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## **Programming Opportunities in the Justice and Security Sectors in the Caribbean**

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## Executive Summary

The Commonwealth countries in the Caribbean have identified security issues as a major concern and as an impediment to their social and economic development. Efficient justice and security sectors are required to provide a sustainable, enabling environment for equitable social and economic development. Furthermore, globalization and, more specifically, the emergence and expansion of transnational organized crime and the spectre of international terrorism, have presented these countries with new security challenges.

The Canadian International Development Agency's long-term goals include helping countries of the region achieve increased citizen security by building capacity in the justice and security sectors (JSS). The present review was commissioned by CIDA so that the Agency may better understand the security challenges faced by Caribbean countries and to assist in the identification of significant opportunities to contribute to their development by offering development assistance in support of justice and security sectors (JSS) reforms and capacity development, if and when funding levels permit. This report presents the findings of a review of the JSS in Jamaica, Guyana, and six member countries of the Organization of Eastern Caribbean States (OECS): Antigua and Barbuda, the Commonwealth of Dominica, Grenada, St. Kitts and Nevis, St. Lucia, and St. Vincent and the Grenadines.

The review is based on an analysis of existing projects and relevant policy, research and planning documents, as well as interviews in the Caribbean with senior JSS officials, representatives of civil society and NGOs, representatives of relevant regional and international organizations, interviews with Canadian officials and other professionals from both the development assistance and JSS communities, and discussions with representatives of donor agencies involved in JSS reforms in the Caribbean. It identifies programming opportunities for the Agency as a component of potential short, medium and long-term investment strategies, at both the national and regional levels, and whenever advisable, in cooperation with other donor agencies.

More specifically, the review provides:

- the elements of a policy framework to guide development assistance programming in the JSS;
- an analysis of the justice and security issues identified by countries of the region as impeding or threatening their social and economic development;
- a summary of national and regional priorities for action in the JSS;
- an examination of recent and current local, national or regional programs in the JSS and of some of the lessons learned through these initiatives;

- ❑ a summary of basic principles that should be considered in developing programs in this specialized and complex area of development cooperation; and,
- ❑ a review of the “readiness” of each one of the eight countries to engage in successful JSS reform activities and a list of twelve areas in which CIDA could productively focus its future efforts in relation to JSS reforms and development assistance.

Countries of the region have become more aware that significant reforms in the JSS are an essential prerequisite to their future development and that JSS reforms are required in order for countries in the region to participate in the international cooperation regime that is rapidly evolving and is predicated on their ability to meet their new obligations under international cooperation treaties.

The success of JSS reforms depends, in large measure, on whether there is a political and organizational commitment to action, the substantive involvement of communities and NGOs, and some level of effective national mobilization. In many cases, reasonable national or regional agendas for change and capacity building have already been developed. In fact, priorities for action are frequently identified and reiterated; however, the political commitment and the human and financial resources to address them are often absent. There are frequent complaints that external assistance is too often offered in a piecemeal manner and for reform projects that are insufficiently integrated with the activities of other JSS elements.

Improving the governance of the JSS is important for achieving CIDA's strategic objectives in relation to improving governance in general. Related programming should be at the heart of CIDA's future investments in the JSS. Programming must stress the importance of accountability and transparency, as well as effectiveness, in the whole of the sector. It must not fall victim to the traditional dynamics of development assistance and to the frequent tendency of JSS agencies to wrap themselves in secrecy and exclude the active participation of civil society. A focus on JSS reforms, as long as it is understood as part of promoting human security and social and economic development, does not exclude a focus on human rights and democracy. On the contrary, from the point of view of effective development assistance, it requires that careful attention be paid to human rights and the facilitation of democratic choices; it requires approaches that are people-centered, locally owned, community-based, and the participation of civil society.

The present review has identified innumerable opportunities for programming and cooperation in the JSS. However, opportunities for **successful** programming in the JSS may be much more difficult to identify. As experience has demonstrated, the success of JSS programming initiatives cannot be taken for granted, no matter how critical the need for a particular reform. The success of CIDA's future JSS initiatives in the Caribbean requires that the entry points for programming be carefully identified and that attention be given to ensure that assistance activities are coordinated with those of other donors.

Identifying suitable points of entry for development assistance in support of JSS reforms is a major challenge. Entry conditions are not always ideal, as the local consensus for reform may be weak and the political commitment shallow and shifting. Institutional entry points include activities to support capacity building (both normative and technical) in the legislative, law enforcement, judicial, correctional, and oversight



systems. CIDA is currently involved in this type of assistance and can appreciate how the many components of the JSS are functioning interdependently and how **reform initiatives that do not adopt an integrated, multi-sectoral approach usually produce few sustainable results.**

Human capacity development projects, often based on training initiatives, can also offer an entry point; however, such initiatives are likely to fail unless they are part of a broader institutional reform and development process. Support for civil society involvement in the JSS potentially offers another important point of entry as long as this involvement is accompanied by an amenability of key individuals in the system to engage with civil society. **It must also be accompanied by other measures to increase the transparency and accountability of public agencies involved in the initiative.**

Many core activities relevant to the strengthening of the JSS are already part of CIDA's regular programming activities, including legal and judicial reform, civil service and administrative reform, some anti-corruption activities, public expenditure management and accountability, civil society building, and human rights protection. Many of these activities can serve as entry points for strengthening JSS governance.

Given that Canada, through a number of agencies and the many multi-lateral mechanisms that it supports, will also be offering other forms of JSS assistance to Caribbean countries (e.g. in relation to counter-terrorism measures, drug interdiction, law enforcement, border control, treaty implementation, etc.), **CIDA should consider developing its own statement of priorities for development assistance in the JSS in the Caribbean.** Based on the materials gathered during the present review, the project team recommends the following:

- The development of a small set of clear focal points for CIDA's JSS activities in the Caribbean. CIDA would thus concentrate on a few areas that are likely to have an optimum impact on the JSS capacity to eventually contribute and support the development of these countries.
- The development of a small number of focal points should adopt the "long view", keeping in mind that other forms of assistance and cooperation are usually better suited to address some short-term security challenges.
- The development of the specific methodologies, instruments, and partnerships that are dictated by a focus on these selected areas of cooperation.
- The recruitment and development of a small pool (or network) of expertise from both the governmental and non-governmental sectors to be involved in the long-term on the design and refinement of JSS programs in these focal areas and their evaluation.

The Agency's primary focus on a small number of strong programming areas would provide many advantages:

- (1) It would help CIDA achieve an optimum impact for the limited resources that it can currently devote to JSS reform;
- (2) It would facilitate the necessary dialogue between CIDA and its partners in developing countries, by offering them a clear picture of the programs in

which CIDA is prepared to get involved, the results that are expected, the local commitment that would be required, the mechanisms that would be used, and the conditions that must be satisfied in order for the assistance to be effective;

- (3) It would facilitate coordination between CIDA and other Canadian agencies involved in international cooperation in the JSS, encourage program synergies, and help prevent unnecessary duplication; and,
- (4) It would facilitate the coordination of activities between CIDA and other donors and thus contribute to CIDA's harmonization agenda.

On the basis of the review, the following twelve crucial areas of programming are suggested from which CIDA should choose a few on which it will concentrate its development assistance efforts in relation to the JSS in the Commonwealth Caribbean countries:

1. strengthening the democratic governance of security sector agencies and assisting with the implementation of mechanisms to ensure that they are held publicly accountable;
2. promoting the involvement of civil society and developing its advocacy role;
3. assisting the introduction of new community-based models of policing;
4. supporting judicial reforms;
5. assisting with the development and implementation of effective youth crime prevention strategies and programs;
6. supporting youth justice system reforms that are consistent with human rights, international standards, and international treaties and conventions;
7. supporting gender-based violence prevention initiatives, possibly with a focus on preventing various transnational forms of exploitation of women and children;
8. promoting access to justice – in particular through the development of legal aid programs;
9. supporting correctional reform, particularly with respect to governance issues, compliance with international human rights standards, rehabilitation and social reintegration programs for offenders, the implementation of community-based sentencing alternatives, and the situation of incarcerated women and children;
10. facilitating the development of a regulatory framework for and the professionalization of the private security industry;
11. developing locally-relevant methodologies for monitoring the progress and evaluating the impact of JSS reforms; and,
12. sponsoring a regional study of the impact of criminal deportees on the JSS and citizen safety and security.

# 1

## Introduction

The Canadian International Development Agency has acknowledged that the nexus between security and development is a critical global issue<sup>1</sup>. Similar to other members of the Development Assistance Committee (DAC) of the OECD, it recognizes that development and security are inextricably linked<sup>2</sup>. Efficient national justice and security sectors are required to provide an enabling environment for equitable and sustainable social, economic, and political development. To enhance their contribution to development, these sectors must be people-centered, premised on democratic norms and human rights principles, be subject to the rule of law, and have local “ownership.”

Commonwealth Caribbean countries have all identified security issues as both a public concern and an impediment to their social and economic development. Many of the issues and priorities in the justice and security sectors in the Caribbean are similar to those of other regions<sup>3</sup>. There are also several commonalities in the nature of the security issues faced by countries of the region, but the specific challenges that these issues present often vary considerably from one country to another.

Over the years, the inability of public security institutions to address basic security issues in a fair, effective, credible, and transparent manner has been documented and deplored. There is a widespread perception, particularly among the residents of these island nations, that the justice and security sectors are unable to effectively address issues related to youth crime, violent crime, drugs and arms trafficking, and violence against women. This, in turn, has undermined the credibility of public institutions, including the police and the justice systems, and officials are frequently suspected and accused of corruption and abuse of power. This dynamic has seriously hindered development and social stability in Caribbean societies.

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<sup>1</sup> CIDA (2004). *Sustainable Development Strategy: 2004-2006*, p. 24.

<sup>2</sup> OECD (2004). *Security System Reform and Governance: Policy and Good Practice*, p.1.

<sup>3</sup> Greene (2003). *Security Reform in Latin America and the Caribbean*.

It is important to note that countries of the region have never possessed a strong justice and public safety sector capacity. The challenges associated with developing that capacity are considerable and the success of comprehensive reforms to address these challenges is often quite precarious.<sup>4</sup> In recent years, globalization has contributed an additional dimension to these challenges. While globalization holds some enticing promises for Caribbean countries, it also raises the prospect of debilitating social and economic consequences if governments and communities in the region do not adapt to the new reality.

Globalization and, more specifically, the emergence and expansion of transnational organized crime and the spectre of international terrorism, has presented the Commonwealth Caribbean countries with new security challenges. **There are serious questions as to whether the justice and security sectors in these island nations have the capacity to respond to such threats.** This, in turn, raises broader questions about the nature and extent of the international and regional assistance, coordination, and cooperation that may be available to confront these threats.

This report presents the main findings and conclusions of a review of the justice and security sectors in Jamaica, Guyana, and member countries of the Organization of Eastern Caribbean States (OECS), in particular Antigua and Barbuda, the Commonwealth of Dominica, Grenada, Saint Kitts and Nevis, Saint Lucia, and Saint Vincent and the Grenadines. The review was undertaken to inform CIDA's long-term goal of providing assistance to Commonwealth Countries in the Caribbean to increase citizen security and to build an enabling environment for development. The review is intended to assist the Agency to strengthen its programming with respect to these sectors by identifying challenges and recommending approaches in what is a relatively new development assistance programming area.

The project team conducted a review of the development assistance in the justice and security sectors that has been offered to the island nations in recent years and attempted to identify "good practices" as well as to discern the "lessons learned." The study also attempted to identify, assess and rank the priority needs of these sectors through consultation with officials from countries of the region. The intent was to provide information that could be used in developing a framework for the identification and development of effective development initiatives in these sectors in the region.

The review, based on existing documents and consultations with key officials and other stakeholders, identifies **significant programming opportunities** that correspond with the country policy and programming frameworks developed by CIDA for Jamaica, Guyana, and the OECS. It also identifies areas in which Canada has considerable transferable expertise and where development

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<sup>4</sup> CGCED (2000). *Toward a Caribbean Vision 2020: A Regional Perspective on Development Challenges, Opportunities and Strategies for the Next Two Decades.*

assistance investment by CIDA could have a significant impact in promoting public security and development in countries of the region.

In view of the complexity of this programming area, one component of the review is the identification of the most promising programming approaches and entry points, given the current state of these sectors, the security challenges that exist, and the circumstances that prevail in each of the jurisdictions.

Prior to this study, the Conference of Heads of Government of the Caribbean Community (CARICOM) had established a Regional Task Force on Crime and Security that produced an analysis and a set of recommendations that were endorsed by the political leaders in the region and by a majority of CARICOM senior officials involved in the justice and security sectors<sup>5</sup>. The agenda for action developed by the Task Force and accepted by Heads of States is taken in the present report as **the predominant expression of the overall priorities of countries of the region** with respect to these sectors.

The recommendations contained in this report take into consideration the Agency's policy on strengthening aid effectiveness<sup>6</sup> as well as the Government of Canada Policy for CIDA on Human Rights, Democratization and Good Governance<sup>7</sup>. CIDA's efforts to ensure that aid is aligned with the plans and priorities of developing countries<sup>8</sup> are encountering renewed concerns with security in these jurisdictions. In recent years, security concerns have moved to the forefront in most countries and, particularly in developing countries where there is often a limited capacity to provide security to their citizens and where future development may be directly compromised by various security threats. The Commonwealth countries in the Caribbean have, and continue, to experience these security concerns and, due to their geographical location, are being directly affected by international concerns with terrorism, drug trafficking, and other justice and security issues.

Programming designed to reform and to build capacity in the security sector is a relatively new area of activity for development agencies. CIDA has not yet developed a policy framework within which support for, and involvement in, security reform activities can be facilitated. In developing a framework for development assistance activities, the Agency can be guided by a policy statement and paper entitled *Security System Reform (SSR) and Governance*

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<sup>5</sup> Caribbean Community (2002). *Report of the CARICOM Regional Task Force on Crime and Security*.

<sup>6</sup> CIDA (2002). *Canada Making a Difference in the World - A Policy Statement on Strengthening Aid Effectiveness*.

<sup>7</sup> CIDA (1996). *Government of Canada Policy for CIDA on Human Rights, Democratization and Good Governance*.

<sup>8</sup> CIDA (2004). *Sustainable Development Strategy: 2004-2006*, p. 24.

*and Good Governance – Policy and Good Practice*<sup>9</sup> endorsed in April 2004 by a DAC (OECD) Ministerial meeting.<sup>10</sup>

### **Objectives of the Review**

The present review was initiated by CIDA in order to identify significant opportunities to offer development assistance with respect to aspects of the justice and security sectors identified as priorities by countries of the region and with respect to which Canada may have some transferable expertise. To this end, the review:

- analyzed the justice and security issues identified by countries of the region as impeding or threatening their social and economic development;
- summarized the priorities for action identified by each country and by the region as a whole;
- reviewed recent and existing local, national or regional programs in these sectors and identified several of the lessons learned from these initiatives; and,
- identified programming opportunities for the Agency as part of potential short, medium and long-term investment strategies, at both the national and regional levels, and whenever advisable, in cooperation with other donor agencies.

More specifically, the review provides the basis for the development of a regionally relevant framework for program activities to respond to security issues that hinder the social, human and economic development of countries of the region. This includes the identification of activities in the countries of the region to increase public security and create conditions more conducive to social and economic development. It was assumed that these activities should:

- (1) be consistent with the general principles guiding Official Development Assistance and CIDA's goals and objectives for sustainable development;
- (2) reflect the public security and justice priorities previously identified in the countries in question and/or the region;
- (2) be aligned with the plans of the countries and secure a broad-based consensus within the sectors and within the country;
- (3) consider the lessons previously learned in implementing reform and capacity development initiatives in the justice and security sectors in the region;

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<sup>9</sup> OECD (2004). *Security System Reform and Governance: Policy and Good Practice*.

<sup>10</sup> See also: OECD (2004). *Policy Brief - Security System Reform and Governance: Policy and Good Practice*.

- (4) complement the activities of other development assistance organizations active in the region;
- (5) build on the strong contribution of local partners;
- (6) contribute to the realization of CIDA's gender equality promotion and youth protection objectives;
- (7) build on CIDA's experience and past experience of success in the field of technical assistance and training;
- (8) make use of the unique expertise that Canadians can bring to the resolution of public security issues and, in particular, those of federal government's justice and public security departments and agencies;
- (9) be undertaken, whenever advisable, in cooperation with other donors; and,
- (10) optimize CIDA's return on its investment.

## **Method**

Information for this review was gathered from a variety of sources, including documentation on existing projects, interviews with key participants in the justice and security sectors in each of the countries examined for the study, representatives of civil society organizations, and other NGOs, and representatives of relevant regional and international organizations. Discussions were also held with representatives of other donor agencies involved in these sectors in the region. In addition, the relevant literature was reviewed as well as the planning documents, policies, and statistical data provided by senior officials in each country.

More specifically, the review involved:

- Mapping out the activities that are currently taking place in the justice and security sectors in the region, including activities undertaken in response to youth crime and activities to reduce violence against women;
- Identifying the lessons learned by States, regional organizations and donor agencies with respect to successful programming in the justice and security sectors in the region;
- Obtaining and synthesizing information from other development assistance organizations with respect to their planned activities in that sector;
- Consulting with representatives of international development partners;
- Consulting with regional bodies such as CARICOM and the OECS on existing regional and sub-regional initiatives and on potential programming priorities in the justice and public security sectors;

- Reviewing the formal commitments made by countries in the region with respect to international conventions relating to crime and public security and other relevant international cooperation initiatives;
- Attempting to ascertain the level of consensus and public support for various public security sector reforms and other related capacity development initiatives;
- Attempting to ascertain the capacity of existing public security and justice sector institutions to absorb more technical assistance and to initiate system reforms and capacity building initiatives;
- Identifying areas where CIDA might pool its resources with other federal government departments (e.g. Justice Canada, Correctional Service Canada, the R.C.M.P.) and with international development partners so as to produce more effective programming in this sector in the region;
- Identifying significant opportunities for CIDA to offer development assistance and transferable expertise in the public security sectors within the three *Country Policy and Programming Frameworks* for Jamaica, Guyana, and the OECS;
- Identifying areas in which CIDA may be well advised not to invest; and,
- Offering recommendations concerning activities that could most usefully be undertaken on a regional rather than national basis.

### Structure of the Report

The report is divided into six main sections. The **first section** reviews some of the general parameters within which development assistance is being provided to build capacity in the justice and security sectors. The **second section** summarizes the main security issues and challenges identified in Jamaica, Guyana, and the OECS countries reviewed for the study. The **third section** of the report reviews the planning and development activities that have occurred in countries in the region and within various regional forums. This analysis provides an understanding of the countries' priorities in these sectors and will help identify potential entry points for programming.

The **fourth section** of the report examines current projects and programs supported by CIDA and other donor agencies and it relates these initiatives to the priorities identified by countries of the region. The **fifth section** of the report sets out a number of programming considerations and suggests programmatic approaches that might be particularly relevant to justice and security sectors in the region. The **final section** offers several recommendations concerning specific entry points and programming opportunities for CIDA to consider, subject to further consultation with the countries involved.



## 2

# Justice and Security Sector Reforms and Development

“Security is fundamental to people’s livelihoods, reducing poverty and achieving the Millennium Development Goals. It relates to personal and state safety, access to social services and political processes. It is a core government responsibility, necessary for economic and social development and vital for the protection of human rights”

*(OECD, Policy Statement Adopted by the Ministers and Agency Heads at the Development Assistance Committee (DAC) High Level Meeting on 15-16 April, 2004, p. 7)*

Reflecting the recognition that development and security are inextricably linked, development agencies are increasingly engaged in security-related initiatives. Security system reform (SSR) is becoming an important part of development assistance, although some controversy remains around the question of what aspects of these reform assistance programs should really qualify as Official Development Assistance. A 2002-2003 survey of donor activities in security system reform conducted by the OECD revealed that donors were increasingly involved in supporting security reforms. However, the survey found that much of the work was of an *ad hoc* nature and was not grounded in policy frameworks, either explicitly for SSR or integrated into policies for related issues such as conflict prevention, governance, human rights protection, or democratization.<sup>11</sup>

Over the past several years, some policy analysis work has been undertaken by the UNDP<sup>12</sup>, the OECD / DAC, and other development agencies. The DAC has adopted a policy statement that articulates some basic working principles and offers ten recommendations on how to “promote peace and security as fundamental pillars of development and poverty reduction”.<sup>13</sup>

The security system in a country is usually defined as including the armed forces, the police, intelligence services, judicial and correctional institutions, as

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<sup>11</sup> OECD (2004). *Security System Reform and Governance – Policy and Good Practice*, p. 51-53.

<sup>12</sup> See: Ball (2002). *Enhancing Security Sector Governance: A Conceptual Framework for UNDP*.

<sup>13</sup> OECD (2004). *Security System Reform and Governance – Policy and Good Practice*.

well as elected and duly appointed civil authorities responsible for their control and oversight. The private security sector is not usually included in this definition although it is acknowledged that the regulation and monitoring of the private security sector are important functions of the security system.

Security system reform is defined by the OECD as those measures designed “to increase partner countries’ ability to meet the range of security needs within their societies in a manner consistent with democratic norms and sound principles of governance, transparency and the rule of law”<sup>14</sup>

Nicole Ball, in a conceptual framework on enhancing security sector governance developed for the UNDP, enumerated seven major objectives that should govern the work of external actors or donors in this sector. They are as follows:

1. Acknowledge that countries have legitimate security needs and that security is a public good;
2. Develop a comprehensive approach to security reform;
3. Improve the coherence of external interventions;
4. Work to develop the commitment of national leadership to a reform process;
5. Build on what exists locally and take local ownership seriously;
6. Make ample use of confidence-building measures; and,
7. Take a long view.<sup>15</sup>

## **DAC Recommendations on Program Approaches**

“Clearly demonstrating how peace, security and development are mutually reinforcing is vital to building the commitment and resources needed to establish sustainable security systems that contribute positively to development goals”.

*(OECD, Policy Statement Adopted by the Ministers and Agency Heads at the Development Assistance Committee (DAC) High Level Meeting on 15-16 April, 2004, p. 8)*

The OECD policy statement recommends that SSR work be effectively integrated into wider development programming (“mainstreaming SSR across development agencies”) in order to “help encourage partner countries to develop the institutional frameworks required for security polices that are people-centred,

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<sup>14</sup> OECD (2004). *Policy Brief - Security System Reform and Governance – Policy and Good Practice*, p. 1.

<sup>15</sup> Ball (2002). *Enhancing Security Sector Governance: A Conceptual Framework for UNDP*, p. iii.

focused on vulnerable groups such as women and children, and ethnic minority groups and based on democratic governance”.<sup>16</sup>

According to the five working principles endorsed by the DAC Ministers, development assistance donors should reserve their support for security system reforms that are:

- “People-centred, locally owned and based on democratic norms and human rights principles and the rule of law, seeking to provide freedom from fear.
- Seen as a framework to structural thinking about how to address diverse security challenges facing states and their populations through more integrated development and security policies and through greater civilian involvement and oversight.
- Founded on activities with multi-sectoral strategies, based upon a broad assessment of the range of security needs of the people and the state.
- Developed adhering to basic principles underlying public sector reform such as transparency and accountability.
- Implemented through clear processes and policies that aim to enhance the institutional and human capacity needed for security policy to function effectively.”<sup>17</sup>

Some donor countries have developed their own policy framework for SSR<sup>18</sup>, but Canada has yet to do so. CIDA’s sustainable development strategy recognizes security issues as an urgent concern<sup>19</sup> even if, at present, the Agency’s own role in supporting security reform remains largely undefined. At a broader level, Canada has recently released its National Security Policy<sup>20</sup> which states that national security will be one of the top priorities in the forthcoming review of Canada’s international policy. Canada’s national security policy makes it clear that the Government intends its new international policy, based on an integrated approach to defence, diplomacy and development, to focus on national security, as one of its top priorities. In that context, it is to be expected that the role of CIDA’s development assistance in relation to SSR will be further articulated. In the meantime, the current review is based on the main principles adopted by the DAC/OECD and to which Canada officially subscribes.

The Canadian government provides various forms of security sector assistance to Caribbean countries on a bilateral and multi-lateral basis. For example, in 2003-2004, Canada, through the Inter-American Drug Abuse Commission (CICAD), contributed \$850,000 for projects, several of which took place in Caribbean countries. Canada is also providing capacity development

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<sup>16</sup> OECD (2004). *Security System Reform and Governance – Policy and Good Practice*, p. 13.

<sup>17</sup> *Idem*, p. 8.

<sup>18</sup> See, for example, DFID (2003), *Security Sector Reform Policy Brief*.

<sup>19</sup> CIDA (2004). *Sustainable Development Strategy: 2004-2006*, p. 24.

<sup>20</sup> CANADA (2004). *Securing an Open Society: Canada National Security Policy*.

assistance through its Military Training Assistance Program<sup>21</sup> and through various law enforcement cooperation initiatives initiated by the RCMP.

## Remaining Controversies

As mentioned previously, controversy surrounds the use of development aid to meet national and international security objectives. Some observers fear that the allocation of aid based on security (some would say political) considerations is diluting the poverty-alleviation focus of development assistance and is “affecting not just *who* receives aid, but *what* activities are funded”.<sup>22</sup> Development aid resources, it is argued, are at risk of being diverted to serve in the “fight against terrorism” and the defence against other transnational security threats, while others fear that security sector capacity-building initiatives may be supported to the detriment of human rights. Finally, the politicization of aid, which some see as an inevitable consequence of a new focus on security issues, is seen as very disruptive to the pursuit of more fundamental development objectives. It is also feared that the relationship between donors and developing countries will be manipulated in order to serve national and international security agendas.

A number of these concerns have been voiced during the present review, both in Canada and in the Caribbean. In addition, the politicization of aid by some donor countries, in particular by the United States in relation to the International Criminal Court (Article 98) and the U.S.- sponsored “war on terrorism”, was frequently mentioned during the present study as a serious concern by Caribbean justice and security sector officials. Some expressed a hope that Canada’s own assistance in these sectors will be more respectful of national priorities and objectives and, perhaps, even serve as a counterweight to balance some of the less-welcome influence of other donors.

In Canada, one senses that most of the objections raised about CIDA’s greater involvement in security system reforms are based on a lack of information as to the Agency’s intentions and on a fear that CIDA may not have a sufficient understanding of the nature and limitations of its own role in that regard. The adoption of a clear policy framework, similar to that adopted by the OECD, would likely dispel most of these reservations.

It is evident that current and future initiatives in the justice and security sectors could be facilitated by a policy framework aimed at promoting Canada’s national security and it is equally clear that a policy framework is also required in relation to security reforms aimed at contributing to development goals. Canadian government officials involved internationally in justice and security cooperation, as well as their colleagues involved in development cooperation, need to develop

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<sup>21</sup> See: Canada, National Defence (2003). *Military Training Assistance Programme – Annual Report 2002 -2003*, Ottawa: National Defence Canada.

<sup>22</sup> British Overseas NGOs for Development (2003). *Global Security and Development*, p. 3.

a shared understanding of the SSR concepts, priorities, methods, and resources in order to contribute to the establishment of sustainable security systems that contribute positively to development goals as well as to international security.

## Justice Sector Reforms

CIDA's involvement in the justice and legal reform area is not as recent as its involvement in other aspects of the security sector. Justice sector programming, however, is not without its own difficulties. It is a politically sensitive area, one in which broad-based public support to reinforce the political will to act is indispensable. The links between the justice sector capacity and development are not well understood and often do not acknowledge the need to better protect property rights, facilitate trade, and provide a process to help resolve or arbitrate contractual and other business-related conflicts.

As part of an effort to define a conceptual framework for justice reforms in the Caribbean, a document of the Caribbean Group for Cooperation in Economic Development (CGCED) notes the following:

“In order to earn society's confidence and attract a more sufficient allocation of resources, the justice sector must convince the general public and politicians that it provides a set of beneficial services in an efficient and effective way. At a very basic level, the justice sector helps to build a foundation of trust within society, so that people know what to expect from each other and from organizations and thus can interact with each other in productive rather than destructive fashion.”<sup>23</sup>

A comprehensive review of capacity development initiatives in the justice sector conducted by the CGCED found that sustainable reforms in that sector are difficult to deliver. Previous attempts at reform have not been as successful as they might have been, partly because they fail to recognize the resistance they are bound to encounter. Experience has also shown that attempts to address an issue by focusing efforts on one component of the system often fail to achieve their objectives. Justice sector reforms must be designed to be comprehensive even if they are implemented incrementally.

The CGCED review summarizes the four mutually reinforcing central themes around which justice sector reforms can be articulated. Each one of these themes deserves a place within a country's development plan and merits serious consideration for development assistance. They are: (1) strengthening the information base and improving public awareness; (2) developing justice sector agencies as effective, efficient and reliable service providers; (3) strengthening the connection between the justice sector and generally shared social goals; and,

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<sup>23</sup> CGCED (2000). *Challenges of Capacity Development – Towards Sustainable Reforms of Caribbean Justice Sectors, Volume II – A Diagnostic Assessment*, p. ii.

(4) modernizing and upgrading the sector by further strengthening resource management.<sup>24</sup>

## Development Cooperation and Terrorism Prevention

Terrorism is viewed as a very real threat by governments in the Caribbean and this fear is justified by the fact that the region is a transit point into and out of the USA, and because the USA and its allies are the primary targets<sup>25</sup>. There is a sense among local government officials that the future development of their country or even the region could be compromised by a failure to take the threat of international terrorism seriously. A key question is whether there is a role for development assistance in relation to terrorism prevention?

In recognition of the current threat environment, Canada's new *National Security Policy* places the highest priority on countering international terrorism.<sup>26</sup> For some time, Canada has contributed to counter-terrorism capacity-building efforts in developing states. It has provided assistance, through various mechanisms, to enable them to prevent and respond to international terrorism in accordance with international standards and norms, including human rights standards. In many instances, these efforts have led to the recognition that helping developing countries build a capacity to respond to terrorism cannot be done successfully without strengthening many of the more basic aspects of the security sector capacity and without security reforms that address governance, accountability, human rights, and civilian oversight issues. There is the previously noted need for the federal Government to further articulate how Canada will approach security system reform assistance and what role it sees for CIDA in these activities.

The Canadian Government has announced a new counter-terrorism capacity building program. This program will enable Canada to share its expertise in areas such as border security; anti-money laundering and anti-terrorism financing; legislative drafting, legal policy and human rights and counter-terrorism training; law enforcement and intelligence training; CBRN (Chemical, Biological, Radiological and Nuclear) terrorism prevention, mitigation, preparedness, response and recovery; transportation security; and cyber-security and critical infrastructure protection. Similar programs exist in the US State Department and the UK Foreign and Commonwealth Office, which will facilitate joint activity and the leveraging of resources. The fund will be managed by the Department of Foreign Affairs, in consultation with other key federal government departments, including CIDA, so as to encourage a "whole of the Government approach" to providing assistance in counter-terrorism capacity development.

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<sup>24</sup> CGCED (2000). *Challenges of Capacity Development – Towards Sustainable Reforms of Caribbean Justice Sectors, Volume I: Policy Document*, p. 6.

<sup>25</sup> Watson, G. (2004). "Crime and Terrorism - A Regional Perspective", p. 7.

<sup>26</sup> CANADA (2004). *Securing an Open Society: Canada National Security Policy*, p. 48.

The OECD has issued a policy statement<sup>27</sup> referring to the role of development cooperation in preventing support for terrorism. It identifies key entry points for action, including improving the security system, as part of governance and public sector reform, and strengthening the rule of law through development policies that: (1) encourage the ratification and implementation of international standards and conventions for combating terrorism (including changes in national legislation); (2) support systems to deal with legal, judicial and law enforcement issues relevant to international terrorism (extradition treaties, actions against corruption, witness protection, strengthening the capacity of law enforcement while ensuring their compliance with human rights standards); and, (3) support anti-discrimination measures that reduce the inclination to engage in extreme violence.

The OECD policy statement on Security System Reform and Governance also provides some guidance in defining the role of development assistance in relation to terrorism and other transnational threats. The policy emphasises that “mainstreaming” the SSR concept across the “whole-of-government” is important in view of the emphasis of many donors on counter-terrorism measures. The policy statement includes a reminder to donors that they should ensure that “efforts to reinforce the capacity of developing countries to prevent terrorism are conducted in a way that reinforces development, security, accountability, and human rights objectives”.<sup>28</sup>

## **Corruption, Development, and Security**

Corruption is clearly a major impediment to social and economic development and it is also an impediment to a well-functioning security sector. Organized crime flourishes where public officials are corrupt. Criminal organizations take advantage of security systems that are weakened by corruption. Corruption undermines the credibility of law enforcement and justice institutions and generates public distrust. Development assistance and reform activities can be defeated by corruption and turned into opportunities for further corruption. Corruption is often responsible for some of the fierce resistance that is often encountered by attempts to implement reforms.

Inefficiencies in the justice and security sectors provide opportunities for corruption and carry benefits for unscrupulous public officials and others. It is naïve to assume that these same officials are highly motivated to reform the very system that provides them with opportunities for illicit gains and other advantages. All initiatives that are designed to address corruption, in any sector of governance, are also directly relevant to security sector reforms. **The issue of**

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<sup>27</sup> OECD (2003). *A Development Co-operation Lens on Terrorism Prevention*, pp. 16-17.

<sup>28</sup> OECD (2004). *Security System Reform and Governance – Policy and Good Practice*, p.8.

**corruption relates directly to the integrity of the governance of the security sector and, as such, provides a solid entry point for SSR activities.**

The *Inter-American Convention against Corruption* (OAS) and the *UN Convention against Corruption* are relevant to the Caribbean countries' justice and security sectors, both as a locus of corruption and as a potential instrument in the fight against corruption. Curbing systemic corruption is a major challenge but is, nevertheless, a **pre-requisite** to both economic development and effective governance, including a functioning security system. Integrated approaches are required<sup>29</sup> in order to effectively address the myriad of factors that enable and propagate corruption.

### **Development Cooperation and the Prevention of Organized Crime**

In those jurisdictions where law enforcement and the administration of justice are weak, there are often more opportunities for serious crime, corruption and other disruptive activities. In many countries, there is a close relationship between institutional failures in the justice and security sectors and the amount of organized crime activity.<sup>30</sup>

Various international initiatives exist to help countries address this problem through various forms of international cooperation. Existing and proposed international conventions against drug trafficking, organized crime, terrorism, corruption, trafficking in firearms, trafficking in persons, and smuggling of immigrants all emphasize the need for international cooperation. They also recognize the need for each country to develop an internal capacity to address these serious security threats.

The rationale behind many of these international cooperation initiatives is premised on the realization that crime is increasingly de-territorialized and that criminal organizations can operate internationally from any locale. Organized crime experts have identified what they call the “weakest link” factor, which predicts that increasingly mobile criminal organizations are more likely to operate in countries with a weak law enforcement and criminal justice capacity.

“As organized crime and terrorist groups have globalized and diversified their operations in the past decade, they have based their activities in countries offering conditions most favourable to survival and expansion. Mobility, an important new characteristic of most such groups, has given groups a wider

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<sup>29</sup> UNODC (2001). *United Nations Manual on Anti-Corruption Policy*. Vienna: UNODC, May 2001. See also: United Nations (2003). *Anti-Corruption Toolkit*. Vienna: UNODC, Global Programme against Corruption.

<sup>30</sup> UN (2004). *Thematic Discussion on the Rule of Law and Development*, p. 2.



selection of operational bases and the ability to respond faster to changes that are unfavourable in their operations”<sup>31</sup>

Furthermore, some of these threats represent a different kind of challenge for a small island state for which well-funded, well armed and well connected criminal organizations constitute formidable opponents. Caribbean countries are not only vulnerable to these threats because of their small size and/or their relatively weak public security sector, but also because of their proximity to one of the largest markets for illegal services and commodities in the world.

In the *Vienna Declaration on Crime and Justice*, members of the UN undertook to strengthen international cooperation in order to fight against organized crime, promote growth and sustainable development, and eradicate poverty.<sup>32</sup> Following this, the *U.N. Convention against Transnational Organized Crime* was adopted and came into force. The Convention is supplemented by protocols against trafficking in persons, smuggling of migrants, and trafficking in firearms. All of these transnational criminal activities, as well as others related to drug trafficking covered by other UN and OAS conventions, can only be addressed through an effective regime of international law enforcement and judicial cooperation. This is what these international treaties are purporting to establish and there are clear international expectations that Caribbean countries, which are particularly vulnerable to that threat, will take measures to ratify and effectively implement these conventions.

Canada, through the UN, the Commonwealth Secretariat, and bilateral arrangements has been involved in various training and capacity building initiatives to help countries of the region develop an ability to cooperate more effectively with others in the fight against organized crime and to defend their citizens against some of the most serious forms of criminal exploitation.

Trafficking in persons, for instance, is a transnational crime based on the systematic exploitation of some of the most disadvantaged segments of the population of developing countries. From a development assistance perspective, for example, the USAID has adopted an anti-trafficking strategy based on the premise that many development assistance activities can help reduce the vulnerability of certain groups to exploitation by human traffickers.<sup>33</sup> Poverty, economic deterioration and development problems provide a pool of poor and vulnerable individuals – most often children and women - upon whom traffickers prey. Reducing the vulnerability of these groups is a legitimate objective of development assistance.

It is possible to identify specific actions that can be taken at the national and international levels to combat organized crime by offering more effective

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<sup>31</sup> Berry *et al.* (2003). *Nations Hospitable to Organized Crime and Terrorism*, p. 23.

<sup>32</sup> UN (2000). *Vienna Declaration on Crime and Justice: Meeting the Challenges of the Twenty-first Century*, General Assembly resolution 55/59, annex.

<sup>33</sup> USAID (2003). *Trafficking In Persons – The USAID Strategy for Response*.

protection to the women, children, refugees, immigrants, and other groups that are particularly vulnerable to violence, threats, intimidation, extortion and various forms of exploitation at the hands of various types of criminal organizations. There are several toolkits, handbooks, and other instruments that can be used to facilitate the development of locally-owned programs in these areas. The Office for Democratic Institutions and Human Rights of the OSCE, for example, has published a handbook on how to protect the rights of trafficked persons.<sup>34</sup> Development assistance can clearly play a role in helping prevent some of the worst forms of human exploitation.

An Expert Group on Strategies for Combating the Trafficking of Women and Children convened by the Commonwealth Secretariat suggested the following:

Focusing on prevention and strengthening existing strategies in this area must centre on ensuring that vulnerable groups are empowered to access alternative livelihood options in their home countries, instead of being forced to seek 'greener pastures' abroad. Prevention strategies can be targeted at the following areas: economic empowerment, education, advocacy and awareness raising and reducing demand in countries of destination".<sup>35</sup>

## **Development Cooperation and the Prevention of Drug Trafficking**

The international drug trafficking market uses the Caribbean as a transshipment point and this means that the trafficking activities that take place in the region can be directly affected by drug control activities in other parts of the hemisphere. Illicit drug profits are very large and can be used to fuel public corruption. Finally, in some Caribbean countries, a drug culture exists which makes it even more difficult to successfully intervene.

All countries of the region receive large amounts of technical and financial assistance to combat drug smuggling and to participate in the international drug interdiction effort. At the regional level, the Inter-American Drug Abuse Control Commission (CICAD) coordinates these activities. Progress has been made in building the capacity of countries of the region (particularly around maritime enforcement and regional cooperation). However, the assistance has, on occasion, forced countries to divert resources from other priority areas. This, in turn, may have contributed to a weakening of their overall capacity to respond to the security needs of their own communities.

It should be kept in mind that capacity-building initiatives that focus on external threats may, at times, detract attention from serious internal security problems.

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<sup>34</sup> OSCE, ODIHR (2004). *National Referral Mechanisms – Joining Efforts to Protect the Rights of Trafficked Persons. A Practical Handbook.*

<sup>35</sup> Commonwealth Secretariat (2003). *Report of the Expert Group on Strategies for Combating Trafficking of Women and Children*, p. 22.

Countries with a limited security sector capacity often have to make difficult choices among their priorities for capacity development. International assistance that is essentially driven by other countries' agenda can have some detrimental consequences. Furthermore, and perhaps ironically, the success of capacity-building initiatives focused on promoting international security cooperation, however vital it may be to the security of the region or the hemisphere, is usually dependent on being able to build on a pre-existing basic capacity of the system to function effectively. Care must be taken therefore to ensure that capacity building initiatives are designed in a comprehensive and integrated fashion to address the overall security concerns of a nation.

Very few technical assistance and capacity building activities in relation to drug interdiction are, in themselves, likely to be part of development assistance programs. However, there are programming approaches that can help reduce the vulnerability of certain groups to being recruited into the drug trade (e.g. programs for youth or for farmers) and that should be considered as part of development assistance.

In the case of Jamaica, for example, Headley notes (2002:10) that the emergence of Jamaica as a major drug transshipment country is a result of its geographic location, but that "even more critical to that has been the emergence, inside Jamaica, of particular forces that are essential to the support system of significant narcotics trafficking." This includes "armies of surplus, dispossessed young people ...". Headley (2002:11) also argues that the desperate situation inside Jamaica "renders almost meaningless solutions that are primarily oriented toward 'improved' law enforcement and apprehension. There is a considerable amount of empirical evidence that supporting drug interdiction programs may be a lost cause. On the other hand, **development assistance focussing on some of the reasons why the drug trade flourishes may, in the long term, have an impact.**

## **Development and Crime Prevention**

Social development is one of the most effective forms of crime prevention. Broad crime prevention strategies, based on social development and community empowerment, awareness and education, may be important components of development programs designed to reduce the vulnerability of the poor, minority groups, women, and children to crime. Canada has been implementing its own *National Strategy on Community Safety and Crime Prevention* and has acquired some valuable experience in programming in this area. As well, the United Nations, at the insistence of Canada and other countries, has adopted the

*Guidelines for the Prevention of Crime*<sup>36</sup> which provide a solid basis for program development in this area.

## **Gender, Security and Development**

In many countries in the region, some noticeable improvements were observed in terms of women's general access to opportunities, poverty alleviation, unemployment reduction, increased education, improved health services, and more affordable housing. Most jurisdictions have established some form of government infrastructure to address women's issues and to promote women's full involvement in the development of the country.

Gender-based violence, in both its private and public dimensions and particularly as it affects women and girls, remains a pressing security issue. CIDA's commitment to help enhance the sub-regional and national institutions' capacity to carry out people-centred development draws attention to the need to achieve gender equality and to build a national capacity to reduce violence against women, a major obstacle to women's full participation in economic and social development. CIDA's policy statement on working toward gender equality provides some parameters to guide such initiatives. The experience of CIDA's Caribbean Gender Equality Program (CGEP) and, in particular, its work to support police training and approaches to addressing gender-based violence and its recent collaboration with the Ottawa Police Service, provide some examples of local and national programming in that area.

Throughout the region, a number of human security issues have been identified with respect to gender-based violence and the various forms of exploitation of women and children. Governments of the region have made commitments to implement measures to eliminate gender-based violence and have all ratified the *Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women*. However, a review of the implementation of that convention found that many countries had not adequately addressed the issue<sup>37</sup> and that the implementation of the convention has progressed very slowly. Rather, efforts to prevent, punish and eradicate violence against women have concentrated on piecemeal legal reform, initiatives to raise public awareness of the issue, and initiatives to sensitize and train local officials. Providing emergency services to victims of violence, such as telephone hotlines or crisis intervention, and the establishment of shelters for women threatened by domestic violence were responsibilities left primarily to the private and volunteer sectors.

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<sup>36</sup> UN – ECOSOC (2002). *Guidelines for Crime Prevention*.

<sup>37</sup> Chin and Dandurand (2001). *National Programs to Prevent, Punish and Eradicate Violence Against Women in Ten Caribbean Countries*.

CIDA's *Sustainable Development Strategy: 2004-2006* includes initiatives to increase "the promotion and protection of human rights by institutions, governments, and civil society organizations".<sup>38</sup> Access to justice issues and improved mechanisms to address gender-specific rights' violations, such as violence against women and trafficking in persons, are already a component of CIDA's programming priorities in the area of improved governance.

Canada has supported the development and the adoption of the *UN Model Strategies and Practical Measures on the Elimination of Violence against Women in the Field of Crime Prevention and Criminal Justice*. This document provides a solid framework for program development.

There are related priorities in the area of improving the capacity for good governance. One is the equal participation of women and men as decision makers in shaping the development of their societies, including the security measures that will facilitate that development. This is an important goal that has been recognized by CIDA<sup>39</sup>. The governance of the justice and security sectors is one area where increasing women's participation in policy development and decision making has been particularly slow and problematic. Security reforms must be mindful of this important goal.

## Youth and Security

A recent World Bank report (2003) on "Caribbean Youth Development: Issues and Policy Direction" demonstrates that the negative behaviours of youth are costly not only to the youth themselves but to society as a whole. The criminal activities of male youth and young adults are a major source of public insecurity. Although the crimes committed by this group are not always the most serious, they are, nevertheless, often the most disturbing for local communities. The large proportion of the male population that are youth or young adults exacerbates the problem. In Jamaica, for example, 28 percent of the population is between the ages of 10 and 24 years.

All countries of the Caribbean recognize the **need to focus on youth crime prevention strategies**, as well as on education and other strategies that will promote the positive social and labour force integration of youth. Countries of the region, however, do not all have the same capacity to generate and implement such comprehensive strategies. The Jamaica Country Development Program Plan 2002-2007 acknowledges that "forward looking development programming in Jamaica must target Jamaican youth". CIDA is planning to support a portfolio

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<sup>38</sup> CIDA (2004), *Sustainable Development Strategy: 2004-2006*, (Priority D.4.3), p. 47.

<sup>39</sup> CIDA (2004), *Sustainable Development Strategy: 2004-2006*, (Priority D.4.3), p. 48.

of projects to address the range of interlocking challenges facing young Jamaicans.<sup>40</sup>

The World Bank study identified several key intervention points for youth development that take into account risk and protective factors.<sup>41</sup> These include improving the juvenile justice system, increasing the control of weapons and reforming the police. All of the countries in the region appreciate the damaging, long-term social consequences of failing to engage in effective crime prevention strategies that target children and youth and which focus on education, social development, and improving the mechanisms for conflict resolution. This has led many to argue that interventions to prevent the escalation of youth crime and other problem behaviour should focus on program responses that are designed to engage youth in legitimate activities to achieve their goals and expectations.<sup>42</sup>

Programming, whether in developing or developed countries, usually includes a mix of measures to reduce certain risk factors and measures designed to enhance protective factors. The World Bank review suggested the following key interventions: (1) reforming the education system and maximizing the protective effects of schools by improving access and retention and quality of education, eliminating corporal punishment, and a number of other key reforms; (2) upgrading the public health care system and its services to children and youth; (3) institutionalizing national-level mentoring systems for at-risk youth; (4) reforming and strengthening legal, judicial and police systems and improving the juvenile justice system and weapons control measures; (5) using the media and social marketing to change norms and values related to various key risk behaviours of youth; and, (6) making families and fathers a top public policy priority; and (7) strengthening community and neighbourhood supports to adolescents and their families.<sup>43</sup>

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<sup>40</sup> Note also that CIDA's *Sustainable Development Strategy: 2004-2006*, calls for efforts to be made to engage Canadian youth in development (CIDA, 2004, p. 54) and that could include projects bringing together Caribbean and Canadian youth.

<sup>41</sup> World Bank (2003). *Caribbean Youth Development: Issues and Policy Directions*.

<sup>42</sup> For example, the Commonwealth Youth Programme, Youth Division of the Commonwealth Secretariat. See: Armstrong, A. (2004), "Youth Crime and Public Security in the Caribbean".

<sup>43</sup> World Bank (2003). *Caribbean Youth Development: Issues and Policy Directions*, pp. 77-81.

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## Justice and Security Issues in the Caribbean

The justice and security issues faced by countries of the Caribbean region are, to some extent, similar to those in other regions. Nevertheless, they differ in a number of important ways.<sup>44</sup>

Clearly, crime in general and violent crime in particular is a difficult development issue for countries of the region<sup>45</sup>. Young men, in particular, are involved, both as the main perpetrators and victims of violence. The violence is not dissociable from the activities of gangs and criminal organizations.

There is a new, more complex, security environment in the Caribbean, reflecting both persistent issues and emerging new threats. Every country of the region is understandably concerned about the potentially devastating effect of the increasing incidence of crime and violence against tourists and the cost of lost tourism revenue<sup>46</sup>. There is also a fear that transnational terrorist organizations may target some tourism facilities (port, cruise ship, airport) in a country of the region and, by doing so, devastate the tourist industry and significantly impact the country's economy.<sup>47</sup>

Watson (2004, p. 20) has observed:

“Crime trends in the Caribbean region vary across the different countries. However it is possible to isolate some worrying regional trends that have arisen in the past five years. These trends include increases in the levels of

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<sup>44</sup> Greene, O. (2003). “Security Reform in Latin America and the Caribbean”.

<sup>45</sup> Ayres, R. (1998). *Crime and Violence as Development Issues in Latin America and the Caribbean*. Washington (D.C.): World Bank.

<sup>46</sup> See also: Pizam, A. and Y. Mansfeld (Eds.)(1996). *Tourism, Crime and International Security Issues*.

<sup>47</sup> With respect to terrorism in the region, Watson (2004, p. 21) argues that:

“Terrorism, though a rare occurrence in the Caribbean, must still be factored in when considering threats to the region. Fear must never be considered a legitimate tool for political gain. While terrorism may not be considered as posing a direct threat to the region it is important to bear in mind the close links that the Caribbean has with both the US and the UK – the main targets of terrorist actions – and that due to its geographic location the Caribbean is a transit point both into and out of the US.”

violence and use of firearms, the emergence of criminal gangs, greater involvement of women and juveniles in criminal activities and an increase in cross border criminal activities. There has also been an emergence of entirely new trends such as kidnapping for ransom, threats to prominent persons and human trafficking/ illicit migration.

Despite the above trends the major threat to stability in the region continues to be drug trafficking, money laundering and illegal trade in firearms. Drug trafficking is a particularly strong area due to the region's position between some of the major drug supplying countries and the major drug consuming countries. The narcotics trade continues to be highly lucrative and is increasing in scale and scope, with well organized and resourced transnational groups running the majority of business.”

Youth violence is responsible for a significant portion of the violence experienced by countries of the region. According to some estimates, as many as 20 percent of male students and 12 percent of female students admit to having belonged to a gang at one point<sup>48</sup>. Gang violence is high throughout countries of the region and gang membership among youth is common. The prevalence of firearms among youth gangs is also a major concern. The proportion of Caribbean adolescent males who carry firearms is extremely high<sup>49</sup>. Many youth feel excluded from society<sup>50</sup> and this social exclusion is partly a result of a general lack of employment opportunities for youth<sup>51</sup> who are increasingly involved in criminal activities associated with covert economies and illegal markets. As was pointed out in a study by the World Bank (2003), the personal and social costs of high-risk behaviour by youth and the consequences of this behaviour for communities and for the youth themselves are enormous and affect the social and economic development of countries of the region.

Drug production, primarily marijuana, continues to be a major problem<sup>52</sup>, particularly because of the other crimes and the violence with which it is associated. Drug consumption and abuse is also a significant source of social disruption and human and social costs. Drug trafficking, and the international drug trade involving the sale of locally produced marijuana as well as the transshipment of drugs (mostly cocaine) coming from Latin America, bring into play some powerful criminal organizations with a deeply corrupting influence on society. Local governments have few resources at their disposal to oppose the well-organized, well-armed and powerful transnational criminal organizations.

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<sup>48</sup> World Bank (2003). *Caribbean Youth Development – Issues and Policy Directions*, p. xv.

<sup>49</sup> Danns, G.K., Henry, B.I., and P. Lafleur (1997). *Tomorrow's Adults. A situational Analysis of Youth in the Commonwealths Caribbean.*, p. xv.

<sup>50</sup> See Danns, G.K., Henry, B.I., and P. Lafleur (1997). *Tomorrow's Adults. A Situational Analysis of Youth in the Commonwealths Caribbean.*

<sup>51</sup> All countries of the region have very high youth unemployment rates. See Danns, G.K., Henry, B.I., and P. Lafleur (1997). *Tomorrow's Adults. A Situational Analysis of Youth in the Commonwealth Caribbean*, p. 20.

<sup>52</sup> See: UN ODC (2004). *World Drug Report 2004 – Volume 2*. Also: CARICOM Regional Task Force on Crime and Security (2002). *Report*.



Illicit trafficking in firearms is also linked to the drug trafficking and the consequences of the proliferation of firearms for human security cannot be underestimated.

Arms trafficking is now a very significant issue for most, if not all, countries of the Caribbean and is a serious regional vulnerability. It provides financing for gang warfare, fuels drug-related and gang-related violence, enables groups of all kinds to use violence and the threat of violence to accomplish their objectives, and it increases the lethality and morbidity of domestic violence and other confrontations. Countries of the region have made various commitments to implement measures to eradicate trafficking in firearms, including the enactment of specific provisions of the Inter-American Convention. According to the region's most respected expert on trafficking in firearms in the region, Dr. Ivan Griffith, the current initiatives at the national, regional and hemispheric levels are not proving effective in countering these serious threats.<sup>53</sup> Countries of the region frequently claim that their own efforts in these areas will not be successful unless they receive better cooperation from some of their powerful neighbours such as the USA.

Corruption of public officials serves to facilitate crime and weakens the justice and security institutions. In many countries of the region, it is endemic and has all but neutralized the capacity of the security system to respond to crime and other security threats. One report estimates that drug corruption provides Caribbean civil servants with some US\$ 320 million in income annually.<sup>54</sup>

Above all, however, **the main security concern arises from the weak capacity of the security sector to address any of these security challenges and to prepare against any security threats, whether new or old.** It is linked to a concern about inefficient, often corrupt agencies and institutions, with virtually no credible capacity to address the region's mounting security challenges, and the resulting lawlessness that is affecting the quality of life and feeling of safety of all citizens of the region.

All of these challenges have been identified in the report of the CARICOM Regional Task Force on Crime and Security (2002). The Task Force called for measures to strengthen the capacity of the responsible State institutions and regional organizations to respond to these challenges and argued that these reforms should be integrated with broader planning for social and economic development.

The following discussion offers an overview of the justice and security issues identified by the project team in Jamaica, Guyana and in six countries of the OECS.

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<sup>53</sup> Griffith, I. (2004). *Illegal Arms Trafficking and Human Security in the Caribbean*, p. 19-20. See also: Griffith, I. L. (1999) "Organized Crime in the Western Hemisphere: Content Context, Consequences and Countermeasures".

<sup>54</sup> Cited in CARICOM Regional Task Force on Crime and Security (2002). *Report*, p.17.

## Jamaica

Human security and public safety issues are an integral part of the agenda of the Jamaican government. Throughout the country, crime and violence are closely associated with a discernible decline in social cohesion.

Jamaica has a population of approximately 2.6 million people, approximately 55 percent of who reside in urban areas. Jamaica is classified as a “medium human development” country. Economic, financial, and social problems have hampered the government’s ability to fund and deliver services. Currently 70 percent of annual government revenues are earmarked for debt servicing, leaving limited funding to develop and maintain the country’s infrastructure and to enhance the application of technology. Unemployment stands at 15 percent of the workforce and there is a lack of employment opportunities for young people. The emigration of skilled workers to other countries is a concern.

The government is perceived by many observers as being too focused on short-term responses to justice and security issues rather than adopting a more visionary, strategic, and proactive approach to policy development and implementation. During the review, several respondents identified some of the challenges the government is not confronting effectively, including ensuring people’s safety throughout the country, fighting corruption, managing public funds well, and being publicly accountable for its actions. There is a widely-held perception that government funds and resources are allocated on the basis of political considerations rather than on the basis of the country’s development priorities.

In 2002, the West Kingston Commission of Enquiry<sup>55</sup> examined the upsurge of criminal activity in urban areas. The Commission found that crime in urban areas was due, in large measure, to several factors, including: the over-centralization of power and authority that rendered communities unable to solve their own problems; the ineffectiveness of the police which forced citizens to make other arrangements for protection; political tribalism that bred a dependency syndrome and divided communities; and, non-traditional community leadership rooted in tribal politics and the drug culture.

Similar views were held by many of the respondents interviewed by the project team. The “jungle justice” of the local Dons is often readily accepted and applauded, and in many cases solicited by politicians as well as community residents. This is largely due to the fact that many citizens perceive the justice system to be slow, cumbersome, inefficient, corrupt, and as imposing sanctions that do not match the seriousness of the offences that are committed.

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<sup>55</sup> West Kingston Commission of Enquiry, *Volume 1, Main Report*, June 2002, Section 17.31, pp. 119-120.

Anthony Harriott refers to the existence of garrison communities that offer protection and encouragement to elements engaged in outwardly projected violence and criminality:

“These communities tend to be expansionist and to jealously guard their identities as politically homogeneous entities. Expansionism foments violence with other communities and the obsession with political homogeneity directs violence against internal dissidents. These garrisons provide a hostile environment for the Security Forces and safe havens for politically affiliated criminals and for the preservation of illegal firearms.”<sup>56</sup>

The Jamaicans consulted as part of this review, including government officials, police, correctional services personnel, educators, and persons in NGOs, cited numerous public and human security issues that were of immediate concern to them. There was a near consensus that the increase in crime and violence (particularly youth violence), public disorder and lawlessness, and the breakdown in respect for the rule of law were significant and had dramatic social and economic impacts on the country. This included the loss of tourism revenues, increased health care costs, and increased prices for goods and services due to merchants and producers having to build into the price of goods and services the costs of bribes, extortion payments, and additional security. This, in turn, severely compromised the competitiveness of many businesses on the open market and had led to the departure of a number of businesses from Jamaica.

According to the report of the National Committee on Crime and Violence<sup>57</sup>, the most telling effects of crime and violence on Jamaican society include:

- Polarization of communities into warring factions
- Restriction of freedom of movement by citizens
- Overload of the court system
- Loss of investment opportunities
- Loss of personal and business income (resulting from civil unrest, etc.)
- Outflow of foreign exchange for medical and related items
- Pressure on health facilities
- Lost man-days at work resulting in sub-standard productivity
- An overwhelmed and increasingly reactive police force
- Political and social disengagement of the citizenry (who lose their sense of security and well-being)
- Migration of skills
- Economic instability (including high employment)

There was a widely-held view among respondents interviewed for the project that societal neglect, learned helplessness, and a breakdown of traditional family values in Jamaica had created a society where children are not valued. The increased emphasis on materialism was viewed as major reason why youth

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<sup>56</sup> Harriott, A. (2000). *Controlling the Jamaican Crime Problem: Peace Building and Community Action*, p. 13.

<sup>57</sup> Government of Jamaica (2002). *Report of the National Committee on Crime and Violence*, p. 13.

admire the “Dons”, entertainers, and other persons of money more as role models than their own family members.<sup>58</sup>

### ***Specific Security Threats***

In addition to the violence that plagues the country, there are a number of specific security threats that are perceived as being particularly detrimental to the country’s development. These include:

**Gangs:** The rival corner groups are, in fact, gangs that are responsible for the high crime rate. Residents say that the gangs are involved in the drug trade, gun running, and extortion. What is particularly troublesome is their affiliation with political parties. The gunmen are used as political resources during political campaigns. They can help win political turf via extortion, intimidation, and violence.<sup>59</sup>

**Extortion:** Extortion is a major problem at all levels and affects the conduct of business in all areas of the country. Although the problem initially affected primarily the capital city of Kingston, it is now spreading to the rest of the country, including rural areas. Extortion and various forms of “protection rackets” are one of the core activities of the gangs and are now rooted in the political culture. The driving force behind the power of the gangs is the lack of jobs and benefits. Dons often engage in extortion in order to secure employment for people from their community; people who are helped are, thereafter, indebted to the criminal organization.

In Spanish Town, for example, there has been conflict between rival gangs who control the bus park. Cab drivers are required to pay gang members in order to pick up and drop off passengers in the lot. As the

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<sup>58</sup> Many people would argue that an appropriate crime prevention and control strategy must therefore involve depriving these symbols of successful criminality of their ill-gotten wealth and status (Harriott, 2000: 11-12).

<sup>59</sup> In a presentation on “Political Identity and Criminal Violence in Jamaica: The Case of August Town”, at the Third Annual Caribbean conference on Crime and Justice (Kingston, Jamaica, February 2004), Christopher Charles, a PhD candidate from the City University of New York Graduate Centre noted that there is a nexus between the political parties and the criminal gangs. He explained that this was reflected in the electoral violence that occurred in the community of August Town in 2002 and the subsequent public argument between area leaders and electoral candidates about the violence and who was to blame. In August Town, there is 34 percent unemployment. The collective social spaces are the street corners. The PNP political party is dominant in some areas and the JLP in others. August Town is a “garrison” and they often challenge the police. Usually, disagreements between the “corners” are settled peacefully and there is a low crime rate. Leaders of the corner groups met and decided on a code of conduct for the 2002 General Election, but violence erupted over where party flags would go and the location of polling stations. There were a total of eight murders pre-and post-election, most of them occurring after the murder of Trudy Coombs. The case study revealed the complex role and relationships between the politicians, the dons (area leaders), and the corner groups.

management of the city has decayed, Dons have filled the political and service vacuum. This has been a major deterrent to businesses investing in the city. Another example is when the Army had to be called out to protect the French firm that was building Highway 2000. The Dons had demanded money, the contractor had refused and a construction truck driver was shot and killed. The Army began joint patrols with the police and there were no more difficulties with respect to extortion.<sup>60</sup>

**Transnational Crime:** In particular the drug trade and its associated violence, and money laundering activities. The coastline/border is insufficiently protected.

**Deportees:** Individuals who are deported back to Jamaica from other countries, particularly those who are deported back because of a criminal record, are believed to be responsible for much of the violent crime in the country. There is, however, no reliable, empirical evidence available to support this assertion. However, the transnational movement of offenders, whether voluntary or forced, certainly assists criminal organizations in extending their networks of relations, influence, and activities.

**Proliferation of Firearms:** The proliferation of firearms in the country is a major issue. Trafficking in firearms is frequently linked to drug trafficking and is another primary source of revenue and influence for criminal organizations. Easy access to firearms is a notable contributor to the high rate of violent crime. The National Firearm and Drug Intelligence Centre is of the view that most of the weapons are illegally imported into Jamaica from the United States.<sup>61</sup>

**Youth Crime:** Youth crime and, in particular youth violence, are a serious threat to the present and future security of Jamaican society. Legitimate opportunities for youth are limited and many of them are easily recruited

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<sup>60</sup> In a presentation at the Third Annual Caribbean conference on Crime and Justice (Kingston, Jamaica, February 11-14, 2004), Yanek Lawson from the UWI, Mona Campus, noted the importance of studying extortion in Jamaica and presented materials on extortion in the construction industry. In the 1980s, the Dons took over as employment brokers and increased their demands. Resistance or non-compliance can result in threats to life, injury, and death. According to Lawson, this is an issue of "institutionalized extortion". It exists in all areas of the construction industry, including supplier arrangements, security, fees to commence construction; and often requests for "donations". There is often a system of bargaining: the Dons make demands; the builder responds and negotiates a lower price. As a result, there are fewer companies involved in major development projects and fewer small contractors, and the costs of construction have increased appreciably. One observer stated that extortion has virtually halted all construction in Jamaica, stating, "Extortion in the construction industry has gotten out of hand." Despite this, the police do not maintain a database on the nature and extent of extortion in the construction industry, or any other sector of Jamaican society for that matter.

<sup>61</sup> See: Harriott, A. (2000). *Controlling the Jamaican Crime Problem: Peace Building and Community Action*, p. 14.

and exploited by gangs and drug traffickers. The marginalization of a high proportion of the youth and the urban poor contributes directly to the problem of violent crime. One consequence of this, according to Anthony Harriott, “has been the development of the informal sector and a relatively large underground in which drugs play an important part. Transactions in the underground are secured by the threat of force or the actual use of violence”.<sup>62</sup>

**Corruption:** The former Commissioner of Police of Jamaica identified corruption, particularly among the police, as the biggest security challenge facing Jamaican society. In his words, “there is a massive corruption problem at all levels of the justice system”. The temptations are great. The profits derived from the drug trade have had a significant impact on the justice system and it has impacted on all areas, particularly the police. The low wages earned by police officers make them susceptible to corruption.<sup>63</sup>

### ***Capacity of the Justice and Security Sectors***

A number of respondents also mentioned that the country’s limited capacity to patrol and control its borders, to respond to serious natural disasters, to address the issues of public corruption and organized crime, and to proceed with the necessary reforms of the security sector, particularly law enforcement, were a source of public cynicism and despair. There are major issues with respect to the capacity of the existing system to face the growing security threats. Some of them can be summarized as follows:

**The Police:** There is, among all segments of Jamaican society, a general distrust of the justice system generally and of the Jamaican Constabulary Force (JCF) in particular. Several respondents pointed out that the police in Jamaica were established approximately 300 years ago to suppress slave uprisings, and offered the view that the police had not progressed much beyond that point in either philosophy or procedure. With few exceptions, there is a clear sense of alienation between the community and the police.

A Crime Victimization and Perception Survey of the Kingston Metropolitan Area, conducted by an independent consulting group for the Ministry of National Security, revealed “strong negative attitudes to the police”.<sup>64</sup> This, in turn, contributes to members of the general public being

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<sup>62</sup> Harriott, A. (2000). *Controlling the Jamaican Crime Problem: Peace Building and Community Action*, p. 14.

<sup>63</sup> See also: Mason, P. and A. Fuller (2004). *Jamaica Security Sector: Anti-Corruption Scoping Mission*. London: DFID, 4-10 March 2004.

<sup>64</sup> Development Options Limited and Team (Fidelity Economics, Linnette Vassell and Associates, and Horace Levy) (2002). *Crime Victimization and Perception Survey of the Kingston Metropolitan Area*, conducted for the Ministry of National Security, July 2002, p. 11.

reluctant to supply information to and be cooperative with the police. Even among those persons who stated that they trusted the police, there was an unwillingness to rely on or to work with them.

The police are generally viewed as ineffective, corrupt, and politically aligned. The legitimacy of the police is very low and citizens are unlikely to call the police except for major crimes (Bennett, 2004). Estimates of corruption in the police offered by respondents ranged from “a few bad apples” to “90% or more”. Several people who were interviewed commented that the occupational subculture of the police is very poor, that the force’s lack of discipline and professional standards is appalling, and individual officers are protected from scrutiny regardless of their conduct. Police processes are not transparent and accountability is non-existent. There are numerous allegations of human rights abuses by police and of extra-judicial killings.

Systemic changes are urgently required to provide effective civilian oversight of law enforcement and to establish a credible public complaints investigation process. At present, there are multiple investigative bodies, each independently investigating the same incident, and often reaching different conclusions. The 2002 Crime Victimization and Perception Survey noted that less than 20 percent of its respondents were even aware of the existence of a citizen’s police complaint authority.

The Jamaica Constabulary Force (JCF) is seen as a reactive police force and as severely limited in its capacity to engage in proactive policing practices. It is said to lack a strategic focus and to be plagued with ineffective and inefficient structures, policies and procedures. **The effective delivery of law enforcement services to the community is not possible under current circumstances**, even with a massive infusion of financial assistance and/or an altering of police priorities. The Force’s problem analysis and program planning capabilities are limited as is its ability to manage cases, collect and preserve crime scene evidence, and prepare cases for prosecution.

These organizational weaknesses hinder the ability of the JCF to investigate and solve crimes, further undermining the credibility of the police with the public and the criminal justice system. These factors also compromise the ability of prosecutors to present strong evidence and testimony in court, resulting in negative outcomes. In addition, several of the respondents commented that policing in Jamaica was a difficult and dangerous occupation and that police safety is another important issue that must be considered and addressed.

Anthony Harriott’s summary of the situation and its implication for police reform in Jamaica is quite perceptive:

“Historically, in other (British) models of policing, the police prevent crime by: their active presence in the communities and collaboration with the citizens, using their moral authority to persuade people to conform to the norms and laws of society, maintaining order and ensuring a reduction of opportunities for crime. This assumes a consensus model and respect for police authority. In Jamaica these cannot be assumed, the authority of the police has been badly eroded and has to be reconstructed via participation and changes in the power arrangements between police and citizens. Short of this, anti-corruption drives and the application of new technologies to crime-fighting may lead to some positive results but these positive results are unlikely to be sustained – if the fundamental relationships and policing style remain unchanged”.<sup>65</sup>

Most people in Jamaica would agree with Harriott’s conclusion that what is required is a radical change in the style of policing and the development of a new relationship between the police and the people they serve.

The Report of the National Committee on Crime and Violence agreed with Harriott’s view of the crisis in policing in Jamaica, a crisis expressed in:

- a generalized ineffectiveness of the police in controlling crime
- a generalized decline in public confidence in the police
- popular withdrawal of participation in policing, and
- greater resort to violence and its manipulation by the police force (e.g. extra-judicial killings).

According to the Committee, the issues that must be addressed include the:

- “Ineffectiveness of channels of communication between some communities and the police
- Factors inhibiting and facilitating collaboration between community members and the police
- Dissatisfaction with police action taken when crimes (including those involving the police) are reported
- Distrust between the community and the police
- Reliance by some communities on criminal activities to support a significant number of persons in those communities”.

Researchers and civil society organizations, such as “Jamaicans for Justice”, find police information difficult to access. The *Access to Information Act* was passed in 2002, but it has had no perceptible effect on access to police information. “Jamaicans for Justice”, for example, has filed 40 applications for access to information since the legislation was

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<sup>65</sup> Harriott, A. (2000). *Controlling the Jamaican Crime Problem: Peace Building and Community Action*, p. 23.



enacted. To date, however, the police has honoured only five of these requests.

**The Jamaica Defence Force (JDF):** The Jamaica Defence Force (JDF) supports police patrols/actions in problem areas and in critical situations. On occasion, the JDF has been encouraged by the Jamaican government, and by foreign governments, to become involved in preventing drug smuggling and drug cultivation. The involvement of the military in providing internal security is always a source of concern from the point of view of the need to ensure their democratic and civilian control. The reputation of the JDF is far superior to that of the JCF. Military personnel are viewed as much better trained and as more professional, controlled, and more ethical than the police. It is very likely that, in the foreseeable future, the JDF will continue to be expected to assist the police in maintaining law and order, particularly against well-organized gangs and other serious criminal elements. It will be a challenge for the JDF to do so without compromising and eroding its own mission and integrity.

**The Judiciary:** The country's court facilities are in advanced states of disrepair and are poorly equipped. The hours of operation are limited and there are massive backlogs of cases generally and in the Coroner's Courts and Resident Magistrate Courts in particular. The resulting delays, the prolonged incarceration of accused persons who have not appeared in court, the failure of prosecution, the destruction of evidence, and other resulting inefficiencies are affecting the integrity of the justice process and the credibility of the judicial system. They also result in significant costs to the system and to litigants and they limit citizens' access to the system. Legal representation in court is rarely provided to those who cannot afford to retain the services of counsel and eligibility and the availability of legal aid services is very limited. Women and children who are the victims of violence receive little support through the court process. Access to a court where victims of domestic violence can file for protection orders is also limited, particularly at night or on weekends.

The country's justice sector is functioning under an already heavy burden of old cases and it is called upon to meet many new and complex security challenges. It simply does not have the capacity to address emerging security threats. Generally speaking, building the overall capacity of the justice and security sectors has not been a high priority in Jamaica. There still exists a need to provide appropriate training for judges, magistrates and prosecutors, particularly with respect to new legislation and the use of increasingly complex scientific and technical evidence in criminal cases.

The administrative and management infrastructure and the technology to support court processes are very limited. Information management

systems for court scheduling, evidence management, case reporting, information storage and retrieval, and other crucial court management processes remain very ineffective in spite of a number of previous attempts to computerize some of these functions.

There are too few probation officers to deal with young offenders. Witness protection is a difficult and significant issue, given that Jamaica is a small island state. There are very limited supports for victims and witnesses.

Public access to justice information is also minimal. With respect to public perceptions of the judicial system, the Jamaican judiciary, particularly judges, seems to enjoy a reputation of integrity and probity. Judges, on the other hand, are quick to note that they are forced to work with very limited resources, antiquated information management systems, poor or non-existent access to law reports and prior court decisions, and limited resources and technology to support court processes.

**Corrections:** Jamaica has eight adult prisons and four juvenile detention facilities. Corrections challenges include old, crumbling, overcrowded facilities, a lack of separate facilities for the mentally ill and other special needs groups requiring segregation or special attention, and a limited capacity and resources to develop programming for offender development/ rehabilitation and reintegration. Programs for young offenders are either deficient or non-existent. The general mood of the citizenry is one of fear and there is a strong public demand for a punitive correctional system. As Harriott has noted, the current public sentiment “favours a ‘get tough’ approach including lawless crime control and quick and rough justice” (2000:16). There would seem to be little public support for prison reform and there is increasing public pressure to reintroduce the death penalty.

In 2003, a technical assistance team from the Correctional Service of Canada conducted a correctional needs assessment for Jamaica.<sup>66</sup> The report contains recommendations on how to improve the organizational performance of the correctional organization and identifies other criminal justice reforms that are required to decrease the country’s reliance on imprisonment. It does not include an assessment of the system’s current capacity or an assessment of the potential support that may exist internally and in Jamaican society for the management improvement suggestions made by the Canadian team.

**Alternatives to the Justice System:** Alternatives to criminal justice processes are used in rural areas, and, although there is an expressed

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<sup>66</sup> Correctional Service of Canada (2003). *A Correctional Needs Assessment of Jamaica*.

interest in mediation, alternative dispute resolution, and restorative justice, these alternative modes of conflict resolution are not routinely practiced. Alternative dispute resolution, which is only available in civil actions, is still in its early development stage and, at present, must be court ordered. CIDA's current Social Conflict and Legal Reform project is intended to enhance the capacity of both the legal system and the general public to manage conflict. At the time the present report was written, the extent to which this project has increased capacity had not been determined.

The law enforcement and justice sector is not generally perceived to have a community focus. Community based approaches are rarely favoured. Several government and civil society sponsored youth development programs are operating with some success. Programs to deal with various forms of substance abuse are very limited.

**Legal Reforms:** The legal framework in Jamaica requires extensive law reform to bring the system into compliance with various human rights and international legal norms and standards. More specifically, changes are required to deal with new and emerging forms of crime, to make legislation gender neutral and to change current sexual offence legislation that recognizes only male offenders and female victims in sex-related crimes, and to harmonize national legislation with international standards so as to facilitate international cooperation in fighting various forms of transnational crime.

**Juvenile Justice System:** A new *Child Protection Act* and a *National Policy on Youth Development* have recently been adopted in an attempt to integrate social responses to children and violence. However, the full implementation of the policy and the legislation, particularly their various program components, may be at risk due to a lack of resources.

Offenders between the ages of 12 and 18 are processed through the Juvenile Court system under the juvenile legislation. One Resident Magistrate and two Justices of the Peace, one of which must be a woman, deal with the juveniles. Parents or guardians must, if possible, attend all sittings. Proceedings must be held in a place different from where the adult criminal courts sit or at a different time than adult criminal courts if held in the same building. If a youth between the ages of 14 and 17 years of age commits a serious offence (e.g. robbery, wounding, killing) the case is heard in Resident Magistrates Court.

Jamaica has one remand facility for juveniles, one detention facility for female offenders and three facilities for males. Correctional services have partnered with education to provide basic education and skills development programs, but educational and counselling programs are limited. There is no comprehensive rehabilitation program for juvenile offenders.

## Guyana

Guyana is a country facing very serious internal and external challenges. The foremost internal challenge in Guyana is the tribal nature of the political landscape, which is reflected in the racial split between Afro-Guyanese, who are estimated to form 33 percent of the population, and Indo-Guyanese, who compose approximately 42 percent of the population.

The current Guyana National Development Strategy states that “the major obstacle to Guyana’s development is to be found in the divisive nature of its politics.” In fact, this observation was made decades ago. In 1963, a local medical doctor described the polarized nature of Guyana politics as “improvised tribalism” (Jagan, 1997: 235). The comment holds true today, with each of the two major political parties representing one of the largest ethnic groups in the country. This polarisation is reflected in the civil service, police, and military, and in most important social institutions. Which political party is in power is widely perceived to determine one’s access to civil service positions, post-secondary education, and public resources. Although there are local leaders in government, religious organizations and in the community who are eager to fuel tribalism, division and conflict, there are also voices of reason in these same quarters who seek out opportunities to highlight shared issues, values, and interests. These individuals seek points of connection, not partition, in an attempt to build a sense of shared community. It is in these individuals that the hope for positive leadership for Guyana’s future development can be found. What remains to be seen is whether their optimism can be translated into meaningful positive change.

An additional internal challenge comes from the country’s one-dimensional and fragile economy which relies heavily upon foreign aid and loans. Guyana has the second lowest UN human development index score in the Americas. With weakening international prices for major export products such as bauxite, gold, timber and rice, the country’s ability to compete in international trade has been eroded by the poor state of its infrastructure and the emergence of strong competition for traditional markets. The economy is likely to continue to be quite fragile and susceptible to domestic, regional and international forces.

According to USAID<sup>67</sup>, development within Guyana is constrained by its small size and isolation from outside markets, a weak legal and regulatory framework, a weak business environment, deteriorating infrastructure, the flight of human capital, the social and financial impact of escalating rates of HIV/AIDS, weak standardization and certificate systems, commodity price fluctuation, high degrees of centralization of control, ethnic divisions, and the fact that external donors finance about sixteen percent of the national budget.

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<sup>67</sup> See USAID (2003). *Country Strategic Plan (CSP) 2004-2008*, pp. 12-18.

Approximately thirty-five percent of the population lives in poverty and citizens complain of a lack of social, economic, and institutional justice. Emigration continues to be an issue; there are presently as many, if not more, Guyanese living abroad as residing in the country. There has also been a dramatic increase in the incidence of HIV/AIDS and this is expected to have a devastating impact on an already weak health sector, the economy, and, ultimately, on the government.<sup>68</sup>

Crime, particularly violent crime, has dramatically increased in recent years and there is a general distrust of the justice system. Various forms of organized crime flourish and the country is considered by many observers to be an unimpeded conduit for narcotics, small arms, money, and illegal immigrants. Organized crime groups appear to operate with impunity, while communities live in fear of death squads who are allegedly linked to the government. There is a general sense that the overall economy has been criminalized through systemic corruption and weak or non-existent regulatory bodies. The personal security of women and children is regularly threatened. Youth have little hope for a prosperous future and often feel socially alienated. In the eyes of the public, the justice and security systems have little credibility and carry very little legitimacy.

Compounding these local development challenges is the high turnover rate among staff in the various development agencies, due primarily to quality of life and security issues. This has made it difficult for agencies to sustain long-term projects. At the same time, a number of development agencies are cutting back on the resources they allocate to projects in Guyana. There is a perception among them that previous projects have had little impact due to the unattended social, political, and economic issues faced by the country.

Weak and corrupt governance mechanisms are part of the country's development conundrum. Since 1992 there has been an active program to modernize the State and this has included initiatives designed to separate the powers of the executive, legislative, and judicial branches of government. However, problems still remain. According to the Pan American Health Organization, "public servants operate in systems which not only lack

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<sup>68</sup> Guyana has the second highest incidence of HIV/AIDS in the Americas, second only to Haiti. There is open street prostitution in some urban centres. This, coupled with a casual approach to unprotected sexual contact among many groups, has led to the unchecked spread of this disease. Cumulatively, the impact of HIV/AIDS on individuals, communities and the national economy is becoming a crisis of alarming proportion. The Pan American Health Organization estimates the incidence rate to be around 5 percent, and increasing, in Guyana. The health sector lacks sufficient resources for meaningful prevention, early detection and treatment. The situation is even more critical in rural and isolated areas where health care, at best, is sporadic and sub-standard. As in other health sectors, such as the substandard capacity to immunize children against preventable diseases, the mortality rates for persons with HIV/AIDS are directly linked to the quality of care and early diagnosis. Tragically, this means that many die needlessly, and often at a young age.

transparency and accountability but in which mechanisms for asserting authority have broken down”.<sup>69</sup>

### ***Major Security Threats***

The country’s weak justice and security sector is facing a number of significant security challenges, including:

**Increasing Violent Crime:** As in many jurisdictions, there is a perception that a significant number of crimes in Guyana are not reported. Nevertheless there have been significant increases in the number of reported homicides: 79 in 2001, 140 in 2002, and 206 in 2003. Twenty percent of the homicides in 2003, were apparently linked to extra-judicial executions. Although the dramatic increase in violent crime and murders experienced in 2002 and in subsequent years is frequently attributed to the events that followed the notorious escape of five violent criminals from the prison in Georgetown in February of that year, it is hard to believe that five men were responsible for the whole of the national crime trend.

**Drug Trafficking:** The latest US Department of State annual International Narcotics Control Strategy Report, released in March 2004, states that Guyana is a transshipment point for South American cocaine destined for North America. The report states that the problem is exacerbated by the “nominally committed” and “largely ineffective” police, limited by a weak legal and judicial infrastructure, and further hampered by widespread corruption that “reaches high levels of government, but continues to go un-investigated”.

According to local officials, the impact of U.S.- supported crackdowns on the narcotics trade and trade routes in South America is being felt in Guyana where there has been a dramatic increase in the transshipment of illicit drugs. Drugs arrive by air or overland through the unprotected and un-patrolled borders that Guyana shares with Venezuela, Brazil and Suriname, or by air. The drugs are then transferred to offshore vessels where they either make their way to North America or are sent to Nigeria and then on to Europe before finally reaching North America.

**The Corrupting Effect of Transnational Organized Crime:** In addition to drug transshipment activities, there is also a significant illicit trade in small arms and an increasing incidence of trafficking in persons and smuggling of migrants. These various forms of trafficking and transnational crime have generated vast amounts of cash that has contributed to what one respondent described as “the criminalization of

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<sup>69</sup> Pan American Health Organization (2003). “Health Situation on the Americas – Basic Indicators 2002”. Washington (D.C.): PAHO, p. 4.

the economy". Many local people can identify community members who have achieved sudden and unexplained wealth. In the face of widespread poverty, new palatial homes are being built in the Georgetown area with TV satellite dishes in the front yard and new luxury automobiles in the driveway. Government authorities and systems are unable or unwilling, to monitor or investigate the source of this sudden wealth. In some instances, it is common knowledge where drug lords and their private armies reside. Yet, there is no action taken by the government.

This new wealth may have contributed to widespread corruption within the police, courts and prisons. It has been alleged that the police routinely grant firearms licenses to known gangsters, drug dealers, and murderers on a fee-for-service basis. Prosecutions in several high profile cases have been suspiciously diverted. Trials have been delayed and contraband is reportedly smuggled into the prisons on a regular basis.

The Guyana Police Force equips its officers with .38 calibre revolvers and rarely provides hand-held radios. In contrast, organized crime groups have sophisticated intelligence and communications systems and arm themselves with automatic assault weapons, hand grenades and, in at least one instance, an armoured car and a mobile system for tracking and monitoring cell phones. There are reports that, when organized crime groups commit an offence, the police wait until well after the offenders have left the scene of the crime before responding as they dare not compete with the criminals superior fire power. In the community of Buxton, situated outside of Georgetown, the police are reluctant to respond to any crimes for fear of their personal safety, as it is believed organized crime groups control the entire town and are willing to violently respond to any police incursion into their territory.

**Proliferation of Firearms:** While the majority of violent crimes continue to be committed with large, edged weapons<sup>70</sup>, gun violence is still common and reported almost daily in the media. There is in Guyana, as in other countries in the region, a serious problem with the prevalence of firearms, particularly military-style, semi and fully automatic assault rifles. Guyana has also experienced criminal incidents where hand grenades were used. The police are generally unable and/or unwilling to respond to such incidents.

Members of the project team queried a number of persons on how difficult it would be to obtain either a legal or an unlicensed firearm. The most common response to this question was that both were cheap and readily obtainable. In the past five years alone, some 30,000 firearms

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<sup>70</sup> The weapon of choice most commonly used in assaults throughout the Caribbean is the machete, or as it is referred to in Guyana, a "cutlass". These are common tools found in agricultural economies, such as in Guyana.

licenses have been issued in a population of 750,000 persons. While handguns and rifles are easily obtained legally or illegally, automatic assault weapons are also readily available for the right price on the black market. Some respondents reported that weapons belonging to the Guyana military are easily found on the black market.

One example of the consequences of the proliferation of firearms was noted in the media reports, during March 2004, of a shooting at the Stabroek Public Market in Georgetown. The incident began with a lone male snatching a gold chain from around the neck of a woman shopper. As he ran away, four or five persons (depending on the particular media report) in the crowd, acting independently, drew handguns and opened fire on the fleeing suspect. Again, depending on the media report, the suspect was hit once or more and fell to the ground. One citizen retrieved the stolen gold chain from the suspect, while two additional people emerged from the crowd of onlookers, picked up the wounded suspect and placed him in a car. The car drove off and the suspect was never seen again. Neither the police nor local hospitals have any record of the suspect who was shot during the incident. As well, nobody at the scene would provide a formal statement to police although the name of the wounded offender was mentioned in several media reports.

**Criminal Deportees:** According to the Government of Guyana's Information Agency, 1,400 Guyanese were deported to Guyana from North America during the past six years. Figures were unavailable concerning individuals from other Caribbean or Latin American countries or from the United Kingdom in which there are large expatriate Guyanese communities. The two tables below report the number of deportees from the USA and from Canada between 1997 and 2003.

<b>Individuals Deported from the U.S.A. to Guyana</b>			
<b>Year</b>	<b>Criminal Breaches</b>	<b>Immigration Breaches</b>	<b>Total</b>
1997	90	62	161
1998	113	63	176
1999	101	40	141
2000	49	48	97
2001	108	26	134
2002	179	58	237
2003	158	131	289
<b>Totals</b>	<b>807</b>	<b>428</b>	<b>1,235</b>

<b>Individuals Deported from Canada to Guyana</b>			
<b>Year</b>	<b>Criminal Breaches</b>	<b>Immigration Breaches</b>	<b>Total</b>
1997	12	12	24
1998	6	15	21



1999	14	11	25
2000	7	8	15
2001	8	15	23
2002	38	7	45
2003	12	14	26
<b>Totals</b>	<b>97</b>	<b>82</b>	<b>179</b>

Although it is widely reported (in Guyana and in other Commonwealth Caribbean countries) that deportees are responsible for a significant number of crimes upon their return home and that they are often involved as leaders of organized crime groups, there are no hard data to substantiate these assertions. It is interesting to note that the figures indicate that a significant proportion of the total number of persons deported back to Guyana are returned to the country as a result of breaches of immigration statutes rather than for criminal offences.

**Vulnerability to International Terrorism:** Assessing a country's vulnerability to attacks by international terrorists is a difficult task. While international terrorism is not yet an immediate issue in Guyana or in the region, there are those who see it as inevitable given the close proximity of the region to the United States. The Caribbean has been described as the "soft underbelly" and an easy avenue for terrorists interested in entering America. Guyana lacks the capacity to collect hard intelligence on terrorist groups and to respond to or prevent terrorist incidents.

**Youth Crime and Alienated Youth:** Meaningful figures on employment in Guyana are difficult to obtain. This is partially due to inadequate government systems for collecting information, coupled with the difficulty in quantifying the term "employment". Nevertheless it is clear that unemployment and underemployment are very high among youth (as it is also for women). During the interviews conducted for the present review, many people reported that most Guyanese youth hold little hope for obtaining fulfilling employment as adults. Those youth who seek and obtain higher education are likely to either leave the country in search of a better life or find local employment that is beneath their skill level. As a consequence, organized crime and its associated access to wealth provide the only viable career track for many youth.

### ***Capacity of the Justice and Security Sectors***

As previously mentioned, the greatest challenges within the Guyanese justice and security sector emanate from the tribal nature of the political landscape, the absence of effective leadership, the lack of capacity in major government

institutions, and the resulting breakdown in civil society. These have a significant impact on the justice and security sectors. Legislation is outdated and there is an absence of institutional capacity to administer justice and to establish a safe society. Public institutions are incapable of meeting their mandate and there is a general public distrust of government and of the justice system.

Within that context, observers (Clement *et al*, 2000:41) have emphasized the importance of convincing policymakers that, without a well-functioning justice system, sustainable social and economic development is unlikely to occur. The most critical aspect of any proposed security sector reform in Guyana will be the need to address the very limited capacity of existing systems within the sector. **There are few solid bases upon which to build in order to develop a minimum justice and security capacity in the country.** To a large extent, there have been few advances in the justice and security sectors since independence was gained in the early 1960's. The organizational infrastructure of the justice and security sectors has not been maintained and this had contributed to the general disillusionment and pessimism about the prospects for meaningful, sustainable reform. There are many areas that require urgent attention, primary among these being the police.

**The Police:** The Guyana Police Force (GPF) functions primarily as an arm of the national government and focuses its efforts on responding, after the fact, to incidents of crime. The notions of the police as a “community service” and of crime prevention as a core police function are relatively new in Guyana and have not been integrated into the police role and activities.

One report (Symonds, 2000:15) found that the major weaknesses in the police are “poor management structures and practices, the immense frustration felt by the community, the Government and many serving police officers, coupled with failing public support and rising crime which, if unchecked, could result in a spiral of decline and public alienation.” Low wages, ongoing challenges in recruiting and retaining high calibre officers, an absence of leadership training, no formal mentoring program, and a dearth of modern equipment also afflict the GPF.

The police in Guyana have been the focus of no fewer than four externally funded reviews within the past six years. Each of these studies has identified areas in need of reform and assistance and produced recommendations. To date, however, little action has been taken to address the issues identified in these reviews and there is no indication that any of the recommendations have been implemented.

The most recent report available to the project team, completed in early 2004 by a volunteer with the Canadian Executive Services Organization (CESO), provides important insights into the issues and challenges in policing. CESO was involved in development work with the Guyana

tourism industry and it was determined that crime and the fear of victimization were significant barriers to tourists coming to Guyana. In this instance, it was the concerns of the tourism industry that drove the CESO review of the Guyana police, a reflection of how the lack of capacity in the justice system can have a significant economic impact.

Similar to the other reviews, the CESO report found a significant lack of capacity within the police to prevent, detect or respond to crimes and an inability to apprehend suspects involved in criminal activity. Specific problems include:

*Independence of the Police:* Unlike their counterparts in most developed countries, the police in Guyana report directly to the government, without the mitigating effect of an independent governance structure and reporting mechanisms. To enhance public trust and credibility, **an independent body such as a governing board composed of local citizens is required to oversee the police in Guyana.** This board must be staffed in such a manner so as to prevent any suggestion of political influence. Ideally, such a governing authority would help both the police and the community become accountable to the community, rather than to the government of the day. At present, the police in Guyana report to the Minister of Home Affairs.

*Size and Structure of the Police:* Similar to many post-colonial police forces, the GPF is modeled along paramilitary lines. This is reflected in the terminology used by the police - “barracks” for stations, and “force” rather than “service”. This model flows from colonial times, when the police were used as a force to control the public, acting in the interests of the colonizers and accountable to the colonial power, rather than to the community. In April 2004, the Commissioner of Police changed the name of the GPF to the Guyana Police Service and instituted several new measures in an attempt to alter public perceptions of the police. These new measures include dedicated, uniformed foot patrols of downtown Georgetown, an increased focus on traffic enforcement, and training several senior managers in media relations. Additional operational, supervisory and management training is planned for the police by DFID.

In Guyana, reliable statistics are often unavailable and this extends to the Guyana Police Force. The 2001 GPF annual report claims 3,267 police members with an authorized strength of 3,570, and a ratio of 1 officer to every 319 citizens. However, when interviewed for this project, the Commissioner of Police stated he believed there were presently about 3,100 members of the GPF. Additional interviews with police and government officials found that

there was considerable uncertainty as to the exact number of police officers in Guyana.

*Police Oversight:* Independent oversight of the police in Guyana is largely non-existent. While there is a Police Complaints Authority, staffed by a former judge, it has no capacity to conduct independent investigations, such as reviewing police finances, procedures or operational policies. In fact, the Complaints Authority primarily exists to receive complaints, which are then passed along to the police for actual investigation. This approach to police oversight is clearly insufficient to ensure human rights and the transparency and independence of investigations.

According to the Guyana Human Rights Organization, the police shoot and kill, on average, twenty citizens per year<sup>71</sup>. In the years 1980 to 2001, the police shot and killed a total of 239 persons. This does not include non-lethal shootings and instances in which persons died while in police custody. In none of the shooting incidents was a Coroner's inquest conducted and, in many of the cases, there was no formal review or investigation of the shooting. In the absence of a mechanism for an independent review of police actions, the police themselves end up investigating the incidents.

The absence of any structures or process to ensure police accountability reduces the legitimacy of the police in the local, regional and international communities. Addressing these issues would require a strengthening of the Police Complaints Authority and the creation of an independent police board.

*Community Policing:* An examination of community policing in Guyana provides additional insights into the issues and challenges in the justice and security sectors. In most jurisdictions, community policing embodies a philosophical approach to the provision of policing services that is composed of a number of specific strategies, including the development of police-community partnerships and a proactive, problem-solving approach to crime and disorder. Community policing is often implemented through the use of uniformed foot patrols, the creation of community police offices, the involvement of community volunteers, and use of various community-based programs such as Neighbourhood Watch.

In Guyana, the approach to community policing appears to be based solely on providing firearms licenses, guns, ammunition and

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<sup>71</sup> By way of comparison, Vancouver Police (Canada) shoot and kill one to two people per year, while policing a city with a daytime population of approximately 1,000,000 inhabitants. With only 600,000 citizens in Guyana, the police are killing citizens at an alarming rate.

nominal firearms training to local groups concerned about crime in their community. In some instances, the people lining up for guns are more interested in receiving the free gun than they are in preventing crime or protecting their neighbourhood. The result of this unique approach to “community policing” has been a significant increase in the number of guns in the community. When queried by a project team member, the current Commissioner of Police was unable to state how many guns had been distributed to community residents as part of the “community policing” strategy. He did not know whether a record was kept of the names of those persons who had received the free weapons.

*Police as Prosecutors:* As in many former British colonies, the police in Guyana act as prosecutors in Magistrates Courts. While many of these officers hold the rank of Corporal or Sergeant, few have any specialized training to prepare them for the role of prosecutor and none are lawyers. Local officials reported that most officers are, in fact, grossly unqualified and untrained and are unable to act as competent prosecutors, particularly when the defendants are represented by competent counsel. In Guyanese courts, seasoned lawyers are frequently arguing cases against untrained and unqualified officials or even lay persons. The police, the judiciary and members of the Bar all identified this as a significant issue with the Guyana justice system and one which serves to further erode public confidence.

*Police Training:* Police training in Guyana is severely underfunded. At the Guyana Police Training Academy, blackboards are the only teaching aid and training manuals for students and instructors are generally unavailable. Similarly, there is virtually no training for police officers to become instructors. At the Academy, the primary pedagogical approach to training is the lecture, or, as the Deputy Commissioner responsible for police training stated, training is largely “chalk and talk”. While there are a limited number of advanced police training courses available beyond basic recruit training, police educational programs are not integrated into a larger framework for reform or strategy for development.

This state of affairs, however, may be changing. The Faculty of Social Sciences at the University of Guyana has instituted a new diploma in public safety and security management. Using a cohort model, forty students have recently begun a rigorous program of academic study that directly relates to their operational context. Designed partially to help develop future senior managers, the first class is composed primarily of police, military and private sector security junior level managers. It is hoped that this new training

program will place a heavy emphasis on leadership development and change management.

Despite this positive development, there is still a primary reliance on sending police officers outside the country for brief training programs, often in contexts where the Guyanese officers are mixed in with much larger international groups. This provides little, if any, opportunity to focus on specific country issues. This form of training often takes place in a context where there is no continuity or learning support prior to or following the training program. The police officers participate in the training event and are then left to their own devices to transfer and apply their new learning to the organizational and operational contexts within which they work.

The second external approach to police training is for donor countries and agencies to send police trainers to Guyana, usually for “one off” courses. Many in-country observers have complained that too often the trainers who arrive are retired police officers who have not practiced in their field of expertise for some time, know little or nothing about the issues and challenges facing the police in Guyana, and are often more interested in playing tourist than imparting their knowledge in a way that will assist the officers attending the training program. Even those foreign police trainers who are competent and committed find that their training programs are delivered in a context that is independent from any strategic plan or capacity on behalf of the police to incorporate the knowledge and skills from the training programs into operational practice.

*Monitoring and Reporting:* Sporadically, the GPF publishes an annual report that is composed almost entirely of tables listing reported crimes, clearance rates, and arrest figures. The report lacks meaningful measures of results generated from a clearly articulated policing process, along with measures of quality, effectiveness and efficiency. There is no strategic plan set forth in an annual report, nor are there any stated quantifiable goals or key performance indicators. Rather, there is simply a tabulation of incidents and files, and an absence of any connection to a larger plan or strategy.

*Crime Lab / Forensics:* The GPF lacks any semblance of a crime lab. Drugs and other forensic evidence must be sent to Trinidad or another country for analysis. Biological evidence collected in sexual assault offences is collected and placed on microscopic slides, but never analyzed, as there is no capacity to do so.

*Police Corruption:* There are persistent allegations that some individuals and factions at all ranks of the police are corrupt. This includes taking bribes, engaging in corrupt practices, fabricating evidence, taking unlawful or unauthorized actions (or not taking action when required), and excessive use of force. Corruption also impacts attempts to provide foreign assistance to the police. In several interviews, respondents strongly suggested that any foreign aid directed to the Guyana Police Force not be funneled through the Ministry of Home Affairs. There is a strong belief that corruption exists within the Ministry and a suspicion that development assistance and other funds are regularly diverted for personal gain. As well, foreign agencies who deal directly with the Minister run the risk of legitimizing a man who has had his travel visa to both Canada and the USA revoked as a result of ongoing allegations over direct links to extra-judicial executions.

**Legislative Reforms:** There is an urgent need within the Guyanese justice sector for legislative reform in both substantive and procedural criminal law and for legislative drafters to assist with these reforms. Much of the criminal law of the country dates back at least four decades or is embedded in the early twentieth century colonial context. For the most part, the same is true of other laws of the country. For example, the country's laws concerning copyright and the protection of intellectual property was last revised in the mid-1950s. This has created a situation where Guyana is not in compliance with WTO regulations concerning ownership and protection of intellectual property and this, in turn, is a barrier to some forms of foreign investments.

**Judicial Reform:** At present, the backlog of criminal and civil cases numbers in excess of 11,000 files. This has been created, in part, by a shortage of magistrates and justices, outdated court systems and procedures and a lack of technology to assist with case management. Further contributing to the backlog is the absence of alternative sentencing provisions, alternative dispute resolution mechanisms, a family court, and a culture of mediated settlements in the civil system.

While there is a Commission that recommends individuals for appointment to the bench, the government reportedly often ignores the recommendations and chooses not to fill vacancies or appoints their preferred candidate. The lack of an independent appointment process has led some observers to believe the government controls the high court, a view that further undermines confidence in public institutions.

It is reported that salaries of Justices are not standardized and that the government awards higher levels of remuneration to those Justices who issue rulings that are favourable to the government. This has led to a

lack of cohesion within the courts and a loss of legitimacy. In short, the courts are not seen to be independent of government.

Currently only 60 percent of Supreme Court's judicial positions are filled and few qualified candidates are applying for the vacancies that are available. Low salaries, poor working conditions, and a widespread lack of respect for the position are among the many obstacles for persons who might be qualified for the position. The same issues and vacancies are found in the Magistrates Courts.

While the high court has established evidentiary rules and procedures, there is the perception among many observers that the magistrates often choose not to follow them. Many of the persons interviewed by the members of the project team identified the Magistrates Court as most in need of reform. There are reported cases of magistrates not following the law, refusing bail in a cavalier manner, and remanding suspects into custody when charged with crimes where incarceration is not prescribed.

Legal resources are also seriously lacking. For example, the Guyana Law Reports have not been published for distribution, nor has new legislation been officially published, in the last three decades. Lawyers do not have access to previous decisions (case law) and citizens cannot educate themselves on current law. Exacerbating this problem is the widespread tendency within the judiciary not to provide written decisions for judgments and, in cases where decisions are written, it is often months after the case has been heard and very few details are provided.

**Prisons:** There are significant issues in the correctional system in Guyana. While generally not overcrowded, most of the prisons are old, of wooden or zinc construction, and have few educational or rehabilitative programs for prisoners. In most cases, prison meals are cooked over wood fires, and guards who have little or no training supervise the prisons.

The Guyana Human Rights Group reports that prisons are "conceived as the 'dustbin' of society, the contents of which, once consigned there, do not merit a second thought". This view is reflected in a lack of programs for inmates, few, if any services, and only meagre support from the government. Despite their critical role in the maintenance of peace and security, correctional institutions are generally overlooked during security reform planning. In fact, any attention given to the prisons often occurs in the aftermath of a significant breach in security such as a riot or escape. This occurred in February 2002 following the escape of five violent prisoners who subsequently terrorized the country.

Guyana currently operates five prisons, all of which are over a hundred years old. The facilities usually consist of dilapidated wooden structures, except for one prison in Georgetown that is constructed primarily of



concrete. Two of the facilities maintain wings reserved exclusively for women and juvenile offenders. At the time of the review, these areas, respectively, housed 32 and 45 offenders. A third facility, in Georgetown, operates as a pre-release prison. Guyana is one of the few countries in the region not experiencing a significant problem with prison overcrowding. The system has an overall capacity to imprison 1,165 inmates and currently has a population of 1,200. The number of individuals remanded in custody while awaiting trial or disposition is a concern. In the last two years or so, an attempt was made to reduce the number of accused individuals remanded in custody. Prior to February 2002, remand prisoners comprised 50% of the prisoner population in Guyana; it has now been reduced to 32% of the population.

The statutes, policies, and procedures under which the Guyana Prison Service operates have not changed significantly since independence. The *Prison Act* dates back to 1957 with policies created along the way. The system itself has remained static and conservative, emphasising secrecy, punishment and deterrence with little concern for reform, rehabilitation and the reintegration of offenders into the community. There is little sense of professionalism among the correctional staff, particularly at the lower level, and the staff attrition rates are very high.

Outside of rudimentary employment and education schemes, as well as some basic programs for drug offenders and sex offenders, there are few programs for offender rehabilitation and the programs that do exist are limited in scope. No more than 20% of the prisoner population is involved in some kind of organized activity. Despite the increasing prevalence of HIV/AIDS in the country, health care programs in the prisons are rudimentary and there is little provision for the care and treatment of mentally disordered offenders. There are no programs specifically tailored to address the needs of women or juvenile offenders.

The provisions that exist in law for the granting of parole are rarely used and community corrections programs have not been developed. In 2002 and 2003 there were, respectively, two and six releases on parole.

Guyana has shown little commitment to improving its correctional system and meeting applicable international standards and norms. The UK is currently providing assistance to develop a ten-year strategic plan for the country's correctional service.

**Private Security:** While mentioned by only a few of the respondents interviewed for this review, the highly visible, omnipresence of private security guards is an emerging issue in Guyana. Private guards are found in clusters around banks, in front of some shops, and in huts at the gate entrances of many of the larger homes. Many of the guards are armed with handguns, rifles, or shotguns. Some drive vehicles equipped with

small holding cells for prisoners. Large dogs accompany others. While this type of security presence is being increasingly experienced around the world, it serves to highlight public fear of crime and disorder, and a shrinking faith in the police as guarantors of individual security and as protectors of community residents. Persons of financial means can purchase security far above and beyond what the public police can provide, creating a two-tiered approach to community security.

As in many developing countries, private security in Guyana is largely an unregulated industry with few if any standards dictating required training, screening of personnel or restrictions on the use of force. This is certain to create problems in the future.

**Border Control:** The country's inability to protect its national borders against criminal elements is a major source of concern. The Guyana military lacks the capacity to effectively patrol the borders or the remote territories and make no effort to do so. In fact, the Guyana military has only two small troop transport planes and one helicopter. Similarly, there is no capacity to patrol the extensive network of river systems or to patrol off shore. With the exception of the commercial airport close to the capital, radar is nonexistent. The immigration system is not computerized and immigration officers are unskilled. These weaknesses, coupled with the porous border, create a situation where the government has no means of knowing who is in or out of the country. Many government officials admit to these deficiencies.

The porous border and the absence of a government presence in the interior are just two of the many reasons why Guyana was categorized by the US Department of State in June, 2004 as a "Tier 3" country with respect to trafficking in persons. The annual report noted that Guyana is not in compliance with minimum standards regarding trafficking in persons and had not made any significant efforts to be in compliance. The report also observed that trafficking in young women and children, largely Amerindians, was primarily for the purposes of sexual exploitation and was practised in the coastal populated areas as well as the interior of the country.

In response to being categorized as a "Tier 3" country by the U.S.A., the government of Guyana hastily enacted new legislation in August 2004 to respond to human trafficking, although many doubt the government has the capacity, let alone the will, to implement these new laws.

**Lack of Technological Support:** Guyana's justice and security sector is critically challenged by its lack of basic technological support. It is reported that, for the approximately three thousand members of the Guyana police, there are fewer than a dozen computers. Within the Supreme Court, only the Chief Justice has one. Both the Land and the

Court Registries are entirely reliant on handwritten ledgers and written records. Copiers in the judicial system are ancient and crucial copies of documents are often illegible because of the poor quality of the photocopying.

**Access to Justice and Vulnerable Groups:** Access to justice for citizens is an issue for all, but in particular for women, children, indigenous groups, and persons in poverty requiring legal assistance. For most of these groups, the justice system does not offer effective protection against victimization, discrimination, and various forms of exploitation.

With respect to the Amerindian population in the country, legislation was enacted to protect Amerindian groups and their natural habitat; the legislation is weak and poorly implemented. There are reports that Amerindian women in remote areas are being lured away from their home villages with false promises of jobs, only to find themselves isolated as prostitutes in mining camp brothels. While there are several reports of this taking place, there are no hard data, no services to rescue these women, and no visible intention of the government to take action to protect and assist the women who are victimized.

In Guyana, access to free legal counsel is only provided to persons accused of having committed the most serious crimes and then only at the time of the trial. There is no legal assistance provided at the time of arrest or during preliminary hearings. While some members of the Guyana Bar Association have advocated for expanded legal aid resources and have asked members of the Bar to provide *pro bono* services, few lawyers have responded to the call.

There is an Office of the Ombudsman in Guyana. However, the Office has little authority, no capacity to conduct independent investigations, and is largely unknown to the population outside of the coastal area. The enabling legislation prohibits the Office from examining systemic issues and further prohibits the ombudsman from levying penalties against wrongdoers. Over the years, representations have been made to the government to strengthen the Office of the Ombudsman and improve the access to justice services it provides. To date, the government has not acted on these recommendations.

### **Impediments to Justice and Security Reform in Guyana**

Based on the interviews conducted for the present review and the available documentation, it is evident that at least five major obstacles are currently preventing progress in the security and justice sectors.

1. A lack of expertise/capacity, at the national level, in the public sector as a whole (especially in relation to leadership, sound financial management, and policy planning and implementation)
2. The absence of a stable, diversified economy that precludes the allocation of resources for development of the justice and security sectors.<sup>72</sup>
3. Weakening local capacity due to substantial levels of emigration.<sup>73</sup>
4. A general lack of good governance at all institutional levels.
5. The divisive nature of tribalism as it relates to politics and major societal institutions.

Infrastructure deficits, the absence of good governance system-wide, and a poor economy all stand in the way of developing an adequate justice and security sector capacity. More immediately, however, there are several sector-specific liabilities that stand in the way of successful security system reforms. They include:

- 1. Lack of Local Expertise:** Similar to many of the island nations in the region, Guyana lacks local expertise to develop police systems and deliver police training, undertake legislative reform, implement alternative dispute resolution mechanisms, and train prison staff. This results in a heavy reliance on foreign aid and agencies.

In some cases, foreign aid perpetuates this dependence by failing to train Guyanese who, in turn, could become trainers. In other cases, trainers are brought in to deliver training to staff that work within systems that do not support, encourage or sustain the skill sets acquired in the training. In a few instances, corrupt systems actively discourage the use of training or technical assistance. While some institutions, such as the University of Guyana, have attempted to

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<sup>72</sup> According to UN figures, some thirty-five percent of the country lives in dire poverty. A significant negative force on the developmental capacity of Guyana is the alarming devaluation of its currency. In 1985, 1 US Dollar = 4.15 Guyana Dollars. In 1992, 1 US Dollar = 126 Guyana Dollars, and in March, 2004 1 US Dollar = 179 Guyana Dollars. The poor economy has been further impacted by WTO rulings that have removed trade subsidies to sugar and rice produced in Guyana. Foreign competition is eroding Guyana's ability to compete in the world market.

<sup>73</sup> According to report published by FOCAL (2003), one in three English speaking Caribbean people lives abroad. In Guyana, the figures are even higher, with reported figures showing as many, if not more, Guyanese living abroad as there are in the country. Historically, Guyana was an agro-exporting economy, but is now a labour exporting state with the best and the brightest leaving at an alarming rate. The Diaspora is so significant that some observers have suggested the country's economy would collapse overnight if overseas remittances were to stop.

increase local expertise, such efforts are often not linked to larger systems of support.

**2. Limited Capacity for Reform:** The divisive and polarized nature of Guyana politics discourages reform in such areas as voter reform legislation, registration and supporting systems, infrastructure development, legislative reform and reform of the civil service. Observers note that, since the current ruling party is largely Indo-Guyanese and the civil service (including the police and military) is predominately Afro-Guyanese, reform efforts are doomed, as neither group can bring itself to trust the other. Coupled with this is the absence of a large pool of skilled senior bureaucrats and civil society professionals who have specific expertise in reform. This limits the capacity and the political will to reform the major systems within Guyana. Some Guyanese, along with foreign aid workers, wonder aloud at the bleak future they see for Guyana.

**3. Dependence of Outside Assistance:** At present, sixteen percent of the national budget of Guyana is derived from foreign donors. Should any one primary donor choose to direct their resources elsewhere in the world, the impact would be devastating to the economy and people of Guyana.

Many foreign aid projects in Guyana are tied to specific terms and are often not renewed for a variety of reasons, including a lack of government support. One recent example is the USAID-funded Carter Center law and judicial reform project in Guyana. When the funding cycle was completed, the project ended. However, the local systems that had been created had become dependent on the project and had not developed the capacity to operate independently without external support. This project included the computerization of the Court Registry and the training of several staff to work as court reporters. The Registrar of the Supreme Court did not support the work and subsequently fired all the court reporters once they had been trained. Since then, the Registrar has chosen to ignore a High Court order directing the re-instatement of the improperly dismissed staff.

At the same time, local NGO staff report ongoing frustration with foreign aid projects that do not assist in building the necessary capacities so as to ensure continuity and sustainability. There was also a level of frustration that donor agencies did not fund project infrastructure. In such instances, significant staff time is spent seeking out and applying for infrastructure funding in order to implement the funded project.

NGO personnel and Guyanese government officials also expressed frustration with some foreign aid that is perceived by the recipients as being primarily in the best interests of the donor government, one example cited being aid directed towards the interdiction of narcotics and illegal firearms. Several of the respondents who were interviewed for the project expressed frustration over the amount of resources directed towards

protecting North American (particularly U.S.) interests at the expense of more pressing local needs such as health care.

**4. Weak Governance:** Generally speaking, there is in Guyana an absence of effective governance at all levels of public institutions. Governance tends to be neither efficient nor transparent. Corruption, patronage appointments and political cronyism have led to a loss of public confidence in many government institutions. A legislative framework does not exist that would dictate and support the development of governance systems in the justice and security sectors that can be accountable, transparent and free from political interference. Independent oversight of the relevant agencies is non-existent.

A number of respondents interviewed by the project team spoke at length about the lack of coordination among foreign donors. There was a consensus that foreign aid should be better coordinated amongst donors and provided directly to the specific projects, thereby reducing opportunities for government officials to divert the monies. There was also a shared belief that assistance should be tied to specific deliverables and that monies be disbursed at pre-identified stages of the project. In spite of the fact that regular meetings are known to take place between representatives of several donor countries with an interest in the justice and security sectors, these coordination efforts are not reflected in the assistance actually provided.

**5. Political Tribalism:** Tribalism is the dominant theme in all aspects of life in Guyana. This includes the two dominant political parties, educational institutions, government systems including the civil service, police and military, and even some faith-based organizations which further perpetuate a race-based division in society. Some communities are split along ethnic lines and many stories presented in the media are race-based. Race plays a role in industry, commerce, employment and voting patterns. The majority of persons interviewed reported tribalism as being the key impediment to development in Guyana and even identified specific institutions as either being "owned" by a specific ethnic group or, alternatively, by one of the two major political parties.

**6. Pervasiveness of Conflict:** Increasingly, people in Guyana perceive that violence is becoming an accepted and common mode of conflict resolution in the schools, the workplace, in households, and in the community at large. Religious leaders attribute this change, in part, to the loss of belief-based education in the schools and to the absence of in the schools of comprehensive programs focusing on ethics and morality. This has created a government and community ethos that is not supportive of mediation and other peaceful alternatives for resolving conflicts. Rather, the two major political parties in Guyana use the media to attack each other and to spread untruths. In March 2004, the opposition party walked

out of the parliamentary process and then refused to engage in any dialogue with the government.

**7. Racial Tensions:** Many of the persons interviewed as part of the present review stated that political and racial violence in the country were one and the same. In fact, the history of political/racial violence extends back to the 1950's. There is, at present, a concern that the violence will escalate in advance of the forthcoming national election, scheduled for 2006, and continue after the election as well.

USAID reports that "national patterns of ethnic politicization are at the root of a relatively exclusive political system, and that the current structure and composition of governmental institutions contribute to political gridlock, poor governance, and the potential for violent confrontation."<sup>74</sup> In fact, the national opposition party, the PNC/R, announced its disengagement from the political process at the end of March 2004. This is not the first time in recent memory that the political process has ground to a halt in Guyana, nor, many suspect, will it be the last.

A significant issue of concern within the larger community is the proliferation of violent attacks where race appears to be precipitating factor. In some instances, rape and group rape is perceived to be a weapon for spreading fear in some groups. More specifically, there appears to be a rise in reported cases of gangs of Afro-Guyanese men attacking Indo-Guyanese households, violently assaulting the men in the house and then raping the women, sometimes over prolonged periods of time. Several of the respondents reported that the attacks are politically organized and designed to elevate the levels of fear.

**8. Lack of Effective Leadership:** Strong leadership that would be the cornerstone of building capacity in all sectors of Guyanese society is in short supply. Rather, the tribal nature of Guyanese politics tends to direct any reform efforts towards benefiting either of the two dominant political parties and the ethnic groups that support them. In the alternative, many observers report that positional leaders are simply corrupt, inept, and/or blasé. Some religious and community leaders openly advocate a further ethnic and religious division. Non-partisan leaders have not yet merged who could command support across ethnic and political lines at the national or even the local level.

**9. Lack of Legitimacy of Justice and Security Institutions:** There are two large daily newspapers in Guyana. One is government-owned and is widely perceived not to be a credible source of news. The other newspaper, while independent and often outspoken, lacks the journalistic standards in reporting found in most developed nations. That being said,

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<sup>74</sup> USAID (2003), p. 37.

both do report a significant number of stories that depict the justice and security sectors as grossly under-funded, under-staffed, under-resourced, ill-trained, over-burdened and, often, corrupt.

Widely reported incidents of extra-judicial executions allegedly tied to the government and to the police further erode public confidence in the justice sector. At the same time, many specific instances of alleged police corruption and links to organized crime groups leave communities with the perception that the police are not to be trusted. There have been so many extra-judicial executions (EJE's) that the term "EJE" was used by several of the persons interviewed.

### **OECS Countries**

**(Antigua and Barbuda, Dominica, Grenada, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines)**

As small island states with small populations, OECS countries share many justice and human security concerns and challenges. Local officials are aware of the countries' potential vulnerability to a number of major security threats, including terrorism, drug trafficking, organized crime, and natural disasters. Drug trafficking will continue to be a major security issue<sup>75</sup> and efforts to combat it are likely to continue to absorb much of the resources and capacity of these countries' security sector. Governments, NGOs, the business sector, and citizens are, understandably, very concerned with their countries' inability to respond to these challenges on their own. Regional and sub-regional responses to these challenges are seen as key to successfully addressing these issues.

The economic association envisaged by Member States is very similar to the European Union. To this end, the Eastern Caribbean countries have undertaken a review of the Treaty of Basseterre (1981), which provided the legal basis of the OECS, and a report of a special Committee is currently being reviewed. The objective is for the more free movement of people, goods, and capital. Many of the treaty countries are also members of CARICOM and, as such, also have obligations to move forward with the plans for greater economic integration at that level. While these are parallel exercises, the OECS appears to be moving faster on some of these issues than is CARICOM.

Poverty, poor economic conditions, inadequate physical and institutional infrastructures, and limited financial and human resources are viewed as the major impediments to the development of stronger justice and security systems. The challenges are more severe in some countries than in others. In Dominica, for example, government employee salaries have been cut and all taxes have

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<sup>75</sup> U.S. Department of State (2004). *International Narcotics Control Strategy Report – 2003*, pp. 19-45.



been increased to meet the country's IMF repayment targets. Dominica admits to being a "delinquent partner" in the Regional Security System, which it supports strongly as a concept but cannot support financially. The problem has been exacerbated by the government's refusal to sign Article 98, a bilateral agreement with the U.S.A. wherein countries pledge not to seek the prosecution of U.S. citizens before the International Criminal Court, and this has resulted in the suspension of military assistance and support from the US. In Antigua, the inefficiency of a corrupt government that had been in power for nearly three decades was a major obstacle to the development of a competent security system in the country. A new government was elected in March 2004 and its plans for the security sector have yet to be fully articulated.

In Saint Kitts and Nevis, the persons interviewed identified government influence and interference in police decision-making and the alignment of senior police officials with political parties as major concerns. In Grenada the government is actively working on police and legislative reform, and local persons interviewed said that police corruption is slowly disappearing. There is, however, a significant lack of capacity to undertake offshore drug and arms interdiction patrols. In Saint Vincent and the Grenadines, marijuana production and violent rivalries between members of the gangs involved is a serious challenge.

Despite these differences, all six countries included in this review require legislative reforms, particularly in the area of criminal law, to effectively address terrorism, electronic and economic crime, and various forms of serious transnational crime. Procedural criminal law reforms are also required to facilitate law enforcement and to harmonize national laws to facilitate the cooperation of law enforcement between countries. These reforms would include various criminal law dispositions relating to the protection of witnesses, tracing and confiscation of the proceeds of crime, asset forfeiture, the identification of suspicious financial transactions, extradition, mutual legal assistance, the use of electronic and computer-generated evidence, and replacing antiquated evidentiary requirements that hinder the fair and efficient prosecution of offenders.

Grenada has undertaken a comprehensive review of its criminal code and other relevant legislation as part of a national crime reduction strategy based on national consultations. In Antigua, the development (or repatriation) of an indigenous criminal law is part of the national agenda and the need for a Standing Law Reform Committee has been identified. Mid- and long-range planning capabilities in government in general and within the justice and security sectors in particular are limited.

The Commonwealth Secretariat has been very active in supporting these legislative reforms and several instruments (model laws, manuals, toolkits) have been developed for use during law reform initiatives at the national level. The Secretariat has also developed some useful legislative guides and other

instruments to facilitate the implementation of the twelve universal conventions against terrorism.

Information sharing, cooperation and collaboration between government departments and agencies are limited both nationally and regionally. The problem is aggravated by the lack of technology to support data collection, problem assessment and information sharing.

Border control is a significant issue for all of these island nations. Security at airports and seaports is limited and there are endless stretches of borders that are unprotected. There is a widely-held perception that Jamaica's problems have moved eastward and that Jamaican criminals are becoming increasingly more sophisticated in using techniques to defeat profiling that would deny them access to other countries. There is the fear that the problems evident in Jamaica may soon emerge in other island nations. There are concerns over a "starburst effect" from crackdowns in Jamaica that may result in the increased use of outlying islands as alternate trans-shipment points for drugs, and in some cases, as new centers for drug operations.

The movement towards a single market and economy in the region is viewed as a significant contributor to the various immigration and emigration challenges faced by countries of the region. In Dominica, officials identified immigration from Haiti and the Dominican Republic and increases in the smuggling of migrants and trafficking of persons as significant concerns. The recruitment of sex trade workers through these means and the adoption of Caribbean children by families outside of the Caribbean were also identified as issues.

There are a number of general findings from the review about the main challenges faced by the six OECS countries examined for the review (Antigua and Barbuda, Dominica, Grenada, Saint Kitts and Nevis, Saint Lucia, and Saint Vincent and the Grenadines):

- ❑ They are involved in discussions to determine the viability of a Caribbean Court of Justice to replace the Privy Council in London as the Court of Final Appeal.
- ❑ They report an increase in violence, petty crime and youth involvement in criminal activity, and a perceived increase in problems with deportees. There are major crime prevention challenges with respect to disaffected young males who are dropping out of schools and getting involved in crime. There is a need to consider developing a strategy to reflect the fact that this particular group is becoming a very major concern for all Caribbean countries. These young men are a drain on resources and are not making a positive contribution to society. The problem may have serious implications for economic development and security.
- ❑ They expressed concerns about their extremely limited ability to identify and respond to complex frauds, money laundering, computer crime and

increased use of firearms in commissions of crime. The provision of adequate security arrangements for large events, such as international sailing events and various international sport competitions, also present a difficult challenge for these small countries.

- They identified drug trafficking, and drug related firearms offences, as serious problems in the country and throughout the region. Many cited increased local involvement in the drug trade, increased drug use and an upsurge in violent crime as being due to payments for drug related transactions now being made in drugs rather than currency.
- They have limited resources or facilities to address substance abuse, either no or very limited facilities for women and child victims of domestic violence or children in need of protection, very little help for “barrel children”, whose parents are outside of the country, who are themselves living on their own or with very limited adult supervision, and very little professional help or assistance for people suffering from a mental illness.
- They are all concerned with the problem of nationals deported home from Canada, the United States, and the U.K. who are believed to include sophisticated criminals who can outsmart the local police, organize local crime groups, and operate with relative impunity.
- Many countries are contemplating some comprehensive reforms of the criminal law and the laws governing the operation of the various aspects of the justice and security systems.
- Some government officials openly worry that one large and well-planned terrorist attack in the region, particularly if directed towards an American target such as a cruise ship, could send the regional economy into an irreversible decline.

### ***Capacity of the Justice and Security Sectors***

With respect to the capacity of the justice and security sector in these OECS countries, the findings of the review can be summarized as follows:

**The Police:** There is a general absence of public confidence in and trust of the police and in the ability of the police to ensure public safety. There is no public oversight of police and there are significant questions of police accountability. In Dominica, for example, one official described the police as incompetent. There are reports of attempts to bribe police. In Saint Vincent there were several claims that the police were bribed not to search for marijuana fields on the Atlantic side of the island. Police corruption can also affect other parts of the system. In one country, for instance, correctional officials were complaining that police corruption was contributing to court backlogs and extended pre-trial detention of accused individuals. Court hearings are delayed and inmates remain in custody

while awaiting trial because police officers are frequently bribed to fail to show up in court or to lose crucial pieces of evidence.

Poor facilities and equipment and inadequate financial and human resources for law enforcement are cited as examples of the lack of government support for police throughout the region. It is a challenge to recruit and retain competent police officers. Officers who show promise are often hired away by countries or organizations that can offer more money and better career opportunities. There are either no, or limited, provisions for officer transfers between departments, making it very difficult to inject new ideas and fresh thinking into these organizations.

It was noted that police command and control, leadership and operations could be improved in all of the OECS countries included in the review. Police are viewed as being very tactically and responsively oriented and as lacking a strategic and outward focus. Police organizations are very bureaucratic and limited consideration is given to how and where skilled officers can be deployed to best advantage. In some cases, organizational development needs have been identified; however, it is questionable whether human and financial resources can be secured or reallocated to address these needs.

The government of Saint Kitts, for example, has recognized that guaranteeing the safety and security of tourists is an economic priority. To address this issue, the government ordered that 80 police officers be dedicated to high tourist traffic areas. However, there was no consideration given to where these resources should come from, which services should be downgraded or discontinued if resources were reallocated from other areas, and how the police officers assigned to the tourist areas should be trained to help meet the government's objectives.

Police organizations throughout the region lack the assessment systems and tools for trend analysis. On a cautionary note, if any of these systems or procedures were implemented, significant preliminary work would have to be completed and valid evaluation processes established to ensure that the organizational leadership would drive the necessary change and that the organizational structure and culture could and would support it. In Saint Lucia, the Royal Saint Lucia Police Force has adopted a strategic plan based on a clear vision of a new policing model and a plan to implement sound management practices and to improve financial accountability. A reform secretariat was established and assistance obtained from the UK Department for International Development.<sup>76</sup>

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<sup>76</sup> See: Crutchlow, J. (2003). *Royal Saint Lucia Police Force – Development and Reform Project- The Position at March 31, 2003*.

Police facilities in the region can be described as inadequate at best, and in some cases, deplorable. In Dominica, the roof of a police facility visited by a member of the project team was leaking. Twelve officers lived in quarters designed for seven; several slept on tables in the courtroom, and all of the officers shared one shower, one toilet, and one two-burner hot plate. There was no power. The brakes on the station vehicle had failed several weeks earlier and there were no funds to repair it. Officers walked miles between villages or relied on community residents to transport them to the incident scene. In Saint Vincent and the Grenadines, the police are woefully short of patrol vehicles, portable radios, and other equipment.

Police communications, transportation, information and records management capabilities are poor and there is very limited forensic investigation equipment. In Antigua, a senior police official asked whether project team members could provide him with some fingerprint dusting powder and brushes. In Saint Kitts and Dominica, police officials asked if a project team member could provide a camera to take photos of crime scenes.

All forensic evidence from these island nations must be transported to Barbados, Trinidad and Tobago or Jamaica for analysis, usually under police escort because of existing evidentiary rules. This increases the amount of time it takes to bring cases to trial.

Training facilities are limited. In Dominica, a corporate donation was secured to equip the "recruit training center" with chairs and an overhead projector. Ongoing training opportunities are limited. Some specialized training is conducted on a regional basis, but tight budgets restrict the numbers who can attend. Police agencies are generally dependent on senior officers to teach new officers. Police executives noted they would like training and development for management and executives, especially in the areas of strategic planning, goal setting, and change management.

Prosecutors and Court officials describe a significant lack of quality in police evidence handling and processing, crime scene protection and investigation and court case preparation and presentation. Case preparation and presentation also need work. Police and government officials alike recognize that the police have limited ability to investigate the complex crimes that are emerging in the region and to conduct specialized tasks, including surveillance, data collection and tracking.

Police leaders in the region admit that being under-resourced and having only a limited capacity to conduct training has led to an inability to produce desired results and to implement new initiatives and programs. Proactive policing and prevention programs are virtually non-existent. There is very limited internal support for the development of police-

community partnerships and for the police to participate in non-enforcement activities. While there is some evidence that community policing is discussed within governments and at the executive level in policing, the principles and practice of community policing have not been implemented.

Public awareness programs and crime prevention programs are virtually non-existent. Dominica has established a National Crime Commission that includes representatives from the government, the police, and the media. The Commission is in the very early stages of working to collectively address crime problems and develop a national crime strategy.

**Corrections:** Prisons are primitive and, in many jurisdictions, overcrowded. Correctional staffs are inadequately trained and poorly equipped. There are no separate facilities for the mentally ill and young offenders are often housed in adult facilities. In some countries, some of these young offenders are locked in solitary confinement for 20+ hours a day to prevent contact with the adult offenders. In Saint Kitts, inmates burned down the last youth detention “home” and it has not been replaced. In Dominica, Youth Quake, a privately funded NGO, provides housing and basic literacy skills and counselling, for six to 12 delinquent children at a time. This is described as insufficient. All countries of the region are Parties to the *Convention on the Rights of the Child*, but compliance with the standards set in the Convention and other relevant standards for youth in conflict with the law is often a distant goal rather than a reality. Civilian oversight of what takes place in prisons is a rarity and tends to happen only in exceptional circumstances.

There is no formal counselling, rehabilitation, or community reintegration program for offenders. Skills development for prisoners is not funded and is limited to what can be developed and executed in-house. Some wardens are more creative than others although their resources are limited. There is very little available in the region in terms of comprehensive programs to deal with offenders, in particular first-time offenders and youth with whom these programs are most likely to succeed. This is one of the areas requiring urgent attention.

Limited progress has been achieved by some countries of the region in the areas of sentencing reform and sentencing policy, but much more is required. The introduction of sentencing alternatives is important and work has only just started in that area. Introducing some flexibility with respect to sentencing alternatives in the legislation will be a key objective, but programs also need to be put in place, including assessment of offenders, counselling services, vocational training, and substance abuse programs, to name a few. The concept of parole is known, but is not entrenched. Alternatives to criminal justice processing are limited.

Community service orders, as a sentence, are in the experimental stage in Saint Kitts and Nevis but are not practiced in the other islands.

In Saint Lucia, there is an opportunity to initiate a dialogue on many correctional reform issues. The island nation has a new institution - Bordelais Correctional Facility – and a progressive Director. The only country of the OECS with a brand new correctional facility, Saint Lucia now has to face some new problems. The new institution replaces a very old and very problematic institution. However, cost overruns in the building of the institution have limited the government's ability to invest in programs for inmates, in community correction alternatives to prison, and in staff training. The new institution has a capacity of 500 inmates (adult male and female and youth) and that new capacity seems to have encouraged the courts to rely more extensively on imprisonment.

Approximately 25% of the inmates are detained while awaiting trial and are often not housed separately from convicted offenders. Nearly ten percent of the inmates have been diagnosed, prior to prison admission, as suffering from a mental illness. Many are now held in prison because the facilities for mentally ill offenders are now superior to what is available for other people suffering from mental illness. There is no diagnostic facility in the institution and available treatment consists of medication and the services of a visiting psychiatrist for five hours every month.

In Saint Vincent, the lone prison mixes violent and non-violent offenders, lacks any programs or services for prisoners, and still cooks prisoner meals over an open fire.

A recent assessment of the need for prison and penal reform in Antigua and Barbuda reminded the local authorities that reform of their prison system are doomed to fail unless a number of other important justice sector reforms are also addressed, including the juvenile justice system, the system of corporal punishment, alternatives to incarceration, services for children at risk, and youth crime prevention.<sup>77</sup> The assessment contains a list of specific recommendations, but it is not clear how or when the Government intends to act on any of them.

Grenada is working hard to open its first youth custodial facility, but is encountering local resistance to the rehabilitative focus of the planned institution. The local population appears more interested in punishment. Grenada is in dire need of assistance with policy development and legislative drafting capacity to develop a legal framework to enable the implementation of probation, alternatives to incarceration, community corrections, and youth corrections.

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<sup>77</sup> Sing, W. (2003). *Report on Prison and Penal Reform Assessment Mission to Antigua and Barbuda*. St. John's (Antigua), March 13, 2003.

The OECS Secretariat has identified the main challenges of the national prison services within each of its Member States as follows:

- ❑ “There are increased public demands for more punitive sanctions and a significant reliance on incarceration as a crime control measure. This contributes to a fragmented approach towards dealing with offenders.
- ❑ The prisons of many Member States are remnants of a colonial era and are designed more for punitive incarceration than rehabilitation.
- ❑ There are unrealistic expectations that imprisonment alone can solve the crime problem in the region.
- ❑ There is a clear need for better public education about the prison services in terms of the roles to be played by the community, the criminal justice system and corrections in providing a safer and more peaceful society.
- ❑ Incarceration is costly and demands resources that may be better invested in social programs that have a more direct impact on crime prevention.
- ❑ There is a growing demand for all public services to become more effective and efficient, to be more open to public scrutiny, to give better quality service to the public and, generally, to be more accountable”.<sup>78</sup>

The Heads of Corrections of OECS countries have formed an informal organization - which may soon be formalized as part of the OECS – that has provided them with opportunities to collaborate on various issues. The OECS, as an organization, is also exploring the possibility of regionalizing prisons.

**Prosecution/Courts:** Police officers are involved in prosecuting cases in all of the nations. In Dominica, Grenada, Saint Lucia, and St Vincent and the Grenadines, the police prosecute all first appearances, regardless of the severity of the crime. In Antigua and Saint Kitts, the police prosecute minor (traffic and summary conviction) offences. In all of the jurisdictions, police officers receive little or no training to prepare, present, and argue cases in court. This creates a situation where the prosecution of serious cases is rarely successful when professional legal counsel represents the defendants.

Prosecutors and judges have only very limited access to decisions and law reports. There is a need for training for lawyers, prosecutors and police with respect to new crimes and complex, specialized investigations and prosecutions. There are huge backlogs of cases in all of the Magistrate Courts. There are no family courts in Antigua, Saint Kitts, Grenada, Saint Vincent and the Grenadines, or Dominica. There are no youth courts in Antigua. Further, there are no formal victim support services available on the islands.

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<sup>78</sup> OECS (2003). *Draft Terms of Reference for a Feasibility Study on the Regionalisation of the Prison Services within the Organisation of Eastern Caribbean States*, p. 2.



Case building, case preparation and the presentation of cases in court are weak and poorly supported. Among the respondents interviewed for the review, there was the view that prosecutors and police are often limited to a reactive, enforcement role. There is a need for the police to be trained to be more proactive and to expand their definition of security beyond law enforcement to appreciate the broader impacts and implications of incidents and actions. Court management and court reporter training is needed in all of the island nations. In Antigua, Legal Aid is limited to volunteer lawyers who assist only women in divorce cases and youths charged with crimes.

Antigua has started a mediation program, which, at present, is focused exclusively on providing training for professionals in civil court cases. There is interest in expanding mediation beyond civil cases and in restorative justice.

With the assistance of CIDA, countries of the region are involved in an ambitious program of judicial and legislative reforms. Family law reform, one of the major focus areas of the program, has emphasized the need for reforms of juvenile justice and child protection systems in all countries of the region.<sup>79</sup> Legislative reforms are urgently required, as is the development of services and support systems for youth in conflict with the law, including alternatives to the justice system, sentencing alternatives, and judicial decision-making.<sup>80</sup>

In the Eastern Caribbean countries, public safety issues tend to manifest themselves somewhat differently. These countries face clear challenges in improving the performance, integrity, fairness, accountability, accessibility, and public credibility of justice and public security organizations. CIDA's assistance to the OECS countries will continue to be essential to help prevent these justice and public security issues from escalating to the dramatic level they have reached in Guyana and Jamaica.

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<sup>79</sup> See: Thompson-Aye, H. (2003). *Juvenile Justice*.

<sup>80</sup> See: Sealy-Burke, J. (2003). *Family Law Reform: The Social Services Implications*, p. 89.



## 4

### Priorities for Action

The success of reforms and capacity-building initiatives in the justice and security sectors depends, in large measure, on whether they reflect a local consensus, a commitment to action, and some level of effective national mobilization. Local ownership of proposed reforms is emphasized in all development assistance activities, but, in particular, in the justice and security sectors which understandably remain two of the last bastions of uncompromised national sovereignty. Similar to other governance issues, these are areas that call for considerable dialogue and consultation between local agents of change and external actors.

Countries have become more aware that their future development may be at stake and that they must take the reform and development of these sectors very seriously. This can provide some real opportunities for meaningful interventions by outside actors, although it can present risks as well. Justice and security reforms tend to be highly political processes and, therefore, also very politically sensitive. Political scandals or security crises can often create windows of opportunity for outside assistance and intervention, provided that the “crisis” and the sense of urgency that it generates do not lead to undue improvisation and poor planning of the intervention.

Countries of the Caribbean have received assistance and devoted a fair amount of resources to identifying current weaknesses and deficiencies in their justice and security sectors. Some of them have acquired a capacity, often with the assistance of outside consultants, for policy analysis and planning in these sectors. In fact, a frequently heard criticism during the present review was that countries had to move more decisively from the planning stage to the implementation stage of the proposed reforms. At the regional level, the same criticism was also addressed at CARICOM. There is, **in several countries of the region, a palpable public impatience with the slow pace at which reforms are being implemented**, if not already a widespread disaffection with the reform process itself. There is, in many jurisdictions, a feeling of “piétinement” and a general perception of lack of progress.

Priorities for action are frequently identified and reiterated, but the human and financial resources to address these priorities are often absent. Blame for the lack of progress is sometimes attributed to local inertia, incompetence,

corruption, or even to political tribalism. However, there is the widespread perception that there are also issues with the kind of external assistance that is made available to countries of the region and how it is delivered. There are frequent complaints that **external assistance is too often offered in a piecemeal manner and for reform projects that are insufficiently integrated** with the activities of other components of the system.

There is often the perception that the donors' own security concerns or policy priorities assume priority over the identified needs of the recipient country. Internal security concerns in recipient countries are not weighed as heavily as compared to international, hemispheric, or regional concerns, or even the security concerns of powerful neighbours. Further, the assistance is generally not offered in a timely manner and is very rarely committed for periods of time sufficient to ensure the success of the fundamental reforms that are required.

The following, brief review of the priorities and challenges identified by countries of the region and by regional bodies indicates that **there is a strong consensus on the priorities for reform in the region**. There are several recurring themes, common threats and shared difficulties that create a propitious environment for regional initiatives and cooperative endeavours between countries, provided that these are not designed and implemented at the expense of crucial, and at times urgent, national initiatives. In the justice and security sectors, a regional capacity is often a poor substitute for a basic local or national capacity. In the ideal circumstance, a regional capacity should complement and strengthen national capacities rather than being developed at the expense of national priorities.

The following discussion reviews briefly some of the planning activities undertaken by countries of the region in the justice and security sectors. It also summarizes the priorities for action at the national and regional levels.

## **Local Planning Activities and Priorities**

### ***Jamaica***

In recent years there have been a number of plans and studies on justice and security system reform in Jamaica. These include State-sponsored investigations (e.g., The National Task Force on Crime (Wolfe Report) (1993), the Ministry of National Security and Justice Strategic Performance Review (1998), the West Kingston Commission of Enquiry (2002), the Report of the National Committee on Crime (2002)), Jamaica Bar Association studies (e.g., *Delays in the Justice System*, David Batts (1994), *Reforming the Justice System*, David Batts), and other studies (e.g., The National Committee on Political Tribalism (1997), the Police Executive Research Forum (PERF) on Violent Crime and Murder Reduction (2001), and the Jamaica Citizen Security and Justice Program Project, IDB, 2001).

Most recently, the National Committee on Crime and Violence offered the following fifteen recommendations that provided a potential point of departure for a broad-based, non-partisan consensus for action:

1. Recommit politically to a set of values and a code of conduct consistent with the vision of a safe, peaceful and prosperous Jamaica.
2. Inculcate proper values and attitudes in the youth of Jamaica.
3. Strengthen parenting skills.
4. Empower communities to effectively participate in the judicial process.
5. Leverage positive school/community relationship to address the problem of crime and violence.
6. Empower communities to plan their best possible future and to solve their problems.
7. Re-establish/strengthen legitimate leadership within communities and break the cycle of political patronage.
8. Give troubled communities a fresh start (e.g. Bring the private sector into active partnership with communities, network communities to combine strengths and avert a split into two societies).
9. Reduce the existing number of guns and stop the flow of guns into the country.
10. Improve police effectiveness and community/ police relationship through a reform of the Jamaica Constabulary Force and more effective policing.
11. Utilize reformed gang leaders in the fight against crime and violence.
12. Develop special legislation to address acts of terrorism.
13. Empower inner city communities and residents by introducing affirmative action in employment, housing and general infrastructure.
14. Reduce political tribalism by appointing a political ombudsman, establish a code of political conduct, develop job descriptions for parliamentarians, and eliminate persons with questionable backgrounds and connections from representational politics.
15. Enhance the Police Services Commission by re-examining the current structure and regulations that govern it.

In addition, the British, American and Canadian military are currently working with the Government of Jamaica to develop a National Security Strategy. Although not yet completed, the review has identified the reduction of crime and violence as a top priority.

A Member of the Parliamentary opposition interviewed during the present review commented that current plans are mere reiterations of suggestions and proposals taken from previous Crime Reports and that the challenge continues to be to find ways to implement these proposals in a tangible manner. In the meantime, it is likely that crime and the fear of crime will continue to increase.

Anthony Harriott has noted that many of the proposed reforms do not take into account the political, financial and human resource contexts within which they

would have to be implemented in Jamaica. These limiting factors, he argues, “help explain why typically most administrations have tended to respond to the crime problem with symbolic measures aimed at assuaging the fears and momentary emotions of the citizenry during crime waves rather than deliberately substantive measures”.<sup>81</sup>

### **Guyana**

To date, there has not been a comprehensive planning process to review priorities for reform the justice and security sectors in Guyana. In broad terms, the priorities for reform and development in Guyana are governance, legislative reform, the judiciary, police and the substantive engagement of community and NGO groups. **Guyana is in urgent need of systemic reform and capacity building in every facet of the justice and security sectors.** The highest priorities include:

*Guyana Police Force:* Legislative reform is required to separate the police from direct government control. An independent and transparent form of governance, such as a police board, needs to be created. This must be accompanied by enabling legislation, supporting systems, and the independent selection of qualified persons to sit on the board.

The most immediate need of the Guyana police may be in the areas of crime detection and suppression, with organizational change and leadership development proceeding on a parallel track. In fact, it is unlikely that real change will occur without leadership development at all levels of the force and with the support of the government. Leadership development must take place before operational/tactical reform can be successful.

*Office of the Police Complaints Authority:* The Office of the Police Complaints Authority needs to be strengthened through an increased budget and staff and legislative reform that provides for independent and meaningful investigations and civilian oversight of the police. Again, there must be political support for these reforms.

*The Judiciary:* In 2000, DFID funded a review of the Guyana judicial system. The resulting report contained a series of recommendations under twenty-two headings. The overwhelming majority of recommendations have yet to be addressed in Guyana. Among the specific needs contained in the recommendations were the following:

- Temporary judges to address the incredible backlog of cases before the bench
- More positions, and to fill currently vacant positions, at the High Court

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<sup>81</sup> Harriott, A. (2000). *Controlling the Jamaican Crime Problem: Peace Building and Community Action*, p. 17

- ❑ An increase in the level of remuneration for judges so as to help attract good candidates
- ❑ Revision of court rules and procedures
- ❑ Case management
- ❑ Implementation of court recorders
- ❑ Computerisation, including data bases, to track cases and documents
- ❑ Listing criminal cases to be under the control of the court, not the Director of Public Prosecutions
- ❑ Addressing inconsistencies in sentencing and lack of coherent sentencing guidelines
- ❑ Legislation to provide more alternatives in sentencing
- ❑ Resumption of publication of Law Reports
- ❑ Expediting judgments under appeal
- ❑ Creation of a Court Users Committee to regularly meet and discuss operations of the court system

There is a need for an independent and transparent system for judicial appointments. Legislation and rules for the courts need to be updated to allow for commercial courts, expanded avenues for alternative sentencing, improved procedures, and greater case flow management.

The Judiciary urgently needs assistance with technology (e.g.: currently in the High Court, only the Chief Justice has a computer) including computers, networking, copiers and database systems. This includes the dire need for computerization within the both the Court and Land Registry, both of which currently rely solely on paper ledgers for the recording of all data. Assistance for judges in writing their decisions and a dedicated law library accessible to all members of the Bar are also required.

*Guyana Prison Service:* A number of prison reforms are urgently required, but reforms will only succeed if the focus of the proposed change is placed, at the outset, on the governance of the prison system. Conditions of imprisonment must be addressed and the situation of women and youth in correctional institution requires immediate attention.

*The Ombudsman:* The enabling legislation for the Office of the Ombudsman needs to be reviewed to provide for a larger and more independent investigative staff, the ability to initiate investigations, and the authority to impose sanctions and render decisions similar to a court. Coupled with this is the need for staff development and an end to government and civil service disruptions in placing new staff within the office. Perhaps, most importantly, is the need for the Ombudsman to be

allowed to initiate investigations in relation to systemic, as opposed to specific, complaints.

### ***Antigua and Barbuda***

There does not seem to be an overall national plan or strategy for reform in the justice and security sectors. The Government of Antigua has recently started a mediation program, primarily targeted for use by civil court professionals and the Ministry of Gender Affairs has set up a gender violence hotline/crisis line.

The Office of National Drug and Money Laundering Control Policy (ONDCP) was established as a full law enforcement agency to work to gather intelligence and relate and coordinate drug and money laundering investigative activities with police. The Office links, as required, with other investigative units (e.g. Customs, Coast Guard). The United Kingdom provided the computer infrastructure and communications equipment for the office, and continues to provide an in-house drug enforcement advisor to the Office.

USAID is assisting in the development and implementation of a computer-aided transcription system in the Supreme Court. The UK provides an in-house advisor to the Caribbean Anti-Money Laundering (CALP). CIDA has trained 27 persons as mediators and is assisting with the development of recording systems for the Magistrates Court and Legal Aid Office.

As mentioned earlier, an independent assessment of the country's correctional system was conducted, but has not been acted upon.

### ***Commonwealth of Dominica***

In 2003, the Dominican Government established the National Commission on Crime and Security, which brings together justice, education, finance and planning and other government departments with justice and public safety agencies, local non-government organizations and the media to address crime problems. The Commission does not appear to have finalized its assessment of the priorities for security sector reforms in the country.

UNICEF, UNIFEM, and UNESCO are funding domestic violence research, legal assistance to victims of domestic violence, training of police to respond to and deal with domestic violence, and community education and educational materials on the *Protection against Domestic Violence Act*.

The UK (DFID) is active in prison reform through the development of certificate courses in construction for inmates, providing Corrections infrastructure development and maintenance support, funding regional Corrections Superintendents conferences, and the development of regional "train the trainer" courses for prison employees.



UNDCP, the EU and the US are continuing to support the fight against drugs; however, US support has reportedly diminished since Dominica's refusal to sign Article 98.

A number of local non-government organizations have secured private funding to support their activities, including the Beatrice Lang Group (UK), Aid to SE Asia (ASA), OXFAM, Bread for the World, and HIVOS (Germany).

### **Grenada**

Grenada has recently commenced the implementation of a crime reduction strategy, part of which calls for a review and reform of its legislative framework, in particular its criminal code. The strategy was developed on the basis of two national consultations in 2002 and 2003 (based on a draft strategy). There is an interdepartmental committee responsible for the implementation of the national crime reduction strategy, under the chairmanship of the Solicitor General. The country will shortly open a juvenile detention facility and there is an urgent need to review existing laws relating to youth in conflict with the law. The Juvenile Detention Committee is making requests for outside assistance. The strategy is comprehensive and ambitious. It is much more than a mere political declaration: it has been operationalized and several mechanisms have been set in place to facilitate its implementation.

Any security reform support offered to the country should articulate clearly how it fits within and supports the implementation of that national strategy. The strategy is based on the following inter-related objectives:

1. Minimize the fear of crime (through public education campaign, controlling firearms, proactive law enforcement, targeting white collar crime, developing community policing and police-community relations; strengthening anti-money laundering activities; monitoring and controlling criminal deportees);
2. Implement a comprehensive counter-drug strategy;
3. Institute legislative reforms (including all aspects of criminal law, youth justice law; sexual offences and pornography, legal aid, alternative sentencing regimes; parole system, etc.) and developing public legal education programs;
4. Enhance parenting skills of the population;
5. Encourage the strengthening of the family;
6. Institute prison reform and juvenile justice reforms.
7. Enhance spiritual and moral values among the population;
8. Facilitate the empowerment of youth;
9. Enhance education reform (including teachers training and crime prevention measures within the school)
10. Enhance regional linkages in the fight against crime;
11. Facilitate institutional and administrative reform of social service departments;
12. Facilitate greater media involvement in crime prevention;

13. Reduce poverty;
14. Institutionalize the National Crime Consultation.

### ***Saint Kitts and Nevis***

One priority of the country has been bringing national systems into compliance with international treaty obligations, particularly in the area of money laundering and organized crime. Several legislative reforms are in progress or are being contemplated. Capacity development in all aspects of the justice and security sector is the main local priority. Officials report limited benefit from the CIDA Justice Reform Project to modernize the Courts. Remaining funds will be allocated for training court clerks and on alternative dispute resolution. USAID supported the building of a new courthouse and provided training for the Office of the Director of Prosecutions. They may also assist with the establishment of a Legal Aid Office. UNDCP is providing assistance with training for complex drug prosecutions.

### ***Saint Lucia***

A new Ministry of Home Affairs and Internal Security has just been created and it is the first time in Saint Lucia that the entire security sector has been brought under tight ministerial control. The Minister explained to the members of the project team that the priorities for action in that sector are currently being assessed. The need to protect the tourism sector against external threat is one of these priorities and discussions are ongoing with the private sector and the Tourism Board to develop prevention strategies.

Among the priorities currently identified by the Ministry are the following:

- (1) acquisition of forensic equipment and related training;
- (2) recruitment of forensic expertise;
- (3) training of police officers in modern investigative techniques;
- (4) developing automated and integrated information management systems for the different components of the sector;
- (5) basic reforms for the justice system and the police (including transition to a new policing model);
- (6) leadership training for senior officials in the sector;
- (7) developing a professional prosecution system, starting with the training of police officers currently involved in prosecution;
- (8) reforming the practices of the Public Service Commission that are related to the security sector;

- (9) addressing corruption of public officials in the justice and security system;
- (10) developing community corrections (e.g. probation and parole) and alternatives to imprisonment; and,
- (11) developing a better case management system in the courts.

Officials have suggested that the sector is in need of a human resource audit. In view of the number of legislative reforms being envisaged, the country is trying to address its chronic need for legislative drafters. The Royal Saint Lucia Police Force has also embarked on a program of development and reform. The new Bordelais prison is in operation, although programs need to be developed. Finally, a National Crime Commission was established in 2000 under the jurisdiction of the Minister of Justice and has developed a framework for identifying and acting upon priorities.

### ***Saint Vincent and the Grenadines***

Capacity building in most aspects of the justice and security sector is a priority for the country. Under the auspices of the OECS, it is engaged in a process that includes a consideration of regionalizing some aspects of policing and corrections. There is not a comprehensive plan for the development of the country's justice and security sector. In addition to the priorities identified by the OECS, several respondents interviewed during the present review emphasized the need for family law reforms, in particular the need to strengthen current dispositions to protect women against violence and to enforce both protection and maintenance orders.

### **Regional Planning Activities**

There are several planning processes that are directly relevant to the justice and security sectors of Caribbean countries and that have also been used by donors to identify potential programming opportunities at the regional level. These include the processes within CARICOM, the OAS, CICAD, the ECS, and the RSS. These are briefly summarized.

### ***Priorities Identified by CARICOM***

The CARICOM Regional Task Force on Crime and Security (2002) proposed the establishment of a regional authority for Crime Prevention and Counter Drug Strategies (a Caribbean Drug Control and Crime Prevention Commission). It also

called for the creation of national crime control commissions, where they do not already exist, which could develop national crime and security strategies and cooperate with similar bodies in other countries. The question of developing a regional capacity for rapid response to drug-related and serious crimes within CARICOM member countries was also given a high priority by the Task Force. The idea of creating a regional high security prison, initially proposed for a OECS country, was suggested as a CARICOM initiative. The Task Force offered a number of recommendations with respect to law reform, illegal drugs, illegal firearms, terrorism prevention, and criminal deportees. At the centre of the Task Force's proposed priorities was the need to strengthen the capacity of the law enforcement agencies to control crime and, in particular:

1. The need for police reform and the desirability of emphasizing community crime prevention and problem oriented policing;
2. An intensive and comprehensive program geared towards law enforcement training at a regional level;
3. Establishment of a regional rapid response mechanism to provide a prompt specialist response to the need for an investigation in specific Member States;
4. An intelligence and information exchange enhancement scheme to bolster the region's ability to fight and prevent crime;
5. Greater emphasis on the use of technology and research in framing and implementing crime reduction and prevention policies.

The Task Force established the following list of initiatives for priority consideration<sup>82</sup>:

1. Establishment of broad-based national commissions on law and order;
2. Preparation and implementation of national anti-crime master plans;
3. Strengthening of border control measures especially at seaports and airports;
4. Strengthening the information and intelligence exchange regime as an essential element in the fight against illegal drugs, firearms and terrorism;
5. Implementation of an aggressive program aimed at taking guns off the streets;
6. Establishment of a Regional Mutual Legal Assistance Regime; and a Regional Exchange of Prisoners Agreement;
7. Engagement of the international community in discussions regarding mutual support for the regional crime control efforts and a critical review of the existing policy against illegal drugs. Also, support for advancing the research on the causes of crime and the policies to avert the rise in the trend of crime linked to drugs;
8. Pursue the development of a regional program to address youth crime;
9. Pursue anti-money laundering capacity building as being carried out by CALP and CFATF;
10. Operationalise maritime cooperation agreement;

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<sup>82</sup> CARICOM (2002). *CARICOM Regional Task Force on Crime and Security. Items for Priority Consideration*, October 22, 2002.

11. Pursue regional law enforcement training program;
12. Pursue the establishment of a regional policy and research unit;
13. Pursue further research on deportee phenomenon;
14. Introduce standardization of data and statistics across the region to facilitate accuracy of regional research;
15. Develop alternative sustainable livelihoods specific to regional environment;
16. Implement regional demand reduction program;
17. Pursue introduction of tertiary level training in law enforcement at regional institutions;
18. Conduct further scientific investigations with a view to arriving at a clearer understanding of the values that underlie the social choices that lead to criminal behaviour; and,
19. Pursue reform and modernisation of the criminal justice system – courts, police and prisons.

Furthermore, at a meeting of the Ministerial Sub-Committee Responsible for Developing a Strategy for Resource Mobilisation for Regional Crime Prevention and Security Initiatives, it was agreed that the core priorities for a regional crime and security strategy should revolve around the following: (1) a regional information and intelligence sharing regime; (2) a border security initiative; (3) regional maritime cooperation; (4) regional rapid response mechanism; and, (5) regional justice and security initiative including a counter-narcotic strategy, money laundering and a campaign against corruption.<sup>83</sup>

### ***Priorities Identified by the OECS***

The OECS has undertaken a comprehensive review of prison systems in the region. It is attempting to determine whether it is feasible to create a regional prison system based on a pooling of resources and guided by common standards. Consultants were hired by the organization to conduct a feasibility study of the regionalization of the prison services within the OECS. The report was presented earlier this year to the Ministers and will be reviewed by the Authority (Heads of States).

The OECS has also commenced a review of police services and the project team is attempting to identify some common platform (standards, etc) for police cooperation in the region.<sup>84</sup>

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<sup>83</sup> CARICOM (2004). *Ministerial Sub-Committee Responsible for Developing a Strategy for Resource Mobilisation for Regional Crime Prevention and Security Initiatives*, Kingston, Jamaica, 9 January, 2004.

<sup>84</sup> OECS (2002). *Terms of Reference for a Feasibility Study on the Regionalisation of Police Services within the Organisation of Eastern Caribbean States*.

These two major initiatives are related to the new economic arrangement the organization is developing within the region. The justice and security sectors have been identified as important areas within which it will be important to develop a consensus at the regional level. **With the freer movement of people, goods and capital that is being envisaged, new security challenges are being identified.** Countries of the region are preparing to move into closer economic arrangements. To accomplish this will require that the justice and security sectors be reformed.

UN and OAS human rights and justice standards are seen as very relevant to the justice and security sectors of countries of the region and many of the governments in the region have already signed on to these international conventions. There now are more frequent international inspections and reviews taking place and the countries of the region are clearly expected to live up to their international commitments. In some cases, they are under direct, international pressure to do so.

Drugs remain a high priority for action and, in addition to enforcement; there is an increased focus on prevention, rehabilitation programs, harm reduction and demand reduction measures.

The OECS countries have initiated a comprehensive family law reform process. A consultation process, based on a consultation document<sup>85</sup>, is taking place in all of the nine countries of the organization. The proposed reforms are designed to bring the family law of countries of the region in compliance with the *Convention on the Elimination of all Forms of Discrimination Against Women*, the *UN Convention on the Rights of the Child*, and the *Inter-American Convention on the Prevention, Punishment, and Eradication of Violence Against Women*. The proposed reforms include a number of recommendations to improve the role of courts in the protection of women against domestic violence, particularly with respect to protection orders and their enforcement.

The proposed family law reforms also include a focus on the juvenile justice system, including legal reforms to: (1) increase the age of criminal responsibility; (2) provide for creative alternatives to incarceration; (3) introduce the mandatory use of pre-sentence reports by the courts, especially where incarceration is a possible sanction; (4) the abolition of any provisions that permit corporal punishment as a sentencing option; and, (5) the abolition of all status offences from the law. The “Green Paper” also recommends more vigorous investigation by the police and prosecution of adults who procure children to be involved in criminal activities. Finally, there is a recommendation that a system of child advocacy under the aegis of a legal aid scheme be instituted in all countries.

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<sup>85</sup> OECS (2003). *Green Paper – OECS Family Law and Domestic Violence Reform Initiative*. Morne Fortune, Castries, St. Lucia: OECS Secretariat.

The drafting of legislation will likely follow the regional consultation, although it is unlikely that there will be a single piece of legislation for the region. This is an area where there are some important sensitivities at play and where the focus may be more properly placed on harmonizing national legislation and on regional agreements on common standards.

CIDA is an important partner of the OECS in the Family Law Project, both technically and financially, as are UNICEF, ECLAC, and the UNDP. Significant progress has been achieved in promoting various legislative reforms. It is now time to address the social service dimension of these reforms to ensure the full implementation of the new legal frameworks. Some of the issues that remain on the “services side” of the equation relate to the limited capacity of the countries of the region to develop these services on their own. Countries will be required to contribute a lot more to the area and they are apparently willing to do so. There will be a need to develop standards, guidelines, and procedures for the effective operation of these various systems to ensure that needs are responded to efficiently.

The OECS Secretariat is examining the possibility of promoting mediation as an alternative to the formal justice system. The focus will be on developing the capacity of the police to directly mediate certain conflicts and, eventually, to use administrative mediation at the court level. Mediation will be an important component of the programming activities of the OECS, both in terms of training and providing a regulatory framework (including certification, etc.). The Secretariat has recently produced draft legislation that provides a framework for mediation and this document has been sent to the Member States. A more general platform will be required for the regulation of the mediation process. Mediation and conflict resolution skills are obviously important for law enforcement officers and should be part of their training. Training in that area may soon become a priority and, given that there are community colleges in each country of the region, it may be possible to involve them, in collaboration with other post-secondary institutions, in the development of mediation training programs.

The OECS Secretariat is also developing anti-corruption legislation for countries of the region. The fight against corruption is likely to be considered more a national responsibility than an issue for regional cooperation. The UN and OAS conventions against corruption are providing the foundation for these reforms. Anti-corruption legislation, and attendant programs and procedures, must be developed and considered in single-market discussions. Under the new economic arrangements, the integrity of financial institutions will also be subjected to new challenges and to greater public scrutiny. There will be a need for a forensic accounting capability to investigate cases of corruption, economic fraud, and other economic crimes. Some countries of the region have made extensive efforts to ensure that their financial institutions are not used for money laundering and other illegal activities. However, there will be new challenges as the flow of capital and the amount of international procurement increases in the

region. Despite this, there is only a limited availability of auditors and of capacity to audit and investigate complex cases of fraud and/or corruption.

A Regional Legislative Drafting Facility has been created. CARICOM has received a USAID grant to establish a regional drafting group to deal with HIV Aids issues, single market issues, civil aviation, and a number of other regional priorities.<sup>86</sup> The OECS received a sub-grant to create a drafting facility to focus on a number of these issues as well. The regional drafting process will result in regional standards and guidelines as well as a regional consensus on policy direction. The benefits of the regional drafting group also include ensuring that the various legislative provisions in the region are harmonized. A five-year work plan was developed based on discussions and feedback from Member States and on the basis of a systematic assessment.<sup>87</sup> The plan will soon be finalized and serve as a platform for law reform. The administration of justice is one, small component of this plan.

The review notes that legislation relating to the administration of justice in all OECS countries dates back to 1920 and 1956 (with exceptions in Saint Lucia). The Supreme Court Rules 2000 were adopted in all the OECS countries and a draft *Recording of Court Proceedings Bill* produced by the OECS Judicial and Legal Reform Project is in circulation. The plan does not provide much detail on the administration of justice and it is difficult to predict what work will be required in this area. According to the review, reformed and harmonized legislation relating to evidence, criminal procedure, the magistracy and alternative dispute resolution is required in all OECS Member States. The legislative policy framework for these reform remains to be formulated in order to properly instruct and inform the OECS Legislative Drafting Facility.

In the governance area, the most pressing areas in need of reform are corruption and integrity in public life. In the justice and security sector, a need for law reform and harmonization was identified with respect to the interception of communications, anti-money laundering legislation, sexual offences, prevention of misuse of drugs, and regulating private security agencies.<sup>88</sup>

There is a Regional Security System that involves Barbados as well as the OECS countries). The Ministers of Interior and Security tend to use the Regional Security System, which has a separate secretariat in Barbados.

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<sup>86</sup> Some of the people interviewed in the OECS countries suggested that the creation of a regional and sub-regional drafting facility had depleted the national legislative drafting capacity. An official from the OECS Secretariat expressed a different view: "I would think that it is the reverse. Instead of having nine drafters sitting down alone to draft a legislation, we have done it for them".

<sup>87</sup> OECS (2004). *Law Reform and Harmonisation Priorities for OECS Member States*.

<sup>88</sup> *Idem*



### ***Priorities identified by the OAS, CICAD, and the MEM Process***

The Organization of American States (OAS) is another regional forum through which cooperation in the field of security is promoted both between Caribbean countries and between these jurisdictions and other countries of the Hemisphere. The framework for this cooperation is established in several treaties, including regional mutual legal assistance, judicial collaboration, and extradition treaties, as well as the *Inter-American Convention against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives, and other Related Materials* (1997), the *Inter-American Convention against Corruption* (1996), and the *Inter-American Convention Against Terrorism* (2003).

Ministers of Justice and Attorneys General meet regularly and seek to develop a consensus on actions that can be taken to facilitate cooperation among countries of the Hemisphere. Although individual countries may perceive that their specific concerns do not receive sufficient attention in this regional forum, the work being done in these sectors by the OAS is still very relevant.

The *Declaration on Security in the Americas*, adopted in Mexico City on October 28, 2003, recognized that terrorism and transnational, organized crime are two of the threats and challenges affecting the security of the states of the Hemisphere and called for increased dialogue and cooperation in developing criminal justice policies and responses to address these issues.

In recent years, Ministers of Justice and Attorneys General have focused on strengthening and developing inter-American cooperation in areas of special concern, including the struggle against terrorism, combating corruption, money laundering, drug trafficking, forgery, illicit trafficking in firearms, organized crime, and transnational criminal activity.

Canada is a very active member of CICAD (the Inter-American Drug Abuse Control Commission) that was established to foster multilateral cooperation on drug issues in the Americas and in the Multilateral Evaluation Mechanism (MEM). The Commission implements action programs designed to strengthen the capacity of CICAD Member States to prevent and treat drug abuse; combat production and trafficking of illicit drugs; and to deny the traffickers their ill-gotten gains. CICAD works with individual countries of the Caribbean on a number of drug control issues. In 2003, for instance, it worked with Jamaica to design an anti-drug strategy. The Commission typically promotes the development of comprehensive anti-drug strategies and facilitates donor coordination to help countries implement these strategies and developed the own system's capacity.

As they move towards greater economic integration, countries of the region need to focus on maritime drug law enforcement. A regional agreement for the Caribbean based on article 17 of the *United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances* (1988) was developed in

2003 to provide a framework for strengthening cooperation between parties in combating illicit air and maritime traffic over the waters of the Caribbean.

### International Commitments of Countries of the Region

Because many of the emerging security threats are transnational in nature, countries of the world are dependent on each other for assistance and cooperation. There is an international cooperation regime quickly developing around various multilateral treaties, both at the global and the regional levels. These treaties are an expression of mutually agreed upon priorities in the fight against terrorism, organized crime and other transnational threats. The table below summarizes the treaty obligations of countries of the region with respect to this growing body of international law. CARICOM Member States have already identified the implementation of these treaties and, in some cases, regional collaboration in developing the required infrastructure and system capacity as a security priority for the region.

<b>Caribbean Countries' Participation in International Conventions Relating to International Terrorism, Corruption, Organized Crime and Drug Trafficking</b>								
	<b>Antigua and Barbuda</b>	<b>Dominica</b>	<b>Grenada</b>	<b>Guyana</b>	<b>Jamaica</b>	<b>St. Kitts &amp; Nevis</b>	<b>St. Lucia</b>	<b>St. Vincent and the Grenadines</b>
Inter-American Convention against Terrorism 2002	Ratified		Signed	Signed	Signed	Signed	Signed	Signed
Inter-American Convention against Corruption 1996	Ratified	Ratified	Ratified	Ratified	Ratified		Ratified	Ratified
Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (Belem Do Para) 1994	Ratified	Ratified	Ratified	Ratified		Ratified	Ratified	Ratified
Inter-American Convention against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives, and Other Related Materials 1997	Ratified		Ratified	Signed	Signed	Ratified	Ratified	Signed
United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances 1988	Ratified	Ratified	Ratified	Ratified	Ratified	Ratified	Ratified	Ratified
United Nations Convention against Transnational Organized Crime 2000	Ratified		Ratified		Ratified	Ratified	Signed	Signed
Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women			Ratified		Signed	Ratified		Signed

<b>Caribbean Countries' Participation in International Conventions Relating to International Terrorism, Corruption, Organized Crime and Drug Trafficking</b>								
	<b>Antigua and Barbuda</b>	<b>Dominica</b>	<b>Grenada</b>	<b>Guyana</b>	<b>Jamaica</b>	<b>St. Kitts &amp; Nevis</b>	<b>St. Lucia</b>	<b>St. Vincent and the Grenadines</b>
and Children supplementing the United Nations Convention against Transnational Organized Crime 2000								
Protocol against the Smuggling of Migrants by Land, Sea and Air 2000			Ratified		Ratified	Ratified		Signed
Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition 2002			Ratified		Ratified	Ratified		
UN Convention against Corruption 2003								
Convention on Offences and Certain Other Acts Committed on Board Aircraft 1963	Ratified		Ratified	Ratified	Ratified		Ratified	Ratified
Convention for the Suppression of Unlawful Seizure of Aircraft 1970	Ratified		Ratified	Ratified	Ratified		Ratified	Ratified
Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation 1971	Ratified		Ratified	Ratified	Ratified		Ratified	Ratified
Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents 1973	Ratified		Ratified		Ratified			Ratified
International Convention against the Taking of Hostages 1979	Ratified	Ratified	Ratified		Signed	Ratified		Ratified
Convention on the Physical Protection of Nuclear Material 1980	Ratified		Ratified					
Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation 1988			Ratified	Ratified	Signed		Ratified	Ratified
Convention for the Suppression of Unlawful Acts against the Safety of Maritime		Ratified	Ratified			Ratified		Ratified

<b>Caribbean Countries' Participation in International Conventions Relating to International Terrorism, Corruption, Organized Crime and Drug Trafficking</b>								
	<b>Antigua and Barbuda</b>	<b>Dominica</b>	<b>Grenada</b>	<b>Guyana</b>	<b>Jamaica</b>	<b>St. Kitts &amp; Nevis</b>	<b>St. Lucia</b>	<b>St. Vincent and the Grenadines</b>
Navigation 1988								
Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf 1988			Ratified					Ratified
Convention on the Marking of Plastic Explosives for the Purpose of Detection 1991			Ratified			Ratified		
International Convention for the Suppression of Terrorist Bombings 1997			Ratified			Ratified		
International Convention for the Suppression of the Financing of Terrorism 1999	Ratified		Ratified		Signed	Ratified		Ratified

As mentioned previously, countries of the region are under considerable pressure to ratify these treaties, and more importantly, to set in place the infrastructure (legislation and programs) and to develop the capacity to ensure compliance with their new international commitments. For many small countries, bringing their legislation and security systems into compliance with these new international obligations can be a daunting task and technical assistance is required. There are efforts being made at the Commonwealth Secretariat and at the United Nations to develop tools and methodologies to help countries adopt an integrated approach to the implementation of these various treaties.

*Appendix 1* provides a general list of the implementation activities that countries are required to undertake to fulfill their obligations under these various conventions. It can also be used as an outline of the kind of assistance that may be required. Countries of the region may be eligible for various forms of technical assistance (through the UNODC, the OAS/CICAD, the Commonwealth Secretariat, or some counter-terrorism programs). In fact, with the exception of some broad prevention measures, few of the required activities would, in themselves, normally fit within ODA parameters. Nevertheless, capacity-building initiatives undertaken within the justice and security sector must take these international commitments and overall priorities of the systems into consideration.

## **Conclusions**

Against the backdrop of emerging security threats, regional tensions, international pressures, mounting public expectations, and competing priorities, there is nevertheless an emerging consensus around the priorities for action, at least at the regional level.

The persons consulted during this review generally agreed that the priorities identified by the CARICOM Task Force could provide the basis for program planning. There are additional, complementary suggestions for action at the national level. These should be seriously considered, as they represent very promising entry points for effective programming.

Doubt was expressed among many of the respondents interviewed during the review about the ability of the CARICOM Secretariat to play a role in the implementation of the proposed reforms. Several persons noted the poor record of the organization in terms of its ability to implement various initiatives. However, most of the persons consulted agreed that the analysis behind the recommendations of the Task Force was essentially sound.



## 5

# Current Programming in the Justice and Security Sectors

Security threats will continue to pose great challenges to the small island nations of the Caribbean and may function to erode the prospects of sustainable development. Development agencies recognise the need to assist these countries even if program development in these sectors remains slow and somewhat tentative.

To achieve its programming goals in Guyana, Jamaica and Eastern Caribbean countries, CIDA must engage in programming to help build a regional resiliency in the face of the corruptive, intimidating, and disrupting effects of some exogenous forces such as transnational organized crime and drug trafficking. It must also explore how it can assist countries of the region counter the pervasive effects of unaddressed internal issues that affect public security and, ultimately, national development.

The existing capacity of countries of the region to face such threats to their social and economic stability is dangerously weak and should be strengthened. Enhancing the basic capacity of their public security sector is a necessary part of this task. It is a complex undertaking that will require sustained assistance and international cooperation. CIDA's development plans, both for Jamaica and for members of the OECS, acknowledge the importance of this task.

The long-term goal of CIDA's *Jamaica Country Development Plan 2002-2007* includes helping the country increase the level of security of its citizens. A number of priority areas have been identified, including: 1) addressing the issue of criminal court resources and the current backlog in criminal cases; 2) juvenile justice system reform; 3) correctional reform issues and, in particular, the issue of prison overpopulation; and, 4) various law enforcement issues, including training and leadership development.

CIDA's *Sub-regional Development Program Plan (2002-2007) for Members of the Organization of Eastern Caribbean States* sets out a number of priority areas for intervention that are consistent with those identified in the *OECS Development Strategy* and the *OECS Development Charter*. The purpose of

Agency's sub-regional plan for OECS countries is to "help build strong, secure and resilient societies in the Eastern Caribbean, benefiting fully from a more integrated world economy, with reduced poverty and greater well-being for all citizens". The Agency's current *Judicial and Legal Reform Project* aims to strengthen the judicial and legal systems of OECS countries to provide a sustainable, enabling environment for equitable social and economic development.

## **Justice and Security Projects in the Caribbean**

As would be expected in countries that are facing a new security environment and undergoing significant political, economic and social change, there is a range of reform efforts underway in the justice and security sectors (JSS). External donors and partners support most, but not all, of these initiatives.

### **Jamaica**

CIDA's assistance to JSS is in the form of the Social Conflict and Legal Reform Project (SCLR – 1997-2004). The goal of the project is to enhance the effectiveness of the Jamaican legal system in managing social conflict. Its purpose is to develop the capacity of the public in the pilot communities and the legal system to manage conflict in Jamaica. Canada, through CIDA, provided funding for equipment, services, advisors, monitors, construction and evaluation for the Social Conflict and Legal Reform Project.

A Democracy and Governance Fund (DGF – 2002-2007) was also established by CIDA to contribute to good governance and to the soundness of the democratic process in Jamaica. The funds provide support for: (1) elections, primarily in the form of contributions to election observers and the production of materials and training programs developed by these groups; and, (2) other reform processes designed to establish more inclusive and participatory governance structures that cross political tribalism and involve opposition parties, civil society, the media and private sector. Therefore, the project contains a responsive fund component that provides CIDA with the flexibility to respond to these needs and to support governance initiatives that are directly related to the justice and security sectors.

In addition to these two projects, there were also other governance projects that may have paved the way to more specific programming in the justice and security sectors. The supporting local government reforms (SLGR- 1997-2003) project was conducted in cooperation with the Ministry of Local Government and Community Development of Jamaica. Its goal was to contribute to the broadening and deepening of the democratic process in Jamaica by increasing civil society's input into decision-making. Its purpose was to assist the Ministry to develop and pilot a model, integrated governance structure at the parish level that utilizes the capabilities of a mobilized civil city to both inform and implement



parish-level projects. Local level activities focused in two pilot parishes – Manchester and St. James. The project had some indirect relevance to the justice and security sectors as it purported to empower local communities to develop and implement sustainable solutions to local issues. Community-based solutions are likely to be the only sustainable avenue for solving some of the deeply entrenched security challenges faced by the country.

Another project indirectly relevant to security sector reform focussed on government effectiveness and efficiency, issues that are also present in the justice and security sectors. It was the Public Sector Responsive Fund (PSRF – 1999-2002) which was loosely linked to a five-year Public Sector Modernization Program funded by the World Bank. The goal of the project was to assist specific Jamaican Ministries and Institutions in providing effective and efficient service, to increase public sector efficiency and to reduce unnecessary government bureaucracy through policy papers, operations guidelines, procedures manuals, stakeholder analysis, and business plans. It is not clear what impact the two projects have had, but lessons were most certainly learned that could help in the development of specific JSS governance-related interventions.

Finally, CIDA has been supporting activities through the Canada-Caribbean Gender Equality Program II. The goal of the CGEP is to contribute to the empowerment of women and to facilitate their full and equitable participation in the social, economic and political aspects of life in the region. Gender-based and domestic violence and cultural mores that tend to limit or inhibit their full participation in the development of their societies were identified as issues to be addressed by the project. The project was conducted in collaboration with other donors and with regional partners. CIDA also funds a three-year program by MATCH (2003-2007) to improve women's organizations and networks in their efforts to eliminate violence against women.

Other donor agencies are also involved in JSS assistance in Jamaica. The following table, which summarizes current assistance activities relating to the justice and security sectors in Jamaica, shows that significant amounts of international aid has been and continues to be provided to the country. A review of the table indicates that there has been no obvious duplication in the programs that were funded and the major donors involved seemed to have identified some different, but potentially complementary, activities they wish to support.

Reviewing the projects, however, one senses that the projects reflect more of a piece-meal approach (partly dictated by funding decisions) than a more holistic, sustainable strategy to build the capacity of these two sectors over a period of time. The projects do not seem to have been inspired by a plan to implement sectoral reforms. Some of the most recent programs have concentrated on police reforms and judicial institutions, but there is no information as yet on their impact. Projects addressing crime prevention (particularly in relation to youth) and juvenile justice are noticeably absent from the list, in spite of the fact that these areas should be considered to be one of the highest priorities of the country.

Access to justice programs are also poorly developed in comparison to other areas of programming, but that may be a reflection of the very problematic relations that currently exist between the community and public institutions. Programming to encourage public access to a more responsive justice and security system is largely absent. There are too few initiatives that encourage positive community involvement in conflict resolution, crime prevention, the governance of security institutions, and in community-based alternatives to the formal justice system. Initiatives to reform the governance of security sector agencies (participation, accountability, transparency) are also limited and **anti-corruption programs are conspicuous by their absence.**

TABLE 1 – Projects in Jamaica	
Donor	Major Area of Assistance
CIDA – Canada/Caribbean Gender Equity Fund	<ul style="list-style-type: none"> <li>▪ Reflects specific priorities of CARICOM women including reduction of violence against women</li> <li>▪ Operates by strengthening governments and civil society organizations locally, nationally and regionally</li> </ul>
CIDA Conflict and Legal Reform Program	<ul style="list-style-type: none"> <li>▪ Legal Institutions Component – development and training of mediators in partnership with the Judiciary, Bar, Court Administration and Dispute Resolution Foundation.</li> <li>▪ Community Component – development of conflict resolution programs for schools and communities</li> </ul>
DFID	<ul style="list-style-type: none"> <li>▪ Constabulary Reform and Modernization Project – to create a police force that is capable of providing responsible, effective, high-quality services to the public, particularly to poor areas; and, to improve overall policing through the reorganization of the police force, introduction of community policing programs, improvement of handling of crimes and traffic problems, and enhancement of the management and development of financial and human resources.</li> <li>▪ Penal Reform Project</li> <li>▪ Community Service Enhancement Project</li> </ul>
EU - Support for Economic Reform Programme	<ul style="list-style-type: none"> <li>▪ Drug Court and Rehabilitation of Offenders Programme – special court for drug abusing offenders – focused on reduction in substance abuse and rehabilitation of drug abusers</li> <li>▪ Juvenile Justice Reform Programme – design, development and management of a comprehensive rehabilitation programme for juveniles</li> <li>▪ Human Rights Education – protection of human rights among citizenry and employees of the Ministry and other government departments</li> <li>▪ Records Management Programme – strengthen Ministry’s data and records management systems to cope with Access to Information Act 2002.</li> <li>▪ Modernisation of the Office/Function of the Director of Public Prosecutions – develop and implement a computerized file tracking system</li> <li>▪ Reconstruction of Hanover Family Court</li> </ul>

IDB - Citizen Security and Justice Program	<ul style="list-style-type: none"> <li>▪ Police Public Complaints Authority – technical assistance, training and equipment to strengthen the PPCA, followed by an information campaign</li> <li>▪ Kingston Family Court and St. James Regional Family Court – automation and training for Judges and court personnel in improved administrative processes; train Children Services and Probation Officers re: substance abuse, intra-family violence and child abuse; upgrade electrical and infrastructure for Courts</li> </ul>
USAID - Democracy and Governance Program	<ul style="list-style-type: none"> <li>▪ Resident Magistrates Courts Improvement – automated case management system and strengthening of the Court reporting system</li> <li>▪ Supreme Court Back-up Power Supply</li> <li>▪ Assistance to the Kingston Coroner’s Court – technical, training, and equipment to streamline administrative processes</li> <li>▪ Laws of Jamaica on Line – publish laws on the internet and develop a dedicated website for legislation and changes to legislation</li> <li>▪ Judicial Training – expand Justice Training Institute capacity and capabilities.</li> <li>▪ Public Education – develop public education programs to advise public on improvements being made in the Justice Sector</li> </ul>

When the activities summarized in *Table 1* are compared to the priorities identified by the Jamaican National Committee on Crime and Violence, one notes the lack of attention currently given in existing projects to the more difficult program areas called for by the committee: empowerment of the communities; programs for excluded youths; development of parenting skills; crime prevention and school-based youth crime prevention; development of community leadership; and, civil society involvement in the justice and security sectors.

### ***Guyana***

CIDA has not been involved in major programming in the justice and security sectors in Guyana. The Agency’s Gender Equity Fund included activities in Guyana, including public information and awareness activities in relation to violence against women. Several other small scale projects were also supported that are relevant to the justice and security sectors.

*Table 2*, below, summarizes the main projects sponsored by donor agencies that were relevant to the justice and security sectors in Guyana.

<b>TABLE 2 - Projects in Guyana</b>	
<b>Donor</b>	<b>Major Area of Assistance</b>
CIDA	<ul style="list-style-type: none"> <li>▪ Canada/Caribbean Gender Equity Fund - Reflecting specific priorities of CARICOM women including reduction of violence against women; operates by strengthening governments and civil society organizations locally, nationally and regionally</li> <li>▪ Support for Touchau Council</li> <li>▪ Preparation for local government elections to fund possible involvement of FCM experts</li> <li>▪ Encouraging journalists to report more informatively</li> <li>▪ Mechanism to monitor reform process/ implementation by SPI, Commonwealth Secretariat, or civil society</li> <li>▪ Improve functioning of Parliament</li> <li>▪ Conflict management /conflict resolution activities</li> <li>▪ Support of GECOM</li> <li>▪ Constitutional reform commissions</li> </ul>
Carter Center (USAID Democracy and Governance Program – Justice/Rule of Law and Strengthening Civil Society)	<ul style="list-style-type: none"> <li>▪ Alternative Dispute Resolution and Court-Connected Mediation Pilot Programs</li> </ul>
USA	<ul style="list-style-type: none"> <li>▪ Foreign military education and training</li> </ul>
USAID	<ul style="list-style-type: none"> <li>▪ Responsive and Participatory Governance and Rule of Law – to enhance and regulate the process of incorporating input from civic advocacy groups into the legislative process; to improve technical and analytical capacity for modifying and drafting new laws and regulations; and to increase the judiciary’s capacity to resolve conflicts speedily.</li> <li>▪ RFP in progress as of March 2004 – Democracy and Governance</li> </ul>
IDB	<ul style="list-style-type: none"> <li>▪ Technical Assistance to Ministry of Local Governance</li> <li>▪ Within the list of currently approved (N= 30) and proposed (N= 6) projects in Guyana funded by the Inter-American Development Bank, only one approved project (Strengthening system of property rights) relates directly to the justice and security sector (<a href="http://www.iadb.org/exr/country/eng/guyana/">http://www.iadb.org/exr/country/eng/guyana/</a>).</li> <li>▪ Establishment of the Caribbean Court of Justice - to support the Preparatory Committee and CARICOM Secretariat in setting up the CCJ, through support in the selection process for judges, establishment of library and information systems, implement a public information program on the CCJ, and to carry out a judicial education program for judges and other court officials.</li> </ul>
CARIFORUM/EU	<ul style="list-style-type: none"> <li>▪ Finance through CFATF (Caribbean Financial Action Task Force) – Anti-money Laundering Initiative – involves EU development funds, and UK, US and France – monetary and in kind contributions towards implementation of program</li> </ul>

World Bank	<ul style="list-style-type: none"> <li>▪ Improving the accountability and transparency of the public sector</li> </ul>
Commonwealth	<ul style="list-style-type: none"> <li>▪ Improved capacity of the Commonwealth Secretariat to undertake effective mediation</li> </ul>
OAS	<ul style="list-style-type: none"> <li>▪ Election observation</li> </ul>
Social Partners' Initiative	<ul style="list-style-type: none"> <li>▪ Civic initiative to facilitate the resumption and implementation of political dialogue</li> </ul>
India	<ul style="list-style-type: none"> <li>▪ Police crime fighting capacity – promised, but not yet delivered</li> </ul>
DFID	<ul style="list-style-type: none"> <li>▪ Strengthening the Guyana Police Force, (better police-community relations and community level confidence-building), Strengthen Policing capacities</li> <li>▪ Judicial support (safety, security and access to justice)</li> </ul>
UNDP	<ul style="list-style-type: none"> <li>▪ Training women in leadership qualities</li> <li>▪ Deployment of a senior Peace and Development expert to assist executing projects geared towards improving social cohesion, security and governance in Guyana</li> <li>▪ Efficient and fully institutionalized electoral machinery</li> <li>▪ Improving legal and electoral framework according to international standards</li> <li>▪ Strengthening the Guyana Police Force</li> <li>▪ Improved capacity of the media to reduce social tensions [with the Guyana Press Association]</li> <li>▪ Improved capacity of Regional Councils to reduce social tensions: support for building the conflict management and policy development capacity of three Regional Development Councils (ISCSGG)</li> <li>▪ Training in conflict resolution and facilitation techniques for the members of SPI and other civic orgs, also for inter-religious and ecumenical initiatives (ISCSGG)</li> </ul>

<b>TABLE 3 - Projects in OECS Countries</b>	
<b>DONOR</b>	<b>Major Area of Assistance</b>
CIDA - OECS Legal and Judicial Reform Project	<ul style="list-style-type: none"> <li>▪ Make the court management system more efficient and effective; promote better management of the justice system through the gathering and use of legal information; foster impartiality by encouraging the development of alternative responses to conventional justice.</li> <li>▪ Legal aid project</li> </ul>
CIDA – Canada/Caribbean Gender Equity Fund	<ul style="list-style-type: none"> <li>▪ Reflects specific priorities that CARICOM women including reduction of violence against women.</li> </ul>
CIDA St. Lucia Civil Code Reform	<ul style="list-style-type: none"> <li>▪ Support the reform of the civil code of St. Lucia and thereby enhance good governance, economic growth, and social justice. The purpose is to assist St. Lucia in addressing key civil rights issues through legislative reform and public education.</li> </ul>
Commonwealth	<ul style="list-style-type: none"> <li>▪ Counter-terrorism technical assistance projects</li> <li>▪ Family law project – provision of legal drafter</li> </ul>
UNDP	<ul style="list-style-type: none"> <li>▪ Anti-corruption assistance</li> <li>▪ Family Law project assistance</li> </ul>

USAID	<ul style="list-style-type: none"> <li>▪ Judicial Enforcement Management System for courts</li> <li>▪ Legislative drafting</li> <li>▪ Judicial education</li> <li>▪ Regional prison system</li> <li>▪ Law Enforcement crime scene and forensic training</li> <li>▪ Anti-terrorism training</li> </ul>
DFID	<ul style="list-style-type: none"> <li>▪ Training for prison officials</li> <li>▪ Training of police through Association of Caribbean Commissioners of Police</li> <li>▪ Drug interdiction training and assistance</li> <li>▪ Public sector management reform including community policing</li> </ul>
OAS	<ul style="list-style-type: none"> <li>▪ Assistance in drafting new laws and harmonization of regional standards</li> </ul>
IDB	<ul style="list-style-type: none"> <li>▪ Domestic violence</li> </ul>
UNICEF	<ul style="list-style-type: none"> <li>▪ Family law project</li> </ul>

### Planned Activities of Other Donors

USAID is doing a study on a regional court system as well as a regional prison system.

IDB has ongoing projects in the justice and security sectors in Jamaica with NGO's and in the area of domestic violence in the region as a whole. It plans to do more in the justice and security sector. It is currently involved in diagnostic studies on crime prevention which involve the community and which aim to enhance community and social development. It does not plan to fund "hard core" police training. It currently does not have justice or security projects in the OECS region.

UNDP is planning to work with CARICOM and the Commonwealth Secretariat to focus on anti-corruption strategies.

The Caribbean Development Bank is looking at possible funding of a regional forensics laboratory.

In relation to the regional activities proposed by the CARICOM Task Force on Crime and Security, there was a Meeting of the Ministerial Sub-Committee on Resource Mobilisation for Crime Prevention and Security and a UK Senior Level Team on Security Cooperation, in Jamaica on March 3<sup>rd</sup>, 2004. The following priorities were identified:

1. The training of security and law enforcement officials: The aim is to develop a regional framework for such training, enhancing police training schools and regional tertiary level institutions (e.g. University of the West Indies).
2. Establishing a Regional Information and Intelligence Sharing Network: This was identified as the highest priority and will aim to develop domestic and regional connectivity to generate tactical and strategic intelligence through a new mechanism called the Coordinating Information Management Authority.

3. Maritime Cooperation: The aim is to assist Member States to upgrade their capabilities with a view to signing the Regional Maritime Agreement. The UK is taking a lead and coordinating the steering committee to conduct a survey, the findings of which will be discussed at the UK/Caribbean Forum in May 2004.
4. Border Security: CARICOM will establish an Expert Group to identify priorities in this area which will feed into the work of the steering committee on maritime cooperation and which will form the basis of a regional strategy.
5. A Regional Security Strategy: UK/CARICOM undertook to draft an integrated framework document on a regional security strategy to be discussed at the UK/Caribbean Forum, May 2004.

The UK and CARICOM are working together to develop a regional security strategy to assist Caribbean countries in developing a security sector infrastructure that has the capacity and expertise to counter transnational crime and police the maritime environment, within a human rights framework. A UK Caribbean Security Cooperation Plan/Action Plan has been developed which includes: (1) direct law enforcement activity by the UK; (2) legislation; (3) capacity building in law enforcement, public administration, and judicial systems; (4) exchange of law enforcement expertise; (5) measures to develop transparent systems for dealing with complaints against security agencies; (6) coordination between law enforcement agencies; (7) support for regional institutions and cooperation; and, (8) engaging other international actors.

DFID has recently conducted an “anti-corruption scoping mission” in Jamaica and is considering support to develop a strong and effective investigative capacity in the Jamaica law enforcement system, as part of a broader effort to strengthen the anti-corruption effort in Jamaica.<sup>89</sup>

## Conclusions

On the whole, JSS program activities in the region, even if they are not redundant or unnecessarily duplicating efforts, are not particularly well coordinated. Coordination of projects between donors has been hampered since the UNODC / UNDP transferred their crime prevention officer out of the region. Security and justice sector programming has focused mainly on judicial reform and police capacity development. Governance issues have not been ignored, but have received less attention than capacity development issues. There has also been a fair amount of work done with both police agencies and civil society in trying to reduce domestic violence and violence against women, but the impact of these projects has been minimal. Few, if any, of the JSS reform projects have been evaluated. The great diversity of objectives pursued by these projects and the range of methods used seem at times to have exceeded the capacity of local

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<sup>89</sup> Mason, P. and A. Fuller (2004). *Jamaica Security Sector: Anti-Corruption Scoping Mission*. London: DFID, 4-10 March 2004.

agencies to manage change. The growing emphasis on regional approaches to justice and security reforms has revealed some persistent difficulties in terms of both the design and the delivery of projects.



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### Programming Considerations

The project team was generally well received by the persons who were interviewed in the Caribbean and by various officials from regional organizations and development agencies. There was a generally shared perception that, to date, CIDA's focus and efforts in the justice and security sectors had lacked clarity. Respondents in the various Caribbean countries insisted that there was a **need for Canada to more clearly identify its interests in these sectors** and to elaborate on what types of assistance, including development assistance, it would be prepared to offer to the countries of the region. They contrasted Canada's current position in that respect with that of other donor countries, in particular the USA and the UK, who have made their intentions clear and have engaged in priority setting exercises with countries of the region.

Canadian respondents, both within and outside the Federal Government, echoed these sentiments. Persons within the Federal Government expressed the desire that CIDA be more clear with them about what kind of investment it is prepared to make in these sectors in the region and how it sees development assistance contributing to capacity building in the justice and security sectors in the Caribbean (and elsewhere). This would assist these other agencies in planning how they could collaborate with CIDA on the development and delivery of projects, as well as for complementary forms of assistance.

A number of respondents in agencies outside of the Canadian Government complained about the lack of focus of CIDA's activities in the justice and security areas and felt that it was not always easy to understand how they could become involved in these sectors. Their comments often emphasized the important role that civil society must play in promoting various reforms and in holding the system accountable. There was also the view that NGOs and other non-governmental Canadian actors should perhaps be more involved in security system reform activities in developing countries. The need for government-to-government exchanges at the technical and operational levels was widely acknowledged, although some respondents were concerned that security sector reforms, particularly as they related to social and economic development, compliance with human rights, democratic and civilian governance, and

accountability could not simply be left to exchanges between government security experts.

It was frequently suggested that the “lessons learned” thus far in these relatively new programming areas have been insufficiently assimilated by the Agency, poorly communicated across programs, and have not always been integrated into new programming design and decisions.

Several respondents, both within Canada and in various development agencies, noted that there are still very few experts who have both a “development” and a “security” expertise and that there were, at present, few mechanisms to promote the development of combined or integrated expertise. It was pointed out that, until this new type of expertise is developed, it will be necessary for CIDA and its partners both at home and in developing countries, to rely on the work of **multidisciplinary teams**, with clear terms of reference and competent leadership, to provide the expertise necessary to develop effective SSR programs as part of development assistance programming.

To this end, CIDA and its federal partners should perhaps consider the possibility of developing a Canadian “network of experts on security and development”. The U.K. has developed such a network that builds extensively on the expertise of civil society and NGOs and this approach has produced positive outcomes. This experience could provide a model for the development of a similar network in Canada.

Programming activities in the sector typically include: (1) activities to support strategy formation and consensus-building around the need for reforms and the nature of the changes to be promoted; (2) activities to promote the involvement of citizens and civil society organizations in the preparation, implementation and monitoring of justice projects; (3) activities to promote citizen participation in crime prevention; (4) activities to promote law reform when required; (5) activities to bring national laws and systems in compliance with international standards; and, (6) institutional strengthening and capacity building activities in the justice and public safety sector to bring about organizational change, including technical assistance, training and other programs to modernize existing structures and procedures and assist with the change process, to create mechanisms to create statistical databases, to install planning, budgeting, and case management systems, and to build necessary infrastructure and information systems.

All of these activities are important and the sequence in which they are undertaken can often impact their effectiveness. A number of lessons have been learned in terms of effective programming and assistance within the sector. These lessons must be identified and integrated into future programming.<sup>90</sup>

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<sup>90</sup> For example, see: Biebesheimer, C. and J.M. Payne (2001). *IDB Experience in Justice Reform*. Also: CGCED (2000). *Challenges of Capacity Development, Volume 11, Towards Sustainable Reforms of Caribbean Justice Systems*.

The following offers a preliminary overview of programming considerations that should be incorporated into future justice and security programming in the Caribbean.

### **Focus on Governance of the Security Sector**

In the conceptual framework developed for the UNDP on enhancing security sector governance, Nicole Ball stated: “the crux of the security sector governance challenge is to develop both effective civil oversight mechanisms and viable and affordable security organizations capable of providing security for the state and its citizens within the context of democratic governance”<sup>91</sup>. She added that the constraints on meeting this challenge are essentially the same as improving governance in other sectors.

One of the development results pursued through CIDA’s strategic plan of action relates to governance: “Improved governance structures and institutional capacity, strengthened civil society, improved peace and security, and enhance respect for human rights and democracy”. Improving the governance of the justice and security systems is certainly key to achieving this outcome.

**Programming must stress the importance of accountability and transparency in the whole of the sector** and combat the natural tendency of many of the agencies involved to wrap themselves in secrecy and to exclude the participation of civil society.

The governance of the justice and security sector cannot be approached independently from the issues of governance in general. It has been suggested that, for most Caribbean countries, improving governance is generally low on the political agenda.<sup>92</sup> There are obviously issues of participation, accountability and transparency that go well beyond the justice and security sectors but are directly relevant to them. According to a report of the Caribbean Group for Cooperation in Economic Development (CGCED), the need for improvement in governance should be treated as a high priority and reforms should address issues of governance as well as corruption and efficiency.<sup>93</sup>

Kaufmann, in a report for the World Bank, defines governance as “the exercise of authority through formal and informal traditions and institutions for the common good, thus encompassing: (1) the process of selecting, monitoring, and replacing governments; (2) the capacity to formulate and implement sound policies and deliver public services; and, (3) the respect of citizens and the state for the

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<sup>91</sup> Ball (2004). *Enhancing Security Sector Governance: A Conceptual Framework for UNDP*, p. 11.

<sup>92</sup> Bonnicks, G (2000). *Toward a Caribbean Vision 2020: A Regional perspective on Development Challenges, Opportunities and Strategies for the Next Two Decades*, pp.26.

<sup>93</sup> Bonnicks, G (2000). *Toward a Caribbean Vision 2020: A Regional Perspective on Development Challenges, Opportunities and Strategies for the Next Two Decades*, pp.25.

institutions that govern economic and social interactions among them."<sup>94</sup> He adds that:

"For measurement and analysis, the three dimensions in this definition of governance can be further unbundled to comprise two measurable concepts per each of the dimensions above, for a total of six components: (1) voice and external accountability (i.e., the government's preparedness to be externally accountable through citizen feedback and democratic institutions, and a competitive press); and also (2) political stability and lack of violence, crime, and terrorism. Then (3) government effectiveness (including quality of policymaking, bureaucracy, and public service delivery); (4) lack of regulatory burden; and, finally, (5) rule of law (protection of property rights, judiciary independence, and so on); and (6) control of corruption."<sup>95</sup>

In addition to these general issues, the governance of the security sector in the Caribbean context is also likely to raise the question of the role of the military in the internal security function. The involvement of the military in internal security issues, except in exceptional and urgent circumstances, is problematic from the point of view of democratic institutions. As is often the case in former colonial states, the role, structure and duties of the military in countries of the Caribbean are largely based on a colonial model in which the military is expected to perform an internal security function. In addition, countries of the region have been under some external pressure to involve their armed forces in the implementation of drug interdiction policies. In many cases, the population welcomes the involvement of the military in regular policing activities. Security reforms should carefully address the question of the involvement of the military in internal security and set some clear parameters for that involvement, should it be desired.

In Jamaica, for example, the work of the police and the military are often closely intertwined. The Jamaica Defence Force (military) is often called on to support police actions, and to patrol in high-risk areas. Many of the people consulted in Jamaica for the present review reported that the Defence Force is much more respected than the police and that it has been more effective than the police in maintaining peace and good order. Although having the military support the police appears to currently be the only effective approach to maintaining public order, there is significant concern that national security and public safety responsibilities are not separated and that police reliance on the Defence Force diminishes police responsibility and further reduces any impetus for the police to become more effective providers of public safety and law enforcement services. A study of the respective roles and responsibilities of the military and the police is planned following the completion of the National Security Strategy. The study should help define clearly when and where the military should be called on to provide aid to the civil power and what actions should remain in the exclusive

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<sup>94</sup> Kaufmann, D. (2003). *Rethinking Governance - Empirical Lessons Challenge Orthodoxy*. World Bank Institute, World Bank, p. 5.

[http://www.worldbank.org/wbi/governance/pdf/rethink\\_gov\\_stanford.pdf](http://www.worldbank.org/wbi/governance/pdf/rethink_gov_stanford.pdf)

<sup>95</sup> Kauffman, D. (2003), p.5

domain of the police. Hopefully, these new role boundaries will be defined through public consultation, and with the participation of civil society.

### **Civil Society Involvement**

CIDA is determined to help “reform institutions that perpetuate inequalities and power relations detrimental to poverty reduction and the promotion of sustainable livelihoods”.<sup>96</sup> Many of the security sector institutions in Caribbean countries could be characterized as perpetuating inequalities and discrimination. Reforming these institutions, including increased monitoring and public accountability, cannot be achieved without the vigilance and strong participation of civil society in their governance.

One of CIDA’s current priorities is to “build institutions and processes that represent and engage all members of society”<sup>97</sup>. Enabling civil society to organize, advocate, effect, and influence change in all aspects of governance is essential to sustainable development. In the field of security reform, the involvement of civil society is an absolute prerequisite to enhanced human security and ongoing respect for human rights and democratic principles. Programming in the justice and security sectors must support the efforts of civil society to create a “pro-reform environment for democratic governance of the security system”.<sup>98</sup>

### **Focus on Human Rights and Democratic Values**

Donors must reaffirm their commitment to support security reforms only in ways that are consistent with democratic principles and human rights standards. This must ensure that all technical and other assistance is provided in a manner that is consistent with applicable human rights standards. There exists a large body of human rights and criminal justice standards that are directly relevant to programming in the justice and security sectors. Programs should be designed and reviewed by people who are thoroughly familiar with these standards and norms and recognize their relevance to the proposed reforms.

### **People-centred, Locally Owned Activities**

There is considerable variation in the issues and needs in the security and justice sectors in the countries of the region and this has spawned a number of different views about priorities in these sectors and the best options for addressing them. As emphasized in the OECD policy statement, it is essential that security sector programming be people-centered and “locally owned.” According to a document on CIDA’s strategy in the Americas, “programming should be developed based on locally-owned strategies emerging from an open dialogue between local authorities and civil society, nurtured by their interaction

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<sup>96</sup> CIDA (2004), *Sustainable Development Strategy: 2004-2006*, (Priority D.4.2), p. 46.

<sup>97</sup> *Ibidem*.

<sup>98</sup> OECD (2004). *Security System Reform and Governance: Policy and Good Practice*.

with external partners.”<sup>99</sup> The role of development assistance is therefore to “support the process through which these local strategies are developed and to strengthen the capacities to deliver them”.

The programming must also build, as much as possible, on the existing strengths of the local system. Support must be offered in a manner that makes it relevant to local agendas and timeframes. During the review, several examples were provided to the project team of missed opportunities for excellent programming and for key strategic support interventions that would have had an appreciable impact due to the planning cycle of donors being either too slow or not coinciding sufficiently with the policy planning and implementation cycle of the requesting country. The disruptions or interruptions of assistance that occurred during or between projects may also undermine the potential effectiveness of reform initiatives.

There are a number of strategies that may be utilized to increase the efficacy of locally-owned justice and security reforms. These include:

**(1) Establishing the legitimacy of the proposed reform.** If an initiative is identified as being solely the effort of an outside agency or government, the effort is not likely to be legitimized and will not be sustainable. Rather, the reform will be viewed as externally imposed and as a pre-requisite for receiving other types of assistance. It is important that the recipient country have “ownership” of the reform effort. The recipient country should play the primary role in identifying and prioritizing the areas in need of reform. Furthermore, because changes in one part of the system will invariably affect other parts of the system, reforms that are seen as the initiative of only one agency within the system are not likely to receive the support they require in order to succeed. This presents unique challenges to both the donor and recipient countries.

**(2) Finding champions.** Countries providing assistance are well advised to consult with a wide range of informants in the recipient country in an effort to distinguish between those persons who are “figureheads” from those who are committed to reform and have the requisite influence and authority to enhance the reform process. Investing sufficient time and resources in identifying these persons will increase the likelihood of success of the reform effort.

**(3) Providing incentives for change.** Reform is a difficult task in all systems, due in large measure to the tendency of agency personnel to resist change, to not place their positions and status at risk, and to not challenge the status quo. There must be some incentives for senior personnel and individuals at the managerial and line levels to participate in

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<sup>99</sup> CIDA (2001). *Closing the Gap, A Strategy for CIDA in the Americas*, p. 20.

the reform effort. It is not realistic to assume that there will be enthusiastic support for an initiative merely because it is labelled as “reform.”

**(4) Establishing realistic benchmarks and reform objectives.** Even the best-designed assistance project will fall short of its objectives if it is not planned adequately. It is unrealistic to expect that all of the required reforms will occur simultaneously or that a system’s institutional and human resource capacity can be developed overnight. Specific, achievable objectives must be established that hold the best potential for success. Demonstration projects and carefully selected and developed case studies can provide early, visible successes that will increase the momentum of and support for organizational change and reform.

**(5) Conducting project evaluations.** All assistance projects in the field of justice and security should include an evaluation component. Independent researchers from the jurisdiction in question should conduct this evaluation, working where required, in collaboration with evaluators from the country providing the technical assistance. There are number of key issues surrounding project evaluation, including the use of an evaluative framework that is not externally-imposed but rather reflects the realities of the recipient country. Further, if the measures of success are too rigid, then any reform initiatives may have been inappropriately determined to not have produced positive outcomes.

## Community-based Approaches

In many developing countries, there is no real tradition of involving the community in crime prevention and other aspects of the security system. In countries where the involvement of civil society in the justice and security sector is resisted by officials, and where financial and human resources are lacking, it makes eminent sense to explore different strategies to involve the community in some of the most important aspects of that sector.

The goal is to foster the development of institutions that involve communities and are accountable to them. As noted by Harriott, “a cardinal principle of effective crime control is the linking of informal and formal state control. This is essential to any good policy especially where the legitimacy and moral authority of the state and some of the institutions within the criminal justice system is regarded as dubious. Popular involvement at the community level tends to strengthen the moral authority of the state’s control institutions and improves their effectiveness.”<sup>100</sup>

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<sup>100</sup> Harriott, A. (2000). *Controlling the Jamaican Crime Problem: Peace Building and Community Action*, p. 22.

## Partnerships

The success of justice and security sector reforms will necessarily depend on the strengths of the partnerships upon which these reforms are based. As in other development assistance areas, **the partnership model ought to drive the assistance delivery approach**: “All initiatives must be seen as collaborative approaches with our developing country partners, aimed at strengthening their local capacities and based on their local priorities”.<sup>101</sup> This includes collaboration between Canadian institutions and NGOs who will participate in these initiatives, and the partnerships in the receiving countries. The amount of front-end work that will have to be done in developing these initiatives will be quite uncommon even for the development sector. **Broad, multi-sectoral, integrated approaches can only be implemented on the basis of effective partnerships and common understandings of, and commitment to, the goals of the proposed reform and the agreed upon reform process.** Partnerships between outside actors (donors) can also be a strong contributor to the success of the reforms.

New linkages should be explored between agencies that, although often collectively characterized as a system, rarely collaborate. New partnerships should be fostered and encouraged, including those between security and justice sector agencies and other institutions (e.g. colleges and universities), or between the security sector and the private sector (e.g. with a tourism bureau, with the airline industry, etc.).

## Multi-sectoral Approach to Security Reform

Past experience has shown that successful security sector reform must be grounded in multi-sectoral strategies that are based on a broad assessment of security needs of the people and the State. The OECD policy statement encourages governments to develop workable, multi-sectoral strategies, and to help stakeholders determine what will work best for them.

Among the lessons learned in the justice reform sector is that **reform projects in this sector require a consensus for change** and may therefore be feasible only within narrow windows of opportunity. A review of projects in this sector by the Inter-American Development Bank (IDB) also concluded that: “Given the long-term nature of the task of institution building, such efforts are likely to extend beyond any one project cycle. Such projects are likely to entail coordination among multiple agencies from both the judicial and executive branches of government, and sometimes also the legislature. Many of the projects are multi-disciplinary in nature.” (Biebesheimer and Payne, 2001: 2).

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<sup>101</sup> CIDA (2001). *Closing the Gap – A Strategy for CIDA in the Americas*, p. 20



## Integrated (Sector-wide) Approach to Reform

Reform efforts cannot be limited to one aspect of the criminal justice system but rather must often involve many ministries and agencies as well as more than one branch of government. To be effective, there must be a holistic framework to guide a **sector-wide approach** that addresses criminal justice policy generally, including policing policies, sentencing reform, bail reform, a fine payment system, conditional release policies and programs, and alternatives to incarceration. The horizontal integration of projects and activities within the justice and security sectors is also crucial.

The UK Government's new approach to justice system reform, for example, focuses on a sector, rather than on a single institution. This, according to the Security Sector Reform Policy Brief recently released by DFID, "recognises the integral linkages between areas such as police reform, judicial reform and penal reform – each of which, if approached in a fragmented way, would not be sustainable"<sup>102</sup>. The DFID policy brief on security sector reform identifies "Safety, Security and Access to Justice" as one of the five main components of security system reforms.<sup>103</sup>

With the recognition that an integrated approach to capacity building in the security sector in the region is required, **CIDA**, in cooperation with its national and international partners, **should identify the main elements of a coherent security sector capacity enhancement program**. Without creating unrealistic exaggerated expectations in the countries of the region, CIDA can focus on where it can make a difference based on its strengths and experience. In areas where Canadians have a proven and transferable expertise, CIDA can plan to provide technical assistance and training in response to locally-identified needs or as part of locally-developed initiatives.

Integrated approaches do not necessarily preclude the possibility that an intervention may be targeted at an individual security agency, at a single process within that agency (e.g. informational management system for the courts), or may address more general security issues across the system as a whole. It does not matter what strategy is used as long as the assistance program is carefully planned, even sequentially, as part of a broader strategy to enhance the capacity of the system as a whole and its governance. Effective coordination horizontally, across the system, remains one of the essential preconditions to the success of any such initiative.

## Regional Approach

The OECD/DAC policy statement recommends that a regional perspective to security and justice reform be adopted, even when assistance is provided in

<sup>102</sup> DFID (2003). *Security Sector Reform Policy Brief*, p. 12.

<sup>103</sup> The other four are: peace support operations; small arms and light weapons; disarmament, demobilisation and reintegration, and private security,

support of a national reform program.<sup>104</sup> The OECD suggests that the common security needs faced by a region be identified. There are many reasons why the OECD and others recommend regional approaches, including the fact that: (1) as security challenges often involve cross border (transnational) issues, they are part of a “regional security complex”; (2) it can be helpful and more effective to have collective responses to security issues; (3) unaddressed security issues can lead to conflict within the region and weak points that can be exploited by criminal elements and others; and, (4) the need for capacity development is often better addressed by initiatives at the regional and sub-regional levels, particularly when regional programming can produce economies of scale and a greater harmonization between security systems that will invariably be called upon to cooperate in defending the region against outside security threats.

There are also some potential disadvantages to regional approaches to assistance for security system reform. Greene (2003:8) cautioned that a regional approach may: (1) encourage inappropriate regional generalisations; (2) be based on inadequate analysis of specific national challenges, strengths, needs and opportunities; (3) encounter some national resistance based on regional politics; and, (4) introduce a bias in the identification of priorities for action and entail significant opportunity costs for specific national programs. Greene also concluded “there may be real advantages to developing regional approaches and perspectives to SSR strategies and assistance, so long as this does not detract unduly from the need for specific national analysis and programming, and that opportunities are also pursued to develop thematic or sectoral strategies and programs”.<sup>105</sup>

It is evident that regional approaches, if they are to be more than a collection of disparate projects at the national level, require careful planning and meticulous design, as well as a strong executing agency. The pre-conditions to success, including the required political commitment to the objectives of the reform, are often hard to maintain over time and across the region. Nevertheless, regional approaches to promote international cooperation are often the only effective approaches in dealing with external, transnational security issues/threats. This perspective was reflected in the major treaty initiatives designed to fight against terrorism (the 12 global conventions against terrorism) or organized crime (the UN Convention against Transnational Organized Crime and its three supplementary protocols) and the UN and OAS conventions against narcotics, all of which have one primary objective: **harmonizing** the efforts of each country and removing obstacles to international security cooperation in the fight against these transnational security threats.

Small countries that are unable to develop their own system capacities, particularly those that are infrequently required for cooperation, cannot afford to

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<sup>104</sup> OECD (2004). *Security System Reform and Governance: Policy and Good Practice*.

<sup>105</sup> Greene, O. (2003). “Security Sector Reform, Conflict Prevention and Regional Perspectives”, p. 8.

be omitted from the newly-formed regimes of international cooperation. They cannot let themselves become the region's weakest security point and a target for organized crime elements. On the other hand, bringing in the required reforms and developing the capacity required to join these emerging cooperation regimes is sometimes overwhelming for smaller countries. A number of strategies are currently being developed to assist these countries in implementing the necessary reforms in an integrated manner. These strategies usually require that a sectoral approach be taken in the implementation of these new international obligations.

In the Caribbean, a number of common themes have already emerged at the regional level that could facilitate the identification of some regional reform goals and initiatives. For example, the CARICOM Regional Task Force on Crime and Security is already proposing initiatives against activities that pose a direct security threat to the region and is proposing multilateral initiatives in areas in which countries of the region have already committed to collaborate.

In some cases, a regional or sub-regional project may offer a particularly promising and cost-effective way of promoting coordinated approaches to fight transnational security threats and preventing crime displacement from one country to another. For example, a Special Meeting of the OECS Authority on the Economy (October 2002) recommended that serious consideration be given to regionalizing some of the critical functions of government in order to make them cost effective. A regional police and a regional prison service are likely candidates and, as mentioned previously, consultants were hired by the organization's secretariat to develop some regionalization of services scenarios.

The OECS, and perhaps to a lesser extent CARICOM, can already point at several successful regional experiences of security sector reform. At present, CARICOM is examining different options for the establishment of a permanent coordinating mechanism, perhaps even a Caribbean Drug Control and Crime Prevention Commission as recommended by the Task Force on Crime and Security.

### **Whole-of-government Approach**

In its *Sustainable Development Action Plan*, CIDA announced its intention to have a government-wide approach to relations with developing countries reflected in its work in the area of security and development. One of the priorities identified in the plan is "policy-based programming and increased policy coherence between CIDA and its partners"<sup>106</sup>, including, of course, Canada's security policy. The Agency intends to "contribute to the development of a more effective approach to security and development across the Government of

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<sup>106</sup> CIDA (2004). *Sustainable Development Strategy: 2004-2006*, p. 24.

Canada, working in particular with the Department of National defence and the Department of foreign Affairs and International Trade”.<sup>107</sup>

Not all assistance related to security is part of development assistance. As previously mentioned, there are ongoing discussions about what should or not be included in official development assistance. Canada offers many different forms of cooperation and assistance to other countries to assist them in developing their security capacity. Several Canadian agencies are involved, together or separately and not always with sufficient coordination, in providing this type of assistance.

As the OECD policy statement emphasizes, it is important to develop a “whole-of-government” approach to these initiatives. Such an approach is “development friendly” and ensures that assistance needs in security and development are met from a combination of relevant budget sources and that development funds are not misused. There exists, within the federal government, an inter-departmental consultation/ coordination mechanism that brings together officials from key departments and agencies involved in counter-terrorism and security capacity building assistance at the international level. At present, it appears that the work of this committee is somewhat informal and does not have the visibility it could have within the government and with the agencies that are involved. It may be appropriate to formalize the role of this coordination mechanism to ensure that information about its activities is more widely distributed to those parties within and outside the government who are involved in security reform in Canada and in developing countries. During the review, several Canadian respondents have referred to the useful coordination function performed by the “Canadian Police Arrangement” and suggested that the membership, nature and role of that mechanism could be reviewed and expanded to include other actors and cover all security sector reforms.

It should be noted that a “whole of government” approach does not in any way suggest that security reform initiatives must be limited to government-to-government cooperation initiatives. On the contrary, the role of NGOs and civil society actors is crucial. The review found that several Canadian respondents advocated a government-driven approach, guided by security concerns, whereby assistance in security sector reform would be provided almost exclusively by or under the direction of Canadian agencies from that sector. These respondents tended to argue that, due to the sensitive nature of security issues, the area was best left to government agencies and that among them, there were only selected government agencies entitled to carry the “Canadian flag”. While such a perspective is relevant to certain forms of international cooperation in the security sector reform, it most certainly does not apply to the assistance provided as part of development assistance.

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<sup>107</sup> CIDA (2004). *Sustainable Development Strategy: 2004-2006, (Priority E.1.4)*, p. 50.

Persons in both the Caribbean and in Canada are often quick to invoke “security considerations” to justify a narrow approach to civil society’s involvement in security reform assistance or to explain why so much of it must, in their view, be wrapped in secrecy. There are, of course, valid security considerations at play whenever information about vulnerabilities, intelligence, security threats and security measures is concerned. This, in turn, is used as a justification for a tendency to treat matters of international security reform and cooperation as a matter that can only be dealt with on a government-to-government basis. This perspective is also often used as a basis for excluding non-government participants in the process and for not disclosing more information about various assistance activities.

However, not all matters of security need to be cloaked in secrecy and there is room for greater transparency and the sharing of information. As for civil society involvement in the delivery of security reform assistance, there are clearly areas where this is neither possible nor desirable. There are areas, however, where it may be crucial, even if it is only to reinforce the message conveyed by the Canadian Government that civil society must be supported in developing countries to create a pro-reform environment for democratic governance of the security system. Furthermore, there are areas, particularly where development assistance is involved in the provision of SSR assistance, where the coordination of the various forms of assistance provided can only be accomplished adequately through some level of public transparency about the work involved and the need for these efforts to be coordinated with other forms of assistance.

In sum, the whole of the assistance provided by Canada to security reform in any developing country should **reinforce the message that security is a public policy** and governance issue requiring democratically-made decisions as well as ongoing public engagement and scrutiny.

### **Long Term Approach**

Most of the problems faced by developing countries in relation to their justice and security sectors are not amenable to short-term interventions, but rather require changes in culture and attitudes that can only occur over long periods of time. They require human resources and institutional capacity development that would take years, if not decades, to accomplish even in well-developed and prosperous countries. Improvements in capacity, quality, and effectiveness, when achieved, will tend to be slow in developing. Capacity development projects, as a rule, usually require a “longer-term commitment than traditional projects”.<sup>108</sup> Security sector reform must therefore be viewed as a long-term process that requires persistence over time<sup>109</sup>. The nature and extent of a

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<sup>108</sup> CIDA (2001). *Capacity Development Guide for Program Managers*, p. 3

<sup>109</sup> See: Biebseheimer, C. and J.M. Payne (2001). *IDB Experience in Justice Reform*, p. 1.

country's progress, Nicole Ball has observed, "is shaped and conditioned by the pace of social and political change, rather than abstract donor timetables".<sup>110</sup>

CIDA must consider how it can offer a long-term commitment to security reforms in the region and carefully choose the mechanism that will allow it to deliver on this commitment. On the other hand, circumstances and contexts will change and this may affect the integrity of the reform effort. Given the politically sensitive environment, CIDA must also select delivery mechanisms that are flexible and can be adjustable over time.

Taking a long-term view does not imply that CIDA's initiatives in these sectors should only be in pursuit of long term objectives. On the contrary, the need to develop and maintain strong relations with dedicated partners, to have project accountability measures in place, to overcome well-engrained resistance to change, and to periodically renew the commitment of all partners through the experience of success illustrates the importance of having a careful mix of long-term and short-term initiatives that will help maintain a momentum in favour of reforms. In many instances, the institutions concerned will have to implement change very slowly and will have to "learn to walk before they run". Since the success of these reforms will be dependent to a great extent upon the success of the associated capacity-building initiatives that are required, the timing of each initiative will have to take into account the capacity of the system to absorb the assistance and the potential disruption that reforms may cause the existing processes. Again, the accumulated experience in this particular programming sector clearly emphasizes the need for what is generally referred to as "confidence building measures".

### **Capacity Building vs. Technical Assistance**

Capacity development involves assistance aimed at reforming organizations and institutions to develop their capacity to achieve the goals for which they exist efficiently and effectively. Assistance in this area must be based on a careful assessment of the existing capacity of the organization or institution, the factors (political, organizational, psychological, financial, technical or technological) that limit that capacity, the forces that can support the necessary reforms, and the obstacles or the resistance which could undermine the required changes. It cannot be assumed that all stakeholders are in favour of improving the capacity, performance, or effectiveness of the system.<sup>111</sup> There are often complex reasons why a system's relative "incapacity" has been cultivated and tolerated. These reasons often involve a powerful group (or groups) benefiting in one way or another from that weakness.

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<sup>110</sup> Ball, N. (2002). *Enhancing Security Sector Governance: A Conceptual Framework for UNDP*.

<sup>111</sup> CGCED (2000). *Challenges of Capacity Development – Towards Sustainable Reforms of Caribbean Justice Sectors, Volume II: A Diagnostic Assessment*, p. 5.

A review of capacity development programs in the Caribbean justice sector by the Caribbean Group for Cooperation in Economic Development (CGCED) noted how attempts at reform of justice sector institutions and organizations did not always produce the expected results.<sup>112</sup> It identified the difficulties faced by Caribbean countries attempting to build a significant capacity in the justice and public safety sector and proposed a framework for sustainable reforms of Caribbean justice sectors that acknowledges the complexity of the task at hand.

Canada is involved in different ways in helping various justice and security organizations and agencies in developing countries acquire specific capacities and abilities to deal with particular security issues. For example, Canada is a substantial donor, although not through development assistance, to countries of the Caribbean in terms of helping them meet their drug law enforcement commitments through CICAD and the MEM process. Canada is also providing capacity development assistance through its Military Training Assistance Program<sup>113</sup> and through various law enforcement cooperation initiatives sponsored by the RCMP. Some questions are often raised about that type of capacity development and the place it should occupy within Canada's overall security reform assistance activities: Is that form of short-term sporadic assistance really effective? Is it responsive to the needs of the receiving countries? Does it contribute to developing a sustainable capacity? How is that kind of assistance related to broader foreign policy and development assistance policy objectives? What is the normative basis for the capacity development activities?

### **Program Design and Delivery**

Kaufmann (2003:24), in his work on governance for the World Bank, concluded that it is now necessary to move beyond the traditional approach to public sector reforms and to rethink orthodoxy on legal and judicial reforms. He adds:

“Although donor programs supporting the traditional and largely unsuccessful legal and judiciary technical assistance projects of the past is yet to be fully abandoned, a salutary move away from narrow support for hardware, study tours, traditional training, focus on marginal improvement in narrow organizational issues such as caseload management, and the like is beginning to take place—even if slowly. In the next phase it will be important to face up to the enormous difference in the nature, performance, and vulnerability of legal and judiciary institutions across emerging countries. These vast differences have major strategic and practical implications.”<sup>114</sup>

<sup>112</sup> Caribbean Group for Cooperation and Economic Development (2002). *Challenges of Capacity Development: Towards Sustainable Reforms of Caribbean Justice Sectors, Volumes I and II*.

<sup>113</sup> See: Canada, National Defence (2003). *Military Training Assistance Programme – Annual Report 2002-2003*.

<sup>114</sup> Kaufmann, D. (2003). *Rethinking Governance - Empirical Lessons Challenge*, p. 24

The manner in which assistance is offered in the justice and security sectors is often as important as the type of assistance offered. In most developing countries, **these sectors are generally not amenable to reform** but rather are essentially conservative elements of society that typically offer fierce resistance to any change, particularly if such reform efforts are implemented by parties who are perceived as threatening their power and autonomy under the status quo.

Most elements of these sectors are characterized by the presence of a strong sub-culture that does not value outside input or influence. They are often organizationally and structurally impervious to outside scrutiny and have a very limited view of the extent to which they should be held accountable to civilian authorities. **Implementing reforms in these sectors requires interventions over the long term that will encourage and support cultural, as well as structural, organizational and technological transformation.**

These various agencies are inter-related and inter-dependent. Changes in one part of the system usually affect other parts of the system or their purpose can be defeated by various manoeuvres in other agencies. At the same time, it is somewhat misleading to characterize the various components of the justice and security sector as part of a “system”, as they often tend to be isolated from each other, to compete at least as often as they cooperate, and to frequently work at cross-purposes.

When the assistance provided attempts to address specific security problems in a piecemeal manner, without addressing broader systemic and structural issues, or without sufficient sector-wide buy-in and coordination, such assistance generally fails to improve the security system’s capacity, efficiency and governance.

Training is often viewed as a key component of capacity development and it often is. Training activities can also provide an entry point that can lead to further collaboration. In itself, however, training rarely produces appreciable results. The question has been examined in relation to the technical cooperation programs in human rights in the administration of justice delivered by the United Nations Office of the High Commissioner on Human Rights. A recent global review of the OHCHR activities regarding the administration of justice reveals the need to put training activities into a wider perspective, the need to “get under the skin of the institutions”:

“Requests for assistance in the field of training are interesting because they provide access to an organization. Knowledge of Human Rights law is a primary and central condition for compliance with these laws. As such it is of vital importance, but it is no more than a primary condition. If changing police conduct is the goal, as some of the evaluations indicated, much more has to be done. Institutional development is the next concern. Efforts have to become directed towards changing the culture and structure of the police and prison system, the quality and training of police and prison leadership, the improvement of operational practice, the selection and training of police officers and prison staff and the improvement of system of accountability. If



the behaviour of the police and in prisons is to be changed, support for the institutional development of the police is unavoidable.”<sup>115</sup>

Based on the perceptions of people in the region, it is evident that a continued reliance on external “experts” who fly in, deliver a training or development program, and then fly out, does little to build local capacity or effect meaningful change. The same holds true for retired experts who sometimes are not current in their field, lack appropriate knowledge and skills, and have little or no understanding of the cultural, political, social, or economic context in which they are attempting to provide assistance.

Another approach to capacity development that is not entirely effective is to send selected individuals who hold key positions in these systems to overseas conferences, seminars and training courses. Often, they are placed in larger classes with students from many countries. In this situation, no one student is afforded class time to have his or her unique issues and questions addressed in any detail or depth. In addition, such training often takes place in isolation, meaning that there is no plan, process or support to take the new learning and transfer it back into the local context. Many courses in policing, for example, do not supply pre-course reading materials or activities to prepare the participant for the learning experience. The same holds true after the experience where most students are not supported, equipped or challenged to implement the lessons learned back in their workplace. The only tangible evidence of participation in the training program may be a photo album.

What many of these courses do accomplish is provide participants access to a network of professional contacts, insights into other ways of doing things, and some appreciation and level of understanding of new technologies and systems. While there is value to this, what is often lacking is a method or strategy for making this new knowledge productive at home and imbedding the new learning and competencies in the workplace. The most common experience is that the person returns from training overseas and there is no opportunity or strategy for sharing their new learning amongst their peers or to integrate the knowledge and skills they have gained into the policy and practice of their particular organization or agency.

Another waste of development resources consists of funding reviews and strategic planning exercises that are not followed up with support for strategic action. Such reviews are likely a waste of effort and resources when the local capacity or interest to respond does not exist. For example, there have been four reviews of the Guyana Police Force in the past few years, each of which has identified the same systemic and operational deficiencies. However, no action has been undertaken to address any of the recommendations set out in these

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<sup>115</sup> Flinterman, C. and M. Zwamborn (2003). *From Development of Human Rights to Managing Human Right Development – Synthesis Report, Global Review of the OHCHR Technical Cooperation Programme*. p. 41.

reports due to (according to in-country sources) a lack of political will and resources to effect reforms.

The issue of the *transferability* of techniques, structures, procedures, strategies and legislation, however successful they may have been in Canada, to the very different context of these small developing countries must be considered each and every time that a program or project is developed. Few Canadian “experts” involved in development activities have expertise in comparative law or comparative analysis of criminal justice systems. They therefore have a limited ability to distance themselves from the methods and processes of the only system they know. They are poorly equipped to help countries develop solutions that have a fair chance of succeeding in the local context. With respect to legislative reform, for example, a key lesson learned is that simply transplanting legislation from one country to another does not work. Even the promotion of “model legislation” is likely to have limited success unless it is accompanied by the expertise required to adopt these generic instruments to local circumstances. Rather, local solutions, including relevant legislation, must be developed. While foreign legislation can be considered for ideas and examples, it needs to be understood that it likely will not operate in the same fashion in the recipient jurisdiction.

### **Donor Coordination**

Given the complexity of the reforms being envisaged, external donors must avoid offering a “patchwork of assistance” and directing countries to proceed on a piecemeal basis that fails to address the sector as a whole and the governance issues that are often left unexamined. Unless one donor can provide all the required resources, **donor coordination is crucial** to ensure that countries are supported in their efforts to adopt a comprehensive approach to justice and security sector reform.

# 7

## Opportunities for Successful Programming

Justice and security sector reforms are expensive, particularly when, on the basis of current best practices, one is promoting programs that are multi-sectoral, sector wide and even possibly regional. It is unlikely that CIDA's programming in the justice and security sectors (JSS) in the Caribbean can rely on an infusion of new, large-scale funding initiatives. The discussion of potential opportunities for programming must, therefore, keep these constraints in mind to avoid creating unrealisable expectations in its Caribbean partners.

Within this context, the success of future CIDA initiatives in the Caribbean JSS will require that the entry points for programming are carefully identified and attention be given to ensuring that assistance activities are coordinated with those of other donors. Given the Agency's relative lack of experience in JSS programming, support that is provided must be appropriately designed and delivered in a manner so as to increase the likelihood of optimum impact.

The following discussions expand on these considerations.

### Context

The present review has identified innumerable opportunities for programming and cooperation in JSS. However, opportunities for *successful* programming in the JSS may be much more difficult to identify. As experience has demonstrated, the success of JSS programming initiatives cannot be taken for granted, no matter how critical the need for a particular reform. Typically, many of the "needs assessment" surveys conducted as part of program planning in the JSS tend to focus on identifying gaps and weaknesses in the processes and systems, shortages in qualified human resources, and deficiencies in the legislative framework. The weakest studies will simply measure the distance observed between the JSS in a developing country and their counterpart in a given, more developed, country. In short, they focus on the "needs" of the system, without an understanding of the reasons *why* these needs exist and *why* the deficiencies may not be easily correctable.

Very often, the pre-conditions of success do not exist or their absence has not been sufficiently taken into account in the design of the JSS cooperation

initiatives. **Justice and security sector reforms involve complex, and essentially political, processes.** The political, ideological, financial, normative and institutional contexts in which justice and security reforms are undertaken must be taken into account in determining possible forms of assistance. The impact of most types of assistance is usually constrained by these broader elements of the context and other factors relating to the development and implementation of proposed reforms. Drawing on the work completed for the UNDP by Nicole Ball and other sources, the following discussion sets out a general framework within which the main elements of the context within which cooperation initiatives are developed can be identified and the opportunities for successful programming can be considered. The framework also provides some practical parameters that can be utilized in determining the kind of assistance that Canada could consider offering to countries of the Caribbean as part of its development assistance programs.

The utility of this framework resides in its ability to synthesize a large amount of information relevant to JSS programming and to set out this information in a form that is accessible and clear. The caveat is that this tool should not be taken too literally. It is likely to be much more useful as a mechanism to support the analysis of other sources of information that are available on a country in which reforms are being contemplated. Furthermore, the instrument is essentially a “snap-shot” taken at a given point in time and it should be remembered that most elements of this general context are in a constant state of flux.

### Country Readiness Profiles

Nine of the most relevant elements of the general context in which JSS reforms and programs are being developed are listed below. These elements are then assembled into a grid that provides a “country readiness profile” with respect to the potential orientations of JSS cooperation initiatives and the likelihood of their success. A profile is presented for each country included in the present review.

- 1. Political context:** generally, (a) in terms of political stability<sup>116</sup> and (b) in terms of the political rights and civil liberties of citizens<sup>117</sup>; and specifically, (c) in terms of the capacity of civil authorities to exercise oversight and control over the various elements of the security

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<sup>116</sup> One can use an indicator developed by the World Bank as part of its governance research program. It includes the absence of politically related violence, intimidation, and terrorism.

<sup>117</sup> For convenience, the worldwide survey conducted annually by the US-based organization Freedom House to monitor the progress and decline of political rights and civil liberties is used here. The comprehensive annual assessment assigns countries political rights and civil liberties ratings and categorized them as Free, Partly Free, or Not Free. The survey rates each country on a seven-point scale for both political rights and civil liberties (1 representing the most free and 7 the least Partly Free” (countries whose ratings average 3.0-5.0); and “Not Free” (countries whose ratings average 5.5-7.0). The ratings are not only assessments of the conduct of governments, but are intended to reflect the reality of daily life. <http://www.freedomhouse.org/research/freeworld/2004/table2004.pdf>

sector<sup>118</sup>; and, (d) in terms of the political commitment that exists to genuinely reform the JSS.

2. **Geopolitical:** (a) at a general level, whether the country is under some significant external threats such as transnational crime, terrorism, or aggression or threats from other countries<sup>119</sup>; (b) at a more specific level, whether the country is involved and/or capable of participating in regional initiatives; and, (c) whether there exist effective regional cooperation mechanisms in the justice and security sectors in which the country participates.
3. **Psychological:** (a) at a general level, the level of insecurity and public fear of crime and violence; (b) the credibility and the legitimacy that the JSS have in the eyes of the public; and, (c) the level of public support for JSS reforms<sup>120</sup>.
4. **Economic:** (a) the overall economic context; (b) the current financial capacity of the country to invest in JSS reforms; (c) the availability of external financial support for JSS.
5. **Normative:** (a) the extent to which the legal basis for democratic accountability of security bodies to civil authorities is developed; (b) the extent to which the country actively subscribes to internal human rights and other relevant standards relevant to JSS; and, (c) the strength and quality of the rule of law.<sup>121</sup>
6. **Government effectiveness:** (a) generally, in terms of the quality of policy formulation, bureaucracy and public services<sup>122</sup>; (b) specifically, in terms of the effectiveness of government as it relates to the JSS; and, (c) whether or not there exist clear, workable and well accepted overall plans and strategies for JSS reforms.

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<sup>118</sup> The scale is one from a point where elements of the security sector is virtually in control of political life (1), to a point where there is a very limited capacity of the civil authorities to exercise control over most elements of the JSS (2), a point where democratic accountability of JSS bodies to civil authorities is inadequate or deteriorating (3), a point where the capacity of the civil authorities to exercise oversight and control over the security bodies is weak (4); and, to a point where civil authorities can generally exercise oversight and effective control over all the JSS bodies.

<sup>119</sup> See for example: Berry *et al.* (2003).

<sup>120</sup> Keeping in mind, of course, that the reforms supported by the public may be very punitive and not always in keeping with international human rights and other justice standards.

<sup>121</sup> The World Bank Governance Research Indicator Country Snapshot uses the "strength and quality of the rule of law" indicator, which it defines to as including independence of the judiciary, predictability of justice, protection of human rights (including political and legal rights). See: Kaufman, D., Kraay, A. and M. Mastruzzi (2003). *Governance Matters III: Governance Indicators for 1996-2002*.

<sup>122</sup> See *World Bank Indicator – Governance Research Indicators* (Kaufman, D., Kraay, A. and M. Mastruzzi (2003). *Governance Matters III: Governance Indicators for 1996-2002*.)

- 7. Corruption:** (a) in general, the effective commitment of and progress made by government in controlling corruption; and, specifically<sup>123</sup>, and (b) the control of corruption in the JSS and, in particular, in law enforcement.
- 8. Institutional context:** (a) in general, the level of development of fundamental institutions, their human and institutional capacity, and their ability to respond positively to proposed reforms; specifically, (b) the country's legislative capacity, including not only the capacity to draft proposed laws, but also to successfully develop them through consultative processes and secure their democratic adoption; (c) capacity of the financial management systems to support JSS reforms and financially plan for their success; (d) the law enforcement capacity; (e) the judicial capacity; (f) the correctional system capacity; and, (g) the strength and relative capacity of oversight agencies (where they exist).
- 9. Civil society involvement:** (a) the extent to which civil society is developed and active; (b) the extent to which civil society is able to be actively involved in the planning and implementation of JSS reforms (from being actively prevented from doing so, to being barely tolerated or just beginning, to being encouraged, but not well facilitated, to being strong, and to being the norm), (c) the involvement of civil society in monitoring the operation of the JSS; and, (d) the government and the JSS willingness to involve civil society.

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<sup>123</sup> There are various measures of corruption. The World Bank Index, as it relates to the Control of Corruption, has developed an indicator relating to the frequency of irregular payments to judges and public officials. See: Kaufman, D., Kraay, A. and M. Mastruzzi (2003). *Governance Matters III: Governance Indicators for 1996-2002*. <http://www.worldbank.org/wbi/governance/pubs/govmatters3.html>

**JAMAICA**  
**JSS REFORM READINESS PROFILE**

DIMENSION		1	2	3	4	5
<b>Political</b>	Political stability					
	Political rights and civil liberties					
	Control of civil authorities over JSS					
	Commitment to reform of JSS					
<b>Geopolitical</b>	External threats / vulnerability					
	Capacity for regional cooperation					
	Participation in regional mechanisms					
<b>Psychological</b>	Insecurity and fear of crime and violence					
	Public trust in and credibility of the system					
	Public support for JSS reforms					
<b>Economic</b>	The overall economic context					
	Capacity to invest in JSS reform					
	Availability of external assistance					
<b>Normative</b>	Legal basis of JSS democratic accountability					
	Commitment to compliance with int. standards					
	Strength and quality of the rule of law					
<b>Government Effectiveness</b>	In general					
	In security sector					
	Planning in sector					
<b>Corruption</b>	Control of corruption					
	Control of corruption in JSS					
<b>Institutional Context</b>	Level of development of fundamental institution					
	Financial management and oversight capacity					
	Legal framework					
	Law enforcement capacity					
	Judicial capacity					
	Correctional capacity					
	Strength and capacity of oversight agencies					
<b>Civil Society Involvement</b>	General strength of civil society					
	Civil society involvement in JSS planning					
	Civil society monitoring of JSS					
	JSS willingness to involve civil society					

Development assistance programs in the JSS are likely to be most successful in the area of governance reforms, provided that the government is prepared to be actively involved in them. Anti-corruption programs may be less effective until such time as the central government and local officials demonstrate a more resolute commitment to reform. Existing mechanisms are weak and not effective in holding JSS officials and agencies accountable for their actions. The development of stronger, credible structures and processes for dealing with incidents of police violence, corruption, and abuse of authority could also be supported as part of a longer-term effort to re-establish the credibility and legitimacy of public institutions.

The programming areas that hold the most promise are those that involve strengthening legitimate leadership in the communities and supporting the development of community-based crime prevention initiatives, particularly as they relate to youth crime prevention. Jamaica is receiving some assistance to reform its youth justice system and the rehabilitation and social integration of excluded

youth and youth in conflict with the law is a national priority with widespread public support. It may be possible for CIDA to build on existing initiatives and to collaborate with other donor agencies to ensure the success of the reform effort. Local groups and agencies in support of the new National Policy on Youth Development can develop long-term prevention programs.

### GUYANA JSS REFORM READINESS PROFILE

DIMENSION		1	2	3	4	5
<b>Political</b>	Political stability					
	Political rights and civil liberties					
	Control of civil authorities over JSS					
	Commitment to reform of JSS					
<b>Geopolitical</b>	External threats / vulnerability					
	Capacity for regional cooperation					
	Participation in regional mechanisms					
<b>Psychological</b>	Insecurity and fear of crime and violence					
	Public trust in and credibility of the system					
	Public support for JSS reforms					
<b>Economic</b>	The overall economic context					
	Capacity to invest in JSS reform					
	Availability of external assistance					
<b>Normative</b>	Legal basis of JSS democratic accountability					
	Commitment to compliance with int. standards					
	Strength and quality of the rule of Law					
<b>Government Effectiveness</b>	In general					
	In security sector					
	Planning in sector					
<b>Corruption</b>	Control of corruption					
	Control of corruption in JSS					
<b>Institutional Context</b>	Level of development of fundamental institutions					
	Financial management and oversight capacity					
	Legal framework					
	Law enforcement capacity					
	Judicial capacity					
	Correctional capacity					
<b>Civil Society Involvement</b>	Strength and capacity of oversight agencies					
	General strength of civil society					
	Civil society involvement in JSS planning					
	Civil society monitoring of JSS					
	JSS willingness to involve civil society					

Offering assistance to strengthen the Office of the Police Complaints Authority and the Ombudsman Office may be a good starting point. Support for judicial reforms, particularly with respect to the institution of an independent and transparent system for judicial appointments and the introduction of more effective court management practices, could also provide an entry point while at the same time testing the resolve of the government to proceed with these and more complex and challenging governance-related reforms.



**ANTIGUA AND BARBUDA  
JSS REFORM READINESS PROFILE**

DIMENSION		1	2	3	4	5
<b>Political</b>	Political stability					
	Political rights and civil liberties					
	Control of civil authorities over JSS					
	Commitment to reform of JSS					
<b>Geopolitical</b>	External threats / vulnerability					
	Capacity for regional cooperation					
	Participation in regional mechanisms					
<b>Psychological</b>	Insecurity and fear of crime and violence					
	Public trust in and credibility of the system					
	Public support for JSS reforms					
<b>Economic</b>	The overall economic context					
	Capacity to invest in JSS reform					
	Availability of external assistance					
<b>Normative</b>	Legal basis of JSS democratic accountability					
	Commitment to compliance with int. standards					
	Strength and quality of the rule of law					
<b>Government Effectiveness</b>	In general					
	In security sector					
	Planning in sector					
<b>Corruption</b>	Control of corruption					
	Control of corruption in JSS					
<b>Institutional Context</b>	Level of development of fundamental institutions					
	Financial management and oversight capacity					
	Legal framework					
	Law enforcement capacity					
	Judicial capacity					
	Correctional capacity					
	Strength and capacity of oversight agencies					
<b>Civil Society Involvement</b>	General strength of civil society					
	Civil society involvement in JSS planning					
	Civil society monitoring of JSS					
	JSS willingness to involve civil society					

Support for the operation of a local crime prevention planning and implementation mechanism involving community participation may be a realistic way to encourage further progress in the short term. Supporting the country's JSS through regional (OECS) projects may be the most feasible course of action.

### DOMINICA JSS REFORM READINESS PROFILE

DIMENSION		1	2	3	4	5
<b>Political</b>	Political stability					
	Political rights and civil liberties					
	Control of civil authorities over JSS					
	Commitment to reform of JSS					
<b>Geopolitical</b>	External threats / vulnerability					
	Capacity for regional cooperation					
	Participation in regional mechanisms					
<b>Psychological</b>	Insecurity and fear of crime and violence					
	Public trust in and credibility of the system					
	Public support for JSS reforms					
<b>Economic</b>	The overall economic context					
	Capacity to invest in JSS reform					
	Availability of external assistance					
<b>Normative</b>	Legal basis of JSS democratic accountability					
	Commitment to compliance with int. standards					
	Strength and quality of the rule of law					
<b>Government Effectiveness</b>	In general					
	In security sector					
	Planning in sector					
<b>Corruption</b>	Control of corruption					
	Control of corruption in JSS					
<b>Institutional Context</b>	Level of development of fundamental institutions					
	Financial management and oversight capacity					
	Legal framework					
	Law enforcement capacity					
	Judicial capacity					
	Correctional capacity					
	Strength and capacity of oversight agencies					
<b>Civil Society Involvement</b>	General strength of civil society					
	Civil society involvement in JSS planning					
	Civil society monitoring of JSS					
	JSS willingness to involve civil society					

Support for the development of a community-based planning and consultation mechanism with a broad, long-term, non partisan mandate may be an effective way to support both community involvement and careful planning and consultation. Supporting the country’s JSS through regional (OECS) projects may be the most feasible course of action.

**GRENADA**  
**JSS REFORM READINESS PROFILE**

DIMENSION		1	2	3	4	5
<b>Political</b>	Political stability				4	
	Political rights and civil liberties					5
	Control of civil authorities over JSS					
	Commitment to reform of JSS				4	
<b>Geopolitical</b>	External threats / vulnerability					
	Capacity for regional cooperation					
	Participation in regional mechanisms			3		
<b>Psychological</b>	Insecurity and fear of crime and violence					
	Public trust in and credibility of the system					
	Public support for JSS reforms					
<b>Economic</b>	The overall economic context					
	Capacity to invest in JSS reform					
	Availability of external assistance					
<b>Normative</b>	Legal basis of JSS democratic accountability					
	Commitment to compliance with int. standards					
	Strength and quality of the rule of law				4	
<b>Government Effectiveness</b>	In general				4	
	In security sector					
	Planning in sector				3	
<b>Corruption</b>	Control of corruption				4	
	Control of corruption in JSS			3		
<b>Institutional Context</b>	Level of development of fundamental institutions				3	
	Financial management and oversight capacity					
	Legal framework					
	Law enforcement capacity					
	Judicial capacity					
	Correctional capacity					
	Strength and capacity of oversight agencies					
<b>Civil Society Involvement</b>	General strength of civil society					
	Civil society involvement in JSS planning					
	Civil society monitoring of JSS					
	JSS willingness to involve civil society					

Grenada has recently been hard hit by natural disaster. However, prior to this critical event, the country offered one of the most propitious grounds for multi-sectoral, sector-wide JSS reforms in the Caribbean. Some very effective planning has occurred and the government has developed a viable plan of action. The country has requested support for various legal reforms related to JSS governance issues and with the implementation of various international standards. It intends to be a strong partner in implementing reforms at the regional level and in cooperating internationally in the fight against transnational crime. Youth crime prevention, youth justice system reforms, police reforms and improved police-community relations, sentencing reforms, and prison reforms are all part of the country's proposed strategy.

### SAINT KITTS AND NEVIS JSS REFORM READINESS PROFILE

DIMENSION		1	2	3	4	5
<b>Political</b>	Political stability					
	Political rights					
	Control of civil authorities over JSS					
	Commitment to reform of JSS					
<b>Geopolitical</b>	External threats / vulnerability					
	Capacity for regional cooperation					
	Participation in regional mechanisms					
<b>Psychological</b>	Insecurity and fear of crime and violence					
	Public trust in and credibility of the system					
	Public support for JSS reforms					
<b>Economic</b>	The overall economic context					
	Capacity to invest in JSS reform					
	Availability of external assistance					
<b>Normative</b>	Legal basis of JSS democratic accountability					
	Commitment to compliance with int. standards					
	Strength and quality of the rule of law					
<b>Government Effectiveness</b>	In general					
	In security sector					
	Planning in sector					
<b>Corruption</b>	Control of corruption					
	Control of corruption in JSS					
<b>Institutional Context</b>	Level of development of fundamental institutions					
	Financial management and oversight capacity					
	Legal framework					
	Law enforcement capacity					
	Judicial capacity					
	Correctional capacity					
	Strength and capacity of oversight agencies					
<b>Civil Society Involvement</b>	General strength of civil society					
	Civil society involvement in JSS planning					
	Civil society monitoring of JSS					
	JSS willingness to involve civil society					

There may be an opportunity and a local willingness to strengthen the governance of the police function. Police reforms leading to the implementation of community-based model and accountable policing practices could be linked to assistance for capacity development. Institutional linkages could be developed between the local police force and a partner Canadian municipal police force. The initiative could be compatible with a current OECS initiative to explore the regionalization of certain policing functions.

Other development assistance to the country's JSS reforms and capacity building initiatives could continue to be provided through regional (OECS) projects.

**SAINT LUCIA  
JSS REFORM READINESS PROFILE**

DIMENSION		1	2	3	4	5
<b>Political</b>	Political stability					
	Political rights					
	Control of civil authorities over JSS					
	Commitment to reform of JSS					
<b>Geopolitical</b>	External threats / vulnerability					
	Capacity for regional cooperation					
	Participation in regional mechanisms					
<b>Psychological</b>	Insecurity and fear of crime and violence					
	Public trust in and credibility of the system					
	Public support for JSS reforms					
<b>Economic</b>	The overall economic context					
	Capacity to invest in JSS reform					
	Availability of external assistance					
<b>Normative</b>	Legal basis of JSS democratic accountability					
	Commitment to compliance with int. standards					
	Strength and quality of the rule of law					
<b>Government Effectiveness</b>	In general					
	In security sector					
	Planning in sector					
<b>Corruption</b>	Control of corruption					
	Control of corruption in JSS					
<b>Institutional Context</b>	Level of development of fundamental institutions					
	Financial management and oversight capacity					
	Legal framework					
	Law enforcement capacity					
	Judicial capacity					
	Correctional capacity					
	Strength and capacity of oversight agencies					
<b>Civil Society Involvement</b>	General strength of civil society					
	Civil society involvement in JSS planning					
	Civil society monitoring of JSS					
	JSS willingness to involve civil society					

Saint Lucia has created a new Ministry of Home Affairs and Internal Security that has the capacity to manage a fair amount of reform and change. National priorities for JSS reforms have been identified and are comprehensive. Effective leadership appears to be in place and, although local human and financial resources are limited, the latter appear to have been effectively mobilized. Saint Lucia is also the home of the OECS Secretariat and a comprehensive JSS assistance program in Saint Lucia would also provide the Secretariat with an opportunity to work closely with the country and to develop some useful lessons for other Eastern Caribbean Countries.

**SAINT VINCENT AND THE GRENADINES  
JSS REFORM READINESS PROFILE**

DIMENSION		1	2	3	4	5
<b>Political</b>	Political stability					
	Political rights and civil liberties					
	Control of civil authorities over JSS					
	Commitment to reform of JSS					
<b>Geopolitical</b>	External threats / vulnerability					
	Capacity for regional cooperation					
	Participation in regional mechanisms					
<b>Psychological</b>	Insecurity and fear of crime and violence					
	Public trust in and credibility of the system					
	Public support for JSS reforms					
<b>Economic</b>	The overall economic context					
	Capacity to invest in JSS reform					
	Availability of external assistance					
<b>Normative</b>	Legal basis of JSS democratic accountability					
	Commitment to compliance with int. standards					
	Strength and quality of the rule of law					
<b>Government Effectiveness</b>	In general					
	In security sector					
	Planning in sector					
<b>Corruption</b>	Control of corruption					
	Control of corruption in JSS					
<b>Institutional Context</b>	Level of development of fundamental institutions					
	Financial management and oversight capacity					
	Legal framework					
	Law enforcement capacity					
	Judicial capacity					
	Correctional capacity					
	Strength and capacity of oversight agencies					
<b>Civil Society Involvement</b>	General strength of civil society					
	Civil society involvement in JSS planning					
	Civil society monitoring of JSS					
	JSS willingness to involve civil society					

Notwithstanding the limited resources of Saint Vincent and the Grenadines, some effective, small-scale JSS reforms are quite possible in the current context. However, in the short term and in the absence of a national strategy for JSS reforms, it may only be possible to offer assistance for a national planning mechanism involving civil society and promoting community-based solutions to local security issues. Access to justice initiatives, particularly for women and children, may provide a useful entry point. Otherwise, development assistance to the country’s JSS reform and capacity building initiatives should continue to be provided through regional (OECS) projects.

**Points of Entry**

JSS reforms should be multi-sectoral and internally driven. However, the challenge is to identify activities that CIDA and other donors can encourage and

support that will significantly contribute to the development of countries of the Caribbean. In some cases, it may be appropriate to begin with a single point of entry, upon which it may become possible to expand, provided that the particular reform or capacity-building issue that is being addressed is part of a broader strategy to improve the whole of the system and how it is governed.

Identifying suitable points of entry for development assistance in support of JSS reforms is not always easy.<sup>124</sup> Entry conditions are not always ideal as the local consensus for reform may be weak and the political commitment tentative and fluid.

Institutional entry points include activities to support capacity building (both normative and technical) in the legislative, law enforcement, judicial, correctional, and oversight systems. CIDA has previously been involved in this type of assistance and can appreciate, based on that experience, how the many components of the JSS are functioning interdependently and how reform initiatives that do not adopt an integrated, multi-sectoral approach usually produce few sustainable results. Human capacity development projects, often based on training initiatives, can also offer an entry point; however, such initiatives are likely to fail unless they are part of a broader institutional reform and development process. Support for civil society involvement in the JSS offers another potential point of entry, but it is one that is fraught with difficulties unless it is accompanied by an amenability of key individuals in the system to engage with civil society. It must be accompanied by other measures to increase the transparency and accountability of public agencies involved in the initiative.

Many core activities relevant to the strengthening of the JSS are already part of CIDA's regular programming activities, including legal and judicial reform, prison reform, civil service and administrative reform, anti-corruption activities, public expenditure management and accountability, civil society building, and human rights protection. Many of these activities can serve as entry points for strengthening the justice and security sectors and their governance, provided that the necessary linkages are made.

### **Focal Points**

Given that Canada, through a number of agencies and the many multi-lateral mechanisms that it supports, will also be offering other forms of JSS assistance to Caribbean countries (e.g. in relation to counter-terrorism measures, drug interdiction, law enforcement, border control, treaty implementation, etc.), **CIDA should, perhaps, consider developing its own statement of priorities for development assistance in the JSS in the Caribbean.** Based on the materials gathered during the present review, the project team recommends the following:

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<sup>124</sup> See: Biebesheimer, C. and L.M. Payne (2001). *IDB Experience in Justice Reform*.

- The development of a small set of clear focal points for CIDA's JSS activities in the Caribbean. CIDA would thus concentrate on a few areas that are likely to have an optimum impact on the JSS capacity to eventually contribute and support the development of these countries;
- The development of the few focal points should adopt the "long view", keeping in mind that other forms of assistance and cooperation are usually better suited to address some short-term security challenges;
- The development of the specific methodologies, instruments, and partnerships that are dictated by a focus on these selected areas of cooperation.
- The recruitment and development of a small pool (or network) of expertise from both the governmental and non-governmental sectors to be involved in the long-term on the design and refinement of JSS programs in these focal areas and their evaluation.

A focus of the Agency on a small number of strong programming areas would provide many advantages:

- (1) It would help CIDA achieve optimum impact for the limited resources that it can currently devote to JSS reform.
- (2) It would facilitate the necessary dialogue between CIDA and its partners in developing countries, by offering them a clear picture of the programs in which CIDA is prepared to get involved, the results that are expected, the local commitment that would be required, the mechanisms that would be used, and the conditions that must be satisfied in order for the assistance to be effective;
- (3) It would facilitate coordination between CIDA and other Canadian agencies involved in international cooperation in the JSS, encourage program synergies, and help prevent unnecessary duplication.
- (4) It would facilitate the coordination of activities between CIDA and other donors.

The following is a list of twelve crucial areas of programming from which CIDA should choose a small number of areas on which it will concentrate its development assistance efforts.

### ***Democratic Governance of the Security Sector***

Given its existing expertise in supporting democratic governance in general, one natural focal point for CIDA would be focusing on strengthening the



democratic governance of security sector agencies and instituting mechanisms to make these agencies publicly accountable. The Cligendael Institute has prepared an institutional assessment framework to assist governments on how best to strengthen democratic governance of the security sector.<sup>125</sup> The framework, produced for the Netherlands Ministry of Foreign Affairs, identifies five key entry points for a strategy to enhance the democratic governance of the security sector: (1) the rule of law and its application to the security sector; (2) the capacity for policy development, planning and implementation; (3) the professionalism of the sector; (4) internal and external oversight, and, (5) the capacity to manage security sector expenditures.

Assistance could focus on establishing and strengthening the mechanisms for both judicial and civilian oversight of security institutions in order to ensure that the police and other security institutions function effectively and in accordance with the rule of law and human rights. Part of the programming could support the development of the requisite civilian skills to manage and monitor the security system. As the OECD Policy document states (2004, p. 33), this is “key to gaining acceptance among security forces of the principle of civil supremacy”.

It is clear from the review that both Guyana and Jamaica are in need of these types of reform. Such reforms could be an important point of departure for establishing the credibility and legitimacy of law enforcement in these countries. This may be an area where it would be possible to enlist the support of the Association of Caribbean Commissioners of Police (ACCP).

In the OECS countries, there may be a genuine opportunity to promote and support useful security sector governance reforms in the context of the work currently being done towards the regionalization of law enforcement in OECS countries.

### ***Civil Society Involvement and Advocacy Role***

Public support for security reforms and civil society involvement cannot be romanticized. The media and large segments of the population, in developed and in developing countries alike, are often prepared to sacrifice individual rights and liberties for the illusion of safety. Genuine public debate around the real nature of justice and security issues being confronted and around local solutions must be encouraged. The failure of security institutions in some of the countries of the Caribbean to provide some basic level of security has created a climate where various advocates of public safety, and sometimes even the general public, are prepared to support security measures that threaten democratic development and human rights.

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<sup>125</sup> See: Ball, Bouta, and van de Goor, 2003.

As a pre-condition to successful reform, CIDA programming could focus on the means to encourage broad civil society involvement in the planning and implementation of justice and security sector reforms. This is the type of initiative that could benefit all Caribbean countries.

In Jamaica, it will be useful to support the efforts of civil society to develop a consensus around the need for such reforms and to create a political momentum in their favour. Some of the key civil society groups that should be involved include women's groups, professional associations (Bar Associations, Police Associations), human rights groups, and the media. The justice and security systems have often provided little opportunity for the involvement of these various sectors and some gentle donor pressure may help these groups encourage a local vision for democratic governance of the security system. Some civil society organizations are well placed to play that role and some of them have reached a level of maturity that will make them increasingly effective in promoting reforms if they are supported. The Jamaican National Committee on Crime and Violence identified community empowerment and the development of community leadership as priorities for action.

The CARICOM Task Force on Crime and Security recommended that all countries in the region should have a national commission on crime and security and, also, that a regional commission on crime and security be established to support and coordinate the activities of the various jurisdictions. However, it is not clear what role civil society would play in these mechanisms and to what extent there would be provisions for input from communities. Nevertheless, CIDA may find that these new structures provide an opportunity to offer practical support to civil society involvement in the planning and implementation of JSS reforms and capacity development initiatives.

### ***Introducing New Models of Policing***

Other donor agencies are involved in various police reform projects in the Caribbean, but there may still be an opportunity for CIDA to offer a different kind of assistance. Police reform is an important point of entry for security sector reform. It is a pre-requisite for the establishment of a democratically accountable security sector. In that respect, the police can be a liability and obstacle to efforts to create a civil society and good governance. Dr. Gordon Peake, a participant in the Latin American and Caribbean Security Network Symposium recently observed that the process of security system reform should begin with an appreciation of the powerful symbolic effect that positive changes to the police force can have on the public's perception of security.<sup>126</sup> He also pointed out that it is important to keep in mind that: (1) the police are usually the most visible and immediately present aspect of the security system; (2) the performance of the

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<sup>126</sup> Peake (2004), *Police Reform*, p. 17.

police is absolutely crucial to the performance and credibility of the rest of the sector; (3) the police's archaic practices, poor human rights records, outdated methods, and heavy-handed practices add to the public perception of the police as a self-serving and self-oriented rather than community-oriented institution; (4) the police are often used to control civil disorder at the discretion of the ruling groups; and, (5) the police are in a unique position to provide the foundations for stability, security and confidence in the state.

In the Caribbean countries reviewed, reforms are required based on different conceptions of the role of policing in society, of appropriate methods and styles of policing, and of acceptable and efficient policing policies and strategies. In considering the viability and potential of such concepts as "community-based policing", however, caution should be exercised in assuming what form these police practices may take in the Caribbean region. Rather, those parties advocating for the reform of the police are calling for a model of policing based on the still "radical idea" that the primary role of the police is to serve the community, and on different notions of competence, accountability, civilian oversight, integrity, and professionalism.

In Jamaica and Guyana, it would be worth pursuing initiatives to strengthen the public police complaint mechanisms as they are seriously lacking and because such initiatives could help test the political resolve and the police willingness to engage in more substantial reforms.

There is a real opportunity to develop programs to support police reforms in the OECS countries, starting perhaps with Saint Lucia, Grenada, and Saint Kitts and Nevis, in particular programs to help local police forces to develop and implement a community-based policing model adapted to local circumstances. Some modest reforms in that direction have already been initiated in a few countries of the region and the current discussions about a proposed regionalization of some police functions could provide further opportunities for some OECS countries to make progress in that direction.

Leadership, change management skills, and public support for such reforms will be crucial to their success. We would recommend programming that is based on local community participation. We would further suggest that an "institutional pairing" and "institutional mentoring" model be explored, along the lines of the institutional mentoring arrangements that were successfully developed between Canadian universities and their counterparts in developing countries. Some smaller local (municipal) police forces should be invited to form long-term institutional mentoring (or reciprocal learning) relationships with a police force in one OECS country. Furthermore, as part of the implementation of a new policing model, local police forces should be encouraged to make greater use of the training resources of their local college or university. In turn, these colleges and universities could be encouraged to link up with one or more of the many successful Canadian post-secondary programs in the fields of law enforcement and criminal justice.

### ***Judicial Reform***

Dr Carolyn Gomes of the NGO “Jamaicans for Justice” believes that judicial actors can offer another important entry point for justice system reform, provided that one is prepared to be patient. Even within that subsystem, she argues, the interrelated nature of all facets of the judicial system requires that reform efforts be simultaneously directed at many different points of the system.<sup>127</sup> There are a number of opportunities to bring in greater competence, transparency, accountability, and community involvement to the judicial system in the Commonwealth Caribbean countries.

CIDA is currently involved in a number of judicial and legal reform projects and it may wish to wait until it has fully drawn the lessons learned from these projects before developing further programming.

In most countries of the region, the role of public prosecutors has been insufficiently supported. The consequences of such neglect are now clearly obvious in most countries of the region. The poor prosecution services are in part responsible for long backlogs of criminal cases in court and the prolonged detention of accused individuals in prison. The low rate of successful prosecutions, particularly in complex cases or in cases involving powerful offenders, affects the credibility of the system as a whole. Many countries must rely on untrained police officers to perform the prosecuting function and they are exploring various options to develop that capacity within their criminal justice system and professionalize the people involved. Few donor agencies are actively involved in this sector and CIDA could consider supporting some creative initiatives in that area. The Department of Justice Canada, provincial ministries of the Attorney General (Director of Public Prosecution), the Canadian and the Provincial Bar Associations, and even the International Association of Prosecutors (IAP) could be solicited to become involved in supporting these projects.

One should note also that the role of the prosecution in combating gender-based violence has not received sufficient attention in the Caribbean (or in CIDA current projects relating to violence against women). There is a potential link to be made here between projects to address violence against women and children and projects to enhance the capacity of prosecutors (often police officers) in the Caribbean.

### ***Youth Crime Prevention***

Community-based crime prevention is an area that has received little attention from other donors, but it is an area in which Canada has acquired considerable

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<sup>127</sup> Gomes, C. (2004). *Judicial Reform and the Role of Civil Society: A Jamaican NGO's Experience with Lobbying for Reform*, p. 12.

experience and expertise. The Jamaican National Committee on Crime and Violence identified youth crime prevention, community-based and school-based, and programs for excluded youth as key priorities.

Given the critical need of all Caribbean countries, but in particular Jamaica, to develop programs to address youth crime, we suggest that CIDA and its Canadian partners develop a programming framework with their Caribbean counterparts. The impact of the large number of disaffected youth on the development and security of the country is an issue throughout the region. There has been a fair amount of youth programming in the region, but there is little data on the effectiveness of these initiatives. There is a very well developed non-governmental sector involved in youth crime prevention in Canada and it has apparently not been extensively involved in international development activities. These organizations could be mobilized around a concrete plan of intervention.

Youth crime prevention is an area which requires a long-term investment and in which CIDA should not get involved unless it is willing to consider and design long-term interventions.

### ***Youth Justice System Reforms***

Youth justice system reforms are critically needed in every country of the region. Several countries have made changes to the legal framework of their youth justice systems, but none of them have set in place the programs, mechanisms and resources necessary to ensure that the youth justice system operates. Reform should focus on making the system more efficient and on helping youth function productively in society. They should also focus on bringing the youth justice systems in line with international human rights standards. The failure to address the needs of children and youth who come into contact with the criminal justice system is exacerbated when these youth eventually swell the ranks of gangs and criminal groups and perpetuate the violence that has become so problematic in many Caribbean societies.

It should be remembered that the administration of youth justice is a provincial responsibility in Canada. There are numerous resources at the provincial level, which could be mobilized to contribute to programs in this sector.

### ***Gender-based Violence Prevention***

In the countries reviewed, governments have focused on improving the general social and economic conditions of women within the broader context of economic and social development. Some emphasis has been placed on offering training and education to the various officials and professionals on whom victims

of gender-based violence must rely for protection, help, information, financial assistance, or redress. These initiatives, unfortunately, have rarely been sustained and, in many instances, were most likely not sustainable.

The full implementation of the provisions of the *Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women* has not been seriously treated as a priority by the government of any of the countries of the region. A minimalist approach to law reform has often been adopted. There are few programs specifically designed to ensure that the jurisdictions meet their obligations under the *Convention*. This poor implementation of the *Convention* can certainly be blamed (as it often is), on the general shortage of financial and human resources available to complete the task. However, several additional difficulties were also encountered that were rarely addressed in a systematic manner. For example, although violence against women raises issues that fall within the mandate of several government departments, there is often a lack of coordination among the departments involved and an inability, if not unwillingness, of agencies to collaborate with one another. Social attitudes and cultural practices have also created powerful obstacles to effective interventions. Governments of the region have relied very heavily on non-governmental organizations and women's groups to offer the most basic level of support and assistance to women victims of violence. However, these organizations experience ongoing challenges in securing funding and recruiting and retaining volunteers.

During a meeting of experts in Georgetown, Guyana in 2002 focusing on the implementation of the Inter-American Convention in the Caribbean sub region, it was pointed out that the eradication of violence against women required a coordinated, multi-faceted approach to address its causes and consequences: "In the Caribbean, much like elsewhere, comprehensive approaches are required which include prevention and education, law enforcement, provision of support services for victims, as well as rehabilitation for offenders."<sup>128</sup> With respect to the justice and security sectors specifically, these comprehensive approaches must include clear strategies on how to mobilize the relevant agencies within these sectors, overcome cultural and attitudinal resistances to change, implement justice and law enforcement reforms, provide services for victims, and establish data collection, change monitoring and evaluation mechanisms. Similar conclusions have been reached in Canada concerning the impact of the "violence against women" components of the projects funded under the Gender Equity Fund.

There are some significant issues surrounding women's access to justice that must to be dealt with as part of broader justice and security sector reforms. The OAS expert group identified development issues as part of the underlying factors associated with gender-based violence and listed the following access to justice

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<sup>128</sup> Inter-American Commission of Women (2002). *Final report – Meeting of Experts of the Caribbean Sub-region – Violence in the Americas*, p. 10.

issues for victims of gender-based violence: 1) the inadequate response of police to situations involving violence against women; 2) the lack of awareness of legislative measures to protect these victims; 3) the reluctance of victims to utilize judicial process, often as a result of fear or economic dependence; 4) the lack of effective legal aid; and, 5) judicial attitudes and court inadequacies.

As previously mentioned, it is also possible to identify specific actions that can be taken at the national or regional levels to combat the exploitation of women and children by elements of organized crime. In most of the jurisdictions examined for this review, women do not currently receive the level of protection they are entitled to expect from the criminal justice system against the many forms of exploitation and violence they may suffer at the hands of transnational criminal organizations.

Until recently, in fact, the issue of transnational forms of violence against women and children appears to have been largely neglected. In Caribbean countries, in particular, it seems that the importance of the issue is rarely acknowledged by the governments in spite of the numerous publicly known incidents of women being smuggled into or out of the country to work as involuntary sex workers or to be otherwise exploited by well-organized criminal groups.

Many women are forced to become prostitutes or to suffer other forms of exploitation in order to survive and they often become the victims of traffickers and smugglers. It is not possible at the present time to estimate the number of women who are victimized by such practices in the Caribbean countries included in this review. Trafficking in women and children are often not perceived to be a problem by local communities. However, information does surface about women who are smuggled into countries from other jurisdictions such as the Dominican Republic, to work as either voluntary or involuntary sex trade workers and who are often kept in conditions of slavery by organized crime gangs.

In most jurisdictions of the region, women victims of trafficking and forced prostitution are left to their own means to protect themselves against deception, intimidation, and violence at the hands of criminal organizations. Trafficking offences are rarely prosecuted with success due to the poor protection that is offered to victims and potential witnesses. In too many cases, effective law enforcement is severely undermined because of the victims' unwillingness or inability to testify against traffickers. Immigration laws, policies, and procedures clearly require urgent attention to ensure that the victimization of trafficked persons is not compounded by the interventions of the destination, transit, or source states. In many cases, it is clear that strict immigration laws and procedures relating to the deportation of illegal migrants and workers work at cross-purposes with efforts to prosecute trafficking crimes and to protect the human rights of victims. There is an urgent need to ensure better protection of the victims of such criminal practices.

### ***Access to Justice – Legal Aid***

Access to justice is a problem for all as long as the system itself continues to be unresponsive. It is also a problem for all those who feel excluded or marginalized. Women and youth, particularly when they are poor, have very limited access to, and usually very frustrating experience with, the justice system. Although public legal information programs may help, they are usually ineffective in situations where the system is itself not “public service oriented”. Under difficult circumstances, the best guarantee of access to justice is still provided by the retention of legal counsel. Legal aid services are poorly developed in all the countries reviewed. An unsuccessful programming attempt was made by CIDA in the context of the OECS judicial and legal reform project. One or two countries of the OECS may presently be able, and ready, to collaborate on a legal aid development project. This is also an area where Canada has developed expertise in assisting other countries. It may, therefore, be an area, where CIDA may be able to seize an opportunity to develop a successful short to medium-term project.

### ***Correctional Reform***

In comparison to other areas of international cooperation, the need for assistance in the field of corrections and prison reform rarely gets the attention and the response it requires. Reforms are required to ensure that the system has the capacity to fulfill its mandate in accordance with international standards and norms. These reforms are far more complex than is often assumed and go well beyond the mere formal reaffirmation of the standards or even legislative reforms. Furthermore, some of the required reforms actually reach well beyond prison systems and must address sentencing and other criminal law reform issues, as well as the need for alternative to prisons and the need to challenge society’s over-reliance on prisons.<sup>129</sup>

In countries of the region, the public security sector’s insufficient capacity to respond to current challenges is also particularly evident in correctional institutions. An over-reliance on imprisonment, the lack of effective prison programming, and the problem of prison overcrowding prevail throughout the region.<sup>130</sup> According to the latest figures (January 2003) of the *World Prison Brief Population List*, compiled by the International Centre for Prison Studies in the U.K., the incarceration rates in most Caribbean countries rank amongst the highest in the world. The rate of incarceration per 100,000 population is 420 in

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<sup>129</sup> See Griffith (2003). *Implementing International Standards in Corrections: Challenges, Strategies, and Outcomes*.

<sup>130</sup> See for example: C.S.C. (2003). *A Correctional Needs Assessment for Jamaica*, Technical Assistance Team, Correctional Service Canada.



Dominica, 338 in St-Kitts and Nevis, 333 in Grenada, and 278 in Antigua and Barbuda, as compared to 116 in Canada.<sup>131</sup>

Penal systems in most Caribbean countries were inherited from the British during the colonial era. What can generally be observed in the region is not so much a slow rate of improvement, but rather a consistent deterioration of prison conditions since the time these countries achieved independence. Because of these poor conditions, overcrowding, and a lack of professional staff training, human rights abuses routinely occur. Outside of rudimentary employment and education schemes, effective programs for offender rehabilitation are few and, in most instances, non-existent. Health care programs, despite an increasing prevalence of HIV/AIDS in the region, are weak and there is little provision for the care and treatment of mentally disordered offenders. With few exceptions, such as the new prison in Saint Lucia and a few others that have undergone some renovation, existing prison facilities are old and dilapidated and often unfit for human beings.

Not unlike the rest of the world, the region has also seen a notable increase in the number of juveniles and women admitted into prison. Women in prisons present a particular challenge throughout the region. Many are foreigners who were apprehended for drug trafficking offences. Because of their relatively small numbers, in relation to their male counterparts, female offenders are most often housed in very small facilities adjacent to institutions for male offenders. For the same reason, rehabilitation programs and interventions are virtually non-existent. Women also require consideration for particular health care needs and for their children.

Large numbers of minor offenders are incarcerated because community-based alternatives either do not exist or are ineffectual because of a lack of proper programs and resources. In many countries of the region, the legal framework for some form of community-based sentencing alternatives (e.g. probation and parole) does exist, but the systems that have been put in place to administer them are weak and ineffectual.

To date, technical assistance efforts in the field of prison reform have tended to focus on a number of valid, but usually insufficient, forms of cooperation. These have included: facilitating legal reform (e.g., model legislation), needs assessments missions, training of trainers and correctional officials, exchange of officials, development and translation of manuals to explain existing international standards, and assistance in planning and executing prison construction programs. However, without fundamental attitudinal, structural, system-wide changes to the troubled correctional organizations, there is little prospect of these organizations meeting the minimum requirements set by international standards.

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<sup>131</sup> See the International Centre for Prison Studies, King's College, London, *World Prisons Brief*, [www.prisonstudies.org](http://www.prisonstudies.org)

In particular, the means must be developed to identify and support the development of the local capacity and leadership required to reform the correctional systems and to bring these systems into compliance with international human rights and criminal justice standards. Governance issues are at the very heart of the problems affecting correctional systems in most developing countries. The role of technical assistance and international cooperation in these reform endeavours remains to be carefully delineated.

In most developing countries, there is a need to increase the accountability of existing system by imposing on personnel a duty to act fairly in managing offenders and to ensure that the decision making process is fair and equitable. Reform initiatives can focus on ensuring that the system remains subject to the rule of law and that the courts are prepared to play their role in holding the system accountable, and on establishing and enhancing the role of offices of ombudsmen, correctional investigators, and other human rights mechanisms.

One of the most critical challenges confronting all systems of corrections is prison overcrowding. This phenomenon undermines and severely limits reform initiatives and also creates a number of additional challenges. The report prepared for the Secretary General for submission to the Commission on Crime Prevention and Criminal Justice entitled "Reform of the Criminal Justice System: Achieving Effectiveness and Equity" stated that "...until the problem of overcrowding was resolved, efforts to improve other aspects of prison reform were unlikely to have any meaningful impact".<sup>132</sup> Furthermore, prison overcrowding creates a range of other difficulties for societies, including increases in the rates of communicable diseases such as Tuberculosis, Hepatitis B and C, HIV/AIDS that, in turn, place severe demands on the health care system. The importance of intervention in prisons to prevent the spreading of HIV/AIDS has been identified by most national strategies to prevent the further spreading of the disease, but little actual programming in that area has taken place.

Relying heavily on incarceration as a response to all crimes is an expensive proposition that cannot be sustained by any country. There are a variety of programs and strategies that have been developed under the general rubric of Restorative Justice that hold considerable promise. A key attribute of restorative justice is that there is significant involvement of the community in the response to persons whose behaviour has been harmful to the victim and to the community. Restorative justice holds considerable promise as a cost efficient and effective alternative to traditional responses to criminal offenders. Communities, religious organizations, and non-profit agencies are playing a major role in the development of alternatives to incarceration.

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<sup>132</sup> United Nations, Economic and Social Council (2002). *Reform of the Criminal Justice System: Achieving Effectiveness and Equality. Use and Application of United Nations Standards and Norms, Especially Concerning Juvenile Justice and Penal Reform. Report of the Secretary-General.*

Special categories of offenders such as sex offenders, the mentally disordered, indigenous peoples, and female offenders require policies, programs, and facilities specific to their needs. Adequate correctional programming is virtually non-existent in most of the Caribbean countries reviewed by the project team.

Far too often, correctional reform projects have been initiated, and have terminated, with funding. At all stages of the process, efforts must be directed to building individual and organizational capacity. This will enhance the prospects for long-term change. In fact, a key challenge is to devise strategies to ensure the sustainability of the reform effort and policy initiatives once external financial support has been reduced or terminated. This requires that in-country organizations and persons have “ownership” of the project and be trained in the requisite skill sets to direct and manage the reform effort and specific policy initiatives.

There is much talk about capacity building and, unfortunately, that very often translates only into piecemeal, *ad hoc* training programs for small groups of personnel. However, in the correctional arena, this is not sufficient. Correctional systems can become more efficient and effective only with highly motivated, trained, and skilled employees. It is important to remember that systems of criminal justice and corrections are, first and foremost, a human enterprise. Key to reform initiatives is leadership and systems of corrections must have the capacity for leadership development. This not only increases the receptivity to reform, but assists in maintaining continuity of the reform effort.

Developing countries rarely identify prison reform as a major priority in the official development plans they submit to donor agencies. The area is often viewed as “off limits” to external intervention and reform and, if not, it is given a very low priority as compared to other requests for assistance.

It is important that countries involved in providing various forms of assistance in support of prison reform be careful in identifying those jurisdictions that have the most potential to benefit from that assistance. Desirable attributes are an active NGO sector, the potential for developing community-based alternatives to confinement that may include restorative justice programs, and persons in government who have indicated a commitment to undertake significant reforms. Needs assessment studies must go beyond identifying deficiencies in the system and problems that require attention. They must include an examination of the anticipated resistance to change, the depth of the local commitment to prison reform, and the ability of other parts of the justice system to participate in the implementation of these reforms.

This field of technical assistance is rife with case studies in which countries providing technical assistance erroneously assumed that there is direct transferability of policy and practice to the recipient country. There may be religious, cultural, or other attributes of the recipient country that will prevent, or

hinder, the adoption of certain policies. A framework must be established that allows the recipient country the opportunity to devise indigenous policies and practices that will meet minimum standards. Ideally, the basis for technical assistance in the field of corrections should be a comparative analysis between countries of existing practices and their relative outcomes, followed by the identification of the “conditions of transferability” of a program. This is rarely done.

One challenge is that the donor and recipient countries rarely have correctional systems that are at the same level of development and sophistication although, ironically, there may be more potential for developing innovative and effective strategies of corrections in jurisdictions that do not have expensive, well-entrenched systems of corrections. Too often, bi-lateral assistance takes the form of “do as I do”, with very little critical examination of whether the practices/technologies that are being transferred are worth transferring, or whether, in fact, such approaches are adaptable or even applicable to the recipient jurisdiction’s context. As well, the tendency to establish costly infrastructure that cannot be sustained once funding levels are reduced must be avoided. There are, in all countries and communities, non-capital resources that can be mobilized to participate in and sustain program initiatives.

There is a significant opportunity for Canada and CIDA to become involved in supporting substantial correctional reforms in the OECS. The current work being done on the possibility of regionalizing certain correctional functions is part of that context. There is also an emerging group of “heads of corrections”, loosely under the OECS Secretariat, that could be mobilized for effective regional coordination. In exploring this possibility further, CIDA should remain mindful of the need to pay particular attention to the situation of incarcerated women and children.

### ***Private Security***

The business of “private security” has grown significantly in the Caribbean over the past few decades, most notably in size, visibility and scope of duties. The most visible manifestation of this is in the presence of uniformed security guards. Throughout the Caribbean, security guards act as a uniformed presence in public, semi-public and private spaces, as a method of protecting homes by their uniformed presence, as armed responders to silent and audible alarms (often arriving before the local police), as security checkpoint screeners, as bodyguards and as an armed presence protecting the transportation of large sums of money or other valuables.

Throughout the region, private security guards are largely unregulated, unregistered, untrained, unskilled and largely unaware of local laws. In the United

States, the average training received by a security guard is only eight hours. In the Caribbean, it is substantially less. On the opposite end of the continuum, British Columbia has the most stringent and sophisticated mandatory pre-employment training in North America. There, would-be security guards must successfully complete fifty-six hours of training, including law, theory and use of force skills. The BC training is modeled upon the Canadian General Standards Board (CGSB) guidelines<sup>133</sup>.

This is an area where small, short-term projects could yield long-term benefits. Working with law enforcement agencies and policy makers on the questions of standards for private security industry, notwithstanding its own merits, can also offer an interested ground on which to engage local law enforcement agencies and officials on a dialogue on standards, mission and objectives, quality of services rendered, and the relevance of issues such as human and legal rights.

### ***Locally Relevant Methodologies for Evaluating JSS Reforms***

Many observers have noted how the RBM<sup>134</sup> methodology was not consistently and successfully applied by donor agencies to the JSS reform activities in the Caribbean. The information generated by existing projects on objectives, outputs and outcome has been very unsophisticated and usually insufficient to understand the impact of the development agencies in these projects. The information systems that would allow a careful monitoring of projects and their impact are not in place. Developing locally-relevant methodologies for evaluating JSS activities in the region would benefit all countries of the region and facilitate their interactions with donor agencies and other providers of cooperation and assistance.

### ***Study on the Deportees***

The problem of criminal deportees is not only significant to Caribbean countries, but it is an irritant in terms of good relations between Canada and its Caribbean neighbours. Furthermore, the problem also has security implications for Canada, as it is clear to all concerned that forcing the movement of criminals between Canada and the Caribbean is simply favouring the development of stronger transnational criminal networks active between Canada (mostly large

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<sup>133</sup> On behalf of the Government of British Columbia, the Justice Institute of BC (the JIBC) has developed and continues to administer the mandatory training security guard training standard and instructor certification. In this role, the JIBC currently advises on the update of the CGSB standard and chairs that training standards committee of the International Association of Security Industry Regulators.

<sup>134</sup> Result Based Management.

urban centres) and several Caribbean countries. CIDA should consider developing a collaborative project between Canadian and Caribbean researchers, on the one hand, and Canadian and Caribbean law enforcement officials on the other, to conduct the comprehensive empirical study of the problem that was suggested by the CARICOM Task Force on Crime and Security.

## **Conclusions**

The above-noted recommendations may represent a slight departure from CIDA's current practices and recent experience. However, the recommendations are based on an acknowledgment of the difficulties associated in the relatively new and very complex area of programming. Some of what has been suggested above in terms of programming approaches and possible focus for future programming could apply to CIDA's work in other parts of the world. However, it should be kept in mind that JSS programming is small island nations, with limited human and financial resources, is bound by some very strict contingencies. CIDA's own personnel are typically unfamiliar with this whole sector and people who are familiar with the JSS are rarely familiar with the rationale behind development assistance and the methods used in that area. Hopefully, an understanding of these contingencies will not inspire a greater lethargy but an appreciation of the importance of careful planning and sound program design. It should also dictate a level of caution about creating expectations about how much can be accomplished in the short term and encourage a commitment on behalf of all parties to make a long-term investment.

The above discussion set out a number of short-term and some longer-term programming suggestions. Ideally, these will serve a good basis for consultations between CIDA and its partners both in Canada and in the Caribbean and provide the basis for the design and implementation of effective assistance programs in the JSS.

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## Appendix 1

### ***ELEMENTS OF TECHNICAL ASSISTANCE REQUIRED IN SUPPORT OF THE IMPLEMENTATION OF INTERNATIONAL CONVENTIONS AND PROTOCOLS RELATING TO TERRORISM AND ORGANIZED CRIME***

Member States may find it useful to review the following list of implementation activities in assessing their needs for technical assistance to support the implementation of the Conventions and Protocols relating to terrorism and other forms of crime. Implementation activities, including both those which are mandated and those which are recommended in the various international instruments, are grouped under eleven general categories: (i) general; (ii) Legislative (general); (iii) Criminalization/ Penalization; (iv) Measures related to cybercrime; (v) Measures to combat money laundering and the financing of terrorism; (vi) Measures relating to asset freezing, seizure and confiscation; (vii) Measures to promote international cooperation; (viii) Measures to protect witnesses and other participants in criminal proceedings; (ix) Measures protect and assist victims; (x) Institutional capacity building activities; and, (xi) Prevention Measures.

#### **I. General**

1. Review and assess current implementation of conventions
2. Assess and identify technical assistance needs
3. Assess resource requirements
4. Report clear and accessible information on progress of implementation

#### **II. Legislative (General)**

1. Address issues of jurisdictions and exercise of jurisdiction
2. Review definitions of serious offences
3. Address criminalization of preparatory acts, ancillary offences and conspiracy
4. Address issues of law enforcement powers
5. Apply “Aut dedere aut judicare” principle

#### **III. Criminalization / Penalization**

Member States may require technical assistance in adopting measures to establish under their domestic law a number of offences called for by the conventions and protocols relating to terrorism and other related forms of crime, and to ensure that these offences are punishable by appropriate penalties which take into account the grave nature of the offences. Tools would be provided to help States define the material and mental elements of the offences in accordance with the general criminal law of each State Party. The assistance provided will further assist requesting States to ensure that these new criminal law provisions comply with their obligations under international law in particular international human rights, refugee, and humanitarian law.

##### **A. Establishing Offences under National Law**

- **Offences relating to civil aviation**
- **Offences based on status of victims (protected persons) and the Convention on the Safety of United Nations and Associated Personnel (1994)**
- **Offences related to dangerous materials**
- **Offences related to vessels, fixed platforms and harbour installations**

- **Offences under the International Convention for the Suppression of the Financing of Terrorism**
  1. Criminalize the financing of terrorism
  2. Establish liability of legal entities for financing terrorism
- **Offences mandated by SC resolution 1373**
  1. Criminalize the financing of terrorism
  2. Define and penalize terrorist acts
- **Offences recommended in the Commonwealth Model Legislative Provisions**
  1. Criminalize the provision or collection of property to commit terrorist acts
  2. Criminalize the provision of services for commission of terrorist acts
  3. Criminalize the use of property for commission of terrorist acts
  4. Criminalize the making of arrangements for the retention or control of terrorist property
  5. Criminalize various forms of dealing with terrorist property
  6. Criminalize the soliciting and giving of support to terrorist groups or for the commission of terrorist acts
  7. Criminalize the harbouring of persons committing terrorist acts
  8. Criminalize the provision of weapons to terrorist groups
  9. Criminalize the recruitment of persons to be members of terrorist groups or to participate in terrorist acts
  10. Criminalize the provision of training and instruction to terrorist groups and persons committing terrorist acts
  11. Criminalize the incitement, promotion or solicitation of property for the commission of terrorist acts
  12. Criminalize the provision of facilities in support of terrorist acts
  13. Criminalize conspiracy to commit offences
  14. Criminalize membership of terrorist groups
  15. Criminalize the arrangement of meetings in support of terrorist groups
  16. Criminalize participation in the commission of offence
- **Offences related to organized crime**
  1. Criminalize the participation in an organized criminal group
  2. Establish the liability of legal persons
- **Offences relating to money laundering**
  1. Criminalize the conversion, concealment or disguise of the proceeds of crime
  2. Criminalize acquisition, possession or use of proceeds of crime
  3. Criminalize the participation in, association with or conspiracy to commit, attempts to commit, and aiding, abetting, facilitating and counselling the commission of money laundering offences



4. Define predicate offences
- **Offences of obstruction of justice**
    1. Criminalize the use of physical force, threats or intimidation or the promise, offering or giving of an undue advantage to induce false testimony or to interfere in the production of evidence in relation
    2. Criminalize the use of physical force, threats or intimidation to interfere with the exercise of official duties by a justice or law enforcement official
  - **Offences relating to corruption**
    1. Criminalize active bribery
    2. Criminalize passive bribery
    3. Criminalize complicity in bribery offences
    4. Criminalize other forms of corruption
    5. Criminalize embezzlement, misappropriation or other diversion of property by a public official
    6. Criminalize bribery of foreign public officials and officials of public international organizations
    7. Criminalize trading in influence
    8. Criminalize abuse of functions
    9. Criminalize illicit enrichment
    10. Criminalize bribery in the private sector
    11. Establish the liability of legal persons involved in acts of corruption
  - **Offences relating to smuggling of migrants**
    1. Criminalize the smuggling of migrants (including attempts, participation as an accomplice, organizing and directing others)
    2. Criminalize the enabling of illegal residence
    3. Criminalize the production and the procuring, providing, or possession of fraudulent travel and identity documents
  - **Offences relating to trafficking in human beings**
    1. Criminalize trafficking in persons
  - **Offences relating to trafficking in firearms**
    1. Criminalize the illicit manufacturing of firearms
    2. Criminalize the illicit trafficking in firearms
    3. Criminalize the tampering with markings on firearms

- **Offences relating to illicit drugs**

1. Criminalize the production, manufacture, extraction; preparation, offering, offering for sale, distribution, sale, delivery, transport, importation or exportation of illicit narcotic drugs or psychotropic substances
2. Criminalize the illicit cultivation of opium poppy, coca bush or cannabis plant for the purpose of the production of narcotic drugs
3. Criminalize the illegal possession or purchase of narcotic drugs or psychotropic substances
4. Criminalize the manufacture, transport or distribution of equipment, materials or substances knowing that they are to be used in or for the illicit cultivation, production or manufacture of narcotic drugs or psychotropic substances;
5. Criminalize the organization, management or financing of drug offences

- B. Measures relating to jurisdiction**

1. Measures to establish and exercise jurisdiction over offences
2. Application of “aut dedere aut judicare” principle

- IV. Measures relating to cybercrime**

1. Criminalize illegal access to computer data and systems, illegal interception, data interference, and system interference
2. Criminalize computer related forgery, frauds, etc.
3. Ensure that adequate substantive and procedural laws to prevent and punish terrorist and other criminal activities perpetuated with the aid of computers and computer networks

- V. Measures to combat money laundering and the financing of terrorism**

1. Examine legislation in relation to the international standards set by the FATF, in particular Special Recommendations 6, 7 and 8.
2. Establish regulatory regime to require banks and financial institutions to ensure: customer identification, record keeping, and mechanisms to report suspicious transactions
3. Establish measures to monitor cross-border movement of cash and other monetary instruments
4. Establish financial intelligence units (FIUs)
5. Ensure that specific assistance required is provided in relation to financing of terrorism offences

- VI. Measures relating to asset freezing, seizure, and confiscation**

1. Establish authority and mechanisms to seize property used in the commission of acts of terrorism and organized crime
2. Establish authority and mechanisms for seizure of assets used in the commission of acts of terrorism and organized crime

3. Establish authority and mechanisms to forfeit assets used in the commission of acts of terrorism and organized crime
4. Establish authority and develop mechanisms to identify, trace, freeze or seize property/assets, including bank, financial or commercial records, as well as equipment and other instrumentalities used in, or destined to be used in the commission of acts of terrorism and organized crime
5. Establish authority and develop mechanisms for the confiscation, including forfeiture where applicable, of property/assets, equipment or other instrumentalities used in or destined to be used in the commission of acts of terrorism and organized crime

## **VII. International cooperation**

### **A. Mutual assistance (national, regional, and international capacity building)**

1. Adopt measures to facilitate execution of request for confiscation from other countries
2. Mechanism for exchange of information between law enforcement agencies and other competent authorities (e.g. regional task forces and information sharing and analysis mechanisms, Interpol Fusion Project)
3. Establish and maintain central authority (including training) for speeding coordination of and responses to requests
4. Promote training and technical assistance that will facilitate extradition and mutual legal assistance.
5. Facilitate meeting between central authorities for analysis of patterns and obstacles, and identification of best practices.
6. Secondments and exchanges of personnel between Central Authorities
7. Secondments and exchanges of prosecutors and law enforcement officials involved in mutual assistance
8. Use liaison magistrates or law officers to facilitate mutual assistance
9. Produce handbook and other materials to describe, for the benefit of other countries, the channels of communication, applicable rules and legislation, and the process for obtaining legal or law enforcement assistance (and extradition).
10. Encourage the development of networks of prosecutors
11. Encourage law enforcement communication and training in relation to mutual assistance mechanisms in place

### **B. Mutual Legal Assistance (treaties)**

1. Adopt and implement relevant new instruments
2. Develop, when necessary and appropriate, new mutual assistance arrangements or treaties
  - Define the scope of basic parameters of new treaties that are required
  - Ensure comprehensiveness of new treaties (ensuring that they meet the various requirements of existing conventions and international commitments)
  - Define assistance that will be made available (as broadly as possible)

3. Develop policies concerning the provision of assistance even in the absence of a treaty
4. Systematically review and revise existing treaties to which they are party and assess any implementation issues
5. Training of and communication with the judiciary in relation to national obligations under the treaties and the operation of the mutual legal assistance scheme
6. Extend to the greatest extent possible, mutual legal assistance notwithstanding the absence of dual criminality
7. Extend mutual assistance even in cases where the incrimination reflects the fact that the same conduct is criminalized somewhat differently

#### **C. Extradition**

1. Make offences extraditable offences
2. Identify and eliminate obstacles to extradition
3. Produce handbook and other materials to describe, for the benefit of other countries, the channels of communication, applicable rules and legislation, and the process for seeking and obtaining an extradition

#### **D. Law enforcement cooperation**

1. Adopt measures to enhance cooperation with law enforcement authorities
2. Adopt measures that would facilitate the establishment of joint investigation teams
3. Develop bilateral and multilateral agreements on law enforcement cooperation
4. Use of law enforcement liaison officers
5. Cooperate in the collection, exchange and analysis of information on the nature of terrorist and organized crime activities
6. Share analytical expertise
7. Adopt measures to fully protect sensitive information received from other states
8. Develop bilateral and multilateral agreements or arrangements for the use of special investigative techniques in the context of international cooperation

### **VIII. Protection of witnesses and other participants in criminal proceedings**

1. Adopt measures for the protection of witnesses
2. Adopt measures for the protection of judges, jury members, and prosecutors
3. Adopt measures for the protection of persons reporting corruption
4. Adopt measures for the protection of informants and mitigate punishment for accused persons providing substantial cooperation in the investigation and prosecution of crimes

**IX. Protection and assistance to victims**

1. Adopt measures for the protection of victims
2. Adopt measures for providing assistance to victims

**X. Institutional capacity building**

1. Develop institutional expertise (human resources) to deal with transnational organized crime, corruption and terrorism
2. Strengthen investigative capacity through exchanges of law enforcement expertise regarding scientific and technological development (e.g. development of DNA databases)
3. Develop law enforcement ability to use special investigative techniques (electronic surveillance, undercover operations and controlled delivery)
4. Train, exchange information, participate in and organized joint training seminars (also language training)
5. Initiate, develop and improve specific training programs for its law enforcement personnel including prosecutors, investigating magistrates and customs personnel, and other personnel charged with the prevention, detection and control of offences related to organized crime
6. Take effective measure to improve border control

**XI. Prevention**

1. Adopt preventive measures, including measures to prevent corruption, measures to reduce existing or future opportunities for organized criminal groups to participate in lawful markets with proceeds of crime, measures to promote and develop standards and procedures to safeguard the integrity of public and relevant private entities, measures to prevent the misuse by organized criminal groups of tender procedures conducted by public authorities and of subsidies and licences granted by public authorities for commercial activity; and, measures to prevent the misuse of legal persons by organized criminal groups.
2. Identify and share best practices
3. Exchange information about prevention

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