



Advocacy for Human Rights in the Americas



AP Photo: Moises Castillo

## TRANSPARENCY IN GUATEMALA

### Assessing Access to Public Information

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# TABLE OF CONTENTS

<b>INTRODUCTION</b>	<b>4</b>
<b>KEY FINDINGS</b>	<b>7</b>
<b>TRANSPARENCY IN GUATEMALA: ASSESSING ACCESS TO PUBLIC INFORMATION</b>	<b>9</b>
<b>ACCESS TO PUBLIC INFORMATION</b>	<b>9</b>
<b>LIMITATIONS ON ACCESS TO INFORMATION</b>	<b>10</b>
<b>PRACTICE OF ACCESS TO INFORMATION</b>	<b>12</b>
Formal Information Requests in the Defense, Security, and Justice Sectors	<b>12</b>
Level of Compliance with Disclosure Requirements in the Defense, Security, and Justice Sectors	<b>16</b>
Availability and Quality of Statistics in the Defense, Security, and Justice Sectors	<b>17</b>
<b>BUDGET TRANSPARENCY AND EXPENDITURES IN THE SECURITY, DEFENSE, AND JUSTICE SECTORS</b>	<b>21</b>
Access to Information on Use of Public Funds	<b>21</b>
<b>DECLARATION AND PUBLICATION OF PUBLIC OFFICIALS' ASSETS</b>	<b>24</b>
<b>ACRONYMS AND ABBREVIATIONS</b>	<b>26</b>
<b>NOTES</b>	<b>27</b>

# INTRODUCTION

In the last decade, the problem of insecurity and impunity has deeply affected the people of Guatemala, El Salvador and Honduras, making this region (known as the Northern Triangle of Central America) one of the most violent in the world. High levels of violence, corruption, and impunity have eroded the capacity of the states to develop accessible and efficient institutions, and address the needs of their populations.

The absence of effective responses has weakened citizens' confidence in state institutions, leading to an alarming number of people who have been internally displaced or forced to migrate to other countries to escape the violence and lack of economic opportunities.

Against this backdrop, the Washington Office on Latin America (WOLA), the University Institute for Public Opinion (Iudop) of the José Simeón Cañas Central American University (UCA) of El Salvador, the University Institute on Democracy, Peace and Security (IUDPAS) of Honduras, and the Myrna Mack Foundation (FMM) of Guatemala have developed a tool for monitoring and evaluating the policies and strategies currently being implemented in Guatemala, Honduras, and El Salvador to reduce insecurity and violence, strengthen the rule of law, improve transparency and accountability, protect human rights, and fight corruption. This initiative has been made possible thanks to the support of the Latin America Division of the Swiss Agency for Development and Cooperation, the Tinker Foundation, the Seattle International Foundation (SIF), and the Moriah Fund.

## THE CENTRAL AMERICA MONITOR

The Central America Monitor is based on the premise that accurate, objective, and complete data and information are necessary to reduce the high levels of violence and insecurity, and establish rule of law and governance in a democratic state. This will allow efforts to move beyond abstract discussions of reform to specific measures of change.

The Monitor is based on a series of more than 100 quantitative and qualitative indicators that allow a more profound level of analysis of the successes or setbacks made in eight key areas in each of the three countries.<sup>1</sup> More than a comprehensive list, the indicators seek to identify a way to examine and assess the level of progress of the three countries in strengthening the rule of law and democratic institutions. The indicators seek to identify the main challenges in each of the selected areas and examine how institutions are (or are not) being strengthened over time. The Monitor uses information from different sources, including official documents and statistics, surveys, interviews, information from emblematic cases, and analysis of existing laws and regulations.

The indicators were developed over several months in a process that included an extensive review of international standards and consultation with experts. The eight areas analyzed by the Monitor include:

1. Strengthening the capacity of the justice system;
2. Cooperation with anti-impunity commissions;
3. Combatting corruption;
4. Tackling violence and organized crime;

5. Strengthening civilian police forces;
6. Limiting the role of the armed forces in public security activities;
7. Protecting human rights;
- 8. Improving transparency.**

The Monitor reports are published by area and by country. The first series of reports will serve as the baseline for subsequent analysis, which will be updated annually. Each annual series of reports will be analyzed in comparison with reports from the previous year. This allows researchers, civil society organizations, and other actors to assess the level of progress in strengthening the rule of law and reducing insecurity.

The first round of Monitor reports will primarily focus on data sets from an approximate 4-year time period, 2014 to 2017, in order to provide a snapshot of Central America's institutions.

The Monitor will serve as a tool for searchable, easy-to-comprehend data, delineating trends, progress, patterns, and gaps within and between the three countries of the Northern Triangle. The data, graphics, charts, and reports will be available on the Monitor's website.

This report from the Central America Monitor, produced by the Myrna Mack Foundation, will provide a baseline assessment for indicators related to improving transparency and the level of public access to government-held information, with a particular focus on security, defense, and justice sector institutions.

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## ABOUT THE RESEARCH FOR THIS REPORT

This report focuses on developments in transparency and access to information issues between 2014 and 2017, analyzing the Judiciary

(*Organismo Judicial, OJ*), Public Prosecutor's Office (*Ministerio Público, MP*), Ministry of the Interior (*Ministerio de Gobernación*), and Ministry of Defense (*Ministerio de la Defensa Nacional*), which comprise part of Guatemala's security, defense, and justice system.

The quantitative data in this report was obtained via the bibliographic review of official reports, institutional annals, and relevant information available on the official transparency web pages of the government bodies analyzed. In addition, requests for statistical information were made via the Public Information Access Law (*Ley de Acceso a la Información Pública, LAIP*) of Guatemala, which establishes a specific process by which government agencies must receive information requests and respond within a set timeframe.

We decided that the report's primary data would be obtained via public information requests, in order to evaluate the effectiveness of Guatemala's transparency laws, including the response rate to information requests and the degree of cooperation by the various government institutions that were petitioned.

The information received from the requests was analyzed to measure the quality of the data obtained. This, in itself, is a useful exercise. Gaps in data will affect policymakers' ability to implement more effective public policies, while the refusal to provide information may reveal a lack of compliance and/or transparency on the part of the state agency involved.

This report also examines reports produced by the Human Rights Ombudsperson's Office (*Procuraduría de los Derechos Humanos, PDH*), which is responsible for overseeing transparency regulations, as well as the Executive Office of the Access to Public Information Commission

*(Secretaría Ejecutiva de la Comisión de Acceso a la Información Pública, SECAI).*

Qualitative data and information were also compiled from other sources, taking into account the possibility that some state agencies might not comply with information requests. Consequently, this report uses information from interviews with experts, surveys, media coverage, and

reports by civic groups, think tanks, universities, and international organizations. This information complements official data and provides context, with the expectation that qualitative data can help provide a more complete picture of the reality on the ground. Similarly, qualitative data helps identify possible disparities by comparing existing legal frameworks with what is actually happening in practice.

## KEY FINDINGS

- In a positive sign of advancing transparency in Guatemala, between 2014 and 2017, over 90 percent of requests for information submitted to government institutions were favorably resolved, resulting in the release of public information in compliance with the law. This level of adherence with Guatemalan transparency laws helps strengthen accountability in state institutions.
- Government institutions experienced an increase in the number of formal requests for information between 2014 and 2017. However, the vast majority of these requests (85 percent) were filed in the department of Guatemala, which is home to the country's capital. This disparity poses a severe barrier to the right of all Guatemalans to remain informed, and indicates that transparency laws are rarely being used to hold local governments accountable across Guatemala's interior. According to the Human Rights Ombudsperson's Office (*Procuraduría de los Derechos Humanos, PDH*), the government institution responsible for regulating public information laws, this disparity could be due to the fact that many local government institutions lack official websites, as well as local offices dedicated to handling and processing information requests.
- Among the public security, defense, and justice institutions analyzed in the study, between 2014 and 2017, the Judiciary issued the highest number of favorable responses to public information requests, with 98.8 percent of its responses resulting in the release of the requested information, followed by the Public Prosecutor's Office. Meanwhile, the Ministry of the Interior (whose authority covers the national police force) and the Ministry of Defense (which covers the armed forces) remained below 67 percent in terms of positive responses to public information requests. These percentages, however, only refer to response rates and are not indicative of the overall quality of the data provided.
- While all institutions that administer public funds are required by law to have their own transparency websites, Guatemala lacked a central transparency portal between 2014 and 2017. Upon review, many official websites of public security and defense institutions did not fully meet the requirements of the country's national transparency law. This was particularly the case for the websites of the Ministry of the Interior and the Ministry of Defense.
- The public security, defense, and justice institutions analyzed in this study fell short in terms of fully complying with the national transparency law's requirements on publishing financial information related to budgets, salaries, and fees for contractors, and bidding processes, among other areas. This lack of transparency and accountability is worrisome as it weakens institutional legitimacy and contributes to a loss of public confidence in government.

- With the exception of the Judiciary and the Public Prosecutor's Office, not a single public institution in the security or defense sectors analyzed in the study maintained its own automated database of statistical information between 2014 and 2017.
- Between 2014 and 2017, a time period that coincided with the leadership of Attorneys General Claudia Paz y Paz and Thelma Aldana, the Public Prosecutor's Office substantially strengthened its caseload information system, known as the SICOMP (*Sistema Informático de Control de Casos del Ministerio Público*). This helped make important quantitative information about the work of the Public Prosecutor's Office more easily accessible to the public. However, in a significant setback for transparency, the Public Prosecutor's Office has moved to restrict information that it previously made publicly available.
- The Human Rights Ombudsperson's Office is responsible for monitoring the degree to which Guatemalan institutions are complying with national transparency laws. As part of its mandate, it conducts reviews and publishes annual reports. Specifically, it has published annual reports on some of the institutions it monitors, including the Judiciary and security and defense institutions. However, it has not published reports on security and defense institutions. To facilitate a comparative analysis of how fully these institutions are complying with transparency laws, it is important that the Human Rights Ombudsperson's Office use the same indicators in these reports each year. It should also consider conducting similar reports for other government institutions that oversee large amounts of state resources.
- Thanks to constant monitoring of the government's daily gazette, the Human Rights Ombudsperson's Office has been able to identify cases in which public institutions moved to restrict access to information, in violation of national transparency laws. In one such case, in 2014 the Public Prosecutor's Office set an important precedent by investigating and convicting a municipal mayor for violating transparency laws.
- While Guatemala requires that all public officials and state employees submit an official statement of their assets upon entering and leaving their position, the Comptroller General's Office (*Contraloría General de Cuentas, CGC*), demonstrated a lack of capacity to effectively review the submitted statements, let alone verify the information. The law could be made more effective if a the CGC implemented a system prioritizing certain asset declarations, such as those made by public officials in positions at a higher risk for abuse. Another issue is that, under current law, all asset declarations are confidential and inaccessible to the public.

# TRANSPARENCY IN GUATEMALA

## Assessing Access to Public Information

In April 2015, one of the most emblematic cases of corruption in the Guatemalan government publicly unfolded on the domestic and international scene: the case of “The Line” (*La Línea*). MP and CICIG investigations revealed a complex criminal network made up of individuals, including employees and public officials at all levels, including then-President Otto Pérez Molina and Vice President Roxana Baldetti. The criminal network operated within the customs system, illicitly diverting state funds to their personal benefit and to the detriment of other state initiatives that would have received these resources.

Efforts to bring individual members of the La Línea case to justice underscore the principle that no one is above the law. At the same time, the case highlights the need to evaluate and strengthen transparency and accountability

standards in government. Citizen participation in public oversight is crucial to this endeavor, including through the use of legal tools like the Public Information Access Law (*Ley de Acceso a la Información Pública, LAIP*).

Improving oversight requires greater understanding and evaluation of legal tools and processes that seek to ensure proper, transparent, and effective use of public funds in government operations. It also requires identifying best practices and proposing corrective actions that may ultimately result in strengthening the rule of law and embedding the rule of law into civic culture.

This report by the Central America Monitor focuses on the exercise of the right to access public information in Guatemala, particularly within the security, defense, and justice sectors.

## ACCESS TO PUBLIC INFORMATION

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Ratification of Guatemala’s 1985 Constitution marked the beginning of the country’s democratic era, and with it, the enactment and recognition of a series of basic rights of the population, including the right to freedom of information. The right of access to public information is essential for strengthening rule of law, since it fosters transparency, accountability, oversight, and social auditing, which are essential in every democratic society. In addition to domestic laws, Guatemala has signed and ratified several international conventions to combat corruption.

Article 30 of the Constitution establishes that the government must make public all administrative processes related to state

operations. In September 2008, Guatemala’s Congress developed this precept through enacting the LAIP (Decree 57-2008). The LAIP has not undergone any legal reforms in the 11 years since its adoption.

The LAIP establishes transparency regulations, and defines and regulates the public institutions required to comply with them. These include any public or private legal entity or individual, either national or international, and any other body that manages or administers state resources.<sup>2</sup> According to the law, state institutions must keep updated and available at least 29 different areas of data, either physically or online. Information that Guatemalan state institutions are legally

required to make public includes, but is not limited to, the following:

- The organic structure and functions of each agency and department, including its regulatory framework.
- Number and names of officials, public servants, employees, and advisors that work in state institutions. Guatemalan institutions must also publish the salaries that correspond to each office, as well as fees, allowances, bonuses, per diem, or any other economic compensation that employees and/or contractors receive for any work.
- Administrative and operational procedure manuals.
- Income and expense budgets allocated for each fiscal year.
- Monthly reports on budget allocation

categories.

- Contracts made through request-for-quotation and bidding processes and their respective contracts.
- Final reports of government audits.

The PDH is the regulatory authority in this matter in Guatemala.<sup>3</sup> In order to comply with the powers granted by the LAIP, through Agreement SG-033-2012, the PDH created the SECAI.<sup>4</sup> The PDH provides annual reports on the situation of human rights in general, and specifically on the right to access information.

To reinforce institutional compliance with the LAIP, the freedom of information law includes administrative and criminal penalties. These penalties aim to promote more open and accountable government and discourage state secrecy. However, the rare application of these penalties undermines compliance with the LAIP and weakens the rule of law.

## LIMITATIONS ON ACCESS TO INFORMATION

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The LAIP is based on the mandatory principle of maximum openness and transparency. The law also contains guidelines on accessing information deemed to be restricted or confidential.

According to Article 21 of the LAIP, information is exempt from public disclosure in accordance to the following provisions in the Guatemalan Constitution:

1. When, through an express provision of a law, the information is considered confidential.
2. When the government deems the information classified under the LAIP.

3. When a clause applies from an international treaty or convention ratified by Guatemala.

Article 23 of the LAIP defines the following information as classified (*reservada*):

1. Information related to military and diplomatic matters that falls under the label of national security.
2. Information related to intellectual property, be it industrial, patents, or trademarks, in accordance with laws, international conventions, and treaties ratified by Guatemala.

3. Information that may cause serious damage or harm to state investigations, including the prevention or prosecution of crimes related to state intelligence and/or justice procedures.
4. Judicial case files or charges that have not yet been presented or filed.
5. Information that, if disclosed, would harm the country's economic, financial, or monetary stability, including information related to oversight and inspection activities by the regulatory body, the Superintendent of Banks (*Superintendencia de Bancos*).
6. Information defined as classified under the Comprehensive Protection of Children and Adolescents Law (*Ley de Protección Integral de la Niñez y la Adolescencia*).
7. Analyses provided to the Guatemalan president concerning defense, national security, and law and order.
8. Information that has been classified as the result of another law.

When a government agency seeks to categorize information as classified, the LAIP mandates fulfillment of the following three requirements:

1. The information falls under at least one of the defined reasons for classification.
2. Release of the information threatens an interest protected by the LAIP.
3. The damage or harm that may occur from publishing the information outweighs the public interest.

These requirements are known as the "proof of damage" (*prueba de daño*).<sup>5</sup> If public institutions

meet these requirements, they must publish a resolution justifying why they are classifying the information, endorsed by the institution's highest authority, and published in the government gazette.

Under the LAIP, information categorized as classified must again become public after a period of no more than seven years. It may also be declassified if the reasons that justified its restriction are no longer valid, or if a court or competent judicial authority rules in favor of declassification.<sup>6</sup> Additionally, according to the law, these scenarios do not need to happen simultaneously in order to justify declassification of information.

According to Article 28 of the LAIP, when the seven-year classification period is set to expire, the government may extend this period for up to five additional years if it provides a justified legal argument that releasing the information could damage a protected public interest. However, in no case can the information remain classified for more than 12 years.

In contrast to classified information, confidential (*confidencial*) information has no time period for disclosure, and can remain indefinitely protected and out of public knowledge. Information is considered confidential in the following ways:

1. As defined by the Law of Banks and Financial Groups (*Ley de Bancos y Grupos Financieros*) and other laws.
2. When the information is considered a professional secret, sensitive data or sensitive personal data that can only be known by the right holder.
3. When information about individuals is registered by a public institution under guarantees of confidentiality.

According to the PDH,<sup>7</sup> public institutions have persistently fallen short in fully complying with national transparency laws. This problem necessitates monitoring moves to categorize information as either classified or confidential in the daily government gazette. This practice has made it possible to identify cases in which institutions attempt to restrict information without fulfilling the requirements of the LAIP. In some cases, the PDH has successfully taken legal action to nullify those categorizations, including the Accord 04-2013<sup>8</sup> issued by the City Council de Flores, Petén, and Act 06-2015<sup>9</sup> of the National Council for the Protection of Antigua, Guatemala.

A very important aspect to highlight is that, according to Article 24 of the LAIP, in no case may an institution classify information regarding investigations into human rights violations or crimes against humanity as confidential or reserved.

According to the PDH, the government passed two laws that strengthen transparency and accountability in 2016. These laws reinforced government institutions' obligation to publicize which information and computer systems they use. The laws include Decree 26-2016, which sought to improve campaign finance transparency and oversight, and Decree 29-2016, which mandated all state entities to publish compensation for fees and salaries under any contracting system.<sup>10</sup>

## PRACTICE OF ACCESS TO INFORMATION

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### FORMAL INFORMATION REQUESTS IN THE DEFENSE, SECURITY, AND JUSTICE SECTORS

As established by the LAIP, the PDH must release annual reports. Among other aspects, these reports must include the number of freedom of information requests submitted to public institutions, the institutions' decision on each request, response times, the status of any challenges presented, any difficulties observed in complying with the request, and analysis and recommendations to ensure proper compliance with the law.

Table 1 shows overall data published in SECAI reports concerning the management of information requests submitted to public institutions between 2014 and 2017. However,

the 2016 report did not provide specific information regarding how information requests were resolved or how information requests were filed.

Table 1 shows an annual increase in the number of public information requests submitted to state institutions, which may be interpreted as greater awareness and interest by the Guatemalan public in exercising their right to access public information.

During the four years under review, the government resolved more than 90 percent of information requests, resulting in the release of the requested information in a clear sign of increased transparency and accountability. Despite the high percentage of positive responses, the present study cannot assess the overall quality of the information released in response to the requests.

**TABLE 1**
**INFORMATION REQUESTS TO GOVERNMENT INSTITUTIONS, TYPE OF RESPONSE, FORM OF REQUEST, DEPARTMENTS WITH MOST REQUESTS, AND RESPONSE TIME**

Information requests	2014	2015	2016	2017
Total requests	35,861	44,966	62,830	70,157
<b>Type of response</b>				
Positive:	32,347	40,472	56,975	63,544
Negative:	2,126	2,843	3,488	3,769
Partial:	883	1,107	n/a	1,969
Discarded:	347	419	n/a	585
Pending:	91	98	n/a	281
No data / other:	67	27	n/a	9
<b>Form of request</b>				
Verbal:	12,815	18,595	n/a	29,473
Electronic:	11,674	14,178	n/a	18,888
Written:	11,219	11,960	n/a	21,284
Telephone/other:	86	213	n/a	507
No data	67	20	n/a	5
Top three departments where most information requests were filed	Guatemala (83%) San Marcos (3%) Alta Verapaz (2%)	Guatemala (87%) Alta Verapaz (1%) Sacatepéquez (1%)	Guatemala (85%) Alta Verapaz (1%) Sacatepéquez (1%)	Guatemala (85%) Alta Verapaz (1%) Petén (1%)
Average response time	5 days	4 days	6 days	6 days

Source: Compilation based on information and data available in PDH reports  
n/a: Information not available in sources consulted

In general, the most common way of submitting information requests is verbally, followed by electronic requests. This seems to indicate that exercising the right to public information in Guatemala is often an informal process.

During the four-year period under review, the department of Guatemala received the highest number of requests. There is a noticeably large gap between the number of requests for information filed in this department and departments in the country's interior. In fact, the department of Guatemala registered an average of 85 percent of all information requests between 2014 and 2017. By comparison, the department with the second-highest number of requests registered only 1.87 percent of the overall total in that same period. Although the number of information requests filed in this period increased, this increase was not substantial in Guatemala's interior. The PDH<sup>11</sup> attributes this gap in part to the shortage of government offices responding to information requests and a lack of local, municipal, and departmental government websites by which citizens could submit information requests. This seriously affects citizens' right to be informed, making it necessary and urgent to empower Guatemalans to exercise their right and demand that government institutions report on the use of public resources.<sup>12</sup>

In general terms, the average time that it took public institutions to respond to information requests during the analyzed period was good considering that the law establishes a period of 10 days for institutions to respond to requests. The government's fastest response time was in 2015 with an average four-day waiting period.

It is worth noting that in 2014, at the MP's request, the SECAI issued a technical opinion<sup>13</sup> concerning criminal proceedings initiated against a municipal mayor accused of having restricted

public information. The public official received a one-year commutable prison sentence and a two-year ban on holding public office.

Additionally, the PDH has called for regulations to improve standardization in information management among government institutions in order to ensure that institutions adequately and effectively manage their archives. Inadequate management of public archives has resulted in delays in compliance with the LAIP, in addition to the loss of important archival information. To that end, Guatemalan lawmakers should approve draft bill 4307, the proposed National Archives Law (*Ley Nacional de Archivos*).<sup>14</sup>

Table 2 provides a summary of information requests processed by security, defense, and justice institutions between 2014 and 2017.

It should be noted that the PDH's 2015 and 2016 reports did not disaggregate detailed data on the institutions that form the focus of this section. This makes it difficult to have a standardized margin to compare data.

Guatemala's security, defense, and justice institutions also registered an increase in public information requests between 2014 and 2017, with the Judiciary receiving the largest number of requests and the Ministry of Defense receiving the lowest number of requests.

Analyzing the relationship between the number of requests received and positive responses issued over the four-year period, the Judiciary maintained the highest percentage of favorable responses among security, defense, and justice institutions. Some 98.85 percent of the Judiciary's responses resulted in the release of the requested information, followed by the Public Prosecutor's Office, which registered its lowest percentage of positive responses in 2017 at 95.73 percent. The Ministry of the Interior

**TABLE 2**
**RESPONSES TO PUBLIC INFORMATION REQUESTS BY SECURITY, DEFENSE, AND JUSTICE INSTITUTIONS**

Information requests	2014	2015	2016	2017
<b>The Judiciary</b>				
Positive:	2,050	No data available. Ranks second in terms of total information requests, according to the PDH	1,633	2,839
Negative:	5		11	26
Partial:	0		1	7
Pending:	0		0	0
Discarded:	0		0	0
Total requests	2,055	1,981	1,645	2,872
<b>Ministry of the Interior</b>				
Positive:	678	No data available. Ranks fourth in terms of total information requests, according to the PDH	n/a	979
Negative:	204		n/a	386
Partial:	429		n/a	522
Pending:	24		n/a	35
Discarded:	0		n/a	1
Total requests	1,335	n/a	n/a	1,923
<b>Public Prosecutor's Office</b>				
Positive:	1,019	No data available. Ranks tenth in terms of total information requests, according to the PDH	1,202	1,976
Negative:	13		32	68
Partial:	0		4	20
Pending:	0		0	0
Discarded:	0		0	0
Total requests	1,032	n/a	1,238	2,064
<b>Ministry of Defense</b>				
Positive:	198	n/a	n/a	336
Negative:	65	n/a	n/a	151
Partial:	37	n/a	n/a	125
Pending:	0	n/a	n/a	3
Discarded:	0	n/a	n/a	5
Total requests	300	n/a	n/a	620

Source: Compilation based on information and data available in PDH reports  
n/a: Information not available in sources consulted <sup>15</sup>

and the Ministry of Defense remained below 67 percent in terms of positive responses. Although the LAIP allows for the restriction of information related to national security, institutions should not use this premise as an excuse to avoid the principles of transparency and accountability that should take precedence in public administration.

the Ministries of the Interior and Defense, which is why they are not included in the following table. The PDH should consider including the same indicators over its next monitoring period in order to facilitate comparative analysis; the PDH should also consider producing detailed reports on the compliance of other state institutions with freedom of information laws.

Following good practices for a regulatory agency, in 2016, the PDH published specific reports on the Judiciary<sup>16</sup> and other justice sector institutions,<sup>17</sup> with data disaggregated by institution.<sup>18</sup> These specific reports did not include

The information available in the PDH report on Guatemala’s Judiciary enabled us to identify the most common methods for filing public information requests to the Judiciary and to the Public Prosecutor’s Office (see Table 3).

**TABLE 3**  
**TYPES OF PUBLIC INFORMATION REQUESTS SUBMITTED TO THE JUDICIARY AND PUBLIC PROSECUTOR’S OFFICE**

Institution	Number of requests	Type of request
Judiciary	1,645	Electronic: 947 Written: 696 Verbal: 1 Other method: 1
Public Prosecutor’s Office	1,238	Electronic: 418 Written: 802 Verbal: 18 Other method: 0

*Source: PDH*

As stated earlier, while information requests are most commonly filed verbally with Guatemalan institutions, Table 3 shows that verbal requests are rarely filed with the Judiciary and Public Prosecutor’s Office. Instead, the Judiciary most commonly receives information requests electronically, while the Public Prosecutor’s Office most commonly receives written requests. This highlights the importance of maintaining and tracking specific data for the country’s security and justice institutions to better identify when specific institutions’ practices do not reflect broader trends related to government compliance with transparency laws.

This information shows that more formal means, written requests, are used at the Public Prosecutor’s Office. This practice is logical given the institution’s responsibility for investigations and criminal prosecution. The MP must be cautious in handling sensitive information which could compromise the results of criminal investigations. However, the MP should not use this premise as an excuse to shield information and avoid accountability.

**TABLE 4**

**COMPLIANCE WITH TRANSPARENCY LAW REQUIREMENTS BY SECURITY, DEFENSE AND JUSTICE INSTITUTIONS**

Institution	2014		2015		2016		2017	
	On-site visits	Website						
Judiciary	90.7%	72.0%	71.4%	57.7%	85.7%	96.1%	n/a	n/a
Public Prosecutor's Office	n/a	n/a	100%	70.0%	57.1%	95.5%	n/a	98.5%
Ministry of the Interior	n/a	n/a	75.0%	91.9%	n/a	n/a	95.7%	n/a
Ministry of Defense	n/a	n/a	57.1%	68.1%	n/a	n/a	71.7%	n/a

*Source: PDH annual reports  
n/a: Information not available in sources consulted*

**LEVEL OF COMPLIANCE WITH DISCLOSURE REQUIREMENTS IN THE DEFENSE, SECURITY, AND JUSTICE SECTORS**

Through the SECAI, the PDH oversees an annual oversight plan for public institutions in two ways: on-site visits and a review of institutional websites. These PDH reports<sup>19</sup> include some data to assess compliance with the LAIP by relevant security, defense, and justice institutions between 2014 and 2017.

Available data show a decrease in 2015 in the **Judiciary's** level of compliance with the LAIP in comparison to 2014. SECAI data also show that the Judiciary improved in meeting its obligations in 2016.

Despite achieving a SECAI assessment of 100 percent compliance during on-site visits during 2015, the **Public Prosecutor's Office** declined considerably in 2016. However, the MP improved its website's compliance with transparency regulations, achieving its top score in this area in 2017.

A lack of available data made it impossible to conduct a comparative analysis of the **Ministry of the Interior or the Ministry of Defense's** compliance with transparency law requirements based on on-site visits and website assessments.

The SECAI should consider including the rate of compliance by public institutions in its future annual reports, as it already has a good amount of data to comprise a baseline that would allow for long-term analysis of how Guatemala's institutions comply with the LAIP.

## AVAILABILITY AND QUALITY OF STATISTICS IN THE DEFENSE, SECURITY, AND JUSTICE SECTORS

This section analyzes whether or not Guatemala's security, defense, and justice institutions have published statistical information regarding their institutional operations, as required by law.

Article 12 of the LAIP requires the Judiciary to publish statistics related to:

1. Guilty verdicts handed down with the authority of *res judicata* (matters judged) concerning human rights violations and crimes against humanity.
2. Convictions for crimes involving misuse of state funds.
3. Convictions for crimes committed by public officials and employees.
4. The execution of the budget allocated to the Supreme Court of Justice (*Corte Suprema de Justicia*), courts of appeals (*salas de apelaciones*), courts of first instance (*juzgados de primera instancia*), sentencing and enforcement courts (*juzgados de ejecución y sentencia*), and peace courts (*juzgados de paz*) throughout the country.
5. Consultants and their respective compensations.
6. Expenses and per diems of Judiciary delegations that took trips abroad.

The Judiciary has its own website, as well as its own sub-office responsible for the administration of all statistical information: the Center for Judicial Information, Development, and

Statistics (*Centro de Información, Desarrollo y Estadística Judicial, CIDEJ*). Based on available data, the CIDEJ plays a substantive role in publishing statistics related to the Judiciary's operations.

The Judiciary has made the following information sets open and available to the public: the number of judicial bodies by region; the number of judges and magistrates; and the level of access to justice (judicial offices and officials per 100,000 inhabitants). The Judiciary also publishes a consolidated annual summary of case management under various legal divisions (criminal, civil, family, and labor) and in peace courts.

In 2016, the Judiciary provided comparative information about the previous year for only some of these information sets. However, the Judiciary provided more detailed information in 2017, including data on the most common crimes processed in criminal courts.

As shown in Table 5, according to SECAI assessments, the Judiciary only partially fulfilled its obligations under Article 12 of the LAIP between 2014 and 2016; information was not available for 2017.

During the period under study, the **Public Prosecutor's Office** continued to strengthen its Caseload Information System (*Sistema Informático de Control de Casos del Ministerio Público, SICOMP*) under the leadership of former Attorneys General Claudia Paz y Paz and Thelma Aldana.<sup>20</sup> Between 2014 and 2017, the SICOMP published information related to the MP's operations, allowing users to access it on the MP's official website.<sup>21</sup>

The MP made notable progress in improving transparency during this period. In 2017, the MP rose from seventh to second place in a

**TABLE 5**

**THE JUDICIARY’S COMPLIANCE WITH ARTICLE 12 OF GUATEMALA’S PUBLIC INFORMATION ACCESS LAW**

2014	2015	2016	2017
<p>The Judiciary published information on the number of judicial bodies, judges, magistrates, and rate of access to justice per 100,000 inhabitants.</p> <p>The Judiciary also provided, in summary form, annual spending by the various judicial bodies.</p> <p>The Judiciary failed to comply with four of the six obligations established in Article 12 of the LAIP. The Judiciary disclosed a limited amount of information regarding its annual budget, expenses, and per diems.</p>	<p>The Judiciary began organizing information by administrative and judicial area.</p> <p>Both areas included the same rubrics and elements seen in SECAI’s 2014 assessment of the Judiciary operations.</p> <p>Regarding its obligations under Article 12, the Judiciary only partially published information on convictions related to human rights, misuse of public funds, and misconduct by civil servants.</p> <p>Additionally, the Judiciary only partially published information on its budget, as well as consultants and their compensation.</p> <p>The Judiciary did not publish information on general expenses or travel expenses abroad, unlike in 2014, when it partially published this information.</p>	<p>As in 2014 and 2015, the Judiciary published administrative and judicial information that make it possible to analyze Judiciary operations.</p> <p>The Judiciary began including comparative data with previous years, allowing a more comprehensive analysis when looking at the Judiciary’s annual operations.</p> <p>With respect to Article 12, the Judiciary failed to publish information on res judicata cases. This was a change from 2015, when the Judiciary partially published this information.</p> <p>In general terms, the PDH considered that the Judiciary satisfactorily complied with the LAIP.</p>	<p>As in previous years, information published by the Judiciary included areas related to administrative and judicial operations, this time in greater detail. The judiciary included more detailed information regarding the most common crimes being tried in Guatemala’s criminal courts. This is useful data that can and should be used to inform public security decisions and policies.</p> <p>The 2017 PDH reports do not assess the extent of the Judiciary’s compliance with Article 12 of the LAIP.</p>

*Source: PDH*

comparative assessment on the information made available by justice sector institutions in 34 countries.<sup>22</sup> According to the assessment, published by the Justice Studies Center of the Americas (JSCA) in 2017, the MP is very transparent in terms of the information it makes available about its operations online.

Despite this progress, when trying to access certain information sets previously made available online, they are no longer available on the Public Prosecutor's Office website, a sign of declining institutional transparency and accountability.

In addition, quantitative information obtained from the MP via public information requests does not always reflect the operations carried out by the MP's sub-offices. For example, during an interview with the head of the Public Prosecutor's Office for Human Rights (*Fiscalía de Derechos Humanos*),<sup>23</sup> we asked about datasets obtained through various public information requests. The lead prosecutor said that his office had different numbers for several data points, adding that many times the information generated by SICOMP does not take into account different variables that shape the work of MP sub-offices.

Because this study focuses on security and justice institutions, this section appropriately analyzes the **Ministry of the Interior**, which oversees the National Civil Police (*Policía Nacional Civil*, PNC). Given its role in directly providing citizen security, this institution should publish and facilitate access to information on its daily activities and operations. After all, all security and anti-crime policy should take into account police statistics.

The PNC has an official website,<sup>24</sup> which does not make available data related to institutional operations.

Through an Internet search, we located a PNC website, maintained by the Public Prosecutor's Office for Victim Assistance, which contains some statistical information related to victims at risk of violent crime (intra-family, gender-based, or sexual violence, or violence against children or senior citizens).<sup>25</sup>

The **Ministry of Defense** has an official website.<sup>26</sup> Despite having a link titled "open data", when clicked, the link redirects the user to another page<sup>27</sup> that contains information on 16 state agencies. However, this site does not publish the information required by law on Ministry of Defense operations between 2014 and 2017.

In general, the security, defense, and justice institutions analyzed in this study have the staff and the information systems needed to publish quantitative information on their websites and make their work more transparent. However, the Judiciary appears to be the only institution in this category that does so, affirming that the CIDEJ playing a substantive role in providing numerical information.

To be useful, it is essential that information published on government websites be user-friendly. Government officials should consider uploading this information in such a way that users can use tools to sort through and analyze relevant data, allowing for the development of studies and policy proposals that may be used to strengthen Guatemala's security and justice institutions.

# BUDGET TRANSPARENCY AND EXPENDITURES IN THE SECURITY, DEFENSE, AND JUSTICE SECTORS

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## ACCESS TO INFORMATION ON USE OF PUBLIC FUNDS

As mentioned at the beginning of this study, Article 10<sup>28</sup> of the LAIP mandates that public institutions fulfill transparency standards regarding their budget allocation and execution. This includes, but is not limited to, online disclosure of the following:

- Organic structure and functions of each agency and department, including its regulatory framework.
- Number and names of officials, public servants, employees, and advisors working in each public institution and each sub-agency, including salaries corresponding to each position, fees, allowances, bonuses, per diems, or any other form of financial compensation they receive in any capacity.
- Administrative and operational procedures manuals.
- Income and expense budgets allocated for each fiscal year.
- Monthly reports of budget information for all line items and units.
- Contracts issued through bids or request for quotation processes.
- Final reports of government audits.

The head of the PDH has indicated that the general lack of online websites for many public institutions reveals a lack of interest in fully complying with the principle of active transparency. Many official websites do not disclose legally required information, which also demonstrates failure to observe the principles of maximum transparency.<sup>29</sup>

The official **Judiciary** website publishes information on budget allocation, any modifications approved during the fiscal year, and quarterly accountability reports detailing expenses by line item. This data is available for the each year of the 2014-2017 period.

Information published by the Judiciary in 2014<sup>30</sup> includes contracting information related to requests for quotation, bids, and direct purchases, among other areas. The Judiciary did not disclose any information related to the list of pre-qualified companies and trusts. The Judiciary did not publish the final audit report<sup>31</sup> or the results concerning compliance with the annual operating plan (*plan operativo anual*). The Judiciary partially published the directory of employees and public servants.<sup>32</sup> These gaps in information make it impossible to determine whether there is a direct relationship between budget allocation priorities and the ability to successfully meet the Judiciary's stated annual goals and objectives.

The Judiciary website has made information available from 2015 on its approved annual budget, budget modifications, and three quarterly reports on budget execution. It also published information related to maintenance

contracts and direct purchases, but not related to contracts made through requests for quotation or bidding processes. The Judiciary did not disclose the salaries of public officials and employees. Several of these reasons could explain why the SECAI's assessment marked a decrease in the Judiciary's compliance with the LAIP from 2014 to 2015.

Starting in 2016, the publication of *ex officio* information began following more appropriate standards and procedures; that is, it more fully complied with the principles of maximum disclosure and simplicity.<sup>33</sup> Information is available related to contracting via requests for quotation and bids, direct purchases, lists of public officials and employees, as well as the classification of positions and salaries that, after cross-referencing information, allow for identification of compensation for service providers. Final audit reports are also available.

In 2017, the Judiciary published its approved budget and budget modifications. It also continued publishing three quarterly reports on budget execution.

The **Public Prosecutor's Office** has an institutional website where it organizes and classifies information in different sections. The type and amount of content published has improved over the years. In 2014, the MP published its approved budget and a consolidated final report on the amounts executed in each month of the year. As of December 2014, the MP made available information on different contracts issued through quotation and bidding processes, as well as direct purchases, the different goods and services procured, and audit reports. However, the MP did not include information regarding the list of administrative and support staff, nor salaries or compensation received.

In 2015 and 2016, in addition to the information mentioned above, the MP disclosed information on its monthly budget execution. According to a 2016 SECAI oversight report, the MP's level of compliance in terms of making *ex officio* information available online was highly satisfactory.<sup>34</sup>

In 2017, in addition to the information mentioned above, the MP published additional details regarding its budget execution.

Article 10, Section 3 of the LAIP provides an important exemption from public disclosure of information for the MP, allowing it to keep private the names and personal information of prosecutorial personnel. The law provides this exemption in recognition that publication of this information could threaten the security of these personnel, as they are responsible for carrying out criminal investigations.

Unlike the Judiciary, which allows users to preview any files or links online, the MP's website only allows users to access documents by downloading them as PDFs, which is not very user-friendly.

The **Ministry of the Interior** also has an institutional website. The only information available from 2014 is a consolidated report on monthly budget execution. Even though the website displays a link that is supposed to take the user to a webpage about the "analytical distribution" of 2014, the link has an error. Upon clicking it, it takes the user to the 2016 report.<sup>35</sup>

The Ministry of the Interior disclosed consolidated reports on monthly budget execution for 2015, 2016, and 2017, along with an analysis of the disaggregated budget for each of these years.

The Ministry of the Interior submitted accountability reports regarding financial

expenditures to the Ministry of Finance (*Ministerio de Finanzas Públicas*). The scanned proof of submission forms are available on the Ministry of the Interior's website, although the reports themselves are not available.<sup>36</sup>

The Ministry of the Interior has published annual audit reports submitted to the Ministry of Finance as of 2016.

The Ministry of the Interior did not disclose any information related to lists of public officials and employees and their salaries, contracts for goods and services, maintenance contracts, or contracts issued through quotation or bidding processes or through direct purchases during the four years under study.

This is a significant shortcoming in terms of transparency and accountability, as the failure to make this information public prevents the public from assessing how efficiently the Ministry of the Interior spends its resources.

The **Ministry of Defense** has an institutional website, but has not made available any information about 2014 or 2015. The Ministry of Defense's only documents available from 2016 relate to budget modifications. For 2017, the Ministry of Defense made available information regarding budget modifications and annual expenditures. Additionally, unlike in previous years, the Ministry provided a more detailed report on budget execution, allowing for analysis of different line item categories for that year.<sup>37</sup>

According to the SECAI, the Ministry of Defense fell short in complying with transparency regulations in the areas described below.<sup>38</sup>

The Ministry of Defense did not publish the names of employees and officials under expense categories 011 and 022 in its budget.<sup>39</sup> In addition,

the information the Ministry published in financial reports did not coincide with monthly financial expenditures as displayed on the website. The Ministry did not publish information regarding the monthly results of its annual operating plan (*plan operativo anual*). Additionally, the Ministry did not publish information on procurement of goods and services, subsidies, or transfers. Nor did the available list of prequalified companies meet the standards established in the LAIP. The same applies to the information made available on the institution's lease agreements. Finally, the Ministry did not disclose information regarding spending and other travel expenses abroad. Instead, the following message appears online: "This information must be requested from the National Defense Chiefs of Staff (*Estado Mayor de la Defensa Nacional*)."<sup>40</sup>

For these reasons, the SECAI rated the Ministry of Defense as having a low level of compliance with national transparency laws. In many areas, the Ministry of Defense website only partially complies with transparency regulations; in other areas, the information provided is incomplete or outdated.

Institutions' failure to fully comply with a national transparency law like the LAIP weakens government legitimacy, contributing to a loss of citizen confidence and bolstering institutional secrecy and an overall lack of accountability.

The problems that can result from the Ministry of Defense's lack of transparency and practices of absolute secrecy can be observed in a 2017 legal case known in as the "Extraordinary Responsibility Bonus" (*Bono Extraordinario de Responsabilidad*).<sup>41</sup> The case involved the Ministry of Defense apparently paying President Jimmy Morales an additional monthly "bonus" of 50,000 quetzals (approximately \$6,600) over an eight-month period. In addition to his salary, the president received a total of 400,000 quetzals

(some \$53,300) from the armed forces during that time without any legal basis.

The information was only disclosed when it was reported by a media outlet. Afterward, the Comptroller General's Office (*Contraloría General de Cuentas, CGC*) proceeded to investigate the case and established a 15-day period for the president to return the money received<sup>42</sup> or to submit a document justifying the payments. President Morales chose to return the total sum of the arbitrary payments, and the MP initiated a criminal investigation into the matter.

The SECAI<sup>43</sup> reports that the *ex officio* information published on this case by the MP during 2017 was corroborated, stating that the “bonus” was not disaggregated. Nor did the government publish the Internal Administrative Accord 10-2016 of January 1, 2016, found in Sections 1 and/or 6 of the *ex officio* information, having not been published until September 12, 2017. The 2016 Internal Agreements, Sections 1 through 9, that is, those prior to 10-2016, were also not published. The MP's investigation relied on these findings, using facts that led to the eventual apprehension of then Minister of Defense, Williams Mansilla.<sup>44</sup>

## DECLARATION AND PUBLICATION OF PUBLIC OFFICIALS' ASSETS

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In 2002, Guatemala's Congress approved Decree 89-2002, the Law on Probity and Responsibilities of Public Officials and Employees (*Ley de Probidad y Responsabilidades de Funcionarios y Empleados Públicos*). The law sought to establish rules and procedures around the transparency of public officials' assets and prevent the misuse of public resources. The law also established mechanisms to conduct oversight of public officials and employees' assets while holding office.

The law applies to any person, paid or unpaid, permanent or temporary, involved in public functions. This includes dignitaries, authorities, officials, and public employees who, by popular election, appointment, contract, or any other connection, provide services to the national or local government, sub-agencies, their companies, or decentralized and autonomous entities.

The law requires all civil servants and public employees, regardless of rank or hierarchy, to submit a sworn declaration regarding their assets to the CGC. This requirement applies to

public officials and employees upon entering or leaving public their position.

The law requires these officials to renew their statement in January of each year if any of the following applies: 1) they acquired real estate, no matter the value, at any point in the past year; 2) they acquired other goods whose price is greater than 50,000 quetzals (about \$6,463); or 3) they incurred credits owed or debts greater than 50,000 quetzals. The law also requires government officials to present a detailed declaration of assets should any assets, debts, or credits be acquired by a person's spouse or child dependents during the relevant period.

The law bars those convicted of the following crimes from holding public office for at least five years after the criminal act took place: illicit enrichment, drug trafficking, kidnapping, murder, tax fraud, smuggling, falsehood, misappropriation, robbery, theft, fraud, malfeasance, asset stripping, breach of secrets, crimes against health, crimes against the institutional order, crimes against public order,

crimes against public administration, bribery, embezzlement, misappropriation, or illegal negotiations. This ban also applies to those who have been convicted but only subject to a fine.

A major problem with the current law is that there is no distinction between ranks or hierarchies. All state employees and public officials must file asset declarations, representing a broad spectrum of people. In practical terms, this essentially renders the law ineffective because the CGC lacks the institutional capacity to compare the assets that officials declare upon entry and exit of their positions. Nor is there any process in place for cross-referencing the official statements with other institutions to verify the accuracy of the information.<sup>45</sup> The asset declaration law would be more effective if prioritized monitoring positions where there is a greater risk of committing crimes related to illicit enrichment, influence peddling, or conflict of interest.

In a 2013 report by the Follow-Up Mechanism for the Implementation of the Inter-American Convention against Corruption (*Mecanismo de Seguimiento de la Implementación de la Convención Interamericana contra la Corrupción, MESICIC*),<sup>46</sup> the MESICIC recommended that the Guatemalan government optimize the systems of analysis used to review the declarations submitted under the law. This would help make the law a more effective tool in terms of detecting and preventing conflicts of interest when appropriate, as well as identifying possible cases of illicit enrichment.<sup>47</sup>

In addition, the MESICIC recommended granting more power to the CGC, so as to better allow the CGC to more effectively review public

officials and employees's asset declarations. This should be done in such a way so that the CGC has the systems in place to allow for a prompt review of declarations submitted.<sup>48</sup> Likewise, the MESICIC recommended that the Guatemalan state standardize the forms used to submit assets declarations. Standardization would help ensure that public officials all submit at least the minimum level of information required by Article 23 of the Law of Probity and Responsibilities of Public Officials and Employees. Standardization would also help ensure that public officials declare the entirety of their assets and income as required by law.<sup>49</sup>

However, as indicated above, Guatemala will continue to face challenges in tackling corruption and impunity as long as the state does not prioritize reviewing asset declarations by certain public officials. The law should prioritize a prompt review of asset declarations by those at higher risk of engaging in illicit or illegal actions because of their power or functions.

Finally, concerning the publication of the declaration of assets, Article 21 of the Law of Probity and Responsibilities of Public Officials and Employees stipulates that the government must consider all information provided in the declaration as confidential. Therefore, it can only be disclosed via a court order.

In this regard, the MESICIC recommended that the Guatemalan government pass reforms that establish regulations and procedures to publicly disclose asset declarations, when appropriate. Any reform must be approved and enforced in accordance with Guatemala's constitution and other laws. The Guatemalan government has not yet adopted this recommendation.<sup>50</sup>

# ACRONYMS AND ABBREVIATIONS

<b>CEJA</b>	Justice Studies Center of the Americas
<b>CGC</b>	Comptroller General's Office
<b>CICIG</b>	International Commission against Impunity in Guatemala
<b>CIDEJ</b>	Center for Judicial Information, Development, and Statistics
<b>FMM</b>	Myrna Mack Foundation
<b>LAIP</b>	Public Information Access Law
<b>MESICIC</b>	Follow-Up Mechanism for the Implementation of the Inter-American Convention against Corruption
<b>MP</b>	Public Prosecutor's Office
<b>OJ</b>	Judiciary
<b>PDH</b>	Human Rights Ombudsperson's Office
<b>PNC</b>	National Civil Police
<b>SECAI</b>	Executive Office of the Access to Public Information Commission
<b>SICOMP</b>	Case Control Informatics System of the Public Prosecutor's Office
<b>WOLA</b>	Washington Office on Latin America

# NOTES

- <sup>1</sup>A detailed list of indicators is available at [www.wola.org/cam](http://www.wola.org/cam).
- <sup>2</sup>See Article 6, Decree 57-2008. Act on Access to Public Information.
- <sup>3</sup>See Article 47, Regulatory Authority. Decree 57-2008. Act on Access to Public Information.
- <sup>4</sup>Available on: <https://www.pdh.org.gt/nva-secail/>
- <sup>5</sup>Act on Access to Public Information, Article 26
- <sup>6</sup>Act on Access to Public Information, Article 27.
- <sup>7</sup>See, PDH. Annual Report on the Situation of the Human Right to Public Information 2014. Pág. 53
- <sup>8</sup>Agreement that restricted access to information by regulating that images obtained through security cameras were owned by the Municipality; including the delivery time. This is contrary to the Constitution and the Act on Access to Public Information.
- <sup>9</sup>Minutes of the ordinary session held on February 24, 2015, in which the Board approved to expand the information that should be considered reserved.
- <sup>10</sup>See, PDH. Annual Report Substantiated 2016. Page 302.
- <sup>11</sup>See, PDH. Annual Report on the Situation of the Human Right to Public Information 2016. Act on Access to Public Information Decree 57-2008. (Reports about the previous year, that is 2015). Page 39.
- <sup>12</sup>PDH, 2016. Page 4.
- <sup>13</sup>PDH, 2014. Page 232. With regards to the technical opinion in the case of the Mayor of San Cristóbal Totonicapán, Ricardo Valentín Tay Saquich.
- <sup>14</sup>PDH, 2014. Page 15.
- <sup>15</sup>A thorough search was carried out of the PDH Institution website, without finding the Annual Report on the Situation of the Human Right to Public Information related to the 2016 data. Only one presentation appears with some data. This presentation was consulted for the elaboration of the table. A limitation to carry out the comparative analysis of the 4 years was that, by 2015, the PDH reports do not disaggregate the detailed information of the Security and Justice Institutions. It is an important aspect to have a standardized margin of comparison between data.
- <sup>16</sup>See, PDH. Compliance Report, Act on Access to Public Information. Judicial system. Guatemala, December 2016.
- <sup>17</sup>See, PDH. Compliance Report, Act on Access to Public Information. Other entities of the Justice Sector. Guatemala, December 2016.
- <sup>18</sup>This does not apply to the Ministry of the Interior and the Ministry of Defense, whose data is not available
- <sup>19</sup>The results of the audit and oversights are published in general terms by the PDH in its annual circumstantial report and are also developed in greater detail by the SAIC in its annual reports.
- <sup>20</sup>The SICOMP is the MP's computer system designed for the entry, control and monitoring of all files that are under expertise and management of the institution. Said computer registry makes it possible to know the different procedural stages in which each file is located, as well as the way in which it has been resolved, according to the options regulated in the Guatemalan Criminal Procedure Code.
- <sup>21</sup>See <http://www.mp.gob.gt>
- <sup>22</sup>See page 38 of the study on [http://biblioteca.cejamericas.org/bitstream/handle/2015/5549/IAcc\\_Decimaversion\\_2017.pdf?sequence=1&isAllowed=y](http://biblioteca.cejamericas.org/bitstream/handle/2015/5549/IAcc_Decimaversion_2017.pdf?sequence=1&isAllowed=y)
- <sup>23</sup>Interview conducted September 6, 2019 with Prosecutor Hilda Elizabeth Pineda García, Chief of the Human Rights Department.
- <sup>24</sup>See <https://www.pnc.gob.gt>
- <sup>25</sup>See <https://sistemas.pnc.gob.gt/oav/inicio>
- <sup>26</sup>See <https://www.mindef.mil.gt>
- <sup>27</sup>See <http://datos.gt/organization>
- <sup>28</sup>The article contains at least 29 aspects that the obligated entities must publish on their respective websites.
- <sup>29</sup>PDH, 2016, Page 28
- <sup>30</sup>PDH, 2014. Page 38.
- <sup>31</sup>At the time of reviewing the website to carry out this study, the 2014 audit report was already available.
- <sup>32</sup>PDH, 2014. Page 33
- <sup>33</sup>PDH, 2014. Page 10
- <sup>34</sup>See PDH, 2014 Page 19.
- <sup>35</sup>See [http://uip.mingob.gob.gt/archivouip2009\\_2017/images/udaf/2017/A27\\_DISTRIB\\_ANALITICA\\_PPTO\\_2017/DAP\\_2016.pdf](http://uip.mingob.gob.gt/archivouip2009_2017/images/udaf/2017/A27_DISTRIB_ANALITICA_PPTO_2017/DAP_2016.pdf)
- <sup>36</sup>See <http://uip.mingob.gob.gt/ley-org-presupuesto-oficios-de-cumplimiento/>
- <sup>37</sup>See [http://www.mindef.mil.gt/datos\\_abiertos/pdf/Articulo%2010.pdf](http://www.mindef.mil.gt/datos_abiertos/pdf/Articulo%2010.pdf)
- <sup>38</sup>PDH. Report on compliance with the Law on Access to Public Information, Ministry of Defense, 2017. Page 6.
- <sup>39</sup>Under budget line 011, public officials and employees are hired permanently and indefinitely. Under line 022, they are hired, but on a temporary basis. That is to say, their employment has a defined end date.
- <sup>40</sup>PDH, 2017. Page 7.
- <sup>41</sup>See <https://elperiodico.com.gt/nacion/2017/09/12/el-bono-extraordinario-de-responsabilidad-fue-recetado-de-la-siguiente-manera/>.
- <sup>42</sup>See <https://elperiodico.com.gt/nacion/2017/09/13/jimmy-morales-tiene-que-devolver-bono-extraordinario-de-responsabilidad-dice-contraloria-general-de-cuentas/>
- <sup>43</sup>See PDH. Report on compliance with the Law on Access to Public Information, Ministry of Defense. Guatemala, September 2017.

<sup>44</sup><https://elperiodico.com.gt/nacion/2018/01/26/capturan-a-exministro-de-defensa-por-otorgar-el-bono-de-responsabilidad-al-presidente-morales/>

<sup>45</sup>See I Conference and Workshop concerning Transparency, good governance and citizen security. Identifying Priority Areas for Trilateral Anti-Corruption Cooperation in the Northern Triangle Countries. Guatemala. 2018. Page 8.

<sup>46</sup>See MESICIC, twenty-second meeting of the expert committee. Republic of Guatemala. Final Report. 2013. Available at: [http://www.oas.org/es/sla/dlc/mesicic/docs/mesicic4\\_gtm\\_sp.pdf](http://www.oas.org/es/sla/dlc/mesicic/docs/mesicic4_gtm_sp.pdf)

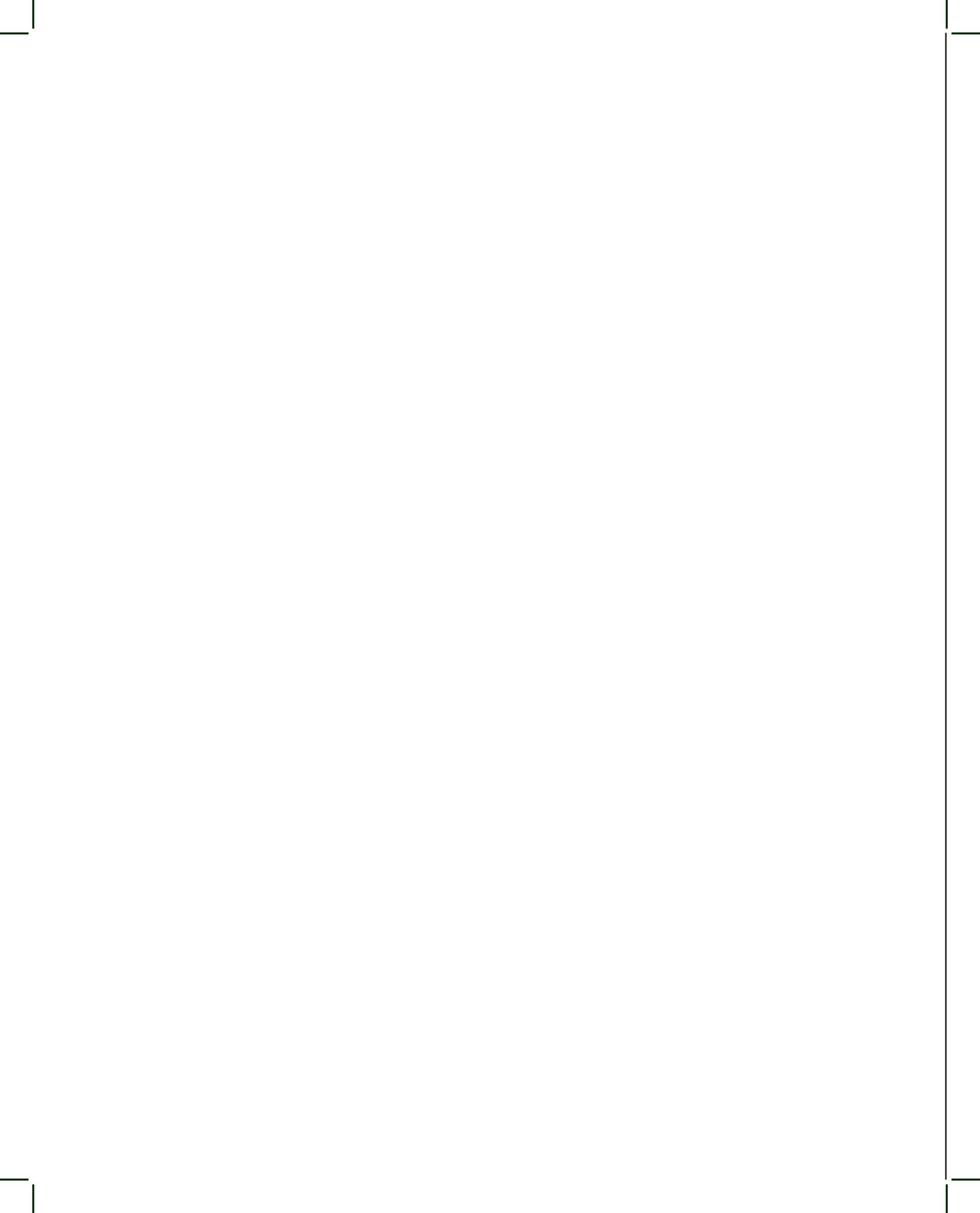
<sup>47</sup>See MESICIC, 2013. Page 50.

<sup>48</sup>See MESICIC, 2013. Page 51.

<sup>49</sup>See MESICIC, 2013. Page 52.

<sup>50</sup>See MESICIC, 2013. Page 50.





## **ABOUT THE ORGANIZATIONS**

**THE MYRNA MACK FOUNDATION** is a Guatemalan nongovernmental organization that develops and produces research and policy proposals aimed at furthering the fight against impunity, strengthening the rule of law, and consolidating peace and democracy in Guatemala.

**THE WASHINGTON OFFICE ON LATIN AMERICA (WOLA)** is a leading research and advocacy organization advancing human rights in the Americas. We envision a future where public policies protect human rights and recognize human dignity, and where justice overcomes violence.

## **ABOUT THE PROJECT**

The Central America Monitor is a subregional project that seeks to assess the level of progress being made by the countries of Guatemala, Honduras and El Salvador in the areas of strengthening the rule of law, reducing violence, combating corruption and organized crime, and protecting human rights through the use of a series of indicators. The project also monitors and analyzes international cooperation programs in the aforementioned areas.

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For more information, visit: [www.wola.org/es/cam](http://www.wola.org/es/cam)