



PROSECUTORIAL REFORM INDEX

FOR

BELIZE

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Introduction

The Prosecutorial Reform Index (PRI) is a tool developed by the American Bar Association's Rule of Law Initiative. Its purpose is to assess a cross-section of factors important to prosecutorial reform in transitioning states. In an era when legal and judicial reform efforts are receiving more attention than in the past, the PRI is an appropriate and important assessment mechanism. The PRI will enable the ABA, its funders, and the local governments themselves, to better target prosecutorial reform programs and monitor progress towards establishing accountable, effective, and independent prosecutorial offices.

The ABA embarked on this project with the understanding that there is not uniform agreement on all the particulars that are involved in prosecutorial reform. There are differences in legal cultures that may make certain issues more or less relevant in a particular context. However, after working in the field on this issue for over 20 years in different regions of the world, the ABA has concluded that each of the 28 factors examined herein may have a significant impact on the prosecutorial reform process. Thus, an examination of these factors creates a basis upon which to structure technical assistance programming and assess important elements of the reform process.

The technical nature of the PRI distinguishes this type of assessment tool from other independent assessments of a similar nature, such as the U.S. State Department's *Human Rights Report* and Freedom House's *Nations in Transit*. This assessment will *not* provide narrative commentary on the overall status of the prosecutorial system in a country. Rather, the assessment will identify specific conditions, legal provisions, and mechanisms that are present in a country's prosecutorial system and assess how well these correlate to specific reform criteria at the time of the assessment. In addition, this analytic process will not be a scientific statistical survey. The PRI is first and foremost a legal inquiry that draws upon a diverse pool of information that describes a country's prosecutorial system.

Methodology

The ABA was able to borrow heavily from the Judicial Reform Index (JRI) and Legal Profession Reform Index (LPRI) in terms of structure and process. However, the limited research on legal reform that exists tends to concentrate on the judiciary, excluding other important components of the legal system, such as lawyers and prosecutors. According to democracy scholar Thomas Carothers, "[r]ule-of-law promoters tend to translate the rule of law into an institutional checklist, with primary emphasis on the judiciary." Carothers, *Promoting the Rule of Law Abroad: the Knowledge Problem*, CEIP Rule of Law Series, No.34, (Jan. 2003). Moreover, as with the JRI and LPRI, the ABA concluded that many factors related to the assessment of the prosecutorial system are difficult to quantify and that "[r]eliance on subjective rather than objective criteria may be ... susceptible to criticism." ABA/Central European and Eurasian Law Initiative, *Judicial Reform Index: Manual for JRI Assessors*. (2001).

The ABA sought to address these issues and criticisms by including both subjective and objective criteria and by basing the criteria examined on some fundamental norms, such as those set out in the *United Nations Guidelines on the Role of Prosecutors*; the *International Association of Prosecutors Standards of Professional Responsibility and Statement of the Essential Duties and Rights of Prosecutors*; *Council of Europe Recommendation R(2000)19 "On the Role of Public Prosecution in the Criminal Justice System"*; and the *American Bar Association Standards for Criminal Justice: Prosecution Function*.

In creating the PRI, the ABA was able to build on its experience in creating the JRI, the LPRI, and the more recent CEDAW Assessment Tool and Human Trafficking Assessment Tool in a number



of ways.¹ For example, the PRI borrowed the JRI's factor "scoring" mechanism and thus, as with the LPRI, was able to avoid the difficult internal debate that occurred with the creation of the JRI. In short, the JRI, the LPRI, and now the PRI employ factor-specific qualitative evaluations. Each PRI factor, or statement, is allocated one of three values: *positive, neutral, or negative*. These values only reflect the relationship of that statement to that country's regulations and practices pertaining to its prosecutorial system. Where the statement strongly corresponds to the reality in a given country, the country is to be given a score of "positive" for that statement. However, if the statement is not at all representative of the conditions in that country, it is given a "negative." If the conditions within the country correspond in some ways but not in others, it will be given a "neutral." Like the JRI and LPRI, the PRI foregoes any attempt to provide an overall scoring of a country's reform progress since attempts at aggregate scoring based on this approach could be counterproductive.²

The results of the 28 separate evaluations are collected in a standardized format in each PRI country assessment. As with the JRI and LPRI, the PRI utilizes an assessed correlation and a brief summary describing the basis for this conclusion following each factor. In addition, a more in-depth analysis is included, detailing the various issues involved. Cataloguing the data in this way facilitates its incorporation into a database, and it permits users to easily compare and contrast performance of different countries in specific areas and—as PRIs are updated—within a given country over time. There are two main reasons for borrowing the JRI's and LPRI's assessment process, "scoring," and format. The first is simplicity. Building on the tested methodology of the JRI and LPRI enabled the speedier development of the PRI. The second is uniformity. Creating uniform formats will enable the ABA eventually to cross-reference information generated by the PRI into the existing body of JRI and LPRI information. This will eventually give the ABA the ability to a much more complete picture of legal reform in target countries.

Social scientists might argue that some of the criteria would best be ascertained through public opinion polls or through more extensive interviews of prosecutors, judges, and defense counsel. Sensitive to the potentially prohibitive cost and time constraints involved, the ABA decided to structure these issues so that they could be effectively answered by limited questioning of a cross-section of lawyers, judges, and outside observers with detailed knowledge of the legal system. Overall, the PRI is intended to be rapidly implemented by one or more assessors who are generally familiar with the country and region and who gather the objective information and conduct the interviews necessary to reach an assessment of each of the factors.

The PRI was designed to fulfill several functions. First, local government leaders and policymakers can utilize the findings to prioritize and focus reform efforts. Second, the ABA and other rule of law assistance providers will be able to use the PRI results to design more effective programs related to improving the quality of the prosecutorial system. Third, the PRI will also provide donor organizations, policymakers, NGOs, and international organizations with hard-to-find information on the structure, nature, and status of the prosecutorial system in countries where the PRI is implemented. Fourth, combined with the JRI and LPRI, the PRI will contribute to a comprehensive understanding of how the rule of law functions in practice. Fifth, PRI results can also serve as a springboard for such local advocacy initiatives as public education campaigns about the role of prosecutors in a democratic society, human rights issues, legislative drafting, and grassroots advocacy efforts to improve government compliance with internationally established standards for the prosecutorial function.

¹ CEDAW stands for the UN Convention on the Elimination of All Forms of Discrimination Against Women. CEELI developed the CEDAW Tool in 2001-2002. The Human Trafficking Assessment Tool is based on the UN Trafficking Protocol and was developed in 2004-2005.

² For more in-depth discussion on this matter, see Larkins, *Judicial Independence and Democratization: A Theoretical and Conceptual Analysis*, 44 AM. J. COMP. L. 605, 611 (1996).

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Assessment Team

The Belize PRI 2011 assessment team was led by Professor Jimmy Gurulé, a professor of criminal law at Notre Dame Law School, who previously served as Under Secretary for Enforcement at the U.S. Department of the Treasury and as both Assistant Attorney General and Assistant U.S. Attorney with the U.S. Department of Justice. The assessment team in Belize included ABA ROLI Country Director for Belize Antoinette Moore, Field Coordinator Nyasha Laing, Deputy Country Director for Belize Erik Guenther, and Field Finance Manager Yancy Habet-Harrison. The team received strong support from ABA ROLI staff in Washington, including Latin America and Caribbean Director Michael McCullough, Program Manager Tom Hare, and Program Officer Francisco Ciampolini. Research Director Simon Conté served as the editor and prepared the report for publication. The conclusions and analysis are based on 27 interviews conducted in Belize in January 2011 and relevant legislation and documents that were reviewed through March 2011. Records of relevant authorities and a confidential list of individuals interviewed are on file with ABA ROLI. We are extremely grateful for the time and assistance rendered by those who agreed to be interviewed for this project.

Executive Summary

Brief Overview of the Results

The 2011 Prosecutorial Reform Index (PRI) for Belize reflects a challenging environment for the prosecution function. As illustrated in the Table of Factor Correlations, Belize scored positively on only four of the twenty-eight PRI factors (Selection Without Discrimination, Freedom of Expression, Interaction with Judges, and Interaction with the Public/Media), indicating that the country's legislative framework and practices in these areas substantially comply with relevant international standards. However, sixteen factors received a negative correlation, including at least one negative factor in all six sections of the PRI, indicating that there is still much work to be done in all areas of prosecutorial reform. The remaining eight factors all received a neutral correlation.

Positive Aspects Identified in the 2011 Belize PRI

- University-level legal education is required for Crown Prosecutors who work for the Director of Public Prosecutions (DPP) and prosecutors working in the Financial Intelligence Unit (FIU). The legal education received at the University of the West Indies and Norman Manley Law School is comprehensive, substantive, and requires students to take ethics and trial advocacy skills courses.
- Prosecutors are selected to work in Belize without discrimination based on ethnicity, race, or gender. Persons of different ethnic groups from various countries in the region are employed as prosecutors, including at senior supervisory levels. Further, women are regularly employed to work as Crown Prosecutors and police prosecutors.
- Prosecutors are subject to well-developed and equitable disciplinary procedures under the authority of the General Legal Council. Any complaints of ethical misconduct by prosecutors are submitted to the Council, which conducts a hearing and submits its findings and recommendations to the Chief Justice for further action.
- Prosecutors have a professional and respectful relationship with judges. Further, prosecutors are respectful of the independence and impartiality of judges. There were no reported incidents of prosecutors influencing or attempting to influence any judicial decision or ruling.
- Public prosecutors have a positive relationship with the media. Laws and regulations prohibit public officials from making unauthorized disclosures of confidential information to the public or the media. Prosecutors refrain from making comments to the media that might prejudice the accused in a pending case.

Major Concerns Identified in the 2011 Belize PRI

- Police and civilian prosecutors are responsible for prosecuting offenses that carry substantial terms of imprisonment upon conviction. However, they receive inadequate legal training before being assigned to work as a prosecutor in magistrate court. Police prosecutors often appear in court without having received any legal training. Civilian prosecutors are only required to attend a paralegal course. Further, public prosecutors in Belize, including Crown Prosecutors and prosecutors working in the Financial Intelligence Unit office, are not required to receive any continuing legal education.



- The rights of the accused are not adequately protected in criminal proceedings. Indigent defendants are entitled to court-appointed counsel only in capital cases. In all other cases, such defendants are required to appear in court without the assistance of legal counsel. Further, prosecutors generally do not exclude illegally obtained evidence, deferring that responsibility to the court. Trial adjournments attributable to police investigators and public prosecutors often deprive the accused of the right to have his case decided within a reasonable time.
- Protecting victims and witnesses from threats of serious bodily harm and acts of violence is a serious problem in Belize. However, there is no witness protection program or witness protection unit within the Police Department to ensure the safety of victims and witnesses. Further, there are no statutes or regulations that explicitly address the rights of victims and witnesses in the criminal justice system. Prosecutors are also not afforded any training on the rights and needs of victims.
- There is a general lack of public confidence in the integrity of law enforcement. Police officers are underpaid and have low morale, making them vulnerable to bribery and other forms of public corruption. However, the prosecution of police officers and public officials for fraud, bribery, and other forms of public corruption is rare. No special unit within the Police Department is assigned responsibility for investigating public corruption. There are also no prosecutors responsible for prosecuting public corruption cases.
- Police prosecutors have a conflict of interest. They are employed by the Police Department and dependent on the Department for their continued employment and promotion. At a minimum, such relationship undermines the public's confidence in the independence and impartiality of the prosecutorial system and creates the perception that police prosecutors are merely an extension of the police.
- Prosecutors do not perform their functions expeditiously. There is no computerized case filing and tracking system to assist prosecutors in tracking cases, court proceedings, defendants, and witnesses. Further, Crown Prosecutors do not provide direct oversight or regularly consult with police officers during the criminal investigation. The lack of adequate supervision often results in improper charges being filed by police investigators. Crown Prosecutors also find that the initial investigation was inadequate, requiring additional police investigation that often results in an adjournment of the trial date.
- The DPP's office is inadequately funded and lacks the resources needed to properly and effectively perform the work of the office. Police prosecutors and civilian prosecutors also lack the resources needed to effectively perform their prosecutorial functions. Crown Prosecutors are not adequately compensated, making it difficult to recruit experienced lawyers to work in the DPP's office. Also, the low compensation contributes to a high turnover rate in the office. Police prosecutors are compensated at the same pay schedule as police officers. Thus, there is no financial incentive to become a police prosecutor. Civilian prosecutors are also not adequately compensated.

Belize Background

Legal Context

Belize is a constitutional monarchy governed by a Head of State, a Governor-General, a bicameral parliament, local officials, and a constitutional court. The Constitution of Belize was adopted on September 21, 1981 in the wake of a Constitutional Conference in London. The Conference served as the springboard to Belize's independence, the recognition of its sovereignty, and, in spite of territorial claims by the Republic of Guatemala, its entry into the United Nations.³

The bicameral parliament, known as the **National Assembly**, consists of the Senate (thirteen members appointed for five-year terms by the Governor-General)⁴; and the House of Representatives (31 members popularly elected for five-year terms).⁵

The Executive Branch of the Government of Belize is comprised of the Governor-General who serves as the titular Head of State, the Prime Minister and the Cabinet. The **Prime Minister** is vested with extensive powers, including his authority over military matters, financial affairs, the power to nominate Cabinet ministers and to participate in the appointment of the Chief Justice of the Supreme Court.

Section 30 of the Constitution establishes that the **Governor-General** shall serve as the direct representative of the Queen of England to the Commonwealth country of Belize. The Governor-General is appointed by Her Majesty, the Queen, and serves at Her Majesty's pleasure. The Governor-General maintains authority over the appointment of many public officials, including the Prime Minister and Director of Public Prosecutions [hereinafter DPP]. He also exercises authority over matters of pardon and parole, and salutary matters related to the operation of the State.

The **Cabinet**, which is the chief policy-making body in the Government machinery, is made up of persons who formulate the policy and programme of the Government and is directed by the Prime Minister.⁶ Cabinet members are drawn from the National Assembly.

Appointment and Powers of the Executive

The Constitution provides for the appointment by the Governor-General of a Prime Minister who in his/her opinion is considered the leader of the political party that commands the support of the majority of the members of the House.

The Constitution further provides that the Cabinet shall be comprised of the Deputy Prime Ministers and selected Ministers, whose respective portfolios shall be assigned by the Prime Minister. The Cabinet is responsible for ensuring the public order and national security, exercising guidance over the state administration and the armed forces, and budget planning. Cabinet members are policy makers charged with defending the national policies of their party and the Prime Minister, resulting in a national and local governance structure that runs along national party lines.

Constitutionally, the Governor-General's powers of appointment are to be exercised in consultation with the Judicial and Legal Services Commission, the Belize Advisory Council—a

³ The initial legislative approval of the Constitution was made by way of a Belize Independence Order dated July 31, 1981.

⁴ Section 61 (1) of the Belize Constitution, chapter 4 of the Laws of Belize, June 2010.

⁵ *Id.*, section 56(1).

⁶ *Id.*, section 44 (1).



bipartisan body with oversight of the judiciary⁷—and the Prime Minister. In the case of Cabinet appointments, the Prime Minister holds discussions with various elected members of his party and then submits a list of names of Representatives and/or Senators he wants to serve on his Cabinet; the Governor-General then appoints the persons suggested by the Prime Minister.

The Judiciary

Belize maintains an independent judiciary comprised of magistrates, high court judges, and a Chief Justice. The Supreme Court of Judicature is the high court of first instance in Belize, followed by the Court of Appeal. The majority of judicial matters in Belize are required to be lodged first at the magistracy level; thereupon, persons accused with indictable offences are committed to trial at the Supreme Court. There are magistrate courts in each of the six geographic districts, over which magistrate judges preside and before whom non-indictable matters are tried. The Governor-General, acting in accordance with the advice of the Commission and with the concurrence of the Prime Minister given after consultation with the Leader of the Opposition, appoints the justices of the Supreme Court, other than the Chief Justice. Jurisprudence is based on statutory and Commonwealth common law.

The Caribbean Court of Justice, which sits in Trinidad and Tobago, has been established as the highest court of original and appellate jurisdiction for CARICOM member States, pursuant to a protocol amending the Treaty of Chaguaramas that was ratified by Belize and several other CARICOM countries.

The Office of the Director of Public Prosecutions

The public office of the Director of Public Prosecutions [hereinafter DPP] is enshrined in Section 50 of the Constitution. The powers vested thereby are independent of any other body or authority, subject only to the administrative powers of the Attorney General, who serves as the state's principal legal officer, pursuant to Section 42(2) of the Constitution, and the authority of the Belize Advisory Council.

The DPP's Office consists of the DPP and the public prosecutors, or crown prosecutors. The crown prosecutors are subordinate to the DPP, and the DPP may rescind their decisions. The office of the DPP assures adherence to law and the DPP exercises control and discretion over the prosecution and discontinuance of criminal proceedings in both indictable and summary matters lodged by the police.

History of the Prosecution Service

The Governor-General, acting in accordance with the advice of the Judicial and Legal Services Commission, appoints the DPP. Once appointed, the DPP may serve until age 60 or other such age as maybe prescribed by the National Assembly. Under Section 108 of the Constitution, the DPP can be removed only as a result of inability to perform the functions of the office, or for misbehavior. In such cases, the Governor-General, acting in consultation with the Prime Minister and the Belize Advisory Council, can order the removal of the DPP.

⁷ *Id.*, section 54 (1) provides, "There shall be a Belize Advisory Council...which shall consist of the members specified in subsection (2)." Subsection (2) in summary states that 2 senior members of the Council...shall be appointed by the Governor-General, acting in accordance with the Prime Minister, and 2 senior members shall be appointed by the Governor-General in accordance with the advice of the Leader of the Opposition and 3 other members are appointed by the Governor-General in accordance with the advice of the Prime Minister given after consultation with the Leader of the Opposition.

The post of Deputy Director of Public Prosecutions has also been established. Based on the 2010 – 2011 budget for the DPP’s office, the salary range for prosecutors in 2010 started at BZD 45,528 (approximately USD 23,468) for Crown Prosecutors, BZD 61,260 (approximately USD 31,577) for the Deputy DPP, and BZD 100,000 (approximately USD 51,546) for the DPP.⁸

Crown Prosecutors

To serve as a Crown Prosecutor in the DPP’s Office, a person must be at least a barrister-at-law in a Commonwealth jurisdiction, or admitted and enrolled as an attorney-at-law in Belize. See INDICTABLE PROCEDURE ACT, Chapter 96 of the Laws of Belize (Revised Edition 2000), § 11(1).

The Financial Intelligence Unit

Section 5(2) of the Financial Intelligence Unit (“FIU”) Act, Chapter 138:02 of the Laws of Belize (Revised Edition 2003) provides for the appointment of an attorney with specific authority over the investigation and prosecution of financial crimes. The FIU prosecutor reports directly to the Director of the FIU.

Police Prosecutors

In addition to the Office of the DPP, the judicial system utilizes police officers to serve as police prosecutors. Police prosecutors prosecute summary matters in the magistrate courts, and are chosen by and from within the ranks of the Belize Police Department.

The police prosecution system, a peculiar feature of the judicial system throughout the English Commonwealth, has been developed and maintained in the absence of a prosecution service equipped with adequate human resource capacity to handle summary prosecutions. Historically, the police gradually and conclusively assumed the role of prosecutor, with each investigating officer prosecuting his or her own cases in the magistrate court, eventually leading to the current system.

Section 17 of the Police Act, Chapter 138 of the Laws of Belize (Revised Edition 2000) authorizes the police to prosecute summary matters. The Commissioner of Police has oversight over investigation and summary prosecution; although police prosecutors may at times consult with the DPP on substantive issues relating to summary matters.

Civilian Prosecutors

Further, section 38 of the Summary Jurisdiction (Procedure) Act, Chapter 99 of the Laws of Belize (Revised Edition 2000), authorizes the DPP to designate any “fit and proper person” to prosecute cases in magistrate court. Persons designated by the DPP to prosecute cases in summary courts pursuant to this provision who are not licensed to practice law in Belize are referred to as “civilian prosecutors.” These prosecutors must possess a paralegal certificate from the University of Belize, which requires two years of study. Only a handful of civilian prosecutors exist in the country of Belize.

⁸ In this report, Belize dollars are converted to United States dollars at the average rate of conversion at the time when the PRI interviews were conducted (USD 1.00 = BZD 1.94)

Belize PRI 2011 Analysis

While the correlations drawn in this exercise may serve to give a sense of the relative status of certain issues present, the ABA would underscore that these factor correlations possess their greatest utility when viewed in conjunction with the underlying analysis, and the ABA considers the relative significance of particular correlations to be a topic warranting further study. In this regard, the ABA invites comments and information that would enable it to develop better or more detailed responses in future PRI assessments. The ABA views the PRI assessment process to be part of an ongoing effort to monitor and evaluate reform efforts.

Table of Factor Correlations

Prosecutorial Reform Index Factor		Correlation
I. Qualifications, Selection, and Training		
Factor 1	Legal Education	Neutral
Factor 2	Continuing Legal Education	Negative
Factor 3	Selection: Recruitment, Promotion, and Transfer	Negative
Factor 4	Selection Without Discrimination	Positive
II. Professional Freedoms and Guarantees		
Factor 5	Freedom of Expression	Positive
Factor 6	Freedom of Professional Association	Neutral
Factor 7	Freedom from Improper Influence	Negative
Factor 8	Protection from Harassment and Intimidation	Negative
Factor 9	Professional Immunity	Negative
III. Prosecutorial Functions		
Factor 10	Discretionary Functions	Negative
Factor 11	Rights of the Accused	Negative
Factor 12	Victim Rights and Protection	Negative
Factor 13	Witness Rights and Protection	Negative
Factor 14	Public Integrity	Negative
IV. Accountability and Transparency		
Factor 15	Public Accountability	Neutral
Factor 16	Internal Accountability	Neutral
Factor 17	Conflicts of Interest	Negative
Factor 18	Codes of Ethics	Neutral
Factor 19	Disciplinary Proceedings	Neutral
V. Interaction with Criminal Justice Actors		
Factor 20	Interaction with Judges	Positive
Factor 21	Interaction with Police and Other Investigatory Agencies	Negative
Factor 22	Interaction with Representatives of the Accused	Neutral
Factor 23	Interaction with the Public/Media	Positive
Factor 24	International Cooperation	Neutral
VI. Finances and Resources		
Factor 25	Budgetary Input	Negative
Factor 26	Resources and Infrastructure	Negative
Factor 27	Efficiency	Negative
Factor 28	Compensation and Benefits	Negative

I. Qualifications, Selection, and Training

Factor 1: Legal Education

Prosecutors have the appropriate legal education and training necessary to discharge the functions of their office, and should be made aware of the ideals and ethical duties of their office, of the protections for the rights of the suspect and the victim, and of human rights and fundamental freedoms recognized by international law.

Conclusion	Correlation: Neutral
University-level education is required to serve as a Crown Prosecutor or prosecutor working in the Financial Intelligence Unit. However, there are no law schools in Belize. Prosecutors must first obtain an LLB (Bachelor of Law) from the University of the West Indies, followed by their Legal Education Certificate at one of three law schools in the Caribbean. In addition to substantive law courses, students are required to take skills-training courses and complete an internship. However, students are not required to pass a state bar exam to practice law in Belize. In contrast, police prosecutors and civilian prosecutors are not required to receive any legal education before they begin prosecuting cases in magistrate's court. While police prosecutors may eventually receive some legal training, the training is sporadic and inadequate to prepare them to work as a prosecutor.	

Analysis/Background:

To serve as a Crown Prosecutor in the Office of the DPP, a person must be a barrister-at-law or admitted and enrolled as an attorney-at-law. See § 11(1) of the Indictable Procedure Act, Chapter 96 of the Laws of Belize (Revised Edition 2000) [hereinafter INDICTABLE PROCEDURE ACT]. To work as a prosecutor in the office of the Financial Intelligence Unit [hereinafter FIU] prosecuting financial crimes, such person must be an attorney-at-law. See FINANCIAL INTELLIGENCE UNIT ACT, § 5(2), Chapter 138:02 of the Laws of Belize (Revised Edition 2003) [hereinafter FIU ACT]. However, police prosecutors and civilian prosecutors are not required to be lawyers. They receive minimal, if any, legal training before being assigned to prosecute cases in a magistrate's court.

Pursuant to section 6(1) of the Legal Profession Act, Chapter 320 of the Laws of Belize (Revised Edition 2003) [hereinafter LEGAL PROFESSION ACT], there are three ways to be admitted to practice law in Belize. A person must satisfy the Supreme Court that he:

- (a) is a Belizean citizen and holds a Legal Education Certificate; or
- (b) has obtained adequate training in the law and is suitably qualified and competent to practice law in Belize; or
- (c) possesses suitable practicable experience and competence and is qualified to practice law in any country which the Chief Justice, after consultation with the [General Legal] Council, designates by Order published in the Gazette as having a sufficiently analogous system of laws, and is a person of good character [. . .]

The General Legal Council is comprised of the Attorney General, President of the Bar Association and four persons elected from the members of the Bar Association of Belize [hereinafter Bar Association]. See LEGAL PROFESSION ACT, § 3(2).

There is no requirement that the candidate pass a bar examination.



Currently, there are no law schools in Belize. Therefore, anyone seeking to obtain a Legal Education Certificate [hereinafter LEC] to serve as a Crown Prosecutor or FIU prosecutor must pursue legal studies abroad. The Council of Legal Education (Caribbean) offers a two-year, full-time program of study leading to the award of an LEC, which is recognized in the participating Commonwealth Caribbean territories, including Belize, as the professional qualification for admission to practice law. The LEC is offered at the Council of Legal Education's three law schools located in Jamaica, Trinidad, and the Bahamas. Caribbean law schools are zoned for the admission of students from the participating territories of the West Indies. Applicants from Belize, as well as Anguilla, Antigua and Barbuda, Jamaica, Montserrat, and St. Kitts and Nevis, apply to the Norman Manley Law School in Kingston, Jamaica. Applications from students residing in other Commonwealth Caribbean territories are admitted to the Hugh Wooding Law School in Trinidad or Eugene Dupuch Law School located in the Bahamas.

To be eligible for admission to the Norman Manley Law School, applicants must have an LLB degree (Bachelor of Law) from the University of the West Indies. Students who hold undergraduate law degrees from other universities are required to pass an entrance exam. The undergraduate law program requires full-time attendance for three years. The academic year is divided into two semesters. There is a mandatory requirement that students take five courses per semester, each worth three credits. Students are required to complete 90 credits to be awarded an LLB.

During the first and second years of study, students take mandatory courses, including Criminal Law I and II, Constitutional Law, and Legal Methods and Writing. The courses taken during the third-year are elective in nature. There are no required third-year courses. The LLB courses principally focus on teaching substantive law, rather than legal skills training. Further, the courses are taught using the traditional lecture-style method of teaching.

The LEC program at Norman Manley Law School is divided into two years of study. Advocacy is an important part of the law school program, designed to give students practical training in advocacy skills. Courses offered in the first year include: Advocacy; Civil Procedure and Practice I; Criminal Practice and Procedure; Evidence; and Legal Drafting and Interpretation. Some substantive law courses are also offered during the first year. During the second year, students are required to participate in two mock trials – a criminal and civil trial (Advocacy II). Students are also required to take Civil Procedure II, which includes a section on appellate practice and procedure. Further, students take an ethics course which covers the status of members of the legal profession as officers of the Court, duties to the Court, clients, the public and the profession, and obligations to promote the rule of law and support the maintenance of an independent judiciary. However, none of the courses required to obtain either an LLB or LEC focus on international human rights law. Finally, according to respondents the LEC program at the University of the West Indies requires a period of in-service at a public or private law firm. However, the requirements of the in-service program could not be confirmed.

A lawyer who is trained and qualified to practice law in a common law jurisdiction may opt to participate in a six-month course, in lieu of the two-year program, to receive an LEC. An applicant for admission to the six-month program must have: (1) obtained a degree from a university or institution which is the equivalent of an LLB degree conferred by the University of the West Indies; (2) be admitted to practice law in a common law jurisdiction; and (3) furnish a certificate of good standing from the competent authority in the jurisdiction where he has been admitted to practice law.

Courses offered in the six-month program include a study of Caribbean Constitutional Law, the Caribbean legal system, practice and procedures in summary courts, and appellate practice and procedures, including appeals to the Judicial Committee of the Privy Council. Finally, students are required to attend court proceedings and participate in an internship program in the legal aid clinic

or law office. However, the exact requirements of the internship are undefined and left to the discretion of the supervising law faculty.

It should be emphasized that while obtaining an LEC is important, it is not an absolute requirement to become an attorney-at-law and serve as a prosecutor in Belize. As previously noted, pursuant to section 6(1)(b) of the Legal Profession Act, a person may be admitted to practice law if the Supreme Court is satisfied that such person has obtained adequate legal training and is qualified and competent to practice law in Belize. Under this provision, a person could be admitted to practice law based solely on his training in the law and without having received an LEC.

Section 6(1)(c) of the Legal Profession Act also authorizes the Supreme Court to admit a person to practice law based on a finding by the Court that he “possesses suitable practical experience and competence and is qualified to practice law in any country . . . having a sufficiently analogous system of laws.” Such person would not be required to have successfully completed either the two-year or sixth-month LEC program to practice law in Belize. Further, section 6(1)(c) is not limited to lawyers admitted to practice law in a common law jurisdiction, as required under the six-month LEC program. Section 6(1)(c) extends to any person determined by the Supreme Court to have suitable practical experience and admitted to practice law in *any* country having a “sufficiently analogous systems of laws” as Belize.

Section 17 of the Police Act, Chapter 138 of the Laws of Belize (Revised Edition, 2000) [hereinafter POLICE ACT], authorizes the Police Commissioner, any superior officer, or any sergeant or corporal of the Belize Police Department to appear before a magistrate and prosecute cases charged by information or complaint. Such prosecutors are known as “police prosecutors.” Further, section 38 of the Summary Jurisdiction (Procedure) Act, Chapter 99 of the Laws of Belize (Revised Edition 2000), authorizes the DPP to designate any “fit and proper person” to prosecute cases in magistrate court. Section 38 provides:

Both the complainant and the defendant shall be entitled to conduct their respective cases in person or by an attorney-at-law or (without prejudice to section 17 of the Police Act) by any other fit and proper person designated by the Director of Public Prosecutions in writing to conduct prosecutions.

Persons designated by the DPP to prosecute cases in summary courts and who are not licensed to practice law in Belize are referred to as “civilian prosecutors.” These prosecutors must have a paralegal certificate from the University of Belize, which requires two years of study resulting in an Associate's Degree. Classes, which are taught by attorneys, include a wide range of legal topics, including substantive areas such as criminal law, family law, contracts, and constitutional law.

In summary or magistrate court, a defendant does not have the right to a jury trial. The defendant's guilt or innocence is decided by the magistrate. Only “indictable crimes” are decided by a jury. Such cases are prosecuted before a Supreme Court judge. However, summary courts have broad jurisdiction over cases that range from petty crimes to serious offenses that authorize the imposition of lengthy terms of imprisonment. For example, section 18 of the Misuse of Drugs Act, Chapter 103 of the Laws of Belize (Revised Edition 2000) [hereinafter DRUGS ACT], provides that a summary conviction (i.e., a conviction before a magistrate) for the offense of drug trafficking or possession of a controlled drug for the purpose of drug trafficking shall result in a sentence of not less than three years, but may extend to ten years of imprisonment. Further, under the Drugs Act, simple possession of cocaine could result in five years of imprisonment, and a person convicted of possession of marijuana could be sentenced to three years in prison.



Despite the serious nature of the criminal offenses prosecuted in magistrate court, there is no provision in Belize law requiring that police prosecutors or civilian prosecutors receive any legal training. Further, it is not uncommon for a police officer to be selected as a police prosecutor and assigned to prosecute cases in magistrate court having no legal training whatsoever. This is the case with civilian prosecutors as well. Police and civilian prosecutors are assigned to prosecute cases with limited knowledge of criminal law, criminal procedure, and the rules of evidence. Further, prior to assuming their prosecutorial responsibilities, police and civilian prosecutors receive no training in trial advocacy, including, for example, how to conduct a direct or cross examination of a witness. In short, police and civilian prosecutors are expected to gain their legal training on the job.

The absence of legal training is compounded by the fact that police and civilian prosecutors often litigate cases against legally trained defense lawyers. With no legal education or training, police and civilian prosecutors cannot effectively respond to legal arguments by defense counsel or legal questions raised by the magistrate. The inability to litigate legal matters in summary court could ultimately result in the case being dismissed and the defendant acquitted of the charges. Further, without adequate legal training, police and civilian prosecutors lack the ability to properly evaluate the legal strength and weakness of a particular case and determine whether criminal charges should be dismissed, reduced, or whether the defendant should be permitted to enter a plea agreement, and, if so, how any such plea agreement should be structured.

Finally, the lack of legal training and experience is a problem for Crown Prosecutors as well. Belize suffers from a lack of legally qualified and trained prosecutors. The reasons for the shortage of prosecutors are discussed in Factor 28 – Compensation and Benefits. As a result, it is not uncommon for the DPP to hire someone who recently graduated from law school with no legal experience. Despite the lack of trial litigation experience, newly hired Crown Prosecutors may be assigned to prosecute a serious murder case. The lack of legal training and experience could result in an acquittal or dismissal of the charges and a potentially dangerous criminal offender being released back into the community.

Factor 2: Continuing Legal Education

In order to maintain and improve the highest standards of professionalism and legal expertise, prosecutors undergo continuing legal education (CLE) training. States sponsor sufficient and appropriate CLE training, which is professionally prepared on specific issues and is relevant to the prosecutors' responsibilities, taking into account new developments in the law and society.

Conclusion	Correlation: Negative
<p>There is no mandatory continuing legal education [hereinafter CLE] training for prosecutors in Belize. While the Bar Association of Belize has authority and responsibility for maintaining the highest standards of learning in the legal profession, the Bar Association has not sponsored any legal training for prosecutors. Any CLE training received is voluntary and often self-initiated by Belize prosecutors. Further, while some legal training is offered to police prosecutors, such training is inadequate, limited in scope, and not offered on a regular basis. There is also no requirement that <i>all</i> police prosecutors receive the legal training available. Finally, civilian prosecutors receive no mandatory legal training.</p>	

Analysis/Background:

There is no CLE training for prosecutors in Belize. The Legal Profession Act, which governs the practice of law in Belize, does not impose a requirement that prosecutors receive training beyond what is initially required to be admitted to practice law. No other statute imposes a CLE training obligation on lawyers, including prosecutors.

While the Bar Association of Belize [hereinafter Bar Association] is responsible for prescribing and maintaining the “highest standards of learning” in the legal profession, the Bar Association has failed to establish any formal standards or requirements for CLE. See LEGAL PROFESSION ACT, § 40(3)(c) (setting forth the objects of the Bar Association). Further, there are no efforts by the Bar Association to offer prosecutors training in specialized areas such as money laundering, cybercrime, international drug trafficking, or trafficking in persons. The Bar Association’s ability to offer such specialized training is limited by both its size and the lack of criminal law experts and practitioners practicing law in Belize. The Bar Association consists of approximately 80 active members. Moreover, the vast majority of those lawyers are civil practitioners. There are few lawyers practicing criminal law full time in Belize. However, even with its small membership, the Bar Association could offer prosecutors CLE training on evidence, trial advocacy, and other courses that do not require specialized knowledge of criminal law.

The Bar Association has implemented a workshop on ethics and discussed offering two CLE workshops a year, one on civil law and the other on criminal law. However, at the time that interviews were conducted, the criminal law workshops have not been scheduled and criminal law training for prosecutors has not yet been offered by the Bar Association.

Some prosecutors receive CLE training. However, such training is voluntary and generally self-initiated by the prosecutors themselves. Further, because of the lack of legal training programs offered in Belize, prosecutors are often required to travel to other Caribbean countries to receive CLE training. However, such opportunities are extremely rare and are limited by scarce budgetary resources. This problem is discussed at greater length under Factor 26 – Resources and Infrastructure. To complicate matters, the DPP has a small staff of four prosecutors who are responsible for prosecuting all indictable crimes committed throughout the country. These prosecutors are assigned a heavy caseload and they may be required to travel around the



country to investigate and prosecute these cases. Often, when one trial is completed the next trial is scheduled to begin the following day. Thus, it would be difficult to reassign cases to accommodate a prosecutor who wanted to attend a training program outside the country. In short, the CLE training afforded to prosecutors in Belize is grossly inadequate.

Similar to the DPP, there is no CLE requirement for the FIU prosecutor. However, opportunities to participate in meetings and receive materials and information on legal developments appear to be more prevalent than for the Crown Prosecutors in the office of the DPP.

Police prosecutors are offered some legal training by the Belize Police Department [hereinafter Police Department]. However, the training is limited in scope and not provided on a regular basis. There is no comprehensive training program for police prosecutors. Further, the legal training offered is generally taught by senior police officers who themselves have received minimal or no legal training. In some cases, police prosecutors, who have been prosecuting cases for years, have received no legal training. Occasionally, police prosecutors have taken paralegal courses, but on their own initiative. However, police prosecutors are not required to attend these paralegal courses and the tuition costs are not paid for by the Police Department.

Currently, a new legal training program is being developed for police prosecutors. An attorney has been retained by the Police Department to develop the legal curriculum. While these developments are encouraging, there are serious concerns about the limited nature of the proposed course. The proposed training program will consist of only six hours of legal education, taught one hour per week over a six-week period. Thus, while the training curriculum has not been finalized, six hours of legal training would only begin to scratch the surface of the training needed to prepare police prosecutors to effectively prosecute cases in magistrate's court.

Finally, there is no statutory authority mandating that civilian prosecutors receive CLE training. Further, because civilian prosecutors are not admitted to practice law in Belize, the Bar Association has no responsibility or authority to provide them any legal training. Also, because civilian prosecutors are not police officers and report to the DPP, any legal training offered to police prosecutors by the Police Department would not necessarily be available to them. In short, civilian prosecutors are afforded no CLE training unless initiated on their own.

Factor 3: Selection: Recruitment, Promotion, and Transfer of Prosecutors

Prosecutors are recruited, promoted, and transferred through a fair and impartial procedure based on objective and transparent criteria, such as their professional qualification, abilities, performance, experience, and integrity.

While political elements may be involved, the overall system should foster the selection of qualified individuals with integrity and high professional qualifications.

Conclusion	Correlation: Negative
<p>There are few qualifications and requirements set forth in the laws of Belize for the selection and promotion of prosecutors. The DPP must be qualified to practice law in Belize or qualified to serve as an advocate in a court of unlimited jurisdiction in any other part of the Commonwealth, and possess five years experience. Crown Prosecutors and prosecutors in the FIU must be qualified to practice law in Belize. The Police Commissioner appoints police prosecutors, who must hold the position of corporal or sergeant in the police department. No specific qualifications or requirements are set forth in the laws to be appointed as a civilian prosecutor. Finally, there is no separate mechanism for promotion of police prosecutors. They are promoted like any other police officer.</p>	

Analysis/Background:

The chief prosecutor in Belize is the Director of Public Prosecutions. The DPP is appointed by the Governor-General, acting with the advice of the Judicial and Legal Services Commission [hereinafter Commission] and concurrence of the Prime Minister given after consultation with the Leader of the Opposition Party. See CONSTITUTION OF BELIZE, § 108(1) [hereinafter CONST.]. The Commission is established by the Belize Constitution. *Id.* at § 110E(1). The members of the Commission consist of the Chief Justice of the Supreme Court, the Chairman of the Public Services Commission, Solicitor General, and President of the Bar Association of Belize. *Id.* at § 110E(2). The Chief Justice serves as Chairman of the Commission. *Id.* at § 110E(2)(a).

To be qualified for appointment as the DPP, an individual must be qualified to be appointed as a Justice of the Supreme Court. *Id.* at § 108(2). There are only two requirements for appointment to the Supreme Court. First, the person must be qualified to practice as an attorney-at-law in a court in Belize or as an advocate in a court in any other part of the Commonwealth having unlimited jurisdiction either in civil or criminal matters. *Id.* at § 97(3)(a). Second, the candidate must have at least five years of experience practicing in such a court. *Id.* at § 97(3)(b). To be appointed as the DPP both requirements must be satisfied. No other qualifications are specified in the Belize Constitution or by statute to serve as the DPP. Further, the DPP is not required to be a Belize citizen.

Generally, to be appointed as a Crown Prosecutor or FIU prosecutor, a person must be admitted to practice law in Belize. However, according to respondents, occasionally a person is hired by the DPP's office having earned an LLB and LEC, but not having been called to the bar. Section 11(1) of the Indictable Procedure Act authorizes the DPP to appoint any barrister-at-law or any person admitted and enrolled as an attorney-at-law to serve as a Crown Prosecutor. Section 5(2) of the Financial Intelligence Unit Act of 2002 gives the Director of the Financial Intelligence Unit the authority to appoint an attorney-at-law to investigate and prosecute financial crimes. Thus, the FIU prosecutor must be admitted to practice law in Belize. The Commission is responsible for confirming the appointment of Senior Crown Prosecutor and Crown Prosecutor. See CONST.,



§ 110F(1). The Commission also has power to make promotions and transfers of Crown Prosecutors, and remove such persons from office.

Generally, the DPP is only required to give a recommendation regarding an applicant. Belize citizenship is also not a requirement to work as a Crown Prosecutor or FIU prosecutor. As a result of the shortage of applicants applying from Belize, the DPP often recruits prosecutors from other Caribbean countries. Further, to be appointed as a prosecutor does not require any prior criminal law or trial litigation experience. While hiring attorneys with experience is the preferred course, it is not uncommon for the DPP to hire attorneys upon graduation from law school with no prior legal experience. Also, because the FIU only employs one prosecutor, the Director of the FIU occasionally outsources cases for prosecution to private lawyers practicing law in Belize. The selection of private attorneys to work in the FIU is not based on any particular criteria. The Director makes such selections based on her knowledge of the lawyer's competence, experience, and reputation in the legal community.

There are limited advancement opportunities for prosecutors working in the office of the DPP due to several contributing factors. First, the office of the DPP is relatively small. As of the time of the interviews, there were only three Crown Prosecutors and the DPP working in the DPP's office.⁹ Second, few prosecutors work in the DPP's office for more than a couple of years. The lack of compensation, poor working conditions, and other factors contribute to the high turnover rate. While promotion to Deputy DPP appears to be based on seniority and experience working within the office, there are no specific written criteria or internal policies that govern or regulate such promotions. There are two Senior Crown Prosecutors at the DPP's office, but no written standards or criteria for promotion to senior status. The appointment of Senior Crown Prosecutors is based largely on seniority, rather than performance standards and measurements. Finally, the office of the FIU only employs one prosecutor. Currently, there are no positions for promotion within that particular office.

Police prosecutors are appointed by the Police Commissioner. See POLICE ACT, § 17. To be eligible to serve as a police prosecutor, a police officer must be a sergeant or corporal. *Id.* However, there are no other written requirements or internal policies for selection. If a police officer is a sergeant or corporal and is willing to serve as a police prosecutor, he is eligible for selection. Further, there are no written qualifications for promotion of a police prosecutor. Police prosecutors are subject to the same standards governing promotion of police officers generally. Police prosecutors are not placed on a separate promotion track. They are promoted based on the same criteria for promoting police officers. Further, police prosecutors receive the same pay and benefits as police officers of similar rank. While there is a "Head of Police Prosecutions," the selection is left to the discretion of the Police Commissioner and based on seniority. Finally, there are no written qualifications, standards or requirements for selection and promotion of civilian prosecutors.

⁹ At the time that interviews were conducted, an additional Crown Prosecutor was technically on staff at the DPP's office but absent on long-term medical leave.

Factor 4: Selection Without Discrimination

The recruitment, promotion, and transfer of prosecutors at every level of hierarchy shall not be unfairly influenced or denied for reasons of race, sex, sexual orientation, color, religion, political or other opinion, national, social or ethnic origin, physical disabilities, or economic status, except that it shall not be considered discriminatory to require a candidate for prosecutorial office to be a citizen of the country concerned.

Conclusion

Correlation: Positive

Prosecutors are selected to work in Belize without discrimination based on ethnicity, race, or gender. Persons of different ethnic groups from various countries in the region are employed as prosecutors, including at senior supervisory levels. Further, women are regularly employed to work as Crown Prosecutors and police prosecutors. Finally, interviews conducted in Belize did not reveal any incidents or reports of gender, racial, or ethnic discrimination in the selection of prosecutors.

Analysis/Background:

The Belize Constitution prohibits discrimination based on ethnicity, race, or gender. Section 6(1) of the Constitution provides that all persons are “equal before the law and are entitled without any discrimination to the equal protection of the law.” Further, section 16(2) states that “no person shall be treated in a discriminatory manner by any person or authority.” The term “discriminatory” means affording different treatment to different persons attributable wholly or mainly to such person’s sex, race, place of origin, political opinions, color or creed. However, there are no statutes or regulations that explicitly prohibit the selection, promotion, and transfer of prosecutors based on ethnicity, race, or gender.

Prosecutors are not required to be citizens of Belize. Over the last decade, there has been a mix of Crown Prosecutors from various ethnic groups and Caribbean countries in the region. The current DPP is from Trinidad and Tobago. The two previous DPPs were from Guyana and Jamaica, respectively. The office of the DPP is currently comprised of four prosecutors, including the DPP. Two of the prosecutors are from Belize and two are from other Caribbean countries. One of the Crown Prosecutors is from Guyana and of African descent. Further, former prosecutors from Belize include persons from the Creole ethnic group.

There is a fair representation among police and civilian prosecutors of the four main ethnic groups in Belize (Maya, Mestizo, Creole, and Garifuna). There are eighteen police and civilian prosecutors practicing in Belize. Two prosecutors are of Mayan descent, one is Mestizo, seven are Creole, and eight are Garifuna.

Historically, women have been fairly represented in prosecutorial offices in Belize. Currently, two of the Crown Prosecutors working in the DPP are women. Of the eleven police and civilian prosecutors in Belize City, five are women. Further, women hold senior supervisory positions in the prosecution system in Belize. The current DPP and the Head of Police Prosecutors are women. While the current DPP is the first woman to hold the substantive post of DPP, another woman served as the Acting DPP. Finally, respondents did not report any formal complaints or pending legal actions involving gender, race, or ethnic discrimination.



II. Professional Freedoms and Guarantees

Factor 5: Freedom of Expression

Prosecutors, like other citizens, are entitled to freedom of expression, belief, association, and assembly. In exercising these rights, prosecutors should always conduct themselves in accordance with the law and the recognized standards and ethics of their profession.

<i>Conclusion</i>	<i>Correlation: Positive</i>
Prosecutors, like other citizens, have a constitutional right to freedom of expression, belief, association, and assembly. However, while there are no specific rules outlined for prosecutors, public officers are prohibited from making public or communicating to the media information received in their official capacity without prior approval. Prosecutors are considered public officers. Police officers, including police prosecutors, are expressly prohibited from disclosing information on a pending investigation without prior authority. Further, while public officers, including prosecutors, are forbidden from a) running for public office, b) actively participating in any national or municipal election, and c) accepting appointment or election as an officer of a political party, these restrictions are reasonable and fairly common.	

Analysis/Background:

The Constitution affords every person the right to freedom of expression, belief, association and assembly. Section 12(1) provides:

A person shall not be hindered in the enjoyment of his freedom of expression, including freedom to hold opinions without interference, freedom to receive ideas and information without interference, freedom to communicate ideas and information without interference (whether the communication be to the public generally or to any person or class of persons) and freedom from interference with his correspondence.

However, the right to freedom of expression is not absolute. Pursuant to section 12(2) of the Constitution, limitations may be imposed for the purpose of “preventing the disclosure of information received in confidence [or] maintaining the authority and independence of the courts.”

Section 8 of the Legal Profession (Code of Conduct) Rules, Chapter 320S of the Law of Belize (Revised Edition 2003) [hereinafter CODE OF CONDUCT RULES] provides that an attorney may speak in public on “legal topics” provided that he does not thereby emphasize his own professional competence. Since section 8 does not exclude prosecutors from its coverage, prosecutors (who are attorneys) may make public statements on any legal topic. Finally, section 13(1) of the Constitution protects the right to freedom of assembly and association. However, section 13(2)(c) authorizes the imposition of reasonable restrictions on public officers “required for the proper performance of their functions.”

While the right to freedom of expression is a fundamental right, it must be balanced against the prosecutor’s duty of confidentiality. Prosecutors should generally refrain from discussing with the media or commenting publically on pending cases. Further, prosecutors should be prohibited from making public statements that could prejudice a defendant’s right to a fair trial. However, there are no specific rules for Crown Prosecutors on the subject.

Section 3(3) of the Code of Conduct Rules states that in any matter where explicit ethical guidance does not exist, “an attorney shall determine his conduct by acting in a manner that promotes public confidence in the integrity and efficiency of the legal system.” However, section 3 does not explicitly address the duty of prosecutors with respect to making public comment and speaking to the media on pending cases. There are no internal rules in the DPP’s office governing freedom of expression by prosecutors. Finally, there are no written rules or guidelines restricting FIU prosecutors from communicating with the media on active cases.

The most relevant provision is found in the Public Service Regulations (Statutory Instrument No. 160 of 2001) [hereinafter PUBLIC SERVICE REGULATIONS]. Section 32 provides that “a public official shall not, without the approval of the Chief Executive Officer concerned, make public or communicate to the media or cause to be made public or so communicate to the media or to unauthorized individuals any documents, papers or information which may come into his possession in his official capacity” While section 32 is not explicitly directed at Crown Prosecutors or civilian prosecutors, since prosecutors are “public officials,” the prohibition on public disclosure of confidential information applies to them.

As a matter of practice, Crown Prosecutors and civilian prosecutors generally refrain from making comments to the media that could prejudice a defendant’s right to a fair trial. Respondents did not report any incidents where prosecutors made inappropriate public comments on pending cases. However, explicit written procedures for prosecutors should be adopted to prevent the possibility of such communications or disclosures in the future.

The Police Act governs the conduct of police officers, including police prosecutors. Section 24(1)(n) prohibits disclosing or conveying any information concerning any investigation or other police matter without proper authority. Pursuant to section 24(2), such violations are punishable by reprimand, fine, reduction of rank or grade, or dismissal from the Police Department. However, while the Police Act does not explicitly restrict police prosecutors from communicating with the media on active cases, such communications could constitute an offense under section 24(1)(n).

Finally, section 35 of the Public Service Regulations imposes certain restrictions on the freedom of association. Pursuant to section 35, public officers, which include prosecutors, are forbidden to (a) run for office as a candidate in any National or Municipal election; (b) participate actively in any National or Municipal election; or (c) accept appointment or election as an officer of a political party. However, overall, these restrictions seem reasonable in light of international standards and practices.



Factor 6: Freedom of Professional Association

Public prosecutors have an effective right to freedom of professional association and assembly.

They are free to join or form local, national, or international organizations to represent their interests, to promote their professional training and to protect their status, without suffering professional disadvantage by reason of their participation or membership in an organization.

<i>Conclusion</i>	<i>Correlation: Neutral</i>
<p>The Constitution guarantees citizens, including prosecutors, the right of freedom of assembly and association. While prosecutors are free to establish and join a professional association of prosecutors, no such organization currently exists, due in large part to the small number of prosecutors in Belize. Prosecutors are able to join the Bar Association of Belize, although it does not appear to actively represent their interests. Police prosecutors are able to join the Police Association. Members of the Police Department, including police prosecutors, are prohibited from belonging to any association that has as one of its concerns the salary, pension or conditions of service of the Police Department.</p>	

Analysis/Background:

Sections 3(b) and 13(1) of the Constitution guarantee citizens the right to freedom of assembly and association. However, there are no special laws or regulations permitting the establishment of a professional association of prosecutors. Although prosecutors are free to establish an association of Belize prosecutors, no such organization exists. This is due in large part to the small number of prosecutors in the country. There are four Crown Prosecutors, including the DPP, and one FIU prosecutor. In addition, there are eighteen police and civilian prosecutors. Collectively, there are a total of twenty-three prosecutors in the entire country. However, only five of those prosecutors are trained lawyers. In short, there is no national organization in place that represents the interests of prosecutors working in Belize, nor are there any known efforts underway to create such an association. In lieu of any professional associations specifically for prosecutors, they are able to join and participate in the Bar Association of Belize. According to respondents, however, the Bar Association does not actively promote the needs and interests of prosecutors. Prosecutors have been able to attend some trainings offered by the Bar Association, although these opportunities seem limited.

The DPP has participated in only one meeting sponsored by the International Association of Prosecutors [hereinafter IAP]. However, the DPP, Crown Prosecutors, and the FIU prosecutor are not members of the IAP.

Section 34(1) of the Police Act authorizes the establishment of a Police Association. However, the Police Association is currently inactive. Police prosecutors are often required to assume regular police duties and responsibilities after court recesses for the day. Because police prosecutors are conducting patrol or performing other police work in the evening, they are not able to adequately prepare their cases for trial the next day. However, there is no professional association in place that represents the interests of police prosecutors, nor are there any known efforts to establish such an organization.

Finally, section 34(3) makes it unlawful for a member of the Police Department, including police prosecutors, to join a trade union, or any association having as one of its objectives the salary,

pensions, or conditions of service of the Police Department. Any member of the Police Department who contravenes this provision can be terminated and may forfeit all pension rights.

Factor 7: Freedom from Improper Influence

Prosecutors are able to perform their professional functions without improper interference from prosecutorial and non-prosecutorial authorities.

Conclusion	Correlation: Negative
<p>The independence of the DPP and Crown Prosecutors is protected by law. Public corruption is punishable as an offense under the criminal code, which includes corruption involving prosecutors. It is also a punishable offense for police officers, including police prosecutors, to accept or solicit a bribe or gratuity. However, there is a widespread public perception that police officers and other public officials accept bribes and engage in other criminal activities. Public corruption cases are seldom prosecuted which contributes to a general perception that prosecutors are subject to improper influence. There is also a perception that police prosecutors have a conflict of interest. While police prosecutors are officers of the court, they are police officers first and have shown divided loyalties.</p>	

Analysis/Background:

The DPP is the chief prosecutor in Belize. As previously noted, the DPP is appointed by the Governor-General, acting in accordance with the advice of the Commission. The appointment also requires the concurrence of the Prime Minister, given after consultation with the Leader of the Opposition. See CONST., § 108(1).

Under section 50(2) of the Constitution, the DPP has the power:

- (a) to institute, and undertake criminal proceedings against any person before any court of law (other than a court-martial) in respect of any offence alleged to have been committed by that person;
- (b) to take over and continue any such criminal proceedings that have been instituted or undertaken by any other person or authority; and
- (c) to discontinue at any stage before judgment is delivered any such criminal proceedings instituted or undertaken by himself or any other person or authority.

Section 50(4) provides that the powers conferred on the DPP by paragraphs (b) and (c) of subsection 2 “shall be vested in him to the exclusion of any other person or authority.”

The independence of the DPP is further protected by section 50(6), which states that the powers vested in the DPP “shall not be subject to the direction or control of any other person or authority.” Also, section 2.3 of the Code for Crown Prosecutors (Crown Prosecution Service, June 1994) [hereinafter CODE FOR CROWN PROSECUTORS] states: “Crown Prosecutors must be fair, independent and objective. . . . They must also not be affected by improper or undue pressure from any source.” Finally, section 5(1) of the Code of Conduct Rules provides that “[a]n attorney shall scrupulously preserve his independence of judgment in the discharge of his professional duties.” While section 5(1) is generally directed at attorneys, the rule applies to Crown Prosecutors and FIU prosecutors, who are also attorneys-at-law.



Removal of the DPP is authorized by the Constitution. However, the DPP may be removed only for inability to perform the functions of her office (whether by infirmity of mind or body or from any other cause) or for misbehavior. See CONST., § 108(6). However, the term “misbehavior” is vague and not defined. The removal of the DPP for “misbehavior” could be justified for conduct that does not constitute a crime or political reasons.

Pursuant to section 108(8), removal of the DPP requires a request by the Prime Minister to the Governor-General to investigate whether the DPP is unable to perform the functions of her office or should be removed for “misbehavior.” See CONST., § 108(8). Upon such a request, the Governor-General is required to refer the matter to the Belize Advisory Council [hereinafter Advisory Council] for investigation. The Advisory Council is comprised of two senior members, who shall be persons of integrity and high national standing, appointed by the Governor-General, acting with the advice of the Prime Minister, and two senior members of equal integrity and national standing, appointed by the Governor-General, acting upon the advice of the Leader of the Opposition. The Governor-General is also required to appoint three other members, acting with the advice of the Prime Minister given after consultation with the Leader of the Opposition. See CONST., § 54(a)-(c). The Advisory Council sits as tribunal on the matter and is required to submit a report to the Governor-General advising whether the DPP should be removed from office. See CONST., § 108(8)(a)-(b). Finally, while there is legal authority for removal of the DPP, the DPP has never been removed from office.

Crown Prosecutors are subject to the authority and influence of the Commission. The Commission is responsible for confirming the appointment of Crown Prosecutors. See CONST., § 110F(1). The Commission also has power to make promotions and transfers of Crown Prosecutors, and to remove such persons from office. *Id.* However, no incidents of improper interference in the selection, promotion, or transfer of Crown Prosecutors by the Commission were reported by respondents during the interviews.

Other laws provide the basis for combating prosecutorial corruption. Section 289 of the Criminal Code, Chapter 101 of the Laws of Belize (Revised Edition 2000) [hereinafter CRIMINAL CODE], makes it a crime punishable by imprisonment for two years to corrupt or attempt to corrupt any person in respect of any duties as a public officer. Prosecutors fall within the definition of “public officer.” Further, police officers, including police prosecutors, who accepted or solicited a bribe, are subject to punishment for such offense, including dismissal from the Police Department. See POLICE ACT, § 24(1)(p).

Despite these criminal provisions, public corruption is perceived as a serious problem in Belize. In Transparency International’s 2007 CORRUPTION PERCEPTIONS INDEX [hereinafter CPI], Belize received a score of 2.9 (score of 0 being most corrupt and 10 least corrupt), indicating that corruption is perceived as rampant. The CPI score is a composite index that draws from multiple sources, such as business people and country analysts, assessing their views of public corruption in particular countries. The 2007 CPI stated: “Belize . . . is one country with an increase on how widespread corruption is perceived to be.” Belize was ranked 99 out of 180 countries for having the highest levels of corruption. In 2008, the CPI score for Belize was slightly better, a 3.0. Belize also dropped ten points to rank 109 out of 180 countries. In 2009-2010, Belize was not listed in the CPI reports because of lack of available data.

There is widespread public perception that governmental officials and police officers accept and solicit bribes and engage in other acts of corruption and misconduct with impunity. However, governmental officials and police officers are seldom ever prosecuted for corruption. In fact, such prosecutions are exceedingly rare in Belize. The absence of prosecutions for public corruption has in turn cast doubt on the independence of prosecutors. Whether these perceptions are justified, the public believes that prosecutors are reluctant or unwilling to aggressively investigate

and prosecute crimes that are allegedly committed by governmental officials, their close family members and associates, and police officers.

There is also a belief that police prosecutors face a conflict of interest. While police prosecutors are officers of the court, they are employed, promoted and subject to discipline by the Police Department. Respondents noted that “police prosecutors are first and foremost police officers,” owing their allegiance to the police department, not the courts. Thus, police prosecutors are perceived as having divided loyalties that could influence their judgment in prosecuting cases. For example, because of their loyalty to the police department and their fellow police officers, police prosecutors might be reluctant to fully investigate whether a police confession was obtained by force or coercion or whether physical evidence was seized in violation of the defendant’s civil rights. Knowing that he will later return to regular police duty, a police prosecutor might be concerned about doing anything to jeopardize his relationship with other police officers. Further, police prosecutors are not placed on a separate track for promotion, but instead are promoted using the same criteria for regular police officers. Therefore, police prosecutors might be reluctant to take any action that could jeopardize their chances for promotion as a police officer. In short, because of conflicts of interest the public lacks confidence in the ability of police prosecutors to prosecute other police officers.

In light of these observations, a compelling case can be made for eliminating the police prosecutor system in favor of implementing a new system with civilian prosecutors appointed by and accountable to the DPP. Appointing civilian prosecutors to prosecute cases in summary court would eliminate the conflict of interest facing police prosecutors. While the associated costs and limited government budgetary resources may pose serious financial obstacles to transferring the functions of police prosecutors to civilian prosecutors, at the very least, the cases prosecuted by police prosecutors should be substantially limited. At present, police prosecutors have jurisdiction over serious crimes that authorize a penalty of multiple years’ imprisonment. For example, police prosecutors may prosecute drug trafficking or possession of illicit drugs with the intent to distribute, which authorizes a penalty of up to ten years imprisonment. Some respondents suggest limiting the jurisdiction of police prosecutors to misdemeanor crimes carrying a maximum of one year imprisonment. While limiting the jurisdiction of police prosecutors would not entirely eliminate the conflict of interest problem, the perception of such conflict of interest would be reduced to less serious misdemeanor offenses. Finally, perhaps the misdemeanor approach could be a substantial first step towards eventually transferring all police prosecution responsibilities to civilian prosecutors.



Factor 8: Protection from Harassment and Intimidation

Prosecutors are able to perform their professional functions in a secure environment and are entitled, together with their families, to be protected by the State.

Conclusion

Correlation: Negative

The use of violence against prosecutors is explicitly punished under the Criminal Code. However, there is no special unit within the police department assigned to protect prosecutors or investigate acts of violence or threats made against them. While the DPP is provided a security detail, Crown Prosecutors are not afforded any special security. Security at court buildings and most prosecutorial offices is generally lax and insufficient. Judicial buildings are not equipped with metal detectors or x-ray scanners and entrants are not required to show identification to prevent unauthorized access. Further, bags and briefcases are generally not inspected before entering the courthouse or prosecutorial offices.

Analysis/Background:

Prosecutors are legally protected from harassment and intimidation. Section 101 of the Criminal Code makes it a crime to use violence with the intent to deter a prosecutor from acting in a legal proceeding. A violation of this provision is punishable with a penalty of two years imprisonment. There are no other criminal provisions for the protection of prosecutors.

Crown Prosecutors are responsible for prosecuting murder and other serious violent crimes, as well as criminal activities involving organized crime. Convictions for such crimes could result in the imposition of severe criminal penalties, including the death penalty. Thus, defendants have a motive to intimidate and harass prosecutors to deter them from filing such charges or to retaliate against them for successful prosecutions. Thus, because of the nature of their work, prosecutors are at risk of serious bodily harm.

There is no special unit within the Belize Police Department that is assigned responsibility for investigating harassment and intimidation of prosecutors. Harassment and intimidation against prosecutors are investigated like any other crime. Further, there is no special police unit responsible for providing security for prosecutors. The DPP is provided no formal security.

The police are responsible for providing security for all judicial buildings, but security is generally insufficient, as highlighted by the recent fatal shooting of a defendant outside the courthouse. None of the courthouses in Belize are equipped with metal detectors or x-ray scanners. Further, visitors are not required to show identification nor have their briefcases and bags inspected before entering the courthouse. Basically, courtroom security is limited to assigning a police officer to sit in the back of the courtroom. While police officers are assigned to Supreme Court courtrooms, it is unclear whether this same level of security is provided to summary courts, where magistrates preside. Also, security officers receive minimal, if any, special training on courtroom security.

Security at prosecutorial offices is also low. The offices of the DPP and the head of the police prosecutors in Belize are not equipped with metal detectors or x-ray scanners. Briefcases and bags are not required to be inspected before entering either building. There is a police officer who sits in the reception area who is responsible for security for the entire office.

Heightened security is provided for the Belize Central Bank, where the FIU office is located. All entrants to the Central Bank are required to pass through a metal detector and their briefcases,

bags, and similar items are placed through a security scanner. Further, such visitors are required to provide identification to security officers before entering the building.

Factor 9: Professional Immunity

Prosecutors have immunity for actions taken in good faith in their official capacity.

Conclusion	Correlation: Negative
<p>Crown Prosecutors, police prosecutors, and civilian prosecutors are not afforded immunity from criminal and civil actions for acts or omissions committed during the performance of their official duties. However, the Financial Intelligence Unit Act of 2002 affords prosecutors working for the FIU qualified immunity. Despite the absence of immunity for most prosecutors in Belize, there are no reported cases of criminal or civil actions being filed against prosecutors for acts committed in the administration or discharge of their duties and powers.</p>	

Analysis/Background:

Crown Prosecutors, police prosecutors, and civilian prosecutors are not afforded statutory immunity from criminal or civil actions for acts or omissions committed in the performance of their official duties. However, where legal proceedings are instituted against a “public officer,” they may be entitled to legal fees and related costs. See PUBLIC SERVICE REGULATIONS § 36(1). Prosecutors are considered “public officers” and therefore covered by the statute. However, public officers are not entitled to legal costs as a matter of right. Instead, the DPP or Solicitor General must advise the Attorney General that the case is a “proper case” and eligible for legal assistance. Further, the Attorney General must find that the provision of legal assistance is in the “public interest.”

Pursuant to section 14 of the FIU Act, FIU prosecutors are afforded qualified immunity from prosecution. Section 14 states: “No actions shall lie against the Minister, Director, officers or personnel of the Unit or any person acting under the direction of the directors for anything done or omitted to be done in good faith and in the administration or discharge of any functions, duties or powers under the Act.” Since FIU prosecutors are “personnel of the Unit,” they are afforded qualified or partial immunity. Immunity exists only for acts or omissions committed within the scope of the FIU prosecutor’s official duties and responsibilities. Further, the prosecutor must have acted in good faith. FIU prosecutors are not immunized for non-official acts or official acts committed in bad faith.

While Crown Prosecutors, police prosecutors, and civilian prosecutors are not afforded any form of immunity, respondents were not aware of any legal actions filed against prosecutors for acts taken in their official capacity. However, professional immunity should be comprehensive and afforded to all prosecutors in Belize. There is no good reason for affording FIU prosecutors qualified immunity, but withholding such protection from Crown Prosecutors and police and civilian prosecutors.



III. Prosecutorial Functions

Factor 10: Discretionary Functions

Prosecutorial discretion, when permitted in a particular jurisdiction, is exercised ethically, independently, and free from political interference, and the criteria for such decisions are made available to the public. The prosecutor’s power to waive or to discontinue proceedings for discretionary reasons is founded in law, and, if applied, sufficiently justified in writing and placed in the prosecutor’s file.

Conclusion	Correlation: Negative
<p>The DPP has both broad discretion to file criminal charges against any person before any court of law and exclusive authority to discontinue criminal proceedings instituted by Crown Prosecutors or any other person or authority. While there is a Code for Crown Prosecutors governing the decision whether to file criminal charges, several respondents were unaware of the document. However, a majority of criminal charges are initiated by police investigators who generally only consult with Crown Prosecutors in sensitive or high profile cases. There are no written policies or procedures to guide the exercise of prosecutorial discretion in these cases. Finally, there are no written charging standards for FIU or civilian prosecutors.</p>	

Analysis/Background:

The DPP has broad authority for prosecuting cases in Belize. Pursuant to section 50(2) of the Constitution, the DPP is vested with the power upon “good and sufficient reason:”

- (a) to institute, and undertake criminal proceedings against any person before any court of law (other than a court-martial) in respect of any offence alleged to have been committed by that person;
- (b) to take over and continue any such criminal proceedings that have been instituted or undertaken by any other person or authority; and
- (c) to discontinue at any stage before judgment is delivered any such criminal proceedings instituted or undertaken by himself or any other person or authority.

The power to discontinue criminal proceedings is vested in the DPP at the exclusion of any other person or authority. See CONST, § 50(4). Further, the DPP’s exercise of discretion is subject only to the Attorney General, who is the principal legal adviser to the Government. *Id.* at § 50(6). The powers of the DPP are not subject to the direction or control of any other person or authority. *Id.* Instructions from the DPP regarding the handling of cases are generally conveyed in writing, but there is no requirement for the DPP to do so.

The Code for Crown Prosecutors governs the exercise of prosecutorial discretion. See CODE FOR CROWN PROSECUTORS. The document was prepared by the Crown Prosecution Service in London, England, and intended for Crown Prosecutors practicing in England. However, the 1994 version has been adopted by the DPP’s office. It sets forth a two-part test for deciding whether to file criminal charges. See CODE FOR CROWN PROSECUTORS, at §§ 5-6. The first part is the evidential test, which provides that the prosecutor must be satisfied there is enough evidence to provide a “realistic prospect of conviction” against each defendant on each charge. *Id.* at § 5. The prosecutor must also determine whether the evidence is admissible and reliable. *Id.* The second part is the public interest test. *Id.* at § 6. After examining several factors enumerated in the Code,

including the interests of the victim, the prosecutor is required to determine whether prosecution is in the common public interest. *Id.* Both the evidence and public interest tests must be satisfied to justify prosecution. The Code for Crown Prosecutors also provides guidance on selecting the appropriate charges. *Id.* at § 7. Finally, the Code for Crown Prosecutors recognizes an alternative to prosecution. If the accused admits the offense, merely cautioning an offender may be an appropriate alternative to charging him with a crime. *Id.* at § 6.9. According to the DPP, a copy of the Code for Crown Prosecutors is provided to each Crown Prosecutor as soon as he or she joins the office. Finally, the Code is not used by the FIU prosecutor and there are no other internal written policies and procedures to guide the exercise of his prosecutorial discretion.

Most criminal charges are initiated by the arresting officer or police investigator. The police investigator may seek legal advice from his supervisor or the police prosecutor before filing criminal charges with the court. However, one respondent stated that the police prosecutor will not question the underlying facts supporting the criminal charges. If the case involves an indictable offense, the police investigator or police prosecutor may seek legal assistance from the DPP's office. Once the matter is lodged with the court, the police prosecutor cannot withdraw the charge. The authority to dismiss charges exclusively vests with the DPP. There are no internal written rules or regulations to ensure fairness and consistency in charging decisions by police investigators. Police officers are authorized to make arrests based on reasonable suspicion. See POLICE ACT, § 20(1)(a). It is unclear whether police investigators and police prosecutors use the same standard for deciding whether to prosecute a case. Further, police prosecutors are not given any written guidelines for considering alternatives to prosecution. Finally, there are no special procedures to guide prosecutorial discretion in charging juveniles.

Police prosecutors are not required to document their reasons for declining to file criminal charges. Crime victims are not afforded an opportunity to challenge or appeal a decision not to prosecute, and several respondents were critical of the prosecutor's decision to not file criminal charges in certain murder cases. They maintained that the failure to prosecute certain cases was influenced by political and other improper considerations. Finally, there are no written standards or policies guiding the prosecutorial discretion of civilian prosecutors.



Factor 11: Rights of the Accused

Prosecutors shall be impartial in the performance of their functions and must promote equality before the law and respect for the rights of the accused.

Prosecutors shall refuse to use evidence obtained in violation of the accused's human rights.

Conclusion

Correlation: Negative

The Belize Constitution affords the accused important procedural rights at various stages of the criminal proceedings. Further, the role of the prosecutor to seek justice, not merely to convict, is clearly articulated in the Legal Profession Act. The Act further requires prosecutors to disclose exculpatory evidence to the accused. However, despite the procedural protections afforded the accused and the prosecutor's responsibility to seek justice, there remain several concerns. First, the accused has a limited right to an attorney. An indigent defendant is entitled to a court-appointed lawyer only in capital cases. Second, prosecutors seldom, if ever, exclude illegally obtained evidence, shifting the responsibility to the courts. Finally, the accused is often deprived of a trial within a reasonable time for reasons attributable to the prosecution or police.

Analysis/Background:

The Belize Constitution affords the accused important procedural rights during the criminal proceedings. Every person who is arrested or detained is entitled to be promptly informed of the reasons for his arrest or detention, to communicate without delay and in private with a lawyer of his choice, to be immediately informed of his right to speak to a lawyer, and to the remedy of habeas corpus for determining the validity of his detention. *See* CONST., §§ 5(2)(a)-(d). Further, a person may only be arrested or detained based upon reasonable suspicion of having committed a crime, and arbitrary search and seizure is prohibited. *Id.* §§ 5(3)(b), 9. Also, if the accused is not tried within a reasonable time, he is entitled to bail upon reasonable conditions. *Id.* § 5(3)(b).

After being charged with a criminal offense, the accused is entitled to the presumption of innocence and to be informed as soon as reasonably practicable, in a language he understands, of the nature of the charges against him. *Id.* §§ 6(3)(a)-(b). Every person is entitled to a lawyer of his choice. *Id.* § 6(3)(d). However, a defendant is only entitled to a court-appointed attorney in capital cases. The accused is also afforded the right of confrontation and the assistance of a court-appointed interpreter. *Id.* §§ 6(3)(e)-(f). Further, the accused is entitled to the right against self-incrimination and to a fair trial. *Id.* §§ 6(6)-(7). Finally, torture and inhuman or degrading punishment or treatment is prohibited. *Id.* § 7.

Section 17 of the Code of Conduct Rules articulates that the role of the prosecutor is ultimately to seek justice, not merely convict: "When engaged as a public prosecutor the primary duty of an attorney is not to secure a conviction but see that justice is done and to that end he shall not withhold facts tending to prove either the guilt or innocence of the accused." Thus, prosecutors have an affirmative duty to disclose evidence that is both favorable and prejudicial to the accused. Moreover, consistent with the duty to "see that justice is done," prosecutors should ensure that evidence against the accused was lawfully obtained.

While persons are afforded important procedural protections under the laws of Belize, there are three principal issues of concern. First, while the accused has the right to an attorney of his choice, an indigent defendant that does not have the financial means to retain an attorney is entitled to a court-appointed attorney only in capital cases (only murder cases). Section 194(1) of the Indictable Procedure Act, provides: "Whenever it appears to the court . . . that any person

charged with a capital offence has not the means to retain and pay for the services of counsel, the court . . . may assign counsel to defend such accused person.” However, in all other criminal cases indigent defendants are required to appear before the court without a lawyer. Such persons may be convicted of a crime and sentenced to a lengthy term of imprisonment without the assistance of legal counsel. The failure to afford the accused a lawyer in all criminal proceedings violates fundamental principles of due process.

The second issue involves the use of illegally obtained evidence. Criminal convictions in Belize are often based on confessions by the accused. Respondents expressed concerns that confessions are often obtained by the police through coercion. Police prosecutors are reluctant to exclude such involuntary confessions, preferring instead to shift the responsibility to the courts. As previously noted, police prosecutors are considered police officers first. Their loyalty to the Police Department and fellow police officers creates a conflict of interest, making it difficult for police prosecutors to challenge the tactics used by the police to collect evidence, especially if the exclusion of the illegally obtained evidence will result in an acquittal of the accused. The easier course of action is to have the judge make the decision. Unfortunately, in some cases, a defendant may spend more than a year in jail awaiting trial before the matter is finally resolved by the court. In short, police prosecutors need to be more vigilant in protecting the rights of the accused by discarding illegally obtained evidence prior to trial.

The third issue implicates the right to a trial within a reasonable time, as provided in section 6(2) of the Constitution, trials are often delayed for a year or longer. In some cases, the accused has been incarcerated and held without bail during that period. These lengthy delays are often attributable to the prosecution and deprive the accused of a trial within a reasonable time. Respondents expressed various reasons for the delays in the trial proceedings. In some cases, respondents claim that the police investigators are responsible for the delay. Important witnesses were not interviewed, follow-up interviews were needed, or essential evidence was not properly collected, requiring the case file to be returned for further police investigation. In such cases, trial dates are often continued to afford police investigators additional time to complete the investigation. Some respondents blamed the Crown Prosecutors for the delays. They claim that Crown Prosecutors often take months to respond to requests for legal advice from police prosecutors. There are currently three Crown Prosecutors in addition to the DPP, who are responsible for prosecuting all indictable cases filed in Belize. These prosecutors are assigned 50-60 cases. In some cases, as soon as a Crown Prosecutor finishes one trial, she immediately begins selecting a jury for the next. In all fairness, the heavy caseload coupled with the shortage of Crown Prosecutors makes it difficult for these prosecutors to address other legal responsibilities, such as responding to requests for assistance by police prosecutors. Finally, trials are delayed because of the shortage of prosecutorial resources. If the Crown Prosecutors are in trial, all other pending cases must be continued regardless of whether the accused is incarcerated. This includes cases where the accused may have been incarcerated for a year or longer awaiting trial.

Regardless of the reasons for the lengthy trial delays, whether it be incompetent or incomplete police investigations, or inadequate prosecutorial resources, these delays are attributable to the government and deprive the accused of the right to a trial within a reasonable time.



Factor 12: Victim Rights and Protection

In the performance of their duties, prosecutors consider the views and concerns of victims, with due regard for the dignity, privacy, and security of the victims and their families.

Prosecutors must ensure that victims are given information regarding the legal proceedings and their rights, and are informed of major developments in the proceedings.

Conclusion

Correlation: Negative

There are no statutes or regulations that explicitly address the rights of victims in the criminal justice system. While prosecutors make an effort to keep victims informed of the status of their case, there are no internal written policies or procedures that set forth the prosecutor's duties and responsibilities towards victims. Prosecutors are not afforded any training on the rights and needs of victims. Protecting victims from threats and acts of violence to prevent them from testifying at trial is a serious problem. In response, the police department has installed a victim-witness "hotline." The government is also considering establishing a bilateral witness-protection program with Mexico and Guatemala.

Analysis/Background:

There are no statutes or regulations that explicitly address the rights of victims in the criminal justice system. There is no Victims Bill of Rights articulating the rights of crime victims. Further, prosecutor offices have no internal written policies or procedures regarding the treatment of victims. For example, prosecutors are not required to provide victims the reasons for the exercise of prosecutorial discretion, including the reasons for not filing criminal charges. Prosecutors are also not required to notify the victim if the accused is released on bail in a sexual assault or domestic battery case. Generally, prosecutors keep victims informed of the status of their case. However, there are no uniform standards regarding what information should be disclosed to crime victims. Some respondents expressed frustration over the number of trial adjournments and the lack of explanation given for trial delays. This criticism was directed more towards police prosecutors. In some cases, after multiple trial adjournments victims refused to return to court, which resulted in the case being dismissed.

The Chief Justice of the Supreme Court has issued a Practice Direction permitting the use of victim-impact statements at sentencing, which describe the harm done to, or loss suffered by, the victim arising from the commission of the offense. See PRACTICE DIRECTION, VICTIM IMPACT STATEMENTS (March 23, 2007). The use of victim-impact statements is a positive development. Such statements afford victims the opportunity to seek reasonable compensation from the defendant for medical expenses, lost wages, or other losses suffered as a result of the crime.

Largely due to the lack of financial resources, prosecutors are not afforded any training on the needs and interests of victims. More specifically, there is no special training on the needs of victims of sexual assault, child sexual abuse, or domestic violence. The absence of such training and lack of standardized interrogation instructions for crime victims may result in re-traumatizing the rape and child abuse victim. Repeated questioning of victims of sexual assault is often embarrassing and emotionally painful and should be conducted with a heightened degree of sensitivity. Further, neither police prosecutors' or DPP's offices have a victim-witness unit or victim-witness counselor. There is no person in these offices designated with the responsibility to address the needs of victims. Instead, all victim-related work is assigned to the prosecutor who is prosecuting the case. However, prosecutors are not trained on working with crime victims. There are also no protective procedures permitting adult rape victims or victims of child sexual abuse to

testify outside the physical presence of the accused, even in cases where testifying face-to-face would be extremely traumatic and harmful for the victim. Finally, there are no protective procedures permitting the victim to testify *in camera* to protect the identity of the victim, especially in sensitive cases such as those involving rape and child sexual abuse.

Victims of violent crime are often threatened with death or serious bodily injury to prevent them from testifying at trial. Respondents stated that cases are often dismissed by Crown Prosecutors when crime victims refuse to testify at trial for fear of violent reprisal. In one recent case, a crime victim was threatened at work and told that he or his family members would be killed if he testified against the accused. The crime victim reported the incident to the police, but additional instances of intimidation followed, including the receipt of threatening phone calls. The lack of protection for victims is a serious problem in Belize. Bail orders often include language prohibiting the accused from contacting the victim and witnesses to the crime. However, there are no legal provisions prohibiting the accused and defense counsel from publicly disclosing the identity of the victim and content of victim statements. While protection measures in the form of physical police protection are available, there are limited police resources to continue such efforts for any significant period of time. Thus, victims do not receive appropriate protection in some cases.

Recent steps have been taken to address victim and witness safety. The police department has established a victim-witness “hotline” monitored by a police officer. If a crime victim calls the hotline, a police officer will meet with the victim to discuss the nature of the threat and implement appropriate safety measures. However, there are limited police resources to provide witness security. The government is also engaged in bilateral discussions with Mexico and Guatemala to permit victims and witnesses to be temporarily relocated to those regions for safety purposes. However, there is no witness protection program currently in place in Belize.

Factor 13: Witness Rights and Protection

Prosecutors perform their functions with due regard for the dignity, privacy, and security of the witnesses and their families.

Prosecutors ensure that witnesses are informed of their rights and conduct every encounter with witnesses fairly and objectively.

Conclusion	Correlation: Negative
<p>Witnesses are often threatened with violence and, in some cases, murdered in an effort to prevent them from testifying at trial. In cases involving violent crimes, such as murder and rape, prosecutors often have to dismiss the case <i>nolle prosequi</i> because a critical witness refused to testify at trial. There is currently no witness protection program. Further, respondents raised serious concerns regarding whether the police could provide effective witness security.</p>	

Analysis/Background:

Witness intimidation is a serious problem in Belize, and the use of violence has led to a decline in the cooperation of witnesses in criminal investigations. An analysis of all murder cases before the Supreme Court from February 2003 to July 2008 shows that 22% of all acquittals for murder were due to the failure of witnesses to testify in accordance with statements given to the police or who could not be found. See, HAROLD CROOK, A REVIEW OF THE BELIZE POLICE DEPARTMENT AND MINISTRY OF NATIONAL SECURITY (2010) at 5 [hereinafter CROOK’S REPORT]. Witnesses are often threatened with violence to prevent them from testifying at trial. In some cases, potential



witnesses have been murdered to prevent their testimony and deter others from testifying. One respondent described a recent incident where a young female who had witnessed a crime was murdered shortly before the trial. The incident had a chilling effect on other witnesses in the same case, who subsequently refused to testify upon learning of the murder. Respondents described other incidents where witnesses appeared on the day of trial but refused to testify and the case was dismissed. Similar scenarios have become almost commonplace, causing prosecutors to dismiss cases *nolle prosequi* for lack of evidence after critical witnesses feigned loss of memory or expressed their unwillingness to testify. Dismissal of these cases has shaken the public's confidence and trust in the criminal justice system.

Despite the magnitude and severity of the problem, there is no witness protection program in Belize. Most of the respondents who commented on this factor stated that because of the small size of the country where "everyone knows everyone," the implementation of an effective witness protection program would not be feasible or practical. Respondents maintain that even if a witness were relocated to the north or south end of the country, he would likely be recognized by family members, friends, or other associates of the accused and therefore it would be difficult to maintain his anonymity and conceal his location. Further, respondents claim that the costs and related resources involved in relocating witnesses to other Caribbean countries would be prohibitive.

The severity of the witness security problem cannot be overstated and must be resolved. If prosecutors expect witnesses to testify in murder cases, such witnesses must be provided reasonable security measures for their safety. The government is currently involved in bilateral discussions with Mexico and Guatemala to permit witnesses to be temporarily relocated in those countries for safety purposes. The implementation of such a program should be a matter of extreme urgency for the government.

Protecting the safety of witness is the responsibility of the police, although there is no law requiring protection for witnesses. The police department has recently implemented a victim-witness "hotline." A police officer has been assigned to monitor the hotline, evaluate the nature of any threats to the witness, and implement reasonable safety measures. However, police resources are limited, and any security detail assigned for witness protection can be maintained for only a short period of time. Also, police officers receive minimal or no training on protecting witnesses. Several respondents expressed serious doubts on whether the police could provide effective witness security. Additionally, witnesses often don't trust the police and generally think they are corrupt. Therefore, they lack confidence that the police will provide them the necessary security.

There are no explicit laws or regulations that describe the rights of witnesses. For example, prosecutors are not required to advise a witness prior to being interviewed of his right against self-incrimination or the right to seek legal assistance if needed. Also, there is no use immunity statute in Belize that would prohibit prosecutors from using, directly or indirectly, any statements made by the witness as evidence against him in a future prosecution.

There are no special provisions or internal policies and procedures for the interrogation of witnesses by prosecutors, including juvenile witnesses. Thus, juvenile witnesses could be interviewed outside of the presence of the parent or guardian. Other witnesses could be vulnerable to abusive threats and intimidation by prosecutors to obtain their cooperation and testimony at trial. While no such incidents have been reported, a uniform set of standards and guidelines for the interrogation of witnesses by prosecutors, including juvenile witnesses, could be helpful in preventing such abuses in the future.

Factor 14: Public Integrity

Prosecutors uphold public integrity by giving due attention to the prosecution of crimes committed by public officials, particularly those involving corruption, abuse of power, grave violations of human rights, and other crimes recognized by international law.

Conclusion	Correlation: Negative
<p>Perception of public corruption is a serious problem in Belize. According to respondents, police officers are underpaid and have low morale, making them vulnerable to bribery and other forms of public corruption. There is a general lack of confidence in the integrity of the criminal justice system. Despite these concerns, the prosecution of police officers and public officials for fraud, bribery, and other forms of public corruption is rare. There is also no special unit within the Police Department assigned the responsibility for investigating public corruption. Further, no public prosecutors are responsible for prosecuting public corruption cases. Finally, police officers and prosecutors receive minimal training on investigating and prosecuting complex public corruption cases.</p>	

Analysis/Background:

In 2007, the CPI published by Transparency International gave Belize a score of 2.9 (1.0 being most corrupt and 10 being least corrupt). To receive a score of 2.9 means that corruption among public officials and politicians is perceived as being “rampant.” In 2008, Belize’s score improved slightly. It received a 3.0, meaning that public corruption is a serious problem. There apparently was insufficient data to give Belize a score in 2009 and 2010. Further, the Office of the Ombudsman reported that in 2010, its office received 104 complaints against the police personnel, including 37 allegations of police brutality. See BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR, U.S. DEPARTMENT OF STATE, 2010 COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES: BELIZE at 11 (April 8, 2011), available at <http://www.state.gov/g/drl/rls/hrrpt/2010/index.htm>. Several respondents expressed concerns about police corruption, alleging that the police regularly accept bribes. One respondent stated that the “general public has no confidence in the justice system because of both incompetence and corruption.” One other respondent stated that “police corruption is rampant.” While no statistics are maintained on the investigation and prosecution of public corruption cases, prosecution of public corruption cases is rare. Respondents stated that “public officials are almost never prosecuted.” In fact, the *2010 Country Reports on Human Rights Practices*, published by the U.S. Department of State, states that while Belize law provides criminal penalties for official corruption, there have been no successful prosecutions for public corruption. See BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR, U.S. DEPARTMENT OF STATE, 2010 COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES: BELIZE at 11 (April 8, 2011), available at <http://www.state.gov/g/drl/rls/hrrpt/2010/index.htm>.

The 2010 Crook’s Report acknowledged that police corruption is a serious problem. Objective 59 of the report proposes to “Implement policies and training to confront and control police corruption and to tackle police indiscipline.” CROOK’S REPORT, at 70. The report also acknowledged that public complaints about abuse of power and other police misconduct must be pursued more vigorously. *Id.* at 72. Further, the Crook’s Report proposes the creation of a National Corruption Unit consisting of specially vetted and selected officers to combat public corruption in Belize and states that such unit should be organized as a matter of urgency. *Id.* at 79. Finally, the report recommends harsher penalties for corrupt practices. *Id.* at 80.

There is no formal mechanism for effectively investigating and prosecuting public corruption cases. There is no special unit in the Police Department assigned to investigate public corruption. There is also no Crown Prosecutor in the DPP’s office assigned to work on prosecuting corruption



cases. Further, prosecutors receive minimal, if any, training on handling anti-corruption cases. The Office of the Ombudsman provides a formal mechanism for reporting and investigating allegations of corruption. The Office has the authority to investigate any government agency or public official for corruption or abuse of power. The Ombudsman is required to prepare a report detailing her findings and recommendations and submit the report to the relevant agency. If the agency fails to respond to the report, the Ombudsman may submit the matter to the National Assembly for referral of the case to the DPP's office. However, the Ombudsman's Office is grossly understaffed. The Office employs one staff worker, one investigator, and one volunteer, in addition to the Ombudsman, responsible for handling several hundred cases. In 2010 alone, 104 complaints were filed with the Ombudsman's office. The staff and budgetary resources devoted to the Ombudsman's Office are simply inadequate to effectively investigate the allegations of public corruption and abuse of power.

There is also an Internal Affairs Office within the Belize Police Department for investigating allegations of police corruption or abuse of authority. If there is sufficient evidence to warrant prosecution, the case is forwarded to the DPP's office. However, there are no reported incidences of police corruption cases being referred by the Internal Affairs office for prosecution by the DPP.

There is no government strategy or other directive that establishes anti-corruption cases as a priority for the DPP's office. While the Crook's Report proposes the creation of a National Corruption Unit, the unit has not yet been established. Further, there are no laws or regulations that provide for the protection of whistle-blowers and witnesses in public corruption cases.

IV. Accountability and Transparency

Factor 15: Public Accountability

In performing their professional duties and responsibilities, prosecutors periodically and publicly account for their activities as a whole.

Conclusion	Correlation: Neutral
<p>The DPP's Office has adopted the Code of Conduct for Crown Prosecutors prepared for prosecutors practicing in England, which provides some measure of public accountability. The Code establishes sound criteria and policies for exercising prosecutorial discretion. However, some former and current Crown Prosecutors in Belize were not familiar with the document. Further, the prosecutorial offices communicate with the media through their media spokesperson, which provides some oversight of their work. However, only the FIU is required to publish an annual report reviewing the work of the Unit. While neither the DPP's office nor the head of the police prosecutors is required to publish an annual report of their activities, the Chief Justice's Annual Report on the Judiciary of Belize contains statistical information on cases prosecuted by public prosecutors working in these offices.</p>	

Analysis/Background:

The DPP's Office has adopted the Code for Crown Prosecutors, prepared by the Crown Prosecution Service for prosecutors practicing in England. The Code for Crown Prosecutors provides solid criteria and policies for deciding whether to file criminal charges. The Code for Crown Prosecutors is discussed in greater detail in Factor 10 – Prosecutorial Functions. However, while some respondents were familiar with the document, other respondents were not. The Code for Crown Prosecutors should be more widely distributed in the DPP's office as well as to the public. There should also be training held on the contents of the document.

The activities of public prosecutors are communicated to the media through the media spokespersons for the DPP, FIU, and Police Department. The prosecutorial offices appear to have positive relations with the media. The media representatives interviewed did not express any concerns regarding access to the various offices. At the same time, there are rules and regulations prohibiting the disclosure of confidential information to the media without authorization. These provisions are discussed more fully in Factor 23 – Interaction with the Media.

The FIU Act of 2002 imposes a duty on the FIU director to submit to the Treasury Minister on or before June 30th an annual report reviewing the work of the FIU. See FIU ACT, § 19(1)(b). While the FIU Director is currently preparing the first annual report, it has not been finalized. However, the FIU Act does not specify whether the report is available to the public. The FIU Act also requires the FIU Director to periodically advise the Minister on the work of FIU, including any matters that could affect public policy and the priorities to be set by the Unit. *Id.* at § 19(1)(a). Both the requirement of submitting an annual report and periodically advising the Minister of the activities of the FIU are positive steps towards public accountability. However, the FIU annual report should be submitted on a timely basis. The office of the FIU was created in 2002, but the FIU Director has yet to file an annual report.

The DPP's office is an independent institution with minimal public accountability. Subject only to the authority of the Attorney General, the powers of the DPP to prosecute cases in Belize "shall not be subject to the direction or control of any other person or authority." CONST., §50(6).



However, the DPP is not required by statute or regulations to submit an annual report accounting for the activities of the DPP's office. Statistical information regarding the number of cases prosecuted by the DPP is captured in the *Chief Justice's Annual Report on the Judiciary in Belize* (2009) [hereinafter CHIEF JUSTICE'S REPORT]. For example, the 2009 Chief Justice's Report highlights the number of murder, attempted murder, robbery, and rape cases prosecuted by the DPP's office. See CHIEF JUSTICE'S REPORT, at 37-38. In total, the DPP's office filed 191 criminal cases with the Supreme Court in 2009. *Id.* at 37. While the report provides a mechanism for public accountability, its value is limited. The report publishes only statistical information on the activities of the DPP. It does not provide information on the goals and priorities of the DPP's office or articulate a strategic plan for achieving those objectives.

Some statistical information on the status of cases is provided by the weekly court returns, which show the number of convictions, acquittals, dismissals, and adjournments. Police prosecutors also submit monthly reports to their commander or supervisor. The head of police prosecutions submits a monthly report to her supervisor and an annual report to the Police Commissioner. However, none of these reports are made publicly available.

Finally, upon the advice and recommendation of the Advisory Council, the Governor-General has the authority to remove the DPP from office for misbehavior. See CONST., § 108(7). The procedures for removing the DPP from office are discussed in Factor 19 – Disciplinary Proceedings. The power to remove the DPP from office could serve as an important mechanism for public accountability and oversight of the DPP. However, as discussed in Factor 19, the term “misbehavior” is not defined. In the absence of a clear definition of what that term means for purposes of section 108(7), this authority could be used for political purposes. Thus, the threat of removal from office could undermine the independence and effectiveness of the DPP.

Factor 16: Internal Accountability

Prosecutors' offices have a mechanism to receive and investigate allegations of wrong doing or improprieties based on written procedures and guidelines. Internal procedures and mechanisms exist to assess or monitor compliance with departmental guidelines.

Conclusion	Correlation: Neutral
<p>While there are internal written policies and criteria for delineating the boundaries of prosecutorial discretion in the DPP's office, these written policies are not disseminated to all prosecutors. The DPP has extremely broad powers, including overall responsibility for the distribution of and control over the work of every Crown Prosecutor. The decision whether to prosecute a case is subject only to the powers of the Attorney General. However, as a practical matter the Attorney General's responsibilities for the DPP's Office are limited to administrative matters only. No other person or authority may challenge the DPP's authority. While Crown Prosecutors are permitted to share their views on how cases should be prosecuted, once the DPP decides the matter, subordinate prosecutors are expected to comply with the DPP's instructions. There is no internal mechanism for challenging the DPP's decision.</p>	

Analysis/Background:

As previously discussed in Factor 10 – Discretionary Functions, there are written policies and criteria for limiting the exercise of prosecutorial discretion in the DPP's office. See CODE FOR CROWN PROSECUTORS (1994). The written charging standards identify numerous public interest factors that weigh for and against prosecution. *Id.* at 9-11. However, some respondents were not aware of these written standards. Apparently, internal policies and procedures are not

disseminated or otherwise made available to all prosecutors. Also, there are no training sessions on the practical application of the internal charging policies and standards. Finally, there are no written standards for determining the exercise of prosecutorial discretion by police or civilian prosecutors.

The DPP is vested with broad authority for prosecuting cases in Belize. *See* CONST., § 50(2). The DPP must approve every indictable case, including charges filed by the FIU prosecutor. *Id.* Further, no pending charges can be reduced or dismissed, including matters filed in summary court, without the consent of the DPP. *Id.* The DPP’s exercise of discretion is only subject to the authority of the Attorney General. *Id.* at § 50(7). While internal discussions and debate on prosecutorial issues are permitted, once the DPP decides a course of action, subordinate prosecutors are expected to comply. There is no requirement that the DPP’s instructions be in writing, although for important matters this is generally the case. Because of the strict hierarchy of the DPP’s office there is no effective recourse for prosecutors who disagree with instructions from the DPP. Finally, there are no reported cases of complaints being lodged against the DPP or sanctions being imposed on senior prosecutors.

Factor 17: Conflicts of Interest

Prosecutors are unaffected by individual interests, and avoid conflicts of interest or the appearance thereof.

<i>Conclusion</i>	<i>Correlation: Negative</i>
<p>Crown Prosecutors and FIU prosecutors reportedly avoid conflicts of interest and the appearance of impropriety. However, police prosecutors have divided loyalties. They are employed by the Police Department and dependent on the Department for their continued employment and promotion. At a minimum, such relationship undermines the public’s confidence in the independence and impartiality of the prosecutorial system and creates the perception that police prosecutors are merely an extension of the police.</p>	

Analysis/Background:

Conflicts of interest are governed by the Constitution and Code of Conduct Rules. Section 121(1)(a) of the Constitution prohibits “public officers” of government agencies from engaging in conduct “in which they have or could have a conflict of interest.” Because public prosecutors are “public officers” working for government agencies, the constitutional ban on conflicts of interest applies to them. Also, section 3(3) of the Code of Conduct Rules indirectly addresses the subject. Section 3(3) states that “an attorney shall . . . act [] in a manner that promotes public confidence in the integrity and efficiency of the legal system and the legal profession.” Section 5(1) of the Code of Conduct Rules is also relevant, which provides that “[a]n attorney shall scrupulously preserve his independence of judgment in the discharge of his professional duties.” Public confidence in the independence and integrity of the prosecutor’s office would be seriously undermined if there was a perception that the exercise of prosecutorial discretion was influenced by matters beyond the merits of the case, such as the prosecutor’s financial, business, personal, or property interests.

There are no laws or regulations explicitly prohibiting or restricting prosecutors from accepting gifts, favors, or donations. There are also no rules or standards expressly prohibiting prosecutors from participating in cases in which the prosecutor has a personal or direct interest (e.g., family member was the victim of the crime the prosecutor is handling), or specifying the prosecutor’s conduct with respect to cases in which he participated personally while in private practice.



Further, there are no specific rules prohibiting a prosecutor from negotiating for private employment with any person who was involved as an accused or as an attorney in a matter in which the prosecutor participated. Finally, there are no rules and standards specifying the possible sanctions for engaging in conduct that constitutes a conflict of interest. However, respondents stated that many of these types of conflicts of interest are addressed and prohibited by Common Law cases.

Respondents stated that Crown Prosecutors and FIU prosecutors generally avoid conflicts of interest as well as the appearance of impropriety. There were no complaints by respondents of Crown Prosecutors or FIU prosecutors engaging in conduct creating a conflict of interest. However, the relationship between police prosecutors and police investigators creates the appearance of a conflict of interest. According to some respondents, “police prosecutors are police officers first.” Police prosecutors are employed and their salaries paid by the Police Department. They are evaluated for promotion like any other police officer. In fact, promotion in rank will result in the police prosecutor returning to regular police duties.

Police prosecutors are confronted with a difficult dilemma. According to respondents, police prosecutors are often pressured by police investigators to obtain a conviction. The police prosecutor may question whether the evidence is legally sufficient to support the criminal charges or suspect that it was collected in violation of the suspect’s civil rights. However, the police prosecutor is unlikely to challenge the police investigator. Seeking dismissal of the case would constitute an acknowledgment by the police prosecutor that the police investigator improperly investigated the case or illegally obtained a confession from the accused. Such action could damage the personal relationship between the police prosecutor and police investigator. Further, if the police prosecutor returns to his regular police duties, he might have to work with the offended police investigator. The police prosecutor might also believe that seeking dismissal of the case might jeopardize his chances for promotion. Finally, respondents stated that the relationship between police prosecutors and police investigators creates a conflict of interest. According to respondents, police prosecutors will not prosecute police officers for public corruption or human rights abuses.

Finally, it is not uncommon for police prosecutors to be assigned regular police duties after court adjourns. Thus, police prosecutors are required to assume multiple roles and responsibilities. During the day, police prosecutors are responsible for prosecuting cases, but after court recesses they are regular police officers. At a minimum, the relationship between police prosecutors, police investigators, and the Police Department undermines the public’s confidence in the independence and impartiality of the prosecutorial system. The nature of the relationship creates the appearance that police prosecutors are merely an extension of the police.

Factor 18: Codes of Ethics

Prosecutors are bound by ethical standards of the profession, clearly aimed at delimiting what is and is not acceptable in their professional behavior.

<i>Conclusion</i>	<i>Correlation: Neutral</i>
<p>The Code of Conduct Rules establishes a code of ethical conduct for lawyers, including Crown Prosecutors and FIU prosecutors. However, there is no explicit code of conduct for prosecutors. Further, since police prosecutors are not lawyers, the ethical requirements set forth in the Code of Conduct Rules do not apply to them. Instead, the conduct of police prosecutors is governed by the Police Act. However, there are no special provisions for police prosecutors. There is also no specific code of ethical conduct for civilian prosecutors. Their conduct is covered generally by the regulations governing the conduct of public employees.</p>	

Analysis/Background:

The Code of Conduct Rules establishes a framework for governing the ethical conduct of lawyers. Section 3(1) provides that “every attorney” in the pursuit of the practice of his profession shall comply with these rules. Because Crown Prosecutors and FIU prosecutors are attorneys-at-law, they are bound by the ethical code of conduct. While many of the provisions have no direct application to prosecutors, such as the rules related to advertising, representing multiple clients, and charging attorney’s fees, other provisions apply with equal force. For example, section 3 provides that attorneys shall “promote public confidence in the integrity . . . of the legal system and legal profession.” Section 5 provides that “an attorney shall scrupulously preserve his independence of judgment in the discharge of his professional duties.”

Other requirements include the duty to maintain a respectful attitude towards the court and should not engage in discourteous conduct which is degrading to the court (*id.* § 38), to engage with one another in a manner “characterized by courtesy, fairness and good faith.” (*id.* § 43), not to knowingly use perjured testimony or false evidence (*id.* § 78), and not to knowingly make a false statement of law or fact to the court. (*id.* § 80). These provisions have direct application to the conduct of prosecutors in the practice of law.

Only one provision of the Code of Conduct Rules is explicitly addressed to prosecutors. Section 17 describes the role of the prosecutor, stating: “When engaged as a public prosecutor, the primary duty of an attorney is not to secure a conviction but to see that justice is done.” Section 17 also imposes an affirmative duty on prosecutors to disclose exculpatory evidence to the accused. Further, section 85 makes it clear that a breach of any of the rules of conduct may constitute professional misconduct subjecting the offending attorney to any of the disciplinary penalties, including removal from the practice of law.

While the Code of Conduct Rules provides a comprehensive code of ethical requirements for lawyers generally, it fails to address several major issues relevant to the work of prosecutors. For example, the Code of Conduct Rules does not address the exercise of prosecutorial discretion or prohibit *ex parte* communications between the prosecutor and the court or the accused. Finally, Crown Prosecutors and FIU prosecutors do not receive any special training concerning the Code of Conduct Rules before taking office or during their tenure.

As mentioned in Factor 15 – Public Accountability, although there is a Code for Crown Prosecutors, many of the respondents interviewed stated that they were unaware of any internal code of conduct for prosecutors. These respondents had never seen the Code for Crown



Prosecutors or received any training regarding its contents. Further, the document is limited in scope, and is not binding. Rather than providing a broad framework for governing the ethical conduct of prosecutors, the code basically sets forth a two-part test for guiding the decision whether to file criminal charges. The document provides importance guidance on the exercise of prosecutorial discretion, but its practical value is limited because it is not widely distributed within the DPP’s or FIU’s office.

There are no explicit rules governing the ethical conduct of police prosecutors or civilian prosecutors. Police prosecutors are neither lawyers nor members of the DPP, and, as such, their conduct is covered by neither the Code of Conduct Rules nor the Code for Crown Prosecutors. Instead, the conduct of police prosecutors is governed by the Police Act. Section 24 lists several offenses that may subject a police officer to discipline. However, these provisions deal with conduct of police officers generally. There are no specific provisions governing the ethical conduct of police prosecutors. Finally, civilian prosecutors are not lawyers or police officers. The Code of Conduct Rules, the Code for Crown Prosecutors, and the Police Act therefore have no application to their conduct. The conduct of civilian prosecutors is governed by the regulations applicable to public employees, such as the code of conduct for public officers in section 121 of the Constitution and Part III of the Public Service Rules. However, there are no special provisions applicable to the work of civilian prosecutors. Finally, police prosecutors and civilian prosecutors receive no training on ethical conduct related to their work as prosecutors.

Factor 19: Disciplinary Proceedings

Prosecutors are subject to disciplinary action for violations of law, regulations, or ethical standards. Disciplinary proceedings are processed expeditiously and fairly, and the decision is subject to independent and impartial review.

<i>Conclusion</i>	<i>Correlation: Neutral</i>
<p>Prosecutors are subject to well-developed and equitable disciplinary procedures under the authority of the General Legal Council. Any complaints of prosecutorial misconduct by prosecutors are submitted to the Council, which submits its findings and recommendations to the Chief Justice for further action. However, there are no reported cases filed with the General Legal Council against prosecutors. There are no similar procedures or forum for submitting grievances against police prosecutors and civilian prosecutors.</p>	

Analysis/Background:

The Legal Profession Act and Code of Conduct Rules establish a set of equitable disciplinary procedures to hold lawyers and prosecutors accountable for acts of misconduct and breaches of professional responsibility. Pursuant to section 15(1) of the Legal Profession Act: “Any person alleging himself aggrieved by an act of professional misconduct (including any default) committed by an attorney-at-law may make application supported by an affidavit of the facts of which he complains to the [General Legal] Council to require the attorney to answer such allegations” Section 15 provides that “[a]ny person” may file a grievance with the General Legal Council [hereinafter Council], not merely the attorney’s client. A judge may also initiate such applications. *Id.*

Applications must be filed in writing with the Council, which consists of the Attorney General, the President of the Bar Association of Belize, and four persons elected from members of the Bar, at least two of whom must be persons with no less than 10 years standing in the legal profession. *Id.* at § 3(1). If the Council is satisfied that the allegations contained in the written submission fail

to establish a *prima facie* case of professional misconduct under the Legal Profession Act, it may dismiss the application without requiring the attorney to answer the allegations. See § 88, CODE OF CONDUCT RULES. On the other hand, if the application establishes a *prima facie* case, a hearing will be scheduled within 90 days of receipt of the application. *Id.* at § 89. The Council is required to serve notice on the prosecutor, which includes providing him with a copy of the application filed by the aggrieved party. *Id.* Both parties are entitled to full discovery and receipt of all documents to be submitted at the hearing. *Id.* at § 90. Discovery must be completed 14 days before the hearing. *Id.*

The disciplinary procedures afford prosecutors a fair hearing. Both parties are entitled to be present at the hearing and represented by an attorney. *Id.* at § 102(2). Further, attorneys and witnesses are afforded the same privileges and immunities in disciplinary hearings as in any other court of law. *Id.* at § 102(1). However, the hearing is conducted in private. *Id.* at 95. Within 90 days of the hearing, the Council is required to submit a final report to the Chief Justice containing its findings. *Id.* at § 97. If a breach of the ethics code is found, the Council also submits a recommendation on the imposition of sanctions. *Id.* Possible sanctions include removal of the attorney's name from the Roll of Attorneys, removal from the practice of law on conditions, imposition of a fine, or issuance of a reprimand. See LEGAL PROFESSION ACT, at § 16(2).

Upon receipt of the report, the Chief Justice may dismiss the application or, if he is convinced that the prosecutor engaged in professional misconduct, he may summon the prosecutor to show why the court should not adopt the findings and recommendations of the Council. *Id.* at § 16(3). If the Chief Justice is not satisfied by the prosecutor's explanation, he will confirm the findings of the Council and impose the sanctions recommended by the Council, or modify the sanctions as he sees fit. *Id.* Both parties have a right to appeal the Chief Justice's ruling. *Id.* at §19(1).

In short, the disciplinary proceedings afford prosecutors a fair and expeditious hearing before an independent and impartial tribunal. However, there are no reported cases of disciplinary applications being filed against any prosecutors under these provisions.

Finally, there are no similar procedures or forum available for initiating disciplinary proceedings against police prosecutors and civilian prosecutors. Claims of misconduct can be submitted to the Office of the Ombudsman, or, for police prosecutors, with either his superior or with the Department of Internal Affairs and Discipline within the Police Department. However, the resources available to the Ombudsman for investigating such charges are extremely limited, and public confidence in the ability of the police to properly investigate and punish misconduct is not high.



V. Interaction with Criminal Justice Actors

Factor 20: Interaction with Judges

Public prosecutors safeguard the independence of the judicial and prosecutorial functions. Prosecutors treat judges with candor and respect for their office, and cooperate with them in the fair and timely administration of justice.

Conclusion	Correlation: Positive
<p>The Constitution clearly delineates the separate functions and responsibilities of the DPP and judges in the criminal justice system. However, there are no specific rules that define the independent functions of police prosecutors and judges. Judges and prosecutors have a professional and respectful relationship. Further, while prosecutors generally avoid <i>ex parte</i> contacts with judges, there is no ethical rule or regulation that explicitly prohibits such communications.</p>	

Analysis/Background:

Section 93A(1) of the Constitution establishes a Summary Jurisdiction Court in each judicial district in Belize with jurisdiction over summary (non-indictable) criminal matters. The Constitution also establishes a Supreme Court with jurisdiction over all criminal cases. Pursuant to section 95(1), the Supreme Court is vested with unlimited jurisdiction to hear and determine any civil or criminal proceedings. The Supreme Court is a superior court of record. See CONST., § 95(3). Section 50(1) establishes the office of the Director of the Public Prosecutor. The DPP is vested with the authority to: (1) institute criminal proceedings against any person before any court of laws; (2) take over and continue criminal proceedings instituted by any other person or authority; and (3) discontinue at any stage before judgment is delivered any criminal proceedings instituted by himself or any other person or authority. *Id.* at § 50(2). Further, the exercise of the DPP’s authority and discretion is “not subject to the direction or control of any other person or authority.” *Id.* at § 50(6). The decision whether to file charges is the exclusive province of the DPP. Judges do not participate in the filing of criminal charges. The independence of the DPP is also supported by section 5 of the Code of Conduct Rules, which provides that “an attorney shall scrupulously preserve his independence of judgment in the discharge of his professional duties.” Finally, respondents stated that the DPP vigorously defends the independence and authority of her office.

The Code of Conduct Rules imposes a duty on attorneys, including Crown and FIU prosecutors, to treat judges respectfully. Pursuant to section 38 of the Code of Conduct Rules, attorneys are required to maintain a respectful attitude towards the court and should not engage in discourteous conduct which is degrading to the court. Respondents stated that prosecutors have a professional and respectful relationship with judges. Further, prosecutors are respectful of the independence and impartiality of judges. There were no reported incidents of prosecutors influencing or attempting to influence any judicial decision or ruling. Finally, prosecutors generally do not engage in *ex parte* contacts with judges. However, there is no ethical rule prohibiting such *ex parte* communications. The Code of Conduct Rules should be amended to explicitly prohibit *ex parte* contacts between prosecutors and judges.

Crown and FIU prosecutors have a responsibility to seek justice, not merely convict. Section 17 of the Code of Conduct Rules states: “When engaged as a public prosecutor, the primary duty of an attorney is not to secure a conviction but to see that justice is done.” Section 17 also imposes an affirmative duty on prosecutors to disclose exculpatory evidence to the accused. However, there is no provision requiring prosecutors to disclose to the court legal authority in the controlling

jurisdiction that is known to the prosecutor to be directly adverse to the prosecutor’s position. Section 78 also prohibits the knowing use of perjured testimony or false evidence. Further, section 80 proscribes knowingly making a false statement of law or fact to the court. Prosecutors generally adhere to these principles and are perceived as being objective and fair.

While the ethical rules of conduct that govern the conduct of Crown and FIU prosecutors in their dealings with judges do not apply to police and civilian prosecutors, these prosecutors appear to have a professional and respectful relationship with judges as well. Further, there are legal provisions requiring police and civilian prosecutors to disclose exculpatory information to the court. Public prosecutors generally adhere to these rules.

Factor 21: Interaction with Police and Other Investigatory Agencies

In order to ensure the fairness and effectiveness of prosecutions, prosecutors cooperate with the police and other investigatory agencies in conducting the criminal investigation and preparing cases for trial, and monitor the observance of human rights by investigators.

Conclusion	Correlation: Negative
<p>Prosecutors have limited involvement in criminal investigations and filing criminal charges. The criminal complaint is prepared by the investigating officer and reviewed for legal sufficiency by the police prosecutor. However, the review is largely pro forma. Problems with the case file result in cases being dismissed by the court. Police prosecutors are largely deferential to police investigators and are unwilling to seek dismissal of criminal charges based on suspected human rights violations of the accused. There are no set procedures in the prosecutorial service for investigating alleged human rights abuses by the police and no reported cases of police officers being prosecuted for such violations.</p>	

Analysis/Background:

Police officers are responsible for conducting criminal investigations in Belize. In high profile cases, police investigators may seek legal assistance and guidance from the DPP’s office. However, in a large majority of criminal cases police officers conduct the criminal investigation, arrest any suspects, and draft the criminal complaint. The court book is completed by the investigating officer, which includes details of the arrest, a brief case report, and copy of the criminal complaint. The police officer is responsible for filing two copies of the criminal complaint with the court. The investigating officer should have his supervisor review the criminal charges, but this usually occurs only in sensitive cases. Finally, while police prosecutors review the criminal complaint for legal sufficiency before filing, such review is merely pro forma. The police prosecutor seldom challenges the police officer’s charging decision.

If the case involves indictable crimes, the police investigator may contact the Crown Prosecutor for legal assistance prior to filing criminal charges. However, generally the DPP’s office is contacted only if the case involves a capital crime or public corruption. In all other indictable cases, the Crown Prosecutor would typically become involved at the preliminary inquiry stage, where the magistrate determines whether there is sufficient evidence for the case to be set for trial before the Supreme Court.

The prosecutor’s lack of involvement in the investigative stage of the proceedings often creates problems during the trial. According to one respondent, “Issues with case files result in charges

being thrown out or the wrong charges being filed.” Further, respondents expressed concerns about the court book being maintained by the police investigator, rather than the police prosecutor. This creates multiple problems. First, the court book is often misplaced by the investigating officer, requiring a trial adjournment. Second, if the investigating officer fails to appear at trial, since he has the court book, the prosecutor must seek a trial adjournment. After multiple trial delays, the case may be dismissed by the magistrate.

In the case of indictable crimes, the Crown Prosecutor may see the file for the first time at the preliminary inquiry stage. After reviewing the file, the Crown Prosecutor may find that the wrong charges were filed. In such a case, criminal charges may have to be dismissed or new charges added to the complaint. In other instances, the Crown Prosecutor may determine that additional investigation is required, such as interviewing additional witnesses or seeking the recovery of physical evidence. In either scenario, the trial date may need to be continued to accommodate the Crown Prosecutor’s concerns. Finally, according to some respondents, the DPP’s request for additional evidence or the decision to dismiss or reduce criminal charges for lack of evidence in certain cases has created tension between the police department and the DPP’s office.

Respondents also pointed out a conflict between the DPP’s office and FIU regarding the prosecution of money laundering offenses, as both the DPP and FIU have authority to prosecute such cases. However, the Constitution affords the DPP ultimate authority over all criminal prosecutions in Belize, including the filing of money laundering charges. A memorandum of understanding [hereinafter MOU] between the DPP and FIU is being prepared outlining the procedures for prosecuting financial crimes. Hopefully, the MOU will resolve any conflict or disagreement between the two offices.

Several respondents commented on the poor quality of criminal investigations in Belize. Most criminal charges are based on either a confession by the accused or eyewitness identification by the victim or other witness to the crime. Thus, if the confession is excluded from trial or the eyewitness refuses to testify, the case is often dismissed. Few criminal convictions are obtained using forensic evidence, such as DNA evidence or the comparison of latent fingerprints. Forensic evidence is not used in criminal investigations for several reasons, including inadequate police training on the collection and retention of forensic evidence and insufficient budgetary resources to fund laboratory equipment, supplies, and materials needed to conduct forensic tests.

Respondents stated that confessions are often elicited through physical coercion or improper police tactics and, therefore, were involuntarily given. For example, one case involved a statement taken from a fifteen year old boy without the presence of a parent or guardian as required by law. However, the police prosecutor refused to exclude the confession. Police prosecutors are often unwilling to question the methods used by police investigators to obtain such confessions and exclude evidence obtained in violations of the defendant’s human rights. Such an examination might conclude that the police investigator conducted his investigation improperly and in violation of the defendant’s human rights. Further, the police prosecutor’s tenure as a prosecutor may be short term, and when he returns to his regular police duties he may have to work with the particular investigative officer. Thus, police prosecutors are unwilling to take any action that might have a negative impact on future relations with police investigators. As the result, police prosecutors are not as vigilant as they should be in controlling the police in their observance of human rights. In this regard, the relationship between police prosecutors and police investigators is too cooperative.

Finally, there are no specific procedures for prosecuting police misconduct. Any complaints of misconduct against the police are handled internally by the police department or filed with the Ombudsman for investigation. For example, section 24(1)(u) of the Police Act prohibits the use of unwarranted personal violence or mistreatment of any person in police custody. Such conduct is punishable by the imposition of administrative sanctions under the Act. However, the Police

Commissioner is responsible for investigating complaints of illegal use of force. Prosecutors are not involved in the investigative process.

The Ombudsman has the authority to investigate any claims of abuse or misconduct by government officials, including police officers. OMBUDSMAN ACT, § 12(1), Chapter 5 of the Laws of Belize (Revised Edition 2000). After holding an administrative hearing, if the Ombudsman finds that the police engaged in abusive practices, she may recommend that the Police Department pay the victim reasonable compensation. *Id.* at § 21(5)(c). However, there are only three persons in the Office of the Ombudsman: the Ombudsman, an investigator, and a volunteer. These resources are insufficient to conduct meaningful investigations for the number of complaints filed with the Ombudsman’s office. Further, according to respondents, there is limited contact between the Ombudsman and the DPP’s office. Finally, there are no reported cases of police officers being criminally prosecuted for human rights abuses.

Factor 22: Interaction with Representatives of the Accused

Public prosecutors respect the independence of the defense function. In order to ensure the fairness and effectiveness of prosecutions, prosecutors satisfy their legal and ethical obligations towards the representative of the defendant.

<i>Conclusion</i>	<i>Correlation: Neutral</i>
<p>Prosecutors and defense counsel generally have a cooperative and respectful relationship. Prosecutors are required by law to disclose both incriminating and exculpatory evidence to defense counsel. As a matter of practice, defense counsel receives a copy of the criminal charges and investigative report.</p>	

Analysis/Background:

Section 43 of the Code of Conduct Rules requires lawyers to engage with one another in a manner “characterized by courtesy, fairness and good faith.” Prosecutors and defense counsel generally have a professional, cooperative, and respectful relationship. One respondent described the relationship between Crown Prosecutors and defense lawyers as “formal and respectful.” Moreover, prosecutors are aware of the independence of the defense function. There are no reported cases of prosecutors attempting to contact defense witnesses or the accused without the consent of defense counsel.

Section 17 of the Code of Conduct Rules imposes a general duty of fairness on prosecutors, stating that prosecutors have a duty to ensure that justice is done, not merely convict. However, according to some respondents, prosecutors are more concerned about obtaining a conviction rather than seeking justice. One respondent stated that while prosecutors should be ministers of justice, “prosecutors are interested in getting convictions, not interested in overall justice of the case.” Of particular concern is the failure of police prosecutors to affirmatively exclude illegally obtained confessions, preferring instead to wait until trial to have the evidence excluded by the court. This matter is discussed more fully in Factor 11 – Rights of the Accused.

The Code of Conduct Rules requires prosecutors to cooperate with defense counsel. Pursuant to section 17, prosecutors have an affirmative duty to disclose both incriminating and exculpatory evidence. However, there is no requirement as to the timing of disclosure of exculpatory evidence, and disclosure is often delayed until the trial stage. Section 53 also imposes a duty on attorneys to not withhold facts in order to establish the guilt or innocence of the accused.



While the Code of Conduct Rules does not apply to non-lawyers such as police and civilian prosecutors, under common law principles they are required to provide full discovery to defense counsel. The common law requires police and civilian prosecutors to disclose both incriminating and exculpatory evidence to the accused. Also, as a matter of practice, police and civilian prosecutors provide defense counsel with a copy of the criminal complaint and investigative report.

There are no laws or regulations mandating that attorneys-at-law enjoy equal standing in all criminal proceedings. For example, defense attorneys have no rights during the investigative stage of the proceedings. Considering that prosecutors do not monitor criminal investigations, police investigators are chiefly responsible for ensuring that the rights of the accused are observed throughout the pretrial investigation. In short, there is an insufficient oversight of the police investigator’s conduct during the investigation. As a result, the rights of the accused are not adequately protected during the investigative stage.

Factor 23: Interaction with the Public/Media

In their contacts with the media (and other elements of civil society), prosecutors provide appropriate and accurate information wherever possible, within their discretion.

<i>Conclusion</i>	<i>Correlation: Positive</i>
<p>The relationship between public prosecutors and the media is generally positive. Prosecutors communicate with the media through their respective media spokesperson. There are no reports of lack of cooperation with the media. Laws and regulations prohibit public officials from making unauthorized disclosures of confidential information to the public or media. Finally, prosecutors generally refrain from making comments to the media that might prejudice the accused in a pending case.</p>	

Analysis/Background:

Public prosecutors have a positive relationship with the media. While Crown Prosecutors and police prosecutors refrain from communicating with the media about pending cases, the DPP, the Director of the FIU, and Police Commissioner, or their media spokespersons are generally responsive to media requests for information. There were no complaints of media blackouts or lack of cooperation by prosecutors with the media.

Legal provisions impose restrictions on public prosecutors from disclosing confidential information to the media. These provisions protect defendants from being tried in the press by overzealous prosecutors. For example, section 24(1)(n) of the Police Act prohibits police officers, which includes police prosecutors, from unauthorized disclosure of any information concerning any investigation or other police or departmental matter. A case being prosecuted by a police prosecutor is a “police or departmental matter.” Thus, police prosecutors are prohibited from making statements about a pending case unless authorized by the prosecutor’s supervisor. A police prosecutor who violates section 24(1)(n) is subject to internal department disciplinary sanctions, including dismissal from the Police Department. However, as a practical matter, police prosecutors don’t speak to the media.

There are no specific rules or regulations that govern the Crown Prosecutor’s conduct with the media. However, section 32 of the Public Service Regulations is highly relevant. Section 32 provides that “a public official shall not, without the approval of the Chief Executive Officer concerned, make public or communicate to the media or cause to be made public or so

communicate to the media or to unauthorized individuals any documents, papers or information which may come into his possession in his official capacity” While section 32 is not explicitly directed at Crown Prosecutors, such prosecutors are “public officials.” Thus, the prohibition on public disclosure of confidential information applies to them. Crown Prosecutors are therefore prohibited from disclosing to the media documents, papers, or information obtained in their official capacity, unless authorized by the “Chief Executive Officer” concerned, which would be the DPP. Absent authorization by the DPP, Crown Prosecutors are prohibited from disclosing information about a pending case obtained in the prosecutor’s official capacity.

While both section 24(1)(n) of the Police Act and section 32 of the Public Service Regulations prohibit disclosure of confidential information in the possession of a prosecutor unless authorized by a supervisor, these provisions fail to describe what kind of information may be disclosed to the media. For example, even if authorized by the DPP or the Police Commissioner, prosecutors should be prohibited from making statements to the media intended to denigrate the defendant. Section 24(1)(n) and section 32 should therefore be amended to clearly identify what kind of information may be disclosed to the media and expressly prohibit inflammatory and prejudicial statements regarding the accused in a pending case. In short, the law should clarify what kind of information may be communicated to the media.

Factor 24: International Cooperation

In accordance with the law and in a spirit of cooperation, prosecutors provide international assistance to the prosecutorial services of other jurisdictions.

<i>Conclusion</i>	<i>Correlation: Neutral</i>
<p>The DPP’s office is not involved in requests for mutual legal assistance and assumes a limited role in extradition requests. While the DPP attends meetings and conferences sponsored by the International Prosecutor’s Association, Crown Prosecutors rarely participate in such events. Finally there are no conferences or training seminars on international cooperation currently being held in Belize.</p>	

Analysis/Background:

Requests for mutual legal assistance and extradition are handled through an initial request made to the Ministry of Foreign Affairs who has authority for implementing the relevant international treaties. In practice, the Attorney General is responsible for coordinating the actual assistance in coordination with the Immigration Department and National Police. However, pursuant to the section 7(2) of the Extradition Act, Chapter 112 of the Law of Belize (Revised Edition 2000) if the Chief Magistrate dismisses the charges against whom an application for extradition has been made, the DPP may apply to the Supreme Court for a warrant to arrest the accused person. However, as a practical matter extradition issues are handled by the Office of the Attorney General exclusively. If the Supreme Court judge finds that the charges should not have been dismissed he may authorize extradition.

There have been some regional efforts to streamline the extradition procedures among CARICOM countries. Belize has made some comments on a draft treaty. However, the treaty has not been ratified.

The DPP participates in regional conferences and meetings with chief prosecutors from other Caribbean countries. Crown Prosecutors attend regional training workshops held in other Caribbean countries. However, participation in such training sessions and conferences is rare.



Crown Prosecutors are also not actively involved in the International Association of Prosecutors, Their heavy caseload and other prosecutorial responsibilities make it difficult for them to attend meetings and conferences sponsored by the prosecutors' organization. Finally, there are no training workshops on international cooperation held in Belize.

VI. Finances and Resources

Factor 25: Budgetary Input

States provide an adequate budget for the prosecutor's office, which is established with input from representatives of the prosecutor's office.

Conclusion	Correlation: Negative
<p>Both the DPP and the Head of Police Prosecutions participate in preparing the annual budget for their respective offices. However, despite their participation in the budgetary process, both prosecutorial offices are inadequately funded, therefore, undermining the effectiveness of public prosecutions.</p>	

Analysis/Background:

Section 115(1) of the Belize Constitution authorizes the Finance Minister to prepare and submit an annual budget to the House of Representatives. Interestingly, the Prime Minister assumes a dual role, serving as both the Prime Minister and Finance Minister. Thus, the Prime Minister is responsible for submitting the annual budget to the House of Representatives. Further, section 118(6) provides that the DPP's office, among other offices enumerated in the section, including the Supreme Court and the Court of Appeals, shall be given priority for funding.

Both the DPP and the Head of Police Prosecutions participate in preparing the budget for their respective offices. The DPP's office is under the Attorney General's ministry. Each October, the DPP prepares budget estimates for the following fiscal year. The DPP's budget includes: funding for Crown Prosecutors, civilian prosecutors, and related administrative expenses. Those figures are then submitted to the Attorney General who prepares the annual budget for his ministry. Occasionally, the DPP may be asked to meet with the Attorney General to explain or justify proposed increases. The DPP's budgetary request may be modified by the Attorney General. The proposed budget for the Attorney General's ministry is submitted to the Finance Minister, which also includes the budget for the DPP's office. Ultimately, the Finance Minister decides on the final budget that is to be submitted to the House of Representatives.

The Police Commissioner is responsible for preparing and submitting the annual budget for the Police Department. However, each police command and branch has a finance officer who contributes to the budget process at the Police Department level. The Head of Police Prosecutions is responsible for submitting a budget to the Police Commissioner for police prosecutors. The Police Commissioner decides on the budgetary figures to be included in the Police Department budget. The Police Department budget is submitted to the Finance Minister, who decides on the final budget to be submitted to the House of Representatives. Finally, the national budget is presented to the House of Representatives each March.

Funding for the DPP's office and police prosecutors is generally viewed as inadequate. Several respondents expressed concerns about the low salaries afforded to Crown Prosecutors, as well as the need for additional budgetary resources to hire more prosecutors and fund prosecutorial training. The lack of prosecutors is considered by many respondents to be one of the principal reasons for the large backlog of indictable cases and delayed trials. While commenting on the inadequacy of the budget for police prosecutions, one respondent stated that police prosecutors are not assigned vehicles to assist them with their work, such as transporting exhibits to court and locating witnesses for trial. Further, because of the absence of vehicles, bicycles are mainly used for delivering summons. Often these bicycles are in need of repair.



Factor 26: Resources and Infrastructure

States provide adequate funding, conditions, and resources to guarantee the proper functioning of the prosecutor's office.

Conclusion

Correlation: Negative

The DPP's office is inadequately funded and lacks the resources needed to properly and effectively perform the work of the office. Additional Crown Prosecutors are needed to effectively manage the number of indictable cases and to ensure timely response to requests for legal advice from investigating police officers. There is no access to legal databases or virtual law libraries. Also, Crown Prosecutors are not supported by paralegals or legal research assistants. Further, the DPP's office lacks the resources to fund continuing legal education. Police prosecutors and civilian prosecutors also lack the resources needed to effectively perform their prosecutorial functions.

Analysis/Background:

The DPP's office suffers from a shortage of Crown Prosecutors. At present, four Crown Prosecutors, which includes the DPP, are responsible for prosecuting all indictable cases in Belize. These four prosecutors are responsible for preparing the cases for trial, including directing any follow up investigation, litigating any pretrial motions, prosecuting the cases at trial, and handing all appeals before the Court of Appeals and the Caribbean Court of Justice. Crown Prosecutors also respond to requests by police investigators for legal advice and assistance on summary matters. The lack of Crown Prosecutors has created several problems. First, to manage the caseload, the DPP is required to regularly litigate cases before the Supreme Court and argue cases on appeal. In fact, a substantial amount of the DPP's time is spent in court litigating cases. While it is not unusual for the head of a prosecutor's office to occasionally make court appearances, the majority of their time should instead be devoted to strategic planning, and directing and supervising the work of the office, rather than working as a senior prosecuting attorney. In the case of the DPP, this is not a matter of choice, but of necessity. The DPP could spend more time on establishing priorities for the office and strategic planning if there were more Crown Prosecutors to handle the day-to-day trials and other court appearances.

Second, according to respondents, having an inadequate number of Crown Prosecutors has resulted in "prosecutor burnout." Crown Prosecutors are constantly in court trying cases. After a verdict is rendered in one trial, the Crown Prosecutor must immediately prepare for the next trial. The stress and demands of constant trial litigation eventually take their toll. The heavy workload, coupled with the attraction of higher compensation in the private sector, often result in Crown Prosecutors choosing to leave their position in the DPP's office. As discussed in greater detail in Factor 28, the high turnover rate and loss of experienced Crown Prosecutors have negative repercussions for the office.

Crown Prosecutors do not have access to computer legal databases or virtual law libraries. Further, there is no process for indexing Belize appellate court decisions. Thus, it is difficult for prosecutors to stay current on recent developments in the law. Also, the inability to conduct legal research online makes brief writing more labor intensive and time consuming. Further, the law library is seriously inadequate and underfunded. The law library contains a limited number of legal treatises, texts, documents, and criminal law reports that could assist and enhance the work of Crown Prosecutors. Finally, Crown Prosecutors are not aided by paralegals or legal research assistants. Therefore, non-technical tasks cannot be assigned to a paralegal or research assistant, but must be performed by Crown Prosecutors themselves.

The DPP's office also lacks adequate resources to fund continuing legal education, and there is no legal training program for Crown Prosecutors. There is no on-site legal training or legal seminars on specialized topics of criminal law afforded to Crown Prosecutors. Thus, Crown Prosecutors have limited opportunities to enhance their legal education and knowledge.

Finally, the lack of resources discussed with respect to Crown Prosecutors applies with equal force to police prosecutors and civilian prosecutors. According to respondents, police prosecutors and civilian prosecutors have limited access to appellate court decisions and recent amendments to criminal law statutes. Often, these prosecutors have to rely on defense lawyers or magistrates to advise them on recent court decisions and changes in the law. Also, inadequate resources are devoted to police and civilian prosecutor training. There is no standard, comprehensive legal training program offered to police and civilian prosecutors. Finally, until recently, an apparent lack of resources in the Police Department resulted in police prosecutors being assigned regular police duties after court obligations were fulfilled. Thus, instead of reviewing case files and preparing for court the next day, police prosecutors were walking patrol or performing other police duties. The assignment of these additional police-related tasks clearly undermined the ability of police prosecutors to effectively perform their prosecutorial functions, although this practice has now reportedly been ceased.

Factor 27: Efficiency

Prosecutors perform their functions expeditiously, in order to achieve the best possible use of available resources.

Prosecutors' offices have a written organizational plan to facilitate such efficiency. The prosecutor's office has written guidelines, principles, and criteria for the implementation of criminal justice.

<i>Conclusion</i>	<i>Correlation: Negative</i>
<p>There are substantial delays in prosecuting indictable cases. As a result, it is not unusual for defendants to be held in custody for more than a year awaiting trial. There are several reasons for these pretrial delays that are directly attributable to the prosecutorial services, including an inadequate number of prosecutors and support staff, no computerized case filing and tracking system, and the lack of direct oversight by Crown Prosecutors in police investigations. These lengthy delays also stem from external sources, such as inadequate police training and resources, and inefficient court proceedings; for example, where magistrates and Supreme Court judges transcribe all court proceedings by hand. Further, when cases go to trial, the conviction rate is extremely low. The lack of training for police prosecutors contributes to the problem, as well as other factors outside the prosecutorial service, including the intimidation of witnesses, the absence of a witness protection program, and poor police investigations.</p>	

Analysis/Background:

It is not uncommon for trials, even in non-complex cases, to be delayed one year or longer. Often, the accused is incarcerated while awaiting trial. According to one respondent, in an indictable case it often takes six months from the date of the arrest for the file to be sent to the DPP's office for review. It takes an additional six months for the preliminary inquiry. There are several reasons for these delays. First, there is no computerized case filing and tracking system. When a police officer makes an arrest, he prepares a charge sheet and court book which includes details of the arrest and a court report. The arresting officer submits a copy of the charge sheet to the police prosecutor and files a copy with the court. However, the court book is kept by the arresting officer,

rather than the police prosecutor. Therefore, if the arresting officer misplaces the court book or fails to appear for trial, the case is adjourned. Multiple delays may result in the case being dismissed by the magistrate. Respondents also noted that police prosecutors are unaware if there is a pending case against the accused in another district, which could affect whether the accused should be released on bail. These problems could be avoided if police prosecutors had access to a computerized case filing and tracking system. While a *White Paper on Criminal Justice Reform* (August 25, 2005) from the Attorney General's Ministry proposed several changes for streamlining the indictment process, such as by simplifying the preliminary inquiry (see pp. 2-3), a backlog remains due to the overall increase in indictable cases. There has been no subsequent strategy to reduce trial delays.

Second, all court proceedings are transcribed by hand. Rather than use a court stenographer, magistrates and Supreme Court judges transcribe the testimony of every witness by hand. This process delays the court proceedings, including the preliminary inquiry, where the magistrate decides whether there is sufficient evidence for the case to be set for trial before the Supreme Court. The delay in conducting the preliminary inquiry further delays the trial date. According to respondents, magistrates are unable to keep pace with the number of incoming cases. In other words, there are more cases entering than exiting the system. Therefore, there will always be a backlog of cases. There could be as many as 100 cases on the magistrate's docket at any given time. Magistrates and judges should use court reporters to transcribe the proceedings. Also, judicial officers should be equipped with laptop computers to assist them during the court proceedings.

Third, Crown Prosecutors do not provide direct oversight or regularly consult with police officers during the criminal investigation. This lack of early involvement in the case by prosecutors, coupled with the shortage of prosecutorial resources, often results in the trial being delayed. If the charges involve an indictable crime, the investigating officer may consult with the Crown Prosecutor and seek his advice on the appropriate charges to be filed. However, this initial contact is usually brief and does not involve a close examination of the case and strength of the evidence by the Crown Prosecutor. Prior to the preliminary inquiry, the prosecutor conducts a more rigorous examination of the case file. According to respondents, the Crown Prosecutor's review of the case file may take six or seven months. The delay is largely due to the shortage of Crown Prosecutors. Because the prosecutor may be involved in back-to-back trials, and coupled with his other prosecutorial responsibilities, it may be difficult for him to find time to review the pending case. Regardless of the reason, the preliminary inquiry is delayed by six or seven months, ultimately delaying the trial.

After his review of the case file, the prosecutor may require the police investigator to interview other witnesses or collect additional evidence. As a result, the preliminary inquiry and the trial are delayed even more. The additional delay might have been avoided had the prosecutor been involved earlier on in the investigation, and able to directly supervise the case and the collection of evidence. He could have made this request much earlier in the proceedings and prevented the case from being adjourned pending a follow-up investigation.

There are limited prosecutorial resources for prosecuting all indictable cases in Belize. These cases are tried before the Supreme Court, which sits in three judicial districts in Belize: the Northern, Southern, and Central Districts. Crown Prosecutors are required to travel to these different judicial districts to prosecute cases. Moreover, these prosecutors handle a substantial caseload. In 2009, there were 191 cases prosecuted before the Supreme Court, including 56 murder cases, 39 attempted murder cases, 5 robbery cases, 10 rape cases, 26 carnal knowledge cases, 6 unlawful carnal knowledge cases, 5 manslaughter cases, and 10 cases involving manslaughter by negligence. See CHIEF JUSTICE'S REPORT, at 37-39. Further, plea bargains are unusual in Belize and most cases go to trial. Crown Prosecutors are also responsible for all appeals to the Appeals Court and Caribbean Court of Justice, the court of last resort. Finally,

Crown Prosecutors provide legal assistance to police investigators and police prosecutors on indictable as well as summary cases. If prosecutors are in trial, other cases assigned to the prosecutor must be adjourned causing the trial date to be delayed. After repeated delays, the case may be dismissed. Additional prosecutors would substantially reduce the number of trial adjournments.

The process for hiring Crown Prosecutors should also be streamlined. There are currently three vacancies for prosecutors in the DPP's office. However, the appointment of Crown Prosecutors by the DPP must be confirmed by the Commission. See CONST., §§ 110F(1)-(2). This requirement delays the hiring of Crown Prosecutors. The comparatively low salaries for prosecutors and the small applicant pool also contribute to extended vacancies for Crown Prosecutor positions. Perhaps prosecutors could be hired by the DPP on a temporary appointment and begin working, pending confirmation by the Commission.

The efficiency of Crown Prosecutors could also be aided by the use of a computerized case filing and tracking system, enabling prosecutors to check the status of any case included in the database. Such a database would permit prosecutors and their staff to track information relating to defendants, criminal charges, court proceedings, and witnesses. Crown Prosecutors are also hampered by insufficient support staff. They are often required to handle administrative tasks that could be easily assigned to support staff. Further, prosecutors are not aided by legal interns that could assist in drafting form pleadings and conducting research on complex legal issues. Finally, there is no computerized index or database of laws to assist prosecutors in conducting their legal research. Ultimately, the lack of resources places an enormous strain on prosecutors, resulting in "burnout." Prosecutors often leave the DPP's office after a short tenure, requiring the remaining prosecutors to assume the departing prosecutor's responsibilities and handle his caseload until the attorney vacancy can be filled.

Lack of resources for police investigators is another serious issue contributing to trial delays. For example, if a Crown Prosecutor asks the police investigator to interview other witnesses, he doesn't have access to a police vehicle to help locate the witness. Thus, the police investigator may have to use his personal vehicle or a police bicycle. However, often the police bicycles are in need of repairs.

Prosecutors have an extremely low conviction rate. According to one respondent, approximately 70-80% of cases are lost because of unreasonable court delays and improper investigations. Cases are often dismissed after multiple adjournments, which deprive the accused of a trial within a reasonable time. In other instances, cases are dismissed after witnesses fail to appear for trial. After numerous case adjournments witnesses become frustrated with the court system and refuse to return to trial. Lack of training for police prosecutors also contributes to defense acquittals. Police prosecutors appear in court with no legal training or understanding of the rules of evidence. In short, public prosecutors often lack the legal knowledge and skills to successfully prosecute a case.

Finally, cases are regularly dismissed when witnesses refuse to testify because of threats of death and witness intimidation. For example, the average conviction rate for murder in 1999-2007 is one conviction to ten murders. See CROOK'S REPORT, at 6. Further, according to the Crook's Report, the conviction rate for murder in 2007 was worse. The report states: "Allowing for the lag of 12 months between the reported 92 murders in 2006 and the two convictions in 2007 reveals a ratio of 1 conviction for every 46 murders reported. . . . This is an intolerable situation." *Id.*



Factor 28: Compensation and Benefits

Prosecutors have reasonable compensation and benefits established by law, such as remuneration and pension, proportionate with their role in the administration of justice.

Conclusion

Correlation: Negative

Crown Prosecutors are not adequately compensated, which has created two problems of concern. First, the payment of low salaries makes it difficult to attract and hire experienced attorneys to work in the DPP's office. Second, inadequate compensation has resulted in a relatively high turnover of Crown Prosecutors. The departure of experienced and knowledgeable Crown Prosecutors is a huge detriment to the DPP's office. Police prosecutors are compensated on the same pay schedule as police officers. They receive no extra compensation or benefits for working as police prosecutors. Finally, civilian prosecutors are not adequately compensated.

Analysis/Background:

Based on the 2010 – 2011 budget for the DPP's office, the salary range for prosecutors in 2010 started at BZD 45,528 (approximately USD 23,468) for Crown Prosecutors, BZD 61,260 (approximately USD 31,577) for the Deputy DPP, and BZD 100,000 (approximately USD 51,546) for the DPP.¹⁰ According to respondents, these salaries are substantially less than those earned by private attorneys in Belize. While it is not uncommon for public prosecutors to be compensated less than attorneys working in the private sector, the degree of the salary disparity in Belize is quite high. The lower compensation afforded to Crown Prosecutors has created two serious concerns. First, it is difficult to fill prosecutor vacancies in the DPP's office with experienced lawyers. Occasionally, attorneys are hired shortly after graduating from law school with minimal legal experience. After joining the DPP's office, respondents stated that these inexperienced attorneys are required to litigate serious indictable crimes. Often, the DPP has to recruit lawyers from Caribbean countries outside of Belize. Hiring a foreign lawyer to work in the DPP's office can delay the hiring process. As a result, Crown Prosecutor vacancies are often left open for extended periods of time. If the vacancy was created due to the resignation of a Crown Prosecutor, the inability to fill the vacancy in a timely manner creates additional demands on prosecutors working in the DPP's office. These prosecutors are assigned some of the departing prosecutor's cases, requiring them to manage an extremely heavy caseload until a new prosecutor can be hired. Further, because of the shortage of Crown Prosecutors, pending trials may have to be adjourned until the vacancy is filled. Finally, trial adjournments may result in an extension of the period of incarceration for defendants being held in custody and awaiting a trial.

The low compensation has also created a high turnover of prosecutors in DPP's office. Crown Prosecutors often leave the DPP's office after a relatively short tenure to pursue a more financially lucrative career in private practice. After working in the DPP's office for two or three years, these prosecutors have gained valuable experience and knowledge of the Belize criminal justice system. Often, these prosecutors leave the DPP's office after they have reached a maximum or optimum level of productivity. Thus, the departure of these experienced prosecutors is a significant loss to the DPP's office. This loss is even more pronounced if the departing Crown Prosecutor is replaced with a lawyer with limited legal experience. Finally, while Crown Prosecutors receive other benefits, including medical benefits, these additional forms of compensation do not offset the low salaries.

¹⁰ In this report, Belize dollars are converted to United States dollars at the average rate of conversion at the time when the PRI interviews were conducted (USD 1.00 = BZD 1.94).

Police prosecutors are paid on the same “rank structure” as other police officers. In terms of salary and benefits, police prosecutors are treated no differently than police officers. Thus, there is no financial incentive for a police officer to apply to work as a police prosecutor. Like other police officers, police prosecutors face mandatory retirement at age 55, at which time they may be eligible for a pension. However, the information received to date does not disclose the value or structure of the pension plan. Finally, the compensation for civilian prosecutors is inadequate, attracting applicants with minimal legal training. Civilian prosecutors are only required to have received paralegal training. Because of the low compensation offered, it is difficult to imagine a trained lawyer ever applying to work as a civilian prosecutor.

List of Acronyms

ABA	American Bar Association
ABA ROLI	American Bar Association Rule of Law Initiative
CARICOM	Caribbean Community
CLE	Continuing Legal Education
CPI	Corruption Perceptions Index
DPP	Director of Public Prosecutions
LEC	Legal Education Certificate
FIU	Financial Intelligence Unit
IAP	International Association of Prosecutors
LLB	Bachelor of Law
MOU	Memorandum of Understanding
NGO	Non-Governmental Organization
PRI	Prosecutorial Reform Index
U.S.	United States