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Professor Irene Oritseweyinmi Joe joined the UC Davis School of Law Faculty in 2016. Professor Joe's research is at the intersection of criminal procedure and professional responsibility. Her current projects focus on defining the public defender institution while exploring ways to address its caseload crisis. Her research has appeared in journals such as the UCLA Law Review and the Boston University Law Review. Her article, *Regulating Mass Prosecution* is forthcoming in the UC Davis Law Review.

Professor Joe has significant experience in criminal court litigation. She served as a fellow for the Equal Justice Initiative of Alabama where she represented indigent defendants in capital post-conviction litigation and children sentenced to life in prison without the possibility of parole. After completing a federal clerkship with the Honorable Napoleon Jones of the U.S. District Court for the Southern District of California, Professor Joe returned to defense representation in criminal court. She was both a line defender and the Assistant Special Litigation Counsel at the Orleans Public Defenders, a public defender office newly created in the wake of Hurricane Katrina. She was also the Assistant Training Director with the Louisiana Public Defender Board where she was responsible for creating and supervising statewide training programs for public defenders, investigators, mitigation specialists and administrative staff in connection with criminal misdemeanor, felony and capital trials.

### *Who The Public Defender Should Be*

The public defender may be a critical part of the U.S. criminal justice system but states take remarkably different approaches to structuring the institution. Some states classify indigent defense services as an executive function by managing it under the executive branch of government. Others classify it as a judicial function by capturing it under the judicial branch of government. The remaining states separate the constitutionally-obligated provision of services from the three traditional branches of government by rendering it an agency that is independent of statewide oversight and instead managed at the local level.

But which branch of government properly oversees the public defender institution? Should the public defender exist under the same branch of government that manages the prosecutor and the police – two entities that the public defender seeks to hold accountable? Should the provision of services be managed under the judicial branch which is ordinarily tasked with being a neutral arbiter in criminal proceedings? Perhaps an independent public defender is ideal even if a lack of branch assignment might render it a lesser player in a larger battle for state resources among the governmental branches.

In seeking to answer this question, this paper provides a portrait of the legal landscape of public defender services in all 50 states, plus the District of Columbia. It is the first comprehensive account of state approaches to providing indigent defense services as perceived by their management, or lack thereof, to a particular branch of state government. My findings militate in favor of a newer understanding of the public defender as an important executive tool in our modern criminal process. This new lens for reviewing the public defender institution has important potential for conversations about state provision of indigent defense services that have proven ripe for rebuilding.