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THE DIRECTOR OF PUBLIC PROSECUTIONS (DPP)

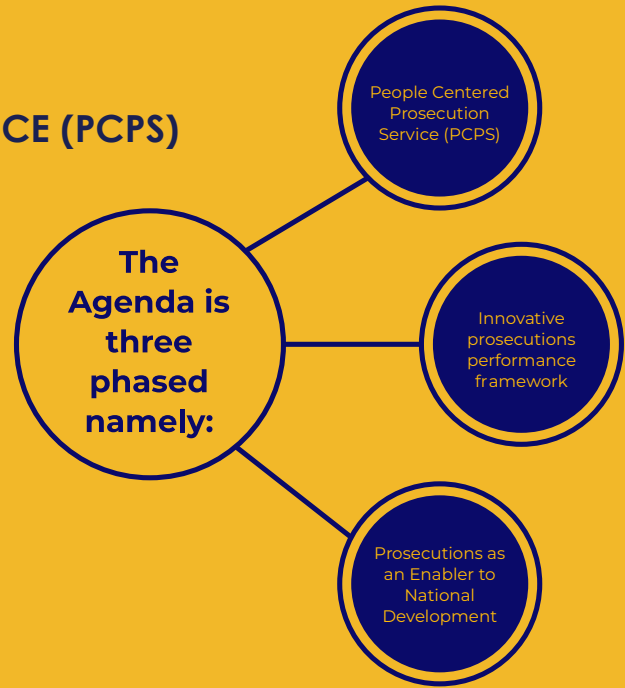
STRATEGIC AGENDA

22ND SEPTEMBER 2023

DPP AGENDA

1. PEOPLE CENTERED PROSECUTION SERVICE (PCPS)

The ODPP draws its mandate from the Kenyan people and as Ministers of justice our priority is to ensure justice, fairness and accountability in the conduct of our mandate. The People Centered Prosecution Service will focus on our external and biggest stakeholder, the Kenyan people and our internal stakeholder the staff.



More specifically the PCPS will be achieved through:

EXTERNAL PEOPLE FOCUS:

a. Co-operation with County Governments

The powers and functions of the County Governments in the Constitution, do not include prosecution of criminal matters, as such powers are, vested in the independent Office of the Director of Public Prosecutions under Article 157 of the Constitution. **(Prosecution is not Devolved)** under the 4th schedule of the Constitution, the enforcement of criminal law is a function of the national government. The ODPP will enhance the scope of Co-operation with the County Governments.

b. Crucial Stakeholders

Enhance the Collaboration, Coordination and Cooperation with other agencies that form part of the criminal justice sector and other state and non-state actors. The stakeholder management process will be guided by a clear ODPP Stakeholder Management Policy. These collaborations will also focus on organizations with delegated prosecutorial authority and how to make this more effective and efficient.

c. Upholding Human Rights

Under international human rights law, Kenya must adopt and implement necessary legislative, regulatory, institutional and all appropriate measures to: prevent, protect, conduct effective and timely investigations, prosecute acts of sexual violence and all other crimes committed against the person; provide adequate remedies and reparations to not only victims of sexual violence but also all other victims of crimes against humanity. Specifically, Article 2(3) of the ICCPR imposes an obligation on countries to provide remedies and reparation for the victims of human rights violations.

Human rights standards should apply in investigation and prosecution of cases related to police action or inaction.

Section 5 (9) of the **Independent Policing Oversight Authority Act, No. 35 of 2011** provides for the objective of the Authority, which is to hold the Police accountable to the public in the performance of their functions.

Article 244 of the Constitution of Kenya, requires the National Police Service to, amongst others, comply with the constitutional standards of human rights and fundamental freedoms. The **ODPP**, IPOA and IAU will ensure that a

liaison person is appointed in each regional office who will act as a point of contact for the agencies in those regions. The liaison person shall be part of the Task Force Team.

The ODPP liaison officer in each region shall maintain appropriate contact points with all relevant investigative agencies.

The Prosecutors shall, in accordance with the law, perform their duties fairly, consistently and expeditiously, and respect and protect human dignity and uphold human rights, thus contributing to ensuring due process and the smooth functioning of the criminal justice system. Prosecutors must apply the **principles of the Maputo protocol on Human Rights, at each stage of a case.**

d. Community Centered Service Delivery.

The 21st century prosecutor, should adopt expansive responsibilities. In recognizing the important role that the community plays in public safety and in identifying problems unique to its particular environs, it is important for prosecutors in their respective jurisdictions to continuously engage with the community. To this end, I will re-define prosecutorial services to incorporate effective community partnerships in the day-to-day operations of the Office. Under this strategy, prosecutors will be required to:

- Participate in community meetings.
- Partner with the clergy, local elders and other community leaders.
- Conduct targeted sensitizations for adults, teens and children on the law and access to justice among others.
- Engage with community organizations focusing on child, youth and public safety programs.
- Engage in community problem solving.

INTERNAL PEOPLE FOCUS

a. Establishing a Staff Wellness Program.

Prioritizing employee development, well-being and health is crucial for a modern prosecution office. To this end, I intend to form a **staff wellness program** at the ODPP that will steer continuous wellness initiatives for the staff.

The program will focus on physical, mental and emotional health. It will also be orchestrated to cater for staff personal development, growth, financial health, as well as addressing staff career development and training needs.

Prosecutors constantly deal with traumatic, disturbing and emotionally wrought cases. I thus intend to prioritize development of strategies, that will be orchestrated towards properly equipping prosecutors to manage the personal toll that they may experience during service delivery by:

- Establishing a counselling and psychosocial support program in all the 47 county stations.
- Establishing a personal finance management program for staff.
- Establishing and encourage the promotion of communities of self-interest like sports, arts (like choir) which build cohesion and teamwork.

b. Human Resource Capacity and Skills Enhancement Program

Professional excellence is premised on constant improvement and it's my desire that every prosecutor and staff in the ODPP must participate in at least one customized needs based training annually.

It is important to appreciate that the ODPP is an independent Constitutional Office established under Article 157 of the 2010 Constitution of Kenya. Pursuant to Section 13 (2) of the Office of the Director of Public Prosecutions Act No. 2 of 2013, the Office shall have power to appoint, control and supervise its staff in a manner and for such purposes as may be necessary for the promotion of the purpose and the object for which the Office is established. **This basically means**

that the ODPP enjoys autonomy when recruiting staff and that,

- (i)** The ODPP recognizes the role of training as a management tool in improved productivity, efficiency, and employee career development. Training as an improvement tool is a basic requirement for any formal organization.
- (ii)** The ODPP places high premium on training in its efforts to become highly productive and will continue to complement its professional and technical employees in all areas of operation.
- (iii)** The ODPP operations are of a highly specialized nature, characterized by high precision skills and technical knowledge among the professional, technical and supportive staff. There is need not only to recruit the right caliber of personnel but also to train the incumbents with necessary skills.

For this purpose, the ***Prosecution Training Institute*** was established to assist in the developing the capabilities of the staff members of the office.

c. Staff Motivation and Retention Program

Actualize an ODPP staff reward and recognition policy as key to motivating and retaining staff.

d. Prosecution Training Institute -Inception-Curriculum-Training and Stakeholders

Since its inception in 2018, the PTI has run a successful three (3) month induction program; undertaken various thematic trainings; entered into professional development partnerships with both national and international institutions and undertaken a training needs assessment. It has also signed memoranda of understanding with various development partners; developed training materials suitable for adult professional learning; and developed a training curriculum as steps towards fully operationalizing its activities.

The PTI's intermediate vision is to set up centers of excellence, continuous professional education and structured mentorship programs. It is hoped that through these centers of excellence, the PTI will inject accountability, transparency, public confidence and quality control in all operations with the overall aim of transforming ODPP into a prosecution service that best responds to the needs of all Kenyans. The ODPP is committed to put the PTI premises to good use and looks forward to partnering with both State and non-State actors towards the achievement of this dream.

PTI continues to identify priority areas of undertaking as it gears up for its full implementation. One key area is development of a prosecutions training curriculum meant to impart staff with adequate skills that will enable them carry out their respective duties efficiently and effectively. It has commenced the curriculum development process with the diploma in public prosecutions curriculum. The content of the curriculum is informed by the training needs assessment and curriculum development framework carried out by the ODPP in 2019.

The proposed modules in the diploma curriculum include a prosecutor's induction course that targets newly recruited prosecutors to induct them on their roles and responsibilities. It also contains an advanced study in prosecution course, which provides a continuous capacity developing and maintaining professional skills for prosecutors.

The curriculum further contains the non-prosecutor module, which targets corporate services staff within the ODPP who play a role in delivering the prosecutorial service. Equally, the thematic and emerging areas in prosecution course focuses on areas that are continuously emerging in the prosecution field and would require new skills and knowledge to successfully undertake the prosecutorial mandate.

Finally, the curriculum has an inter-agency coordination module that provides prosecutors with knowledge, skills and attributes necessary for coordinating prosecution with other relevant agencies and stakeholders. The curriculum will go a long way in realizing the PTI dream of improving the quality of prosecutions in Kenya and beyond in line with its strategic commitment of lifelong learning.

In this regard, I intend to:

- Ensure that the accreditation of the PTI is completed within a year.
- PTI becomes a crucial cog in advancing the Kenyan interests in the region

- Ensure the onboarding of all staff to the PTI e-learning platform, which will also save the country resources that could be spent in physically ensuring staff travel for training programs.

e. **Best Practices Prosecutorial Network**

As crimes evolve and criminal tactics change, and in recognizing the border-less nature of some crimes, a prosecution office cannot operate in confinement. Across border cooperation and collaboration is crucial for efficient global prosecution offices. As such, at the regional and international level, I intend to initiate the formation of a **Best Practices Prosecutorial Network** for prosecutors across- borders. Through this platform, prosecutors from different jurisdictions can share their unique experiences, exchange information on new crimes and crime trends in their jurisdictions, share their prosecution strategies among others, for improved prosecutorial services.

I will be keen on expanding the current scope of partnership within the Eastern Africa Association of Prosecutors, the Africa Prosecutors Association and the International Prosecutors Association.

2. INNOVATIVE PROSECUTIONS PERFORMANCE FRAMEWORK

The Traditional Prosecutorial role...

Traditionally, prosecutors have confined their role to processing cases brought to them by investigators and conducting trials in court.

The Modern prosecutorial services...

However, modern prosecution service requires that prosecutors set aside this notion and expand the view of their work beyond case processing and conducting trials to include analyzing societal issues that lead to the commission of crimes and developing as well as implementing crime prevention modalities in their respective jurisdictions.

Additionally, a modern prosecution service should expand its mandate beyond prosecutions to include mainstream participation in the Country's development agenda, global issues, and environmental preservation.

It is towards this discernment, that I have developed an **innovative prosecution performance framework** that I intend to implement at the ODPP.

The framework is centered around, three thematic approaches towards the prosecution service delivery. They include innovatively, **Redefining, Refining, and Revolutionizing**, the ODPP mandate, vision, functions, processes, policies, planning, activities and duties, within the confines of the Constitution. Specific approaches that I will implement towards achieving these goals include:

a. **Embracing Strategic Prosecutions**

This can be achieved by prioritizing **restorative justice** as opposed to **retributive justice**. The modern prosecutor is expected to be strategic and innovative while making the decision to institute criminal proceedings. It is no longer necessary to clog the judicial systems with all categories of cases. It is paramount that modern prosecutors prioritize alternatives to trial by:

- Charging with restraint
- Plea-bargaining fairly
- Strictly utilizing Diversion especially in misdemeanors, and
- Encouraging treatment and non-criminalization of mental illness and drug addiction.

During my tenure as a County head at the Coast Region, I witnessed firsthand, the problem of drug addiction and how the same leads to commission of majorly petty crimes within this region. Most of the petty offenders commit the crimes in a bid to acquire funds to purchase their drugs of choice. Treatment of such offenders in a bid to help them overcome

their addiction is paramount and more impactful for the coastal communities, as opposed to just sending such offenders to prison.

Through the Diversion program, I intend to champion through our partners and stakeholders the establishment of sponsored **addiction treatment programs**, for these victims as most of them cannot afford private rehabilitation.

b. Integrated Information Management System

A modern prosecution office is expected to have a robust data collection capability and digital archive. Based on the analysis of its data, it plays a critical role in providing criminal justice actors with informed legal guidance, and informing its decision making.

In my tenure, I intend to establish a **multi-agency Information Management System** that will enable real-time data sharing between, the courts, the ODPP, the investigative agencies and detention centers.

The system will be accessible to the institutions and the public and will provide real time data on case scheduling and case outcomes. The system will also be tailored to capture data relating to investigative agencies recommendations, prosecutorial decisions and their justification and the resulting outcomes of the respective cases in courts.

The intention is to enhance accountability to the public, among the institutions, facilitate communication, and solve the challenge of differing records among the actors.

I will also champion an end-to-end case management system that integrates the various systems developed and under development by actors within the criminal justice system that will extend data sharing and exchange.

c. Harnessing Technology In Service Delivery

For the modern prosecutor, automation of office processes and ensuring that they are accessible remotely at all times is crucial for timely service delivery and case management.

Automated processes ease their burden of carrying bulky files containing immense documentation and reduce the risk of loss of files. Automated systems also provide for on-line tracking of prosecutor's work-load, performance and improves accountability.

It is with this in mind, that prioritizing, a fully automated prosecution service accessible to ODPP staff and the public is key.

This will also be in line with the governments **Executive Order No. 1 of 2023** for all its institutions to go paperless.

More specifically, this will be achieved by;

- Enhancing the inter-operability of our internal ICT systems, through ensuring the UADILIFU organizational intranet is operable within 100 Days.
- Building and extending our data and information analytics through our crime mapping system to anticipate trends, emerging needs and issues, and shape policy and operations in the criminal justice system.

d. Establishing an Innovation Council

In order to encourage creativity and originality of ODPP processes in service delivery, I will establish an **Innovation Council** that will bring together innovative officers to act as change champions for the ODPP. The council will conduct innovation-focused research for the Office, develop technological tools for Office processes, focus on service delivery improvement and transformation, and strategic communication.

e. Strategic Communications Department

Greater and more meaningful engagement with all our stakeholders both Internal and External with greater emphasis

on the wider general Kenyan population. A centralized communication unit, which incorporates both traditional and new media, will be the centerpiece of my strategy. This is the age of communication and a 21st Century Prosecutions service must be a communicating service.

3. PROSECUTIONS AS AN ENABLER OF NATIONAL DEVELOPMENT

a. Policy Analysis and Development

Continuous policy development and analysis is crucial for the prosecution office to ensure its services meet its goals and the needs of the community.

This will be actualized through the Research division, which will enable the ODPP to use its data to inform national and international criminal justice research and policy development.

b. Establishment of Specialized Multi-Agency Teams

Traditionally, case-focused prosecutions have been self-contained in that prosecutorial roles are limited to institution of charges and trial. However, progressive prosecutions call for prosecution guided investigations.

With this in mind, I intend to champion the establishment of specialized multi-agency, investigation and prosecution strategy teams tasked with collaborating, coordinating and cooperating during the investigation, analysis and prosecution process.

The joint approach during investigations will bring prosecutors into the picture at the onset of a case to guide the investigators on the legal parameters unique to each case and assist them in making decisions that are more informed, enhancing the possibility for convictions.

c. Developing the ODPP Sustainability and Green Plan Policy

The role of a 21st century prosecutor extends beyond criminal litigation to playing a critical role in addressing global challenges such as climate change and environmental protection. To this end, the ODPP will design and develop a sustainability and green plan policy.

d. Strengthening the Institutional Capacity to Fight Corruption

Corruption is a major threat to the country's ambitions in meeting its development agenda. The ODPP will build the capacity of prosecutors creating a cadre of specialized prosecutors to prosecute corruption related crimes.

ODPP will also champion appropriate policy that will enable investigators, prosecutors, and the Judiciary to synergize efforts in the fight against corruption and which will also strengthen the legal and institutional frameworks, in addition to deepening and broadening the collaboration with international partners in sharing information that would support Kenya to fight corruption.



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