

COMPUTERISATION AND THE ADMINISTRATION OF JUSTICE

Consultant's report for Grenada

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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.

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This is the draft report arising from the study of Grenada conducted by the Commonwealth Secretariat's consultant, Neil Adsett, in October 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

In Grenada 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. Errol Thomas, is a public officer. Uniquely, the Attorney General attends Cabinet but is not a member of the legislature. Until recently, the Attorney General also held the post of Director of Public Prosecutions, and whilst he did so, he did not attend as a member of Cabinet.

Organisationally, the Solicitor General fulfils the role of administrator of the Attorney General's Chambers, and the Attorney General is serviced by staff within the general office.

The Attorney General is an experienced drafter and he is active in drafting legislation and instructing the Commonwealth Secretariat funded legal drafting adviser.

At present, the Attorney General gets precedents from various sources and if he wishes to adapt them, he will make changes to them and have the document retyped.

Internet

The Attorney General would be well served by having a computer to work with, and internet and email facilities. With these, he would be able to access the sites where databanks of legislation are displayed – for example the United Kingdom via www.hms.o.gov.uk, Hong Kong at www.info.gov.hk/justice/laws/index.htm, or Australian cases and laws at www.fl.asn.au.

Then to adapt any precedents they would merely be downloaded to the Attorney General's computer and amended there.

In addition, if precedents were being sent to him, they could be emailed and similarly be available immediately for amendment to suit Grenada's circumstances.

The cost of internet access is low and the advantages would be available to the whole chambers – to the Solicitor General, for example, who could have commercial

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agreements emailed to him for amendment or comment – thus avoiding the necessity of retyping long documents (and of paying the cost of faxing long documents overseas).

The Chambers in Grenada incorporate all professional officers so communication between lawyers is easy, however once officers have computers available to them, the next useful stage would be to have these computers linked in a network so that files could be shared between the whole office, including support staff.

Treaties

The Attorney General would like help to identify the treaties that apply to Grenada. He was hopeful that once the similar CFTC funded project in St. Vincent was concluded, its fruits could be extended to Grenada, as many of the treaties will apply to both states. Once he had a databank of the treaties, then it should be possible to keep the list up to date on the computer.

NB I am to enquire at the UK Foreign and Commonwealth Office and try to get a copy of the usual independence treaty list sent to the Attorney General.

Case management

The Attorney General sees a need for help in establishing a better system of case management in the courts. Judges are still taking down evidence in longhand and this is slow and inefficient. I undertook to get information on the Barbados Community College course for court reporters or something similar that may be of use. I also mentioned the assistance being given in Guyana by Mr. Dennis Darby of USAID in the field of training for judges and court officials to assist in the field of case management.

Regional approaches

The Attorney General considered that there would be value in a regional legal drafting/law reform facility. Many of the laws being drafted now were based on harmonised laws that were common to many jurisdictions in the region – eg. mutual legal assistance and extradition laws. Local drafters would still be essential of course, but a regional resource that could advise on such common laws and provide drafts would be useful. The Attorney General said that this should be based in Barbados with easy access to the Cave Hill law library.

The Solicitor General advised that the CARICOM secretariat legal unit in St. Lucia has produced draft laws for countries in the region, and the USAID project when based in Barbados fulfilled a similar role.

Solicitor General

The Solicitor General, Mr. Keith Friday, has his office within the Attorney General's Chambers.

The Solicitor General supervises the staff of the chambers – a legal drafting adviser, a Senior Crown Counsel (position presently vacant) Crown Counsel, executive officer, two secretaries and filing clerk.

The Solicitor General and his Crown Counsel all share the general office facilities, as also does the Director of Public Prosecutions. The separation of powers is rigidly observed despite the need to combine administrative functions within a relatively small government legal resource.

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Computers

The Solicitor General is computer aware and would benefit from having a computer available for his use at the office. This would be invaluable for research and email purposes, for the same reasons set out above with regard to the Attorney General. An intermediate training course in the effective use of computers would be of value for both the Solicitor General and the Attorney General.

Library facilities

The Solicitor General sees the maintenance of library facilities as a major problem. Law books are very expensive and the library collection is not being adequately kept up to date or enhanced.

Access to internet facilities could be the key to ensuring that Grenada maintains a proper ability to research the current law that applies.

The Law Library attached to the Supreme Court is funded by the government and is available for use by the private legal profession and the public. I noted that in some countries the private lawyers were asked to contribute to the cost of maintaining the library.

I undertook to the Solicitor General to try to find out if any of the main legal research facilities – Halsbury, Encyclopedia of Forms and Precedents, All England Reports, Lexis/Nexis would be amenable to offering their electronic libraries at some reduced cost for countries like Grenada for evaluation purposes at least.

The Solicitor General noted that part of the cause of long delays in civil cases – 5 years to get a trial date, was because the Supreme Court registry needed to be computerised. He advised that a retired English Judge had been through the region recently as part of the Eastern Caribbean Supreme Court's initiative towards better case management.

Legal Drafting

The Legal Drafting Adviser is Mr. Alex Osei-Gyau, a Ghanain who is on a 2 year contract funded by the Commonwealth Fund for Technical Assistance.

The Solicitor General sees the availability of a specialist legal drafter as a perennial problem and hopes that some way can be found for Government to retain local legislative drafters after they have been trained.

The legal drafting adviser uses a computer and printer that were also provided by CFTC, and he produces the draft laws (using Word Perfect 6.1) that are considered by Cabinet and the legislature. After being passed by both houses, the Bill is printed by the Government Printer and after assent it is published in the Gazette.

The laws of Grenada were revised in 10 volumes up until 1990 and published in 1994, 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. The Government Printer has bound together annual volumes of all laws made after 1990.

The legal drafting adviser would find great benefit in having access to the internet and email — along the lines mentioned above for the Attorney General.

The Solicitor General reports that there are numerous errors in the last revised edition, and the Attorney General was concerned that the continuous updating never proceeded past volume 1 and that citation of laws was made difficult by this one revision volume. The last revised edition was produced in book form so it is not possible to update it usefully.

Information Systems

The general office is equipped with two computers used for word processing purposes. Word Perfect 6.1 is the most commonly used word processing platform in the office.

There is no perceived problem with the production of paperwork.

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

There is some delay in securing printed laws from the Government Printer and this would be helped if laws were made available to the Government Printer on computer disc so that they did not need to be re-typeset.

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 Deputy Registrar of the Supreme Court and open also to the use of private lawyers, the judiciary and the public. There are about 55 lawyers in private practice.

As mentioned earlier in this report, the cost of maintaining and enhancing this library is large and becoming impossible without help.

Internet Access

One computer at the general office should be linked to the internet. This will allow –

- Email to be used. This is a well established resource that would be of great benefit in Grenada. 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 Grenada 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 Sandra Belfon, the Deputy Registrar of the Supreme Court.

Responsibilities/functions

All Supreme 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.

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In addition, the registry is also the registry of –

- land
- companies
- deeds, mortgages
- intellectual property

Organization structure

The registry comes under the Minister for Legal Affairs and Local Government's portfolio. There is a separate central registry for births, deaths and marriages, and the Supreme Court acts, for births and deaths, as a district registry for the local parish of St. George's.

I met also with the Deputy Registrar of births, deaths and marriages, Kerran Phillip, (the Chief Medical Officer is *ex officio* the registrar) and examined this separate registry, where the circumstances are the same as at the court registry – crucial records are contained in books that are crumbling and some can not be opened for fear that they will turn to dust.

Information systems

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

Critical records of land, companies etc. are contained in large folios as they have been for more than a century. Original records are 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.

The registration statistics are –

civil cases	1995	597
	1996	734
	1997	633
Divorce cases	1996	126
	1997	128
criminal cases	1995	115
	1996	126
	1997	150
estates	1996	515
	1997	498
documents lodged in deeds and land registry	1995	4064
	1996	4375
	1997	5220
companies registered	1996	146
	1997	162
IBC's registered	1997	53
	1998	763 (to 13 October)

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Births registered	1996	1369
	1997	1355
Deaths registered	1996	376
	1997	371

Problems

- Records are in need of modern physical storage and retrieval systems.
- A database needs to be established for record and search purposes.
- There is no backup of records.
- The binding of deeds has been delayed and the last deeds bound into books sequentially date many years – since then they are loose.

Future requirements

External help is required to secure the present records and to make a move towards computerisation of records and systems. Existing staff are too busy running the present system to take time off to develop and integrate a new system.

Recommendations

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 Grenada needs external assistance in this regard.

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

JUDICIARY

The court hierarchy in Grenada starts with the Magistrates Court, which has 9 courts and 5 Magistrates. There is no small claims court.

Above the Magistrates is the Supreme 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 Grenada Supreme Court (and chairman of the Judicial and Legal Services Commission).

Appeals ultimately can go to the Privy Council in London.

Supreme Court

I spoke with Judge Alleyne, who is one of the two judges of the Eastern Caribbean Supreme Court based in Grenada.

The Judge advised me of the Chief Justice's plan to computerise the court. The Judge has no computer at work and considers that laptop computers are needed by all judges to allow them to work at home and in Chambers. He has a computer at home and finds it invaluable. He uses the internet and recently the Canadians have made available to judges the access codes to enable them to use Quicklaw, a database of mainly Canadian decisions.

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The Judge considers that the present system whereby they are required to take down verbatim all evidence given in court is wasteful of their time and contributes to the delays because criminal trials are so slow that there is scant time left for civil cases.

Even if the trials were audio recorded he would be reticent to discard taking extensive longhand notes because of reliability concerns. The Judge believes that in Trinidad there is a system whereby computers recognize speech and convert it to printed words. Dominica once had an Institute which taught court reporters. They need 4 court reporters. The Judges have no access to their own cases unless some years later they appear in the West Indies Reports. The loose judgments of the court are not indexed and are unknown unless a judge or lawyer was personally involved and has kept the judgment or the reference..

Magistrates Court

I met with Patricia Mark, the Chief Magistrate.

The Magistrates Court is now in the early stages of computerising its procedures. Case data is now being entered as the cases are filed. The data is being entered in fields so that it should be possible to extract reports from the data – such as cause lists and reports of cases by category.

NB I undertook to send a copy of similar reports being generated in Belize. This computerisation is being guided by a local computer expert, Thompson Cummings, using just a standard word processing platform. Manual records are being retained until at least the computer system is well established and familiar.

At present there is only a court computer, in the capital, St. Georges, and if this computerisation is to be really useful as a case management tool, another 8 computers are needed. Grenada may also be able to benefit from other software developed for similar purposes by another jurisdiction or as part of a regional project.

Director of Public Prosecutions

I met with Malcolm Holdip, the DPP.

The DPP told me that it often took 5 months for the judges to get their handwritten notes typed for the purposes of an appeal – audio recording of trials or the use of court reporters or computers is necessary.

The DPP would be happy to see Preliminary Investigations held on the papers.

The DPP advised me that often witnesses would have to come to court 15 times while the case was adjourned and heard at both lower and upper courts. Recently overseas witnesses were brought in for the committal and then there was no budget left to bring them back for the trial – so the case had to be adjourned to the next financial year when funds were available.

The DPP thinks that it is urgent to have the registry computerised – for general efficiency and to allow court forms to be thus made use of.

Court reports

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.

PART 3 - SUMMARY

EXECUTIVE SUMMARY

General

Generally I find the government legal service in Grenada to be professionally astute; efficient and well organized.

Apart from the need to secure and modernise the registry, several new computers with internet access 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 Grenada. 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
St. George's
24 October 1998

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ANNEXURE A

REQUEST FOR AID FOR REGISTRY

TO:

The Director
Legal and Constitutional Division
Commonwealth Secretariat
London

25 October 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 Grenada to assess the need for computerisation and related matters in the justice system.

The consultant's report disclosed a problem in Grenada 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,

Errol Thomas
Attorney General

project on computerisation and the administration of justice

REQUEST FOR AID for Grenada

As can be seen from the extract from the Grenada report that is reproduced here, the general registry of Grenada 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 Grenada 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 Grenada 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 Grenada with a working new system that is sustainable and efficient.

The following is an extract from the Grenada Report of 24 October 1998

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Background

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Recommendations

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