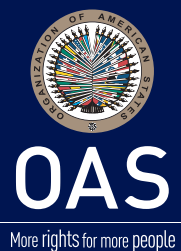


OPERATIONAL GUIDE

FOR THE PROTECTION OF VICTIMS,
WITNESSES, EXPERTS, AND OTHER ACTORS
INVOLVED IN CRIMINAL INVESTIGATIONS
AND PROSECUTIONS, PARTICULARLY
AGAINST ORGANIZED CRIME



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Operational Guide for the Protection of Victims, Witnesses, Experts, and Other Actors Involved in Criminal Investigations and Prosecutions, particularly against Organized Crime

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BACKGROUND

This Operational Guide was devised in the framework of the project “Strengthening of Specialized Institutions in the Assistance and Protection of Victims of Violence Generated by Organized Crime in Central America.” The purpose of this project was to address the impact of violence caused by organized crime on victims and witnesses in Central America by strengthening institutions charged with assisting and protecting victims, witnesses, and other actors involved in legal proceedings.

With the approval and support of the Governments of El Salvador, Guatemala, and Honduras, an Protocol was initially drawn up for implementation. Subsequently, with the endorsement of the Governments of Belize, Costa Rica, Nicaragua, Panama, and the Dominican Republic, this Operational Guide was prepared taking into consideration the realities of each country and the region under the legal framework of the “Central American Convention for the Protection of Victims, Witnesses, Experts, and Other Actors Involved in Criminal Investigations and Prosecutions, particularly against Drug Trafficking and Organized Crime”.

This initiative was implemented by the Organization of American States’ Department of Public Security of (DPS/OAS), in collaboration with the Central American Integration System’s General Secretariat (SG/SICA), and with support from the Spanish Agency for International Development Cooperation (AECID).

The Republics that comprise the Central American Integration System (SICA) are signatories to the “United Nations Convention against Transnational Organized Crime” and the Protocols Thereto, which set out the need to fight transnational organized crime, as well as the guidelines that States should use for international cooperation and the appropriate measures they must adopt to effectively protect witnesses who participate in criminal proceedings from potential acts of retaliation or intimidation.

It is in this context that the “Central American Convention for the Protection of Victims, Witnesses, Experts, and Other Actors Involved in Criminal Investigations and Prosecutions, particularly against Drug Trafficking and Organized Crime” (hereinafter the “Central American Convention”) has been signed. The Convention’s purpose is to facilitate implementation of protection measures to be afforded to victims, witnesses, and any other person who must be protected due to the risk or danger they face as a result of their involvement in investigative proceedings regarding a criminal offense or the criminal prosecution of such an offense, particularly drug trafficking and organized crimes. Although only three countries have ratified this Convention, the remaining States are interested in doing so.

For purposes of this Operational Guide, “organized crime,” in keeping with the United Nations’ definition thereof and notwithstanding the definitions used in each one of the States, is considered to be the joint activities of three or more individuals, united by hierarchical ties or personal relationships, which enable their leaders to reap profits or control national or international territories or markets, through violence, intimidation or corruption, both for purposes of criminal activity as well as of infiltrating the legitimate economy, particularly through: (a) illicit trafficking in narcotic drugs and psychotropic substances and money laundering, as defined under the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988; (b) trafficking in persons, as defined under the Operational Guide to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children; (c) counterfeiting currency, as defined under the International Convention for the Suppression of Counterfeiting Currency of 1929; (d) illicit trafficking or theft of cultural property, as defined under the Convention on the Means of Prohibiting and Preventing the Illicit Import,

Export and Transfer of Ownership of Cultural Property of 1970 and the International Institute for the Unification of Private Law (UNIDROIT) Convention on Stolen or Illegally Exported Cultural Objects of 1995; (e) the illicit trafficking or theft of arms and explosive materials and devices; (f) illicit trafficking or theft of automotive vehicles; (g) corruption of public officials; (h) migrant smuggling as defined under the Protocol against the Smuggling of Migrants by Land, Sea and Air.

The Republics that are SICA members need to bolster intraregional and international cooperation to fight the different modalities of organized crime in order to protect the victims and witnesses.

In this context the following tool is being proposed so that the countries can strengthen institutions specialized in protecting victims, witnesses, and other actors involved in criminal proceedings, particularly of offenses linked to organized crime in Central America.

1

Scope of Application, Purpose, and General and Specific Objectives of this Operational Guide for the Protection of Victims, Witnesses, and Other Actors Involved in Criminal Proceedings in the Framework of the Central American Convention

1. Scope of Application, Purpose, and General and Specific Objectives of this Operational Guide for the Protection of Victims, Witnesses, and Other Actors Involved in Criminal Proceedings in the Framework of the Central American Convention

1.1 - SCOPE OF APPLICATION

The present Operational Guide for the implementation of regional cooperation for assistance and protection of victims, witnesses, experts and other actors involved in the investigation and prosecution, particularly drug trafficking and organized crime, hereinafter: "Operational guide".

The Operational Guide shall apply to the following individuals: witnesses, experts, and other actors involved in criminal investigations and prosecution, including members of the judicial branch, office of the public prosecutor, office of the public defender, and police who participate in criminal prosecutions of any crime, but particularly those against drug trafficking and organized crime in which their participation signifies a risk to themselves, as well as to their relatives and other individuals who have ties to them,¹ in accordance with the criteria set forth in the Central American Convention, the domestic legislation of each State party thereto, and this document.

Victims are also entitled to assistance and protection. Victims needn't be involved in criminal prosecutions to benefit from the measures provided for in this Operational guide.

Henceforth when this document makes reference to "persons entitled to assistance and protection," or "beneficiaries," or "victims, witnesses and other actors involved in criminal proceedings," it is understood that this refers to the persons mentioned in this section.

1.2 – PURPOSE

The purpose of this Operational Guide is to establish the guidelines for strengthening and operationalizing the intrainstitutional and interinstitutional coordination nationally and subregionally among programs that identify, assist, and protect victims, witnesses, and other actors involved in criminal prosecutions, which the countries could adopt according to their internal legislation under the scope of application of the Central American Convention.

¹ The proposal is to extend protection to those individuals who constitute the protected person's nuclear family, inasmuch as these individuals are entitled to protection under the Central American Convention. This is being proposed as the phenomena associated with organized crime, particularly in the Northern Triangle of Central America, entail a complexity and special characteristics of extreme violence directed not only at victims or witnesses in order to discourage or prevent them from filing a report or making a statement during criminal proceedings or as retaliation, but also at individuals who work in the criminal justice system or police as retaliation. These individuals to whom it is being proposed protection be extended must also comply with the selection criteria (risk and proportionality) to receive the benefits.

1.3 - GENERAL OBJECTIVES

The general objectives of this Operational Guide are to:

- 1) Promote cooperation, coordination, and joint programming of national and international victim care and protection entities;
- 2) Contribute to bolstering and defining a specific framework for comprehensive, supplementary, and differentiated assistance for individuals entitled to assistance and protection, under a gradual and planned process;
- 3) Encourage promotion and comprehensive redress of victims' rights;
- 4) Support the States in order that they can implement and apply the "Central American Convention for the Protection of Victims, Witnesses, Experts, and Other Actors Involved in Criminal Investigations and Prosecutions, particularly against Drug Trafficking and Organized Crime," by completing the ratification process and deposit of the international instrument, and by appointing Central Authorities in each member state, duly notifying the Central American Integration System's General Secretariat thereof..

1.4 - SPECIFIC OBJECTIVES

- 1) Define criteria for structuring, furthering, and facilitating intrainstitutional and interinstitutional coordination nationally and regionally to aid persons entitled to assistance and protection with dignity and respect for their human rights.
- 2) Define the procedure for identifying and selecting the persons entitled to assistance and protection, as per the scope of application of the Central American Convention.
- 3) Establish guidelines for assessing the risks faced by the persons entitled to assistance and protection in the requesting State and the receiving State under the protection programs.
- 4) Establish criteria for the proper evaluation of the requesting State's capacities, as well as the needs of the victims, witness, and other actors involved in criminal proceedings, with regard to relocation under the assistance and protection programs.
- 5) Establish criteria for providing information to victims and witnesses regarding their rights to protection by the State and pursuant to the Central American Convention.
- 6) Put in place specific profiles and measures for cases involving victims and/or witnesses who are women, children and adolescents or foreigners, indigenous people, members of LGBTI² communities, persons with disabilities, the elderly, or any other individual in a vulnerable situation.

² According to the Unit for the Rights of Lesbian, Gay, Bisexual, Trans and Intersex (LGBTI) of the Inter-American Commission on Human Rights (IACHR), this name is used in order to give an easily recognizable nomination and unify in a practical way some of the main debates that persist in relation to the categories of sexual orientation, gender identity and gender expression. The IACHR takes note of this

- 7) Define the capacity and quality of comprehensive protection for victims and witnesses with the aim of creating conditions of reciprocity among the States Party to the Central American Convention.
- 8) Set forth the guarantees, rights, and obligations of victims, witnesses, and other actors involved in criminal proceedings and who are entitled to protection, for offenses related to organized crime in Central America.

2

Concepts

2.- Concepts

Without prejudice to the provisions set forth in the international conventions to which each State is a party and in their applicable domestic legislation, the following concepts are adopted for this instrument:

ASSISTANCE TO VICTIMS

It refers to the comprehensive assistance services that institutions or offices in charge of assistance to victims, provide to human beings whose legal rights protected by criminal law or basic rights and freedoms have been violated or threatened, in connection with urgent and necessary comprehensive assistance, which may be of a medical, psychological, social, legal, or temporary protective nature among the many that are available. It also entails the measures that allow for the empowerment of the victims, particularly those in vulnerable situations as a result of extreme poverty or exposure to other discrimination. The assistance does not require the victim to participate in a criminal proceedings.

LAW ENFORCEMENT AUTHORITIES OR SECURITY FORCES

This refers to police forces, whatever they may be called, who act in matters regarding public or citizen security.

VULNERABLE GROUPS

Vulnerable groups are considered to be: women, children and adolescents, persons with disabilities, the elderly, indigenous peoples, persons who are victims of human trafficking or migrant smuggling,³ and any others who face circumstances and contexts of violence that make them such.

RISK SITUATION

The presence of reasonable threat or damage to life, physical and psychological integrity, liberty and/or security of persons with expectations of access to the care and protection services, as well as the vulnerability of the person threatened, probability that the hazard will occur and the impact it may have.

CENTRAL AUTHORITY

This is the person or body designated by each State to monitor and comply with the obligations assumed under the Convention. The Central Authorities will act as the requesting or requested authority.

OFFICE OF THE PUBLIC PROSECUTOR OR OFFICE OF THE PROSECUTOR

Institution within the Central American countries that is charged with the responsibility of prosecuting crimes

³ The inclusion of this sector is deemed extremely important given the specific vulnerabilities they face and the increasing incidence of this criminal phenomenon that is associated with international organized crime.

and in some cases, of protecting victims and witnesses in criminal proceedings.

ASSISTANCE AND PROTECTION MEASURES

.⁴ ⁵ This refers to different measures taken by the State to assist victims of crime, witnesses, and other actors involved in criminal proceedings, and their relatives or individuals with ties to such persons, in a comprehensive and urgent manner, in keeping with their specific needs, as well as to ensuring their physical and psychological well-being, through appropriate and suitable measures such as those mentioned in this Operational Guide, according to the threats or risk that are determined in the corresponding prior assessment.

PERSONS ENTITLED TO ASSISTANCE AND PROTECTION

These are the persons referred to in Article 1.1 of this Operational Guide.

JUDICIAL BRANCH OR BODY

This is the judicial entity or branch that exercises jurisdiction through judges and courts in each one of the member states, in keeping with their rules of jurisdiction and domestic legislation.

CENTRAL AMERICAN PROGRAM FOR ASSISTANCE AND PROTECTION OF VICTIMS, WITNESSES, EXPERTS, AND OTHER ACTORS INVOLVED IN CRIMINAL PROCEEDINGS (HEREINAFTER “THE CENTRAL AMERICAN PROGRAM”)

This is the cooperation framework between SICA member states to facilitate implementing protection measures to be afforded victims, witnesses, and any other person warranting protection due to the risk or danger they face as a result of their involvement in criminal prosecutions or the investigative proceedings of a criminal act, particularly of offenses related to organized crime and drug trafficking.

NATIONAL NETWORK OR SYSTEM OF INTEGRATED ASSISTANCE AND PROTECTION SERVICES

This is the agency in each State comprised of representatives of a group of national institutions that will be charged with providing integrated assistance and protection services to victims, witnesses, and other actors involved in criminal proceedings.

⁴ Defining here the protection measure that may be afforded is not considered necessary inasmuch as these measures are identified later [in this document].

⁵ Distinguishing between assistance measures and protection measures is deemed relevant given that their nature and aims are different. In this sense, the outcome of the needs assessment of a person may indicate providing assistance measures or protection measures or both.

CRIMES OF ORGANIZED CRIME

It refers to the definition contained in the "United Nations Convention against Transnational Organized Crime" and its Protocols, which define the need to combat transnational organized crime, as well as the guidelines to be adopted by the States for international cooperation and the appropriate measures to be taken, to effectively protect victims from possible acts of reprisal or intimidation.

WITNESS

A witness is deemed to be any person who has been called upon to testify in a criminal investigation or prosecution about their knowledge of the occurrence of punishable acts.

VICTIM

A victim is deemed to be any person whose legal rights have been directly hurt or harmed by a punishable act in keeping with the criminal legislation of each State, including by abuse of power. Additionally, a victim shall be deemed to be the spouse, lifelong companion or partner, relatives within the fourth degree of consanguinity or second of affinity, adoptive child or parent, in crimes resulting in death.

OTHER ACTORS INVOLVED IN CRIMINAL PROCESSES

By other actors it can be understood those officials or individuals who intervene in the criminal process permanently or occasionally due to a job position or to their participation in any phase of the criminal process. This name includes, but is not limited to, judges, prosecutors, lawyers, prosecutors or courts assistants, experts, police officers, psychologists, social workers, etc.



3

Central American Program for the Protection of Victims, Witnesses, Experts, and other Actors Involved in Criminal Investigations and Prosecutions, their Relatives, or Individuals with Ties to them, and Guidelines for Operationalizing the Central American Convention

3. Central American Program for the Protection of Victims, Witnesses, Experts, and other Actors Involved in Criminal Investigations and Prosecutions, their Relatives, or Individuals with Ties to them, and Guidelines for Operationalizing the Central American Convention

3.1 - APPLICATION OF THE PRINCIPLES OF THE CENTRAL AMERICAN CONVENTION

The *Central American Convention for the Protection of Victims, Witnesses, Experts, and Other Actors Involved in Criminal Investigations and Prosecutions, particularly against Drug Trafficking and Organized Crime* (for purposes of this Operational Guide the “Central American Convention”) aims to facilitate the implementation of protection measures to be afforded to victims, witnesses, and any other persons warranting protection due to the risk or danger they face as result of their involvement in a criminal prosecution or investigative proceedings of a criminal act, particularly of offenses related to organized crime and drug trafficking.

To implement the actions provided for in the Central American Convention, the Central American Program for the Protection of Victims, Witnesses, Experts and Other Actors Involved in Criminal Proceedings (hereinafter the Central American Program”) will be created. This Program can be planned and executed through the coordination of central authorities designated by the Republics of Belize, Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, Panama, and the Dominican Republic.

In the framework of the Central American Convention, each one of the central authorities will facilitate the provision of the benefits established in the Convention to the persons indicated therein, weighing the application of the principles listed in this same international instrument, to wit:

- 1) Principle of protection;
- 2) Principle of need;
- 3) Principle of proportionality and flexibility;
- 4) Principle of confidentiality;
- 5) Principle of consent and voluntariness;
- 6) Principle of legality;
- 7) Principle of promptness and efficiency;
- 8) Principle of non-discrimination;
- 9) Principle of reciprocity; and,
- 10) Principle of gratuitousness..

The Central American Program can assist victims, witnesses, and other actors involved in criminal proceedings using an approach based on respect for human rights such that the protection and assistance measures will not be at the expense of their rights or dignity.

The requesting central authority will request from the member states the protection measures contained in the Central American Convention. The requesting central authority should ensure the requested central authority that such measures are under oversight of the Office of the Public Prosecutor, the Office of the Attorney General, or a judge.

Additionally, under this program it will be provided the integrated assistance and protection services that are determined for the beneficiaries of the Central American Program, in keeping with the principles and criteria set forth in the Central American Convention, and specifically, those of: avoiding secondary victimization, immediate and comprehensive assistance, respect for human rights, promptness, procedural initiative, flexibility in procedures, efficiency and effectiveness, non-discrimination, and the utmost protection and anti-formalism in favor of the victim.

The States party to the Central American Convention undertake to provide ongoing awareness raising and specialized training on how to treat victims to national government officials who are responsible for implementing actions or measures to persons entitled to assistance and protection.

Furthermore, the States party to the Central American Convention undertake the commitment that the persons entitled to assistance and protection will receive from the outset of the measures' implementation all the information regarding resolutions, provisions, or opinions that affect their individual interests, as well as information on their constitutional and legal rights and powers. Furthermore, these persons are to be heard and their opinions and needs are to be taken into consideration when any kind of decision that concerns their interests is made.

As from the interview process these persons are to be informed about the services the State can offer, both by their institutions as well as those provided by non-profit social organizations that will collaborate in assisting victims. The victims will be supported by all available government services.

3.2.- GENERAL GUIDELINES FOR NATIONAL INSTITUTIONS FOR THE PROTECTION OF VICTIMS, WITNESSES, AND OTHERS

3.2.1.- CENTRAL AMERICAN PROGRAM'S PROTECTION MEASURES

Central authorities may adopt any of the measures established in the Central American Convention, in keeping with domestic legislation, notwithstanding the adoption of any other measures that are appropriate, which may include, *inter alia*:

- a) Coordinate the relocation from one country to another, under the condition of each State, according to their law and the applicable conventions;
- b) Assignment of bodyguards or agents specialized in witness protection;

- c) Transport through border crossings, with or without protection or security is to register under the dispositions of each State;
- d) Health check-ups, psychological support, and others;
- e) Personal bodyguards or guards for their home;
- f) Temporary lodging in undisclosed locations;
- g) Change of domicile;
- h) Each State under their legal disposition and their institutional capacity can support the provision of means necessary for: lodging, transport, food, communication health care, psychological care, legal counsel, moving, job training, job reintegration, processing of paperwork, security systems, housing refurbishment and other indispensable expenses within the country or abroad, while the beneficiary is unable to obtain them through their own means;
- i) Economic assistance to the beneficiary according to the national legislation of each country;
- j) Assistance and legal advice in processing paperwork for their life project;
- k) The efforts for job reintegration, according to the protection measures agreed between the states;
- l) Changing identity documents and facilitating the legal documentation, according to what the law of each state foresees;
- m) Provision of documents to change identity using an assumed name, if the law authorizes, in order to keep the protected person and his family's location a secret.

Both the requesting State and the requested State, through the central authorities assigned by each State, are to identify, negotiate and weigh the feasibility of implementing the assistance and protection measures, and apply them according to the specific case at hand and the special needs of the persons, and always to their benefit. Both the requesting State and the requested State can provide the persons entitled to assistance and protection means in a manner that is in keeping with their needs in order to support their life plan and the fulfilment of their expectations, seeking to eliminate the causes of their victimization.

The protection measures provided for in the Central American Convention or the legislation of the requested State may be applied simultaneously depending on the extent of the threat, provided that circumstances and available resources so allow and make it so advisable.

Assistance and protection services are to be comprehensive and of a prioritized or urgent nature, including but limited to: medical, psychological, or psychiatric care, or care oriented to the victim's physical and mental health. Furthermore, in the cases that so warrant there will be follow-up assistance and protection, in accordance with the modalities and personal circumstances, and in the context of the violent acts. Assistance and support services will also include the victim's reintegration in a new life as well as their socio-economic reintegration. Services will be furnished for a specific period of time, in keeping with technical studies and available resources.

Assistance and protection of any kind is to be differentiated without discrimination, as per the characteristics of the victim such as: age, gender, beliefs, affiliation with an indigenous community, existence of any disability, and sexual orientation.

3.2.2.- DOCUMENT FORMALITIES

State authorities may make communications that facilitate the coordination and identification of the most reasonable measures, as well as the availability of acceptance.

Requests for support or cooperation between central authorities will be issued without the need for any certification, authentication, or compliance with diplomatic requirements.

Requests will be made in writing using previously agreed upon forms that may be sent by fax or any other means of electronic communication that ensures the authenticity of the issuer and confirmation of receipt from the recipient.

Central authorities will record on each one of the forms their signatures, stamps, and any security measure that authenticates their issuance and content. Coded electronic authentication mechanisms may be established.

The forms that can be developed between the States to facilitate the decisions about protection measures and the identification of the person or persons benefitting from such measures without putting their lives or well-being at risk or in danger, safeguarding the persons' identity by using names in code, the secrecy of their physical location, and ensuring that such persons can be located in order to provide their statement or testimony through technological means.

3.2.3.- PROCEDURE

The procedure is to be flexible, efficient, effective, timely, reasonable, prompt, simple, free and voluntary and to this end forms that are at the most two page long will be used. Their processing will not require the payment of any fee. The form will be sent by any electronic means previously authenticated or recognized by the central authorities. The Programs will get in touch in the most efficient way as possible, by any means of communication that facilitates the understanding of the willingness to accept a beneficiary and the conditions to be met.

The form will be sent by any electronic means previously authenticated or recognized by the central authorities.

In the request, the requesting State shall provide the requested State with all the information of the person to whom protection measures are applied, as well as the expected length of time for the application of the measures being requested.

The forms will contain the request from a requesting central authority to the requested central authority. Upon receipt of the request, the requested central authority will provide notice of confirmation of receipt as well as the decision regarding the case; the deadline is to be at the most 30 calendar days as of receipt of the request.

Once the request is accepted, the requested central authority will process in a prompt and timely manner the protection measures asked for. If necessary, the requested central authority is to process the corresponding immigration papers, ensuring that the protected person's identity and his immigration route are kept secret.

The costs and expenses of the measures will be defrayed by the requesting authority, except where otherwise agreed to in writing in the requested authority's response to the protection request. States will agree, according

to their own dispositions about the costs and expenses procedures.

The following measures may be agreed:

- a) If the national law authorizes, the process or immigration control related to the movement or transit of the persons entitled to assistance and protection through any departure or entrance point of any of the States shall be kept under reserve, provided it is so decided by authorities as an essential measure to effectively protect the person at risk;
- b) Transfer and transit of the beneficiary with the security measures, which were agreed between the requesting State and the recipient State;
- c) The recipient State will guarantee the physical, moral, and psychological well-being of the persons entitled to assistance and protection, as well as their immediate localization whenever called for by the requesting State. The beneficiary of the protection measures is to respect the behavioral patterns to which he has committed.
- d) The recipient State may agree with the requesting State on the conditions and time limits within which the agreed protection measures will apply.
- e) The requesting State shall inform the recipient of the conclusion of the protective measures on a case-by-case basis
- f) The States will facilitate testimonial statements through the use of information technologies.
- g) The States will establish the conditions and circumstances, according to their national law and the Central American Convention, to evaluate the beneficiary expulsion of a program.
- h) The requesting State shall inform the beneficiary of the remedies and appeals available against the protection measures adopted.

3.2.4.- SPECIAL PROVISIONS IN THE REQUESTED STATE

The persons entitled to assistance and protection measures will be informed about the public services they can access, suitable and safe lodging, the material aid they can receive, medical care, legal counsel, and other available services, including job-related ones.

In the countries which legislation allows, it can be assigned beneficiaries to non-profit nongovernmental organizations that collaborate with the administration of justice in assisting and protecting victims and witnesses, subject to assurances of confidentiality and with the express and informed consent of the victim and witness.

These organizations specialized in victim assistance may accompany the beneficiaries to any proceeding with state entities or to criminal proceedings in order to support the respect and understanding of their rights. State services are to comply with the law, using the highest standards of service and quality. Such services are to be monitored and evaluated.

Public security forces are to keep updated information on the implementation of protection measures, as well as events that may affect the content or scope of such measures.

As part of due respect for the duty of disclosure, beneficiaries will be informed by the office of public prosecution and the courts on any provision to adopt, amend, or withdraw the protection measures.

The institutions that are part of the State's National Networks can adopt the following guidelines:

- 1) Ensure that victims know their rights and duties, as well as receive appropriate and specialized assistance and information in keeping with the law;
- 2) Verify that victims understand the scope of protection provided to them under the laws of said State;
- 3) Provide [victims] multidisciplinary assistance by government officials and personnel with appropriate training;
- 4) Furnish assistance to victims and their family with regard to, where appropriate, food, health, education, and reasonably suitable social protection;
- 5) Confirm that government officials' and national institutions' conduct does not run the risk of victimizing the victims once again, thereby reducing the suffering caused by their circumstances and establishing measures that promote their recovery and avert traumatic experiences;
- 6) Furnish services that ensure physical, psychological, and emotional recovery and rehabilitation;
- 7) Protect the victim's privacy and identity.
- 8) Facilitate the development of a life plan with short, medium, and long-term measures [*sic*].

The coordination amongst institutions assisting victims can be carried out in accordance with the following general objectives:

- a) Establish a comprehensive and differentiated assistance approach for victims of crime, respecting their rights;
- b) Promote implementation of an approach based upon the victims of crime's best interests, so that their rights and interests are privileged and protected, respecting their dignity at every moment, and giving them the differentiated assistance they require.
- c) Promote the cooperation, coordination, and joint programming of national organizations involved in assisting victims in order to prepare and apply strategies and common programs;
- d) Ensure adequate coordination and division of labor at national organizations or agencies based on mandates and core competences provided for under domestic, regional, and international law, in order to avert unnecessary duplication of efforts, prevent a secondary victimization of persons that go to ask for assistance and protection from the State, and streamline activities to make them more effective in assisting victims; and,
- e) Support the Program for the Protection of Victims and Witnesses.

The entities assisting victims can carry out the following minimum measures:

- 1) Coordinate medical, social, legal, or psychological assistance in accordance with the needs of the victims;
- 2) In the case of relocations due to crime, civil protection agencies are to be organized so they provide all the necessary assistance and care regarding health, food, hygiene, security, and the search and protection of a location where the persons can live and thrive;
- 3) Assist all vulnerable victims with dignity;
- 4) Adopt appropriate measures to minimize the inconveniences caused to the victims, protect their privacy, and ensure their security, as well as that of their relatives, against any kind of intimidation or retaliation;
- 5) Inform the victims in clear and simple terms about the institutional services that they will be provided, and the procedures and actions aimed at protecting their personal well-being;
- 6) Accompany the victims when they receive institutional assistance;

Provide guidance to the victims about services in the areas of health and psychological care, legal advice, support from social workers; in some cases diverse services are envisaged, such as childcare or child forensic interview, educational services, shelters, and security services, which are offered by the National Network for protection of crime victims.

3.2.5.- ACTIVITIES REPORT

The requested authority will submit an activities report on the protected person's situation whenever the requesting authority calls for it.

Central authorities can provide non-confidential information about the implementation of the Central American Program to the General Secretariat of the Organization of American States and the General Secretariat of the Central American Integration System.

3.3.- CONDITIONS FOR IMPLEMENTING THE CENTRAL AMERICAN PROGRAM

The use of the Central American Program depends on the existence of the following factors:

- a) Substantiated presumption by the requesting State of real danger to the physical well-being of a person because of their collaboration or statement in a criminal prosecution, be that of adults or adolescents;
- b) The requesting State is to consider the significance of the contribution to the criminal prosecution by the person whose protection is being sought;

The requesting State is to assess the transcendent public interest of the investigation and prosecution of the act based on its social impact.

- c) That the recipient State accepts the request for protection measures of the requesting State.

3.4.- COMPLIANCE WITH THE STIPULATIONS OF THE CENTRAL AMERICAN PROGRAM

An irrevocable condition for beneficiaries' admission and continuance in the Central American Program is their written acceptance of mandatory compliance with the following provisions, among others:

- a) Maintain absolute silence and secrecy about their protection and the measures adopted;
- b) Maintain absolute silence and secrecy about the name, location, and business name [*sic*] of the government officials and experts of the Central American Program, as well as their knowledge about internal procedures;
- c) Undergo, where appropriate, medical, psychological, physical, and social examinations in order to evaluate their capacity to adapt to the measures that are to be adopted, as long as there is no legal provision that suggests otherwise;
- d) Give consent, where appropriate, for the stipulated measures to be taken with regard to minors or legally disqualified persons that are under their custody, guardianship, tutorship, or curatorship;
- e) Present a sworn and/or notarized financial statement regarding their assets, liabilities, pending trials or legal actions, and other legal obligations;
- f) Collaborate to maintain filial relationships between father or mothers and minor children and fulfill any child support obligations that may exist;
- g) Comply with restrictions imposed pursuant to the protection measures;
- h) Refrain from going to locations that are likely dangerous or are beyond the operational scope of the personnel assigned for protection;
- i) Change domicile whenever necessary, and where applicable, accept the housing that has been provided. In those cases the program will provide housing through the State's housing plans, at the expense of the beneficiary;
- j) Respect the restrictions imposed by the protection measures and the instructions that are given for such purpose;
- k) Undertake to not commit any violations.

3.5.- NON-COMPLIANCE WITH THE CENTRAL AMERICAN PROGRAM

Non-compliance with any of the obligations set forth above and the ones established by the requesting state; by the victims, witnesses, or parties to a proceeding, as well the commission of crimes that are duly proven will

be sufficient cause to legally order their exclusion from the Central American Program and from the measures provided for under the Central American Convention.

Prior to evaluating a beneficiary's expulsion from the Central American Program the national programs authorities in the requesting State and the requested State will conduct the respective analyses and assessments.

In case of committing a crime, the beneficiary does not have a special jurisdiction, immunity, or privilege, the reason why he can go on trial before the national jurisdiction where the crime was committed.

3.6.- POWERS IN THE IMPLEMENTATION OF THE CENTRAL AMERICAN PROGRAM

The party responsible for implementing the protection measures under the Central American Program, both in the requesting State as well as the requested State, shall have the following powers:

- a) To implement the protection measures that are appropriate in keeping with each case and the beneficiaries' capacity to adapt to such measures. To this end, psychological, clinical, environmental, and other studies considered relevant may be requested;
- b) To communicate with the authorities who requested protection on the follow-up of each case and to determine the different dimensions of the program to be applied;
- c) To mandate practical implementation of the protection measures by security forces, police, and prison authorities, who are to comply with such measures in due time and manner, providing protection services, technical or social reports, and any other services which for reasons of the case's urgency or secrecy are deemed necessary. To this end, the party responsible for the respective government is to designate an official charged with the actions stipulated in this section, within the purview of his or her competences, and is to order the measures to defray the expenses that these authorities require, according to the availability of resources from the requesting country;
- d) To request the involvement of public entities or agencies to furnish specific services, as well as to carry out paperwork and provide documents and information. Responsible officials of public entities and agencies, both of the requesting State as well as of the requested State, will comply in due time and manner with the request; failure to do so will be considered gross misconduct under their own legal system;
- e) To execute payments, contracting, and outlays of a confidential nature in order to comply with the protection measures. It will be carried out in accordance with the domestic legislation of each country;
- f) To call upon the requesting State that ordered the protection to discontinue such protection when circumstances so warrant.

- g) Exclude the protected individual(s) when it can be proven that he and/or she violated the conditions stated in section 3.4..

Administrative actions to implement the Central American Program will be discretionary, and do not require prior justification. No administrative challenges are admissible against any of said actions or measures.

3.7.- ACTIVITIES

The Central American Program will undertake the necessary activities to reach its objectives, such as:

- a) Review the signed and ratified conventions applying to the States in this matter.
- b) Participating in identifying difficulties and challenges in protecting victims and witness and proposing responses;
- c) Defining approaches for support and cooperation to protect victims and witnesses;
- d) Defining mechanisms that allow for improved information, streamlined regional cooperation, and successful implementation of the Central American Program;
- e) Requesting financial support from donors to make the Central American Program sustainable;
- f) Coordinating meetings with other Central American bodies of prosecutors, police, and judges, and participating in meetings or conferences on security and justice;
- g) Conducting inter-sectoral and regional meetings, including with national programs for assistance and protection of victims and witnesses in each country..

4

Annexes

<p>Network for Assistance and Protection of Victims and Witnesses of Organized Crime in Central America (RAPVT) implemented in the framework of the "Central American Convention for the Protection of Victims, Witnesses, Experts, and Other Persons Involved in Criminal Investigations and Prosecutions, particularly against Drug Trafficking and Organized Crime."</p>														
<p>FORM REQUESTING PROGRAM FOR PROTECTION OF WITNESSES/VICTIMS/EXPERTS OR OTHER PERSONS</p>														
REF File No.														
FOR: REQUESTED STATE: REPUBLIC OF														
FROM: REQUESTING STATE: REPUBLIC OF														
I. GENERAL INFORMATION														
NAME						CODE						PHOTO		
SURNAMES						AGE			GENDER					
ALIAS				TYPE OF I.D.			N°				NATIONALITY			
BIRTHDAY				BIRTHPLACE				ETHNICITY						
RESIDENCE	ADDRESS/HOUSING ESTATE			MUNICIPALITY										
	PROVINCE						NATION							
PHYSIQUE				HEIGHT			SKIN COLOR				WEIGHT			
SPECIAL MARKS														
TATTOOS														
FATHER											AGE			
MOTHER											AGE			
SPOUSE											AGE			
CHILDREN											AGE			
											AGE			
II. CRIMINAL PROFILE OF THE PROTECTED PERSON														
RECORD	CRIMINAL													
	POLICE													
	INTERPOL FILE													
AREA OF OPERATIONS														
NAME OF ORG/CRIM. (GANGS/OTHERS)								CLIQUE/ "CANCHA"						
POSSESSES FIREARMS								MILITARY EXPERIENCE						
POSITION IN THE CRIMINAL ORGANIZATION														
SUMMARY OF CRIMES INVOLVED IN														
PREDISPOSITION TO COMMIT CRIMES														
III. PROCEDURAL ELEMENTS														
STATUS OF PROTECTED PERSON (TYPE OF WITNESSES/SOURCE/VICTIM/EXPERT/ OTHER)														
RELATED CRIMES														
DEFENDANTS IN THE CASE														
STATUS OF THE CASE														
VICTIM/WITNESS PROT PROG. LIASON														
OFFICE OF THE PROSECUTOR LIASON														
PROCEEDINGS CONDUCTED AND PENDING (VIDEOCONFERENCES/OTHERS)														
IV. BRIEF SUMMARY OF THE FACTS (SYNTHESIS)														

V. HEALTH CONDITIONS									
MEDICAL									
PSYCHOLOGICAL/PSYCHIATRIC									
OTHERS									
VI. SOCIO-ECONOMIC CONDITIONS									
VII. RISK FACTORS									
SKILL AND EXPERIENCE IN THE USE OF WEAPONS OR EXPLOSIVES									
SUBSTANTIATION OF THE SITUATION OF RISK AND THREAT									
COMMUNICATION WITH RELATIVES AND OTHER PERSONS									
PARTICIPATION LEGAL PROCEEDINGS									
VIII. MEASURES PROPOSED UNDER THE LAW OF THE REQUESTED STATE									
TYPE OF MEASURES									
TIMEFRAME OF THE MEASURES									
WRITTEN ACCEPTANCE OF ADMISSION IN THE PROGRAM IN-COUNTRY AND OUT-OF-COUNTRY									
IX. CROSS-CUTTING CONSIDERATIONS									
IMMIGRATION									
ECONOMIC/FINANCIAL									
OVERSIGHT, FOLLOW-UP, AND MONITORING OF THE CASE				REPORTING FREQUENCY					
				TRAVEL FOR FOLLOW-UP OF CASE					
				JOINT REPORTS ON COMMITMENT AND COEXISTENCE					
X. INTERINSTITUTIONAL COORDINATION									
XI. PRIORITY ANNEXES ATTACHED TO FORM									
1. IDENTITY DOCUMENTS (birth certificates, I.D. cards, passports)									
2. CRIMINAL AND POLICE RECORDS (certifications)									
3. IMMIGRATION REPORT									
4. MEDICAL REPORT (medical, psychological, and psychiatric evaluation reports, with details of medications needed and frequency with which they are taken)									
5. SOCIO-ECONOMIC REPORT									
6. RESOLUTION OF THE MEASURE PROVIDED BY THE REQUESTING STATE									
8. FINGERPRINT CARD OF WITNESS/VICTIM/EXPERT OR OTHER PERSONS UNDER PROTECTION									
7. SIGNED STATEMENT BY WITNESS/VICTIM/EXPERT/ OR OTHERS ACCEPTING PROTECTION STATUS									

SIGNATURE AND STAMP OF REQUESTING AUTHORITY
CENTRAL AUTHORITY OF THE REPUBLIC OF
PURSUANT TO THE INSTRUMENT DEPOSITED WITH THE CENTRAL AMERICAN INTEGRATION SYSTEM (SICA)

AUTHORIZED BY:

SIGNATURE AND STAMP OF REQUESTED AUTHORITY
CENTRAL AUTHORITY OF THE REPUBLIC OF
PURSUANT TO THE INSTRUMENT DEPOSITED WITH THE CENTRAL AMERICAN INTEGRATION SYSTEM (SICA)



OAS

More rights for more people

Department of Public Security
Secretariat for Multidimensional Security
Organization of American States

