

Chapter 4

2003/04 Operational Overview

The Criminal Courts

The Justice Delay Reduction Initiative

The Justice Delay Reduction Initiative (JDRI) is a joint initiative between CSD, the Criminal Law Division and the Victim Services Secretariat, working with the judiciary, Legal Aid Ontario, and Policing and Correctional Services. The initiative addresses criminal justice delay in the ten most critically backlogged sites in Ontario. During 2003/04, 14 new judges were appointed, and over 140 new court staff were hired, along with additional prosecutors and victim support workers. Funding was also increased for Legal Aid and duty counsel at these sites. This long-term infusion of additional resources means that the Backlog Reduction Initiative Teams (discussed below) can be diverted to other sites where backlog is also a problem.

The Division also undertook an intensive review of administrative best practices at the ten JDRI sites, to ensure that court administrative processes are consistent, efficient and effective. Over the coming year, these changes will be monitored to assess their impact on the Division's operations and on the backlog of criminal cases.

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. Each court involved in the initiative receives additional Crown attorneys and judges, with accompanying court support staff, for up to six months. In 2003/04, resources were directed towards Newmarket, Ottawa and Brampton. Target sites for 2004/05 may include North York, Brampton, Barrie, Milton and Ottawa.

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.

Justice Summit

The Deputy Attorney General and the Chief Justices of the Superior and Ontario Courts of Justice co-hosted the first 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 (now known as the Ministry of Children and Youth 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 Summit will reconvene in September 2004 to consider the recommendations of the committees.

“The Justice Summit, in particular, has proven to be instrumental in identifying best practices and in enabling all of the participants to work together towards resolving common problems.”

Chief Justice Lennox, Opening of Courts Speech, January 2004

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 January 2003, Windsor implemented civil case management under Rule 77. Although civil case management has been in place in Windsor under a different rule since 1990, by implementing Rule 77, Windsor now follows the same rule for case management as Toronto and Ottawa.

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 them 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 became permanent in Toronto and Ottawa in July 2001, after a two-year independent evaluation confirmed the positive impact of mediation on the speed, cost and outcome of civil litigation. The program came into effect in Windsor in December 2002. As of January 2004, mandatory mediation has resulted in a full and partial settlement rate of 49 percent, exceeding the Ministry's target of 40 percent.

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

procedures in all civil proceedings in the Court of Appeal and the Superior Court of Justice. In 2003/04, the Committee introduced provisions prescribing the venue of civil actions.

Small Claims Court

As of April 2, 2001, the monetary jurisdiction of the Small Claims Court was increased from \$6,000 to \$10,000. This is comparable with the monetary jurisdiction of small claims courts in British Columbia, P.E.I., Manitoba, and Quebec, which range from \$7,000 to \$10,000. The Ministry continues to monitor the impact of the jurisdictional increase.

In 2003/04, Ministry representatives also participated on the Small Claims Court Rules Subcommittee of the Civil Rules Committee. The Subcommittee completed its review of the *Small Claims Court Rules*, including a consideration of province-wide mandatory settlement conferences and automatic dismissal timelines. The Subcommittee released a consultation paper and draft rules in October 2003. It is anticipated that the Subcommittee will submit its final proposal to the Civil Rules Committee for approval in 2004 and that the new rules will come into effect in 2005.

Discovery Reform

The Government of Ontario and the Superior Court of Justice appointed a task force in 2001 to review the effectiveness of Ontario's discovery process, identify problems and make recommendations for reform. The task force 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 submitted its report in November 2003. The report recommends incorporating enhanced cost and time saving mechanisms into the *Rules of Civil Procedure* and developing and disseminating a best practices manual containing practical guidelines on the conduct of discovery. The Ministry is now working with members of the judiciary and bar to implement these recommendations.

The Family Courts

Family Court Services

Family Mediation Services: Family mediation services are an integral part of the 17 Family Courts. These services provide voluntary mediation of issues arising on family breakdown including custody, access, support and property division. 79 percent of the 2,560 mediated cases in 2003/04 reached settlement, with 64 percent full agreement and 15 percent partial agreement.

Parent Information Sessions: Voluntary parent information sessions are available at Family Court locations. These sessions educate parents about the effects of separation and divorce on children.

Family Law Information Centres: Family Law Information Centres exist in most court sites. They provide free information, publications, videos and other resource materials on issues related to separation, divorce and other family matters.

Client Satisfaction With Services

Client satisfaction surveys for 2003/04 indicate a 99.7 percent satisfaction rate with family mediation services, a 100 percent satisfaction rate with parent information sessions and a 96.6 percent satisfaction rate with Family Law Information Centres.

Justice Summit: Child Protection Backlog Initiative

The Justice Summit was convened to address growing backlogs in child protection cases in Ontario. In 2002 and 2003, Justice Summits have been co-hosted by the Deputy Attorney General and the Chief Justices of the Superior and Ontario Courts of Justice, to address delay in criminal and child protection cases. The Summits 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 (now known as the Ministry of Children and Youth Services).

The Child Protection Backlog Steering Committee was formed during the 2002 Justice Summit to identify issues and develop recommendations to address delays in child protection cases. The Steering Committee includes three working groups: best practices, northern issues and data and information technology.

At the 2003 Justice Summit, the Steering Committee reported on their initiatives and were directed to develop implementation plans. To implement some of the best practice recommendations, two new working groups were created for child protection mediation and education. The Steering Committee will report back to the 2004 Justice Summit, scheduled for September 21, 2004.

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 2003/04, the Committee approved the application of the *Family Law Rules* to family law cases in the Superior Court of Justice. As a result, all trial-level family courts in Ontario will follow the same rules as of July 1, 2004.

Family Law Information Centres

By July 1, 2004, CSD plans to have expanded Family Law Information Centres to additional sites in Ontario, to coincide with the expansion of the *Family Law Rules* to the Superior Court of Justice. The majority of the new sites are located in the northern regions.

Potential Expansion of the Family Court Branch

In 2002, the federal government announced 62 new judicial appointments to 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.