

EXECUTIVE SUMMARY

PANAMA JUSTICE SECTOR ASSESSMENT

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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.

A decision was made initially to test the proposed methodology in a pilot country, Panama. The Panama sector assessment began in August of 1985 and was completed in approximately nine months; the Costa Rican assessment began in January, 1986 and lasted approximately seven months; the Honduran assessment began in July of 1986 lasted approximately the same. A limited Salvadoran assessment was also completed in six months. The Guatemalan assessment began on August 1, 1987 and a review meeting was held in April, 1988. The Dominican Republic assessment began in December, 1987 and ended in June, 1988.

FIU, ILANUD and AID were aware of the potential for political complications arising from this research effort. Therefore, a number of steps were undertaken to prevent such an occurrence: a) ILANUD was the primary sponsor of the assessments; b) only Panamanians were employed as part of the study team, directed by a highly respected member of the law faculty of the University of Panama; c) a number of visits were made to political and community leaders to explain the nature of the research and obtain their agreement; d) finally, no concrete recommendations were made in the final report, leaving this to a meeting of high-level officials to be held upon the completion of the report for the purpose of reviewing it and proposing concrete reforms.

During the middle of the Panama study we began to encounter difficulties with Panamanian authorities, resulting in a lack of cooperation from the Judiciary in the research. Due to deteriorating local political conditions and relations with the United States we were compelled to terminate the Panamanian justice assistance project prior to the proposed review. The post-study analytical phase of this study was never carried out. Nevertheless, the majority of the study's goals were achieved and a final report consisting of 293 pages was completed with the following attachments: 1) an annotated bibliography reviewing

approximately 2,100 Panamanian publications on the administration of justice; 2) a methodological annex; 3) an evaluation of the economics of the justice sector. All of these publications are in Spanish with the exception of the third attachment which is in Spanish and English.

II. Methodology

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. Dr. Aura E. Guerra de Villalaz, director of the Centro de Investigación Jurídica (Juridical Research Center) of the University of Panama was selected as the Panama study coordinator and an interdisciplinary staff consisting of ten professionals (1 attorney, 1 political scientist, 1 legal historian, 1 sociologist, 1 librarian, 1 educator, 1 systems analyst, 1 statistician and 2 criminologists) was organized. They were assisted by five researchers and 22 law students from the University of Panama. One foreign consultant (from Costa Rica) was used to assist in project design and a Cuban-American economist was used to conduct an evaluation of the economics of the sector. The national staff was given support by a regional advisory team (with the participation of only 1 US citizen) composed of FIU personnel based in Costa Rica.

The subject of the research is the administration of justice in Panama. That is to say, all institutions in the three branches of the government charged with the administration of justice, the legislation which regulates them, the personnel and non-personnel resources available to them, those who use the system and their main collaborators, and the programs offered by the educational institutions responsible for the training of

those who administer justice.

Also to be researched are the formal structure of the system, how the formal system functions in reality, and how the public and those who work in the system perceive and evaluate it.

Problems with serious political and social implications such as land takeovers, strikes, protest movements, agrarian reform, etc. exist in Panama. However, this study was limited to only the criminal system because of the relatively short time available to carry out the study, and because the criminal sector is an area for priority study since it is the sector which most affects those with the least income and best reflects the degree of social control in a country.

Several measures were used to evaluate the Panamanian justice sector:

1. Accessibility: a system truly open to all citizens, without regard to the social class or economic condition of those who resort to it.

2. Independence: a system which operates free of undue influence from the political power structure or special interest groups, be they from outside the government or from within the political hierarchy.

3. Justice: a system based on certain socially accepted principles such as: freedom, self-dignity, legality, equality, equity, the presumption of innocence, respect for human rights, protection against arbitrary arrest and seizure as well as cruel and unusual punishment, the right to a hearing before an impartial, independent judge, a swift process which is neither degrading nor discriminatory and special concern for the rights of victims and the community.

4. Efficiency: a system able to achieve the goals for which it was established and able to balance the demand for swift justice and the right to a proper defense.

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 Panama. This work was published as an Attachment and consisted in a review of 2,100 works.

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.

To gather these data, several documents were prepared (questionnaires, tables, outlines, etc.) and collaboration was requested from several institutions including the National Comptroller's office (somewhat akin to the G.A.O.). Considerable time was lost in appointments and visits with department heads and other officials in order to obtain permission to visit pertinent institutions. Nevertheless, except for the Judicial Branch, which at first cooperated fully, but later reduced its collaboration to a minimum, all other institutions provided valuable assistance. Worth special mention are the Procuraduría, the Ministry of Government and Justice, the Bar Association and two universities.

4) Opinion surveys.

To complement the empirical data, comprehensive sets of surveys were conducted in order to determine Panamanian perceptions of and experiences with the justice system. The surveys were as follows: 1) lower level judges (94); 2) lawyers (143); 3) prosecutors (42); 4) inmates at penal institutions (258); 5) a national household survey (800). A total of 1,343 persons were surveyed using a 45 minute in-depth questionnaire. All interviews were conducted in person. The national household survey was carried out by a private corporation (Solarian) selected through a bidding process.

5) Justice Sector Report.

This report was drafted by the Panamanian study team, in coordination with the FIU regional team. It was presented for review in October, 1986.

6) Review by National Officials.

To insure the legitimacy of the study, it was intended that the findings 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 was planned. This was to be the vehicle for the analysis of the final report and the production of recommendations for action. Action recommendations might have included new or revised legislation, new training or educational curricula, administrative reorganization of existing agencies, new equipment and facilities, and new information and management systems. As was indicated previously, this stage never took place due to the deteriorating local political conditions.

III. *Administration of Justice and Socio-Political Development.*

A. General Context

The Republic of Panama has a total area of 77,082 kms². It is located between Costa Rica on the north and Colombia on the south.

Article 5 of Title 1 of the National Constitution provides that: "The political divisions of the territory of Panama are: Provinces, divided into Districts, which in turn are divided into Corregimientos. The legislature is empowered to create further divisions, be it to subject them to specific regimes or for reasons of administrative convenience or public service"¹.

The population of Panama is 1,824,796 inhabitants; a figure, which, based on official projections, should reach 2,180,000 by 1985. This population is currently going through a slow "aging" process due to declines in the birthrate. In 1970 the median age was roughly 18, by 1985 will be 21, and will be 32 by the beginning of the next century. Historically, Panama has been characterized by a heavy concentration of the population in the metropolitan area (which includes Panama City and Colón; the rest of the population being widely scattered throughout the remaining provinces. The availability of public services, investments and the concentration of economic activity within the metropolitan area, has been a primary factor in the migration from rural areas to the capital.

According to a 1980 study, of all the Districts, only one, Panama is classified as "high category". Truly inadequate conditions prevail in 81.2% of Panama's territory, encompassing 31% of the population while the best living conditions are found in a relatively small area equaling only 5.6% of the territory. A majority (53%) of the population resides in this small area. The result is high population densities.

In 1984, the distribution of those members of the population economically active was as follows: 28.8% in the primary sector

(agricultural production, mining and fishing), 16.3% in the secondary (industry, manufacture, construction), 52.6% in the tertiary (commerce, transportation, public service and other service related jobs) and 2.3% in the Canal Zone.

Thus, slightly more than half of the economically active population works in service related jobs, which is a reflection of the importance this sector has for the economy.

The structure of the Panamanian State is established in Articles 1 to 7 and 140 to 253 of the National Constitution. The government exercises its power through its Legislative, Executive and Judicial Branches, which function independently from, but in close harmony with one another. It is worth noting that the 1972 Constitution established the role of the National Guard (now called Defense Forces) as a fourth, and coequal, branch of government.

B. Evolution of the Panamanian State (1903-1985)

Panama became a nation on the third of November, 1903 after achieving its independence from Colombia. Its first constitution was adopted in 1904 and remained in effect until 1941. It established a pattern of representative government resting on three separate branches of government. Its first Supreme Court had 5 members selected to 4 year terms.

The independence of Panama from Colombia signals the beginning of a special relationship between Panama and the United States, with the latter exercising continuing influence in national affairs. This interest was motivated by the desire of the United States to build an interoceanic canal. Fifteen days after independence, Panama enters into the Hay-Bunau Varilla Treaty with the United States. The level of US interest is reflected in article 136 of the new Panamanian Constitution which stipulates that: "The Government of the United States of America may intervene anyplace in the Republic of Panama to reestablish public and constitutional order..." In order to guarantee the security of the Canal, the U.S. was awarded special privileges (bases) etc. which are to influence continuing US intervention in local affairs.

The decade immediately before the Second World War was characterized by economic changes resulting from changing trade conditions and the rise of militarism in that country. In 1936, President Harmodio Arias used the National Police to appoint his successor, Juan Demóstenes Arosemena. Arnulfo Arias Madrid is elected President in 1940 and adopts a new Constitution one year later. That same year, Ricardo Adolfo de la Guardia, with the assistance of the National Police, led a coup which deposed Arias Madrid and repealed the new Constitution.

The Second World War brought to Panama its greatest economic boom. Politically, the post-War period was the most unstable in its history with seven presidents in eight years and was characterized by increasing military interference in political affairs.

In 1946, a new Constitution was adopted which established greater State control over the economy, determined social and political rights of citizens, created a civil service, guaranteed free universal public education and enacted a number of socially significant reforms.

The election of Colonel José Antonio Remón Cantera to the Presidency in 1952, the result of a questionable election, brought about a new militaristic period ending with his assassination in 1955.

The Remón administration completed the change of the national police to a National Guard (1952) with greater emphasis on its military role and professionalism. This administration also entered into the Remón-Eisenhower Treaty which awarded to Panama greater rights over the administration of the Panama Canal Zone. The increase in Panamanian rights over the Zone, especially in financial terms, resulted in an improvement of the national economy.

The first two presidential terms of the sixties were in the hands of Liberal governments which enacted new socially oriented legislation. These governments were also supportive of the Judiciary. In 1963, the government enacted a judicial career law which guaranteed the stability of judicial personnel, established new courts and a passed series of laws to modernize the Judiciary.

The clauses of the Hay-Buanau Varilla Treaty which awarded, to the United States, sovereignty over the Panama Canal Zone and allowed US interference anywhere in the national territory had always been a sore point for Panamanians. The culmination of this resentment took place in 1964 when Panamanian high school students attempted to raise the Panamanian flag in the Canal Zone, resulting in a number of deaths.

The issue of the Canal continued to simmer. In 1968 the Legislative Branch tried, *in ausencia*, President Robles who had taken refuge in the National Guard headquarters. The Legislature selected Max del Valle as President with the result of having two presidents, one at his house and another at the National Guard headquarters.

This year concluded in an election, won by Dr. Arnulfo Arias Madrid, in which 18 political parties participated. A scarce eleven days after assuming office, Arias was deposed by a military coup. The coup leaders repealed the Constitution and

replaced it with a provisional statute.

One of the first measures of the new National Guard government was to reserve unto themselves the right to name the Executive and to abolish the Legislature. Legislative functions would thereafter be exercised by the Executive through the issuance of decrees. The Supreme Court was partially left alone after it declared the law abolishing the constitution to be valid. Thereafter, however, a number of judges were removed from their posts. To assure judicial subservience, the guarantees of the judicial career law were annulled.

The military government consolidated its power by naming military officers to occupy some of the most important posts and suppressing dissent. Human rights violations were condemned in 1978 by an OAS group which visited Panama. Their report, which examined conditions between 1968 and 1978, pointed out some of the following violations: expulsion of Panamanians from the national territory; restrictions of the rights of assembly, expression and association; interference in the judicial process. It concluded that judicial independence had been seriously hampered, resulting in a judiciary ineffective in curbing the abuses of the armed forces.

As the military government sought to consolidate power, it tried to legitimize its actions by the enactment of a new Constitution in 1972. Article 2 was unique in the annals of Latin American constitutional history since it stated that the Executive, Legislative and Judicial Branches should "act in close collaboration with the Public Forces (the National Guard), fourth branch of government". The Constitution went further by naming General Omar Torrijos as President for six years, awarding him almost absolute powers, including the naming of the members of the Supreme Court.

The military government sought popular support by espousing nationalism and determining as one of its goals, the renegotiation of the Panama Canal Zone treaties. This resulted in the Carter-Torrijos treaties, signed in 1977, which awarded gradual Panamanian sovereignty over the Canal.

The military government also undertook a series of reforms to improve the economic infrastructure of the country. Among these, some of the most significant were economic reforms which resulted in Panama becoming an important international banking center. These changes were accompanied by new legislation: a Labor Code, Housing Code, Maritime Code and reforms to the administrative, civil, judicial and criminal codes.

The achievement of the new treaty rested the nationalism issue from the military government. The results of this process were the constitutional reforms of 1978 and 1983, legalization of political parties and the abolishment of a series of repressive

decrees.

The constitutional reform of 1978 rejected the centralization of power in General Torrijos, maintained the status of the National Guard as a fourth power of the State and rejected a move to allow the president to exercise authority over the leadership of the National Guard.

In 1980, elections to the National Legislative Council took place. One third of the members were selected by the militarily controlled legislative precursor.

General Torrijos died in July 31, 1981 in a suspicious aircraft accident. Jockeying to replace him commenced in the National Guard and seven months after his death, Florencio Flores was replaced by Ruben Darío Paredes. In July of 1982, Aristides Royo, designated as President by Torrijos, resigned, bringing into question the democratic nature of the regime.

Vice President Ricardo de la Espriella assumed the Presidency upon the resignation of Royo and new constitutional reforms were approved in a referendum in 1983. These reforms had a profound impact on the administration of justice, guaranteeing an assignment of 2% of the national budget to the Judiciary and the prosecutorial agency (Procuraduría) while allowing officers of the National Guard to partake in political affairs without resigning from their military posts. Thereafter, in 1983, a new law established the Panama Defense Forces, and Immigration and the DENI (National Department of Investigations) were transferred to that body.

In 1978, the political groups which had supported the military government joined forces under the Partido Revolucionario Democrático (PRD).

The election of 1984 was preceded by another presidential resignation when President Ricardo de la Espriella resigned in February of 1984 and Dr. Jorge Illueca assumed the post. The 1984 elections saw the return of Arnulfo Arias Madrid as the opposition presidential candidate and Nicolás Ardito Barletta as the PRD candidate. Barletta was declared victorious, in a questionable election, but resigned in September, 1985. Eric Arturo del Valle had the doubtful distinction of being the fifth President in four years.

One of the primary factors that brought about the resignation of Barletta was the scandal over the murder of Hugo Spadafora, an opponent of the government, whose decapitated body was found near the Costa Rican border. Barletta, who had previously opposed it, called for the creation of a special investigatory commission to investigate the murder and thereafter was forced to resign.

This process of democratization, following the death of Torrijos, finally culminated in a series of progressively more repressive measures to establish the personal authority of General Manuel Noriega as the head of the Panamanian State.

IV. The Justice System.

The 1985 Constitution establishes the traditional division of powers between three branches of government: the Legislative, Executive and Judicial. In addition, there are a number of autonomous institutions of government subordinated to the Executive Branch.

A. Political-Administrative Structure of the State.

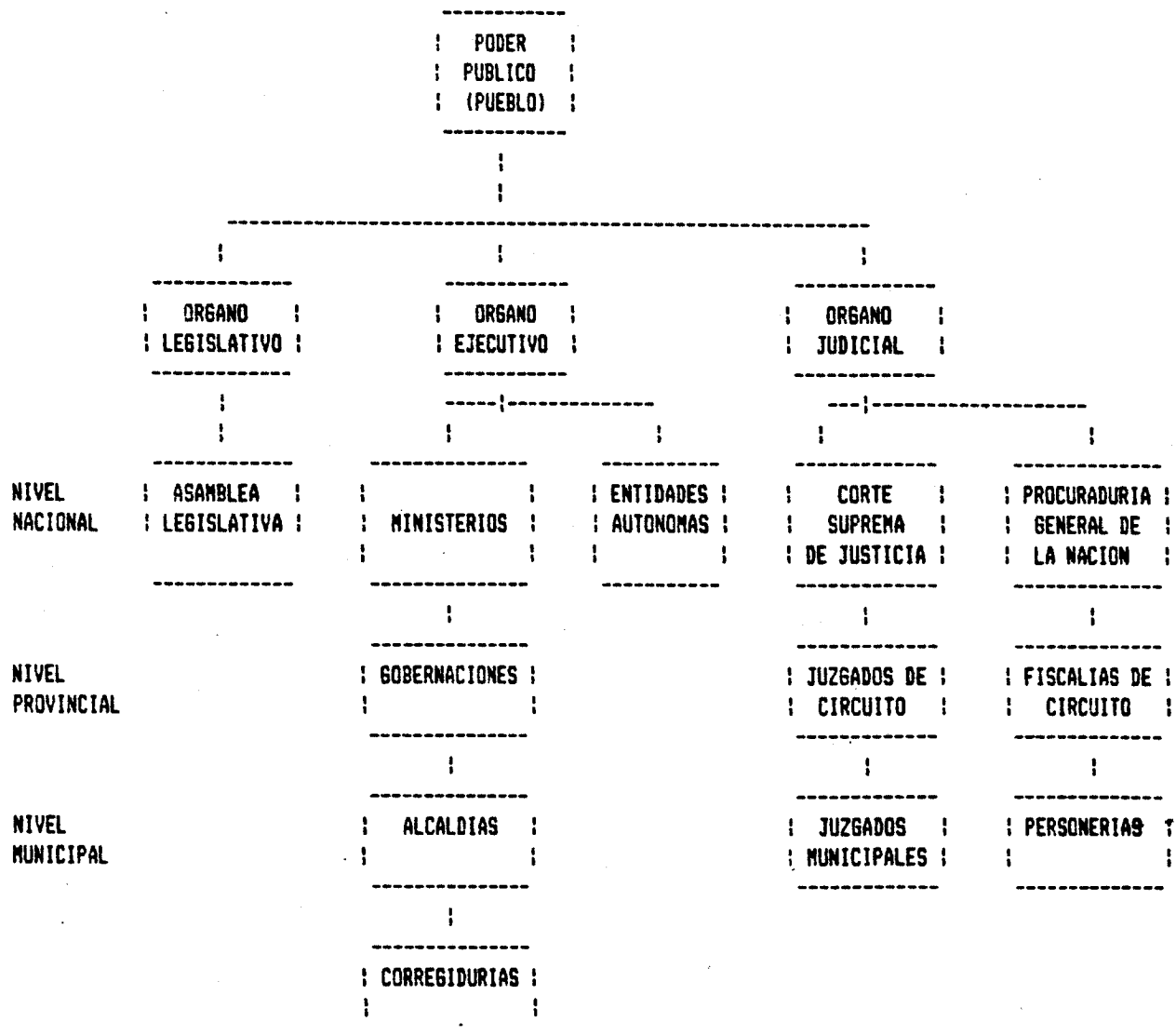
Panama follows a traditional Latin American system of government with three coequal branches of government.

Legislative functions are carried out by the National Legislative Assembly whose members are elected through party and popular elections for a period of five years. The Assembly organizes its work through permanent or *ad hoc* commissions. Of the 14 permanent commissions, three have a direct relationship to the justice sector: Credentials; Interior, Justice and Constitutional Matters (studies, proposes and emits opinions on constitutional reforms, national defense, public safety, corrections, amnesty, constitutional guarantees and code reform) and; Labor and Social Welfare (reviews laws that deal with labor, family and the elderly).

The Executive Branch is composed of twelve ministries and forty autonomous decentralized institutions. Of these ministries, five are closely related to the administration of justice: Ministry of Government and Justice which is charged with administration of the correctional system; the Juvenile Court (Tribunal Tutelar de Menores); the Department of Local Governments and the Defense Forces; the Department of Agriculture which is also charged with land reform; the Treasury; the Labor Ministry; and the General Rent Control Directorate.

Organizational Chart No. 1 presents the politico-administrative structure while No. 2 presents the chart for the Executive Branch.

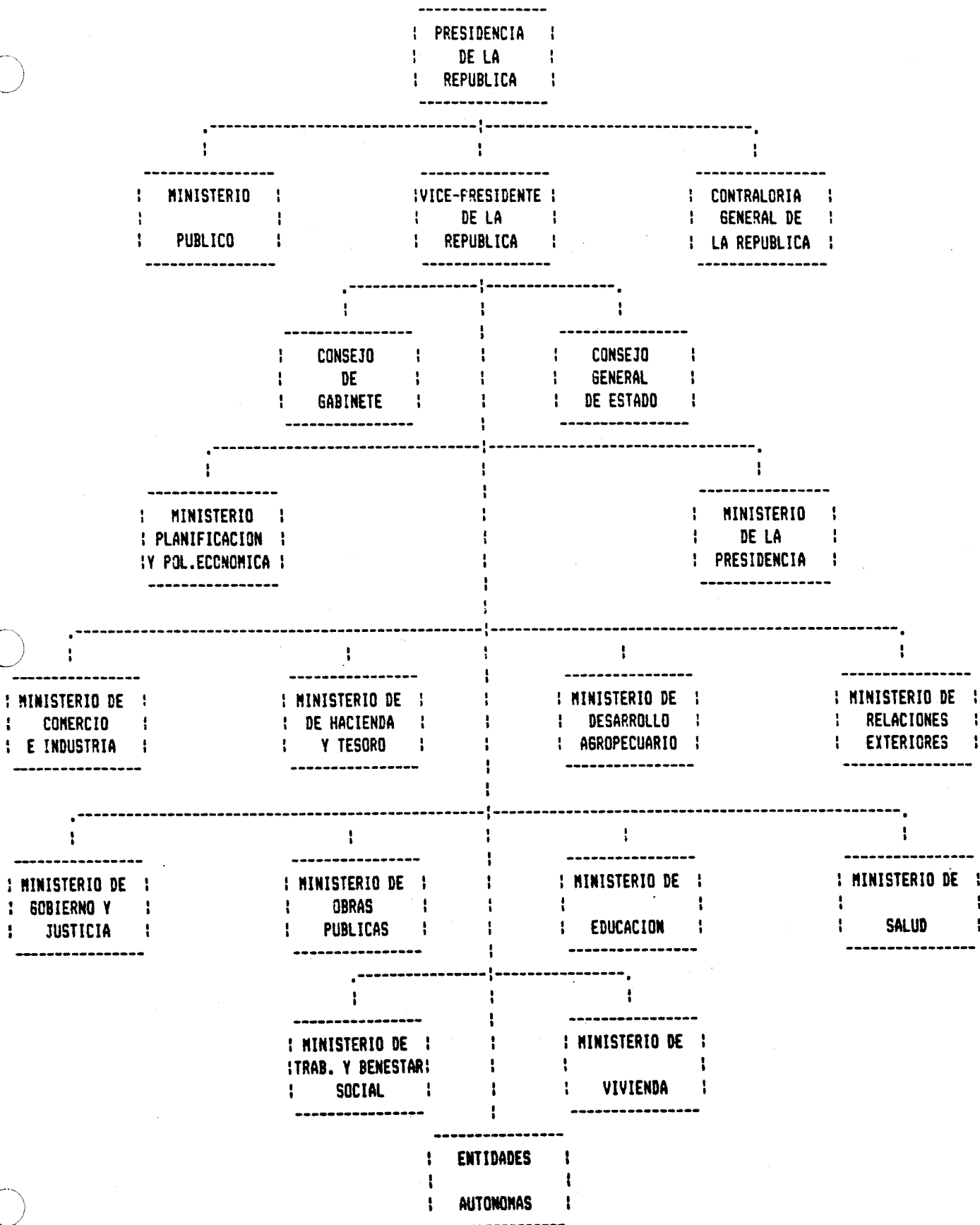
ORGANIZATIONAL CHART No.1
POLITICAL ADMINISTRATIVE STRUCTURE OF PANAMA



FUENTE: Manual de Organizacion del Gobierno de Panama,
Constitucion Politica de la Republica.

ORGANIZATIONAL CHART No.2

EXECUTIVE BRANCH



FUENTE : Manual de Organización de las Instituciones del Estado

B. Legislative Function.

Of all the functions imparted to the legislature, its most important task is the issuance of laws. This follows a process composed of four stages: a) introduction of a bill, b) discussion, c) approval, d) Executive ratification and publication.

Laws are classified as organic (orgánica) or ordinary, depending on the subject matter. Organic laws are those that affect the institutional character of State institutions or affect a code. They may be proposed by: the permanent committees of the Assembly, the Ministers of State, the Supreme Court or the Procurators (Procurador General de la Nación or the Procurador de la Administración). Ordinary laws may be proposed by any member of the Assembly, a Minister or the Presidents of the Provincial Councils.

In order to become law, projects must be debated on different days. The first debate takes place in the respective committee; the second and third debates take place in the plenum of the Assembly. The Executive has 30 days to review the project and make its objections. When a project is returned to the Assembly for an override vote which requires a two-thirds majority. It should be noted that if the reason for the veto is the unconstitutionality of the bill, it will be referred to the Supreme Court for review.

While the process which is outlined above is that taken by most legislation, in cases where entire codes have to be revised, a commission is appointed by the affected branch of government for review of the existing code and a proposal for reform. In most instances, this commission is composed of members outside of the legislature and lawyers tend to prevail. No commission that we are aware of has measured the economic impact which their new code will have since this is outside of their charter. The result is that sometimes years of work are wasted when the bill is forwarded to the legislature and the technicians place economic costs on the legislation. This was the case of the Judicial Codes in Panama after years of drafting by various commissions.

Another aspect to be considered in the work of these special commissions is the lack of interaction between them and the legislature. For example, in Panama, one special commission drafted the Code of Criminal Procedure while another drafted the Law on the Organization of Courts. Since they had never discussed their proposals, two conflicting and inappropriate codes were issued.

Another legislative function which affects the justice sector is its duty to review judicial and prosecutorial budgets. The Judiciary must prepare its budget and submit it to the Ministry of Planning and Economic Policy for its inclusion within

the national budget. Even though there is a constitutionally mandated allocation of 2% of the national budget, the common practice is for the Executive to tell the Judiciary what its limits are and for the latter to comply.

While a great deal of attention is usually placed on the legislature as the main producer of national norms, the Executive also plays a critical role through the issuance of administrative regulations, also known as decrees. These rules have the force and effect of law even though inferior constitutionally to laws passed by the legislature.

In many instances, a law passed by the legislature is without any force and effect without implementing regulations to be passed by another branch.

It should be noted that the majority of decrees have to do with the appointment of some government official and are not really administrative rules. For example, in Panama, of 126 decrees issued by the Ministry of Government and Justice, 110 had to do with appointments and only 16 were of a normative nature.

The decree process becomes of primary importance in instances of a very strong or dictatorial Executive or during periods in which the legislature is abolished (for example, Panama during the early 1970's).

In some instances, the legislature expressly delegates to the Executive the right to legislate through decrees in specific fields. For example, the Panamanian Executive Branch may, through decrees, enter into international agreements on the Panamanian debt. This has allowed the passage of important legislation without the benefit of public discussion since the demands of the International Monetary Fund and other international lenders affect many critical aspects of the domestic economy.

C. Institutions Directly Involved in the Administration of Justice

1. Police.

One of the most controversial institutions in this sector is the police, variously known as the National Guard or the Panama Defense Forces. The first police body was established, while under Colombian rule (1898), with the first national legislation being enacted in 1913. At that time it was composed of 973 members. This body responded to the Ministry of Justice and Government. It was later reorganized in 1924 and in 1941, leading to the creation of the National Guard in 1953.

The most significant legal modification occurred in 1983 when their name was changed to the Panama Defense Forces and they assumed a variety of functions more traditionally associated with

an army.

In 1941 a secret police was established. It acted as a detective force and was assisted by the US FBI which provided training in the Canal Zone and at the International Police Academy in Washington. This unit, attached to the prosecutor's office (Procuraduría), became the DENI (Departamento Nacional de Investigaciones) in 1960. It was transferred to the Presidency in 1961 and, after the military coup in 1968, it was incorporated into the National Guard in 1969.

The PDF not only includes the police but also supervises: the National Guard (Army), the Air Force; the Navy; the Canal Defense Force; the National Traffic Police; DENI; Immigration. At the highest levels it is organized into three major groups with the G-2 (dealing with internal national security) being one of the most feared.

The removal of the DENI from the supervision of the Procuracy has been a topic of debate in Panama since the prosecutor is charged with carrying out the pretrial investigation function in which the DENI's role is essential. Prosecutors, in our survey, were asked about their satisfaction with the DENI's work, 81% expressed satisfaction and only 9.5% were dissatisfied.

A large number of officers in the PDF have received training in a foreign military academy (the United States, Peru, Venezuela or El Salvador). There is also a national training academy (Instituto Tomás Herrera) which provides high school training. The ACAPOL is a training academy dedicated to continuing education.

There is very little information about the budget or salaries of the PDF since they were classified as state secrets and do not appear in the national budget. They appear to be included in the budget for the Ministry of Government and Justice whose general budget for 1986 was B/137,107,000.

Popular satisfaction with the police is fundamental to the efficiency of a justice system, especially demonstrated by the willingness of the population to file a criminal complaint with the police. About 69% of the persons surveyed expressed confidence in making a complaint while 23.2% saw little or no use in it. Of those that expressed a reluctance in making a complaint, 32.1% expressed their dissatisfaction with how complicated it was while 18.1% felt that the police cannot resolve anything.

Corregidor judges appeared to be the most satisfied with the police with 83% being satisfied while 38% of the prosecutors were unsatisfied.

2. Prosecutors

The Procuraduría General de la Nación, in the Executive, is charged with the prosecution of persons accused of a crime.

The Procuraduría has the following professional personnel: 1 Procurador General de la Nación; 1 Procurador General de la Administración; 8 Fiscalías Superiores de Distrito Judicial; 35 Circuit fiscalías and 74 Municipal personerías. The first two are named by the Cabinet, with approval of the Legislature, for a period of ten years. All of the other personnel are named by their immediate superiors. It should be noted that while the majority of prosecutors are lawyers, the personeros are frequently non-legal staff who represent the State in minor cases.

Selection of personnel is not yet conducted in accordance with the merit requirements set forth in the Judicial Career Law. Approximately 90.5% of the fiscales and 47.6% of the personeros (lower court prosecutors) have university training. They work with very little resources at their disposal with 95% of prosecutors noting that they did not have any law books.

The constitutional requirement that 2% of the national budget be assigned and apportioned between the Public Ministry and the Judiciary has resulted in a tacit agreement that 40% be assigned to prosecutors while the remainder is allotted to the Judiciary. Since 1983, there have been substantial improvements in the budgetary allocations to the prosecutors. This has been dedicated primarily to salary increases. The two Procuradores Generales earn \$5000 monthly, the fiscales superiores earn \$2,500 monthly, circuit fiscales earn \$1,500 monthly while the "personeros" earn \$500 to \$1,150 monthly. These salaries place them among the best paid employees of the public sector.

Table 1 presents the budgets for the Judiciary and the Procuraduría for the years 1981 through 1985.

TABLE 1

BUDGETS OF THE JUDICIARY AND THE PROCURADURIA FOR THE YEARS
1981 THROUGH 1985
(in thousands of balboas- equivalent to US
dollars)

1981	1982	1983	1984	1985
4,050	4,500	4,801	10,502	9,912
2,666	3,124	3,290	6,668	7,007

According to the prosecutorial survey, 38% of the prosecutors handle an average of 50 cases monthly. The most frequent cases handled by them are: thefts, robberies, homicides, assaults. The majority of such cases are resolved within a period of 51 to 60 days.

3. Public Defense and Legal Aid.

Panamanian law guarantees to all accused persons, the right to counsel in criminal proceedings and the appointment of an attorney in cases of indigency. Under this system, a defendant may be represented by private counsel, a court appointed lawyer or a law student.

There is no public defender system in which a body of lawyers labor full-time. There is a small number of attorneys, eight for the whole country, who regularly appear on behalf of indigents. They are paid a salary of approximately \$400 monthly which is not comparable to the higher salaries paid to judges or prosecutors. Given the large caseloads, their small number and low salaries, this type of defense is inadequate to meet the legal needs of indigents.

The most common defense for indigents is through the assignment of counsel by the court. These lawyers work *ad honorem*. They do not generally dedicate sufficient time to the defense of their clients due to the gratuitous nature of the assignment.

A number of philanthropic institutions such as the Bar Association, the law school of the University of Panama, the Panamanian White Cross and the National Refugee Office provide legal assistance to indigents. However, given their location, the capital city, and the limited services which they can provide, these groups barely begin to meet the legal needs of the poor.

There appears to be widespread dissatisfaction with the current system of legal defense for indigent criminal defendants. None of the existing mechanisms meets the needs of the courts or the accused. As a result, inmates often linger in jail without the assistance of counsel. Our own research indicated that 62% of the inmates surveyed, had not received any legal assistance while only 29% knew who their defense lawyer was and of these only 35% were court appointed.

4. Lawyers.

There are 2,300 lawyers in Panama, with 42.7% being between the ages of 31 and 40. This results in a rate of 0.29 lawyer per 1,000 population. Eighty-five per cent of lawyers are concentrated in the capital. About 850 lawyers are employed in the public sector while 450 are in private practice with the employment of the remainder being unknown.

Lawyers tend to be men (83%). The majority studied in Panama and 25% have achieved a postgraduate degree. The majority of lawyers practice civil law with only 4.2% indicating criminal law as a specialty.

Popular support for the profession is lukewarm. Approximately 69% of the population felt that lawyers are primarily interested in representing the rights of the rich. The national surveys ranked lawyers, in terms of prestige, in fourth place, behind physicians, teachers and priests.

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.

There are a number of other professional associations. One of the principal ones is the Consejo Democrático de Abogados (CODEA), with 500 members, which supports the goals of the PRD. Another organization is the Organización del Profesional del Derecho (OPRODE) with some 75 members.

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 two Panamanian law schools with the University of

Panama (the public university) having the majority of graduates (there were 2,077 students in 1985). The other is the Universidad Santa María la Antigua. The University of Panama graduated 105 lawyers in 1985 while the USM graduated 27 students in the same year. Legal education in Panama is undergoing a critical period. It is characterized by: 1) a lack of adequate funding levels; 2) part-time faculty; 3) an educational system which relies almost exclusively on lectures and places primary emphasis on theoretical knowledge and memorization; 4) poor library resources, with budget restrictions causing the collection to remain outdated. When questioned about the adequacy of their legal training, only 32.9% of lawyers were satisfied.

Like most other Latin American countries, a specialization within the legal profession is the notary who exercises a quasi-judicial function since they are the only persons qualified to authenticate documents and transactions. This is one of the most lucrative of the legal specializations since their number is restricted and they receive territorial franchises from the government. For example, there were only 5 notaries for all of Panama City.

5. Judiciary.

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

a. The Supreme Court is composed of 9 magistrates elected by the Cabinet, subject to approval by the Legislative Branch, to ten year terms, and exercises administrative and judicial control over this Branch. The Court employed 125 persons in 1984. The Court is divided into four panels: Civil, Criminal, Administrative Law and Civil Rights (Contencioso-Administrativo) and General Matters. The first three are composed of three magistrates while the last one incorporates the President of the Court as well as the Presidents of the remaining panels.

b. The 5 Superior Courts, two of which are in Panama City and are divided into criminal and civil. There were a total of 125 persons, of which 41 resided in the capital, employed by this court in 1985. These are primarily appeals courts even though they have primary jurisdiction over cases concerning ambassadors and other high-level government officials. The members of these courts are named by the Supreme Court. Map No. 1 presents the location of Superior Courts.

c. There are 44 Circuit Courts, each composed of one judge. They employed 353 persons with 208 being located in the capital. These courts have jurisdiction over serious crimes, civil cases exceeding a set amount and

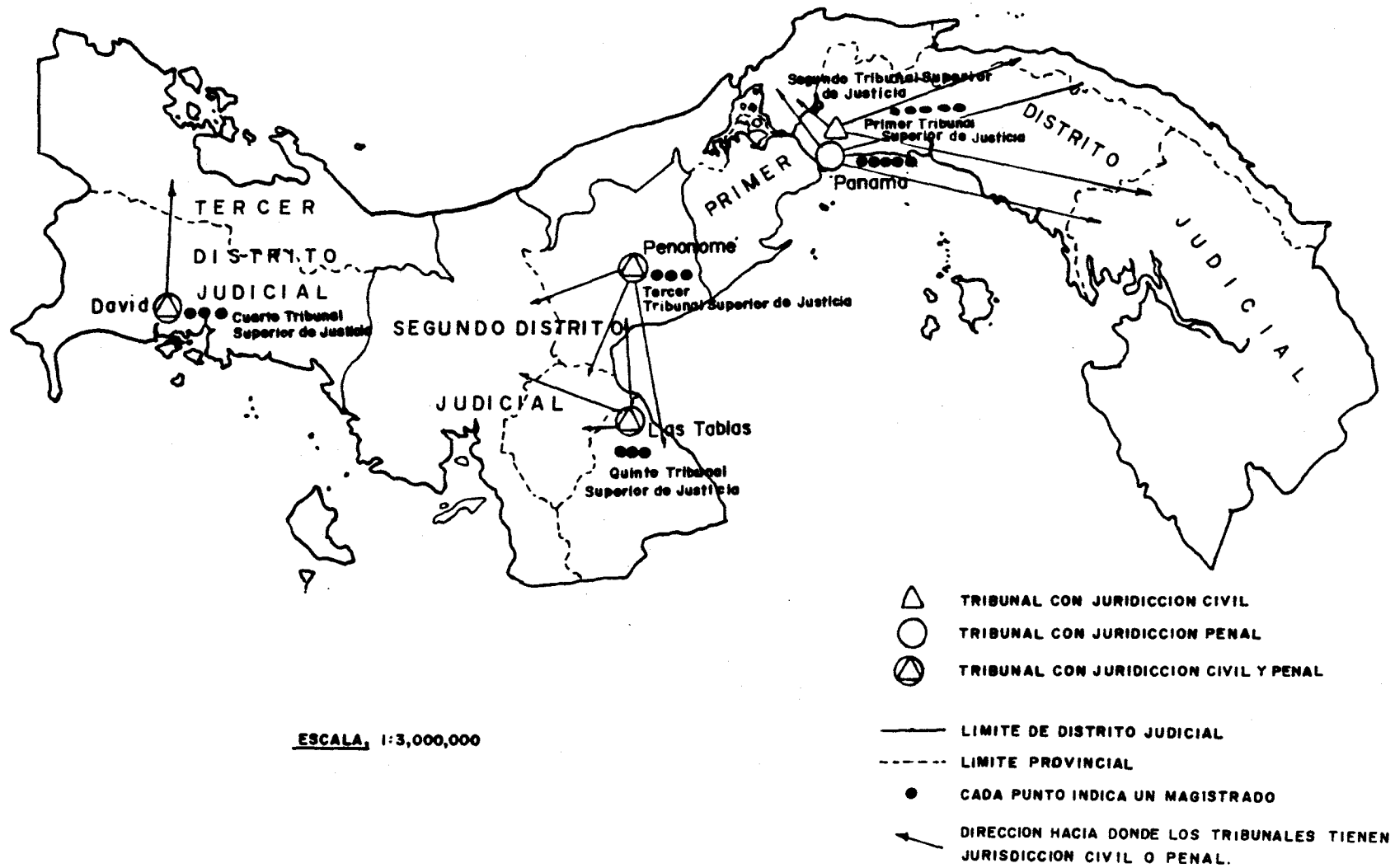
appeals from municipal courts. Circuit Court judges are named by their immediate superiors. Their location is presented in Map No. 2.

d. The 88 municipal courts are also unipersonal courts and exercise jurisdiction over minor civil and criminal cases. These judges are named by the Circuit Courts. Their location is shown in Map No. 3. Of the 426 staff members, 83 were assigned to the capital.

e. A unique feature of the Panamanian justice system is the existence of the "corregidores", akin to justices of the peace. These are some of the most highly criticized judges of the system since they are known as "police judges" and are named by the "alcaldes". As such, they respond to the Executive and are outside the supervision of the Judiciary. They have jurisdiction over minor civil cases and may impose sentences of up to 2 years in criminal cases. The normal code of criminal procedure does not apply to these courts.

TRIBUNALES SUPERIORES DE JUSTICIA

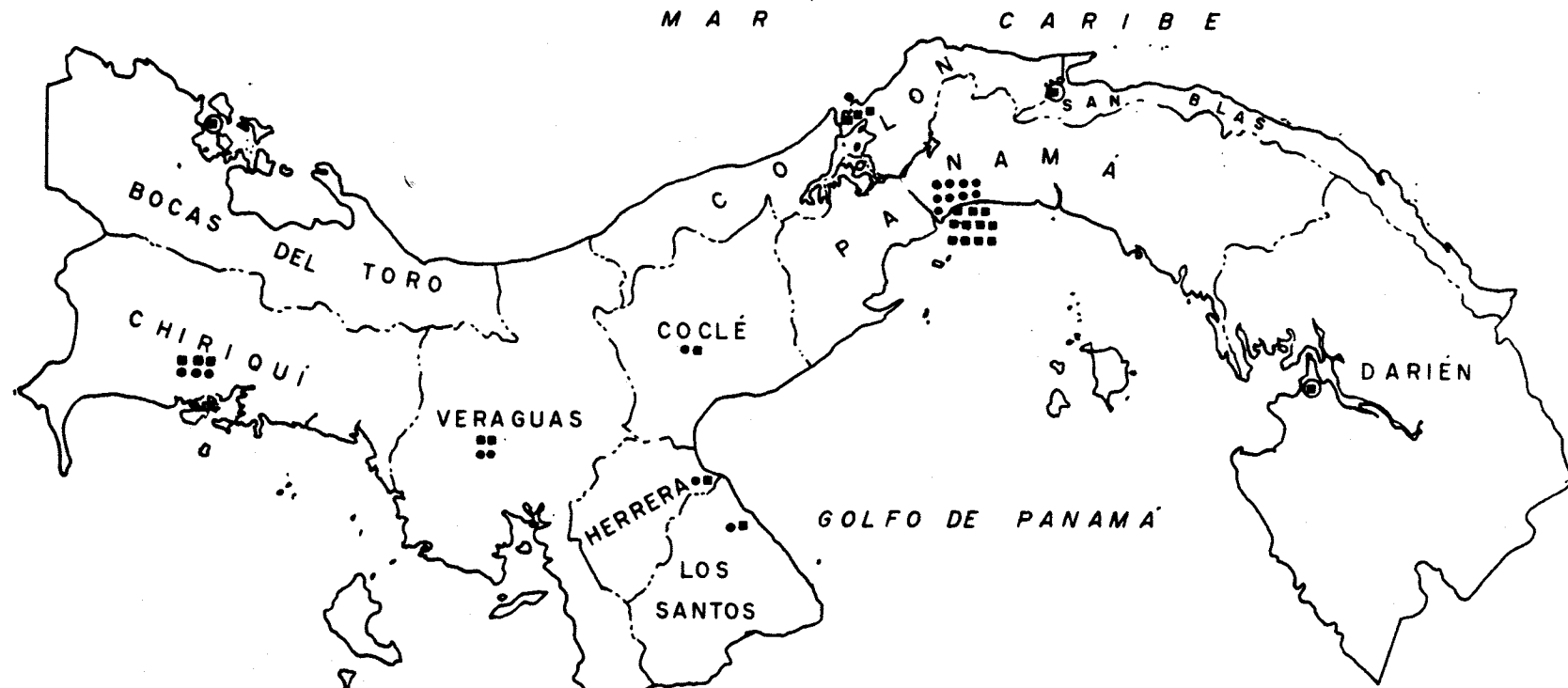
SUPERIOR COURTS



MAP NO.2

JUZGADOS DE CIRCUITO

CIRCUIT COURTS



JUZGADOS

- PENALES
- CIVILES
- ⊙ CIVIL Y PENAL

--- LIMITE PROVINCIAL

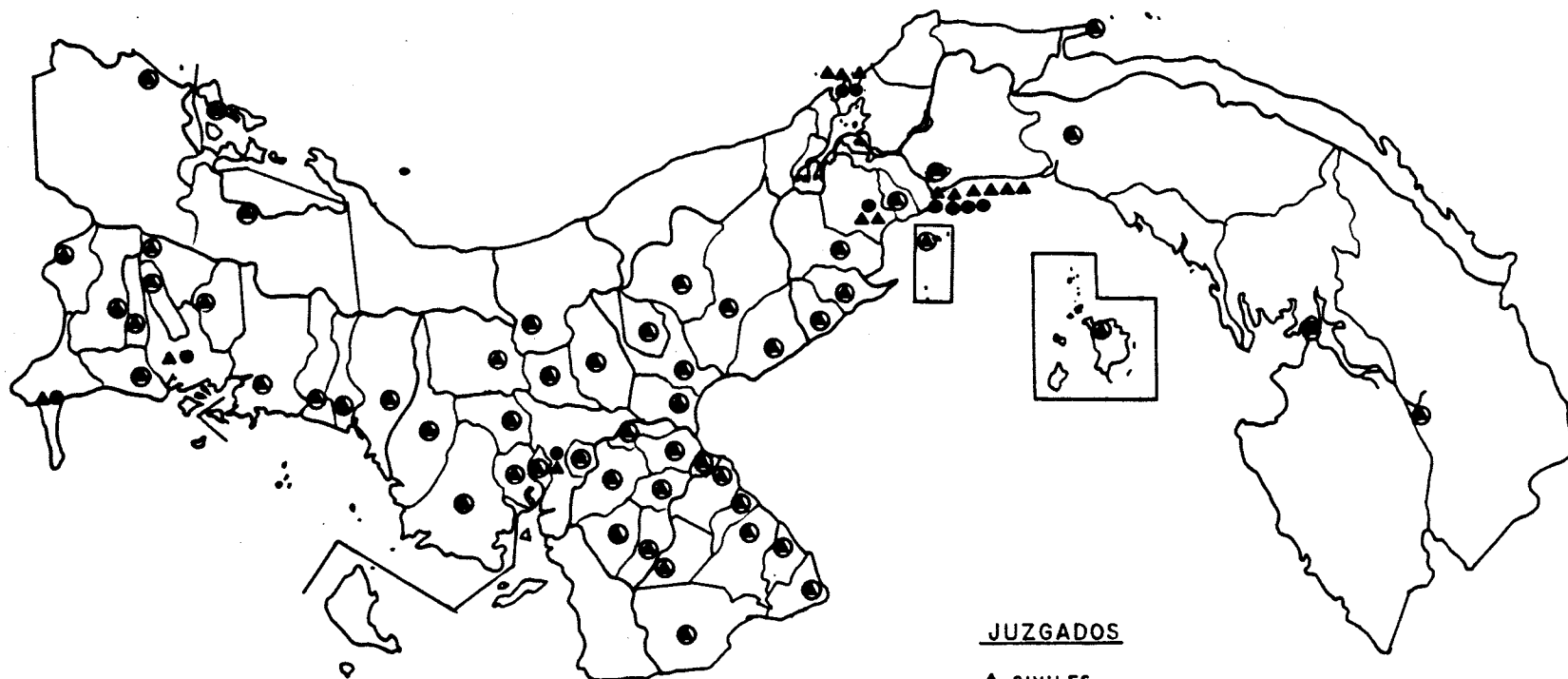
NOTA: Cada Provincia Constituye un Circuito Judicial.

ESCALA 1:3,000,000

MAP NO. 3

JUZGADOS MUNICIPALES

MUNICIPAL COURTS



JUZGADOS

- ▲ CIVILES
- PENALES
- CIVILES Y PENALES

— Límite Provincial
— Límite Distritorial

Escala 1:3,000,000

Unlike their counterparts, the majority of corregidores are not attorneys with only half having completed a primary education, 33% have a high school degree and only 18% have attended a university. Very few lawyers practice before the corregidores, due to the small amounts involved, and there is no applicable procedure for actions before them. Lawyers surveyed were very harsh in their evaluation of corregidor actions, with 57% stating that only "occasionally" are their rulings just, while 32% responded that they never are.

Panamanian law dictates that there be a judicial career system (guaranteeing stability and a merit system of selection and promotion) for judicial officials. Even though all of the necessary legislation and rules have been enacted, a merit selection system for the Judiciary has not been established.

The Judiciary, with the exception of the "corregidor" system, has a total of 1,007 employees with 475 being located in the capital.

The majority of lawyers (81.8%) felt that the system for the selection of judicial personnel is inadequate. The majority of prosecutors, however found the system to be adequate.

The majority of lawyers felt that judicial training was inadequate and only some of the judges are competent (49.7%). It should be added that the Judiciary has no school or training program for incoming or sitting judges.

The salaries of Panamanian judicial personnel are among the highest in the public sector and are the highest for Latin America. Supreme Court magistrates, for example, receive a monthly salary of \$5,000, Superior Court Judges receive a monthly salary of \$3,000, District Court Judges \$1,200 and Municipal Judges between \$500 and \$1,000.

The constitutional rule which determines that the budgetary assignment to the Judiciary and the prosecutorial staff shall be no less than 2% of the national budget was an economic boom for the Judiciary in 1984. In that year, the Judiciary saw its budget being doubled. They assigned 85% of their budget, however, to improvement of salaries and contracting of new personnel. It is not surprising, then, when the courts had to close during March of that year for a lack of operational funds.

The new budgets, after the constitutional reform, are lacking in assignments for capital improvements, equipment or maintenance. This demonstrates the lack of planning for this sector.

The Judiciary lacks basic equipment and furniture to carry out its duties. Furthermore, there are no planning mechanisms in

place to identify these deficiencies or to remedy them. It should be added that even though the Judiciary has theoretical financial independence, all purchases for the sector are effected through the Ministry of the Treasury. The process for the acquisition of goods is slow and a 2 month average delay is usual.

It also lacks adequate library facilities and filing systems. In fact, there is a serious problem of security for records since they have exceeded their storage capacity. There is no centralized storage system.

While statistics could be of invaluable assistance to the Judiciary, in sector planning, these are often kept in accordance with the needs of the "Contraloría" rather than those of the sector.

6. Corrections.

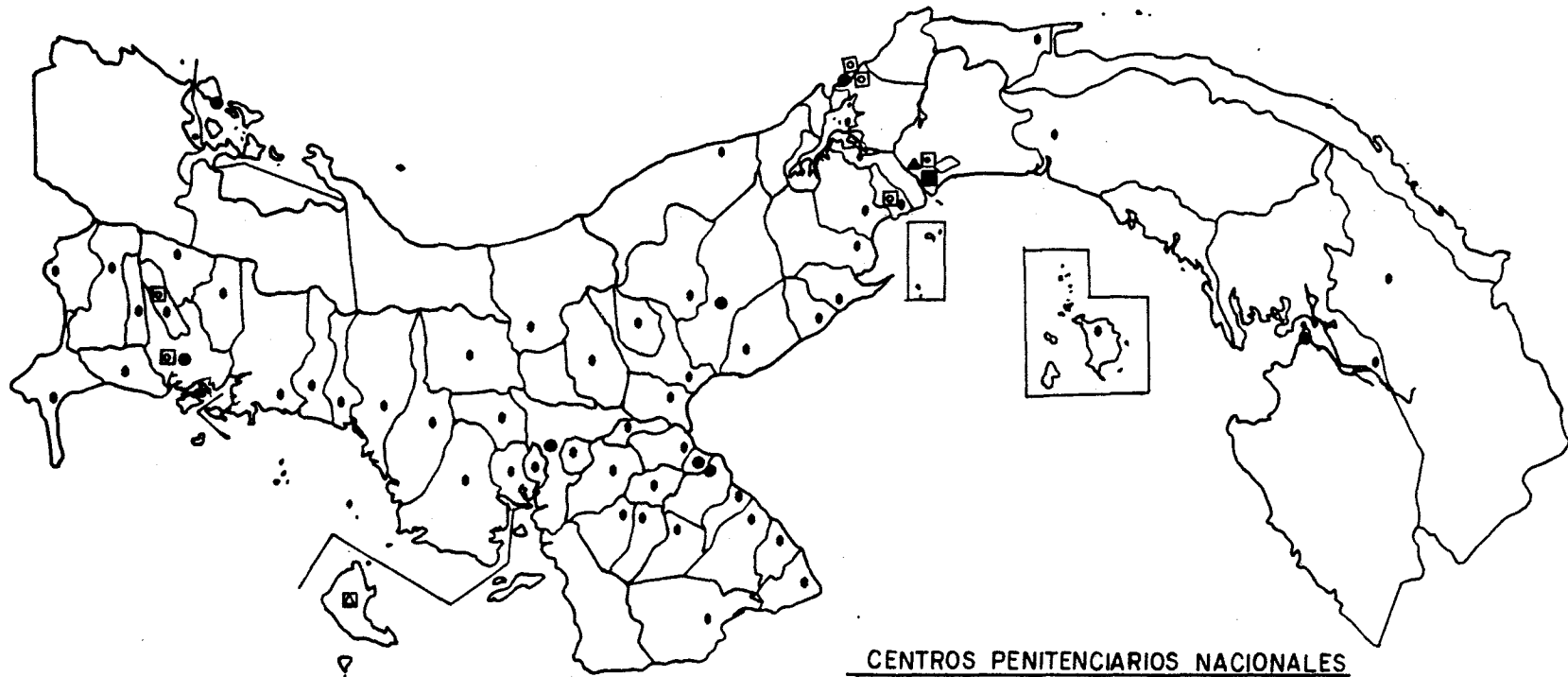
The Panamanian correctional system is legally assigned to the Ministry of Government and Justice but is really under the control of the Panama Defense Forces. The majority of jails are situated in military installations and all of them, with the exception of the female detention center, have a military officer as a director. Map No. 4 shows the location of the major penal centers.

MAP NO. 4

DIVISION PENITENCIARIA
MINISTERIO DE GOBIERNO Y JUSTICIA
DEPARTAMENTO DE CORRECCION

CORRECTIONS SYSTEM

MINISTRY OF GOVERNMENT & JUSTICE
DEPARTMENT OF CORRECTIONS



CENTROS PENITENCIARIOS NACIONALES

- Cárcel Modelo
- ▲ Centro Femenino de Rehabilitación
- ▣ Centros en Asuntos de Menores
- Cárceles Provinciales
- Cárceles Distritoriales
- ⊠ Isla Penal de Coliba

Escala: 1:3,000,000

There are 11 penal centers in the country with an inmate population of 2,221 or one inmate per 1,000 inhabitants. Budgets to support this inmate population are low with a daily food allowance of between \$1.25 and \$1.75 daily.

One of the most serious problems facing the system is the amount of persons detained pending trial. Of the total jail population, 60% are detainees 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. The greatest overcrowding appears at the Penal Island of Coiba with a capacity for 500 prisoners and with an inmate population of twice that number. In addition to the prisons shown in Map No. 5, there are a number of prisons operated by the PDF at the district or province level. Prison overcrowding cannot be solved without either a major construction effort or a decision to reduce the amount of persons awaiting trial.

V. Criminal Procedure.

This section examines Panama's criminal procedure, which primarily relies on the traditional civil law written process. It should be noted, that after the completion of our study, in 1987, Panama enacted a new Code of Criminal Procedure which established a public and oral trial, with all of the trappings of an adversarial hearing. This section will describe the system as we found it. The major difference, in the modifications of 1987, is in the trial proceeding.

Criminal Procedure 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, 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 under the control of the Procuraduría 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. The agency which receives the criminal complaint must bring it before competent authorities, who then initiate the process. The prosecutor supervises this stage and may order a series of investigatory actions, including the arrest of a suspect.

While the instructional stage is to be concluded in two months, this seldom happens. Table 35 (page 220) in the Final Report shows that this requirement is only complied with in 28% of the cases, with 29% taking between 2 to 4 months, 17% taking from 4 to 6 months and 27% taking longer than 6 months. The biggest delays occur at the Superior Court level with 31% of the cases taking more than a year to complete this preliminary stage. It should be noted that the delays are attributable to the prosecutor, which is charged with the responsibility for supervising this proceeding, even though references are made to the court level.

One of the major problems found during this stage is the overwhelming use of preventive detention. Pretrial release is prohibited in a number of cases and the only means of securing such a release is through monetary bail in amounts ranging from \$100 to \$10,000.

The instructional stage is secret with limited access provided to the accused and his counsel. All of the actions during this stage are reduced to writing since they will constitute the evidence to be examined during the trial. This stage is characterized by its investigatory nature since the majority of actions revolve around the gathering of evidence to be used at trial. It is comparable to the pretrial investigations conducted by the police and prosecutor in a common law system. Upon the arrest of the accused he/she must be placed before a judge within twenty-four hours.

Upon receipt of the case, the trial court may order temporary or permanent dismissal of the case. Dismissal results in the release of a detained defendant. In 1984, of the 7,895 cases studied, 75% were dismissed: 83% of that figure were dismissed provisionally and 17.5% were dismissed with cause. The greatest level of provisional dismissals took place at the Circuit Court level (85.3% of all cases) compared with 44% in the Superior Courts and 57% in the Municipal Courts. This high level of dismissals is indicative of police and prosecutorial deficiencies.

Even though Panamanian procedure orders a speedy trial process, our own research indicates that 28% of cases take between six months and a year, 12% between 1 and 2 years and 9% take longer than two years to be concluded. The Superior Courts show the greatest delays with 55% of their cases taking longer

than a year and 30% more than 2 years.

The case is ultimately resolved through an acquittal or conviction. Of the 1,647 sentences issued by courts in 1984, 75% were findings of guilt. The largest number of acquittals take place in the Superior Courts with 70% of their cases resulting in acquittal. If one takes into account the number of dismissals, one finds that 80% of the cases which enter the system result in the release of the accused. This has especially damaging consequences for a system in which the majority of the persons charged with a crime are detained for long periods of time pending trial.

A unique feature of Panamanian criminal procedure is that certain serious crimes (treason, culpable homicide, abortion, crimes which may bring about serious public harm and crimes against the security of the means of communication or transportation) may be decided by a jury. The right to a jury trial, however, may be waived by the accused. Jury trials are infrequent.

Panamanian criminal procedure allows the appellate review of all sentences, dismissals and pretrial release.

VI. Problems, Priorities and Strategies.

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 Panamanian legislation appears to be modern, it has been characterized by extensive copying of laws of other nations without adequate adaptation.

The Legislative Branch is charged with two important functions affecting the justice sector: legislating its norms and procedures, and determining its resources through the budget process. The Legislature has little technical staff to assist it 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 legislative tracking.

The legislative process also affects the justice sector through the budget process. The Panamanian Constitution requires that 2% of the national budget be assigned to the Judiciary and the Public Ministry. This figure was arrived at and is followed without any rational basis of need or nature of projected expenditures, with the percentage representing an arbitrary figure. The constitutionally mandated percentage has never been met.

Several factors affect this discussion. The primary determinant of Panamanian judicial budgets is the salaries of its personnel. These salaries are among the highest in the public sector. Secondly, the financial autonomy of the judiciary appears to be limited to preparation of the budget and presentation to the Legislature, since its subsequent control and disbursement is commended to the Treasury. Another factor is the low percentage of the judicial budget which is dedicated to capital expenditures.

Another problem of the justice sector is the inadequacy of laws to meet the social reality of the country in which they are applied. The majority of lawyers and prosecutors who were interviewed indicated that the laws are only "partially adapted" to Panamanian culture with 20% commenting that they are not applicable at all. Additionally, 40% of the lawyers and 42% of the corregidores felt that the laws which they apply are only "occasionally" clear. This signals not only a need to simplify the existing legislation but also the requirement to create a program of popular legal education so that citizens may better understand their rights and responsibilities.

It is common to find the procedural codes to be inapplicable in their day to day application. We have already noted that seldom are the procedural terms complied with in criminal cases. Likewise, while laudable efforts to guarantee judicial independence have begun, as with the enactment of the Judicial Career Law, these have frequently not taken effect. For example, the Judicial Career Law has yet to be applied for the selection or promotion of a single Panamanian judicial employee.

2. Of a Political Nature.

The Panamanian 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 Panamanian model presents many instances of Executive, principally military, interference. One of the primary guarantees for judicial independence is the application of a merit system for the

selection, promotion and removal of judges. Even though all of the requisite legislation and rules have been in place, this system has not become operational. The assignment of 2% of the national budget awards the Judiciary economic independence but regulation of its budget by the Treasury restricts it. The courts do not have exclusive jurisdiction over all legal matters due to the existence of a dual system for minor acts, the corregidores, which respond to the Executive and are not guided by any rational procedural code.

Judicial independence has been a subject of popular criticism and skepticism. In our national survey, 17% of the population felt that there can "always" be pressure from certain groups on the Judiciary, 27% felt such pressures occur "almost always" while 44% felt that they take place "sometimes" and only 2% of the population felt that they "never" take place. Likewise, a third of lawyers felt that judicial rulings are "generally" the subject of outside pressures while 61% felt that they "occasionally" are. More than a majority of lawyers felt that a defendant's social status or political affiliation "generally" affects the sentence he/she will receive.

A major problem facing the Panamanian 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.

The police subsector presents some of the most serious problems to adequate development of the justice sector due to its combination of military and police qualities. So long as the police continue to exercise a national security function, this will always be a priority over its civilian law enforcement function. Likewise, there is no need to have all of the non-police functions, such as Immigration, etc., in the PDF.

The Ministry of Justice and Government has tended to emphasize those activities which are more properly carried out by a Ministry of the Interior with its role as the Ministry of Justice being relegated to a second place more and more often. The contradictory nature of these functions makes one wonder whether it would not be commendable to have these two roles separated into two distinct ministries.

The Panamanian correctional system is typical of the region and is characterized by a lack of planning and affected by a growing reliance on prison confinement as the only means to deal with the criminal problem.

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 which provides current information on the laws of the country. It is not surprising therefore that the majority of persons surveyed indicated a lack of knowledge about their basic legal rights. For example, 92% of lawyers felt that the population is ignorant of their rights. Prosecutors indicated the same feeling in almost as high a percentage. This ignorance extends to the charges faced by an accused, 64% of the lawyers, for example, felt that a defendant only "occasionally" is aware of their charges and rights. Clarity of the laws is another factor which impacts upon access. In this respect almost all sectors surveyed complained of the complexity of legislation.

The confidence that the public has in the justice sector is another major factor in determining its accessibility. People will seek the system's assistance in relationship to the confidence they have that they will be treated equitably and that they will derive some satisfaction from having sought its service.

Sixty percent of the population felt that lawyers are more interested in defending the rights of the rich than those of the poor. An even higher percentage of the national population (78%) felt that all citizens are not equal before the law. A surprisingly high (46%) percentage of lawyers felt that the system is only "occasionally" equally accessible to all.

It is surprising that even though a substantial portion of those questioned identified negative factors of the justice sector as conditioning their vision of it, the overwhelming majority of citizens would utilize its services in case of need. For example, 69% of the population would notify police if they were witnesses to a crime.

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. The lack of a free legal defense system for those persons accused of a crime, regardless of financial resources, makes a mockery of the theoretical equality of the system.

C) Respect of Fundamental Guarantees.

The constitutional reforms of 1983 place Panama at the forefront of countries which guarantee fundamental rights constitutionally. Nevertheless, these guarantees are not sufficiently developed in the procedural and substantive codes

nor has the Judiciary been at the forefront as a guarantor of human rights in that country. For example, 63% of lawyers felt that the existing legal guarantees are not sufficient to insure human rights.

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 justice sector: speed of proceedings, degree of public satisfaction with the service and its accessibility.

1. Celerity.

Almost all of the justice professionals, as well as the general population, 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.

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.

One of the most valid measures of satisfaction is the degree to which users would go to the system to meet their service demands. As stated previously, the majority of citizens indicated that they would notify police if they were witnesses of a crime. However, they were skeptical in the utility of police services to resolve their complaint.

The level of satisfaction with judicial work varies depending on the actor being questioned and the level of personnel about whom the inquiry is directed. The most critical respondents were lawyers. The most heavily criticized judges were the corregidores due to their low level of training, separation from the Judiciary and perceived arbitrariness. In the case of the correctional system, while there are some specific criticisms by inmates, in large part they express a positive vision of the services. Professionals and experts have complained most about

prison overcrowding, usage of temporary jails for long-term imprisonment and the reliance on an island prison (Coiba) as the primary holding facility for the correctional system.

3. 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 accomplish their assigned task.

i. Selection.

The majority of lawyers (82%) felt that the current appointment system is "inadequate". Political interference appears to be the most frequently mentioned feature of the system.

The new Judicial Career Law will regulate the selection of judicial staff. However, it has not yet been placed into effect.

ii. 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 characterized by emphasis on their military role. Curricula are not adapted to the function they carry out and are oftentimes dated. Programs are often dominated by military subjects with limited training in traditional police functions.

Lawyers are initially trained in law schools. Almost 1/3 of law graduates felt that their training was inadequate in preparing them for a legal career. A common denominator of 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 for the Judiciary.

Judicial training is nonexistent. The majority of lawyers (52.4%) felt that only "some" of the judges had sufficient legal training for their post. A judicial school operated in the 70's with the mission of training judges and support personnel but the effort lasted only two years.

Training of judges, especially in light of the new codes, is an imperative for the justice sector. The majority of the scarce training resources have been dedicated to training of attorneys with little attention being paid to corregidores who impart the

majority of justice in Panama.

iii. Salaries and Working Conditions.

Salaries for judicial personnel appear to be more than adequate since they are among the highest in the public sector. The situation of corregidores and personeros (nonlegal personnel), is markedly different due to their low salaries.

The majority of justice personnel carries out its duties under deplorable conditions. The most negative factor affecting working conditions is the inapplicability of a judicial career law which rewards merit and removes political interference from the system.

iv. 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 by the courts themselves which reviews any complaints against judicial personnel. Their work is affected by a lack of resources and a feeling that there is no widespread interest in rooting out corruption. Police misconduct is regulated by a variety of different mechanisms within their agencies but all of these are secret and performed outside public scrutiny. In all agencies the resources assigned to this task are insufficient and the measures designed to curb misbehavior are oftentimes illogical.

4. Material Resources.

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

The Supreme Court and the Superior Courts in Panama City occupy locales which are the property of the Judiciary. All other space is rented and was not designed for judicial occupancy. The shift toward oral and public trials puts greater stress on the system due to the need to have adequate facilities for conducting such hearings.

It was not until 1985 that all of the prosecutorial agencies were consolidated in one locale. Nevertheless, they do not own their own office space and suffer from many of the same deficiencies as the courts. Of the prosecutors questioned during the survey, 62% pointed out that the space which they occupied was inadequate while 33% of the personeros (non-lawyer prosecutors) complained about not having any office space assigned to them.

Similar situations prevail in the other institutions of the sector. The best located and equipped are the police with the worst situation being found in the correctional system whose problems have been detailed previously.

5. Equipment.

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

The Law School is in need of basic teaching equipment and modern teaching aids. The Judiciary is facing an even more severe crisis and it is not infrequent that a litigant has to furnish his/her own paper in order to get a judicial order issued. One of the most serious 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.

One-third of prosecutors surveyed felt that the typewriters and office supplies were insufficient. The worst situation is found in the offices of the lowest level of prosecutors with 82% classifying their equipment as being inadequate. One of the primary problems affecting the sector is a lack of planning or uniformity in their procurement system. This is compounded by the low budgetary priority which the Judiciary has assigned to these items.

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 legal libraries leaves much to be desired. The law school library maintains the most complete collection in the country but due to budgetary restrictions has abandoned its periodical collection or purchase of new materials. The only judicial library is found in the Supreme Court and the majority of judges and prosecutors complained of not having a reference library for their use.

Another area in which assistance could be useful is in the development of adequate legal materials. While there are several legal publishers in the country, these are devoted to publications useful only to the legal profession and are very expensive. Publication of inexpensive legal materials useful to judges and attorneys is a priority for the sector. Additionally, 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

schoolchildren are receiving an appropriate legal basis on which to exercise their rights as citizens.

There have been numerous efforts in Panama to develop an automated legal database which could provide, to judges and attorneys, rapid reference to laws and court rulings. The Bar Association has clamored for such a development and has offered to assume some of the costs. In 1986 there was an interinstitutional commission which had this under study but their work was not concluded before we completed this study.

6. Administration.

Justice administration is a new concept for this sector.

i. 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.

Any assistance program should attempt to encourage coordination between the different agencies and subsectors and not further aggravate the existing problem.

The creation of a national commission for the improvement of the administration of justice should be encouraged to develop not solely as a mechanism for the implementation of a bilateral project but as an ongoing agency which plays a central role in national justice development.

ii) Planning and Evaluation.

A common characteristic of Panamanian justice agencies is the absence of planning and evaluation. There is no planning office in any of the agencies of the justice sector. 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 the Contraloría, which has maintained them since 1963, without any identifiable purposes. The DENI forwards information on detentions while the Judiciary furnished reports on cases processed.

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Sponsorship

Agency for International Development (AID)

(1) The current political-administrative structure includes corregimientos and 2 Indian comarcas.