

Jamaican Justice System Reform Task Force

**Summary of
Recommendations**

June 2007

Jamaican Justice System Reform Task Force (JJSRTF)

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JAMAICAN JUSTICE SYSTEM REFORM TASK FORCE

FINAL REPORT

SUMMARY OF RECOMMENDATIONS

1. The Jamaican Justice System Reform Project (JJSR) was established by the Government of Jamaica to undertake a comprehensive review into the state of the justice system and to develop strategies and mechanisms to facilitate the modernisation of the justice system so that it is better able to meet the current and future needs of Jamaicans.

2. The Task Force's vision for the goals of this modernisation process is:

The Jamaican justice system is available, accessible, accountable and affordable on a timely, courteous, respectful, flexible, fair and competent basis for all.

3. This document contains the final recommendations put forward by the Jamaican Justice System Reform Task Force based on its consideration of the research and consultations and extensive deliberations carried out by this reform project over the last seven months. These recommendations are excerpted from the JJSR Task Force's Final Report, which is also available in print and on the JJSR Website. Please consult the full Report for the background to, and discussion of, these recommendations.

4. The recommendations are grouped according to the major reform topics identified by the Task Force:

Reinvestment, Modernisation and Transformation: The Framework for Change

The Foundations of the Justice System

Structure, Jurisdiction and Accountability

The Public and the Justice System

Criminal Justice Reform

Civil Justice Reform

Institutionalising Justice Reform.

5. The Task Force has fulfilled its mandate by presenting this Final Report to the Minister of Justice and the people of Jamaica. However the work of justice system reform is far from over and the tabling of this Report will not be the end of the comprehensive justice system reform and modernisation process. To the contrary this is just one more step forward to achieving our vision of a Jamaican justice system that is available, accessible, accountable and affordable on a timely, courteous, respectful, flexible fair and competent basis for all. The hard work must continue as we move toward full implementation of this vision by joining up the many existing reform initiatives with the new ones proposed here into a cohesive whole.

6. The Task Force sees this Report as an invitation to all participants in the justice system to work together to achieve the vision of the Jamaican justice system of the twenty-first century set out herein. Without this cooperation and active involvement of all participants, meaningful change is not possible. We hope that the work of the Task Force will assist in achieving renewed commitment to this collective enterprise and that our work and recommendations will prove useful in this endeavour.

REINVESTMENT, MODERNISATION AND TRANSFORMATION: THE FRAMEWORK FOR CHANGE

The Task Force makes the following recommendations related to the framework for change of the Jamaican justice system:

RECOMMENDATION 3.1

The Task Force calls upon all political parties to publicly commit to a 10-year reinvestment strategy in the justice system.

RECOMMENDATION 3.2

The Task Force calls upon the Government of Jamaica to set aside an envelope of funding for justice system reform, in addition to an increase in the regular funding for the Ministry of Justice, on an annual basis beginning in 2008 and continuing until at least 2017.

RECOMMENDATION 3.3

The Task Force recommends that the private sector establish a Justice System Reform Investment Committee with a mandate to develop a plan to facilitate business investment in justice system reform. A special focus should be on creative, non-monetary ways for businesses to invest in reform measures.

RECOMMENDATION 3.4

The Task Force recommends that a Law Foundation Working Group be established with a mandate to investigate possibility of establishing a Law Foundation of Jamaica to help fund innovative justice-related services. The Working Group should consider, among other things:

- creative ideas for generating funding including:
 - (1) a nominal real estate transactions levy;

- (2) a request to private sector organizations and companies that have legal departments to contribute a nominal percentage of their annual legal services budget;
 - (3) investigating ways to increase the interest that accrues on monies held in accounts by lawyers for their clients, given that these accounts tend to be for small amounts and held for short periods of time;
 - (4) the possibility of awards of costs payable to Law Foundation
- the statutory framework and organisational structure for the proposed Law Foundation of Jamaica
 - the mandate and funding priorities of the proposed Law Foundation of Jamaica and
 - models from other jurisdictions could serve as the basis for the proposed Law Foundation although they should be adapted to fit the Jamaican context.

RECOMMENDATION 3.5

The Task Force recommends that the Ministry of Justice take appropriate steps to continue and expand the mobilisation process for dialogue and engagement during the implementation phase of the Jamaican Justice System Reform and as a permanent feature of the system.

THE FOUNDATION OF THE JUSTICE SYSTEM

The Task Force makes the following recommendations related to the foundations of the Jamaican justice system:

RECOMMENDATION 4.1

The Task Force recommends that the deplorable conditions in lock-ups and police stations experienced by accused persons be immediately improved and in particular that:

- adequate physical facilities be provided at all police stations for the interview of persons in custody by their lawyers and for examination by medical doctors and other professionals;
- rules be introduced to make it clear that these facilities be made available as a matter of course;
- the conditions in which detainees and remandees are transported to court be immediately improved; and
- mechanisms for regular, ongoing monitoring and reporting on these conditions be enhanced to ensure that problems are identified and addressed on a timely basis.

RECOMMENDATION 4.2

The Task Force recommends that the following factors be taken into account in renewing courthouses, other facilities and equipment:

- all new courthouse designs be based on the model of a consolidated courthouse, and that, to the extent possible, current facilities should accommodate all courts and court offices;
- a standard set of courtroom and courthouse designs be created to be used whenever new facilities are to be built or present facilities are to be renovated;
- courthouses should be designed to ensure that judges and jurors have secure access to the courtrooms and that accused persons also have secure but separate access to the courtrooms from the holding areas;
- public spaces in courthouses should be maintained and not renovated into courtrooms and offices; and,

- courthouses should be well signposted, with information pamphlets available for public use. Priority should be given to ensuring that existing facilities are safe and meet all building standards;
- facilities should meet the needs and interests of users of the justice system (including interview rooms, counsel rooms, libraries, restrooms etc...);
- accommodation needs should also take into account the space required by the use of information technology and the provision of improved facilities for litigants and advice agencies;
- members of the public should be accommodated in the courtrooms so that judicial proceedings are truly open and accessible;
- barriers to persons with disabilities should be removed to the extent possible;
- local court committees should be consulted early and on a continuing basis during the planning and implementation of renovations;
- each court should have budgetary control over regular maintenance, cleaning and repair and consult with the local court committees about these issues on a regular basis;
- planning should focus on a preventative rather than corrective approach to maintenance and more attention should be paid to monitoring and maintaining buildings to avoid major deterioration; and
- a system of janitorial, maintenance and security contracts for the various court buildings should be put into place.

RECOMMENDATION 4.3

The Task Force recommends that current and future plans for court facilities take into account the changing needs of the court system as outlined in this Report. For example, secure working space for judicial and administrative decision-making teams should be built in such a way as to support the process. Courtrooms should be kept available for trials, so other types of rooms are available for meetings, other dispute resolution processes, and court-related support services including various forms of counselling.

RECOMMENDATION 4.4

The Task Force recommends that the Government undertake a study and rationalisation of courthouses, particularly outstations.

RECOMMENDATION 4.5

The Task Force recommends that court house security be provided by a newly-constituted and specially-trained court marshal or sheriff service administered by the Court Service Unit but ultimately responsible to the Chief Justice. The new court security service could also be granted the responsibility to serve summonses, subpoenas, and warrants.

Protocols and administrative measures should be developed to ensure appropriate and safe access to the courts and appropriate monitoring and verification technology should be at every court. Public and police access to court offices and judges' chambers should be restricted. No guns should be allowed in courtrooms.

RECOMMENDATION 4.6

The Task Force recommends the following priorities for the technological plan:

- Introduction of court reporting in RM courts and in Supreme Court civil matters;
- Technology is key to effective case flow management and modern information management but computerisation should follow and implement redesigned procedures not lead them;
- Proper case management by Judges.
- Computerization of the office of the DPP leading to a reduction in reliance on paper and manual processes;
- Develop a network to integrate the office of the DPP;
- Provide public access terminals to offer accurate real-time information about cases;
- Automation of juror selection process in Supreme Court;
- Jury management system.
- A system that allows for the synchronization of the final digital audio recording with annotations made by judges during hearing.
- Provide proper storage facilities for transcripts and notes on a server with a database.

RECOMMENDATION 4.7

The Task Force recommends that a concerted, consistent and planned approach be taken to the integration of technology including the following elements:

- The introduction of new technologies should be gradual and accompanied by proper planning, evaluation and monitoring. The use of pilot projects to test implementation is recommended;
- Building capacity through training more staff;
- Establish procedural standards and manuals for the court;
- Machines, personnel, and the current software and software licenses should be provided in the right quantity and quality, with a maintenance and upgrading and replacement plan;
- The Ministry of Justice should implement follow-up measures to ensure that the new procedure is followed to facilitate the transition from manual to computerized methods;
- The advantages of the computerized system needs to be promoted amongst members of the judiciary as well as other staff members who have in the past been resistant to some technological changes;
- Compliance with the new standard should be made compulsory, i.e. be incorporated into the rules;
- The method of data entry used in the corporate area differs from the methods used in the rural areas, If this is not corrected it will lead to a corruption of the database for both rural and urban courts; and
- In relation to introducing court reporting in the RM Courts there should be: (1) an upgrading of the court rooms including sound proofing and enhancing the acoustics of the court room and (2) an increase in staff complement to meet increased demands.

RECOMMENDATION 4.8

The Task Force recommends that the implementation of computerisation of the RM Courts be based on the lessons learned through the Pilot Court Site Project. Consideration should be given as to whether other pilot sites are also necessary.

RECOMMENDATION 4.9

The Task Force recommends that the importance of the role of an independent Court Administrator with lead responsibility and accountability for the administrative functions of the courts be recognised and supported. Specifically:

- emphasis should be placed on retention of staff, including through special attention placed on the remuneration of these new professionals if they are to be retained;

- the Court Administrator should work closely with the Chief Justice/ President of the Court of Appeal/Senior Resident Magistrates/Magistrates for the implementation and monitoring of court policy and;
- the Court Administrator should have a line relationship to the Director, Court Services Unit at the Ministry of Justice (see Recommendation 4.10 below).

RECOMMENDATION 4.10

The Task Force recommends that the profession of court administration be fostered through the following steps:

- minimum levels of academic qualification should be a Bachelor degree in General Management, Human Resource Management, Business Administration, Administrative Management or Management Studies and a certification in computer applications;
- a unique professional qualification and certification system should be developed, for example, Diploma in Court Administration could be offered by the Justice Training Institute;
- this certification should be phased in and become a mandatory requirement as soon as practicable;
- measures should be taken to accommodate current court administrators who have the skill and experience but do not meet the new criteria; and
- membership in international professional associations should be fostered as this will create the kind of links that will be necessary for networking purposes and for the administrator to keep abreast of emerging trends etc through the attendance at workshops, seminars and conferences.

RECOMMENDATION 4.11

The Task Force recommends that a Court Services Unit be established within the Ministry of Justice. This new unit would:

- be headed by a director who reports directly to the Permanent Secretary;
- have the institutional independence required for court administration;
- have responsibility for improving the administration and customer services of the system;
- implement strategic planning initiatives for the overall improvement of the working environment;
- be responsible for procuring equipment and furniture for court use, supervising the renovation and refurbishing of facilities occupied by the courts; and
- liaise with other agencies in connection with these duties.

RECOMMENDATION 4.12

The Task Force recommends that a staffing gap analysis be conducted in the courts and Ministry of Justice and staff be recruited for approved critical positions on a priority basis.

RECOMMENDATION 4.13

The Task Force recommends that a study should be commissioned to investigate and recommend options for the establishment of an independent Court Services Agency. The following factors should be taken into account in implementing this recommendation:

- the experience in other countries should be studied but these models should be adapted to the Jamaican context;
- a detailed proposal or options should be developed and should be the subject of extensive consultations with stakeholders and members of the public;
- consideration should be given to a two-stage implementation of the transition from the current executive model to an independent court services agency model; and
- the new court services agency would have to be guaranteed adequate support and infrastructure.

RECOMMENDATION 4.14

The Task Force makes the following recommendations with respect to the appointment process that can apply to the separate processes for appointments to the three levels of the judiciary:

- vacancies should be advertised broadly within the legal profession in both the public and private bars;
- judicial appointments should only be made from candidates who formally apply or are nominated, or through a formalized search committee process in order to generate the widest pool of candidates through an open process;
- criteria should be developed and published for the selection of judges based on merit (could include core criteria and supporting abilities required for judicial office);
- the process for the appointment of judges should be codified and publicised;
- Independent Judicial Appointments Committees or Commissions with a broader membership than the current Judicial Services Commission should be established to solicit, receive and review applications, interview candidates and

references and make recommendations to those vested with the constitutional authority to make the appointments; and

- various models and practices used in other countries should be studied and adapted to be responsive to the Jamaican context.

RECOMMENDATION 4.15

The Task Force recommends that the Ministry of Justice develop a system and structure to measure the sufficiency of the judicial complement at all levels of court.

RECOMMENDATION 4.16

The Task Force urges that the existing vacancies in the Resident Magistrates Courts, caused by whatever reason including leaves, be filled without delay. Consideration should also be given to filling these vacancies on an interim basis by retired judges and/or qualified Attorneys at Law.

RECOMMENDATION 4.17

The Task Force recommends that the complement of the Court of Appeal be increased from 7 to 10 or 11.

RECOMMENDATION 4.18

The Task Force recommends that:

- each judge be assigned a law clerk to assist with research;
- all judges have access to the internet to carry out legal research;
- judges be afforded one judgment week after each three week sitting period;
- newly-appointed judges participate in an in-depth training course on a mandatory basis;
- consideration be given to developing a mentoring system among judges; and
- judges have the opportunity to participate in continuing legal education on a regular basis and that they are consulted in the development of such programmes.

RECOMMENDATION 4.19

The Task Force recommends that the conditions of service and working conditions of Resident Magistrates be improved and their judicial independence protected through these measures:

- the granting of constitutional security of tenure;
- designation as the lower judiciary and referred to as judges;
- the granting of financial security and substantial salaries raises to reflect their important functions and workload;
- improvements made to their chambers, equipment, access to legal resources and support (telephone, fax, computers, and internet access, up to date laws and secretarial services are commonly not available to them);
- provisions made for the physical security of the judges in the courthouses and en route to and from the courthouses;
- transfers to other Parishes should only be done with appropriate consultation and notice;
- newly appointed judges participate in an in-depth training course on a mandatory basis;
- that consideration be given to developing a mentoring system among judges of this Court; and
- Resident Magistrates have the opportunity to participate in continuing legal education on a regular basis and that they are consulted in the development of such programmes.

RECOMMENDATION 4.20

The Task Force recommends that the Jamaican judiciary develop codes of judicial conduct that set out the ethical standards and performance standards to which they adhere. The Codes should be developed on the basis of a broad consultation process and could take into account existing Codes in the Caribbean (including the Caribbean Court of Justice) and other commonwealth jurisdictions.

Once adopted, the Codes should be publicized to make the public familiar with how judges are to perform, involve them in the system of checks and balances and facilitate their recognition of the judiciary's responsibility to them.

RECOMMENDATION 4.21

The Task Force recommends that a mechanism for the receipt of public complaints and comments should be introduced for all levels of the courts. Further study and consultation should be carried out to determine the best mechanisms for the review of complaints and whether there should be an imposition of sanctions.

RECOMMENDATION 4.22

The Task Force recommends that the following steps be taken in order to expedite the appointment of Justices of the Peace and to increase the number of Lay Magistrates:

- Upon receipt of the application the Custos requests a police record instead of a ‘discrete enquiry’;
- The Custos refers the application to the Parish Executive of the Justice of the Peace Association/Lay Magistrates Association to carry out an investigation and the applicant’s involvement in the community and to assess their physical and mental capability to serve. This confidential report would be provided to the Custos, who in turn then recommends to the Minister who in turn recommends to the Governor General;
- A mechanism should be in place for an applicant for the designation of JP to reply to a negative report that preserves the confidentiality of the informant;
- In the case of those who wish to serve as Lay Magistrates in the courts their recommendation must be subject to an overview by the Resident Magistrate after completion of training; and
- Information should be made available to the public concerning the appointment process.

RECOMMENDATION 4.23

The Task Force recommends that further consideration be given to the appointment of Stipendiary Justices as provided by existing law.

RECOMMENDATION 4.24

The Task Force recommends that

- (a) all persons recommended to become Justices of the Peace should complete a prescribed training course as determined by the Justice Training Institute before being commissioned. JPs who choose to preside in the lay courts must receive further training.

A training manual should be updated and made readily available.

- (b) JPs who choose to participate in Restorative Justice processes should receive further training.

RECOMMENDATION 4.25

The Task Force makes the following recommendation concerning the prosecutorial arm of the justice system:

- a human resources plan should be developed and implemented to fill existing gaps and increase the retention rate of prosecutors;
- a comprehensive and continuous training and mentoring program should be established for all prosecutors;
- no prosecutorial functions should be vested in the Resident Magistrate;
- the title Clerk of Court should be abolished and replaced by the title of Assistant Public Prosecutors;
- Assistant Public Prosecutors should report to the Office of the Director of Public Prosecutions;
- the position of Regional Senior Prosecutor should be created and should be responsible for monitoring the work of Assistant Public Prosecutors;
- all prosecutorial staff should have access to basic training, mentoring and specialised training programmes; and
- consideration should be given to developing a roster of private defence attorneys and retired and former prosecutors to prosecute selected cases at all levels of court.

RECOMMENDATION 4.26

The Task Force recommends that a comprehensive examination of the General Legal Council and how it operates be undertaken. Issues to be examined include but are not limited to: the method of selection of members; potential expansion of this membership to include persons other than members of the profession; staffing requirements; regulatory requirements for transparency in accounting practices; the disciplinary process; sanctions imposed for particular breaches; and the criteria used for deciding whether there is a prima facie case.

RECOMMENDATION 4.27

The Task Force recommends that a public education campaign be launched to inform the public on the role and duties of attorneys and their liability to disciplinary procedures and sanctions for professional misconduct.

RECOMMENDATION 4.28

The Task Force recommends the introduction of mandatory continuing legal education program for all lawyers both at the public and private Bars. Participation in the educational programs should become a condition precedent for the renewal of practising certificates. Steps should be taken to ensure that the continuing legal education programme is of a consistently high standard and to encourage joint public and private Bar training initiatives.

A Continuing Legal Education Advisory Committee should be established to conduct a needs assessment and make recommendations to implement mandatory continuing legal education.

RECOMMENDATION 4.29

The Task Force recommends that specific and practical ethical training be provided to lawyers and that a mentorship program be established and implemented by respected senior lawyers.

RECOMMENDATION 4.30

The Task Force recommends that active steps be taken to increase active membership in the various Bar associations and to enhance the capacity of these professional associations to play a leading role in justice reform including through the provision of continuing legal education and active participation in law reform initiatives and implementation.

RECOMMENDATION 4.31

The Task Force recommends a thorough and comprehensive Civil Enforcement Review set out in Part 8 of this Report with a view to developing a modern regulatory structure for effective enforcement. This Review should encompass the issues of the training, remuneration, supervision, conduct and competence of bailiffs.

RECOMMENDATION 4.32

The Task Force recommends that the capacity of the Justice Training Institute be enhanced so that it is able to provide increased training to justice system personnel to support the justice reform process.

RECOMMENDATION 4.33

The Task Force recommends that immediate steps be taken to make all judgments of the Supreme Court and Court of Appeal available on the courts' websites and that the goal of posting new judgments within 24 hours of their release be set and steps be taken to meet this standard as soon as practicable.

RECOMMENDATION 4.34

The Task Force recommends that a Jamaica Legal Information Institute be established as an agency of the Ministry of Justice in order to increase accessibility to legal materials in a timely and effective manner. The Canadian Legal Information Institute can serve as a model for this initiative.

A Working Group should be set up to design a detailed implementation proposal including budgetary and funding issues.

STRUCTURE, JURISDICTION AND ACCOUNTABILITY

The Task Force makes the following recommendations related to the structure, jurisdiction and accountability framework within the Jamaican justice system:

RECOMMENDATION 5.1

The Task Force recognizing and appreciating the enormous service with the Judicial Committee of the Privy Council has provided to Jamaica and the Commonwealth Caribbean in its role as the final court of appeal nevertheless considers that it is time that we moved on and hereby recommends that appropriate steps be taken by Parliament to agree on the course to be followed to entrench the Caribbean Court of Justice as required by the Judicial Committee of the Privy Council, after consultation with the people, consistent with the Jamaican Constitution and ensuring the protection of human rights

RECOMMENDATION 5.2

The Task Force recommends that the decision regarding regionalisation of the Supreme Court be made after careful study in the context of the comprehensive reform of the Jamaican justice system and guided by the vision, principles and reform recommendations set out in this Report.

RECOMMENDATION 5.3

The Task Force recommends that a Working Group be established to conduct a detailed examination and make specific recommendations on the rationalisation of the division of jurisdiction between the Supreme Court and the Resident Magistrates' Courts.

RECOMMENDATION 5.4

The Task Force recommends that the lower courts be renamed Parish Courts of Justice.

RECOMMENDATION 5.5

The Task Force recommends that a comprehensive review of the geographic basis of jurisdiction of Jamaican courts and the location of courthouses be carried out with a specific focus on demographic data and forecasted demographic trends, and with the active participation of all stakeholders.

RECOMMENDATION 5.6

The Task Force recommends that judges of the lower court be relieved of existing administrative functions that can be transferred to the Court Administrator.

RECOMMENDATION 5.7

The Task Force recommends that function of official keeper of the court record be transferred from the Resident Magistrate to the Court Administrator as soon as practicable.

RECOMMENDATION 5.8

The Task Force recommends that consideration be given to establishing the position of chief Parish Court Judge for the lower court in Jamaica (currently designated the Resident Magistrates' Court to be renamed Parish Court of Justice).

RECOMMENDATION 5.9

The Task Force proposes that the primary responsibility for investigating all cases where the actions of members of the security forces have caused death or serious injury to civilians should rest with a well-resourced agency that is completely independent of the Jamaican Constabulary Force. All such investigations should be the responsibility of either the Police Public Complaints Authority, whose mandate and resources would have to be very substantially expanded, or that of a new agency established specifically for this purpose. The Special Investigation Unit of the Ministry of the Attorney General of Ontario, Canada, provides a good model for such an agency.

RECOMMENDATION 5.10

The Task Force recommends that further review of the operations of the Coroner's Court be undertaken to ensure greater and more acceptable levels of efficiency.

RECOMMENDATION 5.11

The Task Force recommends that a backlog reduction strategy be developed and implemented in the Coroner's Courts.

RECOMMENDATION 5.12

The Task Force recommends that the reform the coroners' inquest proceedings be accompanied by a public education campaign to increase public understanding of the role of the office of the Coroner and the publication of a booklet explaining the duties of the Coroner and the rights of relatives of victims.

RECOMMENDATION 5.13

The Task Force recommends that the Court of Petty Sessions be renamed the Lay Magistrates' Court and that the law be appropriately amended.

RECOMMENDATION 5.14

The Task Force recommends that the legislation governing the jurisdiction of the Lay Magistrates be amended to include power for them to deal with disruptions of proceedings and inappropriate behaviour in courts over which they preside.

RECOMMENDATION 5.15

The Task Force recommends that some of the matters currently under the responsibility of Resident Magistrates could be transferred to the jurisdiction of the Lay Magistrates' Court. This transfer of jurisdiction should be done in consultation with stakeholders and as part of the re-design of the Resident Magistrates' Court.

RECOMMENDATION 5.16

The Task Force recommends that a feasibility study be commissioned of the potential benefits and costs of organising the courts with special divisions such as criminal, family and civil divisions.

RECOMMENDATION 5.17

The Task Force recommends the expansion of the Drug Court based on the positive evaluations carried out to date.

RECOMMENDATION 5.18

The Task Force recommends that the Gun Court be reviewed.

RECOMMENDATION 5.19

The Task Force recommends that all problem-solving courts should expand their information gathering and sharing capacity through the development and enhancement of integrated information sharing systems. This information gathering should include compliance with court orders and alternative sanctions in order to facilitate better decision-making.

RECOMMENDATION 5.20

The Task Force recommends that a review be conducted of how cases involving domestic violence are currently being dealt with in the criminal justice system and to consider new approaches that may help address this serious social problem. This study should include consideration of the benefits and costs of establishing Domestic Violence Courts.

RECOMMENDATION 5.21

The Task Force recommends that the treatment of the mentally ill by the criminal justice system be made the subject of special review and appropriate policies, programs, and legislation must be put in place.

RECOMMENDATION 5.22

The Task Force recommends that a Mental Health Court be established on a pilot project basis. The pilot project design should include an evaluation to promote evidence-based future planning and decision-making.

RECOMMENDATION 5.23

The Task Force recommends that the Family Law Courts/Children's Court should be expanded so that they are accessible across the whole island. In the interim, a court-connected intermediary family law outreach program should be established through which the new position of Community Lawyer could be a first point of contact and provide family law, Restorative Justice, mediation and counselling information in the community through neighbourhood peace and justice centres/legal aid clinics.

Counsel could be a first point of contact and provide family law and counselling information in the community through neighbourhood peace and justice centres/legal aid clinics.

RECOMMENDATION 5.24

The Task Force makes the following specific recommendations with respect to reform of the Children's Court:

- should provide full and integrated services to meet the needs of children, including psychiatric evaluation, drug testing, counselling and mediation;
- facilities should be “family friendly”, designed so as to meet the needs of children for privacy and security, address the needs of disabled children, and have sufficient space for social services, mental health, medical, and other justice and social services professionals involved in family law matters;

- children in conflict with the law and children in need of protection of the law should not be transported to court together;
- children in conflict with the law and children in need of protection of the law should be separated within the court facilities;
- proceedings involving children should always be held in camera in this court;
- greater preparation and information about the nature and effect of proceedings should be provided to children and their parents and in particular, counselling and support should be provided to children before their first appearance in court;
- children should be treated in a respectful manner by all justice system personnel, including judges;
- steps should be taken to ensure that proceedings involving children are dealt with according to the time limits established by law pursuant to international legal obligations;
- judges sitting in Children’s Court should have the benefit of training in matters related to child developmental psychology, child justice issues and other relevant disciplines;
- all staff who deal with children at the courts should be trained in relevant areas to ensure they are properly equipped to deal with children and the varying issues coming before them;
- procedures should be established, and supported by training, to ensure that the best interest of the child is protected notwithstanding their reason for being brought before the court; and
- increased staffing and resources should be provided to Children’s Courts and strategic relations established with the Child Advocate, Child Development Agency, MOEYC, MOH, VSU, child-focussed civil society organizations and the DRF.

RECOMMENDATION 5.25

The Task Force recommends that the revised organisational and reporting structure of the justice/court system clearly separate out the executive/administrative, judicial and prosecutorial functions.

RECOMMENDATION 5.26

The Task Force recommends that users committees be established for each court, including the Supreme Court, the Court of Appeal and specialised courts in order to improve the delivery and quality of justice at the local level. The users committees should be innovative and operate collaboratively with everyone prepared to listen, communicate and compromise where needed.

RECOMMENDATION 5.27

The Task Force recommends that Ministries and government agencies and civil society establish joint working committees on specific areas of reform where their responsibilities overlap.

RECOMMENDATION 5.28

The Task Force recommends that at the Ministerial level a national strategy integration inter-ministerial and inter-agency committee be established with the mandate to facilitate justice system reform initiatives.

RECOMMENDATION 5.29

The Task Force recommends that an Independent Commission be established to develop a set of general performance standards and processes and mechanisms to measure and report upon court performance building on existing measures such as Part 74 of the Supreme Court Civil Procedure Rules. The Commission should undertake an effective consultation process in carrying out its mandate.

RECOMMENDATION 5.30

The Task Force recommends that each level of court develop time standards for the disposition of civil, family and criminal matters and, where possible, mechanisms to enforce these standards.

RECOMMENDATION 5.31

The Task Force recommends that all associations of legal professionals develop and adopt time guidelines for the phases of litigation within an attorney's control.

RECOMMENDATION 5.32

The Task Force recommends that the judiciary further develop time standards for the rendering of judgments at trial and appeal.

THE PUBLIC AND THE JUSTICE SYSTEM

The Task Force makes the following recommendations concerning the relationship between the public and the Jamaican justice system:

RECOMMENDATION 6.1

The Task Force recommends that the Ministry of Justice lead the development of a comprehensive public legal education strategy working in partnership with a broad network of partners including other Government departments and agencies, particularly the Ministry of Education, the courts, the Bar, justices of the peace, non-governmental organisations, churches and community groups.

The comprehensive public legal education strategy should:

- be based on a thorough assessment of the justice information needs of the Jamaican public and existing initiatives;
- include a school-wide approach in which elementary and secondary schools, universities and community colleges play a greater role in the education of the public with respect to the purpose, values and processes of the justice system;
- provide increased access to general legal information and in particular to the laws and Constitution of Jamaica;
- include information about legal rights, constitutional rights and international human rights standards;
- be delivered through culturally appropriate models;
- be delivered through diverse media and take advantage of technological developments, including the internet, television cable and DVDs;
- international and local best practices, curriculum and resources should be reviewed and adapted to the Jamaican context;
- public legal educators should be encouraged and supported in efforts to share information and identify local best practices and
- all workers within the justice system should be seen as information resources.

RECOMMENDATION 6.2

The Task Force recommends that accommodation for the media should always be provided in every courtroom and that the media should not be barred from any public hearing although restrictions may be placed on their reporting on sensitive

issues/cases. Access to court offices and files should be subject to the Access to Information Act.

PROPOSAL 6.3

The Task Force proposes that steps be taken to help to educate and inform the media about the justice system so that the media can in turn provide accurate information to the Jamaican people including by:

- holding an annual workshop for the media about the justice system and legal developments;
- encouraging the Bar to take an active role in providing accurate information to the media and correcting false impressions; and
- encouraging the Courts to develop media relations strategies that are appropriate given their institutional constraints and role within the justice system.

RECOMMENDATION 6.4

The Task Force recommends that the experience with neighbourhood peace and justice centres should be reviewed and evaluated in order to provide a sound basis upon which to base decisions regarding their expansion and establishment in other communities.

RECOMMENDATION 6.5

The Task Force recommends the establishment of neighbourhood peace and justice centres to act as local hubs where people with legal problems can find help. The centres should be staffed and supported by a local committee as part of a national managed network and have a mandate to:

- provide legal and other information in various formats;
- establish a multidisciplinary assessment/ triage service to diagnose the legal problem and provide referrals to appropriate services;
- provide access to legal advice and representation;
- provide access to mediation and other dispute resolution services; and
- coordinate and promote existing legally-related services; and
- provide other community specific activities and services.

RECOMMENDATION 6.6

The Task Force recommends that steps be taken to ensure timely and consistent access to duty counsel at police stations including through enhanced public legal education, increased training and accountability of police to ensure that accused are advised of their rights and proactive inquiry by judges when an unrepresented accused appears in court.

RECOMMENDATION 6.7

The Task Force recommends that a study be undertaken to determine if an expanded duty counsel program would assist in ensuring the timely, consistent and cost-effective delivery of criminal legal aid services.

RECOMMENDATION 6.8

The Task Force recommends that the Legal Aid Council undertake a review of the fees paid for criminal legal aid services and work with the legal community to develop quality assurance standards for this work.

RECOMMENDATION 6.9

The Task Force recommends that steps be taken to ensure a high level of quality in the delivery of criminal legal aid including by:

- ensuring that assignment of legal aid cases is made in keeping with counsel's experience, competence and skill;
- providing more training for duty counsel; and
- strongly persuading senior counsel to be more active in accepting assignments and train juniors.

RECOMMENDATION 6.10

The Task Force recommends that the Legal Aid Council investigate the possibility of expanding access to legal aid services through the establishment of clinics across the Island and that the Council play a more proactive role in developing legal aid policy and resources to support the expansion of legal aid services.

RECOMMENDATION 6.11

The Task Force recommends that a study be undertaken to investigate options for the cost-effective delivery of civil legal aid services, including through an inquiry into unmet civil legal aid needs and a review of best practices in other jurisdictions.

RECOMMENDATION 6.12

The Task Force recommends that every Jamaican court develop and implement a charter specifying standards of service to be provided to members of the public coming into contact with the court.

Once a court charter has been developed and published, a process should be developed to monitor progress in implementing it. Training and performance reviews of court staff will be key to implementation. Use of annual reports to describe progress in implementing court charters should be considered.

RECOMMENDATION 6.13

The Task Force recommends that every Jamaican court develop and utilise user-feedback forms.

RECOMMENDATION 6.14

The Task Force recommends that every Jamaican court establish and/or strengthen complaints handling mechanisms and take steps to inform the public about how it works.

RECOMMENDATION 6.15

The Task Force recommends that steps be taken to ensure that all justice system personnel have a good understanding of customer service, civil liberties and human rights and are trained to apply this knowledge in a practical way on the job. This should be reinforced through organisational and individual performance standards.

RECOMMENDATION 6.16

The Task Force recommends that additional steps be taken to improve the treatment of victim complainants by all justice system personnel and by other service providers, particularly medical personnel in hospitals including by:

- developing protocols for police treatment of victims from first contact onward;
- developing protocols concerning dealing with victims at hospitals, particularly for victims of sexual offences;
- developing protocols for the treatment of victims by prosecutors;
- a written policy for the police and the prosecutors that specify which victims should be referred by them to the Victim Support Unit and outlining how police and prosecutors should relate to Victim Service Workers;
- all justice system personnel including police, prosecutors and judges should receive sensitisation training in how to deal with victims, particularly vulnerable victims such as children;
- legal advice and assistance should be provided to victims who require it and cannot afford it themselves;
- steps should be taken to make courthouses and courtrooms more friendly for victims including by having separate waiting rooms for victims;
- the scheduling of court cases should take victim needs into account where possible;
- it should be made clear that victims do not have to appear in court for mention dates; and
- funding should be available for the costs incurred by victims to participate in court proceedings (i.e. transportation, lunch).

RECOMMENDATION 6.17

The Task Force recommends that measures be adopted to enhance the participation of victim complainants at appropriate stages of criminal proceedings, including through the use of expanded social inquiry reports.

RECOMMENDATION 6.18

The Task Force recommends that services for victims be improved and increased including by:

- increasing the staffing for Victims Services Units, including administrative support;
- improving the conditions of work for Victim Support Workers;
- providing more shelters for victims, including a “Safe House” where vulnerable victims can be placed immediately; and
- increasing the range of victim services available and ensuring that services are available right from the beginning to the very end of the process.
- establishing a Victims Compensation Fund and
- implementing a victim fine surcharge to partially fund an increase in victims services.

RECOMMENDATION 6.19

The Task Force recommends that steps be taken to clarify and/or ensure that all courts have the authority to order compensation to victims of crime incidental to sentencing, with appropriate measures to enforce compensation orders.

RECOMMENDATION 6.20

The Task Force recommends that the following steps be taken to improve the treatment of victim complainants at the conclusion of proceedings:

- they should be informed about the sentence and the likelihood of early parole; and
- they should be given the option of being informed when persons are about to be released from prison and advised of protective measures that are available.

RECOMMENDATION 6.21

The Task Force recommends the following to address barriers to investigation and the identification of witnesses:

- A witness handbook/ pamphlet should be prepared to familiarize the general public as to the role of witnesses in the court process, and what witnesses should expect at all stages of the process.
- Witness Liaison Officers should be established as part of each Police-Court Liaison Unit; and
- Witness hotlines should be established where witnesses could obtain information and/or report on crimes they have witnessed.

RECOMMENDATION 6.22

The Task Force recommends that the following steps be taken to address barriers in securing the participation of witnesses:

- implementation of a public awareness campaign concerning the requirements of initiating court proceedings and emphasising the shared responsibility for locating and procuring witnesses;
- reform of process serving practices to ensure that subpoenas are served on time;
- the streamlining of procedures for the issuance of subpoenas; and
- the simplification of the form of the subpoena and the use of plain language.

RECOMMENDATION 6.23

The Task Force recommends the following steps to address the barriers to witness attendance at court:

- Witnesses who require transportation to court should be compensated for reasonable costs and where possible assisted in making arrangements by the Witness Liaison Officers;
- Witnesses should be able, independently of the police, to access court information related to their case, for example the date of trial through the information desk at the court house;
- The *Witness's Expenses Act, 1924* should be reviewed and updated;
- Witnesses should be protected by legislation from losing employment because of attendance at court;

- Greater use should be made of witness statements as evidence in chief in civil cases and through admissions in criminal cases, as long the appropriate safeguards are put in place and respected;
- Policy guidelines for the treatment of witnesses by court officials and police personnel should be developed; and
- The practice of routinely requiring victims and witnesses to enter the courtrooms and to stand beside the accused when cases are being addressed should be discontinued.

RECOMMENDATION 6.24

The Task Force recommends that the following steps be taken to facilitate the participation of vulnerable witnesses and to ensure that they are protected and that their needs are met:

- police and prosecutors need to be better trained so that they have the skills and aptitude to interview children;
- the Office of the Children’s Advocate should work in conjunction with the Witness Liaison Unit to provide assistance and support to child witnesses;
- the Jamaica Council for the Disabled should work in conjunction with the Witness Liaison Unit to provide advice and information on how best to assist disabled witnesses;
- cases involving children should be “fast-tracked” and priority should be given to scheduling trials involving children (so that children don’t miss too much school and so on); and
- all interviews with vulnerable witnesses should be recorded or videotaped.

RECOMMENDATION 6.25

The Task Force supports the swift passage into law of *The Evidence (Amendment) Bill* and further recommends that:

- Rules of Court should be established, following appropriate consultation, on the practical application of the live link method of providing evidence;
- Appropriate live link technology and training on its application be provided by the Ministry of Justice in order that this legislation may be fully implemented; and
- Further consideration be given to amending The Evidence Act to allow certain vulnerable witnesses, particularly young children, to testify behind a screen if the court is satisfied that is necessary to obtain the full and candid evidence of the witness.

RECOMMENDATION 6.26

The Task Force recommends that consideration be given to:

- amending Section 31D of the Evidence Act to include a statement made by a child who because of his/her age and vulnerability would be unable to attend as a witness;
- amending Section 31D to provide that the fact that the statement was given under oath is a circumstance that may be considered by the court in determining its weight;
- amending the Evidence Act to allow the admissibility of original statements of recanting witnesses where the court is satisfied as to the reliability and necessity of those statements; and
- implementing the police practice of videotaping the statements of vulnerable (and potentially vulnerable) witnesses and having the statements given under oath when appropriate.

RECOMMENDATION 6.27

The Task Force recommends that the following steps be taken to address witness intimidation and witness protection:

- legal and medical professionals should be trained on witness protection;
- additional measures should be taken to keep the identity of a witness in protection secret; and
- measures should be taken to facilitate the testimony of high risk witnesses.

RECOMMENDATION 6.28

The Task Force recommends that persons should be selected for jury service using the Taxpayer Registration Number (TRN) together with the voter's list and that the pool of jurors be increased by reducing the categories of persons excluded from jury service, tightening the criteria for discretionary excusal by the judge, and increasing the age limit for jury service to 70. Jury summons should be served by an agency independent of the police. Steps should be taken to work together with associations of medical professionals to ensure that doctors understand the importance of jury duty and limit the provision of medical certificates to excuse individuals from jury service.

RECOMMENDATION 6.29

The Task Force recommends that the right to peremptory challenge of a juror be further restricted and that guidelines be developed to restrict the prosecutor's right to 'stand by' a juror.

RECOMMENDATION 6.30

The Task Force recommends that a pamphlet written in an informal and friendly tone explaining the jury selection process and jury service should be distributed with the jury summons.

RECOMMENDATION 6.31

The Task Force recommends that a programme of reforms to improve the conditions of jury service be implemented including by:

- presenting an introductory briefing to jurors on their first day in court by a bailiff and shown a video about the trial process, and their role and responsibilities;
- examination and piloting of options for shortening the length of jury service;
- lengthening the cycle over which it is possible to claim excusal by reason of previous jury service;
- improving court facilities for jurors and jurors in waiting, including those who are disabled;
- providing at all courts of adequate working facilities and other means to enable jurors in waiting to conduct their own affairs;
- reviewing the amounts of allowances payable to jurors for their attendance at court;
- considering an additional allowance to cover the cost to potential jurors who, but for it, could justifiably claim excusal because of caring responsibilities; and
- expressing the courts' appreciation to jurors by providing them with certificates of their service and letters of thanks signed by a court official.

RECOMMENDATION 6.32

The Task Force recommends that the penalties for non-attendance should be increased, subject to a right of appeal to a Justice of the Peace.

RECOMMENDATION 6.33

The Task Force recommends that judicial education should be provided on how to give effective and comprehensible directions to the jury.

RECOMMENDATION 6.34

The Task Force recommends that the initial instructions to juries at the opening of a trial be given by the judge rather than the prosecutor as is the current practice.

RECOMMENDATION 6.35

The Task Force recommends that steps be taken to ensure that prospective jurors are not in the courtroom when matters that they are not a party to, are discussed in open court nor should they observe an accused brought into the courtroom or removed from the courtroom in handcuffs.

RECOMMENDATION 6.36

The Task Force recommends that steps be taken to recognise and further encourage civic participation in the justice system.

RECOMMENDATION 6.37

The Task Force recommends that every level of court establish an advisory committee composed of members of the public and others involved in the justice

system for the purpose of obtaining advice on (a) ways to improve the administration of civil justice, (b) reducing or removing barriers to access, and (c) implementing, evaluating and monitoring reform measures on a pilot basis across the system.

CRIMINAL JUSTICE REFORM:
TRANSFORMING PRACTICES AND LEGAL CULTURE

The Task Force makes the following recommendations related to the transformation of the practices and the legal culture of the criminal justice framework within the Jamaican justice system:

RECOMMENDATION 7.1

The Task Force recommends the implementation of focused backlog reduction strategies within a limited time frame for each court that is identified as burdened with a backlog. These initiatives would have to:

- be appropriately resourced;
- mobilise sufficient judicial and prosecutorial resources including through the engagement of retired judges and qualified lawyers on a part-time fee paid basis; and
- employ case management techniques.

RECOMMENDATION 7.2

The Task Force recommends that a Jamaican Criminal Code Project be initiated with the mandate of developing an updated and unified restatement of the criminal law, procedure, evidence and sentencing provisions.

RECOMMENDATION 7.3

The Task Force recommends that the new Jamaican Criminal Code include a general statement of the overall goals and purpose of the criminal law.

RECOMMENDATION 7.4

The Task Force recommends that a review be conducted of the existing offences set out in Jamaica's laws with a view to abolishing any that are no longer relevant for Jamaican society and where appropriate, to provide for alternatives to the criminal law in dealing with certain conduct.

RECOMMENDATION 7.5

The Task Force recommends that the JCF take all necessary steps to ensure that that the police comply with the requirements of the law in relation to detention and bail, particularly through training and performance reviews.

RECOMMENDATION 7.6

The Task Force recommends that guidelines be developed for the granting of bail in order to further increase consistency in process and outcome.

RECOMMENDATION 7.7

The Task Force recommends that a "best practices" protocol be developed to promote timely disposition of bail matters. The Police and prosecutors should be given the primary responsibility for implementing the protocol.

Elements of a "best practices" protocol could include:

- the provision of timely legal aid assistance, perhaps through the use of paralegal bail application officers to assist duty counsel and reduce delays in commencing bail hearings;
- Weekend bail courts;
- The use of audio and video remand systems where possible;
- Increased use of police release authority;
- More efficient scheduling of bail hearings;
- Simplified surety approval procedures; and
- Greater use of Crown discretion at bail hearings.

RECOMMENDATION 7.8

The Task Force recommends that Bail Supervision Programmes be set up to assist individuals who are at risk of being denied bail on the ground of risk of non-appearance and promote his or her compliance with bail conditions and attendance at subsequent court dates.

RECOMMENDATION 7.9

The Task Force recommends the establishment of a criminal case management system containing the following elements:

- Early Screening of files by prosecutors;
- Disclosure to the Defence;
- Disposition Discussions Between Counsel;
- Judicial Pre-Trial Conferences;
- Efficient Trial Scheduling Practices;
- Adjournment Policy;
- Status-check Conferences.

RECOMMENDATION 7.10

The Task Force makes the following recommendations regarding overall implementation of criminal case flow management and case management:

- steps should be taken to ensure that legal aid is available to eligible accused as early as possible;
- standards should be adopted regarding access of unsentenced accused to their counsel;
- a Criminal Case and Case Flow Management Pilot Project should be established in one location to implement elements of criminal case flow management to the greatest extent possible pending the development and adoption of criminal case management rules; and
- a comprehensive 2 year professional development program on criminal case flow management for the Bench and Bar should be provided.

RECOMMENDATION 7.11

The Task Force recommends that the experience with the defence disclosure provisions in the *Criminal Procedure and Investigations Act* of England and Wales be examined with a view to determining whether similar provisions could help streamline criminal trials in Jamaica without infringing on the fundamental rights of the accused.

RECOMMENDATION 7.12

The Task Force recommends that steps be taken to increase the investigative capacity of the police in line with modern scientific and technological developments while at the same time increasing the safeguards for the protection of the human rights of individuals.

RECOMMENDATION 7.13

The Task Force recommends that consideration be given to establishing a forensic laboratory that is independent of the Ministry of National Security and that protocols for the collection, analysis and preservation of samples be developed.

RECOMMENDATION 7.14

The Task Force recommends that the police establish joint protocols with relevant agencies to address the issues of improved ID parades; expediting forensic reports; and, expediting and streamlining the process for the provision of medical certificates.

RECOMMENDATION 7.15

The Task Force recommends that consideration be given to introducing measures to exclude illegally obtained evidence in some circumstances.

RECOMMENDATION 7.16

The Task Force recommends that the linkages between the police and the prosecution be enhanced, including by:

- the ability of police to access public prosecutors outside of business hours or from remote locations through a toll free number;
- the development of a standardised checklist for Crown briefs (the files prepared by the police outlining the case and evidence against the accused) and disclosure packages; and
- the gradual move to electronic Crown briefs.

RECOMMENDATION 7.17

The Task Force recommends the establishment of effective Police Court-Liaison Units across Jamaica.

RECOMMENDATION 7.18

The Task Force recommends that steps be taken to improve the timely transport of detainees for court appearances including by:

- increasing the number of vehicles available for this purpose and ensuring that they are properly maintained;
- reducing the number of detainees required for court by establishing video remand rules and facilities; and
- establishing regional detention centres.

RECOMMENDATION 7.19

The Task Force recommends that relevant agencies be consulted to develop a policy to guide the exercise of prosecutorial discretion to commence or continue prosecutions including the enunciation of the threshold test and the factors to be considered in reaching a decision.

RECOMMENDATION 7.20

The Task Force recommends that abolition of preliminary inquiries be phased in as criminal case flow management is implemented and once the ODPP has been modernised. As interim measures, the Task Force recommends that provision be made for (1) the waiving of the preliminary inquiry with the consent of both accused and prosecutor and (2) a short form preliminary inquiry that combines “paper” and viva-voce evidence.

RECOMMENDATION 7.21

The Task Force recommends that the rules of admissibility of evidence be amended to allow for the joint admission of non-contentious facts by agreement between the defence lawyer and prosecutor.

RECOMMENDATION 7.22

The Task Force recommends that unsworn statements from the dock be abolished.

RECOMMENDATION 7.23

The Task Force recommends that measures be taken to address the backlog in transcript production on an urgent basis in order to address delay in the appeal process.

RECOMMENDATION 7.24

The Task Force recommends that the Court of Appeal implement case management in criminal appeals including by:

- holding pre-hearing conferences to investigate the possibility of limiting issues and establish time lines for the appeal;
- offering mediation to resolve some or all of the issues on appeal; and
- placing time limits on oral submissions at the hearing of the appeal.

RECOMMENDATION 7.25

The Task Force recommends that the prosecution have the right to appeal an acquittal based on an error in law.

RECOMMENDATION 7.26

The Task Force recommends that the *Extradition Act* be amended to provide for extradition requests to originate in the Supreme Court. Consideration should be given to providing for a right of appeal to the Judicial Committee of the Privy Council on questions of law.

RECOMMENDATION 7.27

The Task Force recommends that a Working Group be established to review and analyse sentencing statistics and jurisprudence and to further develop options for sentencing reform.

RECOMMENDATION 7.28

The Task Force recommends that steps be taken to achieve greater consistency in sentencing, including by:

- setting out fundamental sentencing principles that all judges must follow in legislation;
- organising educational programs on sentencing for judges; and
- amending the law to allow the prosecution to appeal sentencing decisions based on an error in the application of a fundamental principle of sentencing. The decision whether to launch an appeal should be made by the Director of Public Prosecutions or his designate personally.

RECOMMENDATION 7.29

The Task Force recommends that steps be taken to educate the public and the media about sentencing practices and outcomes.

RECOMMENDATION 7.30

The Task Force recommends that steps be taken to improve the manner in which alternative sentencing options, particularly for child offenders, can be utilized and to ensure that the courts are made aware of these options.

RECOMMENDATION 7.31

The Task Force recommends that rehabilitative programs for probationers be made available to address problems such as addictions, mental illness, domestic violence, sexual behaviour, anger management, skills training and illiteracy and that probation officers receive specialized training in these areas.

RECOMMENDATION 7.32

The Task Force recommends that a secure forensic ward be established in a psychiatric hospital to house and treat those persons found by the courts to be unfit to stand trial or not criminally responsible by reason of mental illness and that the laws and procedure that govern these persons be reviewed to ensure that only those who constitute a danger to themselves or the public are confined in institutions and that this issue is reviewed on a regular basis.

RECOMMENDATION 7.33

The Task Force recommends that the complement of probation officers be reviewed to ensure that their individual caseloads are not excessive considering the attention that they must give to their clients.

RECOMMENDATION 7.34

The Task Force recommends that protocols be established between probation officers and the police to ensure that probation officers have access to law enforcement information about their clients and that they work in a cooperative way to supervise persons on probation.

RECOMMENDATION 7.35

The Task Force recommends that more shelters for women and children who are the victims of domestic abuse be established across the country.

RECOMMENDATION 7.36

The Task Force recommends that probation officers be consulted with the view to finding ways to address issues related to their personal safety.

RECOMMENDATION 7.37

The Task Force recommends that the law be amended to provide for a separate offence for breach of a probation order.

RECOMMENDATION 7.38

The Task Force recommends that a national programme on “Diversion” be established to include the following features:

- the factors to be considered in selected offenders for diversion including the nature of the offender, and the circumstances of the offence;
- supported through informal local arrangements between police, prosecutors, and social agencies;
- supported by local justice centres;
- the point of intervention of diversion programmes in the criminal justice process should be as early as possible, either before a charge is laid, before trial, or even during trial;
- the diversion programs should be adequately resourced including through trained staff and competent providers; and
- an education campaign should be mounted to inform justice system personnel and the public about the value of diversion and to provide accurate information about the program.

RECOMMENDATION 7.39

The Task Force recommends that a best practices protocol be adopted to guide mediation in criminal matters based on local and international experience. Consideration should be given to providing more government funding for mediation services.

RECOMMENDATION 7.40

The Task Force recommends that the following elements be integrated into a national restorative justice policy initiative led by the Ministry of Justice:

- a dual track system in which RJ programs are provided independent of the criminal justice system as well as a component of the system;
- various models should be employed but emphasis should be placed on adapting process facilitation models developed elsewhere to the Jamaican context;
- specific attention should be paid to:
 - how to handle matters that are initiated simultaneously in both civil and criminal courts;
 - the integration of services provided directly by the government with those outsourced to key partners;
 - which government department is best positioned and equipped to initiate restorative justice interventions;
 - which organization or department is best positioned and equipped to coordinate and provide
 - ❖ restorative justice training
 - ❖ restorative justice sensitization
 - ❖ restorative justice services
 - the factors that must be considered and investigated in order to determine the appropriateness of a restorative justice intervention;
 - which parties should participate;
 - how to effectively monitor the system; and
- a consideration of implementation requirements including: institutional needs; public education needs; research needs; legislative needs; training needs, monitoring and resource needs.

CIVIL JUSTICE REFORM:
TRANSFORMING PRACTICES AND LEGAL CULTURE

The Task Force makes the following recommendations related to the transformation of the practices and the legal culture of the civil justice framework within the Jamaican justice system:

RECOMMENDATION 8.1

The Task Force recommends the implementation of a focused backlog reduction strategy for civil matters within a limited time frame in both the Supreme Court and the Resident Magistrates' courts. Consideration should be given to using a range of approaches which are to be appropriately resourced including by:

- mobilising sufficient judicial resources through the engagement of qualified individuals on a part-time fee paid basis;
- strong administration and research team to identify an review backlog and support the strategies;
- mediation blitzes to address large numbers;
- prevention of new backlog;
- appropriately funding current and new programmes to prevent backlog;
- public education; and
- mobilizing the Bar to assist by articulating the benefits of participation for their clients and for their practices.

RECOMMENDATION 8.2

The Task Force recommends that the Rules for Resident Magistrates Courts be substantially revised to include simplified procedures that integrate case management.

RECOMMENDATION 8.3

The Task Force recommends that steps be taken to increase the use of mediation of civil matters within jurisdiction of the Resident Magistrates Court.

RECOMMENDATION 8.4

The Task Force recommends that consideration be given to extending the Resident Magistrates' power to strike civil matters.

RECOMMENDATION 8.5

The Task Force recommends that consideration be given to integrating a differentiated or multi-track approach to case management.

RECOMMENDATION 8.6

The Task Force recommends that steps be taken to review and reorganise the Commercial Court to ensure that it can achieve the planned objectives.

RECOMMENDATION 8.7

The Task Force recommends that the Supreme Court Civil Registry be reorganised and re-tooled and provided with adequate staffing and technology.

RECOMMENDATION 8.8

The Task Force recommends that the number of Masters be increased on an urgent basis and that they be elevated to the position of procedural judge. Once a full complement of Masters is in place they should be given responsibility for an increased range of functions.

RECOMMENDATION 8.9

The Task Force recommends that the CPR should provide simplified procedures for the processing of default judgment.

RECOMMENDATION 8.10

The Task Force recommends that a Master should undertake a preliminary review of the file to decide whether a Case Management Conference is required and that Masters should be responsible for all such Conferences.

RECOMMENDATION 8.11

The Task Force recommends that some of the functions currently served by the Case Management Conference could be served by new Rules providing for automatic directions on preliminary matters such as discovery.

RECOMMENDATION 8.12

The Task Force recommends that steps be taken to make the use of Case Management Conferences more effective including through the development of guidelines and training modules.

RECOMMENDATION 8.13

The Task Force recommends that steps be taken to improve listing practices and in particular to ensure that urgent matters can be heard without undue delay.

RECOMMENDATION 8.14

The Task Force recommends that steps be taken to ensure the effective use of pre-trial/trial management conferences, including through consideration of greater use of written submissions and stricter time limits for trials by agreement or consent.

RECOMMENDATION 8.15

The Task Force recommends that steps be taken to increase the number of mediators and the quality of mediation services available by providing more intensive training and by encouraging senior lawyers and other experienced persons to become mediators. Consideration should be given to providing sufficient levels of government funding to mediation to ensure its success in improving access, timeliness and satisfaction with the justice system.

RECOMMENDATION 8.16

The Task Force recommends that increased training to develop the skills to conduct effective settlement conferences should be made available to Masters.

RECOMMENDATION 8.17

The Task Force recommends that family law cases should be expressly included for reference to mediation.

RECOMMENDATION 8.18

The Task Force recommends that the Dispute Resolution Foundation monitor and evaluate the experience with automatic referral to mediation including through a mechanism for feedback on individual mediation sessions.

RECOMMENDATION 8.19

The Task Force recommends that consideration be given to delegating more of the management of appeals to the Registrar.

RECOMMENDATION 8.20

The Task Force recommends that the Court of Appeal become more proactive in using the pre-hearing review to assist in the settlement of appeals and shortening the length of the hearing, including setting time limits for oral argument.

RECOMMENDATION 8.21

The Task Force recommends that when the integration of technology is more advanced in the Jamaican courts consideration be given to promoting the electronic production of Record of Appeal and the core and other bundles required on appeal.

RECOMMENDATION 8.22

The Task Force recommends that without unduly restricting litigants' access to the courts, judicial leadership be taken in the strong and consistent application of the sanctions for failing to meet the timelines set out in the Rules.

RECOMMENDATION 8.23

The Task Force recommends that priority be placed on providing joint education programmes on case management, case flow management and alternative dispute resolution for judges of all levels, legal court officials (such as Masters and Registrars) and attorneys of the public and private bars.

RECOMMENDATION 8.24

The Task Force recommends that the monetary jurisdiction of the Resident Magistrates Courts be increased and that the monetary limit for Small Claims also be increased.

RECOMMENDATION 8.25

The Task Force recommends that suitably trained Justices of the Peace be granted the jurisdiction to preside over some small claims matters.

RECOMMENDATION 8.26

The Task Force recommends that the law of praedial larceny be reviewed on an urgent basis.

RECOMMENDATION 8.27

The Task Force recommends that simplified forms be developed for small claims matters.

RECOMMENDATION 8.28

The Task Force recommends that further study be undertaken into potential specialised approaches to the resolution of land disputes.

RECOMMENDATION 8.29

The Task Force recommends that consideration be given to enhancing the enforcement of judgments of the RM Courts by amending the rules to provide for payment into court of the judgment debt within a timeframe established by the Court at the time of judgment, subject to an application for review of that order.

RECOMMENDATION 8.30

The Task Force recommends that a thorough and comprehensive Civil Enforcement Review be undertaken with the objective of establishing a modern regulatory structure for effective enforcement of civil process and civil judgments.

INSTITUTIONALISING JUSTICE SYSTEM REFORM

The Task Force makes the following recommendations concerning the institutionalization of Jamaican justice system reform:

RECOMMENDATION 9.1

The Task Force recommends that steps be taken to promote the cultural change required for effective justice system reform including by:

- Identifying and clearly enunciating respect and service to citizens and to the nation as the foundations of the justice system;
- Effectively packaging and selling the product of justice system reform to participants in the system through a vigorous education based marketing effort directed at select participants in the system (both actual and prospective) such as Clerks of the Court, Registrars, and the public at large (including the business community) so that each is able to see the usefulness of the reform process within his/her/its context;
- strongly encouraging and recognising the mentoring of junior managers and staff working in the system;
- establishing measures to recognise, reward and otherwise encourage innovation both within each agency/organisation and Ministry of Justice awards for innovation in each of the justice sectors; and
- establishing mechanisms such as newsletters and annual workshops for the sharing of information regarding best practices.

RECOMMENDATION 9.2

The Task Force recommends the establishment of a National Council on Justice to advise the Government on all major legislative or other changes that the Government recommends for the justice system, to receive recommendations made on various legal issues, and to initiate its own recommendations for reform.

RECOMMENDATION 9.3

The Task Force recommends that consideration be given to establishing an enhanced and independent law reform capacity.

RECOMMENDATION 9.4

The Task Force recommends that the JJSR implementation plan include plans for meaningful ongoing data collection, evaluation to ensure ongoing reforms, adjustments and improvement including independent analysis at predefined periods.

RECOMMENDATION 9.5

The Task Force recommends the JJSR implementation plan include plans for evaluation specifically by the public.