



**LAGOS STATE
MINISTRY OF JUSTICE**

**GUIDELINES FOR
DIRECTORATE OF
PUBLIC PROSECUTIONS
(DPP) IN HANDLING
SEXUAL OFFENCE CASES**



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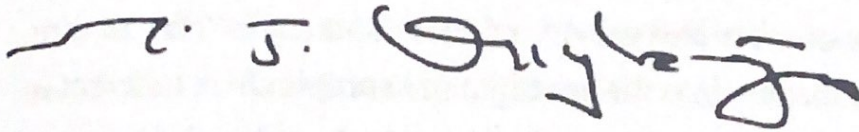
FOREWARD

Prosecutors play a critical role in the criminal justice response to sexual and gender based violence. Prosecuting gender-based violent crime can be challenging. Often there are a number of evidentiary challenges, due to the private nature of the violence such as; inadequate police investigation, victims may be uncooperative, and withdraw or recant their complaints and other surrounding circumstances. The goals of prosecution offices are to protect the victims while holding perpetrators accountable for their actions, and communicate a strong message to the community that violence against any person in the State will not be tolerated.

The rule of law is undermined when impunity characterizes the criminal justice response to Sexual and Gender Based Violence. Prosecutors handling these cases have the difficult task of balancing the imperative of victim safety with their traditional goal of presenting the case before a Court in accordance with the rule of law and the attendant duty to ensure that a person accused of a crime receives a fair trial. In some situations, participating in a prosecution may endanger physical or emotional well-being. Prosecutors should apply fair and consistent procedures and strengthen links and cooperation with other institutions and agencies to ensure victim safety and offender accountability.

It is the prosecutor's actions that ensure a credible criminal justice system for victims of violence thereby contributing to their trust in the system. This policy document explains the way prosecutors in the Directorate of Public Prosecutions, handle cases in which an allegation of sexual violence has been made.

The prosecution of sexual violence is a specialized issue that requires focused and particularized attention to ensure that the crimes are prosecuted fairly, adequately and with sensitivity.

A handwritten signature in black ink, appearing to read 'M. J. Onigbanjo', written in a cursive style.

Moyosore Onigbanjo SAN

Attorney General and Commissioner for Justice


MESSAGE

Recent years have seen a surge in the prosecution of sexual offences. The uncovering of historic crimes, a rise in reporting, shifting cultural attitudes and the internet have all contributed to a pronounced escalation in the number and gravity of cases coming to trial. In turn, this increase has thrown into the spotlight the complexities inherent in the prosecution of offences of Sexual and gender based violence many of which will involve significant evidentiary problems and vulnerable witnesses.

The Criminal Justice System ("CJS") has responded with some major improvements in the way sexual offences are tried. Yet the increase in reporting has caused the CJS to struggle. The nature and scale of the offences reported has meant that ever-increasing resources are needed to investigate and prosecute. Widely publicized incidents of cases collapsing due to inadequate evidence and absence of victim's testimony exemplify the difficulties being caused.

This manual highlights how the DPP's office handles sexual offences and measures available to protect the victims of sexual and Gender based violence and provides the defendant with a fair trial.

Prosecutors in the Directorate of Public Prosecutions are thereby enjoined to implement these policies aimed at an efficient and effect strategies to handling cases of this nature.


A.O. Adeyemi (Mrs.)
DPP

1. Introduction

- 1.1 In recent years there has been a rise in the report of allegation of sexual offences and filing of same in court, putting the criminal justice system under increased strain. The present approach to handling prosecution of sexual offences has proved ineffective when compared to the number of cases reported and filed in court. In most cases, victims are left with a sense of betrayal by the prosecution and the courts when judgment is not in their favour or the case is not concluded within a reasonable period.
- 1.2 Given the importance of victim centered strategy in sexual offence cases, understanding victim's behavior and its social context is therefore critical to direct the focus on victim care and making their roles more meaningful in order to obtain the optimal cooperation from them.
- 1.3 Consequently, it is imperative to treat victims of sexual assaults (especially child victims) with the necessary respect, care and empathy possible and their cases handled speedily; thus the need for a setout (outlined) protocol for the treatment, and protection of victims as well as witnesses, and procedure for handling such cases by the DPP's office.

2 Special Prosecution Unit

- 2.1 A specialist prosecution unit is established within the DPP's office known and referred to as "Sexual and Gender Based Violence Unit" (SGBV Unit). This Unit shall file monthly reports to the Office of the Attorney General.

- 2.2 The Prosecutors in this Unit will be specially trained to handle this type of case. These Prosecutors are expected to exhibit the necessary interest and empathetic attitude which such cases require.
- 2.3 The principle is that when the case of sexual offence is submitted by the Police, Legal Advice and Information papers shall be prepared and finalized together within 14 days.
- 2.4 The Unit shall follow-up and ensures the case is assigned and listed within 14 days of filing. The Unit shall handle such applications (such as bail etc.,) that may arise from such case.
- 2.5 The Unit will ensure the cases are followed through the trial stage until its conclusion. Changing Prosecutors during the course of the trial must be avoided at all cost.
- 2.6 It is imperative that the Unit ensures that the case has been fully investigated before trial commences. This is to avoid unnecessary delays.
- 2.7 The Unit shall forward all details on convicts of sexual offences to the Office of the Attorney General for the purpose of registering their names on the Sexual Offenders Register domiciled in the Attorney General's Office
- 2.8 The Unit shall maintain a database of all sexual offence case filed and be allocated funds to carry out its objectives.

3. Consultation with victims

3.1 The Unit shall ensure that the victim of a sexual offence is reached and communicated with upon the DPP's decision to prosecute the matter, or at the earliest opportunity, after receipt of duplicate case file.

3.2 The Prosecutor handling the case of this nature must consult thoroughly with the victim and schedule pre-trial conferencing before the trial commences. The Prosecutor must ascertain what fears the victim has and attempt to allay these fears. It is often useful to familiarize the victim beforehand with the court room itself and the interpreter, if applicable.

3.3 All steps of court proceedings must be explained to the victims so that they can fully understand.

3.4 Victims must be treated with the utmost empathy and respect at all times to avoid secondary victimization by the justice system.

4. Consultation with Health Care Practitioners and other agencies

4.1 The Prosecutor must also consult thoroughly with the health care practitioner [HCP] and other stakeholders including Psychologist, Social Workers etc., whenever medical evidence is available and where the victim requires psycho-socio support.

4.2 The Prosecutor shall ensure medical evidence is available in the casefile submitted and shall request the presence of or notify

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such medical practitioner for trial as early as practicabl^e.

- 4.3 The Prosecutor must also ensure that she/he is familiar with all the medical terminology as well as the implication of the findings of the medical practitioner, so that they can properly lead the evidence in a coherent manner.

5. Consultation with Law Enforcement Agency

- 5.1 Where possible the prosecutor must consult with the law enforcement agencies in particular, the police who investigated the case, particularly those likely to be called as witnesses.
- 5.2 The Prosecutor must ensure that all necessary documents and exhibits are available in the case file to assist the smooth running of the case.
- 5.3 In the case of child victim and child offender the Prosecutor shall ensure that the video recording of their statements are recorded and form part of the casefile.

6. Special Treatment and Assistance to Victims and Witnesses

- 6.1 All witnesses in sexual offence cases, as well as Health Care Practitioners, should be accorded priority without undue delay during trial.
- 6.2 The Prosecutor must make all efforts to ensure an expeditious and fair procedure and avoid delaying victims, and medical

practitioners scheduled to give evidence. However, should it be unavoidable that a case cannot be finalized on a particular day, these witnesses must be informed timeously so that a new date and time can be arranged. These cases should be finalized as soon as possible.

- 6.3 The Prosecutors must use their best endeavor to ensure that victims of sexual offences are not exposed to the Defendant, his family or his friends outside the court room. The waiting room must be made available to the victims to ensure their privacy.
- 6.4 The Prosecutor must try to improve the communication link with the victim. The victim must know where to contact the relevant Prosecutor at his/her Office in order to be informed of the progress of the case.
- 6.5 The victim should be informed of the role, scope and duration of the case as well as other relevant information. If decisions are made about the handling of the case (e.g to plea bargain or withdraw a charge) the victim must be informed about this in a manner which assists them to understand the reasoning.
- 6.6 The Witness Support Unit (WSU) shall ensure early contact is made with victims and witnesses upon issuance of Legal Advice and continue a periodic contact with all witnesses in such cases. Records of such communication shall be maintained electronically and in a manner easily retrieved.
- 6.7 The Prosecutor shall treat child victims and witnesses with care and in accordance with the provisions of Child Right's Law.

- 6.8 Prosecutors must always bear in mind the general principle that where there is more than one witness to testify in a case, other witnesses must not be together in the same room while the prosecutor is consulting about their statements or the evidence they will give.
- 6.9 The Prosecutor or WSU must as much as possible minimize inconvenience to the victims and witnesses, protect their privacy (in case of child victims, this will include ensuring the confidentiality of information concerning the child victim/witness). Where necessary, prosecutors and WSU must take steps to ensure the safety of witnesses and to protect them, (and their families) from intimidation or harassment.
- 6.10 The SGBV and WSU must make every effort to assist with witness transportation fees or reimbursement and, upon request by the victim/witness, to assist in notifying the employer (or relevant authority) where the prosecution of the crime causes his/her absence from work.

7. Treatment of Child Offenders

- 7.1 Where the Defendant is a child as defined under the Child Right Law 2015 the Prosecution shall ensure that the case is referred to the Family Court and detention where necessary shall be at the Correctional Home for Children.
- 7.2 Where the Child Offender is jointly charged with an adult and the charge is brought before a court other than the Family Court, the Prosecution shall assist the Court by making representation

for the need to deal with the child as expeditiously as possible consistent with the interest of justice and in accordance with the Child Right Law 2015.

8 Proceedings in camera

8.1 The prosecutor must also inform the victim of sections 201 and 202 (in the case of a child) of the Criminal Law, Laws of Lagos State 2015 and the importance thereof. Proceedings held in camera may reduce the trauma for the victim. However, the choice should lie with the complainant.

8.2 If the complainant wishes to have a friend, representative of a Non-Governmental Organization (NGO) or a member of their family in the court to give support, the prosecutor must argue this aspect so that the complainant can have the necessary support. The support person should not be someone who could become a witness in the trial.

9. BAIL

9.1 The general approach should be that applications for bail must be opposed. If bail is however granted, the Prosecutor must request special conditions, eg., if the victim is related to the offender, a condition forbidding contact should be requested. If the offender resides with the victim, the Prosecutor must insist on a condition that the offender resides at some other place. The victim must also be notified when the defendant is able to perfect the bail conditions.

9.2 The prosecutor can also request special conditions, for instance that the offender is not allowed to contact or come into contact with the victim; that the offender is not allowed within a certain kilometre radius of the victim's house, etc.

9.3 It is vital to inform the victim of the result of any application.

10. Proceedings in court

10.1 The Prosecutor must oppose any unnecessary delaying tactics or adjournments at the request of the defence. Trials which are finalized after many months or years are greatly detrimental to the victim.

10.2 The Prosecutor must object to unnecessary aggressive and badgering cross-examination of the victim and/or witnesses.

10.3 The Prosecutor may also request that the home and employment addresses, telephone numbers, and birth date of the victim be withheld from the offender and in open court.

11. SENTENCING

11.1 Prosecutors shall place before the court evidence relating to the impact (physical, emotional or financial) that the crime has had on the victim's life.

11.2 Where the available evidence pertaining to aggravating circumstances has not been placed on record during the trial,

this must be done after conviction. When the merits and complexity of a matter before court demand expert witnesses, they should be called to testify.

- 11.3 As a result of the seriousness of this type of offence, special effort must be made by the Prosecutor to address the court fully in every case. The prosecutors must not hesitate to call for a sentence of term of life.

12. APPEAL

- 12.1 Where the Prosecutor is of the opinion that the sentence imposed is not appropriate, or the judge erred in arriving at a judgment, she/he must immediately bring same to the attention of the DPP who then makes necessary submission to the Office of the Attorney-General to consider a possible appeal against the judgment.

30th July 2020