3
SYNTHESIS OF THE DIAGNOSTIC STUDIES

1 INTRODUCTION

1.1.1 This chapter puts in perspective the desk review and the recommended roadmap for criminal justice system reforms by placing these within the context of the system's performance. Consistent with the approach, the assessment examines the strengths and weaknesses of criminal justice system and defines the implications of the finding for an integrated criminal justice reform program.

2 PERFORMANCE IN PROVIDING JUSTICE REMEDIES

The determination of the overall performance of the criminal justice system in providing justice remedies is ultimately established by the performance statistics of our courts, where the various processes by the other pillars in seeking remedies unfold and converge. The pace and quality of the litigation process is influenced by several factors that are outside of the judicial institutions – the ability to produce the right witness and present evidence and to arrest the suspect by the law enforcement agencies; the quality and pace of case preparation and preliminary investigation and leads to the establishment of a probable cause by the prosecution; the competence of prosecutors and defenders; the availability, quality and cooperation of witnesses, and other relevant factors. The performance of the courts therefore would serve to synthesize to a large extent the overall performance of the criminal justice system.

LOW CLEARANCE RATES INDICATE THAT THERE IS A HUGE CASE BACKLOG PRACTICALLY IN ALL LOWER COURTS, CREATING CASE GONGESTION. DISPOSITION RATES ARE HOWEVER MUCH HIGHER, INDICATING HARDWORKING JUDGES WITH IMPROVED CAPABILITY IN HANDLING CASES.

Clearance rates have remained consistently low over the years averaging at 42.94% within the period 2000-2004 (Table 3.2). However, disposition rates have also remained consistently very high averaging at 104.09% annually during the same period. Considering that the average caseloads of judges range from 300 – 3,000 cases annually the numbers indicate hardworking judges with improved capabilities in handling cases.

Table 3.1
ANNUAL CASELOAD AND CLEARANCE RATES
Lower Courts, 2000-2004

YEAR	TOTAL CASELOAD	TOTAL DISPOSED	CLEARANCE RATE (%)
2000	1,510,558	685,977	40.63
2001	1,416,667	575,699	37.15
2002	1,405,972	587,093	41.75
2003	1,352,452	529,553	39.15
2004	1,534,528	905,925	56.03

SOURCE: OCA, Supreme Court of the Philippines

Table 3.2
ANNUAL CASEFLOWS AND DISPOSITION RATES
Lower Courts, 2000-2004

YEAR	INFLOWS	OUTFLOWS	DISPOSTION RATE (%)
2000	695,417	685,977	98.64
2001	592,086	575,699	97.23
2002	565,004	587,093	103.90
2003	533,573	529,553	99.24
2004	745,737	905,925	121.48

SOURCE: OCA, Supreme Court of the Philippines

ARCHIVAL RATES CONTINUE TO COMPRISE A SIGNIFICANT PROPORTION OF TOTAL OUTPUTS OF THE LOWER COURTS, AVERAGING AT 32.86% OF ANNUAL CASES DISPOSED

Interviews with clerks of courts during previous diagnostic studies indicated that that about 80% of total annual caseloads are criminal cases and that high archival rates were due to the non-apprehension of suspects within the prescribed 6 months. Beyond this period a criminal case is to be considered inactive and therefore archived. In many cases the suspects could not be found.

With low clearance rates accompanied by high archival rates and low decision/resolution rates an estimated 25.07% or only 1 out of 4 cases filed in the courts are effectively provided justice remedies.

Table 3.3
COMPOSITION OF JUDICIAL ACTIONS
Lower Courts, 2000-2004

YEAR	CASES RESOLVED/ DECIDED		ARCHIVAL RATE	
	% OF TOTAL CASELOAD	% OF ALL CASES DISPOSED	% OF TOTAL CASELOAD	% OF ALL CASES DISPOSED
2000	23.42	51.56	15.64	34.43
2001	23.78	58.52	13.43	33.05
2002	24.79	59.38	14.58	39.91
2003	23.96	61.21	12.55	32.06
2004	29.60	50.15	14.67	24.86

SOURCE: OCA, Supreme Court of the Philippines

A SIGNIFICANT PORTION OF CASES IN THE LOWER COURTS ARE MORE THAN 2 YEARS OLD.

Huge case backlogs also mean case delay. A survey of the cases in the lower courts conducted with assistance from the PHRD Grant, World Bank indicated that a significant portion of surveyed cases ranging from 13-33% have remained open after 2 years (Prof. Hunter, CDDRP, WB, 2002).

Table 3.4
PRESCRIBED TIME DURATIONS IN THE PROCESSING
OF CASES IN THE COURTS

LEGAL BASIS, STAGE IN THE PROCESS	DURATION SPECIFIED BY LAW		
	YEARS	MONTHS	DAYS
SPEEDY TRIAL ACT			
From filing of information to arraignment			30
From time of arraignment to first day of trial			30
From the first day of trial to the termination of trial			180
From termination of trial to the issuance of decision			90
CONSTITUTIONAL PROVISIONS			
Duration within which cases should be decided from submission			
- Supreme Court		24	
- Lower Collegiate Courts		12	
- All Lower Courts		3	

More knowledge has been gained over time on the causes of delay primarily by two important studies: The Criminal Justice System by Prof Feliciano and Muyot, and the Case Decongestion and Delay Reduction Strategy (CDDRP) Phase 1, by CPRM and Prof. Hunter, both funded under the World Bank's PHRD Grant.

The survey indicated that a significant proportion of civil and criminal cases in all lower courts have in fact exceeded the time limits prescribed by law. Prof. Hunter's findings on the surveyed cases indicate that time duration was affected by such factors as the type of the case or the matter involved, the location of the court, and the type of court in which had jurisdiction which implied the nature of the case.

Table 3.5
PERCENT OF CIVIL AND CRIMINAL CASES EXCEEDING
PRESCRIBED TIME LIMITS, LOWER COURTS

COURT	CIVIL	CRIMINAL
RTC	57.6	46.1
METC	38.8	51.4
MTCC	57.0	27.4
MTC	35.1	51.2
MCTC	50.0	34.6

Source: Prof. Rosemary Hunter, CPRM, CDDRP, SC-WB, 2002,

2.1.7 Causes of delay in the courts is explained very incisively and extensively in Feliciano and Muyot, [1] to come from various causes (Figure 3.a):

a) Court attributable delay

- Ignorance of judges to developments in law and jurisprudence, and scant knowledge in rules on procedure, and deficiencies in judicial writing where judges are wanting in precision, clarity, coherence and depth. These have created another layer of delay through repetitive appeals and justices in the higher courts having to review the entire proceedings due to the lack of reliability of poorly written decisions

- Conducting trials on piece meal basis and judge or lawyer absenteeism or tardiness at scheduled hearings and leniency of judges in granting postponements, laxity in the enforcement by the judge of rules of procedures and abuse by lawyers of rules of procedure

- Process servers, sheriffs fail to act immediately on an order of execution.

b) Lawyer- related delay

- Lawyers are known to have the propensity to file petitions for mandamus, prohibitions, and certiorari even for interlocutory orders of the lower courts in order to delay the case and for postponements and extensions; offer flimsy reasons for not appearing in court which the judge surprisingly believe; and protract cross examination. Lawyers are said to do this to hopefully improve the position of their clients as the case drags but in some cases high caseloads of lawyers are cited as one of the main reasons for the lack of preparation for hearings that trigger requests for extension, postponements and dilatory tactics.

c) Delay caused by other agencies

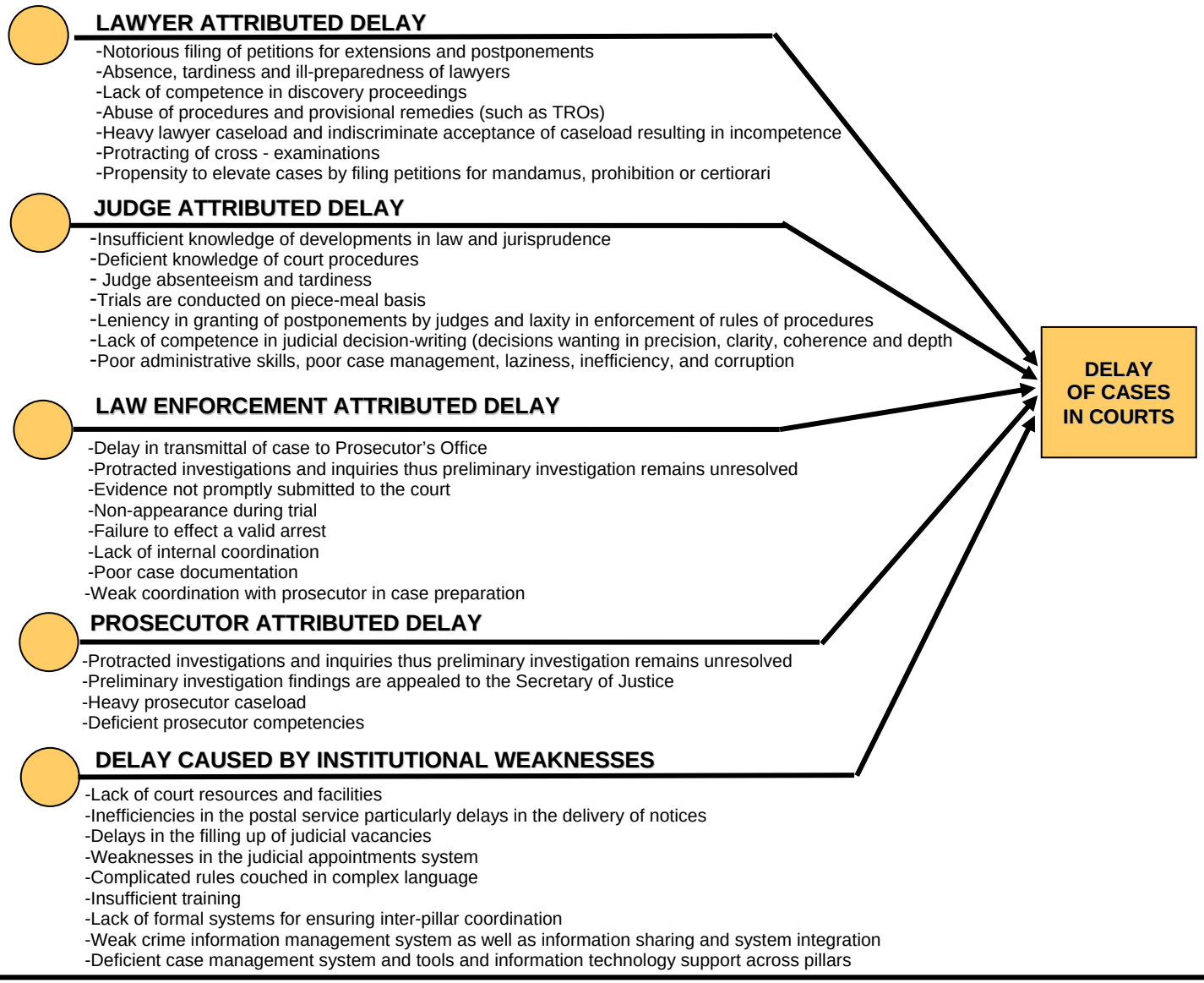
- Police related causes of delay come in many forms: laboratory findings are not submitted promptly to the court; cases are not transmitted on time to the prosecutors office; non-appearance during trial by police and prosecutor, failure to effect a valid arrest by the police, lack of coordination between prosecutor and police; investigations and inquiries take too long and a warrant cannot be issued until proper information has been filed in the court; preliminary investigation is appealed to the Secretary of Justice; postal service delays delivery of pleadings and orders sent via registered mail; and defective documentation of cases from police and prosecutor.

d) Institutional deficiency related delay

- limited budget and physical facilities; delays in judicial appointments

[1] Prof. Myrna Feliciano and Alberto T. Muyot, The Philippine Criminal Justice System, PHRD Grant, World Bank and Supreme Court of the Philippines, 2000

Figure 3.a CAUSES OF CASE DELAY IN THE PROVISION OF JUSTICE REMEDIES



Delays could also be pointed to the poor case management systems in the lower courts. The CDDRP survey showed postponements civil and criminal cases in all lower courts. The reasons were the same: non-appearance of lawyers, prosecutors and judges. Many judges still have the tendency to schedule more cases that can be realistically heard in the hope that should there be postponements, enough cases would be ready, and thereby enable them to maximize the use of time. The current practice of judges particularly in high –caseload courts is to schedule 20 hearings per day. However, the daily hearing hours of judges is only 5 hours. It would be thus physically impossible to complete the scheduled 20 hearings. Anecdotal information indicated the completion of only about 2 cases in a day. The lawyers contend that this method of over-scheduling hearings and trials results in unmitigated loss of time on the part of the parties concerned the witnesses and lawyers who are compelled to spend hours, and even days, idly waiting for their turn to be heard. The eroded credibility of the hearing schedules might have further contributed to the reasons for the non-appearance of lawyers, parties and prosecutors and consequently also contributed to the delay.

The CDDRP survey data and findings of Prof. Hunter would also suggest that the limited use of pre-trial may have contributed to the protraction of trial periods particularly in criminal cases and also increased the number of cases going to trial. This was supported by judges having the view that failure to settle at the barangay level renders pre-trial irrelevant. This despite the provision in the rules of court and the Speedy Trial Act for a mandatory pre-trial for criminal cases.

THERE IS DELAY AND HIGH ACQUITTAL RATES IN SANDIGANBAYAN CASES

In the CDDRP survey Prof. Hunter's findings indicated that Sandiganbayan has the longest median duration of 6.6 years with a minimum of 1.5 years and a maximum of 11 years. In more than 75% of cases the accused was acquitted. The court is treated with little respect by respect by parties, counsel and witnesses alike, as evidenced by the high proportions of postponements due to the non-appearance of a party, non-appearance of counsel, non-appearance of a witness, or inability of counsel to proceed.

Former Ombudsman Marcelo indicated that the average workload of 441 cases per justice is heavy. Since Sandiganbayan justices work in divisions each division effectively handles more than 1,000 cases per year. Ombudsman Marcelo suggests that corruption cases are complex and difficult. He also suggests that less complex corruption cases be reassigned to the lower courts thus allowing Sandiganbayan to focus on more complex and bigger cases. He further suggests the restructuring of the Sandiganbayan such that some cases can be assigned to individual justices instead of divisions.

LOW CONVICTION RATES CHARACTERIZE THE PERFORMANCE OF PROSECUTION SYSTEMS

The disposition rate for prosecution of cases[2] which are already pending with the courts as of 2002 was only 16.90% [3] reinforcing the delay indicated in the statistics of the courts. Conviction rate is at a low of 18.06% while archival and dismissal rates were much higher at 33.80% and 33.69% respectively. The underlying reasons for these should be extensively analyzed. 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. 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.

Table 3.6
DISPOSITION OF CASES AT THE RTC AND MTC/MCTC/MTCC FOR Y2002

Conviction rate[4]	18.06%
Acquittal rate[5]	4.53%
Percentage dismissed[6]	33.69%
Percentage archived[7]	33.80%
Transferred/Referred/Others[8]	9.92%

Source: NPS

IT IS SAID THAT WHEN A CASE IS FILED IN THE OMBUDSMAN IT IS 70% LIKIELY TO BE DISMISSED

The profile of dispositive actions on preliminary investigation of criminal and administrative cases/complaints, as presented in Table 3.7, reveals that a large percentage of these cases (73% for criminal and 91% for administrative) were disposed through dismissal/exoneration or termination and only 27% and 9%, respectively, were prosecuted and penalized.

About 34% of the disposed administrative cases were referred to other government agencies for action. These cases are thus reported as closed or terminated. The other 57% of administrative cases were considered as dismissed. On the other hand, criminal cases which were no longer pursued and closed or terminated account for only about 3% of the disposed cases, leaving 70% of the criminal cases having been actually dismissed. The OMB staff initially mentioned that about 50% of these cases have been received directly by the PIABs (meaning they did not pass the fact-finding procedures of FFIB). But this information is not enough in explaining the high dismissal rate. Lack of evidence, deficient competencies among investigators, case withdrawal, absence of mechanisms to protect witnesses and complainants, etc. would comprise some of the many possible

[2] 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.
[3] 150,015 cases disposed out of 887,744 cases for trial.
[4] 25,765 convictions out of 142,693 cases disposed.
[5] 6,467 acquittals out of 142,693 cases disposed.
[6] 48,070 cases dismissed out of 142,693 cases disposed.
[7] 48,229 cases archived out of 142,693 cases disposed.
[8] 14,162 cases transferred/referred/others out of 142,693 cases disposed.

reasons for high dismissal rates. Based simply on the current trend, it may be said that when a criminal case is filed in the OMB, there is a 70% chance that it will be dismissed.

Table 3.7
DISPOSITIVE ACTION/DISPOSAL RATE
PRELIMINARY INVESTIGATION OF CRIMINAL CASES, 1994-2003

Particulars	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	Total	Disposal Rate (%)
Prosecuted	1060	1521	1506	2210	2166	2017	2209	1374	1268	1369	16700	27
- regular courts	430	958	1265	1772	1800	1638	1938	1196	1229	1278	13504	81
-Sandiganbayan	630	563	241	438	366	379	271	178	39	91	3196	19
Dismissed/Closed or Terminated	4851	4262	5109	6848	5208	4137	5850	3882	2665	3088	45900	73
TOTAL	5911	5783	6615	9058	7374	6154	8059	5256	3933	4457	62600	100

Source: OMB

CONGESTION, SUB-HUMAN CONDITIONS, HUMAN RIGHTS VIOLATIONS AND LACK OF ACCESS TO JUSTICE PERSIST IN THE COUNTRIES JAILS DESPITE REPORTS AND ADVISORIES COMING FROM HUMAN RIGHTS, CIVIL SOCIETY AND OTHER INSTITUTIONS.

2.1.15 The seven national penitentiaries house about 25,000 inmates as of December 31, 2002 vis-à-vis their total capacity of only 19,600 or 28% over and above their maximum capacities. Congestion has been attributed to several factors, among which is the increase in the number of arrests 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.[9]

Table 3.8
OCCUPANCY CONDITIONS IN NATIONAL PENITENTIARIES, 2000

NATIONAL PENITENTIARY	CAPACITY	ACTUAL	% TO TOTAL	CONGESTION
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

[9] 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.

2.1.16 While there is general congestion in national jails, there is also apparent inequitable population distribution where some jails are overpopulated while others are under-populated. The NBP in Muntinlupa City and the CIW in Mandaluyong City have populations twice their capacities while IPPF in Puerto Princesa, Palawan has only about 56 percent occupancy rate (1,974 out of 3,500), 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.

But redistribution of prisoners will not be easy, since transfers require orders from the court. Politics also play a part where politicians interfere the transfer of favored prisoners for example to Iwahig where they are made to do farm work.

2.1.18 Congestion contributes to the worsening of jail 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 [10] 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.

2.1.19 The CHR observed that problems in 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.

2.1.20 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 (beds/bunks, mats/blankets, pillows, etc.) are prevalent in most penal establishments, contributing to the sub-standard situations of inmates.

2.1.21 Human rights violations in jails observed by the CHR include breach of constitutional right against self-incrimination, threat against life, confinement in *bartolina*, lack of preliminary investigation, absence of commitment order from the court, failure of prison officers to bring prisoners/detainees to court hearings on scheduled dates, 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. [11] There are inmates who have been confined for already more than three years, yet the courts have not given the necessary decision on their cases.

2.1.22 The CHR findings were reinforced by a survey of inmates conducted by CPRM for UNDP and Supreme Court. Convicted or sentenced prisoners in city jails within NCR spend an average of 11.5 months before the final hearing on their cases is

[10] Commission on Human Rights, "*A Study on the Existing Conditions of Jails and Correctional Institutions in the Philippines", October 1993*
[11] *Ibid.*

made. They have been incarcerated for a minimum of 32 days and a maximum of almost 8 years before the final court hearing of their cases has been completed.

Table 3.9
LENGTH OF TIME FROM ARREST TO LAST HEARING OF CASE, APRIL 2003
(SENTENCED INMATES)

Number of Months/Years	Percentage of Prisoners Reporting			
	City Jails Within NCR	City Jails Outside NCR	Provincial Jails	National Prisons
Less than 1 month		10.5		2.2
1 Mo. - < 2 Mos.	13.8	1.8	4.3	2.5
2 Mos. - < 3 Mos.	10.3	10.5	4.3	4.7
3 Mos. - < 4 Mos.	10.3	3.5	4.3	1.5
4 Mos. - < 5 Mos.	13.8	3.5	4.3	2.9
5 Mos. - < 6 Mos.	3.4	7.0		3.3
6 Mos. - < 1 Year	24.1	15.8	13.0	12.0
1 Year - < 2 Years	3.4	21.1	26.1	20.4
2 Year - < 3 Years	10.3	19.3	8.7	15.3
3 Year - < 4 Years	6.9	3.5	8.7	12.0
4 Year - < 5 Years	3.4	1.8	8.7	5.5
More than 5 Years		1.8	17.4	17.8
Minimum	32 days	4 days	32 days	4 days
Maximum	1,623 days or 7.9 years	5.8 years	9.2 years	46 years
Mean	11.5 months	1.3 years	2.7 years	3.2 years

Source: BuCor

2.1.23 In the case of convicted or sentenced prisoners in jails outside NCR, the average of time spent by inmates from their arrest to last date of case hearing is 1.3 years. The minimum is 4 days and the maximum is almost 6 years. Sentenced inmates in provincial jails waited for an average of 3 years from the time of their arrest until the last hearing of their cases. The minimum waiting time is 32 days and the maximum is 9.2 years. Surveyed inmates in the national prisons waited for an average of 3.2 years from the date of arrest until they had their last case hearing. The minimum waiting time is 4 days, while the maximum is 46 years. About 18% of the total inmates surveyed have waited for more than five years until the last hearing of their case has been conducted.

PROBLEMS IN ACCESS TO JUSTICE BY PRISONERS ARE REINFORCED BY THEIR LACK OF CAPACITY TO DEMAND JUSTICE REMEDIES

2.1.24 Lack of access to justice and weak capacities to demand justice remedies are indicated in the following survey findings:

a) Only 1 of every 5 inmates in NCR jails know of the availability of free legal services to poor litigants and there are more inmates in these jails who do not know of any office or agency that could help them on their legal requirements. However, more than 50% of inmates in city, provincial and national jails outside

NCR, know of the existence of PAO and its available services from the Department of Justice, the courts when they were being arraigned and co-inmates.

b) Almost 80% of the total sample inmates in all types of jails were informed by their co-inmates, arresting officers or lawyers that they could be temporarily released from detention through posting of bail. However, because of poverty, only a limited number of inmates had resorted to this mode of release.
c) More than three-fifths of the sample male and female inmates in the different jails/prisons have knowledge of these requirements in serving warrants of arrest. Arresting officers, co-inmates and visiting friends, usually supply inmates with information in regard the matter.
d) A higher percentage (above 50%) of inmates detained in city jails and provincial jails know about this right, as compared to those in the national prisons (only between 39% to 47%). They learned about such right from co-inmates and other sources especially the media. Around 53% of the male inmates and 60% of the female inmates who are serving their sentences in national prisons hardly know about this right.
e) Seven in every ten inmates, male or female, in any type of jail, know that they have the right to legal counsel, or that they could be represented by a lawyer in court. They got this information from their co-inmates or from other sources.
f) Above 50% of the inmates from the different types of jails/prisons know that there exist rules on separating youth from adult offenders to protect juvenile delinquents. They knew about this from their co-inmates or from the jail staff.
g) More than 50% of male and female inmates have no knowledge of the legal procedures to be undertaken after detention. A higher percentage of inmates in city jails within NCR and national prisons fall under this situation.

POLICE STATISTICS ON CRIME INCIDENCE (REPORTED CRIMES) AND SOLUTION RATE DO NOT MATCH THE HIGH CASE INFLOWS AND HIGH ARCHIVAL RATES IN THE LOWER COURTS

2.1.25 The assessment of the performance of the police in meaningfully contributing to providing appropriate justice remedies is constrained by sheer deficiency of crime and performance information within the PNP and NBI. Table 3.10 below contains annual crime volume as reported by the PNP. The table indicates a decreasing trend in annual crime incidence. What is disturbing about the data is that with the annual crime statistics translate to an average caseload of 1.32 cases annually for each of the more than 110,000 uniformed personnel in the PNP and yet the police-population ratio in the Philippines which is at 1:700 is considered to be lower than the international benchmark of 1:500.

Table 3.10
ANNUAL CRIME VOLUMES, 1995 – 2003

YEAR	TOTAL CRIME VOLUME	INCREASE/DECREASE In %
1995	79,258	
1996	76,915	-2.96
1997	71,080	-7.59
1998	71,575	0.70
1999	82,538	15.32
2000	80,108	-2.94
2001	76,997	-3.88
2002	85,776	11.4
2003	83,704	-2.42

SOURCE: Crime Statistics from DIDM, PNP: 2004

2.1.26 Another disturbing statistics is the reported high crime solution rate (89.34%) of the PNP which is incredibly much higher than countries with more equipped and resourced police forces. If 9 out of 10 reported crimes are solved than what explains the more than 30% archival rate in criminal cases in the courts, which according to previous studies can be attributed to the non-apprehension of the suspect?

2.1.27 Anecdotal information during the diagnostic study conducted under the UNDP Governance Portfolio indicated that policemen were required to present a rosy picture of their performance, or their reports were altered to depict an improved crime situation and crime solution rate.

2.1.28 There is also lack of observance of rules of procedures and human rights standards in crime investigation. The presentation of suspects before the media, with the

witnesses pointing to the victim, is a practice by law enforcers today. This is however prejudicial to the person's rights to be presumed innocent and to a fair trial. Anecdotal data also point to rape victims' lack of privacy during medical examinations where several law enforcers being allowed as onlookers. These are indicative of values and competency issues, as well as the need for clearer human rights based investigation systems and procedures.

2.1.29 The integrated transformation program initiated by the current PNP leadership and the transformation program manager includes a seamlessly integrated set of institutional, procedural, human resources and technological reforms to address issues identified.

2.1.30 It is clear from the performance of the criminal justice system that there are problems in providing appropriate justice remedies. These problems have been analyzed as to their root causes by various diagnostic studies which is being integrated in this study and synthesized in the following sections.

3 WHAT THE STRENGTHS ARE

(1) NORMATIVE PROTECTION AND INSTITUTIONAL FRAMEWORKS FOR CRIMINAL JUSTICE ARE IN PLACE INCLUDING MECHANISMS FOR CONTINUING REVIEW AND REFORM.

The legal and tradition based frameworks for criminality and justice remedies are in place as provided for in the constitution and translated in our laws. Laws formalizing the traditional laws particularly of Muslim Filipinos and indigenous peoples are also in place. There is awareness and initiative among political leaders of the need to continuously review and update our criminal laws demonstrated among others by the passage of the anti-money laundering act, the passage of laws within the last 10 years protecting the rights of women and children, indigenous peoples, urban poor, persons with disabilities and other vulnerable sectors. The institutional framework for the criminal justice system is also in place and ripened by long history and continuously evolving and expanding (see section 2.4 Institutional Framework, Chapter 2).

Two key executive orders EO 366 and EO 444 and the provision in the annual general appropriations act of the authority to reorganize government agencies put in place mechanisms for wider and more comprehensive approaches to reforming public sector institutions. EO 366 calls for the rationalization of the mandates, functions, structures, staffing and budgets of national government agencies. EO 366 requires departments and agencies to anchor their rationalization program on a set of governance principles espoused by the DBM which will guide in defining their proper roles and the corresponding shift in the focus of their mandates and functions. EO 444 calls for the conduct of a strategic review by DILG of departments and government owned and controlled corporations for purposes of identifying functions, programs, projects and activities that are to be devolved to local government units.

(2) LAWS AND SYSTEMS SENSITIVITY TO HUMAN RIGHTS AND VULNERABLE SECTORS.

Our criminal justice system has legal mechanisms for the protection of women, youth, indigenous peoples, and other vulnerable groups, at least 15 laws have been passed in during the last decade on the protection of their rights. PNP and NBI has established mechanisms at the police station or point of access for dealing with women and youth. The PNP operates women's and youth desks in police stations manned by accordingly trained policemen/policewomen. The DSWD and civil society organization maintain several halfway houses and social service centers that address the needs of women and youth in conflict with the law or victims of crimes.

In actual practice however, much remains to be done to establish a culture of human rights and gender as well as youth sensitivity both in the operational processes and practices and organizational cultures of criminal justice institutions.

(3) RECOGNITION AND CORRESPONDING EFFORT TO IMPROVE THE COORDINATION OF ACTIVITIES ACROSS PILLARS PARTICULARLY IN THE MANAGEMENT OF CRIMINAL CASES.

The creation of the inter-agency task force on pillars of justice is a concrete mechanism that provides a venue improve inter-pillar coordination whether at policy or operational level. There is also increasing recognition of the need to formalize inter-pillar coordination particularly at the process level, meaning in the management of individual criminal cases. This emanates from a corresponding recognition of the impact of weak inter-pillar coordination on the speed and quality of the prosecution and litigation process, on conviction and on the rendering by the court of the appropriate remedies.

(4) STRONG AND VIGILANT COMMUNITIES AND CIVIL SOCIETY ORGANIZATIONS WITH INCREASING PARTICIPATION DISPUTE RESOLUTION, IN ANTI-CRIME WATCH, ANTI-CORRUPTION, LEGAL DEFENSE, HUMAN RIGHTS ADVOCACY AND RESTORATIVE JUSTICE AND IMPROVING COMMUNITY CAPACITY TO DEMAND JUSTICE REMEDIES.

There are growing initiatives in civil society to organize the community into a powerful and constructive force both in demanding appropriate justice remedies and in contributing to providing justice remedies.

The Commission on Human Rights leads the way to promote a rights – based system of criminal justice. These are done through several interventions such as jail visitations and evaluation, independent fact-finding and investigation, human rights advocacy and promoting human rights capacities of citizens by implementing in coordination with DepED human rights teaching exemplars.

The Office of the Ombudsman is also initiating its own teaching exemplars and community awareness programs on corruption.

Community groups provide a variety of services including community based legal services (Barangay Justice System, FLAG or Free Legal Assistance Group, Catholic Lawyers Guild and St. Tomas Moor and Associates, among others); community policing (Federation of PNP accredited NGOs or FAN, for community policing programs in their specialized areas of interest - drugs, pornography, violence against women, etc). The roles of the organized community primarily consisted of providing assistance to demand justice remedies, restorative justice, community information and education, and community dispute resolution).

(5) VIBRANT MEDIA CONTRIBUTING IN IMPROVING THE CAPACITIES OF COMMUNITIES TO DEMAND JUSTICE REMEDIES AND IN STRENGTHENING THE PUBLIC ACCOUNTABILITY OF CRIMINAL JUSTICE INSTITUTIONS

The impact of the media in strengthening community capacities to demand justice remedies are yet to be assessed. But media has played a strong role in popularizing the criminal justice system to the masses through its various programs.

(6) EMERGING CULTURE OF REFORM, OPENNESS TO NEW FORMS OF DELIVERING JUSTICE TOGETHER WITH ORGANIZED REFORM PLANS AND PMOS WILL PAVE THE WAY FOR MORE MEANINGFUL REFORMS IN THE CRIMINAL JUSTICE SYSTEM.

The sheer number of the diagnostic and reform program studies in the pillars of justice, the growing interest and commitment of the leaders of the 3 branches of the government indicates a bright future for the criminal justice system. Formally approved plans implemented by fully operational and emerging PMOs (Judiciary, PNP, OMB, CHR) with the corresponding staff competencies and strong, vision-driven leaderships will pave the way for a more sustainable and long-term as well as integrated reforms in the criminal justice system.

(7) AWARENESS BY NATIONAL GOVERNMENT OF NEED FOR INFUSION OF MORE RESOURCES AND IMPROVEMENT IN INSTITUTIONAL RELATIONSHIPS TOWARDS STRENGTHENING INDEPENDENCE AND INTEGRITY

The issue of severe resource constraints is common to the law enforcement, prosecution, public defender and judiciary pillars and is recognized by the Department of Budget and Management. The national government has made tremendous strides in providing resources to increase judicial salaries and police compensation, and to finance pilot implementation of certain judicial reform projects. But much remains to be done to enable the pillars to operate within minimum resource requirements.

There is also growing awareness of the need to provide mechanisms for strengthening the independence of criminal justice institutions particularly in the provision and management of budget, manpower, and physical resources.

The advocacy on these was started by the Judiciary with the proposed operationalization of judicial autonomy. Conferences with leaders in Congress and Executive Branches generated enunciated support, but much remains to be done to actualize autonomy mechanisms in operational policies and processes.

4 WHAT NEEDS TO BE IMPROVED UPON

(1) WEAK PUBLIC TRUST AND CONFIDENCE AMIDST PERCEPTION OF CORRUPT, POLITICIZED AND WEAK CRIMINAL JUSTICE SYSTEM INSTITUTIONS

Opinion surveys have indicated consistent perception of a worsening corruption situation in the public sector and in particular the law enforcement, prosecution and judiciary. While comprehensive reforms are being initiated in the PNP and the Judiciary, and more are being planned in the rest of the five pillars, they will face profound challenges in engendering public support to the reform process at a time when public trust and confidence in the system is at a low.

(2) LACK OF MEANINGFUL INDEPENDENCE OF CRIMINAL JUSTICE SYSTEM INSTITUTIONS IS IMBEDDED IN THEIR INSTITUTIONAL FRAMEWORKS AND IN THE ADMINISTRATIVE AND FINANCIAL PROCESSES OF GOVERNMENT EFFECTIVELY INSTITUTIONALIZING VULNERABILITY TO POLITICAL PRESSURE AND CORRUPTION

While the notion of independence has normally applied to the Judiciary, there is also a need for independence in law enforcement, prosecution and correction agencies, such that they will maintain their impartiality in police investigation and prosecution and will not be influenced or harassed particularly where a criminal case involves a high-ranking politician, national government executive or influential economic elite.

Independence issues in law enforcement and prosecution

Law enforcement agencies must have independence in order that they can objectively investigate and apprehend the offender regardless of his socio-economic or political status. Mechanisms within the PNP and NBI that will ensure the integrity of physical or scientific examination of crime evidence should be put in place by establishing a system whereby independent laboratories undertake the examinations, particularly in cases where a police officer is an accused party. Prosecutors must be insulated from political pressure where the suspect of the case involves someone politically powerful. The independence issue in law enforcement and prosecution is both institutional and individual. Where the PNP releases findings of a scientific investigation the integrity of such findings becomes an issue of institutional credibility. Where a police report is made, the integrity of such report is an issue of individual credibility.

But the current institutional frameworks of the law enforcement and prosecution pillars render them extremely vulnerable to political pressure and

harassment. In particular these vulnerabilities are found in the following institutional mechanisms:

a) Local government units are mandated by the local government code to provide funding support to the police and prosecutors in their respective jurisdictions. In practice many local government adopt discretionary and highly negotiable processes for the infusion of resources to the pillars. Most local governments provide monthly allowances and travel allowances to policemen, prosecutors and their staff based on amounts determined at the discretion of the executive head. Support for office facilities, cars and equipments and in some cases support personnel are also done on a discretionary basis. This renders the individual policeman and prosecutor personally beholden to the mayor on whom the decision to increase and release allowances and perks depend.

b) The prosecution service is an organic unit of the Department of Justice and reports administratively to the Secretary of Justice. The lack of institutional independence of the NPS renders it highly vulnerable to political pressure in cases where high-ranking government officials are the accused parties. The institutional independence of the Prosecution Service is an essential part in ensuring an impartial preliminary investigation and prosecution.

c) The vulnerability of the police to politicization also lies in the appointment, promotion and disciplinary systems of the police force. LGUs have a hand in deciding on police recruitment and promotion, along with the President who also exercises these powers, and with members of Congress who send recommendations to the police regional directors or PNP Chief. Police discipline is also exercised by LGUs, NAPOLCOM and the President. This system severely undermines unity of command and authority of the PNP Chief and the integrity of the human resources management system, erodes accountability and renders the PNP extremely vulnerable to politicization.

d) Low remuneration renders policemen and prosecutors vulnerable to corruption. According to PNP officials about 80% of policemen in Metro Manila live in poverty and in slum dwellings. The salary of senior prosecutors is lower than the entrance basic pay of a medium-sized law firm in Makati.

Judicial independence

The independence of the Judiciary is enshrined in the constitution but its operationalization is undermined by mechanisms that render it vulnerable to undue political influence. For example the annual budget of the Judiciary is subject to detail scrutiny and determination by the other branches of government and its release is negotiable due to the transactional approval release process. The executive branch reviews and approves the creation or modification of the Judiciary's administrative structure and staffing and the realignment of its budget. LGUs also provide funding support to the courts on a highly discretionary basis. Some LGUs provide monthly and travel allowances and equipment upon the personal request of the judge and upon the personal approval of the LGU head. Judicial appointments are vulnerable to undue political influence if its procedures accommodate political recommendations. Low judicial remuneration also renders judges and court personnel vulnerable to

bribery while centralized control of administrative and financial decision making accompanied by highly discretionary management decision making threatens decisional independence from within the judiciary itself. The Judiciary is initiating several reform measures to insulate the courts from undue politicization, but many of these reforms require corresponding reforms in the operational policies, processes and practices in LGUs and in the Executive Branch. A proposed legislation must be passed on Congress to effect and sustain judicial independence.

(3) THE JURISDICTIONAL STRUCTURE OF THE COURTS EVOLVED OVER TIME AND MUST NOW BE REVIEWED AS TO ITS IMPACT ON EFFICIENCY AND ACCESS TO JUSTICE

The jurisdictional structure of the courts is defined both in geographical and functional terms [12] and therefore the manner in which the jurisdictions of the courts is structured will have profound implications on geographical access on the one hand, and case management efficiency as well as judge capacity on the other.

The jurisdictional structure of the courts evolved over time as the court responds to specific needs. Family courts, drug courts, heinous crimes courts were established by designating or converting specific lower courts. Proposals to create small claim courts to facilitate processing of small claims cases, the reassignment of small and less complex cases from Sandiganbayan to the RTCs or first level courts and the establishment of court-annexed mediation system should be considered within the broader and more comprehensive review of the jurisdictional structure of the courts.

(4) COMPLEXITIES IN THE CURRENT RULES OF COURT AND CRIMINALIZING CERTAIN LAWS CONTRIBUTE TO CONGESTING THE LOGBOOKS OF THE POLICE AND PROSECUTORS AND THE DOCKETS OF THE COURTS

Feliciano and Muyot argues that the complexity of the court procedures further delay litigation. According to the authors there are aspects of procedures which the Supreme Court must address like the problem of language in court proceedings, including the need to seriously look into the translation of legal documents, prioritization of cases where communities are represented (e.g., prioritization of cases in the Rules of Court in favor of the indigents), and removal of reinterpretation of court processes that effectively remove judicial redress to marginalized sectors or communities.

Their study pointed to the Constitutional requirement where a judge must repeat all the facts of a case in a decision as contributing to delay. According to them since judicial writing causes delay there is need to distinguish between cases that deserve lengthy decisions from those that do not. If a judge is not mandated to repeat all the facts relevant to the decision, then it will greatly shorten the time necessary to write or pen decisions. The same authors pointed to strict compliance

[12] Geographical jurisdiction defines the authority of the court over the case based on the location of the subject or issue in dispute. Functional jurisdiction defines the authority of the court to take cognizance of the case based on such factors as disputing parties, subject of dispute, geographical locations of the subject parties, and punishment or penalty involved.

to pre-trial procedures so that the parties may agree on certain things, and not make it subject to objections when trial has commenced.

4.1.10 Feliciano and Muyot also sees the need to adopt continuous trial instead of the practice of piecemeal or segmented trials which is currently underutilized or even flagrantly ignored by judges. The Continuous Trial System requires that the presiding judge (a) adheres faithfully to the session hours prescribed by law; (b) maintains full control of the proceedings; and (c) efficiently allocates and uses time and court resources to avoid delay. This is a mode of judicial fact finding and adjudication with speed and dispatch so that trials are held on the scheduled dates without needless postponement. Feliciano and Muyot also proposed to:

a) Decriminalize and de-penalize certain offenses where there is specific party. For example, legislation is proposed to abolish the crimes of prostitution, vagrancy, unjust vexation, premature marriages, failure to render assistance of or assume public office, simple disobedience to an agent or a person of authority, causing alarms and scandals, and traffic violations. A deeper study on this matter is thus called for to determine the viability of this proposal.

b) Amendment of the Bouncing Checks Law (BP Blg. 22) must likewise be studied, so that (a) the case can only brought to the regular courts if the dishonored check is of specified amount or higher, and (b) checks issued as guarantee for an obligation is excluded from its coverage.

c) Adjustments in the threshold amounts in crimes against property under the Revised Penal Code, such as theft and estafa, to make them more attuned to the times. These amounts, which determine the corresponding penalty, were determined some 70 years ago. If the Code is amended, many crimes against property will be resolved at the level of the level of metropolitan and municipal courts, instead of the regional trial courts.

(5) DISJOINTED AND UNCOORDINATED CASE MANAGEMENT SYSTEM ACROSS THE PILLARS

4.1.11 Poor coordination between the courts and court-related agencies, particularly those involved in law enforcement has been cited by diagnostic studies as one of the primary causes of judicial delay. Policemen, agents of the National Bureau of Investigation, and medico-legal officers fail to appear on the dates they were scheduled to take the witness stand. This unduly burdens and compromises the case of the prosecution, who may end up failing to establish proof beyond reasonable doubt in a given case. There are instances where warrants or subpoenas are not served by the police or by process servers, or indispensable laboratory reports not submitted by government forensic chemists.

4.1.12 Officials of court-related agencies moreover engage in turf-wars or grandstand in jurisdiction disputes. This often destroys the purpose of investigations when agencies concurrently submit conflicting reports and recommendations.

4.1.13 While there are efforts to coordinate case management across pillars, a formal procedural mechanism needs to be put in place together with harmonization in skills,

synchronize processes and rules and the corresponding inter-pillar workflows, and improve inter-personal relationships among policemen, prosecutors and public attorneys. There are several areas that need to be harmonized across pillars such as rules and procedures; case management processes, information technologies and information management and sharing, core competencies, and institutional frameworks. To address the above issues, there is a need for a legislation to better define and refine the duties and limitations of the court-related agencies to avoid overlapping of functions and responsibilities, as well as properly enforce coordinative requirements among agencies concerned.

(6) WEAKNESSES IN CRIME INVESTIGATION AND CASE MANAGEMENT CAPACITIES OF THE POLICE FORCE CONTRIBUTE TO THE LOW CONVICTION RATES AND THE HIGH ARCHIVAL RATES IN THE LOWER COURTS

4.1.14 In September 2002, the PNP released its *Handbook of Operational Procedures*, a manual of twenty six (26) operational procedures to guide every police officer in the performance of his or her functions. The Handbook is a review, update and compilation of the PNP operational rules; it substitutes the June 1997 Revised Rules of Engagement, and details the procedural guidelines to cover general and special operational procedures. The Handbook provides the Rules that every police officer must follow, and which each one must know by heart.[13] But the handbook is written in highly formal and technical jargon and must be made more user-friendly

4.1.15 Rules 11 and 12 of the Handbook as mere repetitions – often verbatim reproductions – of Rules of Court provisions, specifically Rules 113 and 126 of the 2000 Revised Rules of Criminal Procedure and therefore there are no translation into specific procedural steps on arrest, search and seizures. Further the manual does not provide for the giving of Miranda Warnings to persons arrested pursuant to a warrant of arrest. RA expressly provides for the giving of the Miranda warnings to persons arrested, without distinction as to whether the arrest was done in compliance with a warrant, or was a warrantless arrest. Thus the operational rules on Miranda warnings must apply to both types of arrests.

4.1.16 While crime scene investigation is a regular and daily operation, because it requires specialized skills and capacities, it has been categorized as a specialized police operation. But the operations manual does not describe the detail and specific procedural steps and rules in crime scene investigation. Rule 13 broadly describes the documentation to be done – mainly photographs and sketches – it fails to detail how documentation is actually done, i.e. types of sketches, range of photographs, and the like. Further, although it refers to the conduct of a crime scene search, it gives no hint whatsoever of what to look for, what may be important pieces of evidence, and how to go about conducting a methodical search. Operations of the Crime Laboratory SOCO team, as described in the Crime Laboratory Manual, are far more comprehensive and precise than Rule 13. While the SOCO manual elaborates on the functions to be performed by the various technicians, and indeed provides technical descriptions of the modes of documentation and search, Rule 13 is

[13] "PNP Handbook of Operational Procedures", Foreword by then DIDM Police Director Lucas Managuelod, pp. v-vi.

extremely limited and general, describing mainly the functions of the first responder and the team leader of the investigating team.

4.1.17 The manual on crime scene investigation should be scientific and technical, and leave less to the discretion of the individual technician. It should specify how he is to document the crime scene, and defines the steps by which the search is to be conducted.

4.1.18 Another critical factor is the quality of the crime laboratory of the PNP and NBI. While crime investigation technology has advanced far in the fields of scientific investigation low budgets considerably hamper the acquisition of state-of-the-art crime laboratory technologies and training. Japan has been providing equipment and training to PNP field offices on finger print analysis. But in many cases investigation technology are not available to the many police stations in the field. The government must consider expanding alternative means of accessing modern crime investigation technologies through a combination of direct public investments, outsourcing and partnerships.

(7) SEVERE RESOURCE DEFICIENCIES AGGRAVATED BY INEFFICIENCIES IN THE INTERNAL MANAGEMENT OF EXPENDITURES CONTINUE TO SERIOUSLY UNDERMINE THE CAPACITIES OF THE LAW ENFORCEMENT, PROSECUTION, AND SOCIAL DEFENSE AGENCIES AS WELL AS THE COURTS TO DELIVER THEIR CORE FUNCTIONS

4.1.19 Severe resource deficiencies characterize justice sector agencies. In 2005 the national government investment per capita to the criminal justice system was about PhP612.77 pesos. This pales considerably when compared to the AUS$1 million per capita that the Australian government spends on the police system alone.

Table 1
THE COST OF MAINTAINING A CRIMINAL JUSITCE SYSTEM
National Government Obligations, 2005

NO	AGENCY	AMOUNT (in million PhP)
1	Bureau of Jails Management and Penology, DILG	2,247,832
2	National Police Commission, DILG	659,671
3	Philippine National Police, DILG	35,264,857
4	Philippine Public Safety College	504,442
5	Office of the Secretary, Department of Justice	1,507,189
6	Bureau of Corrections, DOJ	850,869
7	National Bureau of Investigation, DOJ	630,297
8	Parole and Probation Administration, DOJ	349,843
9	Public Attorney's Office, DOJ	565, 899
10	Philippine Drug Enforcement Agency (PDEA), OEO	141,602
11	The Judiciary	8,005,206
12	Commission on Human Rights	210,675
13	Office of the Ombudsman	535,011
	TOTAL	51,473,393

NO	AGENCY	AMOUNT (in million PhP)
	% OF TOTAL NATIONAL GOVERNMENT OBLIGATION PROGRAM	5.45
	PER CAPITA	612.77

SOURCE: BESF, 2005

4.1.20 This situation is particularly reinforced by larger amounts of MOOE budgets allocated to central offices and a much smaller amount distributed to the wider regional and local units. In the Judiciary more 70% of MOOE is allocated to the central offices while the remaining less than 30% are allocated to the more than 2000 courts. In PNP about 80% of the MOOE budget goes to central offices and units while the rest are distributed to the various regional and provincial offices and the police stations in each city and municipality. Thus police stations and court houses as well as offices of prosecutors and public attorneys are severely ill equipped. Many police stations do not have adequate transport equipment, firearms and supplies and do not have budgets for gasoline. Lower court employees bring in their own supplies and equipment and spends for minor office repairs and transport. The seriousness of these deficiencies cannot be overemphasized. If basic resources are not provided, the pillars cannot be expected to perform functions as they should.

(8) UNREALISTICALLY LOW AND UNCOMPETITIVE REMUNERATION RENDERS MISSION-CRITICAL POSITIONS IN THE CRIMINAL JUSTICE SYSTEM UNATTRACTIVE THEREBY LIMITING THE ABILITY OF AGENCIES TO RECRUIT AND RETAIN THE QUALIFIED AND COMPETENT AND RENDERING INCUMBENTS VULNERABLE TO CORRUPTION

4.1.21 Studies conducted on the remuneration systems across pillars indicate the difficulty in attracting and maintaining quality manpower due to lack of competitiveness of salaries and other compensation benefits. Despite legislated increases in the salaries of judges and policemen and the adoption of upgrading position levels for legal positions including prosecutors in the government, their salaries have remained unattractive and uncompetitive and not commensurate to the status that the position holds. About 80% of the police force lives below the poverty threshold. The salaries of judges and prosecutors are less than half the basic salaries of lawyers of medium-sized law firms. Further, policemen do not have their own pension plan such that they are not provided the social benefits that GSIS members enjoy, retirement benefits are delayed by as much as more than one year, and families of policemen who die on duty do not receive sustained benefits aside from immediate burial assistance. The remuneration system of personnel in the criminal justice system is an essential part of maintaining quality and professional workforce that are not vulnerable to corruption and who enjoy the associated prestige in the community.

(9) DEFICIENCIES IN RECRUITMENT PROCEDURES IN THE POLICE AND LOWER COURTS DO NOT WEED AWAY THE CORRUPT AND OTHER MISFITS FROM JOINING THE POLICE FORCE AND THE BENCH

4.1.22 The weaknesses in recruitment policies and procedures in the police can be attributed both to internal and external factors. The interference of external agencies and authorities over recruitment and appointment, promotion and deployment, and police discipline undermine unity of command and the authority of the Chief, PNP. There are also several internal weaknesses in the human resources management system – the inability of the testing process to weed out the morally unfit form entering the police force, the lack of career development opportunities, and the absence of a coherent and integrated personnel development policy for the police force.

4.1.23 The recruitment procedures to fill vacancy in the lower courts must likewise be studies to address weaknesses. Concrete parameters and basis for determining the fitness of applicants to the bench must be set.

(10) NEED TO STRENGTHEN AND IMPROVE THE QUALITY AND JOB RELEVANCE OF EDUCATION AND TRAINING ACROSS THE KEY PILLARS PARTICULARLY POLICE, PROSECUTION AND LOWER COURTS

4.1.24 Weak competency development systems undermine the capacities and performance of the criminal justice system workforce. Law enforcers, investigators and prosecutors need to improve their individual capacities to prevent, control and solve crimes. Policemen in particular need to improve skills in investigation, in proper arrest and search procedures that are in accordance with law and human rights, in investigation and evidence gathering, in case preparation and writing and in witnessing in court; prosecutors, public attorneys as well as judges need improved training in case management and in special crime areas such as money laundering, heinous crime, as well as in such regular functions as case preparation, prosecution for prosecutors and decision-writing and case management for judges.

4.1.25 The establishment of a corps of professionals in the investigation, control and solution of complex crimes, such as corporate crime, terrorism and transnational crimes through recruitment and training, particularly in the NBI, would be required to enable our criminal justice system to cope with the increasing global nature and complexity of these crimes.

(11) THE GOVERNMENT MUST ESTABLISH AND UNIFY THE PUBLIC AND ADMINISTRATIVE ACCOUNTABILITY FOR THE PERFORMANCE OF PROVINCIAL, CITY AND MUNICIPAL JAILS AND CONSIDER DEVOLUTION WITH STRONG OVERSIGHT STANDARDS, MONITORING, AUDIT AND SANCTION FUNCTIONS AS A WAY TO ADDRESS DETERIORATING JAIL CONDITIONS.

4.1.26 The presence and uniform application of laws and similar treatment of prisoners and detainees would ensure/address equality, equity, and non-discrimination. Highly decentralized operations on corrections and rehabilitation with direct delivery of services lodged primarily with local government units will ensure that policies and programs better reflect the interest of clients in the local areas, and encourage wider participation in the development of programs and projects for effective delivery of correction and rehabilitation services.

4.1.27 An oversight mechanism to formulate national policies and standards on correction and rehabilitation and monitor implementation of programs and performance of agencies involved in the pillar is necessary. The arrangement will also require the identification of proper organizational placement and roles of agencies and institutions concerned; definition of the interventions to be done at the oversight level, and those at the operating or local level; delineation of functions based on appropriate horizontal and vertical compartmentalization criteria; and development of clear and effective inter-agency coordinative mechanisms and operating processes. The oversight mechanism would have the capacity to formulate overall policy

framework on correction and rehabilitation activities; strictly enforce national and international standards on prison and jail management and treatment of inmates; and ensure performance of state obligations, particularly on access to justice

(12) WITHIN THE CONTEXT OF SEVERE RESOURCE LIMITATIONS, THE GOVERNMENT MUST DISCOVER STRATEGIES FOR IMPROVING THE EFFICIENCY IN THE USE OF RESOURCES FOR SOCIAL DEFENSE AND THUS BE ABLE TO REACH A GREATER PORTION OF THE POOR IN NEED OF JUSTICE REMEDIES

4.1.28 The provision of legal assistance to pauper litigants is provided primarily by the Public Attorney's Office (PAO) in the Department of Justice. There are several other agencies providing legal assistance. This fragmentation and uncoordinated provision of legal assistance to the poor in the government indicates expenditure inefficiency due to duplication of vertical structures and overhead expenditures that are needed to manage the service delivery.

4.1.29 Access to justice by the poor is hindered among others by lack of lawyers. The current social defense system of the government is weak, fragmented across various departments and lacks resources. There is opportunity to integrate the social defense system and strengthen the Public Attorney's Office. Government needs to mobilize and synchronize public and private sector legal resources for the poor.

(13) SEVERE RESOURCE LIMITATIONS IS WORSENED BY DUPLICATION AND PROLIFERATION AS WELL AS FRAGMENTATION OF FUNCTIONS PARTICULARLY AMONG LAW ENFORCEMENT AND LEGAL ASSISTANCE AGENCIES

4.1.30 The constitution provides for a one, national police force. But in actuality, there are 34 policing agencies including the PNP and NBI that perform overlapping functions and jurisdictions. The government's efforts to curb criminality resulted in the creation of specialized crime agencies which in actual operation still utilizes the PNP's police force.

4.1.31 The Public Affairs Office of the DOJ is primarily mandated under the law to provide legal assistance to pauper litigants. There are other government agencies that provide similar services, including the Bureau of Agrarian Legal Assistance in the Department of Agrarian Reform, Commission on Human Rights, and the Philippine Overseas Employment Administration, to name a few.

4.1.32 The integration of legal assistance units of government agencies into one organization, or the privatization of such services may be looked into to optimize resources and/or channel such resources to much needed concerns.

(14) NEED TO IMPROVE GEOGRAPHICAL ACCESS TO CRIMINAL JUSTICE SYSTEM AGENCIES

4.1.33 In the area of public sector corruption access to OMB services are limited by lack of technology, insufficient number of prosecutors and investigators, poor investigation facilities, and limitation in the geographical presence of OMB offices at the regional

level. Regional access is said to limit access by complainants and whistle blowers where LGU corruption is concerned. Meanwhile limited investigation and prosecution manpower and technologies hamper evidence gathering and case preparation and therefore contribute to delay and high dismissal rates in corruption cases.

4.1.34 Geographical access is likewise an issue with regard to the Shari'a Justice System. Geographical accessibility is evident in the to establish or to provide the services of Shari'a Courts in areas with Muslim communities where there are no Shari'a courts in regions outside of Mindanao. There is a need for clear direction on where to file cases in areas where there are no Shari'a courts and where the judiciary cannot immediately provide direct access to them.

(15) ABSENCE OF INTEGRATED CRIMINAL JUSTICE INDICATORS AND INFORMATION MANAGEMENT SYSTEMS AND TECHNOLOGY HAMPERS BOTH COORDINATION ACROSS PILLARS AND EFFICIENT OPERATIONS MANAGEMENT WITHIN EACH PILLAR

4.1.35 Lack of information technology particularly in managing caseload, is deficient in all justice sector agencies. Courts do not have an integrated case management information system and this hinders the capacity of judges to efficiently manage caseload and prevent delay, as well as the Supreme Court to supervise the lower courts and monitor the performance of judges. Police stations do not have automated case management information systems and this hinders crime mapping, crime monitoring and crime management both at police station and at national levels. In the case of NPS and PAO computer-aided case management systems will be needed to facilitate the tracking and prioritization of cases as well as support sound time management of prosecutors and public attorneys while allowing enterprise wide performance monitoring and evaluation that inputs to strategic planning and institutional development.

(16) THE PERCEPTION AND/OR REALITY OF PERSISTENT CORRUPTION AND POLITICISATION OF THE CRIMINAL JUSTICE SYSTEM REFLECTS LACK OF PUBLIC ACCOUNTABILITY AND MIRRORS THE LACK OF CAPACITY OF COMMUNITIES TO DEMAND APPROPRIATE JUSTICE REMEDIES

4.1.36 The perception of corruption in the criminal justice system persists. Vulnerabilities to corruption are deeply embedded in dysfunctions in structures and functions, in law and policy-making processes, public service delivery and regulatory systems, and procurement and financial management systems, among others. They are found in unclear rules of the game; in the convoluted procedures that migrate through layers of unnecessary and overlapping authority structures that undermine transparency and accountability; and in the lack if not absence of accessible and quick reaction grievance, complaint and sanction mechanisms that will ensure the rectification of the wrongdoing and the punishment of the participants to the corrupt act.

4.1.37 Mechanisms for community empowerment is still weak as evidenced by inadequate public knowledge and understanding of the rules and the processes by which the law is enforced or the service is provided, and the high tolerance for corruption both by the general public as a whole and the victims in particular.