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REPORT ON BEST PRACTICES ON ACCESS TO JUSTICE AND PUBLIC DEFENDERS
IN THE AMERICAS

[Document prepared by the Department of International Law in
accordance with General Assembly resolution AG/RES. 2714 (XLII-O/12)]



Organization of
American States

Report on Best Practices on Access to Justice and Public Defenders in the Americas

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Table of Contents

- I. Introduction
- II. Analysis of Responses to the Questionnaire
- III. Best Practices
- IV. Country-by-country summary compilation of responses to the questionnaire

APPENDICES

- i. Note Verbale OEA/2.2/83/12 SAL-DIL
- ii. Note Verbale OEA/2.2/13/13 SAL-DIL
- iii. Text of the questionnaire

I. Introduction

General Assembly resolution AG/RES. 2714 (XLII-0/12), at operative paragraph 9, requests the OAS General Secretariat, through the Department of International Law of the Secretariat for Legal Affairs (DIL), to prepare, in the second half of 2013, a compilation of best practices on access to justice and public defenders in the region, based on written input from states on the subject.

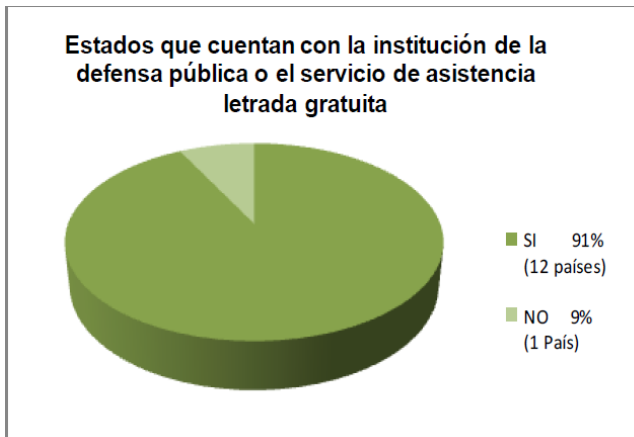
Pursuant to this mandate, on September 21, 2012 the DIL sent the member states (Note Verbale 2.2.83/12) and in October 2013 (Note Verbale 2.2.66/13) a questionnaire to collect preliminary information on various aspects of public defense in the region, in order to facilitate preparation of this report. As of March 1, 2014, the DIL had received responses from the following 15 member states: Argentina, Bolivia, Canada, Chile, Colombia, Costa Rica, Dominican Republic, El Salvador, Guyana, Honduras, Mexico, Panama, Paraguay, United States, and Venezuela.

This document is divided into three sections: The first section offers a first qualitative and quantitative analysis of the information received. The second identifies best practices based on the information included in the questionnaires. The third section presents a country-by-country summary compilation of each response from member states that filled out the questionnaire. Also included are three appendices containing the text of the questionnaire used to gather the information, along with the notes verbales sent to the member states in this regard.

In view of the fact that only 15 member states have so far furnished the DIL with the information requested, this report will be further updated and added to as more responses are received.

II. Analysis of Responses to the Questionnaire

1. Does your State have the institution of official public defenders or cost-free legal counsel services?



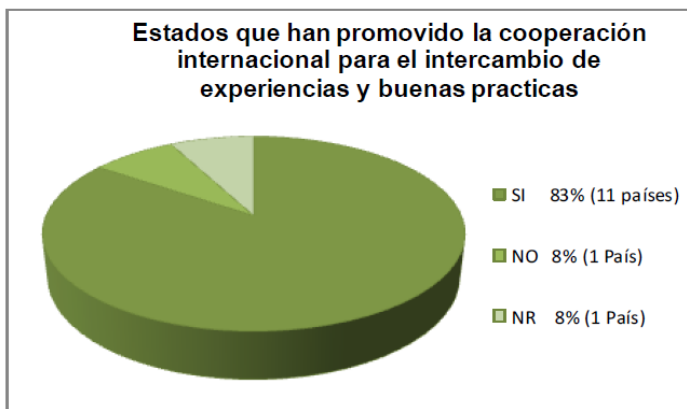
While most of the states that responded to the questionnaire have some kind of public defender or free legal counsel service, their approaches vary with respect to the nature, independence, and standing of these services within each country's legal system. Broadly speaking, there are three main systems in the region:

- An independent and autonomous institution created by *constitutional mandate*. In this framework, it should be clarified that while certain countries' constitutions broadly recognize a right to quasi-official, free legal assistance, the fulfillment of which is in the hands of the attorney general or the ombudsman, others expressly provide for the creation of an institution devoted exclusively to providing quasi-official defense services free of charge to the most vulnerable inhabitants and to ensuring access to justice, as in the case of Argentina and Venezuela.
- An independent and autonomous agency or entity created by a *general law*, as occurs in Bolivia, Chile, Paraguay, and the Dominican Republic.
- An administrative unit with a degree of operational autonomy established under the regulatory and/or budgetary aegis of the judiciary or ministry of justice, as in the case of the United States, Canada, Colombia, Costa Rica, Mexico, and Panama.

In addition, there are two principal trends in terms of how the responsibilities and powers of public defender offices are addressed:

- Defender offices that deal with a particular area, such as government attorneys' offices for social and labor matters, public prosecution service, etc., as in the case of Chile, Colombia, and Mexico; and
- Defender offices responsible for a variety of areas, with authority to provide legal counsel and defense services in labor, criminal, family, administrative, human rights and other matters, as in Argentina.

2. **Has your State supported any actions to foster international cooperation opportunities for sharing experience and best practices in this field? Please describe them.**



In general terms, cooperation ties were found to exist among the states that responded to the questionnaire, as well as between them and other OAS member states, international organizations, and cooperation agencies outside the region, including the Spanish Agency for International Development Cooperation (AECID), the Swiss Agency for Development and Cooperation (COSUDE), and the European Union (EU).

It is worth highlighting the role played by EuroSocial^{1/} in promoting the implementation of different projects in countries such as Argentina, Costa Rica, and Honduras.

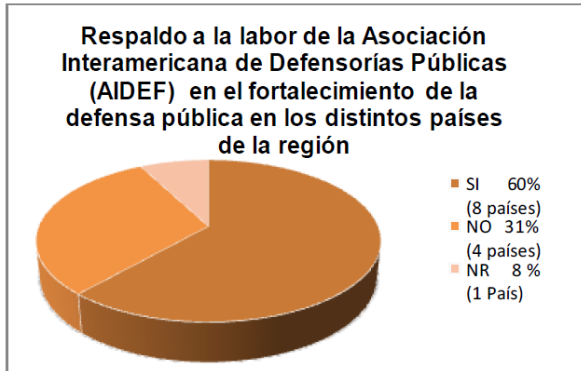
It should also be mentioned that cooperation with international organizations and foreign cooperation agencies appears to be significantly higher in instances where the state has an autonomous and independent institution created by a general law or constitutional provision.

In terms of exchange of experiences and best practices, Colombia and Costa Rica report the most exchanges with member states, whereas Argentina, Canada, and the United States do so mainly with international organizations such as United Nations agencies, the Conference of Ministers of Justice of Ibero-American Countries (COMJIB), a number of international networks, and the International Legal Aid Group (ILAG). Considerable subregional cooperation effort has also been observed in the case of Chile and Venezuela, as detailed below.

The issues most frequently addressed by this type of cooperation are gender violence, enforcement of sentences, defense services for the indigent, and human rights.

1. EuroSocial is a regional technical cooperation program of the European Commission for the promotion of social cohesion in Latin America. Its specific aim is to support national public policies aimed at improving levels of social cohesion while also strengthening the institutions that implement them. Phase I of the Program was executed in 2005-2010 and Phase II is currently being executed (2010-2014)

3. Has your State supported the work of the Inter-American Association of Public Defender Offices (AIDEF) in strengthening public defender services in your country?



The Inter-American Association of Public Defender Offices (AIDEF) was created on October 18, 2003, in Rio de Janeiro, Brazil, in the context of the Second Inter-American Congress of Public Defender Offices. It is composed of 20 OAS member states: Antigua and Barbuda, Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Dominican Republic, Ecuador, El Salvador, Guatemala, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, United States, Uruguay, and Venezuela).

The purposes of the AIDEF are to protect the full observance and effectiveness of the human rights and guarantees recognized in the American Declaration of the Rights and Duties of Man, the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the American Convention on Human Rights; establish a permanent system of interagency coordination and cooperation among public defender offices; seek to ensure that laws in place in the countries of the Americas and the Caribbean, and their reforms, respect and safeguard the effectiveness of the guarantees envisaged in international human rights treaties, especially those that protect the rights of the most vulnerable social groups; strengthen the operational independence and autonomy of public defender offices in order to ensure the full exercise of the right to a defense; and support the institutional strengthening of public defender offices.

There are disparate levels of support for the activities of the AIDEF: Some countries, such as Argentina, Costa Rica, Dominican Republic, Honduras, Paraguay, and Venezuela, report continuous, close collaboration with the Association, including the signing of framework technical cooperation agreements and the implementation of guidelines; other countries have simply attended its meetings.

4. Which steps has your State taken to ensure that official public defenders operate with independence and operational autonomy?

Some countries, such as Argentina, have launched constitutional reforms to create independent and autonomous institutions expressly devoted to public defender services.

In other cases, the State has adopted general laws protecting the independence and autonomy of public defender offices, even when they report directly to another institution, such as the Ministry of Justice of the Office of the Attorney General. In such circumstances public defenders usually answer to another organ or institution--though only administratively, while retaining their technical autonomy.

By and large, public defender entities are incorporated within the structure of the judicial branch. That is the case in Costa Rica, for example, where the Public Defender Office (*Defensa Pública*) enjoys great technical and operational autonomy in spite of its attachment to the judiciary. A similar situation exists in Mexico, where the Federal Institute of Public Defender Services (*Instituto Federal de Defensoría Pública*) was established as an organ of the judicial branch but

granted technical and operational independence; it also has the Federal Public Defender Office (*Defensoría Pública Federal*), an auxiliary organ attached to the Federal Council of the Judicature. By the same token, in Paraguay the Ministry of Public Defender Services has independent legal status as well as being self-governing and operationally and financially autonomous; or Venezuela, where the Public Defender Office is a constitutionally established body within the justice system, along with the Supreme Court, the Public Prosecutor's Office, and criminal investigation bodies, among others.



According to the information reviewed, the states that sent in information identify a string of practical advantages for public defenders in this approach, including access to the technology platforms of the state's more robust entities (judiciary, ministries, etc.), administrative support for managing payrolls, insurance, and personnel services, general services, use of buildings, study grants, etc.

To take the example of Bolivia, in 2003 it created the National Public Defender Service (*Servicio Nacional de Defensa Pública*),

whose defenders enjoy legal protections against pressure or influence from government sectors.

The United States has created Federal Public Defender Organizations (FPDOs), which are federally staffed federal offices that operate in 90 of 94 federal judicial districts. To ensure their independence and autonomy, federal public defenders are elected by the circuit court of appeals rather than by district courts of the jurisdiction where they serve. FPDOs have their own budget, in order to maintain their independence from the courts. The US Department of Justice has allocated more than US\$1.4 million in subsidies to various nongovernmental organizations to raise awareness about the principles governing the independence of public defender services at state and local level.

Almost all the states that responded to the questionnaire have legal provisions in place, either in the Constitution or a national law, that recognize a certain level of operational independence to the activities of attorneys general's offices, as well as basic guarantees for defendants in criminal proceedings, including free, quasi-official legal counsel.

5. How has your State supported the work being done by official public defenders?



Generally speaking, State support for the work of public defenders takes the form of funding and enactment of the necessary rules and regulations to bolster protection of their independence and autonomy.

As noted above, in some cases dedicated entities have

been purposefully set up to provide a more appropriate institutional framework for the public defender service. In some instances, too, laws have been enacted to ensure that public defenders receive competitive salaries, job stability, training, and entitlement benefits.

Of note are a number of complementary support mechanisms adopted by some participating states, which have made use of a broad array of legal devices, such as:

Interagency agreements: These facilitate and encourage interaction among state institutions, giving public defender services greater scope in terms of access to particularly vulnerable citizens who are usually under the protection of other specialized public institutions, such as migrants, refugees, indigenous peoples, and women.

Cooperation: In some cases governments have gone out of their way to forge alliances with other states, the private sector, and civil society to strengthen the public defender service. In Guyana, for example, the government has joined forces with the Governments of Canada and the United States and with the private sector to create legal aid clinics constituted as not-for-profit nongovernmental organizations.

Coordination among the federal, provincial, and municipal levels: There are several cases in which the work of public defenders at the federal national level is strengthened by their counterparts in the states or provinces, and vice versa. In Canada, legal aid commissions and societies have been created under national and provincial statutes to provide publicly funded legal assistance services. The provinces and territories are responsible for management and service provision, while the federal government helps to cover the costs.

Participation in policy forums: In some instances the public defender service has been given a say in policymaking forums, bolstering their capacity to influence interagency policy in order to boost access to justice for the vulnerable.

Administrative support: The Administrative Office (AO) of the United States Courts has a Defender Services Office, which provides support in the areas of staffing, training, office space, management and administration, as well as a support team on litigation and sentencing. State governments are responsible for providing support for defenders at the state and local level.

Establishment of Training Centers: Certain countries have established institutions expressly devoted to training public defenders, one example being the National School for Public Defenders of Venezuela.

6. **Has your State promoted agreements regarding courses and training for official public defenders?**



Broadly, the mechanisms that the states that answered the questionnaire use for training public defenders can be categorized as follows:

Interagency Agreements: There is a noticeable tendency to enter

into agreements with related institutions within the government apparatus for the purpose of providing training to public defenders. In many cases other state institutions have entities that specialize in providing training to public officials. One example is Argentina, where the Public Defender Ministry benefits from training services under agreements with the Ombudsman's Office, which has a Secretariat of Training and Jurisprudence.

International cooperation: A number of states take part in joint activities for strengthening access to justice that include training programs, as is the case of the cooperation between Bolivia and the Danish and Swiss cooperation agencies. There are also a number of agreements with institutions in the inter-American system as well as other regional agencies, such as the Inter-American Court of Human Rights.

Agreements with universities: In some instances public defenders have benefited from agreements between the judiciary and national and/or foreign universities, both in the region and in Europe, particularly in Italy and Spain.

Domestic institutions: Many countries have judicial training centers that also provide services to public defenders. Sometimes these centers are self-funding and, therefore, the financial burden for the public defender office is relatively small.

III. Best Practices

The Department of International Law has provisionally identified a number of best practices that countries mentioned in their questionnaire responses that had been received as of the writing of this report. This section will be revised and expanded as more information comes in from countries.

Among the best practices identified were the following:

1. Where public defender institutions have been created by constitutional mandate they are regarded as constitutional bodies. Most of the states that replied to the questionnaire grant them technical and operational autonomy. This approach (adopted, for example, in Argentina and the Dominican Republic) affords public defender services greater political independence and more credibility in the eyes of the public.

Generally speaking, it is more complex to reform the Constitution than to enact a general law and therefore, being created directly by constitutional mandate, public defender institutions are less vulnerable to political change.

2. General laws have been passed that protect the technical and budgetary independence and autonomy of public defender offices, making them less answerable to other entities in the administrative sphere.
3. National laws have been adopted to keep the salaries of public defenders competitive and protect their job stability, training, and entitlement benefits, to ensure the continued trend among public officials who hold these posts to professionalize and perform their duties more independently and autonomously, to the extent they feel that their work allows them to improve themselves professionally and economically.
4. Certain countries, such as Guyana, have obtained good results from cooperation programs with NGOs that have enhanced the operational capacities of public defender offices that would otherwise struggle with human resources and financial constraints.
5. Some countries, such as Costa Rica and Panama, have enjoyed notable success through agreements with universities and international organizations to professionalize public defenders and foster exchanges on specific topics with their counterparts from other countries in the region.
6. Bolivia, Costa Rica, and Paraguay are among cases in which cooperation with the Inter-American Association of Public Defender Offices (AIDEF) has been highly fruitful and helped to encourage legislation to strengthen the independence and autonomy of public defender agencies. It has also provided a framework for holding important regional forums that enrich the work of the public defender offices of the countries that take part in them.

7. Member states such as Colombia and Costa Rica, for example, show a marked interest in cooperation with their neighbors and international organizations for exchanging experiences and best practices, especially on topics such as gender violence, enforcement of sentences, defense services for the indigent, and human rights.
8. Countries such as Chile and Venezuela have made considerable effort to strengthen subregional cooperation by participating in the Mercosur Public Defender Bloc (BLODEM) and in the Specialized Meeting of Official MERCOSUR Ombudsmen (REDPO).
9. There is an incipient trend in encouraging participation by public defender offices in policymaking forums, strengthening their capacity to influence national and interagency policies.
10. There is a tendency to provide more robust administrative support to public defender offices through synergies with institutions with more-developed infrastructure for managing training, payrolls, technology support, use of buildings, organization of events, etc.
11. In certain cases, such as with Venezuela, considerable effort has been made to enhance the dignity of the position of public defender, not only through training and professionalization, but also by encouraging a pension and retirement system and by institutionalizing a mechanism for compensation, evaluations, and promotions, and in general by providing other tools for career planning.

IV. Country-by-country summary compilation of responses by the states to the questionnaire on public defenders

This section gives a summary of the information that the DIL received from 15 member states: Argentina, Bolivia, Canada, Chile, Colombia, Costa Rica, Dominican Republic, El Salvador, Guyana, Honduras, Mexico, Panama, Paraguay, United States, and Venezuela.

<p><u>Key:</u> N/A = Not applicable NR = No Response YES = Affirmative NO = Negative</p>
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Question 1. Does your State have the institution of official public defenders or cost-free legal counsel services?

Country	Reply	Summary of Information Received
Argentina	YES	In Argentina, the Public Defender Office is functionally and financially independent of the other branches of government. This institution enjoys constitutional status.
Bolivia	YES	There is a Law Establishing the Public Defender Office. It states that public defenders enjoy autonomy and functional independence to carry out their work. They can only take general instructions issued at the national level regarding service delivery. The Civil Defense Institution and the Ministry of Justice are working on drafting a new legal regulations (criminal public defender office) to provide further comprehensive strengthening for public defenders.
Canada	YES	Under the constitution, persons who do not have the means to defend themselves legally in Canada, have a right to state-funded counsel. Legal aid societies and committees, known as Legal Aid Plans, were also established to deliver legal aid services. Accordingly, the federal government funds this plan, but the provinces are responsible for managing and delivering those services in the different territories.
Chile	YES	The Public Criminal Defender Office was created by Law 19,718 of March 10, 2001.
Colombia	YES	Colombia has public mechanisms for comprehensive free legal aid. The 1991 Political Constitution states that the organization and functioning of the Public Defender office is determined by law. Under legal provisions called poverty coverage, this office must assist persons who provide evidence that given their socio-economic situation they cannot by themselves afford to defend their rights. In that regard, the Public Defender Office must provide court or extrajudicial counsel in order to ensure access to justice. Through the Ministry of Justice and Law, the Colombian state has

		implemented the National Justice Centers Program, under which the entire population is provided access to justice services free of cost. This comprehensive free legal aid comes with no conditions, and anyone within a Justice Center's area of jurisdiction is entitled to its services.
Costa Rica	YES	Costa Rica's Public Defender Office was originally introduced in 1970 by court order. It is now protected under the Organic Law of the Judiciary as an autonomous and independent subsidiary organ of the justice system.
El Salvador	YES	As the nation's Public Defender, the Attorney General of El Salvador enjoys complete functional autonomy and has an assigned budget approved by Congress. This allows him to fully define the institutional policies of the Public Defender Office.
United States	YES	The Sixth Amendment to the U.S. Constitution guarantees the right of representation to all individuals who are unable to afford their own defense. Official Public Defenders are engaged in three types of legal procedures: federal, state or local, and tribal. The federal government generally supports everyone, through the Department of Justice. These agencies are funded, however, depending on what level they are, and state or local authorities are required to provide financial support. At the federal level, the AO's Office of Defender Services allocates part of its Congress-approved budget to funding different public defender organizations.
Guyana	NO	The Republic of Guyana has no public defender institution. However, there is a non-profit, non-governmental organization that provides those services. The Guyana Legal Aid Clinic provides those who cannot afford it with free or subsidized legal services and counsel. The government of Guyana has provided various forms of assistance to this organization for a number of years. The most important support it gets is allocation of an annual portion of its budget to continue its services and to expand them across the country. In cases involving capital offenses, the High Court may appoint private attorneys to defend citizens accused of those crimes, with the costs borne by Government of Guyana.
Honduras	YES	Under Article 83 of the Constitution of the Republic of Honduras, the state provides the poor, minors, and those with disabilities with attorneys to provide them with legal aid and representation to defend their rights.
Mexico	YES	In Mexico, the institution of the Public Defender is a constitutional guarantee under a Federal Act that created the Federal Public Defender Institute as an organ of the judiciary, with technical and operational independence. Defender services that it provides are federal criminal defense and federal legal advice that includes guidance, counseling, and representation for those

		who request the service.
Panama	YES	<p>Since their establishment in Panama, public defenders have always enjoyed independence and functional autonomy. However, they receive general instructions to enhance the administrative and operational system of service delivery.</p> <p>The executive branch, through the General Budget of the Nation, gives a contribution towards its operations and maintenance.</p> <p>The National Directorate of the Panamanian Public Defender Office drafted a bill that is expected to meet the requirements for approval by the Legislature.</p>
Paraguay	YES	A Public Defender Office was created by law 4423/2011, as a legal person under public law within the judicial branch, with regulatory and functional autonomy, as well as autonomy to manage its resources.
Dominican Republic	YES	The Dominican Republic used to have a legal aid attorney, legal clinics at law schools, and certain NGOs that provided this service. In 2004, the law creating the National Public Defender Service and the National Public Defender Office was passed and the position of public defender was established. A characteristic feature of the activity of the public defender has been its functional autonomy, even though it is administratively independent of the judicial branch.
Venezuela	YES	Article 268 of the Constitution of the Bolivarian Republic of Venezuela establishes the public defender office as a constitutional organ of the justice system.

Question 2. In case that your state does not yet have the institution of free legal counsel, has it considered the possibility of establishing one within the framework of your legal system?

Country	Reply
Argentina	N/A
Bolivia	N/A
Canada	N/A
Chile	N/A
Colombia	N/A
Costa Rica	N/A
El Salvador	N/A
United States	N/A
Guyana	N/A
Honduras	N/A

Mexico	N/A
Panama	N/A
Paraguay	N/A
Dominican Republic	N/A
Venezuela	N/A

Question 3. If the answer to the previous question is affirmative, please describe any steps that have been taken towards creating that institution.

Country	Reply
Argentina	N/A
Bolivia	N/A
Canada	N/A
Chile	N/A
Colombia	N/A
Costa Rica	N/A
El Salvador	N/A
United States	N/A
Guyana	N/A
Mexico	N/A
Panama	N/A
Paraguay	N/A
Dominican Republic	N/A
Venezuela	N/A

Question 4. Has your state taken any steps to promote international cooperation opportunities for sharing experiences and best practices in this field? If yes, please describe them.

Country	Reply	Summary of Information Received
Argentina	YES	<p>Through the Public Defender Office (MPD), the Argentine Republic has signed various international agreements, including:</p> <p>MPD-UNICEF: Projects on the rights of imprisoned women who are pregnant or have underage children; symposiums on children and the penal system; and full access to justice for children and adolescents, etc.</p> <p>MPD-AECID: Technical assistance that has enabled important Spanish magistrates, teachers, and officials to carry out activities (training, exchange of experiences, meetings, etc.) related to the issue of public defense.</p> <p>EU: Under the Program of Cooperation to Support Policy Dialogue between Argentina and the European Union, a number of seminars, meetings, and internships have been conducted on issues directly related to public defense and similar topics.</p> <p>MPD-Eurosocial: Several public defense-related activities have been carried out jointly with public defender bodies of other countries of the region, such as Uruguay and Bolivia.</p> <p>MPD-COMJIB: Cooperation agreement on legal protection and care for persons with disability and victims of gender violence.</p>
Bolivia	YES	<p>Agreement signed among the Royal Danish Government, the Swiss Cooperation Agency, and the Plurinational State of Bolivia – to implement the Pro Justicia Program, Access to Justice in Bolivia, 2009-2012. It participates in cooperation activities through AIDEF.</p>
Canada	YES	<p>Canada has participated in developing the United Nations Principles and Guidelines for Access to Legal Aid in Criminal Justice Systems.</p> <p>Canada constantly exchanges experiences and best practices with the United Kingdom, New Zealand, and Australia on the use of lawyers specializing in immigration procedures that depend on national security-related information.</p>
Chile	YES	<p>Cooperation with regional and subregional organizations. AIDEF, MERCOSUR Public Defender Bloc, Specialized Meeting of Public Defenders, etc.</p>
Colombia	YES	<p>Exchange of experiences and best practices with counterpart agencies in Peru, Bolivia, Mexico, Nicaragua, Guatemala, Chile, and South Korea. Topics covered: public defender offices, indigenous rights and the Amazon, monitoring of public policies, and institutional strengthening. These initiatives are funded through a special government of Colombia fund.</p>
Costa Rica		<p>Exchange with counterpart institutions in Guatemala, Nicaragua, El</p>

	YES	<p>Salvador, Dominican Republic, Ecuador, and Peru. For example: knowledge transfer, visits, training, and systematization of best practices. Participation in EUROSOCIAL I and II.</p> <p>A number of public defenders assigned to the Public Defender Office of Costa Rica did internships at peer institutions in the states of Texas and New Mexico to better understand the operations of these institutions and to identify best practices.</p> <p>Agreements with Spain and Italy for Costa Rican defenders to pursue graduate studies at the Universities of Salamanca, Málaga, and Pisa.</p>
El Salvador	YES	<p>Ministry of Foreign Affairs approval is pending to begin procedures to request an exchange with the Public Defender Office of Chile.</p>
United States	YES	<p>In January 2011 the Department of Justice sponsored the "Expert Working Group on International Perspectives on Indigent Defense," comprising 40 multidisciplinary experts from nine countries. There is a report summarizing the conclusions of those experts.</p> <p>The United States has supported the United Nations Principles and Guidelines for Access to Legal Aid in Criminal Justice Systems, which are pending approval by the next UN session.</p> <p>Several times a year, staff from the Federal Public Defender office and from the AO's Office of Defender Services participate in training and consulting activities, both overseas and through presentations delivered by foreign delegations visiting the United States.</p>
Guyana	YES	<p>Under a bilateral program with Canada, lawyers and paralegals work with volunteers at the Guyana Legal Aid Clinic.</p>
Honduras	YES	<p>It participated in a Eurosocial project that led to the establishment, in 2013, of the Sentence-Serving Phase Unit, which comprises public defenders who ensure due representation for individuals who are detained.</p>
Mexico	NO	<p>There is no record of international experiences and best practices.</p>
Panama	NA	
Paraguay	YES	<p>The Public Defender Office has legal powers to enter into national- or international-level agreements with colleges, universities, municipalities, NGOs, and other public and private entities.</p>
Dominican Republic	YES	<p>Collaboration with USAID to implement public defense in the Dominican Republic.</p>
Venezuela	YES	<p>Cooperation with subregional organizations, bar associations in other countries, and bilateral exchanges.</p>

Question 5. Has your State supported the work of the Inter-American Association of Public Defender Offices (AIDEF) in strengthening public defender services in your country? If your answer is affirmative, please explain how this work has been done.

Country	Reply	Summary of Information Received
Argentina	YES	Argentina has been a member of the AIDEF since the Association was founded, and has played an active role in it. The Public Defender of Argentina is its current Secretary General.
Bolivia	YES	The National Public Defender Service has contacted the AIDEF seeking membership, which was formalized on October 15, 2013, and to coordinate and find avenues for cooperation among public defender offices around the hemisphere.
Canada	NO	
Chile	YES	The DPP is a State of Chile public agency and, as such, takes part in the Inter-American Association of Public Defender Offices. All AIDEF activities and initiatives in which the DPP takes part are a means of strengthening public defender services in Chile.
Colombia	YES	The Ombudsman's Office is a member of the AIDEF Board and will participate in the special meeting of the Permanent Council on the exchange of best practices and experiences with public defenders as a guarantee of access to justice for persons in situations of vulnerability, in 2013.
Costa Rica	YES	Costa Rica is a founding member of the AIDEF and has actively supported its various activities. The country has been involved in the institution's various bodies and has hosted several of its meetings.
El Salvador	YES	The Attorney General's Office is part of the AIDEF and subject to its statutes and, therefore, to fulfilling its objectives and purposes.
United States	YES	Outside of some interaction between Department of Justice and AIDEF members, and besides having participated in an AIDEF conference, interaction or collaboration with AIDEF has been minimal.
Guyana	NO	
Honduras	NO	The State of Honduras has endorsed projects that EuroSocial has carried out in the country. These projects have stemmed from AIDEF initiatives, but this has not necessarily entailed a direct, sustained link between Honduras and AIDEF.
Mexico	NO	
Panama	NA	
Paraguay	YES	AIDEF support was crucial to the Public Defender Office gaining autonomy.
		The Dominican Republic is a founding member of AIDEF, has served as

Dominican Republic	YES	Caribbean Coordinator, and is currently General Coordinator. It actively participates in all its meetings and supports all its initiatives.
Venezuela	YES	Venezuela has worked very closely with AIDEF, and this has yielded such concrete results as the "Prison Visits Manual" project, a methodological tool that brings together the various recommendations and guidelines on conducting visits to detention centers.

Question 6. Has your state taken steps to ensure that official public defenders operate with independence and operational autonomy?

Country	Reply	Summary of Information Received
Argentina	YES	The National Public Defender Office's constitutional, legal, and administrative policy development enhances the notions of independence and functional and financial autonomy enjoyed by other state institutions.
Bolivia	YES	The principle of autonomy and functional independence of public defenders is enshrined in Article 10 of Law No. 2496 establishing the public defender service.
Canada	YES	<p>Ensuring coordination between federal authorities, which legislate on criminal matters, and provincial and territorial authorities, which administer justice that includes providing public defense.</p> <p>The constitution guarantees the right to a fair trial. For example:</p> <ul style="list-style-type: none"> - Legal Aid Societies have been created through provincial laws in the territories, to provide public defender services financed by public funds. - In Canada, when a defendant needs to be represented by an attorney and has no means to hire one, said defendant has a constitutional right to be appointed an attorney at the expense of the state.
Chile	YES	<p>Law 19,718 of March 10, 2001 created the Criminal Public Defender Office and established a basis for public criminal defenders to be autonomous. They are also selected through open and transparent competition, which gives the process of appointing local, regional, and national defenders autonomy.</p> <p>Article 7.d of the aforementioned law states that a National Ombudsman "shall not give instructions, order, or omit the taking of action in particular cases" defenders, which is repeated in a similar manner with respect to the Regional Advocates local advocates.</p>
Colombia	NA	
Costa Rica	YES	Establishing, through the Organic Law of the Judicial Branch of Costa Rica, the Public Defender Office, which must be independent, with

		functional and technical autonomy from the judicial branch.
El Salvador	YES	As with the post of Public Defender in other countries, the Attorney General is appointed by a qualified majority of El Salvador's Legislative Assembly and has full functional autonomy, his own budget, and freely determines institutional policies.
United States	YES	<p>There are various public defense systems at the federal, state, and local levels, with varying degrees of independence and operational autonomy.</p> <p>The Constitution guarantees defendants the right to be represented by counsel in serious criminal cases.</p> <p>The Criminal Justice Act (CJA) establishes a system for appointing and compensating defense attorneys for low-income individuals. The CJA was amended to allow judicial circuits to make adjustments in order to implement that regulation.</p> <p>Some states and counties have created independent state Public Defender offices that they finance and oversee.</p> <p>In 1963, the Supreme Court extended the constitutional benefit of public defense to those accused of committing a felony (a criminal offense carrying a heavier penalty). The Justice Department has said that the American Bar Association's 10 principles of a public defense delivery system are vital to implementing a quality public defense system, and it has taken steps to strengthen public defense offices based on these principles.</p>
Guyana	YES	The Guyana Legal Aid Clinic was founded with partial funding from the Government of Guyana and contributions from the USAID.
Honduras	YES	A preliminary draft regulation on public defense is being prepared, to grant public defenders more functional autonomy.
Mexico	NA	
Panama	YES	Public defenders have always enjoyed independence and functional autonomy. They only get general instructions in order to maximize the administrative and operational system for delivery of public defense.
Paraguay	YES	The public defender office was taken from under the purview of the Supreme Court of Justice and made an independent and autonomous body.
Dominican Republic	YES	Since they began operating in the Dominican republic, public defenders have carried out their functions with absolute independence. That independence is protected under the Constitution and by law.
Venezuela	YES	The Public Defender Office was established as an autonomous, constitutional body, and the law has been amended several times to grant it all the functional and administrative autonomy it needs to carry out its functions.

Question 7. How has your state supported the work being done by official public defenders?

Country	Summary of Information Received
Argentina	<p>The Executive Branch has signed numerous agreements with the National Public Defender Office to help that institution improve its work and to expand. Notable agreements:</p> <ul style="list-style-type: none"> - National Immigration Directorate, to provide legal aid to migrants. - Ministry of Justice, to provide representation for complainants and collaboration to work at access to justice centers. - National Commission for Refugees (Co.Na.Re) in conjunction with UNHCR, to provide expert legal aid in cases relating to application for recognition of refugee status. - Ministry of Social Development in conjunction with the National Women's Council, to provide assistance and legal representation to victims of domestic violence.
Bolivia	<p>The Public Defender Agency and the Ministry of Justice have been working together on drafting a new legal framework for the "Public Criminal Defender Office," which deals with comprehensive strengthening of the Public Defender Office, specifically in such areas as:</p> <ul style="list-style-type: none"> - Improving the earnings situation of defenders - Training and professionalism - Job security - Expansion of service coverage to rural areas.
Canada	<p>The Federal government provides financial support for such areas as the cost of criminal legal aid in the provinces and legal aid in criminal and civil law in the territories.</p> <p>In addition, the Federal government provides funds for social programs and services that include legal support, through Canada Social Transfer. Funds are also available for legal aid for migrants and refugees in the various provinces and territories. A special fund is approved on an annual basis for special advocates needed by nationals abroad or living outside the country, in government claims concerning issues of national security information.</p>
Chile	<p>On the one hand, the budget has been increasing from year to year through the addition of new programs for specialized defense, especially as regards juvenile criminal defense and prisoner defense, for which new professionals have been hired for these areas of work that the state has considered to be vital.</p> <p>Training for professionals working in these areas has always been considered essential, and this has had an effect on international conferences held on a variety of issues related to defenders and defenders participating in courses taught by highly experienced foreign who are experts in litigation and criminal defense. Besides, as a</p>

	<p>form of knowledge management and transfer among defenders - who in many instances have been working at the institution for years - we have developed defender training academies with the institution's own rapporteurs that are selected through internal competition.</p>
Colombia	NA
Costa Rica	<p>An annual budget is approved for the Public Defender Office to ensure coverage and have staff in place to provide legal aid. Services have been expanded in a variety of criminal-related matters. At the moment we have pilot programs on work, family, and restorative justice.</p> <p>In terms of its staffers, the Institution of Public Defender provides job security, staff ownership appointment, competitive salaries, opportunity for specialization, and access to mobility or promotion.</p> <p>The government has also provided resources for a "Unit for Recruitment, Selection, and Training of Public Defenders" that has recruited and selected a team of well-trained individuals to train those who will be delivering the service.</p>
El Salvador	<p>The main service provided by government has been budget for the operations of the Public Defender Office.</p>
United States	<p>Official Public Defenders are engaged in three types of legal procedures: federal, state or local, and tribal. The federal government generally supports them all, through the Department of Justice. Specifically, the Bureau of Justice Assistance (BJA) contributes funds for projects in the different states, and for online programs that evaluate the performance of Public Defenders.</p> <p>But these agencies are funded according to their level, and state or local authorities contribute economic support. They also contribute education and training for staffers of the Public Defender Offices. At the federal level, the AO's Office of Defender Services allocates part of its Congress-approved budget to funding different public defender organizations.</p>
Guyana	<p>The government of Guyana has provided various forms of assistance to this organization for a number of years. The most important support it gets is allocation of an annual portion of its budget to continue its services and to expand them across the country. In cases involving capital offenses, the High Court may appoint private attorneys to defend citizens accused of those crimes, with the costs borne by the Government of Guyana.</p>
Honduras	<p>State support is limited to allocating budget for the operations of the Public Defender Directorate under the judicial branch.</p>
Mexico	NA
Panama	<p>The General State Budget allocates funds under the Judicial Branch to meet the human resource, equipment, and infrastructure needs as well as the needs of the Public</p>

	<p>Defender Office, for it to operate and provide legal aid.</p> <p>The National Directorate of the Public Defender Office together with a number of collaborators drafted for the Public Defender Office a bill that is currently in the process of being submitted to the Judicial Branch.</p>
Dominican Republic	<p>Since the Public Defender Office was established, the Government has ensured that its development and independence, and thus included an article under the law governing the institution, to ensure that five years after that law entered into force, the Public Defender Office would become independent of the judiciary, thus ensuring its administrative, financial, and functional independence. On January 1, 2010 it became officially independent and was allocated a budget for its operations.</p> <p>In late January 2010, the Public Defender Office was made an independent constitutional, administrative, and functional body under Article 176 of the Dominican constitution.</p>
Venezuela	<p>By enhancing the dignity of defenders' work, providing more staff, and creating the National School of Public Defenders.</p>

Question 8. Has your state entered into agreements regarding courses and training for official public defenders? If your answer is affirmative, please describe the scope of those agreements and their main objectives.

Country	Reply	Summary of Information Received
Argentina	YES	The General Public Defender's Office has a General Secretariat for Training and Jurisprudence, which trains all members of the Public Prosecutor's Office, equipping them with the required knowledge and thereby to ensure that staff play an appropriate role in practicing Public Defense.
Bolivia	YES	An agreement has been signed between the Royal Danish Government and Bolivia, for implementation of the " <i>Pro Justicia</i> Program for Access to Justice in Bolivia," which includes the program for institutional strengthening in the public service, which has "Operational Staff Training" activities and programs. Likewise, the National Public Defender Service has launched efforts with the presentation of the project "Comprehensive Strengthening of Public Defender Service" with partner governments (Switzerland-Denmark) in a bid to form a "cooperation common basket" for Bolivia.
Canada	YES	The government provides the provinces and territories with funds to deliver legal aid. Those funds may be channeled into legal education, training, and professional development for staff that provides legal aid. The annual budget for special advocates with Justice Department also includes earmarks for professional development programs.
Chile		The Public Criminal Defender Office has signed a considerable number

		of agreements to promote international cooperation in public defense.
Colombia	NA	
Costa Rica	YES	<p>Under the auspices of the judiciary, the Public Defender Office has training agreements with a number of universities (University of Costa Rica, National Universidad, State University, and the Bar Association) to train public defenders.</p> <p>Through the judiciary, agreements have also been signed with a number of European Universities, in Spain and Italy in particular, under which public defenders can opt to pursue their postgraduate studies at universities like the University of Salamanca, University of Málaga, and the University of Pisa.</p> <p>Agreements have been signed with the Inter-American Court of Human Rights, the Inter-American Institute of Human Rights, ILANUD, and AIDEF, under which staff of the Public Defender Office have been trained in human rights issues.</p>
El Salvador	YES	<p>General training for officials of public defense has mostly been provided by the Judicial Training School of El Salvador. The Public Defender's Office has collaborated with USAID and AECID to manage more specialized training sources. A Public Defense Training School was recently established, to provide more specific and specialized training.</p>
United States	YES	<p>The United States Government oversees training for the various federal, state, and tribal level officials of the Public Defender's Office. The AO's Office of Defender Services Training Branch provides training for Federal Public Defenders and for the CJA "panel of attorneys."</p> <p>The Department of Justice's Bureau of Justice Assistance (BJA) is also responsible for training programs and collaborates with other entities to provide these programs at both the state and local levels.</p> <p>The Department of Justice's Bureau of Indian Affairs Office of Tribal Justice Support" offers cost-free courses to help individuals involved in tribal courts to develop their skills.</p> <p>There is currently a lot of ODS collaboration and training and education activities for tribal public defenders.</p>
Guyana	NO	The Government of Guyana has no agreement for education and training for officials of the Public Defender's Office.
Honduras	NO	There is only very general training for judicial officials.
Mexico	NA	
Panama	YES	<p>Agreements have been entered into with the European Union, the CJA, the Spanish Cooperation Agency, various universities, national institutions, and institutions of other countries. In order to enhance training for operators in the justice system, special components have been developed for Public Defenders.</p>

Paraguay	NO	Plans are underway to create an Education and Training Center under the Ministry of Public Defense. In the interim, Public Defender's Offices get ongoing training organized by the General Public Defender's Office and Subsidiary Defender's Offices.
Dominican Republic	YES	All public defenders are initially trained by the National Judicial School. In 2011, the Professional Development Unit was established. Its role is to systematically respond to internal improvement needs. Agreements have been signed with the Commissioner for Justice Reform and Modernization, which seeks to carry out outreach, cooperation and joint training activities. Under this agreement, public defenders have been sent to pursue graduate studies abroad (Colombia, Spain, Costa Rica, Argentina, etc.). Cooperation agreements are also in place with the Autonomous University of Santo Domingo. Agreements have been signed with the Institutionalism and Justice Foundation (FINJUS), to boost opportunities for judiciary-civil society cooperation.
Venezuela	YES	A number of inter-agency, subregional, and international agreements.

APPENDIX I

NOTE VERBALE 2.2.83/12



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Organization of American States

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OEA/2.2./83/12

The Department of International Law (DIL) of the Secretariat for Legal Affairs presents its compliments to the permanent missions to the Organization of American States and has the pleasure of referring to General Assembly resolution AG/RES. 2714 (XLII-O/12), operative paragraph 9 of which requests the General Secretariat, through the DIL, to prepare, in the second half of 2013, a compilation of best practices on access to justice and public defenders in the region, based on written input from states on the subject and on the results of the special meeting to exchange experiences and best practices to be held in the first quarter of that year.

In order to comply with this mandate, we have enclosed herewith a questionnaire, which we respectfully request be submitted to us by November 30 this year.

The Department of International Law of the Secretariat for Legal Affairs of the OAS General Secretariat avails itself of this occasion to convey to the permanent missions of the OAS member states renewed assurances of its highest consideration.

September 21, 2012

NOTE VERBALE 2.2.66/13



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- Saint Lucia
- Saint Vincent and the Grenadines
- Suriname
- Trinidad and Tobago
- United States of America
- Uruguay
- Venezuela

OEA/2.2/66/13
SLA-DIL

The Department of International Law of the Secretariat for Legal Affairs of the General Secretariat of the Organization of the American States presents its compliments to the Permanent Missions to the Organization and is pleased to refer to resolution AG/RES. 2714 (XLII-0/12) of the Assembly General. Paragraph nine of that resolution requests that the OAS General Secretariat, through the DIL, prepare, in the second half of 2013, a compilation of good practices on access to justice and public defense in the region, based on written input from States on the subject, and including the results of the special meeting to exchange good practices and experiences, held on March 17, 2013.

In order to comply with this mandate, the DIL sent, on September 27, 2012, to the Permanent Missions to the Organization, through communication n. 2.2.89/12, a questionnaire to facilitate the compilation of the information requested. The same questionnaire is attached to this communication.

In this regard, in the last session of the Committee on Juridical and Political Affairs of the Permanent Council, held on September 26, a second distribution of the questionnaire was requested. The Committee solicited the Permanent Missions to update their responses, as well as encouraged those who have not yet submitted the document to do so.

In order to fully comply with the preparation of the document requested by the General Assembly, the DIL respectfully requests the submission of the updated information no later than December 6, 2013.

The General Secretariat of the Organization of the American States, through the Department of International Law of the Secretariat for Legal Affairs, avails itself of this opportunity to convey to the Permanent Missions to the OAS renewed assurances of its highest consideration.

Washington, D.C., October 3, 2013

QUESTIONNAIRE FORMAT

1. Does your state have the institution of public defenders or cost-free legal counsel services?
2. In case that your state does not yet have the institution of free legal counsel, has it considered the possibility of establishing one within the framework of your legal system?

N.B.: All the states that provided information responded that this question did not apply to them.

3. If the answer to the previous question is affirmative, please describe any steps that have been taken towards creating that institution.

N.B.: All the states that provided information either responded that this question did not apply to them, or did not answer it.

4. Has your state taken any steps to promote international cooperation opportunities for sharing experiences and best practices in this field? If yes, please describe them.
5. Has your state supported the work of the Inter-American Association of Public Defender Offices (AIDEF) in strengthening public defender services in your country? If your answer is affirmative, please explain how this work had been done.
6. Has your state taken steps to ensure that official public defenders enjoy independence and operational autonomy?
7. How has your state supported the work being done by official public defenders in your country?
8. Has your state entered into agreements regarding courses and training for official public defenders? If your answer is affirmative, please describe the scope of those agreements and their main objectives.