# RESPONSES OF THE JUDICIARY OF TRINIDAD AND TOBAGO TO QUESTIONS OF THE JOINT SELECT COMMITTEE OF THE PARLIAMENT OF TRINIDAD AND TOBAGO ON NATIONAL SECURITY

-An Inquiry into the Criminal Justice System in Trinidad and Tobago to determine strategies to achieve greater efficiency and effectiveness

The Committee sought the assistance of the Honourable Chief Justice or an official of the Judiciary nominated by the Honourable Chief Justice to provide information relevant to this inquiry. The Chief Justice has agreed to assist the Committee and having so done, the Judiciary seeks to provide responses to questions posed by the Committee as follows:

## 1. Can you provide an overview of the Criminal Justice System in Trinidad and Tobago?

The starting point for this discussion must be a definition of the Criminal Justice System. The criminal justice system is a complex interconnection of agencies geared to protect society from crime by detecting crime, solving crime, prosecuting persons accused of the crime, ensuring due process for accused persons, delivering good judgments (as correct as possible) and prescribing appropriate sentences and consequences with a view to protecting society from convicted persons, rehabilitating offenders, deterring crime and reducing recidivism.

The Criminal Justice System is a complex and interdependent system that relies on the collaboration of various components to function effectively. The system is made up of several bodies including:

- The Trinidad and Tobago Police Service (and all other law enforcement and investigatory bodies),
- The Forensic Science Centre,
- The Office of the Director of Public Prosecutions,
- The Legal Aid and Advisory Authority,
- The Public Defenders Department of the Legal Aid and Advisory Authority,
- The Law Association of Trinidad and Tobago,
- The Trinidad and Tobago Prison Service,
- The Ministry of National Security, (inclusive of Probation, Counter Trafficking Unit, Cybercrime Unit and other Special Units)
- The Ministry of Legal Affairs,
- The Judiciary of Trinidad and Tobago,
- Justices of the Peace, and

- other functionaries such as District Medical Officers.

**For Child Justice, the following bodies are also involved**:

- TTPS Child Protection Unit
- The Children's Authority
- Children's Attorneys Unit of Civil Law Department of Ministry of Legal Affairs
- Children's Homes and Rehabilitation Centres
- The Ministry of Education
- Child Probation Services of the Ministry of National Security

Child Justice is addressed through the Children Court. The Children Court forms part of the Criminal Justice System in Trinidad and Tobago as it deals with matters involving children who are in conflict with the law and who are at risk. The Court was established through the Family and Children Division Act No.6 of 2016 and, operationalised in February2018. The operations of the Children Court are also guided by the suite of children legislation (Children's Authority Act Chapter 46:10, Children Act 2012, Children's Community Residencies, Foster Care and Nurseries Act Chapter 46:11, Adoption of Children Act (as amended), Children's Authority Regulations 2014, Children's Community Residencies Regulations 2014, Judges' Rules for Children 2016 and Children Court Rules 2018). Types of matters heard by the Children Court include child charge matters in which children are charged with crimes (both indictable and summary), private complaint summary matters, domestic violence matters, applications from the Children's Authority, and Children In Need of Supervision (CHINS) applications.

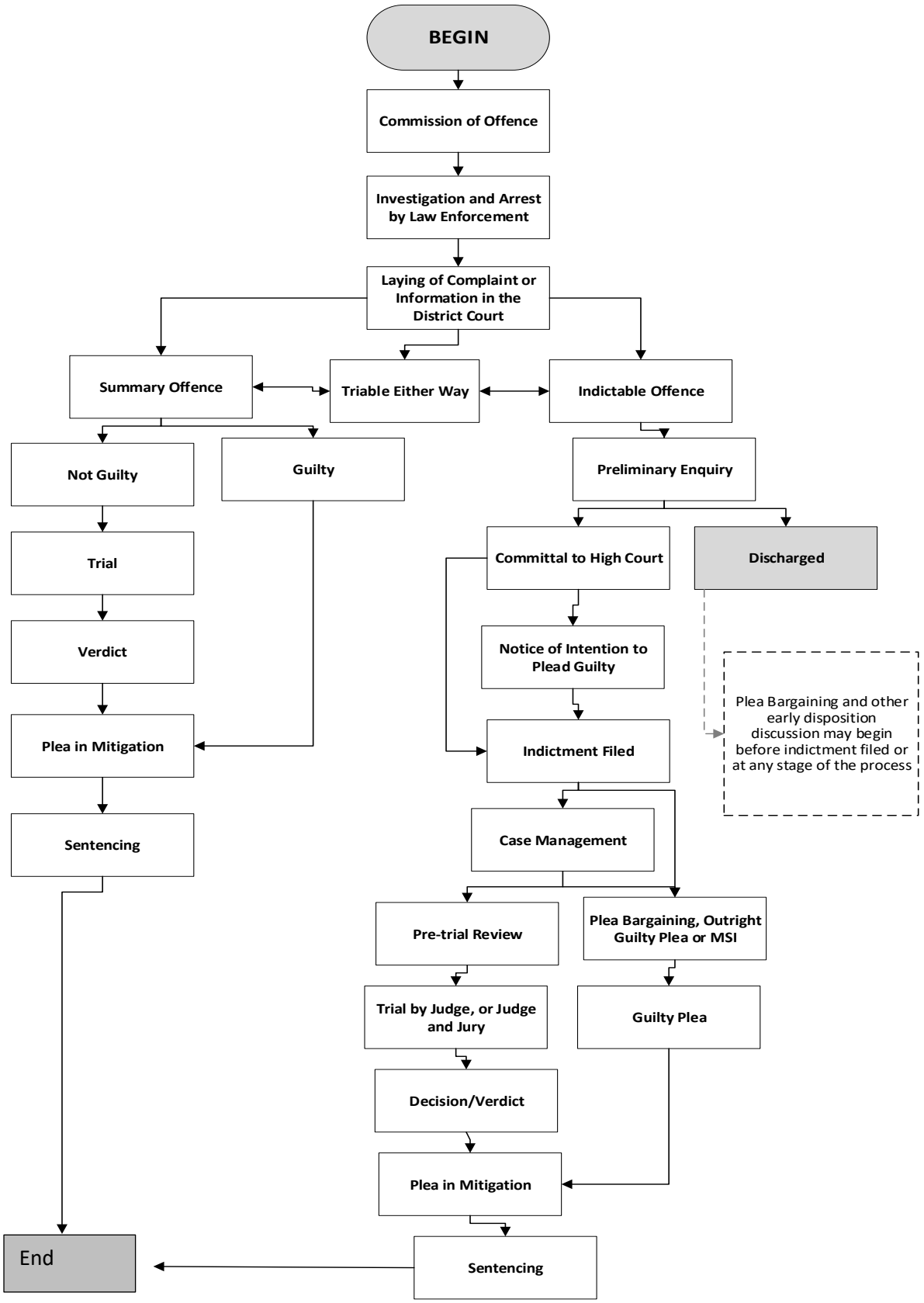
The Children Court was borne out of the need for a specialised Court to deal with children in a different way and not treat them like adults. It recognizes the science that is now available that the frontal lobes of a child are not fully formed until about age 25 and that between the ages of 14 and 25, a child's judgment is not developed with the result that they take unnecessary risks and make thoughtless decisions.

The philosophy of the court is to take a proactive and problem solving approach to address the underlying causes for each child's issues and to consider a less punitive and more rehabilitative approach to treating with children in conflict with the law. This ethos is evident in the Children Court Rules 2018 (as amended) which focuses the Court and parties on providing for the treatment and rehabilitation of child offenders; enable child offenders to live responsibly and productively and promote accountability for violations of the law. The best interest of children before the court is of paramount importance. The legislation provides for Judges, Judicial Officers and specialised staff who are equipped to deal with children in conflict with the law or at risk. Care plans are designed through the Court's Social Services Unit and are used as targeted interventions for the treatment and rehabilitation of a child.

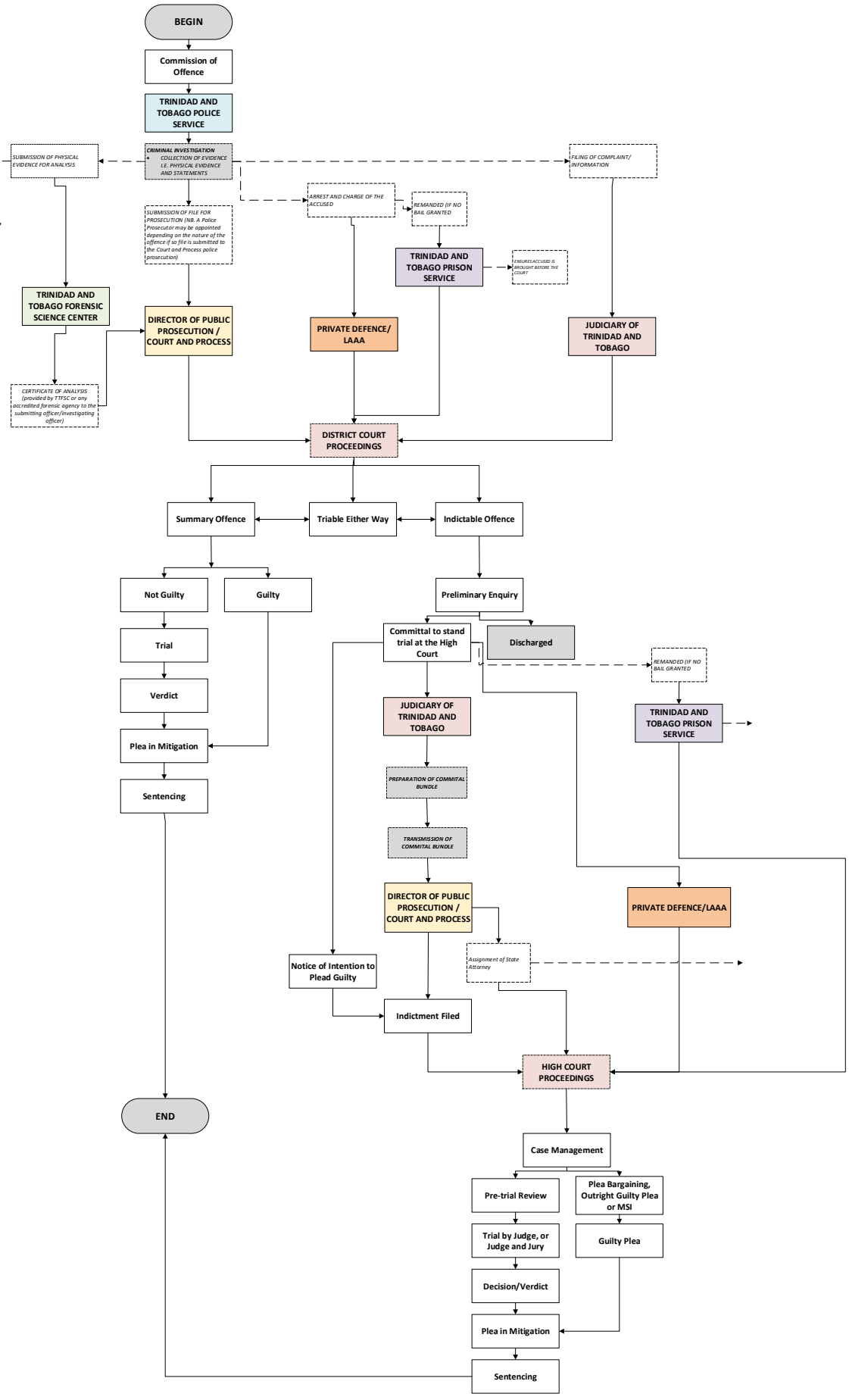
In addition, there are auxiliary programmes facilitated through the court which adopt a

holistic approach towards both the parents/ guardian / person with responsibility for the child; and the child. As it relates to children matters, the court is no longer functus after the determination of a matter. The new proactive approach is to monitor a child's progress throughout the matter by engaging with key stakeholders (Children's Authority, YTRC, Child Probation Unit and Student Support Services of Ministry of Education) in case conferences to make further interventions into the child's life. The emphasis is understanding why the child is before the court, the needs of the child and issues to be addressed, make targeted interventions to rehabilitate and get the child back on track and determine the appropriate sentence or sanction.

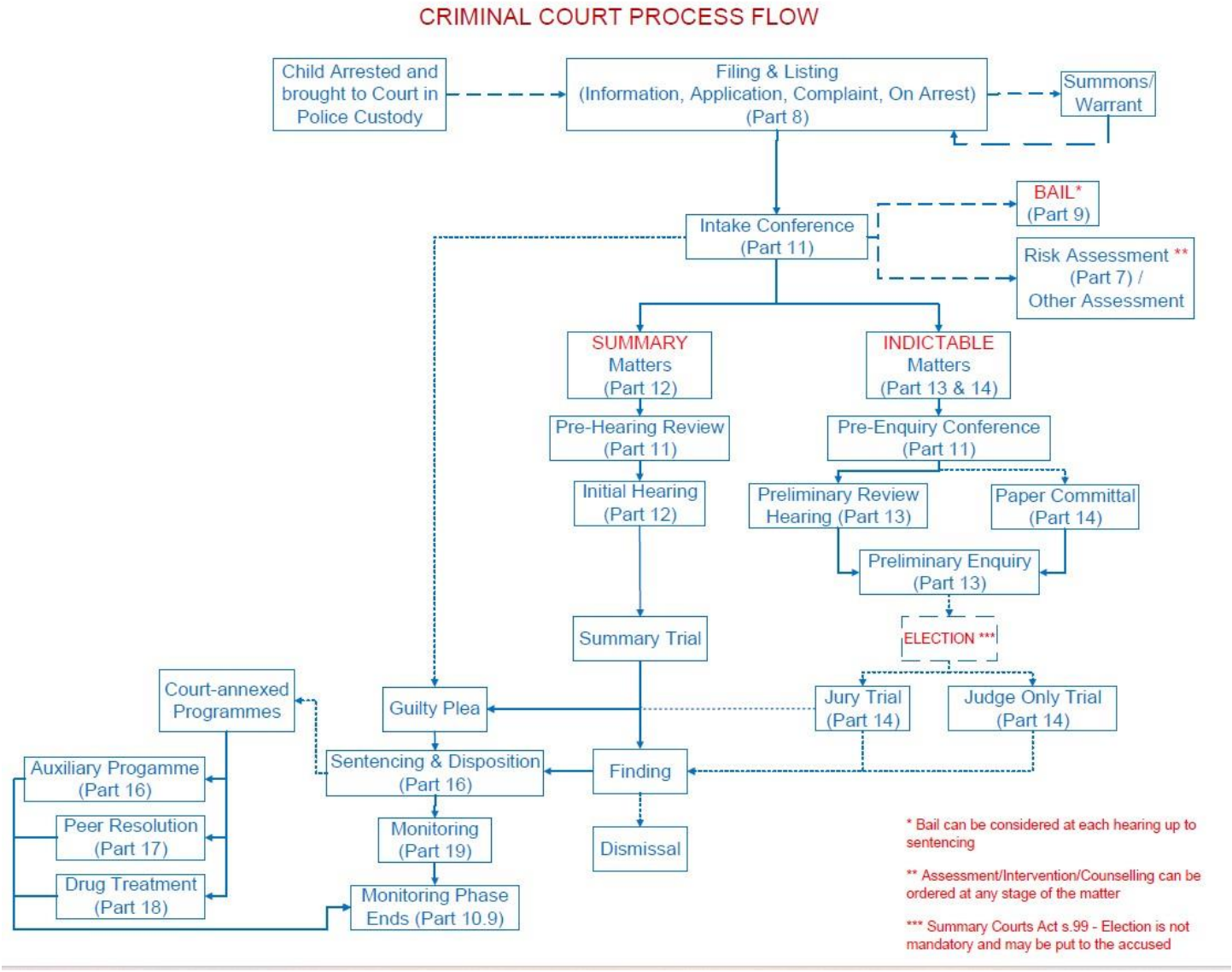
**PROCESS MAP#6: OVERVIEW OF THE CRIMINAL JUSTICE SYSTEM (General)**



**PROCESS MAP#9: OVERVIEW OF THE CRIMINAL JUSTICE SYSTEM (Agencies)**



Children Court Criminal Process Flow



## Overview of Children Criminal Justice System (agencies and persons involved)

As indicated above, there are various agencies involved in the Child Justice System. The Children Court can be found in north and south Trinidad and Tobago. Each agency plays a key role in the various stages of the child's engagement in the justice system. These agencies may have multiple roles within the process and need to work in harmony to provide the necessary support and interventions for the child.

**Upon Arrest of a Child**

Upon arrest, children are to be appropriately cautioned by a police officer (Child Protection Unit, Counter Trafficking Unit, Gender-based Violence Unit, etc.) and informed of all rights. A parent/guardian/person with responsibility for the child shall be contacted immediately. Children must be transported in an unmarked vehicle to a designated child booking centre.

The Police's role is to notify Legal Aid and Advisory Authority (LAAA) and the Office of the DPP, that a child has been brought into police custody. LAAA assigns duty counsel and the Director of Public Prosecutions (DPP) assigns a State Counsel to appear before the court. The Police would also indicate to the court whether an interpreter is required for the child, parent/guardian/ person with responsibility (PWR) or victim.

**Filing and Listing of Matters**

The Police files the complaint/information and other documents (summary of evidence, child custody form, notice to child, birth certificate and/or ID of child), in the appropriate children court jurisdiction. The court staff reviews and processes the documents and lists the matter before a Master or Judge.

For the period 28th February 2018 to 31st May 2023, **4,572** matters have been filed.

**Intake Phase**

During the intake phase the matter is heard as soon as possible after a child is charged or application made. At the intake conference the court considers urgent issues affecting the liberty (including bail, legal representation, etc.) and the immediate welfare of the child. Additionally, particulars of the identity of the child and parent/guardian/PWR are verified as well as they are informed of their legal rights and obligations. The Judge or Judicial Officer may also order any assessment deemed necessary, including risk and psychosocial assessments to determine the needs of the child and suitability for electronic monitoring as a condition of bail.

**Hearing Phase**

Hearings are conducted to progress the matter towards early disposition or trial. The court may make orders for assessments and interventions including referring a child, parent or family member to programmes or to access services of varying types, facilitated internally or externally. These services may be available from Social Services Unit of the Children Court, Children Authority of Trinidad and Tobago (CATT), Student Support Services Division (Ministry of Education), Child Probation Officers (Probation

Services Division), Children Attorney, Child Guidance Clinic (Ministry of Health) and any other stakeholder representative deemed necessary.
If a child is at YTRC, services are coordinated with the Court's Social Services Unit and the Social Welfare Department to ensure the child receives any required assessment or intervention.

The court may also order the care, custody or control of a child be vested by a stakeholder, including CATT, Community Residences, Youth Training and Rehabilitation Centre (YTRC), Immigration Division, fit person, etc.

Additionally, applications for Maximum Sentence Indicators and entering guilty pleas may be considered.

The court may order the child be referred the Children Drug Treatment Court (CDTC) process if the child meets the criteria as outlined in the FCD Act 6 of 2016.

**Trial**
During a trial the court considers the facts and evidence presented by the prosecution and defence and a determination is made. Note assessments and interventions can be ordered as appropriate to any stakeholder deemed necessary.

**Sentencing and Monitoring**
The court may order a custodial and/or non-custodial sentence where the child is found guilty or pleads guilty to an offence. Non-custodial sentences can include fines, compensation, community service, probation, electronic monitoring, etc.
Upon receiving a guilty plea from a child, the Court may refer the child to Peer Resolution in accordance with section 40 of the FCD Act, 2016 or the CDTC Process pursuant to section 47 of the FCD Act, 2016.
When the Court sentences a child, a Children's Probation Officer is assigned:
(a) to monitor the child's compliance with the sentence and sanction;
(b) to ensure that the child is assessed for risk; or
(c) for any other purpose as the Court directs.

While monitoring a child, the Children's Probation Officers may file reports on the progress of the child as well as applications for non-compliance of sentence terms or notice of completion of community service, etc. During monitoring the Children's Attorneys may make submissions on behalf of a child as needed.
The court may schedule monitoring hearings to manage a child's progress.

| Agency | Persons Involved | Role Performed |
|---|---|---|
| Office of the Director of Public Prosecutions<br>(The Office of the Attorney General and Legal Affairs) | DPP<br>State Counsel | DPP role:<br>1) to institute and undertake criminal proceedings<br>2) **to take over and continue any such criminal proceedings** and |

| Agency | Persons Involved | Role Performed |
|---|---|---|
| | | 3) **to discontinue at any stage before judgment is delivered** |
| Child Protection Unit<br>(Trinidad and Tobago Police Service) | Child Protection Officers | To investigate reports of criminal offences that may have been committed against a child. |
| Gender-based Violence Unit (Trinidad and Tobago Police Service) | Police Officer | To investigate allegations of domestic violence and applies for protection orders on behalf of children. |
| Special Victims and Witness Support Unit<br>(Trinidad and Tobago Police Service) | Police Officer | To provide services for individuals, groups, and communities to cope with all forms of crime victimisation and develop initiatives which manifest into tailored interventions that provide valuable and individually tailored assistance to each victim. |
| Cybercrime and Social Media Unit<br>(Trinidad and Tobago Police Service) | Police Officer | To provide technical assistance in the detection and investigations of cybercrime. |
| Counter Trafficking Unit (CTU)<br>(Trinidad and Tobago Police Service) | Police Officer | Is responsible for the prevention of human trafficking, investigating matters pertaining to trafficking, protection of victims and witnesses, and referring all matters requiring the initiation of criminal prosecutions to the Office of the Director of Public Prosecutions. |
| Youth Training Rehabilitation Centre<br>(Trinidad and Tobago Prison Service) | Prison Officers<br>Welfare Officers | It is a children rehabilitation centre with particular focus on the rehabilitation of young offenders in custody, to return and function beneficially to society. |
| Probation Services Division<br>(Ministry of National Security) | Child Probation Officers | Children's Probation Officers (CPOs) treat with children who are in conflict with the law under the Act in addition to treating with children who are in need of supervision (CHINS) as set out under the Children Act 2012. The CPO has been trained and qualified as a specialist in the welfare of children that provides probationary or diversionary services. |
| Immigration Division<br>(Ministry of National Security) | Immigration Officers | Refer cases to stakeholders for assistance and the necessary investigation and/or interventions. It refers, where necessary, matters involving children where the support or intervention of the Children's Authority may be required, such as unaccompanied minors. The Immigration Division would also refer cases to the CTU where there are indicators of human trafficking. |
| Solicitor General Department<br>(The Office of the Attorney General and Legal Affairs) | Children Attorney/ Child Advocate | To represent and safeguard the interest of the child.<br>The Court can make an order for this Office to appoint a Children's Attorney to represent the voice and views of the |

| Agency | Persons Involved | Role Performed |
|---|---|---|
| | | subject child. The appointed attorney would contact the child, conduct interviews, and make recommendations regarding the child. The attorney then submits the report to the Court. |
| Children's Authority of Trinidad and Tobago (CATT) | Counsel<br>Child Associates | CATT is the guardian of children of Trinidad and Tobago, with the primary responsibility for the care and protection of all children. |
| Legal Aid and Advisory Authority of Trinidad and Tobago | Duty Counsel | LAAA provides legal representation in the form of a Duty Counsel pursuant to Part IIA of the Legal Aid and Advice Act Chap 7:07, if the child conflicts with the law and is detained. If the parent or guardian in Wardship/Care proceedings meets the criteria for obtaining an attorney, an attorney would be appointed to represent the parent or guardian in the Wardship/Care proceedings. The person must apply formally and if they meet the criteria, they would be contacted to begin the process for legal representation |
| Student Support Services Division (Ministry of Education) | School Social Workers<br>Guidance Officer | Is primarily responsible for:<br>· Overseeing the public education and promoting education in the country<br>· Ensuring there are schools available for the promotion of education<br>The MOE has various units and divisions to assist in carrying out its functions. |
| Child Guidance Clinic<br>St. Ann's Hospital<br>Couva Extended Care Centre (Ministry of Health (MOH)) | Child Psychiatrists<br>Child Psychologists<br>Psychiatric Social Workers | Has oversight for the country's public health care system and ensures that organisations and institutions conform to standards of safety and health in regard to goods and services.<br>The Child Guidance Clinic (CGC) is a child and adolescent outpatient clinic that provides specialist psychiatric services including clinical diagnosis and the treatment of disorders of thinking, feeling and behaviour affecting children and their families. |
| Children Court<br>(Judiciary of Trinidad and Tobago) | Judges<br>Masters<br>Other Court Officials | To resolve cases involving children:<br>1. accused of committing an offence<br>2. in need of supervision<br>3. in need of protection<br><br>To conduct assessments and interventions |

## 2. What are the objectives of the criminal justice system?

### The attainment of peace and harmony in society

The most fundamental goal of the criminal justice system is the attainment of peace and harmony in society, especially against the backdrop of the many social, economic and other factors which precipitate and catalyze criminal activity on a personal and societal scale. In order to achieve this goal, many key players must act, including:

a. The education system which must work to enlighten citizens to the merits of peace and harmony and the responsibilities which further this goal;

b. Cultural and sporting agencies which help people to gain the discipline and drive to achieve harmony and peace;

c. Law makers who codify the behaviours which are best suited for peace and harmony;

d. Scientific agencies which help detect crime and breaches of the codified behaviours above, and identify those responsible;

e. Law enforcement agencies which apprehend those who violate or are suspected of violating the law;

f. Prosecutory agencies which make a case against those who violate or are suspected of violating the law;

g. Defence agencies which ensure due process for all and upholds the rights of the accused persons so that even the process of prosecution does not undermine the goal of peace and harmony;

h. The Courts, the purpose of which is:

    i. To do individual justice in individual cases

    ii. To appear to do justice in individual cases

    iii. To provide a forum for the resolution of legal disputes

    iv. To protect citizens against arbitrary use of government power

    v. To make a formal record of legal status

    vi. To deter criminal behavior

    vii. To help rehabilitate persons convicted of crimes

    viii. To separate persons convicted of serious offences from society; and

i. Appropriate agencies to ensure:

   a. The proper resources are made available to these agencies including the people, plant and processes,

   b. Appropriate compensation of officers at the agencies and

   c. Appropriate processes for the management and operation of the agencies, without interrupting their independence as required, nor their smooth operations, nor their modernization where and when needed.

## Upholding the Rule of Law and the Rights of Persons

The criminal justice system plays a critical role in protecting public safety, by upholding the rule of law and the rights of persons. Its aims include deterring criminal activity, rehabilitating offenders, imposing consequences on offenders, providing justice for victims, and maintaining public trust and confidence. It is an essential component of any society that seeks to uphold the principles of justice and fairness.

***a) Deterring Criminal Activity:*** The primary aim of the criminal justice system is to deter criminal activity. This is achieved through the application of consequences for criminal offences. The threat of consequences is intended to discourage individuals from engaging in criminal behaviour, and to make it clear that criminal activity will not be tolerated.

***b) Accountability for violations of the law:*** Another key aim of the criminal justice system is to have the right people take responsibility for their wrongdoing. This is achieved through the legal process, which involves investigating criminal activity, gathering evidence, and testing the evidence in an attempt to arrive at truth. All genuine attempts must be made to ensure that one is prosecuting those who are actually responsible.

***c) Restoration and Rehabilitation and Reintegration:*** While restoration and rehabilitation includes accepting responsibility, it must be combined with a true effort to atone for one's wrong doing and to turn away from the life of crime. It must include an absence of recidivism.

The rehabilitation of offenders is hoped to be achieved through a range of programmes and services that are designed to help offenders address the underlying causes of their criminal behavior. These may include drug and alcohol treatment, education, and counselling. The aim is to help offenders become productive members of society and to reduce the likelihood of reoffending.

By ensuring that persons in conflict with the law have access to social and therapeutic intervention and by discovering the root of the criminogenic behavior, you can then treat same. Additionally, providing access to educational, technical and vocational programmes

to assist in allowing these persons an opportunity to have a fair chance in the job market when released.

***d) To separate persons convicted of serious offences from society*:** While the consequence, may be towards rehabilitation, it may be in an effort to separate the wrongdoer from society if it is believed that the wrongdoer should be so separated. It may therefore take the form of imprisonment, fines, community service, probation, paying of compensation or a combination of these. The severity of the punishment is intended to reflect the seriousness of the crime committed. It should also reflect the level of remorse and the ability to be rehabilitated.

***e) Justice for Victims including Society:*** The criminal justice system also aims to provide justice for victims of crime. This includes providing support and assistance to victims throughout the legal process, ensuring that they are treated with dignity and respect, and seeking to hold offenders accountable for their actions. The system also aims to prevent future victimization by identifying and addressing the underlying causes of crime.

***f) Public Trust and Confidence:*** Finally, the criminal justice system aims to maintain public trust and confidence in the legal system. This is achieved through transparency, accountability, and fairness. The system must be seen as impartial and just, and must operate in a manner that is consistent with the principles of democracy and the rule of law. If they do not and do not appear to do justice, the society denigrates into vigilante "justice".

***g) Keeping abreast of changing face of crime and preparing for appropriate crime fighting methods to address same.***

For Child Justice, objectives also include:

To treat with children (under 18) by recognizing the effect of the immaturity of their brain development and with the knowledge that if a child is addressed in a positive way early, and helped along the way to maturation, the chance of them being livelong repeat offenders is greatly reduced.

This can be seen in the Children Court Rules 2018 (as amended) which focuses the Court and parties on providing for the treatment and rehabilitation of child offenders; enable child offenders to live responsibly and productively and promote accountability for violations of the law.

## 3. Can you list the pillars of an effective criminal justice system?

Based on the objectives of the criminal justice system, the Pillars of an Effective Criminal Justice System are:

a. Effective Prevention
b. Early detection
c. Sound investigation
d. Appropriate charging
e. Respect for victims
f. Respect for human rights
g. Fair and robust prosecution
h. Fair and robust defence
i. Early and appropriate disposition of cases
j. Fair and neutral adjudication
k. Fair, evidence based disposition of cases
l. Fair and appropriate sanctions
m. Due process
n. State social service support
o. Timeliness and efficiency
p. Accountability
q. Sound Legislative basis and foundation
r. Rule of law
s. Restoration
t. Respect for society
u. Love of country.
v. Civic mindedness based on moral and spiritual values and societal support
w. Purpose designed institutions with substance
x. Strong, independent, effective and progressive institutions which keep up to date with criminal trends and crime fighting methodologies and technologies and attract Public trust and Confidence

The internationally adopted and endorsed American Bar Association (ABA) Standard 2.5 on Delay Reduction is instructive and has set for judiciaries worldwide, a standard to which they strive. It states:

> *"From the commencement of litigation to its resolution, whether by trial or settlement, any elapsed time other than reasonably required for pleadings, discovery, and court events is unacceptable and should be eliminated*.

*To enable just and efficient resolution of cases, the court, not the lawyers or litigants, should control the pace of litigation.*

*A strong judicial commitment is essential to reducing delay and, once achieved, maintaining a current docket."*

## 4. Does our current legislative framework support these essential pillars? If not, kindly explain?

While our legislative framework supports the rule of law and in words support many but not all of these pillars, the devil is in the details and the details lie heavily with the policies and procedures which sometimes actually even hinder the operations of the law.

Pillars ***a to m*** (above) inclusive required the creation of various agencies with different roles and responsibilities. Some pillars require the participation of more than one agency. Some agencies contribute to multiple pillars.

### The Legislated Framework, Subsidiary Legislation, Policies, Procedures

The question cannot lie merely in the legislative framework because so much of what is required for these pillars and these agencies is found in subsidiary legislation, policies, procedures and even collective agreements.

Each agency is required to create, develop and manage its systems: its resources (e.g. people and plant) and its processes in order to assume its role and make its contribution toward the pillars of the criminal justice system. To do this, there must be a vision for the overall criminal justice system and for the society. There must be an understanding of what each agency is doing and is meant to do in furtherance of the overall vision, and the developments in those agencies.

The agency which however we do not include in the Criminal Justice System but is a critical one which in fact has the ability to make or break the system is the Public Service. (In particular here, it is imperative to address agencies which create public service wide policies which either undermine the achievement of the objectives and vision of the Criminal Justice System or which are not always in line with where the Criminal Justice System needs to be to contribute to the pillars of the system.) Included in these are the Personnel Department (Office of the Chief Personnel Officer (CPO)), the Public Management and Consulting Division (PMCD) and similar bodies.

### The Structure of the Public Service and its Role in Development

Our public service has tended to see itself as ensuring stability. And while this is laudable, there is however a harmful effect when stability is seen as synonymous with ensuring that there is no

change. This was essential coming out of a colonial past in which the comfort of the population and of the countries and businesses on the global stage were critical to our survival. They needed to feel comfortable that not much would change now that we were going to rule ourselves.

- Stability is not ensuring that there is no change
- The places that we as a society have wedded ourselves to as the control point from which we must not deviate, have themselves deviated to suit their new realities and modern management knowledge.[1]
- Organisational development in criminal justice agencies cannot be circumscribed by the limits of what individuals in a centralised ministry or agency with authority to determine their future, know or genuinely believe they know.
- Crime has changed and so must the criminal justice system. It is, however fettered and hamstrung.

Most of the agencies in the criminal justice system are shackled and inoculated against improvement and enhanced efficiency by public service wide policies and systems that simply do not fit the task at hand.

As it pertains to the Judiciary, it is interesting to note that as far back as **1896** a Commission of Inquiry reported to the then Governor of the then colony in these words:

> *"But we desire to call Your Excellency's attention to the fact that for the most part appointments to clerkships in the Registrar's Office have in the past been made without any regard to the previous training of the gentlemen appointed. The Registrar's Office appears to have been regarded as a Government Department to which a clerk could be promoted from any other office and promoted again from it to another. In point of fact the Registrar's Office is one that requires a special training before a clerk can properly perform his duties, and no one, however great his general ability and official experience may be, can properly do this work without some preparation. We find that some of the clerks have been transferred from other Government Departments for no better reason apparently but that it was promotion for them in point of salary, but without any regard for his fitness for that Office. No doubt after a time some of these Gentlemen have learnt their duties and have become excellent clerks, but in the meantime they have been of very little use. Some knowledge of law is required for*

[1] (For example, although not as extensively as they recognize they must, the British have changed the design of their civil service and has created a Supreme Court of England with a Court Administration structure; they have also created an executive agency for the Courts and Tribunals Service; the Canadians have studied their system and arrived at one suited to them. So have the New Zealanders and the Singaporeans. Singapore has recognized that the original design of the Colonial civil service put the policy and strategic decision making and high level operational activity at one strata subject to terms that could compete reasonably with the public sector (in the case of the colonial service it was reserved for the British) and hired the best locally to draft the memos, file the documents, maintain the records, and support the strategic and high level operations. Singapore recreated this completely with Singaporeans.)

*many of the duties the clerks have to perform, and to take a Gentleman, say from the Audit Office and set him to draw up Decrees and Orders is fair neither to the Registrar nor to himself. We venture to recommend that the Registrar's Office should be considered a Department by itself, and the promotion should run as far as possible in the Office. Young clerks can be taken in and trained up in the special work of the Office, and promoted from time to time as vacancies occur. In this way trained staff will be always available. We venture however strongly to impress upon Your Excellency the undesirability of transferring a clerk from any other Government Department to the Registrar's Office unless it be one of junior clerkships with a view of his being trained up to the special work of that Office.*

**REPORT ON THE SYSTEM OF ADMINISTRATION OF JUSTICE IN THE COLONY - 1896**

(This recommendation was agreed to again in 1956 by a Committee appointed by the then Governor of the then Colony and on several occasions since)

Despite this call and the repetition of it in 1956, and its being oft repeated in the speeches of almost all of the country's Chief Justices at Law Term openings, this has yet to come to pass. The moves towards it in 1998 and in 2003 and 2005, have been eroded and are threatened to be eroded further by those whose experience is not in this arena and does not understand what is required for a judiciary to function, why it does what it does and why it does it how it does it.

Administrative autonomy in this regard given in law even to other agencies, is denied the judiciary and so the Judiciary is required to undertake its role and be fully accountable for same with hands tied behind its back. A Judiciary cannot be timely and effective without its administrative autonomy.

Oftentimes a law says something and the public service policy and procedure effectively and skillfully negates it, its intent and/or its effect. It is too often missed and not understood that the law is supreme and not the policy; and that one cannot choose to operate outside of the law.

## Legislated Delay

Several pieces of legislation in the Criminal Law embed and legislate delay. Our law calls for preliminary enquiries and for juries for all indictable matters. These embed unnecessary and unwarranted delay. The insistence on legislating procedure makes changes in procedure difficult and tedious and ties the system to non-value added activity. It also makes it difficult to embrace technology when warranted.

## Legislated Antiquity

Several pieces of legislation tie the Criminal Justice System to antiquity. The inability to address

the structure of the police service to provide for the type of recruitment, training and modernization it requires is as a result of such legislation. The fact that the Supreme Court of Judicature Act provides only for Criminal High Courts to sit in Port of Spain, San Fernando and Scarborough are further examples as are the fact that the Criminal Procedure Act requires the Chief Justice to announce "sessions" and the Jury Act calls Jurors from particular counties to sit in either Port of Spain or San Fernando. Even the fact that news and information is no longer community bound fails to be recognized in a law that allows the DPP to move a trial from one location to the next in order to avoid community gossip or insider knowledge of the community. Legislation speaks only of trials and of where accused are to be tried without acknowledging that a matter may be disposed of without a trial.

## 4 a. What is needed legislatively?

### A reorganised public service that recognises that the staff in the Judiciary do not do the kind of work done in ministries of government and must perform differently.

This can be achieved by legislative change which allows the staff of the Judiciary to fall under an expanded and reorganised Judicial and Legal Service Commission which can employ persons on contract at senior administrative levels and junior staff specifically into careers in the Judiciary. As stated since 1896 and repeatedly thereafter, this will allow for greater efficiency in the Judiciary and the retention of knowledge and experience.

### The removal of preliminary enquiries

The Administration of Justice (Preliminary Enquiries) Amendment Act plans for this and has been on the books for some time now. A few amendments are needed to improve its efficiency and it should then be proclaimed.

### Judge Alone Trials

The Judiciary has submitted its views on the necessity of Judge alone trials to the Select Committee

### The Proclamation of the Evidence Amendment Act

The Evidence (Amendment) Act 2021 was assented to on February 25, 2021 but is not yet proclaimed.

### Abolition of the Practice of the Legislating Procedure:

In this regard, the need for rehaul and modification of the Criminal Procedure Act and the Summary Courts Act as well as certain parts of The Supreme Court of Judicature Act are necessary as well as the general simplification of criminal procedure

The Criminal Procedure Act and the Summary Courts Act are examples of legislating procedure. Substantive and procedural rules can be distinguished by referencing Black's Law Dictionary. Law is substantive when it is *"[t]he part of the law that creates, defines, and regulates the rights,*

*duties, and powers of parties,"* [P]rocedural law is a collection of *"rules that prescribe the steps for having a right or duty judicially enforced, as opposed to the law that defines the specific rights or duties themselves.[2]"*. Substantive law making is the responsibility of the Legislature.

There is need for a full review and/or repeal of Criminal Procedure Act (CPA) and the Summary Courts Act (SCA) and a review of the Supreme Court of Judicature Act for the following reasons:

1. Apart from the provisions contained from time to time in substantive law, the inherent power of the court is historically based and cannot all be legislated.
2. The Judiciary has the institutional competence to make rules.
3. The authority resides in the need to continuously improve the efficiency of the Judiciary particularly where there are qualitative and quantitative demands being made on the court system.
4. The Judiciary is outside of the political sphere.
5. The different arms of State including the Judiciary must institute policies and procedures to aid in achieving their purpose. The mechanisms utilised by the Judiciary includes Orders and Rules of Court and Practice Directions.

The Criminal Procedure Act (CPA) in its current iteration treats with in great detail several procedural and purely administrative matters including:

- Designating time, place and mode of trial
- Proceedings at trial and subsequent proceedings
- The procedure to be adopted on committal of accused persons for sentence
- The procedure for the arraignment and trial of insane persons

The Summary Courts Act also treats with several procedural issues in a similar way to the CPA including:

- Geographical location and administrative locations and places and times of hearing
- The substantive law treats with procedure for warrants. The Criminal Procedure Rules also seeks to address same
- In some cases court forms are prescribed without much discretion for changes to be made for administrative purposes

Modern approaches to drafting are required to meet the needs of the Criminal Justice system. The CPA and the SCA were first proclaimed in 1925 and 1918 respectively with several minor amendments along the way. Many of the legislative provisions are not in alignment with changing environmental circumstances including consequential amendments to legislation, the shift to electronic processes such as filing, virtual hearings, as well as changes in venue, overtime. It should be noted that court locations that are no longer operational, are still referenced in the Act.

Where the substantive law attempts to treat with procedural matters, it is difficult to make swift,

[2] BLACK'S LAW DICTIONARY 1221, 1443 (7th ed. 1999

meaningful and often much needed changes to court procedure.

The responsibility for procedural rulemaking for the courts should remain with the Rules Committee, which is the mechanism for the development of Rules applicable to the courts, attorneys and other justice sector partners. Should this power remain with the legislature, there is the potential for the diminishing of the separation of powers between the legislature and the judiciary. This may further lead to the politicization of the judicial system since sometimes simple administrative arrangements may not be undertaken without first being subject to extensive parliamentary scrutiny and debate. The Rules Committee established under section 77 of the Supreme Court of Judicature Act Chapter 4:01 is comprised of representatives from the Judiciary, the legislature and the Bar. In this regard groups, ideologies and experiences are well represented.

There are often systemic delays when the legislature is required to act. This usually leads to delays in the enactment of oftentimes much needed procedural reforms. It is the Rules Committee that is best placed to understand the changes that are needed and that should be addressed by procedural changes and improvements. This is so because of frequent contact with the courts, and the expertise in the legal discipline, as well as the appreciation of the need to maintain public trust and confidence in the system. Given the judiciary's responsibility for the administration of justice, it is best placed to make necessary rules.

Lawrence Frank in his article calling for court rulemaking suggested that "*the division between judicially controlled procedure and legislatively controlled substance should be based upon whether the rule relates to effective and orderly management of justice. If so, the rule should be properly classified as procedural and be under the control of the judiciary.*"

Another obvious advantage of regulating Criminal Procedure and the Summary Courts Procedure by rules of court is that changes may be made periodically when needed, but more importantly, the implementation can be monitored and where adjustments are needed, these can be facilitated.

The Judiciary is best placed to identify key principles and events that are required to manage different types of matters. For instance, pre-trial directions, time frames for filing submissions, any policies applicable to adjournments and appearances, if not managed effectively may contribute towards higher costs to parties and delays in the completion of matters. Procedural law can address[3] or stipulate such details.

[3]Roscoe Pound "Moreover, it is easy to bring professional opinion to bear upon the rule making power, whereas the difficulty of procuring legislative action with reference to even the most crying needs of judicial procedure is notorious. Legislatures today are so busy, the pressure of work is so heavy, the demands of legislation in matters of state finance, of economic and social legislation, and of provision for the needs of a new urban and industrial society are so multifarious, that it is idle to expect legislatures to take a real interest in anything so remote from newspaper interest, so technical, and so recondite as legal procedure. I grant the courts are busy too. But rules of procedure are in the line of their business. When a judicial council or a committee of a bar association comes to a court with a project for rules of procedure, they will not have to call in experts to tell the judges "what the project is about…they will not have to be' taught the existing practice and the mischief as well as the proposed remedy. When rules of procedure are made by judges, they will grow out of experience, not out of the ax-grinding

The Judiciary is further in the best position to determine the way in which its resources should be utilised and to what end when treating with different types of matters. Quantitative and qualitative reviews are completed periodically including data pertaining to caseload, disposition types and rates, which are all used to make administrative decisions. Processes and workflows are utilised to determine the type and quantity of resources needed to support and progress matters. These are also used to identify the services to be provided to and other the interactions with customers and attorneys. Technology is a key tool in operationalising the business of the courts and helps to facilitate case flow management and case management.

The Judiciary is best placed to determine through procedural law, the pace of this change and the specific obligations of the court and stakeholders when such changes are implemented.

## 4. b. What is needed policy wise?

- Different recruitment policies, promotion and training policies, procedure and practice
- Active modernization of organisations
- A move away from all positions being part of a centralized civil service
- A national policy that focusses on rehabilitation
- A national policy that focuses on children and aiding them to maturation regardless of their circumstances
- A national policy of parental training
- A national public service policy that focuses on service to the customer
- A recognition in other policies that certain basic policies that appear to have nothing to do with crime, can invite or assist crime.

## 5. What are the critical flaws *(procedural or otherwise)* within the Criminal Justice System in Trinidad and Tobago?

### Failure to recognize the importance of the interdependence of the components of the system

The interdependence of the component bodies which comprise the criminal justice system is essential for the criminal justice system to run efficiently. The criminal justice system is designed to ensure that justice is served for victims of crimes and that those who commit crimes are held accountable for their actions. However, the system is far from perfect.

Pre-eminent as a flaw on a macro level is a failure to recognise the interdependence of these components and a failure to adopt a holistic approach. Initiatives to strengthen one component, leave another

desires of particular law-makers.

depleted and the issues continue moving from one component of the criminal justice system to another as different initiatives are implemented. The interdependence of these criminal justice components, as well as their connection to the broader social and economic context underscores the importance of a coordinated and collaborative approach to reformation initiatives. Such co-ordination and control on a macro level is critical to ensure that systemic delays plaguing the criminal justice system are not just moved from one component of the Criminal Justice System to another but are ultimately addressed. It is a harmonization of approach between and among these key players that is critical to ensure efficiency and effectiveness in the criminal justice system as a whole.

It is for this reason, that the Judiciary considers as critical the continued operation and participation of all criminal justice sector stakeholders in the Criminal Justice Sector Committee chaired by the Honourable Chief Justice. The goal is that all stakeholders are brought to the table to discuss what is needed to give effect to legislative initiatives and to understand what is needed to enable efficiency and effectiveness. It must be noted however that for too many of these organisations, the carry through and the implementation of the necessary initiatives are outside of their reach sometimes because the required persons holding the competencies to implement are not within the organization or because the public sector procedures put them out of their hands or that the change management is resisted too greatly either by active or passive resistance.

## Over-incarceration

On a micro-level, a critical flaw within the criminal justice system is the issue of over-incarceration. Over-incarceration refers to the phenomenon of having too many people in prison or in jail often for non-violent offences or for longer periods than necessary. Over-incarceration can lead to a number of negative consequences including increased financial costs for tax payers, a strain on the criminal justice system and a negative impact on individuals, families and communities. There are several solutions that can be implemented to address this phenomenon and they include reforming sentencing laws to provide more alternative sentencing options, providing more resources for re-entry programs including the introduction of a parole system which can assist individuals who have satisfied the punitive objective of sentencing successfully transition into society.

## Under-utilisation of plea bargaining

Having acknowledged the negative effects of over-incarceration, it must be noted that plea bargaining would have an effect on reducing over- incarceration. The underutilization of plea bargaining is a critical flaw in the criminal justice system. Moreover, where it is utilized, significant delays are experienced in obtaining approval for prosecutors to enter into plea discussions as well as the finalization of the eventual plea agreement. These systemic delays undermine confidence in the plea bargaining process, the benefits of which cannot be over-emphasized. Defendants benefit from reduced charges and sentences where appropriate, certainty of outcomes, and avoiding a trial which can be stressful, time consuming and expensive for defendants, their families and the court system. For the criminal justice system, the benefits of plea bargaining include efficiency, by reducing the burden on the court system, reduced costs associated with trials, and more efficient resource allocation by helping prosecutors focus on more serious cases as they can resolve less serious cases through a plea agreement.

## Under resourcing or inappropriate resourcing of the system

On a macro-level, the under resourcing or inappropriate resourcing of the criminal justice system as a whole is also a significant issue that affects the effectiveness of the criminal justice system as well as individuals and communities it serves. Inadequate law enforcement, both in terms of physical and

technological capabilities is a constraint. An over reliance on less modern techniques such as eye-see evidence with the advent of modern technological capabilities is also of concern. Notwithstanding significant progress over the years, overburdened courts remain a concern. The Judiciary has not yet been able to fill its statutory complement of High Court Judges and so there are currently only 13 judges sitting in the Criminal Division of the High Court and three in the Children Court. Further, an often neglected area of discourse is that under-resourced correctional institutions can contribute to less rehabilitation opportunities within prisons which may have an overall effect on increased rates of recidivism.

Procedurally, the traditional dependence on preliminary inquiries leads to a less efficient and effective system. The Administration of Justice Indictable Proceedings Amendment Act ("AJIPAA") is a major piece of legislation intended to effect reform and improve efficiency in the Criminal Justice system. While it is recognised that AJIPAA has already begun to receive the attention of Parliament, the institutional alignments necessary to ensure efficient and effective implementation of such an initiative must also be given significant attention to ensure efficiency and effectiveness in implementation.

## Not being time conscious

Time destroys the very purpose of criminal justice. A most critical flaw is ignoring the fact that time destroys the very purpose of the criminal justice system. Delay is built in to the criminal justice system and with it a belief that for things to be done well they must be highly deliberative and slowed. There is a disconnect between the purpose of the system and process. While it is said in the criminal justice system that delay is eschewed, a perverse pride is actually taken in it as it is seen as a sign of thoroughness.

The time from charge to disposition of a criminal matter is inordinately long. Delay is as a result of timely availability of forensic evidence, availability and assignment of a state attorney, delay in the filing of an indictment, availability of defence counsel and reliance on too small a criminal bar.

## Not being data driven

Our system is not data driven and it is well known that you can't manage what you can't measure. While some statistics are produced, they are forensic in nature and not live and too often they are not used in management or other decision making. Management and other decision making should be more evidence based.

## The Lack of Trial Date Certainty

No system can be efficient without trial date certainty. The criminal justice system has an insatiable appetite for adjournments. It is appropriate to restate the ABA Standard on Delay Reduction here:

- ***"From the commencement of litigation to its resolution, whether by trial or settlement, any elapsed time other than reasonably required for pleadings, discovery, and court events is unacceptable and should be eliminated*.**
- ***To enable just and efficient resolution of cases, the court, not the lawyers or litigants, should control the pace of litigation.***
- ***A strong judicial commitment is essential to reducing delay and, once achieved,***

***maintaining a current docket."***

A recent research exercise revealed that 65% of the adjournments in our Criminal High Courts are on applications of the parties. Reasons include

- Attorneys/Parties not prepared
- Attorney conflicts
- Pre-trial matters not yet resolved
- Witnesses cannot be found or have not yet been contacted

In the Criminal Justice System, many old matters lie dormant because bench warrants have not been executed. In several of these, the person has moved, or the police officer has retired or otherwise left the service and the warrant has somehow just been forgotten.

For trial date certainty, the court must set firm trial dates and must do so only when the case is trial-ready after all pre-trial matters have been resolved. This should be done only once. The Goal of the entire system should be 15% adjournments or less

## Accused not fully apprised of their options

Several attorneys are not familiar with alternative modes of disposition (MSI or Plea Agreements) and so do not advise their clients.

## A reluctance to attempt or embrace change

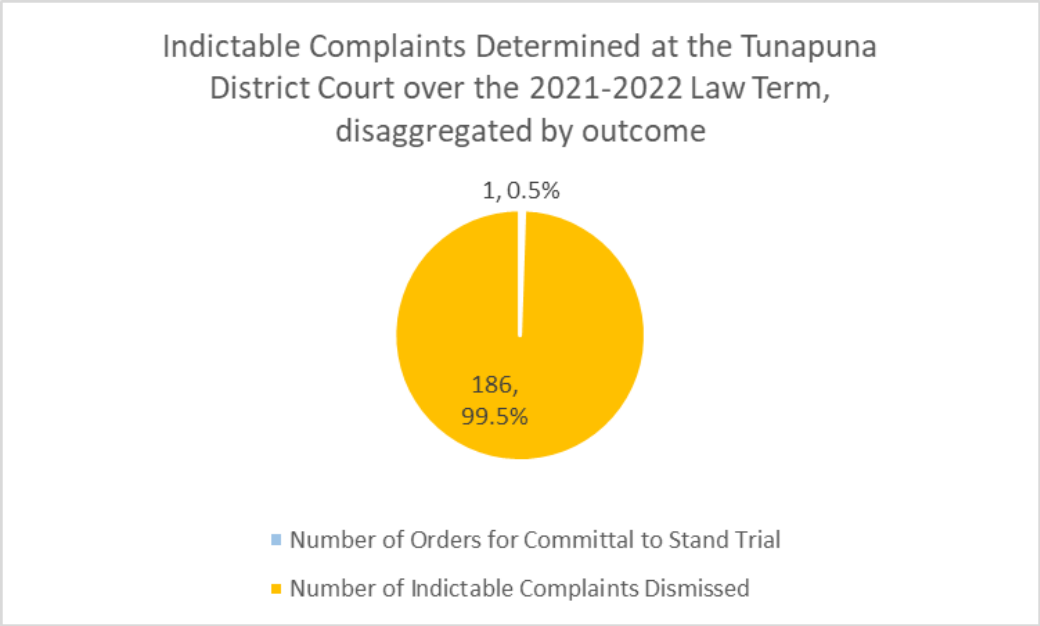
Many of the key stakeholders in the criminal justice system need to adjust to and embrace change (Judge alone Trials and Plea discussions/agreements are two initiatives that can address the issue of the backlog). Then there are smaller procedural changes that bring efficiencies at the micro and operational levels. (E-documents, video recording of interrogation). The tendency is to ensure that everything possible is done to ensure that the change changes as little of the status quo as possible.

## Inability of Policing Systems and Structures to keep up with Crime

The country's approach to policing has not advanced as quickly as has its crime. It has not been recognised in the police service and its organisational design that in modern policing people who are not called upon or even suited to walking the beat must be involved and play a critical role in crime fighting. Modern policing requires the best of the nation's human resource in various disciplines, science, psychology, psychiatry, sociology, human behavior, technology, telecommunications, general packet radio service, medicine, among others actually in the police service and they must be paid accordingly. The country cannot continue to believe that all crime fighting expertise must come from within the ranks that have moved up through the ranks.

Police systems which continue to be heavily manual with station diaries and other manual tools and a belief that data entry is someone else's job as opposed to simply a different way of writing hinder several processes.

An unfortunately low detection rate coupled with less than strong evidence gathering which relies too little on scientific and objective evidence and too heavily on eye witness testimony hinders plea bargaining and guilty pleas. The fact that in the Tunapuna District Court less than 1% of all indictable complaints determined in the 2021-2022 Law Term resulted in orders for committal to stand trial, points to the need for stronger evidence gathering and, or the need for more scientific evidence.




## Unrealistic charging

A very high number of indictable charges are laid in situation in which summary hearings will eventually be held either because the indictable charge was not sustainable, or an election is made for summary hearing in an either way offence. It has been interesting to see that most children matters come to the children court as indictable offences, even when they are relatively minor first offences. Unrealistic charging can unnecessarily delay a matter. While it is understood why it may be used as a tactic, it is nonetheless a grave hindrance to timeliness and efficiency.

## A focus on Imprisonment

The focus on imprisonment as the main consequence for all offences including non-violent offences hinders the ability of the system to embark on restorative solutions and instead school and socialize far too many people in crime and ready them to commit crimes more egregious than those for which they were first incarcerated.

## Insufficient Support for Prevention and for Restoration

The laws, social services, education system, corporate structures and social structure do not identify early enough the opportunities for restorative solutions. The system provides little

preventative care and tends to seek only to punish.

Opportunities for persons to rebuild their lives are few and far between and the system has even legislatively denied persons who may have had a criminal record from doing any business with the state or public bodies for ten years. Public bodies actually cannot contract to retain the services of someone who has served his time and has converted his behavior and is trying to make a life for himself and his family.

### Inadequate awareness, detection and treatment of mental illness

Culturally there is a reluctance to recognize or accept the existence of mental illness. This therefore results in mental illnesses going undiagnosed and untreated.

## 5B Flaws in Child Justice

(TTPS, DPP, Children's Authority, Immigration Division and Counter Trafficking Unit and Ministry of Education):

- Lack of understanding of provisions in legislation by some agencies, which in turn affects early intervention and proper oversight;
- Organisations not adhering to judgments of the Court;
- Organisations relinquishing their legislative duties;
- Inordinate delay in the submission of files (children charge matters) to the office of the DPP before a Prosecutor is appointed (between 6-12 months).
- Lack of understanding of roles, functions and processes of different stakeholders;
- Lack of specialized and continuous training for actors within the system;
- Agencies not keeping paces with technology changes;
- Scarce resources across agencies (financial and human);
- High attrition rates in agencies because of poor compensation;
- Re-traumatising of children due to perpetuation of a system that allows repetition of investigative questions;
- Insufficient collaboration and coordination among stakeholders; and
- Lack of external service providers to facilitate add
- Inadequate or inappropriate intervention strategies.
- Failure to embrace the philosophy of child justice
- A need for the Children Public Defenders system to be implemented- very often the LAAA appointed attorneys are inexperienced and do not place emphasis on the matters where children are charged.

# 6. Adequately Serviced and Efficiently Courts run through Collaborative Approach.

THE FULL QUESTION POSED WAS:

**In the recently published ''Statement of the Chief Justice on the Criminal Justice System" the following areas were listed as those that would benefit from a ''collaborative approach" to ensure that the criminal courts are "adequately; serviced and efficiently run":**

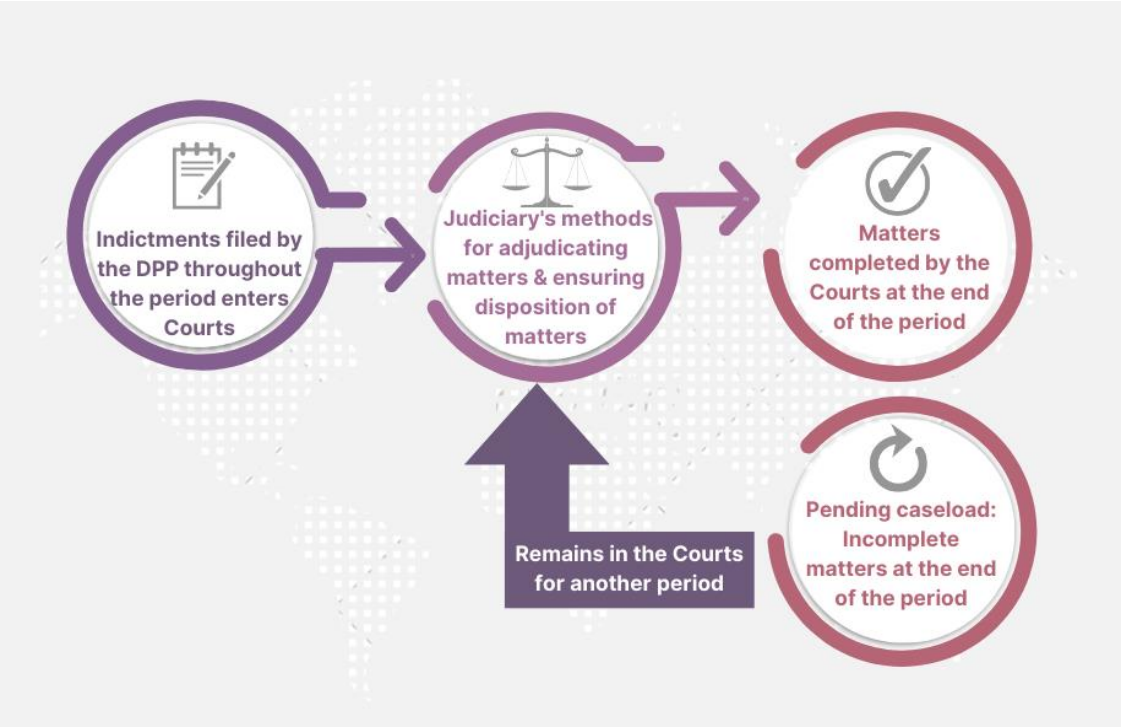
- **Court driven prioritisation and calendaring of matters from a systemic viewpoint;**
- **Differentiated case-flow management including early identification of matters that could be disposed of by 'fast tracking';**
- **Better use of alternative methods of disposition without a trial; and**
- **Effective pairing of attorney teams from the DPP's office with individual judge's dockets to avoid scheduling conflicts and provide ti.me for better preparation.**

**For each of the above issues:**

a. **Please explain what this means and what implementation would entail (using examples where possible);**
b. **How would this improve the efficiency and effectiveness of the criminal courts; and**
c. **What would be required (institutional, legislative, procedural or otherwise) to implement this improvement?**

Before beginning to address the efficient and effective running of the criminal justice system, it is perhaps important to give a quasi-mathematical appreciation of what happens at the Judiciary. At the most fundamental level the public arguably notices two major indicators (Key performance indicators or KPIs) – expediency and backlog – which translate into *"time to disposition" ("age at the time of disposition")* and *"size of the pending caseload"* over a prescribed age, respectively. For the sake of simplicity, the term backlog will be replaced by the size of the pending caseload, i.e. the number of matters which have not yet been completed at the end of a given period such as at the end of every year. Having established the foregoing one can now better identify and appreciate the major variables which affect those KPIs and appreciate how they impact the KPIs. The model shown in Figure A below approximates the relationships referred to above.

Figure A: A Model showing the variables affecting the Judiciary's KPIs of Time to Disposition and Size of Pending Caseload




1. Based on the model, one can notice that the **size of the pending caseload is affected by**:

    a. <u>The number of indictments filed annually</u>. If the Judiciary's rate of disposition is held constant, then the more indictments filed the higher the pending caseload at the Judiciary and the end of the year or period
    b. <u>The rate of disposition of matters</u>. If the number of indictments filed annually is held constant, then the higher the disposition rate the smaller the pending caseload at the end of a period.

Since one would not wish for a small number of indictments to be filed by the DPP (save and except there is a low rate of crime), but instead that the DPP quickly files indictments based on orders for committal to stand trial from the District Courts (in the case of preliminary enquiries) and has to file indictments to initiate the sufficiency hearings in the case of AJIPAA, the Judiciary then needs to sustain a high rate of disposition of matters. How can this be achieved?

Good disposition rate needs good case management and early identification and determination strategies, while good adjudication rates are required for matters which must be tried fully.

At present it is noted that several matters which are filed indictably at the District Court result in summary trials or other summary disposition. This raises a question of appropriate and realistic charging.

It has also been noted that there can be a high number of unpursued indictable matters, for example in the Tunapuna Magistrates' Court, over the period 2021-2022 Law term, 1 of the 187 matters were determined (0.0053%) were dismissed.

2. The time to disposition or age of matters at the time of disposition, which is a reflection of the speed of completing matters from the time they are filed, may be decreased by strategies such as:

    a. *Increasing the number of judges*: the more judges there are the faster matters can be completed; however this is not a sustainable way of addressing speed. In addition judges do not come by a dime a dozen and must be carefully chosen.

    b. *Reducing the time it takes to ready a matter*: the longer the parties, both the state and the defence, take to get ready to proceed the longer it takes for matters to be completed. Consequently robust case management and adherence to the overriding objectives of the criminal proceedings rules, will augur well for faster disposition of matters. This is so since:
        i. Opportunities for early disposition can be identified more easily and earlier and hence the court's time will be better used
        ii. There can be early identification of the issues indicating those which will not be contested and witnesses who need not be called
        iii. Meaningful case events will be created and the time between those events will be more properly managed
        iv. Accused persons can be presented with the opportunity of requesting MSIs and also with the new rules on disclosure in criminal matters, parties can have a better idea early of the case they have to meet

    c. *Reducing the number of adjournments and increasing trial date certainty*: the more adjournments there are in a case the slower it progresses. This in turn creates bottlenecks in the caseflow, clogs the entire system, increases the court's pending caseload and has the same effect on attorneys' caseload. Judiciary's research suggests that on average, over 65% of all adjournments on criminal matters are at the request of the parties (state and defence or both).

    d. *Employ non-trial modes of disposition*: matters can be heard and concluded either by way of a trial (discussed below) or without a trial. The more matters that can be disposed of without having to go to trial the more matters can be completed within a given timeframe and the shorter the average overall time to disposition. Non-trial methods include persons entering guilty pleas, either outright guilty pleas, guilty pleas after asking for an indication of the maximum sentence (Maximum Sentence Indication or MSI) or guilty pleas after plea bargaining.

e. *Not relying on jury trials only*: preliminary data from the Judiciary suggests that jury trials take longer than trials by judge alone; this is not only due to the time to empanel a jury but the time for explaining to the jury and for allowing the jury to see and understand things which a judge alone would see and understand immediately, and the time for deliberation factoring in the probability of a hung jury.

Having established a basic model and KPIs, as well as variables which affect the KPIs, one is now better poised to appreciate strategies used by the court and recommendations made by the Judiciary.

## A. Court Driven Prioritisation and Calendaring of Matters from a Systemic Viewpoint

A fundamental principle of caseflow management is that the court, and not the other parties involved in the case, should decide how cases move forward. Court driven prioritisation suggests that the court should take charge of the flow of cases from the moment they are filed, making sure that no case is unduly delayed in the course of the court's business from the beginning to the end.

The Judiciary of Trinidad and Tobago has identified the court's docket generally and has created an individual calendar system by which each judge is given a docket of cases. The docket comprises at this time matters of varying weights, (by complexity of case type/ charge), varying number of accused persons, varying stages of antiquity.

Each judge is responsible for dealing with the cases in his docket by moving it to disposition regardless of the case type and regardless of the type of disposition. This means that cases can be disposed of by guilty pleas, plea bargains, dismissals, nolle prosequi, conviction, acquittal, no case submissions upheld. These are all examples of case dispositions.

Each judge has been encouraged to profile his docket to ascertain the matters which for example, are of varying ages, those in which bench warrants have been outstanding for extended periods of time, those which have not been brought up by the DPP, those in which witnesses cannot be located, those in which there are notices of intention to plead guilty, etc.

With a concentrated approach to addressing one's docket, judges are able to call up matters in which for example bench warrants were issued and the court has had no word since. The court is able to ask the police complainant to find out whether the person remains a fugitive, whether the person is deceased, or whether the person can be found. The Judiciary has found that all too often, when a bench warrant is issued, and the person is not located immediately, the warrant falls off the radar and is soon forgotten, leaving the matter of the court's books. In fact, the Judiciary's records show **bench warrants outstanding for as many as 29 years**.

This enables matters to be pursued while others are being tried.

A concentrated approach to one's docket enables one to be case managing cases while trying another. To assist in Case management, the Judiciary has developed an allocation and calendaring system which allows for a system of partner judges and partner masters. It is anticipated that the ratio is one partner master to one partner judge and so the partner master is able to assist the judge with the case management of his docket. At present, while we await the appointment of more masters, masters are partnering with more than one judge. This is not as efficient as it was previously with the one to one ratio, but it is anticipated that ratio will soon be effected again.

A systemic approach to scheduling requires all parties and agencies involved in a case to focus on the case. It requires all agencies in the criminal justice system to synchronise their calendars.

For example, if a case is properly case managed, parties would have decided the number of witnesses they truly need, the issues they will not join issue with, the facts they will stipulate to, etc. It would be known that the case of The State v. SY is to be heard on October 6 for 10 days. The forensic science center would know which part of its backlog it should focus on by ensuring that its scientific analysis of the evidence for that case is ready by September, the police should have found all of their witnesses and have them notified and know where they are, the defence counsel should be also putting themselves in readiness, all pre trial activity should be undertaken and all resources should be ensuring that they are available for that time. This creates hearing date certainty. There is a predictable system in which desired action is taken when it should be taken.

This requires another element raised by the Hon Chief Justice in his statement. It is that if assignment methods are used by the Office of the DPP that match the method of assignment of cases and judges, there would be better synergy.

Prior to 2019, judges were not assigned dockets. They were assigned to courts for a month or two at a time. This was in keeping with the "sessions" method judge and case assignment. Judges did whatever matters the DPP put forward as being ready for. If the defence attorney was also ready, and all witnesses could be found and the accused was able to be found and forensic science center had completed its work in that case, and another case did not run over, then the case would proceed. What they got done, they got done before being assigned elsewhere. If the prosecutor was assigned elsewhere the judge had to refocus. It was difficult to plan. Trial date certainty was elusive.

With judges being assigned dockets, the Office of the DPP knows which matters are assigned to which judges docket. If a team of 3 or 4 attorneys (or 5 if that is considered necessary) (of varying combinations of seniority and expertise) and 2 or 3 staff (progression officers, criminal paralegals, etc.) is assigned to each judge, they should be able to manage the work associated with that judge's docket. They can appear before the judge, have someone do case management in other matters before the partner master, be prepping the next case (which can be argued by another attorney in the team), doing the research and having follow up with other critical agencies. If that team is kept in place for a year or more, benefits of the ability to manage will occur.

Early control refers to the process of monitoring that begins when a case is initiated.
Calendaring of matters from a systemic viewpoint entails considering in addition to when a matter was filed, the age of the matter, the complexity of the matter, the number of witnesses, whether the case necessitates expert witnesses and whether those expert witnesses are a part of other cases. It is looking at the whole as opposed to the listing of matters in silos. This provides an opportunity to focus on a case as a project and to work with the parties to bring it to a disposition.
By Judiciary of Trinidad and Tobago having embarked on the use of dockets for criminal court judges,

## B. Differentiated case-flow management

Differentiated case-flow management (DCM) is a system by which a court makes distinctions between various cases based on the amount of attention required from judges and attorneys, as well as the rate at which the matters can reasonably be resolved. Without case differentiation, courts often follow the same processes and timelines for all cases of a particular type. Courts typically handle cases in the order in which they were submitted, suggesting that older cases must be resolved before younger cases. Such a method fails to take into account the unique characteristics of each case. If all cases are handled the same, it can result in some cases being expedited and others being unnecessarily delayed. Further, the judge's capacity to devote more time to cases that demand it may be constrained by the scheduling of some cases that require less attention from the court.
An example of DCM in its most basic form involves a strategy which can classify cases into three groups:

i. Cases that move along fast and require less in the way of judicial supervision;

ii. Cases with disputed issues that necessitate court hearings or judge conferences but generally do not pose significant challenges;

iii. Cases that require a judge to be actively involved over an extended period of time due to the size and complexity of issues, the number of attorneys and other participants, or the intricacy or novelty of the legal problems raised.

Soon after filing, through an early screening procedure involving interactions between the court and counsel, cases that fall into one of these three categories would be split into three "tracks" to better reflect the different management needs:

i. cases that progress rapidly and with little to no judicial intervention are placed on an expedited track,
ii. a standard track for those that need conferences and hearings but are not otherwise special, and
iii. a complex track for those needing special care.

A DCM system could instead differentiate cases by other means including for example

i. cases in which parties and witnesses are available.
ii. cases in which bench warrants are outstanding
iii. cases in which witnesses are to be located

These profiles and ways of differentiating cases are not exhaustive. The Special Criminal Court procedure contemplates DCM strategy for the matters to which the Special Criminal Court procedure will be applied. In Trinidad and Tobago, sexual offences and human trafficking have been highlighted for Special Criminal Court procedure due the nature of these cases and the high number as well as the effect of delay.

In any event, in a DCM system, particular rules, processes and deadlines apply to each "track".
A DCM system involves ongoing case progress monitoring by the court. For this reason, the Judiciary has undertaken a new approach to data analysis and has been in the process of implementing same.

## DCM at the Macro Level

The Criminal Division and District Criminal and Traffic Court was created as part of the strategy of Divisionalisation of the Judiciary. The purpose of divisionalisation is to employ the concept and strategy of Differentiated Caseflow Management at a Macro level. Criminal matters are different to Family and Children and different to Civil matters. They require different resources, different spaces, different procedures, differently trained staff, different software solutions, different processes, different training, different data analytics, different rules, etc. By creating divisions, the Judiciary is able to use the concept of differentiating the management of the court's caseflow.

## C. Better use of alternative methods of disposition without a trial

The number of criminal cases pending in the District Courts and the High Courts as at March 31, 2023 and April 30, 2023, respectively, were as follows:

District Courts (provisional figures):

| Indictable Matters Pending at the Magistracy as at March 31, 2023 | Summary Matters Pending at the Magistracy as at March 31, 2023 |
|---|---|
| **37933** | **25970** |

Criminal High Court (provisional figures):

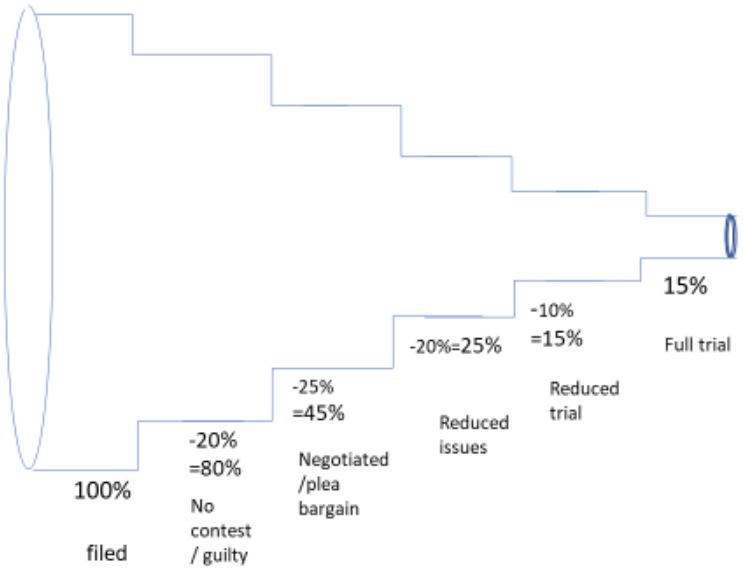
| Leading Offence (Classified by ICCS Code) | Total Number of Pending Indictments at the Criminal High Court as at April 30th 2023 |
|---|---|
| 01 = Acts leading to death or intending to cause death (Murder & Attempted Murder) | 523 |
| 02 = Acts leading to harm or intending to cause harm to the person (Kidnapping) | 356 |
| 03 = Injurious acts of a sexual nature | 303 |
| 04 = Acts against property involving violence or threats against a person | 113 |
| 05 = Acts against property only | 36 |
| 06 = Acts involving controlled psychoactive substances or other drugs | 54 |
| 07 = Acts involving fraud, deception or corruption | 48 |
| 08 = Acts against public order, authority and public provisions of the state | 30 |
| 09 = Acts against public safety and state security | 36 |
| NULL (No police description or local charge provided) | 128 |
| Total | **1627** |

It is not a secret that it is impossible to try fully all of the matters which are filed in the courts. The country could not identify nor afford the resources which this would require. This is not unique to Trinidad and Tobago. It is for this reason that alternative means of disposition are studied and offered.

With an average caseload of 125 cases for each High Court Judge's docket an initial goal of 20 percent of cases going to full trial is appropriate. For most jurisdictions, the goal is 10-15 percent full trial. This should be the eventual goal of the entire criminal justice system of Trinidad and Tobago.

This is achieved by what we loosely call a reverse telescope:

# REVERSE TELESCOPE




The reverse telescope shows the potential reduction in the caseload needing full trial as matters progress through the system and alternative methods of disposition are used. This example shows a scenario that ends with 15 % of the matters filed proceeding to full trial. This is indeed achievable but calls for realistic charging, good evidence gathering, sound plea bargaining, and good case management. It requires plea agreements to be addressed early in the progress of a case and not on the doors of the court. The later they occur, the more time they have taken from other cases and negatively affected the speed of determination of the overall caseload. It requires a policy of hearing date certainty which cannot be achieved if adjournments (bar the rare exceptional one) are allowed. It requires an understanding that attorneys are to be prepared for hearings and acknowledges that attorneys prepare for meaningful events. It also requires sound management of the time between events so that they expected action is taken and directions adhered to.

The use of alternative methods of disposition such as plea agreements and MSIs can be effective tools for reducing case backlogs in courts. Plea agreements can help expedite the resolution of cases by allowing both sides to reach a mutually agreeable outcome without the need for a trial. This can help reduce the burden on the court system and free up resources for other cases.
MSIs can also be a helpful tool in reducing case backlogs by providing defendants with a clear understanding of the likely outcome of their case if they choose to go to trial. This can help encourage defendants to accept a plea agreement rather than risking a harsher sentence if they are found guilty at trial. By reducing the number of cases that go to trial, MSI can help reduce the

burden on the court system and free up resources for other cases.
A well-prepared attorney is in a position to think through the steps necessary to prepare cases for plea bargaining, or other non-trial resolutions. Prosecutors' provision to defence counsel of an early "discovery package," with information such as arrest reports and drug laboratory test results, can promote meaningful early discussion of disposition options between prosecutors and defence counsel. The early disclosure by the defence of any information that must be provided to the prosecution under reciprocal discovery rules furthers this goal.
Further, timely responses to plea proposal is imperative. It is not uncommon for defence attorneys to experience challenges in obtaining information from prosecutors about the availability of plea agreements. Some of the reasons for this include:

1. Prosecutors frequently handle a large number of cases, which makes it challenging for them to promptly respond to every question from defence lawyers.
2. Prosecutors may be reluctant to disclose information about plea agreements until they have had a chance to assess the strength of their case and the likelihood of a successful prosecution.
3. There can be communication challenges between prosecutors and defence attorneys, particularly when there is a high volume of cases or when the parties are working on different schedules.
4. The system requires the approval of the DPP who has to review them all among several other things thus creating a bottleneck.

## The value of guilty pleas:

Having established the mathematical relationship between guilty pleas and the size of the pending caseload as well as the time to disposition of matters, it is instructive to look at the statistics relating to guilty pleas over the last few years, shown in Table G below:

Table G: Relationship between the Number of Guilty Pleas and Number of Persons who had Outcomes Determined

| Cases Determined by Calendar Year | | Number of persons who had outcomes determined | Number of persons pleading guilty (outright or with plea agreements | Number of guilty pleas as a percentage of persons had outcomes determined |
|---|---|---|---|---|
| 2017 | 168 | 191 | 133 | 70% |
| 2018 | 86 | 258 | 159 | 62% |
| 2019 | 208 | 329 | 92 | 30% |
| 2020 | 50 | 105 | 27 | 26% |
| 2021 | 43 | 52 | 10 | 19% |
| 2022 | 71 | 104 | 33 | 32% |

As mentioned before, guilty pleas may be entered via three (3) routes: Outright guilty pleas (the accused person decides without any consultation with the DPP nor the Court), Guilty pleas through MSIs (the accused person decides to plead guilty after consideration of the maximum sentence indication) and Guilty pleas through plea agreements (the accused person decides to plead guilty after plea discussions with the DPP). Table H below shows the number of guilty pleas, disaggregated by two routes.

| Cases Determined by Calendar Year | | Number of persons who had outcomes determined | Number of persons pleading guilty | Of the number of persons pleading guilty, Number of Guilty Pleas via MSIs |
|---|---|---|---|---|
| 2017 | 168 | 191 | 133 | 3 |
| 2018 | 86 | 258 | 159 | 18 |
| 2019 | 208 | 329 | 92 | 29 |
| 2020 | 50 | 105 | 27 | 19 |
| 2021 | 43 | 52 | 10 | 23 |
| 2022 | 71 | 104 | 33 | 12 |

## D. Effective pairing of attorney teams from the DPP's office with individual judge's docket

A frequent cause of delay in the criminal justice system, is the unavailability of counsel, due to, inter alia, scheduling conflict. State attorneys must often juggle multiple court assignments that create a paradigm of delay as a result of the inevitable – inability to be in multiple courts at once. A system of partnering prosecuting attorneys with judges' teams, will allow attorneys to manage the schedule in line with the court's prioritisation and calendaring of matters. This will not only ensure that matters proceed within the designated time, but also allow for better preparation. To achieve this goal, it would necessitate open communication between the DPP's office and the Judiciary with the provision of attorney assignments for designated periods. For instance, the

assignment of attorneys to judges' teams for specific periods and the timely sharing of these court assignments.

# 7. Critical challenges of Judiciary with Caseflow Management

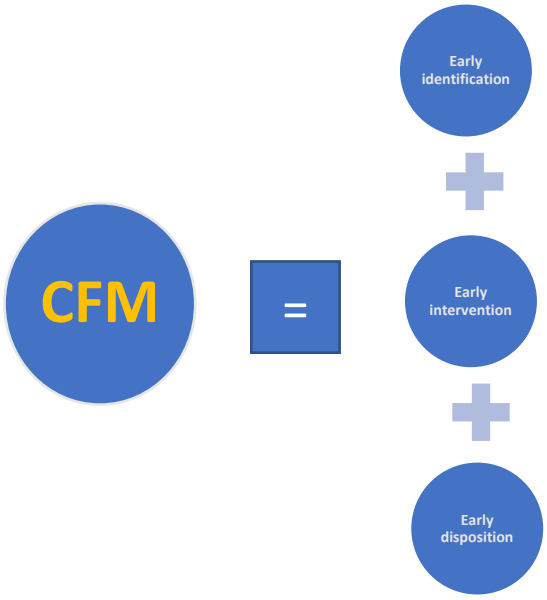
THE FULL QUESTION POSED WAS:

> **In the recently published *".Statement of the Chief Justice on the Criminal Justice System"* the following was stated: *"The Judiciary is not at all without fault. We recognise that much has to be done by us to improve the system."***
>
> **(a) What would you identify as your critical challenges with criminal case flow management?**
>
> **(b) Are you able to identify the most significant points of delay/bottleneck?**
>
> **(c ) If yes, what are the most common causes of delay/bottleneck?**
>
> **(d) What impact have the steps already taken had on reducing delays and/or alleviating bottlenecks?**

## 7(a) What would you identify as your critical challenges with criminal case flow management?

Caseflow Management is defined as the coordination by the court (as a corporate entity) of all of the court's processes and all of the court's resources in order to move matters in a timely fashion from filing to disposition, regardless of the case type and regardless of the type of disposition.

The definition is expanded to state that:
It requires the creation of meaningful case events and management of the time between the events so that it is long enough to enable preparation but short enough to encourage it.
In this way, there is the creation of a predictable system that sets expectations and helps assure that required action is taken.




Caseflow management is the process of managing the flow of cases through the court system. It involves coordinating the actions of judges, court staff, attorneys, prosecutors, witnesses, jurors and accused persons and all other parties to ensure that cases are processed in a timely and efficient manner. It also requires the coordination by the Judiciary of all the court's other resources including space, ICT, equipment, transport, etc and all of the court's processes. Caseflow management is essential to the effective functioning of the court system, but it is also a complex and challenging process that requires careful attention to detail and a deep understanding of the legal system.

One of the most significant challenges the Judiciary has with caseflow management is the sheer size of the court's criminal caseload (see Table A below). This can be particularly problematic in criminal cases, where defendants may be held in custody while awaiting trial.

Table A: Indictment Workload* of High Court Judges at the Criminal High Court for the 2018-2019 to 2022-2023 law terms. (the latter is as at April 30, 2023)

| Law Terms | Criminal Indictments Filed throughout the Law Term | Criminal Indictments Pending | # of Judges | Ratio of Pending Matters to Judge | Remarks (pending caseload and ratio as at April 30, 2023) |
|---|---|---|---|---|---|
| 2018-2019 | 48 | 1,706 | 10 | 171 | July 31, 2019 |
| 2019-2020 | 13 | 1,679 | 9 | 187 | July 31, 2020 |
| 2020-2021 | 45 | 1,278 | 8 | 160 | July 31, 2021 |
| 2021-2022 | 191 | 1,079 | 8 | 135 | July 31, 2022 |
| 2022-2023[4] | 120 | 1,627 | 13[5] | | April 30, 2023 |

[4] The information captured for the 2022-2023 law term is from August 1, 2022, to April 30, 2023.
[5] The number of Judges assigned to the Criminal High Court increased from 8 in December 2022 to 13.

*Indictment workload here refers strictly to cases involving indictment. It must be noted that judges also handle other case types and type of work including bail review applications, applications pursuant to the Proceeds of Crime Act and Constitutional Motions.

Based on the latest figures, April 30, 2023, table B shows what-if scenarios.

Table B: What-if Scenarios for handling indictments at the Criminal High Court

| Starting Point: Current Caseload & number of judges | If the number of indictments filed per year is | If the Rate of Completion of Cases is | Projected pending caseload after 3 years | Number of years for 13 judges to bring the pending caseload to under 300 (given the stated # indictments annually) |
|---|---|---|---|---|
| 1,627 for 13 judges | 100 | 24 matters per judge per year (2 per month) | 991 | 7 |
| 1,627 for 13 judges | 100 | 36 matters per judge per year (3 per month) | 523 | 4 |
| 1,627 for 13 judges | 200 | 24 matters per judge per year (2 per month) | 1,291 | 12 |
| 1,627 for 13 judges | 200 | 36 matters per judge per year (3 per month) | 823 | 5 |
| 1,627 for 13 judges | 300 | 36 matters per judge per year (3 per month) | 1,123 | 8 |

NOTE the DPP filed 191 indictments in the 2021-2022 Law Term, 116 for the 2022-2023 Law Term (up to March 31, 2023) and under 50 per year during Law Terms 17-18 through 20-21

The what-if scenarios suggest that each judge needs to dispose of at least 2 matters per month, consistently, to bring down the pending caseload to 300 (assuming an annual filing of 100 or 200 indictments by the DPP). This can only be possible with the use of early identification, early intervention and early disposition of matters, including the use of MSIs and Plea Discussions and Plea Bargains.

The backlog of cases leads to a strain on court resources, such as courtrooms, staff, and technology, but mostly on the human resource at all levels and the time resource.

Another challenge of caseflow management is the diversity of cases that come before the courts. Each case is unique and requires a different level of attention and resources. For example, a complex murder may require multiple hearings, while a relatively minor offence with one witness and video evidence may be resolved relatively quickly. Judges and court staff must be able to manage the flow of cases effectively, while also ensuring that each case is given the appropriate level of attention.

Of particular significance to the Judiciary is the fact that technology is playing an increasingly important role in case flow management. Electronic filing systems, case management software, and video conferencing technology help to streamline the court process. However, implementing new technology can be a challenge. Firstly it has required significant investment and training for court staff, prosecutors, judicial officers and attorneys and this requires both time and resources. In the second instance, in as all stakeholders are not on the same level of technological comfort, much handholding of customers is necessary in this implementation phase. This creates challenges in implementation.

Finally, case flow management is impacted by external factors. Changes in legislation, changes in the law as a result of the interpretation of legislation have a significant impact on the court system. It requires judges and court staff to be adaptable and flexible and requires careful attention to detail to ensure that in the midst of the changes in external factors, cases are processed in a timely and efficient manner, while also ensuring that the rights of accused persons are protected.

The most critical challenge of the Judiciary at present in managing criminal caseflow is change management. The change from not being responsible and accountable for a docket to being responsible for a docket is one which can be challenging for some. Getting attorneys to come to terms with the fact that the court is taking control of caseflow is another challenge.

Judges have been learning the tools and strategies for ensuring that they manage their time and their dockets. Dedicated training time that is required however is not easy to find.

## Re Child Justice

At the Children Court, human resources are strained at various levels– judicial officers and staff.
-
At present, the average ratio is 60 customers to 1 social worker while international best practice says however is that there should be a maximum ratio of 25 customers to 1 social worker.

An expansion of programmes is also needed to meet the needs of customers.
Some of the key agencies which must support the work of the Court are also stretched. Unfortunately resources are greatly stretched in the way of the paucity of appropriate children's homes and the failure of these State agencies to adhere to the orders of the court, citing resource issues and lack of children's homes.

A failure to adhere to the law is also an issue of grave concern as the court's hands are tied when a matter is not brought before the court, but one sees a child placed or removed or interventions undertaken by agencies of the State in violation of the law.

Question 7 (b) and (c)

Are you able to identify the most significant points of delay/bottleneck?

If yes, what are the most common causes of delay/bottleneck?

The case flow process can vary depending on the type of case. However, some of the most common points of delay in the case flow process include:

1. Filing and Service of Indictments: The initial stage of the case flow process in the High Court involves the service of the indictment on the Accused. Often times a significant amount of time has elapsed from the signing of the bail bond in which his address may have been given and the filing and thereafter service of the indictment. These difficulties in locating Accused persons from the inception of the matter create challenges in moving the matter forward.

2. Inability to locate Accused persons and Issuing of Warrants: Similar to the issue in relation to the filing of indictments, warrants are often issued for Accused persons who cannot be located. Here, the time frame for executing warrants is not within the control of the Court and can vary from several months to several years.

3. The Case Management Stage: It is important for parties to work together and comply with court orders to minimize delays and ensure a timely resolution of the case. However, the experience of the court has been that non-compliance with case management directions has been significant. While certain aspects can be addressed through the chairmanship of the judicial officer, disclosure in particular is critically important to an Accused person. A failure to provide disclosure stymies the progress of the case and an accused person may be prejudiced in his defence. Non-compliance or partial compliance with disclosure orders are frequent and this results in a protracted case management process.

4. Trial: Trials can be lengthy, and delays can occur if unexpected issues arise during the trial. Witness unavailability due to sudden death or other unforeseen factors often necessitate applications to admit statements into evidence or applications for adjournments. Jury issues in particular given the vicissitudes of life also delay trials.

5. The backlog at the forensic science centre affects the district courts and the High Court greatly.
6. Unavailability of police officers is of great concern. If there is too long a delay the police lose interest and the case weakens with the passage of time.

b. Are you able to identify the most significant points of delay /bottleneck?

Yes, the Judiciary has been able to do so and many have been discussed above. c. If yes, what are the most common causes of delay /bottleneck?

The most common systemic delays are:

- The preliminary enquiries process
- The delay in filing of indictments
- The hard separation between investigator and prosecutor so that the investigator is without the benefit of appropriate legal advice and the investigation lacks a legal eye.
- The delay and backlog in the Forensic Science Centre
- The slow pace of police investigations and slowness in submitting files for charging decisions
- The frequent rotation of staff in key agencies
- The staff assignment systems used by some agencies
- The adjournment culture
- The failure to embrace case management fully
- The failure to prepare that results in witnesses not available,
- Parties waiting for particular attorneys who are very busy
- Tactical game playing such as dismissing an attorney the day before a trial
- Jury trials
- Unmanaged cases and unmanaged trials.
- Failure to make formal admissions when they should be made.
- Inadequate or inappropriate staffing.

## d. What impact have the steps already taken had on reducing delays and/ or alleviating bottlenecks?

**Criminal Procedure Rules (The CrPR)**

The CrPR has entirely changed the criminal trial landscape. All parties are expected to further the overriding objective, which is to deal with criminal cases justly, through ACTIVE case management. Case scheduling is more purposeful with the expectation that at each hearing, a criminal case is or has been progressed towards determination. There are therefore fewer adjournments without adequate justification from filing to disposition. Case Progression Officers (typically the Judge's Secretary or Assistant JSO) monitor compliance with directions and orders between hearing dates in an effort to avoid wasted sittings.

A primary feature of the Rules is the early identification of the issues in contest. This has resulted in an increase in early dispositions without the need for trial. Even where a trial is considered to be necessary, when parties are urged by the court to narrow the issues in dispute, more informed decisions are made about the mode of trial. Indeed, this has led to an increase in requests for judge alone trials. In both judge alone and jury trials, parties more readily agree to non-contentious evidence through formal admissions and the duration of trials is shortened by the need to call only those witnesses who need to be challenged.

As per the rules, and in furtherance of the overriding objective, all parties have a duty to assist in the Court in active case management. Impact is however diminished by the failure of some attorneys to adhere to the rules. Judges still are relatively lenient because of their reluctance

to either dismiss a criminal action because counsel is not ready or to press one to go on. This reluctance however is lessening as time goes on as judges have to account for the cases in their dockets.

**Disclosure in Criminal Matters**

The days of trial by ambush and requests for adjournments to ameliorate unfairness by late notice are long gone due to the requirement for disclosure. Whether it involves fresh evidence from the prosecution or defence statements, all parties place their cards on the table well before the arraignment.

"Disclosure" generally refers to the process and rules governing the exchange of information between parties to prepare for legal proceedings. The disclosure to be provided can be wide reaching, but would usually include, charge documents, police notes, witness statements or admissions, and other information gathered by the police during their investigations, such as weapons, pictures, recordings and documentary evidence as the case may be. The Prosecution has a legal obligation to disclose all relevant information to an accused person, so that he or she may adequately prepare to answer the case that is being lead against them. This is a vital aspect of the criminal ligation process. The Defence also has a responsibility to disclose any material evidence they would be relying on during proceedings, such as an alibi and other special defences and this forms part of furthering the overriding objective.

The process of Disclosure is addressed in Rule 14 of the Criminal Procedure Rules (2016), and the Rules specify what is required to be disclosed by the Prosecution and the timeframes in which they are expected to provide any material facts relevant to the case before the Court. Timely disclosure is important as it can act as a tool of resolution, helping the Defence make the best decisions on the way forward, in terms of formulating a defence or in some cases, pursing other methods of resolution, such as plea agreements.

Defence statements assist the court in several ways, including the ability to urge the parties to agree to non-contentious witnesses, to pointedly require the State to consider plea bargains and pleas to lesser counts, and to make better use of judicial time in fixing trial windows with greater precision.

**Status hearings**

The gap between committal proceedings and the filing of the Indictment has been a particular challenge. Status hearings have been particularly beneficial to accused persons who find themselves in this limbo and who wish to enter guilty pleas or to begin plea discussions. Earlier attention is drawn to their intention and this court-led initiative prompts the filing of the Indictment and often leads to determinations by MSI's, plea bargains and guilty pleas.

In recent months, the majority of new Indictments have been filed because of Notices of Intention to Plead Guilty and close monitoring of the Notices through status hearings.

Section 61(1) of the Criminal Procedure Act Chap 12:02 states:

"*A person committed for trial, whether he is in custody or not, may, if he wishes to plead guilty and be sentenced prior to the regular Criminal Sessions of the Court, file with the Registrar a notice in writing to that effect; the notice shall be filed of record in the Registrar's Office*"

An accused person begins this process by the filing of a Notice of Intention to Plead Guilty (NIP). At hearings before the Registrar, the Attorneys from the Office of the Director of Public Prosecutions (DPP) would usually give an update on the status of the file and a timeframe for the filing of an indictment.

Although the main aim of status hearings is to move the matter forward to the filing of the indictment, the Public Defender's Department (PDD) uses the opportunity to provide assistance to the accused in making bail applications or liaising with Prison Welfare attention for the accused and plea discussions with the DPP.

San Fernando has seen a higher rate of success in the progression of matters to indictment arising out of status hearings than has Port of Spain. Generally, the matters are adjourned for three (3) months to allow the stakeholders to do the necessary work to progress the matter.

On the day the indictment is filed it is assigned to a Judge and the Judge's Team is asked to provide a date of hearing. There are currently One Hundred and Sixty-eight (168) active NIP matters. Two Hundred (200) Indictments have been filed out of a total of 368 NIP matters filed. The following table shows the status of the matters which proceeded by indictment:

| STATUS | NUMBER OF MATTERS |
|---|---|
| Case Management Conference | 155 |
| Disposed | 23 |
| Fixed for Trial | 6 |
| For Decision | 2 |
| For Sentencing | 3 |
| Plea Agreement Hearing | 10 |
| Trial in Progress | 1 |
| **Total** | 200 |

**Maximum Sentence Indications (MSI's)**

Maximum Sentence Indications are now frequently used by accused persons who wish to know their worst-case situation if they were to plead guilty. They benefit from the ability to ask a court for its maximum likely sentence and to choose whether to accept it by pleading guilty or to refuse and go to trial (without prejudice). The MSI is itself a quick process and is a useful method of incentivizing guilty pleas when appropriate. When timed well within the context of robustly case managed trial, several persons opt for the certainty of knowing the maximum sentence, with the benefit of a one-third discount. If the MSI is accepted, the Judge proceeds to hear the plea in

mitigation. If the Accused does not accept the MSI provided by the Court, the fact that a request for an indication was made is not admissible in any proceedings. MSI's were first introduced to the Courts of Trinidad and Tobago on the 17th April 2017 although the Practice Direction on Sentence Indications was originally dated 25th August, 2015. The increasing popularity of MSI's has reduced the number of matters to go to trial.

**Plea bargaining**

A plea agreement is an agreement made in the interest of justice between a prosecutor and an accused person or a suspect for the purpose of arriving at a plea. Plea agreements in Trinidad and Tobago are governed by the Criminal Procedure (Plea Discussion and Plea Agreement) Act, No 12. of 2017.

A plea discussion may be held and a plea agreement concluded any time before conviction, including before charges are instituted. Plea discussions usually commence at the request of the accused but may also begin by virtue of a request from the prosecutor. A prosecutor shall not enter into a plea discussion or conclude a plea agreement unless the prosecutor first obtains the written permission of the Director of Public Prosecutions.

Increased plea bargaining was a happy consequence during the pandemic and are now growing in popularity. Even prosecutors are now prepared to initiate plea discussions. Yet another useful method of incentivizing guilty pleas, the bargains struck allow for sure conviction of the guilty, the voice of the victim, savings of judicial time and state resources and the opportunity to engage the philosophy of restorative justice.

With the robust use of the Rules and defence disclosure, both sides are now more willing to exercise some autonomy in the eventual outcome of a charge by freely discussing reasonable possibilities in sentence recommendations which do not offend against the public interest and which tend to promote public trust and confidence. Increased use of this alternative means of disposition will be one of the most important delay and backlog reduction tools.

**Individual Calendar**

The creation of an individual calendar for judges of the Criminal Division with teams which include partner masters had begun to show benefits. Those have slowed somewhat since a few of those masters have been elevated and the ratio is no longer one to one. It is anticipated that the filling of more posts of master will alleviate the problem and return the system to again begin to see the benefits of the system.

The creation of an individual calendar in itself has nevertheless consistently proven to be highly beneficial. The division and allocation to an individual judge of their portion of the pending and new caseload engenders personal accountability for the progress of their entire 'docket' and provides the judge with the opportunity to manage a case from beginning to end. Judges now have full autonomy over their trial schedule and can more efficiently manage scarce resources,

making better use of judicial time, the ear of the court, physical courtrooms, jury pools, virtual platforms and a small criminal Bar. It prevents the moving of a case from judge to judge as had previously obtained with the resultant waste of time and effort.

**Creation of Judge's Teams**

The assignment of a team to each Judge with the Judicial Support Officers (JSO's) and Assistant Judicial Support Officers as team members having understanding of the process and being trained in the specialized skills, knowledge and abilities needed. They are trained as court paralegals and bring knowledge and experience to the team. Also on each team is a Judicial Research Counsel (JRC), who assists the Judge with legal research and judgment preparation. The team is completed by a Judicial Secretary and an Orderly. In many cases, the Judicial Secretary serves as the Case Progression Officer, who is able to monitor compliance with directions and therefore progress matters, even as the judge and JSO are engaged in trials. With the assistance of the JRC, more Judges are producing published written rulings at first instance, which in turn has demystified judge alone trials, MSI's and sentences generally and yielded an increase in determinations without the need for trial.

Together each team (which normally includes a Master) manages each case like a project. They are also required to profile the Judge's individual calendar or docket to identify cases which may be fast tracked.

**Diversion**

The Drug Treatment Court Process once a pilot for adults has been now provided for in legislation. It provides for diversion in Criminal matters as well as in matters in which adults are referred from the Family and Children Division. A Drug Treatment Court Process for children which was also provided for in legislation has been in effect for over five years and 164 referrals had been made up to April 2022. (***see Statistical Data in appendix***)

**Virtual Hearings (including VACCS)**

Another happy consequence of the pandemic was the realization that justice is not a brick and mortar consideration. Virtual hearings allow for parties, whether attorneys, accused persons, witnesses, court staff and even the Judges, to progress and determine matters without the need to physically gather together in a physical space. Fewer adjournments are required because of geographical constraints. Attorneys are able to appear in several divisions in the same day; a definite advantage with the present need to 'share' a small private criminal Bar.

The same applies to the police who may have to testify as witnesses in court matters. These officers no longer have to pick and choose which Court location they may be able to get to on a daily basis, but can also attend court virtually from a police station, private location or a Virtual Access Centre (VACCS) if required by the Court to do so.

Additionally, accused on bail or witnesses also benefit from this innovation. Both can attend

Court virtually or at a VACC if required by the Court to do so.

The VACCS are located at strategic points across Trinidad and Tobago, and are afforded to our customers who may not have access to an internet enabled device to connect with the Court from a private location, or customers whom a Judicial Officer requires to attend at a VACCS.

Previously customers of the Court would have been required to take the day off from work and alternative arrangements for kids etc. to attend Court on a particular date. Now a customer can go to a private space on job, or attend a VACC close to work or home, to attend their court matter without disrupting their entire day.

Additionally the Judiciary has also been able to mitigate the risk to witnesses who have been deemed as needing protection, as well as the officers who protect them, as they can also give their testimonies virtually from private locations.

The Judiciary's careful management of Prison and other VACCs has encouraged better/more frugal use of judicial time as 'windows' must be booked and the resources shared by Judges, Masters and District Court Judges (Magistrates). Waste is discouraged.

**Judge Alone Trials (JATs)**

JATs began in 2019 and grew in popularity during the pandemic when jury trials were suspended. As there is no jury to 'impress', issues in dispute are narrowed even further and the result is that trials are shorter. Regarding issues of admissibility, voir dires are not a necessity, but even where they are conducted, there is no need to repeat the evidence on voir dire for the fact-finder. As the Judge is both judge of law and facts, the voir evidence can be incorporated into the main trial. This is a significant saving of trial time. With the removal of the fetters occasioned by jury composition and the ability to take a majority decision, in appropriate cases, a JAT can involve the joinder of capital charges with non-capital charges arising out of the same transaction/incident. (With a jury, capital matters cannot be joined.) JATs are also more easily suited to the virtual platform and the consequent flexibility for all participants. It is also possible and the preference of some Judges to run JATs parallel to jury trials, in an effort to make the most of judicial time. Careful case and trial management allows this to work well. It should be noted that as at April 30, 2023, the total number of appeals of the outcome Judge Alone trials is 7 out of the 33 matters (including 14 matters involving murder) in which persons where found guilty. The 21.2% appeal rate indicates a good acceptance of the outcome of Judge Alone trials.

**Data Analytics**

The thrust has been towards a key fundamental of caseflow management which is using data analytics

**Digital Voice Writing with FTR**

The use of this technology and the training of 90 digital voice writers who transcribe from the audio digital recording has enabled the speeding up of the production of Committal bundles and allowed the District Courts to reduce what was a huge backlog to within striking range of no delay. This has been coupled with sending same to the DPP electronically. Unfortunately an insistence on hard copy and in person review with a single clerk continues to create a bottleneck but it is anticipated that this process will be jettisoned soon and purely electronic systems used.

**Training of Judges**

The Judicial Education Institute of Trinidad and Tobago (JEITT) is committed to continuous education for all Judges and Judicial Officers. To this end, the JEITT facilitates training that are needs driven and ensures that the trainers who undertake our training programs possess the relevant expertise in that subject area. Further to meet our training goals the JEITT works along its external partners to deliver high quality and engaging sessions. Over the period 2022 to 2023, the JEITT engaged in a variety of training programs targeted at our Judges, Judicial Officers, Senior Court Administrators and Judicial Research Counsel among other target audiences. The JEITT also extended its offerings to external stakeholders of the judicial system in an effort to strengthen the administration of justice.

Please see below a list of training conducted over the period 2022 to 2023:

1) The Seizure, Detention and Forfeiture of Cash Proceeds of Crime Act Chapter 11:27
2) Non-Refoulement as a Principle of Customary International Law
3) AJIPA Learning Sessions
4) Understanding the Offence of Money Laundering
5) Proceeds of Crime Act Training
6) Writing for Clarity Training - Industrial Court Judges Training
7) Juvenile Justice in Trinidad & Tobago - Children Court Best Practice
8) Addressing Implicit Bias in Caribbean Justice Systems
9) Best Practices in Case and Docket Management
10) Admiralty Law
11) Judicial Settlement Conferencing: A Three-Part Series
12) Are You Sure You Said That? Fundamentals of Hearsay Evidence
13) Judges Orientation
14) Judicial Leadership, Humility and Wellness
15) Workmen's Compensation
16) Family Law Cases
17) Detention and Alternatives to Detention for Asylum Seekers
18) Introduction to Cryptocurrency
19) Assistant Registrars' Orientation
20) Joining the list of ICC Counsel
21) Referrals to the CCJ under the Original Jurisdiction
22) Fourth Caribbean Judges Forum on HIV, Human Rights & the Law.

**Districtisation of Summary Courts**

By reducing the court districts into three instead of twelve, resources are better able to be managed and service delivery can be more streamlined. With twelve, it was necessary to replicate resources and delivery in each of the twelve locations regardless of whether these locations used those resources or delivered that service sporadically or not. With three districts, resources can be pooled thus enabling fewer but better resourced locations and individual locations can be turned into specialist areas. With more services being delivered electronically, and with better transportation it is no longer necessary to bring the court to the actual village or community. The creation of the VACCS also enabled access to be close to the community without having to provide full services physically.

**Magistracy Registrars and Clerks of the Court**

With the launch of the District Criminal and Traffic Courts, there was the transition from non-legally trained Clerks of the Peace to Magistracy Registrars who are Attorneys at law. The Magistracy Registrar and Clerk of the Court is a Judicial Officer provided for under the Judicial and Legal Service Act, Chap. 6:01 and is classified in the Salaries Review Commission's 98th Report dated November 2013. The Magistracy Registrars represent one of the new frontiers in the evolution of the Judiciary and of the justice system in Trinidad and Tobago.

In addition to performing their legal responsibilities, Magistracy Registrars are also responsible for supervising employees of a District Criminal and Traffic Court who are engaged in legal, quasi-judicial and other related duties and ensure compliance with the law. Although Magistracy Registrars have proven to be a great asset at the District Criminal and Traffic Courts, as with most areas of the Judiciary, it may be under resourced.

**Removal of Traffic Matters**

The removal of the burden of traffic matters except for notices to contest has removed from the District Courts a heavy burden thus allowing it to focus much more on summary matters and on preliminary enquiries. Part of the strategy included a reduction by 50% of the fine applicable to old unpaid tickets.

**Removal of charges for small amounts of marijuana for personal use**

Far too many matters of this type were occupying the court and with the decriminalization of marijuana for medicinal purposes and otherwise gaining favour internationally, it was appropriate to relieve the courts of the burden of these matters.

**Removal of Family matters from the district court (including Domestic Violence matters (DV))**

This is still ongoing while the Family and Children Division is involved in preparing court buildings for the roll out of the Family Courts. Thus far, pursuant the Chief Justice's decree that "the jurisdiction in the family matters, including domestic violence matters, previously

exercised in the South Trinidad Magisterial District at the Princes Town, Rio Claro and Mayaro court locations shall now be exercised in the Family Court, Princes Town" and a similar decree regarding the North Trinidad Magisterial District so that the Family Court, Port of Spain, now handles the jurisdiction in family matters and domestic violence matters previously exercised in the North Trinidad Magisterial District at the Chaguanas and Port of Spain court locations, the caseload in the Magistracy has been significantly reduced to allow it to focus more on criminal matters. The table below shows the magnitude of the reduction due to the different handling of traffic tickets, the reduction in charge cases for the possession of marijuana (due to the 2019 amendment to the Dangerous Drugs Act, and the aforementioned redirecting of family matters and DV matters from Magistracy.

| | Average number prior to intervention | **Interventions** | Approximate number post interventions |
|---|---|---|---|
| Matters filed at the Magistracy | 126,000 | All the interventions (A through C) shown below | 28,900 (Law term 2021-2022) |
| Traffic Tickets at the Magistracy | 65,000 | A. Removal of traffic tickets from the Judiciary with the introduction of the U-Turn system | 0 (Law term 2021-2022) |
| Family matters filed at the Magistracy | 14,000 | B. Change in jurisdiction of family and DV matters at the Magistracy, so that they are now handled at the Family Court | 3,300 (Law term 2021-2022) |
| DV matters filed at the Magistracy | 10,000 | | 3,300 (Law term 2021-2022) |
| Matters relating to dangerous drugs including marijuana, filed at the Magistracy | 6,700 | C. Decriminalization of the possession of no more than 30g of cannabis in December 2019 | 1,500 (Average over calendar years 2020 & 2021) |

**Creation of Criminal Division and District Criminal and Traffic Courts**

On December 1, 2019, The Criminal Division and District Criminal and Traffic Court Act No. 12 of 2018 was proclaimed and specifically covers Supreme and Summary Court jurisdiction. It represents a step toward decentralized management of the criminal courts and a targeted focus on the related processes, procedures and infrastructure. This represents a significant step towards improving criminal caseflow in the courts.

The intensity, complexity, depth and breadth of crime and violence facing the country called for new dynamics throughout the Judiciary including innovative solutions and advanced approaches to the way the criminal court conducts its business. The Criminal Division and District Criminal and Traffic Court Act No. 12 of 2018 closed the inequality between the Supreme and Summary Courts as the Judiciary sought to bring stability of the courts' management structure by transitioning from non-legally trained Clerks of the Peace to Magistracy Registrars and Clerks of the Court. A critical step towards the effective management of Magistrates' Courts was the introduction of the Court Managers and Assistant Court Managers in the Magistracy. The leadership structure at the District Court has been re-engineered and the District Clerk of the Peace is the final piece of the Magistracy's management structure.

The Criminal Division consists of the Court of Appeal and the Criminal High Court (which has physical locations in North, South and Tobago). The Criminal Division hears indictable criminal matters. The High Court also has Masters, who have similar jurisdiction to Judges of the High Court sitting in Chambers however legislation may expressly limit or expand their jurisdiction. The O'Meara Judicial Centre was formally designated as a place for the sitting of the Supreme

Court and Summary Courts on Wednesday 20th April, 2022. The Judiciary has created courtrooms which incorporate litigation support technology. This new technological advance place the jury trial system at O'Meara Judicial Centre in line with the best available internationally and certainly enhances the effective, safe, and efficient delivery of justice.

**Creation of Children Court and Children Package of Legislation**

The establishment of the Children Court has enabled the Judiciary to provide special focus on children and their unique situation in the Criminal Justice System. The court recognizes that children will make errors or various types and the focus has to be on rehabilitation. The court however has not been able to address children charged jointly with adults in the way in which the court would like to. Toward this end a Judiciary committee has been actively involved in distilling procedures for dealing with children jointly charged with adults.

## Use of ICT at the Criminal Courts

The Judiciary has acknowledged that outdated and obsolete systems in the Court is one of the contributing factors to an ineffective and inefficient criminal justice system. Over the past ten years, the Judiciary of Trinidad and Tobago has been making efforts to capitalize on modern technologies to enhance its operations. The Judiciary set out on implementing systems and solutions to increase access to justice and provide prompt service at all court locations. Those actions include: creating a framework for electronic filing; enhancing the court reporting process through audio digital court recording and digital voice writing; creating and implementing a CourtPay electronic payments module; and the use of video conferencing technology for online court proceedings. The scale of deployment and impact of the technology are not enough to bring about an impactful change in the criminal justice system because much of this work is being handled internally using the Judiciary's already constrained resources.

**Court Case Management Information System - TTJim**

The criminal courts at the Magistracy used a tedious, manual, paper-based system. From 1993 the High Court used a proprietary, licensed, case management system. However, as time progressed maintenance overheads increased substantially and the system proved to be limited in accommodating changes in the law, rules of court, and provide an adequate statistical framework.

The Judiciary began developing its own case management information system known as TT.jim, which is an open-source program that was first used at the Children Court and subsequently implemented at Magistrates' Courts and the Criminal High Court. This open-source program is the result of international cooperation involving Caribbean and other nations. The US National Centre for State Courts and technical resources from each member nation work together through this 'Consortium' to create, develop, support, and maintain the CCMS. Any prospective member of the Consortium must, therefore, have the necessary ICT personnel on staff in order to contribute to the continuous development and maintenance of the CCMS. Knowledge sharing, free software code sharing, and task distribution across a larger technical

pool than each member country has within their country are all benefits that a member of the Consortium receives.

TT.jim captures and allows the tracking of case information; users can upload and generate court documents; record minutes of a hearing; and they are always aware of what tasks are assigned to them, what tasks were completed and what remains outstanding. This technology allows easier retrieval of case information so customers are able to get information on upcoming hearing dates and details of their case without delay. Case information is easily accessible at every stage of the case, thereby reducing any delay caused by misplaced files or misfiled court documents.

Work continues to improve the TT.jim software. For instance, the system must include the ability to record case outcomes and sentences on each charge on each defendant in a case. This will give visibility to cases where sentences are yet to be carried out, and allow for generating different levels of statistics and reports on custodial, non-custodial sentences, as well as general court performance.

**Records Management**

Virtual operations rely on available, secure access to digital records. The digitization of paper-based court records, especially those linked to criminal committals, is critical. Digital records provide easier access and retrieval of case information, increased access to justice and improved capacity for data analytics and data-driven decision making. At the close of the 2019-2020 Law Term, the Judiciary completed most of the digitisation of active case information across the District Courts[6]. Committal bundles are transferred to the Office of the DPP using electronic means. Records management is an important component of TT.jim.

**TT Table of Equivalencies for UNODC ICCS**

TT.jim allows criminal charges to be added to cases. The Judiciary coded criminal charges by creating a TT Table of Equivalency for the UNODC International Classification of Crime for Statistical Purposes known as the ICCS. These codes are pre-programmed into TT.jim to facilitate good statistical reporting. Using the Table of Equivalencies, Trinidad and Tobago can generate more meaningful crime statistics; compare how we realistically measure up against other countries on crime; more effectively manage criminal caseloads at the court; and make more informed decisions about crime fighting policies and programmes. A committee comprising representatives from the TTPS, Prisons, DPP, Solicitor General, and Probation departments as well as the Judiciary was established. This Committee meets periodically to review and update the Trinidad and Tobago's classification (Table of Equivalencies). Notably, all agencies now use the same codes to classify criminal offences.

Another key feature of TT.jim, which will be introduced is the weighting of criminal cases, which takes into consideration the weight of cases by complexity and enables even docketing

Virtual Hearings

Despite the limitations brought on by the COVID-19 pandemic, the Judiciary ensured that all

[6] Judiciary Annual Report 2019-2020

participants, including inmates and language interpreters were able to effectively access and participate in court proceedings. This had additional advantages such as fewer adjournments since lawyers were able to appear at Courts that were located at different geographic locations on the same day increasing productivity due to less downtime while waiting for their cases to be called. The Judiciary was able to host its first hybrid Judge Alone trial whereby the verdict was delivered via the Judiciary's website.

## ICT in the Virtual Access Customer Centres (VACCs)

In recognition of the need for equal access to justice for all, and the barriers to access to justice that exist due to the digital divide, which could widen as the Judiciary moves more and more to virtual court operations, the Judiciary began an initiative in 2020 to create Virtual Access Customer Centers (VACCs). A VACC is a facility specially purposed with technology to allow case parties who do not have access to electronic devices and/or the internet to attend virtual hearing. Each VACC has a computer with relevant video-conferencing software and a camera for the party to interact virtually with the court. A document camera is set up in each room to allow for the projecting of any documentary evidence to the court and a multi-function unit for printing or scanning any document. The rooms are outfitted with CCTV cameras for security monitoring of all activities within. A court Marshal is available to provide the necessary support to customers at these locations.

There are fourteen (14) virtual hearing rooms at various prison/correctional facilities across Trinidad and Tobago. Virtual Courtrooms allow prisoners to have their matters heard without being transported to and from the courts. This results in taxpayers' savings of approximately eighty (80) million dollars. Expanding the number of VACCs is crucial to reducing barriers to accessing justice and reducing the number of active criminal cases by ensuring parties can access the courts and cases can go on with all witnesses present. The Judges, judicial officers and their teams must also have access and therefore the need for reliable networking and infrastructure remains critical.

## Caselines:

During trials it was common to have boxes of files and evidence being transported to and from Court locations or to and from attorney offices, police stations etc. However, sorting through these documents and evidence for presentation in Court, to be viewed by witnesses, attorneys, the judicial officer and jury is now far easier as it is done electronically. The cost of copying or printing alone, added to the deterioration in the quality of these items after being in storage awaiting the start of a trial all impact negatively on the quality of criminal justice. Caselines allows for the digitization of these Court bundles, along with audio/video evidence, catalogued as needed by the attorney (state or defence) for easy presentation to all authorized viewers during a trial. Caselines can be used for in person hearings as well as virtual hearings. The recent introduction of CaseLines has positively impacted trial management. CaseLines is an electronic tool currently being implemented across the Judiciary and so far has been implemented at the O'Meara Judicial Centre of the Criminal High Court.

CaseLines is an electronic tool intended to make court operations more efficient. It is a complete

system that is used to collect, manage, and review digital evidence for trials and hearings. Whether you are an attorney or you represent yourself, it can help you to organize, prepare, make notes, edit, and present all types of evidence easily in preparation for and during hearings.

Some benefits of CaseLines are:

- Easy online access to all your uploaded documents and exhibits.
- Uploaded documents are easily searchable including handwritten notes
- Easy document sharing between case parties and the Court.
- Mobile access from smartphones, tablets, and laptops.
- Capacity to store unlimited data

In this regard CaseLines assists participants in a trial to

- Organize all case information into logical, easy to navigate Sections
- Prepare for Court hearings
    - Review all trial material
    - Link research material including cases, legislation, and other documents to your submissions
- Present evidence to everyone with features such as
    - Highlighting text
    - Call out
    - 'Mark-up' which allows witnesses to draw directly on evidence
    - Sections for quick navigation through the trial bundle
    - Zoom and rotation controls
    - Audio and video playback

In the implementation so far CaseLines is helping the Criminal Division maintain and improve access to justice, and the delivery of services, the Judiciary's implementation of CaseLines provides a single accessible source of exhibits and evidence for all parties and the Court, as compared to physical documents which are not as readily or easily available. CaseLines is a user-friendly solution designed to improve efficiency and productivity in court proceedings. It replaces those large paper bundles of court documents and evidence with a secure online system and allows photographic, audio, and video evidence to be easily presented highlighted, animated, annotated, and accessed in court. Since its implementation, CaseLines has been successfully utilized in nine (9) jury trials and three (3) virtual, judge-alone trials.

Assiduous efforts are underway to implement across all Criminal High Court locations in the first phase and across District Court network.

Other solutions:
Other solutions such as sending warrants and other court documents to the police by use of **CourtMail,** a court verified electronic mail system and the use of **E-vrfy**, the Judiciary's online document authentication system, both developed inhouse have brought considerable benefit and time savings. To this is added the **E-filing** system which makes visits to the courthouse unnecessary.

**ICT Network and Security**

These interventions cannot work without a robust ICT infrastructure, sufficient storage capacity, reliable connectivity and security, supported by the right skill sets. This is fundamental to the transition over to electronic systems. Equally important is heightening protection against cyber-threats and attacks, which is foremost in the judiciary's e-strategy.

What is required is a platform that enables the exchange of pertinent information across key justice sector agencies, and which enables electronic filing and document and data interchange.

## 8: The Criminal Justice Sector Committee

THE FULL QUESTION POSED WAS:

**In the recently published *".Statement the Chief Justice on the Criminal Justice System':* it was stated that during meetings of the Criminal Justice Sector Committee to discuss effective implementation of**

**the Administration of Justice Indictable Proceedings Amendment Act, *"all stakeholders brought to the table and discussed what needed to give effect to this legislation and each explained what it needed each other to do to enable them to perform better."***

a. **Were the findings from these meetings recorded and formally documented in a report?**

b. **If yes, to whom was the report presented?**

c. **If not, how was the information used?**

These are discussion sessions for which minutes are recorded. They do not generate reports. They are a discussion of concerns and to dos.

Flow charts of Criminal Justice System

**These have been sent by separate file**.

## Referral Statistics Children Drug Treatment Court Process Unit

**Summary:** The data herein represents information for the Law Terms 2018/2019 through to 2021/2022, in relation to the number of referrals and eligible participants to the Children Drug Treatment Court Process (CDTCP) for all Children Court locations; North, South and Tobago.

Throughout the period mentioned above, there were one hundred and sixty-four (164) referrals. See Table 1. below, as well as Figure 1. - graphical representation of same. Of the total referrals, the data is as follows:

- Table 2. & 3. - disaggregating by gender and case type, i.e. Children In Need of Supervision (CHINS) or Criminal (CRIM) matters; Figures 2. & 3.; provides a graphical representation of same.
- Table 4. - indicating the current active matters before the Court, at each location;
- Table 5. – listing of the number of CDTC hearings and hearing types i.e. eligibility, status and monitoring.
- Table 6. – listing the status of the matters before the Court, by reason;
- Table 7. – further detailing the data; listing each child within the CDTCPU, inclusive of the case number, court location, gender, referral date, case type, start and end date in the Process, current status and any applicable comments. **(Not shown)**

**Table and Figure 1:** Number of referrals to Children Drug Treatment Court Process Unit by Case Type and Court Location.

### CDTCPU; REFERRALS BY LAW TERM

| Law Term | CHINS | | | | CRIM | | | | TOTAL |
|---|---|---|---|---|---|---|---|---|---|
| | North | South | Tobago | SUB-TOTAL | North | South | Tobago | SUB-TOTAL | |
| 2017/18 | 21 | 1 | 0 | 22 | 12 | 3 | 0 | 15 | 37 |
| 2018/19 | 26 | 4 | 2 | 32 | 9 | 0 | 0 | 9 | 41 |
| 2019/20 | 29 | 2 | 0 | 31 | 14 | 2 | 0 | 16 | 47 |
| 2020/21 | 16 | 6 | 0 | 22 | 9 | 0 | 0 | 9 | 31 |
| 2021/22 | 4 | 1 | 0 | 5 | 2 | 1 | 0 | 3 | 8 |
| Total Count | 96 | 14 | 2 | 112 | 46 | 6 | 0 | 52 | 164 |

*Referral of one child for both CHINS and CRIM Matters

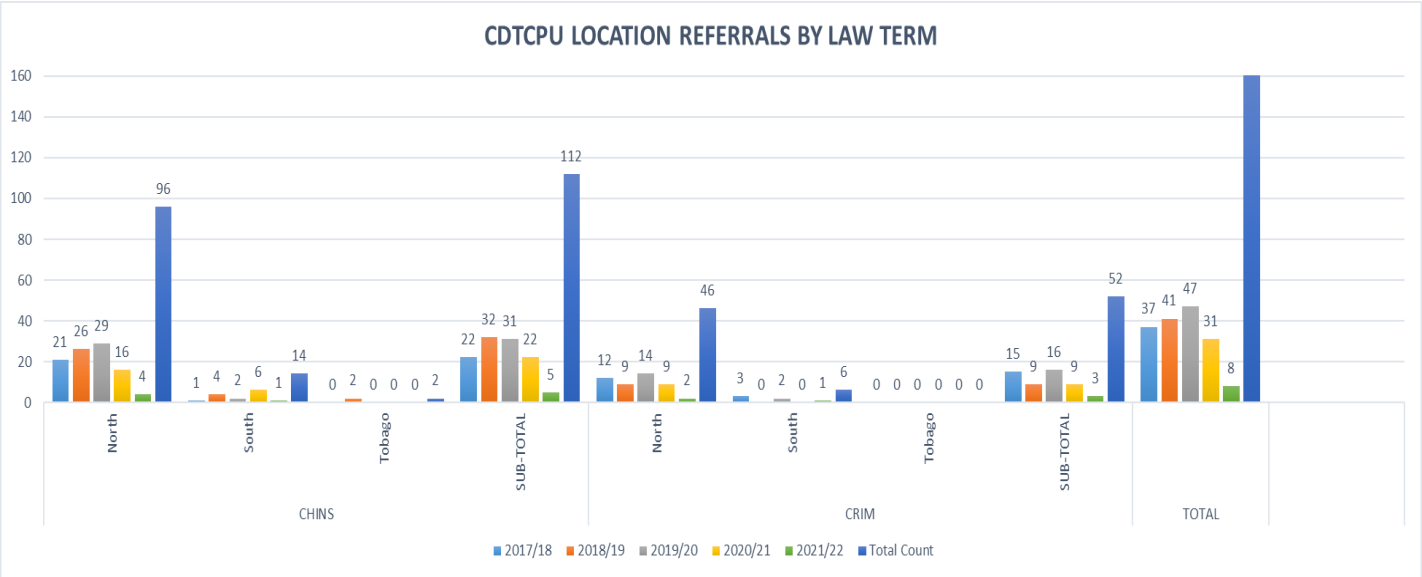


**Table & Figure 2:** Number of CHINS referrals to Children Drug Treatment Court Process Unit by Gender and Court Location.

## CDTCPU; REFERRALS BY GENDER & CASE TYPE

| Law Term | CDTCPU CHINS REFERRALS BY GENDER PER COURT LOCATION | | | | | | |
|---|---|---|---|---|---|---|---|
| | North | | South | | Tobago | | CHINS TOTAL |
| | FEMALE | MALE | FEMALE | MALE | FEMALE | MALE | |
| 2017/18 | 8 | 13 | 0 | 1 | 0 | 0 | 22 |
| 2018/19 | 3 | 23 | 1 | 3 | 0 | 2 | 32 |
| 2019/20 | 9 | 20 | 0 | 2 | 0 | 0 | 31 |
| 2020/21 | 2 | 14 | 0 | 6 | 0 | 0 | 22 |
| 2021/22 | 0 | 4 | 0 | 1 | 0 | 0 | 5 |
| **Total Count** | **22** | **74** | **1** | **13** | **0** | **2** | **112** |

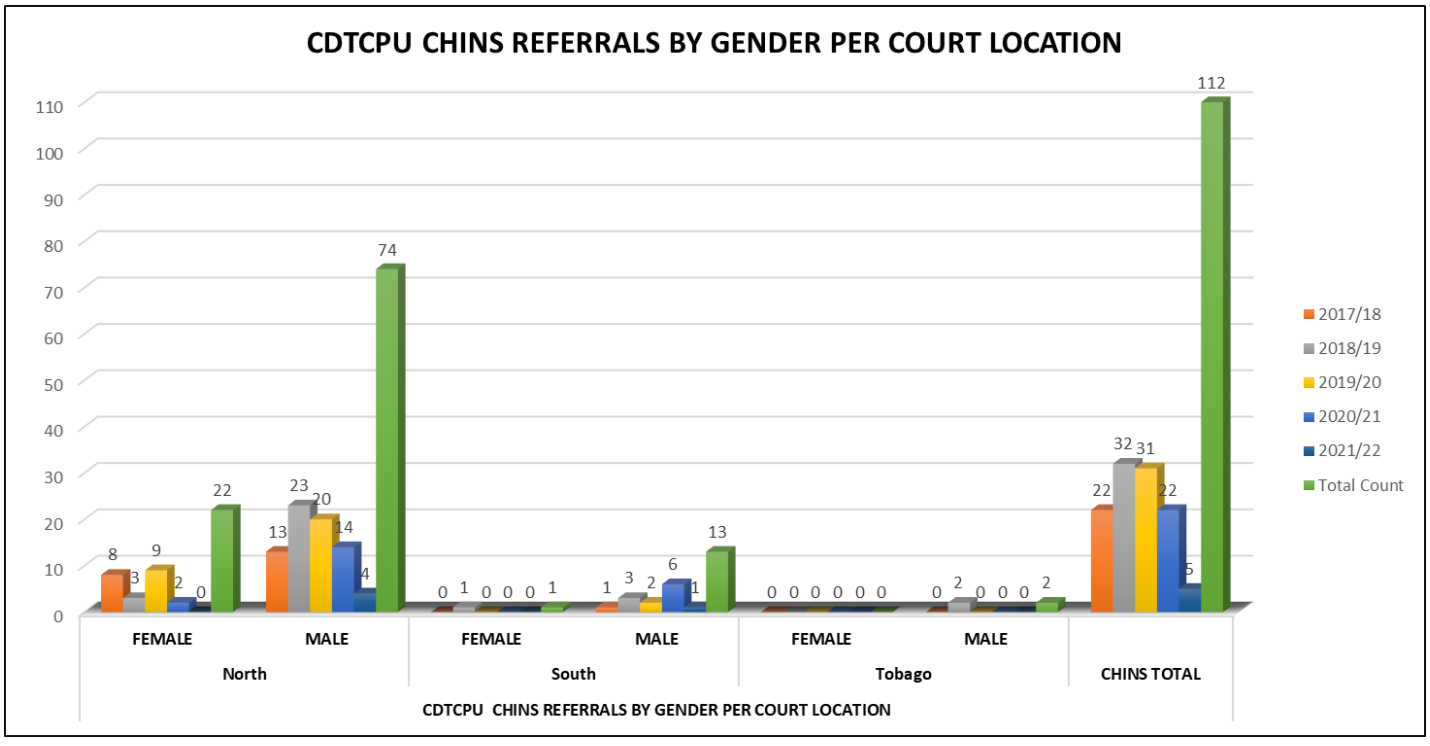


**Table and Figure 3:** Number of CRIM referrals to Children Drug Treatment Court Process Unit by Gender and Court Location.

| Law Term | CDTCPU CRIM REFERRALS BY GENDER PER COURT LOCATION | | | | | | |
|---|---|---|---|---|---|---|---|
| | North | | South | | Tobago | | CRIM TOTAL |
| | FEMALE | MALE | FEMALE | MALE | FEMALE | MALE | |
| 2017/18 | 0 | 12 | 0 | 3 | 0 | 0 | **15** |
| 2018/19 | 0 | 9 | 0 | 0 | 0 | 0 | **9** |
| 2019/20 | 0 | 14 | 0 | 2 | 0 | 0 | **16** |
| 2020/21 | 0 | 9 | 0 | 0 | 0 | 0 | **9** |
| 2021/22 | 0 | 2 | 0 | 1 | 0 | 0 | **3** |
| **Total Count** | **0** | **46** | **0** | **6** | **0** | **0** | **52** |

***Referral of one child for both CHINS and CRIM Matters**

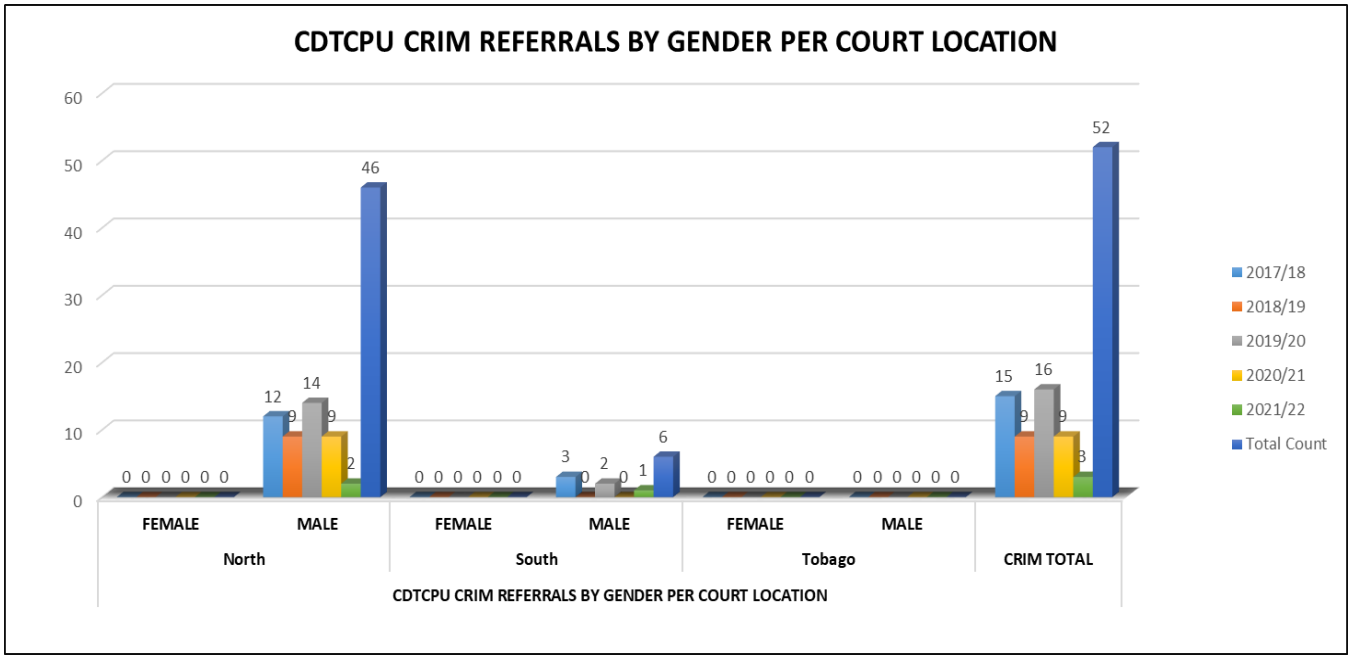


**Table 4:** Active matters before the Children Drug Treatment Court Process Unit by Case Type and Court Location.

## CDTCPU ACTIVE REFERRALS AS OF APRIL 2022

| Active CDTC Referrals | NORTH CHINS | NORTH CRIM | NORTH TOTAL | SOUTH CHINS | SOUTH CRIM | SOUTH TOTAL | TOBAGO CHINS | TOBAGO CRIM | TOBAGO TOTAL | CDTCPU TOTAL |
|---|---|---|---|---|---|---|---|---|---|---|
| Referred to FIA for Assessment | 3 | 0 | 3 | 1 | 0 | 1 | 0 | 0 | 0 | **4** |
| Referred to FIA for Treatment and Monitoring | 5 | 3 | 8 | 1 | 0 | 1 | 0 | 0 | 0 | **9** |
| Eligibility to be further discussed | 0 | 1 | 1 | 2 | 0 | 2 | 0 | 0 | 0 | **3** |
| Eligibility Hearing pending | 1 | 1 | 2 | 0 | 0 | 0 | 0 | 0 | 0 | **2** |
| **Total** | **9** | **5** | **14** | **4** | **0** | **4** | **0** | **0** | **0** | **18** |

***Referral of one child for both CHINS and CRIM Matters**

**Table 5:** Number of hearings before the Children Drug Treatment Court Process by Law Term and Location.

**NUMBER OF CDTC HEARINGS BY LAW TERM AND LOCATION AS AT APRIL 2022**

| Law Term | NORTH | | | | SOUTH | | | | TOBAGO | | | | TOTAL CDTC HEARINGS |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | Eligibility Hearing | Status Hearing | Monitoring Hearing | Number of Hearings | Eligibility Hearing | Status Hearing | Monitoring Hearing | Number of Hearings | Eligibility Hearing | Status Hearing | Monitoring Hearing | Number of Hearings | |
| 2019/20 | 37 | 79 | 14 | 130 | 5 | 6 | 0 | 11 | 0 | 0 | 0 | 0 | 141 |
| 2020/21 | 58 | 110 | 74 | 242 | 10 | 17 | 21 | 48 | 0 | 0 | 0 | 0 | 290 |
| 2021/22 | 6 | 41 | 44 | 91 | 10 | 20 | 8 | 38 | 0 | 0 | 0 | 0 | 129 |
| **Total** | **101** | **230** | **132** | **463** | **25** | **43** | **29** | **97** | **0** | **0** | **0** | **0** | **560** |

**Figure 4:** Number of hearings before the Children Drug Treatment Court Process by Law Term and Location.

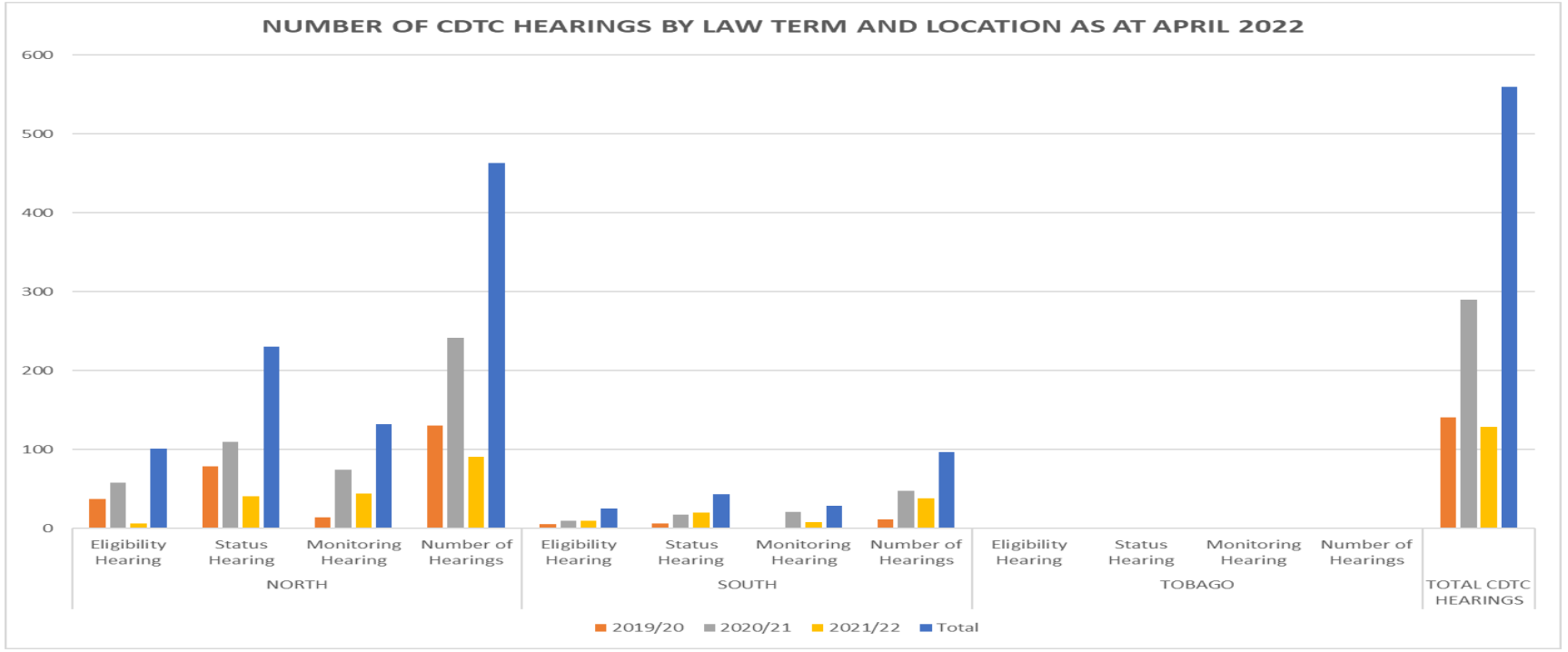


**Table 6:** Status of matters before the Children Drug Treatment Court Process Unit by Reason and Court Location.

## STATUS OF CDTCPU MATTERS AS AT APRIL 2022

| STATUS OF MATTER | CHINS | | | | CRIM | | | | Total No.of Referrals |
|---|---|---|---|---|---|---|---|---|---|
| | NORTH | SOUTH | TOBAGO | CHINS TOTAL | NORTH | SOUTH | TOBAGO | CRIM TOTAL | |
| AGED OUT | 9 | 2 | 0 | 11 | 0 | 2 | 0 | 2 | 13 |
| NO CONSENT FOR CHILD TO PARTICIPATE AT STATUS HEARING | 0 | 2 | 0 | 2 | 0 | 0 | 0 | 0 | 2 |
| DISMISSED, CLOSED, DISCHARGED or VACATED BY THE ORIGINATING COURT | 30 | 1 | 1 | 32 | 13 | 0 | 0 | 13 | 45 |
| ELIGIBILITY PHASE ONGOING | 4 | 2 | 0 | 6 | 2 | 1 | 0 | 3 | 9 |
| MONITORING PHASE ONGOING | 5 | 1 | 0 | 6 | 3 | 0 | 0 | 3 | 9 |
| NOTICE OF FAILURE ISSUED | 22 | 4 | 0 | 26 | 9 | 0 | 0 | 9 | 35 |
| REFERRED FOR ALTERNATIVE INTERVENTION | 0 | 0 | 1 | 1 | 0 | 2 | 0 | 2 | 3 |
| REFERRED TO PROBATIONS | 0 | 0 | 0 | 0 | 0 | 2 | 0 | 2 | 2 |
| NOTICE OF GRADUATION ISSUED | 2 | 1 | 0 | 3 | 5 | 0 | 0 | 5 | 8 |
| MISSING or DECEASED | 1 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 1 |
| PLACED ON PROBATION AND WAS REFERRED DIRECTLY TO TREATMENT PROVIDER BY REFERRING COURT | 0 | 0 | 0 | 0 | 1 | 0 | 0 | 1 | 1 |
| PROBATION PERIOD ENDED | 0 | 0 | 0 | 0 | 1 | 0 | 0 | 1 | 1 |
| REFERRAL TO CDTC PROCESS VACATED OR TERMINATED BY CDTC JO | 9 | 0 | 0 | 9 | 9 | 0 | 0 | 9 | 18 |
| RELIEVED FROM THE CDTC PROCESS OR REFERRAL VACATED BY ORIGINATING COURT | 14 | 0 | 0 | 14 | 3 | 0 | 0 | 3 | 17 |
| **Total Count** | **96** | **13** | **2** | **111** | **46** | **7** | **0** | **53** | **164** |

*Referral of one child for both CHINS and CRIM Matters