

DOCUMENT OF THE INTER-AMERICAN DEVELOPMENT BANK

GUYANA

SUPPORT FOR THE CRIMINAL JUSTICE SYSTEM

(GY-L1044)

PROJECT PROFILE

This document was prepared by the project team consisting of: Arnaldo Posadas (IFD/ICS), Team Leader; Mariko Russell (ICS/CSU), Alternate Team Leader; Melissa Gonzalez (IFD/ICS); Norma Peña Arango (SCL/GDI); Maria Camila Padilla and Paula Louis-Grant (FMP/CGY); Nathalie Hoffman (IFD/ICS); Monica Lugo (LEG/SGO); Derise Williams (CCB/CGY); Federico Changanqui, Leila Parris and Sophia Whyte-Givans (Consultants). Beatriz Abizanda (ICS/CCR), Dana King (ICS/CTT), Ariel Zaltsman (IFD/IFD) and Guilherme Sedlacek (SPD/SDV) contributed to the quality of the document.

PROJECT PROFILE

GUYANA

I. BASIC DATA

Project Name:	Support for the Criminal Justice System		
Project Number:	GY-L1044		
Project Team:	Arnaldo Posadas (IFD/ICS), Team Leader; Mariko Russell (ICS/CSU), Alternate Team Leader; Norma Peña Arango (SCL/GDI); Emilie Chapuis; Paula Louis-Grant (FMP/CGY); Nathalie Hoffman (IFD/ICS); Monica Lugo (LEG/SGO); and Derise Williams (CCB/CGY)		
Borrower:	Cooperative Republic of Guyana		
Executing Agency:	Ministry of Legal Affairs		
Financial Plan:	IDB (Ordinary Capital):	US\$	4,000,000
	IDB (FSO): ¹	US\$	4,000,000
	Total:	US\$	8,000,000
Safeguards:	Policies triggered:	No potential policies or directives triggered	
	Classification:	C	

II. GENERAL JUSTIFICATION AND OBJECTIVES

- 2.1 **Background.** The growth of the prison population in Guyana and the overcrowding conditions in which that population is held has become a cause of great concern in the country. According to official figures, Guyana has a prison population rate of 256 per 100,000 of national population,² which significantly surpasses the world average (146 per 100,000).³ Furthermore, the prison population exceeds the country's housing capacity (overcrowding rate of 118.5%).⁴
- 2.2 **The problem.** The general problem to be addressed by this program is the overcrowding conditions at Guyana's penitentiary system. The program will address this challenge by focusing on two specific problems that contribute to that situation: (i) the over reliance by the criminal justice system on custodial sentences; and (ii) the overuse of pretrial detention.

¹ Fund for Special Operations.

² See, Institute for Criminal Policy Research (ICPR): <http://www.prisonstudies.org/country/guyana>.

³ Other countries in the Caribbean show similar or higher rates, for example: The Bahamas (363), Barbados (322), Jamaica (145), Suriname (183), and Trinidad and Tobago (258). See, [International Centre for Prison Studies \(ICPR\), World Prison Population List, Ninth Edition](#).

⁴ According to ICPR (op. cit.) the total prison population is 1944 inmates. Overcrowding is calculated by comparing the occupancy rate and the official capacity of prisons. It refers to the situation where the number of prisoners exceeds the official prison capacity.

2.3 **Overreliance on custodial sentences.** The tendency for stricter law enforcement and sentencing is a specific problem that results in significant increases in prison population by locking up persons charged with petty and nonviolent offences.⁵ According to some observers, there is currently a worldwide propensity for sentencing more offenders to imprisonment and for imposing longer sentences compared to a decade ago, a situation that overwhelmingly affects poor and marginalized people charged with petty and non-violent offenses.⁶ Alternative measures such as caution, fine, suspended sentence, or restorative justice are often overlooked in favor of the deprivation of liberty.⁷ In the Guyanese context, this problem is affected by the following determinants:

- a. Insufficient use of available sentencing alternatives. Guyanese judges have the option of both probation orders and community service orders as alternatives to imprisonment. These are particularly appropriate for young or first time offenders accused of committing less serious offences. Similarly, alternatives to prison have been encouraged in cases involving women (especially those with caretaking responsibilities) so as to take into account their background and mitigating circumstances of the offence.⁸ However, these options are rarely used, as there is insufficient institutional capacity (social workers and probation officers) to provide appropriate supervision of such orders, which causes reluctance in judges to apply the non-custodial options currently available.⁹
- b. Absence of other alternatives to imprisonment. Guyana lacks other alternatives to solving disputes that would contribute in alleviating the overcrowding conditions of its prisons. Alternatives where the victims and offenders (and some other community members) meet and agree on plans to right the situation (such as restorative justice), or where youth in conflict with the law (because of minor offenses) can be diverted from the criminal justice system, have proven successful in other jurisdictions, including in the Caribbean, as they can reduce the likelihood of the offenders to continue engaging in unlawful activities.

2.4 **Overuse of pretrial detention.** Although the universal principle of presumption of innocence implies that detaining people before their trials should be rare, this has become the default measure in many criminal justice systems worldwide.¹⁰

⁵ See, United Nations Office on Drugs and Crime, Handbook on Strategies to Reduce Overcrowding in Prisons (2010), p. 25.

⁶ Penal Reform International, Newsletter 55, p. 5.

⁷ Ibid, p. 5.

⁸ See, United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (also known as the Bangkok Rules) adopted by the UN General Assembly in 2010.

⁹ The country's Probation Service is a department of the Ministry of Human Services and Social Security. In practice the key role of probation officers is to provide reports to the Judges and Magistrates for sentencing purposes, and in the High Court to provide reports in family proceedings such as applications for the custody of children. In addition, when resources allow, probation officers go into prisons and provide counselling for prisoners. The main constraints on the effectiveness of the Probation Service are a shortage of staff, particularly staff with specialized skills including juvenile crime and drug-related crimes.

¹⁰ See, Open Society Foundations. Justice Initiative: Presumption of Guilt-The Global Overuse of Pretrial Detention (2014).

Guyana is not an exception to this concerning trend as 35.6% of Guyanese inmates are pretrial detainees¹¹ (persons who, in connection with an alleged offense are deprived of liberty following a legal process but have not been definitively sentenced by a court).¹² This overuse of pretrial detention is another contributing factor to the overcrowding of Guyanese prisons and constitutes a fairly complex challenge, as it is affected by the following determinants:

- a. Detainees' lack of legal counsel: the majority of defendants in criminal cases in the Magistrates Courts (which hear 90% of cases) are unrepresented. It has been estimated for example that in the Providence Magistrates Court, 75% of accused appear unrepresented.¹³ Cases are frequently not finalized at one sitting of the court, but adjourned and part-heard. The limited advice and representation available must be seen in the context of the fact that many of those appearing in the courts may be illiterate or have comprehension problems – it has been estimated that up to half the people appearing in the Magistrates' family court in Georgetown fall into this category.¹⁴
- b. Delays caused by prosecutors due to lack of training and resources.¹⁵ Most prosecutions of criminal offences are carried out by Police prosecutors in the Magistrates Court. The Director of Public Prosecutions handles only prosecutions in the High Court, and becomes involved in Magistrates Court prosecutions in only a small minority of cases. On any one day, around a hundred police officers are in court prosecuting cases. A Police prosecutor is assigned to a particular court, and he or she has to deal with all the cases at that court, no matter how complex or how inexperienced the prosecutor. This situation has contributed to delays in judicial proceedings. In many instances cases are not processed due to incomplete or incorrect documentation, which leads to files going back and forth several times between the Police and the Magistrates Court, thus contributing to extending the length of pretrial detentions.
- c. Frequent postponements of trials for reasons such as case overload at the Magistrate Court level,¹⁶ absence of witnesses, and lack of proper filing and tracking systems to ensure the presence of the accused in court at the appropriate times. Deficiencies in the calendaring system cause Preliminary Inquiries to not be conducted on subsequent days if they cannot be

¹¹ As way of comparison, other countries in the Region show similar or lower rates, for example: Belize (30.1%), Costa Rica (17.2%), El Salvador (26.6%), Jamaica (16.9%) and Nicaragua (12.3%) (See ICPR, op. cit.)

¹² ICPR, op. cit.

¹³ Interviews with Chief Magistrate held during Identification Mission.

¹⁴ Country Report: legal aid in Guyana - Ian Morrison, Canadian Bar Association (2015).

¹⁵ The role of the Department of Public Prosecutions (DPP) is to undertake criminal proceedings, continuing from criminal proceedings instituted by the Police. In practice, Police prosecutors deal with Magistrates Court prosecutions and the DPP prosecutes cases in the High Court. The DPP has oversight of all criminal prosecutions, and provides legal advice on criminal matters to the Police and other law enforcement agencies.

¹⁶ The Magistrates Courts are in charge of hearing cases concerning minor and more serious offenses that are not indictable (carrying a potential sentence of up to five years) and preliminary enquiries of indictable offenses (initial hearing of cases which go to the High Court for full trial).

completed on the same day. Magistrates take handwritten notes during Preliminary Enquiry, causing delays as typing the deposition up for submission to the High Court may take up to two years.

- 2.5 **Objectives.** The general objective of the program is to contribute to the reduction of high concentrations of prison population in Guyana. The specific objectives are to: (i) to increase the use of alternative sentencing in the country; and (ii) reduce the proportion of inmates who are pretrial detainees.
- 2.6 **Component 1. Increase in the use of alternative sentencing (US\$2.800.000).** This component will seek to promote a more proactive use of alternative sentencing by the criminal justice system by financing: (i) implementation of a pilot project to apply currently available alternatives to imprisonment to appropriate, non-violent offenders (paying particular attention to young offenders and to women with caretaking responsibilities)¹⁷; (ii) strengthening of the probation service (accompanied by appropriate training and information technologies) so it can put in place an adequate social support network, as well as adequate follow-up on any treatment received in and after prison, in order to better tend to the rehabilitative needs of those who present a lesser risk of reoffending, and (iii) the design and implementation of a restorative justice program, as well as a youth diversion program¹⁸ under the MOLA, to solve minor offenses or disputes through non-custodial measures.
- 2.7 **Component 2. Reduction of the use of pretrial detention (US\$3.500.000).** This component will seek to address institutional gaps that contribute to the lengthy periods detainees await to be tried in the criminal justice system. The component will finance: (i) training¹⁹ and Information Technology (IT) equipment for prosecutors, in order to contribute to reducing adjournments; (ii) pilot project under the MOLA to assist persons accused of minor offenses in pretrial detention by seeking dismissal of charges, arranging diversion where appropriate or arguing for bail and generally avoiding procedural delays (iii) implementation of a case management and court scheduling system for the Magistrate Court level as well as provision of basic equipment for a more agile disposition of preliminary enquiries; (v) training of judges and magistrates in the use of alternatives to pretrial detention, accompanied by a pilot project for the swift disposition of minor-offenses cases; and (vi) strengthening of the Law Review Commission at the MOLA in order to reform procedures related to court disposition of criminal cases;.
- 2.8 The expected results of the program include: the reduction of overcrowding in Guyanese prisons, an increased use of alternative sentencing and the reduction of pretrial detainees. The beneficiaries will be the Guyanese prison population as

¹⁷ By, for example, making support staff and lawyers available to magistrate courts and thus shortening the time required to resolve cases, reducing incarceration rates and deferring prosecutions.

¹⁸ A diversion program enables persons accused of minor offenses to avoid criminal charges by completing various requirements that may include restitution to the victim, completion of community service or education aimed at preventing future offenses.

¹⁹ Training will include subjects such as criteria for decision-making on arrest and prosecution, guidance on diversion from the criminal justice system and investigation techniques that comply with the requirements of international standards.

well as persons in who are suspected of committing crimes who will benefit from different approaches to processing and sentencing. Furthermore, as imprisonment causes considerable economic costs (for example, additional budgetary burden which reduces funds available for social services), the Programme is expected to result in measurable benefits, which will be determined during the operation's design.

- 2.9 **Strategic Alignment.** This project is consistent with the Update to the Institutional Strategy 2010-2020 (GN-2788-5) and is aligned with the development challenge of: (i) social inclusion and equality; and (ii) productivity and innovation, as well as with the cross cutting themes of: (i) gender equality and diversity; and (ii) institutional capacity and rule of law. The program is also aligned with: (i) the Sector Strategy on Institutions for Growth and Social welfare (GN-2587-2); (ii) the Citizen Security and Justice Sector Framework (GN-2771) (which identifies both the Judiciary and penitentiaries as two of its basic pillars); (iii) the Operational Guidelines for Program Design and Execution in the Area of Civic Coexistence and Public Safety (GN-2535-1); (iv) the Operational Policy on Gender Equality (GN-2531-10); and (v) the IDB Country Strategy with Guyana (2012-2016) (GN-2690).

III. TECHNICAL ISSUES AND SECTOR KNOWLEDGE

- 3.1 **Executing Agency.** The executing agency will be the Ministry of Legal Affairs (MOLA). The mandate of the MOLA is to ensure an adequate system for the administration of justice; give legal advice and provide legal services and representation for the Government; provide public registry services; and draft legislation for presentation to Parliament. The MOLA is therefore the government body with a wide enough mandate to ensure proper coordination among all concerned agencies.²⁰ The MOLA has previous experience executing reform programs financed by the Bank as it was one of the co-executing agencies in the successfully completed "Modernization of the Justice Administration System Program" (GY-L1009).
- 3.2 It is expected that this operation will be implemented in close coordination with the Citizen Security Program (GY-L1042) which focuses on violence prevention, including supporting the Guyana Prison Service (GPS) as it moves from a primarily punitive focus to a more rehabilitative approach²¹ as well as facilitation of reporting of crimes and violence through the enhancement of Guyana Police Force (GPF) capacities and infrastructure.

²⁰ Some of the justice sector entities that could benefit from the programme include the Judiciary (particularly at the Magistrate Court level), the Department of Public Prosecutions, the Guyana Prisons Service and the Department of Probations.

²¹ Among other investments, GY-L1042 finances activities supporting the GPS through the design and implementation of a rehabilitative model aligned with international best practices, the implementation of a case management program and the development of a rehabilitation and reintegration service delivery plan. See [Synergy with Citizen Security Programme](#).

IV. ENVIRONMENTAL SAFEGUARDS AND FIDUCIARY SCREENING

- 4.1 According to the results of the IDB "Safeguards Policy Filter Report", and the safeguard and Environment Policies (OP-703), this operation is classified as Category C, giving the low impact on environmental and social issues.

V. RESOURCES AND TIMETABLE

- 5.1 It is expected that the POD due date will take place on September 16th, 2016. Approval by the Board is expected by December 7, 2016. The resources needed for project preparation are estimated to be US\$40,585. The staff time needed from project preparation will be 0.98 FTEs (see Annex V).

CONFIDENTIAL

¹ The information contained in this Annex is confidential and will not be disclosed. This is in accordance with the "Deliberative Information" exception referred to in paragraph 4.1 (g) of the Access to Information Policy (GN-1831-28) at the Inter-American Development Bank.



Safeguard Policy Filter Report

Operation Information

Operation		
GY-L1044 Support for the Criminal Justice System		
Environmental and Social Impact Category	High Risk Rating	
C	{Not Set}	
Country	Executing Agency	
GUYANA	{Not Set}	
Organizational Unit	IDB Sector/Subsector	
Gender and Diversity	CITIZEN SAFETY	
Team Leader	ESG Lead Specialist	
ARNALDO ENRIQUE POSADAS	{Not Set}	
Type of Operation	Original IDB Amount	% Disbursed
Loan Operation	\$0	0.000 %
Assessment Date	Author	
5 Jul 2016	nathalieh Project Assistant	
Operation Cycle Stage	Completion Date	
ERM (Estimated)	13 Jul 2016	
QRR (Estimated)	31 Aug 2016	
Board Approval (Estimated)	{Not Set}	
Safeguard Performance Rating		
{Not Set}		
Rationale		
{Not Set}		



Safeguard Policy Filter Report

Safeguard Policy Items Identified

B.1 Bank Policies (Access to Information Policy– OP-102)

The Bank will make the relevant project documents available to the public.

B.2 Country Laws and Regulations

The operation expected to be in compliance with laws and regulations of the country regarding specific women's rights, the environment, gender and indigenous peoples (including national obligations established under ratified multilateral environmental agreements).

B.3 Screening and Classification

The operation (including associated facilities) is screened and classified according to its potential environmental impacts.

B.6 Consultations

Consultations with affected parties will be performed equitably and inclusively with the views of all stakeholders taken into account, including in particular: (a) equal participation by women and men, (b) socio-culturally appropriate participation of indigenous peoples and (c) mechanisms for equitable participation by vulnerable groups.

B.7 Supervision and Compliance

The Bank will monitor the executing agency/borrower's compliance with all safeguard requirements stipulated in the loan agreement and project operating or credit regulations.

Potential Safeguard Policy Items

[No potential issues identified]

Recommended Actions

Operation has triggered 1 or more Policy Directives; please refer to appropriate Directive(s). Complete Project Classification Tool. Submit Safeguard Policy Filter Report, PP (or equivalent) and Safeguard Screening Form to ESR.

Additional Comments

[No additional comments]



Safeguard Policy Filter Report



Safeguard Screening Form

Operation Information

Operation		
GY-L1044 Support for the Criminal Justice System		
Environmental and Social Impact Category	High Risk Rating	
C	{Not Set}	
Country	Executing Agency	
GUYANA	{Not Set}	
Organizational Unit	IDB Sector/Subsector	
Gender and Diversity	CITIZEN SAFETY	
Team Leader	ESG Lead Specialist	
ARNALDO ENRIQUE POSADAS	{Not Set}	
Type of Operation	Original IDB Amount	% Disbursed
Loan Operation	\$0	0.000 %
Assessment Date	Author	
5 Jul 2016	nathalieh Project Assistant	
Operation Cycle Stage	Completion Date	
ERM (Estimated)	13 Jul 2016	
QRR (Estimated)	31 Aug 2016	
Board Approval (Estimated)	{Not Set}	
Safeguard Performance Rating		
{Not Set}		
Rationale		
{Not Set}		

Operation Classification Summary

Overriden Rating	Overriden Justification
Comments	



Safeguard Screening Form

Conditions / Recommendations

Summary of Impacts / Risks and Potential Solutions

Disaster Risk Summary

Disaster Risk Level

Disaster / Recommendations

Disaster Summary

Details

Actions

Environmental and Social Strategy

- 1.1 The general objective of the program is to contribute to the reduction of high concentrations of prison population in Guyana. The specific objectives are to: (i) reduce the proportion of inmates who are pretrial detainees; and (ii) to increase the use of alternative sentencing in the country.
- 1.2 According to the results of the IDB “Safeguards Policy Filter Report”, and the safeguard and Environmental Policies (OP-703), this operation is classified as Category “C”, given the low impact on environmental and social issues.

INDEX FOR COMPLETED AND PROPOSED SECTOR WORK

Theme	Description	Status	Reference
Citizen Security	Empirical evidence	Elaborated	<ul style="list-style-type: none"> • Institute for Criminal Policy Research (ICPR): http://www.prisonstudies.org/country/guyana. • International Centre for Prison Studies (ICPR), World Prison Population List, Ninth Edition. • Open Society Foundations. Justice Initiative: Presumption of Guilt-The Global Overuse of Pretrial Detention (2014). • CARICOM Secretariat. Concept Note on Law Revision Unit prepared by Justice A. Zuru (2016). • Country Report: legal aid in Guyana - Ian Morrison, Canadian Bar Association (2015). • United Nations Office on Drugs and Crime, Handbook on Strategies to Reduce Overcrowding in Prisons (2010), p. 25. • Strategic Plan. Guyana Ministry of Home Affairs (2012-2017). http://idbdocs.iadb.org/wsdocs/getDocument.aspx?DOCNUM=38787330

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