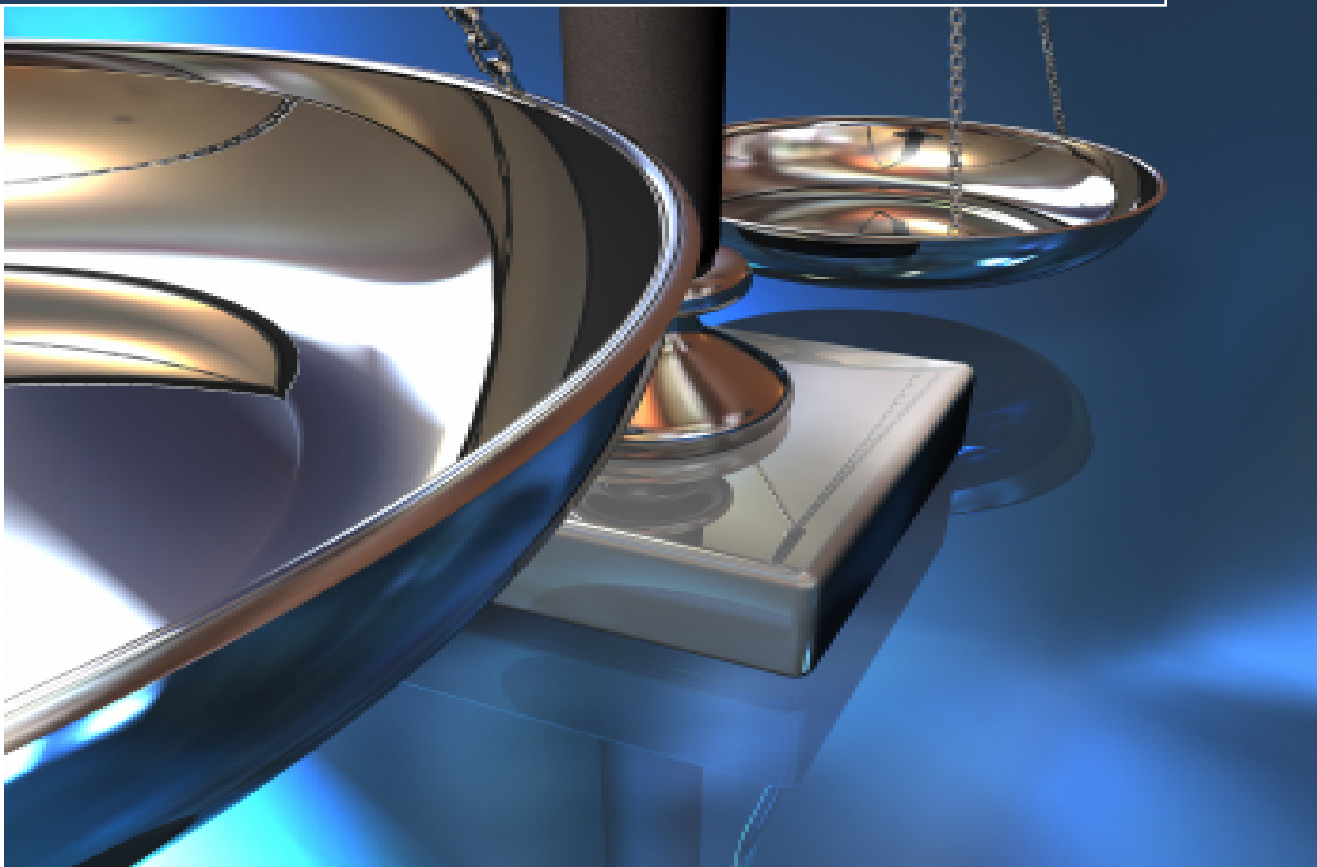


2008-09

Ministry of Justice



Annual Report



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## VISION STATEMENT

The vision of the Ministry of Justice is *“To provide an accessible system of Justice that engenders a high degree of public trust and confidence”*.

## MANDATE OF THE MINISTRY OF JUSTICE

The Ministry of Justice (MOJ) administers and delivers justice services, as well as provides policy support and analysis on justice issues. The Ministry is mandated *“to ensure that Jamaica is a just and law-abiding society with an accessible, efficient and fair system of justice for all; to promote respect for rights and freedoms, the rule of law and the Constitution; and to promote an awareness of individual responsibilities and civil obligations”*. This mandate is to be achieved through:

- Protecting the Constitutional Rights of citizens
- Maintaining the independence of the judiciary
- Reinforcing confidence in Legal Institutions
- Carrying out law reform to effect greater social justice
- Providing means of redress when people are abused by organs of the state
- Carrying out legal directives ordered by the courts for the protection of society

## SUBJECT AREAS

The Ministry is responsible for the following subject areas:

- Administration of Justice
- Administration of Estates in the Interest of Minors
- Business of the Senate
- Conditional Discharge of Forensic Psychiatric Inmates (under Amendment to Criminal Justice (Administration) Act 2006)
- Constitutional Reform
- Coroners
- Dispute Resolution
- Enquiries into the causes of Fire and Accidents
- Extradition
- Justices of the Peace
- Legal Education
- Legal Profession
- Marriage Licences
- Mutual Legal Assistance in Criminal Matters
- Notaries Public
- Obscene Publication Act
- Protection of Human Rights
- Victim Support
- Trustee in Bankruptcy

The Ministry Implements Its Strategies Through:

**Political Directorate**

**Attorney General & Minister of Justice**

**Senator The Hon. Dorothy Lightbourne, C.D., Q.C.**

**Executive Management**

**Permanent Secretary**

**Mr. Robert Rainford, J.P. (Since Feb. 2009)**

**Implementing Divisions:**

**(a) The Central Ministry**

- ✓ Internal Audit Department
- ✓ Criminal and Civil Justice Administration Unit
- ✓ Finance and Accounts Division
- ✓ Strategic Planning, Policy Research and Evaluation Division
- ✓ Human Resource Management and Administration Division
- ✓ Human Rights Unit
- ✓ Justice Reform Unit
- ✓ Law Revision Secretariat
- ✓ Legal Services Unit
- ✓ Management Information Systems Division
- ✓ Modernisation Unit
- ✓ Projects and Allied Services
- ✓ Property Management Unit
- ✓ Justice Education / Public Relations Unit
- ✓ Justice Training Institute
- ✓ Victims Support Unit

**(b) Departments and Agencies under the Ministry of Justice**

**Departments – Judicial & Legal**

**Judicial – Hon. Mrs. Justice Zalia McCalla, O.J. Chief Justice, Head of the Judiciary**

- ✓ Court of Appeal (*Established under Section 103 of the Constitution of Jamaica*)
- ✓ Supreme Court (*Established under Chapter VII Part I, Section 97 of the Constitution of Jamaica*)
- ✓ Resident Magistrates Courts (*Established under The Judicature (Resident Magistrates) Act 1928*)
- ✓ Revenue Court (*Established under The Judicature (Revenue Court) Act 1972*)
- ✓ Drug Court (*Established under The Judicature (Drug Court Treatment and Rehabilitation of Offenders) Act 2001*)
- ✓ Family Courts (*Established under The Judicature(Family Court) Act 1975*)
- ✓ Commercial Court Division of the Supreme Court established in February 2001
- ✓ Petty Sessions Court (*Established under The Judicature (Resident Magistrates) Act 1928*)

**Legal Departments/Offices**

- ✓ Attorney General’s Chambers –*Established under the provision of Section 79 of the Constitution of Jamaica*
- ✓ Legal Reform Department

- ✓ Office of the Parliamentary Counsel
- ✓ Office of the Director of Public Prosecutions – *responsible for all Criminal Prosecutions in Jamaica – subject to the provision of Chapter VI of the Constitution of Jamaica.*

### ***Agencies***

- ✓ Legal Aid Council – Established under the Legal Aid Act 1997
- ✓ Police Public Complaints Authority - Established under the Police Public Complaints Authority Act 1992.
- ✓ Commission for the Prevention of Corruption - Established under the Corruption (Prevention) Act 2001
- ✓ Office of the Trustee in Bankruptcy - Established under the Bankruptcy Act 1880.

### ***Executive Agency***

- ✓ Administrator General's Department - Established under the Administrator Generals Act 1873

### ***Affiliate Non- Governmental Organisation***

- ✓ Dispute Resolution Foundation

## **PRIORITY POLICY**

The priority policy of the Ministry of Justice is the comprehensive transformation of the justice system, focussing primarily in the short to medium terms on the following specific strategic areas:

- Restorative Justice
- Protecting Children, Youth and Vulnerable Groups
- Access to Justice
- Modernisation of systems and processes
- Capacity Building
- Legislation Programme
- Upgrading and maintenance of physical infrastructure

## **PERFORMANCE OVERVIEW**

The following report for the period April 2008 to March 2009 highlights the key achievements of the Ministry of Justice in meeting its priority policies, goals and targets.

**KEY PERFORMANCE INDICATORS 2008/2009**

STRATEGY	KPI	STATUS
<b>Strategy 1: Justice Reform</b>		
To transform Jamaica's justice system in keeping with recommendations from the Jamaica Justice System Reform Task Force.	<p>Justice Undertakings for Social Transformation (JUST).</p> <p>Office of the Special Coroner</p> <p>Office of the Special Prosecutor</p> <p>Independent Commission of Investigations to investigate excesses and abuses by agents of the State.</p>	<p>The Inception Phase of the JUST Programme was launched on August 30, 2007. Work under this phase has commenced.</p> <p>The Cabinet Submissions for these three (3) pieces of legislation have been drafted and are to be finalised by early 2009/10.</p>
<b>Strategy 2: Restorative Justice (RJ)</b>		
<p>To increase awareness and capacity for the practice of RJ in Jamaica</p> <p>Develop a Restorative Justice Policy for Jamaica.</p> <p>To utilise Restorative Justice methodologies in the resolution of conflicts brought before the Courts.</p>	<p>Restorative Justice (RJ) week held</p> <p># of persons sensitised/exposed to RJ philosophy/ Principles</p> <p>Restorative Justice Policy document produced.</p> <p># of Supreme Court Civil cases referred to mediation</p> <p>% of Matters resolved by mediation</p>	<p>RJ week was held in February 1 – 7, 2009 which included two Church Services, media coverage and a Public Panel Discussion which were well received.</p> <p>Approximately 2000 persons were exposed to RJ philosophy during 23 public consultations that were held for the National Restorative Justice Policy.</p> <p>The National Restorative Justice Policy is currently being finalised.</p> <p>In 2008, only seventy-four (74) cases were automatically Referred to mediation pursuant to Supreme Court Civil Procedure Rules 2002. This represents a significant decrease over the 967 cases which were referred to the DRF by the court in 2007.</p> <p>Of the 685 Supreme Court cases closed in the period, 53.55% were</p>

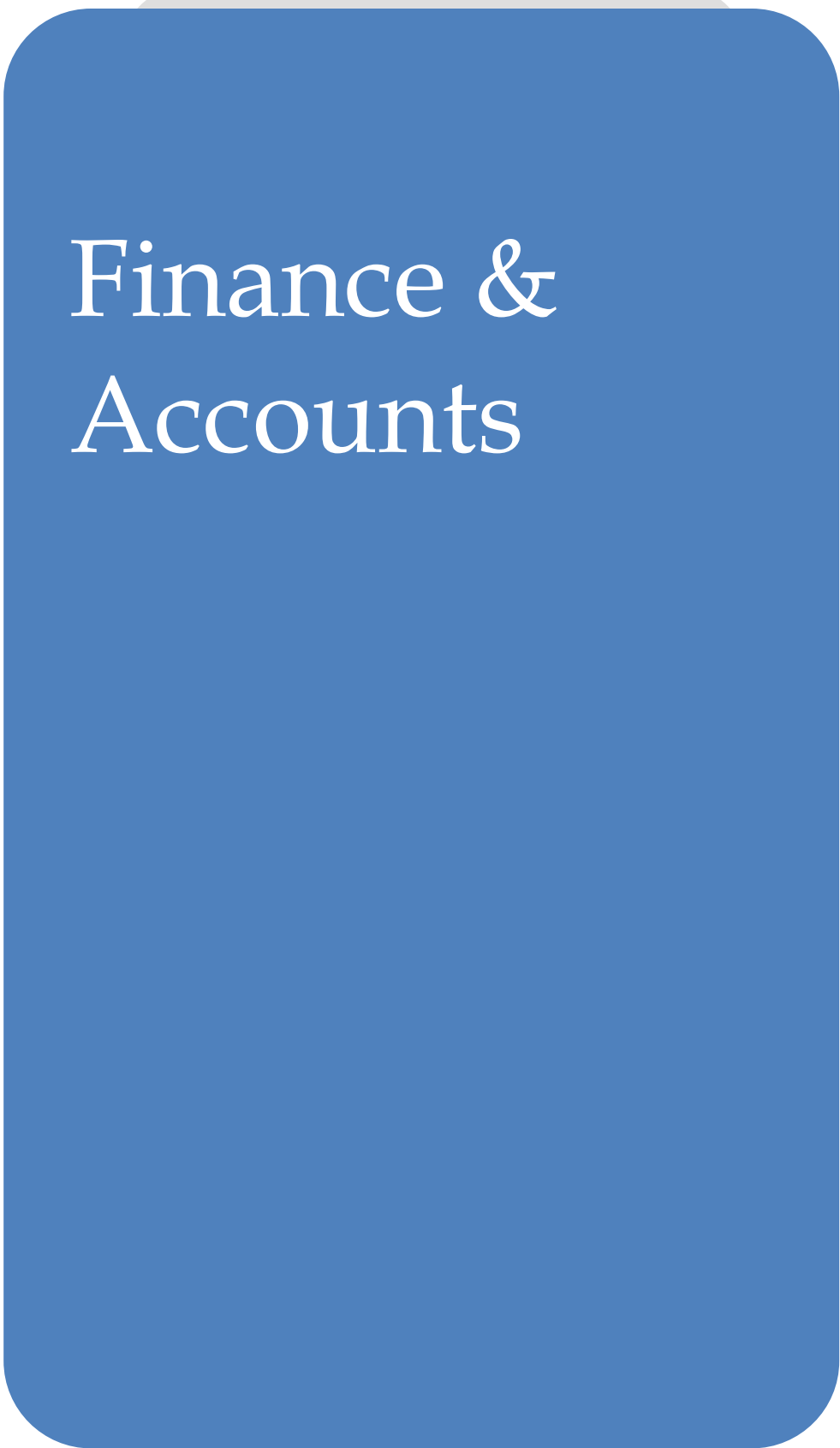
STRATEGY	KPI	STATUS
		<p>resolved through mediation.</p> <p>N.b. Data captured by the DRF is presented by calendar year not the fiscal year reported on by the Ministry. Significant work is being done for reports on mediation activities to be presented fiscally for the purpose of future annual reports.</p>
<b>Strategy 3: Protection of Children, Youth and Vulnerable Groups</b>		
<p>To develop and sustain a Justice System in which the best interest of children in conflict with the law is paramount</p> <p>To enact legislation that will create a safe environment that encourages victims and witnesses of crime to have a more participatory role within the Criminal Justice System</p> <p>To implement policies , strategies and legislation required to protect victims of trafficking in persons (TIP)</p> <p>Legislation related to the protection of vulnerable groups.</p>	<p>National Plan of Action for Child Justice submitted to Cabinet.</p> <p>Victims Charter submitted to Cabinet</p> <p># of victims of violent crime given counselling by the Victims Support Unit</p> <p># of victims given court support by the Victims Support Unit</p> <p>Evidence (Amendment) Act [Evidence by TV Link]</p> <p>Offences Against the Person Bill Rape (Amendment) Bill</p>	<p>The National Plan of Action for Child Justice is being revised for re-submission to Cabinet.</p> <p>As part of the Jamaica Justice System Reform Policy Framework prepared in January 2009 costs for the implementation of the Victim's Charter were included.</p> <p>10,625 victims of crime were given counselling by the Victims Support Unit during the year.</p> <p>767 victims were given court support by the Victims Support Unit during the year.</p> <p>The Draft Bill is currently before the Joint Select Committee of Parliament.</p>
<b>Strategy 4: Access to Justice</b>		
<p>To facilitate the public's pursuit of Justice as it relates to their rights and freedoms</p>	<p># of persons benefiting from state funded Legal Aid in the criminal jurisdiction</p> <p># of cases handled which required legal</p>	<p>2,020 persons who could not afford legal representation were provided with Legal Aid.</p> <p>1,349 cases requiring legal representation in the Islands courts</p>



STRATEGY	KPI	STATUS
<p>To facilitate transparency and the appearance of integrity among government officers</p>	<p>representation in the Island's courts</p>	<p>were handled by the Legal Aid Council. This represents a 29.6% increase over the number of matters handled in 2007/08.</p>
	<p># of Duty Counsel Cases Handled</p>	<p>There was a 47.5% increase in the number of Duty Counsel cases handled for the period under review. A total of 671 Duty Counsel Cases were handled for 2008/09.</p>
	<p># of cases of abuse investigated and disposed of under the Police Public Complaints Authority</p>	<p>During the period a total of 594 complaints were investigated by the PPCA. Of this number 172 were disposed of.</p>
	<p># of Declarations of assets received by Corruption Prevention Commission</p>	<p>11,900 declarations were received out of an expected number of 23,447 declarations, thereby representing 51% compliance as at December 31, 2009.</p>
	<p>#of complaints investigated</p>	<p>A sample of 113 cases were chosen for analysis the result of which is a total of eight (8) cases were closed with no further action required as they revealed no evidence of irregularities.</p> <p>One hundred and five (105) cases were referred for further internal investigation.</p>
	<p># of Matters referred to the ODPP</p>	<p>The Commission has to date referred in excess of Eighteen Thousand (18,000) cases to the Director of Public Prosecutions for failure to file Statutory Declarations of Assets, Liabilities and Income.</p>
<p><b>Strategy 5: Modernisation of Systems and Processes</b></p>		
<p>To modernise the operations of the Ministry, its' departments, agencies and the Courts</p>	<p>The continuation of programmes focused on the installation of the procured case management software i.e. Judicial Enforcement Management System (JEMS) and Prosecuting</p>	<p>Two high-capacity servers have been acquired, with installation to facilitate links with the ODPP, The Court of Appeal and the Supreme Court 95% complete. Final completion of this activity hinges on the successful acquisition of internet access in the</p>

STRATEGY	KPI	STATUS
	<p>Attorneys System (PAS)</p> <p>Real-time transcription implemented in the Supreme Court</p> <p>The Pilot Court Project Continued.</p>	<p>Supreme Court.</p> <p>With assistance from FISCAL Services Limited, eight (8) criminal court rooms were equipped with real time transcription technology in March 2009. Real time Court Reporting is to be implemented in the Court of Appeal by June 2009.</p> <p>The evaluation of this pilot project has been delayed. In the interim, owing to the absence of further budgetary support to this initiative, no further activities have been undertaken.</p>
<b>Strategy 6: Capacity Building</b>		
<p>To build capacity required to meet the challenges of Modernisation</p> <p>To review the Ministry's Organisational Structure to facilitate increased capacity to support a Modern Justice System and greater service delivery</p>	<p># of steno writers/court reporters being trained</p> <p># of new /restructured departments established</p>	<p>A new Director / Principal for the JTI was engaged in January 2009. A Strategic Plan is being prepared to refocus the JTI on its core mandate and functions.</p> <p>The Court Reporting Programme is to be re-evaluated as it has failed to graduate the required number of trained Court Reporters.</p> <p>For the year in review the Ministry worked at establishing and operationalising the Legal Services Unit. Work continues in collaboration with the Cabinet Office to finalise the recommended organisational structure for the Ministry.</p>
<b>Strategy 7: Legislative Reform</b>		
To enact legislation that will enhance the dispensation of Justice	Bills tabled	A total of one hundred and forty five (145) Bills and one hundred and fifty

STRATEGY	KPI	STATUS
in Jamaica.		eight (158) pieces of regulations were drafted in the period. Nineteen (19) draft Bills were tabled in Parliament during this period with a total of sixteen (16) being passed.
<b>Strategy 8: Upgrading and Maintenance of Physical Infrastructure</b>		
To refurbish and maintain existing Ministry and Court infrastructure	Amount expended on courthouses refurbishing # of Courthouses refurbished.	\$45.96M was spent on the refurbishing of eight (8) courthouses as well as to undertake minor works on the Office of the DPP and the Family Court Attendance Centre.



# Finance & Accounts

The Ministry of Justice had a challenging year as revenues fell owing to the effects of the global financial crisis. The best use was however made of the available resources. The challenge increased somewhat with adjustments made at the First Supplementary Estimates but the ministry was able to achieve the following results despite the shortfalls.

The priority areas remained:

- Payments to Jurors
- Payments to Legal Aid Lawyers
- The Norman Manley Law School Subvention
- Timely settlement of Judgement Debt Charges
- Refurbishing of Court Houses

#### Juror Payment

As a result of reduced funding, payments to jurors were curtailed. A special effort was however made to ensure that payments were made especially given the importance of Jurors to the Justice System.

#### Legal Aid Lawyers

Funds collected by means testing from clients supplemented the Government of Jamaica funding and were used to meet payment to Legal Aid Attorneys and ensured that payments remained current for the Financial Year.

#### Council for Legal Education-Norman Manley Law School

An increase in subvention support was granted to the Law School to meet salaries and allowances. Despite the challenges faced, the total provision for them for the year was paid by the end of the year.

#### Judgement Debt Charges

The settlement period for Judgement Debts was reduced due to increasingly large settlements and the unpredictable nature of the cases. Unfortunately the rate/pace at which debts were being settled fell from sixty (60) days to one hundred and twenty (120) days. Every effort is being made for timely settlement and so the ministry has embarked on making part payments to reduce the waiting time for settlement of claims.

#### Refurbishing of Courthouses

A deposit of J\$19.0 Million<sup>1</sup> to purchase of the former NCB Building at 52-54 King Street highlighted the achievements of the fiscal year. The roll out of the Real-time Court Reporting and the provision of the electronic equipment to the courts was partially achieved. Maintenance of other courthouses islandwide continued and security fencing was installed at the Witness Protection Building in St. Ann's Bay. Limited budgetary allocation prevented the Ministry from undertaking a more substantial refurbishing programme.

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<sup>1</sup> The full cost of the building is J\$128.0 Million. The balance is to be paid during the FY 2009/10.

Table A: Revised Budgetary Allocation for 2007/08 and 2008/09

Ministry/Department	Approved Allocations 2007/08 JA (\$'000)	Approved Allocations 2008/09 JA (\$'000)
Ministry of Justice*	650,423.0	751,850.0
Court of Appeal	103,256.0	104,670.0
Office of the DPP	150,242.0	164,920.0
Family Courts	113,758.0	118,627.0
Resident Magistrates' Courts	548,111.0	590,590.0
Revenue Court	5,384.0	5,418.0
Supreme Court	401,058.0	418,130.0
Administrator General's Dept.	69,046.0	70,770.0
Attorney General's Dept.	388,350.0	392,687.0
Office of the Trustee in Bankruptcy	25,637.0	27,547.0
Office of the Parliamentary Counsel	49,077.0	46,775.0
Legal Reform Dept		30,775.0
<b>Total Recurrent</b>	<b>2,535,919.0</b>	<b>2,722,759.0</b>
Capital 'A'	247,200.0	374,320.0
Capital 'B'	38,732.0	21,782.0
<b>Total Capital</b>	<b>285,932.0</b>	<b>396,102.0</b>

Table B: Distribution of Revised Budget Provision for Ministry of Justice 2004/05 -2008/09

MINISTRY/ DEPARTMENT	2004/05 (J\$ '000)	2005/06 (J\$ '000)	2006/07 (J\$ '000)	2007/08 (J\$ '000)	2008/09 (J\$ '000)
Ministry of Justice*	448,283.0	514,857.0	552,769.0	650,423.0	766,500.0
Court of Appeal	72,545.0	72,972.0	82,403.0	103,256.0	155,435.0
Office of the Director of Public Prosecution (ODPP)	110,656.0	121,653.0	152,443.0	150,242.0	184,920.0
Family Courts	83,539.0	86,416.0	98,455.0	113,758.0	149,034.0
Resident Magistrates' Courts	450,247.0	454,072.0	528,379.0	548,111.0	762,398.0
Revenue Court	4,776.0	4,811.0	4,070.0	5,384.0	5,418.0
Supreme Court	294,794.0	313,324.0	389,131.0	401,058.0	626,296.0
Administrator General's Dept.	76,399.0	78,952.0	90,315.0	69,046.0	192,953.0
Attorney General's Dept.	247,181.0	410,762.0	392,913.0	388,350.0	392,687.0
Office of the Trustee in Bankruptcy	19,967.0	22,180.0	25,187.0	25,637.0	31,305.0
Office of the Parliamentary Counsel	39,482.0	42,424	48,343.0	49,077.0	61,573.0
<b>Total</b>	<b>1,848,409.0</b>	<b>2,122,423.0</b>	<b>2,383,988.0</b>	<b>2,535,919.0</b>	<b>3,225,050.0</b>

\* The figure for the Ministry of Justice includes subventions to be paid to the following: Corruption Prevention Commission, Police Public Complaints Authority, Legal Aid Council, Norman Manley Law School and Dispute Resolution Foundation.

# Strategy 1: Justice Reform

The Jamaica Justice System Reform Policy Agenda Framework was prepared in fulfilment of the approval given by Cabinet in January 2008 for the development of a ‘justice transformation agenda’. The Framework sets out the major strategic objectives and priority initiatives that will be conducted over the next five years, towards attaining the Government of Jamaica’s goal for justice reform. It incorporates and prioritises recommendations made through the Jamaica Justice System Reform Task Force, which was completed in June 2007, following a comprehensive consultation process.

The Framework incorporates and adds to major justice sector initiatives being undertaken by the Ministry of Justice, including the establishment of a Court Management Service; the reduction of case backlog in the courts; the strengthening of legislation and the legislative process; the retooling and capacity development of institutions within the justice system; the establishment of an Independent Commission of Investigations for the Investigation of Excesses and Abuse by Agents of the State; establishment of the Office of the Special Coroner; and the implementation of a social component that will support improved access to justice at the community level and increased public trust and confidence in the justice system.

The Jamaica Justice System Reform Policy Agenda Framework gives necessary detail to the general plans for transforming the justice sector, and includes initiatives and indicators that will form the Ministry of Justice’s strategic priorities for justice reform for each of the next five years. This level of detail not only allows for the projection of government expenditure to the sector over the medium term, but will also facilitate the mobilization and disbursement of funding from international donor partners, including meeting the prerequisites put in place by the European Union for its €3 Million Security Sector Reform Programme (SSRP).

This Reform Framework is premised on the high priority that needs to be placed on tackling violent crime in securing Jamaica’s current and future development achievements. The Framework situates the need for justice reform against the breakdown of Rule of Law as reflected in a consistently high – and costly – rate of violent crime. The prioritizing of justice reform strategies are not ends in themselves, but are interlinked with wider development priorities in the areas of safety, security and social development.

The Framework identifies and costs priority initiatives around seven (7) strategic objectives:

- Ensuring fair and timely case resolution
- Improving access to justice
- Strengthening the judiciary and its workforce
- Strengthening linkages between justice sector institutions



- Establishing a sound court infrastructure
- Implementing a social component to the delivery of justice
- Strengthening public trust and confidence

The justice transformation framework sets out an institutional component that will guide the process of implementing reforms. At the core of this is a Justice Reform Implementation Unit (JRIU). The JRIU will be the justice reform hub within the Ministry and will have the following broad objectives:

- To coordinate government initiatives in the justice reform process;
- To identify and resolve major problems in the implementation of justice reform;
- To monitor and evaluate all justice reform related initiatives – including those being executed by international donor partners – and ensures that the objectives of the Government of Jamaica are being achieved.

The process of setting up this Unit is underway. Space has already been identified within the Ministry for housing the Unit and the process of recruiting a six-person team is about to commence. They will be contracted for a four-year period with the funding from the Canadian International Development Agency (CIDA).

The framework further defines a monitoring and evaluation mechanism designed to ensure that momentum is maintained over the next five years. Strategies will include the convening of inter-sectoral, policy-level groups to move through any blockages that emerge. One such group that the Ministry already benefits from is an Advisory Council on Justice Reform. The Council provides a necessary external perspective to the reform process. It is envisaged that other broad-based stakeholder groups will be brought on board and that civil society will have an integral role in shaping reform initiatives.

The Justice Reform Implementation Unit will devise annual plans from the initiatives detailed in the Framework. These plans – and the reports produced by the JRIU on an annual basis – will provide componential indicators by which to measure the pace and success of justice reform.

The implementation of the justice reform agenda for the next five years is estimated to cost J\$6.4 Billion using an exchange rate of US\$1.00 = J\$85.00. The figure does not include recurrent costs already provided for in the Ministry's budget, such as the cost of paying staff, or initiatives that have already been budgeted elsewhere. It is expected that implementation will commence in the FY 2009/10.

# Strategy 2:

# Restorative Justice

*2.1 Target: To increase public awareness and training on Restorative Justice (RJ) in Jamaica*

*Achievement:*

The Government of Jamaica, through the Ministry of Justice was mandated in 2004 to establish a Restorative Justice (RJ) Programme in several communities over a two year period.

Restorative Justice is an approach to justice that promotes the healing of communities and the restoration of relationships. It focuses on healing the harm that has resulted from a crime as a complement to the existing justice system.

During the year under review the Canadian – Caribbean Cooperation Fund (CCF) Contribution Agreement between Public Works and Government Services Canada and Ministry of Justice Jamaica was signed. This agreement became effective on the 4<sup>th</sup> February, 2008 and remains in effect until 31<sup>st</sup> December, 2009. The Canadian contribution towards this programme is CAD\$500,000.

The following are the specific activities to be undertaken under this agreement:

<b>Activities</b>	<b>Status</b>
A comprehensive review of Court Processes and Systems	To commence. A Request for Proposal (RFP) is to be done
The development of a Policy Framework for the Justice Transformation Agenda	Completed.
Designing, Developing and Disseminating Restorative Justice training modules	RFP completed in November, 2008. Consultant selected. Contract prepared.
Community-wide training of citizens in Restorative Justice Practices island wide [Community Justice Tribunals]	RFP non-responsive. Alternative approaches being explored.
Designing, developing and implementing public awareness and education campaigns on Restorative Justice	RFP completed in November, 2008  Consultant selected. Contract is being prepared.
Training of existing practitioners and public service providers in restorative justice	RFP completed in November, 2008. Consultant selected. Contract is being prepared
Hosting a three-day International Conference on Restorative Justice	Postponed from February, 2009

With the help of the CCF, a consultant was engaged for a period of four months from September 11, 2008 to January 11, 2009 to develop a Justice Transformation Agenda document. The cost of this 80-day consultancy was CAD\$56000.00.

The consultant delivered the “*Jamaica Justice System Reform Policy Agenda Framework*” which provides recommendations on those reforms that can be feasibly implemented in the Jamaican justice system, over a period

of five years, along with the costs of implementing the recommendations proposed. The report was submitted to Cabinet, which gave its approval in March 2009.

### **Requests for Proposals**

The Ministry of Justice, in keeping with Government guidelines, and consistent with the spirit and terms of the CCF agreement, using the open tender approach, invited proposals through the local newspapers and the Ministry of Justice's website, from interested and suitably qualified offerors:

- To design and develop training modules and deliver training in Restorative Justice and Conflict Prevention Methodologies and Practices to the public and private stakeholders in Jamaica; inclusive of Justices of the Peace, personnel from the Department of Correctional Services and the Jamaica Constabulary Force.
- For Professional services to develop a framework to establish Community Justice Tribunals in Jamaica, on a sustainable basis; and
- For Professional services to develop an effective national Public Awareness and Education Campaign on Restorative Justice and Conflict Prevention.

The proposals were to be submitted by November 14, 2008.

Five (5) proposals were received as follows:

Public Awareness	Training Modules	Community Justice Tribunals
1. Northern Caribbean University [NCU]	1. Northern Caribbean University [NCU]	This category was non-responsive
2. Corporate Affairs Research and Advertising Ltd [CARA]	2. Corporate Affairs Research and Advertising Ltd. [CARA]	
	3. International Institute for Restorative Practices [IIRP]	

As the table reveals two tenders were submitted for Public Awareness, three for Training Modules and non-responsive tender for Community Justice Tribunals.

The RFPs were evaluated and recommendations made in January 2009. The contracts are now being prepared.

Alternative approaches are being explored to find consultants to handle the non-responsive tender in anticipation that these will yield results.

An advanced payment of J\$16,288,936.95 was received from the CCF on the 23<sup>rd</sup> December, 2008, towards the engagement of consultants in the categories listed above.

### **Restorative Justice Week**

The highlight of the month of February was the observance of Restorative Justice Week between February 1 and 7, 2009, under the theme: *Restorative Justice: Going beyond the hurt*. Two Church Services, to launch the week, were held. The first was on Saturday January 31, 2009, at the Andrews Memorial Seventh Day Adventist Church, in Kingston and the second on Sunday February 1, 2009, at the Boulevard Baptist Church, also in Kingston.

Two Youth Interventions Exercises, [re-socializations] were also conducted by the Victim Support Unit (VSU) at Serenity Park St Catherine. The intervention processes involved two groups of sixty (60) students on each day. They were taught how to recognize and cope with trauma as well as important life skills which should educate and empower them. This was done in a therapeutic fun-filled atmosphere.

Public awareness through the use of broadcast media also included a Talk Radio programme hosted by Dr. Henley Morgan, focused on Restorative Justice. A local radio station, Hot 102, also carried a fifteen minute discussion on Restorative Justice with three members of the Restorative Justice Planning Committee. The CCF Project for the implementation of Restorative Justice in Jamaica was also launched at the Canadian High Commission.

A Public Panel Discussion, *Building Community Support for Restorative Justice Philosophy and Practices*, was held during lunch hour in the courtyard at the Ministry of Justice, in which three papers were presented. The Public Panel Discussion was very well received and the feedback from presenters and the audience was encouraging.

The International Restorative Justice Conference that was scheduled to be held during Restorative Justice Week, February 1-7, 2009, was rescheduled to May 2009.

## *2.2 Target: To develop a RJ Policy for Jamaica*

### *Achievement:*

A total of 23 public consultations were held across the island on the draft Restorative Justice Policy. Approximately 2,086 persons participated. A draft policy document was prepared and is being revised by a Policy Review Working Group. The expectation is that the document will be ready for submission to Cabinet by December 2009.

# Strategy 3:

# Protection of Children Youth & Vulnerable Groups

The provision of better protection for witnesses, victims, children and other vulnerable groups is a critical priority area for the Ministry. To this end the Ministry embarked on several activities in support of its mandate.

### The Victim Support Unit

The Ministry through the Victim Support Unit (VSU) continues to provide victims' services through a network of Parish Offices supported by volunteers. Support is primarily provided to victims in the areas of:

- (1) assistance in dealing with emotional trauma associated with and caused by being a victim of crime and
- (2) intervention, on victims' behalf, in the courts and in both governmental and non-governmental institutions.

#### *3.1 Target: To provide support services for victims*

##### Achievement:

Activities achieved in the 2008/09 financial year were with a limited staff complement, assisted by trained volunteers, with the parishes of St. Catherine and St. Ann still being in need of parish offices.

For the period 2008/09, fourteen (14) workshops/seminars were conducted while five hundred and two (502) volunteers were recruited. The VSU provided counselling for a total of ten thousand, six hundred and twenty-five (10,625) victims of crime. Five thousand and fifty-two (5,052) of these cases represent new clients/victims, thereby exceeding the targeted five thousand (5,000) clients for the period. The remaining five thousand, five hundred and seventy-three (5,573) cases were existing clients/victims.

Court support, which is an island-wide service, was provided to seven hundred and sixty-seven (767) clients. Activities related to this service included the preparation of clients for the court experience, liaising with court personnel on their behalf and preparing court reports.

Relief assistance in the form of transportation and food supplies was provided for two thousand, five hundred and five (2,505) clients during the year which was approximately 418% above the anticipated target of 600. This is a significant achievement, considering that the Unit does not have funds budgeted for this purpose. By being proactive and networking with other agencies and institutions, the VSU has been able to support victims in this manner.

A total of thirty-three (33) special projects were implemented during the year. The VSU also participated in the Overcomers in Action group support intervention for sexually abused females. In an effort to promote the aims and objectives of the Victim Support Unit (VSU), a total of five hundred and forty-three (543) promotional meetings were held with seven thousand one hundred and twenty (7,120) persons in attendance.

The challenge for the Unit is its limited capacity to support the large number of victims being created due to the high crime rate plaguing Jamaica. Currently, the main crimes for which victims are seen by the VSU include rape, carnal abuse, incest, attempted rape, indecent assault, murder, domestic violence and wounding, with the annual data continuing to show that females are more than twice as likely to be victims of crime as males.

For the upcoming fiscal year, 2009/10, the VSU will be rolling out a functional Trafficking in Persons (TIP) Hotline service.

# Strategy 4: Access to Justice



## **Legal Aid Council**

The Legal Aid Council is the body established by the Legal Aid Act of 1997 which came into operation on May 1, 2000. Its role is to administer and supervise legal aid across the Island of Jamaica. The Council is administered by a board, comprising of a chairman and not less than thirteen (13) or more than fifteen (15) members.

The members of the Board include the Chief Justice, the Director of Public Prosecutions, the Solicitor General, the Permanent Secretary of the Ministry of Justice, or their nominees. Also included on the Board is a representative of the Jamaican Bar Association, the Advocate Association of Jamaica, the Council of Legal Education, the General Legal Council, a member of the Jamaica Independent Council for Human Rights, a member of the Jamaica Constabulary Force and the Jamaica Council of Churches; each of these selected by the Minister from a panel of three (3) that were nominated by these bodies, Directors of both Legal Aid Clinics and the Norman Manley Law School.

The day-to-day operations of the Council are supervised by the Executive Director and four (4) members of Staff. Currently, Legal Aid is provided for only criminal matters with two programmes being operated.

### Duty Counsel

Under this scheme, the Council provides the service of an attorney-at-law to a person being held at a police station, lockup, correctional institution or any other place where he/she is being held or detained before a Court appearance; Counsel gives legal advice to that person who is detained or accused of an offence; attends an Identification Parade, if one is being held; be present at the taking of a Cautioned Statement, if one is to be taken, or at a questioning by the police, whether questioning will be recorded by the police or not; makes representation for bail at the lockup; and represents the individual as Counsel on his/her first appearance in Court.

### Legal Aid in the Courts: Resident Magistrate's Courts, Circuit Courts, Gun Courts and the Court of Appeal

When an application for Legal Aid is made and granted by the appropriate authority, the Legal Aid Council provides Counsel to conduct the defence on behalf of the accused. The fees paid for these services vary depending on the seniority of the Counsel, the offence and the Court before which the accused is tried.

The Council maintains a panel of attorneys, who have indicated their willingness to offer their services to persons, who are in need of Legal Aid. These attorneys are drawn from across the island and operate in all Courts. There are at present more than three hundred (300) attorneys on the Council's panel and they include Queen's Counsels, established senior attorneys, as well as junior attorneys.

#### *4.1 Target: To provide duty counsel services to persons being held at the islands police stations*

##### Achievement:

A total of six hundred and seventy-one (671) Duty Counsel Cases were handled during 2008/09. This represents an increase of forty-seven point five percent (47.5%) in the number of Duty Counsel Cases handled in 2008/09 compared to the previous year. Work in this area has been steadily increasing over the past four (4) years (*see table below*). Since 2004/05, there was a ninety-seven percent (97%) increase in the number of Duty Counsel Cases handled by the Legal Aid Council.

**Table C: Legal Aid Cases handled between 2004/05 and 2008/09**

Categories	2004/05	2005/06	2006/07	2007/08	2008/09	Percentage Increase (%) since 2004/05
Resident Magistrate's Courts	347	381	419	434	577	66%
Circuit Courts	243	292	251	233	266	9%
Gun Courts	196	240	440	341	466	38%
Court of Appeal	41	41	27	33	40	(-3%)
Sub-total Legal Aid Cases	827	954	1,137	1,041	1,349	63%
Duty Counsel Cases	341	373	419	455	671	97%
Grand Total	1,168	1,327	1,556	1,496	2,020	73%

The Legal Aid Council is seeking to increase, even more significantly, access to its Duty Counsel programme, through a Weekend Duty Counsel Service available at selected police stations. Complementing this initiative is a proposed review of fees paid for Duty Counsel, so that support can be garnered from lawyers for this key human rights activity. The Schedule of Fees, which is the guideline for payment to attorneys for services rendered to the Scheme, has not been changed since the year 2000.

#### 4.2 Target: To provide counsel to represent accused persons who qualify for the legal aid service

##### Achievement:

During the period under review, a total of one thousand, three hundred and forty-nine (1,349) persons<sup>2</sup> who could not afford legal representation, were provided with Legal Aid assistance. This represents an increase of approximately 30% when compared to one thousand, and forty-one (1,041) cases handled in 2007/08. Increased activity was also recorded in the Resident Magistrate's Courts (33%), the Gun Court (37%), the Circuit Courts (14%) and the Court of Appeal (21%). (See Table C above).

Between 2004/05 and 2007/08, the greatest increase in the number of Legal Aid cases handled related to the Resident Magistrate's Courts (66%). Legal Aid cases related to the Gun Court and the Circuit Courts also increased over the period by 38% and 95% respectively. There was a decrease in Legal Aid cases for the Court of Appeal by 3%.

**Table D: Comparison for the fiscal year 2007/2008 and 2008/2009**

Court	2007/2008	2008/2009	Percentage Increase
Resident Magistrate's Court	434	577	32.9%
Gun Court	341	466	36.6%
Circuit Court	233	266	14.1%
Appeal Court	33	40	21.2%
Duty Council	455	671	47.5%
<b>Total</b>	<b>1496</b>	<b>2020</b>	<b>35%</b>

<sup>2</sup> This number does not include persons accessing Duty Counsels, which is discussed separately.

Persons who visited or called the Council received legal advice and follow-up meetings arranged. In other cases clients were given direction on how to proceed as their circumstances required. Other forms of assistance included Writ of *Habeus Corpus* Applications, Lock-up Visits and other related assignments.

The Council improved its effort to increase public awareness regarding the legal aid programmes offered. The Executive Director and Administrator visited the Constant Spring and Hunts Bay Police Stations in furtherance of the Council's outreach program. Discussions were held with rank and file personnel with regard to Duty Counsel and how it should be administered by law enforcement personnel.

The Council hopes to continue the trend of improved service delivery in the fiscal year 2009/2010, subject in part to the level of funding available.

### *Payments to Legal Aid Lawyers*

The Council, during the reporting period, disbursed a total of Thirty-six Million Eight Hundred and Thirty-six Thousand Five Hundred Dollars (\$36,386,500) as payment to attorneys for service rendered under the scheme.

The long-standing matter of fee review for legal aid services was given priority attention by the Council. Invitations for consultation were sent out and consultations held with the representatives of the Bar Associations. Recommended fee adjustments were also received from the Advocates Association.

### **Police Public Complaints Authority (PPCA)**

The PPCA is an independent, civilian agency with the power to investigate allegations of misconduct filed by members of the public against members of the Jamaica Constabulary Force and its Auxiliaries. Investigations are conducted in an impartial and objective fashion by the Authority's Investigative Staff who are civilian employees.

The Authority consists of three persons appointed by the Governor General in his discretion (one of whom is appointed Executive Chairman) <sup>3</sup> by instrument under the Broad Seal.

*4.3 Target: To monitor investigations by the Force of any complaint or other matter to which the Act applies with a view to ensuring that such investigations are conducted impartially.*

#### *Achievement:*

During the period April 2008 to March 2009, three hundred and seventy-six (376) complaints were lodged with the Police Public Complaints Authority (PPCA) – an increase of 4% over the previous year. Two hundred and eighteen (218) complaints were carried forward from 2007/08 making the total number of complaints for investigation five hundred and ninety-four (594). Of this number, one hundred and seventy-two (172) were disposed of.

The majority of complaints continue to be against police officers in the rank of corporal and below (265), although this represented a decrease of approximately 16% over the previous year. There was a 51% increase in complaints against police officers at the rank of Inspector and Sergeant from thirty-five (35) to fifty-three (53) complaints.

Complaints against police officers at the rank of Assistant Superintendent and above though generally low, increased during the period under review, from fourteen complaints (14) to fifty-three (53). Increases in

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<sup>3</sup> See Ministry of Justice Website [www.moj.gov.jm](http://www.moj.gov.jm)

complaints during the year in review were also seen against Special Constables (10 %), District Constables (13 %), and unidentified policemen (29 %). Complaints against stations decreased by 18.2 %.

Complaints of assault were the main grievance by the public against police officers at a total of one hundred and sixty-four (164) complaints, showing an increase of 14% compared to the number of similar complaints received in 2007/08 by the PPCA. Complaints of non-fatal shooting decreased by 25%.

Kingston and St. Andrew continued to account for the highest number of complaints i.e. one hundred and nineteen (119), which was an increase of 16 % compared to the number of complaints received during the previous year. The parish of St. James, with sixty-one (61) complaints, showed a decrease of 19% compared to the previous year.

**Table E: Complaints Disposed by the PPCA**

<b>Disposal Status</b>	<b>2008/2009</b>	<b>2007/2008</b>
Referred to the DPP for Ruling	43	44
Referred to the Commissioner of Police for Action	21	36
Not Substantiated	98	46
Withdrawal	7	8
Inspector General	3	-
<b>Total</b>	<b>172</b>	<b>134</b>
Number of Complaints Pending	204	228

The breakdown for the 228 complaints which were brought forward from 2007/2008 and disposed in 2008/09 is as follows:

**Table F: Other Complaints Disposed During the year 2008/09**

<b>Disposal Status</b>	<b>No.</b>
Referred to DPP for Ruling	81
Referred to Commissioner of Police for Action	22
Not Substantiated	111
Withdrawal	4
<b>Total</b>	<b>218</b>
Pending	10

#### *4.4 Target: To facilitate the administration of Justice*

##### **Criminal and Civil Justice Unit**

###### *Achievement:*

The Ministry facilitated the administration of justice, through its Criminal and Civil Justice Unit. This unit made thirty-seven (37) arrangements for the participation overseas of members of the Judiciary and legal staff in conferences, workshops, seminars and study tours during the period. Four (4) local training sessions were also facilitated for the judiciary and members from the Attorney General's Department and the Office of the Director of Public Prosecutions.

Continued financial support of \$18.6 million dollars was given during the period to the Dispute Resolution Foundation (DRF), while \$1,032,000.00 was paid to the treatment provider of both Drug Court Treatment Centres in Kingston and St. James.

#### *Appointment of Justices of the Peace and Notaries Public*

This unit also facilitated the appointment of forty-nine (49) Justices of the Peace, bringing the number of Justices of the Peace on the islandwide list to five thousand, four hundred and sixteen (5,416). The use of seals, with serial numbers that can easily be identified with the JP assigned, was continued in efforts to reduce fraud and increase accountability. During the period, one hundred and eleven (111) seals were dispatched. Seven (7) applications for appointment of Notaries Public were received and approved.

#### *Special Minister's (Marriage) Licenses*

Ministers Licence is one form of marriage license that authorizes a marriage officer to perform a marriage between the persons named therein (*see Section 21 of the Marriage Act for reference*). This license is issued by the Minister of Justice, on the basis of a declaration by a third party in the presence of a Justice of the Peace. The licence requires a stamp duty in the amount of four thousand Jamaican dollars (J\$4,000).

Eleven thousand, three hundred and thirteen (11,313) new applications for Special Minister's Marriage Licences were processed, earning \$45,416,000.00 in revenue for the government. The number of applications received for processing reflected a marginal decrease of approximately 0.8% compared to the previous financial year.

Forty-one (41) applications for Minister's licences were brought forward from the previous review period. This brought the total number of applications to be processed to eleven thousand, three hundred and fifty four (11,354) (**Table 16**). Of this total, eleven thousand, three hundred and seventeen applications were processed (99.6%). Thirty seven applications were returned, while twenty five applications were carried forward to the following year (**Table 16**).

#### *Applications for Expungement of Criminal Records*

During the 2008/09 fiscal year, a total of one thousand and fifty-nine (1,059) new applications for the expungement of criminal records were received. Of these new applications, seven hundred and sixty-five (765) or 72% were considered eligible, while 331 (31%) were returned (**Table 15**). Twenty-five (25) of these new applications were deferred. Of the seven hundred and seventy-four (774) applications sent for decision, six hundred and eighty-nine (689) or 89% were approved (**Table 15**), and thirteen (13) or approximately 2% were refused. The remaining applications were either returned (5%) or deferred (4%).

Expungement is the removal of a conviction from one's criminal/police record after a specific period of time has elapsed and after certain requirements have been met. The statute authorizing the expungement is the Criminal Records (Rehabilitation of Offenders) Act, 1988 (Act 18 of 1988) which was brought into force on September 30, 1988 upon Notice signed by the Minister of Justice.

The Criminal Records (Rehabilitation of Offenders) Act, 1988 introduces a process which provides for the non-disclosure of a Criminal Record in certain circumstances. The principle underlying these provisions is that a person who has made a sincere and successful attempt to live down a conviction should be given the opportunity to start afresh without being haunted by his unfortunate past.

A Criminal Record usually creates many difficulties and disabilities for the person involved. It can adversely affect that person's ability to find employment, to gain acceptance into certain professional and/or service clubs

and organizations, to obtain housing, credit or even that person's ability to travel to countries which requires visas.

The Rehabilitation of Offenders is one of the main objectives of the Criminal Justice System. The provisions of the Criminal Records (Rehabilitation of Offenders) Act, 1988 is in keeping with the objectives. A rehabilitated person, that is any person who is treated as a rehabilitated person under section 3 would qualify for expungement<sup>4</sup>.

The process for non-disclosure of the Criminal Record operates in two phases:- Phase 1: the conviction is referred to as "Spent", after the lapse of the Rehabilitation Period. Phase 2: the conviction is expunged or removed from the record, after the lapse of a further Rehabilitation Period, of equal duration of the first Rehabilitation Period.

The process of expungement is not automatic after the lapse of the rehabilitation period as Sections 20 and 21 of the Rehabilitation of Offenders Act, 1988 indicate. A rehabilitated person may, upon the expiration of the additional rehabilitation period, make application to the Board for the expungement from the records of a spent conviction<sup>5</sup>.

Applications for "clean records" are made in the usual manner, to the Criminal Records Office of the Police Department where as is customary, fingerprints are taken and the records are checked and the Police Certificate is issued.

### **Commission for the Prevention of Corruption**

The Commission for the Prevention of Corruption was appointed under the Corruption (Prevention) Act 2000, with effect from May 1, 2001. Regulations issued under the Act came into effect on January 31, 2003.

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<sup>4</sup> Section 3 – (1) provides that a person who, (whether before or after the commencement of this Act) has been convicted of an offence to which this section applies shall, at the expiration of the appropriate rehabilitation period, be treated as a rehabilitated person in respect of the conviction for that offence and the conviction treated as a spent conviction.

In order to qualify, two essential conditions must be satisfied by an individual:

1. The offence in question must be one which attracts a non-custodial sentence or sentence of imprisonment not exceeding three (3) years.
2. The person in question must not have any other conviction(s) during a specified period of time referred to as the "Rehabilitation Period".

The rehabilitation period is the period that a person must wait before an application can be made for the expungement of a conviction. This period varies according to the sentence imposed by the Court and ranges from a minimum of six (6) years for non-custodial sentences to a maximum of twenty years for custodial sentences. The Rehabilitation Period is calculated from the date of the expiration of the term of imprisonment in the case of custodial sentences, and in other cases, upon the satisfaction of the Court's sentence.

These periods are:

#### Sentence Rehabilitation Period

- ◆ Where the sentence imposed does 3 years not include imprisonment.
- ◆ Sentence being imprisonment not 5 years exceeding six (6) months.
- ◆ Sentence being imprisonment 8 years more than six (6) months but less than eighteen (18) months.
- ◆ Sentence being imprisonment 10 years more than eighteen (18) months but less than three (3) years.

<sup>5</sup> Presently, the process is a very lengthy, as it can exceed one year. Once an application has been approved, a written notification is sent to the applicant and the relevant police authority is notified to seal the record of the arrest and/or conviction, in the expunged case and remove it from public access. Then in the eyes of the law, that arrest or conviction did not occur and therefore does not exist.

The Commission's main objective is to minimize the incidence of Public Sector Corruption through a regime, which requires the timely filing of Statutory Declarations of Assets, Liabilities and Income by Public Servants. Requests are made of all Government Ministries and Departments, Statutory Agencies/ Bodies, Parish Councils, the JDF and the JCF. Statutory Declarations are required from Public Servants whose total emoluments are Two Million Dollars and above, and those categories indicated in parts 1 and 2 of the Regulations issued under the Act. The Commission did not continue its exception to members of the Jamaica Defence Force.

Public Servants earning J\$2.0M and above are required to file declarations to the CPC. Based on the information received, it was ascertained that for the period ending December 31, 2008 the Commission would have received a total of eleven thousand and nine-hundred (11,900) Declarations from Public Servants based on the number of persons who qualified under the provisions of the Act.

*Target 4.5: To request and maintain a database of declarations received from stipulated public officers*

Achievement:

The Commission was in receipt of eleven thousand and nine-hundred (11,900) Declarations as at December 31, 2008. This represents a compliance rate of fifty one (51 per cent) based on the expected return of twenty three thousand four hundred and forty-seven (23,447) Declarations. The Commission once again highlighted the continued tendency of many Public Servants to breach the Legislation and has urged that its recommendation made in its 2005 Report, that the Corruption (Prevention) Act, 2000 be amended to give power to the Commission to impose a penalty for the late filing of Statutory Declarations be enacted.

The second schedule of the Corruption (Prevention) Act 2000 prescribes the form on which Public Servants are required to make their Declarations. The Law specifies that the Declaration must be accompanied by bank statement(s) or letter(s) from banks confirming the balance(s) reported. The Commission had advised all Government Agencies and Departments that it is prepared to accept photocopies of Bank Pass Books, Automated Transaction Machine Slips and Electronic Banking (e-banking) statements. An increasing number of Public Servants, however, continued to file without the requisite supporting documents. This action limits the Commission's ability to verify the accuracy of Declarations filed. It was noted that the highest incidence of non compliance occurred in the two weeks preceding the deadline for the filing of Declarations.

*Target 4.6: To analyse and where necessary investigate 1% of declarations received*

Achievement:

The Commission updates its database of Public Servants required to submit Statutory Declarations of Assets, Liabilities and Income on an annual basis. During the year under review the Commission wrote to One hundred and Seventy-five (175) Public Sector Entities and received responses from One Hundred and Forty-eight (148). The Commission was in contact with the twenty-seven (27) entities that have not responded with a view to receiving the necessary correspondence.

The CPC also continued the analysis of Declarations filed by employees of entities including the Jamaica Customs Department, the Jamaica Constabulary Force and the Financial Investigations Division. A total of One Hundred and Thirteen (113) cases were examined of which One Hundred and Five (105) were referred for internal investigations and eight (8) closed for no further action.

Analysis indicated that ninety-three percent (93%) of the cases examined had material issues warranting further investigations. Most issues centered on non-disclosure. These included:

- Acquisition of assets with no tangible evidence of financing/funding.
- Non-declaration of assets e.g. properties, motor vehicles, etc.
- Large deposits in financial institutions / alternative investment schemes not supported by declared income.
- Asset disposal being undeclared.
- Non-declaration of business interests / income.
- Insufficient information being submitted on declarations.

During the period under review the Commission also had One Hundred and Thirty-Seven (137) Declarations under investigation. Arising from investigations, the Commission closed two (2) cases as sufficient explanations have been provided for the discrepancies observed and four (4) cases were referred to the DPP. The Director of Public Prosecutions had ruled in respect of one case that the Declarant be charged with Illicit Enrichment contrary to Section 14 (5) (a) and 14 (5) (b) of the Corruption Prevention Act. The remainder await a ruling by the DPP. Several cases investigated revealed instances in which Public Servants were being compromised by conflict of interest situations. The Commission in its earlier report recommended that the Corruption (Prevention) Act be amended to impose sanctions in these situations.

The Commission for the Prevention of Corruption had proposed amendments to the Corruption (Prevention) Act 2000 in its previous annual reports, which it defended at sittings of a Joint Select Committee of the Houses of Parliament. The Commission in its 2008/09 Report restated all its previous recommendations for the amendment of the Corruption (prevention) Act, 2000.

These Recommendations related to the following:

- 1) Definition of Spouse – consequent on the passage of the Family Property (Rights of Spouses) Act, 2003 and its definition of a spouse.
- 2) The Corruption (Prevention) Act be amended by the insertion of subsection (d) in Section 4 as follows: *‘and thereafter on the 31<sup>st</sup> day of December in each year or at such intervals as the Commission may direct.’*  
This amendment will require that declarations are filed annually by Public Servants.
- 3) Functions and Powers of the Commission – authorizing it to inspect and make copies of all records and documents of Government Departments and Agencies, including the Revenue Services.
- 4) Specified Posts – several Public Sector Agencies have undergone reform since the inception of the Act necessitating revision of the holders of posts required to file Statutory Declarations.
- 5) Applicability of the Corruption (Prevention) Act to all members of the Judiciary.
- 6) Statutory Declarations –
  - i. To give the Commission power to impose a penalty for late filing.
  - ii. Amend the form at Section 2 to remove the words *“in excess of five hundred thousand dollars”*.
  - iii. The form of Statutory Declarations as set out in the Second Schedule of the Act be amended at Section 1 to add the words *“ or any other document as indicated by the Commission.”*

*Target 4.7: To refer officers in breach to the ODP*

*Achievement:*

During the period under review, the Director of Public Prosecutions (DPP) brought twenty-two (22) cases before the Court resulting in two (2) public servants being fined for failure to submit the Statutory Declarations by the due date. The remainder had their charges withdrawn by the DPP. The Commission highlighted its concerns in relation to the small number of delinquent Public Servants being brought before the courts, as well as the DPP’s withdrawal of charges in several instances which in the Commission’s view frustrates its efforts to reduce corruption. The Commission reports that to date a total of Eighteen Thousand Three Hundred and Twenty-five



(18,325) Declarants were referred to the DPP of which only eleven (11) had been fined by the courts and forty-two (42) cases withdrawn by the DPP.

# Strategy 5:

# Modernisation of Systems & Processes

## Case Management

The main area for automation in the initial phase of Justice Reform is the introduction of Case Management which includes the use of Information Technology as a means of reducing the delays symptomatic of a manual court process. Along with the application of technology it is envisioned that the next steps will include business processes re-engineering and rationalisation to create efficiencies. Activities such as court room and date scheduling will be automated. This will relieve the court administrators of some of their more tedious and mundane responsibilities, and allowing for focus on case flow management.

*5.1 Target: To continue programmes focused on the implementation of procured case management software i.e. Judicial Enforcement Management System (JEMS) and Prosecuting Attorneys System (PAS)*

### Achievement:

The installation of the new user software licences for JEMS and PAS hinged on the acquisition of increased server capacity and speed. The Ministry in anticipation of this need acquired two high-capacity servers. User training has however been postponed until the licences can be uploaded and made available for use during and after training to optimise and solidify application of learning<sup>6</sup>.

With the help of Fiscal Services Ltd. the re-commissioning of the high capacity servers at the Supreme Court was undertaken at a cost of US\$4,500. This is to facilitate the migration of all Supreme Court and Ministry of Justice computers to the respective high capacity Servers. Following the migration of computers the ministry is to embark on the upgrade of Court Management Software, particularly the Judicial Enforcement Management Systems – JEMS at twenty-one (21) court sites.

Also critical to the implementation of Case Management is the facilitation of communication between the Courts and the ODPP. The Ministry completed the laying of fibre optic cables to allow data connection that links the ODPP, the Court of Appeal and the Supreme Court; and facilitate communication of audio and visual data.

*5.2 Target: To continue computerisation of the Courts and the Ministry's Agencies and Departments*

### Achievement:

The Ministry continues to provide Internet connectivity to court offices. To date Seventeen (17) of the targeted twenty (21) court sites have been provided with internet connection as follows.

**Table G: Locations with Internet Connection**

Parish	No. of locations with internet	RM Court locations
St Ann	2	St Ann's Bay, Brown's Town
St Catherine	1	Spanish Town RM
St Elizabeth	2	Santa Cruz Black River RM
St James	2	Montego Bay RM, Montego Bay Family Court
St Mary	1	Port Maria RM
St Thomas	1	Morant Bay RM

<sup>6</sup> See further reference to modernisation capacity building activities. under Policy 6 .

<b>Parish</b>	<b>No. of locations with internet</b>	<b>RM Court locations</b>
<b>Kgn &amp; St Andrew</b>	4	Half-Way-Tree RM (Criminal), Sutton Street RM (Civil), Kgn Traffic Court, Kgn Family Court
<b>Westmoreland</b>	1	Savanna-La-Mar RM
<b>Portland</b>	1	Port Antonio RM
<b>Manchester</b>	1	Mandeville RM
<b>Clarendon</b>	1	May Pen RM
Total	17	

Cabling for internet connectivity at six (6) of these court offices was completed.

**Table H: Locations Completed with Cabling and Internet Connectivity**

<b>Parish</b>	<b>Location completed</b>
Kingston & St. Andrew	Sutton Street Civil Court
Clarendon	May Pen RM Court
Manchester	Mandeville RM Court
St. James	Montego Bay RM Court
Portland	Portland RM Court,
Westmoreland	Savanna-la-mar RM Court

Ongoing work continued at the Corporate Area Criminal Court, and the Kingston Family Court.

The provision of internet connectivity allows us to re-establish a Wide Area Network (WAN) in all courts islandwide. It also allows the MOJ to initiate an upgrade of the Judicial Enforcement Management System (JEMS) and subsequently deploy it across the island. This work is also being done with assistance from the Fiscal Services Ltd.

The Ministry of National Security through the IDB funded Citizen Security and Justice Project (CSJP) is implementing the Traffic Ticketing System (TTS). As part of that initiative, the MOJ is assisting the MNS in implementing the Traffic Ticket Management Systems in fourteen (14) RM court locations as well as in the Supreme Court. This project is being coordinated by the CSJP. Procurement of software, computers, printers and switches for these locations is to be carried out by FY 2009/2010.

### **Court Reporting**

Court reporting is the capture of verbatim notes of court proceedings with the use of a steno typewriter. These notes must be an accurate representation of 'word for word' dialogue during court proceedings. A trained court reporter is expected to write at a speed of approximately 225 words per minute with little or no room for inaccuracies. The court reporting process as exists currently in the Supreme Court requires two phases, the capture of the proceedings in machine shorthand using the steno typewriters and the translation of these shorthand notes into generally readable transcripts of the proceedings.

It has been a policy decision of the Ministry to utilise Real-Time Transcription of court proceedings to speed up the rate of transcription of verbatim notes. This method with computer aided transcription is able to have the

spoken word represented simultaneously on a computer screen for view by the Judge or the Court in general. Court Reporting is currently not utilised in the Resident Magistrates Courts

*5.3 Target: To commence implementation of Real-Time Transcription in the Supreme Court*

*Achievement:*

With assistance from FISCAL Services Limited, eight (8) criminal court rooms were equipped with real time transcription technology in March 2009. Real time Court Reporting is to be implemented in the Court of Appeal by June 2009.

Fiscal Services Ltd in conjunction with the MOJ's Management Information Systems (MIS) Department is also preparing to implement Real Time Court Reporting within all Civil Courts. The costs are now being evaluated.

*5.4 Target: To identify more efficient and accurate solutions to the use of handwritten notes in the capture of Resident Magistrates Court proceeding*

*Audio Recording of Proceedings (RM Courts)*

The Ministry is seeking to acquire suitable recording devices for approximately seventy-nine (79) courtrooms. A tender was advertised, however, there were no respondents. As a result, a letter was sent to the National Contracts Commission seeking permission to launch a limited tender. Permission was obtained on the understanding that all entities that are registered with the National Contracts Commission, under the appropriate category, be invited to participate.

*The Pilot Court Project*

The Pilot Court Project established at the Clarendon Resident Magistrate's as a part of the Comprehensive Review of the Justice System ended in December 2008. The pilot project had experienced some challenges in implementing recommended initiatives particularly as a result of the protracted absence of technical expertise in process re-engineering and the application of technology in court processes. An evaluation should have been undertaken but this was delayed. In the interim, owing to the absence of further budgetary support to this initiative, no further activities have been undertaken.

# Strategy 6: Capacity Building

## **The Justice Training Institute**

The Justice Training Institute (JTI) was established in July 1997 to serve the training needs of the Justice System. The Institute, in consultation with the Chief Justice, caters to the needs of the Judiciary by organising and co-ordinating training programmes. The Institute also has responsibility for the training of Justices of the Peace. Additionally, it may undertake, participate in, or commission research into areas relevant to the Administration of Justice, and publish those research findings. It further structures its training programmes/offerings on the basis of any relevant research findings.<sup>7</sup>

A new Director / Principal for the JTI was engaged in January 2009. A Strategic Plan is being prepared to refocus the JTI on its core mandate and functions.

*6.1 Target: To support the capacity building of the Justice Sector through efficient systems and quality programmes*

### **Achievement:**

The programme for capacity building and training of court personnel and other members in the justice sector is being spearheaded by the Justice Training Institute (JTI). Since the start of this fiscal year, the JTI has developed and delivered several training courses and seminars for judges, magistrates, and court staff. For the period 2008/2009 the following were among the training activities achieved:

- Two one-day orientation Seminars for twenty-three (23) newly appointed Resident Magistrates;
- A three-day Judicial Seminar for thirty-nine (39) Supreme Court and Court of Appeal Judges;
- Two three-day seminars for forty (40) Resident Magistrates;
- A one-day Workshop for twenty (20) Resident Magistrates on the Implementation of International Conventions on violence against Women (done in collaboration with the Bureau of Women's Affairs);
- A judicial seminar on Case Management for thirty-four (34) Judges of the Supreme Court and Court of Appeal

In collaboration with the Crown Prosecuting Service (England) and the United States Embassy (Jamaica) the JTI also prepared for the conduct of a six-day Prosecutors Training course for thirty-eight (38) Crown Counsels and Clerks of Courts. The JTI also developed a schedule of training for 2009/ 10 which includes the following items:

- Two (2) Case Management training sessions for one hundred and twenty-seven (127) court staff, prosecutors, case progression officers, etc
- A three-day Judicial seminar for thirty-nine (39) Judges of the Supreme Court and the Court of Appeal
- two three-day seminars for eighty-two (82) Court Administrators, Accountants and MOJ personnel, to be done in collaboration with the National Centre for State Courts (NCSC);
- Four one-day Blackberry training seminars for eighty-seven (87) Judges of the Court of Appeal, the Supreme Court, Resident Magistrates and staff in the Office of the Director of Public Prosecutions;
- One-day Stress Management Training seminar for twenty-six (26) Resident Magistrates;
- Seven (7) Qualifying Training Courses sessions for two hundred and seven (207) Justices of the Peace in the parishes of Kingston, St. Andrew, Clarendon, St James, Manchester and Westmoreland;
- One (1) continued training for thirty(30) Justices of the Peace in St. Elizabeth
- Orientation Seminar for newly appointed judges of the Supreme Court.

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<sup>7</sup> See MOJ website [www.moj.gov.jm](http://www.moj.gov.jm) for more information on the JTI.

Recent Budget cuts in the public sector have affected several other planned training activities for the rest of the fiscal year. Consequently, the JTI focused on the delivery of training in Criminal Case Management with the sponsorship of the British High Commission.

Planned refurbishing of the current facilities and possible relocation of the Institution did not materialize during the year. This negatively impacted the Institutions' ability to conduct some programmes at its campus and alternative training sites have had to be used. This added to the Institute's overall operational costs.



# Strategy 7: Legislation Reform

**LEGISLATION PROGRAMME**

7.1.1 Target: To develop/amend legislation necessary for the advancement of modernisation initiatives of the justice sector.

**Achievement:**

During 2008/09, the Ministry continued its work on several pieces of legislation which were drafted or reviewed during the period. A short list of the priority items from the Ministry's Legislation Programme is as follows:

**Table I : Legislation handled 2008/09**

#	Legislation Title	Purpose of the Bill	Category	Status
1.	Bail (Amendment)	To affect a delay or deferral in the consideration of bail for 60 days and place the onus on the accused to show cause why he should be granted bail.	2	Joint Select Committee Report is to be debated in the Parliament ( <i>part of Anti-crime Bills</i> )
2.	Bail (Interim Provisions for specified Offences)	To provide for person charged with specified offence to be entitled to bail only after expiration of a period of 60 days from date of charge.	2	Joint Select Committee Report is to be debated in the Parliament ( <i>part of Anti-crime Bills</i> )
3.	Constabulary Force (Interim Provisions for Arrest and detention)	To allow for the Police to detain persons without charge for up to 72 hours	2	Joint Select Committee Report is to be debated in Parliament ( <i>part of Anti-crime Bills</i> ).
4.	Corruption Prevention (Special Prosecutor)	To repeal the Corruption (Prevention) Act and the Parliament (Integrity of Members) Act; and to provide for the establishment of the Office of the Special Prosecutor for Corruption as a Commission of Parliament.  To create an offence for the filing of late statutory declaration; to empower Commission to request information from certain Government departments and agencies, including the revenue services, banks, financial institutions, building societies, co-operative societies and registered Accountants; for statutory declarations to be filed on 31 <sup>st</sup> day of December in each year or at such other intervals as the Commission may direct; to update the fine imposed under section 6 (2).	2	Before a Joint select Committee of Parliament. Technical Team examining certain issues for recommendations to the Chairman of Joint Select Committee.
5.	Cybercrimes	To provide enabling legislation for handling criminal activities relating to internet and computer.	4	Withdrawn from the House of Representatives and has been laid in the Senate.
6.	Evidence (Amendment) Bill	To provide for admissibility of evidence in Criminal and Civil proceedings by way of television links and video link; Removal of certain procedural requirements to the admissibility of computer generated evidence in proceedings generally.	8	Drafting instructions are being prepared.
7.	Independent Commission of Investigations	To improve the current system of investigations into public complaints concerning misconduct by members of the Security Forces by repealing the Police Public Complaints Act and appointing an Independent Commission of Investigations.	2	Passed in the Senate. To be debated in the House of Representatives

#	Legislation Title	Purpose of the Bill	Category	Status
8.	Judicature (Appellate Jurisdiction) (Amendment) Bill	To increase the number of Judges of Appeal by six (6) and to provide for further increase by order, subject to affirmative action.	1	Passed
9.	Jury (Amendment) (No.2)	To provide for majority verdict of the jury to be accepted in cases of murder where the sentencing options do not include the death penalty.	2	Passed in the Senate. To be debated in the House of Representatives.
10	Libel and Defamation Laws	To modernize the laws relating to libel and defamation.	4	Report of task force before a Joint Select Committee of Parliament.
11.	Offences Against the Person's (Amendment)	To provide for Minimum custodial sentence for a person convicted before Circuit Court of the offences of shooting with intent to do grievous bodily harm and wounding with intent, with the use of a firearm.	5	<i>Part of Anti-Crime Bills package.</i>
12.	Criminal Justice (Plea Negotiations and Agreements) Regulations  Amendments to the Legal Aid Act and the Legal Aid (Excepted Offences) (Amendment) Regulations	To provide for regulations to support the Criminal Justice (Plea Negotiations and Agreements) Act, 2005	5	Final Regulations being drafted by Chief Parliamentary Counsel
13.	Whistleblower Legislation	To provide enabling legislation to protect individuals who report corrupt practices and activities.	5	Instructions in respect of second draft of discussion bill sent to CPC.
14.	The Spirit Licence Act	To strengthen and update the provisions of the legislation.	8	Being reviewed by the Legal Reform Department.

**Categories:** 1. Passed; 2. Tabled; 3. Approved by Cabinet; 4. Being Considered/Approved by Legislation Committee; 5. Being drafted; 6. Drafting instructions issued; 7. Cabinet Approval for Drafting Instructions; 8. Policy being reviewed.

### **LEGAL REFORM DEPARTMENT**

The mandate of the Legal Reform Department (LRD) is two-fold – 1) to review law applicable to Jamaica and to make recommendations for its development, improvement or modernisation, and 2) to assist in the implementation of law reform proposals approved by Cabinet. In the performance of its recommendation-making function the LRD undertakes research and analysis of the law in Jamaica and other countries and makes recommendations for changes to the law in Jamaica. The Department also advises on law reform proposals coming from other sources. The duties related to the implementation function include the preparation of Cabinet Submissions on law reform proposals, the examination and provision of advice on draft law reform Bills and subsidiary legislation, attendance at meetings of Legislation Committees and Parliamentary Committees in connection with law reform matters and the preparation of briefs for the presentation to Parliament of law reform Bills. The LRD also acts in an advisory capacity to the Ministry of Justice on a variety of matters submitted to it from time to time, and participates in discussions or negotiations in respect of Mutual Legal Assistance Treaties or similar arrangements between Jamaica and other countries. The LRD carries out work not only in relation to matters for which the Ministry of Justice has responsibility but also matters referred to it by other ministries and government departments and agencies.

During the year under review the LRD was engaged in a number of activities related to the functions and duties indicated above.

### *7.2.1 Target: To conduct research and analysis of law in Jamaica and other jurisdictions*

#### *Achievement:*

Research conducted during the period, based on requests from governmental entities, includes the following:

- Road Traffic Act
- Child Care and Protection Act-Age of Criminal Responsibility
- Preparation of Research Papers on Legislative Measures to Implement Anti-Crime Initiatives
- Nonfeasance
- Measures to assist vulnerable witnesses in giving evidence
- Review of categories of persons exempt from jury duty

Research was conducted also in a number of other areas including –

- Defamation
- Child Pornography
- Cybercrime
- DNA Evidence
- Sentencing Options under the :
  - Child Care and Protection Act
  - Gun Court Act
  - Probation of Offenders Act
  - Criminal Justice (Reform) Act

### *7.2.2 Target: To formulate law reform proposals*

#### *Achievement:*

The Department prepared Cabinet Submissions making recommendations for law reform in the following areas:

- Whistleblower legislation (revised) to take into account comments from public consultations (MOJ)
- Proposing the Enactment of Legislative Measures to Implement Anti-Crime Initiatives (MNS) (MOJ)

### *7.2.3 Target: To advise the government on law reform proposals and draft legislation referred for consideration*

#### *Achievement:*

The Department rendered advice or commented on a range of law reform proposals and draft legislation referred by, or originating from Government Ministries or agencies. The following are illustrative:

#### Law Reform Proposals

- Judgment Debts Owned by the Govt- (MOJ)
- Strategies for Backlog Reduction (MOJ)

- Information disclosure by Financial Investigations Division (MOF)
- Resolution before Sessional Select Committee on Parliament on Human Resources and Social Development – Education Act (MOE)
- National HIV Related Discrimination (MOH)
- Proposal for Establishment of Law Reform Commission (MOJ)
- Procedure for bringing land under the Registration of Titles Act (MOJ)
- Proposal for introduction of Racketeer Influenced and Corrupt Organization Act (RICO) style legislation including analysis of UK Home Office Report on feasibility of RICO in the United Kingdom (MOJ)
- Proposals to increase the jurisdictional limit of the Resident Magistrate’s Court, Small Claims Court and Lay Magistrate’s Court (MOJ)
- Draft Cabinet Submission on the Proposal to Introduce Anti-Gang Legislation (MNS)
- Draft Cabinet Submission on the Establishment of a Legal Framework for the Office of Custos Rotolorum (MOJ)
- Road Traffic Act – proposed introduction of electronic surveillance (MTW)

### Draft Bills/Regulations

- Independent Commission of Investigation Act (MOJ)
- Criminal Evidence (Witness Anonymity) Act (MOJ)
- Legislative measures to strengthen Anti-Crime Initiatives
  - Bail (Amendment) Bill
  - Firearms (Amendment) Bill
  - Offences Against the Person (Amendment) Bill
  - Constabulary Force (Interim Provisions for Arrest and Detention) Bill
  - Bail (Interim Provisions for Specified Offences) Act
  - Parole (Amendment) Act
- Jury (Amendment) Act
- Corners (Amendment) Act Bill
- Law Reform (Notice of Alibi Evidence) Bill
- The Road Traffic (Amendment) Act 2008
- The Corruption Prevention (Special Prosecutor) Bill
- Judicature (Appellate Jurisdiction) (Amendment) Bill 2008
- Charter of Fundamental Rights and Freedom (Constitutional Amendment) Bill
- Judicature (Supreme Court) (Amendment) Act
- Evidence (DNA) Bill (MOJ)
- Revised draft Evidence (Amendment) Bill (to provide for the taking of evidence by Video Link and the use of video-taped evidence in certain circumstances) (MOJ)
- Cybercrime Bill (MOJ)
- Child Pornography Bill (MOJ)
- Legal Profession (Amendment) Bill (MOJ)
- Sexual Offences Bill (MOJ)
- Credit Reporting Bill (MOF)
- Minimum Wage (Amendment) Act (MOL)
- National Minimum Wage (Amendment) (No. 2) Order, 2009 (MOL)
- Minimum Wage (Industrial Security Guards) (Amendment) (No. 2) Order, 2009 (MOL)
- Criminal Justice (Plea Negotiations and Agreements) Regulations (MOJ)

- Legal Aid (Amendment) Regulations (MOJ)

#### Miscellaneous

- Draft Terms of Reference for Review of Legislative Framework governing the Jamaica Constabulary Force
- Draft response to questions regarding Child Pornography laws in Jamaica based on request of the International Centre for Missing and Exploited Children.
- Rent Restriction Act – The significance of specific dates mentioned in various sections of the Act.
- Draft Country’s report re: UN Convention on the Elimination of All Forms of Discrimination Against Women.

#### *7.2.4 Target: To participate in meetings of the Legislation Committee and Parliament*

##### Achievement:

The Legal Reform Department participated in meetings of the Legislation Committee (a sub-committee of Cabinet responsible for examining draft Bills), and a Select Committee of Parliament established to consider and report on draft legislation tabled.

- Sexual Offences Bill
- Road Traffic (Amendment) Act
- Registration (Strata Titles) (Amendment) Act (MWH)
- Child Pornography Act (MOJ)
- Financial Investigation Division Bill
- Credit reporting Bill
- Corruption Prevention (Special Prosecutor) Bill
- Independent Commission for Investigations Bill

The LRD also attended sittings of the Senate and House of Representatives (Parliament) in an advisory capacity on the presentation of law reform Bills.

#### *7.2.5 Target: To participate in other meetings and consultations in connection with law reform issues*

##### Achievement

The Department was represented at a variety of meetings and consultations relevant to law reform, including Task Force/Working Group Meetings with broad inter-ministerial/agency participation, as well as specially-convened Workshops, Seminars and Conferences. Particulars of the most significant of these are cited below:

#### **Task Force/Working Group Meetings:**

- Participation in the UNIFEM High Level Meeting in Barbados re: The Development of Integrated Child Support Policies: Administration of Justice, Social Protection and Gender Equity
- Expert Group Meeting re Review of the CARICOM Model Legislation on Harmonization of Laws
- CSME Legislation Framework (MFAFT).
- National Plan of Action for Child Justice (MOH)
- Thematic Working Group Meeting – Vision 2030
- Policy and Legislative Framework on Children in State Care (OPM)

- National Integrity Action Forum

### **Special Meetings or Assignments**

Representatives of the Department were involved in special meetings or assignments over the review period. Of particular interest are those indicated below:

- Workshop on Cybercrime Legislation in the Caribbean Region (OAS/ US DOJ) Port of Spain, Trinidad and Tobago, May 13-15, 2008
- International Organisation for Migration Working Group on Counter Trafficking (Trafficking in Persons) Model Legislation for the Caribbean, Held in Castries, St Lucia, 15-18 April 2008
- The Director of Legal Reform sat on an interview panel to select persons for the position of Law and Human Rights Officer re HIV – MOH
- Deputy Director participated as an examiner in the Caribbean Financial Action Task Force in the mutual evaluation exercise in Barbados
- 4<sup>th</sup> Caribbean Conference on Dispute Resolution
- EC/GOJ Seminar on the fight against Organised Crime

### **General Comments:**

The performance of the Legal Reform Department during the year under review was handicapped by a shortage of legal officers. In the first quarter of the year the Department suffered the loss of the Deputy Director who resigned from the public service. The loss of such a senior and experienced officer had a serious impact on the Department's ability to cope with the workload, forcing a decision to limit participation in events and meetings to those to which the involvement of the Department was considered to be absolutely essential.

The problem of inadequate number of legal officers has dogged the Department over the years, but this has become more acute with the departure of four experienced legal officers over the past two years. Not every lawyer is suited to the kind of work carried out in the Department. The difficulty in recruiting persons with the requisite inclination and ability was compounded by an organisational structure that was not conducive to the retention of experienced lawyers.

After persistent representation for an organisational review, an audit was conducted by the Public Sector Reform Unit of the Cabinet Office (Corporate Management and Development Section) in 2008 resulting in a proposal for an increase in the legal staff complement from 6 to 10, including the addition of two LO5 posts to provide promotional opportunities for legal officers at the LO3 and LO4 levels. Approval was given for the operation of the new posts in June of last year, but to date efforts to recruit suitably qualified persons to fill the vacant posts have met with little success.

For the greater part of the year the Department functioned with two experienced legal officers (the Director of Legal Reform and the Deputy Director of Legal Reform) and three legal officers in training. The recruiting grade is LO3, normally requiring attorneys-at-law of at least three years standing. In recent times the Department has been obliged to take on lawyers whose professional experience is below the level required. These officers cannot undertake complex assignments and their work need to be closely supervised. The training of junior legal officers, though necessary, is very time-consuming, and affects the performance of other duties by the senior officers. The shortage of experienced legal staff affects not only the work, but also the ability of the senior officers to take vacation leave resulting in the accumulation and loss of such leave.

Despite the tremendous challenge faced by the LRD during the review period the Department has managed to provide high quality advice, input and support in realizing the overall mission of the Ministry of Justice and other agencies, departments and ministries.

**OFFICE OF THE CHIEF PARLIAMENTARY COUNSEL**

The OPC, a department of the Ministry of Justice, is the Law Office of the Government charged with the responsibility for the preparation of draft legislation. It consists of a cadre of attorneys-at-law headed by the Chief Parliamentary Counsel and supported by administrative, secretarial and ancillary staff.

The OPC contributes to parliamentary democracy under the rule of law by supporting Parliament and the Executive in their law-making roles and contributing to the Government’s objectives.

*7.3.1 Target: To prepare draft legislation which support the attainment of social order*

Achievement:

During the period April 2008 – March 2009, approximately 290 drafting instructions for Bills were received. Two hundred and forty (240) drafting instructions for regulations were also received. A total of one hundred and forty five (145) Bills were drafted. One hundred and fifty eight (158) pieces of regulations were drafted in the period. Nineteen (19) draft Bills were tabled in Parliament during this period with a total of sixteen (16) being passed.

The following represents a short list of items addressed during the period:

<ul style="list-style-type: none"> <li>• Animals (Disease and Importation ) Bill</li> <li>• Bacteriological (Biological &amp; Toxin Weapons (Prohibition)) Bill</li> <li>• Bail (Interim Provisions for Specified Offences ) Bill</li> <li>• Betting Gaming and Lotteries (Amendment) Bill</li> <li>• Caribbean Court of Justice (Original Jurisdiction)Bill</li> <li>• Casino Gambling Bill</li> <li>• Constables (Special) (Amendment) Bill</li> <li>• Constabulary Force (Interim Provisions for arrest &amp; Detention ) Bill</li> <li>• Coroners (Amendment) Bill</li> <li>• Corruption Prevention (Special Prosecutor ) Bill, 2008</li> <li>• Credit Reporting Bill</li> <li>• Cyber Crimes Bill</li> </ul>	<ul style="list-style-type: none"> <li>• Incest (Punishment) Bill</li> <li>• Independent Commission of Investigations Bill</li> <li>• International Convention on Prohibition of Use transfer of anti personnel mines &amp; destructions Bill</li> <li>• Jamaica National Heritage Trust (Amendment) Bill 2009</li> <li>• Jury (Amendment) (No. 2) Bill 2008</li> <li>• Law Reform (Notice of Alibi Evidence ) Bill</li> <li>• Legal Profession (Amendment )Bill</li> <li>• Minimum Wage (Amendment) Bill 2009</li> <li>• Motor Vehicle Insurance (3rd Party Risks ) (Vali. Of 3rd party self Ins. Fund) Bill 2008</li> <li>• Ozone (Preservation) Bill</li> <li>• Parliament (Integrity of members ) (Amendment) (No. ) Bill</li> <li>• Protected Disclosure (Whistle Blowers) Bill</li> </ul>
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<ul style="list-style-type: none"> <li>• Disaster Preparedness &amp; Emergency Management Amendment Bill 2009</li> <li>• DNA (Evidence) Bill 2008</li> <li>• Electoral Commission of Jamaica (electoral advisory Comm) Bill 2009</li> <li>• Evidence (Amendment) Bill</li> <li>• Financial Investigations Division Bill</li> <li>• General Consumption Tax (Validation &amp; Amendment) Bill 2009</li> <li>• Gun Court (Amendment) Bill 2008</li> <li>• Hotels (Incentives) (Amendment) Bill 2009</li> </ul>	<ul style="list-style-type: none"> <li>• Refugee Bill 2009</li> <li>• Road Traffic (Amendment) Bill</li> <li>• Tourist (Duty Free) Shopping System Change of Name Amendment Bill</li> <li>• Town and Country Planning (Negril Green Island Area Local Planning Authority (Validation) and Indemnity Act, 2009</li> <li>• University of the West Indies (Mona Campus) (Security) Bill 2009</li> <li>• Urban Renewal Tax Relief (Amendment) Act, 2009</li> <li>• Water Resources (Amendment) Bill</li> </ul>
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### 7.3.2 Target: To review the office of the Parliamentary Counsel

From January 10 to 18, 2009, a Fact finding Mission to the OPC was made by Jean-Paul Chapdelaine, Senior Drafter, Legislative Services Branch, Federal Department of Justice, Canada and Eric Boucher, Legislative Counsel with the Office of the Attorney-General of New Brunswick.

The Chapdelaine Report noted that four factors weigh down the legislative process and weaken the administration of justice, namely -

- policy development is largely insufficient in the ministries causing serious problems for drafters who are unable to turn policy into quality legislative standards and who do not in any case have enough freedom from senior ministerial managers
- the Government's legislative programme is beyond the capacity of the one dozen drafters working in the OPC
- drafters have no access to training and their expertise is hurt by it
- work tools are deficient, drafters cannot rely on an internal legislation deskbook, effective jurilinguistic control, the technical revision of enactments or effective access to enactments that are in force and up-to-date.

The Chapdelaine report further noted that -

- There is constant fear that drafters may leave because some Commonwealth jurisdictions offer better salaries and conditions of service.
- Drafters cannot make progress on files while they are attending meetings before the Parliament
- Even though drafters are not in principle involved in policy development, they need training on policy development
- Drafters have no preparation in developing policies which are often political in nature
- The current legislation programme is substantial – the new Government intends to use the law to change society

- Drafters feel intimidated by the government and have the impression that their contribution is not valued and that they have no more flexibility than a subordinate

### **Service Delivery Challenges**

The following have been identified as the main challenges affecting the CPC's service delivery during the period under review:

- Shortage of staff
  - a) Retaining and attracting quality people is a huge challenge in the current economic climate. Among other measures, the Department began to develop workforce planning strategies to help attract and retain a sustainable and balanced workforce.
- Slow response from client agencies.
- Changes in policy.
- Re-ordering of priorities by client ministries.
- Frequency of meetings sometimes impedes the ability to draft.
- Unknown Agenda of the Ministries
- The Cabinet Decisions received are not always accompanied by drafting instructions from the relevant Ministry.
- The Office has no control over the Agenda for Legislation Committee meetings nor the frequency of meetings held.
- Occasionally, insufficient periods of notice given by client agencies as to –
  - a) the matters to be discussed;
  - b) requiring the attendance of a representative from this Office.
- New personnel at Ministries are often not familiar with the work of this Office in relation to their job and as a result often give poor instructions and appear misguided as to the procedure in getting work drafted.
- Several Bills because of their complexity or length require several meetings for finalization.
- Much time is spent dealing with Ministry queries over the phone but these are often not recorded.

Notwithstanding these challenges, the Department is steering an innovative course in responding to the demands for legislation and providing Jamaica with better outcomes. The OPC continues to research and implement best practices in legislative drafting services. Despite a heavy workload, the Office endeavours to meet the expectations of Government's legislation programme.

### **LAW REVISION OFFICE**

The role and mission statement of the Office is to facilitate access to current laws through the preparation of the revised pages of the Laws of Jamaica (statutes and subsidiary Legislation).

#### *7.4.1 Target: To prepare revised pages of the Laws of Jamaica (Statutes and Subsidiary Legislation)*

The law revision exercise for the year was seriously hampered by the fact that the Jamaica Printing Services was out of paper for printing. As a result of this, the exercise concentrated mainly on the completion of the loose leaf Guide to the Subsidiary Legislation. Preparation and typesetting of the Guide is completed up to 2008. Proofreading of these pages is delayed due to the shortage of proofreaders.

**Re: Laws of Jamaica (Statutes)**

Preparation, typesetting and proofreading of four hundred and eight (408) revised pages which reflected enactments passed in 2007 were completed and submitted to the Jamaica Printing Services on May 15, 2008 for publication. The exercise affected twenty (20) volumes of the Acts and thirty-three (33) Statutes.

The preparation and typesetting exercise with respect to the 2008 revised pages continued for the remainder of the financial year.

**Re: Loose Leaf Guide to Subsidiary Legislation**

The loose leaf guide is up to date to 2008. The pages are now ready to be proofread.

**Constraints to the Accomplishment of Objectives**

1. Shortage of requisite printing paper at the Jamaica Printing Services
2. Shortage of staff particularly proofreaders
3. Incapacity of the present scanners to satisfactorily perform the volume of work that is required to be done.

The office is working assiduously to clear the backlog that has arisen due to the setback in the publication of the revised pages.

# Strategy 8:

## Upgrading & Maintenance of Physical Infrastructure

One primary objective of the Ministry is to support the Modernisation of the Justice Sector through the provision of physical infrastructure that can facilitate the current needs of the sector as it relates to access to justice, respect for human dignity, improved aesthetics and continuous maintenance of the courts. The limited budgetary allocation for the Fiscal Year toward capital works however posed a significant challenge. During the year, the Ministry spent J\$45.96 Million on the repairs to eight courthouses (including work done at the Supreme Court), the Office of the Director of Public Prosecutions, and the Family Court Attendance Centre. Work was also done to prepare three Caucus Rooms at the Jamaica Conference Centre to facilitate the holding of Civil Court, thereby allowing the existing Civil Courtrooms at the Supreme Court to be used for Criminal matters as part of the Backlog Reduction Strategy being implemented.

The following matrix lists the works completed by the Ministry of Justice during the 2008/09 Fiscal Year.

**Table J: Projects Carried out 2008/09**

Projects	Activities	Costs
Supreme Court	The rear balcony used by Judges to access courts roofed in part (the exposed areas)	\$1,368,528.00
	Reconfiguration to create separate changing facilities for male and female police officers completed.	\$797,686.00
	Refurbishing of three (3) Caucus room at the Jamaica Conference Centre to accommodate three (3) Civil Courts completed by the Urban Development Corporation.	\$481,000.00
Office of the D.P.P.	Replaced main entrance door	\$155,571.00
Court of Appeal	Re-tiling of the floor.	\$221,044.00
Port Antonio Courthouse:	Complimentary works in order to make the building functional.	\$40,000,000.00
Sav-la-mar RMC	Dexion Shelves supplied and installed.	\$300,000.00
Sav-la-mar Family Court	Detainees area grilled.	\$60,000.00
Family Court Attendance Centre	Repairs and upgrading of classrooms.	\$655,935.90
Mandeville RMC	New windows installed	\$1,181,005.36
May Pen RMC	Repairs to roof	\$615,037.50
Frankfield RMC	Repairs to section of floor	\$122,500.00
<b>Total Costs</b>		<b>\$45,958,307.76</b>

# The Courts

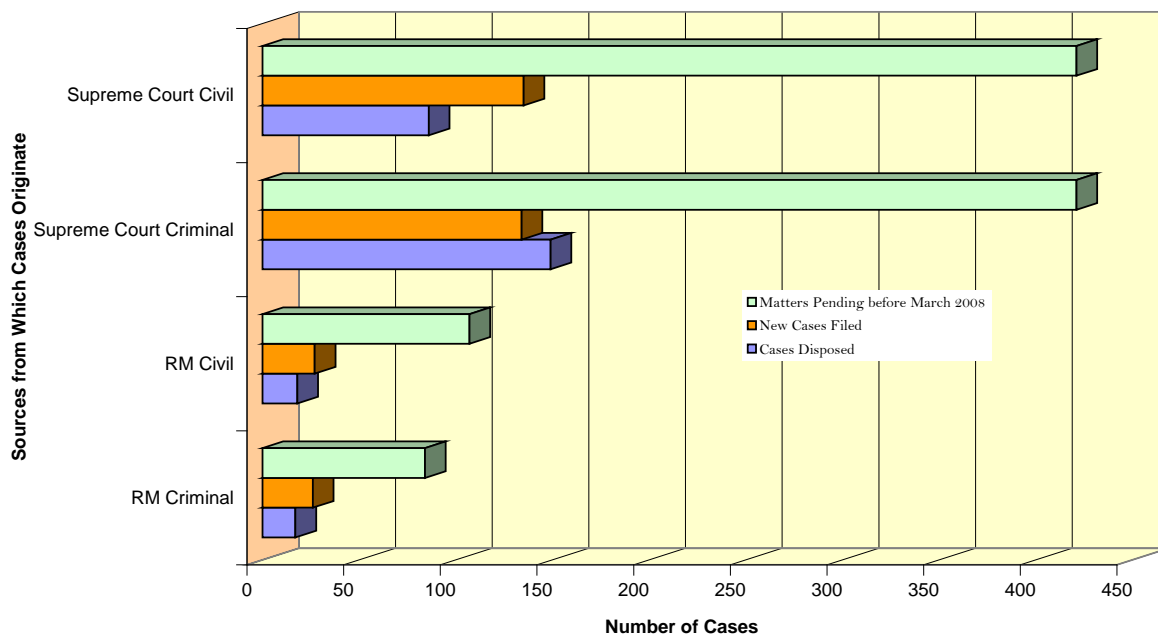
**THE COURT OF APPEAL**

The Court of Appeal is the final domestic appellate court in Jamaica with the authority to review decisions or judgments made by lower courts. This court however continues to carry a significantly heavy caseload relative to the number of judges in that court<sup>8</sup>.

The Court of Appeal had for the year 2008/09, a caseload of one thousand three hundred and fifty-seven (1,357) matters, the majority (82%) of which originated from the Supreme Court (**Table 1**). Matters also included one thousand and thirty four (1,034) cases that were brought forward from 2007/08. A total of three hundred and twenty-three (323) new cases were filed during the period under review, of which two hundred and sixty-nine (269) cases or approximately 83% originated from the Supreme Court.

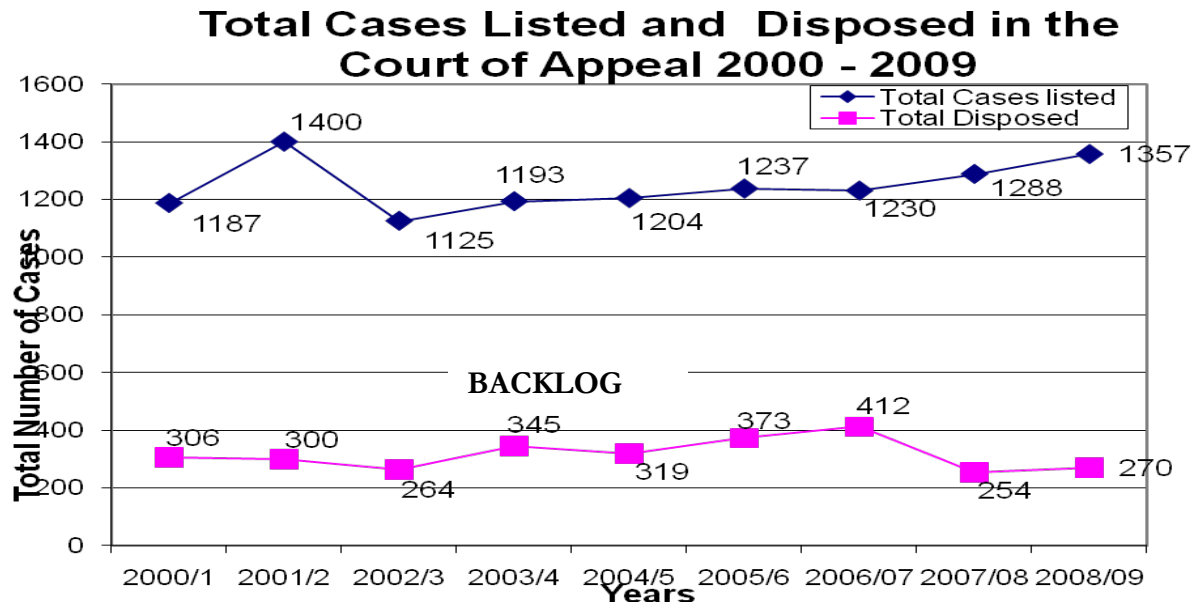
**Figure 1**

**Court of Appeal Matters Filed, Disposed and Pending  
2008/09**



<sup>8</sup> There are only seven judges at the Court of Appeal and matters heard in Appeal are adjudicated by a panel of three judges per sitting. Recent Amendments to the Judicature Appellate Jurisdiction Act make provisions for a total of twelve (12) Judges of Appeal, in addition to the President of the Court of Appeal.

Figure 2



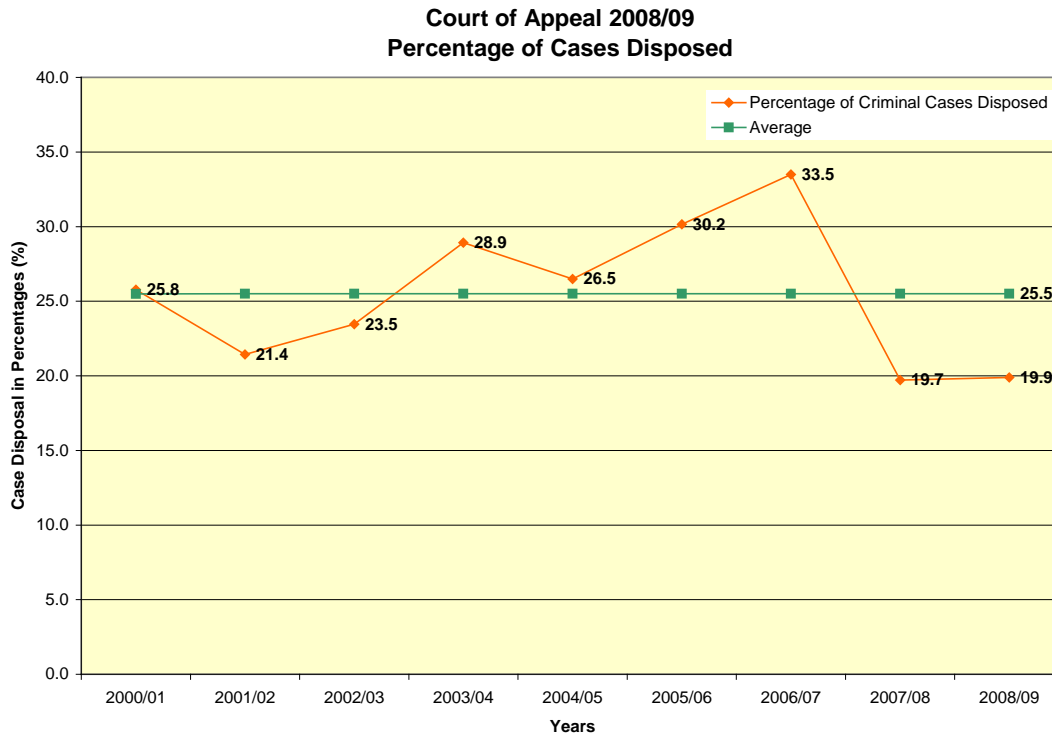
During the year under review, the Court of Appeal disposed of two hundred and seventy (270) matters or approximately 20% of its actual caseload (Figure 2). Approximately 61% of the matters disposed of in the Court of Appeal in 2008/09 were criminal matters, in comparison to 67% in the previous review period. This pattern is consistent with the greater share in the Court’s caseload occupied by criminal matters originating from both the Supreme Court and the Resident Magistrate’s Courts.

The majority of cases that were disposed of (78%) were also matters filed more than two years ago, indicating an effort by the Court of Appeal to dispose of older matters. This included one hundred and thirty-six (136) matters that were filed between 2001 and 2006 (Table 1).

Notwithstanding the above, the gap between the total number of cases to be heard and the actual number of cases disposed of by the Court of Appeal remains significantly wide (Figure 2), with case disposal rate averaging less than 30% (Figure 3). This gap represents a recurring backlog of unheard matters which remains greater than the total number of matters actually disposed.



**Figure 3**



The Court of Appeal closed the year 2008/09 with one thousand and eighty-seven matters (1,087) matters to be dealt with in 2009/10.

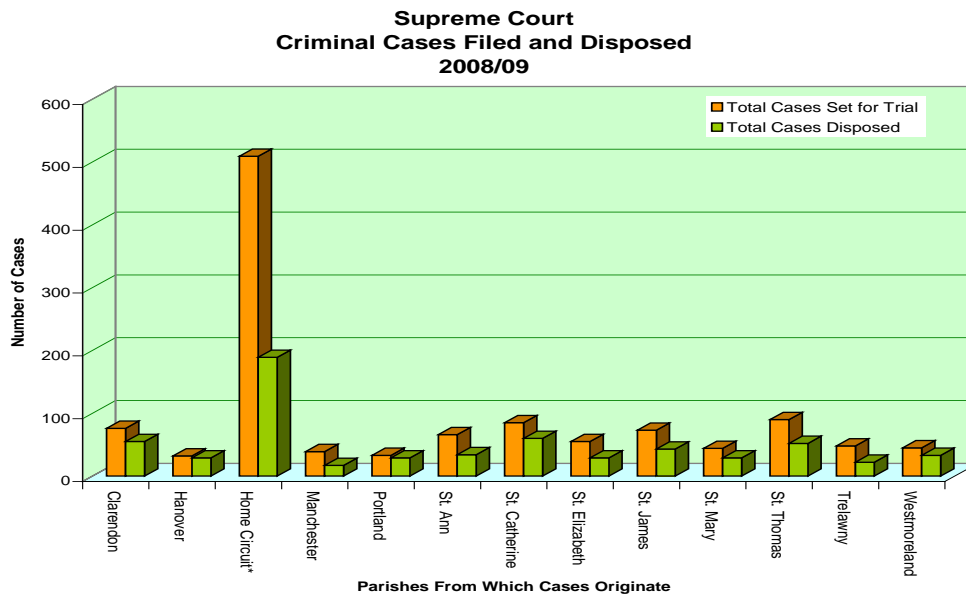
**THE SUPREME COURT**

Supreme Court Criminal

A total number of six hundred and twenty-one (621) cases were disposed of within the Criminal Division of the Supreme Court for the period 2008/09. This represented approximately 52% of the actual number of matters listed for trial for that period (**Table 2**). As is the norm, the highest number of cases disposed by the Supreme Court originated from the Home Circuit Court (approximately 30%). This is followed by St. Catherine, Clarendon and St. Thomas, which together accounted for approximately 27% of the total cases disposed during the year.

Further analysis of the data for the Criminal Division of the Supreme Court (**Figure 4**) continues to show the increasing pressure on effective case disposal created by its high volume of active cases. Few circuits managed to dispose of most of their cases and as **Table 2** illustrates, only the Portland (87.9%) and Hanover circuits (90.6%) were able to dispose of more than 80% of the cases set on their trial list during the period under review. It is to be noted however that the actual number of cases listed for trial in both parishes was significantly low in comparison to the other parishes.

**Figure 4**

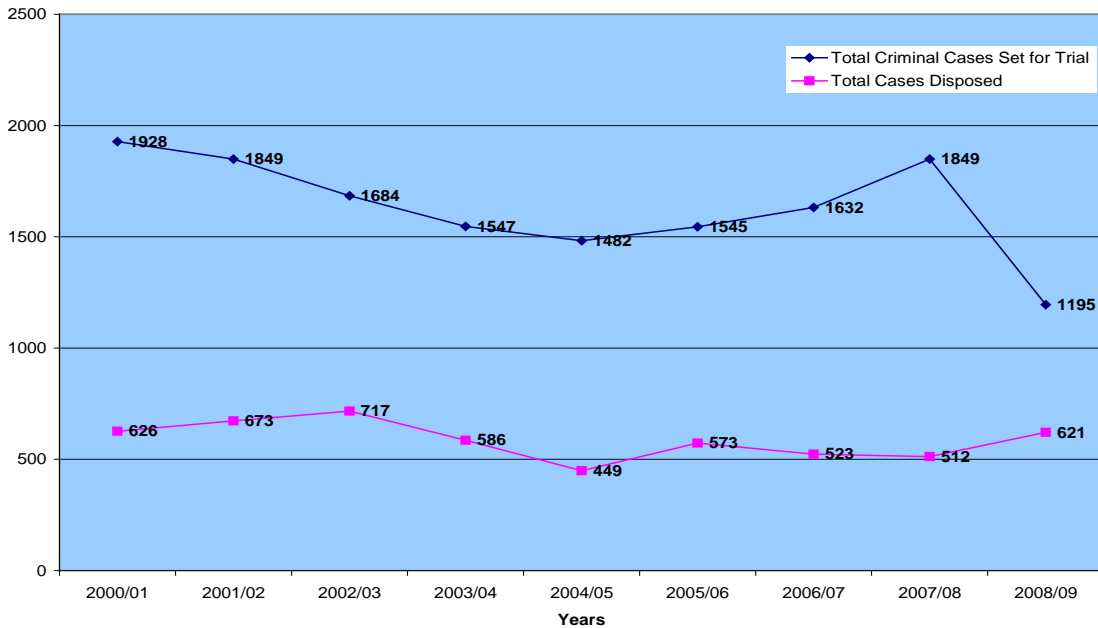


Consequently, many circuits, most noteworthy of which is the Home Circuit Court, ended the year with a significant proportion of its caseload being traversed to the next year (**Table 2**).

The total number of criminal matters scheduled for trial in the Supreme Court had decreased to one thousand, one hundred and ninety-five (1,195) compared to the previous year when the total was one thousand, eight hundred and forty-nine (1,849) (**Figure 5**).

**Figure 5**

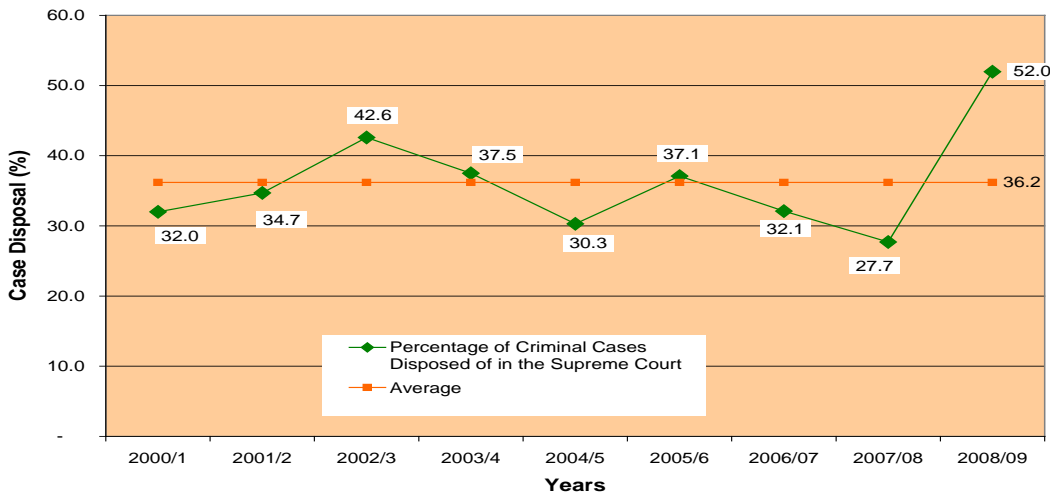
**Case Disposal in the Supreme Court (Criminal)  
2000-2009**



After a period of decline in the number of cases disposed the performance in 2008/09 period recorded a significant increase in the current fiscal year when it rose to 52%, the highest disposal rate since the 2002/03 fiscal period (Figure 5). As in the case of the Court of Appeal, the wide gap between the actual caseload and the number of cases disposed of in the Criminal Division of the Supreme Court over the years presents a recurring backlog of unheard matters to be addressed.

**Figure 6**

**Case Disposal Rate for Criminal Division of Supreme Court  
2000-2009**

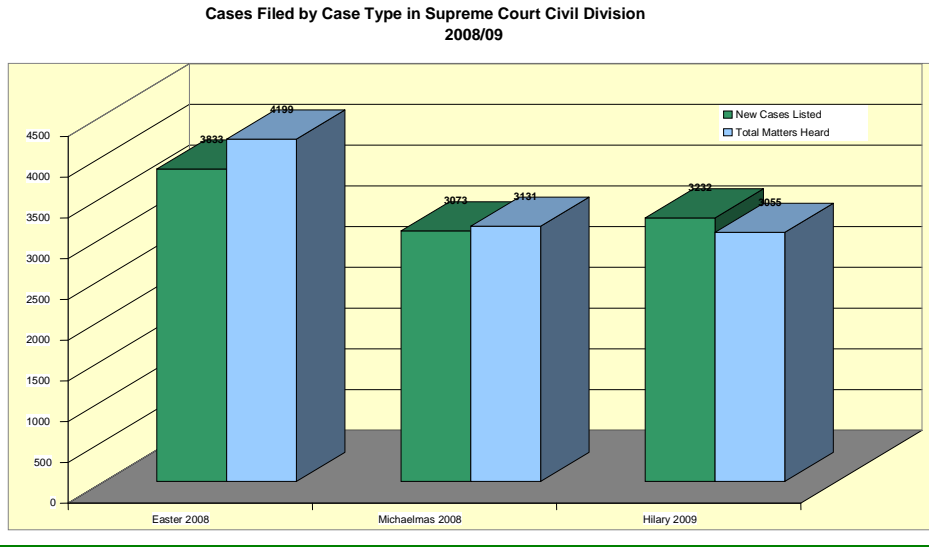


Supreme Court Civil

The Supreme Court Civil Division handled a total of twenty-two thousand and fifty-three (22,053) civil matters during the period under review. A total of ten thousand one hundred and thirty-eight (10,138) new cases were

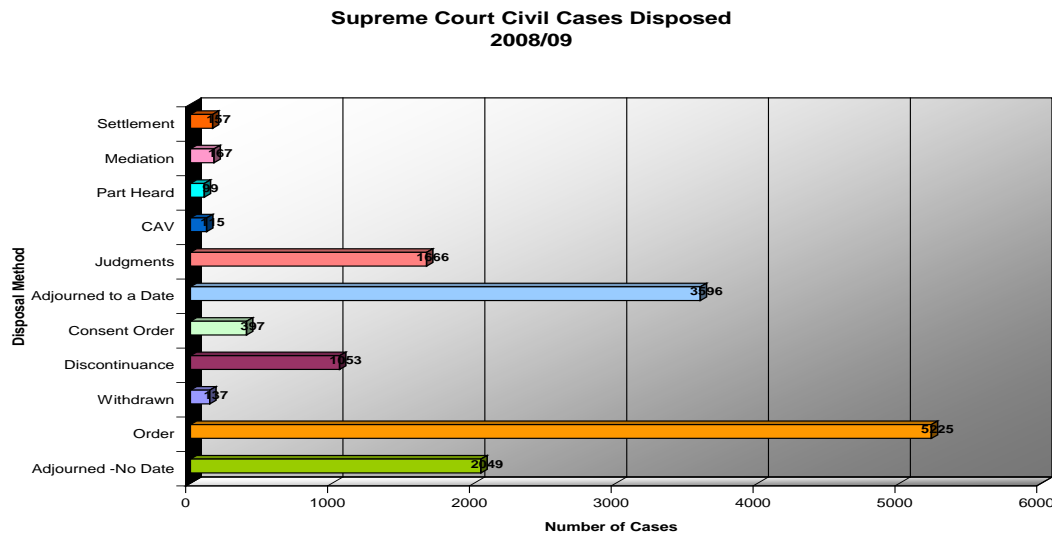
filed over the period, thereby representing approximately 46% of the matters to be handled during the 2008/09 period (**Table 3**). A total of fourteen thousand six hundred and sixty-one (14, 661) matters or 66.5% were disposed.

**Figure 7**



Of the fourteen thousand six hundred and sixty-one (14,661) matters disposed, the majority were disposed through court order (35.6%), and 24.5% were adjourned to a date. Approximately 14% were adjourned with no date, 11.4% were resolved through judgements, and 7.2% were discontinued (**Figure 8**).

**Figure 8**



Supreme Court Gun Court Division

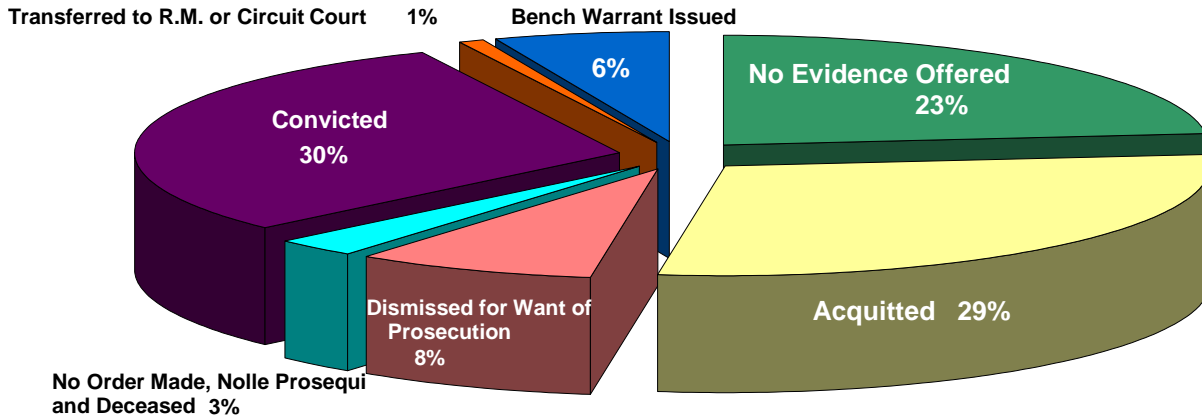
The Supreme Court Gun Court Division handled a total of four thousand, four hundred and sixty-six (4,466) gun court cases during the year 2008/09 (**Table 4**). Three thousand, eight hundred and forty-one (3,841) were cases brought forward from the previous year and represented approximately 86% of the total cases listed for the

2008/09 period, in comparison to 76% of the cases in the previous year. New cases filed during the period accounted for approximately 14% (625 cases) of the total cases listed for the year. The Supreme Court Gun Court disposed of five hundred and eighty-nine (589) or 13% of the total cases listed. Three thousand eight hundred and seventy-seven (3, 877) or 86.8% of the cases listed were however carried forward to the following period.

Convictions represented approximately 30% of the gun cases that were disposed. Approximately 29% of the disposals were acquittals, while in 23% of the cases no evidence was offered (**Figure 9**).

**Figure 9**

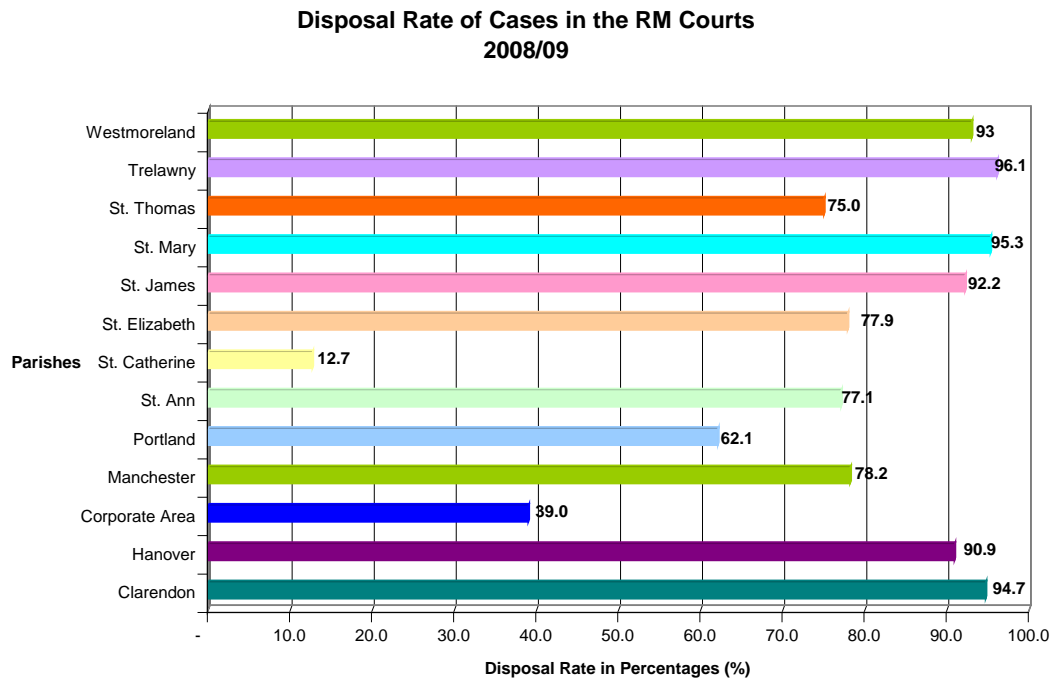
**Supreme Gun Court Number of Cases Disposed by Disposal Method  
2008/09**



**RESIDENT MAGISTRATES’ COURTS**

Resident Magistrate’s courts represent one of the first points of contact by the public with the justice system and as such carry the majority of matters to be heard. During the year 2008/09, the total number of cases before the Resident Magistrates’ Courts was 344,718 which was 18% more than the 292,162 cases that were before the RM Courts during 2007/08. Of this caseload, a total of 238,564 cases or 69.2% were disposed of during the year. The RM Courts continue to enjoy a relatively high rate of case disposal, which for the period of review was an average of 75.7% among all the RM Courts islandwide (**Figure 10**).

**Figure 10**



Disposal rates included 96.1% in Trelawny, 95.3% in St. Mary, 94.7% in Clarendon, 93% in Westmoreland, 92.2% in St. James and 90.9% in Hanover. The parish of St. Catherine had the lowest disposal rate of 12.7% followed by the Corporate Area with 39% (**Figure 10**).

The parish of St. Catherine (12.7%) remains unable to dispose of the greater portion of its active caseload. It is of concern that Resident Magistrate’s courts in St. Catherine carried the highest caseload of almost sixty three thousand one hundred and fifty nine (63,159) matters<sup>9</sup> or approximately 18% of the total caseload in the island’s RM Courts (**Figure 11**). During 2008/09, this parish also suffered the burden of the heaviest backlog owing to its low disposal rate. Consequently, the RM court in St. Catherine has not successfully reduced its backlog (**Figure 12**) and closed the year with a total of fifty-five thousand one hundred and forty-one (55,141) matters carried forward to the next year (**Figure 11**). This is an increase of almost 10% in the number of cases carried forward, in comparison to the previous year.

**Figure 11**

<sup>9</sup> It is to be noted that the percentage of criminal cases disposed in the RM courts was influenced by the low case disposal in the parish of St. Catherine relative to its high volume of matters. Fires that took place in 2004 and 2006 also destroyed case files housed in the section of the courthouse that was burnt. Matters for which files have been destroyed remained to be disposed, but without the physical files, such disposition is not possible. Further examination of the number of cases in the St. Catherine RM Court needs to be carried out.

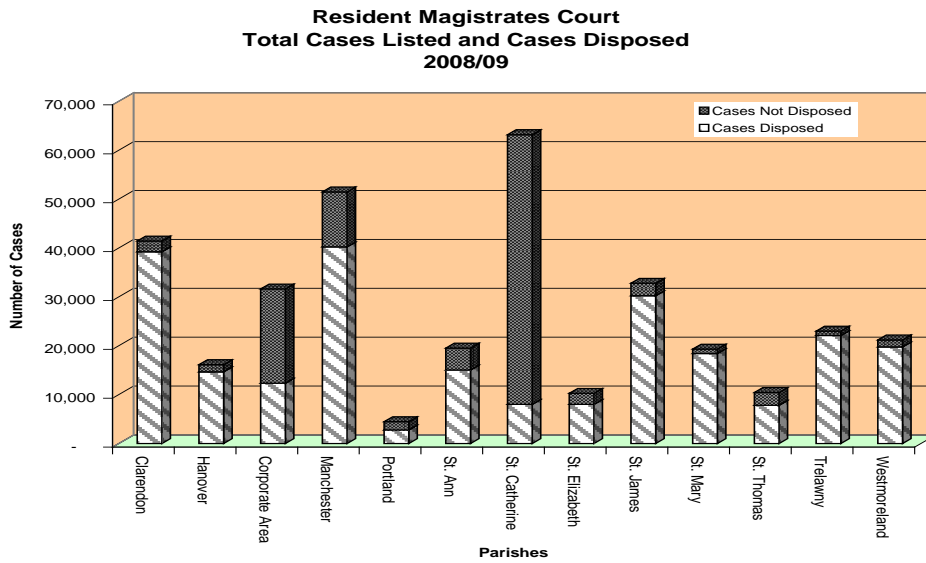
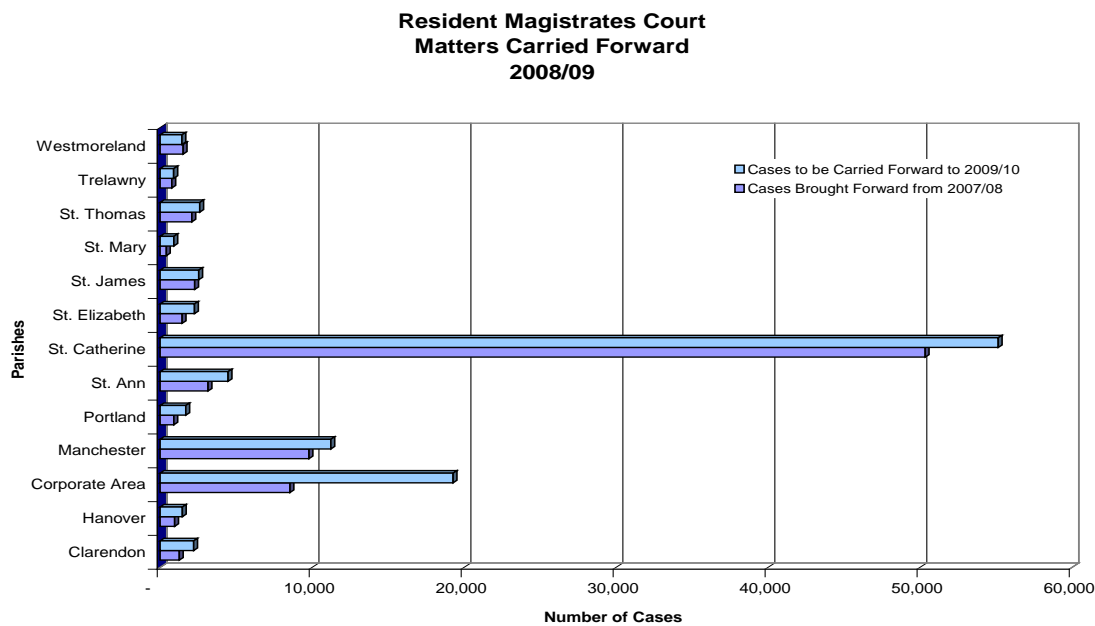


Figure 12



Other parishes to close the year with a higher number of cases carried forward to the next year were the Corporate Area and Manchester (Figure 12).

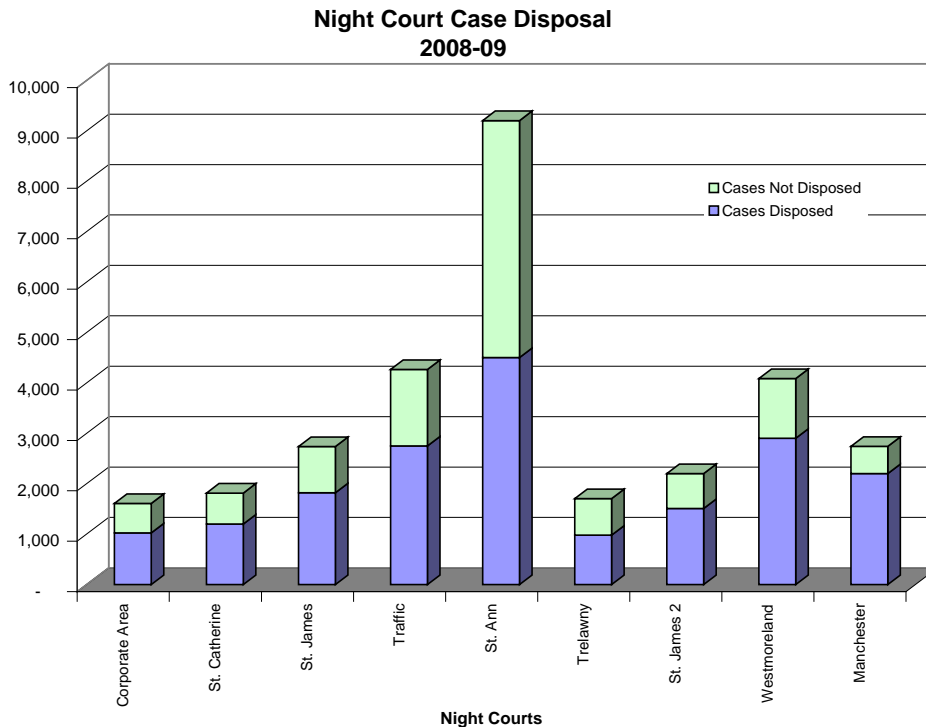
Night Courts

Night Courts were introduced in 1995 in the parishes of Clarendon, St. Catherine, St. James and the Corporate Area (Kingston & St. Andrew). It was later expanded to include the Corporate Area Traffic Court, the parishes of St. Ann, St. Thomas and Westmoreland. Night Courts were introduced to alleviate the pressures on the Resident

Magistrate’s Courts and to reduce the backlog of unheard matters. The parish of Manchester also commenced night court activities during the period under review.

During the 2008/09 period, a total of thirty thousand, three hundred and fifty-six (30,356) matters were listed in the Night Courts of which eighteen thousand, eight hundred and seventy-four (18,874) matters were disposed (Table 6). This performance yielded an overall disposal rate of approximately 62%.

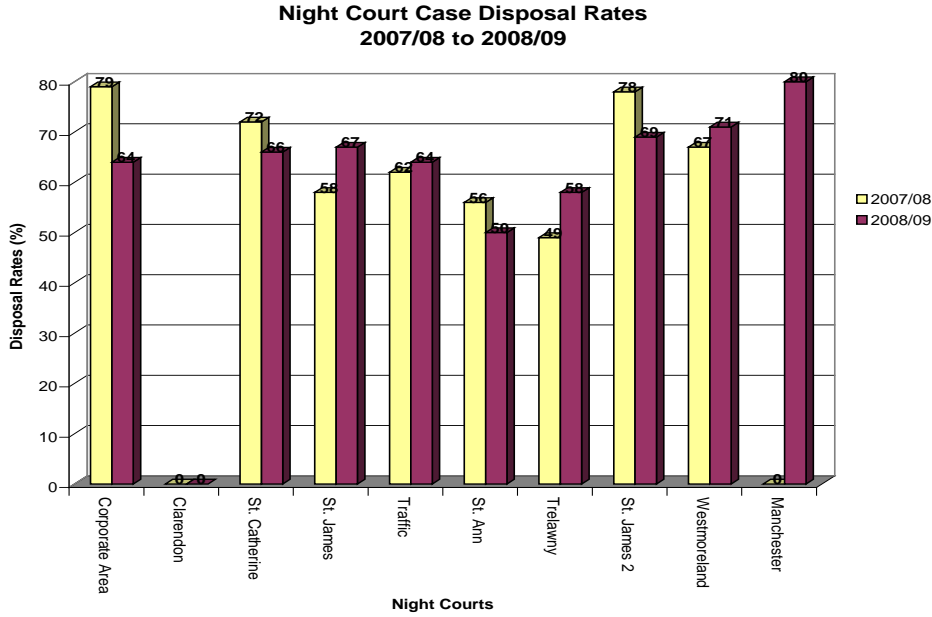
Figure 13



The performance of each Night Court (Figure 13 above) indicates that no matters were heard and disposed of in the Clarendon Night Court which has not yet resumed sittings owing to the continued absence of a Magistrate to conduct Night Court in that parish. The St. Ann Night Court handled the majority of matters heard (with a significantly higher caseload in comparison to the other night courts), accounting for approximately one third of the total number of matters listed in the island’s Night Courts. The parish also disposed of the highest number of Night Court cases (Table 6).

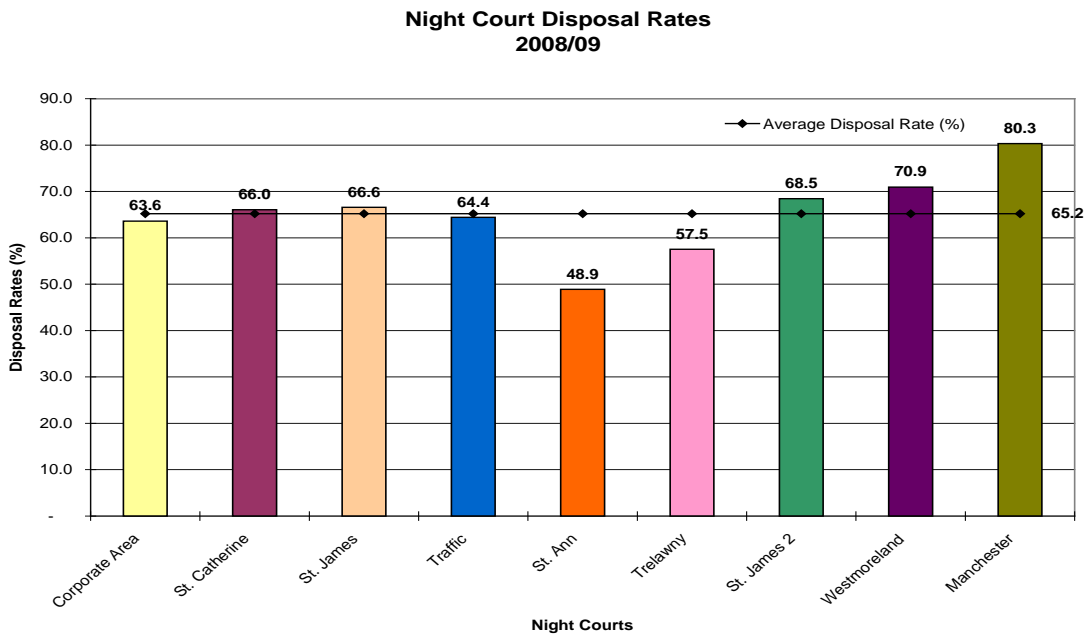
Figure 14





No night court proceedings were held in the parish of Clarendon from 2007/08 to 2008/09. The parish of Manchester initially commenced night court proceedings in the second quarter of the current period under review. In terms of case disposal rate, the performance in the Island’s Night Courts have been encouraging as all but one, the St. Ann Night Court (48.9%) experienced case disposal rates above 50% (**Figures 14 and 15**). The Manchester Night Court recorded the highest case disposal rate of 80.3%, followed by the parish of Westmoreland (70.9%) and St. James 2 (68.5%) (**Figure 15**).

Figure 15



### Corporate Area Resident Magistrates Division of the Gun Court

During the 2008/09 period, the Corporate Area Resident Magistrate Division of the Gun Court handled a total of three hundred and twenty-two (322) matters of which one hundred and forty-seven (147) or 46% were matters that have been brought forward, a significant decline from 875 in the previous period. The Court also disposed of a total of one hundred and seventy-nine (179) or 56% of the matters listed in 2008/09 (**Table 7**). At the close of the 2008/09 period, the Corporate Area Resident Magistrate's Division of the Gun Court had one hundred and forty-three (143) matters pending. Compared to the arrears at the start of the year, this end of year performance indicated the number of pending matters to be dealt with by this court showed no significant change in comparison to the previous period.

Approximately 89% of the matters disposed of by the Resident Magistrates' Division of the Gun Court during the period under review were dismissed as a result of "no order made", 21% were "Committed to Circuit Court", 17% were "Adjourned Sine Die" and 11% were disposed via "Voluntary Bill" (**Table 7**).

### Western Regional Gun Court

The Western Regional Gun Court (WRGC) deals with matters involving illegal possession of firearm and the use of firearms, either homemade or imitation, except for capital offences. The court was established in response to the increase in gun offences from the parishes of St. James, Hanover, Westmoreland and Trelawny that were once placed before the Circuit Courts.

During the period 2008/09 the WRGC carried a caseload of six hundred and sixty-two (662) matters, which represented a 7% increase over the six-hundred and eighteen (618) matters listed during the previous year. The total list for 2008/09 also included two hundred and ninety-two (292) matters that were brought forward from the previous period 2007/08 (**Table 8**). A total of one hundred and fifty-eight (158) new cases were filed during the period.

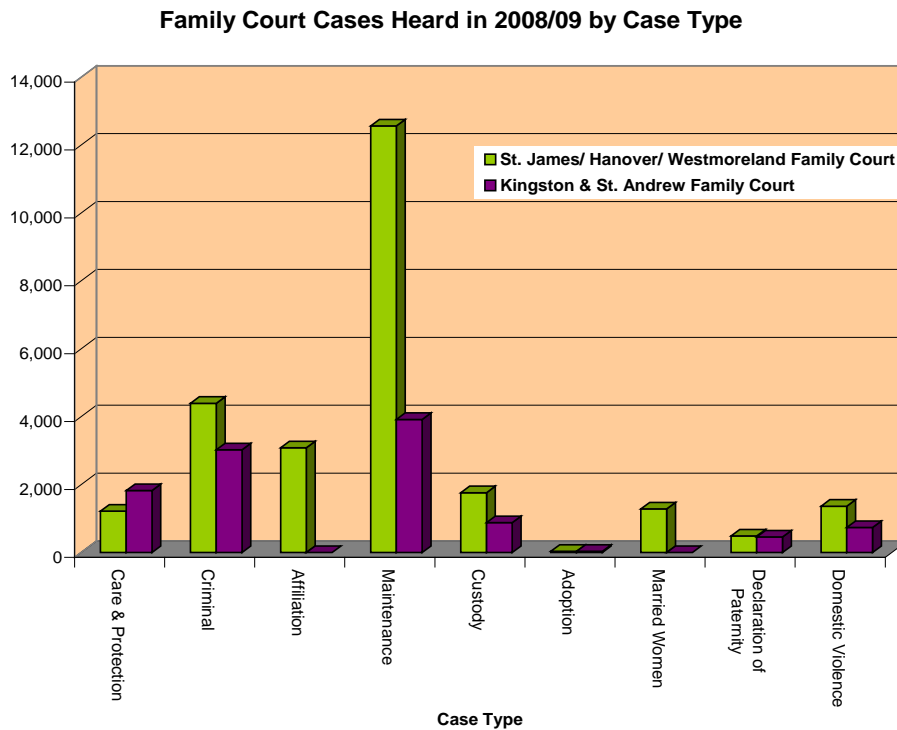
Cases originating in the parish of Trelawny had the highest disposal rate of 27.3%. St. James remains the parish from which the highest number of gun cases heard in the Western Regional Gun Court originated (**Table 5**). A total of five hundred and six (506) cases were carried forward to the next period.

### Family Courts

The St. James/Hanover/Westmoreland Family Courts heard a total of twenty-six thousand, one hundred and eighty-five (26,185) matters. While the majority of cases related to Maintenance (48%), Criminal matters (16.8%) also represented the main type of cases heard in this Family Court (**Tables 9 & 10 and Figure 16 below**). Compared to the previous year 2007/08 when a total of seven thousand, one hundred and forty-five (7,145) criminal matters were heard, the 2008/09 figure of four thousand three hundred and ninety-three (4,393) cases represented a significant decrease of 39% in the number of criminal matters heard in the St. James/Hanover/Westmoreland Family Courts.

Affiliation matters (11.8%), Custody matters (6.7%), Domestic Violence (5.2%), Married Women (4.9%) and Care and Protection (4.6%), represented the majority of the other types of cases heard during the period under review.

**Figure 16**

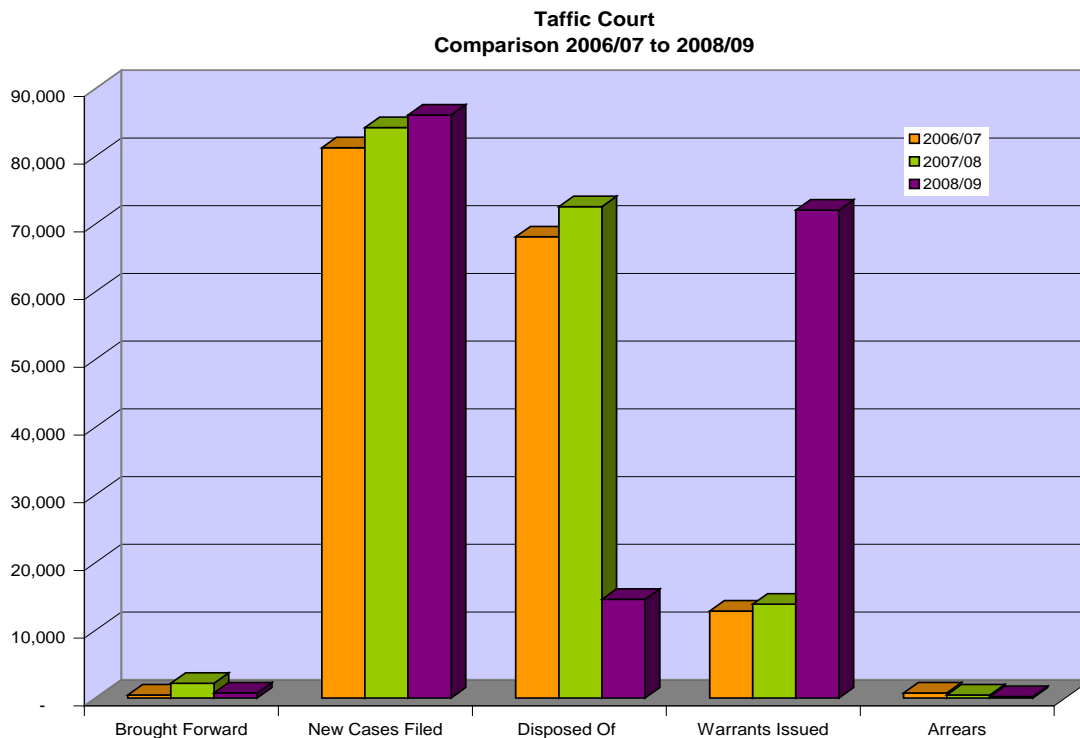


In the Kingston and St. Andrew Family Court, a total of ten thousand, eight hundred and seventy-two (10,872) matters were also heard. As has been the case in 2008/09, and mirroring the situation in the St. James/Hanover/Westmoreland Family Courts, Maintenance matters continued to represent the majority of the matters heard (36%) closely followed by Criminal matters (28%). Other matters heard in this Family Court were Care & Protection (17%), Custody (8%), and Domestic Violence (6.8%). Declaration of Paternity and Adoption (4.5%) represented the remaining matters heard in the Kingston and St. Andrew Family Court.

Corporate Area Traffic Court

During the 2008/09 period, a total of eighty-six thousand and eighty-six (86,086) new cases were filed in the Corporate Area Traffic Court, representing approximately 99% of the total number of cases brought before the court (**Table 9**, see also **Figure 19** below). The number of cases brought forward from the previous year was seven hundred and fifty-one (751). The Corporate Area Traffic Court disposed of a total of four thousand five hundred and forty-nine (4,549) cases, representing a disposal rate of approximately 6%. As the data also indicate, for seventy-one thousand, four hundred and fifty-one (71,451) or 83% of the cases dealt with by the Corporate Area Traffic Court, warrants had to be prepared for traffic offenders who failed to appear in court. This contributes to the extremely low disposal rate of cases filed in the Corporate Area Traffic Court.

**Figure 17**



\* Cases for which warrants have been issued are usually refilled and in most instances are placed in the category of criminal offences.

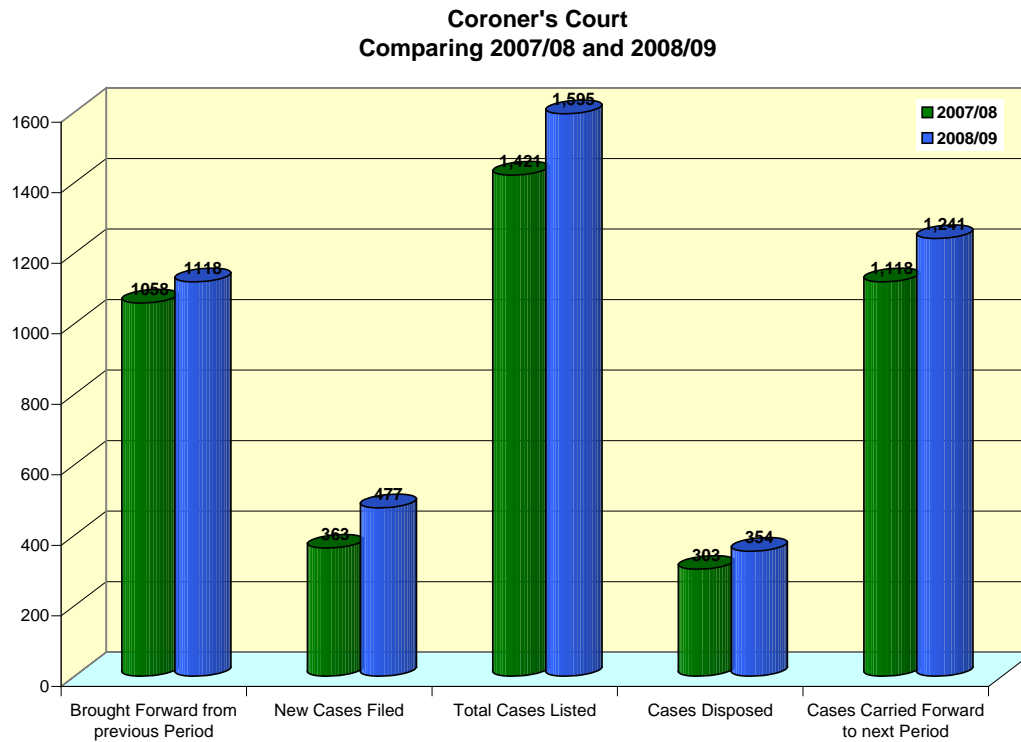
Coroner’s Court<sup>10</sup>

The position of the Coroner is established under the Coroner’s Act in every parish in Jamaica. The Resident Magistrate for each parish is, ex officio, the Coroner. Whenever a death occurs in circumstances where there is reasonable cause to suspect that the person died a violent unnatural or sudden death or in a Correctional Centre, a post mortem examination report along with statements and reports prepared by the police, upon investigation into the death, are submitted to the Coroner. The Coroner will either abstain from holding an inquest; or hold an inquest with a jury or without a jury.

For the period 2008/09 the Coroner’s Court had a total of one thousand, five hundred and ninety-five (1,595) cases listed. Of this number, one thousand one hundred and eighteen (1,118) were brought forward from the previous period, 2007/08. A total of four hundred and seventy-seven (477) new cases were filed during the reporting period, accounting for approximately 30% of the total caseload, a significant increase compared to the two hundred and sixty-five (265) new cases filed during the previous year. Of the total number of cases listed, three hundred and fifty-four (354) were disposed, representing a disposal rate of 22%. The number of cases to be carried forward to the following period was one thousand, two hundred and forty-one (1,241), which represents an increase of approximately 11% compared to the situation at the start of the year (**Table 12 and Figure 18**).

<sup>10</sup> Refers to all Coroners matters handled by the Corporate Area Coroner’s Court. Coroners matters handled by the Resident Magistrates’ Court are accounted for among the general caseload of the RM court.

**Figure 18**



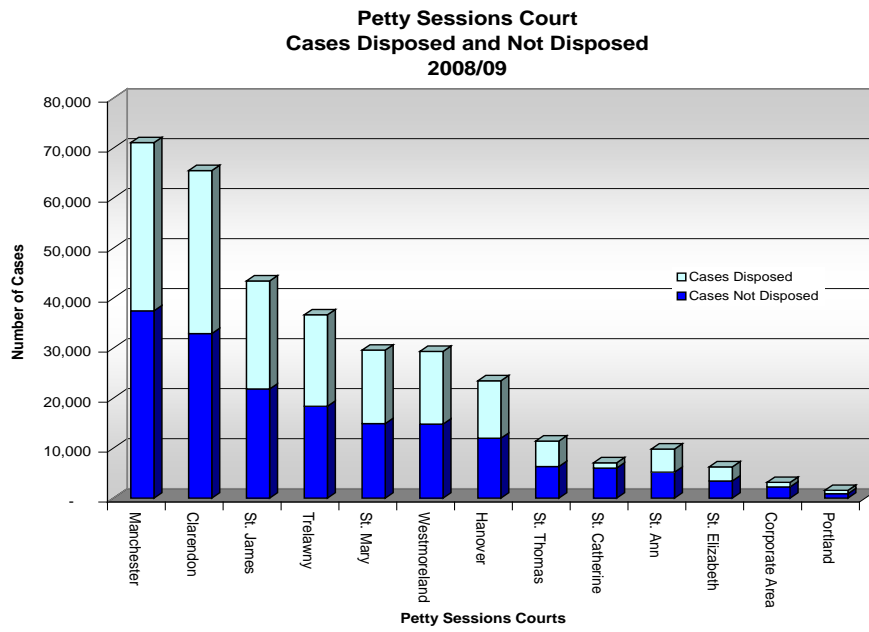
Petty Sessions

The Petty Session Court is presided over by Justices of the Peace. The Justices of the Peace Jurisdiction Act confers various powers on the Justice of the Peace including the power to issue warrants consequent on disobedience to summons. During the period under review, the Petty Sessions Courts had a total of 176,222 matters listed. This caseload included eleven thousand, and forty-one (11,041) matters that were brought forward from the previous year (**Table 13**). A total of 165,181 new cases were filed during 2008/09.

A total of 162,017 matters were disposed of by the Court of Petty Sessions in 2008/09 and is approximately 18% more than the 137,596 cases that were disposed of during the previous year. Fourteen thousand two hundred and five (14, 205) cases were carried forward to the following year. The average disposal rate in the Petty Sessions Court during 2008/09 is approximately 72% (**Table 13**).

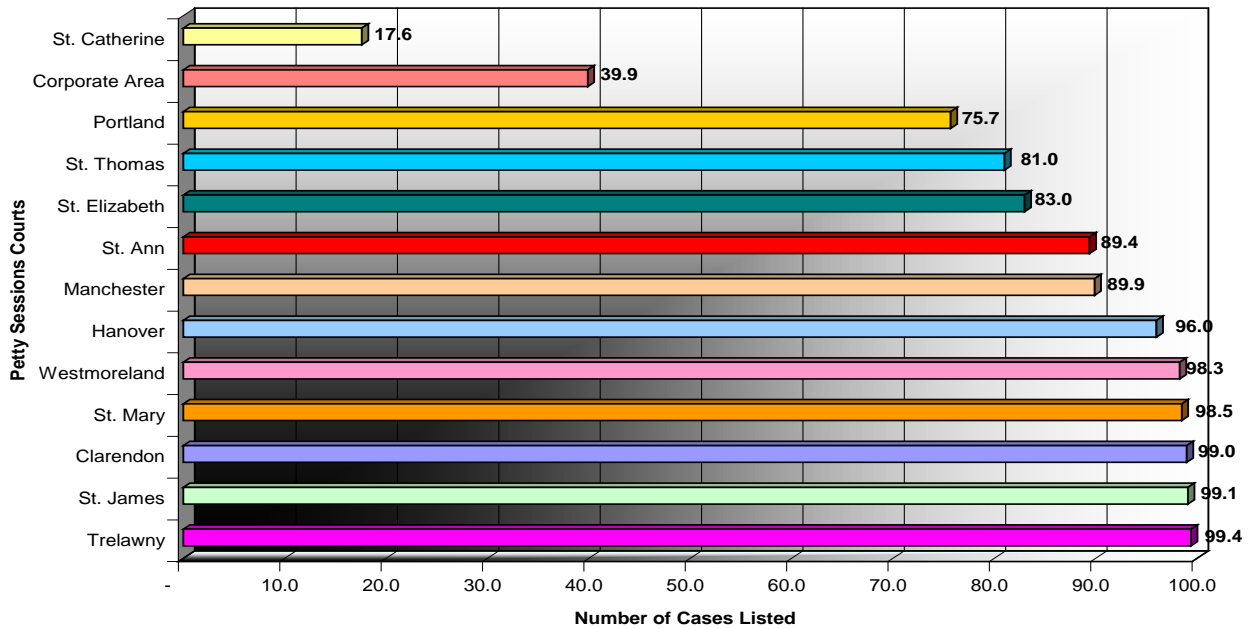
The parish of St. Catherine had the lowest recorded disposal rate over the period of approximately 18%, followed by the Corporate Area with an almost 40% disposal rate. Trelawny had the highest disposal rate of 99.4%, followed by St. James (99.1%), Clarendon (99%) and St. Mary (98.5%) (**Figure 20**).

**Figure 19**



**Figure 20**

**Disposal Rates in the Petty Sessions Court by Parish  
2008/09**



The Drug Court Treatment and Rehabilitation Programme

The Drug Court Treatment and Rehabilitation Programme commenced the fiscal year with seventeen (17) clients. Twenty-seven (27) new clients (all males) were referred by the Courts during the period. This brings the number of clients in the programme to forty-four (44). Following the screening process of the twenty seven (27) new clients referred, twenty (20) were deemed eligible for the programme while three (3) were considered ineligible. Over the review period, ten (10) clients graduated from the Drug Court Treatment and Rehabilitation Programme, meanwhile nine (9) clients dropped out. Three (3) clients failed to attend screening and one (1) client was expelled from the programme. Four (4) applications for admission to the Programme were left pending (**Table 14**). Eighteen clients (18) remained in the Programme at the end of the 2008/09.

# Appendices





## APPENDIX 1

**APPLYING FOR EXPUNGEMENT****Procedure to Apply for Expungement**

- Attend Ministry of Justice Customer Service Desk (Tenth Floor, South Towers) Mutual Life Building, South Towers and request application form in duplicate.
- Have your fingerprints taken at any Police Station or the Fingerprinting Division, 34 Duke Street, Kingston.
- Submit application form (in duplicate) along with fingerprints to the Customer Service Representative at the Ministry of Justice. (Tenth Floor, South Towers).
- The application is reviewed by the Criminal Records (Rehabilitation of Offenders) Board.
- Following the review of the application by the Board, if the applicant is eligible, contact is made with the referees and associates of the applicant (listed on his/her form) requesting recommendations on their behalf.
- The applicant will then be asked to pay a prescribed fee of One Thousand Dollars (\$1,000.00) for the fingerprint search. This should be paid to the number one (1) cashier in the Payment Division Ministry of National Security and a receipt collected and then handed to the Customer Service Representative at the front desk Ministry of Justice (Tenth Floor, South Towers).
- A Police Report is then requested from the Criminal Records Office.
- After all the required information is received, a final review is made by the Board and a decision taken.

*Note: The only payment required for this process is the fee for the fingerprint search which is one thousand dollars (\$1,000).*

Persons who have had a conviction(s), who have been to the courts and have had his/her case Dismissed or a No Order Made, the court should submit in writing an indication of it's decision. When the accused have received same, a copy of that document should be submitted to the Criminal Records Branch, (34 Duke Street) for them to have their records updated.

Failure to do so will pose a huge problem for the applicant when applying for his/her police record, employment, visa, permanent residency overseas etc.

The Criminal Record's Board is composed of:

- “a person who is an Attorney-at-Law of at least ten years standing or who holds or has held judicial office as (i) a Judge of the Court of Appeal; of (ii) a Judge of the Supreme Court; or (iii) a Resident Magistrate;
- A person appearing to the Minister to be interested in the rehabilitation of persons convicted of criminal offences, being: (i) psychiatrist; or (ii) a social worker; of (iii) a Minister of Religion
- A person connected with, or having knowledge of, the keeping and maintenance of records of persons convicted of criminal offences, namely (i) the Commissioner of Corrections or his nominee; or (ii) the Commissioner of Police or his nominee; or (a senior civil servant).

