

UNCLASSIFIED

UNITED STATES INTERNATIONAL DEVELOPMENT COOPERATION AGENCY  
AGENCY FOR INTERNATIONAL DEVELOPMENT  
Washington, D. C. 20523

EL SALVADOR

PROJECT PAPER

JUDICIAL REFORM

AID/LAC/P-175

Project Number: 519-0296

UNCLASSIFIED

FDAA0066

<b>AGENCY FOR INTERNATIONAL DEVELOPMENT</b> <b>PROJECT DATA SHEET</b>	<b>1. TRANSACTION CODE</b> <input type="checkbox"/> A = Add <input type="checkbox"/> C = Change <input type="checkbox"/> D = Delete <input checked="" type="checkbox"/> A	<b>Amendment Number</b> 1	<b>DOCUMENT CODE</b> 3
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<b>2. COUNTRY/ENTITY</b> EL SALVADOR	<b>3. PROJECT NUMBER</b> <input type="checkbox"/> 519-0296
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<b>4. BUREAU/OFFICE</b> LAC	<input type="checkbox"/> 05	<b>5. PROJECT TITLE (maximum 40 characters)</b> <input type="checkbox"/> JUDICIAL REFORM
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<b>6. PROJECT ASSISTANCE COMPLETION DATE (PACD)</b> MM DD YY 09 30 87	<b>7. ESTIMATED DATE OF OBLIGATION</b> (Under 'B.' below, enter 1, 2, 3, or 4) A. Initial FY <input type="checkbox"/> 84    B. Quarter <input checked="" type="checkbox"/> 4    C. Final FY <input type="checkbox"/> 85
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8. COSTS (\$000 OR EQUIVALENT \$1 = )						
A. FUNDING SOURCE	FIRST FY 84			LIFE OF PROJECT		
	B. FX	C. L/C	D. Total	E. FX	F. L/C	G. Total
AID Appropriated Total						
(Grant)	( 350 )	( )	( 350 )	( 5,493 )	( 3,507 )	( 9,000 )
(Loan)	( )	( )	( )	( )	( )	( )
Other U.S.						
1.						
2.						
Host Country					5,141	5,141
Other Donor(s)						
<b>TOTALS</b>	350		350		8,648	14,141

9. SCHEDULE OF AID FUNDING (\$000)									
A. APPROPRIATION	B. PRIMARY PURPOSE CODE	C. PRIMARY TECH CODE		D. OBLIGATIONS TO DATE		E. AMOUNT APPROVED THIS ACTION		F. LIFE OF PROJECT	
		1. Grant	2. Loan	1. Grant	2. Loan	1. Grant	2. Loan	1. Grant	2. Loan
(1) ESF				765		2,469		9,000	
(2)									
(3)									
(4)									
<b>TOTALS</b>				765		2,469		9,000	

<b>10. SECONDARY TECHNICAL CODES (maximum 6 codes of 3 positions each)</b>	<b>11. SECONDARY PURPOSE CODE</b>
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<b>12. SPECIAL CONCERNS CODES (maximum 7 codes of 4 positions each)</b> A. Code B. Amount	
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**13. PROJECT PURPOSE (maximum 480 characters)**

To improve the administrative, technical, and legal performance of El Salvador's criminal and civil justice system.

OFFICIAL FILES

<b>14. SCHEDULED EVALUATIONS</b> Interim MM YY MM YY Final MM YY 01 86                      07 87	<b>15. SOURCE/ORIGIN OF GOODS AND SERVICES</b> (waiver requested for procurement of motorbikes) <input checked="" type="checkbox"/> 000 <input type="checkbox"/> 941 <input checked="" type="checkbox"/> Local <input checked="" type="checkbox"/> Other (Specify) CACM
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**16. AMENDMENTS/NATURE OF CHANGE PROPOSED (This is page 1 of a \_\_\_\_\_ page PP Amendment.)**

To extend the Project Assistance Completion Date from April 27, 1987 to September 30, 1987 and to increase the Life of Project funding from \$765,000 to \$9,000,000 in order to continue assistance to the GOES' Revisory Commission for Legislation and the Judicial Protection Unit, and to provide assistance to new project components.

<b>17. APPROVED BY</b>	Signature: <i>Bastiaan B. Schouten</i> Title: Bastiaan B. Schouten Deputy Mission Director	<b>18. DATE DOCUMENT RECEIVED IN AID/W, OR FOR AID/W DOCUMENTS, DATE OF DISTRIBUTION</b> Date Signed MM DD YY 09 03 84
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UNITED STATES INTERNATIONAL DEVELOPMENT COOPERATION AGENCY  
AGENCY FOR INTERNATIONAL DEVELOPMENT  
WASHINGTON D C 20523

PROJECT AUTHORIZATION  
(Amendment No. 1)

Name of Country: El Salvador  
Name of Project: Judicial Reform  
Number of Project: 519-0296

The authorization for this Project dated April 27, 1984 is hereby revised to read as follows:

1. Pursuant to Section 531 of the Foreign Assistance Act of 1961, as amended, I hereby authorize the Judicial Reform Project for El Salvador involving planned obligation of not to exceed Nine Million United States Dollars (\$9,000,000) in grant funds ("Grant") over a period to expire no later than September 30, 1987, subject to the availability of funds in accordance with the A.I.D. OYB/allotment process, to help in financing foreign exchange and local currency costs for the project.

2. The project ("Project") consists of financing training, equipment, technical advice and other support costs needed to help the judicial system in El Salvador improve its capability to administer justice in a fair and efficient manner.

3. The Project Agreement may be negotiated and executed by the officer to whom such authority is delegated in accordance with A.I.D. regulations and Delegations of Authority.

4. Source of Origin of Goods and Services

Goods and services, except for ocean shipping and motorbikes financed by A.I.D., shall have their source and origin in the United States or in countries included in the Central American Common Market, except as A.I.D. may otherwise agree in writing. Motorbikes financed by A.I.D. under the project shall have their source and origin in the Central American Common Market or in countries included in A.I.D. geographic Code 935, except as A.I.D. may otherwise agree in writing.

5. Special Investigation Unit

Upon compliance with the relevant Conditions Precedent to Disbursement by the Cooperating Country, A.I.D. may disburse Grant funds as reimbursement for costs incurred in support of the Special Investigation Unit, provided that evidence is furnished to A.I.D. in form and substance satisfactory to A.I.D., that such costs were incurred on or after September 21, 1984.

  
\_\_\_\_\_  
Victor M. Rivera  
Assistant Administrator  
Bureau for Latin America and  
the Caribbean

\_\_\_\_\_  
9/25/84  
Date

Clearances:  
GC/LAC:JSilverstone JS date 9/24  
LAC/DR:ILevy IL date \_\_\_\_\_  
LAC/DR:DJohnson DJ date \_\_\_\_\_  
LAC/CEN:Wilkinson GS Phone date 9/24/84

GC/LAC:JSilverstone/gw 0295/9/20/84

PROJECT AUTHORIZATION

Name of Country : El Salvador  
Name of Project : Judicial Reform  
Number of Project : 519-0296

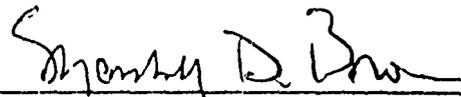
1. Pursuant to Section 531 of the Foreign Assistance Act of 1961, as amended, I hereby authorize the Judicial Reform Project for El Salvador of not to exceed Seven Hundred Sixty Five Thousand United States Dollars (\$765,000) in grant funds ("Grant") over a three (3) year period from date of authorization, subject to the availability of funds in accordance with the A.I.D. OYB allotment process, to help in financing foreign exchange and local currency costs for the project.

2. The project ("Project") consists of financing training, equipment, technical advice and other support costs needed to help the judicial system in El Salvador improve its capability to administer justice in a fair and efficient manner.

3. The Project Agreement may be negotiated and executed by the officer to whom such authority is delegated in accordance with A.I.D. regulations and Delegations of Authority.

4. Source and Origin of Goods and Services

Goods and services, except for ocean shipping, financed by A.I.D. under the Loan shall have their source and origin in the United States or in countries included in The Central American Common Market.



\_\_\_\_\_  
Marshall D. Brown  
Acting Assistant Administrator  
Bureau for Latin America  
and the Caribbean

  
\_\_\_\_\_  
Date

JUDICIAL REFORM PROJECT PAPER  
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## I. PROJECT SUMMARY AND RECOMMENDATIONS

### A. Recommendations

USAID El Salvador recommends the authorization of a \$9.0 million Economic Support Fund (ESF) grant to support the efforts of the Government and people of the Republic of El Salvador to reform and modernize their criminal and civil justice system. Since this level of funding for the Judicial Reform Project would assume continued exemption from the terms and conditions of Section 660 of the Foreign Assistance Act of 1961, as amended, USAID El Salvador also recommends efforts to urge Congress of the necessity and advisability of such exemption. Should such an exemption not be forthcoming, the USAID proposes an alternate project strategy which is contained in Annex 13.

### B. Summary

The breakdown of the system has become painfully apparent under the strain of the current civil conflict. Manifestations of this include the low rate of convictions for criminal offenses-- less than 20% of all cases brought to trial-- the corresponding increase in personal violence to settle matters that belong in the courts, and the failure to successfully investigate and bring to trial highly publicized murder and kidnapping cases, many of which are political in nature.

The Government of El Salvador (GOES), in addition to taking several important steps on its own initiative to remedy these problems, has asked the U.S. Government (USG) for help in assessing the problems of its criminal justice system, in devising programs to correct weaknesses, and in supporting GOES institutions involved in the administration of justice.

In response, the USG has sent several teams of experts to El Salvador, including a joint State-A.I.D. Judicial Assessment Team and an FBI Needs Assessment Team, which have issued reports pointing to the need for reform in all areas of the criminal justice system of El Salvador. These include the need for a better trained and better paid judiciary; reform of Salvadoran criminal and procedural codes; the need to develop modern investigative and forensic capabilities; the necessity of a protection force for key participants in sensitive trials; and basic logistical support for the entire court system.

One of the problems that would usually arise in designing a judicial reform project in keeping with these recommendations is that it entails the support of institutions and personnel which generally cannot be funded through the Foreign Assistance Act. Section 660 of this Act prohibits the use of A.I.D. funds to provide training, advice, or financial support for police, prisons or other law enforcement forces of any foreign government. The Specter Amendment to the Continuing Resolution for FY 1984, however, exempts from Section 660 efforts to improve the criminal justice system in El Salvador. That exemption provides the legislative framework for the activities described in this project paper. In addition, the Moynihan

Amendment to the Supplemental Appropriation for FY 1984 made available \$500,000 to El Salvador to be used specifically for the protection of jurors and other key participants in the criminal proceedings against those charged with the murders of four American churchwomen during and subsequent to such proceedings.

The goal of the project is to build and sustain confidence in the Salvadoran justice system. This project will contribute to the achievement of the goal by enhancing the ability of the system to ensure speedy and competent investigation of crime, arrest and trial of suspects, protection of innocents from persecution and other punitive action, while maintaining guarantees of equal protection under the law. The purpose of the project is to improve the administrative, technical, and legal performance of El Salvador's criminal and civil justice system.

The project has four components which will either represent starting points for achievement of these objectives or provide immediate remedies for certain crucial problems which impede pursuit of the objectives. The components are:

1. Revisory Commission for Legislation and for Coordination of the Judicial Reform Effort

Under this component, the project will provide financial and technical assistance to this commission, which was originally created by President Magana in 1983 and has been redesignated by President Duarte to undertake a broader scope of judicial reform activities than those mandated to the original commission. With project assistance, the Revisory Commission will carry out activities to: (a) review the laws and regulations governing El Salvador's criminal justice system and recommend proposals for reforming, eliminating, or creating new laws and regulations to improve the system; (b) review the organizational structure and administrative capabilities of the criminal justice system and recommend proposals for its improvement; and (c) give direction to and provide overall coordination of the project's reform activities. A special fund for diagnostic studies will be funded by the project to enable the Revisory Commission to develop, refine or recommend appropriate actions of the overall reform.

2. Judicial Protection Unit

This body of some 60 semi-trained prison guards will be upgraded to become a fully qualified corps of "court marshals" to provide security for the courts, juries, witnesses, and other participants in sensitive cases. The project will finance technical assistance, equipment, and training for this unit, the members of which are employed by the Ministry of Justice.

### 3. Institute for Criminal Investigation and Forensic Sciences

Technical assistance, equipment, and training will be provided under the project for the establishment and operation of this autonomous institute which will answer to a governing council made up of four members appointed by the President. The institute will house a Special Investigative Unit (SIU) and a Forensic Laboratory. Through the development of these two specialized investigative capabilities, the institute will be able to provide the courts with better and more impartial evidentiary resources with which the judiciary can apply the laws and impart justice more effectively. The SIU is designed to carry out more professional, scientifically conducted investigations of difficult and important cases under the management of an Executive Secretary appointed by the President.

### 4. Judicial Administration and Training

Under this component, a management study and inventory of the human and physical resources of the court system will be carried out. Based on the findings of the study, the project grant funds will finance training of judges, physical improvements to the buildings now housing courts, essential equipment and supplies, and vehicles. The GOES' contribution will finance higher salaries for judges. This component is designed to address the lack of a strong tradition in support of the nation's judiciary through the provision of sufficient logistical resources, training and pay incentives to attract competent legal talent and to motivate judicial personnel in discharging their critical responsibilities.

On July 13, 1984, A.I.D. and the GOES signed a Project Grant Agreement which provided the first tranche of A.I.D. funds in the amount of \$765,000 for the Judicial Reform Project. The agreement was ratified by the Legislative Assembly on August 16, 1984. The funds made available under the agreement were allocated to support the Revisory Commission and the Judicial Protection Unit. This project paper proposes to amend the original agreement for the purpose of increasing levels of funding and incorporating new project elements, as well as for extending the Project Assistance Completion Date (PACD) by five months, from April 27, 1987 to September 30, 1987.

Under the amendment to the Grant Agreement, the Revisory Commission will have primary responsibility for its own activities, as well as responsibility for overall project coordination. Project implementation responsibilities will reside in each of the GOES agencies having jurisdiction over the project components. The Ministry of Justice may have primary responsibility for implementing the Judicial Protection Unit. The Institute for Criminal Investigation and Forensic Sciences will implement the Special Investigative Unit and the Forensic Laboratory; and the Supreme Court will have primary responsibility for implementing the Judicial Administration and Training Component.

The total cost of the project is \$14.1 million, of which A.I.D. will provide \$9.0 million in ESF project grant funds. An additional \$5.4 million in local currency from the USAID's ESF balance of payments program will be made available as counterpart to the project. The GOES will also provide an unquantified amount of in-kind contributions. The Project Assistance Completion Date is September 30, 1987.

The conditions and covenants for this project are presented in Section VIII of this paper. That section also includes a request for authority to waive AID Geographic Code 000 eligibility for the procurement of approximately twenty motorbikes at an estimated cost of \$42,000.

## II. BACKGROUND AND RATIONALE

### A. Background

#### 1. General Background

El Salvador is a civil code system country that has a Constitution. The principles outlined in the Constitution, which was adopted in 1962 and revised in December of 1983, reflect the United Nation's Declaration of Human Rights. Fundamental rights guaranteed include equality under the law, due process, right to a fair trial, freedom of movement, expression and thought, as well as freedom of religion and assembly.

The criminal codes of El Salvador were revised in 1972-1974 to afford greater legal protection and rights to those accused of committing crimes. Under those codes, no one may be prosecuted except in accordance with the law of the land, by a duly appointed judge, and with full observance of appropriate formalities. In addition, no one may be penalized without a hearing, deprived of the right to a defense, or tried twice by the same judge for the same offense.

Despite these fundamental guarantees, there is a growing perception that the criminal justice system in El Salvador has broken down. The breakdown of the system has become painfully apparent under the strain of the current civil conflict. Particularly noticeable is the fact that fewer than 20% of all cases brought before a jury result in convictions. Moreover, investigations in criminal cases often drag on long past legally established time limits, and an accused person may spend years in prison awaiting trial. In recent years, the dysfunction of the judicial system to effectively adjudicate cases has led to a greater resort to personal violence to settle disputes, exact vengeance or otherwise redress grievances outside of the courts. In particular, the failure to bring to trial criminal cases involving murder and kidnapping -- particularly those of a political nature -- and obtain convictions has caused Salvadorans to lose faith in their judicial system. The result has been a decline in the number of persons bringing complaints of a serious nature before the nation's judges, even as reports of violence against individuals were rising. Nevertheless, many Salvadoran courts have large backlogs of cases awaiting judicial attention.

While some of the substantive and procedural law in El Salvador may need study and revision, the law, as such, is not considered to be the root cause of judicial failure. The Napoleonic Code tradition has been adopted and has proved functional in many western, democratic nations. The intent of this project is not to supplant a Napoleonic with a Common Law System.

More problematic in recent years was Decree 507, a 1980 revision of the law, which limited certain constitutionally guaranteed rights during a national emergency. Enacted by the National Assembly, this decree placed crimes of treason, espionage, rebellion, sedition, and other related offenses under the jurisdiction of military tribunals, regardless of whether the defendants were civilian or military, and suspended certain rights of due process. This decree was superseded in 1984, when the National Assembly enacted Decree 50. Decree 50 is more protective of the procedural rights of defendants and therefore is an improvement over Decree 507. It is the general opinion of legal experts, both Salvadoran and others, that the passage of Decree 50 shows a willingness on the part of the Salvadoran government to make the necessary reforms and revisions of the law in order to ensure a fair and workable criminal justice system.

In addition to legislative revisions, the inability of the system to administer and implement the laws must be addressed. The lack of evidence gathering resources and poorly trained personnel often results in reliance upon a confession coerced from the accused as the principal evidence -- which many jurors automatically distrust. In addition, neglect of the judiciary as an institution has resulted, over the years, in poor pay for judges, inviting bribery and corruption, and little attention to qualifications in their selection. Inadequate support for court operations hamper the preparation, recording and maintenance of court documents, as well as the development and safekeeping of evidentiary materials. It is not surprising, then, that the courts are frequently unable to bring about convictions in serious cases because of insufficient or inadequate evidence or, because of physical threats and intimidation against judges, witnesses, jurors, and investigators.

While the unwillingness of any society to correct the defects in its social institutions cannot be compensated for, the inability to correct problems due to lack of resources and training can be dealt with. This project proposes to assist El Salvador to strengthen its judiciary and related institutions through the provision of necessary resources -- financial and technical assistance, equipment, and training -- so that it can make its system of criminal justice work for the general welfare and security of its citizens.

This project will constitute follow-on assistance to a \$765,000 grant made available by A.I.D. to the GOES on July 13, 1984 for administration of justice. The grant agreement made funds available for two components described in this project paper -- the Revisory Commission on Penal Legislation and the Judicial Protection Unit.

This project proposes to support some institutions and personnel which generally cannot be funded under the Foreign Assistance Act. Section 660 of the Act prohibits the use of A.I.D. funds to provide training, advice, or financial support for police, prison, or other law enforcement agencies of any foreign government. The Specter Amendment to the Continuing Resolution for FY 1984, however, exempted from Section 660 efforts to improve the criminal justice system in El Salvador. The amendment provides the legal authority for this project. (See the Legal Analysis in Section VII.)

## 2. Structure and Weaknesses of the Salvadoran Criminal Justice System

### a. Structure of the Judicial System

El Salvador's court system has four levels for administering justice: (1) Juez de Paz (Justice of the Peace); (2) Juzgado de Primera (Court of First Instance -- trial court); (3) Camara de Segunda Instancia (Court of Second Instance -- appeals court); and (4) Corte Suprema (the Supreme Court).

The "Juez de Paz" is usually the court in which most Salvadorans enter the legal system. Judges at this level tend to be unspecialized and take first notice of disputes or crimes. They have authority to punish misdemeanors, hear minor civil cases, and settle disputes by mediation. They make the first inquiries into common crimes.

Courts of the First Instance may be specialized (civil, penal, labor, agrarian, etc.) or general. About one-third of them have jurisdiction over both civil and criminal cases. In criminal cases, they take over from the "Juez de Paz" and pursue the case further, although they may also take original jurisdiction. The First Instance judge tries a case if he is reasonably certain that a crime has been committed and the accused is possibly guilty.

The Courts of Second Instance hear appeals from the trial courts. The Supreme Court hears appeals from the appellate courts and also decides writs of habeas corpus, constitutional questions, and settles disputes between the legislative and executive branches of government.

There are 293 Justices of the Peace; 85 Justices of the First Instance; 28 Justices of the Second Instance; and 14 Justices of the Supreme Court, a number which is provided for in the Constitution.

As regards qualifications, all judges above the level of "Juez de Paz" must be lawyers. A Justice of the Peace need only be a Salvadoran of at least twenty-one years of age and of good character.

b. Weaknesses in the Human, Physical, and Administrative Conditions of the Judiciary

Even though the idea of a judicial career is mentioned in the Constitution and in the Organic Law of the Judiciary, there is no strong tradition supporting the judiciary in El Salvador. Lack of operating and logistical resources make a judge's work difficult, if not virtually impossible, and provide little or no incentives to pursue a judicial career. Essential basic supplies, such as paper, are often lacking. Court rooms are old, sparsely furnished, and unmaintained. Record keeping equipment is inadequate to the point of non-existence, and record retrieval is difficult and haphazard. Pay for judges, clerks and support personnel is low. This results in a circular problem: the pay is low because the courts only work a half day; the courts only work a half day because the pay is low. Cases often drag on for many months or years, during which time the accused is imprisoned. And, as has been noted, the cause for delay is often purely mechanical: lack of sufficient logistical resources and pay incentives to attract and motivate a corps of judiciary professionals in discharging their responsibilities.

In addition to the need for greater logistical support and pay incentives, efforts are needed to strengthen the organization of the legal profession and to develop a collegium of better qualified and certified professionals within the judicial profession. The Constitution of 1983 charges the Supreme Court with accrediting members of the legal profession and with overseeing their professional comportment. The Constitution also provides for an independent body, the National Council for the Judiciary, which is charged with the responsibility of selecting persons who would be considered eligible to become members of the judicial career, as well as to develop nomination lists of eligibles for appointment to each level of the judicial system. Many Salvadoran lawyers and judges believe that these new functions will be critical to the future competency and independence of the country's judiciary.

Based on the foregoing, training of the current force of judges and supporting personnel at all levels of the court system is clearly called for. In addition, approaches to implementing the provisions of the Constitution for upgrading the legal and judicial professions need to be examined and developed. This project proposes to support activities in these two areas, as well as provide assistance for improving the physical conditions of the court system.

c. Deficiencies in Auxiliary Support to the Administration of Justice

In order for the Judiciary to discharge its duties and responsibilities, it relies on certain critical support functions that are carried out primarily by other government agencies. Those functions include protection of participants in sensitive trials, the conduct of investigations in criminal cases, and forensic pathology and criminal laboratory services. The first of these auxiliary support services, judicial protection, is relatively new and needs further enhancement. The latter two are woefully inadequate and require substantial development.

(1) Judicial Protection

To increase confidence in El Salvador's legal system, the GOES recognized that an effective system of protection for participants in cases of special sensitivity was required. Such cases have been defined by the GOES as those involving crimes committed by political extremists; generating local controversy; tried in conflictive geographic zones; or of significant international interest. To that end, and with assistance from the U.S. Department of Justice and the U.S. Marshal's Service, the GOES established a Judicial Protection Unit (JPU) in April, 1984. Sixty penitentiary guards were selected and sent to an intensive one-week training course at the U.S. Federal Law Enforcement Training Center in Georgia. Organizationally, members of the JPU are employees of the Ministry of Justice. Overall responsibility for training and maintenance of operational readiness rests with the Commandant of Mariona Prison where the unit is housed.

JPU services are to be provided only in particularly sensitive cases as deemed necessary by the presiding judge through a request to the Minister of Justice by the President of the Supreme Court. Given the trial procedures in El Salvador, the most important part of a trial, collection and review of evidence, including witness testimony, takes place before any public hearing is held. Also, many jurors fear reprisals after particularly sensitive trials. The need for this type of protection may thus be required before and after open trial proceedings.

To make the JPU an effective, responsible unit, further appropriate training for each guard must be set up and followed closely to ensure that each individual is familiar with the use of all equipment issued to him. Additional technical assistance to develop a sense of "professionalism" is also needed.

(2) Criminal Investigation

(1) Investigative Capabilities

In El Salvador, preliminary criminal investigations are carried out by the country's law enforcement agencies. The latter includes the national police, the national guard, and the treasury police. All officers in law enforcement agencies are members of the military commissioned ranks and, as such, most are graduates of the military academy with little or no law enforcement experience. Law enforcement personnel lack the training, motivation, guidance and equipment to conduct criminal investigations in a competent, professional manner. Because of the general lack of competency in this area, the police are held in disdain by some sectors of Salvadoran society and by many in the courts, including prosecutors and lawyers. Conviction of a criminal often depends upon extra-judicial confessions, which are frequently repudiated by judges and juries in the belief that many such confessions are obtained through force or intimidation.

In November, 1983 the GOES requested USG financial and technical assistance in suppressing terrorist violence that was plaguing the court system, and in correcting the weaknesses in legal and police procedures that were hampering the administration of justice. Part of the USG response was to cooperate with the GOES in creating a special unit to help the courts investigate politically sensitive criminal cases that had yet to be brought to trial. The U.S. Department of Defense (DOD) provided \$120,000 for equipment, training and operation of the initial phase (January to July 1984) of the Special Investigative Unit (SIU), and sent a full-time consultant to work with the GOES on this effort.

Currently, there are twenty-two SIU members, recruited from the police ranks and commanded by two military officers, being trained under the supervision of the DOD consultant. Two more investigators will be assigned to the SIU by the GOES Attorney General's office. Two of the members of the SIU have already completed the FBI training course, and one is a recent graduate of the "Escuela de Carabinerol" in Chile.

More recently, members of a special task force drafted a legislative decree which calls for creation of an Institute for Criminal Investigation and Forensic Sciences. This draft, included in Annex 8, will be submitted to the National Assembly within a few days of this writing. The Institute will be composed of (a) an investigations unit (the SIU) appointed by the President and charged with the responsibility to investigate difficult and important cases and (b) a forensic laboratory. The decree provides that the institute will

have the quality of an Auxiliary Organ of the Court, with powers of arrest and duties defined under the Criminal Procedural Code.

The Institute will be established as an autonomous institution which will answer to a governing council made up of four members appointed by the President. The members are expected to be the Minister of Justice, the Vice-Minister for Public Security, the Attorney General, and the President of the Supreme Court. There are further indications that a fifth person, the Executive Secretary of the GOES' Human Rights Commission will join the council. The council will be directed by an Executive Secretary, also appointed by the President.

At the present time, the GOES proposes to staff the investigations unit with approximately 25 investigators, initially recruited from the extant SIU ranks, among whom are the best of available investigators. Later recruitment efforts will draw investigators from the three law enforcement branches and from civilian ranks as well. The investigative unit will be headed by a governing civilian commission of four or five executive level GOES officials or ministers appointed by the President. The unit will also recruit into its ranks forensic and legal talent. It is planned that legal advisors will join the staff to provide necessary legal guidance. The investigation unit's staff will require additional training, as well as operational support and vehicles.

(ii) Forensic and Criminal Laboratory Capabilities

One of the weaknesses pointed out by both USC and GOES officials involved in judicial reform efforts is the lack of modern forensic capabilities in the police and courts of El Salvador.

A small forensic laboratory is located at the headquarters of the National Police in San Salvador. The laboratory was established in 1957. According to its recently retired director who worked in the laboratory since its inception, the laboratory is at least 20 years behind in the state of the art. All equipment used for examinations is in need of repair or needs to be replaced. The laboratory as it exists is of little, if any, value in a scientifically conducted criminal investigation. Existing space which houses equipment for ballistic, handwriting, fingerprint, photograph and other equipment, as well as for storage of criminal records and classification of fingerprints, is also inadequate. There is no place to store evidence before or after an examination to insure its integrity or prevent its loss.

Although the judiciary is empowered under the Salvadoran legal system to conduct investigations, its actual forensic capabilities are also outmoded, underfunded, and lacking in trained personnel.

A forensic clinic (medical examiner's office) is attached to the Supreme Court. There are two smaller clinics located in Santa Ana and San Miguel. Staffs are small, facilities and equipment are old and inadequate. Most forensic pathology is carried out by part-time physicians with little knowledge of forensic medicine. The clinic in San Salvador, at least, should be manned by a forensic pathologist twenty-four hours daily, but neither the facilities nor the operating funds are available for this.

The extremely poor forensic and criminal laboratory facilities in El Salvador became painfully apparent in the recent past. For example, a report to the U.S. Secretary of State by Judge Harold Tyler reviewing the case of U.S. churchwomen murdered in El Salvador pointed out that evidence in the case had to be analyzed in the United States, because adequate facilities were not available in El Salvador. This turned out, however, to cause procedural problems during the trial. Because evidence analyzed outside of El Salvador by non-Salvadorans was not considered admissible, equipment and experts had to be brought to El Salvador so that the analyses could be done again--by Salvadorans--within the proper jurisdictions. In addition, rape charges in this case were not pursued because the forensic expertise was not available to preserve and develop supporting evidence. Indeed, much of the evidence of rape that did exist was unwittingly destroyed.

The FBI Needs Assessment Team which analyzed the training and capabilities of the three police forces in El Salvador in 1984 also found that forensic facilities were poor. According to the team, the National Police has a limited crime laboratory and no funds for materials to perform examinations. The medical examinations office is in "deplorable physical condition" and its lack of funds is so great that the monthly stationery budget amounts to only \$1.25. Chemicals needed for certain tests are unusable because they date back to 1957.

Realizing the acute need for modern forensic capabilities, the 1983 Constitution of El Salvador specifically mentioned the need for a new forensic facility. The need for modern forensic facilities and training is recognized not only as a prerequisite for the successful investigation of crimes, it is also recognized as a human rights measure because it gives law enforcement personnel a method to rely upon for obtaining evidence other than the testimony of witnesses and confession of the accused. The problem has been recognized by the GOES, and the draft decree creating the Institute for Criminal Investigation and Forensic Sciences provides for establishment of a scientific investigative capacity and a forensic laboratory in the new Institute. This project proposes financial assistance for equipment for a forensic laboratory and technical assistance to make it operational.

### 3. Salvadoran Initiatives in Judicial Reform

The growing concern of many Salvadorans over the poor functioning of their criminal justice system has resulted in several recent initiatives by the Government of El Salvador to improve the administration of justice.

Not the least of these is the successful 1984 prosecution of five members of the El Salvador National Guard accused of murdering four American churchwomen in 1982. After initial challenges to its evidence in the appeals courts, the GOES assigned an experienced senior attorney to the case as prosecutor. The Salvadoran judge trying the case took extra precautions to assure the anonymity of the jurors, and successfully steered the proceedings through a maze of procedural thickets to its conclusion. A civilian Salvadoran jury found the defendants guilty.

The successful conclusion of this case came at the same time the GOES was asking for help and taking other initiatives to address some of the problems in its judicial system. Among the initiatives are:

The passage of a new Constitution in December 1983 which assured a more independent judiciary by mandating that future judges be chosen from a list compiled not by the National Assembly, but by an independent commission.

The creation of two separate commissions in 1983, one by the Supreme Court and the other by President Magaña to review Salvadoran criminal codes and make recommendations for changes that would improve the administration of Justice.

Passage of Decree 50 by the National Assembly, which gave greater procedural protection to defendants accused of committing terrorist acts during a national emergency than the 1980 law dealing with the same subject.

These Salvadoran efforts at reforms will be reinforced and supported, as well as give direction to, the activities described in this paper.

### 4. The Need for Overall Coordination of the Judicial Reform Effort

An important objective of development work in general is the development or enhancement of a country's ability to marshal its own human, physical and financial resources for overall social and economic improvements.

El Salvador needs to address weaknesses in its criminal justice system in a manner that provides overall direction, as well as retains a degree of flexibility in implementation to take into account the nation's cultural context and sensitivity of project activities. Because of this, and because the project cuts across organization lines of GOES institutions, overall

coordination and administration of the various project components by a local entity will be needed to make implementation more effective. This oversight/coordinating function by Salvadorans can also increase the likelihood that the thrust of judicial reform activities can be sustained after the project assistance is terminated. That is, that A.I.D.'s investment can and should reinforce a process of continued collaboration by Salvadoran agencies and persons to assist in that critical process.

In El Salvador the capability to provide this important oversight and coordination to the judicial reform has only recently been attempted and needs to be strengthened. The Revisory Commission for Reform of Penal Codes was created by President Magana in 1983. Initially, the Commission was given the mandate to review the laws and regulations governing the criminal justice system of El Salvador and was directed to recommend proposals for reforming, eliminating or creating new laws and regulations that would improve the system. In addition, the Commission would review the organizational structure and administrative capabilities of the criminal justice system and recommend proposals for its improvement.

When the A.I.D. project agreement for Judicial Reform was signed on July 13, 1984, the GOES accepted a somewhat enlarged mandate for the Commission to include oversight of various practical improvements in the overall system. In the development of this project, moreover, the GOES recognized that the kind of reform or restructuring that is needed goes much farther than the simple revision of existing legislation. Consequently, in August, 1984 President Duarte signed a decree, shown in Annex 6, which broadens the purpose and authorities of the Commission.

The decree in essence creates a new body, now to be called the Revisory Commission for Legislation. Its membership will include a representative from each of the following institutions: the Supreme Court, the Ministry of Justice, the Ministry of Defense and Public Security, the Salvadoran law schools, the Association of Lawyers, and the Federation of Lawyers's Associations, along with an Executive Secretary named by the President.

The Commission is empowered to set up various subcommittees to examine specific areas of the reform. In the original grant agreement for the project, the specific objectives of these subcommittees are detailed. Those objectives, shown in Annex 7, encompass analytical work on the functional nature of the criminal justice system, the codes and norms of criminal procedures of the system of justice, and the administrative aspects of the system. The objectives also include the elaboration of new legislation or reforms and the establishment of new management systems that are consonant with the new Constitutional framework.

To assist the Commission carry out its critical role as an umbrella organization to give direction to and coordinate the various reform activities, the current grant agreement made available to it a total of \$365,000 (\$165,000 from A.I.D. and the local currency equivalent of \$200,000 from the GOES) for technical assistance and operating costs.

#### B. Overall Rationale

This Judicial Reform Project represents a unique opportunity to initiate an historic development process for basic democratic institution building in El Salvador. Historically, the country's system of criminal justice did not provide adequate channels for resolving legitimate grievances of the Salvadoran citizenry. The failure of the system to improve over time has now been aggravated by the continuing national crisis. Large numbers of citizens have come to believe that there is little hope for obtaining redress of their grievances through the normal channels of institutionalized social action. Many have come to believe that they are denied access to an impartial and reliable system of protection under the law; that the courts cannot mediate disputes fairly and impartially; that officers of the court cannot be relied upon to apprehend and then prosecute the perpetrators of crimes against persons or property, nor to provide them with speedy and fair trials; that there is less and less certainty that the guilty will be punished and the innocent protected. Acts of vengeance and vigilantism have become part of the panorama of generalized civil strife. Counter reaction has taken the form of institutionalized violence that tends but to confirm a widely held belief that the country's system of administration of justice cannot be relied upon to respond to the needs of the Salvadoran people for security and protection under the law.

This state of affairs came to the attention of the world as an issue of judicial administration largely through the publicity surrounding the murders of four American churchwomen, the assassination of expatriate agrarian reform advisors and of prominent personalities such as Archbishop Romero and others. Fair, speedy and impartial trials of the perpetrators of these crimes seemed at one point to totally elude the existing system. But the reality represented by these dramatic events was far from new. It had long been with Salvadoran society, suffered for years largely by the poor, the powerless, the disenfranchised and those in political opposition to ruling elites.

In recognition of the fundamental importance that an independent, impartial, responsive system of judicial administration represents in a civilized, democratic society, the Government of El Salvador has initiated a series of actions to fundamentally reform historically malfunctioning juridical structures and to add new, more efficient elements to them. An immediate objective is to bring to justice the perpetrators of the most obvious and celebrated cases of violent crime so publicized by the international media.

But the more important objective is to create a more fundamental and longer term process of renewal and reform of the justice system itself. This objective is no less than, over time, to assure to every citizen the fullest protection of the law, the security of person and property, reinforced by the speedy and fair trial of the perpetrators of crimes, and the institutionalization of due process under laws that guarantee basic human rights within a democratic polity. In effect, the people of El Salvador are in the process of rewriting their social compact. The dynamics of political negotiation surrounding the evolution of the new compact are everywhere apparent today. Among them is the question of the evolving relationship between civil and military authority. The emerging polity, as reflected in the new 1983 Constitution as well as in the policy statements of the recently elected national leadership, requires that no one and no institution shall be above or beyond the equal application of the law. Even in stable societies this objective is difficult to achieve. In those faced with the conditions of prolonged military engagement with either internal or external forces, it is especially trying.

Effective social policy is never found in sweeping public statements of intent, in pristine law that states goals and values, nor in the tangle of parliamentary debate. It is only discovered in the concrete events of social practice. Initially, therefore, U.S. assistance has addressed primarily the immediate objective of achieving specific acts of impartial justice that might prove and demonstrate the new rule of law. The target is to obtain fair trials and appropriate judgements in those most notorious cases noted above. To that end, we took, under the special provisions of the Specter Amendment to the FY 1984 Continuing Resolution and the Moynihan Amendment to the FY 1984 Supplemental Appropriation for El Salvador, the first step of aiding the GOES to set up a Judicial Protection Unit that was intended to help assure the fair trial of the perpetrators of those crimes. The first and most pressing case was that of the murders of the four American churchwomen. However, at the same time, we have taken the first step toward the larger objective by providing funds under the original project agreement to support President Magaña's Revisory Commission for Reform of the Criminal Codes to oversee other major elements of the judicial reform. Thus, we have joined the Government of El Salvador in a process that this project amendment will carry several essential steps further toward the larger institutional reform.

Certainly the initiative is a timely one. Indeed, time is of the essence as a renewal of public confidence in the key structures of civilized, democratic polity is a keystone to all other development undertakings. In El Salvador, as in other countries of the region, justice must be considered in political economy terms as a scarce public good. A fortunate few appear to be excepted from the "normal" justice system: they have their own "remedies" to social conflicts to which they may be parties. But the vast majority of these people have little or no access to justice. Our objective should be, therefore, to increase the supply of a legitimate, unalloyed public good; to make it

available to all in the same consistent quality that is warranted for any primary necessity. In terms of the emerging, new social compacts in this region, an acceptable new framework for El Salvador's administration of justice is a primary necessity.

#### C. Relationship to CDSS and A.I.D. Policies

The Country Development Strategy Statement which USAID/El Salvador issued in June 1983 emphasized program support for social development activities "including agrarian reform, health, population, education, elections, judicial reform, human rights, and housing". The FY 1985 Congressional Presentation, which continued development of that strategy, stated that support of democratic institutions and human rights would be one of four areas of program emphasis. USAID/El Salvador acknowledged in the presentation that "economic assistance alone will not be an adequate response to El Salvador's needs. Such assistance must be coordinated within an overall set of principles that will foster democracy, reform and human rights." Specifically, the Mission proposed to "encourage continued progress in human rights and the institutionalization of democratic processes through further improvements in the criminal justice system, the expansion of free democratic labor unions, the strengthening of social reforms and the regularization of free elections." This project not only fits within the Mission strategy, it fulfills a portion of the promise of that strategy.

#### D. Relationship to Current Mission Program

Over the past year, USAID/El Salvador has become deeply involved in issues and programs involving human rights and the reinforcement of democratic institutions in El Salvador. This involvement has included support for the GOES Amnesty Program, the 1984 Presidential Elections, the GOES Human Rights Commission and, now, the Judicial Reform Program. The Mission began working in June 1983 on a strategy with which to approach the particular issue of judicial reform. During February and March of 1984 the Mission developed with the GOES a project involving support for the Revisory Commission originally established by President MagaOa and the Judicial Protection Unit. An agreement for support of that program was signed on July 13, 1984. This project, a continuation of that activity, is the culmination of a year of effort leading to A.I.D. assistance for a most essential democratic institution.

#### E. Other Donor Complementary Activities

The United Nations' Latin American Institute on the Prevention of Crime and the Treatment of Offenders (ILANUD) has been cooperating with A.I.D. and the GOES in this program. No other donors are currently involved in the Judicial Reform Program.

### III. DETAILED DESCRIPTION

#### A. Goal and Purpose

The goal of the project is to build and sustain confidence in the Salvadoran justice system. This project will contribute to achievement of the goal by enhancing the ability of the system to ensure speedy and competent investigation of crime, arrest and trial of suspects, protection of innocents from persecution and other punitive action, while maintaining guarantees of equal protection under the law.

The purpose is to improve the administrative, technical and legal performance of El Salvador's criminal justice system.

#### B. Project Strategy

It must be understood that in this project USAID/El Salvador is knowingly undertaking a highly experimental development initiative. We are helping Salvadorans in what must be an incremental process of change.

With each step we will learn a little more about what will work best and what will work less well. We expect to take considered risks that may involve unintended mistakes. Hopefully, these will be few and the successes will be many. As the lead Mission in starting what is now becoming a region-wide initiative for judicial reform, we will be acting as forward observers, testing approaches in a developmental area in which we have had virtually no experience for the last ten years.

Among our experimental efforts will be the testing of untried institutional resources, both in the U.S. and abroad, as sources of technical assistance, training and diagnostic studies. Among those being considered in the U.S. in addition to USG Agency sources, are the Institute for Court Management in Denver Colorado, the Judicial College at the University of Nevada, a Judicial Administration panel of the National Academy of Public Administration in Washington, D.C., the National College of District Attorneys in Houston, and the Center for State Courts in Williamsburg, Virginia. Regional resources potentially appropriate for these technical services include, among others, three organizations based in San Jose, Costa Rica -- ILANUD, the Costa Rican Judicial School, the Venezuelan Judicial School and the Central American Institute for Business Administration (INCAE) -- other regional institutions, the Venezuelan Judicial School, and the Washington based, hemisphere-wide Secretariat for Legal Affairs of the Organization of American States.

We are also experimenting with the transferability of legal institutions between unlike legal traditions. Latin American legal practice follows the civil law tradition of the Napoleonic Codes. U.S. practice is based on Anglo-Saxon traditions and the common law. We are not trying to Americanize the Central America court systems and their legal culture. Rather, we are intent on pragmatic applications that will successfully improve the quality of

justice in these societies. One of our first experiments with such an application was our assistance to the GOES in establishing a new Judicial Protection Unit. In this case we were testing the transferability and utility of using the U.S. Marshals model as a means of providing physical security in the Salvadoran courts. The results of this experiment are by no means all in. As a more general rule, we intend to facilitate technical interchange among countries in the region. With their similar legal traditions and like institutions, there may be a greater acceptability in trying to replicate a very positive feature in one country to that of its neighbor where that feature is lacking. An excellent example of this is the Judicial College in Costa Rica which could very well serve as a model for similar national institutions elsewhere in the region. Other such special, positive elements of each national system need to be identified and then considered as candidates for technical transference elsewhere.

### C. Outputs and Inputs by Component

The project consists of four components: (1) support for the Revisory Commission for Legislation and for Coordination of the Judicial Reform Effort, (2) continued support for a Judicial Protection Unit (JPU), (3) establishment of an Institute for Criminal Investigation and Forensic Sciences which will include a Special Investigative Unit (SIU) and a Forensic Crime Laboratory, and (4) support for a Judicial Administration and Training program.

Provided below are descriptions of the proposed project outputs and inputs for each of these components. The principal activities and their parameters have been agreed upon, subject to final negotiation and A.I.D.'s formal approval. Numerous specific activities in each component have been identified, but it is not possible at this time to fully preselect or define all the specific activities to be undertaken. While we expect that the activities identified in this description will be carried out, their exact nature and extent will depend upon specific needs as they evolve in the operating environment of the criminal justice system.

#### 1. Revisory Commission for Legislation and for Coordination of the Judicial Reform Effort

The Revisory Commission on Penal Legislation was established by President Magaña on September 26, 1983. The Commission was established because it was recognized by many Salvadorans that outdated criminal laws contributed to the inefficiency and ineffectiveness of the criminal justice system. The purpose of the Commission was limited at that time to a review of the criminal and penal laws-- substantive, procedural, and organizational-- although it was hoped that the scope of the Commission would ultimately be expanded to include a study of the entire judicial system and judiciary.

The decree establishing the Commission specified that it would be constituted by an Executive Secretary named by the President; three officials representing the Ministry of Justice, the Ministry of Defense and Public Security, and the Attorney General; and three persons from the private legal sector in El Salvador representing the law schools, the Lawyers' Associations, and the Federation of Lawyers' Associations.

At the time the decree was signed, it was intended that the Commission would be essentially a non-partisan organization, seeking consensus among the competing political factions in El Salvador. The actual work of the Commission was to be carried out by three subcommittees focused on the functional, procedural, and administrative aspects of the country's criminal justice system. The decree established a six-month deadline from the time the Commission started its work until it was required to submit its final report and recommendations. In fact, the Commission as a whole never came into operation because of lack of funding. The individuals named to it, however, did accomplish one very important reform. They drafted Decree 50 to replace Decree 507 as the law governing the prosecution of defendants accused of committing terrorist acts.

Decree 50 is considered to be an improvement over Decree 507 in that it sets stricter guidelines for the courts and the police to follow in handling a suspect during arrest and trial. For example, a confession from an accused person is only valid if it is obtained within 72 hours of arrest (rather than allowing an unlimited amount of time to obtain this information). In addition a confession is admissible only if it can be obtained without the use of force or intimidation.

The original grant agreement for this project provided funding for the Commission. Under the agreement, \$165,000 in grant funds were made available to the Commission not only for the purposes set forth in the decree establishing the Commission (i.e., reviewing the criminal and penal laws, making recommendations for changing these laws, and drafting proposed legislation), but also for studying and making recommendations regarding the more practical problems of the Salvadoran judicial system (e.g., needed improvements in investigative skills and training for judges and prosecutors).

Although members for each of the Commission's subcommittees and advisory panels were proposed, the organizational structure outlined in the grant agreement was never formalized, basically because the newly elected President, Napoleón Duarte, wanted to review the Commission's composition. In the interim, the original six month time frame of the Commission expired. President Duarte has, however, recently signed a new decree to redesignate the Commission.

Annex 6 presents the new decree which reestablishes the Commission. Now called the Revisory Commission for Legislation, this body has been given a broader mandate than was originally prescribed. In the composition of its members, a representative of this Supreme Court has been included to replace the representative from the Attorney General's office.

a. Outputs

The newly redesignated Revisory Commission for Legislation will serve as the umbrella organization for all those interested or involved in judicial reform. Multiple advisory committees will be set up to encourage broad-based participation in and support for the Commission's work. For this reason, the Commission will be used as the coordinating body for most judicial reform activities proposed in this project, though other entities will have direct management responsibilities for various elements of the program.

The specific objectives of each of the Commission's sub-committees are detailed in the original project grant agreement. These provide an overview of the work that can be expected of the Commission in the future. The objectives outlined in the grant agreement for each of the three subcommittees are summarized as follows:

(1) Functional Subcommittee:

Analyze the appropriateness of given punishments to given crimes;

Study how the current system adapts appropriate punishment to individual crimes, and provide proposals for improvements;

Adapt current/proposed norms to the new constitution framework;

Draft new laws or reforms to current laws which fit the new constitutional framework.

(2) Procedural Subcommittee:

Review effectiveness of current procedures to solve crimes and expose perpetrators;

Review the rules related to the gathering and presentation of evidence;

Review the rules related to the gathering and presentation of evidence;

Review procedures relating to due process and the guilt of the accused;

Review the Code of Criminal Procedures and its administrative effectiveness;

Adapt current/proposed norms to the new constitutional framework;

Draft new laws, or reforms which will fit the current constitutional framework;

Analyze civil procedure for effectiveness in delivering prompt and efficient justice, assuring that sentences will be fulfilled, and assuring that respect for the rights of defendants and plaintiffs is maintained.

(3) Administrative Subcommittee:

Review laws with the objective of increasing efficiency and obtaining honest performance by prosecutors;

Review laws governing officers of the judiciary, those who practice law, and those who serve a notarial function;

Adapt current/proposed norms to the new constitutional framework;

Draft reforms or new laws which fit the current constitutional framework;

Elaborate draft laws for a "National Judiciary Council" and a "Law of the Juridical Profession;"

Adapt the penitentiary management system to a new "Penal and Penal Procedural Code";

Establish a penitentiary management system which guarantees appropriate separation of the accused and respects individual rights of those sentenced and accused.

The existing grant agreement also details the methodology to be used in reaching these goals, and enumerates the duties and responsibilities of the Executive Director, his Deputy and the Chiefs of each of the three subcommittees. These are further detailed in Grant Project Agreement 519-0296.

This project component will make funds available to the Commission to enable it to undertake the work required for achieving the reform objectives summarized above. Specifically, the project will finance the establishment of an office for the Commission. Operating costs and office equipment costs will be covered under the project. Personnel for the Commission, both professional and administrative, will also be financed. Some of the personnel will be working in a general project coordination unit, while other staff (primarily attorneys, political

scientists and legal specialists) will be working in the implementation of activities to achieve the objectives of the Commission's mandate. These costs are proposed for project financing, because the Commission is envisioned to be a temporary, formal mechanism for initiating and administering the types of activities that will be undertaken during the life of the project. In addition, project grant funds will finance long term technical assistance to the Commission's project administrative unit. The technical assistance will include a full-time, AID-contracted Project Coordinator, plus an implementation assistant or two.

To help the Commission carry out its duties and responsibilities, it will require financial resources for conducting various diagnostic studies. A special fund for these studies will be provided by the project. One of the first studies that the Commission will contract for is an assessment of the administrative management operations of the court system as a basis for the implementation of improvements in the system. Studies on the legal and judicial professions will also be done to develop rational approaches for strengthening the organization of the legal and judicial professions in El Salvador. Other studies on specific problem areas of the criminal justice system will also need to be conducted, and the special fund for diagnostic studies will provide financing for these specific studies.

The specific studies may include but are not limited to the following illustrative examples: (1) detention practices-- preventive, pre-trial, or pre-charging; (2) court case backlog analysis, including causes of delayed trials; (3) conviction rates, including analysis of causes of low rates of conviction, who gets charged, who gets tried by nature of crimes and by socio-economic-political status of the accused, who gets convicted and who gets discharged; (4) prison administration; and (5) rules of evidence and court responsibility for "quality controls" relative to confessions, witness depositions, and independent investigations (personal and forensic).

b Inputs

The total cost of the Revisory Commission component is estimated at \$3.0 million. A.I.D. will contribute \$2.6 to finance: technical assistance for project coordination and implementation (approximately \$747,000); technical assistance for diagnostic studies (approximately \$938,000); some operating costs of the Commission (approximately \$92,000), general project coordination expenses including project evaluations and audits (approximately \$543,000); seminars and conferences (approximately \$100,000); office equipment (approximately \$40,000); and miscellaneous/contingency expenses (approximately \$123,000)

The GOES will contribute an estimated \$380,000 in local currency to this component. This amount will cover costs of some administrative personnel (approximately \$202,000); some operating expenses (approximately \$160,000); and miscellaneous/contingency expenses (approximately \$18,000) of the Commission.

2. Judicial Protection Unit (JPU)

An important element of the strategy to increase confidence in El Salvador's legal system is that of providing effective protection for the participants in sensitive trials. This was specifically mentioned in the language of the Specter and Moynihan Amendments, recognized as a necessity by the Judicial Assessment Team, and by GOES and USG officials in talks about improving the administration of justice in El Salvador.

In July 1983, a team from the Department of Justice and the U.S. Marshals Service-- experts in witness protection; courtroom, physical and personal security; and threat assessment-- visited El Salvador. They met with GOES officials to explain how witnesses and judicial personnel are protected in the United States, and demonstrated a variety of electronic security devices to an audience of police, judges and lawyers.

The Department of Justice team returned to El Salvador in March 1984 to review the security situation of the courts. They recommended creation of a 60-man team of carefully selected individuals who would be given special training in protection techniques. In April 1984, the GOES prepared a draft decree to establish the unit, and the Director of the Penitentiary System and the head of the Mariona Prison in San Salvador selected 60 penitentiary guards who would become members of the new unit.

It was recognized that the responsibilities of the JPU would have to be kept within practical limits by confining its services to cases of special sensitivity, such as those involving crimes committed by political extremists; generating local controversy; tried in conflictive zones; or of significant international interest.

The members of the unit, in two groups of 30 each, were immediately sent to the Federal Law Enforcement Training Center (FLETC) at Glencoe, Georgia for an intensive one-week training course in preparation for the churchwomen's trial which would be held in May. After the churchwomen's trial, the members of the JPU were reassigned to their former stations in the El Salvador prison system, and are awaiting future assignments.

a. Outputs

The members of the JPU will be reestablished as a unit and will be physically located and trained at Mariona Prison in San Salvador under the control of the Ministry of Justice. Overall responsibility for

training and maintenance of a high degree of readiness will rest with the Commandant of Mariona Prison. The Commandant of Mariona Prison will either hire or appoint two members of his prison staff as full-time, permanent administrators of the unit to insure proper plans, training and readiness of the unit when and wherever needed. Rank structure in the JPU will be modeled along the same lines as the prison guard rank structure. However, to emphasize the fact that the unit is organizationally separate from prison guard positions, all members of the JPU will be furnished with a distinctive JPU uniform, emblems, and rank insignia.

JPU services will be provided for particularly sensitive cases, as deemed necessary by the presiding judge through a request to the Minister of Justice by the President of the Supreme Court. In those cases selected for JPU attention, protection will be provided for any person, place or thing relevant to prosecution and will be provided at any step in the judicial process--from the initial allegation through final courtroom sentencing and, if need be, after conviction or innocence is established.

Under this component, practical training exercises for the unit will be conducted frequently. Training course material will be obtained or developed. Specialized short term training in the U.S. Federal Law Enforcement Training Center (FLETC), originally called for by the U.S. Marshals, will also be given to the administrators of the unit in addition to other JPU staff. In addition, defensive driving tactics will be taught to more members of the unit and periodic visits of FLETC instructors to El Salvador will be arranged as needed to furnish on-the-scene update training.

A substantial amount of equipment, vehicles, radios, and weapons has or will be procured for the JPU. To maintain and protect this equipment and to insure its ready availability when needed, a storage facility will be established at Mariona for the proper and safe storage of all equipment furnished the unit. No equipment or materials will be furnished to the JPU until adequate storage facilities and control procedures are assured. Immediate accountability, control and maintenance of equipment will be the responsibility of the two full-time administrators of the unit.

Technical assistance for this component will be provided by the person contracted under the SIU sub-component for the duration of the project.

b. Inputs

the total cost of the Judicial Protection Unit component is estimated at \$2.2 million. Under the existing Project Agreement A.I.D. is providing \$600,000 for support of the JPU, including equipment, vehicles, weapons and training. Additional A.I.D. resources will be provided to augment

the budgets for the component activities. The total A.I.D. contribution is estimated at \$1.2 million. Specifically, A.I.D. grant resources will finance short term training of selected JPU staff in the U.S. FLETC or other appropriate training centers (approximately \$483,000); additional short term training in-country or in (approximately \$100,000); equipment, including vehicles, (approximately \$586,000); and miscellaneous/contingency expenses (approximately \$58,000).

The GOES counterpart to this component, which is estimated at \$935,000 in local currency, will finance the salaries of the JPU staff (approximately \$890,000) and miscellaneous/contingency expenses (approximately \$45,000).

3. Institute for Criminal Investigation and Forensic Sciences

This component is designed to develop specialized capabilities in two important support functions required by the judicial system for administering justice more effectively within the framework of the nation's laws and procedural codes. Criminal investigation and forensic and crime laboratory capabilities must be developed and supported to provide the courts with better and more impartial evidentiary resources with which the judiciary can apply the laws and impart justice.

In recognition of the fundamental importance of these support services to the administration of justice, the GOES plans to establish an autonomous Institute for Criminal Investigation and Forensic Sciences. A special GOES task force has drafted a legislative decree, shown in Annex 8 which calls for the creation of this institute. Pending approval by the legislative assembly, the institute will house the Special Investigative Unit (SIU) and a forensic laboratory. The institute will be governed by a council made up of several members appointed by the President. These persons are expected to be the Minister of Justice, the Vice-Minister for Public Security, the Attorney General, and the President of the Supreme Court. There are indications that a fifth person, the Executive Secretary of the GOES' Human Rights Commission, will join the council. The council will be directed by an Executive Secretary, also appointed by the President.

The draft decree states that the primary function of the institute will be to carry out the investigation of all crimes that, due to their gravity and "transcendental" nature, constitute a serious threat to the integrity and security of Salvadoran society. In addition, the institute is empowered to provide to the justice system the necessary scientific and technical services for uncovering the facts in such crimes. In accordance with the draft decree, all other GOES agencies, authorities or public officials are obliged to cooperate with the institute in any investigations it undertakes. Such other public institutions or officials must submit all evidence and information which they might possess on a given case to the institute upon the latter's request.

a. Outputs

This project will provide financing for the establishment and operation of the institute. Commodity and technical assistance will also be provided. The outputs for this component are described below in terms of the two major activities, or Sub-components.

(i) Special Investigative Unit (SIU)

The Background section of this project paper provides background information on this unit. First initiated under DOD funding in response to a request for assistance by the GOES, the unit is currently staffed by twenty-two men recruited from the National Police to serve as investigators and two military officers serving as administrators. The unit's personnel have been receiving training in-country under the supervision of a full-time (DOD) consultant, and a few of the investigative staff have completed training in the U.S. (FBI training course) and in Chile. The unit is currently housed in the Ministry of Defense and Public Security.

Upon the approval of the draft legislative decree which will serve as the legal basis for the creation of the Institute for Criminal Investigation and Forensic Sciences, the SIU will come under the oversight of the governing council of the institute. In addition, the SIU will be headed by a civilian Commissioner appointed by the President. During the life of project, some five to ten civilians will be recruited to form part of the SIU personnel.

This sub-component will finance a variety of short term training in El Salvador and abroad to assist the SIU Commissioner, managers and staff in conducting investigations in a fair, professional and impartial manner, with due concern for human rights and without regard for influence, rank or pressure. All members of the unit will be sent to the Roosevelt Roads School in Puerto Rico or other appropriate training centers to receive specialized law enforcement investigative training in a course designed by the FBI. Additional appropriate training in-country will be provided by an expert in criminal investigation who will be contracted under the project for three years. This expert will provide technical assistance to the SIU, as well as to the Judicial Protection Unit. Costs of personnel, operational support, equipment and vehicles for the SIU will also be funded under this sub-component.

(ii) Forensic Laboratory

The Background section of this paper describes the deplorable conditions of the old crime labs which currently exist in El Salvador. This sub-component is designed to assist the GOES establish a new, modern forensic and crime laboratory within the organizational structure of the

Institute for Criminal Investigation and Forensic Sciences. The overall purpose of the laboratory is the scientific examination of evidence to determine the perpetrators of a crime. The courts, the Attorney General, the SIU, and other government agencies and institutions will be able to use the services of the laboratory. The laboratory will perform examinations on objects and collect, classify, and protect the objects and place them and the laboratory analysis findings at the disposal of the court trying a case.

The new laboratory will be staffed by newly hired and trained personnel under the authority of a technical director. To assure its non-political character, as well as its responsiveness to all potential clients, the GOES is proposing that the Institute's directorate provide general oversight of the laboratory's operations.

The project will finance short to medium term technical assistance for this activity, both in the start-up phase of the laboratory and in the implementation stage. The laboratory staff will be provided with appropriate training both in country and abroad. The training to be financed will be short term, with emphasis on on-the-job practical experience. The project will also finance the procurement of necessary modern equipment and tools of crime detection and analysis. Salary costs and operating expenses will also be covered under the project.

b. Inputs

The total cost of this component is estimated at \$5.4 million. A.I.D. project resources in the amount of \$3.4 million will finance: (1) some 5 person years of long term technical assistance (approximately \$600,000); (2) some 39 person years of professional/technician staff, including 12 laboratory technicians and one accountant for the Forensic Laboratory (approximately \$305,000); (3) operating expenses (approximately \$250,000 for the SIU and \$176,000 for the laboratory); (4) short term training in the U.S. or third countries, as appropriate (approximately \$407,000 for the SIU and \$57,000 for the laboratory); (5) equipment and vehicles (approximately \$623,000 for radio and miscellaneous equipment plus 12 vehicles for the SIU, and approximately \$814,000 for laboratory and radio equipment plus 6 vehicles for the laboratory); and (6) miscellaneous/contingency expenses (approximately \$162,000).

GOES counterpart contributions totaling an estimated \$2.0 million in local currency, will cover salary costs of 25 uniformed investigators, 10 civilian investigators, 4 lab assistants, 7 secretaries, 8 messengers, and 9 guards.

#### 4. Judicial Administration and Training

In January 1984, USAID/El Salvador received two letters from the then President of the Supreme Court, requesting financial assistance for investment costs of needed office and other equipment and for meeting some of the court system's recurrent costs, such as office supplies. The A.I.D. Director responded positively and suggested that assistance might be provided under the Judicial Reform Project then being designed. This positive response resulted in part from the long-standing realization, on both sides, that reform of the judicial system was meaningless if the system continued to suffer from purely mechanical breakdowns. Already, in April 1983 the Judicial Assessment Team had recommended salary increases and improved reproduction and printing facilities. By early 1984, it was apparent that such simple needs as paper and other office supplies, rehabilitation of buildings and courtrooms, equipment for record keeping and retrieval, and some installation for producing, reproducing and distributing circulars, judicial decisions, texts of laws and decrees, and other court materials had to be met.

The budget for 1984 for the judicial system totals  $\text{Q}17,661,560$ , but salaries absorb  $\text{Q}16,739,200$ , or about 95%. Only  $\text{Q}267,250$  was allocated for supplies and equipment--the equivalent at the official exchange rate ( $\text{Q}2.50/\$1.00$ ) of just over  $\$100,000$ .

Skimping on the supplies budget has not, however, resulted in adequate provision for salaries. For instance, there are 293 Justices of the Peace provided for in the budget. Most of these judges are paid just over  $\$120$  per month, with few being paid up to  $\$250$  per month.

The standards of educational attainment and competence of some Salvadoran judges as well as their timely devotion to their duties are a reflection of the pay scale. Under current conditions in El Salvador some gross disparities are to be expected and justified, but clearly the budget for the administration of justice is badly underfunded--about one and one half percent of the national budget.

##### a. Outputs

This subcomponent is designed to address weaknesses in the court system's human resources, administrative management capabilities, and physical conditions through the provision of resources for technical assistance, increased salaries and operating budgets, physical improvements and equipment, and short term technical training.

##### (i) Administrative Management of the Court System

Not all of the administrative problems of the system flow from a lack of resources. The system is run by judges and lawyers with little management experience. A complete management assessment of the court system, therefore, is needed.

Such an assessment will be contracted for by the Revisory Commission on Legislation. The scope of work for the study will include a manpower, training and salaries assessment to support discussions between A.I.D. and the GOES on adequate budget support for the judiciary and how to attain it. Thus in addition to reviewing procedures, operations and work flow, the study will also provide the basis for a comprehensive salary and personnel structure reform. The management study will also include an equipment inventory which will determine the degree to which equipment and supply needs exceed that which will be provided under the project. The funds for this study have been included in the project budget for the Revisory Commission.

USAID/El Salvador will include as part of its 1985 balance of payments negotiations with the GOES a proposal for a 20% salary increase for judges in 1985. Funds for this purpose will be derived from the local currency resources of A.I.D.'s balance of payments program. If justified by the management study, a second increase will be considered for 1986, with a view to bringing judicial system salaries up to at least the level of other branches of the GOES. Should this be the case, budgetary resources will be programmed with the GOES to cover any additional salary increases beyond the initial 20% increase.

Based on the findings of the management study and inventory, the project will finance the procurement of office supplies and equipment, including typewriters, reproduction equipment, record storage and retrieval systems, office furniture, etc. Funds will also be included for reconditioning of equipment which will then be redistributed to replace that which is no longer usable. Until the management study can be undertaken, a fund of \$400,000 in local currency equivalent from the balance of payments program will be provided to cover basic interim requirements.

Physical improvements to the structures now housing the Courts of First Instance, including external cleaning, repair, painting, internal design, partitioning, sound proofing, security, etc., will be financed by the project up to the amount of \$850,000. The management study will include a section recommending the particular improvements to be made and the most appropriate way of undertaking the effort. In addition, 20 motorbikes and two ambulances will be purchased with project funds. Section VIII of this paper requests authority to waive the source and origin of the motorbikes from A.I.D. Geographic Code 000 to 935. The bikes will be used to mobilize a pool of messengers for judges in San Salvador to help expedite distribution of court documents in and around the city. The ambulances are needed by the courts to remove cadavers from the place of death in order to certify death.

(ii) Training and Career Development

A.I.D. and the GOES will make use of institutional resources, both in the U.S. and abroad, as sources of training for the current career force of the approximately 300 judges in El Salvador. Project funding will be made available for this purpose. The Project Strategy section of this document lists the institutions that will be considered as training sources. In addition, this sub-component will fund a limited amount of technical assistance for an assessment of the training needs for the judiciary.

An initial budget of \$400,000 will be earmarked for this training and career development activity. Coordination and management responsibility for this sub-component will be assigned to the Revisory Commission.

b. Inputs

The total cost of this component is \$3.6 million. A.I.D. project resources totaling an estimated \$1.8 million will finance office supplies and equipment (\$665,000); maintenance and repair of courts (\$530,000); vehicles (\$113,000); training needs assessment and various short term training programs in the U.S. and third countries for judges (\$400,000); and miscellaneous/contingency expenses (\$85,000).

The GOES will contribute local currency resources totalling \$1.8 million, which will be utilized for covering the salary increases of the judges (approximately \$1.3 million); operating expenses (approximately \$400,000); and contingencies (approximately \$85,000).

IV. COST ESTIMATES AND FINANCIAL PLAN

This project will have an estimated total cost of \$13.4 million, of which \$9.0 million will be an A.I.D. Economic Support Fund (ESF) grant. The remaining portion of the budget will be the responsibility of the Government of El Salvador's own resources, including funds derived from ESF local currency and other GOES revenues.

The life of the project is three years and five months. The Project Assistance Completion Date is September 30, 1987. A.I.D. funding will be obligated in FY's 1984 and 1985. Annex 10 contains the financial tables for the project, including: Table A. Summary Cost Estimate and Financial Plan, Table B. Projection of Expenditures by Fiscal Year, and Table C. Summary Costing of Project Inputs and Outputs. These tables reflect projected costs by inputs, by cost elements within those inputs, and by foreign exchange and local currency. The following is a summary breakdown of contributions to the project and the specific inputs to which contributions will be made:

	(In U.S. \$ 000)		TOTAL A. I. D.	GOES	TOTAL
	FX	LC			
Technical Assistance	775	763	1,538	-	1,538
Personnel	-	305	305	4,336	4,641
Operational Expenses	685	1,028	1,713	560	2,273
Training	1,097	450	1,547	-	1,547
Equipment	1,979	200	2,179	-	2,179
Project Coordination	597	553	1,150	-	1,150
Evaluation	100	40	140	-	140
SUB-TOTAL	<u>5,233</u>	<u>3,339</u>	<u>8,572</u>	<u>4,896</u>	<u>13,463</u>
Miscellaneous/Contingencies	260	168	428	245	673
GRAND TOTAL	<u>5,493</u>	<u>3,507</u>	<u>9,000</u>	<u>5,141</u>	<u>14,141</u>

Funds for coordination and management of this project have been included in the budget provided for the Revisory Commission. These will be used to establish, equip and supply an administrative office within the offices of the Commission and to hire secretaries, accountants, guards and other support personnel required to ensure the smooth operation of the project and each of its components.

The first major project evaluation will occur eighteen months after project agreement signing, i.e., January 1986. This evaluation will look toward needed redesign of the project, project components and project management procedures. A final evaluation, essentially reviewing progress toward achievement of the project purpose, will be planned for July 1987, six months prior to the end of the project. This schedule is designed to permit incorporation of evaluation findings into the design of any follow-on reform activity. Funds for these evaluations have been provided and identified under the Revisory Commission component budget.

A total of \$673,000, has been included for contingencies under the component budgets. Of this amount, A.I.D. will contribute \$428,000, which represents 5% of the estimated total A.I.D. contribution to each of the project components. Since a large portion of the budget is for equipment costs which will be incurred during the first year of the project, and since costs of inflation have been considered in individual budget line items, no specific budget line item for inflation has been included. Though detailed cost elements have been provided where possible, whenever there has been uncertainty about the cost of a project element, liberal estimates have been the rule.

Expenditures under this project are expected to occur in the following manner:

(In U.S. \$000)

FY	<u>A. I. D.</u>	<u>GOES (LC)</u>	<u>TOTAL</u>	<u>%</u>
1984	350	--	350	2
1985	2,884	2,011	4,895	35
1986	4,793	1,565	6,358	45
1987	973	1,565	2,538	18
<b>TOTALS</b>	<b>9,000</b>	<b>5,141</b>	<b>14,141</b>	<b>100</b>
%	64	36	100	

A table showing the Methods of Implementation and Financing of this project as currently envisioned by the Mission are shown in Table D of Annex 10. The Mission proposes to provide a 60-day operating advance for the Revisory Commission, the Special Investigative Unit and the forensic laboratory components of the project. This is necessary since these units are being established under the project and have not been provided for in the GOES' budget. These agencies will adopt 30-day liquidation and reimbursement schedules in order to ensure a constant and timely flow of funds for operating costs.

Certain other components will use direct payment and reimbursement methods for financing local inputs, with the exception of commodity procurement requiring foreign exchange, for which it will be necessary to use direct letters of commitment. This is necessary since the GOES does not have hard currency required to pay in advance for goods proposed for purchase under the project and because the suppliers have been unwilling to extend credit to the GOES without an A.I.D. guarantee of payment. The use of direct letters of commitment will permit A.I.D. to review documentation prior to disbursement and achieve greater accountability over payments. Use of this method will also reduce somewhat the need for and/or size of advances. A.I.D. will contract selected long and short-term technical assistance for the project.

All A.I.D. appropriated funds for foreign exchange costs of the project will be managed directly by A.I.D. The administrative unit in the Revisory Commission will follow sound cash management practices and fiscal control of all funds, including the detailed accounting and reporting on cash receipts, cash outlays and expenditures by obligating documents. This unit will be assisted in this task by the accounting sections of each of the implementing

units. Funds for accountants charged with controlling funds provided to and under this project have been included in the various component budgets. Disbursement of funds and other procedures to be followed by the Commission's administrative unit for discharging its responsibilities will be those established by the Mission and the GOES under the Extraordinary Budget. These procedures were recently examined by the Mission and found to be adequate.

Nevertheless, to provide the assurance of adequate financial management practices, an independent audit of financial records for each of the agencies receiving funds under the project will be carried out annually. These audits, which will be arranged by A.I.D., will be financed under the budget line item for the Revisory Commission's administrative support element.

All direct A.I.D. procurements funded under this grant will be handled by the Mission directly in the form and manner established by A.I.D. for such purposes.

There are significant recurrent costs associated with this project. The JPU component will require no new personnel. In the case of the SIU and the forensic laboratory, the establishment and operations of the lab and the SIU, including the maintenance and operation of vehicles and equipment, will have important consequences for future GOES budgets relative to all classes of expenditures under those budgets. One fact justifies the added costs: the organizations now responsible for the tasks which these new units will be responsible for have been either incapable or unwilling to perform this work. To the extent that the new organizations are able to achieve success, their efficiency and effectiveness will result in lower long-term costs to the GOES because: (a) there will be a service rendered for cost incurred; and (b) the success of the new units will encourage greater effectiveness in the agencies heretofore charged with these responsibilities. At least some of the persons attached to existing GOES laboratory facilities will be moved to the new laboratory. This will reduce to some extent the effect of cost increases associated with personnel requirements of the project. Further, The SIU is thought by many to be a short-term solution to an emergency. It may not be necessary that the unit continue for more than a few years. That decision is still to be taken. Finally, the Revisory Commission is not a permanent institution and, if able to do its job efficiently, need not outlive this project as a formal body.

Some of the recurrent costs associated with the project, e.g., special one-time support for equipment and supply costs of the court system, may become difficult for the GOES to cover, unless the Salvadoran economy recuperates sufficiently to permit increases in the government's revenue base. Without U.S. assistance, GOES leaders would be forced to make even more difficult choices with regard to the national budget than they are currently forced to make. Until the Salvadoran economy regains some of its former strength, U.S. assistance provides a bridge which can reduce the pressure of difficult choices between support for teachers, health aids, medicines, audit

and accounting functions, improved tax systems, assistance to the needy, and/or support to the justice system. The recurrent costs associated with this project are those which now seem essential to the maintenance of a free and democratic society. They are therefore essential recurrent costs.

## V. SUMMARIES OF ANALYSES

### A. Technical Analysis

The need for and appropriateness of the specific types of assistance proposed under this project have been established as a result of a number of analytical reports by A.I.D. and other USG agencies, as well as discussions at the highest levels within the GOES and the U.S. Mission in El Salvador. The studies and discussions have been aimed at analyzing the causes of the malfunctioning of El Salvador's criminal justice system, the prognosis, and the steps required to address the situation. It is from such analyses and discussions that the project objectives have been generated, required changes identified, and the areas in which A.I.D.'s contributions can best be made determined.

The project analyses confirmed the need to respond in a flexible and timely manner to the exigencies of analyzing, planning, and selectively implementing changes and reforms in the Salvadoran criminal justice system, if El Salvador's incipient democracy is to survive the current crisis of great social, economic, and political uncertainties. While concluding that the current political climate in El Salvador is highly propitious for initiating a reform process of this nature, the analyses also made evident the need for tolerating certain ambiguity and unexpected change. The historical antecedents to this reform effort, the partisan nature of the political environment, and the sensitivity of project elements to present and future criticism demand and will continue to demand the careful conceptualization of ideas and their implementation. To successfully execute this project, it will be necessary to gain the cooperation of as many sectors of Salvadoran society as possible, especially those elements in El Salvador who wield power and authority. Some are already manifesting this willingness and spirit of cooperation; others at times will have to be encouraged to alter the way they perceive things. At all times it will be necessary that an awareness of the human and systematic limitations be understood and addressed with sensitivity.

Given the understandable tendency to focus on overcoming immediate, short term bottlenecks or obstacles in the criminal justice system, the project analyses recognized the importance of balancing this approach with that of longer term development of institutions which will withstand civil conflict and in which the public can place long term trust. Some parts of the project-- the Judicial Protection and the Special Investigative units-- represent more short term responses to particular problems or events, although both hold promise for learning lessons and acquiring experience which can be applied to building

a more effective, impartial, and independent administration of justice over time. The Revisory Commission, the forensic laboratory, and the component for administrative and training support of the courts look towards long term development.

Thus, the project activities have been shaped in response to the need to address critical problems or constraints to the administration of justice, on the one hand, and to the necessity of taking into account El Salvador's political and institutional realities, on the other. Identification of the requirements for organization, authority and staffing of units or institutions proposed for project assistance involved a careful weighing of factors related to what can realistically be undertaken and carried out in an historic endeavour to bring about basic changes in El Salvador's administration of justice. The Social Soundness Analysis and Annexes 4 and 5, which present an analytical review of the whole project and an issues analysis of the SIU, provide more in-depth discussion of some of the thorny issues that were taken into account in the final design of the project. What did become clear in the project development process is that the USG and the GOES should not lose sight of the ideal, but should not throw the "baby out with the bath" either. Contretemps will likely occur, but close and thoughtful collaboration in this endeavour should lead to meaningful progress during the life of project. Close monitoring of the project implementation and the building in of mechanisms for review and control of certain project elements will provide the means for constructively channeling collaborative efforts.

In summary, the technical soundness of the project was found to be predicated on an approach which balances flexibility with firmness of purpose and direction; fosters greater cooperation among key GOES agencies of the executive (including the military), legislative and judicial branches of government; encourages and supports broad-based participation of various sectors of Salvadoran society in the government's reform effort; and builds in adequate mechanisms for review, supervision and control of operational implementation and for reinforcing the positive gains that can be achieved.

#### B. Economic Analysis

This project is not designed to result in the output of goods and services that could be broadly defined as economic. Rather, achievement of the purpose will assist in establishing a necessary precondition to future economic growth and development. The portions of the project that will strengthen property rights and the enforcement of contracts will be especially useful in this regard. As such, the conventional methods of economic analysis, especially cost benefit analysis, are not applicable for evaluating the project's economic efficiency. The inability to identify meaningful alternatives to the activities included in the design even limits the usefulness of the less rigorous cost effectiveness analysis. However, reasonable care has been taken to ensure that the project's inputs are obtained on a competitive basis at reasonable prices.

The above should not be taken to imply that project activities do not have the potential to produce acceptable results from the perspective of economic efficiency. On the contrary, while the economic costs of the present system of law enforcement are difficult to quantify, they are undoubtedly considerable. To begin with, the loss in human lives is incalculable, and the lack of personal security inherent in such a system has resulted in the loss of millions of dollars in scarce foreign exchange for the purchase of firearms and other weapons for self-defense. Other millions have been spent improving the defenses of private homes and business establishments, as well as public buildings. Walls have been constructed, security alarms added, bulletproof windows installed, windows and doors have been barred and literally thousands of security guards hired. Substantial additional resources have also been invested in improving the defenses of automobiles, trucks and buses. Moreover, fear of kidnap or assassination has led to the emigration of thousands of experienced businessmen, farmers, ranchers, skilled workers and teachers. At least temporarily, not only has the country lost their talents, it has lost their capital, to the extent that they were able to liquidate it, as well. Many of those who have not emigrated themselves have nonetheless taken the precaution of sending much of their wealth abroad. Most estimates currently place the amount of capital that left the country during the past five years at approximately \$1 billion.

If the project's activities achieve their objective of restoring public faith and confidence in the judicial system sufficiently to divert just a small fraction of the resources presently being devoted to security measures back into activities that contribute to the nation's economic development, the project could be deemed to be very successful from an economic point of view. All possible efforts will be taken to ensure that that is precisely what does happen.

### C. Social Soundness Analysis

A number of obvious cultural and institutional barriers to the success of this project presented themselves during the design stage. In fact, in many ways, the purpose of the project is to confront and begin to overcome the barriers that currently interfere with the administration of justice in El Salvador. To that extent, although they are discussed here, it becomes somewhat problematic to debate whether these barriers will prevent successful implementation of the project. Other cultural and institutional factors, however, did need to be taken into account in trying to design the project in the most appropriate manner.

One aspect of cultural interference that we have been sensitive to during project design, and must continue to avoid, is the strong possibility of our assuming that the U.S. Judicial System is necessarily the appropriate model for an efficient and effective court system in El Salvador. Our judicial system, based on English common law, differs greatly from that of El Salvador, which is based on the Napoleonic Code. Differences between the two systems do

not necessarily indicate where impediments to an effective judiciary lie; nor do solutions that are reasonable in the American context necessarily make sense in El Salvador. As a result, Salvadoran participation in the design has been critical. The role which the Revisory Commission for Reform of Penal Codes has been given in continuing to refine and augment project design will help us to continue to avoid this pitfall.

One of the major problems with the judicial system in El Salvador is that certain elements of Salvadoran society are not perceived either by themselves or by the society at large at this point, to be subject to the rule of law. Extant social and institutional protections make this a difficult problem to overcome; however, one of the major objectives of the project is to begin to break down this system of special protection. The key to success lies with the commitment of the GOES, including the military, to start changing both the perception and the reality that military personnel, for example, can act with impunity in El Salvador. It should be noted that the military, in particular, has already demonstrated some degree of commitment by participating in gathering evidence in the churchwomen's case and helping to bring that case to a successful close. The willingness of military personnel to volunteer to participate in the SIU, as well as military assistance in designing and forming the unit, also demonstrate commitment by the military to begin to investigate crimes committed by its members.

The current design of the SIU with military personnel in high level positions, has taken account of the perception of many Salvadorans that direct military participation will be necessary for the unit to have the real power and authority to investigate crimes committed by military personnel. The mix of civilian personnel, with a civilian at the head of the unit will act as a balance to the military's influence within the unit and reinforce its effectiveness in dealing with abuses committed by the military.

Another institutional problem faced in project design was where to place the SIU and the forensic lab. What seemed to be obvious solutions of where these investigative tools should be located were less obvious in the context of Salvadoran politics, a reality that cannot be ignored. The solution of the GOES is to place these units in an autonomous institute within the Ministry of Justice, but to give oversight responsibility to a commission with representatives of various interested agencies. Although the institutional structure is somewhat complicated, the result should be that these investigative tools will be available to whatever agencies need to use them.

Another institutionalized problem that the project not only had to take account of but seeks to face head on, is corruption within the judiciary. Good investigations and protection for witnesses and jurors will be fruitless if the judges are easily bribed. With the current low salary levels in the judiciary, the temptation to bribery is high. The project design attempts to overcome this problem in part by providing project funding for salary

increases for judges. In addition, the Revisory Commission will examine approaches to having the courts adopt sanctions against judges who commit such abuses. Other components of the project seek to upgrade the competence of the current judges and set standards for the future. The project as a whole seeks to upgrade the professionalism and self-respect of the judiciary, as well as the ability of the system to work fairly and effectively. The combined effect of the different project components should make it less desirable in the future, either because of monetary reasons or reasons of professional responsibility, for judges to accept bribes rather than try cases fairly.

The initial effect of the project, particularly the SIU, JPU, and forensic lab components, will probably be fairly limited when judged by objective standards. The initial goal is to be able to generate enough evidence, provide enough protection to judges, witnesses, and jurors, and provide enough administrative support to the courts that a few important cases can be successfully tried in the near future. The real effect, however, should come from the confidence in the judicial system that such successes should begin to engender in El Salvador. The cases should demonstrate to Salvadorans that their judicial system can be a viable alternative to personal revenge, or no justice at all. As the capability of the judicial system begins to grow, as training for the SIU, the forensic lab technicians, and the judges continues, the reality of justice in El Salvador should also grow and provide even more support for not only increasing confidence in the system, but a demand by Salvadorans that the system be made to work.

The ultimate key to the success of the project is the commitment by Salvadorans that it work. That commitment appears to be present and real. President Duarte stated his commitment to judicial reform during his campaign for the Presidency, and he has continued to underscore that commitment since the elections. The new Constitution demonstrates the commitment by requiring the judiciary to be chosen according to standards of competence and ability. The successful conclusion of the churchwomen's case also demonstrates that commitment. This commitment, together with the growing expectations for justice that the project should engender, are the factors that should allow the project to have a real positive effect on the administration of justice in El Salvador.

#### D. Administrative Analysis

##### Overall Project Management

The Judicial Reform Project will be managed through a single Project Agreement, amended as necessary, and supplemented by Project Description Annexes and Project Implementation Letters. The project cuts across organizational lines for both GOES and USG institutions. At least four or five agencies of the GOES, possibly more, will be involved. The Presidency, the Ministry of Justice, the Revisory Commission, the Judiciary, and the Office of the Attorney General are currently involved.

The project involves political, social, economic and legal interests of the United States managed within different sections of the Embassy. The project has been jointly managed to date in the USAID and the Embassy Legal Office.

The USAID has assigned one person from its Program Office to the project on a part-time basis. This person will continue to serve as Project Manager, until a new U.S. direct-hire legal advisor is assigned to the Mission. The Legal Advisor will then become the new Project Manager, but will be able to dedicate only about 50% of his/her time to the Project. Because day-to-day management will be a full time job, involving actions for procurement, contracting, programming activities, project reporting and coordinating, the project should thus also be supported by a full time PSC Project Coordinator reporting to the USAID Program Manager. The Project Coordinator should be experienced in the management of complex projects involving components which cut across agency jurisdictions and fluent in Spanish.

A similar situation exists with the GOES personnel who will manage this project. Project management will have to be coordinated even though the individual components and sub-components may be implemented by separate entities. Since it will be difficult for the Executive Secretary of the Revisory Commission to manage his own component without full time management support, coordinating the operations of various Ministries or Agencies of the GOES will create an additional burden. Central points of contact and operation, therefore, must be established in each agency implementing a component.

In addition to project managers appointed in each GOES agency which implements a project component, there will be a full time Project Coordinator on the Revisory Commission staff. He will directly manage the Commission's own sub-projects and coordinate and assist the activities of the project managers of the other components. In this task, he will concentrate on the smooth and timely flow of project documentation and correspondence between the USAID and involved GOES agencies. USAID already has in place a system of periodic project review and reporting. In this case, the USAID's system will be supplemented by a bilateral progress review.

The USAID and the GOES will set up a project management and review committee consisting of the USAID Project Coordinator, the USAID Project Manager, the Revisory Commission Coordinating Officer, and the projects manager in the GOES agencies. They will meet every sixty to ninety days to review progress, identify problems and propose implementing actions. It will be the responsibility of the USAID Project Coordinator and the Revisory Commission Coordinating Officer to assure that these meetings are scheduled, agendas prepared and meeting places arranged.

E. Legal Analysis

Relationship of the Judicial Reform Project to Specter Section 660 of  
FAA/Amendment/Military Assistance

PAA Section 660/Specter Amendment

Section 660 of the Foreign Assistance Act of 1961, as amended, prohibits the use of any funds made available to carry out that Act, or any local currencies generated under the Act, to provide support to police, prisons, law enforcement forces, or internal intelligence programs. A.I.D. financing of the JPU, SIU, and forensic lab components of this project, absent some type of exemption, would be prohibited by this provision. Such an exemption is provided by the Specter Amendment to the Second Continuing Resolution for FY 1984 (P.L. 98-151). That provision states that "notwithstanding section 660 of the Foreign Assistance Act of 1961, not less than \$3,000,000 shall be available for programs and projects in El Salvador to promote the creation of judicial investigative capabilities, protection for key participants in pending judicial cases, and modernization of penal and evidentiary codes." Each of the project components cited above is designed to further one of the objectives stated in the Specter Amendment, and thus is exempted from the Section 660 prohibition.

The Specter Amendment provides legislative recognition and endorsement of the idea that judicial reform, and U.S. support for this reform, both financially and in spirit, are as necessary to the development of El Salvador at this point in its history as are other A.I.D. assistance programs. Prior to passage of Section 660 in 1974 and its predecessor provision, Section 112 of the Foreign Assistance Act of 1973, the Foreign Assistance Act did not exclude projects of this nature from the foreign assistance program. In fact, the General Policy Provisions of the FAA (Section 101) recognize that "a principal objective of the foreign policy of the United States is the encouragement and sustained support of the people of developing countries in their efforts to acquire the knowledge and resources essential to development and to build the economic, political and social institutions which will improve the quality of their lives." Additionally, this section states that one of the four principal goals of the A.I.D. program is "the encouragement of development process in which individual civil and economic rights are respected and enhanced." (emphasis added)

Generally, A.I.D. programs seek to achieve these and other objectives of the program by focusing on economic development. In part, this emphasis reflects an assumption that economic development is the most critical problem in most countries receiving A.I.D. assistance. It also reflects an assumption that the other objectives are more appropriately accomplished by the host countries themselves, and that they will be more easily accomplished once the economic climate has improved, or as it is improving.

At times in the past, A.I.D. has taken more direct action to assist in changing the political and social structures of countries through its public safety programs. Ultimately, however, the Congress decided that even though these programs may have promoted the objectives of the foreign assistance program, they entailed too great a risk in associating A.I.D. and the U.S. Government with abuses of authority by police forces. Even where A.I.D.'s programs may have actually resulted in reductions in these abuses, it was impossible to avoid the criticism generated by almost any police program. As a result, Section 660 was added to the FAA, and A.I.D. involvement in law enforcement programs stopped.

In passing the Specter Amendment, Congress has recognized that in the case of El Salvador, improvement in the lives of the Salvadoran people is totally dependent on development and change in the country's social and political institutions. Absent changes in the judicial system, there is no assurance that the rights and liberties of the Salvadoran people will be protected, and the current state of lawlessness and uncertainty will continue. Less directly, but just as important, absent these changes, disruption to the economy will also continue, and economic development will be difficult to sustain. The Congress has, therefore, found it necessary to specifically exempt certain types of programs that will provide assistance to the law enforcement forces in El Salvador from its earlier prohibition on this type of activity

One particular question which arises with respect to the Specter Amendment, in relation to the SIU component of the project, is whether the SIU, as designed, will "promote the creation of judicial investigative capabilities," and thus conforms with the Amendment. The legislative history of this amendment indicates that, at the time it was passed, the Senate Appropriations Committee supported the idea that an investigative organization be established independent of the police and other executive agencies and directly under the supervision of the courts.

A number of alternatives were proposed for placement of the SIU, including that suggested in the SAC Report. For a variety of reasons cited in the project paper, the alternative found to be most feasible by the Salvadoran Government was to establish the SIU as part of an autonomous institute within the Ministry of Justice and directed by a civilian commissioner. Under the judicial system in El Salvador, however, all investigations are under the direction of the courts. The legislative decree establishing the unit will designate it as an "Auxiliary Organ of the Courts." This step is necessary under Salvadoran law in order to have the evidence generated by the unit admissible in court. The proposed SIU, therefore, does comply with the Specter Amendment's mandate to "promote the creation of judicial investigative capabilities" even though it deviates somewhat from the configuration anticipated in the SAC Report.

The same rationale applies to the forensic lab. Although it will not be located directly within the judiciary, the investigations for which it will be used will, by law, be under the direction of the judiciary. The lab, therefore, will also "promote . . . judicial investigative capabilities" in El Salvador.

#### B. Military Assistance

Another question that arises with respect to this project is whether any components constitute military assistance, and thus are prohibited for that reason. There are some military links to the project, specifically, with regard to the SIU. As currently constituted, two of the top three officers in the new unit are military personnel. Above them will be a civilian commissioner, as well as the council that will oversee the Institute, of which the SIU will be a part. The rest of the unit is now composed of members of the National Police, although it is anticipated that civilians will be added to the unit. The military and police personnel will be detailed to the unit, which is characterized as essentially civilian, since it will be within the Institute for Criminal Investigation.. However, they will retain reemployment and retirement rights with their military and police organizations.

Section 531(c) of the Foreign Assistance Act states that, "Amounts appropriated to carry out this chapter shall be available for economic programs only and may not be used for military or paramilitary purposes." This provision, which was added to the FAA by the International Security Assistance Act of 1978, codified in this instance what was already law through application of the so-called "specific-general rule" of appropriations (31 U.S.C. Sec. 628). That rule prohibits the augmentation of funds for which there has been a specific appropriation with funds appropriated under a more general category.

The test which has generally been used to determine whether AID funds have been used to provide military assistance is the "primary purpose" test, i.e., whether the primary purpose of the assistance was to support military needs. The same rule is set forth in A.I.D. Handbook 1B as A.I.D. policy:

Economic assistance funds may not be used to finance any goods and services when the primary purpose of such assistance is to meet military requirements of the cooperating country. There is no exception to this policy.

The question, therefore, is whether the primary purpose of supporting an SIU that has military personnel detailed to it in high level positions is to meet requirements of the Salvadoran military. There appears to be no basis for concluding that the primary purpose is military in this case. The SIU will be carrying out a primarily civil investigative function under the direction of the courts. The unit will not be part of the military establishment; it will be composed primarily of civilian and police personnel under the direction of a civilian and located in an autonomous institute under the tutelage of the

Ministry of Justice. It is possible and likely that the SIU will be involved in investigating crimes against military personnel. However, these crimes will be civil in nature and would generally fall under the jurisdiction of civilian courts. The links to the military, although they exist and are considered necessary by many to give the SIU the real power and authority it needs to investigate charges against military personnel, are too tangential for the primary purpose of the assistance to be considered military in nature.

The other potential link to the military that the SIU may have is through the courts to which it will report and for which it will carry out its investigations. Right now, terrorist crimes are under the jurisdiction of the Decree 50 courts. The Decree 50 courts, although not completely military in nature, have an essentially military character. The decree establishing these courts permits most judges to be either military or civilian. In fact, however, all the judges appointed have been military, due to reluctance by civilian judges to take these cases. Additionally, appeals under the decree are to a military court. However, jurisdiction over the cases in which we have an immediate interest is in the civilian courts. Although the decree establishing the SIU would not prevent it from carrying out investigations for the Decree 50 courts, the cases in which it is anticipated that it would become most immediately involved will be tried in the civilian courts.

This assumption could possibly change in the future. Legislative action has been proposed that would place jurisdiction of all political-type crimes in the Decree 50 courts. The motivation for this proposal is the same one that prompted the establishment of the Decree 50 courts in the first place: reluctance of civilian judges to try these cases. However, at this time, no real action has been taken to adopt the legislation that would be necessary to change the jurisdiction.

Even if the SIU carried out an investigative function for the Decree 50 courts, or if jurisdiction for all political cases were transferred to the Decree 50 courts (which is just speculative), support of the SIU would still not be assistance for the primary purpose of meeting the needs of the military. The function that the military judges are carrying out in this case is primarily civil in nature. Military judges are carrying out this role specifically because of the breakdown in the civil judicial system in El Salvador. The General Counsel has stated in other cases that when the military is carrying out an essentially non-military function, ESF support for that function is not prohibited. That rationale applies to this case.

## VI. IMPLEMENTATION PLAN

### A. Implementation Responsibilities and Administrative Arrangements

The \$9.0 million dollar grant will be obligated in three tranches: during FY's 1984 (2 tranches totaling \$3.5 million) and 1985 (\$5.5 million). The original agreement, signed with the Ministry of Planning on July 13, 1984, and ratified by the COES Legislative Assembly on August 16, 1984, obligated \$765,000. The Ministry of Justice will be involved in all components of the project, but has direct control over only the Judicial Protection Unit, since the JPU's staff is employed by this ministry. The other implementing entities will serve as independent and autonomous units reporting to commissions or councils representing various interested ministries and organizations.

#### The Institute for Criminal Investigation and Forensic Sciences

Draft legislation (attached as Annex 8) has been presented to the Legislative Assembly which would establish an autonomous and permanent Institute for Criminal Investigation and Forensic Sciences. This Institute, which would contain both a scientific criminal investigative (forensic) laboratory and a Special Investigative Unit, would be placed under the control of a council of four or five directors named by the President. Though the draft legislation does not include details in this regard, discussions with ranking COES officials indicate that the council will be composed of the Minister of Justice, the Vice-Minister for Public Security, the Attorney General, and the President of the Supreme Court. The Executive Secretary of the COES' Human Rights Commission may also be appointed to the council. An Executive Secretary of the council will be named by the President.

The proposed Institute and its dependencies, the lab and the SIU, will have authorities as "Auxiliary Organs of the Court". It will be empowered to request the collaboration of any organ of the government in the pursuit of its duties, and these organs and authorities serving them will be obliged to give priority attention to any request of the Institute. The Institute will have priority over any investigation in which it becomes involved, and other "Auxiliary Organs of the Court" having information or evidence relating to such cases will be obliged to submit it to the Institute. The Institute will be obliged to observe and respect the guarantees established in the Constitution for the protection of persons accused of crimes.

The Institute will have its own administrative organization. Grant funds have been included in the project to permit establishment of the Institute and procurement of equipment to support its functions. The project will finance the basic operating costs and administration of the Institute during the life of the project. During project implementation, the Institute will obtain its support from the project through a special project administration and coordination unit which will be established in the offices of the new Revisory Commission for Legislation. The project administration and coordination

office, the technical assistance personnel working with the SIU and the laboratory, the Executive Secretary of the Revisory Commission, and an A.I.D. Project Coordinator will establish the necessary administrative and communications linkages to ensure proper coordination and control of project activities among the Institute, other involved GOES organizations, the Revisory Commission, the Judicial Protection Unit, and A.I.D.

#### The Revisory Commission for Legislation

The new Revisory Commission was established by Executive Decree on August 24, 1984 (See Annex 6). The Commission will be established by the President with representatives as follows: (a) a member designated by the President who will have the functions of Executive Secretary; (b) a member proposed by the Supreme Court; (c) a member proposed by the Ministry of Justice; (d) a member proposed by the Ministry of Defense and Public Security; (e) a member proposed by the associations of lawyers; and (f) a member proposed by the Federation of Lawyers Associations of El Salvador. Members will be appointed for one year, but may serve for successive periods.

The Executive Secretary of the Revisory Commission will be responsible for the administrative and coordinative functions of the Commission. In this role, he/she will be the principal liaison with A.I.D. and other involved agencies for administration of this project. As noted above, funds will be provided under the project to establish a project administration and coordination unit within the Commission. The unit will be responsible for proper accounting and control of funds provided by A.I.D. under the project and will prepare project implementation documents for all of the implementing organizations.

The decree creating the Revisory Commission specifies that it will present, within sixty days of appointment of its members, a work plan which will contain the formation of sub-committees or units necessary to its study functions. The work plan will be submitted to the Minister of Justice for his approval. The detailed work plan, accompanied by normal A.I.D. accounting documents, as updated and presented periodically to A.I.D., will serve as the basis for disbursement of advances of project funds to the Commission.

Project support to the court system and the JPU will be direct, in the form of material and training support, technical assistance and analyses necessary to the improved functioning of these organizations. Indirect support will be provided in the form of negotiated ESF local currency supplements to selected line items in the GOES National Budget which correspond to these institutions' needs.

Detailed budgets and implementation plans for activities to be implemented by GOES ministries/agencies will be approved by A.I.D., and the authorized representative(s) of the implementing entities. Such approval may be made by way of Memoranda of Understanding, countersigned Implementation Letters, or by A.I.D. and the GOES signing PIO/T's, PIO/C's or PIO/P's for the activity.

The procurement of the long term technical assistance for the project will be implemented directly by A.I.D. under authority to be included in the Project Agreement. In these cases, sub-obligating documentation need not be countersigned by the GOES.

In all cases, the specific objectives, budget, implementation requirements and responsibilities for each activity will be specified in the approval documentation related to that activity.

A USAID Project Review Committee will: (a) periodically review existing and proposed resource allocation under the project, including any need to make major changes in it; and (b) review obligating documents, and clear and/or make recommendations to the Mission Management according to normal Mission procedures.

B. Disbursement Procedures

A variety of standard A.I.D. disbursement procedures will be employed, depending upon the complexity of each of the approved activities. A.I.D. direct disbursement mechanisms will be normal under the project and controlled at the Mission level. In addition, direct Letters of Commitment will be utilized for procurement of commodities requiring foreign exchange. The justification for using the latter method of financing is presented in the Cost Estimates and Financial Plan section of this paper. Project funds in local currency funds will be channelled to the implementing institutions through the GOES' extraordinary budget process.

C. Procurement Procedures

The selection of consultants and contractors, procurement of equipment and materials, shipping and insurance will be done in accordance with standard A.I.D. and GOES procedures. Acquisitions made under the ESF grant will be described in detail and terms and conditions of purchase specified in implementation letters and other project implementation documents. USAID/El Salvador will, except where it agrees otherwise, carry out project-funded procurements.

D. Schedule of Major Events

Disbursement of funds is scheduled over a period of three fiscal years. The Project Assistance Completion Date (PACD) will be September 30, 1987. Ratification by the GOES' Legislative Assembly will be required for the proposed amendment to the agreement.

The new activities described in this document will begin upon ratification of the amendment. The first disbursement of funds provided to the Revisory Commission under the original agreement will begin upon receipt by the USAID of the Commission's first action plan and request for advance. The first

equipment purchased for the Judicial Protection Unit has already arrived in San Salvador and will be distributed to the unit when an adequate storage and security plan has been prepared and when proper care and use of the equipment (training in the use of and control of weapons) is assured.

Disbursements to the institutions not included under the original agreement will occur following satisfaction of conditions precedent outlined in Section VIII of this paper and receipt by USAID/El Salvador of implementation plans and documents submitted to the USAID. These first documents will be prepared by the implementing institutions in coordination with the USAID Project Manager. When the project administrative offices are established, action plans, project implementation documents and requests for disbursement will be developed by the implementing institutions with the coordination and support of the project administration and coordination office. Project implementation documents for the technical assistance to be provided under the project and for personnel and equipment of the project administration office will be prepared and issued upon signing of Amendment No. 1 to the Project Agreement. By that time, the Revisory Commission will have identified an office, and first disbursement to the Commission will have permitted implementation to begin in earnest.

The schedule of major implementation events is as shown below. Annex 12 includes major implementation events for the specific components.

<u>Date</u>	<u>Action</u>
July 13	Signing of original Project Agreement, obligating \$765,000 (including \$50,000 from PIO/P above).
August 17	Ratification of the original Project Agreement by the GOES Legislative Assembly.
September	Authorization of Project Amendment by AID/W.  Signing of Amendment No. 1 to Judicial Reform Project Agreement.  Issuance of Implementation Documents leading to contracts for long-term technical assistance (SIU, Laboratory and Project Administration and Coordination Unit).  USAID negotiates supplementary local currencies and project counterpart financing for the project components.

November Accountants and programmers contracted to work in the project administration and coordination office.

Effective inventory and control system established for equipment provided to each of the implementing agencies under the project.

Long-term technical assistance personnel arrive in El Salvador.

1985

February Amendment No. 2 to the Project Agreement signed to fully fund the project.

1986

January First in-depth project evaluation carried out.

1987

March Final project evaluation begins.

September 30 Project terminates.

In addition to the above schedule of major events, quarterly progress reviews will be held within the Mission and separate quarterly progress reviews, arranged by the project administration and coordination unit, will be held with representatives of the Revisory Commission, the Institute for Criminal Investigation, the Supreme Court and the Ministry of Justice

VII. MONITORING PLAN

A. A. I. D. Project Monitoring Arrangements

Project monitoring will be exercised by a Project Manager Officer assigned initially from USAID's Program Office (DPP) and subsequently from the Office of the USAID Legal Office, to be established. The Project Manager will work closely with management officials of the Revisory Commission and other GOES implementing entities to assure that project implementation plans and objectives are met.

In accordance with Mission policy, project review meetings will be held monthly to review and direct project implementation. The Deputy or Associate Director will chair the meetings. Representatives from the Program Office, the Projects Office, the Management Office, and the Controller's Office will attend the meetings.

The Project Manager will also call upon other Mission offices. These will include:

1. The Project's Office (PRJ), which will monitor project implementation to assure that the terms and conditions of the project agreement are met.
2. The Mission Controller, who will review disbursement and reimbursement requests for conformity with A.I.D. regulations and will ensure that adequate financial controls are exercised.
3. The Program Office (DPP), which will assist in carrying out project evaluations. Further, the Training Officer will assist GOES agencies in certain A.I.D. administrative requirements for participants in U.S. or third country training.
4. In addition to the above, the Project Manager will call upon the U.S. Embassy's Legal Officer and Security Officer, as appropriate.

B. Assessment of A.I.D. Monitoring Capability

A.I.D. plans to assign a U.S. direct-hire lawyer to the USAID Mission who will become the Project Manager when assigned. In addition, a PSC project coordinator and an assistant will be contracted by the USAID. It is expected that with the addition of this person, plus the level of Mission staff, both on-board and planned, that there will be no difficulty in carrying out project monitoring responsibilities.

VIII. CONDITIONS AND COVENANTS

The following conditions and covenants will be included in the project agreement:

A. Conditions Precedent

1. Prior to the first disbursement of funds for the procurement of technical assistance for the Criminal Investigation Institute, or to the issuance by A.I.D. of documentation pursuant to which disbursement will be made, the Grantee will, except as A.I.D. may otherwise agree in writing, furnish to A.I.D., in form and substance satisfactory to A.I.D., evidence that it has submitted to the Legislative Assembly the proposed legislative decree that will establish the Institute.

2. Prior to the disbursement of funds for equipment for the Criminal Investigation Institute, or the issuance by A.I.D. of documentation pursuant to which disbursement will be made, the Grantee will, except as A.I.D. may otherwise agree in writing, furnish to A.I.D., in form and substance satisfactory to A.I.D., evidence that the Legislative Assembly has approved the legislative decree establishing the Institute.

3. Prior to the delivery of any equipment to the Institute for either the Special Investigative Unit or the Forensic Lab or the JPU, the Grantee will, except as A.I.D. may otherwise agree in writing, furnish to A.I.D., in form and substance satisfactory to A.I.D., evidence that it has arranged for proper security measures and storage for such equipment.

#### B. Covenants

The Grantee covenants, except as A.I.D. otherwise agrees in writing:

1. To have named and approved an Executive Secretary and the four Directors of the Criminal Investigation Institute, as well as the civilian Commissioner for the Special Investigative Unit, within 30 days after the Legislative Assembly has approved the decree establishing the Institute;
2. To have the rest of the staff of the Institute, except the investigators under the Special Investigative Unit, in place within 90 days after the Legislative Assembly has approved the decree establishing the Institute;
3. To name to the Special Investigative Unit, within the first year after it is established, a minimum of five civilians to supervise investigative teams;
4. To name the commissioners and the Executive Secretary to the Legislative Revisory Commission within 30 days after the signing of this Agreement;
5. To have the support staff for the Revisory Commission in place within 90 days after the signing of this Agreement;
6. To establish an effective inventory and control system for equipment provided under any of the project components;
7. To formally establish the JPU and to establish and maintain an ongoing readiness training program for the Judicial Protection Unit and to assign all members of the Unit to the same prison facility to facilitate this training and to engender a sense of cohesion among them.

### Waiver

The Mission foresees the need to grant a waiver to A.I.D. Geographic Code 000 eligibility for the procurement of some 20 motorbikes for the judicial system. The USAID thus requests authority to waive the source and origin for said procurement, estimated to cost approximately \$42,000, to A.I.D. Geographic Code 935.

### IX. EVALUATION ARRANGEMENTS

The project will be evaluated eighteen months after project agreement signing, i.e., January 1986. This evaluation will look toward needed redesign of the project, project components, or project management procedures. During the first year of project life a great deal of effort will be devoted to meeting conditions precedent, designing project implementation, and developing or refining additional project elements. Consequently, an informal evaluation and project review will be held in July 1985. A final evaluation will be planned for March 1987, nine months prior to the end of the project. This will permit incorporation of evaluation findings into design of any follow-on reform activity.

Quantitative measures of progress toward the achievement of the project purpose will be such indicators as numbers of notorious cases brought to trial and successfully prosecuted; investigations of terrorist and other crimes opened; reduction of time spent in sumario and plenario phases of criminal trials; and reduction in the criminal case back log.

The outputs, easily quantified, will offer such measures as persons trained, studies prepared, study recommendations accepted and implemented, laboratory investigations conducted and results submitted, protective cases accepted and protection duties carried out. Outputs from the support to the judiciary component can be objectively measured in terms of increased numbers of cases processed. Informal opinions of respected Salvadorans will also be collected on public opinion of better equipped and operating courts.

Inputs delivered will be measured against plans set forth in project component implementation and financial plans.

SCHEDULED OF MAJOR IMPLEMENTATION EVENTS BY COMPONENT

<u>Date</u>	<u>Action</u>
<u>Judicial Protection</u>	
<u>1984</u>	
April 30	Signing of a PIO/P obligating funds permitting members of the JPU to travel to Glynnco, Georgia for training at the Federal Law Enforcement Training Center (FLETC).
April 30 - May 8	Two groups of 30 JPU members receive one week of training at FLETC.  Receipt by USAID from Ministry of Justice of evidence that arrangements have been made for the safe storage and control of equipment provided under the original Project Agreement.
<u>Revisory Commission for Legislation</u>	
August 24	Issuance by President Napoleon Duarte of Decree establishing a new Revisory Commission on Legislation.  All members of the Revisory Commission confirmed in their positions.  Receipt of first action plan from the Revisory Commission.
October	First disbursement to Revisory Commission.  Revisory Commission offices leased, support equipment purchased with local currencies available to the Commission, and basic staff hired.  Project Implementation Order issued for Management Study of the Court System.  Revisory Commission begins contracting of Salvadoran lawyers to begin work on reviews laid out in general scope of work.

Management study of court system begins.

- July                    Revisory Commission submits a report on its initial findings to President Duarte.
- August                 President submits to the Legislative Assembly new draft legislation proposed by the Revisory Commission.
- October                First term of the members of the governing council of the Institute for Criminal Investigation ends.

Institute for Criminal Investigation and Forensic Sciences

- August 31             Submission to the Legislative Assembly by President of draft legislation creating the Institute for Criminal Investigation and Forensic Sciences.
- Four directors and the Executive Secretary of the Institute for Criminal Investigation named by the President.
- First actions plans and requests for disbursement submitted to USAID by the Institute for Criminal Investigation.
- Offices leased and basic preparations made for installation of the SIU and forensic laboratory facilities in San Salvador.
- USAID approves GOES contracts for purchase of furnishings for the SIU, Lab and Commission and, with advice and consent of GOES implementing agencies, issues PIO/C's for major equipment purchases.
- Efforts begun to recruit highly qualified civilians for positions in the SIU and for positions in the forensic laboratory.
- December             The SIU and laboratory are fully staffed (except for the civilian investigators unless already identified).
- March                 Major equipment items for lab and SIU arrive in El Salvador; radio systems installed.
- Special FBI-type investigative training program for members of the SIU carried out at Roosevelt Roads in Puerto Rico or similar installation.

September            At least 5 highly qualified civilians have been recruited and are working as investigators in the SIU. Efforts continue to hire another 5 civilians for positions on the SIU.

First term of the members of the Revisory Commission ends.

Judicial Administration and Training

1985

January              Action plans and implementation documents relating to project support of the court system are issued.

Administrative study of court system is submitted to the Revisory Commission and to USAID.

Training Plans describing a program for in-country training of judges and court administrative staff are prepared and submitted as part of an action plan for project financing.

April                Equipment and supplies for the Court System arrive in El Salvador.

June                 New administrative systems implemented within the court system.

LOG-FRAME PROJECT 519-0296  
(Judicial Reform)

NARRATIVE	OBJECTIVELY VERIFIABLE INDICATOR	MEANS OF VERIFICATION	ASSUMPTIONS
<u>Goal</u> To build and sustain confidence in the Salvadoran Criminal Justice System.	- Increase in number of criminal cases going to trial.  - Increase in conviction rate in criminal trials.	- GOES Court records and national statistics.	Political stability and socio-economic situation does not deteriorate further.
<u>Purpose</u> To improve the administrative, technical and legal performance of El Salvador's criminal justice system.	-Advisory and reform role of Revisory Commission institutionalized within the GOES.  -JPU functioning on regular basis for selected trial proceedings.  -Special Investigative Unit fully incorporated and functioning as an auxiliary organ of the Court system.	Diario Oficial of Legislative Assembly.  periodic reports, evaluations.  periodic reports, evaluations.	GOES will provide supportive policy framework.  GOES will provide adequate resources from national budget.  GOES will provide adequate resources from national budget.

Best Available Document



LOG-FRAME PARLAF 519-0296  
(Judicial Reform)

NARRATIVE	OBJECTIVELY VERIFIABLE INDICATOR	MEANS OF VERIFICATION	ASSUMPTIONS
	The GOIS budgetary contribution for the JPU will amount to apx. ₡225,000 per year.		
	The GOIS budgetary contribution for the SIU will amount to apx. ₡150,000 per year		
	The GOES budgetary contribution for the operation of the forensic lab will total at least ₡60,000 per year.		
	The number of Project trained JPU agents in place within the unit will number approximately 50.		
	The number of Project trained SIU agents in place within the unit will number approximately 25.		
	The number of Project trained forensic lab technicians in place will number about 10.		

5/9

(Judicial Reform)

NARRATIVE	OBJECTIVELY VERIFIABLE INDICATOR	MEANS OF VERIFICATION	ASSUMPTIONS
	-Forensic Laboratory will be providing evidence analysis for all major criminal investigations.	periodic reports, evaluations.	GOES will provide adequate resources from national budget.
	-GOES will have adopted and be implementing an ongoing program for improvement of infrastructure, and administration of the courts and career development of judges.	periodic reports, and evaluations.	GOES will provide adequate resources from national budget.
<u>Outputs</u>			
A) <u>Revisory Commission</u>	Analytical studies completed on criminal/penal reform and judicial administration.		Qualified expertise will be found to perform analysis.
	-Reforms drafted and submitted for legislative action to improve effectiveness of criminal justice and Court systems.		Legislative assembly will enact necessary legislation.
B) <u>Judicial Protection Unit</u>	Training and equipping of 60 man protective unit.	periodic reports, evaluations.	
C) <u>Special Investigative Unit</u>	Formal establishment, training and equipping of 30 man team for special investigations.	periodic reports, evaluations.	Assembly approves legislation creating the Institute for Criminal Investigation and Forensic Sciences (Institute).

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LEGISLATIVE PROGRAM 519-0296  
(Judicial Reform)

NARRATIVE	OBJECTIVELY VERIFIABLE INDICATOR	MEANS OF VERIFICATION	ASSUMPTIONS
D) <u>Forensic Laboratory</u>	Establishment, staffing and equipping of laboratory for crime detection and evidence analysis.	periodic reports, evaluations.	Assembly approves legislation creating the Institute.
E) <u>Judicial Administration</u>	Completion of Court system management assessment.	periodic reports, evaluations.	GOES accepts findings of assessment.
	Development and implementation of judicial training program.	periodic reports, evaluations.	Judicial workload will be, adjusted to permit judges participation in program.  GOES will increase budget outlays for Court system.
	Physical improvements to judicial infrastructure.	periodic reports, evaluations.	GOES will increase budget outlays for Court system.

	<u>Inputs</u>		
	<u>A.I.D.</u>	<u>GOES</u>	<u>TOTAL</u>
A) Technical Assistance	1,538	—	1,538
B) Personnel	1,052	3,589	4,641
C) Operational Support	1,753	560	2,273
D) Training	1,548	—	1,548
E) Equipment	2,178	—	2,178
F) Other	<u>971</u>	<u>—</u>	<u>1,179</u>
Total	9,000	4,357	13,357

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(PROJECT CHECKLIST)

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5C(2) PROJECT CHECKLIST

Listed below are statutory criteria applicable to projects. This section is divided into two parts. Part A. includes criteria applicable to all projects. Part B. applies to projects funded from specific sources only:

- B.1. applies to all projects funded with Development Assistance Funds,
- B.2. applies to projects funded with Development Assistance loans, and
- B.3. applies to projects funded from ESF.

CROSS REFERENCES: IS COUNTRY CHECKLIST UP TO DATE? HAS STANDARD ITEM CHECKLIST BEEN REVIEWED FOR THIS PROJECT?

A. GENERAL CRITERIA FOR PROJECT

1. FY 1982 Appropriation Act Sec. 523; FAA Sec. 634A; Sec.653(b)

(a) Describe how authorizing and appropriations committees of Senate and House have been or will be notified concerning the project;

The notification on this project to Congress expired on April 12, 1984.

(b) is assistance within (Operational Year Budget) country or international organization allocation reported to Congress (or not more than \$1 million over that amount)?

YES.

2. FAA Sec. 611(a)(1). Prior to obligation in excess of \$100,00, will there be:

(a) engineering, financial or other plans necessary to carry out the assistance and (b) a reasonably firm estimate of the cost to the U.S. of the assistance?

YES.

YES.

3. FAA Sec. 611(a)(2). If further legislative action is required within recipient country, what is basis for reasonable expectation that such action will be completed in time to permit orderly accomplishment of purpose of the assistance?

A legislative decree will be necessary to establish the forensic lab component of the project. There is widespread agreement in El Salvador that such a lab is necessary. The main question is where the lab should be located. There is little doubt that that question will be resolved and the Legislative Assembly will approve the necessary decree in time for orderly implementation of this component.

4. FAA Sec. 611(b); FY 1982 Appropriation Act Sec.501.

If for water or water-related land resource construction, has project met the standards and criteria as set forth in the Principles and Standards for Planning Water and Related Land Resources, dated October 25, 1973? (See AID Handbook 3 for new guidelines.)

N/A

5. FAA Sec. 611(e). If project is capital assistance (e.g., construction), and all U.S. assistance for it will exceed \$1 million, has Mission Director certified and Regional Assistant Administrator taken into consideration the country's capability effectively to maintain and utilize the project?

N/A

6. FAA Sec. 209. Is project susceptible to execution as part of regional or multilateral project? If so, why is project not so executed? Information and conclusion whether assistance will encourage regional development programs.
7. FAA Sec. 601(a). Information and conclusions whether project will encourage efforts of the country to: (a) increase the flow of international trade; (b) foster private initiative and competition; and (c) encourage development and use of cooperatives, and credit unions, and savings and loan associations; (d) discourage monopolistic practices; (e) improve technical efficiency of industry, agriculture and commerce; and (f) strengthen free labor unions.
8. FAA Sec. 601.(b). Information and conclusions on how project will encourage U.S. private trade and investment abroad and encourage private U.S. participation on foreign assistance programs (including use of private trade channels and the services of U.S. private enterprise).

This project is part of an overall regional effort. However, the components in this case are unique to the needs of El Salvador. Some aspects of the project, particularly training, may be carried out at regional institutions and in conjunction with the broader, regional program.

The project should foster the private sector by promoting a more stable environment within El Salvador that will allow the private sector to make decisions on a more rational economic basis.

By promoting stability in El Salvador, and protection of the individual and of private property, the project will help to create an environment in El Salvador that will encourage U.S. trade with and investment in El Salvador.

9. FAA Sec.612(b) 636(h); FY 1982 Appropriation Act Sec.507.  
Describe steps taken to assure that, to the maximum extent possible, the country is contributing local currencies to meet the cost of contractual and other services, and foreign currencies owned by the U.S. are utilized in lieu of dollars.
10. FAA Sec. 612(d). Does the U.S. own excess foreign currency of the country and, if so, what arrangements have been made for its release? NO.
11. FAA Sec. 601(e). Will the project utilize competitive selection procedures for the awarding of contracts, except where applicable procurement rules allow otherwise? YES.
12. FY 1982 Appropriation Act Sec.521. If assistance is for the production of any commodity for export, is the commodity likely to be in surplus on world market at the time the resulting productive capacity becomes operative, and is such assistance likely to cause substantial injury to U.S. producers of the same, similar to competing commodity? N/A

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13. FAA 118(c) and (d). Does the project comply with the environmental procedures set forth in AID Regulations 16? Does the project or program taken into consideration the problem of the destruction of tropical forests?

YES.

14. FAA 121(d). If a Sahel project, has a determination been made that the host government has an adequate system for accounting for and controlling receipt and expenditure of project funds (dollars or local currency generated therefrom)?

N/A

B. FUNDING CRITERIA FOR PROJECT

1. Development Assistance Project Criteria

N/A

FAA Sec. 102(b), 111, 113, 281(a). Extent to which activity will (a) effectively involve the poor in development, by extending access to economy at local level, increasing labor-intensive production and the use of appropriate technology, spreading investment out from cities to small towns and rural areas, and insuring wide participation of the poor in the benefits of development on a sustained basis, using the

appropriate U.S. institutions; (b) help develop cooperatives, especially by technical assistance, to assist rural and urban poor to help themselves toward better life, and otherwise encourage democratic private and local governmental institutions; (c) support the self-help efforts of developing countries; (d) promote the participation of women in the national economies of developing countries and the improvement of women's status; and (e) utilize and encourage regional cooperation by developing countries?

b. FAA Sec. 103, 103A, 104, 105, 106. Does the project fit the criteria for the type of funds (functional account) being used?

c. FAA Sec. 107. Is emphasis on use of appropriate technology (relatively smaller, cost-saving, labor-using technologies that are generally most appropriate for the small farms, small business, and small incomes of the poor)?

d. FAA Sec. 10(a). Will the recipient country provide at least 25% of the costs of the program, project, or activity with respect to which the assistance is to be furnished (or is the latter cost-sharing requirement being waived for a "relatively least developed" country)?

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e. FAA Sec. 110(b). Will grant capital assistance be disbursed for project over more than 3 years? If so, has justification satisfactory to Congress been made, and efforts for other financing, or is the recipient country "relatively least developed"? (M.O. 1232.1 defined a capital project as "the construction, expansion, equipping or alteration of a physical facility or facilities financed by AID dollar assistance of not less than \$100,000, including related advisory, managerial and training services, and not undertaken as part of a project of a predominantly technical assistance character.

f. FAA Sec. 122(b). Does the activity give reasonable promise of contributing to the development of economic resources, or to the increase of productive capacities and self-sustaining economic growth?

g. FAA Sec. 281(b). Describe extent to which program recognizes the particular needs, desires, and capacities of the people of the country; utilizes the country's intellectual resources to encourage institutional development; and supports civil education and training in skills required for effective participation in governmental processes essential to self-government.

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2. Development Assistance Project  
Criteria (Loans Only)

- a. FAA Sec. 122(b).  
Information and conclusion  
on capacity of the country  
to repay the loan, at a  
reasonable rate of  
interest.
- b. FAA Sec. 620(d). If  
assistance is for any  
productive enterprise  
which will compete with  
U.S. enterprises, is there  
an agreement by the  
recipient country to  
prevent export to the U.S.  
of more than 20% of the  
enterprise's annual  
production during the life  
of the loan?
- c. ISDCA of 1981, Sec. 724  
(c) and (d). If for  
Nicaragua, does the loan  
agreement require that the  
funds be used to the  
maximum extent possible  
for the maximum extent  
possible for the private  
sector? Does the project  
provide for monitoring  
under FAA Sec. 624(g)?

3. Economic Support Fund Project  
Criteria.

- a. FAA Sec. 531(a). Will  
this assistance promote  
economic or political  
stability? To the extent  
possible, does it reflect  
the policy directions of  
FAA Section 102?

YES.

The project is specifically  
designed to support both  
economic and political stability  
in El Salvador by promoting a  
return to an effective alternative  
to violence and personal retribu-  
tions through the court system,  
and by seeking to bring all aspects  
of Salvadoran society under the  
rule of law.

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- b. FAA Sec. 531(c). Will assistance under this chapter be used for military, or paramilitary activities? NO
- c. FAA Sec. 534. Will ESF funds be used to finance the construction of the operation or maintenance of, or the supplying of fuel for, a nuclear facility? Is so, has the President certifies that such use of funds is indispensable to nonproliferation objectives? NO
- d. FAA Sec. 609. If commodities are to be granted so that sale proceeds will accrue to the recipient country, have Special Account (counterpart) arrangements been made? N/A

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(GRANTEE REQUEST FOR ASSISTANCE)



*Ing. José Napoleón Duarte*  
*Presidente de la República*

San Salvador, 23 de agosto de 1984

Excmo. Embajador de los  
Estados Unidos de América  
Señor Thomas R. Pickering,  
Presente.

Honorable Señor Embajador:

De conformidad con nuestras conversaciones y las que han sostenido miembros de nuestros respectivos organismos de trabajo, quisiera reiterarle la sincera preocupación de mi Gobierno así como el interés que tiene en llevar a cabo una reforma judicial y un proyecto de modernización del sistema judicial.

Específicamente, como ya lo hemos mencionado en nuestras discusiones, el Gobierno de El Salvador solicita la asistencia del Gobierno de los Estados Unidos de América para desarrollar lo que nosotros hemos llamado el Instituto de Investigaciones Criminológicas. El Instituto, que funcionaría como un órgano auxiliar de la administración de justicia, tendría su sede en San Salvador, pero tendría la autoridad para establecer oficinas regionales en todo el territorio nacional. Su trabajo incluiría la investigación de aquellos crímenes que, por su naturaleza, amenacen la seguridad y la integridad de la sociedad salvadoreña. Adicionalmente, el Instituto por intermedio de su laboratorio, proporcionaría el análisis técnico y científico necesario para el exitoso procesamiento de ofensas criminales. La capacidad del Instituto estaría a la disposición de la Fiscalía General de la República, así como de los otros organismos auxiliares de la administración de justicia y del Órgano Judicial.

Del mismo modo, tal como hemos discutido, creemos apropiada y muy oportuna su colaboración en el estudio de la administración de justicia que necesariamente es la base del esfuerzo de mi país para reformar y modernizar su sistema judicial. El componente central en dicho estudio sería naturalmente la Comisión Revisora de la Administración de Justicia en materia penal y civil. En este aspecto, El Salvador requerirá de asistencia en puntos de sentido práctico como el suministro de materiales para la administración de justicia, etc.



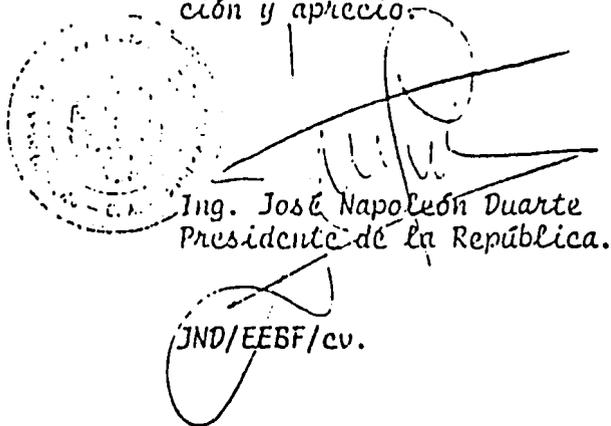
*Ing. José Napoleón Duarte  
Presidente de la República*

Como es de su conocimiento, la legislación que crea el Instituto de Investigaciones Criminológicas ya está preparada y yo confío que será aprobada por la Asamblea Legislativa antes del 30 de septiembre.

Por otra parte, hemos también preparado un decreto ejecutivo que establece la creación de la Comisión Revisora de la Administración de Justicia en materia penal y civil. Ese decreto estará firmado y entrará en vigencia mucho antes del 31 de agosto.

La Comisión Revisora de la Administración de Justicia en materia penal y civil, tendrá una responsabilidad general de vigilancia del esfuerzo de El Salvador para la reforma judicial y la modernización del sistema. Esa responsabilidad incluirá todos los elementos que componen el proyecto.

Le ruego aceptar las reiteradas seguridades de mi más alta consideración y aprecio.



*Ing. José Napoleón Duarte  
Presidente de la República.*

JND/EESF/cv.

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PRESIDENCIA  
DE LA  
CORTE SUPREMA DE JUSTICIA  
TEL. 21-6697

San Salvador, 12 de enero de 1984

Señor don Martín Dagata  
Director de la AID  
Presente

Conocedor de la bondadosa intención de la AID para prestar su valiosa ayuda a fin de mejorar la administración de justicia en nuestro país, especialmente en materia penal, sometí el asunto a Corte Plena, la que acordó aceptar dicha ayuda siempre que sea en forma incondicional; y en consecuencia me permito exponer a usted las necesidades más urgentes que necesitamos atender:

1.- Modernización de la legislación penal. La Comisión que ha integrado la Corte Suprema de Justicia para estudiar el Código Penal y el Código Procesal Penal y proponer las reformas que estime necesario hacerles, está integrada por los Magistrados de la Sala de lo Penal de esta Corte doctores José Samuel Cárdenas, Manuel Rafael Reyes y Ricardo Alfonso Garay y por los doctores Jorge Santos Zavaleta, Manuel Arrieta Ciegos y Héctor Mauricio Arce Gutiérrez; a cada uno de los tres últimos se ha asignado honorarios de ₡ 2,500.00 por su trabajo. Se ha invitado para que presten su colaboración a dos abogados que representan a la Fiscalía General de la República y a la Federación de Asociaciones de Abogados, a quienes se podría incluir en la Comisión. La AID podría proporcionar los honorarios para ambos abogados - quienes actualmente desempeñan su trabajo ad-honores porque no existen los fondos necesarios para su remuneración, que también sería de ₡ 2,500.00 para cada uno de ellos y se les cancelaría al finalizar el trabajo a satisfacción de la Corte Suprema de Justicia.

*with 8 copies  
Corte Suprema de Justicia*



*12*

II.- Equipo para notificaciones y comunicaciones. Para facilitar las notificaciones y entrega de correspondencia en esta capital, se necesitan veinte monetas, así: siete para los notificadores de los siete Juzgados de Paz que inician las primeras diligencias en la averiguación de los delitos y de los delincuentes; siete para los siete Juzgados de Primera Instancia que conocen en el ramo penal y seis para servicio de los notificadores de la Corte Suprema de Justicia. Este equipo redundaría en una mayor expedición de la justicia en el ramo penal.

III.- Instituto de Investigación Forense dependiente de la Corte Suprema de Justicia. Este Instituto es de urgente creación, a fin de tecnificar y agilizar el establecimiento y comprobación de la existencia del delito en los delitos contra las personas. Según nuestra idea, ese Instituto debe tener modernos laboratorios, salas frigoríficas, mesas de autopsias y demás equipo técnico para que allí se realicen los peritajes, análisis y exámenes que ordene el Juez de la causa, sea de oficio, a petición de la Fiscalía o de la Procuraduría General de la República, de los acusadores o de los defensores. Se necesita la ayuda de AID: a) para pagar los técnicos durante el presente año, pues en el Proyecto del Poder Judicial para los siguientes, aparecerían las partidas necesarias para cubrir esas plazas; b) para la adquisición del equipo necesario a fin de que el laboratorio funcione eficientemente; y c) para una programación completa, se necesitaría la asesoría de un técnico en la materia.

Por de pronto, de manera urgente y para facilitar la práctica de los reconocimientos forenses, se necesitan en la Clínica Forense y tribunales

N

instalados en el Centro Judicial "Isidro Menéndez" de esta ciudad, de dos ambulancias y dos automóviles. Además, de modo inmediato, convendría aumentar el número de Médicos Forenses del distrito de San Salvador, para expedir los reconocimientos y autopsias. Se necesitarán cuatro Médicos Forenses más a razón de ₡ 820.00 mensuales cada uno, sueldo que se les pagaría por AID en el corriente año, pues en los venideros su salarios aparecería en el Presupuesto del Poder Judicial.

IV.- Agentes de seguridad subordinados a la Corte Suprema de Justicia. Se necesitan por lo menos quince agentes que velarían por el orden de los tribunales, para hacer comparecer a testigos renuentes y para protección de las personas que intervienen en el proceso judicial, como Magistrados, Jueces, testigos, jurados, etc..- También aquí se necesitaría la ayuda de AID: a) para pagar los sueldos del personal que se ocuparía en esas plazas; b) para suministrarles un entrenamiento especializado; y c) para la adquisición del equipo necesario de seguridad. Actualmente la Corte Suprema de Justicia, debido a las limitaciones de su presupuesto y a las instrucciones fiscales, no puede aumentar el personal de sus empleados. De igual manera se indicó en el párrafo número III, la Corte Suprema de Justicia incluiría las plazas necesarias en el presupuesto para 1985 y en lo sucesivo, por lo que el pago de esos agentes lo haría la AID únicamente durante 1984. También se podría proteger permanentemente un Salón de Jurados para que allí se verificaran las vistas públicas de los casos en que los jurados tuvieran mayor peligro.

V.- Servicios generales.- La situación del Poder Judicial ha sido siempre de extrema penuria; pero en la actualidad, por las condiciones del país que repercuten en las disponibilidades fiscales, nos vemos precisados

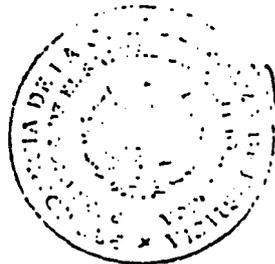
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a desatender aún las necesidades más mínimas de la administración de justicia. Sería de inmensa ayuda que AID pudiera dotar de fondos al Poder Judicial para adquirir y mantener en stock a fin de surtir permanentemente a los diversos tribunales del país, artículos de escritorio y papelería en general. Expediría mucho la administración de justicia, además, el que la Corte Suprema de Justicia contara con medios de reproducción mecánica de circulares, instructivos, etc., y de ser posible, con una imprenta propia, que le facilitara la impresión y distribución de leyes, reglamentos y demás disposiciones que sea necesario repartir entre los jueces y abogados del país.

Para cubrir las urgentes necesidades anteriormente indicadas, a nombre de la Corte Suprema de Justicia, solicito a la AID la donación correspondiente.

Para el desarrollo del programa correspondiente se ha integrado por la Honorable Corte Suprema de Justicia, una Comisión compuesta por los Magistrados doctores José Samuel Cárdenas, Manuel Rafael Reyes, Ricardo Alfonso Garay y Roberto Oliva y se ha designado al Dr. Cárdenas, Magistrado Presidente de la Sala de lo Penal de esta Corte, para que sirva de medio de comunicación en todo lo que fuere necesario para el feliz término del programa de ayuda que solicitamos. El teléfono directo del Dr. Cárdenas es el No. 22-5302 en la Corte Suprema de Justicia y el No. 26-6710 en su casa particular.



DIOS, UNION Y LIBERTAD

*Arturo Zeledón Castrillo*  
Arturo Zeledón Castrillo  
Presidente de la  
Corte Suprema de Justicia.

c.c. /a los señores James Mack, Kevin Brown, Terry Barker y al Dr. Ricardo Guillermo Castaneda.

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PRESIDENCIA  
DE LA  
SUPREMA DE JUSTICIA  
TEL 21-8087

San Salvador, 12 de enero de 1984

REGIONAL DDPG  
REGIONAL 1124

Info:		
DDJ	H. / H.S.	
MO	NI	
DPP	TR	
PRJ	GDO	ECON

Subject: Requesting AID  
financial support

Señor don Martín Dagata  
Director de AID,  
Presente

**ACTION COPY**

En adición a mi nota de esta misma fecha, relativa a la ayuda de AID para diversas necesidades urgentes del Poder Judicial, me permito manifestarle que otra cuestión a la que deberá atenderse necesariamente, es la siguiente:

VI.- Instalación y funcionamiento del Consejo Nacional de la Judicatura. Este organismo ha sido creado por el Art. 187 de la Constitución Política que recientemente entró en vigor; pero según Disposición Transitoria - contenida en el Art. 255 de la misma Constitución, la organización actual de la Corte Suprema de Justicia continuará vigente hasta el 30 de junio del corriente año. El Consejo Nacional de la Judicatura, pues, empezará a funcionar desde el 1o. de julio de 1984 en adelante, y la Corte actualmente se encuentra estudiando y redactando el proyecto de ley secundaria que normará sus actuaciones. Pero para funcionar eficazmente, dicho Consejo necesitará no sólo de las disposiciones legales pertinentes, sino asimismo del personal, equipo y demás elementos materiales indispensables para su actividad. De manera que también me veo precisado a solicitar de AID la ayuda económica necesaria para adquirir las máquinas de escribir, contómetros, archivadores, equipo - computarizado, etc., que permita a dicho Consejo administrar en una forma - eficiente la carrera judicial. Dentro de los requerimientos de tal Consejo es-

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PRESIDENCIA  
DE LA  
CORTE SUPREMA DE JUSTICIA  
TEL. 21-8007

..... 2

tará también la dotación indispensable para el funcionamiento de una escuela  
de jueces que levantará el nivel jurídico y técnico de los encargados de ad-  
ministrar justicia.

Quedo de usted atentamente,



*Arturo Zeledón Castrillo*

Arturo Zeledón Castrillo  
Presidente de la  
Corte Suprema de Justicia

c.c./a los señores James Mack, Kevin Brown, Terry Barker y al Dr. Ricardo  
Guillermo Castaneda.

11



PRESIDENCIA  
DE LA  
CORTE SUPREMA DE JUSTICIA  
TEL 21-8697

REGIONAL DDPPO  
REGION DE 1124

San Salvador, 12 de enero de 1984

info:		
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DPP <input checked="" type="checkbox"/>	12	
PRJ <input checked="" type="checkbox"/>	GD	ECON

Subject: Requesting AID  
financial support

Señor don Martín Dagata  
Director de AID,  
Presente

**ACTION COPY**

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*Handwritten initials/signature*

judicial. Dentro de los requerimientos de tal Consejo es

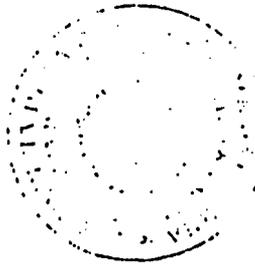


PRESIDENCIA  
DE LA  
CORTE SUPREMA DE JUSTICIA  
TEL. 21-8097

..... 2

tará también la dotación indispensable para el funcionamiento de una escuela  
de jueces que levantará el nivel jurídico y técnico de los encargados de ad-  
ministrar justicia.

Quedo de usted atentamente,



*Arturo Zeledón Castrillo*

Arturo Zeledón Castrillo  
Presidente de la  
Corte Suprema de Justicia

c.c./a los señores James Mack, Kevin Brown, Terry Barker y al Dr. Ricardo  
Guillermo Castaneda.

COMISION REVISORA DE LEGISLACION

(DECREE - REVISORY COMMISSION FOR LEGISLATION)



*Ord. 29  
28/08/84*

ANNEX 6

Page 2 of 5

cc  
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*Antonio DPP  
cc: RLG, BBS,  
HOLD FILE*

San Salvador, 27 de agosto de 1984.

Excelentísimo señor Thomas R. Pickering,  
Embajador de los Estados Unidos de América,  
PRESENTE.

Excelencia:

Tengo el honor de dirigirme a S. E., para enviarle en nombre del señor Presidente de la República, fotocopia del Decreto Ejecutivo No. 14, emitido con fecha 24 del presente mes, por medio del cual se crea la Comisión Revisora de la Administración de Justicia en Materia Penal y Civil, con los objetivos que en el mismo se señalan.

Al propio tiempo, tengo a bien informarle que oportunamente se le remitirá copia del Acuerdo por el que se integre la Comisión de que se trata.

Me es grata esta oportunidad para testimoniar a S. E., los sentimientos de mi alto aprecio y estima.



*[Handwritten Signature]*  
EDGAR ERNESTO BELLOSO FUNES,  
Viceministro de la Presidencia  
de la República.

CON ANEXO.

/bgas.

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DECRETO No. 14.

## EL ORGANISMO EJECUTIVO DE LA REPUBLICA DE EL SALVADOR,

## CONSIDERANDO:

- I.- Que es propósito de este Gobierno llevar a cabo la Reforma de la Administración de Justicia que haga posible una mejor administración de ésta;
- II.- Que para tal objeto se hace necesario contar con el esfuerzo conjunto y coordinado de los Organos del Estado y de las instituciones de enseñanza universitaria y entidades gremiales, para efectuar una revisión integral de la legislación vigente y como resultado de ella, proponer la legislación adecuada y recomendar los sistemas o procedimientos que garanticen su eficiente aplicación;
- III.- Que para alcanzar tales propósitos es conveniente establecer una Comisión Revisora de la Legislación, integrada por representantes del sector gubernamental, de las escuelas de leyes de las universidades del país, de la Corte Suprema de Justicia y por representantes de las asociaciones de abogados.

POR TANTO,

en uso de sus facultades legales,

## DECRETA:

Art. 1.- Créase la "COMISION REVISORA DE LA ADMINISTRACION DE JUSTICIA EN MATERIA PENAL Y CIVIL", la cual tendrá por objeto: a) efectuar el estudio y revisión de las leyes y reglamentos que norman el sistema judicial Civil, Penal, Procesal Civil y Procesal Penal; b) proponer a la Presidencia de la República las reformas a los Códigos Civil, Penal, Procesal Civil, -- Procesal Penal, Código de Justicia Militar y a las leyes y Reglamentos relacionados con la administración de justicia que considere convenientes; c) efectuar el estudio y revisión de todas las leyes administrativas y regla--

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## DECRETO No. 14.-



mentos sobre la misma materia, a fin de proponer las reformas correspondientes para armonizarlas a la Constitución; y d) proponer a la Presidencia de la República la emisión de nuevas leyes, reglamentos o disposiciones tendientes a lograr el propósito de superación de nuestro sistema de justicia.

En el texto de este Decreto, la Comisión Revisora de la Administración de Justicia en Materia Penal y Civil, se denominará únicamente "La Comisión".

Art. 2.- La Comisión será integrada por el Presidente de la República, así: a) un miembro designado por el Presidente de la República que tendrá las funciones de Secretario Ejecutivo; b) un miembro propuesto por la Corte Suprema de Justicia; c) un miembro propuesto por el Ministerio de Justicia; d) un miembro propuesto por el Ministerio de Defensa y de Seguridad Pública; e) un miembro propuesto por las escuelas de leyes de las Universidades del país; f) un miembro propuesto por las Asociaciones de Abogados que tengan personería jurídica; y g) un miembro propuesto por la Federación de Asociaciones de Abogados de El Salvador.

Los miembros de la Comisión durarán en sus funciones un año, deventarán las dictas que se establezcan y podrán ser nombrados para servir períodos sucesivos.

Art. 3.- El Secretario Ejecutivo tendrá las siguientes atribuciones: a) representar a la Comisión en la contratación de bienes y servicios; b) convocar a sesiones de la Comisión, por iniciativa propia o a petición de tres de sus miembros; c) llevar el libro de actas de lo acordado en las sesiones; d) ser el responsable del manejo de los fondos que le sean asignados a la Comisión de acuerdo a su presupuesto; e) nombrar al personal de colaboradores, secretarías y demás que fuere necesario, de acuerdo al régimen de salarios que se establezcan para la Comisión; f) ser el responsable de suministrar los equipos, enseres y utilería de oficina, que requieran las labores de la Comisión; g) ser el órgano de comunicación entre la Comisión y los organismos estatales o particulares con los que deba relacionarse; h) elaborar el proyecto de Reglamento Interno de la Comisión y someterlo a ésta; e i) todas las demás que fueren necesarias para el más efectivo desarrollo de las labores de la Comisión.

Los nombramientos efectuados de conformidad con este artículo deberán ser ratificados por el Ministerio de Justicia.

Art. 4.- La Comisión deberá presentar dentro del plazo de sesenta días contados a partir de la juramentación de los miembros que la componen, un plan de trabajo que contendrá la formación de las sub-comisiones u organismos necesarios, así como los lineamientos generales del estudio de los Códigos, leyes o reglamentos que corresponda hacer a las sub-comisiones, señalando las instituciones que particularmente deban ser objeto de reformas.

Art. 5.- Las sub-comisiones deberán elegir de entre los miembros de cada una de ellas, un Coordinador y un Secretario.



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Art. 6.- La Comisión estará facultada para fijar a las sub-comisiones el plazo que estime conveniente para la terminación del trabajo que les hubiere encomendado.

Art. 7.- La Comisión podrá acordar que a través de los organismos competentes se solicite asistencia técnica o financiera ante organismos internacionales especializados o gobiernos amigos.

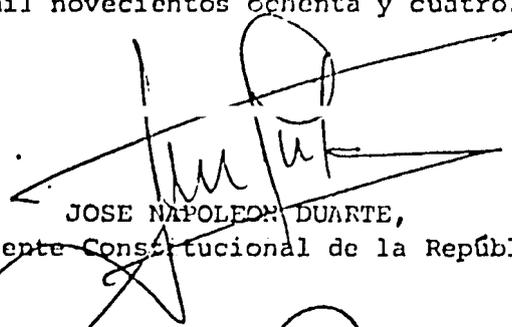
Art. 8.- Para cubrir el costo de funcionamiento de la Comisión se decretará el correspondiente presupuesto y el régimen de salarios, cuyas asignaciones estarán constituidas por los fondos que aporte el Estado, las donaciones que se hicieren a la Comisión, y los programas de asistencia internacional. El proyecto de presupuesto será elaborado por el Secretario Ejecutivo, el cual, luego de ser discutido y aprobado por la Comisión, será sometido al Ministerio de Justicia para su aprobación.

Art. 9.- Al entrar en vigencia el presente Decreto, el Presidente de la República procederá a emitir el Acuerdo respectivo integrando la Comisión, en el cual podrá ratificar a los miembros nombrados de conformidad con el Acuerdo Presidencial No. 710 de fecha 21 de diciembre de 1983 o designar nuevos miembros, debiendo los integrantes rendir la protesta constitucional en la fecha que el Presidente señale. En caso de designar nuevos miembros, se enviarán notas a las Asociaciones de Abogados y escuelas de Derecho para los efectos señalados en el Art. 2.

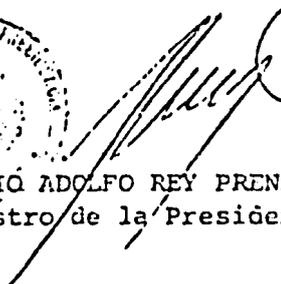
Art. 10.- El presente Decreto deroga el Decreto No. 81, emitido por el Poder Ejecutivo con fecha 26 de septiembre de 1983, publicado en el Diario Oficial No. 178, Tomo 280 de fecha 27 de septiembre del mismo año.

Art. 11.- El presente Decreto entrará en vigencia el día de su publicación en el Diario Oficial.

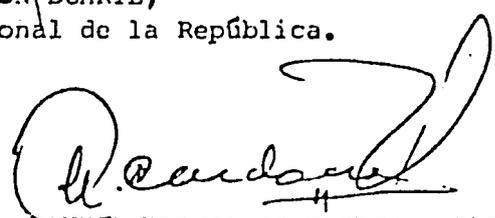
DADO EN CASA PRESIDENCIAL: San Salvador, a los veinticuatro días del mes de agosto de mil novecientos ochenta y cuatro.

  
JOSE NAPOLEON DUARTE,  
Presidente Constitucional de la República.



  
JULIO ADOLFO REY PRENDES,  
Ministro de la Presidencia.



  
MANUEL FRANCISCO CARDONA HERRERA,  
Ministro de Justicia.

(SPECIFIC OBJECTIVES OF REVISORY COMMISSION  
SUBCOMMITTEES INCLUDED IN ORIGINAL GRANT  
AGREEMENT FOR THE JUDICIAL REFORM PROJECT)

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### 1. Area Sustantiva

Esta área comprende la revisión del Código Penal, del Código de Justicia Militar, del Código de Menores y de otras leyes, decretos o reglamentos en cuyo texto se señalan penas por delitos o faltas.

#### Objetivos Específicos

- (1). Analizar las figuras de tipos delictivos para determinar cuales deben mantenerse, cuales deben ser reformados para la mejor determinación de los elementos-tipo, cuales deben suprimirse y cuales deben agregarse tomando en cuenta principalmente las nuevas figuras delictivas surgidas a raíz de la contienda interna que sufre el país;
- (2). Análisis del sistema de penas a efecto de determinar comparativamente su naturaleza y duración en relación a los delitos con las cuales se castigan, y a efecto de determinar su grado de eficacia para combatir la criminalidad;
- (3). Estudio del sistema que se sigue en la individualización de la pena con su correspondiente análisis crítico y propuestas que se consideran necesarias;
- (4). Adecuar al nuevo marco constitucional las normas jurídicas vigentes y/o propuestas; y
- (5). Redactar los anteproyectos de reformas a la ley vigente o los anteproyectos de leyes nuevas, como resultado de la revisión de las leyes penales, de su estudio crítico y demás objetivos específicos señalados en los números anteriores, ceñidos estos anteproyectos al marco constitucional vigente.

### 1. Functional Area

This area will comprise the review of the Penal, Military Justice, and Juvenile Codes, and other laws and decrees which sanction penalties for crime and misdemeanor.

#### Specific Objectives

- (1). Analyze categories of crime to determine types of crime which should be eliminated from consideration in the Codes and which maintained, redefined, or added. This analysis will take into consideration new crime figures which have appeared due to internal strife in the country;
- (2). Analyze the system of punishment in order to determine the appropriateness of given punishment to given crimes, and in order to determine the degree of the system's efficacy in preventing crime;
- (3). Study the degree to which the current system is able to adapt appropriate punishment to individual crimes and provide a critical analysis and new proposals for improving the facility;
- (4). Adapt the current and/or proposed juridical norms to the new constitutional framework; and
- (5). Based upon analysis and critical study of penal laws, as well as other specific objectives indicated in previous sections, draft new laws, or reforms to the current laws, which will fit within the current constitutional framework.

## 2. Area Adjetiva

Está área comprende la revisión del Código Procesal Penal, de la parte procesal del Código de Justicia Militar y del Código de Menores, y de otras leyes, decretos o reglamentos, en cuyos textos se establezcan sistemas procesales para la aplicación de delitos o faltas. Comprenderá asimismo una revisión del Código de Procedimientos Civiles a efecto de dar agilidad al procedimiento y evitar las maniobras dolosas de las partes para la retardación de la justicia.

### Objetivos Específicos

- (1). Revisar los procedimientos penales en relación a su eficacia para descubrir los delitos y los delincuentes;
- (2). Revisar los procedimientos penales en relación a su grado de efectividad para el aseguramiento de las medidas precautorias y el cumplimiento de la condena;
- (3). Revisar el Código de Procedimientos Civiles en relación a su eficacia para impartir una justicia conforme a las normas legales sustantivas;
- (4). Adecuar al nuevo marco constitucional las normas jurídicas vigentes y/o propuestas;
- (5). Redactar los anteproyectos de reformas o los anteproyectos de leyes nuevas, como resultado de la revisión de las leyes procesales señaladas, de su estudio crítico y demás objetivos específicos, ceñidos estos proyectos al marco constitucional vigente;
- (6). Dentro de los análisis del Código Procesal Penal se señalan como temas principales los siguientes:
  - Funciones del Juez, Fiscalía, acusadores particulares y defensores durante el juicio;

## 2. Procedural Area

This component will comprise a review of the Code of Penal Procedure and the portions of the Military Justice and Juvenile Codes, and other laws, decrees and regulations in whose texts are established procedures for application for crime an misdemeanor. This will comprise a revision of the Code of Civil Procedure designed to facilitate the procedure and prevent malicious delay of justice.

### Specific Objectives

- (1). Review the penal procedures relative to their effectiveness in solving crimes and exposing perpetrators of crimes;
- (2). Review the penal procedures relative to their degree of effectiveness in the assurance of due process and guilt of the condemned;
- (3). Review the Code of Civil Procedures and its effectiveness in administering justice according to legal norms;
- (4). Adapt the current and/or proposed juridical norms to the new constitutional framework;
- (5). Based upon analysis and critical study of penal laws, as well as other specific objectives indicated in previous sections, draft new laws, or reforms to the current laws, which will fit within the current constitutional framework;
- (6). Within the analysis of the Code of Penal Procedure the following are considered to be the principal themes:
  - Functions of the judge, Attorney General, prosecutors and defense attorneys during the trial;

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- La detención para inquirir;
- La detención provisional;
- El régimen de la prueba;
- El Jurado;

- La sentencia definitiva y los recursos; especialmente el de Habeas Corpus y el de Casación.

(7). Dentro del análisis del Código de Procedimientos Civiles se señalan como temas principales los siguientes:

- De las funciones del Juez y de los funcionarios que intervienen en el juicio;
- De los actos previos a la demanda;
- De la situación del emplazamiento y notificaciones;
- De la Fianza;
- Régimen de la prueba;
- De los procedimientos especiales;
- Del juicio ejecutivo;
- De la sentencia y sus recursos, especialmente el de Nulidad y el de Casación.

(8). Revisar el Código de Procedimientos Civiles en relación a su grado de efectividad para una pronta y eficaz justicia y el aseguramiento del cumplimiento de la sentencia y el respeto a los derechos del demandante y del demandado; y

(9). Redactar los anteproyectos de reformas a la ley vigente o los anteproyectos de leyes nuevas, como resultado de la revisión de las leyes procesales, de su estudio crítico y demás objetivos

- Arrest for inquiry;
- Provisional arrest;
- Procedures relating to evidence;
- The jury;
- Definitive verdict and appeals, especially of habeas corpus and of repeal.

(7). Within the analysis of the Code of Civil Procedure, the following are considered to be the principal themes:

- Functions of the judge and of the officials who intervene in the trial;
- Actions taken prior to complaint;
- The situation of summons and notification;
- The bond;
- Procedures relating to evidence;
- Special procedures;
- The executive trial;
- The verdict and its appeals, especially of annulment and repeal.

(8). Analyze the Code of Civil Procedure relative to the degree of its effectiveness in delivery of prompt and efficient justice, the assurance of fulfillment of sentence, and the respect for the rights of the defendant and the plaintiff; and

(9). Based upon analysis and critical study of the procedural laws, as well as other specific objectives indicated in previous sections, draft new laws, or reforms to the current laws, which will fit within the current constitutional

específicos señalados en los números anteriores, ceñidos estos proyectos al marco constitucional vigente.

### 3. Area Organizacional y Administrativa

Esta área comprende la revisión de la Ley Orgánica del Poder Judicial, la Ley Orgánica del Ministerio Público, la legislación del régimen penitenciario, en especial en materia de menores, y cualquier otra disposición legal relacionada con las materias dichas.

#### Objetivos Específicos

- (1). Revisar las leyes relacionadas en el numeral 3., con el propósito de darles una mayor eficacia para impartir una pronta y eficaz justicia, y procurar una actuación honesta de los acusadores;
- (2). Revisar las leyes relacionadas en el numeral 3., con el propósito de darles una mayor eficacia para obtener el cumplimiento de los deberes que la Constitución y las leyes secundarias señalan a los funcionarios del organismo judicial y los funcionarios que ejercen la profesión de Abogado y la función notarial;
- (3). Adecuar al nuevo marco constitucional las normas jurídicas vigentes y/o propuestas;
- (4). Redactar los anteproyectos de reformas a la ley vigente o los anteproyectos de leyes nuevas, como resultado de la revisión de las leyes orgánicas señaladas, de su estudio crítico y demás objetivos específicos señalados en los números anteriores, ceñidos estos proyectos al marco constitucional vigente;
- (5). Elaborar los Anteproyectos de la Ley del Consejo Nacional de la Judicatura y la Ley de la Carrera Judicial;

framework.

### 3. Organizational/Administrative Area

This area will comprise the review of the "Organizational Law of the Judicial Branch", the "Organizational Law of the Attorney General", Legislation related to the penitentiary management system, basic legislation pertaining to minors, and any other legal dispositions related to these matters.

#### Specific Objectives

- (1). Review the laws noted in Section 3. with the objective of giving them increased efficiency in imparting prompt and efficient justice, and in obtaining an honest performance by prosecutors;
- (2). Review the laws noted in Section 3. with the purpose of providing them greater efficiency to fulfill responsibilities which the Constitution and secondary laws assign to officers of the judiciary, to those who practice the profession of law, and to those who serve a notarial function;
- (3). Adapt the current and/or proposed juridical norms to the new constitutional framework;
- (4). Based upon analysis and critical study of the referenced organizing laws, as well as other specific objectives indicated in previous sections, draft reform proposals, or reforms to current laws, which will fit within the current constitutional framework;
- (5). Elaborate draft laws for a "National Judiciary Council" and a "Law of the Juridical Profession";

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(6). Adaptar el régimen penitenciario a las nuevas disposiciones del Código Penal y Procesal Penal; y

(7). Establecer un sistema de régimen penitenciario que garantice la debida separación entre reos no sentenciados y condenados; división por sexo, edad, tipo de delito y el respeto a los derechos individuales de los que guarden prisión por estar procesados o condenados, etc.

#### 4. Metodología

##### (1). Enfoque Metodológico

La revisión no se hará con criterio exégetico, sino integral para confrontar las leyes con la realidad nacional, y determinar su grado de eficacia para resolver los problemas que afrontan, todo con el propósito principal de lograr un nuevo sistema que garantice una pronta y eficaz justicia y la probidad de los funcionarios judiciales y demás que intervienen en los juicios.

##### (2). Principales Métodos a Utilizar

En general, será aplicado un método Inductivo-Deductivo, con énfasis en el análisis crítico de las instituciones jurídicas que integran el sistema de administración de Justicia en El Salvador, a efecto de hacerla pronta, eficaz y honesta.

La metodología a utilizar lleva implícito un análisis y estudio de la doctrina de los expositores del Derecho y de la legislación extranjera relacionada con los temas y propósitos del trabajo, en el sentido de confrontarlos y adecuarlos a las características propias de la realidad e idiosincracia salvadoreñas.

(6). Adapt the penitentiary management system to the new "Penal and Penal Procedural Code" regulations; and

(7). Establish a penitentiary management system which guarantees the appropriate separation of the accused, by sex, age, type of crime committed, and which guarantees the respect of individual rights of those sentenced and those convicted, etc.

#### 4. Methodology

##### (1). Methodological Approach

The review will not be undertaken to rationalize, but rather, to compare the laws with the national reality, and to determine its degree of efficiency in solving problems confronted, all with the basic purpose of establishing a new system which guarantees prompt and effective justice and which guarantees the integrity of judicial and other officers who intervene in trials.

##### (2). Principal Methods to be Utilized

In general, an inductive-deductive procedure will be applied, with emphasis on critical analyses of the institutions which make up the judicial administration system in El Salvador and designed to make the system prompt, efficient and honest.

The methodology to be used implicitly involves a study and analysis of the doctrine of law and of foreign legislation related to the themes and purposes of the work, with the idea of comparing and adapting them to the idiosyncracies of Salvadorans and

Aunque la descripción de trabajo anterior proporciona una descripción general de las áreas que la Comisión tratará, esto no significa que se está descuidando los problemas prácticos menos dramáticos que confronta el sistema judicial. El trabajo de la Comisión incluirá, pero no se limitará a los análisis de necesidades, y propuestas prácticas del proyecto tales como:

--Administración de los sistemas de la corte y de instalación de juicios (incluyendo administración del presupuesto, personal, recursos físicos y cantidad de casos);

--Capacitación de jueces y fiscales;

Identificación de necesidades de equipo y suministros y de requisitos presupuestarios para el mantenimiento de una operación efectiva y a tiempo completo;

--Identificación de las instalaciones necesarias para una biblioteca y de investigación, incluyendo los requisitos para el desarrollo de sistemas de información y estadísticas y administración, una capacidad adecuada de impresión para producir las leyes que sean actualizadas, impresión de opiniones judiciales y otros materiales legales;

--Mejoramiento de habilidades investigativas bajo la dirección de las cortes, incluyendo la capacitación judicial e investigativa necesaria, necesidades del forense para examinar como de laboratorio y médicas, clarificación de las relaciones entre corte y organismos auxiliares;

--Mejoramiento de las facultades legales para ampliar el curriculum, duración del programa, instalaciones de biblioteca, y capacitación especializada;

Though the above scope of work provides a general description of the areas into which the Commission will delve, it does not intend to overlook the less dramatic, practical problems which face the judicial system. The Commission's work will include, but not be limited to, such assessments of needs, and practical project proposals as the following:

--Administration and management of the court and prosecution systems (including management of budget, staff, physical resources and caseloads);

--Training of judges and prosecutors

--Identification of needed equipment and supplies and budget requirements for maintaining full-time and effective operations;

--Identification of needed library and research facilities, including requirements for information and statistical systems development and management, an adequate printing capability for the production of updated laws, printing of judicial opinions and other legal materials;

--Improvement of investigative skills under the direction of the courts, including needed judicial and investigator training, forensic laboratory/medical examiner needs, clarification of relationships between the court and auxiliary organizations;

--Improvement of law faculties to expand curricula, program length, library facilities, and specialized training;

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--Fortalecimiento de la abogacía privada, incluyendo los servicios del foro a sus miembros, dar vigencia a cánones de ética, selección judicial, y la parte desempeñada por el foro en el fomento de reformas legales y abogar por la materia de interés para el foro;

--Racionalización de recursos y funciones dentro de los varios componentes del sistema legal en relación a efectividad de costos y eficacia; y

--Protección judicial, incluyendo la seguridad de las cortes y las personas que participan en el proceso legal.

--Strengthening of the private bar, including bar services to members, enforcement of ethical standards, judicial selection, and the bar's role in advancing legal reform and advocating issues of interest to the bar;

--Rationalization of resources and functions within the various components of the legal system, for cost-effectiveness and efficiency; and

--Judicial protection, including security for courtrooms and participants in the legal process.

"LEY DE CREACION DEL INSTITUTO DE INVESTIGACIONES CRIMINOLOGICAS"

(DRAFT DECREE - INSTITUTE FOR CRIMINAL INVESTIGATION AND FORENSIC SCIENCES)

21-Agosto-1984

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DECRETO N° \_\_\_\_\_

LA ASAMBLEA LEGISLATIVA DE LA REPUBLICA DE EL SALVADOR

CONSIDERANDO:

- I.- Que es obligación del Estado tomar las medidas necesarias que sirvan para preservar la seguridad y tranquilidad de todos los habitantes del país, especialmente en lo relativo a la conservación y defensa de los derechos individuales que protege la Constitución;
- II.- Que es atribución y obligación del Presidente de la República, de conformidad con el Art. 168 N°3 de la Constitución, procurar la armonía social, y conservar la paz y tranquilidad interiores y la seguridad de la persona humana como miembro de la sociedad;
- III.- Que uno de los medios idóneos para realizar la tarea señalada es la creación al más alto nivel de un organismo especializado en la investigación técnica, policial y judicial, que tenga a su cargo la averiguación de los delitos que por su gravedad y trascendencia representen un serio peligro para la sociedad salvadoreña.

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POR TANTO,

en uso de sus facultades constitucionales y a iniciativa del --  
Presidente de la República, por medio del Ministro de Justicia,

DECRETA la siguiente

LEY DE CREACION DEL INSTITUTO DE INVESTIGACIONES CRIMINOLOGICAS

CAPITULO I

Creación, Objeto y Naturaleza del Instituto.

Art. 1.- Créase el Instituto de Investigaciones Criminológicas, como una Institución de Derecho Público, autónoma, de carácter permanente, con personalidad jurídica, que tendrá a su cargo principalmente la investigación de todos aquellos delitos que por su gravedad y trascendencia nacional e internacional, constituyan una serie amenaza para la seguridad e integridad de la sociedad salvadoreña, y además proporcionar los servicios técnico-científicos que fueren necesarios para el esclarecimiento de cualquier hecho.

En el contexto de esta Ley y Reglamento respectivo, el Instituto de Investigaciones Criminológicas se denominará únicamente "Instituto" y sus siglas oficiales serán "I.I.C.".

El Instituto se relacionará con los órganos del Estado a través del Ministerio de Justicia.

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Art. 2.- El Instituto tendrá su domicilio en la ciudad de San Salvador, pudiendo establecer oficinas regionales y dependencias en cualquier lugar del territorio nacional.

El Instituto de Investigaciones Criminológicas y sus dependencias tendrán la calidad de Órgano auxiliar de la administración de justicia, con las mismas facultades y deberes que a éstos les impone el Código Procesal Penal.

El Instituto prestará también asistencia técnico-científica que fuere necesaria para el esclarecimiento de cualquier hecho, a la Fiscalía General de la República, a los otros organismos auxiliares de la administración de justicia y al Órgano Judicial.

## CAPITULO II

Art.3.-El Gobierno del Instituto estará constituido por un Consejo Directivo formado por cuatro Directores cuyos nombramientos corresponderán al Presidente de la República.

El Instituto contará además, con una Secretaría Ejecutiva a cargo de un Secretario nombrado también por el Presidente de la República.

El Consejo Directivo se reunirá según lo regule el reglamento; devengarán las dietas que fije la Ley. Lo relativo a sesiones, convocatorias, quorum y forma de adoptar las resoluciones se regularán en el reglamento respectivo.

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\_\_\_\_\_ del Consejo Directivo, tendrá la representación judicial y extrajudicial del Instituto, pudiendo otorgar poderes generales o especiales con autorización previa del Consejo Directivo.

Art. 4.- Las personas nombradas para integrar el Consejo Directivo ejercerán sus funciones por un período de \_\_\_\_\_ años y en el ejercicio de estas funciones tendrán todas las garantías y seguridades necesarias para el mejor cumplimiento de las atribuciones y facultades que se les asignan y confieren en esta Ley y su Reglamento respectivo.

Art. 5.- En el cumplimiento de sus funciones, el Instituto podrá solicitar la colaboración de cualquier órgano del Estado, autoridad o funcionario público. Dichos órganos, autoridad o funcionarios públicos estarán obligados a conceder atención prioritaria e inmediata a sus peticiones.

El Instituto tendrá preferencia de conocimiento en la investigación de los delitos a que esta Ley se refiere sobre los otros órganos auxiliares, quienes deberán remitirle todos los datos y evidencias que tengan en su poder, aun cuando ya hubieren comenzado las diligencias respectivas. También pondrán a la orden a las personas detenidas con relación al caso y deberán colaborar con el Instituto cuando fueren requeridos por éste.

El Instituto estará obligado a observar las garantías establecidas en la Constitución y las leyes a favor de los imputados.

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Art. 6.- Para ser Director del Instituto de Investigaciones Criminológicas, se requiere:

- a) Ser salvadoreño;
- b) De honorabilidad e instrucción notorias;
- c) Estar en el goce de los derechos de ciudadanos y haberlo estado en los cinco años anteriores a su nombramiento.

Art. 7.- Para el mejor cumplimiento de su cometido, el Instituto contará con su propia organización administrativa, cuya estructura y funcionamiento se determinará por medio de su reglamento.

Art. 8.- El patrimonio del Instituto estará constituido por las asignaciones, subsidios y subvenciones que el Estado le conceda, las rentas y productos que obtenga de sus bienes, así como cualquier otro ingreso o adquisición que legítimamente perciba.

Art. 9.- Para cubrir el funcionamiento del Instituto, se decretará el correspondiente programa presupuestario y el régimen de salarios, el cual se constituirá con fondos que aporte el Estado, las donaciones que a cualquier título se hicieren al Instituto y los programas de asistencia internacional.

Art. 10.- El proyecto de presupuesto será elaborado por el Consejo Directivo y sometido para su aprobación a los órganos competentes.

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Art. 11.- El Instituto estará sujeto a la Fiscalización a posteriori - de la Corte de Cuentas de la República.

Art. 12.- El Instituto en el ejercicio de sus actividades de acuerdo a la presente ley, podrá adquirir y contratar los bienes y servicios ne cesarios para el cumplimiento de sus fines.

Art. 13.- El presente Decreto entrará en vigencia ocho días después - de su publicación en el Diario Oficial.

DADO EN CASA PRESIDENCIAL, San Salvador, a los \_\_\_\_\_ días del mes  
de \_\_\_\_\_ de mil novecientos ochenta y cuatro.

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(BACKGROUND TO USG INVOLVEMENT  
IN EL SALVADOR'S JUDICIAL REFORM)

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BACKGROUND TO USG INVOLVEMENT  
IN EL SALVADOR'S JUDICIAL REFORM

Official U.S. interest in these cases included not only repeated discussions by American officials with the Salvadoran government, but the offer of material resources and personnel to help bring the cases to a close. The churchwomen's case investigation was carried out with the aid of evidence, noted in Judge Tyler's 1983 report to the Secretary of State, developed by American Embassy personnel in San Salvador. In addition, a Justice Department Attorney with extensive experience in criminal prosecution was assigned to the American Embassy in San Salvador in December 1983, to assist in monitoring these cases. It is not only the success of this collaboration, but a desire on the part of both Salvadoran and U.S. officials to get at the root causes of judicial failure that has led to the development of specific USAID projects aimed at judicial reform.

There are six cases involving American citizens who have been murdered in El Salvador during the past four years.

The first case involved the kidnapping, rape and murder of four American churchwomen in El Salvador in December 1980.

The second is the gunning down of two American labor advisors, along with the Salvadoran leader of an agrarian reform institution, in a salon of the Sheraton Hotel in San Salvador in 1981.

The third is the murder of Lt. Cmdr. Albert Schaufelberger, who was shot while waiting outside the Catholic University of San Salvador for a friend on May 25, 1983.

The fourth is the 1982 shooting of an American tourist, Michael David Kline, after he was arrested by members of the National Police when he allegedly refused to leave a bus whose riders were being questioned on the road between San Miguel and San Francisco Gotera in Morazan Province.

The other two cases involving Americans are the 1982 abduction and murder of John J. Sullivan, a photographer for Hustler magazine, and the disappearance in July 1982, of Patricia Alvarez Cuellar, a dual Salvadoran-U.S. citizen.

The churchwomen's case was tried on May 24, 1984, and five members of the National Guard were convicted of murder and sentenced to 30 years in

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prison, the maximum sentence under Salvadoran law. The Sheraton case has been raised to the trial stage but charges were dropped against two of the defendants, Hans Christ and Ricardo Sol Mesa, following an unsuccessful attempt to extradite Christ from the United States. It is expected that the Sheraton case will come to trial in the fall of 1984. The Kline case is still in the process of being investigated. There are no current leads in the Schaufelberger, Sullivan or Cuellar cases.

A. U.S. Initiatives

1. Judicial Assessment Team

In April 1983 the Department of State and the Agency for International Development sent a Team to El Salvador to assess problems in the administration of justice in El Salvador and recommend what, if any, actions could be taken to remedy them. In addition, the Attorney General of the United States, William French Smith, visited El Salvador as head of the delegation to meet with local government officials and to emphasize the importance placed on judicial and penal reform by the U.S. government.

The Judicial Assessment Team interviewed a wide range of Salvadorans including judges, lawyers, law enforcement officials, members of independent legal organizations, as well as private citizens interested in legal reform and representatives from all government institutions responsible for the administration of justice.

The Team made a wide ranging series of recommendations encompassing all aspects of the judicial system: the criminal code, legal education, training for prosecutors and investigators, judicial administration, witness and judicial protection and improved forensic capabilities.

Specifically, the Team called attention to the need for:

Better salaries, education and continued training for judges and prosecutors;

Technical support for the Fiscalia (Office of the Attorney General) and the courts;

Support for proposed GOES efforts to review and reform Salvadoran penal codes and to improve the administration of the criminal justice system;

Support for Salvadoran legal journals and publications;

Greater private sector involvement, particularly support for independent legal associations in El Salvador;

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The establishment of an Inter Agency Working Group to recommend long term projects to improve the administration of justice in El Salvador.

B. Other U.S. Initiatives

Several teams of U.S. officials with expertise in law enforcement have visited El Salvador in the past three years to offer advice to specific branches of the GOES involved in the administration of justice. Among them are:

A team of U.S. Marshalls visited El Salvador in July 1983, to advise the government on witness and judicial protection techniques.

An FBI team visited El Salvador in early 1984, to report on the manpower training needs and capabilities of the three law enforcement agencies of the government— the Treasury Police, the National Guard and the National Police.

Former U.S. District Judge Harold R. Tyler, Jr. visited El Salvador in 1983 at the request of the Secretary of State to conduct an independent review of the evidence in the churchwomen's case, and give specific recommendations on how the case could be successfully concluded.

In addition, on November 14, 1983 the U.S. Congress passed the Specter Amendment to the Second Continuing Resolution for FY 1984. This amendment was aimed at improving the administration of Justice in El Salvador and provided funds for programs that would protect key participants in sensitive trials, modernize the penal and evidentiary codes, and promote judicial investigative capabilities.

It is in connection with this amendment, that USAID has, in coordination with involved GOES authorities and institutions, developed this project.

A properly equipped forensic clinic to help develop evidence and the training of investigators in modern, scientific techniques of evidence gathering;

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TABLE A  
SUMMARY COST ESTIMATE AND FINANCIAL PLAN  
(US \$000)

PROJECT ELEMENTS	A. I. D.		LC HOST COUNTRY	PROJECT TOTAL
	FX	LC		
I. <u>Revisory Commission for Legislation and Coordination of</u>				
A. <u>Commission Administration</u>				
1. Technical Assistance & Diagnostic Studies	175	763	-	938
2. Personnel	-	-	202	202
3. Operating Expenses	20	72	160	252
4. Training	-	100	-	100
5. Equipment	<u>30</u>	<u>10</u>	<u>-</u>	<u>40</u>
Sub-Total (I.A.)	<u>225</u>	<u>945</u>	<u>362</u>	<u>1,532</u>
B. <u>Project Administration</u>				
1. Technical Assistance	567	180	-	747
2. Personnel	-	254	-	254
3. Operating Expenses	-	109	-	109
4. Proj. Audits/Evaluations	100	40	-	140
5. Equipment	<u>30</u>	<u>10</u>	<u>-</u>	<u>40</u>
Sub-Total (I.B.)	<u>697</u>	<u>593</u>	<u>-</u>	<u>1,290</u>
Sub-Total (I. A. + B.)	<u>922</u>	<u>1,538</u>	<u>362</u>	<u>2,822</u>
Misc./Contingency	<u>46</u>	<u>77</u>	<u>18</u>	<u>141</u>
<u>Total Component I</u>	<u>968</u>	<u>1,615</u>	<u>380</u>	<u>2,963</u>

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PROJECT ELEMENTS	A.I.D.		LC HOST COUNTRY	PROJECT TOTAL
	FX	LC		
<u>II. Judicial Protection Unit</u>				
1. Personnel	-	-	890	890
2. Training	483	100	-	583
3. Equipment	<u>586</u>	<u>-</u>	<u>-</u>	<u>586</u>
Sub-Total	<u>1,069</u>	<u>100</u>	<u>890</u>	<u>2,059</u>
Misc./Contingency	<u>53</u>	<u>5</u>	<u>45</u>	<u>103</u>
<u>Total Component II</u>	<u>1,122</u>	<u>105</u>	<u>935</u>	<u>2,162</u>
<u>III. Institute for Criminal Investigation and Forensic Sciences</u>				
<u>A. Special Investigative Unit</u>				
1. Technical Assistance	360	-	-	360
2. Personnel	-	-	1,734	1,734
3. Operating Expenses	-	250	-	250
4. Training	407	-	-	407
5. Equipment	<u>463</u>	<u>160</u>	<u>-</u>	<u>623</u>
Sub-Total	<u>1,230</u>	<u>410</u>	<u>1,734</u>	<u>3,374</u>
Misc./Contingency	<u>61</u>	<u>21</u>	<u>87</u>	<u>169</u>
<u>Sub-Total (III-A)</u>	<u>1,291</u>	<u>431</u>	<u>1,821</u>	<u>3,543</u>

PROJECT ELEMENTS	A. I. D.		LC HOST COUNTRY	PROJECT TOTAL
	FX	LC		
<b>B. <u>Forensic Laboratory</u></b>				
1. Technical Assistance	240	-	-	240
2. Personnel	-	305	210	515
3. Operating Expenses	-	176	-	176
4. Training	57	-	-	57
5. Equipment	<u>784</u>	<u>30</u>	<u>-</u>	<u>814</u>
Sub-Total	<u>1,081</u>	<u>511</u>	<u>210</u>	<u>1,802</u>
Misc./Contingency	<u>54</u>	<u>26</u>	<u>10</u>	<u>90</u>
Sub-Total (III.B.)	<u>1,135</u>	<u>537</u>	<u>220</u>	<u>1,892</u>
<u>Total Component III</u>	<u>2,426</u>	<u>968</u>	<u>2,041</u>	<u>5,435</u>
<b>IV. <u>Judicial Administration and Training</u></b>				
1. Personnel	-	-	1,300	1,300
2. Operating Expenses	665	530	400	1,595
3. Training	150	250	-	400
4. Equipment	<u>116</u>	<u>-</u>	<u>-</u>	<u>116</u>
Sub-Total	<u>931</u>	<u>780</u>	<u>1,700</u>	<u>3,411</u>
Misc./Contingency	<u>46</u>	<u>39</u>	<u>85</u>	<u>170</u>
<u>Total Component IV</u>	<u>977</u>	<u>819</u>	<u>1,785</u>	<u>3,581</u>
<u>PROJECT TOTAL</u>	<u>5,493</u>	<u>3,507</u>	<u>5,141</u>	<u>14,141</u>
Percent of Total	(64)		(36)	(100)

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TABLE B

SUMMARY COSTING OF PROJECT INPUTS AND OUTPUTS  
(US\$)

INPUTS/ELEMENTS	OUTPUTS	COST						
		A. I. D.			LC HOST COUNTRY			PROJECT TOTAL
		FX	LC	TOTAL	ESF	OTHER	TOTAL	
• <u>Revisory Commission for Legislation and Coordination of the Judicial Reform Effort</u>								
• <u>Commission Administration</u>								
• <u>Technical Assistance &amp; Diagnostic Studies</u>	1 Admin/Mgmt Study of Court System	150,000	50,000	50,000				50,000
	1 Study of the Legal Profession	25,000	75,000	100,000				100,000
	1 Study of Role of the Judiciary		100,000	100,000				100,000
	Specific Problem Studies		100,000	100,000				100,000
	Contracts for Local Attorneys/Other Specialists		437,600	437,600				437,600
	<b>Sub-Total</b>	<u>175,000</u>	<u>762,600</u>	<u>937,600</u>				<u>937,600</u>
• <u>Personnel</u>	5 Secretaries, 1 Accountant, 3 Messengers, 3 Guards						201,856	201,856
	<b>Sub-Totals</b>						<u>201,856</u>	<u>201,856</u>

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INPUTS/ELEMENTS	OUTPUTS	COST					PROJECT TOTAL
		A. I. D.			LC HOST COUNTRY		
		FX	LC	TOTAL	ESF	OTHER	
3. Operating Expenses	Office Rent		72,000	72,000			72,000
	Office Supplies & Equip				70,000		70,000
	Office Paint/Repair				4,800		4,800
	Telephones & Utilities				15,000		15,000
	In-Country Travel				10,800		10,800
	International Travel	20,000		20,000	40,000		60,000
	Misc. Office Costs				19,800		19,800
Sub-Totals		20,000	72,000	92,000	160,400		252,400
4. Training	Seminars/Conferences		100,000	100,000			100,000
Sub-Totals			100,000	100,000			100,000
5. Equipment	2 Sedans/Parts/Shipping	30,246	10,000	10,000			40,246
Sub-Totals		30,246	10,000	10,000			40,246
<u>Sub-Total (I.A.)</u>		<u>225,246</u>	<u>944,600</u>	<u>1,169,846</u>	<u>362,256</u>		<u>1,532,102</u>
<b>B. Project Administration</b>							
1. Technical Assistance	1 Project Coordinator	360,000		360,000			360,000
	1 Asst. Coordinator	210,000		210,000			210,000
	Salvadoran Legal Council		177,000	177,000			177,000
Sub-Totals		570,000	177,000	747,000			747,000
2. Personnel	3 Secretaries, 2 Accountants, 3 Messengers, 3 Guards and 3 Programers		253,764	253,764			253,764
Sub-Totals			253,764	253,764			253,764

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INPUTS/ELEMENTS	OUTPUTS	COST					PROJECT TOTAL	
		A.I.D.			LC HOST COUNTRY			
		FX	LC	TOTAL	ESF	OTHER		TOTAL
h. Operating Expenses	Office Rent		18,000	18,000			18,000	
	Office Supplies & Equip		34,000	34,000			34,000	
	Telephones/Utilities		9,000	9,000			9,000	
	In-Country Travel		12,000	12,000			12,000	
	Office Paint/Repair		2,000	2,000			2,000	
	Misc. Office Costs		9,000	9,000			9,000	
	Sub-Totals		<u>108,900</u>	<u>108,900</u>			<u>108,900</u>	
i. Proj. Audits/Evaluations	2 Evaluations	100,000		100,000			100,000	
	Audits		40,000	40,000			40,000	
	Sub-Totals	<u>100,000</u>	<u>40,000</u>	<u>140,000</u>			<u>140,000</u>	
j. Equipment	2 Sedans/Parts/Shipping	30,246	10,000	40,246			40,246	
	Sub-Totals	<u>30,246</u>	<u>10,000</u>	<u>40,246</u>			<u>40,246</u>	
	Sub-Total (I.B.)	<u>700,246</u>	<u>589,664</u>	<u>1,289,910</u>			<u>1,289,910</u>	
	Sub-Total (I. A. + B.)	<u>925,492</u>	<u>1,534,264</u>	<u>2,459,756</u>	<u>362,256</u>		<u>362,256</u> <u>2,822,01</u>	
	Misc./Contingency	45,274	76,713	122,987	18,113		362,256 141,10	
	<u>Total Component I</u>	<u>971,766</u>	<u>1,610,977</u>	<u>2,582,743</u>	<u>380,369</u>		<u>380,369</u> <u>2,963,11</u>	

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INPUTS/ELEMENTS	OUTPUTS	COST						
		A. I. D.			LC HOST COUNTRY			PROJECT TOTAL
		FX	LC	TOTAL	ESF	OTHER	TOTAL	
<b>II. Judicial Protection Unit</b>								
1. Personnel	60 Members of JPU					890,136	890,136	890,136
Sub-Total						<u>890,136</u>	<u>890,136</u>	<u>890,136</u>
2. Training	FLETIC Training (May 1984)	233,438		233,438				233,438
	Additional FLETIC Training	250,000		250,000				250,000
	In-Country Training		100,000	100,000				100,000
Sub-Total		<u>483,438</u>	<u>100,000</u>	<u>583,438</u>				<u>583,438</u>
3. Equipment	See AID/W Equipment List	585,564		585,564				585,564
Sub-Total		<u>585,564</u>		<u>585,564</u>				<u>585,564</u>
Sub-Total (II.)		<u>1,069,002</u>	<u>100,000</u>	<u>1,169,002</u>		<u>890,136</u>	<u>890,136</u>	<u>2,059,138</u>
Misc./Contingency		53,450	5,000	58,450		44,507	44,507	102,957
<u>Total Component II</u>		<u>1,122,452</u>	<u>105,000</u>	<u>1,227,452</u>		<u>934,643</u>	<u>934,643</u>	<u>2,162,095</u>

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INPUTS/ELEMENTS	OUTPUTS	COST						PROJECT TOTAL
		FX	A.I.D. LC	TOTAL	LC HOST COUNTRY			
					ESF	OTHER	TOTAL	
<b>III. Institute for Criminal Investigation and Forensic Sciences</b>								
<b>A. Special Investigative Unit</b>								
1. Technical Assistance	Specialist in Investigation 3 Years	360,000		360,000				360,00
Sub-Total		<u>360,000</u>		<u>360,000</u>				<u>360,00</u>
2. Personnel	10 Civilian Investigators				747,000		747,000	747,00
	Clothing Allowance				5,000		5,000	5,00
	25 Uniformed Investigator				723,000		723,000	723,00
	5 Secretaries, 5 Messengers, 5 Guards				216,444		216,444	216,44
	2 Accountants				41,981		41,981	41,98
Sub-Total					<u>1,733,425</u>		<u>1,733,425</u>	<u>1,733,42</u>
3. Operating Expenses	Office Rent		125,000	125,000				125,00
	Office Supplies		45,000	45,000				45,00
	Office Maint/Repair		20,000	20,000				20,00
	In-Country Travel		35,000	35,000				35,00
	Misc. Office		25,000	25,000				25,00
Sub-Total			<u>250,000</u>	<u>250,000</u>				<u>250,00</u>
4. Training	Training 35 Participants	357,200		357,200				357,20
	Travel/Transportation	50,000		50,000				50,00
Sub-Total		<u>407,200</u>		<u>407,200</u>				<u>407,20</u>

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INPUTS/ELEMENTS	OUTPUTS	COST					PROJECT TOTAL
		A.I.D.		LC HOST COUNTRY			
		FX	LC	TOTAL	ESF	OTHER	
5. Equipment	6 Police Vehicles, 6 Suburbans plus 15% parts and shipping Fuel and Maintenance	164,021	60,000	164,021 60,000			164,021 60,000
	Radio System	138,604		138,604			138,604
	Special Equipment (35 UZI's, 35 Brownings, surveillance/detection equipment, etc	160,200	100,000	260,200			260,200
	Office Equipment/ Furniture	50,000		50,000			50,000
	Weapons and Ammunition	49,700		49,700			49,700
	35 Bullet-proof Vests	10,500		10,500			10,500
	Surveillance/Lie Detection Equipment	25,000		25,000			25,000
	Uniforms, Boots, etc.	25,000		25,000			25,000
	Sub-Total	<u>462,824</u>	<u>60,000</u>	<u>622,824</u>			<u>622,824</u>
	Sub-Total (III-A)	<u>1,230,024</u>	<u>310,000</u>	<u>1,640,024</u>	<u>1,733,425</u>		<u>1,733,425</u> <u>3,573,449</u>
	Misc./Contingency	61,501	20,500	82,001	86,671		86,671 168,672
	Sub-Total (III-A)	<u>1,291,526</u>	<u>430,500</u>	<u>1,722,026</u>	<u>1,820,096</u>		<u>1,820,096</u> <u>3,542,122</u>

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INPUTS/ELEMENTS	OUTPUTS	COST					PROJECT TOTAL	
		FX	A.I.D.		LC HOST COUNTRY			
			LC	TOTAL	ESF	OTHER		TOTAL
. <u>Forensic Laboratory</u>								
. Technical Assistance	Forensic Specialist	240,000		240,000			240,000	
Sub-Total		<u>240,000</u>		<u>240,000</u>			<u>240,000</u>	
. Personnel	4 Laboratory Technicians		108,000	108,000			108,000	
	4 Forensic Specialists		108,000	108,000			108,000	
	1 Accountant		28,800	28,000			28,800	
	4 Laboratory Assistants				57,600	57,600	57,600	
	2 Secretaries				30,000	30,000	30,000	
	3 Messengers				30,240	30,240	30,240	
	4 Guards				40,320	40,320	40,320	
	INPEP/Insurance		44,064	44,064	28,469	28,469	72,533	
	Bonuses		16,200	16,200	23,400	23,400	39,600	
Sub-Total			<u>305,064</u>	<u>305,064</u>	<u>210,029</u>	<u>210,029</u>	<u>515,093</u>	
. Operating Expenses	Laboratory Rent		72,000	72,000			72,000	
	Telephone/Utilities		15,000	15,000			15,000	
	Office Supplies		10,000	10,000			10,000	
	In-Country Travel		9,000	9,000			9,000	
	Preparations for Morgue		15,000	15,000			15,000	
	Office Equip./Furniture		35,000	35,000			35,000	
	Lab Paint and Repair		20,000	20,000			20,000	
Sub-Total			<u>176,000</u>	<u>176,000</u>			<u>176,000</u>	
. Training	U.S. Short-term Training	57,000		57,000			57,000	
Sub-Total		<u>57,000</u>		<u>57,000</u>			<u>57,000</u>	

INPUTS/ELEMENTS	OUTPUTS	COST					PROJECT TOTAL
		A.I.D.			LC HOST COUNTRY		
		FX	LC	TOTAL	ESF	OTHER	
5. Equipment	2 Ambulances, 4 Suburbans plus 15% parts plus shipping Fuel and Maintenance	142,992	30,000	142,992 30,000			142,992 30,000
	Radio System	52,891		52,891			52,891
	Laboratory Equipment	588,000		588,000			588,000
Sub-Total Equipment		<u>783,883</u>	<u>30,000</u>	<u>813,883</u>			<u>813,883</u>
Sub-Total (III-B)		<u>1,080,883</u>	<u>511,064</u>	<u>1,591,947</u>	<u>210,028</u>	<u>210,028</u>	<u>1,801,975</u>
Misc./Contingency		54,044	25,553	79,597	10,501	10,501	90,000
Sub-Total (III-B)		<u>1,134,927</u>	<u>536,617</u>	<u>1,671,544</u>	<u>220,529</u>	<u>220,529</u>	<u>1,892,073</u>
<u>Total Component III</u>		<u>2,531,452</u>	<u>861,617</u>	<u>3,393,569</u>	<u>2,040,625</u>	<u>2,040,625</u>	<u>5,434,194</u>

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INPUTS/ELEMENTS	OUTPUTS	COST					PROJECT TOTAL
		A.I.D.			LC HOST COUNTRY		
		FX	LC	TOTAL	ESF	OTHER	
<u>V. Judicial Administration and Training</u>							
• Personnel	20% Increase in Salaries (1985 only)				1,300,000	1,300,000	1,300,000
Sub-Total					<u>1,300,000</u>	<u>1,300,000</u>	<u>1,300,000</u>
• Operating Expenses	Office Supplies/Equipment	665,000		665,000			665,000
	GOES Supplies/Equipment (Budget Supplement)				400,000	400,000	400,000
	Maintenance & Repair		530,000	530,000			530,000
Sub-Total		<u>665,000</u>	<u>530,000</u>	<u>1,195,000</u>	<u>400,000</u>	<u>400,000</u>	<u>1,595,000</u>
• Training	U.S./Third Country	150,000		150,000			150,000
	In-Country Training		250,000	250,000			250,000
Sub-Total		<u>150,000</u>	<u>250,000</u>	<u>400,000</u>			<u>400,000</u>
Equipment	2 Ambulances	70,000		70,000			70,000
	Parts (15%)	10,500		10,500			10,500
	Shipping	2,000		2,000			2,000
	20 Motorcycles		34,000	34,000			34,000
Sub-Total		<u>82,500</u>	<u>34,000</u>	<u>116,500</u>			<u>116,500</u>
Sub-Total Component		<u>897,500</u>	<u>814,000</u>	<u>1,711,500</u>	<u>1,700,000</u>	<u>1,700,000</u>	<u>3,411,500</u>
Misc./Contingency		44,875	40,700	85,575	85,000	85,000	170,575
<u>Total Component IV</u>		<u>942,375</u>	<u>854,700</u>	<u>1,797,075</u>	<u>1,785,000</u>	<u>1,785,000</u>	<u>3,582,075</u>
<u>GRAND TOTAL</u>		<u>5,568,045</u>	<u>3,422,794</u>	<u>9,000,839</u>	<u>5,140,627</u>	<u>10,637,254</u>	<u>14,141,476</u>

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TABLE C  
PROJECTION OF A.I.D. EXPENDITURES BY FISCAL YEAR  
(US\$000)

<u>SOURCE/USE</u>	<u>1984</u>	<u>1985</u>	<u>1986</u>	<u>1987</u>	<u>TOTAL</u>
<u>I. Revisory Commission for Legislation and Coordination of the Judicial Reform Effort</u>					
<u>A. Commission Administration</u>					
1. Technical Assistance & Diagnostic Studies	--	418.8	518.8	--	937.6
2. Personnel	--	--	--	--	--
3. Operating Expenses	--	30.7	30.7	30.7	92.1
4. Training	--	50.0	50.0	--	100.0
5. Equipment	--	40.2	--	--	40.2
Sub-Total (I.A.)	<u>---</u>	<u>539.7</u>	<u>599.5</u>	<u>30.7</u>	<u>1,169.9</u>
<u>B. Project Administration</u>					
1. Technical Assistance	--	249.0	249.0	249.0	747.0
2. Personnel	--	84.7	84.7	84.7	254.1
3. Operating Expenses	--	54.3	27.3	27.3	108.9
4. Proj. Audits/Evaluations	--	--	45.0	95.0	140.0
5. Equipment	--	40.2	--	--	40.2
Sub-Total (I.B.)	--	428.2	406.0	456.0	1,290.2
Sub-Total (I.A. + I.B.)	<u>---</u>	<u>967.9</u>	<u>1,005.5</u>	<u>456.0</u>	<u>1,290.2</u>
Misc./Contingency	--	48.4	50.3	24.3	123.0
<u>Total Component I</u>	<u>---</u>	<u>1,016.3</u>	<u>1,055.8</u>	<u>511.0</u>	<u>2,583.1</u>

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PROJECTION OF A. I. D. EXPENDITURES BY FISCAL YEAR  
(US\$000)

<u>SOURCE/USE</u>	<u>1984</u>	<u>1985</u>	<u>1986</u>	<u>1987</u>	<u>TOTAL</u>
<u>II. Judicial Protection Unit</u>					
1. Personnel	--	--	--	--	--
2. Training	233.4	208.6	141.4	--	583.4
3. Equipment	100.0	--	485.6	--	585.6
Sub-Total	333.4	208.6	627.0	--	1,169.0
Misc./Contingency	16.7	10.4	31.4	--	58.5
<u>Total Component II</u>	<u>350.1</u>	<u>219.0</u>	<u>658.4</u>	<u>--</u>	<u>1,227.5</u>
<u>III. Institute for Criminal Investigation and Forensic Sciences</u>					
<u>A. Special Investigative Unit</u>					
1. Technical Assistance	--	120.0	120.0	120.0	360.0
2. Operating Expenses	--	96.7	76.7	76.7	250.0
3. Training	--	407.2	--	--	407.2
4. Equipment	--	176.7	429.5	16.7	622.9
Sub-Total	--	800.6	626.2	213.4	1,640.2
Misc./Contingency	--	40.0	31.3	10.7	82.0
<u>Sub-Total (III-A)</u>	<u>--</u>	<u>840.6</u>	<u>657.5</u>	<u>224.1</u>	<u>1,722.2</u>

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PROJECTION OF A.I.D. EXPENDITURES BY FISCAL YEAR  
(US\$000)

<u>SOURCE/USE</u>	<u>1984</u>	<u>1985</u>	<u>1986</u>	<u>1987</u>	<u>TOTAL</u>
<u>B. Forensic Laboratory</u>					
1. Technical Assistance	--	80.0	80.0	80.0	240.0
2. Personnel	--	101.7	101.7	101.7	305.1
3. Operating Expenses	--	105.3	35.3	35.3	175.9
4. Training	--	--	57.0	--	57.0
5. Equipment	--	407.4	396.4	10.0	813.8
Sub-Total	--	694.4	670.4	227.0	1,591.8
Misc./Contingency	--	34.7	33.5	11.4	79.6
Sub-Total (III-B)	<u>--</u>	<u>729.1</u>	<u>703.9</u>	<u>238.4</u>	<u>1,671.4</u>
<u>Total Component III</u>	<u>--</u>	<u>1,569.7</u>	<u>1,361.4</u>	<u>462.5</u>	<u>3,393.6</u>
<u>IV. Judicial Administration and Training</u>					
1. Personnel	--	--	--	--	--
2. Operating Expenses	--	--	1,195.0	--	1,195.0
3. Training	--	75.0	325.0	--	400.0
4. Equipment	--	--	116.0	--	116.0
Sub-Total	--	75.0	1,636.0	--	1,711.0
Misc./Contingency	--	3.8	81.8	--	85.6
<u>Total Component IV</u>	<u>--</u>	<u>78.8</u>	<u>1,717.8</u>	<u>--</u>	<u>1,796.6</u>
<u>PROJECT TOTAL</u>	<u>350.1</u>	<u>2,883.8</u>	<u>4,793.4</u>	<u>973.5</u>	<u>9,000.8</u>
Percent of Total	4%	32%	53%	11%	100%

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TABLE C

PROJECTION OF GOES EXPENDITURES BY FISCAL YEAR  
(US\$000)

<u>SOURCE/USE</u>	<u>1984</u>	<u>1985</u>	<u>1986</u>	<u>1987</u>	<u>TOTAL</u>
<u>I. Revisory Commission for Legislation and Coordination of the Judicial Reform Effort</u>					
<u>A. Commission Administration</u>					
1. Technical Assistance & Diagnostic Studies					
2. Personnel		67.3	67.3	67.3	201.9
3. Operating Expenses		70.1	45.1	45.1	160.3
4. Training					
5. Equipment					
Sub-Total (I.A.)		<u>137.4</u>	<u>112.4</u>	<u>112.4</u>	<u>362.2</u>
<u>B. Project Administration</u>					
1. Personnel					
2. Operating Expenses					
3. Proj. Audits/Evaluations					
4. Equipment					
Sub-Total (I.B.)					
Sub-Total (I.A. + I.B.)					
Misc./Contingency		6.9	5.6	5.6	18.1
<u>Total Component I</u>		<u>144.3</u>	<u>118.0</u>	<u>118.0</u>	<u>380.3</u>

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<u>SOURCE/USE</u>	<u>1984</u>	<u>1985</u>	<u>1986</u>	<u>1987</u>	<u>TOTAL</u>
<b>II. <u>Judicial Protection Unit</u></b>					
1. Personnel		296.7	296.7	296.7	890.1
2. Training					
3. Equipment					
Sub-Total		<u>296.7</u>	<u>296.7</u>	<u>296.7</u>	<u>890.1</u>
Misc./Contingency		14.8	14.8	14.8	44.4
<u>Total Component II</u>		<u>311.5</u>	<u>311.5</u>	<u>311.5</u>	<u>934.5</u>
 <b>III. Institute for Criminal Investigation and Forensic Sciences</b>					
<b>A. <u>Special Investigative Unit</u></b>					
1. Technical Assistance					
2. Personnel		70.0	70.0	70.0	210.0
3. Operating Expenses					
4. Training					
5. Equipment					
Sub-Total		70.0	70.0	70.0	210.0
Misc./Contingency		3.5	3.5	3.5	10.5
Sub-Total (III-A)		<u>73.5</u>	<u>73.5</u>	<u>73.5</u>	<u>220.5</u>

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<u>SOURCE/USE</u>	<u>1984</u>	<u>1985</u>	<u>1986</u>	<u>1987</u>	<u>TOTAL</u>
<u>B. Special Investigations Unit</u>					
1. Technical Assistance		578.1	578.1	578.1	1,734.3
2. Personnel					
3. Operating Expenses					
4. Training					
5. Equipment					
Sub-Total		578.1	578.1	578.1	1,734.3
Misc./Contingency		28.9	28.9	28.9	86.7
Sub-Total (III-B)		<u>607.0</u>	<u>607.0</u>	<u>607.0</u>	<u>1,821.0</u>
<u>Total Component III</u>		<u>680.5</u>	<u>680.5</u>	<u>680.5</u>	<u>2,041.5</u>
<u>IV. Judicial Administration and Training</u>					
1. Personnel		433.3	433.3	433.3	1,299.9
2. Operating Expenses		400.0			400.0
3. Training					
4. Equipment					
Sub-Total		833.3	433.3	433.3	1,699.9
1 Misc./Contingency		41.7	21.7	21.7	85.1
<u>Total Component IV</u>		<u>875.0</u>	<u>455.0</u>	<u>455.0</u>	<u>1,785.0</u>
<u>PROJECT TOTAL</u>		<u>2,011.3</u>	<u>1,565.0</u>	<u>1,565.0</u>	<u>5,141.3</u>
Percent of Total		39%	30.5%	30.5%	100.0%

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TABLE D  
METHODS OF IMPLEMENTATION AND FINANCING  
(US\$)

PROJECT ELEMENT	INPUTS	IMPLEMENTATION	METHOD	
			FINANCING	APPROXIMATE AMOUNT
<u>I. Revisory Commission for Legislation and Coordination of the Judicial Reform Effort</u>				
<u>A. Commission Administration</u>				
1. Technical Assistance & 1 Admin/Mgmt Study of Court System	Short Term T.A.	Profit-making contractor	Direct Pay	150,000
1 Study of the Legal Profession	Short Term T.A.	H.C. PSC's	Direct Reimbursement	100,000
1 Study of Role of the Judiciary	Short Term T.A.	H.C. PSC's	Direct Reimbursement	100,000
Specific Problem Studies	Short Term T.A.	H.C. PSC's	Direct Reimbursement	100,000
Contracts for Local Attorneys/Other Specialists	Short Term T.A.	H.C. PSC's	Direct Reimbursement	437,600
2. Operating Expenses				
Office Rent	Long Term Lease	H.C. Lease	Direct Reimbursement	72,000
International Travel	Tickets	H.C. Arrangements	Direct Pay	20,000
3. Training				
Seminars/Conferences	Hotels/Meals/Materials	H.C. Arrangements	Direct Reimbursement	100,000
5. Equipment				
2 Sedans/Parts/Shipping		Direct Letter of Commitment	Direct Pay	40,246
<u>Sub-Total (I-A)</u>				1,119,846

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PROJECT ELEMENT	INPUTS	IMPLEMENTATION	METHOD	
			FINANCING	APPROXIMATE AMOUNT
<b>3. <u>Project Administration</u></b>				
. Technical Assistance				
1 Project Coordinator	Long Term T.A.	PSC	Direct Pay	360,000
1 Asst. Coordinator	Long Term T.A.	PSC	Direct Pay	210,000
Salvadoran Legal Council	Long Term T.A.	Retainer	Direct Pay	177,000
. Personnel				
3 Secretaries, 2 Accountants, 3 Messengers, 3 Guards and 3 Programmers	Long Term Assistance	PSC's,	Direct Pay	253,764
. Operating Expenses				
Office Rent	Long Term Lease	Direct Lease	Direct Pay	18,000
Office Supplies & Equip		Direct Purchase	Direct Pay	34,000
Telephones/Utilities		Direct Purchase	Direct Pay	9,000
In-Country Travel		Direct Purchase	Direct Pay	12,000
Office Paint/Repair		Direct Purchase	Direct Pay	2,000
Misc. Office Costs		Direct Purchase	Direct Pay	9,000
. Proj. Audits/Evaluations				
2 Evaluations	Short Term T.A.	Profit-making contractor	Direct Pay	100,000
Audits	Short Term T.A.	PSC's	Direct Pay	40,000
Equipment				
2 Sedans/Parts/Shipping		Letter of Commitment	Direct Pay	40,246
Sub-Total (I-B)				1,265,010

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PROJECT ELEMENT	INPUTS	IMPLEMENTATION	METHOD	
			FINANCING	APPROXIMATE AMOUNT
<u>II. Judicial Protection Unit</u>				
1. Training				
FLETC Training (May 1984)		Inter-Agency Agreement	Direct Pay	233,438
Additional FLETC Training		Inter-Agency Agreement	Direct Pay	250,000
In-Country Training		H.C. Arrangements	Direct Reimbursement	100,000
2. Equipment				
		GSA and Other Direct Purchase	Direct Pay	585,564
Sub-Total				1,169,002
<u>III. Institute for Criminal Investigation and Forensic Sciences</u>				
A. <u>Special Investigative Unit</u>				
1. Technical Assistance				
Specialist in Investigation	Long Term T.A.	P.S.C. or PASA	Direct Pay	360,000
2. Operating Expenses				
Office Rent	Long Term Lease	H.C. Lease	Direct Reimbursement	125,000
Office Supplies			Direct Reimbursement	45,000
Office Maint/Repair			Direct Reimbursement	20,000
In-Country Travel			Direct Reimbursement	35,000
Misc. Office			Direct Reimbursement	25,000
4. Training				
Training 35 Participants		Inter-Agency Agreement	Direct Pay	357
Travel/Transportation	Tickets	Direct Purchase	Direct Pay	50

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PROJECT ELEMENT	INPUTS	IMPLEMENTATION	METHOD	
			FINANCING	APPROXIMATE AMOUNT
<b>i. Equipment</b>				
6 Police Vehicles, 6 Suburbans plus 15% parts and shipping		Direct Letter of Commitment	Direct Pay	164,020
Fuel and Maintenance		H.C. Arrangements	Direct Reimbursement	60,000
Radio System		Direct Letter of Commitment	Direct Pay	138,604
Office Equipment/Maint.		H.C. Contract	Direct Reimbursement	50,000
Office Furniture		H.C. Contract	Direct Pay	100,000
Weapons and Ammunition		Direct Purchase	Direct Pay	49,700
35 Bullet-proof Vests		Direct Purchase	Direct Pay	10,500
Surveillance/Lie Detection Equipment		Direct Purchase	Direct Pay	25,000
Uniforms, Boots, etc.		H.C. Contract	Direct Reimbursement	25,000
Sub-Total (III-A)				1,640,024
<b>3. Forensic Laboratory</b>				
<b>1. Technical Assistance</b>				
Forensic Specialist	Long Term "A.	PSC	Direct Pay	240,000
<b>2. Personnel</b>				
4 Laboratory Technicians	Long Term Contracts	H.C. PSC's	Direct Reimbursement	108,000
4 Forensic Specialists				108,000
1 Accountant				28,800

PROJECT ELEMENT	INPUTS	IMPLEMENTATION	METHOD	
			FINANCING	APPROXIMATE AMOUNT
<b>3. Operating Expenses</b>				
Laboratory Rent		H.C. Arrangements	Direct Reimbursement	72,000
Telephone/Utilities				15,000
Office Supplies				10,000
In-Country Travel				9,000
Preparations for Morgue				15,000
Office Equip./Furniture				35,000
Lab Paint and Repair				20,000
<b>4. Training</b>				
U.S. Short-term Training		Direct Contracts	Direct Pay	57,000
<b>5. Equipment</b>				
2 Ambulances, 4 Suburbans plus 15% parts plus shipping		Direct Letter of Commitment	Direct Pay	142,992
Fuel and Maintenance		H.C. Arrangements	Direct Reimbursement	30,000
Radio System		GSA Purchase	Direct Pay	52,891
Laboratory Equipment		Direct Purchase	Direct Pay	588,000
Sub-Total (III-B)				1,531,683
<b>IV. <u>Judicial Administration and Training</u></b>				
<b>1. Operating Expenses</b>				
Office Supplies/Equipment		Direct Letter of Commitment	Direct Pay	665,000
Maintenance & Repair		H.C. Contracts	Direct Pay	530,000
<b>2. Training</b>				
U.S./Third Country		A.I.D. Arrangements	Direct Pay	150,000
In-Country Training		H.C. Arrangements	Direct Reimbursement	250,000

PROJECT ELEMENT	INPUTS	IMPLEMENTATION	METHOD	
			FINANCING	APPROXIMATE AMOUNT
Equipment				
2 Ambulances		Direct Letter of Commitment	Direct Pay	70,000
Parts (15%)				10,500
Shipping				2,000
20 Motorcycles		H.C. Procurement	Direct Pay	34,000
Sub-Total				1,711,500
TOTAL				8,437,065

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(INITIAL ENVIRONMENTAL EXAMINATION)

AGENCY FOR INTERNATIONAL DEVELOPMENT  
 UNITED STATES OF AMERICA A. I. D. MISSION  
 TO EL SALVADOR  
 C/O AMERICAN EMBASSY,  
 SAN SALVADOR, EL SALVADOR, C. A.

INITIAL ENVIRONMENTAL EXAMINATION

I. Basic Project Data

Project Location : El Salvador  
 Project Title : Judicial Reform  
 Project Number : 519-0296  
 Funding : FY-84 and FY-85 - \$9,000,000  
 Life of Project : 3 Years  
 IEE Prepared by : C. Roberto Gavidia,  
 General Engineer and  
 Environmental Coordinator,  
 USAID/El Salvador  
 Date : August 29, 1984  
 Action Recommended : Negative Determination

II. Description of the Project

The purpose of the project is to increase the capacity of the Government of El Salvador (GOES) to improve the administrative, technical and legal performance of its criminal justice system. The project is aimed at providing continued support to the GOES for the Revisionary Commission for Legislation and the Judicial Protection Unit, establishment of an Institute for Criminal Investigation and Forensic Science, and initiation of a Judicial Administration and training program.

III. Impact and Evaluation

Project resources will be made available in the form of technical cooperation and training to assist with reformed-oriented activities and the initiation of a judicial administration, neither of which will have adverse effects on the environment. On the contrary it is expected that the project will have a number of positive results.

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IV. Environmental Determination

The proposed action is not an action which will have a significant effect on the human environment and is, therefore, an action for which an Environmental Impact Statement or Environmental Assessment will not be required a negative determination is recommended.



Bastiaan B. Schouten  
Deputy Director  
USAID/El Salvador

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SCHEDULED OF MAJOR IMPLEMENTATION EVENTS BY COMPONENT

<u>Date</u>	<u>Action</u>
<u>Judicial Protection</u>	
<u>1984</u>	
April 30	Signing of a PIO/P obligating funds permitting members of the JPU to travel to Glynnco, Georgia for training at the Federal Law Enforcement Training Center (FLETC).
April 30 - May 8	Two groups of 30 JPU members receive one week of training at FLETC.  Receipt by USAID from Ministry of Justice of evidence that arrangements have been made for the safe storage and control of equipment provided under the original Project Agreement.
<u>Revisory Commission for Legislation</u>	
August 24	Issuance by President Napoleon Duarte of Decree establishing a new Revisory Commission on Legislation.  All members of the Revisory Commission confirmed in their positions.  Receipt of first action plan from the Revisory Commission.
October	First disbursement to Revisory Commission.  Revisory Commission offices leased, support equipment purchased with local currencies available to the Commission, and basic staff hired.  Project Implementation Order issued for Management Study of the Court System.  Revisory Commission begins contracting of Salvadoran lawyers to begin work on reviews laid out in general scope of work.

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Management study of court system begins.

- July                      Revisory Commission submits a report on its initial findings to President Duarte.
- August                    President submits to the Legislative Assembly new draft legislation proposed by the Revisory Commission.
- October                   First term of the members of the governing council of the Institute for Criminal Investigation ends.

Institute for Criminal Investigation and Forensic Sciences

- August 31                Submission to the Legislative Assembly by President of draft legislation creating the Institute for Criminal Investigation and Forensic Sciences.
- Four directors and the Executive Secretary of the Institute for Criminal Investigation named by the President.
- First actions plans and requests for disbursement submitted to USAID by the Institute for Criminal Investigation.
- Offices leased and basic preparations made for installation of the SIU and forensic laboratory facilities in San Salvador.
- USAID approves GOES contracts for purchase of furnishings for the SIU, Lab and Commission and, with advice and consent of GOES implementing agencies issues PIO/C's for major equipment purchases.
- Efforts begun to recruit highly qualified civilians for positions in the SIU and for positions in the forensic laboratory.
- December                The SIU and laboratory are fully staffed (except for the civilian investigators unless already identified).
- March                    Major equipment items for lab and SIU arrive in El Salvador; radio systems installed.
- Special FBI-type investigative training program for members of the SIU carried out at Roosevelt Roads in Puerto Rico or similar installation.

September                    At least 5 highly qualified civilians have been recruited and are working as investigators in the SIU. Efforts continue to hire another 5 civilians for positions on the SIU.

First term of the members of the Revisory Commission ends.

Judicial Administration and Training

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January                    Action plans and implementation documents relating to project support of the court system are issued.

                                  Administrative study of court system is submitted to the Revisory Commission and to USAID.

                                  Training Plans describing a program for in-country training of judges and court administrative staff are prepared and submitted as part of an action plan for project financing.

April                        Equipment and supplies for the Court System arrive in El Salvador.

June                        New administrative systems implemented within the court system.

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### Alternate Strategy

It seems likely at this time that the Congress will include in the FY 1985 foreign assistance legislation additional funds which can, "notwithstanding Section 660 of the Act" be used to support continued assistance for all aspects of the Judicial Reform Project.

Should no additional funds be made available for this purpose, USAID/El Salvador would apply funds made available under the Specter and Moynihan Amendments exclusively to those foreign exchange costs which would otherwise be prohibited under the FAA, i.e., for the Judicial Protection Unit, Forensic Laboratory and the Special Investigative Unit components. The total foreign exchange required to support the SIU, laboratory and JPU components is \$3,548,000, or \$314,000 more than is available for these purposes under the Specter (\$3,000,000) and Moynihan (\$234,000) Amendments. In order to continue support to the project, USAID/El Salvador would reduce these foreign exchange costs by shortening the periods of time during which technical assistance would be provided to the SIU (3 years to 2 years: savings \$120,000) and laboratory (2 years to 18 months: savings \$60,000) components--and reduce by \$134,000 the equipment purchases for the laboratory and JPU. The GOES would be asked to finance from other than ESF-derived revenues the \$4,049,000 in local costs associated with implementation of these components.

Unless the Congress were to indicate a specific prohibition on support for other project components, nothing in the FAA would prohibit A.I.D. support for the Revisory Commission and Judicial Administration and Training activities. USAID/El Salvador would therefore obligate an additional \$6 million in Economic Support Funds in support of these activities during FY's 1985 and 1986. As deemed appropriate, USAID/El Salvador might increase project support for local currency costs now supplied by the GOES for the Revisory Commission and Judicial Administration and Training components.

It is apparent that the project is not totally dependent upon anticipated special legislation. The special legislation is desirable in order to: (1) assure the levels of technical assistance and material support originally thought necessary by project designers; (2) limit the local currency costs to the GOES of the JPU, SIU and investigative laboratory components of the project; (3) facilitate project accounting and relieve the USAID of the unnecessary burden of special attribution of project funds associated with police-related functions; and (4) assure Congressional accord with A.I.D.'s initiatives in this area.

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Failure to obtain special dispensation from the terms and conditions of Section 660 of the FAA would reduce somewhat the comprehensive nature of the U.S. contribution to the project. It would also place a particularly heavy and unanticipated fiscal burden on the GOES during a period when it is experiencing high deficits and is attempting, with U.S. encouragement, to implement austerity measures. The project would not be halted by the lack of additional special legislation, but the quality and effectiveness of the new investigative units could be seriously affected.

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