

COMPUTERISATION AND THE ADMINISTRATION OF JUSTICE

Consultant's report for St. Lucia

TABLE OF CONTENTS AND PLAN

	page
PART 1 — INTRODUCTION	
• Background	1
• Object of report	2
•	
PART 2 — THE DEPARTMENTS	2
• ATTORNEY GENERAL'S OFFICE	2
• JUDICIARY	3
• SOLICITOR GENERAL'S OFFICE	5
• LEGISLATIVE DRAFTING OFFICE	7
• DIRECTOR OF PUBLIC PROSECUTIONS	8
• REGISTRIES	8
PART 3 - SUMMARY and RECOMMENDATIONS	10

PART 1 — INTRODUCTION

Background

The Commonwealth Secretariat has been concerned for many years to assist in maintaining the rule of law by making laws accessible and generally assisting in the delivery of justice.

A workshop was convened in Barbados in August 1997 to explore the possibility of countries making use of the Bermuda legislative drafting software or other systems for law revision. It emerged from this workshop that the primary need was to have an independent consultant visit the various countries of the region to report upon their information technology needs. Many reported that they were inundated with advice about computer and other systems from suppliers, but that failure and wastage were common results and there was no coherent overall plan.

The Commonwealth decided to appoint a consultant to report for the countries upon these matters, and to convene another workshop, in March 1998, to settle the terms of the proposed consultant's report for them.

To assist this second workshop, pilot studies were decided upon - in St. Lucia and Barbados. These Pilot studies would form the basis of considerations at the second workshop.

This is the draft report arising from the pilot study of St. Lucia conducted by the Commonwealth Secretariat's consultant, Neil Adsett, in early March 1998.

2 Report for St. Lucia, computerisation and the administration of justice

The report was compiled in a single week and could perhaps be seen best as a report in progress. Any errors reported to Neil Adsett will be corrected

Object of report

The plan in compiling this report was to -

- consult with as many of the key Government lawyers as possible and to record their views;
- to note the present position, the aspirations of the lawyers, the problems, the practicalities;
- to assess the needs – short term, medium term, long term, and the possibilities and problems;
- to give practical solutions and a plan, with costing and an indication of the way forward and especially if CFTC could be approached to fund a project within the overall plan.

PART 2 —THE DEPARTMENTS

OFFICE OF THE ATTORNEY GENERAL AND MINISTER OF LEGAL AFFAIRS

Background

In St. Lucia there is an Attorney General who is the principal legal adviser to the Government. This office may be either a public or a ministerial office - the present incumbent, Mr. Petrus Compton, is a public officer (not elected).

There is also a Minister for Legal Affairs, Mr. Velor John, who is responsible for, amongst other things, the Judiciary. The organisation chart attached to this report shows the allocation of responsibilities that applies.

I met with the Attorney General and with the Minister of Legal Affairs.

Information systems

The various functions of the Attorney General and the Minister are in the main carried out by the departmental officers and the relevant information systems are discussed in the parts of this report that deal with these heads of department.

Organisationally, the Solicitor General fulfils the role of permanent secretary to the Attorney General's Chambers (the Minister has another permanent secretary), and the Attorney General is serviced by staff within the general office.

Problems

Problems highlighted by the Attorney General were -

- post installation support is needed when any computer related system is introduced - stories abound within government of machinery being installed but never operated, and of it breaking down and nobody knowing how to fix it or who to call for help.
- Training is essential and the training should be very broadly based so that if staff leave there should always be someone else who understands the system and can carry on with it - a whole pool, inter-departmental if needed, from which Government can draw.

3 Report for St. Lucia, computerisation and the administration of justice

Attorney General
and Minister, cont'd

- The Minister of Legal Affairs stressed that a holistic view should be taken of the Department's requirements - the piecemeal approach was doomed to failure.

Future requirements

Law Revision is a top priority - help is needed to get this underway successfully.

As part of a law revision project, it is hoped that a law reform mechanism can be put into place and then continued permanently.

Recommendations

1. A law revision is essential, and as part of that process, the continuing reform of the law can be addressed and institutionalised. This could be done by a high powered Law Revision Committee being established to guide and implement proposals put forward by the Law Revision Commissioner and others, and after the law revision project, this body could continue in another form as a law reform agency.
2. Laptop computers should be purchased for the Attorney General and the Minister.

JUDICIARY

Background

The court hierarchy in St. Lucia starts with the District Court, which has 6 Magistrates, one of whom does only family law type work. There is no small claims court.

Above the Magistrates is the High Court, comprising usually 2 Judges, but presently there is only one full time judge and another mainly engaged as acting Judge of the Court of Appeal, plus visiting temporary Judges when this can be arranged.

The regional Court of Appeal is next in the hierarchy and the Chief Justice of the High Court is also Chief Justice of the Court of Appeal of the Eastern Caribbean Supreme Court (and chairman of the Judicial and Legal Services Commission).

Appeals ultimately can go to the Privy Council in London.

In making this assessment, I interviewed -

Mrs. Indra Hariprashad-Charles, Chief Registrar of the OECS Court of Appeal;

Her Honour Justice Suzie D'Auvergne, Judge of the High Court of St. Lucia; and

Ms. Floreta Nicholas, Senior Magistrate.

Responsibilities/functions

The District Court has a civil jurisdiction of EC\$5,000 and mainly summary criminal matters (including hybrid offences dealt with summarily, either at the election of the accused or by the court's determination) which is able in general to order up to 3 years imprisonment.

The High Court has unlimited jurisdiction and the Court of Appeal hears only appeals from the 8 countries serviced by this regional court.

Information systems

Magistrates

The statute law is very hard to find, and the Magistrates have no access to decisions of the High Court or Court of Appeal (West Indies Reports unknown). There are gaps in the law and the Civil Code is out of print and rare.

Judiciary cont'd

Case management is a problem and is causing serious delays in having cases heard, especially committal hearings. Money was spent in 1995 to have case management software designed for them, but it cannot be used because they have not been able to buy the hardware necessary. They have computers but have been told that they are the wrong type. None of the Magistrates have computers. There are 3 or 4 clerk typists with miscellaneous computers and they use them like typewriters.

There is a plan to set up a case management unit, but this hasn't happened as yet. Not since the 1950's has the administration system in the District Court been revised.

High Court

Statute law is hard to find, and they have to get people to scurry around to try to find the law. No case reports are available except for the ones that the Judge remembers and keeps for herself. The Judge thought that the former Chief Justice had cases and records and that some private lawyers may be keeping their own case records.

Court of Appeal

All of the appeal judges have their own laptop computers. The registry is well equipped with computers all running Word97. The Chief Justice is an ardent computer user. The registry has an internet connection and access to some foreign data banks of laws. The Chief Registrar has made a start at compiling a digest of cases, and all written decisions of the court are compiled into annual volumes for the use of the judges and the library.

The Chief Registrar is also establishing a database of cases, using MS Foxpro software. This database tracks cases in progress and records relevant details. It will include reasons for decisions when the judges compile a summary of these for the database.

The West Indies Law Reports publish a fair number of decisions of the court each year, but the OECS law reports, which were produced in 3 volumes between 1991 and 1995 have not been kept up.

Problems

- Statute law is hard to find.
- Cases are largely unavailable.
- Law libraries are inadequate, except for Court of Appeal which is growing but needs organisation.
- There is poor communication with any other agency - Magistrate would like internet access for research and networking with Police and Prisons to keep track of cases coming on each day, and status of accused - ie whether they are already in prison or on remand or missing.
- There are substantial delays in the system - regularly criminal cases are taking 5 years to be heard. The Judge says that this delay is all in getting through the District Court committal system and with lost files etc. in the District Court.

Recommendations

1. law revision - published and maintained.
2. case reports and/or indexing of cases - published and maintained.
3. computers should be purchased for Judges and Magistrates, and training for these and for the support staff should be organized.

judiciary cont'd

4. An expert needs to examine the case management problem and devise a system to correct it. The use of computers for this task in such a scenario of relatively small case numbers, poor computer awareness within the office, and the existing delays, is problematic and may, even in the longer term, cause more delay and problems than the present system.
5. Internet access should be established for research and networking.
6. Limited network for information sharing could be considered at an advanced stage of the enhancement of computerisation of the office.
7. Legislate to avoid the need for a full "trial" at the preliminary inquiry stage - this has been done in many other places, including in the Caribbean, and there has been no problem with this - justice is still delivered but the delays and costs are cut down markedly.
8. Legislate to raise the jurisdiction of the District Court, especially with civil cases, which can more sensibly be dealt with by Magistrates, either in their normal jurisdiction, or sitting as Small Claims Tribunals, for the expeditious and informal disposition of minor cases.

SOLICITOR GENERAL'S OFFICE

Background

I met with Ms. Miriam Samaru, the Solicitor General. She has been the Solicitor General for 18 months, and is an experienced Trinidadian lawyer working in St. Lucia on contract.

Organization structure

The Solicitor General gave me an organisation chart of the Justice Department that had been prepared for me. This organization chart is attached to this report.

The staff comprises one senior crown counsel and 2 crown counsel, plus 3 administrative support staff and 5 secretarial support staff.

Responsibilities/functions

Basically the Solicitor General is responsible for the administration of the Attorney General's Department -

all government civil and commercial legal work.

supervision of legislative drafting.

the conduct of constitutional and major court matters.

The Solicitor General does not act as Attorney General during his absence, but does in fact ensure that the office runs smoothly during any such absences.

Information systems

Computers are used in the office at the present solely as word processors (and for accounting purposes). There is the usual miscellany of machines and software (WP6.0 is mainly in use). Computer and printer maintenance and backup is obtained from the private sector and is good.

No professional staff have computers, and there are not enough computers (or printers) to go around amongst the support staff.

The statute law is difficult to find and much time is wasted tracking amendments to find the current law. The Index of laws produced by the UWI is invaluable, but only about 15-20 copies are purchased each year because private lawyers don't buy them regularly.

The statute law was once contained in codes - a civil code, a criminal code, and a commercial code, and this structure remains basically in place, especially in the criminal area. The commercial code is mainly repealed.

The last Revised Edition was in 1957 and since then there have been annual volumes of laws produced. Many years' laws are very difficult to find and involve a hunt around all government offices and even departmental files to locate originals of laws if need be. There are no court reports from the High Court or Court of Appeal available. Only if someone knows the name and details of a case can it be located separately in the High Court library. There may be an attempt underway at Cave Hill campus to collate the cases on the civil code, and the Solicitor General has started to sort Court of Appeal decisions by jurisdiction.

There is no centralised system for keeping precedents or opinions of the office, nor of office memos or manual.

Problems

- The current statute law is difficult to find.
- The relevant cases are not accessible.
- There is no communication between different areas of the government system.

Future requirements

- A law revision project needs to be undertaken and completed.
- Staff need training to use computers effectively.
- New computers need to be purchased so that professional officers have access to computers for word processing and to access and share information.

Recommendations

1. Plan and commence law revision.
2. Purchase entry level personal computers for -
 - Attorney General
 - Solicitor General
 - Director Legislative Drafting
 - Legislation Secretary
 - Two for general office assistants (one if pentium loaned out is returned).
3. Undertake a week long in-country course of computer training for all staff.
4. Establish internet access capability to enable research to be carried out via the internet, and to allow email communications.
5. Establish, via the internet, an intranet network to enable the Solicitor General's office to network with other government offices, in a limited way at first, but to establish the framework and expertise to allow greater networking in this way as professionals and support staff gain more expertise in this medium. This intranet would also allow a remote expert to evaluate and solve software problems and breakdowns.

LEGISLATIVE DRAFTING OFFICE

Background

I met with Victor Appeah, the Director of Legislative Drafting, a Ghanain working on a (second) 2 year contract. I also met with Jacqueline Laurency, the legislation word processor. There are no other drafters, but there is a prospect of a St. Lucian coming to the office in October after completion of a post graduate course in legislative drafting at the University of the West Indies. CFTC has also been asked to supply another drafter.

Responsibilities/functions

The drafter is responsible for drafting all legislation upon departmental instructions. The legislation priority is set quarterly by the Attorney General who deals with cabinet on the Government's requirements. Sometimes regional harmonised Bills are available in draft form. Some advice on statutory interpretation is given.

Organization structure

Administration is dealt with through the Solicitor General, but drafts are usually given to and discussed with the Attorney General. The Attorney General also does some drafting.

Information systems

The laws are very hard to find and much time is wasted trying to find out what the current law actually says. There is no networking and no access to email or the internet to obtain precedents in electronic form. Drafts are written in long hand by the drafter and then typed (using WP6.0) by Jackie, who is easily able to process everything given to her - both confirm that the bottleneck is at the drafter's end, not the typing. Drafts are produced in a standard format, corrected and then sent to the Government Printer on a computer disc. The Printer then reformats the text (mistakes can be introduced at this stage) and the drafter then proofreads all the material again, making fresh changes and corrections.

The UWI Index to the laws is invaluable.

There is no databank of cases, precedents or opinions.

Problems

- Access to existing law is a big problem, both for the drafter and for the instructing departments.
- There is too little time to get through the work - for one drafter.
- There is no access to precedents.

Future requirements

The office should be producing camera ready copy, to get it correct, avoid extra delay with proofreading, and to enhance Jackie's life and use her time more efficiently.

Recommendations

1. The drafters need entry level personal computers and the whole office needs training on how to use word processors effectively.
2. Jackie and selected others (from within the Attorney General's Chambers and outside it) need advanced training, on the use of macros and advanced desk top publishing techniques (standard features in MS Word97) to produce camera ready copy and to store, back up and keep track of drafts and laws efficiently.
3. Internet access is needed, with training on accessing databases and using email.
4. A scanner and appropriate software (Omnipage, latest version) would also be useful to facilitate the drafting work.

DIRECTOR OF PUBLIC PROSECUTIONS

Background

I met with the Director of Public Prosecutions Mr. Errol Walker and his deputy, Mr. Robert Innocent. They are the only lawyers in the office.

Responsibilities/functions

The DPP is a constitutional office and responsible for all prosecutions. In fact, because there are only the two lawyers, the DPP usually does not get a case until after the Preliminary Inquiry stage - this is seen as a problem that needs to be addressed.

Organization structure

The office is independent, but the Minister of Legal Affairs handles administrative matters that arise.

Information systems

There is no indexed record of cases or comparative sentences or the like, and the usual problem with finding the law or relevant cases applies. The typist uses a single computer purely as a word processor; the office is naturally geared more toward appearing in court.

Problems

- They need access to authorities and would like internet access to get at the foreign databases.
- There is little communication with the Police, Prisons, Probation Office or Attorney General's chambers. They want to access by computer the antecedents of accused persons, for sentencing and plea considerations; they want to find out if accused are already in prison etc. - Police and Prisons records are not good and they need to be organized and computerised.
- In the High Court, no submissions or evidence are recorded except by notes. The Judge's summing up is audio recorded and taken in short hand, and this should be done for all the proceedings.
- Court decisions should be recorded in a computer system that would allow the judgements to be kept track of - presently many people never pay their fines and these are lost sight of.

Recommendations

1. Simplified committal hearings should be provided for - "paper committals", and this would enable the DPP to deal with cases from the outset (as they think they should) and still be able to manage the work load.
2. Law revision and case reports are needed.
3. A simple network to share information could be joined by this office at an advanced stage of the justice system computerisation.
4. Internet access for research should be established.

REGISTRIES

Background

I met with Ms Victoria Charles, the Chief Registrar (a former Magistrate), and her deputy, Ms Kimberly Cenac, at the combined registry.

Responsibilities/functions

The Registrar is registrar of the High Court, and all High Court pleadings and court documents are filed in the registry. Court of Appeal documents are also accepted and transmitted to the Court of Appeal registry.

9 Report for St. Lucia, computerisation and the administration of justice

In addition, the registry is also the registry of -

- companies
- deeds, mortgages
- intellectual property
- civil status - births deaths and marriages.

Organization structure

The registry comes under the Attorney General's portfolio. There are plans well advanced to separate the High Court registry, deeds and civil status from the other registry functions; house them separately, but still with the Registrar supervising.

Information systems

All systems are manual. There is no computer record at all.

Critical records of births, companies etc. are contained in large folios as they have been for more than a century. Records in some cases can be searched by applicants and there is the real danger that records will be taken or destroyed.

Some of the folios I saw were in an advanced state of decay and I was told that some records had gone missing.

It is only because of the dedicated work of many of the long time employees that the system is maintained at all.

Computers are used merely as typewriters, and there are in fact more actual typewriters in evidence than computers.

Problems

- Records are in need of modern storage and retrieval systems. A database needs to be established for record and search purposes.
- The system would quite likely fail altogether if experienced staff left the registry.
- There is no backup of records.
- Delays in registration are likely.

Future requirements

The registrar is alive to the need to change and to become computerised. External help is required because everyone is too busy running the present system to take time off to develop and integrate a new system.

Recommendations

1. A registry expert should be recruited to advise on and help, hands on, to implement a new computer based registry system. This would best be done when or after the registry is divided as planned.
Problems must be expected in a change from the present system to one that is computer based. Because the work of the registry must carry on throughout, external help is required.
2. Very old records should be microfilmed because of their advanced decay - microfilm hardware was purchased but not used because of lack of training.
3. I am sceptical of the value of a case management software system to cure the serious delays in getting cases to trial through the District and High Courts. Such computer systems work well in large jurisdictions, but in my experience they would just add another complication into the system and then everyone would blame the computer instead of the real problem. I think it could be better solved by placing a senior officer in the proposed case management unit, with authority to force compliance by

the registry at the District and High Courts with a strict system. This would have to be coupled with reform of the time wasting double trial procedure for indictable offences. No doubt computers would be used in this case management, but I do not believe that the system should be made subservient to the computers.

PART 3 - SUMMARY

EXECUTIVE SUMMARY

General

Generally I find a skilled and motivated group of people working hard in a system that is working but could be made to function more efficiently and quicker and with greater job satisfaction, if the system was reorganised a little, especially around basic computer systems.

Most, if not all, the people I spoke to realise this and would welcome a change. Most are too busy forcing the system to work to be able to step back and design or implement such a change.

RECOMMENDATIONS

1. I have noted briefly against each Department the basic recommendations. Generally I am not recommending major change based upon sophisticated software systems (this is necessary for the combined registry).

I believe that complete reliance on an imported software system is wrong and could possibly create more problems, if not chaos.

2. I recommend that many of the lawyers should become computer users, with computers on their desks and training undertaken in their use. I find lots of computers in use as typewriters and this is no problem, because they do make wonderful typewriters. However with some training, they could be used more efficiently by the support staff as well.
3. The word processing programmes should be standardised across the judicial system, and I recommend MS Word, the latest version. Any existing computers that are unable to run Windows 95 and Word97 can still run on Windows 3.1 and Word 6 or 7, and the work and the operators will be able to be transferred and networked without much problem. Nobody I saw will have any trouble adjusting (Word is the most commonly used now) from Word Perfect or other systems, especially with several days training.

summary recommendations cont'd

4. Training is necessary. If the changes are made across the entire justice system, the trainers would then be able to train operators in batches across the Ministry, depending more on function than office proximity - thus basic typists from the Attorney General's Chambers would be trained with basic typists from the District Court etc. and likewise the executive stream of, eg. Solicitor General and Magistrates would be trained for several days in classes together. This should also allow for personal contacts to be established and greater portability of skills between the departments of the justice system based on function.
5. The need for a law revision is a common complaint. The Attorney General has this as a top priority, and rightly so because there is a real danger that the statute law of the country will be debased and ignored if it is not made certain and accessible.

11 Report for St. Lucia, computerisation and the administration of justice

The world, and the Caribbean in particular, is littered with law revision projects started and abandoned. This is a danger in St. Lucia because it is a big task; after 40 years and fundamental constitutional changes. I recommend that the law revision project be planned, managed and supervised by a consultant who can ensure that it does proceed to completion on time and within budget. Merely appointing a lawyer to do the work is, in my experience, not enough to achieve success. The Commonwealth Secretariat could be approached for assistance in this area.

6. The law revision project will certainly uncover many problems with the existing law, and will generate many proposals to rationalise and augment the laws. This can best be managed by a high powered committee set up by Cabinet and recommending to Cabinet and the legislature the changes that are desirable. The composition could perhaps include the Attorney General, the Solicitor General, a senior representative of the judiciary, the Prime Minister or high cabinet Minister, the Minister for Legal Affairs, the Director of Legislative Drafting, a representative of the Bar Council. This committee could evolve into a Law Reform Agency when the law revision project concludes.
7. The law revision itself would establish, apart from the new law books, a database of the law which could then be maintained, made available as books, booklets, CD's, and on the internet (at a price to external users) and enhanced over the years, by the inclusion of annotations and related material to make the law more user friendly and relevant - as with guidelines and directions that would perhaps not be part of the actual law, but would assist in making the law practical and alive.
8. The courts are deciding matters every day, and these decisions should be available to lawyers and others to flesh out the statute law and common law. Accordingly there needs to be established a database of cases, organized by subject to allow them to be a guide to the likely interpretation of the law. This would mean that many cases could be avoided, if potential litigators or defendants (and the court) know of relevant decisions which would most likely be followed again by the court. This database of cases needs to be planned for, and a qualified person appointed with the specific task of going through the court decisions and organising them and including them in Digest/Index form and with the full text of the reports available.

summary recommendations cont'd

- This job is not massive; 18 months work properly organized and supervised would suffice to complete the project. Budget restrictions (of Government and users) would dictate how the product could be presented - in Index form perhaps, with the full text available in electronic form (CD or Internet) that is computer searchable and cheap to produce.
9. The Internet needs to be made use of throughout the justice administration system - as a research tool, lawyers can access the main overseas databases of cases and statute law. For example the drafter who needs to produce a certain law could search for precedents from other countries, pull text down onto the drafter's computer, adapt it to St. Lucia's circumstances, and present it as a draft - quickly, with no need to retype, and having the advantage that it is a law with proven workability. In addition the databases of laws and cases established in St. Lucia can be made available on the internet very effectively and updated quickly and cheaply.
 10. Furthermore, if there is to be networking within the justice system, the internet is well placed to provide the medium for this networking. It would be hopeless to try to wire

12 Report for St. Lucia, computerisation and the administration of justice

up all the disparate offices and computers, which typically would change around. The Internet can provide a wide network (closed to the outside it becomes an intranet) whereby, eg. the records of the Registry can be available securely on line to the Attorney General's Chambers, and notices can be posted by one department and available to all within the network.

11. A computer system needs proper planning and training and constant monitoring and housekeeping, especially at the start. After the system is established, it will operate happily with just monthly monitoring and backup.
Because this network is over the internet, there is no reason why the supervisor needs to be even in St Lucia - anyone anywhere can log onto the system and keep it running according to plan, and can troubleshoot if there are problems, not just with the networking, but if there are any operating problems with any computer, the supervisor (with suitable security safeguards) can get into the operator's computer and identify the problem, explain it and fix it.
12. The hardware necessary depends on the money available. Improvement should not be held back because of a lack of money - plans can be tailored to the budget, and if there is a coherent overall plan, money will be saved even from within the present budget constraints. Additionally if lawyers are operating computers themselves, there will be no new support staff needed, and some of those presently acting as typists can be freed up to assist in other useful areas.
Generally any new computer equipment could be basic off the shelf equipment that is cheap to buy, familiar to all, and multi-purpose. Local experts and suppliers could advise on suitable hardware within this description.
13. To implement these plans, I recommend at first a committee across the departments to make a plan, agree upon it, set a timetable and appoint one external coordinator whose responsibility is to implement the changes according to plan. The entire process should be overseen by this committee, meeting perhaps 4 times a year, with perhaps an outside consultant assisting the committee to monitor overall implementation.

CONCLUSION

I trust that this report is of value to St. Lucia. Please do not hesitate to contact me ([email: adsett@caribsurf.com](mailto:adsett@caribsurf.com)) or the Constitutional and Legal Division of the Commonwealth Secretariat concerning this report or matters arising from it.

Neil Adsett
Castries
13 March 1998