

EXECUTIVE SUMMARY

GUATEMALA JUSTICE SECTOR ASSESSMENT

CENTER FOR THE ADMINISTRATION OF JUSTICE
FLORIDA INTERNATIONAL UNIVERSITY

December, 1986
San José, Costa Rica

I. Background

On March 22, 1985, the Agency for International Development (AID) awarded a grant to the Instituto Latinoamericano de Naciones Unidas para la Prevención del Delito y el Tratamiento del Delincuente (ILANUD) to carry out a regional project designed to improve the administration of justice in five countries (Costa Rica, Panama, El Salvador, Honduras, Dominican Republic). Thereafter, the original agreement was amended to add Guatemala to the original countries.

Due to a lack of empirically reliable data for the Central American justice sector, the project included a component of "sector assessments" to be carried out in the participating countries. Florida International University (FIU) was chosen to carry out these assessments and a cooperative agreement was entered into between that institution and AID.

The ILANUD Regional Project includes funding for limited national activities in each country prior to the completion of a sector assessment, which then would provide the basis for more focused and integrated projects, including bilateral assistance programs between AID missions and national governments. Both to facilitate interim assistance by ILANUD and to develop support for the carrying out of sector assessments, ILANUD and RAJO have promoted and encouraged the formation of a national commission for the improvement of the administration of justice in each participating country.

The Guatemala Commission was established by judicial decree in October of 1987, three months after the study was underway. Its membership consists of representatives of the Supreme Court, the Ministry of Government (the police and prisons), the Public Ministry (prosecutorial branch), the Bar Association, the Congress, and the law schools for a total of 6 members.

Since the Commission was formed so late, the FIU-Costa Rica study team together with ILANUD representatives and the AID Regional Administration of Justice Advisor (RAJO), met with the President of the Supreme Court, presented the study methodology and kept him advised of the progress.

II. Methodology

A) The objectives of the sector assessments are several: 1) to provide enough baseline data for appropriate planning and evaluation of the ILANUD project; 2) to assist the participating countries in planning of their justice sector; 3) to provide the basic information for the development of bilateral assistance agreements between the participating countries and the respective USAID missions.

Since sector assessments had never been carried out in the

administration of justice sector, FIU, in consultation with AID LAC/ODD, took several preliminary steps in developing an appropriate methodology for these studies. Professor Joseph Thome, a Costa Rican-American law professor at the University of Wisconsin with significant prior experience in AID law-related projects in Latin America, was employed to develop a proposed methodology. This methodology was discussed preliminarily with AID officials in Washington and at a July, 1985 meeting of Latin American and US experts convened under ILANUD auspices in San José, Costa Rica. The recommendations were considered and incorporated into the methodology.

Because it appeared to present optimum conditions at the time, Panama was selected for the initiation of a pilot sector assessment, which began in July of 1985. Since then, sector assessments have been completed in Costa Rica, Honduras and El Salvador. The Guatemalan study began in late July, 1987.

Due to the political sensitivity of the theme and our desire to promote the maximum commitment of national justice sector leaders and key academics in each country, the following staffing philosophy was adopted: 1) primary reliance would be placed on national experts and those from other Latin American countries; 2) to the extent possible, surveys and field work would be performed by local law students or recent law graduates to help build a base of informed individuals who could later work in the justice sector; 3) AID and ILANUD would have substantial involvement in the design, development and overall coordination of each study; 4) in addition to the central focus of the ILANUD project (i.e., the courts, prosecutors and defenders), the police and correctional systems would also be studied in order to depict their relationship to the judicial function. Nevertheless, the Guatemalans were made aware from the outset that the police and correctional systems are not eligible for assistance under the AID Regional Administration of Justice Project.

Dr. René Poitevin, an experienced researcher and lawyer, was selected as the Guatemalan study coordinator and an interdisciplinary staff consisting of eleven professionals (8 attorneys, 1 historian, 1 public administrator and 1 anthropologist) was organized. One foreign consultant (from Spain) was used to assist in the police study. The national staff was given support by a regional advisory team consisting of three lawyers, one political scientist and one statistician.

The study consisted of the following stages:

1) Team development. Due to the empirical orientation of the research, a considerable amount of time was devoted to training the study team for survey and field work and discussing the appropriateness of the methodology to the national situation;

2) Literature search. Due to the manner of cataloging and the diverse locations of bibliographic materials, this task consumed a substantial amount of time, but resulted in the collection of a fairly complete bibliography in the area of administration of justice in Guatemala.

3) Data gathering. The professionals, with the assistance of some students, were utilized in gathering empirical data from diverse sources. In some cases it was discovered that existing data were unusable as kept, for purposes of the study. In such cases data sources were used to reorganize the information or to adapt it to the study's needs.

4) Opinion surveys. To complement the empirical data comprehensive set of surveys were conducted in order to determine Guatemalan perceptions of and experiences with the justice system. The surveys were as follows: 1) judges at all levels (85); 2) lawyers (308); 3) inmates at penal institutions (602). The surveys were carried out by a private corporation selected through a bidding process.

5) Proposed Justice Sector Analyses Report. This report is being drafted by the Guatemalan study team, in coordination with the FIU regional team. It should be presented for review to USAID/Guatemala, RAJO and ILANUD in February, 1988.

6) Review by National Officials. To insure the legitimacy of the study, it will be presented to national officials for their preliminary review and correction of errors. Thereafter, a workshop attended by officials whose agencies cooperated with the study shall take place in late February or early March, 1988. This meeting, cosponsored by the Guatemalan National Commission and ILANUD, is the vehicle for the analysis of the final report and the production of recommendations for action. Action recommendations may include new or revised legislation, new training or educational curricula, administrative reorganization of existing agencies, new equipment and facilities, and new information and management systems. Depending upon the action desired, the workshop will indicate the government or international agency to respond. Care will be taken not to raise the expectation with any Guatemalan official that AID assistance would automatically flow from this process.

III. Administration of Justice and Socio-Political Development.

Guatemala covers an area of 108,889 square kilometers and has a population of 7.6 million inhabitants. It is the third largest Central American country, first in population size and second in population density. It is also the Central American country with the largest percentage of rural population (63% in

1985). The official language is Spanish. The population is 50% indian with its largest concentration in rural areas (73% of the total rural population). The majority of the population is Roman Catholic. The economy of the country depends principally on coffee, banana, cotton and sugar (57.6% of exports are agricultural while 41% manufacturing in 1980). The monetary unit is the quetzal.

The 1985 Constitution establishes the traditional division of powers between three branches of government: the Legislative, Executive and Judicial, as well as a autonomous power exercised by the Constitutional Court and the Supreme Electoral Tribunal. In addition, there are a number of autonomous institutions of government subordinated to the Executive Branch. Presidential and Legislative elections take place every five years.

The governmental and juridical organization of Guatemala flows directly from the Spanish colonial system, in particular from the Constitution of Cadiz of 1812, a pivotal point in Spanish legal history, a central feature of which is the autonomy of the judicial branch. Due to its position as the center of colonial power for Central America, the law school and legal professionals became central to the administration of the State.

Many of the features in the new 1985 Constitution are derived from the Spanish Constitution and Spain continues to maintain significant importance in Guatemalan legal developments.

A. The Problem of Crime

It is difficult to measure criminality in any country, it is especially difficult in Guatemala where judicial and police statistics are so deficient.

Based on police statistics, both the amount and seriousness of crimes has increased over the past two years. During the year 1985, a total of 11,763 crimes were reported to the police. The following year that figure had increased to 17,101 crimes, that is, an increase of 45%. While these crimes were increasing, police arrests only increased 9% over the period.

It should be cautioned that the figure given by police for number of crimes is not accurate since it does not include crimes which were frustrated or in which the offender was surprised in flagrante delicto. Thus, while there were 17,101 crimes in 1986, there were 43,170 arrests. It should also be pointed out that if a measure of police efficiency is the number of arrests, these have increased dramatically during 1987. Thus, we currently have an average of 5,000 arrests monthly for a yearly total of approximately 60,000 arrests compared with 43,000 the previous year.

The increase in crimes has not only been quantitative, but

has also been qualitative given the seriousness of certain crimes. Thus, homicides increased 9%; persons wounded rose 120%; kidnappings decreased 12% but disappearances rose 203%; robberies 37%; burglaries 115%; automobile theft 25%.

Of all crime statistics, one of the most reliable are homicide rates since the reporting rate is usually the highest of any crime. In Guatemala, homicide rates rose from 18.7 per 100,000 population in 1968 to 113.6 homicides per 100,000 population in 1981. While these rates have decreased to 21.3 in 1986, these rates remain high. For example, Costa Rica displayed a rate of 3.9 while in Panama the rate was 2.8 in 1984. The level of violence can also be measured by the number of police killed in the line of duty which amounted to 44 in 1985 and 29 in 1986. As comparison the United States had 92 police deaths in 1982 with a police population of almost half a million.

Even though crime is on the rise the population considers other social problems to be of greater significance. A survey carried out by the Chamber of Commerce in 1986, encompassing the capital, pointed out that 65% of the population rated the cost of living as the most serious problem. In our own surveys, only 10% of the judges and lawyers characterized crime as the most serious problem.

B. The Congress

The single-chamber, one hundred member Congress, is charged with lawmaking, with the appointment of the Supreme Court and with creating new courts in the country.

The Congress is divided into twenty-three committees of which four (the Human Rights Committee, Government Committee, Budget Committee, and the Committee for Legislation and Constitutional Matters) have a close relationship with the Administration of justice system.

The legislative process has several steps: a) The proposed piece of legislation must first be presented to the appropriate Committee, where it is studied and amended; b) once the bill is discharged from Committee it is presented to the full Assembly for three separate debates; c) if passed by the Congress, the legislation is forwarded to the Executive Committee of the Congress for corrections of style and thereafter to the Executive so that it may be signed (or vetoed as the case may be) by the President. A two-thirds vote of the Congress is required to override the veto.

Since the current Congress took office in January, 1986, its legislative production is small and impossible to compare to past legislatures. It has been primarily occupied with the need to issue the laws called for in the new Constitution with 79 laws being issued during this period. The Congress has fallen behind

in meeting the deadlines established by the Constitution, with such important laws as laws regulating Executive ministries and the Judiciary as well as Regionalization having not yet been issued. With the exception of the laws relating to: the Human Rights Procurator, the environment, fiscal reorganization, the others may be characterized as having minimal national importance.

By the same taken, the survey results indicate that the lawyers and judges feel that the laws passed by the Congress are not clear, do not meet national needs and do not recognize the peculiarities of indian customs.

Other problems which face the Congress in its legislative function are lack of support staff (both technical and secretarial); lack of a reference service and legislative tracking system (this has the potential to produce legislation which is in conflict with decrees or other laws); and an absence of legislative careers which insure continuity. There has also been widespread criticism of the Congress' decisions relative to removing the immunity of members of the Executive or Legislative Branches accused of crimes.

C. Executive Branch.

Among the functions of the Executive, those related directly to the justice system are: the power to pardon convicted criminals; organization of police forces to maintain public order and national sovereignty; and, approval or veto of laws emanating from the Congress. Nevertheless, the functioning of the Executive Branch is limited by the judicial oversight of the legality of its acts.

The Executive Branch consists of the President of the Republic, a Vice-President, and a Council of Ministers, made up of the Cabinet ministers. The following ministries are related to the administration of justice: a) The Ministry of Government, charged with administration of the police forces and maintenance of the correctional system; b) the Procuraduría General de la Nación which supervises the prosecutors in the country as well as the defense of the State in all judicial proceedings; c) The Ministry of the Treasury (Hacienda) which plays a major role in the preparation of all government budgets (including that of the Judiciary) prior to submission to the Congress.

The Executive Branch also exercises legislative faculties through decrees and regulations, which process is itself somewhat unregulated since there is no law establishing the decree-issuance procedure. The draft decree signed by a particular Minister is forwarded to the "Secretaría General de la Presidencia", which reviews it and sends it to the President for his signature and subsequent publication.

V. The Justice System.

A. Police

There are three police agencies in Guatemala: the National Police (Policía Nacional), the Treasury Guard (Guardia de Hacienda), and the Mobile Military Police (Policía Militar Ambulante). The first two respond to the Ministry of Government while the third falls under the jurisdiction of the Ministry of Defense. Numerically and jurisdictionally, the National Police is the most important police force in the country.

The National Police dates back to 1881 as a police service dedicated to security in the capital, extended thereafter to rural areas and with the creation in 1899 of the first detective corps, renamed judicial police in 1925. The Treasury Guard was established around this time, depending on different ministries throughout its history. The Mobile Police was created in 1962 and its functions transferred to the military in 1965 with the creation of the Mobile Military Police.

During the 1966 coup, the National Police came under special criticism for excesses and the DIE (detective body) was renamed. The successor, DIT was accused of being a primary agent for the military government's repressive policies. This led to the detention of the DIT's 600 members by the Cerezo government in 1986 and the creation of its successor BIEN (Brigada de Investigaciones Especiales). It should be pointed out that none of the DIT's members have been prosecuted and most have been reassigned to police forces with a few of the members of BIEN having also been members of the DIT.

The existence of the National Police and the Treasury Guard presents serious problems of jurisdictional conflicts, both at the institutional and personal level. An example is the area of narcotics enforcement, in which the Treasury Guard is charged with crop eradication and border patrol while the National Police has jurisdiction over the remainder of the field. The Mobile Military Police exercises jurisdiction over matters of national security and has recently stayed out of civilian common crimes.

The National Police operates under an outdated organizational structure dictated by the law which created it. There is a project to replace the old law, establishing all the norms necessary for a modern police system. BIEN was of special interest to us since it is the sector of the police which should have closest relations with the judicial system since it is charged with the investigation of all serious crimes.

The National Police counted among its ranks, 9847 active police officers with 1,278 unfilled positions with 70% of the officers being concentrated in the capital. There are serious questions as to the manner of personnel assignment. For example,

the Police Hospital, with 22 patients, has 163 staff while the Police Academy, which is not currently in operation, absorbs 410 persons. The size of the Palace Guard (presidential protection) with 654 men is also surprising, especially if one takes into account the size of BIEN with 354 persons and much broader jurisdiction. It should also be pointed out that there appears to be an inflated number of superiors given the number of persons occupying the lower ranks. The utilization of women also appears to be inappropriate with less than 4% of police being women (married women are not admitted into or permitted to remain on the police force).

The Treasury Police has 1994 men with only 500 being found in the capital while the Mobile Military Police has 6000 men of which 500 operate in the capital. The overall total of police personnel is 19000 which is 2.614 police per 1000 inhabitants.

The resources devoted to police, while increased in recent years, are still woefully inadequate. The budget of the National Police has increased 102% from 1981 to 1987 while that of the Treasury Guard has been stable between 1981 and 1985. However, taking into account inflationary factors, the budget of the National Police has decreased 12% during the same period while that of the Treasury Guard has decreased 27%. If one considers that 89% of the National Guard's budget is devoted to personnel costs, one can see that its budget barely meets operational costs. Thus, an evaluation by the Venezuelan police of the National Police indicated that approximately half of its vehicles were in service at any particular time, there were severe shortages of weapons, gasoline was at a premium and radio service was affected by deterioration of equipment and shortages of parts. Computer equipment is almost totally lacking and laboratory equipment is deficient. The vehicle situation has improved recently with the donation of German vehicles and radio equipment while the Spanish government has also donated patrol vehicles. This can however, produce maintenance problems due to the diversity of equipment being utilized. A donation of eight vehicles to the National Police by DEA was diverted to the Army High Command. The situation in the Treasury Guard is even more desperate. For example, they only have 22 vehicles with only six radios.

The police budget presents some areas which are unexplained. The budget of the National Police does not balance when taking into account major budgetary areas. Personnel costs, for example, when considering just basic pay for its 9847 agents, would be 45 million quetzales annually while its budget only reflects 28 million. It is assumed that a number of police officers are paid from personnel line items of other ministries.

BIEN, the detective force of the National Police suffers from a number of deficiencies: a) almost all of its personnel is new and only a small percentage of those on active duty have been

trained; b) it has undergone a number of changes in its leadership in the last two years; c) almost all of its personnel operates in the capital and lacks resources to assign staff outside of Guatemala City (it can only count on four cars to mobilize its officers). There appears to be no clearly defined jurisdictional area for BIEN operations. The public may present a complaint before any police office and the recipient has almost total discretion in forwarding complaints to BIEN. Thus, of 5000 arrests by the National Police in August, 1987, less than 100 were made by BIEN. Their workload consists of 300 new cases received in an average month with each agent having an average of 20 to 30 cases assigned.

The Treasury Guard also has a detective force, the SIN (Servicio de Investigación de Narcóticos) which has narcotics control (especially crop eradication) as its primary concern.

Control of police conduct is assigned to the institutions themselves, with the exception of those cases in which officers are prosecuted for crimes. In the National Police this task is performed by the Internal Affairs Section (40 men assigned) which last investigated 25% of all complaints with the remainder being investigated by the superiors of those affected. During 1985 and 1986, 179 and 182 agents were processed. The Treasury Guard has been expelling an average of three agents monthly while the National Police expels 80 monthly presenting a very high turnover rate. It should also be mentioned that almost half of all inmates indicated mistreatment at the hands of the arresting authorities.

While there is a general perception among police leaders that their image has improved considerably over the last years, our own surveys do not confirm this. More than eighty per cent of judges and lawyers surveyed indicated dissatisfaction with the work of the police in assistance to the courts. Additionally, when asked what features best characterize Guatemalan police, the respondents listed inefficiency, corruption, repression or ignorance as the primary features. When asked about specific characteristics, eighty per cent agreed with the statement that corruption exists in the police and fifty per cent rated it as high. There is also an overall feeling that police act arbitrarily and discriminate on the basis of the status of the suspect.

Police efficiency appears to have improved in the last year. First, the number of arrests has increased from 43,000 in 1986 to 60,000 in 1987. Secondly, its equipment has improved due to donations from foreign governments. Lastly, the percentage of persons which were ordered held in preventive detention by the courts is currently approximately 43% compared with 9% in 1985.

Among the primary problems faced by the Guatemalan police are the following: a) historical antecedents which made police one of the repressive arms of the military; b) the existence of

two different police agencies in the same ministry with sometimes unclear and conflicting jurisdictions; c) the constitutional norms which dictate processing speed for detainees (presentation of a detainee within six hours of detention) are utopic and cause fraudulent behavior or inadequately prepared cases; d) the lack of a modern police design reflected in its organizational structure (this will be rectified by the pending legislation); e) personnel selection and training mechanisms are rudimentary; f) personnel assignment and evaluation are deficient while its control mechanism is in need of reform and definition of jurisdictional limits; g) material resources are insufficient to meet the demands.

B) Public Ministry (Ministerio Público) (Prosecutors)

The Public Ministry is charged with the prosecution of persons accused of a crime in Guatemala. The Public Ministry is located in the Executive Branch (the Procuraduría General de la Nación).

The Public Ministry lacks regulations to govern its operations and depends on a law which many feel is outdated. There are eight lawyers assigned to the central offices and at least one in each department, for a total of 30 prosecutors with an average age of 40 years and a predominance of males (90%). Salaries for prosecutors range from 16,800 quetzales monthly to 19,800 quetzales annually, similar to those of a justice of the peace. Judges criticized their selection mechanism (59.4% characterized it as inadequate) complaining that nominations are made on the basis of connections (58.3%). The caseloads vary, with an average of 672.3 cases annually but with deviations ranging from 127, in the department with the least number of cases, to 1732, in the department with the highest number of cases.

While the law stipulates that the Public Ministry must be notified of all criminal cases, the reality is that the role that they play is passive in the criminal process, thus, 17.7% of judges interviewed stated that the Public Ministry has no functions in their court while only 3.5% stated that they participate in the investigatory stage, even less in trials (1.2%) and only 7.1% felt that they acted as the officials accusers during the process.

The support which is provided to prosecutors is minimal. For example, in the central office there is no water, there is a lack of bathrooms, no parking facilities and only one telephone line. Library support is minimal.

Except for occasional, short, continuing-education courses or conferences sponsored by ILANUD, there are no professional training courses offered the members of the prosecuting agency.

In general, lawyers (75.9%) and judges (50.5%) indicated dissatisfaction with the work being carried out by the prosecutorial branch. The priority of reform in this area appears to be a policy determination of the role which prosecutors should play in the criminal process. If they are to be passive participants, a role contrary to most modern notions of criminal procedure, its place in the system will remain the same.

C) Defense of Accused Persons

Guatemala provides in its Constitution that all accused persons shall have an attorney represent them during criminal proceedings and if the defendant is indigent, an attorney shall be appointed by the court. Under this system, a defendant may be represented by private counsel, a court appointed lawyer or a law student. Inmates, who had been sentenced, questioned during our survey indicated the following breakdown: 57.4% court appointed counsel, 32.5% private counsel and .7% by law students, and 8% did not have a lawyer.

There is no body of public defenders which labors full-time and private attorneys are appointed by courts to act as lawyers for indigents. Under this system attorneys work gratuitously in the cases assigned. This system sometimes operates capriciously since this load is not assigned proportionately to all members of the bar. Our surveys indicate that 27.5% of lawyers have been named as court appointed counsel.

Defense of indigents is also exercised by law students who must carry out a set number of defenses (five or six) prior to graduation. This is supervised by legal clinics operated by four law schools: Universidad de San Carlos (with two clinics, one in Guatemala and one in Quetzaltenango), Rafael Landívar, Mariano Gálvez and Francisco Marroquín.

A problem common to all law schools is the scarcity of cases available for students, both due to the growing number of law students and the fact that they only practice in the capital. This results in the sale of cases by judicial officials as well as competition among students for cases. This is especially difficult for students at the private universities since most judicial officials are students at San Carlos, the public university.

While legal defense is supposedly available from the moment of arrest, this is not carried out in practice. One of the factors is the time required for a law student to be assigned a case. Thus, 93% of inmates questioned did not have a lawyer during their initial detention and 20% did not have one during the entire instructional stage. It is surprising that 20% of defendants did not have a lawyer during their trial. Even taking

into account prejudices of inmates questioned these figures are very high.

There appears to be widespread dissatisfaction with the current system of legal defense. Thus, only 16% of lawyers questioned and 27% of judges indicated satisfaction with the work of court appointed counsel. The figures were similar with law students, with 26% of lawyers and 25% of judges indicating satisfaction. When asked whether they would be in favor of a professional corps of public defenders, 57% of lawyers agreed, with the majority feeling that it should be an independent institution rather than being subordinate to existing ministries, the courts or the law school. It should be pointed out that there is universal opposition from the law schools to the creation of a public defender system since there is a perception that this would signal the end to the required practice of students. There is also dissatisfaction in the Supreme Court with the existing system since the Court feels they have no control over the legal practice of students.

D. Attorneys

There are 2,487 lawyers in Guatemala, with a median age of 41.5 years of age (possibly due to the late age of graduation since many who attend San Carlos also work). This results in a rate of 0.29 lawyers per 1,000 population. This compares with 1.12 lawyers per 1000 population in Costa Rica and 0.41 lawyers per 1000 population in Honduras. Eighty per cent of lawyers are concentrated in the capital, an additional eight per cent in Quetzaltenango, and the remainder in the rest of the country.

Lawyers tend to be men (92%), with Indians being seriously underrepresented (only 4%) and with an average of eight years of practice denoting the recent growth in professional ranks. The University of San Carlos continues to graduate the majority of lawyers (90%), followed by Mariano Gálvez (4.8%), Rafael Landivar (3.9%) and Francisco Marroquín (0.6%).

Membership in the bar association is a requirement for legal practice. There is no requirement for a bar examination upon completion of legal studies at the University.

Regulation of the profession is exercised through the Association's Ethics Committee (Tribunal de Honor) which reviews complaints against lawyers and recommends disciplinary action. A majority of lawyers felt that the disciplinary actions of the Association are either too weak or inefficient.

The bar association operates a number of continuing legal education programs but these have not been characterized by long-term planning or responsiveness to the needs of the membership. The number of programs varies from year to year depending on the Board of Directors of the Association. Long-term planning is

hampered by the fact that the Board of Directors is elected to only one-year terms.

At the core of any legal system is the basic education which the legal profession receives prior to entry into the practice of law. There are four Guatemalan law schools with San Carlos (the public university) having the majority of graduates. Legal education in Guatemala is undergoing a critical period. It is characterized by: 1) a lack of adequate funding levels; 2) part-time faculty; 3) a lecture system of education; 4) poor library resources, with budget restrictions causing the collection to remain outdated. Nevertheless, when questioned about the adequacy of their legal training, 77% of lawyers characterized it as good. The only law faculty which offers postgraduate programs is Rafael Landívar, which is currently characterized as offering the best undergraduate program.

The law schools play a minor role in continuing legal education. The law faculties have almost no involvement in training of justice officials.

Research into problems affecting the justice sector is also notably absent from the law school environment. Curricula typically concentrates on traditional legal topics with little attention devoted to social sciences or administration issues affecting the justice system.

E) Courts.

The Judicial Branch exercises its judicial role through four court levels, which are, in descending order:

a. The Supreme Court composed of 9 magistrates elected by the Congress to six year terms, exercises administrative and judicial control over this Branch. These judges are elected by the Congress, following a mixed system whereby 4 are elected directly by the Congress and the remainder from a list of thirty nominees determined by a judicial nominating commission composed of law schools, bar association and the judiciary itself.

b. The 14 Appeals Courts, nine of which are criminal, each made up of three judges appointed by the Supreme Court, hear all civil and certain criminal appeals. These judges are also named by the Congress but from a list of candidates (at least two for each vacancy) proposed by the Supreme Court.

c. The 46 First Instance Judges, which are one judge courts, are appointed by the Supreme Court. Some of these judges are instructional judges while others are trial judges and some exercise both jurisdictions.

Twelve of these are located in the capital while there is at least one in each departmental capital (21) and three other cities.

d. The 97 justices of the peace are named by the Supreme Court (13 in Guatemala and the rest in departmental and municipal capitals). In 246 municipalities, the justice of the peace function is assigned to municipal mayors. This will be eliminated, due to a constitutional restriction, and a system of 70 comarcal judges (all lawyers) and 176 alguaciles will replace the mayoral system. These are one judge courts and handle minor legal matters. All of the existing and future functionaries are named by the Supreme Court.

The Constitution dictates that there be a judicial career (guaranteeing stability and a merit system of selection and promotions) for judicial officials. It also orders the establishment of a civil service system for the judiciary. The necessary legislation has not been enacted. It should be noted that there is an appeal pending challenging the constitutionality of the selection system whereby the Supreme Court names judges on the basis that it violates the judicial career law regulation of the Constitution.

While the upper levels of the Court system are named by the Congress (through a complicated mechanism in which there is participation from a number of sectors), the lower levels are named by the Supreme Court. There is widespread dissatisfaction among lawyers about the selection of judges (57% felt the selection of Supreme Court magistrates is inadequate, 58% inadequacy for Appeals judges, 65% inadequacy for first instance judges and 63% inadequacy for justice of the peace). The major reason for discontent was the predomination of political considerations and friendships for nomination (61% for the Supreme Court, 69% for the Appeals judges, 59% for the first instance judges and 60% for the justices of the peace).

While the majority of judges are lawyers (69.4%), the law allows for nonlawyers to also exercise jurisdiction as judges. This is the case for mayors. This is expected to change with the naming of comarcal judges and the abolition of mayoral judicial functions.

Caseloads vary among the different courts, even within the same layer of courts. Thus, of 9,678 cases filed in penal justices of the peace courts in August, 1987 in thirteen courts in the capital, one had 10.37% while another had 4.33% of the cases. This gives us a rate of 745 cases per court. The same diversity occurs in first instance courts. Thus, of 1,492 complaints filed in these courts during the month of August, 1987, one received 22.18% of the cases while another had .34% of the cases. This gives us a rate of 68 cases per judge. Sentence

courts are not much different, of 683 cases entering 21 courts during the month of August, 1987, one court received 30% of the cases while another received 1.3% of the cases. This gives us an overall rate of 32 cases per Sentence Court.

These caseload statistics should be interpreted with care, not only due to their unreliability, but also because 80% of new cases received by criminal courts are cases in which the perpetrator has not been identified and the amount of work to be done may not be as great as a case in which there is a defendant.

There is an administrative apparatus which oversees operation of the Judicial Branch. There is no administrative head of the courts and this function appears to be centralized in the Presidency of the Court. The result is that each office often works in an isolated manner with the existence of small subsystems. Centralization of functions in the Presidency is one of the most serious problems affecting administrative development of the system. Another major deficiency lies in lack of planning and evaluation with no office or process guaranteeing this function.

The Judicial Statistics Office centralizes all statistics produced by the Judicial Branch, but these are largely useless due to the lack of control over respondents and the type of the data collected. Recently, the Presidency of the Court has begun to collect statistics of its own, thus duplicating the function, but there are serious questions as to the usefulness or reliability of this data. This is one area which could receive considerable assistance.

One of the areas of greatest need, as expressed by all of the surveys conducted, is training for judges (88% of judges responded affirmatively). The area of criminal law was pointed out as the greatest area of training need (29% of judges), followed by civil law, criminology and criminal procedure. It was not until 1986 that the Court established a Human Resources Office with a Training Office (3 professionals and one secretary). The following ICITAP and ILANUD courses were offered last year: statistics, basic investigative techniques, constitutional and administrative appeals, evidence, informatics and crimes of public officials. Possibly the most notable were a course on crime investigation for justices of the peace and a recent course for new comarcal judges. Both were offered by ILANUD. It should also be pointed out that some of the ICITAP courses have been attended by judges and police, a salutary development. ILANUD is also helping the Supreme Court develop a basic procedural manual for justices of the peace.

While recent developments in training are to be commended, it should be pointed out that they have been carried out by outside funding with little or no local responsibility. Additionally, the Court has not undertaken a thorough review of

its training needs in order to develop a long-term training strategy, especially deficient in incoming and continuing education programs. Popular legal education is another area in which the Court could play an essential role. Another training area is the training of support personnel, especially secretaries (clerks of court).

Judicial salaries have improved. The following breakdown exists: Appeals Courts 2,284 quetzales, first instance 1,675 quetzales, justices of the peace 1,215 quetzales. These are generally lower than similar positions in the Executive and the majority of judges complained about the inadequacy of their remuneration (72%).

The median age for judges is 43, with 86% being males and only 2.5% being Indians. The majority of judges are not allowed to hold outside employment, with the exception of teaching at law schools, but 7% (mayors) hold some other employment.

Another group of personnel which is often overlooked when reviewing judicial systems are support personnel. The key person in any judicial office is the judicial secretary, akin to the US clerk of court. This official is not only in charge of the administrative affairs of his/her court but also oftentimes acts as the judge, especially in taking statements and formulating orders. The majority of lawyers (67%) and 48% of judges were dissatisfied with the system of selection of support personnel with friendship and political factors being pointed out as the primary factors for dissatisfaction. The majority of judges complained of the insufficiency of these persons (57%).

One of the major problems facing the public sector is corruption and the judiciary is not any different with 84% of lawyers and 51% of judges indicating the existence of corruption in the courts. This does not appear to be a major problem at the highest levels with the majority occurring at the justice of the peace and support personnel level (72% of lawyers felt there was a great deal of corruption among the support personnel).

Judges indicated a need for greater bibliographic resources, a need which has been partially addressed by the donation of a basic legal library to the Court by the ILANUD Project.

Generally, there is satisfaction with the work of the upper level courts (only 15% of lawyers indicated satisfaction with the work of the first instance courts and 16% with the work of the justices of the peace). This emphasizes the need to concentrate efforts to improve the resources and personnel at the lower court levels.

A measure of judicial independence has been financial autonomy. The new Constitution orders that 2% of the national budget be awarded to the courts on a monthly basis for their own

usage. The new budget received in 1987 was 31 million quetzales an increase of 224% over the previous year's budget. In addition to these budgetary assignments, the Court received six million quetzales from other sources bringing their budget to 37 million quetzales. A severe problem faced by the courts is that the Executive is not transferring their allotment in a timely fashion and thus it is impossible to predict whether the State will be able to meet its constitutional requirement.

Material resources are a problem for the courts. The problem is especially acute in the lower courts outside the capital. The library in the Supreme Court has been assisted by an ILANUD grant of a basic criminal law library and another has gone to the Constitutional Court. There are still severe shortages of legal materials in outlying areas and it should be considered whether donations should be made to regional libraries. The Court has also established a program for collection of jurisprudence and legislation. There is a pending proposal for a grant of \$350,000 US dollars to automate legislation, jurisprudence and doctrine in Guatemala.

Some of the major problems faced by the Guatemalan judiciary appear to be: a) centralization of administrative functions in the Presidency of the Court; b) legalization and establishment of the judicial career law; c) establishment of a personnel system; d) development of adequate judicial statistics, both for short-term and long-term planning; d) development of a consistent training program based on a thorough needs assessment; e) establishment of a control mechanism, both for decision-making and regulation of judicial conduct.

F) The Constitutional Court

A unique feature of the Guatemalan legal system is the existence of a Constitutional Court. This Court was created in 1985, as a result of the new Constitution, and appears to be patterned after the Spanish model.

The Court is composed of five magistrates and has jurisdiction to hear any constitutional challenges of laws and decrees. A mixed system is used to select these magistrates for five year terms: 1 selected by the Supreme Court, 1 by the Congress, 1 by the President, 1 by the University of San Carlos and 1 by the Bar Association.

The Court is not subordinate to any of the other Branches of government and may exercise exclusive jurisdiction over all constitutional matters. In addition to constitutional cases, the Court also hears amparo suits (suits to prevent a governmental abuse) against the Congress, the President and the Supreme Court. It may also hear appeals of amparo suits which were decided by the Judicial Branch. In order to guarantee its financial independence it receives .5% of the national budget.

While the Court is of recent origin it has already had a substantial impact. Of primary importance is a ruling of unconstitutionality of an Executive decree regulating defendant's rights. It also has several matters pending which affect the administration of justice. For example, there is a pending case in which a judge is challenging the judicial selection mechanism employed by the Supreme Court as violative of the judicial career provisions of the Constitution.

The Court is to receive a basic constitutional law library from ILANUD. ILANUD has also provided funding for a visit to Spain by members of the Court and a visit by the President of the Spanish Constitutional Court to Guatemala. There has been an interest expressed by members of the Court for legal assistance from US experts since our own constitutional review process now approximates the practice of the Court. One of these measures could be the establishment of internships and regular exchange of constitutional scholars.

G) Correctional System.

The Guatemalan correctional system is administered by the Dirección General de Presidios situated in the Ministry of Government. Guatemala is unique in that corrections is also shared by the Patronato de Cárceles y Liberados, under the judiciary. In practice, the Executive is charged with administration of the prison system while the Judiciary is charged with rehabilitation of prisoners and insuring that sentences are carried out appropriately. Additionally, it should be mentioned that the National Police also administers temporary detention facilities at the departmental level.

There are six major penal centers in the country: Pavón, Canadá, Cantel, COF, Puerto Barrios and a female center, Santa Teresa. There were 6093 inmates in Guatemala during a census on June 6, 1987. Of these, only 420 were women. The majority of inmates are between 25 and forty years of age with a 23% Indian inmate population. Surprisingly, the primary cause of detention appears to be homicide, accounting for 32% of sentenced offenders and 18% of those awaiting trial. There are few complaints of mistreatment (62% have never been mistreated by guards), 78% of inmates have never seen a counselor, 76% have not seen a psychologist, 60% a social worker, 60% a doctor. Manual labor is a fact for sentenced inmates.

One of the most serious problems facing the system is the amount of persons which are held pending trial. Of the total jail population, 75% are persons pending trial. This causes an inordinate amount of resources devoted to them and a diversion of funds which could be utilized for rehabilitation of sentenced inmates.

Overcrowding is another major problem of the correctional system. Pavón, for example, with 1107 beds, holds 2,430 inmates. Prison overcrowding cannot be solved without, either a major construction effort or a decision to reduce the amount of persons awaiting trial.

Survey results show that lawyers and judges believe that the system does not achieve its goals of rehabilitation of the criminal offender and his adaptation to society. At the same time, the above mentioned surveyed groups feel that the state should re-evaluate the objectives of the system and possibly redefine new objectives.

Some of the problem areas facing the prison system are: a) clarification of the duality of jurisdiction and function of the Executive and Judicial Branches with respect to corrections; b) design of a uniform administrative system (each prison is organized differently); c) the poor utilization of the system's capacity to generate resources; d) design of an effective personnel system; e) greater use of pretrial release mechanisms to reduce the size of the population awaiting trial.

H. The Criminal Process.

This section examines Guatemala's criminal procedure, which is primarily reliant on the traditional civil law written process.

Criminal Procedure in Guatemala is characterized by its strong apparent emphasis on "due process" requirements such as the privilege against self-incrimination, the prohibition of defendants being held incommunicado, the right to counsel, the right to a public trial, and fixed periods for the completion of the different procedural stages. Even though all of these guarantees are written into the Constitution, they are not always followed. Thus, 26% of judges felt that the accused almost never knows what he/she is charged with; 80% of lawyers felt that procedural time periods are not complied with.

The nature and severity of the offense determines the type of proceeding to be followed, including who may bring the prosecution. For the majority of serious crimes, the prosecution is brought by the Public Ministry and the process is divided into two distinct phases: an instructional stage during which the court determines probable cause that a crime was committed and that the accused is the person who committed it; and a trial stage during which the guilt or innocence of the defendant is adjudicated and a sentence imposed. Finally, there is an appeal process.

The purpose of the preliminary phase of the criminal proceeding is to determine if a crime was committed, and the person to be charged for that act. The agency which receives the

criminal complaint must bring it before competent judicial authorities, who then initiate the process. In practice this does not always take place. If the police do not identify a witness or effect a detention, they often do not inform the judiciary of the complaint so that judicial and police statistics on crimes reported are not equal. The process may be initiated in a justice of the peace or first instance court. The justice of the peace court may hold the case for three days, during which time they may order preventive detention, thereafter, it must be forwarded to the corresponding first instance instructional court. Once the complaint is received this investigatory stage is directed by the instructional judge (investigating magistrate) who may order a series of investigatory actions, including the arrest of a suspect.

The instructional stage is secret with limited access provided to the accused, his counsel and the Public Ministry. All of the actions during this stage are written since they will constitute the evidence to be examined during the trial. Upon the arrest of the accused he/she must be placed before a judge within six hours, something which due to the size of the country is oftentimes utopian. Within five days, the judge must determine whether the defendant is to be released, detained or awarded monetary bail. If the accused is detained, the process must be completed within fifteen days. Even though the process provides for a speedy determination for detained persons, our own research indicates an average instructional period of nine months. Upon the completion of this stage, the court determines whether it should proceed to trial and notifies the Supreme Court so that a first instance trial court is appointed to hear the case.

Upon receipt of the case, the first instance judge may order temporary or permanent dismissal of the case. Dismissal results in the release of a detained defendant. Once the trial stage is opened, the accused and the Public Ministry shall have access for a period of five days to the investigative record. The trial, which is public and oral, is held continuously. Even though Guatemalan procedure orders a speedy trial process, our own research indicates an average trial period of eight months. Upon conclusion, the judge shall determine the guilt or innocence of the accused and shall impose sentence.

Guatemalan criminal procedure orders the appellate review of all sentences, dismissals and when pretrial release is allowed in serious crimes.

VI. EVALUATION OF THE GUATEMALA JUSTICE SECTOR

A) General Problems

This section analyzes the problems identified throughout the preceding descriptive sections and attempts to set some preliminary priorities.

1. Of a normative nature.

Even though Guatemalan legislation appears to be modern, it has been characterized by extensive copying of laws of other nations without adequate adaptation. While this is a feature common throughout the region, here it is compounded by the nature of the legislative process. The new Constitution has set forth some of the most liberal procedural guarantees for a Latin American system, yet some of them are utopian in that they cannot be complied with.

The Congress is charged with two important functions affecting the justice sector: legislating its norms and procedures, and determining its resources through the budget process. The Congress has little technical staff to assist them in its legislative function and is often compelled to rely on interests groups to provide the expertise which they lack. There is no concept of "impact study" which can provide an economic and practical basis for determining the impact of legislation and few modern means for expediting the legislative process or facilitating information to legislators.

Any program designed to assist the administration of justice should take into account the legislative process. One of the areas in greatest need is the development of a modern system of reporting laws and mainting them current. This can be accomplished through a database which contains information on laws, decrees, jurisprudence and doctrine (treatises). Currently, ILANUD is involved in the development of such a database in Costa Rica and has engaged in discussions with the Guatemalan Supreme Court regarding this. The Court has made a proposal under which they would, with adequate funding (estimated at \$350,000), develop such a database within a broader computer system that would also be employed to fill other judicial automation needs.

A problem common to all of the justice subsectors is the lack of adequate regulation, whether through legislation, rule or regulating agency. This is most evident in the police sector which is characterized by an outdated organizational structure and law. An organic law for the Public Ministry and another regulating the selection and stability of judicial personnel are also needed. Likewise adequate legislation guaranteeing the rights of prisoners, a correctional code, is also badly needed. Assistance in this normative function, perhaps through the use of civil law legal experts, is essential.

2. Of a social nature.

There is a general perception of a rise in criminality among the population even though there has been only a slight a rise in the number of criminal cases being reported to police. This fear of crime has had a substantial effect on the quality of life of

the Guatemalan population with the majority taking measures to prevent the possibility of victimization.

Other studies have indicated that while crime is perceived as a serious problem, it is not considered in the same category as economic problems. In order for change to be achieved, there has to be political will on the part of the government, supported by the population and the requisite national financial support for reforms.

3. Of a Political Nature.

The Guatemalan justice system faces several issues which could be characterized as political and which are dealt with in this section. These include judicial independence, judicial career and national criminal policy.

Judicial independence has been judged as one of the benchmarks of a democratic judiciary. The Guatemalan model presents some instances of excessive independence while in other aspects it lacks it. The assignment of 2% of the national budget awards the Judiciary economic independence but delays in awards by the Ministry of the Treasury restricts it.

While the Constitution mandates that a judicial civil service be established, the requisite legislation has not yet been drafted. Current, judicial personnel are named under a non-legislated civil service system which awards to the Court the prerogative of naming all lower judges. The Supreme Court has stated that they will propose legislation to the Congress to achieve this. Investment of funds in serious training efforts is unquestionable until such legislation is in place.

A major problem facing the Guatemalan justice sector is the absence of a clearly defined national criminal policy arrived at through study, analysis, discussion and consensus. Too often the components of the justice sector act independently and without coordination of efforts. It is hoped that the National Commission may serve as the forum for the formulation of such a policy. In order to do so they will need additional assistance and a program whereby they become a significant force in design of justice policies.

B) Justice Sector Access.

The worth of the justice sector can be measured by the knowledge which the population has of the laws, the institutions which administer them and their own ability to have access to the system in a positive sense.

There is no mechanism in Guatemala which provides current information on the laws of the country. This is especially important in a country in which almost half of the population is

illiterate and a substantial percentage is not Spanish speaking. Clarity of the laws is another factor which impacts upon access. In this respect almost all sectors surveyed complained of the complexity of legislation.

Another factor which determines the accessibility of a justice system is the cost it represents to the actual or potential user. One of the primary factors affecting this issue is the cost of legal services. Reliance on minimum fee schedules which have progressively raised legal fees will place strains on the lower strata of society. The availability of a free legal defense for those persons accused of a crime, regardless of financial resources, is a guarantee to defendants and until there is a professional public defender system this goal may not be achieved.

C) Respect of Fundamental Guarantees.

Guatemala presents a, historically, poor human rights record. This is true in all of the system's subsectors. This appears to be changing although there are negative perceptions which persist, either due to historical factors or to actual current violations.

D) Efficiency of the Justice Sector.

To quantify and measure the services offered by the justice sector is a complex if not fruitless task. While traditional measures such as cost-benefit analysis may be employed in some parts of the system, the complexity of the services prevents widespread application of these measures. Taking this into account, we have used some accepted means to measure the efficiency of the Guatemalan justice sector: speed of proceedings, degree of public satisfaction with the service and its accessibility.

1. Celerity.

Almost all of the justice professionals, complain of the delay of the justice process. This perception is confirmed by judicial statistics which indicate that the prescribed procedural periods are often violated.

One of the primary problems affecting the swiftness of the process is the growing caseloads confronting the system. This not only affects the judicial sector but also impacts on the police which are unable to investigate minor crimes and the correctional system which is continually facing an overcrowding crisis.

There has been a continually spiraling upward trend of judicial caseloads which cannot be justified solely by population growth. Even though the subsectors have increased their personnel to meet the growing demand these have not been sufficient. In

some subsectors the inverse may be happening due to budgetary cutbacks.

2. Satisfaction.

The satisfaction which the public expresses about the services provided by the justice sector is another measure of its efficiency. This obviously varies with each different subsector of the justice system.

Of special concern is the low opinion which is held of police among judges and lawyers. While this may not reflect popular opinion, it raises serious doubts as to their usefulness as a resource to the public.

The level of satisfaction with judicial work varies in proportion to the level of the court being examined with the highest marks going to the Supreme Court and the lowest to the justice of the peace courts. In the case of the correctional system, while there are some specific criticisms by inmates of the correctional system, in the large part they express a positive vision of the services it provides. There is however, a growing feeling that the system is "soft". This may, if when combined with anxiety over crime, lead to a clamor for a more repressive justice and correctional system.

3. Controls.

In order to insure efficiency and to regulate the provision of services, the justice system relies on a set of normative and institutional controls. This is an area of great concern.

Judicial conduct is regulated internally. This work is affected by a lack of resources. Police misconduct is regulated by a variety of different mechanisms within their agencies. In all agencies the resources assigned to this task are insufficient and the measures designed to curb misbehavior are oftentimes illogical.

E) Personnel.

The level of efficiency of any institution is due, in no small measure, to the quality of its personnel. It is therefore important to develop adequate mechanisms for their selection, training, promotion and remuneration. Likewise, it is important to maintain a sufficient number of personnel with clearly defined functions and displaying the necessary characteristics to accomplished their assigned task.

1. Selection.

The Guatemalan justice sector presents a variety of selection mechanisms characterized by different degrees of

political involvement in the selection process.

Supreme Court Magistrates are selected through a political process in the Congress. Lower judges are selected by the Supreme Court, allegedly on the basis of qualifications and merit, but there is a growing perception among judges that other considerations dominate the process. The same concern was expressed over the selection of prosecutors and public defenders.

2. Training.

There are widely varying situations in training among the justice sectors. Some of these have been discussed previously and will not be dealt with here.

Training of police is almost nonexistent since the closing of the police academy. Lawyers are initially trained in law schools and the deficiencies have been previously noted. A common denominator of Guatemalan legal education is the theoretical nature of the curricula. Most disturbing is the lack of participation by the law schools in continuing legal education programs, whether for the bar or the private sector.

Judicial training is recently beginning. It should be seriously studied whether entry-level and continuing education of judicial professionals should be best subcontracted to the law school or carried out by the judiciary since the number of judges and training needs may not justify the investment required to maintain a separate training facility.

3. Remuneration.

Salaries for judges appear to be adequate. The situation for support personnel is markedly different. Until the Court develops a complete personnel system which includes determination of salary scales based on acceptable management criteria this situation will continue to present problems to the system.

F) Material Resources.

The material resources assigned to the justice sector are often inadequate and in bad condition.

1. Physical Facilities.

The most severe problems occur outside the capital and the lower courts. The correctional system also presents severe problems, with additional space needs accumulating over a number of years. Continuation of current overcrowding will eventually lead to confrontations and prison violence.

2. Equipment.

There are severe equipment problems in all sectors of the justice system.

One of the most severe equipment needs is in the area of information systems. This is one of the priorities expressed by all subsectors. Criminal histories are managed by a number of different agencies, for example, with different levels of sophistication but with little sharing of data. The equipment purchased to date has been obtained without consideration of development of integrated networks to be shared by different agencies.

Some coordination of information system development should take place prior to expansion of this area.

Libraries are another area of need for the justice sector. Adequate bibliographic resources are a sine qua non of any effective justice sector and the state of many of the Guatemalan legal libraries leaves much to be desired. The law school libraries maintain some of the most complete collections in the country but due to budgetary restrictions have abandoned its periodical collections or purchase of new materials. The Supreme Court has received a donation of a basic library from ILANUD which appears to meet its most immediate needs. Outside of the capital the situation is even more critical with a notable absence of these resources.

Another area in which assistance could be useful is in the development of adequate legal materials. Public legal education is one area in which new materials developed with the cooperation of the Court, the Bar Association and others would be useful. An example, would be a review of texts utilized by the Ministry of Education to assure that the younger population is receiving an appropriate legal basis on which to exercise their rights as Guatemalan citizens.

G. Administration.

Justice administration is a new concept for this sector.

1. Coordination.

While the justice sector is a system composed functionally of different parts (police, courts, corrections) regularly interacting, there is very little coordination between the different components of the justice system and even between agencies within the same subsector. The police are an example in which competition and lack of coordination predominate.

Any assistance program should attempt to encourage coordination between the different agencies and subsectors and

not further aggravate the existing problem.

The creation of the Guatemalan National Commission for the Improvement of the Administration of Justice is one of the most positive aspects and it should be encouraged to develop not solely as a mechanism for the implementation of this project but as an ongoing agency which plays a central role in national justice development.

2. Planning and Evaluation.

A common characteristic of Guatemalan justice agencies is the absence of planning and evaluation. Every effort designed to improve the administration of justice should set forth clearly identifiable and measurable goals and define the means by which they are to be reached.

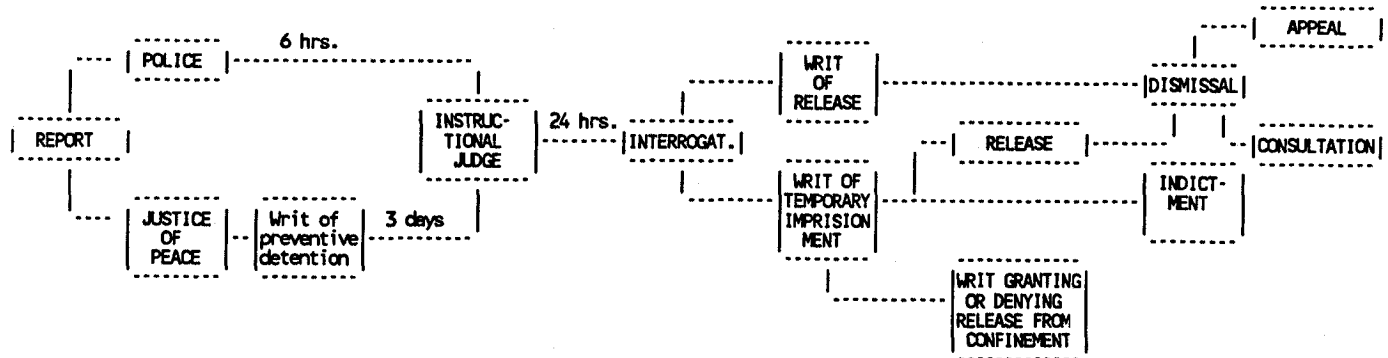
Essential to the development of adequate planning mechanisms are adequate justice statistics. These are currently kept by a variety of different agencies with little coordination among them but commonly without identifiable purposes for these statistics. In the case of the judiciary, there appears to be a lack of understanding among judicial officials of the need for or the utilization of the statistics it maintains.

One area in which substantial assistance could usefully be assigned is in the administration area. These programs should be designed carefully and carried out progressively with a mix of technical assistance and training.

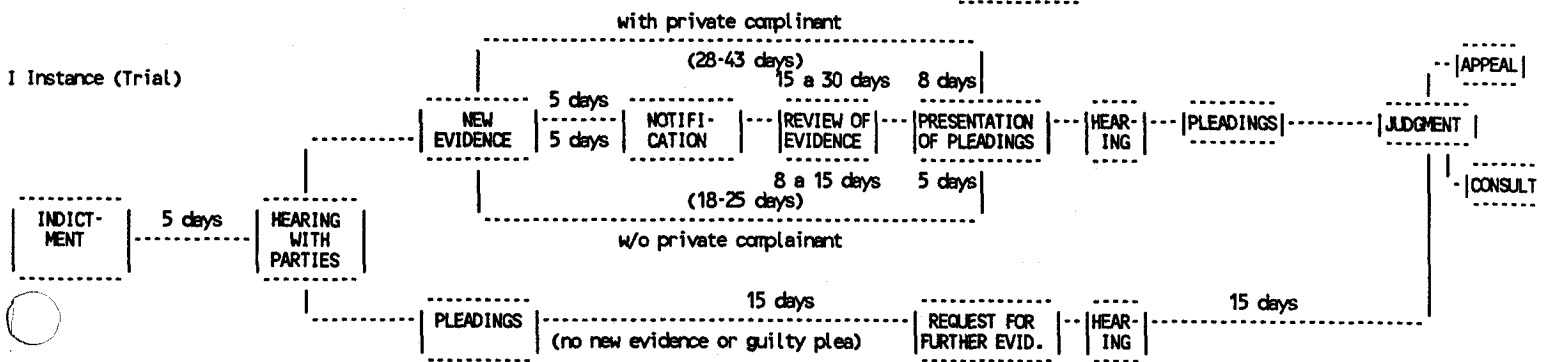
ATTACHMENTS

Flow Chart Criminal Process

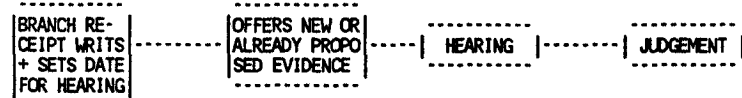
I Instance (Summary)



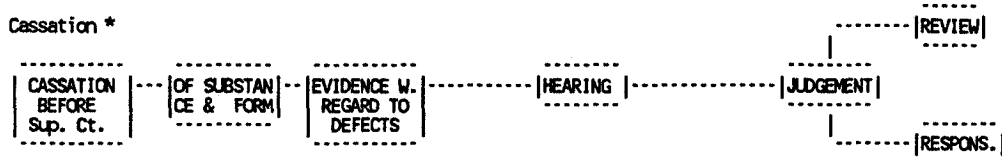
I Instance (Trial)



II. Instance (Appeal)



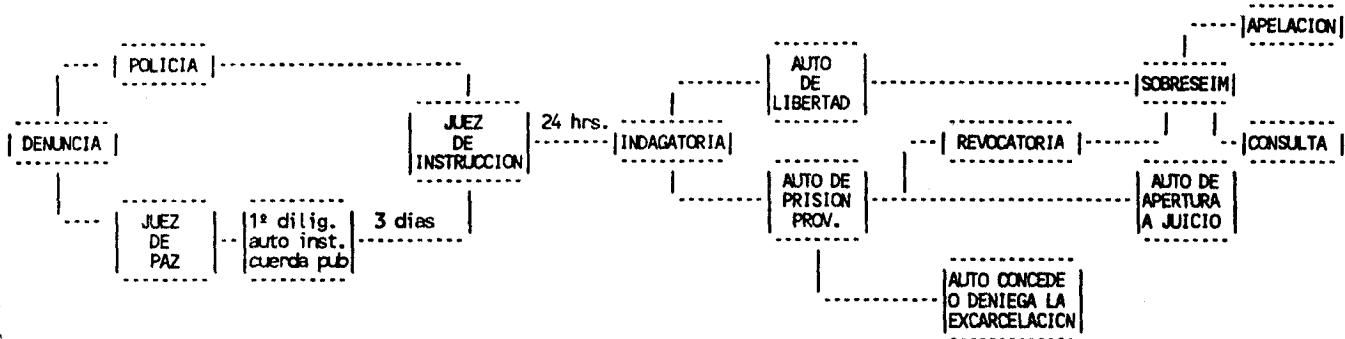
Cassation *



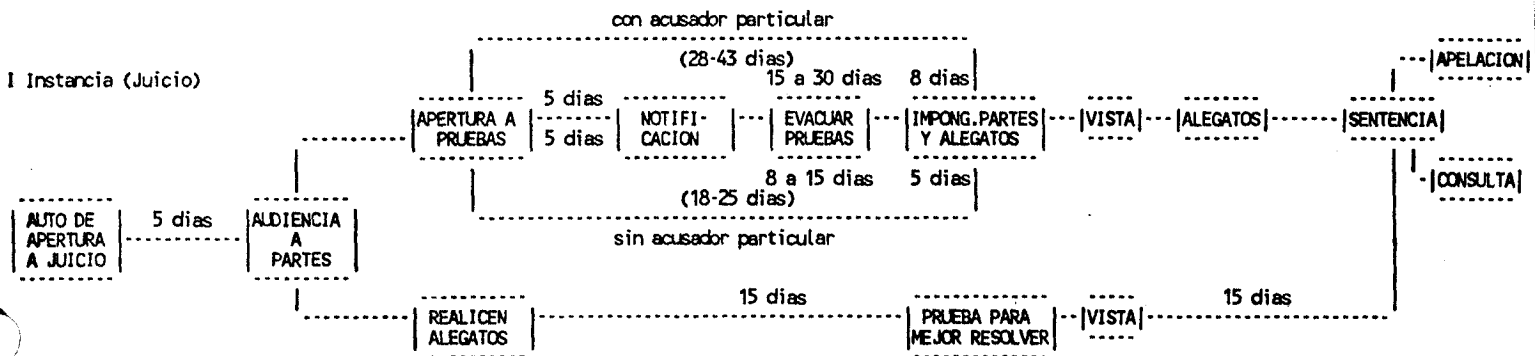
* Only against writs that finish the process and appeal judgement.

Flujograma del Proceso Penal

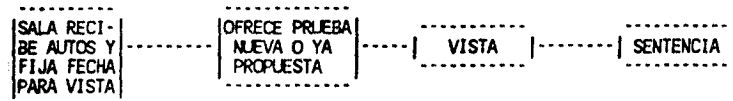
I Instancia (Sumario)



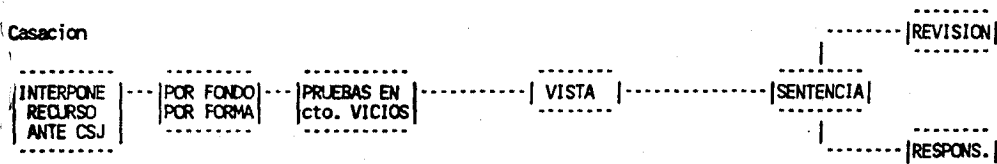
I Instancia (Juicio)



II. Instancia



Casacion



NOTA: La casación se interpone contra autos que le pongan fin al proceso y contra sentencias de segunda instancia.