

Chapter 4

2002/03 Operational Overview

The Criminal Courts

Backlog Reduction Initiative

The Backlog Reduction Initiative is a joint project between CSD, the Criminal Law Division and the judiciary of the Ontario Court of Justice. This initiative directs dedicated resources towards reducing the backlog of criminal cases in particular courts in the Greater Toronto Area. Each court involved in the initiative receives additional Crown attorneys and judges, with accompanying court support staff, for up to six-months. In 2002/03, backlog reduction resources were directed towards Brampton, North York, Oshawa and Scarborough. Resources will be directed towards Newmarket, Ottawa and Brampton in 2003/04.

Youth Criminal Justice Act

The *Youth Criminal Justice Act* (Bill C-7), proclaimed on April 1, 2003, created significant changes in the youth justice system. The Act emphasizes the rehabilitation of young offenders within the community, expands the criteria to be considered at bail hearings, introduces new types of sentences and transforms the procedure for seeking an adult sentence.

POA Transfer

The *Provincial Offences Act* (POA) governs non-*Criminal Code* offences, such as parking, traffic and liquor licence violations and offences under the *Ontario Health and Safety Act* and the *Environmental Act*. The POA Transfer Project transferred to municipalities the responsibility for administering all,

and prosecuting selected, POA offences. The province retained responsibility for the quality of the justice system as a whole and continues to prosecute serious POA offences.

The POA Transfer Project was completed on February 25, 2002. The streamlined system provides municipalities with revenues from POA fines, gives municipalities authority over matters that have local community impact and allows the province to focus its resources on more serious criminal matters.

Justice Summit: Criminal Backlog Initiative

The Deputy Attorney General and the Chief Justices of the Superior and Ontario Courts of Justice co-hosted a Justice Summit in early 2002 to address growing backlogs in criminal and child protection cases. The meeting included representatives from the judiciary, the bar, the Ministry of the Attorney General, the Office of the Children's Lawyer, Legal Aid Ontario, Children's Aid Societies and the Ministry of Community, Family and Children's Services. As a result of this meeting, committees were established to investigate bail and remand issues and to address possible criminal case scheduling improvements.

The Summit reconvened in February 2003. The Committee on Bail and Remand Issues reported on its initiatives and was directed to develop implementation plans. The work of the Criminal Case Scheduling Committee is underway.

The Civil Courts

Civil Justice Reform Strategy

Case management and mandatory mediation are two components of the Ministry's civil justice reform strategy to reduce unnecessary delay and cost in the civil justice system.

Civil Case Management

Under case management, the court supervises the progress of cases to promote timely resolution. Timelines for the occurrence of key litigation events are set out in Rule 77 of the *Rules of Civil Procedure*. Case management under Rule 77 has been in place in Ottawa and Toronto since 1997. In July 2001, case management in Toronto expanded from 25% to 100%. In Windsor, case management has been in place under a different rule since 1990. Rule 77 came into effect in Windsor in December 2002.

Mandatory Mediation

Established under Rule 24.1 of the *Rules of Civil Procedure*, Ontario's Mandatory Mediation Program is designed to help litigants settle their cases early in the litigation process, thereby saving litigants time and expense. Under Rule 24.1, participants in most civil, case-managed, non-family cases are referred to a mediation session within 90 days after the first statement of defence is filed.

Mandatory mediation was introduced in 1999 as a pilot project in Toronto and Ottawa. It became permanent in July 2001, after a two-year independent evaluation confirmed the positive impact of mediation on the speed, cost and outcome of civil litigation. As of January 2003, mandatory mediation has resulted in a full and partial settlement rate of 50%, exceeding the Ministry's target of 40%. The program came into effect in Windsor in December 2002.

Changes to the Civil Rules

The Civil Rules Committee is a statutory committee composed of representatives from the judiciary, the bar and the Ministry of the Attorney General. The Committee has the jurisdiction to make rules regarding procedure in all civil proceedings in the Court of

Appeal and the Superior Court of Justice. In 2002/03, the Civil Rules Committee approved changes to expand case management and mandatory mediation to Essex County (Windsor), to expand the range of motions which a registrar may hear, to clarify provisions regarding costs and to reduce the number of documents that must be filed in an appeal.

Simplified Procedure Rule

The *Simplified Procedure Rule* (Rule 76 of the *Rules of Civil Procedure*) is designed to address the problems of cost and delay for civil cases involving relatively smaller claims. The streamlined procedure reduces the number of pre-trial procedures, uses mandatory timelines and eliminates oral and written examinations for discovery. The *Simplified Procedure Rule* was introduced in March 1996 as a pilot project for cases up to \$25,000. Following a positive evaluation, it was made permanent in January 2001. The monetary limit was increased to \$50,000 in January 2002.

Small Claims Court

As of April 2, 2001, the monetary jurisdiction of Small Claims Court was increased from \$6,000 to \$10,000. The new jurisdiction is consistent with both British Columbia and Nova Scotia. The Ministry continues to monitor the impact of the jurisdictional increase. Ministry representatives also participated on the Small Claims Court Rules Subcommittee of the Civil Rules Committee. The Subcommittee is engaged in a review of the Small Claims Court Rules, including consideration of province-wide mandatory settlement conferences and automatic dismissal timelines.

Discovery Reform

The Government of Ontario and the Superior Court of Justice appointed a task force to review the effectiveness of Ontario's discovery process, identify problems and make recommendations for reform. In carrying out its mandate, the task force has consulted with representatives of the judiciary and the bar across the province, gathered quantitative and qualitative data and reviewed approaches to the discovery process in jurisdictions outside Ontario. The task force is expected to submit a final report by spring 2003.

The Family Courts

Family Mediation Services

Family Mediation Services provides voluntary mediation of issues arising on family breakdown. Family mediation results for 2002/03 show a 78% settlement rate, with 62% full agreement and 16% partial agreement. New mediation contracts were entered into with family mediation and information service providers.

Client Satisfaction With Services

Client Satisfaction Surveys for 2002/03 indicate a 99% satisfaction rate with Family Mediation Services, a 98% satisfaction rate with Family Law Information Centres and a 100% satisfaction rate with Parent Information Sessions.

Justice Summit: Child Protection Backlog Initiative

In addition to addressing criminal court backlogs, the 2002 Justice Summit was convened to address growing backlogs in child protection cases in Ontario. Co-hosted by the Deputy Attorney General and the Chief Justices of the Superior and Ontario Courts of Justice, the meeting included representatives from the judiciary, the bar, the Ministry of the Attorney General, the Office of the Children's Lawyer, Legal Aid Ontario, Children's Aid Societies and the Ministry of Community, Family and Children's Services. Working groups were established and reported on child protection issues and best practices and enhanced technology for managing child protection cases.

The Summit reconvened in February 2003, at which time these working groups reported on their initiatives and were directed to develop implementation plans.

Changes to the Family Rules

The Family Rules Committee is a statutory committee composed of representatives of the judiciary, the bar and the Ministry of the Attorney General, with jurisdiction to make rules regarding procedure in Ontario's family courts. In 2002/03, the Family Rules Committee approved changes to reduce delay in processing child protection cases, to introduce less complicated financial statement forms, to clarify processing of adoption cases and to implement the *Interjurisdictional Support Orders Act*.

Amendments to the *Divorce Act*

In December 2002, the federal government introduced amendments to the *Divorce Act* to remove the terms custody and access. CSD will participate in the federal/provincial/territorial implementation of these changes, once they are passed by the federal parliament. Ontario is also considering whether similar amendments should be made to the *Family Law Act*.

Potential Expansion of the Family Court Branch

In 2002, the federal government announced 62 new judicial appointments to unified family courts across Canada. CSD is working with the judiciary and the federal government to consider further expansion of the Family Court Branch of the Superior Court of Justice to new locations in Ontario.



Photos: Judicial Dais, Ontario Court of Justice, Old City Hall, Toronto; Judicial Dais, Superior Court of Justice, Thunder Bay