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**Impact Evaluation
USAID/Nicaragua Rule of Law
Programs 1998 – 2009 and
Future Program Recommendations**

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LIST OF ACRONYMS

ADR: Alternative Dispute Resolution
AJDN: Nicaraguan Democratic Jurists Association (*Asociación de Juristas Democráticos de Nicaragua*)
BICU: Bluefields Indian and Caribbean University.
CACONIC: Nicaraguan Chamber of Commerce
CCP: Code of Criminal Procedures
CEPLAES: Center for Planning and Social Studies
CINCO: Communication Research Center (*Centro de Investigaciones de la Comunicación*)
CMNA: National Police Offices for Attention to Women and Children (*Comisarias de la Mujer, la Niñez y la Adolescencia*)
CONADER: National Commission of Law School Deans.
CPC: Citizens' Participation Committees.
CPDH: Human Rights Permanent Commission.
CRMP: Nicaraguan Code Reform and Modernization Project
CSOs: Civil Society Organizations
DIRAC: Alternative Dispute Resolution Directorate at the Nicaraguan Judiciary.
FIU/CAJ: Florida International University, Center for the Administration of Justice.
FMI: Forensic Medicine Institute
FSLN: Sandinista Front for National Liberation
GON: Government of Nicaragua
IADB: Inter-American Development Bank.
ICNL: International Center for Non-Profit Law.
IPADE: Institute for Development and Democracy (*Instituto para el Desarrollo y la Democracia*).
ISP: Institutional Strengthening Project.
JF: Justice Facilitator.
JUDENIC: Nicaraguan Democratic Youth (*Juventud Democrática Nicaragüense*).
LAPOP: Latin American Public Opinion Project.
MSI: Management Sciences International.
NITC: National Inter-Institutional Technical Criminal Justice Commission.
OPJ: Permanent Organization for Justice (*Organización Permanente por la Justicia*).
PDA: Public Defense Auxiliaries Program.
PDO: Public Defense Office.
PM: Public Prosecutors Office, (Public Ministry).
RAAN: North Atlantic Autonomous Region.
RAAS: South Atlantic Autonomous Region.
RCC: Rivera-Cira Consulting, Inc.
ROL: Rule of Law.
ROLHR: Strengthened Rule of Law and Respect for Human Rights Project.
TA: Technical assistance
VAOs: Victims' Assistance Offices.
VACs: Victims' Attention Centers.
UAM: American University (*Universidad Americana*).
UAP: Public Defense Customers Attention Office in Managua.

UCAN: Autonomous Christian University of Nicaragua (*Universidad Cristiana Autónoma de Nicaragua*).

UCC: Commercial Sciences University (*Universidad de Ciencias Comerciales*).

UCN: Central University of Nicaragua (*Universidad Central de Nicaragua*)

UENIC: Evangelical University of Nicaragua (*Universidad Evangélica de Nicaragua*)

UNAN: National Autonomous University of Nicaragua (*Universidad Nacional Autónoma de Nicaragua*)

UNICA: Catholic University of Nicaragua (*Universidad Católica de Nicaragua*)

UNICEF: United Nation International Children's Emergency Fund.

UNDP: United Nations Development Program.

UPOLI: Polytechnic University of Nicaragua (*Universidad Politécnica de Nicaragua*).

USAID: United States Agency for International Development.

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EXECUTIVE SUMMARY

Rivera-Cira Consulting Inc. has carried out an evaluation of the Rule of Law (ROL) Programs implemented in Nicaragua between 1998 and 2009 by the United States Agency for International Development (USAID). Three ROL projects, with US\$23,886,320 total funding were implemented from January 1999 to July 2009.

- **Nicaraguan Code Reform and Modernization Project (CRMP)** (January 1999 - July 2005), \$6,551,002, implemented by the Center for the Administration of Justice of Florida International University (FIU/CAJ). The central task of CRMP was to assist Nicaragua to draft, enact and implement laws to modernize the criminal justice system.
- **Institutional Strengthening Project (ISP)** (March 1999- January 2005), \$5,535,000, implemented by Checchi and Company Consulting, Inc. This project parallel to CRMP sought to establish and strengthen two completely new justice organizations; a nationwide public defense system to provide indigent accused the right to counsel, and to strengthen the Attorney General's Office to ensure more effective criminal investigation and prosecution. The structuring and effective operation of these two entities was vitally important for the success of the new accusatorial criminal investigation and trial system.
- **Strengthened Rule of Law and Respect for Human Rights (ROLHR)** (April 2005-July 2009), \$11,805,318, implemented by Checchi and Company Consulting, Inc. This project continued criminal procedures reform implementation support. It sought to strengthen justice and related institutions to implement reforms (Judiciary, Prosecutors, Public Defense, Forensic Medicine Institute, and the National Inter-Institutional Technical Criminal Justice Commission - NITC), and to increase access to justice and foster greater civil society involvement in justice reform.

Throughout implementation of the USAID ROL projects, persistent difficulties due to political influence in the Judiciary were evident, causing the termination of direct USAID assistance to the Judiciary since 2003. Political interference with the Public Ministry (Prosecutors) also forced termination of assistance to this organization. In 2008 all assistance to public sector justice entities was cut and all assistance directed to civil society organizations. This impact evaluation has taken into consideration the continuing difficult political environment in which the ROL projects were implemented, as well as the general lack of reliable statistics.

I. IMPACTS – MAIN FINDINGS

All persons interviewed, regardless of political affiliation, recognized the magnitude and pivotal importance of the USAID contribution to Rule of Law in the past decade. USAID increased respect for human rights and created effective new criminal justice legal structures and agencies whose operational methods have inspired movements for modernization and justice reform in civil and labor law.

1. Enactment and Implementation of the Nicaraguan Code of Criminal Procedure (CCP). All persons interviewed see this achievement as the most significant success of the USAID ROL assistance. This is a very radical reform that replaced a rigid and archaic written inquisitorial criminal procedure from 1879 with a modern accusatorial system based on oral hearings and a range of discretionary remedies.

For CCP drafting and implementation, USAID applied best implementation practices and drew on highly experienced and respected regional experts. USAID promoted intensive justice operators training prior to the entry into force of the new Code. A proven key to successful CCP implementation was the creation of a high level commission to promote and facilitate the reforms. The National Inter-Institutional Technical Criminal Justice Commission (NITC) supported all project related activities towards enacting the CCP and later, the Criminal Code. USAID ROL projects also drew law faculties and civil society into the reform effort.

The clearance rate (number of resolved cases as a percentage of the incoming cases), a measure of how courts are handle the incoming caseload, has increased by 14%, comparing 2000-2004 numbers under the Criminal Instruction Code, and 2003-2009 numbers under the Criminal Procedures Code. The case backlog percentage (cases pending disposition) under the CCP appears less than under the old Code. From 2000-2004, cases pending at year's end were 43% of incoming cases. From 2003 to 2009, this percentage decreased to 28%. Another important aspect is the small number of pre-trial detainees (21% of those persons in prison).

There has been a significant reduction of incoming cases in the Judiciary. From 2000 to 2004 under the old code, an annual average of 74,713 came to the Judiciary, but from 2004 to 2009, under the CCP only an annual average of 31,302 came before judges, a 58% decline. These numbers require further analysis to determine if they reflect a positive or a negative impact on criminal justice. This decline could mean that prosecutors now resolve many cases via CCP alternative measures; on the other hand, it could mean that many cases are improperly investigated or that the National Police and Public Prosecutors have accumulated large backlogs. Inconsistencies in 2009 statistics from Police, PM and Judiciary do not allow adequate interpretation, nevertheless, an enormous number of crimes (65%) in 2009 stayed pending in the Police.

In all RCC consultant interviews, there was general consensus that criminal justice under the new CCP has some problems, but works substantially better under the new criminal procedures, except when politicians or the wealthy are the accused, when the Judicial lack of political independence affects the outcomes.

2. Drafting and implementation of a Criminal Code. After the CCP approval, the drafting and implementation of a new Criminal Code was fundamental to complete the criminal reform. The new code incorporated important provisions affecting women, financial crimes, sexual crimes, terrorism, trafficking in persons and environmental crimes, among others. Importantly, it modernizes the concept of conspiracy under Nicaraguan law, which will greatly facilitate the trial of organized crime cases. For Criminal Code implementation, USAID, through the NITC, assisted in the design of a "training of trainers" methodology, and in development of training materials.

3. Creation of the Public Prosecutors Office (Public Ministry- PM). The Public Prosecutors Office, (Public Ministry - PM) began in 2002 as the primary criminal prosecution entity, leading to a realignment of roles and responsibilities. USAID assisted the PM to become an autonomous institution and helped create specialized crime units: Anti-Corruption; Environmental; Women and Gender Violence; and Juvenile; and a strengthened Organized Crime Unit. These, the PM's only specialized units, continue to work, but with very limited personnel. USAID also assisted the PM to open two Victims' Assistance Offices (VAOs) in Managua and Juigalpa, Chontales. Budget shortages limit each VAO to a single staff person, and they lack the planned multidisciplinary teams to assist crime victims. Another very important result of USAID assistance was the 2006 passage of the Prosecutor Career Law. Currently, there are five prosecutors for each 100,000 persons in Nicaragua, slightly below the regional average of six per 100,000. The PM Secretary General asserts that most have been selected by merit. This was one of the conditions of the USAID assistance. In 2009, according to the PM statistics, the institution received 47,123 cases from the Police and resolved 75% of them.

Building PM personnel's prosecutorial skills was a key USAID strategy element. ROLHR's 70 courses for prosecutors, auxiliary prosecutors and assistant prosecutors in basic criminal law, money laundering, the oral system, and preparation of accusations benefited over 275 persons. The PM has not been supported by other donors and the Secretary General expressed gratitude for USAID support, stating, "USAID helped us very much; its assistance was critical to establish this organization and its training has been the best we ever had".

4. Creation of the Public Defense (PDO). An adversarial balance between the institutions advocating for the State's interests and those of the accused is essential to a new accusatory criminal trial system's success. Toward this goal, USAID supported national expansion of the Nicaraguan PDO. From a pilot project in Managua with 12 public defenders, it has grown to 201, who are in 17 Department capitals, the RAAS and 84 municipalities, leaving 67 municipalities still unserved. There are three (3) public defenders per 100,000 people, slightly under the Latin American average of four (4).

USAID created an incentive of a training and equipment package to the PDO for each defender position or office, spurring the Court to carry out merit based competition. Today, most USAID trained public defenders remain in the organization. USAID-donated equipment and infrastructure boosted PDO operations, including a pilot Users Attention Office (UAP) in Managua that has greatly improved PDO case reception, distribution, and processing capacities. Until 2009, USAID supported PDO automated case tracking system expansion (SEGEX) to increase PDO efficiency and improve statistics. USAID also backed the PDO to create the Public Defense Auxiliaries (PDAs). Agreements with eight law schools allow students to support defenders in Managua, León, Estelí, Chinandega, Rivas and Boaco. The PDA Program currently has 70 student auxiliaries.

As of December 2009, the PDO had received 117,366 cases. PDO intake increased from 783 in 1999 to 23,216 cases in 2009. 80% are criminal matters, but since 2003, family cases (17%) have notably increased. In Managua, per the Spanish Cooperation Agency, most family law cases are requests for assistance in child support (61%) and divorce matters (22%). PDO handling of so many family cases highlights the general vacuum of legal assistance for the poor in Nicaragua, but is cause for concern, since public defender numbers are still low and 67 municipalities still have none. Public defenders' priority should be criminal defense of indigent or poor accused, especially if the person is imprisoned awaiting trial or other disposition. Expansion of PDO services beyond criminal cases is part of current PDO strategy. Implications should be considered to avoid PDO criminal defense services dilution by slow transformation into a general legal assistance clinic.

During the RCC consultants' visit, the PDO Deputy Director several times expressed her gratitude for USAID assistance and for how much it helped to organize and sustain the PDO. She also praised the infrastructure, the equipment, the training and the high quality technical assistance provided.

5. Strengthening the Forensic Medicine Institute. When USAID support began, only two of the forty Supreme Court-appointed forensic doctors held forensic medicine degrees. In 2007, USAID completed Nicaragua's first forensic medicine graduate degree program. Fifty-three doctors were trained and accredited in forensic medicine. USAID also conducted extensive training for FMI medical professionals and 100 Ministry of Health doctors, who perform forensic exams absent FMI units. All were trained in forensic medicine, forensic anthropology, and domestic violence and sexual crime evidence presentation.

USAID donated extensive forensic investigation and information technology equipment, including a vehicle, computers, and equipment that facilitates examination of women sexual crime victims. Training in new investigation techniques, in particular DNA analysis and new scientific analysis methods in forensic investigations of sexual abuse cases accompanied the equipment donation. The FMI Director highly praised USAID assistance in training, technical assistance and materials.

The FMI caseload has increased dramatically (89%) from 34,800 cases in 1999 to 65,552 cases in 2009, for a total of 595,892 in the decade. Most cases (89%) are examinations of living victims. Postmortem exams are only 3% of cases. The numbers confirm FMI deals overwhelmingly with living crime victims. In 2009 of 59,300 such examinations, 83.4% were of violence victims. Domestic violence examination numbers are worrisome, steadily increasing at 3% per year since 2005. The 11,313 domestic violence exams that FMI performed in 2009, divided by Nicaraguan population, yield 197 exams per 100,000 people. More

frighteningly, reported cases are estimated to be only 10% of the real numbers. FMI is alarmed and considers this an extremely problem for Nicaragua that requires urgent attention and more serious studies.

6. Promotion of Alternative Dispute Resolution (ADR) Mechanisms. Principal objectives for the USAID ROLHR mediation component were to increase mediation centers, trained and certified mediators and increase ADR use in creating a culture of peace. In 2006, USAID inaugurated Nicaragua's first commercial arbitration center with CACONIC. A second arbitration center at the American Chamber of Commerce merged with the CACONIC center (through July 2010, this center had conducted only four (4) mediations and received 20 requests). To promote community mediation services and ADR use, USAID also assisted CSOs and DIRAC to establish and accredit 20 community mediation centers nationwide. In July 2010, RCC conducted a focus group and a survey of the community mediation centers. The main findings were:

- Those centers backed by established entities (universities, church) have survived better. The best and most established were at the UCA in Managua and the UNAN in Leon that were already established before the USAID assistance, and are attached to university legal clinics (*bufetes jurídicos*).
- The centers in Bonanza, San Carlos-Rio San Juan and UNICA Managua have disappeared and those in Carazo and Pueblo Indígena de Sébaco are nearly non-operational.
- Some centers (Estelí, and three DIRAC centers in Managua) at the end of USAID support, were only able to maintain a single permanent staff person and had to let the project supported secretary go.
- At ROLHR end in July 2009, most centers had only operated for a year or less and were not ready to be sustainable. The user fee payment system has not given good results in centers that installed the policy. Though small, fees are very high for the clientele, and cases handled have dramatically declined. Sustainability by fee collection alone is not feasible at this moment. The CACONIC/AmCham is the only center that has obtained resources from other international donors (IADB).
- In spite of the problems, since 2007, the 16 USAID supported centers that returned the RCC survey received 33,225 cases and obtained 20,761 agreements (62% of received cases). In descending order, cases were: family, misdemeanors, small commercial matters, debts, and property and land disputes. Their monitoring systems indicated 70-75% compliance averages for agreements reached. Currently the surveyed centers receive a monthly average of 48 cases. Centers with more clients do not charge fees.
- From 2005- 2009, USAID funded training of 489 Justice Facilitators recruited by 20 CSOs, led by the Human Rights Permanent Committee (CPDH), to be legal educators; provide community justice orientation; accompany disadvantaged persons in judicial matters; and promote ADR by conducting mediation in rural or marginal urban communities. These JFs were to link with USAID supported mediation centers, which were to review and register JF mediation agreements. After ROLHR ended, JFs were not monitored and their current status and activities could not be learned. Recovery of these hundreds of trained JFs as mediation extension agents should be examined in any future ROL project.

7. Civil Society Advocacy and Institutional Strengthening. From 2005-2009 USAID provided resources to increase the CSO capacity to advocate for justice reform and respect for human rights. In July 2010, despite past support of USAID and other donors, Nicaraguan CSO's are weak and have serious funding limitations, with exception of some old and well-established universities. Very few CSOs work in the justice sector and those that do have little capacity to undertake technical analysis and performance monitoring.

USAID ROLHR technical assistance and grants provided to strengthen CSOs and form coalitions has been

seriously derailed by the present GON attacks against CSOs that criticize or oppose government policies. If CSOs publicly oppose the GON, it retaliates. Since ROLHR closure in July 2009, CSOs have had no grants available for justice advocacy activities. All CSOs interviewed highly praised the USAID ROLHR technical and financial support, but agreed that their active justice advocacy efforts have ended for lack of financing.

II. RECOMMENDATIONS FOR FUTURE PROGRAMING

The increasing politicization and polarization of some justice sector institutions; mainly the Judiciary and the current US-Nicaraguan relationship may not permit implementation of a traditional ROL of Law project. Nevertheless, since USAID has invested \$23,886,320 in the last decade in mostly successful ROL projects that have produced a significant impact, it is important to consider new support to programmatic areas that preserve and continue justice reform. Accordingly, RCC recommends that USAID to define a strategy directed to **preserve and expand access to justice for the poor and disenfranchised**, accompanied by a strong monitoring and evaluation plan to measure results, that will require intensive work with universities, church organizations and NGOs and very limited coordination with the Judiciary. The proposed strategy has **five lines of action** to promote access and **one additional option** to upgrade the nation's legal profession.

1. EXPANSION AND PROMOTION OF COMMUNITY LEVEL ALTERNATIVE DISPUTE MECHANISMS.

1.1. Revival, consolidation and expansion of USAID Support to Mediation Centers. It is strongly recommended that USAID immediately re-establish and renew support for the strongest of the twenty mediation centers begun and supported under ROLHR in 2007-2009. Mediation Centers were a recognized and significant success of the prior USAID ROL program. They provided a new and important community service and diverted 33,000 cases from entering the courts. Those best able to benefit from renewed support and attain eventual full sustainability are connected to a larger supporting organization, such as a university law faculty legal clinic, a Catholic Church institution, or other entity that has embraced mediation services to the public as part of its larger mission. With US\$1500 a month, these Centers can effectively function in their communities and can provide free services. Of the existing Centers, early support should go to the fourteen (14) that have retained important service levels despite difficult financial circumstances (UNAN-Leon, the three BICU Centers, the three DIRAC centers, UCA, Estelí, Caritas Granada, UNIVALLE, Chinandega, Chontales (Juigalpa) and Mozonte). The situation of the minimally operating Centers in Jinotega, Sébaco and Carazo must be carefully analyzed. RCC's preliminary impression is these will require restructuring, new election of directors and in the cases of Jinotega and Carazo, linking to a university or church institution. The commercial center (CACONIC/AmCham) does not need further support because it has financing by the IADB.

1.2. Establishment of School Mediation and Conflict Prevention Programs. The persistently high levels of violence that exist in Nicaragua should make violence prevention and promotion of a culture of peace a primary target of intervention. USAID's new Municipal Development Project could begin to apply the extensive experience in this field. The logic of an early start with children in community and school settings to create habits and train in methods of conflict prevention, avoidance and resolution is compelling.

The near term opportunity to begin pilot conflict prevention projects via the Municipal Development Project should not be missed. Leadership training in conciliation and mediation for youth, coupled with the creation of formal conflict resolution by students in middle and secondary schools has paid dividends in many other countries. Argentina, Colombia, Puerto Rico and others in the region have carried out successful programs.

2. SUPPORT AND ASSISTANCE TO VICTIMS OF VIOLENCE AND CRIME.

2.1. Establishment of Centers for Attention to Violent Crime Victims (VACs). All information gathered confirms that violence, and particularly violence against women and children is an enormous, endemic, and growing problem in Nicaragua. There are no integrated crime victim attention centers in Nicaragua and the Public Ministry Victims' Assistance Offices (VAOs) in Managua and Juigalpa have only one staff person each. Victims of domestic violent crimes, according to the FMI, are mostly women. The alarming levels of violence against women and children must be forcefully counteracted and the victims provided personal assistance and legal aid and protection from further harm. USAID and other donors should support the systematic establishment of centers for attention to crime victims throughout Nicaragua.

An ideal VAC positioning would be as a specialized unit attached to the legal assistance clinic of a university law faculty (*Bufetes Jurídicos*). The VACs should be multi-disciplinary and provide legal, medical, psychological and protective services to crime victims. VACs set up in universities could draw on medicine, psychology, social work and law faculties for staff, and could draw on students of all these disciplines who could perform their required six months of social service by working the required hours in the VAC. RCC recommends starting these VACs in three pilot projects, one at the UNAN-Leon, one at UCA-Managua and one in BICU-Bluefields, to assess how they function for further implementation elsewhere. Officials of these three universities indicated that pilot VACs could work in these places with USAID initial financing.

2.2. Establishment of shelters for domestic and sexual violence victims and renewed support to the Forensic Medicine Institute. In addition to the Victims Attention Centers recommended above, RCC recommends additional program support for shelters for women victims of violence and intimidation. Such places of refuge and protection are urgently needed and almost entirely absent in Nicaragua. Some donors have supported these. Need is great and the supply is very small.

RCC suggests that USAID and other donors place heavy emphasis and major investments in alternative ways to respond to family, sexual and gender based violence. A network of non-government Victims Attention Centers and Women's Shelters is an option that would fill an important need and is unlikely to be opposed.

As a key part of the effort for domestic violence victims, USAID should consider revival of support to FMI. This entity plays a vital part providing evidence in all domestic cases and conducts the only serious statistical analysis. FMI needs to improve services in areas out of the main cities and basic equipment to evaluate victims of domestic violence and sexual crimes in private is required in several locations.

2.3. Promotion of Better conditions for children as crime victims and witnesses. To impact another major societal problem, USAID should consider support for specialized services to treat minors as victims and witnesses. Prosecuting cases involving minors as victims or witnesses is a major Nicaraguan justice system problem. Children usually are being interviewed by prosecutors and testifying before judges untrained in dealing with the emotional needs of minor children or their fears in such situations. The lack of such specialized attention to victimized children contributes to justice system failure to respond adequately and correctly to cases where a child is a crime victim or witness. Police, prosecutors and judges need specific training in this area. RCC highly recommends USAID explore the establishment of a pilot program in this area working with universities and NGOs focused on children's needs such as Casa Alianza.

3. EXPANSION OF LEGAL ASSISTANCE FOR THE POOR AND DISENFRANCHISED.

3.1. Strengthening and Establishment of University Legal Clinics (*Bufetes Jurídicos*) and articulation of a legal assistance network in support of the Public Defense. During interviews, RCC found that few law faculties have legal clinics. The best and most established seem to be UNAN-Leon and UCA but they could do much more with donor funding. Other universities indicated their wish and readiness to open legal clinics, but financial limitations have stopped them. USAID should explore support to universities that with an initial financial push could open these clinics and offer legal assistance to poor and low-income persons. Legal clinics, mediation centers and the PDO should form an access to justice network or clearinghouse uniting efforts in their communities. Increasing demand on the PDO for non-criminal legal services implies a large unmet legal assistance need for poor people that cannot pay a lawyer. Further training assistance to the PDO should also be considered, as well as institutional strengthening to operate the network.

4. MONITORING ACCESS TO JUSTICE TO GENERATE FUTURE JUSTICE REFORMS.

4.1. Support to Law Faculty Empirical, Practical and Applied Criminal Justice Research. University law faculties afford the central opportunity to provide motivated human resources for practical research in justice system functions, and for assessment and development of programs and proposals for reform. USAID should explore the funding of a variety of law faculty based research projects that would focus on criminal case tracking and empirical analysis of criminal judicial decisions to produce reform recommendations. Several assessments based on practical information are necessary to build a true measure of criminal system performance. Surveys of judges, prosecutors, police, public defenders, defendants, victims and lawyers are necessary to detect problematic areas and provide remedies. Statistics must be better collected and analyzed. Case studies on the implementation of alternative mechanisms by prosecutors are urgent, as well as analysis of criminal case disposition methods used by the police. Universities can establish alliances with NITC to determine areas where research is necessary to identify the real causes of problems. In RCC meetings with individual law deans, and in the RCC universities focus group, they assured they can and want to conduct these studies, have the necessary human resources, but lack only the funds.

4.2. Support To Citizens Oversight Projects Carried Out By Universities And NGOs. Vigilant citizens are the best monitors for justice systems. In other countries, observatories and oversight projects focusing on specific aspects of justice system operations have proven a useful vehicle for detecting operational problems and motivating and pressuring justice operators for improvement. Established observatories in UNAN-Leon and BICU-Bluefields are ongoing efforts ready to be strengthened. CSO Justice Oversight projects in other countries have been a successful way to involve civil society in normal monitoring of justice agency performance, building citizen trust in justice institutions, and achieving improvements. A guide to CSOs to carry out such projects should be developed.

5. DEVELOPMENT OF LEGAL EDUCATION PROGRAMS AND CAMPAIGNS TO PROMOTE ACCESS TO JUSTICE

Mediation Center services, poor defendant assistance by PDO and legal assistance at *Bufetes Jurídicos* must be widely advertised. It is important to develop key messages to guide the public on these services and on the institutional and legal framework for access to justice. This work should be closely coordinated with NGO's, universities, and local communities and governments. Colloquial language and songs (recorded

using popular musical styles) can be composed to describe justice institutions, mediation centers and *Bufetes Jurídicos* and how to access services. Besides songs, posters and brochures, 30-minute pre-recorded radio programs for replay have been effective. Campaign products must be distributed among all the universities, NGOs, and local governments supported by USAID and made available to the GON and the entire donor community.

6. LIMITED AND TARGETED SUPPORT TO UPGRADE THE LEGAL PROFESSION (OPTIONAL).

The Nicaraguan legal profession is plainly at a low point in terms of public confidence and respect. A draft law pending National Assembly consideration since 2005 would create the College of Lawyers and Notaries of Nicaragua. The NACJ will take it up on the August legislative session agenda. Unfortunately, a review of the draft leaves a clear impression that the proposed entity would quickly mirror the country's polarization. While the present legislative option is of doubtful utility, there is an urgent need to begin to address issues of lawyer competence and ethical standards. To establish a beachhead, RCC recommends USAID consider support for establishment of a voluntary lawyers association that would provide the equivalent of "board certification" for qualifying attorneys, with annual continuing requirements to retain membership and certification. The group composition would be based upon: 1) A minimum five years of practice, 2) proven professional competence and clean personal record, 2) adherence to a code of professional ethics and conduct, 3) successful completion of an examination of professional knowledge and skills regularly administered by the association, akin to a bar exam or specialization exam, and, 4) annual required continuing legal education hours. The organization could begin with a small founding committee and eventually be sustained by the annual member dues and examination fees. Initial funds would be for start up and organizing efforts, preparation of membership exams, and development of a code of professional ethics and conduct. Members would be authorized to display the association's annual certification and publicize their membership. The idea was raised in the RCC law deans' focus group and generally met with approval and interest.

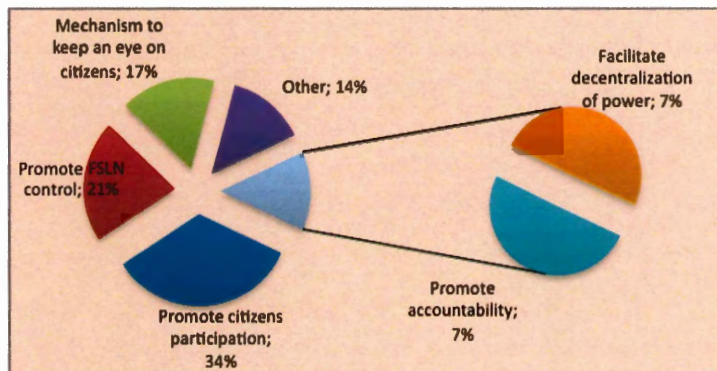
I. INTRODUCTION (BACKGROUND, SCOPE, OBJECTIVES)

On June 20, 2010, Rivera-Cira Consulting, Inc. (RCC) signed a purchase order with the United States Agency for International Development (USAID) to carry out an impact evaluation of the Rule of Law (ROL) Programs implemented in Nicaragua between 1998 and 2009. RCC's consultants, Tirza Rivera-Cira and Carl A. Cira were assigned to this task. There were three projects for a total of US\$23,886,320 that ran from January 1999 to July 2009. The projects and their implementers were:

- **Nicaraguan Code Reform and Modernization Project (CRMP)** (January 1999 - July 2005), \$6,551,002, implemented by the Center for the Administration of Justice of Florida International University (FIU/CAJ).
- **Institutional Strengthening Project (ISP)** (March 1999- January 2005), \$5,535,000, implemented by Checchi and Company Consulting, Inc.
- **Strengthened Rule of Law and Respect for Human Rights (ROLHR)** (April 2005-July 2009), \$11,805,318, implemented by Checchi and Company Consulting, Inc.

During this period Nicaragua went through three administrations, Arnoldo Alemán (Jan. 1997 – Jan. 2002), Enrique Bolaños (Jan. 2002 – Jan. 2007) and Daniel Ortega (Jan. 2007 to date). Since the election of Ortega and the Sandinista National Liberation Front (FSLN) there has been a radical and insistent shift to anti-neoliberal, populist policies along the lines of the Hugo Chavez “populist revolution” in Venezuela. The influence of significant “off the books” Venezuelan funding¹ to Daniel Ortega (via the resale of Venezuelan oil) that is channeled to the FSLN for political organization through “Comités de Participación Ciudadana” (CPC) has fueled an ongoing Sandinista effort to gain full control of the country through manipulation and intimidation of political opponents and civil society organizations. The CPCs and their “shock forces” are a recreation of the first Ortega Administration’s “Turbas Sandinistas”. The apparent widespread and open fraud in the November 2008 municipal elections, accompanied by an upsurge of FSLN violence against opponents and the persistent Sandinista effort to legitimize the potential reelection of Ortega in 2011 have created constant political turmoil and seriously affected the political balance. The CPCs, according to the 2008 Report on the Political Culture of Democracy in Nicaragua by the Latin American Public Opinion Project (LAPOP) are visualized by 38% of those interviewed as a mechanism to keep an eye on the citizens and to promote FSLN control.

Figure 1: Perception of Citizens Participation Committees



Source: Americas Barometer - Latin American Public Opinion Project (LAPOP), www.LapopSurveys.org, Political Culture of Democracy in Nicaragua, 2008

Throughout implementation of the USAID ROL projects, persistent difficulties due to Sandinista influence in the Judiciary were evident, causing the termination of direct USAID assistance to the Judiciary since 2003. Political polarization in the Supreme Court has worsened in the Ortega administration. In April 2010, three Supreme Court members' terms expired, with the National Assembly having neither renamed nor replaced them. These vacancies are part of a larger problem of 25 vacant positions, including openings on the highly politicized Supreme Electoral Council. In response, Ortega issued a presidential decree purporting to

¹ Annual total alleged to be US\$300,000,000. Chamorro, Carlos F., Nicaragua after the electoral fraud: The future outlook, Inter-American Dialogue, Washington DC, June 3, 2009. p.3 <http://www.thedialogue.org/>

reappoint the judges whose terms expired. Government opponents denounced the presidential decree as unconstitutional since the power to appoint these authorities can only be exercised by the National Assembly.

In the 2008 LAPOP report cited above, 72.9% of Nicaraguans polled supported democracy, but only 38.6% believed in the political legitimacy of institutions, and the courts were the institution where most perceived the need to pay bribes (13.3%)². Nevertheless, the general perception of corruption (74%) places Nicaragua in the middle range in the region. Lowest is Uruguay (63.1%) and the highest, Jamaica (85.6%).

In accordance with the USAID assignment, the RCC consultants have completed an impact evaluation of the ROL USAID projects from 1998 to 2009. RCC observations, conclusions and recommendations to USAID for possible future programming in the area follow below.

This impact evaluation has considered the continuing difficult political environment in which the ROL projects had to be implemented, as well as the lack of available and reliable statistical information. Due to the current political environment, RCC consultants could not meet with the provisional President of the Supreme Court and the Prosecutor General. Contacts with the Judiciary and Prosecutors were limited to officials in middle level positions. The findings of this report are based on the opinions of more than 50 persons with whom the consultants met (Annex 1). The consultants, Carl A. Cira and Tirza Rivera-Cira, also drew upon two focus groups, one with nine (9) deans of law faculties and the other with thirteen (13) mediation center representatives. A survey (Annex 3) was also applied to the community mediation centers established with USAID funding.

II. DESCRIPTIONS OF PAST ROL PROJECTS

The central task of the USAID CRMP was to assist Nicaragua to draft, enact and implement laws to modernize the criminal justice system. These were the Code of Criminal Procedures (CCP), the Criminal Code, the Administrative Code, the Public Ministry Organization Law (Public Prosecutors), and the Judicial Organization Law that authorized Nicaragua's first national Public Defender's Office (PDO). By October 2003 the CRMP had fully met its legislative objectives in enactment of the Administrative Code³, the Judicial Organization Law and the Criminal Procedure Code. The CCP was enacted in 2002, and the CRMP then lent extensive support to ensure effective implementation in the courts handling serious crimes. FIU developed a strategy to generate support for the reform and to overcome strong opposition, relying on transparency, consensus building and educational campaigns. Following enactment of this seminal legislation, the CRMP provided extensive training in the specific application of the new system and developed a "training of trainers" multiplier approach, with law professors receiving intensive training in the theoretical bases and specific provisions of the new system. Unfortunately, on December 1, 2003, USAID issued a Partial Stop Work Order, abruptly prohibiting FIU/CAJ from working with the National Assembly and the Supreme Court. FIU and the CRMP were ejected from offices at the Supreme Court. Thus, from 2003 to 2004, FIU/CAJ worked only with CSOs (law schools, bar associations, justice and peace commissions, women's organizations) providing training and disseminating information on justice reform issues (CCP, Criminal Code, ADR and new law curricula). While limited assistance to the National Assembly was authorized to work on the Criminal Code, the Stop Work Order for the Judiciary was not lifted; thus FIU/CAJ was unable to provide assistance or training to judges on the CCP.

During the same period, starting from zero, the USAID ISP tasked Checchi to help to establish and strengthen two completely new justice organizations; a nationwide public defense system to provide indigent accused the right to counsel, promoting greater equity in the justice system; and to strengthen the Attorney General's Office to ensure more effective criminal investigations and prosecutions, thus improving justice system efficiency. The structuring and effective operation of these two new organizations was vitally important to successful implementation of the new CCP's accusatorial criminal investigation and trial system.

² Municipalities followed with 9.8%, police with 8.9%, hospitals 5.4% and government officials 5.3%.

³ The Administrative Code did not take effect. It was vetoed by the President of Nicaragua.

At various times during ISP implementation, USAID suspended assistance to counterpart institutions for political reasons. From July 2001 until October 2002, assistance to the Public Defender's Office was suspended. From December 2003 to April 2004, assistance to all justice sector institutions was suspended by a Partial Stop Work Order. In this period Checchi worked exclusively with civil society to promote reform. The ban was lifted in April 2004 and assistance was restored to official justice sector institutions, except for the Supreme Court.

From April 2005 to July 2009, Checchi implemented the USAID ROLHR that continued criminal procedures reform implementation support. This second Checchi effort sought results in four areas: 1) strengthening of justice and related institutions to implement criminal justice reforms (Judiciary, Prosecutors, Public Defense, Forensic Medicine Institute, and the National Inter-Institutional Technical Criminal Justice Commission - NITC), 2) assistance to the Judiciary to implement Judicial Career Law; 3) increasing access to justice for women, youth, and minorities; and, 4) greater civil society involvement in justice reform. In May 2008, USAID amended the ROLHR contract to reduce technical assistance to public sector institutions for political reasons, and to add more civil society strengthening activities. Throughout the ROLHR project, USAID limited TA activities and ultimately suspended assistance to all public sector justice institutions in 2008.

III. IMPACT – MAIN FINDINGS

All persons interviewed, regardless of political affiliation, recognized the magnitude and pivotal importance of the USAID contribution to Rule of Law in the past decade. US foreign aid has increased respect for human rights and created effective new legal structures now inspiring modernization movements in other legal areas.

1. Enactment and Implementation of the Nicaraguan Code of Criminal Procedure.

This achievement is seen without reserve by all persons interviewed as the most significant success of the USAID ROL assistance. This is a solid and far reaching success and a very radical reform that replaces an archaic inquisitorial criminal procedure with a modern accusatorial system. A criminal process closed to the public and based only on written submissions to a judge with sole authority to investigate and decide the case has been replaced with oral and public hearings and participation of police, prosecutors, judges and public or private defenders, with time limitations for the stages of the process. Very importantly, prosecutors now have discretionary power to bring criminal charges before a judge or to resolve the case using alternative mechanisms for disposition of misdemeanors and minor crimes.

Under the Criminal Instruction Code of 1879, the only institutional actors in the criminal process were the police and the judges. There were no separate prosecutorial or public defense functions. The entire process was based on the submission of written pleadings and evidence documents, with no public hearings or opportunity to argue positions in oral hearings. The judge's investigation and deliberative process was conducted in secret, with no time limits for a final decision. Several lawyers asserted that cases under the old system could last six years. With no limitations on pre-trial detention times, prisoners often served longer than the maximum final sentence.

The criminal procedures reform has had a major impact in other areas of law, sparking reform movements and efforts to introduce oral and public procedures. Current draft proposals would introduce oral proceedings to codes of civil and labor procedures. The Spanish Cooperation Agency is financing the civil procedures reform.

From 1999 to 2005, in the progressively more politicized national context, FIU/CAJ and Checchi coordinated their efforts, with both using integral approaches based on lessons and best practices of the prior 15 years of Latin American CCP reforms. Nicaragua's criminal procedures reform began much later than elsewhere, and thus benefitted from other regional experiences. Both USAID contractors applied best implementation practices and drew on highly experienced and respected regional experts. In RCC interviews, there was repeated recognition of the outstanding technical leadership of Cesar Barrientos, FIU/CAJ Chief of Party, now a Guatemalan Supreme Court justice, and Jose María Tijerino, FIU/CAJ Deputy COP, former Chief Prosecutor of Costa Rica, now that country's Public Security Minister. Interviewees also recognized the crucial participation

of Costa Rican public defenders and prosecutors in helping to organize the Nicaraguan Public Ministry and Public Defense.

Discussions and consensus for CCP passage were advanced in hearings in all department capitals with over 800 persons participating. Between 1999 and 2003, FIU/CAJ worked closely with the Supreme Court to train all judges affected by the change and to design a transition plan. It also worked with the newly created Prosecutors Office, the Public Defenders Office, the National Police, NGOs, Bar Associations and over 19 public and private universities to train prosecutors, public defenders, police, law professors, law students and practicing attorneys on the new CCP's principles and procedures. More than 12,850 were trained, as well as over 279 private attorneys in 10 regions (Matagalpa, Granada, Rivas, León, Chinandega, Estelí, Jinotega, Juigalpa, Jinotepe and Masaya). Major efforts were made to reach Atlantic Coast lawyers and paraprofessionals. The RAAN and RAAS effort was coordinated with the Swedish Development Agency. In that often neglected region, an initial course was offered to 147 attorneys, law students and faculty. The USAID "training of trainers" approach produced several postgraduate programs to train law faculty in the new procedures. In addition, numerous events targeting ordinary Nicaraguan citizens (with over 580 attending) promoted discussion on the new CCP. Overall, these ROL programs afforded extensive training and orientation on the new system before the entry into force of the CCP. The projects produced, printed, and massively distributed code texts and manuals that are still in use by all criminal justice system operators and are used as basic teaching materials in law faculties.

A proven key to successful CCP implementation was the creation of a high level commission to promote and facilitate the reforms. The National Inter-Institutional Technical Criminal Justice Commission (NITC) supported all project related activities towards enacting the CCP and later, the Criminal Code. The NITC anticipated and overcame many difficulties encountered in other countries and helped integrate judges, public defenders, police and prosecutors. One of the first important NITC results was an official decision by Public Ministry authorities to establish ongoing coordination with the National Police in case handling. To consolidate its implementation strategy, the NITC established regional counterpart committees. This effective interagency cooperation continues to the present. The NITC has played an essential change promotion role throughout the process.

To unify and standardize CCP implementation technical criteria and policies, USAID provided full support to the NITC to strengthen its municipal and departmental committees. The USAID program held ten regional workshops with more than 1,100 justice sector operators to detect local CCP application problems and to collect inputs for the definition of national level policies. In addition, the Program supported NITC efforts to standardize criteria on key legal issues arising around CCP implementation.

In 2006, in coordination with NITC, Checchi developed a technical assistance and training initiative for the National Police to strengthen investigative capacity and enhance inter-institutional coordination with the National Prosecutors Office and the Forensic Medicine Institute. However, ROLHR could not carry out any activities with the National Police until May 2008 for lack of a USG political authorization (waiver) to work with this GON institution. Shortly thereafter, authorization again was suspended, but meanwhile, ROLHR had provided limited personnel training and equipment purchases. The ROLHR trained 33 police officials from the investigations unit, Police Academy and the Legal Advisor in the new Criminal Code. This training better prepared the police investigators, normally at the crime scene and responsible for classifying the crime at the first instance. As well, ROLHR provided equipment to both the Central Criminal Laboratory and the Auxiliary Judicial Directorate (AJD). The equipment improved laboratory capacity to provide timely and reliable findings for use in prosecutions, and the AJD ability to perform crime scene investigations.

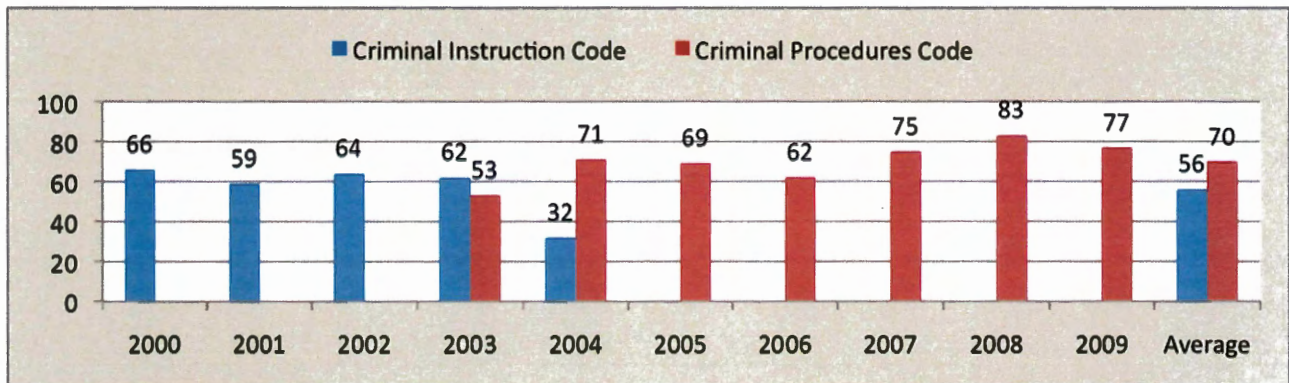
Currently, the NITC has eleven members: 1) Coordinator (a Supreme Court member), 2) President of the Supreme Court Criminal Chamber, 3) President, National Assembly Justice Commission, 4) Prosecutor General (Public Ministry), 5) Attorney General, 6) Minister of Government, 7) Human Rights Defender (*Procurador para la Defensa de los Derechos Humanos*), 8) National Police Director, 9) Forensic Medical Institute Director, 10) Penitentiary System Director, 11) Public Defense and, 12) Military Justice Director. Current Coordinator,

Supreme Court Judge Marvin Aguilar, stated to the RCC consultants, “USAID taught us how to work well and systematically.”

As mentioned, USAID ROL projects also drew law faculties into the reform effort. CAJ/FIU facilitated creation of the National Commission of Law School Deans (CONADER) and Checchi continued support until 2009. This law faculties⁴ association promoted important curriculum reforms to support introduction of oral trial techniques and uniform course content on criminal procedure. Through CONADER a model curriculum was designed with 8 criminal procedures subjects accepted by all Nicaraguan law faculties. This achievement is all the more important, since there is no national accreditation system for law faculties or universities. Current public and private law school rivalries affect CONADER, whose administrative structure is weak. Its President and Vice-President primarily direct it, and activities after USAID financial assistance ended have been limited.

There is no serious and systematic practical research done on the impact of the new CCP by universities or Justice Sector institutions. The RCC consultants could not meet with the Acting Supreme Court President for political reasons and thus had no direct access to judicial statistics. Fortunately, the UCA Law Dean was preparing a report for UNDP and had obtained numbers from the Judiciary’s Information and Statistics Office. This information allowed RCC consultants to prepare the following analysis, showing impacts of the new CCP.

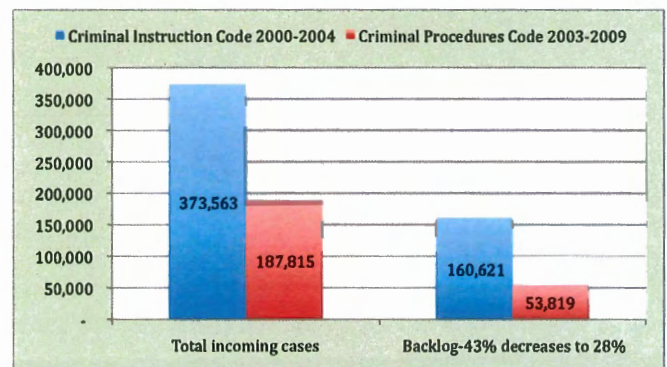
Figure 2: Clearance Rates Comparison - Criminal Instruction Code and Criminal Procedures Code



Source: Universidad Centroamericana Law Faculty, data from Judiciary Information and Statistics Office, July 2010.

The clearance rate (number of outgoing cases as a percentage of incoming cases), a measure of how courts are keeping up with the incoming caseload, has increased by 14%, comparing 2000 - 2004 Criminal Instruction Code numbers and 2003 - 2009 Criminal Procedures Code numbers. The best annual percentage for the Criminal Instruction Code was 66% in 2000 as compared to an 83% Criminal Procedures Code rate in 2008. Radical procedural reforms such as those instituted by the CCP, changing from written procedures to oral hearings, usually take some years to obtain clearly positive results. Nevertheless, in Nicaragua, change appears to have begun to be felt almost since implementation, probably in large part

Figure 3: Backlogs - Criminal Instruction Code 2000-2004 and Criminal Procedures Code 2003-2009



Source: Universidad Centroamericana Law Faculty, data from Judiciary Information and Statistics Office, July 2010, Annex 4.

⁴ National Commission of Law School Deans (CONADER) composed of 16 Nicaraguan Law School Deans.

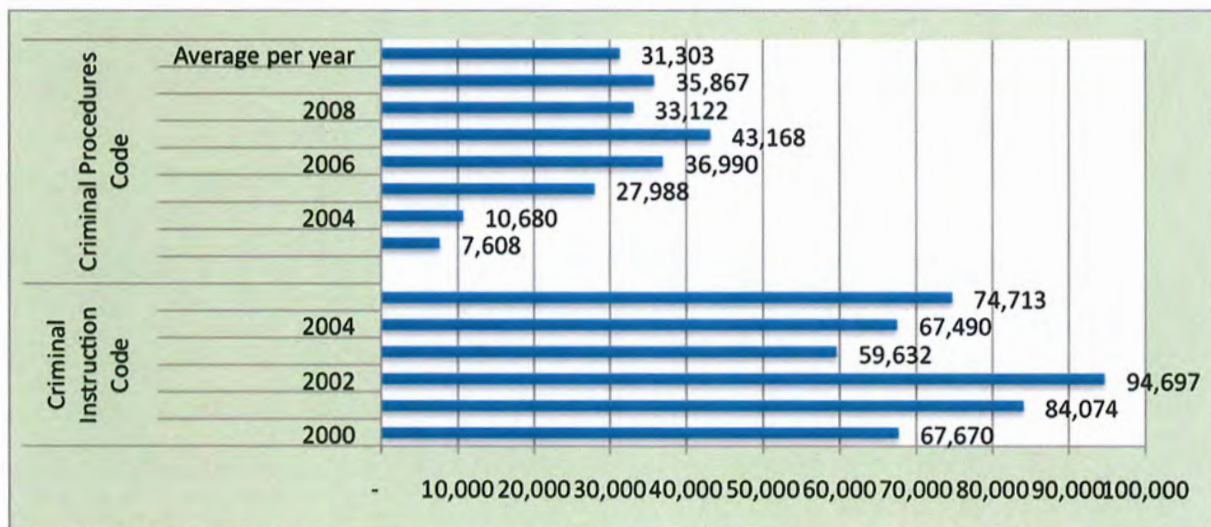
because USAID promoted intensive justice operator training prior to the entry into force of the new Code.

Case backlog percentage (cases pending disposition) under the CCP appears less than under the Criminal Instruction Code. From 2000-2004, cases pending at year's end were 43% of the incoming cases. From 2003 to 2009, this percentage dropped to 28%. The most worrisome aspect of the Criminal Instruction Code backlog is that, six years after the new CCP became effective, a significant number of cases still await resolution under the old procedures. Under the old Code, an average of 40,155 cases was pending at the end of the year. Under the CCP the average is down to 13,280 cases. Nevertheless, this backlog requires attention because it is growing rapidly. At the end of 2009 there was a total backlog of 563,819 criminal cases.

According to information provided by the judicial school, Nicaragua has 419 sitting judges, approximately 276 of whom deal with criminal cases⁵. The average annual number of incoming cases (36,990) divided by the number of criminal judges (276) gives an annual caseload of 134 new incoming cases per judge, which according to Latin American standards is manageable.⁶ Therefore, the current caseload per judge does not seem to justify the current growth of criminal case backlog. The curtailed Nicaraguan public sector workday (8:00 am – 1:00 pm) likely has exacerbated the problem.

There has been a significant reduction of incoming cases in the Judiciary, whose causes are unclear. Comparing incoming cases per year from 2000 - 2004 with those from 2004 -2009, shows fewer cases came before judges. From 2000 to 2004 under the old code, an annual average of 74,713 came to the Judiciary, but from 2004 to 2009, under the CCP only an annual average of 31,302 came before judges, a 58% decline. These numbers require further analysis to determine if they reflect a positive or a negative impact on access to justice. Under the new CCP, prosecutors have discretionary authority to decide which cases merit submission to judges. The decline could mean that prosecutors now resolve many cases via CCP alternative measures; on the other hand, it could mean that many cases are improperly investigated or that the National Police and Public Prosecutors have accumulated large backlogs.

**Figure 4: Annual New Cases and Comparative Averages:
Criminal Instruction Code (2000-2004) and Criminal Procedures Code (2003-2009)**

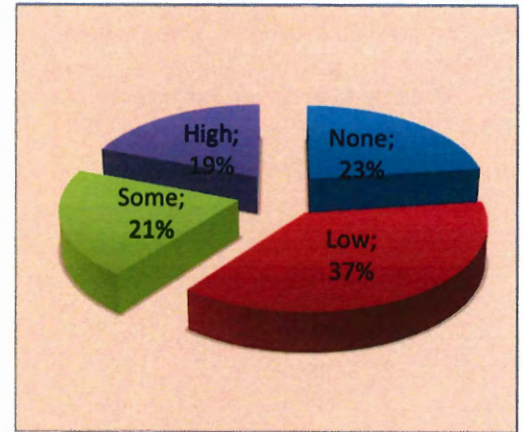


Source: UCA Law Faculty, data from Information and Statistics Office at the Judiciary, July 2010.

⁵ 127 local judges covering all matters, 36 local judges specialized in criminal law, 21 district judges for judgment enforcement, 33 district criminal trial judges, 35 criminal judges for oral hearings, 20 appellate judges, and 4 Supreme Court Criminal Law Chamber members.

⁶ Sources: Unidos por la Justicia, 2006 (Latin America and USA), CEPEJ, 2006 (Europa), World Bank country data and UNDP Institutional and Governance Review: *Justice and Citizen Security in Honduras* (2008)

**Figure 0:
Confidence that Justice System Will Punish the Criminal**

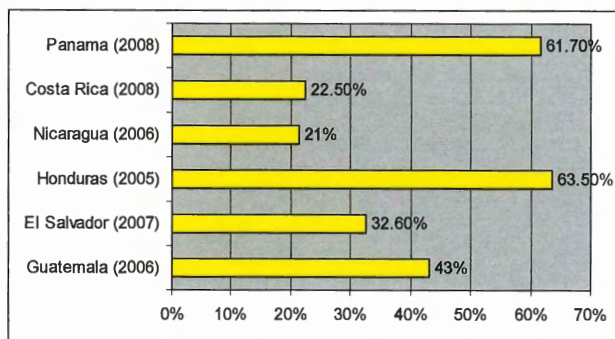


Source: Americas Barometer - Latin American Public Opinion Project (LAPOP), www.LapopSurveys.org, Political Culture of Democracy in Nicaragua, 2008

It was not possible to obtain National Police statistics to better understand the mix of criminal cases reported. Nevertheless according to the NITC President, in 2009 the National Police reported receiving 164,000 cases, 61,000 (37%) of which were misdemeanors (subject to alternative disposition) and 103,000 (63%) were crimes. The Police reported sending 42,000 cases (minor or serious crimes) to the Prosecutors (PM) to be considered for prosecution (only 45% of the number the Police reported as criminal matters received). However, the Public Prosecutors reported receiving 47,123 cases from the Police (5,123 more than the Police reported). Prosecutors claimed they resolved 34,696 cases (clearance rate of 74% of cases sent by Police) and the Secretary General of the Public Prosecutors Office estimated that 35% (12,143 cases) were resolved via CCP alternative mechanisms, but there were no exact statistics on this claim. The PM Secretary General also reported only 12,427 (36% of those received from Police) were left pending at the end of 2009. Thus, the prosecutors brought 34,980 cases to judges, a number slightly under that from Judiciary statistics (35,867). Police, Prosecutors and Judicial statistics differ and have unexplained information gaps. The NITC has set up a statistical subcommittee to study the subject to see if numbers can be better explained and justified. The current inconsistencies do not allow an interpretation of these numbers; nevertheless, the high percentage of crimes (65%) that in 2009 stayed pending with the Police is very worrisome and requires immediate attention. RCC believes it vital that universities and other CSOs undertake research on Criminal Justice Sector statistical data and organize citizen oversight projects to monitor correct CCP implementation to avoid serious cases of denial of justice.

Another important aspect to consider in analyzing the new CCP impact is the small number of pre-trial detainees. According to the International Center for Prison Studies (2008), Nicaragua has Central America's lowest pre-trial detainee percentage. Nonetheless, Nicaraguan prisons' occupancy is 132.7% of capacity.

**Figure 5:
Percentage of Pre-Trial Detainees and Prison Population in Central America (2008)**



Country/year	Prison population	Occupancy level (based on official capacity)
Guatemala	7,477	107.2%
El Salvador (2007)	14,682	199.2%
Honduras (2005)	11,589	140.0%
Nicaragua (2006)	6,060	132.7%
Costa Rica (2008)	8,654	108.9%
Panama (2008)	11,369	160.3%

Source: International Center for Prison Studies (2008)

The 2008 LAPOP report found Nicaraguans relatively confident that the justice system will punish criminals. Almost 40% of those interviewed had some, or high confidence. 37% had low confidence and 23% none. In all RCC consultant interviews, there was general consensus that criminal justice under the new CCP works well. It has some problems, but it works substantially better under the new criminal procedures, except when politicians

or the wealthy are the accused. Manuel Arauz, UCA Law Faculty Dean, clearly stated, "One cannot judge a system by the resolution of its political cases."

2. Drafting and implementation of a Criminal Code.

In Nicaragua, the criminal justice reforms were undertaken sequentially, unlike other countries where procedural and substantive reforms were approved in an integral and parallel fashion. After the CCP approval, the drafting and implementation of a new Criminal Code was essential to complete the criminal reform. The 1974 Criminal Code in effect was largely outdated and out of compliance with current international human rights and rule of law standards. The Criminal Code reform task started with FIU/CAJ and was completed by Checchi. The new code incorporated important provisions affecting women, financial crimes, sexual crimes, terrorism, trafficking in persons and environmental crimes, among others. Importantly, it modernizes the concept of conspiracy under Nicaraguan law, which will greatly facilitate the trial of organized crime cases.

Thirteen workshops and conferences for 2,600 attorneys, law students and professors were offered. These training events also sought to foster attitudinal change among participants and to generate public feedback on the draft legislation. FIU/CAJ also developed a criminal law postgraduate program for law faculty (53 law teachers have participated) in conjunction with a prestigious Spanish university (Jaume I University in Valencia).

To facilitate Code approval, Checchi assisted the National Assembly Justice Commission (NACJ). With extensive ROLHR assistance, the NACJ finished a draft, reached broad public consensus, and passed a modern Criminal Code in November 2007. USAID presented legislators with best international models in criminal legislation, facilitated technical discussions and analysis, and backed the NACJ drafting and approval process. The new Criminal Code significantly advances the rule of law in Nicaragua. It aligns the national legal structure with United Nations and Organization of American States treaty obligations, including criminalization of state corruption and the offering of bribes. It offers other protections against government abuse, such as limiting immunity for officials accused of corruption. The active involvement of legislators from all parties was critical to pass the new Criminal Code, and USAID's careful selection of experts built trust with legislators and advisors.

For Criminal Code implementation, USAID, through the NITC, again assisted in the design of a "training of trainers" methodology, and in training materials development. The 250-plus trainers replicated Criminal Code trainings to over 2,330 justice operators in all Departments over ten months in 2008. Importantly, the NITC marshaled the resources, marking Nicaragua's first such large-scale legal training effort using primarily national resources. Additionally, via CONADER, ROLHR trained 23 law professors, 461 private lawyers and 133 CSO members in the new Criminal Code. NITC, with USAID assistance, designed and taught three specialized criminal law courses on socio-economic crimes for 31 prosecutors, 30 public defenders and 25 representatives from the Nicaraguan Chamber of Commerce. It also assisted with the design and implementation of two courses for criminal judges, to increase case handling skills within the judiciary: 1) a post-graduate program in coordination with the Universidad Americana (UAM) for 30 criminal judges; and, 2) a course in oral trial management and judgment drafting for 121 criminal judges through the Judicial Training School.

3. Creation of the Public Prosecutors Office (Public Ministry- PM).

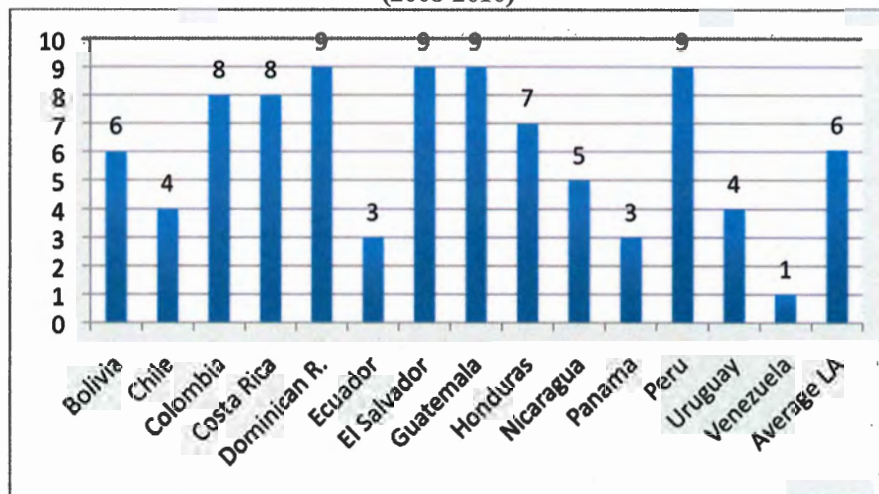
The Public Prosecutors Office, (Public Ministry - PM) began functioning in 2002 as the primary entity charged with prosecution of criminal activity. Its creation led to a new definition of roles and responsibilities, and ISP supported the hiring of approximately 65 prosecutors through merit-based selection. Again under ROLHR, USAID assisted the MP in 2006 and 2007 to carry out merit-based prosecutor selection processes⁷. USAID's

⁷ The merit-based selection process generally involved these steps: call for candidates' resumes; review and evaluation of resumes, and initial selection; written examinations on technical skills and theoretical knowledge; scoring of exams and ranking of candidates; psychological and aptitude tests; final selection of eligible candidates; appointment of prosecutors.

2007 suspension of technical assistance to the PM barred ROLHR from accompanying another selection process. Currently there are 290 prosecutors, and, according to the PM Secretary General, the PM has continued to select its personnel through open competition. Nonetheless, the prevailing opinion among persons interviewed by RCC was that open competition and merit-based selection continued only while USAID supported the process, and thereafter, PM hiring selection has been influenced by political connections. There are five prosecutors for each 100,000 persons in Nicaragua, slightly below the regional average of six per 100,000.

Another very important result of USAID assistance was the 2006 passage of the Prosecutor Career Law. USAID assisted in drafting the law, providing public education, mobilizing civil society to lobby for its passage, and holding journalists workshops to raise awareness of the law. USAID also assisted the PM with an action plan for institutional strengthening and creation of specialized crime units: Anti-Corruption; Environmental Crimes; Women and Gender Violence; and Juvenile Crimes; and a strengthened Organized Crime Unit. The Juvenile Crimes and Gender Violence Units were helped to define and implement investigation and prosecution procedures. The Environmental Crimes Unit was helped to define and implement environmental crime policies. Finally, USAID helped restructure the Organized Crime Unit, which merged with the Anti-Corruption Unit and assisted to develop prosecution policies and legal training in narcotics trafficking cases. These are the PM's only specialized units and they continue to work, but with very limited personnel. The PM has not been supported by other donors and during the RCC interview, the Secretary General expressed gratitude for USAID support, stating, "USAID helped us very much and its assistance was critical for the establishment of this organization".

Figure 7: Prosecutors per 100,000 Persons in Latin America (2008-2010)



Source: Source: Judicial Studies Center of the Americas, Report on the Justice Situation in the Americas 2008- 2009 and MP information July 2010

USAID also assisted the PM to open two Victims' Assistance Offices (VAOs) in Managua and Juigalpa, Chontales. These offices served approximately 2,077 victims during 2008-2009, including crisis resolution and case referral (501 in Managua and 1,630 in Juigalpa). In 2009, the PM inaugurated an additional VAO in Somoto based on the ROLHR pilot model developed by Checchi. Nonetheless, budget shortages have limited each VAO to a single staff person, and they lack the planned multidisciplinary teams to assist crime victims and aid the prosecutors to reach alternative outcomes.

Improving PM personnel's prosecutorial skills was a key element in the USAID strategy, and an integral part of the PM 2007-2009 Strategic Plan developed with Checchi support. ROLHR conducted 70 courses for prosecutors, auxiliary prosecutors and assistant prosecutors, many of whom had never received any training in the recent criminal law reforms. More than 275 PM personnel benefited from courses in basic criminal law for prosecutors, money laundering, the oral system, and the preparing of accusations. In addition, ROLHR designed and carried out a post-graduate program in criminal law for prosecutors that focused on legal issues like assessment of proof, financial crimes investigation, forensic evidence, and trial examination and cross-

examination. UPOLI certified the graduate program and 43 prosecutors completed it. At the RCC interview, the PM Secretary General said the USAID training had been “the best the prosecutors had received to date”.

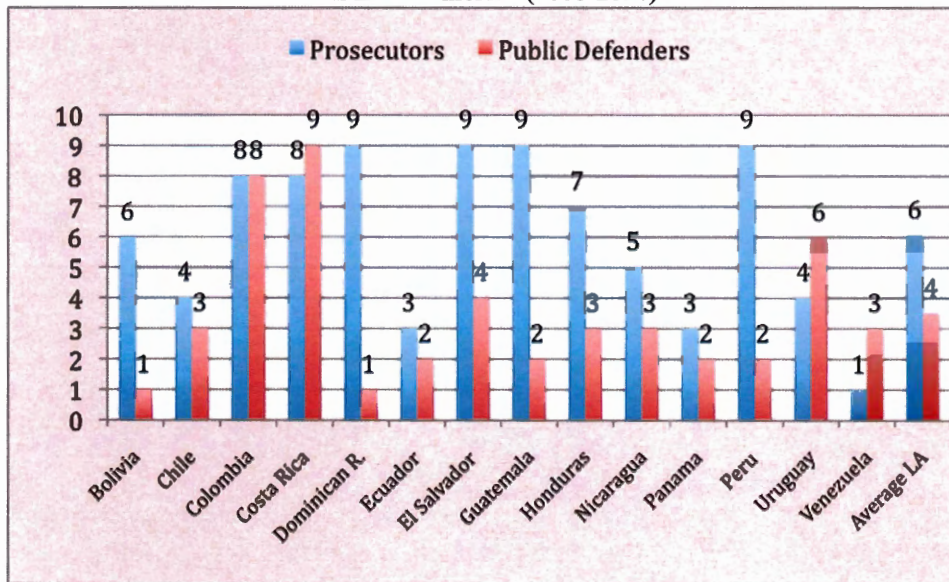
In 2009, according to the PM statistics, the institution received 47,123 cases from the Police and resolved 75% of them.

4. Creation of the Public Defense (PDO)

An adversarial balance between the institutions advocating for the State’s interests and those of the accused is essential to the success of any new accusatory criminal trial system. To further this goal, USAID supported the growth and national expansion of the Nicaraguan Public Defense Office (PDO). The PDO was begun as a Supreme Court dependency to offer free legal services to accused persons unable to afford an attorney. Currently it also offers assistance in family matters and in all matters in Masaya and Matagalpa. PDO services to poor defendants are based on indicators such as: woman head of household, numerous family members, unemployed, earning minimum salary, etc. For those able to pay, the payment goes to the Judiciary Pension and Retirement

Fund. However, the PDO Deputy Director confirmed most PDO clients are very poor and payments infrequent.

Figure 8: Comparison of Public Defenders and Prosecutors in Latin America (2008-2010)



Source: Judicial Studies Center of the Americas, Report on the Justice Situation in the Americas 2008-2009 & PM and PDO information, July 2010.

The PDO has experienced exceptional growth in its first 10 years. From a pilot project in Managua with 12 public defenders, the PDO has grown to 201 defenders. In the decade of USAID assistance, all new defenders received intensive training. The PDO Deputy Director affirmed that because of this assistance the PDO was ready for the new CCP before its entry into force. Checchi incentivized the PDO with a training and equipment package for

each defender position or office established, spurring the Court to create new PDO positions. Most defenders were named by merit based competition and most have remained. The Deputy Director said there have been few non-competitive hires, mainly transfers within the Judiciary. USAID and the Spanish Cooperation Agency made competitive appointments a prerequisite to receive donor assistance.

The present 201 public defenders are in 17 Department capitals, the RAAS and 84 municipalities, leaving 67 municipalities still unserved. There are 3 public defenders per 100,000 people, slightly under the Latin American average of 4. The PDO average is below that of available prosecutors (5 per 100,000) and seems plainly insufficient for a country where UNICEF reports 48.3% of the population lives in poverty and 17% in extreme

poverty⁸. The number is also diluted, since some defenders are currently providing assistance in non-criminal legal matters. In most of Latin America they are devoted almost exclusively to indigent criminal defense.

Another lasting impact of USAID assistance to the PDO was to accompany and support institutional evolution and restructuring due to rapid personnel growth and geographic expansion. At first, the PDO had only one national level position (besides the Director and Deputy Director) for management control over the public defenders' work. With Checchi assistance in drafting a new PDO Operational Regulation and a Manual of Jobs and Profiles, 5 new supervisory positions and 8 new regional coordinator positions were created and filled. The new supervisory structures greatly facilitated the delegation of authority and increased quality control and supervision of PDO services. Similarly, Checchi assisted the PDO to define and partially implement a broad based long-term strategic plan (2008-2013), including extensive activities to effectively implement the new PDO Operational Regulation and the new supervisory and management systems. The PDO is executing the strategic plan and the Supreme Court observes it in its separately organized planning activities.

USAID provided equipment and infrastructure bolstered PDO operations, including a pilot Users Attention Office (UAP) in Managua. The UAP greatly improved PDO case reception, distribution, and processing capacities. Through workshops, operational processes were refined for later UAP staff implementation. The Court created 5 new UAP administrative positions. Besides monitoring the number of clients in initial interviews in civil and family cases and entering information into the case tracking system, the UAP maintains an electronic calendar (client meetings, hearings, trials, trainings, etc.) of all Managua-based defenders, and alerts on scheduling conflicts to allow timely substitutions. The UAP is the heart of PDO Managua operations and though Judiciary hours are now reduced to 8:00 a.m. to 1:00 p.m. (purportedly to save electricity), the UAP stays open until 4:00 p.m. During the RCC consultants' late afternoon visit, the UAP was open and had several people waiting to be served. At the same time, the PDO Deputy Director, in the same position from the start, several times expressed her gratitude for USAID assistance and remarked how much it helped to organize and sustain the PDO. She also praised the infrastructure, equipment, and the high quality training and technical assistance provided mainly by Costa Rican Public Defenders.

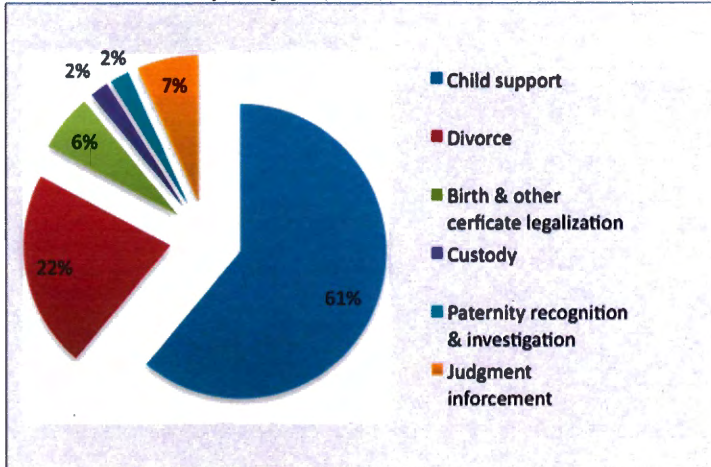
Until 2009, USAID also continued to support automated case tracking system (SEGEX) implementation to increase PDO efficiency and improve statistical information quality. The system was introduced initially (under USAID's ISP) into the Managua Pilot Office to generate statistics for planning and budgeting and to provide instant access to individual case information. Between 2005 and 2009, the system was installed in most of the 75 PDO offices. While there were challenges in getting the public defenders to keep the system up to date, a key factor, at least in Managua, in achieving full use of the system was the advent of the UAP, described above, and sanctions imposed on public defenders who failed to keep their system files current.

USAID also backed the PDO in the design, creation and implementation of the Public Defense Auxiliaries (PDAs) Program. Through agreements with eight law schools, 152 students over the two years of this activity were selected and logistically supported by ROLHR to act as PDAs, providing administrative and legal support to defenders in Managua, León, Estelí, Chinandega, Rivas and Boaco. Students committed to a six month minimum as a PDA and were trained by ROLHR. The PDA Program frees public defenders' time for defending clients. The PDA Program has continued and the PDO now has 70 students working as auxiliaries.

From inception to December 2009, the PDO received 117,366 cases. PDO demand has increased from 783 in 1999 to 23,216 cases in 2009. 80% are criminal matters, but since 2003, family law cases (17%) have notably increased. In Managua, per information from the Spanish Cooperation Agency, most family law cases are requests for legal assistance in child support (61%) and divorce matters (22%).

⁸ For more information see <http://www.unicef.org/spanish/infobycountry/nicaragua.html>

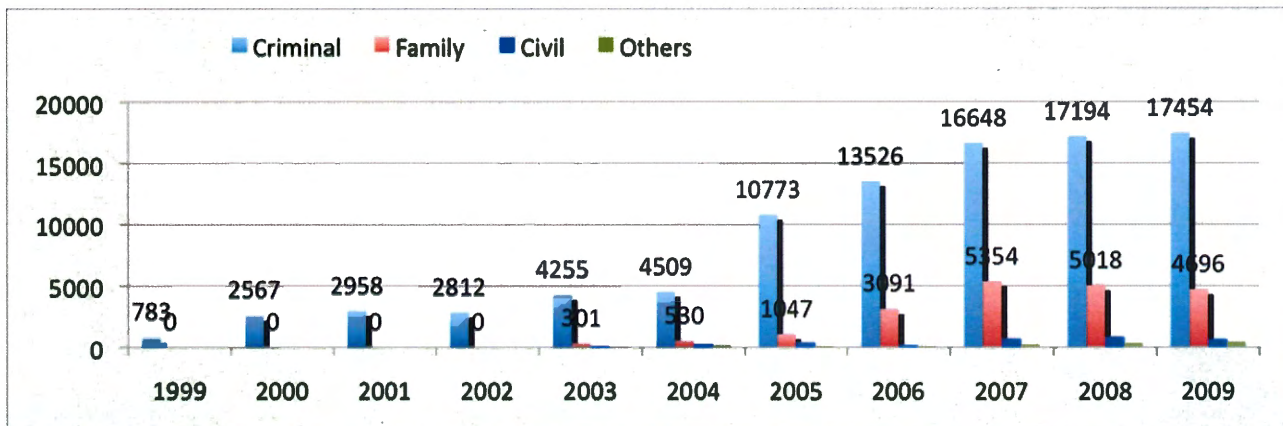
Figure 9: Family law cases received by PDO in Managua by subject (2009)



That the PDO is receiving so many family cases highlights the general vacuum of legal assistance for the poor and disenfranchised in Nicaragua. Such non-criminal matters should be referred to university *Bufetes Juridicos* and NGO legal clinics properly organized in a PDO support network. Because public defender numbers are still low and courts in 67 municipalities still have none, priority for defenders should be criminal defense of indigent or poor accused, especially when a person is imprisoned awaiting trial or other disposition. A specific part of current PDO strategy is the expansion of their services beyond criminal cases. The implications should be considered carefully to

avoid dilution of PDO criminal defense services by the slow transformation of the PDO into a legal assistance clinic, devoted to non-criminal cases.

Figure 10: Distribution of PDO Cases by area (1999-2009)



Year	Criminal	Family	Civil	Labor	Administrative	Land	TOTAL
1999	783	0	0	0	0	0	783
2000	2,567	0	0	0	0	0	2,567
2001	2,958	0	0	0	0	0	2,958
2002	2,812	0	0	0	0	0	2,812
2003	4,255	301	111	80	1	0	4,748
2004	4,509	530	257	189	0	0	5,485
2005	10,773	1,047	372	113	0	0	12,305
2006	13,526	3,091	159	82	30	1	16,195
2007	16,648	5,354	682	188	52	0	22,924
2008	17,194	5,018	830	305	0	26	23,373
2009	17,454	4,696	637	386	42	1	23,216
TOTAL	93,479	20,037	3,048	1,343	125	28	117,366
Percentage	79.65	17.07	2.6	1.14	0.11	0.02	100

Source: PDO, July 2010.

5. Strengthening the Forensic Medicine Institute.

In 1999, the Forensic Medicine Institute (FMI) was created as a dependency of the Supreme Court, with “functional autonomy.” It performs forensic examinations and provides expert forensic testimony and evidence at criminal trials. When USAID assistance began, only two of the forty forensic medical doctors appointed by the Supreme Court had degrees in forensic medicine. The lack of professional training and forensic expertise reduced the quality of FMI medical reports. As well, the lack of specialized forensic medical knowledge impacted negatively on the performance of forensic doctors at trials, because investigations failed to follow universal scientific standards. The impact of USAID assistance on the FMI is substantial and impressive. In 2005, technical assistance was provided to develop an action plan to strengthen and expand forensic services nationwide. The plan helped FMI leverage additional funds from the Judiciary and other donors to hire more personnel and establish new clinics. USAID supported services expansion in three regional offices in the departments of Río San Juan, Chontales and Jinotega. FMI offices are in Managua and 23 other sites (see map).

Figure 11: FMI Offices in Nicaragua



In 2007, the ROLHR completed the first forensic medicine graduate degree program in Nicaragua. Fifty-three doctors from all departments were trained and accredited in forensic medicine. The medical accreditation program was carried out by the *Universidad Católica de Nicaragua* (UNICA). The Colombian Institute of Forensic Science and Medicine provided teaching and technical assistance to the 18 month academic program, which included 14 modules covering traumatology, pathology, dental forensics, genetic forensics, forensic anthropology, epidemiology, investigation of sexual crimes, and autopsies. As part of the graduate program, a forensics manual (*Manual del Médico Forense en el Juicio Oral Nicaragüense*) was prepared and distributed to all participants. All of the USAID trained doctors continue to be part of FMI. Currently FMI has 74 doctors, the original 53 trained by USAID and 20 new doctors appointed by the Supreme Court (without competition). According to the FMI Director, these 20 new doctors require urgent training.

USAID also carried out an extensive training program for FMI medical professionals and 100 doctors from the Ministry of Health, who perform forensic exams where no FMI units exist. All received training in forensic medicine, forensic anthropology, and presentation of evidence at trials, domestic violence and sexual crimes. This effort helped improve inter-institutional coordination with the Ministry of Health and the National Police⁹.

In addition to helping improve FMI technical abilities, USAID strengthened FMI investigative capacity by donation of extensive forensic investigation and information technology equipment, including a vehicle, computers, stethoscopes, medical stretchers, examination lamps, privacy screens, surgery kits, etc. that facilitate, among others, the examination of women victims of sexual crimes. The forensic equipment donation was accompanied by observational tours to Colombia and El Salvador to learn about new investigation techniques. In particular, the FMI was able to enhance its use of DNA analysis techniques and implement new scientific analysis methodologies in the forensic investigations of sexual abuse cases.

The current FMI Director highly praised USAID assistance in training, technical assistance and materials. He mentioned that FMI currently has only very limited international donor assistance for very limited training¹⁰ and

⁹ FMI is not present outside most departmental capitals; thus Health Ministry doctors must perform forensic examinations.

¹⁰ The Spanish Cooperation Agency donated \$70,000 for a Postgraduate Diploma in Psycho-traumatology; UNDP has given \$30,000 from Norway and the UNFPA (UN Population Fund) and \$20,000 from France, both sums for limited training.

serious problems. FMI's only vehicle is the one donated by USAID. FMI has only a few morgues and often the corpses decompose before examination can be performed. There is only one morgue vehicle for the whole country with frequent air conditioning problems. Equipment outside Managua is limited and in several cases, the FMI doctors use their own homes for examinations.

In the FMI, the caseload has increased dramatically (89%) from 34,800 cases in 1999 to 65,552 cases in 2009, for a total of 595, 892 in the decade. Most cases (89%) are examinations of living victims. Postmortem examinations are only 3% of the cases.

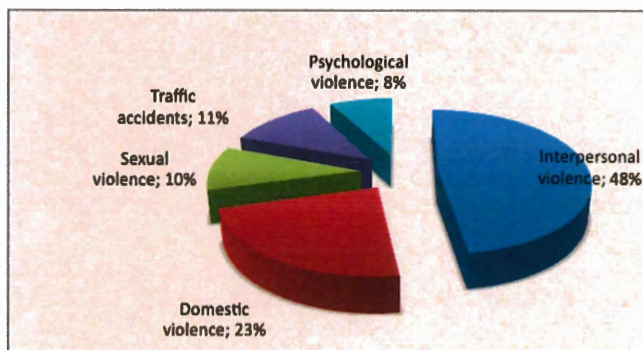
Figure 12: Forensic Medicine Institute Caseload 1999-2009

Examinations	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	Total
Living victims (89%)	33057	40502	42288	40196	47071	50356	51171	51052	57732	59979	59300	532,704
Postmortem (3%)	1419	1572	1133	1006	1393	1542	1684	1565	1675	1765	1852	16,606
Toxicology (4%)	0	1054	3299	2746	2835	2705	3497	4082	2886	1174	1695	25,973
DNA & body fluids tests (0.6%)	0	0	0	0	211	326	238	697	761	513	1044	3,790
Radiology (X-rays) (2%)	245	579	708	934	978	944	1099	2184	2456	1029	1471	12,627
Pathology (tissues) (0.7%)	79	409	507	495	491	565	515	574	207	160	190	4,192
Total	34800	44116	47935	45377	52979	56438	58204	60154	65717	64620	65552	595,892

Source: Forensic Medicine Institute, July 2010.

As the numbers show, the FMI is an organization specialized in dealing with living victims of crimes. In 2009 of 59,300 examinations of living victims, 83.4% were victims of different types of violence. 48% were victims of interpersonal violence, 20% of domestic violence, 10% sexual violence, 7% psychological violence and 11% were victims of accidents.

Figure No. 13. Distribution of victims of violence



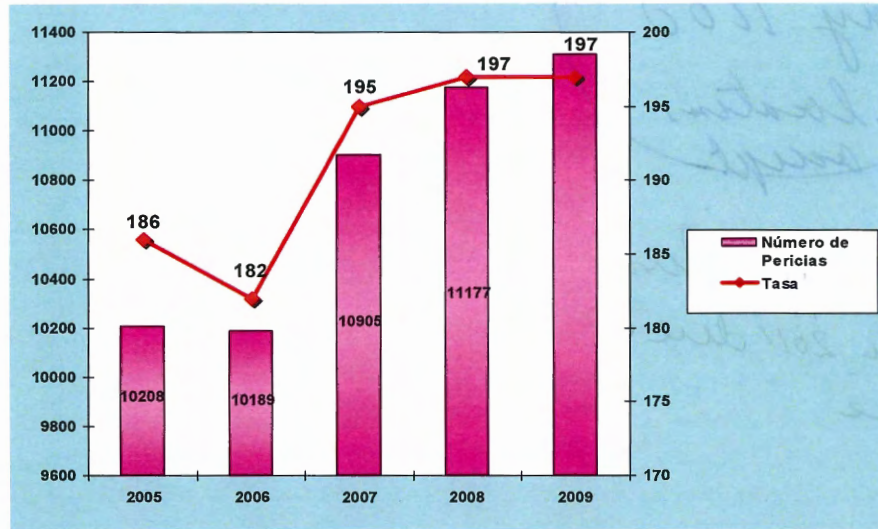
Source: FMI, data from 2009.

The number of examinations of domestic violence is worrisome, showing a steady increase of 3% per year since 2005. In 2009, FMI performed 11,313 examinations of domestic violence victims that, divided by Nicaraguan population, give 197 such exams per 100,000 people. According to FMI Director, international standards to measure violence consider that more than 10 cases reported per 100,000 implies endemic domestic violence in the region. The concern has been so serious in the

FMI that they have carefully examined the data on these cases in Managua from 2005 to 2009. FMI has found that 70% of victims were women; that housewives and labor workers were the most affected, and most victims

were between 26 and 35 years old, without university education (primary and secondary only). More frighteningly, the cases reported are estimated to be only 10% of the real numbers. The FMI has made several presentations on its domestic violence findings to different civil society and government groups, because FMI considers it a very serious problem for Nicaragua that requires immediate attention and more serious studies.

Figure 14: FMI Domestic Violence Examinations and Numbers per 100,000 (2009)



Source: Forensic Medicine Institute, July 2010.

6. Promotion of Alternative Dispute Resolution (ADR) Mechanisms

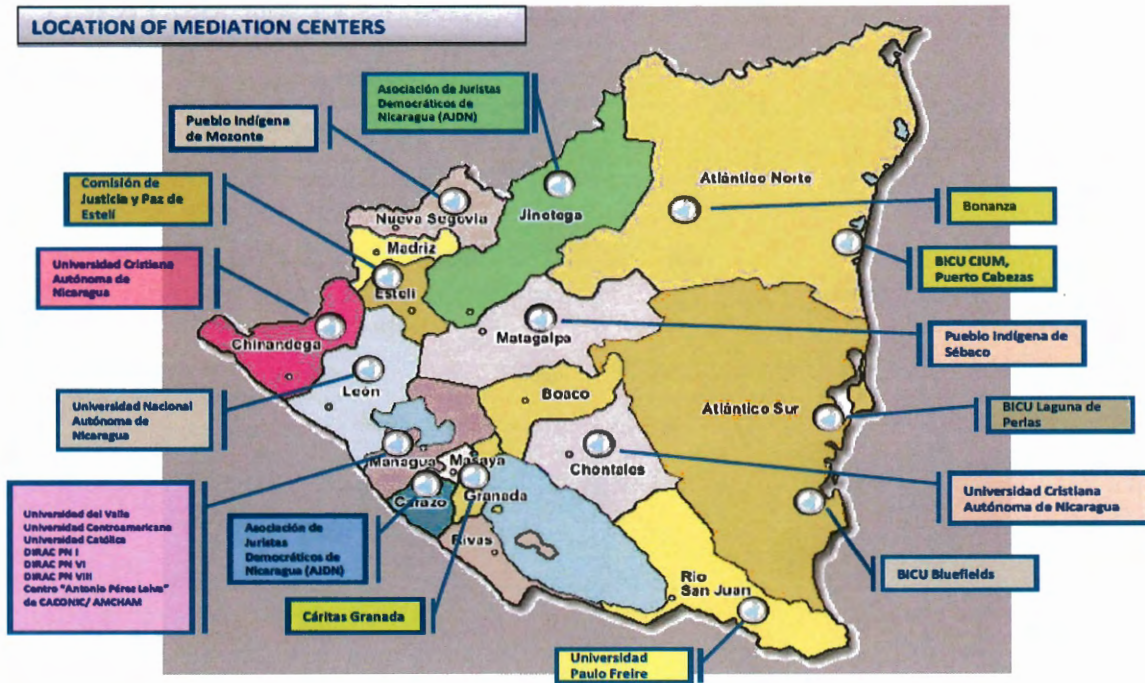
Prior to USAID ADR assistance, Nicaragua had no defined legal framework for alternative dispute resolution (ADR) activities, and it was little used. The public knew little about availability of ADR mechanisms. The Alternate Dispute Resolution Directorate (DIRAC) of the Supreme Court was established in 2000, but was only handling mediation and arbitration cases concerning property issues. At the community level, the Catholic Church Justice and Peace Commissions were working on conflict resolution and conducting informal mediations, mainly to solve family and neighborhood disputes. The UCA and the UNAN-León were providing mediation services in coordination with their law clinics, but resulting agreements were not recognized by the legal system. The Nicaraguan Chamber of Commerce (CACONIC) had worked in drafting new ADR legislation introduced in the National Assembly in 2004. In 2005, Checchi supported CACONIC outreach workshops to promote passage of the Mediation and Arbitration Law (Law 540), which became effective in August 2005.

The principal objectives for the ROLHR mediation component from 2005-2009 were to increase the number of mediation centers and mediators, train and certify mediators under DIRAC and increase ADR use in creating a culture of peace. After Law 540 passed, the USAID program conducted publication and outreach activities to disseminate the new ADR legal framework, designing all ADR trainings to conform to Law 540. This effort resulted in DIRAC accreditation of 395 mediators and 29 arbitrators who were to work at all centers established with ROLHR support.

In 2006, USAID inaugurated Nicaragua's first commercial arbitration center in collaboration with CACONIC. A second USAID supported arbitration center established at the American Chamber of Commerce (AmCham) in 2007 eventually merged with CACONIC to provide a broader range of commercial mediation and arbitration services to national and international businesses. Through July 2010, this center had conducted only 4 mediations and received 20 requests for services.

To promote community mediation services and build confidence in ADR, USAID also assisted civil society organizations and the DIRAC in the establishment and legal accreditation of 20 community mediation centers nationwide. Centers established by ROLHR used a variety of models for location and management of the centers' operations, working with universities, NGOs, indigenous groups, and the National Police. Each center received technical assistance to develop operating procedures and ethics codes, approved by DIRAC as the ADR regulatory body. As the ROLHR program wound down, during 2008-2009, Checchi proposed three sustainability options to the centers, whose services had been provided at no charge. Options were: 1) charge 250 -300 cordobas (+/- US\$10) per mediation, 2) charge on a sliding scale from the minimum wage upward, 3) ask a voluntary contribution. Most centers decided not to charge (UNAN-Leon, UCA, BICU's centers, DIRAC's three centers, Estelí among others), for policy or legal reasons, and since mediations in the courts are free of charge. Those that have attempted to institute payment have seen their caseloads decline precipitously.

Figure 15: Community Mediation Center Locations – Situation in 2009



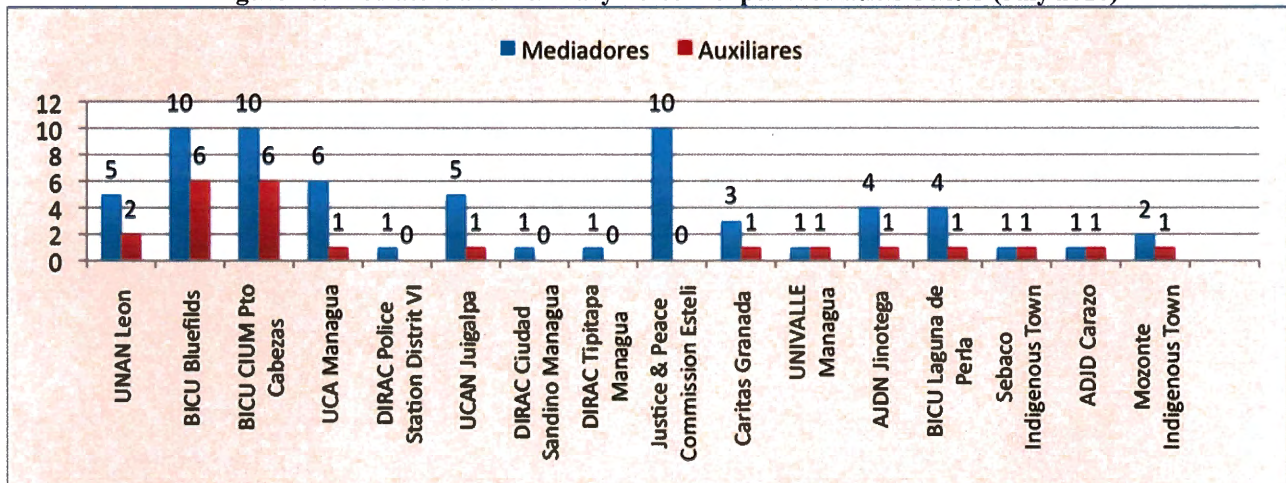
Source: Checchi, ROLHR Final Report, September 2009.

In July 2010, the RCC consultants conducted a focus group and a survey of the mediation centers and found that several of the 20 community mediation centers established under the ROLDR have serious sustainability and functioning problems. Nevertheless, some centers have continued to work after the termination of USAID assistance and they are doing their best to continue offering their services. The main findings are:

- Those centers backed by established entities have survived better (UCA, UNAN-León, UNIVALLE, Pueblo Indígena de Mozote, Cáritas Granada, Comisión Justicia y Paz in Estelí, BICU Bluefields, BICU Laguna de Perlas, BICU Puerto Cabezas). Currently these organizations provided for basic functioning of 85% of the currently existing mediation centers.
- The best-established and more solid centers were the UCA in Managua and the UNAN in León that were already established before the USAID assistance, and attached to university legal clinics (*bufetes jurídicos*).
- The centers in Bonanza, San Carlos/Rio San Juan and UNICA Managua have disappeared and those in Carazo and Pueblo Indígena de Sébaco are nearly non-operational.

- Some centers (Estelí, and three DIRAC centers in Managua) at the end of USAID support, were able to maintain a single permanent staff person and had to fire the secretary. In Estelí, for example, only the Director is permanent staff, but there is a group of 10 volunteer mediators on call according to needs. In Sébaco, where the Center is almost closed, the Director of the Center is the President of the Indigenous Town and the assistant is the person for all the town needs. In Carazo, the Center functions at the law office of its director, and the assistant is the lawyer's secretary. He mentioned that the Center once had 14 more affiliated mediators, but he does not call them because he does not get any cases. Possible users prefer to go to other places where mediation is done free.

Figure 16: Mediators and Auxiliary Personnel per Mediation Center (July 2010)



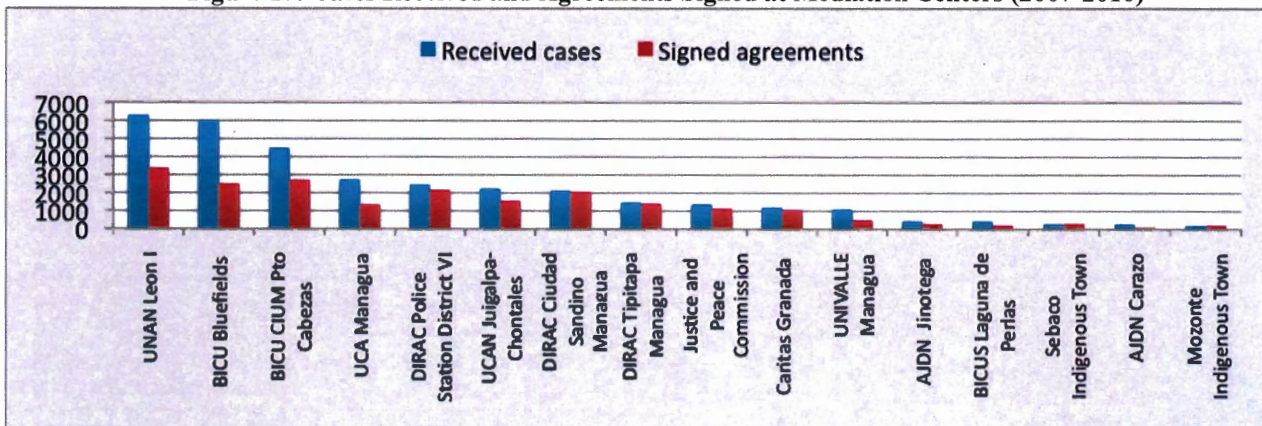
Source: Rivera-Cira Consulting, Inc. survey completed by Mediation Centers, July 2010

- The Centers claimed to be open Monday to Friday, from 8:00 a.m. to 5:00 p.m.
- The user fee payment system has not produced good results in centers that implemented this policy (Carazo, Granada, Jinotega and Chontales) and has reduced users dramatically, who prefer to go where mediation can be done free (public defense, local judges, justice facilitators). Most center clients are poor people earning minimum salary (C\$1500 and C\$2000 per month, about US\$70 to \$93) or unemployed. Centers that try to collect fees for services, charge from C\$250-300 (\$12-\$14), equal to 15% to 17% of minimum monthly salary. The fees are very high for their clientele, resulting in a dramatic decline in number of cases handled.
- Sustainability of the centers by collection of fees alone does not seem feasible at this moment. The average to maintain a center per month is \$1,200 to \$1,500 (\$15,000 to \$20,000 per year). Some centers have studied possibilities for future sustainability. They will need external support such as voluntary contributions, but they agreed that they need consistent external support to prosper from international donors or private sector. Their principal materials needs are office supplies (100%), photocopiers (81.3%), office furnishings (75%) and telephones (62%) (See annex 3), and the majority (87.5%) agreed that they need more training for their mediators and auxiliary personnel. Also an automated case tracking and monitoring system would facilitate their work, produce more reliable information and improve their reporting to DIRAC. The CACONIC/AmCham is the only center that has been able to obtain resources from other international donors. Currently it has IADB. They reported the fees they charge for commercial mediation and arbitration allow them to subsist even without the IADB support.
- When the ROL project closed in July 2009, most centers had only one year or less of existence and were not ready to be sustainable. They were left alone abruptly. DIRAC was supposed to be the institution to

provide them guidance, but it claims it has no resources to do so. The focus group organized by the RCC consultants was the only time the centers have gotten together since USAID funding ended. DIRAC was supposed to monitor the centers with the system designed by Checchi, but DIRAC seems very weak and lacking initiative in this area and has not implemented a monitoring system. DIRAC receives the six-month reports that some centers send to the entity, but simply passes them to the Judiciary without analysis. DIRAC does not total numbers, track performance or provide guidance. DIRAC does supervise the three centers in Managua that were created under its authority in Ciudad Sandino, Tipitapa and the District IV Police Station.

- In spite of the problems, since 2007, the 16 USAID supported centers returning the RCC survey received 33,225 cases and obtained 20,761 agreements (62% of received cases). In order of magnitude, they report providing services in: family, misdemeanors, small commercial matters, debts, and property and land disputes. With rudimentary monitoring systems they indicated 70-75% compliance averages for agreements reached. The centers with more clients are UNAN in Leon, UCA in Managua, the three DIRAC Centers in Managua, the BICUs in the Atlantic Coast, the Justice and Peace Commission in Estelí and the Caritas Center in Granada. Nevertheless, small volume centers like that in the Mozonte indigenous community, one of the last established, can work well. Though Mozonte's case number is small, an average of 15 per month, all cases mediated resulted in an agreement, indicating an effective service in an isolated area.

Figure 17: Cases Received and Agreements Signed at Mediation Centers (2007-2010)



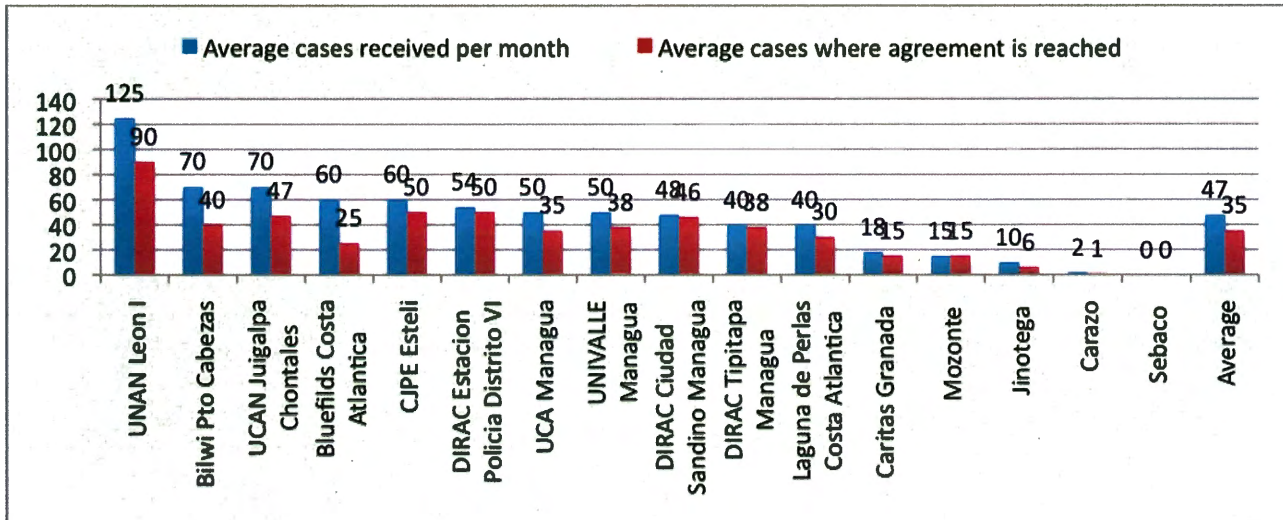
Community Mediation Centers	Received cases	Signed agreements	% of agreements in received cases
UNAN Leon I	6304	3366	53.4
BICU Bluefields	6000	2500	41.7
BICU CIUM Puerto Cabezas	4500	2700	60.0
UCA Managua	2738	1335	48.8
DIRAC Police Station District VI	2455	2156	87.8
UCAN Juigalpa- Chontales	2239	1545	69.0
DIRAC Ciudad Sandino Managua	2136	2025	94.8
DIRAC Tipitapa Managua	1469	1395	95.0
Justice and Peace Commission Estelí	1381	1120	81.1
Caritas Granada	1201	1024	85.3
UNIVALLE Managua	1100	500	45.5
AJDN Jinotega	453	296	65.3
BICUS Laguna de Perlas	450	200	44.4
Sébaco Indigenous Town	300	300	100.0
AJDN Carazo	296	96	32.4
Mozonte Indigenous Town	203	203	100.0
TOTAL	33,225	20,761	AVERAGE 70%

Source: Rivera-Cira Consulting, Inc. survey filled out by Mediation Centers, July 2010

- Currently the surveyed mediation centers receive an average of 47 cases per month. Again, UNAN Leon

leads with 125. Next are Puerto Cabezas (70), Chontales (70), Bluefields (70), Estelí (60), the District IV Police Station (54), UCA (50) and UNIVALLE (50). Chontales is the only center that has been able to maintain its clientele under voluntary fee for services policy. Granada, Jinotega and Carazo have seen dramatic client reductions. Granada used to receive more than 70 cases a month and now only receives 18. The centers with more clientele are those that do not charge (UNAN-Leon, BICUs, Estelí, UNIVALLE, UCA and the three DIRAC centers in Managua). Carazo and Sébaco now have almost no cases.

Figure 18: Average Cases per Month and Average where Agreement is Reached



Source: Rivera-Cira Consulting, Inc. survey completed by Mediation Centers, July 2010

- From 2005- 2009, USAID invested resources to train 489 Justice Facilitators (JF) (224 men and 265 women) of which 338 received formal DIRAC accreditation as mediators (40 hour course). These JF were recruited by 20 civil society organizations led by the Human Rights Permanent Committee (CPDH). The JF functions include: 1) serving as legal educators and providing justice orientation to the community; 2) accompanying disadvantaged persons in judicial matters; and 3) promoting ADR by conducting mediations in rural or marginalized urban communities. These JFs were supposed to be linked to the various USAID supported mediation centers. The centers were to review mediation agreements completed by JFs and register them at the center. At the end of the ROLHR, Checchi indicated that these JFs had also formed 24 Legal Assistance Centers and that 15 of these had municipality support. In July 2010, these Legal Assistance Centers did not seem to exist and the program trained JFs had no link with the mediation centers, except for some in Estelí. After USAID assistance ended, the JFs were not monitored and their current activities could not be learned.
- Consultants' inquiries on JF issues found that in Nicaragua there are two JF groups. The first group (2,000 people) is financed by the Organization of American States and promoted by the Supreme Court. Their communities supposedly elect the members of this group, who cannot be active in any political party and the local judge in the respective municipality is in charge of their training and supervision. They do not charge for their services, but receive around C\$1,500 monthly (\$71) for expenses in assisting the local judge with notifications, calling witnesses and other judicial tasks. They also conduct mediations that are reviewed and certified by the judge. This JF group has been very successful, mainly in rural communities. Currently, the Norwegians are proving more resources to bring the model to urban areas¹¹. The second JF group is the one trained by USAID. The Supreme Court did not accept their incorporation into the first group because they had not followed the established community selection mechanisms and because the Judiciary did not have

¹¹ Several of the persons interviewed were concerned that the Supreme Court Justice Facilitators would be politicized in the near future by the CPC (Citizens Participation Committees) organized by the current GON that are clearly FSLN adjuncts. The CPCs have been organized in every community and could easily control the election of future Justice Facilitators.

enough resources to provide these JF with the monthly allowance. As a result, at the end of the USAID assistance, its JF group of several hundred trained Justice Facilitators was left unsupported and without monitoring. The whereabouts of these trained JFs for possible reconstitution as a potential useful link to the mediation centers should be examined in designing any future ROL project.

7. Civil Society Advocacy and Institutional Strengthening.

From 2005-2009 USAID provided resources to increase the capacity of CSOs to advocate for justice reform and respect for human rights. In July 2010, despite past USAID support and that of other donors, CSOs in Nicaragua are weak and have serious funding limitations, with exception of some old and well-established universities. Very few CSOs work in the justice sector and those that do have little capacity to undertake technical analysis and performance monitoring. Those interviewed: *Grupo Pro Justicia*, *Hagamos Democracia*, JUDENIC, *Centro de Derechos Constitucionales* and *Red de Mujeres contra la Violencia* are the main CSOs advocating for justice issues. The first three are part of the Permanent Organization for Justice (*Organización Permanente por la Justicia*, OPJ) together with CPDH, *Movimiento por Nicaragua* and IPADE. While OPJ was encouraged and supported for some information campaigns by USAID, this coalition is inactive for lack of financing and some of the organizations have precarious offices or like JUDENIC, no offices at all.

USAID technical assistance and grants that Checchi provided to strengthen CSOs and form coalitions has been seriously set back by the present GON attacks against CSOs that criticize or oppose government policies. When CSOs publicly oppose the GON, they are audited by the *Dirección General de Ingresos* (tax collection entity) to check their financial reporting or the Ministry of Government revokes their operating certificate. Pedro Solís Cuadra, Executive Director of *Hagamos Democracia*, clearly stated that “In Nicaragua, when an NGO publically criticizes the government, the government retaliates.” The attacks started against the Communications Research Center (*Centro de Investigaciones de la Comunicación-CINCO*) and now are generalized against all CSOs. Apart from the ROLHR, two USAID projects provide support to organizations to get organized and prepared against these attacks and provide internal institutional strengthening¹².

After the ROL Project termination in July 2009, CSOs have had no grants available for justice advocacy activities. All CSOs interviewed highly praised the USAID technical and financial support provided under the ROLHR project, but agreed that active justice advocacy efforts terminated with the project for lack of financing. They agreed that OPJ was effective in the development and implementation of advocacy campaigns. The OPJ coalition conducted an initial advocacy campaign to promote the merit-based and transparent selection of Supreme Court magistrates and the appointment of the Prosecutor General in 2007. Although none of the candidates named to the Supreme Court were selected as urged by the OPJ, its advocacy and lobbying forced the National Assembly to involve civil society in the magistrate selection process, a first in Nicaraguan history. A similar campaign was launched in 2008 focused on the selection of Supreme Court magistrates. However, the intense pressure exercised by the ruling GON on civil society minimized the impact of this campaign.

As a further way to increase CSO roles in monitoring and evaluation of the human rights protection and justice systems, USAID supported the design, implementation and strengthening of two CSO-based judicial “observatories” or watchdog groups. The first was created in coordination with UNAN-León and the second with the Bluefields Indian & Caribbean University (BICU). The BICU observatory is the only organization of its kind in Nicaragua that addresses issues related to autonomous rights and indigenous populations. USAID donated equipment and provided technical and logistical assistance to both observatories, which have been fully integrated and are now logistically supported by their respective universities. The observatories continued working after ROLHR ended, but on a lesser scale. They are largely staffed with law students and have very limited resources to conduct and publish studies on judicial corruption, citizen perception of the justice system, and human rights and due process issues within the criminal justice and penitentiary system. Law Faculties at

¹² Projects are implemented by ICNL (International Center for Non-Profit Law) and MSI (Management Sciences International) and have been recently separately evaluated.

well-established universities are the strongest CSO group that could become important resources to conduct ongoing justice system assessments and performance monitoring.

8. Areas of assistance where impact was not achieved.

In the past decade, USAID provided technical assistance for the drafting, enactment and implementation of the Administrative Code (*Código Contencioso Administrativo*) aimed to establish a new jurisdiction, with oral and public procedures, where citizens could challenge arbitrary or incorrect government acts. FIU/CAJ also designed a training program for future judges in coordination with the Supreme Court and trained 160 candidates for the positions of Administrative Judges. Nevertheless, this law was subsequently declared unconstitutional by the same Supreme Court that had participated in its drafting. The Supreme Court, backed by an agreement with the two most important political parties, issued the unconstitutional statement.

USAID also assisted in the drafting and discussion of the Judicial Career Law, and in support for enactment. This law established a system based on open and merit-based competitions for the selection of judges, merit-based promotions and a control mechanism to apply disciplinary measures. The law was enacted in 2004, but not implemented until last year. In 2008 regulations were finally approved for its implementation and in 2009, the first open and merit-based competition to select 12 family judges was conducted and 4 were appointed. The Spanish Cooperation Agency that has been supporting the implementation of the family courts forced this competition. Currently, the Judiciary has 419 judges and 307 alternate judges¹³ and to date only 4 of those appointed have been selected according to the Judicial Career Law.

IV. LESSONS LEARNED

1. ***The appropriate selection of COP, DCOP and consultants by USAID contractors FIU and Checchi was key to the successful passage and implementation of the CCP.*** Many of the consultants were recognized experts in their fields, knew Nicaraguan reality very well and spent significant time in Nicaragua to become acquainted with the authorities and personnel in the Judiciary, PM and PDO.
2. ***In every justice reform process, interagency coordination is a vital element for success.*** The establishment of the initial high-level decision-making group that became the National Inter-Institutional Commission (NITC) brought together leaders of all relevant criminal justice institutions and laid the groundwork for the Commission and its regional offshoots. The highly participatory approach employed by FIU/CAJ and Checchi with the NITC in the design and implementation of activities was critical in consensus building among justice sector institutions for the standardization of procedures, the development of guidance documents and the execution of a national training program for justice sector operators.
3. ***Extensive training in the fundamentals of the accusatory criminal justice system before the CCP entry into force was very effective and set the stage for success.*** Prosecutors and public defenders mentioned that this approach had allowed the quick and informed implementation of oral procedures and curtailed their resistance to CCP implementation. Judges had less preparation and were more resistant. USAID had cut off direct assistance to the Supreme Court and judges' training was only possible indirectly through the NITC.
4. ***Criminal Procedure Reform without direct participation of Judiciary is extremely difficult, and other avenues to increase judges' skills must be found.*** The use of the ostensibly autonomous NITC as a vehicle for providing technical assistance and training to local and district level criminal judges was an innovative way to circumvent the ban on direct dealings with the Supreme Court. If judges had received no CCP training at all, USAID's years of investment would have been in serious jeopardy. Nevertheless, the

¹³ According to information provided by the Judicial School Director, July 2010. He said that this information could be inaccurate and before each training event he checks with the Judiciary Human Resources Office to verify the number of people.

Judiciary remains in need of extensive reform and institutional strengthening. Coordinating activities with the Supreme Court is likely to remain impossible for policy and legitimacy reasons in the foreseeable future.

5. ***Mobilization and education of civil society concerning citizen legal and human rights is fundamental to further justice reform, and assure full reform implementation and establish advocacy constituencies.*** The establishment of CSO coalitions such as CONADER that brought together the deans of all 21 Nicaraguan law faculties and OPJ were important mechanisms to support justice reforms. Support to such groups will need to be a part of any future programs.
6. ***Successful implementation of the requirements of the Judicial Career Law is a lengthy and difficult process.*** It requires a) political will, b) establishment of the new administrative units and management structure that permits effective coordination, planning and implementation of the selection, evaluation and discipline of personnel; and c) raising the technical qualifications of applicants and sitting judges to the levels proposed in the implementation process. These conditions do not presently exist in Nicaragua, as the Judicial Branch is highly politicized.
7. ***Assistance to forensic medicine units is a key investment to improve the quality of evidence in the accusatorial system.*** Prior to the ROLHR project the FMI had received limited technical assistance to implement the criminal law reforms and lacked basic equipment to conduct forensic investigations. Training the FMI staff and a small investment in basic forensic equipment achieved higher than expected results in improving the quality of FMI services. Technical assistance to strengthen the FMI should also include medical doctors from the Ministry of Health, who frequently assist the FMI in forensic investigations.
8. ***The mediation centers created by USAID are important mechanisms to facilitate access to justice in communities and create a culture of peace, but their sustainability cannot be achieved in the short term.*** The USAID initiative to create community mediation centers is producing positive results, but more public awareness initiatives and trainings are essential in educating the public and encouraging local citizens to visit the mediation centers. Financial support cannot be abruptly suspended until they are well established and accepted by the community. Fee for services is not a proven sustainability mechanism for new centers, especially in very poor communities. Local partnerships with National Police and local justice sector operators proved critical in increasing the number of cases handled by mediation centers.
9. ***The 40 hour requirement in Nicaragua to obtain accreditation as a mediator is very low compared to international standards where 120 hours are required.*** The interviews and focus groups revealed the view that the 40 hour training is not enough to prepare adequate mediators. Some directors of mediation centers stated that mediations carried out by Justice Facilitators brought for their review had numerous problems.
10. ***Civil society organizations in politically hostile environments will have great difficulty to survive and advocate for justice reform without international support, but such support makes them easy targets.*** The Sandinista government has systematically assaulted Nicaraguan CSOs, with some members receiving personal threats and hostile acts against their installations. They have very limited financial resources. Without international cooperation their advocacy capability in justice reform is almost non-existent. They require intensive technical support and accompaniment to enable them to plan, design and implement activities. The lack of human resources and organizational development represent a significant obstacle to the effective and efficient implementation of projects by some CSOs. In addition, civil society organizations interested in justice reform often chose to pursue broader topics in order to receive more funding, which had the effect of stretching their limited resources even further.
11. ***Even in an unstable political environment, with a weak judicial branch heavily interfered with by political parties, innovative justice reform initiatives can be successfully implemented.*** In circumstances where USAID support had to be cut frequently due to political reasons justice reform momentum was difficult to

attain. Nevertheless, USAID in Nicaragua was able to carry out historic transformation in the legal system under very difficult circumstances. In these environments, project implementation required flexibility and capacity to quickly adjust to new realities, which USAID effectively demonstrated.

V. RECOMMENDATIONS FOR FUTURE PROGRAMING

The ROL projects implemented by USAID in the last decade have had a significant impact in Nicaragua's Criminal Justice System. They have successfully implanted a modern accusatorial system, based on oral hearings and replacing a Nineteenth Century inquisitorial system. Two major and important new organizations were created, the PM (Public Prosecutors Office) and the PDO, that play pivotal roles in establishing a counterbalance of power between accusation and defense. Also, the FMI was strengthened to provide better forensic examinations as evidence for the criminal process. USAID projects also started to promote community access to conflict resolution and minor legal problems, with mediation centers established all over the country that have provided solutions for more than 20,000 cases.

The increasing politicization and polarization of some justice sector institutions, mainly the Judiciary, and the current status of the US-Nicaraguan relationship does not permit the implementation of a traditional Rule of Law project with active participation of the Judiciary, the Prosecutors Office and other Government justice sector organizations. Nevertheless, since USAID has invested \$23,886,320 in the last decade in mostly successful ROL projects that have produced a significant impact, it is important to find programmatic areas whose main purpose would be the promotion of access to justice for a range of vulnerable populations.

Nicaragua's current political environment is precarious, but even in this context there are still opportunities for ROL initiatives that take advantage of past achievements and assist Nicaragua's most vulnerable groups (poor, women, children and indigenous populations). This assistance is particularly important in view of Nicaraguan economic indicators. With a gross domestic product (GDP) of \$6.2 billion and a per capita income of \$1,071, Nicaragua is the second poorest country in the Americas after Haiti. About 46% of the population lives on less than \$1.15 a day. The prognosis of the Nicaraguan economy for the future is bleak. US remittances to Nicaragua are declining. Another factor crippling the economy is the lack of foreign direct investment and little or no state funds to maintain current infrastructure.¹⁴

Due to the foregoing facts, RCC recommends that USAID define a strategy directed to **provide access to justice for the poor and disenfranchised**, accompanied by a strong monitoring and evaluation plan to measure results that requires intensive work with universities, church organizations and NGOs, and very limited coordination with the Judiciary. The proposed strategy has **five lines of action** to promote access and one **additional optional line** to upgrade the legal profession in the country.

1. Expansion and Promotion of alternative dispute mechanisms at community level
2. Support and assistance to victims of violence and crime.
3. Expansion of Legal Assistance for the poor and disenfranchised.
4. Monitoring access to justice to preserve gains and generate future justice reforms.
5. Development of Legal Education programs and campaigns to promote access to justice.
6. Limited and targeted support for the upgrade of the legal profession (optional).

¹⁴ (<http://www.state.gov/r/pa/ei/bgn/1850.htm>).

1. EXPANSION AND PROMOTION OF COMMUNITY LEVEL ALTERNATIVE DISPUTE MECHANISMS.

1.1. Revival, consolidation and expansion of USAID Support to Mediation Centers.

It is strongly recommended that USAID immediately re-establish and renew support for the strongest of the twenty mediation centers begun and supported under the ROLHR project in 2007-2009. The Mediation Centers were a recognized and significant success of the prior USAID ROL program. They provided a new and important service to their communities and diverted 33,000 cases from entering the courts. Clearly, the abrupt termination in early 2009 of the previous project funding damaged all of the project-supported centers. Many had only recently begun to function and were far from sustainability. Some have disappeared. Those that remain today are handling fewer cases than they did at the height of the USAID program, which had been providing funds for small staffs and office equipment and supplies. Those in the best position to benefit from renewed support and attain eventual full sustainability are connected to a larger supporting organization such as a university law faculty legal clinic, a Catholic Church institution, or other entity that has taken up mediation services to the public as part of its larger mission. As mentioned above, with US\$1500 a month, these centers can effectively function in their communities and can provide free services. Of the existing centers, early support should go to the fourteen (14) that have retained important service levels even under difficult financial circumstances (UNAN-Leon, the three BICU Centers, the three DIRAC centers, UCA, Estelí, Caritas Granada, UNIVALLE, Chinandega, Chontales-Juigalpa and Mozonte). The situation of the minimally operating centers in Jinotega, Sébaco and Carazo must be carefully analyzed. RCC's preliminary impression is these will require restructuring, election of new directors and in the case of Jinotega and Carazo, linking to a university or church institution. The CACONIC/AmCham mediation center does not need further support because it has financing by the IADB.

1.2 Establishment of School Mediation and Conflict Prevention Programs.

The persistently high levels of violence that exist in Nicaragua should make violence prevention and the promotion of a culture of peace a primary target of intervention. There is extensive experience in this field that could begin to be brought to bear within USAID's upcoming Municipal Development Project. The logic and the promise of an early start with children and youth in school and community settings to create habits and train in methods for conflict prevention, avoidance and resolution are compelling.

The opportunity to begin pilot conflict prevention projects in the near term via the Municipal Development Project should not be missed. Training courses and workshops in conflict resolution and dialogue among students themselves about solutions to their conflicts would be a useful element in the Municipal project. Students would be prepared for more effective peace building in the community, taught about how conflicts arise and the ways in which citizens facing these problems can engage in violence prevention and intervention.

Leadership training in conciliation and mediation for youth coupled with the creation of formal conflict resolution by students in middle and secondary schools has paid dividends in many other countries. Successful projects in this area have been carried out in Argentina, in Colombia, Puerto Rico and other Latin American countries. The possibility of initiating such programs on a pilot basis may be easier in smaller towns if USAID is able to work with public schools at that level. Private and church affiliated schools may be more receptive and more likely to afford the chance for early successes for the pilot methodology.

2. SUPPORT AND ASSISTANCE TO VICTIMS OF VIOLENCE AND CRIME.

2.1. Establishment of Centers for Attention to Victims of Violent Crimes (VACs).

All information gathered confirms that violence, and particularly violence against women and children is an enormous, endemic, and growing problem in Nicaragua. There are no integrated crime victim attention centers in Nicaragua and the Public Ministry Victims' Assistance Offices (VAOs) in Managua and Juigalpa have only one staff person each. Victims of violent crimes, according to the FMI, are mostly women. The alarming levels of violence against women and children must be forcefully counteracted and the victims provided personal assistance and legal aid and protection from further harm. USAID and other donors should support the systematic establishment of centers for attention to crime victims throughout Nicaragua.

Although the public sector, specifically the National Police, has opened offices that receive complaints and provide attention to victims of violence, primarily serving women (Police Offices for the Attention of Women and Children- *Comisaría de la Mujer y la Niñez y la Adolescencia* – CMNA), these have struggled for resources and continue to have numerous problems in sustaining services and in providing adequate immediate counseling and protection to victims. Their services remain minimal, deficient, subject to political changes and influence, and do not provide integrated attention and protection to victims of crime.

For a thorough recent history and an analysis of the treatment of the problem of violence against women in Nicaragua, see the excellent 2008 report, *Mapeo de las Comisaría de la Mujer y la Niñez en Nicaragua*.¹⁵ The conclusions of the Mapeo report raise serious questions and strong doubts on the effects, directions, and above all, the sustainability of the CMNAs. Some important highlights are:

- The CMNAs have been Nicaragua's main public policy initiative in domestic and sexual violence over the past 15 years and have contributed significantly to raise societal consciousness of these issues and identify them as criminal acts, but CMNA contributions have been minimal in facilitating the exercise of women's rights.¹⁶
- The CMNAs were founded as a project to respond to the plight of women in violent situations, creating awareness in public opinion and in public sector institutions and raising the subject on the public agenda. Nevertheless, after nearly 15 years of operation, generally, in some state institutions, the CMNAs are still seen as a project, rather than a central public policy vehicle, and moreover, a project that remains fundamentally dependent on international assistance.¹⁷
- The 32 existing CMNAs cover only urban centers, almost completely excluding rural women. Most are understaffed or have untrained staffs who apply inconsistent and sometimes legally incorrect remedies.
- Since the 32 CMNAs still cannot be sustained without international funding, there is an open question as to how the GON can continue to plan to expand the model.

In interviews with women's NGOs, there was an opinion repeated that due to new FSLN government guidance and instructions, some CMNAs seek to minimize domestic violence cases and pressure victims to seek reconciliation with the aggressors, under a GON policy preference for family union and reconciliation, thus failing to protect victims of violence and repeatedly ignoring serious crimes.

¹⁵ *Mapeo de las Comisaría de la Mujer y la Niñez en Nicaragua*, 2008. D'Angelo, A. et al. PATH, Nicaragua, 43 pp. <http://www.ceplaes.org.ec/AccessoJusticia/docs/MAPEO%20Nicaragua.pdf>. Under regional project, Acceso a la justicia para mujeres en situación de violencia: Estudio Comparativo de las Comisaría de la Mujer en América Latina (Brasil, Ecuador, Nicaragua, Perú). www.ceplaes.org.ec/AccessoJusticia/ funded by the International Development Research Center, Ottawa, Canada.

¹⁶ Id at 39.

¹⁷ Ibid.

To fill the gap left open by the currently incomplete CMNA program, the systematic establishment of non-government centers for attention to crime victims throughout Nicaragua is imperative. Priority for some placements could be considered based on proximity to the current locations of the 32 CMNAs, but this may not be feasible for political reasons. VACs should be established and operated by non-government entities that would advertize services in radio and TV spots and could handle referrals from the Public Prosecutors, National Police and the courts, as well as assist clients who arrive directly.

One ideal VAC positioning would be as a specialized unit attached to the university legal assistance clinic (*Bufete Jurídico*). The VACs should be multi-disciplinary and provide legal, medical, psychological and protective services. VACs in universities could draw on faculties of medicine, social work, and psychology, as well as law faculties for staff, and could draw on students of all these disciplines who would perform their required six months of social service working in the VAC. Colombia, in the Paloquemao and Bucaramanga judicial centers, has two successful examples of USAID supported VACs. Here, victims get psychological support and legal advice. Specially trained counselors help them begin to deal with their loss, and free legal advisors assist them through the judicial process and, when necessary, arrange for their protection. While these VACs are staffed by mental health workers and lawyers, university law and psychology students do much of the work. All such students receive careful training to deal with the grief, anger and frustration of VAC clients.

RCC recommends starting these VACs in three pilot projects, one at UNAN-Leon, one at UCA-Managua and one at BICU-Bluefields, to assess the model for further implementation in other places. Preliminary conversations with these three universities by RCC consultants indicated receptivity to possible pilot initiatives.

2.2. Establishment of Shelters for Domestic and Sexual Violence Victims and Continued Support to the Forensic Medicine Institute.

In addition to the Victims Attention Centers recommended above, RCC recommends additional program support for shelters for women victims of violence and intimidation. Such places of refuge and protection are urgently needed and almost entirely absent in Nicaragua. Some donors have supported these, and the Netherlands will support one currently planned in Bluefields. As with the VACs, the need is great and the supply is very small.

The most recent GON report¹⁸ on this violence against women, issued in August, 2007, found that 48% of women who had been married or in a common law union reported that a male partner or ex-partner had abused them verbally or psychologically. 27% reported being the victim of physical violence and 13% of sexual violence by their current or former partner. One of every three women (29%) had experienced physical or sexual violence in her life. The percentage reporting violence in the prior 12 months shows the endemic magnitude, with 21% of women reporting psychological violence, 8% physical violence and 4% sexual violence.

Another thorough 2005 study¹⁹ by the Supreme Court of Nicaragua and the Spanish Cooperation Agency analyzed final 559 final judgments in cases of rape of an adult or minor or sexual abuse and found that 57 or 10% were incorrectly resolved through mediation, despite the provision in the Criminal Procedure Code that mediation cannot be used in cases of serious crimes such as these. Women's groups and legal experts assert that the use of mediation in such cases re-victimizes and rebounds against the injured person, sending her back to the same situation that produced the previous violence. RCC's meetings with women's advocates and the Network of Women against Violence confirmed the Forensic Medicine Institute's findings²⁰ that the problem of violence against women remains endemic and growing. Nicaragua is a seriously poverty stricken society and violence is

¹⁸ Government of Nicaragua, Ministry of Health, *Encuesta Nacional de Demografía y Salud (ENDESA), Informe Preliminar, Nicaragua 2006-2007*. Report supported by international donors, including USAID, World Bank, UNICEF, and the US HHS (CDC).

¹⁹ Meza, María Auxiliadora, et al. *Análisis jurídico de sentencias relativas a delitos de violencia intrafamiliar y sexual y demandas civiles en materia de familia, 1a ed. Managua: Agencia Española de Cooperación Internacional, 2005. 118 p.*

http://www.aacid.es/export/sites/default/web/galerias/programas/Igualdad/descargas/analisis_juridico.pdf

²⁰ See Forensic Medicine Institute section at p. 13-15 above.

common at all levels, interfamily, against women and against children. Victimized or endangered women and children must have safe places to go to begin to repair their lives and be protected.

As noted above, the CMNAs are Nicaraguan National Police units where vulnerable victims can seek immediate attention and protection. For a variety of reasons, they are likely to remain unable to meet the current demand for such services. Moreover, the evident ambiguity of current GON policy directives to the CMNAs raises another impediment to their ability and willingness to confront abusers directly and protect victims from further harm. The NGO community of women's organizations has largely retreated from active collaboration with the CMNAs in the last several years and is currently in strong disagreement with the GON policy favoring conciliation and mediation, rather than prosecution of the aggressor in cases of domestic violence.

RCC suggests that USAID and other international donors place heavy emphasis and major investments in alternative ways to respond to family, sexual and gender based violence. To stem the tide of violence, assistance must continue over a several year period in this area, and be coupled with constant and insistent communications campaigns to raise public and official consciousness. A network of non-government Victims Attention Centers and Women's Shelters is an option that would fill an important need and is unlikely to be opposed, especially if the new centers can be located in relative proximity to the current CMNAs.

As part of the effort to assist victims of domestic violence, USAID should consider renewal of support to FMI. This well regarded and professional entity plays a vital part providing scientific evidence in all domestic violence cases. The FMI needs to improve their services in areas out of the main cities and basic equipment to evaluate victims of domestic violence and sexual crimes in private is required in several locations.

2.3. Promotion of Better conditions for children as crime victims and witnesses.

Another recommendation for impacting another major societal problem is establishment of specialized services to treat minor victims and witnesses. Prosecuting cases involving minors, whether as victims or as witnesses, is a major problem for the Nicaraguan justice system. Children usually are being interviewed by prosecutors and testifying before judges with no training in dealing with the emotional needs of minor children or their fears in such situations. The lack of such specialized attention to victimized children contributes to justice system failure to respond adequately and correctly to cases where a child is a victim or a witness to crime. Police, prosecutors and judges need specific training in this area, and units of specialists as adjuncts to the courts are needed.

In Colombia, an effort by USAID to train and deploy social workers and psychologists to accompany minors through the criminal courts has had considerable success. Special procedures have been developed to protect children who must appear as witnesses to crimes against others or recount their own injuries or traumatizing experiences in open court. USAID worked with a major Colombian NGO, the "We Believe in You" Association and the Institute for Family Wellbeing, the Colombian government's primary family protection agency, to develop a program for legal and psychological support to child victims of sexual and other abuse. The program focused on ensuring that cases involving children were processed expeditiously, were handled with a more sensitive and protective protocol, and that trained professionals were available to assist children. Lawyers and psychologists received training in how to represent and protect the child during judicial proceedings, whether as victims or witnesses – typically sitting with the child in a separate room adjacent to the courtroom. Bogota prosecutors report the average time from initial report of the crime to case resolution was reduced from seven to two months with assistance of this program. RCC highly recommends USAID explore establishment of a pilot program in this area working with universities and NGOs focused on children's needs such as Covenant House Nicaragua (Casa Alianza Nicaragua) that works with child sexual exploitation or sexual trafficking victims.²¹

²¹ <http://www.covenanthouse.org/houses/nicaragua>

3. EXPANSION OF LEGAL ASSISTANCE FOR THE POOR AND DISENFRANCHISED.

3.1. Strengthening and Establishment of University Legal Clinics (*Bufetes Jurídicos*) and articulation of a legal assistance network in support of the Public Defense.

During interviews, RCC consultants found only a few law faculties have legal clinics. The best and most established are at UNAN-Leon and UCA, but they could be expanded and strengthened with international funding. UPOLI, UAM, UCC and UENIC indicated their wish to open legal clinics. UPOLI already has the space but lacks funds for computers, office furnishings and equipment. USAID should explore support to universities that with modest funding could open these clinics and offer legal assistance to poor and disenfranchised populations.

Moreover, to complete and integrate legal services to the poor, legal clinics, mediation centers and the PDO should be supported to form a network of access to justice and of united effort in their communities to attract, orient, and adequately represent low income persons. The increasing demand for non-criminal legal services at the PDO reveals a large unmet need for legal assistance services by the poor that cannot pay a lawyer.

4. MONITORING ACCESS TO JUSTICE TO GENERATE FUTURE JUSTICE REFORMS.

4.1. Support to Law Faculty Empirical, Practical and Applied Criminal Justice Research.

Nicaragua's university law faculties afford the central opportunity to provide motivated human resources for practical research in justice system functions, and for assessment and development of programs and proposals for reform. The prior USAID projects supported establishment of a law faculties association, CONADER, which provided significant academic training and policy support for the new CCP and Criminal Code at crucial points and throughout the progressive installation of the new system. The USAID-backed work of CONADER in designing model curricula in 18 legal subjects is also a significant advance. CONADER remains active, but differing member views on its future make it an uncertain vehicle for further assistance. Public and private university differences, and some older law faculties discomfort over inclusion of newer faculties with doubtful credentials will need to sort themselves out before further donor funds can be channeled through the association.

Nevertheless, the law faculties of several of the better universities can be marshaled to serve as a crucial resource in pressing the justice system for adequate performance, performing systematic oversight, and recommending operational changes and legal and regulatory reforms. Most already have agreements with the courts, the prosecutors or the police for training assistance. USAID should explore the funding of a variety of law faculty based research projects that would focus on criminal case tracking and empirical analysis of criminal judicial decisions to produce reform recommendations. Several assessments based on practical information are necessary to really measure the performance of the criminal system. Surveys of judges, prosecutors, police, public defenders, defendants, victims and lawyers are necessary to find the problematic areas and provide remedies. Statistics must be better collected and analyzed. Case studies on the implementation of alternative mechanisms by prosecutors are urgent, as well as analysis on the disposition methods of criminal cases used by the police. Universities can establish alliances with NITC to find areas where research is necessary to identify the real causes of problems. In RCC meetings with individual law deans, and in the RCC universities focus group, they assured they want to conduct these studies, have the necessary human resources, but lack only the funds.

4.2. Support to Citizens Oversight Projects Carried Out by Universities and NGOS.

Vigilant citizens are the best monitors for justice systems. In other countries, observatories and oversight projects focusing on specific aspects of justice system operations have proven a useful vehicle for detecting operational problems and incentivizing and pressuring justice operators for improved performance. Other USAID projects in Latin America have done important work in this area. With FIU/CAJ support, USAID

Colombia developed a citizens oversight guide, "*Justicia para Todos y Todas: Guía práctica para ejercer veeduría en justicia*," ("Justice for All") for citizens' oversight training. The guide is used in Cartagena and in Bogota in projects by NGOs and universities. Successful justice oversight has been done at Bogotá's Municipal Family Welfare Offices (*Comisarias de Familia*), the Cartagena Attorney General Office and in Justice Houses²². The initial major achievement was to convince targeted officials to allow citizens to monitor their actions at all. At the end of the oversight, citizens recommended ways to improve attention in sexual abuse and violence against women and children, which were very well received by the justice officials. Some monitored entities invited project participants to join local Human Rights District Committees to continue monitoring access to justice. A local prosecutor invited citizens to launch a joint campaign against sexual abuse in schools. Oversight projects by other CSOs were sparked, as members were asked to orient other CSOs.

Observatories already established at UNAN-Leon and BICU Bluefields are ongoing efforts ready to be strengthened. Observatories and oversight projects focused on specific aspects of justice system operations can become a useful vehicle for detecting problems and motivating justice operators for improved performance.

5. DEVELOPMENT OF LEGAL EDUCATION PROGRAMS AND CAMPAIGNS TO PROMOTE ACCESS TO JUSTICE.

Mediation Center services, legal aid to poor defendants by PDO, and legal assistance at university and NGO legal clinics and *Bufetes Jurídicos* all must be more widely and clearly advertised. Consistent and accurate guidance on these services and on the institutional and legal framework for access to justice must be constantly broadcast in popular media. This work should be closely coordinated with universities, NGOs and local communities and governments. Other ROL projects have successfully used colloquial language and songs, and recorded jingles and messages can use typical Nicaraguan musical styles to describe justice institutions, mediation centers and *Bufetes Jurídicos* and how to access justice services. Besides songs, posters and brochures, 30-minute pre-recorded radio programs should cover topics such as:

- General Citizen Rights: This program would promote access to justice and the mechanisms for the protection of fundamental constitutional rights and places to find legal assistance, such as the PDO.
- Right to Non-discrimination: based on real cases, would analyze discrimination against indigenous and Afro-Nicaraguan communities in RAAN and RAAS and how to validate their rights.
- Rights of Young People: This would promote respect of rights in the Childhood and Adolescence Code.
- Women's Rights: These programs should analyze cases of domestic violence and how to fight against it.
- Alternative Dispute Resolution: This program should describe ADR options and how to access them.

The products of this campaign must be distributed among all the universities, NGOs, and local governments supported by USAID and made available to the GON and the entire donor community.

6. LIMITED AND TARGETED SUPPORT FOR THE UPGRADE OF THE LEGAL PROFESSION.

The Nicaraguan legal profession is plainly at a low point in terms of public confidence and respect. Lawyer numbers have more than doubled in the last ten years. The cynical public impression of lawyers is fed by the court system's reputation as rife with crony justice and corrupt dealings.²³ There are no regulations or examinations beyond possession of a law degree, and no significant disciplinary or professional oversight. Nicaragua surely has many ethical and professionally superior attorneys, but no legal or generally accepted

²² In Colombia, a Justice House (JH) is a multi-agency community center with traditional and non-traditional justice services, all under one roof. Formal justice officials (judges, public defenders, prosecutors) are present, but ADR mechanisms are also available, including those based on indigenous or Afro-Colombian traditions. Other specific social services may be available, i.e., police inspectors, labor inspectors, forensic medicine experts and others. The JH's are financed by municipalities with Justice Ministry support.

²³ See e.g. 2008 survey of 56 practicing lawyers by UCA law students. *Principal law practice problems cited by 32 of 56 were influence trafficking, corruption, politicization, or insufficient preparation.* <http://elac.uca.edu.ni/pd/villagra/files/104/520/Grupo%201.doc>.

ethical standards for law practice and, unlike most of Latin America, no obligatory bar membership to enforce them.

The proliferation of new private universities and new law faculties in the past 20 years is generally cited as an aggravating factor to the professional decline. There are now 26 law faculties; in 2001, there were seven. Many of the approximately 52 universities have law faculties with deficient standards (so-called “garage universities”). The flood of uncertain quality degrees feeds a large law graduate oversupply. As noted above, in 2010 there are over twice as many lawyers as in 2001, with between 15,000 and 16,000 lawyers in the Supreme Court registry. Numbers have spiraled upward from 7,559 as of October 30, 2001, when there were 143 lawyers per 100,000 persons²⁴. At the end of 2005, lawyers were at 10,500,²⁵ or 206 per person. If population had been static in the ensuing five years, the number would now near 314 per 100,000, or one for every 318 persons.

The only requirements to practice are a law degree and inscription in the Supreme Court lawyers and notaries registry, to be renewed every five years. There is said to be a three-year backlog of registration requests. While the 1998 Judicial Organization Law codified the Court’s power to discipline or strike a lawyer from its registry, the Court does no systematic monitoring of lawyer performance²⁶. It acts only upon a complaint and sanctions range from “private reprimand, fines up to 1000 cordobas (US\$ 46.00) and for repeat offenders, suspension from practice for up to two years.”²⁷ Thus there are virtually no consequences for incompetent legal services, cheating or abandoning clients, failure to appear for hearings, and other unprofessional conduct, which would carry disciplinary sanctions and potential revocation of a license to practice under most professional oversight regimes.

Despite the Court’s infrequent disciplinary actions, lawyers resist the oversight possibility. A 2003 attempt in the initial Judicial Career Law draft to enable the Court to set standards and examinations for law practice drew strong reactions from universities and prominent lawyers and was cut from the final law. In July 2002, several lawyers associations joined²⁸ to draft an obligatory bar association law, to include exclusive power to establish and enforce standards and discipline, and revoke the Supreme Court’s authority. In December 2005, a draft was submitted to the NACJ to create the College of Lawyers and Notaries of Nicaragua. No action was taken, but, recently, the NACJ President said it would be considered in the August legislative session. Unfortunately, a review of the draft leaves a clear impression that the proposed entity would immediately reflect the country’s polarization, as the elected officers of departmental affiliates would form a National Assembly to approve regulations and standards. Moreover, a principal aim is the creation of life insurance and pension benefits for lawyers, possibly the main attraction for many. RCC offers no view on chances for passage, but concludes that if the draft became law, it would not lead to near term elevation of the standards of professional conduct. Despite the need for better standards, RCC does not recommend support of the draft legislation.

Though the present legislative option is of doubtful utility, there remains an urgent need to begin to address the fundamental issues of lawyer competence and ethical standards. To establish a beachhead, RCC recommends that USAID consider support for the establishment of a voluntary lawyers association that would provide the equivalent of “board certification” for qualifying attorneys, with an annual continuing legal education requirement to retain certification.

Group composition would be based upon: 1) A minimum of five years of practice, 2) proven professional competence and a clean personal record, 2) adherence to a code of professional ethics and conduct, 3) successful completion of an examination of professional knowledge and skills periodically administered by the association,

²⁴ World Bank. *Worldwide Legal and Judicial Indicators. 2002*. See also, *Abogados en el Banquillo*, El Nuevo Diario Dec. 24, 2001. <http://archivo.elnuevodiario.com.ni/2001/diciembre/25diciembre2001/nacional/nacional17.html>

²⁵ Draft: Ley Creadora del Colegio de Abogados y Notarios de Nicaragua (2005). Barra de Abogados de Nicaragua.

²⁶ Art. 228 LOPJ: “Ratificase la vigencia del Decreto N° 1618 ‘ Sanciones a Abogados y Notarios Públicos por delitos en el ejercicio de su profesión’, del 28 de Agosto de 1969 y del Decreto N° 658...”

²⁷ Art. 3 Decreto N° 1628 (1969). (See Art. 228 LOPJ, above).

²⁸ Aso. de Juristas Democráticas Nicaragua (AJDN); Aso. de Abogados de Nicaragua (ASANIC); Aso. de Mujeres Juristas de Nicaragua (AMJNIC); Aso. de Juristas y Abogados Litigantes de Nicaragua (AJALNIC); Barra de Abogados de Nicaragua (BARRANIC).

akin to a bar exam or specialization exam, and, 4) annual required continuing legal education hours. The organization could begin with a small founding committee and eventually be sustained by the members' annual dues. It would need initial funding to support start up and organizational efforts, prepare membership examinations, and develop a code of professional ethics and conduct. Members would be authorized to display the association's annual certification and encouraged to publicize their membership. This subject was discussed and the general idea met with approval among the eight university law deans who attended the RCC focus group on legal education and professional standards in the course of the present evaluation.

USAID and other donors should consider supporting an exploratory organizing committee on this subject that would develop a proposal for a "Nicaraguan Association of Certified Juridical Specialists" or the like along the general lines indicated above. The nucleus of an organizing committee now exists among the deans and faculties of the top several law faculties. Ideally, and without apology, the initiative should be based in and led by the most prestigious university law faculties, which could reach out to include like-minded members of the current lawyers associations interested in raising the quality of the profession, rather than in gaining pension benefits.

LIST OF PERSONS INTERVIEWED

CENTRAL AMERICAN COURT OF JUSTICE

- Rosales, Silvia, President.

CRIMINAL JUSTICE INTER-INSTITUTIONAL COMMISSION

- Aguilar, Marvin, President.

JUDICIARY

ALTERNATIVE DISPUTE RESOLUTION OFFICE (DIRAC)

- Meza, María Auxiliadora, Deputy Director.
- Quant, Esperanza, Director.

JUDICIAL SCHOOL

- Talavera, Joaquín, Director.

PUBLIC DEFENSE

- Nieto, María Esperanza, Deputy Director.

FORENSIC MEDICINE INSTITUTE

- Duarte, Zacarías, Director.

JUSTICE NON-GOVERNMENT ORGANIZATIONS

- Silva, Ada, Constitutional Law Studies Center, Director.
- Ramírez, Álvaro, Democratic Jurists Association, President.
- Avendaña, Marlia, JUDENIC, Coordinator.
- Gurdían, Pedro Javier, Hagamos Democracia, Project Coordinator.
- Solís, Pedro Javier, Hagamos Democracia, Executive Director.
- Centeno, Fernando, Grupo Pro Justicia, Executive Director.
- Moreno, José Antonio, Grupo Pro Justicia, Deputy Executive Director.
- Meneses, Virginia, Women Network against Violence, Political Action Coordinator.

MEDIATION CENTERS

- Irías, Rosibel, Center Director - Estelí.

- Roman, Marcos, Center Director - Jinotepe.
- Suárez, Gloria, Center Director – León.
- Bravo, José Benito, Center Secretary - Mozonte.
- Landeros, Digna, Center Director - Mozonte.
- Vallejo, Hermogenes, Center Director - Sébaco.
- Juárez, Silvia, Center Director – UCA.
- Palacios, Scarlett, Center Deputy Director - UCA.
- Rivera, Jakaida, Center Secretary – Jinotega.
- Ruiz, Leonor, Center Director – UNIVALLE.

ORGANIZATION OF AMERICAN STATES

- Vuskovic, Pedro, Resident Representative.

PUBLIC PROSECUTORS OFFICE- PUBLIC MINISTRY

- Rosales, Delia, Secretary General.

UNIVERSITIES

- Aguilar, Alejandro, UAM, Dean, Law Faculty.
- Arauz, Manuel, UCA, Dean, Faculty of Juridical Sciences.
- Carballo Nicaragua, José Ulises, UNAN, Director, Law Department.
- Castillo, Oscar, UPOLI, Dean, Law School.
- Díaz, José, BICU, Dean, Law School.
- Guardado, Anayancy, UCC Dean, Law Faculty, and President, CONADER.
- Largaespada, César, Pablo Freire University, Dean, Law School.
- Lau, Mayling, Law Professor and Labor Law Expert, Ex-President, CONADER.
- Toruño, Angélica, and UENIC Dean, Law School, and Vice-President, CONADER.

SPANISH COOPERATION AGENCY

- Cruz Madrigal, Palmira, Co-Director Governability Projects.

USAID ROL FORMER CONTRACTORS

CHECCHI AND COMPANY CONSULTING, INC.

- Agosto, Javier, Ex-Nicaragua DCOP.
- Cruz, Jose Antonio, Ex-Coordinator of Alternative Dispute Resolution in Nicaragua.
- Davidson, Garber, Senior Advisor.
- Williams, Mark, Ex-Nicaragua COP.

FLORIDA INTERNATIONAL UNIVERSITY, CENTER FOR THE ADMINISTRATION OF JUSTICE

- Barrientos, César, Ex-Nicaragua COP.
- Carazo, Ana, Center for the Administration of Justice, Deputy Director.

- Salas, Luis, Center for the Administration of Justice, Director and Associate Vice-President for Sponsored Research.

USAID CIVIL SOCIETY CONTRACTORS

- Spears, Donald, Management Sciences International –MSI, COP in Nicaragua.

USAID

- Barreto, Jimena, Independent Consultant, Ex USAID/Nicaragua ROL Coordinator, Ex Swedish Cooperation Agency consultant.
- Carter, Sharon, USAID/Nicaragua, Deputy Director.
- Emmert, Jan, USAID/Nicaragua, TDY Advisor.
- Fujimoto, Brad, USAID, Chief Rule of Law Division, Office of Democracy & Governance, Bureau of Democracy, Conflict and Humanitarian Assistance. (former USAID/Nicaragua ROL Officer)
- Parker, Norma, USAID/Nicaragua, Director.
- Quintanilla, Edmundo, Independent Consultant, Ex USAID/Nicaragua ROL Coordinator, Ex Swedish Cooperation Agency consultant.
- Ubeda, Luis, USAID/Nicaragua, Development Project Specialist, Democracy and Governance Office.
- Waddel, Ginger, USAID/Nicaragua, Program Officer.

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- EL NUEVO DIARIO, *Abogados en el Banquillo*, Dec. 24, 2001. <http://archivo.elnuevodiario.com.ni/2001/diciembre/25diciembre2001/nacional/nacional17.html>
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- JUDICIAL STUDIES CENTER OF THE AMERICAS, *Report on the Justice Situation in the Americas 2008-2009*, <http://www.ceja.cl/reporte/2008-2009/>
- LAPOP, The Americas Barometer, *Political Culture of Democracy in Nicaragua*, 2008. www.lapopsurveys.org

MEZA, María Auxiliadora, *Análisis jurídico de sentencias relativas a delitos de violencia intrafamiliar y sexual y demandas civiles en materia de familia*, 1a ed. Managua: Agencia Española de Cooperación Internacional, 2005. 118 p.

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PDO, *Plan de Acción*, document prepared by PDO Director Clarisa Ibarra, Power Point presentation, 2010.

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<http://elac.uca.edu.ni/pd/villagra/files/104/520/Grupo%201.doc>

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WORLD BANK, *Worldwide Legal and Judicial Indicators*. 2002.

SURVEY TO MEDIATION CENTERS WITH ANSWERS

El apoyo de la Agencia para el Desarrollo Internacional de los Estados Unidos (USAID) fue vital para el establecimiento del Centro?

Answer Options	Response Percent	Response Count
Sí	100.0%	16
No	0.0%	0
No sabe/No responde	0.0%	0

Si su respuesta fue afirmativa, en que consistió el apoyo de USAID? (marque las respuestas que corresponda)

Answer Options	Response Percent	Response Count
Capacitación de mediadores	81.3%	13
Equipos de computación	100.0%	16
Muebles de oficina	93.8%	15
Archivadores	93.8%	15
Remodelación de oficinas	81.3%	13
Otro	18.8%	3
Otro (especifique)		3

Cuántos mediadores prestan actualmente servicios en el Centro?

Answer Options	Response Percent	Response Count
Uno	25.0%	4
Dos	6.3%	1
Tres	6.3%	1
Cuatro	6.3%	1
Cinco	25.0%	4
Seis	6.3%	1
Siete	0.0%	0
Ocho	0.0%	0
Nueve	0.0%	0
Diez	18.8%	3
Más de diez	6.3%	1
Más de diez (especifique)		1

Cuántas personas de personal auxiliar prestan servicios en el centro?

Answer Options	Response Percent	Response Count
Uno	66.7%	8
Dos	8.3%	1
Tres	0.0%	0
Cuatro	0.0%	0
Cinco	0.0%	0
Seis	25.0%	3
Siete	0.0%	0
Ocho	0.0%	0
Nueve	0.0%	0
Diez	0.0%	0
Más de diez	0.0%	0
Especifique los cargos		12

Cuál es el horario de atención a usuarios?

Answer Options	Response Percent	Response Count
7:00 a.m. a 1:00 p.m.	0.0%	0
8:00 a.m. a 5:00 p.m.	62.5%	10
Otro	37.5%	6
Otro (especifique)		6

Cuáles son los días de atención a usuarios?

Answer Options	Response Percent	Response Count
Lunes a Viernes	100.0%	16
Lunes a Sábado	0.0%	0
Otro	0.0%	0
Otro (especifique)		0

El Centro recibe actualmente financiamiento para su funcionamiento de: (marque todas la fuentes que corresponda)

Answer Options	Response Percent	Response Count
Gobierno Municipal	0.0%	0
Universidad	42.9%	6
Cobros a usuarios	28.6%	4
Donantes internacionales	0.0%	0
Iglesia, Comunidad indigena	42.9%	6
(Otros) Favor especificar		8

Para asegurar la sustentabilidad del Centro, cuáles pueden ser opciones para que el Centro puede tener una fuente constante de recursos que asegure su permanencia? (Marque las que correspondan).

Answer Options	Response Percent	Response Count
Inclusión en el presupuesto del Municipio	16.7%	2
Inclusión en el presupuesto de la Policía Nacional	0.0%	0
Inclusión en el presupuesto de otra dependencia del Gobierno Nacional	50.0%	6
Inclusión en los servicios a prestar por una organización de la sociedad civil (Iglesia, ONGs, empresa privada, etc.)	33.3%	4
Cobro a usuarios	66.7%	8
Otra forma	41.7%	5
Otra forma (especifique)		7

Los mediadores cobran por sus servicios profesionales?

Answer Options	Response Percent	Response Count
Sí, cobran por ellos	18.8%	3
No, lo hacen como voluntarios	50.0%	8
A veces cobran	12.5%	2
No sabe/No responde	0.0%	0
Otro	18.8%	3
Otro (especifique)		3

El Centro tiene relación con la Dirección de Resolución Alternativa de Conflictos (DIRAC) del Poder Judicial?

Answer Options	Response Percent	Response Count
Sí	100.0%	15
No	0.0%	0
A veces	0.0%	0
No sabe/no responde	0.0%	0
Indique qué tipo de relación, si existe		13

Han sido los mediadores, que prestan servicios en el Centro, acreditados por la Dirección de Resolución Alternativa de Conflictos (DIRAC) del Poder Judicial?

Answer Options	Response Percent	Response Count
Sí, todos lo han sido acreditados por la DIRAC.	100.0%	15
Ninguno ha sido acreditado por la DIRAC.	0.0%	0

Solo algunos han sido acreditados por la DIRAC.	0.0%	0
No sabe/No responde.	0.0%	0

El Centro tiene relación con los Facilitadores Judiciales?

Answer Options	Response Percent	Response Count
Sí.	12.5%	2
No.	81.3%	13
No sabe/no responde.	6.3%	1
Si contesta sí indicar qué tipo de relación		3

Desde su creación, cuántos casos se han recibido en el Centro? Total all centers
33,225

Desde su creación, cuántos acuerdos se han firmado en el Centro? Total all centers
20,761

Cuál es el promedio de casos recibidos por mes? Average all centers
47

Cuál es le promedio de acuerdos firmados por mes? Average all centers
37

Cuál es el porcentaje de cumplimiento de los acuerdos?

Answer Options	Response Percent	Response Count
10%	0.0%	0
20%	0.0%	0
30%	0.0%	0
40%	0.0%	0
50%	6.3%	1
60%	6.3%	1
70%	0.0%	0
80%	62.5%	10
90%	6.3%	1
100%	0.0%	0
No sabe/No responde	18.8%	3

El Centro cuenta con un sistema de seguimiento de casos manual?

Answer Options	Response Percent	Response Count
Sí	31.3%	5
No	62.5%	10
No sabe/No responde	6.3%	1

El Centro cuenta con un sistema de seguimiento de casos automatizado?

Answer Options	Response Percent	Response Count
Sí	0.0%	0
No	100.0%	16
No sabe/No responde	0.0%	0

Cuáles son las principales necesidades materiales del Centro? Marque las que correspondan

Answer Options	Response Percent	Response Count
Computadores e impresoras	56.3%	9
Fotocopiadora	81.3%	13
Muebles de oficina	75.0%	12
Archivadores	50.0%	8
Internet	56.3%	9
Teléfonos	62.5%	10
Artículos de oficina (papel, tinta para impresoras, etc)	100.0%	16
Oficinas adecuadas	50.0%	8
No sabe o no responde	0.0%	0
Otros	56.3%	9

Cuales son las principales necesidades de personal del Centro? (Marque las que correpondan).

Answer Options	Response Percent	Response Count
Capacitacion de los mediadores	87.5%	14
Capacitacion del personal auxiliar	37.5%	6
Falta de mediadores	68.8%	11
Falta de personal auxiliar	68.8%	11
No sabe/no responde	0.0%	0
Otros	43.8%	7
Otros (especifique)		11

UNIVERSITIES MEMBERS OF CONADER

Bluefields Indian and Caribbean University (BICU)
Universidad Americana (UAM).
Universidad Católica Redemptoris Mater (UNICA)
Universidad Central de Nicaragua (UCN)
Universidad Centroamericana (UCA)
Universidad Centroamericana de Ciencias Empresariales (UCEM)
Universidad de Ciencias Comerciales (UCC)
Universidad Cristiana Autónoma de Nicaragua (UCAN)
Universidad de Chinandega (UACH)
Universidad del Norte de Nicaragua (UNN)
Universidad de Managua (UdM)
Universidad Evangélica de Nicaragua (UENIC)
Universidad Hispanoamericana (UHISPAM),
Universidad Iberoamericana de Ciencia y Tecnología (UNICIT).
Universidad Martín Lutero (UML).
Universidad Nacional Autónoma de Nicaragua (UNAN).
Universidad Paulo Freire (UPF)
Universidad Popular de Nicaragua (UPONIC),
Universidad Politécnica de Nicaragua (UPOLI)
Universidad Tecnológica de Nicaragua (UTN)