

COURT OF APPEAL, JAMAICA ANNUAL REPORT 2016



Prepared by
The Court of Appeal, Jamaica
Public Building West
King Street
Kingston, Jamaica
Tel: (876) 665-3530
Fax: (876) 967-1843
Email: registry@courtofappeal.gov.jm
Website: www.courtofappeal.gov.jm



The Hon Mr Justice C. Dennis Morrison, OJ, CD

The President's Message

It gives me great pleasure to write a message for the Court of Appeal's Annual Report for 2016. In common with the entire justice sector, 2016 was a challenging year for all of us at the Court of Appeal, as, in exceptionally difficult circumstances, we redoubled our efforts to manage efficiently the twin pressures of getting the work done and satisfying the reasonable expectations of the public.

But we survived, principally due to the exemplary dedication to duty and extraordinary work ethic of the judges of the court and of members of staff at all levels. I wish in particular to pay special tribute to the Registrar, Mrs Stacie-Anne Brown, and her hard-working staff, for all that they continue to do for and in the name of the court. For, despite the higher profile that the judges will inevitably enjoy in any court, it is the registry which functions as its effective engine room, the true source of its power and momentum. Registrar Brown, herself an exceptional public servant, has brought together and manages a tightly knit team, the members of which give of their best unfailingly in generally unwelcoming surroundings. In addition to everything else that they do for the court, this year's Annual Report has principally been the work of Registrar Brown and her staff and we are in their debt.

As regards judicial personnel, 2016 was a year of renewal and consolidation. With the appointment of the Honourable Mr Justice Frank Williams in March 2016 and the Honourable Miss Justice Paulette Williams in September 2016, the court's full complement of seven judges, including the President, was filled by permanent appointees for the first time in over a year. However, with a judge going on vacation leave in each of the last two terms of the year, we were greatly assisted by the Honourable Miss Justice Carol Edwards, who acted as a

judge of appeal for the Easter and Michaelmas terms. We are very grateful to her for her diligence and commitment during that period.

The collation and presentation of the statistics deployed in pages 13-24 of this year's report were greatly facilitated by the work done the previous year with the Registrar and her staff by Dr Denarto Dennis, the statistician attached to the Supreme Court. We continue to enjoy the good fortune of Dr Dennis' interest in the work of the court and we are as grateful to him as we are to the Honourable Chief Justice for affording us access to his expertise.

But our debt to the Chief Justice naturally goes much deeper than that and I cannot thank her enough for her help and unfailing support to me personally, as well as her sustained interest in the work of the court throughout the year. In her own sphere of direct responsibility, the Supreme Court, the Chief Justice does a tough and often thankless job in very difficult circumstances. In that enterprise, as I know she must know, the Chief Justice has and can continue to count on my full support, as well as that of all of us at the Court of Appeal.

As might be expected, we owe many other debts of gratitude to a great number of persons and organisations for all their help during the year and any attempt to mention them all will no doubt attract the risk of omission. But I think they know themselves, among them, the Executive Secretaries to the judges and the judicial clerks; those who have cheerfully seen to the recurrent task of fixing our various technology issues from time to time; those who have been responsible for the maintenance of the court's facilities; the police officers assigned to the judges of the court and to the court itself; the staff of Court Management Services (or, as it is now to be known, the Court Administration Division); the Embassy of the United States of America, whose generous assistance is acknowledged elsewhere in this report; and many, many others far too numerous to mention.

Nobody at any level now challenges the assertion that the work which the court is asked to do cannot possibly be managed by its existing complement of seven

judges. The genesis and growth of the problem was rehearsed in detail in my contribution to the 2015 Annual Report. And now, the numbers also speak for themselves: Table M shows that a total of 262 new appeals were filed in 2016, while Table N shows that a total of 144 appeals were disposed of during the year. The 2015 statistics describe a similar experience (249 appeals filed, 186 disposed of). While there is of course no necessary coincidence between appeals filed in a particular year and those disposed of in that year, the same or similar pattern replicated year on year must inevitably result in an ever-increasing backlog of outstanding appeals¹. And this is precisely what Table P, which shows a substantial increase in pending appeals at the end of 2016 over the 2015 figure, demonstrates. Other indicia, such as the number of outstanding reserved judgments and reasons for judgment (Tables F and G) tell another, perhaps even more distressing, part of the same story. In the face of all of this, I cannot but pay tribute, again, to my fellow judges for their sustained effort to be the best that they can be in daunting circumstances.

As is well known, the court's constituent statute was amended in 2008 to provide for the appointment of up to 12 additional judges. Equally well known is the fact that, in the nearly 10 years since that amendment was passed, the promised increase in the number of judges has not taken place, because there has been no space in which to accommodate them. Writing in last year's report, I spoke of "my fervent hope that 2016 will be the year in which we will see a fulfilment of the promises which have consistently been repeated and renewed since 2008". In fact, despite further promises, it did not come to pass. But we continue to look forward. Perhaps 2017 will be the year.

C. Dennis Morrison
President of the Court of Appeal

28 February 2017

¹ Although, as Tables Q and R demonstrate, the 'backlog' figure is significantly distorted by the large number of outstanding transcripts and records of proceedings in criminal and civil cases respectively, which account for close to 50% of the total number of pending appeals. The Chief Justice is aware of the magnitude of the problem and we are assured that steps are being taken to ameliorate it.

Contents

The President's Message	1-3
Contents Page	4
Judges of the court	5-6
Court staff	7-8
Sittings of the court	9
Work of the court.....	10-24
Practice Notes and Practice Directions	25
Court News.....	26-30
Challenges.....	31-32

Judges of the court

Composition

Nine years ago, in 2008, Parliament amended the Judicature (Appellate Jurisdiction) Act, allowing for the number of judges in the Court of Appeal to be increased. By virtue of that amendment the Court of Appeal is to be comprised of the President of the court and not more than twelve other judges of appeal². Notwithstanding the amendment however, the current complement of judges at the court remains at seven (including the President), because the long-awaited expansion of the space currently occupied by the court has not yet occurred.

Appointments

On 4 January 2016, the Honourable Mr Justice C. Dennis Morrison, CD was appointed as President of the Court of Appeal. On that occasion he was also conferred with the Order of Jamaica. Prior to that, the Honourable Mr Justice Morrison had been serving as acting President of the court since his appointment as such on 24 August 2015. He was first appointed as a judge of appeal on 1 May 2008.

The Honourable Mr Justice Frank Williams, who had been acting as a judge of appeal since 21 September 2015, was permanently appointed to the bench of the Court of Appeal on 29 March 2016. Later in the year, on 19 September 2016, the Honourable Miss Justice Paulette Williams, who had also been acting in the court since 21 September 2015, was permanently appointed as a judge of appeal.

²The Chief Justice of Jamaica, by virtue of her position as head of the judiciary, is also a member of the court but can only sit at the invitation of the President and if there are at least four other judges sitting.

Additionally, the court welcomed into its fold the Honourable Miss Justice Carol Edwards, Puisne Judge of the Supreme Court. The Honourable Miss Justice Edwards was sworn in as an acting judge of appeal on 29 March 2016. Her acting appointment was first *vice* the Honourable Mrs Justice Marva McDonald-Bishop JA, who was on vacation leave during the Easter Term 2016, and then *vice* the Honourable Mr Justice Patrick Brooks JA, who was on vacation leave during the Michaelmas Term 2016.



The Hon Miss Justice Edwards JA (Ag)

At the close of the Michaelmas Term 2016 the Court of Appeal was constituted as follows: 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

Under the Civil Service Establishment (General Order) 2016 the total number of posts in the Court of Appeal (excluding the judges of appeal) is 37. However, in 2016 the court staff complement was 31. This reflected an increase by three over the previous year's staff complement. The staff comprises:

- 1 Registrar
- 1 Deputy Registrar
- 5 Senior Judicial Clerks
- 2 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

Farewell

In August 2016 the court bade farewell to Miss Christine McNeil. Having served as Senior Judicial Clerk to the President, Miss McNeil left the court to join the staff of the Attorney General's Chambers. She had served the court for approximately eight years. During her time at the court Miss McNeil displayed great professionalism and delivered a high quality of work, for which we thank her. She will undoubtedly be an asset to the Chambers.

Mrs Doreen Smith, Executive Secretary to the President, officially proceeded on retirement from the court in February 2016. The incomparable Mrs Smith gave over 40 years of dedicated, invaluable, and excellent service to the court. Her

tenure saw her serving as Executive Secretary to a number of Presidents of the court. It is of note that Mrs Smith's work was recognised by the Government and people of Jamaica when, on 6 August 2014, she was awarded a Badge of Honour for loyal and meritorious service to the Judiciary. We wish to record our gratitude to Mrs Smith for her sterling service and to extend to her our best wishes in this new chapter of her life.

In December 2016 Mr Devern Henry, Attendant, proceeded on pre-retirement leave after having served the court for 10 years. Throughout that time Mr Henry proved himself to be a reliable and dedicated employee, who was always willing to provide assistance wherever he could. We also use this medium to thank Mr Henry for his invaluable service to the court and to wish him well on his future endeavours.

Welcome

During the year under review the court welcomed five new members of staff.

✚ Mr Shavar Sewell (Records Officer) joined the court in July 2016.

✚ In September 2016 the following persons joined the court:

- Mrs Sherine Reddie-Smith (Judicial Clerk),
- Miss Cygale Pennant (Judicial Clerk) *vice* Miss Clowenese Brown acting in a higher post.
- Mrs Jean Gordon (Executive Secretary),
- Mrs Valerie Gardner-Brady (Orderly)
- Mr Ramon Williamson (Orderly)

Sittings of the court

In 2016 the Court of Appeal sat for a total of 41 weeks. There were 10 weeks of sittings in the Hilary Term, 17 weeks of sittings in the Easter Term and 14 weeks of sittings during the Michaelmas Term. A full list of the weeks of sittings for 2016 is available on the court's website (www.courtsofappeal.gov.jm).

For most weeks of sittings, the court sat in two divisions in panels of three judges. Additionally, a judge of appeal was assigned duty in chambers to consider or hear applications during each week of term, as well as each week of the Easter, Summer and Christmas vacations.

Hanover sitting 2016

The court had its regular Hanover sitting during the week of 28 November 2016 at the Lucea Parish Court³. It should be noted that this sitting marked the first such Hanover sitting since the permanent appointment of the Honourable Mr Justice Morrison as President of the court. A total of eight matters were listed for hearing by the court. During the course of the sitting one matter was adjourned to the Hilary Term 2017 at the request of counsel, one matter was withdrawn by the appellant and one matter was taken off the list because no parties appeared. The other matters were heard by the court, which delivered judgment during the week of the sitting in two matters and reserved judgment in three matters.

³ Formerly Resident Magistrates Court

The work of the court

The Court of Appeal worked assiduously during the year under review to hear, consider and determine the matters laid before it. The court performed its functions despite the limited number of judges and the obvious challenges that the limited number continued to pose in the context of the increasing workload.

It must be emphasised that the work of the court *is not limited* to the judges preparing for and hearing the appeals and applications which are listed weekly before each division of the court or applications and case management conferences listed before a single judge. The court's work also goes beyond the writing of judgments and reasons for judgment.

In addition to these aforementioned important and often very involved tasks, the court's work includes work performed by single judges of appeal throughout the term and also during the legal vacations. Each judge is assigned files for the varying purposes outlined below.

- ✚ Most criminal matters (relating to convictions and/or sentences passed in the Supreme Court) are commenced in the Court of Appeal as applications for permission to appeal, which are determined in the first instance by single judges. The transcripts, once received from the Supreme Court, are assigned to single judges of appeal for consideration of those applications.

The judges then peruse and consider these, sometimes quite voluminous, transcripts and determine the applications for permission to appeal filed therein.

- ✚ During the life of an appeal the need may arise for the filing of procedural applications. For instance, since the filing of a civil appeal does not operate as a stay of the proceedings, parties may see the need to file an application for a stay of execution. Other types of procedural applications

filed by parties in appeals include those for injunctions and security for costs.

These procedural applications are in the first instance referred to single judges on paper for their consideration and determination.

- ✚ With the issuance by the Court of Appeal of Practice Direction No 1/2016⁴, motions/applications for leave to appeal to Her Majesty-in-Council are referred to single judges on paper for consideration and determination.
- ✚ Pursuant to the Court of Appeal Rules, once a record of appeal is filed it is referred to a single judge of appeal for the purpose of reviewing files and records of appeal and making case management directions.

In this report the work of the court will be reflected through the use of tables and charts. It will be reported 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 and Chart 4);

⁴ Please see page 25 in relation to Practice Direction No 1/2016.

- v. written judgments delivered (Table E);
- vi. outstanding reserved judgments (Table F);
- vii. outstanding reasons for judgment (Table G); and
- viii. disposal of matters by the court:
 - a. applications and motions (Table I) and
 - b. appeals (Table J)

This report will in Tables K to P also provide information regarding the:

- i. number of new appeals filed throughout the period reviewed and
- ii. number of appeals that were pending at the close of the period reviewed.

Additionally, the report will tabulate the outstanding criminal transcripts and certified civil records of proceeding, from the Supreme Court, which have an impact on the final pending figures for this court (Tables Q and R).

Criminal transcripts referred to single judges of appeal for consideration of applications for permission to appeal

It should be noted that the number of Supreme Court criminal transcripts referred to single judges each year is dependent on the number of those transcripts received from that court during the year.

Table A - Transcripts referred

Period	2015	2016
Hilary Term	11	8
Easter Term	9	19
Summer Vacation	12	1
Michaelmas Term	7	12
Total*	39	40

As seen in Table A one more transcript was referred in 2016 than in 2015. It should be noted that some transcripts may relate to more than one appellant/applicant.

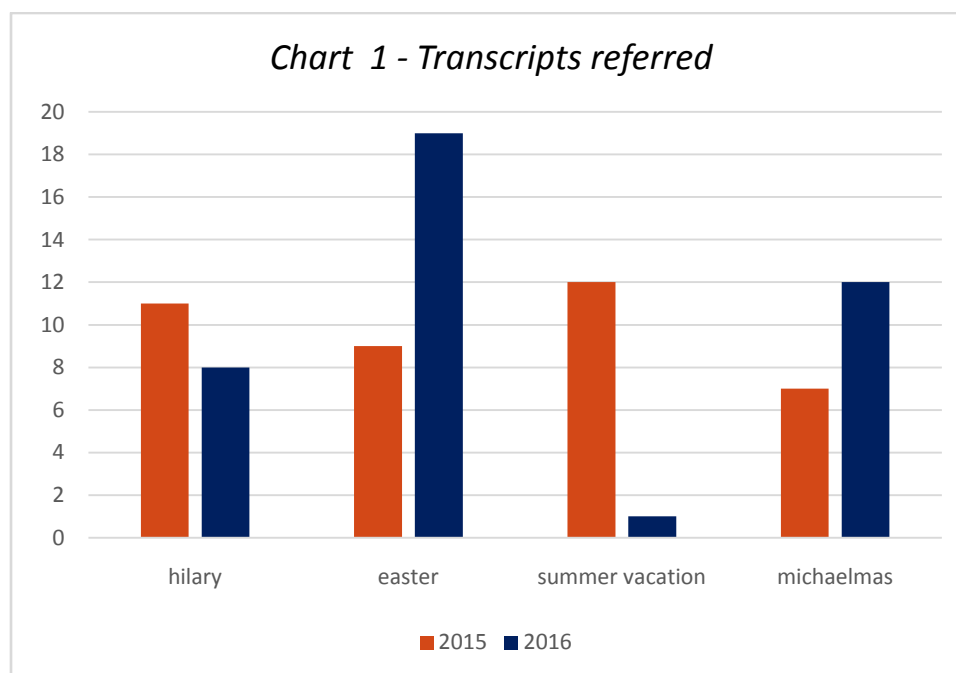


Table A and Chart 1 reveal that unlike 2015, in which the Hilary Term and Summer vacation saw the largest number of transcripts for the year being referred, in 2016 the Easter and Michaelmas Terms saw the largest referrals of transcripts.

Applications referred to single judges for consideration on paper

Most of the applications filed in the registry are, pursuant to the Court of Appeal Rules, referred to single judges for consideration on paper. The number of applications referred in any given period is dependent on the number of applications filed and whether those applications fall within the purview of a single judge (such as applications for stays of execution) or the court (such as civil applications for permission to appeal, for extension of time to appeal and to vary or discharge the orders of single judges of appeal). The table and chart below includes motions for leave to appeal to Her Majesty in Council considered on paper by single judges.

Table B - Number of applications referred

Period	2015	2016
Hilary Term	17	19
Easter Term	38	27
Summer Vacation		14
Michaelmas Term	22	23
Total	77	83

Table B shows that there were 6 more applications referred on paper to single judges in 2016 than in 2015.

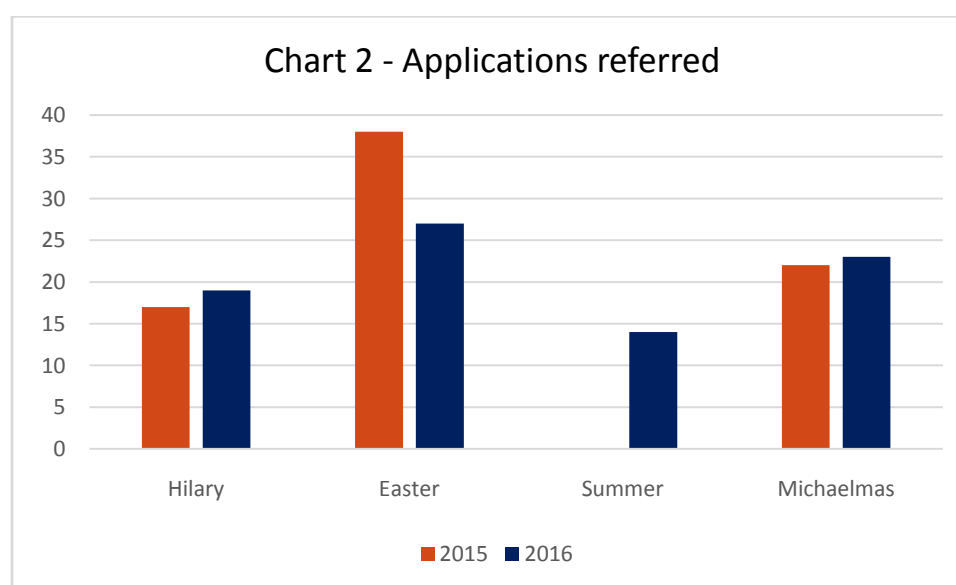


Table B and Chart 2 show that for both years the highest number of applications were referred in the Easter Term.

Records of appeal referred to single judges

The number of records of appeal referred to single judges in relation to civil matters emanating from the Supreme Court is dependent on the number of certified records of proceedings received from that court. It is also dependent on the level of compliance with the Court of Appeal Rules by appellants who are responsible for filing records of appeal.

Table C – Records of Appeal Referred

Period	2015	2016
Hilary Term	10	15
Easter Term	6	3
Summer Vacation	8	5
Michaelmas Term	8	5
Total	32	28

Table C shows that in 2016, four less records of appeal were referred than in the previous year.

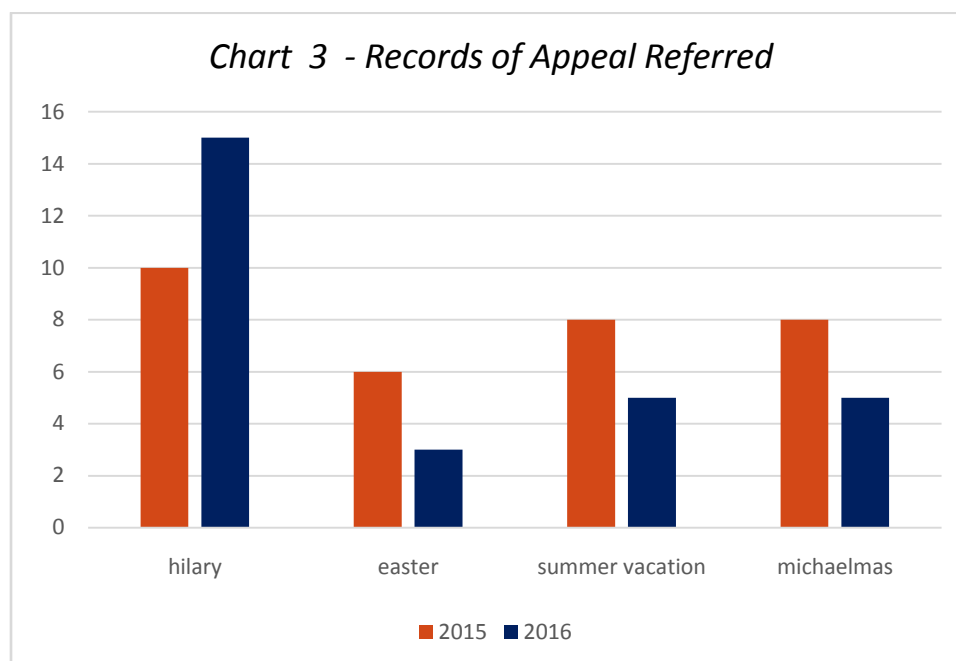


Table C and Chart 3 show that for both 2015 and 2016 the largest number of referrals of records of appeal were made in the Hilary Term and the least number in the Easter Term.

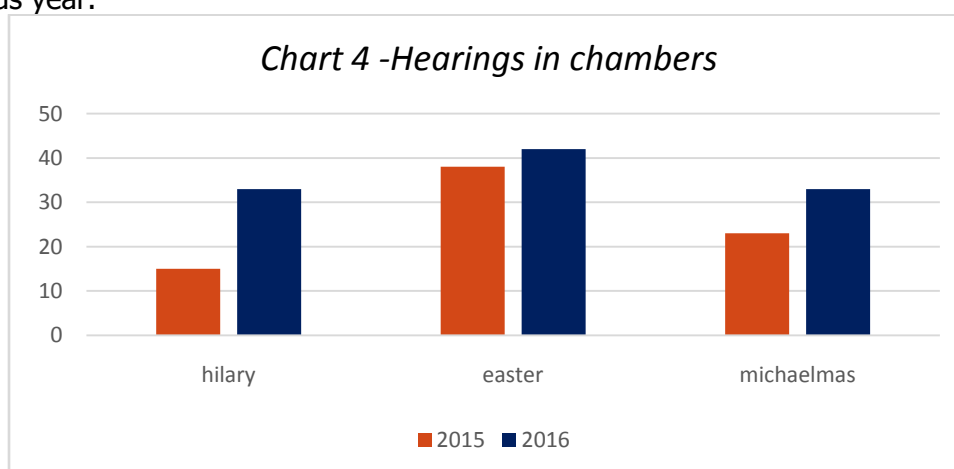
Hearings in chambers by single judges

Oral hearings in chambers are conducted by single judges of appeal. These hearings are usually set on the direction of the single judge who considered applications on paper in the first instance or made case management directions in relation to records referred. It should be noted that there are some matters that are directly set for hearings in chambers such as bail applications and applications to remove counsel's name from the record.

Table D - Hearings in chambers

Term	2015	2016
<i>Applications</i>		
Hilary	10	17
Easter	25	18
Michaelmas	12	17
<i>Case Management Conferences</i>		
Hilary	5	16
Easter	13	14
Michaelmas	11	18
Total	76	100

As seen in Table D, 24 more chambers hearings were conducted in 2016 over the previous year.



NB* Chart 4 reflects total hearings in chambers (applications and case management conferences) for the period. In both 2015 and 2016 the largest number of hearings in chambers were conducted during the Easter Term.

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 E - Written judgments

Term	2015	2016	Change
<i>Civil Appeals</i>			
Hilary	24	18	-6
Easter	20	26	+6
Michaelmas	27	19	-8
<i>Criminal Appeals/Applications for Leave to Appeal</i>			
Hilary	10	11	+1
Easter	10	15	+5
Michaelmas	15	7	-8
<i>Applications</i>			
Hilary	16	9	-7
Easter	16	14	-2
Summer Vacation	3	1	-2
Michaelmas	19	12	-7
Total	160	132	-28

As indicated in Table E, the court produced 132 judgments in 2016 which is 28 less than in the previous year.

Outstanding reserved judgments

Outstanding reserved judgments refer to matters in which the judgments of the court have not yet been delivered.

Table F - Outstanding reserved judgments

Year Reserved	Number Outstanding 2015	Number Outstanding 2016
2011	1	0
2012	2	1
2013	3	2
2014	4	3
2015	37	10
2016		37
Total	47	53

Table F shows that the 2011 judgment that was outstanding in 2016 has been delivered. Additionally, one of the two outstanding 2012 judgments, one of the outstanding 2013 and 2014 judgments and 27 outstanding judgments from 2015 were delivered. There has been an increase by 6 of the total number of outstanding judgments in 2016 over the previous year.

Outstanding reasons for judgment

Outstanding reasons for judgment refer to matters in which the court's decisions have already been delivered but the written reasons for the decision have not yet been delivered.

Table G - Outstanding reasons for judgment

Year	Number Outstanding 2015	Number Outstanding 2016
2013	2	2
2014	4	2
2015	10	6
2016	-	10
Total	16	20

As seen in Table G, two of the 2014 outstanding reasons for judgment and four of the 2015 outstanding reasons for judgment have been delivered. There has been an increase by four in the total number of outstanding reasons for judgment in 2016 over the previous year.

Disposal of applications and motions by the court

As indicated in this report⁵, there are some applications which fall within the purview of the court. These applications include those for fresh evidence; permission to appeal; extension of time within which to file and serve the appeal; to vary or discharge the order of a single judge; as well as applications which were referred to court by the single judge who considered the matter on paper in the first instance. The court also determines motions for leave to appeal to Her Majesty in Council where the appeal is not as of right; where the motion was referred to the court by 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.

Table I – Applications and motions determined by the court

	2015	2016	Change
<i>Applications</i>			
Hilary	21	11	-10
Easter	22	32	+10
Michaelmas	32	34	+2
<i>Motions</i>			
Hilary	5	2	-3
Easter	7	7	0
Michaelmas	7	2	-5
Total	94	88	-6

Table I shows that there were 6 less matters dealt with in court in 2016 than in 2015.

⁵ See page 14

*Table J**New and disposed appeals, Hilary Term 2016*

Appeals	Pending at the start of the term	New cases filed	Disposed cases	Pending at the end of the term
Supreme Court				
Civil Appeals	764	34	19	779
Criminal Appeals	536	32	13	555
Miscellaneous Appeals	5	2	0	7
Parish Court				
Civil Appeals	52	2	3	51
Criminal Appeals	93	2	4	91
Miscellaneous Appeals	1	1	0	2
Total	1451	73	39	1485

*Table K**New and disposed appeals, Easter Term 2016*

Appeals	Pending at the start of the term	New cases filed	Disposed cases	Pending at the end of the term
Supreme Court				
Civil Appeals	779	42	29	792
Criminal Appeals	555	41	7	589
Miscellaneous Appeals	7	1	2	6
Parish Court				
Civil Appeals	51	5	8	48
Criminal Appeals	91	2	5	88
Miscellaneous Appeals	2	0	1	1
Total	1485	91	52	1524

Table L
Michaelmas Term 2016

Appeals	Pending at the start of the term	New cases filed	Disposed cases	Pending at the end of the term
Supreme Court				
Civil Appeals	792	43	28	807
Criminal Appeals	589	31	14	606
Miscellaneous Appeals	6	3	1	8
Parish Court				
Civil Appeals	48	9	8	49
Criminal Appeals	88	12	2	98
Miscellaneous Appeals	1	0	0	1
Total	1524	98	53	1569

Table M - New appeals

	2015	2016
Civil	141	135
Criminal	106	120
Miscellaneous	2	7
Total	249	262

Table M shows that 9 more appeals were filed in 2016 than in 2015.

Table N - Disposed appeals

	2015	2016
Civil	116	95
Criminal	69	45
Miscellaneous	1	4
Total	186	144

Disposal of appeals by the court

Table O

Term	2015	2016	Change
<i>Civil Appeals</i>			
Hilary	40	22	-18
Easter	47	37	-10
Michaelmas	29	36	+7
<i>Criminal Appeals/Applications for Leave to Appeal</i>			
Hilary	15	17	+2
Easter	34	12	-22
Michaelmas	20	16	-4
<i>Miscellaneous</i>			
Hilary	1	0	-1
Easter	0	3	+3
Michaelmas	0	1	+1
Total	186	144	-42

Tables N and O show a decrease in the number of disposed cases from 186 in 2015 to 144 in 2016, a decrease of 42.

Table P - Pending appeals

	2015	2016
Pending at the start of the year	1388	1451
New appeals filed	249	262
Appeals disposed	186	144
Pending at end of the year	1451	1569

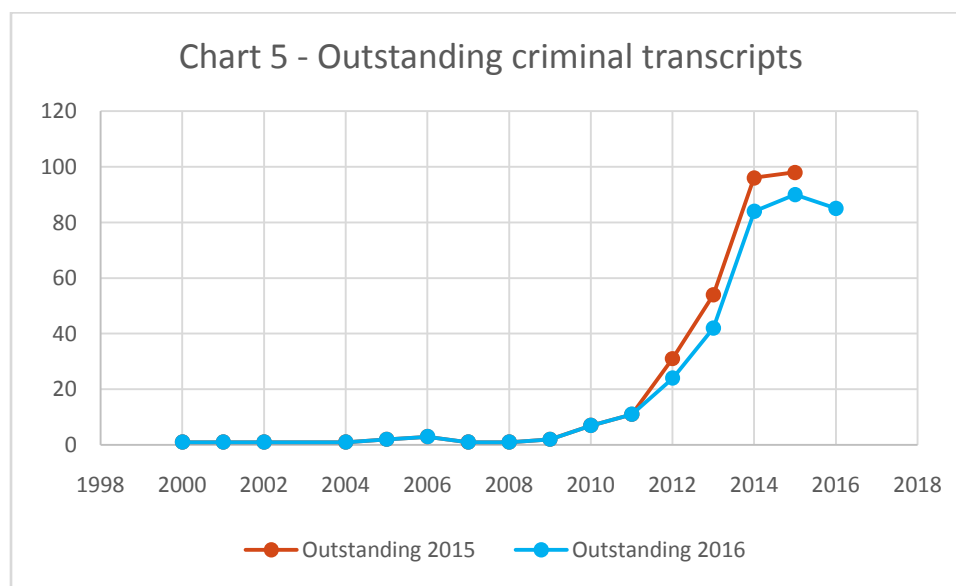
Table P shows an increase of 118 in the number of pending appeals. It should be noted that the 1569 pending cases in 2016 includes those in which 356 criminal transcripts and 364 civil records of proceedings are still outstanding from the Supreme Court. Therefore the "true" pending figure falls to be reduced to 849. Please see Tables Q and R.

Outstanding criminal transcripts

Table Q

Year Matter filed	Number Outstanding 2015	Number Outstanding 2016	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	11	0
2012	31	24	-7
2013	54	42	-12
2014	96	84	-12
2015	98	90	-8
2016	-	85	-
Total	310	356	

Table Q shows that the number of outstanding transcripts from the Supreme Court increased by 46. Additionally, most of the transcripts in relation to the older appeals remain outstanding.

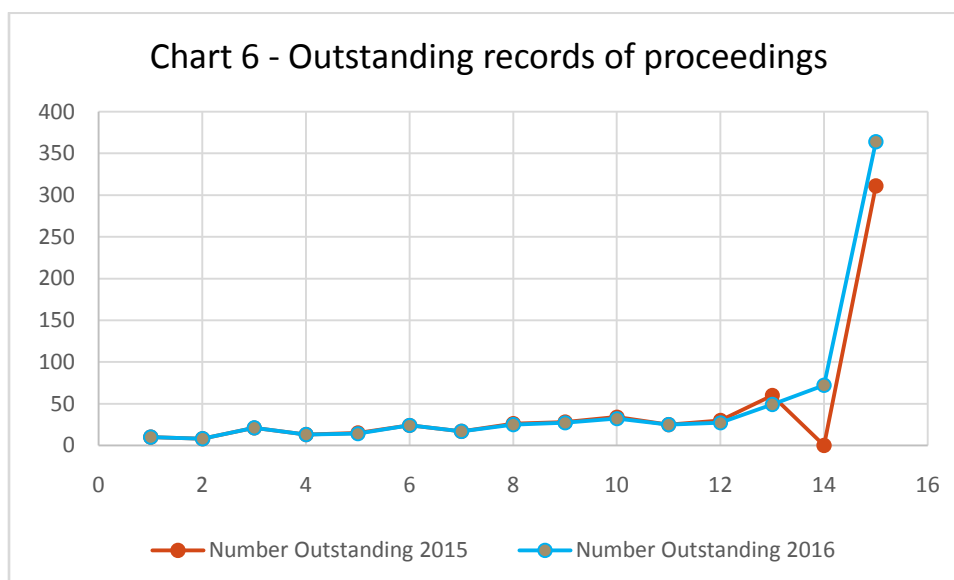


Outstanding civil records of proceedings

Table R


Year Matter filed	Number Outstanding 2015	Number Outstanding 2016	Change
2003	10	10	0
2004	8	8	0
2005	21	21	0
2006	13	13	0
2007	15	14	-1
2008	24	24	0
2009	17	17	0
2010	26	25	-1
2011	28	27	-1
2012	34	32	-2
2013	25	25	0
2014	30	27	-3
2015	60	49	-11
2016	-	72	-
Total	311	364	


Table R shows that the number of outstanding civil records of proceedings from the Supreme Court increased by 53. Additionally, as with the criminal transcripts, most of the older records of proceedings in relation to the older appeals remain outstanding.




Practice Notes and Directions

During 2016 the Court of Appeal issued one practice note and two practice directions.

-  Practice Note 1/2016 was issued on 8 February 2016. It took immediate effect and was issued in relation to applications for leave to appeal and applications for extension of time within which to appeal in civil cases. The purpose of the Practice Note is to keep the time spent in hearing and considering these applications within acceptable limits.

-  Practice Direction No 1/2016, which took effect on 10 May 2016, was issued in relation to applications for conditional and final leave to appeal to Her Majesty in Council. The purpose of Practice Direction No 1/2016 is to:
 - facilitate a more efficient and effective use of judicial time in considering applications for conditional and final leave to appeal to Her Majesty in Council, and
 - promote a speedier and more cost efficient determination of applications for conditional and final leave to appeal to Her Majesty in Council.

-  Practice Direction No 2/2016, which was issued on 12 December 2016 and took immediate effect, relates to applications made to the court to allow appeals or grant applications by consent without a hearing on the merits. Practice Direction No 2/2016 facilitates the court making such an order in appropriate cases where it is satisfied that there are good and sufficient reasons so to do. It also outlines the procedure to be followed in making such applications to the court.

The court's practice notes and practice directions are available on the court's website (www.courtofappeal.gov.jm).

News

Some of the developments/events which occurred during the period being reviewed are as follows:

1. Donations

- a. Equipment

In April 2016, the United States Government, through its Embassy in Kingston, generously donated to the Court of Appeal 23 desktop computers, 7 laptop computers, 4 printers, 7 workstations, 1 scanner and 2 photocopiers. This timely donation has been extremely well received by all at the court and has gone a very far way in enabling the court to effectively and efficiently perform its functions.

We wish through this medium to once again express our heartfelt gratitude to the United States Government for the donation and to the staff at the United States Embassy in Kingston, in particular Mr Garth Hall, Ms Jamie Russell and Mr Ivon Diouf, whose efforts and assistance are greatly appreciated.

- b. Staff lunch room

The Jamaican Bar Association commenced the re-furbishing of the staff lunch room by painting the walls and donating chairs. The staff of the court are very appreciative of the efforts made by the Bar to improve the conditions in the lunch room. We wish to thank the Bar for the work it has done.

2. Courtesy call

On 25 April 2016, in recognition of Administrative Professional's Week, Mr David Drysdale (the Boss of the Year for the Kingston Chapter 2016), Mrs Veronica

Forbes-Blake (the Administrative Professional of the year for the Kingston Chapter 2016) along with some members of the Jamaica Association of Administrative Professionals paid a courtesy call on the Honourable Mr Justice Morrison, President of the Court of Appeal.

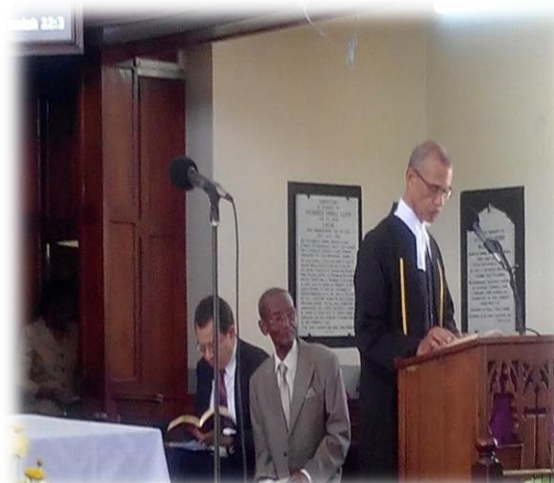


The Hon Mr Justice Morrison P (3rd from the right), Mr David Drysdale (4th from the right), Mrs Veronica Forbes-Blake (4th from the left) and members of the Jamaica Association of Administrative Professionals, pose for the camera.

3. Assize Service

The annual Assize Service took place on 25 September 2016 at the East Queen Street Baptist Church under the theme "Justice Matters". This year's service saw the participation of three judges of appeal.

The Honourable Mr Justice Brooks JA read a passage of Scripture from the Old Testament.



The Hon. Mr Justice Brooks JA



The Hon. Mrs. Justice Sinclair-Haynes JA

The congregation was led in a prayer of thanksgiving and intercession by the Honourable Mrs Justice Sinclair-Haynes JA.

The Honourable Mrs Justice McDonald-Bishop JA delivered a very thought-provoking and inspiring sermon, under the theme "*Justice Matters*", which revealed to the gathering that she is not only a distinguished jurist but an excellent preacher as well.



The Hon. Mrs Justice McDonald-Bishop JA

4. Artistic work of the court

As is customary, the court held its annual Christmas luncheon on 20 December 2016. This occasion was marked by a very interesting team building exercise led by Miss Shawn Ashman, of the Court Administration Division, who was specially invited by the President to conduct this exercise.

All in attendance eagerly participated in the creation of what we proudly claim as an artistic masterpiece, seen below, thus proving how much we can accomplish when we work together.



Masterpiece of the Court of Appeal

We wish to record our gratitude to Miss Ashman for taking time out to share her talent with us and for leading us in this wonderful and fulfilling exercise.

5. Other Activities/Outreach

Other notable activities in which the President and judges of appeal were engaged during the year under review are as follows:

- ✚ The Honourable Mr Justice Morrison P sat on the National Crime Council, the Judicial Services Commission, the Criminal Case Management Steering Committee, the Sentencing Guidelines Committee, the Supreme Court Library Committee and chaired the General Legal Council's Continuing Legal Professional Development Committee;
- ✚ The Honourable Mr Justice Morrison P along with the Honourable Miss Justice Phillips JA sat on the Rules Committee;
- ✚ The Honourable Mr Justice Brooks JA sat on the drafting committee for the Judges' Bench Book and the General Legal Council; and
- ✚ 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.

6. Property/Maintenance

- ✚ Prior to the start of the Michaelmas Term 2016, the Ministry of Justice arranged for sections of the court building to be painted, specifically the lobby, a portion of the stairwell and four judges' chambers. Additionally, as part of this improvement work, missing/damaged ceiling tiles were replaced, the rails on the entrance staircase were varnished, the floor tiles in the lobby were stripped and polished, the two public restrooms were refurbished and the lighting in the staff lunchroom was changed.
- ✚ Preliminary discussions were had with personnel of the Ministry of Justice in relation to the actual design of the expanded Court of Appeal. We look forward to continuing these very important discussions as we all work together to ensure that the expanded facilities are appropriately designed to suit the court's immediate and future needs.

Challenges

In the previous annual report it was recorded that the Court of Appeal was in need of equipment in the form of computers, printers, photocopiers and scanners. As noted in this report, the court received a very generous donation of equipment from the United States Government.

But the court faced other familiar challenges in the year under review, namely: -

1) Limited number of judges

The judges and staff of the court continue to anxiously await the proposed physical expansion of the court. Without this expansion, the court will not be able to accommodate the much-needed additional judges of appeal as well as support staff. Without the increased number of judges and staff it is extremely difficult to tackle efficiently and effectively the ever-increasing workload of the court. It is therefore hoped that 2017 will finally be the year when the expansion of the court will at the very least commence.

2) Delay in receipt of criminal transcripts and civil records of proceedings

For criminal appeals/applications for leave to appeal and most civil appeals from the Supreme Court to proceed, the Court of Appeal must first receive the criminal transcripts and civil records of proceedings from that court. As seen in Tables Q and R, at the close of 2016 there were 356 criminal transcripts outstanding and 364 civil records of proceedings outstanding.

In relation to criminal and civil appeals from Parish Courts it is to be noted that under the Judicature (Parish Court) Act, formerly known as the Judicature (Resident Magistrates) Act, such appeals are to be filed in

those courts (orally or in writing). The Court of Appeal is therefore generally not aware of appeals from Parish Courts until the particular court forwards the records of proceedings. As reported in the 2015 Annual Report, in most cases there is usually quite a delay between the filing/giving of the notice of appeal with the Parish Court and the submission of the record of proceedings by the Parish Court.

3) Storage space

The court continued to face the increasingly difficult problem of storage. As previously reported, the court has long exceeded its storage space. The court still houses files which date back to the 1960s. Many of the older files are badly affected by termites and rodents, and the room in which they are stored is greatly affected by dust, inadequate lighting, a lack of ventilation and the absence of air conditioning. The registry staff project to create temporary space by boxing the older files that are in a condition to be handled, was placed on hold in the latter part of 2016 partly due to the aforementioned conditions in the basement.