



Final Report – Final Draft

# **2003 Assessment of the Public Attorneys' Office (PAO)**



In cooperation with the Supreme Court  
Republic of the Philippines



With the support of the United Nations  
Development Programme

La Salle Institute of Governance

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## Executive Summary

The Public Attorney's Office (PAO) was created to serve as the frontline government agency in delivering free legal services to indigent litigants in judicial and quasi-judicial proceedings. This study conducted by the La Salle Institute of Governance, with the support of the United Nations Development Programme (UNDP), is a component of the Action Program for Judicial Reform (APJR) of the Supreme Court. It aims to generate a careful and thorough assessment of the institutional capacity of the PAO to provide legal assistance to the poor.

Specifically, this research addresses two key questions:

1. Is the present institutional capacity of the PAO adept in delivering services to the poor?
2. Does the present organizational structure provide effective, efficient and speedy access to justice for the disadvantaged?

This study offers an organizational diagnosis of the PAO. Data was generated through the use of various social science research techniques, including surveys, focus group discussions, key informant interviews and secondary data analysis. Feedback from the PAO lawyers on the problems, issues, challenges, threats, weaknesses as well as strengths and opportunities besetting their office and their suggestions for improvements were drawn from a self-administered survey that covered 398 (45.3%) respondents out of 878 PAO lawyers. On the other hand, secondary data analysis of the individual



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performance reports submitted by the PAO lawyers throughout the country was conducted. Data was available for the last quarter of 2000, and the years 2001 and 2002.

Focus group discussions were conducted at the Manila City Jail and the La Union Provincial Jail in order to derive experiential inputs from the beneficiaries of the PAO services. Lastly, interviews were conducted with key informants from the National Prosecution Service (NPS) and the Prosecutor's office both in the urban and rural areas to generate relevant insights on the transactional relationship between the NPS and the PAO. The data generated by the research was analyzed using the following performance indicators: adequacy, availability, affordability, accessibility, capability, coherence, and flexibility.

Contrary to public perception, our research indicates that the PAO is able to provide adequate and affordable access to justice for its poor clients despite immense resource constraints. However, the PAO has reached its peak capacity with further expansion in services already heavily constrained by a limited budget. With demand for its services expected to rise even further in the coming years, the sustainability of its operations is severely challenged. To strengthen the PAO as a justice delivery system for the poor, the study recommends the following reform measures:

### **1. Governance Reform**

- A. Strip the PAO of its none-core functions and concentrate in defending the accused in criminal proceeding
- B. Pass a law that will institutionalize the PAO as a corporate entity
- C. Devolve direct legal services to local governments



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## **2. Human Resource Management**

- A. Review the compensation package for PAO lawyers
- B. Continuous training and capacity-building

## **3. Public-Private Partnerships**

- A. Promote civil society participation in legal aid provision
- B. Encourage the use of alternative dispute resolution
- C. Promote transparency and accountability
- D. Link up with academic institutes in capacity-building efforts

## **4. Empowerment of the Poor**

- A. Introduce an indigent card system
- B. Strengthen voice mechanisms for the poor
- C. Develop a good communications strategy

## **5. Special Programs for the Vulnerable Sectors**

- A. Provide special attention to children, women, indigenous people, and disabled persons
- B. Improve legal access to the poor in Mindanao

The findings of the study were presented in a roundtable discussion held on 26 June 2003 at The Pan Pacific Hotel Manila. While the study endeavored to provide a holistic assessment of the PAO, it is largely limited to the perspective of the PAO lawyers themselves, from the data gathered from their reports and from their answers in the self-administered survey.



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# 1

## Introduction

*“What is the essence of justice: equality or expediency, fairness or equality, rectification or reciprocity, rehabilitation or revenge?”*

- Jose W. Diokno, *A Filipino Concept of Justice* (1981)

In a developing country like the Philippines, an effective and efficient judicial system is a bulwark of defense for all citizens. The judicial system is ideally conceived to be free from the influence of power and wealth. Courts are expected to offer a venue where the poor and powerless can assert their equality in the eyes of the law. In reality, the courts in many countries are often overtly or subtly biased against the poor. Many of the world’s poor have chosen to avoid their legal systems altogether rather than face intimidation, and bear costly litigation proceedings they know they cannot win. Those living in the countryside, as well as those with claims that are small for the court system but important to the claimant, and those who need speedy justice, sometimes find the courts completely inaccessible. Thus, many reformers in both developed and developing countries are interested in programs that will help improve access to justice by the poor.

### Imperatives of Judicial Reform

Through the years, issues and problems have gradually eroded the public’s trust and confidence on the Philippine justice system. These include “delays in the resolution

*“The judicial reform program will give priority to reforms on . . . the efficiency of delivery of judicial services . . .”*

Action Program for Judicial Reforms

of cases, perception of graft and corruption in the courts, perception of politicization of the judicial appointment process, and limited access to justice (Action Program for Judicial Reform, 2001, p. 2).” The appointment of Hilario Davide, Jr. as Chief Justice of the Philippine Supreme Court in 1998 provided an impetus for genuine

legal and judicial reform. Under his leadership, the *Action Program for Judicial Reform* (APJR) was adopted in 2001. The APJR was founded on the vision statement enunciated





under the Davide Watch, which aspires for a “judiciary that is independent, effective and efficient, and worthy of public trust and confidence; and a legal profession that provides quality, ethical, accessible and cost-effective legal service to our people and is willing and able to answer the call to public service (APJR, p.11).” To realize this vision for the Philippine justice system, a key mission identified by the Supreme Court is to improve access to judicial and legal services. Thus, “reforming substantive law, jurisdictional structure of the courts, rules of court, judicial systems and procedures, legal education, as well as the institutional processes and resource generation strategies will be geared toward consolidating gains that will increase geographical as well as financial access to judicial services particularly by the poor and other disadvantaged sectors of society (APJR, p. 12).”

Hence, the Philippine justice system, with support from international donors and civil society, is currently engaged in a long-awaited process of renewal. It is premised on the principle that a successful democracy is dependent on the assurance that there is willingness to hear all voices and interests especially the underprivileged class. However, judicial reform should be grounded on an in-depth organizational and institutional analysis of legal assistance, agencies and mechanisms.

The La Salle Institute of Governance project on the *Assessment of the Public Attorney's Office* (PAO) supported by the Supreme Court through the assistance of the United Nations Development Programme (UNDP) is a component of the APJR. It aims to view the strategic importance of providing legal assistance for the disadvantaged sectors. The main concern is to arrive at a careful and thorough understanding of the present institutional capacity of the PAO to deliver services to the poor.

### **Access to Justice**

The PAO is the principal arm of the government for providing legal services to indigent parties. This is in accordance with the provision of the 1987 Constitution, which states, “free access to courts and quasi-judicial bodies and adequate legal assistance shall



not be denied to any person by reason of poverty (Section 11, Article 3, 1987 Philippine Constitution). As a constituent unit of the Department of Justice, the PAO may serve as counsel for indigents in civil, criminal, administrative or labor cases. It provides non-judicial legal services, such as legal counseling, documentation and mediation. It also engages in other activities, like outreach and jail visitation programs, which are all aimed at pursuing the PAO's thrust of providing immediate, responsive and competent legal services (Feliciano and Muyot, 2000). It has 16 regional offices and 251 district and sub-district offices all over the country. Besides its present role of providing direct legal assistance, the PAO has great potentials of combining and coordinating legal services from both the public and private sectors for indigent groups. It is the intention of the APJR to strengthen the PAO's role to provide citizens a "judiciary that is independent, effective and efficient, and worthy of public trust and confidence; and a legal profession that provides quality, ethical, accessible and cost-effective legal service to our people and is willing and able to answer the call to public service."

*"Free access to courts and quasi-judicial bodies and adequate legal assistance shall not be denied to any person by reason of poverty."*

Section 11, Article 3  
1987 Constitution

This research documented the extent to which the PAO's effort to deliver services are measured. It identified the gaps in the legal assistance available to the disadvantaged. The research also solicited recommendations and suggestions for the improvement of the PAO's services. The two key questions for the research are as follows:

1. *Is the present organizational structure and institutional capacity of the PAO adept in delivering services to the poor?*
2. *Does the present organizational structure provide an effective, efficient and speedy access to justice for the poor?*

## **Public Attorney's Office**



The historical precursor of the PAO was the Agricultural Tenancy Commission, which was later renamed as the Tenancy Mediation Commission (TMC), created under Republic Act No. 1199. It was further reinforced and renamed as the Office of the Agrarian Counsel (OTAC) with the passage on August 8, 1963 of Republic Act No. 3844 otherwise known as the Agricultural Land Reform Code. The necessity of providing more accessible legal services to the poor resulted in the expansion of the agrarian related assistance provided by OTAC to include civil, criminal, administrative, and labor cases. Hence, the Citizen's Legal Assistance Office (CLAO) was created under Presidential Decree No. 1 and Implementation Order No. 4, dated October 23, 1972. The office originated with 10 regional and 26 district offices and a work force of 94 lawyers.

*"PAO . . . . gives flesh and blood to the constitutional policy of promoting social justice . . ."*

- Chief Justice Hilario G. Davide Jr.

On July 25, 1987, the CLAO was again renamed as the Public Attorney's Office (PAO) by virtue of the Administrative Code of 1987 (Executive Order 292). Since then, the PAO as a constituent unit of the

Department of Justices (DOJ) has endeavored to provide free legal services to the indigent sector in the Philippines. This is consistent with the provision of the 1987 Constitution in which the "State shall promote social justice in all phases of national development" (Section 10, Article 2). From approximately 169,205 civil and criminal cases it handled in 1992, the number grew to over 408, 145 in 2001. It also managed to serve a total of 5,400,637 clients for the whole year of 2001. The PAO field lawyers have won 2,694 cases through acquittals and favorable judgments/decisions in civil cases before the lower courts and other quasi-judicial and administrative bodies from January 2001 to September 2002 (Public Attorney's Office, 2002).

The primary mission of the PAO is to represent indigents in judicial and quasi-judicial cases. The following are considered indigent:

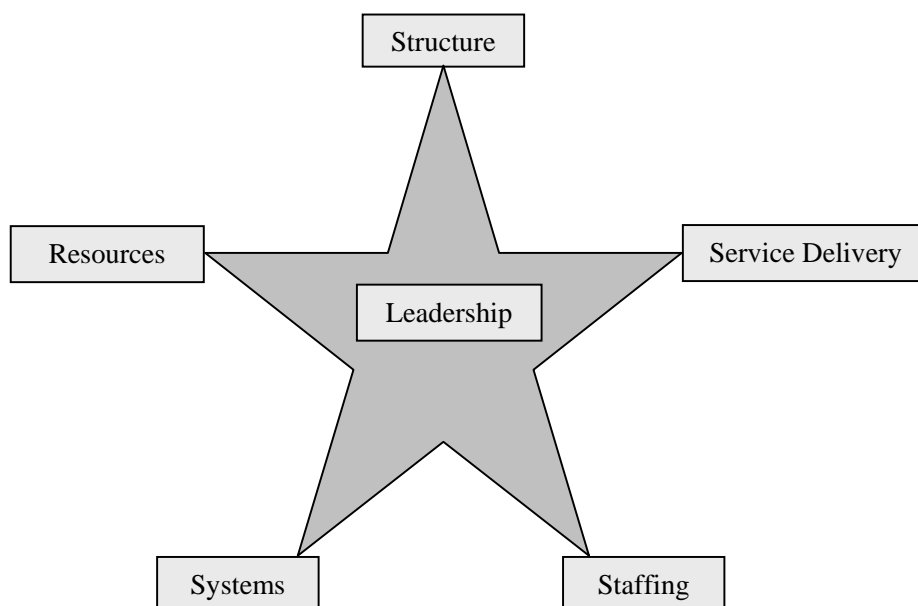
- Those residing in Metro Manila, whose family income does not exceed P14,000 a month;
- Those residing in other cities whose family income does not exceed P13,000 a month; and,
- That residing in all other places whose family income does not exceed P12,000 a month.

The PAO renders non-judicial services such as mediation, conciliation, counseling, administration of oaths and documentation services to meet the legal aid needs of indigent persons. It also conducts outreach activities and extends legal assistance by virtue of agreements with other government offices.

### Assessing the PAO

In assessing the organizational structure and institutional capacity of the PAO, the five-point Star Model was utilized. The presumption is that an organization is best described by reference to five main areas with an influence and bearing on each other and is balanced by Leadership which is found in the middle of the star that pulls and keeps the balance of the main areas. The areas are structure, staffing, service delivery, systems, and resources.

**Figure 1.1**  
**The Star Model**



The research was conducted from December 2002 to May 2003. Utilizing the methods of secondary data/content analysis, self-administered survey, focus group discussions, and key informant interviews, the study culled data from PAO lawyers, their clients, and their counterparts at the National Prosecution Service (NPS).

The base information collected has been utilized to assess the institutional capacity of the PAO to deliver services to the poor. The data-gathering phase of the project also solicited recommendations and suggestions for the improvement of the PAO's services. The research data generated in this study contains:

### **1. *Secondary Data Analysis***

Secondary data analysis is the study of the Individual Performance Reports submitted by PAO lawyers across the archipelago. The written reports for the years 2001 and 2002 and the last quarter of 2000 were encoded and classified according to the required variables of the organizational diagnostic framework. This process provided data regarding the PAO's performance in the resolved and pending cases during the study period. However, the database generated by the research team is limited only to the individual performance report records made available by the Central Office. For the last quarter of year 2000, 7 regions were represented, for year 2001, 14 regions, and for year 2002, all 16 regions were represented.

### **2. *Self-administered Survey***

A self-administered survey was conducted to consider another set of parameters for assessing the accessibility of the judicial system to the disadvantaged sectors. The survey covered a total of 398 respondents out of 878 PAO lawyers (45.3%). Specifically,



the survey probed the perception and assessment of the PAO lawyers as regards the following:

- A. Adequacy of judicial policies to protect the basic sectors;
- B. Attention and fair treatment given to these basic sectors; and,
- C. Acceleration of the judicial process.

### **3. Focus Group Discussion**

Focus group discussions (FGDs) among selected current clients of the PAO were conducted to determine and generate qualitative data regarding their perceptions on the different kinds of services the PAO provides. The FGD was conducted at the Manila City Jail with seven randomly selected participants. On the other hand, the FGD was conducted at the La Union Provincial Jail with seven randomly selected participants.

### **4. Key Informant Interview**

Interviews were conducted with key informants from the central office of the NPS and the Prosecutor's office both in the urban and rural areas. This generated relevant insights on the transactional relationship between the informants and the PAO. The informants relayed their perspectives on the state of transactional interactions they have with the PAO and pointed out the available data and documentation in their office which were available for research along this area of concern.

**Table 1.1**  
**Matrix of Indicators and Methodology**

Research Component	Indicators	Subject	Methodology
Organizational Diagnosis	Adequacy Availability	PAO Lawyers	Secondary Data and content analysis
Feedback from PAO lawyers	Affordability Accessibility		Self-administered census type survey
Experiential Input	Capability	Clients	FGD



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Side Study Institutional Relationship	Coherence Flexibility	National Prosecution Service	Key Informant Interview
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In order to assess the quality of legal services available to the poor, there is a need to identify the factors for effective access to justice. The following criteria are important in determining the impact of legal assistance given by the PAO:

- A. *Adequacy* – The concept of adequacy requires the PAO to provide sufficient and satisfactory services that are made available to indigent groups. Regardless of status, every citizen must be accorded with competent representation in the courts and other quasi-judicial bodies through speedy trial proceedings.
- B. *Availability* – The ease of use of legal documents that can be accessed by the client and his/her counsel is an inevitable requirement to prepare both in court appearances.
- C. *Affordability* – Litigation consumes not only time, but also financial resources. Since the PAO is intended to serve indigent groups, there is a need to consider the costs incurred by the poor clients in terms of money, person-hour, and opportunity cost.
- D. *Accessibility* – Unlike affluent clients, underprivileged clients cannot demand quality time from their lawyers. It is the function of the PAO to provide quality legal assistance and proper consultation hours to listen to clients before proceeding to trial.
- E. *Capability* - Litigation is an arduous task that requires practitioners to be competent in dealing with cases in an efficient and effective manner.
- F. *Coherence* - Policies regarding free legal assistance are expected to have a unified structure to guide both practitioners and indigent clients
- G. *Flexibility* - Aside from the policy structures, it is also important to note the capacity of the practitioners to adapt to a variety of situations.



The PAO is strategically important in providing the first line of defense for the disadvantaged sectors. This study asserts that a careful and thorough understanding of the PAO and its institutional capacity to deliver services to the poor will assist policymakers in soliciting recommendations as well as suggestions in improving the agency's performance in providing access to justice.

### **Limitations of the Study**

The assessment of the Public Attorney's Office rests primarily on the PAO lawyers themselves, from the data gathered from their reports and from their answers in the self-administered survey.

While the methodology also included a beneficiary point of view in the two FGDs conducted, the results cannot be taken as representative sample of the beneficiaries themselves since the participants were only drawn from those currently detained. Past beneficiaries or even indigents on bail have not been asked.

The functional relationship drawn from interviews of key informants from the NPS may not be totally representative of the view of the NPS. Despite these limitations, the scientific validity of the research remains.

The study can be better appreciated together with the other baseline studies under the Action Program for Judicial Reform (APJR) that also refer to the Public Attorney's Office.



# 2

## Organizational Diagnosis

On September 21, 1972, President Ferdinand Marcos signed Presidential Decree No.1 creating the Citizen's Legal Assistance Office (CLAO). Were it not for the fact that Martial law was declared in the same breath, the occasion of creating an institution of public defenders would not have been eclipsed. It would take a revolution 15 years later before President Corazon C. Aquino through Executive Order 292 would rename the CLAO as the Public Attorney's Office (PAO). This organization would be the embodiment of Article XI, Section 3 of the Freedom Constitution of 1987.

Since then, the PAO's organizational structure has been, in many ways, frozen in time. This organizational diagnosis rests on the Star Model that focuses on key strategic areas. Below are the findings obtained for each key result area in the Star Model. It is presented with today's situation at hand confronting the challenges of tomorrow.

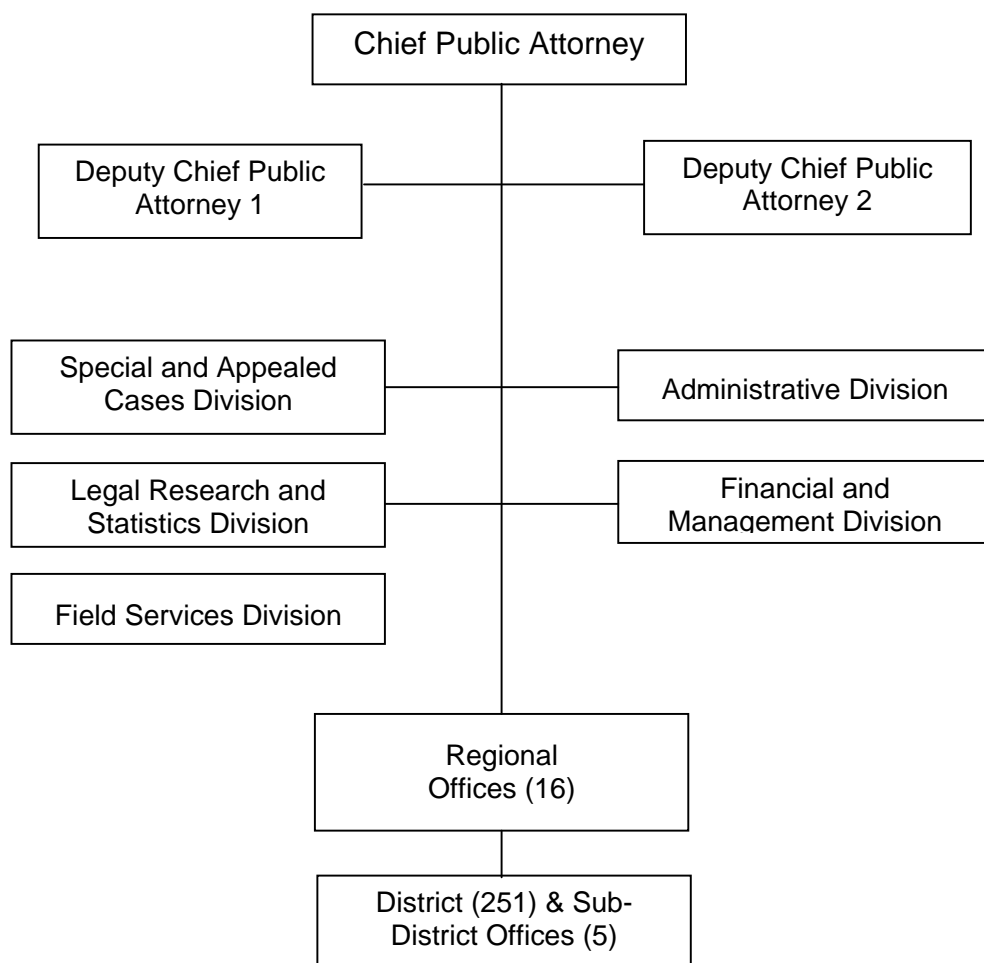
### Structure

The PAO is a government agency that directly reports to the Secretary of the Department of Justice (DOJ). As the frontline unit of the DOJ in the delivery of legal services, the PAO is present in 16 regional offices where 251 district offices belong.

In the central office, there are five divisions, namely the Administrative, Financial, Special and Appealed Cases, Legal and Research Statistics, and Field Services. The organizational structure of the agency is shown in Figure 2.1. A Chief Public Attorney who is assisted by two Deputy Chief Public Attorneys heads the PAO. Over the years, additional frontline offices were established without changing the basic structure.

The Legal Research and Statistics Division functions as the research arm of the PAO. It prepares development research, legal studies, information packets and publications. It likewise maintains a law library and a statistical database. On the other hand, the Field Services Division coordinates services to regional offices and at times, is in charge of special projects. Recently, the statistics function of the Legal Research and Statistics Division was transferred to the Field Services Division.

**Figure 2.1**  
**PAO Organizational Structure**



For cases on appeal, the Special and Appealed Cases Division handles the workload in the Central Office. Locating the unit centrally seems appropriate and strategic. For example, indigents laden with death row sentences are given special attention.

Essentially, the PAO organizational chart does not have a steep hierarchical shape. The flattened base is a good indicator that the bureaucracy levels are not that daunting. Communications from top management can readily reach the technical base. The relative autonomy given to district offices shows that decentralization of the PAO has allowed it to serve their target clientele with relative dispatch.

The centralization of core functions like finance, administration, and human resource development has kept a tight reign over the organization. The control aspect has been beneficial for the organization in terms of disciplining itself to work within the allocated budget. It may, on the other hand, have limited the organization from being more attentive to special regional needs.

In a large organization such as the PAO, the abilities of its personnel-related units are sorely tested when these functions are highly centralized. Since even Regional Offices do not have the financial and administrative leeway, field personnel feel an inordinate delay in the processing of their personal requirements. Lawyers feel that while they have attended to their clients quickly, the organization has not been as quick in attending to their needs. This feeling is not good for the general morale of the organization.

As agencies, the NPS and the PAO being both protagonists and antagonists belong to the same mother agency, the DOJ. Invariably, this raises the question of independence of the PAO. The functional relationship of the NPS and the PAO has, however, remained at a highly professional

level as the NPS key informant interviews reveal. So even if the prosecutors and the PAO lawyers are seen together, they do not discuss cases outside work premises. In a sense, professional integrity permeates them respectively.

As one prosecutor mentions, *“As a general rule we do not compromise criminal cases. It is only the civil aspect of that case which could be compromised or settled.”*

The PAO works with other government agencies involved in the criminal justice system, such as the Judiciary, National Prosecution Service (NPS), Philippine National Police (PNP), and 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).

The PAO also links up with the Department of Social and Welfare and Development (DSWD), the National Labor Relations Commission (NLRC), and the Civil Service Commission (CSC). The agency is closely coordinating with various professional groups such as the Integrated Bar of the Philippines (IBP).

### **Staffing**

The top three posts of the PAO are appointed by the President of the Philippines upon the recommendation of the DOJ. This includes the Chief Public Attorney as well as the two deputies. Apparently, the present theory of the executive branch of government is that the premier post should be a political choice due not only to the abilities of the candidate but also in the trust level he or she has with the sitting President. It would serve the organization well, if the deputy positions were selected on the basis of meritocracy, as lawyers would have a higher career path to aspire for and perhaps motivate them to stay longer with the organization.

Majority of the PAO plantilla positions are composed of lawyers. The workload has, however, piled up considerably, seemingly demanding more hands to service the growing clientele. This poses a challenge because more than 90% of the available positions have been filled up. In a sense the PAO has reached the peak of its capacity.

The 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.

While the pay of public school teachers in high school compares favorably or even exceeded the rates of private high school teachers in the province, such is not the case for the PAO. The pay is definitely much lower in relation to private practice remuneration. However, even in the public sector, the PAO receives on the average 10% less than its counterpart in the National Prosecutors Service (NPS) on basic pay alone. The NPS, however, are allowed to receive allowances from local governments according to the financial health of the local coffers, which may reach up to 30% of their basic pay.

The PAO 2 with Salary Grade 25 has an annual cash compensation ranging from Php 369,000 to 422,000 while those for the Prosecutors 1 with Salary Grade 26 are at Php 402,000 at Php 457,000.

In fact, the self-administered survey shows that the pay (46%) of the PAO is the primary obstacle in recruiting new lawyers, followed by the heavy workload (16.4%), and the unfavorable benefits package level (10.6%). While the salary is not the only motivating factor to retain the services of a lawyer within the organization, it is not uncommon to see the lawyers applying for available posts in the NPS.

There is no mass exodus of lawyers from the PAO as gleaned from the survey indicating that on the average a PAO lawyer stays at least 4 to 7 years with the organization. This belies the perception that the PAO has a high turnover rate.

In the table below where a cross-tabulation was made, the PAO lawyers whose ages are 41 to 50 years must have stayed 17 years with the PAO on the average. The younger lawyers whose ages run from 31 to 40 and who comprise the bulk have a median of 4 years.

**Table 2.1**  
**Number of years of stay by Age (Recoded)**

<b>Age (Recoded)</b>	<b>Mean</b>	<b>Number</b>	<b>Std. Deviation</b>
Up to 30 years old	1.79	71	1.22
31 – 40	3.74	177	2.38
41 – 50	9.22	74	6.05
61 years and older	20.67	6	10.33

In terms of professional growth, the central human resource development unit handles the PAO lawyers. It facilitates the sending of public lawyers to activities outside the organization. Among the principal provider is the Integrated Bar of the Philippines that conducts various training efforts under the Mandatory Continuing Legal Education (MCLE) programs.

Recently, the Supreme Court of the Philippines, the Philippine Judicial Academy and the Committee on MCLE has accredited the PAO on 5 August 2002. This is in recognition of the capability of the 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.

Training programs dealing with issues such as women, children, and labor rights are also provided by non-government organizations like Bantay Bata, and Free Legal Assistance Group, and development agencies like the United Nations Children's and Education Fund (UNICEF) and the United Nations High Commissioner for Refugees, etc.

It is not clear if a training needs assessment was conducted across all regional offices to determine what the field personnel need most to cope with the ever-changing demands and to gain more specialized training in the particular fields such as mediation.

There are stellar performances turned in by the PAO staff that belies the misconception that PAO lawyers are generally weak. Based on their win records, the ten PAO lawyers can provide stiff competition to well-paid private lawyers.

**Table 2.2**  
**Top Ten PAO lawyers in terms of total number of cases won for year 2001**

<b>R ank</b>	<b>Name</b>	<b>Regio n</b>	<b>Distri ct</b>	<b>Case s Won</b>
1	Myrna S. Lagrosa	Centra l Luzon	Malolo s	696
2	Raymundo C. Amaba	Weste rn Visayas	Roxas	680
3	Benjamin C. Medrano	Centra l Luzon	Malolo s	600
4	Bayani P. Dalangin	Centra l Luzon	Talave a	595
<b>R ank</b>	<b>Name</b>	<b>Regio n</b>	<b>Distri ct</b>	<b>Case s Won</b>
5	Dorina Catro-Baltazar	Centra l Luzon	Malolo s	589
6	Rodaflor B. Larracas	NCR	Mariki na	588
7	Teodora R. Gonzales	Centra l Luzon	Malolo s	535
8	Saji M. Hasim	South ern Luzon	Guma ca	430

9	Anna Ma. Garcia-Sibbug	Central Luzon	Malolos	423
10	Alicia I. Torres	Western Visayas	Kalibo	418

In the table above, it seems that the best performing region is Central Luzon, and the best performing district is Malolos. While the numbers listed above are impressive, it is unclear whether the best performers were provided incentives. The ability of an organization to motivate its staff rests not only on monetary terms. Apparently, in the PAO the psychic rewards of helping the poor are very strong. Recognition and tokens of appreciation in the face of inadequate material rewards must be provided so that the enthusiasm of the PAO lawyers will not flag.

### **Service Delivery**

The PAO has identified its primary beneficiary and its major clientele to be indigents requiring legal aid. The beneficiaries whose annual gross family income is within the poverty level as defined by PAO Memorandum Circular No. 18, s.2002 under the heading "Amended Standards Office Procedures in Extending Legal Assistance", belongs as indicated on a monthly basis:

- 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

Various memoranda of agreement and directives from the Department of Justice, however, have broadened the beneficiaries of the PAO. The PAO is now providing assistance to the following:

- Indigent aliens; (Based on 2<sup>nd</sup> endorsement of the Undersecretary of Justice, dated March 25, 1974)



- 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 of abandonment or neglect of a child ; (Based on directive of the Minister of Justice Neptali Gonzales dated February 10, 1987)
- Indigent laborers in labor cases; (Based on Memorandum Order dated May 19, 1988 of the Secretary of Justice)
- Agrarian reform farmer beneficiaries who have agrarian-related civil or criminal cases pending before the courts; and those beneficiaries with pending cases before the Department of Agrarian Reform Adjudication Board (DARAB) where one of the parties is represented by a DAR lawyer (Based on DOJ-DAR Memorandum of Agreement dated May 8, 1991)
- Department of Agrarian Reform (DAR) legal counsels who have been subjected to criminal and administrative complaints in connection with the performance of their duties;
- Qualified overseas contract workers in all cases within the exclusive jurisdiction of the Philippine Overseas Employment Administration (POEA); (Based on a Memorandum of Agreement among PAO, DOLE, POEA, OWWA and some NGOs, dated April 2, 1993)
- Barangay Health Workers; (Section 16. Rule II and Part 5, Rule VII of the Implementing Rules and Regulations of RA 7833)
- Immediate family members and relatives within the 4<sup>th</sup> degree of consanguinity of the PAO lawyer. (Memorandum Circular No.1, s.1998, dated February 20,1998)

- 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

### **Performance in Regular Services**

On the average, these are the number of pending cases handled by the PAO is shown in Table 2.3. The pending criminal cases per month are increasing over time. The standard deviation value of the pending criminal cases starts at 162 in year 2000 and climbs to 220 in year 2002. This means there may be a month when pending criminal case total would reach 373 cases.

**Table 2.3**  
**Average number of pending cases (on trial) of the PAO**

	<b>2000</b>	<b>2001</b>	<b>2002</b>
Pending Criminal Cases	120	143	153
Pending Civil Cases	24	31	32
Pending Admin Cases	6	7	6
Pending Labor Cases	19	24	25

In contrast, the terminated cases comprise only 8-15% of pending total for criminal cases. Civil case termination has a better percentage average at 16 –29% of pending total for civil cases. The average number of pending administrative cases seems to be well under control since termination can

reach a high of 50% of the pending administrative cases, while over time the speed for terminating pending labor cases are falling behind at 20%.

**Table 2.4**  
**Average Number of Cases Terminated**

	<b>2000</b>	<b>2001</b>	<b>2002</b>
Terminated Criminal Cases	26	10	21
Terminated Civil Cases	7	5	6
Terminated Admin Cases	3	3	3
Terminated Labor Cases	3	4	5

The termination of cases is irrespective of who won or lost. As shown in the table, shows the monthly range of cases won over the three-year study period seems more or less stable. This bolsters the theory that the PAO has reached peak in the delivery of its regular services since there is no dramatic change in the number of cases won.

**Table 2.5**  
**Range of number of cases won by the PAO**

	<b>2000</b>	<b>2001</b>	<b>2002</b>
Criminal Cases Won	11-23	11-19	9-21
Civil Cases Won	4-10	4-10	3-9
Admin Cases Won	3-6	3-8	3-7
Labor Cases Won	4-10	5-13	3-7

In fact, it can be argued that the PAO is already operating past its optimal capacity because in the delivery of its regular services, the cases it has won are horizontally flat.

Table 2.6 dramatically demonstrates the monthly backlog. Of the figures listed below, Central and Eastern Visayas registered single termination rates at 8.33% and 8.82% respectively. Western Mindanao seems to be worst off at 5.26% with Central Mindanao not too far behind at 7.65%. CAR fares badly at 6.66%.

More than the termination rates, what should be stressed is the absolute number of pending cases where Southern Tagalog takes the lead followed by Southern Mindanao, Central Luzon, Central Mindanao, and Bicol.

**Table 2.6**  
**Regular Cases pending and terminated for year 2002**

<b>Region</b>	<b>Pending</b>	<b>Terminated</b>	<b>Termination Rate</b>
Ilocos	119	14	11.76
Cagayan Valley	140	16	11.42
Central Luzon	287	64	22.29
Southern Tagalog	323	50	15.47
Bicol	218	25	11.46
Western Visayas	148	18	12.16
Central Visayas	180	15	8.33
Eastern Visayas	102	9	8.82
Western Mindanao	152	8	5.26
Northern Mindanao	166	41	24.69
Southern Mindanao	309	31	10.03
Central Mindanao	222	17	7.65
CAR	90	6	6.66
CARAGA	96	23	23.95
NCR	137	32	23.35

One thing seems clear in the service delivery component of the PAO -- the demand is much more than they can handle. The future trend of pending cases outnumbering terminated cases is certain in the absence of strategic intervention.

For the indigent clients who await the resolution of their cases while in detention, the rate of termination of cases assures them of a long and uneventful stay behind bars. Due to the indigents' ignorance of the court system, inevitably, the PAO will bear the brunt of their ire leading to the perception that "*mahina ang PAO*" (PAO is weak.).

Appeals are also on the rise. Bicol Region's data on pending cases, which were appealed from MTC to RTC was much smaller in 2000 as compared to 2002. There was an average of 4 appealed cases per month. By 2002, there was an increase in appealed cases with a range dispersal of 7 cases. This is indeed burdensome for the public defenders because besides the clogged dockets, which force them to be complacent and to wait, it adds on to the pile of work that continuously fall on their doorstep that they need to address.

### **Performance in Limited Services**

The PAO's 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 a 100% consistent clearance rate. This is because the work involved is short and transactional in nature. On the average, the PAO lawyers' service workload is 124 cases annually and 10

cases monthly, indicating that such services do not really represent a significant impact on the workload and work difficulty or complexity.

It is also important to note the trend in the arraignment assistance provided by the PAO. There was a decline in the total number accused for arraignment from the year 2000 to the year 2002. The data for the year 2000 shows an average assistance of 26 individual accused. It decreased by an average of 2 accused by 2001 and by 2002.

### **Performance in Instant Services- Oaths Administered**

Oaths administered for administrative cases are falling. The trend is downwards. The downward trend is also found in the oaths taken at the Prosecutor's offices. However, the oaths in civil cases are swinging upwards. From an average of 22 oaths in year 2000 to almost double the number in year 2001 as well as the more than 20% increase in the standard deviation value, meaning the numbers are going up. Oath taking, on the other hand can take as quick as 1 minute to accomplish. It is not certain whether this is actually a good performance indicator to monitor.

**Table 2.7**  
**Instant Services – Oaths Administered**

	<b>2000</b>	<b>2001</b>	<b>2002</b>
Total no. of Oaths administered	Mean 166.27 Std. Dev. 511.82 Median 52.00	Mean 190.41 Std. Dev. 593.42 Median 75.00	Mean 151.82 Std. Dev. 435.58 Median 55.00
Total no. of Oaths in criminal cases administered	Mean 26.07 Std. Dev. 19.03 Median 24.00	Mean 43.24 Std. Dev. 56.11 Median 28.00	Mean 57.59 Std. Dev. 89.95 Median 23.50

Total no. of Oaths in civil cases administered	Mean 22.57 Std. Dev. 15.60 Median 21.50	Mean 39.28 Std. Dev. 59.69 Median 23.00	Mean 36.98 Std. Dev. 88.20 Median 15.00
Total no. of Oaths in administrative cases administered	Mean 59.66 Std. Dev. 41.13 Median 68.00	Mean 54.60 Std. Dev. 84.15 Median 15.00	Mean 36.86 Std. Dev. 58.43 Median 14.00
Total no. of Oaths in Prosecutor's Office cases administered	Mean 53.50 Std. Dev. 31.81 Median 53.50	Mean 22.81 Std. Dev. 18.99 Median 20.00	Mean 24.70 Std. Dev. 32.06 Median 17.00
Total no. of Oaths in labor cases administered	Mean 5.00 Std. Dev. Median 5.00	Mean 12.51 Std. Dev. 11.79 Median 10.00	Mean 16.73 Std. Dev. 33.66 Median 6.00

### **Performance in Instant Services – Documents Prepared**

It is interesting to note that in a high urbanized region such as the NCR region, the levels of documents prepared by the PAO lawyers on a monthly basis do not show any dramatic ups and down from year 2000 to 2002. The median is at 30 documents in year 2000, slightly dips to 28, and then goes back to 30.

However, when we consider a much less urbanized region like Central Luzon, the demand for document preparation is at least 300% more! The trend is even going up during the same time series period.

**Table 2.8**  
**Instant Services – Documents Prepared, National Capital Region**

<i>NCR</i>	<b>2000</b>	<b>2001</b>	<b>2002</b>
Total no. of case documents prepared	Mean 42.82 Std. Dev. 44.73 Median 30.00	Mean 43.91 Std. Dev. 41.58 Median 28.00	Mean 42.39 Std. Dev. 43.44 Median 30.00
Total no. of documents prepared in criminal cases	Mean 24.54 Std. Dev. 25.82 Median 16.00	Mean 29.42 Std. Dev. 32.05 Median 16.00	Mean 26.71 Std. Dev. 29.70 Median 15.00
Total no. of documents prepared in civil cases	Mean 14.61 Std. Dev. 21.94 Median 6.00	Mean 13.01 Std. Dev. 16.60 Median 7.00	Mean 11.95 Std. Dev. 16.82 Median 5.00
Total no. of documents prepared in administrative cases	Mean 4.52 Std. Dev. 4.62 Median 3.00	Mean 5.37 Std. Dev. 6.36 Median 3.00	Mean 6.13 Std. Dev. 9.86 Median 3.00
Total no. of documents prepared in Prosecutor's Office cases	Mean Std. Dev. Median	Mean 11.51 Std. Dev. 15.13 Median 5.00	Mean 11.81 Std. Dev. 18.55 Median 5.00
Total no. of documents prepared in labor cases	Mean Std. Dev. Median	Mean 7.51 Std. Dev. 11.04 Median 4.00	Mean 7.28 Std. Dev. 8.29 Median 4.00

The demand also for such documents can swing dramatically at any month because of the huge standard deviation values, meaning in the Central Luzon region there could be a month in year 2002 when the total



number of case documents prepared can hit 970. The figures also show that it is just possible that in the same given month more than 500 of those cases documents are civil cases.

**Table 2.9**  
**Instant Services – Documents Prepared, Central Luzon**

<i>Central Luzon</i>	<b>2000</b>	<b>2001</b>	<b>2002</b>
Total no. of case documents prepared	Mean 376.92 Std. Dev. 486.31 Median 143.00	Mean 439.79 Std. Dev. 588.75 Median 201.00	Mean 410.44 Std. Dev. 560.44 Median 200.00
Total no. of documents prepared in criminal cases	Mean 154.33 Std. Dev. 148.43 Median 78.50	Mean 176.71 Std. Dev. 161.32 Median 100.00	Mean 181.86 Std. Dev. 167.83 Median 120.00
Total no. of documents prepared in civil cases	Mean 121.93 Std. Dev. 150.81 Median 48.00	Mean 140.67 Std. Dev. 162.00 Median 50.00	Mean 291.57 Std. Dev. 273.12 Median 50.00
Total no. of documents prepared in administrative cases	Mean 181.00 Std. Dev. 173.15 Median 270.00	Mean 222.26 Std. Dev. 194.81 Median 298.50	Mean 225.58 Std. Dev. 182.34 Median 280.00
Total no. of documents prepared in Prosecutor's Office cases	Mean 126.07 Std. Dev. 134.26 Median 58.00	Mean 109.57 Std. Dev. 141.57 Median 20.00	Mean 114.23 Std. Dev. 135.50 Median 20.00
Total no. of documents prepared in labor cases	Mean 100.82 Std. Dev. 94.32	Mean 129.07 Std. Dev. 118.45	Mean 124.74 Std. Dev. 120.17

	Median 47.00	Median 68.00	Median 76.00
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Another highlight of this two tables are the amount of documents demanded in labor cases in Central Luzon (increasing median), which is 25 times more than the demand in the NCR region. The figures makes sense if the demand for documents in labor cases in the NCR are more absorbed by other entities like labor unions thus decreasing the reliance on the PAO.

While admiration can be heaped upon for the Central Luzon region for producing such an output, it should be noted that these outputs are done practically in manual fashion, in which case, these items consume a lot of time. As time eaters, they compete for the limited time of the PAO lawyers.

### **Performance in Mediation and Conciliation**

In the Mindanao regions, the total number of disputes handled for mediation is significantly less than the regions of Luzon. In Southern Tagalog, it would be an average of 154 disputes with a large standard deviation value of 615 while in Southern Mindanao, it would be 23 with a very small standard deviation value of 16 for the year 2001. In 2002, Central Luzon region would have a mean of 510 while Central Mindanao would have only 19.

From the figures, it is apparent that a growth area for mediation and conciliation is the Mindanao regions. Whether it is the capacities of the PAO lawyers or the culture of the people in the area to distrust the PAO as a mediator that provides a low statistical data is yet to be determined. Nevertheless, if justice is correlated to peace, this area should be red flagged.

**Performance in Outreach activities – Clients Assisted During Custodial Interrogation**

The trend is decreasing significantly. The monthly mean and standard deviation value are falling. From an average of 19 clients in 2000, it would slide to 15 in 2002 with the top range decreasing from 131 to 60 during the same period. Is evidence being gathered among the poor increasing without the benefit of the presence of a lawyer? Or are the interrogators like the Bureau of Jail Management and Penology informing the PAO less when their subjects are indigent?

Dialogues are in order with the agencies that conduct custodial interrogations since the data shows less agency-to-agency cooperation. However, the Southern Tagalog region is an exception as it marginally improves its assistance during custodial interrogation. Table 2.10 shows the region's performance.

**Table 2.10**  
**Number of clients with criminal cases assisted during Custodial Interrogation**

<b>Region</b>	<b>2000</b>	<b>2001</b>	<b>2002</b>
Ilocos	Mean 37.28 Std. Dev. 78.36	Mean 19.64 Std. Dev. 46.49	Mean 17.08 Std. Dev. 35.78
Central Luzon	Mean 25.47 Std. Dev. 39.82	Mean 45.00 Std. Dev. 65.78	Mean 42.22 Std. Dev. 55.09
Southern Tagalog	Mean 44.58 Std. Dev. 99.88	Mean 51.96 Std. Dev. 129.68	Mean 61.58 Std. Dev. 188.86
Bicol	Mean 23.00 Std. Dev. 24.06	Mean 9.43 Std. Dev. 8.58	Mean 5.59 Std. Dev. 3.69

NCR	Mean 5.81 Std. Dev. 7.76	Mean 3.91 Std. Dev. 4.68	Mean 4.70 Std. Dev. 5.06
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### **Performance in Jail Visitation**

Looking at the trends, as a whole the PAO lawyers are actually increasing jail visits. From an average of 24 prisoners in year 2000 to 32 prisoners in 2002 is a 33% increase. This outreach must be seen in a positive light because their heightened visibility increases their profile of being pro-poor.

**Table 2.11**  
**Jail Visitation – Number of Prisoners Provided Assistance**

	<b>2000</b>	<b>2001</b>	<b>2002</b>
Total no. of prisoners provided assistance	Mean 20.49 Std. Dev. 24.91 Median 14.50	Mean 29.58 Std. Dev. 35.26 Median 20.00	Mean 23.70 Std. Dev. 35.60 Median 14.00
Total no. of prisoners in criminal cases provided assistance	Mean 23.78 Std. Dev. 30.11 Median 15.00	Mean 30.01 Std. Dev. 39.21 Median 15.00	Mean 31.58 Std. Dev. 45.30 Median 18.00

Table 2.11 shows that the most number of prisoners who were provided legal representation were in Central Luzon with a monthly average of 58.06 while CAR region has a monthly mean of 7.75. Not only did the Central Luzon PAO offices provided the most number of legal representations but it also conducted the most number of prisoner interviews with an average of 50.21 cases monthly with a standard deviation of 45.90.

**Table 2.12**  
**Performance in Jail Visitation – Legal Representation, 2002**

<b>Region</b>	<b>Total No. of Prisoners provided with Legal Representation</b>	<b>Total No. of Prisoners with Criminal Cases provided with Legal Representation</b>	<b>Total No. of Prisoners with Civil Cases provided with Legal Representation</b>
Ilocos	Mean 10.10 Std. Dev. 15.10	Mean 19.17 Std. Dev. 25.51	Mean 14.75 Std. Dev. 5.32
Cagayan Valley	Mean 17.27 Std. Dev. 29.37	Mean 7.30 Std. Dev. 4.84	Mean 4.00 Std. Dev. -
Central Luzon	Mean 58.06 Std. Dev. 56.89	Mean 60.80 Std. Dev. 66.97	Mean Std. Dev.
Southern Tagalog	Mean 27.18 Std. Dev. 31.74	Mean 20.25 Std. Dev. 17.98	Mean 19.14 Std. Dev. 18.84
Bicol	Mean 24.52 Std. Dev. 23.62	Mean 22.71 Std. Dev. 12.23	Mean 25.00 Std. Dev. 7.07
Western Visayas	Mean 47.40 Std. Dev. 41.02	Mean 32.76 Std. Dev. 19.54	Mean Std. Dev.
Central Visayas	Mean 11.28 Std. Dev. 8.93	Mean 8.10 Std. Dev. 5.84	Mean 2.00 Std. Dev. -
Eastern Visayas	Mean 13.44 Std. Dev. 9.85	Mean 16.40 Std. Dev. 9.52	Mean Std. Dev.
Western Mindanao	Mean 17.75 Std. Dev. 17.45	Mean 14.09 Std. Dev. 8.48	Mean Std. Dev.

Northern Mindanao	Mean 27.78 Std. Dev. 43.37	Mean 13.30 Std. Dev. 3.40	Mean Std. Dev.
Southern Mindanao	Mean 18.76 Std. Dev. 12.80	Mean 39.83 Std. Dev. 28.35	Mean 4.00 Std. Dev. 2.82
Central Mindanao	Mean 17.96 Std. Dev. 15.04	Mean 22.78 Std. Dev. 6.38	Mean Std. Dev.
CAR	Mean 7.75 Std. Dev. 4.52	Mean 6.00 Std. Dev. 4.27	Mean Std. Dev.
CARAGA	Mean 18.92 Std. Dev. 25.34	Mean 18.00 Std. Dev. 5.74	Mean 7.00 Std. Dev. 4.24
NCR	Mean 27.43 Std. Dev. 35.05	Mean 26.15 Std. Dev. 38.26	Mean 12.50 Std. Dev. 10.43

It also holds true with the average prisoners interviewed in the conduct of jail visits. Central Luzon has an average mean of 50.21 with the standard deviation of 45.90. It shows that it is 29 prisoner interviews higher than that of NCR.

**Table 2.13**  
**Performance in Jail Visitation – Prisoners Interviewed, 2002**

Region	Total No. of Prisoners Interviewed	Total No. of Prisoners with Criminal Cases Interviewed
Ilocos	Mean 7.17 Std. Dev. 20.19	Mean 17.28 Std. Dev. 38.43
Cagayan	Mean	Mean

Valley	11.30 Std. Dev. 22.64	1.85 Std. Dev. 1.13
Central Luzon	Mean 50.21 Std. Dev. 45.90	Mean 41.90 Std. Dev. 33.60
Southern Tagalog	Mean 18.11 Std. Dev. 32.79	Mean 17.33 Std. Dev. 17.64
Bicol	Mean 12.28 Std. Dev. 7.46	Mean 11.29 Std. Dev. 7.34
Western Visayas	Mean 13.57 Std. Dev. 10.05	Mean 12.63 Std. Dev. 15.58
Central Visayas	Mean 9.69 Std. Dev. 7.04	Mean 5.28 Std. Dev. 4.85
Eastern Visayas	Mean 6.02 Std. Dev. 5.81	Mean 6.85 Std. Dev. 5.83
Western Mindanao	Mean 7.53 Std. Dev. 5.20	Mean 8.14 Std. Dev. 6.61
Northern Mindanao	Mean 19.74 Std. Dev. 36.66	Mean 14.33 Std. Dev. 4.22
Southern Mindanao	Mean 7.72 Std. Dev. 4.98	Mean 7.33 Std. Dev. 3.05
Central Mindanao	Mean 9.48 Std. Dev. 7.03	Mean 11.56 Std. Dev. 6.54
CAR	Mean 3.75 Std. Dev.	Mean 3.28 Std. Dev.

	2.94	2.22
CARAGA	Mean 9.79 Std. Dev. 12.88	Mean 11.22 Std. Dev. 6.15
NCR	Mean 21.93 Std. Dev. 27.41	Mean 24.15 Std. Dev. 29.40

### **Performance in Women Clients**

One of the more significant analyses of the secondary data for women clients involved in new cases is the fact that the Southern Tagalog region tops the list with double figures whereas the other regions maintain single digit values across the three-year period. In 2001, it received an average of 30 women clients while the next closest region, which is the CAR would only have 12, the rest have only 3 to 5 new women clients. For year 2002, in the Southern Tagalog region, the women clients involved in new criminal cases would be 20 on a monthly basis reaching up to 47, CAR, on the other, would have only 1.

The average total of women clients handled would have an average of 83 and 72 cases for year 2001 and 2002 respectively for Southern Tagalog.

Since there is an unusual demand in this region, adjustments in the PAO are in order to receive the growing population of women clients. Special trainings can be devoted to the Southern Tagalog region to make it more sensitive and attentive to the needs of the women clients.

### **Performance in Youth Offenders**

Northern Mindanao region sticks out in 2001 for having the most number of youthful offenders involved in new criminal cases. During this period, there would be a 26 to 90 minors per month. This is in sharp contrast even with nearby Mindanao regions such as Southern Mindanao, which



would only have 5 or even Central Mindanao, which would have only 1. While the numbers would fall in 2002 for Northern Mindanao to an influx of 5 to 11 minors per month, they still lead the list in the south.

In Luzon, Central and Southern Luzon have large minor populations involved in new criminal cases. Southern Luzon would post an average of 26 to 60 minors per month, with Central Luzon posting 10 to 26 minors per month for the year 2002.

It is unclear whether there is a special juvenile unit in these three regions. The data presents an opportunity area for the PAO Central Office to provide more trainings to the PAO in the area regarding the appropriate psychological approach in handling kids. While the origins of crime are complex, the growing involvement of the youth in these areas bears looking into.

## **Systems**

Pleadings, replies, petitions, complaints, answers which need to be filed in lower courts, quasi-judicial bodies, and other administrative offices can be signed off by the attending lawyer and co-signed by either the District Public Attorney, Regional Director or designated senior lawyer in the regional offices. In the Central Office, the Division Chief or his designate can co-sign the document. The relative ease by which approvals are made has made the decentralized units quicker in engaging the judicial and quasi-judicial bodies.

Transfers of cases from one lawyer to another are made upon the approval of the head of the unit. For cases to be appealed, the district office undertakes an evaluation of the cases for merit prior to allowing the designated lawyer to prepare and sign a Notice of Appeal that is to be co-signed by the district head. The notice together with the case file is then forwarded to the Central Office to be handled by the SAC Division. This

system is followed for cases to be brought to the Court of Appeals as well as to the quasi-judicial bodies.

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,"

## Resources

Limited and obsolete equipment and facilities hamper the PAO from fully utilizing technology as a partner. Technology can actually assist the PAO district offices speed up the pace of paperwork. Forms can be in templates, research for most common cases such as those drug related can be made available for everybody to peek in for their research. Presently, it is a tool not being used on office- wide. We are not even discussing the benefits of internet technology to help the PAO lawyers be more efficient.

As an agency heavily dependent on the national budget allocation where salaries, and overhead eat nearly 80% of their budget, the PAO is limited in investing in items to do better service.

The effect of a limited budget for miscellaneous fees definitely limit the quality of service of given to the poor. Unless part of the recruiting standards of the PAO staff are due to their linguistic abilities, the table below shows that 90% of all PAO do not use interpreters in dealing with their clients.

**Table 2.14**  
**Island Groupings By Use of Budget for Interpreter Services**

<b>Island Group</b>	<b>Yes</b>	<b>No</b>	<b>Total</b>
Luzon	11	66	77
Visayas	5	54	59
Mindanao	2	39	41
NCR	7	65	72

While the Department of Budget and Management (DBM) may constantly trim away at increased budget requests, the PAO has not been able to mobilize a great part of resources available outside the government system. Resources does not always mean money, it may also mean volunteer labor, non-governmental participation in certain areas of its service delivery, seeking donations from philanthropists and corporate sponsors for tools and equipment.

The absence of a resource mobilization unit or assignment of regular duties to a staff unit has increased the dependency on national government for the PAO needs. So the process for preparing the budget for presentation to DBM follows the bureaucratic route, and because of lack of proper indicators, the allocation of meager resources has been done on a ratio basis of the spread of its personnel rather than on demand side.

In critical regions where backlogs are piling up, getting law schools, civil society, even the discretionary funds of congressmen to help out in providing justice for the poor are largely untapped.

## **Leadership**

The Leadership aspect not only refers to the Chief PAO. Although, she has great weight in setting the tone of the organization and maintaining a certain culture, bolstering the culture of work in the organization. This is not a government organization where most of the employees engage in watching the clock tick to 5. This is an organization wherein many if not most of the PAO spend their personal hours for official work.

The regular radio program of the Chief PAO and her ability to move around in many circles point out to her communicative and diplomatic skills needed by the agency. Her efforts to communicate to the indigents are worthwhile, but the communication effort of the leadership must be redoubled, if not more institutionalized because a little knowledge of the law by the poor goes a long way in managing their expectations about the PAO and the current justice system. There is a need for a dedicated advocacy and promotions group within the leadership so that support will come its way outside that of DBM.

The element of strictness that the Chief PAO exudes permeates down the line and serves the organization well. Complaints about the PAO from

the field by clients or even judges can be brought to her attention for internal investigation. In this practice, fairness applies, and PAO lawyers have been reprimanded for slacking off or even suspended.

The PAO has also harped on its social responsibility to create a bond of idealism among its people. The hymns and pledges written help beef up these themes. The fact that the bulk of the PAO lawyers are below 40 years old speak of a youthful and energetic body which will be open to radical organization change if the leadership so decides.

Policy implementation is also a burden of the leadership. In this regard, policy reforms that need to be studied due to changing situations in the judicial landscapes need to be sought out. Studies such as these contribute to a better understanding of the PAO. Within the PAO, there must be a senior study group as well. There is no lobby group assembled by the leadership for getting things changed. Much of the limits of the PAO can be attributed to its core nature. It has no corporate mandate, nor legislative charter that grants it special autonomy or financial flexibility. In this way, it is constrained from fulfilling the vision laid out in the Constitution. The present situation need not be locked in this fashion until desperation occurs with the deluge of indigents if a more developmental management approach is taken.

# 3

## Indicators of Access to Justice

A significant component of the *Action Program for Judicial Reform* is providing the disadvantaged sectors access to justice. A first and crucial step in this endeavor is determining the issue and current situation of the disadvantaged in relation to their access or non-access to justice. Thus there is a need for baseline studies that will generate data on the current situation of the disadvantaged groups' access to justice, and identify what other sectors or components under the judicial system need to be improved or strengthened in order to facilitate access to justice by these sectors. The following are the findings of this study in accordance with the following performance indicators: adequacy, availability, affordability, accessibility, capability, coherence, and flexibility.

### Adequacy

The concept of adequacy requires the PAO to provide sufficient, satisfactory, and competent services that are made available to indigent groups. An initial reading of the data will indicate the following. The

*Despite constraints, the PAO across all its regions provides adequate legal representation to indigents.*

constraints revolve largely on the technical manpower of the regions to absorb the huge number of cases brought to their doorstep. Apparently, the PAO is in need of more research aides. The need for research

aides (33.5 %) to assist the PAO topped the list in the self-administered survey that was conducted, followed by paralegals (19.8%) and law clerks (19.7%) placing second and third respectively. Such necessity was expressed considering that on average there are 33 new cases per month and per region with a standard deviation of 49 new cases. Note that the standard deviation measures the dispersion for interval data by finding the variation around the average variable. This could determine which data is

significant and allows us to identify relationships between two or more variable or whether a sample is present in the population. Of these new cases, 77% comprise criminal cases.

The adequacy indicator also allows us to be holistic in our approach by including those sectors that are often neglected and overlooked. We then proceed to the analysis of sex demographics and give more attention to women clients. Are the women clients better represented by women lawyers? The demography of the PAO lawyers demonstrates a predominantly male population, which constitute 62.6%. In contrast with the 2001 overall data on pending cases, cases involving women show that resolution of their cases take longer than the average. It is significant because the figures show that out of 6,883 overall case, only 3,027 of the cases are terminated, while for women's 645 cases, 276 cases are ruled in their favor. Therefore, in cases involving women, the pace is almost 50% slower compared to that of the men.

Corollary to the statement above, it warrants us to ask, "Are Muslim indigents better represented by Muslim lawyers?" In the information gathered regarding the lawyers' religious affiliation, out of 398 PAO respondents, there are only 5 PAO lawyers who are Muslims, which constitutes 1.3% of the respondent population. Nevertheless, in Southern Mindanao for example, the average monthly number of criminal case favorable to clients is 15, while the average number unfavorable is 6. This unexpected result shows that regardless of the small number of Muslim PAO lawyers, seemingly, the Muslim clientele still has a fighting chance in court.

For detainees represented by PAO lawyers who complain about the slow pace of the resolution of their cases, blame has been mistakenly heaped on their lawyer. In the Focus Group Discussion (FGD) conducted inside the Manila City Jail, one participant mentioned "*...naiinip na rin kami. Halimbawa, dapat ang sentensiya naming sabihin na nating 5 years. Pero lumalampas kami doo...meron diyang seven years na!*" (...we are already tired. For

example, our prescribed punishment is supposedly 5 years only. But we exceed that. There are some who's been here for seven years already!). However, in the same FGD, the participants expressed satisfaction over the manner by which their case was being handled which was not challenged by the others.

### **Availability**

*Generally, case materials are not available for review by the indigent clients.*

The concept of availability refers to the ease of use of legal documents that can be accessed by the client and his/her counsel that is an inevitable requirement to prepare in court appearances. The self-administered survey manifested a significant large population of PAO lawyers who claimed that the time given to confer with their clients was not reasonable. A total of 137 respondents (34.4%) claimed that there was not enough time to discuss the cases with their clients in contrast with the 32 (8.0%) who said that they do.

In the FGD, when the clients were asked where and how many times they confer with their counsels, one of the participants replied “...*minsan pumupunta ho sila dito, minsan dun kami...katulad nung isang abugado ko, minsan lang po*” (sometimes they come here...at other times we do it in the court...just like my lawyer, we only met once). There was another participant who was asked whether he knows his counsel's name and he said that he only knew him by face. These instances in which the clients only meet their lawyers face-to-face deprives them a good deal of preparation for court appearances. There were inadequate formal discussions with regard to the nature of the offense filed against them. Hence, case and client familiarity, which is crucial prior to court appearances appear lacking.



The secondary data proves the point even further if we analyze the total number of clients the PAO counseled. In Western Mindanao alone, although there were fluctuations in the trend, the average number of clients counseled is 68 per month in the year 2000. It declined slightly to an average of 59 cases in 2001 but improved to 102 by 2002. This improvement is not adequate enough to prove that quality time is allotted to those indigents seeking legal counsel.

### **Affordability**

Litigation consumes not only time, but also financial resources. Since the PAO is intended to serve indigent groups, there is a need to consider the costs incurred by poor clients. Most of the PAO lawyers provide for the personal and professional service necessities of their clients that are mostly non-reimbursable. In the self-administered survey, for example, 89.4 % of the respondents spent their own money for their client's photocopying needs. With respect to the urban FGD on the other hand, the participants reiterated that they never gave money to their counsels. A female client shared her experience when she attempted to give her lawyer a small amount of money for snacks. The lawyer declined the offer thus embarrassing her never to repeat it again.

*PAO lawyers shell out of their own pockets to cover extra expenses to defend their clients.*

Despite shelling out of their own pockets, the self-administered survey results show that the present salary grade prevents the PAO further in their recruitment of new lawyers 46% of the respondents identifying low salaries as a hindrance in attracting new lawyers to boost their district offices.

## Accessibility

At present, there is a perception that there is a double standard of justice in the country. It is perceived that if the person charged with an offense is affluent, he/she can buy their way out of justice. On the other hand, the

*PAO is structured to address the needs of the indigent mostly as respondents but not as complainants.*

poor cannot even afford to post bail.

Access to justice also evokes questions on the standard of justice being provided by PAO.

Does an aggrieved indigent seek the services of the PAO as a complainant or accused? Apparently, if the indigent is charged and is brought before the judge without a lawyer to represent him, the judge provides the indigent with a public attorney from the ranks of the PAO. If, on the other hand, the indigent has a complaint against another person, the complaint, if it is criminal in nature, is first lodged with the police authorities who bring it to the attention of the Prosecutors. Seldom do we see a case wherein the indigent seeks a PAO lawyer to file a civil case in his behalf. The secondary data analysis does not break down the number of civil cases wherein the indigent is the complainant. It is this act of seeking redress through the justice system wherein we can say that the poor trust the system and are empowered to use it.

The seemingly double standard of justice is most apparent when bail is available and the indigent cannot raise the money for bail and awaits the resolution of his case. In regions wherein less than 10% of the cases are terminated as opposed to those which are pending, the indigent will invariably stay longer in detention, robbing him as well, of the opportunity to make a living – or, in the case, of a household head detained, depriving the entire household of their sustenance, and destroying his employment, if he was currently employed. The delay in the resolution of his case can well destroy his family.

In sharp contrast are those who can post bail immediately, even if a heavier charge is levied upon them. The poor, as accuser, represented by the NPS are bewildered by the turn of events.

As to the possibility that the indigent as defendant is made to lose because his PAO lawyer took a dive, no data exists supporting that thesis. In fact, in the rural FGDs conducted, praises were heaped on the PAO lawyers by the participants, some even going on to say that even if they had money they would choose the PAO lawyer because their PAO lawyer's heart was in the right place.

### **Capability**

*Individually, PAO lawyers are competent to handle their case efficiently and effectively.*

Litigation is an arduous task that requires practitioners to be competent in dealing with cases in an efficient and effective manner. From 903 lawyers in December 2001, the total number of PAO lawyer has shrunk to 878 in December 2002. Nonetheless, majority of the PAO lawyers are young and less than 40 years old. Their youthful dynamism and idealism, no doubt contributes positively to case management. Amid the heavy workload and difficulties in recruiting new lawyers that burdens PAO, it has competently represented its clients efficiently and effectively. This is made evident by the number of cases won and terminated that are favorable to their clients. For instance, in criminal cases alone, PAO has the reputation of winning trials over and against their counterpart, the National Prosecution Service. In the secondary analysis for the year 2000 alone, there is an average total number of 6 criminal cases won by the PAO as opposed to the NPS'3 average cases won. With reference to the terminated criminal cases favorable to the clients of PAO, an average of 24 cases outnumbered the 7 cases of NPS. In NCR, there is an overwhelming winning average of 11 cases compared to the NPS' average of 5 cases by the year 2001. For the year 2002, we could assess the Bicol

Region as another example. There is an average of 16 cases won by the PAO over the average 2 cases by the NPS. What do these data mean? These evidence show that the PAO practitioners are capable in representing their clients even if they are burdened by a heavy workload and could be even more efficient and effective if their responsibilities are minimized.

Not only are the PAO lawyers capable in winning cases, unlike in the urban FGD in which some of the participants criticize the slow pace of case resolution, we can see a level of satisfaction with those indigents detained in provincial jails as manifested by the rural FGD. When asked if they were contented with the legal services provided by PAO lawyers, the reply of the participants were generally positive. They perceive their PAO lawyers to be approachable despite seldom instances of meetings except during court hearings. Again, they said their PAO lawyers provide satisfactory legal services. As put forth by one of the participants, *“Magaling yung abogado ko!”* (My lawyer is good!). The participants were asked if they would change their PAO lawyer had they been given a chance to select another lawyer from a list of PAO lawyers. Most of the respondents that answered the question said they would not change their lawyers. They are generally satisfied with the services of their lawyers. Changing their PAO lawyer would stifle their case, dragging it more in the process.

## **Coherence**

Policies regarding free legal assistance are expected to have a unified structure to guide both practitioners and indigent clients. Can access to justice be made efficient and effective? In trying to apply the efficiency standards of bureaucracy, is the cause of justice best served by the PAO who are the purveyors of social justice? In trying to resolve the issues revolving around the administration of justice, the courts can be perceived as administering *“bureaucratic justice.”* The goal of the system – namely,

*PAO district offices are not like law firms, but function like firms.*

bureaucratic efficiency – can become more important than the original goal of justice. However, the bureaucratic system of justice is seen as developing procedures and policies that are inadvertently discriminatory and may evoke a perception of unfairness.

In the practice of plea-bargaining, for example, the basic rationale (whether recognized or not) is the presumption of guilt of the defendant. In the self-administered survey, 83.2% of PAO lawyers said that they engage in plea-bargaining. The negotiation to achieve a guilty plea while bargaining for the best possible sentence – the lowest possible sentence for the defense and the highest possible sentence for the prosecution indicates the value of achieving the most expeditious resolution of the case. Hence, plea-bargaining is consistent with the bureaucratic value system since it is the most efficient method of getting maximum punishment for minimum work.

In the key informant interview with select members of the National Prosecution Service (NPS), one respondent volunteered, “A settlement is always good.” He added that in a case conference, which is still part of the process, conciliation of minor crimes are encouraged provided that both parties are present and both are amenable to the terms being given. It may also happen that during the conference the defendant through the PAO agrees to plead guilty so that the prosecution will pray for a lighter penalty for the crime committed. Essentially, the proceedings in court become a formality. However, settlement of major crimes such as robbery, car napping, murder, and the like has been taboo.

“Actually, there is no clear cut policy on that. Prosecutors are given enough discretionary leeway. *Ang importante lang naman* (The important thing) is the standard of justice...We should exert efforts in settling cases in minor disputes before a case is endorsed to docket for purposes of investigation,” answered another prosecutor. Moreover, he said that the DOJ should come up with a program of skills training on alternative dispute

settlements for prosecutors who have the right attitude. The objective should be on how participants in criminal justice process reconcile legal and bureaucratic forces such that bureaucratic justice unites the presumption of guilt with the operational morality of fairness.

## **Flexibility**

*PAO has not developed specialized units within its organization.*

Aside from the policy structures, it is also important to note the capacity of the practitioners to adapt to a variety of situation.

Considering the growing sectors and fragmentation of society, part of the structural development process is to address specific concerns of specific clients. The organizational structure does not present any special unit dedicated for women or even juveniles. There is no paralegal team, or even community outreach units. However, the individual public attorneys are monitored on their performance report regarding the number of youthful offenders and women clients they have served. In this sense, the data is only disaggregated for monitoring purposes. The organization, as a whole, has not fashioned itself to be more sensitive to such vulnerable sectors.

Based on the self-administered survey, most of the PAO lawyers are unsure whether their offices have specialized units handling juvenile cases. Only 3.8% of the respondents claimed that there are specialized units handling such cases, while 56% said that such offenders have designated attorneys. The confusion clearly shows that no specialized units exist because the lawyers were in speculation of its existence.

As regards pending cases with women clients in the Cordillera region, there is a monthly range of 50 pending cases per month. Comparing it to the Western Mindanao region, there is only a monthly range of 2.2 cases that involves women clients. Apparently, the incidence of women issues in the

Cordillera is significantly higher than Western Mindanao, and may be the basis for establishing specialized units to focus on these specific areas of concern.

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# 4

## Policy Recommendations

The application of a developmental and institutional approach towards the study of judicial reform involves linking initiatives to strengthen legal service delivery systems with efforts to combat poverty. In recent years, there has been a clamor in development circles to look beyond conventional income and growth indicators in understanding poverty (Allen and Thomas 2000). Those seeking to reframe poverty view it as a situation where people suffer not only from the lack of income but also from the incapacity to participate in governance and get access to legal services. As part of a poverty reduction framework, judicial reform and the application of the rule of law will enable poor people to feel secure and invest in improving their futures. An effective justice system promotes better livelihood for poor people (Department for International Development 2002).

The PAO plays a key role in the administration of justice by rendering free legal assistance to the poor. Contrary to public perceptions, our research indicates that the PAO is able to provide adequate and affordable access to justice for its poor clients. However, the PAO has already reached its peak capacity in the face of already overstretched human and financial resources. Prospects for future expansion is severely constrained by stiff budget limits. With demand for its services expected to rise even further in the coming years, the sustainability of its operations is severely challenged. In this regard, critical interventions are needed in the following broad areas of reform:

### 1. Governance Reform

The institution of governance reform will strengthen the effectiveness, efficiency, responsiveness and flexibility of the PAO in serving its poor clients.

#### *Concentrate on core functions*

The PAO has to deal with the problem of case overload. This can be remedied through the rationalization of the agency's functional mandate. At present, its lawyers





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handle a variety of cases, including criminal, civil, and quasi-judicial disputes. Cases can be more efficiently managed if the PAO will be stripped of its present non-core functions and concentrate in defending the accused in criminal proceedings. There is a need to control the multiplication of program beneficiaries.

*Pass a law that will institutionalize the PAO as a corporate entity*

Currently, the legal mandate of PAO is based on an executive order issued by the President. The continuity of the office stands on tenuous grounds since it is based on executive fiat. Hence, there is a need to institutionalize and enshrine through legislation the duty of the state to defend the human rights of poor citizens with the aid of free legal counsel.

The new policy will establish the PAO as a corporate and quasi-independent body with its own charter. It will be imbued with the fiscal authority to raise funds and accept donations. Vested with the power to raise its own revenues, the agency can generate resources to offer a competitive compensation package for its employees.

The Chief PAO shall continue to be appointed by the Office of the President with the rank of Cabinet Undersecretary under the Department of Justice. On the other hand, the Deputy Chief PAO will be a career position. This will provide a defined career track for lawyers to choose being public defenders as an attractive professional option.

*Devolve direct legal services to local governments*

Governance structures within PAO can be improved through the devolution of direct legal service functions to local government units (LGUs). The LGUs that will supervise the devolved PAO functions will include the provinces (as hosts of provincial jails) and cities (as venues of regional trial court proceedings). The PAO central office will be reduced in size but will have stronger planning, coordination, monitoring, and information management functions. A caveat, however, must be raised with regard to the phasing of devolution. Special care must be given to the disruptive effects of devolution



in the short-run such as breakdowns in staff deployment and other personnel mechanisms; dissipation of resources; lapses in reporting, accountability and quality control procedures. Efforts must also be made to prevent the possible politicization of PAO.

## **2. Human Resource Management**

The strength of the PAO as an organization will rely substantially on its commitment to build a highly competitive, competent and professional human resource base. The agency should continuously engage in capacity-building measures to produce public defenders attuned to the needs of the poor and the demands of the 21<sup>st</sup> century.

### *Review the compensation package*

The compensation package for PAO lawyers should be upgraded. While the PAO lawyers quickly attend to the needs of their clients, their own organization does not quickly respond to their needs. Offering a good benefits package would encourage the recruitment of the best and the brightest lawyers into the agency. Hiring and retention policies will be guided by the principles of meritocracy.

Performance-based pay and incentives should be introduced. The PAO personnel are promoted and retained on the basis of accomplishing the tasks specified in performance contracts.

### *Strengthen performance-based system*

The PAO currently monitors performance by requiring its lawyers to submit individual accomplishment reports on a monthly basis. This is basically a self-reporting method. Performance monitoring can be enhanced through the adoption of other tools including peer evaluation and client surveys.

The performance indicators currently used are output-based. The performance measurement system can be improved by including outcome indicators. Measures of



adequacy, availability, affordability, accessibility, capability, coherence, and flexibility are important in assessing the quality of access to justice by the poor.

*Develop new skills and competencies*

Aside from enrolling in continuing legal education programs, the PAO lawyers need to develop new skills and competencies to be effective in serving their poor clients. They require training in new performance indicator systems that consider not only outputs but also the quality of outcomes. They also need to build capacity in conducting informal mediation as well as in dealing with clients from vulnerable sectors including children, women, disabled persons, and indigenous people.

In the event that the PAO is transformed into a quasi-independent body with corporate powers, human resource development strategies should be geared toward equipping the agency's personnel with new skills. These will include competencies in the field of mediation, governance, and new public management.

### **3. Public-Private Partnerships**

The creation of public-private partnerships is crucial in responding to the huge demand for free legal services. With the proposal for the PAO to limit its legal support to poor clients in criminal proceedings, other agencies and private law groups are expected to get involved in non-criminal cases.

*Promote civil society participation in legal aid provision*

If the PAO is to relinquish the authority to accept civil and quasi-judicial cases, alternative law groups can be deputized to defend the rights of poor citizens who are charged in non-criminal offenses. The civil society organizations concerned with the justice sector that can be harnessed include law and bar associations, human rights groups, and legal aid organizations.



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*Encourage the use of alternative dispute resolution*

Human resource development and capacity building initiatives should be conducted to transform the PAO into a performance-based agency that is able to respond to the challenges of the 21<sup>st</sup> century. Training on alternative dispute resolution procedures should be accelerated. The strengthening of informal mediation mechanisms and institutions can lessen the bottlenecks in the court system and improve the conditions for the delivery of justice for the poor.

*Promote transparency and accountability*

Civil society and public interest law groups are important in partnering with the PAO in monitoring the transparency and accountability of the court system. Transparent and accountable courts are in a better position to uphold the rule of law, discourage corruption, and give justice to the poor.

The accountability of the agency can also be promoted through the holding of an annual award program for the best PAO lawyers. This can be hosted by an academic institute that will help develop indicators for judging the best performers.

*Link up with academic institutes in capacity-building efforts*

The cooperative between the PAO and academic institutes will be crucial in the transfer of new knowledge that will help the agency in providing legal services for the poor.

#### **4. Empowerment of the Poor**

The poor are often unable to gain access to justice because of institutional mechanisms giving them voice and participation in the legal process. There is a need to develop tools and systems that will empower them to claim their rights and gain access to justice.



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*Introduce an indigent card system*

The indigent card system will be a tool for accessing the services of a PAO lawyer. This will foster greater efficiency in the delivery of services for the poor.

*Create voice mechanisms for the poor*

The legal empowerment of poor citizens is pursued through the creation of feedback mechanisms. The creation of a report card system is important as a means for monitoring the performance of PAO lawyers from the perspective of the clients.

*Develop a good communications strategy*

The production of primers and multi-media material on legal literacy will provide information on how to access legal services from the agency.

## **5. Special Programs for the Vulnerable Sectors**

Training programs can be customized to respond to the specific needs of vulnerable sectors and particular regions.

*Provide special attention to vulnerable sectors*

There is a need to give special attention to the welfare needs of vulnerable groups including children, women, indigenous people, and disabled persons.

*Improve legal access to the poor in Mindanao*

Based on the study, Mindanao is an underserved region. More PAO lawyers with special training should be deployed in the region to strengthen access to justice for the poor.

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