

FINAL REPORT
**EVALUATION OF THE PILOT COURT
EXPERIMENTAL PROGRAM**

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EXECUTIVE SUMMARY.

Background

During the mid-1980's the USG initiated a program to support improved administration of justice as a measure against human rights abuse. At about the same time the Harvard Law School Center for Criminal Justice became interested in helping Guatemala's new democratically-elected government, including a reform-minded Judicial Branch president, improve its justice system after decades of human rights abuse under military dictatorship.

Project Evolution

Harvard Law School obtained an AID grant, which eventually totalled \$2,283,000, for a proposal which initially identified as principal activities:

1) A program of regular consultations, in both the United States and Guatemala, between Harvard staff, other legal experts, and Guatemalan judicial officials. Such consultations would identify and analyze technical and administrative problems of the Guatemalan criminal justice system needing immediate attention, as well as longer term issues calling for policy reform. Also included was Harvard research in Guatemala on related subjects.

2) A program of fellowships and seminars of two types. The first would take Guatemalan judges to Harvard to be exposed to the U.S. criminal justice system while studying selected problems of the Guatemalan criminal justice system and, with Harvard help, devising approaches for resolution of those problems. The second type of seminar would be held in Guatemala for those participants to share their experiences and to discuss the Guatemalan problems and solutions therefor.

The Project well matched a Guatemalan justice system leader, whose strength was conceiving reforms, with an American institution having particular strength in translating reform concepts into action programs. Within the first year a two-month session for four Guatemalan judges at Harvard, and consultation meetings in Cambridge and Guatemala, led to a decision in favor of an immediate action program by designating certain criminal courts for experimentation with reforms and innovations. Changes proven successful by such experience would then be extended throughout the system. Ultimately more than half of the total grant would be expended on such action program.

The "Pilot Courts" were selected in "sets", each set including a justice of the peace court, an investigation court, and a trial court. Such sets represented the "primera instancia" front line tribunals of the criminal justice system, handling cases from the indictment through sentencing stages. A set of rural courts was included to test the application of such innovations in predominantly indian communities. The appellate courts of the system were not included.

The first set of pilot courts was initiated in May 1989 in Guatemala City, a second in the rural district of Totonicapán in July, 1989, and a third set in Guatemala City in March, 1990. Among the innovations introduced was assignment of specially qualified prosecutors to work with the pilot courts. To facilitate communication and cooperation, four prosecutors were moved into the Guatemala City court building in November 1989 and another was assigned to the pilot court in Totonicapán. Another important innovation was the assignment of a specially trained police unit to work with the pilot courts. One such unit started operation in Guatemala City in April 1990. Specially trained police, though not in a separate unit, were also assigned to work with the pilot court in Totonicapán.

The Pilot Court Project emphasized improvement of investigation in order to reduce the number of unresolved crimes, particularly major crimes. A policy of prioritization was introduced to allocate more of limited investigative resources to the more important cases.

Two types of oral proceedings were introduced on a discretionary basis for the more important cases at the trial stage. At "audiencias concentradas" testimony of witnesses was taken orally, providing the judge the opportunity at first hand to determine credibility of witnesses, and to follow up in questioning as necessary to develop essential evidence for resolution of the case. Heretofore the trial judges had relied principally on a written record. At "vistas públicas" prosecution and defense counsel argued their respective positions orally in open session. Such exposure to the media and the public helped improve the credibility of a criminal justice system which heretofore had operated behind closed doors.

Training

The principal means to improve investigation was training of investigators. In the civil law criminal system of Guatemala these include not only the police, but also the prosecutors and the primera instancia judges and their staffs. Some training was given in the United States for a few judges and prosecutors; but most, and at the latter stage all, of the training was given in Guatemala. The project took full advantage of a fifteen-day ICITAP course in criminal investigation, a course designed for police, but, in a civil law system, entirely appropriate as well for judges, prosecutors and their staffs. The second training element for court and prosecution personnel was a three-day Harvard course designed to complement the ICITAP course.

Participants in ICITAP and Harvard courses praised them highly. Harvard courses received some criticism for trying to do too much in too little time, with need for more practical application of the principles expounded. Effectiveness of some Harvard instructors was diminished by lack of familiarity with the Guatemalan criminal justice system. Overall, however, Harvard's instruction was highly commended for quality of instructors and relevance of subject matter.

Impact.

Participants in the program sensed their performance had been improved substantially by project innovations, particularly the training in investigation. Such impression has been borne out by statistics showing a higher percentage of cases resolved. Judges sensed that their mastery of the more difficult cases was substantially enhanced by taking testimony first hand at one session. Public arguments were well attended by members of the public and the media, who welcomed them as evidence of reform in a more open democratic form of government.

One particularly significant impact of the training was a substantially higher level of professionalism. Court personnel down the line, from judges through clerks to investigators, expressed pride in their work and their capacity to perform it better. Many mentioned the desire to maintain and raise this higher level of performance through further instruction, and consultation with colleagues elsewhere.

Management.

While Harvard Law School received some early criticism for flawed communications, the most important lines of communication, those between Harvard and their Guatemalan counterparts, occasioned few complaints. As the project developed, with the focus of activity shifting to Guatemala, Harvard established full time field representation, and during the final year added an assistant, which representation substantially improved communication, coordination and overall project management.

Pending Problems.

The principal problem with this project is lack of adequate provision for its completion and maintenance. Reforms initiated have not been sufficiently institutionalized to be sustained, let alone extended. Throughout the Project, Harvard relied principally on U.S.-based trainers. There are now numerous criminal justice professionals in Guatemala, well trained under the Project. None, however, has received much training or experience as an instructor so as to be able to carry on the training programs essential to sustain and extend the system for improved investigation reforms. Nor was the Judicial Branch's existing training office groomed in any significant way to carry on such replication process.

In deliberately concentrating on the prosecution aspect of the criminal justice system, and working with the prosecutors, judges and police, Harvard has not worked much with the Bar Association and the law schools, which are more involved with the defense. The private lawyers represent those defendants who can afford their services; law students represent the remaining majority. Lacking in understanding of the reforms, these constituencies tend to resist them. The larger law schools are apprehensive that their students will lose opportunities for practical experience, and the lawyers are traditionally resistant to changes which have not been fully justified to them. Majorities of both constituencies feel left out, and need to be involved more in the development and implementation of criminal justice system reforms, especially to the extent they involve criminal defense.

PRINCIPAL CONCLUSIONS

- The Project is well started but far from complete, with inadequate provision for maintenance and replication.
- Investigative training has been effective in improving performance as evidenced by quality of interrogation and measured by resolution of cases.
- Such training throughout the pilot courts has had the added effect of substantially enhancing professionalism and motivation of personnel.
- ICITAP training and the quality thereof are, and will continue to be, a critical factor in Project success.
- Location of the prosecutors in the court buildings has facilitated their cooperation with the courts and thereby substantially enhanced their effectiveness.
- The conduct of oral proceedings in open session has significantly enhanced the credibility and public image of the criminal justice system.
- There still remain important but not particularly costly project equipment needs to be met.
- Harvard is to be especially commended for:
 1. The quality of its training and trainers and its representation in general.
 2. Its highly collaborative mode of project design.
 3. Effectively furnishing assistance to a governmental function of particular political sensitivity.
 4. Moving quickly from discussion to action in addressing identified needs of the criminal justice system.
- Harvard is to be criticized for:
 1. Assuming unto itself too much of the project implementation role, and
 2. Not preparing at an earlier stage in project implementation for Guatemalan continuation and replication of the project.
- The project did not include adequate provision for the Judicial Branch to cover recurrent costs incident to capital expenditures.
- Reform initiatives from Court leadership have been critical to Project success.
- While deeply concerned for successful completion of the project, Judicial Branch leadership does not fully appreciate or understand the essential coordination role performed by the Harvard field representative, nor the need for further training in training methodology for Guatemalan professionals to continue the vital training program.

- The relatively high cost per participant of this type of project is justifiable only if the more significant and successful reforms initiated thereunder are sustained and extended throughout the criminal justice system. In such case the social and political returns on investment should be high.

PRINCIPAL RECOMMENDATIONS

For Guatemalan Judicial Branch:

- That the Judicial Branch should provide promptly and clearly for recurrent costs incident to capital investments under the project, eg. films for cameras, tapes for tape recorders.
- That to coordinate continuing legal education and replication activity, the Judicial Branch should establish a full-time pilot court replication program coordination function.
- That the terms of compensation and expense reimbursement for alguaciles should be clarified, and complied with.
- That Project extension should include incorporation of a defense element with substantially greater involvement of the law schools and private lawyers.

For Harvard:

- That Harvard should make a final effort to persuade the Judicial Branch President that to complete the Project he needs:
 - 1) "training of trainers" to enable trained court professionals to train other court professionals.
 - 2) a full time assistant to perform the coordination role previously performed by the Harvard field representative.

For Judicial Branch and Harvard:

- That in future training, consideration should be given to:
 - 1) More use of indigenous professionals, and
 - 2) More time for practical application of principles expounded.

For AID and USG:

- That A.I.D. continue the work with the Judicial Branch and the Public Ministry, and ICITAP with the Police, to help institutionalize capacity for sustaining and extending investigative reform.
- That such measures include training in instruction for selected Guatemalan

professionals to serve as the core of the Guatemalan justice system training capacity.

- That before AID provides any further assistance to the Judicial Branch AID should be satisfied that the Judicial Branch has provided adequately for the coordination and replication functions.
- That AID and the U.S. government seek means to support professionalization of the police working with the judiciary in investigation of criminal cases.
- If AID and the U.S. government cannot provide more support for professionalization of the police, that they do more to encourage other donors, eg. Germany and Spain, to fill the gap with the police in matching AID's work with the judiciary and the prosecution.

For AID and Harvard:

- That prompt in-country representation of the grantee institution be given high priority for similar projects in the future.
- That apart from premature termination by Harvard related to Government of Guatemala human rights performance, the experience of this project should dispose both Harvard and AID toward similar institutional grant relationships for criminal justice reform elsewhere.
- That both Harvard and A.I.D. weigh carefully the experience of this Project before joining in a similar project for a country of comparably problematical human rights performance.

INTRODUCTION: LIMITED SCOPE OF EVALUATION

This evaluation is limited in two respects. It deals with only a part of a substantially larger program between Harvard Law School and the Government of Guatemala justice system financed by a grant from AID. The larger program was the subject of thorough evaluation in November 1989. That evaluation included a preliminary evaluation of the Pilot Court Project as it had progressed up to that time. The evaluation recommended however that, since the Pilot Court Project was barely started at that time, there should be a separate subsequent evaluation thereof. More experience under that Project was required to provide a fair basis for evaluation.

This evaluation therefore deals only with the Pilot Court Project. It does not deal with any other elements of the program financed by the Harvard grant, even though some of those elements have continued up to the present, except to the extent that they bear on the Pilot Court Project.

I. BACKGROUND

A. HISTORICAL CONTEXT

Without reviewing at length the history of Guatemala, Central America, and Spain, suffice it to note that in 1986 Guatemalans chose a new government in free democratic elections after three decades of military dictatorship. One salient characteristic of most of that three decades was widespread and severe abuse of human rights. In the absence of political process, armed rebellion and suppression had become the principal modes respectively for opposition to, or support for, the government in power. Influence was often exerted by violence in seeking to intimidate individuals, communities and even the government; unsolved murders and "disappearances" had become widespread and common.

The euphoria of the democratic elections which produced the Cerezo government included fervent hope for change. That strong sentiment for reform extended to a criminal justice system which had seemed powerless to protect citizens against the most violent of crimes. One strongly favorable indication of seriousness of the new government was the appointment of a reform-minded Judicial Branch President held in high regard for his expertise and intelligence, integrity and seriousness of purpose.

At Harvard University in the United States the Law School had established a Center for Criminal Justice which had become a valuable source of experience and expertise for criminal justice reform. The leadership of the Center had become interested in extending its scope to include help for reform-minded governments in less developed countries.

At the same time the United States Government was responding to severe human rights problems in Central America, particularly in El Salvador where lack of effective investigation and prosecution contributed to seeming immunity of human rights violators. As part of such USG response AID was implementing a program of support for measures to improve administration of justice, particularly criminal prosecution, in El Salvador and more generally in Central and South America and the Caribbean.

By coincidence the new U.S. Ambassador to Guatemala was James Michel, a State Department lawyer as well as distinguished diplomat; and Ambassador Michel had, in his most recent post as Deputy Assistant Secretary, played a leading role in development of the U.S. Government's program of support for administration of justice.

Against this background Harvard Law School prepared and submitted a proposal for an AID institutional grant, which grant AID approved in July 1987. While the grant was broad and general in its coverage, including consultations, seminars and research among a wide variety of activities to help improve the criminal justice system in Guatemala, within the first year thereof, as discussed below at I.C, the Pilot Court Project had begun to take shape.

B. LEGAL SYSTEM CONTEXT

Under Guatemala's legal system, derived from the Napoleonic Code, trials are not conducted in front of a jury but rather decided by judges, usually on the basis of a written record. Judges initiate and oversee criminal investigations, decide upon the merits of a case, and ultimately dictate a verdict and sentence.

At the lowest rung of the ladder, the justice of the peace ("juez de paz") is usually the first judicial authority to receive a criminal complaint, particularly in rural villages. The justice of the peace has three days to investigate a crime, after which he or she issues a report and turns the case over to the investigative judge ("juez de instruccion") in the nearest departmental capital.

The investigative judge oversees a fifteen-day investigative (or "sumario") period, after which the judge decides if the case merits trial. The judge may order an arrest ("auto de prisión"), find cause to try a suspect in detention, or release him or her for lack of evidence ("revocación de auto de prisión"); a released suspect may remain subject to charges ("libre bajo caución juratoria"). A suspect may also be released in some cases if a plaintiff drops the complaint, or desists from prosecution ("desestimamiento"). If no suspect has been arrested or identified, the case will be left open on the books as "sobre averiguar", or "under investigation."

If the investigative judge finds merit to a case, it will be sent to the trial judge ("juez de sentencia"). This judge has power to dismiss charges or continue an investigation, and decides whether there is enough evidence to merit a verdict.

The courts of the justice of the peace, the investigating judge and the trial judge are referred to herein as "peace court", "investigation court" and "trial court". They constitute the three levels of first instance ("primera instancia") on which the Pilot Court Project concentrated.

The verdict of the trial judge is subject to review by the appellate court ("sala de apelaciones"). Under unusual circumstances, an appeal to the Supreme Court ("recurso de casación") may be sought to overturn a verdict on the basis of the technical conduct, and not the merits, of the case.

A government prosecutor ("fiscal") has primary responsibility to present the case on behalf of the state. Since, under the civil law, the victim or the victim's family also have standing to prosecute crimes, in some cases the public prosecutor may be assisted by a private prosecutor ("acusador privado"), hired by the victim or the victim's family to assure adequate prosecution. The defendant may hire an attorney or be represented by a public defender, generally a law student. Arguments may be presented orally to the trial judge, in which event a written record is made, but generally are submitted only in written form.

In contrast to the U.S. adversarial criminal justice system, where the judge acts essentially as arbiter between prosecution and defense advocates who investigate, then present their evidence and argument to the jury as fact finder, the judge's responsibility in the

Guatemalan criminal justice system is much broader. In addition to the fact finding function, the Guatemalan investigation and sentencing judges are also responsible to see that the case is properly investigated, and to the extent that the prosecution or defense is deficient, the judge bears that much more of the burden.

Our thanks to Harvard Law School and the Washington Office on Latin America for this summary description of the Guatemalan legal system.

C. PROJECT DESCRIPTION

Design Evolution

The Pilot Court Project is really a project within a project. The overall project is a Grant of \$2.3 million to Harvard University to finance a program of cooperation between Harvard Law School and various entities involved in the Guatemalan system of criminal justice. Harvard estimates that of that \$2.3 million, about \$1.2 million is fairly allocated to expenses of the Pilot Court Project.¹

Within the terms of the original grant and its somewhat vaguely defined program, during the first year 1987-1988 there were a series of "consultation meetings" including Harvard Law School Center for Criminal Justice representatives and leaders of the Guatemalan criminal justice system. Also started during the winter of 1988 was a program of training and orientation for selected Guatemalan justice system personnel at Harvard Law School.

Within the overall grant project there was also some research on the Guatemalan justice system by certain Harvard Law School faculty and students.

Toward the end of the first year, in mid 1988, following up on identification of needs and priorities by Guatemalans and their Harvard counterparts at consultation meetings at Cambridge, Guatemala City and Quetzaltenango, and especially as a result of the interplay between Guatemalan judges and their Harvard colleagues during the spring 1988 training/orientation program, focus sharpened on an action program to respond to the highest priority needs as jointly perceived. These included improvement of criminal investigation, introduction of more oral proceedings, both at the reception of testimony and at argument of prosecution and defense positions to the Court, and improvement of access to the criminal justice system by Guatemalan citizens, particularly in rural areas.

¹ To arrive at this figure Harvard excludes all grant financing of the following: (1) project activities prior to June, 1988; (2) prosecution and criminal defense reform activities not directly related to the pilot courts; (3) conferences on corruption and intimidation; (4) research other than the study on rural justice; (5) preparation for investigative training for personnel of human rights organizations; and (6) all formal meetings of consultation with senior Guatemalan officials.

The methodology chosen was to develop and apply innovations with a relatively few pilot courts. Then, if, and to the extent that, such innovations proved successful, they would be applied elsewhere with the ultimate objective of establishing them throughout the system.

In the area of highest priority, improvement of criminal investigation, training programs were developed in the use of modern forensic technology and interrogation techniques. Training programs were to include exposure to current procedures and methodology in the United States and training in improved techniques in both the United States and Guatemala.

To improve access to the courts as well as test validity of innovations in rural settings, it was determined early in the program that pilot courts should be established in a rural region of the country as well as in Guatemala City. Following up on an initiative already underway in Guatemala, more indigenous assistant judges known as "alguaciles" would be brought into the system and trained to help the court deal with members of the indigenous population as witnesses and complainants. Such "alguaciles" with their knowledge of the language and customs of the indigenous communities would enable the court to be more sensitive to the needs and culture of the indian population which constitutes more than half the people of Guatemala.

D. INTERIM EVALUATION FINDINGS

In its preliminary observations concerning the Pilot Court Project, the November 1989 Evaluation praised Harvard and Guatemalan Court leadership for (1) establishing good working relationships, (2) going beyond academic research and discussion of problems to focus on design of concrete activities to address identified problems and (3) making a good start in introducing improvements in collection and use of evidence by trial courts.

The interim evaluation went beyond this praise, however, to identify specific problems that were facing the Pilot Courts Project:

1. The participation of the Public Ministry had barely started in Guatemala City and not at all in Totonicapán.
2. The promised cooperation of the Police had not yet been delivered.
3. Much of the needed courtroom facilities and equipment were still to be provided.
4. The project continued to lack even a workable plan for participation of the defense in criminal proceedings.
5. Project implementation had not effectively involved the court system's training unit and administrative office, among other existing units of the Court system which might be helpful in project development and implementation, and particularly for replication of pilot court reforms elsewhere in the system.
6. Neither the Guatemalan Bar Association nor the law schools had yet been significantly involved in the development and implementation of the project.
7. Although project focus was shifting to the implementation of concrete activities in Guatemala, Harvard staff continued to be concentrated in Cambridge.
8. Looking to the conclusion of Harvard's involvement and the AID grant financial support of the project, there should be concrete targets for the final year of the

project, with heavy emphasis during the remainder of the project on steps to achieve lasting results from the project's activities.

II. NATURE OF INTERVENTIONS

The Pilot Court Plan as worked out between Harvard Law School and the Court leadership involved a number of innovations in the criminal justice system which may be categorized as changes in process, organization and technology.

A. PROCESS CHANGES

1. Case Prioritization

Heretofore in the handling of criminal cases, there had been little setting of priorities between minor crimes and more serious crimes. As a result disproportionately large resources might be applied to investigation of minor crimes, while insufficient resources were applied to serious crimes. Policy and practice were revised within the Pilot Court system to apply more of the limited resources to the more important cases. This practice was followed both within the Pilot Court system and before cases went to the Pilot Courts. Minor cases without suspects were assigned to two "sobre averiguar courts" dealing exclusively with such cases, while the more serious cases were referred to the Pilot Courts.

2. Oral Proceedings

Heretofore, after initial investigation by the peace and investigation courts, the trial court would determine its verdicts and sentences on the basis of examination of documents, consisting principally of written statements of the victim(s), defendant(s) and witnesses. Similarly in making their cases to the sentencing judge, lawyers for prosecution and defense would argue their positions in writing. All of this would take place behind closed doors, hidden from the media and from the general public. As usual when people do not know what is happening, suspicion and distrust were aroused, impairing the credibility and performance of the system.

Within the pilot trial courts measures were taken to encourage and facilitate more use of oral proceedings: "audiencias concentradas" to receive testimony and other evidence, and "vistas públicas" for argument of prosecution and defense lawyers in open court. The "audiencias" enabled sentencing judges to base their verdicts on testimony of witnesses seen and heard at first hand. This provided the judge an opportunity to judge credibility of witnesses by their conduct and appearance, and the opportunity for both judge and parties to ask follow-up questions of the witnesses in seeking to ascertain the facts.

The "vistas públicas" opened to the public the arguments of the prosecution and defense lawyers in presenting to the judge their interpretation of the facts and law to establish the guilt or innocence of the defendant. Such public proceedings impose on the court the discipline of carrying out proceedings in a matter to satisfy the public with their fairness and efficiency. The vistas also impose the burden of public speaking on attorneys of varying ability and disposition for such advocacy. But most important, they

provide the press and the public the opportunity to see the justice system at work, and, to the extent it is working well, the justice system will improve its credibility.

B. ORGANIZATIONAL CHANGES

1. Use of Prosecutors

To improve cooperation between the courts and the prosecution in investigation of crimes, the Public Ministry assigned four of their best prosecutors to the Guatemala City pilot courts and one to the pilot court in Totonicapán. With the intervention of Harvard, the Public Ministry was persuaded to let the prosecutors work from offices within the Court Building in Guatemala City, two transferring there in November, 1989 and the other two in early 1990.

2. Pilot Court Police Unit.

To improve police participation in crime investigation, the National Police were persuaded to assign a unit of twelve specially trained policemen to work with the Pilot Courts in Guatemala City. This was achieved through a memorandum of understanding between the Court, the Public Ministry and the Police formally signed in May, 1990, again with the help of Harvard. The unit had already begun operation in April, 1990. At Totonicapán no special unit was created, but ICITAP-trained police were made available by the National Police to work with the pilot courts there.

3. Use of Alguaciles.

To assist in communication and coordination between courts and indian communities served thereby, the role and function of the "alguacil", a sort of judicial assistant, were further defined and improved. Established in 1987 before Harvard's arrival, and used in non-pilot court jurisdictions as well, alguaciles are selected by their own communities and designated by the Supreme Court for their ability, among other qualifications, to speak both Spanish and the Indian language prevailing in their community.

Although, like selectmen of rural New England communities, alguaciles were to be compensated principally by the honor of the position, they were expected to receive some reimbursement of out of pocket costs in their work. The alguaciles appointed for the four principal indian communities served by the Totonicapán Court, namely San Francisco El Alto, San Bartolo de Aguas Calientes, Momostenango and Santa María de Chiquimula have all received special one-day training courses prepared by Harvard especially for alguaciles.

4. Use of Circuit Courts.

Further to enhance access to justice for rural communities, additional justice of the peace courts were established in Totonicapán District. Also another justice of the peace was added so that, with the two justices of the peace, the four districts could be served by "circuit riding", each justice of the peace serving two courts. The Totonicapán Instancia judge also "rides circuit", sitting in San Francisco El Alto and San Bartolo Aguas Calientes as well as Totonicapán. Thus was judicial presence increased and extended to improve access to justice for this rural district.

C. INVESTIGATIVE TECHNOLOGY

1. Scene of Crime Management.

To increase and protect evidence, judges, prosecutors, and their staffs, as well as police, benefited from ICITAP and Harvard training in management of the scene of the crime. Heretofore crime scene management had been relatively loose and undisciplined with consequent substantial loss of physical evidence and witness leads.

2. Use of Physical Evidence.

Traditionally the Guatemalan criminal justice system had relied almost exclusively on testimony of witnesses, with little attention given to physical evidence. ICITAP and Harvard courses emphasized the techniques of finding, protecting, and using such physical evidence as tire marks, ballistics, analysis of fluids and fibers, etc. to aid in the solution of crimes.

3. Interrogation Techniques.

ICITAP and Harvard training also emphasized the use of improved questioning techniques to elicit facts and detect false testimony. Heretofore Guatemalan criminal investigators relied excessively on leading questions directed at support for early assumptions, with limited sense of the relevant. The courses have exposed them to modern questioning techniques based on scientific principles as well as investigative and courtroom experience.

D. EQUIPMENT AND FACILITIES

Included within the project for the pilot courts were various types of equipment and expansion and modification of court space to facilitate investigation and oral proceedings. The equipment included such items as microphones and loudspeakers for the hearing rooms and tape recorders for taking testimony both during questioning and during hearings. As part of its contribution to the project the court system was to provide cubicles

to enable investigators to better conduct interviews with witnesses and hearing rooms for the audiencias concentradas and vistas publicas.

The Fifth Trial Court in Guatemala came out best. Already established as an experimental model court before the project began, it had a well furnished hearing room, albeit somewhat small for larger hearings, and was outfitted with microphones and loud speakers for oral proceedings. Its offices also included appropriate cubicles for staff to interview witnesses.

The pilot court in Tonicopan had appropriate cubicles also, but had to improvise its hearing room by moving standard office furniture into a vacant court office next door. It received a recorder but no sound equipment. All courts participating in the Pilot Court Project received cameras and tape recorders.

III. QUALITY AND EFFICIENCY OF CONSULTATIVE SERVICES AND TRAINING

A. TRAINING

Most of the training provided by Harvard was designed to strengthen investigation techniques and was directed to the specific needs of judges, clerks and investigative staff or "oficiales". Such training complemented ICITAP training in criminal investigation.

The ICITAP courses were provided in a fifteen day format more specifically designed for the needs of the police. Because of the heavy involvement of penal court personnel in investigation within the Guatemalan criminal justice system, such training was highly relevant to their needs as well.² To the extent that we were able to determine, most if not all judges and court personnel initially participating in the Pilot Court Project also attended an ICITAP fifteen day course. Apart from the content of such courses, the mixture of police, prosecutors and court staff helped to contribute to mutual understanding and respect as a basis for improved teamwork in the future.

In supplementing such fifteen day ICITAP courses, Harvard Law School developed a three day "advanced course" concentrating on the more specific needs of court personnel. For more detail on subject matter refer to the Agenda for a typical three day course at Annex 5.

The most recent three day courses have included participant evaluation, a summary of which is included at Annex 6. Field interviews tended to confirm the participants' generally favorable opinion of the training and the trainers who provided it.

Our interviews produced criticisms from instructors as well as participants that the courses suffered somewhat from trying to do too much in too little time. Several participants suggested that more time be included to permit more practice and application of the principles expounded during the course of the training. This observation was confirmed by two professional observers of training programs who also suggested that there was room for more effective use of current pedagogical technology including audiovisual aids and interactive devices.

In fairness to Harvard, however, it must be noted that the need to keep overloaded courts functioning imposed heavy pressures to hold to a minimum the days consumed by such full time training. Nevertheless, we suggest that the educational value of an additional two days would be well worth the investment of time as well as money, and that further consideration should be given to extending the courses to at least five days.

² Although the scope of this evaluation does not extend to the ICITAP training, we are pleased to note that it was given high grades by all participants whom we interviewed.

We also heard criticism that some of the instructors from the United States were not sufficiently knowledgeable of the Guatemalan justice system, and tended to use some training time relatively unproductively in discussion of differences between the two systems.

Relative to cost-effectiveness, Harvard and the court system are to be commended for their efforts to get maximum training output from limited resources. Cost and other feasibility considerations dictated that sessions be as large as possible consistent with instructional effectiveness. Also, after a few initial sessions at such high-priced facilities as the Camino Real and Sheraton Hotels in Guatemala City, later sessions were moved to an adequate training facility at the court building in Guatemala City.

B. CONSULTATIVE SERVICES

Apart from training, Harvard provided the benefits of its expertise and experience in various meetings and consultative sessions between Harvard staff and court leadership and other personnel. Again we heard little but praise for the generally high quality of the advisors Harvard provided to the program both in Guatemala and at Harvard.

Preeminent among such advisors was Professor Philip Heymann, Director of the Harvard Center for Criminal Justice. Although Professor Heymann did not speak Spanish and did not pretend to have special expertise in Guatemala or Latin America, he showed particular skill in providing the benefits of his expertise and experience in criminal justice. He gained high regard among program participants for his strength and agility of intellect and specific knowledge of criminal justice systems. Moreover his personality and manner enable him to communicate well across language and cultural barriers.

Similarly singled out for special praise was Harvard's field representative during the last year of project implementation, Ms. Ana María Salazar. Serving as an instructor as well as program manager and coordinator in the field, she appeared to have gained universal respect for her intelligence, energy and professionalism in handling well a wide variety of challenging situations and people.

C. CONCLUSIONS AND RECOMMENDATIONS

1. Conclusions

- ICITAP training and the quality thereof are, and will continue to be, a critical factor in Project success.
- Harvard is to be commended for the quality of its training and trainers and its representation in general.

2. Recommendations

- That in future training more time should be provided for practical application of the principles taught.

IV. IMPACT OF INTERVENTIONS.

INTRODUCTION.

Ideally the evaluators of a project hope for project interventions to register in terms of objectively verifiable indicators. For the Pilot Court Project, for example, such indicators would include increased number of cases resulting in convictions or otherwise closed, and acceleration of case progress through the various steps in the criminal justice system.

The original evaluation design contemplated access to such objective indicators by statistical comparison of performance of pilot courts and non-pilot courts. Unfortunately the evaluators were not permitted to obtain data from non-pilot courts. The evaluators had to depend on comparison of performance of pilot courts after project interventions with the same courts before such interventions.

The validity of such comparison of statistics for the urban courts was negated by certain extraneous variables, particularly the intervening practice of assigning most cases without suspects to two special *sobre averiguar* courts in Guatemala City. Another significant change was the distribution of cases from pilot peace and investigation courts to non-pilot sentencing courts as well as pilot sentencing courts.

Statistics for rural courts were not subject to these problematical factors, however, and did provide some objective indicators of improved performance as discussed below at IV.A.2.

Beyond the statistical comparisons, two other methods used to determine impact were examination of case files comparing quality of investigation as reflected therein for periods before and after project interventions, and interviews of participants in the project. For examination of files, again the evaluators were limited by the non-availability of Guatemala City files until the evaluators' last week in the country. Hence the number of files examined was not sufficient to provide accurate quantitative measures of accomplishment. Nevertheless, in our opinion at least, the number of files examined was sufficient to reach the point of diminishing returns in providing objective confirmation of subjective evaluations gained from interviewing.

A. EFFECTIVENESS.

1. Quality of Investigations/Interrogations.

Evaluation interviews indicated a strong sense on the part of Project participants that the most important Project contribution was improvement in investigation and interrogation techniques. This was emphasized in their training and they felt that it had paid off.

The participants' subjective sense of improvement was borne out by the evaluators' examination of investigation files. The evaluators compared representative files for cases received before Pilot Court Project interventions with files for cases received after such interventions. While not all investigation and questioning was weak before Pilot Court activity, the comparison evidenced generally much improved performance. Of special significance was much increased use of more sophisticated and effective questioning techniques and notably more use and more effective use of physical evidence.

More specifically, relative to scene of crime management, file reviews for 1988 cases showed the justice of the peace performing a role barely more than "bearer of corpses" with little or no real investigation carried out at the scene of the crime. The file would indicate a brief description of the body, an imprecise description of the scene of the crime, and names with nothing more for witnesses found at the scene. The 1990 files, on the other hand, generally showed far more professional handling of the scene of the crime. Recent files include photographs of the scene, a thorough inventory of evidence, details concerning the witnesses and their addresses, and indicate the use of tape to set off the scene and protect against meddling.

Perhaps most notable of all is improvement in use of questioning to further the investigation. To provide an example from a 1988 file: the case involved the driver of a pickup truck which overturned on a curve while carrying several people in the back, several passengers were killed or severely injured in the accident. The file included five witnesses testifying on behalf of the driver with exactly the same story that he overturned because he was trying to avoid a person in the road. The typical leading question asked by the investigating official was, "Did you see a person crossing the road in front of the truck which forced the truck driver to veer sharply and lose control of his truck?" The answer, not surprisingly, would be, "Yes", but there was no evidence of any further questioning to determine the credibility of the testimony. There were no questions as to the time of the accident, the site of the accident, the speed of the vehicle, what the witness was doing there, where he was standing when he saw the accident, whether the witness knew the driver, etc.

More typical of the 1990 cases following training in investigation is the case of a woman found brutally murdered in her home. The principal suspect was the husband, who said that he was out of the building during the time in which the murder had to have been committed. Neither the peace court nor the investigation court had really tested the version of the accused. The trial court judge, who had Harvard training and was a most active participant in the project, ordered a test of the defense theory and by questioning of the watchman in the building where the victim and the accused lived, it was determined that

no one could have entered the building at the time the crime was committed without the watchman seeing him or her. The watchman said no one entered or left during the period in question, thereby undermining the defendant's theory that "Someone else had done it."

Relative to use of forms, the file reviews indicated frequent use thereof in the recent cases, and generally advantageously as a sort of checklist to guide questioning. Some investigators were better than others, however, in going beyond the form to ask the questions appropriate to a specific case which might not be included in the form. Obviously training should continue to emphasize caution in the use of forms lest the questioner become a slave to the form and fail to ask the pertinent questions which may vary from case to case.

The file reviews also indicated a significant increase in the participation of the prosecutors and a tendency for such participation to begin earlier in the proceedings. Such improvement was particularly notable after the November, 1989 transfer of special prosecutors to work with the pilot courts within the court building in Guatemala City, and the similar assignment of a prosecutor to work with the first instance court in Totonicopan. Oral proceedings in those cases which used them, also served to force a more active role on the prosecutor.

Otherwise, review of even the most recent files indicated continued lack of involvement of prosecutors in the investigation of the cases. This was true both in the city, especially for cases coming out of non-pilot peace and investigation courts, and in Totonicopan following the departure of the specially assigned prosecutor.

2. Cases Closed.

Another basic indicator of improved performance would be an increase in percentage of cases closed by verdict, and reduction of cases remaining "sobre-averiguar" without suspect. Sobre-averiguar performance in the rural District of Totonicapán improved significantly in 1990, but this may reflect change in the instancia judge as well as investigation techniques. In 1989, of about six hundred "sobre-averiguar" cases, about thirty were processed for return to justice of the peace, and only ten were investigated; none went to sentence. By comparison, in 1990, of about five hundred "sobre-averiguar" cases during the first nine months of the year, about fifty were processed for return to the justice of the peace. By instancia court examination and investigation about a hundred more were determined not to be crimes, and five were processed through to sentencing.

In the Guatemala metropolitan courts, as noted above, it is not possible to draw a significant statistical comparison between the pilot courts and non-pilot courts, even using earlier periods during which the pilot courts operated in the traditional form. In the Guatemala metropolitan courts the great majority of cases without suspect were immediately referred to two special sobre averiguar courts which were not included in the pilot court project. Only the more serious crimes without prisoner were passed on to the pilot courts for handling, so that their volume of "sobre averiguar" cases was substantially reduced between 1988 and 1990.

Demonstrating the importance of the police, once the special police unit for the pilot courts went into operation in the spring and summer of 1990, it, working closely with the pilot courts, achieved a remarkable record of improved performance in closing cases. During the few months in which it was fully operational it achieved an exceptionally high rate of case closure of about 90%. Such outstanding performance must be attributed to the high level of communication and cooperation established between the courts and prosecutors on the one hand, and a group of about a dozen police officers chosen very selectively from among the best trained and most highly motivated.

The strength of this special unit is now being diluted by reassignment of its members to other units around the country. The replacement officers have been selected according to less strict criteria as to training and background. The hope expressed by the police commandant is that over the long run the "veterans" of the special pilot court unit will "spread the faith" to other units.

One final note on "cases closed" concerns the variation between common crimes and the assassinations, "disappearances" and other human rights abuse cases in which the military may be involved. Although our review of pilot court cases evidenced marked improvement in investigation of the common crimes, our interviewing also revealed a prevailing view that the criminal justice system continues to suffer from reluctance of victims and witnesses to come forward in crimes committed by the police, the military, or others whose powers of retribution are feared. While hardly claiming immunity of investigating judges from such pressures, those interviewed, both judges and others, said that the more critical problem was lack of confidence on the part of the victims, witnesses, and even the more conscientious among the police, that the prospects of effective prosecution by the system were sufficient to warrant the exposure of their personal "necks" to possible reprisals. This problem is discussed further at VI.C and VI.D.

3. Access.

Improved access was unquestionably achieved in Totonicapán by use of alguaciles and locating additional courts physically closer to the people with more sessions in more areas. It is too early to measure impact in terms of case numbers.

Further, the contribution of the alguaciles is in jeopardy. Apart from their one day training course, they have received virtually no support from the system. They are given no equipment to help them in their work and no compensation for their time, not even reimbursement of extra travel and living expenses incurred out of pocket in their work. As a result even the most diligent are starting to taper off in their work, and some are resigning.

Another significant factor affecting motivation of the alguaciles is that most indian communities already have their own customary justice system for resolving disputes and minor crimes within the community. Traditionally such matters have been within the jurisdiction of the alcalde and assistant alcalde. So far at least there has been no policy to displace them, nor does the Pilot Court Project purport to do so.

Otherwise the most significant factor affecting real access to justice has been improved credibility of the system. Even where the courts and the prosecutors and the police have been within a few blocks distance, many people, as noted above, have been reluctant to turn to the courts to address injury because they have no confidence in the capacity of the courts to produce a just result. According to the people interviewed in areas served by the pilot courts, particularly in Totonicopan, parties and witnesses are now more willing to make the effort and take the risk of coming forward in criminal cases because of a raised level of confidence in the competence and integrity of the judicial, prosecution and police actors in the criminal justice system.

4. Staff Morale and Professionalism.

With enhanced competence and consequent improved performance, have come increased pride in work and higher staff morale. This should show up significantly in terms of further improved performance in the future.

Those trial court judges, clerks and prosecutors who had participated in oral proceedings were enthusiastic about its positive impact on the system. All court and prosecution personnel who had received training said that it had substantially helped them in their work. Those who had received training wanted more, and were willing to attend courses on their own time. Those few pilot court personnel who had not received training felt the lack and were anxious for the opportunity to catch up with their peers.

It was apparent that, within limits, opportunities for self improvement and the consequent ability to perform ones work better, can substitute for higher compensation in motivating a higher level of performance. On the other hand, morale and professionalism could be seriously adversely affected by disappointing the expectations aroused by the project for the continuance of such opportunities for self and system improvement.

5. Perception of Justice.

This brings us to consideration of impact in terms of perception of the criminal justice system. Although the evaluators did not have the opportunity to meet with project participants before the project, we were impressed with their current level of enthusiasm in their work. The interviewees generally observed that there had been a substantial change of attitude on the part of virtually all judges, clerks and investigators who had participated in the reforms.

For non-actors in the system, the media and the public more generally, who did not participate in the professional training, the most significant impact on perception of justice came from the oral proceedings. While only a relatively few cases, about thirty in number, were selected for oral proceedings, the principal criterion for selection was importance and interest for the general public. We could see for ourselves that hearings were well attended by members of the media and the public, the number interested far exceeding the capacity of the available courtroom.

Typical of cases selected was the trial of the perpetrators of the May 1988 attempted "golpe de estado". This made a deep impression on the public because never before had military officers, let alone generals, been subjected to trial in public view. Similarly in Tonicopan, the public was said to be deeply impressed by the opportunity to see public officials on trial for misuse of public funds.

Not all public proceedings produced convictions. In the "Minera Naves" case, the public had the opportunity to see an accused drug trafficker let go. It was readily apparent, however, that the denial of conviction derived not from the corruption of the court, but rather from weakness of investigation, and the integrity of a judge who required proof by convincing evidence before a finding of guilty.

Even the private defense lawyers who complain that the oral proceedings require more time away from the office and more remunerative work, generally agree on the desirability of the oral proceedings because they are more likely to produce a just result. They recognize openness of process as an important systemic barrier to corruption.

B. EFFICIENCY.

Improvements in the justice system do not necessarily pay off in financial savings. Indeed, as with the jury system of the United States, oral proceedings for hearing testimony and argument can require more time of the court with implied higher cost. Opening proceedings to the public requires space for the audience in the courtroom, also implying substantially increased cost of such facilities. Such reforms are directed at improvement in justice and perception of justice rather than increased output relative to cost.

The "audiencia concentrada" can produce increased efficiency to the extent that the judge reviews all the relevant evidence at one time rather than taking time to refresh his recollection of the issues and the evidence for sequential submissions thereof piecemeal over an extended period. The judge is thus saved the inefficiency, and potential for error, of having to take time to refresh his recollection of the issues and the evidence, or alternatively to make his findings on the basis of evidence which is not fresh in his mind.

Improved investigation and interrogation, and certainly prioritization of cases, should improve efficiency with consequent financial savings over time. It is not, however, within the province of this evaluation at this early juncture to provide quantitative verification of such savings.

C. JURISDICTIONAL AND NUMERICAL SCOPE

Including the Mixco First Instance Court, recently added to the Fifth and Sixth Investigating Courts, pilot courts have jurisdiction over about 30% of the metropolitan Guatemalan criminal cases, which in turn represent about 30% of the criminal cases for the country. Similarly including Baja Vera Paz, recently added to Totonicapan as rural pilot courts, jurisdiction of the pilot courts would be extended to an additional roughly 1.5% of the total criminal cases for the country. Thus the jurisdictional scope of the pilot courts at this stage extends to about 10% of all criminal cases.

Further, it must be noted that the pilot trial courts have been highly selective in using oral proceedings. According to the March 1988 Criminal Justice Sector Assessment, Guatemala has been averaging about 20,000 criminal cases per year. Thus far, oral proceedings have been used by the pilot courts in about thirty. Because these cases have been selected for their importance, their impact on public perception far exceeds their minuscule percentage. Still, there should be no illusions about the work remaining to extend such reforms to the entire system.

D. CONCLUSIONS AND RECOMMENDATIONS

1. Conclusions

- Investigative training has been effective in improving performance as evidenced by quality of interrogation and measured by resolution of cases.
- Such training throughout the pilot courts has had the added effect of substantially enhancing professionalism and motivation of personnel.
- Location of the prosecutors in the court buildings has facilitated their cooperation with the courts and thereby substantially enhanced their effectiveness.
- The conduct of oral proceedings in open session has significantly enhanced the credibility and public image of the criminal justice system.

2. Recommendations

- That the Judicial Branch now consider how best to extend these proven pilot court reforms throughout the system

V. PROJECT DESIGN AND IMPLEMENTATION

A. DESIGN

1. Collaborative Format

Whatever may be said of the design of the overall Grant Project, loosely defined to permit a variety of vaguely described activities, Harvard did put to good use its initial experience thereunder. As noted above at I.C the Pilot Courts Project took shape only after a year of consultation between Harvard Law School and Guatemalan justice system leadership concerning system needs and priorities. Particularly useful at the working or practical level were the discussions between Harvard Center for Criminal Justice representatives and the four Guatemalan judges sent to Harvard for two months of training and orientation in the Spring of 1988.

Following up on the decision to proceed with the Pilot Courts Project concept in the summer of 1988, designated Guatemalan first instance judges worked further with various Harvard counterparts in developing the project design. The court system had already been experimenting with the use of *alguaciles* and increased use of oral proceedings and had established the Fifth Sentencing Court in Guatemala City as a model court to apply oral proceeding concepts. Harvard, working together with Guatemalan court leadership, devised a plan to add the Fourth Peace Court and Fifth Investigation Court to the Fifth Sentencing Court so that the new techniques might be applied consistently to cases as they moved sequentially through the three levels of first instance. They added the concepts of designating prosecutors from the Public Ministry to work exclusively with the pilot courts, and assigning a case to a prosecutor with responsibility from start to finish. They proposed the inclusion of all pilot court professionals, the clerks and Court and Public Ministry investigators, as well as the judges and the prosecutors, in the program of training to improve interrogation and investigation capability. This had special significance in a system where the subordinate officials perform most of the investigation and interrogation of witnesses.

Throughout this process the Harvard people worked sufficiently closely with their Guatemalan counterparts as to achieve a high degree of Guatemalan proprietorship in the resulting project. Guatemalan participants at all levels were highly motivated and enthusiastic about their Pilot Court Project. In our interviewing with both Harvard and Guatemalan project participants we had no sense that Harvard appeared to be imposing its agenda, but rather that Harvard was duly sensitive and responsive to the needs of the Guatemalan justice system as sensed by the participants and particularly the leadership of that system. Only occasionally was the project referred to as "the Harvard Project" rather than "the Pilot Court Project".

This contrasts favorably with some other AID financed projects criticized for alleged "cultural imperialism".

As the Guatemala system was fortunate to have attracted Harvard's interest, so Harvard was fortunate to have a reform-minded Judicial Branch President with definite reform

ideas of his own to which Harvard could respond in helping to design and implement action programs. Indeed, the reputation of the Judicial Branch President for competence and seriousness of purpose was a significant factor in Harvard's choice of Guatemala as the place to start a program of assistance for the development of improved criminal justice systems in other countries. The seriousness of his reform intentions is further evidenced by his seeking other help from Argentina in revising the criminal code.

The invitation of Guatemalan judges and prosecutors to the law school for extended visits, in addition to the Harvard visits to Guatemala, proved to be effective in establishing personal relationships and good mutual understanding as a firm basis for good communication and cooperation in project design. Indeed such collaborative working relationships appear to have continued throughout the period of the project and been a major factor in the successful implementation thereof.

2. Shortcomings of Equipment and Facilities

As far as they went, the equipment and facilities were well selected for their purpose. There were substantial unmet needs of relatively high priority, however. Communications are critical for close cooperation between the courts, the police and the prosecution. Even within Guatemala City some of the peace courts did not have telephones, and in the countryside it was the exceptional court that did have a telephone. In the absence of telephones, radios might have been considered for addressing communications requirements.

Also, there appears to have been lack of provision for certain recurrent costs incident to capital expenditures or otherwise necessary to carry out the purposes of the project. For example, the project included financing for tape recorders and cameras for each of the pilot courts, but did not include any long term commitment from the court system to provide the expendable supplies such as film and tapes which were necessary to realize on the investment. Accordingly expensive equipment has fallen into disuse for lack of such relatively low cost expendables. And even though the cost of such items is relatively low in relation to the cost of the equipment itself, such items as Polaroid film at \$16.00 to \$20.00 a roll in Guatemala are more than a policeman, prosecutor, or judge can reasonably be expected to handle from his or her own pocket.

Harvard should have been more alert to the requirement of a "rolling" project design for continuing renegotiation of project agreements, sometimes including additional commitments by the host government. We heard some suggestion that the problem derives at least in part from ignorance of, or reluctance to use, the court system's requisition procedures. In either event, the problem needs to be addressed promptly.

3. Suitability of Grant v. Contract Format

As noted elsewhere, this Pilot Court Project was carried out with assistance from Harvard financed by an A.I.D. grant. The experience of this project substantiates that the grant mechanism has certain characteristics which are advantageous in dealing with a justice system.

The grant involves more delegation of authority to the grantee institution, with less direct involvement of, and identification with, the U.S. Government. It is notable that in our work on this evaluation we never heard the project identified as an "A.I.D. Project". Usually as noted elsewhere, and we think most usefully, it was identified as "the Pilot Court Project". To the extent the Project was identified with a donor, it was always with Harvard, rather than with the U.S. Government or A.I.D. In areas of special political sensitivity, as distinct from transfer of scientific technology as in agriculture, such insulation of project implementation from association with the U.S. Government can be desirable.

Of course, the ability of an institution to handle responsibly, and with appropriate sensitivity, such delegation is most important. In this case we were impressed that, after an initial stage of getting to know each other and their respective requirements, A.I.D. and Harvard achieved remarkably good working relationships of mutual understanding and respect.

B. IMPLEMENTATION

1. Locus Shift - Cambridge to Guatemala

The November 1989 overall grant project evaluation noted that, with Harvard's resources focussing on the Pilot Court Project, and the consequent shifting of project activity to Guatemala, Harvard had seemed slow in shifting its staff to provide adequate supervision and coordination in support of its Guatemala activities. In response Harvard added a second person in Guatemala to serve as assistant field representative.

To prepare for the expansion of the Pilot Court Project to a second and subsequent tiers of courts, Harvard stepped up the pace of instruction in Guatemala. Further, having established adequate training programs in Guatemala for Pilot Court Project staff including judges, Harvard stopped the training of judges at Harvard Law School. After the first year, consultation activity also shifted to Guatemala with a substantial increase in number and length of visits by Harvard's U.S. based trainers and advisors to Guatemala.

Whatever problems existed before with respect to supervision, coordination and communication between Harvard and its implementers and counterparts in Guatemala, appear to have been substantially addressed during the last year of the project. We heard no complaints about lack of attentiveness or responsiveness on the part of Harvard. To the contrary as noted elsewhere we heard many expressions of high regard for the strength of its field representation during the past year.

2. Communications and Coordination

Harvard is to be congratulated for establishing and sustaining generally excellent communications and understanding with its Guatemalan counterparts. Through its initial consultation and training activities Harvard developed good lines of communication throughout the courts and the Public Ministry. In the court system because of lack of delegation of authority by the President, a disproportionate amount of decision making on even more routine matters involved the President of the court. Nevertheless, except as distracted by more pressing priorities, especially toward the end of the project, he gave the necessary time to Harvard representatives, even those most young and junior in the Harvard hierarchy.

As noted below in VI.B, Harvard was less successful in sustaining good communications with the private bar and the law schools.

Harvard also developed a good working relationship with ICITAP, taking full advantage of ICITAP's standard 15-day course on criminal investigation. Through close coordination, Harvard was able to adapt its own courses to complement those of ICITAP. Harvard thus avoided waste of time and expense from duplication of subject matter and instruction. There was one exceptional incident at the outset when Harvard and ICITAP scheduled activities at the same time and at the same facility. The lesson from that experience was learned, however; their activities were well coordinated thereafter.

During the past two years there has been a bilateral administration of justice project financed directly by AID with technical assistance provided to the Judicial Branch by an AID-contracted U.S. consulting firm, Checchi and Company. Here again coordination between Harvard and Checchi seemed adequate.

With AID and the State Department, Harvard understandably needed some time to learn and adapt to the relative roles of the U.S. Department of State, the U.S. Embassy, AID/Washington and USAID/Guatemala. Initially USAID/Guatemala sensed they were somewhat out of the communications loop, Harvard's communications being directed largely toward the U.S. Ambassador in Guatemala, James Michel. As a founding father of the USG's administration of justice foreign assistance initiatives during the early 80's, Ambassador Michel took a deep interest in the project. Once aware of the AID Mission's needs and requirements, however, Harvard was generally responsive thereto.

Because Harvard was working in a politically sensitive area, clear communications with interested U.S. Government agencies were especially important. One notable failure occurred in the Fall of 1989 when, without any notification to AID, the Embassy or State Department, Harvard cancelled a pilot court training session because of Harvard's dissatisfaction with Government of Guatemala human rights performance. Otherwise

however, and especially when taking public stands on Government of Guatemala human rights nonperformance, Harvard coordinated closely with appropriate U.S. agencies.

One exception of concern to the evaluators, perhaps less to USAID because otherwise well informed of Harvard's activities, was Harvard's delay in submission of its quarterly reports. When the evaluation team started work in late August 1990 the most recent quarterly report covered the period October 1 - December 31, 1989. Upon our request the reports through June 30, 1990, were completed and submitted by early September. Although tending somewhat to puffery, Harvard's quarterly reports were otherwise thorough and well prepared.

3. Cost Effectiveness

In evaluating cost effectiveness of various interventions, Harvard project managers concluded that overall the training conducted in Guatemala was more cost effective than training at Cambridge. One principal advantage of training at Harvard was control over distractive elements. In Guatemala, Guatemalan participants were subject to competing pressures from their offices and their work, their families and friends, which were not present at Harvard. Another advantage of training in the United States, highly valued by such participants and credited by the evaluators as a significant catalytic factor in reform, was the opportunity to observe at first hand a different justice system at work providing models for potential reforms. Also we sensed that working together in small groups abroad had contributed to a certain "esprit de corps" among the participant reformers.

The disadvantage of training in the United States, in addition to the travel cost, was the relatively high cost of providing meals and accommodations in an expensive U.S. urban setting. Training at Harvard represented a heavy investment in each selected trainee; and, if such trainee dropped out of the reform program upon return to Guatemala, that departure represented a major loss.

A possible compromise worth considering for future training programs of a similar nature would be to sequester the participants at a remote location within their home country. Thus might be achieved the desirable reduction of distractions without incurring heavy travel and accommodation cost. Also, appropriate models of alternative justice systems might be available at less cost in nearby countries, eg. Costa Rica and Venezuela, and offer added advantages of the same language and culture within a civil law context.

Similarly for consultations between Americans and Guatemalan judges, professors and other justice system leaders and experts, absent some other training or orientation purpose, the location thereof should probably best be determined according to the home country of the majority of the participants in order to minimize travel and accommodation expenses.

Harvard is sensitive to the high cost of telephone and telefax communications within project implementation, but still believes that overall such communication was worth the cost in maintaining an appropriate level of supervision and common understanding between the home office and the field representatives.

Relative to the field representation, Harvard raised some eyebrows by its use of the Camino Real Hotel, one of Guatemala's most elegant and expensive hotels, for the office of its field representative. In fact, that office was the second room of a suite, the other room of which was used as the representative's residence. Considering the discount negotiated, the services provided by the hotel in prompt and reliable communications, telephone answering and message services, and secretarial services on an "as needed" basis, the evaluation team concluded that the Harvard "office strategy" was well justified. Indeed, we suggest it as a model to be considered by other project design and implementation teams and firms, particularly if the representatives are willing to put up with a single hotel room for their living accommodation.

4. Use of Guatemalans.

While active involvement of Guatemalans in design was among the salient strengths of this project, noninvolvement of Guatemalans in the actual work of project implementation was a critical weakness. Neither in the training programs nor the logistical support for such activities, did Harvard make much use of Guatemalans. Virtually all trainers were U.S. based; virtually all training materials were developed and produced in the United States. The Court system's training office was involved in arranging training sites, but otherwise did not gain significantly useful training experience or capacity from the project.

Undoubtedly it was easier for Harvard timely to provide the desired high quality of instruction by drawing on Harvard and U.S. based resources. Developing the Guatemalan capacity would have taken more time and required a special effort. But, the failure to make that additional investment, along with other factors, has contributed to the relative absence of capacity for maintenance and replication of the improvements which Harvard helped introduce to the system. See VI. A below.

C. CONCLUSIONS AND RECOMMENDATIONS

1. Conclusions

- There still remain important but not particularly costly project equipment needs to be met.
- Harvard employed a commendably collaborative mode of project design.
- Harvard effectively furnished assistance to a governmental function of particular political sensitivity.
- Harvard moved quickly from discussion to action in addressing identified needs of the criminal justice system.
- Harvard assumed unto itself too much of the project implementation role.

- The project did not include adequate provision for the Judicial Branch to cover recurrent costs incident to capital expenditures.
- Reform initiatives from Court leadership have been critical to Project success.

2. Recommendations

- That the Judicial Branch should provide promptly and clearly for recurrent costs incident to capital investments under the project, eg. films for cameras, tapes for tape recorders.
- That the terms of compensation and expense reimbursement for alguaciles should be clarified, and complied with.
- That in future training, the Judicial Branch and Harvard should consider more use of indigenous professionals.
- That prompt in-country representation of the grantee institution be given high priority for similar projects in the future.

VI. SPECIAL ISSUES

A. REPLICATION/INSTITUTIONALIZATION

Highlighted in the November 1989 evaluation was the need to build institutional capacity in Guatemala to sustain and extend project reforms following Harvard's departure.

As noted above, one consequence of the U.S. base and focus of most project activity at the start was a tendency to build a U.S. based rather than Guatemala based training capacity. Further contributing to this tendency to rely on U.S. based instruction was the then scarcity, if not complete absence, in Guatemala of the necessary combination of technical expertise and training ability.

As Guatemalans were trained, however, many of notable capacity for training others, possibilities opened for use of Guatemalans in the training program as instructors. Also, apart from instructors, Harvard did not much draw upon or do much to develop the capacity of the court system's training office to support pilot court project activities.

As a consequence the ability of the Guatemalan Justice system to extend or even sustain the reforms introduced within the Pilot Court Project is jeopardized by lack of Guatemalan trainers and administrative support for such trainers in the execution of necessary training programs. Such jeopardy has been aggravated by the termination of Harvard's participation in the project somewhat sooner than might have been expected.

During the latter part of 1990, prior to Harvard's complete disengagement in December 1990, Harvard has been bearing down heavily on the development of training materials and instruction guides for use of trainers in the project reforms. In this effort, and in the final training sessions, Harvard has been working more with the court system's training office. Further, since late 1989, Harvard has made a special effort to help the Judicial Branch leadership design an organization and system for replication of the pilot courts and their reforms. Unfortunately, however, this is one important area in which Harvard and the Court have been unable to reach agreement. Harvard conceived a new and somewhat elaborate separate "replication office" responsible for sustaining and extending pilot court reforms, whereas Court leadership preferred to build that capacity within the existing organizational structure. Harvard has worked with the Court on an alternative design responding to Court concerns, which design has been submitted to the Court. As of the time of this evaluation, however, no further action had been taken by the Court.

Our interview with the Judicial Branch president suggested that he did not fully understand and appreciate the important role within Guatemala played by the able Harvard field representative in coordinating response to training and consultation requirements as new courts (and prosecutors and police) were brought into the system. For such role, and particularly for a program that relies on part time trainers who would also be full time judges and prosecutors, the court system should have at least one full time professional responsible for coordinating such training activities along with professional seminars and

other activities to sustain the competence and motivation of people already trained in the reforms.

But the need for such coordinator goes beyond the training requirements. A program introducing new concepts to professional staff of the Public Ministry and police as well as the court system, not to mention the private bar and the law schools, is bound to have its share of day to day implementation problems requiring prompt attention. In addressing these problems the Harvard field representatives performed well a function which will continue to be essential to successful completion of the project.

We do not sense a need for massive expenditure to institutionalize the capacity to sustain and extend the Pilot Court Project reforms. Rather we are impressed that already trained within the Pilot Court Project is a sufficient number of capable and highly motivated people who would make excellent instructors with a modicum of training and experience in the methodology of instruction. Such training of trainers might most efficiently be provided by professionals who worked on this project with Harvard, some of whom might be available under other auspices, if no longer available directly from Harvard. If such were not feasible, there are other sources of appropriate training in training methodology combined with legal expertise and experience.

Conclusions

- The Project is well started but far from complete, with inadequate provision for maintenance and replication.
- Harvard should have prepared at an earlier stage in project implementation for Guatemalan continuation and replication of the project.
- While deeply concerned for successful completion of the project, Judicial Branch leadership does not fully appreciate or understand the essential coordination role performed by the Harvard field representative, nor the need for further training in training methodology for Guatemalan professionals to continue the vital training program.
- The relatively high cost per participant of this type of project is justifiable only if the more significant and successful reforms initiated thereunder are sustained and extended throughout the criminal justice system. In such case the social and political returns on investment should be high.

Recommendations

- That to coordinate continuing legal education and replication activity, the Judicial Branch should establish a full-time pilot court replication program coordination function.

- That Harvard should make a final effort to persuade the Judicial Branch President that to complete the Project he needs:
 - 1) "training of trainers" to enable trained court professionals to train other court professionals.
 - 2) a full time assistant to perform the coordination role previously performed by the Harvard field representative.

- That A.I.D. continue the work with the Judicial Branch and the Public Ministry, and ICITAP with the Police, to help institutionalize capacity for sustaining and extending investigative reform.

- That such measures include training in instruction for selected Guatemalan professionals to serve as the core of the Guatemalan justice system training capacity.

- That before AID provides any further assistance to the Judicial Branch AID should be satisfied that the Judicial Branch has provided adequately for the coordination and replication functions.

B. STILL MISSING PROJECT ELEMENTS: THE DEFENSE, THE BAR ASSOCIATION AND THE LAW SCHOOLS

Harvard and its Guatemalan counterparts originally conceived of the Pilot Court Project as including reforms in the participation of all major actors in the criminal justice system: courts, police, prosecutors and the defense. We have reviewed above the extent of reform introduced relative to the courts, police and the prosecution. There has been little mention of defense because there is not that much to be observed.

That Harvard and the court system concentrated on the prosecution aspect of criminal justice is understandable. Human rights abuse is a major problem for Guatemala; and the principal source of human rights abuse has not been the courts or the prosecution, with an excess of innocent people sentenced to jail or death. Rather the problem has been the high number of serious crimes never prosecuted because not properly investigated and/or because victims and witnesses have not had sufficient confidence in the court system to file complaints or cooperate with investigators.

Nevertheless there are innocent defendants inadequately represented, and there are many people in jail pending trial who will be found innocent. Even in the most recent files, and especially at the peace court level, the advice of right to counsel is perfunctory and ineffective. Among the many files reviewed there was not a single instance of defense counsel present at initial interrogation. In a balanced justice system the rights of criminal defendants must also be respected.

At the outset Harvard included a defense element in the pilot court project design. Professor Ogletree, a non Spanish-speaking Harvard specialist in criminal defense, visited Guatemala early on. Another Spanish-speaking criminal defense expert, Professor Wilson of American University, then visited Guatemala at least twice and developed a specific

proposal for incorporating defense into the Pilot Court Project. That proposal was discussed with Harvard and Guatemalan counterparts, then reformulated to conform more closely with changing conditions in Guatemala and resubmitted to the Court. Relatively little action has been taken to follow through on such proposal.

Traditionally in the Guatemalan criminal justice system the key actors in criminal defense have been the private bar and the law schools. There is a relatively small segment of the private bar which serves those accused who can afford to pay for their services; law students represent the remainder. Indeed one of the qualifications for graduation from law school and admission to practice is handling through to sentence the defense of six criminal cases. Unfortunately, although there is some faculty supervision of varying quality for the student defenders, the emphasis is on number of cases which reach sentence and not on the quality of representation.

Theoretically law students adequately supervised should be capable of handling the traditional written procedure, essentially a drafting exercise for the submission of pleadings, questions and arguments to the court in writing. With the introduction of oral proceedings, however, both in questioning of witnesses and in argument of the facts and the law, the pilot courts have been reluctant to depend completely on student representation of defendants. The pilot sentencing courts have appointed counsel from the private bar to represent indigent defendants in those relatively few cases which go to oral proceedings under present practice.³

The law students feel threatened by the prospect that, if the proposed new Penal Code is adopted requiring oral proceedings more generally, there will be no role for the students. Those concerned only for the numbers feel threatened because there will be fewer cases which they will be permitted to handle. The more serious students are also concerned for their potential loss of practical experience.

In facing this prospective change in situation the most recent Harvard/Wilson proposal for defense reforms included roles for students as trial and investigation assistants for both the prosecution and the defense. This has not been worked out with the law faculties, however. Although one of the smaller private law schools is arranging for students to work with the prosecutors, the most recent proposals had not even been discussed with the dean of the national university law school, which is by far the largest.

While Harvard had taken pains at the beginning to touch base with both the law faculties and the bar association, our interviews at the law faculties and bar association indicate that there has been less consultation during the latter part of project implementation. Largely this has reflected Harvard's deliberate choice, in applying limited resources with limited time, to give higher priority to criminal prosecution than criminal defense. Further, in fairness to Harvard, it should be noted that law faculties and their students, and interested

³ There is as yet, however, no provision for public funds to compensate such court appointed counsel.

bar association members were invited to attend the most recent programs on oral proceedings, one of which was specifically oriented toward their interests in criminal defense. In any event the bar association and certain among the law faculty leaders feel left out. They and their constituencies are tending to resist the proposed new penal code and even the pilot court reforms, at least partially because of lack of understanding produced by lack of communication.

We are aware of one notable exception in the rural jurisdiction of Totonicapán. There the judge of first instance has taken time to brief local lawyers on oral proceedings. We were informed by a local lawyer that as a consequence there has been a marked turnaround in attitude. He estimated the level of acceptance now at about 90 percent, the last ditch resistance composed largely of those concerned for their discomfort in public speaking, exposure of incompetence in public and/or the prospect of additional work for little or no additional compensation.

This suggests that incorporation of appropriate defense into pilot court reform is not an intractable problem. It will however require substantially increased cultivation and actual participation of bar and law school leaders in program development.

Recommendation

- That Project extension should include incorporation of a defense element with substantially greater involvement of the law schools and private lawyers.

C. THE POLICE FACTOR

Assistance for the Guatemalan police was not a part of the Pilot Court Project. Indeed, AID is prohibited by statute from financing assistance to police. But in Guatemala's criminal justice system, as in other countries, the police perform a vital role in providing investigative support for the resolution of criminal cases.

Through ICITAP the U.S. government has provided training in criminal investigation which has been highly useful, not only to the police but also to court personnel and prosecutors who were permitted to attend these training sessions. Also, at the suggestion of, and largely through the efforts of Harvard, a special police unit of about a dozen police investigators was established to work exclusively with the urban pilot courts in Guatemala City.

This unit was not established, however, until early 1990, and did not become operationally functional until April, 1990. Moreover, by the time the evaluation team had arrived in the fall of 1990 the personnel of the pilot court police unit were already being dispersed to other units. Nevertheless, as noted above, while they were fully operational the special police unit for the pilot courts established an excellent record. ICITAP training contributed much to this competence. ICITAP-trained police also worked with the pilot court in Totonicapán, although they were not formally established as a separate unit to work exclusively with that court.

Harvard deserves credit not only for pushing for the establishment of the elite police unit to work with the pilot courts, but also for its field representative's active role in coordinating the work of the police with the judiciary.

By all accounts those police who have received the training have responded well to it. As with the courts, even though poorly paid, those who have received the training seem in general to have developed a higher sense of professionalism which tends to reduce their vulnerability to corruption. But the ICITAP-provided training was hardly enough to produce the desired level of professionalism throughout the national police. Only a small portion of the police, estimated at about 10%, have received training from ICITAP; and, as with Harvard's work with the pilot courts, there has been inadequate attention to the need for replication. There has been no development of the capacity of the police to carry on the sort of training provided by ICITAP.

Beyond training, however, the police are not adequately equipped. They lack communication equipment to respond to the needs of the courts and the prosecutors. They lack vehicles and reimbursement of travel and other expenses of case investigation.

Even with the best of training and other institutional strengthening of the judiciary and the prosecution, improvement of the justice system will be substantially limited without a corresponding effort to improve the investigative arm of the criminal justice system - the police. In Guatemala, as elsewhere, the effectiveness of the justice system depends heavily on the willingness of victims and witnesses to cooperate with the police in coming forth with evidence for the prosecution of cases. The Guatemalan police have been of particularly poor repute. Their low level of competence combined with their high level of corruptibility continue to be major negative factors in the credibility and effectiveness of the justice system.

Recommendations

- That AID and the U.S. government seek means to support professionalization of the police working with the judiciary in investigation of criminal cases.
- If AID and the U.S. government cannot provide more support for professionalization of the police, that they do more to encourage other donors, eg. Germany and Spain, to fill the gap with the police in matching AID's work with the judiciary and the prosecution.

D. SUITABILITY OF MAJOR UNIVERSITY LAW SCHOOL FOR ASSISTANCE TO COURT SYSTEM -- SOME TRADE-OFFS

Harvard Law School obtained from AID a grant to finance work between Harvard Law School and the Guatemala justice system over a period of three years. Over those three years Harvard Law School became increasingly concerned about what it deemed inadequate Government of Guatemala performance in prosecution of human rights abuse.

At that point Harvard Law School had a choice of various alternatives, including:

- 1) Harvard Law School could seek an additional grant to support further collaboration with the Government of Guatemala to improve its justice system.
- 2) Harvard Law School could quietly leave, terminating its participation at the expiration of the three-year period of the grant.
- 3) Harvard Law School could go public in an attempt to use its prestige and potential associated A.I.D. financing as leverage to induce stronger Government of Guatemala response in prosecution of human rights abuse.

Harvard Law School chose the third alternative. The Project Director Philip Heymann went to President Cerezo, accompanied by U.S. Ambassador Strook, to announce Harvard's departure and its reasons therefor. Harvard influenced the U.S. Embassy and the State Department to join in public criticism of the inadequacy of prosecution of human rights abuse in Guatemala. In July 1990 Philip Heymann testified before the U.S. Congress concerning Harvard's negative assessment of the human rights situation in Guatemala and urged that assistance for administration of justice in Guatemala and other countries with similarly unsatisfactory performance in prosecution of human rights abuse be terminated.

Believing that a principal factor in inadequacy of prosecution was lack of will within the GOG executive branch and the military, Harvard Law School directed its criticism and its pressure against them. Harvard purposely avoided criticism of the judiciary, apparently satisfied that the court system, and particularly its leadership, was acting appropriately within its role in prosecution of human rights abuse.

Confusion in the press reports, however, and perhaps in information given to the press, led to publicity critical of the Court, putting the Court, particularly its leadership, on the defensive, and inducing tension between Court leadership and Harvard as well as between the Court and A.I.D. and the Embassy. Such tension did not significantly affect Pilot Court Project implementation, which by that time was tapering off. The tension did, however, affect the conduct of the project evaluation to the extent that the evaluators were seen as representatives of the U.S. Government.

Harvard Law School has been praised in some quarters as a defender of human rights, but has been criticized by others for failure to follow through on a good project well started, but not completed. Critics see Harvard leadership as yielding to the pressures of human rights activists among faculty, students and others of the Harvard Law School and the larger Harvard community, many of whom were critical from the start of Harvard's involvement with the Government of Guatemala. Indeed, some question whether Harvard

leadership had entered into the Project with a degree of naivete and unrealistic expectations as to what might be accomplished in improving Guatemalan human rights performance within three years.

Unlike Harvard, A.I.D. is continuing its support for administration of justice in Guatemala if the commitment of the court system continues strong, and the trend in performance continues positive. The hope is that the enhanced credibility of the justice system gained by continued incremental improvements in criminal prosecution will encourage more cooperation of victims and witnesses in bringing more criminals and particularly human rights violators to justice. Also, the more capable the system, the more may be fairly demanded of it.

In fairness to Harvard, it should be observed that many in Guatemala, the U.S. Government and elsewhere shared Harvard's high hopes for a substantial human rights turnaround under the new Cerezo government and that such change would be substantially facilitated by improving the effectiveness of the justice system in criminal prosecution.⁴ To the extent, therefore, that Harvard expected such relatively quick turnaround, Harvard's frustration and withdrawal are understandable.

As for Harvard going public on its "termination of assistance", no one could realistically expect that a few million dollars of assistance to the judicial branch of the Government of Guatemala was going to carry much weight with its executive branch and the military. However, as a world-class law school, part of a world-class university, well connected with both the legislative and executive branches of the U.S. Government, Harvard had influence far beyond the amount of money involved. Harvard also had its own institutional prestige at risk. Harvard could understandably be concerned that it not be lending the prestige of its institution to dignify a regime which it viewed as unworthy, and conversely that Harvard's credibility as an institution not be injured by association with a Government identified with human rights abuse.

A university's independence of policy, with inherent potential for variation from that of the USG, presents a dilemma; not only for the university, but also for the USG and A.I.D. in considering similar proposals for assistance to justice systems in other countries presenting human rights problems. As discussed elsewhere Harvard's institutional strength and stature contributed substantially to its effectiveness in development and implementation of the Pilot Court Project. But, as noted above, Harvard's independence of policy responding to pressures of constituent students, faculty and alumni, and reflecting their concern for Harvard's own institutional identity and reputation, affected Harvard's ability to stay the course for completion of a project well started.

⁴ Here it must be noted that in Guatemala as in El Salvador among other human rights problem countries, there is a persistent U.S. emphasis on prosecution over defense. The justice system itself was not seen as a principal perpetrator of human rights abuse. Rather of concern was the weakness of the justice system in investigation and prosecution of human rights abuse.

Private consulting firms, on the other hand, lack the institutional aura of a Harvard Law School, and have to start from scratch in their efforts, not always successful, to gain the confidence of their counterparts. Nevertheless, their absence of constituency pressures and their relatively low and neutral institutional profile might better enable them to stay the course under USG guidance in accomplishment of USG objectives.

The relative weight to be accorded these different advantages and disadvantages will of course vary according to the situation. The important thing is that they be included in the decision making.

Recommendations

- That apart from premature termination by Harvard related to Government of Guatemala human rights performance, the experience of this project should dispose both Harvard and AID toward similar institutional grant relationships for criminal justice reform elsewhere.
- That both Harvard and A.I.D. weigh carefully the experience of this Project before joining in a similar project for a country of comparably problematical human rights performance.

VII CONCLUSION - PRINCIPAL LESSONS LEARNED

In conclusion, we suggest the following lessons learned from this project as especially worthy of consideration by other countries and AID missions considering similar projects:

- For effective reform of the criminal justice system in a civil law country, there will likely be as much if not more need to work with the prosecution and the police as with the courts.
- In this connection effective use should be made of excellent training programs available through ICITAP.
- Appropriate host country people should be involved in project design as much and as soon as reasonably feasible, thereby building proprietorship in the project and its results, as well as helping assure suitability of design for country specific circumstances.
- The provider of technical assistance should establish full time in-country representation as rapidly as feasible.
- For various reasons, but especially to maximize cost effectiveness and provide for maintenance and replication, in-country training capacity should be established as rapidly as practically feasible.
- The cost effectiveness of pilot projects for testing reforms depends heavily on the resources and commitment to sustain and extend those reforms which prove worthy.
- An institutional grant can be especially useful in areas of particular political sensitivity for direct USG involvement. In considering such grant relationship, however, both AID and the grantee institution should be alert to the implications of potential variance of institutional policy from USG policy.

ANNEX 1

EVALUATION METHODOLOGY

ANNEX ONE

EVALUATION METHODOLOGY

The evaluation team was constituted of a Costa Rican appellate judge with prior experience as both prosecutor and defense counsel in criminal cases; an American trial court judge with prior experience in criminal defense as a public defender and private practitioner; and an American private practitioner, with prior experience as an AID executive and regional legal adviser, including management of administration of justice projects.

The evaluation as designed by Harvard and AID contemplated three methods of determining project accomplishment:

1. Statistical analysis, comparing pilot courts and traditional courts in convictions or other conclusion of cases, time consumed by investigation, etc.
2. Case file review, comparing participation of prosecutors and quality of investigation between pilot and non-pilot courts.
3. Interviewing project participants to gain their perspective on project problems and accomplishments.

All three methods were frustrated to varying degrees by lack of cooperation from the Court. Specifically the Court would not permit interviewing, file examination or other data gathering from non-pilot courts and their personnel. The alternative of comparing performance of pilot project courts with the same courts before project interventions was frustrated by other intervening changes. Of particular impact were the assignment of most urban cases without suspects to special "sobre averiguar courts" and the distribution of cases from the pilot peace and investigation courts among all trial courts, rather than to the pilot trial courts.

Further the case files of even the pilot courts in Guatemala City were not made available to the evaluators until their last week in country, two working days before the draft report was due.

Accordingly the evaluators have had to do the best they could with the data and people that were available. We have had to rely more heavily than we would like, particularly in evaluating project impact, on the subjective impressions of other people. Also since the evaluators arrived in Guatemala after the last training session had been held, there was no opportunity to evaluate first hand the substance and quality of training.

Despite these obstacles to evaluation, there was sufficient concurrence of available evidence to warrant confidence on our part in our principal conclusions and recommendations.

ANNEX 2

LIST OF PERSONS INTERVIEWED

ANNEX 2

LISTA DE PERSONAS ENTREVISTADAS

Dr. Edmundo Vásquez Martínez Organismo Judicial	Presidente
Lic. Mario Roberto Illescas	Procurador General
Lic. Carlos Alvarez Ministerio Público	Jefe de Fiscales
Lic. Alfredo Balsells Tojo Colegio de Abogados	Presidente
Coronel Julio E. Caballeros Policía Nacional	Director
Coronel Mario Cifuentes Policía Nacional	Ex Director
Licda. Ana María Salazar School en Guatemala	Representante de Harvard Law
Lic. Napoleón Gutiérrez	Juez Quinto de Primera Instancia de Sentencia
Lic. Augusto Eleazar López	Juez Sexto de Primera Instancia de Sentencia
Licda. Yolanda Pérez Ruiz	Juez de Primera Instancia de Totonicapán
Licda. Ana María Orozco Olivet	Juez Primera de Tránsito
Lic. Roberto Lemus Garza	Juez de Primera Instancia de Sololá
Lic. Hugo Aguilera	Juez Sexto de Instrucción
Lic. Carlos Alburez	Juez Sexto de Paz
Lic. Mazariegos	Juez Quinto de Instrucción
Lic. Henry Casas Marín	Juez de Paz de San Francisco El Alto
Lic. René Solís Ovalle	Fiscal de Sololá

Lic. Angel Luis Vásquez Cabrera	Fiscal, Ciudad de Guatemala
Lic. Gustavo Welman Hum	Fiscal, Ciudad de Guatemala
Lic. Mario Ruiz Wong	Fiscal, Ciudad de Guatemala
Lic. Cipriano Soto Tobar	Decano de la Facultad de Derecho Universidad de San Carlos de Guatemal
Lic. Eduardo Mazariegos Apolo	Litigante
Lic. Eduardo Anibal Fernández M.	Litigante
Lic. Manuel García Gómez	Litigante
Sr. Alfredo Tahay	Alguacil
Isabel García	Estudiante
Celia Ocho E.	Estudiante
César Pineda	Estudiante
Celón Valladares	Estudiante
Rubén Ramírez	Estudiante
José González Orellano	Estudiante
Fernando Rivera	Estudiante
Jorge Magaña	Estudiante

Además de las anteriores personas, se entrevistó a los secretarios del Juzgado Mixto de Totonicapán, a la secretarial del Juzgado Sexto de Primera Instancia de Sentencia y a cuatro oficiales del Juzgado Quinto de Instrucción, dos oficiales del Juzgado de Totonicapán (mixto), el secretario del Juzgado de Paz de San Francisco El Alto y dos oficiales del Juzgado Quinto de Sentencia Penal.

ANNEX 3

ORGANIZATION CHARTS OF COURT SYSTEM

PENAL

Corte Suprema de Justicia

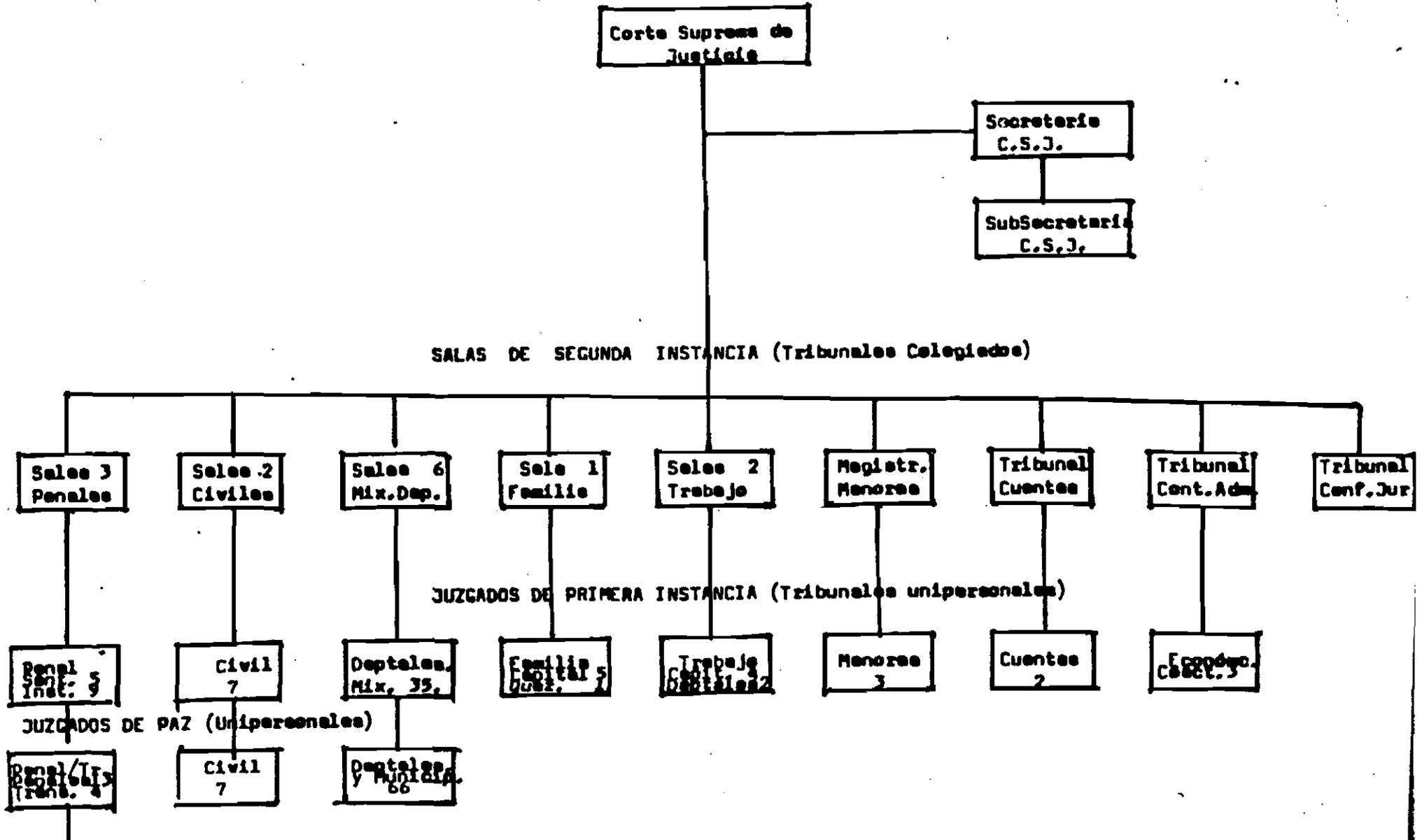
Salas de Apelación

Juzgados de Primera Instancia
de sentencia

Juzgados de Primera Instancia
de Instrucción

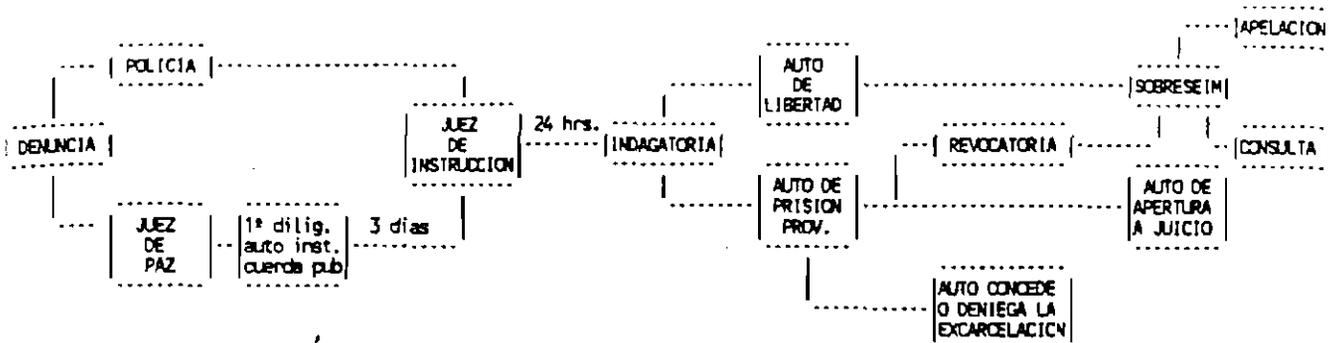
Juzgados de Paz

ORGANIGRAMA DE LA FUNCION JUDICIAL

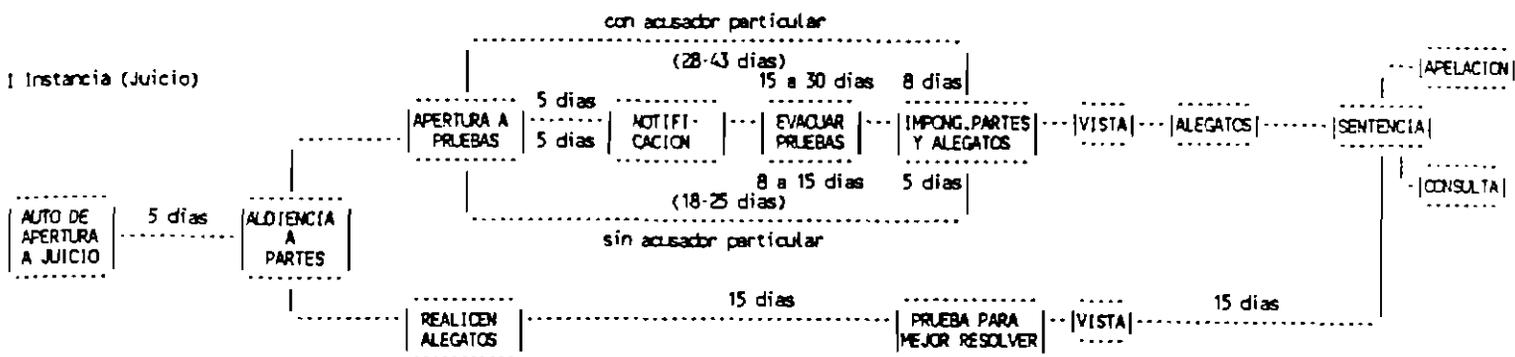


Flujograma del Proceso Penal

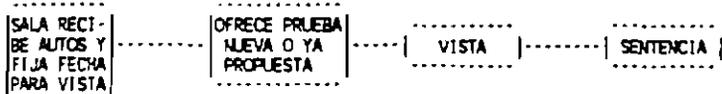
I Instancia (Sumario)



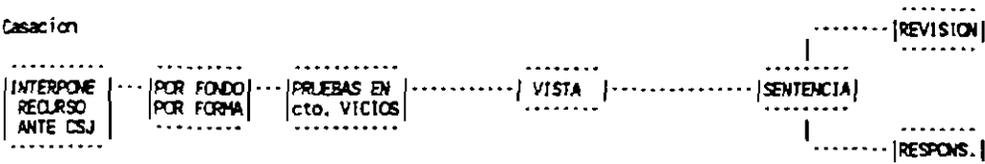
I Instancia (Juicio)



II. Instancia



Casacion

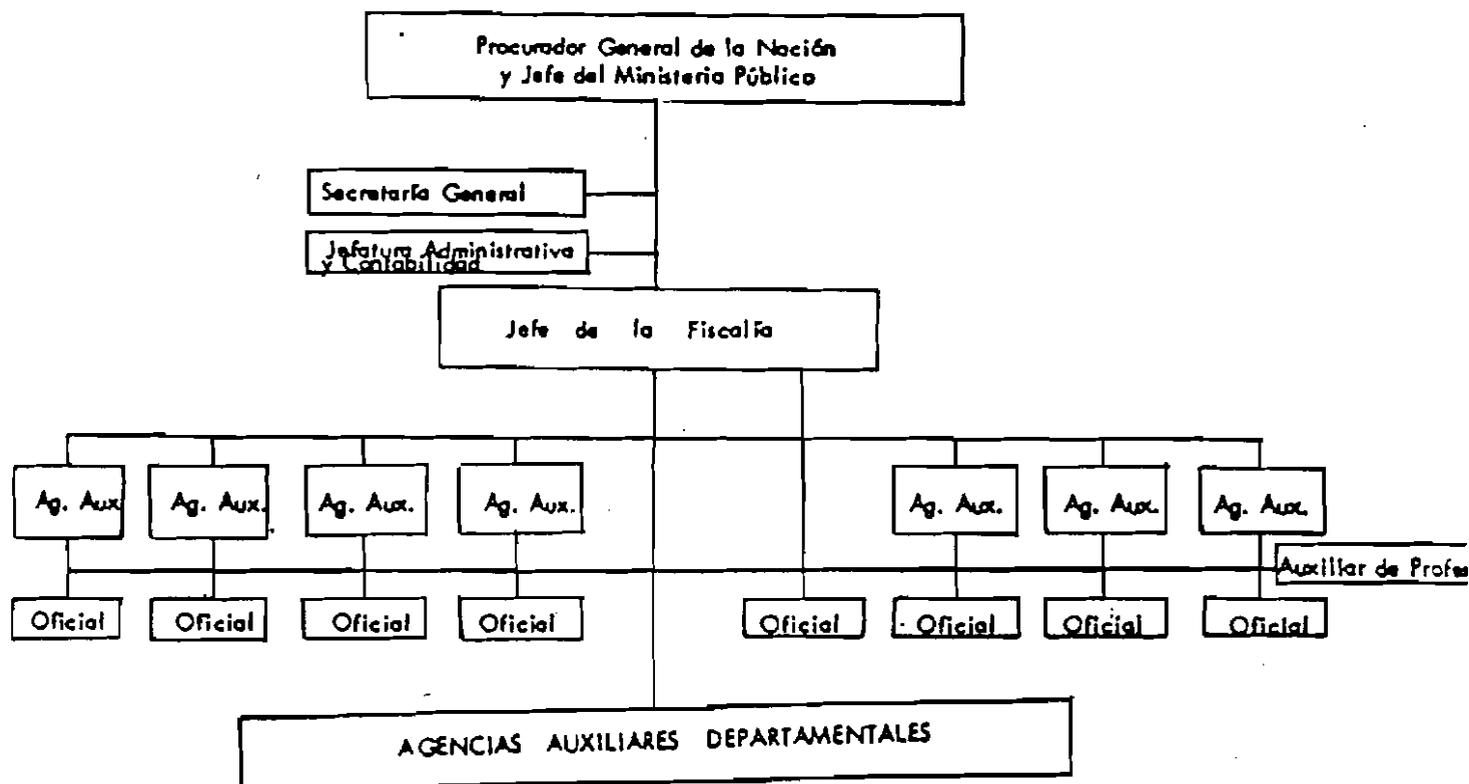


NOTA: La casacion se interpone contra autos que le pongan fin al proceso y contra sentencias de segunda instancia.

ANNEX 4

ORGANIZATION CHART OF PUBLIC MINISTRY

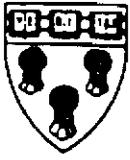
ORGANIGRAMA DE LA SECCION DE FISCALIA
MINISTERIO PUBLICO



Organigrama elaborado de conformidad con la organización legal de la sección, como funciona en la práctica y con detalle del personal que integra físicamente la sección, pero no presupuestariamente.

ANNEX 5

HARVARD LAW SCHOOL TRAINING PROGRAM OUTLINE



Seminario de Capacitación Avanzada - Proyecto Tribunales Piloto
21 de Mayo de 1990
JUZGADOS DE SENTENCIA

Lunes, 21 de mayo

- 8:00 - 8:30 *Inscripción*
- 8:30 - 8:45 *Acto Inaugural*
- 8:45 - 9:15 *Reseña Sobre el Trabajo Realizado dentro del Plan Piloto -- Licda. Ana María Salazar*
- 9:15 - 10:15 *El Arte de una Buena Investigación I -- Lic. René Sotorrío*
- 10:15 - 10:30 *Receso para café*
- 10:30 - 12:30 *Sesión Plenaria*
- 12:30 - 1:30 *Almuerzo*

Martes, 22 de mayo

- 8:00 - 9:00 *El Arte de una Buena Investigación II -- Lic. René Sotorrío*
- 9:00 - 9:45 *Exposición -- La Escena del Crimen*
- 9:45 - 10:00 *Receso para café*
- 10:00 - 11:00 *La Investigación de Casos de Corrupción -- Lic. Roberto Martínez*
- 11:00 - 1:00 *Exposición y Discusión -- Valoración de la Prueba*
- 1:00 - 2:00 *Almuerzo*
- 2:00 - 4:00 *Exposición y Discusión -- La Prueba por Presunciones*

Jueves, 24 de mayo

- 3:30 - 5:00 *Demostración -- La Escena del Crimen*

Viernes, 25 de mayo

- 4:00 - 4:30 *Clausura/Evaluación del Seminario*
- 4:30 *Entrega de Diplomas*

Centro de Justicia Penal

Prof. Philip Heymann, Director

Licda. Carmen M. Ortiz, Directora del Proyecto Plan Piloto

Licda. Ana María Salazar, Directora de la Oficina en Guatemala

Licda. Marilyn Millan, Directora de Capacitación

Licda. Jeanne Solé, Asistente Legal

Licda. Ellen Lawton, Administradora

Asesores

Lic. Roberto Martínez, Abogado Defensor, Zuckermann, Spaeder, Taylor & Evans. Miami, Florida, U.S.A.

Lic. Ricardo R. Pesquera, Fiscal, U.S. Attorney's Office, Middle District, Orlando, Florida, U.S.A.

Lic. Alejandro Schwed, Fiscal, New York County District Attorney's Office, New York, New York, U.S.A.

Lic. René A. Sotorrío, Abogado Defensor, Law Offices of René A. Sotorrío, Miami, Florida; Union City, New Jersey, U.S.A.

Quisiéramos agradecer el apoyo proporcionado por la Agencia para el Desarrollo Internacional de los Estados Unidos de América.

ANNEX 6

**SUMMARY OF PARTICIPANT EVALUATION
OF MAY 1990 TRAINING PROGRAM**

STATISTICS

JUZGADOS DE SENTENCIA: EVALUATION OF ADVANCED SEMINAR, MAY, 1990

In order to assist us in evaluating the effectiveness of this seminar and the needs of the personnel in the Pilot Courts, please answer the following questions. You should circle the answer that best reflects your opinion. You need not identify yourself on this document in any form. Your candor and thoughtful comments will be crucial to the future success of any other seminars.

1. I found the overall organization of this event to be:

- 22% A. very good
- 78% B. good
- C. average
- D. bad (explain):

2. I felt that the amount of information given to me at the outset about the seminar was:

- A. sufficient
- 67% B. enough
- 33% C. very little
- D. none

3. I found the work atmosphere of the seminar to be:

- 11% A. excellent
- 67% B. good
- 22% C. satisfactory
- D. bad (explain):

4. How informative did you find the lecture on *The Art of Thorough Investigation*, given by Lic. René Sotorrío?

- 67% A. extremely informative
33% B. informative
C. somewhat informative, but not that applicable to our work
D. lacking in information

5. How helpful do you think the lecture on *The Art of Thorough Investigation* will be in your profession?

- 67% A. extremely helpful, I will use the skills discussed very frequently
B. very helpful, I will use the skills discussed often
33% C. somewhat helpful, I will probably use the skills in the future
D. not too applicable to our work

6. Did Lic. René Sotorrío present the topic in a direct, understandable and clear manner?

- 100% A. yes
B. at some points
C. no, I had trouble understanding what was meant

7. What general comments do you have regarding the lecture on *The Art of Thorough Investigation*?

8. How informative did you find the lecture on *The Investigation of Corruption Cases*, given by Lic. Roberto Martínez?

- 45% A. extremely informative
44% B. informative
11% C. somewhat informative, but not that applicable to our work
D. lacking in information

9. How helpful do you think the lecture on *The Investigation of Corruption Cases* will be in processing those types of cases when they arise in your court?

- 22% A. extremely helpful, I will use the skills discussed frequently in cases involving corruption
- 33% B. very helpful, I will use the skills discussed often in cases involving corruption
- 45% C. somewhat helpful, I will probably use the skills in the future in cases involving corruption
- D. not helpful

10. Did Lic. Roberto Martínez present the topic in a direct, understandable and clear manner?

- 67% A. yes
- 22% B. at some points
- 11% C. no, I had trouble understanding what was meant

11. What general comments do you have regarding the lecture on *The Investigation of Corruption Cases*?

12. How informative did you find the presentation on *Evaluating the Evidence*?

- 44% A. extremely informative
- 56% B. informative
- C. somewhat informative, but not that applicable to our work
- D. lacking in information

13. How helpful do you think the presentation on *Evaluating the Evidence* will be in your profession?

- 56% A. extremely helpful, I will use the skills discussed at every statement
- 22% B. helpful, I will use the skills discussed often
- 22% C. somewhat helpful, I will probably use the skills in the future
- D. not too applicable to our work

14. Was the topic presented in a direct, understandable and clear manner?

- 78% A. yes
22% B. at some points
C. no, I had trouble understanding what was meant

15. What general comments do you have regarding the presentation on *Evaluating the Evidence*?

16. How informative did you find the presentation on *Proof by Circumstantial Evidence*?

- 44% A. extremely informative
56% B. informative
C. somewhat informative, but not that applicable to our work
D. lacking in information

17. How helpful do you think the presentation on *Proof by Circumstantial Evidence* will be in your profession?

- 45% A. extremely helpful, I will use the skills discussed at every statement
44% B. helpful, I will use the skills discussed often
11% C. somewhat helpful, I will probably use the skills in the future
D. not too applicable to our work

18. Was the topic presented in a direct, understandable and clear manner?

- 89% A. yes
11% B. at some points
C. no, I had trouble understanding what was meant

19. What general comments do you have regarding the presentation on *Proof by Circumstantial Evidence*?

20. How helpful did you find the following plenary discussions?

Plenary discussion on *Evaluating the Evidence*

- 34% A. extremely helpful
- 33% B. very helpful
- 33% C. somewhat helpful
- D. not helpful (explain):

Plenary discussion on *Proof by Circumstantial*

- 33% A. extremely helpful
- 45% B. very helpful
- 22% C. somewhat helpful
- D. not helpful (explain):

21. When did you view the lecture on *The Crime Scene*?

- 33% A. February 1990
- 67% B. May 1990, at this seminar

22. How informative did you find the lecture on *The Crime Scene*?

- 11% A. extremely informative
- 78% B. informative
- 11% C. somewhat informative
- D. lacking in information

7

make up

23. How helpful do you think the lecture on *The Crime Scene* will be in your profession?

23. How helpful do you think the lecture on *The Crime Scene* will be in your profession?
- 78% A. extremely helpful, it helped me to better understand the importance of thorough investigation in criminal cases, from their inception through the follow up that should occur
- 22% B. helpful
- C. somewhat helpful
- D. not helpful, I do not think that it sheds any light on our work
24. Was the topic presented in a direct, understandable and clear manner?
- 89% A. yes
- 11% B. at some points
- C. no, I had trouble understanding what was meant
25. What general comments do you have regarding the lecture on *The Crime Scene*?
26. How informative and helpful did you find the demonstration on *The Crime Scene*?
- 11% A. extremely informative and helpful
- 67% B. very informative and helpful
- 22% C. somewhat informative and helpful
- D. not helpful or informative at all (explain):
27. What general comments do you have regarding the above mentioned demonstration?
28. What other topics would you like to see lectured upon in the future?
29. Do you have any other suggestions for future seminars, or comments in general not already covered by this evaluation?

STATISTICS

JUZGADOS DE PAZ E INSTRUCCION: EVALUATION ON ADVANCED SEMINAR, MAY 1990

In order to assist us in evaluating the effectiveness of this seminar and the needs of the personnel in the Pilot Courts, please answer the following questions. You should circle the answer that best reflects your opinion. You need not identify yourself on this document in any form. Your candor and thoughtful comments will be crucial to the future success of any other seminars.

1. I found the overall organization of this event to be:

- 59% A. very good
- 41% B. good
- C. average
- D. bad (explain):

2. I felt that the amount of information given to me at the outset about the seminar was:

- 39% A. sufficient
- 44% B. enough
- 17% C. very little
- D. none
- NA. (1/37 = 3%)

3. I found the work atmosphere of the seminar to be:

- 57% A. excellent
- 32% B. good
- 11% C. satisfactory
- D. bad (explain):

4. How informative did you find the lecture on *The Art of Thorough Investigation*, given by Lic. René Sotorrío?
- 81% A. extremely informative
19% B. informative
C. somewhat informative, but not that applicable to our work
D. lacking in information
5. How helpful do you think the lecture on *The Art of Thorough Investigation* will be in your profession?
- 62% A. extremely helpful, I will use the skills discussed very frequently
30% B. very helpful, I will use the skills discussed often
8% C. somewhat helpful, I will probably use the skills in the future
D. not too applicable to our work
6. Did Lic. René Sotorrío present the topic in a direct, understandable and clear manner
- 95% A. yes
5% B. at some points
C. no, I had trouble understanding what was meant
7. What general comments do you have regarding the lecture on *The Art of Thorough Investigation*?
8. How informative did you find the lecture on *The Investigation of Corruption Cases*, given by Lic. Roberto Martínez?
- 49% A. extremely informative
40% B. informative
11% C. somewhat informative, but not that applicable to our work
D. lacking in information

9. How helpful do you think the lecture on *The Investigation of Corruption Cases* will be in processing those types of cases when they arise in your court?

- 54% A. extremely helpful, I will use the skills discussed frequently in cases involving corruption
- 19% B. very helpful, I will use the skills discussed often in cases involving corruption
- 27% C. somewhat helpful, I will probably use the skills in the future in cases involving corruption
- D. not helpful

10. Did Lic. Roberto Martínez present the topic in a direct, understandable and clear manner?

- 81% A. yes
- 19% B. at some points
- C. no, I had trouble understanding what was meant

11. What general comments do you have regarding the lecture on *The Investigation of Corruption Cases*?

12. How informative and helpful did you find the demonstration by Lic. Rene Sotorrio of a witness interview on the *Murder in the Woods* case?

- 46% A. extremely
- 43% B. very
- 11% C. somewhat, I will probably use the skills demonstrated in the future
- D. not at all, I did not find it helpful in our system of questioning

13. What general comments do you have regarding the above mentioned demonstration?

14. How informative and helpful did you find the demonstration by Lic. Roberto Martinez of a witness interview on *The Case of Corruption in Construction*?

- 54% A. extremely
- 41% B. very
- 5% C. somewhat, I will probably use the skills demonstrated in the future
- D. not at all, I did not find it helpful in our system of questioning

15. What general comments do you have regarding the above mentioned demonstration?

16. How helpful was it to participate in practice sessions on a fictitious case?

- 78% A. extremely helpful
- 19% B. very helpful
- 3% C. somewhat helpful
- D. not helpful

17. How helpful did you find the critique provided by the following instructors?

Licda. Carmen Ortiz:

- 71% A. extremely helpful
- 21% B. very helpful
- 8% C. somewhat helpful
- D. not helpful (explain):
- E. I did not receive critique from this instructor
- NA. (13/37 = 35%)

Licda. Marilyn Milian

- 71% A. extremely helpful
- 25% B. very helpful
- 4% C. somewhat helpful
- D. not helpful (explain):
- E. I did not receive critique from this instructor
- NA. (13/37 = 35%)

Lic. René Sotorrió

- 85% A. extremely helpful
- 11% B. very helpful
- 4% C. somewhat helpful
- D. not helpful (explain):
- E. I did not receive critique from this instructor
- NA. (10/37 = 27%)

Lic. Roberto Martínez

- 71% A. extremely helpful
- 25% B. very helpful
- 4% C. somewhat helpful
- D. not helpful (explain):
- E. I did not receive critique from this instructor
- NA. (13/37 = 35%)

19. How helpful did you find the following plenary discussions?

Plenary discussion on *Murder in the Woods* case

- 59% A. extremely helpful
- 32% B. very helpful
- 9% C. somewhat helpful
- D. not helpful (explain):
- NA. (3/37 = 8%)

Plenary discussion on *The Case of Corruption in Construction?*

- 60% A. extremely helpful
- 34% B. very helpful
- 6% C. somewhat helpful
- D. not helpful (explain):
- NA. (2/37 = 5%)

20. When did you view the lecture on *The Crime Scene?*

- 38% A. February 1990
- 69% B. May 1990, at this seminar
- NA. (1/37 = 3%)

NOTE: There were 39 responses to this question and only 36 participants who responded to the question. Therefore 3 out of 36 or 8% of the participants viewed the lecture twice.

21. How informative did you find the lecture on *The Crime Scene?*

- 58% A. extremely informative
- 11% B. informative
- 3% C. somewhat informative
- D. lacking in information
- NA. (1/37 = 3%)

Lic. Roberto Pesquera

- 57% A. extremely helpful
- 32% B. very helpful
- 11% C. somewhat helpful
- D. not helpful (explain):
- E. I did not receive critique from this instructor
- NA. (9/37 = 24%)

Lic. Alejandro Schwed

- 48% A. extremely helpful
- 43% B. very helpful
- 9% C. somewhat helpful
- D. not helpful (explain):
- E. I did not receive critique from this instructor
- NA. (16/37 = 43%)

18. How helpful did you find the video playback review?

- 78% A. extremely helpful
- 17% B. very helpful
- 5% C. somewhat helpful
- D. not helpful

22. How helpful do you think the lecture on *The Crime Scene* will be in your profession?

78% A. extremely helpful, it helped me to better understand the importance of thorough investigation in criminal cases, from their inception through the follow up that should occur

22% B. helpful

C. somewhat helpful

D. not helpful, I do not think that it sheds any light on our work

NA. (1/37 = 3%)

23. Was the topic presented in a direct, understandable and clear manner?

86% A. yes

14% B. at some points

C. no, I had trouble understanding what was meant

NA. (1/37 = 3%)

24. What general comments do you have regarding the lecture on *The Crime Scene*?

25. How informative and helpful did you find the demonstration on *The Crime Scene*?

63% A. extremely informative and helpful

20% B. very informative and helpful

17% C. somewhat informative and helpful

D. not helpful or informative at all (explain):

NA. (2/37 = 5%)

26. What general comments do you have regarding the above mentioned demonstration?

27. What other topics would you like to see lectured upon in the future?

28. Do you have any other suggestions for future seminars, or comments in general not already covered by this evaluation?

NOTE: NA. = No Answer. In cases where participants omitted answers to questions, the percent of those not answering is indicated. However, all percentages listed are based on the number of participants who answered the question.

ANNEX 7

SELECTED PRESS COVERAGE OF PROGRAM

Juzgados pilotos llegan a la PN

Tres jueces que forman parte de los Juzgados Pilotos, fueron presentados a los investigadores de la Policía Nacional, como parte de la comunicación necesaria que debe darse entre el titular del órgano jurisdiccional y los auxiliares, dentro de los hechos que son pesquisados.

Se trata de los licenciados David Moya, Juez Cuarto de Paz Penal, Ana María Orozco Olivetti Juez Quinto de Primera Instancia de Instrucción y Napoleón Gutiérrez Vargas, Juez Quinto de Primera Instancia Penal de Sentencia.

A los agentes investigadores se les hizo saber qué es, en qué consiste el plan piloto. La necesidad de que se apliquen las técnicas modernas aprendidas en la investigación de hechos concretos y estudiados como delitos a efecto de que se capture a los posibles responsables.

Se enfatizó en que es indispensable la estrecha colaboración, la comunicación constante entre el

funcionario a cargo del proceso y aquellos, para darle mayor eficacia al trabajo realizado conjuntamente. El acto se realizó en el Salón de Vistas de la Corte Suprema de Justicia.



En esa orden, Juez David Moya, David Panner (de la Universidad de Harvard), Napoleón Gutiérrez Vargas; fiscal del

M.P. Guillermo Ruiz Wong y licenciada Ana María Orozco.



Presentan "Jueces-Piloto"

□ AGENTES de la Policía Nacional, especializados en estas investigaciones (apli-

TRES Jueces que forman parte de los Juzgados Piloto, fueron presentados a los investigadores de la Policía Nacional, como parte de la comunicación necesaria que debe darse entre el titular del órgano jurisdiccional y los auxiliares, dentro de los hechos que son pesquisados.

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A los agentes investigadores se les hizo

conocer técnicas modernas, escuchando atentamente las instrucciones.

saber que es y en que consiste el plan piloto. La necesidad de que se apliquen las técnicas modernas aprendidas en la investigación de hechos concretos y estimados como delitos a efecto de que se capture a los posibles responsables.

Se enfatizó en que es indispensable la estrecha colaboración, la comunicación constante entre el funcionario a cargo del proceso y aquellos para darle mayor eficacia al trabajo realizado mancomunadamente. El acto se realizó en el salón de Visitas de la Corte Suprema de Justicia.

Guatemala, mayo 29 de 1989

Inician juzgados pilotos

Se inició el Programa de Juzgados Pilotos, por parte de la Corte Suprema de Justicia, con la finalidad de lograr una mejor administración de justicia y la

aplicación de métodos y sistemas avanzados tanto en lo jurídico como en lo científico y técnico, informó el doctor Edmundo Vázquez Martínez, presidente de la Corte Suprema de Justicia y del Organismo Judicial.

Primeros juzgados

Los primeros juzgados principiaron a funcionar en esta capital, con uno de paz, uno de instrucción y otro de sentencia; así como dos más en Totonicapán, o sea el Juzgado de Paz de la Cabecera y el del municipio de San Francisco El Aho.

Finalidad y asesoría

Enfatizó el doctor Vázquez Martínez, que la finalidad de dichos juzgados pilotos, es poder eva-

luar la aplicación de conocimientos y prácticas jurídicas avanzadas, el empleo de elementos técnicos y científicos así como también el grado de asimilación que tanto jueces como empleados han logrado en los cursos llevados a cabo en la Universidad de Harvard, Estados Unidos, la que asesorará dicho programa.

Características especiales

Los juzgados pilotos se caracterizan especialmente por el uso y aplicación del lenguaje; por contar con policías nacionales debidamente entrenados para las acciones de investigación de hechos delictivos, la mejor participación de los fiscales del Ministerio Público y que los jueces han recibido cursos en los

Estados Unidos de América.

Algunos datos importantes

Aun cuando el programa se aplicará a todo el país, se pensó inicialmente en Totonicapán y Guatemala por la densidad de población, lenguaje, mejores comunicaciones, etc.

Finalmente Vázquez Martínez dijo que, no siempre se cuenta con la investigación preliminar para poder hacer mejor justicia, y estos juzgados pilotos, están diseñados, precisamente para funcionar ya con estos elementos técnicos, jurídicos y científicos. El próximo juzgado piloto, posiblemente se instale en Sololá.



8 • Guatemala, 4 de mayo de 1988



NACIONAL

M.P. pide pena de muerte para reo

El Ministerio Público pidió a las autoridades judiciales la pena de muerte contra el señor Pedro Lamus Jiménez, procesado en el Juzgado Cuatro de Primera Instancia Penal de Sentencia por la muerte de la señora Elia Leonor Lupitou Ramírez de Díaz, al estimar que se tienen los elementos exigidos por la norma legal para su aplicación.

De acuerdo con lo que consta en el proceso penal del señor Lamus Jiménez, está encausado porque el 7 de febrero del corriente año, a las 16:30 horas, en la 12 calle "A" 2-80, zona 2, interior de la Finca El Zapote, con arma punzocortante le propinó 24 heridas a la señora Lupitou, quien falleció en el mismo lugar por las lesiones sufridas.

Tal hecho habría sido cometido para que se le facilitara sustraer los bienes de la residencia, consistentes en una pistola calibre 45, número 1 908,368; una pistola Sing Säuser, registro 116052 tipo "P" Coch baqueta color negro, pavón negro; una carabina M-1, calibre 22 marca Erma W Werkle; 150 quetzales y 15 dólares en efectivo.

Lo anterior fue cometido, según se dio a conocer, aprovechando el estado de indefensión de la

victima, la superioridad física y ausencia de otra persona, lo que le garantizaba perpetración del delito sin riesgo para su persona. No obstante la debilidad de la víctima, actuación que se infiere que, entre el momento consumativo, la idea del delito constituyó un lapso para meditar el hecho y que al desarrollar los actos, lo ejecutó fría y serenamente, como trata de darle a conocer el Ministerio Público.

Además, al implicado se le procesa por robo agravado, sindicándosele que en la 6a. avenida y 12 calle, zona 3, interceptó el paso a Mario Arturo Matias Orantes, quien se conducía a bordo del vehículo Mercedes Benz, placas P-135423, color blanco, modelo 1985 y con una pistola calibre 9 milímetros, lo despojó de 300 quetzales.

Al momento de ser capturado, según se estableció, se le encontraron 110 quetzales, una garrucha de distintos colores, guantes de hule, una licencia de conducir clase "A".

Sin embargo, el abogado defensor del señor Pedro Lamus Jiménez, aún no ha evocado la audiencia conferida, según se estableció oficialmente, por lo que se estima que en breve, pueda proceder conforme a lo que estipula la ley a fin de solventar la situación legal de su defendido.

El acceder a una petición como la formulada por el Ministerio Público no es ordinario que se de en nuestro país, sin embargo, serán las autoridades judiciales que, en base a los elementos probatorios con que se puedan contar pueda emitir un fallo de tal naturaleza.

Vásquez M.

En los tribunales los empleados corruptos serán procesados

No existe mayor grado de corrupción en los tribunales de justicia, manifestó el presidente de la Corte Suprema de Justicia doctor Edmundo Vásquez Martínez, quien resaltó que, de existir, no son en los niveles que pudieran lamentarse por la población en general.

Asimismo hizo referencia que dentro de ciertos los hechos, como es en cualquier lugar del Organismo Judicial se procederá a someter a los implicados a los tribunales de justicia para que se resuelva su situación legal sobre la anomalía que puede implicar.

También hizo alusión que para cumplir a cabalidad con las funciones que las autoridades judiciales tienen encomendadas, es de suma importancia la responsabilidad misma que debe tener el juez de su función administrativa que le corresponde.

Adicionalmente, expresó que los niveles de corrupción en los tribunales, como pudieran tener, que en Guatemala se han adoptado las acciones del caso con el propósito de que el sistema no se de, pues vendría a ser un

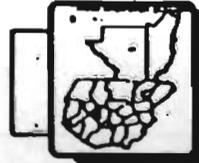
estado de probidad, indicó el presidente de la Corte Suprema de Justicia doctor Edmundo Vásquez Martínez, quien resaltó que, de existir, no son en los niveles que pudieran lamentarse por la población en general.

Los tribunales de justicia, como es en cualquier lugar del Organismo Judicial se procederá a someter a los implicados a los tribunales de justicia para que se resuelva su situación legal sobre la anomalía que puede implicar.

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Posibilidad de soborno y amenazas a testigos, problema

Autoridades del organismo judicial...



Ex militares notificados sobre imputaciones por asonada

El Juzgado Cuarto de Primera Instancia Penal de Sentencia pronunció a los ex-militares: Gustavo Adolfo Díaz López y Gustavo Adolfo Padilla Morales, sobre los hechos concretos y justificables en torno a lo que versará el proceso legal que se les ventila.

A partir de las 10:00 horas, Díaz López fue llevado por las autoridades competentes al tribunal para efectuarse la diligencia pertinente, misma en la cual, según se dio a conocer, el implicado en el movimiento del 9 de mayo, negó los hechos sobre el que se acusaba.

Cuando concluyó la actividad que se desarrolló en el despacho del Jefe del Juzgado de Sentencia, se informó que se procedió a realizar la misma actividad con Padilla.

Mientras tanto, se informó en el tribunal que está pendiente la captura de los 13 otros implicados en la asonada ocurrida recién pasado, por lo que se solicita por las autoridades que en el momento en que se proceda a su detención, se les estará ocurriendo de forma indagatoria.

Se había considerado que a finales de la presente semana algunos otros pudieran estarse acercando ante las autoridades judiciales a fin de prestar su testimonio sobre los sucesos que se dieron el pasado mes.

Sin embargo, hasta este día, ninguna de las 13 personas que han sido citadas por el tribunal ha comparecido, razón por la que se interrumpió la orden de captura para todos los involucrados.

Entre tanto, únicamente 2 oficiales que presuntamente formaron parte en el tribunal de justicia, por lo que pasó con el cargo de los otros cuando después de concluidas todas las acciones que la ley demanda, se pueda emitir una resolución en tal sentido.

El motivo que Padilla Morales y Díaz López expresan durante en la Granja Penitenciaria de

Parí, lugar al que fueron trasladados por la Auditoría de Guerra que fue la que ejecutó los primeros pasos en el proceso que se les ventila.

Es grande la expectativa que hay sobre la resolución a la que pudiera llegar el Juzgado de Sentencia sobre el conocido caso de la intervención de golpe, al final de practicarse las diligencias correspondientes.

En lo que pudiera emitirse un dictamen en tal sentido, pasarán varias semanas para que se cristalice, pero también hay que tomar en cuenta que después de conocido el fallo del tribunal competente, los abogados defensores de los implicados en el caso pueden interponer una apelación, derecho que las leyes de nuestro país garantizan.

“Pena de muerte para reo”

□ Ministerio Público la solicitó contra Pedro Lemus acusado de asesinar a la esposa de oficial militar.

Guatemala, junio 15. De nueva Redacción. Por primera vez, dentro de las innovaciones introducidas al proceso penal por la actual Corte Suprema de Justicia, se realizará una vista pública en un juzgado de Primera Instancia Penal de Sentencia, a la que podrán asistir todos los interesados en presenciar una diligencia de esta naturaleza.

Esta vista pública tendrá lugar el miércoles 28 de junio del año en curso a las 10-00 horas en el Juzgado Quinto de Sentencia. Para tal efecto fue habilitado local especial en el que podrán escucharse los alegatos de la defensa, acusador particular, y del Ministerio Público, quien defiende los intereses del Estado, así como la del acusado si fuere su deseo.

La diligencia tiene una similitud a las realizadas en el salón especial de la Torre de Tribunales por las Salas de Apelaciones y por la Corte Suprema de Justicia en su local especial en asuntos penales. En esta ocasión se realiza en que estos son tribunales colegiados y el Quinto de Sentencia, es unipersonal. Por ello se observará un solo juez.

La Vista de referencia será en relación al asesinato de la señora El Honor Lupitau Ramírez de Díaz, por cuyo deceso

se encuentra procesado el señor Pedro Lemus-Jiménez. Del hecho formulado se desprende que para cometer el delito le infringió veinticuatro puñaladas en el interior de su residencia de la zona 2 el 7 de febrero del presente año, y que se presume como móvil la sustracción de armas.

El Ministerio Público, dentro de las facultades que le confieren las leyes vigentes, al estimar que el hecho configura lo que penalmente se denomina ASSESINATO, pidió al Órgano Jurisdiccional, la pena de muerte.

El proceso penal con la vista (que en este caso será pública) satisface las garantías judiciales del debido proceso y la Convención Americana sobre Derechos Humanos. En esta diligencia los alegatos serán verbales y tanto el acusado como el acusador podrán hacer uso de la palabra de igual manera que el Ministerio Público y la Defensa.

Estas vistas públicas se realizarán en los casos que las partes así lo soliciten. Actualmente

se encuentra en proceso de modernización en la administración de la justicia, y viene a complementar los métodos modernos de investigación y

actuación introducidos con el proyecto piloto y harán del proceso penal el método adecuado para cumplir con mayor eficacia uno de los deberes que el

Estado tiene y es asegurar la libertad y la justicia para todos los ciudadanos.



□ SALA DE VISTAS. Este es el caso de vistas del Juzgado Quinto de Primera Instancia Penal de Sentencia. En la parte de adelante, el juez, estará el juez y dos de sus auxiliares. En los laterales se observan los lugares para los sujetos procesales. Y al fondo para el público asistente.

Consignan a policías corruptos

□ Dos agentes acusados de “morder” a los automovilistas.

Dos policías “mordelones” fueron descubiertos tras extorsionar a un turista, y dados de baja y consignados a los tribunales de justicia en esta capital.

Otto René Rojas y Faustino Chermel, fueron capturados tras la denuncia del ciudadano norteamericano Roberto González de León, quien manejando su vehículo con placas de Texas, Estados Unidos, fue detenido por los motoristas de la policía.

Después de pedirles su licencia, le

dijeron que no se la devolverían si no entregaba cien quetzales. El ciudadano norteamericano así lo hizo y después acudió a la policía.

Realizadas las investigaciones, se procedió a la captura de los dos motoristas, a quienes, incluso, se les decomisó parte del dinero que los había entregado el ciudadano norteamericano, incluyendo billetes de dólar.

El comisario general, Mario René Cifuentes, director de la policía, dijo que ante el valor cívico del ciudadano

norteamericano y el valor de la denuncia y la decisión de consignar a los policías por sus actos.

Cifuentes pidió a la ciudadanía reportar estos incidentes con la corrupción y dar un ejemplo a las personas honestas y patriotas, a la vez de lograr el castigo a la policía.

Vista pública en caso de asesinato

Por primera vez, dentro de las innovaciones introducidas al proceso penal por la actual Corte Suprema de Justicia, se realizará una vista pública en un Juzgado de Primera Instancia Penal de Sentencia, a la

que podrán asistir todos los interesados en presenciar una diligencia de esta naturaleza.

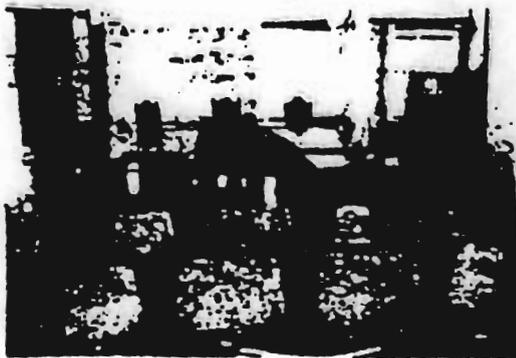
Esta vista pública, tendrá lugar el miércoles 28 de junio del año en curso a las 10 horas en el Juzgado

Quinto de Sentencia. Para tal efecto fue habilitado un local especial en el que podrán escucharse los alegatos de la defensa, acusador particular, y del Ministerio Público, quien defiende los intereses del Estado; así como la del acusado si fuere su deseo.

La diligencia tiene una similitud a las realizadas en el salón especial de la Torre de Tribunales por las Salas de Apelaciones y por la Corte Suprema de Justicia en su local es-

pecífico en asuntos penales. La diferencia estriba en que estos son tribunales colegiados y el Quinto de Sentencia, es unipersonal.

Por ello se observará un solo Juez.



SALA DE VISTA: Esta es la Sala de Vista del Juzgado Quinto de Primera Instancia Penal de Sentencia. En la parte de retroceso, al fondo, estará el Juez y desde ese momento. En los laterales se observan los lugares que ocuparán los sujetos procesales. Y al lado parte de las sillas para el público asistente.

Golpe del 9 de mayo:

Indagan a dos ex-oficiales

Dos ex oficiales del ejército, que se encuentran guardando prisión en Piedad bajo la custodia de tener responsabilidad en el fallido intento del golpe de Estado, del pasado martes 9 de mayo, 1964, fueron indagados ayer en el juzgado que tiene a su cargo el caso.

Se trata del teniente coronel Gustavo Adolfo Padilla Morales y el mayor Gustavo Adolfo Díaz López, quienes fueron capturados el mismo día de los hechos.

A las 10 horas se inició la diligencia y terminó a las trece

o con tres horas en los cuartos de juan a cargo del juzgado que trata de primera instancia penal de asistencia, licenciado Napoleón Gutiérrez Vargas, informó a los detentados sobre el hecho en torno al que desarrolla el proceso.

En este procedimiento de hechos, los dos detentados consultaron con el respaldo de sus abogados y recibieron toda la información del caso.

Este hecho, se les explicó, debe ser probado por la acusación o bien desvirtuado por sus defensores, como sucede en los procesos ordinarios.

□ Ninguna captura

Mientras tanto se estableció que pese a la orden de captura librada por el mismo tribunal, hasta ahora ningún civil ha sido aprehendido con relación al intento de golpe de Estado.

Tres civiles se encuentran imputados en estos hechos y para varios de ellos se libró la orden de detención por el tribunal indiciado, pero hasta ahora no se ha dado la captura de ninguno de ellos.



□ Pese a la orden de captura del tribunal, hasta ahora ningún civil ha sido aprehendido con relación al intento de golpe de Estado. Tres civiles se encuentran imputados en estos hechos y para varios de ellos se libró la orden de detención por el tribunal indiciado, pero hasta ahora no se ha dado la captura de ninguno de ellos.

□ Este hecho, se les explicó, debe ser probado por la acusación o bien desvirtuado por sus defensores. La diligencia se realizó también en la presencia del abogado Gustavo Adolfo Padilla Morales. Terminó a las diez horas y comenzó el caso de los otros, se les explicó y se les dijo.

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Totonicapán contará con juzgado piloto

Con el propósito de mejorar la administración de justicia en todo el país será inaugurado a mediados de julio del presente año, el Tribunal Piloto en la población de Totonicapán, dieron a conocer fuentes oficiales del Organismo Judicial.

Esta actividad busca la capacitación de los empleados de la entidad y de los investigadores de la Policía Nacional, agregaron las fuentes.

El Juzgado Piloto será abierto en aquella población luego de un estudio que se hizo por espacio de dos años en los que se tomaron en cuenta los aspectos de comunicación, tal es el caso de los dialectos que

se hablan en la región.

Dicho tribunal tendrá como auxiliares a los alguaciles que serán los habitantes de aquella localidad, se contará además con la colaboración de traductores y personal especializado en la lengua quiché, la que es dominante en aquel departamento del interior.

De esta manera se buscan las formas de que la población pueda acudir a los tribunales para exponer sus propios asuntos en su lengua materna, sin que tengan que acudir al auxilio de los abogados, cuando ver médicos no se lo permitan.

Por otra parte, agregaron las fuentes que se tiene pensado la elaboración de un proyecto en lengua quiché que será explicado verbalmente por los alcaldes auxiliares sobre las funciones del Organismo Judicial y los derechos que otorga la Constitución a todos los habitantes del país.