# Structure of the Public Prosecution Office in Egypt

**Organization of the Ministry of Justice:**

**First: Departments and Sections:**

1. First Assistant to the Minister of Justice
2. Office of the Assistant to the Minister of Justice for Secretariat Affairs
3. Department of Judicial Inspection
4. Department of Support Agencies, Experts and Medical Examiner
5. Department of Legislation
6. Department of International Cooperation
7. Department of Courts
8. Department of Land Registration
9. Department of Legal Administrations
10. Health and Social Services Fund
11. Court Buildings' Fund
12. Department of Administrative Development, Follow-Up and Planning
13. Department of Conflict Resolution Committees
14. Central Department for the Budget of Judicial Bodies
15. Department of Human Rights
16. Department of the People's Assembly and the Consultative (*shura*) Council
17. Department of Continuity and Achievement
18. Judicial Information Center
19. Department of Illegal Gains
20. Department of Pensions
21. Arbitration
22. National Center for Judicial Studies
23. General Secretariat for the Supreme Council of Judicial Bodies

President of the Supreme Court

President of the Court of Cassation

President of the Council of State

President of the Cairo Court of Appeals

Attorney General

Director of the Office of Administrative Prosecution

Most Senior Deputies to the President of the Council of State

President of the Cairo Court of First Instance

The President of the Republic may appoint two other members to the Council, who had previously worked at judicial bodies in the capacity of at least a justice or an equivalent position. Their appointment shall be for three years renewable. The council shall have the following competencies:

1. The competencies prescribed for the Supreme Judicial Council and the Supreme Advisory Council for Prosecutions pursuant to the provisions of the Judicial Branch Law, passed by virtue of said Law No. 43 of 1965 or by virtue of any other law.

2. The competencies prescribed for the Special Council for Administrative Affairs at the Council of State, or for the General Assembly thereof, with respect to its member's affairs pursuant to the Council of State Law passed by virtue of said Law No. 55 of 1959 or any other law.

3. The competencies prescribed for the Supreme Council at the Government Cases Department pursuant to the State Cases Management Law, passed by virtue of said Law No. 117 of 1958 with regard to the appointment and promotion of the administrative prosecution members.

**Third: The Judicial Bodies**

1. The Supreme Constitutional Court

2. The Judicial Branch (the Judiciary – the Public Prosecution)

3. The Council of State (Administrative Courts – *Fatwa* [religious decrees] – Legislation)

4. Administrative Prosecution Body

5. State Cases Body

**Fourth: Supreme Judicial Council**

The Supreme Judicial Council is presided over by the Chief Justice of the Court of Cassation, and is composed of the following members:

-- Chief Justice of the Cairo Court of Appeals

-- Attorney General

-- Two most senior deputies to the Chief Justice of the Court of Cassation

-- Two most senior chief justices of the other Courts of Appeals

The jurisdiction of the Supreme Judicial Council is to review everything concerning the appointment, promotion, transfer, delegation and secondment of judges and attorney generals, as well as all their affairs. Its opinion must be taken into consideration in any draft laws relating to the judiciary and public prosecution.

**Fifth: The Courts**

The courts consist of the following:

- Court of Cassation
- Courts of Appeals
- Courts of First Instance
- Summary Courts

* **The Court of Cassation:** It is located in Cairo. It consists of 363 members, and 34 divisions. The court of cassation is composed of a chief justice and a sufficient number of deputy chief justices and justices. It has divisions to review criminal matters and others to review civil, commercial, personal status and other matters. Each division therein is headed by the court's chief justice or any one of his deputies. If necessary, a division may be headed by the most senior justice thereat. Judgments are issued by five justices.

**Court of Cassation's Technical Office** **The office has 45 members.**

-- At the court if cassation, there is a technical office in charge of legal principles. It is composed of a head who is chosen from among the justices of the court and a sufficient number of members at the level of justice, presiding judge or judge, or the equivalent thereto. The delegation of the head and the members shall be by decision from the Minister of Justice for a period of one year renewable with the approval of the Supreme Judicial Council, upon recommendation by the chef justice of the Court of Cassation.

The office shall be responsible for the following:

1. Gathering the legal principles established by the Court by the judgments rendered by it, and categorizing them and overseeing the publication thereof after they have been presented to the head of the issuing division.
2. Issue the collection of judgments and the legislative bulletin.
3. Supervise the work of the library.
4. Prepare technical research.
5. Supervise the Court's docket, and submit similar and connected appeals, or those for which a decision thereon requires the stipulation of one legal principle, to the Court's chief justice for review before one of the Court's divisions.

6. All other matters that the Chief Justice is requested to do.

**Cassation Prosecution**: The number of members at the Cassation Prosecution is 155.

-- The function of public prosecution at the Court of Cassation is performed by an independent public prosecution composed of a director to be selected from at the least the justices of the Court of Cassation or Court of Appeals, or solicitors general. He is assisted at the least by an adequate number of members at the level of distinguished district attorney. Upon the request of the court, it [the prosecution] has the right to attend deliberations at the civil, commercial and personal status divisions. Its representative does not have a counted vote in the deliberations.

* **Courts of Appeals**: There are 8 courts of appeals throughout the Republic. Each one is composed of a chief justice and a sufficient number of chief justices, deputy chief justices, heads of divisions, and justices. Judgments are issued by three justices.

-- In every court of appeals, a number of divisions are established which are responsible for handling specific types of cases.

-- For example, at the Cairo Court of Appeals, there are 169 divisions as follows:

1. Divisions responsible for review of felonies. Their number is 70.
2. Divisions responsible for review of rent disputes. Their number is 18.
3. Divisions responsible for review of compensation disputes. Their number is 16.
4. Divisions responsible for review of civil disputes. Their number is 21.
5. Divisions responsible for review of contract disputes. Their number is 7.
6. Divisions responsible for review of real estate disputes. Their number is 4.
7. Divisions responsible for review of bond disputes. Their number is 1.
8. Divisions responsible for review of personal status disputes. Their number is 5.
9. Divisions responsible for review of labor disputes. Their number is 10.
11. Divisions responsible for review of commercial disputes. Their number is 9.
12. Divisions responsible for review of tax disputes. Their number is 8.

*** Courts of First Instance: There are 22 courts.**

-- In every one of the Republic's governorates, there is a Court of First Instance, located in the governorate's capital.

-- Every court of first instance is composed of a sufficient number of presiding judges and judges. For its presidency, a justice of the Court of Appeals located in the same circuit as the Court of First Instance, shall be delegated as its presiding judge.

-- In every court of first instance, there are a sufficient number of divisions. Each one is headed by the Court's presiding judge or any one of the presiding judges thereat. When necessary, it may be presided over by one of the court's judges. Judgments are issued by three judges.

-- For example, at the North Cairo Court of First Instance, there are 281 divisions responsible for review of specific types of cases:

1. Divisions responsible for review of civil disputes, general jurisdiction. They are 29 in number.

2. Divisions responsible for review of civil disputes, general jurisdiction, government. They are 7 in number.

3. Divisions responsible for review of civil disputes, appealed. They are 5 in number.

4. Divisions responsible for review of validity of signature disputes. They are 109 in number.

5. Divisions responsible for review of disputes involving complaints from court fees. They are 1 in number.

6. Divisions responsible for review of rent disputes. They are 26 in number.

7. Divisions responsible for review of disputes involving rent appeals. They are 1 in number.

8. Divisions responsible for review of compensation disputes. They are 9 in number.

9. Divisions responsible for review of labor disputes, general jurisdiction. They are 7 in number.

11. Divisions responsible for review of labor disputes, appealed. They are 3 in number.

12. Divisions responsible for review of tax disputes. They are 10 in number.

13. Divisions responsible for review of commercial disputes, general jurisdiction. They are 11 in number.

14. Divisions responsible for review of commercial disputes, appealed. They are 1 in number.

15. Divisions responsible for review of bankruptcy disputes. They are 2 in number.

16. Divisions responsible for review of bankruptcy procedure disputes. They are 2 in number.

17. Divisions responsible for review of investment disputes. They are 6 in number.

18. Divisions responsible for review of personal identity disputes, general jurisdiction. They are 12 in number.

19. Divisions responsible for review of personal identity disputes, appealed. They are 9 in number.

20. Divisions responsible for review of religious minority disputes, general jurisdiction. They are 2 in number.

21. Divisions responsible for review of religious minority disputes, appealed. They are 1 in number.

22. Divisions responsible for review of money disputes. They are 10 in number.

23. Divisions responsible for review of misdemeanor disputes, appealed. They are 18 in number.

*** Summary courts: There are 240 summary courts.**

-- Within the area of jurisdiction of every court of first instance, there are a number of summary courts. Judgments issued in summary courts are from a single judge.

-- For example, at the North Cairo Court of First Instance, there are 169 summary divisions, each of which is responsible for review of specific types of cases:

1. Divisions responsible for review of civil disputes. There are 24 divisions.

2. Divisions responsible for review of validity of signature disputes. There are 24 divisions.

3. Divisions responsible for review of commercial disputes. There are 4 divisions.

4. Divisions responsible for review of labor disputes. There are 6 divisions.

5. Divisions responsible for review of disputes involving complaints. There are 12 divisions.

6. Divisions responsible for review of sales disputes. There are 3 divisions.

7. Divisions responsible for review of personal status disputes, personal identity. There are 30 divisions.

8. Divisions responsible for review of personal status disputes, religious minorities. There are 8 divisions.

9. Divisions responsible for review of personal status disputes, money. There are 8 divisions.

11. Divisions responsible for review of misdemeanor disputes. There are 50 divisions.

**Fifth: The Public Prosecution**

-- The public prosecution exercises the competencies granted it by law. It alone has the right to bring a criminal action and prosecute it, unless otherwise provided for by law.

-- The function of the public prosecution before the courts – except the Court of Cassation -- is carried out by the Attorney General or anyone of the assistant attorney generals, first solicitors general, solicitors general, chief district attorneys, their deputies, assistants or aides.

-- In the absence of the Attorney General, or in the event of a vacancy in that position, or if there is something that prevents him from carrying out his function, he shall be replaced by the most senior assistant Attorney General, who shall have all the powers of the Attorney General.

-- At every court of appeals, there shall be a solicitor general, who, under the supervision of the Attorney General, shall have all the rights and powers of such Attorney General as set forth in the laws.

-- The members of the prosecution work under their chiefs according to their rank, then under the Attorney General. The Minister of Justice shall have the authority of administrative oversight over the public prosecution. “Administrative Subordination”

-- The Attorney General is the one entrusted with prosecuting public cases, representing society in moving criminal cases and pursuing their course in the court system until final judgment is rendered. His jurisdiction is general consisting of the authority to investigate and

indict. Such jurisdiction covers the entire Republic, and all types of crimes whatever they may be.

-- The Attorney General is appointed from among the chief justices of the courts of appeals, justices of the court of cassation, or first solicitors general at the least, pursuant to a decision by the President of the Republic.

-- The Attorney General is a member of the judicial branch who is irremovable. He is a member of the Supreme Judicial Council.

-- The Attorney General oversees the affairs of the office of public prosecution. He holds judicial and administrative presidency over its members.

-- The Attorney General has the right to carry out his functions by himself. Moreover, he has the right – outside the scope of his sole jurisdiction – to assign any one of the prosecution members who are legally entrusted with assisting him or performing these functions on his behalf.

-- In addition, he may grant the members of the special prosecution jurisdiction covering the Republic in certain types of crimes.

-- The Attorney General by himself or by special proxy from him, carries out the following functions:

(A) Initiate a criminal action against employees, public servants, or policemen, for any misdemeanors committed by them while performing their jobs or as a result thereof, except those crimes set forth in Article 123 of the Penal Code. And this may be carried out by the solicitor general or head of the prosecution.

(B) Initiate a criminal action for those crimes set forth in Article 116 repeated (a) of the Penal Code, which crimes involve public employee negligence that results in serious harm to the assets and interests of the agency such employee is working for or entrusted with. The solicitor general may also perform this function.

(C) Initiate a criminal action for those crimes provided for in Article 116 repeated, 116 repeated (a) and 116 repeated (b) of the Penal code, with respect to members of boards of directors of companies subject to the provisions of the General Business Sector Law No. 203 of 1991. This function may also be carried out by the assistant Attorney General and first solicitor general for the appellate prosecution.

(D) Revoke the order issued by the public prosecution that there are no grounds for initiating a criminal action during the three months following the issuance thereof, unless a decision was issued by the appealing criminal court or misdemeanor court convened in the consultative chamber (as the case may be) to deny the appeal that was brought in this matter.

(E) Request the re-consideration of the final judgments in the manner set forth in Article 441 *et seq.* of the Criminal Procedure Code.

(F) Challenge the orders issued by the scrutiny and investigation bodies in cases of illegal gains stating lack of [grounds] to initiate a criminal action, and the procedures set forth in Law No. 62 of 1975 concerning illegal gains.

(G) Appeal the judgments issued in criminal cases by the summary court in misdemeanors and violations within a period of thirty days as of the date the judgment was issued. He has the right to decide to appeal by filing with the clerk of the court of jurisdiction.

(H) To appeal final judgments by way of cassation in the interest of law, irrespective of the issuing court in the situations stated in Article 250 of the Civil Procedure Code.

(I) Take the necessary measures to guarantee the conclusion of the investigation, in the event the defendant has been in preventive custody for three months.

(J) Submit a request for obtaining permission from the Supreme Judicial Council to arrest a judge or a member of the prosecution and place him in preventive custody; or take whatever measures are needed to investigate him; or initiate criminal action against him on a felony or misdemeanor charge.

(K) Submit a request for obtaining permission from the body from which the relevant disciplinary council was established, for the purpose of arresting any member of the Council of State at the level of delegate or above and to place that delegate in preventive custody; or take whatever measures are needed to investigate him; or initiate criminal action against him on a felony or misdemeanor charge.

(L) Initiate disciplinary action against judges upon the request of the Minister of Justice automatically or upon the suggestion of the presiding judge of the court with which the judge is affiliated. In addition, he may initiate that action against members of the public prosecution upon the request of the Minister of Justice.

(M) Order the arrest of a member of the State Cases Body, or place him in preventive custody, or initiate criminal action against him if such member has committed a crime while present in a session performing his duty or as a result thereof. Similarly, any assistant attorneys general or first solicitor general of the appellate prosecutions may do the same.

(N) Initiate a criminal action against an attorney if, while present at a hearing performing his duty or as result thereof, such attorney disrupts the order of the hearing, or does anything that results in his being criminally accountable. Similarly, any first solicitor general of the appellate prosecution may do the same.

(O) Request the lifting of immunity from the members of the People's Assembly and Consultative Council in accordance with Articles 99 and 205 of the Constitution.

(P) Issue a temporary restraining order against a defendant, his spouse or minor children, not allowing them to dispose of, or manage, their assets, when necessary and in cases of expediency. He will present this matter to the relevant criminal court at the legally prescribed time, moving for a judgment

barring any disposal or management of such assets. This is in cases where the investigation has produced sufficient evidence to indict on any of the crimes set forth in Article 208 repeated (a) of the Criminal Procedure Code.

(Q) Request to obtain an order from the Cairo Court of Appeals to examine any data or information related to accounts, deposits, trusts or safes as provided for in the first and second articles of the Decree-Law No. 205 of 1990 concerning the secrecy of bank accounts or transactions relative thereto, in cases where it is permissible pursuant to the aforementioned law. He has the right to notify the bank and those concerned, as the case may be, of the order issued by the court in this regard. Moreover, he may assign any one of the solicitors general to take these measures.

(R) Order the taking of the measures stated above in the immediately preceding paragraph if needed to reveal the truth in any of the crimes set forth in the first section of the second chapter of the second book of the Penal Code (Crimes of Terrorism).

He has the right to assign any one of the solicitors general.

-- The first solicitor general for the appellate prosecution shall, within the scope of his jurisdiction, exercise all the powers granted to the attorney general in accordance with the laws, whether those that he exercises by virtue of his job or his qualification.

-- Furthermore, the Attorney General, in order to fulfill the requirements of judicial and administrative oversight of the public prosecution and officers of the judicial police, has the following competencies:

(A) Transfer members of the prosecution at the court division where they are appointed.

(B) Assign members of the public prosecution outside the court where they are appointed for a period not to exceed six months.

(C) Assign any one of the heads of prosecution offices to carry out the work of the solicitor general for the general jurisdiction prosecution for a period not to exceed four months. The assigned head of prosecution in this case shall have all the powers legally granted to the solicitor general.

(D) Suggest specifying the residences of the prosecution members, and transferring them to places other than the general jurisdiction prosecution with which they are affiliated.

(E) Admonish the prosecution member who exhibits a minor failure in his job performance after taking his statement in that regard. This admonition may be done orally or in writing.

(F) Initiate a disciplinary action against members of the prosecution upon the request of the Minister of Justice. The Attorney General has the right to

suspend the prosecution member who is being investigated until a decision is taken in the disciplinary action.

(G) Request a review of a matter concerning any officer of the judicial police, if such officer has violated his duties or was negligent in his work. Moreover, he has the right to initiate disciplinary action against him.

(H) Notify the Minister of Justice of the public prosecution's observations concerning the supervision of prisons and other places where criminal sentences are executed.

(I) Exercise the authorities of the Minister and Deputy Minister as provided for in the laws and regulations with respect to public prosecution personnel.

(J) Request the initiation of disciplinary action against employees of the offices of the prosecution, suspending them from work and permitting them leaves, and penalizing the clerks of prosecution offices by admonishing them and deducting from their salaries, in the manner stated in the chapter on employee affairs in the general clerical, administrative and fiscal guidelines issued in 1979.

**Assistant Attorneys General: There Is One Assistant Attorney General:**

-- Assistant attorneys general are appointed pursuant to a decision by the President of the Republic. They carry out the functions with which they are entrusted or such responsibilities as delegated to them by the Attorney General.

-- The most senior assistant attorneys general substitutes for the Attorney General, and has all his powers. This is in the event the Attorney General is absent or there is are reasons preventing him from carrying out his function.

-- The assistant attorney general presides over a committee at the office of public prosecution composed of himself, the director of the department of offices of public prosecution and its secretary-general, and the director of personnel affairs. This committee has the power to propose suggestions for anything concerning the clerks of the office of public prosecution, covering appointments, promotions, and raises. In addition, it is responsible for testing the clerks at the prosecution offices of the courts of appeals and the court of cassation with regard to promotions to category I.

**First Solicitors General for the Prosecution Offices at the Appeals Courts: There are 8 First Solicitors General[1]**

-- At every appeals court there is a first solicitor general, whose appointment is pursuant to a decision by the President of the Republic.

-- The first solicitor general has within his venue jurisdiction, all the judicial rights and competencies of the Attorney General. He exercises these rights and competencies under the

[1] In addition to 7 first solicitors general within the organization of the Department of Judicial Inspection.

Attorney General's supervision considering that he is the party who initiates public cases and is responsible for everything related thereto.

-- The first solicitor general exercises the regular powers granted to the public prosecution within his venue jurisdiction. In this regard, he is on an equal footing with the rest of the prosecution members. He also has the right to monitor and supervise the prosecution members who are lower in rank and report to him.

-- The first solicitor general takes part in disciplinary councils for court personnel. This takes place at the Court of Cassation and in every one of the Courts of Appeals.

**Solicitors General: There are 45 throughout the Republic[2]**

-- Each solicitor general, within the jurisdiction of the court to which he is appointed, exercises all the powers granted to the Attorney General in moving and prosecuting criminal cases. Any one of them may pursue any procedure that falls within the extraordinary powers of the Attorney General, provided that such solicitor general obtains a special mandate from the Attorney General restricting him to that specific procedure for which the mandate was issued

-- The solicitor general, within the jurisdiction of the court to which he is appointed, has the right to monitor and supervise the members of the prosecution at that court.

-- The solicitor general may assign a member of the prosecution in his jurisdiction to do the work of another member in that jurisdiction when necessary. It is sufficient for this assignment to be done orally, provided that he has proof that he received the case papers. This shall be done on condition that the Department of Judicial Inspection at the office of the prosecution is advised of the decision to assign immediately upon the issuance thereof and the exigencies that required the issuance of said decision.

If the solicitor general sees fit, in an event different from the aforementioned one, to assign a prosecution member in his jurisdiction to work in another office of prosecution within the same jurisdiction, he must inform said department of inspection in order to have the necessary decision issued therefor by the Attorney General.

-- The clerks at each office of prosecution work under the supervision of the head of the criminal bureau at that office. They all work under the solicitor general or whomever is acting on his behalf.

-- The solicitor general, or whoever is acting on his behalf at the court of first instance, participates in the disciplinary councils for the personnel of such court or the offices of prosecution located within its jurisdiction.

-- The solicitor general has the right to request the initiation of a disciplinary action with respect to employees of the offices of prosecution; as well as the right to penalize the clerks of these offices who are working under him by admonishing them and deducting from their salaries; as well as allowing them leaves of absence, in accordance with the procedures and limits set forth in the personnel affairs chapter in the secretarial, financial, and administrative guidelines issued in 1979.

[2] In addition to 20 solicitors general within the organization of the Department of Judicial Inspection.

-- The solicitors general, or whoever is acting on their behalf, within the area of jurisdiction of the courts to which they are appointed, have the authority to exercise some of the powers provided for exclusively in the law. Most important of these powers are the following:

(A) Initiate criminal actions in criminal matters by referring them directly to the criminal court, supreme state security court, or juvenile court – as the case may be – accompanied by an indictment to which is attached a list containing the purport of witnesses' statements.

(B) Initiate criminal actions against employees, public servants or policemen, for misdemeanors that they have committed while performing their duties, or as a result thereof, except those crimes referred to in Article 123 of the Penal Code. The head of the office of prosecution also has this authority.

(C) Issue orders that there is no basis for initiating a criminal action.

(D) Revoke criminal orders issued by the heads of prosecution offices, or district attorneys, due to a misapplication of the law. This must take place within the time prescribed by law.

(E) Issue temporary decisions with cause, in possession disputes, whether civil or criminal. The head of the office of prosecution also has this authority.

**Heads of Offices of Prosecution, District Attorneys, Assistant District Attorneys and Aides to District Attorneys:** There are 3441 members of the prosecution throughout the Republic.

-- Heads of offices of prosecution, district attorneys and assistant district attorneys, each within his venue jurisdiction, exercise all the regular powers in moving criminal cases and prosecuting them, except those that are specifically assigned exclusively by law to one of the members of the prosecution. Any one of them may commence any procedure which falls within the extraordinary authorities granted to the Attorney General, provided he obtains a special authorization therefrom limiting him to that procedure for which the authorization was issued.

-- The heads of prosecution offices, within their venue jurisdiction, have the competency to exercise some of the powers set forth in the laws, most important of which are the following:

(A) Initiate criminal actions against employees, public servants or policemen, for misdemeanors that they have committed while performing their duties, or as a result thereof, except those crimes referred to in Article 123 of the Penal Code.

(B) Revoke criminal orders issued by district attorneys due to a misapplication of the law. This must take place within the time prescribed by law.

(C) Endorse the reasons for the appeal brought by the prosecution at the court of cassation.

-- The deputies to the Attorney General alone have the authority to issue criminal orders in violations and certain misdemeanors. This authority is limited to them and not other members who are lower to them in rank.

-- Aides of the prosecution, just like all the members thereof, have the authority to perform their functions before the courts – except the court of cassation. They may represent the prosecution before these courts, and present motions and arguments.

-- Aides of the prosecution do not have the authority to conduct preliminary investigations without a prior assignment. However, he may be assigned to investigate a case in its entirety, at which time he would be implementing all the investigation procedures including the interrogation of the defendant. The investigation that he conducts would be akin to a judicial investigation and would not differ in terms of effect and value from the investigation conducted by other prosecution members.

## The Course of a Criminal Case at the Public Prosecution

-- After the prosecution receives a report or notification of an incident, or a report on the evidence gathered and the investigation that was done in matters that warrant investigation, an action is initiated if the evidence to indict is sufficient to increase the likelihood of getting a conviction. But if the case papers are devoid of indicting evidence, or if the evidence is not likely get a conviction, the case is dismissed or a decision is made thereon indicating lack of grounds to initiate action as the case may be.

**In Matters of Misdemeanors and Violations:** The action is initiated by summoning the defendant to appear in the summary court. However, if the crime was a misdemeanor that was committed by way of the press or other means of publication, excluding misdemeanors that are injurious to persons, the action is initiated before the criminal court by referral from the solicitor general.

-- For actions brought before misdemeanors and violations courts, the summons to appear that is served upon the defendant may be disregarded. Such is the case if he were present at the hearing and was officially charged by the prosecution prior to trial.

-- A criminal action is not considered initiated simply because the prosecution officially endorsed its submission to the court. The reason for this is that such endorsement is nothing more than an administrative order sent to the prosecution's clerk's office to prepare the summons to appear. Even if such summons were prepared and served in accordance with the law, it would have various legal implications.

-- A case does not leave the hands of the prosecution, until a summons is given to the defendant to appear in court. If the prosecution orders the transfer of the case to the court without serving a summons to appear, it has the right to refrain from transferring the case to the court and return to the investigation and disposal of the case papers in light of any new facts, and to issue an order of lack of grounds to initiate the criminal action.

-- The consequence of initiating a criminal action by way of a summons to appear before the court is connecting the sentencing authority with the case, and the lapse of the prosecution's right to conduct the initial investigation with respect to the defendant who is to be tried for the incident itself. Whatever the prosecution does after that is considered non-probative with regard to said incident.

This does not preclude the prosecution, as an evidence-gathering authority, from doing whatever it deems necessary, whether by itself or through the commissioner of the judicial police. It submits the evidence report to the court.

-- The dates for hearings in cases brought before the misdemeanors and violations court are set by members of the prosecution themselves. This is not left to the clerks.

Consideration should be given to setting proximate hearing dates for cases that require expediency, such as cases that involve incarcerated defendants or cases related to crimes that are detrimental to the public welfare, and in compliance with the provisions of Article 276 repeated of the Criminal Procedure Code, which requires the review of cases concerning those crimes set forth in the Article, in a hearing that takes place within two weeks of the date it was referred to the competent court.

**In Criminal Matters**

-- If the prosecution member sees fit to initiate a criminal action in criminal court, he must then send the case to the solicitor general accompanied by a list containing the purport of witnesses' statements and prosecuting evidence, signed by him, in addition to an indictment for the solicitor general to sign.

-- The indictment must show the name of the defendant, his place of residence, a description of the crime with which he is charged, the date of commission of said crime, and the applicable articles of law.

-- The solicitor general himself studies important criminal cases; and as necessary has the right to assign the heads of prosecution offices to study it and submit it to him. In addition, he has the right to distribute among them, and among the rest of the general jurisdiction prosecution, all other cases for study and submission to him to take action on them.

Moreover, he must complete whatever deficiencies may exist in these cases from the aspects of investigation, and to correct whatever errors and inaccuracies may exist in the registration and description thereof.

-- The initiation of a criminal action in criminal matters, by its referral from the solicitor general or whomever is acting on his behalf, to the criminal court, is done by an indictment showing the crime with which the defendant is charged of committing and the elements of that crime, all the aggravating or mitigating circumstances that are to be considered during the penalty phase, and the applicable articles of law. The indictment is to be accompanied with a list containing the purport of witnesses' statements and prosecution evidence.

The solicitor general automatically appoints an attorney for every defendant in a felony case who has been ordered transferred to the criminal court, in the event such defendant had not retained an attorney to defend him.

The prosecution informs the litigants of the order issued by the solicitor general to transfer the case to the criminal court or the supreme state security court within ten days of the issuance thereof.

-- Immediately upon the solicitor general's issuance of the order to transfer the case to the criminal court, the case file is sent to the court of appeals to set a date for it to be reviewed before the competent court. If the defense requests a time to read the case file, the prosecution sets a time for it not to exceed ten days during which the case file remains at the clerk's office until such time when it is possible for the defense to read it but not remove anything from it.

**Initiation of an Action Through Direct Prosecution**

-- A criminal action may be initiated through direct prosecution in misdemeanors and violations, even if such misdemeanors were defined by law as being exceptional cases that fall within the jurisdiction of the criminal court. These are misdemeanors committed by way of the press or other means of publication excluding misdemeanors that are harmful to persons. Excluded from that are the following:

1. Crimes that are committed outside the Republic, whereby the right to move such criminal cases is restricted to the prosecution alone.

2. Cases brought against an employee, public servant or any police officer, for a crime committed by them during the performance of their duties or as a result thereof, except those crimes provided for in Article 123 of the Penal Code, e.g. when a public employee uses the authority of his position to suspend the execution of orders issued by the court, or the provisions of the laws and regulations, or delay the collection of assets and fees, or suspend the execution of a judgment or order issued by the court or by any competent entity, and such public employee deliberately refrains from executing any of the aforesaid judgments or orders upon the lapse of eight days of his admonition by a process server, provided that the execution of such judgment or order falls within the responsibilities of such employee.

3. Orders issued by the investigating judge or the prosecution that there would be no grounds to initiate an action if the prosecutor for civil rights has not appealed such order within the prescribed time or has appealed it and it was upheld by the appellant misdemeanor court while in session in the deliberating chamber.

-- The direct case is initiated through a summons to appear served by the prosecutor for civil rights. If this summons is not served, the case does not come into the jurisdiction of the court. The summons to appear must include the civil rights claim and it must be done in accordance with the prescribed rules for service to the litigants as set forth in Article 123 *et seq.* of the Criminal Procedure Code.

-- When a criminal case proceeds, it becomes the undertaking of the prosecution alone as a matter of right, and not the prosecutor of civil rights. This is with respect to all who have moved it before them, and not the court's carrying out of the civil rights prosecutor's motions with regard to the criminal case under review.

-- Criminal cases may not be initiated through direct prosecution before juvenile courts, military courts and state security courts, as the law did not grant these courts the jurisdiction to decide civil cases adjoined with criminal cases. It did not allow originally for these courts to accept civil cases.

**The Investigation by the Public Prosecution**

-- The prosecution member commences the investigation after receiving information or notification, or receipt of the evidence gathering report, and reading such report and transferring the contents thereof to an investigation report. The investigation of the defendant commences by questioning him verbally about the charge attributed to him after advising him of such charge and the punishment therefor, and that the public prosecution is the agency that is conducting the investigation. If the defendant confesses to the charge, the prosecution member begins interrogating him in more detail while bearing in mind to highlight whatever points would

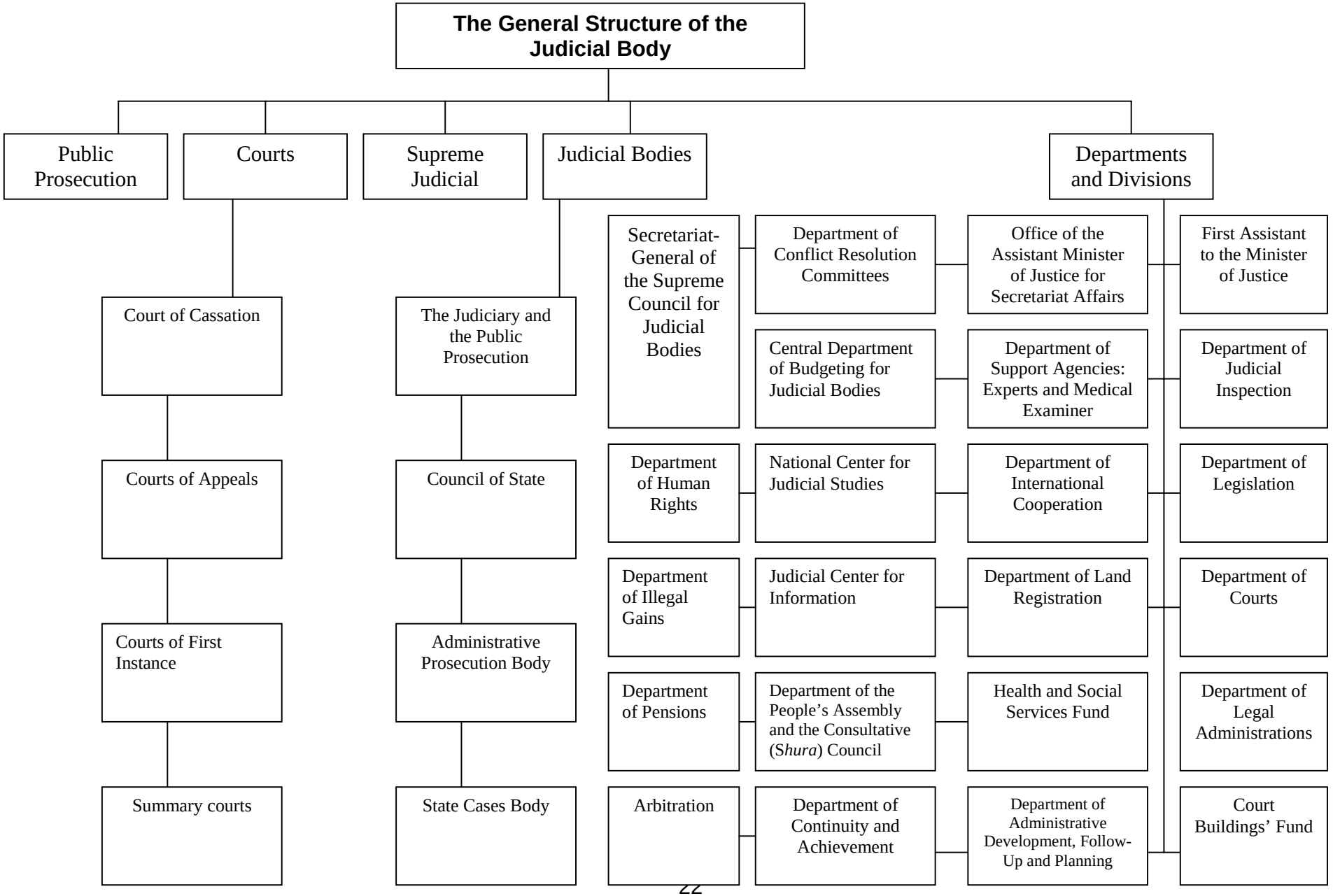
reinforce the confession. If the defendant denies the charge, the prosecution member would ask him whether he had something to present in his defense, and if he had witnesses for his defense that he would like call upon. This defense and the names of the witnesses are recorded in the report.

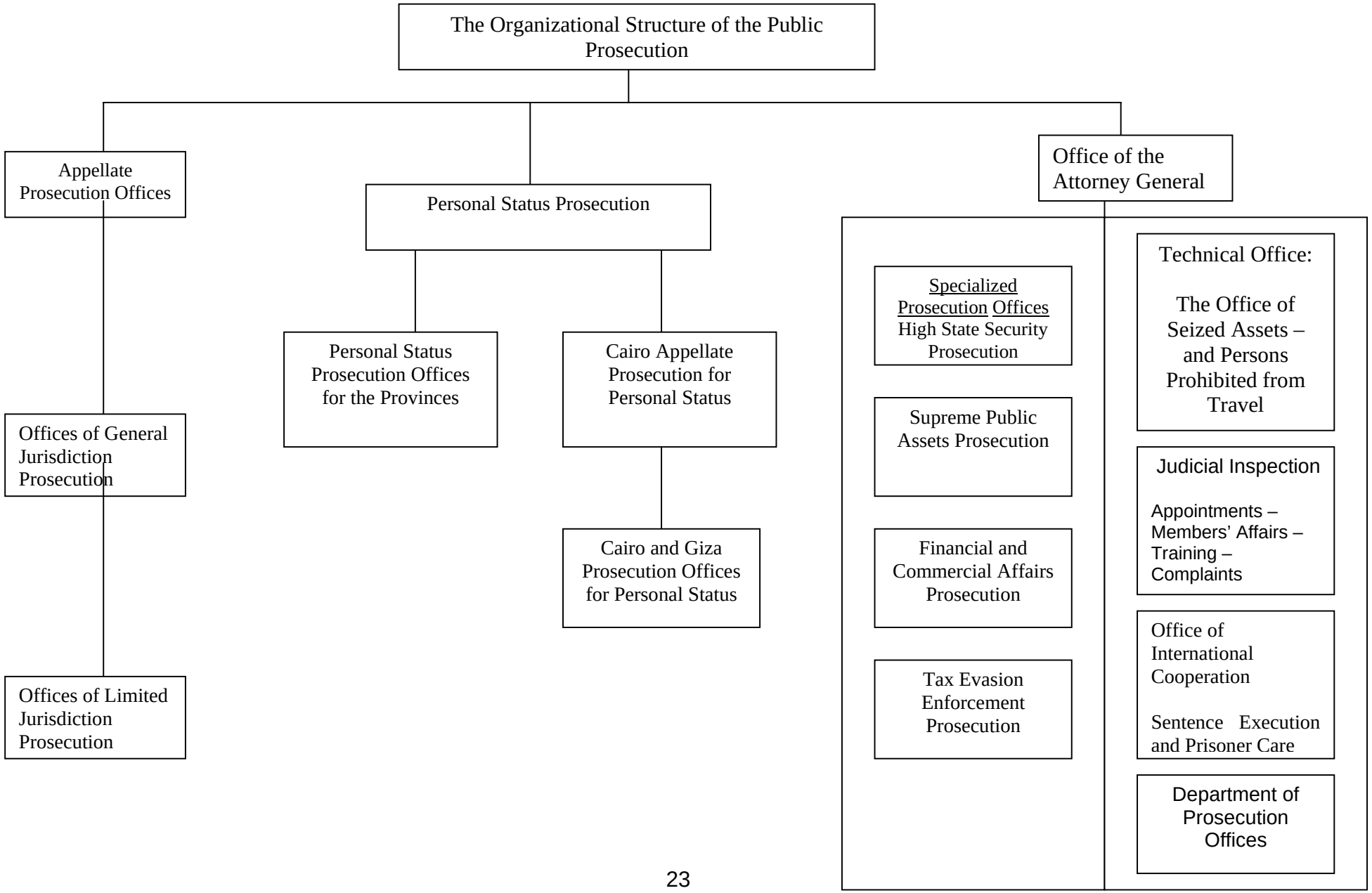
Thereafter the prosecution member asks the defendant whether he wants to call upon other witnesses. If he decides that he does not have other witnesses, that is recorded in the report as well. Then the prosecution member orders that all the witnesses called by the defendant are summoned immediately, and they are asked to wait in a secluded place until their turn comes to be questioned. The investigation is completed by questioning the witnesses for the prosecution in the order of their importance. The prosecution member talks with them to elicit their statements and determine to what extent they are truthful. He confronts them with whatever statements they made in the evidence gathering report that are inconsistent with what they testified to before him. He discusses the matter with them. He has the right not to re-open the questioning of those persons who were questioned previously as witnesses in the evidence gathering report, if such witnesses had not testified to anything material, thus making it useless to re-question them.

Whenever there is mention of a name of a person who may possibly have information about the incident, he is summoned immediately and questioned about his information. Then he interrogates the defendant – this is in the event he had not initiated his interrogation after questioning him verbally about the charge attributed to him and getting his [the defendant's] confession -- by confronting him with the evidence established against him. He asks him if he has anything to refute it, then he records in the report the defendant's defense, if such defense exists. The prosecution member must begin by hearing the witnesses for the defense immediately after concluding the interrogation of the defendant to avert any subornation of the witnesses in such a way so as to conform with the defendant's statements. There should not be any delay in hearing their testimonies based on the fact that the defendant is incarcerated, as it would not be difficult, neither upon him nor his family, to contact these witnesses. It is also to be taken into consideration to confront defendants with witnesses with respect to inconsistencies in their statements.

Thereafter, the investigation is completed by making use of experts, or conducting surveillance and inspection if necessary.

Upon the conclusion of the investigation, the necessary action is taken on it in misdemeanors, violations and felonies, as the case may be.


The General Structure of the Judicial Body
Public Prosecution
Courts
Supreme Judicial
Judicial Bodies
Departments and Divisions
Court of Cassation
Courts of Appeals
Courts of First Instance
Summary courts
The Judiciary and the Public Prosecution
Council of State
Administrative Prosecution Body
State Cases Body
Secretariat-General of the Supreme Council for Judicial Bodies
Department of Human Rights
Department of Illegal Gains
Department of Pensions
Arbitration
Department of Conflict Resolution Committees
Central Department of Budgeting for Judicial Bodies
National Center for Judicial Studies
Judicial Center for Information
Department of the People's Assembly and the Consultative (Shura) Council
Department of Continuity and Achievement
Office of the Assistant Minister of Justice for Secretariat Affairs
Department of Support Agencies: Experts and Medical Examiner
Department of International Cooperation
Department of Land Registration
Health and Social Services Fund
Department of Administrative Development, Follow-Up and Planning
First Assistant to the Minister of Justice
Department of Judicial Inspection
Department of Legislation
Department of Courts
Department of Legal Administrations
Court Buildings' Fund


The Organizational Structure of the Public Prosecution
Appellate Prosecution Offices
Offices of General Jurisdiction Prosecution
Offices of Limited Jurisdiction Prosecution
Personal Status Prosecution
Personal Status Prosecution Offices for the Provinces
Cairo Appellate Prosecution for Personal Status
Cairo and Giza Prosecution Offices for Personal Status
Office of the Attorney General
Specialized Prosecution Offices
High State Security Prosecution
Supreme Public Assets Prosecution
Financial and Commercial Affairs Prosecution
Tax Evasion Enforcement Prosecution
Technical Office:
The Office of Seized Assets – and Persons Prohibited from Travel
Judicial Inspection
Appointments – Members' Affairs – Training – Complaints
Office of International Cooperation
Sentence Execution and Prisoner Care
Department of Prosecution Offices

## Principal Activities of the Public Prosecution

### Activities of the Appellate Prosecutions – General – Limited Jurisdictions

- Investigate cases according to jurisdiction
- Administer the revenue
- Prepare opinion memoranda
- Take action on the grievances
- Express legal opinion
- Examine cases involving the taking of opinion
- Set hearing dates, and prepare therefor and appear thereat
- Record, review and appeal sentences
- Follow-up on the carrying out of judicial inspection work
- Execute sentences

### Specialized Offices of Prosecution at the Attorney General's Office

- Investigate specialized cases in accordance with the law: "High State Security – Public Assets – Tax Evasion – Financial and Commercial Affairs"
- Examine the handling of cases that are being investigated by the offices of limited jurisdiction prosecution or come from the offices of general jurisdiction prosecution
- Set hearing dates, and prepare therefor and appear thereat
- Record, review and appeal sentences
- Execute sentences

### Activities of the Technical Office – Judicial Inspection – International Cooperation "Office of the Attorney General"

- Investigate important cases
- Review grievances and petitions
- Activities concerning the seizure of assets and following-up with the management of such seized assets
- Activities regarding the prohibiting of persons from travel and awaiting their arrival

- Appointments
- Member's Affairs: Vacations – Assignments -- Secondment – Transfer – Promotions
- Technical Inspection
- Prepare periodicals
- Prepare statistics
- Complaints
- Training

- International Judicial Criminal Cooperation
- Execution of sentences
- Care of Prisoners

### Administrative Support Activities for the Prosecution Members

- Archive work: Outgoing – Incoming
- Record in logbooks and tables
- Maintain case files
- Appear at hearings and record decisions and sentences
- Claims – Financials – Administrative and Secretarial Activities

### Activities of the Department of the Offices of Prosecution at the Attorney General's Office

- Appointments and administrative employee affairs
- Create employee records and maintain their files
- Prepare the financial budget and follow-up with its implementation
- Manage the activities of administrative inspection
- Salaries – Accounting – Purchases – Warehouses

[TRANSLATION]

