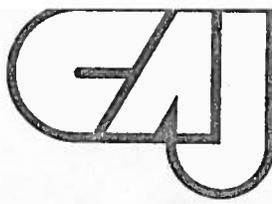


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**INTERIM EVALUATION  
CHILE JUSTICE SYSTEM IMPROVEMENT PROGRAM  
(CJSIP)**

**Luis Salas  
Santiago, Chile  
Sept., 1993**



THE CENTER  
FOR THE  
ADMINISTRATION  
OF JUSTICE

27 de setiembre de 1993

Sr. Juan Enrique Vargas Vianco  
Corporación de Promoción Universitaria  
Santiago, Chile

Estimado señor Vargas:

He recibido el comentario de su institución al Borrador del Informe de Evaluación de su proyecto. Le ruego disculpe la demora en responder pero he estado fuera del país y me he retrasado en la espera de los comentarios por parte de los colegas que trabajaron en la evaluación.

El documento que le adjunto representa el informe final y refleja la opinión de los miembros del equipo de consultores.

Sin otro particular, tomo esta oportunidad para agradecerles las gentilezas que tuvieron con nosotros durante nuestra estadía en Chile.

Atentamente

LUIS SALAS  
DIRECTOR

Copia: Sr. Claudio Mundi  
USAID/CHILE

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## EXECUTIVE SUMMARY

This draft report is the result of a mid-term evaluation of the "Chile Justice System Improvement Project," implemented by the "Corporación de Promoción Universitaria," and funded by the U.S. Agency for International Development. Unlike a final evaluation, the goal of this mid-term evaluation is to review the progress of the project and to make recommendations for reprogramming in light of the knowledge gained thus far.

The cooperative agreement authorization number is 513-0642-A-001064-00. The effective date of the grant is August 29, 1991, the current expiration date is September 30, 1995, and the total obligated funds is \$3,000,000. The purpose of this agreement is to assist the efforts of the Government of Chile (GOC) in law reform by supporting activities in Judicial Training, Legal Information Systems, Court Administration, and Legal Assistance to Low Income Citizens.

The results of the project, thus far, are impressive. Possibly its major success has been to encourage a national debate on the problems of the justice sector, especially in the area of legal services to the poor. In doing so it has taken advantage of a number of existing institutional linkages and has reached out to broaden their network to include a number of important nongovernmental organizations. During one year, CPU has sponsored almost 20 training events offered to a diverse audience of 778 persons (judges, support personnel, lawyers, academics and other justice officials). The project has introduced a series of innovative training modalities.

The project was designed in a political atmosphere in which the designers and CPU expected that the new Aylwin government would be able to quickly enact major reforms to the judicial and legal system. This caused the designers to prepare an overly optimistic and broad project consisting of four diverse components charged with an average of five activity areas each. In no component was the project so overly ambitious as the court administration area in which the proposal was for a complete overhaul of the court management system, a goal unlikely to be achieved even under the best of circumstances. In the end, the optimism, preceding the Aylwin government's inauguration, was short-lived and none of the major legislative proposals, dealing with the justice field, were enacted. This has impacted seriously on the project since many of the components were premised on these reforms. For example, the training component's design repeatedly emphasizes the need to work toward the new judicial school which has yet to be created.

As in many projects, the designers adopted broad and vague objectives which have not yet been quantified. Indeed, the evaluation team was hampered by the absence of an evaluation component and the lack of progress indicators. Additionally, some confusion was caused by the amount of documents which CPU used in referring to the terms of the agreement (the project paper, the original design budget, and, to a lesser extent, the cooperative agreement).

Project start-up was delayed by the search for staff and a project director so that the project has really only been operational approximately a year. While the terms of the agreement are generally being complied with, there are two specific areas in which they are not: the training needs assessment, and the court administration area (the latter has been thoroughly discussed previously). Additionally, there are issues of: coordination, planning, comprehensive policies (especially in the publications area), budgeting and evaluation.

The main issues, by component, are as follows:

***a: Court Administration and Legal Information:***

This component has been the most deficient due to the inability of CPU to establish a cooperative relationship with the Supreme Court and its administrative arm, the Corporación Administrativa del Poder Judicial (CAPJ). Recently, the Supreme Court has proposed to USAID/Chile that it enter into an agreement with the Court for limited technical assistance to the CAPJ. We have concluded that this should take place, however, due to the difficulty of entering into a new agreement and the inability of USAID/Chile to supervise additional activities in this field, we have suggested that CPU act as project manager and channel limited resources, in the form of specific technical assistance, directly to the CAPJ. It should also be pointed out that the evaluators concluded that the CAPJ has made tremendous strides in the last few years and the need for court administration assistance is now a lot less pressing than at the time of the project design. Additionally, CPU has little experience in the field and is not in a position to provide direct technical assistance in this area. This component requires substantial reprogramming to allow CPU to channel limited technical assistance to the CAPJ (due to the level of development of Chilean court administration, it is likely that TA will be furnished by consultants from the U.S. or other developed countries), permit CPU to offer a few training courses in this area, and allow CPU to gain further experience in the field.

***b. Judicial Training:***

An area of special concern is the incipient status of the training needs assessment and the overall approach of the component. Despite a lack of experience in adult education, project staff undertook an ambitious training program without a training plan and prior to a determination of needs. Even though considerable funds have been expended, we still do not have a training needs assessment or a training plan for the life of the project. Project staff emphasize attitudinal change as the central focus of training while USAID/Chile, and the agreement, stress hand-on substantive training. It is critical that CPU and USAID/Chile reach some consensus on the approach to be taken. Additionally, no further training activities should take place without the input of an adult education specialist. Among the tasks to be undertaken are: review of prior activities (special emphasis should be placed on the training needs assessment to determine its status, further activities that need to be undertaken, and the feasibility and cost to complete the contracted tasks), advise on the design of a training plan, design of an evaluation methodology, technical assistance in the development of training materials, and consultation on the implementation of distance education.

***c: Legal Assistance:***

This area has produced some significant outcomes, including the national low income survey on the legal needs of the poor. This survey may become a fundamental policymaking tool in this area and, for the first time, provides empirical data on the legal needs of this population. The component has been generally effective in involving other institutions in the field but has neglected the primary legal services provider (the Corporación de Asistencia Judicial [CAJ]). We have suggested that they provide direct assistance to the CAJ in order to maximize their impact on the field. We have also recommended that they improve their knowledge

of the area by learning from other similar experiences in the Latin American region. Finally, we have also counseled that they implement the subcomponent dealing with the creation of a national support center for legal assistance.

***d. Coordination of Project Components:***

Although the CPU has been reasonably effective in implementing specific activities relevant to project objectives, it has not systematically sought to develop an overall strategy which incorporates all of the components. The diverse number of project areas contributes to a lack of planning and results in fragmentation of effort which, in turn, hinders specialization in any one area. Components act independently of each other and may or may not bear any relationship to each other. Training is one area in which the lack of coordination affects all components. All of the components have some training, yet there is no commonality in design of training materials, introduction of innovative training modalities which may have been developed in another component into others, evaluation of training, usage of trainers or control over who is invited. Additionally, the training component has developed expertise in this area which is not being shared with others.

***e: Project Integration with CPU:***

One of the primary reasons for the selection of CPU to implement this project was its experience in project management, training, and national sectoral planning. Project staff has failed to take advantage of this expertise. For example, training is being conducted and planned without any substantial input from CPU training personnel. It appears that the legal project is an appendage of CPU rather than being integrated into its overall structure. Project success has been impeded in that CPU's traditional skills have not been taken advantage of by legal project. It is crucial that this project be incorporated into the CPU traditional structure. This will assure improved project management and the input of the technical skills that CPU is well known for.

***f. Project Planning:***

The view that this is a "rolling project", unsuitable to specific planning due to the changing events which characterize the sector, has contributed to a lack of planning. There are, for example, no life of project workplan, no timetable for the completion of events except on an annual basis, and no life of project budget. While the number and scope of CPU activities is impressive, lack of a comprehensive plan hinders achievement of more significant reform.

***g. Project Budget:***

The project is underspending its allocated budget. After almost two years of operation, the project has spent \$921,000 (31% of the original \$3 million dollar grant). This, however, includes a one-time expenditure for the acquisition of equipment and remodeling of CPU's office. Taking these installation expenses out, there is an operational expenditure of \$741,000. Project administrative costs represent \$575,000 or 62% of the project. While this may also represent an error of presenting all of the professional staff as administrative personnel, the cost is very high. Finally, the only current four-year budget is the one prepared during the design of the project. Everyone agrees that budget has been substantially modified yet there has been no effort to make changes which reflect these changes. As a

result, there is no budget for the life of the project or for any year beyond the current one. Our recommendation is that CPU develop a new budget which accurately reflect costs, reduce administrative costs, and adopt administrative practices (especially in the area of contacting for consultant services) which are more expeditious.

***h. Staff:***

The quality of the staff is excellent; they are bright, conscientious, and competent. The staff has a strong moral and intellectual commitment to legal reform. However, few have any practical hands-on experience in the substantive areas to which they have been assigned. This leads us to suggest that funds be expended to raise the technical expertise of the staff in the areas they are supervising and that they broaden their consultant base beyond the legal field in order to make this a more interdisciplinary project. Additionally, consideration should be given to incorporate other professionals from other disciplines so that they may benefit from the input of nonlegal professionals. Finally, CPU should review the need for the amount of staff currently employed in project management and consider shifting some personnel from permanent project positions to consultant slots to be used as needed.

Our overall evaluation is that this was a very ambitious venture which sought, originally, to take advantage of the many perceived windows of opportunity facing a Chilean transitional government. As that government reaches its end, it is time for the project to take stock and reprogram activities which are more achievable and manageable. During the next few months, Chilean society will be embroiled in a presidential campaign during which time few project activities appear likely to bear fruit. We have suggested that this period (October to December 1993) be devoted to project redesign, strengthening institutional capacity, and preparing to become a crucial catalyst for change after the elections.

In this light, we have suggested that, as a result of the experience gained in this project and its unique relationship to the government, CPU is in a critical position to assist the new executive and lawmakers with the task of addressing fundamental issues facing the justice sector. It has previously fulfilled this role in other social welfare fields and may also do so in justice. USAID/Chile should consider reprogramming some funds to allow CPU to carry out this task.

It is our strong recommendation that CPU and USAID/Chile redefine the objectives of this project so that they are more focused, involve less areas of activity, are more manageable, and are quantifiable. This process should go hand in hand with the design of an evaluation component which can provide feedback to managers and make this project subject to a more profitable evaluation. We think enough reprogramming needs to take place that the project should slow down implementation activities, except for those that have already been agreed to, pending resolution of these issues and a successful reprogramming of the agreement.

## **I. INTRODUCTION**

This report is the result of a site visit by an evaluation team composed of four persons who visited Chile during a period beginning on May 29, 1993 and June 19, 1993. The team was led by LUIS SALAS, a Professor of Criminal Justice at Florida International University (FIU), and director of the Center for the Administration of Justice at FIU, BENNETT BRUMMER, the Public Defender for Dade County, Florida, EDMUNDO FUENZALIDA, a Chilean law expert and noted sociologist at the Catholic University in Santiago, and LEONARDO SCHVARSTEIN, an Argentinean management consultant and expert on court administration.

The team reviewed materials prior to their arrival in Chile, interviewed the grantee's (Corporación de Promoción Universitaria [CPU]) staff, as well as justice sector officials (a complete list of persons interviewed is contained in Attachment 1). Preliminary briefings of the findings were made to USAID/Chile and the CPU. This draft report is being furnished to both institutions for their comments. Thereafter, CPU is being asked to furnish a detailed proposal for amending the grant in conformance with the findings of this evaluation and their own interests. Some members of this evaluation team will comment on this proposal and travel to Chile for a consultancy to reach consensus with them and USAID/Chile on the revised project.

This report is organized into eight sections: 1) background, 2) objective of the evaluation, 3) economic, political and social setting of the project, 4) previous evaluations, 5) specific evaluations of each of the components, 6) commonalities presented by the components, 7) conclusions and reprogramming recommendations. Tables of inputs and outputs have been presented where appropriate.

## **II. PROJECT BACKGROUND**

The current cooperative agreement is the second grant furnished by USAID/Chile to CPU. The first effort was funded in March 1989, and provided \$200,000 to CPU to conduct a limited number of training activities, studies, and analyses of the court system of Chile. This initial CPU project lasted two years and was the basis for the current award to CPU. The subject of this interim evaluation is a second grant of \$3,000,000 awarded to CPU on September 13, 1993 with an expected ending date of September 30, 1995. Although this is a four-year project, it is incrementally funded annually with appropriations of \$2,000,000 to date.

The overall goal, contained in the grant agreement, of this Project is to "assist Chileans in making their justice system more effective and fair and more accessible to all the people." The purpose of the project is to "promote the modernization of the Chilean justice system by strengthening: a) professional judicial education and training; b) availability of current and updated legal information; c) court administration and management; and d) access to justice, formal and informal, for low income populations."

## **III. OBJECTIVE OF THE EVALUATION**

USAID/Chile prepared a scope of work for the evaluation to cover the substantive components of the project. While the evaluation of the administrative and finance area will be covered by an audit to be performed in July 1993, the evaluation team also reviewed some administrative and budget items which are relevant to the achievement of the substantive portions of this project.

Unlike a final evaluation, this interim evaluation has two major objectives: a review of the activities conducted to date, and recommendations of reprogramming actions to be undertaken at this mid point. The scope of work detailed the following objectives (see Attachment 2):

- "1. To review actual versus planned progress toward the outputs, purpose and goal of the project.
2. To assess the continuing validity and relevance of the effort and to suggest modifications as may be required to increase the likelihood that the effort will achieve its objectives.
3. To assess the effects of external and unanticipated actions and/or events on the project.
4. To determine whether all required actions have been carried out and performance to date is consistent with expectations; as well as what additional actions are needed to sustain the positive effects of the effort.
5. To determine what impact has been brought about by or is associated with the effort.
6. To help identify areas (either continuations and follow-up on existing activities or new actions) which could be addressed effectively in the second half of the project.

The information collected by the evaluation team will be useful both for the grant's project managers and for AID/Chile to determine relevance, effectiveness, efficiency, impact and sustainability of the effort. This effort should provide information to determine which project areas need changes to improve project performance."

#### **IV. ECONOMIC, POLITICAL, AND SOCIAL SETTING OF THE PROJECT**

Almost two years have passed since the project design was completed, and the project has been fully operational for one year. At the time that this project was designed, a democratic government was entering power after 17 years of military rule and there was widespread optimism that the bulk of the executive's legislative reform package, including judicial improvement, would be enacted quickly. Indeed, the project design assumed the adoption of a judicial career law, establishment of a judicial school, and cooperation between CPU and the judiciary on court administration reforms. None of these have come to pass.

The justice sector is a source of much political controversy. Public opinion polls show much public discontent with rising crimes rates while the judiciary enjoys the least public confidence of almost any public sector entity. This is aggravated by the maintenance of Pinochet appointees on the Supreme Court and rulings perceived to be favorable to the military, especially in the area of human rights violations. Additionally, discontent with the cumbersome proceedings of the traditional court system has led to widespread adoption of nonjudicial arbitration for commercial and civil matters. It is in this environment that any project to improve the justice sector in Chile must operate.

One of the first steps undertaken by the Aylwin government was to resolve the issue of political prisoners. Thereafter, a number of proposals were suggested, including packing the Supreme Court, leading to the creation of a national judicial council to oversee the courts. This radical proposal was rejected and the government, thereafter, offered a number of piecemeal measures to reform the justice sector. Some of the most significant were: adoption of public prosecution (Public Ministry), establishment of administrative courts, restriction of the jurisdiction of military courts, establishment of a national justice council, creation of an ombudsman, modification of the structure and function of the Supreme Court, enactment of a judicial career law, creation of a judicial school, proposal for the establishment of neighborhood courts, amplification of mediation and arbitration, and reformulation of a system of public defense for indigents. Of all of these proposals only the judicial career law and the judicial school appear likely to be enacted within this government's term.

Prior to the assumption of power of the Aylwin government, the Supreme Court established the "Corporación Administrativa del Poder Judicial" (CAPJ), as a result of legislation enacted by the legislative branch, as the administrative arm of the courts. While many viewed this move as a preventive measure to eliminate the justification for the creation of a judicial governing body outside of the judiciary, the CAPJ has evolved into an efficient administrative entity. For reasons to be detailed in the court administration section, CPU and the CAPJ have been unable to reach agreement on a means for implementation of the court administration component of this project. Additionally, the rapid development of judicial administration makes investment in this area less pressing.

Chile's transition to democracy is unique in Latin America in that it is taking place under very favorable economic conditions while the military apparatus which ruled previously is largely intact. As a result of economic policies the country has successfully completed the shift from an import substitution to an open, trade-oriented economy. The transformation has been complemented by sound fiscal and monetary policies, and an exchange rate policy designed to make exports profitable and imports expensive.

While the government has launched an ambitious justice reform legislative program, justice is still not considered a critical component of national development. Indeed, there is no overall plan or strategy to address the substantial issues facing the nation's justice sector. Nevertheless, the executive has invested substantial resources in the judiciary: the government has launched a five years effort to duplicate the budget of the Judiciary (forty per cent of these new resources are being dedicated to raise salaries, 30% to improve existing facilities and 30% to the creation of new courts).

The significance of justice reform to national development has attracted other donors into this field. The Inter American Development Bank (IDB) has expressed an interest in this area and has received proposals from the Supreme Court for a major loan package to assist the judiciary. The executive appears sympathetic to this loan request but has extended its scope beyond judicial assistance to focus also on the needs of juveniles and reform of legal assistance. Additionally, the European Economic Community has provided modest funding to pilot programs in legal assistance and support for a small judicial training program implemented by the National Association of Magistrates.

In December 1993, national elections will select a new Congress and a new executive. During the months to come the country will be consumed by the electoral process and it is unlikely that many project activities can take place. We have recommended in the final section that this time period be utilized by CPU to place itself in a position to be able to play a central role in assisting the new government's reform efforts.

## **V. PREVIOUS EVALUATIONS**

As detailed below, the project design was flawed in that it contained no evaluation plan and none has been designed thus far. The evaluation team was, thus, hampered by the absence of such a plan and the lack of quantifiable indicators. A general plan for evaluation of all democratic initiatives projects administered by USAID/Chile was presented by Management Systems International (MSI) to USAID/Chile in November 1992 ("Monitoring and Evaluation Plan for Democratic Initiatives Program USAID/Chile"- see Attachment 3). The report had never been distributed to CPU and appears to be so general as to be useful, to the evaluators, only as a reference. The major conclusion of this general evaluation was that "this program effort, by providing a stable working vehicle and involving decision makers, has brought together a critical mass key people capable of accomplishing sectoral strengthening" (page 7). Finally, the report presented a general table of project outputs and recommended monitoring tasks which consisted largely of review of quarterly reports. Among its major recommendations were some made regarding the reconsideration of indicators. Finally, CPU contracted a Colombian planning expert, Eduardo Aldana, to assist them in designing a strategic planning and evaluation system. His stay at CPU, however, was too brief to produce a detailed report and his conclusions were also of little assistance to the reviewers.

## **VI. PROJECT COMPONENTS**

While the grant document details four components, the project has been reorganized into three areas: judicial training, legal information and court administration improvement, and legal assistance. In this section, we present detailed evaluations of each area.

### ***A. COMPONENT ONE - JUDICIAL TRAINING***

This section is divided into two major parts. The first deals with the training needs assessment and the second encompasses the training to be provided. For each we have indicated the budget, the outcomes achieved thus far, and the evaluators' comments and recommendations. Additionally, we have included a table on inputs and outputs (Table 1), and another which details the profiles of the persons trained thus far (Table 2).

As reflected in the grant agreement, the focus of this component is training of judicial personnel, building "upon the CPU judicial training effort, to provide in-service continuing education for professionals and support staff, including judges, prosecutors and public defenders." The purpose of this component, according to CPU, is to "carry out evaluation of judicial training needs in Chile, to prepare materials and develop training models for judges and other judicial personnel, training of trainers, and, finally, to elaborate the requisite background materials for the creation and implementation of a Judicial School in this country."

A reading of the design and implementation materials for this Project leads the reader to conclude that the ultimate objective of this component is establishment of a judicial school in Chile and that all activities are designed to support this concept. USAID/Chile's insistence on the importance of the judicial school outcome is reflected in four of the six questions addressed to evaluators in the scope of work for the training component of this evaluation:

"- Have the Project activities contributed to the future creation and operation of the Judicial School?"

- Have the training activities developed curriculum subjects, training models and innovative educational materials appropriate for use in the different levels of the future formal organization of judicial training?

- What will be the project's expected role in the organization and start-up of the eventual judicial school?

- Has the project formed a critical mass of potential future instructors for the judicial school?"

CPU staff, however, does not accept this premise since, they argue that establishment of this school is a consequence of legislative action which is outside the control of this project. IN turn, CPU has adopted different objectives which will be detailed hereafter.

### **1. Budget**

The training budget was allocated as follows:

Training Needs Assessment	\$75,798
24 Courses for Judges, Secretaries, and Judicial Staff, as well as 20 study tours	\$602,753
Development of 5 distance training modules	\$79,600
Judicial School Proposal	\$108,740
Preparation of 10 judicial trainers	\$108,520
TOTAL	\$975,411

Of this total amount, AID has allocated, to date, approximately \$269,438 of which 139,650 (52%) has been spent. It should be noted that the above figures are based on the initial budget prepared by CPU and AID. This does not coincide with the current budget forwarded to us by CPU (Attachment 4) in which \$982,022 appears as the amount allocated for this component.

### **2. Component areas**

The component is divided into five major activity areas. For purposes of this report we have grouped them into two distinct types of activities: training needs assessment, and training.

**2.1. Training needs assessment.** The purpose of the assessment is "to prioritize needs and propose a training program design process." Among the elements to be considered in the assessment were:

- "evaluation of current training offerings";

- detailed personnel descriptions (job classifications, personnel descriptions, review of personnel files, identification of training modalities for different training targets, "preparation of a training needs table by employee level and level of

training;"

- "training needs prioritization, noting costs and other factors;"
- development of a "tentative three-year training schedule;"
- review of "alternatives for an institutional structure for training;"

The assessment was to be conducted by a "training design and methodology expert assisted by a lawyer experienced in the Chilean judicial process, and will be designed with CPU and the Judicial Training Studies Institute."

### **2.1.1. Outcomes**

In furtherance of this component, CPU issued a number of requests for proposals to carry out parts of the assessment. On December 1991, CPU issued a request for proposal (Convocatoria No. 1) to carry out three activities: a) a training needs assessment, b) design of a training module for first instance judges, c) description and evaluation of comparable experiences in other countries. A total of \$4,141 was allotted for two studies in the training needs area (one directed at first instance judges and another dealing with appellate judges). The response to the request for proposal was unsatisfactory, in terms of addressing all of the studies requested, and a second request was issued. The requests for proposals resulted in three studies:

***Las Necesidades de Capacitación de los Jueces de Primera Instancia*** by Arturo Onfray and Carlos Cerda F. The study consisted in a mail interview directed at all 325 first instance judges. A response rate of 51% was obtained. The study sought to measure: a) value of law school education, b) value of post-graduate apprenticeships (Practica Profesional Obligatoria), c) primary difficulties facing judges in different periods of their career (educational deficiencies among them), d) factors to be considered in developing a training program, e) most effective training methodologies. Although there is no listing of the questions asked, it appears to be a limited questionnaire. The evaluator concluded that the study suffered from serious methodological problems especially its representativeness, lack of pretesting, and accuracy of questions. One of the main issues raised was the objectiveness (bias) of responses when the questionnaire was to be mailed to a noted appellate judge. CPU agrees that the study suffers from methodological problems.

***Judicatura de Primera Instancia: Algunas Indagaciones*** by Antonio Bascuñan, Lucas Sierra, Juan A. Varas. The study consisted of a mail questionnaire directed to the 325 first instance judges and resulted in a 40% response rate. The purpose of the study was to gauge the quality of law school training received by judges education, and its relevance to a judicial career. While this study was more methodologically sophisticated than the first (there are some questions as to geographic representativeness), however, its main weakness lies in its relevance to the development of a judicial training program. It seems more applicable to law school education than to development of continuing legal education courses.

### ***DESUC Study of Juvenile Judges***

The DESUC study of juvenile judges is the most methodologically sophisticated of the three, probably due to the fact that the researchers are sociologists accustomed to conducting field research. Additionally, the terms of reference of this study were the clearest and most detailed, probably due to the fact that the terms were discussed with the researchers prior to entering into a contract rather than following the request for proposal approach.

### **2.1.2. Evaluation findings**

This is the activity area, within the training component, that is in most noncompliance with the grant agreement. The most disappointing feature of this effort is the incipient stage at which a training needs assessment is at after three studies, and an expenditure of \$34,972 (46% of the total allocation). CPU has concluded that further studies are necessary. It was assumed that a training needs assessment, including responses to the detailed questions contained in the grant agreement should have been completed by now. Several factors have contributed to the problems in this activity:

**a) Complexity of the task.** Carrying out the detailed type of training needs assessment proposed in the grant agreement is a complex task requiring prior experience in this technique and unique skills. Thus, the agreement called for the incorporation of a "training design and methodology expert" in completing this activity. Given the nature and experience of CPU it was assumed that they would have such expertise on their staff or would know where to identify these personnel.

**b) Lack of technical experience and failure to resort to outside assistance.** The training component is permanently staffed by two lawyers (a 1/2 time component director and law professor at the Diego Portales Law School, and a full-time assistant who is a recent law graduate). Neither of these persons, nor the Academic Advisor, has ever carried out a training needs assessment. Although USAID has funded a number of similar training needs assessments, CPU did not take advantage of such prior experiences nor contacted training specialist who could advise them on the study design and implementation. The training staff did not consult with CPU training specialists for assistance.

**c) Underfunding.** When asked why a more detailed training needs assessment was not conducted, CPU training staff pointed out that the assessment was underfunded (something the evaluator agrees with) in the project budget (\$11,400) and that they would have conducted a more thorough assessment if more funds were available. A review for the budget in this area, however, reveals that a total of \$75,798 was allotted for this activity, of which \$11,400 was allocated for the research reports and the remainder for supplementary activities, the largest of which was an international seminar (\$49,000) to discuss the findings. Although the budgeting emphasis was clearly placed erroneously on secondary activities and not on the analysis itself, project staff made no effort to correct this nor to approach AID for a modification. The result is a series of research reports which do not fulfill the terms of the grant agreement. Finally, USAID/Chile pointed out that CPU elaborated its own budget for each of the activities.

**Recommendation** Regardless of the reasons, it is clear that we do not yet have a training needs assessment. CPU does not have the expertise to design such an assessment or to supervise it without the assistance of a training specialist with skills in this area. It is assumed that such specialists exist in Chile. No more studies should be funded until a training needs assessment specialist assists CPU in this activity. The task of the specialist would be to review the status of the current assessment, further steps which need to be taken (taking into account costs already expended, and develop an assessment design and plan. This document would be reviewed by CPU and USAID/Chile. It should be noted that prior to initiating this consultancy, USAID/Chile and CPU should agree on the need and usage of this activity since the objectives of both parties, in conducting this activity, are so far apart.

**2.2. Training courses.** Four types of training courses were to be offered:

a) Orientation courses for new judges. The target group is judges and "secretarios" with less than five years experience. Some skills are to be taught as well as ethics and human rights.

Approximately five training modules were to be prepared by this activity leading to four courses:

b) In-service courses for judges. The target group is all sitting judges. The project design recommended that lawyers also be included in the target group. Short courses on substantive legal issues, especially those related with legislative changes were to be offered, and students tested. Courses were to be offered regionally, either directly by CPU or through agreements with law schools. Approximately 12 courses were budgeted.

c) In-service training for staff. Same as (b) except for non-judges, especially "secretarios". Courses were to include "substantive and procedural issues and job related skills training." A total of 4 training activities were budgeted during the life of the project.

d) Correspondence courses and other distance education methods. The target group is court officials in areas where direct delivery of courses is cost ineffective. A "CPU chaired committee of academics and experienced distance education experts... will develop further the focus, procedures and content for this activity." Eventually requests for proposals will be issued to develop at least five modules (objectives, materials, and evaluation methodology to be used). Close contact with the Association of Judges was contemplated since it was thought that they would continue to operate the courses after development by CPU.

e) Preparation for Permanent, Publicly Funded Judicial Training. There appears to be some consensus that a permanent training capacity be established in the judiciary but there is debate as to situ and type of facility to be established. "This training component will reserve funds for analysis and design of alternative approaches to judicial training if that should become appropriate." It should follow the training needs assessment and includes site visits to other countries, visits by foreign experts and discussion seminars with notable Chileans. Technical assistance to the new judicial school was left open for periodic review.

f) Training of Trainers. The target is 25 judges who successfully completed the in-service courses. Twenty graduates from these courses will take part in two additional courses. "These courses will focus on specific, practical, instructional problems and impart further training on selected legal issues." From that number, 25 will be selected as the future core of trainers. Overall coordination shall be shared between CPU and the Institute of Judicial Studies.

### **2.3. Outcomes**

This component has trained 511 persons of which: 139 were judges, 163 were staff, and 137 were lawyers and others. This represents a cost of \$205 per student (\$104,678 spent on non-needs assessment training) thus far. Of the total number of trainees, 212 were women. Training activities have only been ongoing for a little more than a year. To have trained this many persons during this period of time speaks well of the motivation of the grantee and their ability to attract trainees.

Fifteen courses have been offered thus far. A variety of subject matters have been covered, including: penal reform, procedures for support staff, workshops for young judges, etc. Of special mention are courses aimed at support personnel which seek to improve their relations with the public. In the majority of judicial training events, as explained by project staff, the goal of the course has not been to deal with substantive issues but to achieve attitudinal change. While this appears to be a laudable goal, overreliance on this approach may lead to noncompliance with grant terms which are fairly specific on the subject areas which are to be covered by training. Additionally, while attitudinal change may be achieved, it is also possible to do so at the expense of improving the trainees' knowledge base.

A variety of training methodologies have been experimented with varying success. Video and other modern teaching techniques have been used by the component. The primary innovation has been to introduce the case study method as a means of teaching students analytical skills and leading them to question basic legal concepts and tenets. Students appear satisfied with this new methodology but caution that overreliance on this approach may be as unsatisfying as usage of the magisterial approach.

All courses have been evaluated by participants who are required to complete a course evaluation questionnaire. The instrument seeks to measure satisfaction, appropriateness, and impact of the working sessions, the teaching methodology, and organizational aspects. The evaluation methodology, however, fails to mention the effectiveness of the instructor or the impact which the course had on the work of the trainee. The results of the evaluation are shared with the instructors and the results are used to modify teaching techniques. Overall, evaluations are positive.

The training component continues to maintain a close relationship with the Institute for Judicial Studies and the National Association of Magistrates. The Institute is still instrumental in judicial education reform. It has recently received a grant from the European Economic Community to establish a training program for applicants to judicial positions. In addition to classroom training, the program calls for an internship to be served under sitting judges acting as tutors. The training component has developed a special program to assist the tutors in fulfilling their training mission. In addition, the project has sought out agreements with other institutions to impart training. An example is the course offered for social workers in conjunction with the School of Social Work of the University of Chile.

The one training area which has been undeveloped by the project is the area of distance training. Project staff expressed their dissatisfaction with this activity area and proposed eliminating it from the project. No activities have been carried out in this area.

#### ***2.4. Evaluation findings***

Overall, the training staff are to be commended for the number of courses offered and the variety of trainees which have been recruited. As mentioned previously, the project has been innovative in introducing new training modalities. Project staff should also be praised for continuing to network with other institutions who have an interest in judicial training. Of special note are the National Association of Magistrates and the School of Social Work of the University of Chile.

Project staff should also be recognized for the amount of practical training imparted to support staff. Of special note are courses designed to improve relations with the public and accountability of the court to victims and others. Overall, the achievements of the training component are significant. There are however, some serious problems which the project should address:

##### ***2.4.1. Differences in the component goals: attitudinal change versus substantive training***

One of the major objectives of this project was to provide judicial training "while supporting national efforts to establish a permanent, publicly funded training capacity for the judicial branch." Of special interest was assisting the development of a judicial school to be established by law. Thus, the training needs assessment and several of the other activity areas were to be viewed as complementary to the establishment of the judicial school. The majority of the training areas detailed in the project document stress substantive training.

Project staff have deviated from this concept and stress attitudinal change as a major, if not the only, goal of this component. They argue that a primary deficiency of law school education is reliance on a magisterial teaching system which isolates law students from other disciplines and produces non analytical graduates. Thus, a goal of the project is to prevent the repetition of this deficient system in a future judicial school. The alternative is reliance on a case study method which seeks to force the student into questioning basic tenets and only secondarily attempts to improve his/her work skills.

The problem with this approach is that it ignores the value of substantive training. The grant agreement does not exclude attitudinal change as a goal of training but CPU appears to make this the main, and sometimes exclusive, priority of the training component. Additionally, lack of a reliable training needs assessment prevents project staff from knowing what attitudes, especially those related to their work, judges possess, and must be changed, and the desired attitudinal outcome. Attitudinal change, by itself, may also result in unforeseen and negative consequences. For example, the judge may agree that what he/she is doing is wrong and may want to correct his/her behavior but find that without the necessary tools and/or skills such change is impossible. The result may be frustration of judges, readaptation to prior behavior, or abandonment of the judicial office. Finally, it appears to the evaluators that the change sought, by the cooperative agreement, is primarily behavior modification and improvement of the judicial function. Changes in attitudes do not necessarily result in changes in behavior.

**Recommendation** USAID/Chile has serious doubts as to the current emphasis on attitudinal change. It is crucial that the project staff discuss their views with the funding agency and reach an accommodation in which work skills may be improved while also changing the attitudes of the participants.

#### ***2.4.2. Lack of planning: absence of a training plan addressing the training needs of participants***

One of the most surprising aspects, to the reviewers, was the absence of a training plan which specifically details the training event which is to take place during the life of the project. When questioned, the training staff justified the absence of such a plan by pointing to the overwhelming pressure to comply with the USAID demands for course production. As a result, the emphasis was placed on course generation to the exclusion of adequate planning. While it is true that USAID/Chile has demanded training productivity, the project staff has never complained to USAID/Chile or demanded a slow down in order to achieve improved planning. Elaboration of a training plan, and its acceptance by USAID/Chile, should have been the first step undertaken by this component and many of the criticisms herein reflect the absence of such a plan. Additionally, this step would have prevented the differences in the objectives of the donor and the grantee for the component.

Absence of an adequate training needs assessment which could provide staff with baseline data on what judges and staff do hampers adequate training design. Additionally, project staff has expressed certain preconceptions which limit the impact of training. The question in many of these projects is whether to train participants for their actual function or that which is established by law. For example, Chilean law requires that judges conduct the questioning of criminal detainees as soon as they are brought before the court. Their statement is received and a determination is made as to initial incarceration. However, in practice, the amount of defendants brought before criminal judges is so large that it is physically impossible for the judge to question each individually. More often than not, the questioning is conducted by support staff (usually an "actuuario") who also make recommendations to the judge as to pretrial release. While project staff could choose to train the support staff in conducting questioning and

making pretrial release recommendations, the training component staff has chosen not to do so. Their basis is that they should not train people to do something which is not sanctioned by law even though this is the practice which is recognized by all judges interviewed. The overwhelming majority of judges questioned felt this was a mistake and agreed that such training should take place. While this decision is primarily based on principle it has also been reached in the absence of data which would determine the extensiveness of the practice and the desire of the judges.

**Recommendation** No further training activities be undertaken, with the exception of those already committed until such a plan is arrived at and agreed to by the donor agency. This plan should have input from an expert in adult education and contain: the objectives of the component, establishes quantifiable goals, determines the number and types of training events, suggests varied methodologies, sets forth criteria for the selection of participants, proposes a life of project timetable, and establishes an evaluation plan to gauge the short- and long-term impact of training.

#### ***2.4.3. Lack of an evaluation plan or quantifiable indicators***

One of the most difficult tasks faced by evaluators has been the absence of quantifiable training indicators to be used in gauging the success of this component. As mentioned above, the planning activity referred to in subsection (b) should address this issue and the training plan should contain such indicators. While development of indicators may appear to be a complex task, an attempt should be made to identify those which are quantifiable and to describe those that are not. The major example of easily quantifiable indicators are the number of courses offered, profiles of trainees, materials produced, costs per course, etc. The evaluation plan would also provide other indicators, for example, the course questionnaires gauging the success of the course. Graduates could also be tracked to determine the impact which the training has had. The most difficult indicators to establish are those which deal with attitudinal and behavioral modification. However, some activities may be easily subject to the development of progress indicators. For example, a course was offered whose main goal was to encourage participant judges to release a larger number of criminal defendants pending trial. The project could select a random sample of courts, composed of an equal number of judges attending training and those that do not. Baseline data, prior to the course, could be obtained measuring the number of pretrial release decisions for each court. Course participants could then be tracked and a determination made as to any changes in pretrial release decisions made subsequent and attributable to the course. The results could also, then, be compared against the control group.

**Recommendation** While an evaluation questionnaire is used upon the completion of every course there is no evaluation design for the activity. A training specialist should be consulted to design an evaluation methodology which could then be integrated into the training plan and would provide feedback as to the success of individual courses and their long-term impact. Quantifiable indicators of project success should be produced for each component.

#### ***2.4.4. Overemphasis on case study method as the central training modality***

While the evaluators praise introduction of the case study method as an innovative learning tool, its usage should not be so emphasized as to exclude others. Training modalities should be developed relative to the goals of each training event. Seldom should the methodology become the goal of the event. Project staff should examine the appropriateness of each training methodology and use the one, or the combination, which appears most appropriate.

**Recommendation** A training specialist should be consulted and training methodologies identified and justified in the training plan for each training event.

#### **2.4.5. Follow-up**

Currently, training activities are viewed as isolated events with no necessary relationship between them. Feedback is not provided to participants nor assistance given to facilitate the incorporation of new knowledge or skills the trainees' day-to-day function. For example, during our evaluation we spoke with judges who had attended a seminar on the role of the victim in the criminal process. As a result, judges became more aware of the importance to keep the victim involved and informed about the process. One judge, for example, instituted new specific policies in her court, and trained her support staff in dealing with victims. This resulted in greater satisfaction for the victims, the judge, and her staff. It would have been useful to have contacted participants after the completion of the training and to have identified practical applications of the results of the seminar. Thereafter, these could have been shared with the trainees and further discussion encouraged. The purpose of this type of follow-up is to continue the interest and dialogue which was generated by the activity so that it does not remain an isolated training event with only limited impact.

**Recommendation** The design for each activity should identify the type of follow-up necessary for optimum achievement, including multiplication of the results. Such follow-up results would also be considered in measuring project impact and would be extremely useful in future evaluations.

#### **2.4.6. Qualifications of staff**

The staff is composed of one half-time training component director and a full-time assistant. Both are law graduates with no background in adult education or training methodologies. They receive sporadic advise from an "academic advisor" who assisted them with the design of the training needs assessment studies and the courses to be offered. He is also a law graduate with no background in adult education. While they have employed a training specialist, they have done so as a trainer in courses and not as a training consultant.

**Recommendation** The activities proposed under this component require the participation of a person, or persons, with a training background, primarily in adult education. The following are areas in which such assistance is crucial: training needs assessment, design of training plan, establishment of methodologies, modalities for long distance training, and evaluation. The absence of specialized input has contributed to many of the deficiencies of this component.

One of the main reasons for the selection of CPU as the grantee for this project was its prior experience in adult and continuing education. However, the training staff have failed to utilize the substantial resources of CPU in this area and chosen to go it alone. This should be corrected immediately and a consultant hired to provide on-going counsel in these technical training areas.

#### **2.4.7. Multiplication effect of training**

One of the goals of most training grants is to use methodologies and techniques which allow for a multiplying effect so that the training reaches the widest audience possible. Thus, the project, for example, designed an activity to train trainers. Likewise, it included long-distance

training to reach areas of the country in which it was not economically feasible to bring the students together. Finally, it called for the design of training materials and curriculum which could be useful to subsequent, and even non-project related, training. It is in this latter area that the project has been deficient.

Training materials have usually consisted of hypothetical case studies to be utilized in the training event. No materials have been prepared which are useful to persons who have not attended the training. The only published materials elaborated by this component have been the two studies from the training needs assessment and a review of the activities of the National Association of Magistrates.

**Recommendation** Other components of this project, especially the legal assistance component, have developed materials to be used by a wide and diverse audience. The training component, on the other hand, has lagged behind in this area. This is possibly due to the goal of attitudinal modification and the pressure to generate courses. It is crucial for this component to develop materials which reach a wider audience and are specifically aimed at improving work skills. An example are bench books for judges and support staff which, in simple terms, outline routine legal procedures and provide the reader with suggested forms which may be used.

#### ***2.4.8. Distance Training***

The cooperative agreement required the development of a program to offer correspondence courses and other distance education methods. It called for the establishment of a committee of academics and experienced distance education experts to develop the focus, procedures and content of the activity. Requests for proposals would result in the development of five modules with the Institute for Judicial Training implementing the modules. Nothing has been done in this respect and CPU has proposed modifying the original concept to include periodic meetings of students with trainers.

**Recommendation** Long distance education is a fundamental component of any training program of the sort proposed herein. In fact, the project has already engaged in some of this by producing a number of short training materials in its legal assistance component. We would propose, however, that the committee proposed in the original cooperative agreement be scrapped since it adds an unnecessary bureaucratic layer without any real need. The training component should contract the services of an adult education expert to review the feasibility to design a distance education program, determine the potential audience, review methodologies, project costs, and suggest options (one of which could be elimination of this activity).

TABLE 1

TRAINING COMPONENT INPUTS AND OUTPUTS

ACTIVITY AREAS	EXPERTS OR TRAINERS	OUTPUTS	RESULTS
1. Training Needs Assessment	Training design & methodology expert	- Evaluation of current training	Partial- especially applicable to law school training
First Year	Experts used: Carlos Cerda F. Arturo Onfray	- Review of job class. & position desc.	Not done
Target group are Judges & support personnel	----- A. Bascunan Lucas Sierra J. Varas ----- DESUC	- Grouping of train. programs	Not done
		- Training modalities for different groups	Not done
		- Training needs table by employee level & level of training	Not done
		- Three year training schedule	Not done
		- Alternatives for an institutional structure for training	Partial
2. In-service courses for judges	Law Faculty, judges, legal experts or legislators	Undetermined number of short courses on legislative changes	Workshop for civil judges 3 days duration 30 persons trained Outside of Santiago
Offered regionally			
Target group are All sitting judges + lawyers		Testing of students	Workshop for criminal law judges
courses for staff	Law Faculty, judges, legal experts or legislators	Undetermined number of short courses on legal substantive, and procedural issues	3 days- outside of Sant., 25 judges, 2 sec., & 4 Appeals Court April 1993

TABLE 1 (CONTINUED)

ACTIVITY AREAS	EXPERTS OR TRAINERS	OUTPUTS	RESULTS
			<p>Two workshops for young judges Outside of Santiago 2 days 20 judges total November 1992</p>
			<p>Seminar on penal reforms Santiago 70 trainees- 75% judges May 1993</p>
			<p>Training of trainers 20 judges &amp; 10 relatores Preparing tutors who are to work with interns from the IEJ training program Ends in Sep. '93</p>
			<p>Two persons sent to a women's judges conf. in U.S. 1992</p>
			<p>Course for social workers in juvenile courts 2.5 months 17 trainees Aug.-Dec. 1992</p>
			<p>Four courses on procedure for support staff 120 trainees April 1992</p>

TABLE 1 (CONTINUED)

ACTIVITY AREAS	EXPERTS OR TRAINERS	OUTPUTS	RESULTS
			A course on relations with the public for support staff May-June 1992
<p>3. Distance training</p> <p>Target group are Judges &amp; support staff too remote to attend courses</p>	<p>CPU chaired committee of academics &amp; experienced distance ed. experts</p>	<p>RFPs received to develop at least 5 modules</p> <p>Cooperation with Institute and Association of Judges</p>	<p>Not done seeking re-programming</p>
<p>4. Preparation for permanent, publicly funded judicial training</p>		<p>Reserve funds for analysis &amp; design of alternative approaches to judicial training should that become appropriate</p>	<p>Funding of observation trip for J. Hoesler to look at Jud. S.</p> <p>Publication of a book on comparative experiences above</p>
		<p>Observation trips to other countries with jud. training capacity</p>	<p>National meeting on Jud. School 120 part. in Santiago June 1992</p>
			<p>Two trips to BA &amp; Brazil to attend seminars on judicial train.</p>
		<p>Visits by external consultants exp. in jud. training</p>	

TABLE 1 (CONTINUED)

ACTIVITY AREAS	EXPERTS OR TRAINERS	OUTPUTS	RESULTS
6. Training of Trainers Core of 45		Potential for TA to ultimate judicial train. program	
		25 graduates of the in-service courses take part in 1 training event	Not done seeking re-programming
		20 graduates of the prior event take part in 2 more courses	
		Coordination between CPU & the Institute	

TABLE 2

## TRAINEE PROFILE BY EVENT

EVENT	TOTAL TRAINEES	BY LEVEL	GENDER
Workshop for civil trial judges 3 days duration Outside of Santiago	28	19 Joint 6 Civil 3 Appellate	8 Women
Workshop for criminal law judges 3 days- outside of Sant.	24	4 Joint 1 secretary 14 Criminal 5 Appellate	10 Women
Two workshops for young judges Outside of Santiago 2 days	18	Trial judges with less than 5 years	3 Women
Seminar on penal reforms Santiago	70	53 Judges 17 Others	
Training of trainers Preparing tutors who are to work with interns from the IEJ training program	27	17 Judges 10 Relatores	
National meeting on Jud. School	120	Judges & support staff	
Course for social workers in juvenile courts 2.5 months	17	Social workers in juvenile courts	
Four courses on procedure for support staff	110	Support staff (actuarios)	60 Women
A course on relations with the public for support staff	25	Support staff (actuarios)	12 Women

TABLE 2 (Continued)

TRAINEE PROFILE BY EVENT

TOTAL MINISTERS	8	
TOTAL JUDGES	131	
TOTAL SUPPORT STAFF	163	
TOTAL UNKNOWN	137	
TOTAL OF TRAINEES	439	
TOTAL WOMEN	93	
Observation trip for J. Hoesler to look at Jud. S.	1	CAPJ staff
Study tour to a women's judges conf. in U.S.	2	Judges
Study tour to Pto. Alegre & to Buenos A.	2	CAPJ staff
TOTAL STUDY TOURS	5	

## **B. COMPONENTS TWO AND THREE: LEGAL INFORMATION AND COURT ADMINISTRATION IMPROVEMENT**

While the Project document details these two areas as separate components, for the purpose of the evaluation AID grouped them together and assigned them to one evaluator. This section is divided into two major parts. The first deals with the legal information component and the second encompasses the court administration component. For each we have indicated the budget, the outcomes achieved thus far, and the evaluators' comments and recommendations. Additionally, we have included a table on inputs and outputs (Table 3).

Under the first grant awarded by USAID/Chile to CPU in 1989, a document prepared by Jesse Cassaus was presented by Checchi and Company Consulting, Inc., in September 1990. This report ("Strengthening and Improving the Administration of Courts in Chile") was the basis for the design of the current court administration component. It proposed a global reform and modernization of the administrative system of the Judiciary (management of national resources, administration of local courts, and caseload management).

The document, with an extensive list of recommendations and no priorities for them, has to be understood in the social and political context at the time it was prepared. As a result of the optimism that characterized the project design, overall reform of the administration of courts were felt to be necessary, and major innovations seemed to be attainable. The result was an overly ambitious project design, premised on political reforms of the judiciary which have not taken place.

### **1. Budget**

<b>Legal Information</b>		<b>\$93,133</b>
Design of a library system	\$16,830	
Proposal for an automated jurisprudence databank	\$76,303	
<b>Court Administration</b>		<b>\$384,859</b>
Strengthening of CAPJ	\$19,550	
Judicial statistics	\$51,060	
Court operations	\$129,890	
Decentralization of CAPJ	\$49,430	
Strengthening planning	\$46,130	
Evaluation of automation	\$31,370	
Personnel system	\$22,220	
Training in new systems	\$35,209	
<b>TOTAL</b>		<b>\$477,992</b>

Of this total amount, AID has allocated, to date, approximately \$147,811 of which \$99,273 (67%) has been spent. It should be noted that the figures in the preceding table are based on the initial budget prepared by CPU and AID. This does not coincide with the current budget forwarded to us by CPU (Attachment 4) in which \$482,105 appears as the amount allocated for this component.

## **2. Access to legal information component**

The objective of this component "is to improve the quality, consistency and uniformity of legal decisions" by bettering the quality of the legal information available to judges. Its is composed of two separate subcomponents.

### **2.1. Library system**

"Assisted through this component, the court system will decide on the content, form and organization of its library system. The system is likely to consist of a central facility at the Supreme Court, branch facilities at the regional Courts of Appeal, and basic legal documents in individual courts."

### **2.2. Automated Databank on Jurisprudence**

"This subcomponent will assist the court system in determining what court decision information should be included in automated databanks for jurisprudence."

## **3. Court administration improvement component**

"CPU will enter into an agreement with CAPJ to improve the functioning of the court administrative system through the activities listed below."

### **3.1. Institutional strengthening of the CAPJ**

"This subcomponent will analyze CAPJ functions and services and recommend specific changes and/or additional services that CAPJ should provide within its current funding expectations."

### **3.2. Improved judicial statistics**

"This subcomponent will assist in improving the system for collecting and reporting statistical information on court operations."

### **3.3. Improved operations of individual courts**

"This subcomponent will assist in improving individual court operations through pilot activities in six different kinds of courts: appeals, criminal, civil, mixed, labor and juvenile."

### **3.4. Decentralized court administration**

"This subcomponent will analyze the operations of the four regional CAPJ offices recently authorized and their relation to and use by CAPJ and the courts they serve. Recommendations for appropriate changes will be made."

### **3.5. Planning**

"This subcomponent will help CAPJ to improve its planning capacity by developing: (i) a long range plan for physical facilities renovation and expansion, including standards for space planning, the creation and location of new courts, the maintenance of facilities and new construction; and (ii) caseload standards to be followed."

### **3.6. Expansion of automation services**

"This subcomponent will support an evaluation of CAPJ's current computer support services. With the results, a systematic program for expansion to other courts will be designed, including a long term acquisition plan for equipment and services."

### **3.7. Personnel system**

"Court system operational changes will require personnel management modification. Personnel system analyses and redesign will include establishing job descriptions, classifications and salary levels, and the design of a recruitment and evaluation system for administrative personnel."

## **4. Outcomes**

In the library subcomponent, an agreement was reached with the Institute for Judicial Studies to contract a study of basic bibliographic needs of individual courts, to be conducted by Judge Rafael Huerta Bustos. The final report is under revision, and it is supposed to be presented to CAPJ by the end of this month. There is, however, no institutional commitment from the Supreme Court to act on these recommendations.

Although the original project design called for the development of a national database on jurisprudence, the only activity related to this subcomponent is the work that María Cecilia Yañez, a lawyer and investigator, is doing in the Court of Appeals of Santiago. Since July 1992, she has been gathering jurisprudence issued by this court. Nine reports have been presented to the judges, each of them on a specific subject. As a result of an agreement with a publisher, "Editorial Conosur," the reports are being published since March 1993 as an attachment to a specialized journal, the "Gaceta Jurídica." Even though the Supreme Court has not shown any institutional commitment to this activity, CPU's intention is to continue with it for one more year. It is expected that by that time the court, having found the benefits of the activity, will assume it.

The only activity that can be related to the institutional strengthening of CAPJ subcomponent is a "Seminar on Strategic Planning", for the public sector, that took place in November 1992, with the cooperation of the Catholic University of Santiago. Some members of the technical staff of CAPJ participated on an individual basis. No conclusions or recommendations for improved administration of courts were produced by this activity, and no other activities have been carried out in this subcomponent.

No activities have been carried out in the judicial statistics subcomponent, due to the inability of establishing a cooperative relationship between CPU and CAPJ. A non project sponsored activity, an "International Meeting on Judicial Statistics and Court Delay," will be held in July 1993, with the cooperation of the National Center for State Courts (USA). Funding for this activity is supplied by AID's (LAC/DI) contract with the National Center. Lack of an agreement between CPU and the CAPJ have also contributed to the lack of activities in several other subcomponents: decentralization of court administration, planning expansion of

automation services, and development of a personnel system

One of the activity areas in which most work has been done is the subcomponent aimed at improving the operations of individual courts. Between the 23rd and the 25th March 1992, USA expert William Davis met with the board of the project and lectured in the Instituto de Estudios Judiciales. At the beginning of 1992, a request for proposals was issued by CPU to conduct research into the operation of lower courts. The purpose was to reach some conclusions on the workload of courts, the number of officials that were required in each court and the task description for administrative roles. Nine courts were selected, and a final meeting with the judges and the staff of the project was held in October 1992. The only conclusion seems to be the need for further studies. No new activities have been planned. While no concrete results were achieved, a positive effect, the participation of members of each court in the investigation and the motivation that this participation induced (Hawthorne effect), seems to have been neglected.

Under a request for proposals, two investigators (Alex Carocca Pérez and Carlos Cerda Fernández), conducted a survey of 126 "secretarios" (39% of total). The final report is under revision and conclusions and recommendations are intended to be published. Recommendations imply a modification in procedural rules, and have to be implemented by law. Conclusions of this survey could have been anticipated without such an effort: it is evident that "secretarios" are mostly dedicated to administrative tasks, although they are lawyers. For this very same reason, everyone could imagine that they would prefer to be judges if asked. The main recommendation of the study - turn "secretarios" into judges, with two judges for each lower court, and assign an administrator to the court - needs a legislative reform for implementation.

In August 1992, pursuant to a CPU request for proposals, a management consultant firm (Invertec S.A.) was selected for this task. A final report was delivered to CPU in May 1993, and it is scheduled to be discussed with the judges of the Court soon. No institutional commitment of CAPJ has been achieved. Some of the recommendations of the study may be applicable to other courts. This is the case for the designation of a court administrator and a committee of judges with administrative skills to supervise him/her. Other considerations are very general: train employees for increasing productivity, motivation, creativity and innovation; develop a management information system; elaborate a procedures manual.

Terms of reference for a request for proposals are being studied to conduct a study on specialization of courts. Activities, originally supposed to be finished in August 1993, are being rescheduled.

Under the operational plan 1992-1993, an activity was planned on establishing priorities in court administration. Six interviews were carried out with foreign visiting experts and four Chilean judges. Participants seem to have been chosen for their availability and expertise (foreign experts) and for their experience and commitment to reforms (Chilean participants). A final report is being prepared and a meeting with the staff of the project is scheduled to discuss this report. No further activities have been planned.

Criteria for selecting the persons interviewed are not clear, relevant people have not been interviewed and CAPJ has not participated in an activity that is of its own. This activity is an example of what we mean when we say that the paradigm for the component has been "do what you can".

A conference on new trends in court administration was scheduled in the operational plans of 1992-1993. Only preliminary work has been made, and it is being rescheduled.

## **5. Evaluation findings**

The outcomes of these two project components are similar to the government's efforts to overhaul the Chilean Judiciary. In both cases, the original objectives were so ambitious that little was achieved. Activities have had little impact and bear little not relevance to the project's initial goals. Institutional commitment seems not to be an issue at this point and is no longer being sought. The implicit purpose of identifying and developing a critical mass of key people for legal reform has become explicit, and does not seem to be very successful in this area.

This is probable the most unsuccessful of all of the project components. While several factors have contributed to the lack of success in these components, none if more critical than the inability of CPU and the CAPJ to reach an agreement to provide and receive assistance. The major factors for the situation facing these components are outlined below:

### **5.1. Lack of agreement between CPU and the CAPJ**

Successful implementation of almost all the activities of these components presupposed a strong and complementary relationship between CPU and CAPJ. CPU, however, anticipated potential difficulties at the initial stages and took steps to implement alternative activities which did not require the cooperation of the CAPJ. An "Internal Operative Document" (Third draft 9/17/91) stated that:

"if we face a dubious, or frankly negative position of the Supreme Court in relation with our efforts, our task will necessarily be centered in studies and investigations, trying to introduce elements for discussion, as a way of preparing the solutions that might be introduced when the situation has positively evolved."

We assume that these considerations were made under the perception that the beneficiary institution (CAPJ) might not buy into CPU objectives. Two other factors should be noted by understanding the context and background of these components:

(i) Together with the explicitly stated objectives, CPU has implicit objectives, such as identifying and developing a critical mass of key people for legal reform, and positioning itself as a referent institution in the field of court administration. Although CPU was conscious of not having the requisite technical capacity in this subject, the expectation was to acquire expertise through the development of the project.

(ii) Modalities used for the implementation of each of the subcomponents required direct action by regular staff, requests for proposals and agreements with other institutions.

At the same time the Supreme Court is in a slow process of change, new members have been appointed, and the Court appears to be more open to administrative innovations. Recently, the Director of CAPJ sent a letter to USAID/CHILE stating that the President of the Supreme Court is willing to arrive at some kind of agreement for technical assistance in court administration. On the other hand, no progress has been achieved in reaching a cooperative relationship between CPU and CAPJ. CAPJ's officers perception is that CPU has tried to impose its own priorities and, up to a certain point, CPU admits this fact. We have found reciprocal prejudices between the two institutions, and the result has been that objectives which were set forth in the project design have not been adopted by the implementing institution have been implicitly modified.

**Recommendation** Several factors have improved the potential for court administration reform: the newly expressed desire of the Supreme Court to enter into an agreement with USAID/Chile, the fact that the Court has adequately funded the CAPJ and, therefore, CAPJ does not need AID's financial assistance to carry out reforms or projects, and USAID/Chile's inability to adequately monitor a direct grant to the Court or the CAPJ.

An agreement should be signed between USAID/Chile and the Supreme Court with CPU acting as a project manager for a limited number of activities aimed at supporting the CAPJ. CPU's responsibilities would be limited to administrative supervision of implementation, employment of consultants selected by CAPJ, arrangement of logistical support to the CAPJ (travel, etc.), and disbursement of funds. Under this agreement, the project would support aid to CAPJ in the form of technical assistance and information on specific subjects such as: methodologies and evaluation of judicial statistics; organization of administrative offices in local courts; case management and tracking; court delay reduction; judicial training; and, space management.

In addition, the relationship between CPU and the CAPJ could be improved by eliminating all of the project activities directed at an assessment of the CAPJ, something which the CAPJ views suspiciously. This refers to the following subcomponents: Automated Databank for Jurisprudence, Institutional strengthening of the CAPJ, Improved judicial statistics, Decentralized Court Administration, Planning, Expansion of automation services, and improvement of the personnel system. As a result, the budget for this component should be considerably reduced.

## **5.2. Relationship between components and staffing**

Components of the project are loosely coupled and inadequately staffed. Rotation of staff has been excessive and there are no administration professionals working in the project currently. This lack of expertise has inhibited the development of a learning process in the organization. Operational plans have been continually rescheduled. No institutional will of implementing reforms or innovation has been induced in the judiciary or in the CAPJ.

**Recommendation** CPU has expressed the desire to be a "player in the field of court administration", but has not managed to develop technical expertise. In order to do so the technical expertise of CPU has to be improved either through staff changes and/or training. Our recommendation is that USAID/Chile support this effort by assigning a specialized administrator to this component, as a staff member or advisor, make information on court administration available to CPU, plan joint study trips with CAPJ's technical staff, and contact other AID projects that have dealt with the same subject.

In addition to its role as project manager in the provision of technical assistance to the CAPJ, CPU could implement a limited number of activities in the field of court administration. For example, the project could transform improved operations of individual courts (section 3.3. herein) into training activities, the results of some of the surveys and studies that have already been carried out should be translated into concrete training activities (Workshops, seminars), the Administration of courts and the judicial training components of the project should be linked through training activities on court administration for judges, "secretarios" and employees.

Some specific activities could be: (i) Seminar for courts of appeal to review the findings of the study on the Court of Appeals of Santiago (this activity has also been suggested by CAPJ, and could be the basis for a more cooperative relationship between both

institutions), (ii) Workshop on working standards for lower courts with the participation of support staff, based on already available investigations, invite judges to share their experiences based on a peer training approach, (iii) Seminar on the role of "secretarios."

For each of the precedent events, CPU should stimulate universities, organized groups and experienced individuals to present papers on this subject. Publications and precedent suggested activities should contribute to raise administration of courts as an important issue among the judiciary. Emphasis should be placed on practical approaches rather than theoretical knowledge.

### ***5.3. Development of CAPJ***

Since its development, CAPJ's image has risen among judges, government officials and lawyers. In fact, many of the administrative reforms carried out by CAPJ are at the forefront of court administration in Latin America and CAPJ has become a potential technical assistance provider to other courts in the hemisphere. CPU should take advantage of the gains made by the CAPJ. CAPJ staff could become a major source of technical expertise that CPU could tap into, thereby also improving the relationship between both institutions.

### ***5.4. Overall recommendation***

Unlike other project components in which reprogramming will overcome the identified deficiencies, the result of our evaluation is a recommendation for reconsideration of this component. It is not a question of reprogramming activities, but of radically changing the approach.

CPU has strengthened its ties to groups within the justice system committed to judicial reform. CPU's close relationship to the National Association of Judges and the Institute for Judicial Studies is an example of the ties which CPU has established with judges. This strength should be emphasized in a redesign of the project.

At the same time, CPU has not managed to improve its technical knowledge on court administration and is not in a position of carrying direct actions in this area. This weakness prevents it from being a court administration technical assistance provider in the redesign of the project.

On the other hand, CAPJ has enough financial and technical resources to carry out its plans. An agreement with USAID/CHILE could provide them technical assistance and information on very specific subjects on which AID could find available expertise.

TABLE 3

COURT ADMINISTRATION INPUTS AND OUTPUTS

ACTIVITY AREAS	EXPERTS OR TRAINERS	OUTPUTS	RESULTS
1. Institutional strengthening of the CAPJ  FIRST YEAR	To be performed through an agreement with CAPJ	- An analysis of CAPJ functions & services with recommendations changes or additions	None
	Short-term TA from an outside court admin.	- Workshop to review findings	None
2. Improved Judicial Statistics  FIRST YEAR	To be carried out through an agreement with CAPJ	- Analysis of existing system	None
	Short-term TA from person with experience in judicial statistics	- Recommendations for an integrated statistical system	None
		- Workshop to review findings	None
3. Improved operation of individual courts	To be carried out through an agreement with CAPJ	- Pilot projects in 6 courts	None
	Short-term TA from a firm	- Operational anal of each court in fin. man., case-handling & staff duties	None
	Short-term TA from an exp. administrator	- New procedures will be suggested & tested in the	None
		- Evaluation of pilots by a comm. of CAPJ, judges, Min. of Just., & others	None

TABLE 3 (Continued)

COURT ADMINISTRATION INPUTS AND OUTPUTS

ACTIVITY AREAS	EXPERTS OR TRAINERS	OUTPUTS	RESULTS
4. Decentralized court administration	An experienced admin. from a decentralized court system It is assumed that foreign TA will be required	- Five workshops to discuss results  - Analysis of operations of four regional CAPJ offices	None  Analysis of Santiago appeals court
5. Planning	Foreign TA from an experienced court admin.	- Recomendations  - Study tours by key CAPJ & court personnel  - Development of a long-term plan for facilities & establishment of new courts  - A long-range plan for caseload standards  - Assist CAPJ in summarizing, categorizing, & automating access to court admin. studies in Chile & to establish a method for including future studies into the system	Only in Santiago  None  None  None
6. Expansion of Automation Services	Short-term TA	- Evaluation of CAPJ's current computer support services	None

TABLE 3 (Continued)

COURT ADMINISTRATION INPUTS AND OUTPUTS

ACTIVITY AREAS	EXPERTS OR TRAINERS	OUTPUTS	RESULTS
7. Personnel System		- Long-term development plan including acquisition recommendations	None
		- Plan for comp. support for CAPJ itself	None
		- Two workshops to discuss results	None
		- Full analysis of the personnel including job descr., & salary levels	None
		-Design of a recruitment & evaluation system for admin. personnel	None

## C. COMPONENT FOUR: LEGAL ASSISTANCE

The agreement between AID and CPU sets forth objectives for five activity areas for the Legal Assistance component: 1) National low-income survey, 2) Alternative conflict resolution, 3) Legal assistance support center, 4) Improved legal assistance for low-income women, and 5) Popular legal education. The general objective is to "support the expansion of legal assistance to the poor by financing analyses and pilot efforts on alternatives for providing assistance" through the five aforementioned subcomponents. Agreement at 8. The objectives for each of these subcomponents will be described below in conjunction with the analysis of the activities relating to each field.

The CPU has made numerous statements describing its objectives for the legal assistance component. In various brochures describing the project, the CPU has stated its objectives as:

"conducting studies and analyses intended to improve knowledge of the situation of the poor in regard to the justice system and their perception of that system, and proposing initiatives or supporting those of other legal assistance centers in the country when those initiatives have as their objective the dispersion of and education about the law, strengthening of alternative systems of conflict resolution, the implementation of innovative policies that assure better efficiency and coordination and mutual enrichment of the above. Special attention will be given in this area to the legal assistance systems for low income women."

This section is divided into a number of parts detailing the budget, the activity areas set forth for the project, the outcomes achieved thus far, and the evaluator's comments and recommendations. Additionally, we have included a table of inputs, and outputs (Table 4).

### **1. Budget**

The legal assistance budget was allocated as follows:

National Low Income Survey	\$64,460
Alternative Conflict Resolution	\$84,416
Legal Assistance Support Center	\$37,470
Improved Legal Assistance for Low Income Women	\$72,084
Popular Legal Education	\$76,340
<b>TOTAL</b>	<b>\$344,770</b>

Of this total amount, AID has allocated, to date, approximately \$189,149 of which \$92,058 (49%) has been spent. It should be noted that the figures in the preceding table are based on the initial budget prepared by CPU and AID. This does not coincide with the current budget forwarded to us by CPU (Attachment 4) in which \$347,672 appears as the amount allocated for this component.

## **2. Component areas**

This component is divided into five component areas:

### **2.1. National low income survey**

This subcomponent "will support a national survey to determine legal needs and constraints of low income persons. Conclusions and recommendations will be presented at a seminar to create support for responsive action. The survey will include both the poor, and persons and institutions working with them. The data will be collected by a specialized firm."

### **2.2. Alternative conflict resolution**

This subcomponent was aimed at "analyzing the activities of a selected number of existing entities that serve the legal needs of the poor to identify the strengths and weaknesses to design and to several pilot activities to test alternative approaches to providing this type of assistance." Among some suggested approaches were: settlement of civil actions, forms of mediation and arbitration, and the use of small claims procedures. Cost effectiveness and capacity for widespread dissemination were encouraged. Pilot activities and results were to be evaluated at a seminar to foster the "establishment and use of alternative dispute resolution systems."

### **2.3. Legal assistance support center**

This subcomponent allowed CPU to explore the "eventual establishment of a national center for the collection of information, training, study and cooperation for public and private sector lawyers defending the poor or engaged in public interest advocacy."

### **2.4. Improved legal assistance for low income women**

This subcomponent was to fund "activities specifically focused on the problems of low-income women in accessing the formal legal system for conflict resolution and vindication of legal rights." An initial analysis of institutions engaged in this work was to be conducted, a report on improvements to the delivery of services was to be prepared, and four national training seminars were to be offered.

### **2.5. Popular legal education**

This subcomponent had as its purpose improving "the access of the poor to legal assistance through better understanding of their legal rights." Pamphlets on up to 20 legal rights topics, based on the results of the aforementioned survey, are to be produced for massive distribution.

## **3. Outcomes**

One of the most innovative subcomponents was the survey of low income persons. The survey was conducted as a joint project between CPU and the Department of Sociological Studies of the Catholic University (DESUC). The survey provided the basis for a national seminar presented in March 1993 to an audience of approximately 300 people (judges, lawyers, social workers, and law professors and students). The event received widespread media coverage, and has served as the basis for discussions on the legal needs of the poor with public and private institutions.

The idea of conducting a survey of this nature was innovative and constructive, especially because, as indicated by a number of sources, no similar study has ever been done in the country. The survey has been described as: 1) ending 20 years of knowing nothing about needs, and 2) eliminating a number of false beliefs about how the poor perceive the legal system. CPU is cognizant that this study can only be a first step and does not intend it to be the last. Staff has indicated that it is considering sponsoring additional surveys, either on the same themes in small towns or on other themes in Santiago.

In the alternatives to conflict resolution subcomponent, CPU has been working with two nongovernmental organizations: FORJA (Instituto de Formación Jurídica para la Acción) and QUERCUM (Centro de Desarrollo y Estudios Jurídicos). FORJA is basically planning to provide two years of training to neighborhood leaders on project design and provision of auxiliary legal support to assist people in resolving disputes and, if necessary, help them gain access to the formal legal system through the legal assistance provider (CAJ). The QUERCUM project has two principal aspects: an evaluation of housing needs in poor areas and the creation of paralegals in the housing field. The paralegals would help people deal with administrative procedures and technical matters. Additionally, this subcomponent is developing materials to teach negotiation skills in law school clinics with the goal of encouraging mediation as an alternative to court action. CPU is also developing training materials and practice manuals designed to introduce social workers, employed by the major legal assistance provider (CAJ), as problem solvers prior to a case coming to court.

The proposed FORJA experiment appears to be particularly promising in that it is intended to enable people to solve their own problems but make the legal system accessible if they need it. It should serve to educate people about their legal rights. Additionally, if it is successful, it might be appealing to municipalities and thus be able to survive beyond the life of this grant.

Improving the effectiveness of CAJ social workers may be very valuable. CAJ indicates that its social workers "resolve" 70% of its "cases". This effort involves CAJ attorneys in the development of materials; these attorneys are probably among the best informed sources for this purpose.

The extra-judicial processes being developed in these pilot projects, if successful, may become institutionalized as an alternative to the formal judicial process for poor people in civil cases. This would parallel the increased use of arbitration in commercial matters. These processes are, however, extremely unlikely to have a significant impact in the criminal area.

The objective of the creation of a legal assistance support center requires that the project "support the exploration of the eventual establishment of a national center for the collection of information, training, study and cooperation for public and private sector lawyers defending the poor or engaged in public interest advocacy." The idea of supporting the exploration of the eventual establishment of a such a center is so vague as to be almost meaningless. Additionally, the project has apparently had very little interest in this concept or insufficient time to make any meaningful progress. Given the well-recognized, lack of professional expertise, legal information and other support materials in the legal services area, the establishment of a national support center is more than a worthwhile priority, it is essential.

The subcomponent aimed at improving legal assistance for low income women has supported research and publication of a book (*Asistencia Jurídica a Mujeres de Bajos Ingresos*), by Nancy de la Fuente and Paula Correa, et al., in 1993. The research involves agencies that offer legal assistance to poor women and attempts to analyze the work that those agencies actually do. The research yielded a nation-wide list of such institutions. A seminar

was held in December, 1992, to discuss the findings of the study. The project still must produce a report and support national training seminars as required by the agreement. Five seminars are being planned in different parts of the country regarding how CAJ (principally) and other entities can improve their service to women. CPU has indicated that it wishes to eliminate this activity, as a separate unit, while incorporating the issue of women into all of its other activity areas.

The final subcomponent is aimed at improving popular legal education. Under this subcomponent, CPU has published seven brochures on specific topics of interest to the poor and has distributed 36,000 copies. Eighteen more pamphlets are under consideration for the next series to be published. They include the following subjects: the rights of wives, pregnant teenagers, minors, and women workers, working minors, social security, sexual violence against women, and domestic violence. According to these figures, the project is about one third the way toward meeting its responsibility for producing the 100,000 copies specified in the agreement.

The appearance of the printed materials is professional and attractive. The content is substantial and clear (at least to an educated person). A number of the co-sponsoring institutions indicated that they were satisfied with the process by which the brochures were produced, as well as with the product. Various individuals, inside and outside of CPU, expressed concern about the conflict between raising public expectations about rights in order to make the rights more generally available and the negative impact of creating false expectations. The conflict was resolved in favor of publishing information about rights that were not realities in practice on the basis that it was better to reduce the extreme ignorance of the law and increase expectations (even with the certainty of disappointing them) among the people than not to inform people of their rights.

No formal methodology for assessing the effectiveness of the booklets currently exists at CPU or CAJ. I was informed, however, that CPU wants to have an opportunity to evaluate the reaction to the booklets and their impact, a reasonable time after their distribution, before seeking to publish and distribute them in greater numbers. When CAJ was asked about an assessment of the brochures, the response was that it was a good idea, they had not thought of it, and they would try to develop an assessment, whether formal or informal.

#### ***4. Evaluation Findings***

In carrying out its legal assistance component, CPU has been generally effective in involving other organizations and institutions in the project. It has done little to promote modernization of the legal system or improvement of legal representation. Additionally, the study of entities offering services to women further expands the potential network available to CPU. However, the lack of activity with regard to the establishment of a support center has meant that CPU has failed to take advantage of that opportunity to involve other organizations in the reform process.

One of the major achievements of this component has been to bring the issue of legal services for the poor to national attention. Of special importance is the national survey on the legal problems of low income persons. The survey has served a number of institutional functions not directly related to the gathering of data. From the point of view of democratic initiatives, it is essential that public policy be founded upon reliable information in order to justify public confidence. It is thus essential to assure the validity of beliefs and assumptions in order to effectively attempt to modernize the system. In this regard, the study served two important, but not very visible, institutional purposes: 1) The use of empirical data as a basis for public policy, while a novelty, is directed at changing the legal decision-making process so as to create

the expectation of such empirical justification in the future. 2) The development of the research generated a dialogue between lawyers and sociologists, each of which had traditionally operated separately with stereotypical ideas about the other. According to the co-sponsors, this has had a positive impact on interesting practitioners of other disciplines, notably sociologists, in conducting future research into law. Lawyers, who traditionally operate in an insular manner without empirical data, are learning of the importance of data and the need for communication with other professional groups.

While these points are rather subtle, they are of particular importance in the current transition to democratic institutions in Chile, particularly with regard to: 1) the free flow of ideas and information, 2) the manner in which ideas compete for public support, 3) the reduction of the isolation created under the previous government through the recognition that seemingly unrelated groups are interdependent, and 4) the continuing development of public confidence in social institutions, policy and politics.

The achievements of this component are substantial and reflect the commitment of CPU to legal assistance for the poor. The efforts, however, are hampered by a number of factors:

#### ***4.1. Unclear objectives***

CPU objectives for this component are generally worthwhile and consistent with the objectives reflected in the agreement between AID and CPU. However, both the objectives set forth in the grant agreement and those stated by CPU are extremely vague and overly broad. This vagueness can appropriately be regarded as a design defect in the original agreement.

***Recommendation*** CPU and USAID/Chile should agree on narrowing and focusing the scope of this component so that the objectives to be achieved are clear to both parties. Quantification of these broad objectives, as they appear currently, is extremely difficult and further specification will aid in the development of such indicators.

#### ***4.2. Lack of a Comprehensive Plan***

The activities pursued by this component are all relevant and, appear likely to achieve reasonable results. The component's activities, however, would be more effective if they were part of a more comprehensive and refined plan. One of the fundamental problems in formulating a strategy appears to be the lack of baseline data, such as what agencies exist and what they are really doing. CPU has attempted to generate some of this data, for example, through the survey. However, it cannot effectively seek reform of the system without this basic information. This lack of knowledge of the realities is a reason, presented by CPU, to justify their inability to plan specifically for this component or to establish quantifiable indicators of component success.

While the component has generated a great of data, especially through its survey of low income persons, the data is not being put to optimum use. For example, the survey results had an initial impact, as reflected by the media coverage, but the lack of a strategy for the use of the data weakens its impact. Of course, it will be much easier, and perhaps more effective, to develop such objectives and relationships now that the actual data are available. However, staff has not yet reviewed the data for the purpose of determining how they can best be used to support specific legal reform activities.

***Recommendation*** CPU should develop a comprehensive plan that enables it to become a major player in the determination of future reform in this area. Adoption of a clear cut implementation plan, for the life of the project, will aid CPU and USAID/Chile to measure

success and plan. It would have been helpful to have had indicators available for this evaluation and an effort should be made to establish these now for future evaluations. Staff has agreed to establish such indicators or targets for use in future evaluations as a reference for success or failure of any activity.

A first step, in furtherance of planning, might be to reexamine the usage of the data which they have gathered already. For example, the national low income survey will not be put to its best use if the data are not used as a tool to advance legal reform. Given that the data are available and have been subjected to some comment, CPU should be able to analyze the data and create a plan to use the data to promote specific, priority reform efforts, regardless of whether those efforts are formally part of CPU or outside agencies. In addition to developing those ideas that their limited time permits, staff can inform other interested parties as to how they can use the data to achieve systemic reform.

#### **4.3. Amount of areas**

Another concern is the relatively large number of areas in which this component is attempting to have an impact. The breadth of the range of activities has probably reduced the effectiveness of the small staff by fragmenting its attention and inhibiting it from effectively operating within the broader legal services context. For example, staff appeared to have little or no knowledge of non-CPU, innovative or pilot projects currently in effect in their area. Additionally, the component staff appeared to have little connection to other relevant activities and resources within CPU.

Even if CPU's resources were integrated in an optimum manner, it does not have sufficient capacity to act effectively regarding reform of legal services at the present time, especially with regard to: 1) knowledge about the legal and administrative aspects of providing legal services for the poor across the nation, and 2) managing technical assistance for legal service providers.

**Recommendation** As part of its planning process, CPU should focus on the number of activity areas in which it wishes to engage in. Of special importance is its role as a generator of change, both within and without the government. The perspective of the government seems to be that "justice" means primarily the judiciary and does not emphasize the delivery of legal services. Staff indicated that it is not yet ready to approach the national government to expand or reform the delivery of legal services, except with regard to support for the concept of neighborhood courts. CPU has apparently not attempted to have legal services included in planning for the national social welfare program for the poor with the same priority given by the government to education, housing and health. Finally, CPU has not taken advantage of the national trend toward decentralization to promote legal services reform.

In the future, CPU may wish to consider involving the "Corporación Administrativa del Poder Judicial" ("CAPJ") regarding legal services automation, and the police ("carabineros") regarding their possible service as an educational outreach or referral mechanism.

Although other legal services pilot projects have been recently established, the project has not participated actively in these projects. CPU might consider evaluating existing pilot projects with the goal encouraging successor projects.

#### **4.4. Relationship to CAJ**

CAJ is the major legal assistance provider to the poor. The effectiveness of the future legal services delivery system, regardless of its particular form, will depend on the development

of human and administrative resources not available in the current system. The need is extremely great and diverse, and will take a considerable amount of time to develop and implement satisfactorily. While a number of CPU activities are designed to, and do in fact, support CAJ, CAJ does not receive sufficient attention from the project. CAJ's responsibility has been undergoing a rapid expansion and the agency has indicated that technical assistance would be welcome.

There are a very limited number of attorneys interested and experienced in providing legal services to the poor. Therefore, the dedicated and experienced lawyers who form the nucleus of CAJ (and their predecessors) will provide the human foundation for the legal services delivery system, regardless of whether that system is based on CAJ or on a successor institution. It is also quite possible that CAJ will survive in more or less its present institutional form for the foreseeable future.

CAJ, as a corporation under the Minister of Justice, lags considerably behind the courts operating under the CAPJ as reflected by CAJ's lack of adequate resources, including office space and automation. There is a danger that, if the present judicial modernization trend continues, the gap between the abilities of the courts and CAJ will widen and the lag at CAJ increasingly will adversely affect the efficiency of the courts. The impact of CAJ inefficiencies will not only be felt in the courts, but among the poor and the society in general. As this impact increases, it is likely to further reduce the respect for law on which democratic institutions are based.

**Recommendation** CPU should reexamine its role *vis a vis* CAJ and consider becoming a provider of assistance to the CAJ. Among the areas of assistance to CAJ are: information systems and automation (something CAPJ could provide through CPU), legal materials; improvement of the CAJ library, the dissemination of legal information (including improvement of the CAJ newsletter), training for social workers, improvement of attorney salaries, creation of innovative offices and the improvement of physical conditions in others. Many of these items can be directly related to reform of the legal services delivery system and, thus, may fall within the ambit of this project.

#### **4.5. National Support Center**

Given the well-recognized, extreme lack of professional expertise, legal information and other support materials, the establishment of a national support center is more than a worthwhile priority, it is essential to the development of the legal services delivery system. CPU appears to have accomplished little or nothing in this area.

The reason given by staff for the lack of progress is not convincing. Staff criticism of the support center concept seemed to focus on a perceived need to involve different groups in the management of the center. However, a review of the objectives for this subcomponent yielded no basis on which to conclude that group involvement in management of the center would be necessary. The grant does not require any such structure for the center or any particular structure at all. The involvement of other institutions is necessary if the center is to survive the life of the project, but there appears to be no grant requirement for group management or even an advisory board.

The center could be divided by subject matter and placed in various institutions so as to increase the likelihood that it would survive beyond the life of the project. For example, the project could seek to reach an agreement with CAJ, to provide CAJ with resources to create a library of materials related to the services for which CAJ is responsible, in return for CAJ making these materials widely available to appropriate lawyers (and perhaps others). The development

of a network of contributors, users and other interested people might also be useful.

The accumulation, organization and dissemination of relevant legal and support materials is essential. The creation of an effective structure to accomplish this is of equal importance. The other requirements of this subcomponent are of a lower priority and may be the subject of negotiation in any restructuring of grant objectives.

**Recommendation** CPU should take meaningful action to educate itself regarding realistic and effective possibilities for creating a national support center. These steps should include entering into a contract for the design of a support center. The contract should include an effort to educate CPU staff and the staff of any other institution likely to be involved in the creation or maintenance of the center regarding these functions.

#### **4.6. Strengthen CPU's Capacity**

While the component staff is committed to reform, it lacks experience in this field. The staff consists of two people: a part-time director and a full-time assistant, both of whom are lawyers. The quality of the staff is excellent; they are both bright, conscientious, and competent. The staff has a strong moral and intellectual commitment to legal reform. Neither, however, has very substantial experience in the provision of legal services or the administration of an agency which provides such services.

**Recommendation** An effort should be undertaken to improve the staff's knowledge of the field of legal assistance. Some of the actions to be taken include: broadening the staff's knowledge of the day-to-day operational problems of legal assistance providers; establishing linkages with other efforts to reform legal services (for example, International Legal Assistance Association, the U.S. National Legal Aid and Defender Association, etc.); acquiring a library of relevant materials from within and without Chile; expanding its bank of consultants; attending meetings and workshops inside and outside of Chile; arranging short internships in places which might serve as models for the delivery of legal services in Chile (for example, Costa Rica, where civil and criminal legal services are integrated into the judiciary and have the benefit of its more adequate resources).

#### **4.7. A Separate Subcomponent to Address the Needs of Women**

As mentioned earlier, CPU does not want to maintain a separate and distinct area for women's issues. The agreement does not appear to require that its objectives for this subcomponent be accomplished by a separate field of endeavor. The project can meet its obligations under the agreement if it gives special emphasis to poor women within the parameters of other efforts appropriate to the grant. Staff has indicated that it has no problem with meeting the grant requirement in this manner, and appears to be doing this in a satisfactory manner.

For example, a large number of the booklets ("cartillas") described in the section below relate to issues of particular interest to low-income women. At least one of these, "Maternidad y Trabajo", was developed with the cooperation of SERNAM, the National Women's Service. Among the subjects under consideration for future brochures are: the rights of wives, pregnant teenagers, women workers; sexual violence against women, and domestic violence. Although CPU has referred to these subjects as of "exclusive" interest to women, (Internal Work Document, at III) they are, of course, also of interest to men and those not listed here are also of interest to women.

**Recommendation** We agree that CPU should not be required to maintain a separate aspect of the project directed only toward the legal problems of poor women, provided that: 1) this focus on women's problems be effectively and specifically incorporated into each of the activities in the legal representation area, and 2) CPU agree to maintain specified types of records reflecting sufficient data to allow assessment of CPU's effectiveness in this regard.

TABLE 4

LEGAL ASSISTANCE INPUTS AND OUTPUTS

ACTIVITY AREAS	EXPERTS OR TRAINERS	OUTPUTS	RESULTS
1. National low income survey	Carried out by a survey firm	- A determination of the legal constraints of low income persons	- A national survey of households
		- Workshop to review findings	- Held in March 1993
2. Alternative conflict resolution		Analysis of a selected number of entities that serve the legal needs of the poor	Approximately 300 persons attended
		Design of several pilot activities to test altern. approaches	Wide media coverage
			Publication of three volumes
			Preparation of training materials and practice manuals to improve the effectiveness of CAJ social workers
			Cooperation with FORJA on development of training for neighborhood leaders as paralegals
			Cooperation with QUERCUM on and evaluation of housing needs and paralegals

TABLE 4 (Continued)

LEGAL ASSISTANCE INPUTS AND OUTPUTS

ACTIVITY AREAS	EXPERTS OR TRAINERS	OUTPUTS	RESULTS
3. Legal Assistance support center	Short-term consultants	Evaluation of pilots	None thus far
		Seminar on findings	None
		Support the exploration of the eventual creation of a national center	None CPU suggests reprogramming
		Detailed design for such a center	None CPU suggests reprogramming
		Ten case studies on the legal problems of the poor	None CPU suggests reprogramming
		Workshops to disseminate the results	None CPU suggests reprogramming
4. Improved legal assistance to low income women		An analysis of the entities providing legal services to low income women	Published study by Nancy de la Fuente and Paula Correa, et al.
		Report proposing improvements in the delivery of to women	None CPU suggests reprogramming
		Four national training seminars	None CPU suggests reprogramming
		Impact analysis	None CPU suggests reprogramming

TABLE 4 (Continued)

LEGAL ASSISTANCE INPUTS AND OUTPUTS

ACTIVITY AREAS	EXPERTS OR TRAINERS	OUTPUTS	RESULTS
5. Popular legal education		Production of about 10,000 copies of pamphlets on some 20 legal rights topics	28,000 copies on 6 areas
		Evaluation of the educational of other entities	None However, linkages have been established with a number of NGOs who have sponsored the publications
		Usage of other means of communication to reach the target audience	None

## VII. OVERALL FINDINGS AND RECOMMENDATIONS

Although almost two years have elapsed since the signing of the cooperative agreement, the project has been fully operational during only one year. During that period, the number and diversity of activities sponsored by CPU has been impressive. The training component alone has trained 439 persons of which, at least, 32% were judges. The court administration component sponsored a seminal course on reforms to the criminal process throughout Latin America, with an emphasis on the introduction of the oral trial. The legal assistance component has sponsored two major training events: a national seminar on legal assistance to poor women, and a second event to discuss the findings of their national survey on the legal needs of the poor. These two seminars alone, reached an audience of 339 persons. Thus, during one year the project has sponsored almost 20 training events offered to a diverse audience of judges, support personnel, lawyers, academics, and other justice officials. To have trained this many persons during this period of time speaks well of the motivation of the grantee and their ability to attract students.

Lawyers are by nature conservative and resistant to new ideas affecting their profession. Legal training in Latin America is an area in which little reform has taken root in this century. The project has successfully introduced a series of innovative training modalities to this field. Among the most notable are: usage of the case study method as a means of analyzing problems, introduction of video tape to review hypothetical situations, and the development of easily understood booklets on legal rights for massive distribution.

While the staff is inexperienced in their particular fields, CPU should be commended for having recruited a core group of motivated and skillful practitioners. All of the evaluators agreed that without their full cooperation this evaluation could not have been possible. Likewise, the CPU leadership and the project's advisory board were extremely helpful to the evaluators.

One of the major achievements of the project has been its ability to attract participants and to establish linkages with other institutions in the sector. The training component, for example, has maintained a close working relationship with the National Association of Judges and its Institute for Judicial Studies while also involving the Catholic University's sociology department in one of its studies. The legal assistance component has enjoyed the greatest success in this area. CPU involved DESUC as a co-sponsor of its national survey on the legal needs of the poor while working closely with other organizations in the elaboration of its brochures. Among these are: Servicio Nacional de la Mujer (SERNAM), QUERCUM, Vicaría de la Solidaridad, Departamento de Practica Profesional y Asistencia Legal (DEPAL), and CAJ de Santiago.

Even though we have criticized the limited use of the research findings to effect policy, the project has been successful in promoting a national debate on the importance of the justice sector to national development. The greatest achievement has been accomplished by the legal assistance component through its national survey and its coverage by the national media.

Although a great deal more can be done, the project has made some strides in involving practitioners from other disciplines in this work. DESUC, a national social science research unit at the Catholic University, for example, has been involved as the implementor of two major studies: The School of Social Work at that same institution of higher learning has been charged with training social workers as potential mediators of disputes which might otherwise result in litigation.

Finally, while the project design was overly ambitious and broad, the need for legal reform is extremely broad and deep, and the level of knowledge of the reality of the sector is so limited that much worthwhile activity could take place (and has been taken place) within generally stated objectives. While this appears to be largely to the credit of the good intentions of the grantee, it does not diminish the need for a more clearly defined project. While the success has been notable, a number of major obstacles remain for this project to achieve the promise it in its design.

### ***1. Design problems***

Project design was contractually entrusted by AID to Checchi and Co., a Washington consulting firm. However, design efforts were closely coordinated with the CAPJ and CPU. The training component was almost totally designed by CPU and the budgeting items were prepared by them. Court administration was a joint effort between a CAPJ collaborator (Josefina Houseler) and a Checchi consultant, Jesse Cassaus. The legal assistance component was jointly designed by Jorge Correa, of CPU, and Richard Wilson, a Checchi consultant. Negotiations were then undertaken directly between CPU and USAID/Chile.

#### ***1.1. Overly optimistic about the possibilities of basic legal reforms***

The original project design was affected by the over optimism about the political receptiveness for major judicial reform. For example, there appears to have been an assumption by the design team that the new government would be able to enact a number of fundamental legal reforms, especially a judicial career law and a judicial school. None of these reforms have been enacted.

This factor especially affected the training and court administration components. The design of the training component assumes that a judicial school will be established during the life of the project and conditions a number of activities on that premise. The designers of the court administration component, on the other hand, assumed that CPU could work closely with the CAPJ and the Supreme Court. They did not foresee that opposing political camps would form around the government's proposal to change the structure and composition, of the Supreme Court and the plan to establish a national judicial council to oversee the judiciary. In anticipation of the latter proposal, it is argued, the Court created the CAPJ and tasked it with many of the functions proposed for the council. Thus, it is not surprising that CPU, which many identify closely with the executive, and the CAPJ could not form a working relationship.

#### ***1.2. The design components were so diverse and ambitious as to be unachievable and unmanageable***

This is a very complex project containing four components with nineteen activity areas. Rather than grouping the activities by skill areas, for example, all training together, the designers chose to group them by subject area. Thus, the design contributed to the fragmentation of the project and the absence of relationship between components. However, the greatest flaw in proposing so many activity areas is that it dispersed the efforts of the small staff by fragmenting its attention and inhibiting it from developing expertise in specific subjects and/or areas.

The most oversized component is court administration. This component was designed as a major and almost complete overhaul of the administrative system of the courts. Given the time and resources proposed, this could not have been achieved even under the best of circumstances. Two major areas were proposed: access to legal information and court

administration. The first was fairly straightforward (with two areas: library system and an automated databank for jurisprudence) while the second contained seven areas. The activity areas include almost every major management components systems of a judiciary (statistics, individual court management, decentralization, planning, automation, and personnel. In addition to specialized reports and evaluations of each of these areas, the project was supposed to sponsor 23 workshops, conduct 9 pilot projects, and supervise study tours.

Finally, the design team underestimated the complexity of the studies proposed for court reform, the availability of these skills in country, and the costs involved. For example, the personnel system activity included a major review of the current personnel system including establishment of job descriptions, classifications, and salary levels, and the design of a recruitment and evaluation system for administrative personnel. This is a mammoth and specialized study which requires a great deal of effort and is usually fairly expensive. Nevertheless, the design team allocated \$5,000 for the analysis of the current system and \$9,000 design of a new system.

### ***1.3. The initial budget underestimated the costs of some activities and incorrectly assigned funding priorities***

While it is not clear who was in charge of budgeting this project, there is substantial underfinancing and inappropriate budgeting allocations throughout the components. The clearest example of underfunding was in the court administration area since it must have assumed a counterpart, CAPJ, contribution which had never been discussed or reviewed with the CAPJ. On the other hand, in other activities, while the total funding was sufficient, the line items were inappropriately allocated. For example, in the training needs assessment activity, total funding was \$75,000 but only \$11,000 was allocated for the actual study while \$50,000 was allocated to a seminar to discuss the findings. The limited research budget led the staff to revise the original plan and has contributed to the lack of achievement in this area.

### ***2. Over broad and vague project goals and objectives***

The project agreement is fairly specific about the objectives of this project. However, CPU has translated these into more extensive and abstract objectives. It is unclear whether the agreement's objectives or those detailed by CPU predominates.

A review of the grant objectives and those explicated by CPU leads the evaluators to conclude that both are extremely vague and overly broad. There apparently has been some disagreement between the parties as to how the very general project goals should be accomplished, and the vagueness has been described as necessary to accommodate the different opinions of the parties. Another possible reason for the vagueness of the objectives is the breadth and depth of the need for legal reform. Although there were high hopes for what could be accomplished at the time the grant was awarded, after three of years of democratic rule, the objectives appear to be overly ambitious. Additionally, the objectives are too broad. It was probably unrealistic to expect this grant to spread itself over the designated judicial and extra-judicial areas in a coherent manner and to make a significant impact in each.

In addition to being overly vague and broad, the objectives are more theoretical and academic than they should be. Thus, they constitute an invitation to attempt to do too much, in too many areas, with too diffuse tactics, with little consequence in terms of actual reform. In other instances there are totally different objectives, between those in the agreement and those being relied on by CPU, for components or activities. A major area in which this occurs is in the training area. There is an underlying assumption to training that focuses on attitudinal change to the potential detriment of teaching skills or imparting substantive knowledge. USAID/Chile does

not share this view and emphasizes training in substantive areas of law. While neither view is exclusive of the other, some agreement must be reached between CPU and USAID/Chile.

### ***Recommendation***

Our overall recommendation is to reprogram this entire project, clearly detailing achievable and measurable objectives, reducing the number of activity areas, focusing each component, and establishing a clear relationship between components so that they all contribute to a common goal. Further details about this overall recommendation are to be found in the sections that follow.

### ***3. Lack of quantifiable objectives***

A design flaw, not mentioned above, was the absence of quantification of objectives, possibly due to the lack of an evaluation plan in the original project design. The section which follows is fairly detailed due to the confusion which this issue tended to generate among project staff who claimed that most of their objectives were not subject to quantification.

Performance indicators are an integral part of any AID project since they facilitate the evaluation of the activity. A serious effort to improve performance and efficiency in the administration of justice must define how much improvement is desired and how it is to be achieved. This unavoidably involves measuring performance and efficiency. But there are innumerable activities in the administration of justice which are immeasurable or at least very difficult to quantify. How, for example, can we determine whether there was an improvement in the administration of justice from one year to another?

MSI's report to USAID/Chile ("Monitoring and evaluation plan for democratic initiatives program USAID/Chile") reviewed the Mission's strategic plan and considered usage of survey data to measure citizen's perceptions as to the Mission's goals as the primary performance indicator of project success. However, it concluded that the Mission's objectives were abstract, questioned the availability of data, and raised concerns over cost. Among the options the evaluators considered was the reformulation of the strategic objectives by moving "down the causal (objective) tree, and identifying a strategic objective at a somewhat lower level." It dismissed this option since it would result in a "program with pedestrian aspirations, uncommitted to a larger development goal."

***Recommendation*** The obvious recommendation of this section is the adoption of quantifiable and measurable indicators of project success. The desired outcome of this project is to assist Chileans in "making their justice system more effective and fair and more accessible to all the people." The purpose of the project is defined as promoting the "modernization of the Chilean justice system by strengthening judicial training, improving the availability of legal information, modernizing court administration, and broadening access to justice for lower income populations. The first thing that strikes the reader of the goal and purpose statements is the vagueness of the targets to be met by this project. This is not unusual for court systems. Unlike other institutions, courts are often gauged on the basis of abstract concepts. The goal statement introduces three of access, fairness and effectiveness. The purpose statement focuses on "modernization" of four specific areas.

As a first step, CPU should, in its design of an evaluation component, define these terms and make them as subject to quantification as possible. For example, accessibility refers to the right to seek redress of legal rights or settle disputes through the justice system. This principle is conditioned by a series of factors: public knowledge of the law, public confidence, costs, location and number of courts, and corruption. Fairness can be evaluated by considering certain

parameters, among which the most important are: adherence to constitutionally mandated guarantees, celerity of the process, equality of access to the system, impartiality of the judges, and equity of judicial decisions. Efficiency is one of the most difficult goals of a justice system to gauge, especially in terms of costs and benefits. This is so because the system is a very complex one with goals and objectives of public interest, and deals with concepts that are difficult to evaluate quantitatively, such as justice, equity, innocence, etc. In spite of this situation, certain parameters can be used to measure the efficiency of the system (compliance with processing terms, method for selection of judicial personnel, the degree of satisfaction those who work with and in the system feel with regard to the performance of each participant).

In addition to identification of these macro indicators, the project staff should specify specific indicators for each component and review the goals of each to insure that they are subject to quantification. If quantification is not possible, this should be stated explicitly and a justification provided for the adoption of, assumedly, vague goals. In identifying indicators, staff should consider: the unit of analysis, the level of abstraction, the availability of data, the reliability of the indicators, their validity,, standardization of collection, the timeliness or speed for data collection, the costs, and quality control.

#### **4. Evaluation**

There is no evaluation component in this project. We have previously discussed the absence of indicators as a barrier to our evaluation. However, indicators are a part of the evaluation component and not an isolated activity. While this may have been a design flaw, the cooperative agreement called for two evaluations but did not detail a component. CPU has taken no steps to design one.

Currently, the only evaluation activity which we detected was the review of each course offered. However, these evaluative modalities have been developed without outside expertise, staff has no experience in this area, and without uniformity across components. For example, different evaluation questionnaires are being used by each component to judge the effectiveness of their training events. The training component does not gauge its instructors while the others do. In other areas, in which substantial achievements have been reached, there is no evaluative mechanism. For example, there is no formal methodology for determining the effectiveness of the booklets produced by the legal assistance component. When the legal assistance staff was asked about an assessment of the booklets, the response was that it was a good idea, they had not thought of it, and they would try to develop an assessment, whether formal or informal.

**Recommendation** CPU should design an evaluation plan and present it for USAID/Chile's approval. The purpose of an evaluation plan is to provide information for outside reviewers to gauge the achievement of project goals and to generate feedback to project managers on their progress. As such, the plan should be designed with these two objectives in mind. Additionally, the proposal should be closely linked with the implementation and operational plans which are developed. Finally, indicators should be incorporated into the plan.

Given the lack of staff experience in this area, outside expertise should be contracted. CPU, not this project, has considerable expertise in this area and their input would be critical in the design of this component. The ultimate plan should be presented for USAID/Chile's approval.

#### **5. Misconstructions of the Terms of the Agreement**

A great deal of confusion in the terms of the agreement were generated by the diverse

amount of documents which were being used to interpret the contract and the fact that many of these documents were in English and Spanish (the project paper, the grant agreement, the original detailed budget, the quarterly progress reports, and minutes of meetings of the advisory board).

Oftentimes, these documents bear little relationship to each other. The most obvious example is the project paper. The purpose of this document is to justify and describe the proposed project. Subsequent negotiations between the grantee and AID will often modify the proposals in the original design document so that it should not be used as the basis for interpreting the terms of the cooperative agreement, often, not even as reference. CPU staff, however, continually refers to the Spanish translation of the project paper as the defining document.

In interpreting the budget we were provided with the original, and highly detailed, budget adopted by CPU and approved by AID. This budget, however, has been amended in practice several times. As one can see from our prior budget discussions, the current budgetary figures are not identical to the earlier ones and one is at a loss to determine which is accurate.

Finally, CPU has assumed that USAID/Chile's receipt of quarterly reports, which detail changes in the original agreement, constitute an amendment of the document. Likewise, they also assumed that the presence of an AID representative at the meetings of the advisory council also constitutes AID's ratification of the actions taken.

**Recommendation** While all of these changes have taken place, the original agreement has never been substantially amended. CPU is now cognizant that an amendment to the agreement is required to reflect some of the changes which have taken place and that amendment can only be effected through a legal process in which an AID contracts officer is the only person authorized to bind AID.

## **6. Project management**

While the terms of the agreement are generally being complied with, there are two specific areas in which they are not: the training needs assessment, and the court administration area (the latter has been thoroughly discussed previously). Additionally, there are issues of: coordination, planning, comprehensive policies (especially in the publications area), budgeting and evaluation. The following sections will deal with each separately.

### **6.1. Training needs assessment**

As detailed previously, the training needs assessment is at an incipient stage even though considerable funds have already been spent on this effort. In addition to inadequate budgeting for this activity, there appears to be a basic disagreement between USAID/Chile and CPU as to the objectives of this task.

**Recommendation** We have previously noted the importance of reaching consensus on the purpose and content of the training needs assessment. Closure should be reached quickly and, due to the level of funds already expended, determinations made with this factor in mind.

### **6.2. Coordination of project activities and components**

Although the CPU has been reasonably effective in implementing specific activities relevant to project objectives, it has not systematically sought to integrate these activities to the

optimum degree. Components act independently of each other and may or may not bear any relationship to each other.

Training is one area in which the lack of coordination affects all components. All of the components have some training, yet there is no commonality in design of training materials, introduction of innovative training modalities which may have been developed in another component into others, evaluation of training, usage of trainers or control over who is invited. Additionally, the training component has developed expertise in this area which is not being shared with others.

Finally, one of the primary reasons for the selection of CPU to implement this project was its experience in project management, training, and national sectoral planning. Project staff has failed to take advantage of this expertise. For example, training is being conducted and planned without any substantial input from CPU training personnel. It appears that the legal project is an appendage of CPU rather than being integrated into its overall structure. Project success has been impeded in that CPU's traditional skills have not been taken advantage of by legal project.

### ***6.3. Publications policy***

In addition to coordination of training, another area in which the project could benefit from a common approach is publications. Every component publishes materials. Indeed, every research has resulted in a publication regardless of its quality. The project director informed us that the results of every investigation was published due to the pressure from AID to have tangible results. Additionally, he felt that not publishing them would cause "political" problems with the researchers. CPU is aware, however, that its name appears on each publication and a nonselective publications approach could prove damaging to its image and reputation while also diminishing the impact of the project.

***Recommendation*** There is a need for CPU to establish an editorial policy for the selection, editing and dissemination of publications. This policy should consider the intended purpose of the publication and the audience to whom it is directed. The policy should not be limited to publications and should encompass all materials used for public dissemination.

The project has issued a number of very useful publications, especially the brochures in the legal assistance area. On the other hand, several materials have been published which were only meant for in house consumption. Additionally, there have been no training materials published, with the exception of the case study materials for the courses. Materials which aid judges, staff or legal assistance personnel would benefit the project in greater exposure and in the generation of concrete and measurable results. All of the persons interviewed agreed that this would be a major help. An example are bench books which, in simple terms, outline routine legal procedures and provide the reader with suggested forms which may be used.

### ***6.4. Lack of Planning***

Project implementation has been intuitive rather than pursuant to an overall plan and/or strategy. Although there are annual operational plans, there are no detailed plans for the life of the project. Some of the deficiencies in this area are:

a. There is no workplan for the duration of the project;

There is no timetable for the completion of events except on an annual basis;

There is no life of project budget.

While the number and scope of CPU activities is impressive, lack of a comprehensive plan hinders achievement of more significant reform. Although CPU has been effective in implementing specific activities relevant to project objectives, it has not systematically sought to integrate these activities to the optimum degree.

One of the fundamental problems in formulating a strategy appears to be the lack of even basic information about the realities of the area, such as what agencies exist and what they are really doing. CPU has gone a long way in the development of baseline data. Data from the national low income survey, for example, have already been useful in providing new information to support increasing access to courts through the creation of neighborhood (small claims) courts.

This lack of knowledge of the realities was cited as a reason that the project tends to operate as a "rolling" project and an impediment to specific planning. Another concern is the relatively large number of areas in which the project is attempting to have an impact.

**Recommendation** The project should not undertake any new activities until a life of project workplan is developed. This plan should closely track the terms of the cooperative agreement and contain, at a minimum: a description of each component and activities, a timetable for completion of each activity, an evaluation plan, and a budget by year.

#### **6.5. Necessity for follow-up**

There is a limited amount of follow-up and many activities are viewed as isolated events which conclude upon the accomplishment of the immediate objective. Follow-up is especially important in the training component where the activity might motivate attitudinal and behavioral change. Tracking would attempt to channel these changes into concrete action. For example, one of the judges who had attended the victimology course accepted the premise that better treatment of the victim was a necessary component of the criminal process. She then instituted a number of practical reforms with the objective of keeping the victim informed as to the course which the case was taking. If the training component had followed up on the results of the training event it could have discovered this and other modifications of behavior and disseminated them among participants having the effect of keeping the dialogue on-going and providing technical assistance.

**Recommendation** Each activity should contain a specific plan for providing follow-up to the activity. This should include a goal for the follow-up, a methodology, define the target audience (all participants or a sample, for example), and expected outputs. The results of the follow-up can also yield indicators of project impact.

#### **6.6. Budget**

The project is underspending its allocated budget. After almost two years of operation, the project has spent \$921,000 (31% of the original \$3 million dollar grant). This, however, includes a one-time expenditure for the acquisition of equipment and remodeling of CPU's office. Taking these installation expenses out, there is an operational expenditure of \$741,000.

Project administrative costs represent \$575,000 or 62% of the project. While this may also represent an error of presenting all of the professional staff as administrative personnel, the cost is very high.

Finally, the only current four-year budget is the one prepared during the design of the project. Everyone agrees that budget has been substantially modified yet there has been no effort to make changes which reflect these changes. As a result, there is no budget for the life of the project or for any year beyond the current one.

**Recommendation** A new budget should be developed which conforms to the activities accomplished and those that remain. Administrative costs should be decreased since they are currently too high. Perhaps a reexamination of current staffing levels (with all of the staff being managers rather than providers they appear as administrative costs rather than being charged against individual components) will produce the suggested savings. Finally, the overall budget should not be so detailed as to hinder implementation flexibility.

### **6.7. Administrative practices**

While administrative practices are the subject of a separate audit to be conducted by AID, we found, after very little research, that administrative practices appeared to be in good shape, the mechanism used to contract research and consultants is cumbersome and, not always, in furtherance of project goals.

Project staff has decided to bid out every research and technical assistance activity, regardless of the contract amount or the complexity of the activity. Additionally, most requests for proposals detail the amount of the contract so that the competition is only qualitative and not on the basis of price comparisons. The majority of research contracts, issued thus far, are for less than \$3,000. In these cases, this makes little sense. We were told that bidding of all contracts was to avoid any appearance of impropriety.

Additionally, the scopes of work for the bids are so general as to make bidding unattractive and exposes the project to having to accept inadequate bids which are responsive to such nebulous terms. For example, the scope of work for the training needs assessment was as follows:

"This empirical study should be directed at determining the primary deficits of judges as they commence to exercise their judicial role.

Of the projects proposed, two will be selected:

- one relative to first instance judges. The bidder should allot 200 hours of manpower. This study shall, necessarily consider, some sort of survey which, especially, takes into account rural judges. The bidder should include in his/her proposal type of survey to be utilized. The total amount shall not exceed \$1.145.600.

- another relative to the ministers of Appeals Courts with a minimum manpower allocation of 100 hours. The total amount shall not exceed \$572.800."

After reading this, a person knowledgeable about survey work would not have enough information to know what data is being sought, the population to be surveyed (it does not even mention whether all judges are to be questioned or only a sample), or the methodology to be used. A result was that an insufficient number of bidders appeared and a second, also vague, request was issued.

When CPU went to the trouble of approaching a potential bidder directly, DESUC in the

study of juvenile judges, the result was the development of clear and specific terms of reference that all parties could agree to.

**Recommendation** CPU should establish a policy which requires competitive bidding only in cases exceeding a specific amount. In all cases, the drafters of the request for proposal should make the terms clear enough as to allow any potential bidder to bid intelligently on the request. Finally, consultant contracts do not contain specific terms of reference. This should be corrected so that the consultant is clear about CPU's expectations and CPU may adequately gauge the product of the consultancy.

## **7. CPU Staff**

### **7.1. Staff competency**

The quality of the staff is excellent; they are bright, conscientious, and competent. The staff has a strong moral and intellectual commitment to legal reform. However, few have any practical hands-on experience in the substantive area to which they have been assigned. In the training component, there is no staff which has any previous experience in adult education. In the court administration component none of the staff has any management background. Finally, in the legal assistance area there is no substantive experience in legal services. With the exception of Pablo Persico, the project financial manager, there is no staff experience in project management.

Even though this project requires a variety of skills outside of the legal area, all of the staff are law graduates. Project staff have tried to remedy this by resort to outside consultants (primarily DESUC in the polling area) to aid them. In the case of the training component, there is an obvious need for outside assistance from an adult education specialist. For example, the training needs assessment component has spent over \$34,000 (46% of its total allocation) in studies even though none of the staff has any experience in this area.

Finally, a majority of the key persons in the project are part-time employees. There is a question about the relative effectiveness of the employment of part-time staff. Part-time employment, especially when employees hold multiple outside positions, tends to reduce the effectiveness of the project. Part-time employment may reduce an employee's commitment to the project and create conflicts with or distractions from the project. The probability of serious issues arising in this regard is directly proportional to the number of other positions involved and their relationship to policy-making. Additionally, a person working more than one job in Santiago will have limited ability to travel outside of Santiago. Part-time employment also may exacerbate the fragmentation of the project.

### **Recommendation**

The perspective of CPU staff should be more concrete and practical. One person familiar with the project characterized it as "ethereal". It appears to be somewhat overly academic and theoretical, as reflected in its emphasis on the need for polls to secure "empirical" data as a support for action. In certain cases, meaningful empirical data can effectively be gleaned from experience in a cost-effective way without the necessity of polls and surveys. For example, the Delphi method is a process intended to yield reliable estimates based on the educated guesses of experienced people. Additionally, staff should spend more time in the field to gauge the needs of the clients which their particular component seeks to benefit.

The perspective of the staff appears to be long term to the detriment of intermediate and short-term accomplishment. Staff also appears to rely on an assumption of the need (and

possibility) for fundamental, rather than incremental, change. A long-term view is important, but the short term must not be discounted because 1) we are dealing with a grant of limited duration, and 2) there is usually considerable uncertainty even about the near-term prospects for legal reform. It is difficult to justify staff's faith in its view of the future, and its ability to predict the direction and degree of change, as well as its consequences. Staff's belief in the need for fundamental change is certainly justified insofar as it assumes a need for broad and deep legal reform.

This perspective seems to have CPU operating on close to an "all or nothing" basis, especially as it regards the legal assistance area. Staff perspective should focus more on the institutional and everyday realities of providing judicial and legal services which are likely to persist regardless of whether fundamental restructuring occurs.

Finally, the project should invest resources in improving staff capacity to adequately supervise the services which they are providing. While the staff do not have to be experts in their field, they should have sufficient expertise to be able to define the nature of activities, be aware of trends, be acquainted with potential consultants, and be able to establish linkages with counterpart institutions. Upgrading of staff competency is crucial if CPU intends to remain in this field.

### **7.2. Consultants**

There is a small pool of consultants employed by the project repeatedly, and in different thematic areas, research or training, and in different components. When asked about this, the staff explained that there are very few people with the requisite skills and commitment. This, however, may be conditioned by the lack of staff expertise in their areas.

In some cases in which a technical consultant was obvious, for example in the design of a training needs assessment, none was consulted and instead the staff relied on their own intuition and the advice of a senior advisor who had no prior experience in this area.

**Recommendation** CPU staff should make a concerted effort to expand its consultant pool. This should include a proactive search for consultants, employment of experts to test their skills, and development of a database of consultants for future use. A concerted effort should be made to identify experts from disciplines other than law.

### **7.3. Amount of staff**

The cooperative agreement was overly specific in identifying all of the staff, critical or not, to be employed by the project. It called for the following full-time personnel: a program director, a subdirector for administration and finances, area chiefs for training, legal assistance, and court administration, and a small administrative unit for accounting and secretarial services and other logistical support. "The part time services of a senior financial management and administration supervisor, and a public information coordinator will also be contracted under the program." In addition, CPU was asked to secure the "long-term services of four senior professionals to serve as technical advisors to assure the high quality of the research, study, and training activities... Specifically, an academic advisor who is an expert in the Chilean legal system will work closely with the program director in providing overall program oversight." In a project in which many of the other terms were overly vague, the staff requirements imposed by the cooperative agreement appear to be overly specific and contribute to the high levels of personnel and administrative costs.

This is a project in which none of the staff is a provider of technical assistance or

training, rather they all act as project managers in their individual areas. There are 1.5 persons in each component (4.5), a full-time project director, a half-time administrator, and two senior advisors. Thought should be given as to the necessity of this much staff.

**Recommendation** USAID/Chile should allow greater leeway in the amount and types of staff which the project should contract. CPU should consider employing some of these personnel on a contract basis as the need occurs rather than carrying so many people on their payroll.

#### **7.4. Role of the Advisory Council**

The cooperative agreement called for the creation of a "Directive Council" to "provide policy guidance, authorize the signing of agreements with other institutions, approve significant procurement transactions, and provide general oversight of the progress of the programs." The document then goes on to detail the composition of this council.

The only institutional representatives on the Council are appointed by the National Association of Judges and the Institute for Judicial Studies. There is no representative from the CAPJ or the CAJ, two of the major beneficiaries to the project. Some determination has to be made as to the usefulness of the current structure and recommendations for the future.

**Recommendation** The project agreement is overly specific as to the establishment of this council. One of the major criticisms of this evaluation is the isolation of this project from the traditional CPU structure. It is that structure which should supervise this project. While an advisory board might be useful, its role should be consultative and not determinative. For example, this Council cannot usurp the legal powers of the CPU main board or its executive director in entering into contracts. Finally, AID participation on this Council adds an additional supervisory burden on USAID/Chile and may lead its members to conclude that its actions are *per se* ratified by USAID/Chile.

#### **7.5. Nexus with the Government**

The project director is an assistant to the Minister of Justice while the legal assistance director has been assigned by the President to sell the government's legislative package to the Congress. This direct connection to the government is a double-edged sword in terms of the effectiveness of the project. Given the current political context of the legal reform effort, it is of utmost importance that the project be perceived, as well as actually be neutral, pluralistic and objective. Another concern is the possibility that the focus of the project may be unduly influenced by government priorities.

#### **8. Overall**

The preceding sections have outlined a number of specific and general recommendations to be followed. The following steps should be undertaken in response to these recommendations:

- 1) Review of this report and comments by USAID/Chile and CPU
- 2) So many events have transpired since the original project design that many of the assumptions on which specific components and activities are no longer valid. Additionally, enough time has transpired that CPU and USAID/Chile are aware of the shortcomings and benefits of the original cooperative agreement terms. The staff reduction at USAID/Chile (a 50% reduction in personnel), especially the departure of Carl Cira, will make it less likely that

USAID/Chile will be able to closely monitor a very complex agreement.

The foregoing factors suggest the necessity of substantially amending the cooperative agreement and reprogramming so that a clearer, more focused, and more manageable project be achieved.

3) All of the evaluators felt that while CPU's attempt to engage in a large number of activities has been praiseworthy, it has resulted in a great deal of dispersion of efforts and has prevented the institution to develop expertise in the areas being implemented. Additionally, during the next months presidential campaigning will be going on making this a poor period in which to engage in a substantial number of activities. Finally, it is expected that an agreement will be signed by USAID/Chile with the CAPJ which will alter the nature of the relationship between CPU and CAPJ and the content of the court administration component. All of the foregoing suggests that it would be useful to reduce activities during this period and for CPU to engage in planning and fine tuning its project.

4) Finally, CPU should examine the possibilities of advantage of the unique opportunities which this project has provided it and becoming the catalyst for fundamental reform for the sector. There is a great need for legal, and this project can only meet a small part of that need. In this early phase of the project, the CPU has taken several reasonable and practical steps to address the problem. While this project can help improve the environment for reform, the only way to effect substantial legal reform is through direct government action or indirect action designed to affect government policy.

Due to its nexus with the government, its reputation for professional objective work, and the justice experience acquired through this project, CPU has a unique opportunity to bring together the main actors in this field, examine policy, and propose strategies to the new government which will have fundamental impact on the sector. CPU has performed this role previously in other public sectors and USAID/Chile should encourage the development of this institutional capability. CPU could become a neutral site in which a diagnosis of the major problems of the sector were studied and alternatives presented. We would suggest calling together specialists from all sites to prepare documents for the new government aimed at orienting justice policy, holding meetings for new legislators to orient them on the political importance of the issue, then presenting working papers. The ultimate goal of this strategy is to include the justice issue within the national social welfare plan. The perspective of the government seems to be that "Justice" means only the judiciary and does not include the delivery of legal services.

## ATTACHMENT 1

### LIST OF PERSONS INTERVIEWED

#### \* CPU

- \* IVAN LAVADOS MONTES, President of the Project Advisory Council
- \* EDUARDO HILL, Executive director of CPU
- \* ANTONIO BASCUNAN, Member of the project advisory council
- \* JUAN E. VARGAS, Project director
- \* RODOLFO ALDEA, Person in charge of the court administration component
- \* FERNANDO ATRIA, Assistant in the training component
- \* JORGE CORREA, Director of legal assistance component
- \* ANDRES CUNEO, Academic advisor
- \* MARCOS LILLO, Assistant, court administration component
- \* ANDREA MUNOZ, Director, training component
- \* PABLO PERSICO, Deputy director for finance & administration
- \* ANGEL TORRE, Institutional advisor
- \* MACARENA VARGAS, Assistant in the legal assistance component
- \* MARIA CECILIA YAÑEZ, Researcher in the court administration component

#### \* USAID/Chile

- \* CARL CIRA, DI Regional coordinator
- \* PAUL FRITZ, AID REP. Chile
- \* CLAUDIO MUNDI, DI project manager

#### \* JUDICIARY

- \* JOAQUIN BILLARD, Judge of the First Criminal Court of Santiago
- \* CARLOS CERDA, Appellate judge of the Court of Santiago
- \* ALBERTO CHAIGNEAU, Appellate judge of the Court of Appeals of Santiago
- \* LUIS CORREA BILO, Supreme Court justice & president of the Institute for Judicial

#### Studies

- \* MARIO GARRIDO, Supreme Court justice
- \* GERMAN HERMOSILLA, Appellate judge and member of the advisory council
- \* MARCOS LIBEDISNKY, Appellate judge of the Appellate Court of Santiago
- \* DOBRA LUSIC, Criminal court judge
- \* ANA MARIA MUNIZAGA, Appellate judge at the Court of Appeals of Santiago

#### \* CAPJ

- \* LUIS MANRIQUEZ, Director
- \* CARLOS GONZALEZ, Deputy Director
- \* MARIA JOSEFINA HAEUSSLER, Deputy director of Studies and Planning
- \* OMAR REBOLLEDO, Director Finance and Budget Dept.
- \* CLAUDIO FIGUEROA, Controller
- \* SERGIO DEL SOLAR, Acting Director of information systems

#### \* EXECUTIVE

- \* FRANCISCO CUMPLIDO, Minister of Justice
- \* MANUEL GUZMAN VIAL, Ministry of Justice, president of the judicial reform

commission

\* JORGE RODRIGUEZ, Deputy secretary of the Treasury

\* **CAJ**

CAJ

\* MARIANO FERNANDEZ, Regional secretary of justice and president of the

\* DORA SILVA LETELIER, Director General, CAJ main office

\* JEAN PIERRE WARNIER, Administrative Deputy Director, CAJ main office

\* MIRTHA ULLOA, Lawyer of the Fiscalía, CAJ main office

\* CLARA SALGADA, Lawyer of the Fiscalía, CAJ main office

\* JOAQUIN BILLARD, First Instance Judge, Juzgado del Crimen de Santiago

\* JIMENA PINTO, Judge of the Cuarto Juzgado Civil de Santiago

\* **CONSULTANTS**

\* INVERTEC IGT S.A.

\* IVAN VERA, Manager.

\* EMANUEL FRIEDMAN, Consultant.

\* DAVOR HARASIC. Lawyer, Counselor of the Consejo de la Defensa del Estado, has evaluated the Organizational Diagnostic of the Court of Appeals of Santiago.

\* **DESUC**

\* LUIS BARROS

\* JORGE ROZAS

\* LUZ EUGENIA CERECEDA

\* LUCAS SIERRA, Researcher in training needs assessment

\* **OTHERS**

\* ENRIQUE BARROS, Law professor, University of Chile

\* LUIS BATES, Director of clinical legal education, Catholic University

\* JUAN BUSTOS, Law professor, University of Chile

\* SEBASTIAN COX, Director of FORJA

\* MANUEL JACQUES, Director of QUERCUM

\* PAULA CORREA, Lawyer at the Fiscalía of SERNAM

\* NANCY DE LA FUENTE, Former judge & director of research for Diego Portales

University Law School

\* LEONOR ETCHEBERRY, Director of clinical education at Diego Portales University

\* RAMON FIGUEROA, IDB

\* PAUL KOHLING, Country representative IDB

\* WALDO ORTUZAR, Law professor, Catholic University

\* CRISTIAN RIEGO, Professor and researcher at the Diego Portales Law School

\* AGUSTIN SQUELLA, Rector of the University of Valparaiso and member of the project advisory council

ATTACHMENT 2.

**U.S. AGENCY FOR INTERNATIONAL DEVELOPMENT  
OFFICE OF THE AID REPRESENTATIVE FOR CHILE**

**SCOPE OF WORK  
INTERIM EVALUATION  
CHILE JUSTICE SYSTEM IMPROVEMENT PROGRAM  
(CJSIP)**

**CORPORACION DE PROMOCION UNIVERSITARIA  
(CPU)**

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## **1. ACTIVITY TO BE EVALUATED**

The evaluation team will carry out an interim evaluation of the project CHILE JUSTICE SYSTEM IMPROVEMENT PROGRAM (CJSIP), being carried out by the Corporación de Promoción Universitaria (CPU) in collaboration with U.S. Agency For International Development.

The cooperative agreement authorization number is No. 513-0642-A-00-1064-00. The effective date of the grant is August 29, 1991 and the present expiration date is September 30, 1995. The total estimated amount of this agreement for the period described is \$3,000,000.

The purpose of this agreement is to support the Recipient's efforts to support activities in Judicial Training, Legal Information Systems, Court Administration and Legal Aid to the low income population, particularly women, in Chile, aimed at supporting the efforts of the government of Chile (GOC) in fundamental law reform.

## **2. OBJECTIVE OF THE EVALUATION**

The interim evaluation will focus on the evaluation of the substantive components of the project; the evaluation of the administrative and finance area will be covered by an audit to be done in July of 1993.

The interim evaluation will have the following general objectives:

1. To review actual versus planned progress toward the outputs, purpose and goal of the project.
2. To assess the continuing validity and relevance of the effort and to suggest modifications as may be required to increase the likelihood that the effort will achieve its objectives.
3. To assess the effects of external and unanticipated actions and/or events on the project.

4. To determine whether all required actions have been carried out and performance to date is consistent with expectations; as well as what additional actions are needed to sustain the positive effects of the effort.
5. To determine what impact has been brought about by or is associated with the effort.
6. To help identify areas (either continuations and follow-up on existing activities or new actions) which could be addressed effectively in the second half of the project.

The information collected by the evaluation team will be useful both for the grant's project managers and for AID/Chile to determine relevance, effectiveness, efficiency, impact and sustainability of the effort. This effort should provide information to determine which project areas need changes to improve project performance.

### **3. BACKGROUND**

#### **a. BACKGROUND AND PRIOR EFFORT**

\*\* See appendix N° 2, Cooperative Agreement, Attachment 2, Program Description.

### **4. METHODS, PROCEDURE AND TIMING**

#### **4.a. METHODS AND PROCEDURE**

The primary method of data collection for the evaluation will be through interviews with officials, judges, participants in project activities, governmental authorities, professionals and politicians involved in the reform process, and organizations who have been involved in the activities.

Also the evaluation team will review all relevant project documentation such as: Cooperative Agreement, Annual Work Plans and Quarterly Activities Reports to AID. In addition CPU and AID will assemble a set of appropriate documentation to be available at all times to the consultant team.

The principal published books, reports and working papers produced to date by the project will also be available for reviews.

To provide background information about the political and social context in which the project has been developed, a paper will be produced by a specialist. This paper will facilitate the work of the evaluation team in understanding the situation of the host country since the project was designed.

In addition the team will also provide responses to the questions set out in appendix N° 1.

In its own discretion within the time limits available the evaluation team may perform site visits, design appropriate questionnaires and review other project documentation in greater depth.

After the receipt of the final report AID and CPU project management team will review the final report and use it as the basis for a strategic planning exercise to determine appropriate project modifications and adjustments.

#### **4.b TIMING**

The timing and sequence of information gathering activities will be left to the discretion of the evaluation team. However, it is estimated that the field work in Chile will require three weeks for the evaluation team leader, and two weeks for the specialists in judicial training, legal assistance, court administration and management and for the specialist in Latin American legal and judicial systems.

The evaluation team will work by major fields of interest: judicial training, legal assistance and court administration and management. The team leader will be responsible for organization and supervision of the team work, for evaluation of the general context of the project and for producing the final report. Each specialist will provide to the team leader a paper with the report of his area.

The evaluation team will receive basic project documentation before arriving in Chile.

The Chile field work will occur between the last week of May and the end of the first three weeks of June.

Prior to departure from Chile each team member, including the leader, will produce a preliminary draft report for his assigned area. The final draft report must be submitted to AID/Chile and to the Regional Democratic Initiatives Office, (RDIO) in La Paz, by July 16, 1993. The final report taking account of any comments and observations by AID/Chile and CPU must be submitted to AID/Chile and to RDIO/La Paz, by August 10 th, 1993.

## **5. EVALUATION TEAM**

The evaluation team will include the following members:

- A specialist in Latin American justice system improvement projects, familiar with the design and implementation of AID projects in judicial training, court administration and management and legal assistance projects in recent years.
- A specialist in legal assistance programs, including public defense systems.

- A specialist in reform of Latin American legal systems and legal procedure modernization, with knowledge of court administration and management issues.
- A specialist in Latin American legal and judicial systems with specific knowledge of the Chilean system.

All the team members must be fluent in Spanish, and be familiar with the political and social changes in Latin America in the last twenty years.

CPU will assign three assistants to work with the team and provide space and computer access during the field work period.

## **6. REPORTING REQUIREMENTS**

The final report will be prepared in English and should contain the following sections:

- a. Basic Project Identification Data Sheet.
- b. Executive Summary:

Should not exceed three (3) pages, single-spaced. It should state the development objectives of the Project, the purpose of the evaluation, the study method, summary of findings, conclusions and recommendations, development impact, and lessons learned about the design and implementation of development projects related to the administration of justice. The recommendations should be limited in number, presented in priority order, and be clearly actionable by AID;

- c. A paginated Table of Contents.

**d. Body of the Report:**

The body of the report should not exceed thirty (30) pages, single-spaced, although detailed discussions of methodological or technical issues may be placed in the appendices. The subsection for each Project component should contain a specific narrative of the implementation history for that component, adequate to acquaint an intelligent reviewer with how the Project activities were carried out.

The body should include a discussion of:

- 1) The purpose of the evaluation and the questions which it addresses;
- 2) Any previous evaluations reviewed with a brief description of conclusions and recommendations made in the earlier reports, and what use was made of the previous evaluation in their review of the Project;
- 3) The economic, political and social context of the Project;
- 4) The evidence and findings of the evaluation with respect to the questions addressed;
- 5) Conclusions drawn from the findings;
- 6) The Project's lessons learned, describing the causal relationship factors that proved critical to Project success or failure, including necessary political, policy, economic, social and bureaucratic preconditions within the country and AID. It should also include a discussion of the techniques or approaches which proved most effective or had to be changed and why, as well as the lessons learned relating to replicability and sustainability;

- 7) Recommendations based on the findings and conclusions, stated as actions to be taken to improve Project performance as appropriate. All recommendations should be substantiated by the factual findings of the evaluation, and when appropriate, alternative recommendations for AID to consider should also be presented. The recommendations should be presented in a separate section of the report and should be listed in order of priority; and
- 8) A separate section on the development impact of the Project. This section should clearly present the development benefits resulting from the Project.

e. **Appendices:**

The report is to include the following appendices:

1. The evaluation scope of work;
2. A list of documents consulted;
3. A list of agencies and individuals consulted;
4. If deemed necessary by the team, a brief summary of study methodology; and
5. If deemed necessary by the team, any supplementary technical material too lengthy for inclusion in the body of the report.

**APPENDIX N° 1****Questions to be responded by the evaluation team.**

Each question should be addressed, however briefly. Relevant supportin information for the answers should be supplied.

**1. The following general questions should be asked about the project:**

- a. What are the real possibilities of the project to generate changes in the judicial system and its members in their cultural, behavioral, administrative and normative levels?

¿Cuales son las posibilidades reales del proyecto de generar cambios en el Poder Judicial y sus integrantes, en los niveles culturales, conductuales, administrativos y normativos?

- b. Has the project motivated other institutions and organized groups to work for the reform of the judicial system, by studing relevant issues and/or developing alternative policies and legal reforms for the justice system?

¿Ha generado el proyecto interés en otras instituciones y grupos que se traduzca en la realización o participación de grupos destinados al estudio y análisis de problemas, al diseño de políticas públicas para el sector y al estudio y proposición de reformas para el sector?

- c. Should the project be more directly involved in lobbying activities an behalf of specific project promoted legal reforms?

¿Debería el proyecto verse mas involucrado en actividades de promoción, en instancias políticas y legislativas, de proyectos de reformas legales promovidos por él?

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- d. Has the project involved relevant actors (judges, lawyers, other judicial operators, governmental agents, law and others academics specialties and other international financing institutions)?

¿Ha logrado el proyecto vincular a actores relevantes (jueces, magistrados y otros operadores jurídicos; agentes gubernamentales, académicos - del mundo del derecho y de otras disciplinas-, y fuentes de financiamiento internas y externas)?

- e. Have the methodologies for developing and carrying out activities been efficient means for reaching the project objectives?

¿Las modalidades de ejecución de actividades han sido un medio eficaz y eficiente para el logro de los objetivos del proyecto?

- f. Have the surveys and studies of the project been translated into concret activities for system reform or become inputs into another projects activities?

¿Los estudios e investigaciones se han traducido en acciones concretas de reformas al sistemas o en insumos para otras actividades del proyecto?

- g. Has the project created productive relations with the authorities of the judicial, executive and legislative power and have they made the performance of the activities easier?

¿Ha logrado el proyecto generar relaciones productivas con las autoridades del Poder Judicial, Ejecutivo y Legislativo, con el objeto de facilitar el desarrollo de sus actividades?

- h. Has the project effectively incorporated women in all of its activities?  
¿Se ha integrado efectivamente a mujeres en las actividades del proyecto?
- i. Has the project developed scientific diagnostics and proposals for alternative solutions that may be included in future system reforms?  
¿Ha sido capaz de generar diagnósticos científicos u objetivos y proponer un conjunto de soluciones posibles que sirvan para impulsar reformas en el futuro?

**2. The following questions should be asked for each of the project components:**

**2.1. Component one: Judicial Training.**

- a. Have the component activities contributed to the future creation and operation of the Judicial School?  
¿Las actividades del Area de Capacitación han tenido algún impacto en la creación y futura operación de la futura Escuela Judicial?
- b. Have the training activities developed curriculum subjects, training models and innovative educational materials appropriate for use in the different levels of the future formal organization of judicial training?  
¿Las actividades de capacitación con jueces y empleados del Poder Judicial ha permitido desarrollar temáticas, modelos y técnicas de evaluación y materiales innovativos que cubran las diversas fases de la formación y el perfeccionamiento judicial, que puedan ser utilizados en futuras instancias formales creadas para tal fin?

- c. What will be the project's expected role in the organization and start-up of the eventual judicial school?

Dada la eventual próxima instalación de la Escuela Judicial, ¿Qué papel se espera que cumpla el proyecto en su instalación, puesta en marcha y operación?

- d. What has been the quality of the judicial training activities performed by the project?

¿Cuál ha sido la calidad de las actividades de capacitación realizadas?

- e. What has been the impact of the judicial training activities in its participants?

¿Cuál ha sido el impacto causado por las actividades de capacitación entre sus asistentes?

- f. Has the project formed a critical mass of potential future instructors for the judicial school?

¿Ha generado o alimentado el proyecto a una masa de instructores capaces de capacitar por sí mismos en el futuro?

**2.2. Component two and three: Legal Information and Court Administration Improvement.**

- a. The project has had problems in the relations with the CAPJ, Has the project found another efficient way to develop the activities of this component? Have these alternatives been useful for developing activities that have given relevant contributions to court management in Chile?

Dadas las dificultades encontradas en el establecimiento de acuerdos concretos con la CAPJ, ¿De qué forma se ha reorientado las actividades de las Areas de Acceso a la Información Legal y de Administración de Tribunales? ¿Las vías alternativas de ejecución de actividades han permitido el desarrollo de aportes concretos a la gestión del sistema?

- b. Do lieu of the relations with the CAPJ, Has the project developed relations with other relevant actors in the judicial system?

¿En reemplazo a la relación con la CAPJ, se han establecido relaciones fructíferas con otras contrapartes relevantes dentro del sistema?

- c. Has the re-orientation of the areas of access to Legal Information and Court Administration been done based on clear and relevant objectives in conformity with the general objectives of the Cooperative Agreement?

¿La reorientación de las Areas de Acceso a la Información Legal y de Administración de Tribunales se ha hecho sobre la base de objetivos claros y pertinentes con los objetivos generales del convenio cooperativo?

- d. Based in the answer of the previous question, What is the most desirable future orientation of the area?

De acuerdo a lo anterior, ¿cuál debiera ser la orientación futura del área?

### 2.3. Component four: Legal Assistance.

- a. Have the studies done in the Area of Legal Assistance produced an objective analysis of the situations and perceptions of the poor with respect to the Chilean Judicial System?

¿Los estudios realizados en el Area de Asistencia Legal han permitido desarrollar un diagnóstico objetivo sobre la situación y percepción de los sectores pobres frente al sistema judicial chileno?

- b. What concrete impact have the Legal Assistance studies had on the understanding of the demand for legal services and decisions of political and judicial authorities, study centers and legal aid organizations with respect to that demand?

¿Qué impactos concretos respecto de la comprensión sobre las características de la demanda por justicia y la toma de decisiones al respecto, por parte de la autoridad política y judicial, centros de estudio y organismos de asistencia legal gratuita; han tenido los estudios realizados?

- c. In the area of Legal Assistance has the project developed adequate methodology and programs to assure more effective services of the legal aid institutions to the poor sectors?

¿En el Area de Asistencia Legal, el proyecto ha desarrollado metodologías adecuadas para asegurar la eficiencia del trabajo concreto de las instituciones con los sectores de menores ingresos?

- d. Have the project efforts include a particular focus on the legal assistance of women in general and low income women in particular, been effective?

What more should be done in this respect?

¿Ha enfocado el proyecto esfuerzos específicos en el tema de asistencia legal a mujeres en general y específicamente en aquellas de menores ingresos?

¿Se deberían desarrollar otras actividades en esta área?

**APENDIX N° 2**

**Cooperative Agreement, Attachment 2, Program Description.**

ATTACHMENT 3.

Draft Final Report

**MONITORING AND EVALUATION PLAN FOR  
DEMOCRATIC INITIATIVES PROGRAM  
USAID/CHILE**

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November 1992

Prepared by: Robert Klein, MSI

Submit to: Paul Fritz, Director

This report was prepared during a technical assistance TDY from November 2 through November 13, 1992 under PRISM Project for A.I.D.'s Center for Development Information and Evaluation (CDIE). The PRISM project is being conducted through a contract to Management Systems International (MSI), with support from Labat-Anderson, Inc. and Research Triangle Institute.

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b.	Participation in electoral and political process . . . . .	16
c.	Congressional analytic capacity and access to consultative services improved . . . . .	20

## **1. Background and Introduction**

This report summarizes the activities undertaken by the consultant during the period November 2-13, 1992, to assist USAID\Chile to develop a monitoring and evaluation plan for its strategic objective in the area of democratic initiatives (DI). This activity, which grows out of a strategic planning exercise carried out by mission management in March, 1992, was designed to provide a thorough review of the indicators and data collection activities required for documenting program outputs and measuring progress toward achieving the strategic objective.

Additionally, at the request of mission management, the consultant reviewed the human and institutional resources in Chile which could be available to provide technical assistance to DI programs in other countries in the region.

The consultant worked directly with the Regional Democratic Initiatives Coordinator in this endeavor, and reviewed ongoing and planned program activities and data collection efforts with staff of the three principal NGO counterparts: PARTICIPA, CORPORACION DE PROMOCION UNIVERSITARIA (CPU) and CENTRO DE ESTUDIOS Y ASISTENCIA LEGISLATIVA (CEAL).

## **2. Review of DI Program Activities**

The LAC Bureau has classified Chile as a More Developed Country (MDC). As such, the Mission operates with a limited budget and staff, and program development must take advantage of centrally-funded projects, coordination with other donors, and project level support of local human and organizational resources. In spite of its limited budget and small staff, the USAID\Chile DI program, reflecting carefully developed projects, thoughtful program development, creative networking and productive working relationships with outstanding NGO's, is an admirably well integrated and clearly focused effort.

### **a. Review of strategic objective and indicators**

The strategic objective of the DI program is: "Responsiveness of key institutions to citizens' needs increased". Program activities designed to accomplish the strategic objective are focused on four substantive areas, and are undertaken principally by three national counterpart organizations. The objective tree for this strategic objective is presented below:

Strategic Objective

**1. Responsiveness of key institutions to citizens' needs increased**

Program  
Outputs

1a. Access to justice and judicial function improved	1b. Congressional analytic capacity and access to consultative services improved	1c. Participation in electoral and political process improved	1d. Effectiveness of targeted regional and municipal governments improved
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**Measurement of progress toward achieving the strategic objective.** A decision was made at the time of the strategic planning review, pending determination of the availability of appropriate data, to measure citizens' perception(s) of the responsiveness of four targeted government institutions (the legislature, the judiciary, the electoral process, and municipal government) as the indicator(s) of attainment of the strategic objective. Citizens perceptions of the responsiveness of these institutions would be measured in periodic, representative sample surveys conducted by national counterpart organizations. Based on discussions with the staff of the collaborating NGO's, and review of the survey interview schedules, sampling frames and data collection plans, it was concluded that a decision to use public opinion as indicator(s) of progress toward achieving the DI strategic objective in Chile warrants careful review.

There are several considerations. First, we should note that there are four components in the strategic objective, thus, requiring that we employ no less than four indicators.

Second, the SO is stated at a fairly abstract level (e.g. "responsiveness of key institutions to citizens needs..."). In order to develop valid and reliable measures, the key words in the SO statement must be effectively operationalized. We may find, for example, that the definition of "responsiveness" or "needs" varies by gender or by class.

The third consideration deals with the availability of survey interview data. The principal program funded public opinion survey effort currently underway and relevant to the topic, and the only one with a national sampling frame, is that conducted by PARTICIA, in collaboration with Centro de Estudios de la Realidad Contemporaneo (CERC), Facultad

Latinoamericana de Ciencias Sociales (FLACSO), AND Centro de Estudios Publicos (CEP)/ Adimark Investigaciones de Mercado y Opinion Publica. Four annual surveys are planned. The first survey was conducted in November-December, 1991 and interviewing for the second will begin in early November, 1992. This survey was designed with several goals in mind: To provide data for PARTICIPA which will be useful for program planning and evaluation; to learn more regarding public opinion about the status, efficiency, importance, symbols and values related to democracy in Chile; to characterize the current status and perceived constraints to the development of Chilean democracy; and to track the evolution of these perceptions and opinions across the period 1991-1994.

A second public opinion survey, conducted by CPU in collaboration with Departamento de Sociologia de la Universidad Catolica (DESUC), focuses on low income families in three urban centers. It deals exclusively with the justice sector and is designed principally to provide information for program planning. Data collection is currently underway and survey results will be available in January, 1993. At present there are no plans to repeat this survey in subsequent years.

CEAL, the third collaborating NGO, is conducting some small diagnostic studies in support of program development efforts and has no plans to conduct survey research relevant to the DI program strategic objective.

It is important to note that while these surveys will provide valuable information, much of which will be useful to the DI program, they cannot, as presently designed, provide sufficient data for unambiguous measures of progress toward achievement of the DI strategic objective. The purpose for which the PARTICIPA survey was designed was to provide information for program planning and for evaluating program impact. As a result there are too few questions directly relevant to the DI strategic objective. What will be required to obtain valid and reliable measures of public opinion(s) of the "responsiveness of key institutions to citizen's needs..." is a set of survey interview questions, carefully pretested, and designed specifically to focus on those aspects of program-targeted government institutions which formative research has identified as functionally relevant. If a decision is made to develop such a set of questions, it could be accomplished in time for inclusion in the third annual PARTICIPA survey, in November, 1993. The cost of developing the additional questions would be relatively modest, and would not require more than about 10 minutes of additional interview time. It is important to note, however, that if the decision is taken to develop these questions for inclusion in the third annual PARTICIPA survey (or in some other survey vehicle), this becomes the **baseline data**. Accordingly, for these data to be useful as **baseline measures**, additional surveys will be necessary in subsequent years.

There are alternative approaches for modifying/strengthening the indicators for the strategic objective which warrant review. The first, and least radical, is to redefine, or expand the definition of "responsiveness", for example, in terms of effectiveness (which would include efficiency). Thus, by way of an example in the justice sector, an indicator of "responsiveness" could be the institutional capacity, demonstrated operationally, to respond

efficiently and fairly using indicators such as adequate pretrial investigation, access to council, case load, case management and tracking, a modern system of judicial statistics and records, etc.. This approach would argue that indicators of institutional "behavior" are valid and reliable measures of "responsiveness", and that improvement in these measures reflects improvement in institutional responsiveness to citizens' "needs". This would require identification of indicators of the strategic objective in each of the four program areas that are logically and operationally above the program outputs in the objective tree. Ideally, measures of institutional responsiveness would be combined with the collection of public opinion data to develop a set of indicators -- based on both demonstration of increased institutional effectiveness as well as public perception of increased responsiveness of these institutions -- to provide a combined set of indicators for the objectives of the DI program. (A preliminary set of suggested indicators appears in the Program Information Matrix Table on Page 5.) An added advantage to this approach is that it addresses the potential problem of having a successful DI program and not being able to demonstrate changes in public opinion within a 5 to 7 year time frame. (Public opinion in Chile seems to be especially labile at present. A scandal or other high profile event, such as the current telephone espionage case involving nationally prominent political figures, could produce serious short-term distortions in measures of public opinion.)

A third option should be mentioned. This is to modify the strategic objective by moving down the causal (objective) tree, and identifying a strategic objective at a somewhat lower level. If this approach is selected, it requires that (effectively) the current program outputs become strategic objectives. Although logically defensible this is less attractive. The result would be a program with pedestrian aspirations, uncommitted to a larger development goal. A decision to expand the indicators for the strategic objective, to include measures of institutional responsiveness, would result in a program information matrix such as that below. Each of the four program areas would have at least one additional indicator of program impact.

**PROGRAM INFORMATION MATRIX**

STATEMENT	INDICATOR	SOURCE	RESPONSIBILITY
<b>STRATEGIC OBJECTIVE</b>			
<p><b>RESPONSIVENESS OF KEY INSTITUTIONS TO CITIZENS' NEEDS INCREASED</b></p>	<p>1. CITIZENS' PERCEPTIONS OF RESPONSIVENESS OF LEGISLATURE, SELECTED MUNICIPAL GOVERNMENTS, ELECTORAL PROCESS AND JUDICIAL SYSTEM IMPROVED (BY GENDER)                  2. REDUCTION OF COURT AND SYSTEM REPORTED BACKLOGS.                  3. ESTABLISHMENT BY CONGRESS OF BILL DRAFTING AND LEGAL RESEARCH CAPACITY (TO INSURE INTERNALLY CONSISTENT AND SUPERSEDING LEGISLATION)                  4. NUMBER OF CITIZENS AFFILIATED WITH POLITICAL PARTIES AND OTHER CIVIC ORGANIZATIONS                  5. * *</p>	<p>1. PUBLIC OPINION SURVEYS BY PARTICIPA AND PERHAPS OTHER INSTITUTIONS 2                  -4. DATA FROM PROGRAM SERVICE STATISTICS ON INSTITUTIONAL PERFORMANCE * *5. THE MUNICIPAL DEVELOPMENT INDICATOR AND DATA SOURCE WILL BE DECIDED WHEN PROGRAM ACTIVITIES ARE DETERMINED</p>	<p>DI OFFICER</p>

**PROGRAM OUTPUT**

<p><b>JUDICIAL FUNCTION AND ACCESS TO JUSTICE IMPROVED</b></p>	<p><b>1. # OF LEGAL ASSISTANCE FACILITIES FUNCTIONING 2. # OF PERSONS WHO RECEIVE LEGAL ASSISTANCE (BY GENDER) PER YEAR 3. # OF REGIONAL COURT ADMINISTRATOR S 4. NATIONAL AUTOMATED CASE TRACKING SYSTEM OPERATING 5. # OF JUDGES AND JUDICIAL EMPLOYEES TRAINED (BY GENDER)</b></p>	<p><b>1 &amp; 2 LEGAL SERVICES SURVEY  3 &amp; 4 CPU QUARTERLY REPORT</b></p>	<p><b>DI OFFICER</b></p>
<p><b>CONGRESSIONAL ANALYTIC CAPACITY AND ACCESS TO CONSULTATIVE SERVICES IMPROVED</b></p>	<p><b>1. # OF CONGRESSIONAL MEMBERS AND STAFF TRAINED (BY GENDER) 2. # OF CONSULTATIVE REPORTS AND EXPERT TESTIMONY RECEIVED BY CONGRESS</b></p>	<p><b>CEAL QUARTERLY REPORTS</b></p>	<p><b>DI OFFICER</b></p>

<b>PARTICIPATION IN ELECTORAL AND POLITICAL PROCESS IMPROVED</b>	<b>1. % OF 18-21 YEAR-OLDS WHO ARE REGISTERED TO VOTE 2. # OF WOMEN HOLDING POLITICAL PARTY OFFICE 3. # OF PUBLIC POLITICAL ISSUE MEETINGS HELD</b>	<b>PARTICIPA QUARTERLY REPORTS</b>	<b>DI OFFICER</b>
<b>EFFECTIVENESS OF TARGETED REGIONAL AND MUNICIPAL GOVERNMENTS IMPROVED</b>	<b># OF REGIONAL AND MUNICIPAL GOVERNMENT EMPLOYEES TRAINED (BY TYPE OF TRAINING) OTHER INDICATORS TO BE DETERMINED WHEN A DECISION IN MADE ON THE RHUDO PROJECT</b>	<b>CEAL QUARTERLY REPORTS</b>	<b>DI OFFICER</b>

**3. Monitoring program activities**

**a. The judicial sector**

Program activities in the judicial sector are undertaken by CPU, an NGO located in Santiago, Chile, with an laudable twenty-year record in public policy research and promotion of economic, social and governmental reform. Activities in this area began in March 1989 with a two-year, \$200,000 grant, to support in-service training activities for judges, and to conduct diagnostic studies and analyses of administrative and management aspects of the court system. This project identified significant problems in the Chilean justice sector, and provided the framework for the present Chile Justice System Improvement Program (CJSIP). It should be noted that this program effort, by providing a stable working vehicle and involving decision makers, has brought together a critical mass key people capable of accomplishing fundamental sectoral strengthening.

The goal of the CJSIP is to assist Chileans in making their justice system more effective and fair and more accessible. It provides \$ 3.0 million to cover activities, during four years, which are designed to promote the modernization of the Chilean justice system by strengthening:

- a. professional judicial education and training;
- b. availability of current and updated legal information;
- c. court administration and management; and
- d. access to justice, formal and informal, for low income sectors of the population.

Recommendations for monitoring program outputs:

**COMPONENT ONE - JUDICIAL TRAINING**

INDICATOR(S)	SOURCE(S)	RESPONSIBILITY	FREQUENCY/DATE
TRAINING NEEDS ASSESSMENT COMPLETED AND REPORT PUBLISHED	CPU QUARTERLY REPORT	CPU	ONCE/JANUARY, 1993.
DATES AND LOCATIONS OF ORIENTATION COURSES FOR NEW JUDGES AND COURT ADMINISTRATORS AND NUMBER COMPLETING COURSE (BY GENDER)	CPU QUARTERLY REPORT	CPU	TWICE YEARLY/ 1 MAY & 1 OCT.

<p><b>DATES AND LOCATIONS OF IN-SERVICE COURSES FOR JUDGES AND NUMBER COMPLETING COURSE (BY GENDER)</b></p>	<p><b>CPU QUARTERLY REPORT</b></p>	<p><b>CPU</b></p>	<p><b>TWICE YEARLY/ 1 MAY &amp; 1 OCT.</b></p>
<p><b>PROMOTION OF AN EFFECTIVE JUDICIAL SECTOR REFORM GENERATION PROGRAM INVOLVING THE EXECUTIVE, LEGISLATIVE AND JUDICIAL BRANCHES</b></p>	<p><b>CPU QUARTERLY REPORT</b></p>	<p><b>CPU</b></p>	<p><b>TWICE YEARLY/ 1 MAY &amp; 1 OCT.</b></p>
<p><b>CORRESPONDENCE AND OTHER DISTANCE EDUCATION MODULES AND ACCOMPANYING METHODOLOGY DEVELOPED AND PRETESTED, TRAINING IMPLEMENTED, AND NUMBER COMPLETING COURSES (BY GENDER)</b></p>	<p><b>CPU QUARTERLY REPORT</b></p>	<p><b>CPU</b></p>	<p><b>TWICE YEARLY/ CONSULT CPU FOR INITIATION DATE</b></p>

<b>DATES AND LOCATIONS OF IN-SERVICE TRAINING COURSES FOR COURT LEGAL STAFF AND NUMBER COMPLETING COURSE (BY GENDER)</b>	<b>CPU QUARTERLY REPORT</b>	<b>CPU</b>	<b>TWICE YEARLY/ 1 MAY &amp; 1 OCT.</b>
<b>DEVELOPMENT OF MODEL FOR A PUBLICLY FUNDED JUDICIAL SCHOOL</b>	<b>CPU QUARTERLY REPORT</b>	<b>CPU</b>	<b>TWICE YEARLY FOLLOW-UP/ NO DEADLINE</b>
<b>NUMBER AND LOCATION OF COURSES FOR TRAINING OF TRAINERS FOR JUDICIAL SECTOR TRAINING COURSES</b>	<b>CPU QUARTERLY REPORT</b>	<b>CPU AND JUDICIAL STUDIES INSTITUTE</b>	<b>TWICE YEARLY/ 1 MAY &amp; 1 OCT.</b>

**COMPONENT TWO - ACCESS TO LEGAL INFORMATION**

<b>DEVELOPMENT OF A PLAN FOR AN IMPROVED LIBRARY SYSTEM FOR THE COURT SYSTEM</b>	<b>CPU QUARTERLY REPORT</b>	<b>CPU AND CORPORACION ADMINISTRATIVA DEL PODER JUDICIAL (CAPJ)</b>	<b>TWICE YEARLY FOLLOW-UP/ NO DEADLINE, 1 MAY &amp; 1 OCT.</b>
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DESIGN OF AN AUTOMATED DATABANK FOR JURISPRUDENCE	CPU QUARTERLY REPORT	CPU AND CORPORACION ADMINISTRATIV A DEL PODER JUDICIAL (CAPJ)	TWICE YEARLY FOLLOW-UP/ NO DEADLINE, 1 MAY & 1 OCT.
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**COMPONENT THREE - COURT ADMINISTRATION IMPROVEMENT<sup>1</sup>**

ANALYSIS OF CAPJ FUNCTIONS AND SERVICES AND RECOMMENDATIONS FOR MODIFICATIONS AND/OR ADDITIONAL SERVICES	CPU QUARTERLY REPORT	CPU AND CAPJ	TWICE YEARLY FOLLOW-UP/ NO DEADLINE, 1 MAY & 1 OCT.
DESIGN AND IMPLEMENTATION OF A DATA BASED SYSTEM FOR COLLECTION AND REPORTING OF STATISTICAL INFORMATION ON COURT OPERATIONS.	CPU QUARTERLY REPORTS	CPU AND CAPJ	TWICE YEARLY FOLLOW-UP/ NO DEADLINE, 1 MAY & 1 OCT.

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<sup>1</sup>Indicators in the court administration area are subject to review, pending development of changes at the level of the Supreme court.

IMPLEMENTATION OF WORKSHOPS TO TRAIN COURT STAFF IN USE OF COURT INFORMATION SYSTEM	CPU QUARTERLY REPORTS	CPU AND CAPJ	TWICE YEARLY FOLLOW-UP/ NO DEADLINE, 1 MAY & 1 OCT.
IDENTIFY NECESSARY MODIFICATIONS, BASED ON OPERATIONAL ANALYSES, OF SIX TYPES OF COURTS: APPEALS, CRIMINAL, CIVIL, MIXED, LABOR AND JUVENILE.	CPU QUARTERLY REPORTS	CPU AND CAPJ	TWICE YEARLY FOLLOW-UP/ NO DEADLINE, 1 MAY & 1 OCT.
IMPLEMENT AND EVALUATE PILOT ACTIVITIES TO TEST EFFECTIVENESS OF THESE MODIFICATIONS	CPU QUARTERLY REPORTS	CPU AND CAPJ	TWICE YEARLY FOLLOW-UP/ NO DEADLINE, 1 MAY & 1 OCT.
DESIGN SYSTEM-WIDE MODIFICATIONS, BASED PILOT TEST RESULTS	CPU QUARTERLY REPORTS	CPU AND CAPJ	TWICE YEARLY FOLLOW-UP/ NO DEADLINE, 1 MAY & 1 OCT.
RECOMMENDATIONS FOR DECENTRALIZATION OF COURT ADMINISTRATION	CPU QUARTERLY REPORTS	CPU AND CAPJ	TWICE YEARLY FOLLOW-UP/ NO DEADLINE, 1 MAY & 1 OCT.

DEVELOPMENT OF A LONG RANGE PLAN FOR RENOVATION AND EXPANSION OF PHYSICAL FACILITIES AND FOR CASE LOAD STANDARDS	CPU QUARTERLY REPORTS	CPU AND CAPJ	TWICE YEARLY FOLLOW-UP/ NO DEADLINE, 1 MAY & 1 OCT.
DEVELOPMENT OF A PLAN FOR EXPANSION OF CAPJ'S COMPUTER SUPPORT SERVICES, INCLUDING ANALYTIC AND TRAINING NEEDS	CPU QUARTERLY REPORTS	CPU AND CAPJ	TWICE YEARLY FOLLOW-UP/ NO DEADLINE, 1 MAY & 1 OCT.
PROJECTION TO LATIN AMERICA OF CHILEAN COURT ADMINISTRATION AUTOMATION AND MANAGEMENT	CPU QUARTERLY REPORTS	CPU AND CAPJ	TWICE YEARLY FOLLOW-UP/ NO DEADLINE 1 MAY & 1 OCT.
DEVELOPMENT OF A PLAN FOR MODIFICATION OF THE COURT PERSONNEL MANAGEMENT SYSTEM	CPU QUARTERLY REPORTS	CPU AND CAPJ	TWICE YEARLY FOLLOW-UP/ NO DEADLINE, 1 MAY & 1 OCT.

**COMPONENT FOUR - LEGAL ASSISTANCE**

<p><b>SURVEY TO DETERMINE LEGAL NEEDS AND CONSTRAINTS IN LOW INCOME POPULATION</b></p>	<p><b>CPU QUARTERLY REPORTS</b></p>	<p><b>CPU AND THE DEPARTMENT OF SOCIOLOGY, CATHOLIC UNIVERSITY</b></p>	<p><b>JANUARY 1993</b></p>
<p><b>IDENTIFICATION AND PILOT TESTING OF ALTERNATIVE CONFLICT RESOLUTION FORMATS</b></p>	<p><b>CPU QUARTERLY REPORTS</b></p>	<p><b>CPU</b></p>	<p><b>TWICE YEARLY FOLLOW-UP/ NO DEADLINE, 1 MAY &amp; 1 OCT.</b></p>
<p><b>PRESENTATION AT A PUBLIC FORUM OF RESULTS OF EVALUATION OF ALTERNATIVE METHODS OF CONFLICT RESOLUTION</b></p>	<p><b>CPU QUARTERLY REPORTS</b></p>	<p><b>CPU</b></p>	<p><b>TWICE YEARLY FOLLOW-UP/ NO DEADLINE</b></p>
<p><b>PREPARATION OF A DESIGN FOR A LEGAL ASSISTANCE SUPPORT CENTER AND PREPARATION OF TEN CASE STUDIES ON LEGAL PROBLEMS OF THE POOR</b></p>	<p><b>CPU QUARTERLY REPORTS</b></p>	<p><b>CPU AND CONSULTANT(S)</b></p>	<p><b>TWICE YEARLY FOLLOW-UP/ DEADLINE 1 OCT. 1993</b></p>

<p><b>PRESENTATION AT WORKSHOPS OF THE LEGAL ASSISTANCE SUPPORT CENTER DESIGN AND THE CASE STUDIES</b></p>	<p><b>CPU QUARTERLY REPORTS</b></p>	<p><b>CPU</b></p>	<p><b>TWICE YEARLY FOLLOW-UP/ DEADLINE 1 OCT. 1994</b></p>
<p><b>PRESENTATION OF PROPOSALS FOR IMPROVEMENTS IN DELIVERY OF LEGAL SERVICES TO LOW-INCOME WOMEN</b></p>	<p><b>CPU QUARTERLY REPORTS</b></p>	<p><b>CPU</b></p>	<p><b>TWICE YEARLY FOLLOW-UP/ DEADLINE JULY, 1993</b></p>
<p><b>DEVELOPMENT OF FOUR NATIONAL SEMINARS IN DIFFERENT CITIES TO TRAIN LAWYERS, SOCIAL WORKERS AND OTHERS IN SERVICE PROVISION, TO BE FOLLOWED BY AN IMPACT ANALYSIS OF THIS EFFORT</b></p>	<p><b>CPU QUARTERLY REPORTS</b></p>	<p><b>CPU</b></p>	<p><b>TWICE YEARLY FOLLOW-UP/ DEADLINE, ALL COMPLETED BETWEEN JULY 1993 AND JAN. 1994</b></p>

DEVELOPMENT OF POPULAR LEGAL EDUCATIONAL MATERIAL AND A PLAN FOR THE DEVELOPMENT OF COMPREHENSIVE POPULAR LEGAL EDUCATION PROGRAM, BASED ON RESULTS FROM THE SURVEY OF THE LEGAL NEEDS OF THE POOR	CPU QUARTERLY REPORTS	CPU	TWICE YEARLY FOLLOW-UP/ NO DEADLINE, ON GOING ACTIVITY
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**b. Participation in electoral and political process**

Program activities related to civic education, voter registration and promotion of political participation are developed and implemented by PARTICIPA, an NGO which evolved from the successful community-based voter registration drives conducted prior to the 1988 plebiscite. PARTICIPA is a non-partisan organization which recruits, trains and provides technical and logistical support for program activities through a nation-wide community-based corp of volunteers. In addition, using its volunteer organization, PARTICIPA also conducts seminars (regional and national), round-table discussions, mass media information series, and produces and distributes educational material.

Recommendations for monitoring program output.

INDICATOR(S)	SOURCE(S)	RESPONSIBILITY	FREQUENCY/DATE
DESIGN AND TEST MODULES FOR SECONDARY LEVEL CIVIC EDUCATION	PARTICIPA QUARTERLY REPORTS	PARTICIPA	**TWICE YEARLY FOLLOW-UP/ DEADLINES WILL BE DETERMINED EARLY IN 1993, IN COLLABORATION WITH PARTICIPA
DEVELOP STRATEGY FOR DISTRIBUTION OF EDUCATIONAL MATERIAL IN SCHOOLS THROUGH MOE	PARTICIPA QUARTERLY REPORTS	PARTICIPA	**
ARRANGE FOR CONDUCT OF SEMINARS AND WORKSHOPS FOR TEACHERS IN USE OF CIVIC EDUCATION MATERIAL	PARTICIPA QUARTERLY REPORTS	PARTICIPA	**
NUMBER OF STUDENTS/CLAS S-ROOMS EXPOSED TO CIVIC EDUCATION	PARTICIPA QUARTERLY REPORTS	PARTICIPA	**

CONDUCT REGIONAL AND NATIONAL SEMINARS ON TOPICS RELATED TO ELECTORAL PROCESS AND POPULAR PARTICIPATION	PARTICIPA QUARTERLY REPORTS	PARTICIPA	**
CONDUCT FOUR NATIONAL SURVEYS TO MEASURE PROGRAM IMPACT ON PUBLIC ATTITUDES TOWARDS DEMOCRACY	PARTICIPA QUARTERLY REPORTS	PARTICIPA	YEARLY
PROVIDE A.I.D. WITH COMPREHENSIVE REPORT SUMMARIZING NATIONAL SURVEY RESULTS (AND DATA TAPES ?)	PARTICIPA SPECIAL REPORT	PARTICIPA	YEARLY
DEVELOP AN ON-GOING IN-HOUSE EVALUATION FORMAT TO PROVIDE CONTINUING DATA ON PROGRAM COVERAGE AND EFFECTIVENESS	PARTICIPA QUARTERLY REPORT	PARTICIPA	TWICE YEARLY FOLLOW-UP

<p><b>STRENGTHEN INSTITUTIONAL CAPACITY THROUGH:</b>  <b>A. ORGANIZATIONAL CHANGES AT MIDDLE MANAGEMENT LEVEL;</b>  <b>B. DECENTRALIZATION THROUGH CREATION OF REGIONAL CHAPTERS;</b>  <b>C. DEVELOP PROGRAM FOR PROMOTING FINANCIAL STABILITY</b></p>	<p><b>PARTICIPA QUARTERLY REPORTS</b></p>	<p><b>PARTICIPA</b></p>	<p><b>TWICE YEARLY FOLLOW-UP/ NO DEADLINE, ONGOING ACTIVITY</b></p>
<p><b>OUTWARD PROJECTION OF TECHNICAL ASSISTANCE INTO THE REGION</b></p>	<p><b>PARTICIPA QUARTERLY REPORTS</b></p>	<p><b>PARTICIPA</b></p>	<p><b>TWICE YEARLY FOLLOW-UP/NO DEADLINE, ONGOING ACTIVITY</b></p>
<p><b>CONDUCT ORGANIZATIONAL AND EDUCATIONAL ACTIVITIES TARGETING WOMEN AND YOUTH</b></p>	<p><b>PARTICIPA QUARTERLY REPORTS</b></p>	<p><b>PARTICIPA</b></p>	<p><b>TWICE YEARLY FOLLOW-UP/NO DEADLINE, ONGOING ACTIVITY</b></p>

**c. Congressional analytic capacity and access to consultative services improved**

The DI program activities designed to improve and strengthen the legislative sector are undertaken by the Centro de Estudios y Asistencia legislativa (CEAL), located at the Universidad Catolica de Valparaiso. This activity is carried out under an AID/Chile managed, LAC/DI financed cooperative agreement with the Office of International Programs of the State University of New York (SUNY/OIP). The activities undertaken by CEAL are designed to: Improve Congress' analytic capacity and access to consultative services; provide limited assistance to regional legislatures; initiate a program of assistance to local, regional and municipal governments in Chile, and; develop a strategy for institutional self-sufficiency.

Additionally, the SUNY\CEAL plan for 1993-1995 calls for the initiation of a program of assistance to local, regional and municipal governments in Chile. This effort is designed to provide training and technical assistance to support efforts toward decentralization, following the municipal elections in June, 1992. Indicators for these projected activities are included below.

Recommendations for monitoring program output.

INDICATORS(S)	SOURCE(S)	RESPONSIBILITY	DATE/FREQUENCY
LEGISLATIVE PUBLICATIONS TO IMPROVE CONGRESSIONAL ANALYTIC CAPACITY	CEAL QUARTERLY REPORTS	CEAL	TWICE YEARLY FOLLOW-UP/ ONGOING ACTIVITY
TRAIN CONGRESS MEMBERS AND STAFF IN BILL DRAFTING, LEGISLATIVE PROCESS, AND COMPUTER USE	CEAL QUARTERLY REPORTS	CEAL	TWICE YEARLY FOLLOW-UP/ ONGOING ACTIVITY

EDUCATION OF INDIVIDUALS FROM OTHER SECTORS (PRESS, BUSINESS AND OTHER INTEREST GROUPS IN FUNCTIONING OF CONGRESS	CEAL QUARTERLY REPORTS	CEAL	TWICE YEARLY FOLLOW-UP\ ONGOING ACTIVITY
PUBLICATION OF LEGISLATIVE STUDIES FOR CONGRESSIONAL COMMITTEES	CEAL QUARTERLY REPORTS	CEAL	TWICE YEARLY FOLLOW-UP\ ONGOING ACTIVITY
CONGRESSIONAL INTERNSHIPS FOR FINAL YEAR LAW STUDENTS	CEAL QUARTERLY REPORTS	CEAL	TWICE YEARLY FOLLOW-UP\ ONGOING ACTIVITY
INTERNATIONAL CONSULTANCIES TO THE CHILEAN CONGRESS	CEAL QUARTERLY REPORTS	CEAL	TWICE YEARLY FOLLOW-UP\ ONGOING ACTIVITY
DEVELOPMENT AND PROVISION OF SOFTWARE PACKAGES USEFUL FOR CONGRESSIONAL BUDGETING AND COMMUNICATION WITH CONSTITUENTS	CEAL QUARTERLY REPORTS	CEAL	TWICE YEARLY FOLLOW-UP\ SOFTWARE DEVELOPMENT TO BE COMPLETED BY MARCH, 1993, SOFTWARE PROVISION IS AN ONGOING PROCESS
PROVIDE ASSISTANCE TO LEGISLATURES TO OTHER COUNTRIES IN THE REGION	CEAL QUARTERLY REPORTS	CEAL	QUARTERLY

<b>CEAL/SUNY ACTIVITIES TO ASSIST LOCAL, REGIONAL AND MUNICIPAL GOVERNMENTS</b>			
<b>ESTABLISH A UNIVERSITY DIPLOMA PROGRAM WITH EMPHASIS IN LEGISLATIVE AND MUNICIPAL GOVERNMENT</b>	<b>CEAL QUARTERLY REPORTS</b>	<b>CEAL</b>	<b>TWICE YEARLY FOLLOW-UP\ NO DEADLINE</b>
<b>PROVIDE MA LEVEL TRAINING FOR CEAL STAFF AT SUNY IN LOCAL GOVERNMENT ADMINISTRATIO N AND POLITICAL SCIENCE</b>	<b>CEAL QUARTERLY REPORTS</b>	<b>CEAL</b>	<b>TWICE YEARLY FOLLOW-UP\ NO DEADLINE</b>
<b>TRAIN REGIONAL AND MUNICIPAL GOVERNMENT EMPLOYEES IN ADMINISTRATIV E SKILLS (E.G. COMPUTER USE, BUDGETING, PLANNING)</b>	<b>CEAL QUARTERLY REPORTS</b>	<b>CEAL</b>	<b>TWICE YEARLY FOLLOW-UP\ ONGOING PROGRAM</b>

DEVELOP STUDIES AND CONSULTANCIES TO LOCAL AND REGIONAL GOVERNMENTS ON MANAGEMENT AND SUBSTANTIVE ISSUES	CEAL QUARTERLY REPORTS	CEAL	TWICE YEARLY FOLLOW-UP\ ONGOING PROGRAM
PROVIDE U.S. EXPERT CONSULTANTS IN LOCAL GOVERNMENT	CEAL QUARTERLY REPORTS	CEAL	TWICE YEARLY FOLLOW-UP\ ONGOING PROGRAM
PROVIDE U.S. STUDY-TOUR TRAINING OPPORTUNITIES FOR MUNICIPAL AND REGIONAL GOVERNMENT PROFESSIONALS	CEAL QUARTERLY REPORTS	CEAL	TWICE YEARLY FOLLOW-UP\ DATES TO BE DETERMINED WITH CEAL
PUBLISH A MUNICIPAL GOVERNMENT NEWSLETTER AND OTHER SUBSTANTIVE WORKS ON MUNICIPAL GOVERNMENT	CEAL QUARTERLY REPORTS	CEAL	TWICE YEARLY FOLLOW-UP\ ONGOING PROGRAM
PROMOTE ESTABLISHMENT OF AN ASSOCIATION OF MUNICIPAL GOVERNMENTS	CEAL QUARTERLY REPORTS	CEAL	TWICE YEARLY FOLLOW-UP\ NO DEADLINE

DEVELOP AND IMPLEMENT A STRATEGY FOR ACHIEVING FINANCIAL SELF-SUFFICIENCY FOR CEAL	CEAL QUARTERLY REPORTS	CEAL	TWICE YEARLY FOLLOW-UP ONGOING ACTIVITY
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**Additional activities in municipal development**

Planning is underway for activities to strengthen local, regional and municipal governments under a LAC\DI\RHUDO regional municipal development program. If this plan is approved it will support projects involving municipal and private sector collaboration. Development of indicators for project outputs awaits approval of the program and design of the specific projects.

**RECOMMENDATIONS**

1. The indicators for measuring attainment of the achievement of the DI strategic should be modified in two respects:

a. The measures of public opinion to determine citizens' perceptions of improvements in the responsiveness of their government (legislature, justice, electoral process and selected municipalities) should be strengthened. The data currently being collected by PARTICIPA will be useful, however, the number and specificity of the questions in this survey, which are directed toward the program-targeted sectors of government, must be increased to achieve adequate measurement precision. Additional questions should be developed and pretested as soon as feasible so that baseline data can be obtained promptly. There are two, not necessarily exclusive, options for gathering additional baseline data. The additional questions could be included in the next annual PARTICIPA survey (November, 1993) or they could be included in another survey instrument. One possibility is the CERC which conducts public opinion surveys on a regular basis throughout the year, the results of which are published quarterly in **BAROMETRO CERC**. Based on preliminary discussions with the CERC director Marta Lagos, this appears to be an attractive alternative to waiting until the next PARTICIPA survey goes into the field.

b. Identify a limited number of additional indicators related to of attainment of the strategic objective, which reflect institutional-level activity indicative of increased institutional responsiveness to citizens' needs. Candidate indicators appear in the Program Information Matrix table on page 5.

2. Current program activity related to regional and municipal development is relatively modest, and largely focused on training, provision of services (legal) and promotion of popular participation. Since additional targeted municipal development activities are projected to be developed under the LAC\DI\RHUDO municipal development program during the coming year, municipal development indicators for monitoring and evaluation should be reviewed next year when the program features have been determined.

3. Serious consideration should be given to the formal establishment of a regional service center in Chile for provision of technical assistance to DI programs in the region. This has begun on an informal basis, and PARTICIPA, CEAL AND CPU have each provided significant technical input in their technically specialized areas to other governments in the region. However, much more could be done in this area. The NGOs participating in the Chile\DI program are rich in human resources and technical skills and could provide valuable substantive and operational support to a wide range of DI programs. Areas where Chileans could provide low cost technical support to other countries in the region include, but are not limited to, project design, monitoring and evaluation, computer skills, information management, communication techniques, survey research, personnel management, organizational development, and institutional strengthening. A regional service center would provide a framework and a mechanism for critically needed technical assistance and training to countries in the region at moderate cost.

4. Confusion exists with respect to the rights and responsibilities of the organizations collaborating with PARTICIPA in the annual public opinion survey. There is no contract with ADMARK, the company conducting the survey, nor is there a written agreement with the other collaborating institutions. As a result, a final report summarizing the findings from last year's survey has not been written. Additionally, it is not clear who has access to the raw data files and who would have access to the data to conduct important secondary analyses. AID/Chile is aware of this situation, and is appropriately alert, both to the sensibilities of the personalities involved and the importance of maintaining this collaborative relationship. A satisfactory solution should be worked-out soon to permit these data to be used to the greatest benefit of the program.

5. The CPU survey, directed at low income households, to determine needs for and access to legal assistance should be replicated at least once before the end of the project. This would provide data to estimate program impact for this important program component.

# PRESUPUESTO

(Valores expresados en \$, tipo de cambio US\$ 1 = 367)

AREAS DE GASTO	TEMA Ó LINEA DE ACCION	PRESUPUESTO TOTAL	OBLIGADO A LA FECHA	GASTADO A ABRIL 1983	SALDO SOBRE FONDOS OBLIGADOS	SALDO SOBRE FONDOS TOTALES
<b>AREAS ACADEMICAS</b>						
CAPACITACION JUDICIAL	SUBTOTAL AREA	982,022	269,438	139,650	129,788	842,372
	ESTUDIOS NECESIDADES CAPACIT.	76,313		34,972		41,341
	CURSOS Y VISTAS	606,838		52,534		554,303
	CAPACITACION A DISTANCIA	80,139		694		79,445
	PROPUESTA ESCUELA JUDICIAL	109,477		38,958		70,519
	PREPARAC. JUECES INSTRUCTORES	109,255		12,492		96,763
ADM. DE TRIBUNALES	SUBTOTAL AREA	482,105	147,811	99,273	48,538	382,832
	DISEÑO SISTEMA BIBLIOTECAS	16,974		3,824		13,150
	PROP. BCO. AUTOM. JURISPRUD.	76,960		8,634		68,326
	FORTALECIMIENTO INSTIT. CAPJ	19,718		15		19,703
	MEJORAMIENTO SIS. ESTADISTICAS	51,499		0		51,499
	ANAL. Y MEJORAMIENTO OPER. TRIB.	131,060		85,457		45,604
	ANAL. Y PROP. DESCENTRALIZAC. CAPJ	49,855		1,343		48,512
	REFORZAMIENTO UNID. PLANIF. CAPJ	46,526		0		46,526
	EVAL. PLAN INFORMATICO CAPJ	31,588		0		31,588
	PROP. SIST. PERSONAL	22,411		0		22,411
	ACTIVIDADES CAPACITACION	35,512		0		35,512
	ASISTENCIA LEGAL	SUBTOTAL AREA	347,672	189,959	92,058	97,901
ENCUESTA NACIONAL		75,090		54,294		20,796
SIST. ALTERN. RESOL. CONFLICTOS		85,125		6,258		78,867
APOYO CREACION CENTRO		37,785		4,710		33,075
ASISTENCIA LEGAL A MUJERES		72,690		16,548		56,142
EDUCACION LEGAL POPULAR		76,982		10,249		66,734
<b>SUBTOT. AREAS ACADEMICAS</b>		<b>1,811,799</b>	<b>607,208</b>	<b>330,982</b>	<b>276,226</b>	<b>1,480,818</b>
<b>ADMINISTRACION PROYECTO</b>						
SALARIOS		775,426	549,400	342,383		433,043
EQUIPAMIENTO		180,690	180,690	171,065		9,625
OTROS CARGOS DIRECTOS		125,119	70,980	61,928		63,191
<b>SUBTOTAL ADMINISTRACION PROY.</b>		<b>1,081,235</b>	<b>801,070</b>	<b>575,376</b>	<b>225,694</b>	<b>505,859</b>
AUDITORIAS		47,904	24,477	11,156	13,321	36,748
EVALUACIONES		59,062	24,145	4,070	20,075	54,992
<b>TOTAL</b>		<b>3,000,000</b>	<b>1,456,900</b>	<b>921,584</b>	<b>535,316</b>	<b>2,078,416</b>

ATTACHMENT 4.

# PRESUPUESTO

(Valores expresados en \$, tipo de cambio US\$ 1 = 367)

AREAS DE GASTO	TEMA Ó LINEA DE ACCION	PRESUPUESTO TOTAL	OBLIGADO A LA FECHA	GASTADO A ABRIL 1993	SALDO SOBRE FONDOS OBLIGADOS	SALDO SOBRE FONDOS TOTALES
<b>AREAS ACADEMICAS</b>						
CAPACITACION JUDICIAL	SUBTOTAL AREA	982,022	269,438	139,650	129,788	842,372
	ESTUDIOS NECESIDADES CAPACIT.	76,313		34,972		41,341
	CURSOS Y VISITAS	606,838		52,534		554,303
	CAPACITACION A DISTANCIA	80,139		694		79,445
	PROPUESTA ESCUELA JUDICIAL	109,477		38,958		70,519
	PREPARAC. JUECES INSTRUCTORES	109,255		12,492		96,763
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	ENCUESTA NACIONAL	75,090		54,294		20,796
	SIST. ALTERN. RESOL. CONFLICTOS	85,125		6,258		78,867
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	ASISTENCIA LEGAL A MUJERES	72,690		16,548		56,142
	EDUCACION LEGAL POPULAR	76,982		10,249		66,733
<b>SUBTOT. AREAS ACADEMICAS</b>		<b>1,811,799</b>	<b>607,208</b>	<b>330,982</b>	<b>276,226</b>	<b>1,480,819</b>
<b>ADMINISTRACION PROYECTO</b>						
SALARIOS		775,426	549,400	342,383		433,043
EQUIPAMIENTO		180,690	180,690	171,065		9,625
OTROS CARGOS DIRECTOS		125,119	70,980	61,928		63,191
<b>SUBTOTAL ADMINISTRACION PROY.</b>		<b>1,081,235</b>	<b>801,070</b>	<b>575,376</b>	<b>225,694</b>	<b>505,859</b>
<b>AUDITORIAS</b>		<b>47,904</b>	<b>24,477</b>	<b>11,156</b>	<b>13,321</b>	<b>36,747</b>
<b>EVALUACIONES</b>		<b>59,062</b>	<b>24,145</b>	<b>4,070</b>	<b>20,075</b>	<b>54,997</b>

ATTACHMENT 5

INTERIM EVALUATION (6/14/93)

CHILE JUSTICE SYSTEM IMPROVEMENT PROGRAM (CJSIP).

COMPONENT: ACCESS TO LEGAL INFORMATION

AND COURT ADMINISTRATION IMPROVEMENT

Leonardo Schvarstein  
Organizational Consultant  
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1. Object of Evaluation and Methodology.
2. Historical Background.
3. Present situation.
4. Conclusions and recommendations.
5. List of documents and publications consulted.
6. List of agencies and individuals consulted.
7. Attachment 1: Program Description.

## 1. OBJECT OF EVALUATION AND METHODOLOGY.

According to the Terms of Reference issued by USAID/CHILE, the objective of the evaluation has been:

1. To review actual versus planned progress toward the outputs, purpose and goal of this component of the project.
2. To determine what impact has been brought about by or is associated with the effort.
3. To assess the continuing validity and relevance of the effort and to suggest modifications as may be required.
4. To help identify areas which could be addressed effectively in the second half of the project.

Data collection for the evaluation has been through interviews with officials, judges, participants in projects activities, governmental authorities, professionals and politicians involved in the reform process, and organizations who have been involved in the activities.

Information collected is intended to be useful to the grant's project managers and for USAID/CHILE to determine relevance, effectiveness, efficiency, impact and sustainability of the effort.

## 2. BACKGROUND.

In March 1989, USAID/CHILE awarded a grant to the CORPORACION DE PROMOCION UNIVERSITARIA (CPU) to improve the Administration of Justice in Chile. This pilot project lasted two years and was the basis for the CHILE JUSTICE SYSTEM IMPROVEMENT PROGRAM (CJSIP).

Under the first grant, a document prepared by Jesse Cassaus was presented by Checchi and Company Consulting, Inc., in September 1990. This report ("Strengthening and Improving the Administration of Courts in Chile") was the basis for the design of the current court administration component. It proposed a global reform and modernization of the administrative system of the Judiciary (management of national resources, administration of local courts, and caseload management).

The document, with an extensive list of recommendations and no priorities for them, has to be understood in the social and political context at the time it was prepared. A new democratic government was ruling the country after years of dictatorship and there were great expectations for legal reform. At the same time, the Supreme Court was perceived, by the new government, as an instrument of the dictatorship, that would present serious obstacles to the democratic initiatives that were to be implemented in the sector. As a result, major overall reform of the administration of courts were felt to be necessary, and innovations seemed to be attainable. The result was an overly ambitious project design.

The general objective of the component was:

"To generate recommendations, development and impulse of public policies that will lead and contain elements of change that bring rationality and efficiency to the Chilean Judicial System."

The specific objective was:

"To provide assessment to the Corporación Administrativa del Poder Judicial (CAPJ) in order to improve the functioning of the system and of the courts considered as single components."

At the time the project was designed, CAPJ had recently been created and represented an intention of emphasizing the role of administration in the development of the Judiciary. The result was adoption of the concept that administrative rationality is complementary to the judiciary's traditional judicial function.

The project included two court administration component (see Attachment 1 for complete descriptions):

#### COMPONENT 1: ACCESS TO LEGAL INFORMATION.

##### 1.1. LIBRARY SYSTEM.

"Assisted through this component, the court system will decide on the content, form and organization of its library system. The system is likely to consist of a central facility at the Supreme Court, branch facilities at the regional Courts of Appeal, and basic legal documents in individual courts."

##### 1.2. AUTOMATED DATABANK FOR JURISPRUDENCE.

"This subcomponent will assist the court system in determining what court decision information should be included in automated databanks for jurisprudence."

#### COMPONENT 2: COURT ADMINISTRATION IMPROVEMENT.

"CPU will enter into an agreement with CAPJ to improve the functioning of the court administrative system through the activities listed below."

##### 2.1. INSTITUTIONAL STRENGTHENING OF THE CAPJ.

"This subcomponent will analyze CAPJ functions and services and recommend specific changes and/or additional services that CAPJ should provide within its current funding expectations."

##### 2.2. IMPROVED JUDICIAL STATISTICS.

"This subcomponent will assist in improving the system for collecting and reporting statistical information on court operations."

##### 2.3. IMPROVED OPERATIONS OF INDIVIDUAL COURTS.

"This subcomponent will assist in improving individual court operations through pilot

activities in six different kinds of courts: appeals, criminal, civil, mixed, labor and juvenile."

#### 2.4. DECENTRALIZED COURT ADMINISTRATION.

"This subcomponent will analyze the operations of the four regional CAPJ offices recently authorized and their relation to and use by CAPJ and the courts they serve. Recommendations for appropriate changes will be made."

#### 2.5. PLANNING.

"This subcomponent will help CAPJ to improve its planning capacity by developing: (i) a long range plan for physical facilities renovation and expansion, including standards for space planning, the creation and location of new courts, the maintenance of facilities and new construction; and (ii) caseload standards to be followed."

#### 2.6. EXPANSION OF AUTOMATION SERVICES.

"This subcomponent will support an evaluation of CAPJ's current computer support services. With the results, a systematic program for expansion to other courts will be designed, including a long term acquisition plan for equipment and services."

#### 2.7. PERSONNEL SYSTEM.

"Court system operational changes will require personnel management modification. Personnel system analyses and redesign will include establishing job descriptions, classifications and salary levels, and the design of a recruitment and evaluation system for administrative personnel."

As it can be appreciated, successful implementation of almost all the activities presupposed a strong and complementary relationship between CPU and CAPJ. However, CPU anticipated potential difficulties at the initial stages and took steps to implement alternative activities which did not require the cooperation of the CAPJ. An Internal Operative Document (Third draft 9/17/91) stated that:

"if we face a dubious, or frankly negative position of the Supreme Court in relation with our efforts, our task will necessarily be centered in studies and investigations, trying to introduce elements for discussion, as a way of preparing the solutions that might be introduced when the situation has positively evolved."

We assume that these considerations were made under the perception that the beneficiary institution (CAPJ) might not buy into CPU objectives. Two other factors should be noted in understanding the context and background of these components:

(i) Together with the explicitly stated objectives, CPU has implicit objectives, such as identifying and developing a critical mass of key people for legal reform, and positioning itself as a referent institution in the field of court administration. Although CPU was conscious of not having the requisite technical capacity in this subject, the expectation was to acquire expertise through the development of the project.

(ii) Modalities used for the implementation of each of the subcomponents would be

direct action by regular staff, requests for proposals and agreements with other institutions.

### 3. PRESENT SITUATION.

Almost two years have passed since the project design, one year of project operations and three years of CAPJ's operation. CAPJ is unanimously perceived as very efficient, small organization working on an outsourcing basis.

The government has launched a five years effort to duplicate the budget of the Judiciary. Forty per cent of these new resources are being dedicated to raise salaries, 30% to improve existing facilities and 30% to the creation of new courts.

There are significant changes in context. The government has been unable to pass its legislative reform package through Congress. The original broad package has been curtailed and it seems that there has been a change of paradigm, shifting from "do what you must" to "do what you can". In some of the interviews we have even been told that the present paradigm is "do what you can, even if it is wrong".

At the same time the Supreme Court is in a slow process of change, new members have been appointed, and the Court appears to be more open to administrative innovations. Recently, the Director of CAPJ sent a letter to USAID/CHILE stating that the President of the Supreme Court is willing to arrive at some kind of agreement for technical assistance in court administration. On the other hand, no progress has been achieved in reaching a cooperative relationship between CPU and CAPJ. CAPJ's officers perception is that CPU has tried to impose its own priorities and, up to a certain point, CPU admits this fact. We have found reciprocal prejudices between the two institutions, and the result has been that objectives which were set forth in the project design have not been adopted by the implementing institution or are implicitly modified.

Components of the project are loosely coupled and inadequately staffed. Rotation of staff has been excessive and there are no professionals of administration working in the project now. This fact has inhibited the development of a learning process in the organization.

Operational plans have been continually rescheduled. No institutional will of implementing reforms or innovation has been induced in the judiciary or in the CAPJ. We find in this component of the project the same shift in paradigm to which we have made reference above.

The present situation of the original subcomponents of the project is as follows:

#### COMPONENT 1: ACCESS TO LEGAL INFORMATION.

##### 1.1. LIBRARY SYSTEM.

Under an agreement with the "Instituto de Estudios Judiciales", under the "Asociación de Magistrados", a study was completed by Judge Rafael Huerta Bustos. The final report is under revision, and it is supposed to be presented to CAPJ by the end of this month. There is, however, no institutional commitment from the Supreme Court to act on these recommendations.

## 1.2. AUTOMATED DATABANK FOR JURISPRUDENCE.

Although the original project design called for the development of a national database on jurisprudence, the only activity related to this subcomponent is the work that María Cecilia Yañez, a lawyer and investigator, is doing in the Court of Appeals of Santiago. Since July 1992 she has been gathering jurisprudence issued by this court. Nine reports have been presented to the judges, each of them on a specific subject. As a result of an agreement with a publisher, "Editorial Conosur," the reports are being published since March 1993 as an attachment to a specialized journal, the "Gaceta Jurídica."

Although the court has not shown any institutional commitment to this activity, CPU's intention is to continue with it for one more year. It is expected that by that time the court, having found the benefits of the activity, will assume it by itself.

## COMPONENT 2: COURT ADMINISTRATION IMPROVEMENT.

### 2.1. INSTITUTIONAL STRENGTHENING OF THE CAPJ.

The only activity that can be related to this subcomponent is a "Seminar on Strategic Planning", for the public sector, that took place in November 1992, with the cooperation of the "Universidad Católica de Santiago". Some members of the technical staff of CAPJ participated on an individual basis.

No conclusions or recommendations for improved administration of courts were produced by this activity.

No other activities have been carried out in this subcomponent.

### 2.2. IMPROVED JUDICIAL STATISTICS.

No activities have been carried on under this component, due to the inability of establishing a cooperative relationship between CPU and CAPJ.

A nonproject sponsored activity, an "International Meeting on Judicial Statistics and Court Delay" will be held in July 1993, with the cooperation of the National Center for State Courts (USA). Funding for this activity is supplied by AID/S LAC/DI's contract with the National Center.

### 2.3. IMPROVED OPERATIONS OF INDIVIDUAL COURTS.

#### 2.3.1. VISIT AND LECTURE OF WILLIAM DAVIS.

Between the 23rd and the 25th March 1992, USA expert William Davis met with the board of the project and lectured in the Instituto de Estudios Judiciales.

#### 2.3.2. INVESTIGATION ON WORKING OPTIMAL STANDARDS IN LOWER COURTS.

At the beginning of 1992, a request for proposals was issued by CPU conduct research into the operation of lower courts. The purpose was to reach some conclusions on the workload of courts, the number of officials that were required in each court and the task description for administrative roles. Nine courts were selected, and a final meeting with the judges and the staff of the project was held in October 1992. The only conclusion seems to be the need for

further studies. No new activities have been planned. While no concrete results were achieved, a positive effect, the participation of members of each court in the investigation and the motivation that this participation induced (Hawthorne effect), seems to have been neglected.

### 2.3.3. STUDY OF THE ROLE OF "SECRETARIOS" AND POSSIBLE REASSIGNMENT IN THEIR FUNCTIONS.

Under a request for proposals, two investigators (Alex Carocca Pérez and Carlos Cerda Fernández), conducted a survey of 126 "secretarios" (39% of total). It is to be noted that Carlos Cerda Fernández is a judge of the Courts of Appeals of Santiago. The final report is under revision and conclusions and recommendations are intended to be published. Recommendations imply a modification in procedural rules, and have to be implemented by law.

Conclusions of this survey could have been anticipated without such an effort: it is evident that "secretarios" are mostly dedicated to administrative tasks, although they are lawyers. For this very same reason, everyone could imagine that they would prefer to be judges if asked.

The main recommendation of the study - turn "secretarios" into judges, with two judges for each lower court, and assign an administrator to the court - needs a legal reform for implementation.

### 2.3.4. ORGANIZATIONAL DIAGNOSTIC AND IMPROVEMENT OF THE COURT OF APPEALS OF SANTIAGO.

In August 1992, pursuant to a CPU request for proposals, a management consultant firm (Invertec S.A.) was selected for this task. A final report has been delivered to CPU in May 1993, and it is supposed to be discussed with the judges of the Court soon.

Four judges of the Court are working for commitment of the rest of the judges (21) as to the implementation of recommendations. No institutional commitment of CAPJ has been achieved.

Some of the recommendations of the study may be applicable to other courts. This is the case for the designation of a court administrator and a committee of judges with administrative skills to supervise him. Other considerations are very general: train employees for increasing productivity, motivation, creativity and innovation; develop a management information system; elaborate a Procedures Manual.

### 2.3.5. STUDY ON SPECIALIZATION OF COURTS.

Terms of reference for a request for proposals are being studied. Activities, originally supposed to be finished in August 1993, are being rescheduled.

### 2.3.6. PRIORITIES IN ADMINISTRATION OF COURTS.

Under this activity, which was included in the operational plan 1992-1993, six interviews were carried out (US expert William Davis, Colombian expert Eduardo Aldana Valdes, judge Mario Garrido Montt -member of the Supreme Court-, lawyer Davor Harasic Yaksic -professor and member of the "Consejo de Defensa del Estado"-, judge Carlos Cerda Fernández -professor and member of the Court of Appeals of Santiago- and judge Juan

Manuel Escandon- 6th Criminal Court of San Miguel).

Participants seem to have been chosen for their availability and expertise (foreign experts) and for their experience and commitment to reforms (Chilean participants). A final report is being prepared and a meeting with the staff of the project is scheduled to discuss this report. No further activities have been planned.

Criteria for selecting the persons interviewed are not clear, relevant people have not been interviewed and CAPJ has not participated in an activity that is of its own.

This activity is an example of what we mean when we say that the paradigm for the component has been "do what you can".

#### 2.3.7. EXPANSION OF KNOWLEDGE ON COURT ADMINISTRATION.

A conference with experts was scheduled by the operational plans of 1992-1993. Only preliminary work have been made, and it is being rescheduled.

#### 2.4. DECENTRALIZED COURT ADMINISTRATION.

No activities have been carried on under this component, due to the inability of establishing a cooperative relationship between CPU and CAPJ.

#### 2.5. PLANNING.

No activities have been carried on under this component, due to the inability of establishing a cooperative relationship between CPU and CAPJ.

#### 2.6. EXPANSION OF AUTOMATION SERVICES.

No activities have been carried on under this component, due to the inability of establishing a cooperative relationship between CPU and CAPJ.

#### 2.7. PERSONNEL SYSTEM.

No activities have been carried on under this component, due to the inability of establishing a cooperative relationship between CPU and CAPJ.

### 4. CONCLUSIONS AND RECOMMENDATIONS.

The outcomes of these two project components are similar to the government's efforts to overhaul the Chilean Judiciary. In both cases, the original objectives could not be reached. Activities have had little impact and bear little not relevance to the project's initial goals. Institutional commitment seems not to be an issue at this point and is no longer being sought. The implicit purpose of identifying and developing a critical mass of key people for legal reform has become explicit, and does not seem to be very successful in this area.

At the same time, CAPJ's image has risen among judges, government officials and lawyers. In fact, many of the administrative reforms carried out by CAPJ are at the forefront of court administration in Latin America and CAPJ has become a potential technical assistance provider to other courts in the hemisphere.

The result of our evaluation is a recommendation for reconsideration of this component. It is not a question of reprogramming activities, but of radically changing the approach.

CPU has strengthened its ties to groups within the justice system committed to judicial reform. CPU's close relationship to the "Asociación de Magistrados and the Instituto de Estudios Judiciales" is an example of the ties which CPU has established with judges. This strength should be emphasized in a redesign of the project.

At the same time, CPU has not managed to improve its technical knowledge on court administration and is not in a position of carrying direct actions in this area. This weakness prevents it from being a court administration technical assistance provider in the redesign of the project.

On the other hand, CAPJ has enough financial and technical resources to carry out its plans. An agreement with USAID/CHILE could provide them technical assistance and information on very specific subjects on which AID could find available expertise.

Therefore, based on the precedent conclusions, the following are my recommendations, ordered by priority.

**1. ESTABLISH AN AGREEMENT BETWEEN THE SUPREME COURT AND USAID/CHILE.**

Provide CAPJ with technical assistance and information on specific subjects such as:

- \* methodologies and evaluation of judicial statistics.
- \* organization of administrative offices in local courts.
- \* case management and tracking.
- \* court delay reduction.
- \* judicial training.
- \* space management.

CAPJ does not need AID's financial assistance to carry out reforms or projects. Additionally, USAID/Chile does not have the capability to adequately monitor these activities. Consider the possibility of establishing CPU as a fund transferring channel to CAPJ.

**2. DISCONTINUE ALL THE PROJECT ACTIVITIES ORIENTED TO AN ASSESSMENT OF CAPJ.**

We are referring particularly to subcomponents:

- 1.2. Automated Databank for Jurisprudence.
- 2.1. Institutional strengthening of the CAPJ.
- 2.2. Improved judicial statistics.
- 2.4. Decentralized Court Administration.
- 2.5. Planning.
- 2.6. Expansion of automation services.
- 2.7. Personnel System.

### 3. DEVELOP A STRATEGY FOR IMPROVING THE INSTITUTIONAL CAPACITY OF CPU IN THIS SUBJECT.

CPU has expressed the desire to be a "player in this game", but has not managed to develop technical expertise. Assign a specialized administrator to this component of the project on a permanent basis. Make information on court administration available to CPU. Plan joint study trips with CAPJ's technical staff. Make contact with other AID projects that have dealt with the same subject.

### 4. TRANSFORM IMPROVED OPERATIONS OF INDIVIDUAL COURTS (Subcomponent 2.3) INTO TRAINING ACTIVITIES.

The results of some of the surveys and studies that have already been carried out should be translated into concrete training activities (Workshops, seminars). The Administration of Courts and the Judicial Training components of the project should be linked through training activities on court administration for judges, "secretarios" and employees.

Particularly, analyze the following activities:

#### (i) SEMINAR FOR REGIONAL COURTS OF APPEALS, BASED ON THE ORGANIZATIONAL DIAGNOSIS OF THE COURT OF APPEALS OF SANTIAGO.

This activity has also been suggested by CAPJ, and could be the basis for a more cooperative relationship between both institutions.

#### (ii) WORKSHOP ON WORKING STANDARDS IN LOWER COURTS, AND PARTICIPATION OF EMPLOYEES.

Based on already available investigations, invite judges to share their experiences based on a "training among peers" approach.

#### (iii) SEMINAR ON ROLE OF "SECRETARIOS".

Use existing survey to invite "secretarios" to think about more efficient approaches to their administrative tasks. Discuss possible reassignments in their functions.

### 5. PUBLICATIONS ON ADMINISTRATION OF COURTS.

For each of the precedent events, stimulate universities, organized groups and experienced individuals to present papers on this subject.

Publications and precedent suggested activities should contribute to raise administration of courts as an important issue among the judiciary. Emphasis should be placed in practical approaches rather than theoretical knowledge.

### 6. URGE THE COURT OF APPEALS OF SANTIAGO TO PARTICIPATE DIRECTLY IN THE WORK ON JURISPRUDENCE INFORMATION (Subcomponent 1.1).

Unless institutional commitment to the continuation of this task is expressed, the activity should be discontinued.

## 5. LIST OF DOCUMENTS AND PUBLICATIONS CONSULTED.

- \* STRENGTHENING AND IMPROVING THE ADMINISTRATION OF COURTS IN CHILE. Jesse Cassaus. September 1990.
- \* PROGRAM DESCRIPTION. Chile Justice System Improvement Program (CJSIP). Agreement No. 513-0642-A-00-1064-00.
- \* INTERNAL OPERATIVE DOCUMENT. Third draft. 9/17/91. CPU-USAID Project. Administration of Courts Area.
- \* MONITORING AND EVALUATION PLAN FOR DEMOCRATIC INITIATIVES PROGRAM. USAID/CHILE. Prepared by Robert Klein. November 1992.
- \* LA CORPORACION ADMINISTRATIVA DEL PODER JUDICIAL. Antecedentes legales y organizacionales. Comentarios a manera de diagnóstico. Documento de Trabajo N° 2. CPU. October 1992.
- \* ACTIVIDADES DE APOYO DE LA ADMINISTRACION DE JUSTICIA EN CHILE. María Josefina Haeussler F. Published by CPU en Administración de Tribunales. Tomo II.
- \* RECOPIACION DE PROPUESTAS RELACIONADAS CON EL FORTALECIMIENTO INSTITUCIONAL DE LA CAPJ Y DEL SISTEMA DE ADMINISTRACION DE TRIBUNALES. Documento de Trabajo N° 3. CPU. October 1991.
- \* LA GESTION JUDICIAL. Ivan Lavados Montes y Juan Enrique Vargas Viancos. CPU. January 1993.
- \* DIAGNOSTICO Y MEJORAMIENTO ORGANIZACIONAL DE LA CORTE DE APELACIONES DE SANTIAGO. Preliminary document prepared by INVERTEC S.A. by assignment of CPU.
- \* DETERMINACION DEL ROL DE LOS SECRETARIOS DE LOS JUZGADOS DE LETRAS Y ANALISIS DE UNA POSIBLE REASIGNACION DE LABORES. Preliminary document prepared by Alex Carocca Perez, investigator, and Carlos Cerda Fernández, academic supervisor.
- \* Operational Plans and internal memoranda of CPU related to the project.
- \* BASES Y DEFINICIONES DEL PROGRAMA DE ACCION DEL PODER JUDICIAL. Internal document of CAPJ.
- \* CPU INFORMATIVO. N° 1 (August 1992), N° 2 (October 1992), N° 3 (December 1992), N° 4 (May 1993).
- \* ORGANIZACION DE LA ADMINISTRACION DE LA JUSTICIA. Paper by Germán Hermosilla Arriagada.
- \* PODER JUDICIAL Y POLITICA EN CHILE. Paper by Hugo Fruhling.
- \* PODER JUDICIAL Y SISTEMA POLITICO. LAS POLITICAS DE MODERNIZACION. Paper by Carlos Peña González.
- \* SISTEMA DE AUTOCONSULTA JUDICIAL. Booklet prepared by CAPJ.

## 6. LIST OF AGENCIES AND INDIVIDUALS CONSULTED.

### \* CPU.

\* RODOLFO ALDEA. Responsable for this component of the project.

\* MARCOS LILLO. Assitant.

\* MARIA CECILIA YAÑEZ. Investigator.

### \* CAPJ.

\* LUIS MANRIQUEZ. Director.

\* CARLOS GONZALEZ. Sub-Director.

\* MARIA JOSEFINA HAEUSSLER. Sub-Directora de Estudios y Planificación.

\* OMAR REBOLLEDO. Director Depto. Finanzas y Presupuesto.

\* CLAUDIO FIGUEROA. Responsable de Contraloría.

\* SERGIO DEL SOLAR. Director Interino de Informática.

### \* INVERTEC IGT S.A.

\* IVAN VERA. Manager.

\* EMANUEL FRIEDMAN. Consultant.

\* DAVOR HARASIC. Lawyer, Counselor of the Consejo de la Defensa del Estado, has assessed the Organizational Diagnostic of the Court of Appeals of Santiago.

**ATTACHMENT 6**

**EVALUATION OF LEGAL ASSISTANCE COMPONENT**

**Bennett Brummer  
July 1993  
Santiago, Chile**

## I. BACKGROUND OF THE ASSIGNMENT

The evaluation was based on: an intensive site visit by the team of evaluators, review of relevant written materials prior to, during and after the on-site visit; numerous presentations and interviews; submission of an immediate oral report to the grantor and grantee upon our exit; and submission of this Final Draft Report.

As the member of the evaluation team most familiar with the provision of legal representation to the poor, I was asked to focus on the Legal Assistance<sup>1</sup> Area ("LAA") of the project. I was asked to submit a written report to the team leader based on written terms of reference. The report was to evaluate current project objectives and activities, and suggest directions for the future.

No self-study was prepared by the *Corporacion de Promocion Universitaria* ("CPU") in advance of the visit. The CPU did send a relatively large quantity of printed material, including a few books. However, this material was not particularly relevant and provided little analysis of the project. The material was not presented in an organized manner or accompanied by any description of its possible use.

The initial meetings with CPU, which were ostensibly designed to provide insight into the project and its context, were not very helpful. In preparation for the evaluation, CPU tentatively scheduled a large number of interviews, subject to the team's approval. The persons scheduled were relevant, and the information they provided was useful to me in the evaluation process.

## II. GENERAL BACKGROUND

### A. POLITICAL

The national government appears to be interested in legal services, but has not given this area the same level of priority it has given to other social welfare areas, such as education, housing and health.

The government recognizes that the legal services delivery system needs considerable improvement. The government would like to expand the legal services program nation-wide and is supporting legislation intended to accomplish this and other justice reforms. With the support of the government, international funds are also being used to establish pilot projects to improve services at *Corporacion de Asistencia Judicial* ("CAJ") (Legal Services Corporation), the predominant provider of legal services. One pilot project involves approximately \$600,000 from the European Economic Community and is experimenting with mobile offices, increasing the number of social workers on the delivery team and using attorneys rather than interns. Additional funds for legal services are apparently available through a line of credit from the International Development Bank.

There will be national elections in December and a change of administration early next year.

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1. The terms "legal assistance" and "legal services" are used interchangeably. These terms relate to handling legal matters, including both civil and criminal matters, for low-income people.

There is a continuing national trend toward decentralization, and the role of the municipalities is increasing rapidly. The newly elected mayors have an interest in providing their constituents with legal services. Municipalities are creating *consultorios*, based on an innovative focus on the public safety (*seguridad ciudadana*) aspects of legal services, in wealthier municipalities such as Las Condes and Providencia.

## **B. LEGAL**

The confluence of three factors appears to complicate the development of democratic, legal services *institutions* in Chile: the small number of attorneys operating in the legal services field, the influence of friendship and personal relationships in Chilean legal culture, and the insularity of the legal profession in academia and legal services.

The Chilean legal community, in general, is relatively small and the segment concerned with providing legal services is obviously much smaller. As might be expected, the latter is also somewhat isolated from the rest of the legal community.

Personal friendship and connections appear to play a somewhat larger role in Chilean society, or at least Chilean legal society, than in the United States. There are two significant implications of the small number of people and the friendship dynamic: 1) Personal relationships can be an obstacle to the development of institutional relationships. (At times, the development of institutional relationships would be contrary to the interest in maintaining personal power and friendship relationships.) And, 2) there is an inherent conflict between the effective application of impersonal management principles, such as quality control, and relationships based on friendship, especially insofar as friendship requires overlooking shortcomings or faults.

## **C. LEGAL EDUCATION**

Legal education does not include education or skills development in the area of administration. Thus, lawyers are often ill prepared when called upon to design administrative systems or to act as managers of people or finances.

The situation is more problematic than in the United States, in that Chilean legal education is more insular because law students are not required to have had academic exposure to other disciplines. This separation also has a negative impact on perspectives and values which are an important part of the foundation of a democratic society.

Between completion of course work and admission to the bar by the Supreme Court, applicants for admission ("*postulantes*" or "postulants") are mandated by law to serve as interns (or law clerks) representing the poor for six months. This service is uncompensated.

The three major law schools maintain clinical programs ("*clnicas*") which are generally highly regarded. The students in these programs handle relatively few cases compared to the number handled by the postulants or lawyers at CAJ.

Many lawyers and judges appear to be dissatisfied with the present legal culture and structure. However, they often appear to be prisoners of that culture. They also appear to have unrealistic expectations for reform based on the ideas that: 1) education and enlightenment will yield juridical conduct that is inconsistent with the fundamental functions of the existing system (civil law judges will act with the freedom and impact of

common law judges), and 2) the future will be independent of the social forces and fundamental realities which are presently problematic.

#### **D. THE LEGAL SYSTEM**

There is a greater emphasis on the obligation of Chilean criminal judges to protect the accused than in the United States. This is a great advantage when the system works as it should, and a great disadvantage when it does not. There is no public prosecutor.

People are often arrested in accordance with a very low legal standard, "*sospechas fundadas*", which appears to be very similar to that used in the United States. However, Chilean criminal judges, due to excessive workloads, often cannot comply with their legal obligation to personally interview people who are arrested. This responsibility cannot be met even through informal (and improper, if not illegal) use of judicial staff (*actuarios*). Thus, the judicial system relies on the five-day detention period provided by law to reduce its workload and then releases detainees with no recourse or recompense. This is not unlike what prosecutors often do in the United States.

In practice, the defense function seems to be defined so that it is too early for the defense to act, until it is too late. The rights and procedures established in a 1989 reform appear to have had little or no impact on representation of the poor. The results of the judicial process are virtually determined by the judge's investigation during the *sumario*. There was no official role for the defense at that stage until 1989, when defense lawyers were permitted to present evidence. In practice, lawyers for the rich have traditionally acted during the *sumario*. The legal reform apparently makes little difference to the poor because their lawyers do not generally present evidence during the *sumario* and focus primarily on conditions of release.

As a practical matter, although not as a matter of law, arrestees have to prove their innocence. I am not certain whether this is true to a greater degree than in the United States.

Virtually everyone, government officials, judges, attorneys and academics, expressed the view that the legal services delivery system needs dramatic improvement.

#### **E. CAJ: THE PREDOMINANT PROVIDER OF LEGAL SERVICES**

CAJ was created by law in 1981 as the successor to the *Colegio de Abogados* for the purpose of providing legal services to the poor. It has extremely broad responsibilities and must represent both complainants and the accused in both criminal and civil matters.

CAJ is a private corporation operating under the Minister of Justice. However, only 30% of its funding comes from the national government. Seventy percent comes from the municipalities.

Like most legal services providers, its resources are very limited and its workload is excessive. It has received relatively little support from the national government. Not surprisingly, its services do not generally enjoy a reputation for excellence.

One judge characterized CAJ advocacy at the trial level as very careless, with often dramatically bad consequences. As an example, the judge described one case in which a poor person, who had a legal right to redress, was suddenly and unjustly (but

legally) evicted from his rented room simply because a CAJ attorney failed to present evidence on his behalf.

The lawyers are poorly paid. Little is done to recognize the importance of their work or otherwise provide satisfaction for them. Lawyer turnover is said to be high. There are, however, a number of very dedicated lawyers on staff. An indicator of dedication used by one CAJ lawyer was whether a lawyer stayed at CAJ more than two years.

Much of the work at CJA is done by *postulantes* and social workers. The postulants' six-month term of service insures that they will turn over faster than many of the cases they are working on, causing tremendous inefficiency and creating a tremendous need for training and supervision.

CAJ staff appears eager to have the support necessary to develop themselves professionally, provide better service and improve the institution they work for.

The working conditions that I witnessed at CAJ were poor. The physical plant was shabby. Manual typewriters were being used and I was told that employees lacked access even to those because there were an insufficient number of them. Very little automation was in evidence.

These working conditions compare very poorly to those I witnessed in the courts, especially the civil courts. The level of technology available in the courts appears to be steadily improving.

The existence of these poor conditions exacerbates the problems inherent in attracting, retaining and training attorneys and other staff to provide legal services.

Despite these fundamental problems, however, CAJ advocacy appears to be acceptable, and even sophisticated, in some ways. For example, CAJ lawyers use DNA typing in criminal cases. They do not use it in civil cases only because the financial resources are not available. One judge noted that, at the appellate level, local CAJ lawyers were "stupendous".

Not only is CAJ responsible for a wide range of legal issues, its jurisdiction is geographically very broad. Additionally, it is responsible for new legal services offices created by municipalities which are expanding rapidly.

CAJ is subject to a bill, proposed by the government and pending in the legislature, which would restructure the legal services delivery system and expand it nation-wide.

There appears to be some confusion or concern regarding whether CAJ staff are private or public employees, given recent statements by the government that they are the latter.

There is a great need for training and reference materials at CAJ. This includes lawyer, applicant, and social worker entry-level and in-service training. Some of these materials could take the form of practice manuals. Besides the legal aspect, staff might benefit from training designed to increase its understanding of the culture and circumstances of poor clients, especially the women. Women comprise an estimated 60% to 80% of the people seeking help at CAJ. Because they are often heads of households, they not only seek help for themselves but for family members. These family members are often males who have criminal problems.

At the request of the evaluator, the Director of CAJ has provided the LAA and the evaluator with a list of priority items which she would like the project to help CAJ with. These include assistance in obtaining computers and automated systems, legal materials, improvement of the CAJ library, the dissemination of legal information (including improvement of the CAJ newsletter), training for social workers, improvement of attorney salaries, and creation of innovative offices and the improvement of physical conditions in others. Many of these items may fall within the ambit of this project.

### **III. THE LEGAL ASSISTANCE AREA OF THE PROJECT**

#### **A. LAA OBJECTIVES**

The agreement between AID and CPU sets forth objectives for five fields of endeavor in the Legal Assistance area of the project: 1) National Low-Income Survey, 2) Alternative Conflict Resolution, 3) Legal Assistance Support Center, 4) Improved Legal Assistance for Low-Income Women, and 5) Popular Legal Education. The general objective is to "support the expansion of legal assistance to the poor by financing analyses and pilot efforts on alternatives for providing assistance" through the five aforementioned subcomponents. Agreement at 8. The objectives for each of these subcomponents will be described below in conjunction with the analysis of the activities relating to each field.

The CPU has made numerous statements describing its objectives for the LAA. In various brochures describing the project, the CPU has stated its objectives as:

conducting studies and analyses intended to improve knowledge of the situation of the poor in regard to the justice system and their perception of that system, and proposing initiatives or supporting those of other legal assistance centers in the country when those initiatives have as their objective the dispersion of and education about the law, strengthening of alternative systems of conflict resolution, the implementation of innovative policies that assure better efficiency and coordination and mutual enrichment of the above. Special attention will be given in this area to the legal assistance systems for low income women.

CPU objectives speak in terms of "law", rather than "rights", and therefore appear to be overly broad. However, this language may be consistent with the subcomponent requiring "popular legal education" about legal "rights". Agreement at 9.

I have reviewed several other statements made by the project regarding its objectives in the LAA, including that presented by Andres Cuneo during our meetings and that reflected in an Internal Work Document of the LAA.

#### **B. EVALUATION OF LAA OBJECTIVES**

CPU's objectives are generally worthwhile and consistent with the objectives reflected in the agreement between AID and CPU. However, both the objectives set forth in the grant agreement and those stated by CPU are extremely vague and overly broad.

This vagueness can appropriately be regarded as a design defect in the original agreement. There apparently has been some disagreement between the parties as to

how the very general project goals should be accomplished, and the vagueness has been described as necessary to accommodate the different opinions of the parties.

Another possible reason for the vagueness of the objectives is the breadth and depth of the need for legal reform. Although there were high hopes for what could be accomplished at the time the grant was awarded, after three of years of democratic rule, the objectives appear to be overly ambitious.

Additionally, the objectives are too broad. It was probably unrealistic to expect this grant to spread itself over the designated judicial and extra-judicial areas in a coherent manner and to make a significant impact in each.

In addition to being overly vague and broad, the objectives are more theoretical and academic than they should be. Thus, these objectives constitute an invitation to attempt to do too much, in too many areas, with too diffuse tactics, with little consequence in terms of actual reform.

These problems, while technically troublesome, do not appear to have been a very substantial practical problem. The objectives fail to provide sufficient direction for the development of an overall strategy. However, the need for legal reform is extremely broad and deep, and the level of knowledge of the reality of legal rights of the poor is so limited that much worthwhile activity could take place (and has been taken place) within these very-generally-stated objectives.<sup>2</sup> While this appears to be largely to the credit of the good intentions of the grantee, it does not diminish the need for more clearly defined objectives.

### **C. ACTIVITIES IN GENERAL**

My discussions with LAA staff and others outside CPU, and a review of LAA quarterly reports indicates that LAA has, in general, tried to accomplish its objectives with various, specific activities. The one subcomponent in which there has been virtually no activity is the legal assistance support center.

No outside funds, domestic or international, have been attracted to the area. Nor have linkages been created with relevant projects so funded.

### **D. EVALUATION OF LAA ACTIVITIES IN GENERAL**

The activities pursued by LAA are all relevant and, although it is too early to say with certainty, appear likely to achieve reasonable results in general.

The specific activities, while relevant and useful, would be more effective if they were part of a more comprehensive and refined plan. Although the LAA has been

2. No person or institution with substantial experience in providing legal services is included on the project's advisory board. While the agreement specifies a number of members of the board, it fails to require that any legal services provider or lawyer with substantial experience in providing legal services for the poor be included on that council. at 10. Although not required by the agreement, the "fiscal" is a member of the council, but no defense attorney is included. While the agreement specifies that CPU will sign cooperative agreements with a number of institutions, no mention is made of any legal services provider.

reasonably effective in implementing specific activities relevant to project objectives, it has not systematically sought to integrate these activities to the optimum degree. Staff has agreed that it will make a conscious and conscientious effort to improve integration in the area.

Various surveys and reports have been used as a basis for seminars and will be reviewed by staff and others to determine how they can be most effectively used to promote concrete, reform activities.

One of the fundamental problems in formulating a strategy appears to be the lack of even basic information about the realities of the area, such as what agencies exist and what they are really doing. The LAA is initially attempting to provide this essential foundation and, in many cases, cannot effectively seek reform of the system until its current status has been determined. Data from the *Encuesta* have already been useful in providing new data to support increasing access to courts through the creation of neighborhood (small claims) courts. The data relate to the types of problems poor people face, the importance of those problems for the people, and the number of people who reach the courts with specific types of problems.

This lack of knowledge of the realities was cited as a reason that the project tends to operate as a "rolling" project. No previously-established indicators or targets have been used by staff for the purpose of evaluating the success of any of its specific activities. It would have been helpful to have had these available for this evaluation and an effort should be made to establish these now for future evaluations. Staff has agreed to establish such indicators or targets for use in future evaluations as a reference for success or failure of any activity.

Another concern is the relatively large number of areas in which the LAA is attempting to have an impact. The breadth of the range of activities has probably reduced the effectiveness of the small LAA staff by fragmenting its attention and prohibiting it from effectively operating within the broader legal services context. For example, staff appeared to have little or no knowledge of non-CPU, innovative or pilot projects currently in effect. Staff also appeared to have little connection to other relevant activities and resources within CPU.

A question remains as to how substantial or direct the project's impact on legal-services or legal-system reform will be.

## **E. PERSONNEL AND PLANNING**

The staff consists of two people: a part-time director and a full-time assistant, both of whom are lawyers. The LAA director, Jorge Correa, is the former dean of Diego Portales Law School and has served as reporter for the Chilean Commission on Truth and Reconciliation and in many other important posts. He was also a *postulante* at the *Colegio de Abogados*. The LAA Assistant, Macarena Vargas, was a *postulante* at CAJ in Buin in 1992 and was admitted to practice in April, 1993. She has worked at CPU since 1991.

The LAA has been operating a little less than two years and maintains an annual work plan. The determination of LAA priorities was based on experience.

### ***Evaluation of Staff***

The quality of the staff is excellent; they are both bright, conscientious, and competent. Staff indicated that it enjoyed the grant's focus on doing things that have

not been done previously.

Staff was very cooperative with the evaluator and appeared to be sincerely interested in the success of the project.

The director is closely associated with the present government, and is lobbying for the enactment of the government's justice reform package, some of which is closely related to the goals of this project. This direct connection to the government is a two-edged sword in terms of the effectiveness of the project. Given the current political context of the legal reform effort, it is of utmost importance that the project be perceived as, and actually be, neutral, pluralistic and objective. Another concern is the possibility that the focus of the project may actually be, or perceived to be, unduly influenced by government priorities.

The staff has a strong moral and intellectual commitment to legal reform. Neither, however, has very substantial experience in the provision of legal services or the administration of an agency which provides such services.

The perspective of LAA staff should be more concrete and practical. One person familiar with the project characterized it as "ethereal". It appears to be somewhat overly academic and theoretical, as reflected in its emphasis on the need for polls to secure "empirical" data as a support for action. In certain cases, meaningful empirical data can effectively be gleaned from experience in a cost-effective way without the necessity of polls and surveys. For example, the Delphi method is a process intended to yield reliable estimates based on the educated guesses of experienced people. LAA should consider the possible use of the Delphi method, where appropriate. See, *Caseload / Workload for the State Public Defender of Wisconsin*, The Spangenberg Group, West Newton, Massachusetts, September 1990, for a description of the Delphi process. Additionally, if LAA were to attempt to assist CAJ in improving its performance, staff should spend more time in the field with CAJ lawyers, staff and administrators.

The perspective of the staff appears to be long term to the detriment of intermediate and short-term accomplishment. Staff also appears to rely on an assumption of the need (and possibility) for fundamental, rather than incremental, change. A long-term view is important, but the short term must not be discounted because 1) we are dealing with a grant of limited duration, and 2) there is usually considerable uncertainty even about the near-term prospects for legal reform. It is difficult to justify staff's faith in its view of the future, and its ability to predict the direction and degree of change, as well as its consequences. Staff's belief in the need for fundamental change is certainly justified insofar as it assumes a need for broad and deep legal reform.

This perspective seems to have the LAA operating on close to an "all or nothing" basis regarding the administrative and legal aspects of CAJ. Staff perspective should focus more on the institutional and everyday realities of providing legal services which are likely to persist regardless of whether fundamental restructuring occurs.

There is a question about the relative effectiveness of the employment of part-time staff by the project. Part-time employment, especially when employees hold multiple outside positions, tends to reduce the effectiveness of the project. Part-time employment may reduce an employee's commitment to the project and create conflicts with or distractions from the project. The probability of serious issues arising in this regard is directly proportional to the number of other positions involved and their relationship to policy-making. Additionally, a person working more than one job in Santiago will have limited ability to travel outside of Santiago. Part-time employment

also may exacerbate the fragmentation of the project.

## F. LAA SPECIFIC ACTIVITIES

The following are descriptions and evaluations of activities directly related to the five subcomponents specified in the grant agreement.

### 1) NATIONAL LOW-INCOME SURVEY

The Encuesta Nacional Problemas Judiciales de los Sectores de Bajos Ingresos, was conducted as a joint project between CPU and the Departamento de Estudios Sociologicos de la Universidad Catolica (DESUC). It was initially published as two volumes in February, 1993. The two volumes will be published with comments from the succeeding seminar as a 300-page book in July, 1993.

The survey provided the basis for a national seminar, "Justicia y Marginalidad. Percepcion de los Pobres. Analisis de un Estudio Empirico". The seminar was presented on March 26, 1993 and was attended by approximately 300 people from various regions of the country. The seminar attracted judges, lawyers (including 20 or so from CAJ), and social workers from the courts and CAJ, as well as professors and students. The seminar also received considerable coverage in the press. This took the form of approximately a dozen articles and editorials in the print media, as well as coverage by the electronic media about the contents of the survey and related matters. Although the coverage has some value in itself, I do not know of any particular use that the project made of it.

CPU has delivered copies of the survey to various institutions. Discussions were also had with various entities about the results of the survey in person and by telephone. Among the governmental entities involved were: the Ministries of Justice, Housing and Interior; and the *Gendarmeria de Chile* (*Carabineros'* corrections personnel). Among the non-governmental entities were: clinical programs at *Diego Portales* and *La Catolica*, and the headquarters of Eduardo Frei. The project intends to distribute the survey throughout the country.

Three questions dealt specifically with lawyers who provide free representation. See Section III, Opinions about lawyers, Questions 1-3, at 28-30. The responses to those questions indicated that:

- Only 43% believed they could obtain a free lawyer. Question 1, at 28. Of those who believed they could obtain a free lawyer, only 7% named CAJ as a place at which to do so. (Many named the *Colegio de Abogados* and the law schools.) Question 2, at 28. According to the study, at 29, this suggests a great lack of knowledge about the nature of CAJ, especially in light of its responsibility under Law # 17,995 to succeed the *Colegio* as the provider of legal assistance.

- Of those who believed they could obtain a free lawyer, only 47% believed that such a lawyer would provide good, professional attention. Question 3, at 29.

- More than a third (37%) indicated a need for more free lawyers as one of the most important changes necessary to improve justice in the country. Question 1, at 28.

The objective for this subcomponent set forth in the agreement requires "support [of] a national survey to determine legal needs and constraints of low income persons" at 8. The idea of conducting a survey of this nature was innovative and constructive, especially because, as indicated by a number of sources, no similar study has ever been done in the country. The *Encuesta* has been described as: 1) ending 20 years of

knowing nothing about needs, and 2) eliminating a number of false beliefs about how the poor perceive the legal system. See Richard J. Wilson, *Legal Assistance Activities: Background and Problem Area Description Project Paper -- Chile*, The American University, Washington, D.C., draft of January 23, 1991, at 42-43, regarding lack of empirical knowledge on which to base effective decision-making.

LAA recognizes that this study can only be a first step and does not intend it to be the last. Staff has indicated that it is considering sponsoring additional surveys, either on the same themes in small towns or on other themes in Santiago.

The grant objectives require that conclusions and recommendations be presented at a seminar to create support for responsive action. at 8. I was provided with several written commentaries that were part of the seminar and will appear as part of the forthcoming book. I have reviewed these commentaries and found that they do rely to some degree on the data developed in the Encuesta. Perhaps the most significant data for purposes of this evaluation relate to: a) the high degree to which poor respondents indicated their ignorance of their rights (88% according to Pedro Gandolfo, Comentario, at 1) and b) the abuse of poor people by the courts, especially based on arrest on suspicion without the benefits of counsel and procedure prescribed by law (Cristian Riego, *Los Sectores Populares Frente al Sistema Penal*, generally).

The data and commentaries are related to legal services policy reform and are being used to support other reform activities, e.g., the legislative initiative to establish neighborhood courts. A number of other legal and grass-roots agencies said that the survey was innovative and that the data were useful in support of their activities. The data appear to corroborate and reinforce many earlier ideas and impressions, but were surprising in a few particulars, including the relatively high level of respect for the *Carabineros*.

The *Encuesta* has served a number of institutional functions not directly related to the gathering of data. From the point of view of democratic initiatives, it is essential that public policy be founded upon reliable information in order to justify public confidence. It is thus essential to assure the validity of beliefs and assumptions in order to effectively attempt to modernize the system. In this regard, the *Encuesta* served two important, but not very visible, institutional purposes: 1) The use of empirical data as a basis for public policy, while a novelty, is directed at changing the legal decision-making process so as to create the expectation of such empirical justification in the future. 2) The development of the *Encuesta* created a dialogue between lawyers and sociologists, each of which had traditionally operated separately with stereotypical ideas about the other. According to the co-sponsors, this has had a positive impact on the effectiveness of sociologists (especially with regard to legal problems) and the teaching of sociology through a course in the sociology of law which is now being developed. Lawyers, who traditionally operate in an insular manner without empirical data, are learning of the importance of data and the need for communication with other professional groups.

While these points are rather subtle, they are of particular importance in the current transition to democratic institutions in Chile, particularly with regard to: 1) the free flow of ideas and information, 2) the manner in which ideas compete for public support, 3) the reduction of the isolation created under the previous government through the recognition that seemingly unrelated groups are interdependent, and 4) the continuing development of public confidence in social institutions, policy and politics.

The appearance of the *Encuesta* materials is professional and clear. The presentation of the data appears to be somewhat elementary and superficial, and is basically limited to the frequency of responses by number and percentage for each

individual question. However, some responses are cross-referenced by gender, age, education, and place of residence. See, e.g., *Comentario* of Pedro Gandolfo, (at 1) which refers to gender.

The lack of clearly delineated conclusions in the original two volumes is a problem and will be ameliorated if such conclusions are clearly presented in the forthcoming book, which will include the seminar commentary on the results. Unless the forthcoming book also contains an executive summary, the effectiveness of LAA's attempts at meaningful dissemination of the results, education and impact on public policy will no doubt be greatly reduced.

Another problem relates not to the survey itself but to its apparent lack of institutional framework, as indicated by the fact that specific objectives for the use of the data were not established prior to the survey and do not bear a clear relationship to other project activities, present or future. Of course, it will be much easier, and perhaps more effective, to develop such objectives and relationships now that the actual data are available. However, staff has not yet reviewed the data for the purpose of determining how they can best be used to support specific legal reform activities.

The survey will not be put to its best use if the data are not used as a tool to advance legal reform. Given that the data are available and have been subjected to some comment, the LAA should, at this time, be able to analyze the data and create a plan to use the data to promote specific, priority reform efforts, regardless of whether those efforts are formally part of LAA, CPU or outside agencies. In addition to developing those ideas that their limited time permits, staff can inform other interested parties as to how they can use the data to achieve systemic reform.

I made no attempt to evaluate the methodology of the survey or the accuracy of the results presented.

## 2) ALTERNATIVE CONFLICT RESOLUTION

A. Legal Negotiation. LAA is working toward agreements to establish projects with FORJA (*Instituto de Formacion Juridica para la Accion*) and QUERCUM (*Centro de Desarrollo y Estudios Juridicos*).

FORJA is basically planning to provide two years of training to *dirigentes vecinales* regarding how to elaborate projects and resolve problems as paralegals. A continuing workshop would be staffed by a lawyer and a social worker and would meet every 15 days. The object would be to train neighborhood leaders who would provide auxiliary legal support to assist people in resolving problems and, if necessary, help them gain access to the formal legal system through CAJ.

The QUERCUM project has two principal aspects: an evaluation of housing needs in poor areas and the creation of housing paralegals ("*monitores*"). The paralegals would help people deal with administrative procedures and technical matters. The objective is to reduce the magnitude of the legal problem (caused by casual, extra-legal inheritance, use, and occupancy situations over generations and wide geographical areas) that forms the basis of housing problems and gives rise to a large number of family problems. The project will involve use of the existing law, developing alternative conflict resolution methods, and developing ideas for new legislation relating to ownership and use of real estate.

The "Legal Negotiation" (*Negociacion Legal*) project involves the development of materials to teach negotiation skills in law school clinics and is intended to present

students with effective alternatives to litigation.

B. The Study of Alternative Systems for the Resolution of Conflicts (*Estudio de Sistemas Alternativos de Resolucion de Conflictos*) involves the development of training materials and practice manuals designed to improve the effectiveness of CAJ social worker efforts to resolve problems before they reach the litigation stage. I have been informed that the training materials have been prepared and the training is planned for July.

The objective for this subcomponent set forth in the agreement requires the analysis of "the activities of a selected number of existing entities that serve the legal needs of the poor to identify their strengths and weaknesses and to design pilot projects to test alternative approaches" to conflict resolution. at 8. Although the objective provides the evaluator little guidance, the specific activities developed by the LAA appear to be relevant and worthwhile.

The proposed FORJA experiment appears to be particularly promising in that it is intended to enable people to solve their own problems but make the legal system accessible if they need it. It should serve to educate people about their legal rights. Additionally, if it is successful, it might be appealing to municipalities and thus be able to survive beyond the life of this grant.

Improving the effectiveness of CAJ social workers may be very valuable. CAJ indicates that its social workers "resolve" 70% of its "cases". This effort involves CAJ attorneys in the development of materials; these attorneys are probably among the best informed sources for this purpose.

The extra-judicial processes being developed in these pilot projects, if successful, may become institutionalized as an alternative to the formal judicial process for poor people in civil cases. This would parallel the increased use of arbitration in commercial matters. These processes are, however, extremely unlikely to have a significant impact in the criminal area.

### **3) LEGAL ASSISTANCE SUPPORT CENTER**

The objective for this subcomponent set forth in the agreement requires that the project "support the exploration of the eventual establishment of a national center for the collection of information, training, study and cooperation for public and private sector lawyers defending the poor or engaged in public interest advocacy". at 8.

The agreement further requires the project to do the following things: contract for the design of such a center; examine and promote specific types of litigation, especially that relating to collective rights and reducing the cost of using lawyers in the justice system; conduct ten case studies on the legal problems of the poor at the community level; and conduct related workshops. at 8-9. Apparently, virtually nothing has been done to meet these requirements.

The idea of supporting the exploration of the eventual establishment of a such a center is so vague as to be almost meaningless. Additionally, the project has apparently had very little interest in this concept or insufficient time to make any meaningful progress.

Given the well-recognized, extreme lack of professional expertise, legal information and other support materials in the legal services area, the establishment of a national support center is more than a worthwhile priority, it is essential.

The reason given by staff for the lack of progress is not convincing. Staff criticism of the support center concept seemed to focus on a perceived need to involve different groups in the management of the center. However, a review of the objectives for this subcomponent yielded no basis on which to conclude that group involvement in management of the center would be necessary.

The grant does not require any such structure for the center or any particular structure at all. The involvement of other institutions is necessary if the center is to survive the life of the project, but there appears to be no grant requirement for group management or even an advisory board.

The center could be divided by subject matter and placed in various institutions so as to increase the likelihood that it would survive beyond the life of the project. For example, the project could seek to reach an agreement with CAJ, to provide CAJ with resources to create a library of materials related to the services for which CAJ is responsible, in return for CAJ making these materials widely available to appropriate lawyers (and perhaps others). The development of a network of contributors, users and other interested people might also be useful.

The accumulation, organization and dissemination of relevant legal and support materials is essential. The creation of an effective structure to accomplish this is of equal importance. The other requirements of this subcomponent are of a lower priority and may be the subject of negotiation in any restructuring of grant objectives.

LAA should take meaningful action to educate itself regarding realistic and effective possibilities for creating a national support center. These steps should include entering into a contract for the design of a support center. The contract should include an effort to educate LAA staff and the staff of any other institution likely to be involved in the creation or maintenance of the center regarding these functions.

#### **4) IMPROVED LEGAL ASSISTANCE FOR LOW-INCOME WOMEN**

The study envisioned in this subcomponent has been completed and the results published as an 83-page book, *Asistencia Juridica a Mujeres de Bajos Ingresos*, by Nancy de la Fuente and Paula Correa, et al., in 1993. The research involves agencies that offer legal assistance to poor women and attempts to analyze the work that those agencies actually do. The research yielded a nation-wide list of such institutions. at 37. A seminar was held in December, 1992, to discuss the findings of the study.

The objective for this subcomponent set forth in the agreement requires that the project "fund activities specifically focused on the problems of low-income women in accessing the formal legal system for conflict solution and vindication of legal rights". at 9. The agreement specifically requires an analysis of entities providing relevant services, including an evaluation of these entities. The study described above appears to adequately meet these requirements.

The project still must produce a report and support national training seminars as required by the agreement. Five seminars are being planned in different parts of the country regarding how CAJ (principally) and other entities can improve their service to women.

I was told that the study provides important information not previously available and that the evaluation of these entities would be used to determine their training needs. Thus, the study is likely to be used as a basis for specific actions which will

directly improve the delivery of legal services to low-income women.

Staff does not want to maintain a separate and distinct area for women's issues. The agreement does not appear to require that its objectives for this subcomponent be accomplished by a separate field of endeavor. The project can meet its obligations under the agreement if it gives special emphasis to poor women within the parameters of other efforts appropriate to the grant. Staff has indicated that it has no problem with meeting the grant requirement in this manner, and appears to be doing this in a satisfactory manner.

For example, a large number of the booklets ("*cartillas*") described in the section below relate to issues of particular interest to low-income women. See, e.g., those already printed: *Maternidad y Trabajo*, *Pension de Alimentos y Tuicion*, and *Derechos de la Mujer Trabajadora*. At least one of these, *Maternidad y Trabajo*, was developed with the cooperation of SERNAM, the National Women's Service. Among the subjects under consideration for future *cartillas* are: the rights of wives, pregnant teenagers, women workers; sexual violence against women, and domestic violence. Although LAA has referred to these subjects as of "exclusive" interest to women, (Internal Work Document, at III) they are, of course, also of interest to men and those not listed here are also of interest to women.

With regard to the *Encuesta*, gender was one of the variables used for analysis of the data. Although Macarena Vargas is only one of numerous women lawyers involved directly and indirectly with the project, her employment in the LAA may be viewed as consistent with the implied goal of the project to incorporate women in legal reform efforts.

#### 5) **POPULAR LEGAL EDUCATION**

The objective for this subcomponent set forth in the agreement requires that the project "improve access of the poor to legal assistance through better understanding of their legal rights". at 9.

One specific requirement is that CPU produce "about 100,000 copies of pamphlets on some 20 legal rights topics selected from the national survey" described above.

The following are the titles of the pamphlets already printed and the number of copies of each: *Maternidad y Trabajo* (10,000), *Guia Legal de la Microempresa* (4,000), *Vivienda* (2,000), *Pension de Alimentos y Tuicion* (8,000), *Derechos del Detenido o Preso* ("DDDP") (3,000), *Derechos de la Mujer Trabajadora* (4,000), and *Posesion Efectiva de la Herencia* (5,000). Eighteen more pamphlets are under consideration for the next series to be published. They include the following subjects: the rights of wives, pregnant teenagers, minors, and women workers, working minors, social security, sexual violence against women, and domestic violence.

According to these figures, the project is about one third the way toward meeting its responsibility for producing 100,000 copies.

The booklets will be distributed by the co-sponsors.

The high degree to which poor respondents to the *Encuesta* were aware of their ignorance of their rights appears to support the LAA focus on the development and dissemination of the booklets.

The subjects of the first series of *cartillas* were chosen in March, 1992, a year before the results of the *Encuesta* were available. However, the subjects chosen are consistent with those which the *Encuesta* indicated were of great importance.

Additionally, the booklets frequently mention that CAJ is a source of free legal services. This information is particularly useful given the survey results indicating that: 1) only 43% of the respondents believed they could obtain a free lawyer, and 2) only 7% of respondents who believed that they could obtain a free lawyer named CAJ as a place at which to do so. *Encuesta*, Section III, Questions 1 and 2, at 28.

The data from the *Encuesta* will have an influence on the three-person (a lawyer, an education professor, and a psychologist), external jury which will select the subjects for the second series of *cartillas*. Among the subjects under consideration are: pregnant teenagers, sexual violence against women, and two regarding domestic violence.

The appearance of the printed materials is professional and attractive. The content is substantial and clear (at least to an educated person). A number of the co-sponsoring institutions indicated that they were satisfied with the process by which the *cartillas* were produced, as well as with the product.

Various individuals, inside and outside of LAA, expressed concern about the conflict between raising public expectations about rights in order to make the rights more generally available and the negative impact of creating false expectations. The conflict was resolved in favor of publishing information about rights that were not realities in practice on the basis that it was better to reduce the extreme ignorance of the law and increase expectations (even with the certainty of disappointing them) among the people than not to inform people of their rights. For an indication of the number of rights theoretically available and mentioned in a *cartilla*, see Appendix A, regarding DDDP.

Some people have expressed a desire to have the booklets written in more simple language whenever possible.

No formal methodology for assessing the effectiveness of the booklets currently exists at the LAA or CAJ. I was informed, however, that CPU wants to have an opportunity to evaluate the reaction to the booklets and their impact, a reasonable time after their distribution, before seeking to publish and distribute them in greater numbers. When CAJ was asked about an assessment of the *cartillas*, the response was that it was a good idea, they had not thought of it, and they would try to develop an assessment, whether formal or informal.

CAJ said that they intended to be careful about the distribution so as to get the best effect from the allotted booklets. They also informed me that they intended to use their *cartillas*, in part, to support what their social workers tell their clients.

#### **G. LAA RELATIONSHIP TO THE REST OF THE PROJECT**

LAA could be better coordinated with, if not integrated into, the overall CPU structure, for example, with regard to the use of training expertise from other CPU areas and contacts with municipalities. Staff told me that they have good personal contact with the non-project part of CPU. They review each other's papers, but do not work in common. They expect to work together regarding the training of judges to do mediation and to act as small claims courts.

They are "having ideas about working" with other parts of CPU regarding dealing with the municipalities. They said that they should work more closely with other areas of CPU, but there is no institutional means for doing this. Staff said that the evaluation approach used for LAA seminars is consistent with that used in other CPU components. They use questionnaire forms with specific questions. The responses have been generally good. Staff has learned from the comments, especially with regard to whether to ask speakers to participate again.

Regarding training, the staff does not appear to have had any significant training regarding how to train others. My impression was that their approach to training is largely influenced by their academic and legal backgrounds. Whether they are providing training directly or training others to train, it would probably be efficacious to use current "adult education" approaches to the training. See *Continuing Legal Education Quality Evaluation Standards and Methods*, American Law Institute-American Bar Association Committee on Continuing Professional Education, Philadelphia, Pennsylvania, Proposed Final Draft (October 22, 1990), for policies and standards relating to continuing legal and adult education that might be useful as a point of departure.

#### **H. LAA RELATIONSHIP TO OTHER INSTITUTIONS AND ORGANIZED GROUPS**

The LAA has been generally effective in involving other organizations and institutions in extra-legal and extra-judicial activities, and in attempting to improve access to the judicial system. It has done little to promote modernization of the legal system or improvement of legal representation.

Where LAA has been active, it has been effective in involving a variety of public and community entities.

LAA involved DESUC as a co-sponsor of the *Encuesta*. DESUC has indicated that the good relationship developed during work on the survey may lead to a new contract and future cooperation, perhaps relating to the training of judges.

The following is a list of entities with which LAA has worked to develop *cartillas* (for distribution by those entities): *Servicio Nacional de la Mujer* (SERNAM), *Maternidad y Trabajo*; QUERCUM, *Microempresa*; Vicaria de la Solidaridad, *Vivienda*; Departamento de Practica Profesional y Asistencia Legal (DEPAL), *Derechos del Detenido o Preso*; and CAJ de Santiago, *Pension de Alimentos y Tuicion* and *Derechos de la Mujer Trabajadora*. Additionally, CAJ is mentioned numerous times in the booklets as a source of counsel.

LAA might consider the possibility and value of using the booklets and other popular legal education efforts in a plan developed in conjunction with the school system.

CAJ is also the beneficiary of the *Estudio de Sistemas Alternativos de Resolucion de Conflictos* which is designed to improve the effectiveness of CAJ social workers in resolving problems before they reach the litigation stage.

LAA has worked with various non-governmental organizations. I was informed that LAA had worked principally with FORJA and QUERCUM, but had also had some connection with ESICO and CESLA.

LAA has also developed and maintained a significant working relationship with *La Universidad Catolica*. Besides the link with its Department of Sociological Studies

(DESUC) based on the *Encuesta*, the *cartilla*, DDDP, was prepared in conjunction with *La Catolica's clinica*, DEPAL, as indicated above. It is probably worth mentioning that this booklet is distributed in the jail with the consent of the *Gendarmeria*. Although this is probably not organizational involvement of the greatest significance to the project, it may be of some use as a part of the institutional dialogue necessary for the long term success of democracy. Additionally, the three major law school clinics are involved in the legal negotiation project.

The lack of activity with regard to the establishment of a support center has meant that LAA has failed to take advantage of that opportunity to involve other organizations in the reform process.

The study of entities offering services to women provides new information regarding a large number of these entities. LAA intends to use the evaluation of these agencies to determine their training needs. Thus, the study and the ensuing training will involve these entities and, hopefully, directly improve the delivery of legal services to low-income women.

The perspective of the government seems to be that "justice" means primarily the judiciary and does not emphasize the delivery of legal services. Staff indicated that it is not yet ready to approach the national government to expand or reform the delivery of legal services, except with regard to support for the concept of neighborhood courts. Neither CPU nor LAA has apparently attempted to have legal services included in planning for the national social welfare program for the poor with the same priority given by the government to education, housing and health.

Neither the CPU nor LAA has taken advantage of the national trend toward decentralization to promote legal services reform. CPU (outside of LAA) has connections with the municipalities. Despite this and the expanding role of the municipalities in the delivery of legal services, the project has done nothing concrete to use these connections to expand or reform the delivery system. I was told that staff is just now discussing how to approach this.

In the future, the LAA may wish to consider involving the *Corporacion Administrativa del Poder Judicial* ("CAPJ") (Judicial Administration Corporation) regarding legal services automation, and the *Carabineros* regarding their possible service as an educational outreach or referral mechanism.

Although other legal services pilot projects have been recently established, the project has not sought the creation of any such projects. The closest idea to such a project is the incipient FORJA project. LAA might consider evaluating existing pilot projects with the idea in mind of evaluating them and perhaps creating some successor projects.

#### **IV. CONCLUSIONS**

##### **A. SUMMARY OF CONCLUSIONS**

LAA has done a satisfactory job regarding subcomponents in which it has made an effort. It has stimulated a number of relevant and promising activities, especially given its small staff. However, it has made no meaningful effort with regard to the establishment of a national legal services support center.

LAA has had an extra-judicial focus to the virtual exclusion of efforts to change

the legal system, support lawyers, or improve litigation. Emphasis on these areas would be necessary to realistically effect legal institutional change, especially in the criminal arena.

LAA has not focused on CAJ sufficiently. This is especially true regarding CAJ administration, lawyers and legal staff, litigation, and the legal system in which they operate.

## **B. GENERAL CONCLUSIONS**

1. There is a great need for reform of the legal services delivery system and the legal system, and this project can only meet a small part of that need. In this early phase of the project, the CPU has taken several reasonable and practical steps to address the problem.

2. The only way to effect substantial legal reform is through direct government action or indirect action designed to affect government policy.

The provider of legal services will remain a captive of the government, regardless of the form the provider is given. The national and local governments will determine not only the structure of the provider, but equally important, its level of funding. Any substantial reform of the existing corporation would depend not only on its director, but on the approval of the Minister of Justice.

3. The Minister of Justice is obviously willing to experiment with improvements and pilot projects at CAJ.

There is no apparent reason why CPU could not already have made more of an investment and established more innovative concepts at CAJ.

4. International efforts to improve legal services for the poor are currently being made, including innovative legal assistance pilot projects.

CPU is in a good position to work closely with them, evaluate them and even promote projects of its own. No outside resources, international or domestic, have been obtained for this area by CPU.

5. National planning of social welfare programs gives greater emphasis to education, housing and health than to legal assistance. CPU can be effective in making this issue more visible in the national agenda.

6. There is a continuing national trend toward decentralization and the role of the municipalities is increasing rapidly.

CPU has municipal connections, which are potentially very useful to increasing support for legal-services and legal-system reform. These connections have not been effectively used in this regard.

CPU should consider developing a "bottom-to-top" approach, using the municipalities as a vehicle to achieve national legal-services and legal-system reform.

The newly elected mayors have an interest in providing their constituents with legal services, especially given a broader definition of the concept.

Municipalities are creating *consultorios*, based on an innovative focus on the public safety (*seguridad ciudadana*) aspects of legal services, in wealthier municipalities such as Las Condes and Providencia.

7. CPU will achieve a greater degree of reform of legal services and will do so more easily if such reform is regarded as politically desirable by the widest range of people.

Thus, CPU could discuss its LAA goals in terms of a broader concept of legal services, containing more acceptable or popular aspects than it now relies upon. These more popular aspects include providing civil legal services for the "worthy" poor and giving poor victims of crime access to the courts, in addition to the traditional, but less popular, representation of criminal defendants.

### ***Relating to CAJ***

8. CAJ is the most important provider of legal services to the poor.

9. The effectiveness of the future legal services delivery system, regardless of its particular form, will depend on the development of human and administrative resources not available in the current system. The need is extremely great and diverse, and will take a considerable amount of time to develop and implement satisfactorily.

10. While a number of LAA activities are designed to, and do in fact, support CAJ, CAJ does not receive sufficient attention from the LAA.

11. CAJ's responsibility has been undergoing a rapid expansion and the agency has indicated that technical assistance would be welcome.

12. There are a very limited number of attorneys interested and experienced in providing legal services to the poor. Therefore, the dedicated and experienced lawyers who form the nucleus of CAJ (and their predecessors) will provide the human foundation for the legal services delivery system, regardless of whether that system is based on CAJ or on a successor institution. It is also quite possible that CAJ will survive in more or less its present institutional form for the foreseeable future.

13. CAJ, as a corporation under the Minister of Justice, lags considerably behind the courts operating under the CAPJ as reflected by CAJ's lack of adequate resources, including office space and automation.

Technical advances are being made in the courts, although the criminal courts in Santiago appear to be lagging behind the civil. This presents an opportunity to use existing judicial improvements as a base on which to improve the delivery of legal services. For example, LAA might explore with CAPJ the possibility of using judicial, digital data regarding the status of cases to help CAJ track its cases.

There is also a danger that, if the present trend continues, the gap between the abilities of the courts and CAJ will widen and the lag at CAJ increasingly will adversely affect the efficiency of the courts. The impact of CAJ inefficiencies will not only be felt in the courts, but among the poor and the society in general. As this impact increases, it is likely to further reduce the respect for law on which democratic institutions are based.

14. At the request of the evaluator, the Director of CAJ has provided LAA and the evaluator with a list of priority items which she would like the project to help CAJ with. These include assistance in obtaining computers and automated systems, legal materials; improvement of the CAJ library, the dissemination of legal information (including improvement of the CAJ newsletter), training for social workers, improvement of attorney salaries, creation of innovative offices and the improvement of physical conditions in others. Many of these items can be directly related to reform of the legal services delivery system and, thus, may fall within the ambit of this project.

15. CAJ appears to lack modern administrative systems and would greatly benefit from an (automated) information system relating to a wide variety of functions, including case management, finance, and personnel.

The lack of these systems wastes time and money. These systems would permit more effective use of the scant resources allotted to the legal representation of the poor.

16. High turnover of staff creates inefficiency and wastes scarce resources. Even an increase in the average retention rate of a few months or a year would represent a *dramatic* increase in efficiency.

LAA may wish to consider a pilot project to attempt to change the structure or process so as to increase the length of tenure over the long term. This might include experimenting with various forms of special recognition, improving the status of the work, or otherwise increasing job satisfaction.

Length of tenure is a valid indicator of dedication as well as efficiency. Under the current circumstances at CAJ, two years may well be the appropriate time frame. An increase in the number considered appropriate would be a reliable indicator that conditions at CAJ had improved. An increase of even a few months would represent a significant percentage increase in experience given this relatively low base.

Part of the problem of turnover and attracting legal talent is due to the low salaries paid to CAJ lawyers. The development of caseload and funding formulas may be useful in providing a basis on which to secure more adequate funding.

17. There is some question as to whether the money currently being used by CAJ for part-time personnel could be more effectively used on full-time personnel.

18. CAJ does not appear to have an adequate case counting system. This problem includes its definition of a "case" or "legal matter", how CAJ counts cases and whether its case count is reliable, and how it determines the results of cases.

19. CAJ does not appear to have a formula which would allow it to determine 1) its financial requirements based on the work that it actually does and 2) the degree to

which those requirements are being met. This may adversely impact its ability to obtain adequate financial and other resources.

20. CAJ salaries are clearly too low. This is a major source of inefficiency.

21. Much of the work at CJA is done by postulants and social workers. CAJ personnel in all categories could benefit from additional training and support efforts, such as the development of practice manuals.

22. CAJ does not appear to have an adequate library or access to current professional information, such as information regarding legislation or technical matters necessary for its work. Effective dissemination of this information is as important as obtaining it.

23. CAJ may be in a position to provide the institutional foundation for a national support center, or at least that part of a center that would relate to the legal services that CAJ provides. The list of priority items requested by the Director of CAJ includes many items which may fall within the ambit of this project in that regard.

### ***Relating to the Project and LAA***

24. It appears that no one on the project's advisory council is knowledgeable about and committed to the LAA. No attorney on the council has rendered extensive representation, civil or criminal, to poor people. There is no representation of CAJ or any other institutional provider of legal services. The *fiscal*, however, has a seat on the council.

25. The lack of legal services practitioners and the abundance of academicians involved in the project tends to reinforce the theoretical tone and perspective of the grant.

26. The grant objectives are extremely vague and would constitute a design defect in the grant if the vagueness were not a necessary condition to establishing the project. The objectives are also overly broad.

27. CPU will achieve a greater degree of reform of legal services and will do so more easily if CPU's interest in reform is perceived as civic rather than partisan in nature. Thus, the CPU could become more effective by broadening the image of the project and including a broader range of participants.

28. CPU has had a fragmented approach to this grant and this has reduced the effectiveness of the LAA. Although LAA has been reasonably effective in implementing specific activities relevant to project objectives, it has not systematically sought to integrate these activities to the optimum degree.

29. Even if CPU's resources were integrated in an optimum manner, it does not have sufficient capacity to act effectively regarding reform of legal services at the present time, especially with regard to: 1) knowledge about the legal and administrative aspects of providing legal services for the poor across the nation, and 2) managing technical assistance for legal service providers.

30. Another related problem is the number of different efforts being made by a relatively small staff in an effort to comply with the terms of the grant agreement.

31. There is some question as to whether the money currently being used by

CPU for part-time personnel could be more effectively used for full-time personnel.

32. The LAA has not supported any pilot project directed at reform of the legal system. The following are four possibilities to consider as points of departure:

1) Speed up the process by front loading the system. Everyone agrees that it is overburdened and cases take too long. Thus, a pilot program could employ staff to provide early representation (beginning as soon after arrest as possible) in those classes of cases in which such attention will be most effective. These classes of cases might be those: a) that drag on and are most likely to be dismissed without charges (or reduced charges) after prolonged paper shuffling and incarceration of the defendant, or b) in which the staff is most likely to be able to submit evidence that would make a material difference in the outcome of the *sumario*. Early disposition will not only permit a more prompt and just result in these cases, but will allow limited judicial resources to be more effectively focused on the remaining cases. See, e.g., Early Representation Pilot Project, Law Offices of the Public Defender, Miami, Florida.

2) Develop materials relating to the legal profession's ethical obligation to represent the poor, defining this work not as an adjunct or means to supplement income, but as a fundamental (constitutional) obligation of a free society. Teach this material to lawyers and law students in order to: a) identify societal interests in providing legal services and access to courts, b) raise expectations that the society will follow its self-interest, and c) improve the status of those lawyers who dedicate themselves to this work, so as to reduce the problem of attracting and retaining lawyers.

3) In order to ascertain the validity of *sumario* procedures, if any question exists, hire personnel to check with witnesses to determine the relationship between what they know and what their statements, as submitted by judicial staff, reflect. This might help determine to what extent, if any, the perceptions or interests of *actuarios* influence the written statements presented to the judge on behalf of inarticulate or illiterate witnesses.

4) Identify areas of the law important to the poor which might benefit from review by the Supreme Court and employ staff to develop and litigate appropriate cases. This would not only result in development of the law in a beneficial direction, but would positively influence the way legal services attorneys are perceived and perceive themselves.

33. Given the well-recognized, extreme lack of professional expertise, legal information and other support materials, the establishment of a national support center is more than a worthwhile priority, it is essential to the development of the legal services delivery system. LAA appears to have accomplished little or nothing in this area.

34. The poor apparently are aware that they are ignorant of their legal rights and are desirous of being informed of them. The *cartillas* sponsored by the project are apparently an effective means of accomplishing this.

35. Informing the public of its rights will help raise expectations, but to the degree that these expectations are unrealistic (in terms of what is available or is likely to become available), the disadvantages will substantially reduce the value of the effort.

36. Adult education principles, if consciously incorporated into LAA training efforts, would probably make the training more effective.

## V. RECOMMENDATIONS

1. In order for the project to achieve meaningful reform of the legal services delivery system and the legal system in which it operates, the LAA should agree to and actually follow the general and specific recommendations set forth below. In general terms:

- **The component must become a better integrated or coordinated part of CPU.**
- **The objectives of the component must be made more specific and be part of a comprehensive, coordinated, practical framework focused directly on the actual provision of legal representation to the poor and the system within which that representation is provided.**
- **The scope and direction of the component must be more clearly delineated and narrowly focused. The project must not be a rolling project.**
- **LAA should establish indicators or targets to use as reference points for the measurement of future success and should gather information and maintain records sufficient to demonstrate its effectiveness regarding each activity.**
- **All LAA activities should include a follow-up component, which should include an evaluation of their effectiveness.**

2. The above-referenced coordination and integration refers at least to the following:

- **CPU should make a conscious effort to systematically integrate its activities within the LAA and CPU.**

CPU should appropriately integrate, or at least coordinate, its efforts to reform the provision of legal services with its other efforts at the municipal level.

CPU should determine whether legal services should be given the same emphasis as education, housing and health in the national plan for social welfare programs for the poor and, if so, should take action to accomplish this.

Now that the actual *Encuesta* data are available, project objectives should include applications of that data to specific legal reform efforts, and establish a clear relationship between those applications and other project activities.

3. **In order to achieve the greatest degree of legal reform with the greatest ease, CPU should take all available steps to promote support for reform with the widest, effective range of political groups.**

CPU should lobby these groups to educate them about their interest in reform and encourage them to participate in the process on a civic and clearly non-partisan basis. These groups should encompass the broadest range of the political spectrum that would be constructive, from the

municipal to the national level and from the left to the right.

CPU should reformulate and broaden the concept of legal services so as to take advantage of the popularity of public safety (*seguridad ciudadana*) aspects of legal services, as has been done in wealthier municipalities such as Providencia.

**4. CPU should manage, but not provide, technical assistance regarding legal services.**

**5. CPU should strengthen its capacity to act effectively in the legal services area. This strengthening should include:**

- broadening its staff's direct, personal experience with the national realities of providing legal representation (defined broadly to include the work done by social workers with regard to legal problems) and the administration of provider programs.
- establishing linkages with other efforts to reform legal services. On the international level, this should include the International Legal Services Association (regarding Latin America). There are several institutions with vast, valuable resources in the United States, including the National Institute of Justice, National Legal Aid and Defender Association (which has both civil and criminal components), and the American Bar Association (especially its Standing Committee on Legal Aid and Indigent Defendants).
- acquiring a library of relevant materials from within and without Chile.
- expanding its bank of consultants.
- attending meetings and workshops inside and outside of Chile.
- arranging short internships in places which might serve as models for the delivery of legal services in Chile. For example: Costa Rica (where civil and criminal legal services are integrated into the judiciary and have the benefit of its more adequate resources); The American University, Washington, D.C. (where Richard Wilson, an attorney who is familiar with Chile directs a *clínica*); and the Law Offices of the Public Defender, Miami, Florida (which has a well-developed information system and has integrated the use of social workers into a legal services agency).

*The CPU should also expose appropriate CAJ personnel to the types of activities and places described above.*

**6. The CPU should take meaningful action to establish a national legal assistance support center.**

This action should include entering into a contract providing for the development of a design for a center. That contract should directly involve individuals or entities having extensive expertise in the design and operation of a center. This expertise may be related to backup centers in general, in the private as well as the public sector, and need not be confined exclusively to legal services. The design process should

provide an opportunity for CPU staff, as well as the staff of other institutions which may be included in the design or operation of the center, to educate themselves regarding the possible functions and structure of the center and establish realistic priorities for it. This sub-project should determine at the very least: a) the possible location(s) and structure of the center, b) what information and support materials should be developed by or housed at the center, and c) how such materials should be most effectively obtained, catalogued, maintained and disseminated.

7. CPU should not be required to maintain a separate aspect of the project directed only toward the legal problems of poor women, provided that: 1) this focus on women's problems be effectively and specifically incorporated into each of the activities in the legal representation area, and 2) CPU agree to maintain specified types of records reflecting sufficient data to allow assessment of CPU's effectiveness in this regard.

***Relating to CAJ***

8. CPU should increase its commitment to CAJ and make it and its staff more of a priority of the project.

9. CPU should immediately concentrate more of its attention directly on the actual provision of legal representation to the poor and reforming the legal system in which that representation is provided.

CPU should immediately focus on the concrete problems of CAJ, especially on such problems as are fundamental and are likely to affect the delivery of services regardless of the future structure of the provider.

CPU should not wait for the restructuring of the legal services delivery system based on either the election results or the passage of legislation before focusing its attention on fundamental areas in need of development regardless of the structure of the delivery system.

10. In order to insure the effectiveness of the future legal services delivery system, CPU in conjunction with CAJ (and/or other legal services providers), should develop human resources (talents and skills of *all* categories of staff) and administrative resources (systems) that are necessary, but are not now available or adequate.

11. CPU should provide or promote training for CAJ and other legal services providers.

12. CPU should focus on the personal and professional development of the dedicated and experienced lawyers who form the nucleus of CAJ (and their predecessors) who will be relied on to provide the human foundation for the Chilean legal services delivery system, regardless of the form of that system.

This development should include: management training, especially in administrative areas, such as human resources, budget and finance, and the application of existing technology. E.g., how staff should deal with clients. This could be based on the course that was offered to judicial support staff by the Training of Judges component of this project.

The project should support CAJ staff in meeting other people with similar responsibilities and work experience.

Given the high degree to which CAJ relies on postulants and social workers in order to meet its professional obligations, the CPU should continue to provide training and support for those staff members.

**13. CPU should assist CAJ in developing a management information system, which may or may not be initially automated.**

This system should initially focus on internal functions reasonably identified by CAJ as priorities. The system should not necessarily be confined to the main office and should be designed with a view toward integrating and improving existing practices. An effective manual system is a prerequisite to an effective automated system. The system should also be designed so as to eventually make use of data from the information systems of the courts, penal system, and other relevant agencies to the extent possible and cost-effective.

**14. CPU should assist CAJ in developing a case management system and client data base, which may or may not be initially automated.**

This might include developing pilot projects to develop specifically-tailored, integrated, word processing and data base functions and provide appropriate staff training. CPU should determine whether the CAPJ would be willing to assist in any part of the computerization of CAJ, so long as this is acceptable to CAJ.

**15. CPU should assist CAJ in developing an adequate library and access to current professional information, such as information regarding legislation or technical matters necessary for its work.**

This could be accomplished as part of the project's fulfillment of its obligation under the grant to work toward the establishment of a national clearinghouse for information and support for legal advocacy on behalf of the poor. The project should consider assisting CAJ to improve its newsletter and using it as a vehicle for disseminating relevant information as broadly and efficiently as possible.

16. If desired by CAJ, CPU should consider assisting it in developing a funding formula, and appropriate salary and caseload comparisons.

**17. The project should use the request submitted by the Director of CAJ as a basis for establishing a cooperative working relationship to address mutually acceptable priorities within the objectives of the grant, with particular emphasis on those priorities which are directly related to reforming the delivery of legal services and the system within which those services are provided.**

The accomplishment of these priorities may involve other institutions. For example, it may be feasible to develop on-going training programs for CAJ personnel, including social workers, at universities. The creation of innovative offices and the improvement of physical conditions in others should be considered as part of a pilot project, perhaps relating to interfamilial violence, and would also have the effect of recognizing the importance of the work done by CAJ personnel.

As another example, the administrative office of the courts may possibly be willing to provide technical assistance relating to automation, especially automation that would eventually permit CAJ to make direct, digital use of judicial information now available to the public on the judicial information system.

In that the law school clinics provide more adequate legal services than CAJ, CPU should consider working cooperatively with one or more of the clinics to establish how much time and effort is required to handle different categories of cases for the purpose of developing a realistic assessment of resources necessary to adequately provide legal assistance. This information could form part of a management system such as a funding formula, to determine when and to what degree caseloads are excessive, or the information could be used more generally.

18. CPU should consider including representatives of CAJ and other persons with extensive knowledge of and interest in the provision of legal services on its project advisory board.

**19. CPU should consider establishing pilot projects directed at reform of the legal system.**

**20. CPU should only contract for future studies and surveys which have direct policy implications.**

If additional surveys were to be conducted, the CPU should give priority to a survey of the past and present staff of the CAJ to determine their perceptions of that agency's *specific* needs.

CPU should consider using the Delphi method in place of more expensive research modalities, whenever practicable.

21. CPU should consider whether the money it currently uses for part-time personnel could be more effectively used for full-time personnel. If CAJ is amenable, CPU might provide a similar analysis for it.

22. All past and future co-sponsors of *cartillas* should be encouraged to develop follow-up procedures to evaluate the effectiveness of their pamphlets and to facilitate improvement where further publications will be made.

23. A further evaluation of the LAA should be conducted in the relatively near future. This evaluation should give particular emphasis to those areas which are presently regarded as problematic.

24. If the foregoing recommendations are substantially agreed upon and followed, funds from any discontinued area of the project should be reprogrammed into this area. If these recommendations are not acceptable to CPU or are not followed, AID should consider shifting all or part of the grant for this component to CAJ.

## VI. ADDITIONAL PEOPLE INTERVIEWED

Dora Silva Letelier, Directora General, CAJ main office  
Jean Pierre Warnier, Subdirector Administrativo, CAJ main office  
Mirtha Ulloa, Abogada de la Fiscalia, CAJ main office  
Clara Salgada, Abogada de la Fiscalia, CAJ main office  
Joaquin Billard, Juez de Primer Instancia, Juzgado del Crimen de Santiago,  
Compania 1213, Third Floor, Santiago  
Jimena Pinto, Jueza del Cuarto Juzgado Civil de Santiago, Huerfanos 1409,  
Santiago

## VII. ADDITIONAL BOOKS AND MATERIALS REVIEWED

*Encuesta Nacional Problemas Judiciales de los Sectores de Bajos Ingresos*, Proyecto de Capacitacion, Gestion y Politica Judicial, CPU and DESUC, Santiago, February, 1993. 2 vols.

Various commentaries from the seminar regarding the results of the *Encuesta*, including: *Comentario Pedro Gandolfo*; and Cristian Riego, *Los Sectores Populares Frente al Sistema Penal*.

*Asistencia Juridica a Mujeres de Bajos Ingresos*, Nancy de la Fuente, Paula Correa, et al., Proyecto de Capacitacion, Gestion y Politica Judicial, CPU, 1993. Includes a nation-wide list of institutions that offer legal assistance to women, at 37.

Various CPU legal booklets (*cartillas*), including: *Derechos del Detenido o Preso*, Departamento de Practica Profesional y Asistencia Legal (DEPAL) and Proyecto de Capacitacion, Gestion y Politica Judicial, CPU, May, 1993.

Richard J. Wilson, *Legal Assistance Activities: Background and Problem Area Description Project Paper -- Chile*, The American University, Washington, D.C., draft of January 23, 1991.

Luis Salas and Jose M. Rico, *Criminal Justice in Latin America ... A Primer*, Center for the Administration of Justice, Florida International University, Miami, Florida, draft.

Country Profile -- Chile, *Political and Social Survey*, The Economic Intelligence Unit, London, 1992-93.

*Political Systems of Latin America*, Martin C. Needler, Editor, D. Van Nostrand Company, Inc., Princeton, New Jersey, 1964.

*Constitucion Politica de la Republica de Chile*, 1980.

*Documento Interno de Trabajo, Area de Asistencia Juridica*, Jorge Correa and Macarena Vargas, June 9, 1993.

*Informe Trimestral, Area de Asistencia Juridica (Marzo - Mayo)*, May 27, 1993.

Program Description, Chile Justice System Improvement Program, AID

Evaluation guide: from Salas, Terms of Reference Applicable to All Evaluators

## APPENDIX A PROCEDURES AND RIGHTS INDICATED IN DDDP.

- Right to be taken directly to a place of public detention. at 1.
- Right not to be illegally or unjustly detained. at 1.
- Right to be "*puesta a disposicion del juez*" the next day. at 1.
  - Use of *amparo* to vindicate the aforementioned rights, in the appellate court and again in the Supreme Court.
  - Right to have the appellate court resolve the case the next day. at 2.
- Right to dictate a petition and, if you cannot read, have it read out loud to you. at 4
- Right to suspend interrogation if it is prolonged or you have lost your calm. at 4.
- General implication of direct contact with or access to the judge.
- Right to receive and send letters. at 5.
  - Only the judge can order the opening of letters sent or received. You have the right to be present or to have a representative present when the judge opens the correspondence. at 5.
  - (But: at 13 -- indicates mail will be reviewed)
- Conditional right to visit with friends and relatives. at 5.
  - (But: at 13 -- limited and regulated)
- Right to practice your religion and receive visits from clergy of your religion. at 15.
- If held *incomunicado*:
  - Can communicate with the judge and superior courts.
  - Can be visited by a lawyer.
  - Have the right to speak with your lawyer in the presence of the judge.
  - Have the right to have books and paper when authorized by the judge.
  - May send and receive letters with the permission of the judge who will inform himself about the contents. at 6.
- All detained or imprisoned are presumed poor and therefore have the right to free legal defense. at 7.
  - Have the right to an appointed lawyer (*abogado de turno*).
  - Can request that an attorney from CAJ represent you.
  - Can resort to law student clinics for representation.
- If detained, you have the right to petition for conditional release (bond or without bond). at 7-8.
  - Must show good conduct by certificate and have two legally qualified witnesses).
  - May request part-time release. at 18.
- If denied bond, you have the right to request the appellate court to review the decision. at 8.
- If the bond set is very high and you cannot pay it, you have the right to request that it be reduced.
- May petition for supervised release, at 19, conditional liberty, at 20, after conviction.
- Right to petition for pardon (executive clemency). at 16.

ATTACHMENT 7

EVALUATION OF THE AID-CPU CJSIP PROJECT  
(CHILE JUSTICE SYSTEM IMPROVEMENT PROGRAM)

Edmundo Fuenzalida Faivovich  
Santiago de Chile, June of 1993.

## HISTORICAL BACKGROUND OF THE JUDICIAL SYSTEM.

Several studies conducted by Chilean scholars before the beginning of the AID-CPU project provide a good general history of the judicial system in this country (Cuneo, 1984; Fruhling, 1984; Pena, 1992). According to this literature, the judicial system was organized by the Organic Law of the Courts in 1875, under the influence of liberal ideas. The judiciary is defined as a State power independent from the executive and the legislative, and is composed of judges who have received a degree in law (Jueces Letrados) and who have to solve the cases brought before them according to the laws passed by the legislative. The jurisdiction of these judges is universal, both civil and penal. Courts of Appeal review the sentences of the judges, and there is a Supreme Court, that has the power to invalidate a sentence if it has been pronounced in violation of the laws (casacion).

In the 1920s, following the crisis of the oligarchic state, a series of reforms were introduced in the legislation, that actually exclude from the jurisdiction of the ordinary judges the resolution of cases with high political content. Labor conflicts, those between the administrative agencies of the State and the individual, and those concerned with laws that have been passed by the legislative in violation of the constitution are resolved by a special set of courts.

This policy has the effect, on the one hand, of protecting the courts from political pressures but, on the other hand, to marginalize the judges from the main currents of social change. It also diminishes the relevance and visibility of the judicial system as an important power of the State. The judges respond to this situation by limiting their role to that of technicians who apply the laws approved by the legislative without consideration of the social consequences of their application to particular cases. If such consequences are negative for social peace or for social progress, it is up to the legislative to modify the laws. Interpretation of the existing legislation is thereby limited to a minimum, and the judiciary gives up the constructive side of their role.

This situation remained basically unchanged until the sixties, when the acceleration of social change induced by the reformist government of Eduardo Frei reveals the fact that the judiciary is out of step with the rest of the country. The Supreme Court was attacked by Professor Eduardo Novoa Monreal, in a famous paper, of administering a "class justice". There follows a lively debate in the national press that for the first time in history puts the judiciary right at the center of the political struggle.

During the government of Salvador Allende (1970-1973), a socialist elected on a platform of radical change, the proposal to establish "Tribunales Vecinales" or popular courts is strongly resisted by the judiciary, most of the legal profession, and the political opposition. The Supreme Court becomes a main actor in the political process, and formally accuses the government of deliberately denying the support of the police for the enforcement of its sentences.

The military coup of September 11, 1973, puts a military junta in charge of the executive, and dissolves the legislative, but does not touch the judiciary.

During the initial years of military rule, the judiciary refuses to recognize the fact of extensive violations of human rights by agents of the State, and

systematically rejects the "habeas corpus" presented on behalf of thousands of detainees.

The military government begins a policy of modernization of the judiciary during the eighties, aiming at increasing its efficiency through the incorporation of computing technology. During the seventeen years of military rule there is a considerable increase in the number of judges and of courts, but there is an even more impressive increase in the number of cases brought to the judiciary.

#### THE JUDICIAL SYSTEM TO-DAY AND ITS MAIN TRAITS.

The studies done before and after the beginning of the AID-CPU project have made valid contributions to the understanding of the internal organization, personnel and resources of the judicial system. More needs to be done with respect to the administrative personnel that supports the work of the judges.

Judicial culture has been the object of a major theoretical effort by CPU before the beginning of the AID-CPU project, but only a limited part of it has been used in the actual empirical studies conducted under the project.

The relationships of the judicial system with the rest of the legal system, and with the society at large remain unexplored territory.

I am puzzled by the fact that so many distinguished legal scholars as have been attracted to the study of the judicial system have not even touched the question of how well prepared is this system to respond to the new challenges that society is generating for it, such as the new economic model with its obvious consequences in terms of demands to the legal system. The same consideration applies to subjects as the new organized crime, narcotics, violence against women, pornography, free speech, right to privacy, corruption.

The community of legal scholars involved in the studies of the judicial system seem to be sharing in the isolation of this system from society at large. It seems necessary to convince this community of the need to cooperate with social scientists, not only at the methodological level, but also at the substantive one.

#### THE GOVERNMENT'S LAW REFORM PROPOSALS.

It is difficult to focus on this topic at this time, since it is a moving target. According to the country's constitutional provisions, legal initiatives are sent by the President to one of the two Chambers, where they wait to be discussed according to the date of reception, unless the President asks for "urgent treatment". Given the high number of such initiatives, Congress ends up discussing the initiatives that are designated as "urgent" by the President. Besides, the President can change this designation at any time, considering the reception given to his different proposals by the political opposition.

Initiatives for a substantial reform of the judicial system were sent by the President soon after his election, in particular, that which proposed the creation of a Superior Council of Justice. The strong reaction by the political opposition and by the

Supreme Court soon convinced the President to abandon the initiative. The initiative to create the Defensor del Pueblo or ombudsman suffered a similar fate.

The trial of three Supreme Court Ministers by Congress, which concluded with the expulsion of one of them from the Court, made even more difficult the approval of other proposals. In a last minute attempt to save part of the proposals, the President has sent a task force to Congress, headed by Professor Jorge Correa.

The opinion shared by many interviewees, and my own opinion, is that during the present Congress only a few of the proposals have an objective chance of being approved. Among them, the Judicial School and the proposal that regulates the judicial career. The next Congress, which will be elected in December of 1993, will have to decide on the rest of the proposals.

#### STUDIES OF THE JUDICIAL SYSTEM DONE BEFORE THE BEGINNING OF THE AID-CPU PROJECT.

I have detected five different sets of studies, conducted during the eighties. The first includes the studies conducted under the modernization policy of the military government in the mid eighties, mainly by economists, with the purpose of improving the efficiency of the judiciary. One study, done by the University of Chile, regards the characteristics and duration of the judicial process. A second study, completed by the Catholic University of Valparaiso, generated an economic model of alternative costs and benefits with respect to a size of the judiciary that would be both appropriate and efficient. A third study, conducted by the P. Catholic University of Santiago, evaluated the applicability of information systems to the management of the courts. As a consequence of this study, the judges with civil jurisdiction of Santiago have received the support of an information system that registers the input of cases and allows both parties and lawyers to monitor their progress through the judicial system.

Although this set of studies were inspired by a managerial rationality that emphasized the optimization in the use of resources, and did not consider the expectations of the citizens towards the judiciary, it is the first sistematic attempt to reform the judiciary based on empirical studies (Pena, 1992).

A second set of studies are the output of individual efforts by legal scholars. One of them (Cuneo, 1984) analyzes the content of the speeches of the President of the Supreme Court, pronounced each year at the beginning of judicial year, during the seventies. The other (Fruhling, 1984) offers a historical account of the development of the judiciary up to the end of the seventies, with a sociopolitical approach.

A third set of studies are the outcome of a seminar held at CPU in January of 1988, on the topic of "legal culture". These studies are based on the perceptions of the authors, all of them legal scholars with many years of experience both as professionals and as university professors. The different studies included in the volume (Squella, 1992), explore in depth a set of hypothesis about the content of the legal culture of the country proposed initially by the convenor of the seminar and editor of the volume. The contribution on the judicial culture is particularly relevant to the AID-CPU

project (Correa, 1992).

A fourth set of studies have been prepared by faculty members of the School of Law of the University Diego Portales, as part of a comparative study of judicial policy in Latin America, done in cooperation with the Complutense University of Madrid, and the support of the Spanish government. Most of the studies included in the volume (Pena and others, 1992) are based on the qualitative analysis of norms and documents, and trace the history of the judiciary back to the nineteenth century. An exception is the study by Joaquin Cortes of the treatment of the Supreme Court by the press (1954-1973), that combines quantitative and qualitative modes of analysis.

A fifth set of studies were the outcome of a seminar of experts convened by the Center for Public Studies, CEP, in 1990. The volume (Valenzuela, 1990) includes the contributions of the many participants, most of which are of dogmatic nature. The exception is the contribution by Carlos Pena Gonzalez. This study is based on a sample of the universe of practicing lawyers of Santiago. Sample design included a sample of 358 lawyers, out of a universe of 3.943. The written report declares that the sample was taken at random, but fails to indicate the procedure. The questionnaire was sent by mail, in November 1990. 25.50% of the questionnaires were completed, whereas the sample reached a figure of 74. Besides, the sample design included another sample of the lawyers who teach at the Law schools. Sample size was established at 33, but the written report fails to indicate the size of the universe. 12 questionnaires were returned (36.36%).

The report offers the sample distribution along the variables age, sex and modality of legal practice, but fails to compare them with the universe distribution. Therefore, it is not possible to decide if the sample is representative of the universe. The author declares that the results may be considered "significant enough" of the opinions of Santiago lawyers because the sample was taken at random. Since the report does not give the procedure of selection of the sample, it is not possible to say if the results are statistically significant or not. Given the sample size, I am inclined to think that they are not statistically significant.

The study focuses its attention on the evaluation of the administration of justice by the lawyers, both in general and by level of courts. Other topics are: specific aspects of the administration of justice; timeliness and quality of the sentences; the ideal judge and how the real ones compares with such ideal; attitude of judges towards the most urgent reforms of the administration of justice; attitude of lawyers towards the judicial career.

The first part of the study includes some theoretical ideas about the judiciary, but they are not used as hypothesis to be tested by the empirical study. There are no conclusions.

#### STUDIES CONDUCTED UNDER THE AID-CPU PROJECT.

Three studies have been formally published by the AID-CPU project up to now, as short, neatly designed and printed books in a series called Estudios. During the interviews I have come in contact with two other studies, already completed but not yet published in the series.

Number 1 in the series is the study by Arturo Onfray and Carlos Cerda (1992). It is based on a sample of the universe of first instance judges of the country.

Sample size is 165, whereas the universe includes 325 judges. 15 of the 165 were interviewed personally, whereas the rest received the questionnaire by mail. In the published piece there is no information about sample design nor about the procedure followed to select the sample. Tables are included that show the heterogeneity of the sample with respect to six independent variables, but there is no comparison between sample distribution and universe distribution along these variables, whereas it is not possible to decide if the sample is representative of the universe or not.

Data analysis is limited to frequency distributions, cross-tabulations of no more than two variables, and percentage differences.

This study is focused on the identification of the weaknesses perceived by the judges in their formation, both at the level of the Law School and at that of the compulsory legal practice that degree candidates have to complete before receiving the degree. Other topics include: main difficulties encountered by the judges during their professional practice; elements that should be considered in a future program for the formation of judges; importance and methodology of such future program.

Number 2 in the series is the study by Antonio Bascunan, Lucas Sierra and Juan Andres Varas (1992). It is based on a sample of the universe of first instance judges. Sample size is 127, whereas the universe size is 325. The text declares that the sample is probabilistic, but there is no information about sample design, or about the procedure followed to select the sample. The questionnaire was sent by mail, and 40% of the questionnaires were completed.

Sample distribution along the variables sex and jurisdiction is compared with universe distribution along the same variables. On the basis of this comparison, the study declares that the results can be projected to the first instance judges as a whole.

The analysis of the frequency distributions is followed by cross-tabulations in which the perception of weaknesses in the formation is combined with such independent variables as Law school of origin, specialization courses, period in which legal education took place (before or after the process of university reform, in the late sixties), years of experience, first position in the judiciary, jurisdiction.

Number three in the series is the study by Nancy de la Fuente Hernandez, Paula Correa Camus, Mirtha Ulloa Gonzalez and Angelica Pino Davis (1993). It is based on a sample of the universe of institutions that offer legal assistance to low income women. The study offers a list of the institutions that offer legal assistance to low income women, and analyzes the different types of legal assistance that these institutions offer, classifying them according to whether they offer general or for women only assistance. Also, the study details their thematic specialization, coverage and organizational structure.

During the interviews I came in contact with a study conducted by Luz Cereceda, of the Institute for Sociology of the Catholic University of Chile. It is based on a survey of all the judges that have specialized jurisdiction for minors. Their secretaries, sort of assistant judges, were also included in the survey. The questionnaire was sent by mail. 21 of the 42 judges completed the questionnaire, whereas only 13 secretaries returned theirs. 10 judges were personally interviewed by the researcher.

The focus of the study was on the motivation to enter into this branch of the judiciary, and the on the training received by those who are appointed.

Also during the interviews I was told of another study, conducted by Luis Barros and Jorge Rozas, of the DESUC of the Catholic University of Chile. This is a study of the legal needs of the urban poor, and of their perception of the judiciary, and of other components of the legal system, such as the police. It is based on a sample of the urban poor who live in the major cities of the country.

There is no doubt in my mind that these studies have made a considerable contribution to the understanding of the judicial system, as it exists in Chile now. Nevertheless, the studies as a whole show deficiencies that should be corrected, and that can be corrected in the short time.

The single most important deficiency is of methodological nature. Sample survey technique has become quite sophisticated, and very little of that sophistication can be found in the studies that I have seen (as I have mentioned, I have not seen the studies by Cereceda, and the one by Barros and Rozas). Information about sample design, and about the procedure to select the sample is a must. If a sample is probabilistic, and has been properly done, findings can be generalized to the universe with a certain degree of statistical confidence. Nothing of the sort can be found in the studies Nr. 1 and 2. Then, in terms of analysis, the interesting findings usually appear with multivariable analysis, and not just with cross tabulations.

A second deficiency is of an organizational nature. I am surprised to find two studies of the first instance judges conducted at about the same time, on very similar topics, that have taken different samples and have completed independent processes of data collection and analysis. It seems obvious to me that the two teams should have worked together to generate a single questionnaire, and then conduct one process of data collection.

A third deficiency regards the nature of the reports, that do not attempt to extract from the analysis specific recommendations for action.

In general, it seems to me that time and resources should be devoted, first, to an integration of the studies already done, to determine what has been learnt and what needs to be learnt with respect to the judicial system. Second, before starting new studies, a systematic effort should be devoted at creating teams of legal scholars and social scientists that can work together in the design and implementation of studies of the judicial system. In my opinion, given the experience gained by several legal scholars, and some social scientists, in this type of research, the goal of creating interdisciplinary research teams can be reached in a reasonable period of time, if the appropriate means are used.

#### MY ANSWERS TO SPECIFIC QUESTIONS ASKED IN THE TERMS OF REFERENCE.

a) What are the real possibilities of the project to generate changes in the judicial system and its members in their cultural, behavioral, administrative and normative levels?

Limited, but real enough to justify its continuation. The main changes that it will generate will happen at the cultural level.

b) Should the project be more directly involved in lobbying activities on behalf of specific project promoted legal reforms?

Are there any dangers in this strategy? How can they be avoided? How can this lobbying activity take place?

Definitely no, but I am afraid that something along this line is happening with the participation of Professor Jorge Correa, one of the project directors, in lobbying on behalf of the reforms proposed by the government. See my next answer.

c) How can this project, supported by a foreign government, act as a catalyst for basic judicial and legal changes without running into charges of interference in national affairs?

Abstaining from any lobbying, supporting interdisciplinary research on the legal system and using the results of such research in training of legal personnel.

d) Have the surveys and studies of the project been translated into concrete activities for system reform or become inputs into other project activities?

Yes, but much more should be done in this respect. In order to make it possible, it is necessary to stop for a while the research activity and concentrate attention on theoretical integration of the empirical results.

e) Has the project developed scientific diagnostics and proposals for alternative solutions that may be included in future system reforms?

No. See my answer to the previous question.

## RECOMMENDATIONS.

On the basis of the information collected so far, I recommend to eliminate the administration component, on the grounds that the Corporacion Administrativa del Poder Judicial is doing a good job and that CPU has little to offer in that component.

With respect to the legal assistance component, I recommend to strengthen the relations of the project with the Clinicas Juridicas of the universities, helping them to develop a course that will use their experience in dealing with concrete cases to complete the education of the students in the normative component of the legal system with an understanding of the structural and the cultural components. In the same vein, I recommend to strengthen the links with the Corporacion de Asistencia Judicial, helping to develop some sort of practical manual that can be used by the graduate students to deal with the cases.

The one area in which CPU has more competence and experience is in training. Therefore, I recommend to give more emphasis to this area of the project, relying more on the general training capacity that I know exists in other CPU projects. The training of judges should be used as an opportunity to bring to the fore the "implicit judicial culture" and to discuss it, using the book published by CPU on the subject. The number of trainees should also be increased. A different kind of training, with different objectives and methodologies, should be offered to the "actuarios", to help them do better their job as employees.