

## **“LET’S GO”**

**JUSTICE DEBBIE ONG**

### **Family Justice Courts Workplan 2022, 18 March 2022**

Chief Justice, Fellow Judges, Colleagues and Guests,

Welcome to FJC’s Workplan Day and thank you for being here.

1. Our Workplan themes in the last few years were “A New Tomorrow”, “Today is a New Day” and “Every Outcome, a Way Forward”.
2. As I had said at the last Workplan, these themes are very much linked – they are words that “point us to look ahead, always finding a way to move forward and not get stuck in the past or even in the difficult present. These themes are extremely important for FJC, because family proceedings are unique – even after divorce, families need to carry on life, to raise children, to grow old with family around them. Life does not stop with a court order in family matters.” This is in fact the essence of Therapeutic Justice – being able to heal and move on.
3. Over the past few years, we have worked hard to brainstorm on how to help families to move forward. I talked a lot about the importance of adopting the “lens” of Therapeutic Justice or the “TJ lens”, and we announced some broad plans under this overarching vision. To be of real assistance, our aspirations have to be realised in practical terms.
4. This year’s workplan theme is “Let’s Go!”. “Let’s Go” because we are now in the “implementation phase” for many of our initiatives, where we translate our ideas into real-world solutions and fine-tune them along the way. In this phase, we know our aims, we roll up our sleeves, and we get on with the practical work. We want Therapeutic Justice to be: not just a slogan or a vague concept, but something that is practised in every one of our cases.

### **Statistics**

5. For context, let us take a quick look at some statistics.

6. This slide shows FJC’s Caseload. FJC’s caseload increased by 4% in 2021. This increase is largely due to the rise in probate cases (see the 16% increase here). I will, later on, touch on how we can enhance our processes in response to this increase. Another aspect to note is that from 2020 to 2021, the number of maintenance and family violence cases has dropped.

Caseload	2019	2020	2021	Δ2020-2021
<b>TOTAL</b>	<b>27,953</b>	<b>25,633</b>	<b>26,693</b>	<b>↑ 4%</b>
Maintenance	4,413	3,198	2,827	↓ 12%
Family Violence	2,705	2,482	2,164	↓ 13%
Divorce	6,321	6,016	6,159	↑ 2%
Originating Summonses	1,406	1,148	1,169	↑ 2%
Summonses	4,815	4,512	4,943	↑ 10%
Breach of Syariah Court Orders	150	131	113	↓ 14%
Probate	7,023	7,006	8,119	↑ 16%
Youth Courts	1,120	1,140	1,199	↑ 5%

7. This next slide shows FJC’s Disposition Rates. It can be seen from this Table that the latest disposition rates have generally recovered to pre-pandemic levels. Clearly, Covid-19 had affected our regular fixings, especially in the months during the Circuit Breaker period in 2020. Disposition rates in 2021 were broadly back at pre-Covid rates.

Disposition Rates (≥85%) (Calendar Days)	2019	2020	2021	2020 vs 2021
Maintenance Cases (6 months to First Conclusion)	91%	88%	90%	↑ 2%
Family Violence Cases (6 months to First Conclusion)	91%	86%	91%	↑ 5%
Youth Court Charges (3 months to Conclusion)	78%	81%	72%	↓ 9%
Divorce Cases (6 months to Interim Judgment)	92%	90%	93%	↑ 3%
Divorce Cases (12 months to Conclusion)	94%	93%	93%	-
Probate Cases (3 months to Conclusion)	97%	96%	97%	↑ 1%

8. This next slide shows FJC’s Divorce Statistics. Comparing the figures in 2020 with those in 2021, we see a 2% increase in the number of divorces. But the number of divorces in 2021 is still lower than that in 2019. Of note is the percentage of divorces on the Simplified Track which have continued to increase – 58% to 60% to 63%.

Year	2019	2020	2021	2020 vs 2021
Number of Divorces	6,321	6,016	6,159	↑ 2%
- % on Simplified Track	58%	60%	63%	↑ 3%

9. All these statistics reflect the good work, the hard work, that FJC has done in the past year.

10. Against this backdrop, I move on to our work plans and initiatives. In Workplan 2020, we broadly classified our plans into three strategic thrusts. This is a recap here – the three thrusts are:

- a. Furthering TJ in a Multi-Disciplinary Environment;
- b. Facilitating Court Processes, Settlement, and Enforcement which relates to Access to Justice;
- c. Fortifying Judges’ and Lawyers’ Capacity and Capability.

11. OK. Let’s go.

## **Furthering TJ in a Multi-Disciplinary Environment**

12. The first strategic thrust is Furthering TJ in a Multi-Disciplinary Environment. I have spoken extensively on TJ at previous Workplans and Seminars. At our last corporate retreat “FJC All-In 2021”, a number of us, you and others, shared what TJ meant to each of us in our everyday work.
13. When I looked up the synonyms for “therapeutic”, I found these words which had similar meaning to “therapeutic”: “healing”, “beneficial”, “relaxing”, “calming”, “satisfying”, “salutary”, “helpful” and even “tonic”. Does TJ in FJC mean any or all of these? (see the big question marks there on this slide). The words “relaxing”, “calming” and “satisfying” sound like you are at a spa, being given a massage and breathing in essential oils. It is not surprising that different perceptions of TJ have come about.
14. And this may be a good time to clarify some misconceptions of “TJ”.
15. In the case of *VVB v VVA*,<sup>1</sup> I explained:  
“Therapeutic justice is *not* about parties feeling happy and satisfied that they got whatever they sought in their present dispute. In fact, for both parties to obtain what each wanted in the first place is not practically possible without some compromise – the parties had, after all, a dispute that they simply could not resolve on their own. It would be a grave misperception of the therapeutic justice system if parties feel entitled to be “pandered to” during the court proceedings. Instead, a therapeutic justice system involves parties making what they may perceive to be “sacrifices” – letting go of what has hurt them deeply, refraining from doing “inflammatory” acts against the other party, compromising by giving in and cooperating with the other party in some issues, taking responsibility where required and finding the will to recast the future.”
16. TJ requires a lot of effort and personal responsibility, to do what it takes for healing to take place. We can encourage parties to reach for a new future by helping them to “see” the positives. In one of my recent decisions,<sup>2</sup> the parties continued to fight over how to divide up their weekend time with their child. The dispute came up to the High Court on appeal. I pointed out to the parties in that case that neither of them had alleged that the other was unfit or not a good parent. Instead, each had accepted that the other was a good parent and that the child should have time with the other parent. I urged them to focus on the positives: “that there is a lot of agreement on the bigger, important aspects, while the disagreement is small – the disagreement is mainly about the amount of weekend time the child should have with each parent. Seen through these lenses, the parents should be encouraged that there is more common ground than there are disagreements.” I also told them to view my tweaking of the orders “as an example of how to be flexible and reach a compromise that works for the child’s best interests.”

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<sup>1</sup> [2022] SGHCF 1 at [27]

<sup>2</sup> HCF/DCA 80/2020

17. I told the lawyers in that case:<sup>3</sup>

“Remind your clients that parents in intact families do not always agree on everything either – one parent may appear to be giving in more, or less, and give-and-take by both parents occur throughout. It is normal. Parties can be strong parents for this child – he is so young – there are so many more years of co-parenting to do – they must equip themselves with the right mindset now and have the will to resolve to work things out as parents now. It can be done and this child can enjoy a normal childhood with both parents in his life.”

18. This is how TJ can give hope to families.

19. TJ is a lens through which we look at how rules, laws, legal procedures, practices, as well as the roles of legal participants including lawyers and judges, produce therapeutic (meaning ‘helpful’) and reduce anti-therapeutic (meaning ‘harmful’) consequences. TJ endeavours to support parties in a journey of healing and recasting of a positive future.

20. In the case of *VVB v VVA*,<sup>4</sup> I added that:

“The notion of therapeutic justice *operates within* the framework of the law and does not prevail over the law. Judges apply the law and legal principles, in a system that is non-adversarial and conducive to problem-solving. Our family law is rich in legal principles and jurisprudence that promote therapeutic outcomes, and all legal actors in the family justice system would do well to apply the law to achieve therapeutic justice for our families.”

21. We continue translating our vision of TJ into reality.

22. First, we are strengthening the Multi-Disciplinary Approach in the Family Court. We piloted a Multi-Disciplinary TJ Team-based approach, or what we call “MDT”, for selected high needs/high conflict divorce cases, to explore how judges, mediators and counsellors can work together to manage the case more holistically and expeditiously. In total, 25 cases were assigned to the MDT Pilot. Of these 25 cases, 18 have been concluded and the remaining 7 are pending adjudication or further mediation. Next month, we will conduct a review to identify and integrate the key lessons learnt – so that we can further strengthen this aspect of our system.

23. Next, we are developing TJ Codes of Conduct and Best Practice Guides. These aim to set the standards of conduct through a TJ lens for judges, lawyers, court administrators, and litigants. The aim is to create a TJ culture with standards and expectations for all participants including the parties themselves.

24. We will also be embarking on a TJ “Deep Dive” to strengthen our TJ “hardware” – our core court system – to support and encourage TJ practices. We will look more carefully at how our family court system can be the best TJ hardware – such as how filings are made, how and where “triaging” should be placed, or where various interventions fit in – broadly, how to set up a non-adversarial system.

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<sup>3</sup> HCF/DCA 80/2020

<sup>4</sup> [2022] SGHCF 1 at [28]

25. We will continue to strengthen the integration of community services and referral channels. We will review and identify gaps in services and build more bridges with professional services, to match the needs of the families with appropriate specialist support. This may entail setting up expert panels across the family system landscape and even bringing services into the future FJC “Octagon” premises.
26. I am also happy to share some updates on initiatives which I had previously announced.
27. We have established a Panel of Financial Experts or “POFE”. Family Judges and parties can call on such experts to assist in aspects of financial planning or information at the mediation stage, and for the division of assets and maintenance at the ancillary matters stage in divorce proceedings. These financial experts will not only provide parties with practical financial advice – they can also assist the court and parties in arriving at objective valuations of matrimonial assets. This enables a more amicable resolution of financial issues in divorce proceedings. We have completed the pilot and will be reviewing and strengthening the processes. We aim to launch the scheme in full later this year.
28. We have also set up a Panel of Therapeutic Specialists, or “POTS”. Parties often have complex needs and issues underlying the legal disputes. POTS comprises private sector mental health and social science professionals. The parties will have an additional avenue, through POTS, where they can obtain targeted therapeutic assistance. We aim to pilot this in the later part of this year.
29. A Research Initiative is also taking place and it has to do with the globalisation of families. We see an increase in international *marriages* where marriage partners and their children are connected to more than one country. It is not surprising that *divorces* have also become more “cross-border” in nature. We did a study on International Divorces previously, and an article on it was published in 2019 in the Singapore Academy of Law Practitioner’s Journal.<sup>5</sup>
30. We hope to update the 2019 Study and review appropriate recommendations for implementation. This is so that we can continue to enhance access to justice for parties in cross-border divorces and apply TJ in these more specific contexts involving international elements.
31. Finally, when we think of TJ in today’s technologically-advanced environment, we wonder how we can support parties through the use of everyday devices that they are already using. FJC is collaborating with the Community Justice Centre (the “CJC”) to develop a Co-Parenting App. This App facilitates co-parenting by, for example, making it easier for parents to communicate regarding parenting matters. This could include a calendar function for scheduling access and sending requests and invitations to each other. It could also include links to payment gateways for the purposes of paying maintenance. This App is being worked on now.

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<sup>5</sup> See Joyce Low and Lee Meng Chung, “International Divorces in Singapore: A Study of Trends from Cases filed in the Family Courts” [2019] SAL Prac 31

## **Facilitating Court Processes, Settlement and Enforcement**

32. Our second strategic thrust involves Facilitating Court Processes, Settlement and Enforcement, and through these, facilitating access to justice. FJC will review existing “pain-points” and leverage technology to make the court journey smoother and more navigable. This includes enhancing existing legislative regimes and facilitating transitions to new regimes. These enhancements improve access to justice in two dimensions: first, making the court process simpler and friendlier for court users (what we might call “*procedural* access to justice”). And second, in equipping court users with sufficient knowledge to make informed decisions and pursue their legal rights and remedies (what we might call “*substantive* access to justice”).
33. One key aspect of *procedural* access to justice is the ability to file applications online without going to many different touchpoints. This was the motivation behind the launch of our Divorce eService in November last year. This eService online portal reduces time and effort in form-filling by populating the litigants’ personal details from “MyInfo”. It also guides unrepresented litigants by converting their details into auto-generated court forms should they file for divorce on the Simplified Track.
34. We aim to improve and expand the features and capabilities of this portal. For instance, we intend to integrate the bankruptcy search within the portal for Simplified Track divorce applications. We are also looking at digitalising the Memorandum of Appearance process.
35. Another area where procedural access can be improved is in the grant of probate. The number of probate cases had risen by 16% from 2020 to 2021. We expect that this trend will continue. Our probate division has done a review on how we can adjust our probate processes to strengthen access to justice. We aim to launch the Probate eService for simple probate cases similar to the Divorce eService. It will provide step-by-step guided filling-in of the various forms that feature in the probate process. Administrative steps such as providing the deceased’s death particulars and conducting caveat searches will be automated. Ultimately, the aim is that applicants can obtain their grants of probate with fewer steps, fewer hearings, and lower fees.
36. We also want to ensure ease of access when litigants need to reach our court services in person. One way to do this is to make frontline court services available at community touchpoints. We are working on a pilot with the Public Service Centre to allow litigants to file maintenance enforcement applications from service locations in the heartlands. As a start, from mid-May 2022, litigants will be able to file such applications at the Public Service Centre @ Our Tampines Hub. This complements the existing option of filing applications at the court or at authorised community agencies which are already available.

37. Apart from improving the filing process, we must ensure that rules of procedure are simple and easy to understand. We are thus revamping our Family Justice Rules<sup>6</sup> to simplify processes. We are also reviewing our court correspondences to ensure readability by using plain language instead of technical and esoteric expressions. The aim is to demystify the court process to make it understandable and user-friendly.
38. In October last year, we piloted the Family Neutral Evaluation initiative that complements mediation of issues relating to maintenance and the division of assets. This provides divorcing parties with an indication from a neutral Evaluator of the likely outcomes should matters proceed for adjudication. We have recently concluded our first neutral evaluation for a divorcing couple and the case was resolved amicably with an agreement between the parties.
39. Finally, we are addressing one practically very challenging issue, the enforcement of child custody and access orders. We are introducing a new simplified filing and show-cause procedure in the Family Justice Rules for breaches of such orders, as an alternative to the current committal regime. This will complement the recent amendments to the Women's Charter<sup>7</sup> in January early this year, which provide for broader powers for the court to order make-up access, impose fines, forfeit bonds and order imprisonment against a recalcitrant parent.
40. Focusing next on *substantive* access to justice, we launched the Family Orders Guide to provide guidance to all court users on the language of commonly-made orders in divorce proceedings. The Guide is designed as a tool for court users to craft suitable terms by selecting those they require based on the needs of their cases. We intend to include draft orders for other areas, such as Probate, the Mental Capacity Act and Adoption.
41. We also want to support parties to have greater access to knowledge in family law and their rights and remedies. As earlier announced by the Chief Justice at the Opening of the Legal Year in January, we have produced a digital repository of "Case Highlights". These are bite-sized summaries, or "Highlights", of notable family decisions. Located on the Singapore Courts website, the repository now contains "Highlights" of 70 notable decisions. More of such "Highlights" will be added in the coming months.
42. Finally, we have piloted FJC@Heartlands, a webinar series on common topics of family law to inform interested members of the public on their rights and obligations in the family justice system.

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<sup>6</sup> Family Justice Rules 2014 (No. S 813)

<sup>7</sup> Women's Charter 1961 (2020 Rev Ed)

## **Fortifying Judges' and Lawyers' Capacity and Capability**

43. Our third strategic thrust is Fortifying Judges' and Lawyers' Capacity and Capability. This has much to do with the TJ "software" on which the family justice system operates. These efforts are not new and have improved the quality of jurisprudence and advocacy in the family courts. I am heartened by these improvements, and thankful for the support of both the Bench and the Bar in implementing the TJ ethos and practices in family proceedings.
44. We must continue to fortify our capacity as family practice grows in complexity.
45. Some disputes transcend multiple areas of law. For example, third parties may bring claims on a couple's matrimonial assets;<sup>8</sup> while parties in matrimonial proceedings may raise issues involving the law of property and trust, restitution, and unjust enrichment.<sup>9</sup>
46. Some cases require perspectives from other disciplines. These disciplines include social science, especially for issues involving children,<sup>10</sup> and financial accounting for matters involving novel and special classes of matrimonial assets in divorce proceedings.<sup>11</sup>
47. Still other cases engage issues of social and public policy, such as when a father in a same-sex relationship applied to adopt his child who had been conceived through surrogacy<sup>12</sup> and subsequently applied for his same-sex partner to be appointed guardian and to have joint custody of the child.<sup>13</sup>
48. Family disputes have also become internationalised – we see increasing applications for children to relocate to another country,<sup>14</sup> applications for financial relief following a foreign divorce,<sup>15</sup> and cases of international parental child abduction.<sup>16</sup>
49. I reiterate how important the Law is – the Law governs how all these challenging legal issues should be resolved. Judges apply the Law. As much as TJ is the guiding philosophy in FJC, it operates within the framework of the law and does not prevail over the law. TJ is not a licence for arbitrary decision-making by reference to feel-good notions of justice. What is needed for effective family practice is a strong grasp of the law and legal issues that arise in family disputes, strong forensic skills to deal effectively with complex and technical evidence, and an understanding of the non-legal issues that may be underlying the legal disputes.

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<sup>8</sup> See, eg, *UDA v UDB UDA and another* [2018] 1 SLR 1015

<sup>9</sup> See, eg, *Tay Amy v Ho Toh Ying* [2021] SGHC 25

<sup>10</sup> See, eg, *TAU v TAT* [2018] 5 SLR 1089

<sup>11</sup> See, eg, *WAS v WAT* [2022] SGHCF 7

<sup>12</sup> See, eg, *UKM v Attorney-General* [2019] 3 SLR 874

<sup>13</sup> See, eg, *VET v VEU* [2020] 4 SLR 1120

<sup>14</sup> See, eg, *UYK v UYJ* [2020] 5 SLR 772

<sup>15</sup> See, eg, *UFN v UFM and another matter* [2019] 2 SLR 650

<sup>16</sup> See, eg, *TSH and another v TSE and another and another appeal and another matter* [2017] SGHCF



50. At FJC, the training of family judges takes centre stage. Our ongoing training includes my periodic “Huddles” with my colleagues and the “Group Supervision Scheme” overseen by our Chief Mentor. For more structured training, we held Learning Weeks in 2019 and in 2021. Apart from legal developments, we learnt from social science experts and international thought-leaders of the FJC Advisory Research Council, which was established to help us build our TJ narrative and implement TJ in practical terms.
51. Going forward, we have set up a Judicial Training Committee to put together a Family Judges’ Specialist Curriculum for new family judges to receive the specialist training required for family judging. We will also organise a third run of the Learning Week, which will focus on TJ practices and techniques. The establishment of a specialist Judicial Service Commission in January 2022, to which our family judges belong, will also provide a platform conducive to planned career paths with relevant training and professional exposure for our family judges.
52. At the Law Society’s Family Conference last September, I announced the launch of the Family Therapeutic Justice Certification Programme, which was developed by the Law Society Family Law Practice Committee, the Singapore Academy of Law, and FJC. This voluntary programme assists lawyers to build new capabilities to practise effectively in a TJ-oriented family justice system. It covers similar content to that covered in our FJC Judges’ Learning Weeks. The first run of the programme was held in October to November last year. Participants heard from international members of the FJC Advisory Research Council, senior judges and allied professionals in FJC, and senior practitioners in family law in Singapore as well.
53. FJC is also working with the Ministry of Law, the Singapore Academy of Law Specialist Accreditation Board, and other relevant agencies to conceptualise and implement a specialist accreditation framework for family law practitioners. This will recognise the highly experienced family practitioners who are specialists in handling complex family proceedings involving divorce and children, including cases with complex cross-border dimensions.
54. Ultimately, TJ-orientated problem-solving family practice will not go unnoticed while adversarial and aggressive practices that undermine TJ will have consequences. Rule 854 of the Family Justice Rules directs the court, in assessing costs, to consider the parties’ conduct generally and their conduct in relation to any attempt at resolving the matter by mediation or any other means of dispute resolution.

55. In the case of *VVB v VVA*,<sup>17</sup> I affirmed the order of costs made by the Family Court. I said:

The approach taken by the appellant did not look like a problem-solving stance but an adversarial one – one that undermines therapeutic justice. For the purposes of costs, this approach taken during those months cannot be erased away just because the appellant decided much later to voluntarily resign from the appointment so that no further proceedings would be required. The appellant submitted that “the Family Courts should consider very carefully what signal it is sending by making a cost order against a party who is acting reasonably by offering to step aside from acting as a donee in a bid to avoid unnecessary litigation”. In the present case, awarding costs in fact signals that adversarial stances are not acceptable in a family justice system that adopts therapeutic justice.

### **“Hope”**

56. Before I conclude, I would like to share something interesting. We are collaborating with the URA, MSF, MINDS (which is the Movement for the Intellectually Disabled of Singapore), and ArtBeatz Pte Ltd to transform the construction hoardings of the building site of our future FJC premises we call The Octagon, into a bright and lively art space. The hoarding features 61 inspirational artworks under the theme of “Hope”, produced by youths from the homes under MSF and MINDS. These artworks are physical expressions of our youths’ beliefs that despite the challenges they have had to deal with, there remains hope for a better future. This captures FJC’s aspirations in applying TJ to restore and rebuild families. There is always hope for a better future. Much like how the application of TJ involves a multi-disciplinary effort involving judges, court staff, lawyers, mediators and mental health professionals, the tapestry of artwork is a labour of love of many hands.

### **Let’s Go!**

57. These are exciting times in family justice. Our initiatives are the seeds that we are planting for a family justice system that supports families to find a positive way forward. There are small seeds and there are larger seeds (and there are also very big seeds). Implementing these initiatives will not be easy. I am very proud of the fortitude that all my colleagues in FJC have shown in carrying out their work daily – doing right, helping families, being patient, working very hard.

58. So Let’s Go! Let us keep sowing the seeds and keep faith that our work will bear fruit. Indeed, our hard work has already borne much fruit.

59. I thank all my colleagues very deeply for their commitment and hard work in FJC. I am immensely grateful to our Chief Justice for his wisdom and leadership in our embrace of TJ and his constant and generous support in all our work.

60. Thank you all very much.

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<sup>17</sup> [2022] SGHCF 1 at [26]