

**PROGRAM PERFORMANCE REPORT  
AGREEMENT BETWEEN FLORIDA INTERNATIONAL UNIVERSITY  
AND AGENCY FOR INTERNATIONAL DEVELOPMENT/HONDURAS  
FOR THE QUARTER ENDING DECEMBER 10, 2004**

Luis Salas  
Project Director  
Center for the Administration of Justice  
Florida International University

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The Contract between Florida International University and the Agency for the International Development was signed on September 10, 2004. The following is a brief summary of the activities that took place between September 10, 2004 and December 10, 2004.

### **I. Personal hired and local office set up.**

During this period we undertook the following actions in establishing the office in Honduras and assigning personnel. Luis Salas and Ana Carazo during two trips in this quarter (9/27 to 9/30 and 11/29 to 12/3) spent a great deal of time renting office space, acquiring equipment, contracting normal office services and other installation requirements.

One of the first tasks was the employment of the key personnel (COP, DCOP and Training Advisor). Alfredo Chirino (DCOOP) began working in Honduras on September 27<sup>th</sup>. Given the requirements by the Nicaragua USAID Mission on Cesar Barrientos we were unable to complete his transfer to Honduras until December 1. José Arturo Duarte had been proposed as the Training Advisor but resigned unexpectedly at the beginning of the project alleging personal reasons (See Attachment 5). Unfortunately, Mr. Duarte did not provide us with any notice so that we were compelled to devote some time to find a replacement that would be acceptable to USAID and project staff.

At the first briefing with the CTO the USAID Contract Officer and other key Mission personnel we were advised of the need to clear all personnel with the Mission and U.S. Embassy prior to contracting them. We were also advised that these clearances would take some time and we quickly forwarded a list of all consultants, national and international, for USAID approval. We were also cognizant of the need to receive a waiver from the USAID Mission Director, for employment of all consultants who were not US or Honduran nationals. We requested that USAID conduct the waiver approval process concurrently with the Embassy clearance procedure so that we may be able to employ these persons as quickly as possible (See Section X herein on Obstacles to Implementation for greater detail. As of the end of this quarter we have not received approval to hire any consultants).

### **II. Result 1. Legal framework for fair trials before independent and impartial courts implemented.**

Preparatory activities, including discussions with USAID and local counterparts as well as submission of consultants for USAID approval, took place during this period.

### **III. Result 2. Strengthened advocacy and participation in legal reform**

A special meeting was held with the Mission (attended by Sonia Zacapa [CTO] and Brad Fujimoto) relative to their expectation with regard to this important

component. William Hallock, on behalf of Chemonics International which is charged with undertaking this component, attended the meeting and submitted an *aide d' memoire* (see Attachment 1).

Thereafter, we requested authorization from the USAID Contract Officer to enter into a subcontract with Chemonics Int. to carry out this Result. Authorization was granted from USAID (see Attachment 2).

We also request authorization to contract Leonardo Escobar as one of the lead consultants for this activity and were granted authorization.

#### **IV. Result 3. Access to justice expanded for marginalized groups, especially women and the poor**

We requested Mission approval to contract Gerardo Villalobos (Costa Rica) and Gladys Stella Alvarez (Argentina), who had been named in the proposal to lead this activity. We have not received authorization to contract them and this may affect our ability to meet the February 2005 contract milestone for this activity.

#### **V. Result 4. Increased fairness and efficiency of the administration of justice through more effective legal personnel and efficient processes**

As to Requirement 4.4, Luis Salas conducted two site visits, conducted interviews with the Purging Unit personnel as well as UTR leaders (Kenneth Madrid) and prepared a report on the status of the Purging Unit and process. At the end of his visit, he met with Sonia Zacapa and Brad Fujimoto and briefed them on the results of the activity (a copy of the report is found in Attachment 3).

#### **VI. Result 5. Crisis-modifier**

No crisis-modifier activities have occurred during this period.

#### **VII. Procurement plan to support Results 3 and 4 (Result 6)**

Only internal coordination activities have taken place during this period.

#### **VIII. Serves as rapporteur with justice sector (Result 7)**

Several meetings have taken place. See attached copies of monthly minutes (Attachment 4).

## **IX. Obstacles**

### **A. Approval of Project Staff and Consultants**

The primary impediment to timely Project implementation lies in a Mission requirement to clear all personnel, both short-term and long-term, through a vetting process with the Embassy. In the case of consultants from countries other than the US and Honduras, a request is sent by the Embassy to the relevant US Embassy, the U.S. Embassy in Costa Rica for example, to have a report forwarded back to the U.S. Embassy in Honduras on the background of each individual. As can be imagined, this process has delayed all of our activities because of our inability to contract personnel pending U.S. Embassy clearance and USAID approval. We should also note that in addition to this requirement, the Mission Director must issue a waiver authorizing us to contract non-US or Honduran consultants.

We were first informed of the clearance process for personnel at our September 28<sup>th</sup> meeting at USAID/Honduras. On the 29<sup>th</sup> of that same month, we submitted a list of all consultants, both Hondurans and non-Hondurans, stating the activity for which they were sought and their nationality. Thereafter, we have submitted detailed personal information about each of these persons as required by USAID and are still waiting for approval of non-Honduran consultants. The majority of office staff has been approved with the exception of support personnel.

During each of the visits to Honduras, we have inquired of USAID about the status of the waivers and clearances and have been informed that they are still being processed. As mentioned previously, this requirement is delaying project activities and will hamper our ability to meet contractual milestones.

We should also point out that we have been informed by USAID that this same process may apply to project participants who may have to be cleared before participation in any activity. The extent of this requirement is still unclear since its broadest interpretation will require us to vet any participants at any public event or training and exclude all persons who have not been cleared by the US Embassy.

### **B. Resignation of José Arturo Duarte**

(See Attachment 5)

**ATTACHMENT 1  
MEETING SUMMARY  
DECEMBER 2, 2004**

Meeting Summary

USAID Strengthened Rule of Law Project

December 2, 2004

USAID Honduras

Attendees:

Brad Fujimoto, USAID

Sonia Zacapa, USAID

Luis Salas, CAJ/FIU

Bill Hallock, Chemonics

Cesar Barrientos, CAJ/FIU

Alfredo Chirino, CAJ/FIU

Introduction

This meeting was scheduled with the primary purpose of clarifying USAID's vision and focus for Component 2 of the project dealing with legal professional associations (LPAs). The summary below is not intended to be a verbatim summary of the meeting. Rather, it provides a broad overview of the meeting and highlights some of the major points discussed.

Summary of Discussion Points

1. Brad Fujimoto summarized his view of the importance of civil society in the reform movement. He noted how reform that depends on high level authorities is fragile because it often falters when there is a change in these authorities. For this reason it is important that reform ownership focuses to a large degree on those people who will likely be implementing and executing the reforms within the very institutions that will be effected. Brad also noted that while laws are obviously important, too much focus on laws is risky because people often do not respect laws once they have been passed.

2. Brad Fujimoto noted the importance of a strategy to strengthen grass roots reform organizations, in our case LPAs, through Component 2 because these groups will be more likely to have a long term impact on the reform agenda. Specifically, he noted the importance of including within our strategy organizational development activities that strengthen the foundations of these organizations, as opposed to just

supporting activities or offering financial support. Brad noted that financial support unaccompanied by technical assistance for organizational development has proven unsuccessful in the past and gave the example of AMHON. Brad also noted that the members of LPAs and civil society groups should have some sense of ownership of the organizations and the reforms each organization supports.

3. When asked about the concept of "ownership" of the organizations by Luis Salas, Brad explained that members should have a genuine interest and stake in the reforms supported by the organization. He noted that USAID has trained justice sector employees for years but had not fully used these professionals within the institutions where they were working as a force in support of the reform agenda. He also noted that there were numerous effective CSOs, but to date there were no effective LPAs whose members have a presence within the institutions where USAID would like to see support for reform.

4. At this point there was an extensive discussion of the situation within the Fiscalía and an exchange of ideas regarding possible strategies for addressing the situation. There was general agreement that this is an important area that requires a separate meeting to strategize on specific approaches to be used by USAID and the Project team.

5. Bill Hallock noted that certain groups, such as the association of prosecutors, or judges, or lawyers, were clearly included within the definition of LPA. However, it wasn't clear how broad a definition USAID envisioned for LPAs. Are other groups, such as an association of law students, or law schools, or the Instituto de Ciencias Penales at UNAH, included within this definition. Brad explained that USAID's focus was on the implementers of justice reforms so that the people executing could help push the reforms forward from within the very institutions where impact is expected to be seen. He noted that governance must come from the bottom up, not from the top down. Upon further questioning, Brad suggested, for example, that the association of medical pathologists was not the type of LPA envisioned by USAID. Brad would not categorically exclude an association of law students but stated that they would not be viewed as a priority LPA. Brad noted that he wouldn't exclude a mixed LPA if it included justice sector implementers. It was concluded that the information gathered from the assessment will help determine project options for Component 2.

6. Bill Hallock noted that the project needed to work with both the LPAs and with the leadership of justice sector institutions. Certain LPAs will likely have at least some union-type interests (i.e. salaries, benefits, etc.) that could conflict with the interests of institutional leadership. When asked about this balance, Brad suggested that one way to address it was with technical advisors who can work with LPAs to help strategically tailor their interest and guide their activities in productive ways. He also noted that one strategy is to take key association members on observation or study tours to see how similar associations elsewhere are organized and how they function.

7. There was a general discussion on how to deal with LPAs that are not legally registered to do business (i.e. "personería jurídica"). Several possible strategies emerged, including providing direct



technical assistance to these LPAs outside the grant program and teaming these LPAs with another CSO or LPA that was legally registered. It was concluded that the information gathered from the assessment will help determine if the project will have to use these or additional strategies to effectively work with LPAs.

8. Leonardo Escobar, an organizational development specialist, has indicated availability to do the assessment during the period from January 4-19, 2005. USAID will verify whether a waiver is required for Leonardo given that he is not a US citizen. It was noted that Leonardo has already performed extensive services under other USAID programs.

**ATTACHMENT 2  
AUTHORIZATION TO SUBCONTRACT  
WITH CHEMONICS INT.**

November 5, 2004

Ms. Tuebner  
Contracting Officer  
USAID/Honduras

Reference: Florida International University (FIU)  
Contract No. 522-C-00-04-00465-00

Subject: Consent to enter into a Cost Plus Fixed Fee Subcontract with Chemonics  
International Inc.

Dear Ms. Teubner:

In accordance FAR 52.244-2 Subcontracts, this letter requests Contracting Officer consent to enter into a Cost Plus Fixed Fee Subcontract with Chemonics International Inc. for the provision of technical services in completion of Result 2, to strengthen professional associations (i.e., judges, prosecutors, court administrators, public defenders, lawyers) and to design a grants program.

We provide the following information:

**Identification of Proposed Subcontractor.**

FIU met with Chemonics International Inc. during the proposal stage. FIU has a history of working with Chemonics and deems Chemonics appropriately qualified to carry out the proposed scope of work.

**Proposed subcontract price and contractor's cost or price analysis.**

As budgeted within the FIU proposal, the total proposed subcontract price is \$331,211 and includes salaries, other direct costs and indirect charges.

**Current Cost and Pricing Data.**

The subcontractor submitted a detailed, itemized budget for the services to be provided. A certificate of current cost or pricing data is not required per FAR 15.403-1(c)(ii). However, FIU did obtain cost or pricing data from Chemonics, which is considered complete and accurate.

Attached herewith please find the following documents for your review: negotiation memorandum, the proposed subcontract and budget.

Please sign below to indicate your consent to our entering into this Cost Plus Fixed Fee subcontract.

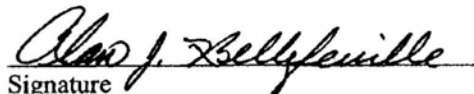
Ms. Teubner  
Page 2

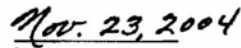
Please do not hesitate to contact me if you have any questions regarding the proposed subcontract.  
Thank you for your assistance in this matter.

Attachments: Negotiation Memorandum  
Proposed Subcontract  
Proposed Budget

**Ms. Teubner, Contracting Officer**

Consent granted to enter into a cost plus fixed fee subcontract with Chemonics International Inc.

  
Signature

  
Date

## NEGOTIATION MEMORANDUM OF SUBCONTRACT TERMS

In accordance with FAR clause 52.244-2, Section (f)(1)(vii), and FAR clause 44.202, Florida International University (FIU) provides the following explanations regarding the content of the proposed subcontract between FIU and Chemonics International Inc. (Chemonics) in the estimated amount of \$331,221.

### **Information per FAR 52.244-2:**

#### **A. Principal elements of the subcontract price negotiations:**

The principal elements in the subcontract price negotiations are short-term technical assistance labor, other direct costs (such as travel and communications), and Chemonics's overhead costs.

#### **B. The most significant considerations controlling establishment of initial or revised prices**

The most significant consideration controlling establishment of the subcontract price was the proposed budget provided by Chemonics.

#### **C. The reason cost or pricing data were or were not required**

Cost or pricing data was established by Chemonics based on their experience in Honduras with respect to travel and lodging costs. A certificate of current cost or pricing data was not required for Chemonics, as the proposed subcontract value is less than \$550,000.

#### **D. The extent, if any, to which the Contractor did not rely on the Subcontractor's cost or pricing data in determining the price objective and negotiating final price.**

FIU relied on the subcontractors pricing data in negotiating the final price.

#### **E. The extent to which it was recognized in the negotiation that the Subcontractor's pricing data were not accurate, complete or current; the action taken by the Contractor and the Subcontractor; and the effect of any such defective data on the total price negotiated.**

There were no defects in any aspects of Chemonics's pricing data.

#### **F. The reasons for any significant difference between the Contractor's price objective and the price negotiated.**

There is no difference between the Contractor's price objective and the negotiated price of the subcontract.

**G. A complete explanation of the incentive fee or profit plan when incentives are used.**

As a for-profit company Chemonics regularly charges a percentage fee on contracts. The proposed subcontract includes a fee of 6% on all charges. This fee reflects a reduction of 1.25% from the fee included within the originally submitted FIU proposal.

As defined in Section F.2, Requirement 2.1 and 2.2 of the FIU/USAID contract, Chemonics will be responsible for the completion of an assessment/action plan and the design of a small grants program. Both of these activities will be completed during year one of project implementation. The majority of Chemonics fee will be paid during year one in accordance with the accomplishment of these deliverables. During years two and three fee will be paid relative to cost incurred while strengthening business associations and providing technical assistance necessary to monitor the grant program.

**Information per FAR 44.202:**

**(1) Is the decision to subcontract consistent with the contractor's approved make-or-buy program, if any (see 15.407-2)?**

FIU does not have an approved make or buy program.

**(2) Is the subcontract for special test equipment or facilities that are available from Government sources (see Subpart 45.3)?**

No, the subcontract is not for special test equipment or facilities that are available from government sources.

**(3) Is the selection of the particular supplies, equipment, or services technically justified?**

Yes, the selection of the subcontractor is technically justified. Chemonics was identified during the proposal process and named within the proposal as an organization qualified to provide quality technical assistance in the support of business associations and the design of a grants program. Please refer to FIU's proposal for more information regarding the justification for subcontracting with Chemonics.

**(4) Has the contractor complied with the prime contract requirements regarding Small business subcontracting, including, if applicable, its plan for subcontracting with small, veteran-owned, service-disabled veteran-owned, HUBZone, small disadvantaged and women-owned small business concerns (see Part 19).**

Yes.

**(5) Was adequate price competition obtained or its absence properly justified?**

Price competition was not obtained as Chemonics was the only contractor deemed qualified to provide the technical assistance required.

**(6) Did the contractor adequately assess and dispose of subcontractors' alternate proposals, if offered?**

No alternate proposals were offered.

**(7) Does the contractor have a sound basis for selecting and determining the responsibility of the particular subcontractor?**

Yes, FIU has a history of working with Chemonics within this particular technical area and as such has had an opportunity to vet subcontractor performance both in technical quality and administrative capacity. Chemonics has the financial, technical and administrative capacity to manage this work in conjunction with their other activities. Chemonics is not on the consolidated list of debarred, suspended and ineligible contractors.

**(8) Has the contractor performed adequate cost or price analysis or price comparisons and obtained accurate, complete, and current cost or pricing data, including any required certifications?**

Yes, FIU has performed cost analysis to ensure the cost and pricing data is accurate.

**(9) Is the proposed subcontract type appropriate for the risks involved and consistent with current policy?**

Yes, the cost plus fixed fee subcontract mechanism was chosen in accordance with FIU accounting standards.

**(10) Has adequate consideration been obtained for any proposed subcontract that will involve the use of Government- furnished facilities?**

The subcontract will not involve use of government facilities.

**(11) Has the contractor adequately and reasonably translated prime contract technical requirements into subcontract requirements?**

Yes, relevant technical requirements from the task order have been adequately and reasonably flowed down to the subcontract.

**(12) Does the prime contractor comply with applicable cost accounting standards for awarding the subcontract?**

Yes, FIU complied with its' established cost accounting standards when awarding the subcontract.

**ATTACHMENT 3**  
**REPORT ON THE HONDURAN SYSTEM FOR PURGING OF**  
**CRIMINAL CASES**



## REPORT ON THE HONDURAN SYSTEM FOR PURGING OF CRIMINAL CASES

Requirement 4.4, of the USAID/Honduras contract with FIU refers to the goal of “The system to purge criminal cases and inventory evidence is actively maintained in order to comply with statutory transition requirements for implementation of the CPC.” At a minimum, FIU is required, in calendar year 2004, to “develop an Interinstitutional methodology”... “for the review of active criminal cases (i.e. cases of un-sentenced prisoners), to include the Court, the Public Ministry, and the Public Defenders Office.” We are also required to “provide technical assistance to support the purging of backlogged cases.”

During the week of November 8, Alfredo Chirino, José Arturo Duarte and Luis Salas of the FIU team met with Sonia Zacapa and Brad Fujimoto to review progress on the overall project. FIU informed USAID that it would be necessary for USAID to notify the relevant court officials about the task assigned to us in regard with the case purging unit. USAID arranged an appointment with Kenneth Madrid, Executive Director of the Unidad Técnica de Reforma charged with overall coordination of the purging unit. Subsequent to this meeting, José Arturo Duarte, of our PIU office, met several times with the personnel assigned to the purging unit and reviewed the available documentary material. During the week of November 29, Luis Salas and José Arturo Duarte interviewed a number of judges and “depuradores” at the Juzgado de Letras Seccional and the Unidad de Depuración as well as examining data, resources and facilities. This report is based largely on the interviews conducted by Salas and the review of data obtained.

Although we requested repeatedly from Mr. Madrid statistical information on the progress of the purging initiative, we were informed that such information would have to be authorized by the President of the Supreme Court. The FIU Project Implementation Unit wrote to the President of the Court and to Mr. Madrid but has not yet received a reply. Thus, the statistical information presented herein should be considered preliminary.

### USAID Assistance

USAID/Honduras was cognizant of the importance of eliminating the backlog of pending cases under the old CCP as a precondition to the success of the new CCP. In its Implementation Letter No. 36 (USAID Project No. 522-0394) it approved the usage of up to \$110,050 of grant funds in support of the “Supreme Court’s Work Plan and Budget for the Purging Unit, including salaries and services. The purgers will work under contract with the Supreme Court for the period March – December 2004.” Another clause of the agreement required the Supreme Court *to provide “semi-annual progress reports” to USAID*. A final report that “indicates in a scientific way that 20% of the backlog (mora) has been reduced.” The PIL further made it clear that these funds were only to be used for purging of inactive cases and that funding would terminate on December 31, 2004 with the Court assuming responsibility for the program in January 1, 2005.

In an undated progress reports on PILs Nos. 36-39, the Supreme Court, through the UTR, reported that they estimated the 20% reduction goal to have been met with the purging (equivalent to dismissals under their definition) of 25,100 cases. Their report indicates that 10,747 cases had been purged during the period February-August 2004 constituting 42.82% of the agreed upon target of 25,100 cases. The following table indicates their progress.

Table 1  
Cases Purged February – August 2004

Variable	February – May 2004	June – August 2004	Total
Case files completed by purgers	9,373	10,189	19,562
Case files signed by inactive case judges	8,251	9,539	17,790
Cases signed (certified) by the Juzgado de Letras Seccional secretary	7,149	3,598	10,747

Source: UTR Progress Report, Undated

The report also indicates that during the same period, teams of purgers and judges collected 41,560 case files to be reviewed from courts throughout the country.

### Background

One of the crowning achievements of USAID assistance to the Honduran justice system was enactment of an accusatorial code of criminal procedure (CCP) in December 1999. As in many other countries in which this reform has occurred, the Honduran Supreme Court, early on, became aware of the need for a detailed implementation plan supported by legislation and regulations. A critical component of the new CCP was the adoption of a six-year transitional period during which all cases filed after February 20, 2002 are processed under the new procedures regardless of when the crime took place. The Code also calls for the establishment of parallel court systems with one set of courts dealing with cases pending under the old system while the second assumes responsibility for all cases under the new system. Another important provision of this transitional legislation establishes the mechanism for purging cases in order to reduce overburdened courts and clear backlogs as well as dictating the creation of an Interinstitutional Criminal Justice Commissions (Comisión Interinstitucional de Justicia Penal)<sup>1</sup> with overall “responsibility

<sup>1</sup> The Commission is composed of: the members of the Supreme Court’s Criminal Chamber, the Director of the Public Defense, the Procurator, the Fiscal general, the Fiscal General Adjunto and the Director of the Fiscalía, the Director of the General Directorate of Administrative Probity, the Secretary of the Security

to coordinate actions relative to the criminal justice system and to formulate the national criminal policy....”

Article 3 of the transitional legislation<sup>2</sup> divides cases assigned for purging into two main categories. Active cases are those in which there is a detainee, a charged fugitive, with an accused under pretrial release and those cases in which, although there is no person charged, the “procedural activity has not been interrupted for more than two months.” Inactive cases are those that are prescribed<sup>3</sup> (prescritos) by the criminal Code or in which there is no accused and no activity has occurred for more than two months. The law specifically excludes homicide, money laundering, narcotics trafficking rape and kidnapping from these prescription provisions.

One important speedy trial provision called for the final dismissal of all cases, filed under the old system prior, that are not completed prior to December 31, 2006.<sup>4</sup> While this appears, on its face, to be a salutary requirement, it is now viewed as overly broad, because it may benefit a number of public officials accused of corruption as well as dangerous criminals.

On January 7, 2000, the Supreme Court established the Technical Criminal Reform Unit (Unidad Técnica de Reforma Penal – UTR) which assumed many of the responsibilities previously assigned to the Judicial Reform Commission which is largely inactive.<sup>5</sup> The first task of the newly created Unit was elaboration of the transitional plan for implementation of the CCP. Eventually the UTR became the secretariat of the Interinstitutional Commission created by the transitional legislation. The Unit also drafted the National Plan for Purging of Cases (Programa Nacional de Depuración de Causas) and oversees the work of the Purging Unit under the overall supervision of a Letras judge (Juez Coordinador) and is organized as detailed in Organizational Chart 1.:

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Ministry and its sub secretaries as well as the Ministry of Government of Justice represented by the minister and deputies. The Supreme Court shall designate one of the members of the Criminal Branch to preside over the Commission.

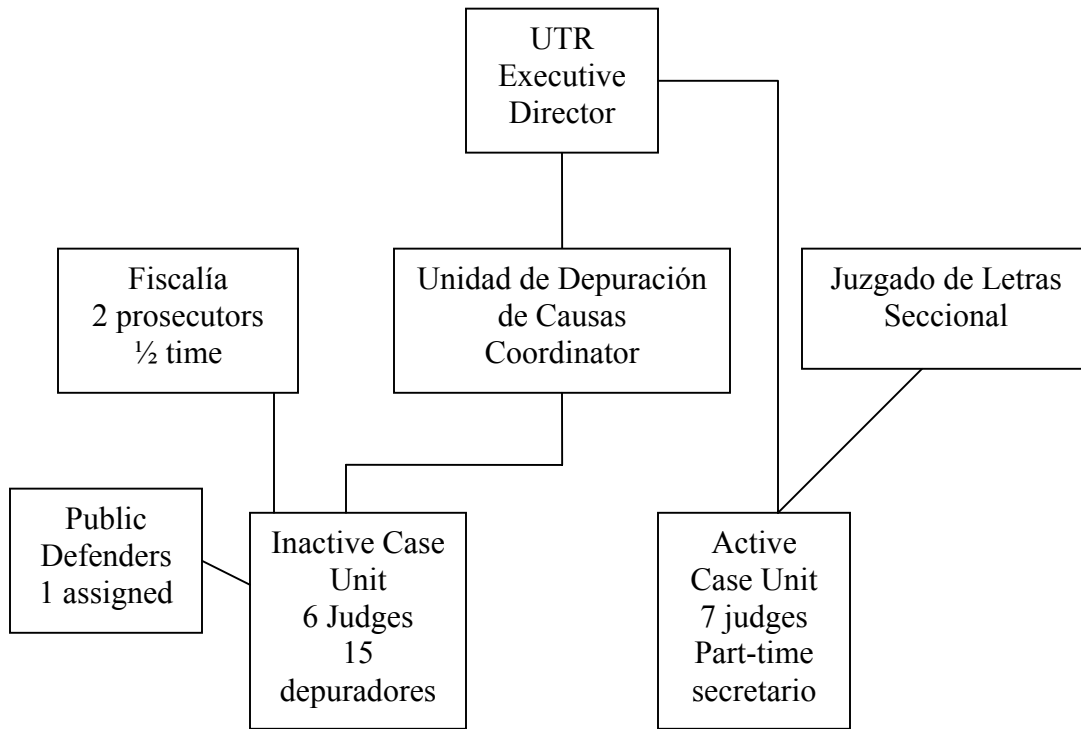
<sup>2</sup> Ley Especial de Transición y Seguimiento Interinstitucional del Sistema Penal, Article 3 (3).

<sup>3</sup> Prescribed cases are those which are inactive for more than two years and in which either (1) no investigative activity has occurred; (2) those in which there has been no investigative activity for more than two months counting from the last judicial action; (3) those in which the statute of limitations has run (Articles 96 & 97 of the Criminal Code).

<sup>4</sup> The Ley Especial de Transición del Sistema Penal in its Article 33 establishes the date that the transitional legislation will go into effect and calls for its sunset on December 31, 2006.

<sup>5</sup> This Commission replaced the National Justice Reform Commission (1995-1999) promoted by USAID when it first began ROL reform in Honduras.

Organizational Chart 1  
Organization of the Purging Unit



Originally the Purging Unit was designed to deal solely with closing of cases that were inactive and remained pending under the old system. Currently a cadre of seven Letras judges occupies space in the Purging Unit and is assigned to rule on active cases forwarded from the Juzgado de Letras Seccional handling cases filed under the old CCP. Thus, the following section will be divided into the Purging Unit inactive case unit and the active case unit assigned to the Purging Unit.

Inactive Case Unit

The Purging Unit is managed by a coordinator, 6 Letras judges, 15 depuradores (equivalent to judicial law clerks in the U.S.), and auxiliary personnel (secretaries, drivers and guards). They respond directly to the UTR and its executive director and are assigned to review “inactive cases”. Two half-time prosecutors and one public defender are assigned to review active cases in the Unit and respond to their individual institutions.

Assignment of these personnel is fairly recent with the prosecutors having been here only one month and the public defender two months. Two key positions are unfilled with the absence of a secretary and an archivist to handle entries into their database.

The depuradores are all contract personnel with limited rights to permanent positions while the Letras judges are judicial employees who will be reassigned once their assignment in the Purging Unit is completed. The prosecutors are assigned to the Unit in addition to their normal prosecutorial duties. One of them, for example, is a military prosecutor assigned to the Purging Unit in addition to her regular duties. Until this month, neither of the prosecutors had been formally assigned (acreditados) to the Unit and were unsure of their authority to act. They are still waiting for formal directives to be issued by the Fiscalía that will detail their role and guide their decisions. By the end of November, the prosecutors had only been able to review 5,000 of the 140,000 cases processed by the Unit with an average rate of 3 to 5,000 per month.

Until recently there had been no regular coordination established between the Purging Unit, the Fiscalía and the Public Defense Office, even though coordination between these units is essential to the success of the purging plan. Staff from the Unit has been meeting with their prosecutorial and public defense counterparts to establish formal lines of communications and clearer operational rules.

There is an absence of written materials and directives to guide the work of the Purging Unit staff. Newly assigned depuradores are assigned to work with an experienced depurador during an introductory term. The only printed materials are the forms that have been developed for entering final judgments and orders. Directives issued by the Interinstitutional Commission are sent to the UTR and are then verbally forwarded to the Purging Unit. A set of proposed operational guidelines (reglamento) was prepared by the current Purging Unit Coordinator and forwarded to the UTR for submission to the Court in August 2003 but there yet to be action on this.

The Purging Unit is located in rented office facilities with adequate climate control but insufficient filing and storage facilities as the number of case files grows exponentially. The main deficiency in this regard is the inadequacy of the information system in the office. Each of the depuradores and judges has personal computers but are not currently networked. As a result, upon the completion of each day, the depuradores copy their dismissal orders, approximately 25 daily, on floppy disks and hand carry them to the "archive" general computer where the critical case variables (case numbers, complainant, accused, monetary bail if any, reason for dismissal, and others) are gleaned from each of the case files and entered into a rudimentary database maintained in multiple Excel files. At the time we visited, we reviewed the files on one of the two PCs assigned to act as general databases and found that the number of folders and their organization in the hard drives were haphazard and inefficient. Approximately 115,094 dismissal judgments have been entered into the general database with 26,762 pending entry. An additional 99,073 bail cases have been entered into the bail database with 8,144 still awaiting entry. Because of the limited nature of Excel as a database, it is very difficult to generate reliable statistical information or analysis or even to find case files

since the Excel files are not related or linked. In addition to this general database, there is a separate database containing information on monetary bail or property liens guaranteeing court appearances. Entries into this database are made manually after the main entries are punched into the general database. There is no written manual detailing the variables used in either of the databases which would make it very difficult to decipher should the current staff not be available to clarify the content and rationale for its organization.

In addition to relying on antiquated hardware and inadequate software, there is an insufficient number of backups for such critical data. Backups are not made on a regular schedule and are kept on DVDs in addition to the individual personal computer that generated it. Absence of reliable Uninterrupted Power Supplies (UPS) and batteries jeopardize the reliability of the information. In fact, one week's worth of data was lost on the monetary bail database because of a loss of power even though it is supported by a rudimentary surge suppressor and battery with very limited capacity.

Inactive cases enter the purging unit from referrals made by Letras courts and by inventories of individual courts conducted by teams of one judge and two deपुरadores who travel to courts, review case files and take with them those that are ready for review in the Purging Unit where they are entered into a registry and are referred to individual deपुरadores who are charged with completing 25 cases daily. Once the case is received, the deपुरador prepares a draft dismissal judgment to be considered by a Letras judge who then enters a final order. The final dismissal order is forwarded to the secretary of the Unit who certifies the signature of the ruling judge (*da fe de la firma*). The secretary, in turn forwards the case file to the General Archive (*Archivo General*) where the data are entered into the electronic database. However, since a full-time secretary is not present in the Unit currently, the coordinator relies on unscheduled visits of the secretary sent from the *Juzgado de Letras Seccional* to deal with the active cases. The case file is then presented to the prosecutors and public - in case they want to appeal from the dismissal ruling. The parties to the case are notified once the judgment becomes final through the (*tabla de avisos*).<sup>6</sup> Ultimately, orders are entered to return property, release bail and submission of case files to the Central Archive of the Supreme Court.

It should be pointed out that only 15 of the 121,949 cases, up to the first semester of 2004, with a final dismissal judgment have been notified. The practical application of this result is that none of these judgments may be considered to be final. The few cases finalized have been completed because parties have come to the Purging Unit to urge that some final resolution be reached. In the case of persons who are seeking an order establishing their criminal record, the dismissal information is not forwarded to the Office of Criminal Records (*Antecedentes Penales*) compelling the affected party to solicit an authenticated copy from the Purging Unit.

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<sup>6</sup> This notification system was abolished by the Code of Criminal Procedure and consists of posting a notice on a bulletin board in a court or, in this case, in the Purging Unit. If no one responds within 3 days, the parties are deemed to have been notified and to have waived their right to appeal.

## Active case unit

In addition to the “inactive case” unit consisting of judges and depuradores, another unit is assigned to rule on “active” cases. Active cases are those in which there is a detained person or are not suitable for dismissal under the regulations set forth in the transitional legislation. The process follows the procedural system set forth in the old inquisitorial Code. Active cases enter the Unit from referrals made by the secretary of the Juzgado de Letras Seccional which covers the Francisco Morazán Department<sup>7</sup>. Originally this court assigned 16 of its 24 judges to handle cases under the old CCP but as the caseloads of the new CCP increased that number was reduced to 12 judges processing cases under the old CCP. At first the judges assigned to the old CCP were responsible for the totality of the case file including the investigative acts and ending with a final judgment. Currently their role is limited to overseeing the investigative stage as detailed hereafter.

As the caseloads under the new CCP grew, the Supreme Court began to transfer judges assigned to the old CCP to the new system and the original number of judges assigned to the old CCP decreased to 12 from 16. Concurrently, the Supreme Court named a total of eight Active Case Purging Judges, with national jurisdiction, and assigned them to review the results of the investigative stage conducted by the Seccional judge and entering a final judgment.

The Seccional court, which only handles cases arising from the Francisco Morazan Department, acts as an instructional court hearing evidence, overseeing the pretrial investigation, gathering testimony and evidence, and forwarding the case to the Purging Unit. The Seccional court secretary gathers the prepared case files and he/she has a sufficient number takes them to the Purging Unit and distributes them among the seven active case judges in the Purging Unit.

The Unit judges that handle the active cases act as trial judges, review the evidence forwarded by the Juzgado de Letras Seccional judge, and enter an acquittal or guilty judgment as well as impose the appropriate sanction. In cases in which the investigating judge did not conduct the investigation appropriately, the active case judge may issue a dismissal (for example, in cases in which it is obvious from the case file that the statute of limitations has run on the crime). Because of the urgency in dealing with these case files, the active case judges have been discouraged from requiring additional actions to be taken and told to “stick to issuing final judgments.” The case files are sent back to the secretary of the Juzgado de Letras Seccional who enters them into the record and notifies the parties by posting the notice on bulleting boards in the lobby of the court. Once the notification process is completed, the judgment is considered final. While lawyers and or parties to specific cases come by the Purging Unit to inquire as to the

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<sup>7</sup> The Juzgado de Letras Seccional (also known as the Juzgado Unificado) includes the previous five individual Letras trial courts in the capital and was established when the new Code went into effect. The court is composed of 24 judges of which 16 were assigned to the old CCP originally and that number has now been reduced to 12. Another unified court, which encompasses another four Letras courts, is in operation in San Pedro Sula.

status of their case, there are no formal appearances by them or hearings and the totality of the review is conducted by individual judges behind closed doors.

Unlike the depuradores, which have a specific expectation of the number of cases to be closed daily (25), or the judges assigned to the inactive cases that must review the output of the depuradores and enter the dismissal order; there is no similar expectation of the active case judges. Although there are no official statistics, judges commented that their production in the period August to December 2003 was 410 final judgments (sentencias) divided among 4 judges with an average of 13 final judgments monthly. Thus, the seven judges are probably able to close no more than 700 cases annually.

We visited the Juzgado de Letras Seccional to obtain data on the amount of cases closed and the amount of pending cases left with the twelve (12) judges handling cases under the old CCP. We were informed that while an electronic case tracking system and database was installed for cases arising under the new CCP no similar system was applicable to the old CCP. Although statistics are not readily available, we determined that 21,259 cases had been filed with the court as of November 25, 2004.<sup>8</sup> Of these, it is impossible to know with exactitude the number that is still pending in the Seccional Court. We were informed by the court that approximately 6,928 active cases are still awaiting resolution by the 12 Letras judges processing cases under the old system. It is questionable whether the 12 Letras judges there and the 7 active case judges in the Purging Unit will be able to close all of the pending cases prior to December 2006 as required by the Transition Law.

The seven sitting active case judges were promoted from within the ranks of the Judiciary with six of them being public defender and one was a justice of the peace. They had been employees of the Judiciary for an average of 11 years prior to being named active duty judges with the longest tenure being 22 years and the shortest 4 years. They received no training prior to assuming their post and have subsequently found it difficult to be included in training offered by the Judicial School. They are concerned that their appointment is unusual since they were named Active Case Purging Judges (Jueces de Depuración de Causas Activas) a position which is neither found in the Law on organization of the Courts or in the Transitional Law. Their counterparts in the inactive case unit, on the other hand, were named Purging Inactive Case Letras Judges (Juez de Letras del Programa Nacional de Causas Penales). All of the seven judges expressed a concern about the legality of their current position and even speculated on the possibility that their judgments could be reversed on the basis of a lack of jurisdiction to issue rulings something which is highly unlikely given the responsibility of the Supreme Court in appointing them.

While judges assigned to resolve inactive cases respond to the Unit coordinator, the judges ruling on active cases have no such clearly delineated chain of command. There is no counterpart coordinator for these judges. On administrative matters they apparently respond to the UTR. One of the judges, for example, informed us that when

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<sup>8</sup> New cases are still coming in to the court as cases are referred by other courts including those returned from the inactive case judges of the Purging Unit because of a determination that they are still active.



another judge sought approval for maternity leave, she was informed that her supervisor had to sign her authorization. Not knowing who that was, she sent the paperwork to the UTR where the executive director authorized the leave.

The assignment of cases ruling on “active cases” is a fairly recent occurrence with the first four judges named by the Supreme Court in July 2003 and another 3 assigned subsequently raising the number of active judges to seven, with an eighth judge being assigned to the Juzgado de Letras Seccional during almost all of her tenure.. The employment status of these judges is uncertain and contributes to an air of uncertainty among them. Unlike “regular” Letras judges, they are paid a small supplement (approximately 70 lempiras over their previous salary) above their previous salary in the Judiciary (for a total of L18,122) and have no clear cut guarantee of continuing as Letras judges once their tour in the Purging Unit is completed.

Because of their assignment so far from the normal court system, these judges have developed a level of collegiality and unity seldom found among traditional counterparts. They feel isolated and, to a certain extent, abandoned by the courts. They operate in very small cubicles, have no support staff, and have to scrounge for supplies, have no Internet access which limits them in accessing judicial databases and have no legal materials including codes and laws. There is a notable absence of docket books with a single entry book detailing the cases that were assigned by the Juzgado de Letras Seccional secretary. Because of the absence of a secretary the entries in this book are made by the judge who receives the case file. Each judge also maintains individual inventory books of their own cases using a format that they developed and adopted to ensure some level of uniformity.

Absence of a support staff also inhibits these judges from following up on cases where necessary. For example, in one case in which the accused had been jailed in 1993 for a petty offense (hurto), the active case judge had been unable to obtain information from the correctional system about the whereabouts of the discharged defendant. Likewise the judges are ignorant about the ultimate fate of their rulings with no information about appeals or decisions.

### Controls

There are no clearly defined control mechanisms designed to curb abuses and negligence in the work of the staff of the Purging Unit. Each case file reviewed by a depurador is again reviewed, albeit more cursorily, by the judge who is required to enter the final dismissal order. The coordinator sometimes conducts random reviews of case files to evaluate the work of the depuradores and judges. An additional check on the work of the Unit is the review by the assigned prosecutors and public defender however, they are clearly unable to clearly review the thousands of case files referred to them. Absence of written operational rules or manuals reduces the potential for oversight of these cases.

One of the main controls to prevent abuse in any court system lies in the manner in which cases are assigned to curb assignment of case files to “friendly” judges. In the

case of the inactive case unit, the priority of cases to be reviewed is determined by the order in which they arrive at the Unit. The coordinator distributes case files daily among the 15 depuradores who are assigned to work with a specific judge. Once the depurador completes the review of the cases assigned, he/she forwards them to his/her assigned judge. Once the dismissal judgment is entered by the inactive case judge, it is forwarded to the archivist for entry into the general database. The absence of written procedures, for case assignment, however, jeopardizes what appears on its face to be a neutral case assignment system. Possibly the greatest barrier to manipulation in case assignment is the number of persons who review the file at different points. Unless all of them participate, it is difficult to ensure “satisfactory” outcomes from the depurador, the judge, and or the archivist. We should point out that there is no system for regularly randomly crosschecking the dismissal draft order entered by the depurador, the order entered by the judge, the database entry made by the archivist and/ or the total case file.

In the case of the judges handling active cases, the potential for abuse is even greater since the secretary has sole authority over the number of cases to be forwarded to the Purging Unit active case judges or the assignment of each individual case.

Another control mechanism to prevent abuse is oversight by a judicial integrity unit (Inspectoría Judicial), which can investigate complaints filed as well as conduct periodic review or personnel matters (attendance, etc.) and staff actions.

### Caseloads

The original estimate of pending cases at the time the CCP was enacted was 125,000 major criminal cases in the Letras courts. These preliminary estimates, however, have underestimated the number of cases actually out there and teams of staff from the Purging Unit continue to bring new case files back from outlying courts to the Unit for review. By November 26, 2004, purgers had completed 141,856, 140,751 had dismissal orders signed by a judge and 119,749 had been certified by the secretary, leaving 22,107 cases pending certification. Of these, 14% represented minor crimes arising from the justice of the peace courts and 86% were major crimes dismissed from files forwarded from Letras courts throughout the country.

While the focus of the Purging Unit has been resolution of felony equivalent cases, the law also requires the Unit to review the cases that are pending in 331 justice of the peace courts (e.g. 17,600 in Tegucigalpa and 8,000 in San Pedro Sula with approximately an average of 300 cases per each remaining justice of the peace courts). Over 19,700 misdemeanor cases have already been dismissed arising from courts in Olanchito, Yoro, Tocoa, Trujillo, Nacaome, Progreso, Copan, Choluteca and La Ceiba.

### Related International Projects

Although USAID has been the primary international organization providing funding to the purging program, other agencies have also been tasked with supporting modernization of the Judiciary. In addition to supporting infrastructure and public relations for the

courts, the Inter-American Development Bank (IADB), with \$30 million, is also supporting purging of civil cases.

### Conclusion and Recommendations

In this section, we will briefly detail some of the primary achievements and obstacles facing the program as well as recommendations to overcome them.

#### **Common problems**

- Original indicators in the USAID PIL to support the Purging Unit were not specific enough and it is unclear whether the UTR will meet its contractual target since it is based on a reduction of 20% of the backlog of cases except that there is no agreed upon universe on which the 20% is based. Additionally, the UTR defines a case as closed at the point at which a court secretary certifies the judges the veracity of the signature of the judge who signed the dismissal order and not after review by the Public Ministry and Public defense and final notification.
- An insufficient number of personnel have been assigned to the units and vacancies remain unfilled. For example, in the inactive case unit there is no archivist to enter cases into the general or bail databases. Additionally, the Coordinator of the inactive cases relies on the good will of the Juzgado Seccional secretary who comes periodically to drop off and pick up case files from the seven active case judges. The active case judges are even worse off with no support staff at all especially noticeable is the absence of secretary to certify their actions and keep adequate records. Having only part-time prosecutors with primary assignments in other Public Ministry offices limits their ability to review cases appropriately.
- Lack of coordination between the inactive case unit and the Public Ministry and Public Defense. The absence of coordination between the judges handling the inactive cases and the Public Ministry and Public Defense contributes to the delay in closing case files due to (1) the recent assignment of prosecutors who have only been there 1 month and one public defenders who was assigned two months ago; (2) unclear directions to prosecutors as to their role and even their authority to act; (3) resource allocations. The same need to coordinate is required between the active and inactive case units although the cramped quarters in which they work has compelled them to informally coordinate day to day cohabitation. Further coordination with other entities that share similar interests will also save duplication in the future. For example, as persons learn of the work of the Unit they are coming into the office to solicit certifications that establish that the original criminal charges against them have been dismissed, something that should be furnished by the Office of Criminal records (Oficina de Antecedentes Penales) who are ignorant of the actions of the Purging unit and will continue to report the original charges to be still pending when asked.

- Absence of written directives or operational manuals inhibits institutionalization of procedures and prevents application of adequate control mechanisms. The inactive case unit, for example, prepared a draft “reglamento” that was forwarded to the UTR but has been awaiting action since August 2003. Likewise directives from the UTR or the Interinstitutional Commission that affect the work of the Purging Unit are communicated verbally. Manuals detailing the process for filing cases, numbering them and coding them are also absent as are written materials that detail the composition and operation of the databases.
- Insufficient filing and storage facilities are evident as the number of case files grow regularly and a considerable amount of space has been assigned to the active case judges who were never contemplated to share the space with the inactive case judges. Since case files lay throughout the facility, with those to be reviewed in stacks of 25 in accordance with the date of entry, and completed case files in shelves, in open areas, security is not adequate to prevent theft or modification of case files materials.
- Databases that permit information storage, statistical analysis and rapid identification of materials are rudimentary at best.
- Insufficient number of backups and UPSs to guarantee security of information maintained electronically.
- Lack of clarity on what constitutes a closed case file. A cursory reading of the UTR reports, and even the manner in which the Purging Unit has operated thus far, indicates that there is confusion as to whether closing of a case is achieved by the certification by a secretary of the actions of a judge who dismisses the charges or whether public notification is required. There appears now to be agreement that review by prosecutors and public defenders is salutary and that posting and notification is required prior to considering a case to be closed.
- The original estimate of 125,000 cases to be purged during this transitional period seriously underestimated the number of cases. As is evident from the amount of cases already closed (approximately 140,000) and the number of incoming cases as teams inventory remaining Letras and Justice of the Peace courts. While the efforts of the depuradores and inactive case judges are praiseworthy, there is insufficient information on the universe of cases to be considered that permits one to conclude that this effort will be concluded before December 31, 2006.
- Because the establishment of the active case unit appears to have been an afterthought to solve the rising caseloads under the new system and to expedite entering final judgments under the old, less planning has taken place in establishing the unit, appointing personnel, training them and providing adequate support. It appears clear that the resources of the Seccional Court are being devoted more and more to the new CCP cases and less and less attention is being paid to the old cases.

- These judges operate under an unclear appointment in which their subsequent tenure is not is unsure, operate in inadequate quarters, have no support staff, have no training, can count on no law books or legal databases and receive no feedback from superior, appellate or otherwise, on the sufficiency and correctness of their rulings. Absence of a chain of command confuses their situation even further as they act independently and in isolation from the regular court system.
- Absence of adequate statistical material prevents us from determining whether the active judges and the Letras Seccional judges assigned to the old CCP will be able to conclude the processes for the amount of cases still pending. While this uncertainty clouds the picture in the capital, the situation is even more murky in the remainder of the court in which no active court judges have being supplementing the work of the regular Letras judges.
- Many of the foregoing discussions point to the absence of controls to regulate conduct, prevent abuses, and ensure consistency. Haphazard case assignment, especially in the case of the active case judges and absence of processing records (dockets for example) prevents application of control mechanisms. Similarly, the lack of written rules contributes to this situation. Additionally, the Judicial Inspector general’s Office (Inspectoría Judicial) has seldom taken proactive actions except when complaints have been filed.

## **Recommendations**

Our primary recommendation refers to the formation of a small working group composed of representatives of the Supreme Court, the UTR (hopefully the Purging Unit), the Fiscalía and the Public Defense under the umbrella of the Interinstitutional Commission for the purpose of reviewing compliance with the purging goals set forth in the Transition Law and propose methodologies to expedite the process while ensuring compliance with legal requirements.

Thus far, coordination has taken place informally at operational levels resulting in the assignment of 2 half-time prosecutors and one public defender to review cases dismissed by the “depurador” and the active case judge. Our recommendation seeks to examine and formalize this coordination mechanism and expand its portfolio to include examination of alternatives to the current procedure or reinterpretation of legal requirements. As a result of this review and ongoing dialogue, the group should recommend to the Interinstitutional Commission the elaboration of written directives to guide the work of the judges and “depuradores” and ensure the implementation of adequate controls. The following suggested issues should be addressed:

- Publication of a “reglamento” containing operational guidelines for both the active and inactive case judges and institutionalize what are now largely informal procedures.

- Review and approval of forms to be used by inactive case judges and the requisite information that should be entered. For example, in reference to dismissal forms currently in use, in the case of the death of the accused only the death certificate need be attached to the file to justify the dismissal or in the case where the dismissal is the result of the running of the statute of limitation mere recitation of the date that gives rise to commencement of the running of the statute of limitations is sufficient. On the other hand, those cases in which the cause of the dismissal is that the charging document on its face does not charge a crime or, as found in several dismissal orders, (“Que se decretará sobreseimiento cuando habiéndose procedido contra alguna persona por haber contra ella sospechas o indicios, se desvanecieren de tal modo que se hace patente su inocencia”) where the judge sets forth a conclusion of innocence without setting forth the basis for such a conclusion. Once developed, the forms should be set up in such a way as to link them with the database. Thus, rather than manually carrying diskettes for entry into the database, the original entry would be reflected both in the hard drive of the “depurador” or judge and the database, both reducing time and effort as well as decreasing inputting errors and deterring manipulation of data.
- Establishment of priorities in the assignment and processing of cases. Thus, for example, cases in which a person is under detention should be processed with greater expediency than those in which there is no suspect or the accused is a fugitive. Other factors that should be considered are the type of crime charged, the complexity of the case, date case processing began and others.
- Once distribution and processing priorities are established, a case assignment methodology which reduces the potential for “judge shopping”, ie. assignment of cases to “favorable” judges should be established. Such a mechanism is already in place for cases filed under the new CCP and there is no reason why a simple random assignment system cannot be utilized both for inactive and active cases. It would also be worthwhile to determine the manner in which cases are assigned in the Juzgado de Letras Seccional to the judges handling cases under old CCP.
- One of the primary impediments to closing the inactive cases prior to the December 31, 2006 deadline is the notification legal requirement as a prerequisite to finality of judgments as well as the review of all dismissed case files by the prosecutors and public defenders, something that is not required by law. We suggest that legal specialists review the requirements for determination for concluding that a judgment is final and interpret the legislation in such a way as to facilitate conclusion of cases on time. For example, rather than posting in bulleting boards as a method of notification, the same could be achieved by posting on an Internet web site or publication in newspapers of lists rather than individual notices. Additionally, the prosecutors, public defenders and judges could agree on a system whereby they forego reading all cases and only review those which are of greatest concern to their individual agencies, because of their public interest, or not at all.

- Appoint a full-time Secretary (Secretaría conjunta) who can meet the needs of the active and inactive cases. The Secretary, in addition to certifying the actions of the active and inactive case judges, beyond certification of their signatures, should establish control mechanisms and procedures over the management of case files, especially case assignments to ensure a random assignment process that will diminish the potential for abuse.
- The Secretary should also be assigned to distribute cases in order of an established priority system, for example, cases in which there is a detainee or those in which securities (bail or property) have been posted; the date in which procedural activity commenced; the severity of the offense charged; complexity of the case; and others.
  - The final DPK report indicated that a person had been assigned to ensure “quality control” who would monitor the daily work of the “depuradores” and assign the cases to be dismissed (See also the article written by Carlos Salas Montes, published in the journal *Sistemas Judiciales* and distributed widely), who also pointed to the same process. Since this position is unfilled, we suggest that this quality control task be assigned to the Secretary which is a well established legal figure in Honduran judicial practice.
- Another vacant position that should be filled is the archivist who is charged with database organization and entry, something which is currently being done by a “depurador”.
- A training program should be established for judges (both active and inactive) and “depuradores” who are now undergoing a mentorship training program under which new “depuradores” are teamed with more experienced ones. This should be accompanied by the publication of a manual setting out the format and forms to be used by all.
- Technological improvements, at relatively low cost, could go a long way in establishing controls, decreasing errors and deterring misconduct. For example, establishment of an office network whereby the forms used by judges and “depuradores” are set up in such a way that variables (for example, the case number, name of the complainant or accused, etc.) are entered both in the database and the hard drive of the inputting official would achieve these purposes. Likewise, similar linkages established with the Fiscalía and Public Defense would also facilitate their selection of review. Likewise, upon finalization of a judgment, there should be a mechanism for electronically transferring the relevant information to the Office of Criminal Records (Oficina de Antecedentes Penales) so that those records also reflect accurate information.
- While the inactive case unit has received the greatest attention in prior USAID reviews, DPK for example, similar attention should be said to the active case unit

which operates in almost total isolation from the regular court system. Thus, any review of the Purging Unit should consider both the active and inactive case units working therein.

- In terms of determining whether the purging process is being used as a means of laundering corruption or other sensitive cases it is almost impossible to do so without knowing specific cases and seeking those out. Without upgrading the computer hardware and software resources available at the Purging Unit currently it will be almost impossible to carry out this task.
- As mentioned previously, any review of the purging system must include the active as well as the inactive cases. Our current contract limits us to reviewing the methodology utilized in closing inactive cases. We suggest the contract be amended to extend our responsibility to a limited review of active cases as well as inactive while eliminating the requirement of evaluating the evidence inventory system (Req. 4.4.1). The review of active cases should be limited to the Juzgado de Letras Seccional of Francisco Morazán.



ATTACHMENT A  
MODEL DIMISSAL FORMS

**PROGRAMA NACIONAL DE DEPURACIÓN DE CAUSAS PENALES**, Tegucigalpa, Municipio del Distrito Central, uno de septiembre del año dos mil cuatro.

**VISTA:** Para dictar **SOBRESEIMIENTO DEFINITIVO**, en la causa instruida contra **SALOMÓN LOPEZ** mayor de edad, hondureño, con domicilio en el Departamento de Francisco Morazán y demás generales desconocidas por considerarlo responsable del delito de **HOMICIDIO** en perjuicio de **JOSE JAVIER RIVAS VASQUEZ** mayor de edad, soltero, hondureño y con domicilio en el Departamento de Francisco Morazán .-

**HECHO:** Ocurrido en fecha diecinueve de marzo de mil novecientos noventa y siete en el departamento de Francisco Morazán.-

**CONSIDERANDO:** Que las presentes diligencias se iniciaron en el Juzgado de Letras Segundo de lo Criminal de Tegucigalpa, departamento de Francisco Morazán mediante acusación de fecha dieciocho de abril de mil novecientos noventa y siete.-

**CONSIDERANDO:** Que de acuerdo a la Ley Especial de Transición y Seguimiento Interinstitucional del Sistema Penal, se consideran prescritos los delitos que se conozcan en procesos que, por más de dos (2) años, se encuentren inactivos; a excepción de asesinato, lavado de activos, tráfico de drogas, violación y secuestro.

**CONSIDERANDO:** Que la inactividad del presente proceso a juicio de este juzgador se paralizó desde el diecisiete de junio de mil novecientos noventa y siete, habiendo transcurrido a la actual más de dos (2) años y si bien es cierto posteriormente a dicha fecha se hicieron peticiones al tribunal concedor de la causa los cuales no proporcionan medios de prueba alguno que puedan interrumpir la inactividad del presente proceso, ya que los mismos son impertinentes.

**CONSIDERANDO:** Que conforme al artículo cuatro de la Ley Especial de Transición y Seguimiento Interinstitucional, la acción penal en la presente causa ya se encuentra prescrita, por lo que precede decretar sobreseimiento definitivo.

**CONSIDERANDO:** Que por todo lo antes expuesto a criterio de este Juzgador, procede dictar **SOBRESEIMIENTO DEFINITIVO**, en la presente causa.

**POR TANTO:** Este Programa Nacional de Depuración de Causas Penales; impartiendo Justicia en nombre del Estado de Honduras y en aplicación a los artículos 90 , 94, 96, 303 y 314 de la Constitución de la República; 1 y 40 numeral 3 de la Ley de Organización y Atribuciones de los Tribunales; 9, 96, numeral 6, 116 del Código Penal Vigente; 428 del Código de Procedimientos Penales, 4, 5, 6, 23, 24 y 29 de la Ley Especial de Transición y Seguimiento Interinstitucional Del Sistema Penal **SOBRESEE DEFINITIVAMENTE** a favor de **SALOMÓN LOPEZ** por considerarlo responsable del delito de **HOMICIDIO** en perjuicio de **JOSE JAVIER RIVAS VASQUEZ**.- **Y MANDA:** Que si no se interpone recurso alguno contra este fallo dentro del término de Ley, quede firme el presente fallo; asimismo procedase a extender la respectiva Carta de Libertad y oportunamente archívense las presentes diligencias.-**NOTIFIQUESE**.-

**PROGRAMA NACIONAL DE DEPURACIÓN DE CAUSAS PENALES**, Tegucigalpa, Municipio del Distrito Central, dieciocho de agosto del año dos mil tres.

**VISTAS:** Las presentes diligencias para dictar **SOBRESEIMIENTO DEFINITIVO**, en la causa instruida contra **EVANGELINA PAVON RIVERA Y EDITH YAMILETH RIVERA** mayores de edad, solteras, la primera Comerciante, la segunda Estudiante, hondureña y con domicilio en el Departamento de Francisco Morazán por considerarlas responsable del delito de **LESIONES** en perjuicio de **HEIDY PATRICIA PAZ MARADIAGA** mayor de edad, soltera, hondureña y con domicilio en el Departamento de Francisco Morazán.

**HECHO:** Ocurrido en fecha diez de mayo de mil novecientos noventa y cuatro en el Departamento de Francisco Morazán.-

**CONSIDERANDO:** Que las presentes diligencias se iniciaron en este Juzgado de Paz de lo Criminal de Comayagua del Departamento Francisco Morazán mediante denuncia de fecha trece de mayo de mil novecientos noventa y cuatro.

**CONSIDERANDO:** Que de acuerdo a la Ley Especial de Transición y Seguimiento Interinstitucional del Sistema Penal, se consideran prescritos los delitos que se conozcan en procesos que, por más de dos (2) años, se encuentren inactivos; a excepción de asesinato, lavado de activos, tráfico de drogas, violación y secuestro.

**CONSIDERANDO:** Que desde el seis de julio de mil novecientos noventa y cuatro se paralizó la instrucción del presente proceso penal, lo que originó que empezara a correr el término de prescripción, habiendo transcurrido a la actualidad más de dos años desde la paralización de la presente causa penal.

**CONSIDERANDO:** Que conforme al artículo cuatro de la Ley Especial de Transición y Seguimiento Interinstitucional, la acción penal en la presente causa ya se encuentra prescrita, por lo que precede decretar sobreseimiento definitivo.

**CONSIDERANDO:** Que por todo lo antes expuesto a criterio de este Juzgador, procede dictar **SOBRESEIMIENTO DEFINITIVO**, en la presente causa.

**POR TANTO:** Este Programa Nacional de Depuración de Causas Penales; impartiendo Justicia en nombre del Estado de Honduras y en aplicación a los artículos 90, 94, 96, 303 y 314 de la Constitución de la República; 1 y 40 numeral 3 de la Ley de Organización y Atribuciones de los Tribunales; 9, 136 del Código Penal Vigente; 296 del Código de Procesal Penal, 4, 5, 6, 23 y 24 de la Ley Especial de Transición y Seguimiento Interinstitucional Del Sistema Penal **SOBRESEE DEFINITIVAMENTE** a favor **EVANGELINA PAVON RIVERA Y EDITH YAMILETH RIVERA** por considerarlas responsable del delito de **LESIONES** en perjuicio de **HEIDY PATRICIA PAZ MARADIAGA**.- **Y**

**MANDA:** Que si no se interpone recurso alguno contra este fallo dentro del término de Ley, quede firme el presente fallo; asimismo procédase a extender la respectiva Carta de Libertad y oportunamente archívense las presentes diligencias.-**NOTIFIQUESE**.

**PROGRAMA NACIONAL DE DEPURACIÓN DE CAUSAS PENALES**, Tegucigalpa, Municipio del Distrito Central, diecinueve de Julio del dos mil cuatro.

**VISTAS:** La presente causa para dictar **SOBRESEIMIENTO DEFINITIVO**, en las diligencias instruidas por la infracción penal de **ROBO**, cometidas por la menor **LESLY LIZETH ANTUNEZ CARBAJALES**, soltera, hondureña, de oficios domésticos y con domicilio en el Departamento de Yoro, en perjuicio de **DEYSI LEONOR PASCUAS JUÁREZ** y **ADELMO MARTINEZ**, ambos mayores de edad, hondureños y con domicilio en el departamento de Yoro.

**HECHO:** Ocurrido en fecha desconocida en el Departamento de Yoro.-

**CONSIDERANDO:** Que las presentes diligencias se iniciaron en este Juzgado de Letras Seccional de Olanchito, departamento de Yoro, mediante Denuncia de fecha seis de Mayo de mil novecientos noventa y seis, interpuesta por la Fuerza de Seguridad Publica.

**CONSIDERANDO:** Que de acuerdo a la Ley Especial de Transición y Seguimiento Interinstitucional del Sistema Penal, se consideran prescritos los delitos que se conozcan en procesos que, por más de dos (2) años, se encuentren inactivos; a excepción de asesinato, lavado de activos, tráfico de drogas, violación y secuestro.

**CONSIDERANDO:** Que desde el veintidós de Mayo de mil novecientos noventa y seis se paralizó la instrucción del presente proceso penal, lo que originó que empezara a correr el término de prescripción, habiendo transcurrido a la actualidad más de dos años desde la paralización de la presente causa penal.

**CONSIDERANDO:** Que indagada quien fue **LESLY LIZETH ANTUNEZ CARBAJALES** manifestó ser menor de edad; habiéndose acreditado tal extremo en autos se entrego la menor en calidad de deposito a su abuela.

**CONSIDERANDO:** Que se decretará sobreseimiento cuando aparezcan exentos de responsabilidad criminal los procesados como autores o cómplices, o esté extinguida su responsabilidad penal.

**CONSIDERANDO:** Que conforme al artículo cuatro de la Ley Especial de Transición y Seguimiento Interinstitucional, la acción penal en la presente causa ya se encuentra prescrita, por lo que precede decretar sobreseimiento definitivo.

**CONSIDERANDO:** Que por todo lo antes expuesto a criterio de este Juzgador, procede dictar **SOBRESEIMIENTO DEFINITIVO**, en la presente causa.

**POR TANTO:** Este Programa Nacional de Depuración de Causas Penales; impartiendo Justicia en nombre del Estado de Honduras y en aplicación a los artículos 90, 94, 96, 303 y 314 de la Constitución de la República; 1 y 40 numeral 3 de la Ley de Organización y Atribuciones de los Tribunales; 9, 22 numeral 1 y 23 numeral 1, 96 numeral 6 y 218 del Código Penal Vigente; 188 y 196 del Código de la Niñez y la Adolescencia; 428 del Código de Procedimientos Penales, 4, 5, 6, 23 y 24 de la Ley Especial de Transición y Seguimiento Interinstitucional Del Sistema Penal **SOBRESEE DEFINITIVAMENTE** a las diligencias instruidas por la infracción penal de **ROBO**, cometida por la menor **LESLY LIZETH ANTUNEZ CARBAJALES**, en perjuicio de **DEYSI LEONOR PASCUAS JUÁREZ** y **ADELMO MARTINEZ**. **Y MANDA:** Que si no se interpone recurso alguno contra este fallo dentro del término de Ley, quede firme el presente fallo; asimismo procedase a extender la respectiva Carta de Libertad y oportunamente archívense las presentes diligencias.-**NOTIFIQUESE**.

**PROGRAMA NACIONAL DE DEPURACIÓN DE CAUSAS PENALES**, Tegucigalpa, Municipio del Distrito Central, diecinueve de Julio del dos mil cuatro.

**VISTAS:** La presente causa para dictar **SOBRESEIMIENTO DEFINITIVO**, en las diligencias instruidas por la infracción penal de **ROBO**, cometidas por la menor **LESLY LIZETH ANTUNEZ CARBAJALES**, soltera, hondureña, de oficios domésticos y con domicilio en el Departamento de Yoro, en perjuicio de **DEYSI LEONOR PASCUAS JUÁREZ** y **ADELMO MARTINEZ**, ambos mayores de edad, hondureños y con domicilio en el departamento de Yoro.

**HECHO:** Ocurrido en fecha desconocida en el Departamento de Yoro.-

**CONSIDERANDO:** Que las presentes diligencias se iniciaron en este Juzgado de Letras Seccional de Olanchito, departamento de Yoro, mediante Denuncia de fecha seis de Mayo de mil novecientos noventa y seis, interpuesta por la Fuerza de Seguridad Publica.

**CONSIDERANDO:** Que de acuerdo a la Ley Especial de Transición y Seguimiento Interinstitucional del Sistema Penal, se consideran prescritos los delitos que se conozcan en procesos que, por más de dos (2) años, se encuentren inactivos; a excepción de asesinato, lavado de activos, tráfico de drogas, violación y secuestro.

**CONSIDERANDO:** Que desde el veintidós de Mayo de mil novecientos noventa y seis se paralizó la instrucción del presente proceso penal, lo que originó que empezara a correr el término de prescripción, habiendo transcurrido a la actualidad más de dos años desde la paralización de la presente causa penal.

**CONSIDERANDO:** Que indagada quien fue **LESLY LIZETH ANTUNEZ CARBAJALES** manifestó ser menor de edad; habiéndose acreditado tal extremo en autos se entrego la menor en calidad de deposito a su abuela.

**CONSIDERANDO:** Que se decretará sobreseimiento cuando aparezcan exentos de responsabilidad criminal los procesados como autores o cómplices, o esté extinguida su responsabilidad penal.

**CONSIDERANDO:** Que conforme al artículo cuatro de la Ley Especial de Transición y Seguimiento Interinstitucional, la acción penal en la presente causa ya se encuentra prescrita, por lo que precede decretar sobreseimiento definitivo.

**CONSIDERANDO:** Que por todo lo antes expuesto a criterio de este Juzgador, procede dictar **SOBRESEIMIENTO DEFINITIVO**, en la presente causa.

**POR TANTO:** Este Programa Nacional de Depuración de Causas Penales; impartiendo Justicia en nombre del Estado de Honduras y en aplicación a los artículos 90, 94, 96, 303 y 314 de la Constitución de la República; 1 y 40 numeral 3 de la Ley de Organización y Atribuciones de los Tribunales; 9, 22 numeral 1 y 23 numeral 1, 96 numeral 6 y 218 del Código Penal Vigente; 188 y 196 del Código de la Niñez y la Adolescencia; 428 del Código de Procedimientos Penales, 4, 5, 6, 23 y 24 de la Ley Especial de Transición y Seguimiento Interinstitucional Del Sistema Penal **SOBRESEE DEFINITIVAMENTE** a las diligencias instruidas por la infracción penal de **ROBO**, cometida por la menor **LESLY LIZETH ANTUNEZ CARBAJALES**, en perjuicio de **DEYSI LEONOR PASCUAS JUÁREZ** y **ADELMO MARTINEZ**. **Y MANDA:** Que si no se interpone recurso alguno contra este fallo dentro del término de Ley, quede firme el presente fallo; asimismo procedase a extender la respectiva Carta de Libertad y oportunamente archívense las presentes diligencias.-**NOTIFIQUESE**.

**PROGRAMA NACIONAL DE DEPURACIÓN DE CAUSAS PENALES.-**

Tegucigalpa, nueve de octubre del dos mil tres.

**VISTA:** Para dictar **SOBRESEIMIENTO DEFINITIVO** en la causa instruida contra **SANTOS GONZALEZ GONZALEZ** mayor de edad, soltero, Labrador, hondureño y de con domicilio en el Departamento de Intibuca por considerarlo responsable del delito de **VIOLACIÓN** en perjuicio de **MARIA DEL ROSARIO GONZALEZ GONZALEZ** menor de edad, soltera, hondureña y de con domicilio en el Departamento de Intibuca.

**CONSIDERANDO:** Que este Juzgador estima y declara probado:

**HECHO UNICO SIGUIENTE:** Que las presentes diligencias se iniciaron en el Juzgado de Paz de Jesús de Otoro, Departamento de Intibuca mediante querrela de fecha veintiuno de septiembre de mil novecientos noventa y dos.-

**CONSIDERANDO:** Que en fecha diecinueve de febrero de mil novecientos noventa y tres se decreto la libertad provisional por haber otorgado perdón expreso a favor de **SANTOS GONZALEZ GONZALEZ** y se ordeno su excarcelación.

**CONSIDERANDO:** Que de conformidad con el articulo noventa y seis (96) numeral cinco (5) del Código Penal, la responsabilidad penal se extingue por el perdón expreso del ofendido o quien tenga su representación legal en los delitos perseguibles solamente a virtud de querrela o denuncia del agraviado.

**CONSIDERANDO:** Que por todo lo antes expuesto a criterio de este Juzgador, procede dictar **SOBRESEIMIENTO DEFINITIVO**, en la presente causa.

**POR TANTO:** El Programa Nacional de Depuración de Causas Penales, impartiendo justicia en nombre del Estado de Honduras y en aplicación de los artículos: 90, 94, 96, 303 y 314 de la Constitución de la República; 1 y 40 numeral 3 de la Ley de Organización y Atribuciones de los Tribunales; 9, 96 numeral 5; 140 del Código Penal de Vigente; 428 y 429 numeral 3 del Código de Procedimientos Penales.- **SOBRESEE DEFINITIVAMENTE** la causa instruida contra **SANTOS GONZALEZ GONZALEZ** por considerarlo responsable del delito de **VIOLACIÓN** en perjuicio de **MARIA DEL ROSARIO GONZALEZ GONZALEZ.- Y MANDA:** Que si no se interpone recurso alguno contra este fallo dentro del termino de Ley, quede firme el mismo, procédase a extender la respectiva carta de libertad definitiva y archívense las diligencias.- **NOTIFÍQUESE.**

**PROGRAMA NACIONAL DE DEPURACIÓN DE CAUSAS PENALES,**

Tegucigalpa, Municipio del Distrito Central , trece de agosto del dos mil tres.

**VISTA:** Las presentes diligencias para dictar **SOBRESEIMIENTO DEFINITIVO** en la causa instruida para averiguar **ENFRENTAMIENTO ENTRE MIEMBROS DE SEGURIDAD DE LA EMPRESA TELA RAID ROAD Y MIEMBROS DE LA FAMILIACARDENAS.** **HECHO:** Ocurrido en fecha quince de noviembre de mil novecientos noventa y cinco, a hora desconocida en el Departamento Atlántida.

**CONSIDERANDO:** Que las presentes diligencias se iniciaron en el Juzgado de Letras Seccional de Tela del Departamento de Atlántida mediante por cuanto de fecha quince de noviembre de mil novecientos noventa y cinco.

**CONSIDERANDO:** Que de acuerdo a la Ley Especial de Transición y Seguimiento Interinstitucional del Sistema Penal, se consideran prescritos los delitos que se conozcan en procesos que, por más de dos (2) años, se encuentren inactivos; a excepción de asesinato, lavado de activos, tráfico de drogas, violación y secuestro.

**CONSIDERANDO:** Que desde el quince de noviembre de mil novecientos noventa y cinco se paralizó la instrucción del presente proceso penal, lo que originó que empezara a correr el término de prescripción, habiendo transcurrido a la actualidad más de dos años desde la paralización de la presente causa penal.

**CONSIDERANDO:** Que conforme al artículo cuatro de la Ley Especial de Transición y Seguimiento Interinstitucional, la acción penal en la presente causa ya se encuentra prescrita, por lo que procede decretar sobreseimiento definitivo.

**CONSIDERANDO:** Que el sobreseimiento es la cesación o suspensión de la parte informativa del proceso y aún algunas veces la del plenario o instancia.

**CONSIDERANDO:** Que por todo lo antes expuesto a criterio de este Juzgado, procede dictar **SOBRESEIMIENTO DEFINITIVO**, en la presente causa.

**POR TANTO:** El Programa Nacional de Depuración de Causas Penales, impartiendo Justicia en nombre del Estado de Honduras y en aplicación de los artículos: 90, 94, 96, 303 y 314 de la Constitución de la República; 1 y 40 numeral 3 de la Ley de Organización y Atribuciones de los Tribunales; 4, 5, 6, 23 y 24 de la Ley Especial de Transición y Seguimiento Interinstitucional del Sistema Penal; 9 del Código Penal de Vigente; 428 del Código de Procedimientos Penales.- **SOBRESEE**

**DEFINITIVAMENTE** la causa instruida para averiguar **ENFRENTAMIENTO ENTRE MIEMBROS DE SEGURIDAD DE LA EMPRESA TELA RAID ROAD Y MIEMBROS DE LA FAMILIACARDENAS.- Y MANDA:** Que si no se interpone recurso alguno contra este fallo dentro del termino de Ley, quede firme el mismo y oportunamente archívense las presentes diligencias.- **NOTIFÍQUESE.**



**PROGRAMA NACIONAL DE DEPURACIÓN DE CAUSAS PENALES.-**

Tegucigalpa, Municipio del Distrito Central, trece de Junio del dos mil tres.-

**VISTA**: Las presentes diligencias para dictar **SOBRESEIMIENTO DEFINITIVO**, en la causa instruida contra **ABILIO ACOSTA MENDEZ** quién fue mayor de edad, soltero, labrador, hondureño y vecino del Municipio de El Porvenir, departamento de Francisco Morazán, por suponerlo responsable por los delitos de **HOMICIDIO** en perjuicio de **ALDO RICARDO CARCAMO MARIN**, quién fue mayor de edad, soltero, militar, hondureño y del mismo vecindario que el anterior y **LESIONES** en perjuicio de **JOSE DE LA PAZ REYES** de generales desconocidas.- **HECHO**: Ocurrido el día martes doce de Agosto de mil novecientos ochenta y seis, en el municipio de El Porvenir, departamento de Francisco Morazán, como a las ocho y media de la noche.

**CONSIDERANDO**: Que las presentes diligencias se iniciaron en el Juzgado de Paz de lo Criminal de El Porvenir, departamento de Francisco Morazán, mediante Por Cuanto, levantado por dicho Juzgado, con fecha doce de Agosto de mil novecientos ochenta y seis.

**CONSIDERANDO**: Que este Programa Nacional de Depuración de Causas Penales, estima y declarada probados los hechos siguientes:

**PRIMERO**: Que el día doce de Agosto de mil novecientos ochenta y seis, como a las ocho y media de la noche, en el interior de una casa propiedad del señor ARTURO HERNÁNDEZ en la cual hay una cantina siendo la dueña la señora SOFIA IZAGUIRRE GUTIERREZ sita en el municipio de El Porvenir, departamento de Francisco Morazán, en el cual resultó muerto a consecuencia de herida de arma de fuego el Agente de Policía ALDO RICARDO CARCAMO MARIN y gravemente herido el señor JOSE DE LA PAZ REYES, producidas por el señor ABILIO ACOSTA MENDEZ quién posteriormente se dio a la fuga el hechor.

**SEGUNDO**: Que con fecha nueve de Enero de mil novecientos ochenta y siete, falleció el señor ABILIO ACOSTA MENDEZ.

**CONSIDERANDO**: Que con la Certificación de Acta de Defunción que consta a folio veintisiete (27) f y v de la presente causa, se acredita fehacientemente la

muerte legal del procesado ABILIO ACOSTA MENDEZ, acaecido en fecha nueve de enero de mil novecientos ochenta y siete.

**CONSIDERANDO:** Que se decretará Sobreseimiento Definitivo, cuando muera el reo contra quien se proceda.

**CONSIDERANDO:** Que el Sobreseimiento es la cesación o suspensión de la parte informativa del proceso, y aún algunas veces de la del plenario o instancia.

**CONSIDERANDO:** Que por todo lo antes expuesto a criterio de este Juzgado, procede dictar **SOBRESEIMIENTO DEFINITIVO**, en la presente causa.

**POR TANTO:** Este Programa Nacional de Depuración de Causas Penales, impartiendo Justicia en nombre del Estado de Honduras y en aplicación de los artículos: 90, 94, 96, 303 y 314 de la Constitución de la República; 1 y 40 numeral 3 de la Ley de Organización y Atribuciones de los Tribunales; 23 y 24 de la Ley Especial de Transición y Seguimiento Interinstitucional del Sistema Penal; 9, y 116 del Código Penal de 1985; 428 y 429 numeral 4 del Código de Procedimientos Penales.- **SOBRESEE DEFINITIVAMENTE** a favor de **ABILIO ACOSTA MENDEZ**, por suponerlo responsable de los delitos de **HOMICIDIO** en perjuicio de **ALDO RICARDO CARCAMO MARIN** y **LESIONES** en perjuicio de **JOSE DE LA PAZ REYES**.- **Y MANDA:** Que si no se interpone recurso alguno contra este fallo dentro del termino de Ley, quede firme el mismo y oportunamente archívense las presentes diligencias.- **NOTIFÍQUESE.**

**PROGRAMA NACIONAL DE DEPURACIÓN DE CAUSAS PENALES,**  
Tegucigalpa Municipio del Distrito Central, veintitrés de Agosto del dos mil cuatro.

**VISTAS:** Las presentes diligencias para dictar **SOBRESEIMIENTO DEFINITIVO**, en la causa instruida contra **SANTOS SANTAMARIA**, de generales desconocidas, por el delito de **HOMICIDIO EN SU GRADO DE EJECUCIÓN DE TENTATIVA**, en perjuicio de **GONZALO AMADOR**, mayor de edad, hondureño, soltero y con domicilio en el departamento de Yoro.

**HECHO:** Ocurrido en fecha cuatro de Febrero de mil novecientos noventa en el departamento de Choluteca.

**CONSIDERANDO:** Que las presentes diligencias se iniciaron en el Juzgado de Paz de lo Criminal del Progreso, mediante Por cuanto de fecha diecinueve de Febrero de mil novecientos noventa.

**CONSIDERANDO:** Que de acuerdo al Código Penal de mil novecientos ochenta y cinco, la acción penal prescribe en un transcurso de un período igual al máximo de duración de la sanción señalada para el delito, aumentado en la mitad y en el caso de autos el delito que nos ocupa tiene una pena máxima de seis años, y prescribe a los nueve años.

**CONSIDERANDO:** Que desde la fecha en que se cometió el Ilícito que es objeto del el presente Juicio, a la actualidad han pasado más de nueve años.

**CONSIDERANDO:** Que conforme al artículo noventa y siete numeral uno del Código Penal de mil novecientos ochenta y cinco, la acción penal en la presente causa ya se encuentra prescrita, por lo que procede decretar sobreseimiento definitivo.

**CONSIDERANDO:** Que el sobreseimiento es la cesación o suspensión de la parte informativa del proceso y aún algunas veces la del plenario o instancia.

**CONSIDERANDO:** Que se decretará sobreseimiento cuando aparezcan exentos de responsabilidad criminal los procesados como autores o cómplices, o esté extinguida su responsabilidad penal.

**CONSIDERANDO:** Que por todo lo expuesto a criterio de este Juzgador, procede dictar **SOBRESEIMIENTO DEFINITIVO** en la presente causa.

**POR TANTO:** Este Programa Nacional de Depuración de Causas Penales, impartiendo Justicia en nombre del Estado de Honduras y en aplicación de los artículos 90, 94, 96,

303 y 314 de la Constitución de la República; 1 y 40 numeral 3 de la Ley de Organización y Atribuciones de los Tribunales; 9, 96 numeral 7, 97 numeral 1 y 241 del Código Penal vigente; 428 y 429 numeral 3 del Código de Procedimientos Penales. **SOBRESEE DEFINITIVAMENTE** a favor de **LEONARDO MIRRIELLES** por el delito de **ESTAFA** en perjuicio de **INDUSTRIAS YUBA**. **Y MANDA:** Que si no se interpone recurso alguno contra este fallo dentro del término de Ley quede firme el mismo, expídase la respectiva carta de libertad definitiva y oportunamente archívense las diligencias. **NOTIFIQUESE.**

**PROGRAMA NACIONAL DE DEPURACION DE CAUSAS PENALES.-**

Tegucigalpa, Municipio del Distrito Central, veintiséis de Mayo del dos mil cuatro.

**VISTAS:** Las presentes diligencias para dictar **SOBRESEIMIENTO DEFINITIVO**, en la causa instruida contra **CESAR ALFREDO OCHOA, EUSEBIO ALVARADO, ANTONIO OCHOA, ROSALIO OCHOA, FRANCISCO OCHOA, RODOLFO VENTURA ESCALON, ADAN GARCIA, CONCEPCIÓN DUBON y NAPOLEÓN DE JESÚS**; todos mayores de edad, hondureños y de ese domicilio en el departamento de Ocotepeque, por considerarlos responsables del delito de **HOMICIDIO** en perjuicio de **JOSE AVELINO SORIANO**; y **LESIONES** en perjuicio de **JOAQUIN SORIANO** y **CIRIACA LANDA VERDE**; estos tres últimos mayores de edad, hondureños y con domicilio en el departamento de Ocotepeque.

**HECHO:** Ocurrido el uno de Julio de mil novecientos sesenta y dos, en el departamento de Ocotepeque.

**CONSIDERANDO:** Que las presentes diligencias se iniciaron en el Juzgado de Letras Departamental de Ocotepeque, mediante Acusación de fecha veinte de Julio de mil novecientos sesenta y dos, interpuesta por el ofendido.

**CONSIDERANDO:** Que de acuerdo al Código Penal de mil novecientos seis, la acción penal prescribe a los diez años para los simples delitos y quince años para los crímenes.

**CONSIDERANDO:** Que desde la fecha en que se cometió el ilícito objeto del presente Juicio, han pasado a la actualidad mas quince años.

**CONSIDERANDO:** Que conforme al artículo ciento doce del Código Penal de mil novecientos seis, la acción penal en la presente causa ya se encuentra prescrita, por lo que procede decretar sobreseimiento definitivo.

**CONSIDERANDO:** Que el sobreseimiento es la cesación o suspensión de la parte informativa del proceso y aún algunas veces la del plenario o instancia.

**CONSIDERANDO:** Que se decretará sobreseimiento cuando aparezcan exentos de responsabilidad criminal los procesados como autores o cómplices, o esté extinguida su responsabilidad penal.

**CONSIDERANDO:** Que por todo lo expuesto a criterio de este Juzgado, procede dictar **SOBRESEIMIENTO DEFINITIVO** en la presente causa.

**POR TANTO:** Este Programa Nacional de Depuración de Causas Penales, impartiendo Justicia en nombre del Estado de Honduras y en aplicación de los artículos 90, 94, 96, 303 y 314 de la Constitución de la República; 1 y 40 numeral 3 de la Ley de Organización y Atribuciones de los Tribunales; 3, 112, 113 , 405 y 416 del Código Penal de 1906; 9, 96 numeral 7 del Código Penal de 1985; 296 del Código Procesal Penal. **SOBRESEE DEFINITIVAMENTE** a favor de **CESAR ALFREDO OCHOA, EUSEBIO ALVARADO, ANTONIO OCHOA, ROSALIO OCHOA, FRANCISCO OCHOA, RODOLFO VENTURA ESCALON, ADAN GARCIA, CONCEPCIÓN DUBON y NAPOLEÓN DE JESÚS**, por considerarlos responsables de los delitos de **HOMICIDIO**, en perjuicio de **JOSE AVELINO SORIANO**; y **LESIONES** en perjuicio de **JOAQUIN SORIANO y CIRIACA LANDA VERDE**.- **Y MANDA:** Que si no se interpone recurso alguno contra este fallo dentro del término de Ley quede firme el mismo, entréguese la respectiva carta de libertad definitiva y oportunamente archívense las diligencias. **NOTIFIQUESE.**

## **PROGRAMA NACIONAL DE DEPURACIÓN DE CAUSAS**

**PENALES.-** Tegucigalpa, Municipio del Distrito Central, veintisiete de agosto del dos mil tres.-

**VISTA:** Las presentes diligencias para dictar **SOBRESEIMIENTO DEFINITIVO**, en la causa instruida contra **HERMELINDO CANTARERO** mayor de edad, hondureño, con domicilio en el Departamento de Cortes y demás generales desconocidas por suponerlo responsable de **FALTAS CONTRA LAS PERSONAS** en perjuicio de **NORMA ALICIA MADRID DE CANTARERO** mayor de edad, casada, Secretaria Comercial, hondureña y con domicilio en el Departamento de Cortes. **HECHO:** Ocurrido en fecha trece de septiembre de mil novecientos ochenta y ocho en el Departamento de Cortes.

**CONSIDERANDO:** Que las presentes diligencias se iniciaron en el Juzgado de Paz de lo Criminal de Puerto Cortes, mediante por cuanto de fecha catorce de septiembre de mil novecientos ochenta y ocho.

**CONSIDERANDO:** Que el sobreseimiento es la cesación o suspensión de la parte informativa del proceso y aún algunas veces la del plenario o instancia.

**CONSIDERANDO:** Que se decretará sobreseimiento, cuando principiando el sumario, no resulte la preexistencia del delito o el hecho resultare falta.

**CONSIDERANDO:** Que por todo lo antes expuesto a criterio de este Juzgador, procede dictar **SOBRESEIMIENTO DEFINITIVO**, en la presente causa.

**POR TANTO:** Este Programa Nacional de Depuración de Causas Penales, impartiendo Justicia en nombre del Estado de Honduras y en aplicación de los artículos: 90, 94, 96, 303 y 314 de la Constitución de la República; 1 y 40 numeral 3 de la Ley de Organización y Atribuciones de los Tribunales; 9,

396 numeral 1 del Código Penal de 1985; 428 y 429 numeral 1 del Código de Procedimientos Penales.- **SOBRESEE DEFINITIVAMENTE** a favor de **HERMELINDO CANTARERO** por suponerlo responsable de **FALTAS CONTRA LAS PERSONAS** en perjuicio de **NORMA ALICIA MADRID DE CANTARERO**.- **Y MANDA:** Que si no se interpone recurso alguno contra este fallo dentro del termino de Ley, quede firme el mismo y procédase a extender la respectiva Carta de Libertad definitiva y oportunamente archívense las presentes diligencias.- **NOTIFÍQUESE.**



**PROGRAMA NACIONAL DE DEPURACIÓN DE CAUSAS PENALES**, Tegucigalpa Municipio del Distrito Central, siete de Octubre del dos mil tres.

**VISTA:** Para dictar **SOBRESEIMIENTO DEFINITIVO**, en la causa instruida contra **ROSA DELIA MOLINA PAGOADA**, mayor de edad, hondureña, soltera, de oficios domésticos y con domicilio en el departamento de El Paraíso, por considerarla responsable del delito de **SECUESTRO** en perjuicio de la menor **KATHY LORENA RAMOS SOLORZANO**.

**CONSIDERANDO:** Que este Juzgador estima y declara probados los hechos siguientes:

**PRIMERO:** Que las presentes diligencias se iniciaron en el Juzgado de Letras Segundo Seccional de Danlí, departamento de El Paraíso, mediante Acusación de fecha siete de Abril de mil novecientos noventa y dos, interpuesta por **MIGUEL ANGEL RAMOS**, en su condición de padre de la menor ofendida.

**CONSIDERANDO:** Que en fecha veintitrés de Abril de mil novecientos noventa y dos, se decreto libertad provisional por falta de méritos a favor de **ROSA DELMI MOLINA PAGOADA**, y se ordeno su excarcelación.

**CONSIDERANDO:** Que se decretará sobreseimiento cuando habiéndose procedido contra alguna persona por haber contra ella sospechas o indicios, se desvanecieren de tal modo que se hace patente su inocencia.

**CONSIDERANDO:** Que por todo lo antes expuesto a criterio de este Juzgador, procede dictar **SOBRESEIMIENTO DEFINITIVO**, en la presente causa.

**POR TANTO:** Programa Nacional de Depuración de Causas Penales, impartiendo justicia en nombre del Estado de Honduras y en aplicación de los artículos: 90, 94, 96, 303 y 314 de la Constitución de la República; 1 y 40 numeral 3 de la Ley de Organización y Atribuciones de los Tribunales; 9 y 192 del Código Penal Vigente; 176, 428, 429 numeral 2 del Código de Procedimientos Penales. **SOBRESEE DEFINITIVAMENTE** la causa instruida contra **ROSA DELIA MOLINA PAGOADA** por considerarla responsable del delito de **SECUESTRO** en perjuicio de **KATHY LORENA RAMOS SOLORZANO**.- **Y MANDA:** Que si no se interpone recurso alguno contra este fallo dentro del termino de Ley, quede firme el mismo, procédase a extender la respectiva carta de libertad definitiva y archívense las diligencias.- **NOTIFÍQUESE.**

**PROGRAMA NACIONAL DE DEPURACIÓN DE CAUSAS PENALES.-**

Tegucigalpa, Municipio del Distrito Central, uno de Septiembre del dos mil tres.-

**VISTA:** Las presentes diligencias para dictar **SOBRESEIMIENTO DEFINITIVO**, en la causa instruida contra **CINTIA GODOY CUBAS** mayor de edad, soltera, ama de casa y con domicilio en el Departamento de Francisco Morazán, por suponerla responsable de **FALTAS CONTRA LAS PERSONAS** en perjuicio del menor **KELSIN HORACIO MALDONADO RODRIGUEZ**. **HECHO:** Ocurrido en fecha siete de Febrero del dos mil en el Departamento de Francisco Morazán.

**CONSIDERANDO:** Que las presentes diligencias se iniciaron en el Juzgado de Paz de lo Criminal de Puerto Cortes, mediante Acusación de fecha ocho de Febrero del dos mil, interpuesta por **ISABEL RODRIGUEZ**, en su condición de madre del menor ofendido.

**CONSIDERANDO:** Que de acuerdo al Dictamen Medico emitido por la Dirección de Medicina Forense del Ministerio Publico, las Lesiones producidas incapacitan al ofendido por un termino no mayor de ocho días, por lo que el ilícito penal constituye una falta contra las personas

**CONSIDERANDO:** Que el sobreseimiento es la cesación o suspensión de la parte informativa del proceso y aún algunas veces la del plenario o instancia.

**CONSIDERANDO:** Que se decretará sobreseimiento, cuando principiando el sumario, no resulte la preexistencia del delito o el hecho resultare falta.

**CONSIDERANDO:** Que por todo lo antes expuesto a criterio de este Juzgador, procede dictar **SOBRESEIMIENTO DEFINITIVO**, en la presente causa.

**POR TANTO:** Este Programa Nacional de Depuración de Causas Penales, impartiendo Justicia en nombre del Estado de Honduras y en aplicación de los artículos: 90, 94, 96, 303 y 314 de la Constitución de la República; 1 y 40 numeral 3 de la Ley de Organización y Atribuciones de los Tribunales; 9, 396 numeral 1 del Código Penal vigente; 428 y 429 numeral 1 del Código de Procedimientos Penales.- **SOBRESEE DEFINITIVAMENTE** a favor de **CINTIA GODOY CUBAS** por suponerlo responsable de **FALTAS CONTRA LAS PERSONAS** en perjuicio de **KELSIN HORACIO MALDONADO RODRIGUEZ**.- **Y MANDA:** Que si no se interpone recurso alguno contra este fallo dentro del termino de Ley, quede firme el mismo y

procédase a extender la respectiva Carta de Libertad definitiva y oportunamente archívense las presentes diligencias.- **NOTIFÍQUESE.**

ATTACHMENT B  
PURGING UNIT CONTROL FORM FOR DEPURADORES

PROGRAMA NACIONAL DEPURACIÓN DE CAUSAS PENALES  
 INFORME EXPEDIENTES SOBRESEIDOS SEMANA DEL 6 AL 10 DE  
 SEPTIEMBRE, 2004

NOMBRE	LUNES	MARTES	MIÉRCOLES	JUEVES	VIERNES	REVISADOS	OBSERVACIONES
Ana Zapata	25	25	25	25	25	125	
Angel Montes	25	25	25	25	25	125	
Armida J. López	20	20	20	20	20	100	
Diana M. Palma	25	25	25	25	No vino a trabajar	100	
Elias J. Sierra	25	25	25	25	25	125	
Francisca Avila	20	20	20	20	20	100	
Gonzalo Toro	20	20	20	20	20	100	
Janeth G. Bográn	20	20	20	20	20	100	
María J. Huete	20	20	20	20	20	100	
Marvin Artica	20	20	20	20	20	100	
Mercy Cerrato	25	25	25	25	listados	100	
Miriam V. Cruz	25	25	25	25	No vino a trabajar	100	
Karla S	25	25	25	25	25	125	
Wendy Castro	20	20	20	20	20	100	
Wendy Romero	25	25	25	25	25	125	
<b>Total</b>	<b>340</b>	<b>340</b>	<b>340</b>	<b>340</b>	<b>265</b>	<b>1625</b>	
Aleyda Barillas	85	85	85	85	60	400	
Katy Castillo	215	190	215	215	185	1,020	
Angie Villanueva							
Allan Rodríguez	140	90	90	90	65	475	
Nivida Hernández	70	70	70	70	70	350	
Total	510	435	460	460	380	2,245	

ATTACHMENT C  
PURGING UNIT GENERAL DATABASE  
LAYOUT

No. exped.	Presentación	Imputado	Delito	Perjudicado	Deposít.	Hip.	Juzgado de Procedencia
	Acusación priv.		Lesiones			X	P. Cortes
	Denuncia		Estafa		X		
	Acusación priv.		Homicidio Culposo		X		
	Acusación priv.		Robo Homicidio		X		
	Denuncia		Decasato		X		
	Por cuanto		Homicidio Culposo		X		
	Acusación priv.		Amenazas		X		
	Denuncia		Lesiones		X		
	Denuncia		Encubrimiento				
	Denuncia		Homicidio Culposo				
	Acusación priv.		Agiotaje				
	Por cuanto		Lesiones				
	Acusación priv.		Robo				
	Denuncia		Lesiones				

ATTACHMENT D  
NOTIFICATION FORM  
AND  
NOTICE OF FINAL RELEASE



## CÉDULA DE NOTIFICACIÓN

El secretario del PROGRAMA NACIONAL DE DEPURACIÓN DE CAUSAS PENALES con jurisdicción a nivel nacional A: Las partes intervinientes en el proceso instruido contra \_\_\_\_\_ por suponerlo responsable de el delito de \_\_\_\_\_ en perjuicio de el \_\_\_\_\_ HACE SABER: Que este PROGRAMA NACIONAL DE DEPURACIÓN DE CAUSAS PENALES Dictó RESOLUCIÓN en fecha \_\_\_ de \_\_\_ dos mil cuatro dice:

PLACE THE COPY OF THE DIMISSAL ORDER HERE

En virtud de lo cual, y para los efectos de ley, notifico a usted, por medio de esta cédula. La cual firmo en la ciudad de Tegucigalpa, a las \_\_\_\_\_ del día  
Del dos mil

\_\_\_\_\_

Secretario

CARTA DE LIBERTAD  
DEFINITIVA

La infraescrita Secretaria del programa Nacional de Depuración de Causas Penales,  
HACE CONSTAR: Que \_\_\_\_\_ queda en libertad Definitiva en  
virtud de habersele **Decretado Sobreseimiento Definitivo** en la causa en la que se le  
sigue por el delito de \_\_\_\_\_ en perjuicio de  
\_\_\_\_\_.

Tegucigalpa M.D.C. \_\_ de diciembre de 2004

SECRETARIO POR LEY

JUEZ

ATTACHMENT E  
PERSONS INTERVIEWED

## **Persons Interviewed**

### UTR & Juzgado Seccional

Kenneth Madrid Chinchilla, Executive Director, UTR

Lilian Maldonado, Coordinadora Interina del Área Penal del Juzgado de  
Letras Seccional

### Active Case Judges

Suyapa Matute Vázquez, Juez de Depuración de Causas Activas

Eleonora Chang, Juez de Depuración de Causas Activas

Olga Laguna, Juez de Depuración de Causas Activas

Carlos Francisco Núñez, Juez de Depuración de Causas Activas

Miguel Valdés Garay, Juez de Depuración de Causas Activas

Enma América Varela, Juez de Depuración de Causas Activas

Daniela Galo, Juez de Depuración de Causas Activas

### Inactive Case Judges

Julia Maribel Funes Ardón, Juez de Letras Coordinadora del Programa  
Nacional de Depuración de Causas Penales

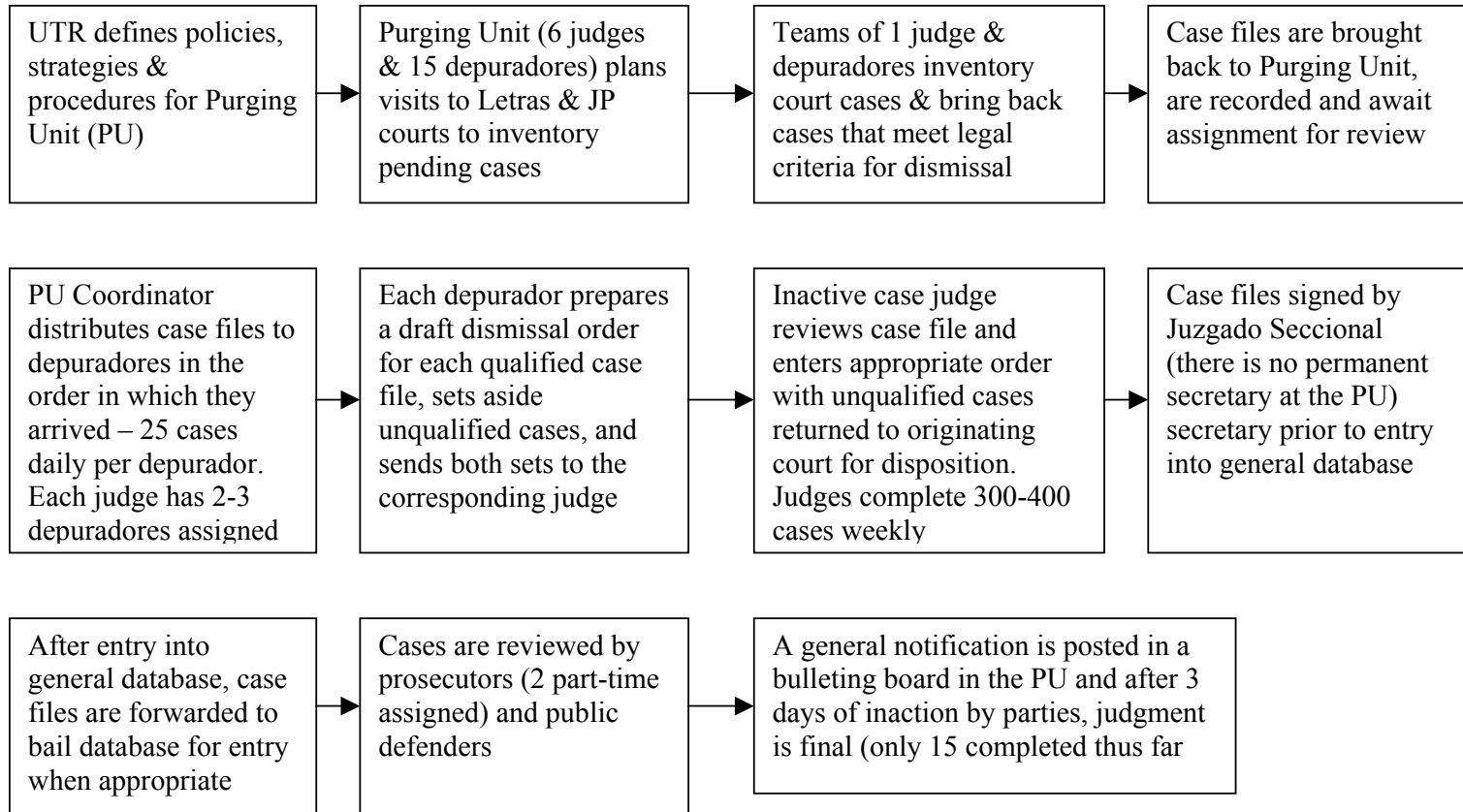
Nivida Hernández, Juez de Letras del Programa Nacional de Depuración de  
Causas Penales

### Depurador

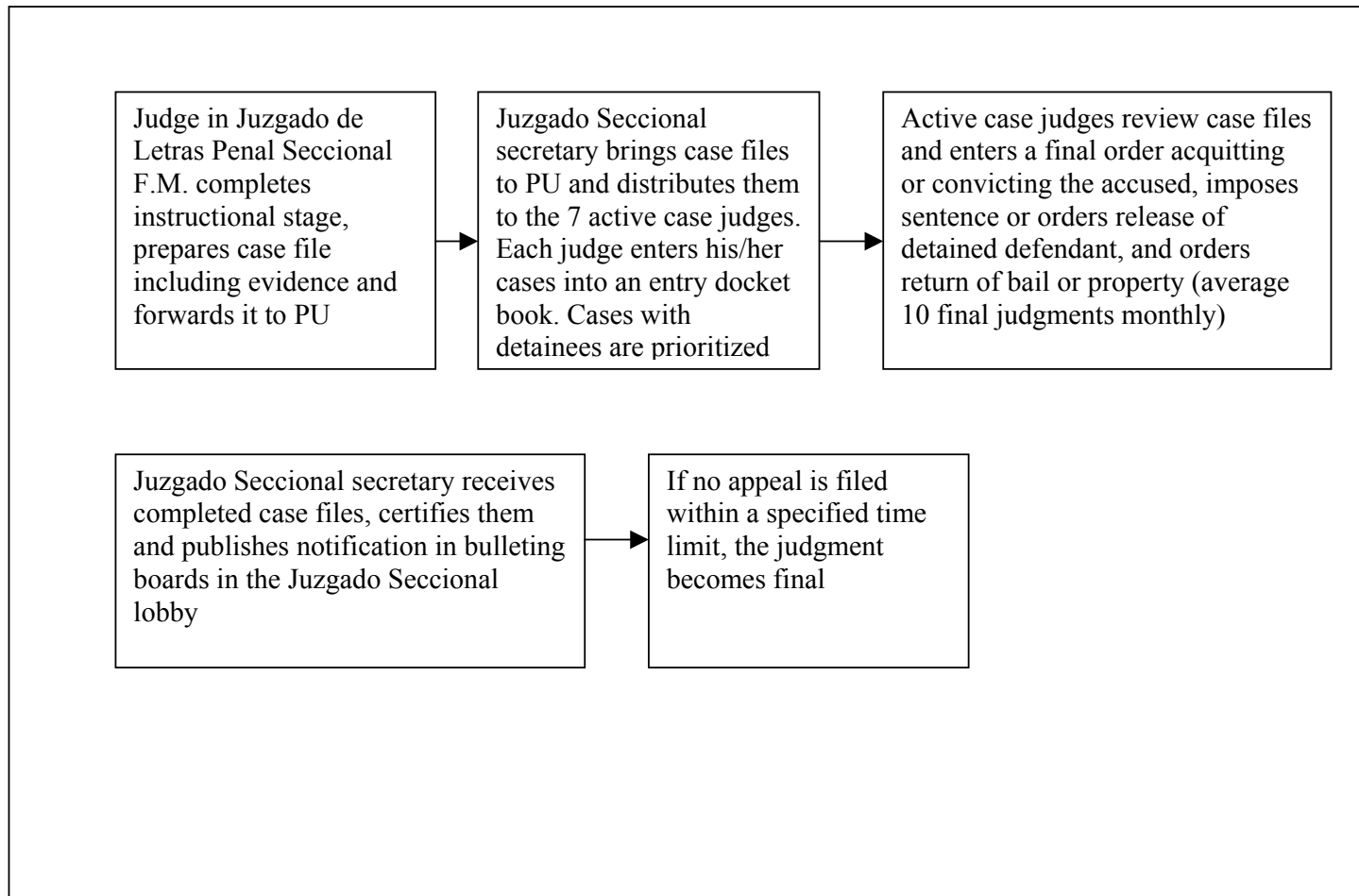
Ana Zapata

ATTACHMENT F  
FLOWCHART OF PROCESSES FOR CLOSING INACTIVE & ACTIVE  
CASES

## FLOWCHART OF PROCESS FOR CLOSING INACTIVE CASES



## FLOWCHART OF PROCESS FOR CLOSING ACTIVE CASES



**ATTACHMENT 4**  
**MONTHLY MINUTES FROM MEETINGS**



**AYUDA DE MEMORIA DE LAS REUNIONES REALIZADAS CON USAID/HONDURAS DURANTE EL PRIMER TRIMESTRE (hasta el 10 de diciembre de 2004)**

**Reunión del 28 de septiembre de 2004**

**Participantes: Sonia Zacapa, Gabriela Leva, Luis Salas, Ana Carazo y Alfredo Chirino**

Resumen:

Se realizó una reunión con todo el personal de la Oficina de USAID/Honduras, para conocer el personal, sus responsabilidades, labores, y para encontrar puntos de encuentro con los proyectos que se iniciarían ese año 2004.

Se recibieron algunas noticias importantes para el proyecto sobre todo sobre los “clearance” de seguridad y los “name checks”, que serían de gran importancia para todas las actividades del proyecto.

Se habló también de los “waivers” que eventualmente habrían de emitirse para algunos consultores.

Se hizo hincapié en la importancia de la actividad del CTO y de manejar los temas más importantes del contrato con la Oficina de Contratos, cuando esto implicara cambios de los hitos de cumplimiento del contrato.

Se hizo especial referencia al tema de las LPA`S sobre todo en cuanto a la incidencia del asociacionismo de jueces y fiscales. Se dijo que el Resultado 2 tenía que ver con un análisis de las organizaciones con el fin de observar si funcionaban y si sobre si existe posibilidad de buscar alguna forma de organización nueva que las haga más efectivas.

Se lamentó la inexistencia de una organización de defensores públicos.

Se hizo un primer acercamiento a las Asociaciones de Profesionales del Derecho diciendo que son aquellas que están interesadas en reformas del sector y de que es importante que sean democráticas también desde lo interno, en el proceso de toma de decisiones, como también en su intervención en la sociedad civil.

En cuanto a las organizaciones de administradores de cortes y otros funcionarios no jurisdiccionales habría interés en tomarlos en cuenta.

Se insistió que en Europa del Este existe experiencia en el fortalecimiento de este tipo de organizaciones. En Estonia, por ejemplo hubo convocatoria para formar parte de grupos de atención. El Presidente de la Corte reformó la Asociación de Jueces para profesionalizar la abogacía y dictar clases sobre la reforma del Código Procesal Penal y ver sus beneficios y como manejar los bufetes legales y mejorar los servicios de abogacía. La membresía era

voluntaria y pidieron cuotas para asistir a dichas clases y con eso fueron creando condiciones para funcionar de manera autosuficiente. Este grupo dio importantes aportes sobre temas de relevancia jurídica.

Se destacó el problema que existe con el Colegio de Abogados de Honduras y la reticencia que habría a trabajar directamente con ellos.

Parecen existir algunas organizaciones detectadas como la de empleados judiciales, la Barra de Abogados Anticorrupción. Al respecto, se mencionó que el diagnóstico esperado es sobre las organizaciones existentes, podría ser que el estudio arroje alguna o algunas que no se habían detectado antes.

Se estima que la posición de los jueces mejorará con respecto al 2003 y esto genere interés por parte de ellos en la lucha de temas más allá de lo meramente salarial, como lo sería, por ejemplo, sobre el tema de la carrera judicial.

Se puntualizó que habría interés por explorar el interés de la Presidenta de la Corte acerca del fortalecimiento de la Asociación de Jueces, principalmente debido a la aparente falta de comunicación que existe en la actualidad. Habría un interés estratégico de AID para impulsar las LPA's en Honduras, tomando en consideración sus necesidades actuales y su posible papel futuro en la discusión de las reformas de justicia.

En cuanto al perfil de quien podría hacer este estudio de desarrollo organizacional de las LPA's se señaló que podría ser alguien con experiencia en dicho campo, pero que además tenga experiencia en el desarrollo de programas de financiamiento de pequeñas donaciones, tal y como se postula en el documento de proyecto.

Es muy importante que el fortalecimiento de las LPA's tanto externas al Poder Judicial como internas sean de grupos de abogados que luchen por temas tales como la jurisdicción constitucional, la independencia judicial, el mejoramiento de los procesos de selección, la limpieza y transparencia de los servicios de justicia.

Se propuso trabajar en las Facultades de Derecho, tanto públicas como privadas, para que los decanos impulsen proyectos importantes, a pesar de que hay una intuición de AID de que las Facultades de Derecho no entrarían en la definición de LPA's.

Se espera que haya auditorías sociales, sobre todo en el tema de monitoreo de juicios y otras actividades judiciales, preparando a personas de la comunidad para que revise lo que sucede en los juicios y que tengan capacidad para hacer una lista de chequeo con ítems de interés sobre los sucesos acaecidos en las audiencias del debate.

Las tareas importantes serían, entonces: Trabajar en los componentes, designar los responsables nacionales y con ellos el equipo internacional de consultores que acompañarían el proceso.

En lo que se refiere al tema sobre reglas de valoración de la prueba, hay que reconocer que Honduras sería el primer país que introduciría aspectos como este, tanto en lo civil como en lo penal, y se trata de una actividad muy creativa.

Ya que hay un impedimento para trabajar con la policía, habrá que buscar medios para tomar en cuenta a dicho sector.

Como tampoco hay fondos para publicación habría que valorar la posibilidad de instar a la Escuela Judicial y a otros entes, podrían ser las mismas LPA's, que asuman una tarea editorial agresiva.

La Escuela Judicial, además podría contar con un equipo de capacitadores de capacitadores que podría ayudar a los procesos de capacitación masiva. Esto es cierto, sobre todo en lo que se refiere a los módulos de capacitación que se espera elaborar dentro de la vida del proyecto.

Se detecta como indispensable aclarar dudas sobre el papel de la protección de datos en la actividad periodística y como es posible tomarlos en cuenta en el proyecto, una carencia que parece ser permanente en los proyectos sobre justicia.

Es fundamental ver el estado de las leyes pendientes de aprobación, su estado en comisiones, ver si ha habido cambios importantes, por ejemplo, en el Proyecto de Código Penal, y apoyar los procesos para su aprobación definitiva.

### **29 de septiembre de 2004. Continuación de la reunión**

El análisis de la ley de habeas data parece ser importante, sin embargo, habrá que estudiar que avances tiene y si vale la pena apoyarla tal y como está, también se puntualizó en la importancia de apoyar el Código Penal.

Se señala para la continuación de la reunión el día 30 de septiembre de 2004.

El Director del Proyecto, Luis Salas recomienda pedir al Consejo del Poder Judicial de España apoyo para contar con profesores y expertos que soporten las tareas del proyecto. También es conveniente reunirse con otros donantes, como AECI, BID, Banco Mundial y hablar con ellos de proyectos comunes, donde haya puntos de contacto.

En cuanto a las Campañas de Difusión, se habló que el proyecto podría hacer contactos con Cámaras de Comercio para determinar un diagnóstico inicial y la difusión de información que sería necesaria se puede hacer con alguien local ara hacer campañas de diseminación y si hay algún problema legal resolverlo.

Habría interés en capacitar jueces en resolución alternativa de conflictos y en promocionar el envío de casos de las cortes hacia los centros de conciliación y mediación.

En cuanto al punto 3.1.5 existiría la pregunta de si la Corte puede cobrar alguna tasa o cuota sobre los sistemas de conciliación alternativa para darle sostenibilidad a la iniciativa, se trataría de cubrir costos mínimos de funcionamiento. Podría ser que haya una fundación judicial que se encargue de recoger ese dinero y distribuirlo para apoyar los centros.

Sería conveniente hablar con las Municipalidades acerca de la posibilidad de que ellas asuman los centros de resolución alternativa de conflictos y la posibilidad que tendrían de darles sostenibilidad.

Se ha hablado de tres lugares piloto para la experiencia de ADR, habría dos centros de ADR adicionales a las cámaras de comercio de carácter local.

En el Resultado 4, habría que revisar los indicadores y diseñar los cambios para introducir criterios de aplicación de los criterios de oportunidad y revisar cuales criterios se han establecido y entonces pasar a los siguientes pasos:

- Diagnóstico
- Ver medidas para reducir el fenómeno de la corrupción
- Ver estadísticas y ver cuáles criterios se han aplicado y por qué
- Habrían entonces de revisarse los indicadores del Resultado 4 y replantear los indicadores para que manifiesten verdadero impacto

Se considera importante redactar un memorando de cuestiones sobre temas de interés para la CTO de AID para cambiar algunas cosas del contrato, como por ejemplo en 4.1 hay que revisar la posibilidad de capacitar a otras personas que no sean solo fiscales, por ejemplo policías. El mejor ejemplo es el tema de delito organizado, que también está siendo trabajado con otras agencias estadounidenses, o para tratar el tema de corrupción más detalladamente (Aquí las restricciones de la Sección 660 donde está la prohibición para trabajar con fuerzas policiales).

El tema, sin embargo, sigue siendo que no hay tanto presupuesto en el proyecto como para realizar actividades de capacitación que ya tienen otras agencias.

Por ejemplo en 4.1.4 en el tema de Forenses habría que incluir en la capacitación a otros profesionales, no sólo médicos, sino también fiscales y gente de otras instituciones relacionadas con el campo, por ejemplo en temas anticorrupción podrían estar interesados la intendencia de bancos, la contraloría, etc.

En 4.1.9.1 habría que ver quiénes son los no incluidos, quizá esto saldrá del análisis del sector y allí se definirá claramente a profesionales del sistema de justicia.

## **Reunión del 5 de octubre de 2004**

**Participaron Sonia Zacapa, Lilliana Mandujano, Alfredo Chirino**

Se trataron temas de “house keeping”.

Se estableció que las empresas de seguridad que podrían ser incluidas para contratación son Intercon, Wackenhut y habría que buscar una tercera. En cuanto a mantenimiento y limpieza habría posibilidad de contratar con OSIR, HIMO y hay otra que sería SAMA Karben.

En cuanto al “name check” se insistió que se haría por persona y por actividad y con dos semanas de antelación.

En cuanto a la capacitación de fiscales se insistió en coordinar con Nirma del Pont, ya que habrá que coordinar con otros donantes para cubrir a todos los fiscales del país, ya que con los fondos del proyecto no se puede llevar la capacitación a todos ellos. Lo ideal es que haya fondos hondureños para abarcar en la capacitación a todos los fiscales.

La idea es que el “roll out” se para todo el país y la idea es que el proyecto deje capacitadores que puedan viajar a todo el país llevando la capacitación a todos los fiscales.

Se insistió que el concepto de LPA’s es un concepto nuevo en Honduras y en la Región, pero se trata de asociaciones de profesionales en derecho que se interesen en las reformas de justicia.

Se trabajó el tema de la doble remuneración en la que eventualmente incurriríamos en caso de que el Director del Proyecto se mantenga en Nicaragua por más tiempo, habría que solicitar información al respecto a la oficina de contratos en AID.

## **Reunión del 15 de octubre 2004**

**Participantes: Sonia Zacapa, Alfredo Chirino**

Se dispuso que se prepararía un documento para Sonia Zacapa sobre la metodología de capacitación de capacitadores y un plan de trabajo de todo el proyecto y cómo se va a garantizar la sostenibilidad del mismo además de explicar cuál es el modelo de educación, con todo lo que implica y ver cómo se va a dar el “roll up” para, en dos rondas, ver si los candidatos están listos para capacitar a otros.

En 4.1.9 acerca del tema de sostenibilidad y capacidad administrativa para ayudar y detectar fuentes de financiamiento, se considera clave aquí el trabajo de Nirma del Pont.

En 4.1.9 se previeron fondos para capacitar en la búsqueda fondos para dar sostenibilidad, serían actividades que tendría que asumir en los días consultor previstos en los años del proyecto por parte de Carmen Rodríguez.

En 4.1.10 habría que enviar a AID previa aprobación del CTO los planes de gira de estudio y la gente que participará (la aprobación de las giras de estudio deben hacerse por escrito).

Se recomienda a AID organizar visitas a organizaciones tales como Projusticia en Panamá y se dice que el Comité Técnico de AID ha recomendado que es mejor que no y que tampoco CEJA sea incluido como organización a visitar en las actividades de estudio.

FINJUS en Dominicana sí les parece bien y también una visita a MIAMI DADE COUNTY pero solo para el tema forense. Aquí vuelve a surgir la preocupación sobre los fondos 6-60 sobre capacitación a la policía. Si se visita alguna policía hay que enviar fundamentación suficiente de que no entra en la sección 6-60.

En cuanto al tema de la UNIDAD TECNICA DE DEPURACION, a cargo de Kenneth Madrid, en lo que se refiere a 4.4.1 habría prioridad de la evaluación de lo que se está haciendo y qué metodología utilizan, tanto para ver casos rezagados, depuración de los casos y qué ocurre con ellos y ver si hay algún tipo de manejo de los casos que genere alguna impunidad que no deba ser mantenida, etc.

#### **Reunión del 2 de diciembre de 2004**

**Participantes: Sonia Zacapa, Brad Fujimoto, Bill Hallock, Luis Salas, César Barrientos y Alfredo Chirino**

(Ver Attachment 1)

#### **Reunión del 8 diciembre 2004.**

**Participantes: Brad Fujimoto, Sonia Zacapa, Cesar Barrientos.**

Análisis, orientaciones y Acuerdos:

1. **Sobre asociaciones** se apoyó trabajo con los ex fiscales para formar un grupo de apoyo al Fortalecimiento del Estado de Derecho. Se recomendó acercarlo y trabajar en coordinación con Foprیده.
2. **Sobre programas de capacitación de jueces voluntarios** en materia procesal penal como forma de impulsar la asociación, el mejoramiento de la justicia, la identificación de los jueces. Se sugirió mandar un programa sobre temas como profundización de la oralidad, la valoración de la prueba, el principio de oportunidad, el análisis de las actuaciones judiciales a la luz de los principios del sistema acusatorio. Los temas estarían a cargo del Dr. Chirino y del Dr. Barrientos, más que clase magistral sería estudiar, conocer y reorientar las prácticas procesales, buscar soluciones a los problemas para vincular a los jueces a los problemas de la justicia, propiciar estabilidad en el trabajo en virtud de un mejor trabajo reconocido en tribunales, abrir espacios de

comunicación entre los diversos jueces y los magistrados de Corte y de Sala.

3. **Sobre plan piloto.** Se sugirió que el programa de capacitación voluntaria se desarrollara a partir de enero, como un plan piloto, y se buscaría extender sus resultados por lo menos a San Pedro Sula. Los temas estarían vinculados a las actividades futuras del proyecto y constituirían un principio para fortalecer la asociación de jueces. Se recomendó gestionar que el diploma fuera reconocido por la Escuela Judicial.
4. **Sobre la sustitución de Duarte,** se señaló que el esquema de trabajo no contemplaba dos personas sino uno. Por lo que se propuso a **Rigoberto Portillo**, propuesta que fue aceptada de inmediato por los méritos y conocimientos y capacidad comprobada de trabajo del propuesto. Se pidió que enviara la propuesta para someterla al proceso de aprobación interna de USAID y se **aceptó** que Portillo colaborara de inmediato con el Proyecto. Con el entendido de que si es rechazada la propuesta no existe compromiso alguno.
5. **Sobre la consultaría para casos del viejo sistema.** No se aprobó la propuesta de contratación de la ex fiscal Rina Menjivar y se acordó que fuera Oscar Cruz, Rigoberto Cuellar u otro de los ex fiscales con el propósito de dar un mensaje de atención al tema. Para evitar que el proyecto asuma directamente algún costo de la iniciativa, se acordó solicitar a Foprideh que propusiera tres consultores. Se habló inmediatamente con José León y se convino mandar la nota solicitando nombres de consultores. En plática anterior con el directivo de Foprideh se había acordado que ambas instituciones haríamos lo posible por buscar espacios para dicho grupo.
6. **Sobre las cartas pidiendo audiencia.** Se autorizó su contenido y su remisión, así mismo se decidió que la Sra. Zacapa nos acompañaría.
7. **Instrucciones Sr. Fujimoto.** Sobre tema de trascendencia lo relativo a las asociaciones. Se platicó de cómo deben ser las organizaciones de la sociedad civil las que hagan planteamientos y demandas del sector justicia, para impedir que se desgasten las asociaciones. La importancia de que estas trabajen con los medios de comunicación.
8. **Se entregó la copia del informe de Duarte y las conclusiones** que se extrajeron del estudio del mismo, siendo estas:
  - Mayor politización del Ministerio Público.
  - Profundización de la crisis de la institución, con el consiguiente debilitamiento y pérdida de credibilidad.
  - Pérdida de valioso equipo humano.
  - Posibilidades abiertas para mayor corrupción e infiltración de la institución.
  - Falta de control de legalidad del futuro evento electoral.
  - Cierre ilegal de casos graves seguidos con el viejo sistema
  - Fatal extinción del ejercicio de la acción penal en casos graves.

Se advirtió que este fenómeno de crisis, dado el distanciamiento entre jueces y magistrados y los niveles de ingerencia podía producirse en el Poder Judicial. Se planteó buscar alguna solución para evitar la continuación del deterioro y la explosión de otras crisis. Una primera propuesta es que no sean las

asociaciones de operadores del sector los que denuncien y recalquen, sino que sean las organizaciones de la sociedad civil. Otra propuesta es tratar de analizar las consecuencias de la falta de comunicación y diálogo entre el sector. Corte-jueces, Fiscal General-fiscales.



**ATTACHMENT 5**  
**RESIGNATION OF JOSE ARTURO DUARTE**



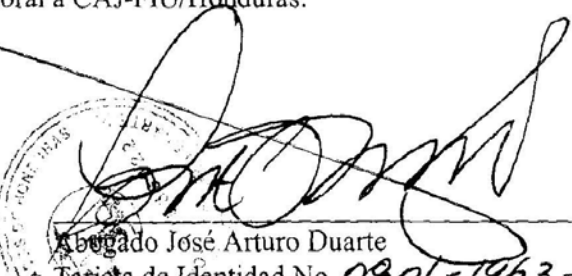
Tegucigalpa, M.D.C. 16 de diciembre del 2004

Abogado  
José Arturo Duarte  
Presente

Estimado Abogado Duarte:

El equipo de CAJ-FIU/Honduras acusa recibo de su renuncia irrevocable, presentada el 1 de diciembre y firmada el día de hoy, 16 de diciembre del presente año

Dejamos constancia que su renuncia exime a nuestra oficina de toda responsabilidad administrativa, contractual y laboral a CAJ-FIU/Honduras.

  
Abogado José Arturo Duarte  
Tarjeta de Identidad No. 0801-1963-03767  
Fecha: \_\_\_\_\_

/svm.