

JAMAICAN JUSTICE SYSTEM REFORM

OVERVIEW OF RESEARCH PLAN

1. RESEARCH PAPERS

The JJSRTF will commission 7 major research papers. Each paper will canvass the main themes related to the assigned justice reform topic, identify reform priorities, and discuss recommendations for reform including implementation issues. It is anticipated that each paper will be 25-50 pages in length. The papers should have a policy rather than a pure academic focus.

The JJSR Management Group will provide the researchers with background research that they have prepared: (1) a summary of previous Jamaican justice reform reports and (2) a compendium of comparative justice reform options based on a survey of the experiences in Canada, the United Kingdom, Australia, New Zealand, selected US jurisdictions, and other Caribbean countries.

The first draft of the research paper is due by February 28, 2007. The draft research papers will be circulated to the Task Force and to the relevant Issue Working Groups (listed below). Comments will be provided to the author of the research paper by March 15 and she or he will prepare a revised paper by April 1, 2007.

The topics for the research papers are:

- a) Towards a Restorative Justice Policy for Jamaica [*to be confirmed if this is required in light of UNDP Project*]
- b) Case Flow Management Systems (Criminal and Civil): Best Practices, Policy Development and Reform Priorities
- c) Alternative Dispute Resolution (Criminal and Civil): Best Practices, Policy Development and Reform Priorities
- d) The Public and the Justice System (including: issues related to public knowledge of and public confidence in the justice system, public legal education, and issues pertaining to juries, witnesses and victims)
- e) Improving Access to Justice (including: legal aid, community based justice, point of entry assistance)
- f) Court Management and Court Administration: Best Practices and Reform Priorities (including: court structures, court management, court administration, models for independent court agencies, use of technology)
- g) Promoting a Civil Liberties Culture

2. ISSUES PAPERS

The Task Force has identified a large number of specific topics for which it seeks brief issues papers. The purpose of the issues papers is to inform the deliberations of the Task Force and Issue Working Groups on possible reform options. It is anticipated that the Issues Papers will be approximately 10 pages in length. Each Issue Paper will be divided into four sections: (1) a brief statement of the current situation and problems identified; (2) a summary of past recommendations for reform/reform attempts; (3) a list of potential reform options to address the concerns and problems; and (4) a brief assessment of the advantages and disadvantages of various options and/or a series of discussion questions to stimulate discussion on the options.

The JJSR Management Group will provide the researchers with background research that they have prepared: (1) a summary of previous Jamaican justice reform reports and (2) a compendium of comparative justice reform options based on a survey of the experiences in Canada, the United Kingdom, Australia, New Zealand, selected US jurisdictions, and other Caribbean countries.

The first draft of the research paper is due by February 28, 2007. The draft research papers will be circulated to the Task Force and to the relevant Issue Working Groups (listed below). Comments will be provided to the author of the research paper by March 15 and she or he will prepare a revised paper by April 1, 2007.

The topics for the issues papers are:

- a) Jury Reform
- b) Preliminary Inquiries
- c) Unsworn statements
- d) Bail Reform
- e) Plea Bargaining
- f) Victims' Assistance
- g) Witness Assistance and Protection
- h) Sentencing Practices
- i) The Role and Mandate of Justices of the Peace
- j) Judicial Appointments Process
- k) Court Performance Standards
- l) Codes of Conduct
- m) Scheduling Practices
- n) Reform of Civil Procedure
- o) Bailiff Reform
- p) Accountability Frameworks
- q) Institutionalizing Justice System Reform
- r) Making the business case for investing in justice
- s) Coroners' Court
- t) Adjournment Practices Reform
- u) Simplified procedures for claims of lesser monetary values
- v) The scope of discovery
- w) Diversion in Criminal Matters
- x) Role, Jurisdiction and Function of the Resident Magistrates

- y) Parish Jurisdiction Structure
- z) Role and Function of Clerks of court
- aa) Models for the adjudication of commercial disputes
- bb) The Children's Court
- cc) Domestic Disputes and Proceedings

3. ISSUE WORKING GROUPS

The JJSRTF will establish seven Issue Working Groups on identified critical areas for justice system reform. Each of the Issue Working Groups will be composed of 6-10 persons and include representation from all of the key justice system stakeholders, including: the judiciary, the bar, government, and the public.

The Issue Working Groups will be stakeholder roundtables and act as forums for the exchange of knowledge and discussion on different aspects of the justice system. Ideally here will at least one Task Force member on each Working Group. The Issue Working Groups will receive and review research prepared during the JJSR related to its mandate area. The Issue Working Groups will also build relationships between different stakeholder groups, which will lead to stronger collaboration and cooperation on issues of common interest.

The Issue Working Groups will be:

a) **Access to Justice Working Group**

The Access to Justice Working Group will review all issues related to the point of entry into the formal justice system and make related recommendations for reform that would work toward a more equitable and accessible justice system. The topics reviewed could include: point of entry advice; public legal education; legal aid; customer service standards; equality of access; measures to increase public trust and confidence in justice system; and other topics related to access to justice.

b) **Court Administration and Management Working Group**

The Court Administration and Management Working Group will review all issues related to the physical and organization makeup of the court system and related institutions and make related recommendations for reform for modern and efficient court structures and administration. The topics reviewed could include: physical condition of courts and facilities; location of courts; responsibility and authority structures; court filing; court management practices; court specialisation; jurisdiction of various courts; scheduling and listing practices; data collection and analysis; strategic planning and other topics related to reform of court structure and administration.

c) **Criminal Justice Processes Working Group**

The Criminal Justice Processes Working Group will review all issues related to the spectrum of processes utilized to deal with criminal justice matters in the courts and make recommendations for reform that would work toward more effective case disposition. The topics reviewed could include: causes and solutions for delay; integration of ADR (including diversion); jury reform;

juvenile justice issues; case flow management; improved pre-trials and trials; bail; plea negotiation; review of jurisdiction SC/RM/Petty Sessions; use of technology in the courtroom; and so on.

d) Civil Justice Processes Working Group

The Civil Working Group will review all issues related to the spectrum of processes utilized to deal with civil justice matters from initiation to enforcement and make recommendations for reform that would work toward more accessible and effective case disposition. The topics reviewed could include: causes and solutions for delay; summary disposition mechanisms (summary judgment or summary trial); integration of ADR; simplified procedures for claims of lesser monetary values; case flow management; pre-action protocols; effective use of pre-trials; the scope of discovery; enforcement of civil process; and so on.

e) Restorative Justice Working Group

The Restorative Justice Working Group will review all issues related to restorative justice initiatives and make recommendations for the development and implementation of a restorative justice policy for Jamaica. The Working Group will establish liaisons with ongoing restorative justice initiatives. The topics reviewed could include: restorative justice principles; the spectrum of processes (victim-offender mediation, circle conferences, family conferences, etc); best practices; training needs; policies and guidelines and so on.

f) Professionalism and Justice System Reform Working Group

The Professionalism and Justice System Reform Working Group will review all issues related to the attainment of the highest professional standards by all justice system personnel and make recommendations for reform to enhance the calibre of professionalism in support of justice system reform. The topics reviewed could include: continuing legal education and other opportunities for professional development; code of conduct for the Bar; legal fees as an access to justice issue; Bench and Bar dialogue is it desirable, how can it be developed and maintained; local legal culture and barriers to change; regulation/governance of the Bar and discipline; specialization within the profession; legal training and education; judicial training; judicial appointments; judicial codes of conduct; professionalisation of court administration; complaints and discipline of attorneys; complaints and discipline of judges; ongoing training plans; human resource planning and management; adequacy of human resources available to the courts; requirements and strategies for developing productive work environments and reacting positively to change opportunities; adequacy of the judicial complement and so on.

g) Promoting a Civil Liberties Culture Working Group

This Working Group will review all issues related to promoting a civil liberties culture across the island. The topics reviewed will include the: civil liberties legal and constitutional norms, patterns and practices that have the impact of denying civil liberties, finding a balance in the tension between civil liberties and public safety concerns, and ways and means to counteract these negative tendencies and to protect and promote civil liberties in all aspects of the justice system.

4. COURT OBSERVATION STUDIES PROJECT

The Court Observation Studies Project will assist in gathering empirical data about the operations of the courts in Jamaica. In court observation studies, an individual researcher (or team of researchers) attends courts and observes the operation of the court and records information pertaining to proceedings. Observation of court activities over a period of time and across a number of courts will provide quantitative data about proceedings. In addition, researchers will undertake a manual review of selected files to complement and expand upon the information gathered through the court observations. For example, these observation studies will deal with both civil and criminal matters and could review:

- how court facilities are being used including the length of court time taken by various types of proceedings;
- adjournment practices including information about the party requesting an adjournment, reasons for the request and whether or not the adjournment is granted;
- whether parties are represented by legal counsel; and
- whether or not bail is granted.

A Task Group on the Court Observation Project comprised of members of the Canadian Advisory Committee, the Management Group and a sub-Committee of the TF will develop the research questions, methodology and parameters of the court observations studies. A team of individual researchers will be recruited to carry out the observation studies. These same researchers will be tasked with interviewing users of the court system. To the extent that time permits, the Project Advisors and other Canadian experts will also personally attend courts and observe all aspects of the proceedings including preliminary inquiries and trials in civil and criminal matters. The results of the studies will be compiled and analyzed by the Project Advisors.

It is anticipated that this study will run from early February until May 2007.