



**BAR HUMAN RIGHTS
COMMITTEE
OF ENGLAND AND WALES**

REPORT OF THE JAMAICAN DEATH-ROW PRO BONO PROJECT

2003-2004

Introduction

1. The Jamaican Death Row Pro Bono Project was awarded £34,500 by the Foreign and Commonwealth Office.
2. This report has been delayed due to the professional commitments of the original nominated author.
3. The duration of the Project was originally stated as 6-7 months but, as will be detailed below, is now an established on-going programme.
4. The proposed outcomes of this Project were “to enhance the quality of representation in death row cases and help to secure fair trial rights for defendants, to enhance the quality of advocacy ad culture of human rights through training, and to enhance the quality of case preparation through enhanced access to IT and publication of textbook.”
5. The proposed outcomes have been achieved substantially. A formal breakdown of the allocation of the funding is annexed to this report (Annex A).

Background

6. Jamaica has one of the highest murder rates in the world. The current annual murder rate is approximately 37 per 100,000 people, in a society threatened by increasing gang warfare. The death penalty is the mandatory punishment on a conviction for capital murder or on a second conviction for non-capital murder. Although not carried for over 20 years, the death penalty is retained amidst high public support.

7. Despite gaining independence in 1963, the criminal justice system in Jamaica is similar in many ways to England. The professions of barristers and solicitors are, however, fused and one attorney will usually have conduct of the entire case from charge to trial. The majority of those charged with murder in Jamaica is poor and has no option to pay for legal representation themselves. While there is some provision for payment under the legal aid scheme, the reality is that the scheme is under-funded and the attorneys overworked.

8. The final appellate court for Jamaica is the Judicial Committee of the Privy Council. Many of the referred cases from the Caribbean concern those convicted in circumstances where there has been an abuse of a fair criminal justice system. Much to the fears of many of the local legal community, the current government has withdrawn from the Privy Council and a newly established Caribbean Court of Justice will be used in substitution in the near future.

Project History

9. Established in 1999, the Bar Caribbean Pro Bono Committee (BCPBC) is a sub-committee of the Bar Human Rights Committee (BHRC). It

was established by a small group of English barristers aware of the difficulties faced by local attorneys in representing defendants charged with capital murder and alert to concerns over the establishing of the Caribbean Court of Justice. The BCPBC knew that the expertise of the Bar of England and Wales could be harnessed and put to use at an earlier stage, rather than assisting in the untangling and presentation of cases during the appeal process. In light of Jamaica's withdrawal from the Privy Council providing support at an earlier stage in the criminal justice system has assumed even greater importance as a way to help protect human rights and enhance the rule of law. The mission statement reads:

“The Bar Caribbean Pro Bono Committee aims to assist local attorneys in defending capital murder trials by providing experienced barristers to help in the preparation of cases and to assist in court when required, to secure a fair trial for defendants. The Committee aims to contribute to advocacy training and the general development of human rights.”

10. The BCPBC first sent volunteer barristers to Jamaica in the summer of 1999. Necessarily, the funding came from the volunteers themselves or from their Chambers who had agreed to sponsor this valuable work.

11. It is important to record that the funding could only cover costs such as flights and subsistence while in Jamaica. The individuals were all aware of this and volunteered to take a minimum of two months out of practice to assist local attorneys. In reality, two months represents approximately one-third of an individual's working year and by agreeing to undertake

unpaid work for that period each individual gave up approximately one-third of their annual income.

12. Awareness of the project grew and by 2003 it became apparent that outside funding was needed to provide continuous assistance to local attorneys and to increase the BCPBC's role in advancing the quality of representation and advocacy in these cases.

Internships

13. In order to select the volunteers to receive the funding awarded by the Foreign and Commonwealth Office, the BCPBC placed advertisements at all major court centres and in a number of legal journals. There were over 100 applications and the BCPBC invited 24 people to be interviewed in June and July 2003. The interview was a formal process with selection criteria defined in advance. The BCPBC did not seek references in advance of the interviews and employed appropriate procedures to ensure that the application process was fair and transparent at all times.

14. The four volunteers chosen to receive the funding were all members of the Bar of England and Wales, although one was not practising as a self-employed barrister at the time.

15. The BCPBC has had a relationship with the Independent Jamaica Council for Human Rights since 1999. An office within their building

in Kingston has now become the site of the BCPBC's local office. The first two volunteers had to spend time publicising the Project and offering their services to local attorneys as well as establishing all the requirements of a working office. Inevitably this took time and was the cause of some frustration for the volunteers. By January 2004, the third volunteer was able to work from an established office and by April 2004 the main issue facing the volunteer was a question of prioritising all the work.

16. Once local attorneys were aware of the scope of work that the volunteers could undertake on their behalf, they have been kept busy and in demand. The work has varied from administrative and organisational work, to preparing legal arguments and assisting during trials. Volunteers have visited St. Catherine's prison (housed in a former slave market) to take detailed instructions from defendants. This is often the first time a defendant has had a visit from a lawyer and without the assistance of the volunteer would not be in a position to give instructions about his case until the trial was under way. The volunteers have also been instrumental in tracing and taking statements from witnesses, many of whom would not have come forward without their assistance.

17. The most valuable and valued area of the volunteers' work has to be in the preparation of legal arguments and legal research. With the BCPBC housed in an established office, the local attorneys are able to take advantage of increased IT and research tools. Volunteers are often able to anticipate points of law that over-worked and under-resourced local attorneys might miss. It has also been said that the presence of the volunteer in court may also influence clarity of judicial thinking.

18. The volunteers have been housed locally in accommodation recommended by the BCPBC. Despite working long hours, most have been able to socialise locally and particularly with the Jamaican Bar Association.
19. Each volunteer spent two months working in Jamaica. Each has reported back that because of the different culture and approach towards work, the placements should be for a longer period. This would cause difficulties for some volunteers who have taken time out from practice and from earning an income but is a suggestion the BCPBC has taken on board for the future.
20. Funding:
4 x £5,400 (flights, accommodation and subsistence)

Advocacy Training

21. A panel of highly respected advocacy trainers ran a programme in Jamaica between 6th and 13th December 2003. A copy of the timetable has been annexed to this report (Annex B).
22. The advocacy-training programme was arranged to coincide with National Human Rights Day in Jamaica. This saw Anthony Leonard QC appearing on local television and radio to talk about human rights which enabled a much wider audience to be targeted.

23. The advocacy-training programme was held at the Norman Manley Law School in Kingston with 32 local attorneys attending. Advertising for the programme took place locally and the programme was oversubscribed. Numbers had to be limited as the training can only be done in small groups. One of the elements of the training programmes was entitled, "Training the Trainers". This should enable those trained on this programme to then train junior attorneys in the same advocacy methods.

24. The programme was well received and there were many requests for a follow up course as well as a further course for those who could not be accommodated in December.

25. Funding:
 - 4 x £1400 (flights, accommodation)
 - £500 (venue hire)

Textbook

23. £2000 of the funding awarded had been allocated to the establishment of a joint venture with the Jamaica Bar Association to improve ready access to practice and procedure guidance by publishing a practitioner textbook to mirror the leading textbook in England.

24. As alluded to above, the pace of work in Jamaica is slower than here. This part of the project is underway but not yet completed. We have been able to donate a number of practitioner textbooks (which each

usually retail at £250) and are in negotiations with the Jamaican Bar to identify what would be the most useful publication.

25. An editor and contributing authors have been identified. Publishing costs have been negotiated with a local publisher. However, the Jamaican Law Reports have been updated recently to 2000. It is felt locally that these need to be fully up to date before this project can properly go ahead.

Administrative costs

26. Under the application for funding, the BCPBC requested £1500 for administrative costs. The administrator appointed to assist has worked on this project in excess of the anticipated hours each week.

Provision of computer, e-mail/telephone and fax

27. As mentioned above, the BCPBC has established an office within the Independent Jamaica Council for Human Rights building in Kingston. A computer, telephone land and mobile lines and basic office supplies have been made available to the volunteers. The provision of all these did exceed the allocated £2500.

Conclusion

28. Since the funding from the Foreign and Commonwealth Office ended in early 2004 the Project has continued by relying on funding again from

individuals or their Chambers. There has now been continual presence of volunteers since September 2003 and volunteers are in place until early 2006. The BCPBC is actively seeking long term funding to continue to provide this valuable resource.

29. The BCPBC has received enthusiastic reception in Jamaica (Annex D) and is preparing to extend the Project to Trinidad. This is the next obvious state in need of what we have proved we are able to provide. We have begun the consultation process with local contacts to locate office space and begin building up relationships with local attorneys.