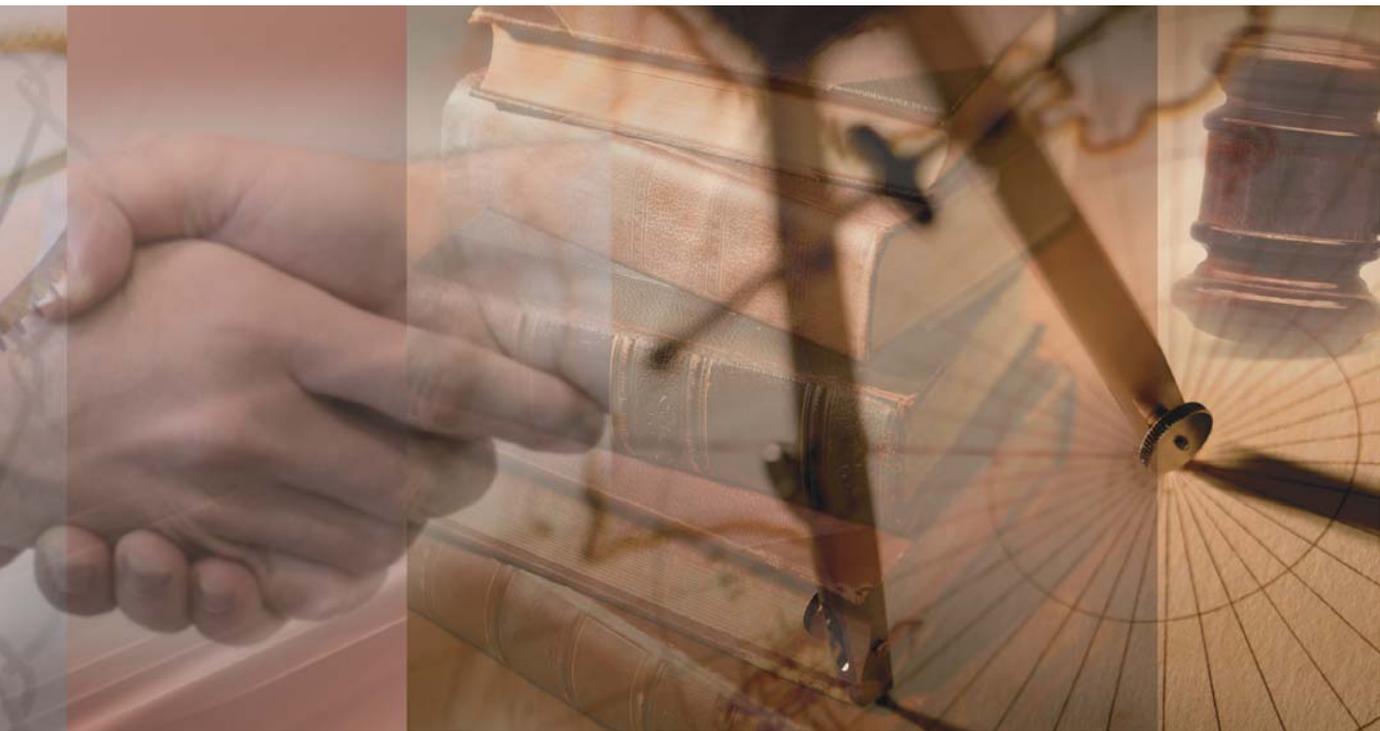




UNITED NATIONS
Office on Drugs and Crime



ACCESS TO JUSTICE
**The Prosecution
Service**

Criminal justice
assessment
toolkit

INTERNATIONAL ASSOCIATION



OF PROSECUTORS

3

UNITED NATIONS OFFICE ON DRUGS AND CRIME
Vienna

ACCESS TO JUSTICE
The Prosecution Service
Criminal Justice Assessment Toolkit



UNITED NATIONS
New York, 2006

Access to Justice: The Prosecution Service was prepared in collaboration with the International Association of Prosecutors.

The designations employed and the presentation of the material in this publication do not imply the expression of any opinion whatsoever on the part of the Secretariat of the United Nations, the Secretariat and Institutions of the Organization for Security and Cooperation in Europe, and the Belgian 2006 OSCE Chairmanship concerning the legal status of any country, territory, city or area or of its authorities, or concerning the delimitation of its frontiers or boundaries.

This publication has not been formally edited.

TABLE OF CONTENTS

1. INTRODUCTION TO THE ISSUE	1
2. OVERVIEW.....	3
2.1 STATISTICS	3
3. LEGAL FRAMEWORK AND DELEGATION OF AUTHORITY	5
3.1 LEGAL FRAMEWORK.....	5
3.2 DELEGATION OF PROSECUTORIAL AUTHORITY	5
3.3 THE ROLE OF THE PROSECUTOR IN CRIMINAL PROCEEDINGS.....	7
4. MANAGEMENT AUTHORITY AND FISCAL CONTROL	11
4.1 MANAGEMENT AUTHORITY	11
4.2 FISCAL CONTROL.....	11
5. ORGANIZATIONAL MANAGEMENT AND OPERATION	13
5.1 MANAGEMENT	13
5.2 ORGANIZATION.....	14
5.3 CASELOAD MANAGEMENT.....	15
5.4 VICTIM AND WITNESS SERVICES	17
5.5 ADEQUACY OF PROSECUTION SUPPORT	18
6. PROSECUTION SERVICE STAFF	19
6.1 GENERAL STAFFING	19
6.2 PROSECUTORS	20
7. PUBLIC ACCOUNTABILITY.....	24
8. PARTNERSHIPS AND COORDINATION	25
8.1 SYSTEM COORDINATION	25
8.2 DONOR COORDINATION.....	25
ANNEX A. KEY DOCUMENTS	27
ANNEX B. ASSESSOR'S GUIDE / CHECKLIST.....	29

1. INTRODUCTION TO THE ISSUE

Perhaps nowhere else in the criminal justice system does a function vary more than the does the delivery of prosecution services among states. In assessing a state's prosecution services, the assessor must remain aware of the broader system in which the prosecution process is operating. States that once adhered to common law or to civil law systems, for example, may differ considerably with regard to prosecution and investigation structures and services, even though their systems may currently demonstrate a legal framework that blends multiple legal traditions and other cultural influences. Understanding that a state follows a common law or civil law or a customary law system or a mixed or parallel system is only a first step¹. Rather than making assumptions about a system based upon a classification, it is more useful to understand the sources of the structures of the criminal justice system that may have influenced what is currently in place. Within any of these systems are unique approaches applied by different states that may reflect their indigenous history, an overlay of a colonial or otherwise imported systems in the past, and more recent implementation of reforms.

Due to the sheer diversity of prosecution structures and approaches, it is difficult to address all the potential issues in every system in a single assessment tool. In conducting assessments of the prosecution services within the criminal justice system, the assessor should use this tool in conjunction with the other **Access to Justice Tools**, as well as **Policing: Criminal Investigation**. This tool, **The Prosecution Service**, guides, with cautions about possible points of difference among systems, the assessment of the system of public prosecution of criminal offences, with a focus on access to justice by members of the public, including victims, witnesses, and the accused.

Public prosecutors play a unique role in criminal cases in that they appear on behalf of the government as the representative of the people rather than an individual victim. This necessarily differs in scope from the role of the defence lawyer, whose obligation is to represent the accused as zealously as possible within the law. A public prosecutor has the broader obligation to uphold the rule of law, with an attendant ethical and professional duty to ensure that a person accused of a crime receives a fair trial. Where prosecutors fail to fulfil these obligations, miscarriages of justice ranging from malicious prosecutions to wrongful convictions result, damaging the integrity of the justice system and violating the public's trust.

In 1990 the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders at Havana, Cuba adopted the **Guidelines on the Role of Prosecutors**. The **Guidelines** assist member states in ensuring that certain basic values and human rights protections underpin their prosecution services by promoting effectiveness, impartiality and fairness of prosecutors in criminal proceedings. Guideline 12 of the **UN Guidelines on the Role of Prosecutors** provides that "Prosecutors shall, in accordance with the law, perform their duties fairly, consistently and expeditiously, and respect and protect human dignity and uphold human rights, thus contributing to ensuring due process and the smooth functioning of the criminal justice system." In addition the guidelines deal with the selection, training and status of prosecutors, their expected tasks and conduct, means to enhance their contribution to the criminal justice system, guidance on their co-operation with police, the scope of their discretionary powers, and their role in criminal proceedings. As such, the **Guidelines** provide a framework of the international standards with which to assess the prosecution service of a state.

¹ Please see ANNEX 1, COMPARATIVE LEGAL SYSTEMS for further background.

These **Guidelines** may be supplemented by the **Standards of Professional Responsibility and Statement of the Essential Duties and Rights of Prosecutors** (“Standards”) adopted by the International Association of Prosecutors. This instrument prescribes minimum standards to be observed by prosecution agencies worldwide, addressing the areas of Professional Conduct, Independence, Impartiality, Role in Criminal Proceedings, Co-operation and Empowerment.

This Tool will further guide the assessor in evaluating the role, capacity and resources of the prosecution service, the extent to which it functions independently, how it uses its discretionary powers, how it deals with misconduct, and its accountability to the public it serves. In addition, the Tool guides assessing the relationship of the prosecution service to others, ranging from alternative conflict resolution systems to the coordination of criminal justice initiatives to international cooperation. Finally, the Tool will guide the assessor in evaluating the extent to which the prosecution service’s policies and practices promote access to justice for the victims, witnesses and the accused and build public trust in the criminal justice system.

In addition to developing an understanding of the strengths and weaknesses of a given system, the assessor should be able to identify opportunities for reform and development. Technical assistance in the area of targeting the prosecution service and the criminal justice system in the context of a broader strategic framework may include work that will enhance the following:

- Legislative reforms to enable/enhance prosecutorial independence and discretion.
- Develop capacity of the prosecution service to plan, implement and manage change.
- Support processes that ensure the responsive operation of running of the prosecution service through the effective and efficient management of human and physical resources.
- Improve allocation of resources through sound budgeting processes and financial management.
- Provide operational support to prosecution personnel.
- Improve operational capacity via improved case screening and caseload management.
- Develop the professional and administrative skills necessary to meet the demands of increasingly complex criminal caseloads, especially in countries that are signatories to international conventions that require a sophisticated response to certain types of crimes as well as the capacity to provide cooperative legal assistance.
- Enhance the capacity to develop and manage strategic planning, including the development of meaningful caseload and workload indicators.
- Enhance both human and technical resource capacity for the use of information technology with regard to case and caseload management.
- Enhance the coordinated response to addressing issues confronting the criminal justice system like prison overcrowding and pre-trial delay.
- Enhance service delivery for vulnerable victims and witnesses.
- Enhance both accountability and public understanding of the prosecution service.
- Provide improved access to justice.

2. OVERVIEW

2.1 STATISTICS

Please refer to **Cross-Cutting Issues: Criminal Justice Information** for guidance on gathering the key criminal justice statistical data that will help provide an overview of the caseload, workload and capacity of the criminal justice system of the country being assessed. Listed below are additional indicators that are specific to this TOOL. Some countries may not have this information available. It is advisable to request it in advance, as it may take time to obtain it. Occasionally, officials may be reluctant to share the information that exists. If possible, the assessor should record what kind of information is available and to whom, even if the numbers themselves are not made available to the mission.

In evaluating statistical information, it will be important to obtain an understanding of what is meant by a criminal case or filing and whether such filings reflect individual charges for a single criminal act or the aggregate of charges filed against an individual or a group charged for one or more criminal acts. Similarly, it is important to understand what is meant by the various descriptors of case events, resolutions or outcomes, as this may vary even among the various institutions and agencies that produce statistical reports within a single criminal justice system.

Written sources of statistical information may include, if they exist:

- Prosecutor's Annual Reports
- Ministry of Justice reports
- Ministry of Interior/National Police Crime reports/Penal System reports
- Non-governmental organisation reports on the criminal justice system

The contacts likely to be able to provide the relevant information are:

- Ministry of Justice
- Chief Prosecution Authority
- Senior Prosecution personnel
- Non-governmental organisations working on criminal justice matters
- Donor organisations working on the criminal justice sector

In some cases, it may be that the prosecutor's office does not keep statistical records at all. If a prosecutor's office does not have the capacity to collect data on caseload and workload, technical assistance interventions to develop these capacities may be appropriate.

- A. What are the general criminal justice trends and challenges facing the nation being assessed?
- B. What is the crime rate for serious offences, i.e. murder, rape, robbery, kidnapping? How many people per 100,000 population are charged for each category of offence annually?
- C. In jurisdictions where the police file the original charging documents, how many criminal cases are received by the prosecutor's office for action on an annual basis? In jurisdictions where the prosecutor is responsible for the filing of charges in court, how many such cases are filed annually? Do these numbers include original filings only or do they also include appeals, other legal challenges, etc.? How many criminal cases are resolved annually by the prosecutor's office? Via trials? Via pleas of guilty? Of these, how many were plea agreements, if they are possible? How many cases result in a conviction of guilt to at least one of the charges? How many cases are withdrawn/dismissed? Of these, how many cases are diverted? To what types of alternatives to prosecution?
- D. Can these be broken down (disaggregated) by:
 - Severity of crime: i.e., major vs. minor or violent vs. non-violent, felony v. misdemeanour? Indictable v. summary?
 - Crime category?
 - By outcome, i.e. trial, plea, dismissal, verdict?
 - Gender of accused or victim?

- Race or ethnicity of accused or victim?
 - Geographical or political jurisdiction where the offence occurred?
- E. Can these statistics be broken down (disaggregated) by prosecutor?
- F. What is the average annual caseload assigned per prosecutor? If there are several levels of prosecutors or prosecutors assigned to different court levels or specialized units, can an annual caseload per prosecutor at each level/unit be determined? If the actual annual caseload cannot be determined, can a rough average number per prosecutor be calculated?
- G. What is the average annual caseload resolved per prosecutor? If there are several levels of prosecutors or prosecutors assigned to different court levels or specialized units, can an annual resolved caseload per prosecutor at each level/unit be determined? If the actual annual caseload resolved cannot be determined, can a rough average number per prosecutor be calculated?
- H. Is it possible to determine how many pending cases a prosecutor may be handling at any one time? Without going to the prosecutor's desk/office and counting files? Can a rough average number of pending cases per prosecutor be calculated?
- I. Is it possible to determine how long a case assigned to a prosecutor has been pending without an examination of the individual file?
- J. Is it possible to obtain the ages of all pending cases, by prosecutor? Is there a backlog of cases? Of certain types of cases?
- K. Is this statistical information publicly available? Portions of it? How is it made public? By request, via annual or other reports?
- L. If not, to whom is it made available? Is it known to criminal justice officials at least at a senior level?
- M. If statistical information is NOT available, why is it not? (Is this policy or lack of capacity or both?) What would it take to enable the prosecutor's office to produce the statistical information requested above?

3. LEGAL FRAMEWORK AND DELEGATION OF AUTHORITY

3.1 LEGAL FRAMEWORK

The following documents are likely to be sources from which to gain an understanding of the legal and regulatory framework for the prosecution of criminal offences, including the delegation of authority for both prosecution and associated investigative functions. [Please see **ANNEX 2, CRIMINAL LAW AND CRIMINAL PROCEDURE** for background on legal frameworks that support international standards and norms].

The Constitution should contain provisions delineating the general structure of who is responsible for the prosecution of criminal cases, in what branch of government that authority resides, the powers and obligations of the prosecution/investigation authority, as well as the related institutions including the judiciary, the courts, and ministries associated with the administration of justice. The assessor should also be aware of other constitutional provisions concerning the rights of offenders and victims as these will affect both the prosecutorial function as well as the allocation of prosecutorial resources.

Acts of the legislature and regulations to those Acts: The kinds of Acts likely to contain this information include laws on the administration of justice, criminal law codes and criminal procedure laws. Some countries may have a specific Act dealing with the prosecution or investigation authority, including a code of ethics.

Court Rules: There are often multiple sets of court rules with different sets of rules for each level of the court, including appeals. The Rules may be a source for determining on a policy level how the criminal process in the courts is intended to operate, covering everything from the kind of the evidence that can be introduced to the procedures and timeframes for the filing of motions and requests for summonses or subpoenas. It is useful to get a sense of the rule-making process, i.e. who makes the rules, who has final authority to approve them, and whether the rule-making bodies obtain input from the legal community, including the prosecutor's office, or the community at large. The rules may include an ethics code or code of professional responsibility for lawyers, with special provisions relating to prosecutors.

Policy and Guideline documents, "standing orders", circulars, instructional memoranda, etc. issued by the prosecution or investigation authority (or the government) often contain the detailed information that regulates the manner in which a prosecutor's office or related institutions like the police operate.

In addition, the assessor should ascertain the prosecuting authority's other designated functions on behalf of the government and the extent to which these obligations compete for resources with criminal prosecution. These functions may range from providing legal advice to the government to representation of the government in non-criminal cases and appeals to the supervisory function of former Soviet systems in which the procurator general was the extremely powerful official charged with ensuring that the other branches of government fulfilled their mandates. Such a role raises at the very least separation of power concerns. While most former Soviet states have passed legislation limiting or eliminating such a function, the historical subordination of other stakeholders in the criminal justice system, i.e. the judiciary and defence, has lingered and may hinder the development of the robust defence bar and independent judiciary critical for a fair, just and effective criminal justice system.

The essential counterpart to determining how the legal and regulatory framework intends for the prosecuting authority or prosecutor's office and the prosecution service to function is to examine how they actually function. In addition to examining the reports of the relevant government departments or ministries on the prosecuting authority, independent reports by NGOs, and academic research papers, it is important to conduct site visits to a number of representative prosecutor's offices (if there is more than one) and observing court proceedings. This is especially true where prosecution as a function has been de-centralized and would include visits to offices and courts in rural and urban settings, in both relatively well-to-do and impoverished locales. Where specialized prosecution units exist, site visits are useful to be able to compare and contrast practices with the units or offices that prosecute the general criminal caseload.

3.2 DELEGATION OF PROSECUTORIAL AUTHORITY

- A. Under the law and procedures of this criminal justice system, how does a criminal case proceed from the allegation or suspicion of a criminal offence to advice to investigators to formal charging to adjudication and disposition?
- B. Determine where the prosecution (and investigation) authority resides in the criminal justice system being assessed. Is it part of the judiciary? Is the prosecution authority vested in a prosecutor, an investigative judge, or both?

Please refer to **Access to Justice: The Judiciary** for further guidance on assessing the judicial integrity/independence issues associated with investigating judges.

- C. What does the Constitution say about the powers and duties of the prosecuting authority? Is there a separate statute or a section/chapter of a statute that sets out such powers, duties and any immunities (for example, protection from civil liability for official acts)? Does the prosecuting authority also have legal mandates beyond the prosecution of criminal cases, i.e. providing legal advice to the government, representing the government in civil legal proceedings or the appeals process? How do these other mandates and obligations affect the prosecution service's ability to handle the criminal caseload?
- D. Is the head/senior prosecutor appointed and if so, by whom? Elected? What is the term of office? How can the head prosecutor be removed? Has this occurred in the past five years? If so, what was the reason? Was the law followed in removing the prosecutor?
- E. Does the prosecution service have supervisory power over other branches of government? Other government ministries? How does the prosecution service exercise this supervisory authority?
- F. Does the system include investigating judges? What is their role? How many have been appointed? At what level of the court system do they function?
- G. If the prosecution authority includes a separate prosecutor's office, does it reside within the executive branch of government or the judiciary? If part of the judiciary, to what extent is the prosecuting function separated from the judiciary? How is this achieved? Is it achieved in reality? If part of the executive, to what extent is the prosecuting function independent from other branches of the executive?

Please see **Guideline 10, UN Guidelines on the Role of Prosecutors.**
- H. In addition to the rights of the accused, does the Constitution enumerate rights held by victims of crime? What obligations under the law does the prosecuting authority have toward crime victims or witnesses in criminal cases? What is the impact on the prosecuting authority in terms of resources? How do these obligations affect practices and procedures?
- I. Does the law provide for a system of compensation for persons acquitted or found to have been wrongly convicted? Is their recourse a civil suit against the prosecution service or police, if these are not shielded by legal immunity from liability? Legal action against the government of the state?
- J. Is there special statutory authority to investigate or prosecute public officials for corruption or abuse of power?
- K. Does the law provide for private prosecutions? How do private prosecutions relate procedurally to prosecutions by the state? To what extent are private prosecutions pursued? May they be initiated at any time or only after the prosecution service determines that it will not pursue a criminal prosecution? Does a procedural mechanism exist for the government/public prosecutor to assume or re-assume responsibility for a private prosecution? On what basis?
- L. Do the Rules or law include an ethics code for prosecutors? Are the obligations consistent with the **UN Guidelines on the Role of Prosecutors**? If there is no ethics code specifically for prosecutors, do the rules or law include an ethics code for lawyers?

Please note that not all systems require that prosecutors be lawyers. See **SECTION 6.1, QUALIFICATIONS.**

3.2.1 Traditional / Customary Courts / Alternative Resolution Forums

- A. Does the Constitution or criminal procedure code grant jurisdiction to a customary or traditional court or alternative resolution forum for any class of criminal offence? Are there limitations on the types of punishments or penalties that can be imposed?
- B. How does this system interact procedurally with the formal criminal justice system? Do these systems refer cases to the prosecution service? Does the law allow the prosecution service to refer cases to such system as a form of diversion?
- C. Where there is no legal recognition of such alternative systems, does the prosecution service take into consideration whether the other system has conducted its own proceedings or resolved the case in determining whether to initiate a prosecution for the criminal offence?
- D. To what extent does the population rely on such systems to resolve criminal matters? What is the reason for doing so? Proximity, low cost, tradition, religious faith, barriers to the formal system, lack of trust in the formal system, pressure from family or social setting? Are the poor, rural, or ethnic minorities or members of certain religious faiths more likely to rely on these other systems?
- E. Are there human rights or due process issues associated with any of these systems? How has the prosecution service dealt with these issues?

3.3 THE ROLE OF THE PROSECUTOR IN CRIMINAL PROCEEDINGS

In many countries with a civil law legacy, the prosecution of criminal offences may be undertaken by a special prosecuting authority, which may be a public prosecutor or an investigating judge, though in some systems, both may exist. In some states, the investigating judge will provide judicial oversight for the entire process of investigation and prosecution. Where an investigative judge directs the evidence-gathering phase of a criminal prosecution, judicial police may provide the investigative resources to carry out the investigative judge's orders/directives.

Countries with a common law heritage may differentiate firmly between the investigation process and the prosecution process. The police usually conduct the investigation, and the prosecutor must then objectively assess whether there is sufficient evidence to prosecute. (This model may also be followed in some civil law countries.) In practice, this division is not strictly followed, and in some systems the prosecutor is directly involved in the investigation process, by way of legal advice or otherwise. In such systems, the judiciary must be approached separately to obtain certain types of evidence, which is usually done by way of issuing a warrant. The legality of the manner in which evidence is obtained is challenged, either prior to or during trial. The prosecution must prove that the evidence was obtained in accordance with the law and that the rights of the accused were not violated. The trial judge must rule on the admissibility of the evidence; if the manner in which evidence was obtained was in violation of the law, that evidence is excluded and cannot be used in determining guilt.

While many systems require that the prosecutor disclose any potentially exculpatory evidence (evidence that may show that the accused did not commit the offence or that someone else may have done so) obtained in the course of an investigation, **Article 34 of the Model Code of Criminal Procedure (DRAFT, 30 May 2006) (MCCP)** requires that the office of the prosecutor investigate both incriminating and exonerating circumstances equally. The **MCCP** does not utilize an investigating judge, but rather is inspired by a new type of prosecutorial model that is a blend of different systems. Under this model, the prosecutor must investigate both exonerating and incriminating evidence in a role that is particularly necessary in a post conflict state where defence lawyers who are able to conduct investigations on behalf of their clients may not be available. The prosecutor's role provides a model that ensures fairness of process, given few systems exist in which the defence has access to resources at a level equivalent to those available to the prosecutor's office.

- A. Under the criminal procedure code or its equivalent, who is responsible for the investigation of crime prior to the initiation of a prosecution? Do prosecutors undertake or oversee investigations? Do prosecutors supervise investigations that are carried out by other agencies? Is this supervision direct or are they simply kept

apprised of progress or issues and offer advice on how to proceed? From which stage do the prosecutors get involved, if they do, in the investigation?

- B. What kinds of evidence gathering require a warrant being requested from a judge? Do the police or the prosecutor request warrant? Does the prosecutor give advice to the police when to seek warrants and whether the evidentiary basis for their request is sufficient?
- C. Are prosecutors legally bound by the results of a police investigation? What is the structure for the relationship, if any, with the police? With investigators? What is the relationship with the Ministry of Justice or Ministry of the Interior, if they exist?
- D. Does the prosecutor have the legal authority to order continued detention of a suspect?
- This is ordinarily a judicial oversight function that will raise human rights concerns when delegated to the prosecuting authority that may be directly involved in the investigation of the crime and will be responsible for its eventual prosecution.
- E. Does the prosecutor have the power to institute a prosecution? How?
- F. What is the process by which formal charges are filed? Does a formal charging document need to be presented for approval or review? To what body or member of the judiciary? What is the basis for the review/ approval?
- G. In systems where there is an investigating judge, at what point does that official become responsible for the development, investigation or evidence gathering in a criminal case? What is the role of the judicial police, if any with regard to any investigative judge? Who is legally obligated to carry out the directives and orders of an investigative judge in gathering evidence?
- H. Where both a public prosecutor and an investigating judge have authority over a criminal case, at which points do each or either have investigative responsibility? Does that change as a criminal prosecution proceeds? If so, how?
- I. When a criminal case goes to trial, what is the role of the prosecutor? At sentencing? On appeal?
- In a common law adversarial system, the prosecutor's role will be central to the presentation of evidence and argument on the law; in a civil law system, the prosecutor's role at the actual trial may be minimal, if not nonexistent, as the investigative judge presents evidence and findings to the trial judge(s).
- J. May the prosecution appeal the verdict of a criminal case? Appeal rulings made by the court? To what extent does this occur?

3.3.1 Prosecutorial Discretion

The extent to which prosecutorial discretion exists varies among systems. In some civil law systems, the decision to prosecute is made by the investigating judge after a preliminary inquiry, while in others; the public prosecutor decides whether a case should be prosecuted. Certain civil law countries follow a policy of requiring that every case be prosecuted where sufficient evidence exists to do so. This is known as the principle of legality or the concept of obligatory prosecution, in which only the lack of sufficient evidence may be the basis for declining to prosecute a case and is premised upon the principle of equality before the law—that is that all people are equal before the law and are to be treated equally when suspected of committing a criminal offence. In other civil law systems the prosecutor has discretion to prosecute; to dispose of a case upon the fulfilment of conditions by the accused such as the payment of restitution or a fine, performance of community service, undergoing treatment or completing a programme, etc.; or not to proceed at all. Some systems grant this discretion on a limited basis, for instance, for offences whose punishment is less than a year in jail while others grant this discretion, if not unconditionally, then with the broad sweep of allowing that which is in the public interest. In some civil law systems, the discretion to divert a case is vested in a judicial officer rather than the prosecutor.

In almost all common law systems, exercising discretion whether to prosecute is a key function of the office of the public prosecutor though the extent to which this is delegated down to prosecutors or held by the senior prosecutors differs. This broad discretion to do what is fair and just under the circumstance has been termed as the principle of opportunity or expediency. The exercise of discretion may depend on a range of factors over and above the adequacy of evidence. Other decisions that prosecutors make also require the exercise of discretion, such as whether to recommend the release of a suspect on bail in a detention hearing, whether to make a plea offer to a lesser charge than the primary charge, whether to allow a person to be diverted to a particular programme, though these latter two issues may require judicial approval in some countries.

The **UN Guidelines on the Role of Prosecutors** recognize both the potential benefits of the exercise of prosecutorial discretion and its potential unfairness if applied inconsistently or improperly. **Guideline 17** requires a legal or regulatory framework that guides the exercise of discretion to ensure fairness and consistency. **Guidelines 18** and **19** emphasise the value of prosecutorial discretion in resolving appropriate cases, including those involving juveniles, by using alternatives to formal adjudication. As such, prosecutorial discretion becomes a powerful mechanism to address issues ranging from reducing excessive caseloads that challenge the prison systems to the avoiding where unnecessary the stigmatization and social costs of criminal prosecution and conviction, both to adults and particularly to children in conflict with the law. Therefore, enhancing the ability and capacity to exercise prosecutorial discretion appropriately may be a rich area for technical assistance.

- A. Where an investigating judge has conducted a preliminary inquiry or investigation, how often does this result in a declination to proceed?
- B. Does the prosecutor have discretion over whether to pursue charges? On what basis? How often does the prosecutor decline to prosecute? What happens to the case? How often does the prosecutor send the case back for additional investigation instead of declining?

This practice has in some countries led to police obtaining coerced confessions when the case has been returned.
- C. Does a prosecutor in declining to prosecute or withdrawing a criminal case need to provide a reason for doing so? Are reasons published? Does this occur in practice? Up to what point in the process may a prosecutor exercise the discretion to decline or withdraw a case? At what point may only a judge dismiss a criminal case?
- D. Can the decision to proceed, decline to prosecute, withdraw or dismiss the case be overruled by a member of the executive branch? Can it be overruled by a member of the judiciary? Can it be overruled by a government minister? To what extent does this occur in practice?
- E. Does the prosecutor have the legal authority to conditionally dismiss a case? At what stages? For what types of crime? For what type of offender? Do the law or regulatory framework guide conditional dismissals? Internal policy/procedures? Does a judge have to approve of this agreement? What record is made of the agreement? Who verifies fulfilment of the conditions?
- F. Does the prosecutor have the legal authority to divert cases to alternatives to criminal prosecution such as mediation, treatment or community service? (Do any such alternatives exist?) If so, does this require judicial approval? At all stages? Are such alternatives limited to juveniles, drug offences, mental health, domestic violence, etc.?
- G. Does the prosecutor have the legal authority to negotiate plea agreements, if there is a legal basis for plea agreements? To what extent is the prosecutor's discretion to negotiate a plea controlled by a regulatory framework? What are the limitations of that framework? Does the prosecutor have an obligation to make a plea offer? Does the prosecutor have a legal obligation to consult with or inform the victim about a plea offer or agreement? Is it a policy (and practice) for providing access to evidence (discovery) to facilitate early acceptance of plea offers (rather than on the day of trial)? Does there need to be judicial approval or acceptance of the agreement?

3.3.2 Alternatives to Prosecution

Prosecutors are directed by **Guideline 18** of the **UN Guidelines on the Role of Prosecutors** to give due consideration to waiving prosecution, discontinuing proceedings conditionally or unconditionally or diverting cases from the formal justice system, with full respect for the rights of suspects and victims.

Diversion is the channelling of certain cases away from the criminal justice system, usually on certain conditions. In common law systems it is generally achieved through the operation of the prosecutor's discretion while in civil law systems it may be the judicial officer who makes the decision to divert matters. Diversion may occur at the charging and pre-adjudication stage; it may also be premised on an acknowledgment of responsibility for the offence, and an agreement to make amends for the crime, usually by performing community service or compensating the victim. Sometimes the offender is sent to a course or programme to deal with a specific problem (e.g. drug addiction, sexual offences, anger management, self-esteem) In some systems the referral for diversion is to a mediation process, where the victim and the offender (and in some models, other members of the community) meet face to face and a plan is made about how the offender will put the wrong right. This kind of interaction between victims and offenders is the basis of restorative justice, an approach that has gained in popularity in many systems throughout the world in the past few decades.

Diversion may occur at different stages in different systems and for different classes of offender. In its classic form, it occurs prior to the trial and avoids the trial process altogether. In some systems, a matter that is diverted does not come to court at all, in others the performance of the diversion conditions is overseen by the court.

There are many advantages inherent in the process of diversion. For the offender, he or she may avoid a criminal record and its negative consequences, he or she will learn things from the programmes that are specifically relevant to avoid re-offending in the future, he or she may make direct amends to the victim and through this may learn empathy and a sense of social responsibility. In restorative justice processes, victims often express high levels of victim satisfaction. Diversion may allow for involvement of communities and a role for traditional conflict resolution processes. The prosecution service and the court benefits as well in that resources are freed to address more serious or complex cases and, where diversion programmes are effective, the likelihood that the defendant will offend in the future is reduced.

- A. Is diversion (to treatment programs or alternative programs like community service) currently being practiced? Does such diversion require judicial or prosecutorial approval? For what types of case? What types of offenders? Are there established protocols for diversion? Who has developed them? What do they cover?
- B. Is this done in the case of child offenders, if there is no separate adjudication system for children in conflict with the law whose mandate recognizes the special needs of rehabilitation and guidance for such children?
Please see **Guideline 19** of the **UN Guidelines on the Role of Prosecutors**.
- C. If diversion is not occurring, what are the impediments to it? For example, are prosecutors not permitted to withdraw charges? Are there no programmes? Are existing programmes viewed as ineffectual? Are there special courts dealing with classes of cases that might otherwise be diverted, such as drug treatment courts, mental health courts, family violence courts?
- D. Are there any mediation services to which parties to a case may be referred? Is there a mechanism or protocol for determining which cases are appropriate for mediation?
Cases involving domestic violence or sexual violence where the balance of power is skewed by the use of violence by one party have been recognized as inappropriate for mediation.
- E. Are there traditional or customary law dispute resolution systems? Please see **Section 3.2.1**. Where the prosecutor has the authority to refer cases to such forums, does this occur? If not, why not?
- F. Does the payment of restitution in certain cases provide a basis for a decision by the prosecutor not to prosecute? Are other protections in place to ensure that ability to pay restitution does not create an unfair advantage for those with means?
- G. Does the prosecution service support alternatives to prosecution? If not, why not?

4. MANAGEMENT AUTHORITY AND FISCAL CONTROL

4.1 MANAGEMENT AUTHORITY

- A. Is there an official government policy on the prosecution service? Who develops it? Whose input is sought? Does the policy address the separation of the prosecutorial function from judicial functions?

Please see **Guideline 10, UN Guidelines on the Role of Prosecutors.**

- B. To what extent do the Ministry of Justice or the judiciary play a role in the management of the prosecution service? In the supervision of prosecutors? Is either legally allowed to give direction on specific cases?
- C. To what extent is the leadership of the prosecution service able to determine how the prosecution service will achieve its mandates? Develop public prosecution priorities, policies and strategies? To whom does the head prosecutor answer, if anyone?
- D. Has there recently been any restructuring of the prosecuting authority? Is any such restructuring planned? What are the reasons for such restructuring?

Restructuring the prosecution system may be done for political reasons, particularly in countries undergoing post conflict transformation. Other reasons for restructuring may be to increase efficiency, or to reflect modern approaches to prosecution, and to improve co-operation at an international level – see for example, the **UN Handbook on Practical Anti-Corruption Measures for Prosecutors and Investigators**.

- E. Is there a strategic plan for the prosecution service? Who prepares it? Whose input is sought? How many years into the future does the strategic plan project? What are the strategies it will employ to improve:
- Access to justice?
 - The day-to day functioning of the prosecution service?
 - Case management, including the development of case screening mechanisms and protocols for diversion?
 - Timely resolution of the caseload?
 - Reduction of any backlogs that may exist.
 - Its capacity to handle specialized or complex crimes, including corruption?
 - Its effectiveness in responding to domestic violence?
 - Services/support provided to victims?
 - Its accountability to the public it serves?
- F. If there is no strategic plan, why is there not? Does the prosecution service have the capacity to engage in strategic planning? Is there a lack of data upon which to base strategic planning? Is the leadership overwhelmed by day-to-day management issues?

4.2 FISCAL CONTROL

- A. Is criminal prosecution a centralized or de-centralized function? Who or what body determines the distribution of prosecutorial resources nationally? Regionally? What proportion of resources of the prosecution service, i.e. personnel and budget is devoted to criminal prosecution, as opposed to other functions or mandates? Does legislation authorize a specific number of prosecutors? Where are regional or rural offices

located, if there are such offices? What level of resources do they receive as compared to headquarters or central/urban offices?

- B. How is the prosecution service funded? What is the budgetary process under the law? Does the prosecution service have a specified budget? Who is involved in planning the initial budget? Who prepares and submits the operating budget? Under the law, who manages the budget? If the prosecution service is part of the judiciary, does the judiciary oversee its spending? Is the budget sufficient for the prosecution service to carry out its mandates?
- C. Does the prosecution service actually receive the funds allocated in its budget? Are there delays, fiscal constraints or other obstacles to gaining access to these funds? Where are the funds held? Who authorizes their disbursement?
- D. Is the budget sufficient to allow long-term investigations/ prosecutions? What mechanism exists for the prosecution service to obtain additional funding when an extremely resource-intensive prosecution emerges?
- E. How well does the prosecution service manage costs associated with a prosecution, i.e. forensics costs, expert witnesses, witness travel expenses, etc.?
- F. Does the prosecution service control the resources available for witness protection measures? If it does not, how does it obtain access to those funds when such measures are necessary?
- G. How does the prosecution service account for its expenditures? Is this accounting made public?

5. ORGANIZATIONAL MANAGEMENT AND OPERATION

5.1 MANAGEMENT

- A. What is the leadership/management structure of the prosecution service? How does the senior prosecutor delegate or retain decision-making authority?
- B. How do the senior prosecutor and his/her management team develop policy? What data is used? Is policy based on research or evidence-based practices?
- C. How is policy implemented and enforced? Does the prosecution service have written policy/procedure? (If policy has not been reduced to writing, how is it conveyed?) Compiled into a manual for staff? Available to the public? Available upon request?
- D. How does the senior prosecutor guide the exercise of discretion among subordinates? What is the system of delegation in place? Is discretion delegated down to each individual prosecutor?
For example, may a prosecutor working in the lower courts withdraw a charge without the approval of a senior prosecutor?
May a prosecutor working in the lower courts accept a plea of guilty to a lesser charge without the approval of a senior prosecutor?
May a senior prosecutor order a more junior prosecutor to withdraw a case? Must there be a written record of such a directive, with the basis for the withdrawal?
- E. What is the prosecution service policy on instituting prosecutions? Must a prosecution be initiated whenever an impartial investigation has shown that there is a well-founded charge (or prima facie evidence of a crime)? Is there policy guidance on when diversion is appropriate or preferred?
- F. What is the prosecution service's policy when an impartial investigation shows that a charge is unfounded?

Guideline 14, UN Guidelines on the Role of Prosecutors requires prosecutors not to initiate, to discontinue any ongoing prosecution, and to make every effort to stay proceedings that may be ongoing when this occurs. Ethical obligations under a code of ethics typically also require that the prosecutor prevent an unfounded case from going forward to protect the rights of the accused and to protect the integrity of the criminal justice process.

- G. What is the prosecution service's policy on requesting pre-trial detention? Does the prosecution service request remand in all cases for which remand is possible or are protocols in place that assess the accused's potential flight risk and danger to the community prior to trial? Does lengthy pre-trial detention become leverage in obtaining guilty pleas?
- H. What is the prosecution service policy on illegally obtained evidence? If prosecutors become aware that evidence provided by the police or other agencies was obtained through illegal means, what is their obligation ethically, legally and according to policy? Do they advise defence counsel? The court? What is their role with regard to the investigators who obtained the evidence illegally? Is there a qualitative distinction made between an investigator who acted in good faith but committed a procedural error and the investigator who knowingly acted illegally? Who committed a criminal offence in obtaining the evidence?

Guideline 16, UN Guidelines on the Role of Prosecutors, requires prosecutors to refuse to use evidence that was obtained in violation of the law AND in grave violation of the suspect's human rights and to further take all necessary steps to bring those using such methods to justice. Again, ethical obligations may require that prosecutors refuse to prosecute a case based upon evidence obtained improperly even where the evidence was not obtained via a grave violation of human rights like torture.

- I. What is the prosecution service's policy on the disclosure of evidence to the defence? Does it mandate timely disclosure to allow time for preparation of a defence or the negotiation of a plea agreement? Does it provide access only to the evidence required to be disclosed by law or does it provide full disclosure of the evidence in its possession? If the policy is the latter, what proportion of the workload is consumed by litigating defence requests to obtain access to evidence? Is the practice by prosecutors consistent with the disclosure policy? What obligations does the prosecution policy/practice impose upon criminal investigators? Are investigators required to certify that they have made full disclosure to the prosecution? Does this occur in practice?
- J. What is the prosecution service's policy regarding the prosecutor's role in relation to vulnerable groups? (Where no written policy exists, are staff members able to verbalize what they believe the policy is?)
 - On the provision of special services to victims of sexual offences? Victims of domestic violence?
 - On the provision of services to victims, including the poor and elderly?
 - On the treatment of children, both victims and those in conflict with the law, including diversion from the adult criminal justice system?
 - On reducing inconvenience to and protecting witnesses?
- K. Does the prosecution service participate in any special therapeutic courts such as drug treatment, family violence, or mental health courts? How has the prosecution service defined the role of the prosecutor on these teams?
- L. What policy and procedures are in place, if any, for the review of claims of miscarriages of justice such as wrongful convictions or abuse of prosecutorial discretion/power? Is DNA testing available, for example, to ascertain whether the person convicted of a crime whose prosecution involved evidence containing the genetic material of the offender is a genetic match to an appropriate statistical certainty? Does the physical evidence gathered in such cases still exist? What measures are taken to ensure that such evidence is preserved? If these are not available, what steps are taken by the prosecution service to investigate such claims?
- M. Has the prosecution service participated in developing policy in any amnesty programs? If not, what was the prosecution service's position on the granting of amnesty? For what types of crime? What was the rationale for the amnesty granted?

5.2 ORGANIZATION

- A. How is the prosecution service organized? Is there an organizational chart showing the lines of authority, the assignment of prosecutors, investigators (if employed by or permanently assigned to the prosecution service), and support staff including victim/witness support staff, if they exist?
- B. Are prosecutors and support staff assigned to prosecution teams handling cases at various court levels? To specialized crime units? By geographic region? A combination of the above? Does the prosecution service follow a community-oriented approach to prosecution or does it follow a more authoritarian model? How do team assignments reflect the professed philosophy? Is the prosecution service philosophy consistent with the approach employed by the police?

5.2.1 Specialized Units

- A. Does the prosecution service have specialized units for prosecuting with crimes involving vulnerable victims? Domestic violence? Sexual offences, including child victims?

Please see **Cross-Cutting Issues: Victims and Witnesses**, the **Declaration of the Basic Principles of Justice Victims of Crime and Abuse of Power 1985** and the **UN Guidelines on Child Victims and Witnesses of Crime 2005** for further background.

- B. Does the prosecution service have a separate unit for dealing with juvenile offenders (juveniles in conflict with the law)? How are prosecutors chosen for this assignment?

Please see **Cross-Cutting Issues: Juvenile Justice** for further guidance on the issues and needs associated with the adjudication of children in conflict with the law.

- C. Is the prosecution service able to assemble a multidisciplinary team to prosecute complex cases? How are prosecutors chosen for such teams? Who else may be assigned to such a team? What resources or mechanisms are available for long-term or complex investigations? Has the prosecution service initiated any prosecutions of note? Has the prosecution service organized separate units to prosecute such cases? (If not, how are these case handled, if at all?):

- Financial crimes, including arson for profit, theft of software and other intellectual property
- Organized crime, including drug distribution
- Public corruption
- Misconduct by officials, including lawyers and police officers
- Obstruction of justice
- Human rights and war crimes

- D. Has the prosecution service, in the past 5 years (or under the current government's administration), dealt with the investigation or prosecution of any public officials for corruption or abuse of power? Is it likely?

- E. Does the prosecution service have a dedicated unit for requesting and responding to requests for assistance in obtaining evidence pursuant to international cooperative agreements and conventions? Does it otherwise have the capacity both to use these mechanisms and to meet reciprocal obligations?

5.3 CASELOAD MANAGEMENT

- A. What mechanisms does the prosecution service use to manage the incoming caseload? Are all cases assigned to prosecutors on arrival? By crime type or court level? What kinds of cases are assigned vertically, that is every aspect of the case from investigation to presentation for formal charges to trial and sentencing, will be handled by a single prosecutor?

Vertical prosecution is a resource intensive approach usually reserved for more serious or complex cases. If used more generally, scheduling cases becomes difficult and may be the cause of delay.

- B. Are more minor cases already scheduled for court dockets, with prosecutors being assigned to cover the entire docket? Are these dockets of a manageable size, that is, can all the cases scheduled for a docket be reached within the time scheduled for it?

- C. Has the prosecution service implemented a screening process that allows cases to be assessed even prior to their assignment? What level staff is assigned to screen cases? Have written protocols been developed to guide the screening of cases, including assessing the level of criminal history (if it exists), the instant offence (violent, non-

violent), the quality and sufficiency of evidence, victim input, mental health and addiction issues, if any? Do these protocols include screening cases for possible diversion or alternative resolution mechanisms? Are the recommendations made by the screening staff binding upon the prosecutor who handles the case in court?

- D. Has the prosecution service implemented any initiatives to expedite the resolution of certain categories of cases? What are they? Have such initiatives been successful? Are they short-term initiatives to address crises (such as overwhelmed court dockets or prisons/detention centres approaching bursting levels, that is where the daily population is high enough to trigger mandatory releases of prisoners) or have they been institutionalized?
- E. What statistics does the prosecution service keep? Please see to **Section 2.1, Statistics**, for the types of statistics that may be used in caseload/workload management. Are they kept manually or on an automated basis or in combination? Are they compiled into reports? Do the reports reflect caseload or workload or both? For what purpose(s) are these statistics used? Annual reports? Budget process? Resource allocation? Strategic planning? Identification of delay? Are the statistics collected meaningful to management? Does management get the reports it needs? Do they trust their reliability?
- F. Does the prosecution service have identified performance indicators? If so, what are they? How were these developed? Were they imposed externally (by a budgeting authority) or developed internally? Are they numerical outputs or qualitative in nature?
- In some countries the prosecution services are using new and less conventional indicators of performance that get closer to measuring important outcomes. In common law systems these often focus on improving pre-trial practices, reducing bias in the use of discretion and on improving services to victims. This might mean undertaking surveys to find out from court users how they experience prosecution service.
- G. How does the prosecution service monitor the caseloads/workloads of individual prosecutors and prosecution teams? Does it use statistical reports? What data do these reports capture? Type of disposition? Means to disposition, i.e. trial (jury or court), plea agreement? Time to disposition? If a withdrawal, reason for withdrawal such as insufficient evidence, successful completion of conditions, witness unavailability?
- H. How is the data gathered? Is it complete? Accurate? Timely? If it is entered into an automated system, who is responsible for the data entry? What quality control mechanisms are in place to check its accuracy? Does anyone audit the data?

5.3.1 Case Management

These questions will best be answered during site visits. The automation of case management may be an attractive area for technical assistance; however, care must be taken to assess the capacity to maintain such a system. Where no such capacity exists or is limited, any technical assistance intervention must fully integrate the development of a sustainable capacity to support automation.

- A. What tools does the prosecution service use to facilitate individual case management? Does the prosecution service rely on a paper case file system, automated support or both? How does support staff assist in case management?
- B. Is there an automated system that allows cases to be tracked on an individual basis? Is it integrated with the automated system that monitors caseload? Is it part of a wider integrated system that may include police information, court schedules, and detention information? If so, what information is shared and what information is protected? To what level is confidential case information protected? Down to the individual prosecutor?

- C. How are case files kept? Are they organized in a consistent, logical manner? Are case information, schedule, and status easy to find? What should a file contain? Are the files generally complete?
- D. How do prosecutors keep track of their cases? How do prosecutors organize the evidence that will be presented in court? Does the automated system, if it exists, allow the cross referencing of the elements of each charge with the pertinent evidence and witnesses? If not, do prosecutors do this manually?
- E. Are prosecutors handling complex cases able to manage and organize a large volume of evidence? Are case management challenges an obstacle to the prosecutions service's ability to undertake such prosecutions?
- F. How are witnesses and their appearances in court coordinated?

5.4 VICTIM AND WITNESS SERVICES

Guideline 13(d), UN Guidelines on the Role of Prosecutors requires that prosecutors consider the views and concerns of victims when their personal interests are affected and ensure that victims are informed of their rights in accordance with the declaration of Basic Principles of Justice for Victims of Crime and Abuse.

Please see also **Cross-Cutting Issues: Victims and Witnesses**, the **Declaration of the Basic Principles of Justice Victims of Crime and Abuse of Power 1985** and the **UN Guidelines on Child Victims and Witnesses of Crime 2005** for further background.

- A. How does the prosecution service seek to meet the needs of vulnerable persons specially addressed (for example: women, children, victims of sexual abuse or domestic violence, persons with physical, intellectual; or emotional incapacities)? Are prosecutors and staff working with vulnerable victims aware of the special needs and sensitivities of such victims? Do they possess the skills with such victims?
- B. Is there staff whose primary function is to work with victims and witnesses. What formal training/education are they required to have? Are there special support services/training for prosecution service personnel dealing with vulnerable persons? What services do such staff provide?
- C. Does such staff or the prosecutor provide an orientation to the criminal justice process for vulnerable victims? Do they arrange for a child victim, for example, to sit in the witness chair in a courtroom when court is not in session prior to trial?
- D. During a trial or other hearing, are victims and witnesses required to appear in court on a daily basis until called? Does the prosecution service staff work with victims and witnesses to minimize the inconvenience of multiple court appearances, many of which are the result of cases being continued to a later date? Is there, for example an on-call system in which victims/witnesses may go about their business but are required to appear in court within a certain timeframe (an hour) if called?
- E. Does the prosecution staff arrange for transport for victims and witnesses who do not have the means to come to court on their own?
- F. Does the prosecution service staff provide victims and witnesses with information about the services that are available, what protections they may seek? How?
- G. Under the law, are crime victims entitled to seek restitution or compensation for losses within a criminal case? Does the prosecution service regularly seek such restitution? What assistance does the prosecution provide in such circumstances?

- H. If the law provides for the submission of victim impact statements, does the prosecution service make a practice of advising victims of this right and encourage them to submit them?
- I. How are victims and witnesses kept informed about cases, including verdicts and sentences by the prosecution service? Does the prosecution service staff notify victims and witnesses about hearings that may have been scheduled or whose time or date may have changed?
- J. To what extent does the prosecution service consider the wishes of the victim when deciding how to proceed in a case? How does the prosecution service work with victims who do not wish to proceed or may be under pressure to ask the prosecutor to drop charges?
- K. Does the prosecution staff escort vulnerable victims and witnesses to court? Are there separate areas where they can wait so they do not have to confront the accused?
- L. Can the witness or victim request a protective measure or an order for anonymity where there is serious risk to him or her or to close family members? For example, is it possible for witnesses who are in danger to testify through a process that protects their identity? How often do the courts use such protective measures (annually, ever)? What other measures have been taken to protect victims and witnesses in specific cases, e.g. testifying via closed circuit television, behind a screen in court, by the tender of pre-recorded evidence?
- M. Are there legal provisions for a witness protection system that the prosecution service may access? Does such a system actually exist? If so, how long has it been operational? Is it generally available or is it geared towards specific categories of cases such as organised crime or anti-corruption cases? Does the system provide for re-location? How frequently is the system used? How many victims/witnesses have entered the program? How many are in the system at any given time?
- N. Are witnesses in criminal cases legally entitled compensation for lost wages or other expenses associated with their appearance in court? If so, does the prosecution service provide this compensation? Is the prosecution service responsible for administering and disbursing this fund? Is the fund regularly audited? Do these expenditures include expert witnesses? How are expert witnesses compensated and by whom?

5.5 ADEQUACY OF PROSECUTION SUPPORT

- A. Do prosecutors have sufficient office space to be able to get their work done? Are offices equipped with telephones? Computers? Are the facilities in which the prosecution service has its office(s) convenient to the court? Are they secure?
- B. Are there safes in individual offices or an evidence room to secure evidence in the custody of the prosecution service?
- C. Do prosecutors have copies of the relevant criminal code, criminal procedure code, and rules? Are they current?
- D. Does the prosecution service have a library or is there a law library to which prosecutors have access to do legal research? Are they able to use electronic databases to conduct research?
- E. Do prosecutors have access to staff interpreters or other interpreters to be able to conduct interviews with witnesses whose first language is not the official language of the court?

6. PROSECUTION SERVICE STAFF

6.1 GENERAL STAFFING

- A. How many prosecutors are currently employed by the prosecution service? Investigators? Support staff? Is the number sufficient to handle the criminal caseload/workload? At all levels? In the regions/rural/impooverished areas?
- B. Does the prosecution service hire, promote, discipline and fire its own staff? If so:
- How is prosecution staff, including prosecutors, recruited? What selection process does the prosecution service use?
 - Are positions advertised? Posted? Where?
 - Are there minimum qualifications for each position?
 - Are all qualified applicants who are available interviewed? If not, why not?
 - Is there transparency in the hiring process, including the use of standard questions during the interview process, rating sheets, etc?
 - Is there a policy on nepotism? Is there a policy that the most qualified candidate be hired? Are such policies enforced?
 - Is there a policy of equal opportunity/non-discrimination? Is it posted? Is it practiced?
- C. What types of support staff are employed by the prosecution service? Administrative, secretarial, paralegal, victim/witness assistance? How are they supervised? To whom do they report?
- D. How is prosecution service support staff evaluated? Promoted? Disciplined? Demoted? Terminated? Is there a written procedure for each?
- E. Does the prosecution service have civil service status or other such protections? Does the staff work at the pleasure or at the will of the senior prosecutor?

6.1.1 Investigators

For those systems where the prosecution service conducts investigations.

- A. Does the prosecution service have its own staff investigators? If so, what are their backgrounds? Former police detectives/investigators? Are they junior prosecutors in training? Does it have investigators assigned to the prosecution service from outside agencies? Which agencies? To whom are these investigators accountable? Are such investigators assigned to special teams or units? Does this create issues when police officers/investigators from those agencies are the subject of investigations or prosecutions? How is the potential conflict dealt with?
- B. How are investigator candidates vetted? Do they undergo formal background checks? What disqualifies a candidate from eligibility/consideration?
- C. Is the investigator required to be sworn in or otherwise make a solemn commitment to uphold the Constitution and the law upon being appointed as a prosecutor? Does the prosecution service require investigators to make a declaration or sign any commitment upon appointment?
- D. What, if any, initial training do investigators receive? Is it mandated by law or rule? Policy? Who or what agency provides for the training of investigators? How long is the initial training period? Are investigators assigned to a mentor/trainer for on-the-job-training? What topics are covered? Does the training include the special ethical obligations upon prosecution services and their basis? Does the training include the

constitutional and statutory protections of the rights of suspects as well as victims? Does training cover human rights and the fundamental freedoms recognized by national and international law?

- E. Do investigators receive in-service training? How often? On what topics?
- F. Are investigators required to file financial disclosure reports? At all levels of seniority? Are reports submitted? Are they audited? By whom? Have these audits uncovered any instances of corruption by investigators? How were these handled?

6.2 PROSECUTORS

6.2.1 Qualifications, Selection, and Training

Guideline 1, UN Guidelines on the Role of Prosecutors requires that prosecutors be individuals of integrity and ability, with appropriate training and qualifications, while **Guideline 2** provides that the selection process for prosecutors demonstrate integrity, rejecting both partiality and prejudice. In addition, prosecutors are to be made aware of the ideals and obligation of their office, the legal protections of the rights of suspects and victims as well as the human rights and fundamental freedoms recognized by international and national law.

- A. Who serves as a prosecutor? Are prosecutors required to have law degrees? Must they be admitted to the practice of law? Do (former) police officers serve as prosecutors? Are they required to undergo any training on the legal, ethical and functional requirements of prosecutors? Do they receive that training?

The use of untrained and unqualified police officers in lieu of prosecutors may be a common practice in some systems, especially in remote areas and in the lower courts. Prosecutions, with their attendant impact upon the accused, typically proceed without the critical review of the sufficiency and legality of the evidence obtained.

- B. What are the selection criteria for prosecutors? Are they objective? Do they focus on competence and integrity? See **Section 6.1, Question B** on hiring and recruitment policies and practices. Are the criteria used? Does the demographic makeup of staff prosecutors resemble the population? Is it reflected at senior levels? Is any group over- or under-represented? Is the prosecution leadership actively recruiting candidates to make the staff more representative? Are bilingual or multilingual prosecutors who speak ethnic minority languages recruited? If not, why not?
- C. How are prosecutor candidates vetted? Do they undergo formal background checks? Are candidates required to file financial disclosure reports? What disqualifies a candidate from eligibility/consideration?
- D. Is the prosecutor required to be sworn in or otherwise make a solemn commitment to uphold the Constitution and the law upon being appointed as a prosecutor? Does the prosecution service require prosecutors to make a declaration or sign any commitment upon appointment? If so, do any of these include or are they consistent with the obligations to:
 - Carry out their functions impartially and avoid all political, social, religious, racial, cultural, sexual, or any other kind of discrimination?
Guideline 13(a), UN Guidelines on the Role of Prosecutors.
 - Protect the public interest, act with objectivity, take proper account of the position of the suspect and the victim, and pay attention to all relevant circumstances, irrespective of whether they are to the advantage or disadvantage of the suspect?
Guideline 13(b), UN Guidelines on the Role of Prosecutors.

- E. What, if any, initial training do prosecutors receive? Is it mandated by law or rule? Policy? Who or what agency provides for the training of prosecutors? How long is the training period? Are new prosecutors assigned to a mentor/trainer for on-the-job-training? What topics are covered? Does the training include the special ethical obligations upon prosecutors and their basis? Does the training include the constitutional and statutory protections of the rights of suspects as well as victims? Does training cover human rights and the fundamental freedoms recognized by national and international law?
- F. What ongoing training is available for prosecutors in the area of trial skills, investigative techniques, policy, professionalism, ethics, forensic evidence, changes in the law, procedure? Is there a training budget and, if so, what percentage of the prosecutor's budget does it comprise? How often do prosecutor participate in training? Weekly meetings? Monthly? Annually? Do prosecutors get opportunities to attend outside training seminars and courses? Who has attended and to what types of training?
- G. Do prosecutors assigned to specialized units receive training specific to those functions? For example, do prosecutors handling sex offences receive training in working with such victims? Child victims? Have they been trained in to conduct interviews using trauma-minimizing, yet non-leading techniques? Have domestic violence prosecutors received training on the dynamics of domestic violence and effective law enforcement responses to domestic violence? Do financial crimes prosecutors receive training on forensic accounting? If the specialized unit prosecutors do not receive such training, how do they develop the necessary skills?

6.2.2 Status and Conditions of Service

Guideline 3 of the UN Guidelines on the Role of Prosecutors places the obligation upon prosecutors to maintain the honour and dignity of their profession, as "essential agents of the administration of justice". Guidelines 4 through 6 address the conditions necessary for the prosecutors to be able to perform their functions, that interference, ranging from adequate salary and benefits to physical security to freedom from interference in carrying out their duties.

- A. How are the terms of service, compensation, etc. determined for prosecutors? By law or regulation? What is the range of salary for prosecutors? Are the salaries paid? Is their remuneration consistent with their position? Is their salary reasonable when compared to the local cost and standards of living? Do they receive benefits, such as housing, other than salary as part of their compensation?

Their pay (including allowances), in comparison with the national average income, can also be a valuable indicator of the status of law enforcement officials and may provide an indication of economic pressures that may drive corrupt practices.

- B. Are prosecutors able to do their work without interference or intimidation from other parts of the government? Have resources or legislation authorizing or restricting funding or compensation been delayed or enacted retrospectively as a means of pressuring the prosecution service?

Please see also **Question D, Section 3.3.1, Prosecutorial Discretion**, which addresses the extent to which the legal framework may allow other branches of government to restrict or override prosecutorial discretion.

- C. Have prosecutors (or their families) been threatened or attacked as a result of carrying out their prosecutorial functions? What measures have been taken to provide security for prosecutors in the workplace? In court? At home? Are the measures generally applicable or only when a threat has been made? Are the measures adequate? How are they funded or resourced? Is there a sense of relative safety or risk among prosecutors? Where police officers may be the source of the threat, what protective measures can be taken?

- D. Can prosecutors be sued for actions arising from the course of their work?

Please see also **Question C, Section 3.2, Delegating Prosecutorial Authority with regard to immunity**, which is intended to protect prosecutors from intimidation in the course of the duties.

- E. Is potential liability limited to acts of gross negligence or unlawful intention? Is a prosecutor who has acted in good faith and followed legal procedure makes an error, for example, charges the wrong person, protected from liability?

With regard to civil or penal liability, a distinction should be made between the individual prosecutor and the prosecuting authority. While an individual prosecutor may generally be protected from liability, the prosecuting authority may nevertheless be liable for damages arising from errors and negligence on the part of prosecutorial staff.

6.2.3 Freedom of Expression and Association

Guidelines 8 and 9 of the UN Guidelines on the Role of Prosecutors affirm the rights of prosecutors as citizens to freedom of expression, belief, association and assembly. Prosecutors should be free to participate in public discussion and to join or form local, national or international organizations and attend their meetings without suffering professional disadvantage as a result. However, the guidelines stress that in exercising these rights, prosecutors must conduct themselves in accordance with the rule of law and the recognized standards and ethics of their profession. Further prosecutors should be free to form and join professional associations and organization that represent their interests, promote the professional training and protect their status.

- A. Are there any legal restrictions upon prosecutors that restrain their freedom of expression or freedom to associate?
- B. Does the prosecution service allow prosecutors to participate in public discussions about the law, administration of justice, or the promotion and protection of human rights? If not, why not? Does the prosecution service oblige the prosecutors to make it clear whether they are participating as representatives of the prosecution service or in a non-official/individual capacity? Are prosecutors allowed to form or join organizations at any level and attend their meetings? If not, why not?
- C. Does the prosecution service allow prosecutors to form or join professional associations or other organizations that represent their interests, promote their professional development, or protect their status? If not, why not? Does the prosecution service encourage such membership? Does the prosecution service cover dues or pay for the cost of professional skills training provided by such associations or allow the prosecutor to take paid leave to attend them?

6.2.4 Integrity, Ethics and Performance

- A. In addition to any existing ethics code in the law or rules, has the prosecution service developed an internal ethics code or code of conduct? Is it part of the policy and procedures manual, if one exists? What does it cover? Does it require that ethical violations be reported? Does it make the failure to report an ethical violation in and of itself?
- B. Are prosecutors required to file financial/asset disclosure reports? At all levels of seniority? Are reports submitted? Are they audited? By whom? Have these audits uncovered any instances of corruption by prosecutors? How were these handled?
- C. Are prosecutors encouraged to consult with supervisors or an ethics officer on ethical questions? Please refer also to **Section 6.2.1, Questions E and F** with regard to ethics training.
- D. Are prosecutors required to keep matters in their possession confidential, unless the performance of duty or the needs of justice require otherwise?

Guideline 13(d) of the UN Guidelines on the Role of Prosecutors.

- E. Does the prosecution service and its leadership emphasize ethical behaviour and integrity of prosecutors as priorities? Is such behaviour factored into performance evaluations and decisions about promotions?
- F. How is the performance of prosecutors evaluated? Is there a formal evaluation process? Do prosecutors receive written evaluations? How often? How is performance defined? Is it linked to outputs like number of convictions? Number of case resolved? What qualitative evaluation is performed? Are trial skills evaluated? Understanding and application of ethical obligations? Consistency, and fairness in applying policy to caseload? Thoroughness of investigation/review of investigation balanced with timely decision making? Effectiveness and sensitivity in dealing with victims, in particular vulnerable victims? Ability to maintain a productive working relationship with police, the judiciary, the defence bar, and members of the public while maintaining the integrity and independence necessary for the prosecutorial function? Appropriate use of discretion? Appropriate use of alternatives to prosecution?
- G. Does the evaluation of prosecutorial performance allow for creativity with regard to the use of alternatives? For example is a diversion viewed merely as a withdrawal, therefore impacting negatively on statistics, which may be measured according to completed trials or conviction?
- H. Is the evaluation process part of the basis for promotion? For assignment to specialized teams? If not, why not?
- I. Is there a written promotion policy for prosecutors? Is there a promotion process based on objective factors like professional qualifications, ability, integrity, and experience? **Guideline 7, UN Guidelines on the Role of Prosecutors.** If not, what is the basis for promotion? Is there a competitive process for more senior or supervisory positions, i.e. application, interviews?
- J. How are complaints against prosecutors handled? How are allegations of ethical misconduct handled? How are allegations of corruption handled? Is there a formal disciplinary system? Is it governed by a legal or regulatory framework? Is it internal or external to the prosecution service? Who administers it? How is it structured? Who sits on the disciplinary board, if one exists? What is the relationship of internal disciplinary proceedings with external disciplinary bodies such as the bar grievance process, if any? Is the public made aware of the existence of a complaints process? Is it used? How often? Does the complainant learn of the outcome? Does the disciplinary body report its findings publicly? How are prosecutors insulated from the damage of false allegations? **Guidelines 21 and 22, UN Guidelines on the Role of Prosecutors.**
- K. Are prosecutors disciplined or reprimanded informally? How? Are prosecutors punished by transfer? Do prosecutors have a means to contest a punitive transfer?
- L. If a defendant complains about the involvement or behaviour of a particular prosecutor in a case, under what circumstances would that prosecutor be removed? Would there be an investigation of the allegations? What is the procedure while an allegation is investigated? Is a prosecutor temporarily removed? Does a senior prosecutor second the case? Has this occurred? What were the outcomes in these circumstances? How were the cases affected?

7. PUBLIC ACCOUNTABILITY

- A. What is the public perception of the criminal justice system? Is it considered fair? Effective? Efficient? If not, why not? What are the perceived key issues facing the criminal justice system?
- B. How does the public view the prosecution service? Is it considered fair? Effective? Efficient? Competent? If not, why not? Is it considered a source of criminal justice integrity and/or reform? Is the prosecution service perceived to be dealing effectively with public corruption?
- C. What is the public perception of the average individual prosecutor? Fair? Competent? Diligent?
- D. What does the prosecution service do with regard to educating the public about the functions it performs and how well it performs them? Does the prosecution service conduct community outreach? Does the prosecution service seek to involve the community in addressing criminal justice priorities? How? Does it reach out to ethnic, religious and minority communities with the same level of effort?
- E. Does the prosecution service facilitate or restrict access to public information about cases that it is prosecuting? Is there a public information capacity so that press and individual citizens may obtain public information about cases? What is the relationship with the press?
- F. Does the prosecution service make a prosecutor or staff available to answer questions citizens may have about the criminal law?

8. PARTNERSHIPS AND COORDINATION

8.1 SYSTEM COORDINATION

Guideline 20 of the UN Guidelines on the Role of Prosecutors exhorts prosecutors to strive to cooperate with the other stakeholders in the criminal justice system to ensure the fairness and effectiveness of prosecution.

- A. At what level do the criminal justice agencies co-ordinate their activities – national, regional, local? What form does this take, i.e. ad hoc working groups, formal commissions? Do the co-ordinating bodies work well together? Have they been effective in resolving issues? Is there a history or at least an instance of stakeholder participation in the development of initiatives to address the issues facing the criminal justice system? Who are the key players who have worked collaboratively in the past or who need to be brought on board in the future
- B. Does the prosecution service participate in collaborative initiatives to resolve issues challenging the criminal justice system? Does it provide leadership in these initiatives?
- C. To what extent does the prosecution service acknowledge its role in alleviating systemic problems like pre-trial delay or prison overcrowding?
- D. What examples of co-operation are there with other government agencies or institutions? For example, police, the courts, the defence bar, alternative dispute resolution programmes, treatment programmes, probation, the penal system?
- E. Do prosecutors work with non-governmental organisations for example: NGOs dealing with domestic violence or sexual offences, victim support groups, child rights organisations etc.
- F. What partnerships, if any, have been forged with the community (e.g. victim support, referral from or to traditional courts)?
- G. Do some civil society organisations provide services or alternative programmes used by the prosecution service? What are they? What type of activity e.g. diversion programmes for child offenders or to support for victims of sexual abuse, domestic violence?
- H. Do other civil society organizations monitor the work of the prosecuting authority?
- I. How well have cooperative initiatives worked? Have they become institutionalized? Were they failed, what are the reasons cited? What lessons can be drawn from those past efforts.
- J. Has the prosecution service participated or collaborated in the creation of regional or multinational training programs, facilities, sharing of forensic expertise? Is this an ongoing effort? Is it sustainable?

8.2 DONOR COORDINATION

Understanding what donor efforts are underway, what have previously been implemented (successfully and unsuccessfully) and what is planned is critical to developing recommendations for future technical assistance interventions.

- A. Which donor/development partners are active in criminal justice or prosecution service-related issues, like investigation and prosecution issues?
- B. Is the approach targeted to the prosecution service in particular and divided between donors or sector wide (i.e. taking the issue of criminal justice reform as a whole)?
- C. Is this subject (the prosecution service or the investigation and prosecution of criminal cases) discussed in individual donor country action plans/or strategy papers?
- D. Identify the donor strategy papers for the justice sector and amount of money set aside in support?
- E. Where direct budget support is supplied, identify how much has been earmarked aside for the justice sector?
- F. Where a Medium Term Expenditure Framework is in place, indicate what is set aside for justice in general and for prosecution services in particular?
- G. What projects have donors supported in the past; what projects are now underway? What lessons can be derived from those projects? What further coordination is required?

ANNEX A. KEY DOCUMENTS

UNITED NATIONS

- International Covenant on Civil and Political Rights 1966
- The Convention Against Transnational Organized Crime 2000
- The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 1984
- The Convention Against Corruption 2003, see esp. Article 11
- Guidelines on the Role of Prosecutors 1990
- Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power 1985
- Guidelines on Justice Matters involving Child Victims and Witnesses of Crime 2005
- Code of Conduct for Law Enforcement Officials 1979
- Basic Principles on the Use of Restorative Justice Programmes in Criminal Matters 2002
- Code of Conduct for Public Officials (General Assembly resolution 51/59)
- Basic Principles on the Independence of the Judiciary 1985
- Standard Minimum Rules for Non-Custodial Measures 1990
- Body of Principles for the Protection of All Persons Under Any Form of Detention or Imprisonment 1988
- Standard Minimum Rules for the Treatment of Prisoners 1955

- Handbook on Practical Anti-Corruption Measures for Prosecutors and Investigators 2004

INTERNATIONAL ASSOCIATIONS

- Standards of Professional Responsibility and Statement of the Essential Duties and Rights of Prosecutors of the International Association of Prosecutors (IAP), www.iap.nl.com

DRAFT

- Model Code of Criminal Procedure

PLEASE NOTE: The Model Code of Criminal Procedure (MCCP) is being cited as a model of a code that fully integrates international standards and norms. At the time of publication, the MCCP was still in DRAFT form and was being finalised. Assessors wishing to cite the MCCP with accuracy should check the following websites to determine whether the finalised Code has been issued and to obtain the finalised text, as referenced Articles or their numbers may have been added, deleted, moved, or changed:

<http://www.usip.org/ruleoflaw/index.html>

or

http://www.nuigalway.ie/human_rights/Projects/model_codes.html.

The electronic version of the Criminal Justice Assessment Toolkit will be updated upon the issuance of the finalized codes.

Regional

- African Charter on Human and Peoples' Rights 1986
- Protocol to the African Charter on Human and Peoples' Rights on the Establishment of the African Court on Human and People's Rights
- African Commission on Human and People's Rights Resolution on Fair Hearings
- African Charter on the Rights and Welfare of the Child 1990
- European Convention for the Protection of Human Rights and Fundamental Freedoms 1950

Post-Conflict

- ICC, Rome Statute, International Criminal Court, 1998
- ICTR, Statute of the International Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in

the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations in the Territory of Neighbouring States, 1994

- ICTY, Statute of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of Former Yugoslavia since 1991, 1993.

National

- Constitution
- Acts of Parliament and regulations to those Acts
- Court Rules
- Prosecution Service Policy/Procedure Manuals, Codes of Conduct, ethics codes, handbooks, circulars, annual reports
- Government policy documents, “standing orders”, circulars
- Government reports, strategy documents
- Accounting/Budget documents
- NGO reports
- Donor reports

Other useful sources:

- Measuring Progress towards Safety and Justice: A Global Guide to the Design of Performance Indicators Across the Justice Sector (Vera Institute of Justice, New York 2003)

ANNEX B. ASSESSOR'S GUIDE / CHECKLIST

The following are designed to assist the assessor in keeping track of what topics have been covered, with what written sources, and with whom:

	TOPIC	SOURCES	CONTACTS	COMPLETED
2.1	STATISTICAL DATA	<ul style="list-style-type: none"> ▪ Prosecution Service Annual Reports ▪ Ministry of Justice reports ▪ Ministry of Interior reports ▪ National Police Crime reports ▪ Penal System reports ▪ NGO reports: criminal justice system 	<ul style="list-style-type: none"> ▪ Senior Prosecutor ▪ Prosecution Service Management ▪ Prosecution Service Administrator ▪ Ministry of Justice ▪ NGOs working on criminal justice matters ▪ Donor organisations working on the criminal justice sector 	
3.1	LEGAL FRAMEWORK	<ul style="list-style-type: none"> ▪ The Constitution ▪ Acts of the legislature and regulations to those Acts ▪ Court Rules ▪ Government policy documents, "standing orders", circulars ▪ Independent reports made by non-governmental organisations. ▪ Legal texts or academic research papers. 	<ul style="list-style-type: none"> ▪ Legislative offices ▪ Ministry of Justice ▪ Senior Prosecutor ▪ Prosecution Service Management ▪ Prosecution Service Administrator ▪ NGOs working on criminal justice matters ▪ Donor organisations working on the criminal justice sector 	
3.2	DELEGATION OF AUTHORITY	SEE ABOVE	SEE ABOVE	
3.2.1	TRADITIONAL/ CUSTOMARY COURTS	SEE ABOVE	PLUS <ul style="list-style-type: none"> ▪ Leaders of ethnic, tribal or religious communities 	
3.3	THE ROLE OF THE PROSECUTOR IN CRIMINAL PROCEEDINGS	SEE ABOVE	SEE ABOVE	
3.3.1	PROSECUTORIAL DISCRETION	Constitution Acts of the legislature/ regulations to those Acts Court Rules Government policy documents, "standing orders", circulars Prosecution Service Policy and Procedure Manual	<ul style="list-style-type: none"> ▪ Legislative offices ▪ Ministry of Justice ▪ Senior Prosecutor ▪ Prosecution Service Management ▪ Prosecution Service Administrator ▪ NGOs working on criminal justice matters ▪ Donor organisations working on the criminal justice sector 	
3.3.2	ALTERNATIVES TO PROSECUTION	SEE ABOVE	PLUS <ul style="list-style-type: none"> ▪ Bar Associations/Lawyer's groups ▪ Legal Aid ▪ Representatives of alternative programmes 	

	TOPIC	SOURCES	CONTACTS	COMPLETED
4.1	MANAGEMENT AUTHORITY	<ul style="list-style-type: none"> ▪ The Constitution ▪ Acts of the legislature and regulations to those Acts ▪ Court Rules ▪ Government policy documents, "standing orders", circulars ▪ Independent reports made by non-governmental organisations. ▪ Legal texts or academic research papers. 	<ul style="list-style-type: none"> ▪ Legislative offices ▪ Ministry of Justice ▪ Senior Prosecutor ▪ Prosecution Service Management ▪ Prosecution Service Administrator ▪ NGOs working on criminal justice matters ▪ Donor organisations working on the criminal justice sector 	
4.2	FISCAL CONTROL	<p style="text-align: center;">SEE ABOVE</p> <ul style="list-style-type: none"> ▪ PLUS: Budget documents/reports 	SEE ABOVE	
5.1	MANAGEMENT	<ul style="list-style-type: none"> ▪ Acts of legislature and regulations to those Acts ▪ Government policy documents, "standing orders", circulars ▪ Prosecution Service Policy/Procedure Manuals, handbooks, circulars ▪ SITE VISITS 	<ul style="list-style-type: none"> ▪ Senior Prosecutor ▪ Prosecution Service Management ▪ Prosecution Service Administrator ▪ Line prosecutors ▪ Support staff ▪ NGOs working on criminal justice matters ▪ Donor organisations working on the criminal justice sector ▪ Bar Associations/Lawyer's groups ▪ Legal assistance programs ▪ NGOs as above ▪ Donor organisations as above 	
5.2	ORGANIZATION	<ul style="list-style-type: none"> ▪ Government policy documents, "standing orders", circulars ▪ Prosecution Service Policy/Procedure Manual, handbooks, circulars ▪ Organization chart 	<ul style="list-style-type: none"> ▪ Senior Prosecutor ▪ Prosecution Service Management ▪ Prosecution Service Administrator ▪ Line prosecutors ▪ Support staff ▪ NGOs as above ▪ Donor organisations as above 	
5.2.1	SPECIALIZED UNITS	Same as above	Same as above	
5.3	CASELOAD MANAGEMENT	<ul style="list-style-type: none"> ▪ Prosecution Service Annual Reports ▪ Budget documents ▪ Internal statistical reports ▪ Management reports on caseload ▪ Workload <p>SITE VISITS</p>	<ul style="list-style-type: none"> ▪ Legislative offices ▪ Ministry of Justice ▪ Senior Prosecutor ▪ Prosecution Service Management ▪ Prosecution Service Administrator ▪ NGOs working on criminal justice matters ▪ Donor organisations working on the criminal justice sector 	

	TOPIC	SOURCES	CONTACTS	COMPLETED
5.3.1	CASE MANAGEMENT	<ul style="list-style-type: none"> ▪ Case Files ▪ Documentation of case management system SITE VISITS	<ul style="list-style-type: none"> ▪ Senior Prosecutor ▪ Prosecution Service Management ▪ Prosecution Service Administrator ▪ Prosecutors ▪ Support Staff ▪ NGOs working on criminal justice matters ▪ Donor organisations working on the criminal justice sector 	
5.4	VICTIM WITNESS SERVICES	<ul style="list-style-type: none"> ▪ Constitution ▪ Acts of legislature and regulations to those Acts ▪ Government policy documents, "standing orders", circulars ▪ Prosecution Service Policy/Procedure Manuals, handbooks, circulars ▪ Victim Impact Statements SITE VISITS	<ul style="list-style-type: none"> ▪ Senior Prosecutor ▪ Prosecution Service Management ▪ Prosecution Service Administrator ▪ Prosecutors ▪ Support Staff, especially those assigned to V/W services ▪ Victims, Witnesses ▪ NGOs working on criminal justice matters ▪ Donor organisations working on the criminal justice sector 	
5.5	ADEQUACY OF PROSECUTION SUPPORT	SITE VISITS	<ul style="list-style-type: none"> ▪ Senior Prosecutor ▪ Prosecution Service Management ▪ Prosecution Service Administrator ▪ Prosecutors ▪ Support Staff, ▪ NGOs ▪ Donor organisations 	
6.1	GENERAL STAFFING	<ul style="list-style-type: none"> ▪ Government policy documents, "standing orders", circulars ▪ Prosecution Service Policy/Procedure Manuals, handbooks, circulars ▪ Ethics code ▪ Samples of Recruitment/ Human resources/interview questions Training materials 	<ul style="list-style-type: none"> ▪ Senior Prosecutor ▪ Prosecution Service Management ▪ Prosecution Service Administrator ▪ Prosecutors ▪ Support Staff, ▪ NGOs working on criminal justice matters ▪ Donor organisations working on the criminal justice sector 	
6.1.1	INVESTIGATORS	SEE ABOVE	SEE ABOVE	
6.2	PROSECUTORS			
6.2.1	QUALIFICATIONS SELECTION TRAINING	SEE ABOVE	SEE ABOVE	
6.2.2	STATUS AND CONDITIONS OF SERVICE	SEE ABOVE	SEE ABOVE	
6.2.3	FREEDOM OF EXPRESSION AND ASSOCIATION	SEE ABOVE	SEE ABOVE	
			<ul style="list-style-type: none"> ▪ PLUS: PROFESSIONAL ASSOCIATION 	

	TOPIC	SOURCES	CONTACTS	COMPLETED
6.2.4	INTEGRITY, ETHICS AND PERFORMANCE	SEE ABOVE	SEE ABOVE PLUS: Disciplinary body ▪ BAR Association representative ▪ Defence bar	
7.0	PUBLIC ACCOUNTABILITY	SEE ABOVE	SEE ABOVE PLUS Media ▪ MEMBERS OF PUBLIC ▪ Including former victims, witnesses, accused ▪ MEDIA	
8.1	SYSTEM COORDINATION	<ul style="list-style-type: none"> ▪ Acts of Parliament and regulations to those Acts ▪ Rules ▪ Prosecution Service Policy/Procedure Manuals, handbooks, circular ▪ Government policy documents, "standing orders", circulars ▪ Reports/Minutes of coordinating meetings ▪ Reports/Minutes of community group meetings ▪ 	<ul style="list-style-type: none"> ▪ Ministry of Justice ▪ Senior prosecutor ▪ Heads of other Criminal Justice entities: ▪ Chief Judge ▪ Director of Penal System ▪ Police Chief ▪ Senior Prosecutor ▪ Prosecution Service Management ▪ Prosecution Service Administrator ▪ Non-governmental organisations working on criminal justice matters ▪ Bar associations/Lawyers' associations ▪ Legal assistance programs ▪ Public defender agency, if any ▪ Law Schools ▪ Donor organisations 	
8.2	DONOR COORDINATION	<ul style="list-style-type: none"> ▪ Donor Strategy papers ▪ Progress reports by donor organizations ▪ Independent studies conducted by universities/NGOs 	<ul style="list-style-type: none"> ▪ Donor organisations ▪ Ministry of Justice ▪ Senior Prosecutor ▪ Heads of other Criminal Justice entities: ▪ Chief Judge ▪ Director of Penal System ▪ Police Chief ▪ Prosecution Service Management ▪ Prosecution Service Administrator ▪ Non-governmental organisations working on criminal justice matters ▪ Bar associations/Lawyers' associations ▪ Legal assistance programs ▪ Public defender agency, if any ▪ Law Schools 	



UNITED NATIONS
Office on Drugs and Crime

Criminal Justice Reform Unit
Vienna International Centre, P.O. Box 500, 1400 Vienna, Austria
Tel.: (+43-1) 26060-0, www.unodc.org
E-mail: criminal.justice@unodc.org

