


# CAYMAN ISLANDS LEGISLATIVE ASSEMBLY
# COMMITTEE OF PUBLIC ACCOUNTS

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Efficiency of Summary Courts
~ November 2019 ~

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*Edited verbatim transcript relating to the Official Report of the Standing Public Accounts Committee Meeting*
*6 February 2020*

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**PAC Members Present:**

Mr. D. Ezzard Miller, MLA, Chairman
Hon. Bernie A. Bush, MLA, Member
Mr. Austin O. Harris, Jr., MLA, Member
Mr. Christopher S. Saunders, MLA, Member
Ms. Barbara Connolly, MLA

**In attendance:**

Ms. Patricia Priestly, Acting PAC Clerk
Ms. Anne Owens, Senior Assistant Financial Secretary, Ministry of Finance and Economic Development
Mr. Matthew Tibbetts, Accountant General, Ministry of Finance and Economic Development

**Audit Office:**

Mrs. Sue Winspear, Auditor General, Office of the Auditor General
Ms. Angela Cullen, Deputy Auditor General (Performance Audit)
Ms. Brittany Bodden, Audit Trainee, Office of the Auditor General

**Witnesses:**

Mrs. Suzanne Bothwell, Court Administrator, Judicial Administration
Mr. Peter Ranger, Senior Project Manager, Major Project Office,
Public Works Department

# OFFICIAL VERBATIM TRANSCRIPT
# STANDING PUBLIC ACCOUNTS COMMITTEE
# THURSDAY
# 6 FEBRUARY 2020
# 10:25 AM

*Meeting with witnesses*

## "EFFICIENCY OF SUMMARY COURTS—NOVEMBER 2019"

Verbatim transcript of the Standing Public Accounts Committee Meeting held 6 February2020, at 10:25 am, in the Chamber of the Legislative Assembly Building, George Town, Grand Cayman.

*[Hon. D. Ezzard Miller, Chairman, presiding]*

**The Chairman:** Good morning everyone and I need to apologise for the delay; we were hoping that CIG-TV would come online but they are not paying us any mind, so, I will call the meeting to order.

Let the record show that we have a full complement of the Public Accounts Committee [PAC] and the first order of business is to swear in the witness.

*[Pause]*

## JUDICIAL ADMINISTRATION

### ADMINISTRATION OF OATH OR AFFIRMATION

**Mrs. Suzanne Bothwell, Court Administrator-Judicial Administration:** I swear by Almighty God that the evidence I shall give to this honourable Legislative Assembly, shall be the truth, the whole truth, and nothing but the truth.

*[Pause]*

**The Chairman:** Let me take the opportunity to welcome Mrs. Bothwell, who is the Court Administrator. That is the title, correct?

**Mrs. Suzanne Bothwell, Court Administrator-Judicial Administration** Yes sir, Court Administrator.

**The Chairman:** Okay.

This morning we are going to be dealing with the Auditor General's Report: "**Efficiency of the Summary Courts—November 2019"**.

First of all, I would like to invite the Auditor General to make some introductory remarks.

**Mrs. Sue Winspear, Auditor General, Office of the Auditor General:** Thank you, Mr. Chairman.

Good morning to you, Mr. Chairman, members of the Committee and colleagues here. Thank you for the opportunity to make some opening remarks about the Efficiency of the Summary Courts reports that we issued in November 2019.

This performance audit assesses the efficiency of the Cayman Islands judicial system in handling Summary Court and Traffic Court cases. Our audit focused on judicial administration as the main organisation that manages courts and it focused on four main areas:

1. Performance
2. Use of resources
3. The Court Building; and
4. Relationship with other justice partners

I will briefly highlight some of the key findings in relation to each of these areas.

Judicial Administration lacks performance information and does not use the limited information that it does have available to understand, manage or improve performance. Our report gives the 11 global measures that the International Consortium for Court Excellence (ICCE) recommends are used to measure court performance on page 12. None of these measures are used in the Cayman Islands.

There are a number of inefficiencies in the system that could be addressed through better use of technology. While we were doing our audit the Judicial Administration was carrying out a major upgrade to its Information Technology (IT) system. This has the potential to significantly improve efficiency and reduce bureaucracy.

It is difficult to identify the total cost of prosecuting cases through the Summary Courts, as a number of agencies are involved. That said, the first step would be knowing the cost per case within judicial administration; however, despite the Legislative Assembly voting funds to Judicial Administration by types of court and general support to courts, we found that Judicial Administration does not record costs in this way, and as a result does not know its own cost in relation to prosecuting cases.

The Public Accounts Committee asked me to provide a view on the investment in the new court building. Firstly, the need for a new court house is not in question, as the current court buildings are not fit for purpose. However, the outline business case (OBC) for the project was incomplete at the time of

our audit and there were some major gaps in supporting information to provide a strong justification for the investment.

The Scotia Building was purchased before the outline business case was drafted and so, the outline business case is being prepared on the basis of the use of the existing court site, the Scotia building and its environs. It is therefore impossible to say whether the purchase of the Scotia building was value for money or how many new court rooms are needed. It is therefore difficult to determine at this stage, whether that investment will ultimately deliver value for money.

Finally, an efficient and effective justice system requires a partnership approach amongst all of the organisations involved. I am pleased to report that they work well together at an operational level; however, in my view, there is a need for a much more strategic approach to improve the efficiency and effectiveness of the judicial system as a whole.

We made nine recommendations which are set out in Appendix 2 of the report. Judicial Administration accepted three of these, with the Court Administrator indicating that direction is needed from the Chief Justice before she can implement most of them.

I have with me today Mrs. Brittany Bodden, who worked on the audit, along with Deputy Auditor General (Performance Audit), Angela Cullen.

Thank you.

**The Chairman:** Thank you very much, Madam Auditor General.

I just want to make one thing clear, that this report is not about judgements handed down by the Judiciary. This report is about the administration arm of the justice, whether that is being done effectively and efficiently, and how we can improve that.

I want to make it clear to the listening public that this enquiry is not about any individual judgement or any totality of judgements made in any cases by the Judges from the Bench. We do not want to get criticised by anybody, including the Judges, in saying that we are trying to influence their judgements. That is not the role; the role here is to make sure that:

1. Government is giving the judicial administration adequate resources
2. Those resources are being used effectively and efficiently; and
3. What can we do to improve the administrative processes within the judicial system

Having said that, I will open the questions, Mr. Harris?

**Mr. Austin O. Harris, Jr.:** Thank you, Mr. Chairman.

I certainly wish to say good morning to my fellow Committee members and likewise to the administrator, our first witness here this morning.

Mr. Chairman, if I may, through you, to briefly break with protocol to formally extend birthday wishes to one of our members, the Member for Bodden Town West, who is celebrating his birthday today. I understand the Member for West Bay will be leading us in a song for his birthday wishes, so we look forward to that later on, but certainly, Happy Birthday to Mr. Saunders.

*[Inaudible interjections and laughter]*

**Mr. Christopher S. Saunders:** Thank you very much, Austin, I appreciate it. Thanks.

**Mr. Austin O. Harris, Jr.:** You are very welcome; Now, on to business.

Good morning to you, Mrs. Bothwell, and thank you for being with us this morning. If we could just jump right down to it, paragraphs 23 and 24, found on page 11 of the Office of the Auditor General's Report, state that there are a number of widely accepted measures for assessing court performance. Unfortunately, paragraph 25, found on page 13, indicates that neither the Judicial Administration's senior management team nor the Criminal Justice Board is using any of them. Meanwhile, as recently as the opening of the Courts for January 2020, the Chief Justice lamented on the lack of court space as being an urgent need.

Through you, Mr. Chairman, my question for the witness is: What assurances can you give this Committee that the issues facing the courts are not more about case management versus the need for more adequate court space?

**The Chairman:** To the witness, when you answer the first question, state your full name and position for the record. Thank you.

**Mrs. Suzanne Bothwell, Court Administrator-Judicial Administration:** Good morning. I am Suzanne Bothwell, Court Administrator-Judicial Administration. Thank you for your question.

In response to your question, what assurances can I give the Committee that this is not more about case management as opposed to need for court space, I have looked at this question and the recommendations by the Auditor General's Office.

As you will note, the Auditor General references an international report, *International Consortium of Court Excellence*, as the basis for outlining what are international standards for court performance. You will also note on Footnote 4 of the AG's report, on page 11, that there is also reference to another report called *"Good Practices for Courts: Helpful Elements for Good Court Performance and the World Bank's Quality of Judicial Process Indicators",* World Bank, September 2016.

In meeting with the Auditor General's Office, during their investigations, that Office was advised that the Courts were in fact using and applying court indicators as set out in the World Bank Report. The focus of the Administration at that point in time was court automation which was one of the overriding standards, because that was perceived by the organisation to be the most urgent in order for us to sort of bring our processes in line with what could be modern court practice.

Our system was developed in the 1990s; it is currently being used but no longer being supported. When I came into the organisation there was an urgent need to upgrade our court database and as a result, we focused on that and the project is in the last stages of customisation at this time. Before I go into any detail about the technology side of things, I wish to bring the Committee's attention to the five overarching areas of priority for judicial process.

**1. Court Structure and Proceedings**

In our assessment when we look at these areas of international aspirations for courts and trying to meet international good practice, we were of the view that on a base level we were meeting at least 75 per cent of the criteria. We were compliant in providing the availability of specialised court divisions, which was one of the identified international criteria. We were also compliant in providing small claims court with simplified procedures because that is something that is done in our summary courts and we do have guides for that for the individual litigant.

We do have a mechanism whereby cases are assigned to the judiciary which was one of the very specific measures to meet under these criteria. The only criterion under this major heading which we believed we were not meeting quite yet was non-compliance to date on pre-trial attachment.

**2. Case Management**

The second major criteria that the World Bank recommended for international courts and their intentions to improve their processes was case management.

Generally, in our assessment we believed that we were 60 per cent compliant in this area, in so far as we had adopted an Electronic Case Management System in the 1990s and this was a basic recommendation. We are now trying to upgrade that system.

The report also spoke about pre-trial conferences by the judges and that is something that has been in practice for many years. The judiciary continues to massage and update those rules, most recently under the Criminal Procedure Code Case Management Rules. This was done by late last year, so new rules are now in place for case management.

In addition to that, the only non-compliant area we felt under this major heading was providing a comprehensive, modern court performance management tool to bolster our existing manual mechanisms. Member Harris, this goes without saying that given the volume of cases that are passing through the courts, our reporting is limited at this time because we have a 20-year old system. We do develop basic statistics that are used by the court; I know the Auditor General said they are not used, but that is not agreed by the Judiciary or the Chief Justice who is responsible for steering the way cases are managed through the courts. We do acknowledge that there is a need to develop and improve our performance measurement tools and that through the improved technological system we would be able to do so.

I read the ICCE report and there were some of the targets listed in the report, such as on-time case processing, duration of pre-trial custody, case file integrity, et cetera. With respect to some of these, I do agree, and I think the Chief Justice would agree, that any new system could be modified and customised to give better data to the courts to manage these processes; however, the data itself can only be used in looking at the whole of the issues that are before the court system and not just judicial administration.

I believe that the Auditor General has adequately put in her report, for example, recognition of the small defence bar that exists in the Cayman Islands. Whilst it is mentioned in the report and raised as a concern, what was not explored in the report in any detail is the true impact of that small pool of persons against the cases that are before the court every day.

Furthermore, on other areas of compliance in the World Bank report, one of the recommendations was to introduce alternative dispute resolution in court systems. They mentioned arbitration as a method which judicial systems can use to expedite cases and get them moving. The Cayman Islands in 2012 introduced and put into effect the Arbitration Law. Therefore, individuals are free to use the processes under that law to more swiftly resolve their cases.

The other option is mediation rules or mediation of cases. For those who attend the Grand Court openings, you would note that from 2016, mediation rules were developed by the Grand Court rules to introduce mediation in family cases because there was a significant concern by the Judiciary, regarding the length of time these cases were taking to resolve. This system has commenced, but because of the limited staffing, the limited number of judges, et cetera, it took a while to get off the ground but the cases were being expedited and resolved before getting to court. The Chief Justice has tried to focus on this area and we are trying to create and develop an actual dedicated unit so that all of our family cases, whether in Summary Court or Grand Court, go through a mediation process before they are heard by a Judge or Magistrate. It is also the intention of that Court to expand it to civil cases that come through the court.

The Bar has been met with. They are aware that this is going to be an expansive area for the courts and the judiciary to resolve cases quickly and more affordably, because if they are not being heard by the judiciary, litigants do not have to spend so much money trying to resolve their court matters. A consultant who is very experienced in mediation in the Florida Courts has been hired by the Chief Justice and is working with that unit right now to develop, in a very comprehensive way, a robust mediation programme that runs parallel to our judicial programme.

With regards to the ICCE criteria, I think I indicated that I have no objection to taking on board the recommendations of that report as complementary to the work that has already been done by the judiciary and the Judicial Administration to improve the judicial processes. However, this will not be realised in any full way until we are able to complete our technology initiative and introduce our new programme, along with other IT measures that must come in line to expedite cases before the court.

**Mrs. Sue Winspear, Auditor General, Office of the Auditor General:** Thank you, Mr. Chairman.

Just a point for clarification, if I may; when we undertake our audits we go to great lengths to agree facts with our clients, so hearing in the early part that the Chief Justice and the Court Administrator didn't agree with findings in the report alarms me enormously, so I would just like to clarify.

Maybe I misinterpreted what was said, but I thought I heard that you didn't agree. With regards to the performance measurement and the performance management system, with what precisely do you and the Chief Justice not agree? If there are factual errors in that report, then I would want those corrected.

Thank you.

**Mrs. Suzanne Bothwell, Court Administrator-Judicial Administration:** Thank you, Mr. Chairman.

The concern of the Judicial Administration and the Judiciary is not so much that you have made recommendations via the use of the ICCE report, but the lack of attention paid to the work that the court was doing using another mechanism to measure and to introduce efficiencies in the court. There was merely a mention of it in the report. There was no attention paid to the criteria set out in that report or any of the activities that were done by the court over time to develop good practices within the court that are recognised by the World Bank for courts to improve services and increase efficiency.

That is the concern of the Chief Justice and the Judicial Administration at this time.

**The Chairman:** Your position is that the Justice Administration believes that the World Bank is a better standard than the two standards that were used?

**Mrs. Suzanne Bothwell, Court Administrator-Judicial Administration:** No, Mr. Chairman. We believe it is a standard that is recognisable and should have been paid due attention to at the time of framing the report, not that one is better than the other. What I note the ICCE does is give more comprehensive information on how courts can improve, but a lot of this is going to be dependent on technology.

I reviewed the report and I looked at the members of the ICCE. I am also aware, as someone involved in Court Administration, what a number of our counterparts are doing, the activities they are undertaking and the investments that their governments are making to help them be more efficient. We are not there, but that is a dialogue that we will continue to have amongst ourselves and engage the government accordingly as we progress, but the suggestion in the report is that the Court has done nothing, nothing at all, and that is not accepted.

**The Chairman:** I don't think that is a fair assessment of the report. That may be your assessment and the Judicial Administration's view but that is not the view of the Public Accounts Committee or the Auditor General. There is nowhere in this report that says nothing is being done.

**Mrs. Suzanne Bothwell, Court Administrator-Judicial Administration:** It says that there are no performance measures, so there is no activity to help develop performance measures or standards.

I will agree that the actual refinement of the data to the best that it can be used does not exist but the suggestion that we do not use our statistics at all, it is not looked at. I am not sure where the Auditor General is getting her information from in that regard and the Chief Justice does not agree with that.

**The Chairman:** I suggest that that information came from the Courts and the Courts' records, but I will let the Auditor General speak for herself.

**Mrs. Sue Winspear, Auditor General, Office of the Auditor General:** Yes, we say the information is limited. We go by the evidence provided by the witnesses, so we saw limited evidence of performance information. If we had seen significant information related to the World Bank standards, which we do reference, then we would have given credit. So, our position is that we have tried to be fair, based on the evidence we have been given, and the evidence we have seen around performance is limited, but we don't say there is none there, absolutely not.

**Mr. Austin O. Harris Jr.:** Just along that line Mr. Chairman, through you to the witness—

**The Chairman:** If I could just guide the witness a little bit, please?

Answer the questions that you are asked, because you are going to be questioned on each recommendation and we do not like the idea when you try to summarise all of the recommendations in one answer. So, let us try to stick to the specific questions being asked.

**Mr. Austin O. Harris, Jr.:** Thank you, Mr. Chairman, through you: In addition to improved technology to improve case management, the Auditor General's report also noted the absence of clearly defined standards of performance measurement, particularly used for assessing both the timeliness and quality of cases progressing through the Summary Courts.

It went on to mention on page 13, the first paragraph at the top of the page, last sentence, that it is not possible to identify what is working well or where performances could be improved. In your previous answer you mentioned improvements in the computer system that is being utilised by the Courts, as well as other measures to improve case management, presumably through procedure.

Mr. Chairman, through you, I wonder if the witness could advise this Committee when the planned completion of both the improved technology, as well as court procedures is expected to be completed.

**Mrs. Suzanne Bothwell, Court Administrator-Judicial Administration:** Thank you, Mr. Harris.

The court procedures' updated rules were completed last year October. They are now in force and being applied by the Court to speed up trials, to provide tight timelines to defence counsel, prosecution and the defendants, in progressing their matters through the court.

What cannot happen at this time, even with these rules, is to introduce these measurement tools in our current Information Technology (IT) system. Because the IT system is a DOS programme, it is no longer supported, therefore these measures would have to be introduced in our new system in order to collect that data and run reports on those kinds of activities.

**Mr. Christopher S. Saunders:** Thank you, Mr. Chairman.

Before getting into my first question, I just want to take time to read Section 87 of the Cayman Islands Constitution Order 2009 which says, **"There shall be a Public Accounts Committee of the Legislative Assembly with power and responsibility to examine the public accounts of the Cayman Islands and the accounts and financial dealings of all authorities, offices and departments of Government, of all courts, and of all Government-owned companies."**

Just to expand, Mr. Chairman, on your opening remarks, and I think it is important for the listening public to recognise that what we are concerned with today is the just over $15 million that were approved for the Court budget in 2018 and the $5 million that was spent, in terms of the administration of the Court.

We are looking more along those lines, in terms of the value for money and efficiency. I just want to address the listening public to reinforce that this is not an issue with regards to the Judiciary or the cases before them but rather the efficiency of the court system within our democratic process. It is an independent body, it plays a very important role in our democracy and it is very important for us as members and witnesses to reinforce to the public that we do not do anything to undermine the Judiciary at any point. I just want to make that clear; this is just based on performance, efficiency and what we can do to improve performance.

What triggered this audit was the government's purchase of the Scotia Bank building for $10 million or something like that, if memory serves me correctly. The witness may recall that exactly two years ago, this month, the witness came before the Public Accounts Committee speaking about "the dire situation", I think the exact words were, with regards to the lack of facilities within the court that needed to be dealt with. I think based on that and, from what I understand, recognising that there was a dire need for more space, the Government purchased the building

What we were a little surprised about I guess, is that $10 million was spent and there is no business case and roughly two years later there is still no business case to justify that expenditure. Naturally, the question is: What information is being used to make an informed decision before we are basically spending public money? That is where we are trying to get to, in terms of the whole performance management of the court system itself, not with regards to the judges, the judgements or anything like that, but just the efficiency.

One of the reports I read prior to coming here today, was actually the report from the Office of the Director of Public Prosecutions (DPP); their annual report in terms of the amount of cases they had, the disposals, et cetera. I also looked at the Economics and Statistics Office (ESO) Report and what really surprised me is that between the ESO Report, the DPP report and even the Auditor General's report, some numbers just did not seem to reconcile; so I am kind of left wondering where the source of the information is.

A case in point is the annual HR report that is done by the Portfolio of the Civil Service, where the very staff count at the end of December, 2018 is different from what is in the Auditor General's report. I am begged now, as a representative of the people who vote for money, to ask: What information exactly is being used to make these decisions when some of this information does not reconcile?

We do understand that there is a very old DOS system and the only good thing I can say about having such a system is that it is very hard to hack because most of these hackers would have to go back and learn the language from back then. So there are advantages to the system. We already saw how the police lost almost 1.9 terabytes of information; at least we do not have to worry about that in the court system based on the system that they are using, so there are advantages to it.

The whole idea here is for us to look at the efficiency of the court system because ultimately within our democracy, judgements and everything else must be timely and if there is no space and there are no courtrooms, to borrow from Martin Luther King, **"Justice delayed is justice denied."** We need to ensure that we have a court system that meets the needs of the public.

Granted, some of the systems are old but what I am hoping to get from this hearing today and for the Government Members who are also present, is for everyone to sit back and say, *Wait a minute, this is what we need to do and this is where we need to spend to get the court system operating efficiently within our democracy*, because it is a very important role within our democracy. That is really and truly the purpose of the audit today.

Now, I know as with most reports, it is critical of what people do and naturally people can become defensive, but I say what I say in the light that the purpose here is not to pick a fight with the judiciary; that is not our intention here, but rather to see what needs to be done to make it more efficient and serve the public better. That is ultimately what we are all here for today.

I just wanted to put that out there so the public and everyone don't look at this as being a situation between the Legislative Assembly and the Judiciary. The Constitution is clear with regards to our role and ultimately, if we are voting public funds to the Judiciary, then we need to understand what those funds are being used for, as opposed to being used for something else. If we are not spending enough on the Judiciary, then I am hoping the witness can make that clear to us so we can go back and do what needs to be done to make sure that we have an efficient judiciary to serve the people of the Cayman Islands.

With that said, Mr. Chairman, what I would like to understand from the witness is: From a performance evaluation standpoint, what is being done for them to say that the Court is efficient, here is what we need to improve it or what is it that we do not do.

Now, we do understand that in some cases, the Court Administration is also at the mercy of the DPP, because when it comes under criminal matters, this is something that is brought by a separate department and they have their own space, their own time, their own methods and no one can tell the DPP what to do. That is another entity that is separate from us as legislators that we have no control over, other than to make sure that we vote the funds for the DPP to do their job.

We also recognise that the Police and the Department of Community Rehabilitation play an important role, so there are a lot of moving parts here, where everything converges within the court. Then, there are also civil issues, so the main thing that we are trying to get here today is: What do we need to do to make the court system better?

Through you, Mr. Chairman, the first question to the witness is—and I apologise for the long preamble—in her opinion, what does she believe needs to be done to get the court to the standard that they would like to see? In other words, what does success look like for the Court Administrator and the Chief Justice and what do we need to do to achieve that success?

Thank you.

**Mrs. Suzanne Bothwell, Court Administrator-Judicial Administration:** Thank you, Mr. Saunders.

I think I would start off by saying that the Court recognises that success is always a work in progress and that there are things that we work on and we try to achieve diligently, and there are always going to be things that we are always working on.

With respect to how we get to a point of success, it is not one single thing, it is multi-faceted. The urgency or the priority of new court facilities has been the request of the Chief Justice as far back as 1999. So, at least on the record we know that the need for additional facilities to meet our court demands has been ongoing since 1999. At that time, it was identified that possibly three years from then they might get new facilities and for the record, this is outlined in the Judiciary's Annual Report of 1999/2000. We find ourselves in 2020 and I agree that in August 2018, as part of the outline business case, the government purchased the Scotia building for the courts.

It is important to understand the context of why the government felt that was necessary at the time. The context is that from 2015, there was renewed effort to ascertain what court facilities were needed; at the time, that was led through the Ministry of Lands along with the Judicial Administration. An outline business case was being engaged with, with a view of creating court facilities that would take the country through a 25 year period. When that exercise was completed in 2016 and the financial data became available, it became clear to all concerned, including the Chief Justice, that that was simply unaffordable. The matter was brought before Caucus in 2016 to show them what the options analysis revealed and the range of costs for new court facilities and unsurprisingly, the government made it very clear that that was unaffordable. So in effect, the OBC was stalled.

Judicial Administration has a very personal vested interest in ensuring that project does not go on the back burner, so it was agreed by the government for the Administration to work with the OBC team to reframe the objects of the OBC and to look at alternatives. The questions were where to put the court building, the size of it to live a 25 year period, and whether it was a green field site outside of town or a complete restructuring in town and all the available options exceeded over $100 million.

Permission was given to go back and revisit, and at that time there was no identified property or land in which the court or anybody could say *well, this is where you could build the courts*. The earliest exercise in 2015 from the stakeholders, as I am advised by the OBC team, actually concluded that the major stakeholders preferred for the courts to stay in town because that is where their businesses were and where they felt most comfortable to access the services.

The status quo continued and a decision was made to purchase a building that was adjacent to the Court House to allow for the court to transition out of Kirk House—our second building that is not owned by the government and has already been deemed not fit for purpose—and to modify the new infrastructure proposal to include the entire block, namely: The Scotia building, the Celebration Park area and the main court building, and that is the subject of the current OBC. The building was purchased and was meant to accommodate the long-term needs of the courts based on the Chief Justice's recommendations. He asked that a temporary court be put into the building until the new plan is agreed by the Government, as well as a permanent home for the Court of Appeal. This modified the Outline Business Case because it is something that is not needed just for the new court facilities in the long-term but there is an urgent need to be satisfied whilst the more long-term proposal is being crystallised and agreed by the Government.

This additional modification of the OBC scope also caused some level of delay. It took most of 2019 working out these changes, cost-analysis, et cetera because the original purpose of Scotia building was mainly to be the accommodation centre for all of the staff, moving most of them out of the main court building and Kirk House and phasing that building out.

Where are we? We are trying to realise the immediate request to renovate Scotia building to accommodate the temporary Grand Court so that more criminal cases can be heard there at once, and to put in a place for the Court of Appeal. As the Auditor General report notes, when the Court of Appeal arrives it displaces the other courts including the Grand Court and, in particular, the Summary Court. We are finding that the number of Court of Appeal sittings is increasing and by them not having an actual dedicated home, there is a higher likelihood of displacement of the Grand Courts and the Summary Court.

The agreement of the master plan is the priority and we continue to work with the special projects department and the OBC team to complete that in order to bring the final information to the Caucus. Caucus and Cabinet have already been presented with high design plans of what it should look like so this is not a surprise. Whatever we provide to them, it will not be the first time they are seeing it. They are aware of the proposal and the projected costs.

The other side of things is staffing. I believe the report spoke about staff of the Judicial Administration being about 60 for quite a while. We have increased it; however, we have had to rely on temporary staff to help alleviate some of the pressures that the organisation is facing.

In accordance with the budget requirements, I have asked for more staff and I am thankful that I have gotten the funding for the posts. I am working with our HR manager to fill those posts and I don't mean to speak out of turn, because I know the government has to play a very fine balancing act when allocating budget. As the Chief Officer and Court Administrator, when budget was approved in November, whilst I was very pleased that I actually got the posts that I asked for and actually had to lobby for quite frankly, to ensure that there were no cuts to my budget particularly on HR, I find myself now with the increase of the cost of living adjustment or whatever it is called; to now find the money in my existing budget to pay for that, because there was no specific budget allocation for it.

Now, when I approach my technical staff, they tell me to cut posts that are not filled; I can't do that. So we are still working through this year, exactly how and with what efficiencies we can bring into how we do our work to keep the costs down so that we can pay the staff the additional funds whilst I am still able to successful stagger and fill the posts overtime.

Workforce planning is something that has been raised by the Auditor General and I am in full support of that. It is something that I will be working on with the Chief HR person, who is with me, along with cross training and talent development of staff because the work of the court changes. No longer do we live in an environment where a person does one job or one thing; you are flexible in your skills and go where you are needed. Those are the HR aspects that we are trying to develop so that in terms of competence, the staff can deliver the quality of services the courts need. This is what we partially see as success.

In terms of our Information Technology, what we see as success is to finish the court's technology programme. Our aim is to eventually bring in electronic filing of cases across the board. The priority identified to me is to start in the Financial Services Division and to pilot that scheme.

We also wish to bring in more court recordings because there is a demand of the court for the records of the court in courts where we don't currently

have records. Also, many of our courts of records do not have court reporting services and that is an area of priority to ensure that our business can function properly.

I have also been asked by the Chief Justice to expand what is currently our internal paperless initiative and to start looking at options whereby the Court becomes almost a paperless court and we are not dealing with paper files. That way, files are centralised and can be accessed by all parties from end-to-end from the beginning. We do have resources or persons with experience in these types of systems that work with our courts and so, certainly, that is something that is high on the agenda but I cannot say that it is part of our current year's planning because it is a new initiative that the Chief Justice would like to do.

One thing on our database, though—and I wish to stress this—is that we did not enter this activity in isolation. Before we started, we met with the Government to find out what resources or support they could give us as we journey through the creation of this new product.

One of the things raised was the ability to be interconnected with other government databases because we were very sensitive to the fact that the Judicial Administration acts as the hub of information for the RCIPS, the Probation Department and the Department of Children and Family Services (DCFS) whereby special permissions are currently given to very specific staff members to access the Court's information to support them in their work because they do not have their own systems to generate their own information.

In building our database, it is supposed to be web-based and Microsoft based, and able to connect with other types of databases whereby, if there needs to be a linkage to transport data one of the things that we are keen to do, for example, is to give the disposals of sentences to the police, that information should be able to go from our system to their system. I believe at the time, the police had already purchased or developed their system but those were the kinds of discussions we had with e-government at the time.

We are keenly aware of the questions raised about the traffic system that we have in the courts, by the police and the law and that it too will require some form of improved technology. We believe that that will be able to be linked to the court system whenever that initiative comes to life.

**Mr. Austin O. Harris Jr.:** Mr. Chairman, through you.

Just along these line of delays and otherwise, I wonder if I could focus specifically on aspects of the Office of the Auditor General's report.

Paragraphs 28 to 34 found on pages 13 to 16 state that one of the most frustrating aspects of the court performance that was raised during the audit was the number of times cases are adjourned. Paragraph 31, found on page 14, reports that none of the IT systems used across the criminal justice system is able to provide data easily on the number of cases that are adjourned or the reasons for the adjournment.

With that said, some reasons were in fact identified for the number of adjournments found on page 15, Paragraph 33, where it states the most common reason for adjournments was that the defence attorney was unavailable or unprepared. I have two questions for the witness, Mr. Chairman, through you.

1. How does the Court manage the practice of adjournments in the absence of proper technology; and
2. Are there Court rules surrounding adequately prepared attorneys and are there any specific penalties for those attorneys or Officers of the Court who would otherwise waste the Court's time?

Thank you, Mr. Chairman.

**Mrs. Suzanne Bothwell, Court Administrator-Judicial Administration:** Thank you, Mr. Harris.

The Court's IT system does not track the reasons for adjournment at this time. The system was not developed to do that and there is no way for us at this point in time to modify it to do that. The only way it is tracked is by the fact that the magistrates themselves are responsible for the files and the date in which the person is to come back and it is at their discretion whether or not they permit the adjournment. So, it is through judicial persuasion or pressure that cases progress.

Regarding the few reasons that were given, one being the defence attorney being unavailable, from my understanding of the Judiciary and their reporting to the Chief Justice and me, this is perhaps one of the most frustrating things for them also. They would book trials for months and when it comes time for the trial, the attorney is not available not because they do not wish to be there or they forget the date, but simply because of other reasons, for example, there is a conflict and their case has been called in the Grand Court which is a higher court and requires them to give it priority.

In the Grand Court, why do these things happen on short notice? There are a variety of reasons and it could be highly driven by the defendant. There is no ability in our law to force the defendant to plead guilty earlier. I do believe in the current rules that the defendant should give an early indication if they are going to change their plea but really, there is no true penalty if a defendant pleas late, except in the sentencing stage. There is nothing that the court can do before sentencing to address the fact that a defendant plead late and they have technically wasted the court's time.

**Mr. Austin O. Harris, Jr.:** Mr. Chairman, through you.

The question specifically was not about the defendant wasting the court's time, but are there any specific penalties outside of conflicts of attorney having to serve in a higher court?

According to the Auditor General's report, 14 per cent of the time the reasons for adjournment are that attorneys themselves are either absent or unprepared. Does the court afford any penalties for those attorneys who would waste the court's time?

**Mrs. Suzanne Bothwell, Court Administrator-Judicial Administration:** Thank you, Mr. Harris.

With regard to absence in the Summary Court, I do believe I have given a reason as to why some attorneys find themselves absent.

**Mr. Austin O. Harris, Jr.:** Yes ma'am, to which I stated, outside of having to attend a higher court, that is, the Grand Court, in Summary Court itself, are there penalties outside of having to go to a higher court? We understand there are myriad of reasons but are there any penalties for absence or being unprepared.

**Mrs. Suzanne Bothwell, Court Administrator-Judicial Administration:** With respect to being unprepared, where you would find the most oversight is in legal aid cases.

There is an improved tracking in legal aid because we tax bills. They will present bills and the taxing officer will look at the amount of time that they say they are attending the court the amount of time it is taking for them to prepare, and give reasonable judgement on the amount of time it should be. To that extent, there may be what you will call a penalty. I am not sure if that is really a penalty, but it is certainly a review of the activity of the attorney.

For anything on a disciplinary level to happen, the only persons who can bring that would be either the defendant who believes that he is not being represented properly or the Magistrate or Judge. Those are the only two persons who could technically make a formal complaint about attorney's conduct.

The new Criminal Procedure Rules for both the Grand Court and Summary Court are meant to put more strict timelines and accountability on the attorneys at the Bar to be ready, particularly when it is time for trial. The use of the pre-trial conferences are really meant to make sure that everything is ready, that there is the minimal chance of the trial being vacated and that the judge has the ability to monitor the case.

**Mr. Christopher S. Saunders:** Mr. Chairman, for everyone's clarification.

We are getting deep into lawyer/defendants and those kinds of issues. I just want to caution this Committee that it is an area that I am uncomfortable with. Ultimately, the lawyer or defendants and what goes on inside the court is something completely different. What we are looking for here is the efficiency within the court system itself, in terms of the booking and the use of the courts, et cetera. So I think it is important for us to stay within that vein.

What I can say from listening to the witness is that I am very tempted to question the whole issue of legal aid, but I have to exercise some restraint. One thing that really rubs me the wrong way is when I look at the disposable rate or arbitration time rate—or whatever the term is—in many developed countries, more than 90 per cent of issues don't even go to the courts.

I believe—this is just my personal belief and I guess as a politician, I can speak like this, I know you can't as a witness—there is a culture within the legal fraternity to milks clients as much as they can, dragging things into court, getting more fees, et cetera. That is a culture that has to be dealt with separately. Some of the cases that I see ties up the court are case where the person is guilty. I know the lawyer could have said to the person, *you are guilty, plead guilty*, but for whatever reason, they drag it through the court system and then some things happen.

Now, that is a different issue for a different time and that is something that we can deal with at a political stage and at a different venue. However, within the ambit of this Committee, we are just looking for value for money, in terms of the actual operations of the court, the court room and the court space. I think we just need to make sure that we confine today's discussion to that because the other issues are dealt with at the full Legislative Assembly and within the political mode, in terms of dealing with lawyers' culture and their behaviours.

With that said, I wanted to go back to the grand scheme of the building. I remember hearing a figure of over $100 million for the new court house and saying to myself back then, *after spending $70 million or so to build the Government Administration Building which houses almost 1,000 people, there is no way that the Government is going to spend that kind of money on a court house that is going to be housing 60-70 staff.* I knew that was not going to happen.

So, going back to my original question in terms of recognising that maybe over a period of 10-15 years we may spend $100 million building phase one, two and three; in terms of the immediate need and the medium term need, what needs to be done for us to have the court system? We recognise that this is what the culture is and if the lawyers don't change their behaviours then we are going to need the court rooms. So the question is: Based on the culture that we have, what do we need to do to ensure that the administration of the court system works as it should? None of us inside here can tell the lawyers not to take their clients to court even though other countries have evolved to that. That is really where we need to stick to and not get into the actual courtroom.

Thank you.

**Mrs. Suzanne Bothwell, Court Administrator-Judicial Administration:** Thank you, Mr. Saunders.

Judicial Administration recognises that whatever discussion we have with the Government to actually get court facilities now—whether it is in the next five years—is not going to meet the long term needs because the decision making is not really based on need exclusively, it is based on need and available monies. Therefore, a phased approach is something that, in our view, would be a sensible approach because if the money is not there, then it cannot happen. Nevertheless, what we do not think can continue, is the status quo, so something has to be done and it has to be done in an affordable way. I apologise, I forgot the actual specific question beyond the phased approach.

**Mr. Christopher S. Saunders:** The question I asked was: In your opinion and that of the Chief Justice's ultimately, what do you see needs to be done in the short and medium term for him to do his job effectively and efficiently? A simple way to guide the answer is:

1. How many court rooms do we have?
2. How many cases are we looking at per year?
3. What is the average length of each case?

When looking at the statistics—even though they may be a bit off— , I think you probably have less than 10 courtrooms and thousands of cases. I even looked at the average time that it takes for a person to go in the dock for a judge to read, et cetera. After quick calculations based on the statistics, it's recognised that there are insufficient courtrooms based on the statistics.

I look at traffic tying up the court's time. I know in your opening statement you mentioned arbitration and other things that can be done, but when I see traffic offences being tried in a court system… I mean, you are caught speeding and let us say you dispute it; at that point the fee cannot remain the same. If you want to go to court to dispute a speeding ticket, you are talking about 10 times the fine, et cetera, so people realise that they should not drag it out. In most cases, I have found that people just forget to pay, so I believe at that point it should be an automatic penalty, as opposed to tying up the court.

There are parts of it that can be dealt with from within the government, since the government is the one who is ultimately bringing some of the cases, but no one wants to go before a judge, go through the court and waste half a day waiting on their name to be called. No one wants that.

So, going back to your earlier point of arbitration and the number of courtrooms, number of cases and average time, what can we take out of the courtroom to directly have less demand on court space?

Thanks.

**Hon. Bernie A. Bush, Elected Member for West Bay North:** Mr. Chairman, just going on to what Mr. Saunders said, I want to get this in.

As MPs, [Members of Parliament] we get representation from people whose lives have been held in limbo because of waiting and I brought it up in Parliament. There was a particular case—we keep saying that we don't get into any judicial decisions—that when I brought it up, someone from the DPP said to me, Y*ou asked about the three year old that was molested; it stood there for three years until everyone's memories had been slighted and the case eventually got thrown out.* Their comment was that there was no court room or time to allow the case to get there early enough.

Of course, everybody is trying to pass the buck so what Mr. Saunders is trying to ascertain is what do you need to be more effective, so these things stop happening and people's lives can go on.

**Mr. Christopher S. Saunders, Elected Member for Bodden Town West:** Sorry. Before the witness answers, I will say don't answer that because it is a political question. I can tell you, if it takes the DPP three years to get a child molestation case to court, the DPP needs to be fired.

Anyway, thank you.

**Ms. Barbara E. Connolly:** Thank you, Mr. Chairman; through you to the Court Administrator.

Going back to the adjournment of cases: Are there any plans to develop a system that can track adjournments? Is the new IT system able to accommodate tracking of adjournments?

**Mrs. Suzanne Bothwell, Court Administrator-Judicial Administration:** Thank you, Member.

The new IT system is going through its final stages of customisation. Based on the recommendations of the Auditor General's report, we will be paying very keen attention to the various data that we could draw from the system and also to create reports to help inform court decisions and administrative decisions moving forward.

Under the new rules, only in the Grand Court at this time do we have a Case Progression Officer and this is tied in with the new case management rules for Grand Court matters. There are intentions to bring a system for case progression in the Summary Court, but the administration continues to be in dialogue with the Magistracy and the Chief Justice about what that will look like, because that court functions very differently from the Grand Court.

It is not an area that administration can make changes to without consultation and certainly without the buy-in of the stakeholder who will manage this

process from a judicial standpoint. The Administration provides a supportive role in that respect and we continue to discuss with the Magistracy how they would see case progression looking like moving forward in the Summary Court. That is still being discussed between the Magistrates, the Chief Justice and his delegated Judge who is in charge of the Criminal Division, and I.

**The Chairman:** Not to interrupt, but you need to answer Mr. Saunders' question about the number of cases.

**Mrs. Suzanne Bothwell, Court Administrator-Judicial Administration:** I have the lists, thank you and if I miss an area, please do remind me. I have tried to make notes as best as possible.

With respect to traffic, this issue was raised at Finance Committee and I did take note of the recommendation, I believe, by the Hon. Arden McLean, Leader of the Opposition and a few other Opposition Members, that an inter-agency committee be set up to revisit the entire Traffic Law system and the way that traffic is processed and dealt with in the whole justice system. That has been relayed to the Hon. Chief Justice; he is fully on board with something like that and is happy to lead that initiative.

I refer to page 20 of the Auditor General's report which actually sets out the traffic ticket process and notes that 7 out of the 13 processes are pre-court processes. Certainly, there is an impetus and a genuine need, quite frankly, to almost transform and modernise the way we deal with traffic in our jurisdiction, particularly when I note that once again there is a special unit set up by the police to deal with traffic and that transportation issues continue to be a concern for the police.

On the question of the number of court rooms that we have now and what we need, right now we have seven open courts and those are used by all of our courts: Summary, Grand Court, Criminal, Financial Services, Civil and the Courts of Appeal. That is what we have.

The scaled down plan will only provide ten new courts and that would mean ten new courts plus the two in the main court building that will remain, and then the home for the Court of Appeal in old Scotia bank. In total, thirteen courts would become available if this proposal from the OBC goes through. It is a big project and the way I see government projects move, I would not be surprised if at the time the structures are built we are already at capacity.

As the Court Administrator, what I am hoping for is that we will continue to look at our justice system and work with other justice stakeholders to see how we can modernise and bring about broad-scale efficiencies in our justice system, to not only reduce the number of people coming to court and using our services, but also to ensure that we have mechanisms where the cases can move through quickly and there are alternatives that do not bring the cases to court.

As I said, the tool that we have now is mediation. We are in the very early stages of mediation in the Cayman Islands, but it is certainly a viable alternative. Parties can opt to use that route or the court can direct them to consider it. Whilst we cannot require parties to use an alternative system like ADR, we certainly can inform and educate them of the process and at least encourage them to give it a try. Hopefully they will either fully resolve the legal issues in that environment or by the time they come back to court, they are reduced.

**The Chairman:** I have a couple of questions.

The Judicial Administration tabled a report last Friday, "The Cayman Islands Judicial Administration Annual Report 2016/2017". All of the matters before the Court in 2017 under Summary Court are below what came to the courts in 2008; traffic court is down by 50 per cent. What is the justification?

Are the 13 courtrooms being driven by data such as this and if not, what are they being driven by?

**Mrs. Suzanne Bothwell, Court Administrator-Judicial Administration:** The number of courtrooms that we are getting through the proposal is driven by money. It is what the actual plan can build. We need more—

**The Chairman:** Are you suggesting that if you had more money, we would need more than the 13 courtrooms we have now to deal with reducing cases?

**Mrs. Suzanne Bothwell, Court Administrator-Judicial Administration:** I would have to see what the original options analysis was over a 25 year period, but the original proposal was for a 25 year life span for the court. So, the original one would have been more than 13 for over a 25 year period.

We largely took the criteria of the proposal that was made when the court was to be built by Halfway-Pond because we actually had plans for that and a lot of work had gone into it. I believe at the time it was identified at probably $20 million but that was a long time ago. We have not really scaled beyond that because of the financial constraints. We are at seven and what has been proposed is no more than 10 in the new structure and we use the existing three that we will have shortly.

In terms of the reduction, the reduction in numbers is not a sole indicator of efficiency. What this court is finding and our measurement tools moving forward will help that, but some cases are taking longer to move through the courts and not just in the Summary Court. They are taking years sometimes to move through in the Financial Courts, the Family Courts and to some degree, in the Criminal Courts. In Criminal Courts there is a priority to push them

through but when you are dealing with cases where it is party driven and in family cases where they don't have an attorney, they are unrepresented, they do not agree, they might leave the jurisdiction and then the cases go dormant.

In financial cases, when you are dealing with monies up to $100 million, these cases on average can be three years just in the Grand Court and then they are appealed to different courts and we are using the same facilities and then they come back to Grand Court in some of the hearings. I don't intend to go into the details of it because that is not appropriate here, but the number itself is not indicative of use or lack thereof, but about the types of hearings that are coming through the courts globally and how that is happening.

Actually when we attend court conferences, this is something that courts are starting to speak about: How do we start looking at this? This is a new dynamic that is happening in court systems.

**Mr. Christopher S. Saunders, Elected Member for Bodden Town West:** Thank you, Mr. Chairman.

Just looking at pure numbers now—the accounting e-mail just came out. At present you say you have seven court rooms; 7 court rooms at an average of 6 hours a day, 5 days a week, 52 weeks out of the year is 10,920 hours of court time available.

Looking at the court's statistics between 2010 and 2018 but focusing only on 2018, the number of cases that went before the Court of Appeal, Grand Court, Summary Court and Specialty Court totalled 10,668 and the total traffic-related was 7,451 or 70 per cent. I think this is where we have an issue and that is why we welcome the fact that you guys are looking at traffic.

With 70 per cent of issues going before the court, being court's time, if you take 10,920 hours of court time available and you have 10,668 cases you are basically trying to say one hour for each case and we know that is not going to happen because criminal courts go on for weeks but we have 70 per cent of it sitting in traffic. The real question then is: Once we fix the issue of traffic cases coming before the courts, what would be the true need, in terms of spacing, for the court? You would then have roughly 3,000 cases and 11,000 hours' worth of court.

These are the kind of analyses that we are looking at to see what makes sense from what doesn't. I mean, if we continue with the high number of cases coming to the court—issues that we do not believe should come to the court and that in other countries does not even go to the courts—then what is the next step?

**Mrs. Suzanne Bothwell, Court Administrator-Judicial Administration:** Thank you, Mr. Saunders.

The analysis that we will have to take forth is what is going on in the full court activity and not just the Summary Court. Certainly, in the Summary Court, if the traffic component was either entirely or significantly taken out of the court system, then that division itself would have to see where it uses its dedicated time and how it uses its newly available court time more efficiently to process other cases through the court.

I will give an example of this: In the Summary Court itself there are many subdivisions of Summary Court. There are the general civil small claims, the maintenance cases that are quite voluminous, the Drug Court that is held once a week, and a newly-formed Mental Health Court. The Court has recognised that some of the repeat defendants who are coming before it are actually suffering from mental health concerns. The Summary Court is therefore moving away from just dealing with the offence and the person, and then pushing them forward only for them to be back two weeks later, to trying to help the defendant address their additional needs through the court system to prevent them from coming back.

These are inter-agency, rehabilitative courts and involve the Probation Department, Department of Children and Family Services (DCFS), Health Services and Counselling Services so that when a person comes before it, the whole person is looked at through the court process. When the process ends, for example the Drug Court, they do not leave the Court with a conviction if they go through the programme successfully; they leave the programme clean and they do not have a conviction recorded, which can adversely impact their life.

In the Mental Health Court we do not have underpinning legislation, so that is not as much as a developed system but that is certainly something the court is looking to grow and develop formally within a Summary Court. Likewise, for domestic violence cases which are very urgent and can be very complex and sensitive, whilst there is currently a Memorandum of Understanding between the DPP's Office and various government agencies with the court to fast track those cases, I wouldn't be surprised if that is something that will also be formalised in the future with the Summary Court.

So, there are different initiatives at the Summary Court level that I believe can be looked at and be used to help move those types of cases through. Certainly, the court to a large extent is responsive to the activities of the population. What the court does not have control of is who comes to court. That is the Director of Public Prosecutions Office and the Police and they are responding to the need for law, order and justice when individuals in the society and community breach the law.

The Summary Court also deals with child protection matters. Those are also sensitive matters with

the family and some of them are public law, whereby very serious decisions have to be made. They might seem simple but they do have very complex human rights components to them.

I would anticipate that even with the removal of traffic—I do not believe that it can be taken out 100 per cent but I do believe there could be vast improvements to what comes to court and at what stage—the courts are always developing. They help to meet the need of what society needs in a justice system. It is not just about the crime that has been committed, certainly not at the Summary Court level, in the Grand Court, yes, but not in the Summary Court.

**Mr. Christopher S. Saunders:** Quick question: We have been working on the Outline Business Case for approximately two years now. When can we expect the Outline Business Case to be completed and more importantly, when can we expect the actual Business Case to be completed?

There is a lot of money being spent and battered around but the financial justification for why we are spending this money still eludes us.

**Mrs. Suzanne Bothwell, Court Administrator-Judicial Administration:** Thank you, sir.

The OBC team met this month (January) to put the final nuts and bolts on the Outline Business Case, but there is a need to modify it because less funding was given than was requested. My understanding from the various technical persons on the team is that this will impact risk in their risk assessment and given the urgency that our Administration is asking for the early works for the Court of Appeal (CoA) and the temporary court work to be done, we are trying to navigate through the procurement strategy.

A procurement strategy has been proposed and I do believe that within a month or two the Outline Business Case will be available to Cabinet. In terms of the early works itself even starting, my role now is to get the project, work with the Special Project Office, get the project manager, figure out the procurement in line with the procurement rules and see how we can get the money spent and the plan built for the COA and the temporary Grand Court in this budget year before or by summer.

*[Inaudible interjections]*

**Mr. Christopher S. Saunders:** This is important for the record: Where I am a bit lost is what the Judiciary needs. While I do recognise that there are financial constraints, what I would suggest is that the Outline Business Case and the Business Case, which gets into the nuts and bolts, actually says to the elected representatives this is what the court system needs. After that is done, we can see what best we can work on and what we can fix or put in now. It seems as if the financial resources are driving the need when in fact, the need is the need and then we put the financial resources to it, but if you are trying to put a Business Case or an Outline Business Case within a particular budget, it is not going to work because that is not long term thinking.

I think this is where the frustration comes in sometimes with us and members of the public: What we need is to know clearly what is needed to have an efficient court system in this country and then it is our job to go out and find it. Something I have always been wary of in most constitutions is the fact that the Legislative branch always has control of the purse needed by the Executive branch and the Judiciary. As such, we need to make sure that the Legislative branch is doing its job also, because they can stifle both the Executive and the Judiciary by the power of the purse.

Therefore, it is important for me—I cannot speak for other Members—that we know exactly what the court needs to serve the Caymanian public because this is one of the pillars of our democracy. Then we can decide *okay, here is what we can do now, here is what we can do three, four, five years from now, here is what we can do in 10 years*. However, it can't be a situation where, because you only have this amount of money this is what we are going to do. That clear vision needs to be put out there and it has to be a clear vision and mission of what you want for the court; then give us the task to go and find the money, but it cannot be driven by the finances.

**Mrs. Suzanne Bothwell, Court Administrator-Judicial Administration:** Thank you, Mr. Saunders.

Certainly, I have taken special note of that. The Court is going to be undergoing a strategic plan this year to look at everything concerning the Court and all of the ancillary justice needs that the Court is involved with or participates in. My mandate from the Chief Justice is, *let's get this activity concluded by the end of the year so that we know exactly what our vision is for at least the next five to ten years.*

With respect to the plan itself, certainly it is challenging because I came into this role midstream, and at a point where there is a struggle about what can we afford and I really don't have the answer. I don't have that information and I will work with the various government agencies to get to the point where we can tie in the need with the cost so that the government can, in the long term, make decisions and commitments for the long-term for court facilities in the Cayman Islands.

I definitely will continue to work with those people including the Auditor General's Office and the guidance given. We have not discounted it at all. We can't discount what she has written because it is a legitimate concern raised by the PAC, but it has not been a straight forward OBC. We are looking to get this to the end, whilst we are trying to meet some of

the interim court needs with the temporary Grand Court to move the cases quickly in that Court and also the COA.

**Mr. Christopher S. Saunders:** Thank you very much.

I think you have just laid out a framework for us, because what you would expect first in normal business practice is a strategic plan done and completed. Then there are several business cases that would be done or completed to achieve the overall strategic direction, but I think what the court will ultimately look like is one of the things that have to be finalised.

Business cases are then developed along the way to achieve certain parts of that strategic plan. I think that is ultimately where we are going around in circles, because we have gone out and bought a building for $10 million but the business case to justify it isn't there. We know we need space, but what kind of space do we need? We know something needs to be done, but what needs to be done?

For us, it is a matter of getting that long term planning culture, because many of the issues that we have to change are cultural. Some have to change on the lawyer side, some have to change in terms of the expectation from society and so on, but that is ultimately what we are looking for; this is where the court is going, the plans are then developed to get the court to this goal and then we fund it. I think that should be the normal progression.

**Mr. Austin O. Harris, Jr.:** Mr. Chairman, through you. Certainly along the lines of the questions presently on the Floor but using the Auditor General's report specifically to detail what my concerns are.

As the Member for Bodden Town West just mentioned, as it relates to the court building and the new structure, we seem to have put the cart before the horse in determining the justification for this new purpose-built facility, but I have questions specific to the report as it relates to the court building itself.

Paragraph 61 to 66, found on pages 24 through 25, report that the existing court building is not fit for purpose. It goes on to state that the design of both the individual court rooms and the building itself is inadequate. For example, **there are limited facilities for protecting and supporting vulnerable witnesses and victims**.

Paragraph 66 goes on to highlight that the multi-agency nature of the criminal justice system means that it is important that the new court buildings meet the needs of all the justice organisations involved in processing cases through the courts. However, the Auditor General's Office noted that none of the stakeholders involved in these various justice organisations that utilise the courts had been consulted on the initial proposals or been given the opportunity to discuss their requirements for the new courts with regard to the new planned design.

My question therefore, Mr. Chairman through you is: With backlogs and delays cited as reasons for the need of a purpose built structure, what assurances can the witness give this Committee that the new structure will in fact meet the needs presently absent in the court system and also lend itself to reducing the backlog in cases? I think as of March 2019, there were over 1300 cases yet to be heard by the Courts.

**Mrs. Suzanne Bothwell, Court Administrator-Judicial Administration:** Thank you, Mr. Chairman, through you.

With respect to the stakeholders' inability to give feedback, this was raised in the Auditor General's inquiry. At the time, I did indicate that I was of the belief that there was consultation but it happened before my time and I admitted that I could not find any documents on my end. I did make enquiries with the stakeholders and the OBC team and I did not get any firm feedback except that they believed that there was consultation. Since that time and since the publication of the report, I was able to get information from the Canadian architecture firm that is part of the OBC and was involved in the activities from 2015, that at the initial stages, consultation was in fact done with stakeholders.

They have now been able to provide me with the feedback reports and I have a copy for the Auditor General because she did not have this and I was not in a position to give it. Nevertheless, I can confirm that there was a questionnaire issued February, 2016 and the internal staff of judicial, the judicial civil registry, were consulted and very extensive feedback was given based on the questionnaire.

There was also a preliminary response from the Office of the Director of Public Prosecutions given on February 25, 2016 where they specifically spoke about the vulnerable witness room, separate waiting areas for prosecution, witnesses, et cetera.

There was feedback provided by:

- The Department of children and Family Services at the time
- Attorneys using the Financial Services Division
- Prison Department
- Attorney General's Chambers
- Other internal Departments
    - The Court Reporters Division
    - Family Law attorneys
    - Accounts Department

So, it does appear that perhaps with the progression of time the agencies or some of their representatives may have forgotten or they may not be the same person, but the architectural firm did provide me with the actual surveys and the feedback given at the time. The architect also informed me that all of the

plans that were delivered in 2016 with the options analysis and any plans progressing from that have taken on board that feedback.

Now, I can say Mr. Harris, that it is true that before the old Scotia Building was purchased the court did not have a lot of these facilities and we simply could not accommodate them. However, in the absence of the renovations taking place now, we have not kept the building idle. We have tried to fix and clean it with the existing infrastructure and some of the staff moved into better physical conditions. We are able to provide more appropriate spaces for some of our judiciary. Last year we actually had a dedicated space for vulnerable witnesses being used. Now, we are actually near to opening up the third floor to be used for attorney rooms and general prosecution and defence witnesses. I am hoping to bring that online on Monday because it is ready.

So, whilst we do appreciate that there will be renovations to this building overtime and that there will be an expansion, we are in a position at least for now until all of the work starts, to provide these much needed services to our stakeholders; and we are in the process of writing the memo to let them know they are available and the rooms are ready.

**Mr. Austin O. Harris Jr.:** Mr. Chairman, I want to thank the witness for providing that stakeholder consultation and for agreeing to provide the same to the Auditor General's Office. I am sure they will find that information useful for the purposes of any follow-ups or otherwise.

However, you stipulated that this consultation was initiated in the years 2015 and specifically, 2016. Presumably, a lot of the persons who leave those justice organisations over a period of four or five years and who may have given consultation may have moved on and have been replaced by other persons. Has there been any updated consultation, perhaps with new leaders of these justice organisations coming in or any updated consultations regarding the needs of these justice organisations which may have changed plus or minus, over the last four or five years? Obviously, that too will have an impact on the efficiency this new purpose built structure will have in managing the court's time. We want to ensure that all of the users of the courts have their needs met and that their needs are indeed current, as opposed to five or six years old.

Can you inform this Committee if there has been any update on those consultations, save what was shared in 2016?

**Mrs. Suzanne Bothwell, Court Administrator-Judicial Administration:** Thank you, Mr. Harris.

No formal surveying has been done to update the information at this time. For the purposes of the OBC, we have based it on what has been provided. What I can say is that there are engagements in different connected areas with some of the stakeholders for example, with the Prison Department, which is a major stakeholder.

The question of the plan itself, now that we actually have something that looks like what we would present to the OBC with this version, I have actually invited the Director of Prisons to review it with me. I have also provided the Commissioner of Police with the plans for his review and for continuous consultation; particularly with respect to what I would describe as our 2020 initiative, as inter-agencies on looking at court security in the round, not just what we need now in terms of the existing plans, but in terms of these new proposals. Even though they are high-level designs, it is important that we get their input because their agencies are the most impacted.

The Prison, for example, is the entity responsible for transporting prisoners and for taking prisoners away from the court to the prison. Certainly, they would have on the ground the biggest external agency facility in any new court building. For the reason that the police services have general security oversight for the courts, the fact that we now have the old Scotia building and that there is a request to put temporary courts in there and a permanent Court of Appeal, the Commissioner has been invited as part of our ongoing court and judicial security engagement to look at this specifically. They have advised us that they do not have the internal expertise to advise us. Therefore, we are in active negotiations with them to discuss with a branch of the Toronto Police Service that provides court protection for the Toronto Courts, to engage with us to give some technical and expert advice on the kind of security measures that the courts should put in place now and also what we should prepare for in our court design moving forward.

So, we have started with those agencies first and will be reaching out to the DPP and other agencies for anything beyond what they have given.

**Mr. Austin O. Harris, Jr.:** Mr. Chairman, through you.

I am not going to argue whether there is a need for new court space or otherwise. Certainly that is for the witnesses to determine and convince the respective bodies. What is clear this morning is that the desire for a new building has superseded the desire to ensure that the proper processes, such as the value for money, the Outline Business Case, followed by the strategic business case, followed by who would use this court system to ensure whether or not the differing needs of the justice organisations would be met by this new building; none of these essential questions have in fact been asked. Yet, we hear time and time again that the courts need a new building.

As it relates to the people who will work in that building, we also see gaps from the Auditor General's report that would give this Committee, and by and large the people of the Cayman Islands, the taxpayers who will pay for this new building, whether or

not the efficiencies desired will in fact be achieved by the completion of this new building.

I note specifically, Mr. Chairman through you, paragraphs 67 to 69 contained on pages 23 to 27: **"At the end of 2018, the Judicial Administration had 74 staff. However, […] the lack of staff was consistently raised as an issue affecting the efficient operation of Summary Courts."** However, the Auditor General's report found that **"the organisation has not done any workforce planning to determine how many staff it needs, and with what skills that staff will need, to operate efficiently, deliver its objectives and meet future demand. For example, it is not clear what impact creating additional courtrooms will have on staffing requirements…"**

Will we need more paralegals to allow senior manager to focus on more strategic issues or will we need more magistrates to deal with the backlog and caseload?

My question therefore, Mr. Chairman, through you to the witness is: Can you inform this Committee what workforce plan or workforce planning has been conducted in order to ensure that the intended outcome both of the development of a purpose built facility, as well as the sufficient staffing needs are met, to ensure that justice in the Cayman Islands is delivered in a timely and efficient manner?

**Mrs. Suzanne Bothwell, Court Administrator-Judicial Administration:** Thank you, Mr. Chairman, through you.

I can confirm at this time that no workforce plan has started. This is not an excuse, Mr. Harris; this is simply a fact. As the Chief Officer and Court Administrator, it is something that I am keen about because I am aware of the expansion that is likely to happen whether or not we have new facilitates. There is a sheer volume of cases coming in, and our HR teams and department heads are telling me on the ground about staff stress and that they're being overworked. Until I can get that done, I have taken the approach of encouraging managers to bring about changes in their business process and increase efficiencies to see how they can do their jobs better and training staff to ensure that they actually understand what they are doing and they are not making mistakes, therefore having to do things over. That is something that has being incrementally delivered across the organisation.

Having engaged with the Chief HR Officer, I have had the intention and desire to engage in more strategic HR planning in the organisation. It simply has not happened but certainly it continues to be a front burner priority for me in terms of Administration. I am keenly aware that we do need to understand to what extent our staffing is meeting the business need and also the skills of the staff to also meet the business need. That is another demand that I believe is urgent, because as we improve our services perhaps the unintended consequence is that more is demanded of us. I therefore, do not wish to have our staff in the position where they do not feel they can deliver, but certainly make them confident that they are able because they understand their roles. We are journeying through that incrementally.

Training will continue to be a feature of my budget proposals on an annual basis because there is a lot of training that needs to take place, and I believe this is across the wider world class civil service too, in developing our professionalism.

In terms of the workforce planning, I note that the Auditor General conducted an audit in that respect and whilst I will lead that initiative from where I sit, I continue to engage with the Portfolio of the Civil Service to also provide me with staff that can assist me at the strategic level. At present, I have no deputies. I cannot rely on the Clerk of Court because her role is in law not in administration, so we are working through these administrative obstacles and I believe it would be confident to bring these on line sooner rather than later.

**Mr. Austin O. Harris, Jr.:** Mr. Chairman, through you. I want to thank the witness for acknowledging the shortcomings rather than trying to defend them as we oftentimes hear in this Committee. I think it is very refreshing and I thank you very much for it.

I just want to underpin the importance of workforce planning for the judiciary or otherwise. Certainly, there is an education component. You know more than I do, that there are hundreds of students perhaps in different stages throughout the education system. We acknowledge they all cannot be lawyers but they all may perhaps aspire to be; so workforce planning in my mind is important, particularly for those students, in terms of guiding them as to what the needs are and therefore, what they should otherwise prioritise in their studies.

Again, not everyone can be a lawyer, but if there is a defined need for more paralegals then that may be an avenue; if there is a defined need for more clerks, then that may be an avenue but this information is essential. Certainly from my standpoint, it is those Caymanians in the education system, both local and abroad, that this sort of plan would cater towards. Therefore, I look forward to the development of that workforce planning and I thank you very much for your honesty.

**Mrs. Suzanne Bothwell, Court Administrator-Judicial Administration:** With the Chairman's permission, may I follow?

**The Chairman:** Yes.

**Mrs. Suzanne Bothwell, Court Administrator-Judicial Administration:** It is a very positive message.

We do have two staff members who are undergoing quite extensive paralegal studies. One is almost finished and we hope that he will be able to contribute more at the higher level in our criminal division; and one of our personal assistants to a judge, who works in a quite complex financial area and whom we are looking to support in performing paralegal duties and independent decision-making in supporting our FST division. In addition, certain realities are now coming to light that I am very, very encouraged for and I am very positive.

I also wish to say that the Court does have a very robust intern programme. Traditionally, we used to bring the Cayman Islands Further Education Centre (CIFEC) students to see what is happening in the Courts and to participate in our Court Martial Programme. This is where they wanted to go; it seems to attract a lot of them.

We also have University College of the Cayman Islands (UCCI) students who come in the summer. We actually keep some of them on for the entire year like a year's internship, to help them develop their skills and expose them to court processes, and I have to say that they are doing brilliant work.

For those of you who were present at the Grand Court opening, we just launched our online platform whereby all of our public registers for the past 25 years are now digital and accessible to the public and I would say that it is largely through their efforts in scanning and entering the metadata and vetting, that we were able to bring this online and we are so thankful for their diligence and dedication.

Our organisation really looks forward to continuing to on-board these types of young Caymanians and students because they will have opportunities to become our future staff and we have experienced it. Many people who come and work with us through these internship programmes actually apply for jobs and get them. They are best placed to actually come in as entry positions and develop there.

Sorry for going off at a tangent but I thought it was noteworthy for the record.

**Mr. Austin O. Harris, Jr.:** Thank you for that.

**Hon. Bernie A. Bush:** Mr. Chairman, through you, those two people who are in training, are they Caymanians?

**Mrs. Suzanne Bothwell, Court Administrator-Judicial Administration:** Yes, sir, they are Caymanians.

**Hon. Bernie A. Bush:** Thank you, Mr. Chairman.

Earlier, I pre-empted my question by an example. My learned friend thought it was political; it was not political and my question remains.

I gave you an example of how these things affect people's lives. Will all that you are asking for alleviate or eliminate these types of problems?

**Mrs. Suzanne Bothwell, Court Administrator-Judicial Administration:** Thank you, Mr. Bush.

Efficiency in the justice system is evident in the Auditor General's report; everybody has a part to play. Anyone who is engaged with the justice system has a part to play in the efficiency of it. I can state hand over heart, that as long as I am there, I will do what is within my abilities to move the process forward, to help close those gaps and to work with our other agencies.

I do believe that we have reached a juncture however, where we need to have greater synergies and I do agree with the Auditor General's observations that there are still opportunities that are not being taken between the entities to close those gaps. One of the observations that she made was that the Criminal Justice Board may not be operating as intended in the sense that the persons who are tending on behalf of other agencies may not be at the level where real decision-making can take place. That is certainly something that we will consult with the Chief Magistrate from the administration point of view. Perhaps serve as the liaison or mediator with the other entities to see how we can respond to this observation in the report.

Thank you so much.

**The Chairman:** I have a couple of global questions to try to bring this back on focus.

Can you explain to this Committee how administrative policies, procedures, changes or improvements are made in the court system?

**Mrs. Suzanne Bothwell, Court Administrator-Judicial Administration:** Thank you, Mr. Miller.

I would just state to put it in context that there are two types of policies and rules. One is judicial-led and the other is administrative-led—

**The Chairman:** I am not interested in the judicial rules. I am interested in how the administrative changes, procedures and rules are developed.

**Mrs. Suzanne Bothwell, Court Administrator-Judicial Administration:** I say this in the context that a lot of what the administration does is driven by judicial rules because we respond to the processes of the court.

In terms of bringing about internal efficiencies, that is possible in some areas without the need to consult with the judiciary and our organisation does actually consult with experts. I would give an example:

We have a financial department, it handles all of the money that is coming in and going out of the court, how those monies are paid to people and how it affects clients. So, I brought in someone who is capable, to tell me what is it that we are doing or not doing, what are the risks, what is absent, what do we need to do. I worked with them and I have a report and I am working with the Chief Financial Officer to address those things. They also proposed certain recommendations and we are incrementally introducing those.

When it comes to the processes and the registries which deal with the actual court files themselves, most of the staff in the judicial are not just traditional admin that you may find in offices; they engage one way or the other either with the court itself or the case itself. So with respect to the Court for example, we are looking to identify *well, what is happening in this area of the court that is modern and can bring about efficiencies.* Examples of this perhaps, are our Court Martial and Court Reporting Departments, but these areas must be done in consultation with the Chief Justice. We really cannot make too many changes except for how they are performing in their current roles, before we consult with the Chief Justice as the head of the Judiciary.

For performance base, we do training. Our HR department plays a key role but in terms of the work that they do, it is based upon what the court requires. So, for our admin staff, our policies are still largely driven by the direction of the Court and the Judiciary in many respects.

**The Chairman:** Maybe you could explain the role of the Chief Justice versus the role of the Court Administrator.

**Mrs. Suzanne Bothwell, Court Administrator-Judicial Administration:** Okay.

For the purposes of the Public Service Management Law and the Public Finance Management Law, I am the Chief Officer and I have those statutory responsibilities like any other Chief Officer.

In terms of how quite a significant section of the Court Administration is run, I am not actually in charge of those divisions. That is run by the Clerk of Court and that position is actually in charge of, for example, our court registries, any work done in the Court of Appeal and any work done in the financial services division. The guidance from that position, are rule-based, and they are developed by the Rules Committee, which the Chief Justice leads.

So, they make laws called the Grand Court rules and any procedure that flows from those rules, if the staff is to perform those procedures, they flow from the rules.

**The Chairman:** Not to interrupt but, having had a rule change, does the responsibility to facilitate that rule change from an administrative level then transfer to you or does that remain with the Chief Justice as well?

**Mrs. Suzanne Bothwell, Court Administrator-Judicial Administration:** It would transfer to me to a degree. For example, I will give the Court Procedure Rules that just came on line for case management. In those rules, there is the identification of a new role called the Case Progression Officer. It is now my responsibility to identify the staff that can perform this new statutory function to address the rules of court and so I will take care of all of those administrative things.

Where I believe that I do have some flexibility is that there may be within the structure, the ability to do the job a bit better. To what extent it would make a significant difference would vary, but there are ways and means for us to do our business better and in a more organised fashion. That is something that, as a senior leader, I do work with the different managers and the Clerk of Court to review their sections and review how they engage with their clients and review competency of staff to ensure that when they are delivering the services within the prescribed rules, they are doing so at an optimal level.

However, my position cannot change the rules. If I see something that I believe could be improved upon and it requires a rule change, the Chief Justice and I will discuss it and he will give me the steer. Usually, that change has to come from the Rule Committee or some other form of legislative change. We do engage quite regularly, so the leadership and administration is a joint initiative between the Chief Justice, the Clerk of Court and me.

**The Chairman:** So, you do not see a problem with that dual role and that joint application, because my question would be well, who is responsible?

**Mrs. Suzanne Bothwell, Court Administrator-Judicial Administration:** The Chief Justice is responsible for the Judiciary and the administration of justice. The judicial administration civil servant is responsible to support the Judiciary in the administration of justice.

**The Chairman:** Agreed, and that is why I was trying to find out what is the separation level, because I believe there needs to be some separation from the judicial side to the administrative side, in terms of delivering and providing the support that needs to be provided through administrative activities, not judicial activities or judicial rules.

However, I hear from you that when there is a change in the judicial rule, you do not have the authority to implement the necessary administrative changes

to deliver that at maximum efficiency and effectiveness; you still have to defer to the Chief Justice.

**Mrs. Suzanne Bothwell, Court Administrator-Judicial Administration:** Thank you, Mr. Miller.

I would not say it is a deferral. It is a consultative approach because I must ensure that what I am proposing meets the needs—

**Mr. D. Ezzard Miller:** Right, I understand the consultation and I am not arguing about the consultation. I think the consultation is there.

My question is who makes the final decision on administrative matters, you or the Chief Justice?

**Mrs. Suzanne Bothwell, Court Administrator-Judicial Administration:** On purely administrative matters, it is me. On any administrative matter that touches and concerns the workings of the court, it must be a consultative process.

**Mr. D. Ezzard Miller:** The question is: Is it a consultative process or a negotiated position?

**Mrs. Suzanne Bothwell, Court Administrator-Judicial Administration:** The dialogue is very fluid.

I believe that both the Chief Justice and I understand each other's roles so it is definitely a partnership and it is consultative. He provides the big picture steer, and I will move forward and do it. However, there are times when I will need to dialogue with him and discuss things with him to make sure that as a stakeholder, or the representative of a stakeholder, I am in fact meeting their need when I make judicial changes or introduce new judicial aspects to supporting the judiciary.

**Mr. D. Ezzard Miller:** Some of my questions are driven by the management response, responsibility and data planning efficiency because it seems in almost all of them, in fact some of them are very specific—consultation only with the Chief Justice.

Others are responsibilities joined and often you find the statement that the management response is that you must consult only with the Chief Justice and I was just wondering if with the expansion of the court services and the expansion of demands, whether there is sufficient separation from the actual judicial process and the administrative process.

**Mrs. Suzanne Bothwell, Court Administrator-Judicial Administration:** Thank you, Mr. Miller.

Perhaps if you give me an example that was concerning to you I could perhaps look at it and give some feedback?

**Mr. D. Ezzard Miller:** The very first recommendation: Judicial Administration and criminal justice partners. Date of implementation: Chief Officer to discuss with Chief Justice only, although it is related to all of these other agencies. Your date of implementation is set for April, 2020 but it says, **Chief Officer to discuss with Chief Justice only and obtain his guidance on how to proceed.**

I am of the view that in terms of implementing and serving the administration needs of the judiciary, you should be providing guidance to him and not the other way around.

**Mrs. Suzanne Bothwell, Court Administrator-Judicial Administration:** Thank you, Mr. Miller.

The subject was establishing a performance management framework for the criminal justice system. I would say that perhaps "only" was not the right word, but certainly I would say "first" because of the type of data that is collected.

Certainly, my department will make proposals and recommendations and bring rationale as to why we believe certain types of data should be collected for the purposes of performance management, but the Chief Justice would want to have steer and input on that at the end of the day.

**Mr. D. Ezzard Miller:** You keep using the word "steer", as opposed to consultation input. That makes me believe that he is making the final decision and that the administration is more concerned that you are in his course, as opposed to being on the course of improved effectiveness and efficiency of the administrative section. Quite clearly we are not talking about the judicial role and the rules.

Maybe I am reading too much into the word steer.

**Mrs. Suzanne Bothwell, Court Administrator-Judicial Administration:** I believe is about the understanding of the role of the Chief Justice. My understanding of his role is that he is ultimately responsible for the administration of justice in the country and all forms that it takes and that the civil service provides a supportive and collaborative role in his responsibility and we support him in that.

So certainly, as the Chief Officer just like a Minister, the Chief Justice would perceive whatever decisions are made about performance management and use of court data as being something that he must be consulted on and must have a say in because, at the end of day, it is about how the judiciary and judicial administration are going to use this data particularly, the information that judicial administration would need. That is something that there would have to be negotiations on and dialogue but certainly, the Judicial Administration cannot presume certain things about the needs of the judiciary without having his guidance on that in terms of performance management framework.

**Mr. D. Ezzard Miller:** I am not questioning whether you should be involved or whether there should be guidance but, going back to the same example I was just using, under management response, it says: "**The Chief Officer would receive instructions from the Hon. Chief Justice to determine the nature and extent of engagement."**

I see a different role of the administration, whose responsibility I think is to make sure that devising these performance management and other things, is your role. Of course, there would be points where he is consulted, but it should not be at his direction and you should not have to negotiate, because these are professional and performance standards we are talking about, which are linked to international indices.

Equally, you should not be telling him and his judges how to value evidence before them.

**Mrs. Suzanne Bothwell, Court Administrator-Judicial Administration:** Well, I reviewed the ICCE's report and I did note that when they were speaking of the standards they indicated that, whilst these are Best Practice Standards in the broader sense, at the end of the day it is for each court to determine which standards they prioritise and to what extent they implement them.

I therefore believe that the Chief Justice must play a leading role along with me in this process.

Thank you.

**Mr. D. Ezzard Miller:** Let us change the subject. You made a couple of statements that concern me in answer to questions by other members.

You said you have to rely on temporary staff. Why are you relying on temporary staff and not full-time staff?

**Mrs. Suzanne Bothwell, Court Administrator-Judicial Administration:** Well, to some degree, it is responding to changing and emerging situations that are happening in departments.

I will give an example: In some areas the work becomes more in terms of the volume of documents that are coming in for an existing case and the requirement is that they have to scan the documents in the systems in some of our divisions. So the staff are like, *we can't do this, we can't deal with the customers and have our registry open until 3 o'clock and then perform a full scanning exercise until 5—that is only two hours.* We are certainly revisiting and looking at exactly what is happening on the ground in different registries, and until we can do a proper analysis we need to respond to the concerns raised by the staff.

The budget years are two-year cycles, I do know that I can make supplementary requests. In this budget year I have sought to get what we have assessed as the short term staffing needs for the cycle, but I did state that my intentions are now put at risk because I do have to find quite significant funding in my budget to pay the cost of living adjustment because no dedicated funding was there and I do believe in my budget is about $300,000—it is not an insignificant amount. I am working with the Chief Officer to see how we can massage our existing budget but at the end of the day, there may be a decision sooner rather than later to just say please—

*[Inaudible interjection]*

**Mr. D. Ezzard Miller:** You are telling me, (just for my clarification), that the Ministry of Finance, or the collective political directed Cabinet, made the decision to give civil servants a five per cent COS but that money was not added to the budget that you requested, not knowing there was going to be a five per cent increase?

**Mrs. Suzanne Bothwell, Court Administrator-Judicial Administration:** As far as I am aware sir, yes, I do not have a line budget item for that.

**Mr. D. Ezzard Miller:** Okay. That is just bad budgeting, but anyway, we will deal with that at different levels.

*[Inaudible interjection]*

**Mr. D. Ezzard Miller:** You also said that much of the information on the consultation with stakeholders was done in 2016. If the 2020 Outline Business Case is relying on a lot of that work that was done in 2015, why is it taking so long to do?

**Mrs. Suzanne Bothwell, Court Administrator-Judicial Administration:** It is because of all of the changes and delays that have happened in the process.

When I came in May 2016, the first business case was ready and we went to Caucus in November 2016, I think. There were no viable options in the proposal and at that time there were no recommendations that we could necessarily say, okay this is the next plan of action that we take to move the process forward.

**Mr. D. Ezzard Miller:** The Outline Business Case had no alternatives on it; it was just one thing, and that was it?

**Mrs. Suzanne Bothwell, Court Administrator-Judicial Administration:** No; there were three options provided and none of them were deemed suitable or affordable at the time, which created inherent delays.

**Mr. D. Ezzard Miller:** The other thing that you said is holding up the OBC was the fact that, and maybe I

misunderstood you, considerations for their proposals are now being modified by what the court people believe will be the funding available. I think that just happens to be inherently wrong.

**Mrs. Suzanne Bothwell, Court Administrator-Judicial Administration:** Two factors have affected the scope of the OBC:

1. The unaffordability of the original options analysis; and
2. The subsequent delays to understand where we go from here.

Once we were able to ascertain and discuss with Caucus and Cabinet where do we go from here, it was almost like we had to start the exercise over again, because it would have had to be much more significantly scaled down option.

At that time, because the driving information which would have been 2017, was that the stakeholders wished for the facility to remain in George Town, the OBC team made recommendations to look at the existing infrastructure within the George Town area to see if there was a viable way to expand future court facilities using these existing buildings. That resulted in the assessment of two buildings; not just the old Scotia building but there was an assessment of the CIBC building, which was actually on the market at the time. However, that came back by the technical persons as not being suitable because of the physical way the building was structured and also the necessary plant work that would be required for that building.

Another building was the old Scotia building and it was adjacent to court facilities. When they assessed that, they actually did a second proposal to government regarding the viability of these two structures that were adjacent to the existing court and which one would have been a suitable alternative and in what context, because it would require the expansion to go beyond those buildings, those buildings alone would not meet any future need. They would just be support.

Also, this is all within a context that the intention is to move entirely out of Kirk House. So, it would be, *you are not necessarily getting three, you are getting two with new facilities* and in the end that is the way in which the Government agreed that they preferred the old Scotia building and the option that the whole block would be used for the new court facilities.

It was on the open market and is not an existing building owned by the Government. So certainly there were some time-sensitive factors at play as to whether or not that option would remain a viable option if the Government did not purchase it.

**Mr. D. Ezzard Miller:** Any more questions?

Mrs. Connolly

**Ms. Barbara E. Conolly:** Thank you, Mr. Chairman. Through you to the Court Administrator:

Going back to the issue of reducing bureaucracy when processing cases through Summary Court; Paragraph 48 of the Auditor General's report states that there are different stages involved in processing cases through the Summary Court system, and a number of these could be addressed by reducing bureaucracy and making better use of IT. For example, in the initial stages of processing criminal cases, the police send information on the case to ODPP; the prosecutors advise RCIPS (Royal Cayman Islands Police Service) on the appropriate legal charges; and the police then complete the paperwork and submit it to the courts. This builds in the risk that the police could potentially make errors in the final documents that are submitted to the courts.

I understand that in other jurisdictions, the prosecution service submits cases to the courts directly. Question: Can the Court Administrator indicate why we are still manually inputting data when processing cases, and why information technology is not utilised? I have a second question after.

**Mrs. Suzanne Bothwell, Court Administrator-Judicial Administration:** Thank you.

The question is: Why is data still being manually input in court cases and IT not being used? Grateful for clarification in what sense is IT if not being used so that I can respond to the question properly.

**Ms. Barbara E. Conolly:** Well, basically because it has to go through all of these different stages, can we use IT more efficiently, as opposed to just manually processing these.

**Mrs. Suzanne Bothwell, Court Administrator-Judicial Administration:** Thank you, Ms. Conolly.

Yes, IT can be used to address these delays in service or to remove certain steps. The current rules for example, require that indictments must be signed by a Justice of the Peace but do not accommodate the electronic service of indictments to the court. In other cases, the rules require the original documents to come to the court, so they would have to be amended.

One of our acting judges, who does prosecution cases overseas actually showed the Chief Justice how the prosecution and defence counsel can put their case into a database that is managed by their Ministry of Justice and therefore everything is deposited to the court through that database.

Our current IT system is not developed to do that because it would have delayed any progression in some of the things that we wanted to perceive at this time. That was identified as a Phase 2 project for the criminal division in particular. This facility will be available in our non-criminal divisions but not in the criminal divisions because the way in which those divisions

function, the parameters of the system would have to be totally different.

We have observed another system used by the United Kingdom courts, which allows for end-to-end paperless filings, preparation of documents, trial bundles and paperless trials themselves. That is something that the Chief Justice is keen to assess, the viability of that working for the criminal divisions in our court.

Right now we do not have any paperless courts. We would have the electronic filing of documents and certainly the court itself will become paperless in those divisions. However, in terms of moving it to the point where the trials themselves are paperless, that is something that will require quite significant stakeholder engagement. I would say there is an appetite for it by the Court, but that would require a whole different set of discussions with our stakeholders.

**Ms. Barbara E. Conolly:** So, the new or updated IT system, would it not also be a part of this, in terms of this whole system? So, would that not be incorporated into the case processing?

**Mrs. Suzanne Bothwell, Court Administrator-Judicial Administration:** On the non-criminal side yes, whereby all filings that come in would be electronic and the attorneys would be able to do that from their offices but the decision of the courts and the parties themselves conducting the trial electronically is a different phase which requires our external stakeholders' input.

Our decision to reduce our paper and our files is something that we have control of. We can say we want to receive them paperless, but to advise parties and require them to conduct the proceedings themselves paperless, would require quite a bit of engagement, as well as an understanding of the technology and the resources required to introduce those kinds of systems. It will also require quite a bit of financial investment and human resource investment to maintain a system of that scale and have it properly backed up and available for court use on demand. So it is a slightly more enlarged concept.

**Ms. Barbara E. Conolly:** Thank you for that answer.

Just on the out of court disposals; paragraphs 42 and 43 of the Auditor General's report state that **"Police cautions were introduced in 2018 as a result of the Criminal Justice Adviser's finding in 2015 that there was no formal system for out-of-court disposals in the Cayman Islands. In the first five months of operation, 12 adult and two juvenile cautions had been administered. The use of out-of-court disposals has the potential to reduce demand across the system and reduce reoffending and the longer-term impact will need to be evaluated."**

Can the Court Administrator say what impact the out of court disposals have on the courts?

Does the Court Administrator have up-to-date stats on how many cautions have been administered to date?

**Mrs. Suzanne Bothwell, Court Administrator-Judicial Administration:** Thank you, Ms. Conolly.

The statement made relates to matters that are not actually engaged or under the control of the courts. These are under the responsibility of other government entities; I presume it must be the RCIPS. There is no formal mechanism that would be coming to the court to identify that an out of court disposal has happened, it would be something maintained by another organisation.

What the court could benefit from through increased inter-agency engagement is to understand, and perhaps have greater dialogue with those agencies, on how they can support the justice system by using the tools in the tool box that would help to keep matters out of court. That is certainly something that as flagged, we would put on the agenda to engage with them. I believe this is an issue that can be adequately addressed through the Criminal Justice Board environment.

**Ms. Barbara E. Conolly:** The second question is: Do you have up-to-date stats on how many cautions have been administered to date?

**Mrs. Suzanne Bothwell, Court Administrator-Judicial Administration:** Thank you.

No, we do not have them and I can say we have not requested them, but based upon the observation made perhaps this is something that we should have, if simply for the purpose of having that engagement and dialogue with other stakeholders about how we can keep things moving in the justice system.

**Mr. D. Ezzard Miller:** Thank you, Mrs. Bothwell. We appreciate you taking the time to come down.

The meeting will be suspended until 2pm.

Thank you.

**Proceedings suspended at 1:02 pm**
**Proceedings resumed at 2:10 pm**

**The Chairman:** I call the Committee back to order at 2:10 pm. We are continuing our questioning on the Auditor General's report on the Efficiency of the Summary Courts.

This afternoon we have Mr. Peter Ranger.

## MAJOR PROJECT OFFICE

### ADMINISTRATION OF OATH OR AFFIRMATION

**Mr. Peter Ranger, Senior Project Manager-Major Project Office, Public Works Department:** I swear by Almighty God that the evidence I shall give to this honourable Legislative Assembly, shall be the truth, the whole truth, and nothing but the truth.

*[Pause]*

**The Chairman:** Thank you, sir.

Good afternoon, Mr. Ranger. We thank you for taking the time to come and we apologise for shifting the time on you, but the morning session went on an hour longer than we planned.

We are glad to have you hear and we have some questions for you in relation to the Auditor General's report on the Efficiency of the Summary Courts—2019. When you are asked the first question, just give your full name and title so that it is on the record.

Thank you.

**Mr. Christopher S. Saunders:** Good afternoon, I want to thank you for attending today.

As the Chairman stressed this morning, the purpose here is not to get into the judiciary itself but rather to look at the efficiency and effectiveness of the court system from the administrative standpoint. We respect, support and promote the independence of the judiciary. What we are concentrating on is the public funds that we have spent and are planning on spending with regards to the efficiency of the court system and if it will achieve what the court will want.

This morning's witness touched on the space of the courtrooms, the demand and what is needed. This afternoon we are looking to get an idea of what is the long term plan with regards to the Scotia building that was purchased.

I am not sure if you read the Auditor General's report, but that audit was requested by the Public Accounts Committee, as an extension of the overall Legislative Assembly, to find out exactly where we are going with that investment. It is a significant amount of money and we want to see what exactly the plan for the building is and how it will eventually serve its purpose in providing the Caymanian public with a proper functioning judiciary that is effective.

The idea is not to criticise the Court, because at the end of the day we are all one institution that the public relies on, but to see where they are going and when we can expect them to reach there.

With that said, the big issues that came out of the report were the incomplete Outline Business Case and Business Case. This is an issue for us because exactly this month two years ago, the Court Administrator came before the Public Accounts Committee and highlighted the dire need for space, and, in response, the Government went and acquired more space. We want to know exactly where we are with that expenditure and when can we expect:

a. The Outline Business Case (OBC) to be completed
b. The actual Business Case to be done; and
c. When do you expect the building to serve the purpose it was purchased for?

Thank you.

**Mr. Peter Ranger, Senior Project Manager, Major Project Office, Public Works Department:** Thank you, Mr. Saunders.

Peter Ranger Chief Project Manager of Public Works.

To take everything in order as it were, if you would allow me to go back to the history of the Business Case to put it in context, would that be useful?

Okay. So, as the Chief Officer said earlier this morning, essentially the courts came out with a strategic outline case in 2015 for a new Court facility. A Request for Proposal (RFP) went out at that time to procure court consultants to look at this facility and within that, was an accommodation schedule of 18 Courts.

The RFP went out and the current OBC design team were appointed. They got together with the courts and the stakeholders in early 2016 and came out with three options from the long list of options we had in the Strategic Outline Case (SOC). They went to government later in 2016 with their three options and, as the Chief Officer said, all of those options were deemed unaffordable as they ranged from over $100 million to $133 million. At that point in the process the OBC effectively just sat because, as the Chief Officer alluded to, the courts had to try and find an affordable solution.

They were looking to see how they could even get partway on the route to having a new court facility, when in February 2018 the CIBC building came up for sale; when almost at the same time the Scotia building came up for sale. They came back to us and asked, *Could we do an assessment of the ability of these two buildings to meet all or a part of what the Court's demands were from the original accommodation schedule?*

We went and surveyed both buildings and produced sets of plans for:

1. If government bought CIBC and Scotia, could that accommodate the Court's needs? And the answer to that was no, because there are so many constraints in CIBC with columns and the way it would need to be refurbished for court.
2. Purchase Scotia and a new build.

They were presented with plans and overall costs for both of these options. At that point, the Government moved forward with the decision to buy Scotia because the assessment study proved that whatever option you could come up with, in the space that is in the car park between the Courts and Scotia building, we could come up with a range of options for a new build of different story heights that could meet their needs.

The Scotia Building was bought roughly in November 2018 and Judicial Administration moved in on January 2019. From January to July last year, the Outline Business Case was developed on the basis of, *we got the Scotia Building; we are going to form the project in three, potentially four, phases:*

- First, move the Judicial Administration in and start using the space
- Second, generate a temporary Grand Court in the Scotia Building
- Third, create a permanent Court of Appeal (CoA) in the Scotia Building; and
- Final phase was a new build in the existing car park.

The reasons for the delay—for want of a better word—is that where we sat last year, the Chief Officer went through Finance Committee to get funding for what we call Phase 1A and B, which is to do the temporary Grand Court, the full-time Court of Appeal and some refurbishment to Scotia.

We got the majority of funds to do that work and as the plan sits just now, in 2021 that work will be done through their budget to the Scotia building. The new build in the car park, which essentially can take 10 Courts, will actually be Phase 2 at some point in the future, but not in the next two years.

**Mr. Christopher S. Saunders:** Thank you very much for that answer.

In terms of formalising the structure or design of the court, did you guys look at other courts across the region and elsewhere in terms of the design? Also, I am just curious, did you say 18 courtrooms?

**Mr. Peter Ranger, Senior Project Manager, Major Project Office, Public Works Department:** Yes. The original scheme in 2016 had 18.

**Mr. Christopher S. Saunders:** Out of curiosity, in terms of a general courtroom and recognising that we have one court structure, was any comparison in terms of other courtrooms/courthouses across the region or elsewhere in North America?

**Mr. Peter Ranger, Senior Project Manager, Major Project Office, Public Works Department:** Yes.

NORR did that and this is the issue of numbers. When we say 18 courtrooms, it ranges from the Grand Court—like we got an existing Court—to a small hearing room, but they are all numbered as a facility. That was done by Judicial Administration for VSOC. And when we come to where we are now, what we did, before Scotia was bought, is what could actually be accommodated within that space.

What the Courts wanted to do in terms of moving people around the facility, was to have one security screening checkpoint which would be the entrance to the main courthouse. Provide more accommodation in the main courthouse just to bring the public in, screen them and get them through the Courts; so, a single entrance; prisoner handling coming in underneath with a holding cell to allow criminal cases to be heard and people to be brought back in.

The fact that there were so many options provided before is the context to the Courts now, is that there are two Grand Courts in the existing Court House plus what we call Court number three that can hear criminal trials. Then you have four Courts in Kirk Office, which government has leased from the early 2000s, and we now have the Scotia Building. So, when we say that the new build is potentially 10 Courts, you have to take off the four in Kirk, the one in the existing Court House and the hearing room as well. Therefore, the actual addition to the current plan is plus four courts. Does that make sense?

**Mr. Christopher S. Saunders:** What I am trying to understand is what would drive this number. One of the things that we raised in the morning session, using just a rough calculation based on the seven courtrooms we have now, is that it is 10,920 hours available per year in terms of court rooms.

**Mr. Peter Ranger, Senior Project Manager, Major Project Office, Public Works Department:** Yes.

**Mr. Christopher S. Saunders:** We are trying to determine how many hours per month or year does a courtroom basically need to be efficient in order to determine the number of courtrooms needed. When we have roughly over 10,600 cases but 70 per cent are traffic or traffic tickets, you realise that it reduces substantially. In addition, an exercise is being done to deal with that separately, so 70 per cent of the demands on the courtroom are going to be dealt with more administratively.

The question then becomes, do we need 18 courtrooms to deal with the remaining 30 per cent? That is what we are trying to figure out.

**Mr. Peter Ranger, Senior Project Manager, Major Project Office, Public Works Department:** Yes. My apologies.

To put that into perspective, we are not currently looking at 18; we are currently looking at 10 in the new build: Two in the existing court and a Court of Appeal in Scotia.

What I was trying to do was put it into the context of the court's journey in terms of what they produced back in 2015. As the Chief Officer said, they were looking at a 25-30 year plan but as was mentioned this morning, the data behind that, how that came about and at what point she needs court facilities, is probably the missing piece.

The way it is being approached in the current OBC is: Is buying the Scotia building a good step forward in developing a modern, efficient court facility? From the basis of gaining the whole footprint of the whole courthouse and the Scotia building; being able to do something in Scotia now and be able to accommodate a new build within the car park which could take 10 courts. The way it's being designed, the 10 courts get us to the George Town height restriction, same as Butterfield Bank, and that court house could go higher if needed in the future. The question there is getting the evidence to back up what that phase 2 should be.

Where the OBC sits now is that it is going to be issued in March on the basis of we are doing temporary courts. The Court of Appeal and the Judicial Administration are occupying levels 3 and 4, which effectively gets us our short-term temporary solution.

What we now have to drill down on is the current phase 2 with the 10 courts. What design life is that going to give us and where is the evidence base to support that number of courts. I think, as it was discussed this morning, that if you can move traffic magically aside, it would completely change the dynamic of what we call Phase 2.

**Mr. Christopher S. Saunders:** Thank you very much for that.

We keep saying Outline Business Case, but normally—and maybe there is a different process or I misunderstand what it is for—the Outline Business Case sets the criteria for a full business case, correct?

**Mr. Peter Ranger, Senior Project Manager, Major Project Office, Public Works Department:** What normally happens, and I think Councillor Harris mentioned it; the normal process in strategic outline case is you set your strategy as to what you are going to do. You look at your problem: What is my problem? What am I trying to achieve? What are my options? Then, you normally generate a long list of options to say, *do this, do that.* Change the sentencing system, oh look! We got options. You are already brainstorming everything you can do, which then requires people to action.

From that long list, you then go onto a short list to say, okay from all of these ideas I am coming down to a short list, and then you go onto the Outline Business Case which is then drilling down into those options, coming up with a preferred option and a cost.

Again, I was not here in 2015 but probably one of the bigger issues in the courts project, and every project SAR, is that someone does not have an understanding of government budgets. So what we do now, in the process for all our new projects, is that there has to be some kind of affordability limit set. We cannot just go off on a path, dreaming something up, coming through to the Outline Business Case stage where a lot of work has been done and saying, *Well actually, we got to this point and it is unaffordable.*

**Mr. Christopher S. Saunders:** Just so the Committee understands then: When the grand plan first came out in 2015, what was driving it? We understand from this morning that a strategic plan is now being developed. In the five year period since you started with that grand plan—which should have been driven by some strategic plan—and five years later, there is still no strategic plan.

So, the question is what exactly is driving the process? If you look at the announcement that has been made and you take the traffic issue out which is 70 per cent of the Court's time and cases, that would in essence free up a lot of time within the courts. What exactly is driving the 10 or 18-room Court? Where is the overarching demand coming from for your team to create this supply?

That is what we are trying to get to because we find ourselves in a situation where we spent the money and said *now, go make it work*. If that is where we are, then that's where we are, but looking down the road we need to know that whatever we are doing will serve the purpose long term. That needs to be done; is it being done, are you involved and what is the variable driving it? For me, I have broken it down into hours, which makes sense to me, this is how many hours you need, et cetera.

**Mr. Peter Ranger, Senior Project Manager, Major Project Office, Public Works Department:** In terms of the schedule of accommodation that was produced in 2015, I don't know because the Chief Officer who did that is no longer here. That is the Court's assessment of our needs over 25 years but I think a lot people looked for evidence behind that and how we came to that number. That is based on the data they got.

In a normal process, what you would be looking at is a growing population, crime rates, processing time through the Courts—all these variables—to come up with the need and from that, you try to map your need over the 25 year period and come up with something. Normally what you want to do it in phases. You don't want to make an investment now for a facility that is going to be right size in 25 years. You want to build what is right now for the next 5 to 10 years, knowing that if the court system grows, you can expand it.

What we have done with the current OBC is that the Scotia building takes an immediate need so the judicial administrations, including the Chief Officer, have moved in there. We generate two Courts imme-

diately with the Court of Appeal and the temporary courts.

The scheme we have done for the middle—Phase 2—is really a look at the possibility of the site. For example, if that strategic review went ahead and it came up with 20 courts, we need to know how good the site is for the Courts' future needs. So Phase 2 is really about looking at what can we fit in the space, what is possible if we go up in building height and where does that leave the courts because on that site, if you move it through 25 years and the courts continue to grow, you could ultimately demolish the Scotia building and build them there.

**Mr. Christopher S. Saunders:** Looking at the Compendium of Statistics prepared by the ESO in the last 10 years, the population went up by 10,000 but the actual number of court transactions decreased. In most countries around the world there is an effort to get more things done by arbitration and people are actually looking to have fewer Courts. I am trying to reconcile then, with the population growing and cases decreasing, what is driving the demand?

Bear in mind that one of the biggest drivers is traffic, which is 70 per cent and if that is being dealt with separately, what is the expected driver for the remaining 30 per cent? With traffic being dealt with within the next three to five years, we should expect less cases going before the Court. So, what is driving the demand to have more courtrooms, when the numbers are trending a different way? That is what we are trying to reconcile.

**Mr. Peter Ranger, Senior Project Manager, Major Project Office, Public Works Department:** I think, as the Chief Officer said this morning, that information is not fully there. So what was done in 2015 is somebody's assessment of what they believed the courts are going to do. It is not just the number of cases; it's the time in court and the issue of things like the financial crimes and other things that are coming through.

So, to answer the question on Phase 2, we really need to get that strategy done because in essence, what is happening with Scotia in Phase 1 is going to meet the immediate demand. The intermediate demand, for what we call Phase 2 of the new build, will have to address that need but that need has to be assessed fully and that is why the OBC has been presented in two parts, because we currently don't have permission or funding for Phase 2.

What we have done is that we bought the Scotia building and demonstrated that we can build a court facility of 10 courts besides the Scotia building with full access, prisoner access, et cetera. However, the reality is, before Government would invest that substantial sum for Phase 2, you would have to be able to develop and show the evidence, which I think you might need an OAG report of.

Taking all these factors into account, what is going to be the answer to that question?

**Mr. Christopher S. Saunders:** Just to put things in context for the listening public, I am looking at Grand Court, which normally takes up most of the time within the Court system.

Back in 2010 there were 1,470 cases; by the end of 2018 it dropped to 1,142. Criminal cases went from 80 to 23, indictment went from 108 to 88 and civil (including admiralty) went from 512 to 262. Excepting for estate matters that went up from 126, and family matters that went up, the rest of these have been declining over the last eight years, as we start looking at arbitration which the Chief Officer spoke about this morning and can deal with more estate and family matters.

This is what we are ultimately looking for in the Business Case, because you can understand, where the Government and the Legislature are concerned, is a matter of priorities—everyone has limited resources, it is how you manage those resources.

One reason we are having this hearing is because of the importance of the judiciary. As we said this morning, we need to make sure that we are not making any decision that impacts having a functioning and effective judiciary in the Cayman Islands but at the same time, the Government and Members of this Legislature will have to choose between more courtrooms versus more money on education or health. Those are the kind of things we have to weigh. At the same time, we still have the responsibility to ensure that we are not stifling or limiting the effectiveness of the judiciary.

The question in all of that is, from what you have seen thus far, recognising in 2015 when these grand plans were being designed, that neither you nor the current Chief Officer were there, in your humble opinion, based on the trends and everything else as you are putting together the Business Case, what do you think is going to be the demand that the public is going to have and will you be in a position to supply that demand? Where do you ultimately see this going?

**Mr. Peter Ranger, Senior Project Manager, Major Project Office, Public Works Department:** I think the position that we are in now is that the issue of the court building has gone around, I think, two or three schemes in the past. It always got to the point of unaffordability and with any kind of major capital project, the issue is asking for too much money and trying to do too much at once.

Where we are with Scotia is we have actually secured the whole site. We have the two existing Grand Courts, Court three and Scotia building. The biggest issue, I think, for Judicial Administration is that

we rented Kirk's Office which has four courts with a number of issues.

The Chief Officer is trying to balance an immediate demand; you had someone do the strategy 10 to 20 years ago. We might have been on that path, so she is trying to juggle an immediate demand of insufficient space right now because of traffic issues and inadequate facilities.

In terms of Phase 2, I think what we really need to do is to drill down to the aspects you have mentioned: The utilisation of the courts, do we have the data that supports the utilisation of the courts, can we capture all of that, how long is the court being used for, how long is it available, the turnaround time of people coming and going to courts, any new legislation, all of those things need to go into the mix because as the Chief Officer said this morning, traffic is an issue because of the amount of court time it takes up.

So before the investment is made in Phase two—which won't be in the next two financial years— I think those questions have to be asked and answered which I think is probably where the OAG's report was going to.

**Mr. Christopher S. Saunders:** May I make one suggestion to consider putting in the Business Case as maybe a temporary measure?

If people get a traffic ticket and don't pay it on time and have to go to court, what is wrong then in having magistrates in the districts, whether it is East End, North Side, et cetera? At the end of the day, if you didn't go and pay it on time for whatever reason—people can have legitimate reasons, don't get me wrong—but we can't have the court system tied up because someone forgot to pay a ticket or want to challenge a ticket.

Why not have the magistrates or JPs out in the districts—East End, North Side, Bodden Town, et cetera—have traffic courts there? The civic centres are basically empty during the day and I know that the Constitutional Hall next door was used in the past for some of the JPs and magistrate court. Why not have some of those go out in the districts and use those? I don't think you really need a big court room just to deal with someone who was going 10 miles over the speed limit, tying up a courtroom.

Are those options being explored within the Business Case to say *well, the government does have these facilities here, have those people go and deal with it at those locations,* as opposed to trying to get everything in one building? I can tell you that having 70 per cent of it being driven by traffic—and I am just speaking as a politician—seeing that money spent on a building to deal with traffic offences is not more important than schools, health care, et cetera, because traffic is still just traffic.

Have you looked at anything like that, in terms of utilising satellite places around the island to decrease some of the traffic going into the main court building?

**Mr. Peter Ranger, Senior Project Manager, Major Project Office, Public Works Department:** So, the answer to that is no, and I think it came up this morning, from actually doing the accommodation starting point in 2018. People tried to [INAUDIBLE] to a reduced cost and tried to get on to an integrated site; which I think is where we are at this juncture with the Outline Business Case.

As we have said before, the strategy should settle all that in place so by the time it gets to the OBC you have agreed that you are going to do these things and then you are going to build a facility based on that. Given those questions and where we are with the OBC, we are moving into the Scotia building, we are doing those two courts.

I think before Phase 2 can progress, we have to answer those questions so that this House is certain that we have actually asked and answered all of those questions before that investment is done.

I think as the Chief Officer said, it is kind of like, which goes first. You have the purchase of the Scotia building with the time element that was on it, was I think looking any of an option analysis works really well because we have secured the whole site. Before moving on to the next stage, the questions are going to be—and I have to speak to the Chief Officer— that we are doing Phase 1A and 1B which provides urgent critical needs with a temporary court and a Court of Appeal that can be used for other purposes and provides existing accommodation.

Probably beyond that, the next level of investment has to answer those questions first—if that make sense—before moving on to the next stage because at least then we have done our…

**The Chairman:** You keep referring to these temporary courts in the Scotia bank building. Why are they temporary? Are we going to spend a couple hundred thousand dollars to set up a court room that we know, going in, is temporary?

**Mr. Peter Ranger, Senior Project Manager, Major Project Office, Public Works Department:** Yes, there is one temporary court in Scotia. The new Court of Appeal will be on level three and that is the permanent Court of Appeal which the Judicial Administration will use six or seven months of the year, but it can also be a resource for any other case.

The temporary court is purely to provide an additional Grand Court until such time as Phase 2 is built, because when the whole scheme is built you are going to have a super-registry to bring everyone else in.

**Mr. Christopher S. Saunders:** I can understand where the Chairman is coming from. Exactly two years

ago, this month, we were basically told that there was a dire need for space.

The Government, to their credit, went and bought a building to deal with the space but yet, within the two years, there is still no Outline Business Case or Strategic plan and we—I would like to say "we" because we voted for the money also—have answered the call by giving space next door, which should have been easy in terms of operations and everything else. Now, the next step is that the Strategic and Business Case still needs to be done to justify it and, ultimately, that is really where it needs to go to.

Mr. Chairman, I am going to end my questions for today, the reason being is that all of us have to respect the institution of the Court and the last thing I want, recognising that this is more of a building project issue, is to run the risk of having people getting the wrong view in terms of the courts, because it is a separate institution. It underpins our democracy. It is key, and we need to ensure that it is not seen to be undermining the courts or confidence in the Court.

This is a management day to day building/courtroom issue. I just want to make that clear for those who are just tuning in and this has nothing to do with what goes on inside the courtrooms daily. This is just administrative things with regards to the courts and building use. I just want to end on that.

Thank you, Mr. Chairman.

**The Chairman:** I have a few global questions.

What is the current Strategic Plan; is it the existing courthouse, which would mean you would keep two courts, the Scotiabank building with only the Appeal Court, two floors of Administration and then a 10-storey building in the middle with all courts?

**Mr. Peter Ranger, Senior Project Manager, Major Project Office, Public Works Department:** The current plan is the two existing Grand Courts staying where they are. Court three in the existing building would go, Kirk Office with the four courts would go, we would end up with a Court of Appeal in Scotia, and it is a six story building in the middle, with ten courts; but, when I say 10 courts, they are not all courts. So, for example, four of those are hearing rooms, but the whole facility has 10. Based on the current demand, that is an increase of five because we have lost four in Kirk's and one in the existing Court.

Just to answer Mr. Saunders' previous question, the purchase was done in November 2018, the Judicial Administration moved in in January 2019. The Public Works have done some work in there, so there has been work going on in Scotia. The original plan, in the middle of last year, was to progress with at least the temporary Court of Appeal, but in last year's budget there was no money for that, so that is why it is now in the budget for 2021.

**The Chairman:** Correct me if I am wrong. The Scotiabank building is five floors, right?

**Mr. Peter Ranger, Senior Project Manager, Major Project Office, Public Works Department:** Four.

**The Chairman:** Four floors?

**Mr. Peter Ranger, Senior Project Manager, Major Project Office, Public Works Department:** Yes.

**The Chairman:** So one whole floor will be taken up by the Appeals Court.

**Mr. Peter Ranger, Senior Project Manager, Major Project Office, Public Works Department:** No; each of these courts take half a floor.

**The Chairman:** Okay.

So, we have one floor that is dedicated solely to administrative staff?

**Mr. Peter Ranger, Senior Project Manager, Major Project Office, Public Works Department:** That's right.

**The Chairman:** Okay, so that leaves three floors.

The Appeal Court is half of a floor and the temporary court is taking the other half of the floor.

**Mr. Peter Ranger, Senior Project Manager, Major Project Office, Public Works Department:** That's right.

**The Chairman:** What is going into the other Floor?

**Mr. Peter Ranger, Senior Project Manager, Major Project Office, Public Works Department:** Do you mean now sir, or do you mean in the future?

**The Chairman:** Well, I would suggest now, if there is this need for 18 courtrooms, why aren't we putting two or three courtrooms—especially if they can be smaller courtrooms—on the other floor?

**Mr. Peter Ranger, Senior Project Manager, Major Project Office, Public Works Department:** The reason we are not doing it now is even with the temporary court, the configuration of that building is an office block and the worst kind of building you want to try and convert into a court is an office block—restricted ceiling heights, columns, et cetera.

So, the Court of Appeal is worked by a lot of planning where we actually had to put it in a position in the building that works. The temporary court will have light court case issues because there will be columns in the way.

The last thing we want to do is to build a new Kirk House in Scotia. We could end up having our own inefficient court in Scotia building as an office building. In the overall scheme of things, when the wheel scheme is done, the Judicial Administration, judges, magistrates and super-registry will all go in there, so, it should really just be an administrative building for the whole court system. The courts should just be in the existing court house in the new build. Obviously, what we have to do is to transition from one phase to another.

**The Chairman:** Some of the Committee members want to take a five minute recess in Chambers.

**Proceedings suspended at 2:45 pm**

**Proceedings suspended at 2:47 pm**

**The Chairman:** Thank you all very much. I just have a few other questions.

One of the things that seem to be a problem is the Outline Business Cases which seem to keep trying to play catch-up with other decision that have been made, which should have been made after the Outline Business case was laid.

Is that an issue where you or the consultants who are doing the Outline Business Cases are slowing things down? Why is an Outline Business Case taking this long?

**Mr. Peter Ranger, Senior Project Manager, Major Project Office, Public Works Department:** I think to answer that question, the first one in 2016 and a draft was done of the current one on October 2019. It is not so much that it is taking a long time to do.

What happened out of normal sequence is that when the original Outline Business Case was done, the option to buy the Scotia building was not there. I think what happened is that the normal process would have been to look at all your options, from the minimum—to do nothing—all the way up to the full scheme and you look at your range of sites. Can we keep it in George Town? Can we move it? However, because Scotia came up on the market and there was a lot of interest in it, we had to almost kind of jump to an Outline Business Case conclusion and say, *Well, would this work for the courts for the next 25 years?* And then we bought it and like you said, sir, we are coming back now to justify.

Where we are now is, we have the Scotia building, the sites and the work is currently planned and in budget. That is all good and will take the immediate pressure off the courts. The issue now is making sure that we have the Outline Business Case for the justifications for what we call Phase 2. So what we are being asked is to say, okay it should be 10 courts, it should be 8 courts, should be 12 courts. I think that is what the Committee is really looking for.

**The Chairman:** My concern is that I do not want a repeat of the airport where, again, we seem to have had a similar situation where the business case was not laid out based on data and solutions to problems that exist, but instead seems to have been adjusted downward, based on what the perceived cost would be. Then we got to where part of the overspend is being justified—*well, we could add these things after* we *got the money;* when we were told that we were building an airport that was for 25 years, it did not last five months

My concern is that if central government is going to do business cases, they should be properly done, data driven and research supported. We should solve the problem and get away from this incremental solution thereof. And, before we get one incremental solution in place, there is greater demand on the other end, which, if we had paid attention to data, best practices and research in the case of, for instance, the airport where we knew for years what the Passage Laws were, the projected growth and the annual average gross were, et cetera. So, it should not have been a very difficult exercise to interpolate the data and get us something that could last 25 years.

So, I think a part of what we are concern with here is the money aspect of doing these things and then having to redo them because we did them part way in the first place; and that seems to be what is happening here.

**Mr. Peter Ranger, Senior Project Manager, Major Project Office, Public Works Department:** I think this one is more unique in the case of the overriding aim of the courts.

Going back to 2015 and I think even previous projects, the government and even the judiciary wanted to keep the Grand Courts where they are in George Town, and it makes a lot of sense. That restriction of wanting to keep everything together and keep it in central George Town does make this a more difficult project. The going back was purely on the basis of buying Scotia building and the concern was that if we didn't secure that then, we might never come up with an option that met their needs; because I think in the previous scheme they are looking at trying to build up over the existing court.

I take your point, sir, that, the process now is for USOC, OBC [INAUDIBLE] preferred option with its costs. That is what should be delivered fundamentally and if not, there need to be reasons why.

**The Chairman:** The other question I have is that you mentioned that the work should be done to the Scotiabank building in 2021.

**Mr. Peter Ranger, Senior Project Manager, Major Project Office, Public Works Department:** No, 2020 and 2021. So, it is this year and next year.

**The Chairman:** Okay, because I know that the money is in the budget this year and I was wondering why it wasn't going to be done.

Okay, thank you very much. Are there any other questions?

**Mr. Austin O. Harris Jr.:** No, sir.

**The Chairman:** Okay. Thank you very much, Mr. Peter for coming.

**Mr. Peter Ranger, Senior Project Manager, Major Project Office, Public Works Department:** Thank you, sir.

**At 2:53 pm the Public Accounts Committee stood adjourned.**