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**GUATEMALAN “JUSTICE CENTERS”: THE
CENTERPIECE FOR ADVANCING
TRANSPARENCY, EFFICIENCY, DUE
PROCESS, AND ACCESS TO JUSTICE**

STEVEN E. HENDRIX*

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EXECUTIVE SUMMARY

Guatemala is a country with a history of justice problems: human rights, corruption, impunity, and inefficiency. Women, the poor, and the indigenous are especially disenfranchised by the foregoing problems. After a genocidal civil conflict, the need is clear for establishing the rule of law.

To address these concerns, the U.S. Agency for International Development ("USAID") has assisted Guatemala with the development of a new operational model—the Justice Center. This structure brings together police, prosecutors, judges, public defenders, local civil society, and private law practitioners to solve problems in a collaborative framework. The core ingredient of the Justice Centers is the people coming together in a voluntary effort to break with traditional structures. In a nutshell, the Centers are designed to make the justice system actually work in a given location.

Key elements of the Justice Centers are: (1) organizational and administrative structures that reduce delay, minimize exposure to corruption, and create accountability; (2) improved functioning of key actors in their assigned roles and management structures and techniques that promote team approaches; (3) use of standardized, user-friendly forms; (4) user-friendly case management and records systems that reduce opportunities for corruption, improve the quality of case supervision, and generate accurate statistics; (5) interpreters and culturally-appropriate outreach and education programs in local languages to make the system truly accessible to non-native Spanish speakers; and (6) promotion of alternative dispute resolution, plea bargaining ("*criterio de oportunidad*"), stay of prosecution ("*suspensión condicional*"), and other mechanisms to settle cases identified through improved case intake and diversion programs.

Results so far are impressive. The Justice Centers show improved

customer service, access to justice and quality of service, all with enhanced transparency. This, in turn, has advanced procedural due process and human rights. Today, Justice Centers in various stages of development are found in Zacapa, Escuintla, Quetzaltenango, San Benito (Petén), Santa Eulalia (Huehuetenango), Nebaj (El Quiché), and Santa Cruz.

After such a prolonged period in Guatemalan history of disrespect for the law, change does not come overnight. Guatemala will have to stay the course for several generations before true access to a rule of law is extended to all citizens. The Justice Center strategy, however, figures to be part of the solution.

INTRODUCTION

Currently, Guatemala is experiencing a triple revolution involving changes from war to peace, authoritarianism to participatory democracy, and a state-centered economy to a global market. Since 1985, Guatemala's political structure has consisted of constitutional governments and democratically-elected presidents. One of the most formidable obstacles confronting the peace process, however, has been a national-level climate of violence. Consequently, the assassination of Monsignor Juan Girardi Conedera¹ has emerged as the focal point of discussions about impunity and the need for effective justice.²

In addition to the widespread violence, there is a pressing need to address human rights concerns. According to the Commission for Historical Clarification, the thirty-five year fratricidal war, from 1962 to 1996, killed about 200,000 people. Untold thousands of cases of human rights violations and acts of violence occurred during that period. At the same time, impunity permeated Guatemala to such

1. Bishop Girardi was one of the most important human rights advocates in Guatemala until he was murdered on April 26, 1998. Girardi had led the Archbishop's Office on Human Rights. He was killed a week after publishing a four volume treatise on human rights abuses in Guatemala entitled, *GUATEMALA: NUNCA MÁS* [Guatemala: Never Again].

2. See INSTITUTE FOR DEMOCRACY AND ELECTORAL ASSISTANCE, MISSION REPORT ON COMPLIANCE 6, *Democracia en Guatemala: La Misión de un Pueblo Entero* [Democracy in Guatemala: the Mission of an Entire Community] (1998) (listing various persistent examples of impediments to peace, security, and justice in Guatemala).

an extent that it consumed not only the justice sector but also the State itself. In particular, women and children were victims of this lawlessness. The Guatemalan Government regarded the Mayan population as the collective enemy of the State. The justice system, nonexistent in large areas of Guatemala before the war, was further weakened when the court system submitted to the demands of the dominant national security apparatus. The courts were incapable of investigating, trying, judging, or punishing even a small number of those responsible for the most serious abuses.³

The Peace Accords⁴ note that the justice system in Guatemala is flawed. Corruption, inefficiency, slow and antiquated practices and procedures, a lack of modern office management techniques, corruption, and inefficiency plague the system of justice.⁵ The peace process called for an end to impunity and corruption.⁶ Today, ordinary crime is a significant problem in Guatemala.⁷ Furthermore, domestic violence against women has reached critical levels, accounting for more than forty percent of murdered women in Guatemala.⁸ Other crimes such as lynching and vigilantism have added to the increase

3. See COMMISSION FOR HISTORICAL CLARIFICATION, *Guatemala: Memory of Silence - Conclusions and Recommendations* 36, para. 94 (1999) (attributing the lack of judicial safeguards for individuals being investigated in either military or ordinary tribunals as a lack of impartiality in the former and a general attitude of resignation in the latter).

4. See generally THE GUATEMALAN PEACE AGREEMENTS, U.N. Sales No. E.98 I.17 (1998) [hereinafter Peace Accords] (containing a series of accords reached by rival groups in Guatemala to establish peace).

5. See U.N., *Agreement on the Strengthening of Civilian Power and on the Role of the Armed Forces in a Democratic Society*, para. 8, in THE GUATEMALAN PEACE AGREEMENTS 129, 133, U.N. Sales No. E.98 I.17 (1998) [hereinafter *Strengthening of Civilian Power*] (attributing the main weaknesses of the Guatemalan State to a flawed system of administration justice).

6. See *id.* para. 9 (advising that a reform of the system of administration of justice must maintain a goal of ensuring a basic right to justice through "impartiality, objectivity, universality [,] and equality before the law").

7. See Steven E. Hendrix, *Innovation in Criminal Procedure in Latin America: Guatemala's Conversion to the Adversarial System*, 5 SW. J.L. & TRADE AM. 365, 367-73 (1998) (listing thefts, robberies, kidnapping, and general corruption as some of the more serious crimes facing Guatemala today).

8. See *Increasing Women's Access to Justice*, VITAL VOICES (USAID, Washington, D.C.), 1999, at 5 (outlining USAID's initiatives toward increasing women's access to justice in Guatemala).

in violence.⁹

In large part, according to the Guatemalan Supreme Court, these problems are due to the justice system's weak response to demands for reform, lack of communication, and the disorganized justice structure.¹⁰ An encompassing solution that strengthens and restructures the formal justice system, including court, municipal representatives, police, prosecution, and others is necessary.¹¹ In addressing these concerns, the obvious challenge is to make justice work effectively. According to one of the Peace Commissions, courts must be the epicenter for resolving conflicts, assisting victims, and healing the country.¹² Courts, prosecutors, police, and public defenders need to coordinate to improve public service and the justice system.¹³ In addition international donors can play an instrumental role by supporting the dynamic process of reform in Guatemala.¹⁴ The "Justice Center"¹⁵ represents USAID's latest initiative to improve the justice

9. See COMISIÓN DE FORTALECIMIENTO DE LA JUSTICIA, RESUMEN EJECUTIVO DEL INFORME FINAL: UNA NUEVA JUSTICIA PARA LA PAZ [COMMISSION ON THE STRENGTHENING OF JUSTICE, EXECUTIVE SUMMARY OF THE FINAL REPORT: A NEW JUSTICE FOR THE PEACE] 47 (1998) [hereinafter JUSTICE EXECUTIVE SUMMARY].

10. See *id.* at 15.

11. See Comments of Timothy Cornish, Director of Centro de Apoyo al Estado de Derecho [Center for the Advancement of the Rule of Law], USAID Tele-Conference in Chichicastenango, Guatemala (Sept. 23, 1999) (finding that problems involving communications and structure are weakening the justice system's ability to respond).

12. See JUSTICE EXECUTIVE SUMMARY, *supra* note 9, at 13 (enumerating the points to emphasize in re-conceptualizing the justice system in Guatemala).

13. See *id.* at 14 (arguing that these distinct groups need to be developed simultaneously and cohesively). This recommendation coheres with the approach the Guatemalan Bar Association advocates. See COLEGIO DE ABOGADOS Y NOTARIOS DE GUATEMALA, DIAGNÓSTICO DE LA ADMINISTRACIÓN DE LA JUSTICIA PENAL [GUATEMALAN BAR ASSOCIATION, DIAGNOSTIC OF THE ADMINISTRATION OF THE CRIMINAL JUSTICE SYSTEM] 20 (1998) [hereinafter CRIMINAL JUSTICE SYSTEM DIAGNOSTIC] (recommending regional and multi-sector reform of the various administrations of justice).

14. See JUSTICE EXECUTIVE SUMMARY, *supra* note 9, at 15 (finding that international cooperation can play a critical role in reforming administrative justice systems); see also CRIMINAL JUSTICE SYSTEM DIAGNOSTIC, *supra* note 13, at 21 (calling for international cooperation and input in strengthening the judicial process).

15. See *infra* Part I (defining "Justice Centers").

sector in Guatemala.¹⁶

I. CONDITIONS BEFORE THE JUSTICE CENTER ARRIVED

Prior to opening the Justice Centers, USAID found many factors contributing to the weakness of the Guatemalan justice system. These factors included: vertical organizational structures with investigative work delegated to untrained and unprepared officials; little cooperation between police and prosecution; no case intake system, no case tracking or filing systems, or even space for their existence; no definition of role or function for the Victim's Assistance Office; little use of plea-bargaining because its application and advantages were unknown, given that it was banned in Guatemala until 1994; and little use of any other dispute resolution mechanism other than a

16. See *Los Estados Unidos apoya Programa de Justicia para Guatemala [United States Supports Guatemalan Justice Program]*, DIARIO DE CENTRO AMÉRICA, Nov. 21, 1999, at 4 (reporting that the United States, through USAID, set aside twelve million dollars in support of Guatemalan judicial reform programs such as the Justice Program, which directs assistance to Guatemala's most vulnerable sectors). Harvard University Law School undertook the first USAID effort in 1986. See DPK CONSULTING, FINAL REPORT RELATED TO THE GUATEMALA ADMINISTRATION OF JUSTICE PROJECT 6 (Jan. 1998) [hereinafter DPK FINAL REPORT] (outlining chronologically the Justice Project's development, noting initial start-up problems and eventual success). The second project in the sector was the "Improved Administration of Justice Project," carried out by Checchi and Company Consulting, Inc., in 1988. See *id.* That project produced many diagnostics that focused attention on the problems in the system. See *id.* The supporters suspended these efforts in 1991, remarking that they would maintain the suspension "until the Government of Guatemala could demonstrate a more active interest in reforming the criminal justice system in Guatemala." *Id.* (quoting USAID statement made at the time). In 1994, with a new Criminal Procedure Code in place, USAID awarded a new technical assistance contract to DPK Consulting, after a competitive bidding process. See *id.* DPK created a local office in Guatemala City known as the "Centro de Apoyo al Estado de Derecho - CREA/USAID" [CREA/USAID Center for the Advancement of the Rule of Law]. See DPK FINAL REPORT, *supra* note 16, at 6. The original DPK contract ran through December 1997. See *id.* USAID provided DPK a new contract on a non-competitive basis from January 1998 through June 1999. See *id.* In May 1999, USAID awarded another justice sector contract to Checchi and Company Consulting, Inc., after a competitive bidding process. See *id.*

full trial.¹⁷

Despite many problems confronting the justice system, the Justice Center experience confirms that, if the Guatemalan government allows its people to participate in the solution, their ability to overcome problems should not be underestimated.¹⁸ In this context, the notion of a Justice Center was born. The USAID's role was one of facilitation as local actors received credit for the new Justice Centers.¹⁹ In addition, the new Criminal Procedure Code has been instrumental in the success of the Centers within the broader context of legal reform and innovation.²⁰

II. DEFINITION AND DESCRIPTION OF THE JUSTICE CENTERS

USAID originally referred to Justice Centers as "Focus Centers" because USAID was "focusing" resources in particular geographic locations.²¹ Regardless of what USAID calls them, the key idea is to make justice more effective—more efficient and integrated—in a particular geographic location.²² Originally, USAID thought an increase in resources included only training, however, it soon realized that the program required much more. The new initiatives called for functionally integrated institutions, streamlining procedures, coordinating within and among programs, and gaining the support of the local Bar associations, civil society, communities, and municipali-

17. See Memorandum from Erhardt Rupprecht, USAID/Guatemala Acting Director, to Ambassador Donald Planty (May 15, 1998) [hereinafter 05/15/98 Rupprecht Mem.] (reporting on the status of USAID Justice Centers at various locations throughout Guatemala) (on file with the author).

18. See Comments of Timothy Cornish, *supra* note 11.

19. See *id.*

20. See Hendrix, *supra* note 7, at 365 (discussing extensively the impact of the new Guatemalan Code of Criminal Procedure).

21. See Memorandum from Jeff Borns & Steven E. Hendrix, USAID Democracy Officers, to George Carner, USAID/Guatemala Mission Director (Sept. 18, 1998) (on file with the author) [hereinafter 09/18/98 Borns & Hendrix Mem.] (commenting on Justice Center program progress). While the term "Focus Center" remained in use for some time, and is still sometimes used today, this paper will refer to the more generic term of "Justice Center." However, it should be understood that the two terms refer to the same notion.

22. See *id.*

ties.²³ The Justice Centers emerged as laboratories of positive activities consisting of concepts that were introduced, tested, and demonstrated.²⁴ It ultimately meant computerizing some aspects of the effort, including case intake and case tracking,²⁵ and reorganizing offices to eliminate highly vertical structures.²⁶

Each existing Justice Center is somewhat distinct. The impact of such initiatives differ among locations, depending in part on varying levels of local interest and needs. Consequently, while discussing a Justice Center as a "model," it is imperative to bear in mind that the "model" varies among jurisdictions.²⁷ A Justice Center is not a physical location, but an entire concept²⁸ that involves bringing together civil society and local justice sector officials to address access concerns at the local level.²⁹ The purpose of the Justice Centers is to increase the quality of justice sector services, especially for historically marginalized people, such as the poor, women,³⁰ indigenous people,

23. *See id.*

24. *See* DPK FINAL REPORT, *supra* note 16, at 9 (describing the general understanding at the time that progress was impossible in Guatemala City, due to the lack of coordination between existing justice center institutions, and that centers in the country would probably prove more successful).

25. *See Quarterly Progress Report No. 8*, DPK CONSULTING (CREA/USAID, Guatemala, C.A.), Dec. 1996, at 12 [hereinafter *QPR No. 8*] (outlining CREA/USAID's plan to develop the Public Ministry's information systems, which would subsequently allow it to do tasks previously impossible).

26. *See* 09/18/98 Borns & Hendrix Mem., *supra* note 21.

27. *See id.*

28. *See* Comments of Timothy Cornish, *supra* note 11.

29. *See id.*

30. *See* Memorandum from George Carner, USAID Mission Director, to Ambassador Donald J. Planty, United States Ambassador to Guatemala (July 31, 1998) [hereinafter 07/31/98 Carner Mem.] (describing USAID's justice program initiative to instruct on legal processes in domestic violence cases); *see also* Memorandum from George Carner, USAID Mission Director, to Ambassador Donald J. Planty, United States Ambassador to Guatemala (Sept. 18, 1998) [hereinafter 09/18/98 Carner Mem.] (reporting on scheduled training seminars on domestic violence for prosecutors, judges, public defenders, and members of the bar). These efforts have been combined with public information campaigns. For example, in September 1998, USAID sponsored both with the National Association for Women at the Quetzaltenango Fair to distribute literature on violence against women. *See* Memorandum from George Carner, USAID Mission Director, to Ambassador Donald J. Planty, United States Ambassador to Guatemala (Sept. 11,

and children.³¹ The Justice Center methodology calls for local participants to discuss issues and arrive at a consensus to address local problems. Good communication at the local level has been the key thus far.³²

Stated another way, the core ingredient of the Centers is the people. The Justice Centers advance a joining of ideas and a voluntary effort to break with traditional structures. The Justice Centers consider diverse views, for example, those of the indigenous population, police, litigants, judges, civil society, and women's groups, to detect problems and formulate solutions. This philosophy does not require an outside donor or outside financial support; rather it depends primarily on the people themselves.³³

While underway, Justice Centers must contend with historic problems of poor communication and few linkages between the official justice sector and civil society. In the Justice Centers, local actors converge to discuss the situation and define courses of action. Such concerns include asking whether such problems are structural, human, or cultural. The actors discuss the local reality and begin a process of increasing access to better-quality justice.³⁴ Justice Centers serve to involve all principle actors within a specific geographic jurisdiction in an integrated and coordinated effort to provide local population groups with greater access to justice. These actors include judges, public defenders, prosecutors, private law practitioners, police, municipal representatives, ambulance teams with firemen, and civil society. Justice Centers take advantage of new organizational and information management structures that promote teamwork to

1999) [hereinafter 09/11/99 Carner Mem.] (noting planned attendance in an upcoming Quetzaltenango Fair to distribute information materials on women's legal rights). Similar efforts have been undertaken at the Esquintla Justice Center. *See* Memorandum of Mark Williams, USAID Justice Centers' Coordinator, to Brian Treacy, USAID Justice Chief of Party 3 (Aug. 19, 1999) [hereinafter 08/19/99 Williams Mem.] (commenting on the state of the Quetzaltenango effort). *See generally* *Increasing Women's Access to Justice*, *supra* note 8, at 5 (noting the accomplishments of Guatemala's Justice Centers in reducing violence against women).

31. *See* Comments of Timothy Cornish, *supra* note 11.

32. *See id.*

33. *See id.*

34. *See id.* (articulating positive advances in Guatemala, including increased access to justice and increased civic participation).

provide better quality public services.³⁵

The composition, physical layout, and functioning of Justice Centers vary according to local conditions, the special needs of the justice sector officials, availability of resources (monetary and others, e.g., electricity), and particular issues related to the geographic area (e.g., incidence and type of criminal activity).³⁶ Diversity notwithstanding, Justice Centers contain the following common characteristics. First, all Justice Centers have organizational and administrative structures that reduce delay, minimize exposure to corruption, create accountability, and establish uniform practices, performance standards, and systems to measure performance. This includes modernized docket and case-filing systems, streamlined case processing, case-filter systems, central-filing systems, unified clerk of court administration, and other related activities.

Second, all Justice Centers strive to improve the functions of key actors in their assigned roles and management structures and techniques that promote team approaches (including greater police-prosecutor cooperation). Third, all Justice Centers use standardized, user-friendly forms, uniform across all Justice Centers, as approved by the respective Government of Guatemala ("GOG") institutions, for the reporting and processing of crimes. Fourth, all Justice Centers have user-friendly case management and records systems that reduce opportunities for corruption, improve the quality of case supervision, and generate accurate statistics (case type, status, assignment, progress, and other appropriate monitoring data, as approved by the Court). Where possible, the courts computerize these systems with a user-friendly software package acceptable to the GOG. Fifth, Justice Centers seek to incorporate interpreters and culturally-appropriate outreach and education programs in local languages to make the system truly accessible to non-native Spanish speakers. This includes a public information campaign on how to access the system. The last component promotes alternative dispute resolution, plea-bargaining

35. See USAID/Guatemala, Section "C," Request for Proposal No. 520-98P-020 (Sept. 30, 1998) (on file with the author) [hereinafter Section C Request] (stating that, among other advances, the Centers have installed modernized case-filing and docket systems).

36. See *id.* (noting that this team approach to dispute resolution and problem solving better serves the public).

("criterio de oportunidad"), stay of prosecution ("suspensión condicional"), and other mechanisms to settle cases identified through improved case intake and diversion programs.³⁷

Key justice sector counterparts have signaled their commitment to the Justice Center model and replicate the USAID model in other regions of Guatemala.³⁸ Nevertheless, given the evolving nature of the model and the diversity of locations, continuous communication and updating is required. USAID continues to coordinate and work with the Guatemalan Government to institutionalize the Justice Center model through dialogue, regular briefings, and information exchanges with members of the main justice sector institutions via the Coordination Unit for the Modernization of the Justice Sector ("*Instancia Coordinadora para la Modernización del Sector de Justicia*" or "ICMSJ").³⁹

USAID started the first Justice Center, with backing from the Guatemalan Supreme Court and Attorney General, in October 1995 in Quetzaltenango.⁴⁰ The second Justice Center opened in Zacapa in

37. See César Barrientos Pellecer, Centros de Enfoque o Centros de Justicia y CAJs 4-5 [Focus Centers or Justice Centers and CAJs] (Dec. 1998) (unpublished manuscript on file with the Instancia Coordinadora para la Modernización del Sector Justicia [Coordinated Organization for the Modernization of the Justice Sector]) (translation by author) (listing the model criteria used by the different Justice Centers). See generally Section C Request, *supra* note 35 (discussing general Justice Centers in different regions of Guatemala).

38. See Section C Request, *supra* note 35 (listing other organizations committed to assisting the Justice Sector, including the Narcotics Affair Section ("NAS") of the United States Embassy and the United States Department of Justice); see also Annette Pearson de González, Formulación de una Propuesta para la Creación de Ocho Centros de Administración de Justicia en Guatemala Durante el Período 2000-04 [Formulation of A Proposal to Create Eight Justice Administration Centers in Guatemala For the Period 2000-2004] 63 (May 1998).

39. See González, *supra* note 38, at 63 (noting the importance of coordinating meetings every fifteen days to discuss problems affecting the efficiency of the penal system). The *Instancia Coordinadora* is comprised of the Attorney General, President of the Court, Director of the Public Defense Service, and the Interior Minister. See generally Gabriela Judith Vásquez Smerilli & Héctor Hugo Pérez Aguilera, Consultoría para la Secretaría Ejecutiva de la ICMSJ [Consultory for the Executive Secretary of the ICMSJ] (June 1999) (unpublished materials on file with the author) (emphasizing the key role of the Instancia Coordinadora in the development of the Justice Centers).

40. See Comments of Timothy Cornish, *supra* note 11 (discussing the history of the regional Justice Centers, including where they are located, and when they

June 1996,⁴¹ while in February 1997, the United Nations Human Rights Verification Mission in Guatemala ("*Misión de Naciones Unidas para la Verificación de los Derechos Humanos en Guatemala*" or "MINUGUA") inaugurated the Nebaj Center.⁴² USAID joined the Nebaj effort in March 1998.⁴³ Escuintla's Center became operational on March 9, 1998, as a result of a meeting of judges, public defenders, and prosecutors.⁴⁴ San Benito's Center (Petén Department) began with a participatory meeting of similar local actors on March 12, 1998.⁴⁵ MINUGUA inaugurated the Santa Eulalia (Huehuetenango) Center on April 30, 1999, with funds from Canada and technical assistance from USAID.⁴⁶ The justice system applied

were established); see also *QPR No. 8, supra* note 25, at 13 (noting that USAID advised and consulted MINUGUA about the Quetzaltenango Center). MINUGUA even participated in providing some training in the criminal defense area. See *id.*

41. See *QPR No. 8, supra* note 25, at 12.

42. See Comments of Timothy Cornish, *supra* note 11 (noting that the Nebaj-Quiché Justice Center markets the implementation of reconstruction within the formal justice system).

43. See 05/15/98 Rupprecht Mem., *supra* note 17 (offering a brief history of the Justice Center starting in Escuintla, Nebaj, and Paten in March 1998). The Instancia foresaw that future CAJs would receive support based on the USAID Justice Center model. See Pellecer, *supra* note 37, at 5 (noting the central role of the USAID model).

44. See Minutes of Meeting in Escuintla, Guatemala (Mar. 9, 1998) (on file with the author) (explaining the concepts discussed at the meeting). Escuintla is a particularly difficult place for a Justice Center. The Public Ministry receives 12,000 cases per year and, in March 1998, had about 30,000 backlogged cases. Memorandum of USAID Timothy Cornish, USAID Justice Chief of Party, to Steven Hendrix, USAID Justice Coordinator (Mar. 10, 1998) [hereinafter 03/10/98 Cornish Mem.].

45. See Memorandum from Marisela Velasco de Paniagua, USAID Consultant, to Alicia Warde, USAID Consultant (Mar. 16, 1998) [hereinafter 03/16/98 Velasco de Paniagua Mem.] (listing the participants of the meeting to create a center in San Benito). The Instancia Coordinadora approved the Petén and Escuintla Justice Centers and requested USAID assistance in both locations on February 26, 1998. See Letter from William Stacy Rhodes, USAID Director, to Attorney General Héctor Hugo Pérez Aguilera, Court President Alfredo Figueroa, and Interior Minister Rodolfo Mendoza (Mar. 16, 1998) [hereinafter 03/16/98 Rhodes Letter] (emphasizing the need for collaboration and cooperation in the developing new Justice Centers).

46. See Memorandum from George Carner, USAID/Guatemala Mission Director, to U.S. Ambassador Donald Planty (April 20, 1999) [hereinafter 04/20/99 Carner Mem.] (inviting the Ambassador to attend the opening of the newest CAJ).

the administrative advances from the Justice Centers to Guatemala's criminal courts in October 1998.⁴⁷ At the close of 1999, the Instancia Coordinadora requested that USAID establish another Center in Santa Cruz del Quiché.⁴⁸ In total, Justice Centers, in various stages of development, exist in Nebaj (Quiché), Escuintla, Nebaj, Quetzaltenango, San Benito (Petén), Santa Cruz del Quiché, Santa Eulalia (Huehuetenango), and Zacapa.⁴⁹

In terms of process, the Justice Centers have several standard characteristics. There are periodic coordination meetings with the main Justice Center actors, including judges, prosecutors, investigators, police, law school faculty, private lawyers, community representatives, and others. Furthermore, there are periodic training programs at Justice Center location to assure that efforts are integrated and on track.⁵⁰

III. ORGANIZATIONAL AND ADMINISTRATIVE STRUCTURES; CASE MANAGEMENT AND RECORDS SYSTEMS

USAID provided technical assistance to both the Court and the Public Ministry to modernize their organizational and administrative structures, striving toward enhancing case management and records handling. For both the Court and the Public Ministry, the proposals involved reorganization of case intake, centralization of information, and rearrangement of physical space with computerization.⁵¹ The two

47. See Section C Request, *supra* note 35 (stating that the principle objective of USAID during the years of 1994-97 was to implement a new criminal procedure code).

48. See Letter from Astrid Lemus, USAID Executive Secretary, to Brian Treacy, USAID Justice Chief of Party (Nov. 25, 1999) [hereinafter 11/25/99 Lemus Letter] (soliciting the collaboration of the Instancia to construct a new center).

49. See Section C Request, *supra* note 35 (emphasizing the cooperation between USAID and MINUGUA in integrating administrative advances from existing centers into new ones).

50. See González, *supra* note 38, at 63 (discussing the coordination of efforts by different actors to encourage cohesion and efficiency). To date, the Center coordinators have been local Guatemalans paid by USAID. See *id.* There is a movement, however, to have these individuals moved to the government's payroll over time to make the efforts more sustainable. See *id.*

51. See *id.* at 63-64 (observing the efforts by the Public Ministry and the Court

institutions took very different paths, with the Court having great success. The Public Ministry, after some initial promise, retreated from organizational streamlining, but retained other elements of the Justice Center model, including case management practices and integrated training.

A. WITHIN THE COURT SYSTEM

Starting in April 1996, the Quetzaltenango Justice Center inaugurated a new court organization structure, providing transparency and efficiency to the court.⁵² The new structure boasted a single register ("*registro único*") implemented by a communal secretary ("*secretaría común*").⁵³ Under the previous system, the courts tracked individual cases in seventeen different books or ledgers. The *registro único* simplified this process by replacing them with a single book.⁵⁴ Pooling the secretarial staff under the *secretaría-común* system reduced the number of people handling each case from twenty-five to six.⁵⁵ Now, the time spent locating a file has dropped from one week to nearly instantaneously.⁵⁶

Based on the successes of the Quetzaltenango experience, planning began in May 1998 for a Clerk of Courts Office for Guatemala City.⁵⁷ The Clerk of Courts Office, which administers the ten Guate-

to reorganize the current systems to that of the USAID model).

52. See Comments of Timothy Cornish, *supra* note 11.

53. See Briefing by Timothy Cornish, USAID Justice Chief of Party, for members of the Guatemalan Supreme Court (May 22, 1998) [hereinafter Cornish Briefing] (presenting statistical analysis of the effects of the new structures).

54. See *id.* (emphasizing the efficiency of the new system). With the single *registro único* in place, it is now possible to computerize that book. See *id.* This has been done via the Centro de Recepción, Registro e Información ("CRRI") [Center of Reception, Registration, and Information]. See *id.*

55. See *id.*

56. See *id.*

57. See Comments of Timothy Cornish, *supra* note 11; see also Steven E. Hendrix, Clerks Office-Guatemala City (Oct. 1, 1999) (unpublished manuscript on file with the author) (stating that the request for assistance from the Court for the Clerk's Office came to USAID in September 1996); Minutes of the Supreme Court Plenary Session, Acta 10-98, para. 4 (Mar. 11, 1998) (formalizing request by Court for assistance). The approval of the final design came on July 29, 1998. See Memorandum from George Carner, USAID Mission Director, to Donald J. Planty, United States Ambassador to Guatemala (July 31, 1998). The Clerk's office was

mala City criminal courts, does not represent a new "Justice Center," but rather is a very positive outgrowth of the Justice Center experience.⁵⁸ The planning process took on several dimensions.⁵⁹ First, the formation of a "*secretarios*" committee to participate in the implementation process and assure that the public viewed the office as a Guatemalan—not USAID—model, was key.⁶⁰ A second integral step in the planning process was advanced work on the automated docket book and case control program. The Zacapa Justice Center piloted this process before opening at the Clerk's Office in October of 1998.⁶¹ This was the first Clerk of Courts Office beyond a pilot effort in a Latin American capital city.⁶²

The approach to the Clerk's Office was simple; the most important design element was the employees, and the number-one objective was to provide transparent and efficient service to the public. USAID

inaugurated on October 5, 1998. Memorandum from George Carner, USAID Mission Director, to Donald J. Planty, U.S. Ambassador to Guatemala (Oct. 9, 1998).

58. See Email from Timothy Cornish, Justice Sector Advisor, to Steven E. Hendrix, Justice Program Coordinator (Nov. 15, 1999) [hereinafter 11/15/99 Cornish Email] (arguing that the ten capital area courts are positive outgrowths of the focus centers).

59. See 05/15/98 Rupperecht Mem., *supra* note 17 (listing the findings of the current system and addressing the problems).

60. See *id.* (noting the formation of committees at each center location to include police, prosecutors, public defenders, and judges).

61. See Minutes of the Supreme Court Plenary Session, Acta 10-98, para. 4 (Mar. 11, 1998); see also 05/15/98 Rupperecht Mem., *supra* note 17 (emphasizing the advances of the automated docket systems and its eventual country-wide implementation).

62. See Cable from Donald J. Planty, United States Ambassador to Guatemala, Guatemala Comes Closer to Justice for All (Feb. 22, 1999) (on file with the author) [hereinafter Ambassador Planty Cable] (stating that USAID helped Guatemala establish clerk of courts offices in various justice centers, which have demonstrated improved services). Peru has a small pilot effort in Lambayeque, and Costa Rica has a similar pilot in Guadalupe, Costa Rica. See *id.* However, the Guatemalan Clerk of Courts Office is a first for a Latin American capital city. See *id.* It underscores the Court's commitment to the Justice Center model, since the Clerk's Office is modeled on efforts in Zacapa and Quetzaltenango. In this sense, USAID's Justice Center model has been institutionalized. See Note from Steven Hendrix, USAID Justice Program Coordinator, to Elizabeth Hogan, USAID Democracy Program Chief (Nov. 20, 1997) (discussing the Court's decision on November 17, 1997, to expand the Justice Center model to the capital in the form of a Clerk of Courts).

paid no salaries to public officials, and purchased none of the equipment. Instead, USAID concentrated its resources in technical assistance to accompany and guide a Guatemalan-led participatory design effort, and its subsequent implementation. In doing so, the effort has assured complete institutional buy-in from the Guatemalan Supreme Court down to the file clerks. Moreover, system users, including litigants, the public and victims, can now demand a higher standard of quality, transparency, and efficiency.⁶³

In just one year, the impact of efforts to reduce opportunities for corruption and to increase transparency is clear. First, the court system now has an inventory of its caseloads. Previously, parties paid corrupt officials to "lose" case files.⁶⁴ From October 1, 1996 to September 31, 1997, the court system "lost" 1,061 cases in Guatemala City alone.⁶⁵ This represents 1,061 accused individuals, many of whom remained in jail without having enjoyed their day in court, in violation of their human rights. Under the new system, from October 1, 1998 to September 31, 1999, only one has been "lost,"⁶⁶ representing an important advance in human rights as well as a more than ninety-nine percent decrease in opportunities for impunity, and an increased efficiency of office administration. Second, for the first time ever, there is an equitable and transparent distribution of cases under the new system. Consequently, the system is decongested, and the court hears cases, rather than let them sit stagnant and devoid of scrutiny.⁶⁷ Third, the system now automatically respects legal time

63. See Hendrix, *supra* note 57 (noting the drastic reduction in corruption within a short time of implementation).

64. See *id.* (listing the positive impacts of the newly-implemented program on reducing corruption). The 1,061 "lost case" figure actually represents data from six of the ten Guatemala City Courts. In four courts, case management was so poor that reliable statistics were impossible. Actual loss may have been twice the 1,061 figure.

65. See *id.* (stating that from October 1, 1996, to August 31, 1999, only five cases have been lost in Guatemala City). Since then, four have been recovered.

66. See *id.* (indicating that between October 1998 and September 1999 five files were "lost" under the Court's new system). On a site visit on November 4, the Director of the Center was able to confirm that four of the previously lost files had been found.

67. See *id.* (outlining the benefits of the new Court system); see also 11/15/99 Cornish Email, *supra* note 58 (noting that prior to the October 1998 modernization, the system assigned courts to one or more of the several zones of the city, often

limits. Previously, there was no control over how long processes would extend. Fourth, under the new system, courts have cut in half the number of cases where the defendant was unascertainable. Fifth, for the first time ever, there is a reliable system for generating statistics and reports on court actions.

The Guatemalan Supreme Court praised the new Clerk's office structure and operation. After six months of operation, the Court requested that USAID support extend the new methodologies in a computerized format—the "Centro de Recepción, Registro e Información" or "CRRRI"—back to all the Justice Centers, a task that was complete by June 15, 1999.⁶⁸

B. WITHIN THE PUBLIC MINISTRY

In late 1996, USAID sponsored a study visit for Guatemalan justice sector actors to Chihuahua, Mexico, where the Public Ministry assembled a case-intake and investigation unit to provide a model for accusatorial prosecutions throughout Latin America.⁶⁹ This study visit included the participation of Guatemala's Attorney General, top prosecutors, and police officials. After the trip, the participants defined a plan of action for implementation in the Guatemalan Justice Centers. One key component of the plan was a case tracking and control system for the Public Ministry, promising a profound impact on the Public Ministry's method of doing business. In addition, the

resulting in an unequal division of caseload). Meanwhile, the staff size was the same for each court. See *id.* Within each court, private law firms could place a picked "official" who would handle the case, for an appropriate compensation price. See *id.* The Clerk's Office has reallocated "oficiales" to a central location, removing illegal delegation of work from judges to "oficiales," and taking control of cases out of the hands of the unsupervised non-judge oficiales, who were the primary source of corruption in the system. See *id.* Previously, if one did not pay the official, the case did not move. See *id.* Conversely, you could pay an *oficial* to assure that the case never moved. See 11/15/99 Cornish Email, *supra* note 58.

68. See Memorandum from Letitia Kelly Butler, USAID Acting Director, to Donald J. Planty, United States Ambassador to Guatemala (May 28, 1999) (on file with the author) [hereinafter 05/28/99 Butler Mem.] (detailing plans to continue the modernization program instituted in pilot Justice Centers throughout the country).

69. See QPR No. 8, *supra* note 25, at 8 (noting that the visit exposed participants to the benefits of mediation in the criminal process, which has helped to dispose of criminal complaints without involving police and prosecutorial resources).

plan promised more accurate statistics and performance monitoring. In February 1997, Guatemala's Attorney General formally approved the plan and design elements.⁷⁰

As the first Justice Center in Quetzaltenango adopted the new system, results were immediately visible. The implementation of a case index system dramatically decreased the time necessary to search for cases from two hours to ten minutes.⁷¹ Furthermore, the total number of cases were reduced due to the implementation of a case-screening unit, which discovered, after a review of submitted cases, that many are dropped for lack of criminal content or because they are undesirable for prosecution.⁷² Specialized units were created to professionalize criminal prosecutions such as homicide, property crimes, and high impact crimes (drugs, kidnapping, auto theft). The new system eliminated the double assignment of cases to different prosecutors, which had been a problem before implementation. Specialized personnel increased the efficiency of investigations and trial presentations,⁷³ making investigations more complete. Moreover, prosecutors were able to spend more time on important cases, resulting in fewer "remands" from the trial courts. By June 1997, Quetzaltenango's Public Ministry boasted two important additional systems: the centralized filing system ("*archivo único*") and the communal secretary ("*secretaría común*."⁷⁴

70. See *Quarterly Progress Report No. 9*, DPK CONSULTING (CREA/USAID, Guatemala, C.A.), Jan. 1, 1997 to Mar. 31, 1997, at 8 [hereinafter *QPR No. 9*] (explaining that the plan would be implemented gradually, to accommodate the institution's technical capabilities, and that the basic case-tracking abilities would greatly increase efficiency).

71. See *id.* at 11 (listing the accomplishments of the Public Ministry in Quetzaltenango).

72. See *id.*

73. See *id.*

74. See *Quarterly Progress Report No. 10*, DPK CONSULTING (CREA/USAID, Guatemala, C.A.), Apr. 1, 1997 to June 31, 1997, at 15 (explaining that "*archivo único*" is a single location for filing of cases disposing of the previous system in which attorneys maintained their own files). The *archivo único* went a long way toward reducing chances of "lost" files, due either to negligence or corruption. It also provided a major management capability to the District Attorney. The "*secretaría común*" was a concentration of support staff into a single pool. See *id.* Previously, individual attorneys had complete staff, which required supervision. See *id.* Prosecutors were in fact managers, with little time to focus on prosecuting. See

In May 1997, USAID held a coordination meeting with MINUGUA to discuss recommendations for organizing the Public Ministry.⁷⁵ MINUGUA clearly disagreed with USAID's approach to the Public Ministry. MINUGUA espoused that prosecutors, like judges, should be protected with "independence" ("*autonomía*").⁷⁶ USAID noted that such a structure is contrary to the standards that control modern prosecutors' offices in that it eliminates teamwork in complex cases, diminishes chances for the sharing of risk in dangerous cases, heightens the risk of corruption because one person controls a case rather than several, and hampers the ability to replace prosecutor's in complex cases.⁷⁷

USAID Justice Chief of Party, Tim Cornish, noted that the traditional Guatemalan Public Ministry organizational concept is a vertical structure.⁷⁸ It is "very much like a court in which, in the case of the capital, an 'agent fiscal' has his own rigidly structured staff that he administers thereby duplicating the inefficiencies of the courts and magnifying the opportunities for corruption."⁷⁹ Under this structure, prosecutors cannot be specialized. In contrast, Colombia, Mexico, Northern Europe or the United States have assistant prosecutors. These assistant prosecutors are typically specialized (except in small towns), assigned to teams when involved in important cases, and do not play a supervisory role with respect to personnel, except perhaps with respect to a secretary.⁸⁰ Without personnel oversight responsi-

generally Memorandum from Maggie Triviz, USAID Justice Consultant, to Timothy Cornish, USAID Justice Chief of Party (Nov. 17, 1997) (on file with the author) (noting that, since the *secretaría común* implements the *archivo único*, they should really be considered a single, integrated system).

75. Memorandum from USAID to MINUGUA (May 15, 1997) (on file with the author) (discussing the possible connection between CREA/USAID and MINUGUA on decentralization programs).

76. See Memorandum from Timothy Cornish, USAID Justice Chief of Party, to Steven Hendrix, USAID Justice Coordinator (May, 16, 1997) (on file with the author) [hereinafter 05/16/97 Cornish Mem.].

77. See *id.*

78. See *id.*

79. *Id.*

80. See *id.* (contrasting MINUGUA's opinion on the role of the assistant prosecutors with that of United States-based models).