

**CRIMINAL
BENCH BOOK
FOR MAGISTRATES
AND PARISH
COURT JUDGES
IN THE CARIBBEAN
REGION**



JUDICIAL REFORM AND
INSTITUTIONAL STRENGTHENING
(JURIST) PROJECT



Canada 

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About the Bench Book

The Criminal Bench Book for Magistrates and Parish Court Judges (Bench Book), the first of its kind in the Caribbean region, is an initiative of the Judicial Reform and Institutional Strengthening (JURIST) Project. The Bench Book project, which commenced in 2016, is led by a Criminal Bench Book Committee comprising senior judicial officers and representatives of the Caribbean Court of Justice (CCJ) and the JURIST Project. When completed, it will serve as a practical tool for all Magistrates and Parish Court Judges across CARICOM and will contribute to region-wide judicial institutional strengthening.

The Bench Book is a compilation of rules of procedure distilled from primary legislation, case law, policy, and significantly, the contributions and experience of judicial officers practicing in the summary jurisdiction. It includes guidance on judgment writing and giving of reasons, procedures for dealing with vulnerable defendants and witnesses, sentencing options and methodology, and extradition proceedings, among others. It must be acknowledged that summary criminal procedure varies throughout the English-speaking Caribbean. Across jurisdictions, rules of procedure are prescribed in summary criminal codes, rules of court, interpreted from an assortment

of legislation and developed incrementally by judicial precedent. In the space between these traditions, procedural gaps and inconsistencies flourish. An observation drawn from the delegates contributions at the consultation on the draft manuscript, was that in some instances, judicial officers have proactively developed ad hoc systems and processes to address procedural lacunae.

The Bench Book consolidates these rules of procedure, statutory provisions, recent amendments to primary legislation, and the guidelines set out in appellate judgments from the magisterial courts, into an easily navigable, concise treatise on summary procedure that Magistrates and Parish Court Judges can easily refer to, regardless of the territory in which they happen to be sitting. The amalgamation of these sources of law into a single volume, makes it easy for Magistrates and Parish Court Judges to rapidly identify the diverse bases of their judicial decision-making powers in individual cases, and simultaneously reference case law guiding the exercise of those powers. This promotes efficiency, accuracy and consistency in decision making. The corollaries of improvements in these measures are reductions in case backlogs, saving of judicial time, and bolstered public confidence in judicial integrity.

Concurrent with these performance benefits, the compilation of judicial precedents from cases across the region into one Bench Book, contributes to establishing consistent best practice in the summary courts of the Caribbean by presenting judicial officers with relevant authorities that have been tested and are accessible at a glance. In summary, it is expected that this regional Bench Book will supplement the invaluable experience of CARICOM judicial officers and further aid them in disposing of cases justly and efficiently.

Bench Book Foreword



by the Honourable
Mr. Justice Adrian Saunders,
President, Caribbean Court of Justice

The JURIST Project is a regional Caribbean judicial reform initiative funded under an arrangement with the Government of Canada. The Project is being implemented on behalf of Global Affairs Canada and the Conference of Heads of Judiciary of CARICOM by the Caribbean Court of Justice which was appointed by the Conference as its Regional Executing Agency.

The Project seeks to improve the administration of justice in the Caribbean region by strengthening the ability of the courts to resolve cases efficiently, fairly and in a timely manner. Special attention is being paid to improving the capacity and skills of judges and magistrates, court administrators and

personnel to deliver services that meet the varying needs of their customers. The Project supports local jurisdictions of the region toward the attainment of the Project's ultimate Outcome, *"A judicial system that is more responsive to the needs of women, men, youth, business and the poor"*.

The Project has been engaged in several criminal justice and magisterial reform initiatives with a view to the improvement of the quality of justice in the criminal justice system in the CARICOM region. In this regard, an Advisory Committee on Criminal Justice and Magisterial Reform comprising judges, magistrates, prosecutors, defence counsel and other professionals from across the region, was established.

One of the common challenges identified in the magisterial court system in several countries of the Caribbean is that of delay. Delay has become endemic in some states. Magisterial matters are not resolved in a timely manner. There are frequent adjournments and persons who access the courts complain that, as a result, they are being denied justice. The view has also been expressed that there is a lack of consistency in the application of laws and procedures by magistrates and parish court judges.

In response, the Advisory Committee on Criminal Justice and Magisterial Reform has established a Sub-Committee to

develop a Bench Book for Magistrates and Parish Court Judges in the English-speaking Caribbean. It is intended that the Bench Book will:

- (1) Serve as a tool of trade for magistrates and parish court judges;
- (2) Comprise guidelines, commentaries and statements of law that are intended to be a point of reference in the conduct of trials and in judicial decision-making process;
- (3) Clarify complex areas of procedural law which present difficulty to magistrates and parish court judges;
- (4) Equip magistrates and parish court judges to deliver immediate oral reasons for their decisions, thus helping to a) reduce any backlog of reserved decisions, thereby alleviating one aspect of the problem of delay; and b) assist magistrates and parish court judges in the articulation and reasoning of their decisions; and
- (5) Serve as an evolving text to be reviewed over time to reflect developments in the law and procedure.

The ultimate aim is that this Bench Book will serve as a practical and accessible guide which will assist magistrates and parish court judges to conduct their courts and complete

their matters in a more efficient and timely manner. Its use should promote uniformity of procedure, improve the capacity and skills of magistrates and parish court judges, and result in a more efficient magisterial system that garners increased public trust and confidence.

The development of this Bench Book is a remarkable achievement. This was a challenging project which required extensive research into diverse areas of substantive and procedural law across the various jurisdictions of the English-speaking Caribbean. The Bench Book is the first of its kind in the English-speaking Caribbean and it is our hope that it will be the first point of reference for all magistrates and parish court judges.

The production of the Bench Book would not have been possible without the generous funding of the Government of Canada. We are deeply indebted to the Government of Canada, which has had a long and productive partnership with CARICOM countries in the area of judicial and legal reform with the objective of strengthening institutions, building capacity and eliminating delay.

It is with great honour that we present the *Criminal Bench Book for Magistrates and Parish Court Judges in the Caribbean Region*.

Jurisdictions included in the Bench Book



- Anguilla



- Antigua and Barbuda



- Barbados



- Belize



- Dominica



- Grenada



- Guyana



- Jamaica



- Montserrat



- St. Kitts and Nevis



- St. Lucia



- St. Vincent and the Grenadines



- Trinidad and Tobago

Contents of the Bench Book

The following chapters are included in the Bench Book:

- Chapter 1 – Jurisdiction
- Chapter 2 – Service, Arrest and Search Warrants
- Chapter 3 – Procedures
- Chapter 4 – The Charge and Bail
- Chapter 5 – Pleas
- Chapter 6 – Trial
- Chapter 7 – Evidence
- Chapter 8 – Functus Officio
- Chapter 9 – No Case Submissions
- Chapter 10 – Finding Guilt
- Chapter 11 – Goodyear Hearing
- Chapter 12 – Sentencing Options and Methodology
- Chapter 13 – Committal Proceedings
- Chapter 14 – Extradition Proceedings
- Chapter 15 – Abuse of Process
- Chapter 16 – Road Traffic Offences
- Chapter 17 – Case Management under the
New Criminal Procedure Rules
- Chapter 18 – Customs
- Chapter 19 – Writing of Reasons
- Appendix – Juvenile Justice Reform
in the Commonwealth Caribbean

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