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**Challenges of Police Prosecution in the Global South: Perspectives of Ghanaian Police Officers**

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# Abstract

Justice administration in most common-law countries, especially in the Global South, relies significantly on police-led prosecution of criminal cases. However, there are concerns that police-led prosecutions are characterised by challenges that can generate injustice. Therefore, this chapter uses interview data from police prosecutors and observations of court proceedings to examine police-led prosecution practices in Ghana, a country in the Global South. The results show that police prosecutors pay little attention to the vital role of pre-trial conferencing with complainants, witnesses and accused persons. Also, police prosecution in Ghana faces serious challenges, including lack of pre-trial procedural uniformity and clarity, inadequate training and professional development, and lawyers’ verbally abusing prosecutors. The chapter concludes with a discussion of the implication of the results for police prosecution and justice administration.

**Keywords:** police prosecution, prosecutor, pre-trial conferencing, Ghana, procedural clarity

# Introduction

Police prosecution, referring to criminal prosecutions led by police officers (USLegal, 2011), is integral to justice administration in common-law jurisdictions in the Global South. Currently, police prosecution occurs in Ghana, Nigeria, Zambia, Kenya, South Africa, Australia, New Zealand, India, Malaysia, and Singapore (see Alemika, 2009; Amagnya, 2011; Beck, 2006; Corns, 2000; Law Commission, 1997; Opolot, 2008). Increased criminal cases and countries’ inability to employ adequate lawyers to handle all criminal cases seem to support police prosecution’s existence. Nevertheless, some scholars have raised concerns about police-led prosecutions, such as the absence of sound and workable accountability mechanisms, exercise of vast discretionary powers, and lack of legal knowledge and skills required to conduct prosecutions (see Abegunde, 2014; Archer Commission, 1997; Beck, 2006; Corns, 1999, 2000; Elsner, Lewis, & Zila, 2008; Horwitz, 1998; McGonigle, 1996). They argued that such conditions often affect justice delivery negatively.

Although concerns about police-led prosecution and their negative impact on justice delivery may be valid, there are drawbacks to such concerns. First, police prosecution is the least research area of policing due to its stoppage in the UK between 1986 and 2012, the United States of America, Canada, and some European countries (Beck, 2006; Brodeur, 2010; Corns, 1999, 2000; Devine, 1986; Hodgson & Roberts, 2010; Kinsman, 1993; National Research Council, 2004; Ulmer, 2018). Also, studies on police prosecution are mainly conducted in the Global North, with only a few exceptions in the Global South (e.g., Abegunde, 2014; Amagnya, 2011). Since police prosecution is a dominant feature in the Global South, it can be argued that the research apathy is due to the perception that most activities in the lower courts are unimportant and do not deserve significant attention from the press and scholars (McBarnett, 1981). Also, the focus on offences and penalties instead of prosecution processes in the lower courts is another reason. Lastly, studies on prosecution mainly focus on murder, robbery and rape cases prosecuted by lawyers (e.g., Duron, 2018; Spohn & Tellis, 2018).

This chapter examines police prosecution practices using qualitative data from Ghana and adds to a few studies on police prosecution in the Global South. The potential for injustices to occur in police prosecutions makes the topic essential to research. First, police prosecution often involves most criminal cases processed by criminal justice systems (CJS) that affect vulnerable people who cannot afford justice. Equally, police prosecutors’ exercise enormous discretionary powers, especially at pre-trial stages that often lacks clear and specific guidelines on how discretionary power is exercised and victims treated (see Gelsthorpe & Padfield, 2003; Sah, Robertson, & Baughman, 2015). Moreover, police prosecutors’ exercise of discretionary powers at the pre-trial stages is mostly beyond any review (Alemika, 2009; Beck, 2006; Gelsthorpe & Padfield, 2003; Sah et al., 2015; Ward, 2015). Also, police prosecutors are usually not legally required to give reasons for their decisions or declare publicly the principles upon which discretionary powers are exercised (Corns, 1999; Potas, 1984). These conditions present avenues for injustices that can affect people’s lives and properties.

# Police Prosecution: History, Significance and Challenges

Police prosecution emerged in Britain around the 1800s due to administrative convenience and the police desire to prosecute cases they have investigated (Corns, 1999; Emsley & Storch, 1993; Laws of New Zealand, 1992; Opolot, 2008). Before the Crown Prosecution Service (CPS) was established in 1986, the police handled all criminal prosecutions in the UK (Elsner, Lewis, et al., 2008). The stoppage of police prosecution in the UK is attributed to several reasons. These include miscarriages of justice leading to negative public confidence in the CJS, tense relationship between the investigating and prosecuting police, police prosecutors’ exercise of unfettered discretion, impartiality, lack of legal competence, and the police deciding who to prosecute and acting as prosecutors at the same time (Amagnya, 2011; Ashworth & Redmayne, 2010; Davis, 1969; Gelsthorpe & Padfield, 2003; Kemp & Gelsthorppe, 2003; McConville, Sanders, & Leng, 1991). Nevertheless, the police remained important in the UK after the CPS’s creation (Ward, 2015). For instance, Elsner, Smit, and Zila (2008) found that decades after the CPS’s creation, police officers brought 56 per cent of minor offences dealt with in simple court procedures in England, Wales and Northern Ireland to magistrate courts.

Also, police prosecutions continued in Africa, Asia, Europe, Oceania, and Central and South America, where the British introduced it during colonial rule. Police prosecution’s persistence has been attributed to complacency towards summary prosecutions – regarding summary prosecution as dealing with ‘less serious’ crimes with ‘minor’ sanctions. Another reason is the police resistance to reforms seeking to change their prosecutorial functions (Beck, 2006; Corns, 1999; Stace, 1986). Also, Amagnya (2011) posits that police prosecution’s persistence in recent times is due to high crimes resulting in numerous cases requiring prosecution and high costs of employing and maintaining adequate lawyers and/or establishing independent prosecution bodies.

Police prosecution greatly benefits justice administration and plays an indispensable role in justice administration in some countries. For instance, police prosecution reduces the workload on traditional prosecuting authorities and expedite the prosecution and adjudication of cases that would otherwise take longer periods if prosecuted by only state lawyers, who are often inadequate (Amagnya, 2011; Ministry of Justice, 2012). Also, through screening, police prosecutors can prevent cases that lack sufficient evidence from moving to other stages of CJSs, which can reduce trial durations and costs of administering and accessing justice (Amagnya, 2017). Equally, police prosecutors can advance the rule of law, protect citizens, and improve trust and confidence in law enforcement agencies and CJSs. Thus, police prosecutors can act as independent and impartial ‘ministers of justice’ by adhering to due process and ensuring fairness and neutrality (R v Hodges and R v Wilson cited in Beck, 2006, p. 151). By acting as independent and impartial ministers of justice, police prosecutors can check other parts of the CJS and protect offenders from overzealous officers or misdirected exercise of state powers.

Prosecutors can also regulate public policies and enforcement of criminal laws by making decisions not to continue cases even with sufficient evidence supporting findings of probable cause (CDD-Ghana, 2003; Horwitz, 1998). Such decisions may respond to legislative over-criminalisation, maximise limited prosecutorial resources’ utilisation, individualise justice, or solely maintain law, order, and peace in countries (Boateng, 2012; Horwitz, 1998; Lafave & Israel, 1992). The preceding discussions show that treating the police as only a law enforcing body will omit their essential prosecutorial functions (see Bardens, 2014; Dixon, 1997; Elsner, Lewis, et al., 2008; Kinsman, 1993). Indeed, the UK’s restoration of prosecution powers to the police in 2012 after operating the CPS for over two decades (see Bristow, 2012; Home Office, 2014) demonstrates police prosecution’s importance and indispensable nature.

Despite police prosecution’s ability to contribute to greater efficiency in justice administration, it is argued as often failing to achieve that in practice due to challenges affecting its operations (e.g. Beck, 2006; Corns, 1999, 2000; Frye, 2012; Horwitz, 1998; Stenning, 2009; Stone, 2012; Ward, 2015). A notable challenge is the absence of a legal foundation: countries usually do not have laws bestowing prosecution powers on the police. For instance, the UK that introduced police prosecution to the world did not have any statute granting prosecution powers to the police, especially at the start (see Corns, 1999; Laws of New Zealand, 1992). Such an absence of a legal foundation often creates problems for police prosecution’s operations and form the basis of criticisms.

Another criticism is lack of independence and impartiality, resulting in bias and unfairness (Frye, 2012; Ward, 2015). Police prosecutors typically rise to prosecution roles after some years of operational policing. Therefore, they develop and become part of police cultures (e.g., strong loyalty to colleagues, a sense of mission against crime, and flexible attitudes towards due processes) that are difficult to discard after becoming prosecutors (Horwitz, 1998). For instance, police prosecutors usually find it difficult to insulate themselves from core policing duties of maintaining safety and security (Ashworth & Redmayne, 2010; Beck, 2006). Also, some police cultures are inconsistent with prosecutors’ roles as independent and impartial ministers of justice (Beck, 2006). Those police cultures lead to high levels of bias in police prosecutions. For instance, studies found that police-led prosecutions in New Zealand were not fairly executed due to bias from police officers who decide and initiate both investigations and prosecutions (Beck, 2006; Corns, 1999; Law Commission, 1997).

Police prosecutors not properly following formal procedures is another criticism. Before cases proceed to trials, prosecutors must decide whether cases meet evidential standards and public interest principles. These include deciding whether evidence gathered is sufficient to support and justify criminal charges, prove guilt beyond a reasonable doubt, and admissible at trial; the gravity of offences; aggravating and mitigating circumstances; available alternative solutions; and the circumstances of victims and defendants (Beck, 2006; Crown Law, 2010, 2013; Horwitz, 1998; McGonigle, 1996). However, research shows that police prosecutors often lack training and key ethics to aptly uphold neutrality and follow due process to screen out weak cases from proceeding to trials (Beck, 2006; Horwitz, 1998; United States Department of State, 2010). Indeed, police prosecutors not following due process and relying on weak and flawed evidence has resulted in wrongful convictions and high levels of case acquittals (Lea, 2006; Raine & Willson, 1993; Ward, 2015).

Another major challenge of police prosecution is the lack of legal competence needed to appropriately and effectively conduct criminal prosecutions. As Wood (1997) and Amagnya (2011) found in Australia and Ghana, most police prosecutors (i.e., over 75%) are not lawyers. So, they usually lack the required competence and skills to conduct criminal prosecutions, a situation exacerbated by a lack of in-service training. Indeed, most police prosecutors receive only short training on prosecutorial duties and rely heavily on their training and experience in operational policing to perform prosecution functions (Beck, 2006; Corns, 1999). However, prosecuting skills such as timing, presenting facts and case theories, advocacy, and cross-examination cannot adequately be developed through a short training and typical police patrol, investigation and fact analysis work (Schönteich, 1999).

Police prosecutors do not adhere to prosecution guidelines and procedures when they lack the required competence and skills. This can affect their performance and lead to injustice: a study of judicial officers in New Zealand found that police-led prosecutions were poor in the areas of sufficiency, presentation of evidence, advocacy, and knowledge of laws (Law Commission, 1997). Reviewing the police’s role in New Zealand’s prosecutorial system, Stone (2012) concluded that police prosecution fails to adequately address fundamental issues of transparency, legitimacy and independence necessary in a modern CJS. He further notes that police-led prosecution cannot be truly objective due to police camaraderie and cohesion (p. 73). Similarly, Frye (2012), in the US state of New Hampshire study, notes that police prosecution ‘jeopardises the fundamental fairness of the CJS’. He argues that the most effective way to address fairness and protect defendants’ due process rights is to ‘eliminate police prosecution altogether’(p. 340).

Injustice from police prosecutors’ handling of criminal cases can affect freedoms, lives, reputations, property rights and well-being of people and detrimental to criminal justice institutions themselves. It can also affect people’s perception of the police and CJSs. For instance, the New Zealand Law Commission (1997) found that police prosecutors’ role was the most influential contributor to a lack of confidence in New Zealand’s prosecution and justice systems. Equally, unchecked police prosecutions can open avenues for injustice and negate its ability to play a crucial role in justice delivery (see Ashworth & Redmayne, 2010; McConville et al., 1991). Therefore, this study explores police prosecution practices to identify challenges that can be remedied to promote fairness, effectiveness and maintain confidence and trust in CJSs.

# Ghana in Context: Police Prosecutions, Discretionary Power, and the Challenges of Accountability

Ghana is a unitary constitutional democracy, with sovereignty residing in the people. It is a major player and one of the fastest-growing economies in Africa (see Abdulai & Crawford, 2010; Australian Broadcasting Corporation, 2009). Integral to Ghana’s administrative structure is the Ghana Police Service (GPS), which maintains law, order, security and conducts criminal prosecution. Police prosecution in Ghana has a long history dating back to 1876 when colonial administrators gave District Police Commissioners and officers-in-charge of police stations additional roles as judges and magistrates (Appiahene-Gyamfi, 1995). However, police prosecution was uncodified until 1974 when the Law Officers Decree (1974, hereafter NRCD 279) mandated the police to prosecute on behalf of the Attorney-General. The prosecution mandate was reinstated by Executive Instrument 74 (1985) after a military regime suspended NRCD 279. The Constitution (1992), Criminal Offences Act (1960), and the Criminal and Other Offences (Procedure) Act (1960) are other laws governing police prosecution in Ghana.

Police prosecution, which was part of the British legal system that replaced traditional and customary systems of adjudicating cases in the Gold Coast during colonial rule, has not seen significant changes. Ghana’s current Constitution (1992) mandates the Attorney-General to prosecute all criminal and civil cases for the government. This is done through a Prosecution Division, comprising a Director of Public Prosecution (DPP) and state attorneys – lawyers employed by the state (Amagnya, 2011). Besides, the Attorney-General has mandated the police to prosecute minor criminal offences through the power to authorise anybody to conduct prosecutions under Article 88(4) of the Constitution (1992). So, in most minor criminal cases, the police determine charges, decide whether to initiate prosecutions and conduct prosecutions in the lower courts (Amagnya, 2011; Appiahene-Gyamfi, 2009). Presently, criminal prosecution in Ghana is handled by state attorneys and police prosecutors.

Police commands at the district, divisional, regional, and national levels have established Judicial-Police Units to handle criminal prosecutions (Amagnya, 2011). Similarly to many jurisdictions, police officers in Ghana do not need to be lawyers to be prosecutors but only a minimum rank of a sergeant. All police prosecutors in Ghana are active police officers, most of whom only possess basic prosecution knowledge obtained from training by Judicial-Police Units (Amagnya, 2017). Due to the requirements of police prosecutors in Ghana, it is unsurprising that concerns have been raised about problems affecting police prosecution’s operations and role in justice delivery. For instance, Ghanaian police officers and prosecutors have been accused of using coercive and extra-legal operational methods in their dealings with the public (see Appiahene-Gyamfi, 1995; Ghana Police Service, 2009). Also, suspects and defence lawyers have complained about police prosecutors and police officers torturing and molesting suspects in investigations to obtain evidence (see Daily Graphic, 2007). Moreover, reports on police prosecutors abusing prosecution processes, mostly at pre-trial stages, abound (see Archer Commission, 1997; Atuguba, 2007; Daily Graphic, 2007; Dilip & Otwin, 2009).

Notwithstanding police prosecution’s problems in Ghana, it has not received sufficient academic attention. While policing in Ghana has witnessed a significant amount of research (e.g., Aning, 2002; Atuguba, 2007; Boateng, 2012; Tankebe, 2008, 2019), research on police prosecution and the role of police prosecutors in justice administration is scanty. Indeed, except for Amagnya (2011, 2017), there is no information on police prosecutors’ work and police prosecution. Currently, most information on police prosecution comes from politically motivated media discussions and news reports. In this context, this study explores police prosecution practices in Ghana from police prosecutors’ perspectives.

# Data, Methods and Participants

The data for this study were collected from a sample of 33 police prosecutors in the Ghanaian cosmopolitan cities of Accra and Kumasi. These cities experienced high criminal activities and have many police prosecutors and courts (see Ghana Police Service, 2017; Ghana Statistical Service, 2016; Judicial Service of Ghana, 2014). The study was approved by Criminology Institute at the University of Cambridge’s and the GPS to comply with ethical guidelines. After approval by the GPS, Judicial-Police heads at Accra, Kumasi, and the headquarters were contacted. The heads convened meetings with prosecutors for the researcher to explain the study and issues of confidentiality and anonymity to them and seek their consent to participate in the study. Although 48 prosecutors from the headquarters (13), Accra (20), and Kumasi (15) attended the meetings, only those who consented and were accessible were interviewed.

When data collection ended, 20 one-on-one interviews were conducted in Accra and Kumasi: each city has ten participants to avoid one city being overly represented (see Bachman & Schutt, 2019; Hagan, 2010). Due to logistical constraints of conducting individual interviews, a ‘captive audience’ interview was conducted with all the 13 prosecutors at the headquarters. A semi-structured interview guide with open-ended and closed-ended questions was used for the interviews. While most open-ended questions allowed participants to provide freeway explanations, some open-ended and close-ended questions required participants to provide definitive responses. Interviews covered demographics, policing and prosecution career, prosecution duties, processes and challenges, and training and development. Additionally, a district and circuit court in each city were randomly visited to observe police-led prosecutions and interactions with judges, defence lawyers, complainants, accused persons, witnesses, and relatives of litigants in courtrooms.

Notes were taken in the captive audience interview; however, all the one-on-one interviews were audio recorded. Transcripts of the audio-recorded interviews, averaging 50 minutes, and notes from the captive audience interview were analysed thematically. Categories or themes based on words, phrases, sentences, or paragraphs were identified, and responses coded into them (see Braun & Clarke, 2012). The questions with definitive responses were entered into SPSS to generate quantitative data for analysis.

Overall, 33 prosecutors participated in the study, comprising 75.76% males and 24.24% females aged 39 to 59. The gender distribution reflects the professional working gender proportions in the GPS (see Ghana Statistical Service, 2016). Nine participants have up to high school education, with 24 having tertiary education. Five participants were lawyers who obtained their qualifications during their policing careers. All participants started their policing career in roles other than prosecution, such as general policing, criminal investigating, driving, secretarialship, and stenographing. Before becoming prosecutors, officers’ policing experience ranged from four to 30 years, and prosecuting experience ranged from one to 19 years at the study time. Ranks of participants ranged from Sergeant to Deputy Superintendent, with participants holding their ranks for between two and 15 years. Most participants report directly to the courts to work except when they do not have cases in courts.

# Results

## Less Attention to Pre-Trial Conferencing

Results show that police prosecutors performed two essential pre-trial tasks in the prosecution processes: reviewing dockets and conferencing with parties. Reviewing docketsrefers to where prosecutors peruse and scrutinise dockets assigned to them by Judicial-Police heads to understand the nature of cases and ascertain whether evidence gathered by investigators can support charges preferred. Conferencing with parties is where prosecutors meet parties in cases such as complainants, witnesses, accused persons and their families to discuss cases and upcoming trials. Performance or non-performance of any of these tasks can affect justice administration and outcomes. For instance, a 48-year-old female participant in Accra acknowledged this when she said:

*You need to have conferences with the victims and witnesses to hear [from them] as you were not there when offences were committed. What you read in dockets are investigators’ perspectives, which may be based on hearsay. So, it is always good and important to listen to the stories of the victims, witnesses and even accused persons before trials*.

The expression shows how important pre-trial conferencing with parties can be to successfully prosecuting cases and ensuring that justice is fairly delivered.

Results show that all participants acknowledged reviewing dockets as a necessary pre-trial process and task that they perform before deciding to take cases to courts for prosecution or not. For instance, one male participant in Kumasi said, “*When cases are assigned to me by the Judicial-Police head, I always take my time to examine them to ascertain whether the evidence gathered by the investigators can support the charges preferred*.” However, other results show that prosecutors did not pay significant attention to the pre-trial conferencing with parties before trials. For example, only four participants from the one-on-one interviews and group interview raised conferencing with parties as a prosecution process and task performed by police prosecutors. Thus, over 87% of participants (*n*=29) did not discuss conferencing with parties before trials as a prosecution process or prosecutors’ task. This result is concerning as pre-trial conferencing with parties is vital to allow prosecutors to understand cases from different perspectives and ensure fairness in justice delivery. So, it can be concluded from the discussed results that police prosecutors do not pay significant attention to some pre-trial tasks.

## Challenges of Police Prosecution

**Legal impediments:** Participants raised concerns about legal impediments to police prosecution. Examples of legal impediments cited were awareness of rights and demanding actions, easy access to legal services due to lawyers’ availability, the emergence of new laws requiring continuous learning, legal and procedural requirements, and technological advancement, modernisation and urbanisation with attendant consequences. Illustrating the ability of litigants to acquire legal services, a 54-year-old male prosecutor in Accra stated:

*Hmmm, it is relatively more challenging to conduct prosecutions now than in the past. So many cases were being trialled without legal representations in the past because we have only a few lawyers […], but now, lawyers are everywhere, even in the villages. So, to prosecute effectively as a police prosecutor, one should know the laws to enable them to argue with the lawyers in court*.

Although prosecutors described access to legal services and people being aware of their rights as making police prosecution challenging, they could be regarded as improvements in legal systems that safeguard litigants’ rights and ensures fairness in justice delivery.

Participants cited restrictions of police prosecutors from replying to issues of law as making police prosecution challenging. For instance, a 48-year-old male prosecutor in Kumasi said, “*Lawyers sometimes wrongly quote laws and get away with them if judges are not firm, as the rules do not allow police prosecutors who are not lawyers to reply to questions of law*.” Dismissal of cases occasioned by police prosecutors lateness or absenteeism also emerged as a critical procedural impediment to police prosecutions. Illustrating the dismissal of cases due to the absence of prosecutors, a 52-year-old male prosecutor in Accra remarked:

*When lawyers get to the courts and realise that police prosecutors are absent, they quickly make applications for cases to be dismissed, and cases are sometimes dismissed due to prosecutors absence in courts. But when lawyers are absent in court, judges ask us to wait for them and adjourn cases in some instances. So, why do the courts wait or adjourn cases when lawyers are absent but dismiss cases when police prosecutors are absent*?

**Abuse of police prosecutors:** Participants raised concerns about defence lawyers’ attitudes that impede prosecutions. Defence lawyers frustrating proceedings with frequent adjournments and abusing prosecutors emerged as a challenge police prosecutors in Ghana face. All prosecutors interviewed lamented about defence lawyers adopting tactics, particularly requests for adjournments with flimsy excuses, to delay, distract, and frustrate court processes. This mainly happened when lawyers realised that their cases are weak, with less chance of succeeding. Some prosecutors described defence lawyers as ‘headaches’ and bullies. One prosecutor based in Accra cited a situation where a defence lawyer used verbal abuse to bully him in court but for the judge’s intervention. A 49-year-old male prosecutor based in Kumasi has the following remarks about defence lawyers:

*Defence lawyers are a severe ‘headache’. For instance, I handled a case where a defence lawyer strangely brought medical reports to request adjournments on seven different occasions. I decided to go to the said hospital one day to find out (…), and there was nobody like that on admission at that hospital*. *So, you can see that the medical reports were just a way of delaying the processes and buying time.*

Although these are interesting results, it is reasonable to caution that police prosecutors’ accounts may not be objective as they may be biased or overly cynical of defence lawyers.

**Non-Cooperation:** Another procedural or administrative difficulty of police prosecution identified is non-cooperation from litigants, witnesses and police investigators. Although police prosecutors are part of the GPS, most complained about armchair investigation of cases by police investigators that result in weak evidence or the absence of ingredients required for successful prosecutions. Further results show that prosecutors only get to know about cases after investigations have been completed, suggesting that they do not play any role during investigations. While it is reasonable to expect non-cooperation from accused persons and witnesses, non-cooperation or collaboration from complainants who report cases and investigators who work in the same institution with police prosecutors was surprising. This result contradicts existing arguments that police prosecutors’ will do everything possible to obtain convictions in criminal prosecutions due to their association with the police and socialisation as crime fighters and controllers (see Horwitz, 1998; Ma, 2008). Since most participants stated that their goal is to assist the courts to deliver justice and not gain convictions at all costs, police prosecutors not collaborating with investigators could be a desirable result that ensures due process and fairness.

**Inadequate Training and Development:** Training and professional development equip police prosecutors with the required knowledge and skills to perform their duties competently (Amagnya, 2011; Elsner, Lewis, et al., 2008). Through it, prosecutors refresh and/or enhance their knowledge and understanding of laws, learn about new or changed laws and modern prosecution practices and procedures, and interpret and apply laws (see Beck, 2006; Horwitz, 1998). Confirming the importance of training and professional development, most participants stated that they use training content covering laws, evidence, prosecution procedures, and preparation of cases in their daily functions. For instance, a 46-year-old male prosecutor in Kumasi said, “*I learned about new prosecution laws and developments through training attended.*” Notwithstanding its importance, all participants stated inadequate training and professional development as a critical challenge hindering police prosecution in Ghana. They noted that training is organised for police prosecutors from time to time, which usually depends on the generosity of external organisations and/or surplus funds to the GPS. Reinforcing the relevance of training and professional development and their challenges, participants in both the captive audience and one-on-one interviews cited regular training as the most vital improvement needed to advance police prosecution in Ghana.

# Discussion

This study recorded significant results that can have implications for justice administration in Ghana and other common-law jurisdictions worldwide, especially in the Global South. Challenges of police prosecution similar to those raised in the Global North were identified, such as procedural challenges, prosecutors’ lack of necessary skills, and inadequate training and development of police prosecutors (see Bardens, 2014; Beck, 2006; Corns, 1999, 2000). However, some results are new and peculiar to Ghana and the Global South, which have not been identified previously. These include police prosecutors’ paying less attention to pre-trial tasks, defence lawyers abusing police prosecutors, and non-collaboration between police prosecutors and investigators.

It emerged that police prosecutors’ pay little attention to conferencing with parties before trials, which is one of two critical pre-trial prosecution processes and tasks. Conferencing with parties before trial is a process that enhances justice delivery by allowing prosecutors to obtain first-hand information about histories and facts of cases from parties. It also offers avenues to provide parties with information on trial dates and times and prepare them for the “unfamiliar process of testifying in criminal proceedings” (Ellison, 2007, p. 171). However, while effective pre-trial conferencing can promote competent and fair justice delivery, its absence can lead to injustice as prosecutors may rely solely on evidence gathered by investigators to prosecute cases. Relying exclusively on investigators’ evidence for prosecutions can lead to bias and injustice as investigators can manipulate evidence to secure successful prosecutions and convictions to boost their status or protect their institutions and colleagues (see Horwitz, 1998; McGonigle, 1996). This can be exacerbated in Ghana as police officers, irrespective of their department, at the slightest opportunity, abuse their authority and powers, intimidate people that come into contact with them, and engage in gross misconduct (Boateng, Makin, Abess, & Wu, 2019). In addition, not holding conferences with parties before trials can affect the CJS’s impartiality and citizens’ perception of the CJS.

Police prosecutors’ paying less attention to pre-trial conferencing can be attributed to reasons such as the absence of written guidelines for police prosecution and lack of pre-trial procedural clarity. In Ghana, there are currently no guidelines on police prosecution and pre-trial processes particularly (see Gelsthorpe & Padfield, 2003 for similar results in the UK). For instance, the Constitution (1992) and Act 30, which are primary laws on criminal matters in Ghana, focus only on suspects’ rights during criminal processing with no explicit provisions on police prosecution and the rights of victims, complainants, or witnesses. A 2018 personal conversation with state attorneys in Ghana reinforced the absence of guidelines on police prosecution and code of conduct for police prosecutors: “There are no guidelines for police prosecutors, and they are oblivious of the Code of Conduct for Prosecution Lawyers.” Lack of explicit guidelines and procedural clarity of trial processes can confuse and frustrate litigants during cases processing, creating avenues for injustice and corruption.

An action that could improve police prosecution in Ghana and the broader Global South is for authorities to make copies of codes of conduct for lawyers available to police prosecutors and train them on their operations and usage. Steps can also be taken to provide police prosecutors with new laws that affect criminal prosecutions. In the long term, clear prosecution guidelines covering pre-trial and trial processes should be provided to regulate how discretionary powers are exercised. This may be essential and required to facilitate easy and secure handling of cases, ensuring proper treatment of litigants and their relatives in criminal justice processes. The author intends to start this process by submitting draft prosecution guidelines for consideration and possible adoption by Ghanaian authorities. Although such policy may not resolve all police prosecution problems in Ghana, it may aid in borderline cases where officers are deterred by more precise and/or additional rules.

A lack of regular training and professional development is another significant finding that can hinder police prosecution and be detrimental to justice administration. Several reasons perhaps account for the lack of regular training and development. First, police prosecutors being ‘sandwich’ between the GPS and the Attorney-General’s Department in Ghana seems to be a critical reason for police prosecutors irregular training and professional development. In Ghana, all police prosecutors are under the police administration’s management but prosecute cases for the Attorney-General’s Department. Therefore, it is not clear which institution is responsible for police prosecutors’ training and development: the two institutions can shift training responsibility on each other. Equally, irregular training and development of prosecutors may indicate Ghanaian authorities not considering police prosecution an essential aspect of justice administration. While this result is consistent with prior studies on police prosecution (e.g. Beck, 2006; Corns, 2000; Frye, 2012), most previous studies have not offered reasons for the lack of regular training as is done in this study.

After conducting the original study in 2011, the US Embassy supported the Law and Development Associates (LADA) group in 2016 to train police prosecutors to improve prosecution skills and operations (see Abbey, 2016; Ministry of Interior, 2017). The Government of Ghana and responsible authorities must continue and sustain this training scheme, as police prosecution and police prosecutors’ role in justice administration in Ghana is not ending any time soon. Therefore, authorities need to allocate and provide sufficient and dedicated resources for prosecutors’ training and professional development. Regular training can enable prosecutors to conduct prosecutions properly and improve prosecution practices in Ghana. It can also avoid the enormous cost and problems associated with establishing prosecuting bodies like the CPS or recruiting only lawyers as public prosecutors (see Beck, 2006; Bristow, 2012; Devine, 1986; Horwitz, 1998; Krone, 1999; McGonigle, 1996). Another solution is to assign lawyers to each police district and division to assist them in prosecutions. The lawyers can supervise prosecutors’ work and liaise between the Attorney-General’s Department and Judicial-Police units. In the long term, scholarships can be awarded to existing police prosecutors who are willing to be trained as lawyers on a part-time basis. Lawyers can also be recruited as police officers on a gradual basis to replace police prosecutors.

It also emerged that police prosecutors did not collaborate with investigators to secure convictions but rather work to assist the courts in arriving at the right decisions. This result contradicts arguments in the literature that police prosecutors usually collaborate with investigators to ensure that cases are adequately investigated to guarantee conviction after prosecutions (see Horwitz, 1998; Ma, 2008). Since police prosecutors’ primary aim is to deter people from committing crimes by getting offenders to account for their behaviour through convictions, imprisonment or fines, non-collaboration between police investigators and prosecutors who work in the GPS is notable and unexpected. Arguably, non-collaboration between investigators and prosecutors allows prosecutors to display greater independence and less bias, follow due processes, ensure impartiality, and safeguard litigants’ rights. However, considering the likelihood of desirability effect (i.e. participants presenting a better image of themselves or their institutions), further studies are needed to confirm the results’ robustness.

# Conclusion

This chapter aims to explore police prosecution practices from a Global South perspective, using Ghana as a case study. This is the first study to examine police prosecution practices in Ghana and moves beyond citizens and scholars’ assessment of criminal justice practices to explore how police prosecutors view police prosecution and its challenges. Although some results align with concerns previously raised about police prosecution, predominantly in the Global North, some identified challenges are peculiar to Ghana and the Global South and have not been previously identified. These include police prosecutors’ not paying adequate attention to pre-trial conferencing, defence lawyers’ verbally abusing police prosecutors, and non-collaboration between police prosecutors and investigators. This study’s insights are important steps toward integrating academic research into police prosecution practices to address challenges and improve justice administration. Since police prosecution is and will remain integral to justice delivery in common law jurisdictions in the Global South, it is vital to address challenges facing police prosecution. Therefore, authorities must focus on regular training and professional development of police prosecutors.

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