



AGENCY FOR INTERNATIONAL DEVELOPMENT
UNITED STATES OF AMERICA AID
MISSION TO EL SALVADOR
C/O AMERICAN EMBASSY
SAN SALVADOR EL SALVADOR, CA

PD-ABR-512

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ACTION MEMORANDUM TO THE MISSION DIRECTOR

FROM Deborah Kennedy-Iraheta, SO2 Team Leader *DKI*

SUBJECT Project Assistance Completion Report - Judicial Reform II (JR II) Project 519-0376

DATE April 30, 1999

In accordance with ADS 203 (Managing for Results Monitoring and Evaluating Performance) and USAID/El Salvador policy (Mission Operations Manual, Chapters 680 and 770), attached is the Project Assistance Completion Report (PACR) for the Judicial Reform II (JR II) Activity No 519-0376 which was a grant agreement with the Government of El Salvador (GOES)

The goal of this Activity was to strengthen Salvadoran democracy

The purpose of the Activity was to support Salvadoran efforts to accelerate and deepen El Salvador's judicial reform process, and through this process, ensure that citizens' due process and equality before the law are guaranteed

The Activity included the following major components 1) Strengthening Salvadoran Support for Justice Sector Reform, (2) Strengthening Institutional Capacity to Implement Reforms, and (3) Other USG Justice Sector Activities

The Activity terminated on May 31, 1998, as scheduled

The PACR summarizes the accomplishments of the Activity It includes Lessons Learned, Conclusions and Recommendations

A

Recommendation:

That you approve the attached Project Assistance Completion Report

APPROVED

J. Eli

DISAPPROVED

DATE

29 June, 1999

Drafted by

SO2/REMoreno LCU date 5/24/99

Cleared by

SO2/SCarter LCU date 5/24/99

SDO/ACMejía ACM date 5/25/99

CONT/FBreen FB date 6/24/99

SDO/NMata NM date 6/24/99

Bibarra, OCG Bibarra date 6/29/99

CHM
06/16/99

PROJECT ASSISTANCE COMPLETION REPORT
GRANT AGREEMENT No. 519-0376
JUDICIAL REFORM II

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**PROJECT ASSISTANCE COMPLETION REPORT
GRANT AGREEMENT No 519-0376
JUDICIAL REFORM II**

I. SUMMARY OF THE PROJECT

A. Brief Project Description

The Judicial Reform II (JR II) Project was the second major phase of U S Government assistance to El Salvador's justice sector. The Judicial Reform II Project Grant Agreement was signed by USAID and the Government of El Salvador (GOES) on September 29, 1992. The total Life of Project funding was \$15,000,000 to be executed in 5 years. The Project was implemented through a competitive selected contract with Checchi and Company Consulting, Inc effective June 1, 1993 and by ICITAP. This Project sought to build on the judicial reform process begun under the Judicial Reform I Project targeting stronger due process guarantees and greater equality before the law.

B. Goal and Purpose of the Project

The goal of the Project was to strengthen Salvadoran democracy. The purpose of JR II Project was to support Salvadoran efforts to accelerate and deepen El Salvador's judicial reform process, and through this process, ensure that citizens' due process and equality before the law are guaranteed.

C Project Components

The Project had three major components: 1) Strengthening Salvadoran Support for Justice Sector Reform. This component included technical assistance, analytical studies, conferences, public education, information dissemination, and observational travel designed to enhance and broaden Salvadoran-led efforts to improve the administration of justice through legal and organizational reforms. It also supported a major effort to expand popular understanding of basic legal rights and responsibilities; 2) Strengthening Institutional Capacity to Implement Reforms. This component focused on targeted support for Salvadoran efforts to implement reforms. Project activities under this component included a) implementing a pilot program, b) institutional strengthening, and c) human resource development; and 3) Other USG Justice Sector Activities. Efforts under this component were complemented with expanded Department of Justice Criminal Investigative Training Program (ICITAP) and U S Information Agency (USIA) leadership development and professional exchange programs.

D. Present Status of the Project

The JR II Project was completed on May 31, 1998

II FINANCIAL STATUS**A. Summary of Obligations and Disbursement**

The following table summarizes obligations and disbursements under the Project No 519-0376-C-00-3115-00

	ELEMENT	OBLIGATIONS	EXPENDITURES*
1	Technical Assistance	\$11,252,678	\$11,240,772
2	Operational Support	1,345,877	1,345,877
3	Commodities	1,102,000	1,102,000
4	Grants to Private Sectors	525,000	525,000
5	Project Management	590,739	590,739
6	Evaluation	109,712	109,712
7	Audits	70,000	63,401
	TOTAL	\$14,996,006	\$14,977,501

* The above financial status report is in accordance with the Controller's Summary Project Financial Report as of June 9 1999

B. Summary of Counterpart Contribution

Description	Estimated Counterpart	Actual Counterpart	Estimated <Shortage> or Excess
Corte Suprema de Justicia	¢8,000,000 00	¢4,811,192 63	-¢3,188,807 37
Ministerio de Justicia	¢8,000,000 00	¢5,787,047 68	-¢2,212,952 32
Fiscalía General de la República	¢12,000,000 00	¢6,869,106 12	-¢5,130,893 88

Procuraduría General de la República	¢10,000,000 00	¢6,904,524 21	-¢3,095,475 79
Consejo Nacional de la Judicatura	¢16,000,000 00	¢46,861,075 78	¢30,861,075 78
Unidad Técnica Ejecutiva	¢14,000,000 00	¢27,906,148 71	¢13,906,148 71
In-Kind	¢0 00	¢3,624,281 20	¢3,624,281 20
TOTAL COUNTERPART	¢68,000,000.00	¢102,763,376.33	¢34,763,376.33

III. PROJECT ACCOMPLISHMENTS

- 1 A significant reduction in the criminal and civil case backlog, and a reduction in the number of detained individuals awaiting trial or sentencing

Two serious problems facing the justice system in El Salvador are extensive court backlogs, i.e. long delays in the processing time of a case and the overuse of pre-trial detention. The Project approach to these related problems was multi-faceted and inter-institutional. A 1993 project-sponsored inventory of all cases found that, of more than 63,000 cases, 70% were over one year old, 50% were over two years old and 25% were more than four years old. The civil case situation was even worse. With Project assistance, this backlog was significantly reduced. After the 1993 inventory, a Case Purging Center was created. This Center has purged over 70,000 criminal and civil cases, about 50% of the total number of outstanding cases. Other Project activities reduced case processing time and increased court efficiency, which also reduced backlogs.

The Project initiated a pilot court administration project in all San Salvador criminal trial courts. The pilot activity provided the design and implementation of automated and manual docketing and filing systems, more efficient planning and information collection systems, computerization, and improved records and archive management systems. An Administrative Systems Unit was created and became part of the Supreme Court. This Unit now manages the administration of an automated management information system in 100 courts across the country.

All of these activities sought to separate administrative from judicial tasks and alleviate administrative burdens on the judges. This led to more overall efficiency and quality of case processing. To assure compliance with criminal judges' obligations to visit prisoners and monitor the execution of sentences and sentencing conditions (including excessive pre-trial detention), a system to control the judicial status of detained prisoners was designed and implemented.

In 1993, a Lawyers Committee for Human Rights Report indicated that over 90% of the prisoners in the country were pre-trial detainees. In part as a result of Project activities, a June 1996 JRP II prison census found that the percentage of pre-trial detainees had fallen to 68%.

The Project, viewing the Public Defenders Office (PDO) as a key to alleviating the abuses of the system of pre-trial detention, implemented an extensive reorganization, institution building and public defender training program. Activities included diagnostic review, administrative restructuring, design and implementation of statistics gathering and case tracking systems, and extensive on-site and classroom training in case handling skills. Technical activity of the public defenders, particularly on behalf of pre-trial detainees, increased substantially during the life of the Project. For example, the average number of bail applications presented per defender rose 48% and the average number of *habeas corpus* petitions filed rose 510%. PDO statistics indicate that the number of persons assisted nearly doubled between 1995 and 1997.

The Project-sponsored prison population census in 1996 led to the Plan to Reduce the Prison Population. This Plan produced an agreement between the PDO, the Supreme Court of Justice and the University of El Salvador whereby law students review criminal cases and recommend referrals to the PDO in cases lacking adequate legal representation. As a result of this and other steps, hundreds of illegally detained prisoners, mostly pre-trial detainees, have been released. PDO statistics indicate that the number of persons placed in liberty as a result of PDO assistance rose 50%, from 4,786 in 1995 to 7,159, in 1997.

- 2 **Enactment and implementation of legal and organizational reforms which provide greater guarantees of due process, such as improved procedural protections (e.g., pre-trial release, legal representation and counseling before questioning), increased use of trials, greater reliance on physical as opposed to testimonial evidence, and assignment of investigation and sentencing phases to different judges**

The GOES, with Project-assistance, has enacted numerous legal and administrative reforms to increase respect for due process rights. The most important legal reforms include

The Criminal Procedure Code, effective date April 20, 1998,
 The Criminal Code, effective date April 20, 1998,
 The Penitentiary (Sentencing) Law,
 The Juvenile Delinquency Law, and
 The Family Code, effective date October 1, 1998

The Project assisted in drafting, modifying and revising the criminal and juvenile reform legislation. It sponsored trips to Spain, Puerto Rico, Guatemala and Costa Rica for congresspersons and justice system operators to observe and learn about other systems. The Project conducted publicity and popular education activities, and provided extensive training in the reforms years before enactment in order to encourage support for the laws. The Project assisted in forming the Technical Committee for the Implementation of the Criminal Procedure Code (the CPC Implementation Committee), promoted organizational and administrative reform, and provided training to justice sector institutions to implement criminal reform. The achievements in the juvenile jurisdiction resulted from extensive training for juvenile court judges and their staffs, accompanied by assistance in court administration.

3 Greater popular understanding of the law, the role of key players in the justice sector, and of the expectations for fair and timely judicial decisions

The Project financed and conducted numerous activities to increase popular understanding of the law, legal reform and the justice sector. There were six major popular education and/or publicity campaigns, most carried out through grants or subcontracts to local NGOs. These popular education campaigns, generally using a training of trainers approach, reached over 100,000 people directly and many more indirectly. In addition, there were numerous dissemination events and seminars on the Family Code, the Juvenile Delinquency Law, the criminal and penitentiary reforms, and the Administrative Procedures Code.

4 Legal and organizational reforms to improve the legal framework, especially in areas related to civil and family matters

Many Project activities were aimed at legal and organizational reforms to strengthen the legal framework and increase the effectiveness of the institutions charged with implementing laws, particularly with respect to the criminal, juvenile and family law jurisdictions. The Project also assisted in drafting and/or

revising other laws for Legislative Assembly approval the enabling laws for the AGO and the PGR, the Civil and Civil Procedure Codes, the Constitutional Procedures Law, the Administrative Procedures Code, and the Law Regarding Conciliation and Mediation

The Family Code entered into effect on October 1, 1994, expanding important rights of women, children and senior citizens, and creating a specialized jurisdiction that has been one of the most productive and efficient in El Salvador. This jurisdiction's 1995 evacuation rate was 72.9%, compared to 49.5% in the unreformed criminal system and 50.7% in the justice sector as a whole. It is also highly favored by the public. The Project projected 2,923 cases in 1995, but there were in fact 8,201 cases. By 1997, the number had grown to 14,955 cases.

The GOES, with Project assistance, has undertaken organizational reform to improve the legal framework of the justice sector as a whole and its component institutions: the Supreme Court of Justice, the Attorney General's Office (AGO), the National Council for the Judiciary (NCJ), the Office of Legal and Social Assistance (PGR), and the Ministry of Justice (MOJ). These organizational reforms include establishing the Justice Sector Coordinating Commission (JSCC) and its Technical Executive Unit (UTE), establishing a Common Clerk's Office and a Center for Jurisprudence in the Supreme Court, consolidation of the Judicial Training School (JTS) as the principal training entity for all justice sector operators and its reorientation as a chief player in the reform process, restructuring of the AGO, and establishment of close working relationships with the National Civil Police in crime investigation, reorganization of the PGR, and establishment of the MOJ as the entity responsible for developing a sound national crime policy and the creation of the Crime Policy Unit.

The Project provided extensive assistance to modernize the legal framework in the family law area, including the enactment of the new Family Code and Family Procedure Law. The family law jurisdiction received extensive training for family court judges and their staffs, and assistance in planning and court administration. Mass media and public education campaigns, often conducted with local NGOs, increased public awareness and encouraged access to and effective use of the jurisdiction. The Project provided the PGR's Family Relations Department, a pre-judicial administrative conciliation unit, training in conciliation and case handling, and assisted in an administrative reorganization.

Among Project activities related to organizational reforms were the establishment and consolidation of the JSCC and the UTE, including the enactment of enabling laws to ensure their continuity. JRP II performed diagnostic reviews, led strategic

planning, assisted in reforming enabling laws, and provided extensive training to operators in the AGO and the PGR. It provided technical assistance for reorganizing, strengthening and strategic planning in the JTS, which trained over 12,000 justice sector operators in three years, and designed and implemented statistics gathering and case tracking systems in the AGO, the PGR and the court system.

5. The provision of adequate operational budgets and increased levels of other donor funding for justice sector improvement activities

The GOES made impressive increases in its funding for key justice sector institutions. For example, between 1995 and 1998, the budget for the AGO increased approximately 170% and the budget for the PGR increased approximately 100%. Most of these budget increases are funds allocated specifically to implement the reforms enacted as a result of Project assistance.

Foreign donor assistance increased dramatically. In 1993, USAID was the only donor involved in the justice sector other than the United Nations Verification Mission (ONUSAL). Now there are several other large donors, notably the Inter-American Development Bank, the United Nations Development Programme, the Spanish Cooperation Agency, and the European Union, together providing over \$40 million in assistance.

IV EVALUATION AND AUDITS

A Evaluations

In February 1996, an evaluation of pilot courts was carried out by Judicial Administration Consultants. See Executive Summary of this Evaluation in Annex I attached.

A final evaluation of the project was carried out by MSI in January 1997. See Executive Summary of this Evaluation in Annex II attached.

B Audits

Close-out financial audit was performed in September 1998, covering the period of January 1, 1994 through May 31, 1998. The final report of the audit resulted in no findings.

V SUMMARY OF LESSONS LEARNED FOR THE PROJECT

- 1 It was strategically important to make inter-institutional coordination through the UTE and the JSCC a precondition for Project execution, not just a peripheral activity. Justice sector leaders took almost two years to realize the value of inter-institutional coordination. Much remains to be done, but the JSCC and the UTE are key legacies of the Project, permanent fora for inter-institutional coordination.
- 2 Legal and judicial reform should not be done piecemeal, focusing only on legislative reform or institutional strengthening. Reform legislation requires implementation through capable supporting institutions, and institutions without good legislation serve no useful purpose.
- 3 Include all relevant justice sector institutions in designing reform strategy and ensure that all in need of institutional strengthening receive it. If one or more of the components are left out or remain weak, the system will not function effectively.
- 4 The Project chose a cadre of enthusiastic and dynamic local consultants, many of whom are now in leadership positions, for selective training, encouragement and incorporation into Project activities. This cadre can carry the reform process forward.
- 5 The Project adopted a multi-disciplinary, multi-cultural approach to project design and implementation in selecting consultants and in presenting proposals. Project consultants came from a wide range of professions and organizations. For example, lawyers were drawn from public defenders offices, prosecutors offices, private law firms, universities, and bar associations. Consultants from countries with different legal and political systems offered a range of views, experience and expertise. The Project never imposed consultant ideas, rather, it presented options and the counterparts chose the most appropriate for El Salvador.
- 6 By channeling all legal training for justice sector operators through the JTS, the JTS became a stronger and more important player in the reform process. By unifying training criteria, all justice sector operators received the same message. Training content and methodology were consistent, and duplication of effort and cost inefficiencies were minimized. Training which brought together representatives of all justice sector staffs led later to better inter-institutional coordination. The Project strategically coordinated JTS training to promote reforms even before they were approved, reducing resistance to change.

- 7 Legal reform is more the encouragement of cultural change and development than a technical exercise in drafting legislation. Thus, meaningful, sustainable legal reform took longer than anticipated, especially for criminal justice system reforms. JRI and JR II showed that the institutions affected by reforms, and the public at large, must support the reform process if it is to succeed. Before JRI, many laws were drafted, but few were approved and put into effect, because they lacked political support and an owner at the national level to lead the reform process. Project assistance helped develop the political support and the leadership capacity needed for judicial reform.
- 8 The strategy for promoting judicial reform is very important, and it needs continual reassessment and readjustment to national realities. Initially the Project promoted criminal justice system reform as a way to encourage the protection of human rights. As the crime rate escalated (a common occurrence in emerging democracies), more people became victims of criminal activity, and discussing the rights of the accused became unpopular and counter-productive. This posed risks to criminal justice reforms, so the promotional approach focused on increasing the efficiency of the criminal justice system and its response to the crime wave.
- 9 Observational travel was one of the most important activities for promoting and consolidating reforms. Trips for prosecutors and public defenders to Puerto Rico to observe the oral trial system were very beneficial, both in overcoming resistance to change and in building active support.
- 10 Law schools produce the future attorneys and justice sector operators. JRI made law school reform a priority, but JR II did not address this area. It should have. Law schools are not producing high quality, reform minded, independent lawyers because they still focus on rote memorization of codes rather than on practical skills and analytical thinking.
- 11 The Project should have designed and implemented a user-friendly statistics gathering system in every justice sector institution at the outset. Indicators would have permitted monitoring of reform progress. Also, there should have been more training in how to use the information gathered in planning and monitoring progress. Also deserving earlier attention were the case tracking systems in the AGO, PGR and Supreme Court, and the information departments in each institution.

VI RECOMMENDATIONS

- a) Pre-trial detainees still comprise two thirds of the total prison population. There are still substantial delays in case processing. The legal reforms achieved with Project assistance (the Criminal Procedure Code, the Criminal Code and the Penitentiary/Sentencing Law) all became effective in 1998. If fully and properly implemented, these laws will reduce court backlogs and the length and frequency of pre-trial detention. If implemented improperly (e.g., without full use of non-trial alternate resolutions), backlogs and delays could increase. In addition, coordination between institutions must be strengthened to eliminate abuses pertaining to pre-trial detention.
- b) The criminal reforms only recently entered into effect and have yet to be implemented. The organizational and other institutional reforms initiated with Project assistance must be adopted to ensure the successful implementation of the reforms.
- c) Project campaigns and publicity activities created greater awareness and knowledge on the part of the general populace, but much remains to be done. Notwithstanding high public awareness of reforms, general confidence in the justice sector remains very low. This may be due in part to real problems in the current criminal justice system. A May 1997 Gallup poll found that 60% of the people had little or no confidence in the ability of the courts to guarantee a fair trial, and 73% had little or no confidence in the justice sector. To boost confidence in the system, particularly while implementing the criminal and penitentiary reforms, the people need to learn about the successes of the system through more public education/awareness activities of both NGOs and governmental institutions.
- d) Some legal reforms, such as the AGO and PGR enabling laws, still await approval by the Congress. Once approved, they need to be implemented. Others, such as the criminal and penitentiary reforms, have just become effective and need to be implemented.
- e) The family law jurisdiction is so popular that it is overwhelmed. Its administrative systems need to be reassessed. Recently, it was proposed that family law magistrates be provided to handle settlement and other preliminary proceedings. Conciliation must continue to be emphasized in this jurisdiction. In some instances family judges have begun to revert to tendencies that are more inquisitorial, such as emphasizing written as opposed to oral proceedings.

f) Project assisted organizational reforms are at various stages of implementation. The strategic planning activities in the UTE and the JSCC are at their initial stages. Inter-institutional coordination needs to be furthered. The reorganization of the PGR should be completed and consolidated. The reorganization of the AGO needs to be consolidated in the regional offices. The Ministry of Justice's Crime Policy Unit needs strengthening and its role consolidated. The statistics gathering systems and pilot case tracking information systems in the AGO, PGR and court system be expanded to the national level and fully adopted within each institution, and integrated within the justice sector as a whole.

VII POST-PROJECT MONITORING AND FOLLOW-UP ACTIONS

The Democracy Strategic Objective has given formally transferred equipment, vehicles and materials provided under Contract No 519-0376-C-00-3115-00 with Checchi & Company Consulting Inc to the Justice Sector Agencies.

All the activities funded under the subject Grant Agreement concluded as of May 31, 1998.

ANNEX I
PROJECT ACTIVITY COMPLETION REPORT
PROJECT NO. 519-0376
"EVALUATION OF PILOT COURTS PROJECT"
JUDICIAL REFORM II
PROJECT No. 519-0376

I Executive Summary

A Purpose and Background of the Evaluation

One of the mayor activities under Judicial Reform II Project has been the design and implementation of improved administrative systems for application at the level of individual criminal trial courts in El Salvador. Considering such confines as the existing human resource base, existing infrastructure, and certain legal definitions as to how work will be done (and by whom), the project works at improving the development (and skill levels) of courtroom personnel, introducing improved filing and paper tracking systems, introducing a simple computerized case tracking and internal management information system, and introducing in some courts a common secretary who will handle such functions as case assignment and notifications for all criminal trial courts in the vicinity.

The pilot project was begun in January 1993, While Originally scheduled for completion in under one year, a number of factors ()problems in the appointment of a new Supreme Court, resistance on the part of judges to the innovation, etc , delays in the purchase of computer equipment) delayed completion. However, by mid 1995, the new model was completely designed and installed in the ten criminal trial courts in San Salvador and the two in Santa Tecla. In the latter jurisdiction, a common secretary pilot is awaiting the approval of the Supreme Court prior to its introduction. While the court wishes to duplicate the model in all criminal trial court jurisdictions, USAID requested as assessment of its design, initial impact, and required modifications and adjustments before further expansion.

D Conclusions And Recommendations

General Comments

A plan for the transfer to the GOES of management systems designed and implemented by the institutional contractor during the life of this project should have developed and implemented during this year. This includes the strengthening of the coordination role for the Annotate Técnica Ejecutora (U T E)

We recommend the establishment of regularly schedules meetings among the criminal trial court judges. This opportunity for dialogue among the judges and feedback to the institutional contractor, as a group, should not be overlooked. The Escuela Judicial should increase its role in the training of support personnel. To date, the Escuela Judicial has concentrated its efforts on the training of judges, prosecutors and public defenders. The training of secretarios and resolutores should be increased. These personnel are key to efficient and effective case processing since judges depend on these persons for the timely processing of cases. As such, they must be trained in the administrative requirements of the new

criminal code as much as the judges, prosecutors and public defenders

The USAID project manager and the institutional contractor should establish a schedule of regular meetings for the discussion of project tissues Minutes of each meeting which document key issues and decision should be kept

Regular quarterly project status reports should be provided to USAID by the institutional contractor

We recommend that a general public survey be conducted in order to ascertain the public's level of confidence in the judicial system This will establish a measurable baseline for a follow-up survey once all the cases are purged

Inventory of Cases

The practice of taking a 100 percent of cases should be utilized more often in all AOJ projects In many projects, a sample inventory is used to statistically establish the relative status of pending cases This, however does not provide the exactness of a 100 percent physical inventory nor does it assist in the strengthening of the relationships that need to be developed between each judge and staff and the project

Development of a System for Purging of Old Pending Cases

The ET highly recommends this approach to reducing the backlog of pending cases It results not only in a reduction of the backlog, but it also provides a mechanism for building a professional judicial staff

Development of a Records Management and Archival Plan

The ET recommends that upon the adoption of a new criminal code, the docket card and other instruments be redesigned to accommodate the new code requirement and that they be introduced in all courts

Establishment of a Judicial Statistical System

The institutional contractor, in collaboration with the Supreme Court and the Ministerio Publico staff, should develop a prototype of an annual judicial statistical report for each judicial agency

Development of an Automated Caseflow Management System

All remaining equipment for the criminal courts should be purchased and personnel trained use as soon as possible Upon completion of the training, the ET recommends the redesigned core module be installed in all criminal courts rather than the existing pilot system Should delays in its development prevent

a timely implementation, we suggest that the current pilot system be used until new system is ready

Other Automation Requirements for the Trial Courts

The recently developed and tested sentenced defendant tracking system should be implemented in all trial courts

Juvenile Courts

Implementation of this component should continue as outlined in the 1996 Annual Plan. All preparations necessary for implementation of this system have been completed

Family Courts

The Supreme Court should adopt one set of system standards for both family and juvenile and proceed with its implementation

Establishment of a Common Secretary

The Supreme Court should approve the creation of this office as soon as possible. All the necessary logistical and preparatory steps for this action have been taken. While we understand that this is a radical departure from the normal assignment and distribution of cases in El Salvador, its adoption is key to the efficient administration of cases in the courts

E Comments On Development Impact And Lessons Learned

In the opinion of the authors, the administrative reforms introduced by Judicial Reform II Project in the criminal trial pilot courts have had a significant impact on their operations. The introduction of a uniform set of guidelines, forms and systems in the criminal trial courts has been quite successful. This uniformity in processing is essential to the strengthening of justice sector institutions and the monitoring of such human rights issues as speedy trials and due process. This project has clearly heightened the awareness by judges, prosecutors and public defenders regarding issues surrounding the structural weaknesses in the existing systems and the need for reform.

The in-depth training of highly qualified administrative support personnel and the absorption into the judicial system should produce some long term benefits in the way of institutionalizing the administrative reforms already introduced. The enthusiasm and support displayed by the staff and judges in both the criminal trial courts and Supreme Court is indicative of an institutional acceptance of the principles and practices introduced by the institutional contractor.

The resolution of almost fifty percent of all the cases over two years old is in itself a significant accomplishment. It is not unreasonable to expect the other fifty percent will be resolved

by the end of the year. Very few projects can claim a direct and measurable effect on the case backlog to the degree that this projects can. We are not aware of any tangible measure of increased public confidence as of the date of this evaluation. However, we speculate that the resolution of almost one hundred thousand old cases by the end of this year will certainly translate into such an increase in confidence by the general public.

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ANNEX II
PROJECT ACTIVITY COMPLETION REPORT
PROJECT NO. 519-0376

"EVALUATION SUMMARY AND COMMENTS
PROJECT No. 519-0376

To Debbie Kennedy-Iraheta, SO2 Team Leader
From. Sharon Thams Carter, ROL Activity Manager
Re. Judicial Reform II Evaluation Summary and Comments

The final evaluation of the Judicial Reform II project (519-0376), conducted by Management Systems International, was completed January 28, 1997. What follows is a summary of the recommendations of that evaluation and the comments of the Mission to those findings.

1 Legal Reform Objectives and Opportunities

The JR II project paper envisioned the approval of ten new laws by the third year of the project: criminal procedures, criminal code, sentencing law, civil code, civil procedures code, alternative dispute resolution, new organic laws and new career laws for the fiscalia and the public defenders office. As of January 1997, the Assembly approved five major legal reforms with support of the project: criminal procedures code, family code, family procedures code, juvenile offender law, and the Organic law for the Justice Sector Coordinating Commission.

CONCLUSIONS The original law reform objectives were very ambitious, probably unrealistically so, but the laws passed represent significant progress in justice system reform. The project responded rapidly and well to the opportunity presented by the family and juvenile codes to demonstrate procedural reform in practice, and these courts appear to be the most efficient within the judicial system. But if law reform objectives are viewed strictly against the progress indicators defined in the project paper, there is a shortfall.

MISSION COMMENT Four additional legal reforms envisioned in the project paper have been passed in 1997 with assistance from the project: the criminal procedures code, sentencing law, and organic laws for the fiscalia and public defenders office. The project did not focus much on the civil code reforms. The project outputs should have been revised to reflect the higher than expected effort the criminal reforms required. The ADR law and the career laws have been drafted and remain under discussion in the Assembly. Project resources were effectively directed to important reform efforts NOT identified in the project paper (family code, juvenile code and establishment of the Coordinating Commission as a legal entity) when progress on the criminal codes was slower than expected, striking a difficult balance between recognizing and supporting unexpected legal reform initiatives and continuing to work toward the pre-identified objectives.

2 The legal reform consultation process

CONCLUSIONS The drafting of new legislation supported by the project was a rather closed process, led by a well-placed charismatic activist with little participation by Salvadoran criminal law experts, jurists, the private sector and NGOs. The high profiles of the international consultants and the youth of the Salvadoran lawyers who participated in the drafting committee made drafting easier, but led to criticism about foreign intervention and manipulation of the process. The drafting and consultation process should cover the legal community, the private

sector, NGOs, and political parties, with the objective being satisfying as many concerns as possible and allowing time for analysis and discussion of alternatives

MISSION COMMENT Although reasonable in theory, this description of legal reform is rarely what happens, either in the United States and in the Latin American countries where USAID has supported similar activities. The key Salvadorans had a strong preference for limiting the breadth of participation in the review of laws in draft, and, given that orientation, the project experienced considerable success in supporting the degree of review and input actually attained. Given the spectrum between wide consensus and popular understanding of laws under reform on one end (very rare), and simply railroading new laws through the legislature (quite common), the project supported a reasonable balance of sufficient review to insure that the laws are well written and sufficient understanding so that the country as a whole generally followed the process and knew something was changing.

3 Development and Institutional Strengthening of the National Judicial School

Four significant objectives have been achieved by the project: (1) raising to a satisfactory level the basic legal knowledge of the majority of the legal professionals in the criminal, juvenile and family systems, (2) obtaining recognition by the justice sector leaders of the importance of training as a means to improve operation of the justice system, (3) consolidated the role and function of the National Judicial School as the lead inter-institutional body for justice sector training, and, (4) changed the way the justice system identifies its training needs, plans responsive training programs, and expands its specialized training.

CONCLUSIONS

- (1) The training component has been fundamental for success of the judicial reform process, which success can be attributed directly to the technical assistance financed by USAID.
- (2) This technical assistance has well exceeded the set objectives, due to the skill and dedication of the Salvadoran and foreign consultants assigned to the activity. The achievements should be recognized by USAID as notable within efforts to improve administration of justice in Latin America.
- (3) Challenges remain in the consolidation of the Judicial School, expansion of the school throughout the country, and increased involvement of middle and upper level professionals and supervisors in training programs.

RECOMMENDATIONS

- (1) Define a strategy to finalize the strengthening of the School and develop further the profile methodology for defining training needs.
- (2) Formulate a feasible justice sector training plan for FY97-FY02.
- (3) That the project begin to focus on sustainability of the significant achievements of these aspects of the project.
- (4) That all relevant donors formulate a strategic plan for coordination for support to the School.

MISSION COMMENT

- (1) The profile methodology has been considered useful by USAID and the justice sector institutions involved and will continue to be used during JR II and the new activity
- (2) The Supreme Court has announced that it will assume all costs for operation of the Judicial Training School
- (3) A training plan for the sector has been developed for 1998
- (4) USAID has met frequently to plan and coordinate training and technical assistance efforts in support of the passage of the criminal procedures code together with the UNDP, IDB, and ICITAP. This coordination included support by USAID for the UNDP training program for the new sentencing judges

4 Prosecution and Investigation the Fiscalia and the Police

CONCLUSIONS

- (1) The process of criminal investigation has improved due to support from the project. On the whole, judicial operators understand their role and function but need more guidance, skill development and encouragement to implement new roles consistently
- (2) Relationships among the key players in criminal investigations are much improved but have a long way to go. Inter-institutional dialogue, institutional self analysis, study of each role within the administration of justice, and goal-setting exercises exist directly due to support from the project. However, to achieve the greater levels of inter-institutional trust, dialogue and negotiation required, more time and training are necessary

RECOMMENDATIONS

- (1) The fiscalia requires more staff, salary increases and increased flexibility in the budgeting of resources from the GOES
- (2) The fiscalia should quickly design and implement a program for decentralization of services throughout the country
- (3) USAID and ICITAP should increase effort to improve their teamwork to encourage closer collaboration between the police and fiscales in conducting criminal investigations and prosecution functions
- (4) The PNC requires closer attention from the USG/ICITAP to develop strong, modern managerial systems and practices
- (5) USAID should provide training and TA to the fiscalia for at least one more year

MISSION COMMENT (1) Support for skills development of fiscales and public defenders and greater coordination with police is a priority activity for the new rule of law project under design for 1998 implementation. Training under the new project will focus on the practical application of skills through mentoring and on-the-job training. Subsequent to the evaluation report a training course for police in conducting criminal investigations was designed and delivered and a set of operational manuals for prosecutors and police were produced and distributed to current operators through successful collaboration between USAID and ICITAP. This type of coordination will continue under the new project

(2) Due in part to support from the project and the Embassy, the Fiscalia and the Public Defender's office successfully negotiated a \$12 million budget increase over the ordinary

allocation for the Public Ministry (Fiscalia and Procurador General) Funds were allocated by the Fiscalia for hiring 259 new prosecutors, raising salaries by about 35 percent, opening 14 new regional offices around the country, and purchasing commodities and vehicles to equip the new offices

5 Office of the Public Defender

CONCLUSIONS The project has produced notable improvements in the skill and effectiveness of public defenders witnessed by increased jail visits, habeas corpus and appeals filings, and releases from prison However, average case load of public defenders remains low, adequate mobility/ transportation is problematic, and morale problems are evident Salaries are too low to encourage dedication and increasing productivity The pilot program of on-the-job training provided by the project to the San Salvador juvenile defender office, where application of the new oral procedures is taking place, appears a great success, with notably high productivity and morale amidst case overloads, low salaries and insecure work environment

RECOMMENDATIONS

- (1) That the mobility problem be analyzed to determine ideal office location, use of public transportation, and vehicle purchases to maximize the mobility of public defenders
- (2) Allegations of the reassignment of vehicles procured by the project to other than designated uses should be investigated
- (3) USAID and the Justice Sector Coordinating Commission must lobby for increasing budget allocations to allow provision of adequate salaries for public defenders
- (4) On-the-job training models, such as that provided in the San Salvador juvenile defender office, should be continued

MISSION COMMENT

- (1) Mobility issues have been analyzed by the Public Ministry with support from the project Two additional offices have been opened in outlying areas of San Salvador and numerous vehicles and motorcycles have been purchased
- (2) As part of the project close-out activities, an end-use audit is conducted to assure the proper use and disposition of commodities purchased with project funds Special attention will be given to the analysis of vehicle use during this audit
- (3) As mentioned above, a \$12 million budget increase was obtained by the Fiscalia and Procurador General Funds were allocated by the Public Defender for hiring 180 new public defenders, raising salaries by about 35 percent, opening 2 new municipal offices, and purchasing commodities and vehicles to equip the new offices
- (4) Training under the new project will focus on the practical application of skills through mentoring and on-the-job training for all justice sector operators, with priority being given to prosecutors and public defenders

6 The Court System

CONCLUSIONS The pilot court administration activity is the Constitutional Court, although

very new, has already produced substantial improvements and the management information systems data to identify them. The number of steps taken in case management has been cut in half and the average processing time per case dropped from seven to two months. The Court is extending the reforms to other divisions and sharing costs for this replication.

RECOMMENDATIONS None

MISSION COMMENT None

7. The Justice Sector Coordinating Commission and the UTE

CONCLUSIONS

- (1) The Commission has become an important coordination instrument for the justice sector, fortifying the conception of a "Justice Sector" composed of complementary institutions that must work together, concentrating the political influence of sector institutions, and spear-heading efforts to ensure continuity to JRII initiatives after the project period.
- (2) The UTE is well accepted by the sector institutions and staffed by apparently qualified, enthusiastic and hard-working professionals. The six inter-institutional committees established in the UTE for planning and implementation are a notable success. The UTE is weak in the area of project management and monitoring and in financial management policies and procedures of the institution itself. The project has not provided as much institutional development TA to the UTE as contemplated in the project agreement.
- (3) The UTE director is concerned that salary increases proposed for UTE staff would not be approved, resulting in a loss of qualified, trained staff.

RECOMMENDATIONS

- (1) That a computerized financial accounting/MIS be installed in the UTE and that special attention be directed to their project monitoring and financial management capability.
- (2) That the UTE examine its structure and function, human and financial resources needs as a permanent sector coordinating institution with implementation responsibilities for major donor initiatives.
- (3) That support be provided to ensure that UTE salaries are kept at levels adequate to attract and retain appropriately qualified and motivated professionals.

MISSION COMMENT

- (1) The UTE has computerized its financial accounting system. Additional support to the UTE is required in the area of project management which will be provided by USAID under project 519-0436, the follow-on activity to 519-0376.
- (2) An extensive institutional analysis and "customer" survey was conducted for the UTE by the project in the Fall of 1997. This analysis was used as the basis for a strategic planning exercise carried out for the UTE, which identified redundancies, areas for improvements, human resource re-allocations, etc. Institutional strengthening of the UTE will continue under the new project.
- (3) Comparing salaries in the UTE to those of similarly training people in other Salvadoran institutions, the project found that salaries in the UTE are generally high in comparison, rather

than low as concluded in the evaluation report. Compared to U S standards, salaries are very low, which is a generalized issue for El Salvador, not the UTE or the justice sector

8 Management Information Systems

CONCLUSIONS The informational component of the project appears to have been cost-effective, and as MIS use increases, it should become even more so. The investments made have been reasonable for the development and coverage the project has achieved. Except for the Fiscalia, the MIS components already can be operated and maintained by the organizations themselves without assistance from the project.

RECOMMENDATIONS

- (1) That the project support examination by the Fiscalia of how the MIS has been developed and used, particularly as a tool in criminal investigations
- (2) That the Fiscalia follow the example of other sector institutions in (a) assuring the adequate operation, maintenance, and expansion of the system, (b) identification of a qualified MIS manager, and (c) participate in the inter-institutional MIS committee

MISSION COMMENT

MIS support is being provided to the Fiscalia under a grant to UNDP with local currency funds in 1998. Funds were used to automate the case intake process. Additional support for MIS modernization is being provided to the Fiscalia, and other sector institutions under project 519-0436.

9 Public Awareness/Civic Participation Activities

CONCLUSIONS

- (1) The use of NGOs as the primary vehicle for public education campaigns had the benefits of expanding coverage that would have been unlikely using other methodologies and potentially sustaining public information services, as once the campaigns are completed, participating NGOs can provide continued training on relevant issues
- (2) The impact of the training events is not clear. In the future, specific instruments and clear indicators should be defined to measure the impact of training/public awareness activities
- (3) The evaluation team doubts that the 1-2 day training events had substantial impact on the beneficiaries' knowledge of or attitudes toward family law, however the team is convinced that they were successful in increasing the public's awareness that a new family law exists
- (4) Activities have not achieved the objective of generating significant public support for legal reform, neither in the political elite nor in the public at large due to the following weaknesses: (a) omission of the private sector from consultations and project participation, (b) lack of initiative and creativity to justify legal reform before a wide public office, (c) failure to provide real opportunities for consultation, (d) campaigns that were timid in reach and scattered in content, and, (e) an effective media campaign against legal reform

RECOMMENDATIONS

- (1) That NGOs be invited to participate by competitive process in campaigns to increase public awareness of legislation
- (2) That the project take the initiative in building constituency for strong implementation of the penal code reforms, with participation from other sectors and the use of innovative mechanisms to educate the public about and build support for the establishment and maintenance of an effective, efficient and fair justice system
- (3) That the project sponsor forums for NGOs supporting reforms to promote interchanges of experiences and methodologies, with consideration given for support for the long-term sustainability of such NGOs

MISSION COMMENTS

The policy change process is long and complex. The codes supported by the project and been passed and implemented without incident, suggesting considerable 'public support'. Although that in theory wide-spread consultation of proposed reforms is not the norm, was very discouraged by Salvadorean institutions and possibly not even realistic given the low level of interest and involvement of the average citizen in criminal law. That being said, the Mission concurs that it would be desirable to support a more vigorous policy debate in future legal reforms to the extent possible.

10 Performance of the Institutional Contractor

CONCLUSIONS Checchi & Company Consulting, Inc, performed well, particularly in the excellent training and technical assistance provided the Judicial Training School, the Public Defender's Office, the Attorney General's Office, and the Judiciary. There is concern that UTE is not prepared to take the role of Checchi by December 1997, at project end.

RECOMMENDATIONS That USAID provide more consistent policy and programming guidance, and adhere closer to the implementation mechanisms laid out in the project agreement.

MISSION COMMENT None

11 Performance of the U S Information Agency

CONCLUSIONS The agreement negotiated with USIA represents an excellent example of cooperation, taking advantage of USIA's expertise in delivering international exchange programs. A small investment permitted the implementation of various important activities that would have been difficult for USAID or Checchi to carry out. Exchange program participants expressed frustration however, at being unable to fully implement their new skills and learning due to budget shortages in their host institutions, lack of understanding on the part of judicial authorities, and lack of an agreement between USIA and GOES to ensure application of the knowledge acquired.

RECOMMENDATIONS USIA activities should be better coordinated with and incorporated into the planning and implementation of JRIL, to better complement other project elements

MISSION COMMENT Performance based project management makes this type of coordination with USIA difficult because of their vastly different results orientation USIA is focused on cultural exchange, not producing some tangible change in host country institutions, performance or attitude However, their programs are symbiotic to those of USAID in the justice sector program and this type of coordination has continued under the new justice sector activity Care must be taken to analyze USIA's comparative advantage and realistically assess their program management and implementation capabilities before delegating certain activities to them

12. Performance of ICITAP

CONCLUSIONS The content and delivery of courses and the technical assistance and learning materials provided by ICITAP have been of high quality That assistance would be improved by the existence of a training plan and institutional development plan for the Investigations Unit, and better communication and coordination with USAID in the delivery of training and technical assistance

RECOMMENDATIONS

- (1) That ICITAP work with the DIC to develop and carry out an institutional training plan
- (2) That ICITAP work with the DIC to perform a process analysis and reach agreement on prerequisites to further assistance
- (3) That ICITAP and USAID strengthen their coordination and working relationships

MISSION COMMENT None

13 Project Management by USAID

CONCLUSIONS

- (1) The project design has been justifiably criticized as overly ambitious compared with the level of resource available
- (2) The project paper called for "rolling redesign" to adjust project interventions to changing priorities and resources in a constantly evolving situation USAID should be commended for making hard choices and rightly giving priority to criminal justice and court administration reform However, there is a lack of evidence of a deliberate decision process to rationalize and justify those actions
- (3) USAID project management has been hampered by personnel changes and corresponding changes in the management style of the USAID project manager, absence of a Director of the Office of Democratic Initiatives for 1 ½ years during the 4 years of the project, delays in financial transfers between USAID and Checchi, inadequate institutional development of the UTE as a project implementation unit, and the lack of regularized, productive relations between the UTE and Checchi

RECOMMENDATIONS

- (1) That USAID review its program to see how it might further assist UTE to strengthen its capacity to coordinate and implement future development projects in the justice sector
- (2) That USAID build closer, more collegial working relationships outside the Agency, especially with ICITAP and the institutional contractor, and make better use of the project management staff below the project manager
- (3) That USAID and ICITAP strengthen their coordination and working relationships

MISSION COMMENT None

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