II. Diligent Case Preparation:

Judges' reasoning indicates the acquittals in ***Sesay***, ***Doah***, the ***Al Jazeera case,*** and the Courts' decisions to not uphold most of the charges in ***the FCC*** and ***Lukuley*** cases are attributable to lapses of the ACC that can be summed up as; **lack of prosecutorial/investigative diligence** or **non-exhaustive investigative/prosecutorial techniques.** Generally, this nonexhaustive approach, affected the securing of evidence and the presentation of the cases, ultimately resulting in the Prosecution's failure to meet the standard of the burden of proof, (proof beyond reasonable doubt of every element of every offence). The Prosecution either adduced evidence falling below the standard or simply did not adduce any evidence at all to substantiate the charges. Categorically, manifestations of this nonexhaustive approach can be seen in;

1. Non-Exhaustive Approaches to Securing Evidence:

A. General,

B. Inadequate Witness Preparation,

2. The Defective Framing of Charges:

A. General,

B. Inappropriate Channel for Enforcing Compliance,

3. The Failure to Hone in on the Crux/Pivot of the Case, Potential Trial Clinchers and other Key Aspects.

One fallout from inadequate witness preparation was the unfamiliarity of investigator witnesses' with crucial case data suggesting ill-motivated prosecutions and misidentified illegalities due to misconceptions about appropriate standards of conduct. The review finds that the aforementioned yardsticks for judging the prosecution's performance could be largely consistently applied across the board, the controversial nature of the ***Sesay*** verdict notwithstanding. These objectionable trends in prosecution are examined below.

1. Non-Exhaustive Approaches to Securing Evidence

A. General:[1]

In ***Sesay***, investigators did not follow through on ambivalent responses/insist on developing lines of interviewing and did not confront the Accused with all the charges, startling given the tendency of the Accused to simply rely on their interview statements at trial. In this light, pushful but legitimate investigative techniques are useful.[2] In ***the FCC case***, misappropriation charges were brought which during trial were discovered to be unwarranted; one Accused was impeded in effecting his project by squatters and allegedly missing purchases were very present; indicative of less than thorough efforts by the ACC to verify the circumstances through use of its power of summons of witnesses under s. 56 (1) (A) ACA 08. In ***Doah***, a lot of Defence claims supported by prima facie evidence were not investigated; claims of retirement of receipts and reports, claims by one Accused that he did not sign for funds. Yet, still the ACC pressed ahead with its contentions. Mission sites the Accused claimed to have visited were also not visited by Investigations. Investigator witnesses seemed only to be able to proffer iffy comments when these evidences were raised by the

[1]Dandurand Y., (2009), *Addressing Inefficiencies in the Criminal Justice Process*, A Preliminary Review Prepared for the BC Justice Efficiencies Project, International Centre for Criminal Law Reform and Criminal Justice Policy, pp 20-21, http://icclr.law.ubc.ca/sites/icclr.law.ubc.ca/files/publications/pdfs/InefficienciesPreliminaryReport.pdf; "*Many of the failed or delayed prosecutions can be attributed to poor investigation and the fact that the evidentiary requirements of a case may not have been adequately addressed at the investigation stage*".

[2]USAID Nepal, (2005), *Anticorruption Investigation and Trial Guide Tools and Techniques to Investigate and Try the Corruption Case*, p. 25, http://pdf.usaid.gov/pdf_docs/PNADE146.pdf; Even use of arrest and detention where appropriate. The investigators' strength "*may be a magnet towards which cooperating witnesses are drawn and a shield behind which they feel safe. It also sends a strong message to future witnesses who may not be inclined to cooperate, that the consequences can be severe*."

Defence. Such clarifications could have disclosed compliance by the Accused with their obligations, and so would have skillfully underlined the existence of the obligation as against non-compliant Accused. In ***Lukuley***, although the Prosecution contested that Lukuley's per diem had been fixed above the limit, it did not adduce evidence indicating the then applicable rates of per diem. In ***Doah***, the ***FCC case***, and in ***Lukuley***, where SLMA board members were not called, the Prosecution's failure to probe critical evidentiary sources raised negative inferences of evidence unfavorable to the Prosecution.[3] In the ***Al Jazeera case***, the judgment appears to indicate that the Prosecution did not adduce evidence external to the documentary, which in hindsight appears to have been too tenuous for bringing charges. The Prosecution may have been influenced by public opinion[4] which may well have been assuaged solely by investigations and persuasive press statements on the state of the evidence. Even here, the Prosecution was denied its request to have the unedited version of the documentary played since it was tardy in doing so. It should have focused more on proving conspiracy so as to succeed on soliciting charges.

In ***Katta***, the Prosecution conceded to leading no evidence supporting 3 counts resulting in Katta being discharged on those counts while in ***Lukuley***, where the Prosecution had led evidence on certain misappropriation charges, it could not then withdraw them as it sought to do in its closing submissions, so that the Accused was acquitted on those charges. In ***Sesay***, an ACC investigator testified that they had no specific evidence supporting allegations that Allieu Sesay had received a reward from his wife. It is probable that ***Doah***, temporally the antepenultimate case in the review, may have sought to mitigate this undesirable evidential trend by awarding costs to the Defence on acquittal of all the charges, deeming the evidence too tenuous for initiating prosecution. By contrast, in ***Ken Gborie,*** the Court recognised instances where the Prosecution made adequate efforts to secure the relevant, existing evidence, and produced everything the MOHS gave it.

Investigators who see themselves as being responsible for the final outcome will seek the best possible case presentation. It's important to cast the net wide in securing information, since to do so likely increases the cogency of evidence derived therefrom. It is imperative that investigators be able to communicate effectively to obtain information from people especially if there is little or no forensic/tangible evidence. [5] Investigations should be methodical, guided by reasoning, logic, intuition and built around anticipated factual and legal challenges.[6] Interviewing requires openness and following the facts wherever they lead, not attempting to fit them into pre-determined conclusions,[7] although malleable, interview plans should be set out in writing in advance, covering all important topics including how to secure evidence supporting elements of the offence and how to combat likely defences. Questioning should be persistent where necessary; all relevant questions should be asked even where the defendant refuses to answer; the focus is on getting complete, accurate and reliable information that can establish the truth. It's recommended to start with an open account/free report, which precedes any revelation of the case against the suspect, covering all possible explanations for the contested acts, so as to pre-empt later changes in the account.

[3]Tanford J. Alexander, (2009), *The Trial Process: Law, Tactics, and Ethics, Fourth Edition*, Bloomington, Chapter 2, Preparing For Trial, p. 26, http://www.law.indiana.edu/instruction/tanford/web/reference/02prep.pdf; "*The law allows for an adverse inference to be drawn from the failure to call an available witness with natural ties to your client*."

[4]OECD Anti-Corruption Network for Eastern Europe and Central Asia, (2010), *Proceedings of the Expert Seminar on Effective Means of Investigation and Prosecution of Corruption*, Romania, p. 84; "*Public opinion formed by mass media could influence the independence of the anti-corruption institution in indirect and direct ways*."

[5]Alifano C.M., (2006), *Fundamentals of Criminal Investigation*, Worldwide Law Enforcement Consulting Group Inc., p.2; http://www.worldwidelawenforcement.com/docs/FUNDAMENTALS%20OF%20CRIMINAL%20INVESTIGATIONS.pdf

[6] Ibid at FN 2.

[7] Ibid at FN 5.

If the information provided is limited, it can be expanded by requiring more detail. The critical guideline should be; how to fill in evidential gaps.[8]

A prosecution should not be brought where there is no reasonable prospect of a conviction. ***Daoh***, raises the issue of the Prosecutors objective assessment of whether the evidence disclosed a prima facie case i.e. was of such sufficiency, admissibility, substantiality, credibility, reliability that a judge would conclude that the Accused was guilty beyond a reasonable doubt. Consequently, it's important to have more than one source of evidence to initiate a case, reference ***Al Jazeera***. Insufficient evidence might simply have meant postponing the proceedings. Where the evidence is sufficient to justify Prosecution, one must then determine whether it's in the public interest. Factors considered here are; the amount involved, the level of seniority of the Accused, the abuse by the Accused of their position of trust/authority, the prevalence of the type of offence, the need to maintain the rule of law and public confidence in the criminal justice system, available efficient alternatives to Prosecution, a resource-based cost benefit analysis of prosecution, supporting judicial precedents, employ of the trial as a test case for certain matters and prosecution as a public relations gimmick.[9] ***Doah,*** as with any wrongful decision to prosecute, likely undermined public confidence in the criminal justice system and could decrease respect for the law.

The above raise questions about the point at which prosecutors become involved in the investigation and influence the type of evidence secured.[10] For example, one expert witness on Procurement states; "*(…) in general, we tend to believe some of the ACC losses concerning procurement cases have been due to (the fact that) they did not always talk to the NPPA prior to the indictment, although that is changing (…) I have been called upon countless times to give directions for investigations (…).*"[11] The impact of expert knowledge shaping the case's presentation from the investigation phase is quite different from having the expert provide exclusively in court witness testimony; "*As a witness, I was only called at a certain stage at the courts and my responses were based only on the questions asked*." [12] The evidentiary potential of sources such as these should be maximized.

On integrating investigative and prosecutorial functions[13] to address prosecution issues early, the ACC does however confirm[14] that Prosecutors do oversee investigations and that cases benefit greatly from early prosecutorial input.[15] Further, although investigators may mention the charges that their findings may support, the preferment of charges is strictly the Prosecutors' domain. The ACC affirms that investigators are kept well informed during litigation about the progress of the case and even postmortems are held after judgment for improvement of subsequent brief preparation.

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[8]Police Interrogation Manuals, (Undated), *Investigative Interviewing Suspect Guide*; https://www.fyi.org.nz/request/244/response/2484/attach/5/Investigative%20interviewing%20suspect%20guide.pdf. See also UK Home Office, (2014), *Interviewing Suspects, Guidance Based on Police and Criminal Evidence Act (PACE) 1984*; https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/293597/Interviewing_suspects_v3.0_EXT.pdf
UK Government, (Undated), *Interviewing Suspects*;
http://www.hse.gov.uk/enforce/enforcementguide/investigation/witness-questioning.htm#P1_57

[9] DPP Republic of Ireland, (2010), *Guidelines for Prosecutors, Director of Public Prosecutions*, pp.16 -21; https://www.dppireland.ie/publications/category/14/guidelines-for-prosecutors/. See also, College of Policing UK, (2015), *Charging and Case preparation*, https://www.app.college.police.uk/app-content/prosecution-and-case-management/charging-and-case-preparation/Prosecution. Also of note, Australian Law Reform Commission, (Undated), *Reporting, Prosecution and Pre-trial Processes, The Prosecution Phase*; http://www.alrc.gov.au/sites/default/files/pdfs/publications/26.%20Reporting%2C%20 Prosecution %20and %20 Pretrial.pdf See also, Reid J.E., (2006), *Investigator Tips, Developing an Interview Strategy*;
http://reid.com/educational_info/r_tips.html?serial=1109694033875718&print=[print]

[10]Ibid at FN 9.

[11] Interview with the Head of Capacity Building, NPPA, Mr. Mohamed J. Musa, 12 August 2014.

[12] Ibid. See also the ***Katta*** case, pp. 102-103.; "*The function of an expert is to provide the judge and jury with a ready made inference which the judge and jury due to the technical nature of the facts are unable to formulate. Therefore, 'an expert's opinion is admissible to furnish the court with scientific information which is likely to be outside the experience and knowledge of a judge or jury' (…); DPP v. Jordan 1977, Lord Wilberforce*."

[13] Harvey R, *The Independence of the Prosecutor, A Police Perspective*, p. 14 on the need to integrate the Investigation and Prosecution phases.

[14] Responses furnished by the Former Director of Investigations, Intelligence and Prosecutions (IIP UNIT), ACC, Mr. Reginald Fynn, 2 July 2015.

[15] Harvey R, *The Independence of the Prosecutor, A Police Perspective*, Also ibid at FN 1, p.22; "*The early involvement of the prosecution, even when an investigation is ongoing, is to be encouraged. It can assist in ensuring that the evidentiary requirements of a particular case are met through the investigation and maximize the chance that the prosecution will be efficiently conducted and successful*."

Once an indictment is filed, the prosecutor holding the file will constantly review the evidence on his own, review with the Director of Investigations, Intelligence and Prosecutions (IIP Unit) if an event demands and, if a major legal question comes up, review with the Commission as a whole. However, the ACC as an independent prosecuting agency does not discuss its investigations or prosecutions including the charges/drafting the indictment with the SLPA or State Prosecutors in the Law Officer's Department. In light of the ACC's articulated tack, a possible suggestion might be a more collaborative approach with the SLPA and State Prosecutors, ***if needed*** and more comprehensive ***communication*** between the prosecution and investigators.[16]

B. Inadequate Witness Preparation:

Apart from obvious reasons, it should be noted that thorough trial preparation is ethically required by the Legal Practitioners Act 2000 and these obligations also include the investigations phase, presumably noted in the ACC Investigations Manual. Thorough trial preparation includes adequate witness preparation. In ***Sesay***, investigator witnesses' were unfamiliar with crucial case data bearing on the innocence/culpability of the Accused. In ***the FCC case***, 3 Prosecution witnesses, including an ACC investigator provided testimony which favored the Accused. As an expert witness in Procurement states; "*(…) in general, we (the NPPA) tend to believe some of the ACC losses concerning procurement cases have been due to its inability to grasp the technical facts.*"[17] This inability to grasp the technical facts is exemplified in ***Doah;*** when an Investigator was confronted by a retirement of funds submitted by an Accused, he retorts that what was required was the submission of a report not retirement, although he then admits that that Accused had submitted 2 reports to him. The investigator did not make a very convincing case of his knowledge on the most crucial aspects of the case; types of allocations and attached obligations and the hierarchical structure of the MOHS.[18] These events underscore the need for frequent resort as and when necessary to expert witnesses; "*I can recall 3 cases in which I testified that resulted in convictions; **Ken Gborie,** the **FCC case** and **Sarah Bendu**.*"[19]

2. The Defective Framing of Charges

A. General:

The Prosecution's approach to drafting the charges has been repeatedly repudiated. The Court has remarked on the Prosecution's charging strategy generally not complying with the technical drafting requirements. In ***the ABC case*** and in ***Lukuley***, the Court disapproved of overloading the indictment by duplicating the charges i.e. bringing several different charges against an Accused for the same set of circumstances, since it encumbers both the prosecution and the judge in assessing the evidence supporting every element of every offence. He advised proffering only the most obvious charge unless the evidence is uncertain. The Prosecution had been inconsistent even in drafting duplicitous counts since some acts are charged under several rubrics, while others that easily could be, are not. In ***Lukuley***, a charge of abuse of office was held to be redundant, since the Accused was found guilty of abuse of position for the same act. Duplicity also means charging different criminal acts which are non-continuous offences, allegedly committed during an extended temporal frame, as one count *and also*, charging the commission of a non-continuous offence between two stated dates, instead of, "on a day unknown" between the two dates. In ***Lukuley***, several charges were struck out for these reasons. In ***Lukuley***, one count merged the elements of different offences resulting in the Accused's being discharged on it. The literature supports the view that the Prosecutor must not "over-charge" based on the same set of facts to avoid complicating the trial. The preferred approach is to charge the most serious offence which encapsulates the seriousness of the criminal conduct so as to enhance clear case presentation.[20]

In the ***Al Jazeera case***, ***ABC case,*** and ***Sesay***, drafting conspiracy charges as having being committed with "other parties unknown" where there are identifiable alleged co-conspirators which the evidence purportedly relates to, seems superfluous and could encumber the Prosecution. In the ***FCC case***, one misappropriation charge erroneously,

[16] See final point in **Overview** section below.
[17] Interview with the Head of Capacity Building, NPPA, Mr. Mohamed J. Musa, 12 August 2014.
[18] Ibid at FN 4; p.12; "*One thing an Investigator can do to support a bribery investigation is to obtain organisational information concerning job descriptions, liabilities and executive powers in the company*".
[19] Interview with the Head of Capacity Building, NPPA, Mr. Mohamed J. Musa, 12 August 2014.
[20] DPP Republic of Ireland, (2010), *Guidelines for Prosecutors, Director of Public Prosecutions*; p. 26 on charging and case preparation; https://www.dppireland.ie/publications/category/14/guidelines-for-prosecutors/

comprised even the withholding tax paid by the Accused. In ***Katta***, the Prosecution charged conspiracy under s. 128 ACA, instead of s. 128 (1); the error was tempered by Justice Paul who reasoned that not specifying the relevant subsection does not make Count 1 defective; the exact scenario obtained in ***Ken Gborie*** roughly 2 months later. In ***Daoh***, the Prosecution did not charge s. 48 ACA 08, failure to comply with applicable procedures, in respect of the Accuseds' failure to provide financial reports. Had this been the principal charge or investigative focus, motives may have been uncovered that go toward misappropriation. Instead, the Prosecution construed misappropriation as a strict liability offence, where the Accuseds' omissions sufficed to establish the offence.

B. Inappropriate Channel for Enforcing Compliance:

In the ***ABC case*** and in ***Lukuley***, it was stated that where there are alternative means of securing compliance with investigations, the ACC should not rely on the Court to enforce the ACC's investigative methods/sanction the Accused for noncompliance with investigations, but should use its own coercive powers to secure the compliance of suspect. Therefore, charges based on s. 130 (1) ACA 08, which makes noncompliance an offence, constitute an erroneous approach to drafting in the face of existing alternatives. Conteh who was so charged in the ***ABC case***, did actually end up cooperating and was acquitted of 3 such noncompliance charges under s. 127 (1) ACA, obstructing justice and under s. 130 (1) ACA, failing to comply with a requirement under the ACA. Although Lukuley was convicted on count 174 under s. 130 (1), for failure to comply with a s. 63 (1) ACA notice to provide his passport, the Court nonetheless commented that the ACC could have requested the CIO of Immigration to sequester the passport and that Public Prosecutors would normally have detained the Accused, meaning the ACC could have arrested the Accused.

3. Failure to Hone in on /Emphasize Clinchers:

Although only judgments and media reports were reviewed, not the Prosecution's briefs, oral or written motions, it is only natural to presume that Judges' evaluations of the Prosecution's evidence would disclose those facts or lines of argument espoused by the Prosecution as being decisive and towards which it had striven to funnel their attention. The controversial nature of the ***Sesay*** verdict notwithstanding, the Prosecution allowed Judge Ademusu the facility of declaring that the Prosecution had built its entire case on the evidence of just one unreliable witness (Labour),[21] and of not assessing the tilt of the gamut of other pieces of evidence, both witness and documentary. His assertion (adopted angle of analysis) was as a result of the Prosecution's omission to stress that their case rested on cohesive circumstantial evidence, not just direct evidence.[22]

It should be underlined that the law does not require a certain amount or type of evidence. Likewise, evidential weight is not contingent on the quantity but on the quality of the evidence; the value of a mesh of circumstantial evidence as against a direct piece of evidence is a matter of fact;[23] ***this makes it worth underscoring the cohesiveness as between the pieces and their incline*****.** In ***Sesay*** and ***Doah,*** the error is in not explicitly corroborating crucial aspects of the case. Corroboration means showing how different evidential sources make the same point. In ***Sesay***, it would have signified strengthening the other aspects of the case given the uncorroborated testimony of a single witness, so that the Prosecution's logic of a faulty procurement process would have carried safely over the weak spots.[24] Since circumstantial evidence operate as pieces of the puzzle that help enough of the picture to emerge, prosecutors should have breathed more life into these; "evidence does not sit up and bark like a dog to inform someone that it is evidence.[25]"

Similarly, in ***Daoh*** the Prosecution did not sufficiently clarify the interaction between obligations sourced from donor instructions bearing on donor funds and obligations sourced from the national regulatory framework. Again, the Judge

[21] American Prosecutors' Research Institute, (2005), *Basic Trial Techniques For Prosecutors,* p.5, http://www.ndaa.org/pdf/basic_trial_techniques_05.pdf*;* The Prosecution should anticipate and prepare for all possible defenses and arguments including; there is only one witness, the evidence/witness is credible, there is very little corroborating (physical) evidence.

[22] Ibid at FN 2, p. 10; Direct evidence is an event which is directly observed with no intervening events. Circumstantial evidence is made up of those items from which one can infer events or derive conclusions. It is not that evidence which a witness saw or heard, but rather a fact which can be used to infer or deduce another fact. It implies something that occurred, but does not directly prove it. It is usually one fact in a chain of facts which one must prove to establish a person is guilty or not guilty.

[23] Ibid at FN 20, pp. 13-16. This is supported by Judge Paul's exposition on circumstantial evidence in, The GAVI Funds Case/The State v. Dr. Magnus Ken Gborie, Dr. Edward Magbity and Lansana S.M.Roberts, 2 July 2014, where he states that a case may be based on circumstantial evidence alone.

[24] Ibid at FN3, p.58

[25] Ibid at FN 2, p. 9.

here, Judge Charm in ruling the absence of documentation did not per se amount to misappropriation, failed to overtly acknowledge in his reasoning that the existence of obligations of providing fuel invoices and a list of signatures of per diem recipients were confirmed by the GAVI Draft Audit Report and that some Accused simply had not met these obligations. Spelling out the interactive status could have focused the Judge on commenting thereupon. There are statements in the ***ABC case*** which appear to equate the failure to document with misappropriation, which may well have motivated or contributed to ***Doah's*** case theory. Whether or not this is the case, a review of the judgment fails to disclose any assertion by the Prosecution of this supportive precedent.[26]

Daoh shows that investigators and prosecutors should initially assess whether the alleged corrupt conduct is criminal, civil or administrative and where appropriate, help prompt administrative and disciplinary sanctions and monitor them. Such measures could lead to fines, restitution orders, dismissal/demotion or restructuring an operation.[27]

[26]"The Attitudinal Behavioural Change (The ABC) Case/The State v. Philip Conteh, Allieu Kamara, Lansana Zanto Kamara before Hon. Mr. Justice N.C. Browne-Marke, 19 May 2011, lines 26-28, p. 29; "*The only reason why proper and adequate records of expenditure were not kept, was to use the monies donated for purposes other than those for which they were meant*."

[27] Ibid at FN2, p.5.

Overview

- ***Areas of focus could be; more control and leadership by Prosecutors of pre-trial investigations to generate more pointed evidence and more effective and coordinated team work, including free flowing and comprehensive communication and a conjoint evaluation of the weight of evidence prior to trial especially through the spectacles of the presiding judge to assess its potential to meet the standard of proof beyond reasonable doubt. Such assessments should include identification of evidential strengths and weaknesses and GAP analysis of evidence from which clearer directives can be issued to investigators, identification of prosecutorial strategy/case framework within which details are fleshed out based on the different trial phases.***

- ***The evidentiary approach must strive to be watertight, spell out the relevance of particular kinds of evidence and the nexuses between them. Elaborate case theories require even more work to ensure tight links where holes cannot be poked. This means that the Prosecution needs to have thorough, lucid and cogent expositions on the evidence substantiating its theory.***

- ***Levels of planning should move from the general to the specific at every seminal trial phase; allegations supported by generalized evidence predictably would be countered by denials, precipitating the adducing of more targeted evidence; e.g. Forensic Document Examiners, Handwriting Experts, amassing authorities that could be easily pulled up for employ by the Prosecution etc.***

- ***Efficient case management software (not currently employed) would have an invaluable impact on searching and analyzing large quantities of data.***

- ***Investigators should reference the provisions on their powers when in doubt, legitimately exploiting all sources available.***

- ***The witness testimonies above evince a lack of foresight and an anticipatory approach to likely Defence examination strategies and indicate an overall need for better preparation. For investigators, this means a grasp of not just the fundamentals; case theories, key legal and bureaucratic concepts, common facts about the case and surrounding issues, but also a grasp of crucial data on which the case hinges. In light of the nature of ACC cases, an understanding of the process/ procedures integral to such bureaucracies is key.***

- ***Could the mishaps[28] above have been due to resource constraints affecting investigations or prosecutions?***

[28] Ibid at FN19, p. 16; A very high rate of prosecutions resulting in acquittals could undermine public confidence in the criminal justice system.

- ***Would they have been avoided by increased inter-institutional cooperation with clear lines of communication? (See antepenultimate point in Overview of Section III; p. 19) Are there collaborative endeavors involving investigators, accountants, auditors from the customs, tax and labour department, Audit Service Sierra Leone, the financial intelligence unit of the Bank of Sierra Leone, the SLPA, Court Registries, the NPPA, MDAs directly or indirectly concerned and specifically internal auditors and persons within internal disciplinary units of these MDAs? Such collaboration could come in the form of ad hoc innovations or standing inter-agency investigation teams.***

- ***Collaboration or more active communication with State Prosecutors is suggested in t process of drafting, or at the very least during the review of indictments.***

- ***It should be noted that the judgments reviewed range from 2011 to 2014, so that the aforementioned propositions are attempts at logical derivations based on this set of selected cases within that loosely defined period.***

- ***With respect to the above propositions, the Acting Chief of Investigations, Intelligence and Prosecutions[29] maintains that his experience at the ACC since 2008, by all accounts indicates that Prosecutors have a substantial influence over the progress and direction of investigations. He does concede that this was not always the case. He clarifies that at the ACC's inception phase, most prosecutors were non-Sierra Leoneans, unfamiliar with the local culture possibly incurring communication gaps. Their stints at the ACC seemed too transitory to allow for cultural acclimatisation. Communication may also have been hindered by the stationing of investigators at Gloucester Street and prosecutors at the Guma Building. The Ag. Chief IIP admits that pre the tenure of Commissioner Tejan-Cole, investigators were given free-reign to conduct investigations with prosecutorial directives given mainly at the start, so that they would complete investigations with limited prosecutorial input, then submit their completed dossiers to the Prosecutor, trial ready as it were. Based on Commissioner Tejan-Cole's review of ACC working methods possibly prompted by concern over failed prosecutions, the level of interaction between investigators and prosecutors was increased.[30] As it stands, prosecutors assigned to a case communicate almost daily with assigned investigators, meaning that prosecutorial directives shaping the direction/progress of the investigation, are constantly evolving with the nature of the evidence unearthed. Generally, investigators tend to do at least 35% of the work by the time the dossier is submitted to the Prosecutor.***

[29] Interview with Acting Chief of Investigations, Intelligence and Prosecutions, ACC, Sariffou Harleston, 9 June 2016.

[30] Ibid; "*Tejan Cole came with the practice of closer monitoring of investigators by prosecutors and that increased the interaction. He noticed a bit of a disconnect with the two arms*." Harleston's commentary is consistent with the Responses furnished by the Former Director of Investigations, Intelligence and Prosecutions (IIP Unit), ACC, Mr. Reginald Fynn, 2 July 2015, final para., p. 3 above.

- ***With regards to the final presentation of the case in the form of the Prosecution's final trial brief and oral closing submissions, Harleston asserts that from his experience, these have been watertight and compelling, but does admit that more recently " a poor manner of presentation of material has crept in." He admits that there is a dearth of case/evidential management software/apps at the ACC, but asserts that that does not necessarily translate into challenges with efficient evidential management/analysis, since there are existing methods of evidential management/analysis employing basic word documents. He does however admit to the benefits of more sophisticated apps. He asserted that the issue of work constraints due to a lack of resources is a non-issue. On clear lines of communication re inter-institutional cooperation, the only provisions regulating the ACC's interaction with the SLP very generally are ss. 78 (2) (b), 79 and 10 (2) ACA '08. There are no standing inter-agency investigation teams but instead go-to persons within various institutions, although a Financial Intelligence Unit was established at the ACC in 2013 for dealing with technically loaded investigations. However, this author submits that standing inter-agency investigation teams would allow for the progressive inter-institutional alignment of working methods and process in areas of shared concern /competence; as opposed to just cooperating when the need arises, working methods would be streamlined and harmonised to better inform and enhance each other and to facilitate investigate needs. Harleston states that drafting indictments is very simple and that complexity notwithstanding, there is no need for ever involving the LOD. In general regarding the aforementioned identified lapses, he states; "In the early years we had the usual starts and stops of a fledgling organisation. Things continue to improve over time. Work methods have been constantly refined."***