

CASEFLOW MANAGEMENT IN A UNIFIED FAMILY COURT - A CARIBBEAN EXPERIMENT

**Presented by The Rt. Hon. Mr. Justice Michael de la Bastide, TC.
President of the Caribbean Court of Justice**

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THE PILOT COURT

A new Family Court has been set up in Trinidad and Tobago which is unique in the Commonwealth Caribbean . The Court is experimental. It is a pilot project which is to be conducted for two years, the intention being that the results of the experiment will help to shape a full Family Court system for Trinidad and Tobago. The Court opened for business on the 17th May, 2004, so the pilot still has some eight months to run. But the indications are that it has been hugely successful. There is no doubt that one of the reasons for the success of the Court has been its adoption of caseflow and case management techniques in combination with other strategies, all tailored to the peculiar requirements of a Family Court. Before examining these techniques and strategies, however, it is necessary first to give some basic information about the Court.

UNIFIED

One unusual feature of the Family Court is that it was set up without the need for any legislation. The Court is a unified Court in which both High Court judges and magistrates adjudicate. Both classes of judicial officer continue to exercise the jurisdiction given to them respectively by the existing law, though to the user of the Court the joinder of the two jurisdictions appears quite seamless. Initially the Court was staffed by four magistrates and one High Court judge. In November 2004 a second High Court judge was added, and in July 2005, a third. The Court was intended to serve the capital city of Port-of-Spain and its environs. The magistrates who sit in the Family Court can only deal with cases brought by persons resident within the magisterial district of St. George West in which Port of Spain is located. There is no similar restriction on the

jurisdiction of the High Court judges comprising the Court. The Family Court, however, has an identity of its own. It is a single integrated institution, housed in a building which is dedicated exclusively to it. The Court is served by a single registry and a common staff.

MULTI-DOOR

Another important and novel feature of the Court is that it provides in-house the services of social workers, mediators and probation officers. A judge or magistrate may refer the parties to the proceedings to any of these services but additionally, the services of the social workers who provide counseling, and the mediation service, may be accessed directly by any member of the public without the necessity either of starting court proceedings or hiring a lawyer. So this is truly a multi-door court where customers may enter not only through the litigation door but also through the social services door or the mediation door. This does provide some justification for giving an extended meaning to caseflow management as it applies to the Court.

DEFINITION OF TERMS

Perhaps it would be as well to start off by defining terms. The terms caseflow management and case management are often used interchangeably but I prefer to recognize a difference between them. I understand caseflow management to refer to the co-ordination of the court's entire system towards the goal of timely disposition of the matters entrusted to the court. In short it deals with the timely flow of matters through the court. Case management is an element of case flow management and refers to the management of an individual case. Trial management, a term also often used, refers to the management of a trial by the setting and observance of certain ground rules.

NEW RULES OF COURT

An important aspect of the experiment constituted by the establishment and operation of the Family Court, is that new Rules of Court have uniquely been implemented to govern proceedings in the High Court section of the Court. These rules are not really new, as their title, *The Family Proceeding Rules 1998*, would indicate. In fact these rules together with the Civil Proceedings Rules 1998, were made by the Rules Committee of

Trinidad and Tobago in 1998, subject only to the fixing of a date for their coming into force. Both sets of rules followed largely the model of the new style of case management rules adopted in England following Lord Woolf's report "Access to Justice." Both sets of rules were for the most part drafted by Judge Richard Greenslade who had participated in the drafting of the new English rules. There were of course modifications to suit local conditions suggested by the Rules Committee itself and by attorneys and court administrators. Since I happened to be the Chief Justice and Chairman of the Rules Committee at that time, I may be forgiven for saying that it was with great reluctance and deep regret that the Rules Committee was forced to yield to fierce opposition to the new rules from the Law Association and the Attorney General of the day, and to postpone their implementation indefinitely. Happily, the tide of opinion among the legal profession appears to have turned and the Civil Proceedings Rules are to be brought into effect with the blessing of the Law Association and the present Attorney General, at the beginning of the new Law Term on 16th September, 2005. But, for the time being the High Court judges sitting in the Family Court alone have and will continue to have the advantage of operating under the Family Proceedings Rules. It is worth noting that since 1998 both the Eastern Caribbean Supreme Court and more recently the Supreme Court of Jamaica have adopted new style civil procedure rules drafted by or with the assistance of Judge Greenslade along similar lines to those he followed in Trinidad and Tobago. Another version of the same model has also been adopted in Belize. No other Caribbean country has yet adopted new Family Procedure Rules.

The Family Proceedings Rules do not apply to the magistrates who sit in the Family Court but those magistrates subscribe to the philosophy which underlies the rules and have to the fullest extent possible adopted the same approach and procedures as those prescribed by them

JURISDICTION

The jurisdiction of the High Court judges in the Family Court does not require much elaboration. It includes the grant of divorces, decrees of nullity and judicial separation, and the award of ancillary relief which may relate to custody and maintenance of

children, maintenance of a former spouse and property settlement. The jurisdiction of the magistrates includes such matters as paternity suits, applications for financial support or custody of children, adoption and committal to an institution of children who are out of control. Domestic violence cases are only accepted if there is some other proceeding pending in the Family Court involving the same parties. The Family Court may also be called upon to adjudicate claims as between 'cohabitants', that is persons who live or have lived together in a domestic relationship, for the enforcement of rights granted by the Cohabital Relationships Act 1998. It may be observed in passing that 'cohabitant' is so defined in this Act as to exclude someone living with a partner of the same sex.

SPECIAL FEATURES OF FAMILY CASES

I turn now to consider how the techniques of caseflow management and case management have been applied in the operation of the Family Court. Case-flow Management has been defined as the coordination of all the court's processes and resources to move cases in a timely manner from filing to disposition, regardless of the case type or the type of disposition. I would suggest however that in shaping procedures for the Family Court it is important to take account of certain special features of the type of case which comes before the Court. Probably the most important of these features is the frequent involvement of children. When children are involved, their welfare is better served if their parents can be persuaded to communicate and cooperate with each other in determining and implementing the best arrangements that can be made for them. Another feature of Family proceedings is that the parties have usually shared a failed relationship and frequently come to the court with a good deal of baggage from that relationship, in which hurt and hostility often predominate. The architects of the Family Court have demonstrated that they were very conscious of the need to meet the challenges which these features create.

ELEMENTS OF CASEFLOW MANAGEMENT

Two of the earliest proponents of caseflow management, Maureen Solomon and Doug Somerlot, identified eleven fundamentals of that system. They are as follows:

1. judicial commitment and leadership

2. court consultation with the Bar
3. continuous court supervision of case progress
4. standards and goals
5. monitoring and information systems
6. case assignment systems
7. early court intervention and early dispositions
8. setting firm hearing dates
9. controlling adjournments and avoiding backlogs
10. system approach and vision
11. attention to detail.

OVERRIDING OBJECTIVE

All of these eleven fundamentals have been observed and implemented in the design and execution of the pilot court. It would be tedious however to go through these fundamentals seriatim in order to demonstrate this. Instead I shall highlight some of the features of caseflow and case management procedures which are mandated, encouraged or inspired by the Family Proceeding Rules. In order to identify the goal which these procedures are intended to achieve, it would be as well to begin by quoting the 'overriding objective' which is set out in the very first rule. That rule reads as follows:

- “1.1. (1) The overriding objectives of these Rules is to enable the court to deal with family matters –*
- (a) justly; and*
 - (b) in a way which, in proceedings affecting any child of the family, gives first and paramount consideration to the welfare of that child.*
- (2) Dealing justly with the case includes –*
- (a) ensuring, so far as is practicable, that the parties are on an equal footing and are not prejudiced by their financial position; and*
 - (b) encouraging settlement of any disputes by negotiation or mediation or other means; and*

- (c) *saving expense; and*
 - (d) *dealing with cases in ways which are proportionate*
 - (i) *to the complexity of the issues; and*
 - (ii) *to the financial position of each party; and*
 - (e) *ensuring that it is dealt with expeditiously; and*
 - (f) *allotting to it an appropriate share of the court's resources, while taking into account the need to allot resources to other cases*
- (3) *Giving first and paramount consideration to the welfare of any child of the family where any question relating to the custody or supervision of, or access to, that child is concerned includes –*
- (a) *seeking so far as is practicable to encourage –*
 - (i) *better relationships between parents and others involved in caring for the child and in particular communication and cooperation with regard to the parenting of such child; and*
 - (ii) *improving and developing the relationship between each parent and others and the child; and*
 - (b) *taking account of all the circumstances including in particular:-*
 - (i) *the ascertainable wishes and feelings of the child concerned (considered in the light of his age and understanding); and*
 - (ii) *his physical, emotional and educational needs; and*
 - (iii) *his cultural and ethnic background; and*
 - (iv) *the likely effect on him of any change in his circumstances; and*
 - (v) *his age, sex, background and any characteristics of his which the court considers relevant; and*
 - (vi) *any harm which he has suffered or is at risk of suffering; and*
 - (vii) *how capable each of his parents, and any other*

person in relation to whom the court considers the question to be relevant, is of meeting his needs.”

I would like to draw attention particularly to the emphasis which this rule places on :-

- a) the welfare of any child affected by the proceedings;
- b) the need to ensure that no party has an advantage over the other;
- c) settlement of disputes by negotiations or mediation;
- d) the need for expedition;
- e) fostering communication and cooperation between parents and others with regard to the parenting of the child; and
- f) the need to take account of the wishes and feelings of any child concerned.

DIRECTIONS HEARINGS

Continuous court supervision of the progress of the case is triggered as soon as a matter is filed in the High Court section of the Family Court. A key feature of this is the use of directions hearings which are in effect case management conferences. Evidence may be taken at these hearings for the purpose of enabling the judge to determine specific issues. As a result of this early court intervention, almost invariably matters are finally disposed of by the judges of the Family Court without the need for a full-scale trial separate and distinct from the directions hearings. As soon as a petition or application is filed, the court office is required to fix a time, date and place for the holding of a directions hearing. (see Rules 11.6(1) 12.5(1) and 13.2). The directions hearing must be fixed to take place not more than eight weeks from the date of the issue of the petition or application (Rule 13.3(1)). Notice of the directions hearing must be served with the petition or application to which it relates (Rule 13.4). If a directions hearing is adjourned, the Court is required by Rule 16.8(1) to fix a new date, time and place for the adjourned hearing.

By Rule 16.4(1)(2) the Court is expressly permitted to give directions on all matters that are or may be in issue between the parties, regardless of whether an application has been made for a particular issue to be decided by the Court. This facility may be used by the Court, if it considers it necessary, to decide issues that have not been specifically

raised by the parties. An important general rule contained in Rule 16.2(2) is that each lay party shall attend a directions hearing. If a party is represented, his attorney is also required to attend (Rule 16.21)).

MEDIATION

A recurrent theme in the Rules is the importance of resolving disputes by agreement whenever possible, and of using mediation for this purpose. Thus Rule 16.5 provides that “the Court shall take all practicable steps to encourage the parties to reach agreement on any disputed matters and, in particular, may refer the parties to mediation”. Rule 14.1 provides that the Court shall further the overriding objective by “actively managing cases” and goes on to list a number of things which this includes. Among them are the following:

“... ”

- (c) encouraging the parties to use the most appropriate form of dispute resolution including, in particular, mediation, if the court considers that appropriate and by facilitating the use of such procedures,
- (d) encouraging the parties to cooperate with each other
 - (i) as to the parenting of any children;
 - (ii) in the conduct of proceedings

...”

Power is expressly given by section 14 (1) of the Mediation Act 2004 to a judge or magistrate to refer parties to mediation by a certified mediator in any matter other than a criminal matter. Under section 5(1) of the Family Proceedings Act 2004 a court (which includes a magistrates’ court) may refer a matter or any aspect of it to mediation or to the unit responsible for social services in the court or to some other professional.

TECHNOLOGY

A positive attitude towards new technology is reflected in Rule 15.1(1) (k) which expressly permits the court to “hold a hearing by telephone or use any other method of direct communication”.

CARDS ON THE TABLE

An important requirement of the Rules is that relevant information be placed on the record at an early stage of the proceedings. This serves to promote expedition in the final disposition of the case whether by means of agreement or adjudication. Thus, under Rule 9.6(1) anyone who files a petition is required to file a statement of the existing and proposed arrangements for each minor child of the family who is a 'relevant child' as defined earlier the Rules. Under Rule 10.7(1) the respondent spouse may in turn file his or her own statement of the existing and proposed arrangements for any child of the family. In the case of applications for financial relief, an applicant must support his or her application by an affidavit setting out his or her income, capital, assets and liabilities as well as the grounds on which the application is made. (Rule 12.3(1))

HEARING-ROOMS AND HEARINGS

To look merely at the rules which govern proceedings before the judges of the Family Court would give a very imperfect and incomplete picture of how cases are actually dealt with. A number of measures have been taken and strategies adopted in pursuit of the overriding objective, which are reflective of the philosophy and policy of the Family Proceedings Rules but are not expressly written into them. The process of conditioning parties to help the Court further the overriding objective, as parties are required to do by Rule 1.3, begins from the time they first enter the building. I shall say more about this anon but will confine myself for the time being to describing the rooms in which cases are heard. These rooms are located on the first floor of the building and are more like small or medium-sized conference rooms than court-rooms. The main item of furniture is a T-shaped conference table. The judge or magistrate sits with his clerk or support officer, at the top of the T and the parties and their attorneys, if any, sit around the lower end of the table. There is much less formality than in other courts, though a certain decorum is maintained. The judge does not wear a gown and attorneys are not required to do so. Parties quite often appear without an attorney, even before the High Court judges. Even when a party is represented by an attorney who is present, the judge or magistrate will quite often address his client directly and get the client to respond to questions posed by the judge. Generally speaking, the attorney does not provide the

same shield between the judge and the lay client as he does in other courts. The attorney's role is much less dominant.

TIME-TABLES

Time-tables are set for the taking of action between one directions hearing and the next. In fact, Rule 16.7(1) requires the judge to fix a time-table prescribing dates for the hearing of every disputed issue and the taking of every step leading up to such hearing. The lay client does not fail to appreciate that the judge's insistence on counsel's adherence to the time-table is for the client's benefit. Parties are happy to discover that they have a voice in the disposition of their matters.

APPEALS AND REFERRALS

The judges and magistrates, using the skills and techniques which they have been taught as part of the specialised training which they received prior to joining the Family Court, take every opportunity at these directions hearings to encourage the parties to talk with each other with or without the assistance of counsel. When children are involved, an appeal is made to the parents to use the special knowledge which they alone have of the relevant facts, to determine between themselves the best arrangements that can be made for the children and to subordinate their own agendas to the achievement of this goal. The parties may be referred to any or all of the ancillary services provided in-house, that is, counseling, probation and mediation. If there is an outside agency or professional e.g. a psychologist, who is better equipped to provide assistance, then the referral may be made to them. To whomever the referral is made, the judge or magistrate making it keeps the case in his docket and will adjourn the matter to another fixed time and date. In fact once a case is assigned to a judge or magistrate, it will be retained by him or her until final disposition.

The telephone with which each hearing-room is equipped, may be used not only for conferencing, but also by the judge or magistrate or his support officer to contact an absent attorney in order to ascertain his future availability or a reason for his non-appearance, or to communicate with a welfare agency or professional to whom a referral is contemplated.

SCHEDULING

Scheduling of cases is facilitated by a networked case management information system which is integrated with a system that permits the calendaring of judges and magistrates, parties, attorneys, hearing-rooms and other resources. The result is that an electronic diary is generated for each judge and magistrate, the contents of which can be accessed by the judge or magistrate or his support officer who sits next to him in court with his laptop in front of him. It takes very little time therefore to find an empty slot in the judge's calendar to which a matter can be adjourned without fear of a conflict of fixtures. The same information can be accessed on their computers by the officers in the Registry who are responsible for fixing new matters for first hearing.

Each matter is assigned its own time slot, usually of 20 minutes duration, although more time may be allocated to an adjourned hearing in the discretion of the judge or magistrate.

This system has a number of beneficial effects. It provides for hearing date and time certainty. It tends to minimize cost and inconvenience to litigants and attorneys by ensuring that their time (as well as that of the judge or magistrate) is used as efficiently and productively as possible. The point may be made that this system is in stark contrast to what obtains in many of the "ordinary" magistrates' courts in Trinidad and Tobago in which upwards of 100 cases may be listed each day and the magistrate may spend a significant part of the morning adjourning most of them.

EFFECT OF PROCEDURE ADOPTED

It will be readily apparent from the account I have given of the caseflow and case management techniques adopted by the Court with the backing of the Family Proceedings Rules, that they embody a number of the elements of caseflow management which have been identified and listed above. These include continuous court supervision of case progress, case assignment systems, early court intervention and early dispositions, setting firm trial dates and controlling adjournments and avoiding backlogs. As we shall see, there is evidence, statistical, circumstantial and anecdotal, to

support the view that these techniques have been quite successful in achieving the overriding objective pinned to the mast-head of the Court by the Rules.

HOW THE MAGISTRATES OPERATE

As mentioned earlier, the magistrates in the Family Court do not function with the benefit of the Family Proceedings Rules. Proceedings before them are begun by summons. One drawback is that a separate summons is required not only in respect of each type of relief which is sought, but also, where children are involved, in respect of each child. In practice of course summonses relating to the same parties are all dealt with together, whenever possible, by the same magistrate. A request has been directed to the appropriate quarter for legislation to permit applications made by the same person in respect of related matters to be made in an omnibus summons.

Another disadvantage under which the magistrates operate, is the absence of any requirement that relevant information be filed in advance of the hearing of a summons. This makes it more difficult for the magistrate to orchestrate a settlement of matters in dispute. In order to equip themselves with the information needed for this purpose, magistrates make much more frequent use than their colleagues on the High Court bench of reports by the in-house probation officers. These reports are a useful source of background information and often point the way to the appropriate order to be made with or without the consent of the parties.

Another weakness in the system as it applies to the magistrates in the Family Court, has to do with service of summonses. Summonses issued by the Family Court are taken by a bailiff to the police station for the area in which the party to be served lives. A police officer attached to that police station is deputed to effect service of all such summonses. The experience has been that all too frequently summonses are not served before the date on which they are returnable, and as a result a high proportion of summonses have to be adjourned at the first hearing for non-appearance of the defendant. The management of the Family Court and those charged with monitoring its performance, requested the issue of a Ministerial Order to permit court bailiffs to serve these

summons themselves. The Order has been issued and at present is before Parliament for approval.

Though unsupported by rules of court, the magistrates use many of the same case management techniques as their colleagues on the High Court side of the Family Court. They have the power to refer parties to the social services or to mediation or for report by a probation officer and they utilize this power fully. The hearing-rooms in which they sit are identical to those in which the judges sit. They place the same emphasis on getting parties to search for solutions and to focus on the welfare of their children. Except for the non-applicability of the Rules, all that has been said with regard to the approach and strategies used by the judges in the Family Court, is equally true of the magistrates who sit there. It is important to note that the judges and magistrates of the Family Court were for the most part trained together. It would be appropriate at this stage to say something about that training.

TRAINING

The training for judges and magistrates of the Family Court focused on subjects which were especially relevant to the types of cases they would be dealing with. The topics covered included family economics, the nature of domestic violence and the role of the judge in domestic violence cases, hearing the voice of the child and handling children's evidence. Instruction was also given in broader topics such as mediation skills and techniques for the non-mediator, communication, trial management, settlement conferences, caseflow management and information technology, but in every case with special reference to the application of the topic to proceedings in a Family court. The training was both theoretical and practical, with a certain amount of simulation and role-playing being used for the development of skills. Training was not confined to the judges and magistrates but extended to the other staff of the Family Court who were, whenever appropriate, trained together with the judicial officers. Everyone was given a thorough grounding in the Family Proceedings Rules and in the Court Performance Standards that were adopted by the Court. There was also training offered to attorneys with a Family court practice. This served to introduce attorneys to the new role which they would be expected to play in the pilot Court and to the objectives that were being set for the new

court and the techniques that would be used by it. This initiative has probably helped to secure the acceptance by attorneys practising in the Family Court of the transition from the combative approach to which they were accustomed under the old Matrimonial Causes Rules to the cooperative approach adopted by the Court in accordance with the Family Proceedings Rules. It is probably true to say, however, that their enthusiasm for the new approach is in large part attributable to the improved results which they have seen that new approach produce.

“SMOOTHING THE WAY” FOR THE COURT’S LAY CLIENTS

Those responsible for setting up this experimental court utilized other strategies which though not falling strictly within the scope of case management or caseload management, are geared to achieving a similar result, that is, a just and beneficial solution in the shortest possible time of the problems which the users of the Court bring to it.

Those who designed the pilot attached a lot of importance to smoothing the way for persons wishing to access the services provided by the Court and to putting them in a proper frame of mind to assist in the search for solutions to their family problems. In the first place, the interior design, décor and furnishings of the building have been selected with a view to producing a soothing and relaxing effect. Three pastel colours are used throughout the building. The waiting area outside the hearing-rooms on the first floor has the ambiance of a garden. There is a profusion of tropical plants in planters and seating accommodation is provided by garden benches. The third floor on which the social workers, mediators and probation officers are located, is particularly light and airy with lots of sunlight entering through large windows and French doors. Indeed there is very little in the building to suggest to the lay users of the Court any resemblance to the court-houses with which they would be familiar.

The Court also provides a facility which is a very useful adjunct to caseload management, in the shape of two daycare centres for children. One is for children between the ages of 3 months and 10 years and the other for youngsters between 11 and 17 years of age. Both centres are staffed by persons professionally trained in child

care. The centres are well equipped not only with cribs and cots for the infants and toys for the toddlers but also with books, puzzles, television and computers for the older children. The centres are available to anyone who has business in the building whether it be in connection with the hearing of a case or for accessing the services on the third floor. Every precaution is taken to ensure not only that each child left in the centres is well cared for and entertained, but also is returned only to the person who brought him or her to the centre unless an order is made by the Court while the child is in the centre ordering him or her to be handed over to someone else. These centres not only serve to make the experience less traumatic for a child required to attend court, but also enable the child's parent or guardian to keep his court appointments and to do so in a more relaxed frame of mind.

Another strategy adopted for smoothing the way for users of the Court, has to do with the way in which they are dealt with, particularly on a first visit, by the staff. A lot of emphasis has been placed on provision by the Court of high quality customer service. The staff have been well trained, highly motivated and, with the attention to detail identified as one of the fundamentals of caseflow management, attractively uniformed. When a lay person enters the Registry on the ground floor of the building, he or she is greeted by a Customer Service Representative. These representatives, who are easily identified by the bright red jackets which they wear, are in fact stationed on each floor to which users of the Court have access, for the purpose of directing them to the appropriate area or office where their presence is required. Assuming that the person whom the Customer Service representative has greeted is a 'pro se' client, that is, someone who is seeking the assistance of the Court but does not have the services of an attorney, he is ushered by the Customer Service representative to an Intake Officer. That officer is housed in a cubicle in which he can talk with the client with some degree of confidentiality. The Intake Officer who is a trained social worker, interviews the client, takes and records information from him or her and explains the options which are available, that is, either an application to the Court or access to the services of a social worker or mediator. If the choice is to access the social services, then the Intake Officer will have a Customer Service representative escort the client straightaway to the social services department on the third floor. If the client wishes access to the services of a

mediator, the Intake Officer explains the mediation process, asks the client to inform the other party and obtains a telephone contact which she passes on to the Coordinator of Mediation Services. If there is to be an application to the Court, the client will be escorted by a Customer Service Representative to a Family Case Management Officer who sits behind the counter in the Registry. If what is sought is a divorce or some other relief which only the High Court can grant, the client may be referred to the representative of the Legal Aid Authority who has a desk in the Registry, or if the client wishes to start and conduct proceedings in person (as he or she is entitled to do under the Family Proceedings Rules) the client is referred to the Registrar for assistance. If the application is to be made to a magistrate, the Family Case Management Officer will prepare the appropriate application for the client and have him or her sign it. On the basis of information provided by the Listing Unit, the date, the time and the number of the hearing-room on, at and in which the application will be heard, are fixed and stated in the application, a copy of which is given to the client. There is a nominal filing fee of \$3.00 per application. This will hardly hinder access to the Court as \$3.00 is roughly equivalent to 25 pence sterling.

The staff have guidelines for dealing with vision impaired and hearing impaired clients. Great emphasis is placed on their treating all who enter the building with courtesy and respect, and on dealing calmly with those who become abusive or aggressive. As indicated by their responses to questionnaires which will be referred to later, lay clients of the Court have given the staff of the Court close to full marks for courtesy and helpfulness. It is obvious to anyone who interacts with them that the staff of the Court are committed to excellence and take a great deal of pride in what they do and in the institution they serve.

MONITORING

From its inception the Family Court has been monitored by a Monitoring Committee appointed by the Chief Justice of Trinidad and Tobago. This committee is chaired by a judge of the High Court (not one of those assigned to the Family Court.) and includes two attorneys nominated by the Law Association, the director of a Government agency charged with the delivery of social services, court administrators, an attorney from the

Attorney General's office and the senior judge and senior magistrate from the Family Court. The Monitoring Committee is assisted by the Evaluation Team comprising the Family Court Manager, the Court Statistician and Robert Hann, a court evaluation specialist from Canada. The Evaluation Team is mainly responsible for designing evaluation and monitoring instruments, coordinating data collection, collation of data, developing statistical tables and preparing reports for the Monitoring Committee. In fact the Monitoring Committee has received from the Evaluation Team, and is considering, a draft first year Report on the Court which covers the period from the opening of the Court on the 17th May 2004 to the 31st May, 2005.

Assessment of the Court's performance is done within the framework of certain Court Performance Standards which have been adopted by the Court. The core standards adopted by the Court have their genesis in a project undertaken between 1987 and 1990 by the National Centre for State Courts whose headquarters are in Virginia, U.S.A. and the United States Bureau of Justice Assistance. These Court Performance Standards are grouped in five performance areas that embrace the fundamental purpose and mission of courts.

They are:-

- access to justice;
- expedition and timeliness;
- equality, fairness and integrity
- independence and accountability; and
- public trust and confidence.

There are a number of standards developed with respect to each area of performance. The Family Court has chosen to add a sixth performance area, namely environment for conducting the work of the court, and has identified five process performance areas as follows:

- clear direction and leadership,
- clear accountabilities and strong partnerships,
- effective and efficient operational strategies, tools and practices,

- sufficient well trained personnel, and
- adequate resources and effective support systems.

The Court Performance Standards adopted not only assist in the monitoring and evaluation exercise but also serve to set out goals for the staff and what is required to achieve them. This explains why all members of the staff of the Family Court have been drilled in the Family Court Performance Standards.

The monitoring exercise has been an on-going one throughout the first year of the Court's existence. It has served to pinpoint some weaknesses in the Court's systems. When remedial action by the Court's management was possible, it was taken, and when the intervention of the Executive or the legislature was required, that was solicited. Remedies of the first type of case include such simple things as the tinting of the Intake Officers' booths and the relocation of the Listing Unit in order to provide a greater degree of privacy for customers. Examples of the second kind have already been mentioned and include such innovations as omnibus summonses and a requirement that applicants for financial relief before the magistrates should file with their application some basic financial information.

EVIDENCE OF THE COURT'S SUCCESS

I claimed at the beginning of this paper that the new Family Court was a huge success and that there was evidence to support this conclusion. I am probably not disqualified by bias from testifying to the Court's success as I played no part in its establishment. Be that as it may, I must confess that my own visits to the Court, during which I had the opportunity to sit in on hearings conducted by a judge and by a magistrate left me with an extremely favourable impression of the way in which the Court conducts its business and of the setting and atmosphere in which it does so. But let us examine the evidence. There is a good deal of statistical data in the draft first year Report submitted by the Evaluation Team to the Monitoring Committee. That report has not yet been published but I can with the relevant permissions disclose some of the statistical data which it contains

A major flaw in the summary court system in Trinidad and Tobago is the number of times on which matters are adjourned by magistrates before they are heard. It is interesting therefore to note from the draft Report that of the cases determined by magistrates in the Family Court during the period under review, 63 per cent were determined at either the first or second hearing and 77 per cent had been determined by the third hearing. It has already been mentioned that many of these matters are adjourned at the first hearing because of non-service of the summons on the defendant. This is reflected in the comparable figures for matters determined by the High Court judges of the Family Court. Of the matters determined by them, 68 per cent were determined at the first or second hearing and 86 per cent had been determined by the third hearing. Looked at from another perspective, of the matters pending before magistrates in the Family Court on the 31st May 2005, 40 per cent had been the subject of only one or two adjournments, and 69 per cent had not been adjourned more than four times. In the High Court section of the Family Court 51 per cent of the pending matters had been adjourned only once or twice, and 75 per cent had been adjourned no more than four times. In the High Court section these adjournments would have been of the directions hearings, for as already stated, cases there are almost always resolved without a formal trial.

Another significant statistic is the time elapsed between the filing of proceedings and the first hearing. In the Family High Court the target of a first hearing of the directions summons within eight weeks was achieved in 90 per cent of the cases, and in more than 50 per cent of all cases filed, the first hearing took place within five weeks of filing. Before the Family Court came on the scene, persons filing petitions for divorce in the High Court Registries in Port of Spain and San Fernando, were being given hearing dates for their decrees nisi eleven months after filing. This time lag has now been reduced to eight or nine months because of the reduction in the number of petitions being filed in those registries which is the result of parties and their attorneys now preferring to file their petitions in the Family Court. In the Family Magistrates' Court 57 per cent of matters filed received a hearing within two weeks of filing and 97 per cent within four weeks.

A propos of a point made earlier about the use of probation officers' reports by magistrates in the Family Court, it is interesting to note that over 80 per cent of the referrals to the probation officers come from the magistrates. On the other hand, referrals from magistrates account for less than 20 per cent of the cases referred to mediation. Surprisingly more than 50 per cent of the referrals to mediation came directly from the Intake Officer without any intervention by a court.

From its inception the Family Court has continuously sought to get feedback from the attorneys who practice before it and their lay clients as to how they assess various aspects of the Court's performance. This they have done by questionnaires, some of which have been directed to the attorneys and others to the lay clients.

The questions posed to the attorneys focused on such matters as their perception of the fairness and efficiency of the Court, a comparison between the new Family Proceedings Rules and the old Matrimonial Causes Rules, the usefulness of having mediation and counselling available within the court-house and whether their cases were concluded within a reasonable time. The questionnaires given to the lay clients enquired about such matters as whether they had any difficulty in finding their way to and around the building, how quickly they got from the Court personnel the information and assistance they needed, whether the staff treated them with courtesy and whether they were satisfied with some of the court's facilities, including the day-care centres. They were also asked for suggestions for improving the service of the court and its environment. I do not propose to attempt any detailed analysis of the responses received. Suffice it to say that they were extremely positive, both from the attorneys and the lay clients. By way of illustration, the percentages of those responding who gave a high satisfaction rating to the ease with which they got information at the front desk, the assistance they received from Court personnel, the clarity of the instructions they received and the courtesy of the staff, were all in the mid to high nineties.

Perhaps the most convincing evidence of the Family Court's success is provided by its popularity with the attorneys who practise in the field of family law as well as the lay persons with family problems to whom word has spread of the Court's existence and

growing reputation. The Court was intended to serve Port-of-Spain and its environs but in fact applications are being filed in the Family High Court by and on behalf of persons who reside in every part of Trinidad and in some cases, of Tobago. Since the inception of the Family Court over a hundred cases have been transferred from the High Court in the Hall of Justice in Port of Spain to the Family Court. There have even been three transferred from San Fernando, forty miles away, no doubt at considerable inconvenience to the parties and their attorneys. The Monitoring Committee has received a request from the Council of the Law Association that the matrimonial jurisdiction of the High Court in San Fernando be assumed by the Family Court and that a judge of that Court be assigned to sit in San Fernando and hear matters which though filed in the Family Court in Port of Spain, really come from San Fernando and the southern part of the island in which it is located. This request has not been acceded to at this stage. With regard to the Family Magistrates' Court, the anecdotal evidence coming from officers in the Registry of the Family Court is that some persons who live outside the Magisterial District of St. George West, have given false addresses within that District in order to be able to have access to the Court and its ancillary services.

CONCLUSION

In light of all this support for the new Family Court, it is probably safe to predict that the Court is here to stay. It remains to be seen what steps will be taken by the Government and Judiciary of Trinidad and Tobago to extend the jurisdiction and services of the Family Court to the whole of the twin- island Republic. One of the options appears to be to identify and acquire and convert, or construct, if necessary, buildings in San Fernando, Scarborough, Tobago and possibly some other population centres, that will provide accommodation for new branches of the Family Court in which the features of the pilot Court will hopefully be duplicated.

In closing, I venture to put forward two thoughts. The first is that the Family Court in Port of Spain is a pioneer court as well as a pilot court, in that it has departed in many ways from the traditional concept of what a court is about. Perhaps because of its success, it can light the way not only for other Family courts but also for other courts with a civil jurisdiction. The other thought is that the success of this new Family court is particularly

welcome at a time when in the country it serves there is a disturbing increase of violent crime committed by young persons, a phenomenon which many in the society attribute to the break-down in family life and a consequential lack of proper parenting.