SUPREME COURT OF THE PHILIPPINES
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PHI/02/007 – JUDICIAL REFORM:
STRENGTHENING ACCESS TO JUSTICE
BY THE DISADVANTAGED

THE OTHER PILLARS OF JUSTICE THROUGH REFORMS IN THE DEPARTMENT OF JUSTICE

DIAGNOSTIC REPORT

JUNE 2003

CENTER FOR PUBLIC RESOURCE MANAGEMENT, INC.
CPRM CONSULTANTS, INC

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EXECUTIVE SUMMARY

1 PROJECT OVERVIEW

1.1.1 The project, **Strengthening the Other Pillars of Justice through Reforms in the DOJ** is a joined undertaking of the Department of Justice (DOJ) , Supreme Court of the Philippines (SC) and the United Nations Development Programme (UNDP).The overall goal of the project is to contribute to the development of a speedy, impartial and accessible criminal justice system. This will be achieved by enhancing the institutional capacity, efficiency and effectiveness of the DOJ and its attached agencies which are primarily concerned with the law enforcement, prosecution, and correction pillars of the justice system. The study includes an assessment of the legal assistance and community education and relations services.

1.1.2 The project has two components. The first component involves the conduct of diagnostic studies and the second covers the identification of reform directions. This report is the result of the diagnostic studies and will provide the inputs in the development of the reform program for the other pillars of justice within the DOJ.

2 LAW ENFORCEMENT

2.1 Diagnostics

2.1.1 The NBI is the agency in the DOJ which is primarily charged with the detention, identification and apprehension of law violators. It specifically undertakes investigations of crime and other offenses against the laws of the Philippines; renders assistance in the investigation or defection of crimes and other offenses; acts as the national clearinghouse of crimes and other information for the benefit and use of all prosecuting and law enforcement entities of the Philippines; and establishes and maintains an up-to-date scientific crime laboratory and to conduct researches in furtherance of scientific knowledge in criminal investigation.

2.1.2 Cases in NBI are classified into: crime cases, service cases, and miscellaneous cases. The total cases filed in the NBI posted very slight increases, averaging 1.8% annually from 1997 and 2002. But while increases were small, backlogs have noticeably increased starting year 2000 where year-end balances rocketed from 694 cases in 1999 to 7,050 in 2000. During that year the annual clearance rate was also at its lowest at 87%, which is lower than the annual average of 95.6 under the study period. The past years rapid solution on cases, which resulted in 100% clearance rate, would somehow not be able to explain the subsequent year's low performance.

2.1.3 Other important services of the NBI include treatment and rehabilitation programs for drug dependents through its Treatment and Rehabilitation Center (TRC) in Tagaytay City and its satellite centers in Argao, Cebu and Cagayan de Oro City; conduct of educational and training programs for various sectors of society, including lectures in schools, specifically in relation to the anti-drug campaign of government; and provision of technical assistance and expertise in scientific crime detection and investigation not only to its operating units (Investigation Services) but also to the local police agencies, prosecutors, courts and other government or private offices that request its assistance in the field of forensic chemistry, deoxyribonucleic acid (DNA), medicine, ballistics, questioned documents, polygraphy, dactyloscopy, photography and criminal records and identification.

2.1.4 NBI's strength primarily lies in its high/superior qualification requirements for personnel; opportunities for advance training and continuing education; highly skilled investigative force; growing capacity to perform specialized technical services; and capacity to generate income for the government. However, unattractive salaries and terms of work for investigation positions, inferior equipment for technical services, and lack of transport and communication facilities have considerably hampered its capacity to effectively carry out investigation services that will lead to identification, location, apprehension and prosecution of criminals.

2.1.5 There is an NBI Modernization Bill that will address the issue on functional duplication between the PNP and NBI. Moreover, the improvement of the operations of the National Law Enforcement Coordinating Center will effect cooperation and integration of law enforcement activities, information and improvement of crime management strategies and technologies. However, in view of the issues on functional overlaps, relevance and efficiency of the NBI, in the review of the Modernization Bill, some Congressmen have instead been proposing the abolition of the NBI with its functions transferred to other law enforcement agencies.

2.1.6 The duplication of functions between the PNP and NBI results in potential institutional and operational conflict, conflicting investigation findings to support prosecution, inefficiency and wastage of manpower, time and financial resources. Functional overlaps are also indicated in the internal structures and functions of the NBI on criminal and technical investigations. There is no clear rationale for the creation of numerous divisions exclusively within some services and not in the others.

2.1.7 Deficient crime information systems and information support from the Judiciary, law enforcement and other agencies weaken NBI capability to establish and provide comprehensive, accurate, and up-to-date crime information useful in prosecution, investigation and policy formulation. Further, the sophistication of the scientific crime laboratory facility and capacity of the NBI must be considerably upgraded if it is to effectively perform its function of crime detection and investigation and of providing support to other law enforcement agencies.

2.1.8 NBI must develop the institutional capacity to seamlessly integrate its investigation, intelligence, and technical services functions, anchored on an integrated and automated information and communication technology platform, in order to be better able to support crime investigation and prosecution, and to be able to analyze and

understand crime trends and statistics as inputs to improving law enforcement legislation and operations.

2.2 Reform Implications

2.2.1 Reengineering of NBI's functional and structural configurations NBI within the context of a well-established functional delineation between it and the PNP

2.2.2 Upgrading of the crime laboratory facilities and institutional capacities for scientific investigation and research

2.2.3 Institution of electronically connected crime information systems among NBI, the courts and other law enforcement agencies

2.2.4 Improving resources and capacity for continuing human resource development for effective crime management

3 PROSECUTION PILLAR

3.1 Diagnostics

3.1.1 The role of the National Prosecution Service (NPS) in the criminal justice system is two-fold: to investigate allegations submitted to it that a crime has been committed; and to prosecute all cases involving violation of penal laws. A Chief State Prosecutor heads the NPS who is assisted by five (5) Assistant Chief State Prosecutors. The Office of the Chief State Prosecutor is composed of 119 State Prosecutors. Under the administrative supervision of the Chief State Prosecutor are 14 Regional State Prosecutors, 96 City Prosecutors, 79 Provincial Prosecutors, and 1,801 Assistant City and Provincial Prosecutors.

3.1.2 The three most important phases of the work of the NPS are (a) preliminary investigation of criminal complaints, drafting of the resolution by the fiscal, its approval by the chief of office (usually the provincial or city prosecutor), and filing of the information in court; (b) appeal of the resolution by the provincial or city prosecutor to the Regional State Prosecutor, or the Secretary of Justice, as the case may be, and its eventual resolution by these offices; and (c) prosecution of criminal cases already filed in courts of the first or second level (Municipal Trial Courts or Regional Trial Courts).

3.1.3 The prosecution service is linked very closely with the law enforcement pillar (the police and the NBI), on which it relies heavily for the quality of the evidence for purposes of prosecution. Also, it is linked closely with the judicial pillar, which handles all the cases for prosecution, until a decision is reached.

3.1.4 The NPS adopts a simple indicator to measure performance: disposition rate, which is measured on an annual basis and computed as percent of the number of cases resolved or disposed out of the total number of cases ever pending during the year (beginning year pending and total receipts during the year). The use of some

indicators may be necessary to include rate of appeal, rate of reversal, conviction rate, dismissal and archival rates, and aging of cases.

3.1.5 The average number of cases handled by prosecutors in any given year is quite substantial. The caseload increases dramatically if one considers the prosecutors of the NCR region, as compared to those in the provinces. The question that may be asked in terms of human resource development is how capable are the prosecutors in handling such volume of cases?

3.1.6 NPS has developed a corps of prosecutors over the years that have been trained in investigation and trial of criminal cases. It receives support from the local governments in terms of travel, allowances and equipment, among others, while the halls of justice have provided needed physical space for its requirements. However, its internal weaknesses include insufficient salaries for the prosecutors; lack of an orientation seminar and core training for the new prosecutors; no institutionalized system for continuing legal education; lack of physical space, equipment and resources for prosecutors; absence of clearer performance indicators at the level of the individual prosecutor and the regional offices; perceptions of arbitrary promotion in the system resulting in demoralization; weak coordination between the database of cases that affects the proper issuance of clearances; and less autonomy and flexibility of prosecution function at the regional level.

3.1.7 To address internal capacity issues in NPS, sympathetic legislators have filed several bills that seek to enhance the salary and retirement pay of prosecutors. There is also an Increased interest of the donor community on good governance issues in the justice system. It is a positive indication that coordination of the law enforcement and the prosecution service has been improving over time, although it may be needing reinforcements through adequately funded training programs and improved inter-agency operating mechanisms.

3.1.8 The passage of the bill on the improvement of judges' salaries on the other hand poses threat to the NPS as this might trigger a migration of prosecutors to the judicial service. Likewise, the support of the local governments could impair the independence of the prosecution service

3.1.9 Most of the prosecutors' offices are housed in the Halls of Justice. The on-going improvements on the physical structures of the courts have however provided for only 51% of the total requirements of the organized RTCs, and only 22% of the needs of the 1,124 salas of the Metropolitan Trial Courts, Municipal Trial Courts in Cities, Municipal Trial Courts, and Municipal Circuit Trial Courts. This indicates that there is much to be done yet to meet NPS' requirements in terms of physical space and structure.

3.2 Reform Implications

3.2.1 Improving NPS' overall capacity to plan, manage and improve as well as evaluate performance for continuing improvement.

3.2.2 Exploring creative alternatives for resource generation and mobilization to finance improved operations.

4 CORRECTIONS PILLAR

4.1.1 The institutions for corrections consist of three departments, six national government agencies, and the local governments. The DOJ supervises and manages national penitentiaries through the BuCor. In addition, it formulates, implements and monitors programs and activities on parole, probation and the grant of executive clemency through the BPP and PPA. The DILG, through the Bureau of Jail Management and Penology (BJMP) and the Philippine National Police (PNP), supervises and controls the district, city and municipal jails. The DSWD operates and maintains rehabilitation centers nationwide for youth offenders (below 18 years old). There is a provincial jail in every province, which is under the supervision and control of the Provincial Government (Office of the Governor).

4.1.2 The community is moreover involved in corrections and rehabilitations. The community provides substantial rehabilitation services to inmates. Offenders can be released to responsible persons in the community.

4.2 Bureau of Corrections

Diagnostics

4.2.1 The BuCor is mandated to confine persons convicted by the court to serve a sentence in national prisons; keep prisoners from committing crimes while in custody; and provide human treatment to the inmates. Custody, maintenance and rehabilitation services include admission and classification of prisoners, implementation of security programs, processing of inmates' carpetas for releases, execution of death convicts, transfer of inmates, and inmate discipline. On the other hand, rehabilitation and treatment services provided by BuCor to inmates are in the form of education and applied training; promotion of the spiritual, social, cultural and economic well being of national prisoners; and maintaining and operating rural farms, settlements and other rehabilitation facilities for inmates.

4.2.2 BuCor is engaged on a limited scale in agro-industrial projects for the purpose of developing prison lands and resources into productive bases or profit centers, developing and employing inmate manpower skills and labor, providing prisoners with a source of income, and augmenting the Bureau's yearly budgetary appropriations.

4.2.3 Well-established policy framework, laws, rules and regulations governing the operations of national prisons and the activities of national prisoners; strong support from civil society and non-government organizations for various programs and interventions for the benefits of national prisoners; and delegation of authority to Prisons Superintendent on the management and operations of prisons are the strengths of the BuCor. Its weaknesses are on the other hand characterized by outdated, outmoded and dilapidated correctional facilities; functional overlaps and diffusion in the conduct of corrections, rehabilitation and restoration activities for inmates that affect the operations of BuCor; informal organizations/authority and actual practices inside penal establishments influencing the enforcement of formal rules and regulations; and prison congestion that necessitates the hiring of additional prison

guards to maintain security and peace and order, and which contributes to the sub-human conditions of inmates and other human rights issues.

4.2.4 In terms of opportunities, BuCor's large landholdings, if optimally managed and utilized, could generate additional revenues for the agency. Privatization and outsourcing of prison services, and enhancement of inmates' productivity through employment of prison labor by private industries, are other potential areas for enhancing agency operations and capacity. The prevailing negative public perception on the leadership and capability of prison officers that may result in limited support from stakeholders for correction and rehabilitation programs must however be addressed.

4.2.5 The BuCor has 2,362 authorized positions of which 2,211 or 94% are filled as of January 31, 2003. A little more than 60% of this workforce is in the custodial function where the 1,300 Prison Guard and 34 Penal Institution Superintendents and Program Officers positions are included. BuCor's training school undertakes and coordinates various programs that have a good balance of the practical specialized courses and personality/professional development courses, including values enhancement and similar training modules on correction administration.

4.2.6 Under its correction agro-industry program, the BuCor generates income, which is used to augment its regular appropriations from the national budget. The agency is authorized to purchase products of its agro-industrial projects at 70% of the market price, chargeable against MOOE budget. This money is intended for the agency's use and/or for prisoners' subsistence, including the provision of allowance to prisoners, acquisition of additional supplies, materials, farm tools and equipment, and repair/construction of prison facilities.

Reform implications

4.2.7 The study has indicated the following implications for reforms in BuCor:

- Instituting an effective system for generating and maintaining records of prisoners
- Expansion of BuCor's program on the improvement of inmates' productivity through prison industries
- Privatization and outsourcing of prison services
- Institutional strengthening of BuCor, especially in the areas of strategic planning, staff development, development and implementation of entrepreneurial strategies, and information systems management

4.3 Parole and Probation Administration

Diagnostics

4.3.1 The PPA is mandated to administer the parole and probation system of the country, which is aimed at decongesting jails, reducing recidivism and providing savings to the government. An Administrator heads the agency. An Assistant Probation Administrator assists the Administrator. There are seven divisions in PPA Central Office, 15 Regional Parole and Probation Offices, 202 Provincial/City Parole and Probation Offices, 13 Sub-Provincial/City Parole and Probation Offices, and 73 Extension Offices.

4.3.2 PPA interventions generally fall either under investigation or supervision. PPA's investigation function pertains to the thorough assessment of the personal conditions and criminal records of the applicant for probation, as directed by the trial court, or for pre-parole/executive clemency, as required by the Board of Pardons and Parole. Under its supervision function, the PPA provides instructions and guidance to clients on the proper observance of the conditions of their parole, pardon and probation. In support of its supervision function, the PPA likewise undertakes promotion and advocacy programs to elicit, encourage and enhance involvement by civil society organizations and the community in probation and rehabilitation activities.

4.3.3 Seventy-two percent (72%) of PPA clients are probationers; the remaining 28% are parolees and pardonees. At the average, 18,211 clients are added to the agency's workload annually, but only 12,634 clients are dropped from its workload due to case termination, re-commitment/re-arrest, and death, among others. Due to budgetary constraints, PPA could not hire additional staff, making it difficult for the agency to cope with work backlogs. A robust rehabilitation/restoration program for offenders that will substantially involve the community and civil society organizations is thus necessary to address this issue.

4.3.4 PPA's competent and appropriately trained probation officers on community relations and restorative justice are considered its strength. Operational efficiency is achieved through decentralization to field offices of mission-critical functions. However, coordination is an operational issue with regard to obtaining information on offenders from pertinent agencies. Moreover, there is a need to improve internal monitoring and management information system of the PPA.

4.3.5 PPA has vast opportunity for community involvement in rehabilitation and restoration of offenders. It has furthermore highest potential for a public-private sector partnership, especially with the media, for needed advocacy and promotion support. Institutional strengthening in terms of policies, operations and structure is a must for the PPA to meet the requirements for an expanded program on restorative justice. Specifically, the agency's developmental research, strategic planning, and performance management functions must be strengthened.

Reform Implications

4.3.6 The study has indicated the following reform directions for PPA:

- Instituting in PPA effective mechanisms for strategic planning, research, community linkages and relations, and performance evaluation and monitoring
- Decentralization to the regional offices of financial and administrative functions
- Implementation of a computer-based information systems for investigation and supervision functions
- Increasing mobilization of public/private institutions and community resources for effective rehabilitation and restoration programs
- Strengthening of public-private partnership especially with the media for advocacy and promotional activities

4.4 Board of Pardons and Parole

Diagnostics

4.4.1 The BPP is mandated to grant parole to qualified prisoners; recommend to the President of the Philippines the grant of commutation of sentence, conditional pardon and absolute pardon to offenders; and assist in the rehabilitation of parolees and pardonees. The BPP is composed of the DOJ Secretary as Chairman and four (4) members appointed by the President of the Philippines. A 50-man working staff headed by an Executive Director and a Deputy Executive Director provides support services to the Board.

4.4.2 The BPP primarily relies on inputs from the PPA on personal situation and criminal records of petitioning-inmates for parole or executive clemency. This is considered a workable arrangement inasmuch as BPP has limited personnel to undertake verification on the prisoners. A more effective computer-based system must however be in place to address this tedious process. The PPA is again tapped in the supervision of parolees and pardonees which BPP is monitoring through periodic reporting being undertaken by the former.

4.4.3 The quality and the timeliness of information that the Board received from prisons and jails primarily affect Board's deliberation on petitions for parole and executive clemency. Monitoring is also an issue with regard to the Jail Decongestion Program on which the BPP serves as its secretariat. The program is covered is covered by a memorandum of agreement among PPA, BJMP, BuCor, PAO and BBP. It is intended to facilitate the release of convicted felons and detainees. However, member-agencies almost always fail to report on their accomplishments under the program.

4.4.4 Strong bias for social considerations is evident in the composition of the Board. This is necessary in the restorative justice program for prisoners who may be released under the law. The membership of the Board may be expanded to include the BuCor which

maintains and supervises inmates, as well as a representative from the business sector to strengthen the program on livelihood and employment for probationers, parolees and pardonees.

4.4.5 The BPP's existing information system is wanting. BPP is a participating agency of the NCIS, but this has yet to be fully implemented. Relatedly, the existing performance system may be enhanced through the use of appropriate indicators.

Reform Implications

4.4.6 The following reform implications of the study are indicated for BPP:

- Strengthening of the management information system and performance monitoring system of the agency

- Including as BPP Board Members representatives from BuCor and the business sector
- Institutional restructuring of the BPP in relation to the PPA considering that the functions and operations of these agencies are inextricably linked

5 LEGAL ASSISTANCE

5.1 Diagnostics

5.1.1 Legal Assistance in the Philippines is a network of public and private institutions providing free legal aid to indigent members of society. These institutions include PAO and other government agencies (Bureau of Agrarian Legal Assistance, Commission on Human Rights, and Philippine Overseas Employment Administration), court-appointed lawyers, non-government organizations (e.g. Integrated Bar of the Philippines and the Alternative Law Groups, Inc.) and several law schools, which provide a spectrum of legal services to poor litigants

5.1.2 PAO is one of DOJ's attached agencies. A Chief Public Attorney, who is assisted by two (2) Deputy Chief Public Attorneys, heads the agency. It has five divisions in the central office and 16 Regional, 251 District Offices and 5 Sub-District Offices. It supports all the five pillars of the criminal justice system. Under the law enforcement, prosecution and the judiciary pillars, PAO provides counsel for suspects or respondents of a case; under the corrections pillar, it acts as a legal advisor and monitor of inmates on legal concerns; and under the community pillar, PAO serves as a legal educator and advocate.

5.1.3 In providing counsel services to indigent-clients, PAO categorizes its services into four major classifications: judicial cases, quasi-judicial cases, appealed cases, and non-judicial services. The caseload of PAO remained quite stable from 1997 to 1999 but registered a rising trend in 2000 and 2001. Nominals on annual case disposals have consistently fallen behind the number of cases pending during the year resulting in the slight building up of year-end pending cases. It is noted that increases in year-end

pending cases are primarily due to a large year-end pending at base year. This increasing trend in end-year balance for the last five years is an indicator of PAO's difficulty in coping with its caseload.

5.1.4 The clearance rate, which is computed as a ratio between cases disposed and new cases received, is 93.51%. High clearance rates with accompanying relatively low disposition rates indicates the existence of a prior year's backlog which cannot be absorbed by current manpower capacity. The implication of this performance is that a one time cleaning up of the PAO dockets is needed plus a little improvement in its operating efficiency.

5.1.5 The highly decentralized mission critical functions in PAO, and strong linkages with other agencies enhance PAO capability in providing services to indigent-clients. However, the rate of employment turnover of lawyers in PAO is high which may be attributed to heavy workload and relatively low salary. Other operational weaknesses include limited facilities and equipment due to budget constraints, which likewise adversely affects the conduct of advocacy and promotion activities for PAO services. The encouragement of the full participation of private lawyers/bar associations in expanded pro bono program for the indigents, and the creation of a special fund for outsourcing private law services and adopting a standardized fee system for individual lawyers who will handle cases for the indigents are available to PAO to address the above-indicated issues.

5.1.6 Currently, there is practically nothing to budget for in the regions other than the mandatory items, since resources are limited especially for MOOE and capital outlay. Reforms in financial management and resources must consider the possibility of mobilizing non-budgetary resources to improve the financing of legal services. Such alternatives as utilizing law students, requiring law firms and lawyers to provide free legal services to indigents as a portion of their clients or working time, mobilizing private sector funding of free legal assistance should be considered seriously along with a more aggressive plan to improve public education and information on PAO's services.

5.2 Reform Implications

5.2.1 Integrating all government legal assistance services to the poor in PAO and improving the organizational arrangement and operational efficiency of government direct services

5.2.2 Improving PAO capacity and authority to mobilize private sector resources for the provision of free legal services

5.2.3 Improving internal PAO capacity to provide quality legal service that ensures access to justice by the poor

6 INFORMATION AND COMMUNICATION TECHNOLOGY

6.1 Diagnostics

6.1.1 The DOJ utilizes a variety of computing environments in computerizing agency processes. These include standalone desktop computing for individual/discretionary tasks; web and internet primarily for email, file uploads/downloads and research/environmental scanning; local area networks file and printers sharing; and distributed databases for clearance processing, corrections/rehabilitation records management-applications with multiple, geographically dispersed data sources.

6.1.2 Notably, the NBI and BuCor are using IT solutions for performing regulatory, investigative and criminal research tasks. For these applications however, high-level security, encryption and authentication technologies are needed due to the sensitive nature of information.

6.1.3 The use of computer-based information systems in DOJ is largely discretionary and decentralized. Except for regulatory functions (primarily clearance processing), no integrated communication infrastructure is currently in place to improve office productivity and facilitate performance of criminal justice functions including streamlining of investigations, prosecution, judicial proceedings, corrections/rehabilitation and community relations. The NCIS Project was conceived precisely to fill in these gaps in the information and communication infrastructure. However, the project is currently suspended pending a COA audit, as requested by the National Computer Center which currently manages the project.

6.1.4 The strengths of the IT system in DOJ are indicated by the demonstrated use of the IT/IS in the department and its attached agencies for more effective public service delivery; presence of revenue-generating system; experience in outsourcing and managing external IT service providers; well-developed NBI facilities for IT; and IT planning capabilities at agency level. The weaknesses of the system on the other hand include the lack of institutional data sharing/integration; the use of computers more for operational and not for strategic support; computer systems for administrative functions are largely not yet in place; and inadequate IT organization and human resources.

6.1.5 Integrated investment of administrative support systems, and use of clearance processing revenue for information systems development likewise characterized the DOJ IT systems. However, the continuing non-implementation of the NCIS Project; duplication in function resulting in fragmented information systems and databases; complicated data sharing due to the many agencies that are involved in that criminal justice system; and absence of a regular budget for IT projects are threats and issues that must be addressed.

6.2 Reform Implications

6.2.1 Development of an integrated, shared criminal justice databases

6.2.2 Adoption of a formal governance perspective in IT management

6.2.3 Establishment of an agency-level information management coordinating office

6.2.4 Short-term goal: Further strengthening of NBI's information management capabilities and resources

6.2.5 Use of clearance-processing revenues to fund DOJ IT investments

6.2.6 Active pursuit and revival of the NCIS Project

6.2.7 Standardization and integration of the development and implementation of oversight and administrative support systems

6.2.8 Centralization of services and devolution of information management tasks to end-users

1
GENERAL INTRODUCTION

1 BACKGROUND OF THE TA

1.1.1 The Medium-Term Philippine Development Plan (MTPDP), 2001-2004 reiterates the need for a vigorous pursuit of all efforts to strengthen the five pillars of the criminal justice system to ensure peace and order in the country. The issues under the law enforcement pillar include inadequate training to professionalize the police force, corruption, and poor technological capability of law enforcement agencies. Delay in the disposition of cases characterizes the prosecution and court pillars, while overcrowding in jails, prisons and detention centers is a perennial problem of the corrections pillar, an indication of the rising crime rate of the country. These serious peace and order issues negatively affect both social and economic development efforts, as well as the political stability of the nation.

1.1.2 Supportive of the government thrust to strengthen the Philippine criminal justice system, a Five-Year Master Plan of Action for Peace and Order (FYMPAPO), 1997-2001 was formulated in April 1996 by a core group of key agencies in the criminal justice system, other government agencies involved in peace and order and safety, and different civil society organizations concerned. The plan, which is still in place, sets the philosophy, policies, program directions and strategies on public order and safety within the criminal justice system, and aligns these concerns with the United Nations criminal justice policies.

1.1.3 In 2002 the Project Management Office of the Supreme Court in coordination with the Department of Justice (DOJ) prepared a proposal for assistance in the conduct of an institutional review of the other pillars of justice within the DOJ and the formulation of an action plan for the reform of the other pillars of the justice system. The United Nations Development Program (UNDP), through its governance portfolio, provided technical assistance to the project proposal with the Center for Public Resource Management/CPRM Consultants Inc. having been awarded the contract to undertake the institutional review and reform program formulation.

2 PROJECT OBJECTIVES

2.1.1 This project is undertaken within the context of the overall goal of the DOJ which is to contribute to the achievement of the vision of providing speedy, impartial and accessible system of justice. This technical assistance project will undertake diagnostic studies and subsequently formulate a reform framework, as well as a reform program and action agenda for the other pillars of justice in order to contribute to the realization of the DOJ objective. In particular this technical assistance project will contribute to the pursuit of the following specific objectives:

a) To increase the institutional capacity, effectiveness and efficiency of DOJ and its attached agencies which are concerned with the other pillars of justice;

b) To build capacity in the pillars of the criminal justice system; and

c) To contribute to a speedy, impartial delivery of justice.

3 PROJECT SCOPE

3.1.1 The technical assistance project involves two components. The first component involves the conduct of diagnostic studies and identification of reform directions. This report is result of the diagnostic studies and will provide the inputs in the development of the second component: the reform program for the other pillars of justice within the DOJ.

3.1.2 The diagnostic studies covered the following:

a) PILLAR OF JUSTICE: prosecution services, legal assistance services, law enforcement/investigation, correction and rehabilitation, community education and community relations

b) AGENCIES: National Prosecution Service (NPS) in the Office of the Secretary, National Bureau of Investigation (NBI), Public Attorney's Office (PAO), Parole and Probation Administration (PPA), Bureau of Corrections (BuCOR), and Board of Pardons and Parole (BPP)

c) FUNCTIONS: mission critical functions and programs, administrative and financial management systems

d) INSTITUTIONAL COMPONENTS: mandate and functions, formal structures and internal functional configuration, operating systems/ rules of procedures, human resources development systems, technology, information and communications systems, and financial and physical resources

d) EXTERNAL LINKAGES: linkages with the judiciary, community relations and public education, linkages with other service providers (legal assistance groups and NGOs), linkages with international law enforcement and other institutions, linkages with national and local government.

The diagnostics study also covered an evaluation of the overall performance of the DOJ agencies involved in the other pillars of justice. A five-year (1997-2001) comparative analysis of agency program accomplishments is specifically presented in the report under each covered pillars.

4 THE OUTPUTS OF THE TA

4.1.1 Two reports comprise the major outputs of the project: a diagnostics study report containing the institutional review and reform directions, and another report on the proposed reform program containing the definition and programming of the various reform proposals for the strengthening of the other pillars of justice.

4.1.2 Other activity outputs of the TA include the completion of two (2) validation workshops, one on the diagnostics report and another on the reform program report.

5 ORGANIZATION OF REPORT

5.1.1 This diagnostics report is organized into the following major chapters:

Chapter 1 - GENERAL INTRODUCTION

Chapter 2 - RESEARCH FRAMEWORK

Chapter 3 - LAW ENFORCEMENT

Chapter 4 - PROSECUTION

Chapter 5 - CORRECTIONS

Chapter 6 - LEGAL ASSISTANCE

Chapter 7 - INFORMATION AND COMMUNICATION TECHNOLOGY

Chapter 8 - SYNTHESIS AND REFORM DIRECTIONS

2
RESEARCH FRAMEWORK

1 INTRODUCTION

1.1 Context of the Study

1.1.1 This diagnostic study was undertaken within the framework of the five pillars of the criminal justice system within which the Department of Justice plays a significant part. A civilized and democratic society is governed by the rule of law. Societal behavior and specific human transactional activities are guided by a set of laws, which provides standards of right and wrong, defines individual rights and lays out the system for redress and punishment of offenses. Such system is carried out through the five pillars of justice, which comprise of the law enforcement, prosecution, Judiciary, correction/reformation, and community (Figure 2-1).

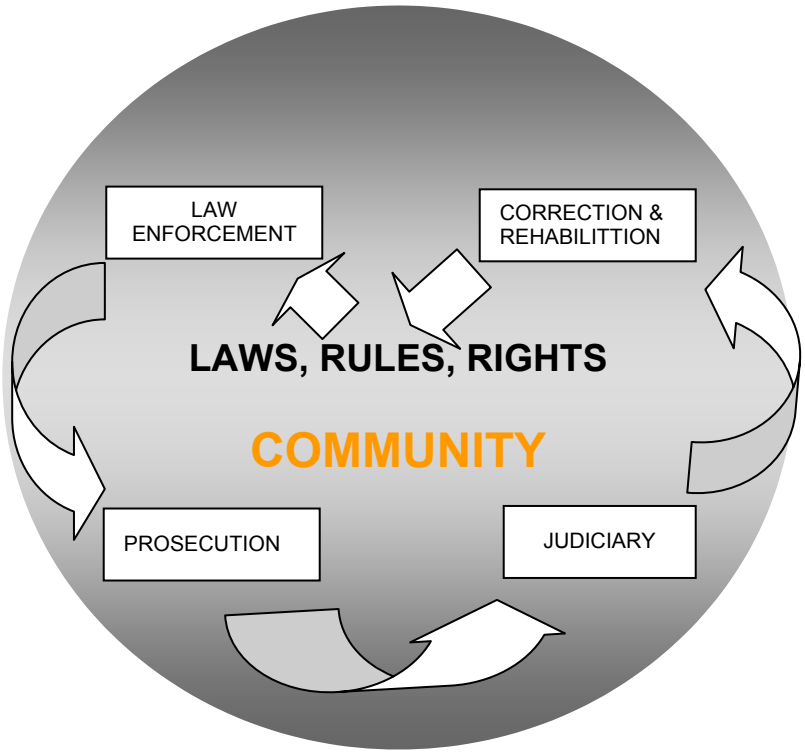
1.1.2 As the mechanism of Philippine society to prevent and control crime, the five pillars of justice have the following functions:

- Prevent the commission of crime and protect the life, individual rights and property of citizens;
- Enforce the law, and remove dangerous persons from the community;
- Investigate, apprehend, prosecute and sentence those who cannot be deterred from violating the rules of society; and
- Rehabilitate offenders, and return them to the community as law-abiding citizens.[1]

1.1.3 The system of justice should be carried out in such a manner that the right of a person whether accused or accuser be respected under the law and that any or all persons who seek justice will be given speedy, impartial and fair justice. Such tremendous responsibility rest on the five pillars of justice, which are tasked to investigate and establish the truth and on that basis define the appropriate penalties and/or sanctions in a speedy manner and in such a way that no undue moral or economic loss will be suffered as a result of the process of seeking justice.

[1] The Philippine Criminal Justice System. Myrna S. Feliciano and Alberto T. Muyot for PHRD Grant for Judicial Reform Project. Supreme Court of the Philippines. July 17, 2000.

FIGURE 2-1
THE FIVE PILLARS OF THE JUSTICE SYSTEM



1.1.4 Several agencies comprise the five pillars of the criminal justice system each performing tasks that are inextricably connected to one another:

a) The LAW ENFORCEMENT PILLAR is the principal responsibility of the Philippine National Police (under the Department of Interior and Local Government) and the National Bureau of Investigation (under the Department of Justice). This pillar primarily involves the investigation of crime, collection of evidence, arrest of suspects, and referral of the case and suspects to the Office of the Public Prosecutor or the lower courts either for preliminary investigation and/or for the eventual filing of cases and adjudication.

b) The PROSECUTION PILLAR is under the responsibility of the Provincial, City, and State Public Prosecutors, which are all under the National Prosecution Service of the Department of Justice. Their functions include the evaluation of cases or complaints referred to by the police, by the National Bureau of Investigation or by private persons, and subsequent filing of the appropriate information or complaint in the lower courts and prosecution of the alleged offenders in court in the name of the People of the Philippines.

c) The JUDICIARY PILLAR is responsible for the proper adjudication of cases and the rendering of judgment.

d) The CORRECTION PILLAR falls under the DOJ's Bureau of Corrections and Board of Pardons and Parole. Their functions include the meting out of punishment such as a jail sentence or execution in extreme cases, and the correction and rehabilitation of those found guilty of their crimes.

e) The COMMUNITY PILLAR refers to the *barangay* as well as society at large where a convict goes back to after serving his/her sentence. The community also refers to government institutions, legislative agencies, educational institutions, and religious and civic organizations among others.

1.1.5 An efficient and effective system of justice involves the appropriate synchronization of organizations, operating systems, policies and programs, and resources, among others, which must be geared towards a common vision of providing speedy, impartial and accessible system of justice to all.

1.1.6 It is in this context that this study was undertaken. In particular, this study examines both the internal and external environments within which the subject pillars of justice operates and identifies the strengths and weaknesses of each agency in relation to the external opportunities and threats that it must face and address.

1.1.7 The study was undertaken with a deep realization that the delivery of a speedy and fair justice requires not only the reform of the judiciary but also of the other pillars of justice. It was crafted in consideration and synchronization with the judicial reform program embodied in the Action Program for Judicial Reform which identifies and programs reforms in judicial systems and procedures, administrative structure and operating systems of the judiciary, judicial infrastructure and information technology, judicial human resources development, and judicial community relations and public education among others. The points of convergence of the various issues and reform directions that will be identified in this study with the reform efforts of the judiciary needs to be established to optimize mutual reinforcement and maximum impact of the combined reform effort of all the pillars.

1.2 Key Issues in the Justice System

1.2.1 The diagnostic studies are intended to validate certain key issues of the justice system that have been identified in several previous studies. These were presented in the consultant's technical proposal and are reiterated in this report to provide the initial sets of issues that served as the basis for a deeper diagnostic study.

1.2.2 Several studies have been conducted in the Judiciary, which identified several dysfunctions within the Judiciary organization itself. But several problems point to the other pillars of justice. Therefore, the study has attempted to examine the nature, causes and consequences of the internal issues and external factors that influenced the quality of performance of the other pillars of the justice system, particularly within the DOJ.

DELAY AND QUALITY OF JUSTICE

1.2.3 Court-related agencies can contribute to delays in the dispensation of justice. Delays may stem from poor coordination between the Judiciary and the other pillars of justice (Feliciano, et. al, 2000). Quality of justice can be undermined by deficient and inability to produce and accused, protracted investigation, poor quality of evidence, inability to preserve evidence, poor quality legal assistance, or lack of lawyers for pauper litigants. In courts, delays can be due to case overload, dilatory tactics of lawyers, poor case management by judges, or simply laziness on the part of judges.

LACK OF ACCESS TO JUSTICE

1.2.4 Access to justice is undermined if evidence is not gathered or properly preserved to support a case, if prosecution is delayed, and if legal assistance to pauper litigants is not available or the quality of legal services is not satisfactory to support the requirements of the concerned party. Access is also limited by lack of awareness by poor litigants of the services available to them, distant geographical proximity, unavailability of public attorneys and prosecutors, and inability of DOJ to defray the cost of these services considering severe funding limitations.

1.2.5 DOJ plays a critical role in improving access to justice in the three pillars of justice directly under its functional jurisdiction through speedy and improved quality of investigation and law enforcement, through quality prosecution and legal assistance to pauper litigants, and through improvements in the correctional system that ensures the promotion and protection of the rights of prisoners under the law, among others.

POOR PUBLIC CONFIDENCE IN THE COUNTRY'S SYSTEM OF JUSTICE

1.2.6 The Philippines is reportedly the second most corrupt country in Southeast Asia.[2] It did not help that a former Justice Secretary was accused to have received two cars from the Tiongco-Parena drug syndicate a year later.[3] Due to their many bad experiences with the justice system, the public perception of corruption within the other pillars of justice may persist. For example, there has been a great cause of concern for the large number of drug cases which prosecutors have dismissed. A similar concern is the increasing number of drug lords being acquitted by Philippine courts. The DOJ has received complaints regarding some of its prosecutors for harboring evident partiality when handling their respective cases.

[2] Reported to be the 2nd most corrupted country in SEA in 1997. From Investigation and Prosecution of Corruption Cases. Francisco A. Villa. From IBP Law Journal & Magazine. Vol. XXIV No. 1, 4th Quarter 1997 to 1st Quarter 1998

[3] Investigation and Prosecution of Corruption Cases. Francisco A. Villa. From IBP Law Journal & Magazine. Vol. XXIV No. 1, 4th Quarter 1997 to 1st Quarter 1998

LACK OF SUPPORT INFRASTRUCTURE, TECHNOLOGY AND BASIC FACILITIES

1.2.7 According to former DOJ Secretary Artemio G. Tuquero, there is still a clear lack of support staff to prepare and type subpoenas and process servers that serve the subpoenas on time, thus causing a significant delay in the conduct of preliminary investigations.[4] Some of the major problems of correctional facilities are congestion, overcrowding, lack of sanitation facilities and utilities, and inadequate food and programs that promote proper rehabilitation. Year 2000 statistics show that a staggering 70,000 prisoners are unevenly distributed among national and local jails, with the actual number of prisoners exceeding twice the housing capacity. For example, the National Bilibid Prison houses some 14,000 prisoners. This number is twice the prison's carrying capacity.

1.2.8 Lack of technology for evidence gathering, analysis and preservation also deters proper prosecution of cases. Limited use of information technology to support crime management and litigation of criminal cases moreover hampers the provision of speedy, impartial and accessible system of justice. Investigations can be impeded merely by lack of transport and communication equipment of investigators.

NEED TO IMPROVE OVERALL MANAGEMENT CAPACITY AND RESOURCES

1.2.9 Improving administrative management capacity and resources of the other pillars of justice will directly impact on their operations in terms of improved capacity to scientifically analyze and preserve evidence, improved facility to trace and apprehend suspects or detect crimes, more investigators and lawyers in relation to demand, less congestion in jails, and better capacity for improved operations management and strategic planning.

UNATTRACTIVE COMPENSATION, EMOLUMENTS AND BENEFITS

1.2.10 Common to practically all government agencies, this problem may be difficult to address. But an assessment of the remuneration of law enforcement, prosecution and legal professionals within the other pillars of justice must be taken in the light of severe resource constraints and the priority that government gives to the peace and order sector as a factor of economic development. The Judiciary is working to get an exemption from the Salary Standardization Law. Because of its aggressive and progressive judicial reform program, such proposal is gaining ground and was in fact already endorsed by the President and is in the advanced stage of deliberation in the Senate.

[4] The Philippine Criminal Justice System. Myrna S. Feliciano and Alberto T. Muyot for PHRD Grant for Judicial Reform Project. Supreme Court of the Philippines. July 17, 2000. p. 60.

INADEQUATE TRAINING

1.2.11 Inadequate training has been cited as one of the many reasons for inefficiencies and deficiencies in the justice system. Specifically, there is need to train law enforcement officers to ensure effective gathering and presentation of evidence. Inadequate training facilities and equipment is a concomitant issue that adversely affects the conduct of necessary training programs to upgrade and develop the expertise of DOJ key staff involved in the pillars of justice.

LACK OF INFORMATION TECHNOLOGY SYSTEMS AND EXPERTISE

1.2.12 Information technology systems analysis is undertaken in the context of both the internal functional requirements of the DOJ agencies, as well as the requirements for linking with one another and with the judiciary and other law enforcement agencies. With the suspension however of the National Crime Information System (NCIS) Project, which was established to specifically address the IT/IS requirements of the five pillars of the criminal justice system, the gaps in the information and communication infrastructure of the pillars remain.

2 INSTITUTIONAL FRAMEWORK

2.1 History

2.1.1 Department of Justice (DOJ) traces its beginning from a decree issued by the late President Emilio Aguinaldo in 1898. It was reorganized under Executive Order No. 292 in 1987.[5] It is mandated to act as the principal law agency of the government, uphold the Philippine Rule of Law, and ensure the effective and efficient administration of justice for all. The Revised Administration Code of 1987 states its specific functions as follows:

a) The legal counsel and prosecution arm of the government;

b) Administer the criminal justice system in the investigation of crimes, prosecution of offenders, and the administration of the correctional system;

c) Implement laws in the admission and stay of aliens, citizenship, land titling, and settlement of land problems as to small landowners and members of the indigenous cultural minorities; and

d) Provide free legal service to indigent members of society. [6]

2.1.2 The Office of the Secretary is composed of a Justice Secretary; three (3) Undersecretaries; three (3) Assistant Secretaries; the Chief State Counsel and two assistants; the Chief State Prosecutor and five assistants; the Chiefs of the Technical

[5] Taken from http://www.gov.ph/cat_justice/dojhistory.asp. June 21, 2002.
[6] Revised Administrative Code of 1987, Title III, Chapter I, Section 1

Staff; the Administrative Service; the Financial and Management Service; and the Executive Director of the Boards of Pardons and Parole.

2.1.3 The DOJ has nine (9) attached agencies performing various functions of which six agencies perform functions under the three pillars of justice: prosecution, investigation and law enforcement and corrections. The key agencies performing functions within the criminal justice system include the following:

NATIONAL PROSECUTION SERVICE (NPS)

2.1.4 The NPS conducts investigation and prosecution of criminal cases. NPS is under the direct supervision of the Justice Secretary. It is specifically mandated to investigate and prosecute all criminal offenses under the Revised Penal Code and other special penal laws. It resolves appeals from petitions for review of the final resolutions of State Prosecutors and Provincial/City Prosecutors in all preliminary investigations conducted by them. It also renders opinions on queries from prosecutors regarding violations of the Revised Penal Code and other special penal laws, and provides the court with information which will serve as the basis for the grant or denial of probation.

NATIONAL BUREAU OF INVESTIGATION (NBI)

2.1.5 The NBI investigates crimes, and serves as the national clearinghouse of criminal records and other similar information.

BOARD OF PARDONS AND PAROLE (BPP)

2.1.6 The BPP grants parole to qualified prisoners and recommends to the President the grant of absolute or conditional pardon and other forms of clemency to offenders.

PAROLE AND PROBATION ADMINISTRATION (PPA)

2.1.7 The PPA promotes the reformation of offenders by administering the parole and probation systems, and investigates those who may be considered by the Board of Pardons and Parole for grant of executive clemency. It moreover supervises offenders who were released on probation, parole or pardon.

BUREAU OF CORRECTIONS (BUCOR)

2.1.8 The BUCOR rehabilitates prisoners convicted of serving more than 3 years in prison.

PUBLIC ATTORNEY'S OFFICE (PAO)

2.1.9 The PAO provides free legal assistance to indigent persons. It generally serves as the counsel for defense in civil, criminal, administrative or labor cases, and does not perform prosecutorial functions. It also provides non-judicial legal services such as legal counseling, meditation, outreach and jail visitation programs.[7]

3 ASSESSMENT APPROACH

3.1 Principles and Parameters

3.1.1 This diagnostic study is guided by justice system principles, which prescribe the standards on the character of the agencies under study, as well as organization principles and parameters, which prescribe the standards of a well-performing organization.

JUSTICE SYSTEM PRINCIPLES

a) INDEPENDENCE. Institutional and individual independence of law enforcement and prosecutorial agencies is key in the establishment of truth and dispensation of justice.

b) ACCESS. Access means geographical access, affordability of legal services by the poor, impartial investigation and law enforcement particularly in cases between the poor and the rich or between the politically powerful and one who is not, more speedy provision of services through more efficient and speedy investigation processes, and adequate and preserved evidence.

c) SPEED, QUALITY AND IMPARTIALITY. The resolution of a case, which will be dependent on the establishment of the truth, should be such that the person seeking redress does not incur undue moral and economic loss due to the delay of the litigation process or the quality of the investigation, prosecution and legal services.

d) INTEGRITY. Integrity at institutional and individual levels is important in enforcing the law and in establishing facts for appropriate prosecution and resolution of cases. Integrity means being loyal to the rules and procedures that govern the processing of a case and having capacity against undue political influence.

[7] Department of Justice Accomplishment Report for Calendar Year 1992.

ORGANIZATION PRINCIPLES

3.1.2 Organization principles define certain universal truths about the functioning of a well-performing organization. These principles were be applied in the conduct of the diagnostic studies and reform program formulation. They include the following:

a) DOING MORE AND BETTER WITH LESS. Within the context of severe resource constraints, effective organizations are able to leverage their limited resources to high impact activities.

b) DECENTRALIZATION AND BETTER OVERALL CONTROL OF OPERATIONS. Decentralization improves the efficiency and responsiveness of agencies by bringing down decision-making authority, responsibility, resources and accountability to the field, enabling quick and relevant response to client needs.

c) SEAMLESS EXTERNAL AND INTERNAL FUNCTIONAL AND PROCESS SYNCHRONIZATION. Functions and operating systems among the five pillars are inextricably related and connected with one another. Trial of cases cannot start if the prosecution is not prepared. NBI cannot provide adequate crime information without data inputs from the courts and the other pillars of justice. The extent and quality of inter- and intra-system integration influences the quality of justice that can be delivered to the litigants.

d) INFORMATION-BASED DECISION-MAKING. The role of information and communication systems and technologies in decision making for each of the identified pillars is critical. Also, the capacity to seamlessly integrate operations within and among agencies cannot be made possible without information technology.

e) ACCOUNTABILITY, TRANSPARENCY AND PUBLIC EDUCATION. Accountability is to be answerable for acts or decisions and the consequences thereof. Public accountability cannot happen if the public is not educated on the operations of agencies for which they will be held accountable, if the operating systems of agencies are not capable of clearly pinpointing answerability, if there is no verifiability of information, and if information is not structured to allow for assessment.

f) CONTINUING LEARNING AND IMPROVEMENT CAPACITY. Capacity for continuing learning and improvement is the ability to continuously explore new perspectives and operational technologies and methodologies, and to discover new knowledge that will improve institutional and individual capacity to perform agency functions. Capacities for continuing learning and improvement are indicated in the presence of research, planning, and training activities, among others.

3.2 Performance Assessment

3.2.1 The assessment of organizational performance of agencies concerned with the other pillars of justice was severely constrained by inadequate indicators and data associated with such performance indicators. This is common to all agency studies. Performance assessment was focused on reviewing performance in relation to agency mandate and functions and the expected outputs or services that must be produced to fulfill these.

3.3 Institutional Framework Assessment

3.3.1 The assessment was done at two levels for some agencies, particularly the NBI. This brought out issues in inter-agency functional relationships. The second assessment level was the internal capacity assessment. This focuses on the internal operating structure and systems of the DOJ and the attached agencies and addresses the following:

> *Given the DOJ mandate and functions, what internal capacities within the present DOJ and its attached agencies should be built in order to transform it from what it is now to what it should be in the interim and for the long-term?*

3.3.2 The conceptual framework for institutional and capacity assessment and reform formulation, which is depicted as Figure 1, guided the assessment. In particular, the framework identifies the elements that constitute a well functioning organization, the external factors that influence the organization, and those which the organization in turn influences. The model depicts the relationship between the organization and its external environment, between the inputs, the institutional structures and systems, and the outputs.

a) The framework identifies the core factors and elements that make up the foundation of a well-functioning organization. These comprise the following:

- *The basic resources* – financial, physical and human.

- *The management systems* – the institutional mandate, quality of leadership, corporate planning, financial management and administrative management, research and development, monitoring and evaluating performance and those for innovation and for ensuring and continuing improvement of the organization.

- *The structural systems* – the formal structure that organizes the functions among organic units, defines the roles of each unit, and establishes operational relationships and workflows.

- *The production and delivery systems* – the processes, technologies, production tools and techniques applied for the implementation of the

mission-critical functions of the agency, or the production and delivery of physical products or services to the identified market, customers or clientele.

- *The behavior systems* – which manage human behavior in the organization and which involve recruitment, remuneration, incentives, career path and reward systems, procedures and policies, workplace quality and professional standards as enforced, understood and practiced, the public perception and feedback mechanism.

- *The integrity systems* – which include internal control, the processes for transparency in operations and decisions, and the system of accountability at individual, unit, function and enterprise levels.

- *The system of organizational values* – the individual and collective values and attitudes shared and forming part of the enterprise culture which involve consensus on the achievement of operational synergy, synchronization and complementation, and the distribution philosophy where customers and beneficiaries are concerned.

b) The above framework will provide the guidance in focusing the assessment of the internal operating capacities of the subject agencies and in the identification of the capacity building requirements.

c) The capacity assessment will be done in the context of the following:

- The agency clients, which are the individuals and organizations for whom agency services are provided, the size of clients and their needs, other service providers both from the government and the private sector.

- The institutional framework, which includes the policies, systems and processes, and organizations.

- The government oversight systems, the administrative policies and other related agencies and their impact on the independence, jurisdiction, administrative authority and the level and mix of resources of the DOJ and its attached agencies.

- The external linkages and consultative mechanisms established through the corporate planning activities, the formulation of policies, programs and projects, among others.

d) Assessment of the formal organic structure and key operating systems

These include and involve the formal structure of the DOJ and its attached agencies concerned with the other pillars of justice. The completeness of the organization structure and functions were assessed according to the presence or absence of the following:

- *Conscience units and functions* – those involved in the formulation of plans, policies, and programs; monitoring and evaluation of organizational

performance; research and development; and other units related to strategic planning and policy formulation, design of agency products and services, self-evaluation, and ensuring the establishment of capacity for continuing learning and improvement.

- *Housekeeping units and functions* – those involved in administrative and financial operations including budgeting and accounting, procurement and physical assets management, human resource management, and other logistical support units and functions.

- *Mission-critical units and functions* – those that deal with the execution of mission-critical functions, or production and delivery of the products and services for which the agency is mandated by law. The review and recommendations seek to address such issues as access versus efficiency, relevance and capacity to meet present and future demand.

The quality of the operating systems was reviewed on the basis of:

- The delineation of authority, responsibility and accountability and their translation and consistency with internal and internal-external workflows, and their implications on the flexibility of operational decision making flexibility and on the overall efficiency effects.

- The completeness of the work processes required in implementing the system and generating the desired outputs.

- The quality of the technology supporting operations and their efficiency implications.

g) Assessment of Staffing

The staffing pattern was reviewed in accordance with the mix and levels required and in relation to work content and volume.

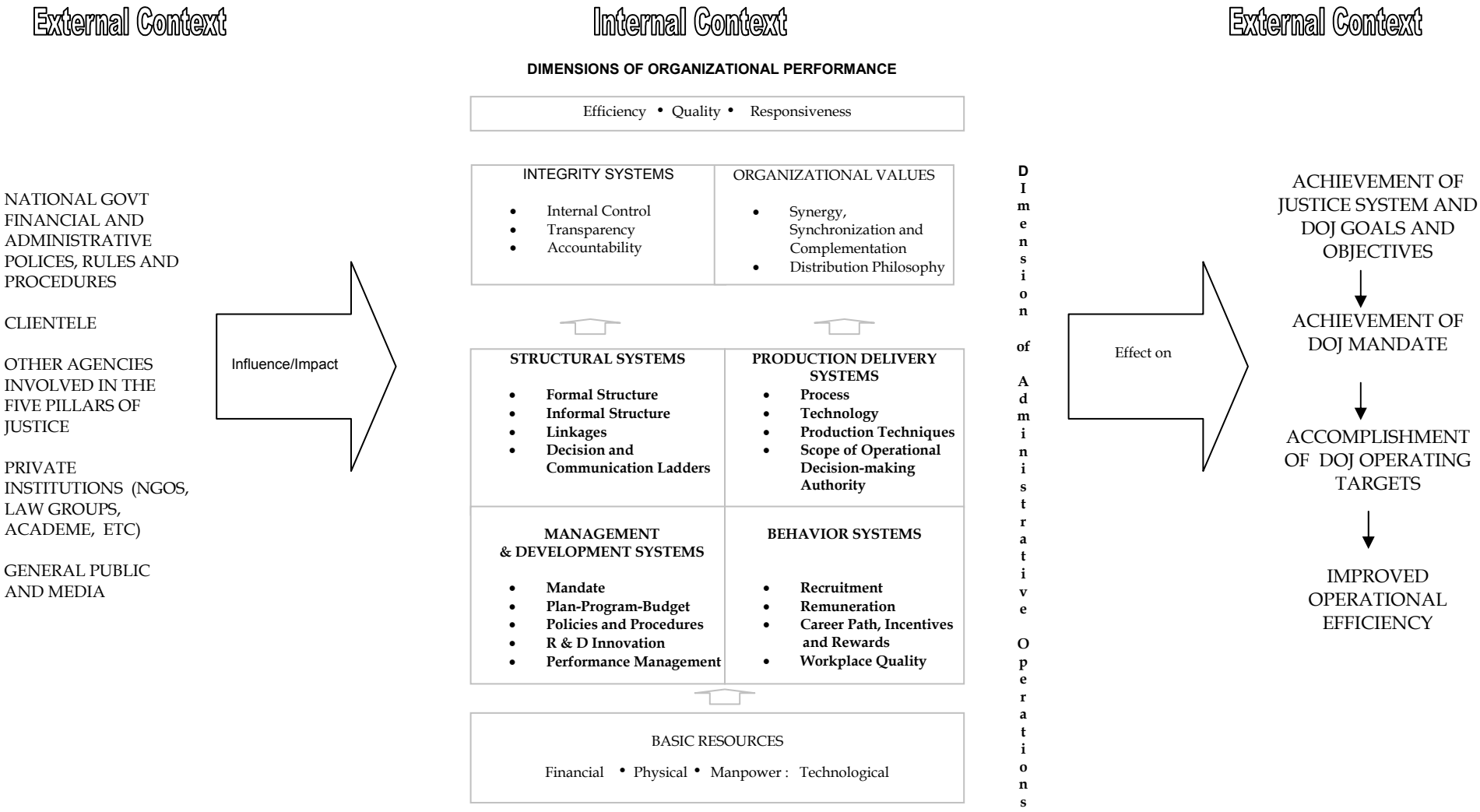
h) Review of financial, physical and technological resources involved:

- Spending patterns and levels. The assessment addresses such issues as efficiency of expenditures and adequacy of resources to support required operations.

- Physical resources including capital assets such as land and buildings and equipment not directly related to technical operations but involving such issues as efficiency support.

- Technological resources include the type and level of technology applied in the implementation of the operating systems and procedures, including information technology, land survey equipment, mapping equipment, etc.

Figure 2-2
CAPACITY ASSESSMENT FRAMEWORK



3
LAW ENFORCEMENT

1 INTRODUCTION

1.1.1 The criminal justice system is the mechanism society uses to maintain the standards of conduct necessary to protect individuals and the community. This system operates through the pillars of the justice system, which starts with discovering, identifying and apprehending suspects, processing them through courts (prosecuting) with a finding of guilty or not guilty. These parts are by no means independent of each other, since the activities of each has a direct effect on the others. Not only is there a sequential association between units of the system, but also there are cross-directional associations. For example, the success of corrections will determine whether a convicted person will again become police business. It will also influence the courts in their sentencing if he is a recidivist or habitual offender. In addition, law enforcement activities and practices are subject to court scrutiny and such activities are often determined by court decision. It is always controlled and influenced by law and interpretations of law.

1.1.2 This diagnostic study covers only the NBI the law enforcement arm of the Department of Justice. In particular, it reviews the context within which NBI operates, it conducts as assessment of the strengths and weaknesses of the NBI and the opportunities and threat that it faces, evaluates its internal capacity and examines the impact of the findings of these assessment in reforming the NBI. This diagnostic study will form the basis for the formulation of the action program for the other pillars of justice.

2 INSTITUTIONAL FRAMEWORK

2.1 Law Enforcement Institutions

2.1.1 Generally, the law enforcement pillar is composed of the Philippine National Police (PNP) and the National Bureau of Investigation (NBI) and both agencies are primarily charged with the detention, identification and apprehension of law violators. There are other agencies of the government that have law enforcement functions and these include the Bureau of Customs with respect to the enforcement of customs laws, the Bureau of Immigration and Deportation with respect to the entrance to and exit from the country of both aliens and Filipino nationals and Bureau of Internal Revenue in the aspect of violations to the revenue and tax laws.

2.2 Historical Background

2.2.1 The NBI was created in 1936 with the enactment of Commonwealth Act (CA) No. 181 as a Division of Investigation (DI) under the Department of Justice. Patterned after the U.S. Federal Bureau of Investigation, Thomas Dugan, a N.Y. Police Captain and Flaviano C. Guerrero, the only Filipino member of the Federal Bureau of Investigation, were tasked to organize the division. Its mandate was to serve warrants and subpoenas issued; to make searches and seizures under legal warrants for violations of the laws of the Philippines; and to make arrests without warrants for a crime committed in their presence or within their view (Sec. 3).

2.2.2 During the Japanese occupation, the DI was affiliated with the Bureau of Internal Revenue and the Philippine Constabulary. During the post-liberation period, all available DI agents were recruited by the U.S. Army CIC as investigators. On June 19, 1947, Republic Act (RA) No. 157 repealed CA 181 and converted it into the Bureau of Investigation. The functions of the NBI were expanded and the powers of its investigating staff increased. Later, Executive Order No. 94 issued on October 4, 1947, renamed it to the presently known National Bureau of Investigation.

2.2.3 On June 20, 1959, Republic Act No. 2389 increased the number of NBI agents and their salaries. Appointments of personnel for general investigation were, as far as practicable, graduates of recognized law schools or colleges or members of the bar and those with at least ten (10) years experience and training in other law enforcement organizations.

2.2.4 Subsequently, Republic Act No. 2678 (1960) expanded and reorganized the NBI and established additional divisions and regional offices. Appointments to positions in the Investigation Division were now limited to the members of the bar and/or certified public accountants who must pass the competitive mental and physical examination and after sufficient training to be given by the NBI.

2.2.5 To carry out the police activities of the NBI, a Peace and Order Special Account in the general fund was created by Republic Act No. 6141 (1970). The amount of One Million Pesos (Php1,000,000.00) was earmarked for the setting up of a modern central records filing system.

2.2.6 In order to dissuade competent lawyers in the Ministry of Justice from accepting attractive offers from the private sector, Presidential Decree (PD) No. 1726 was promulgated by President Ferdinand E. Marcos on September 26, 1981, adopting an integrated scheme for judicial and legal positions in the National Government which included the NBI lawyers in the Investigation Division and its Director and Deputy Directors. However, the salary scale of the lawyer positions in the Legal Division of the NBI was not implemented in accordance with the mandate of PD 1726. Thus, Executive Order No. 942 dated March 13, 1984 implemented the new salary scale of NBI lawyers and gave authority to its Director to reorganize his legal and administrative staff.

2.2.7 President Corazon C. Aquino issued Executive Order (EO) No. 292 dated July 25, 1987 otherwise known as the Administrative Code of 1987. Under sections 11-13, Chapter 4, the Code mandated that the NBI with all its duly authorized constituent units including regional and district offices and rehabilitation center to continue to perform the powers and functions vested in it under existing law and such additional functions as may be hereby provided by law (Sec. 11).

2.3 Mandate and Functions

2.3.1 The mandate of the NBI is the establishment and maintenance of a modern, effective and investigative service and research agency for the purpose of implementing fully principal functions provided under Republic Act No. 157, as amended. In particular the NBI performs the following functions:

a) Undertake investigations of crime and other offenses against the laws of the Philippines, upon its own initiative and as public interest may require;

b) Render assistance, whenever properly requested in the investigation or defection of crimes and other offenses;

c) Act as a national clearinghouse of crimes and other information for the benefit and use of all prosecuting and law enforcement entities of the Philippines, identification of records of all persons without criminal convictions, records of identifying marks, characteristics and ownership of possession of all firearms as well as of test bullets fired therefrom;

d) Provide technical aid to all prosecuting and law-enforcing officers and entities of the Government as well as the courts that may request them;

e) Extend its services, whenever properly requested in the investigation of cases of administrative or civil nature in which the government is interested;

f) Undertake the instruction and training of a representative member of city and municipal peace officers at the request of their respective superiors along effective crime investigation and detection in order to ensure greater efficiency in the discharge of their duties;

g) Establish and maintain an up-to-date scientific crime laboratory and to conduct researches in furtherance of scientific knowledge in criminal investigation; and

h) Perform such other related functions as the Secretary of Justice may assign from time to time (RA 157 [1947], sec. 1).

2.3.2 In addition, Executive Order No. 94, series of 1947, transferred to the NBI the functions of the Anti-Usury Board.

2.3.3 Under Letter of Implementation No. 20, dated August 18, 1972, the NBI is responsible for the efficient detection and investigation of crimes and other offenses against the laws of the Philippines, upon its own initiative and as public interest may require, rendering assistance, whenever properly requested in the investigation or detection of crimes and other offenses, and coordinating with other national and local police agencies in the maintenance of peace and order. Later on, a Letter of Instructions was issued on 18 August 1976 strengthening the administrative capacity for regional operations of all bureaus, commissions and offices.

2.3.4 Likewise, the Criminal Investigation Service and the NBI became the investigative arm of the *Tanodbayan* pursuant to LOI 784 dated December 20, 1978.

2.3.5 Pursuant to Memorandum Order No. 340 dated 31 January 1991, the NBI was directed by President Corazon C. Aquino to assume the lead/primary role in the enforcement of Central Bank rules and regulations on foreign exchange transactions.

2.4 High-level Structure and Jurisdiction

2.4.1 The NBI is a government entity that is civilian in character and national in scope. It is under the supervision of the Department of Justice and headed by a Director and supported by an Assistant Director and six (6) Deputy Directors each heading a major office (Figure 3-1). A more detailed technical review of the formal structure and internal functional configuration of the NBI is contained in the capacity assessment section of this chapter.

3 OVERVIEW OF KEY OPERATIONS AND PERFORMANCE

3.1 Limitations in NBI Performance Management System

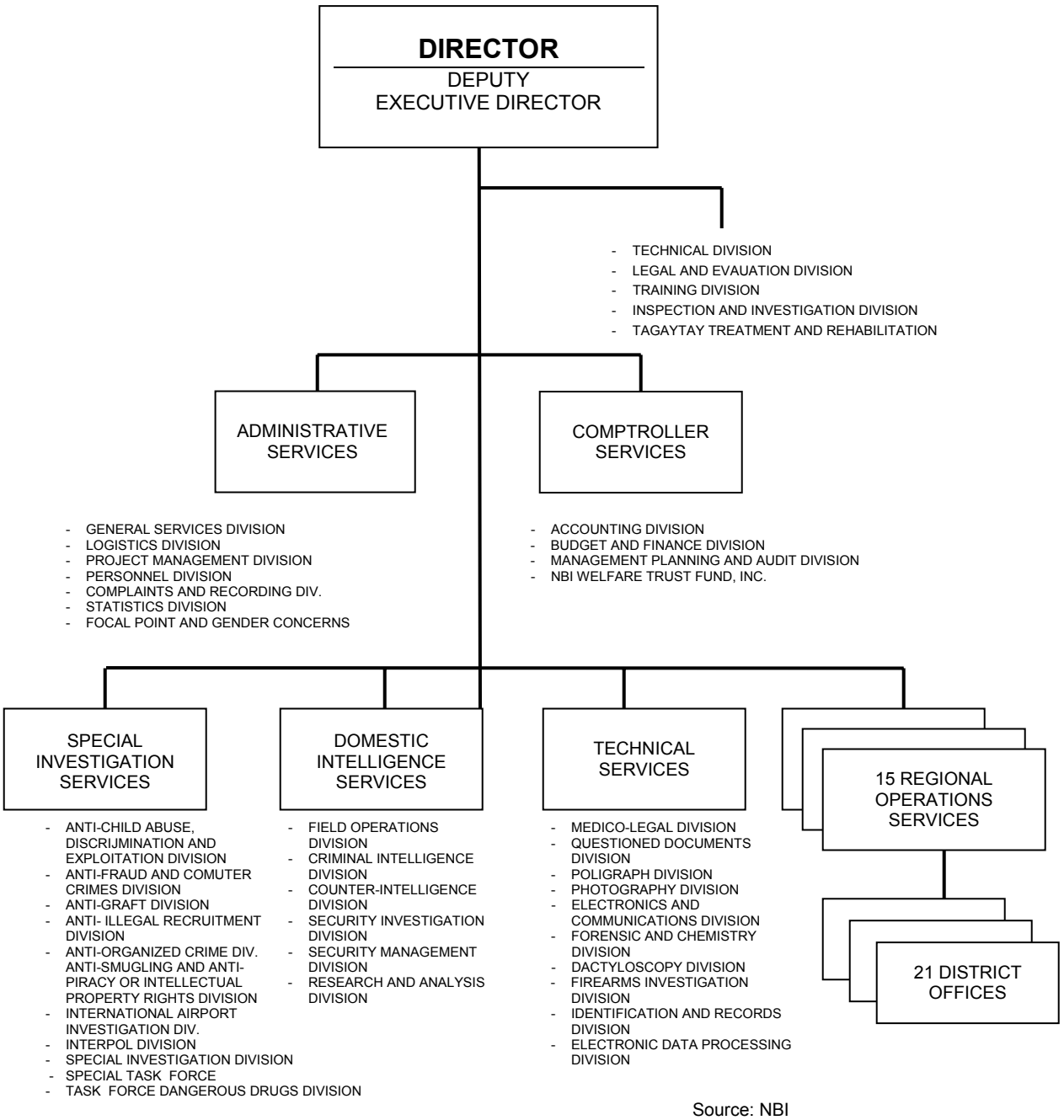
3.1.1 Reviewing the institutional performance of the NBI is critical to analyzing the problems and subsequently identifying the issues that prospective reforms should address. However, the consultants found it difficult to come up with an incisive assessment of the institutional performance of the NBI for various reasons. First is the absence of a formal performance system. Indicators of performance are primarily output based and are very aggregative. There is no comprehensive yet detailed system of information on the outputs and outcomes of central offices and the regional and district offices that can be organized and analyzed to examine performance in its various dimensions. Indicators of performance are general. There is no adequate data on the pace of investigation by type of case or the type of disposition of cases. It would have been important to know how many cases resulted in the identification, apprehension, prosecution and conviction of the suspect by type of crime? It would also be important to be able to link performance to such issues as manpower adequacy, manpower levels, the role of investigation technology and resources, work organization and distribution or training. Further, there is no formal strategic planning system that links performance monitoring and evaluates accomplishment with plan targets and performance standards.

3.1.2 Performance data and the review thereof as reflected in the following sections are therefore indicative and presents symptoms of deeper dysfunctions but are nevertheless considered useful in relating accomplishments with mandate, capacity assessment and reform requirements.

3.2 Performance in Key Functions and Programs

3.2.1 The review of performance hereunder compares actual accomplishment of NBI in relation to selected key or major functions or activities. Three major areas where general data are available comprise of the inspection and investigation, anti-violence against women and children, and treatment and rehabilitation services.

FIGURE 3-1
CURRENT ORGANIZATION STRUCTURE, NBI



Source: NBI

INSPECTION AND INVESTIGATION

3.2.2 The main function of NBI is to conduct crime investigation as well as investigation of civil cases in which the government has interest. Associated with such function, it also acts as clearing house and information assistance provider of crimes and other information required for prosecution of the case and by other law enforcement agencies. Therefore the keeping of a crime records system, which requires inputs from the courts and other law enforcement agencies, is critical to the ability of NBI to effectively and efficiently perform such function.

3.2.3 Investigation functions are performed primarily by the Special Investigation Services (SIS), fifteen (15) regional offices and twenty-one (21) district offices located in the various regions and strategic locations in the country. The regional and district offices exercise activities in their respective regions and coordinate with the SIS and Domestic Intelligence Services (DIS) relative to joint operations within their jurisdiction.

3.2.4 The SIS function is to undertake criminal intelligence operations to assist interdict the commission of criminal offenses and the solution of crimes and to undertake counter-intelligence operations in order to counteract and prevent activities affecting national security as well as to provide security services for the Bureau and such other offices of other government agencies.

3.2.5 The DIS is tasked to collect, analyze and interpret intelligence information relating to crime, criminals, and national security for the operational use of the Bureau and the intelligence community. In collaboration with its foreign counterparts, it exchanges intelligence information that results to the prevention or solution of international crimes and in the apprehension of international criminals, terrorists, and fugitives. As an adviser to the National Intelligence Board, it contributes and assists in the formulation of intelligence policies of the government and the drafting of appropriate strategies on national security.

3.2.6 In the conduct of its investigation services, NBI Investigating Staff are considered as peace officers and as such, they have the following powers:

a) To make arrests, searches and seizures in accordance with existing laws and orders;

b) To issue *subpoena* or *subpoena duces tecum* for the appearance at government expense of any person for investigation;

c) To take and require sworn truthful statements of any person or persons so summoned in relation to cases under investigation, subject to constitutional restrictions;

d) To administer oaths upon cases under investigation;

e) To possess suitable and adequate firearms for their personal protection in connection with their duties and for the proper protection of witnesses and persons in custody; provided that no previous special permit for such possession shall be required; and

f) To have access to all public records and, upon authority of the President in the exercise of his visitorial powers to records of private parties and concerns (RA 157, sec. 5).

3.2.7 Cases in the NBI are classified into three major categories: crime cases, service cases and miscellaneous cases. Crime cases refers to violations of the Revised Penal Code, special penal laws, Presidential Decrees, General Orders and LOIs. Service and miscellaneous cases refer to service of warrant or order of arrest, determination of the whereabouts of missing persons, background investigation and other related activities.

3.2.8 Total cases filed in the NBI posted very slight increases which averaged at 1.8% annually between 1997 and 2002. But while increases were small backlogs have noticeably increased starting year 2000 where year end balances rocketed from 694 cases in 1999 to 7,050 in 2000. During that year the annual clearance rate was also at its lowest at 87% which is lower than the annual average of 95.6 for the study period. The past years rapid solution on cases which resulted in 100% clearance rate would somehow not be able to explain the subsequent year's low performance.

3.2.9 There are no available data to explain the fluctuations in annual clearance rates (ratio between the beginning year pending and end-year balance) of the NBI. But it appears that output capacity at institutional level has remained stable over the study period registering an average of about 47,200 cases a year. Where slight increases in cases occurred annually within an established production capacity, a build up in case backlog occurred. These statistics indicates that improvements in manpower capacity either through increased workforce and/or improved training and working arrangements are needed (Tables 3-1 and 3-2).

TABLE 3-1
CASELOAD PERFORMANCE OF THE NBI, 1997-2002
SUMMARY OF ALL CASES

	BEGINNING YEAR PENDING	RECEIVED	TOTAL PENDING DURING YEAR	TERMINATED	END YEAR BALANCE
1997		46,784	46,784	46,642	142
1998	142	48,578	48,720	47,866	854
1999	854	49,547	50,401	49,717	684
2000	684	50,450	51,134	44,084	7,050
2001	7,050	51,346	58,396	47,742	10,654
2002	10,654	52,227	62,881	49,317	13,564
TOTAL		298,932		285,368	

Source: NBI

TABLE 3-2
ANNUAL TRENDS IN CASELOAD AND CLEARANCE RATES
SUMMARY

PARTICULARS	RECEIVED	ANNUAL GROWTH RATE (%)	DISPOSED	ANNUAL GROWTH RATE (%)	CLEARANCE RATE (%)
1997	46,784		46,642		99.70%
1998	48,578	3.83%	47,866	2.62%	98.53%
1999	49,547	1.99%	49,717	3.87%	100.34%
2000	50,450	1.82%	44,084	-11.33%	87.38%
2001	51,346	1.78%	47,742	8.30%	92.98%
2002	52,227	1.72%	49,317	3.30%	94.43%
TOTAL/AVE.	298,932	1.86%	285,368	1.13%	95.56%

Source: NBI

3.2.10 Only about 17.96% of all cases handled by the NBI are crime cases. Service cases comprise a small 7.24%. The bulk of the workload of NBI investigators is in the miscellaneous cases, which comprise 71.50% of all cases filed with the NBI.

3.2.11 Among all case types it is expectedly in the crime cases where clearance rates are unpredictable. There is noticeable build up of case backlog (Table 3-3), but clearance indicate significant annual fluctuations. Although no specific information is available to explain this, it can be gleaned from the statistics that the solution of crime cases is not within the total control of NBI investigators. Also, the capacity of NBI investigators to solve crime cases largely depends on the technology and facilities at their disposal.

TABLE 3-3
CASELOAD PERFORMANCE OF THE NBI, 1997-2002
CRIME CASES

	CASE INFLOW AND OUTFLOW				
YEAR	BEGINNING YEAR PENDING	RECEIVED	TOTAL PENDING DURING YEAR	TERMINATED	END YEAR BALANCE
1997		9,303	9,303	i9,643	
1998		10,506	10,506	10,529	
1999		10,747	10,747	10,732	15
2000	15	9,824	9,839	5,340	4,499
2001	4,499	10,999	15,498	9,865	5,633
2002	5,633	2,305	7,938	3,665	4,273
TOTAL		53,684		49,774	

Source: NBI

TABLE 3-4
ANNUAL CLEARANCE RATES
CRIME CASES

PARTICULARS	RECEIVED	ANNUAL GROWTH RATE (%)	DISPOSED	ANNUAL GROWTH RATE (%)	CLEARANCE RATE (%)
1997	9,303		9,643		103.65%
1998	10,506	12.93%	10,529	9.19%	100.22%
1999	10,747	2.29%	10,732	1.93%	99.86%
2000	9,824	-8.59%	5,340	-50.24%	54.36%
2001	10,999	11.96%	9,865	84.74%	89.69%
2002	2,305	9.04%	3,665	-62.85%	159.00%
TOTAL/AVE		10.07%		2.87%	101.13%

Source: NBI

TABLE 3-5
CASELOAD PERFORMANCE OF THE NBI, 1997-2002
SERVICE CASES

YEAR	CASE INFLOW AND OUTFLOW				
	BEGINNING YEAR PENDING	RECEIVED	TOTAL PENDING DURING YEAR	TERMINATED	END YEAR BALANCE
1977		3,550	3,550	3,090	460
1998	460	3,986	4,446	3,090	1,356
1999	1,356	4,471	5,827	4,564	1,263
2000	1,263	3,106	4,369	2,086	2,283
2001	2,283	2,865	5,148	2,305	2,843
2002	2,843	3,665	6,508	3,010	3,498
TOTAL	8,205	21,643	29,848	18,145	11,703

Source: NBI

TABLE 3-6
ANNUAL CLEARANCE RATES
SERVICE CASES

PARTICULARS	RECEIVED	ANNUAL GROWTH RATE (%)	DISPOSED	ANNUAL GROWTH RATE (%)	CLEARANCE RATE (%)
1997	3,550		3,090		87.04%
1998	3,986	-12.28%	3,090	0.00%	77.52%
1999	4,471	-12.17%	4,564	-47.70%	102.08%
2000	3,106	30.53%	2,086	54.29%	67.16%
2001	2,865	7.76%	2,305	-10.50%	80.45%
2002	3,665	-27.92%	3,010	-30.59%	82.13%
TOTAL/AVE	3,607	-2.35%	3,024	-5.75%	82.73%

Source: NBI

TABLE 3-7
CASELOAD PERFORMANCE OF THE NBI, 1997-2002
MISCELLANEOUS CASES

YEAR	CASE INFLOW AND OUTFLOW				
	BEGINNING YEAR PENDING	RECEIVED	TOTAL PENDING DURING YEAR	TERMINATED	END YEAR BALANCE
1977		33,931	33,931	33,909	22
1998	22	34,186	34,208	34,247	
1999		34,329	34,329	34,421	
2000		37,520	37,530	36,658	872
2001	872	37,482	38,354	36,179	2,175
2002	2,175	36,316	38,491	36,406	2,085
TOTAL		213,764		211,820	

Source: NBI

TABLE 3-8
ANNUAL CLEARANCE RATES
MISCELLANEOUS CASES

PARTICULARS	RECEIVED	ANNUAL GROWTH RATE (%)	DISPOSED	ANNUAL GROWTH RATE (%)	CLEARANCE RATE (%)
1997	33,931		33,909		99.94%
1998	34,186	0.75%	34,247	1.00%	100.18%
1999	34,329	0.42%	34,421	0.51%	100.27%
2000	37,520	9.30%	36,658	6.50%	97.70%
2001	37,482	-0.10%	36,179	-1.31%	96.52%
2002	36,316	3.11%	36,406	0.63%	100.25%
TOTAL/AVE.	35,627	1.21%	35,303	1.22%	99.14%

Source: NBI

VIOLENCE AGAINST WOMEN AND CHILDREN

3.2.12 With crimes against women and children becoming an increasingly important societal concern the NBI established the Violence Against Women and Children Division (VAWCD) to investigate cases on women and children. Formerly named as the Anti-Child Abuse, Discrimination and Exploitation Division, this unit was created on 05 August 1996 to curb the growing menace of child abuse in the country. It was renamed VAWCD by virtue of a Special Order dated 10 August 2000 issued by the late Director Federico M. Opinion, Jr.

3.2.13 The mandate and objective of VAWCD are achieved by conducting criminal investigation of sex offenses under Revised Penal Code such as acts of lasciviousness, qualified and simple seduction, corruption of minors, white slave trade, forcible abduction, consented abduction, adultery and concubinage; violations of

Republic Act No. 7610 (Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act), Republic Act No. 7877 (Anti-Sexual Harassment Law), violation of Republic Act No. 8353 (Anti-Rape Law of 1997) and Republic Act No. 6955 (Anti-Mail Order Bride Law).

3.2.14 Additionally, VAWCD attends to all requests coming from the DSWD and other concerned agencies as support for the rescue of minors being illegally detained and also women domestic helpers who are maltreated by their employers.

3.2.15 It has a "one-stop shop" at the VAWCD's child friendly Investigation Studio composed of a Forensic Interview Team (investigator, psychologist, social worker, medico-legal officer) to facilitate the victim's legal, medical, psychological and rehabilitation concerns. This is on-line for 24 hours so that the child will not feel being under investigation.

3.2.16 This "one-stop shop" child-friendly investigation will soon open in Baguio City, Iloilo City, Cagayan de Oro City, and Tuguegarao City. Likewise, a woman-friendly room was recently opened in Naga City, which will be replicated in other regions.

TABLE 3-9
VAWCD-NBI CRIME CASES RECEIVED AND TERMINATED
FROM AUGUST 1996 – DECEMBER 2001

YEAR	CASES RECEIVED	CASES TERMINATED			
		CLOSED	PROSECUTION	INQUEST	TOTAL
1996 From August-December	216	26	66	6	288
1997	389	151	228	6	445
1998	465	185	259	12	456
1999	701	398	214	11	623
2000	637	166	362	13	541
2001	633	229	259	6	494
TOTAL	**3,041**	**1,155**	**1,129**	**54**	**2,098**

SOURCE: VAWCD

DRUG TREATMENT AND REHABILITATION

3.2.17 The Treatment and Rehabilitation Center (TRC) was established in Tagaytay City upon the creation of the Bureau's Anti-Narcotics Section in January 1965. Its main objective is "to provide an adequate and effective treatment and rehabilitation program for drug dependents." Since then, the Bureau has established satellite centers in Argao, Cebu and Cagayan de Oro City. Treatment and rehabilitation services from 1997 to 2002 are shown in Table 3-10.

3.2.18 Patients in the Treatment and Rehabilitation Centers are given vocational courses such as agronomy, arts/silkscreen, practical electricity, culinary arts and theater arts. Once they are discharged, some of the patients are given after-care treatment.

TABLE NO. 3-10
TREATMENT AND REHABILITATION SERVICES
1997-2002

	1997*	1998	1999	2000	2001	2002	TOTAL
Admission	633	698	897	770	1,031	1,010	5,039
Discharges	704	590	1,258	797	951	991	5,191
After-Care Patients	426	517	448	459	469	786	3,105

*Statistics cover Tagaytay and Cebu Cities only
Source: NBI Annual Reports, 1997-2002

PUBLIC SERVICES

3.2.19 Rapid globalization and advances in science and technology enabled the NBI to improve its capacity to educate the public on its functions and services and to facilitate and improve public access to its services. This is done through the NBI website (http.//www.nbi.doj.gov.ph) which contains the following information:

- History of the NBI
- Objectives, mission and vision of the NBI
- Public interest items such as NBI most wanted

3.2.20 The website provides on-line filing of complaint. It also provides a communication window for persons who have witnessed a crime and has separate program for children who are victims of child abuse to access NBI by clicking on “Kids Private.”

3.2.21 Since the NBI had been the object of many complaints because of the length of time (3 days) it took to secure a clearance, the Bureau Director hired Mega Data Corp. as its computer service provider.Today, NBI has established self-service kiosks in SM Megamall, Grand Central in Caloocan and Park Square in Makati. Similar kiosks will be launched in Tutuban Mall, Manila, and Metropolis Mall in Muntinlupa. Under this system, anyone can renew his or her clearance in five minutes from these kiosks.The NBI has also created satellite offices in the Halls of Quezon City, Muntinlupa City and Pasig City.

TECHNICAL SERVICES

3.2.22 The NBI Technical Services provides technical assistance and expertise in scientific crime detection and investigation not only to its operating units (Investigation Services) but also to the local police agencies, prosecutors, courts, and other government or

private offices that request its assistance in the field of forensic chemistry, deoxyribonucleic acid (DNA), medicine, ballistics, questioned documents, polygraphy, dactyloscopy, photography and criminal records and identification.

3.2.23 Per established policy of the Bureau pursuant to the provisions of Section 1 (c & d) of R.A. 157, as amended, NBI records and information, as well as technical services, may be availed of only by law enforcement and prosecuting agencies, the courts and other government offices in connection with cases under investigation or adjudication, or for other official purposes. The Technical Services branch, however, may accommodate requests for technical assistance by private parties if properly coursed through the government agency concerned.

3.2.24 There is, however, an exception to the rule on technical assistance. Request for autopsy cases are filed directly with, and attested to, by the NBI. All investigations handled by the NBI automatically include its technical aspect.

3.2.25 The Bureau, through its Identification and Records Division, of the Technical Services, serves as the national clearing house and repository of all criminal and other information that are of interest and concern to law enforcement, the administration of justice, and national security. As such it keeps and maintains a systematic centralized file of the names and fingerprints of persons involved one way or the other in criminal offenses in any part of the country, including a representative number committed abroad, and the personal identification records of aliens, and citizens that are non-criminal in nature.

3.2.26 It supervises the taking of fingerprints of civilian aliens and criminals and it also takes charge of the classification and verification of fingerprints and their indexing as well as single finger-prints and fingerprint charts received from local and foreign law enforcement agencies. During our interviews with some NBI officers they presented their problem with recording fingerprints due to shortage of manpower required to speed up a manual process. They have indicated that machines which classify and encode fingerprints needs an amount of Two Billion Pesos while for automated finger-printing, an additional Two Billion Pesos

ADDRESSING GENDER CONCERNS

3.2.27 The NBI-GAD Focal Point for Gender Concerns is a mechanism tasked to catalyze, coordinate, provide direction and serve as technical adviser on women gender development concerns with the agency. This was the Bureau's response to Republic Act (RA) No. 7192 (Women in Development and Nation-Building Act) which provides for the "integration of women as full and equal partners of men in development and nation-building." Section 9 of the Implementing Rules and Regulations of RA 7192 emphasized the role of Focal Points as the "catalysts for gender-responsive planning/programming" in the different government agencies.

3.2.28 It has networking functions with DSWD and affiliated agencies, GOs and NGOs for treatment and rehabilitation as well as temporary shelters. It has a day-care center for children who belong to the pre-schooler group. Activities for NBI female employees ranges from free PAP Smears, immunization for children of NBI employees, blood pressure-monitoring and training seminars for women NBI employees.

COMMUNITY RELATIONS

3.2.29 The NBI conducts educational and training programs for various sectors of society. It conducts lectures in schools, specifically in relation to the anti-drug campaign of government. It also holds short-term courses for policemen, in the field of investigative work.

3.2.30 Recently, with funding from the UNICEF, the NBI set up specialized investigation rooms known as “One Stop Child Friendly Studios” to provide a non-threatening venue for investigations of domestic violence and violence against women and children cases. Equipment was provided to set up these studios in Metro Manila, Baguio, Iloilo and Cagayan de Oro.

3.3 Implications for Reform

3.3.1 The last sixty-five years have been witness to the NBI as the country’s premier investigating agency. NBI continues to be an important component of the Philippine justice system. Obviously, within meager resources, NBI has adjusted itself to the increasing demands and technology sophistication required in crime investigation and law enforcement.

3.3.2 NBI has performed outstanding in relation to its existing capacity and severely limited resources. But much remains to be done to considerably improve performance in relation to the country’s requirements for law enforcement and a lot of things that indeed need to be done to improve such performance is not within the control of the NBI itself but will require political will to prioritize public resources in the modernization of the justice system in general and the law enforcement pillar in particular. The issue of delineating the functions of the NBI from that of the PNP is an inextricably related issue to address in terms of making decisions on capacity improvement in law enforcement agencies.

4 SWOT ANALYSIS

4.1 Relating performance with the agency’s SWOT

4.1.1 The quality of an agency’s performance can be explained to a large extent by its internal strengths and weaknesses in the various aspects of the agency’s institutional framework, operations and resources that define its capacity, and on the opportunities and threats that its external environment presents as challenges and constraints to its

efficient and effective performance of its functions and realization of its mandate. The following summarizes the SWOT analysis of the NBI.

4.2 Strengths

High/superior qualification requirements for personnel

4.2.1 The NBI requires advanced educational attainment for its leadership. The NBI key officials must preferably be lawyers, membership in the Philippine Bar is also a qualification standard for the Deputy Directors of the Special Investigative Services, the Regional Operations Services, the Administrative Services, and the Technical Services. The Deputy Director for Comptroller Services must be either a law graduate or a certified public accountant, and in the case of the Deputy Director for Domestic Intelligence Services, a degree in law if preferred.

4.2.2 Moreover, membership in the Philippine Bar is a qualification standard for investigation agents, while special investigators must at least be college graduates, with professional Civil Service eligibility.

4.2.3 NBI officials interviewed underscored the rigid training requirement that must be undergone by all prospective agents. Candidates are required to complete a 16-week training program in the NBI Academy in Baguio, followed by a 1-2 month on-the-job training period, before they are qualified to be agents of the Bureau.

Opportunities for Advanced Training and Continuing Education

4.2.4 The NBI has established links with international organizations that has ensured advanced training and continuing education for its personnel, specifically its agents.

As described further below, the NBI sends trainee-participants to training programs of the Federal Bureau of Investigation (FBI) in the United States, the International Law Enforcement Academy (ILEA) in Thailand, and the National Policy Agency in Japan.

Highly skilled investigative force.

4.2.5 Because of the qualification standards and advanced training of its agents, the NBI has a highly skilled investigative force, qualified to perform difficult and complex criminal investigations. Further, these trained agents can conduct investigations in specialized criminal cases such as anti-fraud and computer crimes, anti-organized crime, anti-smuggling and anti-piracy of intellectual property offenses, and international airport investigations.

Growing capacity to perform specialized technical services.

4.2.6 The NBI's functions and operations have enabled the agency to perform specialized technical services not conducted by other agencies of government. This would include fingerprint analysis and identification, medico-legal examinations, forensic DNA analysis, polygraph tests and handwriting and hand printing analysis. There is

deliberate effort to continuously upgrade the quality and technology of investigation through modern crime laboratory facilities and training within resource constraints.

Capacity to generate income for the government

4.2.7 Because private and public entities require NBI Clearances as a requisite for additional processes, the NBI currently has the capacity to generate income for the government; income intended to be plowed back to NBI operations. It should be noted that in the year 2002, the NBI collected Php284 Million from clearance fees, which is deposited in the National Treasury as part of the NBI's Clearance Fund.

Development of Programs for Women and Children

4.2.8 The NBI has pursued its programs to advance the cause of women and children, particularly in cases involving domestic violence and violence against women and children. This is indicated for example through the establishment of child friendly investigation rooms known as "One Stop Child Friendly Studios" with the assistance of UNICEF. These facilities, which are designed to provide a non-threatening and non-traumatic atmosphere for interviewing victims of violence against children and women, are considered the best in Asia.

Aggressive programs against use of prohibited drugs and rehabilitation of users

4.2.9 NBI is at the forefront of the government's anti-drug campaign. In addition it has programs on the treatment of drug dependents. Its Treatment and Rehabilitation Centers located in Tagaytay City, Cebu City and Cagayan de Oro City specifically house such clients.

4.3 Weaknesses

The lack of attractiveness of the salaries and terms of work for investigation positions coupled with a paradoxical high qualification standards have resulted in the lack of investigation agents and special investigators

4.3.1 Of the total plantilla for these positions, only 48% of the items for Investigation Agents, and 55% of the items for Special Investigators, have been filled. In interviews with Dr. Filomeno S. Bautista (Deputy Director for Technical Services), Director Alejandro R. Tenerife (Deputy Director for Comptroller Services), and Atty. Nestor M. Mantaring (Deputy Director for Administrative Services), these officials attributed the significant number of vacant positions in these items to the fact that the educational requirements for these positions are quite high, and the training program prior to acceptance as an agent quite rigid.

4.3.2 The law provides that appointments to positions in the NBI shall be made only according to merit and fitness to be determined as far as practicable by a competitive mental and physical examination and after adequate instruction and training. Promotions shall be made with due regard to seniority and past record of efficiency; *Provided* that such personnel as shall be appointed for general investigation shall be,

as far as practicable, graduates of recognized law schools or colleges or members of the Bar, and wherever a special need arises, certified public accountants and those with at least ten (10) years experience and training in other law enforcement organizations (RA 157 [1947], sec. 4).

4.3.3 Their training consists of a 16-week in-house training at the Academy and one to two months on-the-job training.

4.3.4 Mortality rates for applications are as high as 98% of applications. These rates indicate difficulties in finding individuals whose character and competencies are at par with the standards of the investigator positions (Table 3-11).

TABLE 3-11
RECRUITMENT OF AGENTS/SPECIAL INVESTIGATORS

	1997	1998	1999	2000	2001	2002
Screened & Processed Applicants	618	757	1,581	1,053	642	623
Applicants Trained for Recruitment	35	27	29	36	38	40
Recruitment Rate (%)	5.66	3.57	1.83	3.42	5.9	6.42

Source: NBI

4.3.5 Moreover, the entry salary level for investigation agents is Grade 22, while that of special investigators is Grade 18. Considering the available and more lucrative opportunities in the private sector for these qualified applicants, the NBI is unable to attract a significant number of individuals for these positions.

Inferior equipment for technical services and lack of transport and communication facilities considerably hamper capacity to effectively carry out investigation services that will lead to identification, location, apprehension and prosecution of criminals

4.3.6 An effective law enforcement agency is anchored on three key factors: competent and well-trained staff, adequate scientific facilities for analyzing criminals and establishing evidence, and transport and communication facilities needed in surveillance and apprehension.

4.3.7 Considering the highly specialized and technical services performed by the NBI, its equipments are outdated, outmoded and inferior. It is common knowledge that advances in technology results in the rapid development and production of specialized technical equipment, yet according to officials interviewed, the last major equipment acquisition for intelligence and surveillance was made in 1999. For example, the NBI is in need of a new fingerprinting machine costing almost US$1 Million, however, it does not have the financial resources to make this purchase.

4.3.8 Communication and transportation equipment, particularly in regional offices, are insufficient and outmoded. Cellular phones, now a vital communication tool, are provided only for division chiefs and more senior NBI officials, with agents required to provide their own cellular phones. Similarly, there is a dearth in transportation facilities. Each district office, for example, has a maximum of three vehicles, with one vehicle generally provided for the exclusive use of the district or regional head. The lack of communication equipment and transportation facilities continues to hamper efficient investigative work.

4.4 Opportunities

Advocacy for the NBI Modernization Bill provides opportunities for enhanced government investments in strengthening the NBI's overall institutional capacities

4.4.1 The NBI is currently lobbying and advocating for the passage of the NBI Modernization Bill, currently pending with the Congressional Committee on Appropriations, and the Congressional Committee on Reorganization.

4.4.2 The proposed Modernization Bill calls for an increase in the plantilla of the NBI to 15,000 personnel, with 5,000 positions for special agents (abolishing the distinction between investigation agents and special investigators). The Bill proposes an increased budget of Php8 Billion, spread over a 5-year period, with an initial Php3 Billion appropriation for the first year.

4.4.3 The significant increase in the NBI budget will certainly face rough sailing in both houses of Congress which, over the years have passed more than a hundred laws that have remained unfounded. Also, the worsening budget deficit does not augur well for a bill that has a strong resource infusion focus. NBI must instead build a strong case for its modernization by establishing its impact on the country's peace and order situation and on its global competitiveness of. And key to building this case is a clear delineation of the functions between the NBI and the PNP.

The NBI Modernization bill provides wider opportunities that will also address the delineation of functions between the PNP and NBI

4.4.4 As earlier mentioned, there was a previous attempt by the legislature to distinguish and delineate the functions of the police and the NBI, to avoid duplication of investigations and operations. The attempt to draft a bill for this purpose was aborted because of concerns of police authorities.

4.4.5 It is possible to revive these legislative efforts, addressing the concerns of the PNP, in order to avoid conflicts between these two law enforcement agencies. Key to the success of this bill and to the strengthening of both the PNP and NBI is the proper delineation of their functions. Such delineation must build on their existing strengths and potential capacities, eliminate duplication and strengthen complementation of human expertise and technological as well as other institutional resources. There are several ways of delineating the functions of PNP and NBI. One is to delineate by the nature of the crime over which each will have jurisdiction. Another is for NBI to

specialize on scientific investigation that will improve the generation, establishment, preservation and use of physical and scientific evidence, and criminal psychology, among others, that will lead to the proper identification, location, finding, apprehension, prosecution and conviction of criminals.
Improving the operations of the National Law Enforcement Coordinating Center provides opportunities for cooperation and integration of law enforcement activities, information and improvement of crime management strategies and technologies

4.4.6 At present, heads of all law enforcement agencies including the NBI, the PNP, the BIR and the Bureau of Customs meet monthly as part of a National Law Enforcement Coordinating Center to share statistics, update each other on status of cases and investigations, and perform similar acts of coordination.

4.4.7 Operations and activities of the National Law Enforcement Coordinating Center can be improved and enhanced to make it a more effective central law enforcement coordinating body.

4.5 Threats

Abolition of the NBI

4.5.1 Perhaps because of the duplication of functions between the NBI and the police, and because the operations of the NBI are currently being reviewed by Congress as part of the deliberations on the NBI Modernization Bill, some Congressmen have actually raised the issue of the relevance and continued efficiency of the NBI in the performance of investigative work. Thus, it has in fact been suggested that the NBI should be abolished, and its functions transferred to other law enforcement agencies.

Lack of cooperation from other agencies of government

4.5.2 As the national clearing house for criminal records and other related information, the NBI should ideally be receiving information on cases filed, pending and completed from various agencies of government, notably the prosecution service and the judicial branch of government. As mentioned in the previous sections of this chapter the lack of cooperation by these agencies is more of lack of capacity to provide such information either on a one-time or regular basis.

4.5.3 There is need to improve the internal monitoring and information management capacities of these agencies before they are able to cooperate with the NBI and, more importantly, to satisfy their own internal monitoring and operations management requirements.

4.5.4 Efforts to improve the case management system, judicial performance system, and the information and communications technology of the Judiciary are key strategies of the Action Program for Judicial Reform (APJR). But this will take time, in the meantime, the NBI must search and discover new avenues and feasible arrangements.

Functional duplication between the NBI and the PNP create repercussions in the proper conduct of investigation and in the provision of crime information needed in the prosecution of cases

4.5.5 While asserting that the NBI's relationship with the PNP is cordial and professional, and that supposed conflicts are merely sensationalized by media, NBI officials nevertheless admit that there is a measure of ambiguity and overlap in the roles of the PNP and the NBI. These officials noted that there is a certain degree of duplication of functions in investigative work, particularly when the NBI is called upon to conduct a parallel investigation in a case already being investigated by the police authorities.

4.5.6 The results of two separate and distinct investigations being conducted on the same case by two law enforcement agencies could certainly be inconsistent or even conflicting. Asked how this potential problem is resolved, NBI officials stated that all evidence from both law enforcement agencies are transmitted to the prosecutions service, which must determine which evidence should be presented to successfully prosecute a case.

4.5.7 There was a previous attempt to delineate and distinguish the functions of the police and the NBI, with then Senators Ople and Herrera taking the lead in drafting a bill for this purpose. The intention was to give the NBI exclusive jurisdiction over serious and major crimes of public interest. However, because of resistance from police authorities, who were concerned that the functions of the police agencies would be limited to street crimes, this project was abandoned.

Difficulties in accessing the Clearance Fund from DBM have significantly hampered NBI efforts at modernization and improving capacities for law enforcement

4.5.8 The NBI generates income from clearance fees, which are deposited with the National Treasury. Under the General Appropriations Act (GAA) the NBI is authorized to draw from this fund consistent with the general and special provision on the use of income but, in actual practice, releases are subject to evaluation by the DBM as to the specific amount regardless of what is authorized such that of the NBI share of the said funds only a portion is released. Worse, the release is delayed. For example, out of the Php284 Million collected last year and deposited to the Clearance Fund, only Php45 Million was released to the NBI, Php30 Million of which was made available only in December 2002.

5 INTERNAL CAPACITY ASSESMENT

5.1 Mandate, Mission and Functions

NBI has deficient statements of vision and objectives. Such deficiencies will have serious implications on the priority that government will give to NBI, to the logic of NBI plans and priorities, and to the very public accountability of NBI's operations and performance

5.1.1 Vision statements should state the ultimate desired situation that an organization should achieve. Objectives should describe the quantifiable outputs to be produced or the degree of impact to be achieved over a defined period in order to progressively and effectively realize the stated vision and agency mandate. The current statements instead describe the desired resources and activities without clearly stating the societal benefit and impact of the application of these resources and activities.

5.1.2 The mandate statement is stipulated in the enabling law, creating the NBI. The enabling law is used by the government to formally order the organization, in this case the NBI, to perform acts in order to achieve a societal goal of establishing a secure society under the rule of law. The function statements translate the mandate into regular and major activities that the agency is authorized to perform in order to achieve the mandate.

5.1.3 On the basis of its mandate and functions the agency develops its strategic and development plan and defines the vision and objectives that will guide the identification execution of all programs and activities and the prioritization and allocation of resources.

5.1.4 The mandate and functions, and the vision and objectives statements provide the foundations for NBI's reason for existence, for the justification of its specific roles and and programs/activities, and for the prioritization of resources for its operations. They also provide the basis by which the NBI should establish its public accountability and its contribution to the county's societal development.

5.1.5 NBI's objectives, vision and mission are clearly expressed in its website (www.nbi.doj.gov.ph) as follows:

- **VISION**
  An institution that is reliable and dynamic in providing quality investigative and support services, by committed professionals, to serve the ends of truth and justice, founded on the fine ideals of Nobility, Bravery and Integrity.

5.1.6 This is an inward looking vision for a government agency. The vision could instead define the societal conditions that the performance of the NBI mandate and functions will create either single-handedly or in coordination with other stakeholders and agencies.

- **OBJECTIVE**
  The objective of the National Bureau of Investigation is the establishment and maintenance of a modern, effective and efficient investigative service and research agency for the purpose of implementing fully principal functions provided under Republic Act No. 157, as amended.

5.1.7 This statement of objectives has the same substance as the above statement of the vision. It is not a statement of objectives. A statement of objectives should indicate what and how much outputs should an agency produce over what period for it to achieve its stated mandate and vision? The NBI's statement of objective should relate to what it should render to society over what time in order to fulfill its mandate and vision. Instead it is concerned with improving its internal resources and facilities, which are means and not ends.

- **MISSION**
  To provide quality services for efficient law enforcement in the pursuit of truth and justice.

5.1.8 NBI's manual of operations defines its mission as: "to maximize efficiency and effectiveness in the investigation of all forms of crimes and offenses, including appropriate civil and administrative cases, and to upgrade the quality of the Bureau's information and intelligence on criminal and subversive activities." (NBI Manual of Operations, p. 7). Again a mission statement is the same as a mandate statement and should be related to what the NBI will do for society in general and its specific stakeholders in particular in order to achieve it vision. The current mission statement instead describes the quality of agency operations. These are the core operational quality standards rather than mission statements.

The establishment and maintenance of up-to-date scientific crime laboratory should not be a function. It should be a pre-condition upon which the main and true functions of the NBI, those of enforcing the law and providing quality crime information will stand.

5.1.9 The functions of NBI can be categorized into the following major groups:

a) Crime detection and investigation and technical assistance in prosecution and law enforcement

b) Clearing house of crime information

c) Establishment and maintenance of up-to-date scientific crime laboratory

5.1.10 The function of establishing and maintaining an up-to-date scientific laboratory is not a function but a pre-condition for performing a function. Also, NBI cannot be held accountable for the current lack of updated equipment and technology where it has no control over resources which are under stringent administrative control by DBM.

There is duplication of functions between the Philippine National Police (PNP) and the NBI, resulting in potential institutional and operational conflict, conflicting investigation findings to support prosecution, inefficiency and wastage of manpower, time and financial resources.

5.1.11 Section 1 of RA 157 provides that of the functions of NBI is "to undertake investigations of crime and other offenses against the laws of the Philippines, upon its own initiatives and as public interest may require" and "to render assistance wherever properly requested in the investigation or detection of crimes and other offenses."

5.1.12 When a crime is committed, any aggrieved person may seek NBI assistance. However, in certain cases, the situation is that the local police have already been involved in the investigation of the crime. Thus, there are two sets of parallel law enforcers investigating the same crime, which is a waste of manpower, time and resources. However, both agencies are trying to outdo each other before the media. This is because there is concurrent jurisdiction over the investigation of crimes, which is provided by laws. Accordingly, there is no distinction anymore as to the type of crime that must be attended to by both the NBI and the PNP.

5.1.13 This blurred horizontal compartmentalization of functions between the primary law enforcement agencies, erodes the accountability of these agencies, duplicates resources, and creates institutional conflicts.

International best practices can provide useful models and guidance in properly delineating the functions of the PNP and NBI

5.1.14 In the U.S., there is the Federal Bureau of Investigation which has charge of all violations of Federal laws with the exception of those which have been assigned by legislative enactment or otherwise to some other Federal agency, such as the statutes pertaining to counterfeiting, postal violations, customs violations, and internal revenue matters. The FBI has jurisdiction over violations of espionage, sabotage, treason, and other matters pertaining to the internal security of the United States. In criminal matters, the FBI investigates violations of more than 170 Federal laws which, to name a few, include: kidnapping; extortion; bank robbery; crimes on Government or Indian reservations; thefts of Government property; the Fugitive Felon Act; interstate transportation or stolen motor vehicles, aircraft, cattle, or property; interstate transmission or transportation of wagering information, gambling devices or paraphernalia; election law violations; civil rights law; and assaulting or killing the President or a Federal officer. (Vern L. Folley, American Law Enforcement, 264 [2d ed., 1976])

5.1.15 This is also true of the United Kingdom Metropolitan Police Service or Scotland Yard, which performs functions, such as those in relation to the protection of royalty and countering terrorism in Great Britain. In addition to these two, the MPS has a number of other capital city and national responsibilities such as the protection of certain members and ex-members of the government and the diplomatic community and assisting with enquiries concerning British interests at home and abroad. These responsibilities make the Metropolitan Police Service unique among UK police forces. The Metropolitan Police Service should not be confused with the City of London Police,

which is a separate force responsible for policing The Square Mile in the City of London. (>http://www.fas.org/irp/world/uk/mps/<

5.2 Internal and Inter-agency Operational Issues

5.2.1 In the performance of its functions the NBI personnel would normally be guided by operational rules of procedures embodied in manuals and internal orders and issuances, by a professional code of conduct and ethical standards, and by traditions and norms that have evolved over time and have become part of the agency's peculiar organizational culture. The following sections identify operational issues in the performance of operations.

There are indications of lack of observance of human rights standards in the conduct of investigation activities

5.2.2. A pernicious practice of law enforcers today is the presentation of suspects before the media together with NBI officers or law enforcers who arrested them. In many instances, the pictures also show witnesses pointing to the suspects. This is a violation of their human rights. Section 14(2), Article III of the Constitution provides that "in all criminal prosecutions, the accused shall be presumed innocent, until the contrary is proved." This practice is not only unconstitutional but also punishable under Republic Act No. 7438 (1992) which defines the rights of persons arrested, detained or under custodial interrogation as well as the duties of the arresting, detaining, and investigating officers.

5.2.3. Anecdotal data also point to specific examples such as the lack of privacy of victims of rape cases during medical examinations, where several NBI personnel are allowed as on lookers to on-going medical examination.

5.2.4. These issues point to the core of organizational values and competency issues within the organizations. They also indicate the need for clearer human rights based investigation systems and procedures and personnel performance evaluation system.

There is significant effort to address human rights and gender issues that NBI is confronted with in its investigation work, however, internal organizational arrangements are such that these issues cannot be effectively addressed

5.2.5 Human rights and human development are inextricably linked. Development, under a rights-based approach, is claimed as a human right. This means that the ends, the mechanisms for evaluation, and the focus of development must be based on protecting and promoting the basic political, economic, social and cultural rights of all members of the human family.

5.2.6 Human rights are guaranteed by our Constitution as well as by international treaties such as the Convention on the Elimination on All Forms of Discrimination Against Women, which all governments commit themselves to respect, protect and fulfill for their people. A right-based development allows its beneficiaries to participate in and

own the development process. Right-based development is also about the struggle for equality and non-discrimination. The pursuit of gender equality and women's empowerment, therefore, is a legitimate concern under it. It affirms that women's rights are human rights, and no real development can take place if these are not respected, promoted and protected.

5.2.7 The NBI's concern with gender and development can be seen by the establishment of the Focal Point on Gender Concerns as a response to RA 7192 and the creation of the Violence Against Women and Children Division (VAWCD). The Focal Point centers on NBI's responsiveness to gender concerns with the thrust of promoting heightened awareness for such existing programs among the officials and employees of the Bureau, which will result in the adherence, and immediate implementation of said gender-sensitive programs and projects. It is also a mechanism that should address gender issues to formulate new policies and review existing ones. On the other hand, the VAWCD integrates the gender-sensitive precepts in the conduct of investigation where women and children involved are either victims or witnesses. It has adopted a one-stop shop to protect the victims in the process from the rigors and trauma of their experiences and providing all the needed medical, psychological and rehabilitation/aftercare services.

5.2.8 However, a majority of the investigating agents are men. Most women agents are relegated to office work and are not assigned to field operations, which reveals the stereotypical attitudes about the nature and roles of women and men and the cultural perceptions of their relative worth. The mainstreaming of women in NBIs mission-critical operations can provide effective support to its gender sensitivity program which should not just be limited to crime against women and children but also to the proper investigation and handling of women suspects and criminals.

Deficient crime information systems and deficient crime information support from the Judiciary, law enforcement and other agencies weaken NBI capability to establish and provide comprehensive, accurate, and up-to-date crime information useful in prosecution, investigation and policy formulation

5.2.9 One of the primary functions of the NBI is to act as the national clearinghouse of crimes and other information. The information is used for several purposes: a) for the use by prosecuting agencies and law enforcement agencies, and for the issuance of NBI clearance. Crime information is also extremely necessary is analyzing the country's criminality situation which will feed into the planning and policy making and even reform process.

5.2.10 The NBI has requested the courts to provide them information on criminal and derogatory cases so that it could be inputted in their database. The Background Investigation Division (BID) has made a proposal to exchange information on this matter to the Supreme Court but so far there is no reply. In the focus group discussion with NBI officers, they stated that even the Department of Justice, the police and other agencies have not cooperated with them on this matter.

5.2.11 But the issue here is not cooperation, but lack of capacity to provide needed information. The Judiciary does not have a case management system that allows the tracking of the number much less the status of criminal cases and therefore does not have any capacity to provide crime case data either on a one-time or regular basis. Law enforcement agencies such as the PNP may have started to automate crime information but their systems do not have the capacity for continuing sharing of updated information.

5.2.12 Within the DOJ and particularly in the NBI, there is no adequate crime information system that enables the maintenance of updated crime information. The National Crime Information System Project (NCIS), which was supposed to link all agencies with functions related to the management of crime, has been unfortunately stalled (see ICT chapter of this diagnostics report).

5.2.13 Establishing a clearinghouse of crime information requires a re-activated and properly defined and managed NCIS, which will improve and harmonize the various crime information systems of the five pillars of the justice system.

NBI needs to develop the institutional capacity to seamlessly integrate its investigation, intelligence, and technical services functions, anchored on an integrated and automated information and communication technology platform, in order to be better able to support crime investigation and prosecution, and to be able to analyze and understand crime trends and statistics as inputs to improving law enforcement legislation and operations. International best practices can provide models for developing the necessary capacities

5.2.14 A pre-condition for an effective crime management capability is the ability to seamlessly connect various functions in terms of workflows, and in terms of integrating processes with information management systems. Relevant international best practices can provide models for the achieving proper functional and process-information system integration.

5.2.15 For example, although the NBI has a DNA Laboratory and a national fingerprint file, it would be best to learn from other jurisdictions. In the U.S., they have a CODIS (Combined DNA Index System), an electronic database of DNA Profiles that can identify suspects, and is similar to AFIS (Automated Fingerprint Identification System) database. Every state is in the process of implementing a DNA index of individuals convicted of certain crime such as rape, murder, and child abuse. Upon conviction and sample analyses, the perpetrators' DNA profiles are entered into the DNA database. Just as fingerprints found at a crime scene can be run through AFIS in search of a suspect or link to another crime scene, DNA profiles from a crime scene can be entered into CODIS. Therefore, law enforcement officers have the ability to identify possible suspects when no prior suspects existed. (National Institute of Justice, "What Every Law Enforcement Officer Should Know About DNA", Sept. 1999)

5.2.16 The FBI also administers the National Fingerprint Identification System which includes fingerprint records of thousands of known criminals and over six million other citizens. In essence, this is the national clearinghouse for fingerprint identification for the United States.

5.2.17 Another somewhat new, but extremely important, service performed by the FBI for all other terminalized law enforcement organizations in the United States is the National Crime Information Center (NCIC) where records of wanted persons and stolen property of nearly every sort, including securities, are data-banked. This information can be retrieved almost instantaneously at the request of any law enforcement official in even the most remote area of the nation. Many of the "hits" made on the system have been outstanding and would have probably not been made in the absence of NCIC.

5.2.18 Other responsibilities of the FBI include the compilation and publication of the Uniform Crime Report (UCR), the offering of crime laboratory services to law enforcement organizations, and the training of local police officers on an in-field basis as well as through the National Academy (V. L. Folley, *supra*, p. 264-5).The Uniform Crime Reports gives a nationwide picture of reported crime and crime trends. Crime reports are collected from over 6,000 police agencies throughout the nation. It also helps statewide programs and assists in standardizing police statistical categories so that they will be compatible with national statistics. Its objective is to produce reliable statistics for the nation to be used in law enforcement administration operation and management.

5.2.19 The Directorate of Intelligence of the United Kingdom Metropolitan Police provides unique and specialized services to the MPS, including a number of new responsibilities. The MPS is moving towards becoming a proactive intelligence-led Service. The Technical Support Unit and Surveillance section are recognized as a center of national and international excellence.

5.2.20 The Scientific Intelligence Unit develops behavioral analysis of the more unusual sexual offences and murders. It is the reception point for identifications as a result of DNA testing and plays a major part in efforts to counter all crimes. The Drug Related Violence Intelligence Unit targets and develops intelligence on active criminals operating across London and nationally. The unit has established a database of subjects and an image library in liaison with Commonwealth, European and American countries. The Financial Disclosure Unit is pivotal in informing the MPS of suspect and irregular financial dealings. The unit has developed a software package, which is becoming accepted as the standard for financial disclosure units throughout the country.

5.2.21 The Directorate of Intelligence has trained 600 officers in targeting, surveillance and covert photography techniques. The "CRIMINT" computer-based intelligence application has been completed and is being delivered to all MPS police stations. A Service-wide interactive computer-based training package has been developed to accompany the application.

5.2.22 The Special Irish Branch was formed in 1883 to combat the threat from the Fenian movement, whose aim was independence in Ireland and who had been responsible for a series of explosions in London. The Special Irish Branch later became known as the Special Branch and extended its work into Royalty protection with Queen Victoria's Jubilee. While the Special Branch is a division of the police force, in practice, it coordinates closely with M15. The Special Branch has continued to develop its role as

a conduit of information and intelligence for the MPS and Security Service. In 1995, dedicated liaison teams were devolved to each Area in support of MPS priorities. The MPS is responsible for day to day management of the National Identification Service (NIS) which includes the National Criminal Record office and National Fingerprint Collection.

5.3 Formal Structure and Key Operating Systems

5.3.1 The consultants undertook a detailed review of the internal organizational and functional configuration of the NBI. Such assessment is based on certain criteria that were presented in the conceptual approach and methodology for this TA and includes the following, among others:

a) Completeness of the organization units in the organization. Completeness is measured by the presence or absence of formal organization units that are needed to perform core mission-critical functions stated in the enabling act of the organization as well as the support conscience and housekeeping units that will deal with planning, policy and performance management, and management of resources.

b) Vertical compartmentalization of functions and units which will properly distribute functions, responsibilities, decision making and accountability among levels of authority and between central and field units.

c) Horizontal compartmentalization of functions and units which will appropriately delineate, scope and coordinate the functions, decision-making authority, and accountability among units of equal organizational level.

5.3.2 In the criminal justice system, cases originate from society or the community, and are initially processed/handled by the first pillar of the criminal justice system: law enforcement. The function of law enforcement under the Philippine system is performed by the police (P.N.P.) or by the NBI, agencies which investigate and gather the evidence to be submitted to the prosecution service.

5.3.3 In the interview with both Dr. Filomeno Bautista and Director Alejandro Tenerife (Deputy Director for Comptroller Services), these officials emphasized the complementary (rather than competing) relationship between the PNP and the NBI, noting that investigation of crimes is generally performed in the first instance by the police, for the simple reason that the police are first in the scene of the crime. The participation of NBI in an ongoing investigation occurs when concerned families or victims specially request NBI assistance, in which case the Bureau conducts a parallel investigation.

5.3.4 The results of a NBI investigation is not superior to the results of the police investigation; instead, these are all transmitted to the prosecution service which must determine which evidence shall be utilized in court.

5.3.5 It should be underscored, however, that the NBI's place in the criminal justice system is not limited to the law enforcement/investigation pillar; the NBI plays a specialized support role to the other pillars of the system. Specifically, as the agency mandated by law to be the national clearing house for all criminal and other information for use by prosecutorial, law enforcement and judicial entities, it is the NBI which is tasked with consolidating all records from all the other pillars of the system, so that a comprehensive report detailing the records of an individual can be drawn up.

5.3.6 The issues related to the structure and operating systems are discussed in general terms and will provide the basis for a more detailed technical review that will eventually lead to designing the appropriate organization structure and operating systems of the NBI.

There are overlaps in the structures and functions on criminal and technical investigations and no clear rationale for the creation of numerous divisions exclusively within some services and not in the others. Also, there is uneven capacity between central and regional offices particularly with respect to the technical services support requirements of crime investigation. The problem is not just an issue of inadequate resources but of the structure and operating mechanisms

SPECIAL INVESTIGATIVE SERVICES AND REGIONAL OPERATIONS SERVICES

5.3.7 The NBI's principal mandate is the conduct of criminal and technical investigations and for this purpose, three (3) of its six (6) Services perform investigative functions. However, not only are there overlaps and duplications of functions apparent in the current structure, there is also no clear rationale for the creation of numerous divisions exclusively within some services and not in the others.

5.3.8 The sole distinction, for example, between the Special Investigation Services and the Regional Operations Services is that the former is the operating arm within Metro Manila, while the latter is the operating arm in other regions of the country. (The Regional Operations Services also maintains an NCR regional office). The creation of the Regional Operations Services was never intended by the legislature, indeed, under the New Administrative Code of the Philippines, there were only five (5) Services with Metro Manila and regional operations performed by a single Investigative Branch.

5.3.9 The General Appropriations Act of 1991, however, created the position of an additional Deputy Director, and the plantilla items of Special Investigators. Thus two competing investigating arms were created: the existing Investigative Branch composed of NBI agents, and a new investigation service headed by a Deputy Director and composed of Special Investigators.

5.3.10 To resolve this, NBI constituted a sixth service, and divided investigation operations along geographic lines. The problem with this quick fix solution is that the original Investigation Branch was organized to handle highly specialized cases and special divisions were created within this branch to address these cases, however, these divisions were not replicated in the Regional Operations Services and rightly so, as it would have resulted in a very unwieldy and costly structure, in terms of plantilla positions and budgets. Thus, the original Investigation Branch, which is now called

Special Investigation Services, has eleven specialized divisions (Figure 1), provides comparatively much better capacity for investigation in Metro Manila but much less institutional capacities elsewhere in the country.

5.3.11 But if the only distinction between these two services is the division into geographical location instead of type of crimes/investigations, then what happens to specialized cases that occur in the regions? Obviously, these offenses can occur anywhere, but the expertise to handle these cases are lodged in divisions within the Special Investigation Services which operates only within Metro Manila. How is this being resolved?

5.3.12 The current procedure, embodied in the Internal Rules and Regulations for Investigative Services, is that the assignment of cases to agents and investigators is done by the NBI Director, the Deputy Director for the Service, or by written order of the immediate supervisor. However, the authority of the Regional and District Offices to investigate cases must be given only by the NBI Director or, in his absence, the next higher official in the command line.

5.3.13 While therefore there is a division of functions based on geographical location, it would seem that there is no provision for automatic assignment of a regional/provincial case to the region or district concerned. There must be express authority granted by the NBI Director to investigate a case before a regional office assumes jurisdiction over it. There is difference in the case follow-up investigations. The Internal Rules and Regulations for Investigative Services provides that, as a matter of policy, follow up of cases in Metro Manila or the provinces shall be conducted by agents stationed thereat, except if the nature of the case is such that it may only be handled by the agent to whom it was originally assigned. Again, this policy leaves much too open to interpretation, since there are no guidelines as to when the general policy shall be followed, or when the exception applies.

SPECIAL INVESTIGATION SERVICES AND DOMESTIC INTELLIGENCE SERVICES

5.3.14 The Special Investigation Services performs overt operations; the Domestic Intelligence Services performs covert operations. The distinction is akin to the FBI and the CIA.

5.3.15 However, the distinction is blurred in actual practice. While, for example, the Criminal Intelligence Division of the Domestic Intelligence Services is expressly mandated “to generate and collect information to serve as basis for overt operations”, the Internal Rules and Regulations for the DIS authorizes the conduct of overt investigative operations by the Service itself. The only requirement is that overt operations be authorized by the NBI Director.

5.3.16 Even the plantilla seems to suggest a duplication of functions between these two services. Note that divisions within the DIS are headed by division chiefs who must be Investigation Agents. Further, the Assistant Regional Directors or the second in command in the regional and district offices are designated as the DIS Field Security and Intelligence Officers: they hold dual positions.

5.3.17 There is likewise some confusion in the term “Domestic Intelligence Services”, which seems to suggest that all operations are local. In fact, the Counter-Intelligence Division of the DIS includes Foreign Operations, clearly indicating that the functions are not purely domestic in scope.

INVESTIGATION AGENTS AND SPEC IAL INVESTIGATORS

5.3.18 As above-stated, the item for “Special Investigators” was included in the General Appropriations Act of 1991, the legislative intent being to provide for a new investigative arm headed by a Deputy Director, and composed of Special Investigators. The NBI compromise was to split the single Investigative Branch composed of NBI agents and create the Regional Operations Services to handle cases outside of Metro Manila. Under the current structure, however, both the Special Investigation Services and the Regional Operations Services are composed of Investigation Agents (formerly the NBI agents of the Investigative Branch), and Special Investigators.

5.3.19 When interviewed, NBI officials admit that these two types of agents perform the same functions and operations, and the only difference between them is the qualification standard: Investigation Agents must either be lawyers or certified public accountants, while Special Investigators need only to be baccalaureate degree holders with at least professional civil service eligibility.

5.3.20 It is ironic that it was the appropriations law that in effect defined the structure of the NBI’s investigative arms. The division of operations based on geographic location, and the creation of two types of agents performing the same functions was effected as a means to access budgetary approval and not because there was an actual for pressing need for these changes. This has resulted in ambiguity, conflict and redundancy within the system.

While there are formally delineated functional jurisdictions among the services, the lack of pattern of case assignment among agents with distinct positions are reinforces the lack of actual functional distinction among the units

5.3.21 There is no set pattern in the assignment of cases to agents. The NBI Director or Assistant Director initially signs the case to the appropriate service or division, or even directly to particular agents, depending on the expertise. An agent can, however, sometimes request that a specific case be assigned to him.

5.3.22 Caseload on an annual basis is not determined by number of cases but by a point system devised by the Bureau. Under the system, each agent must earn 3,000 points per year and points are determined by the degree of complexity and time required for a case, as well as the agent’s performance on the case. Thus, participation in ordinary and common investigations would earn less points than participation in complicated cases demanding greater technical expertise.

Because of lack of logic in the overall organization of functions within the NBI, discrepancies in operational capacities and facilities vary considerably between Manila offices and regional offices responsible for the rest of the country

5.3.23 For example, the NBI has regional offices but these offices have no medico-genital examination services for lack of appropriate officers to do this. Thus, examination is done in government hospitals, most private hospitals refuse to do these medico-genital examinations in view of the tedious requirements for court appearances. Although the VAWCD intends to acquire rape kits for distribution to all regional and district offices especially in far-flung areas where there are no medico-legal officers. This is more of a patchwork response rather than a long-term solution to the problem.

5.3.24 But the case of the medico-genital examinations can also apply to other scientific facility intensive crime investigations and is a symptom of a deeper organizational issue. There is a need to determine which facilities need to be provided on-site, which on-site facilities can be provided by other institutions (hospitals, universities, etc.), and which facilities can be provided at the central office, in which case scientific and laboratory examinations can be done at the central office. This is particularly important not just from the point of view of operational efficiency, but also from the point of view of resource utilization efficiency. NBI needs to considerably upgrade its scientific capacity and facilities and this will require tremendous amounts of public investments. An efficient scientific resource utilization management system is therefore a pre-condition of such investments to be made.

Institutional capacities for mission-critical operations can be enhanced if conscience functions and systems for planning, monitoring and performance management, and information management are institutionalized to support mission-critical operations

5.3.25 As in most government agencies, the functions, organization structure and operations of NBI have a very strong focus more on mission-critical activities but conscience functions and structures are weak. Conscience functions are those that deal with development and strategic planning, institutional and program performance monitoring and review and the establishment and maintenance of the associated information and indicators system to support planning and performance monitoring and assessment.

5.3.26 The NBI is comparatively more advanced in the analysis of its performance and in the gathering and use of crime statistics to improve crime management. But still much remains to be done to improve the capacity of the NBI to match the sophistication of its structure and operating systems with the sophistication of the competencies of its management and workforce.

5.3.27 There is absence of a formal development planning and strategic planning and performance system in the NBI. A formal strategic planning system. Despite these institutional weaknesses the NBI was able prepare in March 2001, in response to a requirement of the DOJ to submit its plans for the first 100 days of the Arroyo Administration, its plans and programs, categorizing them as follows:

MODERNIZATION

- The Bureau intends to modernize its existing facilities for a more expeditious delivery of service through:
  - The establishment and maintenance of modern crime laboratories and acquisition of high-tech equipment;
  - The construction/renovation of its main building and existing NBI regional/district offices for the improvement of the delivery of its services;
  - The acquisition of additional vehicles for the regional/district offices for wider scope mobilization;
  - The acquisition of modern computers and photocopies for increased documentary processing output;
  - The argumentation of the existing radio and telefax units to facilitate communication in the Bureau.

- The Bureau also plans to establish the following:
  - An operations center within the Bureau compound where all operations will be monitored and supported;
  - A quick reaction/deployment force to be headed by a Senior Official below the level of Deputy Director.

PROFESSIONALIZATION OF ITS WORKFORCE

- Sustain continuous local and foreign training for investigators;
- Adopt a responsive performance audit system;
- Offer competitive monetary and non-monetary schemes to attract highly qualified applicants;
- Create a board that will adopt a merit system for schooling and training abroad of its officials and employees;
- Continue in-house training and seminar workshops for Bureau personnel;
- Gender sensitize its personnel.

EXPANSION OF ACTIVITIES

- Establish strong linkages with other anti-crime groups;
- Establish Women and Children Centers in every regional office;
- Create Citizen's Action Centers at the headquarters' regional/district offices to entertain or receive citizen's complaints;
- Advocate for the enactment of the "NBI Modernization and Reorganization Bill".

The sophistication of the scientific crime laboratory facility and capacity of the NBI must be considerably upgraded if it is to effectively perform its function of crime detection and investigation and of providing support to other law enforcement agencies

5.3.28 The NBI Technical Services provide technical assistance and expertise in scientific crime detection and investigation not only to its operating units (Investigation Services) but also to the local police agencies, fiscals, courts, and other government or private offices that requests its assistance in the field of forensic chemistry, deoxyribonucleic acid (DNA), medicine, ballistics, questioned documents, polygraphy, dactyloscopy, photography and criminal records and identification.

5.3.29 Per established policy of the Bureau pursuant to the provisions of Section 1 (c & d) of R.A. 157, as amended, NBI records and information, as well as technical services, may be availed of only by law enforcement and prosecuting agencies, the courts and other government offices in connection with cases under investigation or adjudication, or for other official purposes.

5.3.30 The Technical Services may accommodate requests for technical assistance by private parties if properly coursed through the government agency concerned. There is, however, an exception to the rule on technical assistance. Request for autopsy cases are filed directly with, and attested to, by the NBI. All investigations handled by the NBI automatically include its technical aspect.

5.3.31 The Bureau, through its Identification and Records Division, serves as the national clearing house and repository of all criminal and other information that are of interest and concern to law enforcement, the administration of justice, and national security. As such it keeps and maintains a systematic centralized file of the names and fingerprints of persons involved one way or the other in criminal offenses in any part of the country, including a representative number committed abroad, and the personal identification records of aliens, and citizens that are non-criminal in nature.

5.3.32 In interviews with the Deputy Director for Technical Services, Dr. Filomeno S. Bautista, he noted the problems relative to the upgrading of the NBI's technological resources. It was pointed out, for example, that the cost of a new fingerprinting machine would amount to almost US$ 1 Million, resources not available to the Bureau. Further, the Bureau has not even been able to utilize computer equipment purchased, because of issues raised in relation to the bidding process.

5.3.33 Crime laboratory equipment as inadequate in relation to the standards that NBI would like to achieve and particularly in relation to the requirements of crime investigation. But the issue of upgrading NBI's crime laboratory is an issue beyond that of NBI. It is an issue of governance. Logic will tell us that a good crime management capability is a pre-condition to maintaining security and enforcing the rule of law. And peace and order is fundamental to economic development and global competitiveness of our country and our economy. The priority given to law enforcement by the government reflects the quality of government priorities in achieving economic goals. In this context, NBI and other law enforcement agencies as well as champions need to build a case for prioritization of government resources to law enforcement, a basic function of government.

5.4 Human Resources Development

5.4.1 The goal of improving quality of investigation relies on many aspects including how the key personnel such as investigation agents are selected, compensated, managed for performance, promoted, and how they are challenged, coached, educated, updated, monitored, and also how they are disciplined and where necessary, removed. A number of these points are addressed in the succeeding sections.

PERSONNEL COMPLEMENT AND DEPLOYMENT

5.4.2 The NBI has a total of 2,294 authorized positions of which 1,738 were filled and 556 were unfilled as of December 31, 2002.

5.4.3 The bulk of the unfilled positions were in the Investigation Services, specifically the positions of Investigation Agents and Special Investigators. Of the 498 authorized positions for Investigation Agents, only 238 or 48% were filled. Of the 442 authorized positions for Special Investigators, only 241 or 55% were filled.

5.4.4 About 50% of this workforce is under the Defense and Security Occupational Group, the occupational group concerned with "the safety and protection of the public against crime through the maintenance of peace and order; and custodial and security services. It also included occupations concerned with intelligence and investigative activities, fire, fighting and investigation; ballistics, polygraph and document examination; identification an analysis of handwritings and fingerprints; manufacture and repair of guns and gun parts; and investigation and negotiation of water rights and right-of-way."

5.4.5 NBI's count by core position in the Defense and Security Occupational Group are shown below. Other positions are some 103 in the Medical and Health Occupational Group of which 38 are Medico-legal officers and there are also less than 100 in the social and other sciences and in education.

Table 3-12
DEPLOYMENT OF CORE POSITION, NBI

Deployment by Core Position	Headcount	% to Total
Investigation Agents	240	14
Special Investigators	202	12
Fingerprint Examiners	244	
Other	25	
(Document Examiners & Identification Officers)		
Sub-Total Fingerprint and Document Examination	269	15
Total core positions	**711**	**41**

5.4.6 The total workforce is deployed organizationally as follows:

Table 3-13
DEPLOYMENT OF POSITION BY MAJOR FUNTIONAL GROUPINGS

DEPLOYMENT BY SELECTED ORGANIZATION UNIT	HEADCOUNT	% TO AGENCY TOTAL
Regional Operations - (Of which only 35% are Investigation Agents and Special Investigators)	544	31%
Technical Services - (Of which about 200 staff or 34% of Technical Services are in the Identification and Records and Fingerprinting / Mastername releasing units) - (Consisting of: Identification and Records, Medico-legal, Fingerprinting/master name releasing, Electrical/Electronics, Forensic, etc)	569	33%
Special Investigation Service - (Consisting of NCR, Anti-fraud, Narcotics, Background investigation, Interpol, Anti-illegal recruitment, Intellectual Property rights, Special action, etc.)	249	14%
TOTAL OF ABOVE THREE GROUPS	**1362**	**78%**

5.4.7 The personnel planning and deployment concerns that have been noted or expressed are in:

- The extent of resources are assigned to the NBI clearance activity and how furthering the initiatives in re-engineering, computerization, and decentralization can still be pushed not only to free up headcount to core investigative work but also to still improve on the service to the public.

- The need to review deployment of people resources for field / regional operations in order that demand for services in respective locations are effectively met and where a full complement of investigation and technical services can be placed outside of the national capital region.

HIRING AND SELECTION

5.4.8 About three to five years ago, hiring for starting positions in NBI investigation core positions was increased to the next level in the occupational group to address both the difficulties of attracting the right caliber of the qualified at the prescribed salary rate as well as to reflect the qualification standards desired that are beyond the minimum set in the Civil Service Commission 1997 standards.

5.4.9 For Investigation Agents, the target candidates are graduates either of a law degree or are a CPA in lieu of the minimum standard of a bachelor's degree relevant to the job with two years on the job experience. Hiring starts at Agent II level (SG 20) which starts at P 17,799 monthly basic in lieu of Agent I (SG 18) which has a starting salary of P 15,841.

5.4.10 Similarly, for Special Investigators, the target candidates are graduates of any other degree (e.g. business, marketing). Hiring starts at Investigator III level (SG 15) which starts at P 15,841 monthly basic in lieu of Investigator I (SG II) which has a starting salary of P 13,300.

5.4.11 Realizing that target candidate lawyer and CPA recruits are generally not aware that NBI is hiring lawyers and CPAs, the Bureau has started to go beyond the traditional recruitment methods by advertising for these open positions in review schools or during bar examination dates.

5.4.12 The selection criteria for Investigation Agents and Investigators include:

- Degree in law or CPA for Investigation Agents and any college degree for Special Investigators
- Filipino citizen
- Height requirement of 5'5" for males and 5'3" for females
- Physical stamina and agility (e.g. ability to rapel)
- Emotional and mental stability (use of neuro-psychiatric test)
- Strong and solid character (integrity, bold and daring, values, decisive)

5.4.13 The selection process is exacting and covers initial resume qualification screening, paper and pencil personality and psychiatric test, test on physical specifications and qualifying conditions, high-level NBI panel interview. This initial selection process concludes with a qualifying 16-week basic training course, which also serves as the orientation and basic skills building for new recruits.

5.4.14 The full selection process together with the basic training course enjoys the following positive features: clear and transparent in criteria, uses observable or measurable performance as basis, collegial in execution, and positively competitive in spirit.

5.4.15 The rigors of the process augers well for both the new employee and the Bureau and is an effective way of delivering a message of NBI's best tradition where performance or potential for performance against sound, clear and objective criteria is that which will really count.

5.4.16 The program and process owner for the recruitment, selection and orientation and qualifying initial training for the core positions of NBI Investigation Agent and Special Investigator is lodged on the NBI Academy.

5.4.17 For the selection and placement of NBI Agents and Special Investigators, the Selection and Placement Board recently fine-tuned and updated the criteria as follows:

- Performance / Outstanding accomplishments / Awards 30%
- Reputation / Integrity 15%
- Work attitude 15%
- Interview (for top positions) 10%
- Seniority (original appointment) 10%
- Last promotion (to the present position) 10%
- Education and training 10%

5.4.18 For the selection and placement of NBI positions outside of NBI Agents and Special Investigators, the Selection and Placement Board also recently fine-tuned and updated the criteria as follows:

- Accomplishment / Performance (last 2 years) 30%
- General reputation 20%
- Outstanding accomplishment (current year) 10%
- Seniority (length of service) 10%
- Number of training abroad / last training 10%
- Work attitude 10%
- Potential of the candidate 10%

5.4.19 To ensure that there is transparency and objectivity, both sets of criteria are widely disseminated and are used in the evaluation of all candidates by the Selection and Placement Board.

5.4.20 Some reform measures that may be undertaken along improving the sourcing and selection could be in:

- Developing the network and promotional program for sourcing candidates outside of the traditional methods which may include aggressive recruitment in law schools and CPA review schools, and other schools for Special Investigators

- Reviewing the criteria for selection and placement and developing guidelines on identifying success factors in candidates.

COMPENSATION

5.4.21 NBI core positions of Investigation Agents and Special Investigators receive basic salary, salary supplements similarly granted to all others in government, and other salary supplements granted with conditionalities.

- The basic salary of Investigation agents II to V according to prevailing salary schedule (effective July 1, 2001) ranges from ₱17,799 (SG 20 Step 1) to ₱25,742 (SG 25 Step 8) per month.

- The salary supplements which are regularly granted include: Personal Relief Allowance (PERA), Uniform/Clothing Allowance, Productivity Allowance, Cash Gift/Year-end Bonus, and 13th month pay.

5.4.22 Two other salary supplements particularly received by these NBI core positions under special conditionalities are Hazard Pay for a value of P 2,000/month and Representation and Transportation Allowance (RATA) granted in graduated values of P 5,350 to P 11,400 for those from SG 24 to SG 30. All together, these salary supplements account for a substantial percentage (about 23% to 35%) of the total cash compensation. The salary supplements for Investigation Agent II to V ranges from P 64,799 to P 136,942. Thus total cash compensation of Investigation Agents II to V ranges from P278,378 to P 445,846 per year.

5.4.23 hese current pay levels of appear to be comparable at the lower hiring level to offers in the private sector. The challenge is in how to sustain this comparability at the higher levels sufficient to encourage continued service in the Bureau particularly for high performing individuals. At a simulated level of a 10% annual salary adjustment in the private sector, the range in pay for Investigation Agent is comparable up to Year 5.

5.4.24 A reform initiative in this area is for a detailed review on how various cash and near cash compensation can be provided through the higher levels of the career of an NBI Investigation Agent may be appropriate.

PROFESSIONAL TRAINING AND DEVELOPMENT

5.4.25 The flagship training program of NBI is the 16-week Basic Training Course for Agents and Special Investigators. It is an excellent extensive and comprehensive program. It is a tradition in NBI that has gone on 40 conducts covering a little more than 50 for each conduct. Because of the strength of the course and the capability of the NBI Academy that it suggests, a complete description follows:

- The objective of this training course is to provide newly recruited NBI Agents and Special Investigators with working knowledge of the organization, administration and operations of NBI, requirements of the service and the professional approach to criminal investigation.

- The course consists of 540 hours of academic courses covering supplementary, investigative, technical, law, and intelligence and 270 hours of non academic

courses covering coaching and counseling across key members of the NBI management team and training staff, group dynamics, marksmanship, defensive tactics, physical conditioning.

- Specific subjects include: Process a crime scene. Properly collect, preserve and mark physical evidence. Develop latent prints, casting and mouldings. Effectively interview and interrogate subjects. Prepare recordings and reports. Explain and take advantage of the value of criminalistics in aid to crime investigation. Take and develop evidentiary photograph. Operate properly the radiophone and tape recorders. Explain the requirements for questioned document and comparison. Describe the working of polygraph. Compare fingerprints of similarities. Effect an arrest of resisting person in a professional manner and make a return to the proper court. Defend himself with or without weapons. Conduct proper search of persons, vehicles or crime scenes and make to the proper court whenever required. Describe the organization and functions and operating procedures of the NBI and be guided conscientiously by them as well as its prevailing policies. Deport, behave and conduct himself in a manner in keeping with dignity, competence and professionalism expected of his position.

5.4.26 In addition to this course, other training conducted for NBI employees include:

- Training on NBI Core Functions:
  - Urban Raid Training / Close Quarter Battle – For NBI Agents and Special Investigators in engaging high risks situation in the conduct of raids, enhancing skills in the using firearms and self defense techniques, conducting a strong hold assault; proper arrest, search and control of hostile suspects, shooting from barricades with the pistol from the standing and kneeling positions.
  - Dactyloscopy Training Course - Fingerprint science. Fingerprinting of living and dead. Rules in selection and ridge counting and tracing. Classification of fingerprints. Filing and searching. Developing. Lifting and preservation of latent prints/ crime scene to laboratory. Preparing fingerprint comparison charts for presentation in court. Court testimony
  - Training on Fire Arms Proficiency - Firearms safety rules. Range safety rules and regulations. Live fire range precision, combat, and close quarter battle, moving target shooting. Cleaning / maintenance. Live fire range semi final and final
  - Human Rights Training - How human rights are violated. Common human rights violations and prevention. Human Rights Explained. Laws involving Human Rights.
- Basic training – Seminar on Bids and Awards Committee (Exec Order No. 40), Trainors Training for Training Division, Basic training for security guard personnel,
- General skills – Orientation for new employees, Quality service for front line staff (on customer service), Values enhancement, Basic computer course, Time management

- People management related training - Performance Evaluation System Seminar, Completed Staff Work (supervisory training for chiefs and supervisors), Seminar on grievance procedures

5.4.27 On the whole, the training plan is a sound fundamental plan as it covers a breadth of practical specialized courses, personality / professional development courses, and people management and leadership skills development. A reform measure that can further this program is to bring it to a next level where a curriculum is developed around the career of an agent as the agent progresses on, mid-course functional and personality development training using an accreditation or certification method. A certification method encourages a discipline on the employee for owning his or her development, on the superiors for acknowledging the time for that to take place and for using the certified training in other human resources management programs such as selection and placement, and on the NBI Academy to consistently deliver quality programs.

5.5 Financial Resource Management

5.5.1 The efficiency and effectiveness of the Bureau in carrying out its investigation services also depends on the financial and physical resources given to the Bureau.

5.5.2 The NBI draws its financial resources principally from its appropriations, per the annual General Appropriations Act. The NBI, however, also generates income through fees from NBI Clearances but the same is immediately deposited to the account of the National Treasury as part of the general fund of the government.

HIGHLY CENTRALIZED OPERATION

5.5.3 The general operation of the National Bureau of Investigation is highly centralized. All decisions and approvals on the budget, allotment and cash allocations, and actual spending are done and controlled in the central office.

5.5.4 DBM provides budget ceilings every year and such system of budgetary ceilings allows limited amounts for which allocation decisions can still be made. Indeed the ceilings comprise mainly of mandatory items of personnel services and current level of MOOE with very limited increases, if any. This renders the budgeting process int the NBI merely a process of accomplishing budgetary forms, rather than a meaningful prioritization and allocation process that are linked with development and strategic plan and an assessment of performance. This then means that the budgeted amount for the operations of the Bureau is not in any way linked with the activities programmed by the Bureau for that particular year.

5.5.5 Within the NBI itself, the budgeting system does not allow and incisive monitoring and analysis of expenditure performance because the budget structure goes merely by line item and not specific programs in central and regional offices. It would have been useful to be able to establish resources and resources requirements with workload in the central offices and regions and the impact of resources on performance. This way NBI will not only be able to improve upon itself but more importantly it can build a case

for government to prioritize investments in law enforcement particularly in specific critical areas.

5.5.6 The centralization of all financial functions puts the regional operations at a disadvantage. Focus group discussion in the region reveals that the supplies and materials for the operations are lacking. This results to delays in the processing of transactions.

5.5.7 An analysis of how much the regional operations incur as against the central office would have been best. However, the central office cannot provide the same information since according to them, the accounting of the Bureau is on a per function and program basis and not on a per region or per area basis.

DECREASING BUDGET FOR THE CAPITAL OUTLAYS

5.5.8 One of NBI's primary functions is to establish a state of the art crime laboratory. But capacity to perform this function primarily depends on government resources. NBI sources its current operating expenditures and capital outlay requirements from its regular budget provided annual under the General Appropriations Act. While income is generated through the issuance of clearance, NBI has very limited authority to use its income. Tables 3-14 and 3-15 show the actual obligations per expense class and the annual trends for years 1997-2001.

Table 3-14
Actual Obligations per Expense Class, NBI, 1997-2001

PARTICULARS	1997		1998		1999		2000		2001	
	Amount	% of Total Obligations	Amount	% of Total Obligations	Amount	% of Total Obligations	Amount	% of Total Obligations	Amount	% of Total Obligations
PS	319,324,908	55%	360,645,000	55%	350,631,000	61%	398,874,000	56%	418,142,000	60%
MOOE	159,103,000	27%	187,027,000	29%	198,402,000	35%	218,154,000	31%	248,452,000	36%
CO	100,180,310	17%	107,603,000	16%	22,282,000	4%	92,301,000	13%	24,796,000	4%
Total Obligations	578,608,218	100%	655,275,000	100%	571,315,000	100%	709,329,000	100%	691,390,000	100%
Total Appropriations	556,208,206		633,095,000		544,402,000		679,244,000		660,130,000	

(Source: National Bureau of Investigation)

Table 3-15
Annual Increases in the Budget, NBI, 1997-2001

PARTICULARS	1997	1998		1999		2000		2001	
	Amount	Amount	Annual Increase	Amount	Annual Increase	Amount	Annual Increase	Amount	Annual Increase
PS	319,324,908	360,645,000	12.94%	350,631,000	-2.78%	398,874,000	13.76%	418,142,000	4.83%
MOOE	159,103,000	187,027,000	17.55%	198,402,000	6.08%	218,154,000	9.96%	248,452,000	13.89%
CO	100,180,310	107,603,000	7.41%	22,282,000	-79.29%	92,301,000	314.24%	24,796,000	-73.14%
Total Obligations	578,608,218	655,275,000	13.25%	571,315,000	-12.81%	709,329,000	24.16%	691,390,000	-2.53%
Total Appropriations	556,208,206	633,095,000	13.82%	544,402,000	-14.01%	679,244,000	24.77%	660,130,000	-2.81%

(Source: National Bureau of Investigation)

5.5.9 While the major function of the Judiciary is the investigation, where the main resource needed are physical facilities, the budget above shows that the total amount allocated for Capital Outlays are decreasing. While it increased in 1998 and 2000, the budget decreased in 1999 and 2001 by 79% and 73% respectively. In relation to requirements identified by the NBI in its strategic plan. These budgetary allocations for capital delays are very minimal. This explains why the physical facilities of the Bureau are mostly outmoded and dilapidated.

5.5.10 Table 3-16 below shows the distribution of the Budget per Program, Project, Activities. The figures show a significantly large proportion going to overhead expenditures (general administration and support services). There is a need to study the internal composition of overhead expenditures. Since personal service would most certainly occupy a major portion of this overhead budget, there would be a need to closely consider the desirability of reengineering the administrative structure and staffing of the NBI to improve expenditure efficiency, focusing budgets on more important functions that directly relate to its mandate.

Table 3-16
Actual Obligations per PPA, NBI, 1997-2001

PARTICULARS	1997		1998		1999		2000		2001	
	Amount	% of Total	Amount	% of Total	Amount	% of Total	Amount	% of Total	Amount	% of Total
General Admin Support	92,558,325	16.00%	100,214,000	15.29%	153,191,000	26.81%	173,755,000	24.50%	199,367,000	28.84%
Support to Operations	38,716,300	6.69%	41,614,000	6.35%	38,632,000	6.76%	51,906,000	7.32%	42,335,000	6.12%
Operations	382,111,935	66.04%	476,785,000	72.76%	378,820,000	66.31%	483,431,000	68.15%	449,688,000	65.04%
Locally Funded Projects	13,579,000	2.35%	36,662,000	5.59%	672,000	0.12%	237,000	0.03%	0	0.00%
BCDA	51,642,658	8.93%	0	0.00%	0	0.00%	0	0.00%	0	0.00%
TOTAL	578,608,218	100.00%	655,275,000	100.00%	571,315,000	100.00%	709,329,000	100.00%	691,390,000	100.00%

(Source: National Bureau of Investigation)

REVENUES FROM CLEARANCE FEES

5.5.11 Aside from the National Government Appropriations, the NBI earns additional revenues from the clearance fees per BP No. 325. Income from these clearance fees however, does not accrue to the coffer of the Bureau but to the general fund of the government.

5.5.12 It's also sad to note that the NBI has no control nor hold over all its earnings. There is no provision that authorizes them for the purpose. While NBI has been requesting during budget preparation authority for the use of only 50% of its collections every year for much needed equipment and transport facilities, the Department of Budget and Management has not granted the agency the authority to use its income up to such level.

5.5.13 Table 3-17 below shows the total collections of the NBI from its clearance fees and the portion that is allocated to it.

Table 3-17
Schedule of Income and Utilization from Clearance Fees, NBI, 1997-2001

Year	Actual Income	Authorized Amount for Utilization	Amount Released
1997	101,618,199.38	40,000,000.00	40,000,000.00
1998	104,333,594.34	40,000,000.00	40,000,000.00
1999	114,545,976.56	100,000,000.00	70,000,000.00
2000	187,072,420.00	-	-
2001	280,678,453.05	71,521,101.00	71,521,101.00

Source: National Bureau of Investigation)

Table 3-18
Schedule of Income and Utilization from Clearance Fees, (in %)
NBI, 1997-2001

Year	Actual Income	Authorized Amount for Utilization	Amount Released
1997	100%	39%	100%
1998	100%	38%	100%
1999	100%	87%	70%
2000	100%	0%	0%
2001	100%	25%	100%

(Source: National Bureau of Investigation)

5.5.14 Note that in years 1997 and 1998, only 39% and 38%, respectively, had been authorized for use by the Bureau and none on year 2000. Though in 1999, of the total income received only 87% was authorized to be used, only 70% of the authorized was released by the DBM to the Bureau.

5.5.15 The total amount released, however, was used by the Bureau mostly for the augmentation of its MOOE as indicated in Table 3-19 below.

Table 3-19
Utilization of Income from Clearance Fees

PARTICULARS	1997		1998		1999		2000		2001	
	Amount	% of Total Utilization	Amount	% of Total Utilization	Amount	% of Total Utilization	Amount	% of Total Utilization	Amount	% of Total Utilization
Amount Released	40,000,000	100.00%	40,000,000	100.00%	70,000,000	100.00%	0		71,521,101	100.00%
MOOE	37,600,000	94.00%	40,000,000	100.00%	39,720,000	56.74%	0		51,271,101	71.69%
CO	2,400,000	6.00%	0	0.00%	30,272,583	43.25%	0		20,250,000	28.31%
Utilized	40,000,000		40,000,000		69,992,583		0		71,521,101	

(Source: National Bureau of Investigation)

5.5.16 Should there have been proper linkage between the budget and operational requirements of the entire Bureau, the income from clearance fees must have been used to purchase equipment requirements and not just for the augmentation of the MOOE budget.

6 IMPLICATIONS FOR REFORMS

6.1.1 The SWOT analysis and internal capacity assessment point to several issues that have significant reform implications. These include the following:

a) Duplications in the functions among mission-critical units in the central office, weak institutional capacities in the regions with institutional resources focused on Manila based operations, unclear delineation of functions between central and regional offices, centralized operations, and large overhead bureaucracy, absence of adequate planning and performance management system, all point to the need to examine in more detail and reengineer the internal functional and structural configuration of the NBI for more efficiency and accountability and for a more balanced institutional capacity for nation-wide service.

b) But the reengineering of the NBI must be undertaken within the context of an established functional delineation between it and the PNP. In delineating the functions of NBI and the PNP, NBI must define itself, building on its strength. This means that the NBI can consider working towards being a very specialized crime investigation and law enforcement agency. NBI can focus its role on complex crimes, on building sophisticated crime investigation and research technology, on crimes that have national and international security implications, and on research on criminality and law enforcement that will lead to gaining new knowledge and better understanding, to clearly defining law enforcement capacity requirements of the country, to defining necessary public investments in law enforcement, and to other national policies in law enforcement.

c) There is need to considerably upgrade the crime laboratory facilities and institutional capacities for scientific investigation and research and this will require tremendous amounts of public resources which should be infused over time. Toward this end, NBI must formulate a multi-year public investment program for scientific crime equipment, which will be backed up by a good study on the public returns and benefits of public investments in scientific crime investigation and research facilities.

d) NBI's role in providing crime information cannot be effective if it not properly electronically connected to the courts and to the other law enforcement agencies of the government, and other government entities whose functions generate information on criminality. Also, these agencies cannot support NBI if their respective internal operating systems and the corresponding information technology systems are not adequate in the first place. This is why the National Crime Information System did not work. This issue is an inter-agency concern that should be addressed also at the inter-agency level.

e) There is need to improve resources and capacity for continuing human resources development for effective crime management. While the NBI has done very well indeed in mobilizing resources for world class training, as its workforce grows and as criminality become more sophisticated so will the capacity requirements of NBI will be. It is also critical to seamless integrate training with crime equipment and technology acquisitions.

4
PROSECUTION PILLAR

1 INTRODUCTION

1.1.1 The prosecution pillar of the criminal justice system is often known as the second pillar, whose principal task is to investigate criminal complaints emanating from the community, and the law enforcement agencies [the first pillar], and bringing these complaints to their successful prosecution in the judicial system [the third pillar].

1.1.2 This chapter presents the results of the diagnostic studies conducted on the prosecution pillar. In particular, it outlines the legal basis and institutional framework of the National Prosecution Service (NPS), and the basic processes involved in the investigation of criminal complaints, the promulgation of the prosecutor's resolution and the appeal process, the filing of the information in court and the prosecution of such cases. The chapter also provides an assessment of the actual organizational and operating systems and resources of the prosecution system, which processes some 450,000 complaints a year for preliminary investigation, and handles some 850,000 criminal cases a year for prosecution in the various court levels.

1.1.3 The diagnostic study uses various analytic tools to analyze the prosecution service, identifying its strengths, weaknesses, opportunities, and threats, and the various issues in terms of organization, policy, systems and procedures and resources, as well as the opportunities that influence its performance. The reform implications, which proceed from the institutional review, will provide the basis for the development of a more comprehensive reform program, which will be the concern of the second part of this technical assistance project.

2 INSTITUTIONAL FRAMEWORK

2.1 Functions

2.1.1 The DOJ is mandated, among others, to "administer the criminal justice system in accordance with the accepted processes thereof consisting of the investigation of the crimes, prosecution of offenders and administration of the correctional system."[1]

[1] Section 2, Chapter 1, Title III, Book IV of EO 292, 1987.

2.1.2 The role of the NPS in the criminal justice system is two-fold: (1) to investigate allegations submitted to it that a crime has been committed; and (2) to prosecute all cases involving violation of penal laws.

2.1.3 Cases for preliminary investigation come from various sources. The most common case type (called regular preliminary investigation) comes from the police and private complainants who file complaint-affidavits with the prosecutor's office. Aside from the regular investigation work, the prosecutors also give preferential attention to some important crimes through the national task forces such as the *Task Forces on Child Protection, Intellectual Property, Fake Passports, Financial Fraud, among others.*

2.1.4 In the performance of these functions, the NPS works closely with the investigation agencies, primarily the Philippine National Police (PNP) and the National Bureau of Investigation (NBI), to ensure that the evidence being produced by these agencies' investigative work could withstand judicial scrutiny. In addition, the NPS attends to the appeal process of the resolutions of the City and Provincial Prosecutors, and provides clearance to prospective job applicants regarding the status of complaints filed with the prosecutor's office.

2.2 Clientele

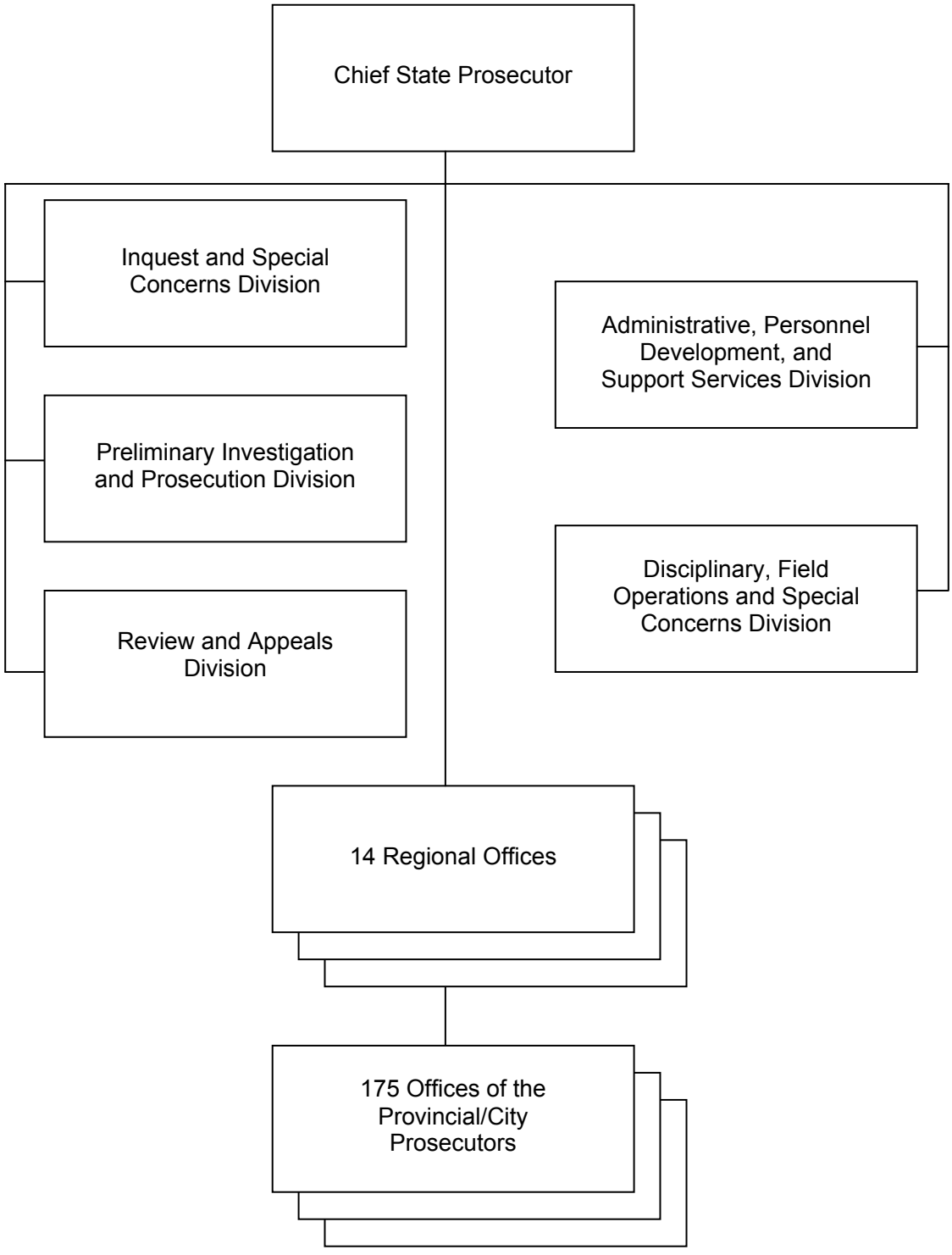
2.2.1 Any person who claims to have been the subject of another person's violation of penal laws and other municipal ordinances (or the offended party) may file a complaint with the Office of the Investigating Prosecutor. Law enforcement agencies may also either refer cases to the NPS or request NPS to conduct a preliminary investigation. Courts may also request prosecutors to conduct a preliminary investigation. In provinces and cities, the prosecutors provide services to the provincial or city government, as the case may be, and its officers, by acting as legal adviser.[2] When so requested, prosecutors also provide assistance to the Office of the Solicitor General, the Ombudsman, and the Commission on Elections.

2.3 Organization Structure

2.3.1 A Chief State Prosecutor heads the NPS. Five (5) Assistant Chief State Prosecutors assist the Chief State prosecutor The Office of the Chief State Prosecutor is composed of 119 State Prosecutors. Under the administrative supervision of the Chief State Prosecutor are 14 Regional State Prosecutors, 96 City Prosecutors, 79 Provincial Prosecutors, and 1,801 Assistant City and Provincial Prosecutors (Figure 4-1). The number of prosecutors assigned in each city and province depends on the size of the province or city. In some cases, new cities are established without providing for additional prosecutor positions in the Office of the City Prosecutor. The initial distribution of the prosecutors throughout the various cities and provinces of the country in found in Attachment A.

[2] Section 11, PD 1275, 1978.

FIGURE 4-1
CURRENT ADMINISTRATIVE STRUCTURE, NPS



SOURCE: DOJ

3 OVERVIEW OF KEY OPERATIONS AND PERFORMANCE

3.1 Legal Framework and Policies

3.1.1 The three most important phases of the work of the NPS could be clustered as follows:

a. The preliminary investigation of criminal complaints, the drafting of the resolution by the fiscal, its approval by the chief of office (usually the provincial or city prosecutor), and the filing of the information in court;

b. The appeal of the resolution by the provincial or city prosecutor, to the Regional State Prosecutor, or the Secretary of Justice, as the case may be, and its eventual resolution by these offices; and

c. The prosecution of criminal cases already filed in courts of the first or second level (Municipal Trial Courts or Regional Trial Courts).

3.1.2 The processual framework for the investigation of criminal complaints is governed basically by the Revised Rules on Criminal Procedure, found in the Rules of Court, and the Manual for Prosecutors. The appeal process is governed by the 2000 Rules on Appeal, in Department Circular No. 70 and 70-A, issued on July 3 and 10, 2000, respectively. The prosecution of criminal cases is governed mainly by the Rules on Criminal Procedure, in the Rules of Court, since this phase of the criminal justice process is chiefly a judicial process.

3.1.3 The processes involved in the investigation and the prosecution of criminal cases are the following:

a. Preliminary Investigation
b. Issuance of the Prosecutor's Resolution
c. Filing of the Information in Court
d. Arrest of the Accused and Posting of Bail
e. Arraignment [Plea of Guilty or Not Guilty to the Offense Charged]
f. Pre-Trial
g. Trial
h. Sentencing or Judgment

3.1.4 Under the Manual for Prosecutors, if the offense charged is a capital offense, meaning that the possible sentence could be death or life imprisonment, the complaint has to be resolved within 90 days from the time that the case is assigned to the prosecutor. In all other cases, whether the case is cognizable by the Regional Trial Court or the Municipal Trial Court, the case has to be resolved within 60 days from assignment.

3.1.5 In the case of an appeal, there is no such time frame within which the case has to be resolved. This is one area that needs to be studied carefully, since this can be a source of delay and a frustration of the ends of justice.

3.1.6 In the case of the trial of criminal cases, the Speedy Trial Act[3] also provides certain time standards within which the case should be decided. Under this law, the following standards should be followed:

- From the time of the filing of the information to arraignment - 30 days
- From the time of arraignment to the first trial day - 30 days
- From the first trial day to the termination of trial - 180 days
- From the termination of the trial to the issuance of the decision - 90 days.[4]

3.1.7 Ideally, a criminal case pending with the lower courts should take no more than eleven (11) months to finish, from the time the charge is filed, to the time that the decision is promulgated.

3.2 Operating Processes and Interface with Other Pillars

3.2.1 There are three common types of preliminary investigation:

a. Regular Preliminary Investigation conducted by the prosecutors;

b. Inquest Investigation, conducted by prosecutors where the accused has been "caught in the act"; and

c. Investigations done by municipal trial court judges, and reviewed by City or Provincial Prosecutors.

REGULAR PRELIMINARY INVESTIGATION

3.2.2 “A preliminary investigation is an inquiry or proceeding to determine whether there is sufficient ground to engender a well-founded belief that a crime has been committed and the respondent is probably guilty thereof, and should be held for trial.”[5]

3.2.3 Except in cases of lawful arrest without warrant, “a preliminary investigation is required to be conducted before the filing of a complaint or information for an offense where the penalty prescribed by law is at least four (4) years, two (2) months and one (1) day without regard to the fine.”[6]

[3] Republic Act No. 8493 dated February 12, 1998
[4] This time standard is no longer found in the Speedy Trial Act but in the 1987 Constitution, Sec. 15, Art. VIII
[5] Section 1, Rule 112, 2000 Revised Rules of Criminal Procedure.
[6] *Ibid.*

3.2.4 A preliminary investigation is essentially a judicial inquiry since there is the opportunity to be heard, the production and weighing of evidence, and a decision rendered on the basis of such evidence. In this sense, the investigating prosecutor is a quasi-judicial officer.[7] A preliminary investigation is intended:

a. to secure the innocent against hasty, malicious and oppressive prosecution and to protect him from an open and public accusation of a crime and from the trouble, expense and anxiety of a public trial;[8] and

b. to protect the State from having to conduct useless and expensive trials.[9]

3.2.5 The conduct of a preliminary investigation is a substantive right, which the accused may invoke prior to, or at least at the time of plea, the deprivation of which would be a denial of his right to due process.

3.2.6 In brief, in the investigation of criminal complaints, the private complainant or the police files a complaint-affidavit with the prosecutor's office, alleging that a certain person has committed a criminal offense. As part of due process, the respondent, who is accused of committing such an offense, is allowed to file a counter-affidavit. The prosecutor handling the case usually conducts a hearing to verify the allegations contained in their respective affidavits, and evaluate the supporting documents.

3.2.7 At this stage, the prosecutor has to establish the standard of "probable cause", meaning that based on the allegations of the complainant and the respondent, there is reasonable ground to believe that a crime has been committed, and that the accused is probably guilty thereof. The finding of probable cause is contained in a document called a "resolution". If the reviewing official (the city or provincial prosecutor) approves of the resolution, then the proper information is filed in the proper court. (The "information" is a formal accusation or charge against a person who is believed to have committed the crime). If the imposable penalty is below six years, then the case is filed with the Municipal Trial Court. If the imposable penalty is more than six years, then the case is filed with the Regional Trial Court.

INQUEST[10]

3.2.8 Inquest is an informal and summary investigation conducted by a public prosecutor in criminal cases involving persons arrested and detained without the benefit of a warrant of arrest issued by the court for the purpose of determining whether or not said persons should remain under custody and correspondingly be charged in court.

[7] Cruz, Jr. vs. People, 233 SCRA 439 [1994].
[8] People vs. Poculan, 167 SCRA 176 [1988]; Rodis, Sr. vs. Sandiganbayan, Second Division, 166 SCRA 618 [1988]; Salonga vs. Pano, 134 SCRA 438 [1985]; Trocio vs. Manta, 118 SCRA 241 [1982]; Sausi vs. Querubin, 62 SCRA 155 [1975]; and Hashim vs. Boncan, 71 Phil. 216 [1941].
[9] Tandoc v. Resultan, 175 SCRA 37 [1989].
[10] Department of Justice Circular No. 61, December 21, 1993.

3.2.9 The City or Provincial Prosecutor designates the Prosecutors assigned to inquest duties and furnishes the Philippine National Police (PNP) a list of their names and their schedule of assignments. If, however, there is only one Prosecutor in the area, all inquest cases shall be referred to him for appropriate action.

3.2.10 Unless otherwise directed by the City or Provincial Prosecutor, those assigned to inquest duties discharge their functions during the hours of their designated assignments and only at the police stations/headquarters of the PNP in order to expedite and facilitate the disposition of inquest cases. The inquest proceedings must be terminated within the period prescribed under the provisions of Article 125 of the Revised Penal Code, as amended. The periods prescribed are:

- 12 hours, for crimes or offenses punishable by light penalties, or their equivalent;
- 18 hours, for crimes or offenses punishable by correctional penalties, or their equivalent; and
- 36 hours, for crimes or offenses punishable by afflictive or capital penalties, or their equivalent.

REVIEW BY THE PROVINCIAL PROSECUTOR OF CASES INVESTIGATED BY THE MTC JUDGE

3.2.11 Criminal actions are instituted by filing the complaint or information directly with the Municipal Trial Courts and Municipal Circuit Trial Courts, or the complaint with the office of the prosecutor.[11]

3.2.12 In cases where the preliminary investigation is conducted by the investigating judge, the investigating judge shall transmit the resolution of the case to the provincial or city prosecutor. The latter shall then review the resolution of the investigating judge on the existence of probable cause, and may affirm, modify or reverse the finding of the judge. The prosecutor shall order the release of an accused who is detained if no probable cause is found against him.[12]

3.2.13 In all of the cases of investigation of criminal complaints, the sufficiency of the evidence gathered by the police or the NBI, and the procedure by which it is obtained is quite important for the successful prosecution of the case. If the evidence is weak, or contradictory, or the identification of the suspect is not made properly, or worse, the evidence has been secured through duress and other illegal means, then, the criminal case will not prosper.

[11] Section 1(b), Rule 110, 2000 Revised Rules of Criminal Procedure.
[12] Section 5, Rule 112, 2000 Revised Rules of Criminal Procedure.

APPEAL

3.2.14 Upon receipt of the resolution, an aggrieved party may file a motion for reconsideration addressed to the Provincial/City Prosecutor or the Chief State Prosecutor. A motion for reconsideration is still part of due process in the preliminary investigation. The denial thereof is a reversible error, as it constitutes a deprivation of the respondent's right to a full preliminary investigation preparatory to the filing of the information against him.[13] The court may not proceed with the arraignment and trial pending resolution of the motion for reconsideration.

3.2.15 Before the arraignment of the accused, a motion for reinvestigation of the case may be filed with the City/Provincial Prosecutor, provided, that when the case has been appealed to the Regional State Prosecutor or the Department of Justice, such motion may be filed, with the said offices. After arraignment, said motion may only be filed with the judge hearing the case.

3.2.16 Under the 2000 NPS Rule on Appeal,[14] appeals from resolutions of the Chief State Prosecutor, Regional State Prosecutors and Provincial/City Prosecutors may be brought to the Secretary of Justice within fifteen (15) days from receipt of the resolution, or of the denial of the motion for reconsideration/reinvestigation. This authority of the Secretary of Justice has been delegated to the Regional State Prosecutors through Department Circular No. 70-A. If the case is resolved by the Provincial or City Fiscal in the regions outside of the National Capital Region, and the offense is cognizable in the Municipal Trial Courts [offenses punishable by imprisonment of six years and below], then the appeal should be brought to the Regional State Prosecutor who can resolve the case with finality. However, if the case involves offenses where the penalty is more than six years imprisonment, or if the case is resolved by prosecutors in the National Capital Region, then the appeal goes straight to the Secretary of Justice.

3.2.17 Unless the Secretary of Justice directs otherwise, the appeal shall not hold the filing of the corresponding information in court on the basis of the finding of probable cause in the appealed resolution.

3.2.18 An appeal is taken by filing a petition for review with the Office of the Secretary, copy furnished the adverse party and the Prosecution office issuing the appealed resolution. If an information has been filed in court pursuant to the appealed resolution, a copy of the motion to defer proceedings filed in court must also accompany the petition. However, if the accused had already been arraigned, the petition shall not be given due course. Any arraignment made after the filing of the petition shall not bar the Secretary of Justice from exercising his power of review.

3.2.19 The aggrieved party may file a motion for reconsideration of the resolution of the appeal. However, no second or further motion for reconsideration shall be entertained.

[13] Torralba v. Sandiganbayan, 230 SCRA 33 [1994].
[14] Department of Justice Circular No. 70, July 3, 2000, repealed Department Order No. 223 dated June 30, 2993 on Petition for Review.

PROSECUTION OF CASES

3.2.20 After determining that probable cause exists and there is sufficient basis for the prosecution of the respondent, the investigating prosecutor prepares the resolution and the corresponding information or complaint in the appropriate cases.

3.2.21 Prosecutors are typically assigned to different branches of Municipal Trial Courts and Regional Trial Courts. The complaint or information is filed in the MTC or RTC where the prosecutor is assigned having jurisdiction over the case. All criminal actions filed and pending in these courts are prosecuted under the direction and control of the prosecutor.

3.2.22 At this stage of the criminal justice system, the cooperation of the police, the prosecutors, and the judge is crucial in the dispensation of swift and impartial justice. The police usually is in direct contact with the witnesses to the crime, and has the responsibility of securing their attendance in a timely fashion. The prosecutor is in control of the presentation of the evidence, and the judge is in control of the time of the litigants, including the accused, and the lawyers appearing in his sala.

3.2.23 At this point, the prosecutor does not have too much control over the disposition of criminal cases, since the judge is in the "driver's seat" so to speak. The prosecutor also has to compete with the other cases pending in court which take up a lot of the judge's time, such as family, corporate, inheritance, land and other such cases.

3.3 Performance of the System

3.3.1 The review here focuses on two things. First it reviews the performance system itself and its capacity to monitor and evaluate performance and to provide quality indicators and indicator-based statistics that will support a good performance evaluation procedure. Second, it conducts a general review of the institutional performance of the NPS itself with respect to is mission-critical function. This will be useful as basis for subsequently looking into the organizational internal and external environments as they affect or influence performance. Such assessments, which use the tools of SWOT analysis and capacity assessment, are discussed more extensively in the subsequent sections of this chapter.

REVIEW OF THE PERFORMANCE SYSTEM

3.3.2 Performance is monitored through a Consolidated Accomplishment Report prepared by the National Crime Information System. These reports are taken from the monthly submissions of City and Provincial Prosecutors. The consolidated accomplishment reports only reflect the totals for the National Capital Region, all other Regions, and the national total. Regional presentation of these reports was discontinued in the year 2000. A copy of the year 2002 report, which is the typical format for the national accomplishment report, is attached as Attachment "B".

3.3.3 Performance criteria include:

- Speedy and efficient investigation of cases;
- Speedy and efficient prosecution of criminal cases;
- Speedy and efficient handling of cases referred by other offices; and
- Effective, efficient and speedy disposition of legal opinions and assistance.

3.3.4 The NPS adopts a simple indicator to measure performance: disposition rate which is measured on an annual basis and computed as percent of the number of cases resolved or disposed out of the total number of cases ever pending during the year (beginning year pending and total receipts during the year).

3.3.5 For investigation, a case is considered resolved or disposed of if it has been filed, dismissed, recommended for referral or transfer, or suspended due to prejudicial question. For prosecution, a case is considered concluded or disposed of if a judgment by a competent court has been rendered either convicting or acquitting the accused, or dismissing, archiving, or transferring the case. So out of so many cases that have been accepted for trial in a given year, the report would indicate how many have been disposed or are still pending. Out of those pending, the report would also indicate how many are "prosecution rested", meaning the prosecutor has finished with the presentation of his evidence, and it is now up to the judge to bring the case to a swift conclusion.

3.3.6 The insufficiency of performance indicators limits availability of information that will allow a deeper evaluation of the quality and quantity of accomplishments and equally important in being able to improve case management and performance efficiency. In particular, information on the following are critical to useful performance system and case management system:

a. *Rate of Appeal.* - There is no indication in the accomplishment report on how many cases out of the total resolved by the prosecutors are actually appealed either to the RSP or the DOJ Secretary. This statistics are important because their absence actually understates the workload of the entire system. It can also be an indicator of how satisfied the clients of the system are. If the rate of appeal is more than 50%, it may mean that many of the people who file criminal complaints do not agree with the decisions of the prosecutors, and it might be useful to inquire into the reasons why there is such a high rate of appeal. One reason could be the poor quality of the decisions of the prosecutors, which has to be validated in a deeper study.

b. *Rate of Reversal.* – This is another indicator that does not appear in the statistical charts. The rate of reversal means the number of cases that are reversed or modified on appeal, over the number of cases appealed to the RSP or the DOJ Secretary. A high rate of reversal would imply that many of the decisions made by the prosecutors do not have a firm factual or legal basis.

In the report of the Assistant Chief State Prosecutor that is principally in charge of monitoring the petitions for review, the statistic on how many decisions of the

Secretary actually reverse the decision of the prosecutors is indicated. However, the index of rate of reversal is not used as a quality indicator for performance.

c. *Conviction Rate.* – This indicator is derived from the number of cases where the judge hands a judgment of conviction, over the number of information filed. It will indicate the quality of the cases being filed in court, and serve as an index of the performance of the prosecutor and the courts in bringing the criminal case to its logical conclusion. A low conviction rate would indicate that too many unmeritorious cases might be clogging the court dockets, and there is a need to screen out the worthy cases more thoroughly.

The basic data for the conviction rate are actually already in the accomplishment reports. However, the conviction rate itself is not being generated, nor is it being utilized as a management tool for measuring efficiency, or inquiring into the reasons for such a phenomenon.

d. *Dismissal and Archival Rates.* – The conviction rate has to be reckoned with the dismissal and archival rates. The reasons for the dismissal of a case can be varied – a mistaken identity of the accused, non-appearance of witnesses for the prosecution, resulting in unjustified delay of the case. There are also many reasons for the archiving of cases. However, this information is not systematically being gathered and processed, so that corrective action may be taken.

e. *Aging of cases*. - Although there is a 90% disposition rate of the cases under investigation, it might also be useful to have an aging report of the cases. This has to be linked with the appeal of the cases. Even if the case has been resolved within the sixty-day level at the fiscal's office, but is appealed, then the total time that the case is disposed by the RSP and the DOJ Secretary should be tracked down, to be able to ensure performance standards.

f. *Analysis of the accomplishment reports at the regional and city/provincial levels.* - The information that is currently being generated is only aggregated for NCR and the regions, as a whole. There is no breakdown of the various regions, provinces or major cities. This information might be useful, in order to determine where the actual caseload of the various prosecutors are coming from. A detailed caseload analysis might be useful to detect where the caseload is light, and therefore some prosecutors might be detailed to other areas where the caseload is heavy.

A more detailed breakdown of the statistical data would also be used to rate the various regions, in terms of their disposition rate, conviction rate, and so on. This could be the basis for giving awards, incentives and other perks for good performance (e.g., travel abroad for study). This exercise also promotes a culture of transparency among various offices and rewards based on good performance rather than just recommendations by other persons and their academic records.

3.3.7 The analysis of the caseload performance of the NPS was based on the data contained in its annual Consolidated Accomplishment Report, which are compiled by the DOJ NCIS team. However, we must note that the ending and beginning balances sometimes do not tally. In order to utilize the annual data and make an appropriate

analysis, we computed accordingly the beginning year pending and end-year balances each of the periods covered, using the 1997 end-year balance as base information. The agency performance therefore have to view based on this data reconfigurations.

CASELOAD, DISPOSITION RATES AND CLEARANCE RATES

3.3.8 From 1997 to 2002 the total caseload of NPS nationwide was 5,535, 695. Annual caseload remained stable over the indicated years, devoid of any major fluctuations. Of this number it disposed 5,278,266 representing about 95.35% of total caseload. Annual clearance rates on the other hand indicate an even better performance picture averaging at 105% annually. But despite the high rates of disposition and clearance, a huge number of cases remained pending at the end of each year which averaged at 505,315 (Table 4-1 and 4-2). This can be explained by a high pending level at the base year of 1997. During the rest of the study period, the NPS managed to dispose of as many cases as it received during the year. It was noted that a massive clearance effort was done in year 2001 where the NPS had a clearance rate of 162% indicating that it tried to get rid of the case backlog that it had at the base year.

TABLE 4-1
CASELOAD OF THE NPS, 1997-2002
SUMMARY OF ALL CASES

YEAR	BEGINNING YEAR PENDING	RECEIVED	TOTAL PENDING DURING YEAR	RESOLVED / DISPOSED	END YEAR BALANCE
1997	510,358	814,772	1,325,130	736,722	588,408
1998	588,408	876,158	1,464,566	812,928	651,638
1999	651,638	895,143	1,546,781	872,396	674,385
2000	674,385	852,662	1,527,047	848,656	678,391
2001	678,391	798,438	1,476,829	1,295,194	181,635
2002	181,635	788,164	969,799	712,370	257,429
TOTAL		**5,025,337**		**5,278,266**	

Source: DOJ

TABLE 4-2
ANNUAL CLEARANCE RATES
SUMMARY

PARTICULARS	RECEIVED	ANNUAL GROWTH RATE (%)	DISPOSED	ANNUAL GROWTH RATE (%)	CLEARANCE RATE (%)
1997	814,772		736,722		90.42%
1998	876,158	7.53%	812,928	10.34%	92.78%
1999	895,143	2.17%	872,396	7.32%	97.46%
2000	852,662	-4.75%	848,656	-2.72%	99.53%
2001	798,438	-6.36%	1,295,194	52.62%	162.22%
2002	788,164	-1.29%	712,370	-45.00%	90.38%
AVERAGE	**837,556.17**	**-0.54%**	**879,711.00**	**4.51%**	**105.47%**

Source: DOJ

3.3.9 Of the total 6-year caseload, 517,864 or 45.48% are preliminary investigation cases. Clearance rates averaged at almost 100% of all cases received during the year. Looking at the caseload table indicates a significantly lower number of cases remaining at year-end. With a low base year balance and with almost 100% annual clearance rate the year end balances were almost equal to the base year figure indicating that that the NPS was able to handle incoming workload but the backlog remains unabated.

TABLE 4-3
ANNUAL CLEARANCE RATES
PRELIMINARY INVESTIGATION

PARTICULARS	RECEIVED	ANNUAL GROWTH RATE (%)	DISPOSED	ANNUAL GROWTH RATE (%)	CLEARANCE RATE (%)
1997	406,339		403,265		99.24%
1998	417,751	2.81%	418,724	3.83%	100.23%
1999	437,726	4.78%	436,726	4.30%	99.77%
2000	411,887	-5.90%	410,397	-6.03%	99.64%
2001	450,995	9.49%	450,727	9.83%	99.94%
2002	357,417	-20.75%	358,381	-20.49%	100.27%
AVERAGE	**413,685.83**	**-1.91%**	**413,036.67**	**-1.71%**	**99.85%**

Source: DOJ

TABLE 4-4
CASELOAD OF THE NPS, 1997-2002
PRELIMINARY INVESTIGATION

YEAR	CASE INFLOW AND OUTFLOW				
	BEGINNING YEAR PENDING	RECEIVED	TOTAL PENDING DURING YEAR	RESOLVED / DISPOSED	END YEAR BALANCE
1997	35,749	406,339	442,088	403,265	38,823
1998	38,823	417,751	456,574	418,724	37,850
1999	37,850	437,726	475,576	436,726	38,850
2000	38,850	411,887	450,737	410,397	40,340
2001	40,340	450,995	491,335	450,727	40,608
2002	40,608	357,417	398,025	358,381	39,644
TOTAL		**2,482,115**		**2,478,220**	

Source: DOJ

3.3.10 The backlogs are found in cases under trial. Clearance on trial cases registered fluctuating performance by NPS. From 73%, 80% and 92% in 1997, 1998 and 1999 respectively it soared to 100% and 398% in 2000 and 2001 respectively and radically went down to 66% the following year. Unfortunately, no information is available to explain the very high disposition and clearance rates in all cases in year 2001. It is the cases on trial that the backlogs can be found annually. The tables show that there was already a huge backlog in 1997 and this increased consistently throughout the study period albeit in erratic rates. This occurrence can be explained by the fact that the prosecutors do not have much control in the disposition of cases once the cases are brought to court for trial.

TABLE 4-5
ANNUAL CLEARANCE RATES, NPS
TRIAL

PARTICULARS	RECEIVED	ANNUAL GROWTH RATE (%)	DISPOSED	ANNUAL GROWTH RATE (%)	CLEARANCE RATE (%)
1997	279,419		204,409		73.16%
1998	302,043	8.10%	243,072	18.91%	80.48%
1999	273,204	-9.55%	251,159	3.33%	91.93%
2000	251,751	-7.85%	253,665	1.00%	100.76%
2001	168,304	-33.15%	670,575	164.35%	398.43%
2002	226,758	34.73%	150,015	-77.63%	66.16%
AVERAGE	**250,246.50**	**-1.54%**	**295,482.50**	**21.99%**	**135.15%**

Source: DOJ

TABLE 4-6
CASELOAD OF THE NPS
1997-2002, TRIAL

YEAR	CASE INFLOW AND OUTFLOW				
	BEGINNING YEAR PENDING	RECEIVED	TOTAL PENDING DURING YEAR	RESOLVED / DISPOSED	END YEAR BALANCE
1997	474,388	279,419	753,807	204,409	549,398
1998	549,398	302,043	851,441	243,072	608,369
1999	608,369	273,204	881,573	251,159	630,414
2000	630,414	251,751	882,165	253,665	628,500
2001	628,500	168,304	796,804	670,575	126,229
2002	126,229	226,758	352,987	150,015	202,972
TOTAL		**1,501,479**		**1,772,895**	

Source: DOJ

3.3.11 Legal opinions and legal assistance comprise a smaller proportion of NPS's caseload. Clearance rates were consistent with the overall pattern, registering at an annual average of 98.95% and resulting in a very small and manageable annual build-up of caseload (Table 4-7 and 4-8)

TABLE 4-7
ANNUAL CLEARANCE RATES
LEGAL OPINIONS AND LEGAL ASSISTANCE

PARTICULARS	RECEIVED	ANNUAL GROWTH RATE (%)	DISPOSED	ANNUAL GROWTH RATE (%)	CLEARANCE RATE (%)
1997	129,014		129,048		100.03%
1998	156,364	21.20%	151,132	17.11%	96.65%
1999	184,213	17.81%	184,151	21.85%	99.97%
2000	184,668	0.25%	184,594	0.24%	99.96%
2001	179,139	-2.99%	173,892	-5.80%	97.07%
2002	203,989	13.87%	204,000	17.31%	100.01%
AVERAGE	**172,897.83**	**10.03%**	**171,136.17**	**10.14%**	**98.95%**

Source: DOJ

TABLE 4-8
CASELOAD OF THE NPS, 1997-2002
LEGAL OPINIONS AND LEGAL ASSISTANCE

YEAR	CASE INFLOW AND OUTFLOW				
	BEGINNING YEAR PENDING	RECEIVED	TOTAL PENDING DURING YEAR	RESOLVED / DISPOSED	END YEAR BALANCE
1997	221	129,014	129,235	129,048	187
1998	187	156,364	156,551	151,132	5,419
1999	5,419	184,213	189,632	184,151	5,481
2000	5,481	184,668	190,149	184,594	5,555
2001	5,555	179,139	184,694	173,892	10,802
2002	10,802	203,989	214,791	204,000	10,791
TOTAL		**1,037,387**		**1,026,817**	

Source: DOJ

PERFORMANCE BY TYPE OF DISPOSITIVE ACTION

3.3.12 An examination of the agency's Annual Accomplishment Report for 2002 would reveal that the national disposition rate for investigation of cases[15] was 86.32%.[16] The tables above indicate higher disposition rates. It would be ideal to know how many of those cases submitted for preliminary investigation and resolved by prosecutors are being appealed. There is no accurate and global picture of how many resolutions of the prosecutors are being appealed, since appeals can be brought either to the RSP or the DOJ Secretary, depending on the imposable penalty, or where the case was decided.

3.3.13 In the report of the Review and Appeals Division, they received a total of 2,749 cases on appeal for the year 2002. If one compares that figure with the total cases decided under regular preliminary investigation and summary procedure in the NCR in 2002, (which is 133,432), then one would get an appeal rate of 2.06%, which is quite small compared to the total number of cases decided. However, this figure is just illustrative, since we have no information on the appeals going from the prosecutors in the provinces, to the RSP.

3.3.14 In contrast, the disposition rate for prosecution of cases[17] which are already pending with the courts, was only 16.90%.[18] The slow and long process of prosecuting a case in court accounts for the low turnout in the disposition rate for prosecution of cases. The court system and the length of time it takes from arraignment of the accused to the promulgation of decision are factors beyond the control of the prosecutors.

[15] Includes cases for preliminary investigation and cases for reinvestigation.
[16] 358,381 cases disposed out of 415,198 total of cases for investigation and reinvestigation.
[17] Includes cases for trial in RTC, cases for trial in MTC/MCTC/MTCC, and cases for trial in RTC/MTC/MCTC referred by other offices.
[18] 150,015 cases disposed out of 887,744 cases for trial.

3.3.15 Setting aside the issue of court processes, a prosecutor's performance with respect to prosecution is best measured by the conviction rate. The conventional wisdom of most prosecutors is when in doubt, file the case, and let the judge decide. The conviction rate tells us how capable the prosecutors are at filtering the kind of cases they allow to proceed to trial.

3.3.16 The statistics above indicate that the rates of dismissal and archiving of cases are higher than the conviction rate. Although not supported by empirical data, one reason that is attributed to the high rate of dismissal is settlement of cases between the parties involved. If this were true, the use of mediation as an alternative mode of dispute resolution at the prosecutor level should be explored. With respect to the high rate of archival, one probable reason is the lack of witnesses to proceed with the case. If this were the case, then the prosecutors and the police could very well use this data to look deeper into the solutions for such a phenomena

TABLE 4-9
DISPOSITION OF CASES AT THE RTC AND MTC/MCTC/MTCC FOR Y2002

Conviction rate[19]	18.06%
Acquittal rate[20]	4.53%
Percentage dismissed[21]	33.69%
Percentage archived[22]	33.80%
Transferred/Referred/Others[23]	9.92%

Source: NPS

3.3.17 What is quite clear at the moment is that there is no systematic study on why the archival and dismissal rates are that high, and why the conviction rate is quite low. Consensus also has to be reached whether the conviction rate is a good indicator for the efficacy of the prosecution service. This index is being proposed in order to promote discussion on the proper performance indicators that could be used, aside from the disposal rate.

3.3.18 The following table was generated in order to discern whether there is a substantial difference on the various indices in the regions and the NCR over time.

[19] 25,765 convictions out of 142,693 cases disposed.
[20] 6,467 acquittals out of 142,693 cases disposed.
[21] 48,070 cases dismissed out of 142,693 cases disposed.
[22] 48,229 cases archived out of 142,693 cases disposed.
[23] 14,162 cases transferred/referred/others out of 142,693 cases disposed.

TABLE 4-10 series
COMPARATIVE DATA ON CONVICTION, ACQUITTAL, ARCHIVAL AND DISMISSAL RATES IN THE NCR AND THE REGIONS FOR 1998, 1999, 2000 AND 2002

4-10.1 Conviction Rate

	1998	1999	2000	2002
NCR	13.84	9.82	25.25	15.77
Regions	17.10	19.77	19.96	18.62

4-10.2 Acquittal Rate

	1998	1999	2000	2002
NCR	1.33	2.23	1.64	2.73
Regions	8.63	4.18	2.97	4.98

4-10.3 Dismissal Rate

	1998	1999	2000	2002
NCR	20.29	32.50	21.61	24.05
Regions	38.07	38.60	31.85	36.08

4-10.4 Archival Rate

	1998	1999	2000	2002
NCR	63.88	54.17	49.69	40.96
Regions	20.20	30.28	35.14	32.02

4-10.5 Transfer/Referral Rate

	1998	1999	2000	2002
NCR	0.66	1.28	1.81	16.49
Regions	16.00	7.17	10.08	8.29

3.3.19 The tables above are quite revealing. As for the conviction rate,. The regions seem to have a pretty consistent conviction rate, between 17% to 20%. However, the performance of the NCR is quite erratic, dipping to a low of 9.92% in 1999 to a high of 25% in 2000. There seems to be a higher rate of dismissal in the regions, consistently in the 30% bracket, as compared to the NCR which is only at 20%. The reverse is true in the archival rate. For the regions, the archival rate is 20%-35%, while in the

NCR it is significantly higher (40%-64%). Again, we are not sure of the reasons for this phenomenon, and a deeper policy study on why these rates occur might be important in order to ensure the quality and efficacy of the criminal justice system in the prosecution pillar.

3.3.20 Another way of analyzing the data would be to line up the quality indicators over the regional spread. The following table does just that. It would appear that Region 10 would have the highest conviction rate. The other regions might want to learn from the RSP what techniques he or she does in order to secure such a high conviction rate. On the other hand, there is something wrong in Region 11, and the leadership of the NPS would do well to inquire why there is such a poor performance. This is the usefulness of the data if disaggregated to the regional offices.

TABLE 4-11
RATE OF CONVICTION, BY REGION, FOR THE YEAR 1999

	CONVICTION RATE
Region 1	19.83
Region 2	10.32
Region 3	14.82
Region 4	24.44
Region 5	21.37
Region 6	21.31
Region 7	29.91

	CONVICTION RATE
Region 8	25.32
Region 9	27.53
Region 10	30.65
Region 11	7.72
Region 12	25.85
Region 13	15.56

3.3.21 In some regions, like Region 10, they try to keep track of what cases are most prevalent. Their report on this aspect reads thus: "Based on a listing of 47 kinds of common crimes, 9,519 cases were filed and recorded by the different Prosecution Offices of Region 10 in the year 2002. Of these cases, the five most common crimes recorded throughout the region are Theft, with 1,208 cases (12.69%), Violation of B.P. 22, with 1,040 cases (10.92%), Estafa and Falsification with 996 cases (10.46%), Prohibited Drugs with 785 cases (8.25%) and Illegal Gambling with 673 cases (7.07%). These five crimes alone comprised almost half of the total number of crimes recorded (49.39%)."[24]

PROSECUTOR: CASELOAD RATIO

3.3.22 The average number of cases handled by prosecutors in any given year is quite substantial. The caseload increases dramatically if one considers the prosecutors of the NCR, as compared to those in the provinces. The question that may be asked in terms of human resource development is how capable are the prosecutors in handling such volume of cases?

[24] Performance of the National Prosecution Service Region X 2002, page 3

3.3.23 Breaking down further to NCR with 365 total number of prosecutors as of February 28, 2003 and to Regions with 1,280 prosecutors, we get the prosecutor-caseload ratios indicated in Table 4-12.

3.3.24 Definitely, there is still a lot of room for improving the knowledge, attitude and skills of the prosecutors when it comes to investigating and prosecuting cases. Several prosecutors we interviewed have seriously proposed the training of prosecutors in the art of mediation and conciliation. Even if theoretically, the criminal cases cannot be compromised because it constitutes an offense against society, still and all, the reality is that many of these cases, such as violations of the bouncing check law, are actually settled through the fiscal's office. The continuing legal education of the fiscals, in terms of new developments in criminal law, procedures and jurisprudence, is always a pressing need.

TABLE 4-12
PROSECUTORS-CASELOAD RATIO

CASELOAD	1997	1998	1999	2000	2001	2002
NCR						
- Preliminary Investigation	1:582.23	1:582.23	1:605.26	1:602.87	1:691.42	1:559.56
- Trial	1:688.07	1:688.07	1:635.17	1:635.72	1:0.21	1:536.51
- Opinion / Assistance	1:1.55	1:1.55	1:1.44	1:0.44	1:0	1:0.26
REGIONS						
- Preliminary Investigation	1:179.36	1:187.99	1:199.70	1:179.54	1:188.99	1:164.81
- Trial	1:390.86	1:380.70	1:424.40	1:428.54	1:449.52	1:540.56
- Opinion / Assistance	1:100.52	1:121.93	1:143.51	1:145.19	1:135.89	1:159.30

4 SWOT ANALYSIS

4.1 Strengths

Development of a corps of prosecutors over the years that have been trained in investigation and trial of criminal cases.

4.1.1 Despite all the obstacles that the prosecution faces in term of low salaries, inadequate resources, and limited internal career opportunities, a corps of prosecutors that have been battle-tested over the years has emerged from the service. Verily, the prosecution service is a recruitment ground for the judiciary, and views have been expressed that if and when the judiciary is able to increase its salaries, then a migration of prosecutors to the judicial service might be inevitable.

Support of the local government for the prosecution service in terms of travel, allowances, equipment and the like.[25]

4.1.2 Under the local government code, municipalities, provinces and cities are authorized to provide support in terms of allowances and other benefits. Anecdotal evidence would point to the fact that for major cities in the NCR, a prosecutor would typically get an additional ten to fifteen thousand pesos additional allowance per month from local government units. However, in the regions, the range would only be in the vicinity of three to five thousand pesos, and some poor cities or municipalities would not be able to afford at all.

4.1.3 The support of the LGUs extends not only to allowances, but also other benefits, such as travel expenses for conferences or workshops, supplies, equipment, computers, and other resources that the prosecutor might need in his work.

4.1.4 The support of the local government unit can also be a potential threat, in the sense of the impairment of the neutrality and impartiality of the prosecutor. Allowances and other emoluments from the local governments can be a source of *utang na loob* or a debt of gratitude, and might color the perception of the prosecutors when it comes to cases where the local chief executive has a personal interest.

*Establishment of Halls of Justice all over the country have provided needed physical space for the prosecution servic*e

4.1.5 The Halls of Justice in various parts of the country have been established under the Justice System Infrastructure Program (JUSIP). The program has resulted in a tremendous help in the provision of adequate space for the prosecutors all over the country. However, the JUSIP has not provided space for all prosecutors. A case in point is the City of Manila, which has yet to establish its own Hall of Justice.

[25] For municipalities, the authority of the *sangguniang bayan*, the legislative body of the municipality, to provide allowances and other benefits for prosecutors is taken from Section 447 paragraph (a) (1) (xi) of the Local Government Code of 1991 ("Code" for brevity).[25] It states that:

" When the finances of the municipal government allow, provide for additional allowances and other benefits to judges, prosecutors, public elementary and high school teachers, and other national government officials stationed in or assigned to the municipality." (Underscoring supplied.)

For cities, Section 458 paragraph (a) (1) (xi) of the Code authorizes the *sangguniang panlungsod*, the legislative body of the city, to provide allowances to prosecutors. The law provides that:

" When the finances of the city government allow, provide for additional allowances and other benefits to judges, prosecutors, public elementary and high school teachers, and other national government officials stationed in or assigned to the city." (Underscoring supplied.)

For provinces, the *sangguniang panlalawigan* is the legislative body of the province. Section 468 paragraph (a) (1) (xi) of the Code allows it to provide allowances to prosecutors:

" When the finances of the provincial government allow, provide for additional allowances and other benefits to judges, prosecutors, public elementary and high school teachers, and other national government officials stationed in or assigned to the province." (Underscoring supplied.)

4.2 Weaknesses

Insufficient salaries for the prosecutors

4.2.1 Despite the fact that prosecutors enjoy allowances and other benefits from the local government units, the salaries of the prosecutors in general are quite low, and many of the prosecutors are leaving the service to become private practitioners or judges. A more thorough analysis of the salaries of the prosecutors, and the vacancies in the service is found in the subsequent sections of this report.

Lack of an orientation seminar and core training for the new prosecutors

4.2.2 New prosecutors who have been just admitted to the service do not undergo a thorough orientation seminar or mentoring program. They are left to their own defenses, and have to learn their way by trial and error. They lament the fact that in the judiciary, there is a pre-judicature program, as a requirement for recruitment into the judiciary, and then there is also an orientation program for new judges.

Lack of continuing legal education institutionalized in the system

4.2.3 The NPS does not have a full-blown human resource development program, not like the Philippine Judicial Academy. Occasionally, the National Prosecutors League of the Philippines (NPLP) sponsors various conferences and workshops for the continuing legal education of the prosecutors. However, the NPLP is a private voluntary organization, which generates its own funds. There have been plans to set up a National Prosecutors Academy in the past, but this plan has yet to materialize.

Perceptions of arbitrary promotion in the system, resulting in demoralization

4.2.4 The prosecution service can be considered a career ladder in and by itself, although limited in scope and breadth. It is quite important that the promotion of the prosecutors (1,769 of them as of February 2003), be based on merit and good performance. However, the performance indicators of individual prosecutors have not been agreed upon, and therefore, it would be difficult to rate good performers, from those lackluster ones.

Lack of physical space, equipment and resources for prosecutors

4.2.5 Although the DOJ has the Justice System Infrastructure Program (JUSIP), still some prosecutors lack the necessary office space, together with the necessary equipment (such as computers, internet access) and resources (such as law books, access to legal databases such as LEX LIBRIS, and other information). A more detailed study would be necessary in order to determine the needs of the prosecutors for office space, equipment, and other physical assets.

Lack of clearer performance indicators, at the level of the individual prosecutor and the regional offices

4.2.6 Many prosecutors have echoed the theme that during the time of then Secretary Drilon, the prosecutors have undergone a corporate planning exercise where the indicators are clear, and the regional offices were required to report their quarterly accomplishment. Such a practice has been discontinued, and the national accomplishment reports only reflect disposition rate as the primordial accomplishment index for the prosecution service.

4.2.7 The performance indicators could be broadened to include other indices such as caseload, pace or speed, conviction rates, rates of appeal and others. The performance indicators could also be disaggregated to the regional level, or if possible, to the individual prosecutor level, in order to link performance to the regional or individual levels.

Weak coordination between the database of cases under investigation, under prosecution, or dismissed, in order that proper clearances could be issued.

4.2.8 One of the outputs of the prosecution service is the prosecutor's clearance. The clearance should be able to say whether a particular person has a pending criminal complaint or not. The current system relies just on a manual search of the records, and only within the ambit of the particular issuing office (e.g., the City of Cagayan de Oro). If, for example, the job applicant in Manila has a pending case in Bukidnon, this data will not appear in the prosecutor's clearance.

4.2.9 This particular information, which is unique to the prosecution service, could be stored electronically, and linked with the other databases, for a complete picture of the criminal justice system, and the people who currently have pending cases.

Centralization of functions of the regional offices at the central office of the DOJ resulting in less autonomy and flexibility at the decentralized level.

4.2.10 The Regional State Prosecutors were envisioned under PD 1275 to be decentralized units of the prosecution service. They have the powers to appoint subordinate officials, sign for contracts not exceeding P50,000 per quarter, consolidate reports for the national office, and exercise over-all supervision over the provincial and city prosecutors.

4.2.11 However, the powers of appointment and contract have been recalled, and now the RSP has less administrative flexibility. This policy goes against the over-all governmental thrust of decentralization, and should be studied quite carefully for future action.

4.3 Opportunities

Sympathetic legislators have filed several bills that seek to enhance the salary and retirement pay of the prosecutors

4.3.1 Many legislators have already filed various bills in the past that sought to exempt the prosecutors from the impact of the Salary Standardization Law. These bills have never seen the light of day, because of the fear of the government financial managers that exemption from SSL causes too many distortions in the salary structure, and contributes significantly to the budget deficit.

4.3.2 Two new approaches have been tried recently by different legislators, in order to increase the salaries or retirement pay of prosecutors. One approach, through the Committee on Justice of the House of Representatives, seeks to increase the retirement pay of the prosecutors by aligning it with the retirement benefits of the judiciary. And in order to fund the expected increase of salary benefits, the DOJ is authorized to charge fees for various services, and deposit said fees in a trust fund to be used for the payment of the additional benefits.

4.3.3 The other approach, proposed by Senator Angara, maintains the salary grade of the various prosecutor positions, but increases the gross pay for each salary grade. For example, the SG 28 would now be increased to P48,718 per month basic pay, as opposed to P24,359 monthly pay at the moment. The Angara proposal also authorizes the DOJ to charge fees for services rendered, and to create a trust fund where the fees will be deposited and used. A precis of other legislative initiatives is found in Attachment "C".

The Witness Protection Program has shown modest success and needs to be strengthened and funded adequately.

4.3.4 One of the primary problems in the prosecution of criminal cases is the security and future of the witnesses, especially if the case involves high profile politicians, drug lords, or other influential persons. The Witness Protection, Security and Benefit Program, established on April 24, 1991, through Republic Act 6981, aims at encouraging witnesses of crime to help the prosecution in the speedy administration of justice.

4.3.5 The program still suffers from lack of adequate funds to maintain the health and security of potential witnesses for the prosecution. Potentially, the program can really assist in the prosecution of high profile crimes in the future.

The coordination of the law enforcement and the prosecution service has been improving over time and needs to be reinforced through adequately funded training programs and improved inter-agency operating mechanisms.

4.3.6 "One of the problems confronting the prosecution process is the lack of coordination among prosecutors and law enforcers. This situation inevitably affects the quality of investigation reports and evidence presented before the courts which weigh so much in case decision. It is in this context that the Prosecution Pillar felt the need to conduct a

seminar that will enhance the investigative capability of law enforcers, specially the investigators, and to sustain closer coordination among prosecutors and investigators towards the successful prosecution of criminal cases."[26] Even if this quote was contained in the 2000 National Crime Prevention Plan, the problem still persists, as verified in the various interviews we had with the prosecutors.

4.3.7 This coordinative work would require a lot of training programs for the police and coordination with the prosecution service. Areas of training could include the collection, processing, preservation and presentation of evidence, custodial interrogation, arrest, search and seizure procedures, and others.

4.3.8 Appropriate coordination of trained law enforcers and prosecutors would also require the design and installation of inter-agency operating systems and procedures that will clarify operating relationships, work content specifications, information quality specifications and formats, and other procedural concerns.

Increased interest of the donor community on good governance issues like the justice system.

4.3.9 This particular project presents a fine opportunity for the national prosecution service to avail of the goodwill shown by the United Nations Development Program, and other donors, in funding good governance programs.

4.4 Threats

The passage of the bill on the improvement of the salaries of the judges might trigger a migration of the prosecutors to the judicial service

4.4.1 The judiciary has also been aggressively pursuing its bid for increased salaries and better compensation packages. Their bid to improve their salaries has been championed by various congressmen and senators, impelled by a high vacancy rate, especially in the municipal trial courts in the provinces. If and when the legislation for the improvement of judicial salaries is approved, then the prosecution service might lose many of its best and brightest. This possibility has already been detected by Senator Angara, in his Introductory Note to SB 2520, which increases the salaries of prosecutors using the same salary grades.

The support of the local governments could impair the independence of the prosecution service.

4.4.2 As discussed earlier, the LGU support could be a double-edged sword, and could result in the impairment of prosecutorial integrity and impartiality. There is a need to improve the objectivity and automaticity of the determination and provision of local government support to remove the threat of undue political influence in the prosecution service.

[26] National Crime Prevention Plan 2000 (National Police Commission: 2000), page. 20

5 INTERNAL CAPACITY ASSESSMENT

5.1 Mandate, vision and mission

5.1.1 The mandate and mission of the National Prosecution Service is quite clear. The Department of Justice is mandated, among others, to "administer the criminal justice system in accordance with the accepted processes thereof consisting in the investigation of the crimes, prosecution of offenders and administration of the correctional system." The investigation of crimes and prosecution of offenders is the primary responsibility of the National Prosecution Service.

5.2 Management and administrative structure

5.2.1 The leadership of the National Prosecution Service consists of the Secretary of the DOJ, the Chief State Prosecutor, and the five Assistant Chief State Prosecutors. At the regional level, the Regional State Prosecutor shall be the supervisor of the City and Provincial Prosecutors, and all other prosecutors under them.

5.2.2 Under Department Order No. 111, s. 2002, the five Assistant Chief State Prosecutors handle their own divisions with their respective responsibilities, as follows:

Inquest and Special Concerns Division

- Conduct inquest of all criminal complaints filed directly with the department.
- Attend to the meetings of the National Law Enforcement Coordinating Council, the National Anti-Crime Commission, and the Philippine Center for Transnational Crimes.

Preliminary Investigation and Prosecution Division

- Handle the investigation and prosecution of cases filed with the Office of the Chief State Prosecutor, after undergoing inquest
- Study and prepare appropriate action papers and or pleadings on cases appealed by the Regional State Prosecutors, City Prosecutors or Provincial Prosecutors to the higher courts on certiorari or special civil actions.

Review and Appeals Division

- Evaluate and review appeals/petitions for review of final resolutions of provincial/city prosecutors and state prosecutors on criminal cases investigated and resolved by them. (This division is quite critical in the speeding up of the review and appeals process).

Administrative, Personnel Development and Support Services Division

- Charged with the career development and continuing legal education programs for the NPS
- Attend to the equipment and office supplies requirements for prosecutors and support staff in the department and in the field
- Collate the monthly, quarterly, semestral and annual reports of the various task forces in the department, and the field prosecution offices

Disciplinary, Field Operations and Special Concerns Division

- Investigate and prepare resolutions on administrative cases against prosecutors and support staff
- Coordinate and monitor the activities of regional, provincial, and city prosecutors throughout the country
- Conduct legal research and provide advice on bills where the DOJ is involved or initiated by the DOJ itself.

5.2.3 The organizational structure of the National Prosecution Service is quite simple. However, the only outstanding issue in the organizational structure is the regionalization of the prosecution functions under PD 1275. Under this particular law, the RSP is given the following functions:

- Implement policies, plans, programs, memoranda, orders, circulars and rules and regulations of the DOJ relative to the investigation and prosecution of criminal cases in his region.
- Exercise immediate supervision over all provincial and city fiscals and other prosecuting officers of provinces and cities comprised within his region.

5.2.4 Aside from the over-all responsibilities of the RSP, he is also given certain administrative responsibilities such as the following:

- Appoint such number of subordinate officers and employees as may be necessary; and approve transfers of subordinate personnel within the jurisdiction of the regional office.
- Prepare the budget for the region for approval of the Secretary of Justice and administer the same.
- Negotiate and conclude for services or for furnishing supplies, materials, and equipment for amount not exceeding P50, 000 for each quarter.

5.2.5 However, of late, the administrative responsibilities which is given to the RSP by law, has been recalled, which has resulted in the centralization of such functions. So the RSP has now less flexibility and latitude in terms of administrative support, but he still has the responsibility of ensuring the over-all implementation of the prosecution service in the region.

5.2.6 The NPS leadership is taking the cudgels for the improvement of the salaries of the prosecutors. There are now proposed bills in Congress to that effect. However, certain areas of assistance to the field offices needs improvement, such as the provision of legal education and orientation seminars for prosecutors, the improvement of the monitoring systems such as data on performance, and the proper performance indicators, and the linkage of the evaluation system to their individual outputs in terms of investigation and prosecution. More efforts could also be exerted in assisting the prosecutors procure their physical resources, the lack of which impedes their performance.

5.3 Human resources

STAFFING

5.3.1 The goal of improving quality of the prosecution service relies largely on how the over 2,000 prosecutors are selected, compensated, managed for performance, promoted, and how they are challenged, coached, educated, updated, monitored, and also how they are disciplined and removed. A number of these points are addressed in the succeeding discussions.

5.3.2 As of February 28, 2003, the NPS has a total of 2,115 authorized plantilla positions for prosecutors, 1,769 or 83.64% are filled and 346 or 16.36% are unfilled. The authorized positions for the support staff number 2,336 out of a total 2,502 plantilla positions, for a filled-up rate of 93%. The chart on Number of Employees for the prosecution service is shown in Attachment "D".

5.3.3 Out of the 346 vacant prosecutor items, some 308 or 89% come from the regions. One prosecutor has opined that vacancies occur in the regions more than in NCR because of the difference in allowances provided by the local government. In other words, the total cash compensation of the prosecutors in Metro Manila is significantly larger, because of the LGU support, than the amount given to f the prosecutors in the provinces .

5.3.4 The authority to build up in headcount based on the conditions that indicate increase in volume and activity in the profession is almost guaranteed for NPS through the 1978 Presidential Decree 1513. The law provides “an increase in the number of court salas (whenever there will) be a corresponding increase in the number of assistant provincial city fiscals’ positions at the ratio of 2 fiscals to a sala”.

5.3.5 By the nature of its work, the NPS is 80% classified in the “Legal and Judicial Service Prosecution Sub-Occupational Group concerned with “prosecution services and adjudication of constitutional questions, appealed and other cases including graft and corrupt practices of public officials, employees and accomplices; tax, customs and assessment cases; and administration of judicial system in a court of law.” The other occupational sub-groups in the Legal and Judicial Service are: Attorneys, Government Corporate Counsels, Graft Investigation, Judges and Justices, Judicial Administration, Law Education, Law Reform, Legal Counseling, Public Attorneys, Special Prosecution, and Solicitors and State Counsels.

Deployment by Core Position	Headcount	% to Total
Prosecutors - Office of the Chief State Prosecutor	132	5%
Prosecutors – Region / Field Operations	1591	60%
Prosecutors – NCR	403	15%
State Counsel and Attorneys	52	2%
Total core positions	**2178**	**83%**

5.3.6 A simple profile of today's prosecutors – their rank, age and cumulative service tenure is shown on the table below and provides a basic context when the human resources management systems and programs are reviewed.

	Headcount	Total Cumulative Tenure in NPS (in years) Average and 50th %	Age (in years) Average and 50% %
Prosecutor I	832	Ave 8. 50th - 6	Ave 32. 50th 45
Prosecutor II	894	Ave 16. 50th 16	Ave 40. 50th 53
Prosecutor III	315	Ave 19. 50th 18	Ave 43. 50th 57
Prosecutor IV	76	Ave 23. 50th 22	Ave 52. 50th 56

KEY POSITIONS-HIRING AND SELECTION

5.3.7 A review of the selection and hiring process for prosecutors show that candidate selection in NPS cuts across internal applications or internal automatic next-in-rank candidates, those in other government agencies, and those in private practice. The NPS enjoys the inherent attraction of those in government and the profession to make their career as a Prosecutor. Applications from lawyers from other DOJ agencies e.g. PAO, PPA and also from the Judiciary (e.g. Clerk of Court) present themselves for open positions.

5.3.8 In a current sample of some 200 open positions in NPS for which candidates have been selected as recommendations, the background experiences of the chosen candidates indicate both the source of applications as well as the natural criteria in making a final selection. At the Prosecutor I level, there is an almost even proportion of choices between candidates from the next-in-rank NPS, PAO, private practice and other DOJ or branches in government. However, there will invariably be the bias for those from within in increasing proportion.

TABLE 4-13
COMPARATIVE SELECTION OF APPLICANTS BY AGENCY ORIGIN AND POSITION LEVEL

	National Prosecution Service	Public Attorney's Office	Private Practice	Other DOJ / branches in government
Prosecutor I	22%	33%	28%	17%
Prosecutor II	88%	3%	2%	7%
Prosecutor III	100%			

5.3.9 The actual selection process, burdened by the weight of quantity of open positions and number of candidates, may be characterized as working on information that makes itself available or easily available. The criteria for selection are not precisely articulated. An initial and quick screening is done on the minimum standards of experience. All qualified candidates are then listed indicating their name, position and agency in government or private employer and remarks of any one who may know of or is endorsing the candidate. It can be expected that a next-in-rank candidate may be given the opportunity for the open position because the candidate's performance would be easily determined or attested to. Also, culturally, it is expected for the heads of divisions to give the opportunity to those from within. On the other hand, the strength of a candidate "from the outside" is largely based on review of resume or application form, acknowledgement of an endorsing party if there is one, and the conduct of a personal interview.

5.3.10 Taking the recruitment process on the larger and wider view throughout the DOJ, there is a seeming "natural pattern" of career movement within the DOJ agencies as follows: starting with the NBI as Investigation Agent, then with PAO for field and trial experience, and then with the NPS. The pattern is attributed to a combination of the most ideal career opening opportunity at the highest salary grade level appropriate to the candidate's background at a certain point in time, the probable number of openings, the compensation privileges, and the nature of the job and the progressive manner in which one can acquire a comprehensive and well-rounded stock of knowledge and experience in the justice system. In the end, each agency manages the intake and exit of the key resources, with some recognizing that at some point they are the "takers" and at others the "givers".

5.3.11 Since the qualification requirements of the entry Prosecutor I position (SG 26) is five years of actual legal practice after passing the bar and completion a law degree, an aspiring person in the legal profession would seek employment in other areas. If at PAO, it would be as Associate Public Attorney 1 at SG 18 after passing the bar and completing a law degree, and then progress to Associate Public Attorney 2 (SG 22), then through Public Attorney 1 (SG 24), PAO 2 (SG 25) and to PAO 3 (SG 26). A high transfer rate at the PAO 2 and PAO 3 levels towards the National Prosecution Service has been noted by the Personnel of PAO to account for half of the attrition at this level due to transfers.

5.3.12 This pattern of transfers can be taken as an opportunity for the DOJ to manage its human resources across the various agencies. Rather than executing stand-alone agency-specific efforts of recruitment, selection, placement, career development program, shared services can take place and shared data bank can remove redundant search and selection work.

5.3.13 On another perspective, the heavy caseload situation at NPS could be relieved if headcount is provided at the lower level for the more basic activities now currently performed by the prosecutors. This way, work is leveraged to lower levels. Creating this pool of legal staff to do research and preliminary work can release the time of more seasoned prosecutors to handle the more complex aspects of prosecution work.

5.3.14 At present, hiring is hardly done at the next lower prosecutor position of Associate Prosecution Attorney II at (SG 22) which requires one year of legal practice experience after passing the bar and completion of a law degree. There are only eight incumbents in that level and none at the next lower level of Associate Prosecution Attorney I level at (SG) 18.

5.3.15 Some reform measures that may be undertaken along improving the sourcing and selection could be in:

- Developing the network and promotional program for sourcing candidates outside of the traditional methods which may include aggressive recruitment in law schools, adopting a City/Provincial Prosecutor Sponsor program of establishing a link with targeted law schools, partnering with such institutions as the Integrated Bar of the Philippines, setting a recruitment facility in the DOJ website, etc.

- Developing a more effective and efficient selection method in light of the number of positions that continue to be processed on an annual basis. An integrated multi-tool selection program using competency levels and assessment methods such as personality testing, testing for knowledge of the law, structured selection interview, testimonials, and other feedback tools, all anchored on key dimensions that predict successful and superior performance to improve the quality of selection based on merit, reduce unnecessary political influence, and invariably attract young starting professionals in the service.

- The adoption of widely disseminated articulated appointment criteria improves the transparency and objectivity of the selection and appointment process. Some suggestive criteria that can be included are: past actual case performance, legal skills, integrity, interpersonal and communication skills, interest in public service, intellectual curiosity

- Computerization of the human resource information system to generate essential information about internal potential candidates with ease and without the need for extensive time and effort

- A reform measure to create an integrated human resources planning and movement program may be developed for the mission-critical and key positions in the DOJ agencies. This can cover recruitment selection and placement including reviewing the concept of "next-in-rank" candidates to cover those who may be outside of the particular agency but are within DOJ, performance evaluation, compensation planning, and training and development.

COMPENSATION

5.3.16 Prosecutors I through IV receive basic salary, salary supplements similarly granted to all others in government, and other salary supplements granted with conditionalities.

- The basic salary of Prosecutor I through IV according to prevailing salary schedule (effective July 1, 2001) ranges from ₱22,521 (SG 26 Step 1) to ₱ 34,323 (SG 29 Step 8) per month.

- The salary supplements which are regularly granted include: Personal Relief Allowance (PERA), Uniform/Clothing Allowance, Productivity Allowance, Cash Gift/Year-end Bonus, and 13th month pay.

5.3.17 Salary supplement particularly received by the prosecutors by virtue of their rank and is administered under special conditionalities is the Representation and Transportation Allowance (RATA) granted in graduated values of P 5,350 to P11,400 for those salaries are within SG 24 to SG 30. All together, these salary supplements account for a substantial percentage (about 29% to 34%) of the total cash compensation. The salary supplements for Prosecutors I to IV ranges from P 109,721 to P 194,123 annually. Thus total cash compensation of Prosecutors I to IV ranges from P 379,973 to P606,001 per year. A previous study conducted on salaries of lawyers for the Judiciary indicated that new lawyers in medium sized law firms in Makati receive a starting salary of about P40,000 as of 1999. The salary rates of Prosecutors as in the salary rates of all legal professionals in the government compare unfavorably with those of the private sector. This has been a long-time policy battle which has remained unresolved. The quest of equality of pay regardless of demand and supply and complexity of work which dominates the interpretation of the spirit of the salary standardization provision in the Constitution finds itself in a stringent one-size-fits all salary structure in the Salary Standardization Law (SSL).

TABLE 4-14
BASIC SALARIES OF PROSECUTORS

RANK	POSITION TITLE	SALARY GRADE	MONTHLY SALARY
Prosecutor IV	City Prosecutor	30	PhP 28,875
	Regional State Prosecutor	29	27,964
	Provincial Prosecutor	29	25,333
	City Prosecutor	29	25,333
Prosecutor III	Senior State Prosecutor	28	24,359
	Assistant Regional State Prosecutor		
	Provincial Prosecutor		
	City Prosecutor		
	First Assistant Prosecutor		
Prosecutor II	State Prosecutor	27	23,422
	First Assistant Prosecutor		
	Second Assistant Prosecutor		
	Third Assistant Prosecutor		
Prosecutor I	Third Assistant Prosecutor	26	22,521
	Fourth Assistant Prosecutor		
	Assistant Provincial Prosecutor		
	Assistant Prosecutor		

5.3.18 In addition, city and provincial prosecutors may be given cash allowances by local government units. The SSL which governs the salary system and basic salary levels of all in government, prescribes the uniform determination of the types and levels of allowances and virtually discontinued the practice then of local government units supplementing the salaries of those in the national government with varying types and levels of allowances. The exemption to this policy of prohibiting additional compensation is provided in a 1979 Letter of Instructions 804 which covers only judges and fiscals.

5.3.19 Indeed, a good number but not all local government units give cash allowances to fiscals (prosecutors) in their jurisdiction principally to supplement their income at amounts that the local government units are able to generate from their resources on a continuing basis from year to year and regardless of the particular individual. There are different practices with some granting such allowances and some not. Where they are granted, they provide an additional 3% to 32% of the total cash compensation already received. A limited survey among some key cities in Metro Manila who provide such supplemental allowance show the diversity of the practice:

- The City of Mandaluyong provides a fixed absolute rate of P 10,000 for all prosecutors regardless of rank and tenure.

- The city of Manila provides a standard 25% of the monthly basic salary for all prosecutors regardless of rank. The actual values range from P 5,630 for a Prosecutor I level and P 7,000 for a City Prosecutor level.

- Quezon City provides a graduated allowance ranging from P 3,000 for Associate Prosecutor level to P 5,000 for City Prosecutor level (Other levels are P 3,500 for Prosecutor II, P 4,000 for Prosecutor III, P 4,500 for Prosecutor IV/Assistant City Prosecutor)

- The city of Pasig provides a fixed absolute rate of P 3,000

- The city of Rizal provides a fixed absolute rate for only some (six) at P 1,000.

5.3.20 It will be noted that the same practice of granting local government allowance is provided also to judges in the lower courts notably RTCs, MeTCs and MTCCs.

5.3.21 A near-cash facility provided to all DOJ employees including those in NPS is a shuttle service that provides daily commuters north (Fairview / Cubao) and south (Cavite / Alabang) of the Padre Faura – Taft office a subsidized ride to the office. Those who use the facility spend a nominal amount depending on the actual distance traveled but starting from P 4 to about P 10 and save a daily amount anywhere from P 20 to P 50 transportation fare. This translates to P 400 – P 1,000 monthly.

5.3.22 Some reform measures that may be undertaken along improving the compensation and benefits could be in:

- Reviewing appropriate improvements in the compensation levels of the Prosecutors including benefits on healthcare and retirement

- On the supplemental local government allowances, in and of themselves these are welcome supplements to the basic salary and standard allowances received by the prosecutors and add to improving the effort to retain good performing prosecutors. However, because of the disparity in practice, there are challenges in attracting good prosecutors to other locations as many would gravitate towards those local governments that grant higher allowances. In addition, political differences between the prosecutor and personalities in the local government unit can begin or become pronounced in the course of work and may influence or be influenced by the allowance particularly if the allowances are significant. A more objective formula and a set of automatic procedures for the determination and release of local government support will be needed to insulate the NPS from undue political influence.

PROFESSIONAL TRAINING AND DEVELOPMENT

5.3.23 There are very limited training and development opportunities conducted particularly for the prosecutors. The National Prosecution Service is not supported by a full-time organized unit focused on ensuring that the 2,000 active practicing prosecutors across levels have a continuing development program particularly as they grow into their career.

5.3.24 At a minimum, the Mandatory Continuing Legal Education (MCLE) system is able to drive a certain discipline for continuous training and provides the training opportunities for prosecutors. There is at least one major MCLE – accredited training conducted in joint participation of such organizations as the Integrated Bar of the Philippines and the UP Law Center to which the Prosecutors are provided an opportunity to attend on official time.

5.3.25 The MCLE is a program for practicing lawyers with a requirement to complete every three years at least 36 hours of continuing legal education covering updates on substantive and procedural laws and jurisprudence, legal ethics, trial and pre-trial skills, alternative dispute resolution, legal writing and oral advocacy, and international law and international conventions. The range of topics is indicative of the basic professional development a practicing lawyer should be taking up.

5.3.26 A reform measure in this area is for a comprehensive career-oriented development program with a grounded orientation program followed through with functional / specialized courses and personality/professional development courses. Leadership programs towards the advanced individuals may be so designed. A sample of this curriculum program may look like the table presented below.

HUMAN RESOURCE DEVELOPMENT ISSUES

5.3.27 An assessment of the human resources of NPS would have to reckon with the caseload of the prosecutors all over the country. Based on the NPS 2002 Accomplishment Report, the average caseload of each of the 1,769[27] prosecutors is 851.86 cases, broken down into preliminary investigation cases, cases for trial, and legal opinion and assistance rendered.

5.3.28 Analysis of the caseload performance of the NPS is based on its annual Consolidated Accomplishment Report which is compiled by the NCIS team of the DOJ. It must be noted that erroneous entries in the reports have been observed, particularly for the years 1998. The average number of cases handled by prosecutors in any given year is quite substantial. The caseload increases dramatically if one considers the prosecutors of the NCR region, as compared to those in the provinces. The question that may be asked in terms of human resource development is how capable are the prosecutors in handling such volume of cases?

[27] Based on February 28, 2003 data, shown in Attachment D.

5.3.29 Definitely, there is still a lot of room for improving the knowledge, attitude and skills of the prosecutors when it comes to investigating and prosecuting cases. Several prosecutors we have interviewed seriously propose the training of prosecutors in the art of mediation and conciliation. Even if theoretically, the criminal cases cannot be compromised because it constitutes an offense against society, still and all, the reality is that many of these cases, such as violations of the bouncing check law, are actually settled through the fiscal's office. The continuing legal education of the fiscals, in terms of new developments in criminal law, procedures and jurisprudence, is always a pressing need.

5.3.30 Another area worth exploring is training in the context of criminal cases. Context training would mean more exposure and knowledge of the circumstances surrounding criminal activity. For example, what is the pattern of drug trading in the ASEAN region? Why are juvenile delinquents being forced to thievery or white slavery? What are the prevalent bank practices related to bouncing checks?

5.3.31 However, the actual needs and requirements of the prosecutors nationwide could only be detected through a comprehensive training needs assessment, which could be undertaken by the National Prosecutor's Academy, or the ACSP in charge of training and continuing legal education.

5.3.32 The other way of looking at human resource development is to examine the ratio of prosecutors to judges. In the legislative proposal of Senator Barbers [SB 1850], he proposes a ratio of two prosecutors for each RTC judge, and a ratio of 1 prosecutor for each MTC judge. This proposal has to be studied carefully, in light of the caseload of the prosecution service.

5.4 Financial management and resources

5.4.1 The NPS receives a substantial share of the DOJ budget (roughly 20-25%), but more than 95% of such budget goes to personnel services, and very little is spent for maintenance, operating and other expenses. Very often, one would hear complaints about the lack of computers, access to information through the Internet, legal materials and updates, basic supplies and materials, and the like.

TABLE 4-15
COMPARATIVE NPS BUDGET

Year	DOJ Budget	NPS Budget	% to DOJ Budget	% MOOE to NPS Budget
1997	3,187,120,000	651,638,000	20.44	2.29
1998	4,261,630,000	917,929,000	21.54	1.90
1999	3,969,508,000	949,485,000	23.92	3.40
2000	4,063,047,000	1,011,588,000	24.90	3.09
2001	4,063,047,000	1,011,588,000	24.90	3.09
2002	4,781,313,000	1,031,913,000	21.58	3.03

5.4.2 As indicated above more than 90% of the NPS budget goes to personnel services. There is deliberate effort on the part of the DOJ OSEC to prioritize available resources to the NPS. Table 4-16 indicates an increasing share of the NPS MOOE to total DOJ OSEC budget.

Table 4-16
Ratio of NPS Obligations against Total DOJ-OSEC Actual Obligations, 1997-2001
(in thousand pesos)

	1997	1998	1999	2000	2001
PS	71.19%	82.97%	83.91%	81.81%	80.97%
MOOE	9.30%	8.17%	14.77%	14.89%	18.72%
CO	27.96%	0.00%	0.00%	0.00%	0.00%
TOTAL BUDGET	56.46%	66.75%	62.82%	68.39%	71.26%

5.4.3 But no matter how much prioritization is given to the NPS, budgetary allocations particularly for MOOE and capital outlay have been severely low. Each prosecutor has an average annual MOOE appropriation of about P14,641 in 2001 which provided the highest MOOE aggregate level. This translates to P1,220 a month per prosecutor. One cannot imagine how an office in the region operates with this amount.

5.4.4 Also there has been consistent zero appropriations for capital outlay from 1999 to 2001. This means that there have been no provisions at all for such basic equipment as information technology, fax machines, copying machines and other basic office equipment. There has been no provision as well for replacement of obsolete equipment considering the lapse of four years without any equipment outlay.

Table 4-17
Actual Obligations per Expense Class, NPS, 1997-2001
(in thousand pesos)

PARTICULARS	1997		1998		1999		2000		2001	
	Amount (in 000's)	% of Total	Amount (in 000's)	% of Total	Amount (in 000's)	% of Total	Amount (in 000's)	% of Total	Amount (in 000's)	% of Total
PS	630,268	89%	892,925	98%	866,770	97%	966,185	97%	926,395	97%
MOOE	12,414	2%	17,017	2%	26,002	3%	28,704	3%	30,966	3%
CO	66,280	9%	-	0%	-	0%	-	0%	-	0%
TOTAL	708,962	100%	909,942	100%	892,772	100%	994,889	100%	957,361	100%

(Source: Department of Justice)

Table 4-18
Actual Obligations per Expense Class, DOJ, 1997-2001
(in thousand pesos)

PARTICULARS	1997		1998		1999		2000		2001	
	Amount (in 000's)	% of Total	Amount (in 000's)	% of Total	Amount (in 000's)	% of Total	Amount (in 000's)	% of Total	Amount (in 000's)	% of Total
PS	885,325	70%	1,076,240	79%	1,032,994	73%	1,180,992	81%	1,144,061	85%
MOOE	133,424	11%	208,285	15%	176,083	12%	192,771	13%	165,457	12%
CO	237,050	19%	78,684	6%	212,107	15%	80,940	6%	33,942	3%
TOTAL	1,255,799	100%	1,363,209	100%	1,421,184	100%	1,454,703	100%	1,343,460	100%

(Source: Department of Justice)

5.4.5 Considering that there is practically nothing to budget for in the regional offices it is not surprising that financial management is centralized. Centralization of financial management functions is indeed a more economical alternative to providing a full financial management team, which will not have resources to manage in the first place.

5.4.6 Improving the budgetary resources of the NPS will reckon with the overall expenditure management issues of the national government, and the governance philosophy which will guide budget decision makers on the focus and priorities of public spending

5.4.7 Another aspect of the financial resources of the NPS would be the pricing policy for the charging of fees. In a cash strapped government, it is quite important that all government agencies somehow are able to raise revenues through the charging of fees. One potent source of fees would be the filing fees for certain types of criminal cases, such as violations of the bouncing check law. However, the authority to charge fees would have to be secured first through legislation. Moreover, the fee structure would have to be studied carefully, so as not to tax heavily the users of the system, and also discriminate against litigants who are poor and have not much means to seek redress of their legitimate complaints.

5.5 Physical Assets

5.5.1 Most of the offices of the prosecutors are housed in the Halls of Justice which were constructed under the JUSIP of the DOJ. According to the Action Plan for Judicial Reform, "(a)s of 30 June 2000, 208 buildings have been constructed under the JUSIP, while 63 existing courthouses have been renovated. The 271 Hall of Justice buildings constructed and the court structures improved have provided courtrooms, judges chambers, and staff offices for 448 salas or 51% of the total organized RTCs and 251 salas, or 22% of the total 1,124 salas of the Metropolitan Trial Courts, Municipal Trial Courts in Cities, Municipal Trial Courts, and Municipal Circuit Trial Courts."[28] Since the Halls of Justice are also the structures that house the offices of the Prosecutors, one would conclude that much improvement for the prosecution service is necessary.

[28] Action Plan for Judicial Reform, page 54

5.5.2 A need that is peculiar to the prosecution service, and which needs to be built into the design of Halls of Justice, or other offices for the prosecution is a storage room for evidence. While the cases are still pending, the evidence for the prosecution, like the guns used for murder, or the drugs found in the custody of the accused, have to be kept in a safe place, where there can be no tampering or substitution. Otherwise, the quality of the evidence would be sacrificed and the prosecution of the case might suffer.

5.5.3 As already mentioned, the prosecutors have also complained about the lack of computers, legal materials, legal databases, Internet access, and the like. In the regional prosecutor's office of Cagayan de Oro, where we made a personal visit, the RSP informed us that some of his staff bring their personal computers to the office, in order that they may be able to facilitate their work.

5.6 Information and Communications Technology

5.6.1 One of the tasks of prosecutor's offices nationwide is the issuance of the prosecutors' clearance. The clearance would indicate whether a particular person has a pending criminal investigation or not. Most often, this clearance is required for local job applicants. At the moment, the system for the issuance of clearances is extremely tedious and inaccurate. The search is done manually, and could only be done for one particular prosecutor's office. There is no electronic link among the various prosecutors' offices in the region, much less the region to NCR. So conceivably, a person residing in Legaspi City [Region V] could have committed an offense in Manila, or even in Catanduanes, and the system would be hard put in detecting that occurrence. The other difficulty of the manual system is updating the files, especially if the case is already dismissed. It might happen that the case is still considered active in the records section, while the case has already been dismissed by the city or provincial prosecutor.

5.6.2 The linkage of this database has to be considered in the over-all clearance system being maintained by the NBI. When the NBI issues a certificate that there is no "derogatory record on file", ideally, it should already cover the pending criminal complaints being investigated at the level of the prosecutor's offices. At the moment, the clearance system is not that sophisticated to cover such cases.

5.6.3 A study on the most common crimes in the region would indicate what types of legal education program would be most relevant to the prosecutors in the area. Also, the types of crimes would dictate which agency of government the prosecution service would need to coordinate the most. For example, a high degree of juvenile crimes would necessitate a close coordination with the DSWD.

5.7 Linkages with the other pillars of the Criminal Justice System

5.7.1 The prosecution service is linked very closely with the law enforcement pillar (the police and the NBI), on which it relies heavily for the quality of the evidence for purposes of prosecution. Also, it is linked closely with the judicial pillar, which handles all the cases for prosecution, until a decision is reached.

5.7.2 A lot of improvements could be initiated by the NPS with respect to the case build-up of the law enforcement agencies. The continuous training of policemen, specially the investigators on the rules of evidence, arrest and searches, and preservation of the evidence, is still quite necessary.

5.7.3 With respect to the judicial pillar, many reforms proposed before have already been incorporated in the Revised Rules of Criminal Procedure that took effect only last December 1, 2000. A particular area for further training would be how to maximize the use of pre-trial in criminal cases, which could be undertaken collectively by the judges and the prosecutors.

6 IMPLICATIONS FOR REFORMS

6.1.1 The foregoing assessment indicates the need to strengthen the overall capacity of the NPS while focusing reforms on specific capacity development areas. In particular the assessment has the following reform implications:

Need to improve overall capacity to plan, manage and improve as well as evaluate performance for continuing improvement.

6.1.2 This is a complex issue that can be addressed by an integrated set of reforms which should include:

a) Building human competencies (prosecutors) in specific areas through training and continuing learning schemes.

The prosecutors could profit very well from a comprehensive training needs assessment, that could be done by external consultants, or the staff of the Philippine Judicial Academy. The needs assessment would indicate what types of training programs need to be set up for the service. Some of the needs that have been expressed in the course of our study are the following:

- Orientation Seminar for Newly Hired Prosecutors
- Continuing Legal Education on Criminal Law and Criminal Procedure
- Context Training on the Circumstances surrounding Crime
- Mediation Training for Prosecutors

The need for Continuing Improvement of the Capability of Law Enforcement Agencies on Case Build-up Techniques has been recognized already, and efforts are already being taken to address this need, through orientation seminars for police officers. Perhaps, what is needed at this stage is to conduct an evaluation program for the past efforts, and then embark on a renewed and sustained program to improve the capability of the police in this area, with the NPS as the lead agency.

A more long-term study could be undertaken for the formation of the National Prosecutor's Service Academy. A full-blown feasibility study should be undertaken, with proposed curriculum, budget, and revenue sourcing. The establishment of the NPSA might be a project worth funding by the donor community, and the details of such an undertaking needs to be worked out.

b) Improving the working conditions of the prosecutors, through improved office infrastructure and facilities and improved remuneration

The productivity of the prosecutors depends largely on their working environment and logistical support. A more detailed study should be done on the needs of the prosecutors for office space, computer systems, IT connectivity, books and legal databases, and other supplies and materials.

Part of the strategy of providing a conducive working environment for the prosecutors is the empowerment of the RSP to provide more logistical and manpower support to the prosecutors. The regionalization thrust of PD 1275 needs to be revisited, and studied, to see how an enhanced RSP Office could serve well the needs of the prosecution field offices, and which should be done within the context of improved resources and resource mobilization capacities.

Also remuneration for prosecutors should be studied in a more holistic way and not just focus on basic salaries and financial compensation. Remuneration packages should be formulated based on competitiveness and a good measure of resources that can be generated to support such package on a sustainable basis.

c) Adoption of an integrated information system to support operations and oversight management.

Such integrated information system enables prosecutors to manage caseload, track the status and requirements of cases, provides useful information inputs to caseload management policies, resource allocation, staffing, performance evaluation and career development and strategic planning, enables the prosecutors to provide quality information on its issuance of clearance functions.

Such information system for prosecution services will eventually be part of the larger national crime information system.

d) Establishment and installation of an NPS performance management system

The NPS performance management system will provide a more comprehensive and sophisticated set of performance indicators that will allow analysis of the various dimensions of work that indicate performance at individual, organization unit and institutional levels; a technology and transaction based data generation methodology to ensure accuracy, comprehensiveness and timeliness; and a set of policies and criteria as well as standards and benchmarks for performance evaluation.

For example, at the moment, the disposition rate seems to be the only criteria for performance of the prosecution system. If this is the only criterion, then it might skew the behavior of prosecutors to file and file cases, even if probable cause is not established. This behavior might unnecessarily congest the dockets of the courts. The corrective index in this case could be the conviction rate. Another index could be the aging of cases.

Because of the high dismissal and archival rates, it is proposed that a policy study be conducted on this phenomenon. This study would entail a sampling of the various cases dismissed or archived, and an evaluation of their root causes, and possible solutions. It is submitted that this policy study would be very useful in improving the efficacy of the prosecution service, and would also be very instructive for the judicial service and will eventually provide input into the indicators and performance evaluation methodologies to be formulated.

The DOJ must explore creative alternatives for resource generation and mobilization to finance improved operations.

6.1.3 There is potential in generating substantial revenues from the fees to be charged by the DOJ, so that these could be used to fund the increase of the salaries of the prosecutors and upgrade MOOE and capital outlay budgets.

6.1.4 A more thorough study on the various fees that could be charged by the NPS, and its appropriate pricing is in order. This study has to be done fairly quickly in order to estimate how much revenues could be generated by fee charging, vis-à-vis the additional funds required for salary increases.

ATTACHMENT "A"

DISTRIBUTION OF PROSECUTORS

	RSP	ARSP	CP	PP	Prosecutors	Total
National Capital Region					1	**1**
Caloocan City			1		25	**26**
Manila			1		125	**126**
Pasay City			1		30	**31**
Quezon City			1		90	**91**
Mandaluyong City			1		7	**8**
Makati City			1		45	**46**
Muntinlupa City			1		7	**8**
Pasig City			1		21	**22**
Parañaque City			1		4	**5**
Las Piñas City			1		4	**5**
Marikina City			1		3	**4**
Antipolo City			1		5	**6**
Valenzuela City			1		3	**4**
Malabon City			1			**1**
TOTAL	**0**	**0**	**14**	**0**	**370**	**384**
Region I. Ilocos Region	1	1			3	**5**
Abra				1	4	**5**
Benguet				1	11	**12**
Ilocos Norte				1	9	**10**
Ilocos Sur				1	10	**11**
La Union				1	13	**14**
Mountain Province				1	2	**3**
Pangasinan				1	28	**29**
Baguio City			1		14	**15**
Dagupan City			1		20	**21**
Laoag City			1		9	**10**
San Carlos City			1		2	**3**
San Fernando City			1		2	**3**
Candon City			1		1	**2**
Alaminos City					2	**2**
Vigan City			1		1	**2**
Urdaneta City			1		2	**3**
TOTAL	**1**	**1**	**8**	**7**	**133**	**150**

	RSP	ARSP	CP	PP	Prosecutors	Total
Region II. Cagayan Valley	1	1			3	**5**
Batanes				1	1	**2**
Cagayan				1	18	**19**
Ifugao				1	2	**3**
Isabela				1	15	**16**
Kalinga				1	5	**6**
Apayao				1	1	**2**
Nueva Vizcaya				1	6	**7**
Quirino Province				1	3	**4**
Cauayan City					2	**2**
Santiago City			1		5	**6**
Tuguegarao City			1			**1**
TOTAL	**1**	**1**	**2**	**8**	**61**	**73**
Region III. Central Luzon	1	1			3	**5**
Bataan				1	7	**8**
Bulacan				1	23	**24**
Nueva Ecija				1	15	**16**
Pampanga				1	24	**25**
Tarlac				1	11	**12**
Zambales				1	5	**6**
Angeles City			1		11	**12**
Cabanatuan City			1		14	**15**
Olongapo City			1		13	**14**
Palayan City			1		1	**2**
San Fernando City			1		1	**2**
San Jose City			1		3	**4**
Tarlac City			1		1	**2**
TOTAL	**1**	**1**	**7**	**6**	**132**	**147**
Region IV. Southern Tagalog	1	1			3	**5**
Aurora				1	1	**2**
Batangas				1	17	**18**
Cavite				1	12	**13**
Laguna				1	19	**20**
Marinduque				1	1	**2**
Mindoro Occidental				1	4	**5**
Mindoro Oriental				1	7	**8**
Palawan				1	5	**6**
Quezon Province				1	14	**15**
Romblon				1	4	**5**
Batangas City			1		8	**9**
Cavite City			1		6	**7**

	RSP	ARSP	CP	PP	Prosecutors	Total
Lipa City			1		6	**7**
Lucena City			1		13	**14**
Puerto Princesa City			1		8	**9**
San Pablo City			1		6	**7**
Tagaytay City			1		2	**3**
Trece Martirez			1		1	**2**
Calapan City			1			**1**
TOTAL	**1**	**1**	**9**	**10**	**137**	**158**
Region V. Bicol Region	1	1			3	**5**
Albay				1	20	**21**
Camarines Norte				1	8	**9**
Camarines Sur				1	19	**20**
Catanduanes				1	4	**5**
Masbate				1	11	**12**
Sorsogon				1	11	**12**
Iriga City			1		5	**6**
Legaspi City			1		18	**19**
Naga City			1		16	**17**
TOTAL	**1**	**1**	**3**	**6**	**115**	**126**
Region VI. Western Visayas	1	1			3	**5**
Aklan				1	9	**10**
Antique				1	5	**6**
Capiz				1	8	**9**
Guimaras				1	1	**2**
Iloilo				1	20	**21**
Negros Occidental				1	18	**19**
Bacolod City			1		23	**24**
Bago City			1		1	**2**
Cadiz City			1		1	**2**
Iloilo City			1		26	**27**
La Carlota City			1			**1**
Roxas City			1		11	**12**
San Carlos City			1		4	**5**
Silay City			1		2	**3**
Talisay City			1			**1**
Sagay City			1			**1**
Victorias City			1			**1**
Kabankalan City			1			**1**
Passi City			1		1	**2**
TOTAL	**1**	**1**	**13**	**6**	**133**	**154**

	RSP	ARSP	CP	PP	Prosecutors	Total
Region VII. Central Visayas	1	1			3	**5**
Bohol				1	10	**11**
Cebu				1	29	**30**
Negros Oriental				1	19	**20**
Siquijor				1	1	**2**
Bais City			1		3	**4**
Canlaon City			1		1	**2**
Cebu City			1		39	**40**
Danao City			1		2	**3**
Dumaguete City			1		16	**17**
Lapu-Lapu City			1		6	**7**
Mandaue City			1		9	**10**
Tagbilaran City			1		9	**10**
Toledo City			1		2	**3**
TOTAL	**1**	**1**	**9**	**4**	**149**	**164**
Region VIII. Eastern Visayas	1	1			3	**5**
Biliran				1	1	**2**
Leyte				1	19	**20**
Southern Leyte				1	5	**6**
Eastern Samar				1	8	**9**
Northern Samar				1	7	**8**
Western Samar				1	10	**11**
Calbayog City			1		3	**4**
Maasin City			1			**1**
Ormoc City			1		3	**4**
Tacloban City			1		15	**16**
TOTAL	**1**	**1**	**4**	**6**	**74**	**86**
Region IX. Zamboanga Peninsula	1	1			3	**5**
Zamboanga del Norte				1	9	**10**
Zamboanga del Sur				1	9	**10**
Zamboanga Sibugay				1		**1**
Dapitan City			1		2	**3**
Dipolog City			1		9	**10**
Isabela City			1			**1**
Pagadian City			1		7	**8**
Zamboanga City			1		11	**12**
TOTAL	**1**	**1**	**5**	**3**	**50**	**60**

	RSP	ARSP	CP	PP	Prosecutors	Total
Region X. Northern Mindanao	1	1			3	**5**
Bukidnon				1	6	**7**
Camiguin				1	1	**2**
Lanao del Norte				1	8	**9**
Misamis Occidental				1	6	**7**
Misams Oriental				1	12	**13**
Cagayan de Oro City			1		26	**27**
Gingoog City			1		1	**2**
Iligan City			1		11	**12**
Malaybalay City			1		2	**3**
Oroquieta City			1		7	**8**
Ozamis City			1		5	**6**
Tangub City			1		1	**2**
Valencia City			1			**1**
TOTAL	**1**	**1**	**8**	**5**	**89**	**104**
Region XI. Southern Mindanao	1	1			3	**5**
Compostela Valley				1	2	**3**
Davao del Norte				1	8	**9**
Davao del Sur				1	8	**9**
Davao Oriental				1	5	**6**
Davao City			1		25	**26**
Digos City			1			**1**
Panabo City			1			**1**
Island Garden City of Samal			1		2	**3**
Tagum City			1		2	**3**
TOTAL	**1**	**1**	**5**	**4**	**55**	**66**
Region XII. Central Mindanao	1	1			3	**5**
North Cotabato				1	4	**5**
Sarangani				1	8	**9**
South Cotabato				1	6	**7**
Sultan Kudarat				1	2	**3**
Cotabato City			1		5	**6**
General Santos City			1		9	**10**
Kidapawan City			1		2	**3**
Koronadal City			1			**1**
Tacurong City			1			**1**
TOTAL	**1**	**1**	**5**	**4**	**39**	**50**

	RSP	ARSP	CP	PP	Prosecutors	Total
Region XIII. CARAGA Region	1	1			3	**5**
Agusan del Norte				1	7	**8**
Agusan del Sur				1	3	**4**
Surigao del Norte				1	9	**10**
Surigao del Sur				1	6	**7**
Bislig City			1			**1**
Butuan City			1		8	**9**
Surigao City			1		5	**6**
TOTAL	**1**	**1**	**3**	**4**	**41**	**50**
Region XIV. Autonomous Region in Muslim Mindanao	1	1			3	**5**
Basilan				1	2	**3**
Lanao del Sur				1	7	**8**
Maguindanao				1	4	**5**
Sulu				1	2	**3**
Tawi-Tawi				1	1	**2**
Marawi City			1		6	**7**
TOTAL	**1**	**1**	**1**	**5**	**25**	**33**

ATTACHMENT "B"

NATIONAL PROSECUTION SERVICE
Offices of Regional/City Provincial Prosecutor

2002 CONSOLIDATED ACCOMPLISHMENT REPORT
(January - December 2002)

PERFORMANCE INDICATORS	NCR	REGIONS	TOTAL
I. SPEEDY AND EFFICIENT INVESTIGATION OF CASES			
A. PRELIMINARY INVESTIGATION IN CITIES AND PROVINCE			
1. NO. OF COMPLAINTS RECEIVED:			
- Carry over from previous period	29,795	27,549	57,344
- Newly received	174,163	181,773	355,936
Total for Disposition	**203,958**	**209,322**	**413,280**
2. DISPOSITION			
a. Investigated under normal PI			
• Received/assigned	**127,153**	**123,366**	**250,519**
• Resolved/disposed	**107,681**	**94,993**	**202,674**
- For filing	81,177	66,552	147,729
- For dismissal	25,597	25,566	51,163
- For referral/transfer	884	2,597	3,481
- Suspended due to prejudicial question	23	278	301
• Pending	**19,472**	**28,373**	**47,845**
• Disposition Rate	**84.69%**	**77.00%**	**80.90%**
b. MTC/MCTC resolution reviewed			
• Received/assigned	**0**	**28,182**	**8,182**
• Resolved/disposed	**0**	**22,873**	**22,873**
- Filed	0	18,041	18,041
- Dismissed	0	4,285	4,285
- Referred	0	431	431
- Suspended/Others	0	116	116
• Pending	**0**	**5,309**	**5,309**
• Disposition Rate	**#DIV/0!**	**81.16%**	**81.16%**
c. Investigated under Summary Procedure			
• Received/assigned	**28,069**	**36,218**	**64,287**
• Resolved/disposed	**26,743**	**35,068**	**61,811**
- For filing	25,812	31,326	57,138
- For dismissal	846	3,121	3,967
- For referral/transfer	85	621	706
• Pending	**1,326**	**1,150**	**2,476**
• Disposition Rate	**95.28%**	**96.82%**	**96.15%**

PERFORMANCE INDICATORS	NCR	REGIONS	TOTAL
d. Inquest Cases			
• Received/assigned	**48,736**	**21,556**	**70,292**
• Resolved/disposed	**48,194**	**21,409**	**69,603**
• Pending	**542**	**147**	**689**
• Disposition Rate	**98.89%**	**99.32%**	**99.02%**
3. TOTAL PENDING	21,340	35,047	56,319
4. TOTAL DISPOSITION	182,618	174,343	356,961
5. DISPOSITION RATE	89.54%	83.29%	86.37%
B. REINVESTIGATION PER COURT ORDER			
1. No. of cases received for investigation per court order			
- Carry over from previous period	25	412	437
- Newly received	258	1,223	1,481
Total for reinvestigation	**283**	**1,635**	**1,918**
2. No. of cases resolved	**186**	**1,234**	**1,420**
- Affirmed	113	971	1,084
- Reversed	69	261	330
- Referral/transferred	4	2	6
3. Pending	**97**	**401**	**498**
4. Disposition Rate	**65.72%**	**75.47%**	**74.04%**
II. SPEEDY AND EFFICIENT PROSECUTION OF CRIMINAL CASES			
A. CASES FOR TRIAL IN RTC			
1. No. of cases received			
- Carry over from previous period	33,243	159,289	192,532
- Newly received/handled	26,820	55,247	82,067
Total	**60,063**	**214,536**	**274,599**

ATTACHMENT "C"

PRECIS OF PROPOSED BILLS FOR THE IMPROVEMENT OF THE NPS

1 HOUSE BILL NO. 3088

Introduced by Hon. Oscar L. Gozos

Title An Act Granting Exemption to the Prosecutors of the National Prosecution Service, State Counsels of the Office of the Chief State Counsel of the Department of Justice, Lawyers of the Office of the Ombudsman, and Public Attorneys of the Public Attorney's Office from the Coverage of Republic Act No. 6758, Otherwise Known as the Salary Standardization Law.

Features

- Exempts from the coverage of the Salary Standardization Law the various lawyer-positions in the DOJ
- Appropriate compensation package to be reviewed and fixed by the CSC and DBM, in coordination with DOJ and the Office of the Ombudsman
- Appropriate compensation package must be comparable with those in private practice of the legal profession.

2 HOUSE BILL

Introduced by Hon. Marcelino C. Libanan

Title An Act Providing for a Separate Compensation Structure for the National Prosecution Service and the Legal Staff of the DOJ, Amending for the Purpose Section 5 of Presidential Decree No. 1275

Features

- Exempts the NPS from Salary Standardization Law
- Secretary of DOJ to prepare a compensation structure which shall be approved by the President
- Compensation structure shall be based on audit of actual duties and responsibilities
- Compensation structure shall be comparable with prevailing compensation plan of those in the private practice of legal profession
- Funds shall be charged against fees collected by DOJ
- Authorizes DOJ to charge fees for the services of prosecutors

3 SENATE BILL NO. 2148

Introduced by Senator Renato L. Cayetano

Title An Act Granting Exemption to the Members of the National Prosecution Service, as Constituted Under Presidential Decree No. 1275, from the Coverage of Republic Act No. 6758, Otherwise Known as the Salary Standardization Law

Feature

- Exempts NPS from the coverage of the SSL (that's all)

4 SENATE BILL NO. 1850

Introduced by Hon. Robert Z Barbers

Title An Act Restructuring, Re-Allocating Prosecution Positions and Strengthening the National Prosecution Service and Providing Additional Funds Therefor

Features

- Phases out the Prosecution Staff and incorporates the Office of the Chief State Prosecutor as provided for in EO 292
- Reduces the qualification with respect to the requirement of actual practice of the legal profession
- Pegs the rank, salary and other privileges of prosecutors similar to those in the judiciary
- Exempts the NPS from SSL
- Phases out Region 4-A and adopts the regionalization in accordance with the government's classification for administrative regions and the designated center areas
- Rationalizes the allocation of prosecutor positions to the number of court salas
- Abolishes the positions of Special Counsels and provides for the positions of Prosecuting Attorney
- Organizes the support staff in each of the Provincial/City Prosecutors' Offices.

ATTACHMENT "D"

NUMBER OF EMPLOYEES
As of February 28, 2003

	PROSECUTORS			SUPPORT STAFF			T O T A L		
	Authorized	Filled Up	Unfilled	Authorized	Filled Up	Unfilled	Authorized	Filled Up	Unfilled
Office of the Secretary (Proper)	124	124	0	549	521	28	673	645	28
ORSP-NCR	5	0	5	10	10	0	15	10	5
Muntinlupa City	8	8	0	7	7	0	15	15	0
Makati City	46	46	0	27	27	0	73	73	0
Pasig City	22	18	4	17	17	0	39	35	4
Mandaluyong City	8	8	0	7	7	0	15	15	0
Caloocan City	26	24	2	0	0	0	26	24	2
Manila	126	116	10	0	0	0	126	116	10
Pasay City	31	30	1	0	0	0	31	30	1
Quezon City	91	88	3	1	1	0	92	89	3
Las Piñas City	7	6	1	3	2	1	10	8	2
Marikina City	8	4	4	2	2	0	10	6	4
Parañaque City	5	5	0	0	0	0	5	5	0
Malabon City	6	3	3	2	0	2	8	3	5
Valenzuela City	5	4	1	3	2	1	8	6	2
Antipolo City	8	5	3	3	2	1	11	7	4
Region I	150	127	23	164	154	10	314	281	33
Region II	75	69	6	82	75	7	157	144	13
Region III	150	93	57	199	185	14	349	278	71
Region IV	266	172	94	275	263	12	541	435	106

	PROSECUTORS			SUPPORT STAFF			T O T A L		
	Authorized	Filled Up	Unfilled	Authorized	Filled Up	Unfilled	Authorized	Filled Up	Unfilled
Region V	134	121	13	154	140	14	288	261	27
Region VI	173	144	29	200	171	29	373	315	58
Region VII	171	143	28	185	172	13	356	315	41
Region VIII	87	83	4	103	98	5	190	181	9
Region IX	64	63	1	86	78	8	150	141	9
Region X	107	92	15	109	107	2	216	199	17
Region XI	69	61	8	69	62	7	138	123	15
Region XII (SOCSARGEN)	58	44	14	59	53	6	117	97	20
Region XIII	51	39	12	59	54	5	110	93	17
ARMM	33	29	4	33	32	1	66	61	5
Contractual				5	5	0	5	5	0
Casual				39	39	0	39	39	0
Contractual (Board of Claims)				50	50	0	50	50	0
							0	0	0
*Out of 80 (Prosecutor I FY 1997)	1	0	1	0	0	0	1	0	1
1 is unallocated							0	0	0
T O T A L	**2,115**	**1,769**	**346**	**2,502**	**2,336**	**166**	**4,617**	**4,105**	**512**

5
CORRECTIONS PILLAR

1 INTRODUCTION

1.1.1 The Corrections Pillar is concerned with the rehabilitation and reintegration of offenders into the mainstream of society, upholding their human rights and dignity through speedy legal and administrative processes and provision of scientific and spiritual programs. The community's participation in correction and rehabilitation efforts is moreover identified as a strategic concern to strengthen the Philippine corrections system.

1.1.2 This Chapter discusses the framework, processes, and the institutional set up of the corrections pillar of the Philippine justice system. It analyzes the issues and dysfunctions of the system, focusing on the supervision and operations of the national penitentiaries which are the concerned of the DOJ; assesses the institutional capacity of the Bureau of Corrections (BuCor), Board of Pardons and Parole (BPP), and the Parole and Probation Administration (PPA) as the DOJ agencies involved in the pillar; and identifies certain reform directions in the pillar.

2 INSTITUTIONAL FRAMEWORK

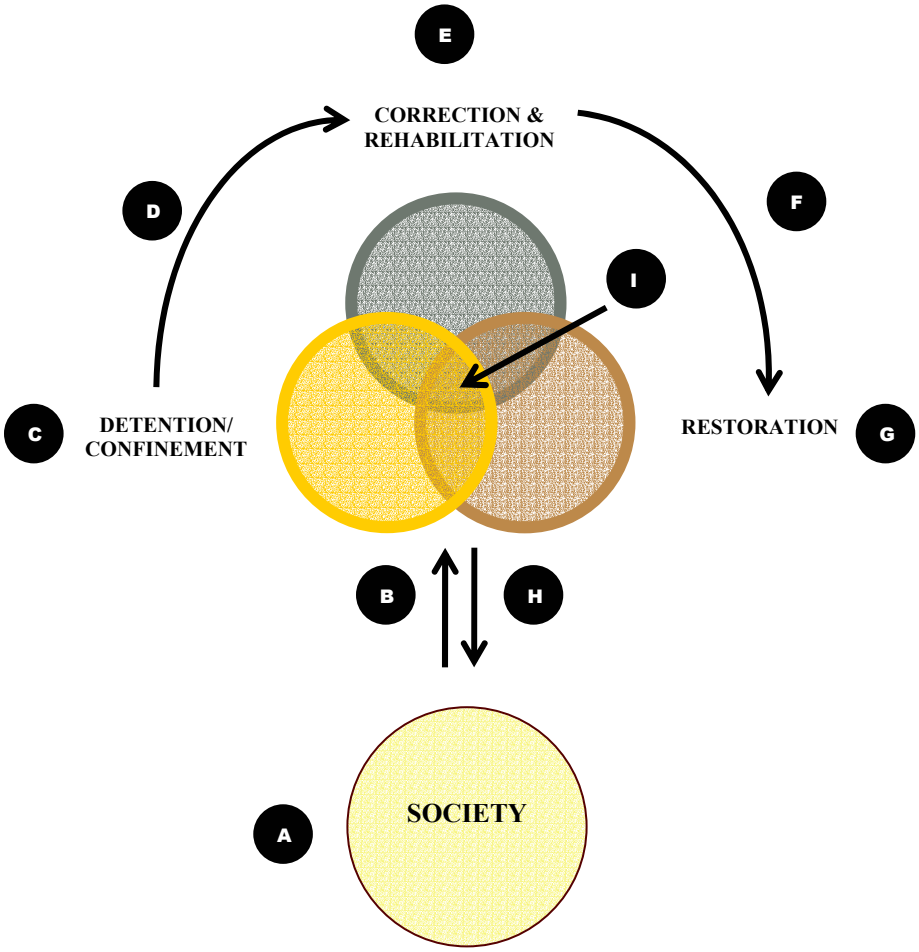
2.1 Correction and Rehabilitation Process

2.1.1 The correctional system comprises of the institutions, mechanisms and interventions relative to the confinement of convicted offenders and detention of those awaiting trial, as well as the process of rehabilitation through probation, pardon and parole. The corrections system specifically aims at safekeeping prisoners and rehabilitating those who are qualified, mainstreaming them again in the society as law-abiding citizens.

2.1.2 The program on corrections and rehabilitation is rooted on the theory that persons who are charged for and/or convicted of delinquent acts or crimes must be segregated from society. This process will promote the society's public order and safety and provide an opportunity for offenders to be corrected, rehabilitated or reformed.

2.1.3 CPRM has translated this principle into an analytical model to depict the major processes involved in corrections and rehabilitation, as indicated in Figure 5-1.

Figure 5-1
Correction and Rehabilitation Process[1]



2.1.3 The elements of the model are explained as follows:

A. **SOCIETY UNDER THE RULE OF LAW.** Laws established through appropriate processes govern the conduct of men as members of society. The State expects that all men abide by these statues; willful violation thereof will necessitate the imposition of penal sanctions. These violations are considered criminal or delinquent acts or omissions.

B. **PROCESS OF COMMITTING OFFENDERS TO THE CORRECTION AND REHABILITATION SYSTEM.** Individual members of the society who are charged for and/or convicted of delinquent acts or crimes are committed to detention facilities (jails or prisons). This process is done through the appropriate institutions of the criminal justice system (such as law enforcement, prosecution,

[1] Source: Survey of Inmates Project, a separate project of the UNDP, which engaged the CPRM to conduct the study.

and courts of law). It is in the interest of general welfare and public order and safety that offenders be segregated from the society.

C. **DETENTION/CONFINEMENT OF OFFENDERS.** Persons who are charged for or convicted of delinquent acts or crimes are committed to facilities for detention or confinement to restrict their liberty (movements/activities). Juvenile delinquents or youthful offenders (i.e., minors in conflict with the law) are committed to Regional Rehabilitation Centers considering their special needs and conditions. On the other hand, adult offenders who are collectively called **inmates** are confined in national penitentiaries and provincial, district, city and municipal jails.

D. **CRITICAL FACTORS ON CORRECTIONS AND REHABILITATION.** There are critical factors that will ensure the realization of the correction and rehabilitation functions of the system. These include clear turfs and boundaries between and among agencies involved in the correction pillar; government oversight policies and processes; predictable flow of resources to support activities and programs; and linkages with other pillars of the justice system, civil society and non-government organizations and other stakeholders.

E. **CORRECTION AND REHABILITATION.** Agencies concerned are not just responsible for safekeeping inmates. They are also primarily in charge of providing correctional and rehabilitation services to offenders within their cognizance in order to better prepare them to become productive members of society upon their release from prisons/jails.

F. **CRITICAL FACTORS ON RESTORATION.** Another set of critical factors that must be present to ensure the success of the restorative functions of the system to include the following: (1) application of information technology in the management of inmates' records; (2) education of inmates on their rights and privileges, particularly in relation to parole, probation and other "early release" programs; (3) predictable flow of resources; and (4) linkages with other pillars of the justice system and other stakeholders.

G. **RESTORATION.** This involves the process of reformation and reintegration of offenders in the society. An inmate may be released upon his acquittal or grant of bail through court decision or upon the expiration of his sentence. The government has also instituted several measures providing for "early release" of offenders.

H. **ROLE OF COMMUNITY IN RESTORATION.** Society plays an important role in the process of restoration or re-integration of offenders. The community is an effective means for monitoring parolees, pardonees and probationers, and in enforcing community standards and behavior.

I. **CONVERGENCE OF AGENCIES INVOLVE IN THE SYSTEM.** There is a need for appropriate synchronization, coordination and convergence of the system structure to achieve effectiveness and efficiency in both policy and operational structures of the system.

2.1.4 The focus of this study is on Elements C to G where the BuCor, PPA and BPP are primarily involved.

2.1.5 Only the courts can commit a person to a prison or a jail. However, offenders who have been sentenced by the courts can avail of an out-of prison arrangement, as provided by law, if they are qualified. An inmate may be released from prison upon the expiration of his sentence; by order of the court or of competent authority; or after being granted parole, pardon or amnesty. The following are authorized to order or approve the release of inmates:

- Supreme Court or lower courts, in cases of acquittal or grant of bail;
- The President of the Philippines, in cases of executive clemency or amnesty;
- Board of Pardons and Parole, in parole cases; and
- The Director of BuCor, upon the expiration of the sentence of the inmate.

2.1.6 The out-of-prison schemes for adult offenders consist of, among others, the Release on Recognizance (RA 6036), Full Time Credit (RA 6127), probation (PD 968), preventive imprisonment (BP 85), parole, and pardon. The PPA and BPP are the DOJ agencies, which are primarily concerned with parole, pardon and probation.

2.2 Institutions for Corrections and Rehabilitation

2.2.1 The government and the private sector have their respective programs and activities for corrections and rehabilitation of offenders and individuals who are in conflict with the law.

Government agencies on corrections and rehabilitation

2.2.2 There are three departments that are involved with correction and rehabilitation activities – the Departments of Justice (DOJ), the Interior and Local Government (DILG), and Social Welfare and Development (DSWD). The provincial governments are moreover involved in this undertaking.

2.2.3 The DOJ supervises and manages national penitentiaries through the BuCor, through the Board of Pardons and Parole (BPP) and the Parole and Probation Administration (PPA), formulates, implements and monitors programs and activities on parole, probation and grant of pardon through executive clemency.

2.2.4 The DILG, through the Bureau of Jail Management and Penology (BJMP), supervises and controls the city and municipal jails. The Philippine National Police (PNP), another DILG agency, still maintains municipal jails that could not meanwhile be supervised by BJMP due to limited personnel. The PNP also supervises lock-up or precinct jails that are used as temporary detention centers for arrested individuals under investigation and those who await commitment by the courts to national prisons or BJMP jails.

2.2.5 The DSWD operates and maintains rehabilitation centers nationwide for youth offenders (below 18 years old) whose cases are still pending in court. Likewise, youths who had been sentenced by the courts to serve prison terms stay in DSWD rehabilitation centers until they reach the age of 18, after which they will be transferred to the national penitentiaries. If there are no DSWD rehabilitation centers in certain localities, youth offenders are placed in city or municipal jails, but to occupy separate quarters from those of adult inmates.

2.2.6 There is a provincial jail in every province, which is under the supervision and control of the Provincial Government (Office of the Governor). A provincial jail keeps convicted offenders with a prison sentence that ranges from six months and one day to three years. Some provincial governments have created "sub-provincial" or extension jails to decongest the provincial jails. Provincial and sub-provincial jails are moreover used as confinement for detainees whose cases are triable by regional trial courts.

2.2.7 There are 7 national penitentiaries, 79 provincial jails, 25 sub-provincial jails, 135 district jails, 85 city jails, and 1,003 municipal jails. Generally, the national penitentiaries house more serious offenders, or those who are sentenced to a prison term of three years and one day to death. Offenders whose sentence is short-term are placed in jails located at the provincial, city and municipal levels.

2.2.8 Table 5-1 indicates the number of jails and prisons under each of the agencies concerned:

Table 5-1
Prisons and Jails

Type of Correction Institution	BuCor	BJMP	PNP	Provincial Government	Total
National penitentiaries	7	0	0	0	7
Provincial jails	0	0	0	79	79
Sub-provincial/extension jails	0	0	0	25	25
District jails	0	135	0	0	135
City jails	0	83	2	0	85
Municipal jails	0	256	747	0	1,003
Total	7	474	749	104	1,334

Civil society organizations and the community are likewise actively involved in corrections and rehabilitation

2.2.9 The community is involved in corrections and rehabilitation activities. Offenders can be released to responsible persons in the community under RA 6036. Communities and civil society organizations are potential sources of jobs, medicines, financial support, legal assistance, training and education, and other services. They can be tapped to develop, fund and implement programs and activities for inmates. Religious and ministerial services abound in view of several local churches and religious institutions

in the community. Sports activities and other recreational facilities may be provided by civic organizations. Therapeutic programs for drug dependents are similarly available courtesy of concerned civil society organizations. The civil society or the citizens themselves furthermore provide assistance and support to restoration programs for parolees, pardonees and probationers.

3 BUREAU OF CORRECTIONS

3.1 Historical Background

3.1.1 The first penitentiary was the Old Bilibid Prison constructed in 1847 in Oroqueta, Manila during the Spanish Regime. The San Ramon Prison and Penal Farm in Zamboanga City was the next prison constructed in 1851, originally intended to confine Muslim rebels. Five other prisons in different locations in the country were built starting early 1900s.

3.1.2 A Bureau of Prisons was created under the Department of Commerce and Police through the Re-Organization Act of 1905 (RA 1407 dated November 01, 1905) to manage the penal colonies. The Bureau of Prisons was renamed Bureau of Corrections under EO 292 dated November 22, 1989.

3.2 Mandate and Functions

3.2.1 The Bureau of Corrections (BuCor) is an integral bureau of the DOJ mandated to carry out the institutional rehabilitation program of the government for national offenders (those who were sentenced to more than three years of imprisonment), and to ensure their safe custody. Its mission is to protect society through humane confinement and effective rehabilitation of criminal offenders.

3.2.2 The BuCor is specifically mandated to undertake the following functions:

- Confine persons convicted by the court to serve a sentence in national prisons;
- Keep prisoners from committing crimes while in custody;
- Provide human treatment to the inmates by supplying them their basic needs and implementing a variety of rehabilitation programs designed to change their pattern of criminal or anti-social behavior; and
- Engage in agro-industrial projects for the purpose of developing prison lands and resources into productive bases or profit centers, developing and employing inmate manpower skills and labor, providing prisoners with a source of income and augmenting the Bureau's yearly budgetary appropriations.

3.3 High-level Structure and Jurisdiction

3.3.1 The BuCor is headed by a Director and two (2) Assistant Directors, one is in charge of administration and the other with security. It is currently manned by 2,362 employees, who are deployed in its organization structure composed of six divisions and two

offices in the central office, and in the seven penal farms in different places in the country which are each headed by a Superintendent. The Prison Superintendents report directly to the BuCor Director. The seven national penitentiaries are as follows:

Table 5-2
National Prisons

National Penitentiary	Location	Date Established
New Bilibid Prison[2]	Muntinlupa, Metro Manila	1935
San Ramon Prison and Penal Farm	Zamboanga City	August 21, 1869
Iwahig Prison and Penal Farm	Puerto Princesa, Palawan	1904
Correctional Institution for Women	Mandaluyong City	Nov. 27, 1929
Davao Prison and Penal Farm	Panabo, Davao del Norte	1932
Sablayan Prison and Penal Farm	Occidental Mindoro	Sept. 26, 1954
Leyte Regional Prison	Abuyog, Leyte	Jan. 16, 1973

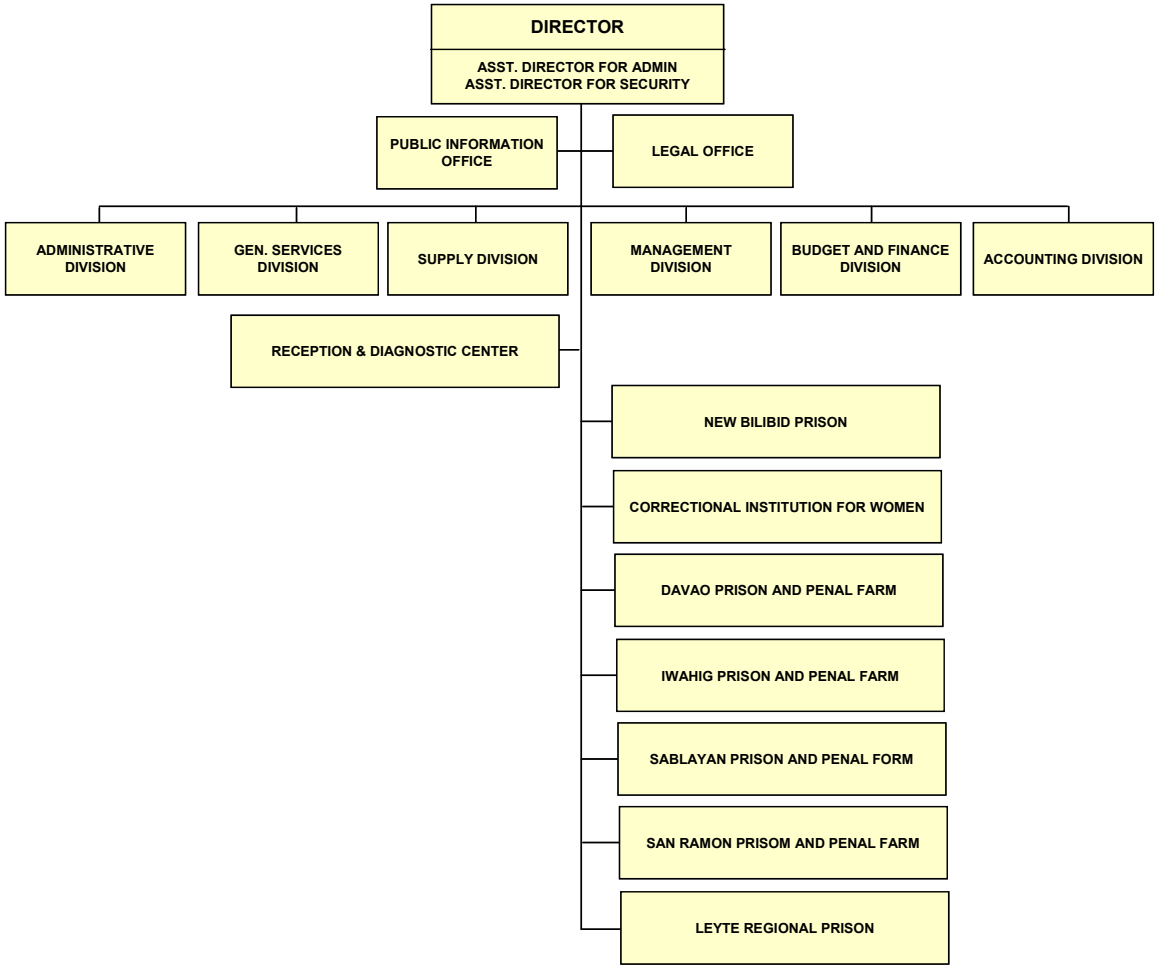
3.3.2 BuCors' Administrative, Supply, and General Services Divisions perform both mission-critical and housekeeping functions. The Administrative Division receives and reroutes all communications received by the BuCor, including those for the inmates; computerize the inmates' files and prison records; and file fingerprints/pictures of inmates, in addition to attending to human resource management functions for BuCor personnel.

3.3.3 The Supply Division undertakes procurement of supplies, materials and equipment for use of both inmates and the different offices of the Bureau. It stores/maintains these items, and correspondingly issues/ships such items to organizational units/employees concerned and to penal farms. The General Services Division provides engineering and maintenance services, attends to building construction and road maintenance within prison premises, undertakes motor pool dispatching and provides firefighting services to the penitentiaries.

3.3.4 A Reception and Diagnostic Center (RDC) receives, studies and classifies prisoners committed to BuCor, while a Classification Board, classifies inmates according to security and entitlement to prison privileges. Inmates who are of maximum security risk require a high degree of control and supervision. The medium security risk inmates are those who cannot be trusted in less-secured areas and whose conduct and behavior require minimum supervision, while inmates who are of minimum security risk are those who can reasonably be trusted to serve their sentences under less restricted condition.

[2] Replaced the Old Bilibid Prison established in Oroqueta, Manila in 1847.

3.3.5 The existing organization structure of the agency is depicted in Figure 5-2 below:



3.4 KEY OPERATIONS AND ISSUES

3.4.1 The BuCor's key programs are categorized into three: (1) custody, maintenance and rehabilitation services; (2) rehabilitation and treatment services; and (3) agro-industries projects operations services.

Custody, Maintenance and Rehabilitation Services

3.4.2 Custody, maintenance and rehabilitation services include admission and classification of prisoners, implementation of security programs, processing of inmates' carpetas, execution of death convicts, transfer of inmates, and inmate discipline.

3.4.3 The transfer of prisoners from the National Bilibid Prison to other penal farms has been tedious and cost-ineffective. Some of the penal farms do not have a full-fledged reception and diagnostics center that will receive and perform the necessary tests and examinations on prisoners before they are confined in appropriate penitentiary. Thus, some prisoners have yet to be brought to the National Bilibid Prison where there is a fully operationalized reception and diagnostic facility, before they are finally brought to appropriate penal institution. At least two prison guards escort a prisoner when he is transferred. This is an added cost to the BuCor in terms of transportation and travel expenses, which could have been obviated if all the national penal farms have their respective reception and diagnostics center.

3.4.4 The BuCor has computerized its records management unit in the Administrative Division to properly maintain and process inmates' carpetas and prison records. However, the system has not yet been fully designed and optimized to meet requirements for accurate and immediate transmittal of documents to pertinent agencies like the Board of Pardons and Parole. There is a need for BuCor to implement a system of regular updating of inmates' records, so that at any given time, information needed for the processing of release documents is made available and sent to agencies concerned, without the prisoners having to request for such.

Rehabilitation and treatment services

3.4.5 Rehabilitation and treatment services are in the form of education and applied training; promotion of spiritual, social, cultural and economic well-being of national prisoners; and maintaining and operating rural farms, settlements and other rehabilitation facilities for inmates.

3.4.6 Relatedly, BuCor must optimize the adoption of a community-alternative-to-prison scheme, specifically for non-violent, first-time offenders, diverting this population of inmates from actual incarceration and thus addressing the decongestion issue of penal institutions.

3.4.7 An effective operational mechanism and arrangement in BuCor must be established towards the development of strategic plans, providing clear directions, guidelines, procedures and processes, and building linkages and cooperative/collaborative activities among stakeholders on inmates rehabilitation. This includes the

determination of appropriate community-based correction options for different offender population.

Agro-industries projects operations service

3.4.8 BuCor is engaged in agro-industrial projects for the purpose of developing prison lands and resources into productive bases or profit centers, developing and employing inmate manpower skills and labor, providing prisoners with a source of income, and augmenting the Bureau's yearly budgetary appropriations. However, these activities are at a limited scale. The BuCor must focus on the development of its vast properties, transforming them into productive and profitable business activities. It must implement measures to enhance inmate's productivity and generate livelihood through prison industries, to offset the cost of incarceration. This will help alleviate serious problems in prisons brought about by congestion, and develop BuCor into a self-sustaining/supporting agency.

Linkages with other DOJ agencies and the community

3.4.9 The Prison Superintendents coordinate with PAO and PPA in their conduct of regular visits to jails. They coordinate with PAO for legal representation of inmates in the trial of their cases; for the provision of assistance to inmates in filing application for probation; and for extending assistance to inmates in obtaining Release on Recognizance, or temporary release. These activities are being carried out also in coordination with the NPS.

3.4.10 The BuCor likewise seeks the assistance of the PPA with regard to inmates who are already qualified for probation. BuCor provides PPA with necessary information as to the status and condition of inmates. Various civil society organizations, including religious institutions and the media, have their continuing programs and activities with the inmates. The BuCor regularly coordinates and cooperates with these institutions for provision of different services to inmates.

3.4.11 However, coordination is one aspect in the implementation of activities under the corrections pillar which is rather weak especially insofar as information generation and provision of agency reports are concerned. This holds true for BuCor.

3.5 SWOT ANALYSIS

3.5.1 SWOT analysis is used to explain the quality of performance of the agency. It assesses the internal strengths and weaknesses of the organization and its operations, as well as the opportunities and threats in its external environment. The following summarizes the SWOT analysis undertaken on BuCor:

STRENGTHS

Well-established laws, rules and regulations governing the operations of national prisons and the activities of national prisoners

3.5.2 Specific laws, rules and regulations govern the management and operations of correction, rehabilitation and restoration programs for inmates. These laws, rules and regulations have long been in existence in the Philippines and may be considered sound and responsive to changing times.

3.5.3 The rights of individuals are prescribed under the Constitution. The revised Penal Code is explicit as to the prohibitions and punishments for violations of criminal and civil laws. The corrective code has been incorporated in the revised penal code.

3.5.4 At the operating level, the BuCor has particularly issued clear and thorough rules and regulations in a form of a manual, which is intended as a formal reference in administering prisons, and in guiding/informing inmates under these agencies' respective jurisdiction.

3.5.5 The existence of written rules and regulations produces a uniformity of operations throughout the BuCor, as well as similarity of action in attending to specific situations.

Strong support from civil society and non-government organizations for various programs and interventions for the benefits of national prisoners

3.5.6 Civil society organizations (CSOs) provide spiritual guidance, social services, vocational and educational training and legal assistance to inmates. The participation of NGOs in the system, while need be optimized, is working well to augment the structural and resource deficiencies in corrections, rehabilitation and restoration of offenders.

3.5.7 The BuCor's Chaplaincy Office, for example, coordinates the services being rendered by different religious organizations and civic volunteers. As indicated in BuCor's 2002 accomplishment report, these services include regular medical treatment to inmates provided by the Zinag, Seventh Day Adventist, Philippine Jesuit Prison Service, and Caritas Manila; education and values formation seminars by the JAP Volunteers, and CICM Missionaries; psychological and spiritual services by the Eskwelahang Sikolohiya; feeding services by the Holy Rosary Crusade, Landas ng Buhay, EDSA Shrine Prayer Group, and the Missionaries of Charity; art lectures by the Saturday Group Artist; and prayers by the Ang Lingkod ng Panginoon, Columbian Companions in Mission, Singles for Christ, Divine Mercy Cenacle Group, and Marian Missionaries of the Holy Cross.

Authority for management and operations of prisons is delegated to the Prisons Superintendent

3.5.8 Administrative decentralization, or the de-concentration/delegation of powers to subordinate levels within the same agency, is an e effective governance policy. It is an operational arrangement where agencies allow their sub-units in the field substantial autonomy in interpreting and applying policies and in implementing programs, projects and activities, thereby achieving and enhancing participation, access and responsiveness.

3.5.9 The seven penitentiaries being administered by the BuCOR are virtually operating as independent units. By allowing and promoting flexibility within clear policy directions and guidelines, decentralization enhances the ability of these agencies to immediately meet the needs of their respective clients in the area.

WEAKNESSES

Outdated, outmoded and dilapidated correctional facilities

3.5.10 This is readily observable in site visits conducted by the consultants. The New Bilibid Prisons was constructed in 1935. Since that time, no major renovations have been done on prison facilities and administration building. Furniture, equipment and various facilities badly need replacement.

Functional overlaps and diffusion in the conduct of corrections and restoration activities for inmates affect the operations of BuCor

3.5.11 Table 5-3 summarizes the coverage and jurisdiction of the three departments (DOJ, DILG and DSWD), the three agencies under them (BuCor, BJMP and PNP) and the provincial governments, which are concerned with management of prisons and jails.:

Table 5-3
Agency Jurisdiction on Prison/Jail Management

AGENCY	FACILITY	JURISDICTION
Bureau of Corrections, DOJ	National penitentiaries, prisons or penal farms	National prisoners or those who are serving sentence of more than 3 years
Bureau of Jail Management and Penology, DILG	District Jails City Jails Municipal Jails	Detainees, who are of two types: • Those who are undergoing trial or awaiting judgment/ sentencing of courts; and • Those who are serving sentence of 3 years or less
Philippine National Police, DILG	City Jails Municipal Jails	
Provincial Government	Provincial and Sub-Provincial Jails	
Department of Social Welfare and Development	Regional Rehabilitation Centers	Juvenile delinquents or youthful offenders

3.5.12 While existing laws, rules and regulations are quite clear in delineating the responsibilities of the agencies concerned, prevailing situations indicate disorganization. There are national prisoners who are continually confined in provincial, district, city and municipal jails. Youthful offenders are immersed with adult inmates. These problems create functional overlaps and duplication and adversely affect the implementation of appropriate corrective and rehabilitative programs for inmates. Moreover, while laws, rules and regulations are clear, operating and administrative policies differ from one agency to another. Such absence of uniform policies, standards and administrative procedures among agencies involved in corrections and rehabilitation of inmates result in differential treatment among inmates.

Informal organizations/ authority and actual practices inside penal establishments influence the enforcement of formal rules and regulations

3.5.13 Manuals of procedures explicitly provide the standard practices throughout the penal establishments. However, informal authority, which is not official and readily visible, exists and is sometimes more important among the inmates. Informal organizations with their own rules and regulations practically govern the activities of the inmates.

3.5.14 There are informal rules that inmates follow whether they are confined in a national prisons or in jails. While a prison or a jail is ran by officers, who have formal rules and regulations to follow, in practice, the inmates themselves actually run it.[3] They create *"mayores*" or groups among themselves, elect its *"mayor"* to head each group, and assign a *"bastonero*" to execute the punishment meted by the mayor on inmates who violate the mayores-prescribed rules and regulations. Erring inmates can meet injury or even death at the hands of fellow inmates for violating their codes of behavior.

3.5.15 Inmates are assigned to specific cells according to their membership in a particular gang. There are specific cells reserved to people that belong to a particular gang membership, or fall under certain categorizations. For example, "Kubol" No. 1 is a "gay cell" where all homosexual-inmates are placed; Kubol No. 2 is reserved for the "Sigue-Sigue" Gang; Kubol No. 3 is occupied by the "Sputnik" Gang, etc. The formal authority obviously allows such kind of segregation/ arrangement to avoid gang wars and disturbances inside the jail.

3.5.16 The sub-culture inside correctional institutions may not necessarily supersede or alter the formal systems, but in many ways affect the formal organizations and the enforcement of formal rules and regulations. A study of these sub-cultures among inmates and the informal systems in these institutions will be useful and relevant in determining the appropriate formal procedures that may be established for correctional and rehabilitative functions and the means of enforcing them.

[3] Mr. Raymund Narag, a former Quezon City jail inmate who is now engaged as a consultant by the UNDP in connection with the problems of the Philippine Corrections system. Mr. Narag's accounts of the practices in jails were presented in a briefing organized by the UNDP and CPRM in connection with a separate project, the National Survey of Inmates and Institutional Assessment

Congestion is also a problem in national prisons

3.5.17 Overcrowding in prisons and jails all over the country is the root of the numerous problems in penology or prison and jail management. Congestion has been attributed to several factors, among which is the increase in the number of arrest by law enforcement agencies, inability of detainees to post bails, slow implementation of decongestion laws, and delay in rendering decisions/adjudication actions by the courts.[4]

3.5.18 The seven national penitentiaries house about 25,000 inmates as of December 31, 2002 vis-à-vis their total capacity of only 19,600. This means that at the average there are about 28 percent more of the total prisoners who are maintained in the national prisons than what these facilities could accommodate.

3.5.19 The New Bilibid Prison maintains 16,134 (65%) national inmates; the remaining 8,868 (45%) are placed in six other prison farms. The BuCor provided the statistics in Table 5-4 on prison population and capacity as of end 2002:

Table 5-4
Prison Population and Capacity, 2002

National Penitentiary	Capacity	Actual Population	% to Total	Congestion Rate
New Bilibid Prison (NBP)	8,700	16,134	65	85
Correctional Institution for Women (CIW)	500	951	4	90
Iwahig Prison and Penal Farm (IPPF)	3,500	1,974	8	-
Davao Prison and Penal Farm (DPPF)	3,100	3,005	12	-
San Ramon prison and Penal Farm (SRPPF)	1,300	1,000	4	-
Sablayan Prison and Penal Farm (SPPF)	1,500	1,050	4	-
Leyte Regional Prison (LRP)	1,000	888	3	-
Total	**19,600**	**25,002**	**100**	**28**

Source: BuCor

3.5.20 The NBP in Muntinlupa City and the CIW in Mandaluyong City have been consistently experiencing congestion issues, having been housing about twice as many inmates than they could maintain. However, it can further be noted from the above table that the IPPF in Puerto Princesa, Palawan has only about 56 percent occupancy rate (only 1,974 out of 3,500). Thus, it could still accommodate 1,526 more inmates. Likewise, 300 and 450 more prisoners could be placed in SRPPF in Zamboanga City and SPPF in Mindoro Occidental, respectively, while the DPPF in Davao and LRP in Leyte can house 95 and 112 additional inmates, respectively, to full capacity.

[4] The Judiciary has been implementing programs to address delay and docket congestion in courts, to include: dispute settlement through the *Katarungang Pambaranggay;* continuing judicial education; continuing trial system; monitoring of judicial performance; and continuing reforms in court rules/procedures.

3.5.21 The problem of congestion in the NBP and CIW is traced to the orders issued by the courts, specifically committing offenders to these penal institutions. This situation constraints BuCor to transfer inmates to appropriate prisons and penal farms unless another court order is issued. For other inmates, BuCor has represented that it has been attending to their deployment from NBP to other national penitentiaries, targeting about 200 prisoners for a weekly transfer. One of the issues indicated regarding the transfer was politics, as evidenced by several representations from local officials and Congressmen to hold in abeyance or even forego the transfer of certain prisoners especially to Iwahig where they will be made to do farm work.

3.5.22 While political pressure is a genuine issue, the BuCor must take bold assertions of its mandate over an effective management of national prisons. The transfer of prisoners to other national penitentiaries must be hastened, if only to spread evenly the 28 percent congestion rate among the prison farms. Appropriate security and custodial measures, like the segregation of female inmates from the males must on the other hand be ensured.

Because of congestion, hiring of additional prison guards to maintain security and peace and order situation in prisons is necessary

3.5.23 The ideal ratio for custodial in the national penitentiaries is 1:5, that is one prison guard for every five/seven inmates. However, the actual ratio is 1:19. On the other hand, the ideal ratio for escorting is 1:1+1, that is, one inmate for every one-jail guard plus one supervisor. In BuCor, the ratio is 2:1, that is, two inmates for one prison guard without a supervisor. The limited number of guards vis-à-vis the increasing number of inmates poses security risk in prisons and jails.

Congestion has contributed to the sub-human conditions of inmates and other human rights issues

3.5.24 It is a general knowledge that inmates in prisons/jails all over the country are living in deplorable conditions. A study in 1993 of the Commission on Human Rights (CHR) on the existing conditions of 619 correctional institutions, including national prisons, in the country [5] confirmed that inmates in more than 50 percent of the covered institutions are deprived of the basic needs for food, shelter/living space, water and lighting.

3.5.25 The CHR observed that problems on food insufficiency, delay in release of food allotment, inadequate and unsanitary food preparation and lack of food provision prevail in said institutions. In 1992 when the food allowance of a prisoner was Php20.00 per day (food and medicine allowance is currently at Php 30.00 per inmate per day), there were jails that were provided with a daily food allowance of as low as PhP 7.00 per inmate.

3.5.26 Old, dilapidated prison cells; congestion; lack of separate cells for female inmates and youth offenders; poor ventilation and lighting facilities; defective water system; unsanitary cells and comfort rooms; and inadequate provisions for sleeping materials

[5] Commission on Human Rights, "*A Study on the Existing Conditions of Jails and Correctional Institutions in the Philippines", October 1993*

(beds/bunks, mats/blankets, pillows, etc.) are prevalent in most penal establishments, contributing to the sub-standard situations of inmates.

3.5.27 On the basis of its regular jail visits, the CHR has observed and reported that violations of human rights of prisoners are an issue.[6] These include denial of the right to counsel and to speedy trial, illegal and arbitrary arrest and detention, torture, maltreatment, physical injuries, sexual harassment and abuse against chastity.

3.5.28 Inmates complained of slow disposition of their cases by the courts. The CHR has findings that there are inmates who have been confined for already more than three years in jails, yet the courts have not given the necessary decision on their cases. Absenteeism on the part of the presiding judges was identified as a major factor for the delay of court trials. In some cases, there are no judges assigned to certain salas where cases of inmates have to be heard.

3.5.29 The CHR's report included the present of other human rights violations against detainees and prisoners like breach of constitutional right against self-incrimination, threat against life, confinement in *bartolina*, lack of preliminary investigation, and absence of commitment order from the court, failure of prison officers to bring prisoners/detainees to court hearings on scheduled dates, and violations of other basic rights.[7] Strict observance of international standards on the care, custody and treatment of prisoners, specifically in regard the prevention of torture and cruel and degrading punishments, food sustenance, and humane living accommodations were some of the measures indicated by the CHR in its report to directly address human rights violations in penal establishments.

OPPORTUNITIES

BuCor's large landholdings could be optimally managed and utilized to generate additional revenues for the agency

3.5.30 The Iwahig Prison and Penal Farm in Palawan alone comprises of 41,007 hectares[8]. The New Bilibid Prison consists of 5,390,000 sq. meters[9], of which area, 5,000,000 sq. meters remain uncultivated. If these properties are optimized, they will substantially augment the resource requirements of the BuCor. It may be noted that the budgetary allocation for BuCor has effectively been reduced in view of the increase in inmates population and the effects of inflation; hence the agency's need for budget augmentation.

Privatization and outsourcing of prison services

3.5.31 Budget constraints have created a problem in the operation of prisons. The number of prisoners has been substantially increasing everyday, but budget is lacking for appropriate maintenance. There is therefore a need to increase the capacity of the

[6] *Ibid.*
[7] *Ibid.*
[8] *Base on the data from an internet downloaded material.*
[9] *Base on BuCOR Annual Inventory Report, 2002*

prison system. The private sector can become involved in corrections to lower cost, increase the quality of services, and help cope with the growing number of prisoners without additional burden to the budget.

3.5.32 Many countries have already benefited from privatization and outsourcing of services to private companies. The United States has been privatizing its jails and prisons for the past twenty years, providing the country with cost efficiency and economy in the areas of reduced construction (25%) and operating costs (10% - 15%), superior quality of services and programs, reduced legal liability cost, immediate implementation of necessary changes in the nature and scope of various types of programs for prisoners, improvements in public jail facilities, among others.[10] Texas is a place where one could find the largest number of privatized correctional facilities. There are 43 privatized facilities in Texas, employing 30,389 inmates from the state prisons, country jails and detention facilities.[11]

3.5.33 The Nashville-based Corrections Corporation of America (CCA) is the first private prison company in the United States. For most of the eighties and early nineties, CCA handled contracts for minimum-security persons for cherry picking. Now, in 27 different states where the private prison companies control about, 100,000 prison beds across the country, CCA's market share is about one half. The second largest private jailer is Wackenhut Corrections, with about 17,000 beds at 24 facilities. Behind CCA and Wackenhut is some sixteen other firms that run local jails, private prisons, and detention centers.[12]

3.5.34 However, it may be noted that there are certain groups in America who are against privation of prisons and jails. Protests groups have alleged and highlighted that prison privatization is actually more costly, that some companies cut corners to maximize profit, that some pay less than the prevailing minimum wage to defray high cost of inmates incarceration, and that the hiring of untrained, unqualified and incompetent guards has lead to dismal records of escapes and inmates brutality.

3.5.35 The adoption of this arrangement in national penitentiaries must thus be thoroughly studied.

Enhancement of inmates' productivity through employment of prison labor by private industries

3.5.36 Jobs for inmates will keep them busy and productive. This will reduce violence and increase their employability upon release from prisons. Moreover, prisoners are required to pay restitutions to the victims, not to mention support to their families, so that they need to earn while in confinement.

3.5.37 The BuCor's program on agro-industries is designed to meet this purpose. The program provides the inmates opportunities to learn agricultural and industrial skills that will become useful in looking for livelihood opportunities when released from

[10] Internet downloaded material, "*Frequently Asked Questions*", Professor Thomas Homepage, Charles W. Thomas, professor of Criminology (retired) Center of Studies in Criminology and Law, University of Florida.
[11] ……
[12] ……..

prison. About 8,000 inmates work in private firms like a Korean-owned handicraft-manufacturing firm (Samsung) in NBP, and the Tagum Development Corporation (TADECO) in Davao where they are hired as plantation workers. This number of employed inmates includes those who work as janitors, messengers, typists and utility workers in different offices of the BuCor. A joint venture with PHILRICE for rice farming and seed banking for the GMA high-breed rice variety at the Iwahig Prison and Penal Farm is the latest undertaking of the agency under its agro-industries program.

3.5.38 Inmates who are employed in agro-industry activities are compensated with as much as Php300, as provided under the General Appropriations Act. Prisoners who are assigned to undertake administrative odd jobs in BuCor offices get PhP100 to Php200 every month. TADECO on the other hand pays an average monthly compensation of Php2, 600 for inmate-workers in its Davao banana plantation farm.[13]

3.5.39 To increase prisoners' productivity, BuCor must adopt an intensified program of partnering with private industries for prison labor. Job-ready inmates and those who are close to release may go into the process of interview by prospective employers for actual employment following their release. Manufacturing and service industries may benefit from prison labor, and thus meaningful job/skills training along these areas must be available to the inmates to increase their chances of finding and keeping jobs after release.

THREATS

Prevailing negative public perception on the leadership and capability of prison officers may result in limited support from stakeholders

3.5.40 Reports on corruption, human rights abuses, disturbances and well-publicized escapes incidences and impressions of graft and corruption "dis-incentivize" some civil society organizations in according their full commitment for community services for the benefits of inmates.[14]

3.5.41 Negative impressions and effects on certain prison operations must be avoided and addressed to secure full support from community resources. Correctional institutions must moreover maintain community relations inasmuch as concerted efforts to provide and share information with the community can bring positive impact. Thus, the use of media in advocacy efforts and to report on correction programs and activities may be adopted and optimized to generate needed support from the civil society.

[13] BuCor Annual Report, 2002
[14] Based on interview with Mr. Johnny Mirante, a member of the UP Church of the Risen Lord, UP Diliman, Quezon City, and a volunteer to various activities of the church among inmates.

3.6 INTERNAL CAPACITY ASSESSMENT

Mandate and Mission

3.6.1 The BuCor has a clear and explicit mandate. The agency is mandated to "protect society through humane confinement and effective rehabilitation of criminal offenders".

Human Resources

3.6.2 The goal of improving quality of investigation relies on many aspects including how the key personnel such as Prison Guards are selected, compensated, managed for performance, promoted, and how they are challenged, coached, educated, updated, monitored, and also how they are disciplined and where necessary, removed. A number of these points are addressed in the succeeding sections.

Personnel Complement and Deployment

3.6.3 The Bureau of Corrections has 2,362 authorized positions, of which 2,211 or 94% are filled as of January 31, 2003. A little more than 60% of this workforce is in the custodial function under the Defense and Security – Civil Security Services Occupational Group where 1,300 Prison Guards positions and 34 Penal Institution Superintendents and Program Officers positions under the Social Sciences and Welfare Services - Penal Institution Management Occupational Group are included.

3.6.4 The Defense and Security Occupational Group is concerned with "the safety and protection of the public against crime through the maintenance of peace and order; and custodial and security services. It also includes occupations concerned with intelligence and investigative activities, fire, fighting and investigation; ballistics, polygraph and document examination; identification and analysis of handwritings and fingerprints; manufacture and repair of guns and gun parts; and investigation and negotiation of water rights and right-of-way." The Civil Security Sub-group where the Prison Guards of the Bureau are classified is also where Security Guards are classified.

3.6.5 On the other hand, the Social Sciences and Welfare Services Occupational Group includes occupations concerned with rendering assistance to individuals, families and groups in societal relationship or in meeting people's basic needs; community, labor, employment, and manpower development; local government operations; penology and probation administration; and religious guidance. It also includes occupations concerned with the enforcement of laws and ordinances governing elections, immigration, graft prevention and control; regulation and licensing of various professions and occupations; and conciliation, mediation and arbitration of labor disputes and those involved with civil registration.

Table 5-5
Deployment of Core positions, BuCor

Deployment by Core Position	Headcount	% to Total
Prison Guard I Prison Guard II Prison Guard III Sub total Prison Guard	1151 93 68 1312	 60%
Penal Institute Program Officers Penal Institute Superintendents Sub total Penal Institute Management Positions	12 22 34	 2%
Total core positions	**1346**	**62%**

Key Positions – Hiring, Selection and Compensation

3.6.6 The core positions in the Bureau of Corrections are those with custodial responsibilities. The Prison Guard I is a starting position where all the activities and functions are performed. The positions of Prison Guard II and III generally take responsibility for a group of Prison Guards in the lower category, usually between 7 – 9 for each team.

3.6.7 The average tenure of Prison Guard I, II and III are 15, 25, and 29 years respectively. The nature of the job is that these posts exact dedication and constancy. This suggests that whatever attrition rate is experienced is nominal and highly manageable.

3.6.8 The concept of penology has evolved over time and rather than merely securing the physical confinement of the inmate, various behavioral modification and spiritual activities are undertaken. This suggests a need to review the exact nature, grade classification, and position title commensurate to that evolution.

3.6.9 A comparative summary of the salary grades and headcount of the key positions in NPS, PAO, NBI and BuCor which represent 80%, 25% and 32%, respectively of their total employee population are presented in Exhibit I.

Compensation

3.6.10 The BuCor core position of Prison Guard receives basic salary, salary supplements similarly granted to all others in government, and other salary supplements granted with conditionalities.

- The basic salary of Prison Guards I to III according to prevailing salary schedule (effective July 1, 2001) ranges from ₱ 7,053 (SG 5 Step 1) to ₱11, 815 (SG 10 Step 8) per month.

- The salary supplements, which are regularly granted, include: Personal Relief Allowance (PERA), Uniform/Clothing Allowance, Productivity Allowance, Cash Gift/Year-end Bonus, and 13th month pay.

3.6.11 Four other salary supplements particularly received by all BuCor employees including those in the core positions under special conditionalities are hazard pay of P 600/month, quarters allowance of P 150 for those who are living outside the penal institution, meal allowance of P 540 monthly, and electric subsidy of P 200 a monthly.

3.6.12 All together, these salary supplements account for a substantial percentage (about 25% to 34%) of the total cash compensation. The salary supplements for Prison Guards I to III range from P 47,923 to P 52,695.

3.6.13 Thus total cash compensation of Prison Guards I to III ranges from P139, 482 to P206, 295 per year.

3.6.14 The current pay levels of appear to be comparable at the hiring level of Prison Guard I. However, because of the nature of the job and the requirement for the incumbent to be on call, the housing arrangements and living facilities are necessarily provided. It is important that the allowance to support other living expenses such as food and utilities is provided.

Professional Training and Development

3.6.15 The Training School of the Bureau of Corrections undertakes various programs, or coordinates the conduct of the same. It has a good balance of the practical specialized courses and personality / professional development courses including values enhancement and similar courses, and provides flagship programs around its key functions on correction administration. These are:

- Prison Guard Basic Course. Objective is instill philosophy of the corrections service, accept and believe and translate in the employee's duties and responsibilities. Coverage. Law, Rules and Regulations, Investigative Procedures. Physical development. Drill Inspection and Formation. Weapons and Marksmanship practice. Introduction to Custodial Service. The Philippine Criminal Justice System. Organization, Jurisdiction and Functions of the Bureau. Human Rights: Foundation and Bill of Rights. Filipino Values. Psychology of Deviant Behavior. Basic Courtesies and Discipline. Employee Morale, incentives, and welfare benefits. Disciplinary and grievance machinery. Inmates: Admission and confinement, Classification, Rights and privileges. Exercise of religious beliefs and practices. Discipline and Punishment. Rehabilitation and Treatment. Medical and Health services. Prison Records keeping and processing. Computation of Time allowance for good conduct and loyalty. Release of inmate. Correspondence and report writing. Fundamentals of Criminal law. Fundamentals of rules of evidence.
- Therapeutic Community Training Modality –A three-year ongoing project involving training, facilitator accreditation, and on-going implementation of applying behavioral change for drug-related cases. Uses the concept of group process and pressure to encourage self sufficiency and discipline and impose group penalties
- Correction Administration - Custodial Administration mid-level course for all civilian and custodial employees. Review/update on rules and procedures of the facility and laws on correction

- Basic training – Records management
- General skills – Orientation for new employees, Values enhancement
- People management related training – Supervisory development, Performance Evaluation System Seminar

3.6.16 Possible areas of reform would be in the following areas:

- For the Prison Guard to receive regular training in a variety of subjects relating to values formation, personal development and group dynamics to assist the employee in coping with a relatively difficult job assignment.
- For the Penal Institute Program Officer positions have an opportunity to observe and adopt best practices in well-managed jails in other countries in Asia.

Financial Management

3.6.17 Budgeting is the process of planning the overall activities of the organization for a specific period, usually a year. The primary objective of budgeting is to coordinate the separate plans made for various segments of the organization, to assure that these plans are harmonized with one another. However, in the case of BuCor, budgeting is not linked with any planning activity. The agency's budgeting process follows the Budget Call is mainly based on the and budget ceiling set by the Department of Budget and Management at the beginning of the year. From the budget ceiling, the BuCor makes allocations for Personal Services (PS), Maintenance and Other Operating Expenses (MOOE) and Capital Outlay (CO) for the entire Bureau. Work and financial plans are prepared only after the budget has been acted upon.

3.6.18 Bucor's appropriation from the National Budget includes provisions for food, shelter, clothing, and other basic necessities of the seven penal colonies whose population as of end 2002 has already reached 25,002, as well as the operating requirements of the different organizational units of the Bureau, which are manned by 2,200 personnel including those of the penal farms.

3.6.19 Table 5-6 below shows the annual appropriations, as provided under the General Appropriations Act for years 1997-2001.

Table 5-6
Annual Appropriations, BuCor, 1997-2001

PARTICULARS	1997	1998	1999	2000	2001
PS	242,845,000	307,379,000	315,665,000	303,927,000	
MOOE	264,616,000	298,941,000	323,029,000	361,483,000	
CO	4,918,000	5,841,000	1,487,000	1,487,000	
Total	**512,379,000**	**612,161,000**	**640,181,000**	**666,897,000**	

(Source: GAA 1997-2000, 2001 budget-reenactment of FY2000 budget)

3.6.20 Table 5-7, on the other hand, shows the total expenditures of the Bureau for years 1997 to 2001. It is notable that the Bureau's actual expenditures are always equal to the total appropriations of the national government.

Table 5-7
Actual Expenditure, BuCor, 1997-2001

PARTICULARS	1997	1998	1999	2000	2001
PS	242,845,000	307,379,000	315,665,000	303,927,000	303,699,000
MOOE	264,616,000	298,941,000	323,029,000	361,483,000	344,541,000
CO	4,918,000	5,841,000	1,487,000	1,487,000	1,000,000
Total	**512,379,000**	**612,161,000**	**640,181,000**	**666,897,000**	**649,240,000**

(Source: Bureau of Corrections)

3.6.21 The per capita cost of prisoners for a given year is indicated in Table 5-8. While the total budget of the Bureau increases annually, the inmate per capita cost decreases. There was an increase in the agency's budget by about 17% in 1998, a decrease by 0.67% in 1999, a decrease by 3.8% in 2000, and another decrease by 4.5% in 2001. This clearly indicates that while the number of prisoners increases, the government support decreases.

Table 5-8
Per Capita Cost of Inmates, 1997-2001

YEAR	TOTAL BUDGET	No. of Inmates	Cost per Inmate/year	No. of Days	Cost per Inmate/day	Annual % Increase of Per Capita Cost
1997	512,379,000	20,172	25,400.51	365	69.59	
1998	612,161,000	20,619	29,689.17	365	81.34	16.88%
1999	640,181,000	21,708	29,490.56	365	80.80	-0.67%
2000	666,897,000	23,508	28,368.94	365	77.72	-3.80%
2001	649,240,000	23,965	27,091.17	365	74.22	-4.50%

(Source: Bureau of Corrections)

3.6.22 Of the total MOOE budget, the provision for supplies and materials gets the largest slice. It accounts for about 85% of the total MOOE budget, as shown in Table 5-9 below.

Table 5-9
Breakdown of Maintenance and Other Operating Expenses

COST ITEMS	1997	% To Total	1998	% To Total	1999	% To Total	2000	% of Total	2001	% To Total
Traveling Expenses	4,000	1.51	4,050	1.35	4,200	1.30	5,528	1.53%	4,700	1.36
Communication Services	178	0.07	178	0.06	178	0.06	471	0.13%	243	0.07
Repair and Maintenance of Government Facilities	4,873	1.84	4,873	1.63	4,873	1.51	7,420	2.05%	5,114	1.48
Repair and Maintenance of Government Vehicles	3,960	1.50	3,960	1.32	3,960	1.23	5,148	1.42%	4,607	1.34
Transportation Services	245	0.09	245	0.08	245	0.08	293	0.08%	293	0.09
Supplies and Materials	224,280	84.76	256,773	85.89	277,605	85.94	305,677	84.56%	297,692	86.40
Rents		0.00		0.00	234	0.07	11	0.00		0.00
Grants, Subsidies and Contributions	234	0.09	234	0.08	336	0.10	600	0.17	600	0.17
Water, Illumination and Power Services	8,140	3.08	8,140	2.72	8,140	2.52	9,305	2.57	9,305	2.70
Social Security Benefits, Rewards and Other Claims	9,703	3.67	8,061	2.70	9,600	2.97	8,000	2.21	8,000	2.32
Training and Seminar Expenses	18	0.01	18	0.01	18	0.01	300	0.08	300	0.09
Extraordinary and Miscellaneous Expenses	18	0.01	18	0.01	73	0.02	73	0.02	80	0.02
Gasoline, Oil and Lubricants	2,100	0.79	2,100	0.70	2,100	0.65	3,107	0.86	3,107	0.90
Fidelity Bonds and Insurance Premiums	147	0.06	147	0.05	147	0.05	500	0.14	450	0.13
Confidential and Intelligence Expenses		0.00		0.00		0.00	50	0.01	50	0.01
Other Expenses	6,720	2.54	10,144	3.39	11,320	3.50	15,000	4.15	10,000	2.90
TOTAL	**264,616**	**100.00**	**298,941**	**100.00**	**323,029**	**100.00**	**361,483**	**100.00**	**344,541**	**100.00**

3.6.23 The budget for supplies and materials goes to food, medicine, clothing and other necessities of the prisoners. Given the budget for the years 1997-2001 and the total number of inmates, the daily sustenance of the inmates barely amounts to P35.00 (Table 5-10). In 1997, the budget for meals of each prisoner is P25.00 daily. From 1998-2001, the daily meal allowance of every inmate was pegged at P30.00, while that for medicine is P1.00 per prisoner, per day. The balance from the P31.00 allowance for food and medicine is earmarked for clothing, beddings and other personal necessities of inmates.

Table 5-10
Distribution of the Supplies and Materials Budget per Prisoner

YEAR	Supplies and Materials	No. of Prisoners	Budget per Prisoner per year	Days in a Year	Budget per Prisoner per day
1997	224,280,000	20,172	11,118.38	365	30.46
1998	256,773,000	20,619	12,453.22	365	34.12
1999	277,605,000	21,708	12,788.14	365	35.04
2000	305,677,000	23,508	13,003.11	365	35.62
2001	297,692,000	23,965	12,421.95	365	34.03

3.6.24 Looking at the overall picture, it can be said that the Bureau is operating at a very low budget every year. Consultations with the Bureau officials reveal that the approved annual budget is always substantially much less than the agency proposal. The agency's requirements are supplemented from its income from agro-industrial activities, but this is still lacking vis-à-vis actual operational expenses.

3.6.25 BuCor generates income under its agro-industries program. This is used to supplement the regular budget provided under the annual General Appropriations Act (GAA). The Bureau is specifically authorized under a Special Provision in the GAA to purchase products of its agro-industrial projects for institutions' use or for prisoner's subsistence at 70% of the market price, chargeable against the budget for MOOE. Proceeds from such sale is deposited to the agency's trust account "Fund 284", and may be made available for the prisoners' allowance and additional subsistence, additional supplies and materials, acquisition of farm tools and equipment, and for repair, construction, operation and maintenance of agro-industrial projects and prison facilities. An increase in production of these projects would thus provide the BuCor with much needed financial resources.

3.6.26 Table 5-11 reflects the agency's income from the different agro-industrial projects under each of the penal institutions for year-end of 2002:

Table 5-11
Sources of Income, Per Colony

	NBP/CIW	SRPPF	DPPF	IPPF	LRP	SPPF	TOTAL
Acacia/Palomaria Lumber							
Agricultural Products	158,966.00	88,217.50	1,032,759.00	800,393.00			2,080,335.50
Copra/Coco products		318,153.10		713,321.20			1,031,474.30
Corn/Corn Products		13,552.50				716,303.95	729,856.45
Firewood		53,489.70			376,092.00		429,581.70
Right of Way		2,758,272.80		394,500.00			3,152,772.80
Handicrafts/Furniture	601,551.89	6,450.00		2,500.00		16,973.00	627,474.89
Hollow Blocks/Filling Materials		79,430.00					79,430.00
Fishes/Balsahan				7,000.00			7,000.00
Mar Fishing		300,000.00					300,000.00
Fruits/Vegetables		132,758.50		15,000.00	21,070.00	2,400.00	171,228.50
Pigs/Cattle/Carabao		144,307.80		12,000.00			156,307.80
Sticker/Xerox/etc.	55,183.07	4,500.00	2,820.00			335.00	62,838.07
Rental-SAMSUNG	312,092.00						312,092.00
Labor Share-SAMSUNG	181,393.19						181,393.19
Rental-TADECO	7,927,470.00						7,927,470.00
Goodwill-TADECO			2,689,125.43				2,689,125.43
Rice and Rice Products			73,880.00	34,225.00	32,250.00	238,243.85	378,598.85
Salt/Vinegar		1,100.00					1,100.00
MOA-Poultry/SAJO				4,220.00			4,220.00
G-4 Foodhouse/LEAD-FPO							0.00
TOTAL	9,236,656.15	3,900,231.90	3,798,584.43	1,983,159.20	429,412.00	974,255.80	20,322,299.48

3.6.27 The production incomes for the last five years of each of the seven penitentiaries are on the other hand reflected in Table 5-12 below:

Table 5-12
Summary of Production Income of the Operating Units

OPERATING UNITS	1998	1999	2000	2001	2002	TOTAL (in PHP)
	Production Income	Production Income	Production Income	Production Income	Production Income	
NBP/ICW		12,426,090.27	13,942,473.80	12,362,093.86	9,236,656.15	
SRPPF		3,280,323.45	2,461,403.75	2,469,689.89	3,900,231.90	
DPPF		670,378.08	1,367,428.54	3,997,027.26	3,798,584.43	
IPPF		5,326,669.30	3,875,768.15	4,340,122.30	1,983,159.20	
LRP		441,704.10	359,983.17	398,741.00	429,412.00	
SPPF		2,893,755.19	1,640,885.50	706,168.24	974,255.80	
TOTAL	25,161,698.68	25,038,920.39	23,647,942.91	24,273,842.55	20,322,299.48	118,444,704.01

3.6.28 From 1998 to 2002, the total production income derived from the agro-industries is about P118M, averaging P23.7M a year. A decrease in income from 2000 to 2002 has however been noted; from P25.16 million in 1998 to P20.32 million in 2002. This is an indication that instead of maximizing its resource generation activities, the Bureau has reduced its operation.

Table 5-13
Schedule of Income and Expenses

PARTICULARS	1998	1999	2000	2001	2002	TOTAL
Production Income	25,161,698.68	25,038,920.39	23,647,942.91	24,273,842.55	20,322,299.48	118,444,704.01
	100%	100%	100%	100%	100%	100%
Production Expenses	9,718,039.04	11,571,314.85	5,429,929.20	11,903,984.71	7,589,455.20	46,212,723.00
	39%	46%	23%	49%	37%	39%
Operating Income	15,443,659.64	13,467,605.54	18,218,013.71	12,369,857.84	12,732,844.28	72,231,981.01
	61%	54%	77%	51%	63%	61%
Non-Production Expenses	20,538,459.32	7,629,684.45	5,731,693.59	11,641,575.07	19,808,718.42	65,350,130.85
	82%	30%	24%	48%	97%	55%
Net Income	-5,094,799.68	5,837,921.09	12,486,320.12	728,282.77	-7,075,874.14	6,881,850.16
	-20%	23%	53%	3%	-35%	6%

3.6.29 Out of the total production income of the Bureau, an average of only 39% goes to production expenses. Thus, at the average, 61% of the total production income may be used for the augmentation of BuCor's operating budget.

3.6.30 Table 5-14 shows the consolidated Income and Expense Report of the Bureau from 1998 to 2002. The table expands the schedule in Table 5-13 by showing the income and expenses earned and incurred by each penal farm.

Table 5-14a
Income and Expense Report, Bucor, 1998-1999

OPERATING UNITS	1998				1999			
	Production Income	Production Expenses	Non-Production Expenses	Net Income	Production Income	Production Expenses	Non-Production Expenses	Net Income
NBP/ICW					12,426,090.27	3,594,316.90	3,610,433.23	5,221,340.14
SRPPF					3,280,323.45	1,182,684.49	841,866.47	1,255,772.49
DPPF					670,378.08	451,700.40	1,656,596.76	-1,437,919.08
IPPF					5,326,669.30	3,402,330.17	297,400.00	1,626,939.13
LRP					441,704.10	211,330.80	50,161.80	180,211.50
SPPF					2,893,755.19	2,728,952.09	1,173,226.19	-1,008,423.09
TOTAL	25,161,698.68	9,718,039.04	20,538,459.32	-5,094,799.68	25,038,920.39	11,571,314.85	7,629,684.45	5,837,921.09

Table 5-14b
Income and Expense Report, Bucor, 2000-2001

OPERATING UNITS	2000				2001			
	Production Income	Production Expenses	Non-Production Expenses	Net Income	Production Income	Production Expenses	Non-Production Expenses	Net Income
NBP/ICW	13,942,473.80	2,269,741.59	3,123,514.40	8,549,217.81	12,362,093.86	6,077,982.66	7,084,534.00	-800,422.80
SRPPF	2,461,403.75	507,251.04	307,969.50	1,646,183.21	2,469,689.89	500,689.45	226,302.23	1,742,698.21
DPPF	1,367,428.54	228,850.09	-	1,138,578.45	3,997,027.26	396,893.96	447,329.80	3,152,803.50
IPPF	3,875,768.15	1,809,671.75	1,972,136.76	93,959.64	4,340,122.30	3,865,411.99	3,496,812.40	-3,022,102.09
LRP	359,983.17	27,119.98	13,695.18	319,168.01	398,741.00	163,690.74	262,836.64	-27,786.38
SPPF	1,640,885.50	587,294.75	314,377.75	739,213.00	706,168.24	899,315.91	123,760.00	-316,907.67
TOTAL	23,647,942.91	5,429,929.20	5,731,693.59	12,486,320.12	24,273,842.55	11,903,984.71	11,641,575.07	728,282.77

Table 5-14c
Income and Expense Report, BuCor, 2000

OPERATING UNITS	2002			
	Production Income	Production Expenses	Non-Production Expenses	Net Income
NBP/ICW	9,236,656.15	1,665,897.05	14,908,776.55	-7,338,017.45
SRPPF	3,900,231.90	521,081.20	3,219,909.95	159,240.75
DPPF	3,798,584.43	919,920.66	482,547.14	2,396,116.63
IPPF	1,983,159.20	1,443,201.56	846,765.56	-306,807.92
LRP	429,412.00	1,740,799.89	120,898.62	-1,432,286.51
SPPF	974,255.80	1,298,554.84	229,820.60	-554,119.64
TOTAL	20,322,299.48	7,589,455.20	19,808,718.42	-7,075,874.14

3.6.31 The above income and expense schedules (Tables 5-4a – 5-14c) show, after deducting the non-production cost, a negative net income for years 1998 and 2002. The non-production expenses account for the expenses that are not directly related to the revenue generating activities of the Bureau such as bank charges, purchase of furniture and equipment, supplies and materials, additional subsistence of prisoners, among others. The non-production expenses recorded in the statements are the outlays made for the particular period indicated. The negative entries means that more cash is drawn from the income received for a given year, without taking into consideration previous year's receipts. The non-production expenses eat much of BuCor's production income.

COLLECTIONS/DEPOSITS AND DISBURSEMENTS PROCEDURE

3.6.32 The prices of the products and services of the agro-industrial projects are decided upon by the Superintendent of the penal farm or by the BuCor Director, subject to approval by the DOJ Secretary. For agricultural and food products produced by the agro-industries and are intended for the inmates are purchased by the agency at 70% of their prevailing market price.

3.6.33 The penitentiaries themselves collect their respective production incomes from agro-industrial projects, except those from TADECO in Davao, which are remitted directly to the central office of BuCor. Collections are always receipted and deposited to Fund 284, which is being maintained by the agency as a special account. Deposits are made immediately on the day of collection. However, in certain penal farms like the Sablayan in Leyte where the bank is far from the prison, collections are deposited 2-3 days after collection is made. Only the interests from Fund 284 accrue to the General Fund of the government.

3.6.34 The use of any amount from Fund 284 generally needs prior clearance from the BuCor Central Office. The Prison Superintendents are however given authority up to P10, 000 to make payment for purposes of prisoners' subsistence. The BuCor Director or the DOJ Secretary must authorize all other expenses, especially the purchase of equipment.

3.6.35 BuCor does not keep a separate book for Fund 284. However, each penal farm prepares a monthly report of income and expenses and submits this to the central office for consolidation with the accounting records. There is however a need to set a formal system on fund disbursements at the level of the penal farms.

REFORM PERSPECTIVE

3.6.36 The analysis made on the operation of the agro-Industries projects of the Bureau is limited to its incomes and expenses. An in-depth study on how these production projects are managed, the product selection, pricing policies, production and marketing operations and internal control mechanisms, among others, must be undertaken. This will determine whether or not incomes from the agro-industrial activities can sustain the operations of the Bureau to at least 10-20% of its total resource requirements.

Physical Assets Management

3.6.37 The main problem of the Bureau now, especially in the National Bilibid Prison and the Correctional Institute for Women, is congestion. The total land area of NBP is 5.39 million square meters. However, the prison and the administration offices, including quarters, hospitals, schools, guards' barracks, bodega, and parking spaces, occupy only 390, 000 square meters. Thus, about 5 million square meters of the area remain idle/unproductive. If feasible and financial resources are available, the expansion of the prison may be considered to accommodate excess inmate population.

3.6.38 Table 5-15 is a list of the agency's physical assets, including their book value, as of end 2002:

Table 5-15
Inventory, BuCor, 2002

Description	Balance per Card	On Hand per Count	Short	Over
Land NBP	420,000.00	420,000.00	-	-
Land Manila	1,000,000.00	1,000,000.00	-	-
Land San Pedro	14.50	-	14.50	-
Building NBP	15,073,865.41	14,974,838.28	99,027.13	-
Building Manila	969,797.54	867,947.54	101,850.00	-
Water System	1,710,578.34	1,710,578.34	-	-
Watercraft and Appurtenances	4,610,207.50	4,610,207.50	-	-
Motor Vehicles, Land Transpo, etc.	11,250,678.00	11,250,678.00	-	-
Industrial Machineries	10,019,257.00	10,019,257.00	-	-
Handtools	592,273.50	592,273.50	-	-
Furniture and Office Equipment	9,223,457.17	9,223,457.17	-	-
Ordinances	15,483,434.14	15,483,434.14	-	-
Technical and Scientific Equipments	2,777,612.13	2,777,612.13	-	-
Tel., Cable, Radio and TV Equipments	2,513,319.00	2,513,319.00	-	-
Books	17,800.00	17,800.00	-	-
Other Equipments	3,587,071.74	3,587,071.74	-	-
Total	**79,249,365.97**	**79,048,474.34**	**200,891.63**	**-**
Supplies	255,604.46	255,604.46	-	-

(Source: Annual Inventory Report of 2002)

3.6.39 The inventory includes land and building of the Old Bilibid prison in Manila amounting to P1M and P0.97M, respectively. The property however is now under the custody of the Public Estates Authority, although it is still included in the financial books of the BuCor. For lack of complete documentation, including the title to the property, the matter of proper recording of said has not yet been finalized.

3.6.40 Records on watercraft and appurtenances for years 1998-2000 show that these properties do not belong to BuCor anymore. However, the agency's records for 2001 and 2002 again reflect these items as again part of the agency's assets. There seems to be some erroneous entries in the agency's records that need be attended to so that proper posting in the books of accounts of these watercraft items and appurtenances be made.

3.6.41 Most of the BuCor's facilities are outmoded and dilapidated due to lack of funds. For 2002 was provided under the National Budget only P2 M for CO for hospital items (P1.5 million) and other equipment (P816,000). The amount is still lacking vis-à-vis its actual requirements for computers and vehicles.

3.6.42 The following are the features of each of the seven penal farms of the BuCor:

- Old Bilibid Prison in Oroquieta, Manila
  - Established in 1847 pursuant to Section 1708 of the Revised Administrative Code. Formally opened by a Royal Decree in 1865.
  - By 1935, when the prison is transferred to Muntinlupa, it was transformed into a receiving center and storage facility for farm produce from the colonies.
  - It is presently abandoned and placed under the jurisdiction of the Public Estates Authority.

- New Bilibid Prison in Muntinlupa
  - Established in 1935.

- San Ramon Prison and Penal Farm in Zamboanga City
  - Established on August 21, 1869 (1,414 hectare).
  - Reestablished in 1907 but was placed under the auspices of the BuCor only on January 1, 1915.

- Iwahig Prison and Penal Farm (Iuhit Penal Settlement)
  - Established I 1904 by the Americans on its present reservation of 28,072 hectares. It was expanded to 41,007 hectares in 1912.

- Correctional Institution for Women
  - Established on November 27, 1929

- Davao Penal Colony in southern Mindanao
  - Established in 1932 through Act No. 3732.

- Sablayan Penal Colony in Occidentl Prison
  - Established on September 6, 1954 through Proclamation No. 72

- Leyte Regional Prison in Visayas
  - Established on January 16, 1973 through proclamation No. 1101

3.7 Reform Implications

3.7.1 The following reform directions may be considered for BuCor in view of the above discussions:

- Instituting an effective system for generating and maintaining records of prisoners
- Expansion of BuCor's program on the improvement of inmates' productivity through prison industries
- Study the feasibility of privatizing and outsourcing of prison services
- Institutional strengthening of BuCor, adopting effective mechanisms for strategic planning, staff development, entrepreneurial strategies, and management information system

4 PAROLE AND PROBATION ADMINISTRATION

4.1 Historical Background

4.1.1 The probation system in the Philippines dates as far back as 1932 with the enactment of the juvenile probation law under the Revised Penal Code. The enactment of the adult probation law (CA 4221) followed in 1935. The present adult probation system is instituted under PD 968 dated July 24, 1976, to promote the correction and rehabilitation of an offender by providing him with personalized, community-based treatment; provide an opportunity for his reformation and reintegration into the community; and prevent the commission of offenses. A Probation Administration was likewise created under PD 968 to administer the probation law.

4.1.2 The Probation Administration was restructured into the Parole and Probation Administration under EO 292 (Administrative Code of1987) dated July 25, 1987, giving it an added responsibility of supervising prisoners released on parole or are granted pardon with parole conditions. The PPA is further authorized to conduct pre-parole/pardon investigation under Resolution No. 229 of the Board of Pardons and Parole issued in 1991.

4.2 Mandate and Functions

4.2.1 The PPA is mandated to administer the parole and probation system of the country, to decongest jails, reduce recidivism and provide savings to the government. The PPA is specifically mandated to undertake the following functions:

- Administer the parole and probation system;
- Exercise general supervision over all parolees and probationers; and
- Promote the correction and rehabilitation of offenders.

4.3 High-Level Structure and Jurisdiction

4.3.1 PD 968 provides the leadership structure of the PPA. An Administrator who is appointed by the President of the Philippines and who acts as the Executive Officer that exercises supervision and control over all probation officers, heads the agency. An Assistant Probation Administrator, who is likewise appointed by the President of the Philippines, assists the Administrator.

4.3.2 The central office structure of the PPA consists of seven divisions. The Financial and Management Division and Administrative Division provide housekeeping services; while the Legal and Inspection Division, Case Management and Records Division, Training Division, Community Services Division, and Clinical Services Division are in charge of mission-critical functions. A Planning Staff and a Technical Staff in the immediate Office of the Administrator undertake functions supportive of the line operations of the agency.

4.3.3 The Legal and Inspection Division provides legal advice to all PPA organizational units; prepares opinions relative to the implementation of the Probation Law (PD 968, as amended); undertakes inspection and audit of activities and operations of the PPA field offices; and conducts preliminary investigation on administrative complaints. The Case Management and Records Division provides technical services to field offices in improving investigation procedures and supervision of probationers; conducts studies on caseload and casework services and procedures; and maintains a central filing system on clients.

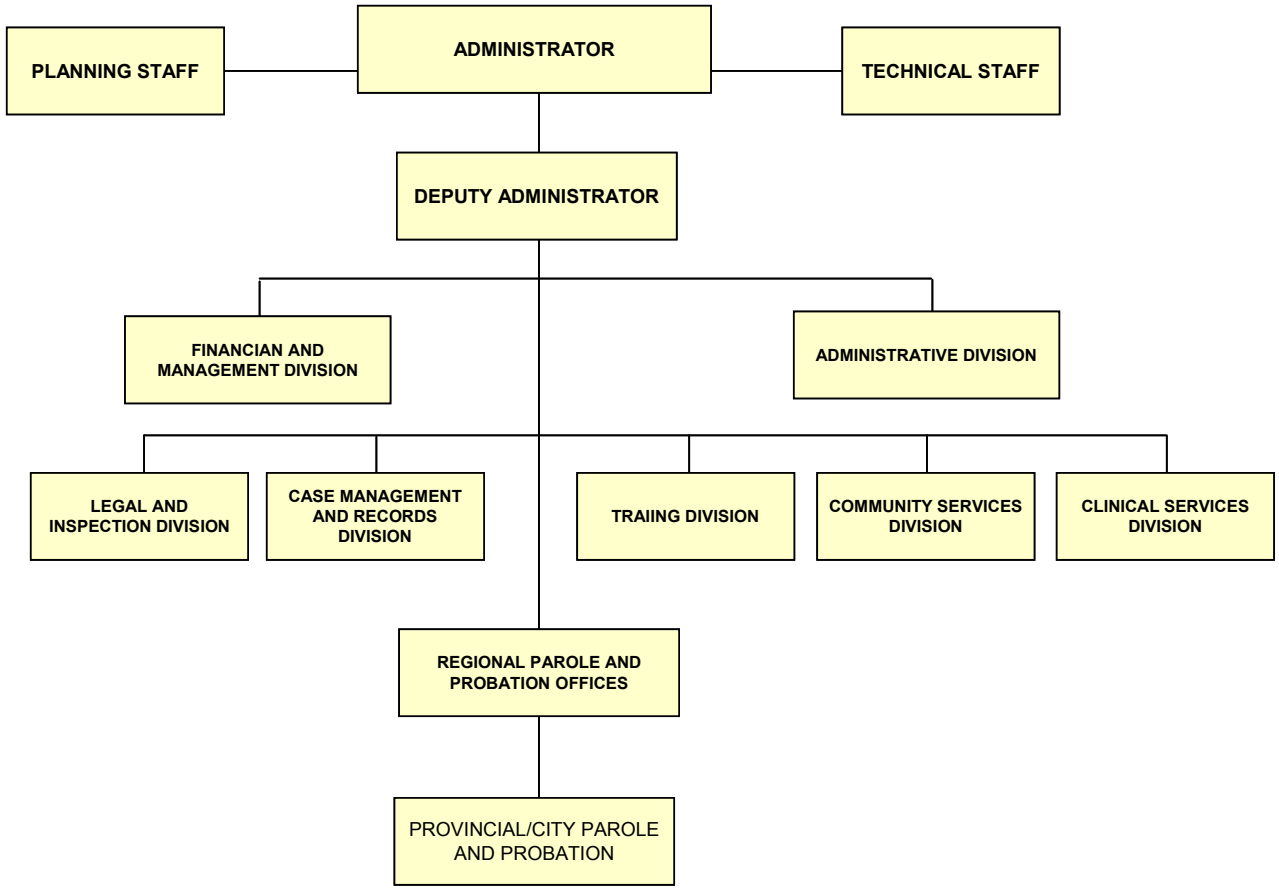
4.3.4 The Training Division develops, conducts, monitors and evaluates training programs for improved job performance of PPA staff; develops modules for training of community volunteers; and facilitates the attendance of PPA employees in training programs. The Community Services Division assists in the establishment and development of facilities, programs and services for the rehabilitation of probationers, parolees and pardonees utilizing community resources; provides technical services to PPA operating units on community services; and screens and recommends volunteers for appointment.

4.3.5 The Clinical Services Division provides the PPA and its clients with psychiatric, medical, dental, psychological and social services. The Planning Staff develops plans and programs and conducts researches on the implementation of the Probation Law. The Technical Staff on the other hand acts as the service arm of the Board of Pardons and Parole in the supervision of parolees and pardonees.

4.3.6 The field structure of PPA consists of 15 Regional Parole and Probation Offices, 202 Provincial/City Parole and Probation Offices, 13 Sub-Provincial/City Parole and Probation Offices, and 73 Extension Offices. These units implement policies, plans, programs, projects and activities of the PPA in the regions and field levels.

4.3.7 The organization structure of the PPA is shown in Figure 5-3.

Figure 5.3
Organizational Structure of PPA



4.4 Key Operations and Performance

4.4.1 PPA interventions generally fall either under investigation or supervision. In support of its supervision function, the PPA likewise undertakes promotion and advocacy programs to elicit, encourage and enhance involvement by civil society organizations and the community in probation and rehabilitation activities for qualified offenders

Investigation and diagnosing clients

4.4.2 PPA's investigation function pertains to the thorough assessment of the personal conditions and criminal records of the applicant for probation, as directed by the trial court, or for pre-parole/executive clemency, as required by the Board of Pardons and Parole.

4.4.3 Under its investigation function on probation, the PPA specifically conducts a character investigation on the petitioner, his antecedents, mental and physical conditions, socio-economic status, criminal records, family and educational background and other aspects of his life. These are done generally through record checks, interviews and home visits. If necessary, the PPA may require the applicant to undergo medical/drug tests and/or psychological/clinical diagnostics.

4.4.4 The PPA prepares a Post-Sentence Investigation Report (PSIR) in determining the petitioner's legal qualifications, his suitability for probation, and whether or not he would favorable respond to the community-based and individualized correction program. This document is submitted to the trial court with PPA's findings and recommendation on the grant or denial of the request for probation. The court finally decides on the application/petition. Probation is a privilege granted by the courts to the petitioners. Once granted, probation becomes a statutory right of the grantee, which can be cancelled or revoked only after due notice and hearing. The order of the court on the grant or denial of probation is not appealable.

4.4.5 In pre-parole/executive clemency investigation, upon receipt of referrals from BPP or any jail or prison, conducts necessary interviews, determines petitioner's qualifications by studying court and jail records, conducts home visits, and assesses client's acceptability in his home and community. PPA findings and recommendation are then submitted to the BPP for consideration.

4.4.6 Tables 5-16 and 5-17 indicate the accomplishments of the PPA for the past five years (1997 – 2001) with regard to its investigation activities on probation and parole/executive clemency, based on its annual reports. Some discrepancies in the presentation of the figures may however be noted. Specifically, the entries on the active cases at the end of the year do not match those on beginning-year active cases. The figures must be consistent inasmuch as the end-of-year data are but rolled/carried over to the succeeding years. PPA might have factored in certain information which were not revealed or are not discernible in the reports.

Table 5-16
Probation Investigation, 1997 - 2001

YEAR	BEG'NG YEAR ACTIVE CASES	NEW CASES RECEIVED	TOTAL CASES HANDLED DURING THE YEAR	COMPLETED / ACTED UPON							ACTIVE CASES, END OF YEAR
				PSIR* SUBMITTED		MANIFES-TATIONS	TRANS-FERRED	DROPPED CASES		TOTAL	
				GRANTED	DENIED			RESOLVED	WARRANT OF ARREST		
1997	1,259	13,215	14,474	10,510	611	1,507	44	11	6	12,689	1,785
1998	1,785	13,991	15,776	11,606	624	1,691	39	17	1	13,978	1,798
1999	1,798	19,928	21,726	15,901	932	2,048	81	8	8	18,978	2,748
2000	2,748	18,126	20,874	15,377	1,088	2,115	44	10	5	18,639	2,235
2001	2,235	17,486	19,721	13,778	1,014	2,297	52	39	1	17,181	2,540
TOTAL	9,825	82,746	92,571	67,172	4,269	9,658	260	85	21	81,465	11,106

Source: PPA
*PSIR=Post Sentence Investigation Report

Table 5-17
Pre-Parole/Executive Clemency Investigation

YEAR	BEG'NG YEAR ACTIVE CASES	NEW CASES RECEIVED	TOTAL CASES HANDLED DURING THE YEAR	COMPLETED / ACTED UPON							ACTIVE SUPERVISION OF CASES, END OF YEAR
				RECOM. FOR PAROLE	RECOM. FOR COMMUT-ATION OF SENTENCE	RECOM. FOR CONDITION-AL PARDON	RECOM. FOR ABSOLUTE PARDON	TRANS-FERRED	OTHERS	TOTAL	
1997	94	1,409	1,503	1,004	200	129	24	14	17	1,388	115
1998	115	1,287	1,402	890	890	0	13	10	38	1,841	(439)
1999	(439)	1,333	894	795	795	99	8	16	46	1,759	(865)
2000	(865)	1,004	139	625	625	85	7	9	24	1,375	(1,236)
2001	(1,236)	692	(544)	523	523	38	4	10	61	1,159	(1,703)
TOTAL	(2,331)	5,725	3,394	3,837	3,033	351	56	59	186	7,522	(4,128)

4.4.7 Obviously, probation requests dominate the agency workload on investigation, at 94% of the total received for the period, as compared to applications for parole/executive clemency at only 6%. The average investigation requests receive annually is 19,712, for both probation and parole/executive clemency, or an average of 1,314 per region per year. Clearance rate (number of requests completed/acted upon over the total cases pending within the year) is however at only 88%, which means that there are always backlogs that must be attended to every year. With an average of 50 Probation Officers per region to undertake this function, the workload of each Probation Office is thus 395 investigation cases per annum. Considering that almost the same number of supervision cases is also assigned to a Probation Officer, not to mention the promotion and advocacy aspect of his job, it may be indicated that inadequate personnel is a primary reason for the backlogs.

Supervision and monitoring of clients

4.4.8 Under its supervision function, the PPA provides instructions and guidance to clients on the proper observance of the conditions of their parole, pardon and probation. It concerns the monitoring of client's whereabouts, enforcement of conditions, determination of client's compliance to said conditions and the concomitant reporting of same to pertinent authorities, and the implementation of individual client's treatment plan.

4.4.9 The supervision function of the PPA includes the implementation of reformation programs for probationers, parolees and pardonees through community-based rehabilitation/treatment activities like job-placement referrals, vocational skills training, literacy programs, livelihood projects and other moral, spiritual, social and economic activities to uplift their lives.

4.4.10 The supervision function includes the grant by PPA to clients of authority to travel abroad and/or to change residence, subject certain conditions imposed for the purpose and the requirements indicated in the Probation Order with regard to probation cases, or the Discharge Document with respect to parole and conditional pardon cases. PPA reports to the courts any violation of the provisions of the Probation Order, and to the BPP on violations of the requirements under the discharge documents for parole and conditional pardon.

4.4.11 The performance of the PPA from 1997 – 2001 under its supervision function is reflected in Tables 5-18 to 5-20.

Table 5-18
Probation Supervision, 1997 – 2001

YEAR	BEGINNING YEAR ACTIVE CASES	NEW CASES RECEIVED	TOTAL CASES HANDLED DURING THE YEAR	DROPPED CASES				
				TERMINATED	RESOLVED	TANSFERRED	OTHERS	TOTAL
1997	22,116	10,761	32,877	5,992	867	958	57	7,874
1998	25,003	12,080	37,083	6,589	1,062	1254	63	8,968
1999	28,115	16,497	44,612	7,202	1,211	1590	0	10,003
2000	34,609	17,169	51,778	8,619	1,454	1971	9	12,053
2001	39,725	14,507	54,232	10,741	1,721	1658	33	14,153
TOTAL	149,568	71,014	220,582	39,143	6,315	7,431	162	53,051

Table 5-19
Parole Supervision, 1997 - 2001

YEAR	BEGINNING YEAR ACTIVE CASES	NEW CASES RECEIVED	TOTAL CASES HANDLED DURING THE YEAR	DROPPED CASES					
				FINAL RELEASED AND DISCHARGED	ARRESTED/ RECOMMITTED	DIED	TRANSFERRED	OTHERS	TOTAL
1997	10,561	2,253	12,814	1,326	317	95	366	9	2,113
1998	10,701	2,866	13,567	920	339	91	495	35	1,880
1999	11,687	3,615	15,302	1,523	159	81	422	10	2,195
2000	13,107	2,320	15,427	1,435	143	77	456	14	2,125
2001	13,302	3,657	16,959	1,886	406	91	504	3	2,890
TOTAL	59,358	14,711	74,069	7,090	1,364	435	2,243	71	11,203

Table 5-20
Pardon Supervision, 1997 - 2001

YEAR	BEGINNING YEAR ACTIVE SUPERVISION CASES	NEW CASES RECEIVED	TOTAL CASES HANDLED DURING THE YEAR	DROPPED CASES						ACTIVE SUPERVISION CASES, END OF YEAR
				SUCESSFULLY TERMINATED	ARRESTED/ RECOMMITTED	DIED	TRANS-FERRED	OTHERS	TOTAL	
1997	1,851	122	1,973	236	65	18	35	10	364	1,609
1998	1,609	639	2,248	132	35	11	77	3	258	1,990
1999	1,990	287	2,277	178	23	14	54	6	275	2,002
2000	2,002	401	2,403	149	14	11	65	2	241	2,162
2001	2,162	199	2,361	166	42	6	42	0	256	2,105
TOTAL	9,614	1,648	11,262	861	179	60	273	21	1,394	9,868

4.4.12 The figures on the beginning-year pending and the year-end balances are again not matched. They nevertheless show that about 72% of the clients being supervised are probationers, 24% are parolees, and 4% are pardonees. During the period under study (1997-2001), at the average, 18,211 clients were added to the agency's workload annually, and only an average of 12,634 clients had been dropped from its workload due to case termination, re-arrest/recommitment and death, among others. This historical trend indicates that there are more clients that must be supervised by the agency every year. With existing staff complement to remain the same in terms of number due to budget limitations, it will indeed be difficult for the PPA to cope with its backlogs unless a robust rehabilitation program for offenders that will substantially involve the community and the private sector is implemented.

4.4.13 Table 5-21 compares PPA's performance under each of its major interventions (investigation and supervision), specifically with respect to probation, which comprises the bulk of its workload in terms of the modes of release granted to client-offenders. The figures show that 56% of the activities of the agency is related to its investigation function, and 44% covers those on supervision function.

Tale 5-21
Probation Workload Summary, 1997-2001

YEAR	TOTAL NUMBER OF CASES	INVESTIGATION		SUPERVISION	
		NUMBER	% To TOTAL	NUMBER	% To TOTAL
1997	22,974	13,171	57	9,803	43
1998	26,071	13,991	54	12,080	46
1999	34,754	19,847	57	14,907	43
2000	33,280	18,082	54	15,198	46
2001	30,574	17,434	57	13,140	43
TOTAL	147,653	82,525	279	65,128	221
AVERAGE	29,531	16,505	56	13,026	44

4.4.14 Civic organizations, the community and civil society institutions may be tapped in both investigation and supervision activities, although it is in supervision and monitoring where substantial impacts/desired results of private sector and community involvement could be achieved inasmuch as this constitutes the actual rehabilitation and restoration stage of the program. A more appropriate workload profile of the agency is thus one which would relatively reflect less number of probationers, pardonees and parolees as clientele coverage on supervision, but with the right indicators to account for the shifted efforts of supervising and monitoring programs and activities of civil society organizations and the community as direct service providers for rehabilitation services.

4.4.15 The long-term objective is for the PPA to withdraw its interventions on the actual supervision of clients, and focus instead on strategic plans and programs development on rehabilitation and restoration, provision of technical assistance to service providers, training, developmental research, guidelines/standards setting, and supervision and monitoring of civil society organizations and the community which will undertake the direct supervision of the parolees, pardonees and probationers.

Advocacy and promotion activities for rehabilitation programs

4.4.16 PD 968 (Adult Probation Law), as amended, provides that the PPA may appoint citizens of good refute and probity to act as probation aides and assist the Provincial or City Probation Officers in the supervision of probationers. PPA is training volunteers who are given travel allowances. VPAs are likewise tapped in supervising parolees and pardonees after they have undergone a training program that emphasizes the need for a comprehensive understanding of the Philippine parole and probation system

and the concept of volunteerism and helping processes. The PPA regional offices train VPAs.

4.4.17 The PPA's program on volunteerism and employment of volunteer probation aides (VPAs) is considered an appropriate strategy in generating more citizens' participation in rehabilitation activities. However, it needs full support from the community/civil society, which has the power of advocacy considering its vast manpower resources and networking capability. Involving the civil society in the volunteerism program where the community intervention is fully optimized also allows the development of appropriate policy responses on community involvement in the administration of the criminal justice system, particularly in correction activities for inmates and in restoration programs for parolees and pardonees.

4.4.18 Relatedly, in the PPA central office, the capability of the Community Services Division must be enhanced to enable it to develop effective policies, plans, and guidelines for the implementation by the PPA field units. A trainers' training program for the PPA field staff may be necessary especially with respect to the volunteers program of the agency.

4.5 SWOT Analysis

Strengths

A corps of competent and appropriately trained probation officers on community relations and restorative justice

4.5.1 The restoration program for released inmate is a community-based scheme. PPA probation officers have built their capacity throughout the years in undertaking networking and coordination responsibilities and effective community relations. Interactions with other government and civil society organizations on social works and cooperation have been developed among the PPA staffs that substantially contribute to efficient supervision of pardonees, probationers and parolees.

Authority and responsibility for investigation and supervision of clients fully delegated to field units

4.5.2 The PPA operation is dispersed nationwide through its 15 Regional Parole and Probation Offices, 202 Provincial/City Parole and Probation Offices, 13 Sub-Provincial/City Parole and Probation Offices, and 73 Extension Offices. The decentralized operation of the agency for investigation and supervision of clients is suitable to such big organization. Allowing significant decisions be made in the field is in order inasmuch as field staff are closer to the problems and clients and thus can better assess local situations and make appropriate decisions.

Weaknesses

Coordination problems persist, as indicated in agency's difficulty in obtaining information on inmates from pertinent agencies

4.5.3 The PPA undertakes records check of clients with the NBI, the courts, and the prosecutors' office. However, records in some of the local courts and field units of the NBI and the prosecutors' offices are not systematically maintained and sometimes inaccurate, adversely affecting the investigation activities of the PPA. The implementation of the National Crime Information System that will link and facilitate exchange of information among agencies under the criminal justice system has become a must.

4.5.4 Clear and effective coordination strategies must likewise be defined and implemented in the conduct by PPA of its other substantive functions, especially in securing certifications from barangay officials on clients, including collateral information from their families, neighbors and peers; in the conduct of home visits to clients; and in assisting clients in its involvement in community services (cleanliness, beautification drives, tree planting, etc.), job placement referrals and provision of livelihood skills training to clients.

Need to improve internal monitoring and management information system

4.5.5 PPA probation officers in the field prepare various reports under the agency's investigation and supervision functions. These are collated in the regional offices and submitted periodically to the Case Management and Records Division for consolidation. The process is tedious, not to mention increased delays in the submission of reports by the field offices to the central office, for consolidation and integration.

4.5.6 Problems relative to report generation and consolidation can be addressed by the implementation of a computed-based management information system. There is a need to create in the agency an electronic network of databases on client-offenders, to help the probation officers in determining if requests for parole, pardon or probation may be recommended for approval or denial.

Opportunities

Vast opportunity for community involvement in rehabilitation and restoration of offenders

4.5.7 The community is an effective means for monitoring parolees, pardonees and probationers, and in enforcing community standards and behavior. Citizens can be involved in administration of probation as volunteers in verifying a client's activities in work, school and in counseling; generating, compiling and submitting statistic; development employment referrals; providing child care; undertaking pre-release investigations; developing community resources; and participating in advisory committees. Citizens could mentor, guide and support offenders. Local organizations

and churches have their respective assistance programs for victims and offenders, including engaging them in community service work.

4.5.8 The civil society organizations can moreover gather information and provide independent evaluation on agency programs and services provided to clients. They can enhance staff development, competency and professionalism among agency personnel.

4.5.9 However, community resources have not been fully tapped for the above purposes. In particular, in Region VII where the population is about 6 million, only 978 individuals have been assisting the PPA in its rehabilitation programs.[15] PPA must therefore become more aggressive in encouraging active involvement of communities and civil society organizations in implementing its various programs for probationers, parolees, and pardonees.

PPA has the highest potential for public-private sector partnership, especially with the media for needed advocacy and promotion support

4.5.10 The media can help in the advocacy and promotion activities of the PPA. The agency can use the media to inform the public and generate it support on PPA's activities and programs on clients' restoration. It must therefore develop effective strategies to link with the media and forge cooperative efforts for effective implementation of rehabilitation and restoration programs for clients.

Threat

Institutional strengthening for PPA in terms of policies, operations and structure a must, lest the agency may not meet the requirements for an expanded program on restorative justice

4.5.11 A robust program on restorative justice would result in more clients to supervise. The PPA must improve its institutional capacity to be able to meet the requirements of such development. Constrained by limited resources, it may not be able to effectively carry out actual supervision of clients. Thus, plans and strategies must be developed that will enhance the mobilization of the community and civil society organizations for the purpose.

[15] "RolVIIe of the Community in the Parole and Probation8 System", brochure, PPA-7RPPO VII, Cebu City, 3

4.6 Internal Capacity Assessment

Mandate, Vision and Mission

4.6.1 The PPA is mandated to generally supervise probationers, parolees and pardonees. This mandate has been translated into its vision and mission, as follows:

> **Vision:** ”*A model component of the Philippine Correctional System that shall enhance the quality of life of its clients through multi-disciplinary programs and resources, an efficient organization, and a highly professional and committed workforce in order to promote social justice and development".*
>
> **Mission:** ‘‘*To rehabilitate probationers, parolees and pardonees and promote their development as integral persons by utilizing innovative interventions and techniques which respect the dignity of man and recognize his divine destiny".*

4.6.2 An agency's vision is indicative of the results that must be achieved in undertaking its mandate. All agency programs and activities as well as the management of its resources must be directed towards the realization of the vision. The mission of an agency on the other hand must describe its purposes in terms of its internal processes, clients, stakeholders, and directions for growth. An agency mission must be distinctive of those of the other players in the sector or system where it belongs.

4.6.3 The PPA's vision may be considered strategic. It stresses what the agency wants to achieve towards the realization of the national outcome (*to promote social justice and development*), and its objective for its clients (*to enhance the quality of life of clients*). It indicates the means through which these objectives will be met (although described generally) in terms of programs (*multi-disciplinary*), organization *(efficient*), and manpower resources *(highly professional).* The PPA vision statement may be improved by specifying the roles of the agency in achieving the indicated objectives.

4.6.4 The PPA's mission reflects its purposes and responsibilities in terms of processes and concerns for clients (*to rehabilitate probationers, parolees and pardonees and promote their development as integral persons*), and its concerns for growth (*by utilizing innovative techniques and interventions).* The PPA's mission may however be improved by including its concerns for other stakeholders and the community.

Organization and Operations

Dysfunctions in the conduct of research and provision of clinical services

4.6.5 The PPA decentralized operation renders its central office divisions primarily staff in nature that provide technical assistance to the regional and field offices in implementing the policies, programs, projects and requirements of the agency in the field; develop guidelines and standards; and monitor field activities.

4.6.6 However, there is a need to strengthen the developmental research functions of the Case Management and Records Division which is currently more focused on reports consolidation and maintenance of information. The analytical aspect of the function of the Division must be given importance as a basis for the development of strategic plans, policies and programs on clients' rehabilitation. The Division must build its capacity in coordinating, monitoring and evaluating the operations of the regional and field offices in research and promotion. It must develop and coordinate the implementation of collaborative arrangements/partnerships with government agencies, civil society organizations and the community on the conduct of researches.

4.6.7 On the other hand, the relevance of the Clinical Services Division (CSD) as an organizational unit that performs mission-critical functions in the PPA central office must be ascertained. The primary function the Division is to provide clinical (medical, dental, psychological and psychiatric diagnostics and services) services to PPA clients. However, it has actually been functioning more as a unit that provides the in-house medical and dental requirements of PPA and PAO personnel. The 2001 accomplishment report of PPA indicates that the CSD, as well as the different psychologists stationed in the different regional offices, assisted only 490 clients as compared to the 2,227 employees and their dependents who were given medical and dental services by the Division.

Absence of a formal and effective strategic and development planning and performance management system

4.6.8 This is a common issue among all agencies in the corrections pillar. In PPA, there is a Planning Staff but it must be strengthened so that genuine strategic plans and programs on rehabilitation and restoration can be developed and adopted. The unit must actively lead in, among others, addressing issues on conflicting demands, setting of priorities, clarifying interventions that can be done well with the aim of doing them better, determining what new activities that need to be undertaken, identifying services that may be integrated, stopped, reduced, or totally discontinued, and detailing strategies that will educate, involve and revitalize officials and employees.

4.6.9 Moreover, a good performance management system must be institutionalized in PPA. It must be integrated with the agency's vision and strategies. Performance is measured to focus agency interventions on priorities, to highlight excellence, to provide the bases for continuing improvements, and to enhance accountability. The development of appropriate performance indicators must accordingly be undertaken.

Staffing

Heavy workload for Parole and Probation Officers

4.6.10 PPA has 1,448 authorized positions, 1,235 (85%) of which are located in the regional offices, while 213 (15%) are in the central office. About 80% (I,234) of its plantilla items are filled, and of the vacant items (214), those in the central office are primarily

administrative or non-technical positions. The technical positions of the PPA are the Parole and Probation Officers at various ranks.

4.6.11 Table 5-22 breaks down the authorized staffing pattern of PPA into unfilled and filled positions in both the central and regional offices. The provincial, sub-provincial and extension offices are integral parts of the regional offices. Heads of these units below the regional office directly report to the heads of the regional offices.

Table 5-22
Authorized Positions, PPA
As of December 31, 2002

Organizational Unit	Number of Authorized positions						
Central Office	**Total**	**Filled**	**Unfilled**	**Regional Offices**	**Total**	**Filled**	**Unfilled**
Office of Administrator*	36	29	7	Region Office I	87	66	21
Administrative Division	61	44	17	Region Office II	48	44	4
Case Management and Research Division	21	15	6	Region Office III	93	81	12
Community Service Div.	19	15	4	Region Office IV	166	143	23
Clinical Service Div.	13	8	5	Region Office V	68	53	15
Financial Mgt. Division	29	24	5	Region Office VI	90	86	4
Legal & Inspection Div.	17	8	9	Region Office VII	123	111	12
Training Division	17	12	5	Region Office VIII	68	58	10
				Region Office IX	52	49	3
				Region Office X	70	60	10
(*Includes Technical Staff				Region Office XI	59	52	7
And Planning Staff)				Region Office XII	40	36	4
				NCR	191	169	22
				CAR	42	34	8
				CARAGA	38	37	1
Sub-total (Co)	213	155	58	Sub-total (ROs)	1,235	1,079	156
% to Total CO	100%	73%	27	% to Total ROs	100%	87%	13%

4.6.12 The common problem in the regions is heavy workload for the Parole and Probation Officers. In Cebu City, for example, of the 111 filled positions 66 are Parole and Probation Officers who attend to both investigation and supervision functions on probationers, parolees and pardonees. As of December 31, 2002, there were 2,374 investigation caseloads, and 8,521 supervision caseloads covered by the 66 Parole and Probation Officers. At the average, each Officer is assigned about 36 clients to investigate within a year (3 persons per month), and 129 clients (11 persons per month) to supervise and visit the year round. The individualized nature of the rehabilitation programs being adopted by the agency is such that the PPA Officers must give each client adequate time and attention. The geographical location of the clients contributes to problems in supervision, especially for clients living in island provinces where PPA field employees have to travel to these places.

Financial Management

Budget limitation adversely affects PPA operations

4.6.13 PPA financial resources are primarily sourced from the National Budget. In certain areas, local government units provide assistance in the form of supplies and detailed personnel to certain PPA activities.

4.6.14 Tables 5-23 and 5-24 reflect the schedule of appropriations per function from 1997 – 2001 and the actual expenditures for the same period, respectively.

Table 5-23
Appropriations, 1997-2001

PARTICULARS	1997		1998		1999		2000		2001	
	AMOUNT (in 000s)	% To Total	AMOUNT (in 000s)	% To Total	AMOUNT (in 000s)	% To Total	AMOUNT (in 000s)	% To Total	AMOUNT (in 000s)	% To Total
Programs										
Gen Admin and Support	39,049	16.65	46,574	9.36	51,979	16.53	45,907	15.04	36,617	12.31
Support to Operations	6,771	2.89	8,441	1.70	8,043	2.56	8,924	2.92	8,338	2.80
Operations	181,584	77.44	244,857	49.19	248,177	78.95	250,267	81.98	252,574	84.89
Total Programs	**227,404**	**96.98**	**299,872**	**60.25**	**308,199**	**98.04**	**305,098**	**99.94**	**297,529**	**100.00**
Projects	**7,075**	**3.02**	**197,879**	**39.75**	**6,164**	**1.96**	**182**	**0.06**	**-**	**0.00**
Total	**234,479**	**100.00**	**497,751**	**100.00**	**314,363**	**100.0**	**305,280**	**100.00**	**297,529**	**100.00**

(Source: Comparison of Appropriations – certified correct by Dominico G. Balang – Chief Accountant)

Table 5-24
Actual Expenses per Object Class, PPA, 1997-2001

PARTI-CULARS	1997		1998		1999		2000		2001	
	Amount (in 000's)	% To Total	Amount (in 000's)	% To Total	Amount (in 000's)	% To Total	Amount (in 000's)	% To Total	Amount (in 000's)	% To Total
Budget										
PS	260,877	88.81	289,601	82.54	294,669	64.44	309,527	86.58	321,932	90.20
MOOE	23,295	7.93	37,583	10.71	39,569	8.65	44,335	12.40	34,530	9.67
CO	2,307	0.79	1,053	0.30	3,700	0.81	3,638	1.02	457	0.13
LFP	7,257	2.47	22,619	6.45	119,318	26.09	-	0	-	0
Total Budget	293,736	100.00	350,856	100.00	457,256	100.00	357,500	100.00	356,919	100.00
Cash Received	291,060		346,909		326,030		319,070		326,989	
Cash Released	279,908		337,766		323,038		318,511		325,385	

(Source: schedule of expenses-certified by Dominico G. Balang, Chief Accountant, PPA)

4.6.15 Actual expenses always exceeded the budget originally appropriated for the agency's programs and activities. The budget given by the national government to the PPA for the operation of the 15 regional offices and the central offices was not sufficient to meet their needs for any fiscal year. The limited MOOE budget is clearly shown in Table 3-24 above, where for the given five year period it averages only 9.87% of the total budget.

4.6.16 Lack of budget provisions for equipment, specifically for the acquisition of computers, greatly affects operations especially in the regions and provincial offices.

4.7 Implications for Reform

4.7.1 Capacity building for the PPA, instituting effective mechanisms for strategic planning, research, community linkages and relations, and performance evaluation and monitoring;

4.7.2 Decentralization to the regional offices of even financial and administrative functions towards full delegation of authority to field units;

4.7.3 Implementation of a computer-based information system for investigation and supervision functions;

4.7.4 Increased mobilization of the resources of both public and private institutions and the community in rehabilitation and restoration programs for probationers, parolees and pardonees;

4.7.5 Strengthening of public-private partnership especially with the media for advocacy and promotional activities; and

4.7.6 Further study on the feasibility of merging the PPA and the BPP considering similarity in mandates and functions.

5 BOARD OF PARDONS AND PAROLE

5.1 Mandate and Functions

5.1.1 Originally called the Board of Indeterminate Sentence, the BPP was created under Act 4103, as amended, on December 5, 1933 to implement the provisions of the Act, which provides for the indeterminate sentence and parole for all persons convicted by the courts of certain crimes.

5.1.2 The BPP is specifically mandated to grant parole to qualified prisoners; recommend to the President of the Philippines the grant of commutation of sentence, conditional pardon and absolute pardon to ex-convicts; and assist in the rehabilitation of parolees and pardonees.

5.2 Organization Structure

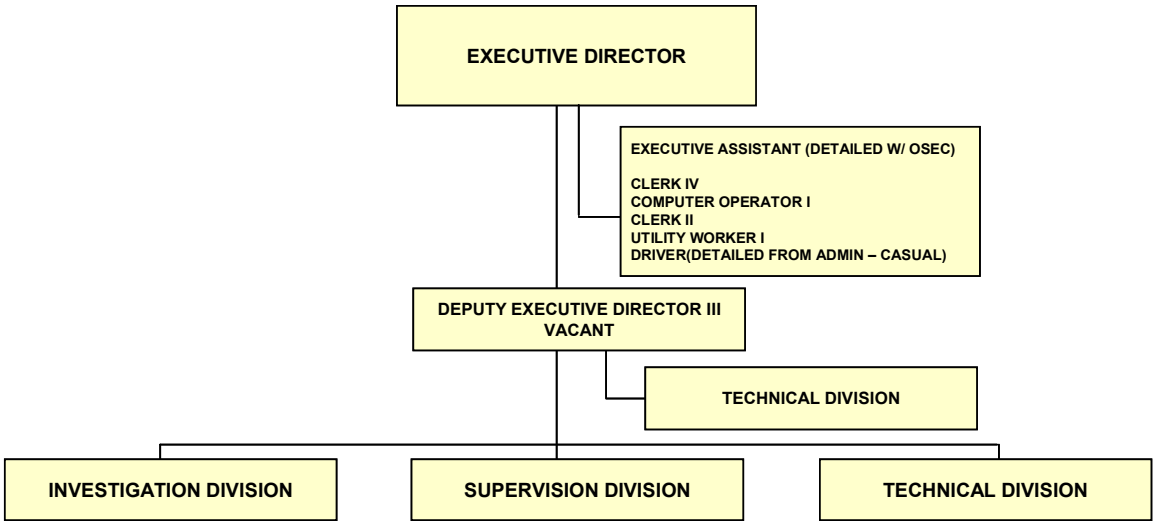
5.2.1 The BPP is composed of the DOJ Secretary as the Chairman and four (4) members appointed by the President of the Philippines, with the consent of the Commission on Appointment, who hold office for a term of six years. The law requires that three members of the Board must each be a trained sociologist, a clergyman or educator, psychiatrist (unless a trained psychiatrist has been employed by the Board),. The other members must be persons who are qualified for such work by training and experience. At lease one member of the Board must be a woman.

5.2.2 A 50-man working staff headed by an Executive Director and a Deputy Executive Director provides support services to the Board. These personnel complement of the Board are assigned to its three divisions - Investigation, Supervision, and Technical.

5.2.3 The Technical Division receives petitions for parole or executive clemency, carpetas, prison records, parole reports and other supporting documents like commitment order, prosecutor's information and trial/appeallate court's decision on the case of the prisoners concerned, and ascertains completeness of information in the documents. The Division forwards all petitions for parole to the Executive Director, who in turn assigns the Investigation Division to evaluate/process such documents and/or request for additional information. In the case of carpetas and prison reports, the Technical Division records their receipt and schedule their review and deliberation by the Board.

5.2.4 Any board member or government officials authorized by the BPP may interview prisoners to determine whether or not they may be released on parole or executive clemency. Before an interview, the BPP may require a prisoner convicted of a heinous crime as defined under RA 7659 and other special laws to undergo psychological/psychiatric examination if prisoner has a history of mental disability, among other reasons. The organization structure of the agency is indicated in Figure 5-4

Figure 5-4
BPP Organization Structure



5.3 Key Operations and Issues

5.3.1 The Board deliberates on the petitions and directs the publication in a newspaper of general circulation the names of prisoners convicted of heinous crimes who may be considered for release on parole, or for recommendation for absolute or conditional pardon.

5.3.2 The Board meets at least nine times in a month. A majority of the members, constituting a quorum, acts on matters pertaining to recommendation on the grant of executive clemency or grant of parole, modification of any of the terms and conditions under the Release Document, order and arrest and recommitment of a parolee/pardonee, issuance of certificate of Final Release and Discharge, cancellation of parole/executive clemency, closing of the case of parolee/pardonee due to death, and confirmation of PPA's approval for the transfer of residence and/or travel abroad of pardonee/parolee, among others.

5.3.3 The Supervision Division compiles and sends/furnishes the BuCor, PPA and other agencies concerned a copy of the release papers /orders/certificates. The Probation and Parole Officer of the PPA will thereafter takes charge of the supervision of the parolee/pardonee, monitors client's activities, and regularly reports to the Board on the progress of the supervision.

BPP gets support from PPA in investigation activities

5.3.4 The BPP primarily relies on the inputs from the PPA with regard to required information on the situation of petitioning-inmates for parole or executive clemency. The BPP through its Resolution 229 dated April 2, 1991, has authorized PPA to undertake pre-parole/pre-executive clemency investigation of any city, provincial and national prisoners confined in jails and penitentiaries.

5.3.5 The PPA's Investigation Officer (IO) in-charge in the field determines petitioner's qualifications through a comprehensive study of his court and prison records. He conducts home visits and interviews with appropriate individuals to assess the client's acceptability in his home and community.

5.3.6 The PPA IO submits its findings and recommendations to the BPP together with vital documents such as a certification from a jail warden on the reasons for the prisoner's continuing confinement even if he is already eligible for release on parole or pardon. A Certificate of No Appeal, or in case of appealed, the decision of the appellate court on the case, must likewise be secured by the PPA IO and submitted to the BBP as one of the perquisites in the Board's deliberation on the petition.

5.3.7 This arrangement of the PPA and BPP is considered a workable arrangement considering that BPP has limited personnel to undertake necessary verification on the prisoners. A more effective computer-based system must however be in place to address this tedious process.

Incomplete records and information on the petitioners hamper the Board's deliberations

5.3.8 The quality and the timeliness of information that the Board received from prisons and jails primarily affect Board's deliberation on petitions for parole and executive clemency.

5.3.9 With regard to the carpetas and prison records that come from penitentiaries, delay in submission of these documents to the Board is primarily an issue. The main office of the BuCor in Muntinlupa takes charge of said submission, not only on inmates of the National Bilibid Prison and the Correctional Institute on Women in Metro Manila, but of prisoners placed in the other five other penitentiaries in Mindoro, Palawan, Leyte, Davao and Zamboanga. The national prisons and penal farms in the regions have yet to direct their submissions to the BuCor central office before BBP receives them.

5.3.10 With respect to the jails, the BPP finds prison records incomplete and/or information not appropriately indicated. Information gathered during the Cebu ocular trip of the consultant has indicated that one of the reasons that such problem arises is the poor handling of records in local jails. There are cases where, wardens and other jail officers are co-terminus with the appointing mayor or governor, and because of the inefficient records management system, in the turn over of responsibilities from the old staff to newly appointed personnel, records have become even more disorganized and sometimes lost in the process.

Difficulty in monitoring of the Jail Decongestion Program for non-compliance by member agencies with reporting requirements

5.3.11 The Jail Decongestion Program (JDP), which was launched in 1993, through a memorandum of agreement between the PPA, BJMP, BuCor, PAO and BBP, is intended to facilitate the release of convicted felons and detainees. The BPP acts as the secretariat of the program.

5.3.12 However, member-agencies almost always fail to submit their respective accomplishments and status reports on their programs under the JDP. BPP reported in its 2000 accomplishment report that "overcrowding of local jails is predominated by detainees at 94% as against those who were finally sentenced at only 6%". The need for active involvement of all agencies concerned has been identified by the agency as an immediate measure to address such issue.

Membership of the Board may include the BuCor and a representative from business sector

5.3.13 Strong bias for social considerations is evident in the composition of the Board. This is necessary in the restorative justice program for prisoners who are qualified to be released. The Board may however include the BuCor which maintains and supervise the inmates, as well as a representative from the business sector to strengthen the program on livelihood and employment for the parolees and probationaries.

Need for efficient data management on parolees and pardonees

5.3.14 The existing information system in the Board is wanting. The National Crime Information System (NCIS) might have addressed information –related issues. BPP is a participating agency of the NCIS, specifically with its Parolees and Pardonees Information System (PAPIS), and BPP staff have already gone into training in 1999 on PAPIS. However, but this has yet to be fully implemented.

Effective performance measurement system is not in place

5.3.15 Accomplishment reports of the agency show its outputs in terms of number of petitions and communications acted upon. Time consideration has been indicated in the annual reports, and this is a good performance measurement. The existing performance system may be enhanced to become reflective of the actual accomplishments of the agency through the use of appropriate indicators.

The integrity of the Board is sometimes put into question

5.3.15 The grant of an executive clemency is a prerogative of the President of the Philippines. Political and other considerations are inputted in the process. The integrity of the Board in this regard must be maintained.

5.4 Reform Implication

5.4.1 The following reform implications of the study are indicated for BPP:

- Strengthening of the management information system and performance monitoring system of the agency
- Including as BPP Board Members representatives from BuCor and the business sector
- Institutional restructuring of the BPP in relation to the PPA considering that the functions and operations of these agencies are inextricably linked

6
LEGAL ASSISTANCE

1 INTRODUCTION

1.1.1 The Constitution of the Philippines explicitly guarantees the provision of adequate legal assistance to the poor. It states that, "Free access to the courts and quasi-judicial bodies and adequate legal assistance shall not be denied to any person by reason of poverty." It is therefore incumbent upon the State to ensure that free and adequate legal assistance is made available to members of the disadvantaged sectors to ensure equal protection of the law to all persons. The government fulfills this mandate primarily through the Public Attorney's Office (PAO).

1.1.2 This study examines the capacity of the PAO in achieving its mandate and in undertaking its functions and programs. Specifically, the study assesses the performance of PAO in enhancing access to justice by the disadvantaged, its existing strengths, weaknesses, opportunities and threats, and its internal capacities. An assessment of the reform implications is presented and will form the basis for the formulation of the reform program.

2 INSTITUTIONAL FRAMEWORK

2.1 Definition of Legal Assistance

2.1.1 Legal assistance, within the context of this study, refers to free judicial and non-judicial services provided by law practitioners or groups to indigent members of society. Judicial and non-judicial services include legal counseling, documentation or preparation of legal instruments, complaints, petitions and other pleadings, and representation to courts and quasi-judicial bodies. Law practitioners or groups include public attorneys/lawyers in agencies authorized to provide legal assistance, court appointed lawyers or *counsel de oficio*, and lawyers or paralegals from schools, non-government organizations, and other private entities. Indigent members of society include those who are not able to acquire the services of a lawyer by reason of poverty. Legal assistance is referred to in other related studies as legal aid or pro-bono legal services.

2.2 Legal Assistance Institutions

Legal assistance in the Philippines is a network of public and private institutions providing free legal aid to indigent members of society.

2.2.1 The institutions providing legal aid include PAO and other government agencies, court-appointed lawyers, non-government organizations and several law schools which provide a spectrum of legal services to poor litigants.[1]

Public Attorney's Office

2.2.2 The government's legal assistance system is primarily undertaken by the Department of Justice through the PAO. PAO provides free legal assistance to indigent persons in all civil, criminal, labor and administrative cases, including representation before the public prosecutor's office. It also renders free legal consultation and advice, preparation of legal documents, administration of oaths on affidavits and pleadings, and mediation of claims and disputes. PAO also assigns lawyers to police stations to assist persons under investigation and conducts jail visits to interview prisoners on their legal problems.

Other Government Agencies

2.2.3 Other government agencies, which provide legal assistance, are the Bureau of Agrarian Legal Assistance (BALA) of the Department of Agrarian Reform, Commission on Human Rights (CHR), and the Philippine Overseas Employment Administration (POEA).

2.2.4 The BALA handles agrarian reform cases, which are not within the cognizance of PAO. It provides legal assistance to farmer-beneficiaries of the Agrarian Reform Program. It likewise investigates cases, reviews recommendations, and prepares orders, decisions and resolutions on matters involving agrarian disputes. The BALA represents agrarian reform beneficiaries or members of their immediate farm households before appropriate courts and quasi-judicial bodies in civil, criminal and administrative cases instituted by or against them, arising from or are connected with an agrarian dispute.[2] A separate entity, the Department of Agrarian Reform Adjudication Board (DARAB) hears and decides on agrarian reform cases.

2.2.5 The CHR is created by the Constitution to cause the respect for, protection and promotion of human rights. One of the main functions of the CHR is to provide legal aid to the underprivileged whose rights have been violated or need protection. Specifically, CHR undertakes a legal aid and counseling program for victims of human rights who, because of poverty, cannot avail of the services of legal counsels. The POEA, on the other hand, provides legal assistance to victims of illegal recruitment or violations of recruitment regulations and to contract workers facing charges and complaints.

[1] Medina, Carlos P., *Legal Aid Services in the Philippines*, as featured in Public Interest Law Initiative website (www.pili.org), Columbia University

[2] Section 13, Chapter 4, Title XI (Agrarian Reform), Book III, EO 292 (Administrative Code of 1987), July 25, 1987.

Court-Appointed Lawyers

2.2.6 A lawyer may be appointed by presiding judges of courts to represent in a criminal case a litigant who does not have a lawyer. The appointed lawyer is required to extend free legal assistance to the litigant. The government provides nominal fees to such lawyers.[3]

Non-Government Organizations

2.2.7 Non-Government Organizations are likewise actively involved in providing free legal services to pauper litigants primarily through the Integrated Bar of the Philippines (IBP) and the Alternative Law Groups (ALG), Inc. The IBP is the umbrella organization of the more than 40,000 practicing lawyers nationwide. Through its National Committee on Legal Aid (NCLA), the IBP operates and manages the "Chief Justice Roberto Concepcion Legal Aid Program. Under the program, 83 local aid committees throughout the country provide free counsel and advice to the poor.[4] Similarly, the ALG is composed of private legal organizations that attend to the legal service requirements of poor litigants, although it is focused on sectoral issues that affect communities in general such as those on environment and human rights.

2.2.8 Free legal services on specific issues or limited basis are also rendered by church or community based organizations, private law firms, through the initiatives of private individuals. The Free Legal Assistance Group, in particular, is figured in providing legal advocacy for political prisoners and death penalty convicts.

Legal Clinics in Law Schools

2.2.9 Law schools provide free legal assistance through legal clinics which they set-up pursuant to the Law Student Practice Law of the Supreme Court.

2.3 Historical Background

2.3.1 PAO's predecessor was the Agricultural Tenancy Commission (later renamed Tenancy Mediation Commission) created on August 30, 1954 under Republic Act No. 1199. Under the Agricultural Land Reform Code (RA 3844), the Commission was strengthened and renamed Office of the Agrarian Counsel (OTAC).

2.3.2 OTAC's agrarian-related assistance functions were later expanded to include civil, criminal, administrative and labor cases, leading to the creation of the Citizen's Legal Assistance Office (CLAO) under Presidential Decree No. 1 on September 21, 1972, as implemented under Implementation Order No.4 dated October 23, 1972.

2.3.3 Executive Order No. 292 (Administrative Code of 1987) renamed the CLAO to Public Attorney's Office, retained its function of extending free legal assistance to indigent persons in civil, criminal, administrative and labor cases, and provided for its organizational structure.

[3] Medina, op. cit.
[4] Integrated Bar of the Philippines, *The IBP Legal Aid Program*, as featured in the IBP website (www.ibp.org.ph)

2.4 Mandate and Functions

2.4.1 The Department of Justice is mandated, among others, to provide free legal services to indigent members of the society. DOJ implements this mandate through PAO, which is one of its attached agencies.

2.4.2 The main function of PAO is to represent, free of charge, indigent persons, or the immediate members of their family, in all civil, administrative and criminal cases where, after due investigation, the interest of justice will be served thereby, except agrarian reform cases.[5]

2.4.3 As a spin-off of its main function, PAO provides free legal consultation and advice, mediation and counseling, jail visitation, documentation, and assistance to suspects/respondents during police custodial interrogations and in inquest investigations.

2.5 Linkages and Clientele

PAO links up with government agencies and non-government institutions in performing its functions.

2.5.1 PAO works with other government agencies involved in the criminal justice system, such as the Judiciary, National Prosecution Service (NPS), Philippine National Police (PNP), National Bureau of Investigation (NBI), Bureau of Corrections (BuCor), Bureau of Jail Management and Penology (BJMP), Board of Pardons and Parole (BPP), and Parole and Probation Administration (PPA).

2.5.2 PAO also links up with the Department of Social Welfare and Development (DSWD), National Labor Relations Commission (NLRC), and the Civil Service Commission (CSC). The agency is closely coordinating with various NGOs such as the Integrated Bar of the Philippines (IBP),

PAO takes cognizance of a larger clientele base.

2.5.3 The major clientele of PAO are the direct beneficiaries of its services – pauper litigants or indigent persons needing legal aid. PAO legal assistance is available to Filipinos who have no means of income, or those whose annual family income (gross income of the litigant and his/her spouse) is within the poverty level[6], as indicated below:

- Php 14,000 or below for residents of Metropolitan Manila;
- Php 13,000 or below for residents of other cities; and
- Php 12,000 or below for residents of other municipalities

[5] Section 20, Part XXI (Administration of Justice and Other Pertinent Provisions of the Integrated Reorganization Plan), Implementation Order No. 20

[6] PAO Memorandum Circular No. 18, s.2002 (Amended Standards Office Procedures in Extending Legal Assistance)

2.5.4 Throughout the years, the clientele of PAO has been expanded based on various memoranda of agreement and directives from the DOJ. PAO is now providing assistance to the following:

- Lawyers of the Department of Agrarian Reform against whom criminal and administrative complaints have been filed for acts committed in connection with their performance of their duties;
- Farmer-beneficiaries of the Agrarian Reform Law (a) in agrarian-related civil or criminal cases pending before the courts; and (b) in cases against fellow beneficiaries pending before the courts or the Department of the Agrarian Reform Adjudication Board (DARAB) where of the parties is already represented by a DAR lawyer;[7]
- Indigent laborers in meritorious labor cases;[8]
- Indigent aliens;[9]
- Qualified overseas contract workers in all cases within the original and exclusive jurisdiction of the Philippine Overseas Employment Administration (POEA);[10]
- Barangay Health Workers; [11]
- The Department of Social Welfare and Development in the filing of petitions for the involuntary commitment of minors, as well as in the filing for the declaration that a child is abandoned or neglected;[12]and
- Immediate members of the family and relatives within the 4th degree of consanguinity or affinity of PAO lawyers.[13]

2.6 High Level Structure

2.6.1 The PAO is headed by a Chief Public Attorney, who is assisted by two (2) Deputy Chief Public Attorneys. These officials are appointed by the President of the Philippines upon the recommendation of the DOJ Secretary.

2.6.2 The PAO organizational set up which is provided under EO 292 comprises of the Office of the Chief Public Attorney and two Deputy Chief Public Attorneys, five divisions in the central office (Administrative, Financial, Special and Appealed Cases, Legal and Research Statistics, and Field Services), and 16 Regional, 251 District Offices and 5 Sub-District Offices. The organization structure of the agency is shown in Figure 6-1.

[7] Based on a DOJ-DAR Memorandum of Agreement dated May 8, 1991
[8] Based on a Memorandum Order dated May 19, 1988 of the Secretary of Justice
[9] Based on 2nd endorsement of the Undersecretary of Justice, dated March 25, 1974
[10] Based on a Memorandum of Agreement among PAO, DOLE, POEA, OWWA and some NGOs, dated April 2, 1993
[11] Section 16. Rule II and Part 5, Rule VII of the Implementing Rules and Regulations of RA 7883
[12] Based on a directive of then Minister of Justice Neptali Gonzales dated February 10, 1987
[13] Memorandum Circular No. 1, s. 1998, dated February 20, 1998.

Mission Critical Units

2.6.3 The mission-critical function of PAO is undertaken by the Special and Appealed Cases Division (SACD) and the Regional (ROs), District (DOs), and Sub-District Offices (SDOs).

2.6.4 SACD handles appealed cases and special judicial cases. The primary production and delivery arm of PAO in the regions are the 16 ROs, 251 DOs, and 5 SDOs. These units provide legal services and implement agency policies and plans in the field. The heads and assistant heads of PAO's regional offices are the Regional Public Attorneys and Assistant Regional Public Attorneys, which are likewise appointed by the President of the Philippines, upon recommendation by the DOJ Secretary.

Conscience Units

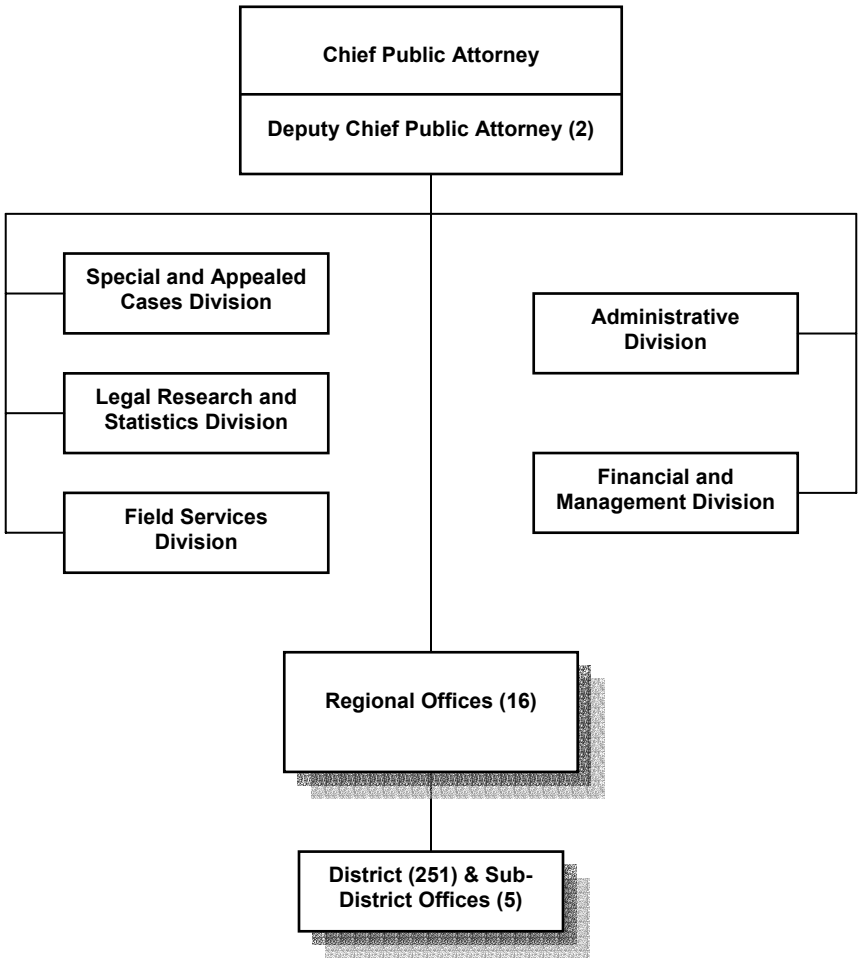
2.6.5 The conscience units of PAO which support its operation are the Legal Research and Statistics Division (LRSD) and Field Service Division (FSD). LRSD is the research arm of PAO. It prepares development researches, legal studies, information packets and publications. It likewise maintains a law library and statistical database. FSD, on the other hand, provides coordinative services to regional offices and handles special projects.

2.6.6 While these arrangements are reflected in the enabling law of the agency, PAO is currently operating on a modified set-up, whereby the statistical function of LRSD is transferred to the FSD. Thus, the FSD is now called the Field Service and Statistics Division (FSSD) while the LRSD is now the Legal Research Division (LRD).

Housekeeping Units

2.6.7 The common housekeeping services for PAO are provided by the Administrative Division (AD) and the Financial and Management Division (FMD). The AD provides human resource development services, records management, physical assets management, and general services. FMD on the other hand is concerned with budgeting, accounting, cashiering, and management/productivity improvement functions.

FIGURE 6-1
ORGANIZATION STRUCTURE, PAO



SOURCE: EO 292

3 OVERVIEW OF KEY OPERATIONS AND PERFORMANCE

3.1 Major Services and Operations

3.1.1 The PAO categorizes its major services into four major classifications: (a) judicial cases, (b) quasi-judicial cases, (c) appealed cases, and (d) non-judicial services. Table 6-1 presents capsule descriptions of the processes involved and the nature of services that PAO provides.

TABLE 6-1
MAJOR SERVICES, PAO

CATEGORY	PROCESS	SITE/LOCATION	NATURE OF PAO SERVICES
Judicial cases	Court trial of criminal or civil cases	Lower Courts	Representation of indigent persons
Quasi-judicial cases	Preliminary investigation	Prosecutor's Office	
	Hearings of administrative and labor cases	Quasi-judicial bodies (e.g., SSS, POEA, CSC, and NAPOLCOM)	
Appealed cases	Hearing of appealed criminal, civil and quasi-judicial cases	Appellate Courts, Supreme Court, and quasi-judicial bodies	
Non-judicial services	Custodial and inquest investigation	PNP, NBI and other law enforcement agencies	Legal counseling for suspects/respondents
	Mediation and conciliation of disputes		Mediation/conciliation
	Legal counseling and documentation	PAO	Legal counseling and documentation
	Jail visitation	Jails, prisons, and other detention facilities	Legal counseling to inmates

3.1.2 The legal services of PAO are basically available to an applicant who is considered indigent and whose case is meritorious. PAO thus subjects an applicant to the indigency qualification, and the request for legal assistance to merit tests. Indigent applicants are those who have no means of income, or those whose annual family (gross income of the litigant and his/her spouse) is within the poverty level. The ownership of real property of a litigant is not a determinative factor for "indigency". The ownership of a piece of land does not per se constitute a ground for disqualification of an applicant.[14] A case is considered meritorious if an assessment of the law and evidences on hand disclose that the legal services of the PAO will assist or in aid/furtherance of justice, taking into consideration the interests of the party and those of society.[15]

[14] Ibid. (quoting Juan Enage vs Victorino Ramos, et.al. LGR No. L-22109, January 30, 1970.
[15] PAO Memorandum Circular No. 18,s.2002 (Amended Standards Office Procedures in Extending Legal Assistance)

3.1.3 However, in certain cases, PAO accepts or handles cases provisionally pending verification of the applicant's indigency and evaluation of the merit of the case. PAO categorizes these interventions as "limited services", which include arraignment, pre-trial, and promulgation of decision/judgment. PAO also disseminates information and conducts legal counseling through the media to improve the legal literacy of the public.

3.1.4 PAO adopts certain policies in accepting request for legal assistance. Such policy enunciates specifically which party (complainant or accused) the PAO will serve given a certain type of case, criminal or civil (Table 6-2).

TABLE 6 –2
SPECIFIC POLICIES IN ACCEPTING CASES, PAO

TYPE OF CASE	PARTY ASSISTED		POLICY
	Complainant	Accused/ Respondent	
Criminal Cases		✓	For cases being prosecuted in court, PAO always represents the accused
	✓	✓	For cases yet to be filed in court or is pending in the Prosecutor's office, PAO represents either the victim or the accused, on a first-come-first-served basis.
Civil Cases	✓	✓	PAO represents either the complainant or the respondent, on a first-come-first-served basis, except ejectment cases
		✓	In ejectment cases, PAO always represents the respondent (the person subject to ejectment)
Labor and administrative cases	✓	✓	PAO represents indigent laborers, workers or employees as either complainant or respondent to case filed against him In no instance that PAO represent the employers

3.2 Role of PAO in the Criminal Justice System

PAO directly contributes to the enhancement of access to justice by the disadvantaged sectors.

3.2.1 Access to justice is a basic human right that must be promoted, respected and protected. The high cost of litigation and legal services and the lack of adequate knowledge about the law and institutions of the justice system, among others, pose constraints to citizen's access to justice.

3.2.2 PAO therefore targets enhancing access to legal services and knowledge of indigent persons who have no means of availing themselves of the services of private law practitioners. In terms of statistics, PAO has a clientele base equivalent to 34.9% of the country's population, who are considered living below the poverty threshold.

PAO has a significant role in supporting the effective functioning of the criminal justice system.

3.2.3 Free and equal access to legal services is an essential element of a fair and equitable justice system. Table 6-3 presents the various roles that PAO plays in the five pillars of the criminal justice system.

TABLE 6-3
ROLE OF PAO IN THE CRIMINAL JUSTICE SYSTEM

PILLAR OF JUSTICE	STAGE OF CRIMINAL JUSTICE SYSTEM	ROLE OF PAO
Law Enforcement	Police custodial investigation	Legal counsel for suspects or respondents
Prosecution	Inquest and preliminary investigation	
Judiciary	Case trial, sentencing and appeal	
Correction	Custody and rehabilitation of inmates	Legal advisor and monitor of inmates legal concerns
Community	Community education	Legal educator/advocate

3.2.4 PAO participates in the law enforcement pillar when it represents suspect or respondent during custodial investigation, and assists suspect or respondent in preparing and filing of complaint or petition. It has a role in the prosecution pillar in the form of representations of suspect or respondent during inquest and preliminary investigation, and in assisting suspects or respondents in preparing/filing of petitions and in effecting compromise agreements.

3.2.5 Under the judiciary pillar, the PAO acts as defense counsel for indigent litigants at all stages of case trial, sentencing and appeal. Under the corrections pillar, PAO conducts visits to jails and prisons to determine inmates legal concerns, provides advice to inmates on PAO services, and opportunities for early release through probation, parole and other schemes, and assists in preparing complaints or petitions. In the community pillar, PAO provides/disseminates legal information through campaigns and free legal counseling, and establishes linkages with non-governmental organizations and other government agencies on provision of legal services to the poor. PAO's other services come in the form of notarial services and representations of clients in other quasi-judicial bodies.

3.2.6 Figure 2 presents the role of PAO in enhancing access to justice and in supporting the five pillars of the criminal justice system.

3.3 Performance in Key Services

Inadequacy of Agency Performance Information

3.3.1 The performance of the PAO different programs and activities is reflected in the agency's annual accomplishment reports, using quantity output indicators for judicial and quasi-judicial caseloads and clients served for non-judicial services. The caseload report and performance information are compiled and summarized by the Field Services and Statistics Division (FSSD).

3.3.2 However, inconsistencies in official reports are readily manifest particularly in comparing year – on - year caseload figures. Reconciling these figures has proven difficult as the number of pending cases at the end of a given year is not rolled over to the next year. Informants from PAO account for the disparities as representing cases, which were previously handled by private lawyer but were turned over to PAO midway case disposition. These cases would have been reckoned as "new cases received for year" to avoid discontinuity in year-on-year figures.

3.3.3 Performance management in PAO must be institutionalized to enhance accountability of PAO lawyers and enable robust evaluation of agency and individual performance. Performance monitoring is not ad hoc or a one-off (once-a year or semestral) activity. It must be continuing, beginning with an assessment of the strategic alignment and relevance of agency outputs and programs with development objectives and environmental realities.

3.3.4 A institutionalized performance management system would require the development of a comprehensive indicators system that will enable the analysis of the various dimensions of performance and its causative factors at individual, unit and institutional levels. This should be accompanied by transaction based data generation methodologies which are linked to an automated information integration and analysis facility that will provide inputs not only in evaluating performance but also in guiding planning, budgeting, human resources development and intervention policy making.

3.3.5 It must enable setting of clear, realistic and achievable performance standards and targets and straightforward assessment of accomplishments also at the individual, group and agency levels. Strengthening performance management in PAO requires building the capacity of the FSSD and ROs in strategic planning and performance monitoring and evaluation. Enhancing the performance information and reporting system likewise necessitates the establishment of a computerized and interconnected management information system.

Caseload, Disposition and Clearance Rate

3.3.6 The following is an analysis of the caseload, disposition and clearance rate of PAO in criminal, civil, quasi-judicial and appealed cases. The tables are based on the annual accomplishment reports of PAO for 1997-2001. For purposes of presenting a coherent performance report, adjustments to carry-over cases have been made beginning year 1999.

3.3.7 The total caseload of PAO registered at 1,619,955 from 1997 to 2002. Of these, PAO was able to dispose 1,420,385 or 87.68% of all cases pending (Table 6 -4).

3.3.8 The caseload of PAO remained quite stable between 1997 to 1999, although it registered a rising trend in 2000 and 2001. Nominals on annual case disposals have consistently fallen behind the number of cases pending during the year resulting in the slight building up of year-end pending cases. It is noted that increases in year-end pending cases are primarily due to a large year-end pending at base year. This increasing trend in end-year balance for the last five years is an indicator of PAO's difficulty in coping with its caseload. While end-year balance is increasing at an average rate of 14.33%, the rate of increase in the number of new cases received for each year is only 1.6% on the average (Table 6-4). The wide disparity may be attributed to the accumulating pending cases carried over year to year

FIGURE 6-2
ROLE OF PAO IN THE CRIMINAL JUSTICE SYSTEM

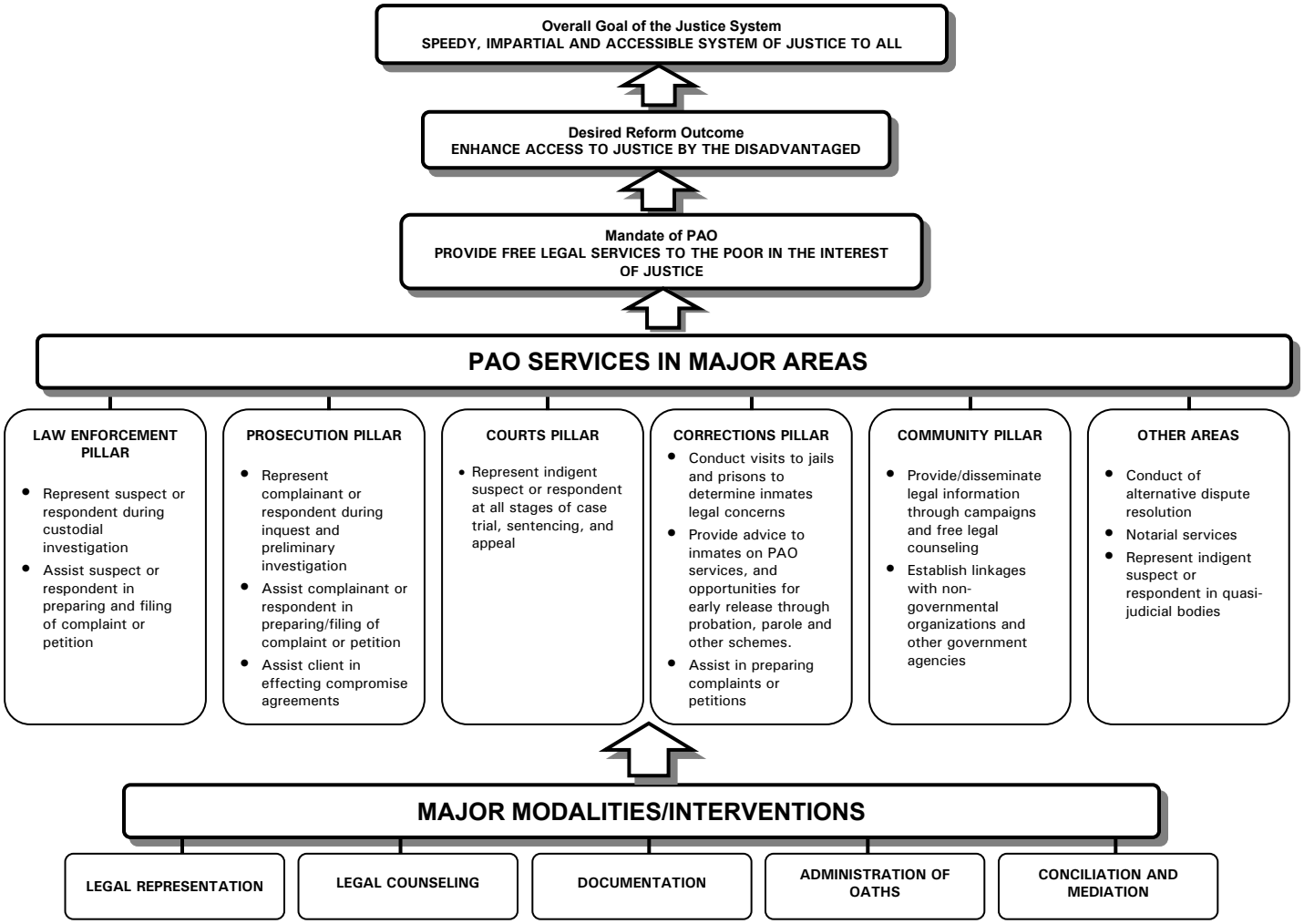


TABLE 6–4
CASELOAD PERFORMANCE OF THE PAO, 1997-2001
SUMMARY OF ALL CASES

YEAR	BEGINNING YEAR PENDING	RECEIVED	TOTAL PENDING DURING THE YEAR	RESOLVED/ DISPOSED	END YEAR BALANCE
1997	100,863	297,996	398,859	281,879	116,980
1998	116,980	299,439	416,419	281,716	134,703
1999	134,703	299,957	434,660	274,597	160,063
2000	160,063	304,458	464,521	288,393	176,128
2001	176,128	317,242	493,370	293,800	199,570
TOTAL		1,519,092		1,420,385	

TABLE 6-5
ANNUAL CLEARANCE RATES
SUMMARY OF CASES

YEAR	CASE INFLOW AND OUTFLOW				
	RECEIVED	ANNUAL GROWTH RATE (%)	DISPOSED	ANNUAL GROWTH RATE (%)	CLEARANCE RATE (%)
1997	297,996		281,879		94.59%
1998	299,439	0.48%	281,716	-0.06%	94.08%
1999	299,957	0.17%	274,597	-2.53%	91.55%
2000	304,458	1.50%	288,393	5.02%	94.72%
2001	317,242	4.20%	293,800	1.87%	92.61%
AVERAGE	303,818	1.59%	284,077	1.08%	93.51%

3.3.9 The clearance rate, which is computed as a ratio between cases disposed and new cases received, is 93.51% (Table 6-5). High clearance rates with accompanying relatively low disposition rates indicate the existence of a prior year's backlog which cannot be absorbed by current manpower capacity. The table above validates this. The 1997 base year backlog was sustained through the study period with slight nominal increases due to the less than 100% annual clearance rates.

3.3.10 The implication of the above performance is that a one time cleaning up of the PAO dockets is needed plus a little improvement in its operating efficiency. It is unfortunate that no data is available to determine the causes of the base year backlog and the year –end balances. It would have been useful to know whether these have something to do with external factors such as delays in the court, or insufficient evidence, etc.

3.3.11 An annual average of about 73% of the PAO's caseload over the indicated years comprises of criminal cases. Table 6-6 indicates significantly increasing year-end balances in criminal cases, which suddenly went up starting 1999 and consistent ly increasing through 2001. In 2001, PAO was able to dispose only 59.57% of the

criminal cases it handled. The figures indicate that it is in criminal cases where the backlog exists. Overall, the ratio between the total cases handled and total cases disposed is 63.78%.

TABLE 6- 6
CASELOAD PERFORMANCE OF PAO, 1997-2001
CRIMINAL CASES

YEAR	CASE INFLOW AND OUTFLOW				
	BEGINNING YEAR PENDING	RECEIVED	TOTAL PENDING DURING THE YEAR	RESOLVED/ DISPOSED	END YEAR BALANCE
1997	70,686	215,771	286,457	198,496	87,961
1998	87,961	218,053	306,014	206,019	99,995
1999	99,995	218,157	318,152	199,000	119,152
2000	119,152	223,889	343,041	211,617	131,424
2001	131,424	235,509	366,933	218,592	148,341
TOTAL		1,111,379		1,033,724	

TABLE 6-7
ANNUAL TRENDS IN CASELOAD AND CLEARANCE RATES
CRIMINAL CASES

YEAR	CASE INFLOW AND OUTFLOW				
	RECEIVED	ANNUAL GROWTH RATE (%)	DISPOSED	ANNUAL GROWTH RATE (%)	CLEARANCE RATE (%)
1997	215,771		198,496		91.99%
1998	218,053	1.06%	206,019	3.79%	94.48%
1999	218,157	0.05%	199,000	-3.41%	91.22%
2000	223,889	2.63%	211,617	6.34%	94.52%
2001	235,509	5.19%	218,592	3.30%	92.82%
AVERAGE	222,276	2.23%	206,745	2.50%	93.01%

3.3.12 Civil cases account for only about 13% of the total caseloads of PAO. The data however do not indicate how many are complainants vis-à-vis the accused or respondents. Again, despite the small number of civil cases that PAO lawyers handled, there still remain consistently increasing year-end balances. No data was available that could explain the reasons for the backlogs.

TABLE 6-8
CASELOAD PERFORMANCE OF PAO, 1997-2001
CIVIL CASES

YEAR	CASE INFLOW AND OUTFLOW				
	BEGINNING YEAR PENDING	RECEIVED	TOTAL PENDING DURING THE YEAR	RESOLVED/ DISPOSED	END YEAR BALANCE
1997	20,421	36,137	56,558	37,915	18,643
1998	18,643	29,735	48,378	28,094	20,284
1999	20,284	36,571	56,855	33,203	23,652
2000	23,652	35,158	58,810	33,444	25,366
2001	25,366	35,223	60,589	34,430	26,159
TOTAL	108,366	172,824	281,190	167,086	114,104

TABLE 6-9
ANNUAL CLEARANCE RATES
CIVIL CASES

YEAR	CASE INFLOW AND OUTFLOW				
	RECEIVED	ANNUAL GROWTH RATE (%)	DISPOSED	ANNUAL GROWTH RATE (%)	CLEARANCE RATE (%)
1997	36,137		37,915		104.92%
1998	29,735	-17.72%	28,094	-25.90%	94.48%
1999	36,571	22.99%	33,203	18.19%	90.79%
2000	35,158	-3.86%	33,444	0.73%	95.12%
2001	35,223	0.18%	34,430	2.95%	97.75%
AVERAGE	34,565	0.40%	33,417	-1.01%	96.61%

3.3.13 Annual trends in caseload and clearance rates for civil cases indicate comparatively better performance by the PAO lawyers. Clearance rates averaged at 96.61%. It would have been interesting to know the types of dispositive actions taken to explain the high rate of disposition. This is not possible however for lack of data.

TABLE 6-10
CASELOAD PERFORMANCE OF PAO, 1997 – 2001
QUASI-JUDICIAL CASES

YEAR	CASE INFLOW AND OUTFLOW				
	BEGINNING YEAR PENDING	RECEIVED	TOTAL PENDING DURING THE YEAR	RESOLVED / DISPOSED	END YEAR BALANCE
1997	9,191	44,923	54,114	43,871	10,243
1998	10,243	47,486	57,729	46,029	11,700
1999	11,700	43,665	55,365	41,355	14,010
2000	14,010	44,037	58,047	42,760	15,287
2001	15,287	45,180	60,467	40,120	20,347
TOTAL	60,431	225,291	285,722	214,135	71,587

TABLE 6 -11
ANNUAL CLEARANCE RATES
QUASI-JUDICIAL CASES

YEAR	CASE INFLOW AND OUTFLOW				
	RECEIVED	ANNUAL GROWTH RATE (%)	DISPOSED	ANNUAL GROWTH RATE (%)	CLEARANCE RATE (%)
1997	44,923		43,871		97.66%
1998	47,486	5.71%	46,029	4.92%	96.93%
1999	43,665	-8.05%	41,355	-10.15%	94.71%
2000	44,037	0.85%	42,760	3.40%	97.10%
2001	45,180	2.60%	40,120	-6.17%	88.80%
AVERAGE	45,058	0.28%	42,827	-2.00%	95.04%

3.3.14 Appealed cases comprise a very small portion of the total caseload of PAO. But it is in the appealed cases where disposition is very low, registering an average of only 66.8% for the indicated study period. The annual trend in disposition is interesting. From a high 92% in 1997, PAO's disposition rate for appealed cases has been consistently going down within the covered period, the lowest being only 12% of the total cases handled both in 2000 and 2001. There are no detailed data to indicate the specific causes of the significant build up of backlog in appealed cases, particularly in recent years, but this indicates among others the lack of control of PAO lawyers over the court processes.

TABLE 6 -12
CASELOAD PERFORMANCE OF PAO, 1997 – 2001
APPEALED CASES

YEAR	CASE INFLOW AND OUTFLOW				
	BEGINNING YEAR PENDING	RECEIVED	TOTAL PENDING DURING THE YEAR	RESOLVED / DISPOSED	END YEAR BALANCE
1997	565	1,165	1,730	1,597	133
1998	133	4,165	4,298	1,574	2,724
1999	2,724	1,564	4,288	1,039	3,249
2000	3,249	1,374	4,623	572	4,051
2001	4,051	1,330	5,381	658	4,723
TOTAL		9,598		5,440	

TABLE 6 - 13
ANNUAL TRENDS IN CASELOAD AND CLEARANCE RATES
APPEALED CASES

YEAR	CASE INFLOW AND OUTFLOW				
	RECEIVED	ANNUAL GROWTH RATE (%)	DISPOSED	ANNUAL GROWTH RATE (%)	CLEARANCE RATE (%)
1997	1,165		1,597		137.08%
1998	4,165	257.51%	1,574	-1.44%	37.79%
1999	1,564	-62.45%	1,039	-33.99%	66.43%
2000	1,374	-12.15%	572	-44.95%	41.63%
2001	1,330	-3.20%	658	15.03%	49.47%
AVERAGE	1,920	44.93%	1,088	-16.34%	66.48%

3.3.15 Within the past five years, the agency's disposition rate (total number of cases disposed over total cases handled) for both criminal and civil cases is at the average of 64%. Without the backlogs, the clearance rate (total numbers of cased disposed over cases received) is very satisfactory at an average of 95%. The issues on pending cases are caused by many factors, among which is the delay in the court system and those that could be attributed to the lawyers themselves. It is a common knowledge that lawyers resort to delaying tactics especially if the case has not been thoroughly studied.

Other Services

3.3.16 PAO performance in the provision of non-judicial services is indicated by the number of counseling requests attended by its lawyers, including the preparation of affidavits, notices and other documents for requesting indigent-clients. It includes the administration of oaths and acknowledgment of documents by lawyers duly commissioned by the court as notaries public. The agency's accomplishments in these activities are shown in the matrices indicating 100% consistent clearance rates. This could be explained by the fact that the work involved is short and transactional in nature. On the average, PAO lawyers' non-judicial-service workload is 124 annually or only 10 monthly, indicating that such services do not really represent a significant impact on the workload and work difficulty or complexity.

TABLE 6 - 14
NUMBER OF CLIENTS ASSISTED IN LIMITED CASES
1997 - 2001

Year/Type of Cases	Cases Received	Total Cases Handled	Disposed Cases
1997			
▪ Arraignment	163,922	163,922	163,922
▪ Pre-trial	107,096	107,096	107,096
▪ Promulgation of decision/judgment	54,641	54,641	54,641
▪ Others	220,747	220,747	220,747
1998			
▪ Arraignment/pre-trial/promulgations/others	604,251	604,251	604,251
1999			
▪ Arraignment	244,199	244,199	244,199
▪ Pre-trial	94,515	94,515	94,515
▪ Promulgation of decision/judgment	56,799	56,799	56,799
▪ Others	228,710	228,710	228,710
2000			
▪ Arraignment	225,913	225,913	225,913
▪ Pre-trial	118,966	118,966	118,966
▪ Promulgation of decision/judgment	71,047	71,047	71,047
▪ Others	245,920	245,920	245,920
2001			
▪ Arraignment	182,790	182,790	182,790
▪ Pre-trial	124,148	124,148	124,148
▪ Promulgation of decision/judgment	72,001	72,001	72,001
▪ Others	262,979	262,979	262,979

3.3.17 PAO has assisted a considerable number of clients on non-judicial services, in addition to the other services and caseload. The summation of the work of the PAO lawyers indicate tremendous workload. A study on the workload carrying capacity of PAO lawyers would be important in determining how many PAO lawyers to be fielded and achieve a defined quality and quantity of legal assistance.

TABLE 6 - 15
NUMBER OF CLIENTS ASSISTED IN NON-JUDICIAL SERVICES
1997 - 2001

Year/Type of Cases	Beg'ing Year Balance	Cases Received	Total Cases Handled	Disposed Cases	Pending Cases, End Year
1997					
▪ Legal documentation	-	1,127,742	1,127,742	1,127,742	-
▪ Med. & conciliation	3,918	428,268	432,186	423,842	8,344
▪ Inquest investigation	-	92,515	92,515	92,515	-
▪ Custodial interrogation	-	72,689	72,689	72,689	-
1998					
▪ Legal documentation	-	1,344,280	1,344,280	1,344,280	-
▪ Med. & conciliation	8,344	470,345	478,689	476,210	2,479
▪ Inquest investigation	-	173,088*	173,088*	173,088*	-
▪ Custodial interrogation					
1999					
▪ Legal documentation	-	1,165,584	1,165,584	1,165,584	-
▪ Med. & conciliation	2,479	548,081	550,560	548,285	2,275
▪ Oaths administered	-	915,747	915,747	915,747	-
▪ Inquest investigation	-	162,990*	162,990*	162,990*	-
▪ Custodial interrogation					
2000					
▪ Legal documentation		1,037,256	1,037,256	1,037,256	-
▪ Med. & conciliation	2,275	539,841	542,116	538,276	3,840
▪ Inquest investigation	-	187,684*	187,684*	187,684*	-
▪ Custodial interrogation	-				
2001					
▪ Legal documentation	-	3,199,824	3,199,824	3,199,824	-
▪ Med. & conciliation	3,840	534,283	538,123	504,034	34,089
▪ Inquest investigation	-	159,255*	159,255*	159,255*	-
▪ Custodial interrogation					

***** Includes custodial investigation

TABLE 6-16
NUMBER OF PRISONERS SERVED IN JAIL VISITS
1997 - 2001

Year/Type of Cases	Cases Received	Total Cases Handled	Disposed Cases
1997			
▪ Interviewed	170,987	170,987	170,987
▪ Provided with assistance	100,546	100,546	100,546
1998			
▪ Interviewed	290,120*	290,120*	290,120*
▪ Provided with assistance			
1999			
▪ Interviewed	175,695	175,695	175,695
▪ Provided with assistance	133,070	133,070	133,070
2000			
▪ Interviewed	190,104	190,104	190,104
▪ Provided with assistance	149,465	149,465	149,465
2001			
▪ Interviewed	386,537*	386,537*	386,537*
▪ Provided with assistance			

3.3.18 It must be noted that the above matrices present PAO's accomplishments on demand-driven services. The quantity of demand driven-services provided by PAO is dependent on the number of requests submitted to it. Targeting for demand-driven services is difficult to do, although using averages as performance standards is possible. What is demonstrated clearly on these matrices is that PAO is generally able to respond to the client demands for other services within a reasonable period, but in the aspect of cases there is need to address the increasing backlog, particularly in criminal and appealed cases.

3.3.19 From the performance indicators used and performance statistics presented above, it is difficult to make an adequate evaluation of the performance of the PAO because there are questions on performance relating to the quality of service that the existing performance management system cannot provide. For example, what are the aquittal and conviction rates, dismissal rates, archival rates and other dispositive actions by type of case? What are the causes behind the court actions that can be attributed to the PAO functions? It is the competency of the lawyer, is it his attitude?

3.3.20 Responding to these performance questions will require a more comprehensive and analytic performance system that provides quality information on the various dimensions by which performance can be analyzed. It is obvious that a good performance management system anchored on an appropriate information and communications technology platform is key not only in evaluating performance for evaluation's sake, but more importantly in guiding planning and resource management, in providing inputs to human resource development policies and programs, and in improving capacities to face future challenges.

4 SWOT ANALYSIS

4.1 Strengths

Highly Decentralized Operations for Mission Critical Functions

4.1.1 PAO's operation is highly decentralized with regard to its mission-critical functions. Except for final actions on appealed cases, which are attended to by the Special and Appealed Cases Division in the central office, all other types of cases are covered by the agency's regional and district offices. Complaints, petitions, answers, replies and other important pleadings to be filed in lower courts, quasi-judicial bodies and other offices, are signed by the lawyer handling the case and co-signed, as follows:

- In the district offices, by the District Public Attorney;
- In the regional offices, by the Regional Director or any senior lawyer in the regional offices designated by the Director; and
- In the central office, by the division chief or the senior lawyer designated by him.

4.1.2 Transfer of cases from one lawyer to another can be made so long as the head of the unit approves such arrangement. With respect to cases on appeal, the initial evaluation of the merit and propriety of the appeal is undertaken by the district office. The lawyer handling the case will prepare and sign the Notice of Appeal, to be co-signed by his district head. The case will then be forwarded to the SAC Division in the central office. The field lawyer handling the case also undertakes appeals from decisions, resolutions and final orders of regional offices, bureaus or other offices. The PAO lawyers in the field file petitions for the issuance of a writ of habeas corpus in the lower courts. When there is a need to file the case to the Court of Appeals of the Supreme Court, the lawyers concerned will endorse these types of cases to the SAC Division.

4.1.3 The decentralized operations of PAO for substantive and mission critical functions benefit its clients for fast actions as decisions are already done at the field level. However, financial management and administrative functions are still centralized. While payroll for basic salary is through ATM, that for Representation Allowance and Transportation Allowance (RATA) is not, and is given at the end of month. PAO Lawyers in the field request that their RATA be likewise included in their first-week pay, which is withdrawable through ATM. The PAO may achieve operational efficiency with the decentralization of even its financial and administrative activities.

Accreditation of PAO under the MCLE as provider of continuing education

4.1.4 The PAO has been accredited on 05 August 2002 by the Supreme Court of the Philippines, the Philippine Judicial Academy and the Committee on the Mandatory Continuing Legal Education (MCLE) as a MCLE provider. This is recognition of the capability of PAO to undertake training and legal education programs not only for its internal staff requirements but those of other agencies, as well as its commitment to the continuing innovations and growth in the legal profession.

Linkage with other government agencies enhances PAO capability in service delivery to clients.

4.1.5 The PAO has undertaken several agreements with different government agencies for specific purposes; among its recent cooperative efforts forged through memoranda of agreement are the following:

- PAO-National Labor Relations Commission (NLRC) MOA - establishing a PAO sub-district office at the NLRC to assist indigents on their labor problems
- PAO-Presidential Action Center (PACE) MOA – for immediate response to the needs of the low-income sector who seek the Office of the President through PACE for legal assistance
- PAO-PPA MOA – the PPA to be providing PAO personnel their medical and dental requirements
- Media linkages – regular airtime radio slots of PAO offices region wide for more accessibility to the public

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4.1.6 These arrangements have substantially helped the agency in improving its provision of legal services to indigent clients.

4.2 Weaknesses

High employment turnover rate of PAO lawyers

4.2.1 PAO has become a training ground for lawyers who eventually land into Prosecutor positions or legal items in government-owned and -controlled corporations that command higher pay and fringe benefits, or into lucrative private law practices. The unattractive retirement benefits for PAO lawyers are also a factor for their exodus to other agencies and/or the private sector. PAO lawyers are covered by the regular retirement laws for government employees, unlike lawyers in the Judiciary who are provided with an attractive retirement package under RA 910 (Retirement Law for Members of the Judiciary). The proposed Angara Bill (SB 2520) under the current 12th Congress will still not benefit PAO lawyer. The Bill seeks the increase by 100 percent of the salaries of only the members of the National Prosecution Service and the Office of the Chief State Counsels in DOJ, and not PAO's.

Heavy workload for PAO lawyers

4.2.2 The agency's accomplishment report ending December 31, 2001 indicates that the 903 PAO lawyers in 256 regional and district offices are each assigned cases covered by two to three courts. PAO considers a ratio of one lawyer to a court as tenable. The matrix below supports PAO's representation on the impracticable workload situation among its lawyers. [16]

Table 6 – 17
Ratio Between PAO Lawyers and Courts

Region	Number of PAO District Offices	Number of PAO Lawyers	Number of Courts	Ratio Between PAO Lawyers and Courts
NCR/CO	16	241	358	1.49
I	21	61	140	2.30
CAR	10	25	65	2.60
II	13	45	101	2.24
III	22	62	201	3.24
IV	39	109	256	2.35
V	19	49	148	3.02
VI	16	50	152	3.04
VII	16	45	146	3.24
VIII	23	55	130	2.36
IX-A	4	11	37	3.36
IX-B	10	24	74	3.08
X	12	38	78	2.05
XI	13	38	87	2.29
XII	12	28	101	3.61
Caraga	10	22	56	2.50
Total	**256**	**903**	**2,130**	**2.36**

4.2.3 The PAO does not enjoy a "special treatment" in the creation of additional positions similar to that of the NPS' as provided under PD 1275. This measure authorizes the increase in the corresponding number of assistant provincial/city fiscal positions whenever there is an increase in the number of court salas. PAO can increase its lawyer positions only upon approval by the Department of Budget and Management and funded under the National Budget.

[16] Source: PAO's 30th anniversary report, October 25, 2002

Limited and obsolete equipment and facilities

4.2.4 The issue on inadequate equipment and facilities is true to all PAO offices nationwide. Limited budgetary provisions constrain PAO's acquisition of much-needed computers and other office equipment. Relatedly, PAO has represented that it does not enjoy franking privilege and so it has to defray additional expenses for postal services. Franking privilege is given only to the Supreme Court and NPS.

Need for an effective advocacy and promotion activities for PAO services

4.2.5 Many qualified indigents are not availing of PAO services for they do not know that PAO exists. Other clients who hear of PAO programs for indigents are not however aware of the means through which the agency services could be provided. Some clients seek PAO's assistance already at a late stage; case handling would have been less taxing and complicated if issues have been brought to PAO's attention at a much earlier time. More active and comprehensive involvement by PAO in community activities will help in this advocacy effort, which is now limited to serving as guests in radio and television programs and attending community and barangay assemblies.

4.4 Opportunities

Encouragement of full participation of private lawyers/bar associations in expanded pro bono program for the indigents

4.4.1 Pro bono means providing legal services without charge to public interest groups or to individuals on public interest or poverty issues. State and local bar associations throughout the U.S. have been implementing programs designed to increase the pro bono work provided by private lawyers, following a policy that it is not an optional contribution by private lawyers, but an obligation of the profession.

4.4.2 Considering the benefits gained by other countries through this practice, in the Philippines, a more concerted and coordinated effort to substantially expand the involvement of private bro bono counsels can be vigorously pursued by PAO inasmuch as this will substantially supplement/complement its legal assistance programs for the poor.

4.4.3 The opportunity also exists in utilizing law students to provide staff assistance to PAO lawyers and even NPS prosecutors.

4.4.4 Another opportunity would be to require lawyers to provide free legal assistance to pauper litigants the number of which will be determined based on a defined percent of their cases.

Creation of a special fund for outsourcing private law services and adopting a standardized fee system for individual lawyers who will handle cases for the indigents

4.4.5 The establishment of a special fund and a system of payment of fees for private lawyers for legal services provided to indigent clients may be studied. This scheme will enable the poor to avail themselves of adequate free legal services through outsourcing the services of private lawyers chargeable against the special fund.

4.4.6 Certain countries in the world like the Netherlands have adopted a similar scheme. Netherlands started its judicare system in 1957 and modified it accordingly to its current legal aid program structure. The system allows qualified individuals to receive, free of charge, services of an attorney. The government pays for the lawyer's services on a declaration basis, following a standardized fee chart. Supportive of such a system, there are also "law shops" staffed by volunteers, most of whom are law students, which provide legal advice, assistance and even representation to poor clients.[17]

4.4.7 Also in Netherlands, there are five Councils for Legal Aid, which are responsible for administering and monitoring the provision of legal aid in their respective local jurisdictions, and for managing the administration of applying attorneys and their assignments. The Councils review the credentials of lawyers and staff who apply to represent a client in court. A lawyer who is not admitted by the Legal Aid Council may only provide a client with legal aid.[18]

4.4.8 Applying this arrangement in PAO may lead to program effectiveness. Its concomitant transformation into an organization that is focused on policy setting, rules making, setting case standards of lawyers, and accrediting lawyers and law organizations, matching the needs of the poor for legal services with the availability of the services of these private providers and monitoring their compliance with their contracts with the government, may be considered. In structuring a pro bono program, it is important that lawyers know the extent of the demand for pro bono services and that there be a successful match between the supply of lawyers and the client's need for particular expertise. The PAO may thus serve this end. The PAO can also be the agency to which the administration of the special fund for legal assistance services to indigents be assigned.

[17] Downloaded material from the internet, "The Netherlands Legal Aid Program", based on a paper prepared in 1999 for the California Access to Justice Commission by Ryan Easter, then a law student at the University of Southern California. Mr. Easter's paper, in turn, is based largely on information supplied by the ***National Equal Justice Library.***

[17] *Ibid.*

4.5 Threats

Institutional changes in PAO must be given priority attention, lest the agency would be on its way to obsolescence and irrelevance

4.5.1 Institutional reforms in PAO are deemed due and necessary, to make it more responsive to the service requirements of its clients. The agency has never instituted any major structural modifications, other than the creation of additional field offices, since its organization in 1987 under Administrative Code (EO 292). Sixteen years without structural improvements is an untenable situation. This must be backed up with a thorough diagnostics study to guide possible reform initiatives. Any major structural reforms in the agency must however require amendments to its legal bases, considering the PAO's organization structure is specifically provided/spelled out in the law.

5 INTERNAL CAPACITY ASSESSMENT

5.1 Mandate, Vision, Mission and Functions

5.1.1 The mandate of PAO is provided in its legal basis. However, the agency mandate was not translated into explicit functions. Rather, the mandate is used interchangeably as its function and mission. Generally, an agency's mandate and functions are distinct elements of an organization. A mandate is the authority of the agency to carry out certain actions as indicated in its enabling law. The mandate is translated into functions which accordingly list the programs, projects and activities intended to meet the agency objectives.

5.1.2 The agency's vision is shared with other DOJ agencies. It may however be improved to make it strategic and aligned with and responsive to the national and sectoral objectives. The vision must be directional and provide organizational focus.

5.2 Organizational and Operational Issues

5.2.1 PAO's organization structure reflects its actual operations. The three line units in the central office which all responsible for the handling of appealed cases, research and statistical data maintenance and analysis, and field services coordination are still relevant vis-à-vis current operational arrangement that assigns to field offices the conduct of mission critical functions. However, the creation of district offices must be rationalized. The PAO finds it necessary that a district office is set up in every court or sala that will concomitantly require a substantial beefing up of its existing resources. This matter must be studied thoroughly considering certain effective institutional alternatives like sourcing out of private lawyers' services and optimization of pro bono work of lawyer/bar associations.

5.2.2 Legal assistance to indigent litigants is available from several sources. The private sector is one of such sources although on a limited scale. Tapping and mobilizing available resources from other providers is a challenge to PAO. When cases keep piling up and resources are not enough to hire more lawyers, it has become necessary that alternative strategies to PAO's direct provision of legal services be considered. As the lead public attorney's office, it must determine effective measures/schemes that would substantially enhance the mobilization of services of all legal service providers. A specific organizational unit in PAO's central office may be given responsibility of attending to only this matter.

5.2.3 The issue on insufficient reporting and inefficient performance system must be addressed. A common issue in all PAO organizational units, including the regional and field offices, is the inefficient data reporting system. The field offices are saddled with preparation of various reports being required by central units aside from the regular /periodic reporting requirements. This is a cumbersome and tedious task that may require a reformatting of the agency's reporting forms and data requirements. An effective performance management system is moreover necessary to address the issue. The effectiveness of the use of existing performance indicators must be determined and a design of appropriate ones undertaken.

5.2.4 The placement of NPS and PAO under the DOJ is considered by PAO as rather inconsistent with the principle of check and balance. This is true when the DOJ Secretary makes official pronouncements that the Department will prosecute certain parties, but tasked PAO, which is also a DOJ agency, to represent the accused parties. Another example is when PAO files a motion to reduce a bail bond, the same bail bond which the prosecutor has set upon directives from the DOJ Secretary. In a similar situation, the matter whereby PAO has assisted and represented those who were charged in the May 2001 assault in Malacanang has been mentioned as another untenous situation for PAO, the DOJ and the Office of the President. In view of these conflicts and considering the system of administrative attachment and relationship of government agencies, the appropriate organizational location of PAO must be determined. In other countries, the public defender's office is an independent agency from the justice department and the courts to preserve these agencies integrity and unbiased position

5.3 Human Resources Development

5.3.1 The goal of improving quality of investigation relies on many aspects including how the key personnel such as Public Attorneys are selected, compensated, managed for performance, promoted, and how they are challenged, coached, educated, updated, monitored, and also how they are disciplined and where necessary, removed.

PERSONNEL COMPLEMENT AND DEPLOYMENT

5.3.2 PAO has 1,879 authorized positions of which 1,770 or 94% are filled as of February 28, 2003. Lawyers comprise 57% of the positions at 1,069 while the balance of 810 are non-lawyers

5.3.3 For the Associate Public Attorney I and II positions, the incumbents are expected to render 60% of their time to representing indigent persons or the immediate members of their family in criminal, civil and administrative cases in Municipal trial courts, prosecutor offices and administrative bodies; and another 20% for the PAO I and 30% for PAO II to rendering legal counseling and meditation services, preparing for clients, and preparing and submitting monthly reports on judicial and non judicial cases received.

5.3.4 On the other hand, a Public Attorney III assigned to a region is expected to render 50% of his/her time to serving as district head and therefore spending time in planning and supervising court assignment of lawyers and the other 50% as a PAO lawyer, representing indigent litigants in all criminal, civil and administrative bodies within the territorial coverage of the area of assignment (in the case of the example, a district).

5.3.5 A Public Attorney V may be a Regional Public Attorney and is expected to render 50% of his/her time to serving as head of operations in the region, maintaining updated data base on workloads, standards, targets, supervising the legal outreach program for the community, recommending activation of district offices where salas of regional trial courts are activated, and coordinates with other government units and non-government organizations and private organizations in the district. Another 30% is spent on administrative matters and the balance of 20% for serving as a PAO Attorney.

5.3.6 Unlike the NPS which has an almost automatic approval "to build up in headcount based on the number of court salas" the PAO does with less. The common situation is for PAO lawyers being assigned to two, sometimes three courts – Regional or Municipal Trial Courts or Labor court. There have been earlier efforts to establish the minimum number of PAO lawyers to at least one for each branch of court nationwide much like that for the NPS.

KEY POSITIONS – HIRING, SELECTION AND COMPENSATION

5.3.7 A comparative summary of the salary grades and headcount of the key positions in PAO, NPS, NBI and BuCor which represent 80%, 25% and 32% respectively of their total employee population are presented in Attachment "A".

5.3.8 The compensation of PAO lawyers suffer by comparison with those who they face in courts everyday either colleagues in government service from the National Prosecution Service or those in private practice. PAO 2 (SG 25), the level were the predominant number of PAO lawyers are, have annual cash compensation ranging from P369,000 to P422,000 while those for the Prosecutors 1 (SG 26) are at P 402,000 to P457,000. Add to that the varying local government allowances granted to Prosecutors ranging from P1,000 fto P 10,000 a month for an overall difference of at least 11% to at most 41%.

5.3.9 The benefit of a hazard pay is also being sought for PAO lawyers inasmuch as they conduct jail visits as a normal part of their work The current amount of hazard pay at the Bureau of Corrections for all its employees is P 7,200 monthly.

PROFESSIONAL TRAINING AND DEVELOPMENT

5.3.10 Most of the professional development programs of PAO are delivered through and with external providers and partners. About 40% of the training is on law and legal matters, most under the Mandatory Continuing Legal Education and where the Integrated Bar of the Philippines is the principal provider.

5.3.11 Another 40% of the training is on target groups or target topics on children (children in conflict with the law and minor offenders), women, the youth, labor, and human rights in general. These are conducted with such organizations as UNICEF, Philippine Pediatric Society, Bantay Bata, Free Legal Assistance Group, and UN High Commissioner for Refugees, among others.

5.3.12 The series for minor offenders which constitutes a third of the entire training effort for 2002 is on its third year and is jointly participated in by the paralegal officers and jail wardens of the Bureau of Jail Management and Penology of the Department of the Interior and Local Government. It is intended to create awareness on new rules and laws and on how to handle cases of youthful offenders admitted in our jails.

5.3.13 The balance of training is in a variety of functional areas from finance, management, information technology, human resources and others.

5.3.14 A summary of the training programs conducted for 2002 by subject matter is shown in Table 6-18.

Table 6-18
PAO Training Programs

Subject Matter	Number of Trainees	Person Hours of Training	% to Total Person Hours
Children in conflict with the law / minor offenders	206	4,635	29%
Law (inclusive of Mandatory Continuing Legal Education Programs)	366	6,578	42%
Human Rights (other than children, women and labor)	105	1,496	10%
Socio-economic development	30	720	5%
Youth	1	352	2%
PAO Internal	42	336	2%
Women	16	332	2%
Labor	4	66	1%
Finance / Government*	30	436	3%
Management	8	208	1%
Information Technology	15	144	1%
Human Resources	45	251	2%
Other	21	187	1%
Total	889	15.740	100%

5.3.15 Human resource development issues in PAO are on remuneration, high turn over, workload, and lack of career path. The absence of a good career path is part of the reasons for the high turn over. A career development program for PAO lawyers who basically perform the same functions for the duration of their tenure should be established and linked with remuneration, training, and organizational reengineering, particularly of the field offices.

5.4 Financial Management and Resources

5.4.1 While the mission-critical functions of PAO have been decentralized, its administrative and financial functions are still centralized. Administrative functions, which have been assigned for final decision of the field units, are limited to signing daily time record, approval application for leave of absence of respective field personnel, designation of notaries public from among lawyers in field units, among others. All other decisions on administrative and financial matters are still made at the central office.

5.4.2 This centralization of transaction decisions brings about delays in the execution of field activities. It also limits the regional offices in immediately attending to their respective needs. The processing of GSIS/PAG-IBIG loan applications of personnel in the regions is for example a tedious process since it is done and approved in PAO central office.

5.4.3 PAO has represented that the regional offices participate in budget preparation, their inputs to the budget being assessed and consolidated in the central office, and brought down to a more realistic and attainable proposal based on the limits set by the DBM. However, there are indications that priority needs of field units may not be provided as the central office dictates on and considers a different set of priorities.

5.4.4 Decentralized administrative and financial management activities must however be designed within the context of improved organization and resources. Currently, there is practically nothing to budget for in the regions other than the mandatory items, since there is severely limited amount of resources available for MOOE and capital outlay.

5.4.5 Table 6-19 below shows the actual obligations incurred by PAO for years 1997-2001. Personal services eat up the biggest slice of the budget, amounting to 91.96% on the average for the last 5 years. Only an annual average of 5.17% has been allocated for maintenance and other operating expenditures. Capital outlays on the other hand averaged at a very low 1% over the five-year period, reflecting very limited investments by government in physical infrastructure, office equipment and information technology facilities.

Table 6-19
Actual Obligations per Object Class, PAO, 1997-2001

PARTICULARS	1997		1998		1999		2000		2001	
	Amount	% of Total	Amount	% of Total	Amount	% of Total	Amount	% of Total	Amount	% of Total
PS	357,122,180.46	88.95%	424,789,072.00	92.49%	448,045,201.00	90.11%	528,317,908.40	93.55%	525,380,084.52	94.74%
MOOE	41,905,070.71	10.44%	34,399,869.05	7.49%	41,915,395.06	8.43%	35,917,294.21	6.36%	28,665,776.88	5.17%
CO	2,455,050.00	0.61%	92,282.00	0.02%	7,265,595.30	1.46%	484,150.00	0.09%	486,630.56	0.09%
Total	401,482,301.17	100.00%	459,281,223.05	100.00%	497,226,191.36	100.00%	564,719,362.61	100.00%	554,532,491.96	100.00%

(Source: Statements of Allotments, Obligations and Balances, 1997-2001)

5.4.6 Table 6-20 indicates that the government spends only about P1, 123 per case. This amount does not include the cost of providing other services (legal counseling, preparation of affidavits and other documents, etc.) which is estimated to eat up an average of 30% of a PAO lawyer's time. If these other services were to be included then government per capital investment in PAO cases goes down further.

Table 6-20
Per Capita Cost of the Case

TOTAL BUDGET	Caseload	Per Capita Cost of the Case
401,482,301.17	398,859	1,006.58
459,281,223.05	416,419	1,102.93
497,226,191.36	434,660	1,143.94
564,719,362.61	464,521	1,215.70
554,532,491.96	493,370	1,123.97

5.4.7 The table below shows that budget levels have no deliberate co-relation with the expected caseload. Total budget increases and decreases over the years without direct correspondence with the annual fluctuations in work volume.

Table 6-21
Comparison of Increases in PS and Caseload

Year	TOTAL BUDGET	Annual % Increase in Total Budget	Caseload	Annual % Increase in Caseload
1997	401,482,301.17		398,859	
1998	459,281,223.05	14.40%	416,419	4.40%
1999	497,226,191.36	8.26%	434,660	4.38%
2000	564,719,362.61	13.57%	464,521	6.87%
2001	554,532,491.96	-1.80%	493,370	6.21%

5.4.8 Reforms in financial management and resources must consider the possibility of mobilizing non-budgetary resources to improve the financing of legal services. Such alternatives as utilizing law students, requiring law firms and lawyers to provide free legal services to indigents as a portion of their clients or working time, mobilizing private sector funding of free legal assistance should be considered seriously along with a more aggressive plan to improve public education and information on PAO's services.

6 IMPLICATIONS FOR REFORMS

6.1.1 The above diagnostics identified inextricably related issues that impinge on the effective provision of free legal services to the poor. Free legal services to the poor is a responsibility that the government must assume in order to provide access to justice, and ensure equity in government services in accordance with the requirements of specific segments of the population and in accordance with the responsibility of the government to provide social services to those who cannot afford it.

6.1.2 But how free legal services can be provided more widely, more efficiently and effectively while ensuring that such services will promote access to quality justice for the poor and within the context of severe resource limitations, is a challenge of governance.

6.1.3 The diagnostics leads to the identification of the following reform implications that will provide the basis for crafting and subsequently implementing a reform program on free legal assistance to the poor:

a) Integrating all government legal assistance services to the poor in the PAO and improving the organizational arrangement and operational efficiency of government direct services

   This considers the transfer to the PAO of the legal assistance units, personnel and resources now found in several government departments and agencies and centralizing all legal assistance services to the poor. This idea considers the economies of scale and the efficiency of improving the mix and level of caseload to the now increased number of lawyers.

b) Improving PAO capacity and authority to mobilize private sector resources for the provision of free legal services

   This will include strengthening PAO functions and internal operating capacities to organize and mobilize financial and non-financial resources of the private sector and establish operating procedures for private sector institutions such as universities, IBP, law groups, private practitioners to provide free legal services to the poor.

c) Improving PAO's internal capacity to provide legal services of a quality that ensures access to justice by the poor.

This will involve reengineering the administrative operations and operations of the PAO, freeing more central office lawyers and fielding them to legal assistance functions, integrating the internal operations of the PAO with the external resource contributions of the private sector, improving case management and performance management with the help of an integrated and connected information systems network, and improving human resources capacities through better career pathing, continuing and relevant training and improved remuneration.

Comparative Salary Grade and Headcount of Key Positions

Salary Grade	National Prosecution Service	Hdcnt	Tot Svc-Ave & 50th %ile	Ave Age	Tot Annl Cash Step 1 (Low)	Tot Annl Cash Step 8 (High)	Qualification Standards	Remarks	Public Attorney's Office	Hdcnt	Tot Annl Cash Step 1 (Low)	Tot Annl Cash Step 8 (High)	Qualification Standards	Remarks
Key Positions		**2,126**					**80.0%**	With additional LGU allowance that may range from P 1,000-P10,000 if provided (not indicated in cash figures)		**0**				
30	Chief Prosecutor	1			535,175	606,001	Bachelor of Laws. 5 yrs of actual practice of legal profession (PD 1275). No training required. RA 1080		Chief Public Attorney		535,175	606,001	Bachelor of Laws. 3 yrs of supervisory experience. No training required. Career Service Executive Eligibility / Career Executive Service	
29	Prosecutor 4	76	Ave 23 & 50th 22	Ave 52 & 50th 56	469,329	531,475	Bachelor of Laws. 5 yrs in actual legal profession prior to appointment or held any position requiring qualification of a lawyer (PD 1275). **32** hrs training. RA 1080.							
28	Prosecutor 3	315	Ave 19 & 50th 18	Ave 43 & 50th 57	439,150	499,018	Bachelor of Laws. 5 yrs in actual legal profession prior to appointment or held any position requiring qualification of a lawyer (PD 1275). 24 hrs training. RA 1080.		Public Attorney 5		439,150	499,018	Bachelor of Laws. 4 yrs relevant experience. 24 hrs training. RA 1080.	Starting at this level and above, by Presidential appointment upon recommendation by DOJ Secretary
27	Prosecutor 2	894	Ave 16 & 50th 16	Ave 40 & 50th 53	425,350	470,746	Bachelor of Laws. 5 yrs in actual legal profession prior to appointment or held any position requiring qualification of a lawyer (PD 1275). **24** hrs training. RA 1080.	Starting level at DOJ Department Proper. Preferred candidates are those in private practice ot those with experience in the Supreme Court or the Office of the Sol Gen	Public Attorney 4		425,350	470,746	Bachelor of Laws. **4** yrs relevant experience. **24** hrs training. RA 1080.	
26	Prosecutor 1	832	Ave 8 & 50th - 6	Ave 32 & 50th - 45	401,573	456,822	Bachelor of Laws. 5 yrs in actual legal profession prior to appointment or held any position requiring qualification of a lawyer (PD 1275). 16 hrs training. RA 1080.	Starting at this level and above, by Presidential appointment upon recommendation by DOJ Secretary. Drawn from (estimated) internal National Prosecution (20 - 25%), PAO (30-35%), private practice (25-30%), other DOJ or branches in government (15-20%)	Public Attorney 3		379,973	435,222	Bachelor of Laws. 3 yrs relevant experience. 16 hrs training. RA 1080.	Attrition rate at this level attributed mostly to transfers: about 50% to the National Prosecution Service, 30% for Judiciary positions, a small percentage as Labor Arbiter and others for varying reasons
25									Public Attorney 2		368,715	421,846	Bachelor of Laws. 3 yrs relevant experience. 16 hrs training. RA 1080.	Cumulative PAO experience generally at about 8 years. At this level or the next, most would seek transfer to other posts (see Public Attorney 3)
24									Public Attorney 1		357,899	408,976		

Salary Grade	National Bureau of Investigation	Hdcnt	Tot Annl Cash Step 1 (Low)	Tot Annl Cash Step 8 (High)	Qualification Standards	Remarks	Bureau of Corrections	Hdcnt	Tot Annl Cash Step 1	Tot Annl Cash Step 8	Qualification Standards	Remarks
Key Positions		**442**			**25.3%**	Investigators and Agents with P 2000/mo hazard pay. Task force allowance provided to Agents of varying amounts and periods. Access to intelligence fund that may include financial support to assigned agents		**695**			**31.7%**	With annual supplements of P7,200 hazard pay, P6,480 meal allowance, P2,400 Electric subsidy and P1,800 quarters allowance
30												
29												
28												
27												
26							Penal Inst Supt IV	3	426,974	486,473	Bachelor's degree. **3 yrs in position involving mgmt & supervision**. No training in mgmt & sup. **Career Service Executie**	
25	Investigation Agent 6	58	392,715	445,846	**Masteral degree**. **5** yrs experience. **32** hrs training. Career Service 2nd level							
24	Investigation Agent 5	95	381,899	432,976	Bachelor's degree relevant to the job. **4** yrs experience. **24** hrs training. Career Service 2nd level		Penal Inst Supt III	2	396,602	451,603	**Masteral degree. 4 yrs in position involving mgmt & supervision. 24** hrs training in mgmt & sup. Career Service 2nd Level	
	Special Investigator 5	6	381,899	432,976	Bachelor's degree relevant to the job. **4** yrs experience. **24** hrs training. Career Service 2nd level		Chief Probation Officer				**Masteral degree. 4 yrs in position involving mgmt & supervision. 24** hrs training in mgmt & sup. Career Service 2nd Level	

Comparative Salary Grade and Headcount of Key Positions

Salary Grade	National Prosecution Service	Hdcnt	Tot Svc-Ave & 50th %ile	Ave Age	Tot Annl Cash Step 1 (Low)	Tot Annl Cash Step 8 (High)	Qualification Standards	Remarks	Public Attorney's Office	Hdcnt	Tot Annl Cash Step 1 (Low)	Tot Annl Cash Step 8 (High)	Qualification Standards	Remarks
23														
22	Associate Prosecution Atty 2	8			273,263	320,481	Bachelor of Laws. **1** yr experience. **4** hrs training required. RA 1080		Associate Public Attorney 2		273,263	320,479	Bachelor of Laws. **1** yr relevant experience. **4** hrs training. RA 1080.	
20														
18	Associate Prosecution Atty 1	0					Bachelor of Laws. No experience required. No training required. RA 1080		Associate Public Attorney I		228,933	267,790	Bachelor of Laws. No experience required. No training required. RA 1080.	Hired upon passing the bar. Generally after 3 - 6 months or at most a year, can expect a promotion to Associate Public Attorney II. Can be expected to stay in the PAO service for three years or up to PAO 2 or PAO 3
15														
11														

Salary Grade	National Bureau of Investigation	Hdcnt	Tot Annl Cash Step 1 (Low)	Tot Annl Cash Step 8 (High)	Qualification Standards	Remarks	Bureau of Corrections	Hdcnt	Tot Annl Cash Step 1	Tot Annl Cash Step 8	Qualification Standards	Remarks
23	Investigation Agent 4	13	307,260	356,387	Bachelor's degree relevant to the job. 3 yrs experience. 16 hrs training. Career Service 2nd level		Supervising Parole Officer				Bachelor of laws. Shall be member of the bar for at least 7 years (RA6018). **8** hrs relevant training. RA 1080.	
22	Investigation Agent 3	54	297,263	344,479	Bachelor's degree relevant to the job. **3** yrs experience. **16** hrs training. Career Service 2nd level		Supvg Penal Inst Program Officer	1	310,394	361,244	Bachelors degree. **3** yrs relevant experience. **16** hrs training. Career Service 2nd level	
	Special Investigator 4	26	297,263	344,479	Bachelor's degree relevant to the job. **3** yrs experience. **16** hrs training. Career Service 2nd level		Penal Inst Supt II	2			Bachelors degree. **3** yrs relevant experience. **16** hrs training. Career Service 2nd level	
							Supervising Probation Officer	204			Bachelors degree. **3** yrs relevant experience. **16** hrs training. Career Service 2nd level	
20	Investigation Agent 2	19	278,387	322,028	Bachelor's degree relevant to the job. 2 yrs experience. 8 hrs training. Career Service 2nd level	Current hiring level. Undergoes 16-week basic training and qualifying course	Penal Inst Supt I	5			Bachelors degree. **2** yrs relevant experience. **8** hrs training. Career Service 2nd level	
18	Investigation Agent 1	1	252,933	291,790	Bachelor's degree relevant to the job. **2** yrs experience. **8** hrs training. Career Service 2nd level	Actual minimum selection criteria for agents at this level up: Member of the bar or CPA. Atleast 5'5" in height. Must not have been convicted of a crime involving moral turpitude. No derogatory record. Good moral character and excellent physical and mental health.	Sr Penal Inst Program Officer	2	262,654	304,504	Bachelors degree. **2** yrs relevant experience. **8** hrs training. Career Service 2nd level	
	Special Investigator 3	156	252,933	291,790	Bachelor's degree relevant to the job. **2** yrs experience. **8** hrs training. Career Service 2nd level	Current hiring level. Undergoes 16-week basic training and qualifying course together with Inv Agent 2	Penal Inst Sup	10			Bachelors degree. **2** yrs relevant experience. **8** hrs training. Career Service 2nd level	
							Sr Probation Officer	72			Bachelor degree relevant to the job. **2** yrs relevant experience. **8** hrs training required. Career Service 2nd level	
15	Special Investigator 2	6	219,900	252,530	Bachelor's degree relevant to the job. **1** yr experience. **4** hrs training. Career Service 2nd level		Penal Inst Program Officer 2	3	227,080	262,220	Bachelors degree. **1** yr relevant experience. **4** hrs training. Career Service 2nd level	
							Probation Officer II	260			Bachelor degree relevant to the job. **1** yr relevant experience. **4** hrs training required. Career Service 2nd level	
11	Special Investigator 1	8	183,955	200,595	Bachelor's degree relevant to the job. No experience required. No training required. Career Service 2nd level		Penal Inst Program Officer I	6			Bachelors degree. No experience required. No training required. Career Service 2nd level	
							Probation Officer I	24			Bachelor degree relevant to the job. No experience required. No training required. Career Service 2nd level	

Comparative Salary Grade and Headcount of Key Positions

Salary Grade	National Prosecution Service	Hdcnt	Tot Svc-Ave & 50th %ile	Ave Age	Tot Annl Cash Step 1 (Low)	Tot Annl Cash Step 8 (High)	Qualification Standards	Remarks	Public Attorney's Office	Hdcnt	Tot Annl Cash Step 1 (Low)	Tot Annl Cash Step 8 (High)	Qualification Standards	Remarks
10														
7														
5														

Salary Grade	National Bureau of Investigation	Hdcnt	Tot Annl Cash Step 1 (Low)	Tot Annl Cash Step 8 (High)	Qualification Standards	Remarks	Bureau of Corrections	Hdcnt	Tot Annl Cash Step 1	Tot Annl Cash Step 8	Qualification Standards	Remarks
10							Prison Guard 3	71	180,026	206,295	Completion of 2 years studies in college. **2** yrs experience. **8** hrs relevant tranining. Career Service 1st level	
7							Prison Guard 2	102	154,826	176,330	Completion of 2 years studies in college. No experience required. No tranining required. Career Service 1st level	
5							Prison Guard 1	1,123	139,482	158,130	72 units in College. No experience required. No tranining required. Career Service 1st level. Drug test. Neuro-psychiatric test (IQ and personality factors e.g. aggression)	Undergoes 20-day basic orientation course at the start of work covering introduction to the bureau organization and operations, mission and values, rules in the failicity, correctional rules, laws, human behavior, firearms use, etc

7
INFORMATION AND COMMUNICATION TECHNOLOGY (ICT)

1 SITUATION OVERVIEW

1.1 Overview of Information Technology Use at DOJ

1.1.1 The agency utilizes a variety of computing environments for computerizing agency processes, including:

- Standalone desktop computing for individual / discretionary tasks,
- Web and Internet primarily for email, file uploads/downloads and research / environmental scanning,
- Local area networks for departmental file and printer sharing, and
- Distributed databases for clearance processing, corrections/rehabilitation records management -- applications with multiple, geographically-dispersed data sources.

1.1.2 Notably National Bureau of Investigation and Bureau of Corrections require high-end IT solutions for performing regulatory, investigative and criminal research tasks. For instance, the task of fingerprint verification require large digital storage with necessary redundancies to ensure data availability. Highly specialized technologies for forensics (e.g., Identikit) and document analyses allow the NBI to detect forgeries, tampering and modification of documents, detect fingerprints and human body fluids in crime scenes and face profiling. For these applications, high-level security, encryption and authentication technologies are needed due to the sensitive nature of the information.

1.1.3 Use of computer-based information systems are largely discretionary and decentralized. Except for regulatory functions (primarily clearance processing), no integrated communication infrastructure is currently in place to improve office productivity and facilitate performance of criminal justice functions including streamlining of investigations, prosecution, judicial proceedings, corrections/rehabilitation and community relations. The NCIS Project was conceived precisely to fill in these gaps in the information and communication infrastructure. However, the project is currently suspended pending a COA audit requested by the National Computer Center.

1.1.4 Several legislative requests for appropriations are made for the development of mission-critical information systems but have yet to be approved and funded. For instance, the NBI requested for appropriations in its 2004 budget for the proposed Automated Fingerprint Identification System estimated to cost almost 1 billion pesos.

1.2 IT Infrastructure

TECHNOLOGY ARCHITECTURE

1.2.1 The Department of Justice physical IT infrastructure consists of local area networks at sub-agencies, bureaus, regional and district offices, a rudimentary wide area network and database servers at the NBI, network servers at NBI, BUCOR and OSEC (see Annex C). Most desktop computers are distributed to individual users at the different offices, and used primarily for standard office automation tasks. A number of single-user licenses of Lex Libris CD-ROM are distributed for legal research.

1.2.2 The NBI has a basic system for data consolidation and electronic transfers for clearance processing in selected Metro Manila kiosks, regional and district offices. Typically, attached agencies, regional and district offices are connected via dial-up connections from local Internet service providers.

OPERATING SYSTEMS

1.2.3 The major network operating systems used by local area network servers are Windows and Unix. The NBI continue to maintain a proprietary mainframe legacy system. This mainframe-based system provides data access to criminal history information used for clearance processing and issuance nationwide. The NBI file servers provide central data storage for criminal records and clearance transactions.

LOCAL AREA NETWORKS

1.2.3 Local area networks are typically standards-based Ethernet, consisting of category 5 copper unshielded twisted pair (UTP) cabling, 10/100 Ethernet network interface cards, network switches and hubs at 10Mb and/or 100Mb Ethernet connections.

1.2.4 DOJ units nationwide use the above-defined LAN architecture and have regional Windows-based small-office servers for local file and printer sharing. The Department makes use of standard desktop databases, word processing, spreadsheet, and other desktop applications, as well as client/server computing for selected applications.

1.2.5 Individual sub-agencies under the DOJ manage their respective desktop computers, servers and network infrastructure including repair, upgrade and replacement programs. Hardware procurement is done according to industry-defined hardware configuration standards, subject to government procurement guidelines. Specific software configurations vary among individual agencies depending on functional requirements.

DATA ARCHITECTURE

1.2.6 The DOJ has no agency-wide, integrated data architecture. Database management systems and application development platforms vary even at the sub-agency level.

1.2.7 Approximately thirteen types of information or databases are available in various computer formats, ranging from spreadsheets to shared databases (see Annex A). Large databases are extensively used for clearance processing and criminal records search. Local databases and spreadsheets are used to manage administrative and financial information and for other justice-related information for case documentation, administrative tasks to communications for legal and support staff. Any remaining local database applications are planned for redevelopment / migration to Microsoft SQL-Server from third generation database management systems (i.e., Xbase applications in DOS).

1.2.8 The remaining eighteen of the major information types surveyed are handled or managed manually and are still generally paper-based.

IT HUMAN RESOURCES

1.2.9 The DOJ has a decentralized human resource structure for network and database administration, programming and an ad hoc decentralized structure for help desk support provided by IT-literate staff not necessarily reporting to the IT or MIS unit (see Annex D).

1.2.10 The Bureau of Corrections has a Computer Section, under the Administrative Division, which provide computer help desk support, application development and data management services for the Bureau.

1.2.11 At DOJ-OSEC, there is no organic IT organization. Personnel holding IT-related plantilla positions are deployed among different organizational units. Only data entry machine operators are performing IT functions.

1.2.12 Other DOJ agencies mainly rely on local expertise and experience of a knowledgeable person or group for computer help desk support.

1.2.13 The NBI has an organic IT office, the EDP Division, headed by a Division Chief-level IT Officer. It has a permanent-plantilla staff of 58, augmented with 11 non-IT plantilla staff performing IT-related functions (see Annex D). Most are involved in work related to clearance processing. IT staffing at the NBI is further augmented by Mega Data Corp., the bureau's computer service provider. Under NBI supervision and control, Mega Data operates the computerized clearance processing kiosks, located in strategic areas in Metro Manila, selected regions and districts.

1.2.14 With the largest formal IT organization within DOJ, NBI provides network services including administration of its local area network, mainframe system, criminal history database, and processing of clearance requests. NBI's network operations facilities are located at their Manila headquarters.

1.2.15 There are no indications of an oversight office on information resource management (IRM) responsible for integrated strategic planning, policy and organizing for information management.

1.3 Policies, standards and IT governance

1.3.1 DOJ agencies adhere to basic IT management policies emanating from the National Computer Center (NCC) on information systems strategic planning and IT equipment acquisition.

1.3.2 IT management recognize the need for formal policies adopting applicable information management best practices. High-level information resource management policies (e.g., security, data administration and information systems development methodology) are not yet promulgated nor implemented. Granted, formal standards and guidelines for IT governance and accountability in the effective use and management of IT resources are just beginning to take hold even in developed countries. But there are high-level standards already in place such as the Control Objectives for IT (COBIT) framework.

1.3.3 There are indications of general operations-level policies in such aspects as hardware acquisition, deployment and maintenance, data archiving, information privacy and security, and electronic communications. Most are general guidelines reiterating administrative policies already in place and applied to IT in particular.

1.3.4 There are no indications of a formally-designated Chief Information Officer or information resource management committee.

2 ASSESSMENT OF INFORMATION SYSTEMS

2.1 Focus of the assessment

2.1.1 The focus of the assessment is how the IT resources and capabilities of DOJ are contributing to the desired outcome of better delivery of necessary, cost-effective justice-related services for its various clients and stakeholders. Through the assessment, answers to the following questions are determined: does any information systems address the needs of external and internal clients? Are the information systems designed to enhance the capability of the DOJ and other criminal justice agencies to better perform their respective processes?

2.1.2 In assessing DOJ's information systems, two aspects are evaluated: computerized application systems and the agency's information infrastructure, which includes, but is not limited to, hardware, software and network facilities.

2.1.3 The internal capacity assessment measures how well-developed the agency's IT management processes are. These processes – or IT management best practices – are in four aspects: (1) planning and organization, (2) acquisition and implementation, (3) delivery and support, and (4) monitoring.

2.2 Information Systems at DOJ

2.2.1 The current portfolio of DOJ information systems can be classified as operational, operational systems for enhancements and/or expansion, systems for roll-out under the National Crime Information System (NCIS) Project, proposed mission-critical systems and proposed administrative systems. The complete list is in Annex B, with current status of each information system indicated.

OPERATIONAL INFORMATION SYSTEMS

2.2.2 Three information systems are currently operational: Clearance Processing and Issuance, Criminal History Database, and Regional Computerization System. All these systems support the regulatory functions of the NBI and address the needs of external clients requiring clearances, usually for job or visa applications.

OPERATIONAL SYSTEMS FOR ENHANCEMENT/EXPANSION

2.2.3 Several information systems are operational but have limited scope, functionalities, or based on technologies no longer in widespread use. These systems require major enhancements and/or budget appropriations for expansion, directly supporting criminal justice pillars (mission critical) and for internal operations. Two are mission-critical systems: the Modus Operandi System under the NBI and the Integrated Inmate Monitoring System under BUCOR. The other information systems support internal operations of individual agencies: Personnel Management (BUCOR and OSEC) and Document Tracking System (OSEC).

INFORMATION SYSTEMS UNDER THE SUSPENDED NCIS

2.2.4 The National Crime Information System (NCIS) Project provides for the development of mission-critical systems with direct impact on the performance of the different justice pillars. Three systems were identified under this category: (1) NCIS Corrections Pillar component, (2) Prosecution Case Monitoring, and (3) Inmate Review. The partial IT infrastructure – hardware and software applications – have been deployed and ready for roll-out. However, the NCIS Project is temporarily suspended pending a COA audit recommended by the National Computer Center.

PROPOSED MISSION-CRITICAL INFORAMATION SYSTEMS

2.2.5 Several systems for improved performance in the different pillars of justice were proposed awaiting funding or budget appropriations, including (1) the Automated Fingerprint Identification System (NBI), (2) Management Information and Operations Support System (NBI), (3) Questioned Documents and Investigative System (NBI), (4) Legal Information System (OSEC), (5) Justice System Infrastructure Program (OSEC), and (6) Multi-Project Information System (OSEC).

PROPOSED ADMINISTRATIVE SUPPORT INFORMATION SYSTEMS

2.2.6 This includes automated systems for managing agency financials, fixed assets, supplies and materials, document and records management, and personnel and human resources.

2.3 Assessment results

Clearance processing and issuance currently automated.

2.3.1 Operational information systems support the clearance processing and issuance (regulatory) functions of the NBI. These systems address the needs of public clients usually for job and visa applications and generate revenue for government. The computerized criminal history database provides information to facilitate NBI's investigative function.

None or limited information systems for criminal justice pillars other than clearance processing.

2.3.2 Majority of DOJ information systems that support criminal justice processes are either manually implemented, stand-alone systems or on local area networks without the technology and infrastructure necessary for agency-wide integration. These systems are utilized primarily for local data storage, with the technical capacity for information dissemination limited to internal agency use. The result is an inadequate infrastructure for information sharing in support of administrative functions and criminal justice functions / pillars.

IT used largely for operational, not strategic, support.

2.3.3 Computers are utilized primarily for office automation and ad hoc communication tasks such as word processing, spreadsheets, managing simple databases, email and accessing external information services via the Internet and world wide web.

2.3.4 DOJ have other external clients including parties to legal cases, parties subject to prosecution and legal proceedings whose main concern is quick resolution of cases, especially the accused, and convicted criminals serving time.

Huge gap in IT infrastructure and application systems due to non-implementation of NCIS.

2.3.5 Non-implementation of the NCIS Project leaves huge gaps in IT infrastructure and computer application systems for information sharing necessary for better administration of justice.

2.4 Criminal Justice Pillars Processes, Information Requirements and Supporting Information Systems

2.4.1 The matrix below describe major processes within each criminal justice pillar and the existence and level of support of existing and planned computer-based information systems. The following are the key observations based on the matrix:

1. Several criminal justice processes are currently supported by operational computer-based information systems, primarily those related to clearance processing and, to a lesser extent, criminal investigation.

2. Systems that should provide information needs of criminal justice pillars beyond law enforcements are either for major redevelopment or are under the National Crime Information System Project that is indefinitely suspended. This is true primarily of information systems in support of the prosecution and corrections pillar.

3. Administrative information systems may currently exist but only at the sub-agency level; at this level, data sharing and aggregation is still tedious and require intensive manual support activities to accomplish.

4. For some criminal justice processes, there are no explicit indications of any planned, let alone operational, information systems. These include:

   Under prosecution pillar:

   - Issuance of prosecutor's clearance

   Under corrections pillar:

   - Out-of-Prison Program / Full Time Credit (RA6127)
   - Preventive Imprisonment (BP 85)
   - Out-of-Prison Program / Release on Recognizance (RA 6036)

   Under community involvement in correction and rehabilitation:

   - Provide livelihood opportunities for prisoners thru jobs
   - Coordinate inmate support and services rendered by NGOs, different religious organizations and civic volunteers

2.4.2 The following table provides full details, including specific SWOT for each process.

Table 7-1
Criminal Justice Pillars Processes, Information Requirements and Supporting Information Systems

	Process	Lead DOJ Agency / Stakeholders	Key Databases / Information Requirements	Supporting Information System / Status	SWOT
1	**LAW ENFORCEMENT AND POLICE**				
1.1	Criminal Investigation / Evidence gathering	NBI, parties to criminal cases (complainants, accused, respondents, NPS (prosecution)	Criminal profile, criminal history, fingerprint data, modus operandi, results of scientific tests such as document forgery, tampering, modifications, DNA, face profiling	• CHD (operational) • RCS (operational at selected offices) • MIOSS (partially implemented) • AFIS • QDIS (planned) • MOS	Weaknesses: AFIS has high implementation cost; may not be readily funded Threats: (1) PNP also has an AFIS initiative, resulting in functional duplication; (2) No formal exchange of information on criminal and derogatory cases with the Supreme Court, PNP and quasi-judicial agencies
1.2	Clearance processing	NBI, persons seeking clearance job / visa requirement	Criminal history, cases pending in court, quick-search master file, conviction / acquittal, detention status	• CPIS (operational) • CHD (operational) • RCS (operational at selected offices)	Weaknesses: (1) data from other CJ pillars not updated; e.g., persons with criminal records are issued clearances while –persons acquitted, paroled, or whose sentence is served cannot obtain clearance. When the NBI issues a certificate that there is no "derogatory record on file", ideally, it should already cover the pending criminal complaints being investigated at the level of the prosecutor's offices. At the moment, the clearance system is not that sophisticated to cover such cases.

	Process	Lead DOJ Agency / Stakeholders	Key Databases / Information Requirements	Supporting Information System / Status	SWOT
2	**INVESTIGATION, PROSECUTION AND ADJUDICATION**				
2.1	Preliminary investigation and resolution	Lead: NPS Stakeholders: community (source of criminal complaints), NBI, PNP, special crime task forces, fiscal, prosecutor's office	• Complaint filed (private complainant, • Referral / request to investigate (special crime task forces) • Evidence gathered (NBI, PNP, special crime task forces) • Draft of resolution (fiscal) • Approval of resolution (prosecutor's office) • Filing of information in court	* NCIS – Prosecution Pillar (suspended)	
2.2	Prosecution of criminal cases filed in courts of the first or second level	NPS, Judicial courts, law enforcement agencies	Information on: • Arraignment, pre-trial and trial proceedings • Case documents • Case ageing • Caseload analysis down to city / provincial level • Hearing /trial schedule • Case resolution	* NCIS – Prosecution Pillar (suspended)	Opportunities: IT support for case management and scheduling partly and directly addresses the jail congestion problem due to delay in rendering decisions/adjudication actions by the courts Weaknesse(s): Manual data aggregation for caseload analysis. Only the final tally is computerized but manually updated.
2.3	Issuance of prosecutor's clearance	NPS, regional / provincial prosecutor, NBI	• Pending criminal complaints involving the individual • Case status (in cases of pending criminal complaints)		Weakness: Decentralized record keeping with no formal data integration / sharing. Does not provide a complete picture on a person's criminal history
2.4	Management of Detainees	PNP, BJMP-DILG (jails),PNP-DILG (police jails), Provincial Govt, DSWD (juvenile facilities), NBI, PDEA (drug detainees)	• Detention center/ prison / jail capacity and current population • Detainee records • Case status / history • Trial schedule	• IIMS (for redevelopment)	

	Process	Lead DOJ Agency / Stakeholders	Key Databases / Information Requirements	Supporting Information System / Status	SWOT
3	**CORRECTION AND REHABILITATION**				
3.1	Management of Detainees, Inmates, Prison and Jail facilities	BuCOR, BJMP-DILG (jails),PNP-DILG (police jails), Provincial Govt, DSWD (juvenile facilities)	• Prison and jail capacity, current inmate population • Inmate records • Prison facility maintenance requirements • Inmate budgetary requirements	• IIMS (for redevelopment) • NCIS – Correction Pillar component (suspended)	Opportunity: NCIS, if implemented, provides for sharing of data on inmates, correction and rehabilitation facilities across criminal justice agecies. Threats: (1) Decentralized jail and prison management, while providing better jail operations, makes it difficult to share and manage inmate information. (2) BPP hardly receives anymore reports from the participating agencies – a fact which has affected the Board's output in terms of parole and pardon releases and has stymied efforts to reduce overcrowding of local jails. (From Corrections Pillar study)
3.2	Process application for probation	PPA, PAO, inmate, trial court (Judiciary), community, BuCOR	Supporting documents for: • Filing of application (offender, PAO) • Order to investigate (trial court, Judiciary) • Post-sentence investigation report (probation officer, PPA) • Application approval / denial (trial court, Judiciary) • Inmate release on probation (BuCOR)	• NCIS – Inmate Review (suspended)	
3.3	Release of prisoner	The President, Judiciary, BPP, BuCOR	Supporting documents for: • Acquittal / grant of bail (Judiciary) • Expiration of sentence (BUCOR Director)	• NCIS – Inmate Review (suspended)	

	Process	Lead DOJ Agency / Stakeholders	Key Databases / Information Requirements	Supporting Information System / Status	SWOT
3.4	Parole and Executive clemency	The President, BPP, PPA, PAO, NBI, Agency with jurisdiction over crime, BuCOR	Information to support: • Petition for parole / clemency (inmate, PAO) • Evaluation of petition (BPP) • Comment of agency head with jurisdiction over crime (i.e. DND for national security or COMELEC for election laws) • Pre-investigation (PPA) • Supporting records (NBI) • Grant of parole (BPP) • Grant of executive clemency / amnesty (President) • Inmate release (BuCOR)	• NCIS – Inmate Review (suspended)	
3.5	Out-of-Prison Program / Full Time Credit (RA6127)	BPP, inmate, judicial court, BuCOR	• Request for availment (inmate) • Compute inmate preventive detention credit (BPP) • Decide on granting of credit (court)		
3.6	Preventive Imprisonment (BP 85)	BPP, inmate, judicial court, BuCOR	• Request for availment (inmate) • Decide on granting of request (court) • Inmate release (BuCOR)		
4	**COMMUNITY INVOLVEMENT IN CORRECTION AND REHABILITATION**				
4.1	Out-of-Prison Program / Release on Recognizance (RA 6036)	BPP, LGUs, NGOs, judicial court, inmate	• ROR application (inmate) • Grant ROR (court) • Monitor ROR grantee (BPP)		
4.2	Provide livelihood opportunities for prisoners thru jobs	BuCOR, inmate, private business	• Job skills (inmate) • Inmate labor supply (BuCOR) • Inmate labor demand (private business)		

	Process	Lead DOJ Agency / Stakeholders	Key Databases / Information Requirements	Supporting Information System / Status	SWOT
4.3	Coordinate inmate support and services rendered by NGOs, different religious organizations and civic volunteers	BuCOR, NGOs, religious organizations, civic volunteers	• Inmate needs • Services rendered by volunteer organizations • Program of activities / services		
5	**SUPPORT SERVICES**				
5.1	Human Resource / Personnel Management	Administrative office of each DOJ agency	• Plantilla of positions • Organizational strength and vacancies • Personnel profile • Time and attendance • Employee payment • Training needs assessment	For development (at subagency)	Weakness: Development of computer systems and administrative databases is at the sub-agency level, limiting data integration and aggregation at the agency level.
5.2	Document / Records Management and Communication	Administrative office of each DOJ agency	Documents / records of: • Department Orders, Ministry Orders, Office Circulars • Official communications • Witness Protection and Victims Compensation Program • Grant of 47-a-2 visas • Alien Certificate of Registration • Hold Departure Orders • Refugee Status • DOJ Library holdings • Statistics and other reference information	MPIS (for development)	
5.3	Financial Management	Financial Management Services of each DOJ agency	Information for: • Agency budget • Accounting journals and ledgers • Funds disbursement • Financial audit	For development (at subagency)	

	Process	Lead DOJ Agency / Stakeholders	Key Databases / Information Requirements	Supporting Information System / Status	SWOT
5.4	Facilities, Supplies and Materials Management	Administrative office of each DOJ agency	• Supplies and materials inventory, purchase orders, deliveries, usage, price monitoring • Fixed assets • Audit data	For development (at subagency)	

3 INTERNAL CAPACITY ASSESSMENT

3.1.1 The following is an assessment of DOJ's capabilities in performing IT management best practices based on analysis of submitted documentation and interviews with IT focal persons from several DOJ sub-agencies.

Ref.	IT Management Process	Current Level	Desired Level	Importance
PO1	Define a Strategic IT Plan	3	4	Critical
PO2	Define the Information Architecture	2	3	Critical
PO3	Determine Technological Direction	2	3	
PO4	Define IT Organization and Relationships	2	3	Critical
PO5	Manage the IT Investment	3	4	
PO6	Communicate Management Aims and Direction	2	3	
PO7	Manage IT-related Human Resources	2	3	
PO8	Ensure Compliance with External Requirements	3	4	
PO9	Assess IT-related Risks	2	4	
PO10	Manage IT Projects	2	4	Critical
PO11	Manage Quality of Info Systems	2	4	
AI1	Identify Automated Solutions	2	3	
AI2	Acquire and Maintain Application Software	3	4	
AI3	Acquire and Maintain Technology	3	4	
AI4	Develop and Maintain Info Management Systems and Procedures	2	4	Critical
AI5	Install and Accredit Application Systems	2	3	
AI6	Manage Application System Changes	2	4	
DS1	Define and Manage IT Service Levels	3	4	
DS2	Manage Third-Party IT Services	3	4	Critical
DS3	Manage Performance and Capacity	2	4	
DS4	Ensure Continuous IT Service	2	3	
DS5	Ensure Info. Systems Security	2	4	Critical
DS6	Identify and Allocate IT-related Costs	3	4	
DS7	Educate and Train Users	2	3	
DS8	Assist and Advise Clients	2	3	
DS9	Manage the Configuration	2	3	
DS10	Manage Problems and Incidents	2	3	
DS11	Manage Data	2	4	
DS12	Manage IT Facilities	3	5	

Ref.	IT Management Process	Current Level	Desired Level	Importance
DS13	Manage IT Operations	2	4	
M1	Monitor IT Management Processes	1	2	
M2	Assess Adequacy of IT Internal Controls	2	3	Critical
M3	Obtain Independent Assurance of Information Systems Quality	1	2	
M4	Provide for Independent Audit of Information Systems	1	2	

3.1.2 Generic Capability Maturity Levels:

0 **Non-Existent**. Complete lack of any recognizable processes. The organization has not even recognized that there is an issue to be addressed.

1 **Initial**. There is evidence that the organization has recognized that the issues exist and need to be addressed. There are however no standardized processes but instead there are ad hoc approaches that tend to be applied on an individual or case by case basis. The overall approach to management is disorganized.

2 **Repeatable**. Processes have developed to the stage where similar procedures are followed by different people undertaking the same task. There is no formal training or communication of standard procedures and responsibility is left to the individual. There is a high degree of reliance on the knowledge of individuals and therefore errors are likely.

3 **Defined**. Procedures have been standardized and documented, and communicated through training. It is however left to the individual to follow these processes, and it is unlikely that deviations will be detected. The procedures themselves are not sophisticated but are the formalization of existing practices.

4 **Managed**. It is possible to monitor and measure compliance with procedures and to take action where processes appear not to be working effectively. Processes are under constant improvement and provide good practice. Automation and tools are used in a limited or fragmented way.

5 **Optimised**. Processes have been refined to a level of best practice, based on the results of continuous improvement and maturity modeling with other organizations. IT is used in an integrated way to automate the workflow, providing tools to improve quality and effectiveness, making the enterprise quick to adapt.

3.1.3 Desired level is determined as follows:

- Critical processes / best practices that must be in place must be level 4
- For other processes / best practices, the agency should strive to attain one level higher

3.1.4 The relative importance of IT management best practices is based on what practices the agency must do particularly well to ensure that information systems truly contribute to the goal attainment of a government agency such as the DOJ.

4 SWOT ANALYSIS – INFORMATION SYSTEMS

4.1 Strengths

Demonstrated use of IT / IS for more effective public service delivery.

4.1.1 The DOJ through NBI successfully applied technology, modified systems and procedures in computerizing clearance processing. This results in more efficient service to the public by trimming down time to clearance issuance from several days to within one day in the best cases.

Revenue-generating information system.

4.1.2 An operational information system – clearance processing – is revenue-generating, earning the agency more than P270 million a year which is given directly to the national treasury. When properly applied, IT could not only improve an agency's level of service provided, it can be generate revenues for government as well.

Experience in outsourcing and managing external IT service providers.

4.1.3 With the perennial lack of IT resources and a scaling down of regular appropriations in virtually all government expense items including IT, outsourcing of IT services is a viable model for sustaining IT initiatives, as proven by the results of clearance processing computerization.

Well developed NBI's IT facilities.

4.1.4 NBI has the most developed IT facilities, operational IT capabilities including managing outsourced IT projects, and the largest formal IT organization within the agency

4.2 Weaknesses

Lack of sustained institutional data sharing / integration.

4.2.1 There are no sustained system in place for information exchange within DOJ and between other criminal justice agencies on, say, sharing criminal and derogatory cases with the Supreme Court, Philippine National Police and quasi-judicial agencies.

4.2.2 Assessment made for individual criminal justice pillars in this study shows the serious implications of stakeholders not having the right information in the right form and at the right time:

- From the prosecution study: data from other CJ pillars not updated; i.e., persons with criminal records are issued clearances while persons acquitted, paroled, or whose sentence is served cannot obtain clearance.

- From the NBI study: When the NBI issues a certificate that there is no "derogatory record on file", ideally, it should already cover the pending criminal complaints being investigated at the level of the prosecutor's offices. At the moment, the clearance system is not that sophisticated to cover such cases.

Computers used more for operational, not strategic, support.

4.2.3 Computer systems for core functional criminal justice areas (other than regulatory / clearance processing) generally do not provide value-added support apart from enhancing individual, discretionary tasks (i.e. word processing, small databases, presentations, legal research). Hence, IT is not strategically or directly used to provide support for more core criminal justice processes within each pillar.

Computer systems for administrative functions (support for internal clients) are largely not yet in place.

4.2.4 If they do exist, they provide support to individual offices or sub-agencies at best. Critical databases are managed and accessed only by the sub-agencies. Each maintain its own data and software application standards, making data integration and aggregation a tedious task with manual interventions.

Inadequate IT Organization and Human Resources

4.2.5 Most subagencies lack the formal IT organization and adequate staffing for specialized IT functions including application development, IT infrastructure administration, network and data administration. The NBI has the most developed, formal IT organization but most personnel are involved in clearance processing work.

4.3 Opportunities

Integrated development of administrative support systems.

4.3.1 Administrative processes are relatively more established in terms of existing standards and procedures government-wide. Computer-based systems for administrative need only to be developed once and managed centrally, to be used by all agencies.

Use of clearance processing revenues for information systems development.

4.3.2 `The DOJ through the NBI has requested that a portion of revenues generated by its clearance processing service be used to partially cover its operating expenses. The computerized clearance processing service may be unique at the DOJ as a revenue-generating service, the proceeds of which could be particularly used to sustain the enhanced computerization to enhance the performance of other criminal justice functions.

4.4 Threats

Continuing non-implementation of the National Crime Information System Project

4.4.1 The non-implementation of the NCIS leaves a huge gap in DOJ's capabilities and IT resources for managing criminal justice information and inter-agency communication for enhanced criminal justice. The NCIS is to provide (1) IT infrastructure (hardware, software and facilities for data storage and sharing), (2) computer systems to support criminal justice work processes, and (3) a framework for information sharing, made specially difficult because various national and local government agencies are involved in the dispensation of justice.

Duplication in function resulting to fragmented information systems and databases.

4.4.2 Possible redundancy or functional duplication with the Philippine National Police implementing its own automated fingerprint identification system. The threat is in the form of a potential duplication of function, funds and other resources, that can otherwise be used for other purposes. The cost of establishing an automated fingerprinting systems could run in the billions of pesos. DOJ's AFIS, in its roster of information systems, has the highest estimated implementation cost at close to 1 billion pesos.

Many agencies are involved in criminal justice, making data sharing complicated.

4.4.3 In particular, decentralized jail and prison management, while providing better jail operations, makes it difficult to share and manage inmate information. Aside from DOJ's Bureau of Corrections which manages prisons, agencies involved in managing detention facilities include Bureau of Jail Management and Penology, Philippine

National Police and local government units – all under the Department of Interior and Local Government – and the Department of Social Welfare and Development in the case of juvenile facilities. Expectedly, each agency will have its own requirements, systems and procedures for record keeping.

5 SWOT ANALYSIS – IT GOVERNANCE

5.1 IT governance

5.1.1 The concept of IT governance is based largely on principles long applied to financial accountability, but its application to IT accountability is a relatively new concept. However, there are formal standards and guidelines already available.

5.2 Strengths

IS planning capabilities at the sub-agency level

5.2.1 Policy guidelines from the National Computer Center define when and how to perform IT strategic planning. IT strategic planning follows a structured approach, which is documented and known to key staff. Key IT staff of major DOJ agencies develop IS plans for their respective agencies.

Experience in managing outsourced IT projects

5.2.2 Implementation of the clearance processing system is outsourced to Mega Data Corp., which hires the personnel manning the information kiosks at selected areas nationwide. The service is capable of issuing clearances within the day. It generates about 270 million pesos in annual revenue.

5.3 Weaknesses

No oversight IT management office at the agency level for information management policy-making, standards inadequate capabilities in critical information management best practices.

5.3.1 There is a need for DOJ to improve its capabilities in key information management practices, namely: (1) defining overall agency information architecture, (2) defining IT organization and relationships, and (3) develop and maintain information management systems and procedures.

5.4 Threats

No regular budget for IT projects.

5.4.1 Funding for most of the IT projects in the pipeline are not yet appropriated. Highly specialized investigation technologies have particularly high implementation costs. The proposed Automated Fingerprint Identification System is estimated to cost almost one billion pesos.

Non-implementation of the NCIS.

5.4.2 Aside from the IT infrastructure and funding for developing computer-based justice information systems, the NCIS also provides the framework for more efficient data collection and sharing among law enforcement and justice-related agencies. The project's indefinite suspension leaves a large gaps in DOJ's capability to integrate and share data within the Department and with other agency stakeholders in almost all criminal justice pillars. Particularly affected are the prosecution, correction and rehabilitation pillars where most processes cuts across DOJ sub-agencies, the judiciary, DILG and local government units and the police.

5.5 Opportunities

NBI's mandate as national clearinghouse of justice information.

5.5.1 Leverage on NBI's clear mandate, as the national clearing house for all criminal and other information for use by prosecutorial, law enforcement and judicial entities, to acquire the necessary IT resources and services. NBI must be provided with the necessary resources to perform its mandate as the integrator and repository not just of DOJ information but criminal justice records from all the other pillars of the criminal justice system as well.

Clearance processing revenues.

5.5.2 Utilize revenue generated from NBI's clearance processing services to fund IT initiatives.

5.5.3 Emergence and continually improving quality of legally free Open Source software as a viable alternative to proprietary software and hardware. Only the centrally-managed network servers need to be within a highly-secure secure network.

5.5.4 DOJ's internal capacity strengths and weaknesses in all aspects of IT management is detailed in the table below.

Table 7-2
IT PLANNING AND ORGANIZING PRACTICES

#	IT Management Capability	Strengths in Current Practice	Weaknesses in Current Practice
PO1	Able to Define a Strategic IT Plan	Policy guidelines from the National Computer Center define when and how to perform IT strategic planning. IT strategic planning follows a structured approach, which is documented and known to key staff. Key IT staff of major DOJ agencies develop IS plans for their respective agencies.	Integrated, agency-level strategic plan for the use of IT is not articulated.
PO2	Define the Information Architecture	Agency management is aware of the importance of having a formal information architecture for DOJ. A process for defining the information architecture is emerging but at a sub-agency level.	Though process for defining the information architecture is still largely informal and intuitive, procedures are followed by different individuals within the organization. There is no formal training and MIS staff obtain their skills through hands-on experience and repeated application of techniques. Operational requirements for IT is the basis for developing the information architecture components but only within each agency and not for the entire DOJ.
PO3	Determine Technological Direction	There is implicit understanding of the need for and importance of technology planning. This need and importance is communicated.	Planning is, however, done at the operational level and focused on providing technical solutions to technical problems, rather than on the use of technology to meet agency needs. Evaluation of technological changes is left to different individuals who follow intuitive processes. There is no formal training and communication of roles and responsibilities.
PO4	Define IT Organization and Relationships	There is an implicit understanding of the need for an IT organization primarily to manage the technology.	IT management roles and responsibilities are neither formalized nor enforced. The IT function is organized primarily to respond to technical and operational concerns, but not expressly to the needs of internal and external clients (with the exception of those for clearance processing). The need for a structured IT organization is communicated, but decisions are still dependent on the knowledge and skills of key individuals.
PO5	Able to Manage the Agency's IT Investment	Through the NCC ISSP guidelines, the IT investment selection and budgeting processes are reasonably sound and cover key business and technology issues. At the bureau (subagency) level, investment selection and policy is defined, documented and communicated via their respective ISSPs. Formal approval of IT investment selections and budgets is taking place. Informal self-training is occurring on information systems strategic planning.	IT investments is defined mainly for technology – hardware, systems software and application software. IT human resources vary in number and capabilities between subagencies. But many personnel with IT plantilla positions do not perform IT-related functions. Hence, the productivity of available IT staff is not leveraged to their fullest potential.

#	IT Management Capability	Strengths in Current Practice	Weaknesses in Current Practice
PO6	Communicate Management Aims and Direction	DOJ management has an implicit understanding of the need to institutionalize and support information management.	However, practices are informal and not consistently documented. Management has communicated the need for IT control policies, procedures and standards, but development is left to the discretion of individual IT practitioners. Policies and other supporting documents are developed based on individual needs and there is no overall development framework. Quality is recognized as a desirable philosophy to be followed, but practices are left to the discretion of individual IT managers / supervisors.
PO7	Manage IT Human Resources	There is implicit understanding of the need for IT human resources management. Informal training takes place for new personnel, who then receive training on an as-required basis.	There is a tactical approach to the hiring and managing of IT personnel but it is driven by project-specific needs, rather than by a deliberate technology direction.
PO8	Ensure Compliance with External Requirements	Policies, procedures and processes have been developed, documented and communicated to ensure compliance with NCC guidelines and NCIS commitments.	These policies and procedures may not always be followed; some may be out-of-date or impractical to implement. There may be compliance requirements that have not been addressed.
PO9	Assess IT Risks	There is an emerging understanding that risks in computerizing information systems are important and need to be considered.	Some basic risk assessment is done, but the process is still immature and developing. The assessment is usually at a high-level and is typically applied only to major projects. The assessment of ongoing operations depends mainly on IT managers raising it as an agenda item, which often only happens when problems occur. IT management has not generally defined procedures or job descriptions dealing with risk management.
PO10	Manage Projects	Senior management has gained and communicated an awareness of the need for IT project management. The DOJ is in the process of learning and repeating certain techniques and methods from project to project. IT projects have informally defined business and technical objectives.	There is limited stakeholder involvement in IT project management. Some guidelines may have been developed for most aspects of project management, but their application is left to the discretion of the individual project manager.
PO11	Manage Quality	Basic quality metrics may have been defined that could be repeated from project to project within the IT organization.	Basic IT management planning and monitoring practices may have been established over quality assurance activities but are not broadly enforced. Quality satisfaction surveys are conducted but based on unstructured, informal feedback.

Table 7-3
IT SERVICES ACQUISITION AND IMPLEMENTATION PRACTICES

#	IT Management Capability	Strengths in Current Practice	Weaknesses in Current Practice
AI1	Identify Automated Solutions	Solutions are identified informally based on the internal experience and knowledge of the IT staff.	There is no formally defined acquisition and implementation methodology, but requirements tend to be defined in a similar way across the Department based on common IT practices. The success of each project depends on the expertise of a few key IT individuals and the quality of documentation and decision making varies considerably.
AI2	Acquire and Maintain Application Software	Some application software acquisition and maintenance processes are in place.	An attempt is made to apply the documented processes consistently across different applications and projects, but they are not always found to be practical to implement or reflective of current technology solutions. They are generally inflexible and hard to apply in all cases, so steps are frequently bypassed. As a consequence, applications are often acquired in a piecemeal fashion. Maintenance follows a defined approach, but is often time-consuming and inefficient.
AI3	Acquire and Maintain Technology	The acquisition and maintenance process for the IT infrastructure has developed to the point where it works well for most situations, is followed consistently within IT and is component based and focused on reusability. Attempts to make changes to the infrastructure without following agreed defined processes would be detected and prevented. It is likely that the IT infrastructure supports at least the basic office applications. Outsourcing all or some of the IT infrastructure and services needed is an integral part of the agency's IT strategy.	The process is organized, but often reactive rather than proactive.
AI4	Develop and Maintain Procedures	Approaches are taken with regard to producing IT-related procedures and documentation, but they are not based on a structured approach or framework. User and operating procedures are documented, but there is no uniform approach and, therefore, their accuracy and availability relies to a large extent on individuals, rather than on a formal process. Training material is available, but tends also to be produced individually and quality depends on the individuals involved.	Actual procedures and quality of user support therefore can vary from poor to very good, with very little consistency and integration across the Department.

#	IT Management Capability	Strengths in Current Practice	Weaknesses in Current Practice
AI5	Install and Accredit System	There is an informal approval process, not necessarily based on standardized criteria. Formal accreditation and sign-off is inconsistently applied.	Application systems undergo the usual rudimentary testing and debugging, but they are not based on any formal methodology. The individual development teams normally decide the testing approach and there is usually an absence of integration testing.
AI6	Manage Changes	There is an informal change management process in place and most changes follow this approach.	Being informal, change management is largely unstructured and address only basic issues and prone to error. Configuration documentation accuracy is inconsistent and only limited planning and impact assessment takes place prior to a change.

Table 7-4
IT SERVICES DELIVERY AND SUPPORT PRACTICES

#	IT Management Capability	Strengths in Current Practice	Weaknesses in Current Practice
DS1	Define and Manage Service Levels	Experience with handling outsourced IT project. Responsibilities are defined, but with discretionary authority. The service level agreement development process is in place with checkpoints for reassessing service levels and customer satisfaction. Service levels criteria are defined and agreed upon with users, with an increased level of standardization.	
DS2	Manage Third-Party Services	Documented procedures are in place to govern third-party computer service providers, with clear processes ensuring proper delineation of functions. The relationship with the third-party is purely a contractual one. The nature of the services to be provided is defined, including operational, legal and control requirements.	
DS3	Manage Performance and Capacity	Management is aware of the impact of not managing performance and capacity of computer-based systems. For critical areas, performance needs are generally catered for, based on assessment of individual systems and the knowledge of support and project teams.	Some individual tools may be used to diagnose performance and capacity problems, but consistent use of these tools depend on the expertise of key individuals. There is no overall assessment of the IT Infrastructure's performance capability or consideration of peak and worst-case loading situations. System downtime or availability problems are likely to occur in an unexpected and random fashion and take considerable time to diagnose and correct.
DS4	Ensure Continuous IT Service	Responsibility for continuous IT service is assigned to IT units. The approaches to continuous service are fragmented. A reasonably reliable inventory of critical systems and components exists.	Reporting on system availability is incomplete and does not take into account the impact on DOJ operations. There are no documented user or continuity plans, although there is commitment to continuous service availability and its major principles are known.

#	IT Management Capability	Strengths in Current Practice	Weaknesses in Current Practice
DS5	Ensure IT Systems Security	Security awareness and procedures are practiced, particularly heightened at the NBI, where security is an integral part of the bureau's mandate and functions.	Security of IT resources tend to respond reactively to IT security incidents and by adopting third-party offerings, without addressing the specific needs of the organization. IT resources security policies are being developed, but inadequate skills and tools are still being used. IT security reporting is incomplete or intermittent.
DS6	Identify and Allocate IT-related Costs	The NCC guidelines for IS planning prescribe a basic information services cost estimation framework. IT management provide cost estimates for developing information systems.	
DS7	Educate and Train Users	There is awareness of the need for a training and education program and for other IT capability building activities throughout the Department. Training is beginning to be identified in the individual performance plans of employees. Processes have developed to the stage where informal training and education classes are taught by different instructors, while covering the same subject matter with different approaches. IT management is aware of issues of ethical conduct on the use of computers, system security awareness and practices. There is high reliance on the knowledge of individuals.	
DS8	Assist and Advise Info. System Clients	There is organizational awareness of the need for a help desk function. Assistance is available on an informal basis through a Network of knowledgeable individuals. These individuals have some common tools available to assist in problem resolution.	There is no formal training and communication on standard procedures, and responsibility is left to the individual user. However, there is consistent communication on the overall issues and the need to address them.
DS9	Manage the Configuration	Management is aware of the benefits of controlling the IT configuration and is delegated to technical personnel knowledge and expertise. Configuration management tools are being employed to a certain degree, but differ because computer systems have different operating system platforms.	
DS10	Manage Problems and Incidents	There is a wide awareness of the need to manage IT related problems and incidents within both the DOJ functional units and the IT units. The resolution process has evolved to a point where a few key individuals are responsible for managing the problems and incidents occurring.	Information is shared among IT staff; however, the process remains unstructured, informal and mostly reactive. The service level to the user community varies and is hampered by insufficient structured knowledge available to the problem solvers. Management reporting of incidents and analysis of recurring problems is limited and informal.

#	IT Management Capability	Strengths in Current Practice	Weaknesses in Current Practice
DS11	Manage Data	The awareness of the need for data accuracy and maintaining integrity is prevalent throughout the Department. Data ownership begins to occur, but at a division or service level. The rules and requirements may be documented by key individuals and are not consistent across the different agencies and platforms. Data is in the custody of the IT units and the rules and definitions are driven by the IT requirements. Data security and integrity are primarily the IT units' responsibilities, with minor departmental involvement.	
DS12	Manage IT Facilities	The need to maintain a controlled computing environment is understood and accepted within the agency. The environmental controls, preventive maintenance and physical security are budget items approved and tracked by management. Policy on access restrictions are applied, with only approved personnel being allowed access to the computing facilities. Visitors are logged.	
DS13	Manage Operations	The organization is fully aware of the key role that IT operations activities play in providing IT support functions. In addition, the organization communicates the need for coordination between users and systems operations. Budgets for tools are being allocated on a case-by-case basis. IT support operations are informal and intuitive.	There is a high dependence on the skills and abilities of individuals. The instructions of what to do, when and in what order, are not documented. There are no operating standards and no formal operator training exists. Management does not measure the meeting of schedules by IT operations or analyze delays.

Table 7-5
IT SERVICES MONITORING PRACTICES

#	IT Management Capability	Strengths in Current Practice	Weaknesses in Current Practice
M1	Monitor the IT Management Processes	Basic measurements to be monitored have been identified. Collection and assessment methods and techniques have been defined, but the processes have not been adopted across the entire Department. Planning and management functions are created for assessing monitoring processes, but decisions are made based on the expertise of key individuals.	Limited tools are chosen and implemented for gathering information, but may not be used to their full capacity due to a lack of expertise in their functionality.

#	IT Management Capability	Strengths in Current Practice	Weaknesses in Current Practice
M2	Assess Adequacy of IT Internal Controls	The agency uses informal / ad hoc control for corrective action on information systems. Assessing the adequacy of information systems depends on the skill sets of key individuals. IT units may be monitoring the effectiveness of information systems on a periodic basis. Skilled IT staff is beginning to participate and conduct informal internal control assessments.	More formal methodologies and tools for establishing IT internal controls are starting to be used, but not consistently.
M3	Obtain Independent Assurance on Information Quality		The agency might have basic, informal information quality assurance process in place. Security policies are in place addressing traditional, paper-based information but not electronic information. Service level agreements for outsourced IT projects may have been developed but compliance is not rigorously measured.
M4	Provide for Independent Audit of its Information Systems		Provision of an independent audit function may be recognized by management as being potentially useful, but there is no written policy defining its purpose, authority and responsibilities. No established infrastructure and process to ensure that independent audits are performed on a regular basis. Independent audit planning, managing and reporting follows a similar pattern, based on previously gained experience and the expertise of the team members. There is little coordination between audits and limited follow-up of previous audit findings.

6 REFORM DIRECTIONS

6.1.1 The results of the SWOT analysis yield the following proposed strategies which, taken together, should be the agency's priorities in its IT reform agenda:

DEVELOP INTEGRATED, SHARED CRIMINAL JUSTICE DATABASES.

6.1.2 Agencies involved in all criminal justice pillars need to access and share information with every other pillar. Data sharing must cut across the different DOJ sub-agencies as well as with other criminal justice agencies.

ADOPT A FORMAL GOVERNANCE PERSPECTIVE IN MANAGING IT.

6.1.3 IT governance integrates and institutionalizes good (or best) practices for planning and organizing, acquiring and implementing, delivering and supporting, and monitoring IT performance to ensure that the agency's information and related technology truly support its mission and vision.

6.1.4 Taking an IT governance perspective enables the DOJ to take full advantage of its information, thereby maximizing its benefits and capitalizing on opportunities provided by available technology. One outcome of IT governance is the realization that managing IT is not the sole responsibility of the formal IT organization, but a shared responsibility of the entire agency, beginning with top management.

6.1.5 Taking a formal governance perspective means, among others, the designation of a Chief Information Officer (CIO). This is prescribed by the National Computer Center and is a necessary first step to ensure that IT management concerns are addressed at the highest strategic level, not merely at the operational level.

ESTABLISH AN AGENCY-LEVEL INFORMATION MANAGEMENT COORDINATING OFFICE

6.1.6 Good IT governance requires the establishment of an overseeing office that performs policy-making, standards, coordination and project management functions for all information systems-related initiatives at the DOJ.

SHORT-TERM GOAL: FURTHER STRENGTHEN NBI'S INFORMATION MANAGEMENT CAPABILITIES AND IT RESOURCES.

6.1.7 The basis for further investing in IT for the NBI is justifiable: criminal investigation is not only one of the pillars of criminal justice, it is also the first. Acquiring law enforcement and investigation technologies speeds up the criminal justice process and enhances the other processes downstream. The NBI is mandated as the national clearinghouse of criminal and other information used by all prosecuting and law enforcement agencies in the country.

6.1.8 The IT capability gaps are relatively smaller for NBI, considering that among the different DOJ agencies, the NBI has the most developed formal organizational staffing for IT management, resources for data storage and network-based access and other services. With further improvements in its existing infrastructure, it can serve the data management requirements of other DOJ agencies.

6.1.9 It has a culture, appreciation and awareness of security innate in its mandate and functions. This security mindset can be applied to information security as well.

USE CLEARANCE PROCESSING REVENUES TO FUND DOJ IT INVESTMENTS.

6.1.10 Clearance processing is revenue-generating, so there is the potential for the computerization efforts of the NBI to at least be partially funded from its operations. NBI has a pending request that 25 percent of revenue generated be used to finance its IT services improvement and maintenance.

ACTIVELY PURSUE REVIVAL OF NCIS PROJECT.

6.1.11 A huge gap in IT resources and information management capabilities is caused by the indefinite suspension of the National Crime Information System Project. In particular, the NCIS provides for the development of mission-critical information systems that support major processes in each criminal justice pillars. These information systems have a direct bearing on the effective and efficient administration of justice.

STANDARDIZE AND INTEGRATE DEVELOPMENT AND IMPLEMENTATION OF OVERSIGHT ADMINISTRATIVE AND SUPPORT SYSTEMS.

6.1.12 Most government administrative and support functions are standard and governed by national government rules, regulations and procedures. Thus, it is redundant for sub-agencies to develop and implement their own information systems for personnel / human resource, financials, fixed assets, document and records management. Managing the database and IT facilities for these systems should be centralized. The administrative and financial units of the DOJ must be the process owners.

CENTRALIZE IT SERVICES AND DEVOLVE INFORMATION MANAGEMENT TASKS TO END-USERS.

6.1.13 Technology is the IT organization's concerns but every individual and non-IT office within DOJ must learn how to manage information. To leverage the use of limited IT resources, it makes sense to centralize management of DOJ's IT infrastructure. Open source software, for example, is gaining widespread acceptance as a viable alternative – or complement -- to proprietary software. Use a combination open source software for standard office applications such as word processing, spreadsheets, file management and internet / web browsing among other standard business applications. Proprietary or specialized IT services can be applied to enterprise-level network services such as firewall, database, email and other applications, particularly for information security where access to data must be secured and controlled.

6.1.14 Devolving operational functions to end-users is complementary to centralizing management of the IT infrastructure. Devolve some operations-level information management tasks. The IT organization should focus on managing shared network facilities and services. Management and the DOJ user community should be empowered to handle the operational IT tasks.

ANNEX "A"

MAJOR TYPES OF INFORMATION / DATABASE AT THE DOJ

DATA CATEGORIES	DESCRIPTION	DATA CUSTODIAN						REMARKS
		NBI	BOC	OSEC	PPA	BPP	PAO	
Accounting data	Accounting-related records	X	X	X	X	X	X	Electronic spreadsheets (MS-Excel)
Arrest, detention and turnover	Info on persons arrested with/ without warrant, arrests upon order of judge, nature and duration of detention, turn-over to other law enforcement agencies	X						Manual
Budget data	Budget forecasts, allocations, review	X	X	X	X	X	X	Electronic spreadsheets
Cases	Case information (on-going, pending, priority), crime statistics, tickler of cases	X						Manual
Civilian Ten-prints	Civilian ten-print files (approx. 20 million)	X						Manual
Clearance application, issuances	Data related to clearance application, processing and issuance. Applicant information including name, address, purpose, birthdate, digital image, application date, birthplace	X						Distributed clearance application information checked against centrally-managed, computerized criminal history database
Correspondences / communications	Description and digital image of external / internal communications including faxes, radio messages, email	X	X	X	X	X	X	Received via website email, regular mail, phone. Manual handling
Complaints	Nature of complaints, date filed, status / action taken	X						Received via website (NBI), email, regular mail, phone. Manual handling
Court appearance	Information on schedule of appearances, inability to appear, posting of schedule, resources needed like security, vehicles. Also serves as Court Appearance's Tickler	X						Manual
Criminal Fingerprints	Ten-print cards (approx. 600,000)	X						Manual

DATA CATEGORIES	DESCRIPTION	DATA CUSTODIAN						REMARKS
		NBI	BOC	OSEC	PPA	BPP	PAO	
Criminal Groups	Information on gangs, individuals or organizations known to be invovled in criminal activity. Under the Modus Operandi information system	X						PowerBuilder application development tool
Criminal History	Criminal offenses, case numbers, status, courts, file numbers	X						Centrally-managed electronic database
Criminal Index	Description of cases, crimes, complaints including dates, court or place of commission, affiant information	X						Automated, developed in C++
Equipment and vehicles	Info on equipment and vehicles, repairs made with costing, physical condition	X	X	X	X	X	X	Manual
Financials		X	X	X	X	X	X	Partially automated via spreadsheets
Firearms and ammunition	Firearms description, schedule, maintenance, ammo stock, consumption	X						Manual
Gasoline and power	Info on consumption / usage of fuel and electricity	X	X	X				Manual
Inmates	Information on prisoners, crimes committed, period of sentence, good conduct time allowance, expiration of sentence		X					Manual
Multi-Projects	Library, opinions, resolutions, legal project plans, status reports			X				Manual
Pardons and parole	Prisoners, crimes committed, period of sentence, time served, good conduct time allowance, expiration of sentence, grant of parole / clemency, release date			X	Xs			Local electronic databases
Payroll	Info on employee salaries, deductions, allowances, remittances and other related information	X	X	X				Automated; developed using PowerBuilder

DATA CATEGORIES	DESCRIPTION	DATA CUSTODIAN						REMARKS
		NBI	BOC	OSEC	PPA	BPP	PAO	
Personnel	Personnel basic information, time and attendance, place of assignment, etc. (Using CSC Kompyuserb)	X	X	X	X	X	X	FoxPro / Manual
Personnel Welfare	Info on employees' Welfare Trust Fund	X	X	X	X	X	X	Manual
Prosecution	Crimes that are investigated and prosecuted at court			X				Manual
Purchases	Info on procurement transactions	X	X	X	X	X	X	Manual
Quick-search masterfile	Unique names of all individuals with record in NBI Criminal Index files	X						Automated, developed in C++
Recruits	Detailed profile of recruits including performance, grades, training	X						Manual
Security and visitors		X						Manual
Supplies	Inventory, price monitoring, delivery, procurement	X	X	X	X	X	X	Manual
Training	Formal training courses provided to agents and employees including refresher courses, supervisory training, orientation, on-the-job training	X						Manual
Unsolved Latent Prints	Prints taken from crime scenes (approx. 400 for conversion)	X						Manual

ANNEX "B"

MAJOR APPLICATION SYSTEMS, DOJ

Agency Owner	IS Name	Description	Data	Status	Est. Cost (Million Pesos)	Fund Source	Users	Project Duration (years)	Details (per DOJ documents)	Key Technologies Required
NBI	Automated Fingerprint Identification System (AFIS)	To contain fingerprints of local and foreign nationals who have been included in the Criminal Incident History collection or have applied for an NBI clearance.	Fingerprint data, criminal profile, criminal history, clearance application	Planned; no funding	982	Requested from DBM for 2004 appropriation	Technical, Intelligence, Investigative Services	5	High-end server w/ system redundancy (RAID), able to store 30 million records with ten prints and latent prints	DBMS, LAN connection, WAN connection, high-level security solutions, VPN, RAID
NBI	Criminal History Database (CHD)	Contain entire criminal history record from the different Philippine judicial courts and law enforcement agencies	Criminal profile, criminal history	Operational	39	For system maintenance and upgrade. Requested from DBM	Technical, Intelligence, Investigative Services	On-going	Stratus Continuum 418 180 MHz, 512 MB memory, RAID (mirrored), disk array with 81GB capacity	DBMS, LAN connection, WAN connection, high-level security solutions, VPN, RAID
NBI	Clearance Processing and Issuance System (CPIS)	Processing of applications for NBI clearance; involves validation against criminal databases	Clearance applications, clearance issuances	Operational	41.079	Requested from DBM	Technical services at regional, district, satellite offices	On-going	PC-based system with LAN and WAN in some regional, district and satellite offices. High-end server: Intel 533 MHz, 128 MB memory, OS: Novell Netware 4.10	DBMS, LAN connection, WAN connection, high-level security solutions, VPN, RAID
NBI	Regional Computerization System (RCS)	Used for processing and issuance of NBI clearance, criminal inquiry of investigative units in all NBI offices nationwide. Linked to Criminal History Database using WAN.		Operational at selected offices; for full implementation	30	Requested from DBM for 2004 appropriation	Regional, district offices (34 extension offices nationwide)	3	State-of-the-art computers and peripherals (including LAN and WAN equipment)	DBMS, LAN connection, high-level security solutions, RAID
NBI	Mgt. Info. and Operations Support System (MIOSS)	Support for ballistics, questioned documents, forensic chemistry, narcotics, list of illegal recruiters, etc.	Ballistic tests, firearms and ammunition, recruits, communications, training attainment	Partially implemented w/ donation of 100 PCs	15	Requested from DBM for 2004 appropriation	Technical, Investigative Services	2	State-of-the-art computers and peripherals (including printers and scanners)	Specialized DBMS applications, GIS, document management systems, high-end input/output peripherals, RAID
NBI	Administrative Support System (ADS)	In support of finance, administrative services and human resource management functions	Personnel information, financial information (budget, accounting, cashier)	Operational, for further enhancement	10	Requested from DBM for 2004 appropriation	Administrative, Comptroller Services	2	State-of-the-art computers and peripherals (including printers and scanners)	DBMS, high-level security solutions, VPN, RAID, LAN connection, WAN connection

Agency Owner	IS Name	Description	Data	Status	Est. Cost (Million Pesos)	Fund Source	Users	Project Duration (years)	Details (per DOJ documents)	Key Technologies Required
NBI	Modus Operandi System (MOS)	Database of modus operandi of various individuals, gangs, criminal syndicates. GIS-enabled, with providing access to maps / geographic information to visualize / locate criminal activity.	Criminal profile, modus operandi	Under development	3	Requested from DBM for 2004 appropriation	Intelligence Services	2	State-of-the-art computers and peripherals (including printers and scanners)	Client-server DBMS, GIS, LAN connection, WAN connection, high-level security solutions, VPN, RAID
NBI	Questioned Documents & Investigative System (QDIS)	Allow NBI to detect forgeries, tampering and modification of documents, detect fingerprints and human body fluids in crime scenes, and face profiling		Planned						
BUCOR	Integrated Inmate Monitoring System (IIMS)	Monitor processing of inmates from admission, incarceration to release.	Inmates	Redevelopment / conversion from DOS-based to Windows-based system					Identikit, forensic imaging system	
BUCOR	National Crime IS – Corrections Pillar Component (NCIS-BUCOR)	Automatically scan all prison records to flag those scheduled for review, given cut-off dates		For roll-out (developed using Magic RAD, SQL-Server RDBMS)					Application development: Magic RAD tool; DBMS: Microsoft SQL-Server	
BUCOR	Financial Management IS (BUCOR-FMIS)	Consists of Accounting IS (AIS) and Budget IS (BIS). Computerization support for accounting and budget processes		For development						
BUCOR	Personnel Management IS (PMIS)	Consists of (1) Personnel Information System, (2) Payrol Information System, (3) Attendance & Leave Information System. Computerization support for personnel information management including attendance and leave and payroll processing		Redevelopment / conversion from DOS-based to Windows-based system						

Agency Owner	IS Name	Description	Data	Status	Est. Cost (Million Pesos)	Fund Source	Users	Project Duration (years)	Details (per DOJ documents)	Key Technologies Required
BUCOR	Supply Division Information System (SDIS)	Made up of Procurement IS (PSMIS), Supplies and Materials IS, Fixed Asset IS. In support of procurement and managing inventory of fixed assets, supplies and materials		For development						
BUCOR	Management and Internal Audit Information System (MIAIS)	Information management for internal audit		For development						
OSEC	Financial Management IS (FMIS-OSEC)	Computerization of accounting processes, budget preparation and monitoring		For development						
OSEC	Personnel Management IS (PMIS-OSEC)	Computerization in support of personnel management including personnel profiles, time & attendance, payroll processing		For development / Redevelopment / conversion from DOS-based to Windows-based system						
OSEC	Property Management IS (Property-OSEC)	Includes computerization of supplies and materials inventory, fixed assets monitoring, price monitoring		For development						
OSEC	Administrative Issuance (Admin-OSEC)	Computerization of internal and incoming administrative issuances of the DOJ including Admin. Orders, office orders, memoranda, etc.		For development						
OSEC	Document Tracking IS (DTIS-OSEC)	Tracking and management of incoming and outgoing communications. Keeps track of location of documents and maintains digital copy of documents. Case tracking system currently used in the Office of the Secretary and National Prosecution Service		Redevelopment / conversion from DOS-based to Windows-based system						

Agency Owner	IS Name	Description	Data	Status	Est. Cost (Million Pesos)	Fund Source	Users	Project Duration (years)	Details (per DOJ documents)	Key Technologies Required
OSEC	Legal IS (Legal-OSEC)	Database of legal opinions, decisions, rulings of the Secretary of Justice	Legal opinions, decisions, rulings	For development						
OSEC	Justice System Infrastructure Program (JUSIP)			For development						
OSEC	Multi-Project IS (MPIS)	Computerization of: Witness Protection and Victims Compensation Program, Grant of 47-a-2 visas, Death inmates, alien Certificate of Registration, Anti-Dummy, Hold Departure Order, Refugee Status, Decision Support syste, library management system	Department Orders, Ministry Orders, Office Circular	For development						
OSEC	NCIS – Prosecution Case Monitoring (PCM)	Management of prima facie cases for violation of the Revised Penal Code and other laws	Prima facie cases	For roll-out (developed using Magic RAD, SQL-Server RDBMS)						
OSEC	NCIS – Inmate Review (IR)	Automatic scanning of prison records to flag those scheduled for granting of executive clemency or parole	Inmate information	For roll-out (developed using Magic RAD, SQL-Server RDBMS)						

NOTES ON SELECTED INFORMATION SYSTEMS

AUTOMATED FINGERPRINT IDENTIFICATION SYSTEM

Article from JICA Philippine Office Web Site
Source: http://www.jica.go.jp/philippine/jicaphil06_05.html

The Philippine National Police has an on-going AFIS initiative.

In June, 2001, the Government of the Philippines, recognizing the value of the preceding 10-year project by JICA's technical assistance to PNP, requested the continuation of dispatch of Japanese experts of laboratory investigation to acquire technology of scientific investigation.

Construction of the building, dubbed as "Fingerprint Identification Center/Crime Laboratory," was only finished in May and is scheduled for the installment of Automated Fingerprint Identification System (AFIS) which JICA has agreed to provide on grant.

"I am the fifth long-term JICA expert," says Noriyuki Chiba, who was dispatched from Japan's National Police Agency and is expected to provide PNP with consultancy assistance in scientific crime scene investigation and instructions on the effective method of collection, handling and preservation of various physical evidence.

Once AFIS is installed, the initial work is sorting out about two million files of fingerprints now being stocked at Camp Crame into subgroup of types. The next step will be to go through the same technical procedure for files of fingerprints being stocked at PNP's regional head quarters, according to Chiba.

Completion of the new system is expected within a few years and once complete, AFIS is expected to sharply upgrade the effectiveness of police investigation.

And before that system comes into play, Chiba's major effort is focused on awareness of policemen on the importance of complying with various needs to support scientific investigation, mostly preservation of the scene of crime. "In Metro Manila," Chiba says. "the scene of crime is usually sealed off. But not everyone wears gloves."

Chiba organizes a seminar on scientific method of crime scene investigation every month, particularly on proper ways to develop and lift fingerprints. So far, he organized a similar seminar in Calapan, Oriental Mindoro in September and another in Davao City in October.

NBI REVIVES AUTOMATED FINGERPRINT IDENTIFICATION PROJECT

Article from I.T. Matters web site (February 2003)
http://itmatters.com.ph/news/news_02242003e.html

After almost six years of delay in implementation, the National Bureau of Investigation (NBI) hopes the proposed automated fingerprint identification system (AFIS) will get off the ground soon.
NBI deputy director for technical services Filomeno S. Bautista said in a telephone interview on Friday last week that the agency is currently evaluating proposals from various private sector proponents for the said project.
AFIS is meant to replace the manual recording and retrieval of criminal records to help speed up the administration of justice. It was first proposed for implementation in 1997.
"AFIS was delayed largely because the NBI did not have the funds to implement it," Mr. Bautista said.

He said that the agency is looking at funding assistance from its US counterpart, the Federal Bureau of Investigation (FBI). Mr. Bautista said the FBI has expressed its intention to make a donation to help jump-start the said project.

"While we still don't know exactly how much the system will cost, we estimate it will run into billions of pesos," Mr. Bautista added.
In addition, he said, the enactment of a pending NBI modernization bill could further address the lack of funds. Mr. Bautista said the agency has been unable to implement AFIS even through alternative financing schemes provided for under the Build Operate Transfer law because the cost is too onerous even for private sector proponents.

The proposed AFIS project will cover the conversion of paper-based files of criminal and civilian fingerprint records. NBI has in its custody 30-million 10-print fingerprint charts, excluding latent prints. Latent prints are partial or individual prints lifted from a crime scene.
With automated records, he said it will be easier for law enforcement agents to match and identify fingerprints lifted from crime scenes. Hopefully, he said, the automated system could also help hasten the solving of crimes.

Furthermore, Mr. Bautista said the proposed AFIS will adopt the Henry System of fingerprint indexing and identification. The said system classifies fingerprints into several sub-categories for faster identification. It is widely used in the United States, and has been proven to be one of the most effective and efficient identification systems in the world.

CLEARANCE PROCESSING AND ISSUANCE SYSTEM

From the NBI Web Site
Source: http://www.nbi.doj.gov.ph

Mega Data Corp., the NBI's computer service provider, had a "same-day release" system ready for implementation.

Wycoco instructed Mega Data to decentralize and install computer systems in all NBI offices nationwide to bring the service closer to the people. Under this system, people no longer need to travel all the way to Manila just to apply for an NBI clearance. And since all the NBI offices nationwide are computerized, people no longer have to wait for 30 days for the NBI clearance because it could be processed instantaneously.

Two-fold increase in revenue. The issuance of clearances is the NBI's largest revenue earner. The agency used to earn only P150 million a year due to slow processing of applications. But now, due to improved computerization, the agency earns more than P270 million a year which is given directly to the national treasury.

ANNEX "C"

SUMMARY OF IT INFRASTRUCTURE, DOJ

IT Resource	NBI	BUCOR	OSEC
Servers	6	2	3
Workstations	45 (mainframe-based terminals)		
Desktop computers	188	56	180
Mobile computers	4		
Operating systems	Novell Netware 4.10, Windows NT, Unix (Stratus) OSIV/F4 Fujitsu (mainframe)	Windows / Unix	Windows NT
Network	LAN / WAN	LAN	LAN
Database Management Systems	Oracle / SQL-Server	Informix, SQL-Server, FoxBase	SQL-Server, Btrieve, Microsoft Access
Development Software	Microsoft Access, C, Visual Basic	Magic RAD, Clipper, FoxPro	Microsoft Access, Magic RAD, Clipper, FoxPro
Software	Microsoft Office	Microsoft Office	Microsoft Office

NOTES:

NBI has:

- Approx. 97 computers used for both clearance processing / office automation; 5 provided for NCIS applications; the rest for office automation
- 5 network servers, 1 database server

OSEC has:

- One (1) server under Finance and Management Service. NCIS-provided servers deployed at National Prosecution Service (1) and BPP (1)
- NCIS-provided workstations deployed at National Prosecution Service (8) and BPP (2)
- Computer distribution highest at Prosecution Office (58 units) and Technical Staff (34 units). The rest are deployed in the various administrative, legal and management offices.

ANNEX D

EXISTING IT PLANTILLA POSITIONS, PER AGENCY

IT Position	NBI	BUCOR	OSEC
IT Officer III	1		
IT Officer II			
IT Officer I	1		
IS Analyst II	1		1
IS Analyst I	2		
Programmer II	1	1	
Programmer I	6	1	2
Computer Operator III	1		
Computer Operator II	8		1
Computer Operator I	17	2	4
Maintenance Technician I	2		
Data Controller III	1		
Data Controller II	3		
Data Controller I	10		
IS Researcher I	2	1	
Librarian I	2		
Data Encoder I			
Data Entry Machine Operator II			2
Data Entry Machine Operator I			9
Other staff performing ICT functions with non-ICT positions	11		
Total	**69**	**5**	**19**

Notes:

1. NBI: There is a formal IT organization, the EDP Division, with IT Officer III as the highest plantilla position. Most are involved in clearance processing-related work.
2. BuCOR: Computer Section, under Administrative Division provide computer support, application development and data management functions for the Bureau.
3. OSEC: There is no central IT organization. IT plantilla item holders are distributed among different organizational units. Only Data Entry Machine Operators are performing IT functions.

ANNEX "E"

NATIONAL CRIME INFORMATION SYSTEM: A SITUATIONER

Key Sections:

- Current Status: NCIS Project Implementation at the DOJ
- About the NCIS
- About the NCIS Project

Current Status: NCIS Project Implementation at DOJ

- Partial delivery and deployment of IT equipment to DOJ and other criminal justice agencies
- Software applications have been developed and ready for roll-out.
- NCIS Project is temporarily suspended. The current Director General of the National Computer Center requested for an audit by COA. Preliminary findings have been submitted to NCC; final findings to be released tentatively by May 2003.

About the NCIS

The NCIS was envisioned to fill up the gaps in information and communication infrastructure in the current criminal justice system. Its overarching goal is to establish a secure, integrated network that allows criminal justice agencies to share information electronically across jurisdictional boundaries.

Currently, the majority of agency information systems are stand-alone systems or local-access databases, with limited technology and infrastructure necessary for information sharing and data integration. Each of the stand-alone information systems is utilized primarily for data storage, with the technical capacity for information dissemination limited to internal use only. The result is a lack of information sharing in support of criminal justice functions / pillars.

Information Systems

As originally planned, the NCIS consists of the following application systems managed by various agencies involved in the criminal justice system:

AGENCY	APPLICATION SYSTEM
Supreme Court	• Court Case Management System
National Bureau of Investigation (NBI)	• Clearance Processing and Issuance • Criminal History Database
National Prosecution Service (DOJ)	• Prosecution Case Monitoring System
Philippine National Police	• Crime Case Information System • Incident Monitoring System • License and Clearance System
Bureau of Corrections (DOJ) / Bureau of Jail Management and Penology (DILG)	• Inmate Monitoring System • Inmate Rehabilitation System • Inmate Review System
Bureau of Pardons and Parole (DOJ)	• Parolees and Pardonees System • Review System
PPA	• Probationers Monitoring System • Probationers Review System • Profile Information System
National Police Commission (NAPOLCOM)	• Crime Prevention Program • Decision Support System

Under the Supreme Court:

- **Court Case Management System** to support the information needs of the Chief Justice, Associate Justices and Judges in the adjudication of cases. The system provides for: (1) access to case records by all involved parties, (2) track case history, (2) generate reports on aging of cases and case/court statistics, (3) digitization of court case documents and/or encoding of court case information, (4) case scheduling / calendaring for judges, court rooms, attorneys, appearance of law enforcement and probation officers, (5) link to criminal history database and interface with Clearance Processing and Issuance system

Under the National Bureau of Investigation, DOJ:

- **Clearance Processing and Issuance** System shall provide information to facilitate processing and issuance of clearances. This system will have access to NBI's criminal history records and other criminal information from judicial courts and law enforcement agencies. To facilitate clearance processing, the system should be able to access information on court cases, fiscal resolution records, national uniform criminal case report, hold departure orders, prior clearances issued, deportation clearances and wanted personalities.

- **Criminal History database**

Under the National Prosecution Service, DOJ:

- **Prosecution Case Monitoring System** shall establish prima facie case management and referral of cases for trial. It shall include data on offenses investigated, prosecuted, resolved and penalized under the Revised Penal Code and other laws. Includes a case tracking feature to monitor cases from the time it was reported until case promulgation or offender's conviction.

Under the Philippine National Police:

- **Crime Case Information System** – (1) maintain database on victims, suspects, witnesses, weapons and vehicle data; (2) suspect information by name, alias, physical description, offense, gang affiliation and other demographic data; (3) information on wanted vehicles and firearms.
- **Incident Monitoring System** – track incidents reported to the PNP, provide access to comprehensive crime database including crime incidents, offenders, modus operandi, groupings, firearms, vehicles used among others.
- **Licensing and Clearance System** provide information for the evaluation and approval of applications for police clearance.

Under Bureau of Corrections, DOJ:

Inmate Monitoring, Rehabilitation and Review System

- Maintain prison records including conviction information, crime, sentence, time served and inmate photograph;
- Provide statistics including number of prisoners admitted, breakdown per offense and sentence;
- Provide for electronic transmission of convicted-criminal record before physical transfer to jail;
- List prisoners scheduled for review / recommendation

Probationers Information System

- Provide information to monitor activities – including mental, physical characteristics and socio-economic progress -- of probationer as soon as inmate is granted temporary release.
- Determine probationers scheduled for termination and update supervision status
- Provide statistics on crime and socio-demographic profile by offense, educational attainment, sex, employment status, age, and other significant parameters
- Provide access to and maintain records on probation orders, termination orders, revocation orders including denied requests, disqualifications and withdrawn requests.

Parolees and Pardonees Information System

- Manage records of parolees / pardonees
- Document the activities of parolees and pardonees as soon as inmate is granted temporary release.
- Generate list of parolees / pardonees scheduled for termination and other supervisory status
- Generate relevant statistics by offense, gender, age, socio-economic profile and other criteria
- Provide access to and maintain records on parolees and pardonees orders, termination orders, revocation orders including denied requests, disqualifications and withdrawn requests.

Under the National Police Commission:

- **Crime Prevention Program** is designed to provide information for monitoring the progress of crime prevention programs and related projects, CPP has the following submodules: (1) Criminal Justice System Policy Information, (2) Researches and Studies Databank, (3) Crime Analysis and Policy Planning, (4) Criminal Justice Manpower System, and (5) Crime Prevention Monitoring and Evaluation System
- **Decision Support System** provide a facility for the generation of information for enhanced decision-making.

About the NCIS Project

Project Goal: Systematize collection of crimination information and facilitate the exchange of information among the various government agencies in the criminal justice system.

Strategy: Phased implementation, with phase 1 goal of establishing a pilot network within one year. Also in phase 1: establishment of the central database structure and creation of the initial physical infrastructure for information sharing.

Infrastructure: (1) Provisions for agency servers (original OS spec: Windows NT) for network services including hosting web-based applications for data access, transactions; (2) data center facilities to manage shared databases; (3) workstations with network access; (4) secured wide area network infrastructure linking all criminal justice agencies including DOJ, and (5) geographic information system or GIS technologies.

NAPOLCOM was to host the network facilities that will serve as nerve center for the wide area network (WAN) data communications. Local area networks were to be established in each criminal justice agency for internal connectivity.

Executive Order No. 386 as amended by Executive Order No. 145 dated August 27, 1999 provided for the establishment of the National Crime Information System (NCIS) Project.

The NCIS aims to develop and institutionalize an information system that systematizes the collection, storage, processing, interpretation and dissemination of reliable and comprehensive criminal justice statistics and provide decision-support mechanisms in the treatment of offenders, thus contributing to the large extent, towards the enhanced criminal justice performance.[1]

The NCIS project provides for application development, acquisition of hardware and networking equipment, installation of telecommunication facilities, database build-up, manning and manpower training and all the necessary components. This shall be implemented in two phases. Phase I involves the establishment of the NCIS at the National Capital Region and its nationwide expansion. Phase II includes activities concerning the development of Crime Information System related to other offices not covered under Phase I. This includes computer upgrading, systems development and manpower training for technical personnel of other offices concerned as systems link-up or networking is reported to ensure an effective and efficient data communication between and among participating agencies.[2]

At present, the project's proponent agency is the National Computer Center, per EO No. 145 dated Aug. 27, 1999, amending EO No. 386 dated Dec. 19, 1989.

Duration: 5 years

Project Cost / Funding Source: PhP 138.95 M (2002-2004 budget)

Project Roles of Participating Agencies:

Agency	**Major Agency**	**Role / Function** Per AO 175, 1999
Philippine National Police	DILG	Make available its data communication facilities and the appropriate data entry software for the NCRS criminal justice system data-capture forms
National Prosecution Service	DOJ	• Provide information via National Crime Reporting System (NCRS) Form No. 1 • Project coordination and communication within agency
Supreme Court	Judiciary	
Bureau of Corrections	DOJ	
National Bureau of Investigation	DOJ	
Parole and Probation Administration	DOJ	
Board of Pardons and Parole	DOJ	
National Police Commission	DILG	Lead agency tasked to: • Establish and maintain National Crime Information Center (NCIC) as computer network nerve center

[1] National Police Commission web site
[2] NEDA web site, page entitled "Annex A-1 - Ongoing Government ICT Projects"

Agency	Major Agency	Role / Function Per AO 175, 1999
		• Promulgate and implement policies and standards on data structure, access, control, authorization, monitoring, prioritization, collection, and other related activities for NCIS • Determine the system configuration and networking requirements for NCIS. • Overall implementation and coordination
National Computer Center	DOST	Provide technical and project management expertise

One Consulting Group is the system integrator and project manager for the NCIS Project.

PARTIAL INVENTORY OF NCIS IT EQUIPMENT
Delivered by NCIS Project Office and One Consulting Group (OCG)
As of 17 February 2003

Date Inspected	Office	Qty	Remarks
National Capital Region			
11-06-2002	OCP Paranaque City	2	a) Installed computers and all are in good working condition b) Cabling for LAN was not installed by OCG
11-08-2002	OCP Las Pinas City	2	a) Computers already installed and used by the office. b) Computer operating system replaced by OCP c) Cabling for LAN was not installed by OCG
11-13-2002	OCP Antipolo City	2	a) Installed computers and all are in good working condition b) Cabling for LAN was not installed by OCG
11-18-2002	OCP Marikina City	2	a) Installed computers and all are in good working condition b) Cabling for LAN was not installed by OCG c) Network router and 8-port hub returned to DOJ for storage
11-20-2002	OCP Valenzuela City	2	a) Installed computers and all are in good working condition b) Cabling for LAN was not installed by OCG c) Network router and 8-port hub returned to DOJ for storage
Region I			
01-09-2003	OCP Dagupan City, Pangasinan	1	Computer already installed and used by the office.
01-09-2003	OCP Lingayen, Pangasinan	1	Computer already installed and used by the office.
01-09-2003	OCP San Carlos City, Pangasinan	1	Computer already installed and used by the office.
01-23-2003	ORSP Region I (San Fernando, La Union)	2	a) Computer already installed and used by the office. b) Cabling for LAN installed by OCG c) Local area network not installed and configured
01-23-2003	OPP La Union (San Fernando, La Union)	1	Computer already installed and used by the office.
01-23-2003	OCP San Fernando City (La Union)	2	a) Computer already installed and used by the office. b) Repaired printer (ribbon cartridge)

Date Inspected	Office	Qty	Remarks
01-24-2003	OPP Ilocos Norte (Laoag, Ilocos Norte)	2	Computers already installed and used by the office.
REGION III			
11-25-2002	OPP Bulacan (Malolos, Bulacan)	1	Installed computers and all are in good working condition
12-18-2002	ORSP Region III (San Fernando City, Pampanga)	2	a) Installed computers and all are in good working condition b) Cabling for LAN installed by OCG c) Installed and configured local area network (LAN) d) Network router returned to DOJ for storage
12-18-2002	OPP Pampanga (San Fernando City, Pampanga)	1	Installed computers and all are in good working condition
12-18-2002	OCP Angeles City (Pampanga)	1	Installed computers and all are in good working condition
01-08-2003	OCP Palayan City (Nueva Ecija)	1	a) Computer already installed b) Operating system (OS) corrupted c) Hard disk drive return to DOJ for OS reinstallation
01-08-2003	OCP San Jose City (Nueva Ecija)	1	Installed computer and is in goworking condition
02-05-2003	OCP Olongapo City (Zambales)	1	Installed computer and is in goworking condition
02-05-2003	OPP Bataan (Balanga, Bataan)	1	Installed computer and is in good working condition
REGION IV			
11-11-2002	OCP Lipa City (Batangas)	1	Installed computer and is in good working condition
11-11-2002	OPP Batangas (Batangas City, Batangas)	1	Installed computer and is in good working condition
11-11-2002	OCP Bantagas City (Batangas)	1	Installed computer and is in good working condition
11-27-2002	ORSP Region IV (San Pablo City, Laguna)	2	a) Installed computers and all are in good working condition b) Cabling for LAN installed by OCG c) Installed and configured local area network (LAN) d) Network router returned to DOJ for storage
11-29-2002	OCP Cavite City (Cavite)	2	Installed computers and are in good working condition
12-05-2002	OCP Tagaytay City (Cavite)	1	Installed computer and is in good working condition
12-10-2002	OPP Quezon (Lucena City, Quezon)	1	Installed computer and is in good working condition
12-10-2002	OCP Lucena City (Quezon)	1	Installed computer and is in good working condition
12-12-2002	OCP Trece Martires (Cavite)	1	a) Boxes eaten by termintes b) Installed computer and is in good woking condition
	OPP Mindoro Oriental (Calapan City, Mindoro Or.	1	
	OPP Romblon (Romblon, Romblon)	1	

Date Inspected	Office	Qty	Remarks
REGION V			
	ORSP Region V (Legaspi City, Albay)	1	
	OPP Albay (Legaspi City, Albay)	1	
	OCP Legaspi City (Albay)	1	
	OPP Camarines Norte (Daet, Camarines Norte)	1	
	OPP Camarines Sur (Naga City, Camarines Sur)	1	
	OPP Catanduanes (Virac, Catanduanes)	1	
	OPP Masbate (Masbate, Masbate)	1	
	OPP Sorsogon (Sorsogon, Sorsogon)	1	

8
SYNTHESIS AND STRATEGIC REFORM DIRECTIONS

1 SYNTHESIS

1.1.1 The SWOT analysis and internal capacity assessments identified dysfunctions, capacity deficiencies, inter-agency coordination and operations integration issues, and issues on resources were identified. The major reform issues include the following:

LAW ENFORCEMENT

a) Duplication of functions between NBI and PNP resulting in conflict and waste in resources

b) Inadequate scientific crime laboratory equipment and transport as well as communications facilities required in investigation significantly hampering capacity to solve complicated crimes

c) Organizational dysfunctions within the NBI manifested in duplication of investigation units and positions, highly centralized operations, uneven crime management capacities between Manila based offices and the rest of the country and lack of capacities for performance management indicated by absence of adequate performance indicators system, performance assessment methodologies and meaningful use of performance data in improving crime management

d) Unattractive remuneration package for investigators

e) Need for better human resources development system including quality training

PROSECUTION

a) Case backlogs associated with heavy caseload of prosecutors but opportunities exist for mobilizing external human resources to support prosecutorial functions

b) Lack of sound career development program for prosecutors coupled with unattractive salaries result in high turn over and vacancy rates

c) Centralized administrative and financial management creating inefficiencies at the regional and field levels particularly in personnel administration and resource provision, worsening potentials for demoralization

d) System of LGU support enhances limited resources for prosecutors but creates vulnerability of prosecution system to political pressure and influence

e) Severe resource constraints particularly for MOOE and lack of resources for acquiring basic office equipment but opportunities exist to raise revenues out of prosecutorial services.

CORRECTION

a) Severe budgetary limitations but with tremendous opportunity to generate revenues through entrepreneurial use of physical assets

b) Need to improve and integrate the systems of the BuCOR with those of the BPP and PPA towards a system based rather than prisoner request based parole and probation system, thereby ensuring justice and human rights for all prisoners.

LEGAL ASSISTANCE

a) Need to mobilize external resources to expand legal services to the poor.

b) High turn over of PAO lawyers due to uncompetitive salaries

c) Need to improve overall organizational capacity of PAO for more efficient and expanded legal services utilizing non-budget resources

SYSTEM WIDE ISSUES

a) Deficient mechanisms and procedures for inter-agency workflows result in delayed processing of cases and lack of information

b) The absence of an integrated crime information system limits capacity of the pillars of justice to manage cases, review national crime situations, and on this basis formulate effective crime management strategies

c) Opportunity for integrating human resources capacity development exists but has not been explored.

2 PROPOSED STRATEGIC REFORM DIRECTIONS

2.1.1 A holistic approach should be taken to reforming the other pillars of the justice system in as much as each agency system is an inextricable part of the whole pillar system. The seamless integration of the various reform efforts should be ensured to achieve continuity and completeness of inter-agency processes, to effectively delineate and pinpoint accountabilities and to be able to prioritize and properly program reform activities and priorities.

2.1.2 From the identified issues recommended directions for reform are presented for consideration:

LAW ENFORCEMENT

2.1.3 Define clearly the "niche" of NBI. NBI has the potential to assume the high-level crime management functions that are not being done by PNP. In particular, the NBI can focus on the following:

- Management of complex crime that require sophisticated investigation and research

- Crime management policy arm of the government. NBI will maintain a crime information system anchored on more sophisticated crime indicators and monitoring system and capacity that will enable it to conduct a continuing assessment of criminality. It will conduct continuing research towards gaining new knowledge and understanding of criminality. These research functions will input into the policy formulation function as well as in the development of new crime management techniques, procedures, and technologies

- Scientific crime laboratory. The NBI should continue to upgrade its scientific crime laboratory and strengthen its institutional capacity to undertake scientific research not just for solving specific cases but for improved crime detection, evidence identification and preservation, criminal identification and other related purposes.

PROSECUTION

2.1.4 Directions for reform in the prosecution pillar will be in the improvement of the overall internal capacities of the NPS:

- Improve the overall case management system of the NPS. This will include improving the classification and tracking of cases and enhancing case management procedures. For example case indicators will include more detailed hierarchical classification of cases and clearer definitions of procedural steps that will allow status tracking, analysis of frequency, commonality, seriousness, among others.

- Consider employing graduating law students on a service training to assist the prosecutors in their investigative, legal research and document preparation work

- Consider improving the rules of procedures for prosecutors towards standardizing and streamlining case processing procedures for each case type. For example, BP 22 cases can be processed more rapidly than murder cases by establishing case based procedures.

CORRECTION

2.1.5 Strategic reform directions include the following:

- Conduct a thorough assessment and formulate and enterprise development program on the BUCOR's capital assets. Such enterprise development program will be aimed at identifying options for raising revenues for direct use in improving the conditions of penitentiaries on a sustainable basis. Also the program will create mechanisms for training and utilizing the inmates, a potentially powerful productive workforce, in the agency's revenue generation activities.

- Improve the systems and procedures and automate the prisons management systems and procedures for penitentiaries.

LEGAL ASSISTANCE

2.1.6 Reforms in the legal assistance should consider integrating the country's legal assistance resources and improving PAO's capacity to manage the entire operation. This will involve the design of an integrated legal assistance mechanism that will organize and mobilize government and private sector resources, financial or legal manpower, to provide free legal assistance to the poor. The following possibilities can be considered and designed:

- Requiring law practitioners to devote a portion of their time to free legal assistance

- Requiring graduating law students to work in PAO to assist PAO lawyers in legal research, document preparation and other related acivities

- Integrating all legal assistance units in government departments with PAO to achieve efficiencies and economies of scale

2.1.7 Other reforms in relation to PAO include the following:

- Giving authority to PAO to solicit donations to finance free legal assistance to pauper litigants involved in complex cases

- Improving the case management procedures of PAO including caseload management

- Reengineering the functions and organization structure of PAO to absorb the expanded functions and its decentralization

SYSTEM-WIDE AND OTHER STRATEGIC REFORM DIRECTIONS

2.1.8 The DOJ must explore non-traditional reform directions or revive useful but stalled reforms that are critical to the effectiveness of the entire justice system. The possibilities that can be considered for deeper studies and reform design include the following:

a) Integration of the NPS and PAO

b) Revival but reengineering of the National Crime Information System to be managed by the Department of Justice

c) Establishment of an Asian Crime Management Institute, which will provide advanced training in specialized aspects of crime management. Utilizing local and international expertise in crime management the institute will benefit not only our local law enforcers, prosecutors and lawyers; it will become a potential country's pride in crime management training

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