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# PROJECT AGAINST VIOLENCE AND IMPUNITY IN GUATEMALA

## QUARTERLY REPORT

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## 1. EXECUTIVE SUMMARY

The Project against Violence and Impunity (PAVI) spent January through March 2010 in a period of intense activity during which we worked on all the Action Plan tasks for each of the Sub IRs. We also redoubled coordination efforts, both inter- institutional as well as among other projects working within the judicial and security sectors in Guatemala. The quarter concluded by our receiving formal approval of the monitoring and evaluation (M&E) plan and enabled us to end the period with the application of reliable and objective monitoring of the proposed indicators. Our M&E subcontractor provided support for the process and the partial results.

During this quarter we formally initiated project activities in Petén and, in compliance with on the task order's Special Activities, we began designing a criminal prosecution plan, as well as defining training needs and supporting a plan to raise awareness and disseminate information among COSs and justice operators for the prosecution of local criminal offenses in the areas of environmental and cultural heritage.

We focused efforts this quarter on moving each result forward by addressing two work priorities: a) providing the first deliverables from the diagnostic assessment carried out for each of the task order Sub IRs based on the agreements reached with each of the Institutional Technical Teams (ITTs), and b) continuing to develop an Institutional Integrity System based on the applicable experience gained during other similar reform processes (i.e. in the Dominican Republic).

In terms of the first cross-cutting priority, our major efforts this quarter focused on best practice analysis for the following units: 24-Hour Courts, High Impact Courts, public defender's office, Victims Support Unit, Office of the Prosecutor for Crimes Against Life; and included a proposal to create a best practice data bank within the Public Ministry. We completed the assessment of the 24-Hour Courts and included recommendations for replication based on a more appropriate and assertive approach. We delivered the Policy Strategy Framework to the Full Assembly of the Supreme Court of Justice which in turn enabled us to design the next phase (February through May 2010) to include three specific action areas. We are supporting the preparation of legislative bills for two proposed laws: access to justice for victims and transforming sentencing tribunals into sentencing courts. We are assisting in developing a performance evaluation system for private attorneys who are appointed by the court as public defenders. We are revalidating performance evaluation standards based on victim assistance that define specific steps for each phase. We are working on a mentoring program geared towards capacity building for prosecutors. We have defined technical and equipment needs to replicate SICOMP2 at the prosecutor units in Petén and San Juan Sacatepéquez. We have identified technical and financial needs to organize the Public Ministry Archives, as well as the technical training and equipment needs for the Public Ministry Analysis Unit.

The PAVI team addressed the second cross-cutting priority (Institutional Integrity System) by supporting efforts to instill a new institutional culture in Guatemala's justice sector that goes far beyond technical assistance. We have sought to create a work strategy that builds on each individual's strengths, rather than focusing on the weaknesses. Our objective is to apply certain initiatives at each one of the institutions with which PAVI is working. We intend to involve the staff in a process of self-evaluation which will be followed by their commitment to then act upon it at on a personal, as well as on an institutional, level. We continue to make strides towards encouraging the incorporation of ethical values into institutional policy. The PAVI team's focus at this point is on building upon these experiences and adapting the methodology and lessons learned from the justice sector in the Dominican Republic.

## 2. NARRATIVE REPORTING OF SUB-IRS, LLRS, AND SPECIAL ACTIVITIES

The PAVI Project activities in January through March 2010 centered on three key work areas:

1. Determining and validating the standards in place within the Victim's Assistance unit at the Public Ministry. This is one of the outputs of the joint efforts made by the Institutional Technical Teams (ITTs).
2. Submitting plans to the Supreme Court and to the Public Defenders Institute to put performance evaluation systems in place for the attorneys who are appointed by the courts as public defenders.
3. Setting up criminal prosecution policies in Petén while supporting the SICOMP2 data system implementation, as well as providing technical assistance to the district prosecutors and the Public Ministry staff.

At this point the PAVI Project is in full implementation phase. It is worth noting that when the new authorities are appointed at the Public Ministry and the Public Defense Institute, some of the Project priorities or phases may have to be adjusted. This would definitely present a challenge to the team as we prove our ability to move forward with our planned activities while respecting their jurisdictions and their organizational dynamics.

The PAVI Project team has emphasized its efforts in cooperation and coordination in order to reinforce continued support for the justice system institutions in Guatemala. We held weekly meetings with our COTR, Oscar Chavarria. In addition, the COP attended the regular meetings of the Petite Committee that brings together the various donor groups working in the justice sector. We continued to work with the National Commission for Continuity and Support to Strengthen the Justice Sector that includes key players from the justice sector, civil society, and academia. We continued close coordination efforts with the Vice Minister of Justice, the National Security Council, the "*Gobernando con la Policia*" special activity, the National Commission for Police Reform, the Penal Chamber of the judiciary, USAID, the Public Ministry and CICIG, the European Union, the Myrna Mack Foundation, the *Projusticia* movement, FADS, IMASP, COISOLA, the HIV legal network, Friends against AIDS, the *Sobrevivientes* (survivors) organization, and the UNDP.

### 2.1 IMPROVED JUSTICE SYSTEM CAPACITY TO PROSECUTE AND TRY SERIOUS CRIME (SUB-IR 1)

#### 2.1.1 Sustainable Improvement in Prosecution of Homicides and Other Serious Crimes Supported

##### **Locating bottlenecks and identifying best practices in the Crimes Against Life Prosecutor Unit**

Following the diagnostic assessment within the Crimes Against Life Prosecutor Unit (FDV in Spanish), we set up three key work areas as follows:

1. PAVI carried out direct observation and provided assistance over a two-week period of 24-hour operations. During this exercise, we participated in three of the shift meetings: one at the beginning of the shift, one at the 24-hour follow-up meeting, and another at the 72-hour follow up. We also joined the shift that the prosecutors work during a 24-hour period.

2. We had meetings and interviews with prosecutors, assistant prosecutors, investigators, and crime-scene experts.
3. We selected ten successful case files for review. The selection of the successful cases was based on those in which a guilty verdict was issued, and we reviewed another ten cases in which the verdict was not-guilty.

Based on these case reviews, the interviews, and the direct observation, we ascertained the following:

The FDV has adopted an investigative methodology to respond to the inquiries pertaining to homicides and assaults. Nevertheless, we did find that the meetings for the 72-hour shifts require some adjustment in terms of attaining the objectives, the length of time used to present the cases and the need to cross reference the information with similar cases being worked on by other prosecutor units. Due to the fact that the program currently in place does not really respond to actual needs, the main bottleneck continues to lie in witness protection. The situation is aggravated by the overall sense of insecurity and generalized fear among the population compounded by the minimal impact that local security forces have in protecting citizens. This makes the need to strengthen the witness protection program very apparent and implies the need to review the work methodology, the procedures, and, most especially, the types of protection that witnesses are proffered. The resources available to the program are scarce so we need to ensure that resources are focused on the most serious cases, on improving the quality of protection and increasing credibility, and on encouraging new witnesses to apply.

We also identified various bottlenecks that affect the investigation process and basically require the participation of other agencies as follows:

- The National Institute of Forensic Sciences (INACIF): There is a disconnect between the prosecutors and the experts; requests for assistance are either postponed or ignored.
- Volunteer and Municipal Firefighter Corps: Their early arrival on the scene, preceding the police officers or prosecutors, often leads to contamination of the crime scene.
- Hospital network: The prosecutors and their teams spend about 1/3 of their time on deaths caused by natural causes, which is a waste of their valuable time and resources. We recommend that they should actually be dealing exclusively with violent deaths.
- Judges at the 24-hour and first instance courts: They are late in dealing with requests submitted by the prosecutors and insist upon relying on written procedures over oral proceedings.
- Public and private sector organizations: Information is usually not forthcoming in a timely manner as required by the investigation methodology.

On the other hand, a number of good practices have also been identified as follows:

- The Assistant Prosecutors submit weekly work plans for the Prosecutor's review which enables the latter to schedule and monitor the investigations being run by the former.
- Cases with the best prospects for success are given weekly or biweekly follow-up to ensure that SICOMP is updated, that investigation instructions are followed, that new instructions are relayed, and that progress is monitored. In a similar fashion, those cases with limited possibilities for success are identified and decided upon.

- Summons or hearings must be channeled directly through the Prosecutor in order to note and verify that all notifications are heeded and properly prepared for court.

The follow up process described above should be identified as a best practice. It ensures that the Chief FDV selects the most important cases or identifies those that have had limited progress and a decision is made how to proceed: prosecute, file, indict, or *nolle prosequi*. Based on the time intervals decided on at the previous meeting, the Chief Prosecutor or Deputy would proceed to verify the decision that the prosecutor on the case had agreed to follow. We also recommend that the review process that the assistant prosecutor undertakes with the Deputy follow the guidelines and objectives described above.

In addition, we recommend that the Public Ministry establish a best practices data bank. This would encourage a process to recognize, systematize, and replicate best practices to ensure permanency and sustainability throughout the organization as mandated by its own structure. The coordination, legal review, and systematization would fall to the Secretariat for Criminal Policy; the replication through training modules would fall to the Training Unit; the supervision would be the responsibility of the Secretariat for Technical Coordination; and the incentive systems would be set up by the Secretary General and the Human Resources Department. (*See annexes describing best practices format, guidelines to identify a best practice, and basic model.*)

During the reporting period, we had our first visit to the Villa Nueva FDV units where we interviewed the Assistant Prosecutors, the crime scene experts, the investigators from the Criminal Investigation Department (Spanish acronym is DICRI), the Public Ministry, and the District Prosecutor. We observed that, given the particular situation in each one of the prosecutor units, the 24-hour and 72-hour court models are being applied only partially. The meeting at the 72-hour mark is not being held which leads to interruptions or delays in the investigation. Based on our visit and our review of the files, we noted that the number of indictments is reduced, and convictions are obtained only in those cases in which witnesses are testifying.

We have been asked to draft a general handbook describing the benefits of becoming “*colaborador eficaz*” as described under the Law to Strengthen Criminal Prosecution. We held a meeting with the person working on this issue at the Public Ministry, Mr. Fanuel Garcia, Private Secretary. We agreed that PAVI would provide inputs regarding the benefits afforded to a “*colaborador eficaz*.” We defined the scope and content of the legislation and decrees that modified this option. To date, we have undertaken the following: a comparative analysis of this mechanism throughout Latin America, an analysis of international doctrine and a collection of the jurisprudence combined with a review of the regulations in place in Guatemala and the drafting of a presentation that will apply for future training sessions (*see presentation annexed*). In addition, we prepared a basic outline of the handbook for prosecutors that would govern operations and that will be submitted for approval prior to developing the entire content (*see annexed document*).

### 2.1.2 Efficient and Effective Information Management Protocols in the Public Ministry in Place

#### **SICOMP2 Implementation Plan**

Once the ITT was in place, and based on the request we received from the Public Ministry, we supported the creation of an implementation plan for the Public Ministry Information and Case Management System (SICOMP2) at the Office of the District Prosecutor in Petén, as well as at the municipalities of San Benito, Poptun, La Libertad, and San Juan Sacatepequez. SICOMP2 is a direct

response to a number of the Public Ministry and the PAVI Project's key objectives, especially in terms of improving the data available for criminal prosecution by using modern technology to improve the quality, generation, and processing of information. Similarly, it addresses the need for installing a more flexible information system that allows for future improvements and adaptations to the needs of each of the users. We have performed a needs assessment of both technical resources as well as equipment. (See Annex: *SICOMP2 Implementation Plan for replication at four prosecutor units.*)

### **Converting Public Ministry General Archives into Digital Files**

We assisted in setting up the ITT to include a broader scope that encompassed the Files Supervisor, as well as the Analysis and Planning Office. The following objectives have been met to date: 1) a preliminary estimate of the costs involved in purging files, as well as those for converting files into a digital format, and 2) reviewing and defining the procedures in place for custody and consultation. We developed a roadmap that identifies the steps to identify whether a file should be destroyed or converted. (See annex on purging and digitalization.)

We supported the creation of the ITT at the General Warehouse to include the warehouse supervisor in addition to those from the Analysis and Planning Office and we applied the same criteria we described for the General Archives. We have gathered the information that we require to review and analyze the protocols and internal regulations and to define any necessary modifications.

### 2.1.3 Comprehensive Growth and Development Plans for Key MP Units in Place

#### **Proposal for Using Mentors in Areas and Subjects that are Key to Criminal Investigation and Prosecution**

Our proposal for a mentorship program focuses on several key aspects: The mentors must be appropriately selected from the Public Ministry prosecutors who have shown leadership traits combined with experience and the ability to convey their expertise. Training will take place through role playing in the context of a real case following the same sequence for criminal prosecution: investigation, preparation, and trial. The training ends with a mock trial during which participants play the roles of investigators, experts, prosecutors, and judges.

Our recommendation is that the program be supervised by the General Secretary and the Public Ministry Training Unit to ensure sustainability (*see annexed proposal*). It is important to point out that, at this point, progress has been limited to merely preparing the proposal. Further progress is contingent upon approval and consultations with the Public Ministry Council. The Council addresses training methodologies and subject matter and the three appointees that represent the agency employees have only recently taken office.

#### **Analysis Unit**

Following a brief review of the fundamental issues and gaps identified through the SWOT analysis in December 2009, PAVI presented (*see annexed document*) a clear overview of the stages of the productive and impact cycles for the Analysis Unit. We then defined the various roles played by the Unit and were able to generate a basic model. We then used a group exercise to identify the training needs that would enable the unit to fulfill its role in the first three stages of the productive cycle as well as in those of the impact cycle. The expertise, techniques, and skill sets that an analyst should have (*see annexes*) were revealed during the exercise. Some of the more recent meetings with the ITT have led to identifying the action strategies and possible support that the PAVI Project could provide (*see annexes*).

One potential, important area for Project support, if granted approval by USAID, could involve the procurement of costly equipment required for the criminal phenomena unit, including a geographic identification system (GIS) that comprises the hardware, software, and geographic data required to collect, store, manipulate, analyze, and deploy geographically-referenced data. This could enable the Unit to deal with complex management and planning situations. The GIS could operate, with the right training, capacity, and resources, as an effective tool for the Public Ministry to generate interactive consultations, analyze spatial information, edit data and maps, and submit the results of these procedures for criminal phenomena analysis.

Based on the training needs identified, we developed a basic outline for training criminal analysts that has been submitted for approval. In addition, we contacted the Director of the Criminal Information Unit of the Puerto Rico police department who met with the Director of the Analysis Unit, along with PAVI team members, to discuss Puerto Rico's experiences and the training content that could be applied locally for the criminal analysts.

### **Permanent Victim Assistance Office**

Throughout the reporting period, PAVI held meetings with staff from the Permanent Victim Assistance Office who shared the results from prior diagnostic assessments at the Public Ministry and other units. The information provided has enabled PAVI to identify the principal weaknesses or obstacles that must be surmounted with Project assistance, as follows:

- Gaps in receiving complaints.
- Lack of immediate response for primary or urgent requirements.
- Delays in transferring complaints to the OAP or to prosecutor units.
- Inefficient OAP structures and procedures.
- Weaknesses in purging or analyzing requests for assistance or complaints.
- Lack of working methodologies that can be applied towards alternative resolutions.
- Lack of qualifications and experience among OAP staff as required to receive and process requests for assistance.

PAVI's support will focus on several main issues such as researching and designing a quick response system to ensure that requests coming into the OAP are dealt with as expeditiously as possible and developing work methodologies for a modernized system to provide services to the public enabling the flow of information among the various Public Ministry agencies while strengthening the Unit for Alternative Resolutions. The OAP Institutional Technical Team will be developed over the next few weeks and we will work with them to prepare the guidelines for OAP reorganization. Timothy Cornish, USN short-term prosecutorial expert, will provide technical support during the upcoming reporting period.

#### **2.1.4 Smart Replication of the First Instance and Criminal Trial Court Models Supported**

##### **Diagnostic Assessment of the First Instance Model Courts in Mixco and Villa Nueva**

The evaluation of the model is based on assessing its primary functions, operational competency, integration, characteristics, and fundamental principles while focusing on the system's structural conditions and the social context for its design and operations. This model is conceptually based on ensuring procedural and constitutional guarantees while providing the accused with access to legal resolution by a competent judicial authority in compliance with the legal and constitutionally-defined timeframes for a first appearance before the court.

The assessment studies the model's actual application in operations, verifies the management indicators (maximum coverage in terms of jurisdiction and business hours, maximum numbers of cases processed and resolved, workload/costs, promptness/processing times, user satisfaction/accessibility, and quality of the justice operators technical participation), and then applies the diagnostic variables such as access, feasibility, productivity, and sustainability. The model's actual operations are reflected in the conditions, staff performance, functions, procedures, information management, compliance with judicial procedures, and regulations factored into the contextual analysis. The most important conclusion produced by the diagnostic assessment is that the model is a legitimate response to the need to guarantee due process within a context strained by a high degree of criminal activity and impunity. Therefore, guaranteeing due process in these conditions implies safeguarding the legitimacy and legality of the subsequent processes, as well as providing justice according to the law while ensuring an effective response to the criminal aspect of social conflict.

## 2.2 MOBILIZE JUSTICE SECTOR AND CIVIL SOCIETY TO REDUCE AND PREVENT VIOLENCE (SUB- IR 2)

### 2.2.1 Availability of Effective Governmental and Non-Governmental Legal Aid Services for Victims Increased

#### **Defining Standards for the Office of Victim Assistance**

PAVI responded to the request of the Public Ministry that we assist in defining performance evaluation indicators for the Office of Assistance to Crime Victims. The process for designing the performance evaluation system for this unit began by setting up the Institutional Technical Team to include representatives in charge of the various victim assistance offices from different parts of the country. We held two coordination meetings and five drafting meetings during the reporting period. The meetings generated the following results:

1. **A basic institutional model:** review, analysis, and development. We defined the nature of the model as well as its place within the organization, its mission, and its key roles, and we determined the elements that belong in an integrated approach to providing institutional services and the cycle that applies to victim assistance.
2. **Diagnostic assessment:** we identified adverse conditions, strategic proposals, and proposed action items. We defined the institutional reality within which the process is taking place to develop and implement performance standards.
3. **Performance standards** that apply to the victim assistance cycle.
4. **Potential pitfalls:** actions that are blatantly opposed to the actual *raison d'être* for providing the services.
5. **Code of Ethics:** we used a participatory process to draft a preliminary version based on the performance standards and the potential pitfalls.
6. **Qualifications of the OAV Supervisor:** a vocation for service and personal and professional abilities.
7. **Requirements:** identifying variables according to physical space, technology, logistics, methodologies, and operations. We drafted a general proposal for physical improvements.

### 2.2.2 Coordination among Governmental and NGOs in Victim Services Increased

### 2.2.3 Key Legislation to Reduce and Prevent Violence Implemented

## **Sector-Wide Working Group on Justice and Security** (*Mesa Sectorial de Justicia y Seguridad*)

In March 2010, the Presidential Secretariat for Programming and Planning (SEGEPLAN) convened a meeting of the organizations that are members of the sector-wide working group to assess the progress of this governmental initiative for coordination and policy development. The PAVI Project was invited to join justice sector institutions and donor organizations participating on the Sector-wide Working Group on Justice and Security. As a result of a self-evaluation exercise, the technical working group identified the following key issues:

- There was confusion among the members of the working group as to what constitutes a sector-wide approach. Although a strategic plan was approved by the modernization of justice unit, it does not really constitute a sector-wide plan.
- Given the broadness of the legal framework for security and the restricted scope of the Agreement to address security and justice policy, it is difficult to get the various State agencies to define the security context that they hope to address through the working group.
- The members of the working group do not actually represent all of the stakeholders that are working on justice and security matters, and the terms of reference for the working group are very restrictive in terms of the participants (i.e. they reduce the National Institute for Forensic Sciences (INACIF) to a second-tier participant and they exclude others such as the Technical Secretariat of the National Security Council, as well as the National Civilian Police).

As a result of the self-evaluation process, the Justice and Security Working Group reached the following conclusions to be shared back with the institutional authorities from this sector:

- The scope of the working group will focus on affecting civil society democratic justice and security issues (which excludes civil defense and border security matters).
- The strategic plan previously approved will remain in effect and the National Agreement on Security and Justice will be adopted as the basis for its adjustment and for developing a multiyear work plan.
- A technical working group will be established for the Technical Secretariat of the National Security Council.
- The group will analyze the participation of other stakeholders, such as the National Commission for Support and Continuity to Strengthen Justice.

### 2.2.4 Complementary Legislation to Prevent Crime

#### **Victim Access to Criminal Process**

During the Supreme Court of Justice Penal Chamber presentation of draft legislation to create sentencing courts and provide victims with access to the criminal process, the PAVI Project was invited to join the working group set up to review the proposed legislation. In addition, we will participate on the committee established to prepare the final submission.

The final submission culminates in the preparation of “Reforms to the Criminal Prosecution Code” which, based on the PAVI Project initiative, includes a new chapter to specifically regulate victim participation in the criminal process under conditions equal to the defendant’s in terms of prosecution. The chapter includes the definition of “victim”, the conditions under which the victim can have unrestricted participation in the criminal process, have the right to access information and receive judicial guidance, have the right to legal assistance, and have the right to participate in hearings and presentation of evidence. The victim’s rights are also to be considered in providing and controlling evidence, in taking prompt and timely precautionary measures, as well as in applying mechanisms to follow up on the prosecutor’s actions in a specific case.

## 2.3 INCREASED INTERNAL ACCOUNTABILITY & OVERSIGHT WITHIN THE JUSTICE SECTOR (SUB-IR3)

### 2.3.1 Implementation of the Public Defender Institute's Personnel Performance Evaluation System Supported

#### **Performance Evaluation Proposal for Court-Appointed Public Defenders**

The option of providing a court-appointed public defender is described under the legislation governing Public Service for Criminal Defense (Articles 1, 3 and 43). Most of the bar certified attorneys in the country have the potential to serve as public defenders.

The public defenders appointed by the court (in Spanish: *Defensores Públicos de Oficio – DPO*) are contracted through the Public Defense Institute (IDPP) and are a permanent group of more than 300 legal professionals. About 130 of these are part of the Legal Assistance Program for Victims that was established under the Law Against Femicide and another 176 attorneys work in criminal defense. DPOs assigned to criminal proceedings work on a total of about 1,000 cases per month.

We completed the first implementation stage of the evaluation system for court-appointed public defenders by using participatory and group methods to develop the basic design, as well as to set up the ITT. We convened five working meetings (with representatives from various agencies that are involved, such as the person in charge of the Career System, the coordinator for court-appointed public defenders, the person in charge of International Donor Cooperation, the coordinator for the Planning Unit, the coordinator for the Unit for Law Students, and the coordinator for the Training Unit) to develop the basic design, which includes the following elements:

1. Institutional Mandate: mission and service characteristics.
2. Qualifications of a court-appointed public defender: including the initial requirements as well as the final qualifications.
3. Code of Ethics: duties and ethical and institutional principles.
4. Professional mandate: overall duties and specific responsibilities.
5. Performance to evaluate: standards, benchmarks, and shortcomings.
6. Evaluation structure: timing, mechanisms and instruments, and methodology.
7. Qualifications of an evaluator of a court-appointed public defender to be selected and trained.

The above points have been transposed into a technical institutional document that was submitted to the General Director, Blanca Stalling (*see annexes*). The design was validated, with particular emphasis on the first five elements of the above list, through a process involving selected court-appointed public defenders. This process unfolded within an environment of institutional uncertainty due to the delay, dating back to August 2009, in electing a new General Director. It is expected that three key processes will take place when the new director takes office:

1. Design and begin implementation of the evaluation structure elements, specifically those pertaining to instruments and methodology.

2. Design a training component and program for the Evaluators of Court-Appointed Public Defenders.
3. Optimize the process through which court-appointed public defenders are providing services through the Legal Assistance Program for Victims.

### 2.3.2 Comprehensive Plan for the Oversight, Accountability, and Strategic Organization of the Prosecutors Offices Developed and Implemented

Progress in this area is evidenced by the Attorney General's and other top Public Ministry authorities approving the process that PAVI has put in place for work and organizational methods. These will be applied in the General Secretariat and the Technical Coordination Secretariat.

### 2.3.3 Judiciary's Key Administrative, Supervisory, and Career Plans and Procedures Ensure Cost Efficiency, Quality Control, and Career Advancement for Judges and Administrative Workers

#### **Strategic Plans within the Judicial Branch (OJ)**

The process with the Supreme Court of Justice that we initiated in December 2009 concluded this quarter with the participatory process that produced the *Strategic Policy Framework for the Judiciary*, executive version (*see annexes*). The document was approved by the full assembly on February 17, 2010 under Decree 7-2010. The information and analysis generated by the process to create the Framework Plan allowed for systemic and global analysis of the complex situation currently plaguing the Judiciary, as well as for the possibility of identifying a roadmap for overcoming the structural and circumstantial roots of the problem.

During the reporting period, we worked jointly with the ITT composed of the Secretary and personnel from the Planning and Institutional Secretariat of the Judiciary (acronym in Spanish: SPYDI). The team held weekly meetings focused on preparing and processing the information as described below:

- Three meetings with Magistrates from the Supreme Court of Justice (CSJ): two working breakfast meetings and one session during the full assembly.
- Two meetings with the technical team for the development of the management area that is comprised of the director and coordinators from the various organizational units.
- Two meetings with the technical team for the development of the jurisdictional area that is comprised of trial magistrates and sentencing and first instance judges appointed by the Supreme Court.
- Two working sessions with the recently-appointed general manager and the managerial team of the Judiciary. The sessions served the purpose of setting up contact points for information exchange between the Framework Plan and the Managerial Plan for Immediate Action that will be submitted to the Supreme Court of Justice.

The joint ITT–SPYDI efforts led to the drafting of a number of documents and presentations that will be key in pushing the reform process forward and in strengthening the judiciary as a whole. At the request of the Magistrates of the CSJ, we developed a public version (*see annexes*) based on criteria and limits for the dissemination of information included in the document for official use. The complete version was submitted to the full assembly.

While the Framework Plan was being approved, we simultaneously received approval to carry out the second phase of the Strategic Planning, based on PAVI's description of the process (see our

previous quarterly report). The second phase is comprised of three fundamental processes and activities:

- **Generating a Five Year Program Plan**
  - Remainder of the program from the previous five-year plan.
  - Support and provide technical assistance for regional meetings of judiciary and administrative staff from five districts, including two tours and ten meetings.
  - Technical assistance in drafting a Five Year Program Plan aligned with the Framework Plan.
  - Contribute to presenting the plan to high level authorities and set up contact points among a number of management-administrative levels.
  
- **Implementing the Framework Plan and Five Year Plan**
  - Meeting with CSJ Magistrates at Chamber levels as well as with General Manager.
  - Advising on setting up the ITTs to address key initiatives (see description in annexes).
  - Technical support in developing descriptions and methodological design for institutional projects.
  - Initial training and orientation for facilitators and technical-political operators.
  
- **Strengthening the Planning and Institutional Development Secretariat**
  - Technical support to design basic institutional model.
  - Support for orientation and training in criteria and planning techniques for strategic management.
  - Technical support to design a monitoring and evaluation system for the Framework Plan and Five-Year Plan.
  - Technical assistance for the Diagnostic Needs Assessment for Courtrooms.

All of the above were initiated during this quarter although they will be concluded during the following reporting period.

#### 2.3.4 Network of Positive Leadership for Institutional Change Organized and Strengthened

### 2.4 SPECIAL ACTIVITY 1: SUPPORT HIGH IMPACT COURTS

#### **High-Risk Courts**

PAVI Project support for the High-Risk Courts (acronym in Spanish: JMR) is developing from within the Technical Working Group comprised of experts from various donor projects as well as by representatives from the OJ. During meetings of donor counterparts, the United Nations Development Program (UNDP) appears prepared to provide financing for the infrastructure remodeling of the fifteenth floor of the *Torre de Tribunales* and plans to work in close coordination with the Architectural Unit of the OJ, with some financial support from the Technical Secretariat of the National Security Council to set up and install video conference rooms.

The PAVI Project is prepared to provide resources to lease temporary facilities in which to relocate the offices that are currently on the fifteenth floor during the remodeling, pending USAID Contracting Office approval. We understand that the Spanish Cooperation Agency for International Development (Spanish acronym: AECID) will providing funding through its Justice and Security Program to support the procurement of audiovisual equipment and digital registration. Computer

hardware and office equipment was donated by the European Union's Program to Support Judicial Reform (PARJ).

We are engaged in designing the conceptual model for the High-Risk Courts based on a legal analysis of the regulations governing jurisdiction, material competency, and the scope of operations that can be taken on by unique jurisdictional agencies such as the high-risk courts. We agreed that this court will operate under the basic premise of guaranteeing appropriate conditions for judgment. The following elements have been factored into the basic design principles:

A. Admissibility criteria for cases before the Penal Chamber.

Legal

1. Crimes listed in Article 3 of Decree 21 – 2009, Law on Criminal Competency in Processes of Greater Risk.
2. Cases that fall under crimes of conspiracy or collusion described in the Law against Organized Crime.
3. The Penal Chamber may have requirements to interpret or frame facts under the criminal acts of conspiracy and collusion.

Circumstantial

1. Level of vulnerability depending on where the case is being heard.
2. Geographic concerns: location, distance, and access.
3. Physical concerns: facilities, transportation, and personal security measures.
4. Corruption or intimidation of justice operators.

Political/Public

1. Politically or socially sensitive cases that may affect governance and stability of the public order (analyze the social and political contexts).
2. Cases that imply undue pressure or stress by criminal organizations that have power or influence over institutional, national, or transnational structures.
3. Priority cases in line with criminal policy established by the three branches of power.

B. Organizational and Operational Structure

We are analyzing a management structure for those cases being tried by the JMR that will allow for greater effectiveness in criminal prosecution without violating constitutional and prosecutorial rights and guarantees. This management system stems from the experience gained from the operational models for the 24-hour courts and from the oral proceedings in courtrooms, taking the best from each. The criteria that apply to the JMRs are: create a division between judicial and administrative operations, apply the Internal Regulations for criminal courts and tribunals, and apply principles for oral and expedient prosecution.

C. Security Criteria

Establish the criteria necessary to govern the resources, physical infrastructure, and presence of the interested parties and justice operators that will guarantee effective access to justice.

D. Professional Excellence

Specialized training is needed: select and appoint qualified candidates; define qualifications for justice operators, control, and supervision.

We have established an Inter-Agency Technical Team made up of officials from the Penal Chamber (three judges to determine the high risk cases based on the risk assessment) and three prosecutors who are responsible for submitting cases to the Attorney General at the Public Ministry to request the

Penal Chamber to rule on the jurisdictional or effective competency allowing the case to be transferred to the high-risk court. This Technical Team developed the content for each one of the criteria applied in the basic design and included input from technical advisors from the Justice and Security Program of AECID, CICIG, the UNDP, and the Technical Secretariat of the National Security Council.

### Technical Prosecution Process

Timeframe	Steps - Products
Completed	1. The technical working group is established and operational: representatives from government agencies, donor community, and CSOs.
Ongoing	2. Set up temporary solution: remodeling 15th floor and setting up videoconferencing.
Ongoing	3. Locating temporary quarters for the court: location, legal issues, site visit, coordination and others.
	4. Contracting technical personnel for analysis and studies and model design: drafting TORs, selection process and contracting
Working with ITT	5. Implement studies and submit reports. <ul style="list-style-type: none"> <li>a. JMR Organizational Model: physical, financial, and security guidelines,</li> <li>b. JMR Operational Model: jurisdiction guidelines, regulations, operations, methodologies (protocols), and qualifications for appointments (skills and abilities).</li> </ul>
	6. Implementation Plan: institutional and sector agreements to implement organizational and operational models.
	7. Procurement: define budget, bases and regulations for selecting and contracting suppliers.
	8. Implementation and supervision of works and services: ITT/JMR.
	9. Selection, appointment, and training process for JMR justice operators. <ul style="list-style-type: none"> <li>a. Design specialized training model for JMR justice operators.</li> <li>b. Implement training program.</li> </ul>
	10. Hand over and officially open facility (public event) and officially begin operations.

## 2.5 SPECIAL ACTIVITY 2: STRENGTHEN JUSTICE CAPACITY TO COMBAT ILLEGAL ACTIVITIES IN PETÉN

PAVI is supporting three types of activities that will generate the implementation of a **strategic plan to improve criminal prosecution in Petén**: 1) supporting the Public Ministry in implementing a regional criminal prosecution policy in Petén; 2) building up technical capacity while raising awareness among justice operators about the situation currently affecting the region; and 3) strengthening the coordination mechanisms that are in place among the stakeholders (both governmental and non-governmental) that will lead to crime prevention while improving the performance of the justice system.

### Implementing the Criminal Prosecution Plan at the Public Ministry

The ITT was set up in January 2010 to include members from the Ministry's Criminal Policy Secretariat and the Technical Coordination Secretariat. We designed an implementation plan for criminal prosecution policy in Petén that is broken down into five phases: a) a diagnostic assessment of the criminal situation in place; b) generating the intervention strategies to be applied; c) implementation; d) evaluation; and e) accountability (*see annexes*).

To date, we have progressed through the first two phases. The ITT is currently editing the document listing the conclusions from the diagnostic assessment and they have already outlined the intervention plan that will be submitted to the Public Ministry authorities. The main points of the plan are as follows:

- Reduce backlogs at the prosecutor units in Petén. This will be addressed through an alternative resolution strategy (2009 saw only 3 out of more than 4,000 cases resolved through alternative dispute resolutions). This approach requires:
  - Standardizing criteria to be shared between the Public Ministry and the Judiciary;
  - Training for the alternative resolution unit at the Public Ministry office in Petén;
  - Revising the Public Ministry Handbook 1-2005 on alternative resolution and deciding if new guidelines should be prepared; and
  - Developing a protocol for joint action (among the PM, Judiciary, and IDPP) through a broader ITT.
- Increase the Public Ministry's response in the crimes against life cases:
  - Implement a working methodology for homicide (Handbook 1-2006) based on the best practices that the PAVI Project has identified.
  - Create a best-practices exchange among the prosecutor units in Guatemala City and Petén.
  - Set up training based on Handbook 1-2006 and on criminal analysis for the two assistant prosecutors according to their qualifications.
  - Develop a protocol for joint efforts between the Public Ministry and the National Civilian Police.
- Increase the Public Ministry's response to sexual crimes and crimes against women.
- Develop a protocol for management of sexual crime scenes.
- Strengthen the prosecutor units in criminal prosecution of illicit activities linked to organized crime.
  - Provide training for prosecutors and judges on the law against organized crime.
  - Produce a manual on prosecuting illegal forestry activities and provide the corresponding training for prosecutors and judges.
  - Implement SICOMP2 at the prosecutor units in San Benito, La Libertad, and Poptún and within the units on Environment, Cultural Heritage, and Organized Crime.

### **Technical Capacity Building and Raising Awareness among Operators of Justice**

We convened meetings with the leadership at the Guatemalan bar association (*Colegio de Abogados y Notarios*) to obtain their cooperation in developing a training program for attorneys from Petén who have difficulty accessing a number of training opportunities due to their geographical isolation. We agreed that the PAVI Project would support during the next quarter, subject to USAID approval, a replication of a certification course on *Crime Theory Applied to Criminal Prosecution*. This course is broken down into ten units that cover the various aspects and training needs that were detected through the diagnostic assessment on criminal prosecution within the Public Ministry. Likewise, we would encourage the participation of judges and prosecutors in taking the certification course. The sessions are to be held at the San Carlos University campus in Petén and will take place once a week beginning on April 8, 2010 and running until the end of June 2010.

We have also taken into account the fact that a significant number of judges and prosecutors working in Petén are not originally from the area and their knowledge and interpretation of the facts and local context is somewhat limited to what they glean from the case files. We have begun working with the First Instance Criminal Court Judge in San Benito to raise awareness regarding environmental issues. We supported a visit to the Mayan Biosphere as well as guided tours to observe deforested areas and virgin forestland. We interviewed forest rangers and community members who participate in legal,

economically-productive projects sponsored by USAID. This provides for improved understanding of the consequences threatening protected areas if judicial authorities remain impassive in the face of illicit activities. They are now able to perceive the potential of the unique opportunity afforded to them when they enforce the legal framework. We are supporting similar activities that are scheduled in the future for other justice operators and we will be coordinating them through the Environmental Justice Forum.

### **Improved Coordination Mechanisms**

In coordination with the COTR, the PAVI team supported a coordination meeting to bring together the numerous USAID-sponsored projects that are working in Petén. This provided an opportunity to exchange information regarding objectives and action items for each component as well as identifying opportunities for cooperation and coordination. The first meeting brought together participants from three USAID programs and included representatives from local counterpart organizations: Rainforest Alliance, Balam Association, the Wildlife Conservation Society, and Counterpart International. The meeting highlighted the PAVI Project's relevancy to the current situation in Petén, as well as the opportunities provided through Project activities. Each one of the USAID-sponsored programs has been successfully working towards their objectives, but each one has had difficulties in accessing or progressing through the judicial system. Three of the organizations have joined efforts with the National Council for Protected Areas (CONAP), the Institute of Anthropology and History (IDAEH), and the Prosecutor Units for the Environment and Cultural Heritage to create an inter-agency coordination mechanism known as the "Environmental Justice Forum." They have submitted a project proposal for PAVI's consideration.



*USAID Program Coordination Meeting, March 24, 2010, Santa Elena, Petén*

## **2.6 SPECIAL ACTIVITY 3: MILLENNIUM CHALLENGE INDICATORS PROMOTED**

We are in the process of identifying stakeholders and awaiting official decision.

## **3. SUB-GRANT PROGRAM**

Members of the PAVI team participated in an orientation session at another ARD project's office in Guatemala City to share experiences regarding administration, management, and resource allocations

of sub-grant programming as well as best practices. We received orientation on various processes and requirements in place to manage and administer grants responsibly and in compliance with USAID regulations and Contractor’s policies. During this reporting period, we identified some organizations that are eligible to qualify for a sub-grant and we have reviewed and assessed a number of proposals. To date, eight proposals have been submitted for Project consideration as follows:

<b>ORGANIZATION</b>	<b>PROJECT PROPOSAL</b>
<b>COISOLA (Collective for Social and Labor Research)</b>	Strengthening victim assistance networks and violence prevention
<b>IMASP (Public Security Monitoring and Support Agency)</b>	Crime prevention
<b>Domestic Violence Survivor Foundation</b>	Supporting legal-social assistance
<b>Pro Justice Movement (FADS)</b>	Monitoring the jurisdictional power of the Supreme Court of Justice
<b>MYRNA MACK Foundation</b>	Preliminary activities for implementation of a specific commission for police reform
<b>Legal Network and Human Rights and HIV (watchdog) units</b>	Systematization of assistance and treatment for complaints presented by HIV positive individuals accessing the national justice system
<b>FADS (Family and Friends against Crime and Kidnapping)</b>	“Citizen network for Security and Justice Support for crime victims”.
<b>Balam Association (Petén)</b>	"Strengthening Environmental Justice in Petén, Guatemala"

#### 4. GENDER SECTION

During the reporting period, we have been working on implementing key legislation to reduce and prevent violence (draft legislation for victims’ access to criminal prosecution). We have solidified contacts with representatives from the Women’s Affairs Committee from the Guatemalan Congress to assist in creating a watchdog commission for violence against women. In soliciting proposal submissions for funding through the Sub-Grant program, we have actively sought to include organizations that address women’s issues and/or are led by women.

#### 5. SUPPORT TO THE NATIONAL CIVILIAN POLICE

In coordination with the USAID Governance and Democracy Office, we continue to work on the procedures for approval to include National Civilian Police (PNC) personnel in Project activities focused on raising awareness and training in providing services and assistance for crime victims. We have developed a preliminary list of 135 individuals who could be eligible for training, including their full name, rank, title, date and place of birth, nationality, and gender. Due to the fact that the PNC has suffered a number of destabilizing situations, we have redrafted the list several times. Many of the key personnel that PAVI had identified were transferred to other positions, but we were able to finalize the list and submit it to USAID to complete the process. As this reporting period draws to a close, the process was concluded and we were given the authorization to work with the individuals for a one-year period.

## 6. INDICATORS

The Project's M&E subcontractor deployed consultants Julia Roig and Alicia Pfund during the week of January 18-22, 2010. Throughout their visit, the PAVI team had a number of meetings with the consultants with in-depth discussions that ensure an optimal M&E component. We joined the consultants in meetings and interviews with representatives from civil society describing their perceptions surrounding the weaknesses and operations of the judiciary, specifically pertaining to victim services and their concerns regarding the enforcement of crimes described in the Law against Femicide and other types of violence against women. The civil society representatives provided suggestions for monitoring the PAVI Project impacts on the weaknesses that have been identified as mentioned above. The consultants and PAVI team had meetings with Dr. César Barrientos, President of the Penal Chamber, Supreme Court of Justice, as well as with Blanca Stalling, Director of the Public Defense Institute (IDPP) to describe the M&E component and request their support in generating the data and information that we require for Project indicators.

During the close-out meeting, the M&E consultants presented the PAVI team with a preliminary version of the indicator table broken down by Sub IR and including the methodology to measure the impact and results indicators. The team made some observations and provided input and suggestions to reformulate some aspects. The document was finalized and submitted to PAVI for review and approval.

SICOMP has provided us with some statistical tables for 2009 that include the following data:

Number of indictments and guilty verdicts for:

- Crimes against life and femicide brought to trial in 2009 in Guatemala City, Villa Nueva, Mixco, and Escuintla
- Crimes against Life:
- Homicide as described under Articles 123 and 124 of the Criminal Code
- Infanticide as described under Article 129
- Parricide as described under Article 131
- Murder as described under Article 132
- Kidnapping
- Collusion as described under Article 4 of the Law Against Organized Crime, Decree 21-2006

Number of indictments and guilty verdicts in Petén according to the type of crime:

- Homicides
- Infanticides
- Parricides
- Murder
- Kidnapping
- Sexual crimes as described under Articles 173 and 174 on rape
- Collusion as described under Article 4 of the Law Against Organized Crime, Decree 21-2006
- Crimes Against the Environment as described under Articles 346 and 347
- Cultural Heritage as described under Article 332 A, B and C

At the end of the reporting period, the M&E plan was approved by the USAID COTR.

## 7. ADMINISTRATIVE AND PERSONAL MATTERS

We conducted recruitment to fill the Key Personnel position of DCOP to provide assistance for the justice sector in terms of criminal prosecution, training prosecutors in special investigative methods, planning and other management duties required for the Project. During the reporting period, we interviewed candidates and held meetings to explore possible combinations of skill sets and strengths. At the end of the reporting period, we submitted a request for approval to USAID of our selected, vetted candidate who brings together a professional legal background, specializing in criminal law with experience in human resource management.

USAID requested Contractor to submit a revised operating budget for the base period to contemplate possible physical remodeling costs for the High Impact Court in Guatemala City. As of the end of the reporting period, this revised budget was under USAID consideration, with a possible no-cost extension of the Task Order base period.

## 8. FINANCIAL QUARTERLY REPORT

<b>USAID/Guatemala Project Against Violence and Impunity</b>						
<b>Task Order #DFD-I-08-04-00173-00</b>						
<b>Quarterly Financial Report #3</b>						
<b>January - March 2010</b>						
<b>PROJECT LINE ITEM - BASE PERIOD</b>	<b>(1) APPROVED BUDGET TO DATE</b>	<b>(2) TOTAL CLAIMED THROUGH LAST REPORT</b>	<b>(3) EXPENSES CLAIMED THIS PERIOD</b>	<b>(4) * SUSPENDED EXPENSES</b>	<b>(5) TOTAL EXPENSES TO DATE</b>	<b>(6) BALANCE AVAILABLE REMAINING</b>
WORKDAYS ORDERED	\$1,194,106	\$248,759	\$153,286	\$0	\$402,045	\$792,061
OTHER DIRECT COSTS	\$578,235	\$149,110	\$71,178	\$0	\$220,287	\$357,948
INDIRECT COSTS	\$84,553	\$15,751	\$7,245	\$0	\$22,996	\$61,557
SUB-GRANTS UNDER CONTRACTS	\$250,000	\$0	\$0	\$0		\$250,000
<b>TOTAL COSTS</b>	<b>\$2,106,894</b>	<b>\$413,620</b>	<b>\$231,709</b>	<b>\$0</b>	<b>\$645,328</b>	<b>\$1,461,566</b>

## 9. ANNEXES