



**USAID/GUATEMALA RULE OF LAW PROGRAM  
(September 2004-September 2009)**

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**FINAL REPORT**

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## LIST OF ACRONYMS

AECID	<i>Agencia Española de Cooperación Internacional para el Desarrollo</i>
AGO	Attorney General's Office
CAGP	<i>Centro Administrativo de Gestión Penal</i>
CAJ	<i>Centros de Administración de Justicia</i>
CICIG	<i>Comisión Internacional Contra la Impunidad en Guatemala</i>
DEA	Drug Enforcement Administration
DINC	Investigation Unit
FADS	<i>Familiares y Amigos Contra la Delincuencia y Secuestro</i>
FICC	Court of First Instance
FMM	<i>Fundación Myrna Mack</i>
GOG	Government of Guatemala
GSO	General Supervisor's Office
ICMSJ	<i>Instancia Coordinadora para la Modernización del Sector Justicia</i>
IIOC	Inter-institutional Commission for Oralization
INACIF	<i>Instituto Nacional de Ciencias Forenses</i>
ISO	International Organization for Standardization
LAOC	Law Against Organized Crime
LASV	Law Against Sexual Violence, Exploitation and Trafficking of Persons
MA	<i>Madres Angustiadas</i>
MPJ	Movimiento Pro Justicia
NAS	Narcotics Affairs Section
NCP	National Civil Police
NGO	Non-governmental organization
OUACI	Office for the Use and Analysis of Criminal Information
OAP	Unit of Permanent Attention
OAV	Office of Attention to the Victim
PDO	Public Defense Institute
PM	Public Ministry
SICOMP	Public Ministry's Automated Case Tracking System
STC	Secretary of Technical Coordination
TCO	Technical Coordinating Office
UCAL	Unit of Crimes Against Life
UNICAP	<i>Unidad de Capacitación</i>

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## EXECUTIVE SUMMARY

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In September 2004, Checchi and Company Consulting, Inc. (Checchi) was awarded a five-year MOBIS task order to implement the USAID/Guatemala Rule of Law Program (ROL Program or the Program). The task order budget totaled \$7,915,909.00.

The Program had three sub-intermediate results areas: (1) improved transparency and efficiency of criminal judicial process; (2) crime prevention programs implemented; and (3) support for justice reform increased. In addition, the Program included an additional activity that involved assistance to the *Comisión Internacional Contra la Impunidad en Guatemala* (CICIG). The task order was modified on January 4, 2006 to add the creation of an Autonomous Forensic Institute and to delete support for training in community-based mediation programs, particularly on land conflicts. The task order was further modified in July of 2007 to delete the sub-IR on alternative dispute resolution and to add support for the prosecution of femicides, oral pretrial proceedings and transition to a high impact jurisdiction in the Petén courts. Among the Program's most notable achievements are the following:

- The pre-trial oral process was introduced and made operational in the majority of national courts of first instance (FICCs);
- Over 1,600 judges, public defenders, prosecutors and private lawyers were trained in the oral process;
- Innovative 24-Hour Courts were opened in five locations which greatly reduced the pre-trial detention period and reduced opportunities for corruption;
- Within six months of the establishment of the Guatemala City 24-Hour Court, dismissals of criminal cases for lack of evidence declined from 77% to approximately 15%;
- The design and implementation of a model FICC improved case handling, inter-institutional coordination, and the provided for separation of administrative from judicial functions;
- Public Ministry's (PM) reengineering process was consolidated and various units of the PM were strengthened;
- The institutional capacity of the PM's automated case tracking system (SICOMP) was strengthened to become an important instrument in the collection and use of statistical and case tracking information;
- Case-based methodology applied to restructuring PM's Unit of Crimes Against Life and Personal Integrity (UCAL);
- Worked closely with CICIG to increase its capacity to investigate illegal entities and clandestine security structures;
- Sixteen local crime prevention commissions were formed that developed and implemented local crime prevention plans;
- Fifteen Justice Centers successfully transferred to the supervision of the Executive Secretariat of the *Instancia Coordinadora para la Modernización del Sector Justicia* (ICMSJ);
- Civil society groups monitored reengineering and made recommendations on various reforms, in particular in the PM.

Following is a brief description of the primary Program components.

## **IMPROVED TRANSPARENCY AND EFFICIENCY OF CRIMINAL JUDICIAL PROCESS**

The Program focused on widespread adoption of the oral trial process to achieve, and in some cases exceed, the expected results. The oral process influenced institutional restructuring and reengineering, and shaped much of the extensive training carried out by the Program. In order to achieve nationwide coverage of the oral process, an Inter-Institutional Commission for Oralization (IIOC) was created to implement the process in the courts of first instance (FICCs). Maintaining an emphasis on inter-institutional strengthening and participation, the IIOC represented all the major justice institutions. By the Program's end, oral hearings were conducted in the FICCs as a standard procedure in accordance with the oralization model.

One of the most notable achievements of the Program was the creation and implementation of the 24-Hour Courts. The 24-Hour Courts provided a single entry point for the criminal process and restructured the criminal detention system to comply with the Constitution. The Courts required extensive coordination among justice operators and higher standards for crime investigations and the production of evidence. As a result, cases dismissed for lack of evidence have been greatly reduced and conviction rates are up.

Checchi worked with the PM on its re-engineering efforts, and in particular assisted with a Manual of Jobs and Functions that consolidated and strengthened the implementation of the Prosecutor Career Law. The strengthening of the automated case tracking system within the PM (SICOMP) incorporated various data fields important to the criminal investigation process and afforded a systematic approach to criminal intelligence gathering. A new version of SICOMP was implemented in all five of the 24-Hour Courts and in the specialized prosecutorial units.

The Program assisted with the strengthening of the PM's main training unit (UNICAP) which included the reorganization of staff positions according to appropriate profiles and professional qualifications as well as the development of a permanent training plan. Training courses covered specialized areas of crime, such as homicides, narcotics, and money laundering.

Significant emphasis was placed on the PM's capacity to investigate and prosecute homicide and femicide cases. The UCAL was greatly strengthened by a reengineering of its internal procedures in distributing and handling cases for prosecution. As a result of the strengthening efforts in UCAL, the number of accusations and criminal convictions in homicide and femicide cases in the targeted areas of Guatemala City, Villa Nueva and Mixco rose dramatically.

## **CRIME PREVENTION PROGRAMS IMPLEMENTED**

The crime prevention methodology began with the formation of local crime prevention commissions, several of which were incorporated into the activities of the Justice Centers. The commissions included local government officials, representatives of local NGOs and other public

and private organizations. Success depended upon maximum community participation, and the diverse composition of the commissions encouraged such community involvement. The commissions initially carried out assessments in their communities to identify specific crimes and areas to be targeted, as well as the measures needed to reduce or eliminate the crimes. Specific crime prevention plans were then developed and implemented. Financing for implementation came primarily from local funds and private donations. In 2007, USAID instructed Checchi to re-allocate Program resources and eliminate the crime prevention activities. As a result, the Program successfully negotiated with the GOG to incorporate the crime prevention function into the responsibilities of the Executive Secretariat of the ICMSJ, a significant institutional achievement.

Technical assistance was provided to the Supreme Court to analyze and evaluate the feasibility of High Impact Criminal First Instance and Trial Courts. Such jurisdictions include homicides, kidnappings, organized crime and money laundering among others. Such investigations and trials require heightened security and protection for witnesses and justice sector operators, as well as for the safety of detainees. The first High Impact Court was proposed by the Program and approved by the Supreme Court with the 24-Hour Court in Guatemala City identified as the High Impact FICC. Related to these developments, the Program provided substantial support to justice sector operators in Petén, which has been plagued with high crime and drug-trafficking problems.

## **SUPPORT FOR JUSTICE REFORM INCREASED**

Soon after the Program began, the 15 Justice Centers were fully within the jurisdiction of the Executive Secretariat ICMSJ which assumed financial responsibility for their functioning, including payment of salaries of the coordinators. The Program worked diligently with the Government of Guatemala (GOG) to secure the financial resources necessary for the ICMSJ to assume full responsibility. After the successful transfer, the Program continued to provide technical assistance in support of the Centers.

The Program carried out a number of successful “social auditing” activities through the Small Grants Program, including the provision of resources to groups to monitor and assist with follow-up activities in the reengineering process of the PM. Much of the social auditing effort was effected through a non-governmental organization (NGO), *Movimiento Pro Justicia* (MPJ), that consisted of well known human rights and justice oriented NGOs, including the Myrna Mack Foundation. Such activities included support to various prosecutors’ offices, including those dealing with crimes against women. Grants were also used for strengthening the Office of Attention to the Victim (OAV). Significant assistance was given to the NGO, *Fundación Sobrevivientes*, a respected NGO that provides services to female witnesses at risk in high impact murder and other crimes. The Program grant financed support for witnesses and survivors in approximately 20 cases dealing with femicide.

**Section I**

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**SUB-IR 1.1: IMPROVED TRANSPARENCY AND EFFICIENCY OF CRIMINAL  
JUDICIAL PROCESS**

## **I. SUB-IR 1.1 IMPROVED TRANSPARENCY AND EFFICIENCY OF CRIMINAL JUDICIAL PROCESS**

### **A. LLR 1.1.1 INCREASED USE OF ORAL PROCEDURES IN PROVIDING CRIMINAL JUSTICE SERVICES.**

#### *1. Background*

Increasing the use of oral procedures in the criminal justice sector has a long history in Guatemala. For years after the entry into effect of the new Criminal Procedure Code in 1994, criminal judges tended to continue to adhere strictly to inquisitional principles, allowing little use of oral processes available under the new law, particularly in the early stages of the proceedings. As such, processes tended to continue to be principally written with extensive participation of clerical staff and frequent ex parte communications. Cases took significant time to resolve, and little use was made of the various alternatives to trial (opportunity, conciliation, mediation, provisional or permanent dismissal, etc.). With Checchi assistance (through the Justice Program in 1998), the First Instance Criminal Court (FICC) in Zacapa was “oralized” on a pilot basis, and mechanisms were designed and monitored to increase the use of oral procedures, the presence of the judge in proceedings and to rapidly resolve cases prior to trial, where appropriate. As of 2004, when the Rule of Law Program was initiated, approximately 15-20 of the 50 FICCs at the national level, primarily those within the Justice Centers, had been “oralized” and were implementing the new mechanisms.

Experience with oralization in the FICCs described above led to the detection of several serious problems with the initial stages of the criminal justice process. These included the large scale abuse of pre-trial detention without proper judicial authorization, non compliance with the rule that all detainees were to appear before a judge within 24 hours of their arrest, long delays in resolving the legality of detentions, and the assumption of jurisdictional responsibilities by clerical staff. To address these issues on a more systemic level and to continue to eradicate bad practices from the inefficient inquisitional system, the Program provided technical assistance in the design of a model FICC and Criminal Trial Court.

#### *2. Accomplishments and Results Achieved*

With Program assistance, as targeted, the remaining FICCs at the national level were oralized, and as of the end of the Program were effectively operating with greater efficiency. This was undertaken through extensive efforts by the Program with leaders of the Supreme Court (especially within the Criminal Chamber), the Attorney General’s Office (AGO), and the Public Defense Institute (PDO) to convince them of the importance of the new oral system, as well as logistical, technical, and training support in implementing and monitoring the new methodology. Operative instructional manuals for each particular justice sector operator (judges, public defenders, prosecutors and private practitioners) were drafted and distributed, and assistance was provided in training the operators in their use. In many of the FICCs, furniture and infrastructural assistance was provided (i.e. to create the physical space necessary to carry out pre-trial hearings).

At the initiation of the Program, the Coordinating Units and Executive Committees in the Justice Centers served as the key monitoring and evaluation mechanisms for the new work systems. As the oralization process spread to other FICCs not directly participating in Justice Centers, it was necessary to create a more national level entity to undertake these functions. As such, the Inter-Institutional Commission for Oralization (IIOC) was created and strengthened to monitor, evaluate, and report on progress with regard to the implementation of the new procedures in the FICCs at the national level. The IIOC is constituted of one representative from each of the following institutions - the Supreme Court, the AGO, and the PDO - and received substantial technical and logistical assistance from the Program. At the end of the Program, it is safe to say that oralization of the initial proceedings in criminal cases had become the rule at the national level rather the exception that it used to be. Oral hearings are conducted in the FICCs as a standard procedure, complying with all aspects of the oralization model. Hearings are presided over by a judge (and not clerical staff), with oral arguments presented by both the prosecutor and the defense lawyer in which the judge notifies all parties of his or her resolution at the conclusion of the hearing. The hearing takes place without interruptions in an equipped and appropriate room. Although virtually all the FICCs are using these new procedures for most processes, a very few (4 at the national level) still use written procedures for a limited number of processes and/or allow clerical staff a more proactive role in hearings; one FICC still allows parties to dictate oral arguments, limiting the efficiency of the innovations.

Remodeling of the physical structure of the FICCs proved to be significant to the successes achieved. The Program assisted with the remodeling and provision of basic equipment for a total of 50 FICCs. Replacing a structure designed for an inquisitorial process with one adapted to oral hearings was an important factor in compelling judges and auxiliary personnel to assume their new roles. Training was another important factor, and the Program trained the majority of local justice sector operators, including judges, court auxiliary personnel, prosecutors, public defenders, and private attorneys. They were trained in their new roles pursuant to the oral hearing procedures. More than 1,600 participants took part in training activities carried out throughout the country. Program consultants visited all 50 FICCs to insure that training was properly applied and that oral hearings were monitored. Coordination meetings with local justice sector operators were held to solve identified problems.

An important activity stemming from the oralization of the FICCs at the national level has been the design and creation of the 24-Hour Criminal Courts. After carrying a number of studies related to the functioning of the oralized FICCs in the context of the criminal justice system as a whole, it was determined that there still remained serious obstacles to the efficient functioning of the initial stages of criminal proceedings, particularly in the larger cities with high numbers of persons arrested and being processed in local police stations on a daily basis. Such suspects often spent excessive amounts of time in provisional detention centers before they could be taken before first instance judges. This situation also allowed for excessive discretion and often abuse on the part of police authorities, including the planting of evidence on criminal suspects to justify illegal detentions. At the beginning of the Program, the average time of detention before being presented to a judge to determine the juridical situation of the detainee was 6.4 days, greatly exceeding the 24 hours established by the Constitution. The average time is now within 24 hours.

In response to these problems, the Program assisted the Supreme Court and the *Instancia Coordinadora para la Modernización del Sector Justicia* (ICMSJ) in the design and implementation of an inter-institutional model FICC. The key elements of the model FICC include:

- The establishment of a unified point of entry into the criminal justice system, under the supervision of judges;
- Extensive inter-institutional coordination and concentration;
- Non-stop provision of services (24 hours a day, 7 days a week, 365 days a year);
- Mechanisms to ensure compliance with constitutional provisions regarding pre-trial detention (6 hour reporting to PM and presentation before judge within 24 hours of arrest) and other due process rights;
- Separation of jurisdictional and administrative functions;
- Establishment of a pool of judges at the FICC level; and
- Existence and implementation of clear rules for carrying out hearings and issuance of immediate resolutions.

Once the FICC model was designed, it was implemented on a pilot basis in the Tower of Tribunals in Guatemala City, with great success. Known as the “24-Hour Court” (*Juzgado de Turno*), it quickly became the gold standard of FICCs, and counterparts requested its replication in other sites. With Program technical and logistical assistance, 24-Hour Courts were implemented in a total of five locations, including Guatemala City (inaugurated in March 2006), Villa Nueva (March 2007), Mixco (July 2007), Escuintla (December 2008), and Antigua/Chimaltenango (September 2009).

The 24-Hour Courts have had a great impact and show many advantages over normal FICCs. The 24-Hour Courts, which include offices for the PM, PDO, and Police as well, permit the judges to resolve the juridical situation of detainees within the constitutional limit of 24 hours, and often, in much less time. This is due to the fact that detainees are usually brought directly to the courts for processing after arrest by the Police. As such, they have significantly reduced the average time period from arrest to initial hearing from over 6 days, to well under 24 hours. The 24 hour Courts have also increased inter-institutional coordination due to the physical presence of all criminal justice institutions at the site. They minimize corruption, particularly within the police, as the courts serve as the exclusive processing point for all arrests. This has also resulted in increased respect for human rights. For example, the number of detentions for possession of drugs for consumption, which formerly allowed police to improperly plant evidence, was reduced from 28% of total detentions in 2005 to only 9% in 2006. The Courts also greatly increase the number of alternatives to trial, while reducing the number of dismissals for lack of evidence (given that arresting officers know that probable cause will need to be shown at the initial hearing). In 2005, 77.25% of all cases that entered the justice system in Guatemala City were dismissed after the first preliminary hearing, generally because the judge lacked necessary information. Within six months after the establishment of the 24-hour court in Guatemala City, only 14.8% of the cases were dismissed at the early stage.

The performance of the 24-Hour Courts has significantly transformed the criminal justice system. The procedures of the new courts require the direct interaction and coordination of

police, prosecutors, public defenders and judges. Not only has the system resulted in the reduction of arbitrary arrests and a decrease in the percentage of cases dismissed due to lack of evidence, but the overall quality of cases prosecuted has improved. During the Rule of Law Program, a total of five 24 Hour Courts were inaugurated and are operational.

In addition to the 24-Hour Court functions, the Model FICC contains a system of indicators to measure results, performance and user satisfaction. The Model focuses on mechanisms to increase access to justice, and improved cost and operational efficiency through the effective use of modern information technology. The Model FICC was fully described in a document that was published by the Supreme Court as a series of guidelines to the FICC judges and staff. The implementation of key elements of the Model FICC in Guatemala City has had positive results. For instance, the reduction in the number of auxiliary personnel per judges has not only been cost effective, but has also reduced the inappropriate delegation of functions by the judges to auxiliary personnel. Having an information management system in the hearing room to register information immediately and issue decisions expeditiously resulted in more reliable and effective information and case handling in the FICCs. Key to the FICC model is a clear separation between administrative and judicial functions. Under the Model, the judge dedicates him/herself exclusively to judicial functions.

In addition to the Model FICC, the Program assisted the Supreme Court in designing and implementing a Model Criminal Trial Courtroom as well. One of the objectives of the Model was to achieve efficiencies within the criminal trial courts without proposing or requiring any legislative changes. This Model contains seven principal components: (1) the use of oral notifications at the conclusion of preliminary hearings to announce the resolution and/or setting the case for trial; (2) the random distribution of cases to trial courts pursuant to the Criminal Court Common Secretary's Office (*Centro administrativo de gestión penal*) (CAGP's) automated case tracking system; (3) the complete oralization as well as the consolidation of pre-trial hearings (the CPC provides for a series of hearings, but the Model recommends consolidation of these to the extent possible); (4) compliance with the Internal Trial Court Regulations requiring the hearing and trial calendars to be compiled and published; (5) implementation of guidelines for improving time management skills and the handling of hearings and trials; (6) the holding of monthly meetings to continuously improve the internal functioning of the trial courtroom; and (7) the addition of an administrative assistant for each group of trial courts to oversee and coordinate joint administrative issues, such as scheduling of shared courtroom space and transfers of cases. The time required between opening a case for trial in the FICC and the time the Court received and processed the case was reduced from an average of 40 days to several minutes through the case tracking system. The Model Criminal Trial Courtroom was successfully implemented on a pilot basis in the Tower of Tribunals in Guatemala City.

The Criminal CAGP, which handles most administrative aspects (case reception and distribution, case tracking, notifications, and archiving) of criminal court operations in the various courts at the national level, was an important Checchi counterpart throughout the execution of the Program, and its strengthening played a pivotal role in increasing case processing efficiency and reduction of opportunities for corruption. Among other things, the Program supported the CAGP in case purging activities, reviewing all the active case files in the unit, and to the extent possible,

applying alternatives to trial to purge the cases e.g., opportunity, provisional or permanent dismissals or suspensions.

Additionally, the Program assisted the CAGP in organizing its judicial evidence warehouse, including the development of an inventory of stored evidence to identify specific items to be retained or disposed of, depending upon the status of the criminal investigation and/or case. The lack of organization and structure in the judicial warehouse had become such a serious problem that it was almost impossible to relate evidence to specific cases due to lack of identification or to the inadequate preservation of evidence.



Judicial Warehouse Prior to Program Assistance



Judicial Warehouse After Program Assistance

### 3. *Lessons Learned*

- Given the depth of the changes involved, the significant advances in the court administration field required very close relationships with key counterparts and extensive participation with them in planning and implementing activities.
- It is important to adopt an integral approach to activity execution, combining technical assistance, logistical assistance and training. Training tends to be more effective if well defined and undertaken in relation to a clear and mutually agreed upon case-handling model, as opposed to dealing with abstract principles.

- A useful technique for the design and execution of inter-institutional activities was the creation of temporary working groups for technical issues. The high-level decisions were still encouraged to be taken in the context of the ICMSJ.
- Activities should be designed and planned not only on the basis of counterpart requests, but also after conducting feasibility and other assessments. This also permits the collection of base-line data to measure impact of the activity.

#### 4. *Recommendations*

- The changes and reforms achieved to date in court administration should be fully presented to and eventually adopted by the new Supreme Court in order to encourage their expansion and ongoing sustainability. The 24-Hour Courts should be replicated in each department.
- The rotation of personnel in the court system outside of areas where they have received training in the application of the models and systems implemented with Program support should be avoided to the extent possible.
- A legal reform permitting the timely elimination/destruction of court files is essential, as the space for storing old case files is increasingly limited.
- The CAGP and other court administration models should implement systems of continual improvement to correct and/or prevent the occurrences of problems in their functioning. ISO 9000 has proven to be an effective system in many judicial branches in the region.
- The Judicial Training Institute should be a key partner in the implementation of court administration models to guarantee adequate training in their use and their ongoing sustainability.
- The separation of jurisdictional and administrative functions, which has been successfully implemented in many lower level courts, could and should be implemented in the Supreme Court and Appellate Courts as well.

### **B. LLR 1.1.2 IMPROVED PUBLIC MINISTRY CAPACITY IN PROSECUTING CORRUPTION AND OTHER SERIOUS CRIME.**

#### 1. *Background*

At the initiation of the Program, Checchi assisted the PM in carrying out an institutional assessment that identified a number of serious weaknesses, including: a lack of definition and clarity in the organizational structure; uncertainty with respect to the authority and level of responsibility assigned to personnel; an absence of human resource management and supervisory systems; weak procurement policies; and deficient internal financial and property controls. The PM was in the process of designing and implementing an institutional re-engineering plan which

had been supported by Checchi's Justice Program. Many of the aspects of the re-engineering were still in the design or initial implementation process and needed to be consolidated. The PM was plagued by internal and human resource problems, coordination problems with and distrust of the Police, and, most importantly, low productivity levels in terms of crime prosecution.

## 2. *Accomplishments and Results Achieved*

**PM Re-Engineering Plan.** Checchi provided extensive assistance to the PM in the consolidation of its re-engineering process, particularly with regard to improving the processes and the functioning of the UNICAP, the General Archive and Evidence Warehouse, the Inspector General's Office and the Criminal Analysis Unit. In addition, the Program assisted in strengthening the use of the SICOMP case tracking system.

Initial support for the PM re-engineering exercise focused on documenting the new procedures, particularly those related to human resources, in a Manual of Jobs and Functions. This Manual was very useful in consolidating and strengthening the implementation of the Prosecutor Career. Simultaneously, the Program worked closely with the Chief Administrative Officer of the PM to create within the institutional framework a special office (the *Oficina de Evaluación del Desempeño* or Performance Evaluation Office) to carry out periodic and systematic evaluations of the performance of the prosecutors and other technical staff. Once the office was created, an agreement was reached with the *Agencia Española de Cooperación Internacional para el Desarrollo* (AECID) to continue to provide technical and other assistance to secure its effective functioning.

Checchi also assisted in the strengthening of the General Supervisor's Office (GSO) within the PM. This included technical assistance in the drafting and seeking approval of a new internal regulation regarding the institutional supervision system, as well as in the definition and implementation of new systems to carry out periodic evaluations and supervisory visits. Assistance was provided in the development of disciplinary investigations to verify facts through three types of visits: ordinary, extraordinary (as result of a complaint or *de oficio*) and follow-up visits regarding recommendations made in other visits. The Program provided technical assistance to give the GSO adequate enforcement power and to develop and implement software for tracking evaluations and recommendations nationwide. As a result, the GSO now has the authority and capacity to carry out its mandate. Investigation model formats were developed, and a case tracking system, which is inter-connected with SICOMP, was designed and implemented. The Program helped to create a more objective disciplinary system, resulting in a dramatic increase in the number of prosecutors investigated, sanctioned and/or removed from office. After the assistance, all removals of prosecutors were effectuated through the established procedures.

Also as a part of the re-engineering exercise, Checchi helped the PM replace its Executive Secretary's Office (which was very much a remnant of the inquisitional system) with a Technical Coordinating Office (TCO). The TCO's role is to support the implementation, at the national level, of the detailed policies and other directives of the Attorney General regarding criminal investigation and crime prosecution. The TCO, which was a key part of Checchi's sustainability strategy in the PM, is constituted of several legal professionals (one director-coordinator and 9

coordinators) who were trained by and extensively accompanied with Program assistance. This afforded continued technical assistance and monitoring from inside the institution to prosecutors.

One of the most important policy matters that the TCO helped to implement and monitor was PM General Instruction 01-2006, which sets forth the new criminal investigation methodology (“investigation by variables” – see below for more details) that was designed and supported with Program assistance. The methodology focuses particularly on flagrant criminal cases (that pass through the 24-Hour Courts) and on murder/femicide cases in the UCAL in Guatemala City. In light of the successes achieved in the Guatemala City UCALs with the application of the investigation by variables methodology, the PM requested that the Program carry out, through the TCO, a number of trainings in the application of Instruction 01-2006. Such trainings were held outside of the capital, and covered all types of cases, including homicides, femicides and assaults.

**Strengthening the application of the SICOMP case tracking system.** A major focus of Program activities in the PM was to strengthen the mechanisms and the institutional capacity to effectively use the SICOMP case tracking system, which was initially implemented with the Checchi assistance during the 1999-2004 Justice Program. At the inception of the Program, SICOMP was used exclusively as an information registry system. The PM had focused efforts on expanding the number of prosecutorial offices that could input data into the SICOMP system, but had not yet facilitated strategic case management nor the monitoring and supervision of prosecutors. Up to six different versions of SICOMP were being used by individual PM offices, and there was no connection among the databases.

The objective of the assistance was to convert SICOMP into an important instrument in the collection and use of statistical and case tracking information for supervisory, planning and monitoring purposes. Among other things, the assistance consisted of modifying the case tracking system (programming of SICOMP version 2.1 with a JAVA internet-based platform to facilitate real time inputting and access to data). This involved the incorporation of data fields important to the criminal investigation process set forth in Instruction 01-2006 and a systematic approach to criminal intelligence gathering. Version 2.1 of SICOMP was piloted in Antigua and later expanded to other offices at the national level and in the specialized offices. With Program assistance, the new version of SICOMP was implemented in all five of the 24-Hour Courts and in the specialized prosecutors’ units. Additionally, technical assistance and support was provided to the PM in designing and inter-connecting the departmental PM offices with the main office in Guatemala City. The strengthening of the use and application of SICOMP proved very useful, as well, in the definition, implementation and monitoring of the PM’s Crime Prosecution Policy. Prosecutors now have access to information (such as national databases on criminal records, vehicles and weapons) that they can use to strengthen their investigations and prosecutions.

**Strengthening of the role of UNICAP.** The PM’s Training Unit (*Unidad de Capacitación* or UNICAP) was an important ally in the Program’s efforts to strengthen the PM, and all key expected results were met in this component. At the beginning of the Program, UNICAP was composed primarily of psychologists and social workers, all of whom lacked the professional background needed to provide technical training. In order to provide proper staffing for

UNICAP, the Program assisted in carrying out an administrative reorganization, classifying staff positions according to appropriate profiles and professional qualifications. A new, permanent training plan, adapted to the institution's needs as determined and reflected in the re-engineering exercise, was defined, and the administrative reorganization of UNICAP was approved by the Council of the PM. The Program executed many training courses which emphasized specialized areas of crime such as homicides, narcotics, organized crime and money laundering. Training was also provided in criminal investigation, interrogations and interviewing techniques. Given the lack of resources in the PM, however, many aspects of the Training Plan could not be implemented.

**Increasing PM-National Civil Police (NCP) Coordination through Inter-Institutional Agreements.** With Program assistance, several inter-institutional agreements were negotiated between the NCP and the PM. The agreements were related to the exercise of the functional direction of the PM over the NCP as well as detailed investigation protocols for murder cases. These were published and distributed to most of the police investigators and prosecutors at the national level. Notwithstanding these activities, however, the coordination between these two investigatory functions remains relatively weak. This deficiency is found particularly in the larger, higher crime cities, where there still exists extensive distrust among the ranks, and where the rotation of both high- and lower-level personnel in the NCP and the Ministry of Governance has been extraordinarily high. This inhibits the formation of solid working relationships essential for effective coordination between prosecutors and investigators. The absence of police investigators in the UCALs, for example, has been a very negative factor in some areas; the new policy of the NCP to not permanently assign any officers to the investigation unit (DINC) has likewise not been helpful. In light of these factors, most of the criminal investigation activities are undertaken by the DICRI, the criminal investigation force within the PM, and not the DINC.

**Creation and strengthening of the Office for the Use and Analysis of Criminal Information (“OUACI”).** To facilitate the effective use of crime-related information in solving individual cases, the Program supported the PM in the creation, beginning in early 2006, and strengthening of the OUACI. The Program assisted with drafting and achieving internal consensus and approval of the internal regulation regarding the creation of the OUACI and its operations, including the organizational structure, profiles of staff members and operating procedures. Thereafter, once the technical staff members of the OUACI were selected, which consisted of one director, 2 coordinators and six analysts, a training program was designed and executed. To assist the OUACI in carrying out its duties, a web-server computer and specialized criminal investigation software (i2) were donated (through an agreement negotiated with the Drug Enforcement Administration (DEA)) to the PM for exclusive use in the OUACI. Staff prosecutors were trained in the effective use of the software.

The OUACI's work proved to be invaluable in the investigation and prosecution of numerous highly complex homicide and femicide cases by the UCALs, many involving large criminal networks. Important examples include the work of the OUACI, working out of the Preventative Detention Center in Zone 18, in assisting prosecutors to effectively prosecute many of the members of the criminal networks... This resulted in the resolution of many of the femicide cases involving decapitation, and the successful prosecution of the mass rapist case (involving at least 12 victims). Notwithstanding many of these successes, the OUACI still lacks adequate

personnel, and its limited staff is frequently called on by the AG to undertake other functions not directly related to the analysis of criminal information within the PM. For example, it is called upon by organizations such as the CICIG, DEA and the Narcotics Affairs Section (NAS) organized a similar office for drug and money-laundering cases in the PM in 2007, removing the computers and software licenses. As of the end of the Program, notwithstanding repeated suggestions to increase staffing levels, there was only 1 trained criminal analyst and 25 insufficiently trained analysts in the OUACI, severely limiting its capacity to function.

**Strengthening of PM's Witness Protection Office.** The Program provided technical assistance to the Witness protection Office of the PM, including the design of its functional and operational model. Specifically, the assistance included: validation and approval of internal regulatory norms and procedures, design and development of an internal procedures manual, training of human resources on the contents of the manual, and development and assistance with implementation of a five-year strategic plan.

**Creation of an Independent Forensic Institute.** The program successfully supported the legislative initiative to create an autonomous Forensic Institute in Guatemala. Responsibility for undertaking forensic investigations was previously divided among three different institutions, the Judiciary, Public Ministry and National Civil Police. The unification of the laboratories of these institutions permitted the establishment of standards and quality control mechanisms for the analysis of evidence, enhancing both investigations and prosecutions. The Program assisted in drafting the law and worked to gain the support of governmental and non-governmental organizations. Checchi participated in the congressional technical commission that reviewed the initiative. The legislation was approved on August 31, 2006.

**Strengthening the PM's Prosecution of Murder/Femicide Cases.** The levels of productivity within the PM, particularly with regard to the prosecution of serious crimes, were low at the beginning of the Program. This was particularly the case regarding the prosecuting of homicide cases and the increasing number of cases involving femicide, or the murders of women, a new phenomenon that had become dramatically more serious in recent years. Notwithstanding the creation of the UCAL pursuant to PM Agreement 02-2004 in August 2004, that was established for murders and other crimes against the person that warrant special treatment for their complexity, the UCAL's performance has been substandard. UCAL currently is constituted of 22 separate prosecutorial units. As of the initiation of the Program, the UCAL presented accusations in only 4.21% (166 out of 3940 cases) of homicide and other cases within its jurisdiction.

At about the mid-point in the execution of the Program (September 2007), pursuant to a directive from the Congress of the United States which led to a task order modification from USAID, the Program switched its focus in the PM. It began working principally on strengthening the institution's capacity to prosecute homicide cases, and in particular, the murders of women, a phenomenon that had increased dramatically in frequency in recent years. In addition to direct technical assistance to the prosecutors in the UCAL for the investigation and prosecution of cases, and in the use of the "investigation by variables" methodology, Checchi provided assistance to the UCAL in re-engineering its internal procedures. This included procedures

related to case reception, distribution, and prioritizing, and the carrying out of internal meetings, case reviews, and prosecutor evaluations.

The Program's work in strengthening the UCAL began with the establishment of case filtering mechanisms due to the excessive number of cases being handled by the Unit; cases such as accidental deaths, deaths in traffic accidents, and manslaughter were crimes that were not intended to be prosecuted within UCAL, and their inclusion unnecessarily elevated the case load of the Unit, diverting necessary attention and resources from the more violent, socially impacting cases. An inventory was carried out of all pending cases in each prosecutorial unit to determine real caseload and prosecutorial efficiency. Thereafter, assistance was provided in resolving or transferring minor and other cases that should not have been referred to the UCAL to appropriate units for resolution.

Assistance was also provided in improving the criminal investigation methodology and increasing the efficiency and productivity of the UCAL. The "investigation by variables" methodology was detailed in PM General Instruction 01-2006 and implemented with extensive Program assistance. This is a comprehensive theory of the case-based methodology, which involves increasing teamwork and strengthening the supervision and follow-up of serious criminal cases. Its principal components include the following:

- Definition of the criminal hypothesis
- Design of detailed criminal investigation plans
- Control of the investigation by variables
- Evaluation and monitoring of the criminal hypothesis
- Development of the theory of the case
- Formulation of the accusation and trial of the case

The Program disseminated the contents of the GI 01-2006 through training and extensive on-site accompaniment as described below.

Checchi assisted the UCAL in adjusting its work systems to effectively apply the investigation by variables methodology. One of the principal adjustments was to change the shift system from one with 24-hour shifts, to one incorporating a 72-hour shift cycle. The 24-hour shifts did not provide the time necessary to complete initial investigatory steps in murder investigations in order to even develop the initial criminal hypothesis and begin planning the full investigation. The constant change in prosecutors on shift did not permit continuity in undertaking the initial investigation and taking advantage of the short window of time during which the evidence generally is still "fresh." This short cycle was resulting in significant loss of valuable evidence. Given the introduction of the new shift schedule, there is ample time in most cases for the development of additional investigation or for preparation of an accusation.

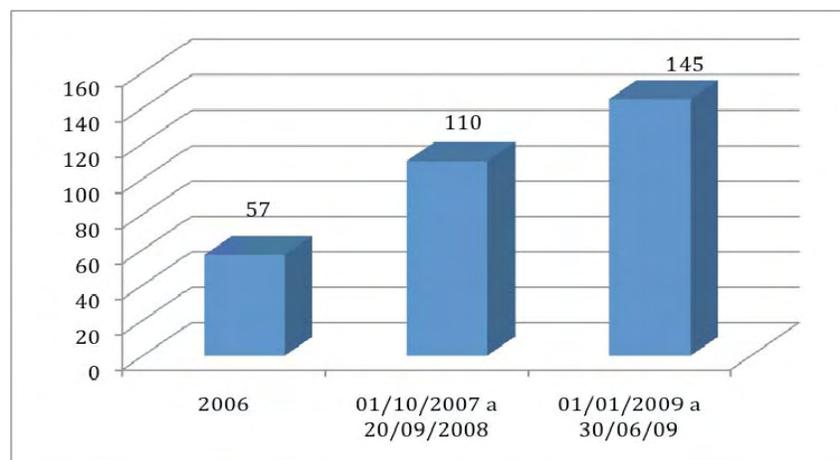
Institutionalizing crime scene management was a significant innovation within the UCAL system. Permanent teams were established in order to improve the coordination among all actors who participate at the crime scene. Emphasis was placed on developing sufficient information to formulate an investigatory plan of the crime scene that was supported by both physical and scientific evidence as well as testimony provided by witnesses. The team's role involves

preparing a criminal hypothesis or preliminary theory of the case, requesting initial tests and providing instructions to investigators on how to proceed. Cases not classified as intentional homicides are assigned to the appropriate prosecutors, and the intentional homicides are assigned to those prosecutors (in particular the UCALs) that are equipped to handle such serious crimes. In targeted UCAL offices, the Program provided almost continuous technical assistance and training as homicide and femicide cases progressed.

Another important adjustment was the incorporation of a post-shift meeting of the prosecutorial unit for each case 72 hours after the occurrence of the homicide or femicide. The prosecutor, auxiliary prosecutor in charge of the case, the DICRI or DINC investigator assigned to the case, a representative from the OUACI and one of the UCAL sub-directors or director are generally present in these post-shift meetings. The meetings are primarily intended to present the criminal hypothesis and the initial investigation plan, identify advances and bottlenecks in the investigation to date, and plan future investigatory activities; it is also intended to establish coordination mechanisms between prosecutors and investigators, and provide the OUACI with criminal investigation information. The post-shift meetings have permitted the UCALs to detect higher-level patterns of criminal behavior and identify joint strategies for the investigation and prosecution of related cases. Important examples of this included the joint strategies to prosecute the Vengeful Angels case and the femicides ordered by the Preventive Detention Center Gang (Mara 18) in Zone 18. Within a month after the initial meetings of the crime scene teams, the Program arranged for meetings of the team with the responsible prosecutors in order to analyze the progress in each case. Supporting the application of this methodology, the Program strengthened the functioning and capacity of the UCAL technical teams so that they could have a greater impact on the evaluation of performance by both the prosecutor and the team itself.

A key objective of implementing the new criminal investigation methodology in the UCALs was to increase the number of accusations and criminal convictions in murder and femicide cases in the targeted areas (Guatemala City, Villa Nueva and Mixco). This objective was fully achieved. The application of the methodology was effective. The chart below illustrates the dramatic increase in the number of accusations filed between 2006 and the first half of 2009.

**Chart: Accusatory Instruments Presented in Murder Cases 2006-2009**



Throughout the implementation of the investigation by variables methodology, Program consultants accompanied UCAL prosecutors during their 72-Hour shifts, including their presence at the crime scenes. They also accompanied prosecutors in their follow-up meetings after their 72-hour shifts in the Guatemala City, Villa Nueva and Mixco UCALs. An important part of the Program's sustainability strategy was to actively involve the TCO in all Program support activities in order to strengthen its capacity to continue providing the support in the future after Program termination. Training, in coordination with the TCO, was provided to prosecutors in the following departments in the use of the methodology: Quetzaltenango, Huehuetanango, Retalhueu, San Marcos, Puerto Barrios, Jutiapa, and Zacapa.

### 3. *Lessons Learned*

- The “investigation by variables” methodology proved to be very successful in increasing successful prosecution of homicide and femicide cases and could easily be applied to other serious criminal cases. It is, however, very time intensive, and requires substantial institutional commitment. The effective functioning of the TCO will be key to its successful application in the future.
- Extensive counterpart participation and an integrated approach (including technical assistance, accompaniment and donation of equipment) proved essential to successfully constructing and implementing the “investigation by variables” methodology and other significant institutional changes.
- “Social auditing” is a very successful tool in identifying institutional weaknesses and in pressuring for their correction.
- The lack of an effective and consolidated TCO, particularly near the end of the Program, was a limiting factor in permitting the full roll-out of the institutional changes and new methodologies at the national level.

### 4. *Recommendations*

- The investigation by variables methodology is effective for the successful investigation and prosecution of serious criminal cases and could and should be applied in serious non-homicide cases as well. Technical assistance should be provided in applying the methodology.
- The TCO should be positioned to carry out institutional strengthening activities, including in the application of the investigation by variables methodology. It should also be a key counterpart in channeling international assistance to the PM.
- It is important to execute activities oriented towards increasing inter-institutional coordination.

## **C. ADDITIONAL ACTIVITY 1: CICIG**

### *1. Background*

The momentum for the creation of the CICIG developed principally from several prominent human rights groups in Guatemala, such as, “For a Guatemala” and the Myrna Mack Foundation. It was formed as an alternative entity to investigate and combat the large number of criminal structures and para-military and other groups operating in Guatemala with impunity. The creation of the CICIG was negotiated with and supported by the international community, after which began the internal political process to achieve its creation. The first name given to the entity was CICIAC, but that was changed after a Constitutional Court challenge that required several elements to be changed to correct certain constitutional violations.

### *2. Accomplishments and Results Achieved*

Many of the achievements related to the CICIG were planned and coordinated through the creation of a CICIG working group, in which the Program actively participated actively along side of civil society and other members, including the Vice President of the Republic. This working group was created initially to propose alternatives to the initial CICIAC structure that was found unconstitutional. The group produced a new text of the document that was signed between the GOG and the United Nations (UN). Under this document, the role of the new CICIG would be to investigate illegal bodies and clandestine security structures, with special attention to those responsible for attacks on human rights activists, journalists, members of labor unions, justice sector operators, witnesses, and other social sectors. The CICIG would also undertake activities to strengthen justice sector and the state security mechanisms to help prevent, investigate, prosecute and punish these types of attacks and illegal activities. It also has the authority to present drafts of laws to address systemic problems encountered in the carrying out of its investigations and functions. CICIG has worked in this regard to improve the criminal prosecution system, present modifications to the Organized Crime Law, assist in the creation of the High Impact Tribunal for high risk cases and support the Law of Arms and Munitions. The Program assisted in drafting and providing inputs to many of these measures. .

The creation of the CICIG was financed in large part by the UN and jointly operated by the United Nations and the GOG. The Program maintained a constant advisory relationship with the CICIG and its General Commissioner throughout its first two years of existence, exchanging information and providing inputs to key CICIG activities and investigations. A Special CICIG Unit was created within the PM to prosecute cases based on the investigations carried out by the CICIG. The CICIG has no power to actually prosecute cases under the GOG justice system. The Program assisted in these efforts.

3. *Lessons Learned*

- The extensive negotiations and discussions regarding the creation (and modification of the original mandate) of CICIG proved to be a positive forum to discuss and propose solutions in the field of criminal justice in Guatemala. Coordination with the criminal justice sector institutions needs to be improved.

4. *Recommendations*

- Although given the time frame required to prosecute serious cases, the final concrete results of CICIG's functioning are still unclear. It has, nonetheless, provided a certain sense of stability in a very volatile situation regarding the prosecution of high impact criminal cases, and the renewal of its mandate should be carefully evaluated and considered. The major institutional changes envisioned at the beginning of the two-year mandate were not feasible in such a short time period.
- It is necessary to adjust the CICIG's general strategy to develop more opportunities of coordination with the justice sector institutions to achieve greater institutional strengthening through the CICIG.
- It is important that CICIG focus more intensively on its express mandate – to put in evidence the details of the functioning of clandestine criminal structures – and not in the investigation of individual concrete cases, which is the mandate of the PM.

**Section II**

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**SUB-IR 1.2: CRIME PREVENTION PROGRAMS IMPLEMENTED**

## **II. SUB-IR 1.2 CRIME PREVENTION PROGRAMS IMPLEMENTED**

### **A. LLR 1.2.1 REDUCTION OF CRIME THROUGH LOCAL AND NATIONAL CRIME PREVENTION ALLIANCES AND LOCAL CRIME PREVENTION PLANS.**

#### *1. Background*

Crime has been and continues to be a serious problem in Guatemala, and solutions have been elusive and not easy to develop or implement. The justice system as a whole is by nature a repressive and reactive structure intended to respond to criminal behavior and not necessarily prevent it. Prevention requires strengthening the work of the police, as well as intensive work in the communities affected by crime to increase their collaboration with the preventive police force. Crime prevention at the local level was an initial component of the Program. In 2007, however, the focus of the Program was re-oriented towards murder and femicide investigation and prosecution. At USAID's request, support for carrying out most of these activities was transferred to the Executive Secretary of the ICMSJ. Towards the end of the Program, however, Checchi supported several national level crime prevention and security enhancing efforts.

#### *2. Achievements and Results*

Checchi's approach at the initiation of the Program to crime prevention was very local and community-oriented in focus. Five basic phases were contemplated as a part of the methodology: (1) creation of local alliances and Crime Prevention Commissions; (2) diagnostic/assessments; (3) design of prevention model and/or crime prevention plans; (4) implementation of crime prevention strategies; and (5) evaluation.

The crime prevention methodology utilized by Checchi began with the formation of local crime prevention commissions, generally at the departmental level. Sixteen crime prevention commissions were formed or strengthened as part of these efforts. Many were incorporated into the activities of the Justice Centers. Although they varied in composition from department to department, most included local government authorities and representatives of local NGOs and other civil society organizations, as well as from the private and public sectors. The diversity of each commission contributed to its success in implementing crime prevention plans, since implementation depended in large part on extensive community participation. Once the local commissions were formed (or identified), thorough diagnostic assessments were carried out to determine the specific crimes and areas that were to be targeted. Such assessments also helped to define the measures that would be taken to reduce or eliminate those crimes, all with the active participation of the commission members. Thereafter, specific crime prevention plans were defined and implemented. A total of sixteen crime prevention plans were developed with Program assistance. Financing for implementation of the plans came primarily from local funds and private donations. In the majority of the targeted jurisdictions, the Program (until the component was deleted) exceeded its initial goals of attaining 50% of the support for the plans from private sources.

	<b>Jurisdiction</b>	<b>Target Crime/ Area of Intervention</b>
1.	Quetzaltenango	Robbery in public buses/ Benito Juárez and the Centro Comercial Pradera
2.	Huehuetenango	Robberies in market / zone 1,3 y 5
3.	Chiquimula	Robberies in artisans market in Esquipulas / Artisans Market Mercado la Paz
4.	Baja Verapaz	Robberies/ Central Park, Central Market
5.	San Marcos	Domestic Violence
6.	Sololá	Domestic Violence
7.	Escuintla	Robberies to businesses and pedestrians/ Santa Lucía Cotzumalguapa
8.	Sacatepéquez	Robberies to businesses and tourists./ Antigua
9.	Villa Nueva	Assaults to students of Colonia Los Planes and the Instituto Guatemala de la Asunción.
10.	Chimaltenango	Robberies to businesses/ Zone 2 Chimaltenango
11.	Petén	Minors carrying guns without a permit.
12.	Jutiapa	Robbery/ Market and bus terminal
13.	Zacapa	Robberies in homes/ Colonia El Chaparro
14.	Cobán, A.V	Robberies to pedestrians/ Central Park La Paz, Market and bus terminal.
15.	Quiché	Robbery/ Zone 1 and 5 of Santa Cruz
16.	Mixco	Not defined

Once the decision was made to re-orient Program resources in 2007 and to eliminate the crime prevention activities, the Program negotiated with the GOG to incorporate the activities into the portfolio of responsibilities of the Executive Secretariat of the ICMSJ. This transfer and assumption of responsibility by the GOG in itself represented a significant achievement by the Program in the institutionalization of crime prevention activities. For the remainder of the Program, Checchi continued to provide technical assistance to the Executive Secretariat with regard to the crime prevention plans, with all financial support being provided by the Executive Secretariat. For example, the Program supported the evaluation of the impact of many of the crime prevention plans and reported the results.

Although the ultimate goal of the Program's crime prevention activities was to reduce crime, there were other equally important ancillary goals. Communities were constructively engaged in finding positive, non-violent solutions to problems of crime, as alternatives to the repressive, violent, and illegal means that had become startlingly commonplace, such as lynching. Both

public and private leaders and groups began to see themselves as active participants in the democratic process, identifying the issues most important to them and shaping a response. Communities not only worked with each other, but with local government and national initiatives aimed at reducing violence and coordinating crime prevention efforts. Finally, communities began to understand that they could affect major issues such as crime with their own fairly limited resources.

**High Impact Courts.** Technical assistance was provided to the Criminal Chamber of the Supreme Court to analyze and evaluate the possibility of implementing High Impact Criminal First Instance and Trial Courts. High impact cases include homicides, kidnappings, crimes covered in the Law Against Organized Crime, crimes covered in the Law against Money Laundering, crimes related to narcotics with penalties of 15 years or more, as well as crimes with penalties of 15 years or more covered in the Law Against Terrorism. Additionally, “high impact” cases must manifest at least one of the following circumstances: posing significant risk for the security and lives of justice sector operators due to the high impact of the criminal act or acts; requiring increased security measures for the safety of the detainees; requiring enhanced security conditions for hearings and trials; and/or the existence of specific logistical requirements that are not available locally. The Attorney General is required to make a specific request to the Supreme Court to authorize each case as “high impact.” The Criminal Chamber thereafter will either authorize the transfer to the high impact court, or require it be tried locally, depending on the type of crime and the circumstances detailed in the accord.

The first High Impact Court was approved by the Supreme Court, with the 24 Hour Court in Guatemala City identified as the High Impact FICC and the Tribunal Primero de Sentencia in Guatemala as the High Impact Trial Court. USAID and other donors are working closely to improve infrastructure and security measures for these courts.

**National Security and Justice Agreement.** In early 2009, in light of the increasing crime levels and diminished public willingness to tolerate such high levels, the GOG prioritized the reaching of a national consensus in the form of a National Agreement to Advance Security and Justice in Guatemala (“*Acuerdo Nacional para el avance de la Seguridad y la Justicia en Guatemala*”). The purpose of this initiative, which was coordinated by the Executive Secretary of the National Security Council, was to integrate efforts among various groups and institutions to strengthen justice and security, reduce impunity and combat crime. Program support was requested by the Executive Secretary and provided in the drafting of the Agreement, as well in achieving consensus among the various groups involved, such as the Catholic Church, the Evangelical Church, the Rector of the San Carlos University and the Human Rights Ombudsman. The Agreement was signed in April 2009, and many Program-sponsored activities, such as crime prevention efforts, the 24-Hour Courts, and the High Impact Courts, were incorporated within it.

**Additional Activity – Petén.** The Program provided substantial support to justice sector operators in the department of Petén, which has been plagued with high crime rates and drug-trafficking related problems in recent years. A full inventory and assessment was completed of the courts and the PM offices there. FICCs in Petén, including those in San Benito, Poptún and La Libertad were strengthened. Among other things, the Supreme Court, at the Program’s insistence, committed to improving the physical space of some of these courts by purchasing

new desks, computers and other necessary furniture as well as by making personnel changes to improve the performance of some of the courts. At the request of the Supreme Court, a hearing room was designed and implemented in the recently created FICC in La Libertad.

3. *Lessons Learned*

- An integrated approach, with full community participation is essential to meeting crime prevention activities.
- Demonstrated commitment by community leaders, local government officials, and police provide necessary momentum for community action.
- Focusing on narrow band of criminal activity, as opposed to “crime in general,” assists the process.

4. *Recommendations*

- Obtain commitment of key local leaders and police in early planning stages of process.
- Permit community to fully analyze situation before deciding on targeted crimes.
- Involve youth groups as active participants in planning process.

**Section III**

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**SUB-IR 1.3: SUPPORT FOR JUSTICE REFORM INCREASED**

### III. SUB-IR 1.3 SUPPORT FOR JUSTICE REFORM INCREASED

#### A. LLR1.3.1 INSTITUTIONAL STRENGTHENING OF THE COORDINATING OFFICE FOR THE MODERNIZATION OF JUSTICE, ICMSJ, AND JUSTICE SECTOR LEADERS

##### 1. *Background*

The creation and strengthening of the Justice Center model was one of the chief focuses of USAID/Checchi's Justice Program, pursuant to which 15 Justice centers were created and/or strengthened. Notwithstanding significant advances, including securing the legal registration of the Justice Center Executive Committees as NGOs and the taking over by the ICMSJ of the Coordinating Units, the Justice Centers were still not fully sustainable at the time of the initiation of the Rule of Law Program. Achieving sustainability was one of the chief objectives of the planned work with the ICMSJ.

##### 2. *Achievements and Results*

After a little over one year of Program execution, all 15 Justice Centers had remained operational and functioning without Program funds. The ICMSJ has assumed chief financial responsibility of the functioning of the Justice Centers and the payment of the salaries of the coordinators.

At the time of initiation of the Program, the Executive Secretariat of the ICMSJ was overseeing and supporting five *Centros de Administración de Justicia* (CAJs), which were similar to the Justice Center model but implemented under an IDB loan. The Program focused on incorporating the Justice Centers into this overall effort. Extensive activity was directed in Year One for the Program to secure GOG financial resources necessary for the Executive Secretariat to assume full responsibility for the Justice Centers, including coverage of the payments of the coordinators' salaries and minimal operational expenses. Those efforts were successful, and on May 16, 2006, responsibility for supporting all 15 Justice Centers was officially transferred to the GOG. After the transfer, the Program continued to provide technical assistance to the ICMSJ in supporting the Justice Centers.

Since the transfer, the Justice Centers have continued to function and provide ongoing support to coordinating unit meetings, crime prevention plans, and the executive committees. The Executive Secretariat has demonstrated a high level of commitment to the centers, as well as to the local initiatives that come under them, and has carried out its own internal measures to properly manage them.

##### 3. *Lessons Learned*

- Achieving sustainability goals requires intense internal planning, financial commitment and leadership of key institutions within ICMSJ.
- Monitoring and evaluation skills are important mechanisms in supervising and governing justice centers.

#### 4. *Recommendations*

- Continue technical and logistical support for inter-institutional efforts to bring sustainability to justice related institutions and organizations.
- Monitor Justice Center performance carefully to insure continued viability and output.

### **B. LLR 1.3.2 INCREASED PRIVATE SECTOR AND CIVIL SOCIETY ADVOCACY FOR REFORM AND OVERSIGHT OF JUDICIAL PERFORMANCE**

#### 1. *Background*

The civil society in Guatemala had for many years been active in the justice sector, much more than in neighboring countries, although more frequently as a harsh critic of the GOG in particular cases. Checchi's philosophy was to encourage a more meaningful and effective relationship between the GOG criminal justice institutions and the civil society, based more on constructive criticism and not just on continual denunciations. The *Movimiento Pro Justicia* (MPJ) was a strong Checchi ally that was constituted of three of the best known human rights and justice orientated NGOs, *Madres Angustiadas* (MA), *Fundación Myrna Mack* (FMM) and *Familiares y Amigos Contra la Delincuencia y Secuestro* (FADS). At a 2004 seminar, a concrete coordination opportunity was achieved for MPJ to actively engage with the PM with the objective of institutional strengthening. Checchi took advantage of this opening once the Program started and supported several activities related to attention to victims and protection of witnesses; the Program also helped to strengthen the SICOMP system with NGO assistance.

#### 2. *Accomplishments and Results Achieved*

Through the creation of a Small Grants Program, Checchi financed a number of successful social auditing activities, many of which were follow-on to activities between the PM and the MPJ. To the MPJ, the Program provided a grant to among other things monitor and make recommendations regarding the use of the SICOMP case tracking system in the PM; focus was placed in the *fiscalías* of Crimes Against Women, the municipal *fiscalía* in Villa Nueva and the district *fiscalías* in Escuintla, Chiquimula, Alta Verapaz, and Quetzaltenango. Additionally, the MPJ was financed to undertake the following: studies and institutional strengthening recommendations regarding the prosecution of homicides and sexual crimes in the cited *fiscalías*, a general strengthening of the Office of Attention to the Victim (OAV), themes related to the prosecutor career track, institutional training, and evaluations of prosecutor performance.

Thereafter, a second two-year grant was given to MPJ and a second agreement was signed with the PM to allow the work to continue. Additional activities in this second stage included the monitoring of the use of SICOMP in the UCAL and Unit of Sexual Crimes in Izabal, as well as its use in the UCALs and Unit of Crimes Against Women in Villa Nueva, Escuintla, and Quetzaltenango. Finally, monitoring of the functioning of the Offices of Permanent Attention

(OAPs, or case intake and filtering units) in all of the above-mentioned district *fiscalías* was added.

During 2009, all of these activities continued to be monitored, and extensive reports were prepared with detailed findings and recommendations to the PM authorities on how to improve its functioning. In addition to these activities, a study of the DICRI was also undertaken in 2009.

Among other matters detected through the social auditing activities was the extensive non-compliance with institutional orders to keep the SICOMP system up to date and the existence of a large number of errors while inputting data into the system. The PM strengthened its use of the SICOMP by taking into consideration many of the MPJ's recommendations. Another finding of the MPJ was the widespread misuse of the application of alternatives to trial (dismissals, criterias, etc.), that led to increased levels of impunity. These alternatives were often applied in cases where no or little investigation had been undertaken. In response, the PM instructed its supervision department to include mechanisms in their periodic and extraordinary supervisory visits to try to detect these types of abuses.

In addition to the grants given to the MPJ to monitor activities in the PM, Checchi, in response to the US Congress' concern regarding the high level of murders against women, also awarded a grant to the *Fundación Sobrevivientes*. The *Fundación* is a highly respected NGO that provides accompaniment and other services to witnesses (mostly women) at risk in high impact murder and other crimes. It also offers counseling, therapy, and, if necessary, even food and shelter in a secret location. The grant financed the accompaniment of witnesses/survivors in at least 20 cases involving the murder of women. Additionally, the Program, through our Femicide Specialist, offered extensive training and accompaniment to the *Fundación's* legal team in carrying out their work as lawyers for the victims/survivors.

### 3. Lessons Learned

- The MPJ-PM activity represented the first experience with true “social auditing” in Guatemala, which proved to be a very useful methodology. It was particularly useful before the Transparency Law became effective when it was still very difficult, if not impossible, for private citizens and NGOs to get information in sensitive cases from the GOG.
- In many cases, “institutional openings” of opportunities for change result from personal, rather than institutional relationships, which illustrates the importance of maintaining strong personal relationships.
- Notwithstanding the institutional opening to civil society in the PM, resistance to change continues to be very strong, particularly to recommendations in more sensitive areas.
- It is important to encourage close coordination and communication between the auditing NGOs and the different aid agencies working in the institution, as these agencies are important for financing, reforms and institutional changes.

- As in the case of the *Fundación Sobrevivientes*, proven success in working with the particular institution (in this case the PM), is key to opening the doors of the institution to constructive criticism and effective lobbying.
- In serious cases, the role of an NGO in accompanying victims or witnesses is essential to achieving successful prosecutions. If such support is not provided, such individuals are often not willing to continue their participation.

#### 4. *Recommendations*

- Given the success of the social auditing activities in the PM, it is important to continue them, particularly as the election of a new AG approaches; this is important in order to pressure for and monitor promises made by candidates for the job as well as to be able to assess candidate qualifications. It will also be important to include other NGOs in the process in order to get different perspectives.
- It is recommended to encourage these types of social auditing activities in other GOG justice sector institutions, such as the Judicial Branch and INACIF.
- To encourage the sustainability of the efforts, letters of understanding (*convenios*) should be entered into for substantial periods of time (2-3 years) in order to deflect institutional pressures and changes of leadership, and to build better relationships.
- It is important to continue providing financial assistance to groups such as MPJ that have low budgets and rely to a large extent on volunteers.
- The provision of services can be effectively combined with a social auditing function as in the grant to the *Fundación Sobrevivientes*. This can be done in other institutions as well (Judicial Branch, CICIG, etc.), but the relationships need to be strongly established.

### **C. LLR 1.3.3 INFORMATION ON DUE PROCESS AND THE HUMAN RIGHTS OMBUDSMAN**

Impact on due process and strengthening of the Human Rights Office was limited due to a lack of political will on the part of the Human Rights Ombudsman. The Human Rights Ombudsman has been more interested in victims' rights than in due process violations. His posture on this issue has been unchanged since the beginning of the Program.

Some results were obtained, however, through the Due Process Unit, in coordination with the Public Defense Institute. The Public Defense Institute provides the Due Process Unit with information on due process violations as well as insight into individual cases. The 24-Hour Courts have proven to be important mechanisms for monitoring and preventing illegal arrests, as well as other due process violations.

**D. LLR 1.3.4 INCREASED AVAILABILITY OF SOLID INFORMATION FOR DECISION-MAKING**

Activities under this lower level result were focused on making authorities of the Supreme Court and the Public Ministry aware of the need to rely on statistical information for decision making. The 24-Hour Courts have proven to be remarkably useful mechanisms, not only for their direct impact on the administration of justice, but also to improve the decision making process at the highest levels. Based on the experience with the 24-Hour Courts, the Program established a group of indicators (such as the number of cases dismissed in the first hearing, the number of accusatory instruments filed, and the number of cases processed to trial), to measure overall justice systems performance. The data was gathered by Justice Center Coordinators in 20 different jurisdictions based on institutional data collecting forms with the goal of not only improving the practice of reporting statistical information in each institution, but also analyzing and presenting results at both the local level with justice sector operators and at the highest level with justice sector authorities. This effort was intended to not only evaluate the system's performance but also to plan joint interventions and monitor their effectiveness. As it turned out, the Executive Secretariat failed to transmit the information to the more senior levels of the justice sector, and consequently the information was used primarily on the local level at Coordinating Unit meetings.

**SMALL GRANTS PROGRAM**

## Annex A - Small Grants Program

### USAID/Guatemala Rule of Law Program Checchi & Company Consulting, Inc.

Type of instrument	Geographic Focus	Counterparts	Local-Sub-Grantees	Program Summary	Total Estimated Cost US\$	Start Date	End Date
Grant	15 cabeceras departamentales y Villa Nueva	Instituciones del Sector Justicia	VOX LATINA - Prevention crime project - Encuesta de Victimización	Sub 1.1. Improved Transparency and Efficiency of Criminal Judicial Processes.	32,348.81	Feb-05	June 05
Grant	Cobán, Alta Verapaz	Comité Ejecutivo	Asociación de Justicia de Alta Verapaz "Sistematización de Experiencias en la Mediación de Conflictos Comunitarios".	Sub 1.2. Crime Prevention Programs Implemented	2,998.70	May-05	Jan-06
Grant	El Quiché, Sta. Cruz del Quiché	Comité Ejecutivo	Asociación de Fortalecimiento y Modernización de la Justicia de El Quiché - "Diagnóstico sobre mediación de conflictos comunitarios"	Sub 1.2. Crime Prevention Programs Implemented	2,994.86	May-05	Jan-06
Grant	Huehuetenango	Comité Ejecutivo	Asociación Justicia y Paz - "Acciones para el fortalecimiento de la Resolución de Conflictos"	Sub 1.2. Crime Prevention Programs Implemented	2,921.05	Jun-05	Jan-06
Grant	Jutiapa	Comité Ejecutivo	Asociación de Justicia de Jutiapa- "Manejo efectivo de la Resolución de Conflictos"	Sub 1.2. Crime Prevention Programs Implemented	3,000.00	Jun-05	Nov-05
Grant	Antigua Guatemala, Sacatepéquez	Comité Ejecutivo	Asociación de Promoción y Defensa de la Justicia en Sacatepéquez - "Apoyo y fortalecimiento organizacional para la resolución de conflictos"	Sub 1.2. Crime Prevention Programs Implemented	2,240.13	Jun-05	May-06
Grant	Salamá, Baja Verapaz	Comité Ejecutivo	Asociación Comité Ejecutivo de Justicia de Baja Verapaz - "Centros Comunitarios de Resolución de Conflictos"	Sub 1.2. Crime Prevention Programs Implemented	2,849.16	Jun-05	Jan-06
Grant	Quetzaltenango	Comité Ejecutivo	Asociación Ejecutiva de Justicia de Quetzaltenango - "MARC's y Prevención del Delito"	Sub 1.2. Crime Prevention Programs Implemented	2,967.66	Jun-05	Mar-06
Grant	Chimaltenango	Comité Ejecutivo	APROJUCHI - "Resolución de Conflictos"	Sub 1.2. Crime Prevention Programs Implemented	2,925.75	Jun-05	Feb-06
Grant	San Marcos	Comité Ejecutivo	Asoc. Comité Ejecutivo de Justicia, San Marcos - "Prevención del Delito y Resolución de Conflictos".	Sub 1.2. Crime Prevention Programs Implemented	2,999.92	Jun-05	May-06

## Annex A - Small Grants Program

### USAID/Guatemala Rule of Law Program Checchi & Company Consulting, Inc.

Type of instrument	Geographic Focus	Counterparts	Local-Sub-Grantees	Program Summary	Total Estimated Cost US\$	Start Date	End Date
Grant	Transmitida en 18 departamentos	Instituciones del Sector Justicia	IGER - "Radionovela Amor Entre Rejas"	Sub 1.2. Crime Prevention Programs Implemented	33,030.06	Aug-05	May-06
Grant	Guatemala, ciudad	Ministerio Público	FADS (Movimiento Pro-Justicia) "EJECUCION DEL I CONVENIO DE COOPERACION INTERINSTITUCIONAL ENTRE EL MOVIMIENTO PROJUSTICIA Y EL MINISTERIO PÚBLICO"	Sub 1.3. Support for Justice Reform Increased.	20,394.74	Nov-05	Aug 06
Grant	16 cabeceras departamentales	Instituciones del Sector Justicia	CAJA LUDICA - Crime Prevention Project	Sub 1.2. Crime Prevention Programs Implemented	30,727.44	Dec 05	May-06
Subcontract	San Benito, Poptún, Izabal, Cobán, Salamá, Totonicapán, Malacatán	Organismo Judicial	Arquitectura Contemporánea-ARCON - infraestructura para salas de audiencias.	Sub 1.1. Improved Transparency and Efficiency of Criminal Judicial Processes.	15,932.18	Feb-06	April 06
Subcontract	Cuilapa, Chiquimula, El Progreso, Jutiapa, Retalhuleu, Suchitepéquez, Coatepeque, Sta. Lucía Cotzumalguapa, Amatitlán, Chimaltenango, Jalapa	Organismo Judicial	DECORPISOS S.A. - infraestructura para salas de audiencias	Sub 1.1. Improved Transparency and Efficiency of Criminal Judicial Processes.	16,235.78	Feb-06	Mar-06
Subcontract	22 departamentos	Organismo Judicial	NECOSA - Compra de mobiliario para salas de audiencias.	Sub 1.1. Improved Transparency and Efficiency of Criminal Judicial Processes.	9,621.71	Mar-06	Mar-06
Subcontract	Guatemala, ciudad	Organismo Judicial	Ingeniería e inmobiliaria, S.A: - infraestructura Juzgado Penal de Turno.	Sub 1.1. Improved Transparency and Efficiency of Criminal Judicial Processes.	63,393.48	Feb-06	Mar-06

## Annex A - Small Grants Program

### USAID/Guatemala Rule of Law Program Checchi & Company Consulting, Inc.

Type of instrument	Geographic Focus	Counterparts	Local-Sub-Grantees	Program Summary	Total Estimated Cost US\$	Start Date	End Date
Subcontract	Las Verapaces, Quiché, Petén, Ixcán, Suchitepéquez, Totonicapán, Sololá, Quetzaltenango, San Marcos, Jutiapa, Chiquimula, Izabal, Guatemala, Chimaltenango y Sacatepéquez	Instituciones del Sector Justicia	Asociación de Justicia de Alta Verapaz "Acceso de las Mujeres Indígenas a los Servicios Estatales de Administración de Justicia en Guatemala"	Sub 1.3. Support for Justice Reform Increased.	31,400.00	Apr-06	Nov-06
Subcontract	22 departamentos	Organismo Judicial	CANELLA - Compra de equipo de cómputo para salas de audiencias.	Sub 1.1. Improved Transparency and Efficiency of Criminal Judicial Processes.	17,133.58	May-06	May-06
Subcontract	Guatemala, ciudad	Ministerio Público	Fundación Sobrevivientes "Protección de Mujeres Víctimas de la Violencia"	Sub 1.3. Support for Justice Reform Increased.	25,000.00	Mar-08	Apr-09
Subcontract	Guatemala, ciudad	Ministerio Público	FADS (Movimiento Pro-Justicia) "EJECUCION DEL II CONVENIO DE COOPERACION INTERINSTITUCIONAL 2007-2009 ENTRE EL MOVIMIENTO PROJUSTICIA Y EL MINISTERIO PÚBLICO"	Sub 1.3. Support for Justice Reform Increased.	17,003.81	Mar-08	Sep-08
Subcontract	Guatemala, ciudad	Ministerio Público	Operadora Guatemalteca de Servicios, S.A. - Primer Congreso de Victimología.	Sub 1.3. Support for Justice Reform Increased.	11,345.07	Nov-08	Nov-08
Subcontract	Guatemala, ciudad	Ministerio Público	Publiexsa - Impresión de 500 ejemplares del directorio de la Red de Derivación de la OAV.	Sub 1.3. Support for Justice Reform Increased.	3,654.64	Feb-09	Feb-09
Subcontract	Guatemala, ciudad	Ministerio Público	FADS (Movimiento Pro-Justicia) "EJECUCION DEL II CONVENIO DE COOPERACION INTERINSTITUCIONAL 2007-2009 ENTRE EL MOVIMIENTO PROJUSTICIA Y EL MINISTERIO PÚBLICO" Fase final	Sub 1.3. Support for Justice Reform Increased.	8,975.00	April 09	July 09

**Annex A - Small Grants Program**

**USAID/Guatemala Rule of Law Program  
 Checchi & Company Consulting, Inc.**

Type of instrument	Geographic Focus	Counterparts	Local-Sub-Grantees	Program Summary	Total Estimated Cost US\$	Start Date	End Date
			<b>TOTAL</b>		<b>362,093.53</b>		

**INFORMATION ON INDICATORS**

## Annex B - Information on Indicators

### SUB-IR 1.1 - IMPROVED TRANSPARENCY AND EFFICIENCY OF CRIMINAL JUDICIAL PROCESS

*Lower Level Result 1.1.1: Increased use of oral procedures in providing criminal justice services*

**Indicator 1: Pre-Trial hearings conducted orally.**

Description of degree in which oral hearings are conducted orally <sup>1</sup>	First Instance Criminal Courts
<p>Oral hearings are conducted as a standard practice and comply with all procedural requirements. Hearings are presided over by a Judge, with oral arguments presented by both the Prosecutor and the Defense Lawyer. The Judge during the hearing orally notifies all parties of his or her decision. The hearing takes place without interruptions in an equipped and appropriate room.</p>	<ol style="list-style-type: none"> <li>1. Guatemala City Juzgado Primero</li> <li>2. Guatemala City Juzgado Segundo</li> <li>3. Guatemala City Juzgado Tercero</li> <li>4. Guatemala City Juzgado Cuarto</li> <li>5. Guatemala City Juzgado Quinto</li> <li>6. Guatemala City Juzgado Sexto</li> <li>7. Guatemala City Juzgado Septimo</li> <li>8. Guatemala City Juzgado Octavo</li> <li>9. Guatemala City Juzgado Noveno</li> <li>10. Guatemala City Juzgado Dècimo</li> <li>11. Guatemala City Juzgado Undècimo</li> <li>12. 24 Hour Court in Guatemala City</li> <li>13. Mixco</li> <li>14. Villa Nueva</li> <li>15. Sacatepequez</li> <li>16. Chimaltenango</li> <li>17. Escuintla</li> <li>18. Santa Lucìa Cotzumalguapa</li> <li>19. San Benito Petèn</li> <li>20. La Libertad Petèn<sup>2</sup></li> <li>21. Cuilapa, Santa Rosa</li> <li>22. Totonicapàn</li> <li>23. Quetzaltenango Juzgado Primero</li> <li>24. Quetzaltenango Juzgado Segundo</li> <li>25. Quetzaltenango Juzgado Tercero</li> <li>26. Suchitepequez</li> <li>27. Retalhuleu</li> <li>28. Coatepeque</li> <li>29. Salamà</li> <li>30. Coban Juzgado Primero</li> <li>31. Cobàn Juzgado Segundo</li> </ol>

<sup>1</sup> Understanding of how hearings are conducted orally is based on a survey of participants during the hearings, as well as in private interviews with Prosecutors, Public Defense Lawyers and Judges. If parties do not agree on issues regarding oral hearings, such points are deemed to be negative.

<sup>2</sup> Hearings are carried out in the Judges' Chamber because the Court's recently designated hearing room is still not available.

	32. Playa Grande Ixcán 33. Santa Cruz, Quiché 34. Santa María de Nebaj, Quiché 35. Zacapa 36. Chiquimula Juzgado Primero 37. Chiquimula Juzgado Segundo 38. El Progreso 39. Jutiapa 40. Puerto Barrios, Izabal 41. Jalapa 42. Ixchiguan, San Marcos 43. San Marcos 44. Sololá 45. Santiago, Sololá 46. Huehuetenango 47. Poptun, Peten
Hearings are conducted orally, and generally comply with procedures that have been evaluated; however, participants confirm that not ALL hearings are oral. Some are conducted by auxiliary personnel without the presence of all parties.	1. Amatitlán 2. Santa Eulalia, Huehuetenango
Hearings are conducted orally, but the parties read their arguments aloud and dictate each word to the court clerk which unnecessarily lengthens the proceedings. Hearing techniques and the oral skills of justice sector operators need to be improved.	1. Malacatán

Survey information was collected during the months of June and July 2009. No surveys were carried out during the month of September.

**Indicator 2: Number of FICCs where the FICC Model<sup>3</sup> is implemented.**

Base line	2004 - 2005	2005- 2006	2006- 2007	2007- 2008	2008- 2009	Target				
						2005	2006	2007	2008	2009
0	0	0	2	20	21	0	1	2	15	25

The Model Court is characterized by oral hearings, a clear separation between judicial and administrative activities, and the existence of a case tracking system. To date the following courts have implemented this model: the 24 Hour Courts in Guatemala City, Villa Nueva and

<sup>3</sup> Components of Model are limited to: oral hearings, separation of judicial activity from administrative activity and case tracking system.

Mixco; eleven criminal courts in Guatemala City; the criminal court in Antigua; and three criminal courts in Quetzaltenango, two in Chiquimula and one in Escuintla.<sup>4</sup>

Base line	2004 - 2005	2005- 2006	2006- 2007	2007- 2008	2008 - 2009	Target				
						2005	2006	2007	2008	2009
0	0	0	0	0	Partially implemented in 11	0	0	0	1	12

### Trial Courts

Additionally, a model for trial courts was presented to and approved by the Criminal Chamber of the Supreme Court, and implementation was initiated in 11 trial courts in Guatemala City. Procedures were established in order to reduce the number of days between the time the case was opened for trial in the FICC and the day the trial court received and processed the case. While previously this took approximately 40 days, it was made almost instantaneous through the case tracking system.

**Indicator 3: Number of justice sector operators and private attorneys trained in oral hearing techniques.**

Base line	2004 - 2005	2005- 2006	2006- 2007	2007- 2008	2008- 2009	Target				
						2005	2006	2007	2008	2009
76	648	382	495	133	148	200	200	200	200	200

ACTIVITY	DATE	MALE	FEMALE	TOTAL
24 Hour Court Antigua Chimaltenango justice sector personnel	04/09/09	20	9	29
24 Hour Court Antigua Chimaltenango justice sector personnel	09/09/09	24	16	40
24 Hour Court Antigua Chimaltenango lawyers	09/09/09	19	5	24
24 Hour Court Antigua Chimaltenango Judges	17/09/09	12	3	15
24 Hour Court Antigua Chimaltenango justice sector personnel	17-18/9/9	26	14	40
<b>TOTAL</b>		101	47	148

<sup>4</sup> Model was implemented in Quetzaltenango and Chiquimula with other donor assistance.

**Lower Level Result 1.1.2: Improved Public Ministry capacity in prosecuting corruption and other serious crimes**

**Indicator 4: Increase in the percentage of homicide cases in Targeted Jurisdictions in which an accusatory instrument is filed.**

The chart below shows in each box: (1) the number of accusations filed/number of homicides; (2) the increase or decrease of the percentage of accusations filed that year; (3) the percentage change in the accusations filed; and (4) number of homicide cases tried with a conviction or acquittal.

FICC		Baseline	2004-2005	2005-2006	2006-2007	2007-2008	2005	2006	2007
Guatemala	number of accusations filed/number of homicides	46/ 2844	109/ 3585	161/ 4110	111/ 1582	110/ 1226	+5%	+10%	+10%
	increase or decrease of the percentage of accusations	<b>1.61%</b>	<b>3.04%</b>	<b>3.92%</b>	<b>7.02%</b>	<b>8.97%</b>			
	percentage change in the accusations filed		<b>+1.43%</b>	<b>+0.88%</b>	<b>+3.1%</b>	<b>+1.95%</b>			
	Number of homicide cases tried (convictions/ acquittal)					67 cases tried 54 convictions/ 13 acquittals			
Villa Nueva	number of accusations filed/number of homicides	12/ 318	5/ 318	20/ 576	27/ 236	13/222	+5%	+10%	+10%
	increase or decrease in the percentage of accusations	<b>3.77%</b>	<b>1.57%</b>	<b>3.47%</b>	<b>11.44%</b>	5.85%			
	percentage change in the accusations filed		<b>-2.20%</b>	<b>+1.9%</b>	<b>+7.97%</b>	<b>-5.59%</b>			
	Number of homicide cases tried (convictions/ acquittal)					8 cases tried 8 Convictions 0 Acquittals			
Mixco	number of accusations filed/number of homicides	27/ 619	41/ 638	37/ 919	16/ 153	10/183	+5%	+10%	+10%
	increase or decrease in the percentage of accusations	<b>4.36%</b>	<b>6.42%</b>	<b>4.02%</b>	<b>10.45%</b>	5.46%			
	percentage change in the accusations filed		<b>+2.06%</b>	<b>-2.4%</b>	<b>+6.43%</b>	<b>-4.99%</b>			
	Number of homicide cases tried (convictions/ acquittal)					5 cases tried 4 convictions 1 acquittal			

### Accusatory Instruments and Trials by Gender 2007 - 2008

		MALE	FEMALE	TOTAL
Guatemala	number of accusations filed/number of homicides	75/1061	35/165	110/1226
	Number of homicide cases tried (convictions/ acquittal)	48 cases tried 37 convictions 11 acquittals	19cases tried 17 convictions 2 acquittals	67 cases tried 54 convictions 13 acquittals
Villa Nueva	number of accusations filed/number of homicides	13/176	0/46	13/222
	Number of homicide cases tried (convictions/ acquittal)	8cases tried 8 convictions	0	8 cases tried Convictions 8 Acquittals 0
Mixco	number of accusations filed/number of homicides	10/159	0/24	10/183
	Number of homicide cases tried (convictions/ acquittal)	5 cases tried 4 convictions 1 acquittal	0	5 cases tried 4 convictions 1 acquittal

**Indicator 5: Increase in the percentage of corruption cases prosecuted; convictions achieved; and other resolutions.**

Indicator has been eliminated.<sup>5</sup>

**Indicator 6: Increase in number of disciplinary cases resolved at the national level within the PM.**

**Data for 2008 -2009 was not provided by the institution before the finalization of the contract.**

Baseline	2004-2005	2005-2006	2006-2007	2007-2008	2005	2006	2007	2008	2009
13 cases resolved	<b>0</b>	<b>307</b>	<b>563</b>	<b>706</b>	10%	20%	25%	30%	40%

Although cases were investigated and sanctions recommended during 2004-2005, no final figure could be reached for that year because of a conflict between the two instruments that regulate disciplinary actions, the *Pacto Colectivo* and the *Ley Organica del Ministerio Público*. In 2005-06, the goals were exceeded, as were those in 2006-2007. In 2007-2008, the last period for which data is available, a total of 706 cases were registered, of which 361 were processed as indicated in the following table:

Oct 1/07 - Sept 30/08	
Cases Registered	706
Cases Justified	59
Cases not justified	263

<sup>5</sup> Indicators that are identified as eliminated were terminated by Modification No. 6 to the Task Order (July 2007).

Cases not justified but recommendations made	39
Cases in process	236
Cases filed	65
Other	44

**Indicator 7: Number of students completing externships with justice sector institutions maintained.**

Baseline	2004-2005	2005-2006	2006-2007	2007-2008	2008 - 2009	2005	2006	2007	2008	2009
2004: 288 students (66.31% female)	614 (54.07%)	668 (58.38%)	1055 (55.54%)	Data not available	Data not available	275	275	275	275	275

**EXTERNSHIP PROGRAM**

INSTITUTION	Female 2005-2006	Male 2005-2006	TOTAL 2005-2006	Female 2006-2007	Male 2006-2007	TOTAL 2006-2007
Judicial Branch	67	47	114	106	44	150
Congress	7	1	8	21	4	25
Law School S7-S2	13	5	18	19	2	21
Pre-Especialización	12	4	16	3	1	4
Human Rights Office	30	13	43	45	37	82
Public Ministry	30	1	31	13	6	19
IDHUSAC	14	8	22	-	-	
Procuraduría General de la Nación	17	12	29	12	23	35
Public Defense Institute	2	1	3	2	0	2
Anexo de San Juan	126	99	225	202	216	418
Anexo Mixco	125	113	238	121	120	241
Anexo de la Verbena	7	14	21	15	7	22
Anexo del Milagro	7	7	14	27	9	36
<b>TOTAL</b>	<b>390</b>	<b>278</b>	<b>668</b>	<b>586</b>	<b>469</b>	<b>1055</b>

Source: Bufete Popular, Universidad de San Carlos de Guatemala.

The Director of the Bufete Popular was not willing to provide statistical information to the Program.

## **SUB-IR1.2 - CRIME PREVENTION PROGRAM IMPLEMENTED**

*Lower Level Result 1.2.1: Reduction of Crime through local and national crime prevention alliances and local Crime Prevention Plans*

**Indicator 8: Crime victimization in target areas. (Measures people who were victims of a criminal act during the last 12 months)**

Indicator has been eliminated.

**Indicator 9: Number of Crime Prevention Models in Targeted Jurisdictions implemented.**

Indicator has been eliminated.

**Indicator 10: Number of cases mediated by Community ADR Centers.**

Indicator has been eliminated.

## **SUB-IR 1.3 - SUPPORT FOR JUSTICE REFORM INCREASED**

*Lower Level Result 1.3.1: Institutional Strengthening of the Coordinating Office of Justice (ICMSJ) and Sector Leaders.*

**Indicator 11: Organic law authorizing ICMSJ or alternative institution to coordinate justice institutions and administer Justice Centers, lead reform efforts.**

Indicator has been eliminated.

**Indicator 12: The ICMSJ and/or its Executive Secretary sustain the continuing work of the 15 existing Justice Centers from 2006 -2009.**

All 15 Justice Centers continue operational. In August 2009, meetings were held with all Justice Center Coordinators in which they presented their most recent results and a proposed plan of activities; they also received training on the 24 hour model court.

*Lower Level Result 1.3.2: Increased private sector and civil society advocacy for reform and oversight of judicial performance.*

**Indicator 13: Amount of private sector donations in crime prevention areas in Targeted Jurisdictions each year.**

Indicator has been eliminated.

***Lower Level Result 1.3.3: Information on due process and the human rights ombudsman.***

**Indicator 14: Number of complaints regarding systematic due process violations presented to the HRO.**

Indicator has been eliminated.

***Lower Level Result 1.3.4: Increase availability of solid information for decision making***

**Indicator 15: Number of administrative and technical personnel of justice sector institutions trained on the use of statistical information for decision making.**

Baseline	2004 - 2005	2005- 2006	2007- 2008	2008 - 2009	Target 2005	Target 2006	Target 2007	Target 2008	Target 2009
0	0	0	15	0	0	0	10	20	30

No trainings were carried out regarding the use of statistical information during 2009. Instead, the Program focused on supporting the *Comisión Nacional para el Fortalecimiento de la Justicia* in developing a national System of Indicators which was approved by the members of the Commission.

**Indicator 16: Number of people trained (male/female/total) in any training event sponsored by the Program. If post-training conducted, the pass rate must also be reported.**

ACTIVITY	DATE	MALE	FEMALE	TOTAL
24 Hour Court Model and Indicator definition to Justice Center Coordinators	20-21/08/09	9	11	20
Criminal Investigation Methodology Quetzaltenango	26-27/08/09	26	9	35
24 Hour Court Model Antigua and Chimaltenango	27/08/09	6	4	10
24 Hour Court Antigua and Chimaltenango, justice sector personnel	02/09/09	19	12	31
Criminal Investigation Methodology Puerto Barrios	2-3/9/09	27	10	37
Criminal Investigation Methodology Guatemala City	3-4/09/09	8	8	16
24 Hour Court Antigua Chimaltenango justice sector personnel	04/09/09	20	9	29
24 Hour Court Antigua Chimaltenango justice sector personnel	09/09/09	24	16	40
24 Hour Court Antigua Chimaltenango lawyers	09/09/09	19	5	24

24 Hour Court Antigua Chimaltenango Judges	17/09/09	12	3	15
24 Hour Court Antigua Chimaltenango justice sector personnel	17-18/9/9	26	14	40
<b>TOTAL</b>		196	101	297

**NEW INDICADOR:** Case processing time, average number of days for the presentation of accusation.

Data for 2008 -2009 was not provided by the institution before the finalization of the contract.

	Guatemala	Villa Nueva	Mixco
# Accusations 2007-2008	548	176	243
Average # days <sup>6</sup>	145.77 days	156.09 days	106.53 days
# of cases opened to trial 2007-2008	274	136	95
Average # of days <sup>7</sup> until conviction or acquittal	330.36 days	282.09 days	236.96 <sup>8</sup> days

**NEW INDICADOR:** Number of individuals/groups who received legal aid or victim's assistance with USG support.

The Rule of Law Program established a sub-contract with *Fundación Sobrevivientes*, an organization which provides psychological, medical and legal assistance to victims of crimes. The sub-contract stipulates assistance to victims and witnesses of crimes in 10 cases identified by the Program and 10 cases identified by the Foundation. The following table describes the state of the cases:

No.	EXPEDIENTE	VÍCTIMA	JUZGADO	ESTADO PROCESAL	PENA
1.	569-2008 Oficial V	Ílcida Marisol Quinteros Tupas	Tribunal 9° de Sentencia	Condenatoria el 30 de Octubre de 2008	20 años
2.	01070 – 2008 – 00826 Oficial I	María de Jesús Velásquez Jacinto	Tribunal 8° de Sentencia	Condenatoria el 26 de Febrero de 2009	37 años con 6 meses y Q200,000.00 De Responsabilidades Civiles
3.	18890 – 2007 Oficial III	Leonor Elizabeth Gómez	Juzgado 9° de Primera Instancia	El sindicado pese a varios operativos se encuentra	

<sup>6</sup> From date of case processing to date accusation was presented

<sup>7</sup> From date of case processing to date of acquittal or conviction

<sup>8</sup> Source: Tribunal 1° de Sentencia Penal, Narcoactividad y Delitos contra el Ambiente de Mixco.

				pendiente de captura <b>Apoyo de la DIGICI</b>	
<b>4.</b>	3640-2007 Oficial VI	- Evelin Jacqueline Ojeda - Pedro Alberto Cruz - Julio Pérez - Jefferson Abimael Gonzáles	Juzgado 2° de Primera Instancia Penal	Orden de captura pendiente de ejecución.  <b>Apoyo de la DIGICI</b>	
<b>5.</b>	1424 – 2008	Rose Mary Gonzáles Cajón	Juzgado de Primera Instancia Penal de Villa Nueva	El caso se encuentra aún bajo investigación	
<b>6.</b>	19 – 2008 Oficial I	- Rosa María Morales Ceceña. - Ana Sofía Pineda Morales - Pedro Alberto Pineda	Tribunal 1° de Sentencia Penal de Mixco	Sentencia Condenatoria el 30 de Octubre de 2008	<b>133 años de prisión y 1 Millón de Quetzales por Daños Civiles</b>
<b>7.</b>	01080-2008-0136 Oficial III	Catherine Michelle Morales Rodríguez	Tribunal 7° de Sentencia Penal	Sentencia Condenatoria para 1 de los Acusados y Absolutoria para el otro acusado (actualmente en apelación)	<b>62 años de prisión</b>
<b>8.</b>	MP0010-196-2008 (San Juan Sacatepequez)	Karen Lissette Fuentes	Juzgado de Primera Instancia Penal	Orden de aprehensión pendiente de ejecutar	
<b>9.</b>	MP008-12725-2007 (Mixco)	Jennifer Jazmín Muralles Hernández	Aún sin control de Primera Instancia	El caso se encuentra bajo investigación	
<b>10.</b>	MP015 – 13458 – 2007 (Villa Nueva)	Heidy Yessenia Dávila Argueta	Aún sin control de Primera Instancia	El caso se encuentra bajo investigación	
<b>11.</b>	13118-2007 Oficial 1°	Nancy Lorena Cárdenas Ovalle	Tribunal 11° de Sentencia Penal	Sentencia condenatoria	<b>20 años de prisión y Q23,000 de responsabilidades Civiles</b>
<b>12.</b>	359-2009 Oficial 2°	Adelma Esperanza Cifuentes	Juzgado Primero de Primera Instancia	Se encuentra en etapa preparatoria	

			Penal		
13.	01069 - 2009 - 00575 Oficial 2°	Corina Mayte Damián Rodríguez	Juzgado Cuarto de Primera Instancia Penal	Se encuentra en etapa preparatoria	
14.	546 - 2008 Oficial 1°	Berta Herrera de Morales	Juzgado de Primea Instancia del Departamento de Sacatepéquez	<b>En el presente caso existe orden de aprehensión</b>	
<b>No.</b>	<b>EXPEDIENTE</b>	<b>VÍCTIMA</b>	<b>JUZGADO</b>	<b>ESTADO PROCESAL</b>	<b>PENA</b>
15.	409 - 2009 Oficial 2°	-Wendy Yoseli Suruy Socoreque. -Diana Liseth Suruy Socoreque. -Heidy Yolanda Cuc Suruy	Juzgado de Primea Instancia del Departamento de Sacatepéquez	<b>El presente caso los tres sindicados se encuentran en Prisión Preventiva</b>	
16.	MP018/2009/321 Agencia 1	Alicia Barrera García	Fiscalía Municipal de Palencia	La Fundación se encuentra asesorando a los familiares de la víctima para Querrellarse al proceso	
17.	Causa 01069 - 2009 - 00575 Oficial 2°	Corina Mayte Damián Rodríguez	Juzgado Cuarto de Primera Instancia Penal	El presente caso el sindicado se encuentra en Prisión Preventiva.	
18.	Causa 0170-2009- 00926 Oficial 1°	Eugenia Margarita Álvarez	Juzgado Décimo de Primera Instancia Penal	El caso se encuentra en la Etapa Preparatoria. La Fundación asesora a la víctima quien se Querellará al proceso.	
19.	C - 01081 - 2009 - 000985 Oficial 2°	Jessica Carolina	Juzgado Tercero de	Los dos sindicados	

		Franco Ramos	Primera Instancia Penal	guardan Prisión Preventiva.	
20.	MP001/2008/90731,	Carmen Felicita Guzmán Méndez	Agencia 16 de la Fiscalía Metropolitana	El caso se encuentra bajo investigación La Fundación proporciona la ayuda jurídica y administrativa para que el menor Kevin Isaías Guzmán Méndez, testigo presencial del hecho, sea reubicado junto a su abuela en Estados Unidos.-	<b>Este asunto constituye uno de los casos de alto impacto en el cual se brinda asistencia técnica. El niño a que se hace referencia ya declaró mediante anticipo jurisdiccional de prueba</b>

**NEW INDICADOR: Ratio of all dispositions to new case filings in courts assisted by USG in the area of case management.**

**Data for 2008 -2009 was not provided by the institution before the finalization of the contract.**

**Period: October 1<sup>st</sup> 2007 – September 30<sup>th</sup> 2008**

	Number of cases registered	Number of dispositions 2007-2008	% (Dispositions / cases registered)
Guatemala <sup>9</sup>	3115	1973	63.33%
Villa Nueva	2553	1673	65.53%
Mixco	3238	2258	69.73%

<sup>9</sup>March 2007 – March 2008 due to the change in the software system used by the courts.