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# PROJECT AGAINST VIOLENCE AND IMPUNITY IN GUATEMALA

QUARTERLY REPORT: JANUARY-MARCH 2011

April 2011

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# PROJECT AGAINST VIOLENCE AND IMPUNITY IN GUATEMALA

**QUARTERLY REPORT JANUARY - MARCH 2011**

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# 1. EXECUTIVE SUMMARY

The first quarter in 2011 was shaped by the new leadership assuming office at many of the justice sector organizations. Although the new Attorney General, Claudia Paz y Paz, assumed office in December 2010, it was not until January that she began to appoint key personnel to her team. In addition, the new magistrates to the Constitutional Court for the 2011-2016 term were appointed and the new Board of Directors for the Guatemala Bar Association (Colegio de Abogados) assumed office for a two-year term. The Presidential Commissioner for Police Reform is also a recent appointment.

The Project is optimistic that new leadership will actively support judicial reform and closely cooperate and support the Project's institutional strengthening activities.

PAVI is pleased to highlight the following Project achievements from the first quarter of 2011:

- The Project has continued to support an approach to link cases under a single investigation with the use of special task forces to analyze them. The effort has produced the desired result of improving criminal prosecution of serious crime. The Project has detected noticeable improvements reflected in more than a dozen cases. The cases include sentencing a gang known as the Scorpions for which 17 individuals were found guilty of conspiracy and extortion in obstructing traffic. Various special investigative methods were applied when building the case, such as turning State's evidence (colaborador eficaz in Spanish), for which the Project provided support to develop instructional guidelines. The Analysis Unit generated reports detailing financial transactions, degrees of association, diagramming of the facts and provided other technical analysis in addition to having technical staff testify as expert witnesses during trial proceedings.
- The Project has continued efforts to support implementation of an inter-agency coordination process among the prosecutor units in Mixco and Villa Nueva and the Public Ministry Analysis Unit, along with the Criminal Information Analysis and Dissemination Center at the National Civilian Police. The Project fostered inter-agency technical teams to ensure that cooperation occurs at a "human and personal" level to approach the issue from a procedural and team-effort perspective, rather than be limited to mere institutional structures. If there is political will and interest at the relevant institutions, the Project plans to work on bringing in the General Office for Civilian Intelligence (Dirección General de Inteligencia Civil -DIGICI) to join the ITT.
- In developing the team of institutional mentors, the Project has supported an institutional initiative to build capacity within Public Ministry staff at the Prosecutor Unit for Crimes Against Life and at the Analysis Unit. The mentors have access to a scholarship program for post-graduate studies in criminal

prosecution law at Rafael Landivar University. In addition, PAVI is working on developing a similar program for judges, if funding is available and the Supreme Court of Justice agrees.

- The Project efforts to improve victim services include establishing collaborative teams comprised of prosecutors, counselors and social workers to design protocols for comprehensive assistance for individuals testifying during criminal prosecutions. This includes incorporating rights of the victims as described in the international instruments ratified and binding on Guatemala, providing support to the victim from the moment the crime is perpetrated, and developing guidelines to minimize re-victimization. The approach also defines criteria for the involvement of each of the actors throughout the most crucial aspects of the criminal prosecution process, and makes the prosecutor responsible for ensuring that the victim is treated appropriately, while expanding the concept of victim services to move from a limited contextual application to one of greater inclusion and comprehensive assistance.
- The Project is continuing to support implementation of the Five Year Strategic Plan. The effort has the support and backing of the highest-level institutional authorities and involves the Judiciary's Secretariat for Planning and Institutional Development. The office has established a priority agenda and strategy to successfully implement the process.
- The Project's Small Grants program is moving forward as planned and two projects are currently underway in Petén. One was approved during the reporting period and an additional four proposals are under review. The Project expects to assign the funding during the first half of 2011.

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

## 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

#### **Project support for the Guatemala Crimes against Life Prosecutor Unit**

##### *Quality Indictments*

As part of an attempt to analyze the quality of indictments and evidentiary hearing proceedings, the Project reviewed 42 case files this quarter. The findings revealed weaknesses in three key areas: a) description of the incident is unclear and circumstantial; b) indictments are limited to restating the law allegedly broken without factoring in an assessment of the facts and contributing factors to the seriousness of the crime, and c) a number of facts or data is brought to trial that makes little or no contribution to prove a criminal theory and the situation is not further clarified during the evidentiary hearings.

Based on these findings, the Project defined four cross-cutting activities to be implemented over the course of upcoming reporting periods: 1) capacity building to compose, summarize and analyze the grounds for an indictment to draft the charges logically and concisely; 2) develop oral techniques to present charges and proceed during evidentiary hearings; 3) evaluate the relevancy and usefulness of evidence in light of criminal theories developed, and 4) design and implement a monitoring and control system to track the investigation.

##### *Public Ministry (MP) and INACIF Inter-agency cooperation*

The training plan for basic criminal theory designed for MP staff was launched this reporting period. The Project organized workshops in February and March to train a total of 36 prosecutors and 12 crime-scene technicians from the Crimes Against Life Prosecutor Unit. Most of the responsibility to organize the workshops and to lead the training was in the hands of highly competent and qualified staff from the participating organizations. PAVI support for the activity focused on opening up and maintaining channels of communication between the two groups. In addition, the Project provided

technical assistance regarding criminal theory. The training workshops not only built capacities among prosecutors and crime-scene technicians, but also provided an excellent opportunity for open debate and discussion among experts and prosecutors that will lead to improved coordination and support among middle management on both personal and institutional levels.



*INACIF Director works with prosecutors and crime-scene technicians*



*Prosecutors and crime-scene technicians*

In addition, the Project provided support for a second printing of the educational material entitled “Basic Steps for Medical Examinations” and “Taking Samples during Autopsy”. The material is used as a guideline for prosecutors and assistant prosecutors and for the INACIF staff to follow protocol and maintain conditions appropriate for forensic applications.

#### *Task Forces for complex and high impact cases*

In the previous reporting period, the Project completed the activity to develop general guidelines to establish joint task forces to work on complex cases and criminal phenomena. During this reporting period, the guidelines were modified to reflect the changes and restructuring occurring at the Public Ministry. The Project is currently working with the ITT on final revisions prior to submitting it to the Attorney General for approval.

The guidelines were modified in two major aspects: a) implementation and application of the model now falls under the leadership of the Secretary General, and b) new control centers, implementation units and support mechanisms have been established. The latter components are designed so that operational tasks required during investigation of serious crimes, particularly for complex or high impact cases, will come to the attention of upper-level MP authorities to ensure appropriate support and coordination of prosecutors working on the most serious cases.

The management model for high impact cases and criminal phenomena will be a useful tool to:

- Focus on investigating the more serious crimes, as well as criminal phenomena or systematic criminal activities.
- Begin to understand the structures behind criminal organizations that are operating in various parts of the country and urban areas.
- Prioritize team work and intra- or inter-agency efforts.
- Focus efforts on results-based investigation rather than on task-based activities.

Significant progress in building 14 criminal prosecution cases illustrates the positive results from using a task-force based approach for complex cases. Some of the more significant cases are described below:

#### *Drug trafficking and money laundering*

The application of special investigative methods such as turning State's evidence (colaborador eficaz), wire tapping and controlled surveillance led to identification of a 44-person criminal structure. The Analysis Unit processed the data and fully identified each of the members from the ring leader to the "rank and file." Facts: the organization allegedly received US\$400,000 that was divided up into smaller amounts among the "smurfs" who then travelled to Panama with US\$10,000 each to purchase cocaine which they smuggled back into Guatemala. The case is pending trial.

#### *Real estate embezzlement*

This case is linked to the murder of Judge Maria Gil. A notary public was allegedly involved in removing official mortgage records from property deeds to dispose of the property after eliminating the rightful owner. There are currently three individuals in custody (including the notary and an alleged assassin) and four other suspects are being sought. The case is still under investigation and up to ten additional notaries may also be facing charges. Each of the notaries seems to be involved in an organization using a similar modus operandi.

#### *Pachalum*

Wire tapping methods used in investigating a kidnapping case led to information pertaining to four homicides involving the same suspects. Given that the Prosecutor Unit in Salama was aware of the kidnappings and the Jutiapa Prosecutor Unit was working on the homicide cases, the task force found the link in the cases and is prosecuting.

#### *Scorpion*

In a recent case, a judge convicted members of the Hollywood Gangster clique and the Mara 18 gang who had joined forces. Using oral trial proceedings, 17 individuals were charged and convicted of conspiracy and extortion in traffic obstruction. Four of the defendants were male and the rest female. Two of the gang leaders were convicted along with three who worked as coordinators, including a wife and mother of the leaders. In addition, an assassin and one male extortionist were also found guilty. The

rest of the gang were females involved in collecting the extortion money and were also convicted. The investigation relied on special investigative methods such as wire tapping, surveillance and analysis of financial transactions, in addition to a witness turned State's evidence who was a member of one of the cliques and was able to positively identify the other gang members. Initial estimates are that the gang was involved in collecting Q 1,119,000 over a two year period.

#### *Restructuring the Prosecutor Unit for Crimes Against Life (FDV)*

The Prosecution Unit is undergoing restructuring to reflect the management model that has proven successful in Quetzaltenango. Essentially, the model is based on specialization fields for assigning prosecutors and assistant prosecutors to one of three units: Early Decision (Decisión Temprana -UDT), Investigation (Dirección de la Investigación -UDI) or Litigation (Litigio -UL). Project assistance has been primarily channeled to the Litigation Unit.

#### **Promote the Replication of Pilot Projects for Innovations in Criminal Prosecution**

The proposal to establish a databank on best practices at the Public Ministry has been modified to broaden the scope to include success stories. The Project worked with the Secretariat for Criminal Policy (SPC) to draft the criteria and analytical format. The final document is being reviewed by the SPC for final approval and application.

#### **Support for Implementation of the Law Against Organized Crime (LDO) and other key Legislation**

The regulations governing procedures to turn State's evidence are being modified and adapted to reflect the restructuring occurring at the Public Ministry. The Secretariat for Technical Coordination was eliminated and those responsibilities have been reassigned to the Secretary General. CICIG has provided input on the regulations. Over the course of the next reporting period, the document will be finalized and submitted to the Attorney General for approval. In addition, the Project is supporting efforts to disseminate the regulations among prosecutors and share its application with all of the State agencies involved.

#### *Law on Asset Seizure and Forfeiture (Ley de Extinción de Dominio)*

The Public Ministry requested that PAVI support a working group led by the Secretariat for Criminal Policy to address the implementation issues pertaining to this legislation. One of the first activities focused on designing a workshop on the new legislation tailored to the Prosecutors and two assistant prosecutors from each of the following units: Organized Crime, Drug Trafficking, Money and Asset Laundering, Economic Crimes, Crimes Against Life, Corruption and the Secretariat for Criminal Policy. The workshop provided an opportunity to describe the legislation, and focus on its applicability to combat organized crime from a financial perspective. In addition, the

workshop presented some of the potential obstacles or challenges facing the effective application of the law.

The workshop participants developed consensus around the following issues:

- The Secretariat for Criminal Policy instructed the heads of the Prosecutor Units to review their caseload to identify any cases where the asset seizure legislation could be applied.
- To ensure that the Attorney General can closely monitor the process to avoid stalls or backlogs, asset-seizure cases will be assigned to the specialized prosecutor units.
- There is a need to develop specialized investigative police officers that will contribute to the asset-seizure efforts.
- The MP should begin coordinating efforts among relevant public and private sector organizations to ensure the timely exchange of information on which to base future asset seizures and application of the legislation.

Although Project funding will not be available to cover the cost of the trip, the Project has also assisted the Public Ministry to work with the International Affairs Division of the Office of the Attorney General in Colombia to set up an exchange for the Secretary of Criminal Policy to visit the Asset Laundering and Seizure Unit there. The purpose of the visit will be to assess the Colombian experience in applying the legislation.

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

#### **SICOMP2 Implementation**

Four short-term consultants (two legal experts and two IT specialists) are currently working to help implement SICOMP2. The process began by migrating data, verifying information, and then ensuring that the data was properly transferred. In addition the consultants are training staff, prosecutors and assistant prosecutors and setting up work groups for the system’s end-users. The process progressed as scheduled beginning with the Municipal Prosecutor Offices in La Libertad and Poptun in Petén and the consultants are currently at work in San Benito.

The following chart summarizes the training and orientation results:

| <b>RESULTS FROM SICOMP2 IMPLEMENTATION IN PETEN</b> |                               |                              |  |
|---|-------------------------------|------------------------------|--|
| <b>PROSECUTOR OFFICE</b>                            | <b>NO. OF PERSONS TRAINED</b> | <b>NO. OF TRAINING HOURS</b> | <b>NO. OF HOURS OF ON-SITE SUPPORT</b> |
| <b>La Libertad</b>                                  | 8                             | 18                           | 72                                     |
| <b>Poptun</b>                                       | 10                            | 16                           | 72                                     |

Some of the users of the system have reported immediate benefits, such as:

- Requests from the public can be easily responded to in a timely manner without making undue demands on the system-user's time (officer, prosecutor or assistant prosecutor). Data tracking is expeditious and requires less time and effort.
- SICOMP2 formats reflect current legislation and appropriate documentation requirements. This facilitates the process of providing services to the public in particular, as well as overall operations in general.
- The system provides an improved notification system (hearings, judgments, court orders and instructions) that automatically and reliably flags items with less effort and ensures that day-to-day operations run smoothly.
- The application is user friendly and fosters a productive work environment.

### **Digitalizing Public Ministry General Archive Files**

No progress to report.

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

#### **Analysis Unit**

##### *Equipment*

The Project provided assistance to procure a high-performance Fujitsu scanner to expeditiously process documents. The scanner will ensure that important documents such as prosecution files (some case files are 2,500 to 5,000 pages long and cannot remain in the Unit for more than a couple of hours), reports, newspaper clippings and other paperwork that needs to be properly stored, safeguarded and analyzed.

##### *Geographic Information System – GIS*

The process is underway to procure ARCGis software and corresponding hardware and the budget allocations are in place for both the equipment and the technical assistance to ensure quick and effective implementation. In the meantime, the Public Ministry obtained additional funding to procure hardware that, upon analysis, proves compatible with the GIS and reduces the amount of funds that the Project must contribute. Similarly, the new MP leadership has committed to increase staffing for the Unit that will be responsible for running the system.

The Project's international expert, Tito Perez, arrived in country on March 21 for a short-term consultancy with the Unit. The consultancy will produce an improved management model and work methodologies, in addition to following up on the recommendations from last June on security protocols and information safeguarding. The consultant has provided on-site advice for the team of analysts during the working sessions to process and evaluate cases, and has reviewed the findings and conclusions.

The Project provided support for a three-day orientation workshop tailored to the six assistant prosecutors that the FDV appointed as contact points for the Analysis Unit, as well as for two recently-hired analysts. The workshop provided an opportunity to discuss the concepts behind criminal intelligence analysis and create familiarity with the basic analytical tools for criminal investigation including the use of RFFlow software to develop fact diagrams and linkages, processing telephone records, etc. The workshop was led by the consultant with the help of two analysts from the Unit that had prior training.

### **Inter-agency Coordination among CRADIC/Analysis Unit/Prosecutor Units in Mixco and Villa Nueva**

Inter-agency cooperation has long been a weak point in the justice sector. Effective cooperation and sustained coordination are among the main limitations each agency faces in complying with its mandate. Coordination requires a sense of the procedures that ultimately ensure the viability of each entity as a part of the whole. A key component: inter-agency coordination must be based on the principle of human cooperation, implying a free exchange of ideas, opinions and proposals to resolve issues based on a sense of responsibility and teamwork that complements inter-agency dynamics, which is primarily based on written communications.

Within this framework, the Mixco and Villa Nueva municipal prosecutor offices requested assistance to implement an inter-agency coordination activity with the Criminal Information Analysis and Dissemination Center (Centro de Recopilación Análisis y Difusión de Información Criminal -CRADIC). The center is a specialized unit at the National Civilian Police (Policía Nacional Civil -PNC) to provide information to investigate serious crime.

In February and March, the Project provided assistance for two workshops in Mixco and another two in Villa Nueva for prosecutors and assistant prosecutors from the Units on Crimes Against Life. CRADIC representatives were also invited to provide a presentation on their operations and objectives, along with the investigative tools they have available and the procedures to request information and estimated delivery times. In addition, some of the workshops provided opportunities to discuss how criminal investigation information is dealt with on institutional or inter-institutional levels.

At the Prosecutor Unit in Guatemala City, the Project facilitated working sessions for the Analysis Unit and CRADIC staff. The meetings provided opportunities to provide information on the respective visions, workloads, amount of cases being analyzed and institutional challenges faced by each. Lastly, the authorities from each institution agreed to work on activities to define criteria for the requirements and sharing of information, as well as for inter-agency coordination to analyze cases.

To conclude the process, the Project helped establish Inter-institutional Technical Teams (ITTs) at the metropolitan prosecutor units in Guatemala City, Mixco and Villa Nueva along with CRADIC. The teams are currently meeting on a regular basis to follow up on the proposals as agreed.

The current inter-institutional coordination process led to an interview process with six Public Ministry officials and two CRADIC officers. The following table summarizes the principal findings and proposed recommendations:

| FINDING  | RECOMMENDATION   |  |
|--|--|--|
| <p><b>I. Overall, the inter-institutional coordination process does not reflect institutional initiatives per se, but rather is the result of project-based “external” influences from national or international organizations.</b></p>                            | <p>Organizational cultures should encourage efforts and foster ownership to set up inter-institutional coordination based on internal initiatives as a priority of justice operators. An additional consideration is that technical training provided by a third party should not create a sustainability concern.</p> |  |
| <p><b>II. Work relations between prosecutors and police officers are generally carried out through written communication and official documentation. This practice commonly leads to a paper-based relationship over time and pre-empts human interaction.</b></p> | <p>A personal and individualized inter-institutional coordination framework should take priority over written exchanges. A human connection enables justice operators to assume responsibilities based on cooperation and team work which may be more effective in the institutional and systemic context:</p>         |  |
|  | <p><b>Human Cooperation</b></p>  | <p><b>Written Coordination</b></p>   |
|  | <p>Fosters a sense of commitment and responsibility</p>  | <p>Encourages a culture of obligation and hierarchical submission</p>  |
|  | <p>Encourages ownership of problem issues</p>  | <p>No sense of ownership</p>   |
|  | <p>Creates conditions favorable to solving problems based on more information</p>  | <p>Creates conditions favorable to most often misunderstanding the issue at hand which leads to inadequate solutions or no solution whatsoever</p> |
|  | <p>Inter-institutional requirements are dealt with expeditiously.</p>  | <p>Inter-institutional requirements are approached bureaucratically</p>  |
| <p>Fosters a sense of teamwork and creative proposals which benefit the justice system as a whole</p>  | <p>Leads to critical opinions regarding other institutions (when requirements are not fulfilled) leading to a vicious cycle of laying blame and detrimental to the justice system as a whole</p>   |  |

**III. Both CRADIC and the MP Analysis Unit are not fully compliant in fulfilling the fundamental objective for which they were created, which is to analyze and identify criminal phenomena and structures involved in the commission of serious crime**

Create the institutional criteria (by the Public Ministry) to define the parameters and regulate criminal information management

Involve the parties that are most often requesting information (prosecutors and assistant prosecutors, DICRI investigators, DEIC investigators)

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

### **Replicating the 24-hour Court. Judicial Compound in Cobán, Alta Verapaz**



*Judge presiding over a First Instance 24-hour Court*

In order to assess several possible construction sites, the Project made a second visit to Cobán on January 11-13 with an architect, Juan Luis Morales. The visit allowed for meetings with the Cobán municipal authorities who later joined PAVI staff to visit the sites. The Mayor expressed his support for the project to build a Judicial Compound in Cobán, and is willing to open negotiations with the Judiciary regarding transferring property titles.

On January 13, a team including USAID and Embassy officials visited the possible construction site. As a result of that visit, a piece of Cobán Municipal property known as Sachamach are been selected as the most appropriate construction site. Please see the annexes for a report describing the possible sites.



In February, USAID officials met with the Chief Justice of the Supreme Court, Magistrate Arturo Archila, who requested the Court management authorities to begin appraisal and budgeting procedures for the property and construction project. PAVI has been asked to provide assistance.

PAVI submitted a document in March for USAID to review guidelines to request bids to produce a “Topographical Survey, Soil Analysis, Environmental Impact Assessment and Architectural Design for the Facilities and Buildings for a Judicial Compound in Cobán, Alta Verapaz”. See annexes for the specific terms of reference for each of the studies.

Also annexed to this report are the terms of reference based on security considerations for the judicial compound in regard to hiring a security expert to assess risk and potential threats.

### **Visits to 24-hour Courts**

Several U.S. delegations requested that the Project facilitate a visit to the 24-hour courts. Each visit was scheduled through the Office for International Relations at the Supreme Court, as well as with each of the First Instance Judges presiding at the time the delegation visited the courtroom. Members of the Judiciary took the lead in introducing and conducting very professional tours of the facility at each point. The Project considers this a positive reflection of the degree of ownership and commitment behind the successful implementation of the model.

Jason Foley, Director, PPL/SPP USAID Bureau for Policy, Planning and Learning, visited the 24 –hour court in Sacatepequez on January 12, 2011. Mr. Foley had an opportunity to meet with First Instance Judges and Justices of the Peace that were on duty and discussed several items of interest, such as the impact of the courts on the general

population, statistics on hearings, workloads and benefits that the courts provide for victims of violence.

On Wednesday January 19, members of the Congressional Research Center visited the 24-hour court in Villa Nueva. During their meeting with the First Instance Judge and the Justice of the Peace, the visitors discussed the main characteristics of court operations under the 24-hour model, as well as some of the advantages for users, in addition to the improvements to be made to the facilities. The visitors also had an opportunity to tour the entire facility.

USAID Regional Legal Counsel, Alexis Taylor, visited the 24-hour court in Guatemala City on February 9. Ms. Taylor met with the First Instance Judge on duty and discussed the organizational structure and operations of the Court. She showed particular interest in the type of crimes that are prosecuted, as well as discussing the public defenders that are assigned to the cases and inquired as to where the persons of interest are being held pending arraignments. She also toured the holding areas for individuals in custody or those awaiting their first appearance before the Judge. Officials from the Office for International Relations of the Supreme Court of Justice explained to Ms. Taylor that the individuals in custody are held in special facilities for their own safety, as well as for the safety of the justice operators and others. In addition, she was informed that the facilities, in legal terms, do not constitute imprisonment.

A Congressional Delegation was joined by the U.S. Ambassador and the USAID Officer for Democracy and Governance on a visit to the 24-hour Court in Guatemala City on March 22. The Delegation met with the First Instance Judge on duty to discuss information pertaining to the defense attorneys assigned as public defenders in cases involving drug trafficking, and the number of individuals working in all of the 24-hour courts (Guatemala City, Mixco, Villa Nueva, Sacatepequez and Escuintla). The discussion also touched on jurisdictional issues, the application of special investigative techniques, such as wire tapping, and the fact that the original team of judges has remained in place since the Court was first established.

### **Follow Up to implement Modifications to the 24-Hour Courts in Mixco, Villa Nueva, Escuintla and Sacatepequez**

In regard to implementing Supreme Court of Justice Agreements 18-19/2010 for the 24-hour courts in Mixco, Villa Nueva, Escuintla and Sacatepequez, the Project coordinated a number of follow up and orientation meetings with the staff from the Technical Support Unit of the Criminal Chamber. These are the individuals responsible for coordinating the activities to ensure timely and effective operation.

As a result of these meetings, the Project provided assistance in preparing a report to the Criminal Chamber listing recommendations and specific measures to reduce the

case backlog and accumulation of cases pending decisions in each Court. Implementing the recommendations to resolve the issues will enable the authorities to better monitor the indicators, reduce workloads and increase productivity as defined by the model.

In the light of the recommendations, the Criminal Chamber has opted to propose expanding the case-disposal or transfer courts currently operating in Mixco and Villa Nueva to process cases backlogged from 1997 through 2009. The expansion will require bringing in additional judges, as well as on applying oral proceedings, multiple hearing and multiple dismissals. The expansion proposal was approved by the Supreme Court of Justice on January 26 under Agreement No. 3-2011.

The measure will enable the 24-hour courts to hear and decide cases awaiting trial as of 2010 and those coming before the court in 2011. The Court Management System will be used to register and track proceedings as well as to monitor management indicators.

To implement the operational modifications, the Project provided assistance to develop a procedures handbook for the staff working in the shared administrative services section. The handbook is useful in defining workflows for each section and to summarize procedures for each phase in the prosecution.

## **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**

This activity is developed through the work plan of the Apostolic Vicariate of Petén (sub-grants) by which it is coordinated the activity of the Public Prosecutor with the referral network of services to victims, which is composed of governmental and nongovernmental organizations.

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

#### **“Protocol on Comprehensive Victim Services for Witnesses in Criminal Prosecutions”**

Project activities under LLR 2.2 to strengthen inter-agency communication and coordination mechanisms were primarily focused on responding to a request by the MP to develop a protocol to optimize comprehensive and coordinated services provided to victims that are providing testimony during criminal prosecution.

The Project provided technical assistance to organize four workshops for personnel from the Prosecutor Unit on Crimes Against Life (Fiscalía de Delitos contra la Vida – FDV) to

disseminate and encourage discussion regarding the Protocol on Comprehensive Victim Services for Witnesses in Criminal Prosecutions. Workshop participants included prosecutors working on femicide investigations, as well as homicides involving women, sexual exploitation and trafficking. Participants also included personnel from the Prosecutor Unit for Women, the Prosecutor Unit Against Organized Crime and officials from the Office for Victim Assistance and the Office for Witness Protection and Defendants.

The workshop methodology was based on providing the prosecutors with a preliminary draft for their review and input. The sessions allowed for information exchanges and revealed the various criteria applied in providing assistance to victims of crimes depending on the situation and the responsibilities of the various stakeholders.

The Protocol satisfies the need to establish a standardized procedure for each of the assistance providers ranging from prosecutors to personnel from the Victim Assistance Office (Oficina de Atención a la Víctima –OAV) and the Witness Protection Office (Oficina de Protección a Testigos y Sujetos Procesales) within the Public Ministry and clearly states the objectives, as follows:

- Determine the criteria for professional and prosecutorial staff from the Public Ministry to perform their duties in ensuring a comprehensive provision of services for victims and witnesses during the various stages of prosecution.
- Establish standards defining comprehensive assistance to victims and witnesses to ensure timely actions to protect the individuals during the investigation, intermediary phase and trial proceedings.

The Protocol makes a clear distinction between a victim per se (one who has suffered damages either directly or indirectly) in contrast to a victim who takes on the role of a witness, whose position and access to information valuable to the case will lead to evidence required by the prosecution.

The system response in providing victim assistance reflects one of two strategies: maintaining a balance between the institutional mandate to prosecute serious crime and the responsibility to protect the victim (ensuring his or her rights). The Public Ministry must develop mechanisms that enable a timely and simultaneous response in the case of either or both of the strategies. In summary, the comprehensive approach assumes different responses to different needs when providing coordinated assistance focused on the victim.

These are the principles governing the Protocol for the activities in each one of the Prosecutor Units and offices described earlier for the victim and/or witness throughout each one of the stages of prosecution. Simultaneously, the assistance should be provided based on a Victimology Plan for improved protection and attention. The

Protocol was reviewed by the Secretariat for Criminal Policy prior to being approved by the Attorney General.

Over the course of the next quarter, the Project will provide assistance to hold orientation and training sessions for prosecutors and OAV staff in other parts of the country. The sessions will cover general use and application of the Protocol, in addition to special considerations when working in Petén.



*Witness Protection and OAV Staff join prosecutors during workshops to develop the Protocol.  
Source: UNICAP.*

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

In completing Year Two Work Plan activities to foster the institutional conditions required to apply specialized justice for the crimes described in the Law Against Femicide and other Types of Violence against Women, the Project worked with the Prosecutor's Unit on Crimes Against Life to identify and select particular cases involving homicide of women.

- A femicide case: the victim was killed in her home; the case involves an indirect victim (her mother) who is a key witness in confirming the identity of the suspected perpetrator and enabling the apprehension of the suspect.
- An attempted femicide case: a victim survives misogynistic violence at the hands of her spouse. This is the second attempt to prosecute. The first case was dismissed when the victim refused to testify in court; the second attempt involves gathering additional evidence to prove that the perpetrator intended to kill the victim.

Based on the Project Work Plan, PAVI's contribution is focused on developing a model for assistance to victims under specialized justice, as in the case of femicide or other types of violence against women as described in the legislation (sexual, physical, economic and psychological violence). The assistance model is based on a work methodology that involves prosecutors as well as personnel from the victim services

offices, along with procedures for follow up and monitoring in courtrooms that were specially established to try these types of cases.

### **Proposal to create a Ministry of Security and Support for Justice**

The international technical assistance to design and develop the organizational and operational structure was completed. Deliverables included: a) a design for the proposed organizational structure, b) position descriptions and qualifications, c) procedures to recruit and select personnel for the transition phase, and d) a feasibility assessment on implementing the proposed organizational structure. Similarly, a national consultant submitted a report on the program and budgetary development of the proposal.

The above-mentioned deliverables were used by the technical team and authorities from the Vice Ministry for Governance, Security and Support for Justice, led at the time by Yolanda Perez, to officially submit a final document entitled "Proposal for the Creation of an Organizational Structure and Operations for a Ministry of Security and Support for Justice in the Republic of Guatemala." The document was substantiated by a report describing the process applied to achieve the desired result and includes the technical and political criteria that framed the collective development of the proposal.

### **2.2.4 Complementary Legislation to Prevent Crime**

Reforms to the Criminal Procedures Code are currently undergoing a third Reading in Congress. The reforms pertain specifically to victims' access to criminal prosecution, particularly by way of increased responsibilities and a broader role afforded to justices of the peace. At this stage of legislative review through the Legislative Committee for Justice Sector Reforms, the proposal has been modified to include a provision for preliminary evidentiary statements by the victim (per Paragraph 2 under Article 317 of the Code).

## **2.3 INCREASED INTERNAL ACCOUNTABILITY AND OVERSIGHT WITHIN THE JUSTICE SECTOR (SUB- IR 3)**

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

This activity was completed.

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

At the request of the Attorney General, the Project designed the terms of reference for a consultant to review and analyze IT security for SICOMP. The necessary paperwork is being processed to identify candidates and negotiate hiring one or more international experts. The Project was specifically requested to provide foreign consultants because of the sensitive nature of the information. The consultancy is particularly significant in that it will ascertain the quality of firewalling that has been installed and the degree to which it safeguards the information. The objective will be to prevent inappropriate use of the system (something that has happened on previous occasion) and to close any existing security gaps.

### **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**

#### **Annual Performance Evaluation Model for Justices of the Peace and First Instance Judges**

This quarter, the PAVI technical team had several meetings with the Director of the Judicial Career Board in coordination with the consulting team working with the Research Unit at Del Valle University. The purpose of the meetings was to discuss the consultant's progress and provide pertinent recommendations.

The consulting team working with Del Valle University submitted their second and third reports as scheduled and highlighted the following results: based on an existing profile for a Judge for the XXI Century, the team reviewed the evaluation instruments (specifically those pertaining to evaluation factors for oral hearings) and developed an annual performance evaluation model for justices of the peace and first instance judges included under the model for a system for professional development of judges.

In addition, the consultants reported that there are a number of components integral to developing the report that are as yet unavailable; i.e. position descriptions for justices of the peace and first instance judges. In light of this, they proposed second and third phases for the process, as follows:

Phase Two: Develop job descriptions for justices of the peace and first instance judges. Similarly, review the evaluation instruments and factor in a training program for Judicial Career Board personnel to build inter-institutional capacity. This should all be framed within the new Performance Evaluation Model for Judges.

Phase Three: Evaluate the Institutional Development Unit of the Judiciary (Judiciary Studies Institute) to assess the following areas: financial, administrative, academic and institutional impact.

**Implementing Strategic Five-Year Plan**

During an official act on February 2, the Supreme Court of Justice presented the 2011-2015 Strategic Five Year Plan (Plan Estratégico Quinquenal 2011 – 2015 – PEQ) that was approved in October shortly after Magistrate Arturo Archila took office as Chief Justice. The activity officially launched the process to implement the Plan that was developed from the PAVI technical proposal dating back to July 2010.<sup>1</sup>

To encourage smooth and efficient implementation, the Project designed a programmatic strategic management system-structure:<sup>2</sup>



During the same week the PEQ was publically announced, the Project scheduled a meeting with administrative authorities at the Judiciary to discuss the implementation process. The III Magistrate Member of the Supreme Court of Justice was appointed by the Chief Justice to be the General Coordinator for the implementation process.

To strengthen the Secretariat for Strategic Planning and Institutional Development of the Judiciary (Secretaría de Planificación Estratégica y Desarrollo Institucional – SPYDI), the Project established weekly sessions with the ITT working on the process to foster discussion of the criteria, techniques and relevant issues. The process has revealed the need to involve the entire SPYDI staff in order to develop teamwork and comprehensive approaches.<sup>3</sup>

<sup>1</sup> The term implement is used to imply organizational, operational and cultural application of initiatives for change among key units and stakeholders. Implementation requires activities that fundamentally lead to ownership and developing work teams along the lines required to achieve the expected impact. It is also essentially a learning process of human transformation.

<sup>2</sup> The design evolved from the one originally submitted in July within PAVI-assisted Strategic Implementation, but currently reflects the modifications and innovations recently taking place in the Judiciary.

<sup>3</sup> The Project considers that the workload distribution for implementation will have to be phased in gradually based on competency-based management. At this point, the entire staff is involved in every role and responsibility assigned to SPYDI which fall into three main categories: a) developing, monitoring and evaluating the Annual Work Plan, b) providing technical reports in response to institutional re-structuring and development requests (including

To prioritize and roll out new institutional projects (the PEQ includes over 200 institutional- strengthening activities), PAVI provided guidance on applying the following two criteria: a) strategic results, and b) feasibility and potential impact (primarily in political and financial terms). As a result, the office developed a technical-executive description for prioritizing the project agenda (24 activities) based on a cross-cutting programmatic approach. This proposal was presented, reviewed and approved by the III Magistrate and Implementation Process Coordinator, Dr. Gabriel Medrano.

### Priority Project Agenda

| THEME                            | PRIORITY ACTIVITIES  |
|----------------------------------|--|
| <b>Institutionality</b>          | <ol style="list-style-type: none"> <li>1. Comprehensive Security Plan for Judges and Magistrates: safeguarding judiciary independence.</li> <li>2. Court Management System: increasing involvement of auxiliary personnel in all jurisdictions.</li> <li>3. Projects for Jurisdictional Development of Chambers:               <ol style="list-style-type: none"> <li>a. Civil Chamber Administrative re-structuring</li> <li>b. First Instance Model Labor Court</li> <li>c. Oral proceedings in civil court, labor court and universal application in criminal court.</li> <li>d. Implementing Criminal Models: Multi-person, High Risk and 24-hour</li> <li>e. Electronic system for civil notifications and citations</li> <li>f. IT system on jurisprudence for appeal processes</li> <li>g. Strengthening Femicide courts and tribunals</li> <li>h. Justice of the Peace competencies</li> <li>i. Separating combined operations for children and youth</li> </ol> </li> </ol> |
| <b>Service</b>                   | <ol style="list-style-type: none"> <li>1. Performance Evaluation System for Judges and Magistrates</li> <li>2. Develop – Re-structure Institutional Training Unit: Institute for Judiciary Studies</li> <li>3. Program to strengthen and optimize human resource management: duties, relocating and reclassifying judiciary and administrative auxiliary personnel</li> <li>4. Ongoing diagnostic assessment system for training requirements for judges, magistrates and auxiliary personnel (all fields)</li> </ol>  |
| <b>Administrative Efficiency</b> | <ol style="list-style-type: none"> <li>1. De-centralizing Quetzaltenango Regional Headquarters</li> <li>2. Comprehensive Infrastructure and Occupational Requirement Plan: building remodels and hiring based on operational activities.</li> <li>3. Program to strengthen and optimize procurement procedures: efficient administrative support for the jurisdictional operation</li> <li>4. De-centralize CENADOJ.</li> </ol>  |
| <b>Approval and Trust</b>        | <ol style="list-style-type: none"> <li>1. Comprehensive Program to Protect Victims of Violence and Crime</li> <li>2. Re-structure and strengthen the Social Communication Department of the Judiciary</li> <li>3. Strategic Communication- System: approach the general population and media outlets</li> <li>4. Institutional Integrity System: identity, philosophy and service</li> </ol>   |

the creation or re-classification of positions), and c) implementing, promoting and evaluating the Five Year Strategic Plan.

The Project provided assistance to hold an orientation session on basic techniques and criteria for institutional implementation based upon a strategic impact approach, which is required in this case. The session placed particular emphasis on developing skills to: a) define and visualize problems, b) strategically identify areas of impact, c) develop action plans for change – transformation, d) structures based on processes (project profiles), and e), techniques for strategic communication and persuasion when presenting proposals.

Once the impact priorities had been established, the next step is to work on the executive design of the project proposal to be presented to persuade authorities, board members and technical teams based on inductive reasoning, ownership and an assessment of resources and coordination. This leads to a gradual accumulation of willingness, commitment and institutional determination to effect change.

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

The Project supported this objective by setting up an activity for potential institutional mentors. The effort is designed to build skills and leadership abilities that foster a sense of institutional commitment among the staff from the Prosecutor Unit for Crimes Against Life and the MP Analysis Unit. To do so, the Project approved a scholarship program for selected personnel to complete a post-graduate degree program in Criminal Prosecution Law at Rafael Landivar University. The scholarships were awarded to six prosecutors or assistant prosecutors and one analyst from the Analysis Unit.

The Project applied the following selection process:

##### **Phase I. Dissemination**

In coordination with the Secretariat for Criminal Policy, along with authorities from the Analysis Unit and the Prosecutor Unit for Crimes Against Life, the scholarship program was announced to eligible personnel. The Project prepared hard and digital copies of the program description and requirements so that the MP could easily distribute the contents to eligible staff members. Those that met the requirements were asked to submit their request in writing.

The invitation went out to the entire staff that met the basic eligibility requirements (current employment status, college degree, etc.). No additional conditions or limitations were placed on potential applicants.

The invitation and dissemination took place on February 14-16. The deadline to receive application letters was February 16.

## **Phase II. Selection**

PAVI suggested that the MP set up a selection committee comprised of the following: a) one representative from the Public Ministry, b) one representative from the Project, and c) one representative from Rafael Landivar University's post-graduate program in Criminal Prosecution Law. The committee developed the following criteria for the selection process:

- Financial need;
- Ability to schedule time to attend classes and complete assignments for the duration;
- Possess skill sets to become an institutional mentor; i.e. capabilities, integrity, leadership skills and possessing a sense of identification with the organization, and
- Ability to commit to long-term employment and career development within the two targeted MP units –Prosecutor for Crimes Against Life or Analysis.

The applicants were personally interviewed on February 17 at the Public Ministry offices. A total of eight employees applied (two women and six men). Six of the applicants work at the Prosecutor Unit (five prosecutors and one assistant prosecutor) and two work at the Analysis Unit (the Unit chief and one analyst).

Based on the criteria described above, the Selection Committee decided to award the scholarships to five candidates from the Crimes Against Life Unit (four prosecutors and one assistant prosecutor) and to one candidate from the Analysis Unit.<sup>4</sup>

## **Phase III. Registration and Orientation**

From February 21 through March 4, the scholarship recipients proceeded with registration and orientation. All of the recipients are now enrolled and actively participating in the program.

The Project signed a memorandum of understanding with the Public Ministry and Rafael Landivar University describing the scholarship program and detailing the conditions for its successful completion.

### **Post-graduate Program in Criminal Prosecution – Description of the Candidate upon Completion of the Program**

- **Occupational profile**  
The graduate will be qualified to apply the knowledge acquired throughout the program in his or her professional capacity as a judge, advisor, prosecutor or litigating attorney, or public defender.

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<sup>4</sup> The selection process originally concluded by offering the scholarships to four employees from the Prosecutor Unit and two from the Analysis Unit. The day after the selection was announced, however, one of the candidates from the Analysis Unit informed the committee that personal commitments prevented him from accepting the scholarship. The Committee proceeded to select a replacement beneficiary.

In addition, the graduate will be qualified as a consultant and/or capable of participating in research or teaching projects.

- Professional development

The program is intended to provide all graduates from the post-graduate program in Criminal Prosecution Law with the skills and knowledge to enable him or her to understand and apply:

- Guatemalan criminal law and the penal system;
- criminal theory and the sentencing structure applied in the Guatemalan legal system;
- strategies and techniques for criminal investigation;
- litigation strategies;
- international criminal regulations, both nominally and descriptively;
- theory and concepts of criminology, including the study, methodology and relevance with other criminal sciences;
- oral proceeding during forensic practices;
- conduct research in the field of criminal law;
- counsel government and non-government organizations;
- the Guatemalan criminal prosecution process;
- oral proceedings as a tool to successfully prosecute criminal cases;
- exercise the legal profession in an ethical manner.

## 2.4 SPECIAL ACTIVITY 1: SUPPORT HIGH IMPACT COURTS

### Remodeling the Fifteenth Floor of the Guatemala City Court Building (Torre de Tribunales) Installing a multi-person criminal justice high-risk court facility

The Chief Justice of the Supreme Court approved the Criminal Chamber’s decision to remodel the fourteenth floor of the Guatemala City Court Building. The decision was officially conveyed to PAVI and includes IT requirements along with plans to modify infrastructure to establish a multi-person criminal justice high-risk court facility on the fourteenth floor that, in combination with the facilities currently operating on the fifteenth floor, will comprise an entire high-risk judiciary center.

The Project returned to the technical working group that includes the donor community, along with Judiciary and Public Ministry authorities, to prepare a proposal for submission to the Criminal Chamber, as follows:

#### a) conceptual basis:

- analyze current legislation and regulations applicable to implementing a high-risk multiperson criminal justice center;

#### b) architectural solutions:

- design the remodel for the 14th Floor to include: four hearing courtrooms, four waiting areas for witnesses --differentiation between protected and non-protected witnesses-- four areas for victims awaiting appearances before the court (could also be used for video or remote testimony for vulnerable or intimidated witnesses); an area for prosecutors, attorneys and public defenders when court is in recess; a booth for press and media and adequate space for the general public in each courtroom ;

#### c) operational solutions:

- the proposal includes recommendations to relocate or transfer the jurisdictional authorities currently occupying the 14th Floor in order to minimize the impact on day-to-day operations as much as possible.

The technical working group submitted the proposal to the full assembly of the Criminal Chamber which approved it in its entirety. PAVI received written Notification No. 207-2011 signed by the Chief Justice of the Criminal Chamber and then proceeded to submit a draft proposal to the full assembly of the Supreme Court of Justice to modify the original expansion agreement No. 30-2009 that established the high-risk jurisdiction.



*Magistrates from the Criminal Chamber with the technical working group*



*Architect presents proposed remodel on the 14th Floor*

### *Concept*

High-risk multi-person criminal justice center

**Juzgado de Primera Instancia Penal de Mayor Riesgo**

**Tribunal de Sentencia de Mayor Riesgo**

Two First Instance Judges and Six Sentencing Judges

### *Units of Common Administrative Services*

- Unit for Services to the Public
- Communication and Notification Unit
- Hearings Unit

### *Architectural solutions*

Blueprints for 14th Floor remodel include a design proposal for space distribution as presented on the following page.



**APRECIACIÓN GRÁFICA DE LA MOVILIZACIÓN**



During the next quarter, PAVI will focus efforts on hiring and contracting procedures to begin remodeling the 14th Floor. The Project will also work simultaneously with the technical working group that includes the donor community and the Public Ministry and Judiciary authorities to address the issues underlying approval for the Inter-Institutional Agreement on Admissibility Requirements for Requests to Extend High-Risk Jurisdiction and Competency. In addition, the group will work on reviewing and updating the Protocol for Minimum Security Standards applicable in High-Risk Jurisdictions.

**2.5 SPECIAL ACTIVITY 2: STRENGTHEN JUSTICE CAPACITY TO COMBAT ILLEGAL ACTIVITIES IN PETEN**

**Group Discussion on the Law on Asset Seizure and Forfeiture (Ley de Extinción de Dominio- LED)**

In a joint effort with the Petén Environmental Justice Forum, a total of 19 prosecutors and assistant prosecutors were invited to a session on February 22 to discuss the contents of the Law on Asset Seizure and Forfeiture (LED in Spanish). The three-hour meeting provided an opportunity for participants to comprehend the special nature of the legislation to seize assets and its value related to criminal prosecution. They also discussed its fundamental importance as an instrument to be used to attack the financial structures behind organized crime groups active in Petén. In preparation for a future follow-up practical exercise, the participants were asked to identify specific cases in which they could consider applying the legislation.



*Prosecutors and Assistant Prosecutors meet in Petén to discuss the Law on Asset Seizure and Forfeiture*

### **Study Tour to the El Mirador archaeological site in the Maya Biosphere Reserve**

The Environmental Justice Forum in Petén worked with the Project to request that the Supreme Court Criminal Chamber authorize all of the criminal judges in Petén to participate in an activity to raise awareness regarding the Rio Azul-Mirador archaeological sites in the Maya Biosphere Reserve. Arrangements were made through the Guatemala Air Force for a helicopter to transport the group. The group, included Sentencing Court Judges, two First Instance and One Criminal Justice, travelled on March 11. They were hosted by Dr. Richard Hansen who leads the archaeological team and addressed the group's concerns. The judiciary personnel were very interested to learn about the scope and breadth of the issues in light of the archaeological findings to date at El Mirador and acknowledged the need to protect the Maya legacy. In addition, they were afforded an opportunity to tour the site with the park wardens.



*Translation of caption, in clock-wise order: Walking down the Paths in the El Mirador Archaeological Site - Climbing the pyramids - Pausing to Catch a Breath - Mission Accomplished*

Following several months of discussions and requests to the Attorney General, the Prosecutor Unit for Crimes Against Cultural Heritage which was erroneously assigned to Poptun was correctly relocated to San Benito. This location is better suited to optimal coordination among the prosecutor units for environment, cultural heritage, drug trafficking and crimes against life. It also ensures that this prosecutor unit can fully participate in the Environmental Justice Forum.

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

The Project received official notification from the Contracting Officer on February 3, 2011 that USAID/Guatemala had opted to cancel Special Activity 3 for the current Task Order. The funds and relevant activities were re-assigned.

# III. SUB-GRANT PROGRAM

The Project opted to provide some organizations with a second opportunity to provide additional documentation or modify their grant proposal submissions, as follows:

- Friends and Family against Crime and Kidnapping (Familiares y Amigos contra la Delincuencia y el Secuestro -FADS) had submitted a proposal for a project entitled “Strengthening the Central Tribunal of the Guatemala National Civilian Police: Diagnostic Assessment and Regulations”;
- The Social Pastoral (the Apostolic Vicar for Petén) re-worked a grant proposal to implement a project entitled “Operations for a Comprehensive Justice and Security Strategy in Petén”;
- The Ernest Schneider Troller Association re-submitted a proposal for a project entitled “If you exist, then your children also exist and Guatemala exists with you as well”;
- The Center for Research, Training and Support for Women (Centro de Investigación, Capacitación y Apoyo a la Mujer –CICAM) submitted a proposal entitled “Strengthening Victim Services at the National Civilian Police”;
- The Executive Committee for Justice in Alta Verapaz (Comité Ejecutivo de Justicia de Alta Verapaz) submitted a request to implement a project entitled “Critical Path for Inter-Institutional Coordination on behalf of Female Victims of Violence in Alta Verapaz.”

The grant proposals are currently in various stages of review or approval.

In particular, the expanded and improved proposal submitted by the Social Pastoral in Petén for “Operations for a Comprehensive Justice and Security Strategy in Petén” was submitted to the PAVI Review and Evaluation Committee and approved by the USAID COTR. The grant proposal encompasses programs and victim services, as well as violence prevention which fall under areas one and two of the Project Small Grants Management Plan. It has three fundamental objectives: a) support the development of municipal policies to prevent violence and crime in three Petén municipalities; b) foster citizen participation in developing social auditing of the justice and security agencies in Petén, and c) implement victim assistance services to provide psychological and legal counseling through coordination and support to the Public Ministry’s Victim Referral Service.

## **Progress in implementing grants from previous reporting period:**

The activities described in the Balam Association grant project work plan are underway to strengthen the Justice Forum to improve compliance with laws governing the Maya Biosphere Reserve. A strategy exists to implement the “zero tolerance” plan regarding cattle in protected areas. The plan has been reviewed and approved by the National Commission for Protected Areas (Comisión Nacional de Areas Protegidas –CONAP).

During the next quarter, Balam Association plans to distribute a handbook on Criminal Prosecution of Environmental and Cultural Heritage Crimes that has been reviewed by local stakeholders to set precedent by prosecuting groundbreaking cases in the Maya Biosphere Reserve. In addition, the Communication Strategy design will be completed for distribution to local inhabitants, justice operators and decision-makers supporting efforts to prevent environmental and cultural heritage crimes.



*Environmental Justice Forum in Petén works on preparing documents for submission to PAVI*

In addition, the activities described in the Mutual Support Group (GAM in Spanish) grant proposal to disseminate and raise awareness of human rights violations in Petén and Chiquimula led to the production of a Handbook on Filing Reports of Human Rights Violations. The Handbook was drafted and reviewed with Project technical assistance with additional support for a training methodology on its use. During the next quarter, GAM will provide training for community leaders in Chiquimula and Petén to use and apply the Handbook, and will promote the prosecution of severe human rights violations and obtain statistics related to such crimes.

## IV. GENDER SECTION

### **Consultancy on Improvements to Criminal Prosecution of Sexual Crimes**

The Public Ministry's efforts to date to prosecute sexual crimes are weak and face several obstacles. The Public Ministry must build consensus around a common interpretation of sexual crimes and timely prosecution. This will enable the organization to clearly articulate its position and instruct prosecutors on how to criminally prosecute the acts in such a way as to comply with Guatemalan legislation and international agreements related to protecting the human rights of women and children.

In particular, prosecuting authorities must more fully comply with important international agreements such as the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW), the Inter-American Convention on the Prevention, Punishment and Eradication of all forms of Violence Against Women (a.k.a. Belem do Para Convention), the Convention on the Rights of the Child, the Protocol of the Convention on the Rights of the Child pertaining to trafficking in children, child prostitution and child pornography, the United Nations Convention Against Transnational Organized Crime and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children. All legal reforms must comply with these key human rights instruments.

The Project provided assistance for a short-term consultant who worked in March to review and modify general instructions for the Public Ministry to define crimes of sexual violence, exploitation and trafficking.

The General Instructions will: a) improve criminal prosecution and political strategies to enable MP personnel to effectively prosecute crimes of sexual violence, exploitation and trafficking in persons, and b) establish procedures to reduce or eliminate re-victimization by providing comprehensive and coordinated assistance while respecting victims' rights and dignity during criminal prosecution.

The General Instructions have been drafted and will be reviewed by the District Prosecutor in Petén for modifications prior to approval in April. Once it has also been approved by the Secretariat for Criminal Policy, the Instructions will initially be applied in Petén, followed by Alta Verapaz and then replicated in the rest of the country.

### **Methodology: "Take a walk in someone else's shoes..."**

The PAVI team participated in a workshop on March 4 organized by the Guatemala Women's Group (GGM in Spanish) on applying the methodology to "Take a walk in someone else's shoes..." The workshop provided an opportunity to learn how to apply the technique to raise awareness among judges and prosecutors. Following the

workshop, PAVI requested GGM collaboration to organize similar workshops in Petén and Guatemala City for personnel from the Permanent Office for Victim Assistance and the Prosecutor Unit for Crimes Against Life.

## **V. SUPPORT TO THE NATIONAL CIVILIAN POLICE (PNC)**

To be considered for participation in PAVI-sponsored activities, such as joining the ITTs or benefitting from grant programs with CSOs working to strengthen victim services or the disciplinary tribunals at the PNC, 139 members of the force submitted to a vetting process this quarter.

A grant to the Center for Research, Training and Support for Women (Centro de Investigación, Capacitación y Apoyo a la Mujer –CICAM) will increase the skills and knowledge base among police personnel regarding victims' rights, proper and dignified treatment and assessing threat levels or providing alternatives to ensure personal security. In addition, the grant program will disseminate information to prevent victimization due to other crimes arising from the original or re-victimization from the same incident.

Similarly, a grant to Friends and Family against Crime and Kidnapping (Familiares y Amigos contra la Delincuencia y el Secuestro -FADS) focuses on assessing the current state of the PNC Disciplinary Tribunal to monitor ongoing disciplinary proceedings and detect potential voids. Following this work, the organization will develop regulations conducive to unifying criteria for actions that will strengthen the institutional controls and accountability within the PNC as part of the overall Police Reform process.

## VI. INDICATORS

Lelia Mooney from the Partners for Democratic Change evaluation team was in country from January 20-26. The purpose of her visit was to develop the Project's Fourth M&E Report for the October to December 2010 quarter. The report is developed based on the performance and impact indicators for the Project. PAVI counterpart organizations provided input data to develop the report.

Lelia Mooney also scheduled a number of visits and interviews with various counterpart organizations, including meetings with: Carlos Alberto Quintana, SICOM Director, Public Ministry, Claudia Quijivix, Prosecutor from Division 16 and Dinora Moreno, Prosecutor from Division 17, both within the Prosecutor Unit for Crimes Against Life. She also met with Ana Maria Rodriguez, President of the Sentencing Court for Crimes of Femicide and Miriam Elizabeth Mendez de Blanco, First Instance Judge against Femicide.

The data gathered to generate the quarterly M&E report is now systematically classified and available using the formats that were established to meet USAID requirements. Similarly, the data is updated in both the digital and paper filing systems that the Project generates for monitoring purposes.

Lastly, the Project has scheduled a PDC evaluation team to be in country on April 25-29 to develop the Project's Fifth M&E Report for the January to March 2011 quarter.

## **VII. ADMINISTRATIVE AND PERSONAL MATTERS**

Robert Page from Tetra Tech DPK was in country from February 21-26 for a series of working meetings to develop smart replication of the 24-hour court model for the Judiciary Compound in Cobán, Alta Verapaz. During his visit, he had several opportunities to discuss the project with Supreme Court Magistrates, USAID officials and local experts.

Enrique Roig, from the Central American Regional Security Initiative (CARSI) visited the Project on March 31 to learn about PAVI's ongoing work in the justice and security sector in Guatemala and be apprised of upcoming activities.

# VIII. FINANCIAL QUARTERLY REPORT

USAID/Guatemala Project Against Violence and Impunity

Task Order #DFD-I-08-04-00173-00

| PROJECT LINE ITEM - BASE PERIOD PLUS OPTION | (1) APPROVED BUDGET TO DATE | (2) TOTAL CLAIMED THROUGH LAST REQUEST | (3) EXPENSES CLAIMED THIS PERIOD | (4) * SUSPENDED EXPENSES | (5) TOTAL EXPENSES TO DATE | (6) BALANCE AVAILABLE REMAINING |
|---|-----------------------------|--|----------------------------------|--------------------------|----------------------------|---------------------------------|
| WORKDAYS ORDERED                            | \$3,741,918                 | \$1,448,697                            | \$99,365                         | \$0                      | \$1,548,061                | \$2,193,857                     |
| OTHER DIRECT COSTS                          | \$2,782,417                 | \$599,845                              | \$51,299                         | \$0                      | \$651,144                  | \$2,131,273                     |
| INDIRECT COSTS                              | \$259,191                   | \$80,174                               | \$8,543                          | \$0                      | \$88,717                   | \$170,474                       |
| GRANTS FUND                                 | \$350,000                   | \$10,076                               | \$0                              | \$0                      | \$10,076                   | \$339,924                       |
| <b>TOTAL COSTS</b>                          | <b>\$7,133,526</b>          | <b>\$2,138,791</b>                     | <b>\$159,207</b>                 | <b>\$0</b>               | <b>\$2,297,998</b>         | <b>\$4,835,528</b>              |

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