

COMPUTERISATION AND THE ADMINISTRATION OF JUSTICE

Consultant's report for St. Vincent and the Grenadines

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
• SOLICITOR GENERAL'S OFFICE	2
• LEGISLATIVE DRAFTING	2
• REGISTRIES	4
• JUDICIARY	6
PART 3 - SUMMARY	7
<u>Annexure</u> – Registry aid request	8

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.

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

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

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 Justice

In St. Vincent and the Grenadines the Attorney General is established under the Constitution as the principal legal adviser to the Government. This office may be either a public or a ministerial office - the present incumbent, Mr. Carl Joseph, was until recently a public officer but he is now a political appointee and Minister.

Organisationally, the Solicitor General fulfils the role of permanent secretary to the Ministry of Justice and Attorney General's Chambers, and the Attorney General is serviced by staff within the general office.

Solicitor General

The Solicitor General, Mr. Donald Brown, has his office within the Attorney General's Chambers.

The Solicitor General supervises the two Crown Counsel, the Legal Drafter and assistant, the General Registry and general office staff.

He also performs administrative functions for the department, including the Magistrates, Judges, Director of Public Prosecutions, and the General Registry.

The separation of powers is rigidly observed despite the need to combine administrative functions within a relatively small government legal resource.

The Solicitor General and his Crown Counsel all share the general office facilities, as also does the Director of Public Prosecutions and the crown counsel assigned to that office.

Legal Drafting

The Legal Drafter is Mrs. Ruby Brown, a Jamaican who originally came to St. Vincent and the Grenadines under a Commonwealth Fund for Technical Assistance funding project, and stayed after that project ended.

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

An assistant who has a law degree and who has completed the University of West Indies masters course in Legislative Drafting, has been working in the drafting section and, after completing the bar course in England, is expected to return fully qualified.

The Solicitor General sees the availability of a specialist legal drafter as a perennial problem and hopes that assistance with the training of drafters continues.

The legal drafter writes her drafts in longhand and hands these to the typist. She sees no need to become computer literate and it is indeed difficult to see, with the office's present organization, how this would help at all.

The laws of St. Vincent and the Grenadines were revised and published in 8 volumes in 1991, so the statute law is relatively easy to locate. The lawyers all use the University of the West Indies prepared Index to the laws to locate laws made since the last revised edition.

Treaties

Interestingly, the CFTC has supplied to St. Vincent and the Grenadines an expert to assist in identifying all treaties and conventions that apply - bilaterally, unilaterally, and as an incident of the membership of many international regional institutions.

Information Systems

The general office is equipped with two computers used for word processing purposes. Microsoft Office and Word are used interchangeably.

There is no perceived problem with the production of paperwork.

None of the senior officers feel the need to become further computerised and I can see no benefit to the office at this stage of its development.

Because basically all of the Government lawyers are in the same office, communications are easy, informal and effective. There is no need to consider networking computers or similar information technology strategies.

The Legal Drafter uses one computer operator almost exclusively, Miss Prescott. She attended the first Barbados workshop but unfortunately was on vacation at the time that this report was being compiled.

Miss Prescott produces draft laws (Bills, Acts and subsidiary legislation) using a dedicated personal computer and Microsoft Word. The drafts appear to be almost camera ready, although printed on letter size paper.

The procedure is that these drafts are distributed to the Legislature and after passage they are sent to the Government Printer who re-typesets the laws before assent or signature.

The Government Printer can use discs from Miss Prescott or may re-typeset again.

There is some delay in securing printed laws from the Government Printer.

I consider that in view of the computer facilities already at the office, consideration be given to taking the next step and having all laws produced in camera ready form and merely reproduced by the Government Printer.

This would have the following benefits –

- ensure that there are no errors introduced by a second typesetting,
- avoid any delay in having laws ready for immediate commencement,
- enhance the job satisfaction and skills of Miss Prescott and those in the office who understudy her.

To achieve this transition, I believe that some short desk top publishing training would be needed – perhaps a 2 week course for one operator. Computers need to be updated from

4 Report for St. Vincent and the Grenadines, computerisation and the administration of justice

time to time, but the present personal computer is adequate. Perhaps a new laser printer (Hewlett Packard 4N or similar) should be acquired.

Library facilities

The Attorney General's Chambers has collections of texts and reports, but the main holding is in a separate law library controlled by the Attorney General and open also to the use of private lawyers, the judiciary and the public. There are about 60 lawyers in private practice.

The cost of maintaining and enhancing this library is large and becoming impossible without help.

One plan of the Solicitor General is to have the private lawyers pay for the use of the library, or contribute to the cost of new books. Another way to provide library facilities, is to utilise the internet's capacities.

Internet Access

One computer at the general office is now linked to the internet. This will allow –

- Email to be used. This is a well established resource that would be of great benefit in St. Vincent and the Grenadines. Telephone and fax communication is expensive with the outside world. Email is now widely used and many documents now sent by fax could be sent cheaply by email. In addition, it is often far more convenient to send and receive documents by email. These documents arrive in a form that allows them to be saved on the receiver's computer and they can then be amended or adapted without the need to retype them. Thus if a commercial contract is emailed to the legal department, the lawyer can amend it, drop standard St. Vincent and the Grenadines clauses into the document and then print it out or email it off for comments – either to a third party or within government to get comments from, say, the finance or planning department.
- The internet's vast libraries to be accessed for research. Thus there are many (most) of the world's cases now available on the internet that can be searched and cases downloaded and printed off. Many of these libraries allow free access to the resource. Also there is a great deal of legislation and other legal and background information that can be searched and adopted as a precedent or example.

The computer at the law library, if similarly linked to the internet via modem, would allow that library facility to be enhanced by accessibility to the internet's libraries, and it may also be more cost efficient to subscribe to CD rom reports and books which can be updated regularly – e.g. The All England Law Reports.

REGISTRIES

Background

I met with Ms Sonya Young, the Deputy Registrar (a fairly recently qualified lawyer who is now working for the Government under the terms of the bond that assisted to finance her training) at the elegant old combined registry in the courts building.

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.

In addition, the registry is also the registry of –

- land

5 Report for St. Vincent and the Grenadines, computerisation and the administration of justice

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

Organization structure

The registry comes under the Attorney General's portfolio. The only separate registry is for ships and for offshore companies and financial institutions.

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. Original 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. In one case, a lawyer's search clerk was cutting original deeds out of the journal to remove and reuse the stamps affixed to them for revenue payment purposes.

It is only because of the dedicated work of the long time employees that the system is maintained at all. They are called vault attendants because the records are mainly kept in hopelessly overcrowded circumstances in the original vault. Records are kept wherever they can be placed, and indeed the original guardhouses sited on either side of the entrance to the court building, on the street and unsupervised, are jammed full of records.

The registration statistics are –

civil cases	1996	464
	1997	511
criminal cases	1996	235
	1997	255
estates	1996	72
	1997	69

Problems

- Records are in need of modern physical storage and retrieval systems. This cannot be achieved in the cramped office space now available, and the Attorney General. The Judges and registry staff know full well that new space is urgently needed.
- 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.
- The binding of deeds has been delayed and the last deeds bound into books sequentially date back 10 years – since then they are loose.

Future requirements

The deputy Registrar and the Attorney General are alive to the need to change and to secure records and 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.

I met Mrs. Cato, the President of the Bar Association, and she told me that it was indeed an urgent problem that the records be secured.

Recommendations

6 Report for St. Vincent and the Grenadines, computerisation and the administration of justice

1. Very old records should be microfilmed to back them up and because of their advanced decay – by microfilming or scanning as is advised
2. A registry expert should be recruited to advise on and help, hands on, to microfilm (or otherwise) these records.
3. After the records are secured, consideration should be given to the computerisation of the registry.

This is an urgent problem and St. Vincent and the Grenadines needs external assistance in this regard.

The Attorney General agrees and I have assisted him to frame a request for aid, directed in the first instance to the Commonwealth Secretariat.

JUDICIARY

The court hierarchy in St. Vincent and the Grenadines starts with the Magistrates Court, which has 3-4 Magistrates, and the Chief Magistrate is also the President of the Family Court. There is no small claims court.

Above the Magistrates is the High Court, comprising usually 2 Judges.

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

Appeals ultimately can go to the Privy Council in London.

There is a need for local cases to be reported. This is a problem being experienced by most of the jurisdictions in the region. 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.

There is a reasonable backlog now in having cases heard by the High Court. This delay is typically about one year, but some cases are delayed for longer. The delay may be mainly attributable to the lawyers and the logistics of getting cases readied for trial. The deputy Registrar advised me that if a case is set down for trial and both parties want the next available date, the case could well be given a date at the very next assizes; at a callover of cases, a case can be given a trial date on a standby basis – i.e. it will be heard if another scheduled case is settled or does not proceed.

I met Judge Odel Adams. He noted that when he was a Judge in Dominica, a modern computer was donated to him (by Australian Aid) but for the remaining two years that he was there the computer was never used because nobody showed him how to use it.

PART 3 - SUMMARY

EXECUTIVE SUMMARY

General

Generally I find the government legal service in St. Vincent and the Grenadines to be professionally astute and organized into a friendly, intimate and efficient system.

Apart from the need to secure and modernise the registry, and some training, I do not see, nor was it reported to me, a need to develop an Information Technology strategy or to change the system.

CONCLUSION

I trust that this report is of value to St. Vincent and the Grenadines. Please do not hesitate to contact me or the Legal and Constitutional Division of the Commonwealth Secretariat concerning this report or matters arising from it.

Neil Adsett
Kingstown
14 September 1998

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ANNEXURE A

REQUEST FOR AID FOR REGISTRY

TO:

The Director
Legal and Constitutional Division
Commonwealth Secretariat
London

14 September 1998

re: project on computerisation and the administration of justice

Dear Sir,

As you are aware, as part of this Commonwealth Secretariat project, your consultant visited St. Vincent and the Grenadines to assess the need for computerisation and related matters in the justice system.

The consultant's report disclosed a problem in St. Vincent and the Grenadines that needs outside assistance that the CFTC may be able to provide. I am accordingly writing to you now to advise of the problem and to request assistance.

This problem appears urgent and critical to us and to your consultant, and accordingly any assistance that you can provide will be most appreciated.

The details and terms of assistance being sought are attached.

Yours sincerely,

Carl Joseph
Attorney General and Minister of Justice

project on computerisation and the administration of justice

REQUEST FOR AID for St. Vincent and the Grenadines

As can be seen from the extract from the St. Vincent and the Grenadines report that is reproduced here, the general registry of St. Vincent and the Grenadines is in urgent need of reform.

This problem seems to be emerging as a problem in a number of countries in the Caribbean, so the aid sought here may well have relevance in other places, and the expert involved in this request for assistance and the systems devised and implemented, may well be used in other countries for similar purposes.

CFTC help is requested for the purpose of —

1. Assigning an expert to St. Vincent and the Grenadines for an initial period of one week for the purpose of -
 - assessing the situation,
 - discussing the problem with relevant officials,
 - organizing the practicalities of microfilming (or scanning or otherwise as necessary) the registry records,
 - preparing a plan for the introduction of computers and/or a new method of dealing with the registration of documents,
 - preparing a fully costed list of hardware, software and other capital items necessary for this reform.
2. Assigning an expert to St. Vincent and the Grenadines for up to 6 months for the purpose of -
 - assisting in the actual introduction of the reforms proposed,
 - settling in any new systems,
 - training staff in the new system,
 - leaving St. Vincent and the Grenadines with a working new system that is sustainable and efficient.

The following is an extract from the St. Vincent and the Grenadines Report of 14 September 1998

“REGISTRIES

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10 Report for St. Vincent and the Grenadines, computerisation and the administration of justice

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- The system would quite likely fail altogether if experienced staff left the registry.
- There is no backup of records.
- The binding of deeds has been delayed and the last deeds bound into books sequentially date back 10 years – since then they are loose.
- A computer is needed to enable High Court cause lists to be prepared and reused efficiently.

Future requirements

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I met Mrs. Cato, the President of the Bar Association, and she told me that it was indeed an urgent problem that the records be secured.

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