

Chapter 3

2004/05 Operational Overview

The Criminal Courts

Backlog Reduction

To address delay in the most critically backlogged sites in Ontario, CSD, the Criminal Law Division, the Ontario Victim Services Secretariat, the judiciary, Legal Aid Ontario, the Police and Correctional Services began implementing the Justice Delay Reduction Initiative (JDRI) in 2003.

In 2004/05, CSD completed the hiring of over 116 new full-time court staff to support the 15 new Ontario Court of Justice judicial appointments created under the project. The Division continued an intensive review of administrative practices at the 10 JDRI sites, to ensure that criminal court administrative processes are consistent, efficient and effective. Best practices have been implemented and their impact is being closely monitored.

Blitz Courts

CSD also works with the Criminal Law Division and the judiciary to establish blitz courts across the province to reduce the backlog of criminal cases in the Ontario Court of Justice. Each participating court receives additional Crown attorneys and judges for up to six months. In 2004/05, improvements were seen in Barrie, Halton, Peterborough, Coburg, Lindsay and Brampton. Additional sites for 2005 may include North York, Scarborough and Ottawa.

Best Practices in Criminal Courts

In 2004/05, CSD focused on best practices in criminal courts. This issue was central to the Divisional Learning Event in May 2004, attended by court managers and senior staff from across the province. Speakers included Associate Chief Justice Wake, Deputy Attorney General Murray Segal and John McMahon, then the Assistant Deputy Attorney General for Criminal Law.

Criminal Case Management Protocol

A Criminal Case Management Protocol was approved by the 2004 Justice Summit and is now in the process of implementation. The protocol is a compendium of best practices intended "to promote efficient movement of cases through the court while preserving and promoting the rights of all persons charged with criminal offences to due process in a timely manner." (For more information on the Justice Summit, see page 20.)

Electronic Warrants

The Division is working collaboratively with the Court on the development of a proposal for a new electronic warrant process. This process could expedite access to a justice of the peace for search warrant purposes and would remove many of the cumbersome aspects of the current fax-based telewarrant process.

Justice of the Peace Reform

The Division is currently reviewing the appointment process for Justices of the Peace, to ensure that the best candidates with the best qualifications are appointed in a fair and transparent manner.

Training and Support for Criminal Court Staff

CSD continually develops staff support materials in response to new legislation and legislative amendments. In 2004/05, the Division prepared instructional materials for court staff in response to the new *Sex Offender Information Registration Act* and *Criminal Code* amendments regarding preliminary inquiries. The Division is also finalizing revised administrative procedure manuals for criminal court staff, which will be posted in 2005 on the Divisional Intranet site.

The Civil Courts

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 jurisdiction to make rules regarding procedures in all civil proceedings. In 2004/05, the Committee introduced a new venue rule prescribing where proceedings and interlocutory motions are heard and made Rule 75.1 permanent prescribing a system of mandatory mediation for estates, trusts and substitute decisions cases in Toronto and Ottawa.

Civil Case Management

Also in 2004/05, the Civil Rules Committee introduced Rule 78 governing civil case management in Toronto. Under case management, the court supervises the progress of cases to promote timely resolution.

Case management under Rule 77 has been in place in Ottawa and Toronto since 1997, and in Windsor since 2003. As of December 31, 2004, Toronto cases are now subject to the new Rule 78, under which case management procedures have been modified as follows:

- New mediation session timelines have been set. In general, mediation must occur within 90 days once the case is set down for trial.
- Case conferences can only occur in limited situations.
- The registrar will not automatically schedule a settlement conference. Parties must file a trial record to set the matter for trial.
- New processes for status notices and hearings have been developed.

Mandatory Mediation

Ontario's Mandatory Mediation Program is designed to help litigants settle their cases early in the litigation process, thereby saving them time and expense. As of January 2005, mandatory mediation has resulted in a full and partial settlement rate of 49 percent, exceeding the Ministry's target of 40 percent.

Small Claims Court

In 2004/05, the Small Claims Court Rules Subcommittee of the Civil Rules Committee completed its review of the *Small Claims Court Rules*. The Subcommittee also considered province-wide mandatory settlement conferences and automatic dismissal timelines. It is anticipated that the Subcommittee will submit its final proposal for new *Small Claims Court Rules* to the Civil Rules Committee in 2005 and that the new rules will come into effect in 2006.

National Conference on Civil Justice Reform

In May 2006, the Canadian Forum on Civil Justice will be hosting a national conference in Montreal titled *Into The Future: The Agenda for Civil Justice Reform*. The conference will provide a national update on civil justice reform initiatives, an opportunity to evaluate these initiatives and forums for discussing potential new reforms and barriers to change. Debra Paulseth, Assistant Deputy Attorney General, Court Services Division, is Chair of the Conference Committee and the Division is working to develop the conference program.



Photo: Ontario and Superior Court of Justice, Ottawa

The Family Courts

Expansion of the *Family Law 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 2004/05, the Committee supported the expansion of the *Family Law Rules* to all family law cases in the Superior Court of Justice. The expansion of the rules took effect on July 1, 2004, and has resulted in a single set of court rules for all trial level courts that hear family cases. The rules promote a consistent approach to family law cases across the province.

In order to implement the new rules, CSD developed instructional materials and delivered training sessions to court staff across the province. Divisional staff also developed educational materials, participated in province-wide training programs for the bar and law clerks and created user-friendly guides for members of the public involved in family disputes.

Expansion of Family Law Information Centres

Family Law Information Centres provide free public information, publications, videos and other resource materials on issues related to separation, divorce and other family matters. In 2004, CSD expanded the Centres province-wide to coincide with the expansion of the *Family Law Rules*. The majority of new sites are located in the northern regions.

Family Court Judicial Leadership

At the end of 2004, the Honourable Madam Justice Mary Lou Benotto resigned from her positions as Senior Judge of the Family Court and chair of the Family Rules Committee. Justice Benotto's strong and effective leadership and clear vision for the Family Court will be missed. The Honourable Mr. Justice David Aston has been appointed as Senior Judge of the Family Court, and the Honourable Madam Justice Janet Simmons of the Ontario Court of Appeal has been appointed as the chair of the Family Rules Committee.

Client Satisfaction with Services

Client satisfaction surveys for 2004/05 indicate a 99.75 percent satisfaction rate with family mediation services, a 100 percent satisfaction rate with parent information sessions and a 98.75 percent satisfaction rate with Family Law Information Centres.

Child Protection Backlog Steering Committee

The Child Protection Backlog Steering Committee was formed following the 2002 Justice Summit to address delays in child protection cases. (For more information on the Justice Summit, see page 20.)

In 2004/05, the Child Protection Backlog Steering Committee's Northern Issues Working Group completed its report on child protection issues in satellite and remote courts in Northern Ontario. Implementation of the recommendations, including increased use of video conferencing, is underway.

The Steering Committee also created two new working groups on child protection mediation and education. The Child Protection Mediation Working Group conducted research and prepared recommendations on the use of mediation in child protection cases to divert cases from the courts. The Education Working Group organized two conferences in spring 2004 on child protection issues for parents' counsel through the Law Society of Upper Canada. The conferences were held in Toronto to an audience of over 300 each, and were available province-wide through an interactive learning network. In the fall of 2004, the Education Working Group also held joint training sessions on child protection for Legal Aid Ontario supervisory duty counsel, Office of the Children's Lawyer panel lawyers and counsel from children's aid societies.

In September 2004, the Steering Committee was renamed the Family Courts Steering Committee and began focusing its efforts on the issue of assessments under section 54 of the *Child and Family Services Act*. An Assessments Working Group is being established to identify issues and develop recommendations on measures to reduce delay.