018	447	43	86	22	31	180	29	3	10	4

Criminal and Civil Appeals from Magistrates Court are also heard in the Civil and Commercial Division. In 2017, the total number of appeals filed was up by 14.5 % (from 69 cases to 79 cases). 33 cases were disposed of, with 18 appeals allowed, 13 appeals dismissed and 2 appeals being abandoned.

Table 7: CRIMINAL & CIVIL APPEALS FROM MAGISTRATES COURT 2010 - 2018

Year	Total Filed	Allowed	Dismissed	Abandoned	Cases Pending
2010	15	1	9	5	-
2011	23	7	9	2	5
2012	52	17	10	5	20
2013	53	19	8	6	20
2014	45	7	21	5	27
2015	39	14	6	8	38
2016	69	17	16	6	25
2017	79	23	13	7	26
2018	59	4	9	5	41



Supreme Court: Family and Matrimonial Division

Justice Nicole Stoneham



Year in Review

One measure of output of the Family and Matrimonial Division of the Supreme Court has been to report the number of Divorce Petitions processed and issued by the court each year. Upon reflection, such data does not in any way meaningfully measure justice for families in Bermuda nor accurately reflect the workload and output of the Division.

A cursory review of the data collected for 2018 suggests there has been a decline in the number of divorce petitions filed and decrees granted when compared to previous years:-

Table 8: DIVORCE PETITIONS FILED in 2013-2018

Year	Total Petitions Filed
2013	193
2014	194
2015	165
2016	156
2017	175
2018	138

Table 9: DECREE NISI- DISSOLUTIONS AND DECREE ABSOLUTES GRANTED in 2016-2018

Year	Decree Nisi Granted	Decree Absolutes Granted
2016	151	120
2017	173	174
2018	134	82

Achievements

There were a steady number of cases concerning the welfare of children in which family lawyers remain committed often going the extra mile for the sake of the children. The efforts of these family law practitioners must be commended.

The Court continues to rely on the assistance of Mrs. Nicole Saunders, Social Worker and Mr. Sijan Caisey, Social Worker Assistant in relation to the production of social inquiry reports. On average the preparation of a Social Inquiry Report takes some eight weeks to complete. The provision of mediation services by Mrs. Mariam Shaya- King has also achieved success with more and more parents requesting the opportunity to mediate issues pertaining to the day-to-day challenges of co-parenting children post-divorce. The direct result of mediation services is that parents learn not only respectful and efficient skills to manage the upbringing of their children after divorce, but are empowered to make parental decisions rather than leaving it to the judge.

In the growing number of high conflict cases in which parents are either not suitable for mediation, and/or there is a very limited time frame within which resolution must occur, the appointment of Litigation Guardians has been resoundingly successful. In such cases, the appointment of a Litigation Guardian has given children a voice amongst the conflicting arguments of their parents. This positive shift has resulted in the timely conclusion of proceedings and decisions that parents, and most importantly their children, can live with.

Challenges

Retention of Staff:-

This has been a challenging year for this division with continued administrative staff turnover and the consequential need for hiring and training of new staff joining the division. However, a long awaited administrative assistant appointed in this substantive post in 2018 and efforts continue to fill the one administrative post in the matrimonial/family division.

Non-compliance with financial orders:-

The non-compliance with family financial orders continues to be a significant problem. Currently statistics in relation to non-compliance cases or for case regarding persons who are not receiving money owed under ancillary relief orders but choose not to take enforcement action are not captured (as they have not historically been); however, this may be something to consider capturing in the future.. General feedback reported as to the reasons for not taking enforcement

action include litigation fatigue, the cost of legal representation, the impact further legal action may have on the children of the family and a loss of faith that action will actually result in the recovery of money. It has also been raised that banking practices may also impact compliance with financial orders.

Litigants in Person:-

There has been a significant influx in the number of persons seeking to dissolve their unhappy marriages as well as sort out their financial matters (ancillary relief) and parenting disputes, without the assistance of lawyers. The significant increase in litigants in person can generally be attributed to include persons either simply cannot afford a lawyer or are no longer prepared to incur further legal costs.

The court is always sympathetic to such litigants who are faced with navigating court processes designed to challenge even the most qualified and experienced attorneys. This growing circumstance highlights concerns regarding the accessibility of justice. It also sheds light on the well-being of court staff, court social workers, lawyers, the Registrar and judges, who are all under increased pressure to case manage matters in the absence of lawyers ordinarily familiar with legal rules and procedures of court. Understandably, these rules and procedures frustrate litigants and place immense stress on court staff and judges, who endeavour to adapt to meet the needs of litigants in person.

Security:-

Notwithstanding a devastating past incident within the matrimonial court, the Registrar and Judge conducted hearings in 2018 in the absence of dedicated protection within or within close proximity of chambers. This disturbing circumstance placed the Registrar, judges, lawyers and litigants at unacceptable, potential levels of risk of physical harm. Steps have now been put in place to acquire police presence for weekly chambers hearings which can now bring the Registrar, judges and lawyers an greatly increased sense of protection. The Registrar is also working on obtaining an alternative to the current Judge's Chambers used for weekly sessions as well as final hearing due to the close proximity of parties.

Interpreters:-

There are a growing number of cases requiring Spanish interpreters. There is also the need for sign language interpreters. As this trend continues consideration needs to be given to the provision of funding to ensure the fair accessibility of justice to all non-English speaking and hearing impaired persons in Bermuda.



2019 Hopes

Unified Family Court:-

It is very encouraging that the Government confirmed its commitment to the implementation of a Unified Family Court. It is hoped that working groups will soon convene to draft the necessary initiatives to bring the Unified Family Court into reality.

It is hoped that in 2019 an ancillary relief advisory group will be established to advise on the perceived weaknesses in the existing matrimonial laws and practice, with a view to simplify procedural processes so that the courts are accessible to persons who choose to represent themselves.

It is hoped that this advisory group would also consider including simplified processes for general enforcement applications without the need of the debtor, often times the parent with care and control of the child, having to make a further application to the Court for such an order.

It is hoped that additional funding will be made available to secure the appointment of additional court-appointed mediators, Litigation Guardians and independent children lawyers, in response to any request of the court.

It is hoped that members of the matrimonial and family bar will continue to embrace the spirit of collaboration for the sake of our children and families in Bermuda. Lastly, it is hoped that these practitioners will fully engage in this reform process.

Litigants in person:-

The Registrar has confirmed her dedication in compiling a Litigant in Person handbook specifically for matrimonial/family matters which will provide those parties representing themselves much needed guidance and basic knowledge of the law so they do not find themselves lost in legalese and procedural requirements.

In addition, the Registrar has confirmed her support in creating more user friendly templates for applications and affidavits filed by litigants in person to ensure the correct information is before the Registrar and/or Judge in order to limit any delays that are the consequence of inaccurate or incomplete information being filed.



Supreme Court: Probate Division

Year in Review

Ongoing departmental staff shortages continued to negatively impact the productivity of the Probates Division in 2018.

On the heels of the successful clearing of the 2017 backlog, a further backlog has accrued as a result of staffing issues directly impacting the Probates Team. With an administrative support vacancy and the early 2018 departure of the then Assistant Registrar (Relief), the incoming Assistant Registrar (Relief), Alexandra Wheatley, soon after undertook Acting Registrar duties in addition to Assistant Registrar (Relief) duties. In November 2018 Ms Wheatley was appointed Registrar leaving the Assistant Registrar post vacant.

Unfortunately the impact was that for approximately 2/3 of 2018 there was very limited available manpower to assign to processing probate applications. In May 2018 the Registrar issued a Court Circular addressing the situation .

The good news is that the Supreme Court Manager (Mrs. Dee Nelson-Stovell) who transitioned from the Probate Team in mid-2017 has recently been reassigned to the Probates Registry, responsible for management, reporting and training. With a recently appointed Probates Administrative Assistant (Carlton Crockwell), who is nearing the end of his training period, the section is once again fully staffed and the backlog is diligently being addressed.

As of January 30 2019 there are 85 new applications awaiting review and a further 43 ongoing applications. The ongoing applications are at various stages and so comprise of applications waiting for a response from the applicant or a either a completed/amended application awaiting issue of a Grant.



Outputs

In 2018 a total of 217 applications were filed, 64 more filings compared with 017. There were 34 caveats filed in 2018, just 5 less than those filed in 2017.

Year	Probate	Letters of Admin.	Letters of Admin. with Will Annexed	Certificate in Lieu of Grant (Small Estate)	De Bonis Non	Reseal	Total Appls.	Caveats	Caveat Warning/ Citation/ Order to View Affidavit of Value or Will
2013	60	23	10	7	1	5	106	19	
2014	111	32	8	15	3	13	186	48	
2015	100	23	9	19	5	4	160	38	9
2016	93	46	6	19	1	10	175	19	7
2017	81	29	6	24	2	11	153	39	7
2018	124	40	5	40	1	7	217	34	8

Change	43	11	-1	16	-1	-4	64	-5	1
%	53%	38%	-17%	67%	-50%	-36%	42%	-13%	14%

This year we are pleased to be able to increase our reporting to include the number of Grants issued and the value of stamp duty assessed on those Grants.

Grants Issued and Stamp Duty Assessed

In 2018, there were 95 Grants issued, compared to 2017 when 184 Grants were issued; this drop in the number of Grants issued is as a result of staffing issues already addressed.

In 2018 the highest stamp duty assessment for a single estate was \$4,521,441 (83% of the total assessment); the lowest assessment was \$26.

In 2017 the highest stamp duty assessment for a single estate was \$1,301,506 (30% of the total assessment); the lowest assessment was \$77.

In 2018 of the 95 Grants Issued, 66 had no stamp duty assessed as the net estates were of an amount lower than the allowable taxation exemption in place at the time of the deceased's death.

In 2017 of the 184 Grants Issued, 118 had no stamp duty assessed as the net estates were of an amount lower than the allowable taxation exemption in place at the time of the deceased's death.

Table 10A: STAMP DUTY ASSESSED ON GRANTS ISSUED 2017-2018

Year	No. of Grants Issued	Total Gross Estate (Bermuda\$)	Primary Homestead Exemption	48(1)(B) Spousal Exemption	Allowable Deductions	Net Value of Estate	Stamp Duty Assessed
2017	184	162,140,848	70,222,266	40,851,144	9,906,211	41,166,645	4,331,314.16
2018	95	91,463,813	37,432,244	16,226,920	3,215,068	34,589,582	5,469,968.8

2019 Goals

The top priority for 2019 is to clear the backlog of applications and, at the appropriate time, cross train at least one other staff member in the Court's probates processes. The goal is to return to the standard of an application turnaround time of 4 weeks.

Several attorneys have requested checklists or guidance notes to assist them in preparing the application documents. We believe this will be helpful, particularly to those new to the probates process. Greater accuracy in applications will also reduce the amount of time it takes for Registry staff to review an application and supporting documents. Before the end of the year, checklists/guidance notes will be made available electronically.

Establishment List

Judicial Department - Supreme Court As at January 31, 2019

POST	OFFICER'S NAME
Chief Justice	N. Hargun
Puisne Judge	C. Simmons
Puisne Judge	C. Greaves
Puisne Judge	N. Stoneham
Puisne Judge	S. Subair Williams
Registrar	A. Wheatley
Assistant Registrar	Vacant
Manager	D. Nelson-Stovell
IT Manager	F. Vazquez
IT Assistant	B. Mello
Litigation Officer (Acting)	E. Simmons
Administrative Officer – Front Office (Civil) (Acting)	A. O'Connor
Administrative Officer - Court of Appeal	J. A. Quallo
Admin. Assistant to Admin. Officer – COA (Relief)	R. Christopher
Accounts Officer/Librarian	S. Iris-Richardson
Executive Assistant to Chief Justice	F. Chico
Administrative Assistant (Relief)	E. Butterfield
Administrative Assistant	J. Robinson
Administrative Assistant	L. Wilson
Administrative Assistant	A. O'Connor
Administrative Assistant	T. Philip
Data Consolidator	Vacant
Listing Officer	G. Symonds
Listing Officer	Vacant
Senior Court Associate	E. Simmons
Court Associate	S. Wilson
Court Associate	W. Butterfield
Court Associate (Relief)	K. Akinfall
Secretary/Receptionist (Relief)	J. Hassell
Data Processor	S. Williams
Data Processor	C. Seymour
Court Attendant/Messenger	V. Simons
Court Attendant/Messenger (Relief)	K. Trott

The Magistrates' Court

The Magistrates' Court has specialized Civil, Criminal, Traffic and Family Courts to ensure a dedicated response to these issues. There are also the Mental Health, Drug Treatment and pilot Driving Under the Influence (DUI) Courts which continue to seek to reduce recidivism by addressing the drug, alcohol and mental health challenges of offenders. All cases/hearings are heard by a Magistrate sitting alone, except in the Family Court, where the Magistrate sits with two (2) lay members chosen from a Special Panel. There are no jury trials and all appeals from judgments of the Magistrates' Court are heard by the Supreme Court.



The Magistrates' Court

The Magistrates' Court provides funding for the Senior Magistrate, four (4) Magistrates' and acting appointments where necessary. The Magistrates' adjudicate upon Civil, Criminal, Traffic and Family matters which are reported below. The Judicial Department lost the services of the renowned Magistrate Archibald Warner due to retirement. Magistrate Warner was appointed in January 1999 where he served with distinction in the Magistracy and went on to become the Senior Magistrate for Bermuda. Over his tenure he adjudicated many Criminal, Traffic and Family cases, to name a few.

The Senior Magistrate has increased his acting Magistrate roster so as to give opportunities to those in the legal profession to acquire judicial experience and skills which would put them in a position to elevate to the bench.

Court Administration

The Magistrates' Court Administration Section has a complement of six (6) staff: - the Court Manager, Office Manager, Accounts Officer (formerly titled Head Cashier), two (2) Court Associates (formerly titled Cashiers) and an Administrative Assistant. They provide support and overall control of personnel, facilities and financial resources of the Magistrates' Court. The review of the Magistrates' Court Job Descriptions are finally complete. It is noteworthy to mention the extensive support from Tanecia Barnett Burgess, Human Resource Manager, along with her team Chernelle Gibbons and Shanat Showers who together tirelessly laboured through the administrative process of updating the Job Descriptions of over twenty-five (25) employees. This exercise culminated with an increase of 90% of the pay scale grades which were long overdue but remain far below that of counterparts across the Civil Service and in the private sector.

Hearings/Case Events

Hearings/Case Events	2014	2015	2016	2017	2018
Mentions	3,336	3,199	2,829	3,295	3,602
Trials	1,895	1,944	1,832	1,717	1,399
Case Events	24,715	26,971	23,292	22,095	25,040

Figure 1: Table of Hearings/Case Events

'Mentions' are events for the Magistrate to decide what the next course of action is to be taken i.e. trial, another mention etc.

'Trials' are hearings between the parties in order for the Magistrate to make a judgment.

'Case Events' includes proceedings such as pleas, legal submissions, sentencing hearings and other types of events that do not fall under Mentions and Trials.

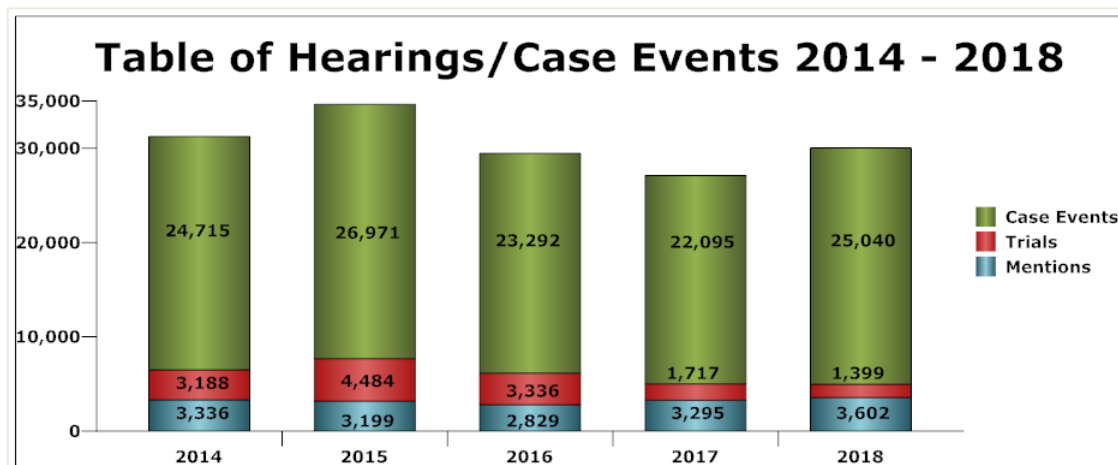


Figure 1A: Chart on Hearings/Case Events

In 2018 the number of Mentions and Case Events increased while the number of Trials declined when comparing it to 2017. The number of Mentions in 2018 are the highest over the past five (5) years. There were an additional +307 Mentions heard which represents a +9% increase.

There were one thousand three hundred and ninety nine (1,399) Trails during 2018 which is significantly less than 2014 – 2017. This represents a -19% decline between 2018 and 2017 and is likely attributable to the fact that the number of new cases filed in 2018 decreased and the Magistrates continued efforts to assist litigants with resolving their issues without the need for a trial. Additionally, there has been a robust effort on the part of the Magistrates to hold Case management hearings which have led to parties resolving matters without the need to go to trial.

As shown in Figures 1 and 1A there were over 25,000 Case Events scheduled in Magistrates' Court in 2018.

Civil Court

The Civil Section is overseen by the Office Manager and is administered by one (1) Senior Court Associate and two (2) Court Associates.

There has been a consistent decline in the number of New Civil Cases filed in the Magistrates' Court. The Civil Court adjudicated one thousand nine hundred and twenty-four (1,924) new Civil cases in 2018 which represents a reduction of -8% when compared to 2017. It is to be noted that this is the lowest number of Civil cases heard in the Magistrates' Court over the last five (5) years. As was noted in 2017 this may be as a result of the improvement of the economy which allowed potential litigants to meet their financial obligations.

The Civil Section of the Magistrates' Court has endured a number of staffing changes over the past 5 years. The two (2) newly hired Temporary Relief Court Associates (Michelle Rewan-Alves and Angela Seaman) are fully trained and are now substantively placed as Court Associates. Special mention must be conveyed to Candace Bremar who was promoted to Senior Court Associate. Mrs. Bremar returned to the Civil Section during the latter part of the year after a lengthy secondment to the Bailiff Section as their Administrative Assistant. Without her tireless dedication in this role the Bailiff Section would not have been able to operate effectively in the administrative processing of Court documents. With this said special mention is afforded to Mrs. Rewan-Alves, Mrs. Seaman and Mrs. Bremar who, under the remit of Patrice Rawlings, as a team maintained the inputting of all Civil case documentation in a timely manner.

To this end the Magistrates' Court are pleased to state that the Civil Section is finally fully staffed and equipped to meet the demands of the public.

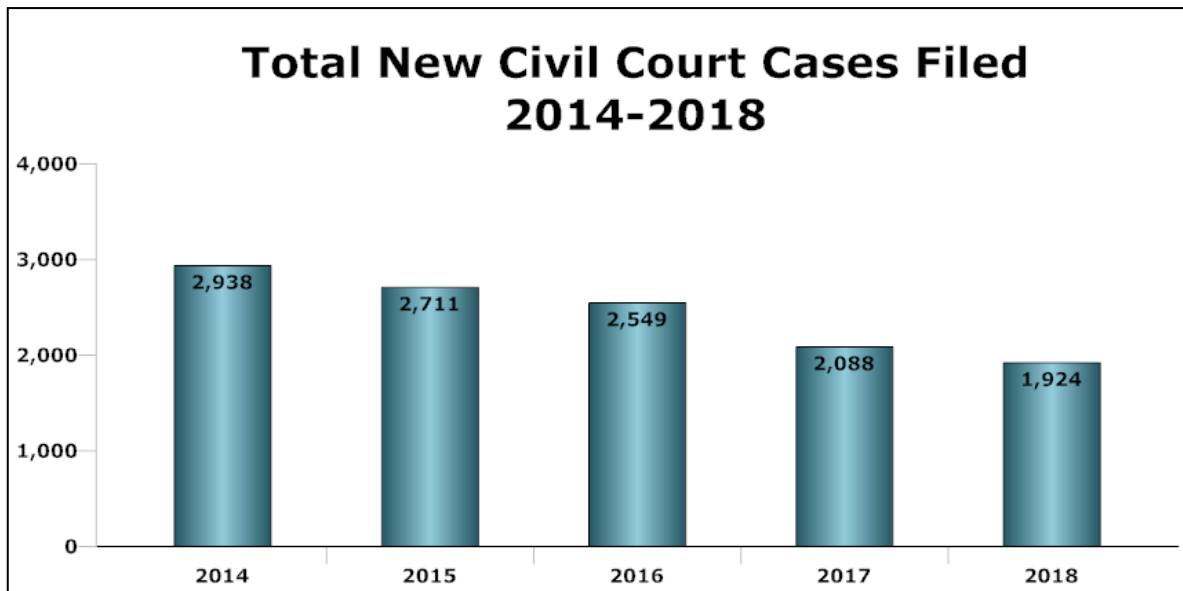


Figure 2: 2014 – 2018 Total New Civil Court Cases Filed

Family Court

The Family Court was established by Section 13 of the Children Act 1998 to exercise the jurisdiction conferred upon the Court by that Act.

There are two (2) Family Courts, each comprised of a Magistrate and two (2) Panel Members (male and female), pursuant to Section 12 of the Magistrates' Act 1948. The Family Court gained the services of C. Craig Attridge as a newly appointed Magistrate. This court continues to exercise its jurisdiction in cases involving children who have not yet attained the age of 18 years and children who have continued in full-time education beyond 18 years.



The Special Court Panel

The Family Court is a specialized court which was created to handle the specific needs of children whether born within or outside of marriage, and matters arising in respect of their custody, care, maintenance and violations against the law (juvenile offenders).

In 2018 the Special Court Panel had 44 serving members. At year end there were three (3) resignations and in January 2019 there will be an additional two (2) Special Panel Members. The diversity of this panel has grown and together with the existing long-standing members, they form a team worthy of reputable accolades. The Special Panel Members assist the Magistrates in decision making and their value to the Family Court and its continued success is beyond rapport.

New Family Court Cases

The number of new Family cases filed increased by +4 or +3% between 2018 and 2017. In 2018 the number of Juvenile Cases saw a -33% decline when comparing 2018 to 2017. There was also a -20% decline in the number of Domestic Violence Protection Orders (DVPO's) between the two (2) years.

Children's Act 1998

In 2018 the number of cases heard under the Children's Act 1998 (Care Orders, Access, Maintenance, Care & Control) decreased by -4% in comparison to 2017 and -9% when compared to 2016.

Family Court Administration

The Family and Child Support Section consist of two (2) Family Courts and two (2) Family Court Magistrates. The support staff are managed by the Family Support Officer, who has under their remit an Enforcement Officer, an Administrative Assistant and three (3) Family Court Associates. This section was severely under staffed in 2017.



Family Support Forms

The Family and Child Support Section hired a Relief Court Associate in 2018; unfortunately this post was vacated soon after being filled. In October 2018 we hired two Relief Court Associates as one of the substantive Court Associates, Angela Williams, in the Family Section was promoted to Administrative Assistant in October, 2018.

Special mention to Corey Furbert, Ashley Smith and Angela Williams for ensuring that the Family Support Section ran efficiently and effectively during extreme staff shortages over the majority of 2018.



Caseload

The total Family Court caseload for 2018 is two thousand and fourteen (2,014) cases. While there has been a continuous decline in the total number of Family Cases between 2015 and 2018 (See Figure 3) the 2018 totals were greater than the 2014 totals.

There was a drastic rise of +12 or +300% as it relates to the number of adoptions in Bermuda during 2018. This is the second highest number of adoptions over the past five (5) years. This is likely attributable to more people having a desire to adopt.

Child Support Payments

The total amount of Child Support Payments received in 2018 is slightly lower than in 2017. This represents a -6% reduction or -\$293,743 as illustrated in Figure 12.

APPLICABLE LAW	TOTAL FAMILY LAW CASES				
	2014	2015	2016	2017	2018
Adoption Act 1963, Adoption Rules Act	3	17	11	4	16
*Children Act 1998 (Care Orders, Access, Maintenance, Care & Control)	581	757	919	874	836
**Enforcement (All Case Types in Default)	1,107	1,308	1,011	920	909
New Reciprocal Enforcement (Overseas)	6	1	2	0	0
Matrimonial Causes Act 1974	28	40	33	31	15
Domestic Violence Act 1997 (Protection Orders)	53	67	76	66	53
***Juvenile Cases	73	128	115	51	34
New Cases Filed	156	124	154	147	151
ANNUAL TOTALS	2,007	2,442	2,321	2,093	2,014

Figure 3: Table of Total Family Law Cases 2014-2018

**The Children Act 1998 – This figure includes all cases adjudicated under this Act including applications submitted from the Department of Child and Family Services (DCFS).*

***Contribution Orders, which are also related to DCFS cases, were not separated in 2014 as this is a possible outcome to a case adjudicated under the Children Act 1998 and not a separate application type.*

**** Juvenile Cases – Criminal & Traffic Cases for children who are too young to go to regular court (17 years old & under).*

Criminal & Traffic Section

The Criminal/Traffic/Records Section is managed by the Office Manager and supervised by a Records Supervisor who has two (2) Court Associates under their remit. They provide case management and court services related to the resolution of criminal, traffic and parking ticket cases as well as manage all Record requests. Additionally, the Court Associates provide clerking support to the Magistrates in Court No. 1 and No. 2 and are solely responsible for inputting Demerit Points into the Transport Control Department (TCD) Driver's Vehicle Registration System (DVRS) and the Judicial Enforcement Management System (JEMS).

While this Section began 2018 fully staffed, during the year both of the Court Associates transferred to the Supreme Court Criminal Branch. Permission was granted to fill these posts and in the last quarter the posts were eventually filled with Temporary Reliefs. The recruitment process is underway and is anticipated to be completed during the first quarter of 2019.

As a result of the internal transfers this Section was not at full strength which led to the partial closures of the Criminal/Traffic Public window. Ms. Jearmaine Thomas, Records Supervisor led by Ms. Patrice Rawlings is to be commended as they rose to the occasion by ensuring that the casework and warrants were processed in a timely manner.

TOTAL NEW CASES (Filed)	2014	2015	2016	2017	2018
Criminal	684	610	584	616	608
Traffic	8,565	9,538	9,736	7,767	8,497
Parking	9,249	10,148	10,320	8,383	15,668

Figure 4: Total New Cases Filed with the JEMS system 2014-2018
 **The 2014 figure does not represent the actual number of tickets issued.

Total New Cases (Filed)			
Month	Criminal	Traffic	Parking
Jan	48	630	813
Feb	40	760	630
Mar	42	633	1407
Apr	39	768	1992
May	66	814	1543
Jun	37	1190	1368
Jul	67	828	1666
Aug	69	935	1,457
Sep	57	580	1,193
Oct	46	508	1,320
Nov	48	510	1,410
Dec	49	341	869
TOTALS:	608	8497	15668

Figure 4A: 2018 Table of New Criminal, Traffic and Parking Cases Filed by Month.

The number of new Criminal matters filed at the Magistrates' Court decreased by -1% from six hundred and sixteen (616) in 2017 to six hundred and eight (608) in 2018. The number of Criminal cases filed remained consistent over the period 2014 – 2018.

Alternatively, there was a notable increase of +9% or seven hundred and thirty (730) Traffic cases over the same period.

With the implementation of the TOPA Act 2015, in July 2017, the number of Parking Tickets issued continued on an upward trend. There were fifteen thousand six hundred and sixty-eight (15,668) Parking Tickets paid representing

an increase of +32% in 2018. This spike corresponds to the increase in the Parking Ticket Fines collected which totalled \$443,625. (Figure 12 refers)

It should be noted that there were over six hundred (600) Traffic cases adjudicated every month throughout the past year. Additionally, from March – November 2018 there were over one thousand (1,000) cases adjudicated each month.

TOTAL NEW CASES (Disposed)	2014	2015	2016	2017	2018
Criminal	436	497	407	447	380
Traffic	7,640	9,002	8,518	6,982	7,713
Parking	4,816	4,110	3,603	2,857	3,514

Figure 5: Table of Total New Cases Disposed by a Magistrate 2014 – 2018 (Criminal, Traffic & Parking)

Total New Cases (Disposed)			
Month	Criminal	Traffic	Parking
Jan	32	634	117
Feb	23	504	247
Mar	19	650	241
Apr	42	723	299
May	37	817	421
Jun	43	832	405
Jul	44	882	380
Aug	45	649	432
Sep	17	478	258
Oct	31	635	218
Nov	25	458	245
Dec	22	451	251
TOTALS	380	7,713	3,514

The total number of Traffic and Parking cases disposed increased by 10% and 23% respectively, but the number of Criminal cases disposed decreased by 15% in 2018 when compared to 2017. This could be attributable to the lower amount of Criminal cases filed.

(Figure 5 refers.)

Record Requests

For the past year, the Criminal/Traffic/Records Section processed a total of one thousand nine hundred and thirty-four (1,934) Record Requests. This represents an additional six hundred and six (+606) Requests compared to 2017 when there were a total of one thousand three hundred and twenty-eight Requests (1,328). This represents a +45% increase.

In July 2018 the Police Criminal Records Office in Prospect closed their operations indefinitely. Subsequently, the public were referred to the Magistrates' Court for security vetting and this resulted in an increase in the number of applications received. The vetting process is not only limited to individuals seeking Criminal Records but also include Record requests from local and overseas Employment Agencies, Private Companies, Canadian Immigration and the US Consulate, to name a few.

Assistance was provided by Summer Intern, Sophia Williams for a period of seven (7) weeks. Ms. Williams is to be commended for her efficiency as she was able to process four hundred and

thirty-two (432) Record Requests and at times was able to provide them in a 24-48 hour turnaround period. This was a remarkable accomplishment as the allotted turnaround time is normally seven (7) days.

It is to be noted that the fee for a Criminal Record Request at the Magistrates' Court continues to be disproportionately low at \$10.00 per application when a similar report from the Bermuda Police Service is \$100.00. Communication has commenced regarding increasing the fee to at least \$50.00 per application as it has not changed in over 20 years.

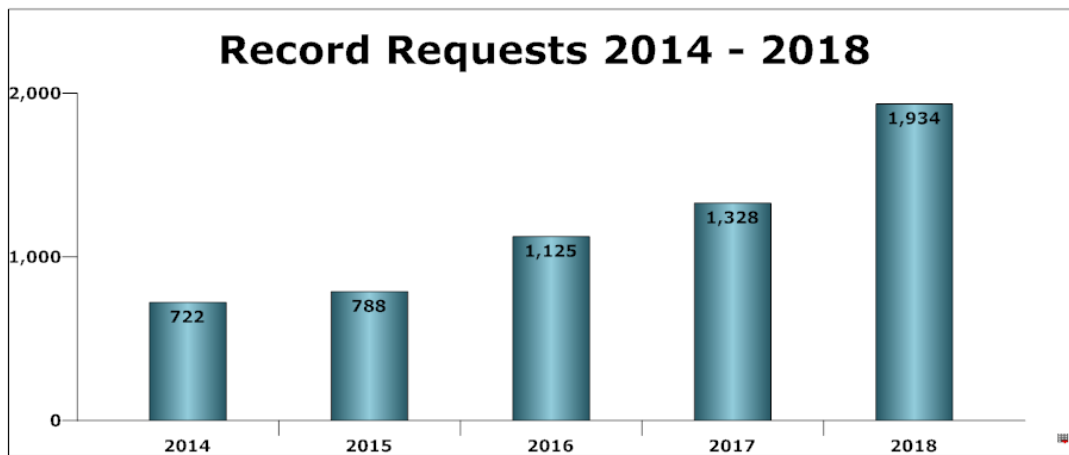


Figure 6: Table of 2014 – 2018 Record Requests

The balance of the employees in the Criminal Section are a Senior Administrative Assistant and an Administrative Assistant. The Senior Administrative Assistant manages the Office of the Senior Magistrate which includes performing administrative, secretarial and clerical duties within the Magistrates' Court, including processing Coroner's Reports, PACE Warrants and Liquor and Betting licences. This post has two (2) Administrative Assistants and a Court Associate (Appeals) under their remit. Each of the Administrators are assigned to a Magistrate to provide administrative and clerking support. They too are to be commended for their stellar work and continued administrative support to the Magistracy.

Special mention to Mrs. Nea Williams-Grant, Ms. Dwainisha Richardson and Mrs. Dordene Cruickshank who all rose to the occasion during 2018 as they continued to provide stellar administrative and clerical assistance to the Magistracy.



Magistrates' Court #2

Top 10 Criminal Offences 2014 – 2018

Offence Code	Offence Description	Offence Count				
		2014	2015	2016	2017	2018
2071	OBTAINING PROPERTY BY DECEPTION	(3) 60	(6) 36		(9) 22	
2010	STEALING (BELOW \$1000)	(1) 78	(4) 59	(2) 84	(2) 66	(1) 99
2156	ASSAULT (ABH)	(4) 56	(1) 72	(1) 88	(1) 77	(2) 64
2300	POSSESSION OF CANNIBIS	(2) 63	(3) 60	(3) 68	(3) 63	(7) 29
4032	THREATENING BEHAVIOUR	(3) 60	(5) 50	(6) 27	(6) 30	(3) 60
2127	BURGLARY (NEW)	(5) 53	(2) 64	(4) 55	(4) 45	(4) 37
2152	ASSAULT (COMMON)	(6) 49	(7) 35	(7) 24	(8) 26	(5) 31
2067	HANDLING /RECEIVING STOLEN GOODS	(10) 27	(8) 34	(10) 21		
4026	OFFENSIVE WORDS	(7) 35	(9) 32	(9) 22	(6) 30	(10) 24
2144	WILFUL DAMAGE GT 60	(9) 28		(5) 29	(5) 35	(6) 30
2091	TAKE VEHICLE AWAY W/O CONSENT	(8) 29	(8) 34			
2316	POSS CANNABIS WITH INTENT	(9) 32	(8) 34	(8) 23	(7) 27	
2392	POSS DRUG EQUIPMENT PREPARE			(10) 21	(8) 26	
6506	DOG UNLICENCE		(10) 29	(9) 22		
2388	POSS DRUG EQUIPMENT USE				(10) 21	(8) 26
2364	IMPORT CANNABIS					(9) 25
4034	TRESPASS PRIVATE PROPERTY					(8) 26

Figure 7: Table of Top 10 Criminal Offences 2014 – 2018

It is to be noted that the ‘Possession of Cannabis offense which held a spot in the Top three (3) over the past four (4) has significantly declined by -34 or 54%. In 2018 Possession of Cannabis, for the first time in four (4) years is not one of the Top 3 Criminal offences. This maybe attributable to the enactment of the decriminalization of marijuana legislation.

Obtaining Property by Deception, Handling/Receiving Stolen Goods, Taking Vehicles without Consent, Possession of Drug Equipment, Possession of Cannabis with Intent to Supply and Unlicensed Dog offences were outside of the Top 10 Criminal offences in 2018.

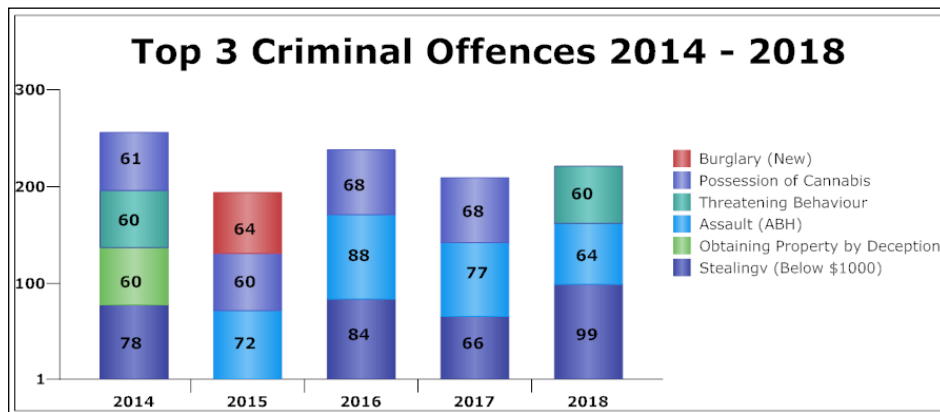


Figure 7A: Table of Top 3 Criminal Offences 2014 – 2018

The **Top 3 Criminal Offences in 2018** are as follows:-

- 1) Stealing (Below \$1000)
- 2) Assault (ABH)
- 3) Threatening Behaviour

There was a nominal change in the order of the Top three (3) Criminal offences in 2018. There were ninety-nine (99) cases of Stealing (Below \$1000) over the past year. Additionally, it is to be noted that it is also the highest recorded number of offences for one specific crime over the last 6 years dated back to 2012.

Assault (ABH) is the second highest Criminal offence in 2018 after having been in the number one spot for three (3) consecutive years.

Threatening Behaviour has re-emerged to the third highest Criminal offence over the past year, matching the number of cases in 2014. (Figure 6 and 6A refers)

Top 10 Traffic Offences 2014 – 2018

Offence Code	Offence Description	Offence Count				
		2014	2015	2016	2017	2018
3002	SPEEDING	(1) 3,053	(1) 4,043	(1) 4,411	(1) 3,874	(1) 4,405
3007	DISOBEY TRAFFIC SIGN	(3) 1,055	(2) 1,228	(2) 1,490	(2) 982	(3) 833
3147	USE OF HANDHELD DEVICE WHILST DRIVING	(2) 1,058	(3) 841	(4) 544		
3013	SEAT BELT NOT FASTENED	(5) 438	(7) 369	(7) 225	(9) 98	
3234	NO DRIVERS LICENSE/PERMIT	(4) 545	(4) 730	(3) 819	(3) 702	(2) 851
3080	NO 3 RD PARTY INSURANCE	(6) 379	(5) 473	(5) 468	(4) 411	(4) 449
3229	UNLICENSED MOTOR BIKE	(7) 351	(6) 431	(6) 431	(5) 402	(5) 425
3070	DRIVE W/O DUE CARE & ATTENTION	(9) 143	(9) 177	(8) 162	(6) 317	(7) 221
3058	IMPAIRED DRIVING A MOTOR VEHICLE	(8) 154	(10) 170	(10) 125	(7) 144	(6) 231
3190	FAILURE TO WEAR HELMET	(10) 131				
3228	UNLICENCED MOTOR CAR		(8) 180	(9) 135	(8) 124	(9) 142
3064	FAILURE TO WEAR HELMET	(10) 131			(10) 10	(8) 147

Figure 8: Table of the Top 10 Traffic Offences from 2014 – 2018

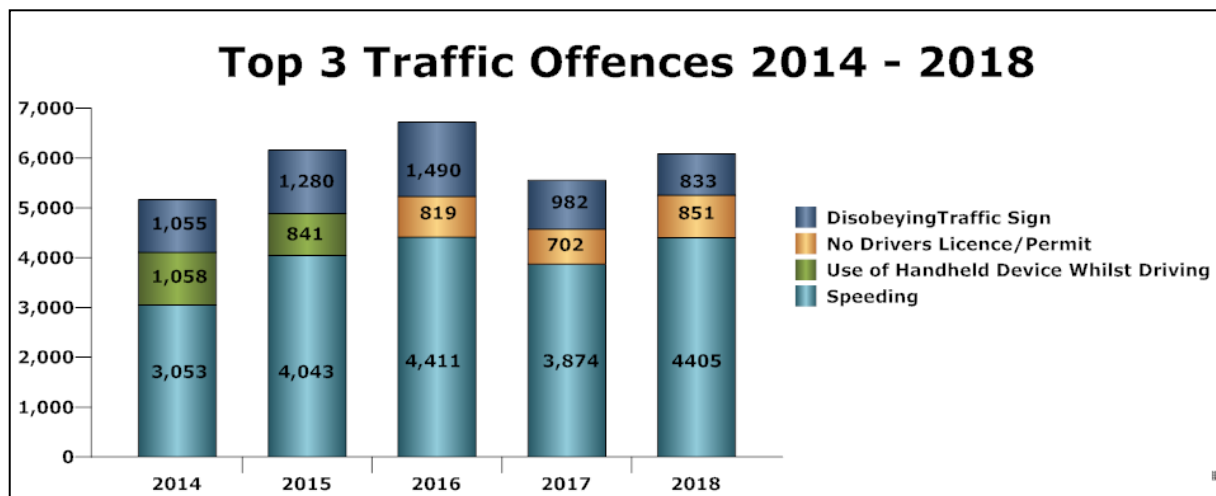


Figure 8A: Table of the Top 3 Traffic Offences from 2014 – 2018

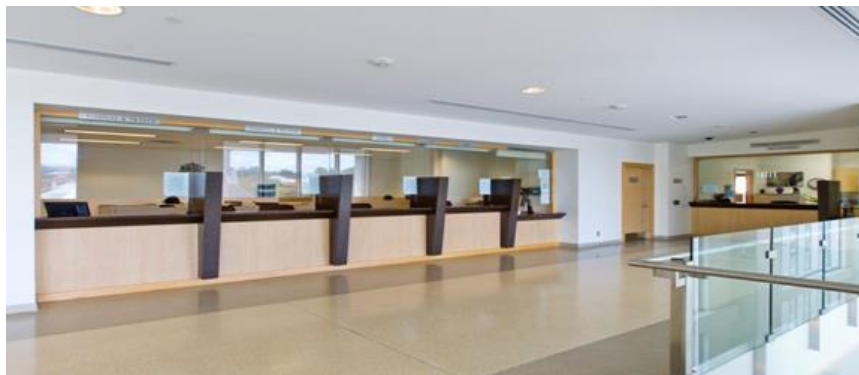
The **Top 3 Traffic Offences for 2018** are as follows:-

1. Speeding
2. No Drivers Licence/Permit and
3. Disobeying a Traffic Sign

The Top three (3) Traffic Offences have remained constant between 2017 and 2018. The 'No Driver's License/Permit' and 'Disobeying a Traffic Sign' offences reversed positions as the second and third highest Traffic Offences respectively. 'Speeding' continued as the No. 1 Traffic Offense for the past five (5) years. There was a moderate climb of +14% or +531 cases.

The second highest offence of "No Driver's License/Permit" saw an increase of +21% or +149 cases. In addition to this being the second highest traffic offence in 2018, it should be noted this is also the highest number of this offence over the last five (5) years.

The third highest Traffic offence is the "Disobeying a Traffic Sign" offence. There was a moderate decline of +15% when comparing the 2018 figure to 2017. While this is the third highest of the Traffic Offences in 2018, it is the lowest number of this type of offence over the period 2014 – 2018.



**Magistrates' Court Criminal | Traffic | Records | Civil |
Bailiff's Reception Windows.**

Warrants

Outstanding Warrants

For five (5) consecutive years (2014 – 2018) the Total number of Outstanding Warrants has steadily increased. In 2018 there were eleven thousand six hundred and eight-four (11,684) outstanding warrants within Magistrates' Court which is an increase over the 2017 figure.

(Figure 9 refers)

Outstanding Warrants for criminal and traffic offences fall under three (3) categories which are as follows: - Committals, Summary Jurisdiction Apprehensions (SJA) and Apprehensions.

The total amount of unpaid fines that have accrued as a result of warrants not being executed has escalated to \$2,395,312.32 as at 31 December, 2018. Interagency collaboration has been

beneficial for the execution of warrants. Magistrates have made payment orders so that offenders could pay their fines over a reasonable period of time thereby removing the possibility of incarcerating them for default.

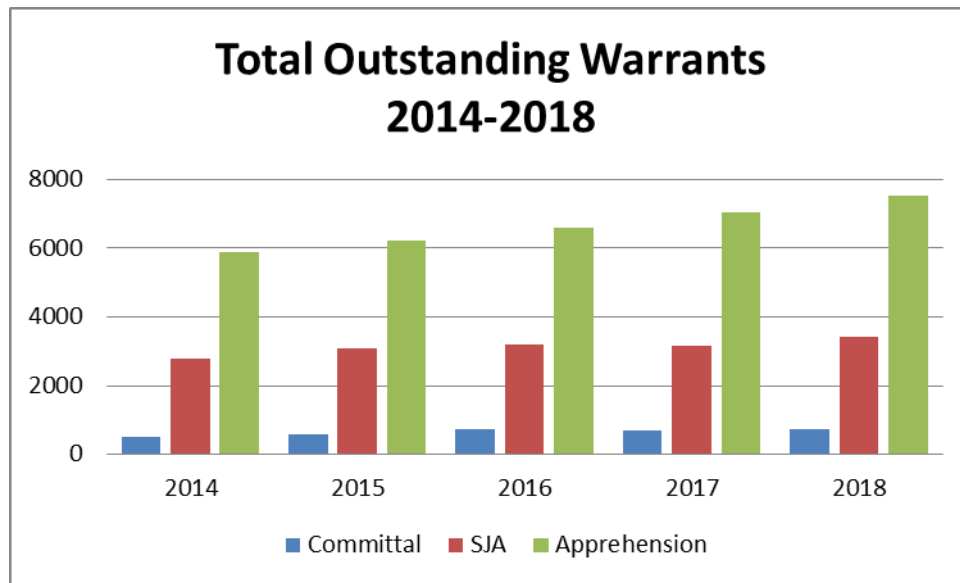
TOTAL OUTSTANDING WARRANTS	2014	2015	2016	2017	2018
Committal	493	601	738	699	726
SJA	2,797	3,092	3,196	3,174	3,425
Apprehension	5,888	6,206	6,614	7,050	7,533

Figure 9: Outstanding Warrants (Apprehension, Summary Jurisdiction Apprehension (SJA) and Committal)

NOTE: Committal Warrants are issued when a defendant is found or pleads guilty of an offence, does not pay the fine, asks for more time to pay (TTP) and then does not meet that deadline.

SJA Warrants are issued when a defendant has been fined by a Magistrate and has not paid the fine by the prescribed deadline.

Apprehension Warrants are issued when defendants do not show up to Court when they are summoned for criminal and traffic offences.



**Figure 9A: Outstanding Warrants
Police and Criminal Evidence Act (PACE) Warrants**

PACE Warrants 2014-2018	Legislation	2014	2015	2016	2017	2018
Special Procedure Applications	Telephonic/IMEI	66	96	75	56	72
	Banking	12	11	5	7	9
	Internet (IP Address)	1	22	2	5	6
	Medical	1	3	1	2	1
	Courier	0	0	0	0	0
	Law Firm/Legal	1	1	0	1	0
	BELCO Electricity	0	0	0	0	1
	Travel Agents/Airlines	1	0	2	0	1
	Electronic Taxi App.	0	0	0	0	1
	Dept. Social Insurance	0	0	1	0	1
Order of Freezing of Funds		0	0	1	0	1
Order Release of Seized Cash/Property		8	5	7	2	1
Continued Detention of Seized Cash		13	33	95	61	31
Search Warrants	Misuse of Drugs Act	54	65	73	101	45
	Firearms	19	19	41	34	10
	Sec. 8/Sec. 15 PACE Act	18	39	17	21	16
	Revenue Act(Customs)	0	0	2	0	0
	Criminal Code 464	0	0	0	0	0
Production Order (Customs)		0	1	0	0	0
Production Order 'PATI' - Public Access To Information		0	1	0	0	0
TOTAL OF ALL TYPES		194	296	322	290	196

Figure 10: Table of 2014 - 2018 PACE Warrants

The number of PACE Warrants continued on a downward trend from 2016. There were one hundred and ninety-six (196) warrants issued or -32% in 2018 when comparing it to 2017. During the past year warrants for the ‘Continued Detention of Seized Cash’ declined from sixty-one (61) in 2017 to thirty-one (31) or -49% in 2018.

Additionally, there was a significant decline of -56 or -55% in the number of PACE Warrants issued under the Misuse of Drugs Act and the same relates to a decline of -24 or -71% in the number of Firearms Warrants issued.



Causes of Death	2014	2015	2016	2018
Natural Causes	63	60	59	52
Unnatural Causes	3	10	3	26
Murders	3	4	7	8
Drowning	4	3	3	8
Road Fatalities	14	8	11	10
Undetermined	0	1	0	7
Hanging	1	1	2	4
Strangulation	0	0	0	0
Suspicious	0	0	0	0
Unknown	1	3	3	6
TOTALS	89	90	88	121

Figure 11: Table of Causes of Death in Coroners Cases 2014 – 2018

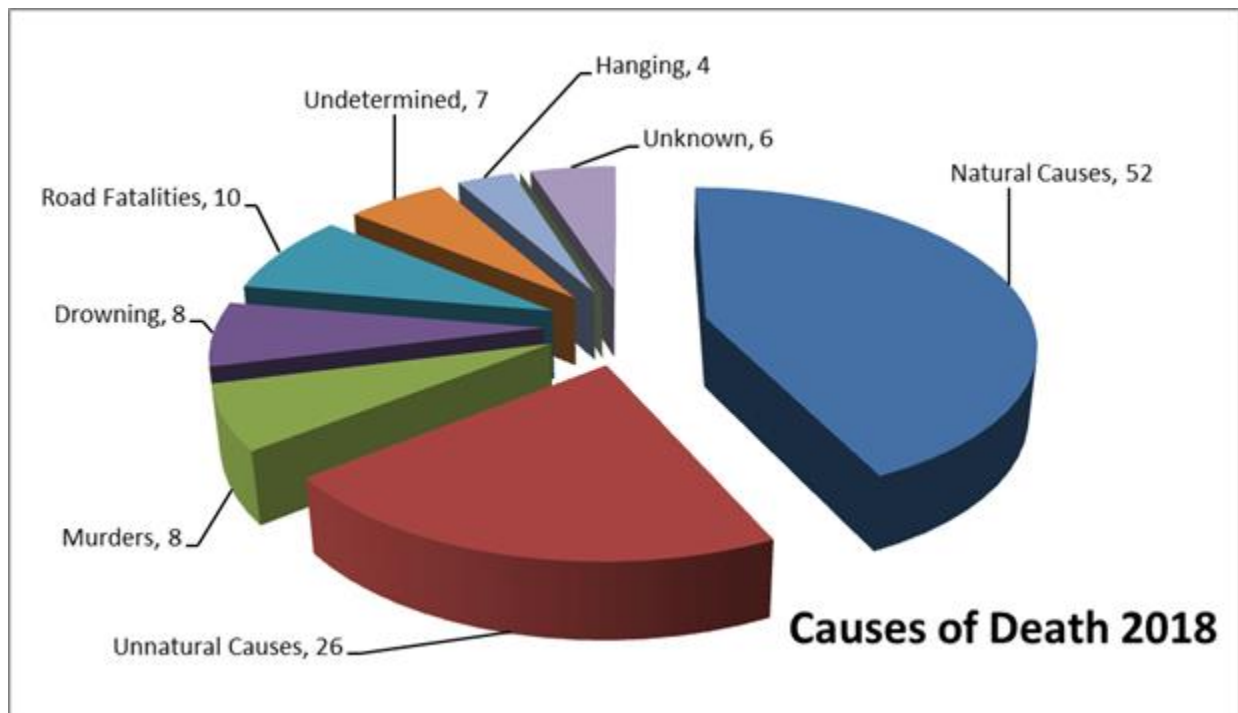


Figure 11A: Table of 2018 Causes of Death in Coroners Cases

The Coroner Office is managed by the Senior Magistrate who reviewed one hundred twenty-one (121) Coroner's deaths from January – December 2018. There was a significant increase of +27

or +38% Coroner's deaths in 2018 when compared to 2017. The total amount of Coroner's Deaths in 2018 is by far the highest over the last five (5) years.

The number of 'Natural Causes' of death (52) remained as the predominant cause of death over the past 5 years. However, we saw a major spike in the number deaths by 'Unnatural Causes' from six (6) in 2017 to twenty-six (26) in 2018.



Cashier's Office

The Magistrates' Court Cashier's Office collected \$8,814,823 (eight million eight hundred and fourteen thousand eight hundred and twenty- three dollars) in 2018. This includes all categories (inclusive of Child Support) and represents a +5% increase or +\$427,832 (four hundred and twenty-seven thousand eight hundred and thirty two dollars).

Traffic Fines increased by +\$123,812 (one hundred and twenty three thousand, eight hundred and twelve dollars) during 2018. This increase represents a +6% increase. Alternatively, there was a decline of -\$33,325 (thirty-three thousand, three hundred and twenty-five dollars) as it relates to the amount of Civil fines collected during the same period. This is consistent with the reduction in the number of Civil cases filed.

Special mention to the Cashier's Section team who are supervised by Ms. Deneise Lightbourn, Accounts Officer. Ms. Lightbourn has two (2) Court Associates under her remit, Ms. Shondell Borden and Ms. Towana Mahon and together they were responsible for the receipt of over \$8 Million for the Magistrates' Court during 2018. As a result of the staffing issues Ms. Borden and Ms. Mahon tirelessly sacrificed their break periods to enable the Cashier's Office to be open throughout the day for the benefit of the public.

In June 2017, the Traffic Offenses Procedure Amendment and Validation Act 2015 (TOPA) was implemented in law. The amendment to this Act increased the parking fines from \$50.00 to \$75.00 and altered the receipts of revenue from the Accountant General to the Corporation of Hamilton.

Soon after the Act was passed, the Corporation of Hamilton assumed the responsibility of managing the Traffic Wardens from the Bermuda Police Service. Currently the Traffic Wardens enforce parking regulations, within the City of Hamilton and the Town of St. George's.

From 1 July 2017 – 31 December 2018 over \$617,000 has been collected by the Magistrates' Court Cashiers from Parking Ticket fines. However, the Financial Controller for the Ministry of Legal Affairs has disclosed that the Bermuda Government paid out a total of \$420,200 in Parking Ticket Fines in 2018, to the Corporation of Hamilton resulting in lost revenue.

There was a significant increase of +85% in the amount of Criminal Fines collected in 2018. This represents an increase of \$119,015 (one hundred and nineteen thousand and fifteen dollars). *(Figure 11 and 11A refers)*



Cashier's Office Payment Types by \$ Amount					
Payment Types (By \$ Amount)	2014	2015	2016	2017	2018
Civil Payments	\$ 612,425	\$ 640,222	\$ 653,817	\$ 585,954	\$ 822,318
Civil Fees	\$ 256,790	\$ 207,748	\$ 203,535	\$ 192,315	\$ 158,990
Traffic Fines	\$ 1,828,645	\$ 2,445,881	\$ 2,116,050	\$ 2,124,033	\$ 2,247,845
Parking Fines	\$ 249,450	\$ 209,300	\$ 171,500	\$ 168,825	\$ 443,625
Criminal Fines	\$ 139,888	\$ 181,821	\$ 154,329	\$ 139,569	\$ 258,584
Liquor License Fees	\$ 332,942	\$ 349,405	\$ 349,550	\$ 552,101	\$ 552,188
Pedlar's License Fees	\$ 10,440	\$ 11,610	0	0	0
Misc. Fees (Including Bailiffs)	\$ 38,106	\$ 24,716	\$ 29,326	\$ 41,642	\$ 42,464
Family Support	\$ 5,023,883	\$ 4,898,084	\$ 4,266,083	\$ 4,582,552	\$ 4,288,809
TOTAL COLLECTED	\$ 8,492,569	\$ 8,968,787	\$ 7,944,190	\$ 8,386,991	\$ 8,814,823

Figure 12: Cashier's Office Payment Types (By \$ Amount) 2014-2018

Cashier's Office Payment Types by Number					
Payment Types (By Number)	2014	2015	2016	2017	2018
Civil Payment (Attach of Earnings)	3,575	3,968	4,909	3,938	3,942
Civil Fees	7,364	5,774	5,632	5,328	4,262
Traffic Fines	8,166	9,627	8,905	7,508	8,136
Parking Fines	4,989	4,185	3,722	3,193	6,089
Criminal Fines	294	404	398	382	378
Liquor License Fees	455	487	457	509	520
Pedlar's License Fees	116	129	0	0	
Miscellaneous Fees	851	850	1,229	1,776	2,241
Family Support	23,450	22,705	25,322	20,097	18,860
TOTAL PAYMENTS PROCESSED	49,260	48,129	50,574	42,731	44,428

Figure 12A: Cashier's Office Payment Types (By Number) 2014-2018

Liquor Licenses

In 2018 there were a total of five hundred and fifty-seven (557) Liquor Licenses granted. The number of licenses declined by -70 or -11% over the period January – December 2018. There was no significant deviation in the number of Liquor Licenses granted in the Eastern, Central and Western Districts over 2018. The number of Occasional Liquor Licenses granted over the past year declined by -69 or -22%. The 2018 figure of two hundred and forty-three (243) Occasional Liquor Licenses is the lowest over the past five years. The Chairman of the Liquor

Licensing Authority (LLA) along with members of the LLA have scrutinized applications for Occasional Liquor Licenses and ensured strict compliance with the Liquor Licensing laws.

Liquor Licenses Granted By District

LIQUOR LICENSES	2014	2015	2016	2017	2018
Central District	169	170	180	196	192
Western District	56	57	57	65	69
Eastern District	48	49	57	54	53
Occasional Licenses	326	302	267	312	243
TOTAL LICENSES ISSUED	599	578	561	627	557

Figure 13: Table of 2014 - 2018 Liquor Licenses granted by District

The Liquor Licenses fees collected in 2018 \$552,188 (five hundred and fifty-two thousand, one hundred and eight-eight dollars) was somewhat identical to the amount collected in 2017. It is to be noted that the 2018 and 2017 totals are significantly higher than the totals collected between 2014 – 2016 respectively.

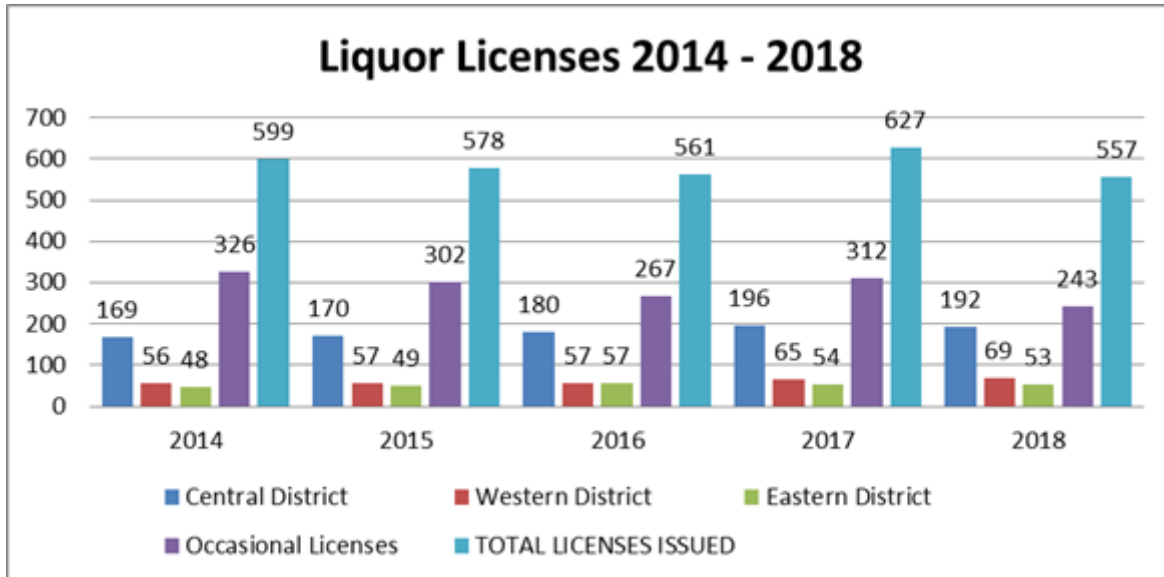


Figure 13A: Table of 2014 - 2018 Liquor Licenses Issued



Bailiff's Section

Summary

During the first six months of 2018, the Bailiff's Section was led by Acting Head Bailiff/Deputy Provost Marshal General (DPMG), Mr. Michael Brangman with four (4) substantive Bailiffs under his remit. While in his capacity as the Acting Head Bailiff/DPMG Mr. Brangman also had to perform the duties of a Bailiff, with the service of regular documents, due to the short fall in staff. Historically, this Section has had five (5) Bailiffs and his commitment to the operational duties assisted in minimising any void with the service / execution of documents.

In July 2018, the former Head Bailiff/Deputy Provost Marshal General, Mr. Christopher Terry returned to this post and Mr. Brangman resumed his duties in the capacity as a Bailiff. Mr. Terry, with a full complement of five (5) Bailiffs, was able to reorganize the administrative and operational procedures which had an immediate impact on the overall service rate of documents.

In September 2018, Mr. Michael Brangman resigned from the post of Bailiff to accept another position within the Civil Service. The Bailiff Section was once again operating with less than the requisite complement of staff; however this did not deter the remaining Bailiffs from maintaining a positive approach in the execution of their duties.

In November 2018 our most accomplished Bailiff, Mr. Harold Beckles retired. Permission was granted to extend Mr. Beckles for nine (9) months beyond the age of 65 while the recruitment process took place. Unfortunately within the Civil Service, age has become a factor as it relates to a person's retirement and as such the Judicial Department lost a valuable asset in Bailiff Beckles. We are forever indebted to him for his steadfast and exemplary service. In December 2018, management were successful in hiring a new Bailiff, Mr. Vernon Young, who commenced employment in this Section just after the retirement of Mr. Beckles.

Although the Bailiff Section during the majority of 2018 performed their duties at times without the full complement of Bailiffs, the Section was able to raise the service rate of documents by +29% over the previous year.

This was contributed to a -19% decrease in the number of documents received for service.

In 2018, there were three (3) auctions held for the sale of moveable and immovable properties to assist with the settlement of indebtedness of Judgment Debtors. The Deputy Provost Marshal General was successful with the sale of two motor cars which netted gross proceeds of \$33,000.00.

Unfortunately, there was no success with the sale of immovable property due to a lack of interest by prospective purchasers and the inability of them in securing financing from the banks.

Execution and Service of Documents

In 2018, there were a total of 3,086 documents issued through the Courts for service by the Bailiffs, which is a decrease of -756 or -19% when compared to 3,842 documents recorded in 2017. The 3,086 documents recorded in 2018, is the lowest figure by year since statistical reporting commenced in 2012 which had a total of 4,622 recorded documents.



Bailiff's Paper Service 2018

Documents: January - December 2018						
Document Types	Assigned	Executed Served Etc.	Unable to Locate	Cancelled Withdrawn	Attempts	Outstanding
Committals Applications	869	731	0	204	1247	-66
Evict Warrants	57	49	0	9	48	-1
Foreign Documents	20	25	0	0	0	-5
Judgement Summons	63	76	1	1	90	-15
Notice of Hearing	114	71	3	0	11	40
Ordinary Summons	385	385	2	13	267	-15
Protection Orders	58	59	0	1	23	-2
Summons	656	580	2	3	330	71
Warrants of Arrest	729	599	1	143	739	-14
Writs	57	51	3	2	1	1
Other Documents	78	56	2	0	9	20
Totals	3086	2682	14	376	2765	14

Average Rate of Service	86.91%
Average Rate of Unable to Locate	0.45%
Average Cancellation Rate	12.18%

Figure 14: Table of the 2018 Monthly Statistics – Bailiff's Actual Paper Service

As previously stated and illustrated in Figure 13 there were 3,086 documents received for service in 2018, but the table does not feature the amount of documents that are outstanding from previous years which require servicing by the Bailiffs.

With that said, the annual service rate is calculated by using the yearly figure for documents received, against the figures representing the types of service. Table 14 illustrates that for the first time in recording the service rate, there were a greater amount of documents executed in comparison to the amount that had been received, thereby generating a minus or reduced outstanding balance of documents for 2018. The total outstanding documents for 2018 (14) by no means is the balance of documents that require service by the Bailiffs. However this figure reflects that for the year 2018, the Bailiffs made a concerted effort to execute documents that were outstanding from previous years which made a significant impact on the service rate.

Magistrates' Court Documents

The Magistrates' Court documents are issued by the Civil and Family Courts for service by the Bailiffs. The below chart illustrates the customary set of documents assigned to the Bailiffs over

the past five (5) years. During this period, there was a steady decline with all document types with the exception of Warrants to Evict, which increased reaching an all-time high of 57 documents in 2018.

2014 – 2018 Annual Statistics for the Bailiff’s Section

Documents Types	2014	2015	2016	2017	2018
Ordinary Summons	638	610	523	465	385
Supreme Court Documents	307	270	210	218	185
Family Court Documents	757	798	892	917	853
Committals	1119	1523	1401	1160	794
Warrants	1147	414	685	739	461
Evictions	42	29	52	56	57
TOTALS	4010	3644	3763	3555	2735

Figure 14A: Table of 2014 – 2018 Annual Bailiff Document Types Issued for Service

The most significant improvement in the service rate of the Magistrates’ Court documents in 2018 was the execution of Warrants of Arrest, which had an increase of +307 documents executed, compared to 2017.

Supreme Court Documents

When comparing documents issued by the Supreme Court in 2018 with 2017, there was a decrease by -33 or -15% from 218 to 185. The Bailiffs were successful in executing 165 or 90% of these documents.

In 2018 there were a total of 57 Supreme Court Writs issued for the seizing and selling of the defendants’ assets. The Bailiffs executed 34 Writs of Possession (WOP) for the repossession of property. When comparing the WOP in 2018 with 2017 there was an increase of +12 or +54% in this type of Civil enforcement.

There was a decrease of Writs of Fieri Facias (WOF) from 22 to 12 or -45%. The WOF is for the eventual selling of assets seized by the Courts.

Special mention to Bailiffs Donna Millington, Donville Yarde and Veronica Dill who carried the brunt of the service of Supreme and Magistrates’ Court documents in 2018. Their stellar service included working outside of normal hours in order to execute their assigned documents without due delay.

2019 Magistrates' Court Initiatives

- Implementation of a pilot Driving Under the Influence (DUI) Court whereby offenders will be able to retain their license if they participate in a robust, structured programme that addresses their drinking and driving impulses. By doing so, they are able to continue to be employed and to take care of their families, or to continue to transport their loved ones to school or to the hospital.
- Implementation of a Probation Review and Re-Entry Court so that offenders who are in the community can take advantage of the rehabilitative services being offered, and, so that those who are released from the Westgate Correctional Facility are given a safety net from which they can transition smoothly back into society and thereby reduce their likelihood of reoffending.

We will advocate for:

- “Special measures” legislation that would mandatorily allow vulnerable witnesses such as child victims of sexual abuse to give evidence in a way which is not hampered by intimidation and which does not compound the trauma which they have already suffered.
- Specialized counselling programmes for victims of sexual assault and other victims of crime after the conclusion of the criminal trial so that they may be equipped to adequately deal with any trauma they may have suffered. Such counselling could be extended to the children and family members of those who may have been murdered.
- A web-based online payment system that would allow persons who have committed certain low level traffic offences (such as parking or speeding), or those who wish to pay child support into the Collecting Office, or those who wish to satisfy Judgment Debts, to do so without the need to leave from work or home (such as those who may have physical challenges).

- Functioning and cutting-edge video-link facilities that would allow children and apprehensive witnesses to give evidence away from the Courtroom setting and from the glaring eyes of those who may have victimized them.
- Increased funding for Legal Aid so as to ensure unobstructed access to justice and to ensure that those who are financially unable can still receive proper legal representation.
- Extend the Legal Aid programme to Civil and Family Matters so that those who are crippled with debt and those who are embroiled in contentious child support and child custody matters can know their rights. Indeed, like the Duty Counsel in Plea Court, there should be a Duty Counsel in the Civil and Family Courts.
- Implementation of a digital case management system which would streamline the administrative process of fixing dates for hearings and trials, and which would allow for pleadings and documentary evidence to be easily available to parties in matters.
- Amendment of the archaic 1968 Mental Health Act so that those who have a mental health disorder can receive immediate and comprehensive psychiatric intervention rather than they or their loved ones having to wait until their episodic issues escalate and the person finds themselves within the walls of the Courtroom.



Establishment List

Judicial Department – Magistrates’ Court
As at 31 December, 2018

POST	OFFICER'S NAME
Senior Magistrate	J. Wolffe
Magistrate	K. Tokunbo
Magistrate	T. Chin
Magistrate	M. Anderson
Magistrate	C. Craig Attridge
Court Manager	A. Daniels
Family Support Officer	C. Furbert
Head Bailiff/Deputy Provost Marshal General	C. Terry
Office Manager	P. Rawlings
Administrative Assistant (Administration)	R. Simmons
Enforcement Officer	A. Smith
Records Supervisor	J. Thomas
Accounts Officer	D. Lightbourn
Sen. Admin. Asst. to the Sen. Mag. & to Court No. 1	N. Williams-Grant
Administrative Assistant to Court No. 2	D. Richardson
Administrative Assistant to Court No. 3	D. Cruickshank
Administrative Assistant (Family)	A. Williams
Court Associate (Family)	S. Young (Relief)
Court Associate (Family)	G. Astwood (Relief)
Court Associate (Family)	J. Anderson-Lindo (Relief)
Senior Court Associate (Civil)	C. Bremar
Court Associate (Civil)	M. Rewan-Alves
Court Associate (Civil)	A. Seaman
Court Associate (Appeals)	N. Hassell
Court Associate (Criminal/Traffic)	D. Butterfield (Relief)
Court Associate (Criminal/Traffic)	C. Darrell (Relief)
Administrative Assistant – (Bailiffs’)	T. LaVern Edness (Relief)
Bailiff	D. Millington
Bailiff	D. Yarde
Bailiff	V. Dill
Bailiff	V. Young
Bailiff	VACANT
Court Associate (Cashiers)	T. Mahon
Court Associate (Cashiers)	S. Borden



DAME LOIS BROWNE-EVANS BUILDING

Published 8th February 2019.