

CO-OPERATIVE REPUBLIC OF GUYANA

ANNUAL REPORT 2009

CHAMBERS OF THE DIRECTOR OF PUBLIC PROSECUTIONS

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Chambers of the Director of Public Prosecutions

1.0 Background Information

According to Articles 203 and 199 of the Constitution of Guyana as amended by the Constitution (Amendment) (No. 4) Act 2001 assented to by the President on the 7th August 2001 the Director of Public Prosecutions is appointed by the Judicial Service Commission. And according to Act 199 the Deputy Director of Public Prosecutions is also appointed by the Judicial Service Commission. All other staff of the Chambers of the Director of Public Prosecutions, both legal and non legal, are appointed so far by the Public Service Commission.

Under the Constitution, the Director of Public Prosecutions is empowered:-

- (a) To institute and undertake criminal proceedings against any person before any court, other than a court - martial, in respect of any offence against the laws of Guyana;
- (b) To take over and continue any such criminal proceedings that may have been instituted by any other person or authority; and;
- (c) To discontinue at any stage before judgment is delivered any such criminal proceedings instituted or undertaken by him or any other person or authority.

The Director of Public Prosecutions (DPP) and other Counsel in the Chambers advise the Police on most of their cases at different stages of the investigation and prosecution of charges. Advice is also given to other governmental organizations such as the Customs Anti-Narcotic Unit, Guyana National Bureau of Standards, Ministry of Labour, and the National Insurance Scheme. The Guyana Energy Agency also seeks advice from the DPP. The Food & Drugs Department and Overseer's from the NDC's also seek advice from time to time. Advice used to be given to the Guyana Revenue Authority; however, since 2005 this entity has stopped seeking legal advice from the Director of Public Prosecutions in criminal matters.

Additionally, the DPP regularly makes available to the Police, Attorneys-at-Law to prosecute or otherwise appear in cases instituted by the Police whenever it is considered desirable that the Police should be professionally represented and Counsel is available. During the year 2009 there was a shortage of State Counsel which hampered the DPP from appointing State Counsel to appear for the police in matters in the Magistrate's Court.

The Director of Public Prosecutions prefers indictments in the High Court for Demerara, Berbice and Essequibo and during the Criminal Sessions has one or more Attorneys-at-Law prosecuting in each of the High Courts in these Counties. There are usually several criminal courts sitting simultaneously in all three (3) Counties. Only one judge sits in the High Court in Berbice and Essequibo but Demerara usually always has more than one judge sitting in each Criminal Assize.

Counsel from the Chambers also appears in the Full Court in appeals in Summary matters and in the Court of Appeal in appeals from Indictable matters in the High Court. Additionally Counsel appear in the High Court in applications for bail, applications to leave the jurisdiction and habeas corpus applications.

Members of the public from all parts of the country regularly write the Director or come into the Chambers in relation to matters pertaining to the administration of the Criminal Justice System. Each complaint or observation is addressed and this has served to assist the Director in the performance of her functions under the Constitution.

The Chambers of the Director of Public Prosecutions achieves the objectives of its programme by exercising control over all criminal matters in accordance with the provisions of the Constitution of Guyana. To ensure that no person is unjustifiably charged and prosecuted the Chambers advise the police and other law enforcement agencies either before or after charges are instituted. It is better to advise before charges are instituted; however, due to the number of legal staff this is not possible. The Chambers prides itself in the expeditious manner in which files are dealt with and returned to the police headquarters to be dispatched to the various police stations through the route established by the Guyana Police Force. This is so especially given the shortage of staff at the Chambers.

This system has many constraints in that the police usually do not forward files to the Chambers before charges are filed as such these files are sent to the Chambers for advice after the institution of the charges. In some instances files are never sent for advice at all. Also, there are certain constraints that may delay the process – files may have to be returned to the police station for further statements to clarify or explain pertinent aspects of the original statements or for statements to be taken to complete investigations. Although it is envisaged that charges will be laid promptly upon receipt of the advice this is not always the case. Also sometimes advice given is not complied with by the police or the police delay in complying with the advice.

.....
SHALIMAR ALI-HACK
Director of Public Prosecutions.
2010-03-10.

2.0 Mission Statement

To discharge in accordance with the Constitution of Guyana, the obligation to ensure that all criminal matters are dealt with in a fair, impartial and efficient manner.

3.0 Role of the Chambers

The Chambers of the Director of Public Prosecutions continues to play a vital role in the administration of justice in criminal matters. It is the authority vested with the power and responsibility of exercising control over the prosecutions of all criminal matters except the institution of courts-martial. The Chambers therefore provides professional advice to and representation for all law enforcement and other agencies in relation to the prosecution of criminal cases.

The Chambers seeks to ensure that no citizen is unjustifiably charged and prosecuted and that those whose acts or omissions justify the institution of criminal proceedings are charged and prosecuted under the relevant provisions of the law. It also tries to ensure that all persons charged are given a fair hearing within a reasonable time in accordance with their constitutional rights.

4.0 Description of Sections of the Chambers and Update of Staffing

The Chambers comprise of two sections the Legal and the Support Sections.

4.1 The Legal Staff

The professional staff at the Chambers of the Director of Public Prosecutions comprises of the Director, the Deputy Director, two Assistant Directors, three Senior State Counsel and ten State Counsel. On December 31, 2009 there was one Assistant Director, one Senior State Counsel and ten State Counsel along with the Director.

Mrs. Shalimar Ali-Hack was appointed by Government Order dated April 17, 2008 as the Director of Public Prosecutions with effect from December 31, 2004. Mrs. Shalimar Ali-Hack continued in this position.

Ms. Jo-Ann Barlow was appointed by the Public Service Commission as Assistant Director of Public Prosecutions with effect from the 7th July, 2000. Ms. Jo-Ann Barlow continued in this position.

Ms. Sonia Joseph who joined the Chambers as a Senior State Counsel with effect from 6th August, 2007 also continued in this position.

Ms. Kara Duff, Ms. Fabayo Azore, Mr. Ganesh Hira were all appointed as State Counsel by the Public Service Commission in 2007 with effect from the respective dates: 6th August, 2007, 17th September, 2007 and 31st October, 2007. They all continued as State Counsel within the Chambers during 2009.

Ms. Dionne Mc Cammon who was a legal staff at the Ministry of Foreign Affairs was transferred as a State Counsel with effect from 10th December, 2007 also continued at the Chambers during 2009.

Ms. Zamilla Ally was appointed as State Counsel by the Judicial Service Commission with effect from 16th June, 2008. Her appointment was changed from the Judicial Service Commission to the Public Service Commission by Government Order dated 9th November, 2009.

Ms. Prithima Kissoon was transferred as a State Counsel from the Attorney General's Chambers with effect from the 9th March, 2009.

During the year 2009, the following Legal Staff resigned:

1. Ms. Candace Raphael, Senior State Counsel, who was appointed Assistant Director of Public Prosecutions with effect from 1st June, 2008 tendered her resignation. However, Ms. Raphael migrated and her date of resignation took effect from the 20th February, 2009.
2. Ms. Dianna Boyan, State Counsel, resigned with effect from 28th June, 2009. Ms. Boyan joined the Chambers with effect from 3rd July, 2008 and migrated to Barbados to work as an Attorney-at-Law.
3. Ms. Judy Latchman, State Counsel, who was appointed Senior State Counsel with effect from 1st June, 2008 was transferred to the magistracy as a magistrate with effect from the 31st January, 2009.

With the loss of some of our more experienced Legal Staff we managed to recruit four new lawyers who were admitted to the Bar in October 2009. They are Ms. Shivani Balcharan, Ms. Latchmie Rahamat, Ms. Rhondel Weever and Mrs. Judith Gildharie-Mursalin. They were appointed as State Counsel by the Public Service Commission. Ms. Shivani Balcharan and Ms. Latchmie Rahamat were both appointed with effect from 7th July, 2009 whereas Ms. Rhondel Weever and Mrs. Judith Gildharie-Mursalin were appointed with effect from 1st September, 2009 and 7th September, 2009 respectively.

4.2 The Support Staff Section

To add support to the Legal Staff there are the Administrative Officer, two Legal Assistants, one Accountant, an Accounts Clerk 11, a Confidential Secretary, two Typist Clerks 11, a Librarian, a Receptionist, one Office Assistant and one Cleaner. These positions were all filled except for one Legal Assistant.

Ms. Merlyne Lall has retained her position as the Administrative Officer since joining the Chambers on the 1st October, 2008. Ms. Lall renewed her contract with effect from the 1st October, 2009.

Ms. Alicia Primo joined the Chambers as the Legal Assistant with effect from the 15th September, 2008. Ms. Primo renewed her contract with effect from 15th September, 2009 and continued in this position.

Ms. Candace Persaud who joined as the Librarian on 21st May, 2007, continued.

Ms. Rochelle Gill, the acting Accountant who joined on the 1st May, 2006 also continued in this position.

Ms. Deborah Wilson who was promoted from Typist Clerk 11 to Confidential Secretary with effect from 1st August, 2008 continued in this position.

Ms. Vanessa Kissoon joined the Chambers on Contract from the 14th November, 2008 as Accounts Clerk 11. Ms. Kissoon renewed her contract with effect from 14th November, 2009 and continued in this position.

Ms. Carolyn Munro who joined as the Receptionist with effect from 1st July, 2008, continued in this position during 2009.

Ms. Tenny Mc Calmon continued holding the position of temporary Typist Clerk 11 having joined the Chambers since the 16th January, 1995.

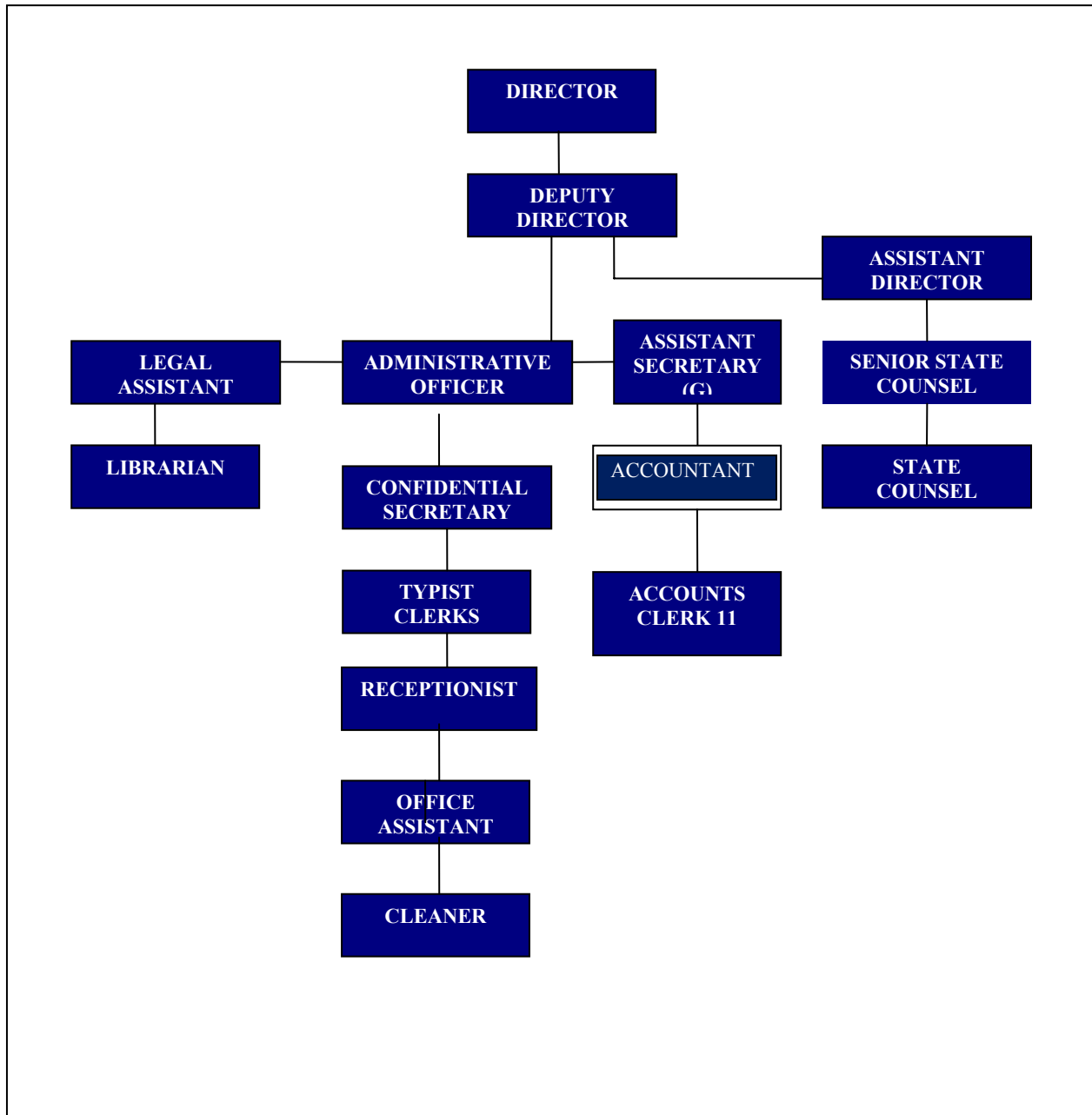
Ms. Natasha McGregor who joined the Chambers as Typist Clerk 11 with effect from 14th May, 2009, also continued in this employ.

Ms Deborah Williams, the Office Assistant, continued in her respective capacity which she has been holding since September 25, 1995.

Ms. Lydia Bishop who joined the Chambers with effect from 6th May, 1996 as Cleaner retired with effect from 31st December, 2009. She continued serving the Chambers as the Cleaner but on contractual terms.

5.0 Organization and Management

5.1 Organizational Chart



6.0 Summary and Review of the Year's Programme.

6.1 Indictments disposed of at the High Court of Demerara for 2009.

Sixty three (63) indictments were disposed of at the Demerara Assizes for the year 2009. For three of the indictments there were more than one offence. A total of twenty four were presented and thirty nine were Nolle Prosequi by the DPP. The matters were Nolle Prosequi by the DPP because these indictments were pending for more than ten years and the Virtual Complainants were not attending Court when these matters were set for trial.

Offences	Presented	Convicted	Acquitted	Nolle Prosequi by DPP by letter.
Rape	-	-	-	3
Murder	17	12	5	2
Manslaughter	2	-	2	2
Break and Enter and Larceny	-	-	-	5
Robbery under Arms	-	-	-	2
Common Assault	-	-	-	1
Carnally Knowing Girl under 15 years	1	-	1	-
Carnal Knowledge of Girl between 15 and 16 years	1	-	1	-
*Carnal Knowledge of Girl under 12 years	2	1	-	1
Carnally Knowing Girl between 12 and 13 years	-	-	-	1
Attempted Murder	-	-	-	1
Wounding with Intent	-	-	-	6
Robbery with Aggravation	-	-	-	3
Larceny from the Person	-	-	-	3

Buglary and Larceny	-	-	-	1
Causing Grievous Bodily Harm	-	-	-	2
Larceny	-	-	-	1
Robbery with Violence	-	-	-	1
Entering Dwelling House in the night with Intent	-	-	-	1
Indecent Assault	-	-	-	1
Receiving Stolen Property	-	-	-	1
Incest	-	-	-	1
Conspiracy to Defraud	1	-	1	-

*For the offence of Carnal Knowledge of girl under twelve years, the accused pleaded not guilty and the Jury empanelled. The accused absconded, arrest warrant issued and the Jury discharged on 18th August, 2009. The accused was then arrested and placed in custody.

Priority is given to prosecuting indictments for Murder because the accused are on remand in prison.

6.2 Indictments disposed of at the High Court of Berbice for 2009.

Thirty two (32) indictments were disposed of at the Berbice Assizes for the year 2009. For one of the indictments there were two offences. A total of twenty five indictments were presented and seven were Nolle Prosequi by the DPP. The matters were Nolle Prosequi by the DPP because these indictments were pending for more than ten years and the Virtual Complainants were not attending Court when these matters were set for trial.

Offences	Presented	Convicted	Acquitted	Nolle Prosequi by DPP by letter.
Rape	2	1	1	2
*Murder	13	11	3	1
*Manslaughter	2	-	1	-
Wounding with Intent	3	3	-	-
Discharging loaded firearm	1	1	-	-
Robbery under Arms	2	2	-	-
Attempt to commit Murder	1	-	1	1
Common Assault	-	-	-	2
Carnal Knowledge	1	-	1	-
Simple Larceny	-	-	-	1

*For the offence of Murder, there were two accused in one matter. Number 1 accused pleaded not guilty of Murder and guilty of Manslaughter and Number 2 accused was Nolle Prosequi by letter dated 14.04.09 by the DPP.

*For the offence of Manslaughter, the accused pleaded not guilty but the Jury returned a majority verdict 4-8- unable to arrive at verdict. The matter is to be retried at the next session of the Berbice Assizes.

Priority is given to prosecuting indictments for Murder because the accused are on remand in prison.

6.3 Indictments disposed of at the High Court of Essequibo for 2009.

Eight (8) indictments were disposed of at the Essequibo Assizes for the year 2009. Four indictments were presented and four were Nolle Prosequi by the DPP. The matters were Nolle Prosequi by the DPP because these indictments were pending for more than ten years and the Virtual Complainants were not attending Court when these matters were set for trial.

Offences	Presented	Convicted	Acquitted	Nolle Prosequi by DPP by letter.
Rape	-	-	-	1
Murder	3	2	1	1
Attempt to commit Murder	1	-	1	-
Buggery	-	-	-	1
Indecent Assault	-	-	-	1

Priority is given to prosecuting indictments for Murder because the accused are on remand in prison.

The two major offences that were tried in the High Court in the Assizes in Demerara, Berbice and Essequibo for 2009 were Murder and Rape. 25% of Murder cases listed for trial were completed.

There was a 69% conviction rate of all the cases completed and 71% of these were for Manslaughter rather than Murder.

7.0 Indictments outstanding for Demerara, Berbice and Essequibo for the year 2009.

There were one hundred and fifty eight (158) indictments outstanding for Demerara, Berbice and Essequibo for the year 2009.

	Demerara	Berbice	Essequibo
Offence	No. of Indictments		
Rape	10	2	2
Murder	28	9	2
Manslaughter	19	7	1
Buggery	5	-	-
Incest	1	-	-
Carnal Knowledge of a girl under 12 years	6	-	-
Carnal Knowledge of a girl under 15 years	7	-	1
Attempt to commit murder	1	-	-
Carnal Knowledge of a girl between 12 and 13 years	-	1	-
Robbery under arms	1	1	-
Multi counts	27	4	2
Attempt Murder	1	-	-
Wounding with Intent	2	-	-
Indecent Assault	1	-	-
Obtaining money by false pretence	1	-	-
Arson	1	-	-
Throwing noxious substance with intent	1	-	-

Possession for the purpose of trafficking	1	-	-
Trafficking in narcotics	1	-	-
Trafficking in narcotic substance	1	-	-
Causing death by dangerous driving	9	-	-
Causing grievous bodily harm with intent	-	2	-

8.0 Depositions received for Demerara, Berbice and Essequibo in 2009.

8.1 Depositions that were received for the County of Demerara in 2009.

In the year 2009 sixty seven depositions were received for the County of Demerara. The committals for six (6) of these depositions were nolle prosequi by the DPP by letter because there was not sufficient evidence in the depositions for the DPP to prefer charges in an Indictment.

Indictments were preferred for sixty one of these depositions.

Of the sixty one (61) indictments preferred, fifteen (15) were presented and trial completed. The remaining forty six (46) are on the list awaiting trial.

Of the fifteen (15) indictments presented and tried in the High Court, two of the cases the accused pleaded guilty to Manslaughter but not guilty to Murder and were sentenced by the trial judge. In the other thirteen cases the accused pleaded not guilty and were tried. In one of these cases there was a Hung Jury and a retrial was ordered by the trial judge.

8.2 Depositions that were received for the County of Berbice in 2009.

In the year 2009 twenty one (21) depositions were received for the County of Berbice. Two (2) of the committals were nolle prosequi by the DPP by letter because there was not sufficient evidence in the depositions for the DPP to prefer charges in an Indictment.

Indictments were preferred for the other nineteen (19) depositions.

Of the nineteen (19) indictments preferred, twelve (12) were presented and the trial completed. The remaining seven (7) remained on the list awaiting trial.

Of the twelve (12) indictments presented and tried in the High Court, four (4) of the accused pleaded not guilty to their respective counts while one (1) accused pleaded guilty to the offence for which he was indicted. For the other seven (7) indictments, the accused pleaded guilty to Manslaughter but not guilty to Murder and were sentenced by the trial judge.

8.3 Depositions that were received for the County of Essequibo in 2009.

In the year 2009 seven (7) depositions were received for the County of Essequibo. The committals for two (2) of these depositions were nolle prosequi by the DPP by letter because there was not sufficient evidence in the depositions for the DPP to prefer charges in an Indictment.

Indictments were preferred for the other five (5) depositions.

Of these five (5) indictments preferred, three (3) were presented and the trial completed in the High Court and in all three indictments the accused pleading not guilty to their respective counts.

The remaining two (2) indictments remained on the list awaiting trial.

9.0 Matters heard by the Court of Appeal in 2009.

Nine (9) matters were heard for the following offences:

Murder
Rape
Manslaughter
Application to appeal out of time
Inflicting grievous bodily harm
Carnal Knowledge
Indecent Assault

Of these nine (9) matters, eight (8) of them were appeals against convictions in the High Court. The other matter was an application to appeal out of time. This application to appeal out of time was granted and the Court ordered that the appeal be filed within 5 days.

Out of the eight appeals one was abandoned. In another matter the appeal was against the sentence and this appeal was dismissed.

In four of the other six matters the appeal was against conviction for the offence of Murder. In three of these four Murder matters the appeal was allowed. In two of the three cases where the appeal was allowed a conviction for the offence of Manslaughter was substituted and in both cases the accused was sentenced to twelve years imprisonment and in the third a retrial for the offence of Manslaughter was ordered. In the fourth case the matter was adjourned for a Counsel to be assigned to represent the accused who informed the Court that he could not afford a Counsel.

The other two cases that were heard were for the offences of Inflicting Grievous Bodily Harm and Rape. In the case for the offence of Rape the appeal was heard and the matter was adjourned for decision. The decision was not given by the Court during 2009 and is expected to be delivered during 2010. The other case for the offence of Inflicting Grievous Bodily Harm was an application for extension of time to file appeal and this application was granted for the appeal to be filed within 10 days.

10.0 Matters heard by the Full Court in 2009.

Seven matters were heard.

There were five applications for extension of time to file appeal, three of these applications were granted by the Full Court, one was refused and the other one was withdrawn.

The other two were appeals from decisions of magistrates.

The two appeals against the decisions of the magistrates were allowed.

11.0 Police Files that came in 2009 for Legal Advice.

Two thousand, four hundred and seventy one (2,471) files came into the Chambers in the year 2009 for legal advice. The files were spread over the year as follows:

January	213
February	236
March	184
April	223
May	187
June	203
July	233
August	215
September	211
October	223
November	204
December	139

2,471

12.0 Appearance in Bail Application for 2009.

From January to December 2009 Chief Justice Ian Chang presided over the Bail Court and heard Bail applications for the duration of the year. The total number of bail applications that were served on the DPP was six hundred and sixty nine (669) for 2009. This was one hundred and twenty (120) more than the number of Bail Applications served for 2008 which amounted to five hundred and forty nine (549). State Counsel appeared for the police in all these applications before the Honourable Chief Justice.

Of the Six Hundred and Sixty Nine (669) Bail Applications served, ninety four (94) were withdrawn.

Five hundred and seventy five (575) bail applications were granted for the following offences:

- Trafficking in narcotics (185)
- Robbery under arms (72)
- Unlawful possession of firearm and ammunition (45)
- Carnal knowledge (36)

And two hundred and thirty seven (237) Bail Applications were granted for the following Miscellaneous Offences:

- Causing Death by Dangerous Driving
- Inflicting Grievous Bodily Harm
- Felonious Wounding
- Malicious Damage to Property
- Assault Causing Actual Bodily Harm
- Larceny
- Unlawful Assault
- Attempt to commit murder
- Indecent Assault
- Obtaining Money by False Pretence
- Larceny by clerk or servant
- Wrongful Confinement
- Break and enter with intent to commit a felony
- Demanding money with menace
- Wandering
- Accessory after the fact for murder
- Extradition
- Unlawful Wounding
- Forging judicial documents
- Buggery
- Rape
- Burglary
- Disorderly Behaviour

13.0 Finance

The Budget proposals for the year 2009 were prepared in accordance with the estimated financial needs of the Chambers. They mainly provided for wages and salaries, travelling, telephone, rent, office equipment and other services purchased.

The following items were purchased from under Capital Account:

1. Surveillance Camera Package
2. Carpet
3. Two (2) executive chairs
4. One (1) filing cabinet
5. Two (2) ceiling fan
6. One (1) CPU
7. One (1) stand fan
8. One (1) wooden desk
9. One (1) television stand
10. One (1) refrigerator
11. One (1) generator