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ACTION PLAN  
FOR  
ADMINISTRATION OF JUSTICE  
AND  
DEMOCRATIC DEVELOPMENT

June 2, 1986

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## INTRODUCTION

This action plan sets out the planned activities of the administration of justice, democratic development and human rights programs of the LAC Bureau for 1987-1988. These three programs were grouped together in the same office in early 1985 because all concern democratization in LAC. Until now they have not been joined in a common planning document. By putting together plans for the various democratization-related programs in one place, this action plan is a step toward formulating an overall Bureau policy and strategy.

The action plan is in four sections. Section I is a brief summary of past legislation and prior administration policies. Section II covers the administration of justice program. This program is an interagency effort, involving not only AID, but the Department of State, the Department of Justice, USIA and others. AID, however, is the agency funding and carrying out the bulk of the program. Though AID has this major role, there is no Bureau or Agency strategy statement on administration of justice. Thus Section II goes beyond a typical action plan by articulating the goals, strategy and program in detail and relating them to Bureau and Agency policies. In this sense, Section II is akin to a CDSS or policy determination.

Section III deals with the regional strengthening democracy program in Central America and the human rights program. There have been no recent studies or analyses designed to provide AID with an analytical basis for shaping these programs. Obviously, there are hundreds of ways to "strengthen democracy," and naturally LAC/AJDD cannot support every proposal. Thus, Section III will describe the outline of a proposed strategy and the steps to be taken in the coming year to develop an analytical base for further elaboration of the rationale and strategy.

Section IV focuses on management and staffing issues related to the three programs under LAC/AJDD responsibility. The list of questions related to management is long. What does it mean to manage a project from Washington? What projects should be managed in the field? The fourth section suggests answers to these and similar questions and concludes with a recommended management structure and staffing pattern for LAC/AJDD.

SECTION I: HISTORICAL CONTEXT

Part I: Legislation

Promoting democracy and respect for human rights throughout the world has long been a principal objective of US foreign policy and an inherent goal of the foreign assistance program. The moral principles underlying this policy are imbedded in the constitutions of not only the United States, but also of most of the countries of the Americas, and are enumerated in the Universal Declaration of Human Rights adopted by the United Nations in 1945.

Foreign assistance legislation has encouraged incorporation of these principles in our policies and programs for years. Section 107 of the Foreign Assistance Act of 1961 stated that one major objective of the aid program was to "help make an historic demonstration that economic growth and political democracy can go hand in hand to the end that an enlarged community of free, stable, self-reliant countries can reduce world tensions and insecurity." The Humphrey Amendment of 1961, emphasizing the significance of cooperatives and popular participation in democratic growth, was followed in 1962 by the Zablocki Amendment, which stressed the role of community development in achieving similar objectives.

Title IX, enacted in 1966, charged the Agency to concern itself with political as well as economic development, and gave additional breadth and direction to AID's efforts to help develop self-supporting institutional frameworks within which modernization and development can take place. With the introduction in the early 1970's of the basic needs approach directed toward the "poorest of the poor", the policy emphasis on political development per se began to diminish, except for continued assistance--within the context of promoting "growth with equity" in economic development--to cooperatives, labor unions and PVO's.

In 1974, passage of the Harkin Amendment linked Agency policy and programs to concern for protection of human rights, underscoring the basic human needs approach and keying a country's eligibility for assistance to its human rights performance. Enactment in 1978 of Section 116(e) of the Foreign Assistance Act, which sets aside a portion of the Agency's annual appropriation to be used for projects and activities that promote wider observance of civil and political rights, added a

positive dimension to AID's efforts to promote human rights.

Since 1983, the Congress has given a major boost to programs to improve the administration of justice in Latin America by earmarking significant levels of funding to be used for this purpose.

## Part II: Administration Policies and Initiatives

The Ford, Carter and Reagan Administrations each formulated policies that strongly reinforced these Congressional mandates. In August 1976, AID's Administrator announced a program of: "New Initiatives in Human Rights", intended to focus the Agency's attention on finding ways to promote greater observance of human rights in aid-recipient countries, thus anticipating enactment of Section 116(e) by nearly two years. President Carter declared human rights to be "the soul of United States foreign policy" and the level of AID support for human rights projects grew accordingly. The Reagan Administration favored a positive, less reactive approach, seeking to encourage governments as well as opposition groups to take steps to advance freedom and justice in their countries and to create a political and social climate in which respect for human rights could take root and grow. The Section 116(e) program was highlighted as one of the major instruments of this policy, and its continuation and expansion strongly endorsed. Human rights were defined as the fundamental principles of democratic societies, laying the groundwork for return to the concept of encouraging political development through US assistance programs.

In an address before the British Parliament in June 1982, President Reagan declared that the US would strive all around the world "to foster the infrastructure of democracy--the system of a free press, unions, political parties, universities--which allows a people to choose their own way, to develop their own culture, to reconcile their own differences through peaceful means." AID, working closely with the Department of State and USIA, has been a key actor in the process of translating the President's announcement into multi-faceted, sophisticated foreign policy and assistance program, reflective both of the complexities of the task of democratic development and the

determination of the US Government. The current AID Strategic Plan highlights the importance of building democracy as a goal of US assistance to less developed countries.

In 1983 President Reagan formed the National Bipartisan Commission on Central America to advise on a long-term US policy that would best respond to the challenges of democratic development and to threats to security and stability in the region. In its January 1984 report, the Commission concluded that fundamental strategic and moral interests of the US require a long-term national commitment to economic opportunity, human development, democracy and security in Central America. Along with economic aid and military assistance, the Commission specifically recommended that we support democratic processes and institutions through assistance to improve the administration of justice, technical training and development of leadership skills.

The US has given particular attention to democratic political development in Latin America and the Caribbean through programs carried out under the Alliance for Progress, Title IX, Section 116(e) and the current initiatives in the Caribbean and Central America. As more and more countries in the region have established constitutional governments, many after decades of authoritarian and repressive rule, the chances of achieving a sustainable democratic climate throughout the hemisphere grow ever stronger. Conditions today present an historic opportunity for US foreign policy and assistance programs to reinforce this trend by helping these countries build the systems, institutions and human resources necessary to long-term economic and political stability and permanent democracy.

## SECTION II: ADMINISTRATION OF JUSTICE

AID's administration of justice program has developed rapidly since 1984 and today consists of a diverse range of projects totalling about \$25 million in obligated funds. Although these projects share many elements of strategy and goals, they were separately designed and funded and have never been unified under a single plan. Section II of this action plan fills that gap by setting out a unified account of the needs, methodology, and goals underlying AID's diverse activities in the administration of justice field and presenting the planned activities of the administration of justice program as a whole for the period 1986-1988.

The administration of justice section is in four parts. The first part reviews the broader policy framework of the administration of justice program, Congressional measures supporting the program, and the overall US government efforts in

the area. Part II details the problems with administration of justice in the region and sets out the goals, purposes, and strategy of the program. Part III, the implementation section, breaks down AID's planned administration of justice activities by goals, targets, benchmarks, key assumptions, and policy dialogue issues. Part IV outlines the future program.

## Part I: Background

### A. The Policy Framework

#### 1. The Emerging Focus on Administration of Justice

The process of democratic development is complex and in many ways not fully understood. One element however, is clear. An independent, efficient, and equitable justice system is a necessary part of any working democracy. Such a system protects individuals' rights against the state, peaceably settles disputes between citizens, and equitably enforces the laws basic to a stable social and economic order.

Unfortunately, the justice systems of most Latin American and Caribbean countries are fraught with problems. After years and often decades of financial neglect and/or political interference, these systems are, almost without exception, extremely inefficient, inequitable, and in some cases virtually non-functioning. The disabilities of these systems constitute a major obstacle both to the achievement of democracy in countries where illiberal governments still reign and to the maintenance of democracy in countries where fledgling democratic governments are in place.

With the rise of democracy in Latin America, however, many countries in the region are initiating efforts to renovate their justice systems. These efforts include legislative reforms, increased training of judicial personnel, bolstered judicial budgets, and improved civic education. Inadequate resources, political difficulties, and lack of experience hamper these reform efforts. But the continued pursuit of reforms in the face of these problems signals the widespread recognition of the importance of improving the administration of justice throughout Latin America and the Caribbean.

In the early 1980's the US government began to take explicit notice of both the importance of administration of justice for democratic development and the problematic state of administration of justice in most Latin American and Caribbean countries. The National Bipartisan Commission on Central America articulated this recognition very clearly in its January 1984 final report. The Commission highlighted the problematic state of justice systems in Central America and recommended that the US undertake a major effort to assist Central American governments to strengthen their justice systems:

"Specifically, we recommend the use of US economic assistance to:

- \* Enhance the training and resources of judges, judicial staff, and public prosecutors' offices.
- \* Support modern and professional means of criminal investigation.
- \* Promote availability of legal materials, assistance to law faculties, and support for local bar associations." (p. 74)

This recommendation was soon translated into US policy. An Inter-Agency Working Group on the Administration of Justice had been formed in 1983, bringing together representatives of the State Department, AID, the Justice Department, and USIA to formulate US programs for improving the administration of justice in Latin America and the Caribbean. With the National Bipartisan Commission report as an impetus, this group began developing an administration of justice program, comprised of efforts by all the US government agencies in the group. This program rapidly took its place as a valuable part of US foreign policy in the region. As Secretary of State Shultz declared in his November 1984 speech to the OAS in Brazil, US administration of justice assistance "is an integral component of our support for the consolidation of democratic institutions throughout the hemisphere." The Congressional support for this assistance program and an outline of the current set of program activities are set out below.

## 2. Congressional Support

Specific congressional support for administration of justice assistance to Latin America and the Caribbean first emerged for activities in El Salvador. In 1983 Congress earmarked \$3 million of Economic Support Funds for judicial reform in El Salvador. In 1984 the earmark was boosted to \$6 million. Then in 1985 Congress established the legislative foundation for a broad program of administration of justice activities for Latin America and the Caribbean. Section 712 of the 1985 International Security and Development Cooperation Act created section 534 of the FAA which authorizes the use of up to \$20 million in Economic Support Funds in each fiscal year up to September 30, 1987 "for countries and organizations, including national and regional institutions, in order to strengthen the administration of justice in Latin America and the Caribbean." This assistance is to include only the following:

- "(1) support of specialized professional training,

scholarships, and exchanges for continuing legal education;

(2) programs to enhance prosecutorial and judicial capabilities and protection for participants in judicial cases;

(3) notwithstanding FAA section 660, programs to enhance investigative capabilities, conducted under judicial or prosecutorial control;

(4) strengthening professional organizations in order to promote services to members and the role of the bar in judicial selection, enforcement of ethical standards, and legal reform;

(5) increasing the availability for legal materials and publications;

(6) seminars, conferences, and training and educational programs to improve the administration of justice and to strengthen respect for the rule of law and internationally recognized human rights; and

(7) revision and modernization of legal codes and procedures."

Following upon the recommendations of the National Bipartisan Commission, Congress specifically included a waiver (clause (b)(3) above) of section 660 of the FAA in order to allow the administration of justice program to include criminal investigative training. This reflected the recognition that seriously deficient criminal investigative capabilities inevitably undermine whatever improvements in the administration of justice a program aimed at court reform can achieve. In addition to the waiver included in section 712, Congress created two other, more limited waivers to section 660. One exception waives section 660 for El Salvador and Honduras, upon a presidential determination of improved human rights in those countries. The other waives section 660 for any country in Latin America and the Caribbean having no standing army, a long tradition of democratic rule, and a good human rights record.

Finally, the 1985 Congress earmarked \$1 million of ESF for administration of justice assistance to Peru. Taken together, these measures -- section 534 of the FAA, the two limited waivers of section 660, and the Peru earmark -- signal significant Congressional interest and support for the US administration of justice program.

### 3. AID's Role in the US Program

As mentioned before, the administration of justice program

was given its start by the Inter-Agency Working Group, formed in 1983. The Bureau of Inter-American Affairs of the State Department took the lead in forming this group and was the key force in getting other government agencies involved. The State Department has continually raised the administration of justice program at the ambassadorial level in the field and provided the high-level support in Washington necessary to launch a US initiative of this type.

AID's role in the program has evolved steadily, from funding initial activities such as graduate law scholarships and bar meetings to its current position as the agency responsible for the creation and management of the bulk of the US administration of justice program in Latin America and the Caribbean. A brief outline of the development of AID's participation follows.

AID first major administration of justice initiative was the El Salvador Judicial Reform Project, created in April 1984 under a \$9.2 million grant. This project, driven by Congressional interest in resolving notorious murder cases and designed on the heels of the Kissinger Commission's report, aims to assist the El Salvadoran government to achieve basic reforms in the country's troubled judicial sector. After a delayed start the project is now well underway, and is being managed by the USAID San Salvador.

In 1985, AID institutionalized its commitment to an administration of justice program by formally establishing an administration of justice office in the IAC Bureau. This office rapidly designed what has been the centerpiece of the administration of justice program, the Regional Administration of Justice Project in Central American and the Dominican Republic. The Regional Project was created in March 1985 with \$10 million funding -- \$9.6 million to the United Nations Latin American Institute for the Prevention of Crime and Treatment of the Offender (ILANUD) in San Jose, Costa Rica and \$400,000 for smaller grants to other organizations. Under this project ILANUD holds training courses for judicial personnel from the participating countries (Panama, Honduras, El Salvador, Costa Rica, and the Dominican Republic), gives technical assistance to those countries, and is helping each to set up its own program of judicial reform. Three smaller grants have been given under the Regional Project, one to USIA for an international visitors program related to the administration of justice, one to the (Inter-American Bar Association) for a conference bringing together bar associations from various Central American countries, and one to the Inter-American Bar Foundation for a three-year program to help strengthen Central American bar associations.

Also in 1985, AID transferred \$160,000 to the Department of Justice for the development of a program to assist countries of the region to enhance criminal investigative capabilities under judicial or prosecutorial control. AID chose the Justice Department as the center of this criminal investigative training program because of the Justice Department's expertise in investigative matters. The Department of Justice has shown a strong interest in the area and has worked quickly to create a special office for the new program. In a very short time, that new office, formally entitled the International Criminal Investigative Training Assistance Program (ICITAP), designed a full-scale project for criminal investigative training throughout Latin America and the Caribbean. In May 1986 AID transferred \$1.36 million for the ICITAP project.

In May 1986, the administration of justice office increased funding for the RAJ project by \$2.27 million to permit the inclusion of Guatemala into the project and to permit ILANUD to bring South American participants to ILANUD training courses. Additionally the office completed a project paper for a Caribbean Regional project, a project roughly parallel in design and magnitude to the Central American RAJ project. The Caribbean project will receive \$1.5 million in 1986, \$7 million in 1987, and \$1.5 million in 1988, for a life-of-project funding of \$10 million. Finally, several new activities are still in the planning stage, including bilateral programs for certain South American countries. These new activities, as well as the development of the ongoing projects, are the subject of the implementation section, Part III.

## Part II: Problems, Goals, Strategy

### A. Problems of Administration of Justice In Latin America and the Caribbean

#### 1. Conditions

The shortcomings of the justice systems in Latin America and the Caribbean are complex and varied. Nonetheless they can be roughly placed under two general headings - a lack of judicial independence and a lack of competence in the justice sector. An independent judicial system has two defining characteristics. First, the judges decide cases free of influence from other parts of the government, in particular, the executive branch. Second, judges are selected with more consideration given to professional merit than political sympathies. Competence has both substantive and procedural components. With respect to substance, competence is found when judicial actions reflect

knowledge of the law and the skillful application of it to particular cases. Concerning procedure, a competent justice system is one in which cases are processed in a regular and efficient manner, in accordance with established procedural rules:

Both these attributes -- independence and competence -- are absent in varying but generally substantial degrees from the justice systems of Latin American and Caribbean countries. The picture that emerges from empirical studies of the administration of justice in Latin America is a depressing one. The courts process cases only with inordinate and unpredictable delays. Local judges often lack the most rudimentary legal education. Even the best judges on the highest courts are overwhelmed by backlogged dockets and undermined by poor salaries and inadequate facilities. Antiquated record-keeping renders the administration of justice not only tortuously slow but haphazard. Outdated codes and cumbersome procedures compound these difficulties. Corruption -- both in the form of financial pay-offs and political interference -- turns up with alarming frequency, and in some countries pervades the entire judicial system. Finally, a lack of reliable data about the judicial systems themselves impedes all attempts to portray systematically the defects or to plan needed reforms.

Although the problems of compromised judicial independence and low competence in the justice sector can be conceptually separated, in practice they are inextricably interrelated. When the executive branch of a government systematically interferes with or controls the country's judicial system, the chances of attracting high quality judges and staff, encouraging innovative or consistent decision-making, and managing court administration efficiently, are all reduced. Conversely, a justice system of low competence, one which unevenly applies its laws and its caseload, is much easier to dominate politically than a system which is highly efficient and capable. Thus, an integrated approach to justice reform, one that tackles problems both of independence and competence, is likely to be the most effective.

The above paragraphs characterize the problems with the administration of justice in Latin America and the Caribbean in broad-brush terms. The problems obviously vary from country to country and subregion to subregion, although the variance is more of severity than of kind. The Caribbean, for example, has a better history of judicial independence than Latin America, due to the English origin of many Caribbean legal systems. That independence is in many cases eroding, but restoring weakened independence is an easier task than establishing it where it has not existed before. Similarly, competence in the justice sector has traditionally been higher in the Caribbean than in Central

America. Again, the situation in the Caribbean is one of erosion rather than an overwhelming absence. It is difficult to generalize about South America in this regard because of the wide range of competence found. In any case, despite the differing levels of judicial independence and competence throughout the region, the underlying causes are similar enough to permit a comprehensive account and methodology.

## 2. Causes

The causes of the ills of Latin America and the Caribbean justice systems are manifold, ranging from general, historical causes to specific, functionalistic ones. General causes do not lend themselves naturally to short or medium-term aid "cures;" nonetheless they should not be passed over without mention. The historical tradition of the region's legal systems (not including the Commonwealth Caribbean countries) is an obvious cause of the problems described above -- the original derivation of the Latin American legal systems from the corrupt and inefficient Spanish system of the 18th century, the failure to modernize the inherited Spanish and French codes in the 19th and early 20th century, etc. Also of relevance is the long history of failed political liberalism in most countries of the region, the debilitating economic underdevelopment of most Latin American countries, and the rigid cultural conceptions of authority and change.

For the purposes of shaping the administration of justice project, however specific causes, those directly related to the day-to-day functioning of the judicial system, are of primary relevance. The specific causes fall into two categories -- problems with the personnel working in the justice system and problems with the operation and organization of the justice system itself.

### a. Personnel

The lack of skilled, diligent, and honest personnel is one major cause of the shortcomings of the administration of justice in Latin America and the Caribbean. This lack can be traced to a number of specific causes:

- Legal education at the university level is uncertain and often sketchy. Law schools are overcrowded and understaffed. Legal education is not oriented toward the practical application of knowledge.

- Judicial training is almost non-existent. Judges, prosecutors, and court support staff receive little specialized training either before taking their positions or during their

careers. Only Costa Rica, Argentina, and Venezuela have judicial schools, and these schools have their own problems.

- Judicial systems are unable to attract high-quality personnel. Judicial sector salaries are usually so low that almost any reasonably successful lawyer would have to make a considerable financial sacrifice to give up his practice and work as a judge.

- Judicial selection methods are not based on merit. Judicial selection is often so subject to political influences and considerations that actual professional merit is only a subsidiary or even absent factor in the selection process.

- Judicial career standards are inadequate. Salaries are low, little provision is made for regular professional advancement, job security is uncertain. Judicial terms vary and are sometime subject to direct political control.

- Bar associations and judiciaries have no effective systems for disciplining corrupt attorneys and judges. In addition, Latin governments rarely prosecute corruption cases involving penal sanctions.

#### b. Court Systems

A second major cause of problematic administration of justice in Latin America and the Caribbean is the poor organization and administration of the judicial institutions themselves. This is caused by a variety of specific factors:

- In many Latin American and Caribbean systems judges are given significant administrative responsibilities. Those responsibilities often go unexercised because judges lack time and preparation for such activities and perceive administrative matters as an improper part of the judicial function. Professionalized administration of courts is largely non-existent.

- Administrative procedures are outdated. Such procedures are often cumbersome, ritualized rules dating from epochs long past. The forms of information storage and retrieval are generally primitive and vastly overextended. Basic equipment for court administration -- file cabinets, typewriters, folders, photocopying machines -- are in short supply.

- Large-scale physical resources for courts are also deficient. Courthouses are too few, too small, and rarely in good condition. Judges lack offices, courtrooms, tables, chairs, etc. In at least one country, parties to a lawsuit have

their suit heard only if they provide the paper for the judge to work on.

- Unreliable and unsystematic compilation of laws and cases hampers the judicial process in many countries of the region. Judges, lawyers, and legislators cannot count on the existence of systematic case reporters or law reporters. In some countries no system of case reporting exists at all; judges are forced to become, in the words of one Supreme Court judge from Ecuador, "judges of memory." And even when cases and laws are recorded, courts, judges, and prosecutors often have little access to such materials because of an absence of working law libraries. What libraries do exist lack both books as well as qualified personnel to manage the libraries' operations.

### c. Investigative Capabilities

In addition to weak personnel and poor administration, the judicial systems of the region are hurt by the scarcity of professional, effective investigative capacities. Without such capacities, prosecutors and/or judges are unable to prepare cases for trial. The specific causes of the shortcomings of the investigative side of the region's judicial systems are similar to those of the courts themselves -- inadequately trained personnel, an inability to attract good candidates, outdated equipment, political interference, etc.

## B. Goals and Purposes

### 1. Goals

The goals of the program, broadly conceived, are twofold:

First, helping Latin American and Caribbean governments improve the independence and competence of their justice systems will strengthen the aspects of those societies directly conditional upon the judicial function. That is to say, protection of individuals' rights against the state will be ameliorated, legal disputes will be settled more efficiently and peaceably, and the enforcement of laws generally will be bolstered. These effects should increase public confidence in both democracy as a system and in the specific democratic governments of the country reached, fostering increased social-political stability.

Second, the administration of justice is important for its bearing on the development process. The more independent and competent the judicial system of a country is, the more predictable and efficient is the enforcement of contracts, the

organization of business relations, and the day-to-day workings of the infrastructural aspects of a successful, liberal economic system. A sustained effort to improve the administration of justice in Latin America and the Caribbean, therefore, is a natural partner to AID's broader campaign to promote equitable, vigorous economic development in the region.

## 2. Purposes

The purposes of the AJ program are to increase judicial independence and competence of the justice systems of LAC. These purposes are to be achieved by a broad-based assistance program which has the following set of specific objectives. (1) to increase judicial personnel training, (2) to improve court administration, (3) to modernize legal codes, (4) to bolster local institutional support, (5) to carry out sector assessments, (6) to upgrade local law libraries, (7) to develop country-specific plans for administration of justice reforms, (8) to increase judicial sector budgets, (9) to ameliorate judicial career standards, (10) to help local bar associations increase their activities in the area of administration of justice reforms, and (11) to improve criminal investigative capacities of governments in the region.

## C. Past Legal Assistance Efforts

### 1. The Law and Development Program

In the 1960's AID participated in the "law and development" program of assistance to Latin America. The law and development movement, a broad assistance effort funded by a number of private foundations as well as by AID, aimed to transform Latin American legal education along the lines of American legal education. Proponents of the movement believed that such a transformation would produce a generation of activist lawyers ("legal engineers") in Latin America who would play a dynamic role in promoting Latin American economic development. The program was to some extent a failure, for at least two major reasons.

First, the law and development movement misconceptualized the task of changing legal education in Latin America. The assistance effort sought to export an American model (Socratic legal education), acting on the almost blind assumption that this model was applicable and useful in other societies. Compounding this error, proponents brought to the task a vastly uninformed perspective on what changing an entire educational tradition entailed. They seemed to assume that bringing a few Latin American professors to study in America and a few American

professors to Latin America would revolutionize an extremely well-entrenched system of legal education. In addition, the American proponents of the program seemed to have little understanding of whether the Latin Americans genuinely wanted the "reforms" that the Americans expounded.

Second, the law and development movement was based on a weak foundation concerning the relation between law and development. It was never made clear what relation was thought to exist between American-style lawyering and the task of emerging from historical under-development. A loose association between law and "modern" legal education and "modern" economic development was repeated over and over until it hardened into a credo. The dense network of political, social, and economic structures that underlay the development process was largely by-passed by the facile assumption that American-trained lawyers would be an inherently positive and effective agent of development.

The lessons of the law and development movement for the current program can be summarized as follows: first, there must be a clear understanding of the difficulty and complexity of bringing about changes in any aspect of the legal system of Latin America; and second, there must be a clear relation between the assistance measures undertaken and the development goals.

#### D. Strategy

##### 1. Political Commitment

First and most important, the AJ program is strictly for democratic governments. The USG should not attempt to improve the justice systems of autocratic governments lest efficient investigative and judicial capabilities become instruments of repression.

Second, host government officials at the policy level must be committed to an effort to improve the administration of justice. Otherwise work at the technical level will not achieve real progress. Unless there is firm political commitment to genuine change, the best designed projects will not succeed. Thus political dialogue is an imperative. In their discussions with heads of state and ministers, ambassadors and mission directors will have to emphasize the necessity of an independent, fair and efficient judicial branch. Without it public confidence in democratic institutions and processes weakens. Such talks will also provide an opportunity to assess the degree of commitment of political leaders. If the commitment is tenuous, AID should not proceed. In this respect, the program is vulnerable to the vicissitudes of local

*right*

politics.

In summary, the program has to be executed at the political as well as technical level. For this reason, it must be a joint State AID effort in both Washington and the field.

## 2. Local Initiatives

The administration of justice program aims to support local initiatives, not to create demand for assistance where none exists. The emphasis on "pull" over "push" is particularly important in a program which concerns the basic governmental structure and institutions of the recipient countries. The administration of justice program does not involve the exportation of American models: the goal is to assist Latin American and Caribbean governments make reforms they believe are necessary, not to transform their judicial systems in the image of the US system.

Assistance efforts are based in local institutions to the greatest extent possible. The emphasis on local institutions stems both from the natural political sensitivity of the US involving itself in the functioning of judicial systems in the region and the belief that local institutions must be built up if the reforms achieved are to be longstanding.

## 3. Regional Cooperation

The commonality of justice sector problems in the various subregions (Central America, South America, the Caribbean) is striking. Unfortunately, also striking is the lack of cooperation between countries within these subregions with respect to solving problems or even discussing them. The administration of justice program supports regional or subregional approaches to justice sector reform whenever they appear feasible. Such approaches permit the countries within a subregion to share ideas, pool resources, and provide new, lines of support. Furthermore, regional approaches can be useful to overcome the hesitancy some governments in the region may have over establishing bilateral programs with the US in this sensitive developmental area.

## 4. Criminal Justice Emphasis

The priority area for the program is criminal justice. Inefficiencies and injustices in criminal cases have the harshest consequences for those affected. When a victim of

serious or heinous crime sees the guilty parties set free due to ineptness or corruption on the part of investigators, prosecutors or judges, he loses respect for the justice system and probably the government. The same is true when an unjustly accused person languishes in jail because he has no funds to pay an attorney. In any ranking, the prevention of these egregious miscarriages of criminal justice must come first. In large measure, Congress' motivation in enacting Section 534 of the FAA arose from problems related to criminal law enforcement. Indeed this concern continues to be expressed in briefings and other sessions on the Hill.

The program, however, need not focus exclusively on criminal justice. Section 534 allows a broader program. Ineffective administration of justice impacts on economic and social development. Even basic legal documents like birth certificates and land titles can profoundly affect economic opportunity for the disadvantaged when procedures in courts and registries are expensive and time consuming. In short the emphasis on criminal justice must be primary but not exclusive.

#### 5. Contextual Approach

Judicial sector problems must be treated in light of their relation to the rest of the legal system and to the society generally. The judicial sector is but one part of a dense network that is the legal system - efforts to change one element of the judicial sector must be considered in terms of the effect they will have on other aspects of the legal system. Increased speed in the processing of court cases, for example, could tax other elements of the legal system, which if are unable to adjust will negate the beneficial efforts of the reform.

The contextual approach points to the need for overall assessment of judicial systems. Such assessments can provide the necessary understanding of the interrelations of the various components of the judicial system and the specific components which can be targeted by assistance efforts.

#### 6. Long-Term Structural Development

The emphasis is on long-term development not quick fixes. The problems afflicting the administration of justice in Latin America and the Caribbean are severe and are closely linked to longstanding political, economic and cultural conditions. Such problems can be lessened only through a sustained reform effort that concentrates on long-term structural development. Measures such as personnel training and the amelioration of basic

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physical resources are consistent with such an approach.

A corollary of this point is that reasonable expectations must accompany the administration of justice program. Because of the nature of the problems the program addresses, AID can at best expect to help the countries achieve a few basic improvements. Particularly because this is a new program, it is imperative that we do not justify the program initially by claims which get the program initial approval but which prove impossible to fulfill.

#### E. Relation to AID's General Objectives

The administration of justice strategy conforms to AID's general approach to development. The relation of the administration of justice strategy to the four principal components of AID's general approach to development is the following:

##### 1. Institutional Development

Justice systems are institutional systems. AID's long-term structural development strategy is by nature oriented toward institutional development. All of the major assistance efforts to date under the program -- training of judicial personnel, technical assistance for court administration, and legislative reform -- facilitate institutional development.

##### 2. Policy Dialogue

Administration of justice is not a traditional area of policy dialogue for AID. Such dialogue is very important for the program, however, because of the public sector nature of the target institutions and the political sensitivity of any justice sector assistance. AID must seek a commitment by governments for justice sector reforms. More specifically, success of the program in any particular country depends on the government of that country committing itself to concrete steps such as reforming legislation, increasing the judiciary's budget, encouraging judicial personnel to attend whatever training opportunities present themselves, and undertaking whatever reforms are appropriate.

##### 3. Technology Research, Development and Transfer

The judicial function is not primarily a technological process, and thus technology research, design and transfer is not a principal element of the Administration of Justice program. Nonetheless, there are technological aspects to the

successful operation of a modern justice system - record-keeping, data processing, information dissemination, etc. In these areas, the AJ program seeks to develop appropriate technology to the greatest extent possible.

#### 4. Private Sector Utilization

The judicial function is a part of the public sector. Unlike other services which AID assists in Latin America and the Caribbean (health, education, agriculture, etc.), it is not subject to any significant debate concerning the extent to which it should be privatized. AID will seek to assist private organizations (such as bar associations) that play a part in the overall administration of justice.

### Part III: Implementation

#### A. Central America

AID's administration of justice efforts in Central America consist primarily of the Regional Administration of Justice Project and the El Salvador Judicial Reform Project. The objectives, targets, and benchmarks for the El Salvador Project are set forth in the El Salvador Mission's Action Plan. The bulk of the \$10 million five-year Regional Administration of Justice Project is a \$9.6 million grant to the United Nations Latin American Institute for the Prevention of Crime and Treatment of the Offender (ILANUD). ILANUD has been operating since 1975 as a center for criminal justice research. AID's grant permits ILANUD to expand greatly and to offer a much wider variety of administration of justice activities. The Regional Project is managed in Costa Rica by an AID contractor who reports to USAID/Costa Rica Deputy Director on day-to-day management issues and to LAC/AJDD on major policy questions. Utilizing a portion of Regional project funds with ILANUD's concurrence, AID in 1985 signed a cooperative agreement for \$2,575,578 with Florida International University (FIU) under which FIU is to help ILANUD implement the Regional Project.

The remaining \$400,000 in the Regional Project has gone for smaller grants to other organizations concerned with improving the administration of justice in Latin America and the Caribbean. These grants are described in section 9, below.

#### 1. Objective Category: Judicial Personnel Training

Improve basic professional training of judicial personnel (judges, prosecutors, administrators) to improve the quality of judicial decision-making.

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Key Assumptions:

Political will on the part of host governments to improve their justice systems and interest of judicial personnel in training.

Policy Dialogue:

Participating governments' commitment to improve the professionalism and capabilities of judicial personnel.

Performance Indicators:

a. Target: Training at ILANUD of at least 572 judicial personnel from the region, including judges, prosecutors, administrators, etc.

Benchmarks: Establish schedule of ILANUD courses, seminars and workshops for 1986, 1987, and 1988.

Inform posts of courses, seminars and workshops and selecting candidates.

Narrative:

Training courses for judicial personnel from participating countries are a major part of the Regional Project. Since the project began in 1985, ILANUD has held one course for judges (on white collar crime), one for prosecutors (on criminal procedure), one course for public defenders, one seminar for legislators (in Guatemala), and one conference on human rights and the independence of the judiciary in collaboration with the Inter-American Institute for Human Rights. In 1986 ILANUD is planning approximately six more courses.

2. Objective: Court Administration

Improve court administration, including record-keeping, case processing, docket management, information systems and statistics.

Key Assumptions:

Political will on part of host governments to give high priority to improving court administration.

Policy Dialogue:

Participating governments' commitment to providing adequate budget resources to courts and to giving the judicial branch control over its budget and its own administrative structure.

Performance Indicators:

a. Target: 40 number of court administrators trained.

Benchmarks: Establish ILANUD training courses in the area of court administration.

b. Target: New record-keeping systems introduced in the participating countries.

Benchmarks: Development of an appropriate record-keeping system capable of being adapted to each country.

c. Target: New information and statistics systems introduced in the participating countries.

Benchmarks: Development of an information and statistics system appropriate to the needs and capabilities of participating countries.

d. Target: Faster processing of cases, especially criminal matters.

Benchmarks: Adoption of case management procedures designed to shorten periods of incarceration for pretrial detainees.

Narrative:

A small amount of basic courtroom equipment (typewriters, chairs, etc.) has been provided by ILANUD to courts in all participating countries except El Salvador and Panama. Courses in court administration and a pilot project in conjunction with the administrative office of Puerto Rican courts are planned for 1986 at ILANUD. ILANUD has also initiated its pilot project to develop a sound, replicable method for collecting, distributing and utilizing criminal justice statistics to aid in planning and managing the administration of criminal justice.

3. Objective Category: Support for Regional Institutions

The infusion of AID funds into ILANUD for the Regional Administration of Justice Project requires that ILANUD's administrative capacities be bolstered to permit the effective

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utilization of those funds and its capability to generate outside sources of support be enhanced.

Key Assumptions:

ILANUD has the organizational flexibility and capacity to adjust to the increased demands upon it.

ILANUD management remains firmly committed to the goals and purposes of the project.

Policy Dialogue:

Work with ILANUD directorship to maintain support within ILANUD for the strong US involvement with the institution and to develop support from private and government entities.

Performance Indicators:

a. Target: Expand ILANUD staff to level appropriate to administer RAJ project.

Benchmarks: Select permanent technical assistance director.

Establish new fully equipped offices for expanded staff.

b. Target: ILANUD receives financial support from every government participating in the project.

Benchmarks: ILANUD signs agreements involving financial commitments from the governments of participating countries.

c. Target: ILANUD receives grants or other financial aid from private institutions interested in improving the administration of justice in Central America.

Benchmarks: ILANUD enters agreements with private foundations under which ILANUD receives financial assistance necessary to carry out administration of justice projects.

Narrative:

All three long-term advisers to ILANUD called for under the RAJ project paper have been hired and have begun work. ILANUD has negotiated and signed agreements with Peru and Mexico under

which those governments agree to make annual contributions of \$10,000 and \$5,000 respectively. ILANUD is currently negotiating with representatives of the Ford Foundation concerning possible financial assistance. Luis Pauline Mora, a Costa Rican supreme court justice who has been serving ILANUD's interim technical assistance director while on leave of absence from the court, has become Minister of Justice under the new Arias government and thus will be leaving ILANUD shortly. His temporary successor will be Dr. Carlos Jose Gutierrez, former Minister of Foreign Affairs in the Monge Administration. Later, a prominent Venezuelan legal scholar, Rogelio Perez Perdomo, will become the full-time director of technical assistance.

4. Objective Category: Sector Assessments

Assess the structure, workings, and problems of the justice sectors of participating countries.

Key Assumptions:

Political sensitivities of judicial sector assessments can be successfully dealt with. Participating governments will support an AID-funded, ILANUD-sponsored study of their justice systems.

Policy Dialogue:

Obtaining close cooperation of participating governments and national commissions to carry out judicial sector assessments.

Performance Indicators:

a. Target: Sector assessments completed for each participating country.

Benchmarks: Formation of sector assessment teams in each country.

Completion dates as follows:

Panama:	June 30, 1986
Costa Rica:	July 31, 1986
Honduras:	October 31, 1986
Guatemala:	January 31, 1987
All assessments:	August 31, 1987

Narrative:

Through its Extension Facility, ILANUD is undertaking an assessment of the judicial sector of each country in the

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Regional Project. These assessments aim to provide an overview of the structure, function and problems of the justice system under study. A detailed methodology for the sector assessments has been prepared by Professor Thome, an ILANUD contractor and reviewed by a group of legal scholars, practitioners and jurists. Three assessments are underway, one in Panama, Costa Rica and Honduras.

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5. Objective Category: Law Libraries

Assist participating countries to upgrade existing law libraries.

Key Assumptions:

Host government consensus on which library should receive support under the project.

Policy Dialogue:

Interest participating governments in upgrading existing law libraries. Commitment by each host government to permit the broadest possible utilization of the library selected to receive assistance and to maintain and expand its basic collection of materials.

Performance Indicators:

a. Target: Improve book collection, library administration, and funding sources at least one law library in each participating country.

Benchmarks: Identify library in each country to receive material support.

Identify core library collection with aid of foreign experts.

Develop plans for purchase and delivery of books.

Deliver core library collections to all participating countries by December 31, 1986. Enter a Memorandum of Understanding with each participating country regarding access and maintenance of the collection.

Narrative:

ILANUD has prepared operating work plans for technical assistance concerning law libraries. It has selected the Supreme Court libraries in Costa Rica and the Dominican Republic, and the university library in Honduras to receive the basic library materials. El Salvador will be purchasing three basic core library collections, one each for the three major population centers.

(6) Objective Category: Country-Specific Plans

Develop and carry out country-specific programs of assistance for the countries participating in the Regional Project.

Key Assumptions:

There is the political will and support necessary to engage in serious efforts to improve the justice system in each participating country.

Policy Dialogue:

Work with participating governments and national commissions to formulate long-term plans to improve the administration of justice in their countries.

- a. Target:            Functioning program of country-specific administration of justice activities in each participating country.

Benchmarks:    Complete interim operating plan in each country.

Formation of a National Commission in each participating country.

Narrative:

Costa Rica: The National Commission in Costa Rica has been formally constituted and held its first meeting with ILANUD on September 25. An interim country operating plan is being drafted. Costa Rica has been selected as the second country in which a sector assessment will be carried out and the first meeting of the sector assessment team took place in January.

Dominican Republic: The National Commission in the Dominican Republic is operating with administrative support from the Supreme Court. A memorandum of understanding has been executed with the Supreme Court for the purchase of commodities and hiring of a special assistant to the Commission. ILANUD has

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scheduled a conference in June in the Dominican Republic which will cover implementation of the pilot project on criminal statistics.

Honduras: On November 26, 1985, the Honduran Supreme Court officially constituted the National Commission to serve, among other things, as liaison with ILANUD. It has submitted to ILANUD proposals on updating UNAH digest of Honduran jurisprudence, professional support for UNAH Free Legal Clinic, unification of the Public Ministry, and implementation of the public defender law. The project previously presented for training of justices of the peace has been rescheduled and expanded to include first instance judges. ILANUD has agreed to assist in the drafting of implementing regulations for the judicial career law.

Panama: A National Commission in Panama has been established but has not yet begun meeting on a regular basis. The Panamanian sector assessment is largely complete.

#### 7. Objective Category: Judicial Sector Budgets

Work with participating governments to achieve increases in judicial sector budgets.

##### Key Assumptions:

Financial and political conditions will permit increased judicial sector budgets.

##### Policy Dialogue:

Urge participating governments to place a high priority on budget increases for their judicial sectors.

##### Performance Indicators:

- a. Target: Each participating country will give its judicial sector the budgetary amount stipulated in the national constitution.
- b. Benchmarks: Presentation of judicial sector budget increase bill to each national assembly.

##### Narrative:

Almost all Central American countries stipulate in their constitutions that their judicial sector is to have a certain fixed amount of the national budget, ranging from 2% to 6%. Unfortunately these stipulations are regularly ignored. Almost

every method of improving the administration of justice depends on increased funding. Thus, working to encourage participating governments to allot the constitutionally required funds to their judicial sectors is an essential part of the overall administration of justice program.

8. Objective Category: Judicial Career Standards

Work with participating governments to improve judicial career standards, including merit-based judicial selection procedures, increased judicial tenure, and increased judicial salaries.

Key Assumptions:

The existence of a political consensus for establishing judicial selection and career standards based on merit.

Policy Dialogue:

Urge participating governments to make the improvement of judicial career standards a high priority.

Performance Indicators:

- a. Target: Strengthened judicial tenure in as many judicial positions as possible and appropriate.

Benchmarks: Increased judicial salaries in each country.

Judicial selection procedures based on professional merit to the greatest extent possible.

Less political intervention in the process of selecting and retaining judges.

Narrative:

In Antigua, Guatemala, ILANUD sponsored a conference of Central American and Dominican legislatures to study and analyze relations between the legislative and judicial branches of government. The primary theme of the conference was the independence of the judiciary. Legislatures impact on judicial independence in two ways: the budget and, in some countries, selection of judges. It is critical that legislatures support in principle the concept of judicial selection based on merit and non-interference by the executive and legislative branch in

judicial decision making.

9. Objective Category: Bar Associations *MAF 2/1/85*

Bar associations can play a valuable role in improving judicial independence and competence in Latin America and the Caribbean. The role includes promoting less politicized judicial selection, sponsoring continuing legal education programs, establishing ethics codes and disciplinary mechanisms, and publicly articulating rights and values basic to a well-functioning judiciary. AID seeks to encourage bar associations in Latin America and the Caribbean to take a vigorous, informed interest in improving judicial independence and competence. In 1985 AID gave two grants, one to the Inter-American Bar Association (\$104,160) and one to the Inter-American Bar Foundation (\$280,000) to assist each organization in helping Central American bar associations carry out administration of justice initiatives.

Key Assumptions:

A political environment that permits private attorneys to associate in professional organizations and to take initiatives related to administration of justice.

Policy Dialogue:

Encourage participating governments to permit bar associations to take an active role in improving the administration of justice.

Performance Indicators:

- a. Target: Increased Central American bar association initiatives concerning improving administration of justice.

Benchmarks: IABA-organized Coordination Committee meeting.

IABF-organized Third Conference of Central American, Panamanian, and Dominican Republican Bar Associations.

Formulate IABF-monitored plan of administration of justice activities of Central American, Panamanian, and Dominican Republican bar associations.

Initiate country-specific bar projects such

as the Guatemalan bar's plan to begin a program of public information and education focussing on constitutional rights of citizens.

Narrative:

The IABA-sponsored First Inter-American Conference on the Administration of Justice was held in Mexico in November 1985. Supreme Court justices, bar leaders, and court administrators from Costa Rica, El Salvador, Honduras, Panama, and the Dominican Republic attended. A coordinating committee from those representatives has been selected and will hold a meeting in November 1986 to plan bar association initiatives.

The IABF-sponsored Second Conference on Central American, Panamanian, and Dominican Republican bar associations was held in Panama in February 1986. Representatives of each of the major bar associations of Costa Rica, El Salvador, Guatemala, Honduras, Panama, and the Dominican Republic attended. They chose an executive secretariat (a group of six representatives) and discussed planned bar activities in the administration of justice area. The Third Conference will be held in Guatemala in January 1987, and a fourth the following years.

10. Objective Category: Investigative Capabilities

The investigative units of law enforcement agencies in Latin America and the Caribbean have many problems. Inadequate training, poor supervision, political influence, insufficient funding, lack of physical resources (forensics laboratories, equipment, etc.) all combine to render many Latin American and Caribbean investigative groups ineffective and even harmful to the overall administration of justice.

Between 1974 and 1985 AID was prohibited from funding police, prisons, or other law enforcement forces by Section 660 of the Foreign Assistance Act. In 1985, however, in recognition of the special needs of Latin America and the special efforts of AID in the administration of justice field, Congress established three exceptions to Section 660, including a specific authorization of the use of ESF funds in Latin America and the Caribbean to enhance investigative capabilities conducted under judicial or prosecutorial control. AID determined that the Justice Department would be the most appropriate agency to carry out a program of investigative training and in September 1985, agreed to provide the Department of Justice \$160,000 to design

and develop a project to improve and enhance the investigative capabilities of law enforcement agencies under judicial or prosecutorial control in Latin America and the Caribbean.

The Department of Justice formed the International Criminal Investigative Training Assistance Program and in January 1986 the ICITAP staff presented its FY 1986 program and budget to the Administration of Justice office at AID. In May 1986 AID and the Department of Justice signed a Memorandum of Agreement transferring \$1.36 million from AID to the Justice Department for ICITAP's FY 1986 operating and program expenses.

The goal of ICITAP is to improve investigative capabilities under judicial or prosecutorial control throughout Latin America and the Caribbean.

Performance Indicators:

a. Target: Identification of criminal investigative training needs in target countries.

Benchmarks: Liaison trips by ICITAP staff to Central America, South America, and the Caribbean.

Three regional conferences (one each for Central America, South America, and the Caribbean) bringing together executive level investigative officials and ICITAP staff.

b. Target: Skills training to 240 investigators.

Benchmarks: Design training curricula.

Identify training candidates.

c. Target: Investigators from targeted countries attend advanced training institutes in the US and other countries.

Benchmarks: Identify appropriate institutions.

Set up program to fund attendance of criminal investigators at the Caribbean Police School.

Narrative:

The ICITAP staff has been chosen, has designed an extensive project and has already begun organizing training activities. In March 1986 two ICITAP staff members traveled to Central America for three weeks to gather assessment information and to organize the first ICITAP regional conference. In April 1986

ICITAP staff members made a similar trip to the Caribbean. In May 1986 ICITAP held its conference of Central American chiefs of investigative units to determine training needs in the region.

## B. The Caribbean

### 1. Objective Category: Support of Regional Institutions

Establish office at the University of the West Indies (UWI) to implement and manage the Caribbean Justice Initiative.

#### Key Assumptions:

UWI is the chief vehicle for regional justice improvement efforts.

UWI is fully committed to Project implementation.

#### Policy Dialogue:

Work with UWI leadership to maintain continuing support for US involvement with the institution and to garner support for other regional institutions.

#### Performance Indicators:

- a. Target: A functioning office at UWI to implement and manage the CJI.

Benchmarks: Contracting necessary staff.

#### Narrative:

Given the professionalism of the UWI law faculty, UWI should be able to manage this multi-faceted regional project with a relatively small staff. A Project Director, Dr. N.J.O. Liverpool, has been selected.

### 2. Objective Category: Law Library Development

Improve law libraries in the region.

#### Key Assumptions:

National systems in the region are sufficiently alike to allow a uniform basic library to be useful.

Policy Dialogue:

Encourage commitment by national government or recipient institution for staffing and budget to maintain a library and to make it available to the justice sector.

Performance Indicators:

- a. Target: Assist each participating government to develop a basic law library adequate to serve the courts, government and bar of that country.

Benchmarks: For each law library to be developed, UWI will enter into a Memorandum of Understanding detailing the commitment of the host government concerning access and maintenance.

Narrative:

UWI will provide technical assistance and training to participating countries to help them develop and maintain a law library. UWI will use a uniform library model. Existing government collections will be consolidated.

3. Objective Category: Improved Law and Case Reporting

Improve participating countries' reporting of new laws and cases.

Key Assumptions:

National governments' cooperation in providing information to UWI.

National governments devote sufficient budget to achieve institutionalization of reporting system in their country.

Policy Dialogue:

Foster governments' commitment to support reporting reform efforts.

Performance Indicators:

- a. Target: Creation of revolving \$250,000 fund to finance case reports and textbooks on topics of importance and interest to the participating countries.

Narrative:

The fund will be administered by a committee under the chairmanship of the UWI Dean, Faculty of Law, Finance Officer, Law Librarian and Project Director. The committee will aim to select for publication legal topics of enough interest to ensure that sales will be sufficient to continually replenish the fund.

4. Objective Category: Law Revision and Reform

Assist the participating countries to revise and reform their laws.

Key Assumptions:

Participating governments recognize the need to undertake law revision.

Governments are willing to devote sufficient resources to carrying out law revision and reform.

Policy Dialogue:

Encourage governments to recognize importance of law revision and reform.

Performance Indicators:

a Target: Substantive law revision and reform in each participating country.

Benchmarks: Establishment of a Statute Law Revision Unit at UWI.

Compilation by UWI of a data base of experts available to provide technical assistance services for law revision.

Law reform groups formed in each country.

Narrative:

The United Kingdom, CFTC and UNDP have financed technical experts in law revision in the past, and they are willing to do so in the future. Hence, AID financing is projected only for the cost of preparation of material, printing and publishing. Seven states need law revision, \$270,000 is an average printing cost per state and so a total of \$1.75 million is estimated for this component.

5. Objective Category: Country-Specific Activities

This sub-component will fund activities which the individual countries determine are priority items. Likely activities include court management, renovation of existing structures, computer application in records management, technical assistance in establishing a public defender system, and essential commodity procurement (typewriters, file cabinets, disks, photocopiers, etc.).

Key Assumptions:

Countries have genuine desire to improve legal systems and are prepared to begin activities immediately.

Policy Dialogue:

Urge governments to assess and identify their justice sector reform needs, especially those related to improving the quality and attractiveness of working conditions for judges.

Performance Indicators:

- a. Target: A program of country-specific activities in each of the participating countries.

Benchmarks: Determination by each country of its administration of justice needs.

A Memorandum of Understanding signed between the UWI and each country concerning country-specific activities.

6. Objective Category: Regional Technical Assistance and Training

This sub-component will cover a variety of national and regional training and technical assistance activities not covered by other project components such as regional training for police prosecutors, regional training for paralegals, teleconferencing under the UWIDITE Project as a training vehicle for prosecutors, magistrates, and court registrars, a UWI sub-grant to OCCBA to help local bar associations establish legal aid offices in participating states.

7. Objective Category: Jamaica-Specific Assistance

A major sub-component of the overall project will be country-specific assistance to Jamaica.

Key Assumptions:

The government of Jamaica is prepared to commit staffing and budget to maintain physical improvements, equipment, book and collections financed under the project.

Policy Dialogue:

Encouraging government of Jamaica to support the project.

Performance Indicators:

a. Target: Refurbishing and repair of the Resident Magistrate's Courts and the Supreme Court.

Benchmarks: Work plan for each of the courts to be developed.

b. Target: Procurement of essential commodities for the efficient operation of the Jamaican legal system, including books, periodicals, law reporters, and office equipment.

Benchmarks: Detailed list of commodities needed.

c. Target: Training of judges, prosecutors and court staff at short term courses in the US and the Caribbean.

Benchmarks: Identification of necessary areas of training and possible courses.

d. Target: Printing of Jamaican legal materials.

Benchmarks: Identification of items needing printing.

C. South America

1. Objective Category: ILANUD Scholarships

Under an amendment to the Regional Administration of Justice Project Paper, AID will be providing ILANUD with funds to give scholarships to bring selected South American participants to ILANUD training courses, seminars, conferences and workshops. Increasing the participation of South Americans in ILANUD regional activities will give the Central American participants useful contact with representatives of different Latin American justice systems and will provide South Americans a low-profile introduction to ILANUD and the AJ program.

Key Assumptions:

ILANUD capacity to absorb increased participation of South Americans.

Policy Dialogue:

Expressions of interest from South American countries concerning sending participants to ILANUD courses and a commitment to establish a national commission or other body to begin coordinating and prioritizing national efforts.

Performance Indicators:

a. Target: Attendance of 168 South American participants at ILANUD courses and similar events.

Benchmarks: Identification by ILANUD of suitable South American candidates for specific courses.

Circulation to participating South American countries of a schedule of ILANUD training opportunities during the next year.

Narrative:

ILANUD will be responsible for identifying and selecting candidates for the scholarships. The relevant missions and embassies will have input into that process.

Part IV: Future Program

CENTRAL AMERICA  
ADMINISTRATION OF JUSTICE

<u>Project Title:</u>	<u>OYB</u> <u>FY 86</u>	<u>Revised CP</u> <u>FY 87</u>	<u>Requested</u> <u>FY 88</u>
Central America Regional Administration of Justice (ILANUD)	1,765,000	1,000,000	
Central American Law Scholarships		2,500,000	
Central America Regional Legal Research			<u>5,000,000</u>
Total	1,765,000	3,500,000	5,000,000

ONGOING PROJECT

PROJECT TITLE: Central America Regional Administration of Justice Project

PRIOR YEAR FUNDING: FY 1985 Grant \$9,600,000  
FY 1986 Grant \$1,765,000

INCREMENTAL FUNDING: FY 1987 Grant \$1,000,000

L.O.P. FUNDING: Grant \$12,365,000

The purpose of this project is to strengthen the legal systems of the region by providing (ILANUD) (the Latin American Institute for the Prevention of Crime and Treatment of the Offender) funds to provide training, technical assistance and country-specific assistance in the administration of justice field.

The Regional Project is in full swing. ILANUD has sponsored several training courses for judges, prosecutors and other legal personnel and plans a full schedule of such courses for the second half of 1986. ILANUD is also in the process of carrying out or planning judicial sector assessments for all the countries included in the regional project (Panama, Costa Rica, Dominican Republic, Honduras and Guatemala). Through its extension facility, ILANUD is assisting in the establishment of country-specific administration of justice activities in all the participating countries. And under the advisory services component ILANUD has initiated two pilot projects: a criminal statistics and case tracking system in the Dominican Republic, and a system for compiling and indexing legislation, case law, and treatises on criminal law in Costa Rica.

The FY 1987 incremental funding will permit full Salvador participation in the Regional Project. Currently, El Salvador must use funds from its bilateral administration of justice project in order to participate in ILANUD projects such as the criminal statistics project or the indexing of legislation and cases. These bilateral funds are intended for El Salvador's special needs such as the Special Investigative Unit and the Judicial Protection Unit. The incremental funding will thus allow El Salvador to participate in the Regional Project without having to draw away funds necessary for the activities presaged under the ongoing El Salvador Judicial Reform Project.

NEW PROJECT NARRATIVE

PROJECT TITLE: Central American Law Scholarships  
PROPOSED FUNDING: FY 1987 Grant \$2,500,000  
LOP FUNDING: Grant \$2,500,000

Major Development Problem Addressed: One of the most positive aspects of the old "law and development program," which AID carried out in the mid-sixties and early seventies, was a component for post-graduate law studies in the US. In ministries, courts, law schools and private law offices throughout Central America, there are former participants in the program who had very positive experiences and now strongly support the administration of justice initiative.

At the same time, many Central American countries wish to establish judicial schools for programs of in-service training for judges and other legal professionals. The number of Central Americans qualified to teach courses on subjects such as court administration, public administration with a focus on justice institutions and judicial career systems, or to design curricula and develop teaching methodologies for training legal professionals is small. Furthermore most law schools in the region do not have sufficient faculty to offer courses in many basic legal topics that impact on the economic development. For example, the Caribbean Basin Initiative seeks to promote the development of non-traditional exports to the US; yet no law schools in the region offer courses on the legal requirements and aspects of international trade. The same is true of investment promotion.

The CAPS program is not able to meet this need primarily because it is targeted to reach a different socio-economic group.

Project Purpose: The purpose of this project is to strengthen the capability of central american law schools, judicial schools and other programs of professional legal training to design and teach courses that are relevant to the needs of the justice systems and economies of the region especially with respect to criminal justice, trade and investment, court management, continuing legal education and training, and public administration.

Project Components: The project will establish a scholarship fund that will permit Central Americans to receive post-graduate training in the United States and European countries having

civil or code law systems. The eligibility criteria for scholarship recipients will include among others: teaching responsibilities at a law faculty, judicial school or within a professional legal training program; serving as a judge or public-sector attorney in the executive branch; and commitment to teach upon return from training. In addition the project will give priority consideration to financial need by focusing on promising mid-level and younger professionals who could not otherwise afford study abroad.

While training in the US will be an available option, there will be no effort to actively promote US training over opportunities in other countries offering relevant programs. Central American legal systems have much more in common with their Italian, French, and Spanish counterparts than with the US case law system. This common legal tradition is an important factor, especially in substantive law areas (as opposed to court management and administration where the US has considerable experience and expertise to offer). As we broaden our experience with this program and develop more information concerning justice systems in South America and the Caribbean, consideration will be given to expanding coverage to other subregions.

Relation of Project to AID Strategy: This project is consistent with and supportive of the strategy of strengthening the competence of the justice sector. Without qualified, dedicated professionals teaching in law schools, judicial schools and continuing legal education programs, Central America will not have the means to develop an expertise in subjects necessary to improve the technical and legal competence of the justice sector.

Project Development Plan:

- |  |               |
|--|---------------|
| 1. Completion of PID by LAC/AJDD                   | December 1986 |
| 2. Bureau review of PID                            | January 1987  |
| 3. Completion of PP by LAC/AJDD                    | March 1987    |
| 4. Bureau Review of PP and authorizations          | April 1987    |
| 5. Project Agreement prepared by GC/LAC and signed | June 1987     |

NEW PROJECT NARRATIVE

PROJECT TITLE: Central America Regional Legal Research  
PROJECT FUNDING: FY 1988 Grant \$5,000,000  
L.O.P. FUNDING: Grant \$5,000,000

Major Development Problem Addressed: In Central America there is little or no sharing of information among countries with respect to statutes, jurisprudence, regulations and other legal materials. When the legislative assembly or supreme court of Honduras desires to refer to the laws of a neighboring country, *and this is the case* there is no library or other facility where legislators or jurists can obtain the relevant laws. Thus, the Hondurans and other Central Americans work in near isolation when they attempt to reform their own laws. Furthermore Central Americans do not have an indexing or digest system that permits a legal researcher to find statutes, jurisprudence and regulations on a given subject. This means that courts have considerable difficulty in determining what the law is in order to apply it fairly and consistently. Also, Central American legislatures have the same problem when attempting to formulate changes or reforms necessary to implement proposed policies. In addition, there is no place where legal scholars have access to the laws of each country in the region necessary for research and study in comparative law. For example, with respect to trade laws affecting the Central American Common Market, there is no means for readily producing relevant statutes and regulations for economic or legal analysis of their impact.

The UN Latin American Institute for the Prevention of Crime and Treatment of Offenders (ILANUD) based in San Jose, Costa Rica with AID assistance will begin analyzing the problems related to legal indexing, digesting and data base systems; and shortly ILANUD will be carrying out a small pilot projects to develop and test the feasibility of data base legal research in Central America. The pilot project will focus special efforts on compatibility to help facilitate the exchange of information among countries of the region. The Central America Regional Legal Research Project would build on the findings and results of the ILANUD pilot project.

Project Purpose: The purpose of the project is to institutionalize in Central America the capability to provide a systematic compatible data base that will facilitate the interchange of basic information concerning statutes, jurisprudence, regulations and other legal materials among courts and legislature in the region.

Project Components: The project will have the following major components: regional law library development; data base information systems; training and technical assistance related to establishing national legal research facilities; and institutional support for participating law libraries. A regional or international organization will develop the capability of maintaining, indexing, and digesting constitutions, legislation and regulations from countries in the region. Under the project, this institution will establish a system for dissemination of these and other legal materials in response to requests from participating countries. The system developed will employ a computer data base that will permit searches and retrieval of references to statutes and regulations on a given subject..

Since 1950 the US Library of Congress has maintained an index and digest of Latin American statutory law as well as copies of all newly approved legislation on micro-film. The Library of Congress probably has the best collection of Latin American laws in the hemisphere and the only index and digest system that permits researchers to search for laws on various topics and retrieve copies from different countries for comparative analysis. Beginning in the early seventies, the Library of Congress developed a computer program for its index and digest system thereby facilitating even faster research and retrieval of statutes. While the technology utilized by the Library of Congress may not be appropriate for Central America, there is doubtless much to be learned from this model. One advantage is compatibility, i.e., the index is organized in essentially the same way for each country in the region. The Library of Congress is interested in sharing its experience and system with Latin Americans. Under the training and technical assistance component, the primary implementing institution would develop correspondent relationships with national law libraries and legal documentation centers.

Relation of Project to AID Strategy: One of the major reasons for the low level of competence in the justice sector is the lack of law library and reference facilities that permit lawyers, judges and legislators to study and analyze the laws and regulations in neighboring countries. Without the sharing of information, errors are repeated and perpetuated in isolation. For example, some Latin nations have experimented with jury trials in criminal cases. Other countries are interested in this system as means of accelerating the prosecution of criminal cases. Jury trials, however, can be time consuming and expensive. Without access to basic laws in neighboring countries, valuable experience is simply lost.

Project Development Plan:

1. Completion of PID by LAC/AJDD July 1987
2. Bureau review of PID August 1987
3. Completion of PP by LAC/AJDD November 1987
4. Bureau review of PP December 1987
5. Projects Agreement prepared by GC/LAC and signed February 1988

LATIN AMERICAN AND THE CARIBBEAN  
ADMINISTRATION OF JUSTICE

<u>Project Title:</u>	<u>OYB</u> <u>FY 86</u>	<u>Revised</u> <u>CP FY 87</u>	<u>Requested</u> <u>FY 88</u>
Caribbean Justice Improvement	1,700,000	7,000,000	1,300,000
International Criminal Investigative Training Assistance Program	1,360,000	2,000,000	2,500,000
Colombian Justice Management	290,000	1,000,000	1,000,000
Peruvian Administration of Justice	500,000	1,000,000	500,000
Ecuadorian Justice Improvement		500,000	
Bolivian Criminal Justice Improvement		500,000	200,000
Haitian Justice Reform		1,000,000	500,000
South American Legal Centers			7,500,000
Strengthening Bar Associations		500,000	
Ecuador Public Defender	25,000		
ILANUD Scholarship Fund & Advisory Services (LAC Regional Administration of Justice)	<u>505,000</u>	<u>500,000</u>	<u>500,000</u>
Totals	4,380,000	14,000,000	14,000,000

ONGOING PROJECT

PROJECT TITLE: Caribbean Justice Improvement  
PRIOR YEAR FUNDING: FY 1986 Grant \$1,700,000  
INCREMENTAL FUNDING: FY 1987 Grant \$7,000,000  
FY 1988 Grant \$1,300,000  
L.O.P. FUNDING: Grant \$10,000,000

The purpose of the project is to strengthen legal systems in the region, especially in Belize, Jamaica and the Eastern Caribbean by providing services necessary for fostering maintenance and performance of national justice systems. Due to the lack of investment and routine maintenance, the administration of justice is in a serious state of decline throughout the region.

Courtroom conditions are deplorable and court management is antiquated. Court registries are bursting with centuries of clutter -- a problem which lowly paid and poorly trained and motivated "paralegals" are incapable of solving. The laws are in desperate need of reform. Often statutes are not printed, court decisions not reported, and even if they are, law libraries have declined to such a low level that it is impossible to find them. Legal aid for the poor is practically non-existent; typically, lawyers are provided in murder cases only.

The project has two major parts: a grant of \$8 million to the University of the West Indies and a Jamaica component of \$2 million. The UWI grant consists of six major activities as follows: operational support UWI will require to implement and manage the project; law library assistance providing technical assistance and training to participating countries to develop and maintain a law library; a textbook revolving fund for publication of case law and other select legal materials; law revision and reform; country specific activities such as court management, renovation of existing court facilities, pilot computer applications in records management, and commodity assistance; and regional technical assistance and training for police prosecutors, paralegals, court registrars, magistrates, and bar leaders.

The project will be managed by the RDO/C Mission and the Jamaica Mission respectively. The primary implementing entities will be the University of the West Indies in Bridgetown and Government of Jamaica. The project agreement will be signed in July in Bridgetown, Barbados and Kingston, Jamaica.

ONGOING ACTIVITY

ACTIVITY TITLE: International Criminal Investigative  
Training Assistance Program

PRIOR YEAR FUNDING: FY 1985 Transfer \$160,000  
FY 1986 Transfer \$1,360,000

INCREMENTAL FUNDING: FY 1987 Transfer \$2,000,000  
FY 1988 Transfer \$2,500,000

LOP FUNDING: Transfer \$6,020,000

This activity is not an AID project in the traditional sense. Pursuant to Section 632(a) of the FAA, AID transfers funds to the Department of Justice which then develops its training program and obligates the funds directly by entering contracts and grant agreements. In other words, the Department of Justice utilizing the authorities provided in Section 632(a), is carrying out its own assistance program with funds transferred to it by AID.

The Department initiated the International Criminal Investigative Training Assistance Program in January 1986 to develop and manage a program to improve and enhance the investigative capabilities of law enforcement agencies under judicial or prosecutorial control in Latin America and the Caribbean. The long range goal of the ICITAP program is to strengthen the administration of justice by improving investigative capabilities conducted under judicial or prosecutorial control.

The first major activity of the program is the continued support for ICITAP staff and operations to manage the design and implementation of the training. Staff members include a director, deputy director, training coordinator, and secretary who are based in Washington and are fluent in Spanish. ICITAP staff will identify and assess criminal investigative training needs, develop curricula, identify training resources, coordinate preparations for all training activities, perform necessary advance work on location, observe training sessions, and evaluate instructor and student performance.

Many public and private institutions in the US such as the FBI Academy, the Federal Law Enforcement Training Center, and the Northwestern Traffic Institute, offer excellent courses which can meet some of the needs of the Latin American investigators. Initially ICITAP will rely on US institutions, but one of the

objectives of the program is to strengthen regional institutions located in Latin American the the Caribbean. Also the FBI's Caribbean Police School also offers a four-week course in basic criminal investigation that was designed prior to the enabling legislation for ICITAP, but meets all of the legislative objectives.

Through continued liaison with LAC/AJDD, ICITAP staff will identify other criminal justice training programs and related conferences and seminars of value to criminal investigators. It is extremely important that investigators attend courses for judges and prosecutors on criminal procedure, especially related to evidentiary rules. By the same token, judges and prosecutors should learn more about the training and capabilities of professional investigators. This cross disciplinary exchange of views and expertise is a vital step in improving the administration of criminal cases.

ICITAP held its first conference to assess training needs for Central American investigative personnel during the week beginning May 19, 1986 in Miami. Twelve police chiefs and directors of investigative units attended the five day conference. With information developed at the conference, ICITAP is now planning a series of investigative training courses to be held in Central America. Within a few months ICITAP will initiate a similar process of assessing training needs first in the Caribbean and later in South America.

NEW PROJECT NARRATIVE

PROJECT TITLE: Colombian Justice Management

PROPOSED FUNDING: FY 1987 Grant \$1,000,000  
FY 1988 Grant \$1,000,000

L.O.P. FUNDING: Grant \$2,000,000

Major Development Problem Addressed: The brutal attack on the supreme court building last November stunned the Colombian public and focused national attention on the state of the justice system. This attack closely followed the assassination of the Minister of Justice in late 1984. The impact of these events has galvanized popular support and forged a political consensus for reform and modernization of the administration of justice. The litany of problems is formidable: the courts are woefully underbudgeted; the budget for the judiciary is administered by the executive branch; judges have no training in management or public administration; the meager resources allocated to the courts are all too often wasted through mismanagement and inefficiencies; the processing of criminal cases is painstaking while suspects languish in prison often serving more time than a conviction would carry; and there are no information systems to help rationalize the allocation and utilization of human and financial resources.

For several years the Instituto SER de Investigación, which is a Colombian research institute or think tank formerly affiliated with the Universidad de Los Andes in Bogota, has been studying the problems of the judicial branch of government from a perspective of public administration, rather than law or code reform. Of the five or six professionals working on this research, only one was an attorney. The others have degrees in public administration, business administration, or engineering. They were able to bring a fresh viewpoint to problems that lawyers alone have been unable to solve. For example, traditional studies of court problems have concluded that the best, and perhaps only, solution to the immense congestion in Colombian courts is a substantial increase in the number of judges and court facilities. This solution is impractical in view of Colombia's budget constraints. On the other hand, SER believes a more realistic solution lies in the reform of obsolete and inefficient administrative mechanisms.

Lawyers alone will not be able to improve the antiquated administrative practices; other professionals must have a major

role. SER, along with members of the planning office of the Ministry of Justice can add this dimension. In cooperation with the Ministry of Justice, SER has carried out demonstration projects: the automation of administrative procedures in the criminal division of the Tribunal Superior in Bogota; and the systemization of a civil court procedure and administration. In FY 1986 the AID Representative in Bogota plans to design and initiate studies and pilot activities which will support the work carried out by the planning office of the Ministry of Justice and SER. The studies and pilot activities will provide the basis for developing a comprehensive project for obligation in FY 1987.

Project Purpose: The purpose of the FY 1987 project will be to assist Colombian efforts to institutionalize administrative and procedural reforms that will improve the functioning and operations of the courts.

Project Components: The components of the project are the (1) expansion of the successful pilot or demonstration projects that utilize micro-computers to simplify and accelerate court administration; (2) the strengthening and reorganization of the planning office of the Ministry of Justice; (3) the establishment of a program of instruction and training for judges; (4) an assessment of the probable impact and applicability throughout the system of management improvements, especially automation; and (5) support for the reorganization and rationalization of administrative functions in the courts. The project will be implemented by the planning office of the Ministry of Justice in close coordination with SER. In FY 1986, the AID Representative in Bogota plans to obligate \$290,000 for studies and pilot activities.

Relation of Project to AID Strategy: US interests in Colombia are directly related to the performance of the Colombian justice system. Cases involving narcotics trafficking and terrorism tax Colombian criminal courts. This project will directly address problems related to court management of criminal cases. In this way the project supports US interests in Colombia and is consistent with the AID strategy of improving the technical and legal performance of Latin American justice systems.

Project Development Plan:

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|---|---------------|
| 1. Completion of PID by AID Representative      | October 1986  |
| 2. Bureau review of PID                         | November 1986 |
| 3. Completion of PP by AID Representative       | February 1987 |
| 4. Bureau review of PP and authorization        | March 1987    |
| 5. Project Agreement prepared by RLA and signed | May 1987      |

NEW PROJECT NARRATIVE

PROJECT TITLE: Peruvian Administration of Justice

PROPOSED FUNDING: FY 1987 Grant \$1,500,000 (\$500,000 from Peru OYB)  
FY 1988 Grant \$1,000,000 (\$500,000 from Peru OYB)

LOP FUNDING: Grant \$2,500,000

Major Development Problem Addressed: The government of Alan Garcia is firmly committed to improving the administration of justice and has already taken strong measures with respect to the severe problems of corruption in the police and military forces. Hundreds of officers have been fired, and special efforts have been made to accelerate the processing of those prisoners who have been incarcerated for long periods awaiting trial. In spite of these efforts, terrorism, narcotics trafficking and increased ordinary crime are overwhelming Peru's justice system and threatening the stability of its democracy.

Large segments of the population have limited or no access to the justice system. Courts are not located for the convenience of the general populace. Procedures are so lengthy that the costs to the average citizen become prohibitive. It takes twenty years to complete all the "tramites" necessary to obtain formal legal title to property in a pueblo joven or shanty town. Many Peruvians understandably do not have confidence in the justice system and in some cases resort to informal, extrajudicial arbitrators to resolve their disputes. This practice, while desirable in some respects, evidences the growing obsolescence and irrelevance of the courts in the lives of average Peruvians. Naturally the most grievous impact occurs in criminal cases where prisoners remain incarcerated years without conviction or acquittal.

In response to these dire conditions and the keen interest of the Garcia government to reform Peruvian justice, USAID/Peru has designed an ESF funded project development and support activity to be initiated in FY 1986. This PD&S activity will fund studies, support a national law reform commission, and initiate some pilot projects. This will lay the foundation for designing a major project in FY 1987.

Project Purpose: The purpose of this project is to strengthen Peruvian justice sector institutions in order to expand the accessibility of the courts for the majority of the population

and to enhance the capability of the courts to resolve legal disputes in a timely, fair and impartial manner. The Minister of Justice, who is a close adviser of the president, has taken the lead on behalf of the GOP.

Project Components: The primary elements of the administration of justice project will be the establishment of a judicial career system; support for a law reform commission; the creation of a center for judicial training and research; the provision of basic library materials for the judiciary and GOP attorneys; the opening of legal information centers in pueblos jóvenes; the institutionalization of a planning and budget office for the courts; specialized training in court management and administration and completion of a justice sector assessment. The life-of-project funding for this project will be \$2.5 million with \$1.5 million in FY 1987 and \$1 million in FY 1988. The LAC Regional program will provide \$1,000,000 in FY 1987 and \$500,000 in FY 1988 for this project.

Relation of Project to AID Strategy: The US has a long-term interest in supporting and helping maintain stable democratic institutions and processes in Peru. The dual threats of narcotics trafficking and terrorism have severely strained Peru's justice system. This project furthers US interests in Peru by strengthening the judiciary and related ministries. It is also consistent with AID's objectives in this sector strengthening judicial independence and enhancing competence in the justice sector. Specifically, the project will improve the professional qualifications of judges, court administrators and prosecutors as well as strengthen the management and information systems in the courts.

Project Development Plan:

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| 1. Completion of PID by Mission                     | March 1987  |
| 2. Bureau review of PID                             | April 1987  |
| 3. Completion of PP by Mission                      | June 1987   |
| 4. Mission review of PP and authorization           | July 1987   |
| 5. Project Agreement prepared by Mission and signed | August 1987 |

NEW PROJECT NARRATIVE

PROJECT TITLE: Ecuadorian Judicial Improvement

PROPOSED FUNDING: FY 1987 Grant \$500,000

LOP FUNDING: Grant \$500,000

Major Development Problem Addressed: The administration of justice in Ecuador is directly affected by sharp political divisions within the country. The selection of judges for the supreme court precipitated a major political crisis last year. The president took strong exception to congress' nominees, and for a short time Ecuador literally had two supreme courts. In the opinion of some observers, the compromise finally reached between the president and the congress affected the quality of the appointees. This crisis illustrates the sensitive nature of the administration of justice in Ecuador.

Yet high level representatives from both the executive and judicial branches have expressed keen interest in assistance to improve the administration of justice. The current problems are serious but probably not as acute as those in Peru and Colombia where narcotics trafficking and terrorism are more entrenched. Ecuadorians fear that the recent rise in narcotics and terrorist activities will worsen the situation unless they begin to deal with their problems.

These include antiquated laws and procedures, low salaries for judges, poorly trained judges, inadequate budgets for the judiciary, corruption, lengthy delays in the processing of cases, lack of information systems, weak administrative capacity and the absence of reliable statistics on the functioning of the system. One court official estimated that sixty percent of all prisoners have not been convicted and already have served more time than a conviction would carry. If accurate, this is a shocking fact.

Project Purpose: The purpose of the project is to strengthen the capacity of Ecuadorian justice sector institutions to manage and process criminal cases in a timely, fair and efficient manner that promotes public confidence in the courts.

Project Components: The project will contain the following components: support for law reform and revision; support for a national commission on administration of justice; assistance to establish a management information system; a program of training for judges in basic criminal procedure and law; and support for a public defender system to provide legal

assistance to indigent prisoners. The project will work through the private bar as well as through the judiciary and executive agencies. The Ecuadorian Supreme Court realizes the urgent need for law reform and revision. The law has simply not kept pace with other segments of society. To begin a reform effort, the Supreme Court is now forming a team of former jurists to analyze various laws and propose appropriate reforms. The project will support this law reform effort. The President of the Supreme Court is also anxious to initiate a comprehensive study of court administration in Ecuador. There are no reliable statistics and no information systems. Using the model being developed under the ILANUD project will design and test a pilot judicial statistics and information system. Also the project will expand to efforts of the Quito bar to provide legal assistance for indigent defendants.

Relation of Project to AID Strategy: It is AID strategy to strengthen local institutions in the justice sector and to promote regional cooperation in the administration of justice. This project, which involves direct support for Ecuadorian courts and law reform commissions and coordination with ILANUD, supports AID strategy.

Project Development Plan:

1. Completion of Project Documentation  
by Mission February 1987
2. Review of Project Documentation by  
Bureau April 1987
3. Project Agreement prepared by Mission  
and signed May 1987

NEW PROJECT NARRATIVE

PROJECT TITLE: Bolivian Criminal Justice Reform

PROPOSED FUNDING: FY 1987 Grant \$500,000  
FY 1988 Grant \$200,000

LOP FUNDING: Grant \$700,000

Major Development Problem Addressed: The Bolivian courts, like other public sector institutions, are extremely weak. Their budget is only 0.72 percent of the national budget. Judges' salaries are low, and office equipment and furnishings are inadequate. There is no effective judicial career law. The distribution of judges does not correspond to caseloads and need. When such a system is faced with the powerful influences of narcotics trafficking, the result is predictable. The system cannot cope effectively.

In an effort to control bribery and corruption, the Supreme Court must now hear all drug cases. Yet the criminal division of the Supreme Court has only two magistrates. Roughly seventy to eighty percent of all criminal cases in the Supreme Court are narcotics related. Under Bolivian law a prosecutor must be present when searches and arrests are made in narcotics cases. Prosecutors are poorly paid and not highly motivated. Hence this requirement is difficult to meet.

Project Purpose: The purpose of the project is to strengthen the judicial and executive branch institutions involved in the administration of criminal justice in order to accelerate the processing of cases and to improve the quality and timeliness of court decisions.

Project Components: The project will consist of the following components: judicial and prosecutorial training in criminal procedure and law, with special emphasis on narcotics matters; training in court management to improve the efficiency and utilization of limited court resources; technical assistance with respect to implementation of the judicial career law; essential commodities and equipment for criminal courts; and support for information systems related to the processing of criminal cases. The life-of-project funding is \$700,000 to be provided in increments: \$500,000 in FY 1987 and \$200,000 in FY 1988. The project will be implemented primarily by public agencies in the executive and judicial branches.

Relation of Project to AID Strategy: Though the purpose of the administration of justice program is not specifically to

control narcotics trafficking, the Bolivia project must maximize its impact on drug cases which are clearly the most difficult problem in court administration. Otherwise narcotics corruption will undermine and negate any progress in other areas. While narcotics trafficking is an overriding problem in Bolivia, the court system would need substantial assistance even if there were no major drug problem. After years of military rule Bolivians are now developing their weak, untested democratic institutions and processes in an atmosphere of severe economic depression and political discontent. Thus it is important for the United States to assist Bolivian efforts to improve the administration of justice to demonstrate our support for democracy as well as to show our support for narcotics control efforts.

Project Development Plan:

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| 1. Completion of PID by Mission                          | February 1987 |
| 2. Review by Bureau of PID                               | March 1987    |
| 3. Completion of PP by Mission                           | May 1987      |
| 4. Review by Mission of PP and authorization             | June 1987     |
| 5. Preparation of Project Agreement by RLA and signature | July 1987     |

NEW PROJECT NARRATIVE

PROJECT TITLE: South American Legal Centers  
PROPOSED FUNDING: FY 1988 Grant \$7,500,000  
LOP FUNDING: Grant \$7,500,000

Major Development Problem Addressed: South American countries suffer many of the same maladies as their Central American neighbors. Even the more developed and richer countries of South America are still struggling to establish independent, efficient systems of justice. For example, Venezuela, which until recently has had considerable resources available to the national government, has shortchanged the courts and made little progress in improving administration of justice. Recent reports indicate that the situation there is not markedly different from that in the Dominican Republic or Honduras. Hence resources alone are not the answer.

The stimulation and healthy influence of regular contact with other countries struggling with common problems can be catalytic and may be vital for change to occur. There is, however, no institution in South America providing a mechanism for this kind of contact or providing services similar to those provided by ILANUD in Central America. Hence experiences are not shared between countries. If one South American country experiments successfully with the use of oral testimony in criminal cases, there is no easy way for members of a law reform commission in another to learn of this success and to determine its relevance to their system. If a government wishes to develop new curricula and methodologies for in-service training for judges, there is no South American institution which can assist. If Colombia desires to initiate a program to create a systematized data base for legislation and jurisprudence, there is no institution that can provide guidance on similar automation programs in the region or European code law countries. If a panel of Peruvian jurists and law professors is charged with revising their code of criminal procedure, they do not have a source of expertise and information concerning the codes used in other Latin countries. Thus they work without the benefit of other similar laws. In short there is little sharing of information and no regional center dedicated to assisting local efforts to improve the administration of justice.

Project Purpose: The purpose of this project is to support regional institutions that will enhance local and multinational

efforts to improve the capacity of national legal systems to render fair, independent, timely and accessible justice. Drawing on the example and experience of institutions like ILANUD, the National Center for State Courts, the Federal Judicial Center and the Instituto SER in Colombia, South American legal centers would fill a critical void.

Project Components: The major components of the project are training, technical assistance, legal documentation, automation, and research. The training component will include sponsorship of regional conferences, seminars and workshops as well as support for country-specific training programs for attorneys, judges, prosecutors, and government lawyers. The technical assistance component will provide participating countries with a source of expertise in areas relevant to strengthening the independence and competence of the judiciary and other legal institutions. A legal documentation center will develop a multinational law library for South America thereby providing a place for serious study and research on the problems of administration of justice in the continent. The automation component will draw upon the work of our own Library of Congress to develop data base systems for digesting and indexing South American statutory and case law. The research and publication component will facilitate comparative study and analysis aimed at developing practical, results-oriented approaches to common issues.

Relation of Project to AID Strategy: In the last few years democracy has been sweeping the South American continent. Today only Paraguay and Chile remain under autocracies. Democracy, however, is much more than electing leaders through popular votes. Indeed democratic institutions and processes require continuous constant vigilance and support. The rule of law is the foundation on which genuine democratic institutions and processes rest. By supporting regional institutions (similar to ILANUD) that enhance national legal systems, this project is consistent with AID strategy to promote independent judiciaries and competence in justice systems.

Project Development Plan:

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| 1. Completion of PID by LAC/AJDD  | October 1987  |
| 2. Review of PID by Bureau  | November 1987 |
| 3. Completion of PP by LAC/AJDD   | February 1988 |
| 4. Review of PP by Bureau and authorization   | April 1988    |
| 5. Preparation of grant agreements by SER/CM or GC/LAC as appropriate and signature | June 1988     |

NEW PROJECT NARRATIVE

PROJECT TITLE: Strengthening Bar Associations  
PROPOSED FUNDING: FY 1987 Grant \$500,000  
LOP FUNDING: Grant \$500,000

Major Development Problem Addressed: Traditionally bar associations in Latin America have not played a major role in improving the administration of justice. They have been passive and lethargic in the face of the severe justice problems in many Latin nations. Today many Latin bar groups are interested in taking a more active role. AID has provided a grant to the Inter-American Bar Foundation to support a series of regional meetings of the bar associations of countries participating in the Central America program. USIA and AID provided grants to the American Bar Association to invite Latin Americans to ABA conferences and meetings. With AID assistance the Inter-American Bar Association held the first Inter-American Judicial Conference at the association's November 1985 meeting in Mexico. The program consisted of a series of workshops on practical problems of judicial structure and function.

The potential role of bar associations is enormous. Bar groups can lead programs of continuing legal education for private attorneys and even judicial personnel. In some countries bar associations are carrying out public defender programs while in others they help assure the quality of persons selected for the judiciary. Bar associations can also have a critical role in the policing of the private practice of law through procedures to insure the qualifications and credentials of attorneys and to discipline bar members.

Conferences of bar leaders can help develop networks of mutual support that can sometimes be catalytic. For example in the Dominican Republic the organized bar supported the goals of a judges strike in 1985 that resulted in a major policy reform. For the first time in Dominican history, the judicial branch of government now has full administrative control over its budget. Previously the judiciary had to get all its administrative support from the Ministry of Justice in the executive branch. In other words if the president of the supreme court wanted a typewriter, he had to request the Ministry to make the procurement. While there were doubtless many factors that affected the bar's decision to back the strike, Dominican participation in the AID administration of

justice program was one. Bar conferences, seminars, and workshops promote informal networks of reform minded attorneys and can lead to specific actions that result in genuine progress.

Project Purpose: The purpose of the project is to strengthen the capacity of bar associations in Latin America and the Caribbean to have a role in improving the administration of justice through better selection of judges, continuing legal education, public awareness of legal rights, and disciplining of the bar.

Project Components: The components of the project will include regional and national seminars, conferences, and workshops for bar leaders and members; support for local bar programs of continuing legal education and public awareness of legal rights and duties; and technical assistance for bar associations in areas such as the role of the bar in judicial selection and procedures for licensing and disciplining attorneys. The precise nature of this project will, to a large extent, depend on progress made by Latin American bar associations and the evolving relationships between the ABA, the IABA, the IABF and Latin bar groups.

Relation of Project to AID Strategy: This project directly supports AID strategy of strengthening the capacity of local institutions to contribute to improving the administration of justice on a continuing basis.

Project Development Plan:

1. Review proposals from bar groups July 1986-January 1987
2. Bureau review of proposals and dialogue with proponents February 1987 - April 1987
3. Approval/rejection of proposals by Bureau and negotiation of grant agreements May 1987 - July 1987

NEW PROJECT NARRATIVE

PROJECT TITLE: South America ILANUD Scholarship Fund and  
Advisory Services (LAC Regional Project)

PRIOR YEAR FUNDING: FY 1986 Grant \$505,000

PROPOSED FUNDING: FY 1987 Grant \$500,000  
FY 1988 Grant \$500,000

LOP FUNDING: Grant \$1,505,000

Major Development Problem Addressed: Justice systems in South American countries suffer many of the same shortcomings and problems as the justice systems of the Central America countries. Even the more developed countries of South America are struggling to make their justice systems meet basic standards with respect to political independence and functional competency. Recent reports from Venezuela, for example, indicate that despite that country's oil wealth its justice system is ridden with flaws and is not effectively delivering regular or fair justice by any reasonable measure.

ILANUD, based in Costa Rica, has a Latin America-wide mandate. Yet South American participation in ILANUD's training and technical assistance activities has been minimal. An increase in such participation could provide some of the basic human resource development and technical improvement needed to allow South American governments to upgrade their justice systems. South Americans have also not established means of regular communication among themselves regarding administration of justice issues. Participation in ILANUD's activities would bring South Americans into contact with each other on a regular basis, opening channels of interchange currently undeveloped. In FY 1986 AID amended its Project Agreement with ILANUD to provide \$505,000 for a scholarship fund permitting South American participation in courses, conferences and seminars.

Project Purpose: The purpose of this project is to increase South American participation in ILANUD's administration of justice activities, including training programs, technical assistance, and advisory services. Increased participation by South American countries will give those countries the benefits of ILANUD's expertise, will give Central Americans useful contact with South American legal experts, and will open avenues of interchange between the various participating South American countries.

Project Components: There are two major components to the project: (1) ILANUD would have a fund to provide scholarships to South American participants in ILANUD training courses.

Approximately two participants from each of five South American countries would be given scholarships to attend each ILANUD training course (already funded); (2) ILANUD would extend its advisory services to South American countries. The advisory services consist of assisting countries in developing practical projects such as a system of collecting and disseminating criminal statistics, indexing of criminal justice legislation and cases, and other forms of record-keeping systems based on modern, appropriate technology.

Relation of Project to AID Strategy: In the last few years, democracy has been sweeping the South American continent. Today, only Paraguay and Chile remain under autocracies. The continued development and maintenance of the nascent democratic systems in South America require justice systems that are both independent and competent. By providing means for South American countries to participate more extensively with the region's leading administration of justice institute, this project will help South American countries strengthen their justice systems and thereby strengthen their democratic systems.

Project Development Plan:

Project Paper Amendment prepared by RAJ Office	January 1987
Amendment reviewed by Bureau	February 1987
Amendment to Project Agreement prepared by RLA and signed	April 1987

SECTION III: STRENGTHENING DEMOCRACY AND HUMAN RIGHTS

Part I: Problems, Causes, Conditions

In Latin America and the Caribbean today there is a resurgence of democracy to a degree that has not been seen since the early days of the Alliance for Progress when prospects throughout the hemisphere looked very promising. Unfortunately these prospects were not fulfilled during the next two decades as many countries were plagued by authoritarian, corrupt and sometimes brutally repressive governments. In the late 1970's the trend began to reverse as autocratic regimes stepped aside to allow the return of constitutional civilian government. Today at least ninety percent of the people in the region are living under democratic rule.

Nonetheless, many obstacles remain in the path of democratization in Latin America and the Caribbean. The process is inhibited by serious socio-economic problems: high unemployment, illiteracy, low per capita incomes, poor information dissemination, overcrowded cities, stratified societies and a tradition of national leadership tied to the elite. In addition, the debt crisis of the past four years has made it extremely difficult for governments to overcome these problems and build the institutions and human resources necessary for political development.

Formal democratic structures exist in nearly all countries in the region--legislatures, municipal governments, electoral courts, political parties, the press, unions, cooperatives and business associations, civic, professional, youth and other voluntary groups. The problem is to enable them to function effectively. Many lack financial resources and managerial competence. For example, the administrative support available to most legislatures is miniscule. Many legislators have little familiarity with techniques of coalition building or awareness of the constructive role of minority parties--the concept of a loyal opposition. Elected officials at both the national and municipal levels are ill prepared by training or experience to undertake their responsibilities, being more accustomed to taking orders from a dominant (often military) executive than to decision making. National governments are reluctant to decentralize authority and encourage local autonomy.

Electoral courts in some countries have done their best to maintain their political independence, prevent fraud, and hold free and fair elections. But they lack resources needed to establish and maintain accurate registries, review and revise laws and procedures, purchase commodities required for elections, and conduct programs to educate the citizenry on voting responsibilities and balloting procedures.

Training in leadership and management skills is needed not only for the people presently engaged in the operation of these structures, but also to prepare new leaders for the future. Voluntary associations provide excellent training grounds to help people learn the value of working together toward common goals, compromising in spite of differing views, electing their own leaders, and lobbying for resources. It is especially important to prepare young people to resist the Soviet-Cuban influence, for which they are a prime target, by teaching them democratic values and respect for human rights along with job and economic production skills. Also, they must have greater exposure to their peers in other democratic societies and view themselves as members of a democratic community that extends beyond the borders of their village, town or nation.

The free flow of information and expression of ideas is essential to a functioning democracy. In many countries, the press has not always been independent of control or influence by governments or other vested interests. The Inter-American Press Association concluded years ago that improving the skills of media professionals better prepares them to resist efforts at censorship, manipulation or susceptibility to corruption. Yet the capacity in the region for training journalists and broadcasters is very limited. Universities accord their schools of journalism relatively low priority in terms of budgets and staff. Some years ago, UNESCO established the International Center for Advanced Journalism Studies in Latin America, located in Ecuador, but the Center dispenses ideology along with its educational offerings. The Eastern European-based International Organization of Journalists has also become increasingly active in the region. Better opportunities to learn professional media skills in democratic environments are needed.

## Part II: Review of Progress - FY 1985 and 1986

Since 1982, the Bureau has supported a number of projects aimed specifically at strengthening democratic institutions and respect for human rights, using the relatively modest funding available under the LAC Regional Human Rights Initiatives project. In 1985 the level of support took a quantum jump with creation of the Central America Regional "Strengthening Democracy" project. Of the \$6,351,000 obligated in FY 1985, \$5 million was used to support democracy building projects in Central America.

### A. Improving Electoral Systems and Increasing Voter Confidence and Participation

The numerous elections held in the region during 1984 and 1985 reinforced the trend toward return to constitutional

civilian rule and provided opportunities to help build institutional capacity and promote confidence in the electoral process. Thus, partly by circumstance and partly by design, assistance to support the conduct of fair elections has become a major component of AID's democracy building program in the region.

### 1. Regional Programs

Our assistance seeks to build institutional capacity in national and regional institutions involved in the electoral process. Since 1983 LAC Regional funds have supported the Center for Electoral Assistance and Promotion (CAPEL), a division of the Inter-American Institute of Human Rights located in San Jose, Costa Rica.

Prior to appointment of a permanent staff early in 1984, CAPEL's activities were limited to election observer missions. During the past two years its program has expanded rapidly. It has developed a roster of some 225 electoral experts from the Americas and Europe who can provide technical advice or participate in training courses, research projects and observer missions. CAPEL is also developing a library and data center of materials on electoral legislation, rights and processes and will maintain permanent records of election results for the countries in the region.

CAPEL has responded to requests for technical advice from Bolivia and Honduras on improving and computerizing registries; from Guatemala on drafting a new electoral law; and from Ecuador on improving their vote counting system. Training courses on electoral legislation were conducted in Guatemala, Costa Rica and Honduras, co-sponsored by each country's electoral court, the bar association and a local university. Through its publication programs, CAPEL is disseminating information on the various aspects of the electoral process, such as comparative legislation of Latin American countries and a guide to political parties in Central America analyzing party systems, with emphasis on organizing and obtaining official recognition.

By collaborating with national organizations, CAPEL is building a valuable network of individuals and institutions committed to the concept of free elections and to the task of improving electoral processes in the region. A regional conference in Guatemala, co-sponsored by that country's Supreme Electoral Tribunal, stimulated creation of the Association of Electoral Organisms of Central America and the Caribbean. Its objective is "to foster international cooperation to promote representative democracy, universal, free and secret vote, and efficient and pure electoral systems in (member) countries." Pending ratification by the ten governments whose electoral bodies signed the Association's charter, CAPEL will serve as an interim secretariat.

## 2. Country Programs

In 1985 using funds from the Strengthening Democracy project in Guatemala and Honduras, AID financed and expedited procurement of commodities required to implement measures to prevent fraud in their national elections. Commodities purchases included security paper for ballots, indelible ink and materials to build special ballot boxes. AID also contributed funds for international observers at the election in Honduras.

LAC Regional funds were added to AID's grant to CAPEL to finance intensive specialized training for pollwatchers in Guatemala. The Supreme Electoral Tribunal requested CAPEL's assistance to conduct a six-week training program for officials assigned to monitor voting at the 5,142 polling sites throughout the country. In coordination with Rafael Landivar University, 400 teachers were given an intensive course covering the electoral process, balloting and vote counting procedures, and training of voting monitors in their own municipalities. Simultaneously, CAPEL helped a private organization, the Center for Political Studies (CEDEP) to train the monitors of the political parties. Training sessions in the municipalities were open to the public and many people attended. The programs reached approximately 60,000 Guatemalans and may become a model for similar training in other countries.

### B. Increase Legislative Capacity

The Strengthening Democracy project is assisting legislatures of Central American countries to develop training and support programs modeled on a program in the Dominican Republic. In 1982 a local university worked with the Dominican Congress to develop and conduct a training seminar for newly elected legislators. Interest generated by the seminar led to design of a long range program of support services to enhance the policy-making and administrative skills of legislators. They proposed to establish a center to provide training and information support services to legislators and their staffs, conduct workshops to analyze complex policy issues, publish legislative journals, and sponsor internships for university students. For several reasons, the center was not implemented as anticipated, and its future establishment awaits the decision of newly elected Dominican legislators who will assume office in August 1986.

Dr. Adriano Tejada, vice rector of a private Catholic university in Santo Domingo, has provided technical assistance to the legislatures in Honduras and Guatemala to help them design orientation seminars for their newly elected members.

The Honduran Congress held its first seminar March 5-9, 1986 in San Pedro Sula. Participation and enthusiasm were high among the 160 Honduran diputados and their alternates as well as their invited guests from the legislatures of other Latin American countries and the US. Two state legislators from Vermont were the US participant observers. Other countries represented included Argentina, Uruguay, Venezuela, the Dominican Republic, Guatemala and El Salvador. The interchange between the foreign guests and the Honduran legislators, both during formal sessions and free time, contributed to the success of the training and also helped to stimulate the Guatemalan and Salvadoran representatives to design similar training programs in the near future. The Guatemalan Congress will hold its seminar June 5-8, 1986, and El Salvador's Assembly has scheduled its session for August.

One serendipitous result of the Honduran meeting was the establishment of a productive relationship between the Honduras Congress and the Vermont House of Representatives. The Vermont legislators invited a group of diputados to observe their legislature in session and to consult with committee heads and the legislative council. Five Hondurans traveled to Vermont in April for a six-day stay that combined legislative activities with visits to schools, shopping centers, a hospital and a farm, and social events hosted by private citizens who volunteered their time and resources. The Honduras and Vermont Partners Committees helped to coordinate the program in Vermont as well as a two-day stopover in Washington, D.C. where the diputados met with Vermont's representatives in the House and Senate and attended a briefing at the Congressional Research Service.

A six-member committee of diputados has been appointed to develop a plan for creation of research and administrative support services to the Congress. A series of observation tours to the US for these and other members is contemplated to provide them with ideas and information to aid their planning.

Under another project the Center for Democracy will be carrying out an eleven day observation tour for legislators from Costa Rica, Honduras, El Salvador and Guatemala to visit state legislatures and city governments in Massachusetts and Wyoming and the US Congress.

#### C. Increase Capacity of Municipal Governments

Along the same lines the Strengthening Democracy project will support a US observation tour for mayors from El Salvador, Guatemala and Honduras (3 each) following their attendance at a Inter-American Foundation of Cities workshop and Great Cities of the Americas conference in Puerto Rico in June 1986.

D. Expand Citizen Participation in Democratic Processes

The NBCCA recommended assistance to neighborhood groups and community improvement organizations that provide a training ground for democratic participation and help make governments more responsive to citizen demands. Two regional programs initiated in FY 1985 with funding from the Strengthening Democracy project respond to this recommendation.

OEF International is implementing a three-year civic education and community action program in Costa Rica and Panama, with plans to expand the activities to three other Central American countries. Training will be provided to community groups using League of Women Voters and OEF methodologies that reflect the view that understanding of the democratic process is best achieved through practical experience in solving concrete problems. Technical assistance and training relate to issues the groups identify, so that they learn the democratic process by acting on issues that affect them directly.

The Partners of the Americas is undertaking a three-year program to widen understanding and practice of democratic concepts and processes in Central America and Panama. Project activities include training, technical assistance, exchange programs and workshops, carried out through established linkages with counterparts in US partner states and other Central American countries, focused on the following groups: governors, mayors, city council members and heads of public service agencies; civic and youth organizations; community leaders and community education organizations; and editors, journalists and broadcasters. A major objective of the project is to strengthen local Partner committees, which are themselves training grounds for the practice of democracy. Early project activities have been concentrated on this objective.

E. Promote Freedom of the Press

The Strengthening Democracy project in FY 1986 is financing development of a program designed to help build a permanent capacity in the region to provide quality education and training to strengthen the professional skills of journalists and broadcasters. The Department of Communications of Florida International University is mobilizing a team of US and Latin American media professionals familiar with conditions in Central America to undertake a thorough assessment of training and research needs of journalists in Costa Rica, El Salvador, Guatemala, Honduras and Panama, design programs to meet those needs, and conduct a pilot nine-week training seminar for journalists from these countries. The seminar, to be held late this year, will be conducted in Spanish and will include

internships with Spanish language media located in Miami. An initial survey visit to Central America by the project director is scheduled for early July to make preparations for the assessment team visits.

### Part III: The Future Program

#### A. An Emerging Strategy

Two years have passed since the NBCCA issued its report calling for an assistance program directed to strengthening democratic institutions and processes. Having scant experience in designing such programs, AID was cautious at first and, to some extent, merely responded to opportunities that presented themselves. Today, however, the outlines of a strategy are coming into focus. We are no longer making decisions on an ad hoc basis without a sense of direction. LAC/AJDD has developed an incipient strategy based on two elements: non-partisanship, and strengthening core democratic institutions.

##### 1. Non-Partisan Approach

A few years ago Congress established the National Endowment for Democracy (NED) under which institutes affiliated with the Republican and Democratic parties have authority to carry on programs to support free political movements in the third world. Though NED is still defining its role, it is the logical institution to support directly partisan political movements. On the other hand, AID's role must be neutral, not favoring any particular group or tendency. If AID and the USG are seen as openly supporting a political party, then that party will probably suffer political recriminations. Even worse, local politicians will accuse the USG of interfering in the internal political affairs of a sovereign state. Such accusations can jeopardize the entire strengthening democracy program and create an impression of USG manipulation. Thus, a non-partisan approach is a sine qua non for effective AID assistance in strengthening democracy.

##### 2. Focus on Core Democratic Institutions

Democracy is much more than one free election, important as elections are. The paradox is that simple democratic principles like majority rule, protection of the accused, and one person one vote become in practice complex procedures like parliamentary rules of order, writs of habeas corpus, and multi-member congressional districts. These kinds of processes are the quintessence of freedom; yet they require considerable skill and some degree of sophistication to follow.

There are several core democratic institutions that make

these processes work: the legislature, the judiciary (discussed above under the AJ program), the electoral tribunal or commission, the free press, the electorate and local government. Assistance to legislatures should include training in basic lawmaking skills, opportunities for contact with fellow legislators from other democratic countries, and development of technical support systems such as legislative reference services and library facilities.

Election assistance must be carefully managed. If we are providing assistance while an election is in process, the risks are high. Seemingly innocuous activities like voter registration campaigns can be easily misconstrued during the heat of a campaign as favoring one side or the other. Thus it is more prudent to provide such assistance between, and not during, elections. A vigorous, responsible free press is practically a fourth branch of government in a democracy. AID can help Latin Americans improve the quality of education and training of their newspaper and television journalists. Civic participation and action are the cutting edge of democracy. We must strengthen the ability of the electorate to understand their government and to make it responsive to their needs. Local governments work at the grassroots. Today they are generally weak with little or no autonomy. The role of local government must be enhanced.

#### B. The Analytical Framework

Each of the five areas noted above (legislatures, elections, the press, civic participation and local government) is extremely broad. In the coming year LAC/AJDD will carry out an evaluation and a series of studies analyzing some of these areas and providing a sharper definition of AID objectives. In the long run, the objectives and benchmarks for this program must be developed and articulated by each Mission. LAC/AJDD can, however, provide part of the analytical framework necessary for formulating objectives and benchmarks.

The first step will be an evaluation of election assistance provided in El Salvador, Guatemala and Honduras. It is critical that lessons learned in these projects form the basis for shaping future election assistance. Second, Florida International University will be carrying out a training needs assessment for Central American journalists and commentators.

In order to develop the \$8 million program contemplated in the FY 1987 CP, LAC/AJDD cannot rely on unsolicited grant proposals but must utilize an IQC arrangement or otherwise contract for specific studies related to project design as necessary. For example, a legislative assistance project would likely be a "Handbook 3" regional or bilateral project. For

purposes of designing such a project, it would probably be necessary to study some US state legislative reference services. The system for the Florida State legislature in terms of size and scale would probably be a more appropriate model for a Central American legislature than the US Congress's service. LAC/AJDD would need a contractor to carry out such a study.

In the area of strengthening local government, there is a body of prior studies and analyses that must be reviewed for ideas and direction. After reviewing these, LAC/AJDD can then determine what further analysis is necessary. In summary, the evaluation of prior election assistance, the training needs assessment for Latin journalists, and the other studies will provide a basis for developing objectives and benchmarks for country and regional programs and for further defining AID's strategy for strengthening democracy in the region.

#### SECTION IV: MANAGEMENT AND STAFFING

##### Part I: Administration of Justice

The Inter-Agency Working Group (IAWG) on administration of justice chaired by the principal Deputy Assistant Secretary for ARA provides policy guidance and coordination for the overall USG program. This program involves the active participation of several agencies: State ARA, USIA, the Department of Justice, the FBI, State HA, DOD, State CT, State L and AID. State ARA gives policy leadership and high political priority to the program. For example, the principal Deputy Assistant Secretary for ARA and our ambassadors in the region from regularly raise issues and concerns related to administration of justice with ministers and heads of state. USIA has carried out international visitor programs specially designed for Latin American jurists, attorneys and prosecutors and funded visits by US experts in court administration to Latin American countries. The Department of Justice has established the ICITAP program described earlier. The FBI has provided support and, during 1985, one agent in El Salvador. State HA strongly supports the administration of justice program and is actively exploring its possible utility and application outside Latin America and the Caribbean. The DOD is carrying out Central American police training programs that must be coordinated carefully by IAWG to avoid duplication of efforts. To a lesser extent the same is true for State CT. In short, the USG program is a complex multi-agency effort. }

To maintain regular periodic contact, the IAWG meets quarterly and develops its own "IAWG Action Plan" (not to be confused with this document). The IAWG Action Plan is cabled to field posts which use it as a source of information and progress

and as a guide for upcoming events. Embassies and AID Missions report every three months on progress toward milestones. After each quarterly meeting, a smaller group from the IAWG briefs key staffers in the House and Senate. Between meetings of IAWG, a steering committee made up of representatives from State ARA, State L, AID, Justice, USIA and the FBI meet each month. LAC/AJDD generally represents AID on the IAWG and the steering committee through several offices from the Bureau are invited to these meetings. ✓

The Bureau established LAC/AJDD in January 1985 as a staff office reporting directly to the AA/LAC. LAC/AJDD has several major responsibilities: representing AID on the IAWG and thus coordinating with State ARA and other agencies on administration of justice matters; designing new projects; receiving and reviewing proposals for grants and cooperative agreements; supporting Missions with assistance on project design; maintaining contact with key US and international organizations such as the ABA, the National Center for State Courts, the National Institute of Justice, the OAS, US universities, and the Library of Congress; and managing on-going projects. The current portfolio of projects managed, monitored or supported by LAC/AJDD totals approximately \$25 million in obligations, including ICITAP, the Regional Administration of Justice Project for Central America, the Caribbean Justice Improvement Project, the IABF and IABA Grants. LAC/AJDD now backstops country-specific projects such as the El Salvador Judicial Reform Project and will be supporting proposed FY 1986 initiatives in Peru, Colombia, Ecuador and Uruguay.

The LAC/AJDD staff is small. There is one attorney-advisor for administration of justice (Kathy Buller), one member of the State Legal Adviser's Office on detail to AID until January 1987 (Thomas Carothers), and a program manager for democratic development and human rights (Roma D. Knee). From August 1985 until May 1986, a Mission Director (Gerald Zarr) worked with LAC/AJDD while in Washington between assignments. Thus, the current professional staff working exclusively on administration of justice matters now consists of two attorneys. One secretary serves all the staff (4 professionals including the director and program manager for democratic development and human rights); and the office has two WANG terminals (one on loan from State ARA).

Given the workload and the fact that most justice projects are implemented in the field by local or regional institutions, LAC/AJDD cannot directly manage and implement projects from Washington. Thus, LAC/AJDD has sought to decentralize project management to the maximum extent practicable. This means giving project management and implementation authority to the field. The El Salvador Mission, for example, manages the El Salvador Judicial Reform Project with LAC/AJDD providing support and

backstopping as necessary from Washington. Likewise the Barbados Mission, the Jamaica Mission, the Colombia AID office, the Ecuador Mission and the Peru Mission are now or soon will be managing the administration of justice projects in those countries.

The Regional Administration of Justice Project for Central America based in San Jose, Costa Rica has been the exception. LAC/AJDD has retained authority with respect to overall policy guidance while the Costa Rica Mission has exercised basic authorities related to day-to-day implementation such as signing implementation letters, approval of contracts, procurement waivers and extensions of terminal dates. There have been some weaknesses in this division of labor. The PSC project manager in San Jose is new to AID and naturally unfamiliar with standard procedures, the Handbooks and regulations. Being a "regional" person within the Mission, the project manager has been, to some extent, on his own in learning the ropes (and knots) of AID operations. At the same time it has been difficult for LAC/AJDD to support the project manager because of staff and travel limitations.

LAC/AJDD has considered several alternative solutions to this management concern: granting total control to the Costa Rica Mission; passing full authority and responsibility to ROCAP; and instituting quarterly project review meetings in San Jose. Of these three options, LAC/AJDD plans to pursue the last one. Upon receipt of each quarterly report from the project manager, the director of LAC/AJDD will then travel to San Jose to review the report with the project manager, FIU advisors and ILANUD staff. If this scheme proves ineffective or impractical, LAC/AJDD will consider the other alternatives.

The administration of justice program is inherently labor intensive. It is a cottage industry not an assembly line with robots. In the field, building institutions means person-to-person contact on a daily basis. Institutions grow and mature as they carry out substantive, productive programs. Especially at this early stage, counterparts in key institutions need continual guidance and counsel. In Washington, the work of LAC/AJDD (like that of other Bureau offices) soaks up staff time and energy: Congressional Notifications, Project Papers, Project Identification Documents, PIO/T's, Congressional inquiries, locating technical assistance for field Missions, and exercises like this Action Plan.

In the crunch of deadlines and priorities, several areas consistently fall by the way: evaluations, project monitoring, and developing new contacts with academics and other experts in the field. Thus, the present staff of two professionals in administration of justice is an absolute minimum. When the attorney now on detail from State/L leaves LAC/AJDD next

January, a replacement will be needed. One solution would be to urge State/L to provide another junior attorney on detail and make this arrangement permanent. At this time we do not know if State/L would be able to do so. One less than ideal solution would be to use PD&S funds to contract with a consultant to provide support in new project design. Another would be to employ a professional attorney on a part-time basis. LAC/AJDD's first choice would be to employ one new full-time attorney as an AID direct-hire employee.

As this new program gains momentum and field Missions begin to take the initiative (as is now occurring in Honduras where the Mission will design its own project in FY 1987), the necessity of an active role for LAC/AJDD will diminish. In the long run LAC/AJDD will evolve into an office with responsibilities similar to those of technical offices within LAC/DR. In the near-term, LAC/AJDD should, however, continue to be a separate office until this new program is firmly established and moving.

#### Part II: Democratic Development and Human Rights

There is one person managing all the activities in democratic development and human rights. Democratic development in Central America was highlighted as a priority in the Kissinger Commission Report. The current portfolio of ongoing projects (democratic development and human rights) totals approximately \$7 million. The program manager for democratic development and human rights directly manages the bulk of this portfolio. The CP level for next year for democracy and human rights is \$8 million. This level is extremely ambitious, yet it is not out of line with the thrust of the recommendations from the Kissinger Commission Report and the needs in the region. If LAC/AJDD is to design a program on that scale and monitor effectively ongoing programs, the office will need one additional junior staff professional. The areas discussed above (such as strengthening legislatures, improving the quality of the free press, enhancing free and honest elections, and promoting democratic principles and community action at the grassroots) will require considerable time and effort to develop.

#### Part III: Office Space

In the past eighteen months, LAC/AJDD has moved offices three times - an average of once every six months. While there has been a valid reason for every move, each has disrupted work as phone numbers, room numbers and routines have changed. In June, LAC/AJDD will have to vacate its current quarters for a couple of months to permit necessary remodeling and then move back into the remodeled quarters. This will require LAC/AJDD to move out of Main State to Annex 2. The remodeled quarters will

give LAC/AJDD offices for four professionals. If LAC/AJDD acquires additional staff as requested in this Action Plan, office space will be a concern.

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