



Lessons Learned Practice Brief

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A guide for effective Prosecution.

The August 8th- 26th 2022, High Court session in Nimule witnessed a lot of discrepancies in prosecution and investigators role, especially during the trial of murder cases and other criminal cases.

The public prosecution attorney recommended for less severe sentences for some of the accused persons on trial of a felony contrary to the prosecutorial role. This brief focuses on ways prosecutors should handle criminal cases from pre-trial hearing to conviction and execution of judgments.

It discusses how public prosecutors can contribute towards effective litigation of criminal cases and access to justice for all.

This document aims at illuminating the main characteristic role of public prosecution attorneys in a society and investigators who are directly under their supervision.

Public Prosecutors supervise police investigators who operate under directives of the Public prosecution attorney. The role of the investigator is to take statements from plaintiffs, witnesses and collect evidence to be used in criminal prosecution. Statements may be taken from the victim of the crime and or from other people who may know something about the incident. Once the investigator considers enough evidence has been gathered to substantiate a criminal charge, this evidence is compiled in a brief by investigators and include things such as witness statements and physical evidence.

Public prosecutors are the ' gate keepers' of criminal justice, insofar as without their initiative there cannot be the prosecution and repression of crimes, except private prosecution which exist only in a few jurisdictions and apply in limited circumstances.

Prosecutors must therefore, at all times ensure that justice is done when public behaviors are at stake. To do this, they must be committed to the rule of law and safeguard the lawfulness of public actions. Public prosecution attorneys shall direct investigation by the police and ensure full supervision of investigation of any crime either suspected or reported.

Therefore, prosecutors are required to apply the law to criminal cases, protect the rights of the persons involved in criminal proceedings, respect human dignity and fundamental rights, and ensure public security.

The challenge is to devise fair and objective ways to ensure effective prosecution; mastery of subject matter of prosecution, and pedagogical skills specific to prosecution are essential to improving the trial process.

What public prosecutors should know and are able to do in a specific legal context is a better predictor of prosecution quality than just process cases even with wrong charges and forward every case to court.

Two vital behaviors separate out public prosecution attorneys from defense attorneys (advocates): (i) a prosecutor and a defense attorney are both lawyers.

However, a defense attorney defends the individual that a Prosecutor is trying to convince the jury is guilty. (ii) In a criminal court, these attorneys are on opposite sides. The prosecutor works to prove guilt beyond a reasonable doubt while the defense attorney attempts to create reasonable doubt so that their client is deemed innocent. If the jury says that an individual is guilty, the prosecutor and defense attorneys both help with sentencing.

Policy recommendations

The prosecutor must make recommendations for harsher or maximum sentence, whereas the defense advocate works to get a shorter or less harsh sentence for their client. Therefore, a public prosecution attorney is required to recommend only on the aggravating factors in any criminal proceedings and not mitigating factors which places him or her to the opposite site.

The investigation and prosecution standards should be explicit procedure that are appropriate in all criminal matters and measurable/observable.

The standards should be appropriate to pre-trial, trial and conviction stages: arrest, detention and investigation are to be carefully carried to arrive at relevant charges than wrong charges wasting the court's time in subsequent trial process. This means that a gradation of standards across a pre-trial path is the most useful, beginning with a correct charge of the offence against the accused.

To function effectively, a prosecution service must be able to provide neutral, non-political, non-arbitrary decision-making about the application of criminal law to real cases. An undue, improper or partisan use of criminal investigation may have devastating consequences for the protection of civil rights and the equal treatment of the citizens before the law

To fulfil its institutional mission, the prosecution service shall exhibit independence and impartiality in performing its functions. Prosecutors shall be free from any political and undue pressure and influence. Effective prosecution services require well trained and adequately empowered and equipped prosecutors, committed to the rule of law values, contribute to tackle impunity, protect citizens' rights, and ensure the lawfulness of State actions.

The prosecutor's investigative role encompasses the activities necessary to identify the suspects of a crime and to gather the evidence needed to prove their guilt; during investigation, prosecutors also take proper account of the position of the victims, considering their views and concerns and ensuring that they are informed of their rights.

Prosecutors shall not initiate or continue prosecution, or shall make every effort to stay proceedings, when an impartial investigation shows the charge to be unfounded.

In order to ensure the fairness and effectiveness of prosecution, prosecutors shall strive to cooperate with the police, the courts, the legal profession, public defenders and other government agencies or institutions.