

1.0. MEMBERSHIP OF THE JUDICIAL COUNCIL

As at 31 December 2008, the members of the Judicial Council were as follows:

Hon. Sir David A.C. Simmons, K.A., B.C.H., Chief Justice - Chairman
 Hon. Frederick L.A. Waterman, C.H.B., Justice of Appeal
 Hon. Peter D.H. Williams, Justice of Appeal
 Hon. Sherman R. Moore, Justice of Appeal
 Hon. Sandra Mason, Justice of Appeal
 Hon. Elneth Kentish, Judge of the High Court
 Hon. William Chandler, Judge of the High Court
 Hon. Margaret Reifer, Judge of the High Court
 Hon. Kaye Goodridge, Judge of the High Court
 Hon. Randall Worrell, Judge of the High Court
 Hon. Jacqueline Cornelius, Judge of the High Court
 Dr. the Hon. Sonia Richards, Judge of the High Court
 Hon. Maureen Crane-Scott, Judge of the High Court
 Mr. Keith Roberts, Master of the High Court (by invitation)
 Ms. Jennifer Edwards Q.C., Solicitor-General
 Ms. Marva Clarke, Registrar of the Supreme Court (Ag.)
 Ms. Deborah Holder, Magistrate
 Mr. Wilfred Abrahams, President of the Barbados Bar Association
 Mr. Clyde Turney Q.C.
 Mr. Leslie Haynes Q.C.
 Mrs. Beverley Walrond Q.C.
 Professor Andrew Burgess
 Dr. Jeanine Comma
 Ms. Sandra Walker, Secretary

1.2. CHANGES IN MEMBERSHIP AND TRIBUTES

During the year, Justice of Appeal, the Hon. John Connell retired on 6 October 2008. He had served on the Court of Appeal since 26 July 2005. The Council wishes Justice Connell a long, healthy and happy retirement.

Mrs. Maureen Crane-Scott, who began the year as a member of the Council in her substantive post of Registrar, Supreme Court, was appointed as a Judge of the High Court with effect from 15 April 2008. Madam Justice Sandra Mason, also a former Registrar of the Supreme Court, was appointed as a Justice of Appeal with effect from 1 October 2008. Madam Justice Mason had previously served as a High Court Judge on the Eastern Caribbean Supreme

Court. Both judges were warmly welcomed to the Council. The Council wishes them long and successful tenures on the Bench.

Justice Christopher Blackman G.C.M. retired on 12 June 2008 to assume the office of Justice of Appeal in the Commonwealth of the Bahamas.

Mr. Keith Roberts, Master of the High Court, was invited to attend meetings of the Council and did so during the year.

1.3. SUB-COMMITTEES

A Sub-Committee was established on 1 February 2008 to examine the Report of Mrs. Jennifer Leach, consultant, on Audio-Digital Court Reporting. The Sub-Committee was mandated to make recommendations for consideration by the Office of the Attorney-General. Members of the Sub-Committee are:

Madam Justice Margaret Reifer – Chairperson
 The Registrar or her nominee
 Mrs. Waple Nesfield, Head of Court Transcription
 Mr. Mark Murray, Senior Legal Assistant (Supreme Court)
 Mr. Trevor Bynoe, Senior Legal Assistant (Magistrates Court)
 The Chief Magistrate or his nominee
 Mrs. Beverley Walrond Q.C.

2.0. BUDGET OF THE JUDICIAL COUNCIL

2.1. For fiscal year 2008/2009, Parliament voted the sum of \$250, 000 to enable the Council to carry out its statutory responsibilities and facilitate its work programme. The vote is administered by the Cabinet Office.

3.0. STATEMENT OF ACCOUNTS

Approved by Parliament	\$250, 000.00
Expenditure as at 31 December 2008	<u>232, 507.61</u>
Balance available to 31 March 2009	<u>17, 492.39</u>

PART I

WORK AND ACTIVITIES 2008

4.0. In this Part, the Council reports on its work and activities for the year 2008.

5.0. WORKING GROUP ON NIGHT COURT

5.1. The Chief Justice informed the Council that he had suspended the Working Group because it was represented to him that the backlog of traffic cases in the District 'A' magisterial jurisdiction was being expeditiously disposed of by the Magistrates. The one continuing problem was the inefficiency of the Court Process Office, highlighted by delay in serving summonses and informations. If Court Process Officers could improve their levels of productivity, there would be no need to consider the establishment of a Night Court.

6.0. WORKING GROUP ON DRUG TREATMENT COURT

6.1. This Working Group re-activated its work during the year and held a number of meetings. It is expected to deliver its report in 2009.

7.0. NEW RULES OF THE SUPREME COURT

7.1. The Rules Committee held a meeting in December 2007 at which final decisions were taken in respect of the new Rules. Early in 2008 the final draft of the Rules was submitted by the Chief Parliamentary Counsel. The Council agreed that the Rules must be completed in a format compatible with:

- (a) the electronic requirements of Butterworths, LexisNexis;
- (b) the requirements of the Barbados Government Printery;
- (c) conversion to CD Rom.

7.2. It was reported to the Council that Butterworths, LexisNexis were preparing to publish a book, *"The Caribbean Civil Court Practice"* containing the Rules of the Court of other Commonwealth Caribbean jurisdictions. Publication was set for September 2008. The Chief Justice was a member of the Editorial Board of the book. It was agreed that a final seminar for judges and attorneys-at-law in relation to the new Rules should be held to coincide with the publication of the book.

7.3. The seminar referred to was held on 19 and 20 September at the Lloyd Erskine Sandiford Conference Centre. It was conducted by Mr. David di Mambro, Barrister-at-Law of Lincoln's Inn and Editor-in-Chief of *"The Caribbean Civil Court Practice"*, and his wife, Mrs. Louise di Mambro, Registrar-designate of the Supreme Court of the United Kingdom. There was massive attendance of the legal profession at the event.

7.4. The completed draft of the new Rules known as *The Supreme Court of Barbados Rules of Civil Procedure 2008* was ready and printed in October 2008.

8.0. NEW SUPREME COURT

8.1. Work continued during the year on the new Supreme Court complex at Whitepark Road. The Council emphasised to the Chairman of the Steering Committee established to supervise the interests of the end users of the complex, the Chief Justice, that contracts for furnishing and equipping the building should be awarded in a timely manner to ensure that there was no lag between completion of construction and the equipping and furnishing of the complex.

8.2. During construction, members of the judiciary visited the site.

9.0. REPORT OF CONSULTANT OF COMMONWEALTH SECRETARIAT

9.1. As a consequence of their attendance in 2007 as members of a Commonwealth Mission to various international courts in Europe, the Chief Justice and the then Registrar, Mrs. Maureen Crane-Scott, secured the services, free of charge, of Mr. Kevin Maguire of the Commonwealth Secretariat to conduct a study into the Magistrates courts of Barbados.

9.2. Mr. Maguire's report was tabled at a meeting of the Council on 1 February 2008.

10.0. MOTIONS DAY HEARINGS

10.1. The Council noted that Motions Day Hearings were not functioning optimally. It was decided to continue such hearings until the new Rules of Court came into force.

10.2. However, the following changes were made to provide for greater functionality:

- (a) Hearings would be held every month but only 10 or 12 cases would be listed;
- (b) The Master would preside at hearings and peruse the files to ensure that all relevant documentation was filed.

10.3. These changes took effect from 1 March 2008.

11.0. JUSTICE IMPROVEMENT PROGRAMME

11.1. The Council received reports at its meetings on the progress of the Justice Improvement Programme so far as material to the business of the courts and the judiciary. During the year the Programme facilitated training for two judges and laid the groundwork for implementation of a comprehensive project for the introduction of court annexed Alternative Dispute Resolution (ADR).

11.2. Specifically, the Programme:

- facilitated training for Justice Randall Worrell, Madam Justice Margaret Reifer and Master Keith Roberts at the High Court of England and Wales;
- funded the cost of four judicial assistants;
- spearheaded the process of appointing consultants to deliver the ADR project after international competitive bidding; and
- received the Judicial Enforcement Management Systems (JEMS) software to support the operation of the new Rules of the Supreme Court.

11.3. Once again the Council wishes to record its deep gratitude and thanks to the officers of the Inter-American Development Bank and Director and staff of the Programme for their ready assistance to the Council.

12.0. JUDICIAL ASSISTANTS

12.1. The Council was informed that the Government had approved four temporary posts of Judicial Assistant. Provision would be made for funding the posts in the Estimates of Expenditure and Revenue for fiscal year 2009-2010.

13.0. CONTINUING EDUCATION AND TRAINING

13.1. Below is a list of the various activities in which members of the judiciary and magistracy participated by way of continuing education and training during the year under review.

- (i) Attendance at a meeting of the Caribbean Court of Justice, Port-of-Spain, 25 February 2008 to draft amendments to the Caribbean Court of Justice (Appellate Jurisdiction) Rules 2005 – Sir David Simmons, Chief Justice.
- (ii) Workshop for regional judges sponsored by the Fair Trading Commission of Jamaica, Kingston, 14 and 15 March 2008 – Justice of Appeal, Hon. Peter Williams and Madam Justice Kaye Goodridge.
- (iii) Training in commercial litigation, sponsored by the Eastern Caribbean Supreme Court, British Virgin Islands, 27 and 28 March 2008 – Justice William Chandler.
- (iv) 14th Annual Training Conference of the National Association of Drug Court Professionals, St. Louis, Missouri, 28 to 31 May 2008 – Sir David Simmons, Chief Justice.
- (v) Attendance at Annual Conference of Heads of Judiciary of the Commonwealth Caribbean, Port-of-Spain, 4 to 6 June 2008 – Sir David Simmons, Chief Justice.
- (vi) Attachment to the High Court of England and Wales for training in case management, England, 8 to 14 June 2008 – Justice Randall Worrell, Madam Justice Margaret Reifer and Master Keith Roberts.
- (vii) Attendance at Judicial Colloquium to update the Latimer House Principles, Edinburgh, Scotland, 5 to 8 July 2008 – Sir David Simmons, Chief Justice.
- (viii) Attendance at the Conference of the International Society for Reform of the Criminal Law, Dublin, Ireland, 11 to 15 July 2008 – Sir David Simmons, Chief Justice and Madam Justice Dr. Sonia Richards.

- (ix) Attendance at the Annual Conference of the Eastern Caribbean Supreme Court, St. Kitts, 23 to 25 July 2008 – Madam Justice Jacqueline Cornelius.
- (x) Attendance at Meetings of the Council of Legal Education, Port-of-Spain, 4 to 6 September 2008 – Sir David Simmons, Chief Justice.
- (xi) Attendance at the Conference of the Commonwealth Magistrates and Judges Association, Cape Town, South Africa, 5 to 9 October 2008 – Justice of Appeal, Hon. Peter Williams and Magistrate Robert Simmons.
- (xii) Attendance at 25th Conference of the Commonwealth Lawyers' Association, Jamaica, 16 to 19 October 2008 – Sir David Simmons, Chief Justice and Madam Justice Elneth Kentish.

14.0. JUDICIAL RETREAT 2008

14.1. The Judicial Retreat was held at the Colony Club Hotel, St. James from 20 to 23 November 2008. The attendees received presentations from Dame Linda Dobbs, Judge of the High Court of England and Wales and Dr. Marcus Lashley.

14.2. There were interactive sessions during which Dame Linda discussed the judicial experience, relations between the judiciary and the media, managing case lists, judgment writing, case management, delivery of ex tempore judgments and women in the judiciary. Dr. Lashley dealt with management of stress.

PART II

VOLUME OF LITIGATION

15.0. VOLUME OF LITIGATION IN THE SUPREME COURT

15.1. (A) *The Court of Appeal*

Eight less appeals (60) were filed in 2008 than in 2007 (68). However, there was a stark decline in the number of appeals heard. Whereas in 2007, 80 appeals were heard, in 2008 only 51 were heard. Investigations revealed that many attorneys-at-law were not responding in a timely manner to notices to settle records of appeal. Thus, the throughput of appeals to the Court slowed noticeably because of the incomplete state of records.

15.2. The Deputy Registrar was directed by the Chief Justice to invoke the relevant provisions of Order 59 of the Rules of the Supreme Court to ensure either compliance with the Rules or dismissal of the appeals.

15.3. Forty-six (46) written decisions were rendered in 2008 compared with ninety (90) in the previous year.

15.4. The number of applications in Chambers fell from 80 in 2007 to 39 in 2008.

15.5. The sudden and dramatic declines noted above in certain aspects of the appellate process must be monitored over the next two or three years to determine whether there is development of a trend or whether the year 2008 was an aberration.

15.6. Tables 1 to 4 below set out the volume of appeals and the pace of disposals for the period 1 January to 31 December 2008. Tables 5 to 7 compare similar information for the years 2005 to 2008 inclusive.

**TABLE 1 – APPEALS FILED
(January 1 to December 31, 2008)**

CRIMINAL APPEALS (HIGH COURT)	25
CIVIL APPEALS (HIGH COURT)	22
CRIMINAL APPEALS (MAGISTERIAL)	2
CIVIL APPEALS (MAGISTERIAL)	11
TOTAL	60

**TABLE 2 – APPEALS HEARD
(January 1 to December 31, 2008)**

CRIMINAL APPEALS (HIGH COURT)	24
CIVIL APPEALS (HIGH COURT)	14
CRIMINAL APPEALS (MAGISTERIAL)	3
CIVIL APPEALS (MAGISTERIAL)	10
TOTAL	51

TABLE 3 – DECISIONS GIVEN
(January 1 to December 31, 2008)

CRIMINAL APPEALS (HIGH COURT)	22
CIVIL APPEALS (HIGH COURT)	12
CRIMINAL APPEALS (MAGISTERIAL)	3
CIVIL APPEALS (MAGISTERIAL)	9
TOTAL	46

TABLE 4- CHAMBERS APPLICATIONS
(January 1 to December 31, 2008)

CHAMBERS APPLICATIONS HEARD (BAIL)	10
CHAMBERS APPLICATIONS HEARD (EXCLUDING BAIL)	29
TOTAL	39

TABLE 5
APPEALS FILED 2005- 2008

	2005	2006	2007	2008
CRIMINAL APPEALS (HIGH COURT)	36	20	19	25
CIVIL APPEALS (HIGH COURT)	40	32	27	22
CRIMINAL APPEALS (MAGISTERIAL)	5	7	7	2
CIVIL APPEALS (MAGISTERIAL)	7	10	15	11
TOTAL	88	69	68	60

TABLE 6
APPEALS HEARD 2005 – 2008

	2005	2006	2007	2008
CRIMINAL APPEALS (HIGH COURT)	39	28	34	24
CIVIL APPEALS (HIGH COURT)	28	23	29	14
CRIMINAL APPEALS (MAGISTERIAL)	10	5	8	3
CIVIL APPEALS (MAGISTERIAL)	7	7	9	10
TOTAL	84	63	80	51

TABLE 7
DECISIONS RENDERED 2005 – 2008

	2005	2006	2007	2008
CRIMINAL APPEALS (HIGH COURT)	44	33	37	22
CIVIL APPEALS (HIGH COURT)	24	33	34	12
CRIMINAL APPEALS (MAGISTERIAL)	8	4	8	3
CIVIL APPEALS (MAGISTERIAL)	3	7	11	9
TOTAL	79	77	90	46

16.0. (B) *The High Court*

16.1 The number of civil cases filed in the High Court during 2008 (2 099) declined noticeably by almost 300 compared with 2007 (2 396). However, criminal cases increased by 50 – viz. from 201 (2007) to 251 (2008). There was a small increase in divorce applications but a substantial increase of 153 probate applications.

TABLE 8
CASES FILED IN THE HIGH COURT FOR THE YEARS 2004-2008

YEAR	CIVIL CASES	CRIMINAL CASES	DIVORCE APPLICATIONS	FAMILY MATTERS OTHER THAN DIVORCES	PROBATE APPLICATIONS
2004	1937	152	507	243	1065
2005	2490	130	501	216	1102
2006	2296	125	494	243	1068
2007	2396	201	464	252	1048
2008	2099	251	485	241	1201

16.2. The most heartening statistic of 2008 was related to the output of criminal disposals. For the first time in its legal history, Barbados was able to record criminal disposals in the High Court in excess of 140. In 2008 some 235 criminal cases were disposed of during the continuous trials in the High Court.

TABLE 9
FAMILY CASES OTHER THAN DIVORCES FILED
FOR THE YEARS 2004 - 2008

CASE TYPE	2004	2005	2006	2007	2008
UNION	28	18	2	9	10
CUSTODY	22	29	53	47	53
ANNULMENT	1	4	3	3	
PATERNITY	53	41	37	42	51
MAINTENANCE	83	81	91	91	63
PROPERTY SETTLEMENT	17	11	23	24	17
ADOPTION	6	4	7	3	3
MISCELLANEOUS	23	28	27	33	44
TOTAL	233	216	243	252	241

TABLE 10

CLASSIFICATION OF CRIMINAL CASES	
OFFENCE	TOTAL
Wounding, GBH, Assault, Cruelty to person under 16	69
Murder, Manslaughter, Causing death by dangerous driving, Concealment of birth	16
Burglary, Larceny, Receiving Stolen Goods, House-Breaking, Building Breaking	24
Malicious Damage to Property	
Escaping Legal Custody, Harboursing a Prisoner	3
Fraud, Robbery of a person, Aggravated Robbery, Embezzlement	15
Rape, Indecent Assault	18
Buggery	
Breach of Probation	
Arson	3
Possession of Drugs, Drug Trafficking	25
Conspiracy to Corrupt Public Morals	0
Sacrilege	0
Firearms, Illegal possession of firearm	71
Criminal deception	2
Theft	
Other	
TOTAL	251

TABLE 11
HIGH COURT CRIMINAL – CUSTODIAL SENTENCES 2008

	SENTENCE										
										Until Her Majesty's	
	Under 6 months	Over 6 months	1--3 years	4--5 years	6--10 years	11--15 years	Over 15 years	Life in Prison	Death Penalty	Pleasure be known	TOTAL
OFFENCE											
Firearms, Illegal possession of firearm			4	2	2						8
Possession of ammunition	1		2	1							4
Robbery, Theft, Fraud		1	5	3							9
Wounding, GBH, Assault			9		1						10
Rape, Indecent assault			1		1						2
Importation of a controlled drug			1		2		1				4
Possession of drugs, Trafficking of Drugs			1	1		1	2				5
Murder, Manslaughter, Causing death by dangerous driving			1		1	3	1				6
Burglary, Larceny, House breaking			4	2	7						13
Escape, Harboursing a prisoner		1									1
Serious Indecency					1						1
Criminal deception	1										1
Arson				1							1
Other											
TOTAL	2	2	28	10	15	4	4				65

TABLE 12

HIGH COURT CRIMINAL - NON-CUSTODIAL SENTENCES 2008

OFFENCE	SENTENCE GIVEN										
	Not Guilty	Mistrial	Dismissed	C.R.D.	Probation		Community service	Suspended sentence	Fines		Total
					1-3 years	Over 3 years			\$1000 & under	over \$1000	
Firearms, Illegal possession of firearm	6		1		1					17	25
Possession of ammunition	7	2	1	1	1					19	31
Robbery, Theft, Fraud, Fraudulent accounting		1	5		1						7
Wounding, GBH, Assault, SBH	15	2	12		3		2	3		3	40
Indecent assault, Rape	6		5				1	1			13
Possession of drugs, Drug trafficking	6		2	2						1	11
Murder, Manslaughter, Causing death by dangerous driving	3		2					1		1	7
Burglary, Larceny, House breaking	2	1		1				1			5
Arson	3										3
Escape			1					2			3
TOTAL	48	6	29	4	6		3	8		41	145

17.0. VOLUME OF LITIGATION IN MAGISTRATES COURTS

17.1. On the available statistics, some 4 829 less cases were filed in the Magistrates courts than in 2007. The most significant decrease was in the District 'A' Traffic jurisdiction where 8 271 cases were lodged compared with 13 586 in the year 2007. Remarkably, the precise number of dispositions (16 000) occurred in 2007 and 2008.

17.2. Table 13 shows the number of cases lodged in each magisterial district during the year. Table 14 sets out the number of disposals in each district.

TABLE 13
CASES LODGED IN EACH MAGISTRATE’S COURT- 2008

COURT	CRIMINAL	TRAFFIC	CIVIL	DOMESTIC	DOMESTIC VIOLENCE	JUVENILE	TOTAL
District 'A' No 1	404	8					412
District 'A' No 2	1410	29			3		1442
District 'A' Traffic	1222	7049					8271¹
District 'A' Civil			3374				3374
District 'A' Domestic				797			858
Juvenile						77	77
District 'B'	544	1055	150	74	28	1	1852
District 'B' Oistins	491	817	69	196	54	2	1629
District 'C'	459	254	42	220	93	3	1071
District 'D'	128	547	20	67	14	1	777
District 'E'	335	948	72	101	9	1	1466
District 'E' Holetown	401	2343	52	132	17	1	2946
District 'F'	78	168	11	63	8	1	329
District 'F' Belleplaine	77	55	0	36	3		171
TOTAL	5549	13273	3790	1686	226	90	24614

¹ Cases lodged for November – December not yet available

TABLE 14**CASES DISPOSED OF IN EACH MAGISTRATE'S COURT - 2008**

COURT	CRIMINAL	TRAFFIC	CIVIL	DOMESTIC	DOMESTIC VIOLENCE	JUVENILE	CORONER	TOTAL
District 'A' No.1	683	31	4		10			728
District 'A' No.2	1257	55	2		11			1325
District 'A' Traffic	774	3684			26			4484
District 'A' Civil			1751					1751
District 'A' Domestic				1703				1703
Special Coroner							0 ²	
Juvenile						89		89
District 'B'	566	411	86	284	39			1386
District 'B' Oistins	383	376	47	419	43	2		1270
District 'C'	77	39	20	96	14	2		248
District 'D'	166	142	15	138	17	1		479
District 'E'			45					45³
District 'E' Holetown			25					25⁴
District 'F'	90	109	11	84	8			302
District 'F' Belleplaine	65	67	1	48	7			188
TOTAL	4061	4914	2007	2772	175	94		16000

² Figures for Coroners Court Not yet available

³ Information not up to date. No information recorded in Order Book

⁴ Information not up to date. No information recorded in Order Book

18.0. (C) *The Coroner's Court*

18.1. As at 31 July 2008, 22 inquests were completed in the Coroner's Court.

19.0. ATTORNEYS-AT-LAW

19.1. At 31 January 2008, 487 attorneys-at-law had registered to practice law in Barbados.

19.2. At a Special Sitting of the Supreme Court on 29 October 2008, the following attorneys-at-law were admitted to practice law:

1. Nadia Alleyne
2. Tya Atwell
3. Nicola Berry
4. Karis Bynoe
5. Lesley Cargill
6. Kellesha Clarke
7. Bettina Glasford
8. Michael Koeiman
9. Abigail Linton
10. Sylvester Louis
11. Mohia Ma'at
12. Jewelle Maynard
13. Nicole McKetney
14. Ryan Moseley
15. Amanda Osolo
16. Kelly-Ann Payne
17. Frederick Pollard
18. Tameisha Rochester
19. Paulette Sealy
20. Shelly-Ann Seecharan
21. Ester Springer
22. Brendan Sutherland
23. Lesley Trotman

