



COMMUNIQUE ISSUED BY THE LAGOS STATE MINISTRY OF JUSTICE ON THE IMPLEMENTATION OF RECOMMENDATIONS SUBMITTED BY THE ADVISORY COMMITTEE ON THE REVIEW OF PROSECUTION OF CRIMINAL CASES BY NON-LAWYERS (LAY) OFFICERS OF THE NIGERIA POLICE FORCE IN THE MAGISTRATE COURTS OF LAGOS STATE

21st FEBRUARY 2020

1. INTRODUCTION

1.1 On the 8th day of January, 2020, an Advisory Committee was inaugurated to look into the role of non-lawyer police prosecutors in the criminal justice system of Lagos state, and determine whether their involvement in the process adequately aligns with the law and the Attorney General's prosecutorial policy, and whether their activities in the process serves the public interest. The committee submitted its report on the 12th of February 2020 to the Office of the Hon. Attorney General with its recommendations.

2. Position of the Law on powers of Police to prosecute

2.1 The Police derives its prosecutorial powers from section 23 of the Police Act and this is supported by caselaw. The Supreme Court in *Osahon vs FRN* confirms the powers of Police to prosecute, however such powers are subject to that of the Attorney General who has overriding constitutional oversight on all criminal matters relating to state offences as contained in section 211 of the constitution.

2.2 That said, i will highlight the recommendations of the Advisory committee.

RECOMMENDATIONS OF THE ADVISORY COMMITTEE (IN SUMMARY)

The Advisory Committee after its deliberations made 11 recommendations summarized as follows:

1. A gradual phase out of lay police prosecutors from prosecution of criminal cases in the magistrate courts to prevent gridlock and virtual breakdown of the criminal justice system.

2. Amendments of relevant laws and introduction of policies.
3. Establishment of sub-unit of the DPP's office at each magisterial districts for the purpose of filtering the charges brought by an Investigating Police Officer (IPO) to the magistrate court, to ensure they meet at least the minimum threshold of a case fit for and deserving of a trial.
4. Issue a policy that sets out a deliberate categorization of the class of offences a lay police prosecutor can prosecute to wit: simple offences, e.g. traffic offences.
5. To constitute a task force to consider the merits or otherwise of all criminal cases that have pended in the High/ Magistrate courts.
6. Recruitment and deployment of lawyers to the DPP's Office.
7. The establishment of a Duty Solicitors' scheme at each divisional police headquarters as prescribed under the Police Force Order 20 which empowers lawyers to provide pro bono legal services at the point of arrest.
8. The establishment by law of an independent Lagos State Prosecution Service in the state which would be similar in function and structure to the Crown Prosecution Service in the UK, or the National Prosecution Authority in South Africa.
9. Verification of bail and use of existing government agencies e.g. Lagos Inland Revenue Service (LIRS), Lagos State Residents Registration Agency (LASRA), LANDS REGISTRY, etc., for verification.

4. REACTION OF MINISTRY OF JUSTICE TO THE RECOMMENDATIONS OF THE ADVISORY COMMITTEE

The Ministry of Justice has considered and reviewed the recommendations of the Advisory Committee and adopts the following for implementation:

1. **Establishment of sub-units in the Magisterial Districts** - We accept the recommendation of the Committee to put in a filter mechanism. With immediate effect, we shall commence deployment of district prosecutors in three (3) pilot magisterial districts (Ebutte-Metta, Ikorodu, Ogba) to vet charges and review casefiles presented by the Investigating Police Officers and to ensure it meets evidential threshold required by law.

2. Lay Prosecutors:

- i. As rightly observed by the committee, there is an urgent need to eventually deploy lawyers to prosecute criminal matters in the various courts, particularly at the Magistrate Courts. The complaint is that lay prosecutors often cannot respond adequately to legal challenges raised by defence counsel during trial, and inadequate skills to competently present their cases in Court.
- ii. While the immediate takeover of all prosecutions by the DPP's office is desirable, same is impracticable due to shortfall of personnel, logistical limitations and financial implications. Furthermore, we note that States that adopted sudden abolishment of lay prosecutors experienced challenges which led to severe gridlock in the system as lay prosecutors abandoned cases ground to a halt.
- iii. Learning from such experience, and to avoid a gridlock in the system, we have decided to adopt a strategic model of streamlining the involvement of police prosecutors at all levels. To this end, we will meet with the Police to categorize the offences lay prosecutor will handle, while MoJ will ensure adequate monitoring of such cases.
- iv. The MoJ and Police have always enjoyed good working relationship and have always provided the police with technical and infrastructural support as well as enhancing capacity of their prosecutors and investigators. We have already earmarked training modules for prosecutors which will hold regularly, the first commencing in March 2020.
- v. To demonstrate our commitment to collaboration and enhanced capacity of Police prosecutors, Mr. Governor recently approved the renovation of the library in State CID Panti, with equipped legal resources to assist them with research and deepen their knowledge of law.
- vi. We will continue to collaborate with the Police and engage the Commissioner of Police to deliberate and find lasting results to issues as they arise. The Commissioner of Police being a major stakeholder in the administration of justice also participates in the Criminal Justice Sector Reform Committee, chaired by the Hon. Chief Judge of Lagos State. Other members include the

Controller of Correctional Services, The Hon. Attorney General and other relevant stakeholders. The committee meetings serve as a platform to promote inter-agency cooperation and resolve challenges bothering on administration of justice. The next meeting will hold on 12th March 2020.

3. **Amendment of law** - We are already at an advance stage in amending the Administration of Criminal Justice Law (ACJL). We will ensure the provisions recommended by the Committee for amendments are incorporated and within a month, we intend to present the Bill before the Executive Council for consideration and approval.
4. **Recruitment and deployment of lawyers to the DPP's office:** We note the recommendation of the Committee especially as it relates to additional responsibilities of the DPP's Office. We will look into this and make representations to the appropriate authorities to enhance capacity in the DPP's office.
5. **Duty Solicitor Scheme:** We acknowledge the importance of duty solicitors and their availability at police stations to provide legal advice to suspects upon arrest. It is a welcome development and a step in the right direction. We will refer this to NGO's and NBA branches to partner with government and take up this responsibility pro-bono. I am aware that NBA Ikorodu and Lagos have already commenced something similar. I want to encourage other practitioners to also participate in this initiative.
6. **Establishment of Lagos State Prosecution Service:** This is an innovative recommendation which we like. We will review the modalities and suitability for our climes before presenting same to Mr. Governor for approval.
7. **Bail verification:** We will propose this recommendation to the Lagos State Judiciary.
8. **Review of Cold cases –**
 - i. We recognize the volume of cases pending at both Magistrate and High Courts. We have constituted a team comprising representatives of the Office of Public Defender (OPD), Prosecutors and representative of the Nigeria Police to review the 15,000 cases pended at the Magistrate and High Courts immediately.

- ii. The team has been constituted to decongest the courts and invariably the correctional services and they are expected to make necessary recommendations to my office within four (4) weeks, including options of plea bargain and restorative justice.
- iii. To further address the problems of cases becoming cold, we are embracing diversionary programmes such as restorative justice at pre- and post charge stage, and developing a protocol which allows the witness support unit make early contact with witnesses and keep them abreast of status of their cases prior to the date of court testimony. Given the importance of witnesses in criminal trials, we must adopt a witness centered approach and provide more care and attention to victims and witnesses.

The members of the team constituted to carry out this task are as follows:

- Mrs. Yinka Adeyemi (Director OPD),
- Dr. Jide Martins (Director, DPP's office),
- Mrs. Nike Oluwafemi (AD),
- Mr. B.T Boye (CSC),
- Ms. Bimbo Ibiyemi (CSC); and
- a representative of the Nigeria Police.

5. CONCLUSION

- i. While it is desirable to adopt and implement the 9 recommendations of the Committee as summarized above, the Ministry of Justice will immediately implement four (4) of the recommendations, the two (2) that requires partnership with NGOs and NBA branches will be forwarded for implementation, while one (1) forwarded to the Judiciary. We will make representations on the two (2) recommendations which require further consultation and inputs of other policy makers of the State.
- ii. Nonetheless, I want to assure the public that we we will continue to work with all stakeholders to ensure that our Justice System is able to meet the real expectations of the people.

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