

# COURT OF APPEAL, JAMAICA

## ANNUAL REPORT 2017



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## President's Message



**The Hon Mr Justice Morrison, OJ, CD**

At the end of my prefatory message in last year's annual report, I repeated the hope I had expressed in the previous year's report that 2017 would be the year in which the promises of an increase in the court's judicial complement would be fulfilled. In fact, they were not. But, as it has turned out, 2017 was a notable year, in that, after several years in the making, the planned relocation of the Accountant General's Department finally took place at the end of June. As anyone who has followed the fortunes of the court over the past 10 years at least will readily appreciate, the significance of this development is that the space into which it is intended that the court should expand has at last become available.


As a result of this, the second half of 2017 was spent in discussions and consultations with technical staff from the Ministry of Justice, architects and other professionals who



will be concerned with the physical expansion of the court. The plan to expand the space which the court currently occupies into the now vacant space next door has now transformed into a more ambitious plan to renovate the entire premises formerly occupied by the Accountant General's Department for the use of the Court of Appeal. By that means, provision is expected to be made to accommodate the full complement of the President and 12 judges of appeal now provided for in the court's constituent statute.

Despite the fact that, as at the time of writing, all of this still lies ahead, the fact that it now appears to be within sight provided a hopeful end to what was another tough, though in many respects rewarding, year for the court. For instance, as the figures in Tables I and J demonstrate, the total number of appeals disposed of in 2017 (247 out of 272) showed a significant improvement over the 2016 figures (144 out of 262). This improvement reflects in part the wholly beneficial influence of the court's dedicated judicial clerks as well as a deliberate effort on the part of all judges to utilise more oral judgments whenever warranted by the issues in a particular case. Indeed, as the figures in Tables L and M show, 65% of all appeals and applications were disposed of by judgments/rulings delivered within six months of the completion of the hearing. Of that number, 71% were in fact delivered on the last day of the hearing and 90% within a week.

However, the court naturally continued to be deeply concerned about the longer delays in the delivery of judgments. As already indicated, the greater use of oral judgments is one of the strategies being constantly encouraged to reduce the incidence of reserved judgments. In addition, we had the good fortune to be able to arrange a seminar on judgment writing skills over two and a half days in November 2017, aimed specifically at the challenge of achieving greater expedition in judgment delivery in the face of limited judicial resources and an ever-growing caseload. The



seminar was expertly facilitated by Mr Justice John Laskin, a judge of the Court of Appeal of Ontario, on a no-fee, expenses-only basis. The seminar was a great success and, even before the year ended, signs of the embrace of the 'Laskin style' judgment were already in evidence. We are abidingly grateful to Justice Laskin for his generosity.

But the truth is that, despite our best efforts, we will always struggle to achieve accepted international judgment delivery norms<sup>1</sup> while the complement of the court in relation to population size remains at seven, woefully short of even that of some of our regional counterparts<sup>2</sup>. So we look forward to 2018 and the now palpable promise of expansion to its physical facilities and more judges for the court.


In the meantime, I must again thank my colleagues for their unstinting efforts in very difficult circumstances. In addition to the permanent members of the court, we also had the benefit of the presence of the Honourable Miss Justice Carol Edwards, who continued to act as a judge of appeal in the Hilary Term, and the Honourable Miss Justice Jennifer Straw, who acted as a judge of appeal in the Easter and Michaelmas Terms. As I have said before, and say again, I cannot possibly ask any of the judges of the court for more.

As has now become usual, the putting together this report has largely been the work of the indefatigable Registrar, Mrs Stacie-Anne Brown. I am very grateful to her for this, as well as for her immeasurable contribution to the smooth running of the court. I also thank the other members of staff of the court at all levels who continue to

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<sup>1</sup> See, for instance, the case of New Zealand: in 2016, approximately 60% of Court of Appeal judgments were delivered in one month or less and 90% within three months - <https://www.courtsofnz.govt.nz/the-courts/court-of-appeal/court-of-appeal-judgment-delivery-expectations-inquiry-process-and-recent-judgment-timeliness>

<sup>2</sup> Compare the number of Court of Appeal judges in (i) Bahamas (pop. 390,000), four; (ii) Barbados, (pop. 285,000), four; (iii) Organisation of Eastern Caribbean States (pop. 630,000), five; and (iv) Trinidad & Tobago (pop. 1.4 million), 13.



perform at a very high level of efficiency and commitment. They are all a credit to the public service.

Also as usual, members of staff of Court Management Services (CMS) have continued to render vital service to the court, particularly in relation to issues of information technology, training and protocol. We are very grateful to them for their ever readiness to attend to the needs of the court. As we go forward into 2018, I expect that the need to interact and interface with the staff of CMS will be even greater than it has been, especially when the promise of new quarters for the court comes to fruition.

The assistance which we have received from Dr Denarto Dennis, the Supreme Court's statistician, is once again evident in the design and presentation of the various tables set out at pages 12-25 of the report. On a more general note, the court is deeply indebted to Dr Dennis for his patient help and many kindnesses during his two-year tenure at the Supreme Court. If, as I understand to be the case, he is to go back to his substantive post at the University of the West Indies at the end of his period of secondment early in 2018, we can only hope that we will remain able to count on his expert advice from time to time.

And finally, I must say thanks on behalf of all at the Court of Appeal to the Honourable Mrs Justice Zaila McCalla, OJ, whose tenure as Chief Justice of Jamaica will have come to an end by the time this report is published. As always, Chief Justice McCalla was keenly aware of and attentive to the needs of the court in 2017. As she goes into retirement, we would ask her to accept our thanks and very best wishes for continued good health and happiness.

**C. Dennis Morrison, OJ, CD**  
**President of the Court of Appeal**

**28 February 2018**



## Judges of the court

### Composition

The Judicature (Appellate Jurisdiction) Act<sup>3</sup>, which speaks to the composition of the Court of Appeal, was amended by the Jamaican Parliament in 2008 to increase the number of judges of the court to 13 (the President of the court and not more than 12 other judges of appeal). The Chief Justice, as head of the Jamaican Judiciary, is also a member of the court. However, the Chief Justice can only sit at the invitation of the President and if there are at least four other judges sitting.

Despite this amendment some 10 years ago, the current complement of judges remains at seven (including the President).

However, with the removal of the Accountant General's Department in June 2017 and the steps taken thus far to begin the process of converting the vacated space into a new facility for the court, it is hoped that in the not too distant future the court will be able to expand its numbers.

### Appointments

Two acting judges of appeal formed part of the court's complement during the year under review. Both acting appointments came about as a result of a judge of appeal proceeding on vacation leave.

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<sup>3</sup> See section 3.



**The Hon Miss Justice Edwards JA (Ag)**

The first acting appointment for the year was that of the Honourable Miss Justice Carol Edwards, Puisne Judge of the Supreme Court. As indicated in last year's report, Miss Justice Edwards also acted as a judge of appeal in 2016. She continued to so act in the Hilary Term of 2017, in place of the Honourable Mrs Justice Almarie Sinclair-Haynes JA, who was on vacation leave.

The court then welcomed the Honourable Miss Justice Jennifer Straw, Puisne Judge of the Supreme Court. Miss Justice Straw's initial acting appointment was for the Easter Term 2017, in place of the Honourable Miss Justice Hilary Phillips JA, who was on vacation leave during that term. Miss Justice Straw then remained with us for the Michaelmas Term 2017, in place of the Honourable Mr Justice Frank Williams JA, who was on vacation leave.



**The Hon Miss Justice Straw JA (Ag)**

The year saw the permanent constitution of the court remaining as it had in the previous year, with a complement of seven judges, namely: -

- the Honourable Mr Justice C. Dennis Morrison P;
- the Honourable Miss Justice Hilary Phillips JA;



- the Honourable Mr Justice Patrick Brooks JA;
- the Honourable Mrs Justice Marva McDonald-Bishop JA;
- the Honourable Mrs Justice Almarie Sinclair-Haynes JA;
- the Honourable Mr Justice Frank Williams JA; and
- the Honourable Miss Justice Paulette Williams JA.



**Seated: The Hon. Mr Justice Morrison P (centre), the Hon. Miss Justice Phillips JA (left) and the Hon. Mr Justice Brooks JA. Standing: (from left to right) the Hon Mrs Justice McDonald-Bishop JA, the Hon. Mrs Justice Sinclair-Haynes JA, the Hon. Miss Justice Williams JA and the Hon. Mr Justice Williams JA.**

## Court Staff

The total number of posts in the Court of Appeal (excluding the President and Judges of Appeal) is 37<sup>4</sup>. However, the current staff complement is 31, which is the same figure as reported in 2016. It is to be noted that the two positions of judicial clerk, recorded in the previous annual reports, were upgraded in 2017 to the level of senior judicial clerks, thereby increasing the total number of senior judicial clerks from five to seven. The staff therefore comprises:

- 1 Registrar
- 1 Deputy Registrar
- 7 Senior Judicial Clerks
- 1 Director, Human Resource and Administration
- 5 Executive Secretaries
- 1 Senior Secretary
- 3 Chief Court Assistants
- 1 Senior Court Assistant
- 1 Senior Records Officer
- 2 Records Officers
- 2 Orderlies
- 2 Attendants
- 1 Casual Daily Paid Worker
- 3 Part-Time Cleaners

During the period under review, the court welcomed Mr Kemoy McEchron and Miss Pamela Blackhall, who acted as senior judicial clerks, in place of Miss Patichia Wint and Miss Angela Grant, both of whom were on vacation leave.

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<sup>4</sup> See the Civil Service Establishment (General Order) 2016.



## Sittings of the court

The Court of Appeal sat for a total of 39 weeks in 2017. There were 12 weeks of sittings in the Hilary Term, 14 weeks in the Easter Term and 13 weeks in the Michaelmas Term. The full list of the weeks of sittings for the year under review may be downloaded from the court's website ([www.courtsofappeal.gov.jm](http://www.courtsofappeal.gov.jm) ).

In each term of 2017 the court generally sat in two divisions in panels of three judges of appeal. In addition to the weekly sittings of the court, a judge of appeal was assigned duties in chambers in each week of term, as well as during legal vacations.

### Hanover Sittings

The court had two sittings in the western region of the island in 2017. The first took place in the Easter Term during the week commencing 9 July 2017. The panel for that sitting was comprised of the Honourable Mr Justice Morrison P, the Honourable Mr Justice Williams JA and the Honourable Miss Justice Williams JA. Of the total of eight matters listed for hearing, four were determined and disposed of, while judgment was reserved in another. That judgment has since been delivered.

The second sitting was held in the Michaelmas Term during the week commencing 4 December 2017. On this occasion, the Honourable Miss Justice Phillips JA presided and she was joined on the panel by the Honourable Mr Justice Brooks JA and the Honourable Mrs Justice McDonald-Bishop JA. At this sitting, a total of nine matters were listed and six were determined and disposed of.

## Work of the court

As it had in previous years, during 2017 the court continued to tackle the perpetually increasing workload. The members of the court faced this daunting task with much determination and commitment, despite their still woefully inadequate numbers.

The court is charged with determining the applications and substantive appeals laid before the respective panels of judges of appeal. A judge of appeal is also assigned to sit in chambers on a weekly basis to hear and consider applications as well as to conduct case management conferences. There are also occasions on which the judge assigned to chambers may in addition be required to sit in court during that week.


Beyond the scheduled weekly cases for determination, each judge of appeal considers:

- ✚ Criminal applications for permission to appeal from convictions and/or sentences passed in the Supreme Court<sup>5</sup>;
- ✚ Procedural applications<sup>6</sup>;
- ✚ Motions/applications for leave to appeal to Her Majesty in Council in keeping with Practice Direction No 1/2016; and
- ✚ Civil appeal files, in matters from the Supreme Court, for the purpose of making case management directions.

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<sup>5</sup> It is to be noted that most criminal matters from the Supreme Court commence as applications for permission to appeal. These applications are laid before single judges of appeal for consideration and determination. This, for obvious reasons, is done once the transcript is received from the Supreme Court. Judges of appeal are required to peruse the sometimes voluminous transcripts and determine whether to grant the applications for permission to appeal.

<sup>6</sup> These include, but are not limited to, applications for stay of execution of judgments or proceedings; for injunctions, pending appeal; for security for costs; and to extend time within which to file records of appeal, skeleton arguments or written chronologies.



We shall endeavour to capture the work of the court through the use of charts and tables as follows:

- i. transcripts referred to single judges of appeal for consideration of criminal applications for leave to appeal (Table A and Chart 1);
- ii. procedural applications and motions for leave to appeal to Her Majesty in Council referred to single judges of appeal for consideration on paper (Table B and Chart 2);
- iii. civil records of appeal referred to single judges of appeal for case management directions (Table C and Chart 3);
- iv. oral hearings conducted in chambers by single judges of appeal (Table D);
- v. disposal of applications and motions (Table E) and appeals (Table F-H, J & K);
- vi. judgment delivery timeline (Table L);
- vii. number of matters disposed (Table M);
- viii. written judgments delivered (Table N);
- ix. outstanding reserved judgments (Table O); and
- x. outstanding reasons for judgment (Table P).

Tables F to I show the number of new appeals filed throughout the period reviewed and the number of appeals that were pending at the close of the period reviewed. And finally, the number of outstanding criminal transcripts and certified civil records of proceedings will be captured in Tables Q and R, as this figure directly affects the final pending figures reported in Table S.

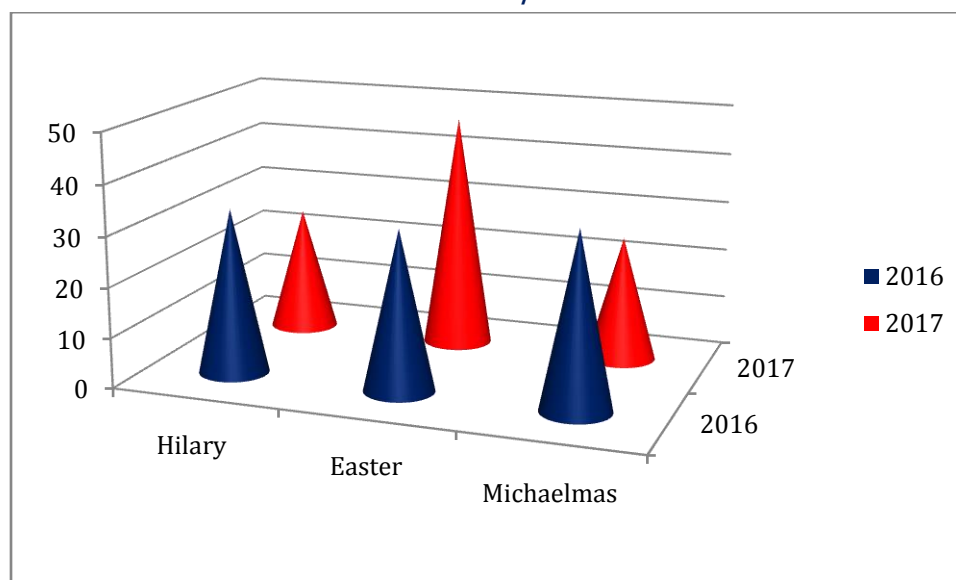
## Criminal transcripts referred to single judges of appeal

The number of criminal transcripts from the Supreme Court referred to single judges each year depends on the number of transcripts received from that court during the year. In some instances a transcript may relate to more than one applicant/appellant.

*Table A - Transcripts referred*

Period	2016	2017	Change
Hilary Term	8	17	+9
Easter Term	19	44	+25
Summer Vacation	1	20	+19
Michaelmas Term	12	28	+16
<b>Total</b>	<b>40</b>	<b>109</b>	<b>+69</b>

*Chart 1- Transcripts Referred*



There was a significant increase of 172.5% in the number of transcripts referred to judges in 2017 over 2016 as seen in Table A and Chart 1.

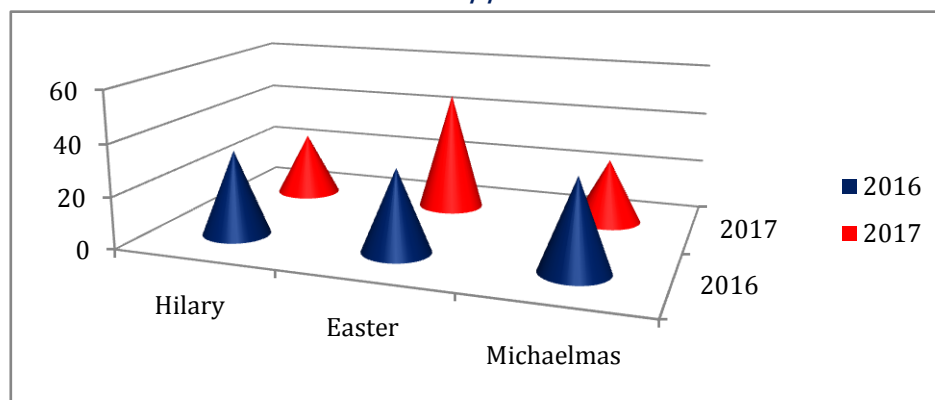
## Applications<sup>7</sup> referred to single judges for consideration on paper

Pursuant to the Court of Appeal Rules 2002 (CAR), procedural applications are, in general, referred to single judges of appeal for consideration on paper. The number of applications referred largely depends on the number of applications filed which fall within the jurisdiction of a single judge of appeal.

*Table B - Number of applications referred*

Period	2016	2017	Change
Hilary Term	19	17	-2
Easter Term	27	38	+11
Summer Vacation	14	14	0
Michaelmas Term	23	18	-5
<b>Total</b>	<b>83</b>	<b>87</b>	<b>+4</b>

*Chart 2 - Number of applications referred*



As seen in Table B and Chart 2, there was a marginal increase of 4.8% in the number of applications referred for consideration on paper.

<sup>7</sup> The Table B and Chart 2 include motions for leave to appeal to Her Majesty in Council considered on paper by single judges of appeal.

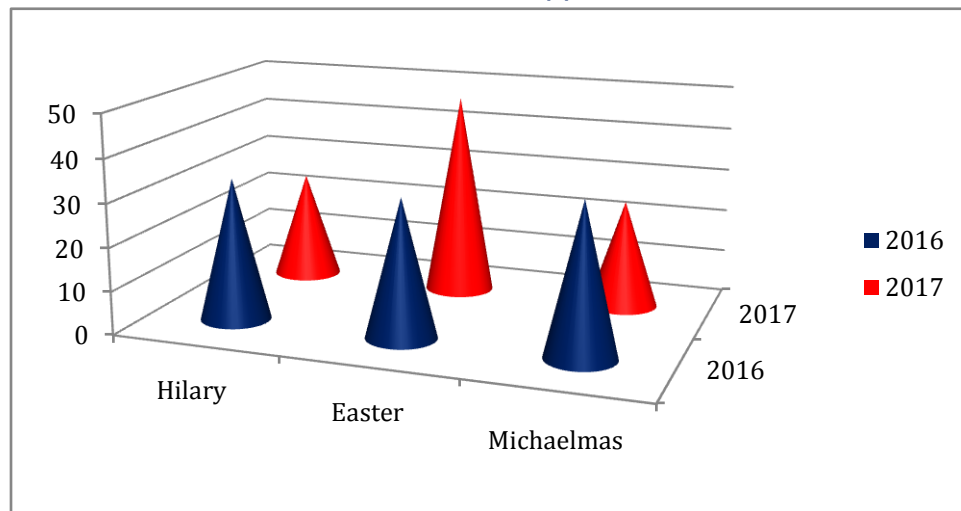
### Records of appeal referred to single judges

The CAR require the referral of civil appeals emanating from the Supreme Court to single judges of appeal for case management directions once records of appeal are filed. The number of matters referred largely depends on the number of certified records of proceedings received from the Supreme Court and the timely filing of records of appeal by appellants.

*Table C – Records of Appeal Referred*

Period	2016	2017	Change
Hilary Term	15	7	-8
Easter Term	3	14	+11
Summer Vacation	5	4	-1
Michaelmas Term	5	7	+2
<b>Total</b>	<b>28</b>	<b>32</b>	<b>+4</b>

*Chart 3 – Records of Appeal Referred*



There was, as seen in Table C and Chart 3, an increase of 14.29% in the number of records referred in 2017.



### Hearings in chambers by single judges

Oral hearings in chambers are usually set on the direction of the single judge of appeal before whom applications on paper were laid or who made case management directions. Some matters, such as bail applications and applications to remove attorneys' names from the record, are directly set for hearing in chambers.

*Table D - Hearings in chambers*

Term	2016	2017	Change
<i>Applications</i>			
Hilary	17	14	-3
Easter	18	27	+9
Michaelmas	17	14	-3
<i>Case Management Conferences</i>			
Hilary	16	11	-5
Easter	14	20	+6
Michaelmas	18	11	-7
<b>Total</b>	<b>100</b>	<b>97</b>	<b>-3</b>

Table D shows that there was a 3% decrease in the number of oral hearings conducted by single judges of appeal in chambers in 2017.

### Disposal of applications and motions by the court

Some applications such as those for fresh evidence; permission to appeal; extension of time within which to file and serve the appeal; and to vary or discharge the order of a single judge, fall within the purview of the court, as do applications referred to court by the single judge of appeal.

Additionally, the court determines motions for leave to appeal to Her Majesty in Council where the appeal is not as of right; motions on referral from a single judge of appeal; or where the applicant is seeking to set aside or vary an order made in relation to the motion by a single judge of appeal.

*Table E – Applications<sup>8</sup> and motions determined by the court*

	2016	2017	Change
Hilary	13	16	+3
Easter	39	27	-9
Michaelmas	36	23	-10
<b>Total</b>	<b>88</b>	<b>66</b>	<b>-16</b>

Table E shows that the number of applications and motions determined by the court decreased by 18.18% in 2017 over the previous year.

<sup>8</sup> This excludes criminal applications for permission to appeal which are dealt with in Tables F, G, H, J and K.



*Table F*

*New and disposed appeals, Hilary Term 2017*

Appeals	Pending at the start of the term	New cases filed	Disposed cases	Pending at the end of the term
Supreme Court				
Civil Appeals	807	34	28	813
Criminal Appeals	606	32	37	601
Miscellaneous Appeals	8	0	1	7
Parish Court				
Civil Appeals	49	3	3	49
Criminal Appeals	98	2	7	93
Miscellaneous Appeals	1	1	0	2
<b>Total</b>	<b>1569</b>	<b>72</b>	<b>76</b>	<b>1565</b>

*Table G*

*New and disposed appeals, Easter Term 2017*

Appeals	Pending at the start of the term	New cases filed	Disposed cases	Pending at the end of the term
Supreme Court				
Civil Appeals	813	49	38	824
Criminal Appeals	601	44	52	593
Miscellaneous Appeals	7	5	2	10
Parish Court				
Civil Appeals	49	11	5	55
Criminal Appeals	93	5	6	92
Miscellaneous Appeals	2	5	2	5
<b>Total</b>	<b>1565</b>	<b>119</b>	<b>105</b>	<b>1579</b>



*Table H*  
*Michaelmas Term 2017*

Appeals	Pending at the start of the term	New cases filed	Disposed cases	Pending at the end of the term
Supreme Court				
Civil Appeals	824	44	35	833
Criminal Appeals	593	29	21	601
Miscellaneous Appeals	10	2	0	12
Parish Court				
Civil Appeals	55	6	8	53
Criminal Appeals	92	0	2	90
Miscellaneous Appeals	5	0	0	5
<b>Total</b>	<b>1579</b>	<b>81</b>	<b>66</b>	<b>1594</b>

*Table I - New appeals*

	2016	2017
Civil	135	147
Criminal	120	112
Miscellaneous	7	13
<b>Total</b>	<b>262</b>	<b>272</b>

*Table J - Disposed appeals*

	2016	2017
Civil	95	117
Criminal	45	125
Miscellaneous	4	5
<b>Total</b>	<b>144</b>	<b>247</b>

## Disposal of appeals by the court

*Table K*

<b>Term</b>	<b>2016</b>	<b>2017</b>	<b>Change</b>
<i>Civil Appeals</i>			
Hilary	22	31	+9
Easter	37	43	+6
Michaelmas	36	43	+7
<i>Criminal Appeals/Applications for Leave to Appeal</i>			
Hilary	17	44	+27
Easter	12	58	+46
Michaelmas	16	23	+7
<i>Miscellaneous</i>			
Hilary	0	1	+1
Easter	3	4	+1
Michaelmas	1	0	-1
<b>Total</b>	<b>144</b>	<b>247</b>	<b>+103</b>

Tables J and K show a significant increase of 71.53% in the number of disposed appeals in 2017.

## Judgment delivery timeline - applications and appeals 2017

*Table L*

Term	Number delivered on day hearing was completed	Number delivered within a week of hearing	Number delivered within 3 months of hearing	Number delivered within 6 months of hearing
Hilary	47	7	3	
Easter	56	15	3	3
Michaelmas	42	16	9	3
<b>Total</b>	<b>145</b>	<b>38</b>	<b>15</b>	<b>6</b>

## Number of matters disposed - applications and appeals 2017

*Table M*

Type of matter	Disposal
Applications/Motions	66
Criminal appeals/applications for Permission to appeal	125
Civil appeals	117
Miscellaneous	5
<b>Total Disposal</b>	<b>313</b>

## Written judgments

Written judgments include judgments delivered in writing at the time of the making of the court's order, oral judgments that are subsequently reduced to writing as well as written reasons for judgments previously delivered.

*Table N - Written judgments*

Term	2016	2017	Change
Civil Appeals			
Hilary	18	7	-11
Easter	26	21	-5
Michaelmas	19	18	-1
Criminal Appeals			
Hilary	11	18	+7
Easter	15	12	-3
Michaelmas	7	7	0
Applications			
Hilary	9	10	+1
Easter	14	11	-3
Summer Vacation	1	2	+1
Michaelmas	12	21	+9
<b>Total</b>	<b>132</b>	<b>127</b>	<b>-5</b>

Table N shows a marginal decrease of 3.7% in the number of written judgments delivered in 2017 over the previous year.

### Outstanding reserved judgments

Table G below shows the number of judgments of the court which have not yet been delivered.

*Table O - Outstanding reserved judgments*

Year Reserved	Number Outstanding 2016	Number Outstanding 2017
2012	1	0
2013	2	1
2014	3	1
2015	10	4
2016	37	24
2017	n/a	31
<b>Total</b>	<b>53</b>	<b>61</b>

### Outstanding reasons for judgment

Table P shows the number of judgments in which the court's decisions have been delivered but the written reasons for those decisions are outstanding.

*Table P - Outstanding reasons for judgment*

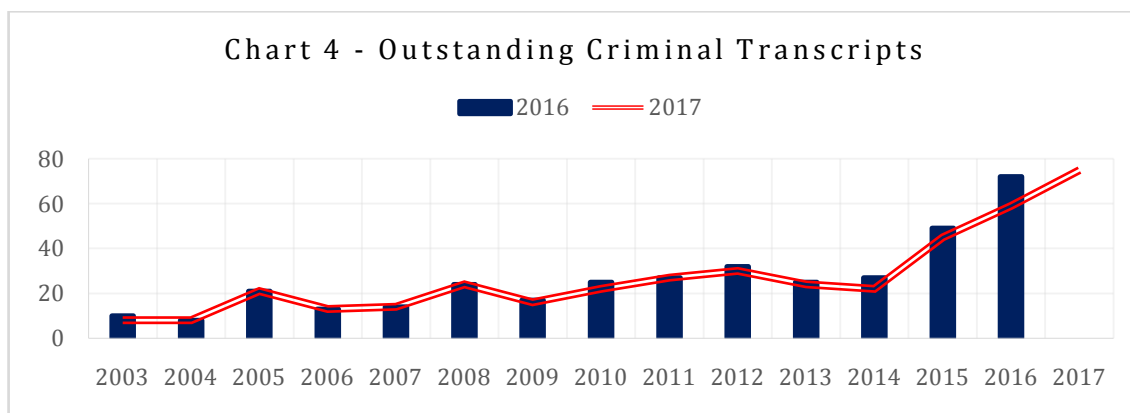
Year	Number Outstanding 2016	Number Outstanding 2017
2013	2	0
2014	2	1
2015	6	1
2016	10	7
2017	n/a	11
<b>Total</b>	<b>20</b>	<b>20</b>



## Outstanding criminal transcripts

Table Q

Year Matter filed	Number Outstanding 2016	Number Outstanding 2017	Change
2000	1	1	0
2001	1	1	0
2002	1	1	0
2004	1	1	0
2005	2	2	0
2006	3	3	0
2007	1	1	0
2008	1	1	0
2009	2	2	0
2010	7	7	0
2011	11	8	-3
2012	24	16	-8
2013	42	27	-15
2014	84	41	-43
2015	90	56	-34
2016	85	69	-16
2017	n/a	87	n/a
<b>Total</b>	<b>356</b>	<b>324</b>	

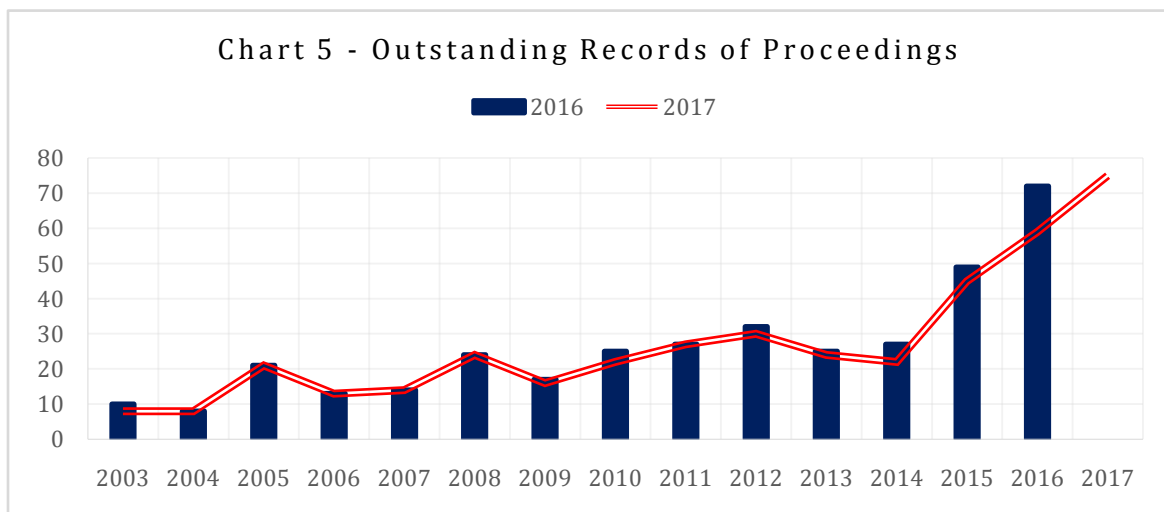


It is noteworthy that the number of outstanding transcripts at the end of 2017 is 8.9% less than at the end of the previous year. Despite this decrease there has been no change in the number of older outstanding transcripts.

## Outstanding civil records of proceedings

Table R

Year Matter filed	Number Outstanding 2016	Number Outstanding 2017	Change
2003	10	10	0
2004	8	8	0
2005	21	21	0
2006	13	13	0
2007	14	14	0
2008	24	24	0
2009	17	16	-1
2010	25	22	-3
2011	27	27	0
2012	32	30	-2
2013	25	24	-1
2014	27	22	-5
2015	49	45	-4
2016	72	59	-13
2017	-	75	-
<b>Total</b>	<b>364</b>	<b>410</b>	



The number of outstanding civil records of proceedings from the Supreme Court has increased by 12.63% over the previous year.

*Table S - Pending appeals*

	2016	2017
Pending at the start of the year	1451	1569
New appeals filed	262	272
Appeals disposed	144	247
<b>Pending at end of the year</b>	<b>1569</b>	<b>1594</b>

The number of pending appeals is 1594 which reflects an increase of 1.59% over the previous year. It must be noted that the number of pending appeals includes those in which 324 criminal transcripts and 410 civil records of proceedings are outstanding. Bearing this in mind, the 'true' pending figure falls to be reduced to 860.



## Practice Notes and Directions

In 2017 the Court of Appeal issued Practice Direction No 1/2017, which took effect on 24 April 2017. This Practice Direction was issued further to Practice Direction No 1/2010, which dealt with the form and citation of unreported Court of Appeal judgments effective 1 February 2010.

The purpose of Practice Direction No 1/2017 is to standardise the citation of all unreported judgments of the court issued before 1 February 2010, in an effort to expedite research and thereby save time and costs.

The court's practice notes and practice directions are available on the court's website ([www.courtsofappeal.gov.jm](http://www.courtsofappeal.gov.jm)).



## News

### A. Expansion of the Court

As reported in the two previous annual reports, the expansion of the court has been long overdue, and the court has been unable to increase the number of judges of appeal and support staff because of the absence of physical space in which to house the additional persons.

The court's planned expansion involved the relocation of the Accountant General's Department, which shared the building with the court and the office of the Director of Public Prosecutions. We can now happily report that in the middle of 2017 the Accountant General's Department vacated the building.

Since the relocation of the Accountant General's Department there have been further positive developments. The President and Registrar had the opportunity of touring the vacated space with the Minister of Justice, ministry officials and the architects. The ministry and the architects have engaged the court in discussions regarding the redesigning of the vacated space. And the President, Judges of Appeal and Registrar have had the opportunity to meet separately with the architects and view the architectural drawings.

All at the court welcome these long-awaited developments as they represent a very significant step towards the court's expansion. It is to be noted that construction has not yet commenced. But, while we anxiously await hearing the hammering of nails, buzzing of drills and other tangible sounds of actual construction, the court is happy to see the flicker of light at the end of what has indeed been a very long tunnel.

Meantime, in anticipation of the expanded facility becoming available during the course of 2018, as has been promised, the court proposes to take active steps to recruit three additional judges of appeal.

#### B. Public Education Day

Under the direction of the office of the Chief Justice, a public education day was held on 15 March 2017 for the Court of Appeal and the Supreme Court. The day commenced with an opening ceremony attended by the Chief Justice, the President of the Court of Appeal, the Minister of Justice, the then opposition spokesman on Justice, Court of Appeal Judges, Puisne Judges, Parish Court Judges, attorneys-at-law, members of staff of both courts, students from a variety of high and primary schools, and the general public.



**From left: The Hon. Mr Justice Morrison, President of the Court of Appeal, the Hon. Mrs Justice McCalla, Chief Justice of Jamaica, the Hon. Mr Delroy Chuck, Minister of Justice and the Hon. Mr Mark Golding, then Senator and Opposition Spokesman on Justice.**



**Members of the judiciary in attendance**



**Booths at the Public Education Day**





**The President and Deputy Registrars Dixon, Fearon and Hill of the Supreme Court**



**The Chief Justice and Miss Paula Lewellyn QC,  
Director of Public Prosecutions, engaging students**



**Miss Justice Phillips JA and Mr James Francis  
at the court's booth**





### C. Opening of Michaelmas Term 2017

On 25 September 2017 the court conducted a ceremony to mark the opening of the Michaelmas Term. The attendees included members of the public and private bar as well as law students. During his remarks the President revealed several initiatives aimed at reducing the inventory of cases while enhancing the administration of justice. One of the main initiatives is an increase in the number of judges of appeal and support staff, which will be facilitated by the planned physical expansion of the court.

The President also announced establishment of a Court Users' Committee on which members of the Bar have been invited to serve. This committee is intended to be an interactive and responsive mechanism through which improvements to the court can be realised.

The issue of outstanding criminal transcripts and civil records of proceedings was raised by the President due to the significant numbers which remain outstanding. The President highlighted the situation with the criminal transcripts in particular, noting that this is a "rights issue" as it can have an impact on the constitutional promise of a fair trial within a reasonable time. He informed the gathering that both the Chief Justice and the Permanent Secretary of the Ministry of Justice were aware of the situation and that he was advised that steps are being taken to address the issue.

The President closed by indicating that the court is "painfully aware that, as a result of limited numbers of judges dealing with an avalanche of cases, there are parties who rightly feel that they wait far too long for judgments. This is acknowledged with apologies". He gave the assurance that the court is working assiduously to address this issue.

#### D. Court Users Committee


The inaugural meeting of this committee took place on 1 November 2017. At this meeting representatives of the Attorney General's Chambers, the office of the Director of Public Prosecutions and the Jamaican Bar Association were in attendance. Representatives from the Cornwall Bar Association, the Northern Jamaica Law Society, the Advocates Association and the Southern Bar Association, were unable to attend. At the meeting a decision was taken to extend the membership of the committee to include a representative from the Ministry of Justice. The invitation to the Ministry, through the Permanent Secretary, was subsequently extended.

#### E. Launch of the Judicial Education Institute

On 20 October 2017 the Judicial Education Institute was launched at a ceremony held at the Jamaica Pegasus Hotel. The occasion marked a significant accomplishment for the Chief Justice and the judiciary of Jamaica. Both the President and the Honourable Mr Justice Brooks JA participated in the ceremony, which other judges of appeal also attended.



**The Hon. Mr Justice Brooks JA at the podium performing his duties as master of ceremony for the afternoon.**



#### F. National Awards

The court was pleased with the announcement and subsequent award of national honours to three of Jamaica's distinguished jurists, two of whom were sitting on the Court of Appeal bench at the time of the award. The judges were each awarded the Order of Distinction in the rank of Commander. These judges are the Honourable Mrs Justice Marva McDonald-Bishop JA, the Honourable Miss Justice Jennifer Straw JA (Ag), and the Honourable Mr Justice Brian Sykes.

#### G. Court of Appeal Seminar on Judgment Writing

The Court of Appeal conducted a seminar on judgment writing on 23-25 November 2018. The seminar was facilitated by Mr Justice John Laskin of the Court of Appeal of Ontario, Canada. In addition to being a senior judge of appeal in that jurisdiction, Mr Justice Laskin is a well known and much sought after judicial trainer.

The immediate objective of the seminar was to expose members of the court, together with a few Puisne Judges nominated by the Honourable Chief Justice, to modern judgment-writing techniques. All who participated considered it to be a highly beneficial exercise and we were very grateful to Mr Justice Laskin for the enlightening time he spent with us. Ultimately, it is hoped that this training will enure to the benefit of the court, both as regards the quality and consistency of its output, as well as in promoting greater expedition in judgment production.



**Opening remarks at the seminar**



**Judges in attendance at the seminar**



#### H. Other Activities/Outreach

The other notable activities in which the court engaged during the year in review are:

- ❖ The Honourable Mr Justice Morrison P sat on the National Crime Council and the Judicial Services Commission, and chaired the Criminal Case Management Steering Committee, the Sentencing Guidelines Committee, the Supreme Court Library Committee and the General Legal Council's Continuing Legal Professional Development Committee.
- ❖ The Honourable Mr Justice Morrison P and the Honourable Miss Justice Phillips JA sat on the Rules Committee.
- ❖ The Honourable Mr Justice Brooks JA sat on the General Legal Council.
- ❖ The Honourable Mr Justice Morrison P, the Honourable Miss Justice Phillips JA, the Honourable Mrs Justice McDonald-Bishop JA and the Honourable Mrs Justice Sinclair-Haynes JA served as Associate Tutors at the Norman Manley Law School.

#### I. IACA/NACM Seminar

The court takes this opportunity to publicly acknowledge the generosity of the Embassy of the United States of America in Kingston and the United States Department of State's Bureau of International Narcotics and Law Enforcement Affairs for sponsoring the attendance of the Registrar at the Joint Educational Conference of the National Association for Court Management (NACM) and the International Association for Court Administration (IACA). Under the heading *Excellence on a Global*

*Scale*, the seminar was held from 9-13 July 2017 in Arlington, Virginia, United States of America.

J. Visits from the stork and wedding bells

There were two beautiful additions to the Court of Appeal family in 2017. Miss Shakira Dempster welcomed her daughter Amia Grace in April and Mrs Verna McGaw welcomed her granddaughter Hailey in November. The court congratulates both on their wonderful bundles of joy. The court also extends congratulations to Miss Patichia Wint, now Mrs Lopez, on her wedding in the summer of 2017.

K. Games Evening

On 27 October 2017 marked the occasion of the inaugural games evening at the Court of Appeal. There were games galore, food, drink and loads of fun. Indeed, a good time was had by all.



**The games evening commenced with prayer**





**Deep concentration**



**Smiling faces**



**Ludi anyone?**



**What is so interesting?**



**Games galore**

#### L. Annual Christmas Luncheon

On 20 December 2017 the court held its annual Christmas luncheon. The court was pleased to welcome in its midst the Honourable Mrs Justice Zaila McCalla, Chief Justice; the Honourable Mr Justice Paul Harrison and the Honourable Mr Justice Seymour Panton, retired Presidents, as well as retired judges of appeal, the Honourable Mr Justice Clarence Walker, the Honourable Mr Justice Howard Cooke and the Honourable Mr Justice Algernon Smith. A wonderful time was had by all.



**The President and the Chief Justice**





**Attendees at the luncheon**



## Challenges

In 2017 the Court of Appeal faced well-known challenges, namely:-

A. Limited number of judges

As indicated earlier in this report, initial steps have been taken towards effecting the much needed and long awaited expansion of the court. Until that happens, the court continues, as it did in 2017, with its limited number of judges of appeal. The hope, expressed in the previous report, that the court will soon be put in a position to increase its numbers, is hereby renewed.

B. Delay in receipt of criminal transcripts and civil records of proceedings

In order for criminal appeals and applications for leave to appeal in matters from the Supreme Court to proceed, this court must first obtain the transcript from that court. Likewise in most civil appeals from the Supreme Court, the records of proceedings must first be obtained. As seen in Tables Q and R, there were 324 criminal transcripts and 410 civil records of proceedings outstanding from the Supreme Court.

The situation with Parish Court appeals is as concerning. These appeals are required by the governing Act<sup>9</sup> to be filed in the respective Parish Courts. This court is generally unaware of appeals from Parish Courts until the particular court forwards the record of proceedings. There is usually an unfortunately lengthy delay between the date of the appeal and the submission of the record of proceedings by the Parish Court to this court.

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<sup>9</sup> The Judicature (Parish Court) Act, formerly known as the Judicature (Resident Magistrates) Act



### C. Storage space

Given the physical confines of the court, storage space continued to be a major problem in 2017. Members of the registry staff renewed the project to create additional space by boxing older court files, some of which date back to the 1960s. This project is expected to be completed in the Hilary Term 2018.



## Looking ahead

As the court looks ahead, it does so with renewed hope and determination. Ever cognisant of the areas in which improvement is needed, the court is committed to do all it can to improve its delivery of justice.

While it awaits the expansion of both its physical space and number of members, the court has identified and will implement certain measures to tackle the increasing workload and address the critically important issue of outstanding judgments. Such measures include identifying temporary office space and appointing three additional judges of appeal; scheduling increased time out of court for judges of appeal to facilitate judgment writing; and redoubling our efforts to deliver oral judgments in appropriate cases. Additionally, the court will endeavour to work closely with the Chief Justice and the relevant officers of the Supreme and Parish Courts, as well as the Ministry of Justice, to tackle the problem of long delays in the production of transcripts and records of proceedings.

Through the medium of the Court Users Committee, the court will also continue to engage in wider dialogue with the legal profession and stakeholders within the justice system, sharing ideas and information on matters concerning the court and users of the court, and identifying ways in which to improve our output.

With these and other initiatives the court expects to be able to report in the coming years significant improvements which redound to the benefit of its users as it seeks to ensure the timely delivery of a high standard of justice for all.