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Final Report

JUDICIAL REFORM PROJECT I

Contract No. 519-0296-C-00-1023-00

Submitted to:

**Office of Democratic Initiatives
USAID/El Salvador**

Submitted by:

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INTRODUCTION

Judicial Reform Project I was a ten-year project (1983-93) which was implemented directly by USAID/El Salvador through its Office of Democratic Initiatives (ODI). During the last 26 months of this Project Checchi and Company Consulting, Inc., based in Washington D.C. through an institutional contract (#519-0296-C-00-1023-00), coordinated the technical assistance and several Project activities. The contract was effective on November 26, 1990, and terminated on May 30, 1993.

At the beginning of the institutional contract the Project components were limited to the following :

- 1) Training for the Public Ministry (Offices of the Attorney General and the Solicitor General Offices).
- 2) Support for law schools to strengthen legal education.

Twelve months into the institutional contract six more components were added as amendments :

- 3) Legal reform through the Ministry of Justice (drafting and public consultation and promotion).
- 4) Special activities (i.e. Annual Iberoamerican on Judicial Reform, press seminars, student conventions).
- 5) Public information activities (judicial community database, by-monthly bulletin, publications in various newspapers and T.V. & radio spots, as well as special publications related to the legal reform).
- 6) Administrative systems pilot project in a criminal court.
- 7) Public Ministry (Attorney General's Office and Solicitor General's Office) institutional strengthening.
- 8) Procurement (purchase, transport, delivery, installation and training) of equipment such as vehicles, libraries, transmission and computer equipment for the Ministry of Justice, the Attorney General's Office, the General Solicitor General's Office, the Human Rights Ombudsman, and universities.

At ODI's request, the contractor also assisted in the strategy design for Judicial Reform Project-II. The salvadoran legal system (legal institutions, legal structure and legal education) received a total of 175 person-months in technical assistance under the institutional contract.

PURPOSE OF THIS REPORT

This report was produced in order to provide ODI with a complete reporting instrument, for use in the analysis and evaluation of the contractor's performance under Judicial Reform I Project, and to serve as a reference for Judicial Reform II Project.

The report includes 67 annexes which describe in detail the follow-up, monitoring and evaluation of the Project. The annexes are not enclosed with this report due to the great volume of information, but they are available to USAID in the Contractor's offices in El Salvador for study, evaluation or audit.

This report is organized by activities instead of by beneficiary institution. We believe that the reader will understand the Project better this way, by remaining within a complete unit of activity instead of changing from institution to institution analyzing technical assistance in subjects as varied as training, institutional strengthening, administrative systems upgrading, or legal reform.

FINANCIAL ADMINISTRATION AND CONTRACT EXPENDITURES

The original contract was amended four times, broadening the terms of reference and providing additional funding, outlined as follows :

Original contract	\$ 1,171,269.00	11/26/90
First amendment	\$ 148,277.00	04/14/91
Second amendment	\$ 2,160,371.00	11/26/91
Third amendment	\$ 1,571,751.00	07/30/92
Fourth amendment	\$ 314,460.00	04/21/93

The final contract came to a total of \$ 5,366,128.00. Actual contract expenditures came to \$ 5,364,093.15. The contract required permanent personnel (more than one year) for 68 months, guest professors for 33 months, and short-term technical consultants for a total of 74 months. The Research and Training Center for the Judicial Reform Project was installed at Colonia San Benito, Ave. La Capilla 22, in San Salvador, as a site for the activities. The locale had two training rooms, a library, a data processing center, offices and equipment for legal consultants and researchers, as well as administration and finance offices.

COMPONENT I. THE TRAINING PROGRAM

In order to provide information for planning training activities, an assessment of training needs was carried out. The study was approved by ODI and restricted to the Public Ministry. There was no study done for judges nor law professors. Training for these two sectors was based on the assumption that their expertise and needs paralleled that of lawyers and additional information was gathered from existing sources.

The training needs assessment was finished in July 1991. Training was partially based on the recommendations (see Annex No. 1) from the assessment.

The study made the following recommendations concerning methodology :

- . Updating or refresher courses.
- . Enrichment or specialization courses.
- . Training in new areas.
- . Courses in subjects not covered in law school.

Three mechanisms were proposed to deal with the needs in these four areas :

- Seminars and workshops for updating and enrichment.
- Plan for the improvement of litigation skills.
- Plan to cover academic gaps for prosecutors and public defenders.*

* This third plan (academic rescue) was not approved by the institutions nor the donor agency because it required a three-month absence of 10 prosecutors and 10 public defenders to receive the training.

Note a) There was no follow-up to nor evaluation of the first seven courses because they were conducted prior to the training needs assessment.

Note b) All courses were carried out in the Judicial Reform Project training rooms, except those conducted in Costa Rica and Santa Ana (El Salvador).

Note c) Assistance to the Judicial School began on the date AID authorized the assistance.

Seminar/Workshop Plan**Public Ministry**

1. "Modern Combined Criminal Procedure System", by Salvadoran Professor Dr. José Artiga Sandoval.
Two Sessions, 7 work hours.
Attendance : 142 prosecutors, groups of 30; and 104 public defenders, groups of 28.
January 17 to 22, 1991.

The course used the document herein included as Annex No 2, which gives a clear idea of the depth of the training.
2. "Transit Law", by Salvadoran Judge Dr. Sixto Pacas.
Three sessions, 5 hours.
Attendance : 182 prosecutors, groups of 35.
A description of the law, including some jurisprudential references.
February 18 to March 1, 1991.
3. "Drug-Trafficking Law", by Professors Miguel Sánchez Méndez, from Colombia and Fernando Cruz from Costa Rica, and Homero Sánchez Cerna from El Salvador.
Three sessions, 5 hours.
Attendance : 22 Anti-drug-trafficking Commission prosecutors, and 15 public defenders.
The course/workshop was documented in an article, herein included as Annex No. 3.
March 20 and 21, 1991.
4. "Criminology and Criminal Law", by Professors Miguel Sánchez of Colombia, Fernando Cruz of Costa Rica, and Miguel Trejo of El Salvador.
Two sessions, 7 hours each.
Attendance : 15 public defenders.
March 22 and 23, 1991.
5. "Criminal Investigation I", by Criminal Investigation Commission specialists.
The course was 30 hours long, and included explanations of criminal investigation techniques.
Attendance : 25 recently appointed prosecutors.
The program is included herein as Annex No.4.
April 22 through May 6, 1991.

6. "Appealing to the Supreme Court", by Colombian Judge Marco Sarmiento.
Two sessions, eight hours each.
Attendance : 33 Supreme Court Prosecutors.
An analysis of legislation and practical techniques.
May 27 and 31, 1991.
7. "Methods for Constitutional Impugnation", by Argentinean Professor Dr. Leopoldo Schiffrin.
Attendance : 81 public defenders.
Length : 12 hours.
May and June, 1991.
8. "Introduction to the Legal Theory of Crime", by Dr. José Antonio Butteler of Argentina.
Eight-hour course for 31 prosecutors.
An introduction to the latest trends in penal law.
June 20, 1991.
9. "Interdisciplinary Seminar on Human Rights", organized by the Inter-American Human Rights Institute in Costa Rica. Two members of the Attorney General's Human Rights Office were sent to participate for ten days in June, 1991.
10. "Public Defenders and Judges", by Dr. Fernando Cruz.
Attendance : 104 public defenders.
Length : one work day.
July 3, 1991.
11. "Legal Theory of Crime for Defenders", by Dr. Alberto Binder.
Attendance : 104 public defenders.
Length : one day.
Documented in Annex 5.
August 2, 1991.
12. "Non-judicial Procedure", by Professor Dr. Ramón Serrano-Piedecases, of Spain.
Attendance : 70 prosecutors and 34 public defenders.
Length : 28 hours.
October, 1991.
13. "The Administrative Litigation Process", by specialist Dr. Robert Oliva, of El Salvador.
Attendance : 43 research attorneys.
Length : eight hours.
November 11, 1991.

14. "Appealing in front of the Supreme Court" by Professor Dr. José Martín Ostos, of Spain.
Attendance : 8 Supreme Court Attorneys, and 15 public defenders.
Length : 50 hours.
The program description is annexed.
November 25 to December 6, 1991.

Law Professors

15. "Criminal Investigation and Criminal Law", by Dr. German Silva of Colombia.
Attendance : 61 professors, from 8 universities.
Length : 15 hours.
May, 1991.
16. "Legal Investigation Techniques", by Dr. Richard Tovar of Colombia.
Attendance : 33 professors, from 6 universities.
Length : 16 hours.
April, 1991.
17. "Constitutional Rights in Criminal Law", by Dr. Leopoldo Schiffrin of Argentina.
Attendance : 47 professors from 6 universities.
Length : 16 hours.
May, 1991.
18. "The Recourse of Repeal", by Dr. Marco Sarmiento of Colombia.
Attendance : 15 professors from two universities.
Length : six hours.
May, 1991.
19. "Professional Ethics", by Dr. Jaime Williams of Chile.
Attendance : 64 professors from three universities.
Length : nine hours.
May, 1991.
20. "Legal Theory of Crime", by Dr. José Antonio Butteler of Argentina.
Attendance : 24 professors.
Length : 24 hours.
June, 1991.
21. "Introduction to Criminal Law", by Dr. José Antonio Butteler of Argentina.
Attendance : 14 professors from three universities.
Length : 18 hours.
June, 1991.

22. "University Administration Seminar", by Dr. José Antonio Butteler.
Attendance : Dean, vice dean, professors and administrators from José Matías Delgado University.
July, 1991.
23. "Non-legal Process", by Professor Ramón Serrano-Piedecasas of Spain.
Attendance : 25 professors.
Length : 30 hours.
October, 1991.
24. "Legal Theory of Crime", by Dr. Ramón Serrano Piedecasas, in Santa Ana.
Attendance : 14 professors.
Length : 18 hours.
October, 1991.
25. "Criminal Procedure and the Recourse to Repeal", by Dr. José de los Santos Martín Ostos of Spain.
Attendance : 26 professors.
Length : 32 hours.
November/December, 1991.

Litigation Improvement Plan

Attorney General and Solicitor General of the Republic

26. Four "Judicial Logic" courses, by Professor Matías Romero, of El Salvador.
Attendance : 21 prosecutors and 15 public defenders (each course).
Length : 24 hours.
September, 1991/92.
See Annex No. 6.
27. Four "Grammar and Style" courses, by Professor Carlos Guadrón Gómez, of El Salvador.
Attendance : 21 prosecutors and 15 public defenders (each course).
Length : 48 hours
October, 1991/92.
See Annex No. 7.

Seminary & Workshop Plan**Attorney General and Solicitor General of the Republic**

1. "Criminal Investigation Techniques", by Criminal Investigations Commission experts.
Attendance : 25 prosecutors.
Length : 40 hours.
March 2 to 13, 1992.
2. "The American Human Rights Convention", by Dr. Julio Maier and Dr. Fabricio Guarigliaia of Argentina.
Attendance : 139 prosecutors and 90 public defenders.
Length : 16 hours.
March/April, 1992.
3. "Establishing Guilt and Setting Punishment", by Dr. Gustavo Brussone and Dr. Mabel Colalongo of Argentina.
Attendance : 27 prosecutors.
Length : 10 hours.
May, 1992.
4. "The Constitution and the Criminal Process", by Dr. Johnathan Miller of the U.S. and Dr. José María Asensio of Spain.
Attendance : 39 prosecutors and 57 public defenders.
Length : 48 hours.
May/June, 1992.
5. "Constitutional Guarantees in the Penal System", by Dr. Maximiliano Rusconi of Argentina.
Attendance : 37 prosecutors and 28 public defenders.
Length : 42 hours.
October, 1992.

Law Instructors

6. "Legal Theory of Crime", by Dr. Sergio Yanez of Chile.
Attendance : 22 professors.
Length : 60 hours.
March, 1992.

7. "Criminal Law", by Dr. Ernesto Pedraz of Spain.
Attendance : 120 professors.
Length : 80 hours.
June/August, 1992.
8. "Legal Investigation Methods", by Dr. Alicia del Valle Warde of Argentina.
Attendance : 19 professors.
Length : 30 hours.
March, 1992.
9. "Procedural Guarantees", by Dr. Alberto Binder of Argentina.
Attendance : 26 professors.
Length : 80 hours.
July, 1992
10. "Procedural Subjects", by Dr. Fernando Cruz of Costa Rica.
Attendance : 26 professors.
Length : 24 hours.
October/November, 1992.

Law Students

11. "Preparing for Law Practice", by Dr. Alberto Binder and Dr. Maximiliano Rusconi of Argentina.
Attendance : 125 fourth and fifth year students.
Length : 130 hours.
October/November and December, 1992.
(See Annex No. 8).
12. "Legal Education Methods", by Dr. Mario Bedera of Spain.
Attendance : 125 students.
Length : 36 hours.
November/December, 1992.

Justice of the Peace

13. "Comprehensive Course for Justices of the Peace", by Dr. Alberto Binder, Dr. Gustavo Cosacov, Dr. Edmundo Hendler, Dr. José María Paz, and Dr. Manuel Morán of Spain; Juan Oberto Sotomayor of Colombia.
Attendance : 64 justices.
Length : 6 months, two sessions per week, three hours each.
October 92 to April 93.
(See Annex No. 9).

14. "NGO Legal Reform Workshops", by Dr. Albino Tinetti and Dr. Rafael Flores y Flores of El Salvador; Alberto Binder and Gustavo Cosacov of Argentina.
Attendance : 27 representatives over a two day period.
Criminal Proceeding workshops : 12 noon.
Radio Program : 12 programs, 15 minutes each.
November, 1992.
(See Annex No. 10).

Litigation Process Improvement Plan

Attorney General & Solicitor General of the Republic

1. "The Role of the Attorney in Modern Criminal Procedure", by Dr. Jorge Vasquez Rossi of Argentina.
Attendance : 22.
Length : 18 hours.
February, 1993
See Annex No. 11.
2. "Criminal Investigation", by Criminal Investigation Commission experts.
Attendance : 20.
Length : 60 hours.
February/March, 1993.

Criminal Judges

3. "Criminal Justice Specialty Course", by Dr. Edmundo Hendler, Dr. Jorge Vasquez Rossi of Argentina and Isabel Zoder of Spain.
Attendance : 48 judges.
Length : 120 hours.
February/April, 1993.

Law Instructors

4. "The Defense in the Criminal Procedure", by Dr. Jorge Vasquez Rossi of Argentina.
Attendance : 14 professors.
Length : 36 hours.
January/March, 1993.
(See Annex No. 12).

5. "Rights of Inmates", by Dr. Daniel Gonzalez of Costa Rica.
Attendance : 17.
Length : Three sessions, 3 hours each.
May, 1993.
6. "Criminal Case Resolution Techniques", by Dr. Edmundo Hendler of Argentina.
Attendance : 12.
Length : 9 hours.
February, 1993.

Training Follow-up, Monitoring, and Evaluation System

Three mechanisms were chosen :

- A. An internal evaluation of the training program which includes a final report by the professor. (See Annex No. 13).
- B. Personal interviews with trainees after the course. This was discontinued at the request of the Attorney General, arguing that it took up too much of the prosecutors' time.
- C. Law Instructor Training Plan evaluation (See Annex No. 14).

Basic monitoring was done by a professional training specialist from El Salvador, who assisted visiting professors in the design of the training program, attendance control, logistics and assistance during training.

Follow up and evaluations were carried out through special studies which allowed the measurement of direction, depth, and rhythm of the training program.

COMPONENT II. STRENGTHENING UNIVERSITY LEGAL STUDIES

Component I describes the training given to instructors. This second component includes the rest of the activities which supported legal education.

A. Design, publication and sale of texts.

Four textbooks were designed and published. On the date of this report, four have been introduced to the market for sale.

1. Criminal Law (General Theory). 1,981 copies.

Donated : 119 Sold or consigned: 1,752 Storage : 110

Printing cost : \$ 4.80 ea. (\$ 9,509.00 total)

Sale Price : \$ 10.00 ea. (\$ 18,620.00)

Commission : 15% Revolving Fund : \$ 15,827.00

Sale per university (# of books)

University of El Salvador	600
Dr. José Matías Delgado Univ.	150
Western Multi-disciplinary Ctr.	100
New San Salvador Univ.	100
Dr. Alberto Masferrer Univ.	42
Other universities	475
Judicial Reform Project	285

2. Constitutional Law 1,974 copies

Donated : 116 Sold or consigned: 1,761 Storage : 97

Printing cost : \$ 9.00 ea. (\$17,766 total)

Sale Price : \$ 11.60 ea. (\$21,553)

Commission : 15% Revolving Fund : \$ 18,320.00

Sale per university (# of books)

University of El Salvador	600
Dr. José Matías Delgado Univ.	150
Western Multi-disciplinary Ctr.	100
New San Salvador Univ.	100
Dr. Alberto Masferrer Univ.	39
Other universities	425
Judicial Reform Project	347

3. **Financial and Tax Law.** 2,000 copies.

The distribution started very recently. There is no enough data to date.

4. **Criminal Law.** (Special Part - Crimes and Misdemeanors) 2,000 copies.

The distribution started very recently. There is no enough data to date.

B. Design, publication and distribution of Judicial Science Journal

Five editions were published :

First Edition : October 1991 2,000

With ODI authorization, the entire printing was donated to promote the publicat and introduce it to the market.

Second Edition :	January 1992	2,000	275 donated	Commission: 15
	Production cost \$ 1.30 ea.		Sale Price :	\$ 1.76 ea.
	Total sold or consigned: 1,697		Revolving Fund :	\$ 2,539.00
	Stock: 28			

Third Edition :	July 1992	2,000	314 donated	Commission:
	Production cost \$ 1.50		Sale Price :	\$ 1.75
	Total sold or consigned: 1,523		Revolving Fund :	\$ 2,265.0
	Stock: 163			

Fourth Edition :	November 1992	1,500	254 donated Commission: 15%
	Production cost \$ 2.20		Sale price : \$ 1.76
	Total sold or consigned: 1,094		Revolving Fund : \$ 1,637.00
	Stock: 152		
Fifth Edition :	May 1993	1,500	254 donated Commission: 15%
	Production cost \$ 1.88		Sale Price : 1.76
	Total sold or consigned: 941		Revolving Fund : \$ 1,408.00
	Stock: 305		

C. National Council of Deans

The objective was to enlist the support of the directors of all the Faculties of Law. An effort was made to organize the law deans in a council, with the recommendation that they organize an association, promising to place under their care the administration of the judicial science magazine, text books, as well as other activities. The results were positive but insufficient. Currently the council is comprised of 11 out of 17 deans. Association status has not yet been obtained because the University of El Salvador (the only state-run institution) considers that some smaller universities do not fulfill their role adequately. The deans meet approximately every three months to define joint policy and discuss shared problems. To date the administration of the text books and the judicial science magazine has not been transferred to this council.

The publication of the Judicial Science magazine is nominally done under the auspices of this council. In the last two meetings the deans supported and allowed a study proposed by Mrs. Ruth Romero of AID and technical assistance by Professor Richard Wilson of the U.S., who imparted legal seminars.

D. Law Professors Association

A group of professors who have met for two years to discuss law on Saturdays and Wednesdays every week at the Judicial Reform offices, resolved to become an association; in September 1992 they were legalized. To date they have assisted in the organization of three seminars, and made public declarations (see publication entitled Letter to the Attorney General of the Republic). The association is comprised of approximately 80 law professors from different universities and disciplines.

E. Curricular Reform

During eight months, between January and October 1992, JRP-I consultants assisted three universities in restructuring curriculum : University of El Salvador, Alberto Masferrer University of El Salvador and Dr. José Matías Delgado University.

1. At the state-run University of El Salvador, with a 3,000 law student body, the curriculum was entirely reformed, with active student and faculty participation. The new plan took effect in January 1993.
2. Dr. Alberto Masferrer University of El Salvador carried out partial reforms which are in the process to take effect.
3. Dr. José Matías Delgado University made plans for a comprehensive reform, and the changes took effect in January 1993.

The changes in curriculum are directed towards a balance subjects and the system of requirements : two additional courses in Constitutional Law were added. Criminal law course program was varied. A system of admission by merit was instituted and the graduation thesis was replaced with real legal research (see Annex No. 15).

As for the impact of changes on the new students, the student body which will demonstrate the impact of the reforms initiated their studies in 1993.

F. Law Libraries

Law libraries were donated to six universities. Over 700 titles of selected criminal and constitutional doctrine, three to four copies of each title depending on the case, were donated to these universities. These were institutions that showed special interest in the training of professors, curriculum reform, the sale of texts and the distribution of Judicial Science magazine. Follow up indicates a high degree of student use of these texts.

The total cost of these libraries came to \$ 80,000.00. The following is a list of benefactor universities : University of El Salvador, Dr. José Matías Delgado University, Dr. Alberto Masferrer University, New San Salvador University, Technological University, Wester Multi-disciplinary Center in Santa Ana.

G. Audio-Visual Materials

Donations included : six television monitors (47"), one video player, and a video produced by the Judicial Reform Project on principles of democratic criminal law. The donations were made to the same six universities that received the law libraries. The

purpose was to promote audio/visual education through the use of programs produced by the inter-continental television program sponsored by USIA "Worldnet", and by AID's Judicial Reform Project II (See Annex No. 16).

H. Course for students (Legal Research Technique)

A special two-months course on modern legal investigation techniques was held at five national universities, reaching approximately 80 students who completed required course hours. The course was taught by a law history specialist from the University of Valladolid, Spain. Students who were selected had finished required studies and were preparing their thesis. The same course was also administered to law instructors who are usually responsible for graduation thesis supervision.

I. Post-graduate Legal Program

After reaching the conclusion that the best way to strengthen the university is through the identification, training and commitment of a young group of law instructors, through a scholarship program outside of El Salvador, Judicial Reform Project I promoted an exchange program between the University of El Salvador and the University of Salamanca, Spain. The agreement was signed on November 16, 1992 and commits funding from the University of Salamanca for the salary of professors and air travel over the next five years. The objective is to carry out a program of post-graduate seminars, taught jointly by a Spanish Professor and a Salvadoran Professor holder of a law doctorate.

J. Special Training/Research Activity

Judicial Reform I was able to identify and channel one scholarship sponsored by the Spanish Government to send a law professor on a four-month research project in Economic Criminal Law, at a Spanish university. JRPI paid for the transportation of the researcher.

The Salvadoran law professor who was the beneficiary of this program is committed to continuing instruction upon their return, and producing at least two research projects that will be published by JRP II.

K. Informative Visits for Deans

A 15-day visit was organized in October 1991, in which three Law Faculty deans went to Chile and Colombia. The guest deans visited Law Faculties in those countries,

discussed the reforms with local academic officials : legal workshops, legal libraries, administrative structure, instructor training, and systems for student selection and graduation requirements.

COMPONENT III. LEGAL REFORM

After the Salvadoran Commission for Legislation Revision (CORELESAL) was dissolved in January of 1991, an important void remained in the project. An important component of the Judicial Reform Project was to promote the coherent review of legislation as well as the design of proposals and projects, following proper legislative techniques. For this reason the Judicial Technical Assistance Unit (ATJ) was founded in June 1991. Under the Ministry of Justice, this unit is dedicated to the legal revision and the design of projects following two directions : support for the Executive Branch through the improvement of administrative laws, and support for the Judicial Branch through improvement of criminal law and constitutional procedure.

The work-agenda included two types of reform : partial and complete (see JRP I documents entitled Strengthening of State Law. A Program in Motion, and New Penal Laws to Combat Crime and for the Defense of Persons, described in this report under Special Publications).

a. Preparation of a Work Agenda

In April 1991, ODI requested that the institutional contractor select three consultants to carry out the following : a) identify areas that need legal revision; and b) outline a strategy for Judicial Reform Project II.

An Argentinean judge, holding a doctorate in Constitutional law and a German post-graduate degree, was chosen for the first mission, and the second was assigned to a Chilean professor and a Colombian judge. Of primary interest is the first task, and its impact.

Seventeen laws were identified for immediate attention, and a comprehensive re-design of two laws was proposed : the Sentencing Law, and the Law of Minor Offender; two codes were also proposed for re-design : Criminal and Criminal Procedure (see document named Analysis of the Research of Legal and Constitutional Reform Areas, presented by the institutional contractor to ODI in June of 1991 - Annex 17).

Three long-term consultant positions, and other short-term positions were identified to carry out legal and empirical research to design the reform proposal, following three requirements : a) adjustment of the legal structure to the 1983 National Constitution; b) laws designed for practicality, adapted to the state of the nation (post-war crime), but maintaining the guarantee of "due process"; and c) modern legislative techniques used by contemporary schools of thought.

This task began in February 1992. To date, some reforms have been partially carried out. The design of the Criminal Procedure Code proposal, the Sentencing Law,

and the Minor Offender Law, have been completed. The Criminal Code is still under revision and public consultation and it is expected to be out of committee by February 1994. This is to say, the task of revision and design of the laws has not only been completed, but the Criminal Procedure Code was finished seven months ahead of schedule.

Although the design is a success, the same cannot be said with regards to the approval of the proposals to become law. The proposals have been extensively discussed and supported with publications and special activities; however, the Legislative Assembly has only approved two of the reforms : defense during penal trial and the elimination of consultation. The division of functions amendment (investigation and sentencing judge) is a project that was not designed in the spirit of the agenda, and responds to another philosophy. This initiative is also now a law.

b. Partial Reforms

The following are partial reform proposals, and they reflect the current status of the project :

Approved as Law

1. Legal Assistance and Public Defense.
May 12, 1992. (See Annex No. 18).
2. Repeal of Consultation.
May 11, 1993. (See Annex No. 19)
3. Division of functions into Instruction Judge and Penal Judge.
June 1993 (text approved and text developed by JRP I, see Annex No. 20).

Before the Legislative Assembly

4. Suppress criminality in theft and fraud between close relatives.
(See Annex No. 21).
5. Repeal Legal Regulations of Dangerous State.
(See Annex No. 22).
6. Removal the Presumption of Guilt.
(See Annex 23).
7. Rules for Police Arrest.

- (See Annex No. 24).
8. Law for Criminal Investigation Institution.
(See Annex No. 25).
 9. Replacing Police Jurisdiction of Misdemeanors.
(See Annex No. 26).
 10. Regulations for Search and Inspection.
(See Annex No. 27).
 11. Temporary Detention Reform and Provisional Liberty Reform.
(See Annex No. 28).
 12. Reform Criminal Code related to copyrights.
(See Annex No. 29).
 13. Punishment for Extensive Fraud and Damages.
(See Annex No. 30).
 14. Introduction to Oral Proceedings and other Rules for Public Presentation of a Jury. (See Annex No. 31).
 15. Repeal Non-Judicial Confession.
(See Annex No. 32).
 16. Reduction of the Administrative Detention Term from 72 to 24 hours.
(See Annex No. 33).

Completed Projects Not Before the Legislative Assembly

17. Law of Habeas Corpus.
(See Annex No. 34).

c. Comprehensive Reforms

Approved as Law

1. Family Law

Completed and presented to the Legislative Assembly

2. Law of Minor Offender.
(See Annex No. 36).

Completed but not presented to the Legislative Assembly

3. Criminal Procedure Code.
(See Annex No. 35).
4. Sentencing Law.
(See Annex No. 37).
5. Criminal Code
6. Family Procedure Law.
7. Administrative Procedures Law

Consultation Activities

Although not established as an item on the Ministry of Justice and AID agenda, the Ministry believed it was important to consult the legal community regarding the proposals once they were designed and before they were submitted to the President for presentation to Congress.

The discussion regarding the Habeas Corpus, the Criminal Procedure Code, the Law of the Minor Offender, were recently concluded. This important dialogue is carried out in the following manner : a) one page publications in newsprint media, presenting the need for the reform - January/February 1993 (Annex 38); b) 6,000 copies of special publications such as : Strengthening of the State of Law, or New Criminal Laws, were distributed in March and April 1993; c) 12,000 copies of the Criminal Procedure Code

were distributed in July of 1993; and d) direct consultation, through explanation and debate at universities, attorney associations, the Attorney General's Office, the Solicitor General's Office, NGOs, judges and the Judicial Branch, as well as in the mass media - August through December 1993.

A similar procedure is being used to discuss the Criminal Code and the Sentencing Law.

According to the Ministry of Justice, both the Criminal Procedure Code, the Sentencing Law and the Criminal Code will be presented to the Legislative Assembly prior to May 1994.

COMPONENT IV. SPECIAL ACTIVITIES

In April 1991, ODI approved support for the Judicial Reform Project with special activities to bring together different components. These activities were characterized by their broad impact, that is to say, they affected large numbers of people.

a. The Ibero-American Criminal Justice Reform Conference

At ODI's request, the contractor organized two conferences of this nature, with the objective of disseminating information and stimulating discussion of the criminal reforms. Each activity brought together over a thousand people (attorneys, judges, prosecutors, defenders and students). These activities allowed the nation's judicial community to learn of the existence of the new criminal law, of the need for reform and to apprehend the new legal terminology. The first conference lasted three days, and the second seven days.

Annex 39 is a series of copies of the packages received by participants, and notes on the conferences. Also included is a video summary of the first Conference, as well as copies of all recorded presentations at the second conference (See Annex No. 40).

b. Seminars for Journalists

Two seminars were organized for journalists, one in March 1992, and the second one in November of that year. These seminars were organized to instruct this sector regarding the functions of the system and the terms used by judges and attorneys. The results were not positive. The audience did not understand the visiting professors. A copy of the program from one of the seminars is included under Annex No. 41, to illustrate.

c. Aiding in Strategy Design for Judicial Reform II

On two different occasions the contractor assisted ODI in outlining a strategy for Judicial Reform Project II. The results are presented in the reports (see Sancinetti-Bacqué-Castro, filed at ODI in April 1991, and Williams-Schiffrin-Sarmiento, filed in July 1991 - Annexes Nos. 42 and 43).

d. Participation in a U.S. Conference

Two Supreme Court Justices, the Minister of Justice, as well as two officials from the I.T.U. participated in a 3-day conference organized by the University of Miami's North/South group, and the University of Buenos Aires, in Miami, Florida. At the

conference, strategies for the role of the judiciary in the democratization process in Latin America were discussed. This conference took place in March 1992.

e. Participation in a Costa Rican Conference

A Supreme Court Justice, the Minister of Justice, the Solicitor General and a representative from the Attorney General's office participated in a conference held under the auspices of the Inter-American Development Bank in Costa Rica. The conference lasted three days, and involved discussion of legal training problems, information in the judicial environment, among other subjects, as well as the presentation of future plans for donor agencies such as AID, BID and the World Bank. Many presidents of supreme courts of justice and ministers of justice participated in the conference, which took place in February of 1993.

f. Journalist Information-gathering visit to U.S.

Six Salvadoran journalists spent one month (June 1992) visiting several U.S. cities in order to become familiar with judicial mechanisms in that society.

g. University of El Salvador Congress for Law Students

The project supported a University of El Salvador student effort to organize a three-day seminar on Constitutional and Criminal Law. The students worked for four months with professors who were closely linked to the Project, and in the end presented proposals which showed a high degree of empirical and legal research. This managed to break the model of a politicized university, and represented another step in the return to real legal research. The program is included as Annex 44.

h. First Video

As a result of the Ibero-American Conference, first-hand video footage was obtained. Video from one of the conferences was edited to be used as support material for Criminal law instruction. This video deals with principles of democratic penal law. 20 copies of this first video have been donated to the Law Faculties which received a television monitor, as well as to government institutions and law school.

COMPONENT V. PUBLIC INFORMATION EFFORTS

Through institutional contract amendments 3 and 4, ODI decided to include a public information component regarding the judicial and legal reforms. These efforts included :

- a) Campaign for the Solicitor General's Office (Annex 45).
- b) Campaign for the Ministry of Justice (Annex 46).
- c) Support for Non-Governmental Organizations, described in Component I of this report.
- d) Student Association support, described in Component II.
- e) Center page advertisements in newspapers promoting the legal reform (Annex 47).

The following are further efforts carried out in this regard :

a. Legal Community Data Base

A database was compiled, consisting of 5,000 entries, including names of attorneys, judges, prosecutors, public defenders, deputies, law professors, public opinion leaders, and journalists. The database included name, current address, years of experience and formal education.

The database, which is possibly the only of its kind in the country, is computerized and is operated by two contracting company employees. It is a useful instrument in the distribution of materials generated by the legal reform component, and the legal education component.

The database was made possible with the cooperation of the President of the Supreme Court of Justice, who provided the lists of existing attorneys. This same judicial authority expressly requested a copy of the database and prohibited the duplication of this data base for any other institution or group in the country. It authorized only the Judicial Reform Project in the use of the database for the distribution of documents and publications.

b. Judicial Update Bulletin

Thirteen bulletins were published to disseminate information about the Judicial Reform Project, including a complete history of project efforts. The first edition was of 1,500 copies. The final 5 editions were of 8,000 copies each. There were errors in distribution due to flaws in the database, and in some cases multiple copies of the same bulletin were delivered to one recipient. This was corrected through computerizing and updating the database.

Copies of all thirteen bulletins are included as Annex 48.

c. Publication in newspapers and radio spots

To support Judicial Reform beneficiary institutions (the Ministry of Justice, the Supreme Court of Justice, the Attorney General's Office, the Solicitor General's Office, the Human Rights Ombudsman), and for institutions generated by the Project (ATJ and Forensic Laboratory), as well as the legal reforms, direct publicity coverage was implemented. We include illustrative samples of this small campaign, as well as evaluations and focus group results, under Annex 49. We also include copies of videos produced, and public opinion analysis in Annex 50.

d. Special Publications

The objective was to support the legal reform component. A total of seven special publications were issued :

- i) New Legislation Regarding Criminal Trial Defense and Process Validity.
September 1992.
6,000 copies distributed, including a laminated card. (See Annex No. 51).
- ii) Strengthening the Rule of Law : A Program in Motion.
February 1993.
6,000 copies distributed. (See Annex No. 52).
- iii) The Justice Sector in El Salvador : Statistics.
February 1993.
6,000 copies distributed. (See Annex No. 53).
- iv) New Criminal Legislation to Fight Crime and for the Defense of Citizens.
April 1993.
8,000 copies distributed. (See Annex No. 54).

- v) The Practical Function of Criminal Law.
September 1992.
700 copies distributed. (See Annex No. 55).
- vi) Criminal Policy. Criminal Law and the Democratic Society.
September 1992.
700 copies distributed. (See Annex No. 56).
- vii) Criminal Procedure Code Proposal.
July 1993.
8,000 copies distributed. (See Annex No. 57).

f. Ministry of Justice Campaign

Special funds were allocated to strengthen the image of the Ministry of Justice as the principal agent to the legal reform. A local agency was hired for this campaign which consisted mainly in the publication of several pages in the newspapers regarding criminal law and criminal procedures reform (see Annex No. 63).

g. Solicitor General's Office Campaign

Amendment 2. allocated special funds to support the Solicitor General's image. A local agency administered the campaign which was aimed at strengthening the recent legal reform regarding trial defense through publications in the newsprint, T.V. spots, and radio spots. (See Annex No. 64).

COMPONENT VI. ADMINISTRATIVE SYSTEMS PILOT PROJECT

The contractor proposed and ODI authorized a pilot project regarding judicial administration. The President of the Supreme Court of Justice indicated the project should take place in the First Criminal Court of San Salvador, the oldest in the Republic, and which consequently reflected the most judicial backlog. The project was designed to obtain an accurate count of case files, a better distribution of administrative functions (directed to the empowerment of the clerk as a judicial administrator), allocate more time for judges to deal with duties in their jurisdiction, improve case tracking, improving case management, and improving docketing. The two general objectives were the following : a) identify the appropriate procedure for a series of Judicial Reform Project II activities, with regards to administrative systems; and b) reducing the number of case files in process using existing legal resources.

At the end of the effort, ten criminal courts were affected by the Pilot Project, but the First Criminal Court received the direct impact.

The Project is documented in Annexes 65 and 66.

COMPONENT VII. PUBLIC MINISTRY INSTITUTIONAL STRENGTHENING

ODI considered it necessary to provide technical assistance to two Public Ministry institutions : The Attorney General's Office and the Solicitor General's Office.

a. Attorney General's Office

Although there were obstacles in the institution's management, a preliminary study of the institution's operations was concluded in August 1992. Also, a library was designed and equipped, an initial draft of an attorney career law was produced as well as a general outline of an Organic Attorney Law. We note that the recommendations were not carried out due to objections and reservations from the authorities. The effort is documented in Annex No. 67.

b. Solicitor General's Office

This institution accepted institutional reinforcement in two ways : a) design, training and equipment for the library; and b) design, training, and equipment for the Legal Practice Unit.

The library received a donation of over 600 titles, worth approximately 30 thousand U.S. dollars, covering subjects such as Constitutional Law, Criminal and Administrative Law. The librarian participated in a specialization course given by ILANUD in Costa Rica. Adequate storage shelves were donated, as well as a photocopying machine.

The Legal Practice Unit has allowed for a sensible increase in the Solicitor General's Office output, by incorporating approximately 80 law students to the work. These students, under the direction of experienced public defenders and law professors, donate their time to low income persons who cannot afford a private attorney. The students are trained in a four-month theoretical/practical course administered by the Project. The equipment installed at these offices was donated by the Project. The Unit began its activities in May of 1993.

COMPONENT VIII. PROCUREMENT OF TRANSPORTATION EQUIPMENT, LIBRARY EQUIPMENT, TRANSMISSION EQUIPMENT, AND COMPUTER EQUIPMENT FOR THE MINISTRY OF JUSTICE, THE ATTORNEY GENERAL OF THE REPUBLIC, SOLICITOR GENERAL OF THE REPUBLIC, AND UNIVERSITIES.

The following equipment was procured through the Judicial Reform Project I, using the Checchi and Company contract, including identification, purchase, delivery and installation.

PROCUREMENT PRJI

• Attorney : AGO

Solicitor : SGO

<u>EQUIPMENT</u>	<u>QUANTITY</u>	<u>INSTITUTION</u>	<u>DATE/DELIVERY</u>	<u>EXPENDED</u>
Jeeps Cherokee	5	Attorney	7/10/92	\$81,915
Fax machine	1	Attorney	4/24/92	\$1,310.09
Motorcycles	3	Attorney	6/02/92	\$5,571.43
Motorcycles	2	Attorney	1/20/93	\$4,758.31
Computers	6	Attorney	1/27/93	\$17,907.04
Laser printer	1	Attorney	1/27/93	
Matrisial printer	2	Attorney	1/27/93	
UPS	6	Attorney	1/27/93	
Fax machine	2	Attorney	2/15/93	\$1,920.87
Ford Explorer	1	Attorney	3/15/93	\$19,200
Television	2	Attorney	5/31/93	\$4,456
VHS	2	Attorney	5/31/93	
Radios		Attorney	6/28/93	\$40,857.88
Books		Attorney	10/20/92	\$19,410
Jeeps Cherokee	6	Attorney	7/12/93	\$115,135.10
TOTAL AGO				\$312,353.78

Laboratorio Forense		Forensic Lab.	5/06/93	\$438,828.19
		Forensic Lab.	5/31/93	
		Forensic Lab.	7/14/93	
Jeeps Cherokees	3	Solicitor	7/12/93	\$57,584.81
Computers	6	Solicitor	5/31/93	\$17,160.02
Matrisial printer	5	Solicitor	5/31/93	
Voltage regulators	6	Solicitor	5/31/93	
SPS	6	Solicitor	5/31/93	
Copiers	2	Solicitor	5/31/93	\$7,882.72
Air Conditioners	6	Solicitor	5/31/93	\$4,579.14
Water Fountains	2	Solicitor	5/31/93	\$826.90
Chairs	340	Solicitor	5/31/93	\$16,896.55
Executive Desk	20	Solicitor	5/31/93	
Executive chairs	20	Solicitor	5/31/93	
Computer Tables	6	Solicitor	5/31/93	
Working Tables	30	Solicitor	5/31/93	\$5,689.66
Floor Funs.	5	Solicitor	5/31/93	\$512.00
Cealing Funs	5	Solicitor	5/31/93	
Books		Solicitor	10/9/92	\$19,410
Computer Training		Solicitor	11/06/92	\$1,139.22
Computers	3	Solicitor	11/06/92	\$8,017.87
Matrisial printer	5	Solicitor	11/06/92	
Voltage Regulator	3	Solicitor	11/06/92	
Switch Box	4	Solicitor	11/06/92	
Computer Tables	9	Solicitor	11/06/92	\$1,272.73
Exec. Comp.Tables	2	Solicitor	11/06/93	\$872.41
Metal Shells	4	Solicitor	10/05/93	\$956.63
TOTAL SGO				\$142,773.11

Television & VHS Books	1	Univ. Matías Delgado Univ. Matías Delgado	5/31/93 3/17/93	\$3,113.32 \$19,410
Television & VHS Books Books	1	Univ. de El Salvador Univ. de El Salvador Univ. de El Salvador	5/31/93 3/24/93 10/19/92	\$3,113.32 \$19,410 \$19,410
Television & VHS Books	1	Univ. Nva. San Salv. Univ. Nva. San Salv.	5/31/93 3/15/93	\$3,113.32 \$19,410
Television & VHS Books	1	Univ. Tecnológica Univ. Tecnológica	5/31/93 3/17/93	\$3,113.32 \$19,410
Television & VHS Books	1	Univ. Multidisc. Occ. Univ. Multidisc. Occ.	5/31/93 3/18/93	\$3,113.32 \$19,410
Television & VHS Books	1	Univ. Alb. Masferrer Univ. Alb. Masferrer	5/31/93 3/16/93	\$3,113.32 \$19,410
UPS	1	Comisión Investig. de Hechos Delictivos	5/31/93	\$12,196
Computer	1	Ministry of Justice	9/21/92	\$13,027.51
Laser Printer	1	Ministry of Justice	9/21/92	
Scanner & SW	1	Ministry of Justice	9/21/92	
Voltage Regulator	2	Ministry of Justice	9/21/92	
Books		Ministry of Justice	9/21/92	\$19,410
Books		Ministry of Justice	10/19/92	\$19,410
SW & Upgrades		Ministry of Justice	5/3/93	\$1,643.71
TOTAL MOJ				\$53,491.22

Jeeps Cherokees	2	Procuraduría para la defensa de los Derechos Humanos	7/12/93	\$38,652.55
Paper cutter, binding machine and acesories	1	Judicial Reform Project I		\$16,780.00
Installation of Printshop		Judicial Reform Project I		\$10,967.98
TOTAL JRP I				\$27,747.98
GRAND TOTAL				\$1,180,592.70

ANNEX LIST

NUMBER	CONTENT
1	Training Needs Assessment Katherine Muller et. al. June 1991
2	<u>Mixed Modern Penal Process System</u> by Prof. Dr. José Artiga Sandoval
3	Lecture on Anti Drug-Trafficking Law by Dr. Miguel Sánchez Méndez
4	Program of Criminal Investigation Course, by Criminal Investigation Commission experts
5	<u>Legal Theory of Crime for Defenders</u> by Dr. Alberto Binder
6	<u>Legal Logic</u> by Matías Romero
7	<u>Grammar and Style</u> Course by Mr. Guadrón
8	Course for law students entitled <u>Preparing for the Social Practice of Public Defense</u>
9	Program and materials from course entitled <u>Comprehensive Course for Justice of the Peace</u>
10	Workshops for NGOs regarding Penal Law Reform
11	Program and materials from workshop entitled <u>The Role of the Attorney in the Modern Criminal Process</u>
12	Program and materials from course titled <u>Defense Law in the Criminal Process.</u>
13	Initial program evaluation (sample : three courses)
14	Evaluation-poll of Law Professor Training and intermediate evaluations of the Comprehensive Course for Justices of the Peace.
15	Report : Technical Assistance for University Curriculum Reform.

- 16 Judicial Reform Project I first video Bases of Democratic Penal Law.
- 17 Report : Research of Legal Reform Areas
- 18 Legal Aid and Public Defense Law
- 19 Repeal of Consultation Law
- 20 Two texts : Law for the Division of Functions into Instruction Judge and Sentence Judge produced by the Supreme Court of Justice, and proposal elaborated by the Ministry of Justice.
- 21 Proposal : De-Criminalization of Theft & Fraud in Family.
- 22 Proposal : Repeal of Legal Norms Regarding Dangerous State.
- 23 Proposal : Repeal of the Presumption of Guilt.
- 24 Proposal : Rules for Police Detention Authority
- 25 Proposal : Law for the Criminal Investigation Branch
- 26 Proposal : Replacement of Police Jurisdiction for Law of Faults and Violations.
- 27 Proposal : Regulations for Search and Inspection.
- 28 Proposal : Provisional Detention and Provisional Freedom Law Reform
- 29 Proposal : Penal Code Reform Regarding Author's Rights.
- 30 Proposal : Sentence for Extensive Theft to Crimes of Fraud and Damages.
- 31 Proposal : Introduction of Oration and other Rules in Public Presentation before a Jury.
- 32 Proposal : Repeal of Out of Courtroom Confession.
- 33 Proposal : Term of Administrative Detention reduced from 72 to 24 hours.
- 34 Proposal : Habeas Corpus Law
- 35 Proposal : Criminal Procedure Code

- 36 Proposal : Minor Infraction Law
- 37 Proposal : Sentencing Law
- 38 Copy of promotional publication for the Penal Process Code.
- 39 Copies of folders provided for participants of Ibero-American Conferences.
- 40 Video-copies of Ibero-American Conferences I and II
- 41 Program from Seminar for Social Communicators
- 42 Report : Strategy for a Judicial Reform Project Sancinetti-Baqué-Castro.
- 43 Report : Strategy for a Judicial Reform Project Schiffrin-Williams-Sarmiento
- 44 Program from University of El Salvador First Student Congress.
- 45 Promotional spots on video for the Solicitor General.
- 46 Ministry of Health campaign spot samples
- 47 Copies of pages published in center of newspapers
- 48 Copies of 13 published "Judicial Update" Bulletins
- 49 Focus Group Reports : complete collection of publications and debate
- 50 Sample of publications to promote Legal Reform
- 51 Special publication : New Legislation Regarding Trial Defense and Valid Procedure
- 52 Special publication : Strengthening the State of Law : a Program in Motion
- 53 Special publication : The Justice Sector in El Salvador : Statistics
- 54 Special publication : New Penal Laws to Combat Crime and for the Defense of Citizens
- 55 Special publication : Practical Function of Criminal Law
- 56 Special publication : Criminal Policy, Penal Law and Democratic Society

- 57 Special publication : Penal Process Code Proposal
- 58 Special publication : Crime in San Salvador : Myth & Reality
- 59 Special publication : Semana Magazine, special edition.
- 60 Special publication : First Ibero-American Penal Justice Reform Conference, records.
- 61 Special publication : Second Ibero-American Penal Law Reform Conference, records.
- 62 Special publication : World Family Congress, records.
- 63 Other Ministry of Justice publications
- 64 Ministry of Justice : final publications
- 65 Evaluation report of Administrative Systems and Statistics for the First Criminal Court Pilot Project.
- 66 First Recourse Court Pilot Project Final Report
- 67 Brussone-Colalongo Report on the Attorney General