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ASSESSMENT OF USAID/COLOMBIA'S JUSTICE REFORM AND MODERNIZATION PROGRAM

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Management Systems International
Corporate Offices
600 Water Street, SW
Washington, DC 20024

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Assessment of USAID Justice Strengthening Efforts

CONTENTS

LIST OF ACRONYMS AND ABBREVIATIONS

ADR	alternative dispute resolution
C&A	Casals and Associates
CCP	Code of Criminal Procedures
CEJ	*Corporación Excelencia en la Justicia*
CONPES	*Consejo Nacional de Política y Economía Social*
CSDI	Colombia Strategic Development Initiative
CSJ	*Consejo Superior de la Judicatura*
CSO	civil society organization
CTI	*Cuerpo Técnico de Investigación*
DAS	*Departamento Administrativo de Seguridad*
DEA	*Dirección Ejecutivo de Administración Judicial*
DIJIN	*Dirección Central de Policía Judicial e Inteligencia*
DOJ/OPDAT	U.S. Department of Justice, Office of Overseas Prosecutorial Development, Assistance, and Training
EU	European Union
FARC	*Fuerzas Armadas Revolucionarias de Colombia*
FES	*Fundación de Educación Superior*
FIU	Florida International University
GOC	Government of Colombia
IDB	Inter-American Development Bank
ISO	International Organization for Standardization
JASC	Judicial Service Center
JP	Justice of the Peace
JRMP	USAID Justice Reform and Modernization Program
MIJ	*Ministerio del Interior y Justicia*
MIS	Management Information System
MSD	Management Sciences for Development, Inc.
MSI	Management Systems International, Inc.
NGO	non-governmental organization
OEA	*Oficina Especial de Apoyo*
OECD	Organization for Economic Cooperation and Development
OPDAT	Office of Overseas Prosecutorial Development, Assistance, and Training
PD	Public Defender
PDO	Public Defender's Office
SIJIN	*Seccional de Investigación Judicial e Inteligencia*
SPOA	*Sistema Penal Oral Acusatorio*

URI	*Unidades de Reacción Inmediata*
UNDP	United Nations Development Program
USG	Unites States Government
USAID	United States Agency for International Development

EXECUTIVE SUMMARY

MSI conducted an assessment of the USAID/Colombia Justice Reform and Modernization Program (JRMP), which began in May 2006 and is scheduled to conclude in June 2010. The goal of the assessment was to gauge the overall impact of USAID's justice program, identify lessons learned, and make recommendations for future justice programming. The assessment is intended to inform the design of an 18-24 month "bridge" project that will carry over activities until inception of the next major phase of the justice sector program and, to the extent possible at this time, the design of the next major project phase.

The JRMP has focused on four principal areas: 1) implementation of criminal procedure code reforms and the accusatorial system, 2) strengthening court administration and management, 3) increasing access to justice (in main thematic areas of Justice Houses, alternative dispute resolution, and public defense), and 4) enhancing civil society support for and participation in justice reform processes. USAID/Colombia intends to emphasize increased access to justice in its next strategy period, and will concentrate efforts in rural conflict-affected zones in accordance with the 2010-2014 Country Strategy and the U.S. Embassy's inter-agency Colombia Strategic Development Initiative (CSDI). Consequently, the team directed particular attention to challenges of access to justice in the CSDI zones.

The assessment team reviewed project-generated reports and other documents, reports, and publications provided by the Mission and others. During a month of field work, the team interviewed over 200 people in five departments, in addition to Bogotá. The team found significant advances in strengthening and modernizing the justice sector and several areas of positive JRMP impact. The team could not, however, accurately assess the program's overall impact because of the lack of necessary diagnostics, statistics, evaluations, and other monitoring tools. Two factors account for this deficiency and should be addressed in future projects: the absence of adequate performance monitoring in almost all of the Colombian institutions surveyed, and the JRMP's prioritization of deliverables over evaluations, especially as the program nears its end.

A. Colombian Justice Sector Context and Background

Colombia has always had an extremely complex justice sector, even for a region where complexity seems to be the rule, and the constitutional reform of 1991 added yet more layers. Since the passage of the 1991 Constitution and related secondary laws, the Colombian government has made substantial changes to justice sector organization and operations. Criminal laws and jurisdiction have been a focus of national reform efforts, as well as USAID support, culminating in the passage of a revised Code of Criminal Procedures (Law 906/2004) implementing an oral accusatory system. The new Code (the third enacted since 1991) has now taken effect in all regions of Colombia, with resulting improvements in due process guarantees and the expedited handling of the least complex (in *flagrante*) crimes. Problems with police investigation, police-prosecutorial coordination, and judicial administration and management have impeded the prosecution of more complex crimes. Although Colombians' level of confidence in their justice system is among the highest in the region, rising urban crime rates and public perceptions of inadequate prosecution of more serious crimes have led to increasing criticism of the reforms.

Colombia's formal justice institutions are fairly well distributed throughout the country, but function under serious constraints in conflict-affected regions. In those areas, illegal armed groups may act as the *de facto* justice system, or may effectively constrain the operation of judicial actors. Availability of justice sector services to rural and other poor citizens is further limited. Although judges are present in nearly every county, there are other barriers to access, including logistics, costs, availability of legal representation, and citizens' ignorance of basic rules and legal rights. In CSDI regions, formal and alternative services can only operate effectively once a certain degree of security can be assured. Many of the armed bands operating in rural areas, however, now appear to be moving into the cities, where crime rates are rising.

B. Findings and Recommendations Regarding the Current Program

Strengthening Implementation of Criminal Procedure Code Reforms and the Accusatorial System: The JRMP has helped the Colombian authorities advance code implementation (Law 906). The USAID program's principal flaw was in adopting the Colombians' assumption that simply implementing the new code would be sufficient. The problem is the new system's failure to meet public expectations as regards not only human rights guarantees, but also the investigation and prosecution of serious crimes. This is more an institutional than legal issue, and will require attention to enhancing the ability of sector organizations to carry out their roles adequately.

Recommendations:

- Encourage the review and discussion of existing studies that attempt an in-depth, empirically based analysis of advances and problems under the new criminal procedures;
- Review the two indicator projects financed by USAID and the EU with members of sector institutions and try to reach a consensus on: 1) desired impacts, and 2) the indicators that would be most useful in tracking them;
- Engage the Inter-Institutional Commission on Code Implementation and its individual members in both exercises to encourage their development of remedies in areas where the system's performance has been weakest;
- Review methodologies developed under the JRMP to assess the impact of training programs and either encourage their application or, if found wanting, develop better programs to emphasize impact-oriented training;
- Coordinate with OPDAT on all of the above, as they recognize the problems and their work with Public Prosecution and the investigative police is obviously critical.

Strengthening Court Administration and Management: The JRMP has had limited impact on court administration and management. This is due to the government and the program's lack of a comprehensive strategy for making improvements in these areas and linking them to improved system outputs. Instead, both have focused on processes – automation, the introduction of audio and video equipment for recording proceedings and facilitating "virtual hearings," ISO certification, and raising the quality and accelerating the speed of what has always been done – without a clear notion as to the ultimate objectives or a consideration of the need to change other long-standing practices. The most valuable part of USAID's efforts in this area is the work being done in Paloquemao (the Bogota criminal court complex) to pilot basic structural changes in support services affecting individual court operations, and to turn Siglo XXI (the judiciary's rudimentary case tracking software) into a management information system (MIS), as well as augmenting its other functionalities.

Recommendations:

- Work currently under way in Paloquemao to improve judicial services should be continued, evaluated, and discussed with the Judicial Council to explore expansion to other courts. The improvements to Siglo XXI are particularly important. Discussions should emphasize short- to medium-term improvements in the ability to track performance and addition of functions that could immediately improve courtroom performance;
- While the ISO exercise has achieved some improvements in the courts to which it was applied, USAID should emphasize ways to encourage their wider adoption without repeating the entire ISO procedure;

- Use of "virtual hearings" should be closely monitored for possible due process violations, and means to make audio transcripts of all hearings more user friendly (i.e. easier to review) should be explored.

Increasing Access to Justice – Supporting the Justice House Program: Justice Houses have been the flagship of USAID assistance since the mid 1990s and represent the largest JRMP investment. They are an important inter-institutional resource to address community needs and provide for peaceable resolution of everyday legal disputes and increased access to services, especially in marginalized and vulnerable areas. The JRMP has, however, focused to a large extent on increasing the number of Justice Houses without sufficient emphasis on monitoring and evaluating their use and impacts. Sustainability is also a serious unresolved challenge. Achievement of a co-financing agreement with the Ministry of Interior and Justice was a major step toward sustainability, but has been fraught with problems in its execution. Similar support agreements with local authorities and national institutions have not been completely or consistently fulfilled, thus compromising staffing, services, and operation of many Justice Houses.

Recommendations:

- Under the "bridge" project, USAID should concentrate efforts on evaluating the Justice House program to identify impacts, needs, and determine how to strengthen the existing Justice Houses and resolve operational difficulties before carrying out significant program expansion. Special attention should be given to issues of staffing, preliminary studies/placement strategies, utility, national/local support, and program sustainability;

- At the same time, USAID should consider how Justice House services can be extended to more dispersed populations, and explore alternatives to the placement of traditional Justice Houses in rural conflict-affected counties and CSDI regions, where different approaches might be necessary;

- Finally, adequate monitoring, oversight, and reporting mechanisms should be put in place to collect and analyze information necessary to shape and direct the future of the program.

Increasing Access to Justice – Supporting Alternative Dispute Resolution Mechanisms: Broad legislative authority, minimal standards of certification, and proliferation of training have created a cottage industry in various methods of conciliation with competing or overlapping jurisdiction. ADR practice and practitioners have gained strength and prominence, but the assessment revealed a fundamental lack of information concerning the activities and impact of ADR providers. Standards are not in place, and conciliation practices are largely unregulated and unmonitored. The program deliverables have focused too much attention on total numbers of people trained without adequate attention to follow up and monitoring of practitioners. The majority of those trained in equity conciliation do not practice actively, and caseloads of these and other practitioners vary dramatically. In the future, attention should be directed at both the quantity and quality of conciliation processes and agreements reached through ADR mechanism, actual compliance with agreements or orders, and the differences between urban and rural zones in ADR needs and effectiveness.

Recommendations:

- Support policy, legislative, and regulatory reforms to consolidate and streamline ADR services, reduce overlap and duplication of jurisdiction, and impose meaningful and consistent professional standards to distinguish ADR service provision, assure a higher quality of practitioner, and improve services;

- Any significant expansion of training or support for specific ADR activities/entities should await preliminary studies and diagnostics to determine needs, utility, and impact of various types of dispute resolution mechanisms, with specific attention to CSDI regions.

Increasing Access to Justice – Strengthening the Public Defender's Office: The only program element where the impact is indisputable and plainly attributable to the USAID justice program is the significant strengthening of the Public Defender's Office and the improvements to the quality of its services, for which USAID was largely and primarily responsible. With JRMP assistance and support, the institution has become much stronger and more credible, coverage has been expanded, and the office is recognized for providing quality representation and services. The project has also made considerable strides toward sustainability.

Recommendations:

- USAID should maintain its support to the Office of the Public Defender. Although this office is not in jeopardy, care should be taken to assure that it continues to operate and function at high levels;

- Assistance should be directed to resolving operational and ethical issues posed by victim representation obligations under the Justice and Peace Law, and to helping the office to develop a strategy and plan to accommodate the increased demand for other types of non-criminal defense. Attention should be directed to institutional strengthening as needed, setting appropriate workloads, and developing effective and lawful approaches to assure adequate public defender coverage, especially in CSDI regions.

Increasing Civil Society Participation in Justice Reform: Support to a variety of grassroots organizations and coalitions appears to have helped to raise the profile, legitimize, and create a venue and tools for increased justice-related initiatives, participation, and advocacy; technical management and financial oversight, however, has been time-consuming and problematic. This component also encompassed funding to more sophisticated, national-level CSOs and research institutions for the provision of services and preparation of studies and diagnostics. Dispersed support to numerous small grantees of widely varying and diverse capacity and skills has led to questionable impact and sustainability, has required substantial investment of time and resources, and has hindered the project's ability to achieve more than modest generalized impact. This project component has suffered from the lack of a clear strategic direction or defined objective.

Recommendations:

- Civil society strengthening should accompany and complement the justice program elements, but significant further investment should await a strategic framework for future civil society work clarifying and defining the criteria for support, the impact being sought, and through which categories of actors;

- In CSDI regions in particular, civil society efforts to monitor, oversee, and strengthen the justice sector should be combined with work to increase citizen education and awareness of legal rights and resources;

- The project should differentiate design strategies and processes depending on the size, capacity, interests, and sophistication of potential grant recipients, as well as the objectives sought through their involvement;

- Administrative and logistical management should be improved.

C. Recommendations Regarding the "Bridge" Project

The anticipated "bridge" project provides an opportunity for USAID to conduct a stock-taking exercise to review and evaluate progress/impact to date and assess future needs. Specifically, the team recommends:

- During the "bridge" project, **USAID should shift its focus from replication and expansion of project deliverables to analyzing impact, sustainability, and consolidation of existing programs and activities**. Ongoing plans and programming elements should be continued at their current levels, but plans for further significant expansion should be scaled back pending diagnostic

results. USAID should conduct diagnostics of justice sector needs so as to appropriately direct and shape the next phase of programming;

- **Special attention should go to reviewing the fate of certain initiatives (especially development of training evaluation methodologies, of Criminal Procedures Code indicators, of draft legislation and so on) which appear not to have been adopted.** Aside from determining their intrinsic worth, the reasons for the limited or null follow-through should be identified, as they may indicate future problems beyond those that are likely to be resolved by a contractor;

- **For targeted CSDI regions, USAID should conduct assessments to determine the existence and extent of unmet needs, as well as to identify the most appropriate formal or informal mechanisms and service providers to increase meaningful access to justice.** These regions are geographically, politically, and culturally different from those where USAID has focused judicial strengthening, and their individual circumstances also vary. For USAID to achieve its goals, it must have a nuanced and up-to-date understanding of the particular needs of these populations, as well as a better grasp of by what means and how well they are currently addressed;

- **Security concerns should be paramount when determining how and to what extent access to justice in CSDI regions, whether formal or informal, can realistically be enhanced.** In some areas, the presence of illegal armed actors constrains or supplants a functioning justice system. Efforts to reduce impunity in these areas will likely face serious limitations. It is probably unrealistic to assume that legitimate actors promoting access to justice can accomplish this as well, both because of the threats this may pose to them and those who access their services, and because they are unlikely to have the special skills needed for this additional work;

- **USAID should continue to focus on coordination with other donors during the design of the follow-on justice program**. Special attention should be paid here to the three large projects about to start (the IDB and World Bank loans, and the EU grant for work with the Prosecutor's Office); the first two are likely to provide substantial resources for funding equipment and infrastructure, meaning that USAID contributions here can either be cut back or should be channeled more carefully. Another EU project with "peace laboratories" will target many conflict-affected regions and USAID should likewise explore opportunities for coordination there.

I. INTRODUCTION

A. ASSESSMENT OBJECTIVES AND METHODOLOGY

The USAID/Colombia Mission contracted with MSI to conduct an assessment of its Justice Reform and Modernization Program (JRMP). The program has been implemented by Florida International University's Center for the Administration of Justice (FIU) since its inception in May 2006, and is scheduled to conclude in June 2010. USAID/Colombia commissioned this assessment to review its justice strengthening efforts under the JRMP, assess fundamental impact, identify lessons learned, and develop recommendations for future justice programming.[1]

The assessment team consisted of four rule of law experts, including three lawyers and one political scientist with extensive regional experience and expertise in legal systems and reform. J. Michele Guttmann (team leader, MSI) and Linn Hammergren (senior rule of law expert, MSI) were the expatriate team members. Two Colombian lawyers and technical experts also served on the team: Luís Alfonso Fajardo Sánchez, an expert in human rights, humanitarian law, and access to justice for vulnerable populations; and Adriana Ortíz Serrano, a specialist in constitutional law, human rights, and access to justice for displaced populations. A fifth team member, Beatriz Alvarez, handled in-country logistics and coordination. Jonathan Brunson of MSI provided research and logistical support throughout. The team would especially like to thank Jene Thomas, Anu Rajaraman, Orlando Muñoz and Ayda Cardoza of the USAID/Colombia Democracy and Human Rights team for their substantial assistance and support in both the preparatory phase and field work.

The study began with a desk review of USAID project-generated documents and reports, along with other assessments, reports, and publications provided by the Mission. The expatriate assessment team held initial planning meetings and conducted preliminary interviews over two days in Washington, D.C., in December 2009.

The entire team met in Bogota, Colombia, in early January 2010 and began a month of field work that included travel to six locales (covering five departments) outside of Bogota: Cartagena, Sincelejo, Tumaco, Medellín, Apartadó, and Villavicencio. (See Annex 1) The site visits were selected with the input and approval of USAID/Colombia and the Mission assisted with the identification of appropriate people and organizations for interviews in both Washington and Colombia. To the extent possible, the team sought to interview similar organizations and institutions in all the sites visited, and to cover similar questions for comparison and contrast. In addition, the team observed courtroom proceedings and hearings in all locations, visited Justice Houses and other centers for alternative dispute resolution, and conducted a number of group interviews and focus groups. To expand the geographical scope and simultaneously test project equipment, a series of three "virtual" interviews were conducted using the "virtual courtroom" facilities and equipment in Villavicencio for interviews of judicial personnel in outlying areas of the region. In addition, equity conciliators from three outside areas traveled to Villavicencio for a focus group. In total, the team interviewed more than 200 people. (See Annex 3)

[1] The predecessor to the JRMP, the Administration of Justice Program, was implemented by Checchi and Company Consulting, Inc., from 2001 to 2006. Many of the JRMP assistance efforts and program components were initiated under that prior program, and continued and were modified during the FIU contract. Although this assessment focused on the current JRMP, both phases of USAID/Colombia justice programming are interrelated and are therefore discussed at times in this report.

B. USAID/COLOMBIA JUSTICE PROGRAM DESCRIPTION AND HISTORY

The JRMP has its roots in a justice sector program that began in Colombia in 1986 as one of USAID's earliest justice assistance programs. In 1986, USAID awarded a series of small grants to be managed by a private foundation, the *Fundación de Educación Superior* (FES). The grants financed research, a diagnosis of judicial needs, pilot programs to modernize court systems, training, and the creation of an inter-institutional Advisory Committee. The work from those initial projects influenced and provided input to the restructuring of the Colombian justice system that culminated in the constitutional reform of 1991. In 1992, USAID initiated a $36 million project, also channeled through FES, to support the implementation of the constitutional reforms and further restructuring of the justice sector.

Throughout the 1990s, the justice program was affected by significant swings in support and funding, including the planned closure of the Mission in late 1999. Notwithstanding, USAID was able to implement and maintain a program to increase access to justice at the local level beginning in 1994, when it introduced the pilot model for local Justice Houses (*Casas de Justicia*). At around the same time, USAID also began to provide institutional support to develop and strengthen the Colombian Public Defender's Office. USAID assistance and programming were increased significantly at the end of 2000 as a consequence of the passage of "Plan Colombia." The justice program has continued in two phases without interruption since then.[2]

In 2001, USAID awarded a contract to Checchi and Company Consulting, Inc., to implement its Colombia Administration of Justice Program (2001-2006). The broad objective was to increase access to justice in Colombia. The program worked principally in four areas: 1) support for the introduction of the oral accusatorial criminal justice system and criminal procedure code reform; 2) institutional strengthening and professionalization of criminal public defender services; 3) establishing Justice Houses to offer a variety of services, primarily in low-income, urban neighborhoods; and 4) support for alternative dispute resolution mechanisms. Civil society activities supporting the four principal programs, mainly through the issuance of small grants, constituted a fifth, cross-cutting area. An additional cross-cutting focus on ethnic and gender issues was added midway through the contract.

In 2006, USAID awarded the contract for a follow-on justice project – the Justice Reform and Modernization Program – to Florida International University's Center for the Administration of Justice (FIU). The project will conclude in June 2010 after four years (the three-year base period plus one additional option year). The project is directed towards overarching goals of judicial reform and expanded access to justice, and focuses on four major areas:

1. Implementation of criminal procedure code reforms and the accusatorial system;
2. Strengthening court administration and management;
3. Increasing access to justice in main thematic areas of Justice Houses, alternative dispute resolution, and public defense; and
4. Enhancing civil society support for and participation in justice reform processes.[3]

Extension of justice services to rural, conflict-affected, and marginalized populations is a cross-cutting theme applicable to each of the above areas. A further underlying goal of the program is to promote "Colombianization," i.e., to promote sustainability of rule of law reforms beyond the end of foreign assistance, to generate local ownership, and to develop institutional capacity to meet public demands.

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[2] For more details concerning the history and contributions of USAID/Colombia's justice sector support through 2001, see MSI, "Achievements in Building and Maintaining the Rule of Law: MSI's Studies in LAC, E&E, AFR, and ANE," (Washington, DC: USAID, 2002) pp. 46-51.

[3] This component has been carried out by FIU's subcontractor, Casals and Associates, Inc.

The current justice program has worked alongside the human rights program implemented by Management Sciences for Development, Inc. (MSD), and has worked jointly to develop and implement training modules for public defenders on international human rights law and victims' rights. In addition, the project has partnered with the U.S. Department of Justice Office of Overseas Prosecutorial Development, Assistance, and Training (OPDAT) to carry out mock trial competitions and to create a model Center for Victims of Crime in Bogota. USAID and OPDAT have collaborated and coordinated further to implement justice sector reform initiatives and extend training and activities without duplicating efforts. FIU has also monitored other justice support efforts and has been in close contact with other international donors in this area, although its initial attempts to undertake a more active coordination role met resistance from the Colombian government agency that organizes international cooperation and coordination with international/national agencies and donors (*Acción Social*).

In 2010, as the JRMP comes to a close, USAID anticipates putting in place a short-term (18-24 month) "bridge" project to carry over activities and planning until inception of the next major phase of the justice sector program. This assessment will inform activities under the "bridge" project and, to the extent possible at this time, the design of the third major project phase. Although a central goal of this assessment was to gauge the overall impact of USAID's current justice program, the team's efforts were impeded by the dearth of evaluations, diagnostics, statistics, and monitoring. The effect of this lack of information will be discussed in each of the relevant program component sections that follow. From a broad overall perspective, however, the evaluation of impact must rely on evidence that is largely anecdotal; causal links between USAID programming and impact are thus necessarily speculative.

C. THE ROLE OF OTHER DONORS

USAID and the U.S. government (USG) as a whole are doubtless the donors providing the longest and most sustained support to Colombia's justice sector reforms. Recently, however, other donors have taken a large role. The Inter-American Development Bank (IDB) has sponsored at least three large loan projects: one in the 1990s to support reorganization of the Prosecutor's Office, a second to modernize the Inspector General's Office, and a third $25 million effort to improve information management and related activities in the three high courts and the Judicial Council. The World Bank recently ended a small loan project to support model court administration and recently approved a $42 million loan aimed at improving civil, administrative, and labor justice. The European Union's program for "Justice and the Rule of Law" has sponsored several activities, including a 12 million euro grant for strengthening the rule of law (largely focusing on judicial training), an eight million euro grant for attention to the victim, and a second rule of law program phase that will focus mainly on the Prosecutor's Office and its investigative police – the *Cuerpo Técnico de Investigación* (CTI).

The contributions of other donors have been smaller, if not necessarily less critical. Under the JRMP, FIU made a concerted effort to coordinate with them, as well as with other USG contractors and agencies. Both individually and collectively, the donor contributions still represent a small part of the sector budget, and all tended to agree that their ability to "encourage" some of the fundamental changes most believe are necessary was consequently quite limited. As a result, they often end up funding equipment, training and infrastructure, which is what their counterparts most desire.

D. CONTEXTUAL NOTE: THE COLOMBIA STRATEGIC DEVELOPMENT INITIATIVE

The conduct of this assessment was guided to a great degree by the stated intent of USAID/Colombia to emphasize increased access to justice in its next strategy period, and to concentrate efforts in rural conflict-affected zones in accordance with the 2010-2014 Country Strategy and the U.S. Embassy's inter-agency Colombia Strategic Development Initiative (CSDI). The CSDI aims to complement and support the

National Consolidation Plan now being undertaken by the government of Colombia (GOC), and constitutes the focal point for agency initiatives in the Embassy in the upcoming strategy period.

The goal of the GOC's National Consolidation Plan is to extend security and development throughout the country. Although Colombia at the national level has made impressive strides in developing technical capacity of national democratic institutions, significant challenges remain to the state's legitimacy and effectiveness in parts of the country, especially in rural and conflict-affected areas where its presence is precarious or nonexistent, in which access to justice and effective, functioning justice institutions are particularly challenging. Some have characterized these regions as "Non-Institutionalized Colombia," or "Colombia in Conflict," where democratic institutions and processes, rule of law, governance, and citizen security remain fragile and economic opportunities are few. The National Consolidation Plan seeks to consolidate security and social gains by building state presence in previously ungoverned areas of the country, and to sequentially provide security, law enforcement, rule of law, and development assistance in a coordinated and combined manner.

The CSDI was designed to support the National Consolidation Plan by focusing U.S. assistance in strategic territories to reduce imbalances between the more institutionalized regions of the country and historically marginalized regions – an attempt to level the playing field. CSDI activities are carried out in an integrated, sequenced approach and concentrate in five geographic areas, known as "consolidation zones." The assessment team devoted substantial time to investigating and analyzing justice issues confronted in rural, conflict-affected areas, and was able to conduct field work in four of the five CSDI consolidation zones, e.g., the Southern Band, Montes de María, the Central Band, and Pacific-Urabá.[4]

[4] The five CSDI consolidation zones are: 1) Southern Band (Nariño and Putumayo), 2) Montes de María, 3) Central Band (Buenaventura to Meta), 4) Bajo Cauca and Catatumbo, and 5) Pacific-Urabá.

II. THE COLOMBIAN JUSTICE SECTOR: BACKGROUND AND OVERVIEW

Country Background: By population (roughly 47 million), Colombia is the third largest country in Latin America. It has historically been characterized by a widely dispersed population – multiple major urban centers rather than a single dominant one – and intense regionalism. The country's large territory and difficult topography obstructed the formation of a national polity and economy in its early years. After the late nineteenth century, the struggles were for the most part conducted within a constitutional framework, with the 1896 Constitution remaining in effect until 1991. Violence has nonetheless been a constant factor, leading to a period of near civil war in the 1940s and 1950s, the establishment of a short-lived military dictatorship (1953-1957), and subsequent outbreaks of intense internal conflict fomented by guerilla, paramilitary, and drug trafficking groups.

Colombia is still not at peace, but under the two-term Uribe administration has managed to reduce substantially the extreme threats to national survival posed by illegal armed actors. Wide stretches of the country, however, still lack effective government presence, which poses immediate and highly relevant concerns for access to justice and justice programming. In some cases (the vast eastern lowlands or *llanos*) this is partly a function of very low population density and, until recently, a negligible economic importance. In others, it is a result of settlement by populations seeking to avoid external control (escaped slaves, indigenous groups, or those simply looking for a new frontier) or domination by local strongmen (*caciques*) who had earlier proved convenient allies for governments unable or unwilling to expand their direct presence.

Recent studies belie the historical depiction of Colombia as a land of small to medium coffee farmers and thus a fairly homogenous, egalitarian population. The nation currently has one of the highest levels of inequality in the region, a large impoverished population in both rural and urban areas, and a small but significant number of communities laying claim to their own governance traditions. These include some 82 indigenous groups (roughly one percent of the total population) and Afro-Colombians (divided into *palenqueros*, or descendants of slaves who escaped to the Pacific and Caribbean coasts, and *raizales*, located largely on the islands of Providencia and San Andres). Afro-Colombians constitute between 19 and 25 percent of the total population, and an estimated 1.2 million (about two percent) live in self-governing communities.[5]

The Constitution accords indigenous populations the right to their own governance and legal traditions, so long as they do not violate basic human rights; Afro-Colombians have been recognized in a separate law, but lack similar constitutional status.[6] For both groups, land ownership constitutes a major legal issue: Afro-Colombians traditionally "hold" land in common, and indigenous populations have traditionally resided on large stretches of otherwise unoccupied land that have recently become economically or politically significant, e.g., they may overlay oil deposits, or be close to vulnerable borders.

Historically, these and other impoverished rural populations lacked title to land, either occupying what was apparently unclaimed by anyone else or using land formally held by absentee or inattentive landlords. This fact, combined with massive displacements of populations owing to the last few decades of violence, the emergence of agro-industry, and the tendency of the newly (and often illegally) wealthy to invest in land, threatens to make land use and ownership a new source of conflicts and of demands for access to the justice system. A second set of legal issues arising from the recent conflicts involves policies concerning reparations to victims, attention to displaced peoples, and identification and prosecution of rights abusers (including those in the government).

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[5] Davis and Sanchez, 2003.

[6] A third group given special recognition is the Roma, but they number only about 40,000 and while they retain their own traditions, tend not to live in isolated communities.

Justice Sector Organization: Colombia has always had a complex justice sector organization, and the Constitution of 1991 added still more elements. These include the creation of a separate Constitutional Court, the Superior Judicial Council (responsible for various administrative and disciplinary functions for the judicial branch and its three court systems: constitutional, administrative, and ordinary justice), the Prosecutor General (responsible for criminal investigation and prosecution), and the Office of the Ombudsman, which also incorporates the Public Defender's Office. (See Annex 2) Two special features, existing prior to 1991, are the separate system of administrative courts, headed by its own Council of State,[7] and the Inspector General (*Procuraduría*), a body responsible for investigating administrative abuses and generally guaranteeing respect for legality and constitutional rights, most often through direct participation as an additional party in criminal and civil cases. In practice, however, its role has at times been controversial. Although criminal investigation and prosecution of corruption rests with the Prosecutor General, the office of the Inspector General is supposed to function as an important disciplinary and internal control on corruption and other abusive actions. Unlike similarly named bodies elsewhere in Latin America, Colombia's *Procuraduría* does not represent the State in litigation. That function is performed by other public attorneys attached to individual ministries under the direction of the Ministry of Interior and Justice.

Colombia is a unitary and not a federal republic, but its judicial system has long been influenced by local political elites. Until the mid 20th century, lower level judges were appointed or nominated by departmental and municipal councils while the Supreme Court was elected by the national Congress. This situation ended when the two dominant political parties formed a national front in 1957 (in part to defuse the intense partisan competition blamed for the prior period of violence). A policy of *cooptación* was substituted, whereby the Supreme Court chose its own members and in turn managed other judicial appointments. This arrangement hardly ended political interference, but it gave the judiciary a level of autonomy unique within the region. Prior to 1991, the Supreme Court had taken control of some administrative functions formerly handled by the then Ministry of Justice, but under the new Constitution these powers were transferred to the Judicial Council's Administrative Chamber. The Chamber was also made responsible for vetting all judicial candidates (except for the Constitutional Court), thus setting limits to the high court's ability to choose its own members and lower level judges.

Despite the country's size, and the limited extent of government penetration, the justice sector entities and representatives are fairly well dispersed. The Judiciary's Statutory Law requires a judge to be present in every county (*municipio*) and for the most part this is honored; county judges are often accompanied by a prosecutor and a police agent. In areas controlled by armed bands (or just by local *caciques*), the judge and others may not be able to decide significant cases or even get outside the county seat, but they are present.[8] The country's number of judges, prosecutors, investigative police, and public defenders is on the high end for the region, while its litigation rate (calculated as the percentage of new filings per 100,000 people) is a modest 4,000.

Caseloads are also modest,[9] if fairly unevenly distributed, but clearance and congestion rates remain poor. The problem is historical, as explained below, but Colombians believe it has been aggravated by the post-1991 introduction of the *tutela.* A *tutela* is a form of extraordinary writ to protest violations of individual rights. It can be submitted to any judge and must be decided within 10 days, and now constitutes over 25 percent of the total caseload (and over 50 percent of that for criminal courts). Court congestion is highest in the civil and administrative jurisdictions. For criminal cases, most of the backlog consists of cases still under investigation in the Prosecutor's Office.

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[7] Until fairly recently the Council was the only entity in this jurisdiction, but there are now a series of appellate and first instance administrative courts.

[8] Garcia, 2008.

[9] Over the past few years, average new filings have been 300 per judge. This does not include *tutelas* (extraordinary writs), which would raise the number by 25 to 50 percent. However, as compared to other more developed judiciaries in the region (Argentina, Brazil, Chile, Costa Rica), this is still on the low side. All judges have cases transferred from prior years, and there are courts with far more (and far less) than the average, so this does not affect the assessment.

In terms of the quality of justice rendered, Colombia has long been considered, by both its citizens and many external observers, to be less problematic than many of its regional neighbors. According to the 2008 Americas Barometer, it is second in the hemisphere (following only Canada) as regards overall confidence in the justice system (56.3 percent versus 60.0 for Canada and 50.8 for the U.S.). Confidence in the Colombian justice system, as reported in prior annual Americas Barometer surveys, has increased steadily for the past several years (from 48 percent in 2005 to 49.9 percent in 2006, 51.5 percent in 2007, and 56.3 percent in 2008). Its Constitutional Court ranks second only to Costa Rica (55.7 versus 58.3 percent), and its Prosecutor's Office ranks highest among the eight Latin American countries surveyed. The percentages of citizens reporting high or moderate satisfaction with the work of the first instance courts were 18.2 and 43.9, respectively. The very high rankings are somewhat surprising given often pointed criticisms offered by the legal community and the government itself. However, as Uprimny (2006) and others note, much of the positive perception may stem from the Constitutional Court's activism in protecting citizens' rights and the availability of the *tutela*. In terms of efficiency, delays, and costs, the rest of the system confronts serious problems, but for those who can turn an ordinary complaint into a constitutional issue, much of this can be circumvented. [10]

A second series of problems involves the availability of sector services to rural and other poor citizens. Although judges are present in nearly every county, there are other barriers to access – logistics, costs, availability of legal representation (required for most cases), and ignorance of basic rules and legal rights. The government's current "National Consolidation Plan," an effort to introduce, reestablish, or fortify its presence throughout the country in the aftermath of decades of internal conflicts, has put a special emphasis on the justice sector. Concretely, this means placing both formal and alternative services in more isolated areas of the country once a certain amount of security can be assured. The emphasis on rural areas may, however, require some readjustments given recent trends toward a reemergence of urban violence. Unfortunately, many of the "armed bands" waging war in the countryside have now moved to the cities where they indulge in a variety of criminal actions. Poor communities, and especially those inhabited by displaced populations, are particularly afflicted, although violence has now spread to more affluent urban areas.

Criminal Justice Reforms: As should be evident from the above discussion, Colombia's justice problems and reforms are not limited to the criminal jurisdiction, but for a variety of reasons it has received the most attention. Colombia has been attempting to improve its criminal justice system for at least 70 years.[11] The preferred method has been to enact a new procedural code; since 1938, Colombia has introduced six of them.[12] The 1938 code introduced many themes that would be repeated over the ensuing decades: procedural simplification, concern for the victim of the crime, and the separation of the investigation from the trial stage. Along with the codes enacted in 1971 and 1981, it attempted to improve the system's ability to deal with rising crime and violence. Nonetheless, by 1964, Colombia's criminal justice system was processing only about 10 percent of the investigations initiated.[13] The simplest cases tended to reach conclusion, while the rest were left either uninvestigated, or with investigations never completed.

Although Colombia's movement toward an oral accusatory system began earlier, the three post-1991 codes made the greatest advances, culminating in Law 906 enacted in 2004. Given past history, it is likely that this will not be the last word on the subject, but the current code does advance changes begun earlier and, moreover, has probably had the greatest impact on actual practices. Still, the problems documented in the 1960s remain very visible. With the escalation of urban violence, discussions of the need for more drastic

[10] A similar phenomenon is seen in Costa Rica, where the Supreme Court's Constitutional Chamber is widely regarded as the champion of the little guy, despite considerable evidence that the rest of the system is bogged down in complex procedures and bureaucratic impasses.

[11] Barreto and Rivera, 2009: 168-195.

[12] The 1981 reform, however, was subsequently invalidated when the Supreme Court declared the constitutional amendment on which it was based unconstitutional.

[13] Rubio, 1999.

action (including, but not limited to, a reversal of some of the code's due process guarantees) are now gaining ground. Anticipating remarks elaborated below, it is probably accurate to say that the problem is less the code than the overwhelming faith in its ability to alter behavior. For 70 years, Colombians have been attempting to draft the perfect set of rules, overlooking the need to improve the institutions that must apply them.

III. JUSTICE REFORM AND MODERNIZATION PROGRAM (2006-2010): KEY COMPONENTS

A. STRENGTHENING IMPLEMENTATION OF CRIMINAL PROCEDURE CODE REFORMS

Background: The criminal procedure codes enacted between 1938 and 1991 aimed, not entirely successfully, at augmenting system capacity to process cases and so counter the increasing incidence of violent crime. The three codes enacted post-1991 put an equal emphasis on due process guarantees as Colombia joined the region-wide movement in seeking these ends through the adoption of an oral, accusatory system. The 1991 Constitution set out an institutional framework and general principles, replicating and refining many of the measures unsuccessfully forwarded in 1981. It created a separate Public Prosecutor's Office (*Fiscalía General*) to handle the oversight of investigations and the representation of the case before the courts and established the right to a subsidized defense, setting the basis for the creation of a Public Defender's Office. It also recognized or reemphasized a number of additional due process rights, thereby seeking to end many traditional abuses – unwarranted arrests and lengthy police detentions, coerced confessions and otherwise inhumane treatment of detainees, long delays before cases were taken to the trial stage (accusation and judgment), consequently high percentages of untried detainees,[14] extra-judicial killings, and so on.

While steps were taken to create both Public Prosecution and Defense, in the early days, the former grew much more rapidly than the latter. The Prosecutor's Office is often described as having "been created overnight," quickly expanding to a total of 22,000 employees and absorbing 50 percent of the budget for the non-law enforcement members of the sector. Both employment numbers and share of the budget were subsequently reduced, now reaching roughly 17,000 and 33 percent, respectively. Public defense grew more slowly and until 2005 had at most 700 contracted lawyers, whose average workload was very low, in part because they were also allowed to handle private cases. (This also reputedly led to less attention to their public defense work,[15] and a series of other abuses). The ordinary courts were also reorganized to create judges to oversee pre-trial events (*jueces de garantía*) and trial judges (*jueces de conocimiento*). However, many former practices continued under the code enacted in 1991, some legally sanctioned (e.g., the judicial powers of the prosecutors to order arrests, searches, and seizures without any prior or, in its absence, automatic post judicial involvement,[16] and the role of the Inspector General as an additional actor in the adversarial system, representing the interests of society) and others simply a matter of habit (e.g., a continuing reliance on written documents despite the code's emphasis on orality). Although the Prosecutor's Office was set up rapidly and given its own investigative police, its movement into its new role transpired much more slowly. Cases under prosecutorial investigation quickly piled up, to the extent that the Judicial Council and Supreme Court took the unusual step of temporarily assigning about 300 criminal judges to civil cases because of their insufficient workload.

These and other problems led to the passage of a revised code in 2000 (Law 600). However, nearly as soon as it entered into effect, still a third code was under discussion with its eventual passage facilitated by an amendment to the Constitution in 2002. This code (Law 906) was enacted in 2004 and took effect in 2005. Among the changes it introduced were a reduction in the prosecutors' "judicial powers" and a specification of

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[14] Although as Nemoga Soto (1988) notes, even during the 1980s, the 60 percent of prisoners in this situation was less than many other countries in the region.

[15] Checchi's final project report (2006), for example, states that 88 percent of public defenders' work was for private cases.

[16] Of course, the defense lawyer could always petition for a writ of *habeas corpus* (for illegal detention) or protest other illegal actions by the prosecutor and/or police, but lack of access to *effective* defense means this was not always done. See Article 414A of Law 2007/91.

which actions involving fundamental rights would require prior or ex-post approval by the judges. Detention may only occur without a bench warrant for in flagrante cases,[17] prosecutors must present a detainee before a judge for charging within 36 hours of capture, and must "justify" searches they order on their own as well as "legalizing" the detention of the suspect.[18] Rather than being applied immediately to all regions and all cases, Law 906 was introduced incrementally over the period from 2005 to 2008 (by dividing the country into four regions and starting the code in a different region each year) and only covered cases begun after its passage. Cases initiated prior to its entrance into effect in each region continue to be processed under the old code.

As the third post-1991 effort at getting the legal framework right, the overriding objectives of Law 906 are: 1) to ensure better protection of due process rights of the defendant; 2) to eliminate the reliance on written records and exchanges of written motions; and 3) to speed up case processing through the introduction of strict time limits post-detention or post charging. These emphases in turn required a number of further actions. Public Defense quickly expanded to the present 2,300 defenders, more hearing rooms were constructed so as to encourage orality and, as a further incentive, audio equipment was introduced to allow the taping of hearings. Records of hearings are kept on CDs and, for those courts that use them, written transcripts are no longer provided.

USAID Program in Support of Implementation of Law 906: USAID programs have accompanied these and other basic changes to the justice system even before 1991. A small project involving several local think tanks contributed to the planning of the judicial sections of the 1991 Constitution. In 1992, USAID awarded a $36 million grant to the *Fundación de Educación Superior* (FES) to support sector institutions in implementing the new structures and laws. Under the Checchi phase of the USAID justice program, USAID had already contributed to the implementation of Law 600 and to the start-up of the Law 906 implementation program. Activities under the current project (the JRMP), and work conducted by OPDAT, continued the process with the current code. USAID's four main objectives are:

1. To improve the capacity of state entities to manage and implement Code of Criminal Procedures (CCP) reforms;
2. Strengthen capacity of the justice sector training schools and similar units to develop, manage, and sustain justice sector training programs;
3. Strengthen legal and procedural frameworks and operational guidelines for CCP implementation and other JRMP reforms;
4. Involve civil society organizations (CSOs) in code implementation (largely training and monitoring).

The program has worked in all areas, but quantitatively (in terms of expenditures and number of activities) has done most on objectives 2 and 4. In coordination with OPDAT, other USAID contractors, and other donors, the JRMP has financed training programs for judicial operators (judges, prosecutors, public defenders, investigative police, and private attorneys and students) in the new procedures and has provided equipment for the respective training centers. FIU's quarterly reports reference development of evaluation methodologies for training programs, but we found no indication that they had been subsequently applied, and if they had been, that they had altered the thrust and content of training.[19] Training impact continues to

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[17] "In flagrante" cases (short for *in flagrante delicto*) are those where the alleged perpetrator is apprehended on the spot, or caught "red-handed." They usually, but not always, involve minor crimes.

[18] While this would appear necessary only for detentions ordered by the prosecutor, the team was told it was also needed for those done under judicial orders – "because the *fiscal* might have lied." While under an accusatory system, defense counsel is expected to protest illegal pre-trial (and trial) actions by the prosecutor, the question is whether the judge should always automatically review the actions, especially since it is now estimated (according to sources interviewed) that 97 percent of the detentions pose no problems.

[19] According to USAID, the methodologies have been applied but too recently for their impact to be assessed.

be measured through a head or event count, and where institutional preferences tend to that direction (e.g., for the judiciary), training appears to be overly theoretical. The results of efforts to modernize law school curriculum are similarly unmeasured, although the JRMP has sponsored workshops, development of new courses, and a series of clinical exercises and mock trial competitions. Much training has also used CSO implementers and CSOs have been supported in creating citizen oversight groups (*veedurías*) and other monitoring mechanisms. However, all these grants are small and tend to be very localized; despite their considerable number, it is unclear what their broader impact has been or even whether any effort has been made to track it. The issue of CSO involvement is treated more broadly in a later section.

Objectives 1 and 3 have produced fewer activities and arguably less impact, but not for lack of trying. A rather ambitious set of actions targeted in particular at the two bodies overseeing code implementation (the Constitutional Commission and the Inter-Institutional Commission, of which only the latter still exists) has been stymied by the infrequent meetings of both and FIU's occasional absence from the list of those invited. Development of indicators to track CCP implementation is still not completed – pending approval and implementation by the Inter-Institutional Commission. The CSO, *Corporación Excelencia en la Justicia,* which developed the indicators, has done additional studies (2008 and 2009) of implementation problems, but there was no indication that either had influenced sector policy. As regards item 3, FIU has tracked legal changes and jurisprudence, which it makes available on a website, and has provided some technical assistance for drafting of new laws (including one for administrative cases). However, any expectation that it would have greater influence on amending the normative framework was probably unrealistic.

Without doubt, the JRMP's greatest contribution has been in building up the new Public Defender's Office.[20] Through a combination of support for training, internal organization and management, and provision of equipment and infrastructure, it has clearly helped the PDO evolve into a key actor in the criminal justice process within a very short period. The USAID program has also financed some construction, remodeling, and equipping of courtroom and court services facilities (addressed in more detail in the section on court administration), and in conjunction with OPDAT, the creation of a victims' attention unit in Paloquemao.

Findings as Regards Advances in Code Implementation and the USAID Contribution: As of early 2010, Law 906's four-stage regional implementation had been completed, although as noted, cases initiated before the code's entrance into effect in each region are still being processed under Law 600. While prior to the fieldwork the team had heard reports of individual courts or "judicial units" (essentially a multi-judge courthouse serving a county) "refusing" to act under the new rules, we found no evidence of this development. Instead, even in the fourth-stage region (including the department of Bolívar, where field observation was done), judges, prosecutors, and public defenders interviewed seemed to follow the program to the extent possible. Hearings were held according to the new rules – which include a first step "legalizing" any search and seizure ordered by the prosecutor, the three-part, so-called "combo" hearings (the legalization of the capture, the charging of the defendant, and the discussion of pre-trial security measures – ordinary detention, house detention, release on recognizance, and so on) all heard by a preliminary hearing judge (*juez de garantías*); and the indictment, preparatory hearing, and trial, overseen by a trial judge (*juez de conocimiento*). (There is also a judge to oversee execution of judgments and monitor prison conditions, but the current project has not worked with these individuals.[21]) Where audio equipment was available (usually financed by USAID), it was used to capture hearings and create permanent records on CDs. In the pre-trial hearings observed, there was a particular emphasis on ensuring the defendant's rights had been respected, and indeed at the end of the combo, the judge stated as much as part of his/her resolution and asked the prosecution and defense lawyers whether they would appeal on that or any other basis. As the 36-hour rule has proved a

[20] The JRMP contract originally included PD strengthening as a subset of the "access to justice" component. In 2008, however, the PD work was transferred and merged with the Criminal Procedure Code Implementation component. For this reason, the PD will be discussed in both sections of this assessment.

[21] The Checchi project phase did some limited work with them. Interviewees reported that, as in other countries in the region, these judges are prone to corruption, and otherwise not very effective in their work. Required prison visits may not be made, and it is rumored that some judges accept payment for shortening prison time.

problem when suspects are detained far from where the judge is located, USAID's provision of equipment for distance audio-visual conferencing has clearly been a help (although also, as discussed below, a cause of some concern).

The most visible change, and one where USAID support has clearly been instrumental, is the development of the Public Defender's organization. Several of those interviewed reported that this started with a plan, developed under the Checchi program, laying out a design for code implementation. According to those sources, the Public Defender's Office took the plan to heart and used it to organize its expanded services – including such innovations as the OEA, or Specialized Support Office, for Public Defense. Through the JRMP, USAID also supported a substantial training program for defenders, helped develop (along with EU support) a virtual training program, set up and equipped five OEAs, and provided equipment and other materials to help the organization run. Virtually all representatives of the Public Defender's Office interviewed expressed an enormous debt of gratitude to USAID for these contributions.

Some additional positive developments are worth mentioning:

- It appears that in flagrante cases are processed much faster than before, and even critics of the new system admit as much;
- It also appears that cases that cannot be taken forward because of lack of evidence, or the objected action not constituting a crime, can be dismissed (archived) more rapidly by the prosecutors. Average times here have fallen to one month and between 13 and 14 percent of reported crimes are handled in this fashion (Barreto and Rivera, 2009; *Corporación Excelencia*, 2008, which reports that 50 percent of cases "disposed" in region I were archived);
- Prosecutors are beginning to use the principle of opportunity (a decision not to proceed with a case for many of the same reasons once charges have been filed), although not as often as had been hoped – most recent figures range from two to three percent of all investigations opened (*Corporación Excelencia,* 2008);
- Prosecutors are also conciliating more cases – most of these regard child support as, under Colombian law, failure to pay child support is a criminal offense;[22]
- Public Defenders' workloads have increased over what was reported in 2005 and 2007, although they are still relatively light compared to available international statistics.[23]

Although all the organizational pieces appear to be in place and judges, prosecutors, and public defenders are adequately staffed and attempting to follow the new rules, there are nonetheless a series of problems associated with the process. Some of these are to be expected given the rapid pace of implementation; others appear to be a consequence of a series of other factors:

- Shortcomings of the code itself – for example, there has been much criticism of the short time limits for processing a case once charges are filed. These time limits may also be too long for many simple cases, but there appears to be a tendency to treat them as minimum as well as maximum limits for all cases. Another example is the separation of the elements of the combo hearings – something that was insisted on by the code's authors and also apparently by advisors working with USAID. Although the hearings are usually held on the same day, one after the other, each one often starts as

[22] According to CEJ (2009), other cases in this category involve minor injuries and theft.

[23] The team could not get official figures on average caseloads and what the Public Defender's Office publishes makes it impossible to calculate them. Guesses from PDs interviewed ranged from 50 to 150 new filings a year. There are no international standards, but consultants specializing in public defense often cite 250 new filings as acceptable. In the U.S., recent complaints by PDs revealed that they considered 250 complex cases or 1,300 simple cases as the very upper limit.

though the others had not occurred, leading to much repetition and overly long times devoted to them all;

- A tendency for prosecutors to focus on processing simple, largely in flagrante cases, with a consequent inattention to more complex crimes – it has been hypothesized that this is a rational response to the time limits.[24] This tendency to focus on the "easy cases" has been a complaint about Colombia's justice system for at least 40 years, but given a lack of good baseline data, it is impossible to tell whether the situation has improved slightly, stayed the same, or is getting worse;

- A lack of uniform interpretations as regards the new rules, especially as applied to the oral hearings. There are doubtless other areas where different interpretations pose problems, but in the hearings the result appears to be that the parties, uncertain as to what is required, provide an excessive amount of information, almost conducting a mini-trial;

- As a result of ingrained practices and the lack of better models, a tendency for oral submissions to replicate what was formerly written, in all its excruciating and largely irrelevant detail, and because they are so long, to be written and then read in the hearing. This is less orality than verbalization of the written process and it affects all parties (including the judge), although it usually starts with the prosecutor's verbalized script;[25]

- Perceptions, registered by many interviewees (and also reported in Barreto and Rivera, 2009) of politicization of processes, especially in the Prosecutor's Office, and of the tendency of other actors as well to take extraordinary measures to prevent cases involving powerful actors going forward or to let them die unattended (*engavetados*, or "hidden in a drawer");

- Judges' failure to curtail dilatory practices, frivolous motions, and irrelevant interventions. While there are some exceptions, judges are commonly observed to be extraordinarily passive in conducting hearings. This is believed to be partly a fear of complaints being registered and of disciplinary bodies' failure to support the type of judicial management of the hearings usually associated with the adversarial system. It also may be for lack of an alternative model as regards what judicial neutrality involves;

- Although the new code gives each party the right to object to the statements of the other during a hearing, it was observed, and reported by those interviewed, that this rarely occurs. Presumably this arises from lack of experience and possibly an overdeveloped sense of professional courtesy, but it needs to be addressed.

- A growing backlog of cases "being processed" in the Prosecutor's Office owing to all the delays and perverse incentives listed above.

There has so far been no suggestion that, as has occurred in other countries, the code's thrust be partially reversed, usually to reduce its due process emphasis and introduce a harder approach to crime.[26] There was

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[24] Rubio, 1999, reports a similar effect of the 60-day time limits imposed for the formal investigation under the rules in effect in the 1970s and 1980s.

[25] In one three-hour combo (with an extra hour provided for the justification of the search conducted), the prosecutor first read aloud from a multi-page report which he later passed to the defense attorney, who took 10 minutes to read it during the hearing, and then in turn passed it to the judge, who also took time (without a recess) to read it, and in dictating her decision, read from the fiscal's script. Other more spontaneous hearings were observed, but it is particularly disturbing that this one, which should have taken half an hour, went on for so long and in Medellin, a more sophisticated city and one which introduced the new code in the second stage of implementation.

[26] However, in a statement dated February 16, 2010, the Minister of Interior and Justice contended that the oral accusatory system was collapsing because of the release of dangerous criminals due to "la aplicación de pronto anti

an attempt to enact a Small Claims Law to allow minor crimes to be processed without the intervention of the prosecutors; during the short time it was in effect, the law successfully reduced the number of cases handled by the Prosecutor's Office *(Corporación Excelencia,* 2008). However, the Constitutional Court declared it to be unconstitutional and, while the Ministry of Interior and Justice is sponsoring a new bill, most of those interviewed expressed doubts as to its success. There has also been considerable public debate about the code's time limits for taking cases forward after charging, especially after the January 2010 release of up to 20 soldiers accused in the "false positive" cases.[27] However, most sector personnel interviewed dismissed the argument that the time limits were too short and instead argued that the prosecutors were too quick to charge and thus not handling their cases strategically, i.e., detaining too quickly and thus setting the clock in motion when it is clear that they will need more time to substantiate their case.

To be fair, USAID is aware of these problems and attempted to structure some solutions into the JRMP. These included the development of a system for monitoring progress in implementing the reform (under a contract with *Corporación Excelencia*), a series of programs with universities to train students in the new procedures (including clinical exercises and a mock trial competition), and support for the training programs of all sector institutions. However, on the one hand, any expectation that such fundamental changes in traditional practices and mental models could be accomplished in so short a time was highly unrealistic, despite its being shared with sector leadership. On the other, the sector's leadership appears unwilling to recognize many of the setbacks, and in some cases, to endorse the necessary cultural changes. It is said, for example, that many of the problems associated with lengthy pre-trial hearings, and their focus on what would appear to be issues more relevant to the trial stage, are based on rulings issued by the Criminal Chamber of the Supreme Court. The lack of evaluation of the impact of training programs and a tendency to emphasize theory over practice could be attributed to the USAID program,[28] but they also appear to be a preference of those in charge of the institutional training institutions.

It seems unlikely that the oral accusatory system will be abandoned by Colombia, but as currently interpreted and practiced, the system is also unlikely to resolve some of the problems it and the prior versions were intended to resolve – low case processing capacity, an emphasis on minor felonies and an accompanying inability to handle many of the most serious crimes, and the consequent public impression of widespread impunity for "the big fish" whether among private or public sector actors. Colombia has made strides in bringing some of the latter to justice,[29] but as a study done under EU sponsorship (Barreto and Rivera, 2009) indicates, most cases reaching judgment or some alternative resolution (e.g. conciliation) tend to be lesser offenses whose processing depends on the victim's complaint (*querellas*) or in flagrante crimes.

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técnica o la interpretación errada que se pueda dar del Sistema Penal Acusatorio." Also in years past, Colombia's typical reaction to these problems has been to leave the code in place but enact additional legislation to cover treatment of crimes deemed more serious.

[27] So-called "false positives" are citizens allegedly assassinated by the military and then dressed in FARC garb so that they can be counted as 'terrorists," thereby absolving the military of criminal responsibility and also raising their "scores" in fighting armed bands. Cases can still be processed against these and others released on expiration of the 30-day period, but critics fear that the suspects will flee or take other illegal actions (including threatening witnesses or tampering with evidence).

[28] As regards training for prosecutors (provided by OPDAT) and for public defenders (provided by FIU), those interviewed usually applauded the practical content. However, based on discussions and a review of manuals and other publications, it appears that the judicial program remains focused on more abstract issues.

[29] For example, it has 70 individuals who might be considered "big fish" (politicians with paramilitary ties) under indictment, extradited, or convicted.

CLASSIFICATION AND OUTCOME OF CASES PROCESSED UNDER LAW 906, JANUARY 2005 TO MARCH 2008.[30]

Stage	Procedural action	Types of Cases			Total
		Delitos querellables	Flagrancia	Rest of cases	
1	Complaints (Noticias criminals)	511.686	143.365	753.050	1.408.101
2	Conciliations	247.496	-	-	247.496
	With Agreement	193.784	-	-	193.784
	Without Agreement	42.362	-	-	42.362
	Failed (no attempt)	11.350	-	-	11.350
3	Charge (imputación) entered	3.559	66.526	17.779	87.864
4	Indictment requested	2.591	50.293	16.252	69.136
5	Indictment hearing	1.193	6.966	4.116	12.275
6	Preparatory hearing	763	2.599	2.792	6.154
7	Oral trial	344	1.619	1.794	3.757
8	Judgment	1.085	40.864	10.401	52.350
	Guilty	1.004	40.074	9.981	51.059
	Not Guilty	81	790	420	1.291
9	Hearing for "integral reparation"	-	287	415	702

Source: Barreto and Rivera, based on FGN data

The further analysis provided by the table's authors is extremely controversial,[31] but the statistics are drawn from the Prosecutor's own database (SPOA: *Sistema Penal Oral Acusatorio*). As shown above, criminal actions whose prosecution depends on private complaints (*delitos querellables*), among which failure to pay child support, minor injuries, and theft figure prominently, constitute the second largest category in terms of incidence, and the largest in terms of a satisfactory disposition (247,496 of them conciliated with 193,714 reaching an agreement). While in flagrante cases constitute only about 10 percent of the total, they account for 80 percent of the adjudicated cases, with nearly all receiving a guilty verdict. The "other" category, in which are included the more serious crimes (and which also constitutes the majority of incidents attended by the prosecutors) reach the stage of charging for only two percent of the total, with only one percent reaching a verdict. Admittedly this category includes a good number of incidents which do not constitute crimes, or for which there is far too little information on which to base an investigation, but it also covers homicide, rape, robbery, and other more violent incidents. When these cases are adjudicated, they usually produce a guilty verdict, but the problem is that, given Colombia's high incidence of violent crime, too few of them get that far.

As nearly all those interviewed agreed, the major problem resides with the prosecutors and the investigative police. Further explanations vary – from arguments that both institutions are insufficiently staffed and that the police in particular lack adequate preparation for investigating complex crimes; through a focus on certain perverse incentives created by the existing code (and many prior codes); to insufficient coordination between the prosecutors and the investigative police (and especially those external to the Prosecutor's Office[32]);

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[30] Barreto and Rivera, 2009.

[31] This is largely because of the author's definition of impunity and their insistence that the "European" strategy for combating crime (focused, they claim, on social programs, not punitive action after the fact) is more effective than the Anglo-American accusatory system. The authors of the present evaluation share some of the critics' concerns, but this does not invalidate the other conclusions to be drawn from the statistics as regards the Colombian system's continuing inefficiency and inefficacy in investigating and prosecuting serious crimes.

[32] Although the Prosecutor's Office has its own investigative police, the CTI, they are fewer in number and also considered to be less prepared than the investigative arms of the National Police (SIJIN and DIJIN) or the soon to be reorganized or disbanded DAS.

weaknesses in the prosecutorial organization, use of human resources, and operating procedures (*Corporación Excelencia*, 2009); or simple corruption. Nonetheless, at least some of the problems are aggravated by the judiciary's internal procedures and perspectives. Delays in notifying major actors required for hearings, inefficiencies in scheduling hearings, and the judges' insistence on observing possibly irrelevant formalities as well as their failure to control their courtrooms, and dilatory legal maneuvers all complicate the prosecutors' task and doubtless encourage their tendency to focus on the easy, in flagrante cases. Unfortunately, for all public actors, the rudimentary notion of outputs combined with the code's tight deadlines has replicated a tendency seen even before 1991 to prioritize quick wins over more serious offenses.

The question is how the principal actors – Prosecution, Defense, Judiciary, and Police – can be encouraged to revise their notion of acceptable results and so develop a collaborative strategy for reducing impunity for serious offenders. The challenge, often described as an issue of political will or of overcoming an "inquisitorial mentality," is more complex than that, and if broken into parts, might be more easily addressed. It involves:

- Various entrenched practices that continue to affect how the code is enacted. It is inaccurate to term these an "inquisitorial mentality" as they include issues like the extended judicial vacations (which nearly close the courts for a month), the emphasis on and interpretation of judicial independence (also extended to the prosecutors in some cases),[33] and ideas about internal organization and division of labor. Neither prosecutors nor investigative police are used in the most efficient fashion in Colombia (*Corporación Excelencia*, 2009);

- The lack of alternative models for how to proceed – were these provided, some of the entrenched practices might be more easily overcome. This was most evident in the preliminary hearings where all actors were clearly following a script more appropriate to the earlier, written proceedings;

- A certain measure of institutional vested interests – for example, the external investigative police's reluctance to accept the prosecutors' right to order the investigation or the prosecutors' expectation that investigative police should hang on their every order. Also included here is what the Colombians call the *choque de trenes* (train crash) involving disputes among the high courts and other peak organizations (leadership of the Prosecutor's Office, for example) as to their relative powers;

- A dose, immeasurable as regards its incidence, of corruption in each and every institution;

- A certain amount, also unquantifiable, of political intervention, especially in cases involving corruption, but also in cases involving private actors with "connections;"

- And finally, some measure of inflexibility either in the drafting or the interpretation of the code. This includes issues like time limits (too long for in flagrante cases, too short for more complex ones), the requirements (imaginary or real) for the "combo" hearings, and the insistence on the part of prosecution and defense that any judicial effort to control their interventions is a violation of the right to defense or freedom of expression.

Recommendations: Technically, the JRMP has delivered the required outputs – even in the two areas (building management capacity and promoting further legal reform) where they have been most superficial – and in the process has helped the Colombian authorities advance code implementation. The problem is the system's failure to meet public expectations as regards not only human rights guarantees but also the investigation and prosecution of serious crimes. It remains debatable as to how far any single donor, or the donors collectively for that matter, can go in resolving this problem as it in the end hinges on how the

[33] The authors are very much in favor of judicial independence, but not of an interpretation that emphasizes acquired rights (e.g., long vacations, all taken at the same time, rather than staggered throughout the year) or that equates it with an ability to ignore the need to decide cases quickly or keep up with workloads. As applied to prosecutors, it should not prevent the definition of institutional policies for prioritizing certain types of crimes.

Colombian authorities believe their criminal justice system should function. Work supported by USAID (and some other donors) with law students might over the longer run induce change, although until a critical mass develops, its impact will continue to be weakened because these students will have to operate in a system still directed by those who do not share the new perspectives. To date it appears that system actors desirous of adopting more fundamental changes are still a minority and while some claim to be able to operate differently, there was no way to determine to what extent this is true. On the basis of these observations, the following steps are recommended.

During the two-year bridge project:

- Continue and step up the work with law schools, especially with the mock trials and competitions. See if there is some way of involving more system actors (judges, prosecutors, defenders, and private attorneys) disposed to promote new practices in them. The Mission reports some of them have been included, but rapid change requires still broader coverage;

- Encourage the review and discussion of existing studies (by *Corporación Excelencia, DeJusticia*, the EU sponsored publication, and any other local group reviewing the new system) that attempt an in-depth, empirically-based analysis of advances and problems;

- Develop better methodologies to assess the impact of training programs and to encourage those doing them to define the desired impacts in a measurable fashion;[34]

- Review the two indicator projects financed by USAID and the EU, respectively, with *Corporación Excelencia* for the Inter-Institutional Committee and *DeJusticia* for the Inspector General. Both seem excessively large (over 100 indicators were reported by each group) and overly focused on processes, not results, but it may be useful to discuss them together with members of both institutions and try to reach a consensus on: 1) desired impacts, and 2) the indicators that would be most useful in tracking them;

- Coordinate with OPDAT on all the above, as they recognize the problems and their work with Public Prosecution and the investigative police is obviously critical.

In the new project:

- Shift the focus from supporting any training to insisting on supporting courses with defined and measurable impacts on within-system practices and introduce a system to track them;

- Do not push ahead on orality in other legal matters (labor, civil, administrative) until some of the issues in the criminal justice system are recognized and steps are taken to resolve them. As with the situation of ISO 9000 (see next section) the GOC will make its own decisions here, but USAID should maintain its focus on working with the criminal justice system;

- Coordinate with OPDAT to ensure someone addresses organizational inefficiencies within the Prosecutor's Office (starting with some of the observations in *Corporación Excelencia,* 2009);

- Review some of the suggestions circulating about decriminalizing failure to pay child support and other methods to deal with categories of crimes virtually swamping the prosecutors. (Again *Corporación Excelencia,* 2009 is a good source of ideas);

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[34] Generally, a better methodology should track the impact of training on post-training behavior (and for that, it is essential that the training program stipulate what it intends to change). Testing people on what they have learned or asking them how they will apply it is not much better than a head count, and in effect, the only way to assess training impact is to observe the trainee's behavior once s/he has returned to the job.

- Install some sort of case tracking system (see section on court administration and management), and help the various institutions develop a capacity to use it;

- Promote exchanges with countries (outside the region, except possibly for Chile which may be doing this better) to demonstrate how oral hearings can be conducted. If possible, do clinics with judges, prosecutors, and defenders to work on better oral techniques, collectively. Consider, as occurs in the U.S. (and possibly elsewhere), special training for judges in how to preside over a hearing and how to write concise opinions. Try to involve higher level judges (possibly as observers or monitors, so as to avoid implying they need training), as they are one source of the underlying problems.

One cannot avoid the conclusion that the USAID program's principal flaw was in adopting the Colombians' assumption that simply implementing the new code would be sufficient. As problems with that approach have become visible, the FIU contractors have not been in a position to advocate their recognition and solution. For that, higher level dialogue is required – this is not something a contractor can do, although conceivably, the addition of some more prestigious technical assistance (former or actual high-ranking members of judiciaries that have made a successful transition) would be of help. USAID might usefully consider their inclusion in a new project, or perhaps most appropriately during the bridge project.

B. STRENGTHENING COURT ADMINISTRATION AND MANAGEMENT

Background: Colombia, like virtually all of Latin America (and much of the developing world) lacks a tradition of court administration and tends to confuse administration (what is often called organizational "housekeeping," or the control of existing resources and processes) with management (which involves a more proactive approach to tracking outputs and impacts and exploring means to produce them more effectively and efficiently by changing work routines and organization, the distribution and use of resources, and even, if need be, the definitions of the final product and its basic characteristics). There is additional confusion as to where court administration/management should be introduced – with some interpretations focusing on processes internal to the basic work unit (the individual courtroom) and others on the body or bodies responsible for overall judicial governance. Similar problems affect other sector institutions, but will not be covered here as they are not addressed by USAID projects.

At the macro or system-wide level, Colombia's efforts to tackle court administration and management have revolved around debates over which organizational body should be responsible. From 1945 (when the Ministry was recreated after a brief disappearance) until the late 1980s, management of judicial administration (budgets and employees other than judges) was handled by the then Ministry of Justice (currently Ministry of Interior and Justice). During the late 1980s, the Supreme Court began to take on some functions (Nemoga Soto, 1988), but in 1991, under the new Constitution, the functions still exercised by the Ministry or briefly transferred to the Supreme Court were given to the newly created CSJ. The Council as currently construed oversees judicial administration (budgets, personnel matters including training and disciplinary functions, planning and some policy setting) for the judicial branch as a whole. Although it has no control over the Prosecutor General's budget, it includes it in its congressional submission. Most of this is done through its Administrative Chamber, which also runs examinations and reviews credentials of those applying for judgeships in the administrative and ordinary courts and for administrative employees of both.

The CSJ absorbed the already large administrative body created by the Ministry of Justice, and has since expanded it by creating a sort of parallel bureaucracy under its direct control.[35] The CSJ and the

[35] The parallel bureaucracy (comprising various "units" attached directly to the CSJ) apparently arose because of the CSJ's distrust of its own administrative body (the much larger *Dirección Ejecutiva de Administración Judicial*, or DEA). Some functions are duplicated, but the CSJ's own bureaucracy also handles issues (judicial career, registration and discipline of attorneys) the Administrative Offices cannot manage.

deconcentrated sectional councils currently absorb a healthy 14 percent of the judicial budget (with another seven percent spent by the three high courts on their own operations). The CSJ has two chambers, the Administrative Chamber which handles administrative tasks, and the Disciplinary Chamber, which processes complaints against judges and attorneys. Members are chosen differently, with those of the Administrative Chamber selected by the three high courts, and those in the Disciplinary Chamber elected by the Congress from lists supplied by the Executive.

Almost since its emergence the CSJ has been under attack for inefficiency, inefficacy, and alleged interference with the jurisdictional functions of the three court systems. According to the Council, many of these criticisms arise from its attempts to impose order and eliminate traditional vices such as clientelism. According to its critics, it provokes these conflicts needlessly, takes on issues not legitimately under its mandate, and has been more interested in promoting its own projects and powers than in addressing fundamental systemic problems. Sectional councils also complain that it delegates insufficient powers to them, but again this may mean only that it is trying to enforce uniform and transparent rules. Whatever the answers to this debate, the CSJ seems destined to survive the next round of reforms (under discussion by a special commission appointed by the Executive). The usual suggestions that: 1) it be replaced by high court governance of the respective systems; 2) it be replaced by a return to MIJ control (which would probably now be unconstitutional); or 3) its composition be altered in some fashion; seem unlikely to prosper, and in the end would probably not resolve the underlying problems – a lack of a management culture, a narrow interpretation even of what system administration means, and various institutional and political impediments to introducing changes, many of them rooted in traditional interpretations of the concept of "judicial independence." Both at the macro, systemic level and as applied to individual work units, those responsible for administration and management have instead taken the less controversial route of introducing automation and seeking improvements through "quality management" (i.e. ISO 9000/9001 certification and related techniques[36]). These solutions, while generally very popular, threaten to have limited impact on system outputs and on the resolution of such fundamental problems as court congestion, delays in case processing, and limited access to nontraditional users.

In effect, most attention to court administration or management has gone toward effecting changes at the work unit level – drawing up procedural manuals, simplifying internal "paper trails," pooling some services (e.g., notification) and automating where possible. ISO 9000/9001 has become the methodology of preference and individual work units (including the Disciplinary and Administrative Chambers of the CSJ) have been certified or are in the process of obtaining ISO certification. This is in line with a presidential directive (following upon an earlier law, 872/2003) ordering that all public sector administrative units and all government contractors be certified by ISO or a related system of standards. As applied to the courts, the process has had some positive effects. However, it seems overly costly and time-consuming for what is really achieved. ISO and similar systems are not unknown in OECD countries, but generally are considered one of many management fads, and one not especially appropriate to systems needing more basic reforms. One could indeed certify a buggy whip factory in ISO, but the real question is whether the factory should be producing buggy whips. A more general criticism of ISO, as applied more conventionally to improving outputs of productive enterprises, is that it does not guarantee a quality product, but only a standardized production process. Thus, even an enterprise producing shoddy outputs could be certified on the basis of the consistent and well-documented procedures it uses in their manufacture.

As is sometimes forgotten, Colombia's approach to court management and administration was in the vanguard, while under Ministry of Justice supervision, in developing basic statistics on court performance and

[36] ISO 9000 is a family of systems for promoting quality management. Organizations wishing to be ISO certified must go through an exercise to define and standardize their internal processes, track compliance with the standards, and submit to periodic external auditing by actors familiar with the system.

using them to detect problems. However, under the CSJ, this tradition appears to have ceased.[37] At present, none of the sector organizations has a reliable set of performance statistics. Colombia was also in the vanguard in introducing automated case tracking systems, but neither Siglo XXI (the judiciary's software) nor SPOA (for the prosecutors) is currently considered satisfactory in this regard. Both are unstable and neither universally installed nor consistently used where they do exist. Siglo XXI is far less advanced, and most closely resembles an automated *registro de entradas,* the book or books in which courts traditionally registered the receipt of and subsequent events in the cases they handle. Currently, the CSJ's data on court performance rely on manually compiled reports submitted by judges on a monthly basis. The CSJ's sole use of these data is to evaluate judges on output and determine where growing congestion merits the placement of another judge or court unit. Statistics published by the CSJ annually do not even provide average caseloads per judge, possibly because they are often very low. However, the CSJ is not alone in this omission; neither the Public Prosecutor's Office nor the Public Defender's Office publishes these figures either.

Independent researchers like Rubio (1999), Santos et al. (2001), and most recently the *Corporación Excelencia, DeJusticia* (Garcia, 2009) and Barreto and Rivera (2009) have been able to use CSJ or prosecution databases to analyze problems beyond the purported insufficient staffing, but the sector institutions tend to ignore these outputs or challenge their findings, conclusions, and recommendations, many of which would require changes in practices having little to do with automation or quality certification.

USAID Program in Court Administration and Management: The first impediment to the USAID program arises in Colombia's own lack of a comprehensive strategy for producing improvements in either area and its focus instead on processes – automation, ISO certification, and otherwise raising the quality and accelerating the speed of what has always been done – without a clear notion as to the ultimate objectives or a consideration of the need to change some long-standing practices. The second impediment is that the JRMP statement of work lacks its own clear vision of what will be done, and thus, focuses on a number of outputs or deliverables. These include:

- The number of courts and secretariats evaluated and receiving ISO 9000 certification;
- Number of new JASCs (Judicial Service Centers) equipped;
- Number of virtual hearing courtrooms installed and equipped for CCP hearings;[38]
- Number of URIs (the prosecutors' Rapid Response Units) and JASC branches receiving technical assistance to implement communication protocols;
- Percentage of costs for quality assurance system implementation assumed by CSJ;
- Percentage of virtual courtroom operational costs assumed by CSJ; and
- Preparation of legislation for presentation to Congress to improve judicial disciplinary procedures (intended to combat sector corruption).

Under the JRMP, progress was made in all these areas, but it has not been without setbacks and there are also concerns about impacts and sustainability. The CSJ, for example, apparently still expects USAID financing for further ISO certification, although it has self-financed the certification of the Administrative Chamber.

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[37] The CSJ does collect and publish statistics, but its database is very shallow, and it appears incapable of or unwilling to release such basic statistics as average caseload per judge, average time to disposition of cases, appeals rates and rates of reversal on appeal, let alone begin to analyze the sites and sources of delays. Doubts have also been registered, from within the CSJ, as to the reliability of what it collects inasmuch as the data are used to evaluate judges (who also supply them).

[38] This was an addition by FIU as an alternative to the initial request to build hearing rooms in rural areas. The contractor successfully argued that owing to logistical problems, virtual hearings would be more efficient.

In effect, the conceivably most valuable part of its efforts, the pilot work being done in Paloquemao (the Bogota criminal court complex), constitutes an innovative interpretation of one of the deliverables (ISO certification of at least three courts). The complex is now undergoing ISO certification, but this followed rather than preceded some very important structural changes – most of which probably would not have been accomplished through the normal ISO process (e.g., enlargement of the space for and staffing of the central services department, accomplished in part by convincing individual judges to give up one of their employees so they could be reassigned to the central pool). Work is still not completed, but it includes improvements to the Siglo XXI software to incorporate generation of performance data (and so create a functioning MIS), resolve problems of instability, and add modules for electronic notification, scheduling of hearings, and exchange of information with the enforcement judges (*jueces de ejecución)*. Once the software has been fully tested in Paloquemao, it will be expanded to other courts. A system for tracking performance within Justice Houses is also being piloted, as part of the modernization process. Audio equipment installed in Paloquemao and elsewhere has allowed creation of CD records on hearings, although paper files still remain, and there are serious problems with storage. Checchi's earlier suggestion (Checchi, 2006; 3) that "a system…[be designed] for reporting completed trial sentences without requiring the entire file be sent to the sentence execution judge," has proven impossible to implement, and Paloquemao and the enforcement judges maintain sets of paper files. While a study was contracted (and apparently completed) to establish new policies for file retirement, it appears not to have been approved or otherwise acted upon by the CSJ.

A Judicial Management Information System (MIS)

An MIS is exactly what the name implies – a compilation of information useful to various levels of management to understand what is going on in the parts of the organization they oversee. It may be manual or automated, quantified or textual. Thus, the old registry books still kept by many courts constitute a rudimentary MIS, as do the manual reports on case movement sent to a central office where, as in Colombia, they may be compiled electronically to allow some basic analysis and reporting. However, as courts automate, it makes sense to generate most of this information automatically, and to have it entered in codified form, creating tables to convert text entries to numbers. As the judiciary's "case tracking software," Siglo XXI, did not do this, part of the work underway in Paloquemao aims at making just that transition. This will allow finer analysis to help management identify and understand problems and will also permit the compilation of reports that are easily understood by judges, judicial management, other members of government and the general public. Contrary to what software vendors often suggest, creating an automated MIS is not inherently expensive, as it should be part and parcel of any exercise to register information on cases electronically. Most automated systems in Latin America produce few if any management statistics, but that is largely a result of judicial leadership's lack of interest in the product, not of the associated costs. In creating an MIS, the difficult parts are the identification of the types of information that will be included, development of a coding system, and training and supervision of staff to ensure correct data entry. Closed, drop-down menus can be used so that staff need not enter codes directly, but simply choose among the permitted text entries – homicide is entered as homicide, but the machine assigns the numerical code. An initial MIS can and should be designed to allow addition of more detail later. Ethiopia, one of the world's poorest countries, used a $3.8 million grant to develop the basic software, computerize all federal and higher-level regional (state) courts, and finance other equipment, materials, and infrastructure. The system now generates 117 basic reports, including average times to disposition of cases (first instance, appeals, and cassation), forms of disposition, rates of reversal on appeal, size and composition of backlogs, and number and length of adjournments. It also permits free-form analysis to allow review, for example, of the types of cases (by material, proceedings, or court) most likely to have above average adjournment rates.

ISO certification has been done in two courts and in the CSJ Disciplinary Chamber with USAID support. One court (in Envigado) and the CSJ Chamber were reviewed, and there were observable improvements in internal processes – including, in Envigado, an improved archiving system and intake center, and the development of their own software to track times taken in processing cases. Much of what was done in Envigado duplicated (and improved on) processes developed earlier in Itagüi (the first court in the country to seek ISO certification). The Disciplinary Chamber is still being certified, but according to the chief

administrator (*Secretaria General*) there, the main achievement has been the adoption of common internal processes for all offices, based on a manual she had developed earlier. The work with the Disciplinary Chamber appears to be the major accomplishment as regards the anti-corruption campaign; introduction of oral procedures or new standards remains a work in progress, and while the project has financed other activities promoting judicial ethics, including some implemented by CSOs, it would be hard to credit them with much impact.

Other "administrative" innovations include the provision of automation and other equipment to various court and defense offices, and the installation of audio visual equipment and of virtual hearing courtrooms in remote areas. All of this is being used and the virtual hearing courtrooms have resolved some problems in areas where it is difficult to assemble all witnesses and parties to a case as well as facilitated hearings and judicial conferences across distances. However, it was also reported in Villavicencio that the use of video-conferencing for preliminary hearings has raised concerns with the sectional council because in some cases, the defendant's attorney was sitting with the judge and not with the defendant. A letter has been sent to USAID mentioning the probable violation of constitutional rights where this practice occurs. Additionally, the proposed JRMP installation of virtual courtroom equipment in two counties (*municipios*) was refused by the sectional council due to concerns over lack of utility and the potential misuse and violation of due process rights.

Findings: In the work units where it has functioned, the program has introduced some improvements to normal procedures – standardizing processes, developing systems for tracking compliance with them, providing equipment to facilitate these and other operations, and introducing innovations (e.g., the improvements to Siglo XXI and the additional of electronic notification and calendaring in Paloquemao, the prototype case tracking systems for the Justice Houses, the better archiving systems in the ISO 9000 certified units) which could and should be adopted more widely. Despite reservations about their possible misapplication, the audio-video equipment for virtual hearings has facilitated operations (and for the most part, compliance with the new rules) in areas plagued by logistical problems.

The challenge will be to find ways to encourage broader adoption of these improvements without (or at least parallel to) the replication of the lengthy certification process in all the other work units in the country. Presumably, at least as regards the courts, the CSJ could simply mandate their adoption, but there is considerable reluctance to do so without an ISO exercise.[39] The latter's value added was not visible to the reviewers but it seems to be accepted and insisted on by the Council. The danger here, aside from the costs, is that the judiciary will spend the next five to ten years replicating the ISO process without making any further necessary changes. As noted above, ISO does not necessarily guarantee a better "product," only a more uniformly processed one. There is much to be said for imposing order and standardization prior to launching into more radical reforms, but as Paloquemao demonstrates, the latter can precede the former, and this sequence may lead to better results. The fact that both Chambers of the CSJ have been or will soon be certified is a case in point – both are roundly criticized for a number of problems that standardization of existing processes is hardly likely to resolve. For a system with good procedures and a satisfactory product, ISO may be a reasonable improvement; however, where both the product and the processes behind it are questionable, it can easily be the functional equivalent of rearranging the deck chairs on the Titanic.

As regards what appear to be clearer and non-ISO dependent innovations a few additional caveats are in order:

- Having a system that generates statistics (the improved Siglo XXI or the prototype software for the Justice Houses) is no guarantee that they will be used to identify and resolve problems. This takes some additional mental changes and capacity building, which so far do not seem to be developing;

[39] There was an effort to produce uniform standards and create a unit within the CSJ's Administrative Chamber to publicize them and encourage their adoption. However, interviews with CSJ representatives and the head of the unit suggested their continuing determination to proceed with, rather than short circuit, the ISO process.

- The reliance on CDs as records of hearings also has a downside, as they will be difficult for interested parties to review. No one wants to sit through a hearing again, especially one that goes on for hours or days, but honing in on the issues of interest will be very difficult, even if the CDs are marked (as they currently are not) to identify different interventions. In the US, voice recognition software is now used to produce transcripts simultaneously (usually with operators trained to correct the transcripts as they are written). It might be well to explore this as an alternative in Colombia, especially given the funds now available through the IDB and World Bank projects;

- The improvements to Siglo XXI are promising, but the CSJ is also considering two additional and sizable software projects – one financed by the IDB for the high courts, and a second one (financing undetermined, but possibly available through the $42 million World Bank loan) with software provided by a law firm specializing in bank cases. The danger is that these other projects will divert attention from producing a single good system, in favor of multiple competing ones;

- Virtual hearings and the use of audio-video equipment to facilitate legal/judicial communications and handle witnesses not physically available are useful innovations, but as noted, they can be applied inappropriately. This needs to be monitored so that the fascination with the new does not lead to procedural or rights violations;

- The issue of the CSJ's management role remains unresolved. Both chambers are collegial bodies and collegiality often defeats efforts to improve functionality. It is not a good sign that in the Administrative Chamber the magistrates divide up donor projects so that each one has a sponsor. Trying to turn collegiality into a management focus may well be beyond the powers of any donor, but it is a clear necessity for the Council;

- Although corruption within the judiciary (or in fact within the entire sector) seems to be a lesser concern among Colombians, the JRMP has done relatively little to track its presence or introduce effective remedies for what may be there. The question is whether, in the absence of greater demand, this is an area in which donors can work;

- The emphasis on technology as the solution for all problems is not sufficient. There are some hard changes the Colombians will have to consider, but so long as donors keep providing money for more equipment, they may well not be addressed.

Both the Colombians and the USAID project have taken an extremely minimalist approach to improving court administration and management, focusing on adding technology and ISO certification rather than addressing the big questions of how the system can deal with some more fundamental problems – congestion, delays, inadequate access, and even corruption. However, this is also the approach taken by other donors, including those (World Bank and IDB) providing substantial funding for technological innovations.

Recommendations: It is unclear how much USAID can do to promote a more managerial outlook to judicial governance, despite the apparent consensus within the donor community that this is a problem. However, given the apparent surplus of funding going to investments in technology, it could at least not finance what will not help. Over the shorter (bridge project) and longer run, the following are thus recommended:

During the bridge project:

- Continue and complete the work being done in Paloquemao and work with the CSJ to see whether it can be convinced to replicate the useful innovations without the entire ISO process;

- Accelerate the piloting and replication of the case tracking system for the Justice Houses. This is further addressed in the section on access;

- Stop financing ISO and related quality "management" systems. If the CSJ wants to continue with the exercise, it can do it on its own (or with other donors' money);

- Encourage an in-depth, broadly-based review of studies (the EU impunity study, CEJ work, and that of others) attempting to identify more basic problems than the reputed shortage of staff and resources. As the EU study argues (and as is borne out by comparative statistics), the Colombian justice sector has sufficient staff and other resources for the demand it currently addresses. Quality and distribution of staff and resources could certainly be improved, but those are management issues, and management seems to be honored in the breach;

- Collaborate with OPDAT to address management problems in the Prosecutor's Office and with the investigative police. Review relevant studies done here (CEJ, for example);

- Consult with other donors and with CSJ to determine what the latter's further plans are for installing case-tracking systems, so as to avoid duplicative efforts.

Under the new project:

- Again, stop financing ISO, but do encourage replication of successful innovations developed by the ISO-certified work units. (This may be one way of softening the blow);

- Link any further financing of technology to agreed upon impact indicators (improvements in time, productivity or the like);

- Once systems capable of generating management information statistics are installed, work with CSJ, Public Defense, Prosecution (through OPDAT) to build internal capacity to use them to identify and resolve problems – not just to "prove" that more resources are needed;

- Stimulate internal and external discussion (best if the two can be combined) of alternative internal organization and distribution of human and other resources to ensure higher levels of productivity and attainment of more qualitative results;

- Do not equate quality of output with "following the rules." This is not what quality is about and it is a mistake to leave that impression, whatever the ISO methodology implies. Work to define better measures of quality, or for the short run focus on quantity (as insufficient quantity is also a problem);

- While it is probably beyond USAID's capacity, try to work with the CSJ to improve its analytic capabilities as regards the use of improved performance statistics. Do the same with the MIJ as regards Justice Houses and ADR, and have OPDAT work with Prosecution on the same tasks;

- If the former fails, give more funding to qualified local research institutes to do more analysis and develop more recommendations. If it works, still support the latter, but at a lower level of funding, as external researchers still may come up with novel findings;

- Encourage exchanges between the CSJ and judicial governance bodies with a management orientation. Within the region, this may be only Chile, although some Argentine provincial courts (e.g., Mendoza) and some Brazilian states (e.g., Rio de Janeiro) have introduced some interesting innovations. Two European examples include the Netherlands (an excellent Council) and Sweden (a management-oriented Supreme Court). Stop using Spain or France for this purpose – both have substantial problems.

Probably not needed for the USAID project (because it is very politically sensitive), but certainly needed over the longer run is a review of the CSJ's administrative bodies (the Department of Administration and the parallel "units" set up by the Council itself). Combined, the two are far too expensive for what they do and not very efficient. A look at Chile's court administration office (*Gerencía General*) might be worth it, as costs

are far less and results far more impressive. There are also enormous problems within both of the Colombian Council's administrative structures as regards provisional appointments, and for the separate administrative body *(Dirección Ejecutivo de Administración Judicial,* or DEA), a tendency to work with insufficient coordination with the Council.

C. INCREASING ACCESS TO JUSTICE

1. Supporting the Justice House Program

Program Background and Findings:

The flagship of USAID's Colombia justice programs has been the creation of the system of local Justice Houses (*Casas de Justicia*), which has received the largest allocation of funding by far. These Justice Houses are "one-stop legal shops" operating in marginalized, conflictive neighborhoods to provide rapid peaceful solutions to everyday disputes. They are designed to aid in the resolution of common problems, such as child support/custody issues, domestic violence, property disputes, misdemeanors, personal injuries, and administrative matters. Although they vary in design, Justice Houses normally incorporate offices of up to 14 different national and local institutions, including local prosecutors, public defenders, *inspección de policia*,[40] forensic medicine, document registration units, child and family services, the local human rights ombudsman's office, ethnic affairs offices, legal aid, social workers, psychologists, conciliation services, etc. The Justice Houses do not have judges present and are not part of the formal legal or justice system, so cannot hear or decide cases. With respect to criminal matters, the Justice Houses are meant to extend the range and presence of the formal national justice system to the local level and help to filter cases that should more appropriately be resolved outside the criminal justice system. With respect to civil matters, the Justice Houses also act as an adjunct to the formal justice system, but moreover promote informal dispute resolution through conflict prevention, community outreach and education, and mediation.

The National Justice House Program was the product of a USAID inter-institutional pilot program developed in 1994. The first two Justice Houses were constructed in 1995 pursuant to an agreement between USAID and the Colombian Ministry of Interior and Justice.[41] The program grew in 2001 to include 19 Justice Houses. Checchi supported the creation of 23 additional Justice Houses by the end of its 5-year contract in 2006. Those Justice Houses were constructed mainly in poor urban neighborhoods with high incidence of conflict. At the conclusion of the Checchi contract, the Ministry of Interior and Justice approved plans to pilot a Regional Justice House in a rural area, which would act as a central hub, with several smaller Justice Houses in surrounding areas acting as satellites.

Under the JRMP, 19 additional Justice Houses have been built in rural, often conflict-affected counties (*muncipios),*[42] and designs have been approved for six more to be constructed in 2010. As of the time of the field work for this study, 66 Justice Houses were in operation throughout the country (60 established with USG support); a total of 74-75 Justices Houses will be operating or under construction by the end of 2011.

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[40] This is untranslatable and refers to a local office, headed by the *inspector de policía,* who, contrary to what a direct translation suggests, is a civilian official charged with ensuring compliance with local ordinances and similar work. S/he is often an attorney in larger counties.

[41] In 2003, the Ministry of Interior and Justice took over the coordination of the national program, which is now handled through its Access to Justice Division.

[42] However, they are virtually always located in the small town that functions as the county seat, not in truly rural areas.

Planned Justice House construction will have surpassed both USAID and Ministry indicators and expectations.[43]

USAID has provided continual support for the National Justice House Program, although FIU succeeded in obtaining a cost-sharing agreement with the Ministry in 2007. Under that agreement, county governments provide the land, the GOC provides construction costs, and USAID provides furnishing, equipment, and technical assistance for start-up and initial operations. This initial support includes civil society programs to introduce and educate the community about the Justice House, generate citizen confidence, and promote its services. Thereafter, local and national entities are responsible for maintenance, staffing, and other operations.

The effects of the cost-sharing agreement have been both positive and negative: although the agreement demonstrates governmental commitment to the program and promises sustainability, the financial commitments have not been entirely fulfilled, and co-financing has led to a series of logistical issues, construction delays, and a "steep learning curve."[44] Ministry funding has been cut dramatically from pledged commitment levels. Moreover, once the Justice Houses are up and running, reliable and consistent staffing and maintenance have proved particularly problematic. The team visited several that were inadequately and even minimally staffed due to failure at the local and/or national level to renew staffing contracts or assign personnel; in one Justice House, 12 of the 15 provider offices were unstaffed. In another, over half of the positions were unfilled, and there was no receptionist or coordinator because their contracts had not been renewed (the security guard directed the users where to wait, but the telephones went unanswered). Multiple problems were reported with respect to inadequate maintenance, repairs, and infrastructure.

Despite their incorporation into local development plans, sustainability of the Justice Houses has been and promises to be challenging and highly problematic.[45] FIU and USAID have been grappling with these critical sustainability problems throughout much of the project, as reflected throughout FIU quarterly reports and Work Plans, but have not yet arrived at a satisfactory resolution. This issue continues to plague progress, and will become more pronounced as the program expands and more Justice Houses are built.

Justice Houses were designed to provide free assistance in a variety of legal matters and are also used for other services, including public registration and replacement of identification documents, as well as registration of internally displaced populations. Usage figures have risen over the years, but may be skewed somewhat by the provision of non-legal services in some locales. In 2008, for example, total requests for assistance at Justice Houses decreased three percent from 2007; the decrease that year was probably because fewer National Registry personnel were assigned to Justice Houses to help replace lost identification cards.[46] Again, at the beginning of 2009, requests for assistance fell by 10.2 percent for reasons that are unclear. The highest percentages of requests for assistance in 2008 were for family conflicts (29.9 percent), lost documents (15.8 percent), and requests for information or certifications (10.5 percent).[47] The remaining assistance requests related to small civil and criminal matters, neighborhood and rental disputes, psychological attention,

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[43] The FIU contract required the construction of six new Justice Houses (main hubs) during the 3-year base period, and four more to be completed within six months thereafter. The Ministry's goal was to have 67 new Justice Houses by the end of 2010.

[44] FIU 11th Quarterly Report (October to December 2008) at p. 42.

[45] See *Los Invisibles y la Lucha por el Derecho en Colombia una Mirada Desde las Casas de Justicia,* Luís Alfonso Fajardo Sánchez *et al.* (2008) at pp. 80-87.

[46] FIU 14th Quarterly Report (July to September 2009) at p. 29. In March 2007, for example, Justice House assistance requests increased by a remarkable 34%, which was due to the addition of State Register personnel providing personal identity papers. FIU 4th Quarterly Report (February to April 2007) at p. 28. Later that year, assistance requests fell by 10% when State Register personnel were reduced. FIU 5th Quarterly Report (May to July 2007) at p. 32. Obviously, requests for registration and identity papers comprise much of the business of Justice Houses.

[47] *Casas de Justicia: Informe Annual 2008* at pp. 32-33.

failure to provide public services, violations of fundamental rights and advice on pursuing *tutelas*,[48] problems of internally displaced populations, labor, and miscellaneous issues.

Annual reporting tallies numbers of people requesting assistance, categories of complaint, and resolution, but does not provide sufficient information to evaluate the nature of the resolution, follow up, or compliance with any agreements reached. The annual reports are more in the nature of a census or inventory, and not a statistical analysis.

The Regional Justice House model has proved to be problematic and largely dysfunctional. Justice House hubs were intended to expand coverage and to allow for virtual access in remote or conflict areas via satellite facilities to court and other services. The model lacked a strategy, however, and has faced numerous problems in execution and follow up.[49] Interviews and reports received concerning the regional model were consistently negative. One further problem is that no county wants to house a satellite – they all want to be hubs.

In the Justice Houses visited, some offices were clearly busy and consistently in demand (where staffed): child and family service workers, local human rights ombudsmen (*personeros*[50]), *inspectores de policía*, and in several locations, the equity conciliators. Moreover, the Justice Houses have a positive and almost symbolic impact, and communities appear to welcome and appreciate their presence. Although their functions vary, the Justice Houses plainly serve public needs in several basic areas, but they are difficult to staff and operate at current commitment levels.

Rural and conflict-affected areas present more serious considerations and challenges concerning function and utility, especially where illegal armed actors are present. "Many of the areas where regional Justice Houses are being built are considered of strategic importance by illicit armed groups" or have recently been retaken from illegal armed bands, and thus still lack strong government presence and suffer high levels of violence.[51] This is true even in highly urbanized areas, for example metropolitan Medellín, where the Justice House visited was in a poor district permeated by gangs. In August 2009, the Justice House in Santander de Quilichao, Cauca, was bombed and destroyed by the FARC – reportedly, it had become a target because it embodied the presence of the state in a conflict zone. One regional coordinator in a CSDI region commented that Justice Houses may be "too complicated" for the consolidation areas.

The USAID program has focused to a large extent on replication and rapid expansion of numbers of Justice Houses without sufficient emphasis on studies concerning their placement and usage. Vexing sustainability problems have become apparent, but to date have not been adequately resolved and could compromise future program success. Local and national capacity and commitment to the program have not met program needs or expectations. Taking steps to assure where and how Justice Houses would best be used, and restructuring and strengthening those currently in use, would be highly advisable prior to large-scale program expansion.

Impact and Lessons Learned:

Justice Houses have become an important inter-institutional resource to address community needs and provide for peaceable resolution of everyday legal disputes and increased access to services, especially in marginalized and vulnerable areas. The Justice House program has elevated the profile of citizen needs for access to justice, and has provided a valuable mechanism for free legal assistance in a wide variety of matters.

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[48] A Colombian form of extraordinary writ. See, discussion in Section II, *supra*.

[49] See the lengthy evaluation and critique of the Southern Tolima Regional Justice House: *"Revisión y Evaluación de la Puesta en Marcha y Desarrollo del Modelo Regional de Casa de Justicia y Paz del Sur del Tolima"* (2007).

[50] This is another untranslatable term. *Personeros* are designated as local representatives of the Human Rights Ombudsman, but they have a series of functions that extend beyond that role. They are attorneys and can also be thought of as the local government's chief legal official.

[51] FIU 13th Quarterly Report (April to June 2009) at p. 10.

The coordinated presence of important state entities in underserved neighborhoods has indisputably had significant and positive effects for these communities, both practical and symbolic.

Impact of the program cannot be reliably gauged because of the absence of meaningful studies, statistics, monitoring, and other information necessary to assess program utility. Data included in quarterly and annual reporting includes basic indicators of usage, but is insufficient to evaluate whether and how well problems were resolved, to what extent compliance was elicited, and other critical factors in assessing efficacy and impact.[52] In addition, preliminary studies to evaluate and inform appropriate placement of individual Justice Houses have not been sufficiently thorough or consistent. Evaluation of overall program needs has not been undertaken, and would be helpful to direct the future course of the program.

Justice Houses function at very different levels in different communities. Some provide excellent and reliable services that are well used and appreciated by their communities; many, however, suffer a debilitating lack of both municipal and national institutional support, despite written commitments and development plans pledging such support. This significantly compromises staffing and operation of many Justice Houses, reduces services available to the public, and seriously threatens sustainability.

The Ministry of Interior and Justice has proved to be a weak partner; considerable expansion of the program and rapid replication of the number of Justice Houses will further strain the already limited financial and professional resources of this Ministry. The program has suffered from the institutional weakness of the Ministry, which has not functioned satisfactorily as a coordinating entity with local actors. Achievement of a co-financing agreement with the Ministry was a major step that demonstrated significant progress toward sustainability, but has been fraught with problems in the execution and has led to additional challenges in construction and implementation.

The Regional Justice House design has not functioned as intended: the design calls for a hub with satellite houses, but in practice they each appear to function as individual Justice Houses. An evaluation revealed serious deficiencies, design flaws, and operational problems, which were consistent with interview comments.[53]

The traditional Justice House model was reported to function better in urban than in rural environments (especially in conflict-affected area). Justice Houses cannot be expected to function in rural conflict-affected areas as they have in urban areas; they may create alternative spaces to address small everyday issues, but the nature of disputes and ability to address them effectively are constrained by the presence of illegal armed actors. If they threaten that authority, they will be vulnerable, and it is critical that the public views them as safe places for peaceful dispute resolution.

Citizen confidence is difficult to build and maintain in insecure, often rural areas; in Segovia, the murder of the local ombudsman working at the Justice House was completely unrelated to his work there, but a fearful public avoided the Justice House for months thereafter. Three Justice Houses have been damaged by bombs to date, and one (in Cauca) was apparently targeted and destroyed by the FARC. The Tolima Justice House has floundered in part because of serious local political and security concerns, illustrating the difficulty of transferring the urban Justice House model to rural conflict-affected zones. In those areas, illegal armed actors often in effect "adjudicate" citizen disputes, thus perpetuating their authority and preventing legitimate justice institutions from taking hold. The Justice Houses can potentially create an alternative space to deal with minor issues if allowed to function in these circumstances, but in reality cannot do much if the government has not yet fully recovered the territory and illegal actors are in *de facto* control. To operate

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[52] For example, although the number of agreements reached in the course of conciliation efforts may be reported, that number does not indicate the quality of the agreements or whether they were fulfilled. Total agreement numbers can be misleading, and may even conceal the recurrence of disputes that are subjected to repeated conciliations. See discussion of Justice House conciliation and reporting issues, "Gender Assessment: USAID/Colombia" (2007) at pp. 8, 10.

[53] See *"Revisión y Evaluación de la Puesta en Marcha y Desarrollo del Modelo Regional de Casa de Justicia y Paz del Sur del Tolima"* (2007).

successfully, Justice Houses in these areas would have to build citizen confidence, provide useful and effective services that do not threaten illegal actors, and anticipate the potential for violence and plan for appropriate response.

Recommendations:

USAID should conduct a thorough program diagnostic and impact evaluation of the National Justice House Program prior to developing expansion plans, including study of needs, utility, service provision, urban vs. rural use and potential, practical and intangible values (e.g., the Justice Houses have symbolic value as a state presence, which may not easily be measured, but should be taken into consideration), etc. As part of this study, USAID should determine whether and how the Regional Justice House model should be continued. This study should be done in coordination with the Ministry of Interior and Justice, and could be performed in cooperation with other international actors that might also have an interest in the program, e.g., the World Bank.

USAID should focus on strengthening the existing (or already planned) Justice Houses and resolving current operational difficulties before planning and carrying out significant or rapid program expansion. This should be accomplished pending the conduct and outcome of the necessary diagnostic study(ies) referenced above. "Strengthening" in this context means, at a minimum: 1) performing adequate preliminary studies to determine appropriate placement and respond to community needs, 2) ensuring they are adequately staffed and have sufficient operating funds, 3) working with the two key providers (the Ministry of Interior and Justice and the local government) to ensure that they recognize and are able to carry out their own commitments, and actually do so, 4) providing adequate monitoring tools and ensuring they are used, and 5) providing funds and mechanisms for adequate and appropriate public education and awareness campaigns concerning the available services.

USAID should explore mechanisms to support institutional strengthening of the Ministry of Interior and Justice, as it is a critical partner in the Justice House Program and has had difficulties fulfilling the needs of the program at its present size. Expansion of the Justice House Program must be accompanied by improved Ministry capacity to absorb and manage the added oversight and responsibilities. The Ministry's role as a coordinator with local government entities should also be analyzed for changes that might achieve a better balance and improve the working relationships between national/local institutions.

USAID should assure that adequate monitoring, oversight, and reporting mechanisms are in place to collect and analyze information necessary to shape and direct the future of the program. A tracking system for the Justice Houses is currently being piloted in the Ministry; once it is tested and any necessary revisions are made, steps will have to be taken to assure that ample personnel are in place to input necessary and complete information at the local level, and then to process and take appropriate actions at the national level.[54]

USAID should develop a placement strategy for the Justice Houses based on more thorough preliminary studies, which should include needs assessments (including consideration and integration of ethnic and gender issues), realistic evaluations of local commitment, minimum service and staffing requirements and capacities (for both local and national levels), foreseeable sustainability, and security concerns.

Regional Justice Houses – both existing and planned – should be evaluated in conjunction with regional coordinators from the National Consolidation Plan and local diagnostic groups to assess utility, needs, constraints, and potential. Beyond the standard initial marketing and public education phase, USAID should develop a strategy to interact with local actors and build confidence and security.

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[54] FIU has designed a computerized system to collect and provide more complete information on case outcome and resolution. That system is in the early stages of testing, and follow-up will be required. Once the system is in place, steps must be taken to assure that it is being applied and used; this is of particular concern if the local Justice Houses are responsible for submitting information to the system, and they are already understaffed. We were also told that the Ministry may likewise lack necessary personnel, equipment, and technical expertise to implement this system.

USAID should explore alternatives to the placement of traditional Justice Houses in rural conflict-affected counties and CSDI regions, where they may not necessarily be the ideal mechanism to provide needed services. Regional differences may call for different approaches. The appropriate mechanism is very context specific, and USAID should avoid temptations to use a "cookie cutter" approach. One size does not fit all, especially in complex and fluid situations. One lesson of the JRMP is that successful programs cannot always be expanded and transferred to different contexts without considerable adaptation. Although the design of specific activities is beyond the scope of this assessment, alternative approaches might include the following:

1) mobile Justice Houses, which could also incorporate provision of additional services to outlying areas, e.g., health, education, etc. (similar to a model used in Brazil). The Ministry of Interior and Justice is currently considering plans to expand access to justice through use of mobile Justice Houses, and USAID should explore possibilities in conjunction with Ministry planning;

2) strengthening the provision of legal services and counseling by municipal ombudsmen, child and family services, and other frequently utilized offices or entities. This could involve support to national or local offices, including training, equipment, and public education. Planning would be highly dependent on local needs and availability of services, and would have to be designed based on needs assessments (described in the final section of this report); and/or

3) pilot projects with specialized brigades or other types of mobile units to counsel and assist with targeted legal services, such as those used for land titling and property issues. These could also be expanded to include family and domestic matters, or other areas of basic legal needs, but the design again is highly dependent on regional needs and context.

In its next program phase, USAID should re-evaluate how to tackle the critical issues of sustainability, ownership, and national/local commitment to the Justice House Program. Strengthening local and national commitments will present distinct and potentially paradoxical challenges. The failure to abide by written commitments and development plans indicates underlying problems, which may include budgetary shortfalls, management problems, lack of political will, or other concerns. Those issues need to be identified in order to devise a plan or approach that will reduce or eliminate those underlying problems.

The JRMP has made efforts to confront the issue of sustainability through a variety of mechanisms, including developing a CONPES[55] document to support legislation and a guide for sustainability, but the problems persist. A few discrete projects are advancing through the use of public/private partnerships, but that approach will likely have a limited scope. A national-level strategy will likely be required. Contributions from other international donors, such as the World Bank, may provide resources for activities such as studies and monitoring, but will not solve problems of national/local commitment and sustainability. In the next stage, USAID will have to work closely with the Ministry of Interior and Justice to resolve issues of sustainability at both national and local levels. Continued work on developing the CONPES is highly advisable, along with efforts to achieve legislative reform, and national inter-institutional staffing commitments. Sustainability of the Justice House program, however, might also be promoted through approaches such as performance-based budgeting, building conditionality and/or staging of disbursements, better sharing of best practices, and other incentive-based programs. In addition, thorough preliminary studies should help to more realistically gauge and predict local capacity and commitment to supporting the operation and maintenance of new Justice Houses.

[55] *Consejo Nacional de Política y Economía Social.* The issuance of a CONPES facilitates the development of government policy that could potentially standardize, confer legal status, and assure funding.

2. Supporting Alternative Dispute Resolution Mechanisms

Program Background and Findings:

Alternative dispute resolution mechanisms have flourished in Colombia since 1991, when they were first legally recognized and regulated. Colombia has authorized the creation of multiple mechanisms for alternative dispute resolution, including equity conciliators, legal conciliators, mediators, arbitrators, and justices of the peace.[56] In the Checchi phase of the USAID justice project, support was focused primarily on equity conciliation and, to a lesser extent, justices of the peace. Both figures were considered potential additional resources to offer dispute resolution within the Justice House program.

Equity conciliators are supposed to be community leaders who receive training approved by the Ministry of Interior and Justice and are thereafter certified by the courts for life to conciliate a broad range of disputes. No monitoring or practice requirements are imposed once certification is granted. Equity conciliators work as volunteers under the jurisdiction and authority of the Ministry of Interior and Justice and are prohibited from charging for their conciliation services. Although they are technically under its control, the Ministry has done very little monitoring, or even tracking, of the work of equity conciliators.[57] In theory, conciliated agreements are enforceable in a court of law, although judicial enforcement is uncommon in practice because the amounts at stake are usually small and do not justify the expense of hiring a lawyer to pursue them. Equity conciliation was intended to promote peaceful community coexistence generally, as well as specific dispute resolution.

We saw many records of training and training programs, but the total number of certified equity conciliators is either unknown or unknowable: we were given a range from 5,600 to 7,800. Once trained, records and analysis of results or impact of training are sparse. Clearly, however, only a relatively small percentage of those trained and certified are actively practicing – a maximum of 1,600 to 2,000 – and many of those have modest or minimal caseloads.

Categories of cases presented for conciliation often include family matters, small debts, neighborhood disputes, and some minor property issues. Conciliators seem to have higher caseloads in institutional settings, such as a Justice House or a Conciliation Center, but the numbers of cases handled vary dramatically among settings, regions, and conciliators. Despite positive reports and praise for equity conciliation in rural areas, the numbers of disputes actually handled seemed moderate to minimal. In conflict-affected areas, especially those with the presence of illegal armed actors, realistic possibilities for conciliation are further constrained. We were told by an equity conciliator from La Macarena that the illegal armed actors there "conciliate their own way."

During the Checchi phase of the USAID justice program (2001-2006), equity conciliators were trained and support was given to create networks and national organizations. Problems emerged, however, as the conciliation organizations grew and became politicized and competitive. The lack of national or local support, along with a weak structure and practice framework, also became apparent. A 2001 diagnostic revealed that, of 1,200 certified conciliators, fewer than 300 were actively practicing. By the end of the Checchi contract, the numbers and percentage of practitioners had risen, but serious issues remained

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[56] Technically, justices of the peace are not an "alternative" form of dispute resolution, as their jurisdiction lies within the judicial branch. For purposes of the USAID project and this assessment, however, they are included within the ADR component.

[57] This is in contrast to ***conciliators at law***, over whom the Ministry also exercises jurisdiction. Conciliators at law are lawyers who conciliate matters either connected to litigation or as a prerequisite to filing a lawsuit. They work in Conciliation Centers, which are often located within universities, private entities, or chambers of commerce that also provide arbitration and mediation services. The Ministry oversees conciliators at law and has a system that certifies and tracks their work and practice locations.

concerning impact and sustainability of the program.[58] A 2004 ADR program evaluation cautioned USAID not to rely in the future on indicators emphasizing sheer numbers of conciliators trained and certified.[59] Along the same lines, at the conclusion of its contract in 2006, Checchi recommended that USAID not resume conciliator training "until such time as they are consolidated and strengthened, and minimal assurances of sustainability exist for equity conciliators at the national and local levels."[60]

Notwithstanding these admonitions, the next phase of USAID's justice project continued to rely heavily on training and certification indicators, although it also incorporated efforts to strengthen and integrate equity conciliators into communities and institutions. The JRMP required FIU to train 1,000 justices of the peace, conciliators in equity, and/or community justice operators, and it has done so.[61] FIU also established conciliation centers and promoted the use of conciliation in Justice Houses and universities, as well as elsewhere, but has made modest progress toward measuring results, impact, and promoting sustainability. As of July 2009, FIU began a "call center" with the Ministry of Interior and Justice to collect very basic impact data from conciliators in different parts of the country, but that data collection is very preliminary and extremely limited.

Justices of the peace (JPs) were recognized in the 1991 Constitution, but not created until the necessary secondary law was enacted in 1999. JPs are usually[62] non-lawyer volunteers elected by their communities for five-year terms and are supposed to resolve disputes at the neighborhood level. They act as quasi-judicial arbitrators of disputes that are voluntarily submitted to them by parties acting *pro se*. Initially, they attempt to conciliate between the parties; if conciliation is unsuccessful, they then act as arbitrators and enter a decision, which can be judicially enforced. Like equity conciliators, JPs were prohibited by law from charging for their services, although they have recently been authorized to charge very nominal fees in some cases. They operate within the judicial branch but so far have been subjected to no meaningful oversight, although they receive some basic training from the Judicial Council through the Judicial Training School. Moreover, the decision whether to hold elections to select them is made by the head of the relevant local government. JPs are highly political, sometimes controversial figures, and conflicts were reported between them and equity conciliators, child and family welfare workers, NGOs, municipal authorities, the Judicial Council, and the Ministry. We heard many negative comments about JPs and their role, but they nonetheless seem to be asserting their presence and gaining some ground. Again, total numbers seem to be imprecise or unknown, and we heard a range of 600 – 1,800 JPs currently serving. Justices of the peace are typically found in urban settings, whereas equity conciliators are more common in rural areas.

FIU provided support to the National Association of Justices of the Peace for publication of a 2008 report documenting its history and work. FIU also made initial efforts to work with JPs through the Judicial Training School, but met with resistance and did not have much success. Neither the Judicial Council nor the Training School has been receptive to working with the JRMP with respect to JPs. Consequently, FIU focused its ADR efforts on equity conciliators, who were more open to assistance and serve in rural areas where the project focus was greater. However, the Judicial Council more recently seems to have increased its interest in the JPs, suggesting that a future project might consider more work with them. In other countries (e.g., Peru, Paraguay, Mexico) they have been more successful in expanding access for the poor; perhaps what is needed in Colombia is greater attention to the role they could play and how they can be trained to do this. In any event, decisions for the future project can wait to see whether the Judicial Council continues its interest and is prepared to devote some of its own resources to the task.

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[58] See detailed historical discussions and analyses set out in J. Roig, "*Programa de Fortalecimiento y Acceso a la Justicia 2001-2004*" and J. Roig, "Alternative Dispute Resolution Component Evaluation" (2005).

[59] Roig, 2004: p. 34.

[60] Checchi Final Report: p. 21.

[61] As of the field work for this assessment, FIU had trained a total of 1,034 equity conciliators.

[62] Some lawyers have also become JPs, which may dilute the original notion of community justice.

***ADR Overlap and Confusion**:* The Colombian legal and regulatory framework for ADR is replete with duplication, overlap, and redundancies. Legal distinctions among the types of conciliators/dispute resolution mechanisms, required training, standards, and jurisdiction are unclear and contribute to confusion and competition. It is, for example, doubtful that an ordinary citizen choosing between an equity conciliator and a conciliator in law understands any difference beyond the fact that the latter is more likely to charge for his/her services. Alternative dispute resolution practitioners may wear more than one hat, e.g., an estimated 30 percent of JPs are also equity conciliators, legal conciliators may also be JPs, and so on. Professional jealousies and rivalries among entities abound, and the representative associations are highly politicized. International cooperation appears to have encouraged the growth of particular figures, and may have contributed unwittingly to the complexity of this multi-layered system. A cottage industry has sprung up around ADR mechanisms and practitioners, many of whom compete for business or political status associated with the various positions.

Meaningful and consistent regulations and standards are needed to distinguish ADR service provision, assure a higher quality of practitioner, and improve services. As part of the JRMP, a working group was established to draft legislation reforming and harmonizing laws governing JPs and equity conciliation. A draft reform law was developed and proposed, but failed to gain the necessary support for passage. The failure or refusal of the Ministry of Interior and Justice and the Judicial Council to agree on this reform, or work together towards an alternative proposal, proved an insurmountable hurdle. Future reform proposals will require more groundwork to secure approval, along with a solid understanding of political will and positions of all the relevant parties and stakeholders.

ADR practice and practitioners have gained strength and prominence, but the assessment field work revealed quite clearly a fundamental lack of information concerning the activities and impact of ADR providers supported by USAID's justice program, especially the equity conciliators. The number of equity conciliators has continued to multiply through training and certification programs, despite absence of monitoring or knowledge about how many practice, what types of cases they handle, how they are resolved, and whether resolutions are carried out.

Attention should be directed to both the quantity and quality of conciliation processes and agreements reached through ADR mechanisms, and how that differs between urban and rural zones and among different users. We heard of several instances in rural areas where violence had erupted between the parties in the course of conciliation, and that police were sometimes called to respond. Individual instances of violence are certainly troubling, but a pattern of violence in the context of rural conciliation would be even more worrisome, and should be examined. Violent outbreaks should not occur in the course of voluntary conciliation for the purpose of peaceful dispute resolution, and may indicate that this method is less suitable to certain regions.

Prior project reviews have identified lessons learned and recommended that the justice program turn its attention to more profound evaluation and monitoring of ADR activities, rather than focusing on total numbers of people trained.[63] At this juncture, USAID would be well advised to conduct necessary diagnostics to determine impact before significant additional expansion of its ADR support and training program.

Impact and Lessons Learned:

Equity conciliators are reported to be popular community figures in many instances and are widely identified as potential problem-solvers in rural communities. The figure of equity conciliation has gained strength,

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[63] "This is a simple measure of the coverage of conciliation throughout the country, but does not measure the true impact of the ADR component. In the future, USAID should also measure the conciliators that are actually active after their certification, the number and types of cases they conciliate, the durability of the agreements reached, and the level of institutional support and recognition they receive at the local level." (emphasis added) J. Roig, *supra*, at p.34 (2004).

credibility, and legitimacy in communities. Notwithstanding, equity conciliators in conflict-affected areas have limited capabilities and appear to handle few cases. Obviously, issues that implicate powerful illegal actors would not be subject to conciliation, regardless of the impact on the community or individuals, e.g. extortion or protection payments imposed. The majority of cases that conciliators presently handle arise from the following: family issues, property matters (titling, use, easements, cultivation fires, boundary lines), small debt and financial disputes, and conflicts with neighbors. Caseloads vary, depending on the security situation and the presence of other competing or overlapping state actors, such as child and family welfare agencies. The existence of alternative service providers should be taken into account in program design so as to avoid creating duplication or fostering competition among service providers.

In CSDI regions, the presence of illegal armed actors may effectively supplant the formal as well as any informal justice systems. It is clear to the team that informal systems are especially limited in these zones and it is unrealistic to expect that they can function in situations where illegal actors have a powerful presence. ADR programs cannot address violence or conflict issues, and appear to have limited effect on dispute resolution in these areas.

As noted in the prior Justice House section, the Ministry of Interior and Justice has likewise been a weak partner in this area, which has hampered substantive progress, logistics, monitoring capabilities, and potential impact of this project component. Its primary constraints are inadequate human and financial resources, which limits the substantive and geographical scope of its work. USAID can only provide development support if the GOC is willing to fund its counterpart institutions and parallel inputs.

The program deliverables have focused too much attention on training and total numbers of people trained, without adequate attention to follow up and monitoring of practitioners and their activities after their training has concluded.

Broad legislative authority, minimal standards of certification, and proliferation of training have created a cottage industry in various methods of conciliation with competing or overlapping jurisdiction. This contributes to professional rivalries, duplication, and competition for services. The majority of those trained in equity conciliation do not practice actively, and caseloads of practitioners vary. Standards are not in place, and conciliation practices are largely unregulated and unmonitored.

Impact of this component cannot be reliably measured. ADR mechanisms and practitioners provide widely varying quality and quantity of services. No significant diagnostic studies have been performed to determine conciliation (or Justice of the Peace) needs, and no sizeable evaluations have been performed of equity conciliation, needs, and impact.

Recommendations:

Explore possibilities for institutional strengthening of the Ministry of Interior and Justice as a partner, and consider once again placing a liaison officer to work within the Ministry, but only if the Ministry can make the other human and financial resources available. Expand collaboration and coordination with organizations and entities other than the Ministry, including networks of ADR providers that focus on the needs and challenges in CSDI regions.

Establish adequate continuing impact measurement and monitoring mechanisms for equity conciliators, and use the results to shape the future program approach. At a minimum, promote parallel structures for oversight and monitoring of equity conciliators in the Ministry similar to the systems currently in place for conciliators at law. At least within conciliation centers and Justice Houses, it may be possible to adapt the software created for the conciliators at law to this end. Work with the Ministry to assure accurate and consistent recordkeeping and reporting.

Re-evaluate training and certification programs to tailor to realistic practice needs, demands, and capacity. Perform diagnostic needs evaluations and impact studies. Evaluate and assess application, utility, and impact of various types of dispute resolution methods before training substantial numbers of additional equity

conciliators or other ADR providers (N.B.: the evaluation should be designed and applied separately for urban vs. rural areas, and consider limitations of working in conflict-affected zones, or with the presence of illegal armed actors). Once trained, ADR providers should be given appropriate and necessary follow-up support to facilitate continuing and effective practice in their communities.

Depending on the outcome of the preliminary diagnostic and impact studies, strengthen organizations and networks of equity conciliators that are working well in rural areas, but maintain realistic and modest expectations about what can be accomplished, especially in conflict-affected zones. Do not support or encourage the expansion of equity conciliation in regions with ineffective security protection, and prioritize the program depending on diagnostic results. Do not expand coverage uniformly without differentiating between security and socio-political realities of zones, needs, constraints, presence of other service providers, and considering whether conciliators will be able to operate effectively. In regions where illegal armed actors are present, take into account not only the vulnerability of ADR programs and practitioners, but also ensure that the implementing partner applies its vetting procedures to ensure that they have not been infiltrated by such groups.

Support policy, legislative, and regulatory reforms to consolidate and streamline ADR services, reduce overlap and duplication of jurisdiction, and impose meaningful and consistent professional standards for practice and practitioners. These reforms could include Ministry accreditation requirements, decrees (*decretos*), a CONPES, and legislation. The legal reform(s) already drafted to harmonize JP and equity conciliation services might be used and considered as a springboard for more comprehensive ADR reform. Consider reforms that would permit reasonable compensation to equity conciliators and/or JPs for their services. Analyze the level of political will and potential opposition to such reforms from the outset; develop appropriate strategies to anticipate and accommodate foreseeable opposition. Any such strategy should specifically promote joint cooperation and collaboration of the Ministry of Interior and Justice and the Judicial Council.

In designing project activities and monitoring, review and incorporate any lessons or recommendations still relevant from the Checchi Final Project Report (2006) and prior ADR component evaluation studies (2001 and 2004).

Improve coordination and collaboration with other international actors to reduce duplication of effort, maximize potential impact, and leverage efforts and cooperation among the donor community and with GOC entities (including, but not limited to, the Ministry of Interior and Justice, the Judicial Council, and *Acción Social*).

3. Strengthening the Public Defender's Office

Program Background and Findings:

The Office of the Public Defense was constitutionally established in 1991 as part of the Human Rights Ombudsman's Office (*Defensoría del Pueblo).* Both the Ombudsman's Office and the Public Defender's Office are under the Public Ministry (*Procuraduría General),* an arrangement that is unique in Latin America. The Ombudsman's Office promotes human rights and international humanitarian law, and the Public Defender is responsible for representation of poor people in all types of litigation (not just criminal defense). This operational framework has created some tensions and potential conflicts of interest, particularly with respect to responsibilities under the Justice and Peace Law of 2005, as discussed below.

The USAID program has focused principally on the role of public defenders in the representation of criminal defendants, institutional strengthening, and to some extent its obligations under the Justice and Peace Law. Historically, the Colombian government had not provided substantial support for public defense. USAID was the first and has been the main international actor to support this office, beginning with modest efforts in the mid 1990s. As the criminal procedural reforms moved forward, USAID ramped up attention and resources to strengthening and professionalizing the institution, and has maintained its focus on the PD's Office throughout the JRMP, with significant demonstrable results. Importantly, the current program was

oriented early on by the completion of an assessment with recommendations to improve the PD's capacity to fulfill its role under the new accusatorial system.[64]

Under the JRMP, USAID has trained approximately 1,500 public defenders, has helped professionalize and stabilize the workforce, has supported 17 regional offices and three training centers, has helped design and equip a national training school and a regular system of continuing legal education and strategy meetings at the local level through Academic Bar Associations of Defenders (*Barras Académicas de Defensores*), and has otherwise strengthened the structure and operation of this institution. Additionally, the project has designed and established five Special Support Offices (*OEAs: Oficinas Especiales de Apoyo*) with highly-skilled and specialized public defenders authorized to handle and advise on complex litigation, appellate cases, and cases before the Supreme Court. Finally, the project has made considerable strides toward sustainability, and the Ombudsman's office has now assumed 82 percent of all PD training costs.[65]

The PD provides representation to over 70 percent of criminal defendants in Colombia. Public defenders are required by law to be present at the first set of arraignment hearings (the so-called "combo"), although private counsel may appear or be substituted thereafter. Currently, there are 1,640 criminal public defenders throughout Colombia and 180 who are assigned to represent victims under the Justice and Peace Law.[66] Public defenders are present in all counties, although they tend to concentrate in the capital cities, and travel outside the capitals on rotation. Public defenders in rural areas are often paired with prosecutors, and primarily handle criminal matters.

After a lengthy initial period of operational and institutional weakness, the PD has become a notably stronger organization, much of which can be linked to the support and assistance of USAID. The quality of representation has improved and the institution has gained credibility, legitimacy, and a solid reputation. Offices visited by the team appeared to be well managed and were reported to be better run than their prosecutor counterparts. Job security has increased, and many of the public defenders we interviewed had substantial experience and seemed highly capable. Nonetheless, the government has stuck by a modality of contract appointments (allegedly to reduce contingent liabilities of employment – pensions and other benefits) and thus continues to allow public defenders to carry on outside work. Possibly unsurprisingly, given this detail, caseloads were low on average, but success rates at trial seemed relatively high (although most cases are now resolved prior to trial). The most common explanations for low caseloads were: 1) the lack of necessary and appropriate police investigation, 2) bottlenecks at the prosecutors' offices and their failure to investigate and indict cases, and 3) failure or refusal of witnesses to appear to provide testimony.

Some of the success of this project component may be attributable to the division of labor that USAID negotiated with DOJ/OPDAT, which separated assistance efforts and responsibilities for different actors early on. This allowed USAID to concentrate on the PD's Office while DOJ/OPDAT worked primarily with the prosecutors, and seems to have been productive and avoided some of the almost inevitable overlap and duplication commonly encountered in the process of criminal procedure code reforms.

The ***Justice and Peace Law*** grants rights to victims of the conflict to make administrative claims for reparations, pursue adversarial cases against groups or individuals, and to participate as witnesses in human rights trials. The law has generated considerable debate about which institution(s) should appropriately provide legal representation to victims. The Constitutional Court ultimately issued a decision declaring that the Human Rights Ombudsman was responsible for providing such representation through the Public Defender's Office. As a consequence, the PD has created a separate unit for victim representation under the Justice and Peace Law. This representation, however, presents real and practical conflicts of interest because

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[64] "Initial Assessment and Recommendations for Colombia's National Public Defense System," FIU Center for the Administration of Justice (January 2007).

[65] See FIU Work Plan 2009-2010 (July 1, 2009 – June 30, 2010).

[66] Although the final figures were not yet available as of the time of the field work, the office employs approximately 2,300 PDs in all categories of practice, which includes representation in non-criminal matters.

the PD is at the same time also obligated to represent defendants. The PD has had to accommodate by separating and creating parallel systems for victim/defendant representation, but this has been enormously challenging to the institution, and will require duplication of budgets and personnel to maintain the necessary legal and ethical separations. This is a particular problem in rural areas where only one or two public defenders may be assigned or available to cover cases, and investigation and litigation assistance is already limited.

The PD requested additional training to handle this new area of representation. FIU collaborated with USAID's human rights program implementer – Management Sciences for Development, Inc. (MSD) – to develop and incorporate specific additional training modules into its standard five-day public defender training course. For one of those five days, MSD conducted training on human rights standards, transitional justice, the Justice and Peace Law, and reparations. There have been several cycles of training since 2007, and about 1,000 total public defenders trained. Reports were favorable about the impact of the initial training. The European Union and the United Nations Development Program (UNDP) have since provided more advanced training on the Justice and Peace Law for the PD's Office.

Impact and Lessons Learned:

USAID's justice program has had a significant positive impact on the justice sector and access to justice in Colombia through its work strengthening the Office of the Public Defender. The institution has become much stronger and more credible, and is recognized for providing quality representation and services.

Coverage of the PD system has been expanded to all counties, but with a concentration of public defenders in county seats. Coverage of other areas within the countries is in many instances accomplished through public defenders travelling to different locations on "rotation." Caseloads of public defenders are relatively low, apparently as a result of the lack of adequate investigative police and bottlenecks of investigation and prosecution in the prosecutors' offices, but also possibly because of the public defenders' "non-exclusive dedication to public work." [67]

The training programs and creation of a national training school have been very positive developments with considerable impact in professionalizing the institution and individual defenders, but should be decentralized to increase accessibility and rural coverage. The creation of a virtual program (with combined EU and USAID support) should help, but it still cannot substitute for physical presence. The creation of Specialized Support Offices and defense bars (*Barras*) has been a valuable mechanism for raising the quality of legal representation in complex cases and providing continuing legal education and training.

The conduct of an early assessment with recommendations for FIU was very useful to orient and frame the program's support to the PD's Office based on organizational needs and a strategy for institutional strengthening and growth.

The division of responsibilities with DOJ/OPDAT has allowed USAID to concentrate on strengthening the PD's Office to fulfill its role under the new accusatorial system and criminal procedure code reform. Strengthening and expansion of police and prosecutorial services is necessary to increase numbers and types of cases being processed under the new system, and to assure that the needs of the criminal justice system are being met.

USAID's initial public defender training under the Justice and Peace Law was well-received, and appears to have been continued at more advanced levels by other international donors. This and other areas of caseload and representation demands may require additional specialized training courses.

[67] The underlying problem is low salaries and no additional benefits (they do not even have offices), but those in charge do not believe they can demand more.

The project achieved significant progress toward sustainability, demonstrated by the GOC's assumption of 82 percent of training costs.

Recommendations:

USAID should continue to provide support for institutional strengthening of the PD's Office as needed and appropriate, and should consider repeating an institutional assessment with recommendations early in the next project stage. Attention should also be given to workloads and to reviewing the contracting modality, such as the hiring and assignment of contract lawyers for defense work.

USAID should aid efforts to assure adequate public defender coverage in CSDI areas, but should not simply hire more lawyers or create facilities in areas where they are not needed full-time and are not likely to function well. Coverage needs should be identified before designing activities, and should take into account existing and foreseeable caseload demands. Approaches could include, but are not limited to, the following: support for "quick response" mobile units to travel to arraignments, support to public defenders running on circuits, expansion of the Special Support Offices (*OEA*s), installation or expansion of facilities for distance learning or virtual participation in periodic continuing education/case strategy meetings (*Barras Académicas de Defensores*), decentralization of PD training, and targeted continuation of training activities.

Work with justice sector institutions to identify and resolve issues relating to representation of victims. There appears to be a persistent confusion of roles among prosecutors, defense counsel, ombudsman, and the Inspector General (*Procuraduría*), as well as reluctance or inability to carry out responsibilities for victim representation. The Public Defender's Office has been given additional tasks that create conflicts of interests, and responsibilities for representation of victims in proceedings are unclear or unfulfilled. Questions of representation should be clarified. If the PD will continue to have responsibility for victim representation, USAID should support the design of an institutional strategy to increase budgets and personnel to accommodate foreseeable legal and ethical demands. This will be especially important in CSDI regions, where public defender presence is limited and separation of services will be more problematic.

USAID should explore with DOJ/OPDAT the possible coordination of efforts and assistance in connection with victim representation, attention to victims, and the Justice and Peace Law.

USAID should ascertain additional training needs, and should provide specialized training in areas of increased service needs, which may include juvenile justice, human rights, sexual crimes, Justice and Peace Law representation (to the extent it is not already being undertaken by other international donors). However, once these needs are met, it should reduce support for public defender training to free up resources for other uses.

D. INCREASING CIVIL SOCIETY PARTICIPATION IN JUSTICE REFORM

Program Background and Findings:

Few Colombian NGOs were working in the justice sector when the Checchi contract began. The program incorporated a component to strengthen civil society through awards of small grants projects to complement the work of the main project areas (Justice Houses, ADR, Public Defense, and Criminal Procedural Code Reform). Over the five-year period, the program awarded 83 grants projects totaling $2.2 million, and used a communications strategy to raise public awareness and promote reform in each of the project areas.[68]

The civil society component was continued in the next phase. Under the current program, FIU's tasks have included conducting a survey and inventory of civil society organizations interested in the justice sector,

[68] Checchi Final Report at pp. 22-25.

administering a series of grants to advance justice sector reform, building networks and partnerships to advocate for reforms, creating spaces for discussion, and continuing a public education and media outreach campaign.

Although much CSO work was intended to support other lines of activity, the JRMP maintained a separate civil society component and allocated $2.3 million for a small grants and sub-grant program implemented by its sub-contractor, Casals and Associates (FIU/C&A). The purpose was to establish networks for justice sector strengthening and policy reform, promote studies, monitor justice activities, advocate and mobilize public support, and provide legal services and counsel. Project awards emphasized the work of grassroots organizations representing marginalized and vulnerable populations. By March 31, 2010, 76 grants will have been funded for organizations including universities, think tanks, judicial officials, grassroots organizations, women's groups, youth groups, Afro-Colombian groups, indigenous groups, and others.[69]

From the outset, FIU/C&A found a weak presence of justice reform networks, and encountered obstacles including "division of political will and civil society leadership, weak cohesion of the NGO community in matters of community justice, fragmentation of Afro-Colombian groups, and polarization of potential CSO partners along ideological/public policy lines."[70] A general lack of awareness of legal rights and access issues became apparent early on; justice issues had not commonly made their way into the agendas of existing civil society and grassroots organizations, and the project had to exercise considerable persuasion to foster and nurture demand. This was – and is – particularly true in rural and conflict-affected areas.

FIU/C&A's small grant awards have ranged from $7,000 to approximately $80,000, and have run the gamut from a small children's theatre project to large-scale academic studies by well-known think tanks. The average project donation has been approximately $30,000. Although grants supporting the three sister project components have been promoted throughout the project, the remaining grants have been a hodgepodge tied loosely to a series of coalitions that have been created to facilitate management and target specific areas. Grant recipients were positive about the receipt of USAID funding to support their projects, but we heard a number of complaints about delays and demands in processing grant requests, and lack of clarity and direction in the overall program design and objectives.

The project initially invited an open bid for proposals, but with no clear framework, objectives, or strategy. The invitation attracted much attention and generated high expectations. As a result, FIU/C&A was flooded with proposals, including many that were unreasonable and poorly crafted. An executive committee was formed to sift through and evaluate proposals, and the solicitation process was pared down to focus on specific groups and create alliances through which proposals would be channeled. Thereafter, the project decided on an approach involving the construction of coalitions to promote justice for three vulnerable groups: gender, Afro-Colombians, and youth. Project proposals have since been considered through the coalition framework, which has had mixed results and continuing challenges. Projects involving the women's and youth coalitions have fared better, although not without problems and complaints in the process.

Grants to women's NGOs and the women's coalition have been the most successful, probably due to a highly-developed and sophisticated women's movement. The women's coalition has focused on issues of domestic violence, child support, and gender litigation. The youth coalition was created most recently, but reflects a well-organized and active youth movement, and has promoted effective projects emphasizing improved relations with justice operators and municipal authorities, including police. Indigenous projects have likewise been incorporated and have devoted substantial effort to integrating and harmonizing indigenous justice with the majority justice system. Afro-Colombian coalitions have emphasized the operation of community councils, property ownership, enhanced access to justice, and formal recognition of ancestral practices, among other efforts.

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[69] FIU Work Plan (July 1, 2009 – June 30, 2010) at p. 28. Two additional grants were cancelled prior to funding.
[70] FIU 3rd Quarterly Report (November 1, 2006 – January 31, 2007) at p. 28.

Transparency and anti-corruption initiatives have drawn increasing attention and treatment. Many organizations have participated in valuable monitoring and citizen oversight mechanisms/observatories for various areas of the justice system (*veedurías* and *observatorios*). A guide for citizens' oversight in the justice sector has been published and is being used to conduct training and project implementation on access to justice issues. A prominent think-tank – *Corporación Excelencia en la Justicia* – has received support for several important monitoring, evaluation, research, and drafting projects. However, the impact on transparency and corruption remains unmeasured and unknown.

The course of creating and working with the three regional Afro-Colombian coalitions has been rocky. Afro-Colombians are not a cohesive singular group, and trying to work through coalition structures has highlighted the many distinctions and conflicts between organizations on critical justice agendas and needs.[71] Moreover, many of the member organizations and coalitions lack solid institutional capacity and experience managing international funds. Weak institutional capacity and lack of professional skills slowed the process of building these coalitions, and have plagued their operation. The Caribbean Afro-Colombian coalition was the largest award ever issued under the civil society component. It was created in April 2008 and disintegrated a year later after virtually continual difficulties with the organization, administration, failure to provide necessary documentation, and poor quality of deliverables from the managing CSO.[72] After multiple warnings about performance and lack of compliance, the project was finally cancelled after having received over $33,000 in funding. Responsibility for the Caribbean regional coalition was eventually transferred to another Afro-Colombian CSO in the region.

The project requirement for preparation of an inventory and directory of civil society organizations has likewise been fraught with problems, and consumed more time and effort than originally anticipated.[73] The final inventory and directory contain substantial data about existing CSO's and their work and concerns with the justice sector, but it is unclear whether or how this information is intended to be channeled or used to shape future efforts or strategies.

Impact and Lessons Learned:

USAID's support to a variety of grassroots organizations and coalitions appears to have helped to raise the profile, legitimize, and create a venue and tools for increased justice-related initiatives, participation, and advocacy. Notwithstanding, relatively few civil society organizations have significant experience or focus on justice issues, and many are still unfamiliar with justice reforms and needs.

The approach of using coalitions has had certain successes, especially with respect to youth and, in some instances, gender coalitions. This approach has, however, been perceived by some as a USAID imposition that does not necessarily reflect genuine issues of joint concern and effort; this is a particular issue within the Afro-Colombian coalitions, and may affect sustainability. The establishment of coalitions and networks is more likely sustainable when motivated and developed by the organizations themselves, rather than constructed or required as a pre-condition to assistance.

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[71] See "*Aprendizajes y Observaciones sobre el Componente de Sociedad Civil del Programa de Fortalecimiento a la Justica en Colombia"* (FIU/Casals & Associates, Inc.) (January 2010).

[72] The CSO *Organización Angela Davis* was awarded a $78,531 grant in April 2008 to manage the Coalition for Afro-Colombian Access to Justice in the Caribbean region. Over the following year, FIU/C&A made repeated requests to the organization to provide documents and deliverables, as well as site visits by contractor and USAID representatives, but without success. The grant was cut off and the project was cancelled after a full year of unsatisfactory performance, and after disbursement of $33,653.

[73] "[E]xpectations that plentiful information on civil society organizations for the inventory would be available did not materialize. Sorting through mountains of data has been excruciating." FIU 5th Quarterly Report (May 1 – July 31, 2007) at p. 42. "Identifying the information, sorting it out and verifying it is very time consuming and might not be worth it." FIU 8th Quarterly Report (Feb 1 – April 30, 2008) at p. 35.

The technical management and financial oversight of numerous small grants and counterpart organizations, especially of grassroots associations, has been time-consuming and problematic, and is the area with the highest number of reported counterpart complaints and operational difficulties. Larger organizations and institutions that have previously received international support are able to manage funding and contract compliance more effectively and responsively. Smaller and less-sophisticated grassroots organizations require more institutional strengthening and close follow up to assure satisfactory completion of contractual obligations. Those organizations are less likely to have the capacity to implement regional projects.

More experienced CSOs, foundations, and think-tanks have expressed some dissatisfaction with being lumped in with grassroots associations, both for grants competition and with respect to the amounts awarded. Different categories of CSOs may warrant distinct evaluation and levels of support.

Disperse support to numerous small grants and entities of widely varying and diverse capacity and skills has led to questionable impact and sustainability. The breadth of civil society grants and organizations has hindered the project's ability to achieve more than modest generalized impact, although many organizations have benefited substantially from specific institutional strengthening. Positive impacts have resulted from support to discrete projects and smaller grassroots organizations, but scope and sustainability are limited.

This project component has suffered from the lack of a clear strategic direction or defined objective: what is the ultimate goal and impact sought by USAID?

Recommendations:

Develop a strategic framework that reflects overall program objectives, rather than a dispersed "civil society" support approach. Clarify and define criteria for support, the impact being sought, and through which categories of actors. The grants selection process should increase focus on expected results of the project within a more clearly defined framework. The project should differentiate design strategies and processes depending on the size, capacity, interests, and sophistication of potential grant recipients.

Tailor support to CSOs that reflect their differences. In the current program, the CSO category includes at least three types of organizations – grass roots associations, civil society organizations, and think tanks, university research departments and the like – whose respective contributions to justice reform, as well as their funding needs, are correspondingly distinct. Grassroots associations usually serve the purpose of mobilizing base support or representing minority interests. CSOs of the more classic model represent "collective interests," which is to say they constitute a sort of political or cause lobby that attempts to represent public as opposed to group interests. Think tanks and research foundations do research; they may represent different ideological positions, but their value added lies in their ability to explore questions in a relatively neutral fashion. It thus makes little sense to ask them to compete against one another for funding since the criteria for evaluating and managing their proposals is quite different. Each must, of course, be capable of complying with basic rules for managing funds. Depending on how future needs are defined, the project should respect these differences and manage its support to CSOs accordingly. Concretely, this implies that think tanks may get larger awards to meet their research needs, but also be charged with more rigorous reporting systems; grassroots groups experimenting with ludic (play or game-based) exercises might get fewer funds, but also be expected to comply with a less demanding set of reporting requirements.

Do not support coalition structures that have not worked well, or impose requirements to work in coalitions on organizations that are unwilling or unable to do so effectively. Strengthen collaborative structures, linkages, and networks that already exist and have developed independently. Measures should be taken and practices put in place to avoid recurrence of the types of problems and patterns that led to the cancellation of the Afro-Colombian Caribbean Coalition.

In CSDI regions in particular, work to increase citizen education and awareness of legal rights and resources in tandem with other project efforts to strengthen the justice sector to meet demands. Public education and outreach could be done through a variety of approaches, including existing community centers, Justice Houses, municipal government offices, schools, or mobile justice units created under parallel project

components. As indicated elsewhere, take into account security issues and the presence of illegal armed actors when fashioning appropriate and realistic assistance strategies.

Support civil society efforts that monitor, oversee, and strengthen the justice sector in post-conflict zones. Provide technical assistance to civil society organizations to advocate for policy reforms and monitor the provision of justice services through citizen oversight initiatives and observatories.

Consider rebalancing support in favor of larger projects that contribute to a defined justice strategy, and to organizations that have demonstrated sustainability and capacity to manage funds and implement projects with more long-term effect. Smaller grants could continue to grassroots organizations that may not meet these criteria, but should be evaluated within the strategic framework developed and should be a lesser component.

Improve administrative and logistical management and processes to avoid delays in disbursements, oversights, contract compliance, and confusion on the part of grant applicants/recipients. Smaller grants to grassroots organizations and less sophisticated CSOs will require increased time and resources devoted to institutional strengthening, including financial practices and reporting, to assure satisfactory completion of project activities.

To the extent possible and practicable, put to use the information already collected to create the Civil Society Inventory, Civil Society Directory, and Virtual Justice Network completed in the FIU project phase. Utilize and apply the information compiled in the current project to help to design and target future assistance. Review the collective experiences from the prior grants program, consolidate lessons learned, and build the future program using those prior lessons and experience.

Explore potential areas of coordination and collaboration with the EU's justice and civil society strengthening projects. The EU has funded a justice program that is scheduled to conclude the fall of 2010, but has promoted training and access to justice, including ADR mechanisms. The EU is also supporting a series of "peace laboratories" in many Consolidation regions, which work with civil society and focus on regional development, community consolidation, peace, and stability. The program does not work with the National Consolidation Plan, but does work with local governments and community organizations. They have operated a small grants program, which has been evaluated and lessons are being compiled. The philosophy behind its efforts is not entirely consistent with that of the CSDI, but given the territorial overlap and potential parallel strategies, it could be important to attempt coordination, or at least to avoid donor conflicts. In any event, although the EU is offering less support in its second round, its funding still far exceeds that of the entire USAID project and thus should be considered in future USAID planning.

IV. OVERARCHING FINDINGS, RECOMMENDATIONS, AND PRIORITIES

In the course of the team's analysis of each of the individual components that comprise the justice program, several overarching findings, relevant to the project as a whole, became apparent. The following findings, along with their corresponding recommendations, are meant to provide a basic overview and framework for analyzing the current program status and future design challenges.

Findings:

Although not intended as an evaluation of its work, it is important as a preliminary matter to note the team's impression that ***FIU appears to have satisfied the basic objectives and deliverables set out in its contract and contract amendments. Satisfaction of essential contractual terms, however, does not in and of itself equate with effective justice sector reforms and impact.*** The USAID program has not conducted adequate evaluations or created mechanisms to compile and analyze diagnostic and statistical information needed to guide the progress of reform. Nor has it taken full advantage of the opportunity to learn from activities it sponsored. Indeed, USAID designed its justice program with an emphasis on quantifiable deliverables and expansion or replication of existing activities without sufficient regard to needs assessments, program monitoring and evaluation, and sustainability. FIU could without doubt have directed greater attention to these areas, but we were told that the emphasis on deliverables in the contract led to the rejection of suggested evaluations by FIU management on at least a couple of occasions.

Significant advances have clearly been in made in strengthening and modernizing the justice sector, but impact of the program cannot be adequately or accurately assessed because of the lack of necessary diagnostics, statistics, evaluations, and other monitoring tools. The only program element where the impact is both clear and plainly attributable to the USAID justice program is the significant strengthening and expansion of the Public Defender's Office and quality of services, for which USAID was largely and primarily responsible. Impact can be inferred with respect to other program components, but it is more speculative and anecdotal because of the absence of information and the involvement of other actors.

Another major demonstrable advance is the work still underway in the Paloquemao courthouse to simplify and improve activities of the Justice Services Center to support the work of the preliminary hearing judges and criminal trial judges. This, akin to the support afforded the Public Defender's Office, represents an expansion or creative interpretation of the project's initial deliverables. FIU is to be applauded for taking this forward, as it clearly has the potential for far greater impact than the initial deliverable, i.e., the ISO certification of a few more court units. As both examples indicate, ***projects can and should benefit from major opportunities encountered along the way***, although of course with adequate discussion with both USAID and the affected counterparts.

Conditions, needs, and risks differ among Consolidation regions, and thus any plan for justice delivery to CSDI zones will have to differ and adjust accordingly. Expanding access to conflict resolution institutions and reducing impunity (for past, present and future rights abuses in particular) are not identical endeavors and may well require different mechanisms. Moreover, USAID should anticipate a request for increased work in urban areas to respond to rising levels of urban violence, and should not consider the work on criminal justice reform to be completed inasmuch as there are clear problems with the model as implemented.

The anticipated "bridge" project provides an opportunity for USAID to conduct a stock-taking exercise to review and evaluate progress/impact to date and assess future needs. This should include diagnostics of justice sector needs and of the impact and sustainability of activities in order to appropriately shape and direct the future program. It should also focus on attempting to review and consolidate lessons from the multiple civil society grants so as to identify lines of action that might be usefully expanded.

Recommendations:

During the "bridge" project, USAID should shift its focus from replication and expansion of project deliverables to analyzing impact, sustainability, and consolidation of existing programs and activities. Ongoing plans and programming elements should be continued at their current levels, but plans for further significant expansion should be scaled back pending diagnostic results.

During the "bridge" project, USAID should conduct appropriate and necessary diagnostics of justice sector needs so as to appropriately direct and shape the next phase of programming. By "needs," we mean both the needs of citizen beneficiaries as well as gaps in institutional development programs impeding the achievement of desired results. See previous discussions and recommendations in each of the program component sections of this assessment for specific recommendations.

Again, during the "bridge" project, special attention should go to reviewing the fate of certain initiatives (especially development of training evaluation methodologies, of CCP indicators, of draft legislation and so on) which appear not be have been adopted. Aside from determining their intrinsic worth, the reasons for the limited or null follow-through should be identified, as they may indicate future problems beyond those that are likely to be resolved by a contractor. There are clearly some institutional impediments to broader, more fundamental change that need addressing, if only to prevent waste of funds and efforts on things that will not be used. However, in the best of worlds, once problems are identified, better strategies can be developed for overcoming them.

For targeted CSDI regions, USAID should conduct assessments to determine the existence and extent of unmet needs, as well as to identify the most appropriate formal or informal mechanisms and service providers to increase meaningful access to justice. The team's visits to the CSDI regions revealed some basic common needs, such as resolution of family matters, property disputes, conflicts with neighbors, and small debt or financial matters (see discussion in Access to Justice section). However, there are significant differences across the regions, such as the extent of government presence, the levels of violence and crime, the presence of illegal armed actors, geographical barriers, infrastructure, population distribution and ethnic composition, and property issues. These differences preclude any attempt to arrive at a uniform characterization of needs or approach to dispute resolution. Inasmuch as the targeted regions are geographically, politically and culturally different from those where USAID has focused the majority of its judicial strengthening, to achieve the goals in the most effective and efficient manner it would be well to understand the particular conflicts and conflict resolution needs of their populations and to have a better grasp of by what means and how well they are currently addressed.

There are several possible approaches to this task, but the most expedient is arguably a series of surveys done in some of the areas asking a random sample of households or individuals: 1) what conflicts they have; 2) whether they do anything about them; 3) if so, what they do (specifically to what authorities or institutions they look for help); and 4) how satisfied they are with the results. A similar survey, financed by the World Bank for the Judicial Council, has already been completed and applied in three urban areas by *Fedesarrollo* in 2008 (Buenaventura, Valle del Cauca; Bucaramanga; and Cienaga, Magdalena). This questionnaire and survey process could be made available to USAID,[74] but may require modification to reflect the legal disputes and access issues more common to rural CSDI regions. The questionnaire is a good means of identifying met and unmet conflict resolution needs, people's relative confidence in existing mechanisms for attending to them, and the extent to which conflicts are satisfactorily resolved. With this information in hand, USAID will be in a better position to decide what types of services could be most usefully provided, as well as how to adapt mechanisms used elsewhere to the needs and challenges in these areas.

[74] The team has a copy of the *Fedesarrollo* study and questionnaire, which could be made available to USAID informally. A more formal approach would be for USAID to request copies from either the Bank or the Judicial Council, and discuss with either or both the possibility of adapting and applying the study to rural, conflict-affected areas.

Security concerns should be paramount when determining how and to what extent access to justice in CSDI regions, whether formal or informal, can realistically be enhanced. National Consolidation Plan and coordinating teams have not yet fully formulated policies and approaches to integrate justice objectives into planning. In some areas, the presence of illegal armed actors constrains or supplants a functioning justice system. USAID should work with the Regional Coordination Centers to provide input and develop justice plans and programming, but must tailor approaches to modest objectives and realistic goals.

It is well beyond the purview of this justice sector assessment to offer useful recommendations as to the larger problem of security in Colombia. Experience in conflict-affected regions elsewhere, however, teaches us that security has to precede the provision of basic government services. USAID's justice program cannot be expected to overcome or minimize real and existing security concerns. Moreover, the presence of judicial and prosecutorial authorities in these zones is not always perceived as unbiased, and trust must be developed between the authorities and citizens to support a credible justice sector. "The practice of mass or indiscriminate arrests [for drug crimes or suspected guerrilla support], often as the first activity of newly arrived judicial branch authorities, is hugely counterproductive to strengthening the state, and should be halted."[75] A balance must be achieved between criminal prosecution and citizen protection.

Efforts to reduce impunity in these areas will likely face serious limitations, and it is probably unrealistic to assume that actors placed to promote access to justice can accomplish this as well, both because of the threats this may pose to them and those who access their services, and because they are unlikely to have the special skills needed for this additional work. Instead, reliance on specialized teams of prosecutors and police brought in to investigate cases of interest may well have to continue, and cases might have to be adjudicated for a time in safer venues.

The information and results of the diagnostics and evaluations conducted during the "bridge" project should be used to design the follow-on justice program. Special attention should be paid here to the three large projects about to start (the IDB and World Bank loans, and the EU grant for work with the Prosecutor's Office), especially as the first two are likely to provide substantial resources for funding, equipment, and infrastructure, meaning that USAID contributions here can either be cut back or should be targeted more carefully. The EU's second large project with "peace laboratories" also should be taken into consideration as it targets many of the Consolidation regions. FIU's good practices in coordinating with other donors should be replicated and stepped up.

Priorities:

In the previous discussions of individual program components, the assessment team has set out in detail what it considers to be priorities for future strategy and work within each of those areas. General overarching guidance about the need for studies and monitoring to be performed during the bridge project is described above. Finally, the team provides the following suggested outline to USAID for setting priorities across the major programming areas, but with a strong caveat. The priorities we suggest at this stage may very well shift, depending on the outcome of studies performed during the "bridge" project, progress in setting standards and achieving sustainability, evolution of CSDI programming and regions, and other developments over the span of the next two years. Given these likely changes and developments, the priority suggestions should be viewed as tentative.

USAID's principal priority should be to ***concentrate efforts on evaluating and strengthening the Justice House program***, which has been the flagship of USAID assistance since the mid-1990s, represents by far the highest programming investment, and is the program most associated with and linked to USAID support. After fifteen years, the Justice House program is at a critical stage requiring serious attention to issues including infrastructure, personnel, utility, and sustainability. USAID should dedicate substantial efforts and

[75] Isacson, "After Plan Colombia" at p. 37.

attention to strengthen this program and existing Justice Houses, address existing and foreseeable problems, and avoid losing ground before planning further significant expansion of the program.

USAID should ***also maintain its support to the Office of the Public Defender***, which is also one of the longest-running successful programs and is closely connected to USAID assistance. Although this office is not in jeopardy, care should be taken to assure that it continues to operate and function at high levels. In addition, assistance should be directed to resolving operational and ethical issues of victim representation, and helping the office to develop a strategy and plan to accommodate the increased requirements and complexities of that representation. Inasmuch as Colombian authorities seem committed to the current employment modality (contracted lawyers who are also allowed and expected to maintain private work), more attention should also go to identifying and resolving any conflicts it poses and to setting clearer (and probably higher) targets for their public defense work.

USAID should begin to design its strategy for legal reforms to the ADR structure, but training and support for specific ADR activities and entities should await results of preliminary studies and diagnostics, including needs assessments in CSDI regions. The course and direction of ADR program design will depend to a large extent on the outcomes of studies in the "bridge" project.

Several priorities should be mentioned with respect to the formal system. First, work currently being done in Paloquemao to improve judicial services should be continued, evaluated, and discussed with the Judicial Council to explore expansion to other courts. The improvements to Siglo XXI (including the modules added to track notification, improve scheduling of hearings, and generate performance statistics) are particularly important, but given concerns about possible duplication by systems funded by other donors, there is a need to discuss these issues with the Judicial Council in particular. Those discussions should emphasize short- to medium-term improvements in the ability to track performance and addition of functions that could immediately improve courtroom performance.

Second, although USAID does not work with either the Prosecutor's Office or the investigative police, their role in code implementation must be addressed and improved. The problems appear to be largely operational (organization, internal practices, use of resources) and should be addressed to fend off emerging suggestions that still further code reform (and a possible step backwards in due process protections) is the best remedy. OPDAT may want to coordinate with the EU, whose new project will focus on prosecutors, and both entities should clearly review some of the relevant existing studies.

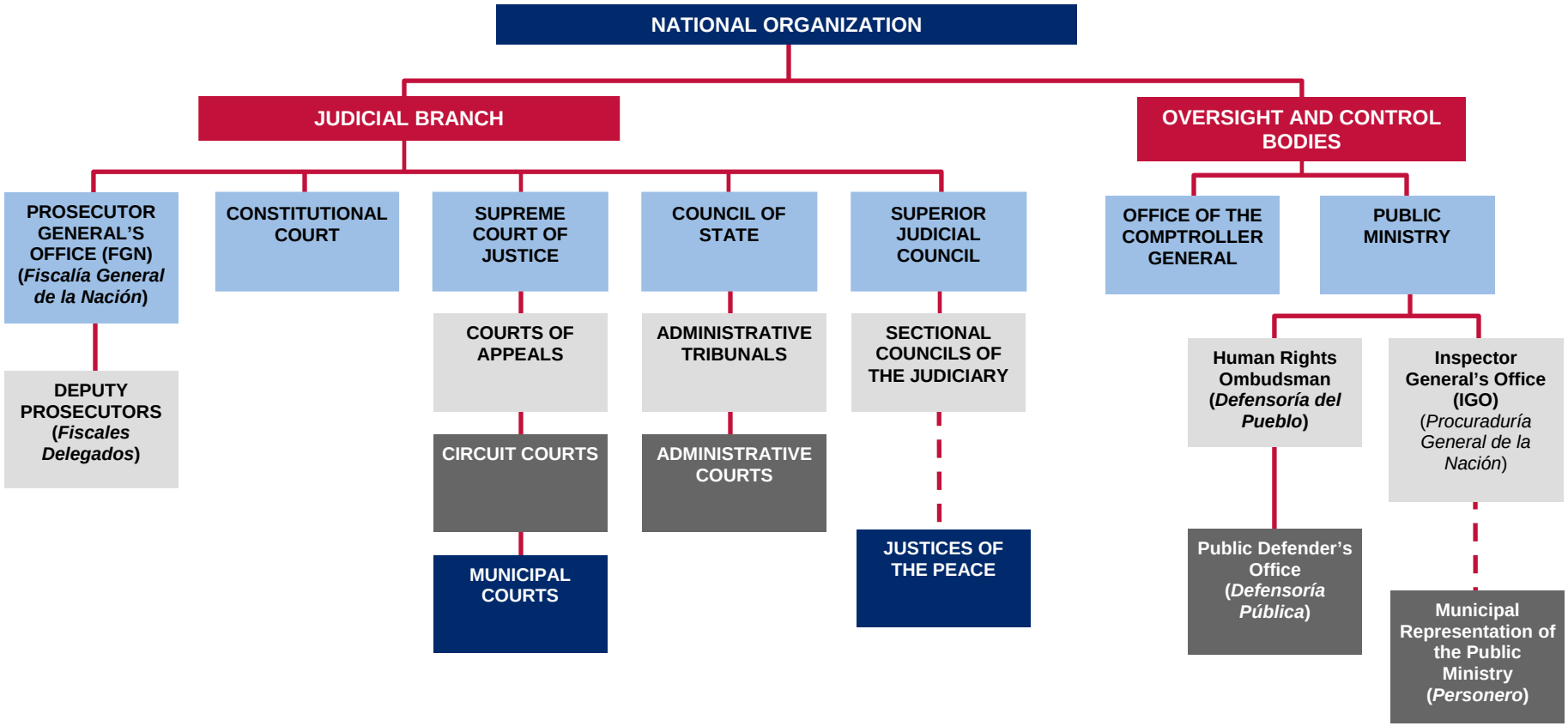
Third, some means needs to be found to interest the Inter-Institutional Commission and its individual members in both the studies on code advances and the indicators developed for future tracking. A good deal of information is now available about where the new system's performance has been weakest. That information should be used by the relevant parties to seek remedies, most of which will not require a new set of legal reforms. As mentioned above, this may well demand more than what a contractor can accomplish, and higher level USAID and Embassy personnel may have to get involved. Other donors may also be interested and able to assist in this effort.

Increased access to justice and reduction of impunity should be envisioned as two sets of interrelated challenges when expanding the formal system into Consolidation regions. Access creation involves a different set of both formal and informal actors, and many of the formal system actors are already present, if often circumscribed as to what they can do. The project can work with them, as well as find ways for them to operate throughout the counties (with mobile units, brigades or video-conferencing equipment), but they probably cannot and should not be expected to handle some of the more serious crimes motivating concerns about impunity. This is an issue not only of their own skills and security, but also of the security of local citizens.

Civil society strengthening should accompany and complement the program elements above, but significant further investment must await a program design where USAID decides on a strategic framework for civil society work, and any small grants programs.

ANNEX 1: MAP OF SITE VISITS (JANUARY 2010)

ANNEX 2: CHART OF COLOMBIA JUSTICE SECTOR[76]



[76] This chart is neither complete nor comprehensive; it is intended only to illustrate the organizational structures and relationships among several of the major entities and institutions referenced in the report.

ANNEX 3: LIST OF PERSONS INTERVIEWED

Washington D.C.:

Jean Garland (Senior Rule of Law/Human Rights Expert, USAID/DCHA)

Lisa Haugaard (Executive Director, Latin America Working Group)

Andrew Hudson (Manager, Human Rights Defenders Program, Human Rights First) (telephonic)

Patricia Hunter (Democracy Officer, USAID/LAC)

Adam Isacson (Director, Latin America Security Program, Center for International Policy) (telephonic)

Neil Levine (Director, USAID/DCHM, Conflict Management and Mitigation)

Stephen Pelliccia (Director, Chemonics, Latin America and Caribbean, and [former] USAID/Colombia, Senior Democracy and Governance Advisor)

Julia Roig (Executive Director, Partners for Democratic Change)

U.S. Government/Colombia:

Mark J. Carrato (Alternative Development Officer, USAID/Colombia)

Than Christie (Interagency Liaison, USAID/Colombia)

Andrew E. Erickson (Deputy Director, Narcotics Affairs Section [NAS], US Embassy/Bogotá)

Camila Gómez-Salgado (Program Development Specialist, USAID/Colombia)

Nadereh Lee (Acting Deputy Mission Director, USAID/Colombia)

Christopher Maness (Deputy Country Representative, Office of Transition Initiatives, USAID/Colombia)

Orlando Muñoz (Senior Policy Advisor, Office of Democracy and Human Rights, USAID/Colombia)

Anu Rajaraman (Deputy Director, Office of Democracy and Human Rights, USAID/Colombia)

Bernardo Reina (Legal Advisor, NAS, U.S. Embassy/Bogotá)

Jene Thomas (Director, Office of Democracy and Human Rights, USAID/Colombia)

Paul S. Vaky (U.S. Department of Justice, Justice Sector Reform Program, Plan Colombia)

S. Ken Yamashita (Mission Director, USAID/Colombia)

Florida International University Center for the Administration of Justice (FIU) (and subcontractor Casals and Associates) (USAID/Colombia JRMP Contractor):

John Richard Baca (Program Director, CJSP, FIU)

Oscar Flórez (Consultant, Court Administration, FIU)

Ana Montes ([former] Consultant, FIU)

Olga Lucía Navas (Gerente de Donaciones, Casals [subcontractor], FIU)

Linda María Ortiz Sánchez (Consultant, Court Administration, CJSP, FIU)

Annette Pearson de González (Director, Justice House Program, CJSP, FIU)

César Reyes Medina (Coordinator, Criminal Justice Implementation, Public Defense, and Legal Clinics, CJSP, FIU)

Javier Said ([former] Deputy Chief of Party, FIU)

Helena Useche (Coordinator, Civil Society, CJSP, FIU)

Germán Vallejo (Coordinator, ADR, CJSP, FIU)

Victor Yela (Coordinator, Court Administration, CJSP, FIU)

Management Sciences for Development, Inc. (MSD) (USAID Human Rights Contractor):

Ivette María Altamar Consuegra (Assistant Director)

César Castillo Dussán (Project Director, Governance)

Olga Lucía Gaitán García (Coordinator, Strengthening of the State)

Lucía García Giraldo (Director, Human Rights Program)

Hugo Pineda (Coordinator, Justice and Peace Law)

Jaime Prieto (Coordinator, Civil Society)

Judiciary:

Liliana Moreno (Head of Support Office, Paloquemao)

Nicanor Sepulveda (Ingeniero de Sistemas, Paloquemao)

David Vega (Coordinating Judge, Paloquemao)

Superior Judicial Council:

Santiago Alba (Magistrado Auxiliar, Administrative Chamber)

Lucia Arbeláez de Tobón ([former] member and President of Administrative Chamber)

Gladys Virigina Guevarra Puentes (Director, Escuela Judicial Rodrigo Lara Bonilla)

Clara Milena Higuera (Unidad de Estadísticas and Center for Judicial Documentation)

Diego Lodoño (Unit of Monitoring and Evaluation, Administrative Chamber)

Carlos Másmela (Dirección Ejecutiva Seccional de Administración Judicial)

Yirta Olarte (Secretaría General, Disciplinary Chamber)

Hernando Torres (member of Administrative Chamber)

Prosecutors:

Norma Consuelo Ardila Matéus (Fiscal Seccional de Bogotá)

Patricia Jacquelín Feria (Fiscal Lavado y Activos; Fiscal Comisión para el Seguimiento y Monitoréo del Sistema Acusatorio)

Carlos Andrés Guzmán (Fiscal Seccional de Bogotá, Profesor; Universidad San Buenaventura)

Fernando Jiménez ([former] Fiscal, worked with Checchi and FIU)

Public Ministry/Inspector General's Office:

Gabriel Ramón Jaime Durán (Procurador Delegado para el Ministerio Público en Asuntos Penales)

Human Rights Ombudsman/Public Defense:

Alfonso Chamie Mazzilli (Director, Sistema Nacional de Defensoría Pública)

Horacio Guerrero García (Defensor Delegado para Indígenas y Minorías Étnicas, Defensoría del Pueblo)

Pilar Rueda Jiménez (Defensora Delegada para los Derechos de la Niñez, la Juventud y la Mujer, Defensoría del Pueblo)

Alternative Dispute Resolution (ADR):

Rosembert Ariza Santa María (consultant and professor, ADR)

Luís Eduardo Beltrán (Presidente, Asociación Colombiana de Conciliadores; Juez de Paz de Reconsideración)

Oscar Manuel Gaitán Sánchez (Director Ejecutivo, Partners Colombia Por el Cambio Democrático; [former] Director, European Union Justice Project)

Margarita María Nieves Acero (Juez de Paz; Presidenta, Colegio Nacional Jueces de Paz)

Luís Sánchez Puche ([former] Presidente, Asociación Colombiana de Conciliadores)

Ministry of Interior and Justice:

Guillermo Cobos (Sistema de Información)

Diana Huertas (Dirección Asuntos Indígenas, Minorías, y Roma)

Consuelo Murillo Sánchez (Profesional, Conciliación en Derecho, Arbitraje, y Mediación)

Beatriz Pereira R. (Coordinadora, Programa Nacional Casas de Justicia y Centros de Convivencia Ciudadana)

Pedro Santiago Posada (Director de Asuntos Indígenas, Minorías y Roma, Ministerio del Interior y de Justicia)

Hilda Stella Rojas (Dirección de Acceso a la Justicia)

Judhy Stella Velásquez Herrera (Directora, Acceso a la Justicia, Ministerio del Interior y de Justicia)

Government of Colombia, Initiatives/Office of the Presidency:

Álvaro Balcázar (Gerente, Plan de Consolidación Integral de Meta, Programa Nacional de Consolidación)

Viviana Cañón Tamayo (Dirección de Cooperación Internacional, Acción Social)

Jorge Enrique Prieto Cardozo (Director de Cooperación Internacional, Acción Social)

Universities/Research Centers:

Miguel Emilio La Rota U. (Researcher, DeJusticia)

Rodrigo Uprimny (Director, DeJusticia)

Gloria María Borrero (Director, Corporación Excelencia en Justicia [CEJ])

Monica Pedrazo (Researcher, CEJ)

Ana Ramos Serrano (Researcher, CEJ)

Miguel Cajas (Law Faculty, Universidad de los Andes)

Diego López Medina (Law Faculty, Universidad de los Andes)

Civil Society:

Claudia María Mejía Duque (Directora Ejecutiva, Sisma Mujer)

Maura Nasly Mosquera (Secretaría Técnica, Coalición Nacional Género y Justicia; Conferencia Nacional Afro-Colombiana)

Gloria Matilde Ortiz ([former] consultant, Justice House Program, FIU; [former] Civil Society Grants Manager, Checchi)

Focus group with Public Interest Litigators:

Blanca Bohórquez (Public Defender's Office; criminal and family law specialist)

Carlos Rodríguez-Mejía ([former] Vice-Presidente, Comisión Colombiana de Juristas; Labor Law Development Program; Human Rights consulting attorney)

Eduardo Carreño W. (Vice-Presidente, Colectivo de Abogados José Javier Restrepo)

International Donors/Lenders:

Andreas Forer (Coordinador General, ProFis [Supporting the Peace Process in Colombia within the Context of the Justice and Peace Law], GTZ)

Beatriz González (Jefe, Misión Asistencia Técnica Internacional, Proyecto Fortalecimiento del Sector Justicia para la Reducción de la Impunidad en Colombia, Delegación de la Unión Européa)

Valeria Jordan (Sección Operacional, Delegación de la Unión Européa)

Lucía Rivera (Inter-American Development Bank, Proyecto Altas Cortes y Proyecto de Fortalecimiento de Servicios de Justicia)

Apartadó, Department of Antioquía:

Norma Helena Lilande Ángel (Defensora del Pueblo Seccional, Apartadó)

Jesus Alberto Monsalve (Consultant, FIU)

Osvaldo Cuadrado Simanca (Mayor, Apartadó)

Focus Group:

Manuel Corréa (Presidente Acción Comunal, Apartadó)

Major José Yarley Cuesta Rodríguez (Comandante del Batallón de Apartadó)

Claribel Escobar Carvajal (Presidenta de la Junta de Acción Comunal del Barrio Vélez, Apartadó)

Gabriel Escobar Carvajal (Civil Society, Apartadó)

Ever Hoyos Hernández (Jefe, SIJIN, Apartadó)

Edgar Lara Luna (Secretario de Gobernación, Turbó)

Diego Martínez Figeroa (Secretario de Planeación, Turbó)

María Mosquera Quinto (Personería, Apartadó)

Capitan Rodrigo Ramírez Polanco (Comandante, Estación de Policía, Apartadó)

Andrea Catalina Saleme V. (Comisaría de Familia, Apartadó)

Julia Tapiel Galé (Coordinadora, Mujer y Familia, Municipio de Apartadó)

Marcelo Valencia Mona (Consultorio Jurídico, UCC)

Nubia Vidal Celorio (Coodinadora, Asociación Comunal de Chingorodó)

Cartagena, Department of Bolívar:

Civil Society:

Edgar Arrieta Castro (Asistente Proyectos, Fundación ProTransparencia)

Gustavo Balanta C. (Director Ejecutivo, Fundación SURCOS)

Bexi Cruz Torrado (Liga Internacional de Mujeres por la Paz y la Libertad; Member, Coalición Nacional de Justicia y Género)

Patricia Guerrero (Directora, Observatorio Género, Democracia, y Derechos Humanos; Founder, Liga de Mujeres Desplazadas)

Rusmery Herazo Reyes (Fundación Palenque Libre)

Rubén Hernández C. (Director, Jorge Artel)

Eidanis Lamadrid (Coordinadora Nacional, Liga de Mujeres Desplazadas)

Efraín Miranda (Abogado, Asesores Jurídicos y Asuntos Etnicos)

Analuz Ortega (represente legal, Liga de Mujeres Desplazadas)

Marilyn Pasco González (Fundación SURCOS)

Deyaniva Reyes Ramos (Liga de Mujeres Desplazadas)

Javier Palacio Trillos (Coordinador de Proyectos, Fundación ProTransparencia)

Prosecutors/Public Defense:

Liliana Guardo Castaña (Coordinadora, Oficina de Fiscales, Cartagena)

Gisela Pérez Quesada (Fiscal, Cartagena)

Ernesto Rodríguez (Fiscal, Cartagena)

Beatriz Tovar C. (Coordinadora Administrativa y de Gestión, Defensoría del Pueblo, Regional Bolívar)

Judiciary:

Ivan E. Latorre Gamboa (Magistrado, Consejo Seccional de la Judicatura, Sala Administrativa)

Perícles Rodríguez (Juez de Circuíto y de Conocimiento, Cartagena)

Group Interview – Judges:

Elizabeth Araujo Arnedo (Juez, 9o Penal)

María Bernarda Campos (Juez,10o Control de Garantía Penal Municipal)

Luís Germán Herrera Vanegas (Juez, 6o Circuito)

Luis Machado López (Juez, 11 P. Municipal de Garantía)

Reinaldo Cuadrado Marín (Juez, 1a Penal Municipal)

Guillermo José Martínez Ceballos (Juez, 4o Penal Circuito con Funciones de Conocimiento)

María J. Martínez Velasco (Juez, de Presentación Promiscuo del Circuito Tubaco)

Alfonso Meza de la Ossa (Juez, 2o Promiscuo del Circuito Turbaco)

Dionisio Osorio Cortina (Magistrado, Consejo Seccional de la Judicatura Sala Administrativa)

Ibeth de la Ossa Sierra (Juez, 2da de Garantía)

Lilia Rosa Posso Benítez (Juez, 12 de Garantía)

Mabel Verbel Vergara (Juez, Pco. Municipal)

National Consolidation Plan/Regional Coordination Team:

Mabeth Gamarra Vargas (Asesora, Prevención Emergencias y Retornos, Acción Social, Centro Coordinación Regional de los Montes de María)

César Gavalo Herrera (Profesional de Prevención, Emergencias, y Retornos)

Darío A. Mejía A. (Gerente, Montes de María)

Justice Houses:

Casa de Justicia Chiquinquirá:

- Cielo García Caraballo (Coordinadora)

- Amin Sanabriu (Comisaría de Familia)
- Cesar Manuel Torres Castro (Personería)

Casa de Justicia Country:

- Jaime Benavidez Nopia (Equity Conciliator)
- Mayra Cárdenas Castellanos (Coordinadora)
- Lourdes Gárces (Comisaría)
- Alfredo Schnothborgh (Equity Conciliator)
- Lilian Ospina V. (Personería)

Casa de Justicia Canapote:

- Margarita Robles Villegas (Comisaría de Zona Norte)
- Ana Torres (Representante de Asuntos Indígenas)

Medellín, Department of Antioquía:

Judiciary:

Dr. Hernán Nicolás Pérez Saldarriaga (Juez Primero de Familia)

Diego Toro (Judge Coordinator, Itagüí)

Luz María Zea (Judge Coordinator, Evigado)

Public Ministry:

Diego Gaviria (Head of OEA, Medellín)

Olga Clemencia Palacio (Defender in OEA, Medellín)

Justice House, Bello:

Adriana Alzate (Coordinadora)

Wilber Henao (Coordinator of Equity Conciliators)

Civil Society:

Olga Lucía Ramírez (Vamos Mujeres)

Departmental Government:

Agustín García Monsalve (Coordinador General-Docente, Proyecto Conciliación en Equidad)

Jorge Alberto Parra (Director, Proyecto Conciliación en Equidad)

Alejandro Gómez Velásquez (Advisor, Secretaría de Gobierno)

Municipio de Medellín:

Héctor Eduardo Marín Taborda (Director, Centro de Servicios Administrativos)

Sincelejo, Department of Sucre:

Juan Carlos Castilla Cruz (Juez de Control y Garantías, Sincelejo)

Leandro Castillón Ruíz (Presidente, Sala Penal, Sincelejo)

Hasley Cogollo Hernández (Fiscal Seccional, Delegado ante Jueces Penales de Circuito de Sincelejo; Coordinador URI Sincelejo)

Oscar Herrera Rebollo (Defensor del Pueblo, Defensoría del Pueblo, Regional Sucre)

Line Cabrales Marrugo (Magistrada, Sala Administrativa, Consejo Seccional de la Judicatura)

María del Carmen Meza O. (Conciliador en Derecho, Centro de Conciliación, Arbitraje y Amigable Composición, Cámara de Comercio de Sincelejo)

Anny Molina Pariño (Defensoría del Pueblo, Regional Sucre)

José Francisco Restrepo Herrera (Docente y Especialista: Conciliación y Conflictos)

Damaris Salemi Herrera (Juez, Segundo Penal Municipal, Sincelejo; Director, Centro de Servicios de la Corte)

Carlos Santiz Castilla (Profesional Administrativo y de Gestión, Defensoría del Pueblo, Regional Sucre)

Tumaco, Department of Nariño:

Hernando Arcos S. (Procurador, Provincial)

Javier Vitery B. (Fiscal, 31 Seccional)

Beatriz Cadavid (Procuradora, Judicial 282)

Jorge Cortes (Fiscal, 29 Local)

Jhon Fernando Díaz (Coordinado, SIJIN)

Leonel Díaz Mora (Juzgado, 2º Penal Municipal)

Henry J. Girón (Registrador Municipal)

Ruth López (Juzgado, Laboral del Circuito)

Catalina Medina (Juzgado, 1º Penal Adolescentes)

Jaime Mera (Fiscal, Seccional 27)

Andrés Fernando Muñoz (Juzgado, 3º Municipal)

Jorge E. Navas (Coordinador Defensoría Pública)

Mary Geneth Odin (Magistrada, Consejo Seccional)

José M. Ordoñez (Comandante, Cuarto Distrito de Policía)

Jenny Palacios (Director, Bienestar Familiar Tumaco)

Gabriel Francisco Pérez (Fiscal Coordinador)

Harold W. Pérez C. (Fiscal, Infancia y Adolescencia)

Heidy Quiñones (Asesor Jurídico, DIAN)

Andrés David R. (Asesor, Jurídico Operacional)

Maryory Rodríguez (Coordinador, Policía Infancia y Adolescencia)

Germán Santacruz Gaviria (Juzgado, 2º Civil del Circuito)

Hernando Santos (Policía Nacional)

Javier Gaona Solano (Comandante, Batallón Baaflin)

Ivonne Vallejo (Juzgado, 2º Penal del Circuito)

Luis Alberto Vallejo Pantoja (Fiscal, Especializado 4º)

Jesús B. Valverde (Fiscal, Seccional 30)

Villavicencio, Department of Meta:

Judiciary:

Rubén Darío Chang (Auxiliar del Magistrado del Consejo Seccional de la Judicatura del Meta)

Romelio Elías Daza Molina (Magistrado, Sala Administrativo, Consejo Seccional de la Judicatura del Meta)

Yolanda Hurtado Cano (Magistrada, Sala Administrativa, Consejo Seccional de la Judicatura, Seccional Meta, Ciudad Villavicencio)

Aymer Moreno Rengifo (Asistencia Técnica, Seccional Villavicencio)

Amparo Navarro López (Jueza, 2nd Penal del Circuito con Funciones de Conocimiento, Meta)

Rodrigo Suárez Geraldo (Director Seccional de Administración Judicial de Villavicencio)

Prosecutors/Public Defense:

Hernán Castañeda Chaux (Defensor Público, Sistema Penal Acusatorio, Regional Meta)

Claudia Castillo Padilla (Gestión Profesional Administrativa, Defensor del Pueblo, Regional Meta)

Eduardo González Pardo (Defensor Regional Meta)

Luz Elma Romero R. (Fiscal Seccional de Homicidios, Villavicencio)

Gladys Velásquez (Defensor Público, Sistema Penal Acusatorio, Regional Meta)

Justice House:

Psychologist, social worker, and Comisaría de Familia (unidentified)

Focus Group of Equity Conciliators from outside Villavicencio:

Nairo José Camargo Penagos (Gestión Municipal, Conciliador en Equidad, Municipio de La Macarena)

Jorgé Eduardo García Zabaleta (Conciliador en Equidad, Municipio de Puerto Rico)

Campo Elías Higuera (Director, Conciliadores en Equidad, Municipio de Vista Hermosa)

Virtual Interviews outside Villavicencio (using courtroom videoconference facilities):

San José (Guaviare):

- Wilson Álvarez (Secretario del Despacho)
- Edgar Ignacio Gómez Rodríguez (Juez de Conocimiento)
- Ariel Marín (Juez de Garantías)

Puerto Asís (Putumayo):

- Elías Cordón Arias (Juez Promiscuo del Circuito)
- Alejandro Jurado (Technical Assistant)

Mitú (Vaupés):

- Darwin Acevedo (Abogado Funcionario del Despacho del Juez)
- Jaime Niño (Juez Promiscuo del Circuito de Mitú)

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