OECS-CIDA
Judicial and Legal
Reform Project

Complementary Measures To Conventional Justice System Responses

September 2001

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Discussion Paper on Issues and Options

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CONTENTS

1. INTRODUCTION

The Judicial and Legal Reform Project (JLR) is a five-year project aimed at supporting improvements to the administration of law and quality of justice in the OECS. The Project is intended to benefit all citizens of the OECS, with a specific sensitivity to the needs of women and youth.

A strengthened judicial and legal system can provide an enabling environment for equitable social and economic development. Reform initiatives have therefore been directed along three paths: a) to increase the efficiency and effectiveness of the courts in hearing cases; b) to promote better management of the justice system through the development of a legal information system; and, c) to promote fairness by developing and supporting alternatives to conventional justice system processes.

The third area of alternatives to conventional responses encompasses activities referred to as Complementary Measures. These are measures aimed at developing institutional and community capacity to enhance the quality of justice in the OECS. Such measures include legal aid, alternative dispute resolution (ADR), counselling services, sentencing policies and alternatives, and public legal education.

Consultation with stakeholders informed the JLR of existing plans, needs, objectives and priorities with respect to these kinds of Complementary Measure initiatives. It is now time to engage in national workshops to broaden the scope of the preliminary discussions, to clarify national priorities, and assess the existing initiatives and the readiness of each state for different types of justice reform measures. The national workshops will be organized and co-ordinated by Project Advisory Committees (PACs) which have been organized in each member state.

This discussion paper is intended to provide a focus for these national workshops. Information obtained in the region during the design phase and international experience with complementary measures has provided the basis for this discussion paper. The paper provides details about five types of complementary measures, outlines service delivery options for them, and discusses some of the factors to be considered in choosing among options. This paper is intended to prompt discussion and reflection within your organization prior to the national workshop.

The national workshops are designed to follow a consensus-building approach: to provide stakeholders with an opportunity to collectively discuss issues related to Complementary Measures, and to examine ways in which these approaches have been and can be implemented in the OECS. Participants will be expected to discuss the various service delivery models available for the elements of Complementary Measures, and identify priorities for pilot projects in their country. The workshops will also provide an opportunity to discuss the selection and state readiness criteria to be used in fairly identifying pilot initiatives. Finally, the workshops will develop an outline of the “next steps” in the Project’s proposed time line for designing and implementing pilot initiatives in the country.

2. LEGAL AID

What is it

"Legal aid" may be defined as the provision of professional legal services at a cost to the client which is less than if the client retained a lawyer privately. Some legal aid services provide legal assistance to clients without any payment by the client, others provide legal assistance for reduced fees paid by the client, while others provide legal assistance where the fees are covered through some form of pre-paid insurance program. The point of "legal aid" is that it allows people who might otherwise be unable to afford necessary legal services on an unassisted basis to obtain professional counsel.

In designing a legal aid program, three questions must be addressed: what kind of legal services are to be provided, how are those legal services going to be delivered, and how is the real cost of those services going to be paid? Experience has shown that the questions are logically examined in that order.

What kind of services

Deciding what kind of legal services will be provided goes to the very heart of the kind of legal aid program that is being designed. There are two elements to this: the breadth of the menu of services, and for whom the services will be provided. Put another way, what group has been identified as lacking necessary legal services? For example, a legal aid program may be designed to serve women and children who have proceedings in the Family Court. Alternatively, the program may focus on providing a full level of services to anyone under the age of 18, services to remanded accused persons charged with indictable offences, or persons facing a potential term of imprisonment of more than 12 months in jail. The program could aim to provide any necessary services to people who qualify according to a financial means assessment.

Experience has taught that it is useful to consider three things in coming to a decision about service menus and target client groups:

- once established, it is rare for a legal aid program to expand its menu of services or to enlarge its client base. Legal aid programs tend to contract over time in response to increasing demands on limited or shrinking resources. Designers should think broadly, because implementers and administrators will narrow things later.

- since the services are being provided to people of limited financial means, the menu of services should reflect the kinds of legal problems faced by the people to be served (e.g., criminal allegations, relationship breakdowns, juvenile matters of all types).

- the kinds of services provided should be professional services to which the client would otherwise not have access - such as the services of a lawyer as a barrister in court, or as a solicitor to draw some necessary legal document.

How is legal aid delivered

Several different delivery models for legal aid programs have been implemented throughout the common law world. These include:

- mandatory *pro bono* programs operated by lawyer associations which require their members to provide a certain number of "free" hours of legal assistance to clients who need it.

- judicare programs where a pre-set fee is paid to any lawyer who is willing to provide service to a qualified client concerning a matter within the menu of services. This type of program gives the identified client group some choice of counsel.

- staff programs that have a staff of lawyers capable of providing service within the menu of services to qualified clients.

- legal advocacy and counselling centres which (sometimes for a nominal fee) use volunteer or staff lawyers to advise, but not to represent, qualified clients.

Each of the choices which exist among delivery models has implications for cost, for a client's choice of a lawyer, and for the amount of legal services which can realistically be provided by the participating professionals. Programs which rely on a pre-set number of hours or a pre-set amount of fees for a particular service can impair the quality of service provided, or discourage participation of legal professionals in the program. A longer than expected period of time to complete a matter competently and with proper care could set up a conflict of interest between the lawyer and the client as to what is financially best for the lawyer, and what is legally best for the client. Pre-set limits on the *type* of service, office counselling rather than court representation for example, may also not adequately address the real needs of the client.

A legal clinic for the qualified client group often has its own staff of lawyers who provide the full range of legal services required to meet client needs. There need be no concern about how long those services will take in order to be handled properly and competently. The legal professionals (paralegals and lawyers) are either salaried or volunteers and are therefore not delivering service based on a client's ability to finance any hourly rate. The only limit on the amount of legal services which can be provided with this type of model is the energy of the professional staff themselves. Unfortunately, demand often uses up even these resources, with the result that delayed service or no service may be available to qualified persons who arrive later looking for service. However, a service which funds private counsel can be bankrupted by demand as well.

For the kind of reasons mentioned, as well as others, some jurisdictions have determined that the best delivery model for legal aid is to create a legal clinic for qualified clients. An example of this model is the Legal Aid and Counselling Clinic in Grenada. The community-based clinic provides services on a sliding fee scale and handles criminal, family and civil matters. In 1999 the Clinic handled 1204 cases. The Clinic receives funding from government, the Grenada Community Development Agency, and other donors.

State-sponsored legal aid in the OECS is available only in capital offences. Although a number of informal legal aid initiatives have been attempted in the OECS, all have proved to be unsustainable. In St. Kitts for instance, a free legal aid service provided by lawyers at a church on Saturday morning was underused and subsequently discontinued. Although Bar Associations support the provision of legal aid services, and a number of their members report doing pro bono work, none has implemented a formal mechanism for providing legal representation.

Who pays

The third critical concern with legal aid program design is this: How are the legal services to be paid for, how much funding is available? Several methods have been employed to fund legal aid programs. These funding methods include:

- annual block funding from government to an agency or board which administers the legal aid program on behalf of the government, or as an adjunct to some other authority such as the Courts (as with "Public Defender" systems of legal aid)

- multi-source funding from individual donors and supportive organizations (including government) to a legal aid provider independent of government

- pre-payments in the nature of insurance premiums for legal services from potential clients.

Pre-paid legal services insurance premiums tend to work best with a client group that is stably employed but at a low wage level - the working poor. For the chronically ill, unemployed or destitute, a pre-paid plan would leave legal assistance as inaccessible as the option of retaining a lawyer at regular private rates. Government funding, once secured, can be more stable and consistent than multi-source fundraising. However, it can lead to government directing that a certain menu of services be provided to a particular client group - which may or may not be consistent with the vision of the plan held by the directors of the legal aid plan, and may compromise the perception of the program's independence. Multi-source funding can afflict an organization with a "grant to grant" aura of impermanence, always on the verge of collapse. This can have a distracting effect on the organization and its staff from the real objective of providing legal aid services.

3. ALTERNATIVE DISPUTE RESOLUTION

What is it

The phrase "alternative dispute resolution" (ADR) refers to a number of different processes that can be used to assist parties resolve their disputes outside the formal workings of the justice system. ADR can be used to resolve many different types of matters, including criminal, family, civil, labour and child welfare disputes. The use of ADR is not intended to replace the judicial process, but instead aims to provide more effective and accessible ways of resolving disputes consistent with the needs of the public and the public interest. Support for the philosophy and the use of ADR exists in the Region - even as an important component of the revised Civil Procedure Rules to be introduced in the High Court in September 2001. The District Court in St. Lucia is also planning the introduction of a “Mediation Court” to deal with family and low-end juvenile matters. However, there are presently no formalized ADR programs existing either in the courts or in the community.

ADR is a rapidly developing group of processes. Although new approaches are continually being tested, the methods of ADR can generally be divided into two broad categories: those that avoid litigation or provide for extra-judicial avenues of redress, and those that provide for the resolution of cases already in the court system.

What kind of services

Although mediation is seen as being synonymous with ADR, the concept of ADR includes an entire menu of different processes, all of which offer an alternative to the traditional adversarial court process. These processes make possible a continuum of options that are better suited to meeting not only the needs of the parties, but also the needs of the justice system itself. Examples include:

- **Arbitration**: A mutually acceptable neutral third party makes a decision on the merits of the case following an informal hearing. The arbitration process can be modified according to a number of variables. For instance, it can be connected to the court or be entirely private, voluntary or compulsory, and binding or non-binding in its results.

- **Conciliation:** Prior to any actual court hearing, a neutral third party assists the parties identify the issues in the case, ensures proper disclosure of information, and assists the parties search for a satisfactory and fair resolution. Conciliation can be used to reduce points of difference before a trial takes place, or, in cases where the parties reach an agreement, avoid trials. This type of process is typically used in family matters to resolve disputes regarding custody and access, child support and maintenance.

- **Mediation**: A neutral third party facilitates a discussion between the parties to help them reach a mutually satisfactory agreement. Mediation can take place

at various points in the court process, and can be used in a variety of different types of cases, including civil, criminal, and family.

- **Restorative Justice**: A process that brings together those affected by a crime to collectively resolve how to deal with the aftermath of the offence and its implications for the future. A number of different processes can be used, including police cautions, victim-offender mediation, family group conferencing, diversion, and sentencing circles. Regardless of the approach used, the goals for all are the same: to hold offenders accountable for their actions, to heal the harm caused by the offence, and to give victims and community members a more active voice in determining how best to resolve a particular case. Restorative processes can be used to divert an offender from the court process altogether, as a sentencing process, or when reintegrating the offender with society after a sentence of incarceration has been served.

Alternative dispute resolution programs can support the reform of the court system since they provide a way to manage caseloads. ADR can also reduce delay in hearing cases, which reduces backlog. Other outputs of establishing an ADR system can be reduction of the cost of resolving disputes, increased access to justice by disadvantaged groups who would feel threatened by more formal legal processes, increased compliance with court judgments based on participation in decision-making, resolution of highly specialized contracts, and ultimately increased public confidence and satisfaction with the justice system.

How is ADR delivered

A variety of service delivery models exist for ADR, and are dependant on a number of factors, including: court structure, nature of the case or dispute, the ADR process used, resources available, existing legislation and policies, and local leadership. The key variable in service delivery tends to be with who delivers the service. Service delivery options include:

- **Court Affiliated ADR**: a court staff person, usually a court counsellor typically trained in either the social services or legal field, delivers services. This model would be convenient for communities where the court sits, but could be problematic for more rural communities without a court facility.

- **Government staffed ADR**: civil servants in related Ministries, such as the Attorney General, Social Services or Probation Services, provide services. This model has the benefit of providing a direct link to the range of services being offered by government.

- **Contracting with the private sector**: Many jurisdictions using this model have a roster of qualified mediators to whom cases are assigned. This model can be less expensive than the two models above because it operates on a fee for service basis, and there are no costs associated with overhead or employee

benefits. A key component of this model is a service contract addressing issues such as code of conduct, quality control, supervision, reporting structures, qualifications, and adherence to policies. Its private nature can render this model less attractive or accessible for some kinds of ADR.

- **Hybrid model**: Court or government staffed services have sometimes been combined with a private sector contract system. This hybrid approach could be particularly effective in meeting client needs in communities without a regular court presence.

- **Community-based organization**: Funding can be allocated to an existing organization (or to create one) that is qualified and able to deliver ADR services. This model is typically used in restorative justice programs, and often relies on the use of volunteers to deliver some of the services required. Because this approach is community-based, it has the benefit of responding directly to the needs identified by the community it serves.

- **Diversion by police and prosecutors**: Some low-end criminal matters may be appropriately diverted from the justice system and dealt with within the discretion of the investigating officer or the prosecutor. This model requires policies and procedures to guide discretion, and to ensure fairness and consistency of decision-making. Here the ADR "method" would simply be one where existing officials exercise their discretion in a controlled and purposeful way to achieve the objective of a more efficient court system.

In developing an ADR program several policy issues may need to be considered. It is necessary to establish: a) whether the service will be mandatory or voluntary; b) whether the parties are able to self refer to the program; c) qualifying requirements to be met before a case gets accepted into the program; d) a screening process identifying violence and power imbalances to ensure safety and fairness; e) training and practice standards for mediators, facilitators, and other ADR providers; and f) a complaint process to ensure program efficacy and client satisfaction.

Who pays

The options for funding run from full state funding, to a private system where costs are borne by the parties, and a hybrid system of part state and part private funding. In considering the issue of funding, it should be kept in mind that the successful provision of ADR may lead to less burden on judicial and material resources. It should also be appreciated that a system of ADR services funded entirely privately would become the preserve of the wealthy. The State does have an interest, both from the point of view of social order as well as in controlling the institutional demands upon its courts, in handling disputes in a way which uses judges and courts to decide the most difficult cases, while endevouring to resolve the cases which really are resolvable in a manner which is more satisfying to the citizens using the system. Government being a funding source would also give the government a more material say in developing and supervising standards for the ADR processes functioning within society.

4. COUNSELLING SERVICES

What are they

Counselling services provide an essential support service to the justice system. Many of the "clients" of the justice system – offenders, victims, and parties to a dispute – are experiencing difficulties requiring some sort of counselling service. In many cases the underlying issues that cause people to become involved with the justice system are not legal in nature. Instead, they relate to issues of poverty, emotional and psychological difficulties, unemployment, addictions, and a lack of life skills. Appropriate services to address these difficulties can enhance the effectiveness and well being of individuals, and ultimately the well-being of their families and the whole social fabric of the community.

The nature and extent of counselling services varies within the Region, but generally the resources available are inadequate to meet the growing need for these kinds of services. The majority of existing services are linked to government agencies, such as Probation Services or Gender Affairs. Services in a wide range of areas are needed to support and enhance justice system functioning, particularly those for women and youth at risk. Improved counselling services will likely require new partnerships between government and community-based organizations or individuals. This will ensure that services are provided by qualified providers and are geographically available to the communities of need.

What kind of services

Counselling services can be divided into two general categories: clinical services and support services.

- Clinical services are those that provide therapeutic counselling services to address very specific issues, such as addictions, emotional or psychological problems, past traumatic events, grief or loss, difficulties with family or marital relationships, and child abuse and domestic violence.

- Support services are those that meet the needs of the community by providing a link between the public and appropriate social services. Support services can provide information, assessment, advocacy, support, referral to other resources, crisis intervention and conflict resolution. For instance clients requiring assistance with education and employment issues, child care, or accessing government programs or legal services do not necessarily need counselling per se, but could benefit from support services. Support services are able to inform clients about what services or resources are available to them in the justice system and the community. In some communities these services may be linked with related services such as an ombudsman, social service ministries, community organizations and church programs.

How is the service delivered

Different skills are required to deliver each of the types of services provided by "counselling". The delivery of clinical services generally requires specialized training, whereas support services can be delivered by those already working in related government ministries, community organizations and church programs, such as social workers, probation officers, teachers, and clergy.

Three basic service delivery models are typically used for counselling services: community-based voluntary organizations, government ministries, and contracts with the private sector. It is not uncommon for jurisdictions to utilize a combination of the models to meet the diverse needs of the clients it serves. This may happen by default or neglect, with no active attention being given to actually funding the provision of counselling services, or deputizing a person or agency to provide these services. That may mean that the quality of the counselling being provided, and the reach of the counselling services being offered, are less than optimal.

In deciding upon an appropriate service delivery model, some issues to consider include:

- Types of clinical and support services currently available
- Types of organizations currently providing the services
- Possible links with existing services
- Needs, interests, expectations of the justice system and community
- Resources available and required – funding, expertise, training

In some states it may be necessary to conduct an inventory of the kinds of counselling services being provided, and by which agencies or organizations. However, it may be more effective and efficient to provide support to enhance any existing or informal counselling methods currently known to be operating in the country. This could be achieved under the JLR by providing additional staff or by providing training for new and existing staff.

Who pays

Who pays for counselling services depends on the delivery method being used. The state pays for services delivered through government departments or agencies. The cost of services delivered through community organizations would be borne by those organizations, with possible supplementary funding from the state or private institutions such as churches. A volunteer or fee for service approach would, of course, reduce delivery costs.

The level and range of services is a function of the resources made available. Services delivered through community organizations, such as churches or NGOs such as the National Children's Home, rely upon charitable giving and external funding sources to support the work that they do. Sometimes, though rarely, government provides supplementary funding - particularly if the counselling is closely related to a core

government responsibility or social value. For example, the government has a very large interest in the health and financial support of children. Organizations working in support of those goals may receive funding to, in effect, act on behalf of the government in delivering counselling services. In such situations, government is really funding the organizations because of their community organization and their counselling skill.

5. SENTENCING ALTERNATIVES

What purpose does sentencing serve

Common law jurisdictions approach the issue of penalty or sentencing as the most important result of the whole criminal justice structure. Criminal behaviour harms victims and harms society as a whole. There is little that the justice system can do to *undo* these harms after the criminal offences have been committed. A sentence can be the system's only real tool for responding to criminal behaviour. Sentences are therefore expected to address the criminal behaviour of offenders in ways which attempt to a) repair the harm caused to individual victims or to the larger community, b) punish, denounce and stigmatize the criminal behaviour of the offender, and c) protect the community from repetition of crimes by the offender or others in the future. Sometimes all three sentencing objectives can be achieved. At other times, no method of response would seem an adequate response to particularly serious crimes. Too often, the only response has been to segregate and incarcerate the offender for a certain period of time.

A society's response to criminal behaviour should certainly focus first on its future safety - the protection of citizens and social institutions from harm (whether these institutions are made of tangible materials, like political and economic institutions, or of values, like the family unit). This means that the uncontrollably dangerous must be segregated from society, normally in a prison setting.

The Problem

Serious concerns have been raised in the OECS regarding prison conditions, inadequate custodial facilities for woman and juveniles, and limited rehabilitation services. In most states, for example, juveniles would be required to serve custodial sentences in adult institutions. The lack of custodial placement options makes probation and community service work appealing sentencing options. Sentencing alternatives such as these are permissible under law in most jurisdictions, but require additional resources to be effective - to ensure that the sentences are properly supervised.

For those criminals whose bad behaviour is manageable, or whose criminal behaviour was a departure from otherwise good character, sentencing can look beyond simple incarceration. The challenge in such situations is to devise sentencing processes that can still repair harm, can still punish and denounce, and still discourage repetition of offences in the future.

A lack of formal sentencing policies and inadequate information sharing among judges and magistrates has also contributed to inconsistent sentencing practices, and a failure to try sentencing alternatives that do not involve jail.

What other options exist

There is some limited experience in the OECS with probation and community service work. However, the experience of these sentencing tools has been uneven in that their use is inconsistent, and their effectiveness has been blunted by inadequate supervision. Supervision and control must indeed be cardinal values of a sentencing system that aims for the protection of society without incarcerating all of its offenders.

Alternatives which have been employed in the common law world as well as western aboriginal cultures include probation, fines, community service work, suspended sentences and bonds, discharges, reprimands, cautions, house arrest, electronic monitoring, time and place movement restrictions, personal contact restrictions, restitution, counselling, education and treatment orders. In name these may be familiar. Their strategic use, alone or in combination with others, all while subject to aggressive supervision and control, can change their character entirely. Some mechanisms are better suited to some types of crime and some types of offenders than others.

Punishment and denunciation involves the expression by the Court, through a sentence, of society's disapproval for the offender's behaviour. Punishment has historically focused on a court - imposed loss of liberty or assets (imprisonment and fines). There are significant losses of liberty that may be imposed without physically incarcerating the person. For example, a sexual offender who has employment may be confined to his own home for all but the time that he is working. Alternatively he may be freed on probation to take sex offender treatment and relapse prevention programming in conjunction with either home confinement or a prohibition on being in the company of the victim or persons like the victim (such as females under the age of 15, for example). One advantage of close-knit island communities is that the community can be aware of the liberty restrictions on an offender and the reasons for the liberty restrictions, which serves to create shame and embarrassment in the offender. This shame and embarrassment tends to discourage re-offending.

Discouraging the repetition of offences can be pursued in two other ways: by rehabilitating the convicted person, and restoring his relationship with his community. A convicted person may have committed his crime because of a medical or drug problem, or because of an attitudinal difficulty arising from gaps in education or moral values. If these kinds of difficulties can be corrected or repaired, the chance of a repetition of criminal behaviour by that person is reduced. If the offender can be brought to an acceptance that his behaviour has damaged the community in some way, he may be prepared to pay for the damage, to give something back. This can be done through assignment to unpaid work on community projects that might otherwise not be affordable, such as the building of community sports fields, or the refurbishing of property to be used for community continuing education projects.

Sentencing mechanisms should be used for a purpose, not simply because they are the only tools available. For example, in terms of repairing harm, there are some offences such as property damage or physical injury that may be adequately dealt with by sentences of monetary restitution and apology. The same case with an offender who is unable to make a meaningful apology may require an order of monetary restitution together with a defined program of anger management counselling or drug treatment. If the offender does not have reasonable prospects to afford the making of restitution, it may be appropriate to have the offender engage in a supervised process to identify some other form of recompense to the injured party.

The Tools

In considering the types of sentencing mechanisms which may be useful for different types of offenders (male, female; adult, youth; urban, rural; skilled, unskilled) and different types of crime, it is important to have an understanding of what specific mechanisms will likely involve:

- **Probation**: a period of time during which the offender is required to be supervised intermittently in the community and to comply with certain behaviour conditions.

- **Suspended sentence**: similar to probation, the Court puts the offender under a period of supervision. If there is further criminal difficulty or a breach of any special condition of the suspended sentence, the Court may re-sentence the offender to some more severe penalty.

- **Bonds**: A Bond is a pledge to the Court by an offender to avoid trouble and comply with other behaviour conditions for a specific period of time. Unlike the suspended sentence, the penalty is set out in the terms of the bond - an amount of money or a period of time in jail.

- **Discharges**: A discharge generally reflects the fact that a person has been guilty of criminal behaviour, but probably did so by mistake or as a result of immaturity or momentary lapse of judgment, and the likelihood of any repetition of criminal behaviour is extremely low.

- **Reprimands**: Similar to a discharge, a reprimand is a sterner rebuke to an offender where the Court feels that there may be a greater risk of criminal behaviour being repeated, but the offender still deserves "a break" for the offence being dealt with by the Court.

- **Cautions**: A caution is appropriate where the guilt of an accused has not been tested in Court, but the investigated facts are sufficient to justify strong suspicion of guilt. There may also be scope for the use of a caution by the Court where an accused has not been proven guilty beyond a reasonable doubt

but the Court feels that the accused was dangerously near to criminal behaviour.

- **Fines**: Fines are monetary payments that the Court orders be paid for the benefit of the government treasury, rather than a particular victim. Fines may be payable in cash, or where a program has been designed for it, payable in community service work done by the offender.

- **Restitution/Compensation**: Restitution involves monetary payments by the offender through the Court office for the benefit of the victim for the purpose of reimbursing the victim for some calculable loss resulting from the offence.

- **Community Service Work**: Community service work requires the offender to provide volunteer labour at worksites approved by the probation officer. The type of worksites contemplated would be those that involve support of some valuable community endeavour - such as the clearing of a new sports field, the repair of a community centre or public garden, the upkeep of the grounds of a voluntary or religious organization. Probation officers should develop a community benefit strategy in the selection of appropriate projects in specific communities.

- **House arrest**: This is home incarceration, where the offender is required to feed and house himself, but is not allowed to move freely in the community except in accordance with specific conditions.

- **Counselling/Education/Treatment Orders**: Counselling services are generally directed toward assisting an offender deal with the underlying reasons for becoming involved in criminal activity. Drug addicts thus need drug abuse counselling services. Victims of sexual abuse can require coping and recovery skills to teach them how to function appropriately in general society. The unemployed may require education or job search and skill identification counselling. In short, counselling services are a potentially wide area of potential intervention for the Courts and probation officers to direct offenders away from a cycle of criminal misbehaviour. At one end, counselling services will address psychological and life skills issues. At the other end of the continuum, mental health interventions may be required to address an offender's disposing characteristics to criminal activity.

6. PUBLIC LEGAL EDUCATION

What is it

Accessible, easy to understand information about the law is fundamental to an equitable and accessible justice system. Providing information about the law and the justice system is key to enabling people to become good citizens and to participate equally in a democratic society. The public has a right and a responsibility to be informed about the justice system generally, and more specifically about their personal rights and obligations under the law. Public legal education empowers citizens and thus has the potential to lead or contribute to social and community development. The scope and formality of public legal education in the OECS has been restricted in the past by limited resources. A number of states have developed and implemented specialized programs addressing certain issues such as domestic violence, but for the most part attempts at public education have been conducted in an ad hoc, non-continuous way.

How is PLE delivered

A variety of approaches can be used to deliver public legal education, but three general models are common:

- **Discrete educational campaigns aimed at specific issue(s)**

  In this model public legal education is organized according to subject matter, and delivered on an as needed basis by the community organization or government Ministry best suited to do so, based on the nature of the subject matter and the needs of the community. The issue might relate to some new legislation or a new service being provided in the justice system. Alternatively, the initiative could address a long-standing issue requiring more comprehensive education, such as domestic violence or constitutional rights. Such a campaign could be organized and delivered by an existing government Ministry or community organization. In some circumstances, a new organization could be formed for the specific purpose of delivering a particular education program.

  This approach has the benefit of responding directly to immediate needs. It is a relatively cost efficient approach in that it does not require special or ongoing funding for staff or the maintenance of an organizational structure. It has been commonly used in the OECS, particularly to provide education on the issue of domestic violence.

- **Service delivery by an organization designed specifically to deliver public legal education as their main activity:**

  Another delivery model requires a designated organization to be responsible for delivering a variety of public legal education programs on a wide range of justice topics identified by the needs, interests and expectations of the justice system and

community. The designated organization has an institutional structure that continues over time and beyond the duration of any particular education initiative. Ongoing educational resources such as public legal education libraries or lawyer referral services (providing clients with the names of lawyers who practice in a particular area of law in their community) would be suitably performed by this kind of organization.

This approach benefits from providing ongoing public legal education in a consistent, comprehensive manner. It would require committed resources to fund staffing requirements and the organizational structure.

- **Service delivery by a member of a public legal education network**

A public legal education network is usually a voluntary group comprised of key stakeholders from the justice system, government and community. The network is organized by an administrative body, sometimes voluntary, responsible for promoting the use of public legal education in the community. The administrative body can also facilitate communication among network members and coordinate the volunteer activities of members providing the legal educational services to the public. Individual members of the network would provide education on specific issues related to their area of expertise. The administrative body provides opportunities for joint planning and collaboration, as well as the sharing of resources and ideas. The administrative body may also take on responsibility for ongoing initiatives including the development and revision of educational materials, and providing a lawyer referral service.

This model has the benefit of involving a wide cross section of expertise, knowledge and skill to draw upon in addressing the evolving educational needs of the community and the justice system, at relatively low cost. This collaborative approach creates a shared ownership of educating the public, and has the benefit of enhancing existing and creating new partnerships in elevating the profile of public legal education within the justice system and community. This broad base of support would also be beneficial in sustaining the service of public legal education over the long-term. The administrative body may exist with the need for only a small office and 1 or 2 staff support persons.

When deciding on a particular model for service delivery, a number of factors must be considered:

- Resources available (both financial and human)
- The educational needs, interests and expectations of the justice system and the community
- Existing structures in the community or government to deliver the service
- What types of education have already been delivered
- Possible collaborations with related projects or work already underway
- Interest on the part of stakeholders to take a more collaborative approach to educating the public

The actual educational services provided depend on a variety of factors. These factors would include the service delivery model and the subject matter for public education. The form in which initiatives would be advanced may include one or more of the following: written materials in various forms ((booklets, pamphlets, fact sheets, publications, newsletters), videos, community presentations, radio and television coverage, theatre performances, public reference library, legal information line, lawyer referral service, rallies, visits to schools and other community venues, development of educational curricula for use in the schools, and other means appropriate to the community.

Who pays

PLE is usually considered a public service aimed at improving the understanding of and access to the justice system. Costs are usually borne by the state, or by private institutions with an interest in promoting and enhancing the legal sophistication of the public. These private funding sources include organizations such as Bar Associations, educational foundations, or self-funding organizations committed to the delivery of legal education.