



**REPUBLIC OF LIBERIA  
MINISTRY OF JUSTICE  
Monrovia, Liberia**

**MEMORADUM OF UNDERSTANDING BETWEEN  
THE LIBERIA NATIONAL POLICE AND THE  
PROSECUTION SERVICE**



**Respecting the Conduct of  
Criminal Investigations and  
Prosecutions Coordination**

## **PREAMBLE**

**WHEREAS** the Liberia National Police (LNP) represented by the Inspector General and the Prosecution Department, represented by the Solicitor General's Office (hereinafter referred to as 'the Parties') both of the Ministry of Justice, recognize the need for an effective partnership in the pursuit of their respective mandates;

**WHEREAS** the Parties recognize that the public interest requires that they work together in supporting each other's mandate in the promotion of access to justice;

**WHEREAS** it is recognized that effective co-operation is built on mutual trust and a clear understanding of the other party's role and responsibilities;

**WHEREAS** such co-operation shall be pursued while respecting the independence and responsibilities of each of the Parties;

**WHEREAS** this Agreement is intended by the Office of the Prosecutor including the City Solicitor, District Attorney's and County Attorney's Office to complement its criminal litigation policy;

**WHEREAS** the Parties are aware that the mandate of the Parties includes sentencing alternatives including diversion and restorative justice initiatives;

**WHEREAS** there is a need for a basic framework that can be supplemented by local arrangements reflecting local practices and that are consistent with the litigation policy and applicable operational guidelines of the Prosecutor's Office and the LNP respectively;

**THEREFORE** the Parties agree as follows:

## **1. Purpose**

The purpose of this Memorandum of Understanding (hereafter referred to as the 'Memorandum') is:

- 1.1 To provide a clear and objective collaborative understanding of each of the Parties' roles and responsibilities at the investigative stage and at the prosecution stage.
- 1.2 To outline the manner in which members of the LNP can assist personnel of the Prosecution Department as they carry out their responsibilities as set out in the Ministry's Guidelines in furtherance of the efficient administration of criminal justice.
- 1.3 To outline the manner in which prosecutors can assist the LNP as they carry out their criminal investigation responsibilities as set out in the LNP Duty Manual and Standard Operating Procedures (SOPs).
- 1.4 To constantly and consistently manage the working relationship between the LNP and the Prosecutors, while not creating any new rights or obligations.

## **2. Guiding Principles**

- 2.1 The Parties have a crucial role to play in the administration of criminal justice in Liberia. In that respect they share a common objective, which is the fair and efficient enforcement of the criminal law of Liberia.
- 2.2 The Parties share a common objective which can best be attained through an effective partnership that respects each of the Parties' specific roles and responsibilities.
- 2.3 An effective partnership is built on mutual trust and confidence; mutual trust and confidence are built on mutual respect and a mutual understanding of each other's role,

responsibilities and independence.

- 2.4 This effective partnership is based on two fundamental principles: the independence of the LNP at the investigative stage, with the guidance of the Prosecution, and the independence of prosecutors at the prosecution stage, with the support of the Police.
- 2.5 This Memorandum recognizes that the LNP directs investigations and that the Prosecutors Office will provide assistance. It also recognizes that the Prosecutors Office directs prosecutions and that the LNP will provide assistance.
- 2.6 In the discharge of their responsibilities, individual members of the LNP and individual prosecutors are guided by their respective institutional guidelines: this includes, for example, the Duty Manuals of the LNP and the SOPs and the Prosecutors Code of Conduct.
- 2.7 The Parties recognize that neither can effectively carry out its role and responsibilities without the assistance of the other. In this regard, the shared responsibility for sharing of information and the joint management of grave offenses must be prioritized.
- 2.8 The Parties recognize the need to implement practices and procedures that facilitate consultation and communication in the execution of their respective duties.
- 2.9 The Parties undertake to disseminate this Memorandum throughout their respective organizations so that their personnel are made aware of the principles it establishes and recognizes. Both parties also agree that the MOU will be part of the orientation package for new recruits, trainers and /or employees.
- 2.10 This Memorandum addresses general principles that will be supplemented from time to time by other documents that, when agreed upon, shall be annexed to and form part of this Memorandum.

### **3. Roles and Responsibilities**

3.1 In the exercise of their respective mandates, the Parties reinforce and respect the independence of each other, while recognizing the need to work together toward common goals. Generally, the LNP are responsible for the investigation whereas prosecutors are responsible for carrying out the prosecution. Prosecutors can, however, play an important role at the investigative stage as can the LNP at the prosecution stage.

#### **3.2 Role and responsibilities of the LNP**

3.2.1 As law enforcement officers, LNP members are bound by internal directives and by obligations imposed on police officers in relation to the preservation of law and order, the prevention of crime and offences against the laws of Liberia. The manner in which these duties are carried out are governed by law and by the rules prescribed by the Director of Police and found in the LNP Duty Manual / SOPs, as amended from time to time.

3.2.2 The LNP preserve and organize information and evidence collected in the course of their investigation, in contemplation of the State's obligation to disclose and in recognition of the benefits of early disclosure (see paragraph 4).

#### **At the Investigative stage:**

3.2.3 Consistent with their Duty Manual, the LNP exercise discretion with respect to investigations: they open, conduct, direct and control investigations and determine the structure, scope, length, and means used to carry out investigations in generally accepted professional standards.

- 3.2.4 The LNP retain control of and primary responsibility for investigations (see further paragraph 3.2.11). However, there may be instances where statutory requirements (see, for example, paragraph 3.2.6 below) or good practice (where a contemplated process is likely to raise difficult issues at the prosecution stage) will require the involvement of prosecutors.
- 3.2.5 The LNP handle and control all arrangements with police informants or civilian agents, and prepare and maintain such records as are necessary to discharge the obligations of the LNP.
- 3.2.6 The LNP are responsible for all matters pertaining to the protection of victims, witnesses and informants.
- 3.2.7 If in the course of its work, the LNP, without the prosecutor's consent, give an undertaking or make a decision that requires the prosecutor's consent, the prosecutor is not bound by the undertaking or decision.

**At the Prosecution stage:**

- 3.2.8 The LNP role continues beyond the laying of charges as they are required to assist prosecutors until the prosecution is complete.
- 3.2.9 The LNP carry out additional investigative steps that are reasonably required by prosecutors to ensure they can effectively prepare and present their case.
- 3.2.10 The obligation of the LNP to preserve evidence and all relevant information that might assist the Prosecution continues during the prosecution stage. The LNP maintain continuity and security of all physical evidence in their custody.
- 3.2.11 As requested, the LNP shall attend and participate in post-charge interviews of prospective witnesses by prosecutors and maintain notes of such interviews for disclosure

purposes.

3.2.12 Lead LNP investigators shall make themselves available to review with prosecutors the facts of the case and disclosure issues prior to preliminary hearing or trial. The Court Liaison Office located in each County or Zone will facilitate all manner of coordination of efforts relative to case preparation.

3.2.13 The LNP shall work with prosecutors to accommodate as much as possible the special needs of potential witnesses such as:

- those who present special physical or mental needs;
- children;
- victims of domestic violence offences or sexual abuse.

3.2.14 The LNP shall be called upon by prosecutors to ensure witnesses who are in LNP's custody are provided with appropriate materials and prior statements in preparation for the giving of evidence. When obliged to ensure service of witness subpoenas, the LNP shall do so at the first reasonable opportunity and advise the prosecutor promptly where difficulties are identified (for example, when a witness cannot be located or there are indications that a witness likely will not comply with a subpoena).

3.2.15 The LNP shall provide prosecutors with appropriate briefs in a timely way. The obligation to provide all relevant reports and briefs continues throughout the judicial phase.

3.2.16 The LNP are responsible for identifying special security measures required for persons in custody who attend the proceedings, and for advising prosecutors accordingly.

3.2.17 The LNP shall, when notified by or on behalf of a prosecutor, attend such proceedings as required without the necessity of formal process.

3.2.18 When called as witnesses the LNP must bring with them to court any notes or other material in their possession that

are relevant to their anticipated evidence.

### **3.3 Role and responsibilities of the Office of the Prosecutor**

- 3.3.1 In all matters prosecutors represent the Minister of Justice, and are bound by duties imposed by the Liberian Constitution, Liberian Laws, and jurisprudence. The manner in which these duties are carried out and prosecutorial discretion is exercised are governed by the guidelines of the Ministry of Justice as contained in the prosecutors' Code of Conduct as amended from time to time.
- 3.3.2 Prosecutors shall seek to review with the Case Officer the facts of the case and disclosure issues in a timely manner and prior to preliminary hearing or trial.
- 3.3.3 The prosecutor's role is not to obtain a conviction; it is to lay before a Court of Law what the prosecutor considers to be credible evidence relevant to what is alleged to be a crime. This must be done fairly, excluding any notion of winning or losing. However, where prosecutors elect to pursue a prosecution, they must do so vigorously and to the best of their ability, with due regard to the rule of law, legal ethics and the overriding obligation to act fairly and in the public interest.
- 3.3.4 As advocates, prosecutors must discharge their duties with industry, skill and vigor and must be adequately prepared for each case.

#### **At the Investigative stage**

- 3.3.5 A prosecutor's role is to provide assistance and legal advice during the course of investigations conducted and directed by the LNP.
- 3.3.6 Where required by law, prosecutors may approve and apply for access to any special investigative procedures



requested by the LNP. To the extent reasonably possible, all such requests shall be considered by prosecutors in a timely manner and, when asked to do so, they provide to the LNP reasons where a request is not approved. These special investigative procedures include applications for judicial authorization, for example, in respect of:

- electronic surveillance;
- restraint orders;
- special warrants;
- management orders;
- production orders.

### **At the Prosecution stage**

3.3.7 Prosecutors shall exercise prosecutorial discretion in accordance with criteria adopted by the Ministry of Justice.

3.3.8 In accordance with the Memorandum dated 2 August 2006 from the Solicitor General<sup>1</sup>, at no point shall the prosecution commence without a police charge sheet which shall serve as the vehicle for determining probable cause. The only exception for the filing of a complaint without a police charge is where there is no police presence and the possibility of accessing the police is remote.

3.3.9 Prosecutors review evidence and circumstances of a case in accordance with law and the Ministry of Justice's Code of Conduct dealing with the decision to prosecute or not to prosecute. This review is done before charges are laid; this practice is referred to as "pre-charge screening" which is the prelude to Probable Cause determination. Where this review is conducted after charges are laid the practice is referred to as "post-charge screening".

---

<sup>1</sup> *Memorandum to County Attorneys and City Solicitors from Solicitor General, R.I. Tiawan S. Gongloe 'The Need to Begin prosecution With Police Investigation', Ministry of Justice 2 August 2006*

- 3.3.9 The review referred to above is a crucial component of the exercise of prosecutorial discretion. It is an ongoing process and the final decision belongs to prosecutors.
- 3.3.10 Prosecutors shall consult with the LNP before deciding to stay charges laid or not to proceed with charges recommended by the LNP.
- 3.3.11 Prosecutors should interview and prepare the witnesses for trial, utilizing statements gathered by the LNP from the witnesses during the investigation process.

#### **4. Disclosure**

- 4.1 The Prosecutor has the responsibility and ongoing obligation to disclose to the accused all material and information in their possession or control which is not privileged or clearly irrelevant, irrespective of whether the prosecutor intends to introduce it into evidence.

#### **5. Resources**

- 5.1 LNP shall provide personnel with sufficient experience and expertise to complete the investigation and to assist the Prosecutor's Office with prosecution, including the conduct of additional investigative steps as might be reasonably required by prosecutors.
- 5.2 The Prosecutor's Office shall provide personnel with sufficient experience and expertise to carry out the prosecution and to assist the LNP with investigation as contemplated by this Memorandum.
- 5.3 The Parties shall ensure continuity and availability of assigned personnel, through to the completion of the case, to the extent possible.

## **6. Training**

6.1 Each party seeks to assist the other in meeting its training needs. In particular,

(i) the Prosecutor's Office recognizes that the LNP possess the expertise to train prosecutors on investigative matters relevant to the mandate of the LNP. Where such training is required the Prosecutor's Office first considers the LNP for such assistance, with a view to providing consistency across Liberia. The LNP provides personnel as might be necessary for such training and the Prosecutor's Office shall bear the costs.

(ii) The LNP recognize that the Prosecutor's Office possesses the expertise to provide training on legal matters relevant to the mandate of the Prosecutor's Office. Where such training is required, the LNP will first consider the Prosecutor's Office for such services and will consider in all cases the importance of providing consistent training across Liberia. The Prosecutor's Office provides personnel as might be necessary for such training, and the LNP shall bear the costs of such training.

## **7. Communications and Conflict Resolution**

7.1 The Parties shall exchange the information required to allow the LNP and prosecutors to communicate outside normal business hours in time-sensitive situations.

7.2 The Parties shall consult each other at the local and national levels on a regular basis.

7.3 The Parties shall make every effort to resolve issues expeditiously and at the lowest possible level in each organization. Issues not resolved at the local level are brought to the next highest level of responsibility within

each organization. Where necessary, issues are brought to the Director of Police and the Solicitor General for resolution.

- 7.4 The Parties have constituted a National Advisory Committee in the form of the Pre-Trial Detention Task Force – Police Prosecution Sub Committee - to deal with common issues relevant to the relationship between the two institutions and to monitor the operation of this Memorandum of Understanding. The core Membership includes members of the Prosecutor’s Office, District Attorneys, City Solicitors, County Attorneys, Court Liaison Office and Deputy Comm. Police Criminal Services Division.

## **8. Media Communications**

- 8.1 The Parties shall develop a comprehensive and co-operative media strategy.
- 8.2 Absent compelling circumstances, the Parties should not comment publicly on ongoing investigations.

## **9. Appeals**

- 9.1 It is the responsibility of the Solicitor General to review judicial decisions in the trial courts relative to Criminal prosecutions within the Republic of Liberia and consider whether appellate or review remedies ought to be exercised. When a decision is made to exercise such remedies, the LNP should be informed in a timely manner.
- 9.2 When the LNP requests that an appeal be considered in relation to a judicial decision, the request shall be reduced to writing, approved by the appropriate authority within the LNP and forwarded to the appropriate representative of the Prosecutor’s Office in a timely manner.
- 9.3 When a written request is received from the LNP, the

Prosecutor's Office shall promptly advise the LNP in writing of any decision and reasons in respect of the request.

## 10. Evaluation and Revision

10.1 The Parties to this Memorandum shall evaluate its effective operation on an ongoing basis and discuss and implement such revisions to this Memorandum as may from time to time be deemed necessary.

## 11. Coming into Force

This Memorandum of Understanding comes into force upon signature by the three Parties set out below.


IN WITNESS WHEREOF THE PARTIES HERETO HAVE AFFIXED THEIR SIGNATURES THIS <sup>17<sup>th</sup></sup> DAY OF October A.D. 2011 IN THE CITY OF MONROVIA, LIBERIA

SIGNED: \_\_\_\_\_



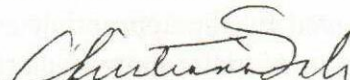
Cllr. M. Wilkins Wright  
SOLICITOR GENERAL, R.L.

Signed: \_\_\_\_\_



Hon. Marc A. Amblard  
DIRECTOR OF POLICE, R. L.

APPROVED: \_\_\_\_\_



Cllr. Christiana P. Tah  
MINISTER OF JUSTICE, R. L.

